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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Thursday, September 16, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

*Thou shalt love the Lord Thy God with all thy heart, and with all thy soul, and with all thy mind. * * * And thou shalt love thy neighbor as thyself. On these two commandments hang all the law and prophets.*—Matthew 22: 37-40

Father in Heaven, our violent, hostile world is starved for love. Children are starved for love, which is their only real security, and wives are starved for love, because husbands are too busy being successful. Senate staff are starved for love in an atmosphere of competition and struggle for position and power. Senators are starved for love—everybody that gets to them wants something, and they are exploited rather than loved.

And, loving Father, the tragedy is that, in our culture, too often love is considered weakness and is rejected as a matter of policy. Remind us, Lord, that the most powerful force in history is love and that love on a cross conquered our greatest enemy, death. In the name of Him Who is Incarnate Love. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE FOR TODAY AND TOMORROW

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order, the distinguished Senator from Georgia (Mr. NUNN) will be recognized on special order for not to exceed 15 minutes.

ORDER FOR ROUTINE MORNING BUSINESS

After the execution of the special order, Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend past 10:30 a.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, at the close of morning business, the Senate will resume consideration of the unfinished business, which is House Joint Resolution 520.

Pending at that time will be the Baucus amendment, No. 2040, to the Weicker amendment, No. 2079. By unanimous consent, agreed to last evening, the distinguished Senator from Montana (Mr. BAUCUS) will be recognized when the Senate resumes consideration of this measure.

Mr. President, as I indicated yesterday, the Senate must face up to the fact that we have work to do of an urgent and compelling nature. We have to take care of the entire appropriations process. We have to do the debt limit bill. We have to do such other matters as may come up before the Senate before sine die adjournment.

I urge Senators to consider that we must dispatch this bill, the debt limit bill, as soon as possible, and it is my hope and determination to try to do that during the course of this day.

I see the minority leader smiling at me, and I understand why.

Members should also know that it may be necessary to be in session late today in order to finish this bill. But we have to get on with the business at hand.

I remind Members that tomorrow will be a short day because of the Jewish holiday.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. We will come in at 9:30 a.m. tomorrow, and we will work until perhaps 2 or 3 p.m., depending on travel arrangements on the part of some Members.

Mr. President, I have no need for the remainder of my time under the standing order, and I offer it to the minority leader for his use.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader.

Mr. President, I yield to Mr. PROXMIRE such time as he may require.

Mr. PROXMIRE. I thank the minority leader.

SMASHING VICTORY IN WISCONSIN FOR NUCLEAR REFERENDUM

Mr. PROXMIRE. Mr. President, on Tuesday, Wisconsin voters went to the polls in what was probably the biggest primary election turnout in the history of our State. Why the massive turnout in a year when apathy seemed to rule? A major reason was the presence on the ballot of the first statewide referendum in the Nation on a nuclear weapons freeze. By a smashing 3 to 1 margin of 631,375 to 202,245, Wisconsin people voted to support the freeze. The support was statewide, coming from all sections of our State—urban, rural, suburban. It was supported by our Republican Governor and both of the Republican candidates seeking to succeed him. It was supported by all three of the Democratic candidates. It was debated and discussed at length throughout the State. It was opposed by an articulate group, and the U.S. State Department issued a kind of

"Who needs it?" comment before the vote.

Here is the text of that referendum:

Shall the Secretary of State of Wisconsin inform the President and the Congress of the United States that it is the desire of the people of Wisconsin to have the Government of the United States work vigorously to negotiate a mutual nuclear weapons moratorium and reduction with the appropriate verification with the Soviet Union and other nations?

As I say, the response was a resounding, emphatic overwhelming "Yes."

It is significant because the Wisconsin referendum was carefully drafted and thought out. It called for negotiations leading toward a weapons moratorium. It called for actual reductions in the arsenals on both sides in other nuclear nations. It called for sufficient safeguards so that each side could have confidence in adherence to the terms of the agreement and to preclude cheating. It called specifically for verification of any agreement.

Mr. President, I cite these points because in no other instance that I am aware of has a nuclear freeze or moratorium initiative been drafted with such balance and good commonsense. As a result, Wisconsin did not suffer through the same degree of contentious debate over language differences and subtle changes in meaning that we have seen here in Congress or in other initiatives in the various States and local communities.

As the first of nine statewide referendums this fall, Wisconsin has sent a strong signal to the Nation and to this Congress that our people are tired of waiting for leadership from the national level on the arms control issue.

They are tired of waiting for the administration to act decisively on the three arms control treaties that have been languishing here in the Senate. They are tired of waiting for arms reductions in Europe. They are tired of waiting for a strategic arms treaty with the U.S.S.R. that actually reduces the nuclear arsenals on both sides.

In the absence of national leadership from the White House, the American people have decided to let their leaders know that their patience has grown thin. The world conditions have deteriorated. Proliferation continues. The prospects for nuclear war, whether by premeditation or accident, have grown.

Mr. President, I am proud that my State has given the Federal Government the most resounding kind of mandate to get on with negotiation for mutual—I stress mutual—and verifiable—I stress verifiable—negotiations that will stop this insane and immensely costly march to the suicide of mankind, and very possibly the end of human life on Earth.

No action by this body or by the President is more urgent or could be more important.

U.S. HUMAN RIGHTS POLICY NECESSITATES RATIFICATION OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the newspapers today are filled with accounts of killings and widespread violations of human rights. We, in America, are increasingly aware of the violence which permeates the modern world. Likewise, we understand that the United States must maintain its commitment to international human rights.

In the past, and today, the United States has been a leader in human rights; it has been instrumental in promoting respect for civil and political liberties. Nonetheless, Mr. President, the United States needs to go one step further in protecting the rights of mankind. As violence constantly is used to solve political disputes, the potential for genocide increases.

The issue of genocide cannot be dismissed casually; the newspapers daily remind us of its threat. In Guatemala many, many members of Indian tribes have been killed in connection with that government's counterinsurgency programs. Marlise Simons, in the September 12, 1982, edition of the New York Times, quoted that country's conference of bishops as saying, "Never in our history have such extremes been reached, with the assassinations now falling into the category of genocide."

As a leader in the area of human rights, the United States has upheld the need for individuals to be protected from possible oppression by the state. In order to insure completely the sanctity and quality of human life, our country must extend its human rights policy to include concrete protection for entire racial, religious, and ethnic groups. Policies which protect individuals are useless if the larger group to which the individual belongs is threatened with extermination. The United States must respond to the threat of genocide with concrete action.

Mr. President, although the United States played an instrumental role in drawing up the Genocide Convention, the Senate of the United States has still not yet ratified that treaty. Our position on human rights necessitates speedy ratification of the Genocide Convention.

Mr. President, I thank the Democratic leader, and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I yield back my time.

Mr. President, I see that the distinguished Senator from Georgia is not yet here. I ask unanimous consent that I may suggest the absence of a quorum without charging it against his time.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the Senator from Texas (Mr. BENTSEN) as a delegate to the North Atlantic Assembly meeting, to be held in London, United Kingdom, November 14-19, 1982.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR NUNN

The PRESIDENT pro tempore. Under the previous order, the Senator from Georgia is recognized for 15 minutes.

Mr. NUNN. I thank the Chair.

CRIME IN AMERICA

Mr. NUNN. Mr. President, Senator CHILES and I have been speaking daily on the Senate floor since May 19 of this year, urging Congress to address what we consider to be one of the most pressing problems now facing our country: Crime in America. On that day, over 4 months ago, we introduced S. 2543, the Crime Control Act of 1982, a comprehensive crime package including needed reforms in the areas of bail, sentencing, habeas corpus, and protection of witnesses and law enforcement officials. The bill was patterned on legislation previously introduced by Senator CHILES and myself as a result of numerous hearings before the Permanent Subcommittee on Investigations which I have chaired in the past.

Subsequent to our introduction of S. 2543, Senators THURMOND and BIDEN introduced another comprehensive crime package, S. 2572, on May 26, 1982. That legislation, cosponsored by Senator CHILES and myself, incorporated many of the provisions which we had previously introduced in the Senate in other anticrime bills, includ-

ing bail and sentencing reform, protection of witnesses, and penalties for murder for hire. With both those bills awaiting Senate action, Senator CHILES and I have persisted in reminding our colleagues, time and again, of the urgent need for strong and decisive steps by this Congress against the crime epidemic sweeping across this country.

With those sentiments in mind, I welcomed President Reagan's call to "make America safe again" via the anticrime proposals which he sent to Congress earlier this week.

It is most encouraging to hear the President now come forward to stress those very same legislative priorities which Senator CHILES and I, as well as the present occupant of the chair, Senator THURMOND, and Senator BIDEN and others have been urging for a long time.

We welcome his support, as well as that of all our colleagues, in our efforts to enact tough and meaningful anticrime legislation.

Specifically, the President's proposals speak to three issues of great importance to our criminal law enforcement community. Two of those issues are ones on which Senator CHILES and I previously introduced legislation very similar to the proposals which President Reagan now offers. The President has proposed reform of the insanity defense in Federal criminal trials. On June 24, 1982, I introduced S. 2678, which included three major reforms in this area: First, the adoption of the M'Naghten, or so-called right-wrong test, for the insanity defense; second, placement of the burden of proof of insanity on the defendent, and not the prosecution; and third, commitment procedures for those acquitted by reason of insanity. Senator THURMOND this week introduced proposals on insanity reform based on Judiciary Committee hearings on that issue. That bill adopts essentially the same provisions which I introduced in S. 2678. Although similar to our proposal, the President's bill provides for a slightly different test for the insanity defense, and makes no provision for placement of the burden of proof. I believe in this case that the Thurmond bill, to which I am proud to be a cosponsor, is the preferable approach.

In another area, President Reagan's bill will reform those laws governing habeas corpus relief in our criminal justice system. His proposals are very similar to the habeas corpus reforms which Senator CHILES and I offered in S. 2543 in May of this year and which we have been speaking on daily for over 4 months now. Both our proposals and those now offered by the President would protect our judicial system from the waste and expense of needless and repetitive habeas corpus litigation by career criminals. To do so, both proposals would assign greater weight to State court findings and impose a statute of limitations on the filing of petitions for habeas corpus relief.

Finally, President Reagan has also proposed reform of the exclusionary rule in the Federal judicial system. His bill makes admissible any evidence resulting from a search or seizure where the search or seizure was made in the reasonable good faith belief that it conformed with the requirement of the fourth amendment.

By contrast to some other legislative proposals to reform the exclusionary rule, the President's package does not include, as a deterrent to negligent police conduct, the use of civil liability or administrative sanctions against officials who make good faith, but nevertheless, unconstitutional searches or seizures. The exclusionary rule had long been a cause of concern to both the courts and the Congress, especially in cases where its broad use has resulted in the reversal of criminal convictions on the basis of "legal technicalities." As with other issues of critical importance to law enforcement, the Senate should closely and promptly examine all the proposals for a fair and effective modification of the exclusionary rule.

In sum, in the closing days of this legislative session, the Senate Calendar is becoming more and more crowded with proposals for strong and effective anticrime legislation. Both S. 2543, introduced by Senator CHILES and myself, as well as S. 2572, the Thurmond-Biden crime package, have awaited action on that calendar for several months now. We now have before us a third anticrime package, in the proposals which the President has suggested. Surely, there is no lack of available legislative vehicles for strong action against crime. Neither this Congress, nor the American public, can afford to delay any longer in the battle against crime. As a responsible Congress, we must act now to restore credibility and strength to our criminal justice system. I urge the Senate to do precisely that by the prompt consideration of the proposals which we now have before us.

I might add, Mr. President, if we do not conclude a substantial part of these criminal law reform proposals before we adjourn in early October, I am hopeful that if we do come back for any kind of special session after the November elections and before the next Congress begins, we will give priority to these important crime measures during our deliberations in those legislative days.

Mr. President, if I have remaining time I yield that time back.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business that will not last past 10:30 a.m. during which Senators may speak for 5 minutes each.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRADY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NBC NEWS LINK SOVIET TO ATTEMPT ON POPE'S LIFE

Mr. TSONGAS. Mr. President, I wish to bring to the attention of my colleagues an article published in the New York Times September 15, stating that NBC News has evidence which suggests that the recent assassination attempt on Pope John Paul II was carried out with the knowledge, and perhaps even the assistance, of Soviet and Bulgarian intelligence agencies.

NBC News, in a report in advance of their scheduled September 21 documentary, "The Man Who Shot the Pope—A Study in Terrorism," has reportedly uncovered direct links between Mehmet Ali Agca, the gunman convicted of the assassination attempt, and both the Bulgarian Secret Service and the Soviet KGB. According to the NBC report, the Pope was targeted because of his support for the Solidarity movement in Poland.

I feel that these charges are extremely serious. They implicate the Soviet Union in an extraordinary crime, with exceedingly grave implications. I am appalled by the possibility that the Vatican could have been the victim of organized international terrorism. Of course, I am deeply concerned that the Pope's personal safety be completely assured at all times. We must see to it that all the facts in this matter are rooted out and made public. Pope John II enjoys the love and respect of millions of people of all faiths all over the world. The attempt on his life was a nefarious act, and any conspirators in this crime must be brought to justice. I request unanimous consent that the article, "NBC News Link Soviet to Attempt on Pope's Life," be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 15, 1982]

NBC NEWS LINKS SOVIET TO ATTEMPT ON POPE'S LIFE

(By the Associated Press)

NBC News reported yesterday that it had found evidence suggesting that Pope John Paul II was the target of an assassination

attempt with the knowledge and perhaps the assistance of Soviet and Bulgarian intelligence agencies.

NBC News said the Pope was targeted because of his support of the Solidarity movement in Poland. The report also said that the Pope had sent a handwritten letter to Leonid I. Brezhnev, the Soviet leader, in 1980 in which the Polish-born Pope said he would abdicate the papacy and lead the resistance if Soviet troops invaded Poland.

The letter, reportedly delivered by a Vatican envoy, instigated a secret shuttle mission between Moscow, Rome and Warsaw that led eventually to a temporary easing of the Soviet attitude toward Solidarity, NBC News said.

It said its report came after a nine-month investigation by the correspondents Marvin Kalb and Bill McLaughlin. The network released details of the investigation today in advance of the airing of a documentary, "The Man Who Shot the Pope—A Study in Terrorism." It is scheduled to be broadcast Sept. 21.

In an article in the September issue of Reader's Digest, Claire Sterling, author of "The Terror Network," said the shooting of the Pope in St. Peter's Square in May 1981 was in retaliation for the Pope's support of Solidarity. Mrs. Sterling also maintained that the shooting had the backing of the Soviet Union, which she said acted through the Bulgarian intelligence organization.

[At the time of Mrs Sterling's article, the Moscow radio broadcast a denunciation of the allegations, saying, "The absurdity and unfoundedness of this claim are obvious."]

NBC News traced what it called an unbroken line from Mehmet Ali Agca, the Turkish gunman convicted for the shooting of the Pope to organized crime elements in Turkey, the Bulgarian secret service and the K.G.B., the Soviet intelligence agency.

"A Soviet connection is strongly suggested, but it cannot be proved," Mr. Kalb said.

The correspondent said "it seems safe to conclude" that Mr. Agca had "been drawn into the clandestine network of the Bulgarian secret police and, by extension, the Soviet K.G.B."

ESCAPED FROM PRISON IN TURKEY

NBC News said bank records showed that Mr. Agca deposited $10,000 two months before the assassination of a Turkish newspaper editor, Abdi Ipecki. Mr. Agca was convicted of the murder but later escaped from a maximum security prison in Turkey. In addition, Mr. Agca had large sums of money deposited for him in Turkish banks while he was a student at Istanbul University.

NBC News said that Mr. Agca appeared to have been backed financially at every step of the way by organized crime in Turkey and that the Bulgarian secret service has strong ties to the Turkish syndicate.

NBC News quoted Vladimir Sakharov, a former K.G.B. agent who defected, as saying that information held by the Bulgarians would also be known by the K.G.B.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, and the clerk will report by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

AMENDMENT NO. 2040

The PRESIDING OFFICER. The pending question is amendment No. 2040, by the Senator from Montana.

Under the previous order, the Senator from Montana (Mr. BAUCUS) is recognized.

Mr. BAUCUS. Mr. President, I rise once again in support of the pending amendment as well as the amendment offered by the Senator from Connecticut, and I speak about the court-stripping nature of the first degree amendment to the committee substitute—that is, the amendment by the Senator from North Carolina with respect to school prayer.

For those who do not remember, the pending amendment, the amendment of this Senator, as well as the amendment of the Senator from Connecticut—particularly the amendment of this Senator—simply declares that Federal courts must remain open to those citizens who wish to litigate their constitutional rights.

I have said repeatedly, and I will state once again this morning, that this is the issue—court stripping. It is not a school prayer bill. This is not a voluntary prayer proposal—that is, the amendment offered by the Senator from North Carolina. It has nothing to do with prayer or religion. It has nothing to do with whether or not the Senate will today, on September 16, vote on that issue. Rather, it has to do with whether or not the Senate, today, on September 16, 1982, will begin to set in motion the vicious and pernicious precedent of removing the Supreme Court's power and right to enforce the Constitution.

Mr. President, that is the issue we face here—whether we here today set in motion the vicious and pernicious precedent of removing the Supreme Court's power and right to enforce the Constitution.

The Helms amendment is court stripping. It is court stripping that the Weicker amendment addresses. It is court stripping that the Baucus amendment is focused on. It is court stripping that each Senator must focus on before he or she casts a vote on the underlying issue.

The press reports describing today's forthcoming debate suggest that this dialog and today's discussion will be on the moral issue of school prayer. Nothing could be further from the truth, at least so far as this Senator is concerned.

We are here today because the underlying issue is whether the American public wants the guarantees of our Constitution to mean something. That is why the Senator from Connecticut and I are here, because we are trying to protect those constitutional guarantees and protect that branch of Government which was designed to insure that those guarantees not be infringed upon.

I am confident that if the average citizen knew that what was pending before us today was a court-stripping amendment, that citizen would agree with me that this is not the way to go about responding to unpopular or inappropriate decisions of the Supreme Court.

I might add at this point that it is my firm belief that if the Senate could take a secret, private vote on this issue, the result would be different—that is, the Senate would unanimously agree not to remove Supreme Court jurisdiction over the pending issue.

I should like to make one additional point about the manner in which this amendment is being raised. I do not think this proposal should be before us in the context of a debt limit bill. No issue of such magnitude should be considered as a rider to a money bill of this nature. It should be processed and called up as a free-standing piece of legislation.

This brings me to what I consider an outrageous aspect of consideration of this proposal. There has not been even one witness to testify on the underlying Helms proposal in the Senate, in this Congress or in any other Congress. I repeat: Not even one witness, not one, has ever testified before any committee of the U.S. Senate, in this Congress or any other Congress, on the underlying Helms amendment. Not one witness.

The original Helms proposal in this Congress, S. 481, is pending today before the Separation of Powers Subcommittee, of which I am ranking minority member. The chairman of our committee, Senator EAST, a supporter of the proposal, has not had the opportunity of 1 day of hearings on S. 481. The subcommittee has not been asked to vote on this proposal and the Senate Judiciary Committee has not been asked to vote at all—that is, the full committee has not been asked to vote on this proposal. There has been an end run around the entire subcommittee and the committee process. That is an important point.

Here we are today, with the debt limit bill before us. The principal amendment to the debt limit bill is the amendment of the Senator from North Carolina. It is a very important amendment. It is an amendment which purports to strip the Supreme Court of jurisdiction. That is how important it is. It is an amendment to overrule the U.S. Supreme Court. It is not a trivial amendment.

Here we are today, faced with that amendment, and not one hearing has been held in the Senate, not one witness has ever testified in the Senate, or in any other Congress, on this amendment, and we are asked to vote on it. Because the amendment is so important, I think it should receive due consideration of the committee process, so that we know what we are voting on and, more important, what the ramifications of it are.

Mr. President, I should note that the House of Representatives has had extensive proposals on this matter in the last Congress. In fact, there is a full volume of hearings before the House Judiciary Committee sitting on my desk. I believe it is no small coincidence that the House of Representatives has not responded favorably to court-stripping proposals.

It is because they have studied them. We in the Senate have not studied them. Members of the House have. As I say, it is no small coincidence that the House of Representatives has not responded favorably to court-stripping proposals, because they have studied them.

The House opposition to court stripping is bipartisan. It crosses ideological lines. It is not a partisan matter. I believe that the depth of sentiment in the Senate with respect to court stripping would be similar if the Senate were willing to study the proposal and permit it to come up through the traditional committee process.

During the course of the day, I hope to bring to the attention of the Senate additional matters which I believe should have been considered by the Separation of Powers Subcommittee as well as by the full Judiciary Committee. Unfortunately, that was not done, and therefore I feel compelled to assure that the Senate record is complete on this issue.

Mr. President, following is the resolution of the conference of 50 State supreme court chief justices concerning court-stripping bills. The chief justices of the various State courts met recently. They took up various issues, and one of the issues they took up was the very basic question of court-stripping proposals which now face the U.S. Congress.

I might add, Mr. President, that there are many court-stripping proposals before us. Some of them are specific issues; some are general.

One bill has been introduced in this Congress which would limit Supreme Court review of any Federal constitutional question that has been decided by a State supreme court. Imagine. A bill was seriously introduced in this Congress prohibiting U.S. Supreme Court review of any State supreme court decision which ruled on a Federal constitutional question. To me, that is court-stripping in one of its purest forms. In any event, I should like to read the resolution of the conference of 50 State supreme court chief justices concerning court-stripping bills.

RESOLUTION RELATING TO PROPOSED LEGISLATION TO RESTRICT THE JURISDICTION OF THE FEDERAL COURTS

Whereas, there are presently pending in the United States Congress approximately twenty bills that would strip the federal courts, including the United States Supreme Court, of substantive jurisdiction in certain areas involving prayer in public schools and buildings, abortion, school desegregation and busing, and sex discrimination in the armed services; and

Whereas, the Conference of Chief Justices, without regard to the merits of constitutional issues involved, expresses its concern about the impact of these bills on state courts and views them as a hazardous experiment with the vulnerable fabric of the nation's judicial systems arriving at this position for the following reasons, among others:

A. These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents;

B. If those proposed statutes are enacted, the current holdings of those Supreme Court decisions targeted by this legislation will remain the unchangeable law of the land, absent constitutional amendments, beyond the reach of the United States Supreme Court of state supreme courts to alter or overrule;

C. State court litigation constantly presents new situations testing the boundaries of federal constitutional rights. Without the unifying function of United States Supreme Court review, there inevitably will be divergence in state court decisions, and thus the United States Constitution could mean something different in each of the fifty states;

D. Confusion will exist as to whether and how federal acts will be enforced in state courts and, if enforced, how states may properly act against federal officers;

E. The proposed statutes would render uncertain how the state courts could declare a federal law violative of the federal Constitution and whether Congress would need to wait for a majority of the state courts to so rule before conceding an act was unconstitutional;

F. The added burden of litigation engendered by the proposed acts would seriously add to the already heavy caseload in state courts: Now, therefore, be it

Resolved, That the Conference of Chief Justices expresses its serious concerns relating to the above legislation, approves the report of the Conference's Subcommittee of the Committee on State-Federal Relations, and directs its officers to transmit that report, together with this resolution, to appropriate members of Congress.

Proposed at the Midyear Meeting in Williamsburg, Virginia on January 28, 1982.

Mr. President, let me just comment on that point. Again this is part of the resolution adopted by the 50 State court chief justices in one of the recent conferences. That resolution says that these proposed statutes, that is, the court-stripping statutes, give the appearance of proceeding from the premise that State court judges will not honor their oath to obey the U.S. Constitution.

Let me explain that. These bills, these court-stripping bills, including the amendment offered by the Senator from North Carolina, would in effect prevent the U.S. Supreme Court from reviewing school prayer in one instance or the other issues that are contained in the other bills. If those bills pass, if they become law, then the Supreme Court could not review those Federal constitutional issues.

What then must State supreme court justices do when faced with these issues, that is, when the school prayer or some other issue comes before a State supreme court? As this resolution states or at least as these court-stripping provisions imply State court judges will not be bound to honor their oath to obey the U.S. Constitution. That is the supreme court judges will not be honorbound to enforce the last U.S. Supreme Court decision on the question even though that court cannot subsequently review that issue again.

That places State supreme court judges in a terrible dilemma. On the one hand, they are sworn to uphold the Constitution. They are so sworn when they take their oath of office and the Constitution is what the Supreme Court says it says. And the latest Supreme Court issue will be the latest ruling on the issue and the judges will be, on the one hand, forced to honor that decision and on the other hand they may feel that the correct result is something else.

So it places the State supreme court judges in a terrible dilemma.

Continuing with the resolution proposed by the conference of 50 State court chief justices.

B. If those proposed statutes are enacted, the current holdings of those Supreme Court decisions targeted by this legislation will remain the unchangeable law of the land, absent constitutional amendments, beyond the reach of the United States Supreme Court or state supreme courts to alter or overrule;

Think of that. If these court-stripping provisions pass and if the amendment of the Senator from North Carolina becomes law, then the latest Supreme Court decision will remain the unchangeable law of the land absent the constitutional amendment.

That is not the result that the proponents of the amendment seek to achieve. The incongruity seems obvious.

Again continuing with the resolution as proposed by the 50 State supreme court judges:

C. State court litigation constantly presents new situations testing the boundaries of federal constitutional rights. Without the unifying function of United States Supreme Court review, there inevitably will be divergence in state court decisions, and thus the United States Constitution could mean

something different in each of the fifty states;

Think of that. If these provisions pass, if these court-stripping provisions pass then not only would the U.S. Supreme Court not be able to review a particular Federal constitutional issue in question, but when each of the 50 State supreme courts takes up that question, we in our country will be faced inevitably with divergence of State supreme court decisions which would mean 50 different interpretations of the same question.

Again continuing with the resolution:

D. Confusion will exist as to whether and how federal acts will be enforced in state courts and, if enforced, how states may properly act against federal officers;

E. The proposed statutes would render uncertain how the state courts could declare a federal law violative of the federal Constitution and whether Congress would need to wait for a majority of the state courts to so rule before conceding an act was unconstitutional;

F. The added burden of litigation engendered by the proposed acts would seriously add to the already heavy caseload in state courts;

Mr. President, that is a very important point. We in Congress are constantly looking for ways to reduce the burden not only of the State courts but more particularly the Federal courts. Our judicial system is overloaded. In fact, I am sure many Members of this body have noted recent observations in the press how various members of the U.S. Supreme Court the last several days have been commenting on the excessive overload of the Federal judiciary. It is not only the Supreme Court of the United States but the Federal judiciary generally.

There have been many articles in the paper where members of the Supreme Court were commenting on this.

I might add it must be a very important issue for them to be addressing because usually members of the U.S. Supreme Court do not publicly comment on the court. It is in very rare instances for members of the Supreme Court to comment publicly on the activities of the court and for several members of the court to recently comment on excessive burden and overload of the judiciary to me certainly indicates that it is a very important issue facing them.

Mr. President, we also note that there are many, many proposals for various specialized courts of appeals. Some propose a tax court of appeals. Others even propose an environmental court of appeals. We have a specialized court of appeals in various proposals, and the main reason for those is the excessive workload facing the courts.

I might add that unless we find some solution to this the problem is going to get worse.

The same is true in the States. The State courts, also, are overloaded. There is something about the nature of our society that we sometimes tend to be a litigious society. We tend, I think, too often to resort to courts to resolve our differences. Our system is overloaded.

These court-stripping proposals as pointed out by the State supreme court judges will add to the already heavy caseload in the State courts. And why will they add to the caseloads in the State court? It is because the Supreme Court and lower Federal courts will not have jurisdiction over these issues and necessarily State courts will be forced to take up determination of these issues placing an even greater burden on already overloaded State courts.

Think about that. If the U.S. Supreme Court and lower Federal courts no longer have jurisdiction over school prayer or whatever issue might be involved here, necessarily all those who agree or disagree with statutes passed by Congress, actions taken by school boards, actions taken by various levels of State government, all those questions will be shoved and pushed to the State courts and added to the State courts' burden, a serious consequence of these court-stripping proposals.

The therefore clause of this resolution now reads as follows:

Now, therefore, be it resolved that the Conference of Chief Justices expresses its serious concerns relating to the above legislation, approves the report of the Conference's Subcommittee of the Committee on State-Federal Relations, and directs its officers to transmit that report, together with this resolution, to appropriate members of Congress.

It is clear, Mr. President, from the stated concerns of this resolution that the State court chief justices are not enamored of these proposals, and they are not enamored because as judges and as chief judges of the various supreme courts of their States they are students of our constitutional form of government, they are serious students of our constitutional form of government. They know that not only do they have heavy case loads but that for the U.S. Supreme Court to be precluded from hearing Federal constitutional questions would result in our form of government, as we know it, being decimated.

You would think it would be in their interest, in the interest of State court chief justices, to want to hear these cases; that is, you would think the State supreme court justices perhaps would not be upset with bills limiting Supreme Court or lower Federal court jurisdiction. After all, it is human nature to like to have more power; it is human nature to like to be able to determine more issues; it is human nature to want more control not only of our lives but of our professions, whatever we do. That is part of our lives.

So you would normally think State supreme court judges would want a little more control over the law and an opportunity to hear more cases, and you would think they would not be upset with efforts by Congress to limit Supreme Court and lower Federal court jurisdiction.

But, no, State supreme court judges do not want more. They know that not only handle it but, more importantly, it seriously undermines our form of Government as we know it.

They know that famous phrase by, who was it, Lord Acton, who said "power corrupts and absolute power corrupts absolutely." They know the value of the separation of powers. They know the value of checks and balances. They know how dangerous it is and how wrong it is for any person, any institution, any branch of government to be too powerful. Power does corrupt and absolute power does corrupt absolutely. That is one of the underlying problems of these bills, because the effect of these bills, these court-stripping bills, it as follows: The Supreme Court would no longer be able to determine Federal constitutional questions. What does that mean? That means we virtually obliterate the Supreme Court because if Congress can limit Supreme Court jurisdiction over school prayer, then Congress can limit Supreme Court jurisdiction over any Federal constitutional issue.

Take the bill of rights—the first amendment, free speech, free press, freedom of religion, freedom of assembly, the right against self-incrimination; and what about the right to bear arms? You know, this effort to limit Supreme Court jurisdiction is a double-edged sword. Sometimes conservatives want to limit Supreme Court jurisdiction. Well, there may be a day when liberals may want to limit Supreme Court jurisdiction over the right to bear arms. What is to prevent some Congress at some time in our country's history from passing a law limiting Supreme Court review over the right to bear arms? It is a double-edged sword; it works both ways.

So I suggest to those of you who are listening, those who are enamored of the prospect of overturning Supreme Court decisions because you disagree with these Supreme Court decisions and are, therefore, enamored of prohibiting Supreme Court review of that issue: Think twice, because as the sword is double-edged. This approach will 1 day come back to haunt you and also prohibit the Supreme Court's jurisdiction over issues that are also near and dear to the hearts of all of us, even through they may not be on some other issue.

So I suggest it is power that corrupts and absolute power that corrupts absolutely, and we cannot preclude the Supreme Court from upholding the Constitution because when we do that we are effectively eliminating the Constitution, and we have eliminated one of the three branches of Government. We no longer have the Supreme Court protecting Americans in their constitutional rights under the U.S. Constitution.

Let us remember, I think we often easily forget, that our country was basically founded because our forefathers wanted to escape the tyranny of legislative whims or the whims of monarchs in European countries.

They also wanted to escape religious persecution. They came here because they wanted to live their lives free from tyranny of kings and queens and free from the tyrannies of rulers.

What did they do, our forefathers? They adopted a Constitution, a Constitution setting forth the rights, the basic rights, of citizens. Probably the most basic declaration of rights of citizens is the Bill of Rights. It is the Bill of Rights, the first amendment, the fourth amendment, search and seizure, you name it, it is the Bill of Rights which protects American citizens from the whims of majorities, from the whims of government, for wnatever reasons government might want to act.

These court-stripping proposals begin to take us down that slippery slope of undermining the Constitution and eventually eliminating the protection of Federal constitutional rights that are so important to our country and our form of government.

I do not think Americans want, I do not think our citizens want, the Constitution destroyed.

You may think that I am exaggerating. After all, the amendment pending is merely an amendment to preclude Supreme Court jurisdiction over the issue of school prayer. Well, that is right. That is the only issue that is before us today—just one particular Federal constitutional issue. But I personally think it is so important that we not set the precedent, that we not enact this amendment today, and that we do whatever we can at whatever cost to prevent Congress from enacting a statute which begins us down the road of limiting Supreme Court jurisdiction, and that is what the issue is all about here today.

I am not at any time going to address the merits of the underlying amendment. We do not get to the merits of the underlying amendment until we discuss the court-stripping nature of the underlying amendment. Once that is taken care of, then we will address the merits.

I must say to my colleagues I would not be standing here today if it was a debate on the merits, because that is an issue on which each of us as Senators should vote on. I am in no way whatsoever inclined to nor do I want to be a part of any effort to prevent a vote on the merits so long as we do not vote on the court-stripping nature of this amendment, because I think it is too dangerous, and I frankly think it is so dangerous that it is a matter that we should discuss quite at length so that we more actually understand its ramifications.

(Mr. ARMSTRONG assumed the chair.)

Mr. BAUCUS. Mr. President, I would now like to read an excerpt from a letter from Prof. William Van Alstyne, He is professor of law at Duke University School of Law. Actually, Mr. President, this letter is so important that I will read the entire letter rather than just an excerpt. This letter is dated August 7, 1981:

DUKE UNIVERSITY,
SCHOOL OF LAW,
Durham, N.C., August 7, 1981.

Senator MAX BAUCUS,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BAUCUS: Your letter of July 27 asks that I respond to five questions, all of which are felt to be pertinent to S. 481, a bill to foreclose federal court (and Supreme Court) review in any case involving "voluntary" prayers in public schools. As complimented as I am to receive your inquiry, I cannot respond to each question in any comprehensive fashion. Responses which could adequately present the material I believe sufficient to support my conclusions would require literally several hundred pages. Virtually every question you raise has generated substantial academic (as well as political) controversy over the years. No thorough distillation of those controversies can be provided in any one person's answer to you. Indeed, I very much fear that what the Committee must necessarily receive generally will be but "cut" and "paste" profiles of selected materials which, each in its own turn, may be internally consistent and seemingly very persuasive. I am confident, however, that neither of us desires that Congress should seek to resolve these questions by material of that kind—by "choosing" between mutually exclusive (and mutually partisan) submissions of ponderous material.

With this disappointing introduction, I shall nonetheless respond directly to each of the questions in your letter despite the abbreviated (and somewhat summary) form I have been obliged to give them. Insofar as Hearings may subsequently be held, pursuant to which matters I may not address to your satisfaction in this letter may be considered, I would be pleased to supplement this response upon request.

One last word by way of introduction. The questions presented in your letter more-or-less assume their own relevance to S. 481. It is not at all clear to me that that assumption is sound. None of the questions, for instance, goes *directly* to the "correctness" or "incorrectness" of the Supreme Court's school prayer decisions; and, accordingly, nothing in my responses to your questions does so either. To this extent, the inquiry is bound to be inconclusive, as but a single example may make quite clear. The first question (whether the 14th amendment "intended to apply the Bill of Rights to the States") appears to assume that if the 14th amendment does make the Bill of Rights applicable to the states, then the Supreme Court school prayer cases may well be correct; but if the 14th amendment did not contemplate the application of the Bill of Rights to the states, then the Supreme Court school prayer cases are presumably incorrect. Both propositions are *non sequiturs;* both leave out of account an undistributed middle possibility. The fourteenth amendment and the Bill of Rights may be either completely co-extensive, merely coincidentally overlapping, of even mutually exclusive. Even if exactly co-extensive (as I do not think to be so at all), that would say little or nothing about the correctness of the school prayer cases as such. Even if mutually exclusive (as I also think to be not so at all), it says nothing about the correctness of those cases. If partly overlapping (as I think to be the case) it still says very little. In brief, the general disagreement respecting "Incorporation" is germane, but wholly indecisive of how well the Court has interpreted either the "free exercise" of "establishment" clauses of the first amendment or the differently-worded clauses (e.g., respecting "privileges and immunities," "liberty," "equal protection,") of the fourteenth amendment. I am respectful of the Subcommittee's interest, but a bit puzzled as to why so much would appear to turn on this question. I desist from pursuing the matter here, however, as I have occasion to return to the point, perhaps with greater clarity, in what follows. Here, then, briefly, my answers to the question you put.

I. *Was the Fourteenth Amendment intended to apply the Bill of Rights to the States?*

My own view of this profusely-examined controversy is that a number of the "rights" previously protected in the Bill of Rights *were* expected thenceforth to be protected also from systematic disregard by state government. Among such rights, the first amendment itself was furnished as a leading example to illustrate what kinds of rights would be protected from state laws, although it was the "first amendment" as such, rather loosely, and without specific (much less special) reference to "the establishment clause" in particular. The materials on this immensely examined question are, to my satisfaction, unconvincing that *all* of the Bill of Rights would necessarily carry over. Similarly, they are unconvincing that *the degree* to which certain rights identified in the Bill of Rights might thenceforth also be sheltered from infringements by the states would be precisely the same in both instances.

This general view of the matter, incidentally, describes a very widely-shared common ground among virtually all of the Justices of the Supreme Court: even those Justices who have been wholly unpersuaded that there was a literal, (much less a co-extensive) "incorporation" of the Bill of Rights within the framing of the fourteenth amendment have nonetheless concluded that in *many* areas the field of protection is the same. The most recent review of this general question is in Curtis, *The Bill of Rights As A Limitation on State Authority,* 16 WAKE FOREST L. REV. 45 (1980). It may usefully be read together with DEMOCRACY AND DISTRUST (1980) by Professor John Ely of the Harvard Law School. Both may usefully be contrasted with Raoul Berger's thesis (that the fourteenth amendment did nothing whatever other than to constitutionalize the Civil Rights Act of 1866) to see how extraordinary is the range of written opinion on the subject. Of course, were Mr. Berger's thesis thought correct in Congress, and were it then used both neutrally and uniformly to deny all federal courts jurisdiction in respect to *every* kind of case which (according to that thesis) has been "unconstitutionally" decided in the Supreme Court, Congress would end by taking from the federal courts at least 90% of all conceivable cases arising under the fourteenth amendment.

II. *If the 14th Amendment was not intended to incorporate the Bill of Rights, aren't the Supreme Court's school prayer decisions unconstitutional?*

The answer is, necessarily, "no." That much must be clear insofar as even within the majority of Supreme Court Justices who, unlike Mr. Justice Black, reject the notion that the fourteenth amendment is

literally and exactly co-extensive with the first nine amendments, most have nonetheless concluded that the Bill of Rights and the fourteenth amendment do *significantly overlap* in the respective protection each provides. This position overwhelmingly characterizes our law in respect to "freedom of speech" and state (as well as federal) laws that affect it. An impressive number of eminently regarded Justices (*e.g.*, Holmes, Frankfurter, Harlan) not able to subscribe to a literal, "tittle-for-tittle," and "jot-for-jot" notion that the Bill of Rights and the fourteenth amendment are co-extensive, nonetheless concur emphatically that freedom of speech is separately protected by the fourteenth amendment against abridging state action. The treatment of religion in this respect therefore, is not unique.

(Mrs. HAWKINS assumed the chair.)

Mr. BAUCUS. Madam President, I yield to the Senator from North Carolina and ask unanimous consent to do so, so long as I do not at all lose my right to the floor and that immediately upon yielding 30 seconds to the Senator from North Carolina, and yielding to him only for the purposes of filing a cloture motion, that I immediately regain my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Senator.

CLOTURE MOTION

Mr. HELMS. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031 as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Jake Garn, Harry F. Byrd, Jr., Steven Symms, S. I. Hayakawa, Don Nickles, James A. McClure, Strom Thurmond, Charles E. Grassley, Malcolm Wallop.

Mr. HELMS. Madam President, I thank the able Senator.

Mr. BAUCUS. I thank the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. BAUCUS. I thank the Chair.

Madam President, I have been reading from a letter from Professor Van Alstyne from Duke Law School and going into his responses to the second question I posed to him in an earlier letter. That question I posed to him was:

If the 14th amendment was not intended to incorporate the Bill of Rights, aren't the Supreme Court's school prayer decisions unconstitutional?

I am now quoting from Professor Van Alstyne's response to that question.

The answer is, necessarily, "no." That much must be clear insofar as even within the majority of Supreme Court Justices who, unlike Mr. Justice Black, reject the notion that the fourteenth amendment is literally and exactly co-extensive with the first nine amendments, most have nonetheless concluded that the Bill of Rights and the fourteenth amendment do significantly overlap in the respective protection each provides. This position overwhelmingly characterizes our law in respect to "freedom of speech" and state (as well as federal) laws that affect it. An impressive number of eminently regarded Justices (e.g., Holmes, Frankfurter, Harlan) not able to subscribe to a literal, "tittle-for-tittle," and "jot-for-jot" notion that the Bill of Rights and the fourteenth amendment are co-extensive, nonetheless concur emphatically that freedom of speech is separately protected by the fourteenth amendment against abridging state action. The treatment of religion in this respect, therefore, is not unique.

The so-called "incorporation" controversy does not itself resolve the "correctness" of fourteenth amendment adjudication, incidentally, in either direction. Suppose, for instance, one believed (as I do not believe) that the fourteenth amendment exactly and wholly, and co-extensively rendered applicable against the states all of the first nine amendments to the Constitution as interpreted by the Supreme Court against Acts of Congress. If one were also of the opinion, however, that the Supreme Court has "incorrectly" interpreted the first amendment itself as applied directly, to Acts of Congress, then of course one would maintain that the Court has been equally "incorrect" in applying the first amendment to state statute even if, in doing so, the Court had used exactly the same standards in both sets of cases. All that one would be prepared to concede, according to this view, is that the Court was "correct" (in deeming the Bill of Rights to have been incorporated within the fourteenth amendment), and thus merely consistently "incorrect" (insofar as it "erred" in interpreting the first amendment, thereby resulting in carrying over the same error into the fourteenth amendment)! The "incorporation" controversy does not prove the Supreme Court "right" or "wrong" on either matter. The last section of the article (in draft manuscript) I am enclosing for your interest, on the particular subject of free speech, may help to make this point more clearly.

III. If the school prayer decisions are unconstitutional, isn't that sufficient cause for the Congress to remove the Court's jurisdiction from that area?

Again, Madam President, this is a question I posed to various professors, in this case Professor Van Alstyne. I will repeat the question.

III. If the school prayer decisions are unconstitutional, isn't that sufficient cause for the Congress to remove the Court's jurisdiction from that area?

That is one of the underlying issues which faces us today.

Respectfully, I think the answer is plainly "no." The usual way of "correcting" final adjudicative interpretations of the Constitution by the Supreme Court (indeed, with one attempted exception, i.e., the McCardle case, the sole way), has been by proposing amendments which, once ratified, uniformly change the result. One may put the matter more strongly. The usual way of altering final adjudicative Supreme Court interpretations of the Constitution one may believe to be not merely "incorrect" but also "intolerable,"—is by amendment. Each of at least six amendments to the Constitution in reaction to Supreme Court constitutional adjudications have resulted on both grounds.

Let me repeat that paragraph. "Uniformly" is the key word.

Respectfully, I think the answer is plainly "no." The usual way of "correcting final adjudicative interpretations of the Constitution by the Supreme Court (indeed, with one attempted exception, i.e., the McCardle case, the sole way), has been by proposing amendments which, once ratified, uniformly change the result. One may put the matter more strongly. The usual way of altering final adjudicative Supreme Court interpretations of the Constitution one may believe to be not merely "incorrect" but also "intolerable."—is by amendment. Each of at least six amendments to the Constitution in reaction to Supreme Court constitutional adjudications have resulted on both grounds.

The matter is no different on this question. Quarrels there doubtless are respecting the "proper" construction of the establishment clause within the first amendment itself, as well as the "proper" construction of the fourteenth amendment. The history of each amendment is separately controversial in respect to religion. The background of the first amendment's own establishment clause (as it binds Congress divides the best of people, as well as the worst. (Part of that background is strongly "separatist." Part of it is strongly "voluntarist." And a different part is pre-occupied with considerations principally of federalism.) My own view is that the Supreme Court has muddled through these problems none too well, but that it deserves "two cheers" for coping with a text, a history, and an indefatigable litigative tendency in American life that are, in the aggregate, massively perplexing.

That is a wonderful sentence. I will read it again. He is commenting on the Supreme Court's prayer decision.

My own view is that the Supreme Court has muddled through these problems none too well, but that it deserves "two cheers" for coping with a text, a history, and an indefatigable litigative tendency in American life that are, in the aggregate, massively perplexing.

If one is irreconcilably distraught with where these decisions have brought us (as I am not), then still it adds up to no very powerful argument to seek to remove adjudicative federal court jurisdiction, leaving the meaning of the fourteenth amendment to a vagrant career in the differing, wholly unpredictable extent to which the several state supreme courts may (or may not) continue to adhere to the Supreme Court's last words on the subject—such last words as it had occasion to utter prior to an Act of Congress that does not (and cannot) "correct" the Court but merely holds it hostage to an imposed silence. Rather, it adds up, at best, to sufficient reason to propose an amendment and, perhaps, to seek influence in the judicial appointment process insofar as it is within the practical capacity of the Senate to do so.

Let me repeat that paragraph.

If one is irreconcilably distraught with where these decisions have brought us (as I am not), then still it adds up to no very powerful argument to seek to remove adjudicative federal court jurisdiction, leaving the

meaning of the fourteenth amendment to a vagrant career in the differing, wholly unpredictable extent to which the several state supreme courts may (or may not) continue to adhere to the Supreme Court's last words on the subject—such last words as it had occasion to utter prior to an Act of Congress that does not (and cannot) "correct" the Court but merely holds it hostage to an imposed silence.

Rather, it adds up, at best, to sufficient reason to propose an amendment and, perhaps, to seek influence in the judicial appointment process insofar as it is within the practical capacity of the Senate to do so.

For reasons I set forth much more elaborately in earlier testimony (a copy of which is enclosed), I think it immensely ill-advised of Congress to seek the "correction" of "unconstitutional" Supreme Court adjudications by an ad hoc reduction in federal court jurisdiction. Frankly, its power to do so is far from certain—but this aside, it can have no effect by way of "expunging," "reversing," or "overruling" the Court's decision. It does not lessen the felt obligation of State supreme court judges to abide by those decisions (even assuming they would no longer be subject to the certainty of reversal for failure to do so), it leaves the matter uncertain in each separate state, it contemplates inconsistent (even contradictory) outcomes respecting the same clause from state-to-state, and it may generate an expectation that Congress will plunge equally into every area whenever the Court is felt to have gone "wrong."

Let me repeat that paragraph. I think it is, as we say in law school, on all fours.

For reasons I set forth much more elaborately in earlier testimony (a copy of which is enclosed), I think it immensely ill-advised of Congress to seek the "correction" of "unconstitutional" Supreme Court adjudications by an ad hoc reduction in federal court jurisdiction. Frankly, its power to do so is far from certain—but this aside, it can have no effect by way of "expunging," "reversing," or "overruling" the Court's decision. It does not lessen the felt obligation of state supreme court judges to abide by those decisions (even assuming they would no longer be subject to the certainty of reversal for failure to do so), it leaves the matter uncertain in each separate state, it contemplates inconsistent (even contradictory) outcomes respecting the same clause from state-to-state, and it may generate an expectation that Congress will plunge equally into every area whenever the Court is felt to have gone "wrong."

Madam President, I now address question 4. I asked various law professors several questions last year. This is one of the letters in response to several questions. In the fourth question I asked: "Does the Congress have the constitutional authority to remove Supreme Court jurisdiction over an issue like school prayer?"

This is the response of Professor Van Alstyne of Duke University Law School.

I might add that I really, earlier, had no ax to grind in these issues. That is, I wanted to get the best advice of the best legal scholars of the country. At random, I went down a list of law schools in the country and wrote this letter to all the law schools I selected. Those I selected were the law schools which I thought would give the most comprehensive response to my questions. I was not for the issue, and I was not against the issue. I just wanted to know what the legal scholars of our country felt about these proposals. So I wrote lots of letters and got back lots of responses.

I will say, Madam President, that by far, the vast, vast majority of responses were very much in opposition to removal of Supreme Court jurisdiction in constitutional questions. This letter is one response I received. I received many others and, during the course of this day and future days, I shall relate the other responses I received. Let me repeat the question: "Does Congress have the constitutional authority to remove Supreme Court jurisdiction over an issue like school prayer?" This is Professor Van Alstyne's response.

I have addressed this question in its more general form extensively in previous testimony, a copy of which is enclosed. For the reasons very elaborately reviewed in that testimony, I regard the question as very close. It is especially difficult insofar as Congress has never before attempted to employ its power over the appellate jurisdiction of the Supreme Court in this exact fashion, with a single exception, in 1868, which nonetheless failed to yield a useful holding (because Congress had, quite inadvertently, overlooked an alternative procedure by means of which the Supreme Court's appellate jurisdiction remained unimpaired).

The question as presented specifically in the Helms Bill goes directly to what many regard as an "essential function" of the Supreme Court, i.e., the power to provide an adjudicative uniformity of interpretation in respect to a constitutional clause clearly binding upon all state goverments, and with respect to which no department of any state government may therefore possess an unreviewable authority to construe in the state's own favor. The argument is based on certain language within Article III, certain presuppositions respecting the fourteenth amendment, and a good deal of the reasoning and rhetoric in Mr. Justice Story's famous opinion in Martin v. Hunter's Lessee. Despite the excellence (and personal attractiveness) of the argument, for reasons elaborately reviewed in my enclosed testimony, I doubt whether it is sound. To be blunt about the matter, I think it likely that Congress may, if it wishes, "federalize" the meaning of the fourteenth amendment by withholding from all inferior federal courts jurisdiction to decide such cases as raise the question, and by exerting its authority to make "exception" of all such cases from the appellate jurisdiction of the Supreme Court.

Let me add, however, that if I am mistaken in this view, i.e., mistaken in respect to the scope of congressional authority as expressly described in Article III of the Constitution, I think nothing whatever is added by attempting to rely upon Section Five of the fourteenth amendment. I add this seemingly obscure statement because of a recent article published by Raoul Berger which I think to be quite mistaken. It was formerly Mr. Berger's published position that the congressional power respecting federal court jurisdiction (and, specifically, its power to make exception to certain kinds of Supreme Court appellate jurisdiction) was extremely limited—much more limited than I believe to be the case. More recently, without receding at all from that general position, he has nonetheless suggested that so far as Supreme Court review is concerned with state court judgments respecting the interpretation of the fourteenth amendment in particular, Congress may freely cut off any such review under its power in Section Five of the fourteenth amendment to "enforce" the amendment. I entirely disagree. Should your Subcommittee hereafter find itself moved by that argument, I would at that time be pleased to respond.

Finally, in respect to the Helms Bill in particular, there is a difficulty with it that is not necessarily conclusive respecting the unwisdom of adopting it, but which I think the Subcommittee should consider. The Bill (quite understandably) does not attempt to oust federal court jurisdiction respecting cases involving involuntary prayers, but only those involving truly "involuntary" prayers. (And even then, it makes no exception for "voluntary" prayers if composed by state officials.) In brief, it acknowledges that if the case draws into question the constitutionality of an "involuntary" prayer, then a final state court judgement remains fully reviewable respecting its constitutional integrity just as in any other case.

Respectfully, however, a conscientious federal court (whether a district court of the Supreme Court itself) may find that the category of cases thus foreclosed from federal court adjudication on the merits *may* be an empty set. The voluntarism of a particular prayer is highly contextual. Because the Court's own view of the establishment clause has not required the Court generally to decide whether such prayers, in the setting of public schools, involving young children, are or are not "voluntary," it has yet not been obliged to decide that question. But the Helms Bill will force it to do so as a matter of determining its own jurisdiction—a determination it cannot avoid. My own impression is that, in *most* settings, a very persuasive argument can be made that such prayers are not truly "voluntary." Excusal procedures may be provided for objecting families—but recourse to such procedures may stigmatize the dissenting youngster and, depending upon the character of the community, the dominant sentiment of peer groups, and a considerable variety of other factors, exert an unavoidable duress. A court, adjudicating the jurisdictional question in this way, would then conclude that by definition the merits of the cases themselves have not been foreclosed from determination—and proceed at once to hold the public school "prayer" invalid under the establishment (and free exerise) components of the first amendment, as made applicable to the state through the fourteenth amendment.

V. Even if the Congress has such authority, as a matter of public policy is it advisable for the Congress to remove Supreme Court jurisdiction over constitutional issues generally or over the school prayer issue specifically?

At the general level of "advisability" of such a practice, I addressed that question in the (enclosed) prior testimony and thus will not repeat my views at any length. Briefly, I think it extraordinarily ill-advised of Congress, two centuries into the history of our Constitution, even seriously to consider selectively "silencing" the Supreme Court of the United States in respect to the adjudica-

tion of constitutional questions. The very idea that the fourteenth amendment might have sharply differing meanings (as would necessarily be the case if each of the fifty state supreme courts had finality of interpretation for all cases arising in that state), is deeply disturbing. The language of the amendment is imperative: in each of its three significant clauses, it provides that *no* state shall act to violate certain personal freedoms. There is no wisdom in arranging the judicial power to cut off the Supreme Court in a fashion which, operatively, means that the fourteenth amendment would effectively provide that "to the extent determined solely according to each state's own highest court, no state shall [violate certain fundamental, personal freedoms]."

The fourteenth amendment was not meant to be, and ought not be reduced to be, an unreliable set of bus coupons which may or may not be valid as each state decides purely to its own satisfaction to interpret. Not since 1789 have we been organized as a mere confederation. Regardless of one's private views about any particular Supreme Court decision, it is difficult to imagine how conscientious Members of Congress could desire that the fourteenth amendment should be treated no better than a treaty, with each state determining exclusively to its own satisfaction the extent to which it sees fit to interpret it and, accordingly, to consider itself bound by it.

The motivation in this instance so to dismember the fourteenth amendment among the states proceeds from the felt dissatisfaction of some with the manner in which the Supreme Court has interpreted that amendment—that the Court has "erred," and that a limited, surgical corrective, not involving the ordeal of amendment, is therefore in order. If one seriously is concerned with the integrity of constitutional interpretation, however, the device selected is hopelessly misguided. In many states, the state's own supreme court is much less insulated from political influence than is our own, national Supreme Court. Insofar as that is true (as it is in fact true), it necessarily means that the "constitutional" interpretations of such courts are even more likely to turn upon considerations of local influence—that they will possess considerable less integrity, as an original proposition, than what we now receive from the United States Supreme Court. Integrity of interpretation therefore, frankly cannot justify the measure now under consideration.

With respect to the Helms proposal in particular, if recast as a proposal to amend the constitution, thus to permit the resumption of public schools utilizing compulsory attendance laws and compulsory taxation as a means of inculcating the locally-prevailing religion through nominally voluntary prayers (each of which is plainly sectarian and cannot conceivably be otherwise), I do not think much of it but neither do I think it threatens the very foundations of the country. But if it is to be done, then when 'tis done, it were far better to be done as we have proceeded in the past: by an amendment which does not, as does this bill, essentially federalize and dismember the Constitution of the United States.

Madam President, as I mentioned earlier, I wrote various letters to various legal scholars, and I would now like to read the response of Professor Ratner, Legion Lex Professor of Law at the University of Southern California Law Center. This letter is dated September 4, 1981. It is addressed to me:

DEAR SENATOR BAUCUS: The following is in reply to your letter of July 27, 1981 concerning the proposal of Senator Helms to limit lower federal court and Supreme Court jurisdiction over the school prayer issue:

Questions 1 and 2: For over half a century it has been recognized, almost without dispute, that the First Amendment is made applicable to the states by the Due Process Clause of the Fourteenth Amendment. The Supreme Court has long held that the Due Process Clause protects "fundamental rights", and it would be difficult to identify rights more "fundamental" to the functioning of our democratic system than freedom of speech, free exercise of religion, and freedom from government establishment of religion. Indeed, it would be a curious kind of constitution that protected the speech and religion freedoms from undue intrusion by the federal government while allowing the states to flout them at will.

Questions 3, 4, and 5: On May 20, 1981, I testified before the Senate Subcommittee on the Constitution concerning Congressional power to limit the jurisdiction of federal courts, including the appelate jurisdiction of the Supreme Court. I believe that a transcript of the testimony is available. In addition, I submitted to the Subcommittee written statements on the matter, copies of which are enclosed herein.

Madam President, I now read a letter to the Senator from Utah (Mr. HATCH). This letter is dated May 28, 1981. The subject of the letter is regarding hearings before the Senate Subcommittee on the Constitution, "Congressional Power Over the Supreme Court's appellate jurisdiction." Again, this is Professor Ratner writing this letter:

Because I was the first to testify before the Subcommittee on May 20, I did not have the opportunity to reply to those who followed me on that date. I was not present on the following day, but have been furnished with the statement of William Van Alstyne. I am therefore taking the liberty of submitting this supplemental statement in response to some of the comments that relate to my position.

(1) The ambiguity of "essential functions." The essential functions test has been criticized as too ambiguous. That criticism seems to be directed primarily at the words "essential functions"; it does not consider the specific delineation of those functions in my statement to the subcommittee and in my article in 109 U. of Pa. Law Review 157. Of course the words "essential functions" taken alone are ambiguous. But the specification of those functions, namely, to maintain the uniformity and supremacy of the Constitution, laws and treaties of the United States, provides a workable standard for identifying the functions and their impairment. As indicated in my initial statement and in my article, as long as a significant avenue remains open for ultimate resolution by the Supreme Court of conflicts between state and federal laws or in the interpretation of federal law (including the Constitution), the Court's essential functions are not impaired. (A Supreme Court decision is not required in every case that involves such issues, and discretionary review through certiorari is as effective as mandatory review.)

(2) Plain meaning and the spirit of the Constitution. It was suggested that the plain meaning of the exceptions and regulations clause allows impairment by Congress of the essential function of the Court to maintain the uniformity, if not the supremacy, of federal law, but that the actual exercise of such congressional power would violate the "spirit of the Constitution." The "spirit of the Constitution," i.e., the plan and the goals of the Constitution, however, is the essence of the Constitution. Language, and particularly constitutional language, is inherently ambiguous. The exceptions and regulations clause has no plain meaning. It must be interpreted in the context of the overriding constitutional plan, i.e., in the context of the spirit of the Constitution. Thus interpreted it does not confer upon Congress unlimited control over the Court's appellate jurisdiction. "The letter killeth but the spirit giveth life."

(3) The absence of reference to the federal courts in the Supremacy Clause (Article VI). The Clause, which mandates the uniformity of federal law and its supremacy over state law, manifestly requires judicial enforcement and contains an express admonition to the state judges. The federal courts are expressly given power to enforce the Clause by Article III which extends the judicial power of the United States to cases arising under the Constitution, laws, and treaties of the United States and creates a single supreme federal tribunal with appellate jurisdiction over all such cases, whether initiated in federal or state courts, (subject to congressional exceptions and regulations).

(4) For about a century federal criminal cases (tried in two-judge circuit courts) could not be appealed to the Supreme Court. During this period, however, avenues for Supreme Court review remained available in federal criminal cases to resolve conflicting interpretations of the federal constitution and laws: (a) where the circuit judges were divided, they were required to certify the disputed question to the Supreme Court (see Hart and Wechsler's, The Federal Court and the Federal System (2nd ed.) 37); (b) a habeas corpus petition could be filed in the Supreme Court to test (i) constitutionality after conviction, (ii) probable cause for pre-trial commitment, which encompassed statutory, as well as constitutional, interpretation. (See Ratner, 109 U. of Pa. Law Review 196-201, and cases there cited.)

(5) Marshall's position. It has been urged that John Marshall, in early decisions, acknowledged unlimited congressional control over the Court's appellate jurisdiction. A careful reading of *Ex parte Bollman* (8 U.S. 75), *U.S. v. More* (7 U.S. 159), and *Durousseau v. U.S.* (10 U.S. 307), however, indicates that Marshall's views were as follows: (a) Congress has broad discretion in legislating exceptions to the Court's jurisdiction; (b) if Congress does not exercise that discretion the Court retains its full constitutional jurisdiction; (c) if Congress exercises the discretion by specifying cases to which the jurisdiction extends, those cases not designated are impliedly excepted. Marshall did not state that the discretion is unlimited nor undertake to determine its constitutional limits. But 11 years later, in *Cohen v. Virginia* (19 U.S. 264) he declared:

"[T]he necessity of uniformity, as well as correctness in expounding the constitution and laws of the United States, would itself suggest the propriety of vesting in some single tribunal, the power of deciding, in the last resort, all cases in which they are involve . . . . [The framers of the Constitu-

tion] declare, that in such cases, the supreme court shall exercise appellate jurisdiction. Nothing seems to be given which would justify the withdrawal of a judgment rendered in a state court, on the constitution, laws, or treaties of the United States, from this appellate jurisdiction."

I repeat: This is Justice John Marshall, father of the Supreme Court, in the case of Cohens against Virginia:

"[T]he necessity of uniformity, as well as correctness in expounding the constitution and laws of the United States, would itself suggest the propriety of vesting in some single tribunal, the power of deciding, in the last resort, all cases in which they are involved. . . . [The framers of the Constitution] declare, that in such cases, the supreme court shall exercise appellate jurisdiction. Nothing seems to be given which would justify the withdrawal of a judgment rendered in a state court, on the constitution, laws, or treaties of the United States, from this appellate jurisdiction."

(6) Support for the essential-functions test. It is asserted that the essential-functions limitation has no support in the cases, in the Federalist Papers, nor in any statement at the Constitutional Convention. In fact, the essential functions limitation is supported by cases, the Federalist Papers, and statements at the Convention.

(a) *Cases.* Marshall in *Cohens v. Virginia,* Story in *Martin v. Hunters Lessee,* and Taney in *Ableman v. Booth* all emphasize the essential function of the Supreme Court to maintain the uniformity and supremacy of federal law pursuant to the Supremacy Clause. They uphold the Court's jurisdiction to review, under section 25 of the first judiciary act, state court decisions involving the federal Constitution and laws not only because that jurisdiction is authorized by the Constitution but also because it is required by the Constitution. (See quotes in my prior statement pp. 6-8 and in 109 U. of Pa. L. Rev. at 166-167.) In *Ex parte McCardle* the Court, after acknowledging that congress had withdrawn its jurisdiction to hear *an appeal* from a circuit court decision denying habeas corpus to the defendant, recognized the need to preserve its essential appellate functions by emphasizing that it still retained jurisdiction under the Judiciary Act of 1789 to review on a direct petition for habeas corpus the constitutionality of the circuit court's decision. (See prior statement p. 9 and 109 U. of Pa. L. Rev. 178-180.) A few months later in *Ex parte Yerger* (75 U.S. 85) the Court affirmed its jurisdiction to review on direct petition for habeas corpus the constitutionality of a circuit court decision denying the ge a16se6168writ, despite the congressional withdrawal of habeas corpus appeal, and strongly intimated that Congress lacked the power to impair its essential appellate functions by depriving it of all habeas corpus jurisdiction, stating (75 U.S. at 96-103):

"We agree that [the jurisdiction] . . . is given subject to exception and regulation by Congress; but it is too plain for argument that the denial to this court of appellate jurisdiction in this class of cases must . . . seriously hinder the establishment of that uniformity . . . which can only be attained through appellate jurisdiction. . . . These considerations forbid any construction giving to doubtful words [in the statute] the effect of withholding or abridging this jurisdiction. They would strongly persuade against the denial of the jurisdiction even were the reasons for affirming it less cogent than they are."

There is broad language in some of the cases referring to unlimited congressional control over the Court's appellate jurisdiction, (see *Wiscart v. D'Auchy* (3 U.S. 321), *Barry v. Mercein* (46 U.S. 103), *The Francis Wright* (105 U.S. 381)), but the statements are generalized dicta. No case holds that Congress has the power to impair the Court's essential uniformity-supremacy functions because no case involved such an impairment except *Ex parte Yerger* which strongly rejected it.

(b) *The Constitutional Convention.* Numerous statements at the Convention recognized the Supreme Court's appellate jurisdiction as constitutionally essential to maintain the uniformity and supremacy of federal law. In discussing proposals to give the Supreme Court a veto over congressional and/or state legislation, proponents and opponents alike agreed that the Court would at least have ultimate authority to decide the constitutionality of state and federal legislation. In successfully opposing the constitutional establishment of inferior federal courts, Rutledge of South Carolina, a strong states-rights advocate, urged that "the state tribunals might and ought to be left in all cases to decide in the first instance, the right of appeal to the supreme national tribunal being sufficient to secure the national rights and uniformity of judgments." Madison, replying to the question of what redresses would be available if a state imposed prohibited export duties stated: "There will be the same security as in other cases—the jurisdiction of the Supreme Court must be the source of redress. So far only had provision been made by the plan against injurious acts of the States." And by defeating a motion that would have allowed the Supreme Court to exercise appellate jurisdiction "in such manner as the legislature shall direct," the Convention rejected a clear statement of plenary congressional power over that jurisdiction. (See Farrand, *Records of the Constitutional Convention* 79, 97, 109, 124; 2 Farrand, 76, 78, 425, 431, 589; 109 U. of Pa. L. Rev. 161-165, 172-173.)

(c) *The Federalist Papers.* The writings of Madison and Hamilton in *The Federalist* provide further confirmation of the essential functions of the Court.

Madison: (No. 22) "If there is in each state a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. . . . To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence, and authorized to settle and declare in the last resort a uniform rule of civil justice."

Madison: (No. 39) "It is true that in controversies relating to the boundary between the two jurisdictions [nation and state], the tribunal which is ultimately to decide is to be established under the general government . . . Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact."

Hamilton: (No. 80) "If there are such things as political axioms, the propriety of the judicial power of the government being coextensive with its legislative may be ranked among the number. The mere necessity of uniformity in the interpretation of the national laws decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government, from which nothing but contribution and confusion can proceed."

Hamilton: (No. 81) "That there ought to be one court of supreme and final jurisdiction, is a proposition which is not likely to be contested."

Hamilton: (No. 82) "[T]he national and state systems are to be regarded as *one whole.* The courts of the latter will of course be natural anxiliaries to the execution of the laws of the Union and an appeal from them will as naturally lie to that tribunal [the Supreme Court of the United States] which is destined to unite and assimilate the principles of national justice and the rules of national decision."

Sincerely,

LEONARD G. RATNER,
Legion Lex Professor of Law.

I think it is interesting to note that Professor Ratner did not even bother to write a concluding paragraph because the statements of Alexander Hamilton and James Madison in the Federalist Papers being so clear on this point.

It is clear, Madam President, that our Founding Fathers writing the Constitution, looking at the history of the Constitution as we look at the Federalist Papers, all clearly contemplated the essential supremacy of the U.S. Supreme Court to bring our country together as a whole, as a union, as one country.

We also have a system of federalism. We have our State judiciaries. We have our State courts, our State governments. It is by necessity a kind of compromise between one National Government and 50 separate State governments. But certainly if our country is to remain one country, that is not 50 separate countries, we have to have one single tribunal deciding Federal constitutional court issues.

I am not saying we have to have one tribunal deciding State constitutional questions, not at all. Each of the various States has its own State judiciary system to decide State issues, including State constitutional questions. But certainly in fact it goes without saying with respect to Federal constitutional issues if our country is to remain as a whole, as one country, a strong country let alone a country at all we have to have one tribunal, one Supreme Court deciding Federal constitutional issues.

(Mr. EAST assumed the chair).

Mr. BAUCUS. Mr. President, I now have a statement presented to the Senate Subcommittee on the Constitution. This is another statement by Professor Ratner who is Legion Lex Professor of Law at the University of Southern California. The title is "Congressional Power Over the Appellate Jurisdiction of the Supreme Court." Here is what he said:

U.S. SENATE SUBCOMMITTEE ON THE CONSTITUTION: STATEMENT OF LEONARD G. RATNER, LEGION LEX PROFESSOR OF LAW, UNIVERSITY OF SOUTHERN CALIFORNIA

A. CONGRESSIONAL POWER OVER THE APPELLATE JURISDICTION OF THE SUPREME COURT

Article III of the Constitution defines the judicial power of the United States, creates the Supreme Court, and identifies the jurisdiction of that Court. The original jurisdiction of the Court (as a court of first instance) is limited to cases affecting ambassadors, public ministers, and consuls or in which a state is a party, and cannot be modified by Congress. The Court, however, is given appellate jurisdiction, both as to law and fact, over all other cases to which the judicial power of the United States extends "with such exceptions and under such regulations as the Congress shall make" (emphasis added). The language, though not the holdings; of some earlier Supreme Court cases suggests that the exceptions and regulations clause gives congress unlimited control over the appellate jurisdiction of the Court, but such an interpretation is not consistent with the constitutional plan and modern judicial approval of such an interpretation is doubtful. (See Ratner. "Congressional Power Over the Appellate Jurisdiction of the Supreme Court," 109 U. of Pa. L. Rev. 157 (1960); Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 Harv. L. Rev. 1362 (1953); Roberts, "Now is the Time: Fortifying the Supreme Court's Independence," 35 A.B.A.J. 1 (1944); Levy, "Congressional Power Over the Appellate Jurisdiction of the Supreme Court: A Reappraisal," 22 N.Y.U. Intra. L. Rev. 178 (1967); Sedler, "Limitations on the Appellate Jurisdiction of the Supreme Court," 20 U. Pitt. L. Rev. 99 (1958); Brant, "Appellate Jurisdiction: Congressional Abuse of the Exceptions Clause," 53 Ore. L. Rev. 3 (1973); Van Alystyne, "A Critical Guide to Ex Parte McCardle," 15 Ariz. L. Rev. 229 (1973); Senator Thomas Kuchel, "Shall the Federal Judiciary Become Subservient to the Congress" (speech, 88th Congr. 2nd Sess.) 110 Congressional Record No. 172, Sept. 9, 1964; Douglas and Black dissenting in *Glidden Co.* v. *Zdanok* 370 U.S. 530 (1960): "There is a serious question whether the McCardle case [upholding a narrow limitation on the Supreme Court's appellate jurisdiction] would command a majority today." But cf. Wechsler, "The Courts and the Constitution," 65 Colum. L. Rev. 1001 (1965).

Constitutional authority to create and abolish inferior federal courts gives Congress plenary control over their jurisdiction (see B below). If Congress also has plenary control over the appellate jurisdiction of the Supreme Court, then Congress may constitutionally do any of the following:

(1) Deprive the Supreme Court of all appellate jurisdiction and abolish the lower federal courts, thereby confining the judiciary of the United States to a single court exercising original jurisdiction over cases affecting ambassadors, public ministers, and consuls, or in which a state is a party.

(2) Deprive the Supreme Court of appellate jurisdiction and other federal courts of all jurisdiction over cases involving the validity, under the Constitution, of state statutes or the conduct of state officials, thereby leaving to the highest court of each state the final determination of such questions.

(3) Deprive the Supreme Court of appellate jurisdiction over any case arising under the Constitution, laws, or treaties of the United States, thereby allowing the federal courts of appeals and the highest state courts to become, in their respective jurisdictions, the final interpreters of federal law.

If such legislation were permissible, Congress could by statute profoundly alter the structure of American government. It could all but destroy the coordinate judicial branch and thus upset the delicately posed constitutional system of checks and balances. It could distort the nature of the federal union by permitting each state to decide for itself the scope of its authority under the Constitution. It could reduce the supreme law of the land as defined in article VI to a hodgepodge of inconsistent decisions by making fifty state courts and eleven federal courts of appeals the final judges of the meaning and application of the Constitution, laws, and treaties of the United States.

One of the most significant aspects of the federal union is disclosed by the declaration in article VI of the Constitution that "this Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." This constitutional mandate requires (a) that there shall be one supreme federal law throughout the land and (b) that in the event of conflict between that law and the law or authority of any state, the federal law shall prevail.

The supremacy clause standing alone, however, is no more than an exhortation. A tribunal with nationwide authority is needed to interpret and apply the supreme law. Such a tribunal is created by article III, which vests the judicial power of the United States in one Supreme Court and such inferior courts as Congress may establish and extends that power to every case involving the supreme law of the land. The only court created by the article is designated as supreme in contrast to the inferior courts which Congress in its discretion may establish. That court alone is expressly given appellate jurisdiction over cases involving the supreme law of the land whether those cases are initiated in state or federal courts. It is thus the constitutional instrument for implementing the supremacy clause. As such, its essential appellate functions under the Constitution are: (1) to provide a tribunal for the ultimate resolution of inconsistent or conflicting interpretations of federal law by state and federal courts, and (2) to provide a tribunal for maintaining the supremacy of federal law, including the Constitution, when it conflicts with state law or is challenged by state authority.

The process of carrying out these functions is necessarily a flexible one. A Supreme Court decision is not required in every case that involves a state challenge to federal law or an interpretation of federal law in conflict with other cases. A measure of inconsistency in the interpretation and application of federal law is inevitable, and immediate correction is not always imperative. But some avenue must remain open to permit ultimate resolution by the Supreme Court of persistent conflicts between state and federal law or in the interpretation of federal law by lower courts. For this purpose discretionary review through certiorari can be as effective as mandatory review by writ of error or appeal. Although these essential functions would not ordinarily be disrupted by a procedural limitation restricting the availability of Supreme Court review in some but not all cases involving a particular subject, legislation denying the court jurisdiction to review any case involving that subject would effectively obstruct those functions in the proscribed area.

These essential Supreme Court functions were confirmed by the Constitutional Convention, which recognized that the Supreme Court's appellate jurisdiction was required to effectuate the Supremacy Clause. As stated by Rutledge of South Carolina, a strong states-rights advocate: ". . . the right of appeal to the supreme national tribunal [is] sufficient to secure the national rights and uniformity of judgments."

Those were the words of Mr. Rutledge of South Carolina, a strong States' rights advocate. I repeat, a strong States' rights advocate. He says that

The right of appeal to the supreme national tribunal [is] sufficient to secure the national rights and uniformity of judgments. (1 Farrand, Proceedings of the Constitutional Convention 124 (1911). See also The Federalist Papers (Ford ed. 1898) Nos. 22 and 39 (Madison), Nos. 80, 81, and 82 (Hamilton). And, by defeating a motion that would have allowed the Supreme Court to exercise appellate jurisdiction "in such manner as the legislature shall direct" (1 Farrand 425, 431), the Convention rejected plenary Congressional power over that jurisdiction. (See Ratner, supra, 172–73.)

The narrower interpretation of "exceptions and regulations" is supported by dictionaries and treatises in use at the time of the Convention. They indicate that in a legal context an exception cannot destroy the essential characteristics of the broader subject to which it applies and that regulations usually specify conditions for engaging in certain conduct, and sometimes forbid a particular act, but do not ordinarily prohibit the entire activity that is subject to regulation. (See Ratner, supra, 168–171.)

Form an early date the Supreme Court itself has explicitly recognized that its indispensable functions under the Constitution are to resolve conflicting interpretations of federal law and to maintain the supremacy of that law when it conflicts with state law or is challenged by state authority. These functions were delineated in three notable decisions which confirmed the Court's statutory jurisdiction to review cases originating in state courts.

In *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1806), Story, holding that the Supreme Court could constitutionally review state court decisions involving federal questions as provided by section 25 of the Judiciary Act, noted "the importance, and even necessity of uniformity of decisions throughout the whole United States, upon all subjects within the purview of the constitution." Without a reversing authority to harmonize discordant judgments, he declared, "the laws, the treaties and the constitution of the United States would be different, in different areas. . . . The public mischiefs that would attend such a state of things would be truly deplorable; and it cannot be believed, that they could have escaped the enlightened convention which formed the Constitution. . . . [T]he appellate jurisdiction must continue to be the only adequate remedy for such evils."

In *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264 (1821), Marshall, upholding the Court's authority to review on writ of error a crimi-

nal conviction by a state court involving the interpretation of a federal statute, stated:

"[T]he necessity of uniformity, as well as correctness in expounding the constitution and laws of the United States, would itself suggest the propriety of vesting in some single tribunal, the power of deciding, in the last resort, all cases in which they are involved."

"[The framers of the Constitution] declare, that in such cases, the supreme court shall exercise appellate jurisdiction. Nothing seems to be given which would justify the withdrawal of a judgment rendered in a state court, on the constitution, laws, or treaties of the United States, from this appellate jurisdiction."

And in *Ableman* v. *Booth*, 62 U.S. (21 How.) 506 (1858), Taney, holding that state courts had no jurisdiction to issue habeas corpus for persons in federal custody and that the Supreme Court could review by writ of error the issuance of habeas corpus by state courts in such cases, stated:

"But the supremacy thus conferred on this Government [by the supremacy clause] could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitution and laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States, and the Government of the United States would soon become one thing in one State and another thing in another. It was essential, therefore, to its very existence as a Government, that . . . a tribunal should be established in which all cases which might arise under the Constitution and laws and treaties of the United States, whether in a State court or a court of the United States, should be finally and conclusively decided. . . . And it is manifest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it; [and] to make the Constitution and laws of the United States uniform, and the same in every State."

The foregoing cases upheld the Court's jurisdiction to review state court decisions under section 25 of the Judiciary Act not only because that jurisdiction was authorized by the Constitution, but also because it was required by the Constitution. The implication of these decisions is that Congress could not constitutionally deny such jurisdiction to the Court.

Many Supreme Court cases have dealt with specific statutory limitations upon the appellate jurisdiction of the Court. While a few contain broad and ambiguous language suggesting that the "exceptions and regulations" clause confers unlimited congressional power over that jurisdiction, none holds that Congress has power to impair the Court's essential functions.

That is, no case has directly decided that issue or stated that result; that is, "none holds that the Congress has the power to impair the Court's essential function." Not one case; none.

In every case the Court either found no limitation on its jurisdiction or upheld a limitation that did not impair those functions. *Ex Parte McCardle*, 74 U.S. (7 Wall.) 506 (1869) is the case most frequently said to authoritatively uphold plenary congressional power, but it does not. In 1867 Congress had authorized an appeal to the Supreme Court from circuit court decisions denying habeas corpus. Previously the Court could review such decisions only by issuing an original writ of habeas corpus under the authority granted by section 14 of the Act of 1789. McCardle, a civilian convicted by a military commission of obstructing reconstruction, asserted the unconstitutionality of the Reconstruction Acts and took an appeal to the Supreme Court, as authorized by the Act of 1867, from the denial of habeas corpus by a circuit court. After a government motion to dismiss the appeal was denied, but before decision on the merits, Congress, fearing the Court was about to invalidate the Reconstruction Acts, repealed that portion of the Act of 1867 authorizing such appeals. The Court upheld the validity of the repealing statute and dismissed the appeal, stating that "it is hardly possible to imagine a plainer instance of positive exception . . . . Without jurisdiction the court cannot proceed at all in any case." But the Court carefully pointed out that the repeal did not effect its jurisdiction to issue writs of habeas corpus under section 14 of the earlier Act of 1789:

"Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of *habeas corpus*, is denied. But this is an error. The [repealing] act of 1868 does not except from that jurisdiction any cases but appeals from the Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously exercised."

Clearly the language of *Ex parte McCardle* does not sanction congressional impairment of the essential constitutional functions of the Supreme Court. The statute there upheld did not deprive the Court of jurisdiction to decide McCardle's case; he could still petition the Supreme Court for a writ of habeas corpus to test the constitutionality of his confinement. The legislation did no more than eliminate one procedure for Supreme Court review of decisions denying habeas corpus while leaving another equally efficacious one available.

In contrast with its original jurisdiction, the Supreme Court's appellate jurisdiction under the Constitution is an extensive one, arising not only from the presence of federal questions but also from the status or citizenship of the parties, encompassing issues of both law and fact, and extending to cases which originate in state as well as federal courts. Orderly procedures for invoking that jurisdiction and a method of adjusting it to changing social needs and political attitudes are required. It is reasonable to conclude, therefore, that the Convention gave Congress authority to specify such orderly procedures and to modify the jurisdiction from time to time in response to prevailing social and political requirements, within the limits imposed by the Court's essential constitutional role. It is not reasonable to conclude that the Convention gave Congress the power to destroy that role. Reasonably interpreted the clause means "With such exceptions and under such regulations as Congress may make, not inconsistent with the essential functions of the Supreme Court under this Constitution."

Congressional legislation that restricts the procedures for obtaining Supreme Court review does not transgress constitutional limitations so long as the Court remains available ultimately to resolve conflicting interpretations of federal law and conflicts between state and federal law. But legislation that precludes Supreme Court review in any case that involves a particular subject, such as school prayers or abortion, is an unconstitutional encroachment on the Court's essential functions.

Mr. President, I have a concluding section addressed to congressional power over the jurisdiction of lower Federal courts. That is part of the issue involved here, although as far as the Senator from Montana is concerned, the more important question—the more important and dangerous question—is whether Congress should limit Supreme Court jurisdiction or the jurisdiction of lower Federal courts.

B. Congressional Power Over the Jurisdiction of Lower Federal Courts

Article III confers the judicial power of the United States on "such inferior courts as the Congress may . . . establish." Congressional power to create such courts implies plenary power to specify their jurisdiction. But this congressional power must be exercised in accordance with such constitutional controls as due process and equal protection which limit the exercise of all congressional power.

A congressional statute that withdraws from lower Federal courts jurisdiction to enjoin the enforcement of a particular kind of law, such as laws permitting voluntary school prayers or limiting abortion, presents both due process and equal protection problems. Litigants must have effective access to the courts to challenge the constitutionality of State or Federal laws. In some cases an injunction, or perhaps a declaratory judgment, may be the only effective remedy to prevent enforcement of an unconstitutional law, either because the risk of a criminal defense is to "chilling" or because no criminal statute is involved.

If Federal courts are precluded from giving such preemptive relief, a plaintiff may seek such a remedy in a State court, with ultimate review by the U.S. Supreme Court, but if the appropriate State court is denied the necessary jurisdiction under State law, the plaintiff may be cut off from an effective judicial remedy in violation of due process of law. The combined denial of Federal and State jurisdiction amounts to a denial of the plaintiff's claim without an opportunity to be heard.

Assuming such relief is available in the State courts, a denial of Federal relief to plaintiffs attacking the constitutionality of laws permitting voluntary school prayers or limiting abortion, but not to plaintiffs attacking the constitutionality of other kinds of laws, may constitute a denial of equal protection of the laws. Such an apparently invidious distinction must be justified by a rational basis; that is, by a socially useful purpose. If the purpose is to inhibit Federal judicial consideration of the constitutionality of laws that permit voluntary school prayers or limit abortion, that purpose may be a constitutionally impermissible encroachment on the constitutional power of the courts to determine constitutionality that cannot provide a rational basis for the invidious distinction.

Mr. President, I have been concerned about this issue for some time. In December of last year, I sent a report to my constitutents in my home

State. I would like to read the report. It is a very short statement. I would like to read it into the RECORD at this time.

CONGRESS AND THE COURTS

The genius of America's form of government, as any high school student learns, is its complex system of checks and balances.

By creating three independent branches in their new government—Congress, the courts and the executive—the Founding Fathers tried to make sure no single person or group could ever gain absolute control over the entire government.

This principle has survived two turbulent centuries. Now, however, a disturbing threat has appeared. The separation of powers between the three branches is being challenged by some who disagree with recent Supreme Court decisions on the so-called "social issues," abortion, school prayer and school busing.

Opponents of these decisions, chiefly the New Right, thus far have failed to gain passage of constitutional amendments overruling the Court. So they're trying to remove these issues from the jurisdiction of the Supreme Court and lower federal coutrs.

More than 20 such bills are before Congress this year. One would prohibit federal courts from deciding abortion cases. Another would take away the Supreme Court's jurisdiction over cases involving school prayer. A third would prevent court action on school busing disputes.

Contrary to the claims of their proponents these measures would not outlaw abortion and school busing or legalize school prayer. The only result would be the Supreme Court would no longer provide a uniform, national interpretation of the Constitution. Instead state courts would be given the last word.

Supporters of these bills argue that the Supreme Court acted unconstitutionally in deciding these cases by usurping Congressional authority. However, I believe these bills are an unconstitutional attempt to address that concern. Even if the Supreme Court acted unconstitutionally, Congress should not prescribe an unconstitutional cure. After all, two wrongs do not make a right.

The critical question is not whether a Supreme Court decision is constitutional, but who decides whether it is. Since 1803 the Court has fulfilled that function. But Congress would usurp this authority if these bills pass.

Once Congress takes the first step toward limiting court jurisdiction, who knows where it will stop. If Congress can take away the Supreme Court's jurisdiction over school prayer, could a pro-gun control Congress take away the court's ability to rule on the "right to bear arms?"

There is a way to reverse troubling Supreme Court decisions—the constitutional amendment process that has worked effectively for 200 years. Let's not undermine our system of government by taking constitutional short cuts.

Mr. President, I have spoken now for a couple of hours on this point. It is an issue in which I believe very, very strongly. I think it is fundamental to our form of government. It is fundamental to our lives as Americans, because our lives as Americans depend so deeply upon the Bill of Rights. They depend so much on Federal constitutional rights.

Sometimes, Mr. President, those rights are very clear; sometimes they are not so clear. Certainly, we know that, as a general proposition, under the first amendment, American citizens have the right of free speech. We also have the right of free press. We as American citizens can say what we want about our Government. We can criticize our Government, we can praise our Government, we can say what we want about our Government.

We as Americans can establish our newspapers. We can print, we can publish, we can write books on any subject. There are some limitations—libel, for example—but as a general proposition, we have a right to free speech.

When we get to those shady areas; that is, when Congress attempts to pass limitations on free speech or when Congress attempts to limit freedom of the press, then the question is who is to decide whether or not the Bill of Rights allows that person to continue to speak or whether the Bill of Rights prevents that action by Congress which may attempt to limit freedom of speech or the freedom of the press? The answer, Mr. President, is the Court decides; the Supreme Court decides.

I think it is crucial. It is obvious to me that it has to be the Supreme Court that decides those issues. It cannot be 50 separate State courts to decide freedom of speech, for example, or any other constitutional right. It has to be one tribunal. It is for that reason that I have taken the floor today and shall continue to take the floor, because I believe that if we ever pass a statute which prohibits the U.S. Supreme Court from reviewing any constitutional issue, we shall be sliding down the slippery slope toward obliteration and destruction not only of the Supreme Court, but the U.S. Constitution. If anything should be certain in our complex lives these days, it is the Constitution. We have to keep the Constitution. I think, therefore, it is important for all of us who are interested in this issue to keep talking and address this issue so we may maintain those protections.

Mr. President, the underlying amendment is not a school prayer amendment, it is a court-stripping amendment. It limits Supreme Court review. We cannot allow court stripping under our Constitution.

I might add, as I said earlier today, Mr. President, not one single witness in the Senate or its committees, either in this Congress or any prior Congress, has testified on this issue, the issue being prohibition of Supreme Court review over the issue of school prayer. Not one witness. And here we are today, faced with an amendment, a provision, an attempt to prohibit the Supreme Court from reviewing the constitutional issue of school prayer. Yet there has not been one hearing on this issue before the Senate. I might add the other body, the House, has addressed this issue and has uniformly turned down such requests.

At this time, I ask unanimous consent that I may yield to the Senator from Connecticut without losing my right to the floor; that, upon being recognized again, the continuation of my speech not count as a second speech according to rule XVIII; and that I be allowed to leave the Chamber if I so desire.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The Chair recognizes the Senator from Connecticut.

Mr BAUCUS. I thank the Chair. I thank the Senator from Connecticut.

Mr. WEICKER. Mr. President, I should like first to thank the distinguished Senator from Montana and express my admiration of him for his very articulate and eloquent presentation on the matter of stripping the courts of this country of their jurisdiction, especially as it applies to the various social issues that we have had here, on the floor of the Senate. He has been a valued ally in the weeks past. His steadfastness certainly has managed to bring us to the successful point at which we stand right now.

As he has made clear, Mr. President, it is not in any way his position to pass upon matters of busing, school prayer, abortion, or whatever, but rather, to advocate most forcefully the independence of our judiciary system and the necessity to preserve the concept of three separate but equal branches of Government. I think he has done this well and I think because of his efforts, we stand a good chance of leaving the constitutional apparatus intact during this particular session of the Congress.

Whereas I agree with the comments and the substance of what it is the Senator from Montana has been saying, I also have no hesitation in getting into this matter of substance as it applies to the amendment of the distinguished Senator from North Carolina relating to prayer in school. In other words, I not only object to the procedure, I also object to the substance. The same held true certainly on the previous debate. It was not just a matter of procedures related to the abortion amendment, but also the substance.

It will be my intention this afternoon to address myself to the matter of substance. I do not want a State religion in this country. I do not want a State prayer in this country.

That very simply is the issue that sits before this body. There is no prohibition on prayer or on the practice of one's faith as the law exists in this country today.

Everybody is totally free to express their religious beliefs. It is the totality

of that freedom which bothers some. That is what is at issue, the feeling on the part of some that in some way this particular act should be proscribed by governmental authority.

I find it strange, indeed, that this amendment should come from one on the conservative side of the philosophical spectrum. It seems to me the ultimate good to be desired, as far as a conservative philosophy is concerned, is to bring to pass the greatest amount of freedom, not in any way to diminish it or restrict it.

It seems to me that what is to be desired by those on the conservative side of the political spectrum is to assure that the Constitution of the United States is strictly construed.

This amendment is not a strict construction of the Constitution. This is the very loosest of interpretations that is being attempted to be legislated into law. Freedom, total freedom, complete freedom to espouse one's religious beliefs, without any restriction, without any diminution of one's capacity to believe, to pray if that is what is called for in the faith, to proclaim to one's neighbors one's religious beliefs—that is a strict construction. Yet what is being advocated here is a State religion, a State faith, a State prayer.

It sounds a little frightening when you use the word "State" before it, but that is exactly what it is. Nobody is advocating an Episcopalian prayer. Nobody is advocating a Roman Catholic prayer. Nobody is advocating a Baptist prayer or a Jewish prayer. Rather, it is a State prayer.

Last time I rose to speak, I commented on the fact that anything deemed acceptable would be sort of a mishmash of a variety of beliefs and therefore meaningless in a religious sense, but I think that is being too soft on the case. Anything that is written by local government or State government or the U.S. Government that is prayer becomes a State prayer.

Now, who desires that their family, any part thereof or themselves, be subject to the recitation of a State prayer?

I am sure those of the majority faith in this Nation envisage that whatever prayer it is, it is going to be roughly along the lines of what they believe, but that is not so. Or maybe even the next faith in line in terms of numbers, maybe they believe it will be roughly along the lines of what they believe. That is not so at all. Or maybe those of the Jewish persuasion think it will be roughly what they believe in the Judeo-Christian tradition.

No. This is to be a State prayer, a State prayer that accommodates itself and is acceptable to the Constitution of the United States.

That is a rather difficult task. The Constitution of the United States is very specific. The first amendment States:

Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof.

Here I am arguing against a piece of legislation. This is not just a debate in some forum on the streets of America. This debate is taking place on the floor of the Senate which, as far as I understand, is a part of the Congress. "Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof."

What are we doing? What is this?

I do not think this is a sense-of-the-Senate resolution. We are arguing an amendment to the debt limit bill. When it passes, and assuming it is passed by the House, the conferees agree, and the President signs it, it is law.

How do we reconcile that with: "Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof"?

On a procedural basis, there is no way that I am going to reject my oath of office. I took an oath of office to the Constitution. Never mind the substance of the prayer; procedurally, I do not see how we can constitutionally accomplish what is being proposed to us today, in effect, the making of a law, in this instance as it applies to prayer. Now, unless prayer all of a sudden has become a nonreligious act, then why is everybody in such an uproar?

Congress shall make no law respecting establishment of religion or prohibiting the free exercise thereof.

Who is to say whether or not, in whatever prayer is devised, every religion is encompassed? And if they are not included in the prayer, is it then not an embarrassment to those who have not been included? Therefore, the free exercise of their religion is no longer as free when we get through with this particular legislative exercise as when we started.

I do not want a State prayer. I do not want a State faith. I do not want a State religion. What I believe in terms of religion is my own business and nobody else's. I think that applies to the other 200 million people in this country.

It would be very easy if, indeed, these social issues encompasssed merely differences of philosophy as to the appropriate province of Government activity, that is, what should our economic policy be.

Are we going to have Keynesian economics or are we going to have supply-side economics, and so on down the list? Are we going to listen to Mr. Galbraith or Mr. Janeway? What do our social policies consist of, in the sense of whether we are going to have a CETA program or UDAG? None of these matters is in derogation of the Constitution. They are all proper matters for Government. So you take your lumps, up and down, and win some and lose some.

Why this persistence by a few Senators out here on the floor to obstruct—I believe that was the term used—the will of those who are presenting these kinds of amendments? Because, one, they are blatantly unconstitutional in terms of procedure. They are an end run around the amending process of the Constitution, and they are blatantly unconstitutional in terms of their substance.

The saying goes, "Well, then, let the President decide," or, "Let the Supreme Court decide." That is not the role of leadership; and I certainly look upon my 99 colleagues as being just that—they truly are leaders. These are not matters that can be bucked to the next department, be it the executive or the judiciary.

Mr. President, there will be no retreat on this matter. We started out almost 11 months ago. The issue then was busing. At least, that was the issue as verbally framed by the distinguished Senator from North Carolina. We were arguing, in the matter of the Helms-Johnston amendment, busing. Of course, busing was not the issue. The issue, very simply, was what has been spoken to so eloquently during the course of the afternoon by the Senator from Montana. The issue was three separate but equal branches of Government and whether or not the Senate of the United States had the right to tell the courts what to do. That was the issue.

When we started out on that debate 11 months ago, everybody said that Helms-Johnston would be adopted in a matter of 48 hours. It finally was adopted after 9 months and is sitting in the freezer over in the House, which is exactly where it belongs, because under any other conditions of temperature, it would reek to high heavens, so it is best put on ice.

During the course of those 9 months, the American people came to understand that what was involved here was a great constitutional debate. That was not the case when we started. It was busing. We carefully pointed out that if the principle that was being argued in the case of black schoolchildren and discrimination against them, the principle of the Senate being able to tell the courts what to do or not to do, was upheld or voted upon or supported legislatively, then indeed the Senate of the United States could tell the courts what to do insofar as any other citizen of this Nation was concerned.

Maybe it would be that it was unpopular to be elderly. Why, then, could we not go ahead and tell the courts what to do or what not to do in terms of protecting the rights of elderly citizens of this Nation? Maybe it would be unpopular to be a business-

man, and maybe if we did not like what the courts did in upholding the constitutional rights of businessmen, we could tell the courts they could not protect those rights.

Maybe it would be unpopular to be retarded or to be disabled, and that retarded or disabled person would go to the courts for haven; and the Senate, not liking the decision of the court—probably in a monetary sense, let us say—could tell the courts what they could do on behalf of that retarded or disabled person.

Slowly, the country came to understand that the issue was not busing; that the remedy applied to black schoolchildren had nothing to do with that; that, rather, it had to do with the fact that every citizen of this Nation is best protected when he or she has three separate but equal branches of Government to defend their rights.

Certainly, Government would be simpler if we could sort of fold it all into one, but then the citizens of the Nation would be confronted with the fact that they have only one swing at the pitch—only one branch of Government to protect them.

Tell me something: Does everybody want to place their future in the hands of 100 politicians on the floor of the U.S. Senate? Or would you rather have 100 Senators, 435 Representatives, 1 President of the United States, and the countless judges who make up the Federal judiciary?

Therein lies the greatest protection for every one of us. But that was not understood as the debate started on the Helms-Johnston amendment. As the debate progressed, slowly but surely, the news media and the editorial writers and the public came to understand that a very basic principle was involved; that it was worth protecting; and that, regardless of what the temperament of the times was about the act of busing, the fact was that we wanted our courts to remain free; that we did not want 100 politicians determining the future for each of the 200 million American citizens.

I understand what the polls say on school prayer. Everybody is supposed to be sensitive to this, especially those who are running for election. I suppose the poll results in Connecticut are not much different from those across the Nation. People say, "I would like to have prayer in the public schools." The first thing I want everybody to do, as a matter of the education process—and that is not a matter of just educating Senators; this body is no more than a reflection of what the American people think and feel and speak out on—the first thing we are all going to do is to recognize that the Constitution says, right off the crack of the bat, in the first amendment, that Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof.

How many people realize that is in there?

But it is in there, and here we are trying to make a law. We need a little careful reading and a little refreshing as to both the Constitution and the history of this Nation.

I do not recall, and I am an Episcopalian myself, the Archbisop of Canterbury being on the Mayflower and for good reason. The people who were on the Mayflower were fleeing from the Archbishop of Canterbury, and they came to these shores specifically to get away from a state religion, and in that particular instance the religion of Great Britain.

The state had prohibited the free exercise thereof of their faith. The state was doing in spades what we are starting to nibble away at here in this Chamber.

So when they wrote the Constitution, the words were clearly set forth so that we would never repeat in this Nation what those who had founded it had themselves endured.

Now, 200 years have gone by, and we forget the lessons of history and we say to ourselves that is all irrelevant; those things used to happen in the old days; they do not happen any more. Maybe we do not stand out there in the middle of Main Street burning people on a cross, maybe we do not crucify them and pound nails through hands, none of these sort of visible acts of prejudice, of religious mischief. But we do it maybe in more subtle ways as we cut the human spirit up—embarrassment, shame, the wariness to speak out for fear of consequence.

And I might add we are doing this to the youngest of all of us. We are trying to take ourselves as adult human beings, with our view, with our rationality and with our capacity to reason, and we say to ourselves people can always say no to school prayer. But we are attributing all this to 6-, 7-, and 8-year-old children. It is weird.

Again, if you want to violate the Constitution and you pass a law with respect to school prayer, please understand. Then you have state prayer, state religion.

I am not here to go ahead and get religion out of the United States. I think it is one of the great strengths we do have, and the more the better both in terms of religion and those who practice it. I am all for it. I urge it. But I do not want government in religion, and the minute you pass a law, government is in religion.

Someone turned to me the other day and said, "Why do you oppose the tuition tax credit?" I said, "Number one, I think it is probably unconstitutional, but let us assume we can get over that hump." I said, "You are cutting public education by about 25 percent for economic reasons saying we do not have enough money to handle all our needs in the country and while cutting public education 25 percent you are allocating $5 billion for private education."

There is no commonsense to that. I just do not think we should do it.

But then the most important point is that the minute you get to the tuition tax credit you have government into the facility, into the church, if it happens to be a church school.

"Oh, no," the person said to me. "That is not so. In other words, this is merely a tax credit. This is not an outright transfer—you know, money being given from A to B rather than a tax credit."

I said, "Believe me, the tax credit is just the same as if the government gave the church school the money and once government gives the money, then it is given on behalf of all the people of this country and therefore all the people of this country have every right to tell that school what they can or cannot do."

I said, "You who practice the particular"—this person was of a particular faith and was arguing for their particular private school run by that faith—"you should be the wariest of all as to what is that is being proposed."

The same holds true here. We legislate. We then have a state religion and a state prayer.

I would hope that every person of a religious bent, every religious leader in this Nation would stand up and tell the Senate of the United States to go ahead and do its business but to stay out of theirs.

I noticed in the newspaper the other day one of the great advocates of school prayer had been interviewed by a group of reporters I will now quote from the New York Times of September 4, 1982:

> People for the American Way, a political counterforce to New Right groups, says it has yet to find anyone who has made a stronger case against the school prayer amendment than the Rev. Jerry Falwell, founder of Moral Majority who is an advocate of the constitutional proposal.

Mind you, this is not a constitutional proposal we have before us. It is a legislative proposal.

> Mr. Falwell is quoted as telling a meeting of the Religious Newswriters Association in New Orleans that because members of Moral Majority represented a variety of denominations, "if we ever opened a Moral Majority meeting with prayer, silent or otherwise, we would disintegrate."
>
> Asked why this reasoning would not apply in classrooms, Mr. Falwell said school prayer was "in the intent and mind of the First Amendment framers."
>
> Cal Thomas, national director of communications for Moral Majority, said his group did not open meetings with prayer because it is a political organization that includes Jews, Catholics, Mormons, Protestants and some "nonreligious" members.

"What kind of prayer would we use?" he asks.

He says it very well. Yet we are supposed to concoct something that apparently is amenable to a group of children and probably amenable only in the sense that they would not understand what it is they are being asked to do.

If it is not proper for mature adults, how does it become proper when the only difference in terms of the conditions is the age of those who are reciting the prayer?

The Constitution is meant to apply to all. It is not one consitution for 6-, 7-, and 8-year-olds and another for 30-, 40-, and 50-year-olds. That is not the basis of our lives here in this Nation. It is not one differentiated as to age in terms of the rights that we hold under the Constitution.

Let me go back in our history, if I might this afternoon, to the year 1785 to read: "A Memorial and Remonstrance Against Religious Assessments" addressed to the Honorable General Assembly of the Commonwealth of Virginia, and composed by none other than James Madison, who I hardly think falls into the screaming liberal, atheist category.

We, the subscribers, citizens of the said Commonwealth, having taken into serious consideration a Bill printed by order of the last Session of General Assembly, entitled "A Bill establishing a provision for Teachers of the Christian Religion," and conceiving that the same, if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State, to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill,

(Mr. MURKOWSKI assume the Chair.)

Mr. WEICKER. I continue:

1. Because we hold it for a fundamental and undeniable truth, "that Religion or the duty which we owe to our Creator and the Manner of discharging it, can be directed only by reason and conviction, not by force or violence." The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable; because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men: It is unalienable also; because what is here a right towards men, is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him.

And "him" is with a small and not a capital "h"—

This duty is precedent both in order of time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe: And if a member of Civil Society, who enters into any subordinate Association, must always do it with a reservation of his duty to the general authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance.

This is James Madison in 1785, and here we are on the floor in 1982 trying to reject the very reasoning which gave birth to this Nation—

True it is, that no other rule exists, by which any question which may divide a Society, can be ultimately determined, but the will of the majority; but it is also true, that the majority may trespass on the rights of the minority.

Now I realize that large portions of our populace who used to be in the minority have achieved majority status, if not in the Nation as a whole, in their community. But I am not going to allow memories to be so short as to feel that once in the majority these principles that brought them to that point no longer apply. The fact is that my faith, protestantism, was de facto the official religion of this Nation up until a few years ago, and if you do not think so, ask those who used to try to run for office who were either of the Catholic faith or of the Jewish faith.

A lot of barriers came tumbling down when men like Abe Ribicoff and John Kennedy were elected, and this is within our lifetime. Now there is nothing unusual in the political sense to sit side by side, Jew and Catholic with Protestant, but for years because protestantism was de facto the religion of this Nation, minorities were discriminated against. I should yearn for those kinds of good old days? They were never contemplated by the founders of this country, and I am not about ready to give them life today.

At one point or another all of us have been in a minority status in this Nation. It is because the minority is not given any additional powers under the Constitution that we enjoy our life in this country either in the minority or in the majority capacity. And it is why many of us who were in the minority now have achieved some sort of majority status.

2. Because of religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the co-ordinate departments, more necessarily is it limited with regard to the constituents. The Rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are Tyrants. The People who submit to it are governed by laws made neither by themselves, nor by an authority derived from them, and are slaves.

3. Because, it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of [the] noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents.

What a great line: "The free men of America did not wait until usurped power had strengthened itself by exercise and entangled the question in precedents."—

They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much, soon to forget it.

The matter of principle, the very constitutional principle at stake here, which started off this whole business of intrusion into the personal, the individual constitutional freedom that we all enjoy, is this: If the Senate of the United States as a matter of principle can tell the courts what to do, then who is safe from the politics of this body? Madison refers to Christians, saying if you establish Christianity as the State religion who then will stop somebody from coming along and saying that this particular sect of Christianity shall dominate? If you intrude upon the rights of black schoolchildren, then why not intrude upon the rights of the elderly, the businessman, the union men, the retarded, and the disabled?

Free men of America did not wait until usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences in the principle.

Some of us out here are seeing all the consequences in the principle. And all the consequences of what is being proposed here means a State religion and a State prayer.

Now, if we are willing to go ahead and accept that, so be it. But this is not some little innocuous exercise that only relates to a few children bowing their heads and avowing some innocuous words.

They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much, soon to forget it.

This was written in 1785. Well, maybe the problem right now is it is 1982, some 200 years later, and maybe it is that we have forgotten. And the object of this exercise on the floor is not to allow that forgetting to take place.

I stated earlier that I understand the political consequences of what I am doing out here. Everybody says, "Oh, let's have a little prayer in school." Well, maybe if we had all fought and died and been pursued and hunted on the matter of our religion as these men and women were, we would not consider this such a minor matter. If we could transport ourselves back to 1785 and live with those fears that in effect had founded a nation, we would not look upon this as some harmless little exercise to bring a little morality into the mainstream of America.

They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much, soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects. That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever.

4. Because, the bill violates that equality which ought to be the basis of every law, and which is more indispensible, in proportion as the validity or expediency of any law is more liable to be impeached. If "all men are by nature equally free and independent," all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all are they to be considered as retaining an *"equal* title to the free exercise of Religion according to the dictates of conscience." Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man. To God, therefore, not to men, must an account of it be rendered.

Now maybe we get an understanding, I might add, why this Constitution has lasted for so long. What a mind, what a mind to put the Constitution together which has had to last over the centuries. But now you understand the background, as you listen to this letter written by Madison, with a full understanding of their experience and what it is they desired for this Nation.

Indeed, if the Constitution is valid, if it is valid, if it is to withstand the test of time, then who is to say, as is alluded to in Madison's statement, that the true faith is even here? It might not even be here. It might be none of the religions that any of us belong to or any of us profess or believe in. Yet it may be proclaimed the true faith. I do not know.

But I know when that individual comes along or that faith is among us, it should have the same chance to be explained and to grow as those of the accepted faiths today.

Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man. To God, therefore, not to men, must an account of it be rendered.

The business of this floor or this Senate is the business of man. The business of God is in the pulpits and the places of worship across this Nation. Let them present their evidence to convince, to bring into the fold, to make believers. That is their job. My job on this floor is to make certain that wherever that takes place it can be done in total freedom. And if you merge, if you merge my job with the priest's or the minister's or the rabbi's job, then, indeed, you have an abomination and a dilution of both ideals.

As the Bill violates equality by subjecting some to peculiar burdens; so it violates the same principle, by granting to others peculiar exemptions. Are the Quakers and Mennonists the only sects who think a compulsive support of their religions unnecessary and unwarrantable? Can their piety alone be intrusted with the care of public worship? Ought their Religions to be endowed above all others, with extraordinary privileges, by which proselytes may be enticed from all others? We think too favorably of the justice and good sense of these denominations, to believe that they either covet pre-eminencies over their fellow citizens, or that they will be seduced by them, from the common opposition to the measure.

5. Because the bill implies either that the Civil Magistrate is a competent Judge of Religious truth; or that he may employ Religion as an engine of Civil policy.

"A competent judge of religious truth." I love it. That is what we are trying to do out here, collectively be a competent judge of religious truth. And I am the first to admit I am totally incompetent of that task and I was not elected to that task.

The judge of religious truth under our Constitution is each one of us. I feel safe with that principle well established. Each one of us, each 1 of 300 million Americans is the judge of religious truth, not one Senator, not 100 Senators, not 435 Congressmen, not a President of the United States, but each one of us.

The best phrase, I suppose, from the Sermon from the Mount, as I understand it in my particular faith is where even the God which I worship, or more particularly the Son which I worship, says, "And when you go into your room to pray, go and shut the door and pray to your Father in secret because he knows what is in your heart."

Each citizen of his country, to use Madison's words, "being a competent judge of religious truth."

The first is an arrogant pretension falsified by the contradictory opinions of Rules in all ages, and throughout the world: The second an unhallowed perversion of the means of salvation.

6. Because the establisment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself; for every page of it disavows a dependence on the powers of this world: it is a contradiction of fact; for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them; period of miraculous aid, but long after and not only during the period of miraculous aid, but long after it had been left to its own evidence, and the ordinary care of Providence: Nay, it is a contradiction in terms; for a Religion not invented by human policy, must have pre-existed and been supported, before it was established by human policy. It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence, and the patronage of its Author; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies, to trust it to its own merits.

7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation. During almost fifteen centuries, has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy; ignorance and servility in the laity; in both superstition, bigotry, and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every sect, point to the ages prior to its incorporation with Civil policy. Propose a restoration of this primitive state in which its Teachers depended on the voluntary rewards of their flocks; many of them predict its downfall. On which side ought their testimony to have greatest weight, when for or when against their interest?

8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If Religion be not within [the] cognizance of Civil Government, how can its legal establishment be said to be necessary to civil Government? What influence in fact have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of Civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty, may have found an established clergy convenient auxiliaries. A just government, instituted to secure & perpetuate it, needs them not. Such a government will be best supported by protecting every citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property: by neither invading the equal rights of any Sect, nor suffering any Sect to invade those of another.

9. Because the proposed establishment is a departure from that generous policy, which, offering an asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy? Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution.

A signal of persecution. That is exactly what this bill is. Persecution in the sense of trying to impose a State religion, a State religion in this particular instance to be determined by the Senate of the United States.

I cannot tell you of the apprehension that I felt when I read in the newspapers that the President was going to propose a constitutional amendment on prayer, and indeed some of the stories said that it would

actually have the words to be used in that prayer.

I do not want anybody writing any prayers or instructing anybody that they should pray. Not the President, not a Senator, not a Congressman, not a Governor, not a local school official. Nobody. That is completely separate and apart as to whether or not I believe and hope and urge that we be a religious people.

If this Congress could pass a law on prayer, if this Congress in conjunction with the President and school boards can determine what that prayer is to be, what is the situation to be 20 years from now? What can you guarantee me will be the situation in 100 years?

We were given total freedom. Up to this point we have total freedom. It took years to arrive even at that point. But finally we understood our own Constitution, and the courts and the legislatures have agreed that total freedom was to be preferred.

Now, why should I wish something less for my children?

You cannot guarantee me what the words will be. As long as I stick to the Constitution and say no words, then I have acquitted myself of my trust to the people of this Nation that they can say or do whatever they want in terms of their religion. But the first time that a law is passed and prayer is dictated, and even the substance of the prayer is set down, then what this Congress can do another Congress and another President can do better. There is no end to that mischief. The fact is it cannot start. Once started, there is no stopping it. The greatest mischief in the world has been performed in the name and the cause of religion.

We had a little bit of an experiment here in this country with it. I am saying in its roughest stages. We had a few witch trials. We managed to get over that hump. But we have lived for hundreds of years with very cruel discrimination against our fellow Americans based on religion. I mean physical cruelty, not just mental.

Those of my colleagues who are of the Mormon faith can attest to that. Those of the Jewish faith can attest to that.

It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be, in its present form from the Inquisition it differs from it only in degree.

This is James Madison. This is not some liberal Republican or screaming liberal Democrat or somebody from the left wing. This is one of the authors of the Constitution talking in 1785, speaking so clearly, right on target, as to what is before us.

It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be, in its present form, from the Inquisition it differs from it only in degree.

"What is being proposed here differs only in degree from the Inquisition"—again back to that matter of principle.

"The one is the first step, the other the last in the career of intolerance."

"The one is the first step, the other the last"—you see, Mr. President, this was a bill establishing provision for the teachers of the Christian religion that he was lobbying against. That was the bill of that particular day.

"The one is the first step"—that is, the legislation—"the other"—the Inquisition—"the last in the career of intolerance."

The magnanimous sufferer under this cruel scourge in foreign Regions, must view the Bill as a Beacon on our Coast, warning him to seek some other haven where liberty and philanthrophy in their due extent may offer a more certain repose from his troubles.

10. Because, it will have a like tendency to banish our citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration, by revoking the liberty which they now enjoy, would be the same species of folly which has dishonoured and depopulated flourishing kingdoms.

He knew what he was talking about; did he not? The cream of England came to the United States on this issue. In effect, what he was saying is create those same stricture, narrow the freedom which we have, and we lose the very thing that we have gained, which had given to our Nation, even then, a beginning toward eminence in the world.

11. Because, it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion, has produced amongst its several sects. Torrents of blood have been spilt in the old world, by vain attempts of the secular arm to extinguish Religious discord, by proscribing all difference in Religious opinions. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American Theatre has exhibited proofs, that equal and compleat liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If with the salutary effects of this system under our own eyes, we begin to contract the bonds of Religious freedom, we know no name that will too severely reproach our folly. At least let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed that "Christian forbearance, love and charity," which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded should this enemy to the public quiet be armed with the force of a law?

12. Because, the policy of the bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift, ought to be that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions; and how small is the former! Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of [revelation] from coming into the Region of it; and countenances, by example the nations who continue in darkness, in shutting out those who might convey it to them. Instead of levelling as far as possible, every obstacle to the victorious progress of truth, the Bill with an ignoble and unchristian timidity would circumscribe it, with a wall of defense against the encroachments of error.

13. Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? And what may be the effect of so striking an example of impotency in the Government, on its general authority.

14. Because a measure of such singular magnitude and delicacy ought not to be imposed, without the clearest evidence that it is called for by a majority of citizens: and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective counties are indeed requested to signify their opinion respecting the adoption of the Bill to the next Session of Assembly." But the representation must be made equal, before the voice either of the Representatives or of the Counties, will be that of the people. Our hope is that neither of the former will, after due consideration espouse the dangerous principle of the Bill. Should the event disappoint us, it will still leave us in full confidence that a fair appeal to the latter will reverse the sentence against our liberties.

15. Because, finally, "the equal right of every citizen to the free exercise of his Religion according to the dictates of conscience, is held by the same tenure with all our other rights. If we recurred to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the Declaration of those rights which pertain to the good people of Virginia, as the "basis and foundation of government," it is enumerated with equal solemnity, or rather studied emphasis.

Either then, we must say, that the will of the Legislature is the only measure of their authority; and that in the plenitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: Either we must say, that they may control the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary assembly: or we must say, that they have no authority to enact into law the Bill under consideration. We the subscribers say, that the General Assembly of this Commonwealth have no such authority: And that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it, this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may on the one hand, turn their councils from every act which would affront his holy prerogative, or violate the trust committed to them: and on the other, guide them into every measure which may be worthy of his [blessing, may

reldound to their own praise, and may establish more firmly the liberties, the prosperity, and the Happiness of the Commonwealth.

Mr. President, that was written by a great American, one of our founders, written by a deeply religious man, and every single warning, every urgent declaration against the danger expressed here applies to what is on this Senate floor right now. I do not care what the percentages of the polls are relative to the matter of prayer. It is the duty of every American to protect the liberties under the Constitution of the United States that are guaranteed to all of us. The fact is that that document must stand for all time: To serve all faiths, existent or in the future, and to make sure that there can be the fullest exercise of anyone's beliefs.

This proposition on the floor of the U.S. Senate today is, in principle, as dangerous as any act of intolerance that has occurred in the history of man or in the history of this Nation. It is, as the author puts it, step one in the career of intolerance.

Mark Twain wrote in his book, "A Connecticut Yankee In King Arthur's Court," chapter No. 10, a passage I am now going to read.

I had started a teacher factory and a lot of Sunday schools the first thing; as a result, I now had an admirable system of graded schools in full blast in those places, and also a complete variety of Protestant congregations all in a prosperous and growing condition. Everybody could be any kind of a Christian he wanted to; there was perfect freedom in that matter. But I confined public religious teaching to the churches and the Sunday schools, permitting nothing of it in my other educational buildings. I could have given my own sect the preference and made everybody a Presbyterian without any trouble, but that would have been to affront a law of human nature: spiritual wants and instincts are as various in the human family as are physical appetites, complexions, and features, and a man is only at his best, morally, when he is equipped with the religious garment whose color and shape and size most nicely accommodate themselves to the spiritual complexion, angularities, and stature of the individual who wears it: and besides I was afraid of a united Church; it makes a mighty power, the mightiest conceivable, and then when it by and by gets into selfish hands, as it is always bound to do, it means death to human liberty, and paralysis to human thought.

Why does this Congress choose to ignore history, indeed, to defy it? Are we certain, in other words, that we are going to be able to do the right thing; that we have a better idea than the Constitution of the United States? Do we want to tinker around with this matter of religion?

Thomas Jefferson, in a letter written January 1, 1802, to a committee of the Danbury Baptist Association in my State of Connecticut, said:

The affectionate sentiments of esteem and approbation which you are so good as to express towards me, on behalf of the Danbury Baptist Association, give me the highest satisfaction. My duties dictate a faithful and zealous pursuit of the interests of my constituents, and in proportion as they are persuaded of my fidelity to those duties, the discharge of them becomes more and more pleasing.

Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the nation on behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.

I reciprocate your kind prayers for the protection and blessing of the common Father and Creator of man, and tender you for yourselves and your religious association, assurances of my high respect and esteem.

So again, we have the exact same expression as we encountered in the letters from James Madison.

(Mr. HAYAKAWA assumed the chair.)

Mr. WEICKER. The Nation's first Catholic President, John F. Kennedy, spoke out on behalf of the separation of church and state, and he spoke out very vigorously. It is no wonder, because it was not until his election that the religious barriers against Catholics came crumbling down at all levels of society.

Protestantism was de facto the national religion and Catholics, Jews, and all other faiths suffered because of it.

During a campaign address in 1960, Kennedy told the Greater Houston Ministerial Association:

I believe in an America where the separation of church and state is absolute. * * *

Obviously, the President knew what words he was using, and he used them with precision—absolute. There is nothing in there that permits for qualification. No exception. Absolute. What we are seeing this afternoon, believe me, is not absolute. It is a waffling on the first amendment of the Constitution of the United States:

I believe in an America where the separation of church and state is absolute, where no Catholic prelate would tell the President how to act, and no Protestant minister would tell his parishioners for whom to vote, where no church or church school is granted any public funds for political preference, and where no man is denied any public office merely because his religion differs from the President who might appoint him or the people who might elect him.

When the Supreme Court banned official school prayers in the New York public school system in 1962, Kennedy commented:

We have in this case a very easy remedy and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good deal more fidelity, and we can make the true meaning of prayer more important in the lives of all our children.

Those are pretty strong words coming from the President, and they are as true today as when they were spoken.

This is not to say that spokesmen for all the denominations in this Nation have not enunciated the same thoughts. They have.

Most main-line churches have come out against voluntary school prayer. Their objections:

First, it would violate first amendment prohibitions against the establishment of religion.

Second, a least-common-denominator prayer trivializes prayer.

Third, religious instruction is the responsibility of the religious family and the religious community.

Rev. James Dunn, executive director of the Baptist Joint Committee on Public Affairs has stated: "Real prayer is always free. What the court has done is to protect religious liberty."

Father Timothy Healy, president of Georgetown University, stated:

The question is whose prayer? How do we find a formula acceptable to all, offensive to none, and not so general that it would merely echo the less inspired bits of Fourth of July oratory?

Nathan Z. Dershowitz, speaking for the American Jewish Congress and 10 other Jewish organizations, said:

To a child in a classroom, no part of the school routine is voluntary. It cannot be made so by the cruel device of telling them that they are allowed to brand themselves as pariahs by leaving the classroom, or by standing there and remaining conspicuously silent.

Theodore White in "The Making of the President 1960," wrote as follows:

There remains one last division of the past to be considered as the Americans moved to consider their candidates—the largest and most important division in American society, that between Protestants and Catholics.

Mind you, this book is "The Making of the President," in 1960.

America as a civilization began with religion. The first and earliest migrants from Europe, those who shaped America's culture, law, tradition and ethics, were those who came from England—and they came when English civilization was in torment over the manner in which Englishmen might worship Christ. All through the seventeenth century, as the settlers arrived from the downs, the moors, and the villages of England, they came scarred with the bitterness and intensity of the religious wars of that era, wars no less bloody and ferocious for the fact that they were fought between Protestant sects, Protestant against Protestant. The harshness of Cromwell, that somber figure, was a reflection of the harsh-

ness with which Protestants assailed each other, as well as Catholics, over sect and dogma.

Is there anybody who needs to be reminded that this still goes on today?

The conflict in Northern Ireland is one still between Protestants and Catholics, with the terrible human toll that division takes hourly. It is hard to believe. It is hard for any of us to believe, in this day and age, that such terrible mayhem is done in the name of religion. Northern Ireland is not a matter of history. It is a matter of our life today. That is the ultimate step, is it not? This is the first step.

To return to White:

• • • migrants began the building of a new society in a new world; and out of this bitterness they distilled, though not without a struggle, that first great landmark in America's unique civilization, that first of the creative American compromises that was to set America apart from the old world: freedom of worship, the decision that government should have no right to make inquiry into the faith of its citizens and that the state should remain forever divorced from any religious establishment. Never in civilization, since the earliest ziggurats and temples went up in the mud-walled villages of prehistoric Mesopotamia, had there been any state that left each individual to find his way to God without the guidance of the state. In retrospect, this is probably the greatest historic decision enshrined in the American Constitution.

The Americans of the age were not an irreligious people; and the fact that they were Christian was very important, for the marks of Christianity lay all across the Constitution. Although Christianity has never been the *guarantee* of a democratic state anywhere in the world, no democracy has ever thrived successfully for any period of time outside of Christian influence; without the quality of mercy and forgiveness, there is only logic and reason to guide a state, and these guarantee no freedom to any man. What the American Constitution did was to accept and code a working compromise that had been reached by men and women of English descent escaped from the fratricidal wars of religion in Europe and unwilling to transfer such wars to the new land. Each man would worship in his own manner; and the state would limit itself to the affairs of Caesar. For the Protestants who created the American state, the very antithesis of these ideas was the code of the Church of Rome, which their forefathers had repudiated in England over two hundred years before.

Not until the 1850s did the Protestant civilization of America begin to include a serious proportion of Catholics, and then (apart from the historic New Orleans community) it was a Catholicism confined to the few large cities of the Eastern seaboard, where the great Irish migration was beginning to arrive. And not until 1891 did the United States census historically begin to estimate, from Catholic sources, the number of Catholics in the American population. In that year, estimates the census, there were in America 8,277,000 Catholics out of a total population of 64,361,000 in America—or 13 per cent. By 1928, the year an American Catholic, Alfred E. Smith, first ran for President, the proportion had grown to 16 per cent (or 19,689,000 out of 120,501,000). In 1957 the United States conducted a special census of religion in America, and in that year one has the choice of two divergent sets of figures. Following the old tables and accepting Catholic estimates of Catholic communicants, America held 34,564,000 Catholics out of an estimated total population of 171,229,000 citizens, or 20 per cent. Accepting instead the special census figure of 43,037,000 Catholics at that time, the Catholic proportion of Americans amounted to 26 per cent.

The huge difference between the official Catholic claim and the higher estimate of the Bureau of the Census—a difference of 8,600,000 in the year 1957—illustrates the trickiness of all figures on religion in the United States. Some groups—such as the Christian Scientists—refuse to offer any estimate of their numbers at all. Some Protestant groups, such as the Lutherans, count all members of their faith from the moment of baptism, as do the Catholics. Other (and most Protestant) groups count their communicants only from the age of thirteen or fourteen. For some years Jewish groups numbered only the male heads of household; now Jewish groups estimate their numbers on the basis of established congregations (it is estimated that there are 5,400,000 Jews in the United States today, the largest Jewish community since the Destruction of the Temple). All figures on religious breakdowns in the United States, either by state or nation, are thus guesses, subject to error of up to 20 per cent.

It is obvious, however, from the spread of the census figures since 1890 that the increasing percentage of Catholics has come first from the great south and central European migrations of the early 1900s (Italian, Polish, some Czech, some German Catholic); and has thereafter been amplified by the Catholic birth rate. Dr. Donald N. Barrett of the University of Notre Dame has estimated that in the years 1950–1959 the Catholic population of the United States increased by 35.8 per cent while the general population increased by 16.6 per cent. Or in other words, as he has said, "Forty-one per cent of the total United States growth in 1950–1959 was derived from the Catholic sector of the population."

Such a statistical development reflects, of course, a change in the composition of American life, of which American politics has been aware for generations. From the Eastern Seaboard all the way through to St. Paul, Minnesota (or Omaha, Nebraska) this change has for a full generation been the working problem of practicing politicians of both parties.

In general, and for reasons quite apart from faith, most Catholics have voted Democratic. They have voted Democratic because when they arrived as immigrants in the large industrial cities they found the national political machinery at the time of their arrival in the hands of Republicans who distrusted big cities; Catholic immigrants entered, naturally, into the party that sought and cultivated their votes, the Democratic. Not only did they enter—within a period of fifty years they had come to lead and possess the Democratic Party in a bloc of states that stretched from New England to Illinois. In New York State, for example, in a recent year, of sixty-two counties in the state, the Democratic County Committeemen in fifty-seven were Catholic.

And the book goes on to place into the statistics the role of those of the Catholic faith in American politics, a role denied them by past persecution.

So many of my Catholic friends just as fellow members of my Protestant faith think because of their numbers they are outside this argument. Who is to say that 100 years from now we will not be in a minority?

I suggest as a protection of our religious beliefs we hold fast to the principle involved.

I never believed either in my political career or before embarking on that that I would on the floor of the Senate be arguing against a State religion and a State prayer. To me that is something that belonged in other nations in the future or had belonged as a matter of history to other countries.

This is an abomination. It is a persecution. It is an elimination of the rights guaranteed under the Constitution.

Those who argue as we do on the floor of the Senate, if I may say so, are not irreligious men and women. Indeed, what we are fighting for is religion, religion in all of its forms, not in the form of the Senator from North Carolina or indeed the Senator from any other State, but in the form that is most pleasing to us as individuals, not as Senators.

I remember it was only a matter of a year ago when we had this issue here on the Senate floor and although I am not willing to dredge up unpleasant memories, I remember very unseemly incidents that occurred between good friends in the course of debating this issue.

The incident should have never taken place, all the participants being decent people, kind people, religious people, persons respecting the rights of others. But the minute the subject turns to religion, believe me, even on the Senate floor the temperatures start to rise and people say things that they regret later, and that happened right here a year ago.

There is no end to this mischief. There is no end to it.

At the various levels of government, local, State, and Federal, as people argue what prayer should be, what it should consist of, I hate to contemplate the passions that are going to be aroused.

Who is going to write the prayer? And if a prayer can be established by one session of the Senate then why not another prayer 2 years from now or 4 years from now or 6 years from now?

These are the matters of principle that are at issue in the course of this debate.

I had occasion to read the UPI press release that came as a result of our action yesterday, and I wish to share it with my colleagues. The title of it was "Abortion," by Wesley Pippert.

WASHINGTON (UPI).—In President Reagan's second Capitol Hill defeat in as many weeks, the antiabortion legislation he sought to make law was put to rest.

The measure was a major goal of Reagan and the new right, but liberals Wednesday,

following a 2-month filibuster, successfully had it brushed aside—at least for this year.

Senator Jesse Helms, N.C., sponsor of the antiabortion amendment, took the floor and promised the political implications of the vote would go far beyond the capitol.

Waving a copy of the Senate roll call recording the 47-46 vote to set the measure aside, Helms warned: "This is a record each Senator who voted 'aye' will have to live with."

Helms said the vote could spill over into campaigns, noting that former Sens. George McGovern, S.C., John Culver, Iowa, and Birch Bayh, Ind., who favored the right to choose abortion, were defeated in 1980.

The article goes on from there. I knew and I argued the principle of separation of powers; in other words, I argued against court-stripping as it applied to the matter of busing, and I was threatened with the same business, that "any Senator who takes the position that Senator WEICKER takes will be said to be for busing." Knowing the negative implications that had, regardless of the fact that it was a constitutional debate that related to court-stripping, to the principle that was being established that applied to all of us, not just black children, many of my colleagues here were afraid to stand up. Many did, and that is why it took so long, 10 months, before anything happened. But they were afraid of that threat, and I saw that threat come to pass in my own situation in Connecticut where during the Republican phase of the operation NCPAC was up in Connecticut saying, "Senator WEICKER is for forced busing."

Do you know what I am going to hear on the basis of this argument here today? "Senator WEICKER is against prayer."

I just want it clearly stated that Senator WEICKER is for the Constitution of the United States and for the ability of every American to pray as he or she sees fit, and I am not going to have any U.S. Senator or President of the United States tell us that we have to pray, and then following that what it is we will pray. That is the issue.

Those who fought court-stripping, fought for an undiluted Constitution, and the guarantee that the courts of this Nation would be available to every American, those who fought the matter of abortion did so on the basis that this was a personal decision, did so on the basis that the law of this land is clear, that it is not to be circumvented by some legislative maneuver, and that if constitutional change is to be accomplished it must be done by the Constitution.

Those who fight for the first amendment and religious freedom do so in defense of the Constitution of the United States. The fact is that, as a result, there will be more, not less, religion in this country. What is being advocated in the form of a State prayer is less religion. It naturally restricts. No prayer can contemplate all that resides within 200 million human beings. So it is by its nature restrictive, and by nature of just having to perform the act, it impinges on our freedom.

I think there are some who feel the problems we have today are going to be resolved by running a group of children through a prayer ceremony. Let me tell you the problems we have today are far more prevalent in the adult community than they are in the first, second, and third grades of this Nation.

A lot of people will say, "You fellows in the Senate, you start the day with prayer, so why should not that apply to others?"

Well, I do not have to be here to listen to the prayer, and if I do not like it, I can walk out. It is just as simple as that.

Some 6- or 7- or 8-year-old kid is not going to do that. Attendance at school is not voluntary; it is mandatory, and no child is going to get up and walk out even though the prayer is offensive to his or her belief.

Most adults do not go through that for fear of some form of embarrassment. Why cause one Senator to be put in the position of being embarrassed, of feeling an outcast, of feeling queer, or whatever?

I usually find the person who says the least about his religion is the most religious person on the block, and the one who is going around spouting the Bible and talking about good works and all the rest of it usually has something to hide.

If you want an exercise that might do some good, I would not worry about ramming a pro forma prayer down the throats of a bunch of schoolchildren. I just think we ought to use our time here on the Senate floor advocating that the whole Nation pray for us and hope some good might come of that.

The issue is whether or not this Constitution of the United States is going to be around for our kids in the same form that it is or was for us. That is the reason why this cannot be permitted just to go the way of any old legislation. This is not legislation. Legislation is written, is allowed to disappear or is canceled from the books, and philosophies change and parties change, the White House changes, numbers in the Senate and House all change, but one thing that remains constant is the Constitution of the United States.

There seems to be a great impatience on the part of a lot of people to change it as if all of our ills can be attributed to concepts and the words of that document.

I remind everybody the problem in this country today is not the Constitution of the United States. The economy is the problem, 10.5 million people out of work is the problem, and that is what we ought to be spending our time on, but we are not. We want to tinker with the one thing that works.

Education is the big problem. So many young people cannot go to college, cannot go to graduate school, cannot get an education. That is a problem.

Housing, too. Three percent of the people in this country now—only 3 percent now—can afford to buy a house. I say that is a problem. You are not going to have that last very long before you will have some kind of political upheaval. These are problems, and these problems are dealt with by each generation and its representatives. Both the problem and the solution change. But the Constitution stays. No matter what goes on, that stays, and in this instance, it is the guarantee that whatever beliefs exist today and those that have yet to be proclaimed will be done so in the fullest possible freedom.

Let me once again just read just the most pertinent passages of Madison's Remonstrance Against Religious Assessments.

2. Because if religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the co-ordinate departments, more necessarily is it limited with regard to the constituents. The preservation of a free government requires not merely, that the metes and bounds which separate each department of power may be invariably maintained; but more especially, that neither of them be sufferd to overleap the great. Barrier which defends the rights of the people.

Mr. President, I ask unanimous consent that I be allowed to yield the floor at this point without this being construed as the end of a speech for the purpose of the two-speech rule and without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Senator for yielding to me.

SENATE SCHEDULE

Mr. President, for a variety of reasons, which I will elaborate on later and as the circumstances mature and develop, it appears that there is no good and useful purpose to be served by asking the Senate to remain late this evening. Therefore, I expect that the Senate will observe more or less regular adjournment hours or recess hours today; that is to say, approximately 6 p.m.

I would point out that tomorrow we will be in from 9:30 a.m., by the order previously entered, until approximately 2 p.m., so that Members may observe a Jewish religious observance which begins at sundown on Friday.

A cloture vote will occur on Monday against further debate on the Helms amendment. A time certain has not been set, except as that time is set under the rule. I will explore the pos-

sibility of setting a mutually convenient time for that vote on cloture on Monday with the minority leader and with the principals involved in this debate.

Mr. President, I must reluctantly also announce that, contrary to my previous statement, we will not be able to finish the debt limit bill today. As a matter of fact, I do not know when we are going to be able to finish the debt limit bill, but we will cross that bridge a little later. But, for the moment, I wish to rescind my notice that the Senate will be in late tonight, I wish to rescind my statement that I will strive to try to complete this bill today, and to say we will be in from 9:30 a.m. until 2 p.m. tomorrow and that there will be a cloture vote on Monday next.

Mr. President, I thank the Senator for yielding.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the majority leader for his reasonable statement because I think it is an accurate reflection of where we stand. I commend him for his proceeding in the way he has. The Senator from Tennessee knows how much it means to this Senator.

Mr. President, I also wish at this point to commend my colleague, the Senator from Connecticut (Mr. WEICKER). He has an accurate vision of what really is at stake here; that is, this is a court-stripping amendment which precludes the Supreme Court's jurisdiction over cases involving school prayer.

I particularly appreciate his unbending support for the Constitution. I think too often too few in our country continually give respect and support to the Constitution. Certainly the Senator from Connecticut is one who has stood in the forefront many, many times in this body and on many, many occasions, far more than any other single Member of the body that comes to mind at this moment. It means a lot to this Senator that the Senator from Connecticut is such a strong supporter of the Constitution and the basic principles of our form of government which have kept our country going so long. He is certainly one of the most eloquent defenders of those principles, and I wish to tell this body how much his eloquence, support, and perseverance means to this Senator.

Mr. President, this has been a long battle so far. I expect it will be an even longer one. The recent announcement by the Senator from Tennessee, the majority leader, certainly indicates that it will be a long, protracted battle. But I think, Mr. President, the issue is important. It is important for the people and the country to know that to adopt this underlying amendment would be to undermine our Constitution.

Mr. President, I wish to now read a statement by law Prof. Lawrence Sager of the New York University School of Law. This actually is a condensation of a longer law review article than Mr. Sager had written on attempts to limit the jurisdiction of the courts on constitutional questions.

Mr. President, as I have often stated, the reason I am speaking is not so much because I am opposed to the merits of the underlying amendment. Although I think there are some difficulties in the underlying amendment, my primary reason in taking the floor is because the underlying amendment is not an up-or-down vote on the merits of school prayer. In fact, the Supreme Court has ruled on that issue. We in the Congress certainly cannot, by statute, simply overrule decisions of the U.S. Supreme Court.

Rather, I am taking the floor because of the way in which the statute is framed. The statute attempts to overturn a Supreme Court decision, not by direct effort but, rather, by an indirect effort; that is, by pivoting Supreme Court review over school prayer issues.

Mr. President, it is my fervent, deeply held view that it would be pernicious for this body, for the Senate and/or the Congress, to adopt that amendment; that is, it would be a pernicious precedent for the U.S. Senate to, by statute, prohibit the Supreme Court's jurisdiction over school prayer or over any other single Federal constitutional question. For us to begin sliding down that slippery slope, for us to begin to limit by statute Supreme Court jurisdiction over Federal constitutional issues, will be for us to begin to undermine, in fact, to destroy our Federal Constitution.

Our form of Government is based upon three separate branches of Government—the executive, the legislative, and the judicial. If Congress, by statute, can say to the Supreme Court, "You, the U.S. Supreme Court, can no longer hear any cases over this issue, a Federal constitutional issue, or in the future over any Federal constitutional issue," than we, the U.S. Congress, will have effectively eliminated one of our three branches of Government.

As so often has been pointed out, if our Bill of Rights, if our Federal constitutional guarantees—freedoms of speech, press, assembly; right against self-discrimination; and all the various rights contained in our Constitution—if they mean anything, they have to be protected by a Federal judiciary and, more importantly, by the U.S. Supreme Court.

Because, if Congress can eliminate this Constitution—and we would be so doing or going in that direction by adopting this statute—then we effectively can eliminate those Federal constitutional guarantees. We can effectively prohibit the Supreme Court from reviewing any issue. We can effectively tell American citizens that the rights in the Constitution are only as good as a majority of the Members of Congress believe them to be.

That is to say, we would be telling American citizens, "Well, sure, free speech is important, but it, for some other reason in an election year, 2 months before an election, for whatever reason Congress wants to limit some opposition party from making some statements, and the majority party in the Congress is of such a persuasion," then we are telling the American people that, "Free speech is OK in some years but not good in some other years."

Certainly, under our constitutional form of government, it would be impermissible for Congress to undertake any such efforts.

It is critical that we do not begin by setting the precedents for limiting the Supreme Court jurisdiction over constitional issues.

Now, Mr. President, I will read a statement which is a condensation of a larger article by Prof. Lawrence Gene Sager.

CONSTITUTIONAL LIMITATIONS OF CONGRESS' AUTHORITY TO REGULATE THE JURISDICTION OF THE FEDERAL COURTS

(By Lawrence Gene Sager)

INTRODUCTION

Pending in Congress are a number of bills that seek to limit the jurisdiction of the federal courts to hear claims or grant remedies in various types of constitutional cases. These bills threaten a gross breach of the institutional premises by which our nation, for 200 years, has chosen to govern itself, and the adoption of any one of them would set a dangerous and unworthy precedent. At risk is our tradition of governance that has made the judicial branch of the federal government the ultimate arbiter of the Constitution. Tampering with that tradition in the manner proposed by these bills would be both unconstitutional and unwise.

The language, structure and history of Article III of the Constitution, taken alone, indicate that Congress has a broad, but imprecisely defined, power to regulate the jurisdiction of the federal courts. The lower federal courts take their jurisdiction from statutory grants by Congress, and Congress clearly can withhold from their jurisdiction substantial portions of the reservoir of jurisdiction provided in Section 2 of Article III. Indeed, the framers of the Constitution contemplated the possibility that Congress might choose to create no lower federal courts at all—a possibility that seems academic today. In contrast, the existence of the Supreme Court is stipulated by Article III, and the whole of the jurisdiction itemized in Section 2 is constitutionally conferred on the Court. The appellate jurisdiction of the Supreme Court, however, is provided in Article III "with such Exceptions and under such Regulations as the Congress shall make," and Congress can remove from the jurisdiction of the Court some of the cases that fall within Section 2.

But from Article III itself, and from the logic of the constitutional scheme of which it is a pivotal part, there flow significant limitations on the power of Congress to reg-

ulate the jurisdiction of the federal courts. Moreover, the Bill of Rights and reconstruction amendments to the Constitution provide important additional limitations on the exercise of whatever powers Congress might otherwise possess under Article III. While the precise scope of congressional authority in this area may remain unclear, the power of Congress to shape the jurisdiction of the federal courts is clearly limited by three important constitutional principles:

(1) The Supreme Court must be available to superintend state and local compliance with the Constitution, unless Congress has provided equally effective and independent review elsewhere within the federal judiciary;

(2) Congress cannot strip from the jurisdiction of the federal courts a narrow group of cases which involve constitutional claims to which Congress is hostile; and

(3) Congress cannot cripple the federal courts by denying them the authority to issue all reasonably effective remedies in particular groups of cases.

The bills presently pending in Congress that propose jurisdictional or remedial responses to Supreme Court precedent in the areas of abortion rights, school prayer, and mandatory busing to desegregate public schools, share the vice of violating one or more of these constitutional limitations. They also violate Congress' own tradition of prudence, restraint and respect in dealing with the federal judiciary, and do so at a time when a like restraint is being urged on the courts by both the executive and legislative branches. The ill-wisdom of the course these bills chart is as striking as their illegality.

I. FEDERAL JUDICIAL SUPERINTENDENCE OF STATE AND LOCAL COMPLIANCE WITH THE CONSTITUTION

Supreme Court review of state conduct is the cornerstone of our constitutional scheme. Without it or an equally effective and independent alternative source of federal judicial review, the legal structure upon which our identity as a nation depends would be fatally undermined. Congress has never doubted this: from the first Judiciary Act of 1789 to this day, it has adopted legislation that assured the Supreme Court of jurisdiction to superintend state compliance with the Constitution. Throughout our history, Congress has removed various portions of the Court's Article III jurisdiction, but this head of jurisdiction has always been made available to the Court, despite crises and concerns that would have tempted an unscrupled Congress to curb the Court's authority. As a result of Congress' fidelity to this basic premise of our constitutional order, there has never been a judicial test of Congress' power to reverse this unvarying pattern of respect for the logic of the Constitution. But there is no dearth of clear judicial sentiment on the essentially of federal review of state conduct. There are a number of powerful Supreme Court statements on the matter, of which this language from *Dodge v. Woolsey* is a good example:

[O]ur national union would be incomplete and altogether insufficient for the great ends contemplated, unless a constitutional arbiter was provided to giver certainty and uniformity, in all of the States, to the interpretation of the constitution and legislation of congress; with powers also to declare judicially what acts of the legislatures of the States might be in conflict with either.

A closer look at the history and structure of Constitution's provisions for a federal judiciary strongly supports these sentiments and the tradition of two centuries to which they pend.

A. The History and Logic of Our Federal Scheme.—The issue around which all else in the Constitutional Convention revolved was the status of the attending states.

That was an important point when our Founding Fathers met to frame our Constitution. That is, what should be the status of the States that attended the Constitutional Convention?

Would they remain sovereign members of an interstate compact, or would they be folded into a genuinely national structure—to which they as states would be subordinate and to whose authority their citizens would be answerable directly? In the end there emerged from the Convention a rather clear commitment to a governmental structure that was distinctly more centralized than that of the Articles of Confederation. As part of this move toward nationhood, the framers put critical restraints on state autonomy into the Constitution itself and gave Congress legislative authority to direct a strong national government.

The commitment to nationhood raised the question of how the legal subordination of the states would be effectuated. Initially, attention and debate focused on a congressional "negative," or veto, of state laws. But the Convention rejected this means of control, opting in its stead for judicial supervision of state conduct. The supremacy clause was the product of this clear and conscious decision to rely on judicial control; the unanimous adoption of its prototype followed immediately upon the heels of the Convention's rejection of the congressional negative.

With judicial supervision as the Convention's chosen means of controlling the states, the structure of the American judiciary became a matter of great importance. On the day following the repudiation of the congressional negative and adoption of the supremacy clause, the Convention approved the compromise which James Madison had engineered earlier in committee. Controversy in this area had centered on the question of the lower federal courts, with opponents of an extensive federal judiciary arguing that the Supreme Court could adequately guarantee federal interests. Under the Madisonian compromise, the Constitution neither created nor forbade the creation of the lower federal courts. Their existence was left to the discretion of Congress.

Thus, as the delegates to the Constitutional Convention made their peace on issue after issue, the Supreme Court's superintendence of state compliance with national law emerged as the fulcrum of the national government. Direct legislative supervision of state conduct was abandoned, and the possibility was embraced that no subordinate federal judiciary necessarily had to be established. What remained was the Supreme Court, whose jurisdiction was consciously tailored to the role of supervising the enforcement of the supremacy clause. There was serious debate on the question whether the appellate oversight of the Court was sufficient as a restraint on the states, but none about its necessity. Unless the state courts were answerable to the Supreme Court, the scheme of the Constitution would have had little to recommend it over the Articles of Confederation.

An interesting point, there, as Professor Sager points out:

There was serious debate on the question whether the appellate oversight of the Court was sufficient as a restraint on the states, but none about its necessity. Unless the state courts were answerable to the Supreme Court, the scheme of the Constitution would have had little to recommend it over the Articles of Confederation.

Mr. President, Professor Sager now deals with the judicial independence requirements of article III.

Article III stipulates that federal judges are to be contained in office during good behavior and without diminution in salary. These provisions were placed in Article III in order to secure judicial independence, which is a core value in our constitutional tradition, and must be understood as limiting the power of Congress to channel Article III cases to the state courts without providing for federal judicial review. If Congress can place any group of cases it chooses in the exclusive province of the state courts, it can subvert the judicial independence requirements of Article III at will. The obvious relationship between federal review and the commitment of Article III to judicial independence was recognized early by Justice Marshall, writing for the Court in *Cohens* v. *Virginia:*

"It would be hazarding too much to assert that the judicatures of the States will be exempt from the prejudices by which the legislatures and people are influenced, and will constitute perfectly impartial tribunals. In many states the judges are dependent for office and for salary on the will of the legislature. The constitution of the United States furnishes no security against the universal adoption of this principle. When we observe the importance which that constitution attaches to the independence of judges, we are the less inclined to suppose that it can have intended to leave these constitutional questions to tribunals where this independence may not exist."

Thus, while Article III embodies the understanding that Congress might choose to create no lower federal courts or to endow them with limited jurisdiction, and apparently gives Congress power to effectuate some restrictions on Supreme Court jurisdiction, these powers cannot be used in combination utterly to defeat the judicial independence requirements which are also stipulated in Article III. State judges do not enjoy Article III security, and unrestricted use of the state courts as exclusive forums for Article III business is wholly inconsistent with our constitutional commitment to an independent judiciary. The Article III compromise entitles Congress to use state courts in lieu of inferior federal courts to hear Article III cases in their initial stages. But there plainly must be limits on Congress' ability to make the state courts exclusive arbiters of Article III matters; and those limits are crossed when Congress attempts to divest the Supreme Court and all other federal courts of jurisdiction at least to review state court decisions on matters arising under the federal Constitution.

The question is not an entirely novel one. Congress has created various entities—ranging from courts martial to administrative agencies—which do Article III business but whose members do not enjoy Article III security. Just as with delegations of Article III business to the state courts, unlimited exercises of this sort by Congress would nullify the judicial independence provisions of Article III. The Court has consistently referred to such limits, and has had the occasion to invalidate adjudicatory schemes that overstep them. When the Court has evaluat-

ed congressional delegations of Article III business to non-Article III tribunals, it has held of critical importance: a) the significance and sensitivity of the pertinent Article III business, and b) the ultimate availability of Article III review.

Constitutional challenges to governmental conduct raise issues of great national importance. No other area of adjudication is as likely to excite public controversy an to invite political manipulation of the judiciary. Artilce III's commitment to judicial independence is nowhere more important than here. And no practical necessity could justify Congress in denying federal review of constitutional claims that have been directd to the federal courts. Under some circumstances, Congress can relegate the adjudication of Article III cases to the state courts, but it must provide persons who advance claims of federal constitutional right an opportunity to secure effective and independent review of the state court's disposition in an Article III court. Any other reading of Article III would permit Congress to circumvent the article's tenure and salary requirements.

(Mr. MATTINGLY assumed the chair.)

Mr. BAUCUS. Mr. President, I wish now to depart from Professor Sager's statement and refer to some other matters, particularly some editorial comments of various papers around the country on this issue. I believe it is important for Members listening and other Senators to know that the press has commented on these bills. I might add, I am hard pressed to think of any single editorial comment that is in favor of these court-stripping bills. All of them that I am aware of are opposed.

Last spring, the Washington Post printed an important and, I think, one of the better editorials on how these court-stripping bills could undermine our Federal courts. The Post correctly pointed out that this issue is the single most important item on our Nation's noneconomic agenda for the eighties; that is, all these court-stripping bills that apply to various issues where Americans disagree with Supreme Court decisions.

I might add, Mr. President, that I, too, am not particularly enamored with all the Supreme Court decisions. Indeed, there are some which I do not like at all, but the way we change Supreme Court decisons is by constitutional amendment. In fact, several amendments to our Constitution are the direct result of public dissatisfaction with Supreme Court decisions. The 16th amendment certainly is one such example. There are many others. I suggest that we as Americans continue to pursue the amendment process rather than try to eliminate the Supreme Court as a remedy to unpopular Supreme Court decisions.

This is what the Washington Post had to say:

What development on the Hill has constitutional scholars profoundly worried and legal bigwigs warning about the prospect of a crisis in the government? It is the introduction of legislation in Congress to limit the jurisdiction of the federal courts to decide constitutional questions. Senator Max Baucus of Montana has referred to this issue as "the single most important item on our nation's non-economic agenda in the 1980s," and he is not alone in this view.

More than 30 bills have now been introduced in the House and Senate that would take from the federal courts the power to decide certain cases. Most of the bills are responding to controversial Supreme Court decisions on subjects such as prayer in the schools, busing and abortion. These rulings, because they are grounded in the Constitution itself, cannot be overturned by statute. A constitutional amendment would be required in each instance, but amending the Constitution takes time and great political strength. Amendments must be proposed by a two-thirds vote of each house of Congress and then ratified by the legislatures of three-fourths of the states. Because each of the single issue constituencies opposing a Supreme Court decision would find it difficult to mobilize enough support to amend the Constitution, their leaders in Congress have proposed another tactic designed to accomplish the same result. They would pass a law—by simple majority vote—removing a certain class of cases from the jurisdiction of the federal courts, thus, leaving constitutional questions in sensitive areas up to the 50 individual states courts.

This approach to constitutional law, like the Roosevelt court-packing plan of the 30s, seeks to control the decisions of the courts by undermining their very structure. If the strategy succeeds, the judiciary would no longer be an independent and equal branch of government, and no rights would endure without the consent of Congress.

David Brink, the President of the American Bar Association warns, "If we permit Congress, or even the people, to avoid (the amendment) process at will by simple majorities, we have . . . lost our Constitution as the supreme law of the land." Four former Attorneys General and three former solicitors general have advised members of the House and Senate Judiciary Committees that "Congress is not empowered by the Constitution selectively to restrict the jurisdiction of the federal courts."

Tipping the balance of power so carefully crafted by the Founding Fathers is a dangerous game, and Congress should refuse to play.

I should now like to refer to some editorials in the papers in my own State of Montana. The following is an August 19, 1982, statement by the Great Falls Tribune, the major daily in Great Falls, Mont. The editorial is entitled, "Anti-Abortion Bill Involves Courts, Too."

Mr. President, I might add that the issue with respect to that bill is the same as the issue now before us—that is, limiting the Supreme Court review over Federal constitutional questions.

The long-awaited Senate abortion debate began Monday in a farcical way. Sen. Jesse Helms, R-N.C., introduced only part of his anti-abortion legislation—and kept secret the exact contents until Wednesday.

Another Republican senator, Oregon's Bob Packwood, who opposes the legislation, continued the spirit of that first day of debate by reading from a book he said was "A History of Abortion in America." Packwood was leading a filibuster against the Helms bill.

By Wednesday midday, though, Helms had suffered at least one defeat. He lost on a move to set aside counter-proposals by Sen. Max Baucus, D-Montana, and Sen. Lowell Weicker, R-Conn. Baucus offered an amendment that said "the federal courts must remain open to litigants whose claims arise out of the federal Constitution."

It's taken a while for the Senate to get around to the anti-abortion matter, which "new right" organizations have pushed ever since they helped elect Ronald Reagan and a Republican-dominated Senate. In past weeks, they've criticized the Reagan administration for its lack of aggressive action on that matter and others.

Now that the moment for debate has arrived, the Senate has a chance to unequivocally tell Helms and others of his ilk that they're stepping over constitutional boundaries. Senators got a good start Wednesday when they opposed Helms' request to table the Baucus and Weicker amendments.

The proposal Helms finally revealed, which is weaker than his human life bill, says that "scientific evidence demonstrates the life of each human being begins at conception." Helms would prohibit use of federal money for abortion, including medical research and training in federally funded medical schools. His measure says the U.S. Supreme Court was wrong in 1973 when it legalized most abortions.

With such a measure, the Senate comes close to legislating morality; it clearly is overstepping its legislative duties in trying to declare when life begins—a matter on which even scientists and religious authorities cannot agree. But another, more wide-reaching matter is at stake with the Helms legislation.

It is just one of several proposals that would take away the authority of the Supreme Court and federal district courts to hear various cases. Curiously enough, Helms didn't include words to bar high court jurisdiction on abortion in his newest proposal. But he added school prayer to it; the measure says the Supreme Court shall not have jurisdiction over lower court rulings or state legislation that would allow return to prayer in the schools.

Abortion and prayer are two issues Helms and others would like to get away from the Supreme Court. The reason why is simple: they don't like the way the high court ruled in those areas.

Rather than allow the Supreme Court to issue authoritative interpretations of federal law, they would prefer to entrust the matters to state court jurisdiction. This is not an example of federalist yearnings to return powers to the states; it is a violation of the spirit of the Constitution.

Supreme Court decisions assure uniformity across the country on constitutional matters. The uniformity is crucial; it is the cement that binds the various states into one nation. Stripping the highest court in the land of some of its authority and giving it to state courts assures a variety of interpretations of what is constitutional—and not only in the areas of abortion or prayer. Congress could try to limit jurisdiction in any number of other areas.

Baucus, a member of the Judiciary Committee that first considered the Helms abortion legislation, has spoken out strongly and steadily for more than a year about the dangers of stripping courts of judiciary power. The entire Senate now has the opportunity to make sure the campaign against limiting

court jurisdiction is close to an end rather than just beginning.

Mr. President, just 3 days later, the Missoulian, the daily in Missoula, Mont., called the Helms amendments wolves in sheep's clothing. This is what the Missoulian had to say in an editorial on page 4:

The United States Senate decisively rejected last week those twin wolves in sheep's clothing, the abortion and school prayer bills.

These misnamed "social issues" are not as they seem. They seem to block abortion. They seem to allow prayer in public schools.

Those issues by themselves are grist for spirited debate.

But those issues were not what was at stake last week in the Senate. The real issue was whether Congress would strip the Supreme Court of the United States of its power to review public laws.

Sen. Jesse Helms of North Carolina tried to slip the abortion and school prayer amendments through. The abortion measure would have reversed the Supreme Court's ruling that abortion is legal. The other amendment would have prevented the court from reviewing lower court rulings and state laws that permit prayer in public schools.

Montana Sen. Max Baucus countered with a measure declaring that it's the task of federal courts, not Congress, to rule on constitutional issues, including abortion and school prayer.

The Baucus measure won, 59-38.

After the vote Sen. Lowell Weiker of Connecticut declared that the so-called "social issues" are now dead for the year. Perhaps, perhaps not.

They will return, either after Labor Day or next year. Every time they do, the Senate should knock them on the head.

It's a strange quirk of ideology that the supporters of the abortion and school prayer measures are called conservative.

Their proposals to rip away powers that the Supreme Court has held for nearly 200 years is revolutionary in the extreme. It would set up a dangerous and unnecessary confrontation between two branches of government. If the power of Congress prevailed in such a confrontation, and the court was stripped of its authority to review laws that Congress didn't want reviewed, the way would be cleared for totalitarian destruction of the court protections Americans now enjoy.

Stripping the Supreme Court of its review power is among the first things a fascist or communist regime would do. It's radical. It's wrong.

Let the issues of abortion and school prayer be debated in Congress and during elections. Let laws be passed about them if the urge is there.

But leave intact the Supreme Court's power to review those laws or this nation flirts with destruction of its constitutional safeguards.

There is a concluding sentence.

Mr. President, I should like now to read an editorial from the Miles City Star, which is the major paper in Miles City, Mont. I think it is important to read it into the RECORD at this point. The title is "Turning the Helms."

Jesse Helms tried to pull a fast one on the U.S. Constitution and his fellow senators Wednesday. Montana Sen. Max Baucus was among those who brought the North Carolinian up short.

Helms, the Senate's leading conservative, offered two measures to reverse court rulings on issues dear to conservative hearts. The first would have barred Supreme Court review of lower court rulings or legislation permitting prayer in public schools. A second included a congressional finding that human life begins at conception and that constitutional safeguards extend to the unborn fetus.

What graveled Baucus and others was the sneaky way Helms brought his proposals to the floor under wraps and tried to hang them on the latest bill to hike the nation's debt ceiling—a measure that must be passed. Their response came in the form of amendments stipulating that Helms' proposals would not be construed to limit the federal courts' power to rule on the constitutional issues surrounding both abortion and school prayer.

The amendments stopped Helms in his tracks, at least for the time being. There is a lot of sympathy for his ideas in Congress and around the country. Declaring certain areas out-of-bounds to the courts, however, is a dangerous way to set government and social policy.

As one senator put it, the nation "is headed toward gridlock and ultimately toward anarchy" if federal courts are stripped of their power to review cases Congress would rather have the final say in.

The system of checks and balances that has kept the executive, legislative and judicial arms of the federal government from abusing power will not tolerate the tinkering Helms had in mind. If the courthouse doors can be shut to one kind of case, they can be shut, period.

We should not leave the keys to that door in the hands of a mere majority of the U.S. Congress.

Mr. President, on April 29 of this year, I praised the ABA for its leadership in taking a strong stand against these court-stripping proposals, and I should like now to summarize a portion of that statement today.

For the past 18 months the Congress has continually debated the constitutionality and wisdom of congressional attempts to strip the Federal courts of their jurisdiction over controversial constitutional issues. In general, these legislative initiatives have been promoted by single-issue constituencies who are unhappy with a specific Supreme Court decision. Fortunately, there are citizens and organizations who have been willing to analyze these proposals not only for their impact on a specific social issue, but also for their impact on our Constitution and our system of government.

In particular, the American Bar Association has taken a strong position in opposition to these court-stripping bills. Under the leadership of its able president, David R. Brink, the ABA has been a forceful and important voice in bringing the real risks of the court-stripping bills to the attention of the American public. Unfortunately, the ABA has been criticized for speaking out on these fundamental constitutional issues. I believe the ABA should be praised for its leadership in this area, not condemned.

Yesterday, April 28, 1982, Mr. Brink displayed courage and leadership by continuing to speak out on behalf of an independent judicial branch. His excellent statement before the National Press Club underscores the need for our continued vigilance of the basic principles of our system of government. I commend Mr. Brink's remarks to my colleagues.

This is the statement presented at the National Press Club on April 28 of this year by Mr. Brink, the president of the American Bar Association:

THE SEPARATION OF POWERS—WHOSE OX IS BEING GORED?

May 1 is Law Day. And it is a special Law Day—Law Day twenty-five. Its theme is A Generation of Progress. President Eisenhower proclaimed the first Law Day in 1958 and on April 16 President Reagan proclaimed Law Day 25. Each year we in the United States celebrate our commitment to our unique heritage of two centuries of liberty, democracy, justice and the rule of law.

Let us make no mistake. That heritage, and our progress in it, are no accident. They are the product of a unique and inspired document, the Constitution of the United States of America, that serves the world as a model of representative democracy. The genius of that model is the doctrine of separation of powers that divides government into three branches, each having an assigned role and each operating to a degree as a check and balance on the others. We have conferred on the executive a role of policymaking and administration, on the legislative the power to initiate laws to serve changing public needs, and on the judicial the interpretation of law and the preservation of the fundamental rights secured to our citizens by our organic document.

Sometimes in the press of current problems we forget the origin of our system of government and the source of our liberties. We must never forget the wellsprings of our heritage and our progress. But the Constitution is not self-executing. To make its grand policies a reality, it needs interpretation and enforcement by the courts and wise implementation and extension by the legislative and executive branches. It needs the coordinated work of all three branches of government.

Today it sometimes seems that our national interest in the Constitution is centered on just one aspect of the Constitution—the separation of powers. We are endangering our continued progress under the rule of law by preoccupation with turf disputes over the roles of the three branches of government. And the arguments over the separation of powers largely depend on whose ox is being gored.

Members of the executive and legislative branches have, and should have, many opportunities for public expression of their views on the roles of the three branches of government. The judicial branch is enjoined by its own Code of Judicial Ethics from public commentary on matters that may come before it and hence is inhibited in making statements in its own defense. Thus it often falls to the American Bar Association—as the national voice of the legal profession—to defend the judicial branch or to try to bring some balance to the debate. When the ABA acts in this role, it is classi-

fied by some commentators as ultraconservative and by others as ultraliberal. We are neither. We are apolitical and we simply try to bring our special perspective as full-time students of law and the Constitution to enlightenment of the ongoing national debate. We are only viewed as political, or conservative or liberal, according to whose ox is being gored.

Currently, members of both the executive and legislative branches have charged publicly and repeatedly that the judicial branch has overstepped its constitutional role and has engaged in policymaking functions that are reserved to the other branches. In my opinion, those charges are, at best, debatable. It must be remembered, first, that, unlike the executive and the legislative, the courts do not initiate policy on their own motion; they simply decide actual cases between opposing parties that have not been resolved by the other branches. What has happened, I think, is that the executive and legislative branches have either failed to develop constitutional solutions to state or federal problems, have failed to enforce laws already on the books or have left policies unclear so that they require court interpretation. In some instances they have dumped implementation of policies in controversial areas on the courts, which have to decide the cases and which have no means to defend themselves from the attacks by the public and by other branches of government that follow their decisions.

Let me cite a few instances briefly and one at greater length. On the matter of tax exemption for colleges that have racially discriminatory policies, the executive had a hot potato. First it decided to suspend denial of tax exemptions that seemed settled. Then it said it would seek legislation that would deny tax exemption. Acting on requests from the legislative branch, the executive finally said that it would dump the hot potato on the Court. If the Court decides simply that denial is mandated by the Constitution, by existing federal statutes and proper regulations and by previous Court decisions, it may be attacked by both branches of government for making unpopular policy.

Other instances of unpopular judicial solutions result from failure of the states or the federal government to provide specific tests, specific remedies or real enforcement of constitutional principles or general statutes. For example, in the case of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, the intent of Congress was to put teeth into the Amendments to the Constitution that had been the law of the land for a century or more but had not by themselves resulted in eliminating discrimination in many parts of the country. But Congress did not define the tests of discriminatory practices beyond repeating the words of the Constitution. That dumped the question of interpretation on the Court—and its decisions under the one statute were attacked by conservatives and under the other, by liberals. In the case of the Voting Rights Act, the position of the ABA is that Congress originally intended to prevent the fact of discrimination and that to do so it incorporated the "effects" or "results" test of discriminatory action that then represented the constitutional law on the subject. In extending the Voting Rights Act for the third time, Congress should handle the hot potato itself and adopt a results test in the law.

I could cite a number of other instances in which the other branches of government have used the courts as their dumping grounds for hot potatoes and then castigated the courts for the way they handle them. But that would take time from my discussion of the most significant and dangerous new type of attack on the courts. I refer, of course, to the more than 30 bills now before the Congress that would deprive the federal courts of their historic and vital jurisdiction of power to grant remedies in what all agree are constitutional cases. Because that judicial role is fundamental to the separation of powers and the preservation of our system of government. I have been quoted as saying that those bills are leading us to the most serious constitutional crisis since our Civil War. That quote is accurate and I believe it more strongly than ever.

Let me say four preliminary things. The first is that my stand on these bills is not purely personal and that the House of Delegates of the ABA—our policymaking body—supported it by an overwhelming majority. Second, the ABA does not take a position either way on the subject matter of these particular bills—abortion, prayer in school or means of achieving school desegregation. What we do oppose is the process used—taking constitutional questions away from the third branch of government and opening the door to elimination of the judicial branch in its constitutional role. Third, the battle over the federal jurisdiction issue is not between the courts—or the ABA—and the executive. The Administration, so far as I know, has not initiated or taken a position on these bills.

Mr. President, I might digress at this point and point out that the present Attorney General has very much taken a position on these bills. He finds it unwise. He does not think Congress should attempt to overturn the Supreme Court decision through this process, that is, by court stripping.

I am not sure what the administration's position is on the substance of the issue, but my understanding is that the administration does support a constitutional amendment in an attempt to overturn the Supreme Court decision.

Mr. President, I agree with the administration. I am not saying I would support the amendment, but I do very much support the amendment process. That is the process that all people who are attempting to overturn the Supreme Court should use, that is, a constitutional amendment process.

I now continue Mr. Brink's statement to the National Press Club:

I find it encouraging that Attorney General Smith has repeatedly urged strict observance of the separation of powers. I therefore hope that in response to calls from Chairman Rodino, our Association and press commentators, the Administration will take a firm stand in opposition to these bills.

As I said, Mr. President, that is exactly what the administration has done. They have taken the position against trying to overturn unpopular Supreme Court decisions by stripping the court of jurisdiction over that particular issue.

Fourth, the battle is not yet with the Congress, nor is it with either Republicans or Democrats in Congress. For there are members of both parties on both sides of the question. And I hope that those Members of Congress in both parties who value the fundamental structure of our nation more than they do seemingly popular solutions to the hot potato social problems of the day will join to defeat these bills.

The question whether the federal courts have overstepped their constitutional role, or have merely answered the difficult constitutional questions that have been dumped on them, may be debatable. But it is beyond debate that the present bills in Congress would overstep the constitutional role of Congress and endanger our system of government.

The argument is one of both law and policy. As to the legal question, constitutional scholars have expressed differing views on the constitutionality of these bills. The preponderant view appears to be that they are unconstitutional as applied to either the United States Supreme Court or the lower federal courts.

Some of the relevant materials are Article III of the Constitution, which says, among other things, that the judicial power of the United States extends to all cases arising under the Constitution, and the due process clause of the Fifth Amendment, which guarantees that no person shall be deprived of life, liberty or property without due process of law. Congress cannot exercise either such undefined power as it has under Article III to make exceptions to the jurisdiction of the Supreme Court or its power to create, change or abolish the inferior federal courts in any manner that would deprive our citizens of due process or deny the equal protection of the laws. Nor can Congress, by a "bootstraps" process, confer on itself any of the other powers that are otherwise expressly denied it by Amendments to the original Constitution. Therefore, Congress cannot, either directly or under the guise of limiting jurisdiction, change remedies, and thereby change the constitutional law or define juridical processes in such a way as to deprive citizens of substantive rights guaranteed by the Bill of Rights and other parts of our Constitution. If Congress forecloses citizens from fundamental constitutional rights or remedies in the federal courts with the intent or effect of having different law applied by differently constituted courts, it clearly has deprived them of due process and equal protection. And that is precisely the intent, and would be the effect, of these bills.

Those who read only a portion of Article III of the Constitution say that the exceptions clause of Article III grants Congress unlimited power to take away the jurisdiction of the Supreme Court, and that the power of Congress to create inferior Article III courts implies the power to abolish those courts or selective portions of their jurisdiction. But if the whole of Article III, the balance of the Constitution and the subsequent Amendments are also read, it is clear that the framers could not have intended any such result.

The proponents of these bills claim that most Americans disagree with our Constitution, as interpreted by the branch of Federal Government to which our forefathers entrusted interpretation of the Constitution and protection of our rights. If, indeed, our Nation does disagree with rights, under the Constitution, in the areas of abortion, prayer in schools or desegregation, there is a perfectly good way to change it. That is the amendment process involving the States and the people and requiring more than simple majorities. And our forefathers never

intended that Congress, alone, by a simple majority vote, could obtain the same result.

For if the Congress, by a simple majority vote, could rewrite the Constitution, a future Congress could wipe out Federal jurisdiction and remedies in all constitutional cases. Then, at best, we would have 50 Federal constitutions—one for each State. And if State legislatures followed the example of Congress and deprived State courts of constitutional jurisdiction, we would have no judicial review at all in constitutional cases. We would have a purely parliamentary system of government, without either an enforceable written national Constitution or a court having the power to declare the process unconstitutional. The founders of our country clearly did not intend to create a tripartite system of Federal Government that so easily could be rendered a nullity. So these bills all must be deemed legally unconstitutional.

But, even more important, these bills must be opposed on grounds of policy.

I might add, Mr. President, the foregoing analysis was addressing the reason why these bills must be important as a matter of legal policy, that is, under the Constitution.

Now he returns to why these bills must be opposed in terms of public policy apart from the legal requirements.

The admitted purpose of these bills is to change the constitutional law as interpreted by the judicial branch of federal government. That purpose betrays a terrible cynicism about our state judicial systems, for it is based on the belief that variations that are pleasing to current local majorities will be read into our national organic document by local courts. If that belief is unfounded, as I think it is, the bills are pointless. If it is well founded, it tells us that the proponents are willing to convert America into a kind of league of independent states instead of one nation.

This is another instance of the constitutional hot potato being handed to the courts, but this time it is, in part, the state courts. And the state courts do not want the constitutional responsibility the proponents would thrust upon them. The Conference of Chief Justices, representing all our state court systems, passed a resolution on January 30, 1982, without dissent, that viewed these bills with the gravest concern, citing many strong arguments.

Most of the apologists for the theory that the Congress can eliminate or control the federal courts say that enactment of these bills will teach the court a needed lesson. That is about as responsible as suggesting that we can teach the other superpowers of the world a valuable lesson by firing a first nuclear missile at them now. Neither effort to teach a lesson can be stopped after the first salvo; either one will result in further warfare and destruction.

So we much ensure that Congress, as it has repeatedly in the past, once again declines the ultimate confrontation. For if we leave it to the Supreme Court to be the sole defender of the role of the federal courts, we face the certainty of grievous damage to our system. If, in accordance with the law as I believe it to be, the Supreme Court declares these bills unconstitutional, the current critics of the role of the judicial branch will be moved to declare the decision self-serving and proof that the Courts are overstepping their role. That will produce a clamor of further unjustified attacks on our courts and legal system and possible constitutional amendments to eliminate or limit the judicial branch. But if, contrary to my expectations, the court sustains the bills, each Congress, according to its mood, will remove more and more of the jurisdiction of the federal judiciary until it is gone. Either way we face a terrible division of our country and risk the destruction of our free system of government.

George Washington, in his moving Farewell Address to the nation, issued a clear warning: "If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the consititution designates. But let there be no change by usurpation; but though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield."

Abraham Lincoln strongly disagreed with the Dred Scott decision of the United States Supreme Court. Yet he said of the Court: "We think its decisions on constitutional questions, when fully settled, should control, not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would be revolution."

Those are the words of Abraham Lincoln. They are short, they are succinct, to the point, and worth repeating:

We think its decisions on constitutional questions, when fully settled, should control, not only the particular cases decided but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would be revolution.

I do not believe the proponents of these bills really want to launch a missile that could plunge us into internal strife and destroy our rights, the courts or our Constitution. But they are shortsighted in not seeing what they are starting. They are risking our most fundamental values to dispose of a hot potato—to secure what they believe are popular and expedient solutions to current and transient problems.

But if they are successful in that, they also risk the Generation of Progress we celebrate on Law Day.

Mr. President, again, I am reading a statement of Mr. Brink that he gave on Law Day, May 1, of this year, before the National Press Club. Mr. Brink is the president of the American Bar Association.

They threaten forfeiture of our progress in broader access to law and justice, equal protection of all our citizens, including minorities and the poor, and eradication of discrimination of all kinds. But, more than that, they threaten the rights of all of us. Once the door is opened, the rights of free speech, free press, free assembly and free exercise of religion could be the next to be abolished or curtailed.

Whose ox is being gored? It is not just the ox of one branch of government in a turf dispute with another. It is our entire system of government. It is the ox of all of us—the American people. I think of the great words of John Donne that come down to us from 1624. I wish I had time to read his magnificent text. But let me quote his final words. . . . "Never send to know for whom the bell tolls; it tolls for thee."

The ox of a free legal profession is gored. The ox of a free press is gored. The bell tolls for all Americans. And it is the duty of the press and lawyers—both in their separate ways protectors of our citizens and seekers of the truth—to tell these truths again and again. We must tell them until all members of Congress and all Americans realize that our system and our rights must be preserved. We may then warrant that when another generation under the rule of law has passed, it, too, will be a generation of progress.

Mr. President, as I mentioned several times today, I speak in opposition to the underlying amendment of the Senator from North Carolina because it prohibits Supreme Court review of the Federal constitutional issue. I think it is extremely important to spend time addressing this.

As I have said repeatedly and I will state once again, as I did this morning, the issue of court access and court stripping is the issue before us. It is not school prayer, it is not voluntary prayer, it has nothing to do with prayer or religion. It has to do with whether or not the Senate will today, on September 16, 1982, begin to set in motion the vicious and pernicious precedent of removing the Supreme Court's power and right to enforce the Constitution.

Mr. President, it is court stripping that the Helms amendment is about. It is court stripping that the Weicker amendment addresses. It is court stripping that the Baucus amendment is focused on. It is court stripping that each and every Senator must focus on before they cast a vote on the underlying issue.

The press reports describing today's forthcoming debate suggest that this dialog and today's discussion will be on the volatile issue of school prayer. Nothing could be further from the truth. We are here today because the underlying issue is whether the American public wants the guarantees in our Constitution to mean something. That is why the Senator from Connecticut, who has done a magnificent job, and I are here—because we are trying to protect those constitutional guarantees and protect that branch of Government which was designed to insure that those guarantees not be infringed upon.

I am convinced that if the average citizen knew that what was pending before us today was a court stripping amendment, they would agree with me that this is not the way to go about responding to unpopular or inappropriate decisions of the Supreme Court.

Mr. President, I also would like to make one additional point about the manner in which this amendment is being raised.

I do not think that this proposal should be before us in the context of a debt limit bill. No issue of such great magnitude should be considered as a rider to a money bill of this nature. It should be processed and called up as a freestanding piece of legislation.

Which brings me to what I consider an outrageous aspect of the consideration of this proposal. There has not been one single witness to testify on the underlying Helms legislation in the Senate in this Congress or any other Congress. The original Helms proposal in this Congress, S. 481, is pending before the Separation of Powers Subcommittee of which I am the ranking minority member.

Senator EAST, the chairman of that subcommittee, who is a supporter of this proposal, has not had 1 day of hearings on S. 481. The subcommittee has not been asked to vote on this proposal. The Senate Judiciary Committee has not been asked to vote on this proposal. The entire subcommittee and committee process has been totally end run.

This Helms amendment is here without any serious Senate consideration.

I should also note that the House of Representatives has had extensive hearings on this proposal in the last Congress. There is a full volume of hearings from the House Judiciary Committee sitting here on my desk. I believe it is no small coincidence that the House of Representatives has not favorably responded to court stripping proposals. It is because the House has studied them, has held hearings, has looked into this question; whereas, this body has not held hearings; and not one witness has testified. This body has not looked into the serious nature of the question.

The House opposition to court stripping is bipartisan and crosses ideological lines. I believe the depth of sentiment in the Senate against court stripping would be similar if the Senate were willing to study the proposal and permit it to come up through the traditional committee process.

I hope during the course of today to bring to the Senate's attention additional materials which I believe should have been considered by the Separation of Powers Subcommittee and the full Senate Judiciary Committee. Unfortunately, they were not, and, therefore, I feel compelled to insure that the Senate record is totally complete on this issue.

(Mr. COCHRAN assumed the chair.)

Mr. BAUCUS. Mr. President, the following is a report of the American Bar Association, approved by the American Bar Association House of Delegates in the summer of last year. This is to follow the statement of Mr. Brink that I referred to earlier. Mr. Brink is the president of the American Bar Association. I referred earlier to his statement of the National Press Club of April 28 of this year. Now I would like to refer and read, in part, the resolution of the American Bar Association which was approved by the ABA House of Delegates last December.

REPORT WITH RECOMMENDATION—AMERICAN BAR ASSOCIATION REPORT TO THE HOUSE OF DELEGATES—SPECIAL COMMITTEE ON COORDINATION OF FEDERAL JUDICIAL IMPROVEMENTS

RECOMMENDATION

Be it Resolved, that the American Bar Association opposes the legislative curtailment of the jurisdiction of the Supreme Court of the United States or the inferior federal courts for the purpose of effecting changes in constitutional law.

REPORT

Before the 97th Congress are more than a score of bills which would strip from the original jurisdiction of the lower federal courts certain subject areas involving controversial decisions of the Supreme Court of the United States, notably abortion, school prayers, and busing. Enactment of such legislation would require persons claiming rights under one or another of these decisions to bring suit in state courts. Moreover several of these bills would deny the Supreme Court appellate jurisdiction to review the decisions of the state courts with respect to those issues that could be brought only in the state courts.

Sponsors of these bills clearly avow that their purpose is to bring about an altering of the constitutional interpretations that now prevail. The belief is apparently that state courts, if given exclusive power to decide such suits without fear of Supreme Court review, will not follow the precedents established in these areas by the Nation's highest Court.

The Committee recommends to the Association the adoption of this resolution because of one overriding conviction; the necessity to protect the integrity of the courts of this Nation, federal and state, from misdirected legislative efforts to achieve something that can be done only through constitutional amendment. The issue is not abortion; it is not busing; it is not prayer in the public schools; it is not any of a number of things that may occasion dissatisfaction with particular decisions. We are sure that the Members of the Association have many various positions on these substantive questions, as we do. But the real issue, the only issue, is whether, as a matter of policy and of constitutional permissibility, this Nation is going to adopt a device whereby each time a decision of the Supreme Court of a lower federal court offends a majority of both Houses of Congress the jurisdiction of the federal courts to hear that issue will be stripped away. We do not believe that is a system the Framers intended nor one that we should strive to institute.

Supreme Court decisions interpreting the Constitution establish binding precedents which are subject to alteration by the people through the process of constitutional amendment. The Framers provided in Article V a means of changing the Constitution and deliberately made it difficult to achieve. The "leaden-footed process of constitutional amendment," as Justice Frankfurter called it, with the requirement of extraordinary majorities in Congress and among the States, was designed to make sure that transient majorities could not easily change our fundamental law. Are we to believe that after constructing this formidable barrier to easy change, the Framers intentionally or inadvertently also put in place a system in which simple majorities could bring about a rewriting of constitutional law?

The American Bar Association has long opposed efforts, from whatever spectrum of the political scene, to alter constitutional interpretation through means other than constitutional amendment. We stood in opposition to the "Court-packing" plan of the late 1930's, which would have altered prevailing law by stacking the Court's membership. More than thirty years ago we called for the adoption of assurance that jurisdictional manipulation would not and could not be used to work substantive changes in the Constitution. In 1958, the Association opposed bills pending in Congress that would have denied the Supreme Court review of decisions involving alleged subversives in various fields. That policy is Association policy today and the Committee calls on the House to reaffirm it and extend it.

Central to this position is recognition of the great power which Congress possesses under the Constitution to structure and to allocate the jurisdiction of the Supreme Court to hear appeals and the jurisdiction of the lower Federal courts—and of the limits on that power. Article III stipulates that the High Court has appellate jurisdiction over practically the entire range of Federal judicial matters, subject to such "exceptions and regulations" as Congress provides. Clearly, then, Congress may regulate how cases come to the Court and could deny the Court appellate jurisdiction over some classes of cases altogether, as in fact it has historically done. It could, for example, make a lower Federal Court's decisions with respect to interpretation of the tax laws or admiralty issues final.

Even greater is Congress' power with respect to the lower Federal courts. The compromise at the Constitutional Convention was to create "one Supreme Court" and to leave in legislative discretion whether and when to create and to do away with any "inferior" Federal courts. Some of the Framers wanted constitutional assurance of lower courts, but the prevailing number thought that Congress should be able to leave to State court adjudication matters of national interest, subject to Supreme Court review. And to safeguard the national interest and the integrity of constitutional rights, the Framers write in Article VI, the "Supremacy Clause," the guarantee that the Constitution, Federal laws, and treaties would be the "supreme law of the land" and that "the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." Moreover, the same article requires State judges, as well as all other State officers, to be bound by oath or affirmation to support the Constitution of the United States.

Necessarily, it follows that if the Constitution empowers Congress to provide or not to provide for lower Federal courts, it empowers Congress to vest in such lower Federal courts that it creates all or only some of the jurisdiction it could give and thus to allocate between State and Federal courts the judicial power of the Nation in such ways as it deems to serve the best interests of the States and the Nation. That has been the understanding from the beginning on which Congress has acted and the decisions of the U.S. Supreme Court are consistent in affirming the correctness of that understanding.

It is thus not with any reservations with respect to congressional power generally that the committee recommends this resolu-

tion. Rather, we are actuated by specific constitutional reservations, more substantial as to Supreme Court appellate jurisdiction than as to lower Federal court jurisdiction, and by what we believe to be compelling policy considerations against the property and desirability of the bills now pending before Congress.

Even were the constitutional considerations compellingly clear in favor of the validity of these bills, as they are not, we would urge opposition.

First, if it is likely, as we by no means concede it is, that the meaning ascribed to a constitutional provision can be changed by the simple device of divesting jurisdiction from one set of courts and giving it to another, then indeed we have a Constitution writ on sand and the integrity of our amending process is eroded. It is central to our fundamental charter that ordinary legislation can be changed through ordinary legislation and the Constitution only through amendment. We should resoundingly reject the counsel of those who tell us there is another way. Down that route lie barely-hidden hazards to constitutional governance.

Second, to accept the explicit judgment of the sponsors of these bills that shifting jurisdiction will result in substantive change requires us to dishonor the thousands of State judges who, by oath and conscience, are bound to adhere to established precedent enunciated by the Supreme Court. We do not doubt that the great majority of State judges will do their duty. Nonetheless, this legislation is pernicious in concept even if it does not achieve its purpose.

It is bad because it suggests State judges will depart from their oaths. It is bad because it constitutes a congressional invitation to them to depart from their oaths; it says to State judges that Congress believes some decisions are so wrong they ought to be changed and those judges should do it. It is wrong because hundreds or thousands of State judges who are subject to periodic elections will be put in peril. The same interest groups that extract from an elected Congress jurisdictional alterations will demand from elected State judiciaries that they accept the congressional invitation to change. Federal judges are insulated from this and other pressures; the Framers deliberately provided for independence to prevent just these pressures. Congress should not subject State judges to often hard choices between oath and career.

Finally, if most State judges honor their oaths, the status of the objected-to constitutional decisions will be frozen in place. The Supreme Court cannot hear such cases and perhaps overrule them or alter them in any way. And as new fact situations arise, State court interpretations will begin to create somewhat different rules which will vary from State to State.

Third, either because of disagreement with the substance of these decisions or because of electoral pressures, some State judges may indeed accept the invitation of Congress and refuse to follow Supreme Court precedent. Because there would be no Supreme Court review, in those States, Federal constitutional law would change and the Constitution would mean something different from State to State. This result would be pernicious because fundamental liberties—whether the ones which are the subjects of these bills or others in the future if these succeed—will have been altered in some States and depreciated in all because of the demonstration that, contrary to what we have always believed, constitutional rights are subject to evanescent majority opinion. While the constitutional rights at peril today may not be valued by some, those at peril tomorrow may be freedom of speech, or just compensation for property taken for public use, or the guarantee against impairment of the obligation of contracts.

Even were Congress to adopt an approach, which is found in a few of the pending bills, of depriving the lower Federal courts of jurisdiction and continuing Supreme Court review of State court decisions in those areas, we believe that should be opposed as well. Basic to that effect would be a conclusion that alteration of substantive law could still be achieved which contains the same insult to State judges and the same possible injury to them. Supreme Court review could always alleviate some of the problem should some State judges depart from precedent, but the High Court's caseload is such that it could insure adherence to precedent only by taking an inordinate number of State cases in these areas to the neglect of its many other functions in interpreting national law.

Certainly, in the absence of Supreme Court review, the command of the Supremacy Clause that the Constitution be the "supreme law of the land" could become a nullity. Since the adoption of the Judiciary Act of 1789, a constant feature of the history of Federal court jurisdiction in this country, upon which the Nation continues to depend, has been the review by the U.S. Supreme Court of State court interpretations on questions of Federal constitutional law. If, as Justice Holmes reminded us, a page of history is worth a volume of logic, that singular fact stands as a practically unanswerable argument against jurisdictional legislation that would remove Supreme Court review of State court interpretation of the Constitution.

With regard to the constitutional validity of these bills, the committee doubts that, with respect to the Supreme Court's appellate jurisdiction, they can be sustained as proper "exceptions and regulations" and we have reservations about the bills' divestitures of lower Federal court jurisdiction as well. Numerous arguments have been addressed to the questions, some based on theories of the "essential functions" of the Federal courts, some on equal protection concepts governing the decision to restrict jurisdiction over certain disfavored issues, but we believe the correct analysis to be grounded upon what limits the Constitution itself places upon congressional exercise of any of its granted powers. The Constitution explicitly authorizes Congress to make exceptions to the Supreme Court appellate jurisdiction and implicitly to determine what, if any, jurisdiction the lower Federal courts are to have. Proponents of these bills read these authorizations not only as if they are plenary powers but as if they are completely unrestrained. But this cannot be so. The Constitution authorized Congress to regulate interstate commerce, to tax, to spend money, to create a postal system. None of these powers is conferred in language that then says, "but you cannot regulate commerce to deny the right to transport political literature across State lines," or "but you cannot bar from the mails newspapers that oppose the position of the majority in Congress." Rather, these powers are conferred in the manner in which Chief Justice Marshall described the commerce power in Gibbons against Ogden. "This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution."

Just so is the power to structure jurisdiction. It is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the Constitution. And what is prescribed in the Constitution? The first amendment, the fourth amendment, and the fifth amendment, and all the other limitations upon the powers conferred on Congress in other parts of the Constitution obviously are those limitations. They restrain the power of Congress to legislate with respect to other constitutional provisions under granting clauses which would appear on their face to be unlimited. To construe the congressional power to structure jurisdiction the way the proponents would construe it would be to make it the only power conferred on Congress that is beyond the constraints of other provisions of the Constitution. Obviously, this cannot be so.

Important to this issue is the fact that while the authorization to Congress to structure the jurisdiction of the courts is contained in the body of the Constitution adopted in 1789, the relevant limitations are in the Bill of Rights, proposed and adopted in 1791, which are operative as to all of Congress' powers conferred in the Constitution itself. Thus, even if the Framers in the Convention did not conceive of the jurisdictional powers being limited, althought it is likely they did, adoption of the Bill of Rights did so limit them. Madison, we must remember, stated in the House of Representatives on June 8, 1789, that the Amendments he proposed would not be "parchment barriers" to Federal action, because "independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights."

No Supreme Court precedent stands in the way of this reading. The McCardle case (1869) is of limited value, not only because it arose in the context of post-Civil War radicalism, but because, as the Court plainly stated, it did not bar all access to the Supreme Court but only one avenue of appellate review. Within 3 years of McCardle, the Court in the Klein case (1872) held unconstitutional an attempted exercise of congressional power over its jurisdiction for the purpose of nullifying the President's pardoning power. Certainly, McCardle lends support to the proponents of these bills but far less support than they pretend.

The only complexity that enters into the argument is that when Congress removes from the jurisdiction of the Federal courts an issue, it does not by that act alone violate one of the constitutional constraints. That is to say, when it denies to the lower Federal courts and to the Supreme Court authority to hear a suit arising out of the institution of a prayer in the public schools, it does not establish a religion. The establishment clause is violated when some State or local authority imposes a prayer requirement and a State court refuses to follow Supreme Court precedent and to strike down the imposition. But just as Congress could not itself violate the establishment clause, it cannot authorize the States to violate the establishment clause. The authorization, when acted on in the jurisdictional context, would violate the establishment clause and could not validly prevent exercise of the Supreme Court's appellate jurisdiction to give a remedy for the violation. The congressional jurisdiction *provision* would be void.

We think it plain that the Constitution thus bars a manipulation of the Supreme Court's appellate jurisdiction for the purpose of effecting substantive changes in constitutional law. More difficult is resolution of the issue when what Congress enacts takes from the Federal and gives to the State courts jurisdiction to entertain such suits subject to Supreme Court review. Theoretically, High Court review should prevent effectuation of the forbidden constitutional change and save the statute. But it may be that the practical difficulties of Supreme Court review do not allow for adequate protection of constitutional rights under the circumstances. It may be that State legislatures would restrict State court jurisdiction and powers to afford adequate relief or to process cases that can be taken to the Supreme Court with sufficient promptness to protect rights. It may be that other unforeseen situations arise. In that eventuality, can it be doubted that serious constitutional questions would arise?

Because the policy considerations are so substantial and because the constitutional propriety of these bills is open to such serious reservations, we urge The House—

That is the ABA House of Delegates—

To adopt as the position of the association a simple, forthright policy: To oppose the curtailment of the jurisdiction of the Federal courts for the purpose of effecting constitutional change that is properly the province only of the amending process. Irrespective of the subject involved and regardless of our individual beliefs with respect to any of them, the overriding consideration is that we support the integrity and independence of Federal courts, whether we agree with particular decisions or not, and that we support the integrity and inviolability of the amending process.

We ask reaffirmation of the principle that Elihu Root, leader of the American bar, enunciated in 1912. "If the people of our country yield to the impatience which would destroy the system that alone makes effective these great impersonal rules and preserves our constitutional government, rather than endure the temporary inconvenience of pursuing regulated methods of changing the law, we shall not be reforming, we shall not be making progress, but shall be exhibiting . . . the lack of that self-control which enables great bodies of men to abide the slow process of orderly government rather than to break down the barriers of order when they have struck the impulse of the moment."

In No. 78 of "The Federalist", Alexander Hamilton explained that Federal judges had been given the maximum degree of independence and protection possible because they had a critical function to perform. They must assure, he said, that the limitations on legislative authority are enforced. "Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."

We do not believe the great rights set out in the first, fourth, fifth, and other provisions of the Constitution "amount to nothing." We deem it critical to their continued meaningfulness that these bills under consideration and others like them be defeated.

That, Mr. President, as I stated, is the report of the American Bar Association house of delegates, and I commend that report to all Senators.

Mr. President, I now ask unanimous consent that I might yield to the Senator from Connecticut without losing my right to the floor; that upon being rerecognized a continuation of my speech not be counted as a second speech under rule XIX, and I be allowed to leave the Chamber when I have so yielded.

I also ask unanimous consent that the Senator from Connecticut be permitted to yield the floor under the same conditions.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. BAUCUS. Mr. President, I make that same request with respect to the Senator from Missouri; that is, that he also be permitted to yield the floor under the same conditions.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WEICKER. Mr. President, I say to my distinguished friend from Montana and my good friend from Missouri that I am quite prepared, if the Senator from Missouri is ready, to have him go forward.

Mr. BAUCUS. Mr. President, I yield, under the same circumstances and conditions, to the Senator from Missouri.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Missouri is recognized.

THE HELMS SCHOOL PRAYER PROPOSAL: AMENDING THE CONSTITUTION BY THE BACK DOOR

Mr. EAGLETON. Mr. President, the Founders of this Nation combined genius and pragmatism. Thus, at the same time that they were crafting the breathtakingly innovative system of government outlined in our Constitution, they realized that their plan for a stable and lasting constitutional democracy would only be realized if they protected the rights embodies in that document against the political passions that can arise in the body politic and in the State and National Legislatures. The Founders clearly recognized the need, to quote Alexander Hamilton in Federalist No. 78, to "guard the Constitution and the rights of individuals from the efforts of those ill humors which the arts of designing men or the influence of particular conjectures disseminate among the people . . . ."

I submit that the proposal before us to strip the Federal courts of jurisdiction over cases involving so-called voluntary school prayer is a perfect example of just how foresighted the Founders were. For, here we have a clear instance in which Members of this body allow their strong disagreement with a Supreme Court interpretation of the Constitution to reach such a fever pitch that they endorse an extraordinary and, I submit, unconstitutional congressional response. For, simply put, what Senator HELMS proposes is to amend the Constitution by passage of a mere statute, rather than through the constitutional amendment process provided by article V of the U.S. Constitution.

If we follow this route, we will open up a vast array of civil liberties protections embodied in our Constitution to wholesale revision or nullification whenever a bare congressional majority might find it appropriate. This result is fatally inconsistent with the scheme of government intended by our Founding Fathers, the trend of almost 200 years of constitutional jurisprudence and the warnings of a host of legal scholars and experts who are appalled by the longrun implications of amending the Constitution through the back door.

A BACK DOOR ATTEMPT TO AMEND THE CONSTITUTION

It is important to realize at the outset that, however its proponents might choose to portray it, this proposal is nothing less—or more—than an attempt to change the legal effect of the first amendment to the Constitution through enactment of a mere statute.

In our constitutional democracy, the provisions of the Constitution of the United States are the "Supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." (article VI, clause 2). The final interpreter and expounder of the Constitution's terms is the U.S. Supreme Court. From these commonplace truths that have characterized our system since the early days of the Constitution, there flows a straightforward result: when the Supreme Court ruled in the 1962 case of Engel against Vitale, and in subsequent cases, that prayer in school violated the clause of the first amendment which prohibits governmental establishment of religion, these decisions became part of the law of the land binding on the States. The Court's decision in the school prayer cases became inextricably bound in the fabric of the Constitution.

Indeed, this is shown by the subsequent actions of those who found the decision objectionable. Recognizing that the Court's interpretation of the Establishment of Religion clause of the first amendment was the law of the land, various Senators and Representatives have proposed literally hundreds of amendments to the Constitution to remove the judicial gloss on the first amendment they find so objectionable.

Senator HELMS would reject the admittedly time-consuming avenue of a constitutional amendment, in favor of a simpler and more ingenious route. He and his followers would simply have Congress strip the Federal courts of jurisdiction to hear cases involving

so-called voluntary prayer. Of course, Senator HELMS proposal cannot alter the jurisdiction of the State courts, so they would be left as forums of last resort in school prayer cases. However, the proposal clearly banks on State courts being less than zealous in discharging their duty to protect and defend the Constitution by enforcing the spirit and letter of current Supreme Court decrees. As Senator HELMS made clear in 1981 when he introduced the forerunner of this proposal, he and his supporters expect adjudication of school prayer cases in State, not Federal court to "restore to the American people the fundamental right of voluntary prayer in the public schools," current law notwithstanding.

Thus, the Helms school prayer court-stripping proposal is a classic example of amending the Constitution through the back door. Is the approach expedient? Yes. Is it clever? Quite so. Is it constitutional? After carefully examining this question, I submit that there is only one answer that this body can in good faith give, and that answer is "no."

THE DIMENSION OF THE DANGER IN ACCEPTING THE HELMS APPROACH

Most of my statement will focus on the time-honored constitutional principles from which this proposal would sharply and radically depart. However, lest the discussion over this proposal seem arcane or legalistic, I want to paint in very, very concrete terms just what would be the result of adopting it. For, I believe that acceptance of the Helms view would subject a vast universe of the most essential constitutional liberties to, in essence, a congressional popularity contest.

Now it is Senator HELMS who wants to do some court-stripping to reverse years of consistent jurisprudence on school prayer questions. Tomorrow it may be another Senator who, annoyed at this or that pronouncement from the Federal courts, seeks to strip them of authority to hear cases alleging a violation of free speech rights. On an on the process would go until freedom of the press, the right to be free from arbitrary government action, equal protection, and other vital civil liberties become the subject of numerous legislative redefinitions.

Particularly in this age of mass communication, opinions can be formed at the speed of sound. Passions run high. Conveyance of these passions to Congress can occur almost instantaneously. Once we open Pandora's box by accepting statutory redefinition of the Constitution, it would become very, very difficult for Members of Congress to close it against any powerful pressure group with a grudge against a particular court ruling.

STATUTORY REVISION OF CONSTITUTIONAL GUARANTEES IS FATALLY AT ODDS WITH THE GOVERNMENTAL SYSTEM OUR FOUNDERS ESTABLISHED

Of course, the consequences I have just attributed to the Helms proposal are the very consequences that our Founding Fathers feared and sought to avoid when establishing our Constitution.

The Founders worked with knowledge of the infamous Shays' Rebellion of 1786, in which followers of Daniel Shays in Massachusetts crowded around the courthouses and kept the courts from processing debt claims. And the drafters of the Constitution were also aware of numerous instances during the Articles of Confederation period in which State legislatures yielded to political pressure and passed laws undercutting the ability of the National Government and courts to enforce debts, protect interstate commerce and safeguard civil liberties. So, too, did the Framers worry about the need to protect the Federal courts against the national legislature, an institution, in Madison's colorful prose in Federalist No. 48, suspected of "everywhere extending the sphere of its activity and drawing all power into its impetuous vortex."

THE FOUNDERS INTENDED THAT STRONG AND INDEPENDENT COURTS GIVE MEANING TO THE CONSTITUTIONAL GUARANTEES

This historical record figured prominently in the work of the Founders. They clearly recognized that, as James Madison stated in Federalist No. 22, the newly established Constitution and the laws adopted thereunder would be "a dead letter without courts to expound and define their true meaning and operation." The Founders sought to reverse the chaos and disunion that were present during the earlier government under the Articles of Confederation by drafting a Constitution with a broad judicial power that was both unified, under one Supreme Court, and independent from fundamental incursion by the other branches of government.

Several provisions of the Constitution bear witness to the desire, as exemplified in the quote I cited earlier from Alexander Hamilton, to "guard the Constitution and rights of individuals" from the temporary passions of politics. Thus, under article III, section 1, the Federal judges who would be interpreting the Constitution and the individual liberties enunciated in it were given life tenure during good behavior and protected against retaliation through diminution in salary.

Further, article V protected the provisions of the Constitution from temporary pressures for change in a very direct way: by providing that change was to come through a constitutional amendment preceded by an extraordinary consensus that change was justified—a consensus represented by the fact that two-thirds of each House of Congress and three-fourths of the State legislatures supported the change. This amendment process was clearly intended to be the exclusive mode for altering the meaning of the Constitution. This is implicit in the form and structure of the document. It was made explicit in the constitutional debates of the time. For example, there is this marvelously foresighted warning from Alexander Hamilton in Federalist No. 78:

> It is not to be inferred from [the right of the people to amend the Constitution] that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constituents, incompatible with the provisions of the existing Constitution, would on that account be justified in a violation of these provisions.

THE FOUNDERS' INTENTIONS HAVE BEEN HONORED THROUGH ALMOST 200 YEARS OF (AT TIMES CONTROVERSIAL) SUPREME COURT REVIEW

The best testament to the weightiness and appropriateness of the Founders' judgment is that, while the Surpeme Court has been a subject of controversy ever since its early assertion of the right in Marbury against Madison to "say what the law is," we have never in almost 200 years of experience with the Constitution acted to make the Court utterly dependent on the whim of another branch of government, and that in essence is what Senator HELMS would do.

Not that we have blithely accepted every action and decision of the Supreme Court. Far from it! Beginning with Thomas Jefferson's desire to impeach Chief Justice Marshall, and continuing through the "Impeach Earl Warren" bumper stickers of the late 1950's and beyond, Americans have often expressed their vehement dissatisfaction with particular members and decisions of the Federal courts. Yet, we have never let our outrage at particular court actions lead us to place at risk the fundamental authority and independence of the courts.

Examples of our ultimate respect for judicial independence abound. Thus, although Abraham Lincoln absolutely abhorred the Dred Scott case and its tolerance of slavery, he refused to embrace radical reprisals against the Supreme Court of Chief Justice Taney. Instead, he declared that the Supreme Court's "decisions on constitutional questions, when fully settled, should control, not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself."

Lincoln warned: "More than this would be revolution."

So did respect for the independence of the Court prevail when President Franklin Roosevelt tried to change the direction of constitutional interpretation through legislation to pack the

Supreme Court with judges more to the President's ideological liking. There was substantial sympathy with President Roosevelt's New Deal programs. There was substantial opposition to the Supreme Court's view that they violated the Constitution. However, President Roosevelt got nowhere with his Court-packing plan. The Congress recognized the radical longrun implication of placing the Court at the mercy of future congressional enactments. As a unanimous Senate Judiciary Committee stated in 1937:

> It is essential to the continuance of our constitutional democracy that the Judiciary be completely independent of both the Executive and Legislative branches of the Government, and we assert that independent courts are the last safeguard of the citizen, where his rights come into conflict with the power of governmental agencies.

This tradition of respecting the Supreme Court's institutional independence continues today in most quarters. In fact, it is noteworthy that the tradition is very much in evidence in recent public statements by those who have had their share of strong disagreements with the decisions of the present Supreme Court.

For example, while Senator GOLDWATER believes that the Supreme Court is wrong on abortion, school prayer and other issues, he told the Senate in March 1982, that he deeply regrets today's "frontal assault on the independence of the Federal courts." The Senator pronounced recent efforts to restrict court review powers "a dangerous blow to the foundations of a free society."

Another example is current Attorney General William French Smith. The Attorney General is very fond of criticizing "judicial activism" in general and Federal court decisions in particular. Despite this, the Attorney General warned in a recent letter to Chairman THURMOND of the Judiciary Committee against measures that would "reduce the Supreme Court to a position of impotence in the tripartite constitutional scheme." The Attorney General indicated his clear concern about any proposal that would deprive the Supreme Court of "the ability to protect its core constitutional functions against the power of Congress."

Further, the chief justices of the State supreme courts can be expected to have periodic and—if the Missouri chief justice is any indication—pronounced disagreements with the direction of particular Supreme Court decisions. Despite this, the Conference of State chief justices, comprised of all 50 of the chief justices, was so concerned with the threat pending court-stripping legislation poses to the Supreme Court that it issued a unanimous statement condemning such measures in January of this year.

NO COMPELLING PRINCIPLE JUSTIFIES RADICAL DEPARTURES FROM OUR SYSTEM AND TRADITION

Of course, there are some critics of the present Court who are willing to run long-term constitutional risks in order to achieve shorter term changes in legal decisions. Over 30 bills have been introduced in this Congress to change by mere statute current Court decisions on such controversial topics as busing, school prayer and abortion. With Senator HELMS leading the charge, the Senate took the ill-advised step in 1979 of approving a school prayer court-stripping proposal. Senator HELMS was also instrumental in recent Senate action to limit significantly Federal court remedial powers in busing cases.

After reviewing the constitutional plan and almost two centuries of adherence to it, I am compelled to ask of those who would fundamentally alter the institutional relationship of the courts to the Congress: what new flash of insight, what new principle of political philosophy recommends such a fundamental change? Have we suddenly discovered that the elaborate system of checks and balances against constitutional erosion established by the Founding Fathers is merely an unnecessary roadblock? Have we found, after all these decades of believing that a strong and independent court system was essential to our constitutional plan, that we were wrong all along?

Frankly, I have not heard anything to convince me that the Founders or those who have followed their lead were wrong about human nature, politics or the precarious status of precious constitutional rights.

THE EXCEPTIONS AND REGULATIONS POWER OF ARTICLE III, SECTION 2 IN NO WAY JUSTIFIES HELMS PROPOSAL

Instead, because its incompatibility with the general constitutional plan and tradition is so manifest, court-stripping is more often defended on a narrower ground. Advocates say that in approving article III, section 2 of the Constitution, which gives Congress power to make "exceptions" to and "regulations" for the Supreme Court's appellate jurisdiction, the Founders of this Nation were granting to Congress the right to strip constitutional decisions of their meaning through jurisdictional limitations.

This characterization of the exception and regulations power runs headlong into the observation with which I began—that in establishing our Constitution, the Founders showed remarkable commonsense. I have noted that the Founders carefully crafted the judicial power to ensure that it would function in a unified and independent manner. Several of the constitutional provisions that protect court independence were debated at length. For the exception and regulations clause to justify the kind of court-stripping legislation Senator HELMS urges, we would have to conclude that, notwithstanding their strong, consistent interest in protecting court independence, the Founders included a power which Congress could use to circumvent that independence and to end-run the sole means which the Constitution prescribes for its amendment.

Before we attribute such a nonsensical intent to the Founders, we should at least get a firm grasp on history. In a recent and important article in the Harvard Law Review, New York University Law School Prof. Lawrence Sager explained the derivation of the exceptions and regulations power as follows:

> The "exceptions and regulations" language first emerged in the Committee of Detail Draft. It was adopted by the [Constitutional] Convention on August 27 without a ripple of recorded debate, concern or explication. In light of this quiescence, it is hard to imagine that the Framers were consciously adopting a provision that could completely unravel one of the most basic aspects of the constitutional scheme to which they had committed themselves.

The Attorney General of the United States backed up Professor Sager's interpretation in a May 6, 1982, letter to Senator STROM THURMOND. The Attorney General noted that, before it adopted the exceptions and regulations power, the Constitutional Convention rejected a resolution providing that "the judicial powers shall be exercised in such manner as the legislature shall direct." The Attorney General saw this as rejection of "a clear statement of plenary congressional power over the Court's appellate jurisdiction" and an important key to the Founders' understanding of the exceptions and regulations clause. The Attorney General concluded:

> In light of the value placed on the Supreme Court's appellate jurisdiction, as evidenced by the other actions of the Convention, it seems highly unlikely that the Framers would have agreed, without the slightest hint of controversy, to a provision that would authorize Congress to interfere with the Court's core constitutional functions.

Perhaps respected legal scholar Henry Hart said it best. He called the reasoning behind an expansive view of the exceptions power "monstrous illogic." As the distinguished professor put it:

> To build up a mere power to regulate jurisdiction into a power to affect rights having nothing to do with jurisdiction! And into a power to do it in contradiction to all the other terms of the very document which confers the power to regulate jurisdiction!

Despite the clash between commonsense and the conception of the exceptions power inherent in the Helms proposal, its advocates often point—ironically—to Supreme Court opinions to shore up their argument. In particular, they cite the 1869 case of Ex Parte

McCardle, which upheld a congressional restriction on Supreme Court jurisdiction under one of several habeas corpus statutes.

But most legal scholars believe that reliance on the McCardle case for court-stripping legislation, such as the Helms school-prayer proposal, is profoundly misplaced. Among other reasons, later cases clarify that congressional power over Court jurisdiction does not permit all avenues for Supreme Court review in constitutional cases to be cut off.

For example, in Ex Parte Yerger, decided soon after McCardle, the Supreme Court rejected the argument that Congress could and did strip the Court of another source of its habeas corpus jurisdiction. The Court refused to abide further inroads on its jurisdiction beyond that permitted in McCardle, finding that "the imprisoned citizen, however unlawful his imprisonment may be in fact, is wholly without remedy unless it can be found in the appellate jurisdiction of this court."

An even clearer rejection of jurisdiction-stripping in constitutional cases came two years after McCardle, in the case of United States against Klein. Klein invalidated a restriction on Supreme Court jurisdiction substantially similar to the restriction proposed by Senator HELMS. In 1870, the Congress was outraged by a Supreme Court ruling it saw as too lenient to persons whose property had been seized because they had engaged in pro-Confederate activities during the Civil War. Disagreeing with the Supreme Court's interpretation of the due process rights to which these former propertyholders were entitled, the Congress added to an unrelated money bill a rider depriving the Supreme Court of jurisdiction over cases involving former propertyholders who had received Presidential pardons.

In striking down this congressional court-stripping effort, the Court ruled in Klein that the exceptions power does not permit withholding of jurisdiction "as a means to an end," when that end is to prevent assertion of the constitutional rights claimed by the former landowners. In its decision, the Court asked rhetorically whether Congress could legitimately use the exceptions power to avoid an "adverse" result. The Court answered its own question with an emphatic, "No."

Thus, a careful analysis of the exceptions and regulations clause and case law interpreting it leads me to share the conclusion of the present Attorney General that the Helms school prayer bill is unconstitutional. In an extensively documented letter to the chairman of the Senate Judiciary Committee, the Attorney General concluded:

> There is little doubt that congress possesses some power to regulate the appellate jurisdiction of the Supreme Court . . . Congress may not, however, consistent with the Constitution make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

A host of other legal experts agree, including former Solicitor General and now U.S. Circuit Court Judge Robert Bork, distinguished Harvard Law Prof. Laurence Tribe, and the governing body of the American Bar Association, which called court-stripping proposals "misdirected legislative efforts to achieve something that can be done only through constitutional amendment."

THE AMENDMENT'S REFERENCE TO "VOLUNTARY" PRAYER IS A MEANINGLESS LIMITATION

In sum, this proposal, like all jurisdiction-stripping proposals, is fundamentally out of step with our constitutional plan and tradition. It draws no comfort in the final analysis from the article III, section 2 exceptions and regulations power. In my judgment, these deficiencies alone warrant a vote against this proposal and for our constitutional democracy.

However, I believe the proposal is doomed by one additional and important deficiency: the attempt to limit court-stripping to cases involving "voluntary" school prayer. This notion that school prayer can be divided into the categories of "voluntary" and "nonvoluntary," and that this proposal affects only the former, has been crucial to public support of school prayer proposals. Indeed, when President Reagan proposed his school prayer amendment, he took pains to argue that no school child would be "forced or coerced or pressured to take part in any religious exercise."

I have long been skeptical about whether there is such a thing as "voluntary prayer" in the inherently coercive setting of a public classroom. And my doubts were recently echoed by two religious leaders from my home State of Missouri. Writing in the St. Joseph Gazette, Rev. Charles Bayer, pastor of the First Christian Church in St. Joseph, noted that:

> Every teacher is an authority figure. We want it that way—otherwise, classrooms would be chaotic. And when that teacher imposes his or her religious heritage on children—or the school board does—then the rights of a free people have been substantially subverted. . . . Can anyone really assume that a Mormon prayer in a Salt Lake City grade school could possibly be voluntary, or a prayer offered by a Moonie in a school they dominate, or a cultic petition by some new Jim Jones?

In answering this question with a strong "No," Reverend Bayer reached the same result as Rev. Reuben Koehler, conference minister of the St. Louis Association of the Missouri Conference, United Church of Christ. Replying to an editorial broadcast over a St. Louis radio station, Reverend Koehler stated:

> It is impossible to devise a prayer that is acceptable to all groups and any effort to do so trivializes prayer by robbing it of depth and meaning. If the prayer really contains the depth and meaning of my own religious beliefs, it will inevitably violate the religious beliefs of others whose faith preference is different from mine.

But even if we put aside these doubts, which have been echoed many times in the religious community, and assume that prayers offered by individual students or teachers are "voluntary," we could not labor under the illusion that this would be the full extent of prayers covered by the Helms court-stripping amendment. Rather, I suggest that we look to the recent experience in Alabama to see just how much governmental coercion can be brought to bear in the name of "voluntary" prayer.

Last month, when the Alabama State Legislature passed a law to permit what it called voluntary school prayer in school classrooms, it included in the text of the legislation an authorized prayer written by the son of Alabama's present Governor. Indeed, news reports indicated that during the debate on the measure, individual legislators engaged in the absurd spectacle of arguing the relative merits of the Governor's son's prayer and the Lord's Prayer in the Bible!

I submit that this is the very kind of nonvoluntary, government-sponsored prayer which the Supreme Court correctly found unconstitutional under the first amendment. It is the very kind of prayer which this proposal would unwisely remove from Federal court jurisdiction.

One does not have to be antiprayer to question whether the notion of voluntary prayer has any meaning in law or commonsense. This Nation's religious organizations obviously believe very strongly in the value and sanctity of prayer—as I do. However, the largest and most influential of this Nation's religious organizations, including the Baptist Joint Committee on Public Affairs, the Lutheran Council, the United Presbyterian Church, the American Jewish Congress, the United Church of Christ, the United Methodist Church, the Episcopal Church and others all oppose proposals to alter current Supreme Court rulings. Clearly, these organizations have concluded, as I have, that freedom of religious exercise will be more carefully protected by keeping government out of the prayer-writing business than by a scheme in which school boards and State legislatures could intrude deeply into individual religious matters, limited solely by the meaningless notion of "voluntary" prayer.

CONCLUSION

I have concluded that the school prayer jurisdiction-stripping amendment jeopardizes the fundamental underpinning of our constitutional de-

mocracy. It would set a dangerous precedent.

I oppose the amendment, and I urge other Senators to do the same.

Mr. President, I ask unanimous consent that I may yield the floor to the Senator from Tennessee (Mr. BAKER) without this being considered as the end of a speech for the purpose of the two-speech rule.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Senator.

Mr. President, I am ready to close. We will have a fair amount of routine business to transact.

Mr. President, I ask unanimous consent that, when the Senate resumes consideration of this measure on tomorrow, the distinguished Senator from Montana (Mr. BAUCUS) will be first recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

(The following proceedings occurred during the address by Mr. BAUCUS and are printed at this point by unanimous consent.)

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. President, I ask unanimous consent that the Senator may be permitted to yield to me without prejudice to his rights to the floor.

Mr. BAUCUS. Also, Mr. President, that my speech not be counted as a separate speech under rule XIX. With those provisos, I shall be very happy to yield to the Senator from Louisiana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, some of my colleagues asked me to make available by way of the CONGRESSIONAL RECORD a statement that I had made which appeared in the Washington Post regarding the flat tax. At their request, I ask unanimous consent that this appear in the RECORD under morning hour. In addition, Mr. President, I wish to include an additional statement I made on the same subject this morning to the Ad Hoc Committee for a Responsible Tax Policy.

I ask unanimous consent that this not appear as an interruption of the Senator's remarks, but rather that it appear in the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FLAT TAX

Mr. LONG. Mr. President, many persons have asked what I think of proposals to replace our progressive rate income tax system with a so-called flat rate income tax.

My answer to them is simple: "If you're rich, you'll love it; if you're not rich, look out."

A pure flat rate income tax would eliminate all deductions and tax everyone at a single rate. For example, with a flat rate of 10 percent, a $20,000-a-year worker would pay $2,000 in Federal income taxes, while a person with a $200,000-a-year income would pay $20,000.

Our "progressive" system permits deductions and taxes individuals at rates ranging from 12 to 50 percent, depending on income. This system is based on the principle that those with large incomes should pay a higher percentage than those with low incomes.

Advocates of a flat rate tax have correctly argued that our present system is complicated and in need of simplification. The question is whether it is justifiable to shift the tax burden from the rich to the middle and low income in the name of simplicity.

In my view, simplification of the tax system and flat rates are completely separate issues. If it is desirable to close loopholes in order to reduce tax rates, that can be done without the massive shift in tax burden involved in a flat rate tax. I am concerned that some proponents of a flat rate system are using simplification merely as a convenient slogan to justify big tax cuts for the rich at the expense of middle- and low-income taxpayers.

Much of the support for a flat rate tax is inspired by the belief that "fat cats" use loopholes to avoid paying their fair share of taxes under the present system. But what constitutes a loophole is in the eye of the beholder.

I doubt that many middle-income homeowners consider their home mortgage interest deductions a "loophole." But how do the millions of taxpayers who do not own their homes view this deduction?

Other deductions—or "loopholes"—that would be eliminated by a flat rate tax include charitable and church donations, consumer installment interest, State and local taxes, union dues, medical bills, moving expenses, alimony, and educational expenses.

Employer-paid fringe benefits, such as health and life insurance, pension contributions, subsidized parking, and educational expenses, would be subject to full taxation. Also, subject to immediate taxation would be the gain a homeowner makes when he sells his home. Presently, homeowners are permitted to defer tax payment on the sale of their home if they purchase a new one of equal or higher value within a certain period.

Congress, Joint Committee on Taxation recently reported how an 11.8-percent flat rate tax on adjusted gross income would affect taxpayers. Using adjusted gross income figures for 1984, the Joint Committee found that the amount of taxes paid by persons with incomes below $30,000 would increase by percentages ranging from 12.8 to an astronomical 1,259. However, taxes for those earning more than $30,000 a year would decrease by amounts ranging from 5 percent to 53.2 percent.

In studies on flat rate taxes, the Congressional Research Service found that under present law, taxpayers with adjusted gross incomes below $30,000 a year pay 41 percent of the total of Federal income taxes raised from individuals. However, if a flat rate tax of 15.5 percent were imposed, that same group of moderate- and low-income taxpayers would end up paying 58.2 percent of all Federal income taxes raised from individuals.

This is not the kind of treatment our democratic form of government has historically considered fair.

Sponsors of some of the flat rate bills attempt to remedy the built-in inequities of this type of system by allowing some deductions, by increasing the personal exemption allowance, by exempting low-income persons from all taxes and by imposing several—rather than a single—tax rates. All that most of these modifications do is simply reduce the degree of unfairness in an inherently unfair system.

I know that once one type of deduction in a flat rate tax system is allowed, Congress would be unable to resist the pressure for numerous other deductions.

Justice and fairness require that those who make large amounts of money should pay a higher rate of tax on income than middle- and low-income families. It seems totally unfair to have a person earning $15,000 a year paying the same rate as someone making $1 million.

I strongly support reducing taxes and simplifying our income tax system, and have worked to do so for many years. Our efforts toward simplification made it possible last year for 40.7 percent of the taxpayers to file their income taxes on the so-called short form, which usually can be completed in less than 1 hour. Another sign of progress in our efforts at tax simplification is the fact that 79 percent of taxpayers in 1980 chose not to itemize their deductions.

Further work toward simplification is needed, and I intend to continue to push for a simpler and fairer tax system.

I am not arguing that the concept of a flat rate income tax should be ignored. In fact, I favor giving this idea a thorough study, as the Senate Finance Committee, on which I serve as the ranking Democrat, is scheduled to do later this year.

Perhaps a way can be found to structure a flat rate income tax system that will be fair to all. But until such a system is found, the flat rate income tax will not have my support.

Mr. President, I ask unanimous consent that remarks made on this subject to the Ad Hoc Committee for a

Responsible Tax Policy be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR RUSSELL B. LONG

One of the things that's concerning me about the flat rate tax concept is that many middle income people think they support it because they feel the rich aren't paying their share and because they're frustrated by the complexity of the tax system.

What many don't realize is that 70 percent of people right now do not itemize their deductions. Whether they use the long form or the short form, 70 percent of the people take the zero bracket amount and do not itemize.

As many of you know, completing a tax form using the zero bracket amount doesn't take too long.

Now, I'm for simplifying even further.

But my experience has been that any time you go to simplify the tax code for someone and he finds he is going to pay more taxes because you simplified it, he has lost all interest immediately. He'll say: "Count me out because I'm not for it."

It would be easy enough to make a relatively few minor changes in the tax laws.

For example, we could provide the taxpayer with a choice of short forms to complete. Let's say you're claiming as your major deduction interest on a housing mortgage.

Well, we could have a special short form for people who have a home mortgage but not many other deductions. The same could hold true for persons who have a major casualty deduction. We'd have a separate form for such persons.

Now, I'm not saying the taxpayer would fill out the short form, plus a home mortgage deduction form. Rather there would be a single short form for people with home mortgage deductions.

We could make it so that 95 percent of all people could use a short form.

That would then leave it so that you'd have only about 5 percent who would have to deal with more complex forms.

Then you really wouldn't have a great number who would complain about the complexity.

Now, let's talk about the complexity for a moment.

Why is it there?

Those complexities got there because the people who are claiming it wanted it that way, and Congress studied it and concluded that it made for greater fairness and better justice.

There are a lot of things people would strongly object to taking away. For example, if you go to a flat tax, you're going to have to knock out the charitable deduction; that is, you're going to have to pay taxes on contributions to the church or to United Way.

The flat rate tax has a great number of problems. But the one great thing that is very difficult to justify—unless you are one of those very wealthy people who would be benefited by it—is that in almost every case it means a major tax cut for those who are very wealthy, and it means a major tax increase for the middle income people.

Now, I think this flat rate tax idea for now is just a lot of talk—it's not going to happen soon.

But it is one of those things that could sneak up on us if we don't keep a close watch and continue to point out the problems with it.

It's one of those things that those who stand to benefit from it don't mind spending a lot of money to make it look like the best idea since sliced bread.

I, for one, am going to continue to point out the problems with this system.

When those who are going to have to pay more taxes to benefit those who are far better off economically—then they're not going to be all that excited about it at all.

For those who are very wealthy, they're not just paying as much as they would like you to believe.

They're paying more than middle income people, to be sure. But on the average they're paying about 30 percent or 28 percent of their economic income in taxes, on the average. Here I am talking about people who are making $200,000 or over.

I have great difficulty feeling that those people are being crucified on that basis.

Mr. LONG. I thank the Senator. I ask unanimous consent that my interruption not appear in the course of his very fine and well-considered remarks.

Mr. BAUCUS. Mr. President, I thank the Senator from Louisiana. I very much appreciate his comments on the flat tax. I would not mind if the Senator from Louisiana would tell us a little more about it than the statement put in the RECORD. I look forward to reading it in tomorrow's RECORD. I mean that in all seriousness, because this is an issue that is coming out next year.

Mr. LONG. I thank the Senator. I simply find that there is more than one side of the argument.

Mr. BAUCUS. I know that. It is an issue that Americans are interested in. I agree with the Senator that there is more than one side to the argument. I am glad the Senator from Louisana is helping address the issue by giving us the opportunity to have his wisdom and experience in this area.

Mr. LONG. I thank the Senator.

(Conclusion of earlier proceedings.)

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5:30 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE FOR FRIDAY AND MONDAY

Mr. BAKER. Mr. President, we will be ready to close down shortly. I would say, by way of summary, for those who may be listening in their offices, that there is an order for the Senate to convene tomorrow at 9:30 a.m. There will be at least one special order, after the recognition of the two leaders, and then a period for the transaction of routine morning business, after which the Senate will resume consideration of the pending measure and the Baucus amendment will be the pending question.

Under the previous order, the Senator from Montana (Mr. BAUCUS) will be first recognized to continue debate on that measure.

Mr. President, it is anticipated that the Senate will continue to debate that measure during the day tomorrow until approximately 2 p.m., when it is the present intention of the leadership to ask the Senate to stand in recess over until Monday next because of a religious observance which will involve a number of Members of the Senate, which begins at sundown Friday.

Mr. President, on Monday there will be a cloture vote pursuant to the provisions of rule XXII against further debate on the Helms amendment. An effort is being made at this time to negotiate time other than the rule time to suit the maximum convenience of Senators for that to occur. I hope that we can arrange that cloture vote at 5 p.m. on Monday next and without the mandatory quorum as provided under rule XXII.

ORDER FOR THE RECOGNITION OF SENATOR CHILES ON TOMORROW

Mr. BAKER. Mr. President, I have one matter which I am sure would meet with favor by the minority leader. I ask unanimous consent that on tomorrow after the recognition of the two leaders under the standing order, the distinguished Senator from Florida (Mr. CHILES) be recognized on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO SENATOR STAFFORD

Mr. BAKER. Mr. President, I will shortly be in a position to take care of the routine business of the Senate, I believe. In the meantime, I see our friend from Vermont is on the floor.

May I take this opportunity to offer him my congratulations on his recent victory in the Republican primary in the State of Vermont.

Mr. STAFFORD. I say to the majority leader that I appreciate his comment very much.

Mr. BAKER. Mr. President, until the minority leader has an opportunity to reach the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2801, THE WILDERNESS PROTECTION ACT OF 1982

Mr. BAUCUS. Mr. President, Interior Secretary James Watt has challenged Congress to resolve the questions surrounding oil and gas leasing in wilderness areas and land being considered for wilderness.

I, for one, gladly accept this challenge. I am pleased to join my colleague from Washington, Senator JACKSON, in sponsoring S. 2801. I believe this is the most appropriate way to resolve, once and for all, several significant questions.

This Nation's wilderness areas are viewed by many as attractive sources of oil, gas, and minerals. In Montana alone, over 550 applications are pending for leases on the Bob Marshall, Great Bear, Anaconda-Pintlar, Scapegoat, and Gates of the Mountains wilderness areas, to name a few.

In my State, as elsewhere, feelings run high when it comes to leasing these precious national assets. When Secretary Watt proposed issuing permits for seismic activities in the Bob Marshall Wilderness, Montana's response was loud and clear: "Save the Bob."

My colleague, Representative PAT WILLIAMS, who represents Montana's western congressional district, led the fight to invoke the emergency powers included in section 204(e) of the Federal Land Policy and Management Act. While this section permitted the House Interior and Insular Affairs Committee to block Secretary Watt's plan, it did not permanently resolve the future of the Bob.

Now Secretary Watt, lease applications in hand, has given Congress an ultimatum: If Congress does not act by the end of this session, he will issue the permits. That is why Congress must act without hesitation.

S. 2801, and an identical bill that passed the House of Representatives overwhelmingly, would end this controversy. These bills would withdraw—permanently and immediately—the National Wilderness Preservation System (except land in Alaska) from oil, gas, oil shale, coal, phosphate, potassium, sulfur, gilsonite, and geothermal leasing.

The bills also would withdraw several areas from mineral leasing laws:

Land that is managed by the Forest Service and recommended for wilderness under RARE II;

Areas recommended for further planning under RARE II until 1 year after implementation of the forest plan recommending the area for wilderness;

Congressionally designated wilderness study areas for as long as their mandate stipulates.

S. 2801 also permits an ongoing minerals inventory of withdrawn lands.

In case of urgent national need, S. 2801 permits the President, with congressional concurrence, to open lands that have been withdrawn. And the Jackson bill gives the Interior Secretary authority to permit oil and gas development under wilderness areas if it can be done by directional drilling from outside the wilderness areas.

Clearly we must answer the questions raised about energy and mineral development in wilderness areas. But, at the same time, I hope we can keep this issue in perspective. A 4-year study conducted by the Department of Energy's Oak Ridge, Tenn., laboratory concludes that wilderness may contain only 3 percent of the Nation's undiscovered gas resources.

Another study, conducted by Leonard L. Fischman, author and natural resource economist, concludes that designated wilderness areas contain about 1.1 percent of the oil and 1.2 percent of the gas located on Federal land. Potential wilderness areas contain about 3.4 percent of the oil and 2.5 percent of the gas, according to this analysis.

These studies make a powerful case that invading this Nation's undisturbed wilderness can produce very little energy. Yet despite this conclusion, the Reagan administration is determined to go ahead with the assault on America's wilderness.

I believe the administration's approach is shortsighted. I have had the privilege to spend time in many wilderness areas. I have grown to appreciate wilderness and the importance of these lands to our national heritage. Much like our great cities, these wild lands contribute to the richness and unique character of our country.

Congress is charged with protecting this heritage. We must not take our duty lightly.

DEATH OF ALASKA'S OLDEST RESIDENT

Mr. STEVENS. I was deeply saddened to learn of the death of Alaskan Belle Herbert. Belle was Alaska's oldest resident. Her presence will be missed.

Throughout her life in the village of Chalkyitsik, Belle was a true Alaskan, a leader and a friend. The truth of her real age remains a mystery because the records of her birth date were never clear. But, we know she passed the century mark.

Belle enriched Alaska with many stories of the past upon which the future may be built. She was a legend in her own time and known throughout the State for her countless stories about her land, the great land. I am thankful that Belle gave us many of her stories in the form of, "Shandaa, In My Lifetime." This story is told in her native language of Gwich'in Athabaskan and in English. Belle has left us with an invaluable sense of tradition, culture and history of our Alaska people and their culture. Her legend will live on in Alaska.

BELLE

Mr. MURKOWSKI. Mr. President, it is with sorrow that I learned of the death of Alaska's oldest citizen, Belle Herbert.

No one really knew how old she was because of conflicting birth records. It is estimated, however, that she was between the ages of 105 and 127. Belle lived all of her life in the village of Chalkyitsik, a few miles above the Arctic Circle. She was known all over the State for her wonderful stories about life in Alaska during her lifetime.

It is always a very sad event when the elder of a family passes from this life, but the wealth of knowledge and tradition that is left behind only enhances the lives of all the rest of the family. We as Alaskans have lost our elder, but Belle has left us her story, "Shandaa, In My Lifetime." It is a beautiful story and is told in Gwich'in Athabaskan, her native language, and English.

It is also fitting to take this opportunity to thank the Alaska Native Language Center of the University of Alaska for arranging this story as well as countless others who provided their talents.

ADDRESS BY BENJAMIN L. PALUMBO

Mr. DECONCINI. Mr. President, a distinguished American, Benjamin L. Palumbo, recently delivered an address to the Third Biennial Conference of the National Italian American Foundation, which I believe merits our attention. Mr. Palumbo directs his remarks to the role Italian-Americans can and should play in helping to resolve the complex problems which face all Americans. The conference dealt with the future of American democracy, and Mr. Palumbo looks at this future by looking at our past efforts to assure all equal access to our political system. These remarks are especially important now in light of the recent extension of the Voting Rights Act and serve to remind us all that the future of American democracy is dependent on the quality of our political debate. I feel that we should all pay heed to Mr. Palumbo's very relevant comments. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF BENJAMIN L. PALUMBO

Welcome to the Third Biennial Conference of the National Italian American Foundation.

First let me pay tribute to the Foundation's hardworking and dedicated staff for

the splendid support which they have given to this Conference. I would like them all to stand for a round of applause.

I would like also to thank my co-chairs Lucy Falcone and Bob DiPietro for their magnificent efforts in this undertaking. All this could not have happened without them. You'll be hearing more from them later.

In this room are several hundred United States citizens. United States citizens who have chosen to call themselves Italian-Americans.

I would like to take a few moments to share with you my thoughts about why we have chosen to do so. And also to deal with the significance of this conference.

To do that we must come face to face with a reality about the United States. And that reality is that the United States was not merely born in revolution but continues to this day to be a revolutionary society.

What is meant by this? How does it affect us? What obligations does it place on us?

Let us begin at the beginning.

Two hundred and six years ago in Massachusetts—"by the rude bridge that arched the flood"—the "shot heard round the world" was fired. Thus was begun the revolution from which was born our country.

It was a revolution of blood and fire. But it was also one of ideas . . . and ideals.

The words given by Phillip Mazzei to his friend Thomas Jefferson went to the heart of our Declaration of Independence: "All men are created equal." Two centuries after the last echo of the last shot fired in that revolution faded away, those words still echo round this world.

In the U.S., the power of that ideal of equality and freedom has inspired multiple and continuous revolutions.

The most obvious was the struggle against slavery called the Civil War. But there have been others, seemingly more prosaic, but resulting in enormous changes nevertheless.

Many have occurred within the lifetimes of most of the people in this room. Indeed, some are still underway.

But because they have been largely gradual and peaceful, and because our citizens still remain largely isolated behind huge oceans, most have been unable to contrast these upheavals with lifestyles elsewhere and thereby fully grasp their significance.

Yet these revolutions have changed forever the old static relationships of man to society, just as dramatically as the Revolution of '76 changed forever the relationship of Americans to the British crown.

Let us examine some of these revolutions.

One was that of "rising expectations." It was given force by the sacrifices demanded in World War II. One of its early manifestations was the GI Bill of Rights. Until its passage higher education had been mostly the preserve of the privileged. After the GI Bill, millions whose education would have ended with high school, went on to colleges and universities. In doing so they created the climate which led to acceptance of the unprecedented notion of higher education for all capable of handling it. We have become the most educated society in the world because this revolutionary idea became the accepted norm.

Another example was the advent of post World War II prosperity. It put America on wheels; built vast highway networks; and opened huge tracts of land for development. It lead to acceptance of the idea that the American dream of a single family home with a car, or two, in the driveway, could and should become reality. The pursuit of that dream made us the most mobile society the world has ever known, resulting in tumultous mass migrations from South to North, farm to city to suburb, and now East to West.

In the early '50s, while this material revolution was in progress, the Supreme Court of the United States rightly struck down the laws segregating the races.

This was a momentous and overdue decision. Suddenly whites and blacks found their dialogue of the deaf was over and that they had to know and understand each other in the aftermath of this decision. Black, White, Brown, Red, and Yellow Americans are even now trying to sort out their relations, with the end of this process still not in sight.

In the '60s, Angelo Roncalli, otherwise known as John XXIII, dramatically changed the outlook of the Catholic Church. In so doing, he altered the way American Catholics relate to their fellow citizens of all persuasions; and vice versa. For most of us in this room that has had special meaning.

In the '60s and '70s began the stirrings of the Women's Movement. It was a natural and inevitable outgrowth of several powerful factors: WWII which placed millions of women in the work force; the post war boom which required a workforce far larger than the male segment of our society alone could provide; the availability of higher education without restrictions as to its end use; and the commitment against discrimination, made to Blacks, whose application to the problem of discrimination against women could hardly be denied. The ramifications of this movement are no where near being played out as everyone here is surely aware.

Still another decision of the Supreme Court caused a veritable earthquake in the political and social landscapes. In what may have been its most momentous decision of this century, the Court entered the "thicket" of legislative reapportionment and congressional redistricting and breathed life into the phrase "one man, one vote". State legislature, the Congress, and their constituencies have not been the same since. And adjustments in political power paralleling population shifts guarantee major changes every 10 years in the politics of the U.S.

The late 60's, 70's, and into the 80's has witnessed the breakdown of the traditional political parties. Republicans and Democrats still vie for victory, but the old automatic voting patterns have weakened, the number of independents has grown, turnouts in elections have continued to decline, acceptable definitions of the terms Democrat and Republican appear elusive, and the rise of one-issue groups armed with money and manpower is steering the nation's political system into unchartered waters.

While all this turmoil was taking place the great technological leap began. Epitomized by television—soon to pale by comparison to the computer age—it spread rapidly across the land. Night after night it beamed the same shows, the same news, and the same sports into every corner of America, putting a veneer of homogenization on what was thought by some to have been the dawning of the age of the melting pot.

But, ladies and gentlemen, something went awry; the melting pot didn't melt.

It is true these revolutions had set people adrift, separating them from old familiar ties and associations. But what was not waiting for these countless millions was the warm embrace of an alternative American culture. Instead, there was a void. And suddenly the most frequently asked question of the 70's was—"who am I?"

The answer to this question was bewildering for many, easier for some. Blacks, for example, answered by asserting their right to be both Black and American. And ethnics by asserting their right to be both ethnic and American.

In these reactions was a powerful truth: there is no agreement on the description of the typical American. For there is no typical American. There are, quite simply, many kinds of Americans.

That truth gives us the answer to the question of why we choose to describe ourselves as Italian Americans. In a rootless society, constantly on the move, filled with lonely people loosened from their moorings striving to identify themselves, our declaration of common heritage gives us a certain sense of self, and helps fill that void. Most important, it frees us from the frustrations of excessive introspection and allows us to concentrate on the enormous problems around us.

This country needs that kind of citizen. It needs citizens able to withstand the constant buffeting of the winds of change. It needs citizens able and willing to look clearly at the world, examine its problems intelligently, and support rational sound solutions. Rootlessness exacerbates this need; but the existence of people with a sense of self helps fulfill it.

And therein lies both the significance of this Conference and the answer to the question of our obligations as Italian American members of a revolutionary society.

Today armed with our sense of self, we can and must embrace this opportunity to contribute to the well-being of our country, which has contributed the opportunity for well-being to us. An opportunity which began when our immigrant ancestors arrived, in the words of song by writer Neil Sedaka "to live in the light of the beacon of liberty."

The contribution which this Conference represents will find its expression in you. For it is our goal that the several hundred Italian Americans—and their guests and friends—who have come to partake of our efforts will leave here better informed about some of the important issues of our times.

This Conference was not meant to be a meaningless exercise. We have not sought an occasion for smugness; for patting ourselves on our backs in congratulations of our impressive heritage.

To do that would have been to invite you to ignore the future in favor of the past. That would have been grossly inconsistent with our heritage. Our immigrant ancestors came to these shores to secure the future not to celebrate the past. And most assuredly that is our intent today.

For we have planned this Conference with, above all, a concern for the future. Specifically, for the future of our American democracy. A future which is utterly dependent on the quality of the country's political debate which, in turn, rises or falls on the existence of an informed and interested electorate.

Through your participation in workshops on the family, education, contemporary politics, and international relations we intend to make our contribution to the existence of an informed and interested electorate and thereby to help strengthen American democracy.

We ask all of you to take very seriously the warning of the great revolutionary Thomas Jefferson, who told us that "if a nation expects to be ignorant and free . . . it expects what never was and never will be."

And be guided, we beg you, by the spirit of the great Italian revolutionary Guiseppe Mazzini who wrote "Three things are sacred, tradition, progress, association—the immense voice of God which the centuries transmit to me through the universal tradition of humanity . . . tells me that the Family, the Nation, and Humanity are the three spheres within which the individual has to labor for the common end. . ."

I submit to you we have a sense of ourselves. That we are here because our immigrant ancestors were concerned with the future, and we can be no less concerned.

And that the Jeffersonian and Mazzinian ideals, forged in the crucible of the American and Italian struggles for independence and liberty, are what this Conference, and we, are all about.

Thank you.

MESSAGES FROM THE HOUSE

At 9:59 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services.

The message also announced that pursuant to the provisions of section 4(a) of Public Law 96-114, the minority leader has reappointed as members of the Congressional Award Board the following: William R. Bricker of New York, N.Y.; and Roberta van der Voort of Kansas City, Mo.; and appointed John G. McMillian of Washington D.C., to fill the vacancy caused by the expiration of the term of John Swearingen.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6946. An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes.

ENROLLED BILLS AND JOINT RESOLUTION

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2582. An act to amend the act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes;

H.R. 1710. An act to authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives;

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.;

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke;

H.R. 6068. An act to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for the fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes; and

S.J. Res. 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

At 10:30 a.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2273. An act to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes.

At 1 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 907. An act to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6056. An act to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980.

H.R. 6804. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes.

H.R. 6956. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 923. An act to amend chapter 207 of title 18, United States Code, relating to pretrial services.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated.

H.R. 6056. An act to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980; referred to the Commttee on Finance.

H.R. 6956. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; to the Committee on Appropriations by unanimous consent.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6946. An act to amend title 18 of the United States Code to provide penalties for certain false identification related crimes.

HOUSE BILL HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent.

H.R. 6804. An act to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary reported that on today, September 16, 1982, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 2582. An act to amend the act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes; and

S.J. Res. 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1170. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT RESOLUTION NO. 64

"Whereas, Agriculture is California's chief industry, leading the country with over $13 billion in gross cash farm receipts and providing many hundreds of thousands of jobs from on-farm production and the processing and marketing sectors; and

"Whereas, the impact of California agriculture from the production of 250 various crops and livestock products extends far beyond the borders of this state and significantly affects the entire nation's balance of trade; and

"Whereas, The Counties of Fresno and Tulare rank first and second, respectively, as California's leading agricultural counties in total value of production, amounting to over $3.3 billion in sales annually; and

"Whereas, Natural disasters in the form of hail storms on March 28, 1982, and frost on or about April 7, 1982, devastated the southwestern and southeastern portions of both counties, extensively damaging crops; and

"Whereas, The Fresno County Agricultural Commissioner had documented that 3,019 growers, suffered losses of $122,273,852 to their raisin, winegrape, tablegrape, plum, nectarine, peach, apricot, strawberry, and

almond crops as a direct result of these two natural catastrophes; and

"Whereas, The Tulare County Agricultural Commissioner has assessed the damage to be $20,343,244, affecting 15,975 acres of virtually the same crops held by approximately 1,500 farmers; and

"Whereas, The extent of the damage due to the unseasonable frost varied from 5% to 90%, and the damage due to the hail varied from 10% to 100%, depending for both on the specific location and crop type; and

"Whereas, Most of the growers hit by the disasters have small farming operations and are not diversified enough to readily absorb their losses; and

"Whereas, Unemployment is abnormally high in the area with the economy in the two counties significantly impacted by the natural disasters, especially in the many small farm communities; and

"Whereas, The Boards of Supervisors for Fresno and Tulare Counties have requested the Governor of California to designate their counties as United States Department of Agriculture (USDA) Farmers Home Administration emergency loan areas and the Governor, in turn, has made such a request to the federal government; and

"Whereas, The USDA County Emergency Boards developed damage assessment reports in conjunction with the agricultural commissioners for Fresno and Tulare Counties and the USDA State Emergency Board reviewed these reports, concurred with their damage assessments and has recently referred their conclusions directly to the Secretary of Agriculture for his determination; and

"Whereas, It is in the best interest of the State of California, and the United States as a whole, that the Secretary of Agriculture make a favorable finding in this matter as soon as possible; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the United States Secretary of Agriculture to make a favorable finding on the designation of Fresno and Tulare Counties in the State of California as USDA Farmers Home Administration emergency loan areas at the earliest time possible; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1171. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

"SENATE JOINT RESOLUTION No. 69

"Whereas, The State of California has the largest retired military community in the United States; and

"Whereas, California includes among its population over 195,000 retired military personnel in addition to their dependent families; and

"Whereas, These military retirees receive over $180,000,000 per month in retired military pay which equates to over $2 billion annually, much of which goes for the daily living expenses of the retired military community and thus helps support the economy of the State of California; and

"Whereas, It is believed that the contributions of the retired military community to this country are beyond most people's realization; and

"Whereas, The health care of our retired military community should be of primary concern to the Department of Defense because of the large outlay of existing federal funds through CHAMPUS for private care of retired military personnel; and

"Whereas, The Department of Defense has military on-base hospital facilities in California which, through expansion, could accommodate retired military personnel and dependents in addition to active duty personnel; and

"Whereas, Expanding existing on-base hospital facilities will mean design, construction, and added personnel all of which are sorely needed in the present state of the economy; and

"Whereas, Outlays for hospital construction and additional personnel will not only provide needed jobs, but over the long period will reduce, or eliminate to a large degree, the need for CHAMPUS funds, thus producing a savings to the Department of Defense; and

"Whereas, These savings could be put to effective use to stimulate other areas of the economy; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and Congress of the United States to enact legislation recognizing the medical needs of retired military personnel and their families by expanding medical facilities on defense installations to permit use by retired personnel who now rely on private care, so that expansion of these facilities will not only create construction jobs for unemployed workers, but also reduce over the next decade CHAMPUS payments for private care; and be it further

"Resolved, That the Legislature of the State of California supports enactment of legislation to address these matters; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Armed Services Committee, to the House Armed Services Committee, and to the chairman of each committee of the Senate and House of Representatives for consideration of legislation."

POM-1172. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services:

SENATE JOINT RESOLUTION No. 47

"Whereas, Since 1951, the federal government has made payments to school districts educating students from federally connected families whose parents work on or who live and work on federal property not subject to state property taxes; and

"Whereas, The federal government, under the McCullough vs. Maryland decision, does not pay state property taxes; and

"Whereas, Post exchanges and commissaries on federal property do not collect state sales tax; and

"Whereas, The federal government, under the provisions of the Soldiers and Sailors Relief Act, enables military personnel stationed in California to be exempt from California state income taxes; and

"Whereas, The federal government is the largest property holder in the state and has military installations which occupy valuable property around the state's major harbors and which cover hundreds of square miles in other areas of the state; and

"Whereas, In the 1980-81 fiscal year, the federal government burdened the California schools with 46,046 students whose parents both lived and worked on nontaxpaying federal property, and 183,642 students whose parents worked on nontaxpaying federal property, although the parents lived on property that did pay property taxes; and

"Whereas, The federal government has instituted a policy of eliminating impact aid that has reduced impact aid revenues of 413 school districts in California from $93,957,170 in the 1979-80 fiscal year to $48,754,896 in the 1981-82 fiscal year; and proposes to further reduce impact aid payments to the state in the 1982-83 fiscal year to $34,312,000; and

"Whereas, The loss of these funds to the school districts of California has created a situation that has drastically reduced education offerings to all students and has shifted the burden to other residents who do pay taxes; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to:

"(a) Restore impact aid funding for all federally connected students in California.

"(b) Institute a policy which will recognize the federal obligation to assist school districts in meeting the burden of educating children from federally connected families who are living or working on nontaxpaying federal property.

"(c) Recognize that the provision of an adequate educational program for the military dependents and other federally connected children is beneficial to the morale of citizens serving in the armed forces of the United States and to those communities that are impacted by federal activities; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1173. A petition from a citizen of Richmond, Vermont, requesting that the entire 1983 budget deficit be deducted from the 1983 military budget, and that at least 1 percent of the remaining military budget be spent on a concerted effort to develop a mutually acceptable program of multilateral disarmament; to the Committee on Armed Services.

POM-1174. A resolution adopted by the Evangelical Covenant Church of America opposing what appears to be a disproportionate amount of the proposed Federal Budget designated for defense and calling for a reduction of the 1983 proposed Defense Budget to a level no greater than the real dollar 1982 Defense Budget; to the Committee on Armed Services.

POM-1175. A petition from a citizen of Burlington, Vermont, requesting that the entire 1983 budget deficit be deducted from the 1983 military budget, and that at least 1 percent of the remaining military budget be spent on a concerted effort to develop a mutually acceptable program of multilateral disarmament; to the Committee on Armed Services.

POM-1176. A petition from a citizen of Waconia, Minnesota, urging the United States Senate to make our dollar "good as

gold" by supporting Senate Bill 6 to return America's currency to the gold standard; to the Committee on Armed Services.

POM-1177. A joint resolution adopted by the State of California; to the Committee on Banking, Housing, and Urban Affairs:

ASSEMBLY JOINT RESOLUTION No. 105

"Whereas, Both the United States and the State of California have adopted the goal of ensuring a decent home and suitable living environment for every family; and

"Whereas, Over 315,000 new housing units are needed annually for the next five years for California to keep pace with housing demand; and

"Whereas, Only 105,000 homes and apartments were built in California in 1981; and

"Whereas, Housing demand is expected to remain high as a result of new household formation and in-migration, which demand can only be met by a sustained and high level of housing production; and

"Whereas, Housing construction provides new job opportunities in housing and other fields, and produces additional sales, income and property taxes to support government services; and

"Whereas, Decisions to locate or expand business and industrial facilities in the state are influenced by the availability and affordability of housing for workers; and

"Whereas, The Reagan Administration has proposed elimination of the Section 8 new construction program—the only major federal housing construction program; and

"Whereas, the Reagan Administration has recommended a program of housing vouchers which, instead of funding construction of new housing, would enable the holders of vouchers to compete for housing in the existing stock; and

"Whereas, The Reagan Administration has proposed to convert all existing Section 8 certificates to housing vouchers; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Congress to permit each state to utilize any funds available for housing vouchers, in excess of funds needed to convert existing Section 8 housing certificates to housing vouchers, for a state-designed and state-implemented program to stimulate new rental housing production; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the Congress of the United States."

POM-1178. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs:

ASSEMBLY JOINT RESOLUTION No. 96

"Whereas, The State of California has an insufficient supply of internal credit to meet the homeownership demands of its citizens; and

"Whereas, The Federal Home Loan Mortgage Corporation has been and continues to be a major external supplier of available mortgage credit for California homebuyers; and

"Whereas, During the last four years, the Federal Home Loan Mortgage Corporation has significantly contributed to fulfilling the housing credit demands of Californians by purchasing over $11 billion in California home loans; and

"Whereas, The Federal Home Loan Mortgage Corporation operate as a housing investment conduit between the nation's capital investment markets and California's housing market; and

"Whereas, Federal legislation is now pending in the Senate and House of Representatives of the United States Congress to enable the corporation to raise additional capital to support the expansion of its housing services and volume capacity to purchase and guarantee home loans; and

"Whereas, The legislation to increase the capital base of the Federal Home Loan Mortgage Corporation proposes to raise capital through the issuance of public common stock without reliance on governmental subsidies or appropriations; and

"Whereas, The Federal Home Loan Mortgage Corporation with additional capital will be capable of expending its urgently needed services to California homebuyers and mortgage lenders; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California expresses its support for the legislation now in the Senate and House of Representatives of the United States Congress that will enable the corporation to increase its capital base through private sector mechanisms and therefore allow the corporation to expand its valuable services to California homebuyers; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1179. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

ASSEMBLY JOINT RESOLUTION No. 90

"Whereas, The State of California and Californians are major consumers of telecommunications and information services in the nation's preeminent information economy; and

"Whereas, California has always supported a policy of universal access to telecommunications and information services, acknowledging it as vital to the health of the state's economy and civic life; and

"Whereas, Access to telecommunications and information services, at reasonable costs, contributes to the growth of commerce, the effectiveness of government, the delivery of educational benefits, the development of an informed and active citizenry, and the reliability of emergency and public safety services; and

"Whereas, The California Public Utilities Commission has responsibly and effectively secured the benefits of traditional telecommunications services for all Californians, and in so doing upheld the state's proper and sovereign role; and

"Whereas, The Congress is currently considering legislation which would, if enacted, radically alter the existing structure of telecommunications regulation in the United States; and

"Whereas, The recent settlement between the United States Department of Justice and the American Telephone and Telegraph Company calls into question many of the fundaments underlying proposed legislation regarding telecommunications; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to refrain from enacting proposed legislation regarding telecommunications until the legislation incorporates all of the following principles: (1) there shall be universal access to telecommunications and information services in the United States, (2) these services shall be reasonably priced so that smaller users of these services shall not be economically penalized in favor of larger users of these services, (3) the corporate reorganizations of American Telephone and Telegraph Company shall be structured to insure the future viability of local telephone companies and the continued availability of reliable, high quality telephone service at affordable cost, (4) there shall be an enlarged role for consumers in the making of telecommunications policy at all levels of government, and (5) the states' ability to design and implement telecommunications policy now and in the future shall not be abrogated or reduced; and be it further

"Resolved, That the Legislature of the State of California also requests the Governor of the State of California and the California Public Utilities Commission cooperate in petitioning the Congress to incorporate these principles in any telecommunications legislation; and be it further

"Resolved, That each Senator and Representative from California in the Congress seek to amend proposed legislation regarding telecommunications, and any other related legislation as may be introduced in the current session of Congress, to incorporate those principles; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States; to the Speaker of the House of Representatives; to the Chairman of the Senate Subcommittee on Communications; to the Chairman of the House Subcommittee on Telecommunications, Consumer Protection, and Finance; to each Senator and Representative from California in the Congress of the United States; to the Governor of the State of California; and to the California Public Utilities Commission."

POM-1180. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

SENATE JOINT RESOLUTION No. 37

"Whereas, The United States Coast Guard is a branch of the armed services originally created to defend our coastline and to ensure safe and orderly marine navigation in our territorial waters; and

"Whereas, During the last 10 years, the Coast Guard has been given many additional responsibilities pursuant to numerous federal acts, including the Boat and Safety Act, the Port and Waterways Safety Act, the Port and Tanker Safety Act, the Fishery Conservation and Management Act, the Water Pollution Control Act, the Clean Water Act, and the OCS Land Act Amendments, and

"Whereas, During this same period, the buying power of annual Coast Guard appropriations has remained approximately unchanged; and

"Whereas, The United States Department of Transportation has announced substantial cutbacks to take effect March 15th, 1982, in basic Cosat Guard services; and

"Whereas, the proposed loss of services in California includes the elimination of the

Vessel Traffic Service in San Francisco Bay; and

"Whereas, The 1981 Coast Guard's Vessel Traffic Service, by directing over 65,000 movements in San Francisco Bay, provided essential safety services for vessels using the bay and its numerous ports and harbors, including inland delta ports; and

"Whereas, San Francisco Bay is one of only four areas in the country which, because of its unique conditions, has Coast Guard Vessel Traffic Service; and

"Whereas, The Coast Guard has in the past stated that the Vessel Traffic Service is a major factor in avoiding ship collisions; and

"Whereas, Termination of this service will pose a serious threat to navigation and create unnecessary risks to life, property, and the environment; and

"Whereas, The United States Department of Transportation has begun negotiations with California maritime representatives to explore alternatives permitting continuance of Vessel Traffic Service in San Francisco Bay; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to support legislation providing for the agreements necessary to continue Vessel Traffic Service; and be it further

"Resolved, That the United States Department of Transportation is requested to continue negotiations with the California maritime industry and concerned citizens to explore the feasibility of alternatives for joint public and private sector operation of a marine navigation traffic system; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Transportation."

POM-1181. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 53

"Whereas, In December 1981, the Department of the California Highway Patrol published a study on tank truck accidents entitled 'California Tank Truck Accident Survey,' examining tank truck accidents, comparing them with all truck accidents, and determining what action might be necessary to reduce their occurrence and severity; and

"Whereas, The general findings under the study were that:

"(1) Tank trucks are involved in accidents that are more severe in terms of fatalities and injuries than other truck accidents.

"(2) Tank truck accidents differ from other truck accidents mostly in terms of overturns, cargo spills, fires, and mechanical defects.

"(3) Tank trucks hauling liquids require special skill of the driver in lane-changing or swerving manevers and on curves.

"(4) Methods are available for modifying the design of tank trucks to reduce the number of tank truck caused accidents and the hazardous effects of the accidents that would still occur.

"(5) Guidelines are available for establishing performance limits for improved stability against overturn and improved protection against cargo leakage after an overturn; and

"Whereas, Additional findings under the study were that almost 60 percent of the cargoes of tank truck vehicles are composed of hazardous materials, that is, cargoes of petroleum products, chemicals or acids or compressed or liquefied gas, with over half of the cargoes carrying petroleum products; and

"Whereas, Fatal collisions such as the recent collision occurring in California in the Caldecott Tunnel involving a tank truck vehicle carrying a cargo of flammable products, causing numerous deaths and injuries, must be safeguarded against; and

"Whereas, Tank truck vehicles, were found in the study to be unstable, overturning far more frequently than trucks in general; and

"Whereas, When a tank truck overturns in an accident, the occurrence of a fatality is twice as likely as in a nonoverturn tank truck accident; and

"Whereas, After a tank truck overturns 53 percent of the spills were found in the study to have occurred through cracks, ruptures or punctures of the tank, resulting in fires in almost half of these spill accidents, with 40 percent of these fires due to cargoes of gasoline; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes Congress to investigate and regulate by enacting appropriate laws and regulations, the design of tank truck vehicles, including, but not limited to, establishing standards for the improvement of roll and tilt stability, pressure retention and leakage limits on dome covers, vents, and safety valves, equipment maintenance, equipment inspection, and the training and selection of tank truck drivers; and be it further

"Resolved, That the Congress is urged to review research performed by both the federal government and other organizations as part of the requested investigation regarding the design of tank truck vehicles, and to consult with California authorities in the development of standards for the design of tank truck vehicles; and be it further

"Resolved, That the Congress is requested to hold public hearings in adopting practical solutions to design deficiencies of tank truck vehicles to be applicable nationwide; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM-1182. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

ASSEMBLY JOINT RESOLUTION No. 112

"Whereas, There is a recognized need for a regional downhill ski area on Mt. Shasta; and

"Whereas, To accommodate the relocation of downhill skiing, wilderness boundary lines must be legislated for Mt. Shasta; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to finalize the Mt. Shasta Wilderness Area in order to reestablish skiing on Mt. Shasta; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1183. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

ASSEMBLY JOINT RESOLUTION No. 98

"Whereas, The United States government has expressed the policy of reducing the nation's dependence upon imported petroleum and increasing the nation's capability to foster the greater use of renewable and alternative technologies, including hydroelectric power; and

"Whereas, Hydroelectric energy is an inexpensive source of electrical power, the use of which could reduce the cost of energy to consumers; and

"Whereas, The transmission capability to transport hydroelectric power from such sources are currently available or are being developed; and

"Whereas, The use of hydroelectric energy rather than oil for electric power production would significantly lessen the amount of uncontrolled emissions to the California environment; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby requests the United States Department of Energy to investigate the possibility of securing hydroelectric energy from proposed hydroelectric projects, including, particularly, the securing of this energy for areas of California which are heavily dependent upon petroleum resources for the generation of electric energy; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact appropriate legislation to ensure full federal support of all potential hydroelectric energy sources; and be if further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Department of Energy, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States.

REPORTS OF COMMITTEE

The following reports of committee were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, without amendment:

S. 2911. An original bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-545).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 450. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1844.

S. Res. 452. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329.

By Mr. ANDREWS, from the Committee on Appropriations, without amendment:

S. 2914. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-546).

By Mr. ABDNOR, from the Committee on Appropriations, without amendment:

S. 2916. An original bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-547).

By Mr. D'AMATO, from the Committee on Appropriations, without amendment:

S. 2917. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-548).

By Mr. GARN, from the Committee on Appropriations, with amendments:

H.R. 6956. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-549).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Justin Dart, of California, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1985.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to appear and testify before any duly constituted committee of the Senate.)

Mr. PACKWOOD. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably two nomination lists in the Coast Guard which were printed in the CONGRESSIONAL RECORD of August 4, 1982, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that these nominations lie on the Secretary's desk for the information of Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN, from the Committee on Appropriations:

S. 2911. An original bill making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. METZENBAUM (for himself, Mr. RIEGLE, Mr. BAUCUS, Mr. LEVIN, Mr. RANDOLPH, Mr. BURDICK, Mr. PELL, Mr. SARBANES, and Mr. CANNON):

S. 2912. A bill to provide that the amount of unnegotiated social security checks shall be returned to the social security trust funds, and for other purposes; to the Committee on Finance.

By Mr. SIMPSON (for himself, Mr. CRANSTON, Mr. THURMOND, Mr. STAFFORD, Mr. KASTEN, Mr. DENTON, Mr. MURKOWSKI, Mr. RANDOLPH, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. MITCHELL):

S. 2913. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. ANDREWS, from the Committee on Appropriations:

S. 2914. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. MATSUNAGA:

S. 2915. A bill for the relief of Dr. Samuel J. Wong and Mrs. Agnes J. Wong, husband and wife; to the Committee on the Judiciary.

By Mr. ABDNOR, from the Committee on Appropriations:

S. 2916. An original bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. D'AMATO, from the Committee on Appropriations:

S. 2917. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. CHAFEE (for himself, Mr. BENTSEN, Mr. WALLOP, Mr. MITCHELL, Mr. DANFORTH, Mr. BOREN, Mr. GRASSLEY, Mr. MATSUNAGA, Mr. GARN, Mr. HEFLIN, and Mr. SYMMS):

S. 2918. A bill to permit the investment of employee benefit plans in residential mortgages; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 2919. A bill to help insure the Nation's independent factual knowledge of Soviet-bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes; to the Committee on Foreign Relations and the Committee on Labor and Human Resources, jointly, by unanimous consent.

By Mr. HEINZ (for himself, Mr. JEPSEN, Mr. PERCY, Mr. SPECTER, and Mr. GLENN):

S. 2920. A bill to authorize the sale of defense articles to U.S. companies for incorporation into end items to be sold to friendly countries; to the Committee on Foreign Relations.

By Mr. CHILES:

S. 2921. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the congressional budget process, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. ROBERT C. BYRD:

S.J. Res. 247. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI:

S. Res. 467. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1562; to the Committee on the Budget.

By Mr. DOLE (for himself, Mr. LEAHY, Mr. ANDREWS, Mr. BAUCUS, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BURDICK, Mr. CANNON, Mr. CHAFEE, Mr. DANFORTH, Mr. DIXON, Mr. FORD, Mr. GORTON, Mr. HATFIELD, Mr. HEINZ, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JEPSEN, Mr. JOHNSTON, Mr. KENNEDY, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROTH, Mr. STAFFORD, Mr. TSONGAS, Mr. WEICKER, and Mr. ZORINSKY):

S. Con. Res. 121. Concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. RIEGLE, Mr. BAUCUS, Mr. LEVIN, Mr. RANDOLPH, Mr. BURDICK, Mr. PELL, Mr. SARBANES, and Mr. CANNON):

S. 2912. A bill to provide that the amount of unnegotiated social security checks shall be returned to the social security trust funds, and for other purposes; to the Committee on Finance.

CREDITING THE SOCIAL SECURITY TRUST FUNDS FOR UNCASHED CHECKS

● Mr. METZENBAUM. Mr. President, the legislation I am introducing today is designed to correct an inequity in

current law that prevents the Treasury from returning approximately $200 million that should rightfully be deposited in the social security trust funds. That money, which represents many thousands of uncashed social security checks, is a resource that should be made available to the hard-pressed social security system.

In the half century since the social security system was established, a considerable number of checks made out to social security recipients have not, for a variety of reasons, been cashed. In some cases, checks were lost. Some were destroyed or simply forgotten. In other cases, recipients died before cashing their checks. But in spite of the fact that these checks have been accumulating for many years, current law prevents the Treasury from either canceling the unnegotiated checks or returning the money to the social security fund. Thus, the unclaimed money winds up in a kind of limbo.

This anomalous situation creates an unfair burden on elderly Americans. They are told on the one hand that the social security system is poised on the brink of financial disaster. On the other, millions of dollars in unclaimed funds, which Congress clearly intended to be used for the benefit of recipients, is presently lost to the social security trust funds. Before any other efforts are made to resolve the financial problems of social security, Congress should take this simple and fair step of restoring to social security, funds that rightfully belong in social security accounts.

We should note, Mr. President, that in addition to the estimated $200 million already accumulated in unclaimed funds, the trust funds could stand to lose in the next 4 years an additional $100 million unless this problem is resolved.

There have been many proposals and suggestions for strengthening the financial status of social security. Many of these proposals are highly controversial, like cutting benefits or raising the retirement age. But here, Mr. President, we have the opportunity to make a fair and non-controversial change to benefit our elderly citizens. All those who are concerned about the system should join me in taking this simple step to credit social security with these badly needed funds.●

By Mr. CHAFEE (for himself, Mr. BENTSEN, Mr. WALLOP, Mr. MITCHELL, Mr. DANFORTH, Mr. BOREN, Mr. GRASSLEY, Mr. MATSUNAGA, Mr. GARN, Mr. HEFLIN, and Mr. SYMMS):

S. 2918. A bill to permit the investment by employee benefit plans in residential mortgages; by unanimous consent, referred jointly to the Committee on Finance and the Committee on Labor and Human Resouces.

RESIDENTIAL MORTGAGE INVESTMENT ACT OF 1982

Mr. CHAFEE. Mr. President, today I am introducing the Residential Mortgage Investment Act of 1982 which seeks to broaden the ability of employee benefit plans to invest in the mortgage market.

Many housing finance experts believe that current laws and regulations affecting pension funds are unduly restrictive when it comes to home mortgage investments. Pension funds must meet so many legal requirements before they can purchase mortgages that it puts even the most solid mortgage investments at a competitive disadvantage with other types of assets.

The goal of this legislation is to open the way for all prudent investments, including mortgages, to be treated equally under the Nation's pension laws. It does not by any means require pension funds to put their money into home mortgages, nor is it intended to permit pension funds to make investments at below market rates.

The Residential Mortgage Investment Act is an important step in recognizing that the traditional sources of housing finance—deposits held at our community savings and loan associations—will not be enough to satisfy the demands of future home buyers. The mortgage market is undergoing dramatic change as is the rest of the financial industry. Congress should do everything in its power to assure that, as these changes occur, barriers are removed to the free flow of investor dollars into the housing market. The significance of the legislation is that it will help remove these barriers and will create an incentive for the financial sector of our economy to increase the supply of capital for prudent mortgage investments.

While I cannot overstate the importance of this bill, neither do I want to create the impression that it will be the instant answer to the problems of the U.S. housing industry. It will not. Testimony from the hearing I conducted recently on pension fund investments in the mortgage market indicated clearly that the main obstacle to fund investors is that mortgages have not yet been packaged as attractively as other kinds of securities. As a result, pension fund managers have not been as willing to invest in mortgages as they have in more traditional assets. The Residential Mortgage Investment Act will open the door to more rapid development of a private sector secondary market for mortgage investments. This should help improve the liquidity and soundness of mortgage securities and make it easier for pension funds to acquire them.

Mr. President, I will schedule hearings on this measure in my Finance Subcommittee on Savings, Pensions, and Investment Policy just as soon as possible. I want to seek the assistance of the pension industry, organized labor, the housing industry and the administration in coming to a legislative proposal we can all support; one that will modernize the mechanisms of home mortgage finance along with the other revolutionary changes we are now seeing in our financial institutions.

As far as I am concerned, the details of this proposal will be subject to the most careful scrutiny. While the housing industry has very serious problems which we seek to remedy, my primary consideration in any legislation dealing with pension funds is that the benefits promised to workers and retirees be protected. In that regard, I do have some concerns about provisions in the bill that could open the way for pension funds to engage directly in making individual mortgage loans as would a savings and loan or mortgage company. The general thrust of the legislation is clear, however, and is intended to be as much a benefit to pension funds as it is to the housing sector.

Mr. President, I urge all my colleagues to join Senators BENTSEN, WALLOP, MITCHELL, DANFORTH, BOREN, MATSUNAGA, HEFLIN, GRASSLEY, GARN, and me in cosponsoring the Residential Mortgage Investment Act of 1982. I ask unanimous consent that the text and description of the bill be printed in the RECORD at this point.

Mr. President, I also ask unanimous consent that the bill be jointly referred to the Committee on Finance and the Committee on Labor and Human Resources.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Residential Mortgage Investment Act of 1982.".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) EMPLOYEE BENEFIT PLAN.—The term "employee benefit plan" means—

(A) For purposes of applying this Act with respect to section 406 of the Employee Retirement Income Security Act of 1974, an employee benefit plan within the meaning of section 3(3) of such Act (29 U.S.C. 1002(3)); and

(B) For purposes of applying this Act with respect to section 4975 of the Internal Revenue Code of 1954, as amended, a plan within the meaning of subsection (e)(1) of such section 4975 of the Internal Revenue Code of 1954, as amended.

(2) QUALIFIED MORTGAGE TRANSACTION.—The term "qualified mortgage transaction" means—

(A) The issuance of a commitment by one or more employee benefit plans or a pool to provide mortgage financing to purchasers of residential dwelling units, either by making or participating in residential mortgage loans directly to purchasers or by purchas-

ing residential mortgage loans or participation interests in residential mortgage loans orignated by a third party,

(B) The receipt of a fee in exchange for issuing such a commitment,

(C) The actual origination or purchase of a residential mortgage loan, or of a participation interest therein, pursuant to such a commitment,

(D) The direct origination or purchase, by one or more employee benefit plans or a pool, of a residential mortgage loan, or of a participation interest therein, in cases other than those in which such a commitment has been issued,

(E) The sale, exchange, or transfer of a residential mortgage loan, or of a participation interest therein, by an employee benefit plan or a pool, prior to maturity date of such loan, and

(F) The servicing of a residential mortgage loan (or a participation interest therein) by an employee benefit plan in accordance with this Act, including (but not limited to) collecting mortgage payments, assuring that taxes and insurance premiums for the residential dwelling units are paid, and making decisions relating to, and handling, foreclosures, and

(G) The purchase or sale, or commitment to purchase or sell an interest in a pool consisting solely of residential mortgage loans, but only if conducted in accordance with the practices customary in the residential mortgage industry.

(H) The formation and operation by one or more employee benefit plans of a pool or pools of residential mortgage loans.

(I) The purchase of sale, or commitment to purchase or sell a mortgage-backed security.

(3) ARM'S-LENGTH.—The term "arm's-length" means in accordance with customary practices in the residential mortgage industry.

(4) POOL.—The "pool" means an aggregation of funds or of residential mortgage loans aggregated for purposes of investment by one or more plans, pursuant to terms and conditions customary in the residential mortgage industry.

(5) RESIDENTIAL MORTGAGE LOAN.—The term "residential mortgage loan" means a mortgage on a residential dwelling unit, in fee simple, or leasehold (A) under a lease for not less than 99 years which is renewable or (B) under a lease having a period of not less than 50 years to run from the date the mortgage was executed.

(6) RESIDENTIAL DWELLING UNIT.—The term "residential dwelling unit" includes (but is not limited to)—

(A) A detached house, a townhouse, manufactured housing, a condominium unit, a unit in a housing cooperative, a unit in a multi-unit subdivision (planned unit development) restricted by recorded documents which limit the use of the unit to residential purposes and provide for maintenance and facilities, or

(B) A structure consisting of two or more residential dwelling units (as defined in paragraph (A) herein).

(7) COMMITMENT.—The term "commitment" means a contractual obligation of an employee benefit plan, or a pool, the terms and conditions of which are customary in the residential mortgage industry, to provide mortgage financing to purchasers of residential dwelling units.

(8) PARTICIPATION INTEREST.—The term "participation interest," in connection with a residential mortgage loan means an ownership interest in such mortgage loan ownership of which is held in common with one or more other persons.

(9) ORIGINATION.—The term "origination" means the process by which long-term financing is obtained for the purchasers of residential dwelling units under construction or then existing.

(10) MORTGAGE-BACKED SECURITY.—A certificate representing a fractional undivided interest in a mortgage pool, or a participation in a mortgage pool, which is held in trust and is secured by mortgages or deeds of trust on residential property, including undistributed cash and property which had secured such obligations and has been acquired by foreclosure.

(11) PARTICIPANT; BENEFICIARY; PERSON; STATE.—The terms "Participant," "beneficiary," "person," and "State" shall have the meaning given such terms, respectively, in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 3. EXEMPTION.

(a) GENERAL RULE.—Section 406 other than 406(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106) and Section 4975 other than 4975(c)(1) (E) and (F) of the Internal Revenue Code of 1954, as amended, shall not apply with respect to any qualified mortgage transaction engaged in by an employee benefit plan, provided said transaction is at arm's-length.

(b) PREEMPTION OF STATE LAW.—Subsection (a) shall supersede any and all State laws insofar as they may now or hereafter relate to qualified mortgage transactions to the extent engaged in by employee benefit plans.

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act.

DESCRIPTION OF SENATE BILL (S. 2918)

Mr. CHAFEE. Mr. President, S. 2918, the "Residential Mortgage Investment Act of 1982" permits employee benefit plans to invest in the mortgage market (including mortgage-backed securities) and engage in a variety of mortgage related transactions provided prudence and arm's-length standards are met. Specifically, the bill permits plans to engage in "qualified mortgage transactions" involving "qualified mortgage loans" provided the transactions are at arm's-length. The bill exempts "qualified mortgage transactions" from a portion of the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA), the Internal Revenue Code of 1954, as amended (the code) and any contrary provisions of State law. The effective date is the date of enactment.

PERMITTED TRANSACTIONS

Provided the underlying residential mortgage loan is prudent, the bill permits a broad range of transactions, if at arm's-length. It permits a plan, a group of plans, or a mortgage pool to do the following:

First. Issue commitments to provide mortgage financing to purchasers of residential dwelling units. This may be done either by making or participating in the mortgage loans directly to the purchases or by purchasing loans or participation interests in such loans that are originated by a third party;

Second. Receive a fee for issuing a commitment;

Third. Originate or purchase a mortgage loan or a participation interest in such a loan pursuant to the commitment;

Fourth. Directly originate or purchase a mortgage loan or participation interest in a mortgage loan in situations where no commitment has been issued;

Fifth. Sell or exchange a mortgage loan, or participation interest in a mortgage loan, prior to its maturity date;

Sixth. Provide services incidental to a mortgage loan or a participation interest in a mortgage loan, such as collecting mortgage payments, assuring that taxes and insurance premiums for the residential dwelling units are paid, and making decisions relating to, and handling, foreclosures;

Seventh. Purchase or sell, or commit to purchase or sell, an interest (including mortgage-backed securities) in a mortgage pool but only if the transaction is conducted in accordance with the practices customary in the residential mortgage industry; and

Eighth. Form and operate a pool or pools of mortgage loans.

Ninth. Purchase, sell or commit to purchase or sell a mortgage-backed security.

Mr. DANFORTH. Mr. President, I am pleased to join Senator CHAFEE as a cosponsor of this legislation. The idea behind this bill is sound. On the one hand, the housing market is in desperate need of additional sources of funds for new mortgages; on the other hand, pension funds, which control nearly a trillion dollars of investment capital, should be allowed to take advantage of any investment which is in the best interests of its beneficiaries.

Under recently-issued Labor Department regulations, pension funds are allowed to invest in mortgage-backed securities issued by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. This has the potential of both providing sound new investments for pension funds and injecting new capital into the housing market.

This bill would expand the Labor Department's initiative by removing restrictions that prevent other types of mortgage investments by pension funds. For this reason, I am cosponsoring the bill. However, like Senator CHAFEE, I do have some reservations about it in its current form. While I agree with the intent of the bill, I am concerned that, as presently drafted, it may not provide sufficient safeguards for protecting the interests of the participants and beneficiaries of pension funds. Without such safeguards I

could not support enactment of the legislation.

I look forward to working with Senator CHAFEE between now and the time that the Finance Committee acts on this bill. It is my hope that a proposal can be worked out which will meet the objectives of this bill while insuring adequate protection for those whose retirements are dependent on private pension funds.

My other concern is with the possibility that this bill could become a vehicle for any number of other pension proposals, particularly in the area of multiemployer pension plans.

In my view, rushing into such changes without a thorough study of the issues would be a serious mistake. Therefore, I will oppose the attachment of substantive amendments to this bill unless they have been carefully examined and enjoy broad support.

By Mr. LUGAR (for himself and Mr. BIDEN):

S. 2919. A bill to help insure the Nation's independent factual knowledge of Soviet-bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes; jointly referred to the Committee on Labor and Human Resources and the Committee on Foreign Relations, by unanimous consent.

SOVIET BLOC RESEARCH BILL

Mr. LUGAR. Mr. President, as the Senate moves through its business of the day, there are over 300 American specialists at Moscow's Institute of the USA and Canada watching our every move. These 300 "Americanists" are joined by over 7,000 other foreign affairs specialists at a dozen similar institutes scattered around Moscow. Beyond these academic specialists are countless others toiling away in far less visible institutions.

One might assume that we have similar research capabilities to examine the Soviet Union; we do not. Fewer than 200 Americans will probably complete their doctoral-level training in Soviet studies this year. The hard truth is that our national capacity to analyze the views and actions of our primary adversary in the world is eroding. For example, it would be difficult to find more than about a half-dozen American specialists on Soviet policy toward Japan or Mexico, on natural resource development in Siberia, or on ethnic relations in Soviet central Asia.

Mr. President, we are losing our capability to analyze the Soviet Union. Projecting current trends into the future forecasts a considerable deficiency by the late 1980's. And in this case, what we do not know can hurt us. In 5 years, we will need to know about Soviet research capabilities in solar energy. Will we be able to know whether or not the Uzbeks are restive, or the Soviet family unit has broken down? When we undertake our own strategic planning, will we be able to assess the impact of massive investment in Siberia upon Soviet strategic capabilities? During the 1970's, we learned a great deal from talented and hard-working Government and academic specialists about Soviet petroleum needs, health problems, and ethnic tensions. Will there be equally capable analysts available in 1990?

At the moment, there is every reason to believe that we will not have the right skills in the right quantity to know our adversary. I bring to my colleagues' attention a recent GAO report, which noted that many Government agencies anticipated increasing difficulties throughout the decade in acomplishing the research they will need about the Soviet Union. Talented, experienced research scholars, young and old, are shifting to other fields of study, while fewer and fewer gifted graduate students are entering. Not only will there be fewer specialists for Government agencies to hire, but there will be fewer teachers to train those specialists the Government will need. A national capability painstakingly built up over two decades will be lost. It will take decades and enormous cost to recreate it once it is gone.

Given this alarming state of affairs, what can we do to change this situation? The first point to be made is that there is time to reverse the trend. A well thought-out and financially responsible program to support academic Soviet studies and to provide new personnel for Government and other services can help to meet our national need and do so at modest cost. The second point is that time is running out. By the end of the 1980's, nearly half of the recognized academic experts currently working on Soviet affairs will be dead or retired.

We have, then, an opportunity to revitalize Soviet studies in this country, and to do so in time to meet an approaching shortage of trained specialists for Government service, corporate and academic work, and journalistic assignments. If we act now, we can secure our national capacity to analyze our primary global adversary without creating a new agency or bureaucracy and, to repeat, without making a major financial investment.

It is for these reasons that Senator BIDEN and I join together to propose the endowment of $50 million to establish a Soviet Bloc Research and Trust Fund.

The endowment would be invested and reinvested by the U.S. Treasury and the interest from that investment would be used to support a national program of advanced research for broad dissemination to the public and to Government policymakers and the training of research specialists under university auspices in the United States as well as support for their studies in East European countries and the Soviet Union.

The interest from the fund would be used to support the ongoing activities of the National Council for Soviet and East European Research, the International Research and Exchanges Board, and the Woodrow Wilson International Center for Scholars, as well as to create new programs to help universities around the country support their own research in Soviet and East European studies.

How would this new endowment help ease the developing manpower shortage in Government and academic Soviet and East European studies programs? The National Council, the International Research and Exchanges Board, and the Wilson Center would work together with American universities and research institutes to develop a flexible, comprehensive, integrated research and manpower training program for current specialists in the field, as well as for young, developing specialists. The aim would be to provide sufficient support throughout the training and research cycle to encourage new people to enter the field while keeping Soviet and East European studies sufficiently attractive to keep those specialists already in the field active.

It is critical to note that the consequences of the decline of academic Soviet studies for the U.S. Government are ominous. First, as the academic community declines, so does the potential pool of applicants for Government positions. Second, the opportunities for an exchange of ideas and mutual stimulation among scholars and Government analysts are reduced. Finally, over the long run, the Government will undoubtedly find it necessary to create training programs to meet internal needs. Such a process will cost more to initiate than sustaining current institutions. The proposed program, then, will help us avoid otherwise necessary and larger expenses later in the decade.

Mr. President, it is in the national interest to reverse the decline in our performance. A one-time appropriation is all that this reversal will require; once created, the fund will require no further appropriations. The fund would be a stable source of income which would be easily and responsibly administered by reputable and existing national institutions like the National Council for Soviet and East European Research, the International Research and Exchanges Board, and the Woodrow Wilson International Center for Scholars. Mr. President, it is vital that we place a firm foundation under the whole field and regain our diminishing potential to know our

adversary—the Soviet Union. I urge my colleagues to join with Senator BIDEN and me to see that this happens.

Mr. BIDEN. Mr. President, I am pleased to join with my colleague on the Foreign Relations and Intelligence Committees, Senator LUGAR, in cosponsoring this legislation to create a Soviet bloc research and training fund.

By a modest, one-time commitment of always scarce funds, we can provide a continuing basis for the improvement and expansion of our intellectual resources in an area vital to our own national security.

There is no need to be reminded of the critical position which Moscow occupies on the stage of world affairs. The Soviet Union, whether we like it or not, continues to be the central problem for American foreign policy. It controls the last massive empire on Earth, dominating the Eurasian landmass, and directing the political fortunes of a number of client states on its Eastern European and Asian peripheries. In recent years, it has not only acquired the ability to project its military power on a global scale, but it has acted on that ability and has presented the United States and the Western alliance with a series of challenges which demand urgent action.

The sources of Soviet domestic and foreign policy behavior are kaleidoscopic and complicated. Some sophisticated sense of those behavioral patterns, and the intricate interplay between obvious Soviet strengths and no less obvious Soviet weaknesses, is indispensable in the formation of an effective American policy toward the U.S.S.R.

Throughout much of the 1970's, the Soviets, fearful of China, burdened by the rising costs of empire, and faced with an intimidating range of new economic problems, attempted to court the United States in their own peculiar way, attempted to find some new pattern of accommodation with the United States. By the late 1970's that fitful attempt at accommodation had broken down. The Soviets had sought economic and political benefits from the American connection on the basis of their own groundrules.

From the very beginning in 1972, there had been no common understanding of international rules of behavior. Soviet actions in Angola, the Horn of Africa, the Middle East, and Afghanistan reflected their minimalist interpretation of modified confrontation with the West. They in turn have offered a long string of supposed justifications, charging American neglect of an hostility toward a stable relationship with the Soviet Union. The Afghan invasion itself is claimed to be a reaction to American collusion with China which meant to destablize a friendly state on Russia's sensitive southern borders. Soviet petulance has made them more dangerous, and heightened their traditional feelings of isloation and paranoia.

Yet, it remains to be seen whether they will be prepared to go it alone in the decades to come, to go it alone in the face of mounting economic and social challenges at home. The price for them would be very high indeed.

Recent reports on the Soviet economy have not been rosy. Along with declining industrial growth rates, the Kremlin will be faced with increasing tensions between military and civil priorities, tough decisions on economic investments and regional development, serious gaps between energy needs and resources, and a new complex of rising civilian expectations of unpredictable dimensions. Not the least of these challenges will be the ethic revival affecting the numerous non-Russian nationalities which now make up almost 50 percent of that population. The dismal experiment at creating a plastic and monochrome Soviet man has failed and given way among most of these minority peoples to a renewed search for ethnic and cultural identity in the rich and diverse traditions of the past. This search for roots will take on increasingly complex and urgent forms. It is process which will severely test Moscow's skills at central control. All of these factors will condition Moscow's decisions on its military policies and posture abroad, on its going ahead, or not, with sophisticated but expensive weapons systems, on the nature of its political and economic relations with the United States and the West.

As the Soviet leadership and Soviet society as a whole wrestle with these issues in the years ahead, we will need all the information and help we can get in forming wise decisions of our own. It will be important to understand which factors and pressure points might serve both to modify Soviet aggressive behavior abroad and to push the Soviet leadership toward a more moderate involvement in a stable global community. It is in our own best interests to be closely informed on these evolving patterns in Soviet society, and to build a firm and consistent policy on the basis of this information. Nothing is more destructive of the purposes of American policy than such a lack of basic data and expertise. We need some hard facts and sophistication about these matters. We need a research and analysis capability which will allow us to dig out structural trends and to construct a creative and anticipatory long-term policy.

Our technical and photographic intelligence is superb. American science and technology have put the best apparatus in the world at our disposal. What we lack and badly need is a matching political analysis component.

It is in this area especially that trends have been working against us over the last decade or more. The financial crisis of the universities has resulted in a striking contraction in critical departmental areas. The social sciences themselves—especially political science, economics, international relations, and sociology—have moved away from a focus on area studies to more general, theoretical, and methodological concerns. What all these shifts in financing and support have meant is that fewer competent young area specialists are being both trained and hired in the universities, and the pool of able area analysts is shrinking. Nowhere is this more obvious than in the case of the minority languages and cultures of the Soviet Union. In those very few university centers around the country where some of these critical tools are still being taught, there is little reason for a bright young specialist to begin the long and tough study of an exotic and peripheral language if there are no economic and professional incentives to encourage him or her that such hard-won skills will find some support, employment and use.

What we need is a new program of incentives to pull our existing resources and institutions together, make the most of what we have, and build upon this basis for the future.

While primary attention must be given to the health of the university training base, to which this bill devotes substantial attention, three major noncampus institutions created to serve that university base are critical actors in this enterprise. They are natural allies in the process of developing a national research capability, and each performs a complementary function along the spectrum of training, experience, dissemination, and utilization. Through its overseas programs with Eastern Europe and the Soviet Union, IREX guarantees indispensable on-the-ground experience, firsthand country contact, and access to otherwise unobtainable primary data and human resources. The Woodrow Wilson International Center provides an excellent forum in Washington where academic specialists can meet comfortably and productively with representatives of the Government and the media to exchange insights and perspectives on both intellectual issues and public affairs. The National Council for Soviet and East European Research serves as an interface mechanism between Government and academic analysts, attempting to identify priority areas of common public and professional concern for further urgent inquiry, offering incentive grants to attract essential expertise. Taken together with the universities, these institutions complete the cycle of training, experience, and dis-

semination which shapes our national research and analysis capacity on the Soviet bloc.

We need to recognize the unity of this spectrum of existing resources and the role which they play in forming our national analysis establishment. They have functioned from hand to mouth for years; we need to devise a support package to put them on a stable long-term basis. As a nation with global commitments and responsibilities, we cannot afford to let these capabilities wither. First-rate language and area specialists are not produced overnight. Building a policy analysis component demands foresight and attention.

The Soviets themselves make no such mistake in attending to their own capabilities. They have invested enormous resources in creating a comprehensive research establishment in Moscow with thousands of linguistically trained, area-experienced specialists. The Institute for the Study of USA and Canada, the Institutes on the Far East, Latin America, Africa, World Economy and International Relations, and several other centers of the Soviet Academy house almost 10,000 leading policy-oriented analysts in Moscow alone. Whatever the quality of that analysis, the size of the enterprise is staggering. By comparison, the current state of the American effort is embarrassing at best.

We need the best minds and talents this Nation can afford in this effort to understand our major competitor. The need is obvious, and the sum we are talking about is modest. One thing this country cannot afford in such a critical policy area is ignorance.

By Mr. HEINZ (for himself, Mr. JEPSEN, Mr. PERCY, Mr. SPECTER, and Mr. GLENN):

S. 2920. A bill to authorize the sale of defense articles to U.S. companies for incorporation into end items to be sold to friendly foreign countries; to the Committee on Foreign Relations.

ARMS EXPORT CONTROL

Mr. HEINZ. Mr. President, today I am introducing legislation which will amend the Arms Export Control Act. U.S. Government arsenals presently do not have the authority to sell components they manufacture to U.S. defense contractors for incorporation into end items and subsequent export to friendly foreign nations.

Under current law, foreign buyers must approach respective Government arsenals and commercial suppliers separately through foreign military sales (FMS) cases. The result is a duplication of costs and efforts; the industry bears the cost of marketing a weapons system, while the U.S. Government must bear the cost of marketing the components of weapons systems. The present method of doing business often means the loss of contracts to U.S. companies and the loss of jobs to American workers.

This legislation will eliminate this duplication of effort and marketing costs to the Federal Government.

This legislation will reduce administrative costs to the U.S. Government. It will help our Nation sustain a vibrant domestic defense production base and provide for increased employment opportunities in our commercial defense industry and U.S. Government arsenals.

This legislation is not designed to stimulate or increase commercial arms sales. Nor is it intended to add to drawdowns of U.S. stocks that would result in adverse impact on U.S. force readiness.

Under the provisions of this legislation, all arms sales will be scrutinized by the Department of Defense, State and the Arms Control and Disarmament Agency in order to insure that arms sales coincide with our Nation's foreign policy goals.

Mr. President, this legislation will make it easier for our Government defense facilities and commercial plants to work together for the benefit of American security interests and for the benefit of American workers.

I respectfully urge my colleagues to support this legislation.

By Mr. CHILES:

S. 2921. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to reform the congressional budget process, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

BALANCED BUDGET ENFORCEMENT ACT OF 1982

● Mr. CHILES. Mr. President, today I am introducing the "Balanced Budget Enforcement Act of 1982." This package of amendments to the Budget Act is designed to implement the goals of the constitutional amendment to balance the budget which was passed by the Senate on August 4, 1982. My bill also adds a new title creating the "Regulatory Budget Act of 1982." These amendments will move the congressional budget process to a new level of effectiveness. This is the package of amendments which I first outlined on May 6 when I introduced Senate Joint Resolution 196. The major provisions of my bill are:

First, require budget resolutions to show a balance of outlays and revenues.

Second, require a "payback" surplus to pay back any deficits incurred during a recession or other time that the waiver provisions is invoked. This will prevent the tendency to squeeze in permanent new spending programs when a recession makes a waiver necessary and keeps the national debt from being increased.

Third, require a temporary tax increase in the year after any "unanticipated deficits." This will offset the temptation to balance the annual statement by overoptimistic economic or estimating assumptions.

Fourth, codify "reconciliation" on the first budget resolution as a "deficit reduction bill."

Fifth, require that any year for which the current law outlays exceed current law revenues, there shall be a "deficit reduction bill" of sufficient magnitude to eliminate the deficit.

Sixth, define a method for limiting taxes and outlays as a percent of gross national product (GNP).

Seventh, prohibit off-budget spending.

Eighth, make 5-year budget limits binding, to prevent new entitlement spending from being adopted at a low cost, then ballooning in later years.

Ninth, make committee allocations binding. For the Appropriations Committee, make subcommittee allocations binding, and subdivide allocations for regular and supplemental bills.

Tenth, institute a regulatory budget process.

It is clear that the budget process needs to be strengthened. While we have come a long way in the last 8 years, we still have a long way to go to get fiscal policy under control. When I first came to the Senate, back before we wrote the Budget Act of 1974, we had total chaos. Congress voted spending bills one by one, never having to vote on the total level of Federal spending or on the level of deficit caused by that spending. The Budget Act at least forces us to focus on the bottom line.

The first major weakness we found in the act was that we could not effectively enforce the spending cuts assumed in the budget resolution. Somehow, the authorizing committees went ahead with their new spending first, and never got around to making the cuts. We changed that in 1980 when, on my motion, we put reconciliation into the first budget resolution. By doing that, we moved the budget cuts up to the first item of business and got them enacted.

However, we have now found a new weakness. If the spending cuts are not specifically linked to a balanced-budget requirement, they can still leave us with huge deficits. We found that in 1981. While Congress passed the full $135 billion in spending cuts proposed by the President, the tax cuts enacted at the same time cost $405 billion in the same years. The deficits were therefore increased tremendously.

CHANGE RECONCILIATION TO "DEFICIT REDUCTION BILL"

A key reform I am proposing today is therefore to change "reconciliation" to a "deficit reduction" bill, and re-

quire it to contain a package of spending cuts or tax changes of sufficient size to insure that outlays do not exceed revenues. Reconciliation would be put on the first budget resolution, which would be binding. However, we would prohibit putting nonbudgetary items into reconciliation. One problem which creates uncertainty in the budget process is having everybody working from different baselines. My bill defines a "current law" baseline concept for both Congress and the admininstration. That way, we can at least be able to tell whether a proposed budget figure is a "cut" or an "increase," since the law will specify the base that is being cut from or added to. While we will probably still have differences over economic assumptions and outlays rates, we will have brought at least one more item into focus.

Having a fixed baseline also tells you how much of a deficit reduction bill you need. My bill says that if current law outlays exceed current law revenues by $50 billion, then you need a package of at least $50 billion worth of spending cuts and/or tax increases. While that sounds so simple as to be obvious, it is a basic relationship missing from our current budgetary procedures. And that is why the deficit is growing instead of shrinking.

My bill also prohibits the budget resolution from providing for an increase in tax revenues as a percent of gross national product, so that the budget will not be balanced by increasing the tax burden. We would use a 5-year average, to avoid the annual uncertainties of the economic cycle. This provision could be waived by a simple majority rollcall vote on a separate resolution setting forth the amount of revenue increase over the limit, and the purpose for which the increased revenues would be spent. If Congress wanted to take additional spending responsibilities, it would have to say clearly that it was doing so, and raise the taxes for that purpose.

Mr. President, we all know that it is impossible to balance the Federal budget during a recession. But we also know that Congress tends to use recessions, or the threat of them, as an excuse to run deficits at all times, and to push through permanent spending increases. If we are going to maintain the flexibility to run deficits during recessions, we are going to have to set up some countermeasures to minimize the deficits. My bill contains two such countermeasures.

PAYBACK PROVISIONS FOR RECESSION DEFICIT

First, any time Congress votes a waiver of the balanced-budget provision due to a recession, it will commit itself to running a surplus in the following 2 years to payback the deficit and related interest costs. Knowing that further spending cuts or tax increases are required will restrain recession deficits to the unavoidable minimum.

PAYBACK PROVISION FOR "UNANTICIPATED DEFICIT"

Second, if spending estimates change during the year, producing an unanticipated deficit, Congress will have to either pass a midyear deficit reduction bill or enact a temporary tax surchange in the following year to pay off the deficit and interest. The danger of triggering a visible tax surcharge will counteract the tendency to use phony estimates or overoptimistic economic assumptions to project a balanced budget. Since the temporary tax increase will be excluded from the calculation of the allowable level of future revenues, running a deficit one year will not lead to a permanently higher level of taxes and spending in future years.

PROHIBIT OFF-BUDGET SPENDING

There are two other major loopholes in the present Budget Act which my bill would eliminate. First, it would require all Federal outlays to be counted in the budgets of both Congress and the President. I find it incredible that right now we have about $20 billion a year in so-called off-budget spending which is not counted in the Federal deficit. This is not some old problem left over from the free-spending days of Democratic control. To meet its reconciliation targets last year, the Senate Energy Committee reduced spending by saying that about $3 billion a year in outlays for the strategic petroleum reserve would simply not be counted in the budget. Of course, we still have to borrow the money to pay out, so about $10 billion will be added to the national debt over 3 years, but it will not show up in the official deficit. My bill will prohibit that kind of abuse.

In addition to prohibiting off-budget spending by outlawing creative accounting, my bill establishes a full-scale credit budget control process. As the pressure to limit spending has grown, Congress and various administrations have developed programs of assistance by direct loans, loan guarantees, and secondary credit market transactions. While many of the programs serve valuable functions, particularly for housing and small business, they have a significant economic impact. Congress should therefore account for them and create a control process parallel to our procedures for allocating direct spending.

CLOSE THE ENTITLEMENT LOOPHOLE

Next, I would make the budget resolution ceilings binding for 5 years. We have learned that entitlement spending cannot be controlled 1 year at a time. It takes a year just to go through all the technicalities of changing the law, rewriting the regulations, and training people to implement the changes. The present Budget Act contains a huge loophole—new entitlement spending is not subject to a point of order if it does not begin until a year after the budget resolution takes place. So committees can get around the budget limits in two ways. First, they can start a program very small so it fits within the current year's budget, knowing it will grow later on. Second, they can postpone the effective date for a year, and get around the act entirely. My bill closes both those loopholes.

Many people have been wary about making the budget resolution binding for 5 years, due to the uncertainty of future-year economic projections. I remember that several years ago when I proposed putting 5-year ceilings into the resolution—instead of just the report—Chairman Muskie raised the issue of uncertainty, and we compromised on a 3-year budget resolution. By and large, putting those multiyear numbers into the resolution has been a success, in terms of increasing our control of new spending proposals. It has become very difficult to get away with slipping in a small new program whose costs will balloon in future years. My response to the issue of uncertainty is that the key concern is that everybody play by the same rules. Whatever economic assumptions we use to make up the budget resolution are those we use to keep score on individual bills. While changing economics are likely to make the overall spending totals vary—usually in the direction of a bigger deficit—we will not find ourselves faced with whole new programs not anticipated when the budget plan was drawn up. These will get updated in future years. The important thing is not that we have certainty in our future projections, but that we have a clear picture of the direction we are heading in. If we seem to be on a course that will open up huge future deficits, due to entitlements, defense increases, or tax cuts, then the sooner we take corrective action, the better. To say we do not need corrective action because the economy may grow faster and close the deficits is to ignore the experience of the last 10 years, where actual deficits far exceed projections.

MAKE COMMITTEE ALLOCATIONS BINDING

Another enforcement problem we have had is that while we allocate spending limits to each committee, only the grand totals are formally binding and subject a spending bill to a point of order. We only have an "atom bomb" type of threat. We can stop all spending when all money runs out, but we cannot stop individual spending bills that cause the overruns. Assume for example, that Congress did not provide money for a new public jobs program in its budget resolution. If the Human Resources Committee got that bill to the floor first, before other programs for which

spending was assumed were considered, there would not be budgetary control. On the appropriations side, we usually consider one bill at a time. We had problems for several years with the Appropriations Committee bringing out bills that were overbudget, but saying, "we are still within our total, we'll make it up in a later bill." Of course, they would save a popular bill like defense until the end, and the cuts would not get made. In a similar manner, Appropriations can use up its allowance for supplemental needs, like pay raises, in the regular bills, and force Congress to come up with extra money later on, under threat of mass layoffs of employees late in the year. My bill eliminates these problems in three ways:

First, spending allocations to authorizing committees would be binding on each individual committee, and a point of order would lie against any bill which exceeded the allocation.

Second, the allocations to subcommittees made by the Appropriations Committee would be binding, and a point of order would lie against any bill which exceeded the allocation.

Third, the allocation to the Appropriations Committee would be divided into an allocation for regular bills and supplementals, and the Appropriations Committee would have to reflect that division in its subcommittee allocations.

In all cases where a point of order would lie against a bill for exceeding the budget allocation, a point of order would lie against any floor amendment which would cause the bill to go over the top.

These changes would convert the budget resolution from a nonbinding set of targets to a real budget. It would show everyone that we are serious about keeping to our own budget ceilings.

REALISTIC TIMETABLES

Many Members of Congress and many outside commentators have criticized the timetables in the Budget Act as unrealistic and unworkable. Some of the pressures are an unavoidable consequence of a rational budget process. For example, you just have to hold off appropriations bills until you have a budget resolution saying what total will be available to spend; but you also have to have all the bills in place before the fiscal year starts. Reconciliation does have to be done in a short time after the budget resolution is passed, so that the agencies can write new regulations for entitlement programs and the Tax Code, if you are going to actually reduce the deficit in the coming fiscal year.

However, once you have reconciliation—which will now be called a deficit reduction bill—on the first budget resolution, there is simply no need for a second resolution in September. The economic projections and reestimates for a September resolution have to be locked in by the end of July to do the technical work and make the policy choices. The economy does not change enough from May to July to give a substantially different picture of the coming year, and too many uncertainties remain in pending legislation. On the other hand, by the time we get the President's budget in January, we have a full picture of both the economy and legislative status, and we usually end up revising the second budget resolution each winter. I therefore propose we make the following modifications to the budgetary timetable:

First, move the CBO annual report forward from April 1, to March 1, to give all committees the value of better estimates of current law spending and revenues;

Second, make the first budget resolution—completed by May 15—binding, including a "deficit reduction bill" to make any tax and entitlement spending changes necessary to balance the budget.

Third, require completion of the "Deficit Reduction Bill" by July 15, so the Appropriations Committee has time to complete its bills before October 1.

Fourth, allow Congress to revise the budget resolution at any time, including an additional deficit reduction bill if the January reestimates show an unanticipated deficit.

REGULATORY BUDGET

Another major step forward in my bill is to add a new title XI which creates an entire regulatory budget process. In the regulatory arena, we are about at the level we were in for spending control about 10 years ago, before we had the Budget Act. We know that we have created a mass of regulations, covering everything from safe food, to clean air and water, to highway safety and occupational health. We know that many or most of these regulations are worthwhile, but we do not know their total cost. And we have no way of setting priorities on where we need to see regulations tightened, and where we want them relaxed. When the administration comes in an says "all regulations have to be drastically reduced because they cost too much," we have no rational response. We cannot say, "here is our regulatory budget. We agree that the following regulations can be relaxed, but if you keep the others, the total cost will be acceptable." Each time a new proposal comes up, to either create a new regulation or scrap an existing one, the economists set about reinventing the wheel. We get many conflicting reports about what total regulations in that particular area cost. The public would be better served if we had an ongoing analysis of the cost of regulations in each major function.

Recognizing that we are at an early state of the art in developing regulatory cost analyses, I am proposing that for the first 2 years, we just make the grand totals binding. As we develop the detailed cost allocations in those years, we would move to a full-scale regulatory budget that moved parallel to the spending budget. The budget resolution would set forth broad functional totals The authorizing and appropriations committees would then work out the specific levels by agency and by program. The regulatory budget would follow the same detailed development process as the spending budget, so the administration would be supplying Congress with detailed information about its proposals. This would give the committees of Congress a vastly improved capacity for oversight of the executive agencies and their regulatory activities.

Mr. President, these are the major provisions of my bill. However, such a major change in the Budget Act requires many more changes in detailed provisions. I therefore ask unanimous consent that a detailed description of these provisions appear at this point in the RECORD, followed by the text of the amendment and a "cordon print" showing how the Budget Act would read if these changes were adopted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF SENATOR CHILES' "BALANCED BUDGET ENFORCEMENT ACT OF 1982"

(S. 2921): Changes to existing sections of the Congressional Budget Act of 1974:

Section 1(a) is amended to label Title XI as the "Regulatory Budget Act of 1982."

1(b), Table of Contents, is amended to reflect new items.

Section 2, the Declaration of Purposes is amended to include the achievement of a balanced Federal budget under most economic circumstances, and to include the control of Federal credit activities.

Section 3, Definitions. New terms are added relating to the credit budget; defines principles for estimating "current law levels" of budget authority, outlays, spending authority and revenues, to be used as a baseline for "Deficit Reduction" directions.

Section 202: Duties of the Congressional Budget Office. Required to provide information on credit budget and estimates related to revenue limitation, including estimates of Gross National Product (GNP), estimates of current law outlays and revenues as percent of GNP. Annual report is moved forward from April 1 to March 1 and required to include 5-year estimates of spending, revenues and credit activity.

Section 300: Timetable for Congressional Action. July 15: date for Congress to complete action on Deficit Reduction Bill; Eliminate dates for Second Concurrent Resolution and Reconciliation. Note: Budget Resolution sets dates for Committees to report Deficit Reduction legislation.

Section 301: Concurrent Resolution.

(a)(1) Required to include 5 fiscal years.

(3) Deficit is eliminated as part of resolution except under special conditions.

(b) Reconciliation is codified as "Deficit Reduction" direction and bill.

(1) Deficit reduction must be of sufficient magnitude to ensure that outlays not exceed revenues (revenues are subject to a percent of GNP limitation; see 301, A, B).

(2) Allows Budget Committee to report Deficit Reduction legislation if other committees fail to meet their Deficit Reduction directions by specified date.

(3) Prohibits inclusion of non-budgetary items in bill.

(4) Allows floor amendments to propose alternative deficit reduction legislation, other than that reported by Committees, despite germaneness provision. Increase time for floor debates to 20 hours or four hours time number of Committees with directions, whichever is greater.

(6) Regulatory Budget is included as an item in the Concurrent Resolution on the Budget.

(c) Views of Other Committees: made consistent with Credit Budget, with special role for Banking Committees.

(d) Budget Committee Report: (6) must show five-year estimates of spending and revenues as dollars and as percent of GNP.

(7) Must contain a statement describing whether the Budget Resolution complies with the Balanced Budget and Tax Limitation provisions or a statement of why the Committee recommends a waiver of these provisions.

Section 301A (New Section): Outlays Shall Not Exceed Revenues.

(a)(1) Mandates that Budget Resolution shall be balanced.

(2) Establishes points of order against Resolution or floor amendments thereto which would cause outlays to exceed revenues.

(b) Limits Revenues as percent of GNP; establishes points of order to enforce limit.

(c)(1) Requires outlays, revenues and GNP to be estimated by the Congressional Budget Office.

(2) Excludes temporary tax surcharge from inclusion in revenues per GNP.

(d) Provisions for balance and revenues per GNP do not apply in times of war or U.S. troops engaged in combat.

(e)(1) Allows waiver of Balanced Budget in time of recession by majority roll call vote.

(2) Requires a surplus to pay back any recession-based deficits, plus interest in two years following.

(f) Elimination or Repayment of "Unanticipated Deficit".

(1) If mid-year re-estimates show unanticipated deficit, a revised Budget Resolution with a Deficit Reduction Bill is required.

(2) To the extent deficit cannot be eliminated in current year, the next year's budget resolution must contain a provision to instruct Finance and Ways and Means to report temporary tax increases sufficient to pay off debt; these would not be included in permanent tax base.

Section 301B (New Section) Prohibits Off-Budget Spending: All spending and revenues, including outlays for credit activities or other activities presently placed "off budget" shall be included in Budget Resolution estimates (another section of the bill makes this apply to the President's Budget request).

Section 302(b) Committee Allocations: Adds enforcement.

(1) Appropriations Subcommittee allocations further divided between regular and supplemental bills.

(2) Credit totals allocated by Subcommittees.

Section 303(b) is Stricken: Eliminates out-year loophole for spending or revenues, so they cannot "leap-frog" budget resolution.

Section 304: Revisions: Allows revisions of the binding First Budget Resolution, including revisions to or inclusion of a Deficit Reduction Bill.

Section 310(a): Enforcement.

Makes First Budget Resolution totals binding.

Makes Committee allocations binding.

For Appropriations Committee, makes subcommittee allocations binding, including the separate allocation for regular and supplemental bills.

Provides points of order against any bill, or any amendment to a bill, which would cause the above ceilings to be breached.

Section 405. Credit activities must be subject to appropriations.

Section 605. Current Services Budget: Conform to definition of current law levels of spending and revenues.

Section 904(b). Sections mandating a balanced budget, limitation on revenues per GNP, prohibition of off-budget spending and points of order are excluded from the provision allowing the Act to be waived by a majority of members present and voting.

Title XI: Creates a regulatory budget procedure that is parallel to the spending budget process.

Budget and Accounting Act of 1921: President's budget to conform to the above amendments to the Congressional Budget Act:

(1) Include Credit Budget.

(2) Outlays not exceed revenues.

(3) Revenues not exceed percent GNP.

(4) Seek waiver from Congress for national economic emergency, such as recession.

(5) Prohibit off-budget spending.

S. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Balanced Budget Enforcement Act of 1982".

GENERAL PROVISIONS

SEC. 2. (a) Subsection (a) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "and" before "title X" and by inserting before the period a comma and "and title XI may be cited as the 'Regulatory Budget Act of 1982' ".

(b) Section 2 of such Act is amended—

(1) by striking out "and" after the semicolon in paragraph (4);

(2) by redesignating paragraph (5) as paragraph (7); and

(3) by inserting after paragraph (4) the following new paragraphs:

"(5) to achieve a balanced Federal budget under most economic circumstances;

"(6) to provide for the congressional determination each year of the appropriate level of gross obligations for the principal amount of direct loans and the appropriate level of commitments to guarantee loan principal; and".

(c)(1) Section 3 of such Act is amended—

(A) by inserting a semicolon and "DETERMINATION OF ESTIMATES" at the end of the section heading;

(B) by inserting "(a) DEFINITIONS.—" before "For purposes";

(C) by inserting "and" after the semicolon in subparagraph (A) of paragraph (4);

(D) by striking out subparagraph (B) of such paragraph;

(E) by redesignating subparagraph (C) of such paragraph as subparagraph (B), and (in such subparagraph) by striking out "any other" and inserting in lieu thereof "a"; and

(F) by adding at the end thereof the following:

"(6) The term 'direct loan' means a disbursement of funds by the United States or any officer or agency thereof (not in exchange for goods or services) under a contract which requires the repayment of such funds with or without interest, and in addition includes—

"(A) direct participation in a loan made and held by another person or government;

"(B) the purchase (through secondary market operations) of a loan made by another person or government; and

"(C) the acquisition of a federally guaranteed loan made by another person or government, as collateral or in satisfaction of default or other guarantee claims.

"(7) The term 'current law budget authority' means the total amount of budget authority which would be necessary to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities.

"(8) The term 'current law outlays' means the total amount of outlays which would be made to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities.

"(9) The term 'current law spending authority' means the total amount of spending authority described in section 401(c)(2)(C) which would be effective in a fiscal year to carry out programs and activities during that fiscal year at the same level as such programs and activities were carried out during the preceding fiscal year without any policy changes in such programs and activities.

"(10) The term 'current law revenues' means the total amount of revenues that would be received in a fiscal year if the provisions of the revenue laws which were in effect for the fiscal year preceding such fiscal year remained in effect for such fiscal year without change.

"(b) DETERMINATION OF ESTIMATES.—In determining current law budget authority, current law outlays, and current law spending authority for a fiscal year, the Director of the Congressional Budget Office or the Committees on the Budget of the Senate and the House of Representatives, as the case may be, shall—

"(1) only include adjustments for additional costs, workloads, or utilizations if such adjustments are provided for by statute and if the budget authority and spending authority described in section 401(c)(2)(C) for such costs, workloads, or utilizations are provided by statute at the time the Director makes such determinations; and

"(2) assume, for any program or activity for which a law has been enacted authorizing the enactment of new budget authority for the fiscal year prior to the fiscal year for which the Director is making such determinations, but for which a law has not been enacted (at the time of making such determinations) authorizing the enactment of new budget authority for such fiscal year, that a law will be enacted authorizing the enactment of new budget authority for such program or activity for such fiscal year in an amount equal to the amount authorized for the fiscal year prior to such fiscal year

unless the law authorizing the enactment of new budget authority for the program or activity for such prior fiscal year indicates that the reauthorization of such program or activity was not intended by the Congress.".

(2) The item relating to section 3 in the table of contents in subsection (b) of the first section of such Act is amended by inserting before the period a semicolon and "determination of estimates".

(d)(1) Section 202(a) of the Congressional Budget Act of 1974 is amended by striking out "and (3)" and inserting in lieu thereof the following: "(3) information with respect to direct loans and guarantees of loan principal, (4) estimates of the gross national product for a fiscal year, (5) estimates of the ratio that current law outlays for a fiscal year bear to the gross national product for such fiscal year (stated as a percentage), (6) estimates of the ratio that current law revenues for a fiscal year bear to the gross national product for such fiscal year (stated as a percentage), and (7)".

(2) Section 202(f) of such Act is amended—

(A) by striking out "April 1" in paragraph (1) and inserting in lieu thereof "March 1";

(B) by inserting "the fiscal year in progress," before "the fiscal year commencing" in such paragraph;

(C) by inserting "and the succeeding four fiscal years," after "October 1 of that year," in such paragraph;

(D) by striking out "and (B)" in such paragraph and inserting in lieu thereof the following: "(B) the levels of direct loans and guarantees of loan principal, (C) a specification of the gross national product for the fiscal year preceding the fiscal year in progress, (D) estimates of the gross national product for the fiscal year in progress and each of the succeeding five fiscal years, (E) estimates of the ratio, for the fiscal year in progress and each of the five succeeding fiscal years, that current law outlays for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage), (F) estimates of the ratio, for the fiscal year in progress and each of the five succeeding fiscal years, that current law revenues for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage), and (G)"; and

(E) by adding at the end thereof the following new sentence: "In preparing such report, the Director shall use the economic assumptions most recently published by the Director.".

REVISION OF TIMETABLE

SEC. 3. Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

"On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 1.....	Congressional Budget Office submits report to Budget Committees.
March 15.....	Committees and joint committees submit reports to Budget Committees.
April 15	Budget Committees report concurrent resolution on the budget to their Houses.
May 15.....	Committees report bills and resolutions authorizing new budget authority.
May 15.....	Congress completes action on concurrent resolution on the budget.
July 15.....	Congress completes action on deficit reduction bill or deficit reduction resolution, or both, implementing concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority.
October 1	Fiscal year begins.".

CONCURRENT RESOLUTION ON THE BUDGET

SEC. 4. (a)(1) Section 301 of the Congressional Budget Act of 1974 is amended by striking out "FIRST" in the section heading.

(2) The item relating to section 301 in the table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "first".

(b) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "first" in the matter preceding paragraph (1);

(2) by inserting "for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years," before "the appropriate" in paragraph (1);

(3) by inserting "for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years," before "an estimate" in paragraph (2);

(4) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the amount, if any, of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors, or, in any case in which the provisions of subsection (a) of section 301A do not apply in accordance with subsection (d) of such section or are waived under subsection (e) of such section, the amount, if any, of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors;";

(5) by inserting "for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years," before "the recommended" in paragraph (4);

(6) by inserting "for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years," before "the appropriate" in paragraph (5);

(7) by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively; and

(8) by inserting after paragraph (5) the following new paragraphs:

"(6) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal;

"(7) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, an estimate of gross obligations for the principal amount of direct loans and an estimate of commitments to guarantee loan principal for each major functional category, based on allocations of the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal;".

(c) Section 301(b) of such Act is amended to read as follows:

"(b) Deficit Reduction Instructions; Additional Matters.—(1) The concurrent resolution on the budget referred to in subsection (a) shall also, to the extent necessary to insure that total budget outlays for any fiscal year do not exceed total revenues for such fiscal year and to carry out section 301A—

"(A) specify the total amount by which new current law budget authority for the fiscal year beginning on October 1 of the year in which the concurrent resolution is adopted, and current law outlays associated with such new current law budget authority, and current law spending authority for such fiscal year, are to be changed;

"(B) specify the total amount by which new budget authority for such fiscal year, and outlays associated with such budget authority, and new spending authority described in section 401(c)(2)(C) which will be effective in such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, are to be reduced below the level of current law budget authority, current law outlays, or current law spending authority for such fiscal year, respectively, and direct that committee to determine and recommend changes to accomplish a change of such total amount and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date;

"(C) specify the amount by which budget authority initially provided for fiscal years preceding such fiscal year, and budget outlays associated with such budget authority, contained in laws, bills, and resolutions within the jurisdiction of a committee are to be changed and direct that committee to determine and recommend changes to accomplish a change of that total amount and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date;

"(D) specify the total amount by which revenues for such fiscal year are to be changed and direct the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date;

"(E) specify the amount by which the statutory limit on the public debt is to be changed and direct the committees having jurisdiction to recommend such change and to report such recommendations in accordance with paragraph (2)(A) by a specified date;

"(F) specify the total amount by which gross obligations for the principal amount of direct loans or commitments to guarantee loan principal are to be changed and direct

the committees having jurisdiction to determine and recommend changes in the laws, bills, and resolutions providing or specifying the authority to make such obligations or commitments and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date; or

"(G) specify and direct any combination of the matters described in subparagraphs (A), (B), (C), (D), (E), and (F).

"(2)(A) If a concurrent resolution is agreed to in accordance with paragraph (1) containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

"(i) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and shall, by the date specified pursuant to paragraph (1)(A), report to its House a deficit reduction bill or a deficit reduction resolution, or both, containing such recommendations; or

"(ii) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a deficit reduction bill or deficit reduction resolution, and shall, by the date specified pursuant to paragraph (1)(A), report such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House a deficit reduction bill or deficit reduction resolution, or both, carrying out all such recommendations without any substantive revision.

(B) Notwithstanding subparagraph (A), if a concurrent resolution is agreed to in accordance with paragraph (1) containing directions to one or more committees to determine and recommend changes in laws, bills, and resolutions in order to reduce new budget authority, outlays, or new spending authority described in section 401(c)(2)(C), or to change revenues, and any such committee—

(i) does not report such changes by the date specified in such concurrent resolution pursuant to paragraph (1)(A); or

(ii) by such specified date, reports changes in laws, bills, and resolutions which will result in—

(I) a reduction in new budget authority, outlays, or new spending authority described in section 401(c)(2)(C) in an amount which is less than the amount specified in the directions contained in such concurrent resolution; or

(II) a change in revenues in an amount which is less than the amount specified in such directions,

the Committee on the Budget of the House or the Senate, as the case may be, shall report a deficit reduction bill or deficit reduction resolution, or both, containing changes in laws, bills, and resolutions which will result in a reduction in new budget authority, outlays, or new spending authority described in section 401(c)(2)(C) in an amount sufficient to comply with such directions or a change in revenues sufficient to comply with such directions.

"(C) For purposes of this paragraph, a deficit reduction resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

"(D) A deficit reduction bill or a deficit reduction resolution may not contain provisions—

"(i) which decrease the total amount of Federal revenues for a fiscal year below the level of current law revenues for such fiscal year, except in order to carry out section 301A(b);

"(ii) which accomplish decreases in outlays in one fiscal year by postponing such outlays to one or more succeeding fiscal years; or

"(iii) which are predominantly nonbudgetary in nature or which modify programs or activities in a manner which is not necessary to reduce the total amount of new budget authority for a fiscal year and spending authority which will be effective during a fiscal year.

"(3) Congress shall complete action on any deficit reduction bill or deficit reduction resolution reported under this subsection not later than July 15 of each year.

"(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of subsections (b) and (c) of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of deficit reduction bills and deficit reduction resolutions reported under this subsection and conference reports thereon.

"(B) Debate in the Senate on any deficit reduction bill or deficit reduction resolution reported under this subsection, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours or a number of hours which is equal to the product of the number of committees of the Senate which have reported provisions included in such bill or resolution multiplied by four, whichever is greater.

"(C) It shall be in order in the Senate to consider any amendment to a deficit reduction bill or a deficit reduction resolution which provides for reductions in budget authority or spending authority described in section 401(c)(2)(C) or increases in revenues if such amendment does not contain matters which are nonbudgetary in nature, does not modify programs in a manner which is not necessary to reduce budget authority or spending authority described in section 401(c)(2)(C), or does not change the provisions of the revenue laws in a manner other than a manner which is necessary to increase or decrease revenues in accordance with deficit reduction instructions included in a concurrent resolution on the budget pursuant to paragraph (1)(D).

"(5) The concurrent resolution on the budget referred to in subsection (a) may also require—

"(A) a procedure under which all or certain bills and resolutions providing new budget authority or providing new spending authority described in section 401(c)(2)(C) for such fiscal year shall not be enrolled until such concurrent resolution has been agreed to, and, if a deficit reduction bill or deficit reduction resolution, or both, are required to be reported under this subsection, until Congress has completed action on that bill or resolution, or both; and

"(B) any other procedure which is appropriate to carry out the purposes of this Act.

"(6) The concurrent resolution on the budget referred to in subsection (a) shall include the section containing provisions to establish a regulatory budget required by section 1105(a).".

(d) Section 301(c) of such Act is amended—

(1) by striking out ", and budget outlays resulting therefrom," in paragraph (2) and inserting in lieu thereof "and budget outlays resulting therefrom, and of the total amounts of gross obligations for the principal amount of direct loans and commitments to guarantee loan principal,"; and

(2) by inserting before the last sentence the following new sentence: "The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall each also submit to the Committee on the Budget of its House its recommendations as to the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal.".

(e) Section 301(d) of such Act is amended—

(1) by striking out "first" each place it appears before "concurrent resolution on the budget";

(2) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(3) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) for the period of five fiscal years beginning with such fiscal year, a specification for each major functional category, of—

"(A) the levels of total budget outlays, total new budget outlays, total new budget authority, and total revenues for each fiscal year in such period;

"(B) the level of the surplus or deficit, if any, for each such fiscal year;

"(C) an estimate of the ratio that total outlays for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage);

"(D) an estimate of the ratio that total revenues for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage); and

"(E) the estimated levels of tax expenditures (the tax expenditures budget) for each such fiscal year;

"(7) a statement describing whether the concurrent resolution complies with the provisions of subsection (a) of section 301A, or whether the Committee on the Budget recommends that such provisions be waived in accordance with subsection (e) of such section;".

(f) Section 301(e) of such Act is amended—

(1) by striking out "set for" in paragraph (1) and inserting in lieu thereof "set forth";

(2) by striking out "first" before "concurrent resolution on the budget" each place it appears in paragraphs (1) and (2); and

(3) by inserting "referred to in subsection (a)" after "concurrent resolution on the budget" each place it appears in paragraphs (1) and (2).

BALANCED BUDGET REQUIRED

SEC. 5. (a) Title III of the Congressional Budget Act of 1974 is amended by inserting after section 301 the following new section:

"OUTLAYS SHALL NOT EXCEED REVENUES

"SEC. 301A. (a) LIMITATION ON OUTLAYS.—

"(1) The appropriate level of total budget outlays set forth in any concurrent resolution on the budget for any fiscal year beginning after September 30, 1983, shall not exceed the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for

any fiscal year beginning after September 30, 1983, or any amendment thereto or any conference report thereon if—

"(A) the adoption of such resolution as reported;

"(B) the adoption of such amendment; or

"(C) the adoption of the resolution in the form recommended in such conference report;

would cause—

"(i) the appropriate level of total budget outlays set forth in such concurrent resolution for such fiscal year to exceed the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year; or

"(ii) the total amount by which new budget authority provided for such fiscal year, and outlays associated with such budget authority, and new spending authority described in section 401(c)(2)(C) which will be effective in such fiscal year are to be changed (as specified in such concurrent resolution pursuant to subparagraph (B) of section 301(b)(1)) to be insufficient to insure that total budget outlays for such fiscal year do not exceed total revenues for such fiscal year.

"(b) LIMITATION ON REVENUES.—

"(1) The recommended level of Federal revenues set forth in a concurrent resolution on the budget for a fiscal year beginning after September 30, 1983, shall not exceed an amount which bears the same ratio to the gross national product for such fiscal year as the average of the ratios of estimated total revenues for each of the five fiscal years preceding such fiscal year to the estimated gross national product for each such fiscal year.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for any fiscal year beginning after September 30, 1983, or any amendment thereto or any conference report thereon if—

"(A) the adoption of such resolution as reported;

"(B) the adoption of such amendment; or

"(C) the adoption of the resolution in the form recommended in such conference report;

would cause the recommended level of Federal revenues specified in such concurrent resolution for such fiscal year to exceed the amount prescribed by paragraph (1).

(3)(A) The Committee on the Budget of the Senate or the House of Representatives may report a separate concurrent resolution providing that the recommended level of Federal revenues set forth in a concurrent resolution on the budget for a fiscal year may exceed the amount prescribed by paragraph (1) for such fiscal year if such separate concurrent resolution specifies the amount by which the recommended level of Federal revenues set forth in such separate concurrent resolution on the budget will exceed such prescribed amount and the purpose for which such excess amount of revenues will be expended.

"(B) If, after the Committee on the Budget of the Senate or the House of Representatives reports a concurrent resolution under subparagraph (A), such concurrent resolution is agreed to by a rollcall vote of the Senate and the House of Representatives, paragraphs (1) and (2) shall not apply to the concurrent resolution on the budget with which the concurrent resolution permitting such excess amount of revenues is concerned.

"(c) DETERMINATION OF OUTLAYS, REVENUES, AND GROSS NATIONAL PRODUCT.—

"(1) For purposes of subsections (a) and (b), the budget outlays to be made during a fiscal year, the revenues to be received during a fiscal year, and the gross national product for a fiscal year shall be determined on the basis of estimates made by the Director of the Congressional Budget Office.

"(2) For purposes of subsection (b), the recommended level of Federal revenues set forth in a concurrent resolution on the budget shall not include any revenues which would be included in such concurrent resolution by operation of subsection (f)(2).

"(d) INAPPLICABILITY IN TIME OF WAR.—The provisions of subsections (a) and (b) shall not apply to any concurrent resolution on the budget for a fiscal year in which a declaration of war is in effect or in which the Armed Forces of the United States are engaged in combat.

"(e) WAIVER FOR RECESSION.—

"(1) By a rollcall vote of the Members of each House of Congress present and voting, Congress may include in a concurrent resolution on the budget for a fiscal year a provision waiving the provisions of subsections (a) and (b) with respect to such fiscal year if the Congress determines, and includes a statement of such determination in such provision, that a national economic emergency, such as a recession, makes compliance with the provisions of such subsections impracticable in such fiscal year. For purposes of the preceding sentence, a recession is a decline in the gross national product during any two consecutive fiscal quarters.

"(2) If Congress waives the provisions of subsection (a) with respect to a fiscal year, and outlays are estimated to exceed revenues in such fiscal year, the concurrent resolutions on the budget for the succeeding two fiscal years shall set forth, in the aggregate, a recommended level of Federal revenues which exceeds the appropriate level of total budget outlays set forth in such concurrent resolutions for such fiscal years by an amount at least equal to the sum of—

"(A) the amount by which outlays exceeded revenues in such preceding fiscal year; and

"(B) the amount of any interest which will be payable on the public debt as a result of the amount described in subparagraph (A).

"(f) ELIMINATION OR REPAYMENT OF UNANTICIPATED DEFICIT.—If, after an examination of the Budget transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921, and the report of the Director of the Congressional Budget Office under section 202(f) of this Act, the Committee on the Budget of the Senate or the House of Representatives estimates that outlays will exceed revenues in the fiscal year in progress, such committee shall—

"(1) report to the Senate or the House of Representatives, as the case may be, a concurrent resolution under section 304 revising the concurrent resolution on the budget for the fiscal year in progress, and containing deficit reduction instructions described in section 301(b) in an amount sufficient to insure that total outlays for such fiscal year do not exceed total revenues for such fiscal year; or

"(2) in any case in which such committee determines that compliance with paragraph (1) is impracticable, include in the concurrent resolution required to be reported under section 301(a) for the succeeding fiscal year deficit reduction instructions to the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions which require such committees to report legislation to increase revenues temporarily in order to raise an amount of revenues equal to the sum of—

"(A) the amount by which outlays are estimated to exceed revenues during the fiscal year in progress; and

"(B) the amount of any interest which will be payable on the public debt as a result of the amount described in subparagraph (B).".

(b) The table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 301 the following new item:

"Sec. 301A. Outlays shall not exceed revenues.".

(c)(1) Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 1115. Outlays shall not exceed revenues.

"(a) Notwithstanding any other provision of law, the budget transmitted pursuant to section 1105 of this title, the supplemental summary submitted pursuant to section 1106(a) of this title, or any statement of changes submitted pursuant to section 1106(b) of this title, shall not—

"(1) contain—

"(A) any request for budget authority for a fiscal year which will result in an estimate of total outlays which exceeds, or

"(B) any estimate of total outlays for a fiscal year which exceeds,

the estimate of total revenues for such fiscal year contained in such budget, summary, or statement; or

"(2) set forth an estimate of total revenues for a fiscal year which exceeds an amount which bears the same ratio to the estimated gross national product for such fiscal year as the average of the ratios of estimated total revenues for each of the five fiscal years preceding such fiscal year to the estimated gross national product for each such preceding fiscal year.

"(b) The provisions of subsection (a) shall not apply to any such budget, summary, or statement submitted for a fiscal year if a declaration of war is in effect or the Armed Forces of the United States are engaged in combat at the time such Budget, summary, or statement is submitted.

"(c) The President may submit such a budget, summary, or statement for a fiscal year which does not comply with subsection (a) if the President determines that a national economic emergency, such as a recession, makes compliance with the provisions of such subsection impracticable in such fiscal year. For purposes of the preceding sentence, a recession is a decline in the gross national product during any two consecutive fiscal quarters. The President shall include in any such budget, summary, or statement, a description of his determination under this subsection and a recommendation that the Congress waive the provisions of subsection (a) of section 301A of the Congressional Budget Act of 1974 with respect to any concurrent resolution on the budget for such fiscal year, in accordance with subsection (e) of such section.".

(2) The table of sections for chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"§ 1115. Outlays shall not exceed revenues.".

ALL ACTIVITIES ON-BUDGET

SEC. 6. (a)(1) Title III of the Congressional Budget Act of 1974 is amended by inserting after section 301A (as added by section 5(a) of this Act) the following new section:

"INCLUSION OF ALL FEDERAL ACTIVITIES IN CONCURRENT RESOLUTIONS ON THE BUDGET

"SEC. 301B. Notwithstanding any other provision of law, the appropriate level of total budget authority and total budget outlays, the recommended level of Federal revenues, the appropriate level of total gross obligations for the principal amount of direct loans, and the appropriate level of total commitments to guarantee loan principal, set forth in any concurrent resolution on the budget shall include the budget authority and outlays for, revenues and receipts from, gross obligations for the principal amount of direct loans by, and commitments to guarantee loan principal by, all activities of all departments, agencies, establishments, and instrumentalities of the Federal Government.".

(2) The table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 301A (as added by section 5(b) of this Act) the following new item:

"Sec. 301B. Inclusion of all Federal activities in concurrent resolutions on the budget.".

(b) Section 606 of the Congressional Budget Act of 1974 is repealed.

(c)(1) Section 607 of such Act is redesignated as section 606.

(2) The table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out the item relating to section 606 and redesignating the item relating to section 607 as the item relating to section 606.

(d) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, the President shall include in the budget submitted under subsection (a) proposed budget authority, direct loans, and commitments to guarantee loan principal, and estimates of outlays and receipts, for all activities of all departments, agencies, establishments, and instrumentalities of the Federal Government.".

ALLOCATIONS

SEC. 7. (a) Section 302(a) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "and the appropriate levels of total gross obligations for the principal amount of direct loans and total commitments to guarantee loan principal" before "among each committee"; and

(2) by inserting "or authorizing such obligations and commitments" before the period.

(b) Section 302(b) of such Act is amended—

(1) by striking out "and (B)" in paragraph (1) and inserting in lieu thereof "(B) further subdivide the amount with respect to each such subcommittee between amounts to be provided in regular appropriation Acts and amounts to be provided in supplemental appropriation Acts, and (C)";

(2) by striking out "and" after the semicolon in such paragraph;

(3) by redesignating paragraph (2) as paragraph (3); and

(4) by inserting after paragraph (1) the following new paragraph:

"(2) the Committee on Appropriations of each House shall also, after consulting with the Committee on Appropriations of the other House, subdivide among its subcommittees the allocation of gross obligations for the principal amount of direct loans and commitments to guarantee loan principal allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution; and".

(c) Section 302(c) of such Act is amended by striking out "or 310".

COMPLETION OF ACTION ON CONCURRENT RESOLUTION ON THE BUDGET

SEC. 8. (a)(1) The section heading for section 303 of the Congressional Budget Act of 1974 is amended by striking out "FIRST".

(2) The item relating to section 303 in the table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "First concurrent" and inserting in lieu thereof "Concurrent".

(b) Section 303(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "first";

(2) by inserting "referred to in section 301(a)" after "concurrent resolution on the budget"; and

(3) by striking out "pursuant to section 301".

(c) Subsection (b) of section 303 of such Act is repealed. Subsection (c) of such section is redesignated as subsection (b).

REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 9. Section 304 of such Act is amended—

(1) by striking out "first";

(2) by inserting "referred to in section 301(a)" after "concurrent resolution on the budget" the first place it appears;

(3) by striking out "pursuant to section 301"; and

(4) by adding at the end thereof the following new sentence: "Such revisions may include changes in the deficit reduction instructions included in such concurrent resolution on the budget pursuant to section 301(b) or the inclusion of such instructions in the concurrent resolution on the budget making such revisions.".

PROCEDURES FOR CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET; COMMITTEE ACTION ON APPROPRIATION BILLS

SEC. 10. (a) Section 305(a)(3) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "first"; and

(2) by inserting "referred to in section 301(a)" after "concurrent resolution on the budget".

(b) Section 305(b)(1) of such Act is amended by striking out ", except that, with respect to the second required concurrent resolution referred to in section 310(a), all such debate shall be limited to not more than 15 hours".

(c) Section 305(b)(3) of such Act is amended—

(1) by striking out "first"; and

(2) by inserting "referred to in section 301(a)" after "concurrent resolution on the budget".

(d) Section 307 of such Act is amended by inserting ", and the appropriate levels of total gross obligations for the principal amount of direct loans and total commitments to guarantee loan principal," after "and new budget authority".

REPORTS, SUMMARIES, AND PROJECTIONS

SEC. 11. (a) Section 308(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" after the semicolon in paragraph (1)(C);

(2) by striking out "first" in subparagraph (A) of paragraph (2);

(3) by inserting "referred to in section 301(a)" after "concurrent resolution on the budget" in such subparagraph;

(4) by striking out the period at the end of subparagraph (B) of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(5) by inserting after paragraph (2) the following new paragraph:

"(3) in the case of a bill or resolution specifying the level of gross obligations for the principal amount of direct loans or the level of commitments to guarantee loan principal, how such levels compare with the appropriate level of total gross obligations for the principal amount of direct loans or the appropriate level of total commitments to guarantee loan principal, as the case may be, set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302.".

(b) Section 308(b) of such Act is amended—

(1) by striking out "and" after the semicolon in paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) an up-to-date tabulation comparing the gross obligations for the principal amount of direct loans and the commitments to guarantee loan principal for such fiscal year in bills or resolutions on which the Congress has completed action to the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302.".

(c) Section 308(c) of such Act is repealed.

COMPLETION OF ACTION ON CERTAIN BILLS AND RESOLUTIONS

SEC. 12. (a)(1) The section heading for section 309 of the Congressional Budget Act of 1974 is amended by striking out "AND CERTAIN NEW SPENDING AUTHORITY" and inserting in lieu thereof ", SPECIFYING DIRECT LOANS OR LOAN GUARANTEE COMMITMENTS, OR PROVIDING CERTAIN NEW SPENDING AUTHORITY; CONGRESS MAY NOT ADJOURN UNTIL CERTAIN ACTIONS ARE COMPLETED".

(2) The item relating to section 309 in the table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "and certain new spending authority" and inserting in lieu thereof the following: ", specifying direct loans or loan guarantee commitments, or providing certain new spending authority; Congress may not adjourn until certain actions are completed".

(b) Section 309 of the Congressional Budget Act of 1974 is amended—

(1) by inserting "(a) COMPLETION OF ACTION ON CERTAIN BILLS AND RESOLUTIONS.—" before "Except";

(2) by inserting "or specifying the level of gross obligations for the principal amount of direct loans or the level of commitments to guarantee loan principal for such fiscal

year," after "October 1 of such year," in paragraph (1);

(3) by striking out "the reconciliation bill for such year, if required to be reported under section 310(c)" in such paragraph and inserting in lieu thereof "any deficit reduction bill for such year required pursuant to deficit reduction instructions, or revisions of deficit reduction instructions, included in a concurrent resolution revising a concurrent resolution on the budget under section 304"; and

(4) by adding at the end thereof the following new subsection:

"(b) LIMITS ON ADJOURNMENT.—It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House unless—

"(1) action has been completed on the concurrent resolution on the budget required to be reported under section 301(a) for the fiscal year beginning on October 1 of such year, and, if a deficit reduction bill or resolution, or both, is required to be reported under section 301(b) for such fiscal year, unless the Congress has completed action on that bill or resolution or both;

"(2) action has been completed on the bills and resolutions to which subsection (a) applies and on all continuing appropriation bills and resolutions; and

"(3) the Committees on the Budget of the House of Representatives and the Senate have each reported to their respective Houses a notice certifying that the total amount of new budget authority provided for in each of the bills and resolutions described in paragraph (2), and the total amount of budget outlays associated with such budget authority, comply with the allocations of total budget authority and budget outlays under section 302.".

ELIMINATION OF SECOND REQUIRED CONCURRENT RESOLUTION ON THE BUDGET

SEC. 13. (a) Section 310 of the Congressional Budget Act of 1974 is repealed. Section 311 of such Act is redesignated as section 310.

(b) The table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out the item relating to section 310 and redesignating the item relating to section 311 as the item relating to section 310.

CERTAIN LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

SEC. 14. (a)(1) The section heading for section 310 of the Congressional Budget Act of 1974 (as redesignated by section 13(a) of this Act) is amended by inserting a comma and "LOANS AND LOAN GUARANTEE COMMITMENTS," after "NEW SPENDING AUTHORITY".

(2) The item relating to section 310 in the table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 (as redesignated by section 13(b) of this Act) is amended by inserting "loans and loan guarantee commitments," after "new spending authority,".

(b) Section 310(a) of the Congressional Budget Act of 1974 (as redesignated by section 13(a) of this Act) is amended to read as follows:

"(a) LEGISLATION SUBJECT TO POINT OF ORDER.—After the Congress has completed action on the concurrent resolution on the budget referred to in section 301(a) for a fiscal year, and, if a deficit reduction bill or resolution, or both, for such fiscal year are required to be reported under section 301(b) for such fiscal year, after that bill has been enacted into law or that resolution has been agreed to, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year or any of the four succeeding fiscal years, providing new spending authority described in section 401(c)(2)(C) to become effective during such fiscal year or any of the four succeeding fiscal years, specifying the levels of total gross obligations for the principal amount of direct loans or total commitments to guarantee loan principal for such fiscal year or any of the four succeeding fiscal years, or reducing revenues for such fiscal year or any of the four succeeding fiscal years, or any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would—

"(A) cause the appropriate level of total new budget authority or total budget outlays set forth for any fiscal year in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded;

"(B) cause revenues for any such fiscal year to be less than the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year;

"(C) cause the appropriate level of total gross obligations for the principal amount of direct loans or the appropriate level of total commitments to guarantee loan principal set forth for any such fiscal year in such concurrent resolution to be exceeded;

"(D) cause the appropriate level of total new budget authority and budget outlays for any such fiscal year allocated under section 302 to the committee of the Senate or the House of Representatives, as the case may be, and to the subcommittees of the Committee on Appropriations of the Senate and the House of Representatives, as the case may be, having legislative jurisdiction over such bill, resolution, amendment, or conference report, to be exceeded;

"(E) in the case of a bill, resolution, amendment, or conference report providing regular or supplemental new budget authority for any such fiscal year, cause the total amount of new budget authority and budget outlays for such fiscal year allocated under section 302 to regular new budget authority or supplemental new budget authority and to the subcommittee of the Committee on Appropriations of the Senate or the House of Representatives, as the case may be, having legislative jurisdiction over such bill, resolution, amendment, or conference report, to be exceeded; or

"(F) cause the appropriate level of gross obligations for the principal amount of direct loans or the appropriate level of commitments to guarantee loan principal allocated under section 302 to the subcommittee of the Committee on Appropriations of the Senate or the House of Representatives, as the case may be, having legislative jurisdiction over such bill, resolution, amendment, or conference report to be exceeded.

For purposes of this subsection, the term "regular new budget authority" means new budget authority provided in a regular appropriation Act and the term "supplemental new budget authority" means new budget authority provided in a supplemental appropriation Act.".

REPORTING OF AUTHORIZING LEGISLATION

SEC. 15. Section 402(a) of the Congressional Budget Act of 1974 is amended by inserting "or which authorizes the guarantee of loan principal for a fiscal year," after "enactment of new budget authority for a fiscal year,".

LIMITATION ON LEGISLATION PROVIDING AUTHORITY TO MAKE DIRECT LOANS OR TO GUARANTEE LOAN PRINCIPAL

SEC. 16. (a) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new section:

"LEGISLATION PROVIDING AUTHORITY TO MAKE DIRECT LOANS OR TO GUARANTEE LOAN PRINCIPAL

"SEC. 405. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides, extends, or enlarges authority to incur obligations for the principal amount of direct loans or obligations for the guarantee of loan principal (or any amendment which provides, extends, or enlarges such authority) unless that bill, resolution, or amendment also provides that such authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(b) The table of contents in subsection (b) of the first section of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 404 the following new item:

"SEC. 405. Legislation providing authority to make direct loans or to guarantee loan principal.".

CURRENT SERVICES BUDGET

SEC. 17. (a) Section 605(a) of the Congressional Budget Act of 1974 is amended to read as follows:

"(a) On or before November 10 of each year (beginning with 1983), the President shall submit to the Senate and the House of Representatives a statement containing estimates of current law budget authority, current law outlays, current law spending authority, and current law revenues for the ensuing fiscal year. The estimates of current law budget authority, current law outlays, and current law spending authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency" used in the Budget submitted pursuant to section 201(a) of the Budget and Accounting Act, 1921), by major programs within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying such estimates, such as the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.".

(b) Section 605(b) of such Act is amended by striking out "estimated outlays and proposed budget authority" and inserting in lieu thereof "estimates".

RULEMAKING POWER

SEC. 18. (a) Section 904(a) of the Congressional Budget Act of 1974 is amended by striking out "and 1017" and inserting in lieu thereof "1017, 1105, 1106, and 1107".

(b) Section 904(b) of such Act is amended by striking out "or IV" and inserting in lieu

thereof "(except section 301A or 301B) or title IV".

REGULATORY BUDGET

SEC. 19. (a) The Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—REGULATORY BUDGET PROCEDURE

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds that—

"(1) Federal rules and regulations often impose excess costs of compliance upon the non-Federal sector;

"(2) Federal rules and regulations have grown in number and scope so rapidly that the agencies and the Congress have not had an adequate opportunity to examine the costs of compliance with such rules and regulations; and

"(3) it is the responsibility of the Congress to determine the appropriate levels of costs of compliance with Federal rules and regulations.

"(b) It is the purpose of this title to require the Congress to establish, for each fiscal year, a regulatory budget for each major functional category used in the concurrent resolution on the budget for such fiscal year which sets the maximum costs of compliance with all rules and regulations promulgated under activities within each such functional category.

"DEVELOPMENT OF REGULATORY COSTS ANALYSIS PROCEDURES

"SEC. 1102. (a) The President shall—

"(1) establish criteria for use in the determination of which rules or regulations are rules or regulations within the meaning of this title and furnish such criteria to the head of each agency; and

"(2) develop methods of determining the costs of compliance with rules or regulations and furnish such methods to the head of each agency.

"(b) In developing the methods required under subsection (a)(2), the President shall—

"(1) take such action as may be necessary to insure that such methods are based upon the most accurate available statistical and accounting knowledge and techniques; and

"(2) provide, to the maximum extent feasible, that such methods are uniform for all agencies while taking into account the different functions of each agency.

"(c)(1) At least ninety days before the submission of the criteria and methods required under subsection (a) to the head of each agency, the President shall—

"(A) publish such criteria and methods in the Federal Register in order to solicit public comments thereon for a period not in excess of forty-five days; and

"(B) submit such criteria and methods to the Comptroller General, the Chairman of the Administrative Conference of the United States, and the Director for their review and comments.

"(2) The Comptroller General, the Chairman of the Administrative Conference of the United States, and the Director shall submit comments and recommendations concerning the criteria and methods submitted pursuant to paragraph (1)(B) within forty-five days of the receipt of such criteria and methods.

"(d) Each year, at a time and in a manner consistent with the provisions of sections 1103 and 1104, the President shall review and update the criteria and methods established under this section in accordance with the procedures established by this section.

"(e) The President may delegate his responsibilities under this section to the Director of the Office of Management and Budget.

"(f) The head of each agency shall utilize the criteria and methods developed by the President under this section to carry out section 1103.

"REGULATORY COST COMPLIANCE REPORTS

"SEC. 1103. (a)(1) Each year, the head of each agency shall conduct a study of the costs of compliance with rules and regulations promulgated by that agency. The head of each agency shall utilize the criteria established by the President under section 1102 in conducting the study required under this subsection.

"(2) The head of each agency shall submit a report to the Director of the Office of Management and Budget and the Comptroller General by the November 10 preceding the beginning of each fiscal year. The report shall contain the results of the study required under paragraph (1), and shall include—

"(A)(i) a statement of the costs of compliance for the fiscal year ending on the September 30 prior to the day on which the report is submitted;

"(ii) a comparison of the costs of compliance for such fiscal year with the regulatory budget, if any, established for such fiscal year under section 1105; and

"(iii) a full explanation for any costs of compliance which exceeded the regulatory budget for such fiscal year; and

"(B) a statement of the estimated costs of compliance for the fiscal year in progress when the report is submitted and for the succeeding fiscal year—

"(i) with rules and regulations of such agency in effect on the date on which the report is submitted;

"(ii) with rules and regulations of such agency which are to be issued, or are expected to be issued, after the date on which the report is submitted; and

"(iii) with all rules and regulations of such agency as specified in clauses (i) and (ii).

"(3) The report required by this subsection shall contain an allocation of the costs of compliance specified in such report pursuant to paragraph (2) among the major functional categories used in the most recently agreed to concurrent resolution on the budget for the fiscal year in which the report is submitted.

"(b) The Director of the Office of Management and Budget shall compile the reports submitted by agencies under subsection (a) and shall submit such reports to the President.

"REGULATORY BUDGET RECOMMENDATIONS

"SEC. 1104. (a) Except as provided in subsection (b), the Budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, for each fiscal year shall include a regulatory budget for each agency which shall contain recommendations for the maximum costs of compliance with all rules and regulations of each agency during the fiscal year for which the Budget is submitted. If the proposed regulatory budget for any agency is less than the estimated total costs of compliance determined by the agency head under section 1103(a)(2)(B), the Budget message shall recommend specific actions which may be taken during such fiscal year to reduce the costs of compliance.

"(b) The regulatory budget required under subsection (a) for each of the first two fiscal years to which this title applies shall only contain recommendations for the maximum costs of compliance during each such fiscal year with all rules and regulations which each agency expects to issue during each such fiscal year. If the proposed regulatory budget for rules and regulations expected to be issued by any agency in any such fiscal year is less than the estimated costs of compliance determined by the agency head under section 1103(a)(2)(B)(ii), the Budget message shall recommend specific actions which may be taken during such fiscal year to reduce such costs of compliance.

"(c) Each regulatory budget for an agency required under subsection (a) for a fiscal year shall contain an allocation of the costs of compliance with the rules or regulations of the agency among—

"(1) the major functional categories used in the Budget transmitted for such fiscal year pursuant to section 201(a) of the Budget and Accounting Act, 1921; and

"(2) the committees of the Senate and the House of Representatives having legislative jurisdiction over the programs and activities of the agency.

"(d) The President shall submit with the regulatory budget required by this section for each agency for each fiscal year a copy of the report submitted by the agency under section 1103(a) by November 10 of the fiscal year preceding such fiscal year.

"REGULATORY BUDGET

"SEC. 1105. (a)(1) The concurrent resolution on the budget referred to in section 301(a) for a fiscal year shall include a separate section containing a regulatory budget which, except as provided in paragraph (2), establishes the maximum costs of compliance with all rules and regulations of all agencies which will be in effect during such fiscal year. In developing such regulatory budget, the Congress shall utilize the reports submitted by the head of each agency pursuant to section 1103 (a) and the recommendations submitted by the President pursuant to section 1104.

"(2) The regulatory budget included pursuant to paragraph (1) in the concurrent resolution on the budget referred to in section 301(a) for each of the first two fiscal years to which this title applies shall only set the maximum costs of compliance during each such fiscal year with all rules and regulations which each agency expects to issue during each such fiscal year.

"(3) Each regulatory budget required under paragraph (1) for a fiscal year shall contain an allocation of the costs of compliance with all rules or regulations of all agencies which will be in effect during a fiscal year among—

"(A) the major functional categories used in the concurrent resolution on the budget in which such regulatory budget is included; and

"(B) the committees of the Senate and the House of Representatives having legislative jurisdiction over the programs and activities of the agency.

"(b) On or before March 15 of each year, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate (and each other committee of the Senate which has legislative jurisdiction) shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses its views and esti-

mates with respect to the establishment of the maximum costs of compliance with rules and regulations which relate to matters within the respective jurisdiction or function of such committee or joint committee.

"(c) The report accompanying the concurrent resolution on the budget in which a regulatory budget is included shall contain an allocation of the costs of compliance for each major functional category specified in such regulatory budget among each agency which administers activities within each such category.

"REPORTS AND SUMMARIES OF CONGRESSIONAL ACTION

"SEC. 1106. (a) Whenever a committee of either House reports a bill or resolution to its House, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director, which contains an estimate, for the fiscal year in which such bill or resolution is to be effective and each of the four succeeding fiscal years, of the costs of compliance with the rules or regulations required to carry out the provisions of such bill or resolution.

"(b) The Director shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions which will create costs of compliance as a result of rules or regulations required to carry out the provisions of such bill or resolution. Such report shall include—

"(1) an up-to-date tabulation of the costs of compliance with rules or regulations required to carry out the provisions of each such bill or resolution on which Congress has completed action;

"(2) an up-to-date status report on all bills and resolutions which would create such costs of compliance; and

"(3) an up-to-date comparison of the maximum costs of compliance established pursuant to section 1105 with the costs of compliance—

"(A) with rules or regulations in effect on the date of such report; and

"(B) with rules or regulations required to carry out the provisions of bills or resolutions on which Congress has completed action.

"(c) The estimate of costs of compliance required by subsection (a), the tabulation of the costs of compliance required by paragraph (1) of subsection (b), and the comparison of the costs of compliance required under paragraph (3) of such subsection shall include an allocation of such costs of compliance among—

"(1) the agencies who will issue the rules or regulations from which such costs of compliance will result;

"(2) the major functional categories used in the concurrent resolution on the budget most recently agreed to under title III; and

"(3) in the case of a tabulation required under paragraph (1) of subsection (b) or a comparison required under paragraph (3) of such subsection, the committees of the Senate and the House of Representatives having legislative jurisdiction over the bill or resolution for which such tabulation or comparison, as the case may be, is made.

"NEW LEGISLATION MUST BE WITHIN REGULATORY BUDGET

"SEC. 1107. (a) After the Congress has completed action on the concurrent resolution on the budget referred to in section 301(a) for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment which would result in additional costs of compliance in such fiscal year, or any conference report on such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the total costs of compliance for such fiscal year to exceed the maximum costs of compliance established in the regulatory budget for such fiscal year included in such concurrent resolution on the budget.

"(b) For purposes of subsection (a), the costs of compliance during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(c)(1) The committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. The Committee on the Budget shall report the resolution to the Senate, within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

"(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees, and the time on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

"(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

"DEFINITIONS

"SEC. 1108. For purposes of this title—

"(1) the term 'agency' has the meaning given to it by section 551(1) of title 5, United States Code;

"(2) the term 'Comptroller General' means the Comptroller General of the United States;

"(3) the term 'costs of compliance' means, with respect to an agency, the costs imposed upon the non-Federal sector as a result of compliance with rules or regulations promulgated by that agency, including wages, salaries, benefits, capital costs, rents, interest, State and local taxes, and costs due to data collection and recordkeeping, preparation and submission of forms, data, and reports, purchase of necessary equipment, management time, training, and changes in the quality or mixture of raw materials or output, except that such term does not include normal business or recordkeeping costs which would exist in the absence of such rules or regulations;

"(4) the term 'Director' means the Director of the Congressional Budget Office;

"(5) the term 'non-Federal sector' means an individual, partnership, association, corporation, business trust or legal representative thereof, organized group of individuals, labor organization, State or territorial government or branch thereof, or political subdivision of a State or territory or a branch thereof; and

"(6) the term 'rule or regulation' has the meaning given to the term 'rule' by section 551(4) of title 5, United States Code.

"EFFECTIVE DATE

"SEC. 1109. The provisions of this title shall take effect on the date of its enactment, except that the provisions of sections 1103 through 1107 shall apply only with respect to the first fiscal year beginning at least eighteen months after the date of enactment of this title, and succeeding fiscal years.".

(b) The table of contents in section (1)(b) of such Act is amended by adding at the end thereof the following new items:

"TITLE XI—REGULATORY BUDGET PROCEDURE

"Sec. 1101. Statement of findings and purpose.
"Sec. 1102. Development of regulatory costs analysis procedures.
"Sec. 1103. Regulatory cost compliance reports.
"Sec. 1104. Regulatory budget recommendations.
"Sec. 1105. Regulatory budget.
"Sec. 1106. Reports and summaries of congressional action.
"Sec. 1107. New legislation must be within regulatory budget.
"Sec. 1108. Definitions.
"Sec. 1109. Effective date.".

SUBMISSION OF PRESIDENT'S BUDGET

SEC. 20. Section 1105(a) of title 31, United States Code, is amended—

(1) by striking out "referred to in section 301(a)(1)-(5)" in paragraph (15) and inserting in lieu thereof "referred to section 301(a)(1)-(7)";

(2) by striking out "(2 U.S.C. 632(a)(1)-(5))." in such paragraph and inserting in lieu thereof "(2 U.S.C. 632(a)(1)-(7))."; and

(3) by adding at the end thereof the following new paragraph:

"(25) all essential facts regarding direct lending by the Government, and guarantees by the Government of the repayment of indebtedness incurred by another person or government.".

APPLICABILITY

SEC. 21. The provisions of this Act, and the amendments and repeals made by this Act, shall apply with fiscal years beginning after September 30, 1983, except that the provisions of the Regulatory Budget Act of 1982, as added by section 19 of this Act, shall be effective in accordance with section 1109 of such Act.

BUDGET ACT OF 1974, AS AMENDED BY SENATOR CHILES "BALANCED BUDGET ENFORCEMENT ACT OF 1982 AND "REGULATORY BUDGET ACT OF 1982"

SHORT TITLES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLES.—This Act may be cited as the "Congressional Budget and Impoundment Control Act of 1974". Titles I through IX may be cited as the "Congressional Budget Act of 1974", and title X may be cited as the "Impoundment Control Act of 1974", and title XI may be cited as the "Regulatory Budget Act of 1982".

(b) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.
Sec. 2. Declaration of purposes.
Sec. 3. Definitions; *determination of estimates.*

TITLE I—ESTABLISHMENT OF HOUSE AND SENATE BUDGET COMMITTEES

Sec. 101. Budget Committee of the House of Representatives.
Sec. 102. Budget Committee of the Senate.

TITLE II—CONGRESSIONAL BUDGET OFFICE

Sec. 201. Establishment of Office.
Sec. 202. Duties and functions.
Sec. 203. Public access to budget data.

TITLE III—CONGRESSIONAL BUDGET PROCESS

Sec. 300. Timetable.
Sec. 301. Adoption of concurrent resolution.
Sec. 301A. Outlays shall not exceed revenues.
Sec. 301B. Inclusion of all Federal activities in concurrent resolutions on the budget.
Sec. 302. Matters to be included in joint statement of managers; reports by committees.
Sec. 303. *Concurrent* resolution on the budget must be adopted before legislation providing new budget authority, new spending authority, or changes in revenues or public debt limit is considered.
Sec. 304. Permissible revisions of concurrent resolutions on the budget.
Sec. 305. Provisions relating to the consideration of concurrent resolutions on the budget.
Sec. 306. Legislation dealing with congressional budget must be handled by budget committees.
Sec. 307. House committee action on all appropriation bills to be completed before first appropriation bill is reported.
Sec. 308. Reports, summaries, and projections of congressional budget actions.
Sec. 309. Completion of action on bills providing new budget authority, *specifying direct loans or loan guarantee commitments, or providing certain new spending authority; Congress may not adjourn until certain actions are completed.*
Sec. 310. New budget authority, new spending authority loans and loan guarantee commitments, and revenue legislation must be within appropriate levels.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

Sec. 401. Bills providing new spending authority.
Sec. 402. Reporting of authorizing legislation.
Sec. 403. Analyses by Congressional Budget Office.
Sec. 404. Jurisdiction of Appropriations Committees.
Sec. 405. Legislation providing authority to make direct loans or to guarantee loan principal.

TITLE V—CHANGE OF FISCAL YEAR

Sec. 501. Fiscal year to begin October 1.
Sec. 502. Transition to new fiscal year.
Sec. 503. Accounting procedures.
Sec. 504. Conversion of authorizations of appropriations.
Sec. 505. Repeals.
Sec. 506. Technical amendment.

TITLE VI—AMENDMENTS TO BUDGET AND ACCOUNTING ACT, 1921

Sec. 601.Matters to be including in President's budget.
Sec. 602. Midyear review.
Sec. 603. Five-year budget projections.
Sec. 604. Allowances for supplemental budget authority and uncontrollable outlays.
Sec. 605. Budget data based on continuation of existing level of services.
Sec. 606. Year-ahead requests for authorization of new budget authority.

TITLE VII—PROGRAM REVIEW AND EVALUATION

Sec. 701. Review and evaluation by standing committees.
Sec. 702. Review and evaluation by the Comptroller General.
Sec. 703. Continuing study of additional budget reform proposals.

TITLE VIII—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

Sec. 801. Amendment to Legislative Reorganization Act of 1970.
Sec. 802. Changes in functional categories.

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Sec. 901. Amendments to rules of the House.
Sec. 902. Conforming amendments to standing rules of the Senate.
Sec. 903. Amendments to legislative Reorganization Act of 1946.
Sec. 904. Exercise of rulemaking powers.
Sec. 905. Effective dates.
Sec. 906. Application of congressional budget process to fiscal year 1976.

TITLE X—IMPOUNDMENT CONTROL

PART A—GENERAL PROVISIONS

Sec. 1001. Disclaimer.
Sec. 1002. Amendment to Antideficiency Act.
Sec. 1003. Repeal of existing impoundment reporting provision.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

Sec. 1011. Definitions.
Sec. 1012. Rescission of budget authority.
Sec. 1013. Disapproval of proposed deferrals of budget authority.
Sec. 1014. Transmission of messages; publication.
Sec. 1015. Reports by Comptroller General.
Sec. 1016. Suits by Comptroller General.
Sec. 1017. Procedure in House and Senate.

TITLE XI—REGULATORY BUDGET PROCEDURE

Sec. 1101. Statement of findings and purpose.
Sec. 1102. Development of regulatory costs analysis procedures.
Sec. 1103. Regulatory cost compliance reports.
Sec. 1104. Regulatory budget recommendations.
Sec. 1105. Regulatory budget.
Sec. 1106. Reports and summaries of congressional action.
Sec. 1107. New legislation must be within regulatory budget.
Sec. 1108. Definitions.
Sec. 1109. Effective date.

DECLARATION OF PURPOSES

SEC. 2. The Congress declares that it is essential—

(1) to assure effective congressional control over the budgetary process;

(2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;

(3) to provide a system of impoundment control;

(4) to establish national budget priorities;

(5) to achieve a balanced Federal budget under most economic circumstances;

(6) to provide for the congressional determination each year of the appropriate level of gross obligations for the principal amount of direct loans and the appropriate level of commitments to guarantee loan principal; and

(7) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

DEFINITIONS; DETERMINATION OF ESTIMATES

SEC. 3. (a) DEFINITIONS.—For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

(B) a concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.

(5) The term "appropriation Act" means an Act referred to in section 105 of title I, United States Code.

(6) The term "direct loan" means a disbursement of funds by the United States or any officer or agency thereof (not in exchange for goods or services) under a contract which requires the repayment of such funds with or without interest, and in addition includes—

(A) direct participation in a loan made and held by another person or government;

(B) the purchase (through secondary market operations) of a loan made by another person or government; and

(C) the acquisition of a federally guaranteed loan made by another person or government, as collateral or in satisfaction of default or other guarantee claims.

(7) The term "current law budget authority" means the total amount of budget authority which would be necessary to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities.

(8) The term "current law outlays" means the total amount of outlays which would be made to carry out programs and activities during a fiscal year at the same level as such programs and activities were carried out in the preceding fiscal year without any policy changes in such programs and activities.

(9) The term "current law spending authority" means the total amount of spending authority described in section 401 (c) (2) (C) which would be effective in a fiscal year to carry out programs and activities during that fiscal year at the same level as such programs and activities were carried out during the preceding fiscal year without any policy changes in such programs and activities.

(10) The term "current law revenues" means the total amount of revenues that would be received in a fiscal year if the provisions of the revenue laws which were in effect for the fiscal year preceding such fiscal year remained in effect for such fiscal year without change.

(b) DETERMINATION OF ESTIMATES.—In determining current law budget authority, current law outlays, and current law spending authority for a fiscal year, the Director of the Congressional Budget Office or the Committees on the Budget of the Senate and the House of Representatives, as the case may be, shall—

(1) only include adjustments for additional costs, workloads, or utilizations if such adjustments are provided for by statute and if the budget authority and spending authority described in section 401(c)(2)(C) for such costs, workloads, or utilizations are provided by statute at the time the Director makes such determinations; and

(2) assume, for any program or activity for which a law has been enacted authorizing the enactment of new budget authority for the fiscal year prior to the fiscal year for which the Director is making such determinations, but for which a law has not been enacted (at the time of making such determinations) authorizing the enactment of new budget authority for such fiscal year, that a law will be enacted authorizing the enactment of new budget authority for such program or activity for such fiscal year in an amount equal to the amount authorized for the fiscal year prior to such fiscal year unless the law authorizing the enactment of new budget authority for the program or activity for such prior fiscal year indicates that the reauthorization of such program or activity was not intended by the Congress.

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DUTIES AND FUNCTIONS

SEC. 202. (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing budget authority or tax expenditures, (2) information with respects, to revenues receipts, estimated future revenues and receipts, and changing revenue conditions, (3) information with respect to direct loans and guarantees of loan principal, (4) estimates of the gross national product for a fiscal year, (5) estimates of the ratio that current law outlays for a fiscal year bear to the gross national product for such fiscal year (stated as a percentage), (6) estimates of the ratio that current law revenues for a fiscal year bear to the gross national product for such fiscal year (stated as a percentage), and (7) such related information as such committees may request.

* * * * *

(f) REPORTS TO BUDGET COMMITTEES.—

(1) On or before March 1 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year in progress, the fiscal year commencing on October 1 of that year, and the succeeding four fiscal years, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), (B) the levels of direct loans and guarantees of loan principal, (C) a specification of the gross national product for the fiscal year preceding the fiscal year in progress, (D) estimates of the gross national product for the fiscal year in progress and each of the succeeding five fiscal years, (E) estimates of the ratio, for the fiscal year in progress and each of the five succeeding fiscal years, that current law outlays for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage), (F) estimates of the ratio, for the fiscal year in progress and each of the five succeeding fiscal years, that current law revenues for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage), and (G) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States. In preparing such report, the Director shall use the economic assumptions most recently published by the Director.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such committees with information, data, and analyses for the performance of their duties and functions.

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TITLE III—CONGRESSIONAL BUDGET PROCESS TIMETABLE

SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 1	Congressional Budget Office submits report to Budget Committees.
March 15	Committees and joint committees submit reports to Budget Committees.
April 15	Budget Committees report first concurrent resolution on the budget to their Houses.
May 15	Committees report bills and resolutions authorizing new budget authority.
May 15	Congress completes action on concurrent resolution on the budget.
July 15	Congress completes action on deficit reduction bill or deficit reduction resolution, or both, implementing concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority.
October 1	Fiscal year begins.

ADOPTION OF CONCURRENT RESOLUTION

SEC. 301. (a) ACTION TO BE COMPLETED BY MAY 15.—On or before May 15 of each year, the Congress shall complete action on the concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth—

(1) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the appropriate level of total budget outlays and of total new budget authority;

(2) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, an estimate of budget outlays and an appropriate level of new budget authority for each major functional category, for contingencies, and for undistributed intragovernmental transactions, based on allocations of the appropriate level of total budget outlays and of total new budget authority;

(3) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the amount, if any, of the surplus in the budget which is appropriate in light of economic conditions and all other relevant factors, or, in any case in which the provisions of subsection (a) of section 301A do not apply in accordance with subsection (d) of such section or are waived under subsection (e) of such section, the amount, if any, of the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors;

(4) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the recommended level of Federal revenues and the amount, if any, by which the aggregate level of Federal reve-

nues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(5) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the appropriate level of the public debt, and the amount, if any, by which the statutory limit on the public debt should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(6) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal;

(7) for the fiscal year beginning on October 1 of the year in which the resolution is adopted and each of the four succeeding fiscal years, an estimate of gross obligations for the principal amount of direct loans and an estimate of commitments to guarantee loan principal for each major functional category, based on allocations of the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal;

(8) if required by subsection (e), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved; and

(9) such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

(b) DEFICIT REDUCTION INSTRUCTIONS; ADDITIONAL MATTERS.—(1) The concurrent resolution on the budget referred to in subsection (a) shall also, to the extent necessary to insure that total budget outlays for any fiscal year do not exceed total revenues for such fiscal year and to carry out section 301A—

(A) specify the total amount by which new current law budget authority for the fiscal year beginning on October 1 of the year in which the concurrent resolution is adopted, and current law outlays associated with such new current law budget authority, and current law spending authority for such fiscal year, are to be changed;

(B) specify the total amount by which new budget authority for such fiscal year, and outlays associated with such budget authority, and new spending authority described in section 401(c)(2)(C) which will be effective in such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, are to be reduced below the level of current law budget authority, current law outlays, or current law spending authority for such fiscal year, respectively, and direct that committee to determine and recommend changes to accomplish a change of such total amount and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date;

(C) specify the amount by which budget authority initially provided for fiscal years preceding such fiscal year, and budget outlays associated with such budget authority, contained in laws, bills, and resolutions within the jurisdiction of a committee are to be changed and direct that committee to determine and recommend changes to accomplish a change of that total amount and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date;

(D) specify the total amount by which revenues for such fiscal year are to be changed and direct the committees having jurisdiction to determine and recomend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date;

(E) specify the amount by which the statutory limit on the public debt is to be changed and direct the committees having jurisdiction to recommend such change and to report such recommendations in accordance with paragraph (2)(A) by a specified date;

(F) specify the total amount by which gross obligations for the principal amount of direct loans or commitments to guarantee loan principal are to be changed and direct the committees having jurisdiction to determine and recommend changes in the laws, bills, and resolutions providing or specifying the authority to make such obligations or commitments and to report such determinations and recommendations in accordance with paragraph (2)(A) by a specified date; or

(G) specify and direct any combination of the matters described in subparagraphs (A), (B), (C), (D), (E), and (F).

(2)(A) If a concurrent resolution is agreed to in accordance with paragraph (1) containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

(i) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and shall, by the date specified pursuant to paragraph (1)(A), report to its House a deficit reduction bill or a deficit reduction resolution, or both, containing such recommendations; or

(ii) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a deficit reduction bill or deficit reduction resolution, and shall, by the date specified pursuant to paragraph (1)(A), report such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations, shall report to its House a deficit reduction bill or deficit reduction resolution, or both, carrying out all such recommendations without any substantive revision.

(B) Notwithstanding subparagraph (A), if a concurrent resolution is agreed to in accordance with paragraph (1) containing directions to one or more committees to determine and recommend changes in laws, bills, and resolutions in order to reduce new budget authority, outlays, or new spending authority described in section 401(c)(2)(C), or to change revenues, and any such committee—

(i) does not report such changes by the date specified in such concurrent resolution pursuant to paragraph (1)(A); or

(ii) by such specified date, reports changes in laws, bills, and resolutions which will result in—

(I) a reduction in new budget authority, outlays, or new spending authority described in section 401(c)(2)(C) in an amount which is less than the amount specified in the directions contained in such concurrent resolution; or

(II) a change in revenues in an amount which is less than the amount specified in such directions.

the Committee on the Budget of the House or the Senate, as the case may be, shall report a deficit reduction bill or deficit reduction resolution, or both, containing changes in laws, bills, and resolutions, which will result in a reduction in new budget authority, outlays, or new spending authority described in section 401(c)(2)(C) in an amount sufficient to comply with such directions or a change in revenues sufficient to comply with such directions.

(C) For purposes of this paragraph, a deficit reduction resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

(D) A deficit reduction bill or a deficit reduction resolution may not contain provisions—

(i) which decrease the total amount of Federal revenues for a fiscal year below the level of current law revenues for such fiscal year, except in order to carry out section 301A(b);

(ii) which accomplish decreases in outlays in one fiscal year by postponing such outlays to one or more succeeding fiscal years; or

(iii) which are predominantly nonbudgetary in nature or which modify programs or activities in a manner which is not necessary to reduce the total amount of new budget authority for a fiscal year and spending authority which will be effective during a fiscal year.

(3) Congress shall complete action on any deficit reduction bill or deficit reduction resolution reported under this subsection not later than July 15 of each year.

(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of subsections (b) and (c) of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of deficit reduction bills and deficit resolutions reported under this subsection and conference reports thereon.

(B) Debate in the Senate on any deficit reduction bill or deficit reduction resolution reported under this subsection, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours or a number of hours which is equal to the product of the number of committees of the Senate which have reported provisions included in such bill or resolution multiplied by four, whichever is greater.

(C) It shall be in order in the Senate to consider any amendment to a deficit reduction bill or a deficit reduction resolution which provides for reduction in budget authority or spending authority described in section 401(c)(2)(C) or increases in revenues if such amendment does not contain matters which are nonbudgetary in nature, does not modify programs in a manner which is not necessary to reduce budget authority or spending authority described in section 401(c)(2)(C), or does not change the provisions of the revenue laws in a manner other than a manner which is necessary to increase or decrease revenues in accordance with deficit reduction instructions included in a concurrent resolution on the budget pursuant to paragraph (1)(D).

(5) The concurrent resolution on the budget referred to in subsection (a) may also require—

(A) a procedure under which all or certain bills and resolutions providing new budget authority or providing new spending authority described in section 401(c)(2)(C) for such fiscal year shall not be enrolled until such concurrent resolution has been agreed to, and, if a deficit reduction bill or deficit reduction resolution, or both, are required to be reported under this subsection, until Congress has completed action on that bill or resolution, or both; and

(B) any other procedure which is appropriate to carry out the purposes of this Act.

(6) The concurrent resolution on the budget referred to in subsection (a) shall include the section containing provisions to establish a regulatory budget required by section 1105(a).

(C) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—On or before March 15 of each year, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses—

(1) its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdiction or functions of such committee or joint committee; and

(2) except in the case of such joint committees, the estimate of the total amounts of new budget authority and budget outlays resulting therefrom, and of the total amounts of gross obligations for the principal amount of direct loans and commitments to guarantee loan principal, to be provided or authorized in all bills and resolutions within the jurisdiction of such committee which such committee intends to be effective during the fiscal year beginning on October 1 of such year.

The Joint Economic Committee shall also submit to the Committees on the Budget of both Houses, its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall each also submit to the Committee on the Budget of its House its recommendations as to the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal. Any other committee of the House or Senate may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or functions.

(d) HEARINGS AND REPORT.—In developing the concurrent resolution on the budget referred to in subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the Members of the Joint Economic Committee under subsection (c) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, and on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending. On or before April 15 of each year, the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year. The report accompanying such concurrent resolution shall also include, but not be limited to—

(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, as set forth in such concurrent resolution, with total budget outlays estimated and total new budget authority requested in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of funding of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and alternative economic assumptions and objectives which the committee considered;

(6) for the period of five fiscal years beginning with such fiscal year, a specification for each major functional category, of—

(A) the levels of total budget outlays, total new budget outlays, total new budget authority, and total revenues for each fiscal year in such period;

(B) the level of the surplus or deficit, if any, for each such fiscal year;

(C) an estimate of the ratio that total outlays for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage);

(D) an estimate of the ratio that total revenues for each such fiscal year will bear to the gross national product for each such fiscal year (stated as a percentage); and

(E) the estimated levels of tax expenditures (the tax expenditures budget) for each such fiscal year;

(7) a statement describing whether the concurrent resolution complies with the provisions of subsection (a) of section 301A, or whether the Committee on the Budget recommends that such provisions be waived in accordance with subsection (e) of such section;

(8) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments; and

(9) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution, and the relationship of such matters to other budget categories.

(e) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946, as amended, the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946, as amended, can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or its most recent action pursuant to this paragraph, the concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

OUTLAYS SHALL NOT EXCEED REVENUES

SEC. 301A. (a) LIMITATION ON OUTLAYS.—

(1) The appropriate level of total budget outlays set forth in any concurrent resolution on the budget for any fiscal year beginning after September 30, 1983, shall not exceed the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year.

(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for any fiscal year beginning after September 30, 1983, or any amendment thereto or any conference report thereon if—

(A) the adoption of such resolution as reported;

(B) the adoption of such amendment; or

(C) the adoption of the resolution in the form recommended in such conference report;

would cause—

(i) the appropriate level of total budget outlays set forth in such concurrent resolution for such fiscal year to exceed the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year; or

(ii) the total amount by which new budget authority provided for such fiscal year, and outlays associated with such budget authority, and new spending authority described in section 401(c)(2)(C) which will be effective in such fiscal year are to be changed (as specified in such concurrent resolution pursuant to subparagraph (B) of section 301

(b)(1)) to be insufficient to insure that total budget outlays for such fiscal year do not exceed total revenues for such fiscal year.

(b) LIMITATION ON REVENUES.—

(1) The recommended level of Federal revenues set forth in a concurrent resolution on the budget for a fiscal year beginning after September 30, 1983, shall not exceed an amount which bears the same ratio to the gross national product for such fiscal year as the average of the ratios of estimated total revenues for each of the five fiscal years preceding such fiscal year to the estimated gross national product for each such fiscal year.

(2) It shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for any fiscal year beginning after September 30, 1983, or any amendment thereto or any conference report thereon if—

(A) the adoption of such resolution as reported;

(B) the adoption of such amendment; or

(C) the adoption of the resolution in the form recommended in such conference report;

would cause the recommended level of Federal revenues specified in such concurrent resolution for such fiscal year to exceed the amount prescribed by paragraph (1).

(3)(A) The Committee on the Budget of the Senate or the House of Representatives may report a separate concurrent resolution providing that the recommended level of Federal revenues set forth in a concurrent resolution on the budget for a fiscal year may exceed the amount prescribed by paragraph (1) for such fiscal year if such separate concurrent resolution specifies the amount by which the recommended level of Federal revenues set forth in such concurrent resolution on the budget will exceed such prescribed amount and the purpose for which such excess amount of revenues will be expended.

(B) If, after the Committee on the Budget of the Senate or the House of Representatives reports a concurrent resolution under subparagraph (A), such concurrent resolution is agreed to by a rollcall vote of the Senate and the House of Representatives, paragraphs (1) and (2) shall not apply to the concurrent resolution on the budget with which the the concurrent resolution permitting such excess amount of revenues is concerned.

(c) DETERMINATION OF OUTLAYS, REVENUES, AND GROSS NATIONAL PRODUCT.—

(1) For purposes of subsections (a) and (b), the budget outlays to be made during a fiscal year, the revenues to be received during a fiscal year, and the gross national product for a fiscal year shall be determined on the basis of estimates made by the Director of the Congressional Budget Office.

(2) For purposes of subsection (b), the recommended level of Federal revenues set forth in a concurrent resolution on the budget shall not include any revenues which would be included in such concurrent resolution by operation of subsection (f) (2).

(d) INAPPLICABILITY IN TIME OF WAR.—The provisions of subsections (a) and (b) shall not apply to any concurrent resolution on the budget for a fiscal year in which a declaration of war is in effect or in which the Armed Forces of the United States are engaged in combat.

(e) WAIVER FOR RECESSION.—

(1) By a rollcall vote of the Members of each House of Congress present and voting, Congress may include in a concurrent resolution on the budget for a fiscal year a provision waiving the provisions of subsections (a) and (b) with respect to such fiscal year if the Congress determines, and includes a statement of such determination in such provision, that a national economic emergency, such as a recession, makes compliance with the provisions of such subsections impracticable in such fiscal year. For purposes of the preceding sentence, a recession is a decline in the gross national product during any two consecutive fiscal quarters.

(2) If Congress waives the provisions of subsection (a) with respect to a fiscal year, and outlays are estimated to exceed revenues in such fiscal year, the concurrent resolutions on the budget for the succeeding two fiscal years shall set forth, in the aggregate, a recommended level of Federal revenues which exceeds the appropriate level of total budget outlays set forth in such concurrent resolutions for such fiscal years by an amount at least equal to the sum of—

(A) the amount by which outlays exceeded revenues in such proceding fiscal year; and

(B) the amount of any interest which will be payable on the public debt as a result of the amount described in subparagraph (A).

(f) ELIMINATION OR REPAYMENT OF UNANTICIPATED DEFICIT.—If, after an examination of the Budget transmitted by the President under section 201(a) of the Budget and Accounting Act, 1921, and the report of the Director of the Congressional Budget Office under section 202(f) of this Act, the Committee on the Budget of the Senate or the House of Representatives estimates that outlays will exceed revenues in the fiscal year in progress, such committee shall—

(1) report to the Senate or the House of Representatives, as the case may be, a concurrent resolution under section 304 revising the concurrent resolution on the budget for the fiscal year in progress, and containing deficit reduction instructions described in section 301(b) in an amount sufficient to insure that total outlays for such fiscal year do not exceed total revenues for such fiscal year; or

(2) in any case in which such committee determines that compliance with paragraph (1) is impracticable, include in the concurrent resolution required to be reported under section 301(a) for the succeeding fiscal year deficit reduction instructions to the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions which require such committees to report legislation to increase revenues temporarily in order to raise an amount of revenues equal to the sum of—

(A) the amount by which outlays are estimated to exceed revenues during the fiscal year in progress; and

(B) the amount of any interest which will be payable on the public debt as a result of the amount described in subparagraph (B).

INCLUSION OF ALL FEDERAL ACTIVITIES IN CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 301B. Notwithstanding any other provision of law, the appropriate level of total budget authority and total budget outlays, the recommended level of Federal revenues, the appropriate level of total gross obligations for the principal amount of direct loans, and the appropriate level of total commitments to guarantee loan principal, set forth in any concurrent resolution on the budget shall include the budget authority and outlays for, revenues and receipts from, gross obligations for the principal amount of direct loans by, and commitments to guarantee loan principal by, all activities of all departments, agencies, establishments, and instrumentalities of the Federal Government.

MATTERS TO BE INCLUDED IN JOINT STATEMENT OF MANAGERS; REPORTS BY COMMITTEES

SEC. 302. (a) ALLOCATION OF TOTALS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an estimated allocation, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays and total new budget authority and the appropriate levels of total gross obligations for the principal amount of direct loans and total commitments to quarantee loan principal among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority or authorizing such obligations and commitments.

(b) REPORTS BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, (B) further subdivide the amount with respect to each such subcommittee between amounts to be provided in regular appropriation Acts and amounts to be provided in supplemental appropriation Acts, and (C) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts;

(2) the Committee on Appropriations of each House shall also, after consulting with the Committee on Appropriations of the other House, subdivide among its subcommittees the allocation of gross obligation for the principal amount of direct loans and commitments to guarantee loan principal allocated to it in the joint explanatory statement accompanying the conference report on such concurrent resolution; and

(3) every other committee of the House and Senate to which an allocation was made in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivision made by it pursuant to this subsection.

(c) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304, the allocation under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR CHANGES IN REVENUES OR PUBLIC DEBT LIMIT IS CONSIDERED

SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representa-

tives or the Senate to consider any bill or resolution (or amendment thereto) which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

(3) an increase or decrease in the public debt limit to become effective during a fiscal year; or

(4) new spending authority described in section 401(c)(2)(C) to become effective during a fiscal year;

until the concurrent resolution on the budget referred to in section 301(a) for such year has been agreed to.

(b) WAIVER IN THE SENATE.—

(1) The committee of the Senate which reports any bill or resolution to which subsection (a) applies may at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to the bill or resolution to which the resolution so agreed to applies.

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS OF THE BUDGET

SEC. 304. At any time after the first concurrent resolution on the budget referred to in section 301(a) for a fiscal year has been agreed to, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises the concurrent resolution on the budget for such fiscal year most recently agreed to. Such revisions may include changes in the deficit reduction instructions included in such concurrent resolution on the budget pursuant to section 301(b) or the inclusion of such instructions in the concurrent resolution on the budget making such revisions.

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 305. (a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

(1) When the Committee on the Budget of the House has reported any concurrent resolution on the budget, it is in order at any time after the tenth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report upon such resolution has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Following the presentation of opening statements on the concurrent resolution on the budget referred to in section 301(a) for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(6) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be read for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(7) Debate in the House of Representatives on the conference report or any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(8) Motions to postpone, made with respect to the consideration of any concurrent resolution on the budget, and motions to proceed to the consideration of other business, shall be decided without debate.

(9) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the concurrent resolution on the budget referred to in section 301(a) for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946), which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(6) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specificed number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(7) Notwithstanding any other rule, and amendment, or series of amendments, to a

concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) REQUIRED ACTION BY CONFERENCE COMMITTEE.—If, at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution and inserts a substitute text.

(e) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BEFORE FIRST APPROPRIATION BILL IS REPORTED

SEC. 307. Prior to reporting the first regular appropriation bill for each fiscal year, the Committee on Appropriations of the House of Representatives shall, to the extent practicable, complete subcommittee markup and full committee action on all regular appropriation bills for that year and submit to the House a summary report comparing the committee's recommendations with the appropriate levels of budget outlays and new budget authority, and the appropriate levels of total gross obligations for the principal amount of direct loans and total commitments to guarantee loan principal, as set forth in the most recently agreed to concurrent resolution on the budget for that year.

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR TAX EXPENDITURES.—Whenever a committee of either House reports a bill or resolution to its House providing new budget authority (other than continuing appropriations) or new or increased tax expenditures for a fiscal year, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director of the Congressional Budget Office, detailing—

(1) in the case of a bill or resolution providing new budget authority—

(A) how the new budget authority provided in that bill or resolution compares with the new budget authority set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302;

(B) a projection for the period of 5 fiscal years beginning with such fiscal year of budget outlays, associated with the budget authority provided in that bill or resolution, in each fiscal year in such period; and

(C) the new budget authority, and budget outlays resulting therefrom, provided by that bill or resolution for financial assistance to State and local governments;

(2) in the case of a bill or resolution providing new or increased tax expenditures—

(A) how the new or increased tax expenditures provided in that bill or resolution will affect the levels of tax expenditures under existing law as set forth in the report accompanying the concurrent resolution on the budget referred to in section 301(a) for such fiscal year, or, if a report accompanying a subsequently agreed to concurrent resolution for such year sets forth such levels, then as set forth in that report; and

(B) a projection for the period of 5 fiscal years beginning with such fiscal year of the tax expenditures which will result from that bill or resolution in each fiscal year in such period; and

(3) in the case of a bill or resolution specifying the level of gross obligations for the principal amount of direct loans or the level of commitments to guarantee loan principal, how such levels compare with the appropriate level of total gross obligations for the principal amount of direct loans or the appropriate level of total commitments to guarantee loan principal, as the case may be, set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302.

No projection shall be required for a fiscal year under paragraph (1)(B) or (2)(B) if the committee determines that a projection for that fiscal year is impracticable and states in its report the reason for such impracticability.

(b) UP-TO-DATE TABULATION OF CONGRESSIONAL BUDGET ACTIONS.—The Director of the Congressional Budget Office shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority and changing revenues and the public debt limit for a fiscal year. Such reports shall include, but are not limited to—

(1) an up-to-date tabulation comparing the new budget authority for such fiscal year in bills and resolutions on which Congress has completed action and estimated outlays, associated with such new budget authority, during such fiscal year to the new budget authority and estimated outlays set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302;

(2) an up-to-date status report on all bills and resolutions providing new budget authority and changing revenues and the public debt limit for such fiscal year in both Houses;

(3) an up-to-date comparison of the appropriate level of revenues contained in the most recently agreed to concurrent resolution on the budget for such fiscal year with the latest estimate of revenues for such year (including new revenues anticipated during such year under bills and resolutions on which the Congress has completed action);

(4) an up-to-date comparsion of the appropriate level of the public debt contained in the most recently agreed to concurrent resolution on the budget for such fiscal year with the latest estimate of the public debt during such fiscal year; and

(5) an up-to-date tabulation comparing the gross obligations for the principal amount of direct loans and the commitments to guarantee loan principal for such fiscal year in bills or resolutions on which the Congress has completed action to the appropriate level of total gross obligations for the principal amount of direct loans and the appropriate level of total commitments to guarantee loan principal set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year and the reports submitted under section 302.

COMPLETION OF ACTION ON BILLS PROVIDING NEW BUDGET AUTHORITY SPECIFYING DIRECT LOANS OR LOAN GUARANTEE COMMITMENTS, OR PROVIDING CERTAIN NEW SPENDING AUTHORITY; CONGRESS MAY NOT ADJOURN UNTIL CERTAIN ACTIONS ARE COMPLETED

SEC. 309. (a) COMPLETION OF ACTION ON CERTAIN BILLS AND RESOLUTIONS.—Except as otherwise provided pursuant to this title, not later than the seventh day after Labor Day of each year, the Congress shall complete action on all bills and resolutions—

(1) providing new budget authority for the fiscal year beginning on October 1 of such year, or specifying the level of gross obligations for the principal amount of direct loans or the level of commitments to guarantee loan principal for such fiscal year, other than supplemental, deficiency, and continuing appropriation bills and resolutions, and other than any deficit reduction bill for such year required pursuant to deficit reduction instructions, or revisions of deficit reduction instructions, included in a concurrent resolution revising a concurrent resolution on the budget under section 304; and

(2) providing new spending authority described in section 401(c)(2)(C) which is to become effective during such fiscal year.

Paragraph (1) shall not apply to any bill or resolution if legislation authorizing the enactment of new budget authority to be provided in such bill or resolution has not been timely enacted.

(b) LIMITS ON ADJOURNMENT.—It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House unless—

(1) action has been completed on the concurrent resolution on the budget required to be reported under section 301(a) for the fiscal year beginning on October 1 of such year, and, if a deficit reduction bill or resolution, or both, is required to be reported under section 301(b) for such fiscal year, unless the Congress has completed action on that bill or resolution or both;

(2) action has been completed on the bills and resolutions to which subsection (a) applies and on all continuing appropriation bills and resolutions; and

(3) the Committees on the Budget of the House of Representatives and the Senate have each reported to their respective Houses a notice certifying that the total amount of new budget authority provided for in each of the bills and resolutions described in paragraph (2), and the total amount of budget outlays associated with such budget authority, comply with the allocations of total budget authority and budget outlays under section 302.

NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, LOANS AND LOAN GUARANTEE COMMITMENTS, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

SEC. 310. (a) LEGISLATION SUBJECT TO POINT OF ORDER—After the Congress has completed action on the concurrent resolution on the budget referred to in section 301(a) for a fiscal year, and, if a deficit reduction bill or resolution, or both, for such fiscal year are required to be reported under section 301(b) for such fiscal year, after that bill has been enacted into law or that resolution has been agreed to, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year or any of the four succeeding fiscal years, providing new spending authority described in section 401(c)(2)(C) to become effective during such fiscal year or any of the four succeeding fiscal years, specifying the levels of total gross obligations for the principal amount of direct loans or total commitments to guarantee loan principal for such fiscal year or any of the four succeeding fiscal years, or reducing revenues for such fiscal year or any of the four succeeding fiscal years, or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such bill or resolution in the form recommended in such conference report; would—

(A) cause the appropriate level of total new budget authority or total budget outlays set forth for any fiscal year in the most recently agreed to concurrent resolution on the budget for such fiscal year to be exceeded;

(B) cause revenues for any such fiscal year to be less than the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year;

(C) cause the appropriate level of total gross obligations for the principal amount of direct loans or the appropriate level of total commitments to guarantee loan principal set forth for any such fiscal year in such concurrent resolution to be exceeded;

(D) cause the appropriate level of total new budget authority and budget outlays for any such fiscal year allocated under section 302 to the committee of the Senate or the House of Representatives, as the case may be, and to the subcommittees of the Committee on Appropriations of the Senate and the House of Representatives, as the case may be, having legislative jurisdiction over such bill, resolution, amendment, or conference report, to be exceeded;

(E) in the case of a bill, resolution, amendment, or conference report providing regular or supplemental new budget authority for any such fiscal year, cause the total amount of new budget authority and budget outlays for such fiscal year allocated under section 302 to regular new budget authority or supplemental new budget authority and to the subcommittee of the Committee on Appropriations of the Senate or the House of Representatives, as the case may be, having legislative jurisdiction over such bill, resolution, amendment, or conference report, to be exceeded; or

(F) cause the appropriate level of gross obligations for the principal amount of direct loans or the appropriate level of commitments to guarantee loan principal allocated under section 302 to the subcommittee of the Committee on Appropriations of the Senate or the House of Rpresentatives, as the case may be, having legislative jurisdiction over such bill, resolution, amendment, or conference report to be exceeded.

For purposes of this subsection, the term "regular new budget authority" means new budget authority provided in a regular appropriation Act and the term "supplemental new budget authority" means new budget authority provided in a supplemental appropriation Act.

(b) Determination of Outlays and Revenues.—For purposes of subsection (a), the budget outlays to be made during a fiscal year and revenues to be received during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES BILLS PROVIDING NEW SPENDING AUTHORITY

SEC. 401. (a) LEGISLATION PROVIDING CONTRACT OR BORROWING AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c) (2) (A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

(c) Definitions.—

(1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this section, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term "spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under the Second Liberty Bond Act) for the repayment of which the United States is liable, the budget au-

thority for which is not provided in advance by appropriation Acts; and

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(d) EXCEPTIONS.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) shall not apply to new spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

REPORTING OF AUTHORIZING LEGISLATION

SEC. 402. (a) REQUIRED REPORTING DATE.—Except as otherwise provided in this section, it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, or which authorizes the guarantee of loan principal for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

(b) EMERGENCY WAIVER IN THE HOUSE.—If the Committee on Rules of the House of Representatives determines that emergency conditions require a waiver of subsection (a) with respect to any bill or resolution, such committee may report, and the House may consider and adopt, a resolution waiving the application of subsection (a) in the case of such bill or resolution.

(c) WAIVER IN THE SENATE.—

(1) The committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate, within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees, and the time on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

(d) CERTAIN BILLS AND RESOLUTIONS RECEIVED FROM OTHER HOUSE.—Notwithstanding the provisions of subsection (a), if under that subsection it is in order in the House of Representatives to consider a bill or resolution of the House, then it shall be in order to consider a companion or similar bill or resolution of the Senate: and if under that subsection it is in order in the Senate to consider a bill or resolution of the Senate, then it shall be in order to consider a companion or similar bill of the House of Representatives.

(e) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to new spending authority described in section 401(c)(2)(C).

(2) Subsection (a) shall not apply with respect to new budget authority authorized in a bill or resolution for any provision of the Social Security Act if such bill or resolution also provides new spending authority described in section 401(c)(2)(C) which, under section 401(d)(1)(A), is excluded from the application of section 401(b).

(f) Study of Existing Spending Authority and Permanent Appropriations.—The Committees on Appropriations of the House of Representatives and the Senate shall study on a continuing basis those provisions of law, in effect on the effective date of this section, which provide spending authority or permanent budget authority. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. (a) The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

(2) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution in the fiscal year in which it is to become effective and in each of the four fiscal years following such fiscal year, together with the basis for each such estimate; and

(3) a comparison of the estimate of costs described in paragraphs (1) and (2) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

(b) For purposes of subsecton (a)(2), the term "local government" has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

(c) For purposes of subsection (a)(2), the term "significant bill or resolution" is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.

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LEGISLATION PROVIDING AUTHORITY TO MAKE DIRECT LOANS OR TO GUARANTEE LOAN PRINCIPAL

SEC. 405. It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides, extends, or enlarges authority to incur obligations for the principal amount of direct loans or obligations for the guarantee of loan principal (or any amendment which provides, extends, or enlarges such authority) unless that bill, resolution, or amendment also provides that such authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

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BUDGET DATA BASED ON CONTINUATION OF EXISTING LEVEL OF SERVICES

SEC. 605. (a) On or before November 10 of each year (beginning with 1983), the President shall submit to the Senate and the House of Representatives a statement containing estimates of current law budget authority, current law outlays, current law spending authority, and current law revenues for the ensuing fiscal year. The estimates of current law budget authority, current law outlays, and current law spending authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency" used in the Budget submitted pursuant to section 201(a) of the Budget and Accounting Act, 1921), by major pro-

grams within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying such estimates, such as the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimates so submitted, and shall submit to the Committees on the Budget of both Houses an economic evaluation thereof on or before December 31 of each year.

YEAR-AHEAD REQUESTS FOR AUTHORIZATION OF NEW BUDGET AUTHORITY

SEC. 606. Notwithstanding any other provision of law, any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year (beginning with the fiscal year commencing October 1, 1976) shall be submitted to the Congress not later than May 15 of the year preceding the year in which such fiscal year begins. In the case of a request for the enactment of legislation authorizing the enactment of new budget authority for a new program or activity which is to continue for more than one fiscal year, such request shall be submitted for at least the first 2 fiscal years.

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EXERCISE OF RULEMAKING POWERS

SEC. 904. (a) The provisions of this title (except section 905) and of titles I, III, and IV and the provisions of sections 606, 701, 703, 1017, 1105, 1106, and 1107 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) Any provision of title III (except section 301A or 301B) or title IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manger of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

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TITLE XI—REGULATORY BUDGET PROCEDURE STATEMENT OF FINDINGS AND PURPOSE

SEC. 1101. (a) The Congress finds that—

(1) Federal rules and regulations often impose excess costs of compliance upon the non-Federal sector;

(2) Federal rules and regulations have grown in number and scope so rapidly that the agencies and the Congress have not had an adequate opportunity to examine the costs of compliance with such rules and regulations; and

(3) it is the responsibility of the Congress to determine the appropriate levels of costs of compliance with the Federal rules and regulations.

(b) It is the purpose of this title to require the Congress to establish, for each fiscal year, a regulatory budget for each major functional category used in the concurrent resolution the budget for such fiscal year which sets the maximum costs of compliance with all rules and regulations promulgated under activities within each such functional category.

DEVELOPMENT OF REGULATORY COSTS ANALYSIS PROCEDURES

SEC. 1102. (a) The President shall—

(1) establish criteria for use in the determination of which rules or regulations are rules or regulations within the meaning of this title and furnish such criteria to the head of each agency; and

(2) develop methods of determining the costs of compliance with rules or regulations and furnish such methods to the head of each agency.

(b) In developing the methods required under subsection (a)(2), the President shall—

(1) take such action as may be necessary to insure that such methods are based upon the most accurate available statistical and accounting knowledge and techniques; and

(2) provide, to the maximum extent feasible, that such methods are uniform for all agencies while taking into account the different functions of each agency.

(c)(1) At least ninety days before the submission of the criteria and methods required under subsection (a) to the head of each agency, the President shall—

(A) publish such criteria and methods in the Federal Register in order to solicit public comments thereon for a period not in excess of forty-five days; and

(B) submit such criteria and methods to the Comptroller General, the Chairman of the Administrative Conference of the United States, and the Director for their review and comments.

(2) The Comptroller General, the Chairman of the Administrative Conference of the United States, and the Director shall submit comments and recommendations concerning the criteria and methods submitted pursuant to paragraph (1)(B) within forty-five days of the receipt of such criteria and methods.

(d) Each year, at a time and in a manner consistent with the provisions of sections 1103 and 1104, the President shall review and update the criteria and methods established under this section in accordance with the procedures established by this section.

(e) The President may delegate his responsibilities under this section to the Director of the Office of Management and Budget.

(f) The head of each agency shall utilize the criteria and methods developed by the President under this section to carry out section 1103.

REGULATORY COST COMPLIANCE REPORTS

SEC. 1103. (a)(1) Each year, the head of each agency shall conduct a study of the costs of compliance with rules and regulations promulgated by that agency. The head of each agency shall utilize the criteria established by the President under section 1102 in conducting the study required under this subsection.

(2) The head of each agency shall submit a report to the Director of the Office of Management and Budget and the Comptroller General by the November 10 preceding the beginning of each fiscal year. The report shall contain the results of the study required under paragraph (1), and shall include—

(A)(i) a statement of the costs of compliance for the fiscal year ending on the September 30 prior to the day on which the report is submitted;

(ii) a comparison of the costs of compliance for such fiscal year with the regulatory budget, if any, established for such fiscal year under section 1105; and

(iii) a full explanation for any costs of compliance which exceeded the regulatory budget for such fiscal year; and

(B) a statement of the estimated costs of compliance for the fiscal year in process when the report is submitted and for the succeeding fiscal year—

(i) with rules and regulations of such agency in effect on the date on which the report is submitted;

(ii) with rules and regulations of such agency which are to be issued, or are expected to be issued, after the date on which the report is submitted; and

(iii) with all rules and regulations of such agency as specified in clauses (i) and (ii).

(3) The report required by this subsection shall contain an allocation of the costs of compliance specified in such report pursuant to paragraph (2) among the major functional categories used in the most recently agreed to concurrent resolution on the budget for the fiscal year in which the report is submitted.

(b) The Director of the Office of Management and Budget shall compile the reports submitted by agencies under subsection (a) and shall submit such reports to the President.

REGULATORY BUDGET RECOMMENDATIONS

SEC. 1104. (a) Except as provided in subsection (b), the Budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, for each fiscal year shall include a regulatory budget for each agency which shall contain recommendations for the maximum costs of compliance with all rules and regulations of each agency during the fiscal year for which the Budget is submitted. If the proposed regulatory budget for any agency is less than the estimated total costs of compliance determined by the agency head under section 1103(a)(2)(B), the Budget message shall recommend specific actions which may be taken during such fiscal year to reduce the costs of compliance.

(b) The regulatory budget required under subsection (a) for each of the first two fiscal years to which this title applies shall only contain recommendations for the maximum costs of compliance during each such fiscal year with all rules and regulations which each agency expects to issue during each such fiscal year. If the proposed regulatory budget for rules and regulations expected to be issued by any agency in any such fiscal year is less than the estimated costs of compliance determined by the agency head under section 1103(a)(2)(B)(ii), the Budget message shall recommend specific actions which may be taken during such fiscal year to reduce such costs of compliance.

(c) Each regulatory budget for an agency required under subsection (a) for a fiscal year shall contain an allocation of the costs of compliance with the rules or regulations of the agency among—

(1) the major functional categories used in the Budget transmitted for such fiscal year pursuant to section 201(a) of the Budget and Accounting Act, 1921; and

(2) the committees of the Senate and the House of Representatives having legislative jurisdiction over the programs and activities of the agency.

(d) The President shall submit with the regulatory budget required by this section for each agency for each fiscal year a copy of the report submitted by the agency under section 1103(a) by November 10 of the fiscal year preceding such fiscal year.

REGULATORY BUDGET

SEC. 1105. (a)(1) The concurrent resolution on the budget referred to in section 301(a) for a fiscal year shall include a separate section containing a regulatory budget which, except as provided in paragraph (2), establishes the maximum costs of compliance with all rules and regulations of all agencies which will be in effect during such fiscal year. In developing such regulatory budget, the Congress shall utilize the reports submitted by the head of each agency pursuant to section 1103(a) and the recommendations submitted by the President pursuant to section 1104.

(2) The regulatory budget included pursuant to paragraph (1) in the concurrent resolution on the budget referred to in section 301(a) for each of the first two fiscal years to which this title applies shall only set the maximum costs of compliance during each such fiscal year with all rules and regulations which each agency expects to issue during each such fiscal year.

(3) Each regulatory budget required under paragraph (1) for a fiscal year shall contain an allocation of the costs of compliance with all rules or regulations of all agencies which will be in effect during a fiscal year among—

(A) the major functional categories used in the concurrent resolution on the budget in which such regulatory budget is included; and

(B) the committees of the Senate and the House of Representatives having legislative jurisdiction over the programs and activities of the agency.

(b) On or before March 15 of each year, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate (and each other commitee of the Senate which has legislative jurisdiction) shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses its views and estimates with respect to the establishment of the maximum costs of compliance with rules and regulations which relate to matters within the respective jurisdiction or function of such committee or joint committee.

(c) The report accompanying the concurrent resolution on the budget in which a regulatory budget is included shall contain an allocation of the costs of compliance for each major functonal category specified in such regulatory budget among each agency which administers activities within each such category.

REPORTS AND SUMMARIES OF CONGRESSIONAL ACTION

SEC. 1106. (a) Whenever a committee of either House reports a bill or resolution to its House, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director, which contains an estimate, for the fiscal year in which such bill or resolution is to be effective and each of the four succeeding fiscal years, of the costs of compliance with the rules or regulations required to carry out the provisions of such bill or resolution.

(b) The Director shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions which will create costs of compliance as a result of rules or regulations required to carry out the provisions of such bill or resolution. Such report shall include—

(1) an up-to-date tabulation of the costs of compliance with rules or regulations required to carry out the provisions of each such bill or resolution on which Congress has completed action;

(2) an up-to-date status report on all bills and resolutions which would create such costs of compliance; and

(3) an up-to-date comparison of the maximum costs of compliance established pursuant to section 1105 with the costs of compliance—

(A) with rules or regulations in effect on the date of such report; and

(B) with rules or regulations required to carry out the provisions of bills or resolutions on which Congress has completed action.

(c) The estimate of costs of compliance required by subsection (a), the tabulation of the costs of compliance required by paragraph (1) of subsection (b), and the comparison of the costs of compliance required under paragraph (3) of such subsection shall include an allocation of such costs of compliance among—

(1) the agencies who will issue the rules or regulations from which such costs of compliance will result;

(2) the major functional categories used in the concurrent resolution on the budget most recently agreed to under title III; and

(3) in the case of a tabulation required under paragraph (1) of subsection (b) or a comparison required under paragraph (3) of such subsection, the committees of the Senate and the House of Representatives having legislative jurisdiction over the bill or resolution for which such tabulation or comparison, as the case may be, is made.

NEW LEGISLATION MUST BE WITHIN REGULATORY BUDGET

SEC. 1107. (a) After the Congress has completed action on the concurrent resolution on the budget referred to in section 301(a) for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment which would result in additional costs of compliance in such fiscal year, or any conference report on such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the total costs of compliance for such fiscal year to exceed the maximum costs of compliance established in the regulatory budget for such fiscal year included in such concurrent resolution on the budget.

(b) For purposes of subsection (a), the costs of compliance during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

(c)(1) The committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. The Committee on the Budget shall report the resolution to the Senate, within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees, and the time on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

DEFINITIONS

SEC. 1108. For purposes of this title—

(1) the term "agency" has the meaning given to it by section 551(1) of title 5, United States Code;

(2) the term "Comptroller General" means the Comptroller General of the United States;

(3) the term "costs of compliance" means, with respect to an agency, the costs imposed upon the non-Federal sector as a result of compliance with rules or regulations promulgated by that agency, including wages, salaries, benefits, capital costs, rents, interests, State and local taxes, and costs due to data collection and recordkeeping, preparation and submission of forms, data, and reports, purchase of necessary equipment, management time, training, and changes in the quality or mixture of raw materials or output, except that such term does not include normal business or recordkeeping costs which would exist in the absence of such rules or regulations;

(4) the term "Director" means the Director of the Congressional Budget Office;

(5) the term "non-Federal sector" means an individual, partnership, association, corporation, business trust or legal representative thereof, organized group of individuals, labor organization, State or territorial government or branch thereof, or political subdivision of a State or territory or a branch thereof; and

(6) the term "rule or regulation" has the meaning given to the term "rule" by section 551(4) of title 5, United States Code.

EFFECTIVE DATE

SEC. 1109. The provisions of this title shall take effect on the date of its enactment, except that the provisions of sections 1103 through 1107 shall apply only with respect to the first fiscal year beginning at least eighteen months after the date of enactment of this title, and succeeding fiscal years.

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TITLE 31, UNITED STATES CODE

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§ 1105. Budget contents and submission to Congress

(a) During the first 15 days of each regular session of Congress, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the current fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for the year.

(15) a separate statement on each of the items referred to in section 301(a)(1)-(7) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)-(7)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(25) all essential facts regarding direct lending by the Government, and guarantees by the Government of the repayment of indebtedness incurred by another person or government.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

(e) Notwithstanding any other provision of law, the President shall include in the budget submitted under subsection (a) proposed budget authority, direct loans, and commitments to guarantee loan principal, and estimates of outlays and receipts, for all activities of all departments, agencies, establishments, and instrumentalities of the Federal Government.

* * * * *

§ 1115. Outlays shall not exceed revenues

(a) Notwithstanding any other provision of law, the budget transmitted pursuant to section 1105 of this title, the supplemental summary submitted pursuant to section 1106(a) of this title, or any statement of changes submitted pursuant to section 1106 (b) of this title, shall not—

(1) contain—

(A) any request for budget authority for a fiscal year which will result in an estimate of total outlays which exceeds, or

(B) any estimate of total outlays for a fiscal year which exceeds,

the estimate of total revenues for such fiscal year contained in such budget, summary, or statement; or

(2) set forth an estimate of total revenues for a fiscal year which exceeds an amount which bears the same ratio to the estimated gross national product for such fiscal year as the average of the ratios of estimated total revenues for each of the five fiscal years preceding such fiscal year to the estimated gross national product for each such preceding fiscal year.

(b) The provisions of subsection (a) shall not apply to any such budget, summary, or statement submitted for a fiscal year if a declaration of war is in effect or if the Armed Forces of the United States are engaged in combat at the time such budget, summary, or statement is submitted.

(c) The President may submit such a budget, summary, or statement for a fiscal year which does not comply with subsection (a) if the President determines that a national economic emergency, such as a recession, makes compliance with the provisions of such subsection impracticable in such fiscal year. For purposes of the preceding sentence, a recession is a decline in the gross national product during any two consecutive fiscal quarters. The President shall include in any such budget, summary, or statement, a description of his determination under this subsection and a recommendation that the Congress waive the provisions of subsec-

tion (a) of section 301A of the Congressional Budget Act of 1974 with respect to any concurrent resolution on the budget for such fiscal year, in accordance with subsection (e) of such section.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. DOLE, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 27, a bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $100,000.

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 2376

At the request of Mr. GRASSLEY, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2376, a bill to direct the Secretary of the Treasury or his delegate to conduct a study of the advisability of replacing the current Federal income tax system for individuals and corporations.

S. 2419

At the request of Mr. DECONCINI, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 2419, a bill to amend title 28, United States Code, regarding venue, and for other purposes.

S. 2892

At the request of Mr. JEPSEN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2892, a bill to clarify the definition of abuse in the Natural Gas Policy Act.

S. 2902

At the request of Mr. THURMOND, the names of the Senator from Georgia (Mr. MATTINGLY), the Senator from South Dakota (Mr. ABDNOR), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

SENATE JOINT RESOLUTION 234

At the request of Mr. GOLDWATER, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of Senate Joint Resolution 234, a joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. HUMPHREY, the names of the Senator from New Mexico (Mr. SCHMITT), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Joint Resolution 241, a joint resolution to provide for the designation of the week of December 12, 1982 through December 18, 1982 as "National Drunk and Drugged Driving Awareness Week."

SENATE JOINT RESOLUTION 242

At the request of Mr. JEPSEN, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Joint Resolution 242, a joint resolution designating September 22, 1982, as "American Businesswomen's Day."

SENATE JOINT RESOLUTION 245

At the request of Mr. KENNEDY, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of Senate Joint Resolution 245, a joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

SENATE CONCURRENT RESOLUTION 121—CONCURRENT RESOLUTION RELATING TO CHILD NUTRITION PROGRAMS

Mr. DOLE (for himself, Mr. LEAHY, Mr. ANDREWS, Mr. BAUCUS, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BURDICK, Mr. CANNON, Mr. CHAFEE, Mr. DANFORTH, Mr. DIXON, Mr. FORD, Mr. GORTON, Mr. HATFIELD, Mr. HEINZ, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JEPSEN, Mr. JOHNSTON, Mr. KENNEDY, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROTH, Mr. STAFFORD, Mr. TSONGAS, Mr. WEICKER, and Mr. ZORINSKY) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

SENATE CONCURRENT RESOLUTION 121

Whereas the United States has been committed to assuring adequate nutrition for school children since the enactment of the National School Lunch Act (42 U.S.C. 1751 et seq.) in 1946;

Whereas, shocking conditions of Americans suffering from hunger and malnutrition were once prevalent in this century;

Whereas the Congress has successfully responded by initiating a comprehensive national effort to reduce domestic hunger and malnutrition;

Whereas nutrition was declared to be a Federal responsibility by President Richard M. Nixon in 1969, at the White House Conference on Food, Nutrition, and Health;

Whereas nutrition assistance to mothers and children at critical periods of growth can substantially reduce infant mortality and promote long-term health;

Whereas the child nutrition programs represent a vital investment in our country's future well-being: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that

(1) current national efforts to reduce domestic hunger and malnutrition should continue;

(2) a uniform national commitment to the nutrition of low-income Americans should continue through Federal leadership and support of vital nutrition programs; and

(3) the Federal government should retain primary responsibility for the child nutrition programs.

CHILD NUTRITION RESOLUTION

● Mr. DOLE. Mr. President, as chairman of the nutrition subcommittee, I am submitting a concurrent resolution concerning the child nutrition programs and the implications of New Federalism for this area. The ranking minority member of the subcommittee, Mr. LEAHY, has joined me in this effort, along with many of our colleagues. Mr. PERKINS and Mr. GOODLING have introduced a similar resolution in the House, which has accumulated over 100 cosponsors.

There is strong bipartisan sentiment in the Congress that the Federal Government should retain primary responsibly for the child nutrition programs, which include school lunch, school breakfast, nutrition education and training, summer feeding, the special supplemental food program for women, infants and children (better known as WIC), the commodity supplemental and child care food programs. Although the administration seems to have backed off an earlier proposal to fold the WIC program into the maternal and child health block grant, and WIC is not now included in the programs under discussion for turnback to the States, the fate of the other child nutrition programs remains an area of concern.

DEVELOPMENT OF NUTRITION PROGRAMS

Mr. President, back in 1946, the original child nutrition program, school lunch, was enacted with two primary goals in mind. It was initiated to address the appalling problems of malnutrition that were discovered during World War II among potential draftees for the armed services. In addition, this program began as a constructive outlet for surplus agricultural commodities.

Since the school lunch program began, other child nutrition programs have evolved as offshoots of the original program. These include school breakfast, summer feeding, nutrition education and training, the commodity supplemental feeding program, child care food program, and the WIC program. All of these programs are targeted to specific segments of our population and complement each other in establishing a comprehensive network to address nutrition problems during

crucial periods of growth and development.

Surprisingly enough, malnutrition and bad nutrition habits are not confined to low-income Americans. Inadequate nutrition exists throughout our population, based on incorrect information relating to eating habits. This is why a program such as nutrition education and training serves a valuable purpose in conjunction with programs that actually distribute food benefits—just throwing money at a problem does not mean that it will go away. In the nutrition area, quite often people have to be educated as to what kinds of foods are appropriate for their diets. Ignorance in this area pervades all classes of our society, and a little bit of education goes a long way.

NUTRITION AS A NATIONAL RESPONSIBILITY

Mr. President, although the cost of living may vary from State to State, and area to area within a State, the price of food does not vary significantly. For this reason, it is appropriate that the Federal Government retain primary responsibility for nutrition programs in order to guarantee some standardization of benefits. It was President Nixon who declared at the White House Conference on Food, Nutrition and Health back in 1969, that nutrition was a national responsibility.

Several decades ago, Americans were shocked to learn that there were serious conditions of hunger and malnutrition existing in certain poverty pockets of this land of plenty. These conditions were brought to the awareness of the American public through a television documentary entitled "Hunger in America." Once the focus was established, Americans demanded that Government respond by expanding its nutrition efforts.

The food stamp and child nutrition programs have complemented each other in addressing the needs of our population. Ten years after the White House conference, medical experts testified before the Congress that, as a result of the national nutrition programs, "there are far fewer grossly malnourished people in this country than there were 10 years ago. This is not to say that government alone will ever be able to eradicate domestic conditions of hunger and malnutrition. Although food assistance programs have resulted in great progress, there are still individuals out there who may not even be aware that they can have access to assistance.

APPROPRIATIONS SUBCOMMITTEE ACTION

It has come to the attention of the Senator from Kansas that the Agriculture Appropriations Subcommittee has agreed this week to fully fund all of the child nutrition programs through fiscal year 1983. I would like to commend the distinguished Chairman of the subcommittee, Mr. COCHRAN, and the distinguished ranking minority member, Mr. EAGLETON, for their skillful leadership in this area. The subcommittee has acted responsibly in fulfilling the funding needs according to the best estimates of anticipated expenditures for the child nutrition programs. They have allocated a total of $3.2 billion for child nutrition with an additional $32.6 million for the commodity supplemental food program, $21.1 million for the special milk program and $1.060 billion for the WIC program.

Mr. President, several months ago, when we were debating the first concurrent budget resolution on the Senate floor, this Senator made some strong statements concerning funding of the WIC program. At the time, the Senator from Kansas emphasized that full funding of the program was an appropriations issue and should not be dealt with in the context of the budget resolution. Again, the subcommittee has exercised its proper and responsible authority in deciding to fund the program to the extent of its authorization level of $1.060 billion. Among the child nutrition programs, this program especially has demonstrated its cost effectiveness. As a result, it has generated strong bipartisan support in the Congress, and this support is well-deserved for the way it serves the needs of low-income women, infants and children.

CHILDREN ARE OUR COUNTRY'S FUTURE

Mr. President, our Nation's children deserve to have good nutritional input during the early stages of their growth and development. In many ways, this is what will determine their potential as adults. Hungry children do not concentrate well in the classroom, and whatever educational opportunities are extended to them will not have the intended beneficial effects under these circumstances.

Good nutrition is a cost-effective health policy—it can prevent major expenditures later in life. Nutrition assistance to mothers and children can substantially reduce the incidence of low birth weight and infant mortality, as well as promote health during the basic growth process. A child whose development is impeded during the early years will never have a chance to catch up. Based on this rationale, child nutrition is perhaps one of the most worthwhile investments that our country can make in its future.

This Senator and the others who have joined him believe that child nutrition should remain a national priority. I ask the support of my colleagues for this concurrent resolution, and thank those who have shared in this effort.●

● Mr. LEAHY. Mr. President, today I join Senator DOLE and many other colleagues in cosponsoring a concurrent resolution that states, in effect, that the current array of Federal child nutrition programs should be maintained in its present form. No turnback of these programs to the States should occur, nor should there be any diminution in the levels of support currently provided by these programs.

As part of his New Federalism initiative, President Reagan has proposed that financial responsibility for all child nutrition programs, with the exception of the WIC program, be returned to the States. This is a responsibility that State and local governments have not sought and do not seem to want. In my view, it would be an unwise action. Especially given the precarious condition of so many State budgets, I have little doubt that a turnback of Federal programs would lead to a significant drop in the vital assistance these programs now provide.

The Federal child nutrition and food stamp programs are a major success story. While much work remains, especially in these economic times, the incidence of hunger and malnutrition has been greatly reduced by these programs. They have been effective and the country should take pride in the fact that we have provided well for those who are unable to provide for themselves.

Surely, now is not the time to further reduce Federal efforts in the area of child nutrition. In 1981, reductions of over 30 percent were made in the school lunch, school breakfast, child care food, summer feeding, and special milk programs. In 1981 and 1982, massive reductions in food stamp benefits were enacted. Any further cutbacks in these programs would move us back toward the very conditions that prompted a strong Federal response to hunger 20 years ago. If history is any guide, and I think it is, States will be either unable to or unwilling to pick up the slack if the Federal Government moves out of the picture.

I urge the Senate to adopt this resolution. As I have said before, there is no greater investment we can make than in the health of our Nation's children. These programs make a crucial difference every day for millions of American children. In the long run, these programs lead to a healthier, more productive Nation. Let us not take the awful risk of tampering with success.●

SENATE RESOLUTION 467—BUDGET WAIVER

Mr. MURKOWSKI submitted the following original resolution, which was referred to the Committee on the Budget:

S. RES. 467

Waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1562.

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act

are waived with respect to the consideration of S. 1562. Such waiver is necessary because S. 1562 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of a bill to provide a comprehensive national science policy with respect to the Arctic.

S. 1562 authorizes an appropriation of $25,000,000.00 per year to support the activities of the Arctic Science Policy Council and the Arctic Research Commisssion.

The Appropriations Committees of the Senate and House have not yet considered legislation which would include appropriations for the Arctic Policy Act, and will therefore have adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere or delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

DEBT CEILING LEGISLATION

AMENDMENT NO. 3278

(Ordered to be printed and lie on the table.)

Mr. COHEN (for himself, Mr. LEVIN, Mr. HEINZ, Mr. RIEGLE, Mr. DURENBERGER, Mr. BIDEN, Mr. BOREN, Mr. BURDICK, Mr. CANNON, Mr. CHAFEE, Mr. COCHRAN, Mr. LEAHY, Mr. PELL, Mr. SASSER, and Mr. QUAYLE) submitted an amendment intended to be proposed by them to the bill (House Joint Resolution 520) to provide for a temporary increase in the public debt limit.

Mr. COHEN. Mr. President, I ask unanimous consent that the text of an amendment that Senator LEVIN and I, along with several other Senators, intend to offer to House Joint Resolution 520, the debt ceiling legislation, be printed in the RECORD.

Our amendment would provide a short-term solution to the problems plaguing the Social Security Administration's reviews of individuals receiving disability benefits.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the resolution add the following new sections:

CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

SEC. . (a) Section 223 of the Social Security Act is amended by adding at the end thereof the followng new subsection:

"Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing with respect to the determination that he is not so entitled is made under section 221(d),

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month for which (under such determination) such benefits are no longer otherwise payable and ending with the month preceding the month in which a decision is made after opportunity for such a hearing.

"(2) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1) pending a hearing, and the decision after opportunity for such hearing affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title.".

(b) The amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) which—

(1)(A) are made on or after the date of the enactment of this Joint Resolution, or (B) were made prior to such date but with respect to which a timely request for a hearing under section 221(d) of the Social Security Act was made on or prior to, or within 60 days after, the date of the enactment of this Joint Resolution and with respect to which such hearing was not held prior to such date; and

(2) are made prior to January 1, 1984.

PERIODIC REVIEWS OF DISABILITY CASES

SEC. . (a) Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State by State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each State after consulation with the State agency peforming such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence.".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Joint Resolution.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearings regarding America's role in the world coal export market previously scheduled before the Subcommittee on Energy and Mineral Resources for Friday, September 17 and Thursday, September 23, at 9:30 a.m. have been postponed and will be rescheduled at a later date.

For further information regarding these hearings, you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-4236.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. WEICKER. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on Thursday, September 16, at 9:30 a.m., to hold an oversight hearing on coal slurry pipelines.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. WEICKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, September 16, at 9:30 a.m., to hold an oversight hearing on the statute of limitations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WEICKER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, September 16, at 9:30 a.m., to hold a hearing on tuition tax credits.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HEALTH

Mr. WEICKER. Mr. President, I ask unanimous consent that the Subcommittee on Health, of the Committee on Finance, be authorized to meet during the session of the Senate on Thursday, September 16, at 9:30 a.m., to hold a hearing to consider hospital reimbursement systems used by private third-party payers.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

WOMEN'S RIGHTS PARK

● Mr. MOYNIHAN. Mr. President, on July 17, 1982, 3 days after I joined with 50 of my Senate colleagues in reintroducing the equal rights amendment, the Women's Rights National Historical Park in Seneca Falls, N.Y., was dedicated. Seneca Falls was the

site of the 1848 Women's Rights Convention that marked the beginning of the women's movement in this country. It was also in Seneca Falls that in 1923 Alice Paul wrote the equal rights amendment. To commemorate the long struggle for women's suffrage and equal rights, to honor the early leaders in the women's movement and to recognize the significant role that Seneca Falls played in this movement, Senator Javits and I introduced legislation (S. 2263) to create the Women's Rights Park. On December 28, 1980, that legislation became law as part of Public Law 96-607.

Mr. President, I wish to commend to my colleagues the powerful and instructive remarks made by Mr. Alan Alda at the dedication ceremony for the Women's Rights Park. Not only does Mr. Alda remind us of the accomplishments of the remarkable women who organized and participated in the 1848 convention but he makes us keenly aware of the yet unfinished struggle in this Nation to bar discrimination on the basis of sex. A struggle, I should add, in which Mr. Alda is a tireless and vigorous participant.

As Mr. Alda points out so appropriately in his remarks in Seneca Falls, now is the time to reaffirm our unswerving commitment to securing equal rights for every American. To quote Mr. Alda, as he draws on Lincoln:

It is rather for us to be here dedicated to the great task remaining before us—that from these honored women we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these women shall not have lived and died in vain, that this Nation under God shall have a new birth of freedom and that government of the people, by the people, for the people shall not perish from the earth.

I also take this opportunity to acknowledge Mr. Alda's personal generosity in supporting the development of the park itself. The Women's Rights Park consists of five sites that were associated with the 1848 convention, among them the Elizabeth Cady Stanton House. The purchase of this house was accomplished with the help of a generous gift from Mr. Alda. We thank him.

Mr. President, I ask that Mr. Alda's remarks be printed in full in the RECORD.

The remarks follow:

ALAN ALDA'S REMARKS AT SENECA FALLS—JULY 17, 1982

It is exactly 134 years since Elizabeth Cady Stanton walked in the streets of Seneca Falls with these words sounding in her head: "We hold these truths to be self evident—that all men and women are created equal."

When she presented that Declaration of Sentiments at the Women's Rights Convention on July 20, 1848, she drew not only on the historic words of Thomas Jefferson, but on the cry for freedom that had animated the American Revolution—"No taxation without representation." She asked for something that was, at the time, almost unheard of—the right for women to vote.

The courage of that act is almost unimaginable today. We take it for granted that women should have the right to vote.

But taking freedom for granted is dangerous. And we have met here today to dedicate the Women's Rights National Park in Seneca Falls in the hope that this country will never forget Elizabeth Cady Stanton, Amelia Bloomer, Lucretia Mott, and the other 300 women and men who gathered in the Wesleyan Chapel.

It is appropriate that this park be dedicated with a convening of historians from all over the country. As the artist Judy Chicago has said: "Women have been written right out of history."

The ghosts of powerful and resourceful women haunt the margins of our history books. They swarm in the blank space between the lines of every account of every event we have ever known.

The day is past when the history of women can be written in invisible ink.

The day is past when strong women will act weak and decorative and disappear in a gob of vanishing cream.

The day is past because without those women, we cannot survive.

The women who articulated and lived the feminist idea will give us the energy we need to have the democracy we are sworn to possess.

These modest buildings of Seneca Falls that we dedicate today are as much a part of the soul of our democracy as those revered halls in which white, propertied men granted themselves freedom, liberty and democracy. In these buildings, women called for both the abolition of slavery and equal rights for women. We must never let them fade from our memory.

Because Seneca Falls will keep alive the spirit of these women who went before us, this place will be a source of energy for all of America. It will be a power station and a beacon.

Without the memory of the people who have gone before us, we are constantly forced to start from scratch each time we try to move forward. Over and over we are forced to re-invent the wheel.

America's forefathers had the heroes of antiquity to look back to. Not only Jefferson and Adams, but all the educated people of their time had Greek and Roman philosophers, statesmen and generals to draw strength from.

How many educated people today know much of anything at all about Stanton, Anthony, Wollstonecraft, Fuller, Stone, Mott, Chapman Catt, Victoria Woodhull, Amelia Bloomer, or Sojourner Truth?

We need these women's guidance, their wisdom, their example—we need the power of their lives. By writing strong women out of history, we've left ourselves only with an image of women as inoffensive sweetness.

We are trying to run a car on a tank filled half with fuel and half with sugar.

We need to remember Christine de Pizan whose writings in the year 1405 condemned the stereotyping of women.

And Mary Wollencraft who said in 1792: "If the abstract rights of man will bear discussion and explanation, those of women . . . will not shrink from the same test."

And Abigail Adams who said in 1776 to her husband John: "Whilst you are proclaiming peace and good will to men, emancipating all nations, you insist upon retaining an absolute power over wives."

And Margaret Fuller who in 1845 said: "Inward and outward, freedom for woman as much as for man shall be acknowledged as a right, not yielded as a concession . . . Man cannot, by right, lay even well meant restrictions on woman."

And Lucy Stone, who said in 1881: "The widening of woman's sphere is to improve her lot. Let us do it, and if the world scoff, let it scoff—if it sneer, let it sneer . . . We want rights."

And Susan B. Anthony, who said in 1868: "Men, their rights and nothing more; women, their rights and nothing less."

I hope that this national park at Seneca Falls will be a place where American families can come and stand in the same rooms where courageous and visionary women declared the right for all women to exist as free and equal citizens. And I hope, too, that Seneca Falls will become a center of learning; a place where the knowledge of our past will be deepened and extended to include the half of our nation who have lived so long in silence.

With their strong voices in our ears, America will finally declare one day that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

With their wisdom in our hearts, this country will understand that an Amendment to our Constitution guaranteeing equality of rights is not a symbolic gesture—not a pat on the back or a valentine to women—but an urgently needed legal instrument.

With the tenacity of our mothers in us, we will not stop until we have the democracy we were promised.

We have been trying for an Equal Rights Amendment for only sixty years. From the day Elizabeth Cady Stanton first asked for the right to vote, feminists struggled 74 years before they achieved it.

They never stopped and neither should we.

We haven't lost.

We just haven't won yet.

I believe we will have the Equal Rights Amendment when we have enough feminists in the legislatures of our states to ratify it. We must elect those women and men who will vote for equality. Especially those women.

Some people have said that in the effort to ratify, so much has changed for the better that we can rejoice over our progress.

I wonder.

The number of women in our state legislatures is an index of our progress. It is a clear measure of the political power of women.

Ten years ago, there were a total of 344 women in all our state legislatures. Today, there are 908 women. Almost triple.

But these women are still only 11.7 percent of the total number of state legislators in our country. We not only have reason to be disappointed, but we have every reason to relish our anger—to nurture it—to gild our banners with it.

We cannot settle for half a measure of freedom.

Too many women have devoted their lives to equality. Too many women have died without seeing it come to pass.

As we consecrate this ground to their memory, let us be guided by Elizabeth Cady Stanton.

Let us use the ringing words of the past to fulfill the promise of the future:

As she drew on Jefferson, let us draw on Lincoln.

"Six score and fourteen years ago, our mothers brought forth on this continent a new Notion—conceived in liberty and dedicated to the proposition that all men and women are created equal.

"Now we are engaged in a great struggle, testing whether that notion or any notion so conceived and so dedicated can long endure. We are met in a town that gave birth to that struggle. We have come to dedicate a portion of this town as a shrine to those who here devoted their lives that this notion might live. It is altogether fitting and proper that we should do this.

"But, in a larger sense, we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave women, living and dead, who struggled here have consecrated it far above our poor power to add or detract.

"The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which they, who fought here, have thus far so nobly advanced.

"It is rather for us to be here dedicated to the great task remaining before us—that from these honored women we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these women shall not have lived and died in vain, that this nation under God shall have a new birth of freedom and that government of the people, by the people, for the people shall not perish from the earth."●

PROGRESSIVE TAX

● Mr. BUMPERS. Mr. President, on the op-ed page of the September 9 Arkansas Gazette, there appeared a persuasive piece by Kermit C. Moss, a certified public accountant from Pine Bluff, Ark., titled "Progressive Tax Is Best Even If It's Complicated." Mr. Moss was the head of the department of business administration at the University of Arkansas at Monticello for 25 years. He makes some cogent points in support of a progressive rather than a flat tax that are worthy of very serious consideration. I commend this piece to my fellow Senators, and I ask that it be printed in the RECORD.

The article follows:

[From the Arkansas Gazette, Sept. 9, 1982]

PROGRESSIVE TAX IS BEST EVEN IF IT'S COMPLICATED

[By Kermit C. Moss]

As a response to the current flurry of interest in a flat-rate income tax, let me make the following comments and observations:

The fairest tax by far is a tax based on ability to pay. Let those who get the most economic benefit from the system provide the most in revenues for its maintenance and upkeep. Many students of taxation—scholars in the field—have arrived at this conclusion. Besides, the idea appeals to just plain, common, ordinary horse sense, which apparently is becoming less and less ordinary these days.

The progressive income tax that we now have is based on this concept and directed toward ability to pay. Many of the deductions now available are likewise based on ability to pay. Examples are medical expenses and casualty losses, such as a residential fire.

If a taxpayer has heavy medical expenses during a tax year, or his house burns, and his insurance does not fully cover the expense or loss, he is less able to pay taxes that year than he otherwise would have been; or less able than a taxpayer in identical circumstances but without the medical expenses or fire loss.

The ability-to-pay idea is and has been under continual assault by those with the greatest ability to pay. They also have ability to make heavy contributions to political campaigns, and thus to influence the course of tax legislation. Over the years, by influencing such legislation, they have, through exclusions, deductions, and credits made considerable progress in lessening the impact of the progressive income tax with respect to ability to pay.

The problem has not been with the idea itself, nor with the effect of its application, but with its implementation. This is often the case. The administration of a law or policy breaks down, then the law or policy is blamed, rather than the administration of it.

But we should not abandon a sound plan of taxation simply because it is difficult to administer fairly and wisely!

Don't underestimate the potential effect of a drastic change in the tax system! Many investment decisions have already been made based on the assumption that the current method of income taxation would continue. The whole American price and value structure has this tax element built into it. An example is a long-term installment sale. All this structure would be undercut by a change to a flat-rate tax and who knows what the result would be!

One of the reasons that the current system seems (and is) complicated results from the continual changes. The tax laws bounce around every year like a rubber ball. The biggest tax cut in history is immediately followed by the biggest increase in history! Leave the tax laws alone for a few years and the people will have a chance to learn what they are.

Some hold that free, unfettered and uncontrolled capitalism tends to choke itself to death from the top. That wealth tends to beget wealth, and that the more one has the easier it is to make money. Thus the wealth tends to gravitate to the top, and pretty soon there is no purchasing power left among the people. If consumers don't buy, then producers don't produce, and the whole system comes to a halt.

The progressive income tax tends to prevent this by taxing away some of the money at the top and recirculating it by putting purchasing power in the hands of those at the bottom of the economic scale. This money is used to buy goods and services, which provide jobs, and a whole new cycle of economic activity is initiated, with the wealth again moving toward the top, where it will ultimately be taxed, and the cycle started again.

Our economic system is a sophisticated, fast-moving machine of many parts. No man, regardless of his intellect, academic or financial attainments, can see it all or understand it all. Millions of transactions are flying in all directions every day.

I would compare it to a fast moving automobile flying down the road at 95 miles an hour. If it heads toward the ditch, the skilled driver does not give the wheel a sudden jerk, but gently, slowly and smoothly guides it back to its proper place on the highway.

Consider the flat-rate tax as a sudden jerk. Does anyone know for sure what its effect would be? The answer, of course, is no!

The effect of the flat-rate tax would be to shift the burden away from those with ability to pay toward those less able to do so. This is not sound tax philosophy, nor is there justice in it.

Take the cases of Mr. R and Mr. D who are both married, under age 65 with two teen-age children. They are exactly alike in every respect except that Mr. R draws down $2 million per year in interest and dividends and does not work, while Mr. D works 60 hours per week for his salary of $35,000.

For year 1981, each family has catastrophic illness expenses of $50,000 and other itemized deductions of $5,000. Under 1981 law, Mr. R would pay a federal income tax of $1,376,782 and would still have $568,218 left for living expenses and investment in interest and/or dividend producing securities. Mr. D has suffered a disaster, but at least he will not have to pay any income tax.

Now let's see how they would fare under a flat-rate of 20 per cent.

Mr. R would pay $400,000 in federal income taxes and would have $1,545,000 left for living expenses and investment. Mr. D would owe $7,000 in income taxes and would have to borrow for that, plus medical bills and living expenses.

What kind of justice is this?●

COAL SLURRY PIPELINES

● Mr. MURKOWSKI. Mr. President, on August 24, the lead editorial in the New York Times was entitled "Give Coal Pipelines a Chance." The thesis of the editorial is that interstate coal pipelines should be given a chance to prove that coal can be hauled by pipeline, at least in some instances, cheaper than it can be hauled by rail. But, as the Times points out, "the only way to find out (if pipelines can haul coal more cheaply) is for Congress to pass 'eminent domain' legislation to clear the way for direct competition."

The Senate Energy and Natural Resources Committee overwhelmingly approved S. 1844, the Coal Distribution and Utilization Act of 1982, on August 5, by a vote of 14 to 6. In August, the House Public Works Committee reported H.R. 4230, the House version of coal pipeline legislation. For the first time ever, legislation that will give the pipelines a chance to prove their worth has been reported by every jurisdictional committee to which the bills have been referred in both Houses of Congress. Despite the lateness of the hour, the Congress has an opportunity to enact this important legislation this year.

Mr. President, I know some of my colleagues have placed holds on S. 1844, and others of my colleagues have scheduled oversight hearings on this legislation. This legislation was the subject of spirited debate and close scrutiny through 4 days of markup by the Energy Committee. The committee has issued an excellent report on the legislation. I would request, Mr. President, that each of my colleagues

examine S. 1844, as reported by the committee; complete promptly any hearings they may have already scheduled; and prepare any amendments they may wish to propose on the floor—so that the Senate may act on this legislation during the short amount of time that is remaining this session.

I ask that the Times editorial be printed in the RECORD.

The editorial follows:

[From the New York Times, Aug. 24, 1982]

GIVE COAL PIPELINES A CHANCE

For a century the only practical way to transport coal from mine to plant or port was by rail. Now the coal industry touts "slurry" pipelines, designed to carry pulverized coal mixed with water or oil. No one knows whether this unproven technology will prove cheaper than rail. But the only way to find out is for Congress to pass "eminent domain" legislation to clear the way for direct competiton.

The 273-mile Black Mesa slurry pipeline has been moving coal from an Arizona mine to a Nevada power plant for a decade. The much longer Energy Transport Systems Inc. line, from Wyoming to Arkanasas and Louisiana, is under construction. If such systems already work, why is Federal legislation needed?

Black Mesa was built before pipelines were considered a serous threat by the railroads. The Energy Transport line managed to beat rail opposition to obtain rights of way across the states. But it took years to do so and the delay added considerably to its projected cost.

Railroads still control critical rights of way in most states, which other slurry lines must cross. They certainly won't sell those rights to potential competitors unless forced. And they probably have the political clout to block efforts to use states' eminent domain powers for the pipelines.

The railroads say eminent domain should be a matter of states' rights. That might make marginal sense if coal pipelines operated within single states. In fact, the whole idea of the pipelines is to facilitate interstate commerce, a matter left by law and logic to the Feds.

The railroads point out that coal pipelines would use water, a scarce commodity in the West. That might persuade Western farmers to oppose the potential competition for water right. But nothing in the proposed Federal legislation would force states to sell water to the pipelines. Nor would it interfere with interstate pacts that divide the use of rivers and underground aquifers.

The railroads argue that coal is their most lucrative traffic. If the pipelines are permitted to skim the cream off their trade, they will not be able to serve less profitable shippers at low cost. Their case might have been persuasive when the Interstate Commerce Commission tightly regulated rail rates. Since deregulation, all forms of freight should cover their costs.

Both the Senate Energy Committee and the House Public Works Committee have approved coal pipeline bills. Both the Senate and House are expected to support the bills once they reach the floor. The railroad's best hope now is to stall in the House Rules Committee. The public's best hope is that the committee won't cooperate.

AMENDING THE NATURAL GAS POLICY ACT—S. 2892

● Mr. GRASSLEY. Mr. President, I am pleased to be a cosponsor of S. 2892, which will clarify the definition of abuse in the Natural Gas Policy Act. I join my distinguished colleague from Iowa, Senator JEPSEN, in supporting changes in the pricing policy of natural gas. It is imperative that Congress examine the issue of high natural gas prices, particularly in view of reports that the cost of natural gas will continue to rise dramatically this winter.

No issue is more important to consumers in my State than the prospect of rapidly rising fuel costs. I am sure my colleagues from other cold-climate States receive correspondence from their constituents relaying present difficulties in meeting their energy costs. The tragedy of high fuel bills is more disturbing when evaluated in conjunction with evidence that the United States is currently experiencing a natural gas surplus.

At the heart of the problem is the long-term contracts entered into by natural gas producers and pipelines. These long-term contracts were agreed to at a time when it appeared that natural gas would always be in short supply; therefore pipelines entered into these contracts in an effort to guarantee their access to this valuable energy source. Natural gas production has increased, but the pipelines are still locked in to contractual agreements negotiated during a far different economic climate.

Iowans have been extremely successful in their conservation efforts, and the State has greatly utilized the low-income weatherization program. Rather than enjoying the benefits of their conservation efforts, the consumer is faced with rising natural gas bills. This experience is not restricted to Iowa.

S. 2892 will focus on specific ways to reduce the passthrough costs on natural gas. It gives the Federal Energy Regulatory Commission legislative authority to more appropriately evaluate these passthrough cost increase requests. The bill would expand the definition of abuse in the Natural Gas Policy Act to include restrictions on increases attributable to take-or-pay provisions, price escalator clauses, and most-favored-nation clauses. Additionally, a rebuttable presumption would be established for contracts which do not include "market-out" clauses.

These changes are vital to provide some measure of relief to consumers, and also to address specific inadequacies of the Natural Gas Policy Act which have become increasingly apparent.●

AMERICAN CONSERVATION CORPS

● Mr. MOYNIHAN. Mr. President, few can make the case for the creation of an American Conservation Corps as persuasively as Mr. Sydney Howe, executive director of the Human Environment Center. Indeed, House passage of companion legislation to S. 2061, a bill Senator MATHIAS and I have sponsored to create such a corps, was due in part to the tireless efforts of Mr. Howe. I am pleased that the Subcommittee on Public Lands and Reserved Water has scheduled a hearing on S. 2061 on September 22, and I look forward to hearing testimony from Mr. Howe and the many other individuals and organizations that have spent considerable time and energy promoting this legislation. I am confident that this Chamber will act quickly on S. 2061 and put thousands of young people to work conserving and rehabilitating our natural and cultural resources.

Mr. President, I ask that a typically eloquent essay by Mr. Howe that appeared in the September 13 Boston Globe be printed in the RECORD.

The essay follows:

[From the Boston Globe, Sept. 13, 1982]

A NEW CCC WOULD PUT YOUTHS TO WORK

(By Sydney Howe)

WASHINGTON.—Half of black youth and a quarter of all youth are unemployed, while significant natural and community resourcees go to waste. The nation is losing human and physical assets. It is time to renew a Depression-era program that worked and won bipartisan support, the Civilian Conservation Corps.

The polarization of economic views within and against the Reagan Administration is reducing the ground for compromise, but such extremes were as great in the 1930s. Then, Franklin Roosevelt's CCC earned conservative respect, including that of the Chicago Tribune and Alf Landon, and it became a source of pride for all Americans.

It is simply incorrect to lump youth conservation work programs among "old liberal nostrums that haven't worked." The modest federal efforts to emulate the CCC in the 1970s have been a bargain for taxpayers, producing for each $1.00 spent work that would have cost $1.20 by the cheapest alternative means. Additional benefits in new confidence and training given to jobless youth have come without charge, and some welfare and crime costs have been avoided.

Unfortunately, those programs are being abandoned. When the belttightening came, both the Carter and Reagan administrations found it easy to ignore the unemployed youth constituency. President Carter's final budget eliminated youth conservation crews, and his 1982 cutoff schedule has been followed almost to the last dollar and day.

Now, House members on both sides of the aisle have recognized this error, Democrats John Seiberling, Toby Moffett and Edward Roybal, with Republicans Silvio Conte and Douglas Bereuter, introduced a bill for an American Conservation Corps last October. With encouragement from 30 national organizations, including the US Conference of

Mayors, National Urban League, AFL-CIO and major conservation groups, the House approved the bill overwhelmingly in June, 291-102. Seventy-four Republicans voted "yea" against the administration's wishes. Republican Rep. Don Young of Alaska, managing the bill for the minority, said, "In both the long and the short run, a program such as this is good for America. It is an investment in both her resources and her people."

Funding authorized for the Corps would be $50 million in fiscal 1983 and $250 million annually thereafter, and it would be funneled through the Interior Department. Priority in recruitment would be given to those classified as disadvantaged. Unemployed young men and women age 15 to 25 would serve in conservation centers set up by federal, state or local governments or by tribal and nonprofit organizations. They would perform an array of labor-intensive urban and rural land protection, maintenance, and rehabilitation tasks. Fee arrangements would allow private-land projects, as in timber-stand improvement and strip-mine reclamation, and non-Corps workers would be protected against displacement. Skills training and post-corps job-location services would be provided to enrollees.

At least 35 percent of federal funds for the Corps would go to the states, where some small-scale youth corps programs have been started. The Illinois Youth Conservation Corps, the Iowa Youth Corps, the Kansas Natural Resources Protection Corps, and the Maryland Conservation Corps have been set up this year. The long-successful California Conservation Corps, which promotes "Hard work, low pay, and miserable conditions" and is vastly over-subscribed, and a comparable Ohio program also are state-funded. Connecticut Gov. William O'Neill launched the Connecticut Conservation Corps last month. A few other states sustain small youth-crew operations and some are designing new ones. The youth population served is small, however, and this is a prime prospect for state-federal partnership

Rep. Young, reflecting the desperation of some in Congress, said, ". . . not much else that is tangible and proven to be workable by a good track record is around to grab hold of." The Republican majority in the Senate, where the bill was introduced by senators Patrick Moynihan and Charles Mathias, would do well to grab hold—as GOP senators Robert Stafford, John Heinz and S. I. Hayakawa recently have. A hearing will be held in Sen. Malcolm Wallop's public lands subcommittee Sept. 22.

The money now contemplated could provide only 20,000 year-round minimun-wage positions and perhaps 40,000 summer ones, after the first year. But it is time for a new start, which just might demonstrate what America's youth and land need, and what they can be together.●

TAIWAN

● Mr. GOLDWATER. Mr. President, one of the sad, but inescapable, facts of life is that government, being made up of people, often reacts like people. While we may make grand and glorious statements about government of laws, not men, the truth is that all too often our Government acts just like any person. With all of the likes, dislikes and prejudices inherent in any individual, we, as a government, often react to our friends and enemies on the whim of the moment. Unfortunately, this is all too true in our relationship with Taiwan.

Not long ago, Sam Lowe, writing in the Arizona Republic, described this situation very aptly. Sam's tale of his and his friends' cruelty toward the neighborhood "RUNT" reminded him very much of the U.S. attitude toward Taiwan.

Mr. President, because this story contains an essential bit of moral wisdom, I ask that it be printed in the RECORD.

The article follows:

A COUNTY OF EUGENES

(By Sam Lowe)

TAIPEI, REPUBLIC OF CHINA.—We had been on the island of Taiwan less than a day when I thought of Eugene.

I don't know where he is now, but will remember forever the sadness in his eyes, probably because I helped put it there.

Eugene was a scrawny kid with big ears and we all picked on him because he was smaller than most of us. If there was ever a time we treated him with respect, I don't remember it.

But despite our cruelties toward him, Eugene was unceasing in his efforts to be our friend. If we made birch tree whistles, he not only made a better one and gave it to us, but offered to show us how to do it. Naturally, we spurned such offers.

And yet, every morning, he'd be there on the front step waiting and hoping, and sometimes he'd say, "Hi, you guys. Can I be pals with you today?" Naturally, we always said he couldn't.

One day, Eugene finally gave up, and never came around again.

Although such memories produce nothing but discomfort, there is a compulsion to recall them because of a similarity here.

It's not quite all that simple, of course. This case of us kids against Eugene has been elevated to billions of people vs. millions of people. But there's still the nagging question over who has the right to do what to whom.

The 18 million Chinese who populate the 14,000 square miles of Taiwan are as industrious as any population in the world. Through hard work and skillful use of international markets, they have elevated their standard of living from an average of about $80 per year to $2,500 annually and have become such aggressive merchants that some nations including the United States, have put restraints on them.

On the surface, the Chinese take such setbacks in stride. They handled the diplomatic break-off of 1979 and last week's announcement about limitations on arms sales from the United States in similar fashion.

That news could have created an extremely embarrassing situation for our 14-member party of American journalists who toured Taiwan last week had it not been for continual reassurances that the decision was expected and would change nothing.

"We understand," James Soong, director of the Government Information Office, said. "Your government must do what it feels is best. You must deal with the reality of Communist China."

But he also offered some firsthand advice.

"Remember that we are also a reality," he said during a press conference. "It is true that Communist China controls a vast area of land, but it is also a fact that there is an island operating a system that works and you (the U.S.) may be sacrificing that system without knowing it."

Despite such rejections, the Republic of China continues to list the United States as an ally and hails next month's major shopping spree in the U.S. as a show of good faith.

Government representatives will travel to 14 states, willing to spend up to $1 billion on the Seventh Special Procurement Mission.

The group will be in Arizona in early October to pick up about 130,000 bales of cotton and an unspecified amount of orange juice concentrate. The previous six missions have netted contracts totaling $5.4 billion for the United States.

But the mission has a purpose other than spending money. Dr. Soong summed it up:

"We treasure the way of life we have here; we want you to know about it because we hope you will give us the chance to keep free China free. Please keep us as your friend."

And the next day, at a luncheon, he reiterated:

"We live by the words of Confucious, who once said, 'Virtue does not stand alone; it attracts neighbors.' We hope our friends will eventually be convinced and that they will reciprocate our friendship."

A typical Chamber of Commerce pitch?

Understandably so.

But I cannot help but think of the day Eugene wasn't sitting on the front step.●

CHEMICAL AND TOXIN WEAPONS

● Mr. QUAYLE. Mr. President, the evidence of Soviet use of chemical and toxin weapons in Southeast Asia and Afghanistan is incontrovertible. Unfortunately, recognition of the evidence by the international community has been almost nonexistent. One can only speculate on the political considerations which have gone into the reluctance to condemn the human tragedy which has been and continues to be perpetrated by the Soviet Union.

It is my hope that the State Department will continue to keep this issue very public in its dealings with other nations directly and through the United Nations. The world must be told the facts—and facts they are. The Soviet Union has been shameless in its use of chemical warfare and it must be called to account.

Mr. President, I ask that an article by Sterling Seagrave, "Yellow Rain's Year: 'Like Laughing at Guernica,'" from the Wall Street Journal of September 16, 1982, be printed in the RECORD, along with a Heritage Foundation Backgrounder, "Moscow's Poison War—Update," by James A. Phillips.

The material follows:

[From the Wall Street Journal, Sept. 16, 1982]

YELLOW RAIN'S YEAR: "LIKE LAUGHING AT GUERNICA"

(By Sterling Seagrave)

In Bangkok, Thailand, this summer, one often heard a favorite joke among the for-

eign embassy crowd, and it was on the Americans.

It seemed that a U.S. diplomat collecting evidence in Thailand of "yellow rain" poison attacks had located a Hmong villager from Laos who was suffering nightmarish medical symptoms. The American had to transport the Hmong to a medical center in Bangkok quickly. He fought through the necessary red tape, eventually arranging air tickets for the Hmong, and a message to the big refugee camp at Ban Vinai asked that the man be put on the plane. Doctors and U.S. embassy staff in Bangkok waited eagerly. The plane was met, and the Hmong rushed to Siriraj Hospital for an awesome battery of tests—which established that he was in excellent health.

Night after night at diplomatic receptions, storytellers paused before delivering the punch line: "The Americans, you see, had got the wrong Hmong."

This embarrassing foul-up probably could have been avoided if they had simply put the Hmong survivor on the embassy attache's plane for a quick flight to Bangkok. The plane at the time was on routine milk runs. But that wasn't done, U.S. embassy staffers explained, because the Pentagon has never told the attache's office that the yellow rain investigation is to be rated and handled as a "priority."

The U.S. investigation of yellow rain has been plagued from the beginning with just this sort of petty mixup. The result is that one year after Secretary of State Haig announced the first "preliminary" evidence that poisons were being used as weapons against people in Indochina and Afghanistan, the yellow-rain case remains "preliminary."

Certainly, more than enough scientific evidence has accumulated to convince even the most stubborn skeptics that some grotesque poison is being used over there. This spring, a previously skeptical Washington Post editorially praised what it called the first "hard evidence"—blood and urine samples from casualties of a poison attack in Cambodia. Science magazine drew the same conclusion this June.

Nonetheless, the investigation has been hampered by bickering between the State Department and its critics, and in recent weeks seems to have run out of steam.

AFRAID OF REPERCUSSIONS?

This is all the more puzzling since a dozen other countries are now said to have arrived at their own independent verifications of the poison charges. Among them only Canada conducted its investigation in the open and publicly announced its confirmation in June.

U.S. officials say the other investigating countries include France, West Germany, Britain, Norway, Sweden, Denmark, Israel, South Africa, Australia, New Zealand, China and an unidentified Latin American nation. The officials say these countries have discussed their findings privately with Washington but have not gone public partly because their investigations were carried out clandestinely by intelligence services and they don't want to disclose the circumstances or methods. A more important reason, the officials add, is that governments such as France think that a "premature" announcement of findings might provoke severe political repercussions from the domestic left wing.

The reverse applies in Bonn. There the conservative Christian Democrats have been attempting to use the yellow-rain issue against Chancellor Helmut Schmidt's coalition. The CDU has charged in parliament that Mr. Schmidt has for many months had evidence of the use of biotoxins by the Soviets—a point conceded in parliament last December by a government spokesman—but that Mr. Schmidt has avoided discussing the issue in the interest of Ostpolitik.

This attitude apparently prevails in some international agencies as well. Scientists at the Ebenhausen think-tank outside Munich claim that Germans on the staff of the International Red Cross in Geneva speak privately of hard evidence which they say the Red Cross refuses to disclose "for political reasons."

Red Cross doctors are known to have performed autopsies on purported gas victims in Cambodia, but have always denied finding evidence that communist forces were using poisons. But doctors of the International Rescue Committee, working in the same locations, provided the blood and urine specimens regarded as the most persuasive evidence to date.

While the West temporizes, the gas attacks reportedly continue undiminished. In Laos, according to the U.S. embassy in Bangkok, yellow-rain assaults have persisted through this spring and summer. The attacks are usually interrupted each year by the monsoon rains between June and September. This year the rains were late, and the attacks continued to be reported to the end of June.

U.S. scientists involved in the Afghanistan investigation say they believe the Afghan compounds will eventually prove similar to toxins used in Indochina, but more advanced. They say hundreds of tests are needed to identify various toxins, each requiring separate samples, and only a tedious process of elimination might find the right test for the right poison. This was the case for the initial yellow-rain compound, which was correctly identified in August 1981 only after hundreds of samples had been tested for five years for the wrong poisons.

The assumption that the poisons in Afghanistan may prove more sophisticated than the yellow rain of Laos and Cambodia apparently rests on the fact, according to U.S. officials, that they are being used by crack Soviet military units, armed with the latest equipment.

In Bangkok, Thai military sources say the only explanation for the continued use of the poisons is that both Hanoi and Moscow regard the present investigations with contempt.

"Obviously, they believe that politics will prevent the Western nations from uniting on this issue," a Thai general, who requested anonymity, said in an interview. "So far even the Americans can't agree, which we find very strange. First they argue over whether the reports are true. When they concede that the reports are probably trustworthy, they argue over the nature of the poisons. As soon as the approximate nature of the poisons is established, they argue over the proportions of one toxin to another, about every stray inconsistency, though it must be clear to everyone by now that more than one poison is being used. What is lost in all of this argument is that many people are being systematically murdered with biological poisons for the first time in modern history."

"What difference does it make," he asked, "whether six million Jews were murdered with Zyklon-B or with carbon monoxide? Now, as then, everybody knows that gassings are taking place, and everybody knows full well who is behind it, so the bickering makes a mockery of human tragedy. It is grotesque, like laughing at Guernica."

Despite U.S. pronouncements on the issue, only two American officials in Southeast Asia have been actively investigating it. The two men, Army Lt. Col. Charles D. Lane and Southeast Asian specialist Edward McWilliams, have had to conduct their investigation and collection of evidence on weekends, after hours, and often at their own expense. They were not relieved of their normal duties at the embassy when they were assigned to handle field work in the yellow-rain inquiry. Because the subject lacks official "priority," the two borrow cars, beg rides in the countryside and use jungle buses and oxcarts.

When a gas attack occurs, sometimes in sight of Thai border police, specially equipped Thai chemical troops hurry to the scene in full protective gear and collect samples of soil, water and leaves. Thai medical corpsmen perform quick field autopsies on the victims. When they return to the Thai border, to send their samples to Bangkok, Mr. McWillians or Col. Lane will try to obtain a portion of what the Thais have collected. For more than a year they sent hundreds of samples to Washington before the discovery was made of the yellow-rain toxins.

Mr. McWilliams and Col. Lane currently work through refugees, persuading them to go back to the sites of gas attacks to scrape powder from rocks, or to collect charcoal from village firepits or hair from corpses, because these may best retain traces.

Each of the men has color photographs of Soviet aircraft taken while they were actually spraying yellow rain. The aircraft are clearly visible but only about the size of a fingernail. "Unfortunately," Col. Lane says, "you can't tell a thing from the pictures."

Both men have been decorated quietly by the U.S. for their achievements in obtaining the so-called "smoking gun" evidence. Mr. McWilliams has been promoted back to Washington to prepare for assignment to Moscow, leaving Col. Lane to continue the U.S. field work in Southeast Asia. He will continue to do so without a "priority" rating from the Pentagon, because, according to a member of the U.S. interagency group running the investigations, the decision to assign a priority to the inquiry was "decided but not carried out."

The lack of coordination stems in part from competition between the Pentagon and the State Department over which agency would direct the investigation—a dispute that was complicated by strong differences between the Secretaries of State and Defense.

The initiative was originally seized by Mr. Haig. Insiders at State say he was convinced that the poison gas issue would cause an international uproar. He believed it would arouse Europeans against Moscow and counterbalance the protest over the U.S.'s neutron weapons.

JEALOUSY AMONG AGENCIES

"Haig was right in principle," says a career diplomat in Washington. "What difference is there really between radioactive poison and biological poison? They both kill indiscriminately. But the real difference, as Haig saw, was that the Soviets were actually using the toxins, while we were not using the neutron bomb. Somehow that distinction got lost."

Warned off by Mr. Haig, the CIA and the Pentagon's Defense Intelligence Agency kept a low profile during the investigation.

The Pentagon's role was generally limited to Col. Lane's efforts in the field, and to laboratory support at Fort Detrick, where Dr. Sharon Watson accomplished a number of breakthroughs in identifying the poisons and deducing Soviet logic in compounding them. The CIA's role initially was held to supervising the scientific and medical aspects of the investigation. Territorial jealousies kept the CIA from becoming directly involved in field work in Thailand, but this was not so in Afghanistan. There the State Department and Pentagon kept hands off while the CIA handled the investigation. This included running agents over the border from Pakistan, and tapping sources inside Kabul.

Hampered by those interagency rivalries, the yellow-rain investigation never seriously got off the ground, and the State Department was never able to arouse much domestic or international outrage. And with Mr. Haig waging conflict with Defense Secretary Weinberger throughout, there was little chance of formulating effective strategy or policy at the highest levels.

Mr. Haig also kept the White House at a distance from the yellow-rain issue for a long time, according to a State Department source, "because it was decided that Ronnie couldn't handle the (technical) questions" from the press.

"Just as the skeptics were finally coming around this summer," says another official, "Haig suddenly quit. It may take months for the new management to get the restaurant running properly again."

While the new team at State gets up to speed, the Pentagon and CIA seem to be asserting themselves and noises are being made about "a renewed effort." Whether this will lead at last to a coordinated U.S. investigation and to overcoming apathy in the West on the spraying of Asians with poison remains to be seen.

[From the Heritage Foundation Backgrounder, Sept. 3, 1982]

MOSCOW'S POISON WAR—UPDATE

INTRODUCTION

(By James A. Phillips)

Compelling evidence keeps mounting that the Soviet Union and its proxies continue to use illegal chemical and toxin weapons in Southeast Asia and Afghanistan. Noted then Secretary of State Alexander Haig in a television interview on February 14, 1982: "every passing day . . . we get more incontrovertible evidence of the use of mycotoxins in Afghanistan, Laos and Kampuchea. We now even have specific evidence of casualties of noncombatants which are in the range of scores of thousands in all three target areas. There is no question in our mind that such weapons have been and are continuing to be used." [1] Max Kampelman, chief U.S. delegate to the European Security Conference in Madrid, charged on February 16 that the Soviets were operating twenty chemical and biological weapons facilities in violation of international law.

In late March, the State Department released a special report, Chemical Warfare in Southeast Asia and Afghanistan, documenting reports of 397 communist chemical attacks which killed over ten thousand people—6,300 in Laos, 980 in Kampuchea (Cambodia) and over 3,000 in Afghanistan. These are minimum figures, based on eyewitness accounts. Other estimates of chemical warfare deaths range as high as 50,000.

[1] ABC "This Week," February 14, 1982.

The evidence presented in the report comes from a wide variety of sources—refugees, freedom fighters, communist defectors, doctors in refugee camps, Western journalists and Western intelligence agencies. These human intelligence data were buttressed by photographic and electronic intelligence data, as well as by scientific evidence based on the analysis of physical samples taken from the sites of chemical attacks. According to the State Department:

"Taken together, this evidence has led the U.S. Government to conclude that Lao and Vietnamese forces, operating under Soviet supervision, have, since 1975, employed lethal chemical and toxin weapons in Laos; that Vietnamese forces have since 1978, used lethal chemical and toxin agents in Kampuchea; and that Soviet forces have used a variety of lethal chemical warfare agents, including nerve gases, in Afghanistan since the Soviet invasion of that country in 1979".[2]

NEW EVIDENCE

The report unveiled two new developments. First, it revealed that dead Afghan freedom fighters had been found lying in firing positions with their hands frozen on their rifles, indicating that they were victims of an extremely fast-acting lethal chemical or toxin not detectable by human senses. It apparently causes no outward physiological responses before death. This new weapon is grimly nicknamed "silent death." As a second new development, the State Department report confirmed charges made by the Committee for a Free Afghanistan that Moscow was using a chemical or toxin weapon that induced the flesh of its victims to decay extremely rapidly after death. When the bodies of such victims are touched or moved, the skin often peels off in large sheets.

The U.S. government continues to collect and analyze scores of samples of lethal chemical and toxin agents used on Asian battlefields. On May 13, the Department of State released conclusive evidence that tricothecene mycotoxins comprise at least some of the poisonous active ingredients of the mysterious "Yellow Rain" terror weapon. Blood and urine samples from four victims of a Vietnamese chemical attack in Kampuchea contained T-2 toxin. Blood samples from control individuals of closely matched age and background who had not been exposed to the "Yellow Rain" showed no trace of T-2 or other tricothecenes. Environmental contol samples of vegetation, soil, water, rice and corn in the region also contained no tricothecenes. It is therefore highly unlikely that the victims of tricothecene poisoning were contaminated by substances found in their natural environment, as had been suggested by some of those who ignored earlier reports of communist poisoned earth tactics.

U.S. charges of Soviet chemical warfare activities have been officially supported by an independent team of Canadian investigators that visited Thailand in February 1982 to conduct on-site inspections, interview victims and analyze the pattern of mycotoxin poisoning in the area. According to the Canadians:

"The events that are reported to take place at the time of alleged chemical warfare attacks cannot be explained on the basis of naturally occurring diseases. Neither mycotoxicoses nor other diseases occur in Southeast Asia which might be able to cause the rapid onset of symptoms or the effects on all sorts of forms of life (human, animal and plant life) that is reported to occur. Judging on the basis of eyewitness reports it appears that three different types of agents have been employed as warfare agents, one of them being 'Yellow Rain.'" [3]

[2] United States Department of State, Special Report No. 98, Chemical Warfare in Southeast Asia and Afghanistan, March 22, 1982, p. 6.

THE SOVIET REACTION

The initial Soviet strategy for dealing with allegations of illegal chemical warfare activities was to play down the issue or confuse the argument by hollering—incorrectly—about American "biological warfare attacks" and the use of Agent Orange in Vietnam. As these attempts to distract Western public opinion failed, however, Moscow mounted a new propaganda offensive. On May 21, the Soviet mission to the United Nations issued a nineteen-page critique, "Chemical and Bacteriological Weapons," designed to refute Western accounts of Soviet and Vietnamese chemical warfare operations. The Soviet tract conceded that the deadly tricothecene mycotoxins have been found in Southeast Asia, but maintained that these toxins were produced by the fusarium fungus which supposedly thrives in elephant grass that was artificially seeded from the air by American military aircraft during the Vietnam war.

This explanation is dismissed as "science fiction" by Paul Nelson, one of the world's foremost authorities on the fusarium fungus. Nelson is a plant pathologist at Pennsylvania State University who has catalogued more than 6,000 isolates of fusarium, 300 of them toxin-producers. In all his extensive studies, he never has encountered any references to a toxin-producing fusarium fungus in Southeast Asia. Although the fusarium fungus grows naturally in nearly every part of the world. Nelson noted that it produces strong toxins only in cold and temperate climates.[4] And even if the Soviet arguments concerning the origin of poisonous mycotoxins in Southeast Asia were plausible (which they are not), what explains the presence of these same mycotoxins in Afghanistan, thousands of miles away from "American-sown" elephant grass? In summary, Moscow has yet to offer a reasonable explanation to counter the charges that it has been waging poison warfare.

THE UNITED NATIONS INVESTIGATES

The U.N. investigation of communist biochemical warfare activities continues to dismay those concerned with getting at the truth of the matter. The investigation this year is proceeding at the same lethargic pace the U.N. set for itself in 1981. The group of experts chosen by the U.N. to investigate these alleged violations of international law is headed by General Esmat Ezz of Egypt. He is believed to have played a prominent role in his country's chemical weapons program during the 1960s when the Egyptians were associated closely with Soviet military advisers. The staff of the investigative group is drawn from Poland, Bulgaria, Kenya, Peru and the Philippines. As fine as these investigators may be, they have been thwarted in their work. They

[3] H.B. Schiefer Toxicology Group, University of Saskatchewan, "Study of the Possible Use of Chemical Warfare Agents in Southeast Asia," A Report to the Department of External Affairs, Canada, 1982, p. i.

[4] For an excellent analysis of the faulty reasoning behind the Soviet "elephant grass theory" see: "Yellow Rain: Filling in the Gaps," Science, July 2, 1982.

have been forbidden, for example, to visit the alleged scenes of poison attacks by the pro-Soviet regimes of Afghanistan, Laos, Kampuchea and Vietnam. If these governments are truly innocent of biochemical warfare charges, as they profess to be, why do they not welcome U.N. experts? Instead, these nations and the U.S.S.R. have used every opportunity to block the investigation.

President Reagan appealed to the Soviet, Laotian, and Vietnamese governments to cooperate with the U.N. effort when he addressed the U.N. Special Session on Disarmament on June 17: "We call upon them now to grant full and free access to their countries or to territories they control so that U.N. experts can conduct an effective, independent investigation to verify cessation of these horrors." So far there has been no response.

Although denied access to the attack sites, the U.N.'s real problem is less lack of evidence than lack of political will to do anything about the evidence. This is hardly surprising since the U.N. investigation is overseen by U.N. Undersecretary General Viacheslav Ustinov, a Soviet official who has used bureaucratic inertia and delaying tactics to stall and smother the investigation. At one point, Ustinov even tried to pressure the team to use a laboratory of his own choosing to analyze samples of chemical agents. Despite the fact that the U.N. had had in its possession chemical warfare agents from Southeast Asia for many months, it has yet to complete the laboratory analysis of these samples. Indeed, this crucial evidence has been stashed in an unguarded U.N. freezer for months.

In February 1982, the U.N. group of experts visited Afghan refugee camps in Pakistan where it obtained eyewitness testimony, medical findings and physical evidence of biological warfare. This information has been quietly shelved (some say suppressed), presumably because Ustinov predictably preferred not to embarrass the Soviet Union at the U.N. Special Session on Disarmament in June. Eventually the evidence was made public when it was leaked to the Wall Street Journal, which published excerpts from the group's 36-page transcript of interviews with victims and eyewitnesses of Soviet biochemical attacks in Afghanistan.

According to these interviews, the Soviets were using more than just "Yellow Rain." Afghan freedom fighters told of poisoned "dumdum" bullets and flechettes (steel darts) which caused blistering, swelling and sometimes death from relatively minor wounds. They told of "black smoke" that rendered victims unconscious or paralyzed. They gave the U.N. team samples of contaminated wheat grains, poisoned bullets, a flechette, a gas mask, part of a parachute from a chemical bomb and a fuse from a chemical hand bomb.[5]

To date, the U.N. has done little to analyze the evidence of chemical munitions that Afghans and Southeast Asians have risked their lives to retrieve from remote battlefields. By engaging in what appears to be a coverup of Soviet chemical warfare attacks, the U.N. is jeopardizing its own credibility and integrity as an international institution.

CONCLUSION

The challenge is now to the U.N. The evidence, long persuasive, is now undeniable. Even Moscow has been forced to admit the presence of some poison substance on the battlefields where its weapons are being used. For the United Nations, in the face of all of this, to do nothing would be tantamount to legitimizing chemical warfare. It would also be tantamount to confirming that the U.N., which misses few opportunities to condemn the U.S. and other Western democracies, fears to point an accusatory finger at Moscow. And all the while, Moscow's poison weapons continue to rain upon Afghans and Southeast Asians.

JAMES A. PHILLIPS,
Policy Analyst.●

[5] "Chemical-Biological Warfare in Afghanistan", Wall Street Journal, June 7, 1982.

THE U.S. AIR FORCE

● Mr. GOLDWATER. Mr. President, on Wednesday, September 15, Secretary of the Air Force Verne Orr, speaking before the Air Force Association convention, gave an excellent talk about the present status of the U.S. Air Force. In his speech, Secretary Orr not only reminded his audience of the past history of the Air Force but also provided a realistic look at where we are today and where we hope to be tomorow. In recounting the past achievements of the Air Force, Secretary Orr warned that "we must not let the glories of our past lull us into a state of complacency with respect to the present. Need I remind you," he said, "that the Roman Empire had a rich tradition and history as well; but what of it today."

Secretary Orr then proceeded to give the audience a breakdown of the numerical advantage that the Soviet Union has over the United States. Notwithstanding the numerical disadvantage, what worries the Secretary, as well as a lot of other people, is the qualitative advancements that the Soviet Union is incorporating in its weapons systems.

Secretary Orr then went on to detail the various programs and initiatives being undertaken by the Air Force. In this area, he discussed the MX; the B-1B; multiyear contracting for the F-16, the F-15 and the KC-10. In outlining these steps, Secretary Orr assured his audience that not only would it give the United States a credible strategic and tactical defense but that it would be done in the context of getting the most for the taxpayers' dollars. As he said, "These steps are critical if we are to demonstrate to the American people that not only can we provide for their defense, but we can do so without adversely affecting the economy. In short, we must be good stewards."

Mr. President, because of the important nature of the subject, I ask that Secretary's Orr's speech be printed in the RECORD in its entirety.

The speech follows:

ADDRESS BY SECRETARY OF THE AIR FORCE VERNE ORR TO THE 1982 AIR FORCE ASSOCIATION NATIONAL CONVENTION

REPORT TO THE SHAREHOLDERS OF DEFENSE—A PROSPECTUS ON THE AIR FORCE AT 35

Good afternoon, ladies and gentlemen. It is certainly well known that this year is the 35th anniversary of the founding of the United States Air Force. It may not be as well known that I am the fourteenth Secretary of the Air Force. Now you don't have to reach for your pocket computers to divide 14 into 35 and learn that the average term of a Secretary of the Air Force is exactly 2½ years. Since this is the second opportunity that I have had to speak to this group, you may wonder a little, and I wonder a great deal, whether the cards will deal me an opportunity to come back and talk with you again.

In the time I have been with the Air Force, I have had the unusual opportunity to work with two outstanding Chiefs of Staff. First, of course, kindly, patient, brilliant Lew Allen. Lew—who had to wean me from my Navy days, who had to explain that the newly commissioned officers in the Air Force were not called Ensigns and who also had to explain that there is a considerable difference in the seniority and prestige of a Captain in the Air Force and a Captain in the Navy. Can you imagine how Lew felt when he learned that the new Secretary of the Air Force was going to be a used car salesman from Pasadena—the city of the little old ladies in tennis shoes? But, now in all honesty, we've got to admit the man upstairs has a sense of humor because Lew Allen is now going back to Pasadena to head the Jet Propulsion Laboratory there. He will now have the opportunity to rub shoulders with my good friends, the little old ladies in tennis shoes. Lew has been an exceptional Chief of Staff, and it was my great pleasure to come into this organization under his tutelage. He will long be remembered for his firmness, his fairness, his objectivity and, most recently, for establishing the Air Force Space Command that will charter new directions for the Air Force in space. I am also privileged to be associated with another great Air Force leader. This time I feel a special sense of pride because I participated in the selection of Charles Gabriel as Chief of Staff. As the Vice President said at the swearing-in ceremony, America is lucky to have a man of this caliber to head their Air Force.

Today I would like to give you a report on the status of the Air Force because you, the members of the Air Force Association, and, in fact, all Americans are the stockholders, the shareholders in this Service and in the nation's defense. I would like to talk to you in very simple terms about the past, the present and the future. Put another way, where we have been, where we are and where we are going or; in even a third way; I would like to discuss with you the three H's—our Heritage, our Headaches and our Hopes. Our heritage, in part of course, determines how we handle today's headaches and, in an even greater way, how we handle today's headaches determines our hopes and our aspirations for the future. So let's talk about both the good and the bad, the successes, and the problems still ahead.

As our minds drift over the heritage of our past, we go back to the days before there was an independent Air Force; days, for instance, in World War I of the Lafayette Escadrille; of early aviators such as Raoul Lufbery, Eddie Rickenbacher, Frank

Luke—American men fighting in machines that were not American made; such aircraft as Newports and Spads. Then we recall the lean years of the Thirties when a fledgling air transport industry accepted the challenge of carrying the mail. But we can also recollect people like Billy Mitchell, Benny Foulois, Pete Quesada and Ira Eaker—men who pioneered the uses of this new medium. Then there are the famous names of World War II and the courage of our flyers, many of whom went off with the realization that possibly one in three would not return—Doolittle, Chennault, and so many other names that made great history for us. Then came that day in 1947—September 18th—when the Air Force came of age. We became the newest of the independent military services and Stuart Symington became the very first Secretary of the Air Force. Eight days later, Carl Tooey Spaatz became the first Chief of Staff.

Our memory next takes us over the tragic path to Korea, the first conflict where America was content to settle for a tie and where the Armistice talks still go on year after year in the demilitarized zone. We think of Edwards Air Force Base where men have given their lives pushing the frontiers of science so that we could fly ever faster. We recall Vietnam with anguish, a sacrifice in which America was unsure of what it should do or could do. When we think of the present, we come, of course, to space and the Shuttle. This is the high ground—the last frontier. Before us lies a challenge as big as space itself. However, we must not let the glories of our past lull us into a state of complacency with respect to the present. Need I remind you that the Roman Empire had a rich tradition and history as well; but what of it today. I do now want people to ever read of the rise and fall of the United States. The point is that history and heritage are not enough.

As we live today and dream of tomorrow, we should not only be grateful for the courage and the wisdom of those who went ahead of us, but also careful not to drop the baton that they have passed to us. This brings me to the second point. Where are we now? What have we done with the traditions that have been left to us? Before we address this question, however, let me briefly discuss the threat which is as real today as it was when our Service was created 35 years ago.

Beginning in 1946, despite significant economic problems, the Soviets began a major rearmament program that in thirty-five years has given them a margin of military superiority in some conventional and nuclear areas. By the 1970s, the Soviet Union dedicated 12-14 percent of its Gross National Product to defense, with the largest portion of their expenditures going toward the acquisition of modern armaments. In fact, over the past ten years, the Soviets have outspent the United States in real terms by almost two to one.

You know, of course, that the Soviets are building some 1300 fighters and fighter bombers every year compared to half that many for the allies. They also have over 200 backfire bombers and a brand new bomber called the Blackjack, similar to our B-1. This is at a time when we are still flying B-52s. You know that they have clear superiority in a number of their land-based missiles, their ICBMs. They have an outstanding air defense system, 5000 early-warning and air defense radars, 2500 interceptors and 10,000 SAM launchers. In submarines they outnumber us some 377 to 126, and their superiority in numbers of tanks, armored personnel carriers and artillery is almost too great to mention. Unfortunately the Soviets have made not only quantitative improvements, but are taking the lead from the United States in qualitative advancements as well. They are learning that numbers are not everything.

As we look at the lessons of Lebanon, I hope that we have, once and for all, put aside the notion that somehow America can put its pilots up in flimsy, inexpensive, poorly kept flying machines and expect them to win. It was only a year ago that I told you America under this Administration would never sacrifice its youth in that kind of machine and we never will. Now I think that even the doubters have learned that the more complicated and, yes, more expensive machines are necessary not only to accomplish the mission but most importantly to protect our pilot's lives. I am proud to report that in the past year we have made major advances in ensuring that the U.S. Air Force lives up to its heritage as the preeminent air power in the world today. That airpower has ensured the peace.

In his commencement speech at Eureka College last May, President Reagan noted that: "Peace is not the absence of conflict, but the ability to cope with conflict by peaceful means."

Our ability to cope, to maintain the peace, has been possible because we have been able to maintain a credible deterrent, both in nuclear and conventional weaponry. When I addressed this convention last year we were well on our way to losing this capability. The nuclear superiority that the United States had achieved in the 1950s and 1960s is now gone and as Secretary Weinberger points out, the Soviets have gained, in certain areas, a margin of superiority. However, in the last year we have turned the corner with programs to modernize the nuclear triad. Last October, the President announced the Strategic Modernization Plan which will, within the next four to eight years, redress the most serious weaknesses in our current posture and, thus, restore the strategic balance. The specific elements of this program are known and were touched on in earlier addresses before this group. Let me add that in those areas for which the Air Force has prime responsibility, the program is progressing well.

As General Gabriel mentioned yesterday, the MX has received Congressional approval and a Presidential decision on a basing mode is to be made by December.

With respect to the B-1B, you know the story. When the B-1 went to Farnborough it was the highlight of the show. We have been criticized that the money spent to send the B-1 to England was excessive. That criticism is without foundation. The B-1's presence at Farnborough renewed, in the eyes of both our allies and enemies alike, the technological superiority upon which the heritage of the Air Force and the history of American defense have been based. It renewed American prestige and demonstrated our resolve to keep the peace. As such, the expenditure of this money did as much for the well-being of our people as if it has been expended on some type of "hand-out" program.

It is a matter of pride that at this particular point, the B-1B is either on or ahead of schedule, and it is either on or under budget. Let me assure you that it's going to stay that way, and the aircraft will rollout in October of 1984—on schedule and on budget and the doubters be damned. The four companies that are involved in the development of this plane and their subcontractors are certainly to be complimented. I must also say that one of the major contributing factors of this success story is that we are building that plane almost without change orders. Now those of you in the manufacturing business know what it means to be able to build a product without constantly retrofitting, changing, altering; and the schedule slippages and cost overruns caused by such instability. The B-1B is a perfect example of what the Air Force and industry can do together to ensure the defense of this nation. As such, it certainly is in the best traditions of both.

The F-16 is another success story where the civilian-military partnership that I spoke about last year has worked to keep our nation strong. I am proud to say that in the past year we have signed a multi-year contract on the F-16. For once a manufacturer will know that for the next four years we plan to buy a minimum of 120 aircraft per year. As a result, he can make his production plans and buy accordingly. This effort is saving us nearly a quarter of a billion dollars. We have made similar commitments in the purchase of 30 millimeter ammunition, and we look forward to developing multi-year contracts for the F-15 and the KC-10. These steps are critical if we are to demonstrate to the American people that not only can we provide for their defense, but we can do so without adversely affecting the economy. In short, we must be good stewards.

We have selected the next generation trainer from among three excellent designs and will soon begin production. As General Gabriel pointed out yesterday, we believe that we have solved the airlift problem for the immediate future. If all goes well in Congress, we can start to get some very badly needed airlift so that the equipment the Army and the Marines need will not be left sitting on our shores should an emergency arise overseas. Likewise, we are working much closer than has been the case in the past with both the Army and the Navy to ensure compatibility of equipment with lift capability. America cannot afford the luxury of Army equipment which is too wide to fit into Air Force planes or design Air Force planes that do not take into account the size of Army equipment.

But, it's in people programs that we are doing our best. We are doing so very well that you will be hearing about it in meetings you have this week. Out of the many studies examining the recent conflicts in the Falkland Islands and Lebanon, a common lesson being drawn is that people matter more than machines. This conclusion should not be surprising, particularly to this group. Recognition of the need for good people has always been at the forefront of Air Force and AFA concerns. President Lyndon B. Johnson, in a letter to the AFA in 1964, wrote:

". . . The welfare of our citizens in uniform, which is of great and continuing concern to us all, is not merely a matter of justice or equity, but of hard commonsense. The nation needs now, perhaps as never before, professional career servicemen with talent, training, imagination and versatility."

During this past year, we have made major gains in recruiting and retaining this kind of professional. We are running 93 percent high school graduates, and we probably could run even higher. There are a certain number of highly skilled, motivated people

who simply drop out of high school, sometimes because the pace is too slow for them. For this reason, we are not anxious to go to 100 percent high school graduates.

In today's competitive environment, the single most important factor in the recruiting and retention equation is pay. When I spoke to you last year, I identified two major challenges to adequate compensation for the man or woman in uniform. Today I am happy to report these challenges have been met. Last October's cost of living raise restored, for the first time since 1972, pay comparability for the military. Similarly, the pay cap which had deterred our general officers from remaining on active duty was raised. Both of these actions, as well as a supportive and more appreciative public and a weakened economy, enabled us to achieve our recruiting and retention goals.

Our recruiting needs were met long before the end of the current fiscal year. Counting both the numbers of enlistees and those who have job reservations, we achieved our FY 82 non-prior service male goal in May 1982 and the female goal in July 1982. We currently have a waiting list of nearly 27,600 for the next fiscal year. This year pilot retention is up from 54% to 66%. First term reenlistments are up from 43% to 58%. Second term reenlistments are up 72% to 81%. I could go down the whole line and every one of them shows a much, much improved trend. We are doing better than the other Services and doing very well indeed with regard to women in the Air Force. Representing more than 11 percent of the force, they make a tremendous contribution to the Air Force mission. The number of women has nearly doubled in the last 10 years and they are taking ever greater responsibilities. Only a few months ago, I authorized women on the AWACS aircraft, both as members of the flight and mission crews.

But since this is an objective report to stockholders, I don't want to paint everything in terms of rosy red. It would be unrealistic of me not to recognize that Charles Gabriel and I have problems that warrant our attention, and you should know what some of them are. The first one concerns our most vital resource—people. If you think that the current reenlistment success and retention of pilots is going to continue when the economy bounds back, then you and I are living in a fool's paradise. We will again see our pilots resigning to go to the airlines, and we will again see our highly trained enlisted personnel leaving for industry. Again, we will be struggling to fill our quotas with high-quality personnel. One of the ways we can prevent the drift of our people away from the military is to maintain pay comparability. But we have already started to lose the pay comparability gained in FY 82, and it's discouraging to think how short-sighted we can really be. How short a time ago it was that we recognized you can't maintain a quality volunteer military force if you are not willing to pay what its members can earn on the outside! Yet now, we are providing a cost-of-living raise of only 4% for the coming year which is well under even the lowered inflation rates.

So we have started down the slippery slope. It's been my pleasure to serve about 25 years in business and some 11 years in government, and it has always been my prime tenet that you have to pay people what they are worth. Your first obligation is to the people who work with you. I would rather have one thousand people well paid, satisfied and happy doing a job than two thousand who think they are underpaid and are grumbling. Somehow, we have got to recognize that there is no other way to maintain a credible deterrent force than to maintain pay comparability. Otherwise, we must accept a smaller force with inadequate capability.

A second problem concerns our women in uniform and, while we are doing well, Americans in general are having trouble utilizing women's full potential. The military is not the only place you will see that problem. We have made wonderful strides in seeing that women can enter many different fields. It is now our challenge to see that they progress up the ladder as their skills and abilities make it possible. In academia, for instance, and I am familiar with that, you see large numbers of women in the Assistant Professorships and some in the Associate Professorships but only a relatively few in the full Professorships. In the Air Force, while more than 11 percent of the people are women, there are no four-stars and no three-stars. In fact, only three women are general officers.

Now the reason for this imbalance is very easy to understand. It takes about 25 years of outstanding service to become a general officer of the United States Air Force, and 25 years ago, when the most recent brigadier general selectees entered, there were relatively few women as second lieutenants. But the challenge to us is to make sure that 20 years from now we are not still caught in the same predicament. We must ensure that as a year group moves from Major to Lt Colonel and Lt Colonel to Colonel, women are given the same opportunity as men.

Along these lines, I was disappointed that there are fewer women in the Air Force Academy Class of 1986 than there were in the Class of 1985. We are simply not getting as many qualified female applicants as we would like. Let's talk to our daughters and our friends and their friends about the outstanding opportunities for women in the Air Force.

A similar challege faces us in addressing the disparity between rated and non-rated officers. You know, there is a saying the mission of the Air Force is "to fly and fight and don't you forget it." That has a salty tang, and I would like to have it up on my wall. But I also want to remind you that 55 percent of our officers today are not rated. When you look at the very senior uniformed leadership—the four stars—only one out of twelve is non-rated. When you look at three-stars, we have three out of thirty-five, or something under 10 percent, who are non-rated. The reason is that twenty-five years ago when the current new general officers first entered commissioned service, the proportion of rated officers was far higher than it is today. Consequently, the percentage of rated officers making general is much greater than the percentage of rated officers on active duty today. The non-rated officers are a vital part of the flying Air Force, and so it's Charlie Gabriel's responsibility and mine to see that the same promotion opportunities are there for both rated and non-rated officers alike.

Finally, in the past year, I have visited dozens of bases in the United States, Europe and the Pacific. While impressed by the quality, dedication and morale of our people, I was appalled at some of their living and working conditions, particularly overseas. This should come as no surprise, I suppose, when you realize that 50 percent of our facilities are more than 25 years old and 13 percent of the facilities we now use predate the establishment of the Air Force.

I can tell you that in the past year, we have begun actions to alter this situation. This year in an effort to modernize our physical plant, we obtained a 60 percent increase in the military construction program with a 100 percent increase in funding for quality of life and workplace improvements. Additionally, some modest gains have been made in military family housing construction and renovation. For the coming year, this area will remain one of my principal concerns.

In a 1947 issue of the AFA magazine, its first president, General Jimmy Doolittle encouraged former members of the Army Air Force to invest three dollars and join the organization. The General emphasized the need for an active Air Force Association. The General's call was answered, and at the National Convention later in the year he reported that AFA had become the largest veterans organization to come out of World War II. Membership had reached over 120,000.

Many things have changed in the intervening 35 years. The Army Air Force has become the independent United States Air Force, the finest air force in the world today; and the AFA has long since become more than a veterans organization, with membership approaching 200,000.

Some fundamental things do not change, however, and the significance of air power is one of these. During a program at the 1952 AFA Convention, the master of ceremonies, General Jimmy Stewart, asked the first Air Force Chief to comment on the importance of air power. General Spaatz's answer was eloquent in its simplicity: "We must control the sky above the earth" he said, "or join the worms below."

That hasn't changed, and the need for a strong, active Air Force Association continues to be vital. The citizens of this nation must stay informed on the vital national security issues of the day, and as citizens they must speak out on those issues. The Air Force Association serves as a vital forum which serves both those purposes. We are, as I mentioned at the beginning of my address, common shareholders in our nation's defense.

In his 1978 Convention speech Secretary John Stetson said: "There is no question that our national defense is a joint effort between citizens in and out of uniform. That has always been true—and always will be. Military manpower, the jets, the guns, the tanks are the most visible elements. But national will, natural resources, industrial capacity, technological skill, and a host of other factors combine to make and keep a nation strong."

For 35 years, the Air Force and the Air Force Association, in partnership, have been at the forefront of this effort. If the relative peace of the last 35 years is to continue and the Soviet challenge is to be met, this joint effort must be sustained. Tomorrow's Air Force and the nation's security depend on it.●

WILLIAM F. ALLEN, JR. PROVIDES ADDED INSIGHT ON NUCLEAR POWER, NEED FOR ENERGY INDEPENDENCE

● Mr. SASSER. Mr. President, Mr. William F. Allen, Jr., chairman and chief executive officer of Stone & Webster Engineering Corp., an internationally known company, was the

author of an informed and incisive article which recently appeared in Public Utilities Fortnightly.

Mr. Allen in this article relates nuclear power to the overall energy picture and warns that there may be a new surge of power demand when economic recovery finally occurs.

Mr. Allen reminds us of the importance of achieving energy independence and the ultimate consequences of failure to achieve this objective.

Because of the widespread interest in the issues discussed by Mr. Allen and becaue of the reputation for excellence enjoyed by him and his firm, I am pleased to place the article in the RECORD to make it available to my colleagues and others interested in the complex issues relating to energy.

The article follows:

[From Public Utilities Fortnightly]

(By William F. Allen, Jr.)

It is disturbingly clear that the nation is drifting on a dangerous course with respect to the production of energy. The public generally seems apathetic, perhaps due largely to the temporary oil surplus and a resulting softening of prices. Further, there are large electrical generating reserves in many parts of the nation at present. But this, too, is temporary and hence misleading. When we do see the economic recovery everyone desires, rising employment could rapidly increase power demand, and one senior analyst recently predicted that strong economic recovery could boost electrical demand by as much as 12 percent in a single year.

More knowledgeable people must speak out. I was pleased to read recently that Senator James A. McClure of Idaho, chairman of the Senate Committee on Energy and Natural Resources, has warned that the nation's energy problem will reappear.

Martin J. Ward, general president of the United Association, wrote compellingly of the problem in the *UA Journal* in March, 1982:

"Far too many Americans seem to have developed a sense of false security about the world's energy picture. As a result, our national resolve for achieving energy independence has deteriorated . . .

"World energy experts have repeatedly warned that we must face up to the fact that conventional energy supplies—particularly oil—are finite and will, in the future, become increasingly scarce . . . remaining supplies will continue to be subject to political manipulation and economic blackmail."

Our company is in the business of designing, engineering, and constructing large, technologically complex projects, including all types of facilities required by utilities for the generation of electric power. Our energy work ranges from solar, hydroelectric, and geothermal projects—renewable resources—to fossil and nuclear plants. So, although we have no special interest in promoting a specific fuel, we feel a strong responsibility to point out some salient, albeit obvious, facts which will affect the nation's future wellbeing:

"1. We must become more self-sufficient in energy.

"2. While we must continue to pursue advanced technology—and the use of renewables to the extent feasible—we nevertheless know that increasingly the nation's future energy needs will be met by electrical power produced in large central stations.

"3. To generate that power, we must rely on two basic, abundant *domestic* fuels, coal and uranium."

Because the nation's generating facilities must be expanded in the years ahead, and because coal alone cannot handle that increase, it is clear that nuclear power becomes an essential component of our energy mix. Thus every effort must be made to alert the public to the sobering facts—and to make the necessary institutional adjustments—to revitalize the nuclear industry.

Our company is trying to do its part. We shall continue to maintain a first-class capability for constructing nuclear power stations; and, in addition, we are working, along with others in the industry, in support of those activities which we hope will restore nuclear power to a state of robust health.

In that connection, one specific effort we have undertaken within Stone and Webster is the consolidation and analysis of recent data pertaining to the amount of radiation which possibly could be released to the environment in the event of an accident in a nuclear power plant. These data are most important, because they should form the basis for regulatory requirements, and based on information our people have assembled it now is becoming clear to the scientific and engineering communities that criteria established many years ago, but still in use today, are incredibly and needlessly conservative.

It is clear that major adjustments can be made, and should be made, and that there would be no sacrifice of safety. In the early days of nuclear power development, the former Atomic Energy Commission established intentionally conservative criteria, covering all technical areas, as the bases for designing and siting power plants. Among the most significant of these criteria was the establishment of a "source term" for analyzing the radiological consequences of possible accidents.

The source term defines the quantity of radioactivity postulated to be available for leakage from the reactor containment into the environment, and it is this particular set of postulates that we have been looking into at Stone and Webster, and which we strongly believe should be changed. The subject is so important, it warrants discussion in some detail.

There have been few questions raised about the source term over the years, but recently analyses and experimental efforts—and data available from Three Mile Island—show rather conclusively that portions of the source term are grossly exaggerated and, thus so are the calculated consequences.

There are three basic components in this source term:

"The first deals with the inert noble gases; e.g., xenon and krypton. It was assumed that all of the available noble gas inventory in the reactor core may escape to the containment during and following a major accident involving substantial damage to the reactor core. This was a reasonable assumption when originally made and has stood the test of time and continues to be a reasonable asumption. (Approximately 60 per cent of the noble gases in the reactor core escaped into the containment building during and after the accident at Three Mile Island unit 2.)

The second basic component in this source term is radioactive iodine. It was assumed that half of the core inventory of iodine would escape from the core and the primary coolant system. It was further assumed that half of this iodine would remain airborne in the containment and the other half would be deposited on surfaces in the containment and be entrained in the sump water at the base of the containment. These assumptions are discussed below.

"The third component is made up of the heavier metal materials which are not assumed to be released in large quantities to the containment building area. This has been shown to be a fairly reasonable assumption, with the exception of the element cesium. Up to 50 per cent of the cesium inventory is now postulated to escape from the fuel elements. However, it is almost certainly expected to be in the form of cesium iodide. Due to the chemistry involved, it would not reasonably be expected to be available for airborne leakage from the reactor containment building."

The noble gas component is well understood, and overestimates of consequence are due to conservatisms in the dose modeling and biological effects of radiation assumptions. Even with these conservatisms, this component contributes only a small per cent of the total dose and is greatly reduced within a matter of hours after the reactor is scrammed.

The nonvolatile metal portion of the source term is less well understood because of its possible dispersal in the form of aerosols—fine particles that may stay suspended in air. Although more study is planned to determine possible aerosol behavior, it is generally agreed that it is very unlikely that large amounts of aerosols can be distributed beyond the immediate plant area. It is significant to note that it is this portion of the source term which contributes to long-term contamination of water and soil but does not cause significant radiation dose to individuals.

Radioiodine thus became the dominant contributor to dose to individuals during and following postulated accidents. Although this component of the source term was well intentioned, it is grossly overstated. The net effect of this gross overstatement, among other things, has been predictions of off-site effects which simply are not plausible. This situation has recently been further exacerbated by the promulgation of emergency planning requirements by the Nuclear Regulatory Commission and the Federal Emergency Management Agency which are founded on the hypothetical existence of enough airborne radioiodine to require prompt notification systems and evacuation plans. A fair amount of scientific evidence is now available which indicates the radioiodine source term has been greatly overstated and that it is not so serious a threat to public health as has been thought.

The fallacy of using an erroneous source term in conservative calculations of consequences to arrive at protective action plans is evident in the proposed use of potassium iodide.

Since it was believed that radioiodine was the dominant contributor to risk, some individuals have chosen to ignore the facts. They have contended that it would be safer, or more conservative, to assume that radioiodine would be released in large quantities and that the health effects would warrant some type of action. They have proposed that potassium iodide be distributed for use internally by the general public in the event of an accident, to block the effects of radioiodine.

A careful review of the facts, however, suggests that the risks from the nonradioactive potassium iodide are greater than the

risks if the protective dose were not taken. In fact, if the potential consequences of potassium iodide are calculated based on existing medical studies and compared with even an existing conservative calculation of radioiodine consequence, the potassium iodide is over ten times more likely to cause adverse effects.

I do not wish to understate the problems associated with release of radioactive material from a nuclear power plant. The barriers of defense should be maintained and strengthened where needed. However, the worst case and conservative estimates of risk which may be applied to siting and design concerns should not be embraced as factual. This leads to confusion and a misconception of the potential effects caused by nuclear technology.

During the three years since the accident at Three Mile Island, much work has been published in the scientific literature and presented at professional meetings on the source term. The vast preponderance of this work supports the position that the radioiodine source term has been grossly exaggerated. Extensive government-funded research efforts have been undertaken to quantify the source term in detail. Unfortunately, this research will take years to complete.

The NRC should move now to establish an interim source term which is based on the best information available. This interim source term could then be updated when research now underway is completed. The alternative of doing nothing now, pending completion of this research, has the practical effect of leaving the nuclear community (and the general public) with planning and policies based on totally unfounded premises. There was no scientific basis for the present source term. The effects of natural phenomena which act to reduce greatly the amount of radioiodine in the containment atmosphere, have been ignored. These phenomena do not rely on any system working properly or any operator action to mitigate the consequences of an accident. In fact, when the effects of the plant safety systems are added to the natual phenomena, *the airborne radioiodine is virtually eliminated.*

The TMI experience is consistent with the observations at all other reactor accidents and experiments involving light water reactors. The U.S. reactors are light water reactors—and all reasonably postulated accidents involve large quantities of water and steam, both of which react readily with iodine in such a way that it is not available as an airborne source term to any significant degree.

A realistic estimate of the potential dose received by members of the general public under the most severe accident conditions would indicate that no fatalities would result—provided realistic source terms are used in the estimate. To employ totally unrealistic source terms in such estimates is not scientifically correct and is a direct cause of anxiety—such as was experienced at TMI.

This is the reality of the situation. The question then arises: What should be done?

Earlier I commented that knowledgeable people must speak out on energy matters, and I perceive this to be an obligation, a responsibility to the public and to our political leaders. In the particular case of the radioiodine component of the nuclear source term, the evidence is clear and those of us who are aware of this evidence must do our utmost to make it known.

Summarizing the evidence, all of which indicates that our conclusions to date have been too conservative, there is only a very small risk of leakage of radioiodine to the environment from a nuclear accident and that risk pales into further insignificance when compared to the potential for adverse effects, both physical and psychological, of large-scale evacuations, or to the hazards of widespread use of potassium iodide pills.

Getting this message to the public and its representatives in the halls of government would do much to relieve the needless widespread anxiety about nuclear power that now pervades the nation.●

PRESIDENT REAGAN AND CHINA

● Mr. GOLDWATER. Mr. President, not too long ago, we witnessed the President of the United States doing something that many of us feel was directly opposite to his own personal feelings. We all realize that when a man campaigns for the Presidency, he takes positions that are dictated from his heart and from a longstanding conviction on this point or that one. President Reagan has, many, many times, expressed his deep consideration, affection, and respect for Taiwan, saying time and again that he would do nothing to harm that small country. However, prodded by constant and never-ending agitation from the State Department officials, he signed a communique that, in effect, has withdrawn the support of the United States from Taiwan, something I am convinced the President did not want to do and does not want to do.

In the August 30 issue of U.S. News & World Report, there is an excellent article by Marvin Stone on the President's action, and because it is aimed at the ultimate hope of many of us that the President will change his mind on his actions, I ask that the article be printed at this point in the RECORD.

The article referred to follows:

REAGAN AND CHINA

(By Marvin Stone)

With his new agreement limiting U.S. arms sales to Taiwan, President Reagan has gone as far as he should go in appeasing the Communist regime that runs mainland China.

It should be apparent by now that the concessions the U.S. has made to Peking have gained little in return.

Instead of reciprocating by modifying its Taiwan policy and improving relations with the U.S., Peking has hardened its line. Anti-American slander still spews from China's press, films and radio broadcasts.

Even before the agreement was announced August 17, the Chinese had gotten more than they had any right to expect from a man who had campaigned for the Presidency as a sturdy friend of the Taiwan Nationalists. The President had liberalized U.S. policy on exports to the Communists and lifted the ban on sales of munitions as well.

Last January, Reagan turned down Taiwan's bid to buy the advanced FX aircraft the Nationalists feel they need to defend their island. Instead, he offered to continue supplying the less sophisticated F-5E jet fighters that Taiwan has been using.

Now, by the new agreement, Reagan promises Peking that the U.S. will gradually reduce its arms sales to Taiwan—"leading over a period of time to a final resolution."

Does this mean that the U.S. will someday cut off such sales entirely? The Chinese government seems to think so. It called the agreement only a first step and said: "The final resolution referred to here certainly implies that the U.S. arms sales to Taiwan must be completely terminated over a period of time." If such sales don't stop, the Chinese threatened, relations between the U.S. and China "will certainly face another grave crisis."

For Reagan to yield to such a threat would be not only morally wrong but also dangerous.

It would be morally wrong because: When Washington three years ago formally recognized Peking—and abrogated its defense treaty with Taiwan—the U.S. Congress pledged to supply Taiwan with the arms necessary for its defense.

It would be dangerous because: A weak Taiwan would be an open invitation to Peking to use force to achieve its aim of reuniting that island with mainland China.

Although Peking repeated in the new agreement its intention to seek a peaceful reunification, it has never renounced the use of force if necessary. And the prospering Taiwanese have made clear they don't want to be absorbed—peacefully or otherwise.

Of course, Reagan cannot be blamed for wanting to maintain good relations with China. That huge nation of 1 billion inhabitants is potentially useful to this country as a counterweight to Russia.

One must not dismiss the possibility that, given the proper incentives, China might patch up its longstanding feud with Russia. As Communists, the Chinese have more in common with their Soviet neighbors than with the United States, which Peking propaganda regularly flogs as an exploitive, capitalistic, greedy society.

But it should be obvious to Reagan—as it apparently is to Peking—that the Chinese have more to gain from the U.S. than from the Soviet Union. China needs American technology and American grain. It is not likely to sacrifice these just because the United States sells a few weapons to Taiwan.

From the American point of view, Taiwan is important in ways that China is not.

Taiwan is not only a capitalist bastion in the Far East. Taiwan is also a valuable trading partner. Although it has only 17 million people, Taiwan's trade with the U.S. is about three times as large as China's. All those sales that American business had hoped to make in China's vast market have not materialized.

All such considerations aside, however, there still remains one compelling reason for the U.S. to continue providing arms for Taiwan's defense: The U.S. promised to help Taiwan defend itself. That promise should be kept.●

MAKE AMERICAN INDUSTRY GREATER AND STRONGER

● Mr. GOLDWATER. Mr. President, before the B-1 bomber flew to the Farnborough Air Show in England, one of our colleagues objected to this being done because, as he said, it would waste $700,000 in tax funds to accomplish the mission. He also stated

that it ran the risk of compromising our military secrets.

Now, to look at the second charge first, the airplane was the hit of the flying exhibits at the air show, even though the B-1 never left the ground. As far as gaining any military secret, this was impossible, even though I am sure it was thoroughly photographed from every angle by the Russians and other countries. In fact, they could have gone to any newsstand and bought a more complete and better set of pictures.

What I would like my colleagues to know is that when the Congress stopped construction of the supersonic transport, my friends in the aviation business in Europe told me that they never thought they would see the United States quit anything, and quickly said, "Now we are going to catch you." As I attend air show after air show representing our President, I see time after time the dangerous indications that are growing and growing that we are being caught; in fact, we are being passed in many areas and I would suggest that our colleagues begin to realize that the United States no longer is preeminent in the field of aviation, whether it is the complete aircraft or its component parts, and that if we do not quit criticizing in an unknowledgeable way, we may see, in our lifetime, the demise of an industry that helped make America the great industrial power that it has been.

I would suggest that all of us put our shoulders to the wheel to make American industry greater and stronger and quit criticizing, in a nitpicking way, each and every move that we make to try to show the rest of the world what we are up to.●

SALE OF SHOCK BATONS TO SOUTH KOREA

● Mr. KENNEDY. Mr. President, the Department of Commerce has taken action to approve the sale to South Korea of electric shock batons for crowd control, which can also be used for interrogation and torture. This step is being taken despite the Department of State's 1981 Country Reports on Human Rights Practices submitted to the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations, which acknowledged that "there were numerous allegations of torture in 1981" in the Republic of Korea. The State Department report noted that confirmation or dismissal of allegations of torture in specific cases is made difficult due to the South Korean Government's routine practice of requiring detainees about to be released to sign statements that they were not tortured during their imprisonment.

On September 14, Senators ROBERT DOLE and ALAN CRANSTON joined me in writing Secretary of Commerce Baldrige to express our strong concern over the serious risk that riot control equipment sold to South Korea would be used in persecution and torture. We have asked Secretary Baldrige to reconsider this action personally before it is carried out.

Mr. President, I request that the text of our letter to Secretary Baldrige be inserted in the RECORD at the conclusion of my remarks, together with the September 12 Washington Post article reporting the Department of Commerce decision on this matter.

The material follows:

U.S. SENATE,
Washington, D.C., September 14, 1982.

Hon. MALCOLM BALDRIGE:
Secretary of Commerce,
Washington.

DEAR SECRETARY BALDRIGE: We are writing to you in reference to the recent decision by the Department of Commerce to authorize sale to South Korea of electric shock batons for crowd control, which can also be used for interrogation and torture. We would like to register our strongest concern over this action, and to request that you personally reconsider it before it is carried out.

The well-documented history of human rights violations in the Republic of Korea raises the serious risk that riot control equipment of this kind would be used in the persecution and torture of Koreans pursuing the expression of their political views in ways we would regard as legitimate.

We take this issue very seriously, and would accordingly appreciate learning the results of your review as well as the criteria upon which it was based, including the views of the Department of State and other agencies.

Thank you for your attention to this matter.

Sincerely,

ROBERT DOLE.
EDWARD M. KENNEDY.
ALAN CRANSTON.

[From the Washington Post, Sept. 12, 1982]

SOUTH KOREA TO GET 500 SHOCK BATONS, OVER STATE PROTEST

Over strong objections from the State Department, the Reagan administration has approved selling South Korea 500 electric shock batons for crowd control, administration officials say.

Commerce Department spokesman Bonnie Whyte said Friday that the license for $12,000 worth of "riot-control" equipment was issued Wednesday.

The batons, similar to cattle prods, give a high-voltage but nonlethal shock. There have been allegations that they have been used not only for crowd control but for torture and interrogation.

Martial law in South Korea was lifted in January, 1981, but regulations prohibiting political activity or dissent remain.

The most recent State Department report on human rights in South Korea says that "there were numerous allegations of torture," including mistreatment of two newspaper editors jailed after printing articles critical of the South Korean leadership.

According to administration officials, the license was issued after the State Department issued a strong protest to Secretary of Commerce Malcolm Baldrige, who responded that the issuing of export licenses was his department's business.

The administration officials said Secretary of State George P. Shultz had argued that the sale, though nominally a commercial deal, involved an important principle of U.S. foreign policy.

The administration officials said that if the items were not yet shipped the State Department would continue to fight the sale. But Whyte said, "It is pretty much done."

Baldrige was unavailable for comment.●

PAPERING OVER THE CRACKS

● Mr. GOLDWATER. Mr. President, in publication after publication in this country and in others around the world, the ambiguous language of our latest letter to the Red Chinese Government is criticized and commented on. Newsweek of August 30, contained such a comment appearing over the signature of Mark Whitaker and Joyce Barnathan, and also Larry Rohter.

I suggest that my colleagues read this because it is becoming increasingly evident that the Red Chinese not only do not feel strongly about our association with them, but are even to the point of thumbing their noses at us relative to the complete switch that our President made relative to the small community of Taiwan. Many of us are hopeful that in his wisdom the President will see that none of us is going to live to see the day that an association with Red China will mean anything to the United States, whether it be in the field of economics or the field of international politics. I ask that this article be printed at this point in my remarks.

The article follows:

[From Newsweek, Aug. 30, 1982]

PAPERING OVER THE CRACKS

When Richard Nixon flew to China and laid the groundwork for the Shanghai communiqué in 1972, glasses of mao-tai were raised to a great moment in history. When Jimmy Carter approved the normalization of U.S.-Chinese relations in 1978, enthusiasts talked about a whirlwind romance. But last week, when Ronald Reagan announced his own joint communiqué with Peking, the rhetoric was far more subdued. Although the agreement found a way around the biggest obstacle in relations between Washington and Peking—U.S. arms sales to Taiwan—the U.S.-Chinese courtship seemed unlikely to regain its old ardor. "For now it's going to be a low-keyed affair," predicted one U.S. China watcher.

For the moment, Peking and Washington seemed to have papered over their differences with some calculated diplomatic ambiguity. The latest communiqué, dubbed "Shanghai II," "is a gem," said one Western diplomat in Peking. "The wording is vague enough for both sides to interpret things whatever way they like." On the Taiwan issue, Peking renewed its pledge to pursue reunification with the Chinese Nationalists by peaceful means; in exchange, the United States agreed to reduce the quantity and quality of its arms sales to Taipei over time. Reagan took that to mean that the arms flow could continue for now—and he officially notified Congress of his decision to supply Taiwan with 60 new coproduced F-

5E and F-5F fighter jets. But Deng Xiaoping seemed sure to interpret Shanghai II differently. In an apparent preview of Deng's line, the Chinese Foreign Ministry said last week that Shanghai II "clearly implies that the U.S. arms sales to Taiwan must be completely terminated over a period of time."

For his part, the president was at pains to deny that he had sold out Taiwan. After watching a CBS News broadcast that characterize Shanghai II as a retreat from the U.S. commitment to Taiwan, Reagan phoned in an unusual complaint to CBS anchorman Dan Rather. In a later broadcast the same night. Rather told, viewers what Reagan had told him: America "will continue to arm Taiwan." At the White House, Reagan held a special briefing on Taiwan for 30 congressmen. Most of them grudgingly accepted Reagan's reasoning, but Sen. Barry Goldwater, the dean of the Taiwan lobby, denounced Shanghai II as "a bad agreement." Last month the administration reassured Taipei that it would not compromise on six key points; included was a pledge not to set a fixed cutoff date for U.S. arms sales to Taiwan. So far, Taiwanese officials seemed reasonably mollified.

At best, most U.S. China experts now expect to see only a slow reapprochement in Sino-American relations. Educational exchanges, business deals and trade agreements will probably continue apace. But Washington and Peking are far from agreement on a much larger issue—military cooperation. Only last year Gen. Liu Huaqing, a deputy chief of staff, was invited to Washington for an arms-shopping expedition. Liu canceled his visit when the dispute over Taiwan arms sales flared up. Now State Department officials say only that the United States will weigh Peking's requests for arms on "a case-by-case basis."

HEGEMONISM

Substantial roadblocks still stand in the way of a more intimate U.S.-Chinese friendship. Until now a mutual antagonism toward the Soviet Union has nurtured the relationship, but China's leaders may be reassessing their line toward Moscow. Shanghai II includes no mention of "hegemonism," the Chinese code work for Soviet expansionism that Peking has inserted in previous Sino-U.S. agreements. While most China watchers don't expect the Sino-Soviet rift to close anytime soon, Stanford University Prof. Harry Harding suspects that Peking may be trying to find "its natural center of gravity" between the two superpowers. There is an even more immediate danger: that Shanghai II could fall apart if Peking isn't satisfied with Washington's efforts to close down the arms pipeline to Taiwan. "If this issue is not properly resolved," the People's Daily warned ominously, a "retrogression [in Sino-American relations] is highly probable."●

THE CHILD PROTECTION CENTER—SPECIAL UNIT

● Mr. HEINZ. Mr. President, earlier this week, the Senate unanimously approved the Omnibus Victims Protection Act of 1982 introduced by Senator LAXALT and myself just last spring. Recently, I received a letter from the director of the Child Protection Center Special Unit in Washington, D.C., which expresses support for this bill, describes the work of the center and, most importantly, emphasizes the need to protect children who are victims of crime. I would like to share this letter with you and ask that it be printed in the RECORD.

The letter follows:

STATEMENT OF THE CHILD PROTECTION CENTER-SPECIAL UNIT IN SUPPORT OF SENATE BILL 2420

The Child Protection Center-Special Unit of Children's Hospital National Medical Center would like to commend Senators HEINZ and LAXALT and the cosponsoring senators for their work in preparing this important piece of legislation.

The Child Protection Center-Special Unit was created in 1977 as the Child Sexual Abuse Victim Assistance Project under funding from the Victim-Witness and Domestic Violence programs of the Law Enforcement Assistance Administration. We have provided comprehensive medical, mental health, and social services assistance to more than 1,530 children in the Washington, D.C. Metropolitan area who have been sexually victimized by parents, custodians, siblings, relatives, neighbors, family aquaintences, and a relatively small number of strangers.

We have found that the children and their families do suffer injury from the acts of sexual assault, incest, and molestation. Fortunately, the number of injuries requiring medical treatment is low, although we are concerned by the number of pre-pubertal children who have contracted a sexually transmitted disease such as gonorrhea from molestation.

However, the psychological costs, anxiety, phobias, lack of concentration, loss of self-esteem, and behavioral adjustments to the stress of the crime and the resulting criminal justice system procedures are high and must be addressed promptly and intensively to avoid long-term chronic psychological problems of great severity. For adolescents, like adult rape victims, the fear of pregnancy is especially traumatic, and we are concerned that current legislative efforts to prohibit abortion do not fully consider the potential for double-victimization; first, by the sexual offender, and second, by the government which would force her to carry an undesired infant through full gestation to birth.

We are especially concerned about boy victims, which average 25 percent to 30 percent of our caseload. We know from current research conducted on adult sex offenders that there is great potential for such boy victims to become sex offenders in their adolescence and adulthood. Intervention to help them overcome their victimization is a necessity.

Finally, we know the financial cost of being a child victim. The cost of the initial medical examination, laboratory work for identification of spermatazon and other evidence, and laboratory work for identification of a sexually transmitted disease can be over is $300. It is recommended a cut at least to where one follow-up medical visit which could an additional $60 per visit. Most children are seen at least 3 to 4 times. Thus the total cost of an average case approaches over $500. These figures could be greater depending on the medical and psychological needs of the victim and his or her family. In 28 percent of our cases, there is a criminal or delinquency prosecution that provides the potential for limited reimbursement through witness fees at $20 a day.

In the District of Columbia, criminal prosecutions against adults for violations of D.C. laws are prosecuted in the name of the United States by the United States Attorney for the District of Columbia; juvenile delinquency prosecutions against minors are prosecuted by the Corporation Counsel for the District of Columbia. Both presecutors and the chief of police are appointed officials. Judges in D.C. Superior Court are nominated by a commission and appointed by the President for 15 year terms. Thus crime victims in the District of Columbia do not have the arena of the reelection process to hold the prosecutors, chief of police, and judges accountable for their failure to treat victims with decency.

A few examples of the status of child victims in the courts of the District of Columbia:

1. In four years of monitoring hundreds of court proceedings on behalf of the children and their families, David W. Lloyd, an attorney who is our criminal Justice Specialist, states that he has never heard a judge inquire whether a victim or witness who failed to appear for trial had been intimidated by the defendant, or whether the victim needed assistance in transportation.

2. He has never heard a judge inquire about, or a prosecutor volunteer, the victim's opinion of a dismissal of the case or the victim's opinion of a plea bargain.

3. He has never heard a judge ask about the impact of the crime upon the victim unless the prosecutor mentioned it. It is not required to be mentioned in the pre-sentence report. Defendants occasionally apologize to the court, but never directly to the victim.

4. He has never heard a judge ask whether a continuance (postponement) is agreeable to the victim.

5. Only rarely does the prosecutor request, or the judge require, direct restitution to the victim.

6. The children and their families are frequently not notified of the disposition of the case by the police or the prosecutor, nor are they notified of the defendant's pre-trial release status.

7. Victims and witnesses are routinely commanded to appear in court at 9:00 a.m., even though the proceeding is frequently not scheduled until the afternoon or the prosecutor knows that the proceeding cannot be held until the afternoon, if at all. This causes a child victim to miss an entire day of school and his/her parent to miss a full day of employment.

8. Child victims and witnesses are routinely requested to wait in the prosecutor's office or in waiting room adjoining the courtroom—both of which lack furnishings or toys suitable for a child even though a fully equipped playroom with an adult caretaker is located in the courthouse.

9. Property of the child taken as evidence, such as clothing and toys, is not necessarily promply returned after it has been photographed or forensic tests have been performed upon it.

10. The information pamphlets to victims and witnesses published by the U.S. Attorney's Office require a 12th grade reading level.

11. The U.S. Attorney's Office has a victim-witness unit whose function is primarily to locate witnesses, not to assist them in securing services. The Corporation Counsel, which prosecutes thousands of delinquency cases per year, does not even have a person identified as victim-witness coordinator.

Many of these criticisms have been cited by the District of Columbia Bar Court System Study Committee.

Fortunately, the District of Columbia recently enacted the "Victims of Violent Crime Compensation Act of 1981" (Codified as D.C. code Title 3, Chapter 4), but it excludes compensation for victims of non-violent crimes, and limits compensation to $25,000.

Although Senate Bill 2420 (as amended by Senate Bill 2433) has only limited application to the D.C. Superior Court, it is certainly a long-overdue model statute that may stimulate the state legislatures and the D.C. City Counsel to conduct hearings, make similar findings and enact similar legislation. We regret that it does not authorize the expeditures of federal funds for grants to states to create victim-witness units and improve court management of victims and witnesses, but it is a vitally needed first step.

JOYCE N. THOMAS, *Director,*
Child Protection Center-Special Unit.●

HUMAN RIGHTS VIOLATIONS IN THE PHILIPPINES

● Mr. KENNEDY. Mr. President, on September 13 four other Senators joined me in writing to President Reagan to express our concern that this week's state visit by President Marcos of the Philippines could be misinterpreted as a sign that the United States condones the violation of human rights in that country. The full text of our letter was printed in the September 14 edition of the RECORD.

With President Marcos' visit now underway, I believe it imperative that we do all we can to reverse the impression of U.S. indifference to repression in the Philippines. We should carefully examine the findings now being released by Amnesty International of its official delegation which visited the Philippines from November 11 to 28, 1981, under the leadership of A. Whitney Ellsworth, publisher of "The New York Review of Books." The full, 130-page report of that mission—the most comprehensive and detailed document Amnesty International has published on human rights violations in the Philippines—is scheduled for release on September 21, 1982. But an advance summary of that study published by Amnesty International demands our sober consideration amid the pomp and ceremony of the current state visit.

In spite of Government denials, Amnesty International concludes that, in view of the persistent pattern of "disappearances" and extrajudicial executions, the Philippines government must ultimately be held responsible for their occurrence. Amnesty International points out that the Government's failure to take effective action in investigating such cases and disciplining the culprits strongly indicated that the Government tolerates, if not condones, such abuses, making repetition of such human rights violations more likely.

The Amnesty International report makes clear that illegal arrests are all too frequent in the Philippines. Commonly, the authorities refuse to acknowledge a detention or grant access to families and legal counsel. Frequent reports of ill-treatment of detainees indicate that torture is still used systematically during interrogation following arrest. Detainees are regularly released without any charge being made.

Amesty International also expresses concern over the trial of civilian prisoners by military tribunals which do not conform to internationally recognized legal standards, and over the wide range of offenses in the Philippines for which the death penalty is imposed. The report is convincingly supported by individual case studies of the major areas of human rights violations addressed by the mission.

Mr. President, it is clear that enhancement of respect for human rights in the Philippines requires the mobilization of public opinion through the widest possible discussion of the findings of detailed firsthand investigations such as that carried out by Amnesty International. I commend to all my colleagues Amnesty International's important report on "Human Rights Violations in the Phillippines," and I request that the full text of the report's summary be printed in the RECORD.

The text follows:

HUMAN RIGHTS VIOLATIONS IN THE PHILIPPINES

BACKGROUND TO PRESENT SITUATION

In September 1972 President Ferdinand E. Marcos had declared martial law in The Philippines, citing the activities of "lawless elements," comprising principally the Communist Party of The Philippines (CPP), its armed wing, the New People's Army (NPA), and various mass organizations said to be aligned with the CPP, who were alleged to be "waging an armed insurrection and rebellion against the Government of the Republic of The Phillipines in order to forcibly seize political and state power." [1] Other elements said to be contributing to the climate of lawlessness were Muslim secessionists active in the western provinces of Mindanao and in the Sulu archipelago; members of the parliamentary opposition officially described as "rightists alleged to be acting in consort with the CPP; and syndicates engaged in criminal activities often of a violent nature.

With the proclamation of martial law, President Marcos assumed all governmental powers. He used these powers to issue decrees curtailing the rights of assembly, association and expression. He suspended the privilege of the writ of *habeas corpus* and ordered members of the Armed Forces of The Philippines (AFP) to arrest and detain people suspected of offenses affecting national security and public order. Military tribunals accountable to the executive were created to try people charged with these offenses.

In the first three years of martial law, over 50,000 people were arrested under the emergency regulations, almost all of whom were detained without charge or trial. The Amnesty International mission which visited The Philippines in November to December 1975 was officially informed that 6,000 people were still detained as of May 1975. The 1975 mission found that 71 of the 107 prisoners interviewed alleged that they had been tortured. The 1975 mission also found that torture occurred most often during interrogation after arrest when detainees were commonly held incommunicado, often in secret holding centers known as "safehouses."

The AFP underwent a substantial expansion in size after the proclamation of martial law. From approximately 60,000 in 1972, AFP strenght more than tripled to reach an estimated strength of 200,000 by 1979. An estimated two-thirds of its combat strength was deployed against the Muslim secessionist movement, the Moro National Liberation Front (MNLF), concentrated in the southwest of the country. The armed forces were also engaged in armed combat with the NPA, which expanded its activities from its original bases in Central and Northern Luzon to establish a presence in provinces throughout the archipelago. In addition to its combat role, the armed forces assumed extensive intelligence and law enforcement functions in connection with their powers to arrest and detain suspected "public order violators."

While the pattern of violations noted by the 1975 mission delegates persisted, subsequent reports have given rise to new concerns. Although the number of people believed to be detained for political reasons fell from about 6,000 in 1975 to fewer than 1,000 by the end of 1980, reports in the same period indicated that more people were becoming victims of human rights violations of unusual brutality, including "disappearance" and extrajudicial execution.

The Philippines Government's Human Rights Commitment

The Government of The Philippines has taken a prominent role in sponsoring resolutions in the United Nations calling on governments to take specific measures for the protection of human rights. The Republic of The Philippines was a sponsor of the Declaration Against Torture adopted by the General Assembly in 1975. Subsequently, it was among the few governments to make a Unilateral Declaration whereby, in Proclamation 1914 signed by President Marcos in October 1979, it stated its intention to comply with the Declaration and implement its provisions through national legislation and other effective measures. During the 35th session of the UN General Assembly in 1980, the Republic of The Philippines was a sponsor of Resolution 35/178 on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of Resolution 35/170 on a Code of Conduct for Law Enforcement Officials, which calls on states to consider favorably the use of the code within the framework of national legislation and practice. The Philippine Government has also stated its intention to promote regional mechanisms for the protection of human rights.

Many of the principles for the protection of human rights set forth in these international instruments, already embodied in the

[1] Proclamation No. 1081 Proclaiming a State of Martial Law in The Philippines, September 21, 1972.

Bill of Rights contained in The Philippines Constitution of 1935, were reaffirmed in the new constitution ratified in 1973 after the imposition of martial law.

The Government of The Philippines consistently affirmed during martial law that "the operation of laws and constitutional provisions not directly related [to] or affecting the state of emergency" should continue.[2] It introduced extensive formal safeguards intended to insure that those laws and constitutional provisions were not violated by agents entrusted with law enforcement and security functions.

Beginning in late 1976 the government announced steps towards "normalization" of the political situation. On January 17, 1981, President Marcos lifted the state of martial law. In doing so, he stated that the government had "significantly defused the dangers of subversion, sedition, and rebellion."

Despite these measures and the constantly stated commitment of the government to the protection of human rights, Amnesty International continued to receive reports of gross violations of human rights.

A number of people outside the government told Amnesty International that members of the armed forces and other government personnel regarded the practices summarized in this document as justified by the "subversive" activities of government opponents or by overriding interests of national security. In this regard it is worth noting that legal standards relating to human rights and humanitarian law explicitly prohibit practices like arbitrary execution and torture in all circumstances, including situations of emergency and armed conflicts.[3]

In addition, it should be noted that Amnesty International has been presented with convincing evidence that in many cases victims of military abuses who were alleged to be "subversives" were either selected at random or arbitrarily because they were engaged in non-violent activities such as organizing unions, participation in the movement to boycott the presidential elections, or membership of church-sponsored social action groups.

Finally, The Philippines Government has constantly affirmed its commitment to the rule of law and has introduced exensive measures intended to uphold principles for the protection of the rights of people in the custody of its agents. In practice, there is overwhelming evidence that the principles enunciated by the government on the treatment of people suspected of crimes of a political nature are systematically disregarded.

AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International is aware that arrests of persons for political reasons continue throughout the country. Despite the lifting of martial law, President Ferdinand E. Marcos retains wide-ranging emergency powers, particularly regarding arrest and detention.

An official Amnesty International delegation visited The Philippines from November 11–28, 1981, over 10 months after the lifting of martial law. The report of the mission is scheduled for release on September 22, 1982. It provides many additional case histories, arrest and detention procedures, lack of redress procedures, and a detailed legal background.

Amnesty International is gravely concerned at persistent and increasingly frequent reports of other extralegal practices committed by security forces. Of particular concern are reports of "disappearances" and extrajudicial executions, known in The Philippines as "salvaging," which are commonly accompanied by torture of the victim.

"Disappearances" occurred in The Philippines on a relatively small scale before 1972, but Amnesty International believes that they became more widespread in the later years of martial law and that they have continued to occur since the lifting of martial law in January 1981. During martial law, for example, Amnesty International received reports of more than 230 documented cases of "disappearance" occurring between 1975 and April 1980.

The concerns detailed in this document are:

Persistent reports of extralegal practices by government agents, which, in addition to torture, include the "disappearance" and extrajudicial execution of real or perceived opponents of the government; the absence, or inadequacy, of investigations when complaints of such human rights violations are made;

Arbitrary arrest and detention, including largely short-term detention of persons for the non-violent exercise of their human rights, and the use of torture;

The detention of political prisoners without trial within a reasonable time, or trial according to procedures in violation of recognized norms;

Imposition and execution of the death penalty.

The role of the Armed Forces of The Philippines (AFP) is also examined in this document.

"Disappearances" and extrajudicial executions

A "disappearance" occurs when a person is taken into custody by the authorities who subsequently deny responsibility for the arrest or abduction and claim to know nothing of the victim's fate or whereabouts. "Extrajudicial executions" are unlawful killings perpetrated for political reasons by order of a government or with its complicity. The United Nations has expressed its concern in recent years at reports of "disappearance" and killings of political opponents by governments as human rights violations of the most serious kind.

Abductions and extrajudicial executions are clearly outside the law of The Philippines. Procedures exist for investigating allegations of such violations and for disciplining those found responsible for them. The government has repeatedly stated its intention to investigate and take prompt action in cases involving abuses by military personnel. However, Amnesty International has received numerous reports of such illegal actions by government agents.

The circumstances in which these extralegal practices take place vary. Although by no means exclusively confined to such areas, "disappearances" and political killings are most prevalent in areas of armed conflict, where the New People's Army (NPA) or Moro National Liberation Front (MNLF) is reported to have an established presence. There are also areas from which Amnesty International receives reports of abuses of human rights by military forces not falling within the terms of Amnesty International's mandate—allegations of robbery, sexual assault, and arbitrary killings of an apparently non-political nature, resulting from private disputes and altercations with government agents or with persons who had the backing of government agents.

The Philippines Government refutes allegations that it has ordered or condoned "disappearances" and extrajudicial executions by referring to the presence of armed groups committed to the government's overthrow. However, during 1980, the Working Group on Enforced or Involuntary Disappearances of the UN Commission on Human Rights sent information to The Philippines Government on more than 200 cases of "disappearances" which had been reported to it.

The Philippines Government also answers complaints regarding extrajudicial executions by stating that the killing occurred during encounters between government forces and the armed opposition. However, many "disappearances" and extrajudicial executions are reported not to have taken place in circumstances of armed conflict. Some victims are reported to have had no involvement whatsoever with violence. Some were reportedly in detention when they were killed. In several instances of killings reported to Amnesty International, in which it had been claimed by government officials that the victim had been killed in an encounter with members of the armed forces, Amnesty International found positive evidence that this was not the case.

The growth in the armed forces and proliferation of special armed forces' security and intelligence units has led to a multiplicity of government law enforcement agents operating on the local level: regular units of The Philippines Constabulary (PC); other field units of the armed forces; intelligence and security units which, through part of the regional and provincial command structure, operate according to less well-defined procedures; intelligence and security units operating outside local control, accountable, for example, directly to the President or a commander in Manila; special elite units, again operating outside local control; local police and civilian militia; finally, irregular paramilitary units of various kinds, which have no recognized place in the security structure but which operate with official sanction. All these military and paramilitary units have been reported to be responsible for human rights violations of concern to Amnesty International. (See the section on the Role of the Armed Forces)

In spite of government denials, Amnesty International concludes that in view of the persistent pattern of "disappearances" and extrajudicial executions, The Philippines Government must ultimately be held responsible for their occurrence. In those cases that Amnesty International has been able to investigate, there appears to be strong prima facie evidence of involvement of government agents. While it does not appear that particular "disappearances" and extrajudicial executions were authorized by the government prior to their being committed, failure of the government to take effective action in implementing investigations, making known the findings and disciplining the culprits strongly indicates that the government tolerates, if not condones, such abuses. This also makes repetition of such human rights violations more likely.

In the light of its investigations, Amnesty International is making a series of recommendations to The Philippines Government with respect to these extralegal practices,

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[2] Ferdinand E. Marcos, The Democratic Revolution in The Philippines (Manila, 1977), p. 329.

[3] See in particular Article 4 of the International Covenant on Civil and Political Rights, common Article 3 of the Geneva Conventions of August 12, 1949, and Protocol II additional to the Geneva Conventions of August 12, 1949. The Republic of The Philippines has signed the International Covenant on Civil and Political Rights and has ratified the Geneva Conventions. It has neither signed nor ratified Protocol II to the 1949 Geneva Conventions.

which will center on the necessity for clear accountability and control of government law enforcement agents and for rigorous investigations and subsequent follow-up action.

"Disappearances" in The Philippines may be defined as falling within one of two categories:

Persons presumed dead, since their body is not found, or confirmed to be dead, when the body is discovered some time after the arrest: persons whose arrest was without witnesses or without positive identification of the arresting agents; further, persons whose detention was acknowledged by the authorities, but who were subsequently officially stated to have been released, or to have escaped from detention, but whose whereabouts following their alleged release/escape are never ascertained. The case of Jose Alto falls within this category.

Persons, usually arrested without an appropriate warrant, held in complete isolation for weeks or months, while their families cannot discover their whereabouts and the military authorities deny having them in custody, until they eventually reappear in one detention center or another. (The case of Sampatu Maulana falls within this category.)

The "Disappearance" of Jose Alto

At about 6 pm on November 27, 1980, Jose Alto was returning home from work. As he approached his home on San Jose Street, Barrio Magsaysay, Tondo (Metro Manila), two men are reported to have accosted him, forcing him into a car which was parked in front of Alto's house, and drove away. The incident was witnessed by Alto's sister, Erlinda Alto Aristorenas, who lives in a house next to Alto's.

On December 1, 1980, a group of military men in civilian clothes came to the house of Jose Alto and Erlinda Alto Aristorenas, and conducted searches. Nothing was taken from the houses. Jose Alto's mother, Priscilla Alto, who lives in the same house as Jose Alto, was asked to sign a statement to the effect that nothing had been taken from her house, which she did.

Jose Alto's family have been unable to trace him since his abduction. Between December 5 and 10, 1980, Priscilla Alto visited police stations and the headquarters of The Philippines Constabulary at Camp Crame, where she made contact with officials of the Military Intelligence and Security Group (MISG) and the Criminal Investigation Service (CIS), and Camp Bagong Diwa (the Bicutan Rehabilitation Center), in search of her son. The authorities whom she approached denied all knowledge of Jose Alto's whereabouts.

On March 18, 1981, a neighbor informed Priscilla Alto that he had seen Jose Alto accompanied by two men in civilian clothes sitting in a stationary brown Volkswagen with a number plate the last three numbers of which he was able to identify as being 372. The car had sped away when the neighbors had approached it and greeted Jose Alto.

After leaving school in 1973, Jose Alto had taken a course in carpentry. He then began to work as a construction worker. In 1974, he became actively involved in the Fathers' Club of Don Bosco School, a civic action project involved in housing and resettlement projects in the Tondo. (The Tondo is a slum district of Manila with a high squatter population in which a number of non-government groups have been engaged in social action and community organizing projects in recent years.)

Jose Alto had been arrested on two occasions prior to his abduction in November 1980. In August 1974, he was one of 20 persons arrested in a raid by a unit of the Metro Manila District Command of the PC on the Sacred Heart Novitiate in Novaliches, Quezon County. Following his arrest, Jose Alto was held for one month incommunicado in the Military Security Unit (MSU), Fort Bonifacio. He was released in early 1975. He was accused of being an NPA commander, but was not formally charged. He was arrested again in May 1978 by two policemen who presented an Arrest, Search, and Seizure Order (ASSO). He was delivered to the Military Intelligence and Security Group (MISG) of The Philippines Constabulary at Camp Crame, where he was held incommunicado for approximately one month. He was then transferred to Bicutan Rehabilitation Center where he was held for a further six months. After his release in early 1979, he returned to work at the Fathers' Club of Don Bosco School.

The case of the "Disappearance" of Sampatu Maulana

Sampatu Maulana, a 30-year old civil servant, was one of approximately 40 Muslim Filipinos arrested in Manila in June 1981. There is a small community of Muslims in the capital city. Sampatu Maulana was taken from his home in the early hours of the morning of June 21, 1981, by approximately 30 men in civilian dress who identified themselves as members of METROCOM, the Metro Manila Command of the PC. No warrant of arrest, nor search warrant, was presented. Sampatu Maulana was accused of being a member of the Muslim group conspiring to assassinate the President. The arresting party refused to tell Sampatu Maulana's wife where they were taking her husband.

Later that morning, Estrella Maulana, Sampatu's wife, tried to establish her husband's whereabouts. She began by visiting the office of Muslim Affairs. In the following days, she visited various military authorities, including those at Fort Bonifacio, and also sought assistance from officials at the President's Office. Throughout her inquiries, she met with denials of knowledge of her husband's whereabouts.

In September 1981, Estrella Maulana learned from a Muslim recently released from the Military Security Unit (MSU), Fort Bonifacio, that her husband was held there. This information was subsequently confirmed by an officer of the Presidential Security Command. On September 24, 1981, Estrella Maulana was permitted to visit her husband at the MSU.

Like other detainees in the MSU, Sampatu Maulana was held in isolation in a small cell, which he was allowed to leave for only one hour once a week. He told his wife that he had been held for three to four days in a "safehouse" immediately after his arrest. During this period, he alleged that he had been tortured. He reported that he had been repeatedly punched during interrogation and electric shocks had been given to his genitals.

Extrajudicial executions

For several years, Amnesty International has publicized instances of political killings in The Philippines by law enforcement agents. However, reports of killings are believed to have increased in recent years, particularly in remote parts of the country. Reports of killings of individuals, as well as of groups of persons, have been received. Many of those affected are peasants and rural workers, accused by the military of being NPA members. Additionally, Amnesty International has received substantial information on the killing of more well-known figures: for example, Macli-ing Dulag, the Kalinga tribal chief killed in March 1980 in northern Luzon; Father Godfredo Alingal, a Jesuit priest killed in Bukidnon province, southern Philippines; and, most recently, Dr. Remberto de la Paz, killed in April 1982 in Catbalogan, Western Samar. While the killing of groups or of prominent members of the community may attract media attention in the Philippines and, more rarely, outside the country, the killing of the majority of persons is little known outside their immediate community. Although, in the case cited below, publicity for the victims was generated initially, there has been no subsequent investigation into the incidents.

Margarito and Evilio Osorio

On April 19, 1981, Easter Sunday, two bombs exploded in San Pedro Cathedral, Davao City, during evening mass. Following the explosions, soldiers fired indiscriminately into the crowds gathered outside: 19 persons died and approximately 150 were wounded in the incident.

At about 4 am on April 21, nine uniformed men are reported to have surrounded the house of Avelina Osorio in Mudiang, Ilang, Bunawan, Davao City, and demanded entrance. On entering, they identified themselves as members of the PC. They stated their purpose as the arrest of Avelina's son, Margarito, whom they accused of NPA membership and involvement in the San Pedro bombings. Margarito's brother, Evilio, and Evilio's wife, Felicissima, wakened by the commotion coming from the direction of Avelina's house, went to see what was happening. As they approached the house, members of the PC unit pointed guns at them and asked them to identify themselves. Soon after, the *barangay* captain (village head) and nine other PC members are reported to have arrived. The *barangay* captain vouched for the good character of Margarito and Evilio. The soldiers replied that both brothers were members of the NPA and were to be taken for investigation in connection with the San Pedro Cathedral bombing. At about 6 am, the soldiers left with Margarito and Evilio Osorio, in the direction of Tibungco cemetery. The soldiers refused to allow Avenia and Felcissima Osorio to accompany them.

Approximately one hour later, the women heard gunfire coming from the direction of the cemetery. Felicissima went to the cemetery, but was forbidden by the soldiers from entering. She waited outside the cemetery until about 10:30 am, when she saw the dead bodies of her husband and brother-in-law being carried away on wooden planks. Avelina Osorio had meanwhile visited the Tibungco Police Station and the PC Headquarters in Davao City, looking for her sons. She returned to the Tibungco Police Station at about 11 am, and there saw the bodies of Margarito and Evilio.

After the killings, the military authorities asserted that Margarito and Evilio were members of the NPA who had been killed in an encounter. In early May 1981, the Davao City chapter of the Integrated Bar of The Philippines (IBP) set up a fact-finding committee to investigate the San Pedro Cathedral Bombing and related incidents, including the killing of the Osorio brothers. The committee held public hearings, took statements from Avelina and Felicissima Osorio,

and visited the site of the killing, where they interviewed witnesses. On June 3, the committee announced that it had concluded that the brothers had not been killed in an encounter and that they would be filing a murder complaint against 18 men of the 56th PC Battalion, the unit involved in the incident. Following the announcement, General Ramos, commander of the Philippines Constabulary, and Brigadier General Olano, commander of PC Region XI, were reported to have ordered an investigation. The IBP's complaint was filed at the city fiscal's office on June 9. No further action on the case is reported to have taken place.

The Medico-Legal Necropsy reports of the Cith Health Office, Davao City, recorded among their findings that the body of Evilio Osorio had sustained eight gunshot wounds, his brother's 22. Both bodies also showed contusions.

Illegal arrest and detention and the use of torture

Illegal arrests are common. Frequently no warrant or Presidential Order of Arrest (POA, warrants issued by the president under the emergency powers retained since martial law was lifted) is presented to the person taken into custody. Prisoners are often held incommunicado, in secret places of detention known in The Philippines as "safehouses." Commonly, the authorities refuse to acknowledge their detention or grant access to families and legal counsel. Delay frequently occurs in the delivery of the detainee to the proper judicial authority. Detainees held incommunicado have no protection against ill-treatment or the use of torture. Frequent reports of ill-treatment of detainees indicate that it is still used systematically during the period of "tactical interrogation" immediately following arrest.

Detainees held for short periods, lasting from some days only to several weeks, are generally released without any charge having been made. Representative of cases reported to Amnesty International of short-term detention accompanied by torture is the case of Pastor Romeo Buenavidez.

Pastor Romeo O. Buenavidez

Romero Buenavidez, a pastor of the United Church of Christ of The Philippines in Santiago, Agusan del Norte, Mindanao, in the southern Philippines, was arrested without warrant around 5 pm on August 2, 1981, by the barrio captain (village head) of Bangonay, in Agusan del Norte. He was taken to the barrio captain's house, where they were joined by members of the 57th Philippines Constabulary Company. He was accused of being an NPA sympathizer and, during interrogation, was beaten with a rifle butt and kicked in his chest and stomach.

After approximately 30 minutes, Romeo Buenavidez was taken from the house to a PC checkpoint. He was again beaten and also made to sit cross-legged while soldiers put their full weight on his thighs. He was kicked in the chest and struck with a wet towel. The Chief of Jabonga Police arrived, together with some policemen. They also took part in the beatings.

Around 9:30 pm, Romeo Buenavidez was taken to Jabonga Municipal Jail. There he was interrogated by a Military Intelligence Group (MIG) officer and other unidentified men in plain clothes. (MIG is the operational branch of the Intelligence Service of the Armed Forces of The Philippines.) Romeo Buenavidez was then taken blindfolded to a "safehouse" Agusan Pequeno, near Butuan City. He was held in the "safehouse" for three days, during which time he suffered further beatings and threats to his life were made.

On August 6, Romeo Buenavidez was taken to Camp Evangelista, Cagayan de Oro City. He was further interrogated and told to sign a waiver stating that he had been treated well during his detention. The previous day, relatives and friends of Romeo Buenavidez had filed a motion for the writ of habeas corpus. This was heard by the Butuan City Court on August 6, which ordered the military authorities to produce Romeo Buenavidez who was delivered to the court and subsequently released.

Romeo Buenavidez was examined at the Butuan City General Hospital and subsequently by two private physicians. These examinations showed findings consistent with the torture alleged by Romeo Buenavidez.

The Arrest of Seven Persons in Tagum Davao del Norte, January 1982

The case of seven persons arrested in Tagum, Davao del Norte province in January 1982 is also illustrative of illegal arrest, detention, and torture.

Davao del Norte is a province in Mindanao, in the southern Philippines, where units of the NPA are reported to operate. Reports of human rights violations in this area have persisted throughout 1981 and early 1982. In particular, widespread international media attention was focused on the policy apparently adopted unilaterally by the local military authorities of attempting to control the population by relocating villagers into what are known as "protected villages" or "strategic hamlets." Local church and civil rights activists have been instrumental in highlighting and protesting against these policies, which in February 1982, were publicly disowned by the central government when the Minister of National Defense ordered the dismantling of the "protected villages." As of mid-March 1982, there were reported to be at least 40 political prisoners held in the main jail in Tagum, including students and civil rights workers, as well as others held in other prisons.

Among these were seven persons arrested on January 16, 1982. The arrests took place on the evening of January 16, when the seven were meeting at the house of Rolieto Trinidad, an agricultural consultant and worker for the Justice and Peace Ecumenical Group in Tagum, and his wife, Purificacion, a Justice and Peace researcher. Until a few years ago, Rolieto Trinidad had been the director of the church-sponsored Social Action Center in Tagum. Others at the house were Tarcinita Bizar, a lay church worker engaged in relief and rehabilitation of the villagers displaced by the military authorities; Elias Casilac, a local farmer; Herminigildo Florida, also an agricultural consultant; Lourdes Samson, an assistant bookkeeper who also worked voluntarily for the local unit of Task Force Detainees, a human rights group; and Leonor Sevilla, another church worker. The purpose of their meeting is reported to have been to prepare for a human rights seminar the following day on the issue of "strategic hamlets." At approximately 10 pm, the house was raided by 30 or so armed intelligence personnel of The Philippines Constabulary in civilian dress. A thorough search of the house was undertaken and documents and papers taken away. No Presidential Order of Arrest (POA) was presented. The Presidential Commitment Order empowering the military authorities to hold those arrested in detention was issued only several days later.

Rolieto Trinidad and Herminigildo Florida were separated from the other prisoners and taken to an unknown place of detention for interrogation. They have since recounted the treatment to which they were subjected, which included being blindfolded, beaten in the stomach, and having pepper put on eyes and genitals. The four women and Elias Casilac were detained in the PC barracks in Tagum.

On January 18, all seven prisoners were tranferred to Camp Catitipan, Davao City. Permission for relatives and friends to visit the detainees was withheld until January 22, almost one week after their arrest. In view of this, and the reports of the ill-treatment of the detainees, relatives engaged legal counsel to file a petition for a writ of habeas corpus before the Supreme Court on January 20.

The hearing before the Supreme Court subsequently took place on Feburary 9, at which the prisoners' legal counsel presented information on the illegality of these arrests. Although the Supreme Court requested both plaintiffs and respondents to submit all additional material within a 10-day period, following which a decision would be made on the case, as of mid-May no final ruling had been made public. The seven prisoners remain detained, in the Metropolitan District Command PC barracks, in Davao City.

In late April 1982, four political detainees escaped from this jail. Following this, visiting rights for other prisoners were withdrawn. Moreover, Amnesty International has received information that Herminigildo Florida was again subjected to beatings during interrogation about the escape of the four prisoners.

Amnesty International has been informed that the seven prisoners were charged on January 21, 1982, before the Municipal Court of Tagum with violations of the Anti-Subversion Law, but the substance of these charges has not been specified. According to the information available to Amnesty International, documents removed from the Trinidads' house at the time of their arrest consisted largely of legally published human rights journals and notes of other meetings.

Amnesty International considers these seven persons to be prisoners of conscience and is urging their immediate release.

POLITICAL PRISONERS UNDERGOING TRIAL

Well before the decision to lift martial law was taken, President Marcos announced in November 1977 his intention to phase out the use of military tribunals "as soon as possible." Following this announcement, several defendants currently being tried before military tribunals attempted to have their cases transferred to civil courts, by petitioning the Supreme Court, but all were unsuccessful.

Although political prisoners arraigned and brought to trial after the lifting of martial law in January 1981 may now be tried by civil courts, some civilian prisoners whose trials were in process as of January 1981 before military tribunals have not had their cases transferred to civil courts. Civilian prisoners still undergoing trial by military tribunals include those who have been held for the longest periods in detention, one for over eight years. The authorities have given as grounds for continuation of military jurisdiction over these cases that transfer to a civil court could cause "irreparable prejudice to the state in view of the rules on double jeopardy, or other circumstances which render further prosecution of the cases difficult, if not impossible." However, Amnesty International believes that the

transfer of trials to civil courts has been determined on a discretionary and arbitrary basis, without reference to legal considerations.

Amnesty International is further concerned that trials before military tribunals do not conform to internationally recognized legal standards. Under martial law, military tribunals were constituted not as part of the judiciary but as agencies of the executive; their members are career officers with little, or in many instances no, legal training, responsible to the President in his capacity as commander-in-chief of the armed forces. The proceedings of military tribunals have been exceedingly protracted: delays have occurred during pretrial investigations (known as Summary Preliminary Investigations—SPI) and cases have been suspended for long periods awaiting decisions from the Supreme Court on defendants' petitions.

In addition to civilian prisoners still being tried by military tribunals, many political prisoners are still held in military detention centers, contrary to the order given by President Marcos following the lifting of martial law. This provided for their transfer to civilian municipala and provincial jails. For some prisoners, non-implementation of this instruction does not have serious consequences, since conditions in some military detention centers are better than in civilian jails. However, in the case of prisoners who remain at military detention centers such as the Military Security Unit (MSU) at Fort Bonifacio, Manila, where conditions are extremely harsh, the implications are severe. Amnesty International has received reports of prisoners being held at MSU for long periods in isolation. Further, prisoners arrested since the lifting of martial law are still taken to MSU, including at least six Muslim residents of Manila arrested in June 1981, who, as of May 1982, remain held without formal charge.

One of the major trials still held before military tribunals which illustrates Amnesty International's concerns relating to the use of military tribunals (lack of judicial independence, protracted proceedings, and denial of other constitutional rights) are the following:

People of The Philippines v. Jose Stison et al—the "Karagatan-Andrea" case

In this case, there are 92 respondents, six of whom remain in detention: Jose Stison, Fidel Agcaoili, Jose Luneta, Saturnino Ocampo, Victor Corpuz, and Bernabe Buscayno. The other respondents were released during the years 1975-1979. Respondents are charged with violation of Article 134, in relation to Article 135, of the Revised Penal Code: rebellion and conspiracy to commit rebellion. The case takes its name from two ships in which it is alleged by the prosecution that firearms were smuggled into The Philippines, from the People's Republic of China, for use by members of the New People's Army, during the period 1972-1974. The Summary Preliminary Investigation (SPI) lasted from October 1975 until February 1977, when it was established, in the view of the authorities, the *prima facie* grounds existed for prosecution. Trial proceedings were initiated in July 1977, but were suspended from November 1977 until November 1978. In November 1977, defense counsel had filed motions for dismissal of the case. These motions were based upon the defendants having been denied their constitutional rights: many of the accused were tortured following arrest, and the constitution provides that statements made under duress are inadmissible as evidence before a court. Further provisions of the Bill of Rights contained in Article IV of the 1973 Constitution had been violated: the right to a speedy trial and equal protection before the law. Finally, the defense counsel argued that since the accused were charged with rebellion, which is not a capital offense, they should be eligible for bail. In November 1978, the motions were rejected, and the defense counsel immediately appealed to the Supreme Court. In December, the Supreme Court ordered 20 of the accused to appear before a hearing in January 1979. The following month, the Supreme Court ordered that the military tribunal's hearings be suspended, pending consideration of the defendant's appeal to the Supreme Court. The day before the lifting of martial law, on January 16, 1981, the Supreme Court dismissed the appeal, although the defendants immediately asked for reconsideration of this decision once the lifting of martial law was announced. In response, the Supreme Court issued another restraining order. However, the military tribunal reconvened in July 1981, asserting that further hearings in the case were not in violation of the Supreme Court's ruling since they were to "perpetuate testimonies," a procedure said to be justified by the consideration that further delay would affect the administration of justice and national security.

Amnesty International has so far received no information which indicates the involvement of any of those persons still in detention with regard to this case in the alleged offenses.

THE DEATH PENALTY

Amnesty International is concerned that the death penalty continues to be retained for a wide range of offenses in The Philippines, for some of which it is mandatory. For example, under the Revised Penal Code (RPC)—Public Order Act No. 3815, 1932)—the death penalty exists as an optional punishment for crimes against national security, including treason (Article 114), espionage (Article 120), and aggravated piracy (Article 123). Courts may, however, impose terms of imprisonment of from 12 years to life as an alternative punishment for these offenses. Other articles of the RPC provide for the death penalty for various offenses, including premeditated murder or murder by arson, poison or explosion, and robbery with violence. In certain instances, persons convicted of rape may be sentenced to death.

The provisions of the RPC relating to offenses which carry the death penalty have been reinforced by a number of other legislative measures. The Anti-Subversion Act 1957 (Republic Act 1700) and its amended version, Presidential Decree No. 885 of April 12, 1976, outlawing the Communist Party of The Philippines (CPP), provides for the death penalty for any officer or ranking member of the CPP or its military wing, or for any CPP members who took up arms against the government. Three persons were sentenced to death under this Act in November 1977, one of whom, Benigno Aquino, was a leading figure in The Philippines opposition to President Marcos.

The crime of hijacking was made subject to the death penalty under an act passed in 1971.

By Presidential Decree No. 1110-A of March 29, 1977, the death penalty was made mandatory for persons convicted of making an attempt on, or conspiring against, the life of the president, of any member of the president's family, or any member of the president's cabinet or any member of their respective families. Subsequently, by Presidential Decree 1811 of January 17, 1982, this was extended to provide a mandatory death penalty for all persons committing an attempt on the life of high government officials or on their families. The decree does not define who is to be regarded as belonging to the family. Presidential Decree 1811 also included a mandatory death penalty for all persons using a deadly weapon "in committing terroristic activities."

Finally, a series of martial law decrees introduced in early 1980 extended the number of offenses liable to the death penalty to include certain drug offenses, and for some fraud and misappropriation of public funds offenses.

There are more than 800 persons held under sentence of death, most of whom have been on death row, four specially segregated units, for long periods awaiting review of their sentences by the Supreme Court. Out of this total, 160 prisoners were sentenced to death by military tribunals. Of 547 prisoners known to be awaiting Supreme Court Review of their sentence as of February 1982, one-third had been on death row for the past 10 to 25 years, including several prisoners sentenced during the 1950's. The accumulation of cases under review by the Supreme Court is reported to be the largest in number ever reached. Executions have been carried out infrequently in recent years, although it is common for dates of execution to be set and subsequently postponed on numerous occasions. One prisoner, Alfredo Celestino, had a date for his execution set six times between September 1980 and August 1981.

The majority of prisoners under sentence of death are held in the National Penitentiary, at Muntinlupa, where conditions are harsh. A number of these prisoners were convicted for offenses allegedly committed while they were members of the NPA or its predecessor the Hukbong Mapagalaya ng Bayan, People's Liberation Army (popularly known as the Huks). On October 31, 1981, Justice Minister Ricardo Puno announced that an investigation into complaints of alleged irregularities, including possible exploitation of the prisoners by their guards, was being established at the National Penitentiary. Only shortly prior to that announcement, the Supreme Court had condemned the "wretched and deplorable conditions of prison life" at Muntinlupa.

Execution in The Philippines is either by electrocution or, since the imposition of martial law in 1972, by firing squad.

When formulating a new constitution for The Philippines which came into effect in 1973, the drafting committee proposed the abolition of the death penalty. This provision was, however, not accepted by the Constitutional Convention.

Six years later, in May 1979, the then Minister of Information, Francisco Tatad, was one of the cosponsors of a bill introduced into the Interim National Assembly, the provisions of which were to abolish the death penalty and replace it by life imprisonment. During debate, other co-sponsors argued that the state should set the example and be the first to respect human life. The bill won support from other government leaders, a leading representative of the Roman Catholic Church, and the United Methodist Church. However, spokesmen for the Ministry of Justice opposed the bill. Further, Solicitor General Estelito P. Mendoza also spoke out against abolition. In a statement urging execution of persons sentenced to death within one year of sen-

tencing, he defended the death penalty, principally on grounds that it would deter crime.

In a statement before the United Nations Third Committee (dealing with Social, Humanitarian, and Cultural Affairs) in October 1981, The Philippines' representative stated that the country's National Assembly was preparing the abolition of the death penalty, but legislation was still pending. To date, there has been no news of further developments on the progress of the pending bill.

THE ROLE OF THE ARMED FORCES: MARTIAL LAW AND AFTER

The proclamation of martial law gave the Armed Forces of The Philippines (AFP) extensive new powers. Proclamation No. 1081 reads:

"Now, therefore, I, Ferdinand E. Marcos, President of The Philippines, by virtue of the powers vested upon me by Article VII, Section 10, paragraph (2) of the Constitution do hereby command the Armed Forces of The Philippines to maintain law and order throughout The Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all laws and decrees, orders and regulations promulgated by me personally or upon my direction."

Subsequent General Orders issued by the President authorized the Armed Forces to arrest people suspected of specified offenses including those related to public order. The Chief of Staff of the AFP was empowered to establish special military tribunals to try cases of people charged with these offenses. Their detention under the terms of the orders was to be administered by the AFP. During the period of martial law the size of the AFP more than tripled, its membership growing from 60,000 to 200,000.

As already noted, the lifting of martial law has led to a reduction of the role of the armed forces only insofar as new cases were removed from the jurisdiction of military tribunals. Proclamation No. 2045, lifting martial law, provided that "the call to the Armed Forces of The Philippines to prevent or suppress lawless violence, insurrection, rebellion, and subversion, shall continue to be in force and effect." Earlier on Armed Forces Day, President Marcos told the troops that when martial law had been lifted the armed forces should "stay in place, continue with your operations and attain your objectives."

The phenomenon of "militarization" in the country has been noted and its consequences deplored by influential Filipinos, including senior members of the church, the judiciary, and the legal profession. Cardinal Jaime Sin has observed:

"Daily we experience the increasing militarization of our lives: the pervasive surveillance of citizens who express dissent democratically by military intelligence; the lack of mercy and prudence shown by special military units against suspected criminals; the use of torture to extract information; the unexpected wealth of many military officers."[4]

Of specific concern to Amnesty International have been persistent reports of torture, "disappearances," and extrajudicial executions allegedly perpetrated by members of the AFP. Reports of "disappearances" and extrajudicial executions have been received with increasing frequency in recent years.

The prevalence of arbitrary killings by people with law enforcement functions has been particularly widely noted in The Philippines, where the practice is commonly referred to as "salvaging." Protests from senior members of the church and the legal profession have not resulted in any evident decline in "salvaging." The Associate Chief Justice of the Supreme Court, Justice Teehankee, stated shortly after the lifting of martial law that "the propensity for violence of undesirable elements of the military and police and others authorized to bear firearms has apparently not abated."[5] In an earlier speech he had noted that "there appear to be no official investigation and verification of the incidents and confirmation of the justification for the killings—at least the same have not been made public or published."[6]

The targets of such killings have been various. Justice Teehankee cites a number of reported cases: indiscriminate firing at crowds by policemen and security guards; the shooting to death of union officers by unidentified gunmen during an industrial dispute; the killing of a Jesuit priest, Father Godofredo Alingal, in Kibawe, Bukidnon; the murder in Numancia, Aklan, of one Celso Rembulat, allegedly by members of The Philippines Constabulary "not lawfully ordered nor in hot pursuit"; the killing of the Kalinga tribal chief, Macli-ing Dulag, allegedly by uniformed Philippines Constabulary men; the killing of nine people in Kabankalan, Negros Occidental, in March-April 1980. Nineteen people, including the Mayor of Kabankalan and members of a special Philippines Constabulary unit were later charged with the murder of seven of the victims. Justice Teehankee described in some detail the killing of Leumin Minguito, a Councillor of Busilac, La Libertad, Negros Oriental, in August 1980:

"Leumin Minguito was found by village residents dumped dead in a hole located at a nearby hamlet of Mabolho on August 28 last year. His body, with three bullet wounds, was autopsied by the Municipal Health Officer three days later.

"Interviewed by the Concerned Citizens' Committee on Social Justice, Mrs. Minguito recalled The Philippines Constabulary men took her husband from their house to the hamlet at about 5 am on August 28. A few hours later, at about 7:30 am., Mrs. Minguito heard three gunshots coming from the hamlet.

"Believing it was the same laymen who killed her husband, she reported the incident to Mayor Napoleon Camero, who instead endorsed her to a certain Captain Malasa, chief of all Philippines Constabulary men assigned in the municipality. She met the captain twice and was informed that her husband was guilty because he was an NPA [New People's Army]."

In a number of cases reported to Amnesty International, it was alleged that people in the custody of government agents had been threatened with "salvaging" if they refused to confess involvement in subversive activities. It appears that the fear of being killed after being taken into custody of law enforcement officials is widespread and has been deliberately fostered by government agents to intimidate detainees into making confessions, waiving their constitutional rights, disclosing information or signing statements that they had not been ill-treated while in detention. Such threats assume their force because of the widespread belief that there is a policy of eliminating political opponents. Evidence uncovered by or reported to Amnesty International was inconclusive insofar as proving that there was a general policy of eliminating political opponents. What emerged more clearly was a pattern of denial and condementation of such military abuse without effective control being exerted to stop them.

Although it does not appear that particular "disappearances" and extrajudicial executions were authorized by the government before being carried out, failure by the government to take effective action in implementing investigations, making known the findings and disciplining the culprits strongly indicates that the government tolerates, if not condones such abuses. This makes repetition of such human rights violations more likely. Amnesty International recognizes that government officials have on several occasions expressed their condemnation of military abuses including arbitrary killings. For example, the Minister of National Defense, Juan Ponce Enrile, approved the recommendation of the Barbero Commission after its hearing in Davao City in August 1979 requiring the Chief of Staff of the AFP and the Chief of The Philippines Constabulary:

"To remind all subordinate military/police units to observe at all times the human rights of individuals in the conduct of their operations even as against enemies of the state; that persons who are arrested/captured in operations must be treated with dignity and in accordance with the traditions of the noble profession of arms for summary dismissal from the service of the offending personnel without prejudice to their criminal prosecution as the evidence may warrant."

Despite official guidelines and directives, Amnesty International has continued to receive reports of summary executions, massacres and "disappearances" where the victims are believed to be dead, all allegedly carried out by government agents. In addition, allegations of torture and ill-treatment, which the Amnesty International mission of November to December 1975 found to be widespread, have continued to be received, including allegations of people dying as a result of torture.

Amnesty International recognizes that allegations of abuses of such a serious nature require careful evaluation. The cases Amnesty International examined establish strong grounds for believing that such abuses are common, particularly in areas where the New People's Army (NPA) is reported to have established a presence.[7] Victims were most commonly people accused of being "subversives," often of being associated with the NPA. According to most reports, active armed opposition was generally regarded as being small-scale even in areas where the NPA was well-established.[8]

[4] Letter to Archbishop John R. Roach, President of the National Conference of Catholic Bishops/United States Bishops Conference, September 4, 1981.

[5] Address at the Induction of Officers and Governors of The Philippines Ambassadors Association, May 19, 1981, p. 2.

[6] Address at the First Annual Convention of the 5th House of Delegates of the Integrated Bar of The Philippines, April 12, 1981.

[7] Amnesty International has also received frequent reports of such types of abuse in areas of Mindanao where the MNLF is active, but has been unable to investigate these allegations.

[8] In late 1981, an NPA spokesman asserted that the NPA was active in more than 400 municipalities in 47 of The Philippines' 72 provinces.

A large number of cases of military abuses reported to Amnesty International occurred in the Cagayan Valley of Northern Luzon, the Bicol region of Southeast Luzon, Negros Occidental, and Samar in the Visayas and several provinces of Mindanao. These were predominantly remote areas where the NPA has established a presence and may be considered as a representative but not exhaustive list of provinces from which reports of military abuses have been received. In addition, such reports have also emanated from more inhabited and accessible areas, including Manila, Davao City, and provincial capitals.

Amnesty International received evidence that in a high proportion of cases killing occurred after interrogation and torture or after the victim had been taken to a place of detention, indicating that death occurred after the victim had been taken into some form of custody. No evidence was found in any of the cases investigated that the victims were killed in encounters with military or police personnel as the authorities have sometimes alleged. In most of the cases the authorities also alleged that the victims of torture, "disappearance," and killing were in some way associated with the NPA, but there was considerable evidence that the violations reported were in fact arbitrary or due to the victim's engagement in non-violent activities such as union organizing, participation in the movement to boycott the presidential elections of June 1981 or membership of church-sponsored social and pastoral organizations. Most important, as has been offically recognized, such practices by government agents would not be justified even if the victims were active NPA members.

STRUCTURE OF THE SECURITY FORCES

The Philippines military establishment consists of four services: the army, navy, air force, and The Philippines Constabulary (PC). Of these, the PC has been regarded as the senior service in terms of both age and prestige. While the role of the armed forces in what had traditionally been civilian matters was expanded with the proclamation of martial law, historically the separation between military and police functions in The Philippines has not been clearcut, especially with regard to the duties of the PC.

The PC, originally named the insular Police Force, was founded by the United States colonial authorities in 1901 to maintain peace and order throughout The Philippines. As such, it, rather than the local police, over which the PC then had supervisory powers, undertook all but routine law enforcement duties, including the suppression of dissident movements. Although charged with civilian responsibilities and under the control of the Department of the Interior, it was organized along military lines and its members subject to military discipline.

The duties of the PC under martial law have been officially described as comprising "general police duties"; "miscellaneous police duties" as assigned by explicit provision of law, by direction of the President, by deputation and by request which include enforcement of the Anti-Subversion Law; "special duties," including general supervision of the police forces; "national defense duties," including providing "rear entry security and damage control during war" and "building up its Reserve Force during peacetime"; and "martial law duties," consisting of the "enforcement and implementation of Presidential Decress, General Orders and Letters of Instruction."[9]

Since the proclamation of martial law, the PC's duties have in practice included: intelligence and security duties; combat duties in suppressing movements aiming at the armed overthrow of the government; the administration of detainees arrested by members of the armed forces, the police, and officials designated to make arrests under the martial law provisions; supervision of the Integrated Civilian Home Defense (ICHDF), the civilian militia which has greatly expanded since 1972 to assist the AFP in its law enforcement role; and the integration of municipal and local police forces. The wide-ranging powers of the PC since the proclamation of martial law have therefore spanned military, intelligence, and policing roles ostensibly directed at suppressing the insurrection which occasioned martial law.

In areas where the armed forces were engaged in relatively high levels of combat with the NPA or the Moro National Liberation Front (MNLF), they were organized into special military commands: Northern Command in Northern Luzon; Eastern Command in Samar; Southern and Central Command in Mindanao. However, in addition, special units were active which, although sometimes acting in cooperation with regular provincial commands, were directly accountable to regional rather than provincial commanders or directly to central authorities in Manila. These units were: intelligence units; special combat units, such as the Long Range Patrol of the PC and Airborne units of the army; and Task Forces comprising PC and army personnel.

INTELLIGENCE UNITS

Since September 1972, there has been a proliferation of intelligence and security units empowered to arrest and detain people suspected of offenses relating to national security. Their chief coordinating body is the National Intelligence and Security Authority (NISA), whose Director-General, General Fabian Ver, is concurrently head of the Presidential Security Command and Chief of Staff of the AFP.[10] NISA is "the focal point for direction, coordination, and integration of government activities involving national intelligence and security."[11] Although described as a coordinating agency, NISA has agents of its own in the field who arrest, detain and interrogate alleged political offenders. Amnesty International learned that NISA agents undertaking arrests were subject to the COMCAD procedures for reporting arrests. Formally, NISA is also responsible to the National Security Council (NSC) and hence the President, its chairman, for preparation of "intelligence estimates of local and foreign situations for the formulation of national policies by the President."[12]

The Presidential Security Command (PSC) is closely allied to NISA in both functions and personnel. Also headed by General Fabian Ver, the PSC, which has an estimated strength of 15,000, has reportedly assumed an extensive intelligence role since 1972.

The intelligence services coordinated by NISA, which have been most frequently reported to have arrested, detained and interrogated suspects engaged in political activities are:

The Intelligence Service of the AFP, whose operating units are known as Military Intelligence Groups;

The PC's intelligence service, C2, whose operating arms are Regional Security Units, also referred to as R2s, including the intelligence branch of the PC Metro Manila Command, the Metrocom Intelligence and Security Groups;

Other PC units, with less clearly defined intelligence roles, including the Criminal Investigation Service, the Constabulary Anti-Narcotics Units and Special Operations Group;

Army intelligence, G2, whose operating units are known as Military Security Units.

Amnesty International has found that in practice intelligence units commonly disregard established procedures, particularly during the period of "tactical interrogation" immediately after arrest. Moreover, statements from officials of the Ministry of National Defense, members of the AFP and members of the judiciary suggest implicit acceptance by these officials that intelligence units are not in fact subject to these procedures. Deputy Minister of Defense, Carmelo Z. Barbero, commenting on the incomunicado detention in PC provincial headquarters, Laguna, of a suspected member of the April 6 movement, Rolando Montiel, was quoted as justifying the denial to the detainees of access to family and legal counsel on the grounds that he was undergoing "intelligent interrogation" which "could not be interrupted for anybody."[13]

Benjamin de Vera, arrested on June 10, 1981, in Davao City, was missing for more than 50 days after having been removed from a regular place of detention on July 13, 1981. In response to a letter from his father requesting information on the son's whereabouts, Brigadier General Alfredo Olano, regional commander of Region XI stated that "Benjamin has been borrowed by the intelligence family of a higher authority for further interrogation on a matter of national strategic intelligence value."

It is reportedly the view of some members of the AFP that disregard for the rules governing treatment of persons suspected of national security offenses is justified when the latter are undergoing "tactical interrogation" as distinguished from "custodial investigation." The Joint Circular of the Ministers of Justice and National Defense on Implementation of Article IV, Section 20 of the 1973 Constitution dated July 11, 1974, covers people under custodial investigation, which is defined as occurring when "the investigation ceases to be a general investigation of unsolved crimes and begins to focus on the guilt of the suspect and the suspect is taken into custody or otherwise deprived of his freedom of action in any substantial manner." The circular explicitly does not cover "general on-the-scene questioning of citizens in the fact-finding process." However, Amnesty International finds no authority in Philippines law or in international law for such an interpretation, and government officials have asserted unequivocally that the respect for human rights required of members of the AFP and law enforcement personnel is absolute.

As already noted, detainees were commonly tortured during periods of incommunicado detention while undergoing "tactical in-

[9] Investigator's Handbook, pp. 3-5.
[10] PD No. 1498 (National Security Code), sec. 6.
[11] *Ibid.*
[12] *Ibid.*
[13] Evening Post, February 6, 1981, p. 4.

terrogation" in non-recognized places of detention such as "safehouses."

SPECIAL COMBAT UNITS

The delegation learned of the existence of a number of special combat units only loosely incorporated into the regular chain of command whose activities have given ground for concern. These included The Philippines Constabulary (PC), The Philippines Army (PA) and composite task forces assigned to provincial, regional or special commands, whose units often appear to be accountable only to their own commanders. Among the task forces brought to Amnesty International's attention, against which allegations of concern were made to Amnesty International, were:

Task Force Kanlaon, operating in Negros Occidental under the command of the Deputy Regional Commander, Region VI, Colonel Rafael Jotie;

Task Force Lorro, based in Libertad, Butuan City, and operating in Agusan del Norte and Agusan del Sur, under the command of Colonel Ricardo Viajar;

The Philippines Army Task Force Agusan, based in Butuan City and operating along the Agusan River, under the command of Colonel Rogelio Villanueva;

First Composite Infantry Battalion, comprising PC, PA, navy and air force personnel and based in Trento Agusan del Sur; it is commanded by Colonel Roberto Manlongat and is accountable to Brigadier General Jose F. Magno, head of Central Command covering Regions X and XI.

Amnesty International has also received reports of particular PC and PA battalions which had gained notoriety for their allegedly persistent misconduct. (These included the 60th PC Battalion, assigned to Kalinga-Apayao in 1978 and then transferred to Northern Samar; the 44th PA Battalion assigned in Kalinga-Apayo from October 1979 until June 1980; and the 51st PC Ranger Battalion, formerly based in Bukidnon.)

In addition, Amnesty International has received disturbing reports about the activities of special combat units assigned to particular areas to combat armed dissidents and criminal groups. The Long Range Patrol Group (LRP) of The Philippines Constabulary is one such special force. It is based at Camp Bagong Diwa, Bicutan, Metromanila, but its units are assigned throughout the country. Amnesty International has received reports of LRP units active in Samar, the Bicol region, the Cagayan Valley, Abra, and Negros Occidental.

In one case an LRP unit is reported to have abducted seven men from a wedding party in March 1980; their bodies were found six months later on a hacienda. An LRP unit of about 50 men under Captain Florendo Baliscao was assigned to Kabankalan, Negros Occidental, in March 1980, reportedly at the request of local planters who were concerned at rising violence in the area. According to evidence presented in court, "the place was a haven of lawless elements such as subversives, bandits, fanatic groups, etc. . . . for which reason . . . Captain Baliscao and his troop were dispatched to that place. This is because his troop of the PC was trained . . . to effect counter-offensive moves [against] all these conditions inimical to the goals of the New Society." The order to send the LRP to Kabankalan was given by the Chief of Constabulary, General Ramos, and a subsequent decision that the unit should remain in the area despite requests to move them, was made by President Marcos who, in a note addressed to General Ramos, said:

"Let us keep the special task force you sent to Southern Negros Occidental based in Kabankalan. And let us train the local ICHDF and arm them before we withdraw the task force. This is necessary as there are reports of subversive activity there again." [14]

The LRP were reported to have been assigned to track down members of a quasi-religious armed band, the Salvatores, and members of the NPA in the area. The Unit did not wear uniforms, but were often distinguished by T-shirts bearing the words "Walane Patawat" ("No Mercy"). They were reportedly not accountable to the provincial commander but to their commanding officer, Lt. Col. Bernardo Ocampo, based at Camp Bagong Diwa, Bicutan Taguig, Rizal, Metromanila.

The bodies of the seven men were found on September 16, 1980, on the hacienda of the father of Pablo Sola, Mayor of Kabankalan. The victims were allegedly abducted on March 29, 1982, by members of the LRP accompanied by guides. After the discovery of the bodies murder charges were brought against five named people, including Pablo Sola and Captain Baliscao, and 14 John Does identified only as members of the LRP. A warrant of arrest was served on Captain Baliscao on October 25, 1980. His commanding officer, Lt. Col. Ocampo, had already requested the municipal court of Kabankalan on October 14 to grant him custody of Captain Baliscao, citing Executive Order No. 106 of 1937, which authorizes a commanding officer to take custody of a subordinate charged before court. A motion was granted by the municipal court judge on October 28, "in the interest of state security." While under his commanding officer's custody, Captain Baliscao was assigned to active duty in Northern Luzon.

Captain Baliscao appeared in April 1981 for bail hearings and arraignment before the court of First Instance, Bacolod City, to which the case had been transferred. On May 21, 1981, a lawyer of the Judge Advocate General's Office presented a motion to the court of First Instance opposing an earlier prosecution motion for the transfer of Captain Baliscao to detention in Bacolod City. The motion argued on the basis of a memorandum from President Marcos to Supreme Court Justice Ericta that Captain Baliscao should be tried by court martial. Moreover, it was argued that evidence of Captain Baliscao's guilt was not strong:

". . . the police records show widespread killing, banditry, subversive [activity], etc. [in the area]. It is our belief . . . that there is more reason to believe that it was the insurgents, the bandits and/or outlaws who have committed the alleged offense, unless of course the decreased persons were the outlaws themselves for whom the Government [had] dispatched the LRP. [emphasis in original] if they are, then I pray time to this Honourable Court to submit evidence showing that the Government have awarded unto the LRP, particularly to Captain Baliscao, for work well done."

On July 14, 1981, the Court of First Instance was informed through the PC provincial command that Captain Baliscao had gone absent without leave. He did not reappear at subsequent hearings of the murder case.

[14] Opposition to Motion of Prosecution to Transfer Detention of Captain Florendo Baliscao, People of The Philippines v. Pablos G. Sola et al (Criminal Case Nos. 4352-58), p. 7.

THE INTEGRATED CIVILIAN HOME DEFENSE FORCE (ICHDF)

The ICHDF is under the supervision of the Office of the Integrated Civilian Home Defense Force of The Philippines Constabulary and is under the command of The Philippines Constabulary. It operates as a civilian militia throughout the country and in January 1979 was reported to be approximately 75,000 strong. Amnesty International has received persistent reports of abuses committed by members of the ICHDF both acting alone and in conjunction with armed forces personnel.

In some areas recruits are reported to include criminals and the personal bodyguards of locally powerful figures. Another source of recruitment is reported to be members of irregular quasi-military political, religious, or criminal units. For example, Rodrigo Labajo was arrested in Laac, Davao del Norte, on August 10, 1981, by members of the Caballeros de Rizal for Agricultural Endeavor, an armed quasi-religious organization, some of whom had been recruited into the ICHDF: Epifanio Puebla was last seen on the South Davao Development Corporation (SODACO) far in Toril, Davao City, on April 22, 1981, in the custody of men described by different informants as company security guards, members of the ICHDF, and "reformists" (members of the Rural Reformist Movement).

Although members of the ICHDF are strictly accountable to the PC, Amnesty International has received reports that non-PC units had also recruited and armed civilian personnel who had thereafter been designated as ICHDF members. After its assignment to the border region of Zamboanga del Sur and Misamis Occidental in May 1980, the Airborne unit of The Phippines Army recruited members of the quasi-religious organization Rock Christ into the ICHDF and supplied them with arms.

All the units described above are part of the structure of the AFP and fall within its chain of command, even if some of them appear to operate more or less independently.

Amnesty International has also received reports of human rights violations by irregular paramilitary groups allegedly acting with official approval. These groups were reported to be religious, political, or criminal in character and in some cases to exhibit a combination of these characteristics. Amnesty International has received allegations that in Mindanao alone the following paramilitary groups operated with government sanction in 1981: Rock Christ, the Lost Command, the Rural Reformist Movement, the Charismatic Movement of The Philippines, the Ilagas and the 4Ks: Kasal-anan, Kaluwasan Kinabuki, Kabus (sin, salvation, life, povety).[15]

PARAMILITARY GROUPS

Amnesty International has received testimony on the activities of two non-governmental paramilitary groups, Rock Christ and the Lost Command. The testimony indicated strongly that these two groups were operating with official sanction.

[15] This is not a comprehensive list of groups reported to be active in the area. A survey of quasi-religious groups covering only the provinces of Zamboanga del Norte, Zamboanga del Sur, and Misamis Occidental recorded 14 other groups, some of which were alleged to have been armed (Tribal Forum, February-March 1982, pp. 2-5.)

Rock Christ

Between the first week of July and the end of October 1981, an outbreak of violence, involving the killing of at least 16 people and the beating, abduction, and "disappearance" of others, occurred in Barrios (villages) around the towns of Josefina, Zamboanga del Sur, and Osmena, Zamboanga del Norte. Most of these incidents (detailed below) were reported to be the work of the quasi-religious Rock Christ group based in San Jose, Osmena, Zamboanga del Norte.[16]

First week of July: a 13-year-old girl, Anicia Thrukan, from Lalud, Tudela, Misamis Occidental, "disappeared" while on an errand for her parents. A Rock Christ member reportedly confessed in September 1981 that the group had stabbed her to death and cut her body into pieces.

Mid-July: Boy Umpad, Rosalio Gumate, and nine unarmed people were reportedly accosted and robbed by members of Rock Christ who tied them up and beat them.

August 4: Segundino Tuastumban was stabbed to death by Rock Christ members in Napangan, Sinacaban, Misamis Occidental.

August 8: Jaime Maghanoy was stabbed to death by Rock Christ members while harvesting corn in Napangan.

August 10: Three local politicians were abducted from their houses and stabbed to death by members of Rock Christ between 7 pm and midnight. The victims were: Carlito Luminding and Alipio Culalho, both of Tuno, Tudela, Misamis Occidental; and Placido Pepito of Sitio Egos, Tudela, Misamis Occidental.

August 24: 10 people—Chiquito Macan, his wife and four children, and Tranquilino Gumalay, his wife and two children, all of Tuno, Tudela—were abducted on their way home from their farms by Rock Christ members and held captive for five days in the house of a Rock Christ member, Segundo Sumanduran. They were accused of boycotting the presidential elections and of supporting the New People's Army. While being interrogated, Chiquito Macan had a knife held against his head. He and Tranquilino Gumalay were reportedly invited on August 25 to join the Rock Christ group in the killing of Tingol Gumapon and his relatives (detailed below).

August 25: At approximately 9 pm, Rock Christ members strafed and burned the house of Tingol Gumapon in Gitason, Tudela. Three families, comprising 14 of Tingol Gumapon's relatives, were staying in the house. Later 10 bodies with gunshot and stab wounds were found in a shallow mass grave nearby. Four of those staying in the house survived the incident.

October 2: Lucio Adapon, an elected member of the Josefina People's Council, his wife, their five children (aged from nine months to 10 years), and a nephew were shot dead in their house in Napolan just after midnight. It is reported that Lucio Adapon may have been suspected of being a New People's Army sympathizer because, unlike most of the population of the area, he did not evacuate his home when the violence started. There is no evidence of Rock Christ involvement in this incident. Witnesses saw members of the 125th Airborne Company, the ICHDF, and police in the vicinity of the house at the time of the killings.

October 28: Ulpiano Antipolo of Sebucang, Josefina, was dragged from his house and shot dead by five ICHDF members.

The violence attributed primarily to Rock Christ and ICHDF members during this period is alleged to have been instigated and encouraged by a unit of the 125th Airborne Company based in Pagadian City. The unit, under a lieutenant, was assigned to the area shortly before the presidential election of June 16, 1981. The movement to boycott the presidential election gained considerable support in the area. Attendance at rallies organized by the movement was reportedly high and on June 16 a majority of the people reportedly abstained from voting. In the barrios of Tuno, Lalud, and Lampasan, fewer than 100 of the more than 1,000 eligible voters cast a ballot. The abductions and killings of August 10 and 24 were reportedly connected with the victims having organized or participated in the boycott.

When the Airborne unit arrived in the area, they began recruiting members of Rock Christ into the ICHDF. Amnesty International has a signed receipt for a rifle and ammunition issued by the 125th Airborne Company to Ireneo (Jessie) Sumagang, a known member of Rock Christ and an ICHDF recruit. The receipt is dated July 16, 1981, by which time Rock Christ had already committed its first alleged killing. Members of the Airborne unit were alleged to have been directly involved in one of the reported incidents, the abductions, and detention of 10 people on August 24. Government complicity is also suggested by the reported participation in Rock Christ of a number of people holding official positions, including the founder of Rock Christ, Ayoy Balase, a reservist colonel, and Maximo Laure, a barrio captain. Before the Airborne unit was assigned to the area, no incidents of violence by the Rock Christ group had been reported.

Amnesty International believes that there is considerable circumstantial evidence linking Rock Christ to the 125th Airborne Company and that further investigation of the incidents between July and October 1981 should be undertaken, particularly with a view to establishing whether or not the Airborne unit was guilty of complicity in the violence.

Amnesty International understands that, in response to representatives by lawyers of the Free Legal Assistance Group, the Minister of National Defense, Juan Ponce Enrile, on October 28, 1981, ordered an investigation into the incidents to be carried out by Brigadier General Delfin Castro, Commander of the 4th Brigade, The Philippines Army. The results of this investigation have not been made public. Ayoy Balase, the founder of Rock Christ, was reported to have been killed by a New People's Army unit during October 1981. In May 1982 Amnesty International was informed that one Rock Chist member suspected of involvement in the murder of Tingol Gumapon and his relatives was being detained in Oroquieta City Jail. Other Rock Christ members were reported to be still armed, despite assurances by the Minister of National Defense on October 29 that they would be disarmed. They had recently threatened to raid the Franciscan Missionaries Mission Convent, a center for people who had evacuated their *barrios* out of fear of the sect.

The Lost Command

Amnesty International has received extensive allegations about the activities of the Lost Command, a paramilitary group whose Commander, Colonel Carlos Lademora, has publicly stated that he is an active officer of The Philippines Constabulary and that his unit is a Special Unit of the Armed Forces of The Philippines engaged in counter-insurgency operations.[17]

The Lost Command is based in Tambia in the Dimata mountain range in Agusan del Sur, Mindanao, near the town of San Francisco. According to information received by Amnesty International, its strength is about 250: about 15 are regular PC officers and men and the remainder are convicted military and civilian criminals and deserters. The Lost Command is reported among other things to run protection rackets in the San Francisco area, to act as security guards to agricultural corporations, and, by Colonel Lademora's own claim, to undertake counter-insurgency missions on the order of the government. In one incident in September 1981, some of its members are alleged to have massacred 45 men, women, and children in Barrio Sag-od, Las Navas, northern Samar.

Numerous complaints about the activities of the Lost Command are reported to have been made to President Marcos and senior military officers by the provincial administration. The Bishop of Butuan, the Most Reverend Carmelo D. F. Morelos, in whose diocese the Lost Command is based, wrote a pastoral letter in July 1981 to "share . . . the griefs and anxieties of our brethren in Christ in the communities along the Agusan River." Among the concerns raised in this letter were the activities of "the dreadful Lost Command." Despite the known location of the Lost Command base, no action has been taken to disband the unit. It is reported that the Lost Command was expanded in size after being constituted as a Special Unit of the Armed Forces of The Philippines (SUAFP) and that its recruits received training from, among others, a PC battalion based in Bicutan, Rizal. Funds for this training program were reportedly channeled through the Chief of Intelligence for Region X.

Amnesty International has received allegations of other official links to the Lost Command. It was reportedly operating in and around Cotabato City in southern Mindanao during the Moro National Liberation Front offensive of 1974 to 1975. According to one account, the unit was already composed of criminals and military personnel under arrest or in disgrace and was under the command of PC officers, including Lieutenant Colonel Lademora. In 1975 he was made provincial commander of Agusan del Sur. After this appointment his son, Carlos Jr., and remnants of the Lost Command reportedly perpetrated numerous abuses in the province. Complaints about these abuses led to Lieutenant Colonel Lademora's resignation as provincial commander in 1979.

In January 1980, Carlos Jr. and two of his men were killed in a gun battle with a PC officer. Lieutenant Colonel Lademora then took over operational command of the Lost Command and began to build up its strength. The group secured control of a

[16] Rock Christ, like several other such groups active in Mindanao, is affiliated to The Philippines Benevolent Missionary Association whose leader is Ruben Ecleo, a resident of Dinagat Island northeast of Surigao del Norte, Mindanao. Its members wear amulets which they believe render them invulnerable. Their high priests are said to have healing powers.

[17] See Sheilah Ocampo, "Angels of Death," Far Eastern Economic Review, March 19, 1982, pp. 21-22; and "Charlie's Deadly Angels," Newsweek, March 15, 1982, p. 42.

number of economic activities in the locality, including gold panning, illegal gambling and fish and meat supply. Members of the Lost Command have also reportedly acted as the security force for an 8,000-hectare palm oil plantation in Agusan del Sur, owned by a corporation, NGPI, jointly controlled by the government-owned Natinal Development Corporation and the originally British-owned, now Malaysian-owned Guthrie Plantations Inc. According to the British manager of the plantation, the Lost Command "facilitated" the purchase of land from indigenous Manobo tribesmen and settlers from the Visayas, and the recruitment of labor.[18] Chruch sources have said that more than 80 people were killed in and around San Francisco in 1980 and 1981.

In the early morning of September 15, 1981, 45 people were massacred in Barrio Sag-od, Las Navas, northern Samar. Survivors of the attack have stated that about 18 armed men entered the barrio and separated the inhabitants into two groups: men and older children, and women and young children. As they were being led away, the women and young children heard gunfire in the barrio. The commander of the armed men then questioned the women on the whereabouts of the New People's Army, which he accused the villagers of supporting. After the group denied all knowledge of the New People's Army, the men opened fire, killing all but 14 of the assembled women and children. A few hours later a unit of the 14th Infantry Battalion arrived and burned some of the houses with bodies in them. Some of the survivors, who worked for the nearby San Jose Timber Corporation, which has large logging concessions in the provinces of northern and eastern Samar, claimed that the armed men were part of a special security force hired to guard the timber company against the New People's Army. Two guides accompanied the armed men and were recognized by villagers as belonging to the ICHDF based at a camp at "Kilometer 7" within the timber company's logging area. One of the men involved in the massacre was identified by a survivor as a member of the special security unit.

The massacre was not reported in The Philippines national press until September 24, when the Manila newspaper Bulletin Today reported that 35 men, women and children had been killed by "still unidentified armed mer." It erroneously located the barrio of Sag-od in the province of eastern Samar. Camp Aguinaldo in Metro Manila, the headquarters of the military command and the Ministry of National Defense, was named as the source of the report. According to Bulletin Today, "some survivors said the armed men said they were army troops." The next day it reported that the Minister of National Defense, Juan Ponce Enrile, had ordered a thorough investigation into the reported massacre. The article again located Sag-od and Las Navas in the province of eastern Samar. The minister was quoted as saying that he had directed General Fabian Ver, AFP Chief of Staff and head of the Presidential Security Forces, and Lieutenant Colonel Fidel V. Ramos, Vice-Chief of Staff and Chief of the PC, to undertake the investigation immediately. On September 29 Bulletin Today reported:

"Authorities here identified today the armed group responsible for the massacre . . . as the security forces of a big logging company. The commander of the group [meaning the whole security force], said to number about 80 men armed with Armalite rifles, M-203 grenade launchers, and other high-powered guns, was identified as a "Lieutenant Colonel," known in some areas as "Tatang" [an honorific meaning "uncle"].

"Officials who supplied these details requested anonymity, saying that the group was vicious and had shown no mercy to people who had antagonized them in the past. They atrributed some unsolved killings to the group. . . .

"Eastern Command authorities [the military command responsible for Samar] have vehemently denied that the group was a unit attached to the command.

"Sources disclosed the big logging concessionaire in Las Navas had influential connections. The firm had reportedly been repeatedly harassed by Communist dissidents active in the place.

"Provincial authorities, meanwhile asked President Marcos to act on the killings and rid Samar of the vicious armed group. . . .

"The Lieutenant Colonel was described as between 50 and 55 years old and sporting a long beard and moustache. He was further described as a very well-informed man."

On October 2, "Bulletin Today" quoted the Minister of the National Defense as warning against "speculations" and reported that 16 people had survived the massacre, six of them children. The newspaper said that the management of the logging company in Las Navas had denied involvement in the massacre, claiming that "the firm's security forces have strict orders not to operate outside the firm's premises." The newspaper added that "sources said that the suspected killers are members of the 'Lost Command' in Mindanao."

On September 29, 1981, Lieutenant Colonel Lademora and invited friends celebrated his birthday at his house in San Francisco. One of the guests showed him the report in Bulletin Today, datelined Samar, which identified the armed group responsible for the Sag-od massacre as the security force of the timber company and mentioned that the commander was a lieutenant colonel known as "Tatang." According to information received by Amnesty International Lieutenant Colonel Lademora left for Manila the next morning after instructing his son, "Boy" Lademora, to assassinate the political leaders associated with the Agusan del Sur provincial governor, Valentina C. Plaza, if he had not returned in seven days. On September 30 he flew to Manila. It has been reported that while there he had his hair cut short and bought two or three wigs. He then reportedly went to Samar and returned to San Francisco with the bodies of two members of the unit based at the timber company. According to one theory, the Sag-od villagers had been massacred to avenge killings of these two members of the Lost Command. Lieutenant Colonel Lademora was reported to have contacted several people in San Francisco just before September 15 with a view to establishing that he was in the town on September 15.

The investigations of the massacre ordered by the Minister of National Defense was headed by Brigadier General Salvador Mison, Commander of Eastern Command. Other members of the panel included three colonels: Romeo Tarayo, Commander of the 14th Infantry Battalion; Bayani Fabic, PC brigade Task Force Commander; and Vicente Garcia, Chief of Staff of the PC/INP Region VIII. In October 1981 Brigadier General Mison told a meeting of the provincial council in Laoang that the Sag-od matter was closed and that the investigation had determined that the New People's Army was responsible for the massacre.[19]

Despite these findings the Lost Command security force at the San Jose Timber Corporation was withdrawn in mid-October and reportedly shipped back to Mindanao. In San Francisco Lieutenant Colonel Lademora was reported to have said that he had been investigated by the regional commander, who had later insisted that the unit leave Samar.

THE NEXT STEP

The first step in trying to ensure the protection of human rights in any country is to get information about how people are being treated by the authorities there, taking care that the information is accurate and complete and that it is not politically biased or distorted.

The next step is to act on the information available by mobilizing international public opinion in defense of the victims. Most of the Filipino victims are unknown outside their own country—many are unknown outside their own village or hamlet. The persecution they face may be little understood by the outside world, although international publicity may well be their only help of protection. In some cases world attention has saved lives. The single most important need, therefore, is to make people aware of what is happening.

WHAT YOU CAN DO

1. Write to the President of The Philippines: President Ferdinand E. Marcos, Malacanang Palace, Manila, The Philippines. Express your concern about continuing human rights violations like those detailed in this report.

2. Try to help mobilize public opinion in your country. Send letters to newspaper editors asking them to publicize what is happening in The Philippines; if possible, send them a copy of this publication.

3. Share this report with other people you feel ought to know about the facts in it. Discuss it with your family and friends; encourage them to express their concern by writing appeals.

4. For other information about Amnesty International's work on The Philippines and other countries where human rights are violated, contact any of the following Amnesty International USA offices.

National Office, 304 West 58th Street, New York, NY 10019, (212) 582-4440.

Washington Office, 705 G Street, SE, Washington, DC 20003, (202) 544-0200.

New England Regional Office, 12 Parker Street, Cambridge, MA 02138, (617) 492-8781.

Western Regional Office/Los Angeles, 633 South Shatto Place/Room 201, Los Angeles, CA 90005, (213) 388-1237.

Midwest Regional Office, 407 South Dearborn/Room 500, Chicago, IL 60605, (312) 427-2060.

Southern Regional Office, 730 Peachtree/Suite 1000, Atlanta, GA 30308, (404) 876-5661.

[18] The Observer (London), January 31, 1982.

[19] In an interview with WHO magazine (February 27, 1982), Brigadier General Mison said: "We have not found any witnesses who can positively identify [the killers]. We have been inviting people to give to the Provincial Fiscal statements that may lead to the positive identification of the perpetrators. We have beven guaranteed them the full protection of the law but you know how it is . . . nobody came."

Western Regional Office/San Francisco, 3618 Sacramento, San Francisco, CA 94118, (415) 563-3733.

ADDITIONAL MATERIALS FOR THE CAMPAIGN

A 130-page report of the November 1981 mission to the Philippines is the most comprehensive and detailed document Amnesty International has published on human rights violations in that country. Price: $5.95 plus $1.00 postage.

A poster, in two sizes, has been created especially for the campaign. The larger size (18x24) is suitable for library displays, large bulletin boards, etc. The smaller size (9x12) is especially designed for massive distribution and display. The poster depicts a pastoral fishing scene with Mount Mayon, the most nearly perfect cone-shaped volcano in the world, in the foreground. In the background is the distinct image of a prisoner behind wire bars. The hard-hitting text describes several human rights violations. Price: Large poster $5; small poster (used as part of campaign), free.

Two pamphlets, one on church workers and the other on peasants and trade unionists, describe the abductions, arrests, torture, and political killings suffered by these two groups. Price: One copy free; nominal charge for bulk orders.●

DEFENSE REPORT—AUSA

● Mr. GOLDWATER. Mr. President, one of the most helpful organizations in Washington is the Association of the United States Army in that it prepares a constant stream of short articles relative to the problems of our Army. As we all know, these problems are many and, as we also know, some of them are not easily solved.

To indicate to my colleagues the type of report that I am talking about, I ask that three current ones be placed at this point in the RECORD.

The reports follow:

LIVING AND WORKING CONDITIONS FOR OUR TROOPS IN EUROPE—TESTIMONY TO MISGUIDED PARSIMONY

No secret has been made of the fact that living and working conditions for our soldiers in Europe and for their families leave a lot to be desired. Nevertheless, when the commander of U.S. Army, Europe, prepared two books of photographs illustrating the actual conditions he induced a reaction of genuine shock.

The pictures of places where soldiers are expected to work include offices set up in condemned trailers, motor pools in which soldiers are attempting to maintain tracked vehicles while standing in mud up to their shins, other soldiers working on helicopters in a gymnasium that had been coverted to a hanger because it was the only dry, heated space available and data processing offices in cramped, damp basements.

The pictures illustrating the living conditions for troops serving in Germany without their families showed examples of four or more men crowded into tiny rooms, leaking roofs, falling plaster, inoperative or missing plumbing, boilers rusted out and disintegrating floors.

As depicted in the photographs, conditions in family quarters were no better. They showed water damage to floors, walls and electrical wiring, inefficient, hand-fired boilers serving large apartment buildings and hot water heaters so corroded that they will not function properly.

The illustrations do not show isolated, worst cases. These conditions predominate throughout the command. Some barracks, motor pools, offices and family quarters have been refurbished and some new ones have been built; but they are the exceptions. Soldiers being assigned to duty in Germany for three or more years know they have a better-than-even chance to spend that time living under conditions they would expect to find only in the most rundown areas of a U.S. city.

The answer, of course, is money—enough money to begin catching up with many years of misguided parsimony by a Congress that wants an outstanding fighting force in Europe but hasn't wanted to pay for it. Our soldiers and their families should not be expected to live and work under these conditions.

CHEMICAL WARFARE—A REALITY WE MUST BE PREPARED TO FACE

Chemical warfare is morally and philosophically repugnant; it is a reality upon which we would like to turn our backs. And yet we face the certain knowledge that the Soviet Union is, at the very least, experimenting with a new chemical agents in Afghanistan and Southeast Asia and considers chemicals to be standard weapons available to its field commanders for use without special permission from national authority.

Although the United States has disavowed the first use of chemical weapons, in order to deter their use by the USSR we must present a real ability to retaliate in kind, just as we seek to deter the use of nuclear weapons by the sureness of our counterstrikes. Unfortunately, the effectiveness of our existing retaliatory capability is questionable. The existing stocks of chemical weapons were all produced before 1969, when President Nixon halted all production, and each passing year reveals more "leakers" or other defects that force their destruction as unsafe.

The Army, which acts for all the services in this area, has developed a new kind of chemical agent called a "binary" munition, that is safe to store and transport. It has been trying for several years to get the funds to produce binaries so the old, deteriorating retaliatory stockpile can be gradually replaced. The fiscal 1983 defense budget submitted by President Reagan would support initial binary production and the Senate, by a very narrow margin, approved it. The House, after a highly emotional debate, rejected it. The issue had to be decided by a joint conference.

One would like to believe the conferees were guided by fact, not emotion. Even if binary production began immediately, it would be years before the stockpile could be completely replaced. To deny our forces in the field the ability to retaliate in kind only encourages the USSR to initiate the use of chemicals and increases the likelihood that we would have to resort to nuclear weapons.

In short, it is time for us to suppress our emotional reaction to chemical weapons and recognize that they are a necessary, if distasteful, part of being prepared for an entirely unpleasant undertaking—war.

A NATIONAL GUARD BRIGADE GETS NEW EQUIPMENT—A HOPEFUL SIGN

When an Army National Guard unit gets some new equipment it is a red letter day. It is so special, in fact, that a full-scale military ceremony was held recently at Ft. Stewart, Ga., to mark the arrival of new M60A3 tanks and TOW antitank missile launchers for the Georgia Guard's 48th Infantry Brigade. A high-priority unit, the 48th is getting the new equipment before some active-duty elements.

But, while it was a happy day for the men and women of the 48th, the fact that the arrival of a first increment of 16 tanks and 51 missile launchers deserved such an observance is a sad commentary on the ability of the Army National Guard and the Army Reserve to play their full role in what has expectantly been called the "Total Army." The 48th, for example, is a "round out" unit for the active-Army's 24th Infantry Division and, at the ceremony to welcome the new equipment, the division commander reminded everyone that wherever the 24th Division went the 48th Brigade had to be ready to go along. Unfortunately, the largest for the 48th Brigade is just a very small drop in a huge bucket of equipment shortages in the Army's reserve components.

The shortage of tanks runs into the hundreds in the National Guard alone, as does the need for aircraft. The combined shortage of armored personnel carriers for the Guard and Reserve is over 5,000. Together they need almost 10,000 trucks of all sizes and close to 1,000 artillery pieces.

The Total Army is an excellent concept designed to get the greatest possible combat power from a relatively small active force by having well-trained, fully manned and fully equipped Guard and Reserve units integrated into the required combat and support structure.

Other active-Army commanders at all levels would like to celebrate the arrival of new equipment for a veritable host of reserve units—from tiny detachments to major combat units—that are needed to make the Total Army work. Unfortunately, there has never been full budgetary support for the concept and the prospects for an early reversal are not very good.●

MENTAL HEALTH

● Mr. INOUYE. Mr. President, for some time, I have been concerned that, as a Nation, we have not been giving high enough priority to our Nation's mental health research programs. During our Appropriations Subcommittee's hearings this year, we learned that for the National Institutes of Health (NIH), 25 percent of those grants that have been approved were unfortunately not funded during the last fiscal year. A number of representatives from our Nation's biomedical community and the public at large spoke out quite strongly about the resulting significant morale problems within our Nation's biomedical research community as a result of this lack of available funding.

However, during our subsequent hearings on the National Institute of Mental Health (NIMH) it was reported that the figures were just the reverese; that is out of every 100 grants approved for funding, only 25 were in fact funded. In my judgment, this is most unfortunate and very shortsighted. Accordingly, today, I am submitting for the RECORD, a copy of an article which recently appeared in the New York Times entitled "The Biology of Fear and Anxiety: Evidence

Points to Chemical Triggers". This most informative article, written by Mr. Harold M. Schmeck, Jr., highlights a number of important new research initiatives that are being conducted by the National Institutes of Health.

In my judgment, we must increase our efforts in this area during the next fiscal year.

Mr. President, I ask that the text of this article be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 17, 1982]

THE BIOLOGY OF FEAR AND ANXIETY: EVIDENCE POINTS TO CHEMICAL TRIGGERS

(By Harold M. Schmeck, Jr.)

Injections of a synthetic substance made for studies of the chemistry of human emotion have produced severe anxiety in monkeys within seconds. The animals became agitated, their hair rose, they squirmed and they displayed other outward signs of extreme alarm. These effects could be quickly halted by other chemicals.

Scientists have known for years that drugs such as the benzodiazepines Librium and Valium can lessen anxiety. But the ability to create such a pure state almost instantly with a drug alone is new and unexpected, according to scientists at the National Institute of Mental Health in Bethesda, Md.

"For the first time we may have a reasonable understanding of the biochemistry of anxiety," Dr. Steven M. Paul of the institute said recently. He referred not only to his own work, but a whole body of new research at many scientific centers.

The excitement of recent research, according to Dr. Paul and others, is that the chemistries of anxiety and other related emotions such as depression are now being brought to light and manipulated successfully in experiments. At the same time, scientists are gaining new insights into the chemistry of sleep and wakefulness and othe vital functions of the brain's control over the body.

Researchers have discovered the binding sites, called receptors, at which important features of this chemistry act, and their multiple functions have been separated, at least in concept. For example, one recently developed artificial chemical acts on such receptors to produce a strange state of quiet but intense wakefulness hitherto unobserved.

Receptors serve as receiving stations for the brain's nerve cells. They are analogous to locks to which the appropriate chemicals fit as keys. Experiments within the past few years have shown that some chemicals open the locks; others simply block the "keyhole" so that nothing else can get in, while still others seem to unlock different, but related processes. Accordingly, a whole spectrum of drugs has been developed, some of which act as tranquilizers while others block that action and still others produce the opposite effect, anxiety.

Even when an animal's behavior appears similar to a human's, no one can be certain that it experiences anxiety in the same way. But the animals in these recent experments also showed the same physical and hormonal effects as those of human anxiety. Blood pressure, heart rate and pulse rose abruptly. The concentration of stress hormones in the blood such as cortisol, epinephrine, which used to be called adrenaline, and norepinephrine, rose sharply. The epinephrine level rose to 10 times that of the animals' pre-experiment level, for example.

It has never before been possible to mimic human anxiety so thoroughly in animals through the use of drugs alone, Dr. Paul and a colleague, Dr. Phil Skolnick, said in a recent interview. They said the chemical appeared to give the first reliable animal model of human anxiety. As such, they believe it will prove valuable to understanding some of the important complexities of the chemistry of human emotion and behavior. In fact, Dr. Paul said, the anxiety-producer, usually called beta-CCE, which he and his colleagues gave to monkeys was also given to four humans in experiments in Europe. It produced such severe anxiety that two of the volunteers had to be injected with an antidote.

In chemical terms, the substance is the ethyl ester of beta carboline-3-carboxylic acid. It is chemically related to a large class of plant substances called alkaloids, some of which are known to have powerful effects on the nervous system.

Anxiety is a sensation familiar to all normal humans. In some respects it is necessary and beneficial and probably has been important to the evolution and survival of the species.

"Without it we would all probably be asleep at our desks," said Dr. Paul.

But when anxiety occurs too often, too easily or under abnormal circumstances, it can be a disabling illness. It has been estimated that, at one time or another, roughly one of every 20 Americans suffer anxiety severe enough to make them seek medical help. The social causes of anxiety are widespread, including danger, frustration and all manner of stressful situations. But all of these social effects are translated ultimately into chemical reactions in the brain.

In addition, some experts have long believed there are connections between abnormal expressions of anxiety and such physical illnesses as high blood pressure, heart disease, ulcers and other digestive ailments.

The main modern drugs that seem to act most directly against anxiety are the class called the benzodiazepines. The first of these to come into wide use was Librium, in 1960, followed by Valium and, a decade later, Dalmane, which became the most widely used prescription sleep aid.

Evidence that such drugs work by some means other than simple sedation was a strong hint that anxiety has an underlying chemical basis, but it has only recently become possible to study the chemistry of anxiety in any fruitful way.

A key development in opening up this field of research was the discovery in 1977 of the brain's receptors to which the benzodiazepines become attached in order to act. Such receptors were found by Dr. Richard F. Squires, who was then working for an American drug company, and Dr. Claus Braestrup in Denmark, among others. These binding sites for antianxiety drugs were first found in the brains of rats, then in cows, monkeys, humans and many other species. But the evolutionary line seems to have been drawn just above sharks. They lack such receptors, a fact that suggests sharks may be wholly free of anxiety.

The discovery of the receptors set off a widespread scientific search for other details of the brain system to which they were a key. Clearly, the receptors for benzodiazepines did not arise in evolution just to become targets for drugs that humans would invest millions of years later. The thinking of many specialists is that these binding sites are a key to a natural anxiety system and that antianxiety drugs act in the same way as natural body substances, perhaps still undiscovered, that keep anxiety in proper balance. The receptors appear to have multiple functions and to occur in more than one variety.

Those whose anxiety becomes so severe as to be a medical problem, rather than a useful alerting mechanism for self-defense, may have too many of the receptors, or too few, or an excess of some of the chemicals that bind to them, or any other imaginable derangements of the system.

Although the benzodiazepines are most used and best known for their antianxiety effects, they have other effects on the human body. They relax muscles, tend to prevent convulsions and seem also to have some sedative effects. Recent studies suggest that all of these effects are mediated by the same complex clusters of receptors or receptor types in different parts of the central nervous system.

Much study, at the N.I.M.H. and elsewhere, has been devoted to separating these effects to determine how each component is caused and how each can be altered or modulated.

In some cases, the receptor complex seems to have at least three functional parts, according to Dr. John F. Tallman of the mental health institute. One is the binding site that fits the benzodiazepine drugs and some other compounds. A second is a binding site for gamma aminobutyric acid, an important brain substance known as GABA.

The brain functions in large measure by the "firing" of individual nerve cells to send a message from one cell to the next among the brain's complex circuitry of billions of cells. This signaling process involves electricity and chemistry. In the complex orchestration of events in the brain in which nerve cells are either excited to fire or inhibited from doing so, GABA is one of the main agents of inhibition. It seems to facilitate the binding of benzodiazepines to the receptors.

A third recently discovered feature of benzodiazepine receptors is a chemical "channel" that, when open, allows important anions—electrically charged negative ions, such as chloride—to enter cells, Dr. Tallman said. This kind of complexity gives the receptors a large repertory of possible actions in controlling the activity of nerve cells in the brain.

A chemical can bind to the benzodiazepine receptor and turn on a cell function like a key turning in a lock. Other chemicals can bind to the receptor without turning on any such action. They seem to act only by occupying the site so that "active" chemicals cannot get there. Still other chemicals can occupy the binding site and have other effects as well.

Dr. Erminio Costa of the N.I.M.H., a specialist in the study of the GABA system, said there were many different ways in which the functions of the receptors can be deranged to produce illness. These include shortages or excesses of some of the chemicals that normally act on the receptors and abnormal function of the receptors themselves. In the long run, he said, functions related to the receptors may prove important not only in understanding anxiety, but also depression, another large category of human illness rooted partly in disorders of brain function.

One of the strangest yet most provocative recent findings related to the brain's use of

the so-called benzodiazepine receptors concerned the sleep-inducing properties of some of the drugs. These recent studies have focused on a laboratory-made chemical, 3-hydroxymethyl-beta-carboline, usually called 3-HMC. It was synthesized in the laboratory by Dr. James M. Cook of the University of Wisconsin, a collaborator of the scientists in Bethesda. It was designed specifically to bind to the receptor in a manner that might make it block the sleep-inducing action of flurazepam, the generic name for Dalmane. Studies of this compound by Dr. Wallace B. Mendelson, Michael Cain of the National Institutes of Health, and Drs. Paul and Skolnick showed that it did far more than that.

In small doses it did block the sedative effects of flurazepam. But when given alone in a somewhat heavier dose, it actually kept laboratory rats awake, a qualitatively different effect from simply blocking the action of the sedative, Dr. Mendelson said in a recent interview. Furthermore, the substance achieved its sleep-preventing effect without producing any of the agitation that often accompanies known stimulants such as amphetamine and caffeine. The scientist described the state as one of remarkably quiet but intense wakefulness. He and his colleagues coined the word "somnolytic" to describe drugs of this hitherto unknown kind, and suggested that it might be a forerunner of drugs that would help scientists better understand sleep and treat its disorders.

The benzodiazepine receptors were discovered only five years ago as the sites of action in the brain of one class of drugs. Since then, studies at many research centers have shown these brain cell binding sites to be involved in many different functions, including sleep, anxiety, muscle tension, protection against convulsions and perhaps others. A major focus of research here and abroad is to separate each of those functions for the better design of drugs as well as more detailed understanding of the complexities of emotion, one of the most human attributes of the human brain.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have a number of items that I believe can be dealt with by unanimous consent. I invite the attention of the minority leader first to S. 2852 Calendar Order No. 777. I ask if he is in a position to clear that item at this time.

Mr. ROBERT C. BYRD. Mr. President, that item has been cleared on this side.

Mr. BAKER. I thank the minority leader.

SALLIE MAE TECHNICAL AMENDMENTS ACT OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 2852.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Sallie Mae Technical Amendments Act of 1982".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 2. The last sentence of section 439(l) of the Higher Education Act of 1965 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

MAXIMUM PELL GRANT

SEC. 3. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 under such Act shall be $1,800 or 50 percent of the cost of attendance (as defined under section 7 of this Act for academic year 1982-1983) at the institution at which the student is in attendance.

DECOUPLING PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 4. The Secretary of Education shall establish or approve separate systems of need analysis for academic year 1983-1984 and for academic year 1984-1985 for the programs authorized under subpart 2 of part A, part C, and part E, of title IV of the Higher Education Act of 1965.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1983-1984

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such grants for the academic year 1983-1984.

(b) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for academic year 1982-1983 by 7.3 percent, and rounding the result to the nearest $100.

(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be submitted not later than 15 days after the date of enactment of this Act.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1984-1985

SEC. 6. (a)(1) The family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title VI of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by March 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives not later than the time such schedule is so published.

(2) The proposed schedule shall be subject to public comment for 30 days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than April 15, 1983, for the academic year 1984-1985.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before June 1, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984-1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. If the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(c)(1) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1984-1985 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for academic year 1983-1984 (as set by section 5(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index is the change, expressed as a percent, between the arithmetic mean of the Consumer Price Index for April, May, and June of 1982 and the arithmetic mean of such Index for April, May, and June of 1983.

(d) If, under subsection (a) or (b), the family contribution schedule for academic year 1983-1984 is required to be the family contribution schedule for academic year 1984-1985, the family contribution schedule for academic year 1983-1984 shall be modified by the Secretary of Education for use for academic year 1984-1985 to reflect the most recent and relevant data.

(e) The modified family contribution schedule under this section shall be published in the Federal Register not later than July 15, 1983.

COST OF ATTENDANCE

SEC. 7. Notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years

1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

INFORMATION CONCERNING FAMILY SIZE OFFSET

SEC. 8. The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of section 6(c) of this Act immediately after publication by the Secretary of Labor of the Consumer Price Index for June 1983.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983 THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c) the family contribution schedule for the period of instruction from July 1, 1983 through June 30, 1984 for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982 through June 30, 1983.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982 through June 30, 1983 shall be modified by the Secretary of Education for use for the period of instruction from July 1, 1983 through June 30, 1984 to reflect the most recent and relevant data.

(c) The modified family contribution schedule under this section shall be submitted not later than March 1, 1983, and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 10. (a) Notwithstanding section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

(b) The Secretary shall allocate sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 to institutions in each State without regard to section 413D(b)(1)(B)(ii)(I) of that Act.

COLLEGE WORK-STUDY ALLOTMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 11. Notwithstanding section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984, among the States so that each State's allotment bears the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bears to the total amount appropriated pursuant to section 441(b) for the fiscal year 1981.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 12. Notwithstanding section 462 of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984, among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

LOAN REPAYMENT DISCLOSURE

SEC. 13. (a)(1) Section 433A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof of the following new subsection:

"(b) Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

(b)(1) Section 463A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2)(A) The first sentence of such section is amended by striking out "section 463(a)(7)" and inserting in lieu thereof "section 463(a)(8)".

(B) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

CONSOLIDATION OF LOANS BY STATE GUARANTY AGENCIES

SEC. 14. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(j)(1) Each—

"(A) State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, and

"(B) eligible lender in a State described in section 435(g)(1) (D) or (F) of this Act,

or its designated agent may, upon the request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable by the State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b). The terms of loans made under this subsection shall be such terms as may be agreed upon by the borrower and the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g)(1) (D) or (F), and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3)(A) Notwithstanding any other provision of this part, the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g)(1) (D) or (F), with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

"(4) The State agency and nonprofit private institution or organization, and eligible lender in a State described in section 435(g)(1) (D) or (F), shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.".

LINEAR REDUCTION OF PELL GRANTS

SEC. 15. Section 411(b)(3)(B) of the Higher Education Act of 1965 is amended to read as follows:

"(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

"(I) the full amount for any student whose expected family contribution is $200 or less, or

"(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for

this purpose, for any student whose expected family contribution is more than $200.

"(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.".

HIGHER EDUCATION SURVEY DATA

SEC. 16. The National Center for Education Statistics shall collect and publish for academic years 1982 through 1985, tuition and fees data, and room and board charges for institutions of higher education included in the Higher Education General Information Survey. The surveys required by this section shall be consistent with prior surveys of data described in this section.

Mr. BAKER. Mr. President, I yield to the distinguished Senator from Vermont to manage this measure.

Mr. STAFFORD. Mr. President, I appreciate the majority leader calling this matter up and yielding to me.

Mr. President, I am pleased that the Senate is considering today S. 2852, which I introduced with Senators HATCH, PELL, and RANDOLPH. S. 2852 is emergency legislation which will remove a serious impediment to the availability of student loans.

This legislation would extend, for 2 years, a provision of law enacted last year which would give all creditors an equal claim on the assets of the student loan marketing association (Sallie Mae) if Sallie Mae were to enter into an involuntary liquidation or reorganization under the Bankruptcy Act. Prior to the adoption of this provision, which expires on September 30, of this year, the Federal Government had first priority access to Sallie Mae's assets in the event of the involuntary liquidation or reorganization. This provision establishes that the Federal Government would have equal access as a creditor to Sallie Mae's assets in this event.

In 1974 to 1981, Sallie Mae, which is a federally established private warehouse facility and secondary market for guaranteed student loans and which holds approximately $6 billion in student loan assets, was able to finance its operations through borrowing from the Federal Financing Bank (FFB), an arm of the U.S. Treasury. In 1981, as part of a general policy to limit off-budget borrowing by Government-sponsored private corporations such as Sallie Mae, the Treasury and Sallie Mae reached an agreement that Sallie Mae's draw on the FFB would end on September 30, 1982, or after Sallie Mae has borrowed $5 billion, whichever came first. Sallie Mae reached the $5 billion limit in January of this year, and must now borrow on the open market to finance its operations and provide liquidity to lenders in the GSL program.

If the equal priority provision, which expires on September 30, is not extended, it is highly doubtful that Sallie Mae will be able to market its bond issues, as prospective bondholders would stand behind the Federal Government in the unlikely event of a Sallie Mae bankruptcy, and would thus not buy Sallie Mae issues. The inability of Sallie Mae to finance its activities in the public capital markets would have serious repercussions for the student loan programs. The legislation which we are introducing today would allow Sallie Mae to enter these markets for the next 2 years while the Congress continues to provide oversight of its activities.

Mr. President, this bill will also provide certain technical corrections in the higher education programs, consistent with policies adopted in the continuing resolution on appropriations for fiscal year 1982. Principally, it would provide that if the Secretary of Education does not comply with the procedures in the Higher Education Act requiring him to submit a family contribution schedule for Pell grants to Congress by April 1, the previous year's schedule would remain in place. This year, the administration failed to conform with the law in submitting on time to Congress a family contribution schedule for the 1983-84 academic year, and this has resulted in extreme disruption and uncertainty for families trying to plan the financing of higher education for their children. It is therefore necessary to fix the terms and content of the family contribution schedule for the 1983-84 academic year, if the Department of Education again fails to prescribe a schedule in a timely and lawful manner, for academic year 1984-85.

S. 2852 will also correct a serious inequity which affects the ability of veterans who have received benefits under the GI bill to receive Pell grants. Many of us have received reports from veterans in our States that they are no longer eligible for Pell grants, because last year's Reconciliation Act and continuing resolution contained provisions which count GI bill benefits against Pell grant awards. Thus, many veterans with great financial need have been precluded from receiving Pell grant awards. S. 2852 will return us to the provisions of law which were in effect prior to reconciliation—in other words, will count one-half of GI bill education benefits as income, rather than directly against the Pell grant entitlement.

Mr. President, I urge the adoption of S. 2852, so that the student aid programs can proceed smoothly, and so that students and their families—and those who provide student aid—can plan their financing for the coming academic years.

Mr. President, I ask unanimous consent that a letter from the director, National Legislative Commission of the American Legion supporting this legislation be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C. September 14, 1982.

DEAR SENATOR: The American Legion takes this opportunity to urge you in the strongest possible terms to approve S. 2852 when it comes up for consideration on the floor of the Senate. That measure contains a provision which would correct a problem that is currently denying veterans an opportunity to utilize their GI Bill educational readjustment benefits.

Prior to enactment of last year's Omnibus Reconsiliation Act, P.L. 97-35, only half of a veteran's GI Bill benefits were counted as income by the Department of Education in determining eligibility for Pell Grants. Now, all of a veteran's readjustment benefits are counted depriving many an opportunity to complete their education. Passage of S. 2852 would simply restore veteran Pell Grant eligibility to the pre Reconciliation status quo.

Unfortunately, many veterans are only just discovering that the Grants they relied upon to attend school this year are unavailable. Apart from this, the change in formula used by the Department of Education to evaluate an applicant's neediness acts to characterize the veteran as a double dipper. This is most inappropriate since the purely objective mathematical formula used to assess need fails to recognize the nation's obligation to veterans having served in the military as against non veteran peers who have not served.

Importantly, The American Legion does not begrudge needy non veterans seeking to better themselves through education. However, it is critically important to recognize that veterans having served in the military, particularly Vietnam veterans, were placed at a competitive educational disadvantage with non veteran peers. This is because many of the federal educational programs now available to any applicant were non existent when the veteran served. To say now that the veteran must compete with non veterans on the same basis betrays the value of his service as well as the nature of veterans readjustment benefits.

As always, your consideration of The American Legion's views is greatly appreciated.

Sincerely,

E. PHILIP RIGGIN,
Director, National Legislative Commission.

● Mr. HATCH. Mr. President, I am gratified that the Senate is considering today S. 2852, the Sallie Mae Technical Amendments Act of 1982. This bill, addressing a number of pressing higher education problems in the Federal student aid programs, is vital in preserving to millions of our Nation's students the benefits of tried and tested programs already in place. Since I introduced the bill on August 18, 1982, it has gained widespread support not only in the higher education community but beyond, as witness the letter from the American Legion made a part of the record by Senator STAFFORD this afternoon in his perceptive remarks. As he points out, S. 2852 includes a provision which would in

effect restore to a large number of veterans the ability make use of the Pell grant program in educating themselves for the transition to productive civilian lives.

Further, because of the urgency imposed by the September 30, deadline for extending the bankruptcy waiver for Sallie Mae, we have worked very hard in the month since the bill was introduced, to move it through committee on an abbreviated schedule and to a vote. We have succeeded, despite the time lost to the August recess, and I wish to thank the majority leader for the role he too has played in facilitating a vote at this time on a very crowded calendar.

I will not take the time to repeat the beneficial effects of this body for a measure whose merit has produced bipartisan backing in committee and which I am sure will appeal as strongly to all the Members of the Senate.●

Mr. STAFFORD. Mr. President, I move adoption of the committee amendment in the nature of a substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment. The committee amendment in the nature of a substitute was agreed to.

Mr. STAFFORD. Mr. President, I move the passage of the bill.

The PRESIDING OFFICER. If there is no further debate, the question is on engrossment and the third reading of the bill.

The bill S. 2852 was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank the Senator from Vermont and I thank the minority leader for permitting us to deal with this measure at this time.

EXPRESSION OF DEEP GRATITUDE OF CONGRESS TO SPECIAL ENVOY PHILIP HABIB

Mr. BAKER. Mr. President, I believe this has been cleared. I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of House Concurrent Resolution 397. I ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows:

A House Concurrent Resolution (H. Con. Res. 397) expressing the deep gratitude of Congress to Special Envoy Philip Habib.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

● Mr. DOLE. Mr. President, the resolution sent to the desk is nearly identical to one which the Senator from Kansas offered a week ago and which was passed by this body at that time. Just so we do not confuse anybody, let me point out that Congressman BROOMFIELD, my friend and the ranking minority member on the Foreign Relations Committee in the other House, is the author of this concurrent resolution. If you do not see a rush to the podiums so that everyone can sing the praises of Philip Habib, it is not because we do not think as highly of him as we did last week; we are merely passing the House version of a resolution similar to one we passed earlier. Given Mr. Habib's accomplishments, it is not surprising to find that each body has simultaneously acted to pass resolutions. Now we need to pass this one so that one of them will have passed both Houses.

We praise Philip Habib not only for his role in winning agreement to terms for an orderly departure of Palestinian forces from Beirut, but for the great progress he has made toward a settlement of the wider differences that still afflict the region of the Middle East. Mr. President, all Members of Congress express our highest praise and our most heartfelt gratitude for the noble contribution Philip Habib has made toward peace in the Middle East and throughout the world.●

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 397) was agreed to.

The preamble was agreed to.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 6168

Mr. BAKER. Mr. President, in connection with H.R. 6168, I state now for the consideration of the minority leader and other Members, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 6168, and that the bill be placed on the Legislative Calendar.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLS HELD AT DESK

H.R. 6813

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House of Representatives H.R. 6813, the Boat Safety Act amendments, it be held at the desk pending further disposition.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 6804

Mr. BAKER. Mr. President, I ask unanimous consent that, once the Senate receives from the House of Representatives H.R. 6804, a bill dealing with the Coast Guard officer candidate program, it be held at the desk pending further disposition.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 6580

Mr. BAKER. Mr. President, I ask unanimous consent that, once the Senate receives from the House of Representatives H.R. 6580, the Sailing School Vessels Act of 1982, it be held at the desk pending further disposition.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL REFERRED TO COMMITTEE—H.R. 6956

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives H.R. 6956 from the House of Representatives, it be referred to the Committee on Appropriations.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 6946 TO BE PLACED ON THE CALENDAR

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House of Representatives H.R. 6946, it be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

ORDER FOR H.R. 5658 TO BE PLACED ON THE CALENDAR

Mr. BAKER. Similarly, Mr. President, I ask unanimous consent that once the Senate receives H.R. 5658 from the House of Representatives, it be placed on the Legislative Calendar.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will not object. My senior colleague, Mr. RANDOLPH, has expressed a strong interest in this action, and therefore I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER EXTENDING TIME FOR BUDGET COMMITTEE TO REPORT SENATE RESOLUTION 447

Mr. BAKER. Finally, Mr. President, I believe this request has been cleared as well. I ask unanimous consent that the Budget Committee have until the close of business tomorrow to report Senate Resolution 447.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the minority leader.

Mr. President, that completes my list of routine business to be transacted today.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH PARLIAMENT

Mr. BAKER. Mr. President, I see the distinguished Senator from Delaware is on the floor, and I yield so that he may seek recognition for a very special purpose.

Mr. BIDEN. Mr. President, I thank the majority leader.

Mr. President, I have the distinct pleasure today of introducing to the Senate a group of distinguished British parliamentarians who are here in American-British parliamentary meetings. The chairman is the Right Honorable Frederick Willey, who is standing in the back of the Chamber. If my colleagues from the British House will please stand so we all know who I am talking about.

I am not going to run the risk, since we lost some of the members after the coffee, of introducing each individual person at this moment.

Mr. BAKER. Will the Senator yield?

Mr. BIDEN. Yes, I am delighted to.

Mr. BAKER. I wonder how we lost them?

Mr. BIDEN. We lost them to administration officials. I believe they had other appointments.

Mr. BAKER. Not to your coffee?

Mr. BIDEN. Not to the coffee.

I have checked, Mr. Leader, with each of them to determine who I would like to have vote on the issues the remainder of the day and those who I would wish not to vote on the issues; they have all been instructed. I am not going to ask unanimous consent at this moment that they be able to cast votes on the issues, although the way I have been going, I need help right now.

However, it is my pleasure to introduce them to the Senate and ask, if it is appropriate, if the Senate could recess just for a few minutes so my colleagues on the floor may have a chance to meet them and show them around.

Mr. BAKER. Yes. Mr. President, first of all, let me congratulate the Senator from Delaware for permitting us to do this and to welcome our friends from the British Parliament to the Chamber of the Senate. We are pleased to have them.

I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, before the distinguished majority leader moves to recess, I wish to associate myself with the remarks of the distinguished majority leader and the distinguished Senator from Delaware. I, too, welcome on behalf of the Members on my side of the aisle the visitation from these distinguished people.

[Applause.]

RECESS UNTIL 5:32 P.M.

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate stand in recess for 2 minutes so that we may have the opportunity to meet our distinguished guests.

There being no objection, the Senate, at 5:30 p.m., recessed until 5:32 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COHEN).

POSTELECTION SESSION OF CONGRESS

Mr. BAKER. Mr. President, before I move to recess the Senate, I ask unanimous consent that a letter from the President of the United States to me, dated today, in respect to the remainder of this session and the appropriations process, be printed in the RECORD.

Even though the letter will be printed in the RECORD, I invite the attention of all Senators to it, and I will summarize it. First of all, may I say that the letter was addressed, as I understand it, to the Speaker and the minority leader of the House, to the majority leader and the minority leader of the Senate, and to the chairmen and the ranking minority members of the Appropriations Committees of both Houses.

The letter indicates that the President feels that we should pass as many appropriation bills as possible and do so as promptly as possible; that in the event that is not done before our recess in October for the campaign season before the election and it is necessary to have a continuing resolution, that resolution should be "for the shortest possible time. The duration should be the minimum necessary to allow this Congress to resume and complete its work following the elections."

Mr. President, I think the practical effect of that is this: If we could finish the appropriations process, or at least the major parts of it, I suppose we would not return or would not require a continuing resolution. However, I think it is unlikely that we are going to do that; and, for the sake of scheduling, Members should assume that the net effect of this letter is a request by the President that we complete the appropriations process after the election, if necessary. I believe that strongly indicates the possibility of a postelection session.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 16, 1982.

Hon. HOWARD H. BAKER, Jr.,
Majority Leader, U.S. Senate, Washington, D.C.

DEAR HOWARD: As we approach the start of a new fiscal year, I wish to underline the importance I attach to the Congress' passing responsible regular appropriations bills in a timely manner. I have said before, and I feel even more strongly now, that attempting to run the Federal Government without a proper budget—with a series of temporary continuing resolutions and the associated overall budgetary uncertainty—amounts to both bad economics and bad management.

I recognize that there have been delays in the development of appropriations bills for the coming fiscal year. And I understand of course that, with the November elections ahead, the Congress is anxious to recess in early October. If it therefore becomes necessary to resort again to the continuing resolution approach, I would urge most strongly that any continuing resolution be for the shortest possible time. The duration should be the minimum necessary to allow this Congress to resume and complete its work following the elections—in a manner that fulfills the obligations of the Budget Resolution that this Congress has passed.

I continue to hope that we may receive the regular appropriations bills on time. But if this proves infeasible, I trust you will give careful consideration to these views as you consider the possibility of a continuing resolution.

Sincerely,

RON.

Mr. ROBERT C. BYRD. Mr. President, could the majority leader state at this time when he thinks the Senate will return for such a session?

Mr. BAKER. Yes.

Mr. President, it would be my strong preference that if we have to come back, and I believe we will have to come back under these circumstances, that we do so on Monday following Thanksgiving Day and that, if my memory is correct, would be on November 29.

I must say for my friend, the minority leader, and any of those who are listening, that date is not now being set, but this would be my preference, and I will, of course, consult with the minority leader, with the Speaker, and with the minority leader of the House of

Representatives before we make any effort to complete that decision.

Mr. ROBERT C. BYRD. Mr. President, in view of the likelihood that there will be a postelection session, may I ask the distinguished majority leader—and he and I have discussed this already—for the record and for the edification of our colleagues would it not be his disposition that Senators might prepare to leave to do their work in their home States during the election, that they could plan on leaving as of around October 1 or October 2 since the Senate will be having to come back in any event?

Mr. BAKER. Mr. President, I would wish for that. As the minority leader correctly states, he and I have talked about that at some length and as recently as an hour or so ago. Before I make any further statement on that, however, once again I would wish to consult with him and with the Speaker because when I met with the Speaker yesterday he had a strong preference for October 8 as the break date.

This letter may change his mind on that subject. But before I make a final commitment in that respect I wish to talk to him further.

Mr. ROBERT C. BYRD. I would hope as for my part that the Senate will proceed with its own schedule and, of course, I do not presume to tell the majority leader what to do, but if the other body wishes to stay in until October 8, that is fine with me. But inasmuch as the Senate will have to come back after the election, I would hope that the distinguished majority leader would strongly consider adhering to the schedule which both of us have told our colleagues we expect to follow, that being that the Senate will go out on October 1 or October 2.

I recognize the fact that the majority leader is not in a position to say at this moment. He has many considerations that have to be studied, and he will have to converse with his colleagues on his side of the aisle, but for the record I wish to state that wish.

Mr. BAKER. Mr. President, I join in that wish, and I will do my best to accomplish that purpose.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Does the minority leader have any further business to transact?

Mr. ROBERT C. BYRD. I have none.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no other Senator seeking recognition.

If there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 5:37 p.m., the Senate recessed until tomorrow, Friday, September 17, 1982, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, September 16, 1982*

The House met at 10 a.m.

Dr. Harold J. Purdy, Boyce Bible School, the Southern Baptist Theological Seminary, Louisville, Ky., offered the following prayer:

Eternal God, our Father, we come to thee as the giver of life and all its blessings. We are especially grateful this day for this great Nation which is our heritage.

In these days of mounting problems and tensions around the world may we be used as a nation to help bring peace and justice to all people.

Bless these who have been charged with directing the affairs of government. Grant them wisdom and guidance to continue to lead us toward lasting peace and freedom.

We pray that we may have thankful hearts in the day of prosperity and a deeper trust in the time of adversity. In the name of the Prince of Peace we ask it. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members. The vote was taken by electronic device, and there were—yeas 334, nays 29, answered "present" 2, not voting 67, as follows:

[Roll No. 333]

YEAS—334

Addabbo	Bailey (MO)	Boland
Albosta	Bailey (PA)	Boner
Alexander	Barnard	Bonior
Anderson	Barnes	Bonker
Andrews	Bedell	Bouquard
Annunzio	Bennett	Bowen
Applegate	Bereuter	Breaux
Archer	Bevill	Brinkley
Ashbrook	Biaggi	Brodhead
Aspin	Bingham	Broomfield
Atkinson	Bliley	Brown (CA)
Badham	Boggs	Brown (CO)
Brown (OH)	Gramm	Molinari
Burgener	Green	Mollohan
Burton, Phillip	Gregg	Montgomery
Campbell	Grisham	Moore
Carman	Guarini	Moorhead
Carney	Gunderson	Morrison
Chappie	Hagedorn	Motti
Cheney	Hall (OH)	Murtha
Clausen	Hall, Ralph	Myers
Clinger	Hall, Sam	Napier
Coats	Hamilton	Natcher
Coelho	Hammerschmidt	Neal
Coleman	Hance	Nelligan
Collins (IL)	Hansen (ID)	Nelson
Collins (TX)	Hansen (UT)	Nichols
Conable	Hartnett	Nowak
Conte	Hatcher	O'Brien
Conyers	Hawkins	Oakar
Corcoran	Hefner	Obey
Courter	Hendon	Oxley
Coyne, James	Hertel	Panetta
Coyne, William	Hightower	Parris
Craig	Hiler	Pashayan
Crane, Daniel	Hillis	Patman
Crane, Philip	Hollenbeck	Patterson
Crockett	Hopkins	Paul
D'Amours	Horton	Pease
Daniel, Dan	Howard	Perkins
Daniel, R. W.	Hoyer	Petri
Dannemeyer	Hubbard	Peyser
Daschle	Huckaby	Porter
Daub	Hughes	Price
Davis	Hunter	Pursell
de la Garza	Hutto	Quillen
Deckard	Hyde	Rahall
Derrick	Jeffords	Railsback
Derwinski	Jenkins	Rangel
Dicks	Jones (TN)	Ratchford
Donnelly	Kastenmeier	Regula
Dornan	Kazen	Rhodes
Dowdy	Kemp	Rinaldo
Downey	Kennelly	Ritter
Duncan	Kildee	Roberts (KS)
Dunn	Kindness	Roberts (SD)
Dwyer	Kogovsek	Robinson
Dymally	Kramer	Rodino
Dyson	LaFalce	Roe
Early	Lagomarsino	Rogers
Eckart	Lantos	Rose
Edgar	Latta	Rostenkowski
Edwards (AL)	Leach	Roth
Edwards (CA)	Leath	Roukema
Edwards (OK)	Lehman	Rousselot
Emery	Leland	Roybal
English	Lent	Rudd
Erdahl	Levitas	Russo
Erlenborn	Loeffler	Sawyer
Evans (DE)	Long (LA)	Scheuer
Evans (IN)	Long (MD)	Schneider
Fary	Lott	Schumer
Fascell	Lowery (CA)	Seiberling
Fazio	Lujan	Sensenbrenner
Fenwick	Lundine	Shamansky
Ferraro	Lungren	Shannon
Fiedler	Marlenee	Sharp
Findley	Marriott	Shaw
Fish	Martin (IL)	Shelby
Flippo	Martin (NY)	Shumway
Florio	Martinez	Shuster
Foglietta	Matsui	Siljander
Foley	Mavroules	Simon
Ford (TN)	Mazzoli	Skeen
Fowler	McCloskey	Skelton
Frank	McCollum	Smith (AL)
Frenzel	McDonald	Smith (IA)
Frost	McEwen	Smith (NE)
Fuqua	McGrath	Smith (NJ)
Garcia	McHugh	Smith (OR)
Gephardt	Mica	Snowe
Gilman	Mikulski	Snyder
Ginn	Miller (CA)	Solarz
Glickman	Mineta	Solomon
Gonzalez	Minish	Spence
Gore	Mitchell (NY)	St Germain
Gradison	Moakley	Stangeland
Stark	Walgren	Winn
Staton	Wampler	Wirth
Stratton	Watkins	Wolf
Studds	Waxman	Wolpe
Stump	Weaver	Wortley
Swift	Weber (MN)	Wright
Synar	Weber (OH)	Wyden
Tauke	White	Wylie
Tauzin	Whitehurst	Yatron
Taylor	Whitley	Young (FL)
Traxler	Whittaker	Young (MO)
Trible	Whitten	Zablocki
Vander Jagt	Williams (MT)	Zeferetti
Vento	Williams (OH)	
Volkmer	Wilson	

NAYS—29

AuCoin	Harkin	Mitchell (MD)
Coughlin	Holt	Murphy
Dickinson	Jacobs	Roemer
Dorgan	Johnston	Sabo
Dreier	Lewis	Schroeder
Emerson	Livingston	Stenholm
Evans (IA)	Lowry (WA)	Walker
Fields	Luken	Washington
Gejdenson	Markey	Yates
Goodling	Miller (OH)	

ANSWERED "PRESENT"—2

Beilenson	Oberstar

NOT VOTING—67

Akaka	Fithian	McCurdy
Anthony	Ford (MI)	McDade
Bafalis	Forsythe	McKinney
Beard	Fountain	Michel
Benedict	Gaydos	Moffett
Bethune	Gibbons	Ottinger
Blanchard	Gingrich	Pepper
Bolling	Goldwater	Pickle
Brooks	Gray	Pritchard
Broyhill	Heckler	Reuss
Burton, John	Heftel	Rosenthal
Butler	Holland	Santini
Byron	Ireland	Savage
Chappell	Jeffries	Schulze
Chisholm	Jones (NC)	Smith (PA)
Clay	Jones (OK)	Stanton
Dellums	LeBoutillier	Stokes
DeNardis	Lee	Thomas
Dingell	Madigan	Udall
Dixon	Marks	Weiss
Dougherty	Martin (NC)	Young (AK)
Ertel	Mattox	
Evans (GA)	McClory	

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed bills, joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 349. An act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the

payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes;

S. 2420. An act to protect victims of crime;

S.J. Res. 241. Joint resolution to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week";

S.J. Res. 243. Joint resolution authorizing and requesting the President to designate October 15, 1982, as "National Poetry Day"; and

S. Con. Res. 120. Concurrent resolution to commemorate the 75th anniversary of the Washington Cathedral.

DR. HAROLD J. PURDY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, my deceased father, Dr. Carroll Hubbard, Sr., had the privilege of giving the prayer in the House of Representatives three times.

Shortly prior to his death last year, my father requested of me that I ask his close friend, Dr. Harold J. Purdy of Louisville, Ky., to be the guest Chaplain some time in the House of Representatives.

Today, it is a pleasure to have Dr. Purdy to give our opening prayer and serve as our guest Chaplain.

Dr. Purdy, now assistant director of and professor of theology at Boyce Bible School at Southern Baptist Theological Seminary in Louisville, was pastor of seven churches in Kentucky, Tennessee, and West Virginia during his 47 years in the active ministry. Two of the churches where Dr. Purdy was pastor—First Baptist Church at both Bowling Green and Madisonville—are among Kentucky's largest congregations.

Dr. Purdy was a member of the executive committee of the Southern Baptist Convention for 6 years, a member of the Baptist Sunday School Board for 12 years and served as president of the Tennessee Baptist Convention in 1963 while pastor of Nashville's Belmont Heights Baptist Church.

I am pleased to have as my guests today Dr. Purdy, his lovely and talented wife, Virginia—my mother's close friend—his brother-in-law, William P. Burdette, of St. Albans, W. Va., and his niece, Mrs. Joe (Jane) Coyner of Chantilly, Va.

CELEBRATING THE 172D ANNIVERSARY OF MEXICO'S INDEPENDENCE

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, today is the 16th of September, the day on which our neighboring Republic of Mexico celebrates its independence.

On September 16 in the year 1810, just 34 years after our own Declaration of Independence, a parish priest named Father Miguel Hidalgo pulled the rope that rang the bell in the village church of Dolores until the oppressed countrymen from the nearby farms filled the courtyard to overflowing, and then he called upon them to free their native land from the tyrannies of the Spanish crown.

Not quite 3 months later, Father Hidalgo and his followers proclaimed the abolition of slavery from Mexican soil—some 53 years before our own Emancipation Proclamation—and wrote the Western Hemisphere's first land reform statute.

In the New World the names of Hidalgo and Morelos will rank forever alongside those of Washington and Jefferson, Bolivar, and O'Higgins, and San Martin in the annals of human freedom.

In a later age, Abraham Lincoln and Benito Juarez dreamed the same dreams and fought the same foes, as Francisco Madero and Woodrow Wilson, Lazaro Cardenas and Franklin Roosevelt were destined to do in the continuing struggle for social justice and human dignity.

On this day when our good neighbors in Mexico strive to triumph over the severe economic dislocations which presently beset that land of such painful beauty and yet unrealized potential, let us join in honoring their national pride, in saluting their national future and in celebrating their day with the ancient cry of Miguel Hidalgo: "Via la Independencia."

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my distinguished friend, the gentleman from Arizona.

Mr. RHODES. I thank my good friend, the majority leader.

I ask for this time merely to emphasize the fact that what the distinguished majority leader has said rings in the hearts of all of the House of Representatives on both sides of the aisle.

I wish to associate myself with his remarks and join with him in saluting our sister republic to the south on this most important day.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my friend from Texas, the distinguished chairman of the Agriculture Committee.

Mr. DE LA GARZA. Mr. Speaker, I am happy to join my distinguished colleague, the majority leader, Mr. WRIGHT, in behalf of my constitutents I am sure, and personally, to extend to the people of Mexico, to its Government and our colleagues in Mexico's House and Senate our best wishes and congratulations on the anniversary of their independence. Our neighbors to the south are having very difficult times. I extend to them my personal pledge of cooperation, and I know my colleagues in the House will share my wish for Mexico and its people of a return to normal times soon. I know that the Mexican spirit which prompted that initial endeavor still exists and will allow the people of Mexico to persevere in their efforts to retain the hopes and aspirations of those great men and women that have since the beginning in 1810 made it the great country that it has become through many difficult and trying years.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New York, who has accompanied me to that beautiful country to attend interparliamentary meetings.

Mr. GILMAN. Mr. Speaker, I am pleased to join the majority leader in noting that this week throughout our Nation we are celebrating National Hispanic Heritage Week, commemorating the 172d anniversary of Mexico's independence from Spain on September 16, 1810, I take advantage of this opportunity to honor the contributions Hispanic Americans have made to our Nation and also to emphasize our Nation's need to address the many social and economic problems faced by these Americans.

There are now over 12 million Hispanic Americans in our country, including over 20,000 in my own congressional district in New York. The Hispanic population in the United States is comprised of Chicanos, Puerto Ricans, Cubans, Dominicans, Central and South Americans, and those descended from Spain. Although there are differences among these various communities, all are united by their rich culture, their love for the Spanish language, and their strong regard for family. Hispanic Americans have added diversity and creativity to our Nation in the arts, music, literature, and architecture. They have also distinguished themselves in the fields of economics, education, government, and science, and technology.

As we honor their accomplishments, let us not forget the many social and economic problems which confront Hispanic Americans. Poverty, lack of education, and linguistic, and cultural barriers are ever-present for the majority of Hispanics. Nearly 27 percent of Hispanic families in the United States earn under $7,000 a year, compared to 16.6 percent of non-Hispanic families. Only 40 percent of Hispanic Americans have completed high school, compared to 46 percent of U.S. blacks and 67 percent of white Americans. This is so despite the Hispanic belief in the maxim "saber es poder" (knowledge is power). Also drug abuse has robbed the Hispanic community, as it has throughout our Nation, of

contributions that many of its members, especially its young people, might otherwise have made to our society.

Let us mark National Hispanic Heritage Week by applauding the achievements of our Hispanic population and recognizing the rich contributions they have made to our Nation. But let us also use this occasion to dedicate ourselves to insuring that Hispanic Americans receive all the rights and opportunities that are available in our Nation, so that the pervasive problems that plague the Hispanic community may begin to be eradicated.

□ 1030

THE MOST CRUCIAL ISSUE—UNEMPLOYMENT

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, today we are going to be given an opportunity in the House of Representatives to take up legislation that deals with one of the most crucial issues facing our country today, that is unemployment.

This bill that we are going to have a chance to vote on will put back nearly 230,000 people to work, 140,000 of them adults and 90,000 young people between the ages of 16 and 21.

Mr. Speaker, I just hope that my Republican colleagues will once again vote for the people, as they did a week ago in overriding the President.

I would like simply to remind everybody that with the election 5 weeks away and with unemployment rising, it seems to me here is another chance for my colleagues to show their courage in voting once more for the people and turning around, at least in a little way, some of the major problems of this country. If we do this we might even give senior citizens and students a break next year.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

(Mr. BARNES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNES. Mr. Speaker, highway crashes cause more violent deaths every year than any other cause, and the majority of these violent deaths are due to drunk driving. Last year alone, drunk driving killed over 25,000 Americans and maimed 650,000 others. Also, drunk driving has high economic costs at about $24 billion a year. Of increasing concern is the combination of alcohol and drugs and its impact on the incidence of fatal crashes. Largely due to citizen groups like MADD and RID, most States have taken first steps to bring this nationwide epidemic under control.

Since 1980, the drunk driving tragedy has moved from the back page obituaries to the front pages of major newspapers and magazines. We can help assure that the momentum that is building around this issue will not fade away as society turns its attention to other pressing problems. Today, I am introducing a resolution, along with JIM HANSEN of Utah, proclaiming the week of December 12, 1982, as "National Drunk and Drugged Driving Awareness Week" to trigger massive attention and activities alerting the public to the dangers of combining alcohol, drugs, and driving. The Senate yesterday approved identical legislation, and, today, I seek your cosponsorship of this important legislation.

AN URGENTLY NEEDED PROGRAM OF PUBLIC SERVICE EMPLOYMENT

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, I hope that when this body takes up the jobs legislation that will shortly be before us that we will respond to that legislation with an overwhelming vote of approval.

Given the disaster that has befallen literally millions of jobless Americans, this bill is an extraordinarily modest undertaking, but it is a beginning.

There is no State that is suffering more from unemployment and from economic distress than my State of Michigan. While the national unemployment rate has fluctuated in the 9-percent range throughout this year, joblessness in my State of Michigan has surged to depression levels, ranging from 14 to 17 percent.

There are communities within my own congressional district with unemployment rates in excess of 20 percent. Throughout the State, hope has given way to despair, and the call for quick and decisive action to stimulate the State's economy and to put Michigan back to work has become more urgent every day.

Mr. Speaker, Michigan can no longer wait for the miraculous recovery promised by the President. The pain has simply become too great.

This resolution that will be before us today takes immediate and affirmative steps to create jobs for the long-term unemployed. It prescribes a course of action which this Congress, conscious of the devastation that unemployment has created for millions of American households, must endorse.

I urge my colleagues to join me in support of this critical legislation.

THREE CATEGORIES OF UNEMPLOYED

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker, in my opinion, those who are unemployed sort out into about three different categories. There is one category that is angry and frustrated and we see evidence of that anger and frustration growing in the cities.

There is another category that is determined to try to find something to do. I see people in my city picking up bottles and cans and selling them to make some money.

There is a third category that is characterized by absolute hopelessness—absolute; that is the category that is asking me and you and other Members of this House, "When is someone going to help us? When is someone going to do something to attempt to restore my sense of manhood and fatherhood that goes along with being an employed person?"

We have a resolution coming before us today and that resolution is not going to solve the problem of joblessness. It will affect only maybe 230,000 people; but what it will do, it will give some sense of hope to those who are unemployed and have been unemployed, that maybe at long last this Government is going to be responsive.

I hope we overwhelmingly pass the resolution.

ANOTHER CHAPTER IN THE GRAPES OF WRATH

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, the head of the household at 1600 Pennsylvania Avenue in Washington, D.,C., stated that if people want to work, they should use their feet and move to where the jobs are.

Mr. Speaker, as a youngster, I was a part of the "Okie-Arkie" movement where thousands upon thousands and millions of people, the largest movement of human beings ever recorded in the history of our country moved in the search for jobs.

The head of my household, my father, did not experience such a pleasure as maybe our President who moved to California about the same time and became a Hollywood actor and probably experienced great joy; but my father led our family through Arizona into California where we picked cotton, cut grapes, picked up potatoes, worked in shipyards in an effort to find a job to hold our family together.

That was a tragic moment, Mr. Speaker, at a time when the heads of

households found their homes broken up because they had to leave and try to find with their feet a job.

In my area of the State, as high as 68 percent of the people have outmigrated in the last 50 years in the search for a job, and today we have 18 percent of the people unemployed in one of my areas.

Mr. Speaker, in this tragic exodus in the thirties, there was a book written and that book was entitled the "Grapes of Wrath," by John Steinbeck. I cannot believe that this President wants to write another chapter to to that book or another book on the exodus of people in a search for jobs in America called the "Grapes of Wrath of the 1980's" by Ronald Reagan.

THE ADMINISTRATION'S GRAND PROMISES

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, as the Representative of the congressional district which has consistently had the highest unemployment rate in the Nation over the last 2 years, I must express my dismay over the fact that the administration has done nothing to address this very serious problem. For 2 years, we have had promises that a grand economic plan would improve our economy. In those 2 years, conditions have deteriorated. How long is it going to be until this plan takes hold and people go back to work—another 2 years, another 4 years, or when? This administration seems determined to prove the validity of its rather questionable economic strategy at the expense of the workers in Flint, Mich., and around the country.

Mr. Speaker, having a general economic strategy does not mean that you do not address specific problems as they arise. The administration has not been doing its job. The President has made no specific recommendation to reduce the highest unemployment rate since the Great Depression. Instead, they say eventually it will go away. Workers in my area cannot wait any longer. Thousands have exhausted all unemployment benefits. Many have lost their homes. It also indicates a cynical callousness when they ask a worker who has been unemployed for 2 years to wait another 4 years before the economy becomes totally healthy. Promises are fine. They indicate our goals, but promises do not have a high nutritional value and promises do not pay the mortgage.

Mr. Speaker, we have a responsibility to address this problem even if the administration chooses to ignore it. We cannot afford to pursue a political ideology to the extreme if it has no relationship to reality. Later today, we will consider the urgent supplemental appropriations bill, House Joint Resolution 562, which is a first step in addressing the problem of unemployment. It is truly an urgent bill, and I appeal to my colleagues to support it.

ANOTHER CHAPTER IN U.S. HISTORY

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, another chapter has been written in the history of the United States, according to President Reagan.

Yesterday, in an address to a group of black Americans, the President stated that the Great Society had hurt black people, that all the spending for social programs occurring during the sixties ended the boom of the fifties.

Many of us, particularly those of us who were of draftable age during the Great Society remember that the Federal budget was bled far more by the Vietnam war than by the Great Society.

To my knowledge, President Reagan has never condemned that war effort for draining the country of Federal dollars and ruining those great 1950 days of prosperity.

Another chapter in "Alice in Wonderland" history, brought to you by our President.

□ 1040

LET US PUT AMERICANS BACK TO WORK

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, I rise today in support of the jobs bill. Our country is currently suffering from a 9.8-percent unemployment rate—in Illinois it hovers around 12 percent. This is the highest rate our country has had since the Great Depression and the citizens in this country have had enough. When I ask people what they feel the highest priority their Government faces at the moment, they say jobs. It is our duty to help alleviate some of the suffering that these people are going through by passing this legislation which will put hundreds of thousands of unemployed back to work. Not only will they feel more worthwhile and productive, but it will also help our communities. Work will be done on bridges, streets, and parks—all those areas which have been neglected due to dwindling budgets.

I am tired of this old Republican rhetoric—the trickle-down theory—that jobs for the middle class and the poor will magically be created if we only give the rich more money to play with—to buy more Rolls Royces and yachts. This has not worked in the past and it will not work in the future. This is not helping the construction worker who has been laid off and his rent is due and his savings are all used up. He does not want luxuries; he wants food for his family and a roof over their heads. He wants to work; he wants a purpose. Let us give him a job today. Let us join together to pass this legislation and put Americans back to work.

Mr. Speaker, today the American people will find out which Members of Congress have cold, insensitive, and uncaring hearts and those who have warm, compassionate, and understanding ones.

WE HAVE A BETTER WAY TO ALLEVIATE UNEMPLOYMENT

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I rise today in favor of the jobs bill. Unemployment in the State of Washington is 13 percent, and I must say that I recognize that some do not feel that this bill adequately addresses the problem that faces our country. But I must say to you as someone from the Pacific Northwest, we might not be here today trying to pass this legislation had the President not chosen to veto a housing bill that would have put back to work 30 percent of the people who are unemployed in the forest products and housing industry, if the administration, led by Mr. Stockman, had not demanded cutbacks in the Export-Import Bank which helped to sell airplanes internationally, attempted to close down salmon hatcheries in times of crisis in the salmon industry; if they had not chosen to gut the Youth Conservation Corps and the Young Adult Conservation Corps.

Clearly, this is a last resort, but today all of us recognize that America's roads need work, America's bridges need repair, our dams have been called unsafe, our parks desperately need work and repair. There are constructive things for the American people to do.

I say: Why not now? Why not get started on this important endeavor?

AMERICANS ROBBED OF CHANCE TO BE PRODUCTIVE

(Mr. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MATSUI. Mr. Speaker, in the middle of this summer, 47,000 of the residents of Sacramento County were

out of work—a staggering 11.8 percent of our work force.

In this same California county, 1 in every 10 bridges is in need of repair or rehabilitation. There ought to be a way we can put these two problems together, for the benefit of the jobless and for the betterment of the whole community.

The jobs bill we are considering today takes a step in that direction. It should really be called a crime victims compensation bill, because it is an effort to spend $1 billion on thousands of Americans who have been robbed of their chance to be productive.

We cannot compensate all those who suffer from this outrageous social crime, but we have an obligation to take this one small step against despair.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6529

Mr. EDGAR. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill H.R. 6529, the Jobs and Business Opportunities for the Handicapped Act of 1982.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LET US FORGE A NEW FOREIGN POLICY TOWARD THE PHILIPPINES

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, 2 weeks ago, I, together with seven other colleagues, asked President Reagan to cancel the state visit of Philippine President Ferdinand Marcos. Our request was prompted by Mr. Marcos' declaration of emergency rule on August 31.

We are distressed by the fact that our Government is officially entertaining a person whom Amnesty International has ranked as one of the world's worst violators of human rights. Just yesterday, September 15, the Washington Post carried an article on the most recent Amnesty International mission to the Philippines. According to the report, "frequent torture cases, disappearances and killings have continued in the Philippines following the lifting of martial law more than a year and a half ago."

The Amnesty report confirms the assertion of the confidential report of the U.S. Embassy in Manila that "human rights abuses have increased in many areas." This report, dated April 13, 1982, also asserted that the Philippine military is responsible for many instances of kidnaping, murder, and holdups.

We do not believe that U.S. aid should continue to flow to arm a military government that represses its people. And we are deeply ashamed of the support which administrations since that of Richard Nixon have delivered to such a brutal dictatorship. It is time for us as legislators to take the lead in forging a new foreign policy toward the Philippines—one based on justice, equality, and peace not on domination and support for repression.

Let us support the jobs bill, not human rights violators.

THE JOBS BILL WILL WORK TO PUT OUR AMERICAN PEOPLE TO WORK

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, the unemployment rate in Michigan is over 14 percent. The State budget has now been cut 25 percent in these 2 years. In 1980, President Reagan campaigned on Labor Day in Detroit and he promised to create 13 million jobs. Instead, there are 13 million people out of work. His theories have failed.

Today we can do something for jobs. Mr. Speaker, C. S. Lewis wrote "The road to hell is a gradual one." Now even that road is filled with potholes. Potholes are caused when the support structure of the road or bridge is eaten away. There is too much decay, and the overlying pavement buckles and collapses.

Potholes are a metaphor for our Nation's economic ills. The supporting structure of our economy, our workers, the industrial base have been undermined by high interest rates, recession, and unemployment.

Just as we cannot allow our roads to collapse, we cannot allow our workers to wallow in the hell of unemployment. Today's jobs bill will address the deterioration of our vital roads, bridges, and waterways and most importantly, it will create new jobs particularly for the most devastated, those who have exhausted their unemployment benefits.

LET US NOT WASTE OUR MOST PRECIOUS NATIONAL RESOURCE—OUR PEOPLE

(Mr. ALBOSTA asked and was given permission to address the House for 1 minute and to revise and extend this remarks.)

Mr. ALBOSTA. Mr. Speaker, the unemployment line today would reach all the way from New York City to Los Angeles and then from Los Angeles up to Seattle, Wash.

That is the biggest waste of human resources that this country has today. No country in this world should allow that kind of a waste.

We are spending billions of dollars on the State level and on the Federal level to support unemployment and welfare programs that are another waste of human resources, those people who are not working, and using up taxpayers' funds.

Would it not make more sense if we put our people back to work?

Mr. Speaker, today I am talking about a jobs bill that we will be discussing later today. I think it is time that we make the decision here in the Congress to get some of these people back to work.

Mr. Speaker, I urge the people who may be wobbly on this particular bill to support it, and stop that waste of human resources.

□ 1050

SPEAKER LAUNCHES ATTACK AGAINST PRESIDENT REAGAN

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I was shocked this morning to hear the Speaker of this House launch a vicious attack against the President of the United States on national television. That attack went far beyond the bounds of usual partisan politics, and was directed personally toward the character of President Reagan.

I think most Americans would agree that the President is, at the very least, owed an apology.

In addition, I heard the Speaker directly attack the American people. Despite the fact that the vast majority of the American people want voluntary school prayer and a balanced budget, he said that this House would ignore those issues. In fact, he referred to Americans who want to see some financial discipline at the Federal level through a balanced budget amendment as "cowardly."

This comes at the same time that the Speaker is bringing to this floor under a hurry-up procedure a bill to revive the discredited policies of the Carter administration; namely, fighting a major national problem with big, new deficit spending.

By abandoning all pretense of fiscal responsibility, he is telling the millions of Americans who voted for a change in 1980 that he does not care what they think. If this is what this political season is going to be all about, I must say that I am discouraged and I am disgusted. It is the politics of a party devoid of ideas and apparently devoid of principle and even common decency.

This country deserves much better from those who lead it or who aspire to lead it.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

(Mr. HANSEN of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN of Utah. Mr. Speaker, today, along with Congressmen BARNES, HOWARD, and CLAUSEN, I am pleased to introduce a resolution to declare the week of December 12 to 18, 1982, "National Drunk and Drugged Driving Awareness Week."

Many of us are personally aware of tragic incidents of children and parents being killed, or seriously injured.

I have known personally of a child being killed while innocently walking on a sidewalk, entire families dying, and countless other cases of death and destruction on the highways.

Last January the whole Nation was shocked at the airplane crash on the 14th Street Bridge where over 70 people died. However, every 24 hours more than 70 people are killed on our Nation's highways by drunk drivers. We must stop this needless carnage.

People are finally starting to act. Many States have formed drunk driving task forces. Most States have adopted or are considering stronger drunk driving laws.

Other nations have cut the drunk driving incidents by 50 percent by taking positive actions. I am confident that if we can enact more efficient laws and increase public awareness we will also be able to cut the number of deaths and injuries on our highways in half.

By declaring a National Drunk and Drugged Driver Awareness Week, we will be able to focus public attention on the serious drunk driving problem that can and must be solved.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, we have heard a lot of passionate rhetoric about job creation this morning, some of it very partisan, some comments were moving, others silly if not demogogic. However, there are few moments more saddening to a family than a pink slip of job termination for the main provider. There is certainly one nightmare beyond all others: The manslaughter of a family member by a drunk driver. Drunk driving and the fatality rate that it brings to the innocent in our country has become a national scandal beyond comprehension. I am joining the gentleman from Maryland (Mr. BARNES) in his resolution to declare at least a week, this December as a week set aside to awaken the consciousness of our Nation to this curse of drunk driving.

This is the No. 1 killer, including all diseases, of our young people who die between the ages of 16 and 24. And the deaths are violent in the extreme; 52,600 Americans have died in the last 2 years, far beyond the number killed in action in Vietnam over a period of 11 years; 5,000 more killings as a matter of fact. This is a national tragedy that just absolutely staggers the imagination. We in Congress simply must do something about it. Raise even more taxes on liquor, awareness programs, Federal tracking of drunks who drive and move from State to State.

That we have lost a quarter of a million of the flower of our Nation's youth and working force of all ages over the past 10 years is insanity. Imagine, a quarter of a million Americans violently killed in bloody crashes on our highways because Americans still get behind the wheel of a several-ton piece of transportation equipment and drive it at high speeds while their brain is addled with liquor and/or with marihuana. Remember, 15 percent of the fatalities on our highways are caused by voluntarily putting the substance TCP into the brains of drivers by those drivers smoking marihuana.

I repeat this is a national problem because these drunks cross State lines. Liquor crosses State lines. We simply have to stop this horror, the greatest loss of American lives since World War II. Please, my colleagues, read the Newsweek cover story of their September 13 issue. For your convenience, I put that frightening but excellent piece of investigative journalism in yesterday's CONGRESSIONAL RECORD.

NATIONAL FARM SAFETY WEEK

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, this week of September 19 to 25 has been officially designated as "National Farm Safety Week." "Make It a Safe Harvest" is the appropriate theme for this year's observance.

Because agriculture still remains among the high accident rate industries, it is important that we continue to stress the value of greater safety measures, particularly at harvest time.

Farm work accidents kill or maim far too many people each year. We saw a 5-percent reduction in such accidents last year, but further progress is needed.

Nebraska's own record in reducing farm fatalities is much better. Tractor-related accidents in particular have been cut almost in half over the past 20 years. This gain can be attributed to the excellent farm safety program we have. It is one of the oldest in the Nation, dating back to 1948 when a farm safety committee was set up. Just a few years later, in 1954, a full-time farm safety specialist was appointed.

More than 25 different programs are conducted on all phases of farm safety with special emphasis upon tractor safety. Nebraska's "Tractor Power and Safety" is a one-of-a-kind observance in the whole United States, and was more successful than ever this year.

It is obvious that Nebraska takes farm safety seriously and the results speak for themselves. As we observe National Farm Safety Week in this and succeeding years Nebraska will join with other farm States in saving lives and in preventing disabling injuries.

CONGRESS MUST HELP THE MOST UNEMPLOYED PEOPLE AT THE LEAST COST

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, rightfully, Members are concerned about those people suffering from lack of employment. There are those who have suggested that there is a cynicism, that the bill is being introduced for political reasons. I suspect later we can find out if that is true, and I hope it is not.

I will be offering the only amendment to the bill, an amendment that will offer three times as many jobs for half the cost, and I look for the support of all those who quite rightfully feel that this Congress must be filled with compassion, must show that we have a heart, and must indeed indicate that it is not the cynicism near election time, but the desire to help the most people at the least cost.

63D ANNIVERSARY OF AMERICAN LEGION

(Mr. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS. Mr. Speaker, on this date in 1919 the U.S. Congress chartered the American Legion as a corporation. With national headquarters in Indianapolis, Ind., I am pleased to recognize their 63d anniversary.

With over 2.6 million members, including 700,000 Vietnam veterans, the American Legion has over 16,000 local posts in the United States and 28 foreign countries. The American Legion donates millions of dollars to projects not only helping veterans but also lending assistance to children and

youth as well as millions of hours in volunteer community service.

The American Legion has: 700,000 Vietnam-era vets as members; 1 million members of their women's auxiliary; donated over 1 million hours as volunteers in veterans hospitals; donated over $21 million to children and youth programs; and donated 2 million hours as volunteers to help counsel veterans.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 562, URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF LABOR, 1982

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 582 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 582

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 562) making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982, and the first reading of the joint resolution shall be dispensed with. After general debate, which shall be confined to the joint resolution and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be considered as having been read for amendment under the five-minute rule. No amendment to the joint resolution shall be in order except one amendment offered by Representative Michel of Illinois or his designee, said amendment shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Michel of Illinois or his designee and the chairman of the Committee on Appropriations. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Arizona (Mr. RHODES), pending which I yield myself such time as I may consume.

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 582 and ask for its immediate consideration.

Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Arizona, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 582 provides for the consideration of House Joint Resolution 562, making an urgent supplemental appropriation for the Labor Department for the fiscal year ending September 30, 1982.

The rule provides for 2 hours of general debate to be equally divided between the chairman and ranking minority member of the Appropriations Committee in the Committee of the Whole and will be considered as having been read for amendment under the 5-minute rule.

It further makes in order one amendment to be offered by the minority leader, Mr. MICHEL, or his designee. That amendment is not amendable but is debatable for 1 hour, equally divided between Mr. MICHEL and the chairman of the Appropriations Committee.

One motion to recommit is in order before the vote on final passage.

Mr. Speaker, we have before us a situation in which the Congress must act expeditiously in a number of ways. First, there are numerous pieces of important legislation which the Congress must consider before adjourning for the November elections. We also must realize that certain legislation to address the economic distress of the country must be dealt with posthaste for the welfare of our citizens regardless of any congressional deadlines.

In situations such as this, those time constraints can be manipulated to thwart the will of an elected majority. This body, unlike the other, operates under the principle that a determined majority should be allowed to work its will while protecting the rights of the minority to be heard. This rule protects that principle.

It makes in order one amendment to be offered by the minority to change or shape this legislation in any way they choose. A motion to recommit with instructions would still be in order even if an amendment is adopted or if an unsuccessful substitute is offered. This, in essence, allows the minority two opportunities to amend.

Hence, the House would not be denied the opportunity to vote on an important bill because of dilatory amendments in the waning days of session. Neither would the minority be deprived of its right to influence legislation.

Mr. Speaker, House Joint Resolution 562 seeks to establish an emergency jobs program for eligible unemployed in jobs of tangible benefit to their communities. These include the repair, maintenance, and rehabilitation of public facilities and projects essential to the health, safety, and welfare of the public. The committee envisions such activities as road and bridge repair, flood control, rehabilitation of water systems, and energy conservation as eligible for funding under this bill.

The program is authorized no specific amount of money. Rather, a level equal to 5 percent of the "latest official estimate of unemployment compensation for the current fiscal year is authorized to be appropriated." That level is estimated by the executive to be $20.7 billion for fiscal year 1982. Hence, the appropriated level would be slightly over $1 billion. Of that, 85 percent will be allocated for jobs for the unemployed and 15 percent for youth employment and training.

Within those categories, 83 percent will go to entities with unemployment above the national average, 15 percent to those areas below the national average and 2 percent for native American tribes, bands, and groups for employment and training. Allocation to eligible entities will be made by the Secretary under a formula of relative unemployment which will be explained later in the debate.

Individual eligibility for jobs will be based upon duration of unemployment but priority will be given to those unable to, or no longer eligible to, receive unemployment compensation. All applicants must be certified as unemployed for a minimum of 2 weeks.

Jobs will last a maximum of 6 months with wages not to exceed a total of $5,000. Workers under this program are prohibited from displacing currently employed workers.

I listened to criticism of this bill from some of my colleagues during the Rules Committee deliberations. "It comes at the wrong time," they said. "We are already beginning the recovery." Mr. Speaker, I am not about to tell my constituents that I opposed a jobs program because recovery is on the way when they cannot put food on the table now.

Look at the list of State unemployment rates on page 4 of the committee report. Last year 30 percent of all States had unemployment rates of over 8 percent. Today, 1 year later, 60 percent of our States find themselves in that position. More than 30 percent of our industrial capacity stands idle, every 5 minutes another business ceases its operations. Steel production is at its lowest point in 35 years. Automobile production is at its lowest in 20 years. The FDIC spent more money in 1981 rescuing banks than it had in its entire 47-year history. The Department of Commerce has reported that businesses will cut production and cut investment this year. If that is recovery, it must be measured by the standards of Reaganomics and not by any recognized economic standard.

Opponents say these funds to rebuild infrastructure will come "online" just as cold weather is setting in in the areas hardest hit by unemployment. I have spoken with hundreds of

my constituents who are out of work and not one of them has asked me to wait until spring to come up with a solution. Even assuming some activities are technically precluded by cold weather, other activities, such as energy conservation, are not.

Mr. Speaker, I deeply regret that it is my State that is cited in the resolution as having the highest incidence of unemployment in the country. I think it is instructive of the accelerating difficulty that we find ourselves in that during the short time between the committee's research and the resolution's printing, Michigan's unemployment went from the 14.3 percent listed in the resolution to 14.7 percent.

A short time ago, a discount department store in Romeo, Mich., in my district listed openings for 80 jobs and received 800 applications the first day.

A few months ago the Detroit Free Press, in a wonderful spirit of community, offered to run "jobs wanted" ads at their own expense. The response was six pages of "jobs wanted" ads while the "help wanted" ads were listed on a single page.

Macomb County Community College in my district has had an enormous increase in student enrollment because of people seeking retraining. My people want to work.

Many bridges in my district are in terrible condition; 89 have already been closed to track and schoolbus traffic, 20 closed altogether. Streets and roads have likewise deteriorated because unemployment has diminished revenues while increasing the need for public services. With this program, people can be put to work as contributing productive members of their communities and the price of the dignity that we restore to each of them is a mere $833 per month. We lose more than that in taxes, compensation, and services by keeping them on the unemployment rolls where they are unable to perform offsetting services.

This program rests upon two intersecting needs: The need to do something about unemployment and the need to rejuvenate America's deteriorating infrastructure.

The specter of at least 12 million people in this country remaining unemployed, many having depleted compensation benefits with no prospects for work, while the President tells them that market forces will solve their problems is unconscienable.

To allow our infrastructure to continue to decay would be ruinous. Our water systems, roads and highways, bridges and waterways are the arteries of our economic system. If they are not healthy, the entire economic system atrophies. But consider the following:

One-fifth of the Nation's bridges have deteriorated to the point where they are either restricted or closed;

One-half of Conrail's roadbeds and rails are seriously decayed (DOT);

One-fourth of the Interstate Highway System is worn out and needs rebuilding (DOT);

Three thousand dams in populated areas are unsafe, 130 in a state of collapse (Corps of Engineers); and

Cities like Boston are losing a significant amount of their water supply through leaky pipes each day (20 percent).

In fact, it is estimated that $2.5 to $3 trillion will be needed this decade simply to maintain our infrastructure. Current expenditures are far below that.

This program exploits those two needs together for the benefit of the country. It is not much. The estimated $1 billion cost is within the limits of the budget resolution. It may produce 200,000 jobs and none of those workers will become wealthy with the $5,000 we provide them. But we show them that we appreciate the dignity and importance that they attach to their labor and the talents they offer in service.

Most of all, we show them that we care about their difficulties and that we are doing what we can with the limited means currently available to solve them.

I hope that Members will support this rule as fair and reasonable, and move expeditiously to the passage of this bill.

□ 1110

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

I will make my point very briefly.

The gentleman has correctly pointed to a number of areas of infrastructure in this country which are deficient and which need corrective action. I just wonder if the gentleman really even remotely believes that this small, little $1 billion package is going to begin to cover those desperate problems; or does the gentleman believe that such problems are going to take not only months but perhaps years of thought and planning to adequately address?

Mr. BONIOR of Michigan. The gentleman is correct, it will take months and years, probably decades.

But to answer the other part of the gentleman's question, it certainly is a beginning. You have to start somewhere.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. DOWNEY). The gentleman from Michigan (Mr. BONIOR) has consumed 12 minutes.

Mr. RHODES. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, this is a bill which is designed to do something to help the unemployment situation in this country and I say "something" advisedly because it certainly is not going to do very much.

The facts are that there are some 12 million people unemployed in this country. The idea of a $1 billion bill which at best would produce 200,000 make-work, no-future jobs affects the massiveness of the unemployment problem like spitting in the ocean.

This bill is not hope, it is a hoax. It will lead the unemployed of the country to believe that this Congress has done something for them when in reality this Congress will not have done anything for them.

As a matter of fact, there are a lot of weird things about this bill. In my opinion the rule ought to be defeated.

In the first place, it is not an appropriation bill; it is a joint resolution. The reason it is a joint resolution is because it does some rather strange and weird things.

It not only appropriates money, it authorizes a program. It does not have the detail which you usually expect from an authorization. Instead, it refers to a law which is already on the books, the discredited CETA law, and takes from that law the formula for direction of the funds which would be authorized and appropriated under this bill.

Also the charge has been made, and I made it myself and I might as well do it again, that this bill mainly is aimed at helping people who are running in the election in November.

I think it is a political bill. I do not think there is any doubt about that.

One of the hallmarks of the political side of this bill is the fact that anybody who has been unemployed for 2 weeks, 2 weeks, is eligible to receive benefits under this bill. If it were really intended to take care of the hard-core unemployed, the people who have been unemployed for a long period of time, certainly you would have done something other than make people who have been unemployed for 2 weeks eligible under the bill.

The bill is full of faults. It is not well planned. It is not well thought out. It was put together, apparently, with chewing gum and baling wire. It is not likely to hold together for very long.

So I guess the bottom line is that I am opposed to the adoption of this rule.

Another reason I am opposed is that I have consistently, and I think most Republicans have, opposed rules which have unnecessarily foreclosed full debate and amendment by the House membership. I believe considering this bill before us under a closed rule is completely unnecessary.

There are a lot of Members who would like to offer amendments to this

bill and I think some of them have a great deal of merit. But instead of that, we get a rule which does something that I do not recall ever having seen before. The majority side of the Rules Committee, all of them good friends of mine, have shown great innovative powers in various rules in the past but they have literally outdone themselves with this rule.

This provides for one amendment to be in order, an amendment to be offered either by the gentleman from Illinois (Mr. MICHEL) my colleague and the minority leader, or his designee.

The interesting part about that is that nobody ever discussed the matter with Mr. MICHEL. The first that any of the Republicans knew about this proposal was when the chairman came from his office into the hearing room and told me that this was what he intended to do and then walked over to the chair and proceeded to do it.

So there was no consultation with the minority on this.

As a result, there will be an amendment offered and the amendment will be offered by the gentlewoman from Illinois (Mrs. MARTIN). She has an amendment which she will discuss later in more detail. But it is an amendment which will have some effect on the unemployment of this country because, unlike the bill which is sponsored by the majority, it will provide more jobs than the bill which we will have before us if this rule is adopted.

So I am very much in hopes that if indeed this rule is adopted—I hope it will not be—that the amendment offered by the gentlewoman from Illinois (Mrs. MARTIN) might become the final bill which finally passes instead of the one which was brought out by the committee.

I want everybody to understand that I am as concerned as any Member of this body about our unemployment situation. I think we all are. But this appropriation bill would at best put less than 2 percent of the unemployed back to work.

Such an ineffectual effort does not seem to find its origin in a concern for jobs but, as I said, in political motivation. There is more symbolism than there is substance in this bill.

Finally I am reliably informed, and I firmly believe, that the leadership of the other body has absolutely no intention of bringing this bill up during this session. The chances that this bill has of becoming a law are nil.

Too many times in my 30 years in this House I have seen the leadership bring up a bill, cause the Members of the House to vote on it, and subsequently expose all Members equally to the barbs and derision of their constituents. These bills have absolutely no chance of becoming law because the other body has no intention of taking them up so late in the session.

I suggest that this is another one of those bills that should not be brought to the floor of the House because, as I say, it is a hoax and it is causing people who are out of work to take hope, hope which will not be justified by the results of this bill, even if it should, under some stretch of the imagination, become law, which it will not.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman.

Mr. PARRIS. I was particularly struck by my colleague's comments on this bill as being no more helpful than spitting in the ocean.

I have characterized this bill in the past very much as my colleague has. That to take $1 billion of deficit spending and throw it at the serious problem of unemployment of our Nation, which has been caused by our liberal friends who have supported irresponsible deficit spending for many years, is very much like General Custer at the Battle of the Little Bighorn calling the Army and asking them to send more Indians.

That clearly would not be a solution to the problem.

Mr. RHODES. The gentleman is absolutely correct.

I am sure the gentleman will agree with me that this type of panacea, Band-Aid, has been tried before. It did not work before. As a matter of fact, usually a program like this takes so long in implementation that the economy is on the way back up before it is implemented and all it ends up in doing is exacerbating another spiral of inflation.

This bill is not big enough to do that. It is not big enough to do anything. It is not going to cause any more inflation. It is not going to help the unemployment. It should not be here and I hope we will defeat the rule and put it out of its misery.

I yield back the balance of my time.

Mr. BONIOR of Michigan. Mr. Speaker, before yielding to my colleagues I yield myself 2 minutes.

Mr. Speaker, several charges have been made here. No. 1, that this is deficit spending or lends itself to deficit spending.

□ 1120

I would point out of to my colleagues on the other side that this figure that we are talking about falls within the 302 allocations of the Appropriations Committee and is not over budget.

Second, the charge has been made that this is spitting in the wind or a drop in the bucket, or whatever you want to call it, and I would suggest that for 200,000 people who do want to have jobs, who do not have hope, who have been deprived of their dignity, this is not a hoax, this is not a drop in the bucket. This is dignity, this is putting food on their tables, as small as it may be in terms of the larger picture that we face.

And, finally, the argument has been raised by the other side, and we are going to hear this all afternoon, that this does not have a chance to happen, this does not have a chance to get passed.

I would suggest to my colleagues that if we pass this bill in this House, it does indeed have a chance to get passed. The propensity of the other body for tacking on various amendments to bills that happen to come before us in the final days and hours of any legislative session cannot be measured by any imagination or any standards that we are used to around here. And I would think that if we pass this bill today, there will be strong pressure on the other body to take care of 200,000 people, when the national unemployment rate is at the 10-percent level. Especially on the continuing resolution, there is no telling what is going to come back on that particular piece of legislation.

Mr. Speaker, I yield 3 minutes, for debate purposes only, to the gentleman from Kentucky (Mr. NATCHER).

CALL OF THE HOUSE

Mr. WHITTEN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names.

[Roll No. 334]

Addabbo	Carman	Downey
Albosta	Carney	Dreier
Alexander	Chappie	Duncan
Anderson	Chisholm	Dunn
Andrews	Clausen	Dwyer
Annunzio	Clay	Dymally
Anthony	Clinger	Dyson
Ashbrook	Coats	Early
Atkinson	Coelho	Eckart
AuCoin	Coleman	Edgar
Badham	Collins (IL)	Edwards (AL)
Bailey (MO)	Collins (TX)	Edwards (CA)
Bailey (PA)	Conable	Edwards (OK)
Barnard	Conte	Emerson
Bedell	Conyers	Emery
Bellenson	Corcoran	English
Benedict	Coughlin	Erdahl
Bennett	Courter	Erlenborn
Bereuter	Coyne, James	Evans (DE)
Bethune	Coyne, William	Evans (IA)
Biaggi	Craig	Evans (IN)
Bliley	Crane, Daniel	Fary
Boggs	Crane, Philip	Fascell
Boland	Daniel, R. W.	Fazio
Bolling	Dannemeyer	Fenwick
Boner	Daschle	Ferraro
Bonior	Daub	Fiedler
Bonker	Davis	Fields
Bouquard	de la Garza	Findley
Bowen	Deckard	Fish
Breaux	Dellums	Fithian
Brinkley	DeNardis	Flippo
Brodhead	Derrick	Florio
Broomfield	Derwinski	Foglietta
Brown (CA)	Dickinson	Foley
Brown (CO)	Dicks	Ford (TN)
Brown (OH)	Dixon	Fowler
Burgener	Dorgan	Frank
Burton, Phillip	Dornan	Frenzel
Byron	Dougherty	Frost
Campbell	Dowdy	Fuqua

Gejdenson	Lott	Rostenkowski
Gephardt	Lowery (CA)	Roth
Gilman	Lowry (WA)	Roukema
Gingrich	Lujan	Rousselot
Ginn	Luken	Roybal
Glickman	Lundine	Rudd
Gonzalez	Lungren	Russo
Goodling	Markey	Sabo
Gore	Marlenee	Sawyer
Gradison	Marriott	Schneider
Gramm	Martin (IL)	Schroeder
Gray	Martin (NC)	Schumer
Green	Martin (NY)	Seiberling
Gregg	Martinez	Sensenbrenner
Grisham	Matsui	Shamansky
Guarini	Mazzoli	Shannon
Gunderson	McCloskey	Sharp
Hagedorn	McCollum	Shaw
Hall (OH)	McDade	Shelby
Hall, Ralph	McEwen	Shumway
Hall, Sam	McGrath	Siljander
Hamilton	McHugh	Simon
Hammerschmidt	Mica	Skeen
Hance	Michel	Skelton
Hansen (ID)	Mikulski	Smith (AL)
Hansen (UT)	Miller (CA)	Smith (IA)
Harkin	Miller (OH)	Smith (NE)
Hartnett	Mineta	Smith (NJ)
Hatcher	Minish	Smith (OR)
Hawkins	Mitchell (NY)	Snowe
Heckler	Moakley	Snyder
Hefner	Moffett	Solarz
Heftel	Molinari	Solomon
Hendon	Mollohan	Spence
Hertel	Montgomery	St Germain
Hightower	Moore	Stangeland
Hiler	Moorhead	Staton
Hillis	Morrison	Stenholm
Holland	Mottl	Stokes
Hollenbeck	Murphy	Stratton
Holt	Myers	Studds
Hopkins	Napier	Stump
Horton	Natcher	Swift
Howard	Neal	Synar
Hoyer	Nelligan	Tauke
Hubbard	Nelson	Tauzin
Huckaby	Nichols	Taylor
Hughes	Nowak	Traxler
Hunter	O'Brien	Trible
Hutto	Oakar	Vander Jagt
Hyde	Oberstar	Vento
Jacobs	Obey	Volkmer
Jeffords	Oxley	Walgren
Jeffries	Panetta	Walker
Jenkins	Parris	Wampler
Johnston	Patman	Washington
Jones (NC)	Patterson	Waxman
Jones (OK)	Paul	Weber (MN)
Jones (TN)	Pease	Weber (OH)
Kastenmeier	Perkins	White
Kazen	Petri	Whitehurst
Kennelly	Peyser	Whitley
Kildee	Porter	Whittaker
Kindness	Price	Whitten
Kogovsek	Pursell	Williams (MT)
Kramer	Quillen	Williams (OH)
LaFalce	Rahall	Wilson
Lagomarsino	Rangel	Winn
Lantos	Ratchford	Wirth
Latta	Regula	Wolf
Leach	Rhodes	Wolpe
Leath	Rinaldo	Wortley
LeBoutillier	Ritter	Wright
Leland	Roberts (KS)	Wyden
Lent	Robinson	Wylie
Levitas	Rodino	Yates
Lewis	Roe	Yatron
Livingston	Roemer	Young (FL)
Loeffler	Rogers	Young (MO)
Long (LA)	Rose	Zablocki
Long (MD)	Rosenthal	Zeferetti

□ 1140

The SPEAKER pro tempore. On this rollcall 366 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 562, URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF LABOR, 1982

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. NATCHER) is recognized for 3 minutes.

Mr. NATCHER. Mr. Speaker, the emergency employment supplemental jobs bill was introduced by the gentleman from Kentucky (Mr. PERKINS), the chairman of the Committee on Education and Labor.

This bill was cosponsored by the majority leader, the distinguished gentleman from Texas (Mr. WRIGHT); also cosponsored by the gentleman from California (Mr. HAWKINS) and the gentleman from Minnesota (Mr. OBERSTAR).

The bill was referred to the Committee on Appropriations under the chairmanship of my friend, the distinguished gentleman from Mississippi (Mr. WHITTEN).

The bill then was sent to the subcommittee that makes recommendations for the Departments of Labor, Health and Human Services, and Education.

On Tuesday, June 22, we held hearings on this bill. The bill was reported on August 18. The author of the bill appeared, the cosponsors appeared and other witnesses, including a witness from the Department of Labor. We thought in all fairness that the Department should be notified, since this was an emergency jobs bill. The Department was notified and the witness appeared.

Mr. Speaker, the fact remains that we have in this country today over 11 million people unemployed, people that are walking the streets trying to find jobs. There are 9.8 percent unemployed.

The bill that we have before us today, if the rule is adopted, provides for $1,035 million.

In addition to appropriating the money, the bill in effect authorizes and creates the programs to be funded. The amount provided in the bill will be equal to 5 percent of the country's unemployment compensation, which now stands at $20,700 million.

There is room in the appropriation, in the Committee on Appropriations, under section 302 allocations as provided for under the third budget resolution for the amount authorized in this bill.

We still will have, Mr. Speaker, $2.1 billion remaining in our section 302 allocation for the Committee on Appropriations for fiscal year 1982, after this bill is enacted.

Now, if this bill is adopted and enacted into law, this bill will not be a budget buster. This bill does not exceed the budget. This bill is under section 302 funding.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the gentleman 30 additional seconds.

Mr. NATCHER. In addition, Mr. Speaker, the appropriation was clearly contemplated when the budget resolution was revised by both sides in the Budget Committee. These funds will remain available for obligation by the Department of Labor until December 31, 1982, and money would actually be expended at the local level throughout the early part of the calendar year of 1983.

Mr. Speaker, this rule should be adopted. This bill should be debated. The bill should pass.

Mr. RHODES. Mr. Speaker, I yield 5 minutes to the distinguished Republican whip, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this rule makes in order what might be called the billion dollar ballot box bailout bill, for surely there are enough potential political patronage plums packed in here to mix up a mighty big batch of incumbency plum preserves.

And the 11th-hour emergence of this bill on the eve of an election and out of a secretive partisan task force can only further contribute to the political cynicism which surrounds this legislation.

Mr. Speaker, not only did this legislation not receive, in my opinion, sufficient scrutiny and development—because there are a lot of obvious glaring loopholes and problems with the bill—but it is being rushed through, using every parliamentary trick imaginable. In the first place, this bill was not originally scheduled for floor action this week. That is so Members would have, I guess, minimal notice of what is going on or opportunity to study the bill, or maybe it was just that it became politically a good time to try to move this bill.

Second, while the chairman of the Appropriations Committee quite properly requested a 2-hour open rule for this bill where every Member on both sides of the aisle could come in and offer his or her amendment, one or a group, and that is what we had before us in the Rules Committee when we met on Tuesday. We had a printed rule that would have been an open 2-hour rule. We went into the meeting on Thursday and, zap, it was gone. When it came time to vote, what we had mysteriously was a modified closed rule, which means only one amendment will be in order.

Somehow this rule just popped up and it said that the minority leader,

the gentleman from Illinois (Mr. MICHEL) would have an opportunity to offer this one amendment, or his designee, and for some reason, even though the gentleman's name was mentioned, he was never contacted or consulted or asked if he was interested in that opportunity to offer a substitute; but we do have a substitute amendment that we put together that will be offered by the gentlewoman from Illinois (Mrs. MARTIN). It is a better alternative.

The Democrat leadership have given this opportunity to us to offer a substitute. I certainly hope they would not try to rule us out on a technicality. I am sure that will not happen, though.

Mr. Speaker, other majority and minority Members might have individual amendments they would like to offer, and I know many do. They thought about it and they would like to have had an open rule; but when this closed rule comes up now, 434 Members are out of the process. We do not have enough sense to try to amend a bill like this, I guess. We are left with a "gag rule" that is enough to make any fair-minded Member gag.

Mr. Speaker, if I could coin an axiom from this whole experience, it would be this: "By your procedural ploys ye shall be known." The procedures used to develop and consider this so-called legislation have been partisan and secretive. That hardly inspires any confidence in the motives and wisdom underlying this legislation.

While I do not for a minute question the motives of the supporters of the bill—I am sure they are genuinely concerned about unemployment, we all are, we all want more jobs—I do not think the answer to the problems is some so-called ill-conceived "son-of-CETA" bill.

Now, maybe some will say this is not CETA, but you have to acknowledge, in fact, the formula that is used is the CETA formula and that has been repudiated by Republicans and Democrats in the House this year. That is what it really is.

To cite just one of the major deficiencies of the bill: While it is being presented as an alternative to unemployment compensation, the fact is that once the participants in this program have completed their 6-month jobs, they will requalify for a new round of jobless benefits, and in the interim they will have deferred their search for more productive, permanent jobs in the private sector.

Mr. Speaker, I am at least pleased to report to my colleagues that there is a safe passage out of this partisan mess, a way to nip this quick-fix-without-proper-consideration-trickery in the bud without worrying about a later vote that might somehow be misconstrued as antijobs. The way to do that is to simply vote down this gag rule that is an insult to the intelligence of all the Members, just as the bill it would make in order is also a travesty on our democratic and deliberative legislative process.

Let us tell the Democratic leadership here that gave us this rule and the American people that we will not play games with this type of issue in an election year by offering a short-term, dead-end jobs bill to buy their own reelections. The American people will not buy it and we cannot buy it.

Let us vote down this rule.

□ 1150

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I rise in support of the rule and also House Joint Resolution 562.

Mr. Speaker, I would like to point out, as many of my colleagues know, before coming to this Congress I was in the construction business. I was in the construction business—homebuilding and land development business.

I was very close to many of my employees, to some of their problems, to some of their concerns, to some of their dreams and hopes.

But, Mr. Speaker, I might mention on several of those occasions, as I was in business, I made the statement publicly that I could not stop if I wanted to in my business unless I was willing to accept bankruptcy. I had invested in the future as a young businessman.

Mr. Speaker, that is where we are today in this Nation and in this Government. This administration says we are going to stop. We are going to discontinue anything in any shape, fashion, or form that might resemble jobs. This is unbelievable when we have passed more dollars backed by the President for unemployment insurance than the amount of this job creation bill.

Mr. Speaker, I would like to point out that in rural America, in rural depressed America, we do not have Fortune 500 companies who are willing to pick up and to build the jobs. This jobs bill is a piece of legislation for the purpose of providing some of the public jobs in our area and jobs that the Fortune 500's will not participate.

Mr. Speaker, I would like to give a perfect example of what it means for the people to have their hopes increased, and maybe this is what some of the people do not want to happen with this bill. I have a county in my district—in fact I have 10 counties out of the 20 that are above the national average in unemployment. One of those counties, Coal County, has over 18 percent of the people unemployed. Mr. Speaker, that percentage jumped 6 percentage points in 1 month, not because of massive layoffs but because the citizens had heard about a water project starting up. The unemployed and underemployed signed up in the hope for a job. It is this hope for a job but not being able to find jobs that created this legislation. I ask for your support.

Mr. RHODES. Mr. Speaker, I now yield 5 minutes to the distinguished Republican leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I certainly will not take the time in consideration of the rule to debate the merits or demerits of the legislation that the rule provides for, but I have to rise in opposition to this rule.

I must say that I was very surprised to learn that the Rules Committee generously decided that I or my designee would offer a substitute amendment to the jobs bill. As the gentleman from Mississippi said a few moments ago, I was never contacted, indirectly or directly, for my views.

There have been times when I have petitioned the committee for an opportunity to offer an amendment or offer a substitute, even pleaded with them, but have been denied. Here comes an occasion when, making no intercession whatsoever with the committee, I am bestowed with something that I did not seek.

One has to suspect that there is a great deal of politics involved in this whole darned business here today. Let us face it: The Rules Committee was originally considering an open rule, one of those rare opportunities we have to clear up some of the misguided monstrosities that somehow find their way to this floor. When talk of an open rule first surfaced, there were a number of Members on our side of the aisle who said, "We have amendments we would like to offer to this legislation if it ever gets to the point of reaching the floor."

I suspect, in its collective wisdom, that the Rules Committee realized this bill was so darned bad that we would be here through Christmas trying to clean it up. So instead of an open rule, we get one of a semiclosed nature, providing for just one amendment, either in my name or my designee, and frankly, I just do not think that fulfills the debate process on the floor of the House.

Now, we argued with the Speaker earlier in the year on that 2-to-1-plus-1 ratio on the Rules Committee. We knew that the minority was being put at a distinct disadvantage and that we would have to scrap for every little crumb we could get. But to say you are having a free, open debate and have the majority tell the minority exactly what the form of one's amendment has got to be and the procedures, that is not free, open debate. That is debate in a straitjacket.

This closed rule is not enough. It is as wrong, frankly, as the legislation it governs. Ideally, I would like to see this bill pulled from consideration and buried in the graveyard next to CETA and all those other discredited shams of past Congresses.

But that is not going to happen. We know that, The next best alternative would be to have an open rule, a truly open rule where the Members of this body can have at it, hammer and tongs, and try to do the best we can with what I consider to be a very, very bad piece of legislation as it comes to us.

We ought to send this rule back to the committee and demand an open rule, but barring that, I have offered my option to amend the bill to the distinguished gentlewoman from Illinois (Mrs. MARTIN). She, incidentally, had the city with the highest unemployment in the country, and of course, I have several cities that are near that level.

I think some of the arguments that we will make here today, this afternoon, will indicate and prove to the majority that what they are proposing here is very ill-founded and does not really address itself to long-term structural unemployment problem, and particularly in the areas that need jobs the most, as distinguished from just spreading around the country again a little bit of largesse all in the name of politics.

Well, I will tell my colleagues, the gentlewoman from Illinois and the gentleman from Connecticut (Mr. DENARDIS), the gentleman from Illinois (Mr. CORCORAN), and a number of others have worked together to fashion at least some degree of a substitute in the 24-hour period allocated to us, which will eliminate some of the preposterous provisions of this committee-reported bill, redirected its intent to the most critical areas of the country and the people in the most critical need.

Make no mistake about it: If we were here to do what is right, we would either stop this charade here and now or send this rule back to the Rules Committee.

That is what I have to say. If my dear friend from New Jersey would like me to yield, I would be happy to yield under my time allocation.

Mrs. FENWICK. I thank my colleague for yielding.

Mr. Speaker, I would really like to speak to the House. We are now, in my opinion, with this rule and this way of treating the minority, degrading this House.

Yes, it is not funny; there is no joke here. We are trying to conduct the people's business and we are degrading this House by playing politics with the rights of those of us in the minority, on this side, and of the people we represent.

It is not funny; it is not a joke. It is a pity to see the Congress of the United States operating in this way.

Mr. MICHEL. I thank the gentlewoman from New Jersey for her contribution.

Mr. RHODES. Mr. Speaker, may I inquire as to the status of the time?

The SPEAKER pro tempore. The gentleman from Arizona (Mr. RHODES) has 12 minutes remaining, and the gentleman from Michigan (Mr. BONIOR) has 10½ minutes remaining.

Mr. RHODES. Mr. Speaker, I yield 5 minutes to the gentlewoman from Illinois (Mrs. MARTIN).

Mrs. MARTIN of Illinois. Mr. Speaker, I will not take the entire time that has been so kindly given to me by the gentleman from Arizona, but I think Members should be aware that there will be offered a substitute. This substitute, under the rule that we are now discussing, should not be the only one being offered. Indeed, all of us on both sides of the aisle who have worked very diligently trying to fashion some kind of a bill that can help the people of this Nation are being, as has already been described, denied our opportunity.

□ 1200

Everyone is quite aware that the bill as it now stands has enough holes to drive trucks through it. We know that all it is, is very little money being spread very thinly in what some are suggesting is a callous election year gimmick. Well, I think most Democrats and most Republicans would prefer fashioning a more adequate piece of legislation.

The substitute that I will be offering if this rule does pass will provide twice as many jobs at half the cost. It will limit the job availability to the areas that desperately need it. If you believe in helping people, if you believe that people want to work, I believe the substitute, regardless of your party, will satisfy you.

I will add that we retain much of the bill. We retain the administrative aspects of the bill. We retain the public works aspects of the bill. But, we correct what are indeed faults that make the bill as it now stands an almost ludicrous ploy which the public, those who are truly unemployed, will not appreciate.

My district has the highest unemployment in the United States. The gentlewoman from New Jersey talked about the rule not being a joke. It is appropriate that both parties try to win elections, but you cannot do it when you are directly affecting the lives of those people who are powerless, who find themselves in a situation when they want to work and cannot. Now, we can do the demagoguery on whose fault is what, but if we are looking at a jobs bill we should craft a bill that helps the most people. We should craft a bill that does not raise the deficit, that would even further affect the job markets in the Michigans and the Ohios and the New Yorks and in the Illinois. We should be listening to the substitute that will be offered.

Therefore, when the time comes this substitute will be given to the House. I would hope you would look at it openly. I would hope you would look at the realities of your political philosophy or party, and I would hope that because this rule forbids the kind of interplay that should be given, at least we can correct in the bill the blatant errors that diminish its chance for passage ultimately and for signing by the President of the United States.

I yield back the balance of my time with the hope that there will be a floor discussion of this bill at the appropriate moment.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Speaker, I truly had not expected to get into this debate, but I am sure that the Republican Party recognizes and realizes the fact that sometime in March, the Democratic Party had an open press conference where we said we were putting together an ad hoc committee to work on a job program and on other programs.

Well, I do not know how many ad hoc committees we have had working out there. From those committees, we brought forth the housing bill, which the President vetoed. We now have this jobs bill. We have a Reindustrialization Finance Corporation bill, on which we are holding hearings at the present time.

Now, this present bill came out of our ad hoc committees. It was filed in the Appropriations Committee. It was discussed in the appropriations subcommittee, Mr. NATCHER's subcommittee, and in the full committee. it was then reported out. There was no secret about this whatsoever. The bill followed the normal routine and the normal process. From there, it went to the Rules Committee.

For 4 months, you have known the Democrats were going to come out with this type of program, but when it reached the Rules Committee you offered nothing—you offered nothing.

Sure, it sailed through the Rules Committee on a partisan vote, but you had your opportunity. You had at least 3 months of knowledge that this was going to come before us.

Now, at the last minute, you are saying it is unfair. That is not true.

Now I have great respect for the minority leader, but I have to say he lives in Peoria.

The President says his economic program is doing well in Peoria. Well, let

us look at Peoria. It has 16 percent unemployed.

The minority leader says we do not need a jobs bill. Well, my office took the liberty this morning of contacting the National Association of Counties and did some checking this morning with the county engineer in Peoria. Four bridges in Peoria are in such disrepair that they fail to qualify as safe to the State of Illinois.

I am glad the minority leader is here. The Grange Hall Road Bridge, the Lancaster Road Bridge, the Cedar Hills Bridge Drive, and the Smithville Road Bridge. So even in Peoria, where people are looking for work, with 16 percent unemployed, apparently there are some bridges in that area that need repair and need repair now.

I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am amazed at the tone that the Speaker of the House has just taken. It was personal, and I have never seen this Speaker do anything quite like this, and I had not thought that I ever would, especially directed to such a distinguished Member as the minority leader.

I just point out the fact that he himself has made a terrible indictment of the Democratic Party. He said, and I guess it is certainly the situation, that the Democratic Party has been working on some kind of a jobs bill. He said, I believe, that the best brains of the Democratic party had been enlisted in this effort.

Is this the result of the efforts of the combined wisdom of the Democratic Party?

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I will yield to the Speaker.

Mr. O'NEILL. I just want the gentleman to know that we will have an economic program, and a further program in the making. You will have every opportunity to vote for it.

Mr. RHODES. You are not going to see this program enacted, and it should not be.

Mr. Speaker, you know perfectly well that this bill is so pusillanimous that it is not even dangerous. It will accomplish absolutely nothing. All it is is a hoax it try to get the people who are unemployed to think you are trying to do something for them.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. RHODES. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. I just want to sum up, Mr. Speaker. In my home community of Peoria I can assure you that Reaganomics is going to play much better than "Tiponomics."

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR) for debate only.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just never cease to be amazed by our colleagues on the other side of the aisle who refuse to do anything to help the unemployed but complain about those who try.

"Wait for the recovery to happen," they tell us. An unemployed auto worker testified before the Committee on Banking and Housing following the testimony of an administration economist who said the recovery will be 4 years down the line.

□ 1210

The committee members asked, "Can you wait 4 years?"

"No," he said. "My family needs to eat today, not 4 years from now."

Is this bill political? They complain from the other side of the aisle that it is political. Yes, political in the highest sense of the Greek word, "polis," concern for the city, concern for the welfare and the well-being of people across this land.

But beware, I say to my colleagues on this side of the aisle, beware of the Republican mirage in the substitute they are offering. There is no money in this synfuels proposition which they would lead us to believe will create jobs. There are no outlays provided for it in the budget; the synfuel funds are loan guarantees. We do not put people to work with loan guarantees.

Our Republican colleagues complain that this is not a long-range infrastructure development bill. Yet when we come to this floor with a long-range program, they say it costs too much. Now they say the funding we propose is too little. Maybe we should spend $5 or $10 billion on jobs, and then they would come and say, "well, it's too much. You are busting the budget."

I have had it with the nitpicking. The people in northeastern Minnesota are out of work. Ninety percent of the iron ore miners on the Mesabi Range are out of jobs. They do not want pious promises and pious incantations from the left or right side of this aisle. What they want is an honest-to-god decent job.

Mr. Speaker, this bill will give it to them. Let us pass this bill and defeat the Republican substitute.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, this rule makes in order a very bad bill. Just how bad a bill this is has been demonstrated here this morning when even the Speaker of the House would not yield to a Member whom he had talked about in his speech to debate him on the bill. This bill is being debated under a closed rule so that we not only cannot amend the bill but we cannot even take a substantial amount of time to debate the bill.

Why? Because it is a terrible bill. It has problems with the formulas, it has problems with who gets what. We did not even have the kind of substantive hearings on this bill that it would seem to deserve.

To bring a bill out here in this way, one would think that it is a perfect bill, that everything has been worked out on it. It is hardly that. It did not even have substantive hearings in the Appropriations Committee which brings this bill to us. The hearings that were held there were basically with the cosponsors of the bill coming in and saying how great it was. We have no idea of the impact of this bill. We are acting blindly here in the House.

The Speaker told us about the developmental work on this bill. He told us that it was done in the smoke-filled rooms of the Democratic Party. That is hardly a recommendation for it.

It seems to me that the leaders who are bringing this bill to the floor should be somewhat embarrassed, and, frankly, I am surprised that they would be associated with it.

We have constantly been told of their dedication to eliminating waste, fraud, and abuse in the Federal Government, and yet this bill is, if anything, a breeding ground for waste, fraud, and abuse. That is about the only thing it will accomplish.

It is a bad bill. They know it is a bad bill. And, the worst part of this bad bill is that it is playing to the fears and the discouragement of millions of Americans who are on the jobless rolls.

Mr. Speaker, to use those Americans for callously playing politics is a very dreary chapter in the history of the Democratic Party.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1½ minutes, for the purpose of debate only, to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I just heard the gentleman from Arizona say that he was sort of surprised at the Speaker. I, too, was surprised at the Speaker, because I thought the Speaker was being so kind and gentle in the treatment of what are the most outrageous statements I have heard on the floor of the House in years.

I just heard the Republican leadership ask, "how could we have a rule that is a gag rule? We can't even offer amendments. We don't know what is in the bill," even though it has been available for several days. Last year the most important budget bill this country has ever seen came up when the Republican side forced that bill on the floor. Nobody had even seen it, not even the Republicans, there were no amendments, and we are all suffering today on account of that Republican budget.

The need for this job program is because we have to do something to counter that outrageous action of the Republicans a year ago.

Mr. Speaker, let us recognize the facts the Republican leadership just said, "well, it only addresses 2 percent of the unemployed."

I would like to say to my colleagues that, because of this Republican administration, 2 percent is one hell of a large figure today in unemployment. We have got to recognize that anything we do is going to help hundreds of thousands of people who are absolutely desperate today.

Let us support the rule, let us stop any kind of amendments that are trying to take money from somebody else or someplace else, and let us go on and pass this bill and take some action to help people and stop hurting them.

Mr. RHODES. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I have seen election years come and go, but rarely have I seen the kind of electoral cynicism displayed in this House as is displayed with the content and timing of House Joint Resolution 562.

This bill, which would increase an already staggering deficit by over $1.25 billion, is exactly the kind of wasteful, throwaway legislation that has put our economy in the shape it is in today.

Regardless of our party affiliation, we are very concerned about the high levels of unemployment that exist today. But this legislation is not the way to address the problem.

This is a make-work bill that will injure taxpayers, and the economy.

This bill would create a temporary public service employment program, which would give 6 month jobs at pay at the $10,000 per-year rate. Qualification for this make-work jobs program is vague, and almost open ended. One need only have been unemployed for 2 weeks to qualify, and in fact one may quit a previous job and qualify, under this bill, for 6 months of government-paid make work, and well as an additional 6 months of unemployment benefits.

We all know that unemployment is very high. Even if this program were to be adopted, it would only aid between 160,000 and 200,000 out of the almost 11 million unemployed. That is less than 350 people for each congressional district. That is less than a drop in the proverbial bucket.

While this bills effect on unemployment is negligible, it is significant in the signal we send to this country and to the markets. This Congress bit the bullet a month ago and passed a previously unheard of tax increase in an election year. That caused interest rates to drop dramatically, and the financial markets to soar. Turning around now, at this critical juncture, could destroy what little faith many people have in the commitment this Congress is supposed to have to gain control over the Federal budget.

No, Mr. Speaker, this bill is not designed to cure our economic woes, nor is it seriously designed to substantially, or meaningfully reduce unemployment: It is nothing but a paltry table scrap held out to our desparate unemployed, who seek real work, in a cynical attempt to boost one party's standing in the polls.

If the originators and supporters of this bill really want to reduce unemployment, then join me in reducing the size of the Federal deficit, which is crowding out all business and employment opportunities:

If the originators and supporters of this bill really want to reduce unemployment, then they should reduce budgets and appropriations bills that have more than tripled the Federal budget since 1974; more than tripled taxes payed by all working Americans since 1974; and more than tripled our national debt since 1974:

If the originators and supporters of this bill really want to reduce unemployment: Then we should stop playing politics with lives of our constituents, stop playing politics with the future of this country and get down to the business of putting the Federal budget on a strict diet and allow our great economy to use its immense abilities to make a better life for us all.

I urge my colleagues to reject the cynicism encapsuled in this bill and vote against House Joint Resolution 562.

Mr. RHODES. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, I think we have to ask ourselves the question, "What is this $1 billion program going to do for those areas where there is high unemployment?"

The gentleman from Minnesota talked about his ironworkers going back to work. How many ironworkers are going to be put back to work with this bill?

I have unemployed steelworkers in my district. How many steelworkers are going to be put back to work with this bill?

I have unemployed autoworkers in my district. How many autoworkers are going to be put back to work with this bill?

We have a series of heavy manufacturing industries in this country which are facing deep unemployment problems, and those problems will not be addressed one iota by this bill. As a matter of fact, with this bill, spending an additional $1 billion of money that this country does not have simply adds to the sea of red ink and will put further pressure on the financial markets to keep interest rates high.

It will show the financial markets that Congress is back to business as usual as it pulls money out of the private sector and puts it into another new public sector program.

In sum, it will put upward pressure on interest rates and actually harm the prospects of putting people back to work.

Mr. RHODES. Mr. Speaker, may I inquire as to the status of the time?

The SPEAKER pro tempore. The gentleman from Arizona (Mr. RHODES) has 2 minutes remaining, and the majority side has 4 minutes remaining. The Chair's understanding is that the majority has one final speaker.

Mr. RHODES. Then, Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. RHODES) is recognized for 2 minutes.

Mr. RHODES. Mr. Speaker, it is true that the Republicans probably should have known that there would be some sort of a jobs bill coming along, and guess I confess that we did know it. But I have got to say that we did not expect a bill in this form, because this bill is exactly the same formula that has been adopted by the Democratic Party for years when they have been confronted with situations like this. It is the old spend and spend and elect and elect philosophy of the 1930's. We expected better from the massed brains of the Democratic Party, to which the Speaker referred.

I can understand the reason that my good Democratic colleagues revere the great Franklin D. Roosevelt. I revere him, too. In many ways, he was a great President. But I do not revere him for the same reason they do. They revere him because he is the person who gave their party its last new idea. There has not been a new idea in the Democratic Party as to what to do about the economy of this country since the days of the great Franklin D. Roosevelt. I suggest that even in the 1930's that did not work too well. It certainly will not work today.

Mr. Speaker, this bill is not going to be beneficial. It will not do anything for the unemployed. I suggest that we bury it very deeply and get on with the job of trying to make some real sense out of the economy of this country so that the people of our country can at last have jobs which are meaningful in an economy which is growing, and practicing the economic concepts.

I hope very strongly, Mr. Speaker, that when the vote comes—and we will have a vote on this rule—we vote no and send it back from whence it came.

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. RHODES) has expired.

The gentleman from Michigan (Mr. BONIOR) is recognized for 4 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 4 minutes, for the purpose of debate only, to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

□ 1220

Mr. WRIGHT. Mr. Speaker, we learned in this morning's paper that during the past month industrial production in this country fell for the 11th month in the past 13. It fell by an additional half of a percentage point, to reach its lowest ebb in recent times.

We find that the steel industry in the United States for the first time is operating at less than 40 percent of its capacity.

In yesterday's newspaper we learned that during the first 10 days of September new car sales had plunged by 29 percent. Retail sales were off again last month. Jobless claims, those newly coming onto the market seeking unemployment benefits, rose again by more than 600,000. The total number has increased of those newly coming on the market by more than 100,000 in the past 4 weeks above those seeking assistance in the previous 4 weeks.

We have 12 million people out of work. Do not tell me they do not want work.

No one is arguing that. I do not hear anybody arguing against the fact that we ought to do something to try to give these people jobs, to get them off the unemployment rolls and to put them back on productive payrolls. I have not heard anybody say that we should not be trying to do that.

Republicans today are quarreling about how to do it—and yet they have not given us any other idea about how to do it in all of these months.

I do not hear anybody on the Republican side say we do not need to rebuild our decaying structure of roads and bridges and other public facilities. Forty percent of the bridges in the United States are structurally deficient and obsolete and over 40 years old. This is not new.

Newsweek magazine features a piece "The Decaying of America." In U.S. News we have "The Great American Transportation Mess." "Time To Repair and Restore Our Nation's Infrastructures," says Time magazine.

The Department of Transportation says the same thing in a very lengthy study, as does the Congressional Budget Office.

I do not hear anybody saying that we have no need for this work to be done.

There is an old axiom that if you cannot mount a reasonable argument against the legislation, argue against the rule. So they have sought to obfuscate the purpose of what we are trying to do by saying "Well, it is an unfair rule." Some have called it a gag rule or a closed rule. It is not that at all.

We have given the Republican leadership anything they want to put in a sustitute. You may put all of the amendments you want to, whatever you want, in the substitute. That's what the rule permits.

The distinguished minority leader, my very good friend from Illinois (Mr. MICHEL) says what a pity, he only learned of this 24 hours ago, he only learned then that he was given the privilege to write a substitute and put anything in it he wanted to.

Listen, this problem has been coming on us for 16 months. Unemployment has been growing and raging every month for the past year. It has grown by 2.4 additional percentage points in 1 year, 3 million more Americans out of work.

You have had plenty of time. We have waited vainly in hopes that the administration or somebody on the Republican side might come forward with some initiative to put these people back to work, put them on productive payrolls. Nothing has come forward.

So we offer this today and my dear friend from Arizona (Mr. RHODES) says that it is too little. He calls it pusillanimous. I agree with him that it is too little.

But then the very distinguished gentlewoman from Illinois (Mrs. MARTIN) in whose district there is very high unemployment, says that "We have a way to do it that will spend more but cost less."

Boy, if she can show us that, I think we ought to vote for this rule and find out how. Maybe we can spend five times as much more and cost nothing. That would be wonderful.

But it is a remarkable thing to me that nobody on that side of the aisle came forward with any such suggestion until first we had perfected and offered this bill.

So do not let anybody deceive you. There is nothing wrong with the rule. The rule is not a closed rule. It is a perfectly open rule. Offer whatever you will, but vote for the rule, and I implore you to vote for the bill if you do want to do something to put Americans back to work doing things that need to be done.

The SPEAKER pro tempore. All time has expired.

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RHODES. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 221, nays 176, not voting 35, as follows:

[Roll No. 335]

YEAS—221

Addabbo	Frost	Neal
Albosta	Fuqua	Nelson
Alexander	Garcia	Nichols
Anderson	Gaydos	Nowak
Andrews	Gejdenson	Oakar
Annunzio	Gephardt	Oberstar
Anthony	Ginn	Obey
Applegate	Glickman	Ottinger
Aspin	Gonzalez	Panetta
AuCoin	Gore	Patman
Bailey (PA)	Gray	Patterson
Barnard	Guarini	Pease
Barnes	Hall (OH)	Perkins
Bedell	Hall, Ralph	Peyser
Beilenson	Hall, Sam	Price
Bennett	Hamilton	Rahall
Bevill	Hance	Rangel
Biaggi	Harkin	Ratchford
Bingham	Hatcher	Rinaldo
Boggs	Hawkins	Rodino
Boland	Heckler	Roe
Bolling	Hefner	Roemer
Boner	Heftel	Rose
Bonior	Hertel	Rosenthal
Bonker	Hightower	Rostenkowski
Bouquard	Holland	Roybal
Breaux	Hollenbeck	Russo
Brinkley	Howard	Sabo
Brodhead	Hoyer	Scheuer
Brown (CA)	Hubbard	Schneider
Burton, Phillip	Huckaby	Schroeder
Byron	Hughes	Schumer
Chisholm	Hutto	Seiberling
Clay	Jacobs	Shamansky
Coelho	Jenkins	Shannon
Collins (IL)	Jones (NC)	Sharp
Coyne, William	Jones (OK)	Shelby
Crockett	Jones (TN)	Skelton
D'Amours	Kastenmeier	Smith (IA)
Daniel, Dan	Kazen	Solarz
Daschle	Kennelly	St Germain
de la Garza	Kildee	Stark
Dellums	Kogovsek	Stenholm
Derrick	LaFalce	Stokes
Dicks	Lantos	Stratton
Dingell	Leath	Studds
Dixon	Lehman	Swift
Donnelly	Leland	Synar
Dorgan	Levitas	Tauzin
Dowdy	Long (LA)	Traxler
Downey	Long (MD)	Udall
Dwyer	Lowry (WA)	Vento
Dymally	Luken	Volkmer
Dyson	Lundine	Walgren
Early	Markey	Wampler
Eckart	Martinez	Washington
Edgar	Matsui	Watkins
Edwards (CA)	Mavroules	Waxman
English	Mazzoli	Weaver
Ertel	McHugh	White
Evans (IN)	Mica	Whitley
Fary	Mikulski	Whitten
Fascell	Miller (CA)	Williams (MT)
Fazio	Mineta	Wilson
Ferraro	Minish	Wirth
Fithian	Mitchell (MD)	Wolpe
Flippo	Moakley	Wright
Florio	Moffett	Wyden
Foglietta	Mollohan	Yates
Foley	Montgomery	Yatron
Ford (MI)	Mottl	Young (MO)
Ford (TN)	Murphy	Zablocki
Fowler	Murtha	Zeferetti
Frank	Natcher	

NAYS—176

Archer	Broyhill	Conable
Ashbrook	Burgener	Conte
Atkinson	Campbell	Corcoran
Badham	Carman	Coughlin
Bailey (MO)	Carney	Courter
Benedict	Chappie	Coyne, James
Bereuter	Cheney	Craig
Bethune	Clausen	Crane, Daniel
Bliley	Clinger	Crane, Philip
Broomfield	Coats	Daniel, R. W.
Brown (CO)	Coleman	Dannemeyer
Brown (OH)	Collins (TX)	Daub

Davis	Johnston	Railsback
Deckard	Kemp	Regula
DeNardis	Kindness	Rhodes
Derwinski	Kramer	Ritter
Dickinson	Lagomarsino	Roberts (KS)
Dornan	Latta	Roberts (SD)
Dougherty	Leach	Robinson
Dreier	LeBoutillier	Rogers
Duncan	Lent	Roth
Edwards (AL)	Lewis	Roukema
Edwards (OK)	Livingston	Rousselot
Emerson	Loeffler	Rudd
Emery	Lott	Sawyer
Erdahl	Lowery (CA)	Sensenbrenner
Erlenborn	Lujan	Shaw
Evans (DE)	Lungren	Shumway
Evans (IA)	Marlenee	Shuster
Fenwick	Marriott	Siljander
Fiedler	Martin (IL)	Skeen
Fields	Martin (NC)	Smith (AL)
Findley	Martin (NY)	Smith (NE)
Fish	McCloskey	Smith (NJ)
Frenzel	McCollum	Smith (OR)
Gilman	McDade	Snowe
Gingrich	McDonald	Snyder
Goldwater	McEwen	Solomon
Goodling	McGrath	Spence
Gradison	McKinney	Stangeland
Gramm	Michel	Stanton
Green	Miller (OH)	Staton
Gregg	Mitchell (NY)	Stump
Gunderson	Molinari	Tauke
Hagedorn	Moore	Taylor
Hammerschmidt	Moorhead	Trible
Hansen (ID)	Morrison	Vander Jagt
Hansen (UT)	Myers	Walker
Hartnett	Napier	Weber (MN)
Hendon	Nelligan	Weber (OH)
Hiler	O'Brien	Whitehurst
Hillis	Oxley	Whittaker
Holt	Parris	Williams (OH)
Hopkins	Pashayan	Winn
Horton	Paul	Wolf
Hunter	Petri	Wortley
Hyde	Porter	Wylie
Jeffords	Pursell	Young (FL)
Jeffries	Quillen	

NOT VOTING—35

Akaka	Forsythe	Pickle
Bafalis	Fountain	Pritchard
Beard	Gibbons	Reuss
Blanchard	Grisham	Santini
Bowen	Ireland	Savage
Brooks	Lee	Schulze
Burton, John	Madigan	Simon
Butler	Marks	Smith (PA)
Chappell	Mattox	Thomas
Conyers	McClory	Weiss
Dunn	McCurdy	Young (AK)
Evans (GA)	Pepper	

□ 1240

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO HAVE UNTIL 4 P.M. FRIDAY, SEPTEMBER 17, 1982, TO FILE REPORTS ON MISCELLANEOUS BILLS

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until 4 p.m. tomorrow, September 17, to file reports on the following bills: H.R. 1524, H.R. 6867, H.R. 6055, H.R. 3191, H.R. 3581, H.R. 4577, H.R. 4948, H.R. 5470, H.R. 7094, H.R. 7093, H.R. 7092, and H.R. 5573.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. LOTT. Reserving the right to object, Mr. Speaker, I do so just to inquire whether or not this has been cleared with our ranking member on the committee? Since there were a long list of bills, I just wanted to be assured that Members on both sides of the aisle do know what is in this list of numbered bills and that everybody is aware of what is going on.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. These are bills that were reported yesterday by the House Ways and Means Committee. The minority has agreed and recognizes these bills have to be filed. Rather than have all the reports filed by midnight tonight, because we will probably not be in session tomorrow, I am asking permission that those bills not filed tonight they be eligible for filing by 4 o'clock tomorrow.

Mr. LOTT. Further reserving the right to object, these bills are only the ones approved by the committee yesterday; is that correct?

Mr. ROSTENKOWSKI. Just those approved yesterday by the Ways and Means Committee.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 562, making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF LABOR, 1982

Mr. WHITTEN. Mr. Speaker, pursuant to the provisions of House Resolution 582, just adopted, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 562) making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 295, nays 82, answered "present" 1, not voting 54, as follows:

[Roll No. 336]

YEAS—295

Addabbo	Edwards (CA)	Jones (TN)
Albosta	Edwards (OK)	Kastenmeier
Alexander	Emery	Kazen
Anderson	English	Kemp
Andrews	Erdahl	Kennelly
Annunzio	Ertel	Kildee
Anthony	Evans (DE)	Kogovsek
Applegate	Evans (IA)	LaFalce
Aspin	Evans (IN)	Lantos
AuCoin	Fary	Latta
Bailey (PA)	Fascell	Leach
Barnard	Fazio	Leath
Barnes	Fenwick	Lehman
Bedell	Ferraro	Levitas
Beilenson	Fiedler	Long (LA)
Benedict	Findley	Long (MD)
Bennett	Fish	Lowery (CA)
Biaggi	Fithian	Lowry (WA)
Bingham	Flippo	Lujan
Boggs	Florio	Luken
Boland	Foglietta	Lundine
Boner	Foley	Markey
Bonior	Ford (MI)	Marriott
Bonker	Ford (TN)	Martin (IL)
Bouquard	Frank	Martin (NC)
Breaux	Frenzel	Martinez
Brinkley	Frost	Matsui
Brodhead	Fuqua	Mavroules
Brown (CO)	Garcia	Mazzoli
Brown (OH)	Gaydos	McDade
Burgener	Gejdenson	McGrath
Burton, Phillip	Gephardt	McHugh
Byron	Gilman	Mica
Carman	Gingrich	Mikulski
Chappie	Ginn	Miller (CA)
Clinger	Glickman	Miller (OH)
Coats	Gonzalez	Mineta
Coelho	Goodling	Minish
Coleman	Gore	Mitchell (MD)
Collins (IL)	Gray	Moakley
Collins (TX)	Gregg	Mollohan
Conte	Guarini	Moore
Conyers	Gunderson	Morrison
Corcoran	Hall, Ralph	Mottl
Coughlin	Hall, Sam	Murphy
Courter	Hamilton	Murtha
Coyne, William	Hammerschmidt	Myers
Craig	Harkin	Napier
D'Amours	Hatcher	Natcher
Daniel, Dan	Hawkins	Neal
Daschle	Heckler	Nelligan
Davis	Hefner	Nelson
de la Garza	Heftel	Nichols
Deckard	Hertel	Nowak
Dellums	Hightower	O'Brien
DeNardis	Hillis	Oakar
Derrick	Holland	Oberstar
Dicks	Hollenbeck	Obey
Dingell	Hopkins	Panetta
Dixon	Horton	Pashayan
Donnelly	Howard	Patman
Dorgan	Hoyer	Patterson
Dougherty	Hubbard	Pease
Dowdy	Huckaby	Perkins
Downey	Hughes	Petri
Dunn	Hunter	Peyser
Dwyer	Hutto	Porter
Dyson	Hyde	Price
Early	Jacobs	Pursell
Eckart	Jenkins	Rahall
Edgar	Jones (NC)	Railsback
Edwards (AL)	Jones (OK)	Rangel

Ratchford	Shuster	Vento
Regula	Skeen	Volkmer
Rhodes	Skelton	Walgren
Rinaldo	Smith (IA)	Wampler
Ritter	Smith (NE)	Washington
Rodino	Smith (NJ)	Watkins
Roe	Snowe	Weber (OH)
Roemer	Snyder	White
Rogers	Solarz	Whitley
Rose	Spence	Whitten
Rosenthal	St Germain	Williams (MT)
Rostenkowski	Stangeland	Williams (OH)
Roth	Stanton	Wilson
Roukema	Stark	Winn
Roybal	Staton	Wirth
Russo	Stenholm	Wolpe
Sabo	Stokes	Wright
Sawyer	Stratton	Wyden
Scheuer	Studds	Wylie
Schneider	Swift	Yates
Schroeder	Synar	Yatron
Schumer	Tauke	Young (FL)
Seiberling	Tauzin	Young (MO)
Shamansky	Taylor	Zablocki
Shannon	Traxler	Zeferetti
Sharp	Udall	
Shelby	Vander Jagt	

NAYS—82

Archer	Gramm	Molinari
Ashbrook	Green	Moorhead
Atkinson	Hagedorn	Oxley
Badham	Hansen (ID)	Parris
Bailey (MO)	Hansen (UT)	Paul
Bereuter	Hartnett	Quillen
Bethune	Hiler	Roberts (KS)
Bliley	Holt	Roberts (SD)
Broomfield	Jeffords	Robinson
Broyhill	Jeffries	Rousselot
Campbell	Johnston	Rudd
Carney	Kindness	Sensenbrenner
Cheney	Kramer	Shaw
Conable	Lagomarsino	Shumway
Coyne, James	LeBoutillier	Siljander
Crane, Daniel	Lent	Smith (AL)
Crane, Philip	Lewis	Smith (OR)
Daniel, R. W.	Livingston	Solomon
Dannemeyer	Loeffler	Stump
Daub	Lott	Trible
Dornan	Lungren	Walker
Dreier	Marlenee	Weber (MN)
Duncan	Martin (NY)	Whitehurst
Emerson	McCloskey	Whittaker
Erlenborn	McCollum	Wolf
Fields	McDonald	Wortley
Goldwater	McEwen	
Gradison	Mitchell (NY)	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—54

Akaka	Dymally	McKinney
Bafalis	Evans (GA)	Michel
Beard	Forsythe	Moffett
Bevill	Fountain	Montgomery
Blanchard	Fowler	Pepper
Bolling	Gibbons	Pickle
Bowen	Grisham	Pritchard
Brooks	Hall (OH)	Reuss
Brown (CA)	Hance	Santini
Burton, John	Hendon	Savage
Butler	Ireland	Schulze
Chappell	Lee	Simon
Chisholm	Leland	Smith (PA)
Clausen	Madigan	Thomas
Clay	Marks	Waxman
Crockett	Mattox	Weaver
Derwinski	McClory	Weiss
Dickinson	McCurdy	Young (AK)

□ 1300

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 562, with Mr. MINETTA in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the rule, the first reading of the joint resolution is dispensed with.

Under the rule, the gentleman from Mississippi (Mr. WHITTEN) will be recognized for 1 hour, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN), the chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman and colleagues, may I say that the chief value of this bill is not how many individual jobs it may cover, but it is the direction in which we attempt to turn our Government.

There is no question about the unemployment problem which is now affecting over 10.8 million people. There is no question about the direction in which it is headed at this time, although we all hope for better. There is also no question that all we have done up until now is to pay unemployment compensation; and no matter how much it may be needed by those who receive it, it does not get any valuable work or any additions made to our country.

There is no question that many people have a serious need for employment in this country. May I say again, as I did in my testimony before the Rules Committee, that more and more people are getting dollars mixed up with wealth.

I would like to remind my colleagues that we on the committee and I as an individual have asked the GAO to look at one of the biggest problems we have today—interest rates, and tell us what the Federal Reserve is doing. Let me say here that the Federal Reserve System, taking the view that they are totally independent, is getting to the point where they are acting that way. So on April 26 as chairman of the House Committee on Appropriations, I asked the General Accounting Office to look into their operations and report to the Congress not later than August 31.

The GAO has made their final report as well as three oral reports to me. During this period, we had three reductions in interest rates. I have asked the GAO to keep up its review and advise the Congress. We must work to lower interest rates and keep them at a reasonable level. Balancing the budget is absolutely essential to the proper recovery of this country but this must be at a high level. Too many people are overlooking the fact that our wealth is not in our dollars, but in all of our resources and our people.

I might mention again that I was one who, along with my colleague from Arizona (Mr. RHODES), promoted the Budget Committee because 58 percent of our expenditures were going around the annual review process. We cooperated with the President in rescinding $14.3 billion last year; we went along with a 10-percent cut in the next budget; and then went along with the 7-percent reduction.

Our committee, despite the fact that the Budget Committee has directed its attention primarily to the controllables, where we did not need any help because as I have said many times has been under the budget 37 out of 39 years, and ignored the entitlements and backdoor spending through contracts where help was needed.

But here we come today with a bill that was referred to our committee under unusual circumstances in that the authors of the bill: Mr. PERKINS of Kentucky, Mr. HAWKINS of California, Mr. OBERSTAR of Minnesota, and the majority leader, Mr. WRIGHT asked us to consider this bill.

In discussions prior to that, there were two things that we insisted upon, that work be performed prior to any payment and that the work be of real value to the country. As to the mechanics it was thought that we had better use the Department of Labor because of its experience.

If we can get our Government to look to productive jobs of real benefit—it would be far better than the existing practice of paying out more money for no work. I repeat again that under this bill there will be no payment unless the specific job has been done. Mr. Speaker, we have been neglecting our real wealth—our country—we have not had a public works bill authorizing new projects since 1976.

I have before me an article called "The Decaying of America," which is a story that appeared in Newsweek some time ago reporting "aging and neglecting the Nation's network of roads, sewers, and bridges is nearing collapse."

I have another report here to the Congress by the Comptroller General, "deteriorating highways and lagging revenues," and we need to reassess the Federal highway program.

I have many other statements from magazines all over the country. Here is another one, to Senator SASSER, by GAO, "better targeting of Federal funds needed to eliminate unsafe bridges."

All of this we read about, and we know about, and certainly we cannot question the need and the absolute necessity that we protect our real wealth. The situation is getting acute.

The types of work permitted under this bill are:

First, road and street repair;

Second, bridge painting and repair;

Third, repair and rehabilitation of public buildings;

Fourth, repair and rehabilitation of water systems;

Fifth, erosion, flood, drought, and storm damage assistance and control;

Sixth, removal of refuse from drainage ditches, illegal dumping sites, and other public areas;

Seventh, park and playground rehabilitation;

Eighth, installation and repair of drainage pipes and catch basins in areas subject to flooding;

Ninth, stream, lake, and waterfront harbor and port improvement and pollution control;

Tenth, forestry, nursery, and silvicultural operations;

Eleventh, fish culture and habitat maintenance and improvement;

Twelfth, rangeland conservation, rehabilitation, and improvement;

Thirteenth, installation of graded ramps for the handicapped; and

Fourteenth, energy conservation.

Do my colleagues know that as we stand here in the midst of a depression: that every major city in this country, or most all of them face a water shortage where they will need water worse than they need oil in only a few years?

□ 1310

Knowing that we have not even had the foresight to have new public works programs to develop and protect our country since 1976, when the sponsors first talked to me about this, I said, "Let us look after some of these things where there will be something of value to show for our expenditures."

And the next question we looked at was, "Aren't we going to spend the money anyway?" I did not hear a single complaint here a few weeks ago when we added unemployment compensation for 10 more weeks, which will cost $2.2 billion. That is twice as much as is invested here, so it could not be that Members object to spending money, because there they spent twice as much as we are proposing here and they will have nothing to show for it.

So, in handling this bill, after talking to the authors, the bill was introduced providing pay for worthwhile work done, and we reported it out. The mechanism to produce these productive jobs was designed by those sponsors reaching back to the mechanics of handling that which had been tried and which could be set up within a reasonable length of time. We went along and reported it out because—and I say here the greatest benefit of this bill is that for once we are looking for some value received for the money we spend in connection with unemployment.

I say that this in itself is well worth what we are doing here, to start on a policy of doing things that are needed, doing things that are valuable, doing things that must be done somewhere, somehow, that we look to the program of unemployment as a means of productive employment when a man runs out of unemployment compensation or where he has no unemployment compensation at all.

I repeat again, there will be no payment until there is a certificate by the supervisor that the job has been done. What is wrong with that? I think it is sound.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. What I would like to get is an understanding a little bit, though, of how this program works. If I read the figures correctly, the average number of jobs that would be created in each congressional district in the country would be something less than 500 if the bill works perfectly; is that correct?

Mr. WHITTEN. I could not tell the gentleman exactly, but I would answer it this way; the greatest value of this is not the number of jobs in each and every location that we get, but it is a shift in philosophy from giving them money for nothing, for which we get no benefit, and reversing our approach and enabling them to get productive, useful jobs. It used to be that many folks did not mind getting unemployment compensation while they changed models or the plant was closed down, knowing that they could go back to work, but now when it runs out there are not any other jobs, there is no place to turn. So I say that the chief value here is not the numbers here and there, but the reversal of our approach where now we have a fellow to work on programs for the benefit of the country and we have something to show for it. That is better than supporting the tax increase which included 10 more weeks of unemployment compensation.

I just say it is a whole lot better to enable a man to work, he is better fitted to work for something and leave something to show for the benefit of the country as a result than it is to give him money with no return, which is what we are doing now. So, I say the value of this is not how many, but whether we can get the gentleman and others to reverse the course.

Mr. WALKER. If the gentleman will yield further, I am trying to understand the formula, and I might say to the gentleman that I did not vote for the tax increase bill.

Mr. WHITTEN. May I say that the gentleman and I are in thorough agreement on that.

Mr. WALKER. If the gentleman would yield further, I understand that any district in the country that is not at the national average or above for unemployment would not be eligible for these funds. Is that correct?

Mr. WHITTEN. I can say this that if the gentleman defeats the bill none of them will be eligible.

Mr. WALKER. Is that not what the bill says?

Mr. WHITTEN. May I say again what I stated earlier, I am no expert in all the mechanics of this bill. This bill was drafted by others and our committee was asked to act on it. I did see this bill as a chance to consider a little bit toward getting the country to move in the other direction and let the man work where he feels better because he is producing something, where the country will benefit from it, where we are headed in the right direction. Production of benefits to the Nation is what we should insist on.

Mr. WALKER. If the gentleman will yield further, the gentleman is bringing this bill to the floor, a very serious bill. Certainly the gentleman has looked into it and found out what the impact will be in his own district.

Mr. WHITTEN. I do not know if it will have any benefit on my district except that the Government will be looking in the direction of improving and protecting what we have and getting value received for what we spend. I do not know how it applies to my individual district or the 400 others, I care about our country as a whole.

Mr. WALKER. If the gentleman would yield further, can he tell me what the unemployment rate is in his district?

Mr. WHITTEN. I could not hear the gentleman.

Mr. WALKER. Can the gentleman tell me what the unemployment rate in his district is?

Mr. WHITTEN. Unemployment is high in my area, but I tell the gentleman that most of them would rather be doing something beneficial than collecting unemployment compensation.

Mr. WALKER. If the gentleman would yield further, is the unemployment in his district above the national average or below the national average?

Mr. WHITTEN. I say again this is both a national problem and one for my district. I was home recently, and I live in a county seat town. I saw five second cousins who thought that they had lifetime jobs. I read of many other folks all over the country, so it is prevalent. But involved here is the principle that are we going to get something beneficial to help the country, or are we going, as we did in this other bill, to give more and more money for a long period?

Mr. WALKER. The point I am trying to understand and trying to find out is whether the unemployed

people in the gentleman's district are going to get any money out of this bill.

Mr. WHITTEN. I have not matched this against my district. My district has a need, but that is not it. The Nation has a need to correct these things that we have for years and years of bridges not getting built, streams filling up, harbors not being dredged. I say we had better start looking toward those things every chance we have, or else we are going to waste our wealth while we are trying to balance the budget.

Mr. WALKER. What I do not understand, though, is how these things are going to get done if some of this money——

Mr. WHITTEN. It is not going to get done without the gentleman's help or a majority of the Congress. That is what I am begging for, the support of the Congress to head in the right direction. Of course, if the gentleman does not see that I do not know what I can do to point it out to him. If we get value received for this expenditure, it would be a great improvement.

Mr. WALKER. If the gentleman will yield further, I am trying to understand the formula under which we are going to allocate this money, and I am not getting very much of an explanation as to how the money is going to get out there and who is going to get it, how this money is going to be paid, how all these good things the gentleman talks about are going to get down there. It seems to me we are not hearing any of that. I would like to know what the formula is.

Mr. WHITTEN. I do not mean to be facetious, but I do not know how I could make the gentleman understand any more plainly than what I have. I just cannot explain it to his satisfaction.

Mr. WALKER. The gentleman has not yet told me whether or not his district is going to get anything, any of the jobs in his district. He has not yet told me the formula by which we are going to allocate these jobs, whether or not it means 500 jobs per district or 75 per district. I am trying to understand and the gentleman is not explaining this.

Mr. WHITTEN. May I say again, that if we can contribute something toward the Nation's recovery my district will go along with it, and may I say that the principle is sound, it is clear, and how it applies to my district is beside the point. My district is going down like the rest of the Nation, if the country recovers, my district will recover along with it.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think the people watching this debate ought to understand what is really happening here. We have a certain number of Members of the House who would not vote for any jobs under any circumstances whatsoever, so if you do not target the funding under this bill to areas which have the most serious problems and say, "Oh my God, you are going to give jobs to areas that do not have the serious unemployment problem, and you ought to target them."

If you do target them, then they say, "Oh my God, you are not putting them into my district or your district."

The fact is, no matter where you put these jobs, this money, you have got a certain percentage of the Members of this House who would not support you under any circumstances at any time under any formula, and I suspect that includes the gentleman now questioning the Chairman.

□ 1320

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I do not yield further.

Mr. WALKER. That is a shame.

Mr. WHITTEN. Mr. Chairman, may I say that I have some advantage of some benefits or some help from my recollection in this matter. The Members have heard me say it before. I went to the Mississippi Legislature when I was 21, and you could not buy a sack of flour on the credit of the State of Mississippi. That was true of New York State and every State in the Union.

I was there when we created the WPA, where we had "make work" and where we got some benefits. I know what it has been like in the past.

Let me say this to all the Members. From reading history and looking at the situation we face today, despite the insistence of my friend, the gentleman from Pennsylvania, and others, we are doing exactly what preceded the last depression—counting on industry to bail us out. The worse it got, the more we looked to them. We are facing the high interest rates that prevailed at that time.

Read Manchester's book "The Glory and the Dream," and you will see that the situation is so serious today because it looks just like what preceded that Great Depression.

In the last 3 or 4 years I introduced a bill to restore the old Reconstruction Finance Corporation where debtors and creditors could go in and work things out and get back on the track and get going.

There are so many things similar today so as to be frightening, and I ask the Members, as we do here, to provide productive work, jobs that leave something to show for it in the way of improvement and protection of our country is a move in the right direction.

I have to see some of my friends question that because I have a chance to see how it would affect my district. I want to say, whether you are a banker, a lawyer, a farmer, or a Congressman, if this country goes down, yours will go with it. I am broadminded enough to believe that if we can get this country straightened out and headed in the right direction, my district will go with it. I am not parochial, but I am interested in my district, and we will be in there with all the rest. I do not care what your business is, if it goes down, it will pull others down with it.

I say again that we brought out a bill which did not originate with our committee. It originated with those who have knowledge of the problem areas and I have some knowledge of my own.

I started to tell you that I lived in a little county seat community. I saw five relatives who had good jobs, but they were unemployed when I last went home. I look around me, and I see the farmers are getting too little money to break even, and when they go back to the bank to try to borrow in the spring, they are going to find their security has gone down 50 percent and they are liable to face bankruptcies there.

So I say that the chief benefit is not how many but how or what kind. We are directing the attention of the Government and using this money that we are going to spend anyway toward getting something of value for that money. We do not get it unless the work is done in advance and we have got a certificate to prove it.

I just hope that the Members will go with us. Everybody is in accord with the idea that something needs to get done, we need to turn things around and save our country. Support this legislation.

Mr. CONTE. Mr. Chairman, I yield 8 minutes to my good friend, the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Chairman, this bill should be defeated. I realize that this bill ostensibly bears a good purpose. We do indeed have high unemployment in this country; the economy is not healthy, but we should not treat any illness with bad medicine.

This bill is loosely drafted, and a poorly drafted, loosely enforced, last-minute jobs bill is worse than no bill at all

This bill risks abuse, fraud, and waste. It costs $1 billion, but it could run much more. We really do not know about that. Statutory provisions which require estimates of costs to be compared with the budget resolution, with a 5-year projection of outlays and with financial assistance to State and local governments, are all listed in the report as being "indefinite."

The Department of Labor under this bill, if it is enacted, only has 30 days to spend this $1 billion. That is 30 short

days. All of the money has to be obligated or possibly even spent by the end of this year. That is only 3 or 4 months.

Nothing in this bill limits the bill to low-income people. As a matter of fact, Mr. Chairman, you can earn as much as you want—$25,000, $50,000—even $100,000 in a year—and still be unemployed for 2 weeks and qualify for benefits under this bill. It just does not matter how much a person has earned.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield briefly to the Committee chairman.

Mr. WHITTEN. Mr. Chairman, personally as far as I am concerned, I believe that on this side we should change that 2 weeks to 10 weeks, and I think that would be an improvement.

Mr. LIVINGSTON. Mr. Chairman, if the gentleman will allow me to point this out, the last time I saw the bill, that change had not been implemented, and I did not know the rule allowed that change.

Mr. WHITTEN. The gentleman is correct that the rule prohibits such a change, but I call attention to the fact that I recognized the error there, and if such a change were possible at the proper time I would try to change it.

Mr. LIVINGSTON. Mr. Chairman, I appreciate the gentleman's pointing that out. I did not know the rule permitted a change like that.

Nothing prevents a recipient under this bill from using this bill to retrigger his unemployment benefits. As a matter of fact, under that particular provision, if he were on unemployment benefits, if he then exhausted his entitlement to unemployment benefits, and if he qualified for this bill, he could then retrigger his unemployment benefits, and it would cost local and Federal governments another $220 million per year.

Here is another provision in this bill. The gentleman has indicated his intention to change the bill, but nothing in the bill, as I see it right now, prevents a person from leaving his existing job, remaining unemployed for 2 weeks, and taking a job under this program for 6 months. In fact, this bill gives priority to those ineligible for unemployment benefits, regardless of why they are ineligible.

Now think about that. That means that this bill will be good for some good people. Some good folks will qualify under this. But perhaps, because someone has quit his job, because he has been dismissed because of thievery or what have you, a lot of ne'er-do-wells would also qualify for benefits under this bill.

I do not understand the logic of this bill. I do not think the drafters or the sponsors of the bill understand the logic of it. It is written to recreate the very law that this entire body, through a majority of the House and the Senate, threw out as being ineffective, and that is the public CETA program. That is the costly public sector program which the Congress agreed to terminate at the end of this month. On September 30, 1982, public sector CETA will be no more, and yet this bill will recreate it, even though $26 billion was totally wasted over the years without any substantial achievement which can be shown for that $26 billion.

This jobs bill will not do anything for the hard pressed construction industry. Twenty percent of the people in the construction industry are unemployed today. This bill will not help any of those people. It fails to create permanent skilled jobs of any sort. It is more likely to be manipulated by politically astute wheeler-dealers than help the chronically unemployed.

This bill was originally and primarily drawn last July to help youth find summer jobs. That was again a good purpose, but when it became obvious that the late date made it totally ineffective, and that the only way they could give away $1 billion in the short span of the summer remaining was to run up to the top of the Washington Monument and throw that money out of the window, the bill was redrafted, coincidentally, just in time for the elections.

There has already been $1.9 to $2.3 billion approved by the administration in the recent tax bill to extend unemployment compensation benefits. There is already $192 million in the 1982 continuing resolution provided for youth employment on top of $3 billion in other jobs programs in that same bill. There is already $45 million in the urgent supplemental we just passed, and there is another $3 billion in the 1983 budget resolution for summer youth programs and job training.

But, there is another problem with this bill. The vagueness of the bill prompts quick, ill-conceived projects with poor supervision and ineligible recipients and inadequate supplies.

□ 1330

Benefits will not even be felt until the middle of next year when economic recovery is anticipated. So there may not be a need for this bill by the time it gets under way.

Most importantly, Mr. Chairman, the $1 billion increase in the deficit is bound to regenerate inflation and high interest rates.

Mr. Chairman, loosely drafted jobs bills are less efficient than the marketplace. They cost more to operate. They do not work. They add to the cost of Government and to the deficit, and that adds to the strain on interest rates and keeps production down, the exact opposite of what we are trying to accomplish here.

I will give you a perfect example. Over $31 billion was provided for antirecession programs between 1974 and 1975 during the recession at that time, but because of delays in implementation, $23 billion was not spent until after 1976, when we were not even in a recession. That money caused inflation to skyrocket.

Add that to the $26 billion thrown away in the public sector CETA program that we saw no benefits from and you wonder why we keep repeating the same mistakes.

Since 1960 we have compiled a total deficit in every year but one of over $550 billion, bringing the national debt to $1.109 trillion as of the end of August of this year.

And we are about to add more than $100 billion per year to that figure in each of the next few years.

When will we learn from our mistakes, Mr. Chairman? When will we stop? When will we learn anything?

Because of previous bills this money is not needed. Even if it is, it will not be spent well under any circumstances.

This bill has been born out of politics and it may well be passed and even enacted out of politics, and it is sure to be spent politically.

But good politics does not always mean good sense, Mr. Chairman, and that could not be more true than in this instance.

Even the Washington Post this very day says this is a tired, old melody; let us not play it again, Sam.

This is a political balloon, but it will not lift anything other than the deficit and the political spirits of those who support it.

I urge my colleagues to shoot it down before it takes flight.

Mr. WHITTEN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I rise in support of the joint resolution.

The economic condition of the Nation is anemic. It has been so; it is now so; and most indications are that it will remain so for some time to come.

After his first 6 months in office, President Reagan through his economic policies has driven the United States into its worst economic downturn since the Great Depression. This August, the unemployment rate reached 9.8 percent and 10.8 million workers were jobless. Not since the year of 1941 has the unemployment rate been higher—9.9 percent—and not since the year 1934 have more Americans been out of work—11.3 million.

In July 1981, when the Reagan recession officially got underway, there were 3 million fewer unemployed persons than there are today. More than half of all black teenage workers could not find jobs in August. The unemployment rate for adult men stood at a

postwar high of 8.8 percent in August; for adult women, at 8.2 percent, only one-tenth of a percentage point below its postwar high. Job losers comprised nearly three-fifths of all unemployed workers last month compared to half of the workers unemployed in July 1981. Most of these workers are not waiting to be recalled to their former jobs. Their former jobs will not be there even after the economy turns around.

Our emphasis, therefore, should be on job creation. This is why we need House Joint Resolution 562. It will employ workers while the private sector gets itself back on firmer footing.

On average, it is now taking an unemployed person almost 4 months to get another job. Last month, there were also 2 million people who had been out of work over half a year. These figures do not even take into account those workers who have become so discouraged that they have given up looking for employment. In the second quarter of 1982, there were 1.5 million discouraged workers. This is half a million more people than in the second quarter of 1981.

Between July 1981 and June 1982, the latest month for which data are available, 3.3 million persons exhausted their regular unemployment compensation benefits. In order to avoid total unemployment and the eventual exhaustion of benefits in a dried up job market, 5.6 million workers were forced to choose part-time employment in August as opposed to 4.4 million in July 1981.

You cannot blame workers for their unemployment when there are almost 2 million fewer jobs in the economy today than there were in July 1981. Yet that is precisely what President Reagan did earlier this year. Pointing to a Sunday edition of the Washington Post's want ads, he implied that there were jobs for the taking if the unemployed really wanted to work. However, if he had looked more closely at the kind of positions listed in the ads, he would have seen that they often required specific skills in the fields of engineering, computer science, and nursing, among other occupations. He would not have found numerous ads calling for construction workers, blue-collar production workers laid off from auto plants and steel mills, or for other unskilled and semiskilled workers.

President Reagan should not look to the want ads for comfort from the recession his policies created. The Conference Board's Help-Wanted Advertising Index fell to 80 in July 1982 (1967=100), 43 points below its level at the start of the Reagan recession. The volume of want ads declined from a year ago in all of the nine regions measured. This should come as no surprise to the President since unemployment in July 1982 increased in 48 States and the District of Columbia, according to the Bureau of Labor Statistics. Currently, 20 States are experiencing double-digit unemployment. In July 1981, only three States had unemployment rates at or above 10 percent.

President Reagan also should not seek solace in newspaper want ads because they are not a true measure of the absolute number of job vacancies present in the economy. They merely reflect the demand for new hires. If people are leaving jobs in about the same number as want ads placed, then the total pool of jobs in the economy will remain unchanged. Thus, the number of want ads cannot be used to judge whether the level of job openings would be sufficient to wipe out our present level of unemployment.

A professor of industrial relations at the Massachusetts Institute of Technology, Katherine Abraham, contends that not only is the amount of help-wanted advertising not the same as the number of available jobs, but also that if the data were adjusted to pick up all job vacancies in the economy, there would still be 10 or more unemployed workers per vacant job. This means that even if the workers displaced by new technology and foreign competition were retrained, there still would be a relatively high unemployment rate. How then can President Reagan pretend that the unemployed are out of work through pure laziness?

This is why we need House Joint Resolution 562. It will begin to make a dent in the unemployment rate by creating new jobs. In addition, it will create jobs designed to improve the Nation's infrastructure—a sorely needed improvement and an improvement only the Federal Government can make. State and local governments are being hurt by the recession and have had to cut deeply into the services they can offer in order to make ends meet.

So, rather than continuing to make excuses, the President might regain some of his lost credibility and popularity by acknowledging that Reaganomics was intentionally designed to reduce inflation at the expense of increased unemployment. In making such a statement, however, the President would be admitting his direct violation of the Full Employment and Balanced Growth Act of 1978. That piece of legislation strictly prohibits fighting inflation through unemployment.

Unemployment is an unjust and inadequate tool for fighting inflation. Despite many years of historically high unemployment, a recent Brookings study has shown that the core inflation rate in the United States has dropped by only 2 percentage points. In addition, unemployment exacerbates our deficit problem. According to the Congressional Budget Office, every 1 percentage point rise in the unemployment rate leads to a $30 billion increase in the deficit. Putting Americans back to work is the best policy for reducing the deficit, not cutting further holes in the social safety net the Congress has worked so hard to establish.

While testifying before Congress, Nancy Barrett, an American University economist, states that today's unemployment translates into lost output amounting to $325 billion. In the first quarter of the recession, productivity fell by 3.6 percent, the second worst productivity decline since the Great Depression. Along with this lost production, unemployment is putting a drain on the individual States economies: 19 States owed the Federal Government $7.7 billion as of midyear due to loans or earlier borrowings to finance unemployment insurance payments. How then, can we expect the States to improve our Nation's infrastructure on their own?

How then, can we expect the private sector to pull out of this recession on its own? Reaganomics will not get us out of the economic mess it has plunged us into. Something must be done to stimulate productivity in our sluggish economy and move us toward better times. House Joint Resolution 562 is a step in the right direction.

The continuation of employment programs would have moderated the recession's impact on workers. It also would have moderated the consequent increases in mortgage overdue payments and defaults, as well as the decrease in housing construction, among other related events. However, a key feature of Reaganomics is the budget cutting of social programs. Radical surgery was performed on the Comprehensive Employment and Training Act, with public service employment eliminated and youth employment and training programs emasculated. The Job Corps, one of our Nation's most successful training programs, is expected to have its outlays reduced by 31.1 percent between fiscal year 1982 and fiscal year 1983. President Reagan tried to eliminate funding for the community service employment program for older Americans by vetoing our supplemental appropriations bill. Let us show Americans that Congress cares about high unemployment. We overturned his decision by overriding his veto. Let us keep the momentum going and begin to rein in Reaganomics by passing House Joint Resolution 562.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. Mr. Chairman, first of all I want to thank my friend and colleague from Massachusetts for giving me this time.

Second, let me say the reason that I sought this time is to address the comprehensive alternative amendment which will be offered to this unfortunate legislation by our good friend and colleague from Illinois (Mrs. MARTIN).

Mr. Chairman, as we examine this bill I think many of the criticisms that have been discussed, not only in the consideration of the legislation itself but with respect to the rule, have become documented. The one aspect of the bill, however, that I want to address is the funding mechanism.

It seems to me that as we consider this Rube Goldberg approach that is contained in House Joint Resolution 562, wherein it is going to be 5 percent of the latest estimated cost of unemployment compensation to the Federal Government, then further divided into 85 percent to productive jobs in accordance with section 2, and 15 percent in youth employment and training programs and other aspects of the formula, we find that it in itself is flawed.

But, besides that, the source of the money is the major objection which I have to this legislation.

□ 1340

In the amendment which will be offered later on this afternoon by our colleague, the gentlewoman from Illinois (Mrs. MARTIN), we are going to change the financing for the program from a new expenditure out of general revenues to a transfer of funds from the Synthetic Fuels Corporation.

Mr. Chairman, as you and my colleagues know, I have been for some time trying to alert this House to the white elephant that the Synthetic Fuels Corporation has become. As a matter of fact, I even have been fortunate enough to get the attention of our good friend and colleague, the gentleman from Texas, the Democratic majority leader (Mr. WRIGHT), who was quoted not too long ago as saying, "They will never make it to the floor."

Well, Mr. Chairman, this is a red letter day. After months of trying to get a Republican jobs program associated with housing before this House of Representatives, we are finally going to get a choice between synfuels and syncrude and corporate subsidies that the other party wants to maintain and the alternative that our friend and colleague, the gentlewoman from Illinois (Mrs. MARTIN), will be offering later on.

One of the key questions is, of course, whether or not there is money available in the Synthetic Fuels Corporation? Well, Mr. Chairman, you will recall that our former President, Mr. Carter, at the time that the revolution occurred in Iran and at the time in his judgment there was a malaise in this country, went to Camp David; and when he came down from that mountaintop he did not bring the Ten Commandments, Mr. Chairman. He brought the Energy Mobilization Board, the windfall profit tax on crude oil, the Synthetic Fuels Corporation, and other subsidies to various energy activities.

Mr. Chairman, I think it is interesting to note that the objective of the Synthetic Fuels Corporation was to reduce the importation of foreign oil by 2 million barrels a day. The Synthetic Fuels Corporation has not yet funded one project. All the money that they have expended so far has been for administrative costs, and that at the rate of about $40 million a year.

On the other hand, the people of this country, without the assistance of the Federal Government, have in fact through energy conservation, through the response to the price changes in the cost of oil, and through the use of other energy alternatives have brought about in fact, a reduction of over 2 million barrels of oil per day. So we have already accomplished the objective of the Synthetic Fuels Corporation without one project having been funded by that white elephant.

Mr. Chairman, the amount of money that we appropriated back in 1980 for this program was some $20 billion. That is money that has already been appropriated. That is money that is in the pipeline. It is in the budget process. By contrast, the funding for the legislation before us would call us to come forward with new tax revenues, with a new expenditure of funds, further enlarging the size of the Federal Government.

In my judgment, Mr. Chairman, if there was ever a time when what we ought to do in this Congress is to shrink the size of the Federal Government, to reduce in these days of budget crises the tremendous power that the Federal Government has in our society, particularly in the energy field, when we have seen the benefits of some of the changes in Government policy in energy, it seems to me that we ought to take that course at this particular time. What has happened so far is that of that $20 billion, only $5.1 billion has been obligated. Therefore, we have $14.9 billion of appropriated but unobligated funds in the SFC and it is from these unobligated funds that our amendment would transfer $1.5 billion to finance a workable jobs program to take people off welfare.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. NATCHER), a member of the committee.

Mr. NATCHER. Mr. Chairman, the bill that we have before the Committee now, if enacted, will provide a total appropriation of approximately $1,035,000,000. This will be used for jobs for the unemployed.

In addition to appropriating the money, the bill before us also authorizes and creates the programs to be funded. There is room for this appropriation in the Committee on Appropriations section 302 allocation under the third budget resolution for fiscal year 1982.

At the time of the third budget resolution, the Budget Committee, on both sides of the aisle, contemplated and expected a jobs bill totaling in the neighborhood of approximately $1 billion to be presented. If this bill is enacted, Mr. Chairman, we would then have under section 302 funding for the Committee on Appropriations remaining after the $1,035,000,000, about $2,100,000,000 left.

My good friend, the distinguished gentleman from Louisiana who is a member of the subcommittee that makes recommendations for the appropriation of funds for the Department of Labor, the Department of Health and Human Services, the Department of Education, and an able Member of the House—mentioned CETA. Mr. Chairman, the CETA formula is a part of this bill, but there are no public service jobs here. In this bill we would have jobs for bridge repair and maintenance, potholes and other road repair, installation of graded ramps for the handicapped, fire hazard inspection, repair and rehabilitation of water systems, repair and rehabilitation of public buildings, security guards for schools, assisting public health programs for immunization for disease. Those are a few of the jobs that would be used in this particular bill.

Mr. Chairman, speaking of public service jobs, during the month of August of last year, I was in one of the small counties in the district that I represent. A little lady was pushing a lawnmower at the courthouse, the kind of lawnmower, Mr. Chairman, that you and I do not like. The kind that you push and you pull back with no gasoline, no electricity. She was wringing wet. I stopped her just so that she stop just for a minute to catch her breath. She told me that she had this job which was a public service job, Mr. Chairman. The county judge had given it to her, and she said, "Mr. NATCHER, my husband died. I have two little children. I am trying to take care of my children. I work at night down at one of the restaurant."

Mr. Chairman, she said, "I do not draw food stamps. I do not want to be on welfare. All I want to do is work and take care of my two children." This expresses the feeling of a great many people in the country.

I know that the distinguished gentleman from Louisiana knows, as far as public service jobs are concerned, some of them certainly were not good and we wasted money. This is the reason why we will have new legislation.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. NATCHER. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank my distinguished chairman for yielding to me, and I sympathize with the plight of that lady. I admitted earlier that some people will be helped; some good, conscientious, honest American citizens will be helped.

But the gentleman will recall the headlines in the papers where CETA was definitely abused in the public sector, abused in my city of New Orleans, and throughout the country. There were millions of dollars which were wasted, thrown away, or given to those who used taxpayer money for their own political purposes. to distribute it to their own political patronage clients. And I would hope that that would not be intended to reoccur. However, I understand that under this particular bill we will be using the same old formula under CETA to distribute money to the same old prime entities, the same prime sponsors, who were responsible for obligating the money under CETA. This indicates to me that we are just repeating the wasteful mistakes made under public sector CETA.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I rise in opposition to both of these bills. We are faced with votes on two politically motivated measures which sound great at first reading but which in reality will not have a significant impact on this country's excessive unemployment rate. I would just like to point out the problems involved. Members who are concerned should examine the wording very carefully, to see what their particular districts are eligible for.

Both bills use the prime sponsors of the CETA program as the eligible entities. In my particular case, even though my State is eligible for extended benefits for the additional 10 weeks, and even though it has areas of substantial unemployment, well above the national average, because of the particular circumstances in our State we will receive nothing under the Republican substitute and a little more than $700,000 under the Democratic program.

Obviously, what this means to my State is that we could put at most 75 people to work, on an annual basis. In July we had 16,250 unemployed.

Under either version of the bill, the money would have to be spent for construction labor during the winter months. I do not think we could repair too many bridges in the middle of January in Vermont, especially when the legislation provides no funding for material such as cement, steel, or nails.

□ 1350

Mr. Chairman, as a result, I do not have any great enthusiasm for voting for a $1 billion bill when its particular provisions are written such that areas which ought to have help do not have it.

If the bill had been designed to provide relief to areas of substantial unemployment, a defined concept under our laws, or areas where people have been on unemployment in excess of 15 weeks, if it had been designed to provide money for those areas, then I could support this legislation, either version.

But since it is designed in a way which provides little or no real relief to my State which has very serious problems with unemployment, I cannot vote for either program. This is what happens when you hastily draft a jobs bill for political purposes. The safe political route is to vote for one of these bills, that is unless you read them.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill, House Joint Resolution 562, is like a watermelon. I can understand how people are supporting it. It is like holding out a great big piece of a juicy, ripe, red watermelon to a man who has been working hard all day on a hot summer day. Man, does that first bite of that watermelon taste good.

But after that first bite, one starts chewing and running into all kinds of seeds that you have to start spitting out.

Mr. Chairman, I am not against watermelon. In fact, that is one of my favorite fruits.

I am not against jobs. We had this unacceptably high unemployment hanging over our heads for too long. Like a piece of watermelon, after a long hot day, this bill satisfies a need, the need to put people to work.

But like that watermelon, it is about 99 percent water and in a fancy wrapper. What is more, it has a lot of seeds. We are going to be spitting out seeds for a long, long time to come.

I would like to talk about some of those seeds; there are a lot of them. I wish this bill were a clear choice of jobs over no jobs, but there are so many holes in this bill, I cannot even get to that issue. This bill is hastily drafted; it is ambiguous; it is bordering on irresponsibility.

This bill contains no provisions on waste, fraud, and abuse. One billion dollars going out over a period of 3 months in a system that has been scarred by abuses before in the checkered history of CETA, and not one provision on waste, fraud, and abuse. Has this Congress not learned its lesson yet?

Do the Members think this bill would give jobs to long-term unemployed? Do the Members know who gets the jobs under this bill? People who have been unemployed only for 2 weeks.

Do the Members know who else gets jobs under this bill and get priority over the people who cannot find jobs? People who quit their jobs, who get fired; they can get jobs under this bill.

I find that hard to believe. It is right there in the bill. If the Members do not believe me, look at section 2(b)(1) on page 3: "Priority given those who are not currently eligible for unemployment compensation."

There it is, written into the bill. That is people who quit their jobs, people who got fired, that are not eligible for unemployment comp. They can go out and get in on this bonanza.

Be sure the Members understand that this bill has hidden costs. It is estimated this bill will cost $220 million in additional unemployment comp money because people who get these jobs will be eligible for unemployment compensation.

I am not saying that that is bad, but I am saying that there is an additional cost here that we ought to be made aware of.

This bill is a melon. There is no doubt about it. It satisfies the craving for jobs, but it has a lot of seeds in it. If we pass this bill, we will be spitting those seeds for a long time to come.

I will go one step further. This bill is like a melon, but it comes close to being a lemon.

I am not against jobs. I am all in favor of jobs, but I am against this bill. There has been so much talk about bridges.

I was sorry to hear the statement of our beloved Speaker about our minority leader. I have the highest regard for, the highest respect for one of my dearest friends—the Speaker of the House. I am brokenhearted for they have a strong bond of friendship, those two have been wedded on the golf course for so long I hope the marriage does not break up today over this bill.

Let me tell the Members the Speaker was wrong. The Speaker was wrong when he had his people call Peoria, Ill., to check on those bridges.

Mr. Speaker, if you are watching this on the tube, there is not a bucket of cement in this bill. There is not a bucket of asphalt in this bill. There is not a piece of steel in this bill to take care of those bridges in Peoria, Ill.

If the Members want to take care of those bridges, do it in the transportation bill that is coming up this afternoon. How can those people in Peoria go out there with empty buckets, shovels, rakes, to repair those bridges? How are they going to fix those bridges in Peoria, Ill.?

The old Wright bill was a good bill. If the gentleman from Texas (Mr. WRIGHT) had his bill in here now, I

would be up here speaking for that bill, because that built buildings.

I know my party was against the Wright bill. I was for it. I said it is a good bill that will provide meat and potatoes on the table. People were not going to be shuffling pieces of paper. When this is all over with, what do we have? We have nothing. We have an empty table. The Wright bill put meat and potatoes on the table. It left lasting buildings.

When I go through my district, I see police stations built under the Wright bill. I see roads that were fixed, old buildings deteriorated that were improved. But there is not a nail in here, there is not a hammer in here, there is not a saw in here, there is not a bucket of cement in here.

It is just a waste of money. It is a bad bill. It is a political bill in an election year. We are going to live to regret it. I hope the bill is defeated, both bills. The other bill is as bad as this one.

If we are going to put people to work, let us get a bill out here that will build something lasting.

We could do that here today, if we really wanted. We could put money into EDA for our cities and towns. We could put money into the Army Corps of Engineers for bridges and dams.

We could put money into our Department of Transportation for road repairs, which is the next bill we will consider. We are not doing that in this bill. What we are doing is taking a "make-work" approach. That is not the way we should be spending the taxpayers' dollars. We should be putting money into a program that will produce lasting results, results that will be with us next year, and 5 years from now and 20 years from now.

I know what the situation is like out there. We need jobs. But let us not go for that one quick bite of watermelon. Let us go for meat and potatoes. The precedents are there. The laws have been enacted before. Let us go back to these precedents, rather than this ill-advised gesture.

That is what this bill is, a gesture. It will demonstrate that Congress has the muscle to put out a billion dollars if it wants. Mr. Chairman, I do not think there are too many people who doubt that Congress has the muscle to spend billions of dollars. There are a few people around who wish we not exercise that muscle so much.

The real question is whether we exercise that muscle responsibly. We can make a gesture, or we can hold off and get a real public works bill or a good transportation bill, that will not just hire workers, but will provide the supplies and equipment to do something about our bridges, our city halls, our eroding farmland. The true test of strength is its wise use.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Chairman, I want to share with my colleagues a very interesting article that appears on the front page of the Cleveland Plain Dealer this morning. It tells about a meeting that Mayor Voinovich—my mayor—had with President Reagan yesterday. The article tells us that Mayor Voinovich had his wish granted yesterday. "He looked President Reagan in the eye and told him Cleveland was in deep trouble."

The article tells us:

Armed with charts on the city's declining federal assistance and rising unemployment rates, the Republican mayor told the Republican President he could no longer respond to the needs of the jobless in Cleveland.

Then he told the President a very striking story about a man who was unemployed whom he had run into in a parking lot. The article says that the mayor said:

"There was nothing I could do for that man." Voinovich said he told the President. He and six other big city mayors had an hour-long meeting with Reagan.

Then he is quoted again.

"I got emotional in there," said Voinovich, who had been seeking such a White House meeting for months.

He told Reagan that people in Cleveland were losing their homes and that many of them, even whole families, were going to soup kitchens that once were the domain of the derelicts.

Mayor Voinovich then presented many statistics about our city. He told the President that,

In 1979, TRW Inc. employed 8,322 people. Now employment is down 24 percent to 6,294.

He told him that,

Youth unemployment in Cleveland has gone from 24 percent in 1979 to 38 percent today, with more than half of the city's minority youth out of work.

He told him that,

Bankrupticies to Cleveland went from 2,772 in 1979 to 5,332 to 1981.

Sitting there with him were mayors from Detroit, Pittsburgh, Syracuse, Tampa, Phoenix, and Charleston.

□ 1400

Then they asked, "What was the President's response?" Mayor Voinovich said that the President's response to these presentations were not in words, but the expression on his face. He was listening. I was watching his face and he was listening.

Mr. Chairman, every Member of this body now knows the human tragedy of the Reagan economic program. Instead of economic recovery, what we have from industrial strongholds like Cleveland, Ohio, to the Farm Belt to Wall Street is economic rubble. Dreams of economic growth have turned into dark economic nightmares. Instead of the 13 million new jobs for our Nation's people which we were promised, our Nation is now reeling from the effects of a staggering 11 million Americans out of work. Unemployment in my own city of Cleveland has reached a shameful 14 percent. Thousands of the unemployed have lost their homes, property, and possessions. Millions of Americans have simply given up all hope.

Mr. Chairman, House Joint Resolution 562 alone will hardly make a dent in turning around our crumbling economy and in arresting ravaging unemployment with its devastating social and economic consequences. House Joint Resolution 562 will, however, give hope and encouragement to countless workers and their families who have been decimated by long-term unemployment. The jobs provided in this bill will help a quarter of a million families who cannot wait another 6 months, another year or two for the economy to turn around. They need help right now. House Joint Resolution 562 will provide this needed relief. It will give a signal to our Nation's people that we do care about the disgraceful unemployment situation and that we are doing something about it.

Mr. Chairman, I would like to point out that the jobs funded in this measure are not simply make work jobs. The jobs created in this bill must provide tangible benefits to communities and will address the pressing needs in these communities for the repair and maintenance of public facilities. The jobs funded in this measure will protect the national investment in our streets, bridges, water and sewer systems, parks, and playgrounds.

The infrastructure needs of our Nation's cities and towns are great and varied. More than 8,000 miles of the Interstate Highway System and 13 percent of its bridges are now beyond the designed service life and must be rebuilt. More than two out of every five bridges in the Nation require replacement or rehabilitation. The 756 urban areas with populations over 50,000 will have to spend up to $100 billion over the next two decades just to maintain their water systems; $31 billion in sewer and wastewater treatment plant investments are needed over the next 5 years. No one, Mr. Chairman, can say that the jobs created in House Joint Resolution 562 are wasteful or unnecessary. Using these funds to put the unemployed back to work by maintaining and repairing the infrastructure of our Nation's cities and counties will yield multiple benefits for the entire country. Once again productive taxpayers, upgraded public facilities, and useful job skills for those youth who desperately need a chance to work and be successful in life will be the beneficial outcomes from the passage of this legislation.

We cannot afford to let millions of Americans sit idle and unproductive. We can ill afford to let our Nation's roads, bridges, and other public structures—vital to the economic growth of the country—further deteriorate. Mr. Speaker, we must act now. I urge the adoption of House Joint Resolution 562 as an urgent and critical step in rebuilding our Nation's economic and social health.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Puerto Rico (Mr. CORRADA.)

Mr. CORRADA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this very much needed legislation.

I would like to ask our colleague, the gentleman from California (Mr. HAWKINS) a question. House Joint Resolution 562 does not contain a definition of a State. Of course, the CETA legislation does and both the District of Columbia and Puerto Rico, as well as the other U.S. territories are included in the existing employment and training programs.

Since this bill does not contain a definition including or excluding these areas, I would like the gentleman to clarify this point.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield for the purpose of an answer?

Mr. CORRADA. Certainly, I yield.

Mr. HAWKINS. Mr. Chairman, it is certainly the intent of the authors of this bill to continue the definition of "State" to include Puerto Rico, the District of Columbia, and the other U.S. territories, as the current definition under the CETA legislation provides.

The committee report, in fact, states that the Department of Labor should utilize the existing employment and training system. Therefore, it is certainly appropriate to maintain the definition of "State" utilized in that system.

Mr. CORRADA. Mr. Chairman, I thank the gentleman for his clarification.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Chairman, I appreciate the time.

I would like to respond briefly to the statement made by the gentleman from Ohio (Mr. STOKES) a few moments ago when he spoke of talks and conversations with the mayors.

In speaking of the mayor from Detroit, his own mayor from Cleveland, the mayor of Phoenix, mayors from all across this country, all of whom I know very well, having served with them for years and years, and most of whom you mentioned I have served with on the executive committee of the U.S. Conference of Mayors.

I think that we are missing the point here. This is not a question of solving the problem of poverty, the needs of the people of this country. This bill simply will not do it and to say it is nothing more than a cruel hoax.

All of us in this House on either side of the aisle want to solve the problems of the poor. I came here a year and a half ago with the idea that we were going to solve the problem; but this time we were going to solve it permanently. We were not going to continue to add to the problem, build up the deficits and continue the cruel hoax of using the taxpayers' money to throw at the problem and see if some of the problems might go away.

We have got to the position in this country where throwing money got to be the problem. We have to restrain ourselves. All of us want to produce jobs. All of us want to put the American people back to work; but let us not use their money for political purposes. Let us not use their money to get ourselves reelected.

The people of the United States are too smart to bite this apple and I hope the majority of the Members of this Congress are also too smart to grab this apple.

I will use the expression of the mayor of Detroit. I learned it from him very well. "This bill is full of fish hooks."

Mr. CONTE. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise to express my opposition to the bill.

House Joint Resolution 562, which would cost about $1 billion, is being offered as an urgent supplemental appropriations bill. As I understand it, we only take up "urgent" measures if they are something that must be done right away with the clear expectation that they will be done. However, I do not believe that there is a Member of this body who truly believes that this money will ever be spent. Regardless of the vote in the House, it is highly unlikely that this measure will be taken up in the other body and, even if it is, it is doubtful that there would be sufficient votes to override the expected veto.

Now, Mr. Chairman, I suppose it is possible that there is another sense of "urgency" about this bill. After all, we are almost 2 weeks past Labor Day and less than 2 months away from election day. I suspect that there are those who believe that they have very little time left to posture and pandering before the voters. Worse yet—the vehicle we have before us is not only without substantive merit but has tied up the Appropriations Committee which is faced with the most urgent of those measures yet before us prior to adjournment—the numerous fiscal year 1983 funding measures, only two of which have passed the House.

What about the substance of the bill? What are its actual promises? A quick review reveals what it really is: A revival of "make work" dead-end jobs such as those we earlier rejected when we eliminated public service employment under CETA. Here we have "son of CETA." Just what do we intend to do at the end of the 6 months' limit on the duration of the jobs under the bill? Lay them off with absolutely no training in marketable skills whatsover? Or do we continue the program ad infinitum as has occurred time and time again in the past. I say we cannot start down yet another road of wasteful spending for a program that will develop a life of its own.

Mr. Chairman, the American people are not so easily fooled. Two years ago, they rejected the tired notion of having the Federal Government try to manipulate the economy by throwing money at problems, often for political gain. They know that while, initially, these attempts were undertaken with the genuine belief that social and economic problems could be solved in that fashion, in more recent years such attempts have been made solely for appearances sake for lack of any creative, alternative ideas.

The fact is, Mr. Chairman, we have a jobs bill that is almost completed. It is a job training bill, which is the one area where we have learned that the Federal Government can be effective. As a member of the Education and Labor Committee, a number of us have worked diligently to achieve a program that will address real retraining needs while giving individuals abilities that will be of permanent benefit to them. Let us continue our focus on that key bill and the other important measures that we have less than a month to work out and stop wasting our time on this political charade that will not fool the American public.

□ 1410

Mr. LIVINGSTON. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Chairman, I rise in support of jobs for all Americans and in opposition to the transparent hoax being put forward here today. It is remarkable that any member of the majority leadership can stand before the House and claim that this bill is what is needed to put people back to work. Throwing a billion dollars at a problem as a blatant political maneuver instead of making use of funds already appropriated in an existing program is nothing less than a scandal.

Let me remind the majority leadership that we had an alternative, an initiative that would have accomplished through the private sector much more than this bill is supposedly going to

do, and that other bill would have made use of funds already authorized and appropriated. I am referring to the Evans-Corcoran initiative which would have transferred $1 billion from the synthetic fuels program and used it in conjunction with the existing mortgage revenue bond program to help Americans buy homes while putting many people back to work in one of the most efficient industries in this country—the housing industry.

We need the permanent jobs that the private sector provides. But instead of addressing this chronic need, the Democratic leadership repeatedly blocked our initiative in the Appropriations Committee, in the Rules Committee—in every way possible to make sure this important initiative would never come up for a vote on the floor of the House. The Evans-Corcoran initiative would not have seriously aggravated the already bloated deficit, but it would have cut into some of the big oil subsidies that the House majority leadership wanted to protect. And that, fellow colleagues, is the real story behind this charade we are witnessing in this Chamber today. A billion dollar charade is something this Nation cannot afford.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Ms. MUKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in support of the committee bill.

As of this minute, we have in the State of Maryland 200,000 people who are certified unemployed and looking for work. We have a 10-percent overall unemployment record in Maryland, and in some pockets of the community it rises to as much as 35 and 50 percent.

I stand before you having come out of my Democratic primary with an 82 percent majority, to come to Washington to fight for the legislation and the philosophy that this bill represents.

The No. 1 issue in Maryland is jobs. My Governor had to call a special session of the Maryland General Assembly because we ran out of unemployment benefits; dipping into our own limited funds, we passed that bill. Upon that passage, the mayor of the city of Baltimore turned to the unemployed who are going to get extended benefits and said, "Will you volunteer to work for the city of Baltimore on a public works project, because I am desperate?"

The budget cutting has meant budget shifting onto the city of Baltimore, and we are facing tough times. Men and women, unemployed, stepped forward to do volunteer work to build the infrastructure because they did not like to sit around.

Now, who are these people that we want these jobs for? Sure they are temporary, sure they are stopgap; but my people will take anything they can get. Many are not the unskilled, they are not the hard core, they are not the illiterate. They are the men who fought at the Mekong Delta, who worked at General Motors and who have been knocked out of jobs because we have a lousy import policy. They have skills and they want to work.

It is the black man who went through the apprenticeship program in the construction trades just the way he was supposed to do and now he does not have a job because we do not have a housing industry.

It is that woman who took the WIN program on welfare and learned welding and wanted to go to work in my shipyards, but she does not have a job because we are now building ships in Asia.

Those are the people that we are here for. They know that $5,000 will not solve their problems; but they want to get up in the morning and they want to be able to do something and they want to show something at the end of it. And sometimes Band-Aids do not hurt. They often stop the bleeding.

Mr. LIVINGSTON. Mr. Chairman, the minority yields 3 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. I thank the gentleman for yielding this time to me.

Mr. Chairman, I think the gentlewoman from Maryland who just spoke is right: The No. 1 issue in America is jobs. For years we have been following a policy in this country of taxing and taxing, spending and spending, borrowing and borrowing.

For years our automobile industry has decayed, the housing industry has decayed, and we have been killing jobs. By 1980, the disease had gotten bad enough where we had 18½ percent inflation in April, we had a recession already started, the decay was striking at the very heart of the American system.

There will be an alternative offered in a few minutes which will provide targeted help to the seriously unemployed. That substitute will aid families with dependent children. That substitute will be targeted in a way so that it reaches people who genuinely need aid, in a manner that will help the country.

But that is not what is at issue right now. The Democratic leadership bill is one of the most shallow, cynical, and desperate acts of partisanship we have seen in a long time. The fact is that this bill will provide political patronage for a short time through local politicians to people who can be unemployed for as little as 3 weeks. It is a gimmick. It is worthy of big-city machine politicians, but it is not worthy of the pain this country is in.

For years, this Congress has not had the guts to stand up and do what was right. This Congress has wallowed in a large bureaucracy, in programs designed for partisan reasons. As we grew sicker, the politicians here found medicine that in fact simply increased the illness.

Today in this country we are watching a spectacle, as the Washington Post said this morning, of seeing the liberals once again "Play it again, Sam." It should have been entitled, frankly, "Play it again, Jim," or "Play it again, Tip."

The fact is that this bill would not stand up under a serious interrogation at a PTA meeting in any school district in this country. It is a travesty and a joke, and there is not a single Member of the majority who could explain how we could possibly in 3 weeks or 4 weeks time have this program working. It is designed not to help the poor, but as a hoax upon every American. It is a return to the politics of the past, the politics of phony promises, false hope, and tragic conclusion.

Mr. NATCHER. Mr. Chairman, I yield such time as he may require to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I am here today to add my support to House Joint Resolution 562, the emergency supplemental appropriation for the Labor Department, and to urge my colleagues, for the sake of this Nation and the millions of unemployed Americans that are depending on us to pull our country out of this recession, to support this measure and help put our people back to work.

I think you would be hard pressed to find many Americans today who do not feel that economic conditions in this land are bad and getting worse. I certainly heard this viewpoint repeated often while in my district these past few weeks, and I am sure you have all heard the same dismal reports from your own constituents. And why should they not feel despondent about economic conditions? How could one avoid it after hearing the latest economic statistics?

Real gross national product showed a cumulative decline of nearly 2.5 percent from the first quarter of 1981 through the first quarter of 1982.

After-tax corporate profits have fallen to their lowest level in over 5 years.

The number of business failures has increased substantially, with bankruptcies during the first half of 1982 exceeding the total in all of 1980.

Incomes in the farming sector have fallen from about $27 billion in the third quarter of 1981 to about $15 billion in the second quarter of 1982.

The economy is operating at only 71 percent of capacity. High interest rates have made the dollar artificially strong, causing a slump in exports. Though inflation is receding, interest rates are still excessive, and the prime

rate has only just begun to fall below 16 percent.

But the worst statistics of all are the record levels of unemployment that have been caused by the recession. The unemployment rate nationally has climbed from 7.2 percent in July of 1981 to 9.8 percent in July of 1982, the latter is the highest jobless rate recorded in the postwar period. This means that almost 10.8 million persons are currently jobless; 10.8 million. I think it is difficult for us to imagine exactly the magnitude of this number. It has been estimated, that if all of these unemployed persons stood in one unemployment line, it would stretch from one coast to the other, covering the whole expanse of our Nation.

Obviously, some parts of the country are in considerably worse shape than others. Overall unemployment in the Pacific Northwest is about 13 percent—and in some counties where employment is dependent on a healthy forest products and housing industry, as much as 30 percent of the work force is unemployed.

This is not a bill that will hurt our economy. To reduce our national deficit, we must put people back to work. A single percentage point increase in our national unemployment rate costs us $25 billion in lost revenues and another $5 billion in benefits paid to the unemployed.

Mr. Chairman, I can certainly appreciate the comments made by some of my colleagues that this bill does not go far enough toward solving the problem of unemployment. I agree. However, I see this bill as a measure of last resort. It is only after passage of a housing initiative that was vetoed, of export assistance that was opposed, that this job stimulus package has received consideration.

I also understand the administration is again reluctant to support this measure, feeling that the provision for extended unemployment benefits would be sufficient to solve the current problem. But, Mr. Chairman, as necessary as unemployment compensation is, there is no resulting work nor restoration of the local community; no jobs are created. It is much more beneficial to the Nation to spend money on productive jobs for the unemployed to assist in maintaining our physical assets than to spend on unemployment compensation with no production.

The additional benefit to the elements of our infrastructure are also apparent. All over the country, our streets and highways are filled with potholes, our bridges and dams are judged unsafe, our buildings and parks cry out for attention and care. There are many jobs that this country needs to have done, from tending the fisheries in the Northwest to repairing our crumbling network of highways, and millions of people eager to regain their self-esteem and perform these jobs. All they need now is our assistance, to put the two together and provide the funding to carry it through. I believe we owe it to the citizens of this Nation to pass this bill, and to do everything in our power to encourage the other body to follow suit, and to urge the President to sign it into law. We owe it to this Nation to do our utmost to help put our people back to work and set our feet solidly back on the road to economic recovery.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATKINS).

□ 1420

Mr. WATKINS. Mr. Chairman, I rise today support of House Joint Resolution 562, the urgent supplemental appropriation to permit localities to provide employment on a temporary basis to approximately 200,000 of our Nation's more than 10 million unemployed in repairing and rebuilding our deteriorating infrastructure—our roads, streets, highways, bridges, water, and sewer systems and other public facilities. Jobs would be to help the unemployed.

We cannot close our eyes to the fact that we are in the midst of our most severe economic crisis since the Great Depression of the 1930's. Our national unemployment rate is 9.8 percent for the second consecutive month and all indicators point to further deterioration in our national economy in the coming months. With each 1-percent increase in the rate of unemployment adding $25 to $30 billion to the Federal deficit, we cannot expect to come to grips with the deficit until we take steps to put our millions of unemployed back to work. This bill will make a small start in that direction.

This bill is not a budget buster. Funding for the jobs to be created is in the first budget resolution which we already have approved. The jobs provided by this measure would not be make-work types of employment. It would provide productive employment in rebuilding and repairing our seriously deteriorated infrastructure—a matter in and of itself quickly becoming one of our highest national priorities.

The funding required by this bill is less than what we have already voted in unemployment compensation funds at the President's request—an effort that created not one single job. This not only would create more than 200,000 jobs immediately. It would do much to create self-esteem among at least a few of the millions of unemployed—a job in hand instead of the humiliation of hat-in-hand looking for a handout.

Mr. Chairman, there are those who say, "If people want to work they should use their feet and move to where the jobs are." Well, we have got thousands of people moving around the country looking for jobs that simply are not there. Increasingly, such jobseekers are finding only greater frustrations and hardships. During the past 50 years more than 50 percent of the people in rural areas of the Nation have had to leave in order to look for jobs. There are two counties within my district where over 68 percent of the people left to seek employment. During the tragic exodus we experienced during the 1930's there was a book entitled, the "Grapes of Wrath," by John Steinbeck. I cannot believe that the American people wish to experience a repetition of this tragedy.

Mr. Chairman, I represent a rural district that has experienced chronic and severe unemployment most of my life. I have dedicated my public career to the creation of productive employment for that part of my home State. I know what unemployment and underemployment is all about. Only a few months ago, my home State of Oklahoma had the Nation's lowest unemployment rate. Its rate has doubled within recent months. Discussions have been underway recently about calling a special legislative session to deal with the problem of the increasing number of people who have exhausted their unemployment benefits. There are 10 counties in my congressional district above the national unemployment rate—an increase of 4 in a month. One of those counties' rates stands at 18 percent—an increase from 9.2 percent in a month. Was the domestic increase due to a massive layoff? No; there is no manufacturing job in the county. This increase in unemployment numbers were from human beings who had heard about jobs that might be available from the start up of a worker project. They had given up hope—that hope was rekindled as they went forth to sign up for the hope of a job.

We know about the problems of unemployment in rural areas, as I said. These problems are chronic and long lasting. The median income of rural workers, in normal times, is 20 percent less than that for urban workers. Since 1950, the poorest 20 percent of our Nation's counties have been rural. The incidence of poverty is much higher in rural areas than in urban areas. Two-thirds of the Nation's substandard housing is in rural America. Over 4 million rural people have inadequate sewage disposal systems or none at all, and 5 million rural households drink contaminated water. Rural areas have fewer health care specialists. They must travel further, over worse roads, to far fewer job opportunities than the people in urban areas.

Of the 3.9 million miles of road in America, 3.2 million miles are in rural

areas, with local governments—and their inadequate tax bases and taxing and financing authority—responsible for their maintenance and upkeep. Only 14.2 percent of rural highway and road mileage is rated adequate. Ninety-five percent of our rural bridges were built before 1935 and are inadequate and totally unsafe. Most of the rail system abandoned since the end of World War II has been in rural areas. We have higher infant mortality rates, more chronic illnesses and four times the number of people killed as a result of accidents than the people of urban areas, yet nonmetropolitan hospitals are generally older, less likely to be accredited and lacking in many, if not most, specialized services.

It is obvious, Mr. Chairman, that our Nation is in a crisis of increasingly severe magnitude. It is urgent that we face our responsibilities as Members of the Congress. This legislation is a best of our sensitivity and compassion of this body toward the seriousness of the problem and a recognition of the responsibility each of us holds.

If we continue on our present course without corrective action we tempt economic disaster. It is imperative that the administration join with the Congress in acting now to address the plight of the millions of unemployed, underemployed, and discouraged Americans and recognize that this problem will not solve itself. At a time when we devote so much of our energies and national resources to the affairs of other nations, it is absolutely critical that we come to grips with the problems of the American domestic economy. This bill represents only a start, but at least it is that. At the same time, it is so drafted as to provide fairness and equity to rural areas of the Nation in the distribution of the jobs to be created under its provisions. I urge its adoption and passage.

Mr. LIVINGSTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. FIEDLER).

Ms. FIEDLER. Mr. Chairman, this is a very serious issue, the issue of jobs for Americans. It is not something that can be resolved with a simplistic answer and a sweep of the pen. Had it been that simple we would have already accomplished that task in weeks and months and years of programs.

I have spent a good deal of time trying to evaluate how we reached the stage we are at and what we can do today to begin to move forward and improve the status of life for the American people. It is clear that we have seen a shifting of the balance of payments over a period of time at a loss of a substantial number of important and permanent jobs in this country. But, that comes as a result of an industrial change that has occurred and as a result of much of the increasing Government regulation which has required increases in the prices of goods and which has put this country into a less than competitive position in world trade.

It is in those areas that we need to begin to move to make some reasonable adjustments. I have authored several bills, one of them which would deal with the Trade Act of 1974, which would permit us as a Congress to become involved in some of the policy decisions at the international level, that would permit us to take a look at the unfair balance of trade and relationships with other countries.

I have also authored another bill which would permit us to extend jobs tax credits for those Americans who have run out of unemployment benefits to permit incentives to American business to help stimulate the economy and not require a further burden on the taxpayer of this country.

I would hope that our solutions in the future would be more realistic, would be more comprehensive, and would permit us to address the real problems that are causing unemployment and not deal with it at the superficial level which this bill does.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I have some genuine concerns about the formula which will be used to distribute 83 percent of the funds under this bill. Just a few hours ago I learned from the Department of Labor that based on computer runs which they did for certain committees—and which is based on the formula proposed in the bill—the city of New York with more than 300,000 persons unemployed would be ineligible. This is based in large part on the fact that the data used is as much as 8 months old. This is because the data is national in scope and does not accurately reflect recent regional problems.

For example—based on the data from the Department's computer run—New York City's average unemployment rate is 9.5 percent—the national average is 9.6 percent, thus New York City does not qualify. However if you used data from the most recent 3 months, June, July, and August—New York City emerges with an unemployment rate of 10.1 percent which would qualify them for funds under this bill.

My question to the chairman: Can I get some assurance from the chairman that we will insist that the Department of Labor use the most recent data available when distributing funds under this bill? If a local entity supplies the Department of Labor with more recent data than they have, would it be the intent of this legislation to allow that data to be used in awarding funds?

Mr. NATCHER. Mr. Chairman, would the gentleman yield at that point?

Mr. BIAGGI. I yield.

Mr. NATCHER. Under the provisions of this bill the Department of Labor must use the latest available figures. They are the figures that have to be used. I would assume and I would hope that the figures that are now available in New York City would be acceptable.

Mr. BIAGGI. I thank the chairman.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, over 700,000 men and women are out of work in Pennsylvania, and 10 million Americans are unemployed. Yet, this administration and the administration is Pennsylvania have done nothing to get these people back to work. We see little compassion, let alone leadership, at the national or State levels to remove Pennsylvanians from the unemployment lines.

In my travels around Pennsylvania I have seen and talked with thousands of men and women who want to work. They are not shirkers. They want to contribute. They want to support their families through honorable, hard work. They do not want a handout, they want a hand. This bill I am voting for today gives them that hand.

When I went through the unemployment lines in Pennsylvania, I had the occasion to come upon people who had been working extended times at the same occupation. One particular individual had worked 29 years at the same plant, and on 2 day's notice he was told he was out of work and they did not expect him to be recalled. I saw the same thing for people who worked for 18, 10, 5, 20 years—all of these people without hope.

Mr. Chairman, this supplemental appropriation is not a complete answer to our employment problems. There is no substitute for job skills training and longer range planning. We need to develop meaningful job training at both State and Federal levels. But, the hardships suffered by over 10 million unemployed Americans and their families calls for immediate assistance provided in House Joint Resolution 562.

This bill puts some of our unemployed, especially those who have exhausted their unemployment compensation, back into productive, taxpaying jobs. These are jobs with tangible benefits to our communities and the Nation; jobs to fix our deteriorating roads, to repair our decrepit bridges, restore our failing water systems, and undertake other needed public projects.

In addition, this bill will help relieve pressure on Pennsylvania's unemployment compensation debt of nearly $2 billion which is owed to the Federal Government. This debt has steadily grown over the past 4 years, but jobs created today will move Pennsylva-

nians off unemployment and slow this pressure.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, it is interesting that we are returning to the past. A sense of deja vu overcomes us because the answer to the unemployment problem, which is serious, seems to be more public service jobs, to reinvent CETA, which was a disaster, as the answer to a very serious problem.

I would suggest there are other answers around that are more cost-effective, such as moving the export trading company bill along. It has been like pulling teeth to get that passed into law. It is now at long last in conference, but the export trading company bill is estimated by Chase Econometrics as productive of 300,000 new American jobs, and maybe as many as 640,000. These would be permanent jobs in the private sector, not tax-consuming temporary jobs in the public sector.

If this export trading bill ever could get passed through Congress and get signed into law, there would be no additional Federal expenditures and we would be brought into parity with Japan and West Germany insofar as our exports are concerned.

We have the enterprise zone initiative that the two gentlemen from New York have worked so long and so hard on. It is in a drawer somewhere gathering dust, I suppose, but to do anything but revitalize the private sector, the only ideas that we have from the majority party are to create more public service jobs that did not work before and will not work again at a cost of $1 billion.

□ 1430

Now, it is excessive Government spending; it is increasing the deficit that got us into this fix in the first place. Nobody said that the cure was painless, and taking medicine is distasteful. But the only solution is private sector jobs that generate revenues and that last and that do not consume revenues we do not have.

We do not have this $1 billion. We are going to have to print it to pay for these jobs. That is going to exacerbate inflation, the deficit, and high interest rates. That is putting leeches on a bleeding patient.

Mr. Chairman, I earnestly implore the Members to support initiatives like export trading company legislation, or the enterprise zone, and not this boondoggle that is going to make a bad situation worse.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, addressing myself particularly to these Members on the minority side who have claimed today that this is an ill drafted bill and an ill conceived piece of legislation, I would like to remind them that just recently from their side came a 700-page bill that was drafted overnight, a bill that I thought was very ill conceived also. What we got from that was a major problem facing us, so that our unemployment line runs all the way from New York to Los Angeles and then up to Seattle, Wash. That is a mighty, mighty long line for any country anywhere in the world when we have people who want to work.

Let me tell the Members that is the greatest waste of human resources I know of anywhere. We are giving our money away in these welfare programs, programs that do not produce any taxes, not only to the Federal Government but to the local governments.

We have families piling up with one another because they no longer can get anything but welfare because no jobs can be found. In my congressional district I have places where the unemployment rate is over 30 percent.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ALBOSTA. I will not yield. I do not have the time to yield.

Let me also say to the Members, Mr. Chairman, that what I see going on now with this bill is a program that will bring some dignity back to those families that so desperately need it.

I do not believe, when Franklin Roosevelt proposed public works projects and other projects, that he had in mind to give anything away to anyone if they did not want to work. That is what we are talking about in this bill. That is what we are talking about, a work jobs bill.

I read this article just recently, "The Decaying of America," in Newsweek magazine, which describes the decaying of America because we refuse to put people to work to repair this decay.

Mr. Chairman, during the recent congressional recess I drove through Eastern and Western Europe. Some of you might be surprised, as I was, at how well-maintained the road and bridge infrastructure was, even in Eastern Europe. Their highways and bridges, their dikes along the rivers were much better maintained than those in our own country.

Mr. Chairman, what we need is for this Congress to devise a long-term public works plan through hearings by the House Public Works and Transportation Committee on which I sit.

The American people are demanding that Congress design that long-term plan, bringing together efforts of the local, State, and Federal Governments plus the private sector—both labor and management—to accomplish that goal.

The measure before us, House Joint Resolution 562, is only a short-term stopgap solution, as has been pointed out today. But, that does not mean we should not take this vital first step now.

The infrastructure of our country cannot wait any longer. We can no longer afford or suffer with this huge waste of human resources.

Mr. Chairman, many of the Members here today have argued that we must help the private sector put people to work. I agree, but I ask you: How is the private sector going to use our transportation system—our highways, bridges, railroads, and mass transit—when those are crumbling? How is the private sector going to safely dispose of its waste or even get adequate water supplies when our water and sewage systems are breaking down? How is the private sector going to export or import their goods and compete in world markets when our ports are old and deteriorating?

If there is any doubt that the people back home are ready to begin such a program as we have offered here today, let me tell you that they are ready and eager. Public works officials in various parts of the country have been contacted and asked if there was work to do and the means to get the jobs done and I am told the answer is a firm yes. So I say that we pass this bill, get our people working, and start rebuilding our crumbling infrastructure. That is the path to economic recovery.

Mr. Chairman, there is an immediate need for these improvements to our public works infrastructure. At the same time, we have an enormous idle work force. This idle work force is a drain on both the Federal Treasury and the country's morale. It is a waste of our national resources to pay unemployment benefits without any return to those people who are willing and able to work. House Joint Resolution 562 has a price tag of $1 billion. However, actual outlays, due to the substitution of jobs for Federal benefit payments, will be considerably less.

Let us not forget that 50 percent of the money allocated in this bill will go to persons currently receiving extended or supplemental unemployment benefits. This will reduce the cost of the unemployment program by substituting jobs for benefits. Another 25 percent of the money allocated will go to AFDC recipients. We are talking about taking people off the public assistance roles and putting them to work, giving them the chance to regain their dignity.

Mr. Chairman, I urge my colleagues to join me in supporting this bill. Congress can no longer do nothing while the jobless rate continues to climb. We need to act and to act now.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. SILJANDER).

Mr. SILJANDER. Mr. Chairman, we ought to analyze this carefully. What will this jobs bill do for Americans? What will it do for the people we represent back home?

We have heard an extraordinary amount of rhetoric about this jobs bill, that it is going to be a panacea for our country. Let me ask the Members a couple of questions, if I may.

Can a 6-month jobs bill really heal the unemployment problem? We have heard that today on this floor.

Can a 6-month jobs bill truly repair all the roads and damaged bridges in America? We have heard that on this floor today.

Can a 6-month jobs bill build new cars and build homes in this country? We have heard that rhetoric as well.

I would ask the Members of this Congress: Can the jobs bill we are now considering really reduce interest rates when we are spending an additional $1,280 million?

I believe that what this bill will do is create a great political plum for many Members of Congress running for reelection this November, and it is no coincidence that this bill's promulgation date will be 1 to 2 weeks before the November election. How convenient that is for those of us who need to seek reelection.

This bill is playing a political game with the unemployed in this country, and it is sad that we would do this to those people: playing with their emotions, playing with the emotions of the desperate who are looking for work.

A leader in this Congress said today—and I quote—"Nothing has come forward yet as an alternative." Yet, he himself is a cosponsor of one of the major housing initiative and auto initiative private sector jobs bills yet introduced in the history of this country.

Mr. CONYERS. Mr. Chairman, will my colleague, the gentleman from Michigan, yield?

Mr. SILJANDER. I will yield in 1 minute.

However, the other side of this aisle decided yesterday in the Housing and Urban Development bill to block an attempt to amend that bill with a similar housing concept that would bring together a bipartisan and bi-ideological approach. It is a simple concept that has been criticized as being in fact too simple. It would allow public and private pension funds at their option to purchase a $10 billion bond. This bond would then be distributed to each State based on two simple criteria—unemployment and population. That money would then be used for 12-percent auto and housing loans to the American people.

What would this bill do in contrast to this $1 billion jobs bill we are talking about now? First, it would create 2 million jobs for Americans, long-term, permanent jobs rather than 200,000 part-time jobs for 6 months.

It also would create more training and utilize skill development rather than disallowing this, as the present 6-month jobs bill would propose. It would reduce the deficit by putting 2 million people back to work by an estimated $55 billion. The jobs bill would cost the taxpayers an additional $1,280,000,000.

We have been desperately looking in this Congress for ways to reduce the budget deficit, and I believe we have found a way in this jobs bill. We now need a private sector incentive.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. SILJANDER) has expired.

Mr. CONTE. Mr. Speaker, I yield 30 additional seconds to the gentleman from Michigan (Mr. SILJANDER).

Mr. SILJANDER. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. CONTE).

Mr. Chairman, what we need in this country and what we need in this Congress is a private sector incentive, not more of the old—the deja vu, as one of our colleagues alluded to. We have seen the philosophy of the Keynesian economic system plummet American into economic chaos. What we need now is a private sector initiative.

Mr. Chairman, we need to help the 10 million people who are unemployed with something more, with something stable, something permanent, something consistent, something that will keep training Americans, and something that we can support on both sides of this aisle.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I have heard a couple of speakers say that we are returning to the past. It is obvious that we really have no choice, because the past 2 years have been a disaster for those persons in America who want to work.

I would like to respond to my colleague, the gentleman from Illinois, if I may, for one quick second. He said that I am a sponsor of the enterprise zones bill, and I have been. But I would hope that nobody in this Chamber, including the President in the speech that he made last night at a political rally, thinks for one moment that the enterprise zones are going to be a cure-all for America. It was never meant to be. It was a small component, a very small component in 1980, when I introduced that bill with my colleague, the gentleman from New York, Mr. JACK KEMP.

This bill by no stretch of the imagination is a panacea, and I would hope that the President gets the message.

Mr. Chairman, I would hope that the enterprise zones, as it pertains to this body, can still work. I believe it is important, but it is in no measure going to be the cure-all for urban America and for putting America back to work.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. SOLOMON).

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I do not rise to speak on the merits of this legislation because it has none, and I think that was very much dramatized when the Speaker of this House, for whom I have a great deal of respect, chose to personally attack our minority leader by facetiously suggesting that this bill would build four new bridges in Peoria.

Let me tell the Members what this bill does not do. It does not put people back to work at International Harvester, Caterpillar Tractor, or in the automobile industry, the housing industry, or the construction industry. What it does is fuel inflation. What it does is drive interest rates up higher.

Last weekend I was talking to a farmer in my district, and he said, "Jerry, if you want to put all those people back to work that I just mentioned, you get those interest rates down. I want to buy a Caterpillar tractor. I need a pickup truck. I can't afford to buy them. And I am speaking for a lot of other people in this country."

So we can go ahead and enact quick fixes for this country, and that farmer will continue not to buy and put even more people out of work.

□ 1440

The real reason I rose, Mr. Chairman, was to alert the Membership that I will be asking unanimous consent at the end of this debate to offer an amendment, since there is a possibility that this bill may possibly pass.

My amendment would cut off all jobs under this legislation to anyone who is in violation of the Registration for the Draft Act, and as you know, this amendment has passed overwhelmingly in the past.

I know many Members want to go home early and I will not debate the issue, but I will be seeking recognition to ask unanimous consent to offer that amendment. I am sure it will be graciously accepted.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Chairman, it is with great satisfaction that I stand in the well of this House today fighting for a piece of legislation that finally addresses the overwhelming problem that America and the American worker is faced with, unemployment. While we have had great debate on the floor of this House over such important matters as budget cuts, urgent

appropriations, and the largest tax increase in peacetime history. Up until this legislation this body has not taken a positive and progressive initiative to get America working again.

The Republican administration has shown no concern other than political rhetoric over the near record high rate of unemployment. They clearly have no jobs strategy. They have convinced themselves that unemployment is a necessary side effect of their overall goals and seem to feel it is acceptable that over 8 million Americans are out of work. Their Republican bankrupt economic policies are crumbling around them due in part to the out of work American.

This Republican administration's "neo-Hoover" economic ideology is based on the theory that making the rich richer will "trickle down" and make the working middle and lower class American better off. This clearly is a blatant show of neglect to the working American.

My home State of Indiana has lost 86,000 jobs since this second coming of the Hoover Republican economic policies. While this administration may have convinced themselves that unemployment is a "necessary and unfortunate side effect" of economic recovery, I would doubt the unemployed worker who is struggling to feed, clothe, and shelter his family would consider this merely an "unfortunate side effect" which will lead him to prosperity.

It has always been my belief that a job is the best social program ever devised. The unemployed Hoosier wants to work, and through no fault of his own, he has been laid off from his job. He has fallen victim to the self-centered policies of an administration of the wealthy, for the wealthy, and by the wealthy.

This administration pushed their policies through Congress under the guise of budget savings and Government efficiency. It is my understanding, however, that they oppose this legislation, which not only puts Americans back to work—which the committee report clearly shows is more efficient than paying unemployment compensation—it also provides a much needed repair and rehabilitation of public facilities.

The State of Indiana will benefit greatly by this legislation. It would put as many as 8,600 Hoosiers back to work again in a State that currently ranks fourth in the Nation in unemployment. It will also assist the monetarily strapped Indiana economy work toward a solution to a very serious problem. Indiana ranks in the top five States in the percentage of substandard bridges. Two-thirds of Indiana's 17,525 bridges are rated inadequate and potentially unsafe for today's traffic demands.

The Democratic leadership is to be commended for reviving the F. D. R. Democratic ideals of emphasizing the rile of the working American in getting this economy back on the right track. This resolution is a far cry from the initiatives needed to counter the damage that has been done to the working American by the bankrupt Republican policies. It will, however, have a positive effect on society by allowing the worker in Indiana and throughout the country to go back to work and earn the money needed to feed his family, while addressing the escalating problem of deteriorating public facilities with no draw on the already hurting State budget.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. I thank the gentleman for yielding.

I rise in opposition to this bill and in opposition to the Republican substitute.

Mr. Chairman, we have heard a lot of people talk about jobs here today and I would like to know if there is anybody in the House who is against jobs. So far as I know I have never met that person.

What I have not heard discussed here today is why we do not have jobs. Why do we have a recession? Is this the 1930's type recession where people are out of jobs because there has been a collapse in spending power where government can come in and pump new jobs into the private sector by spending money?

I think the facts fly in the face of that assertion. We have unemployment because in June of last year, 4 months before any budget cut or any tax cut took effect, the cumulative impact of high interest rates collapsed the automobile industry, collapsed the homebuilding industry and sent the economy into a tailspin.

In June of last year the average American family saved only 4.5 cents out of every dollar of after-tax income. Why? Because for the previous 15 years every time they saved money they found themselves losing ground because prices were rising and the interest rates they earned at the bank or the savings and loan were lower than the inflation rates.

Government in June of last year borrowed 55 cents out of every dollar being borrowed, creating massive competition for savings and causing high interest rates.

We are called on today to spend $1 billion to create jobs. What a worthy goal. I wish we had the $1 billion. But unfortunately we do not have $1 billion. We are going to have to go out and borrow that $1 billion. We are going to have to take that $1 billion away from the private capital market, from people who want to build new homes, build new farms, build new factories, create permanent new jobs in the private sector of the economy.

We are going to destroy a private, permanent, producing job for every public, nonproductive, make-work job we create here today.

Mr. Chairman, this is a return to the very programs that we are trying to eliminate. This is a great leap backward to the policies of the 1960's and the 1970's that have brought us to this sorry state.

If you want real jobs in the private sector vote to cut something. When we vote on the appropriations bill, which will be voted on after this bill is disposed of, if you want to create jobs vote against it because it is over budget.

If you want to create jobs, try to put the Federal Government on a budget so that we can continue to bring inflation down to encourage people to save, so money can be borrowed at interest rates business people can afford to pay.

That is the path to recovery. This bill is a path to a new inflation, to new high interest rates and to a new a recession at higher rates of unemployment than in the past.

This is a poor choice. This is a poor program and I urge my colleagues to vote no.

Even the Republican plan which seeks to take money out of synfuels is flawed because that money is not going to be spent in synfuels.

I urge a no vote on the bill whether on not the Republican substitute passes and I thank my colleague for yielding.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. I thank the chairman for yielding this time and for his work on this measure.

As I understand it, this is an emergency bill. Sometimes I wonder if we in this Chamber any longer have the ability to judge what an emergency is. We do have what many Democrats think is an emergency.

We have 3 million people who have lost their jobs since Ronald Reagan took office. There are 11 million people, nearly, out of work and only two-fifths of those people are receiving any benefits.

We keep hearing from that side of the aisle about how we are only creating 200,000 jobs. Only 200,000 jobs. What a fantasy land we live in when we are not prepared to take some action to put people to work, not on leaf-raking, unproductive jobs, but building things that we need.

I think that the excuses over there really do not fly. You say you have other proposals, you have other bills. We are not going to pass other bills.

This is your chance. You can call it partisan, you can call it simplistic. But it is your only chance to vote for jobs in this session.

Mr. Chairman, I fully recognize that there are some Members of this body who simply cannot accept the notion that the Federal Government has a role in controlling unemployment. It is an article of faith among some Members. They apparently believe that if they vote for a job-creation measure, some monstrous bolt of lightning from an Adam Smith-in-the-sky is going to strike them dead on the spot.

They will argue that, simply because its autumn, any employment bill we pass can be pawned off as a "leaf raking" jobs bill. Members who want to take that posture can surely do so.

But the American people are asking this body one simple question: What are we waiting for?

This legislation does not envision a quick fix. There is no quick fix available when the Interstate Highway System is deteriorating at a rate of 2,000 a year.

There is no quick fix when 1 out of every 5 bridges in the United States requires either major rehabilitation or reconstruction, with the cost of repair, according to the U.S. Department of Transportation running as high as $33 billion.

There is no quick fix when the major 756 urban areas now need between $75 and $110 billion to maintain their water systems.

I would ask again: What are we waiting for?

There are some among us who would like to believe that the private sector is going to step in and take care of this problem for us. That is an illusion. Business investment for the second quarter of 1982 ran at a negative 9.2 percent. If the business community, after the generous tax reduction we passed last year, cannot increase investment in the plant and machinery it needs, we simply cannot expect business to invest in areas where Government is responsible.

If we do not repair the bridges, the ports, the railroads, and the water systems in this country now, when are we going to do it?

Some will argue that we cannot afford this now—when should we put people back to work, if now is not the time? There are over 10 million people in this country looking for jobs.

Now, is the right time to begin making these kinds of exepnditures. The longer we wait, the more burdensome the investment will become.

This very morning, if you looked in the mail, you will find a GAO report titled: "Runways at Small Airports Are Deteriorating Because of Deferred Maintenance: Action Is Needed by FAA and the Congress."

In June 1982, CBO issued a report saying:

> Massive repairs are needed (for the Interstate Highway System) that are projected to cost about $16 billion between calendar years 1980 and 1990.

During the debate on the urgent supplemental, our distinguished minority whip, Mr. LOTT, said something to the effect of "this is a supplemental bill * * * we can wait until March, next year."

Let me suggest that it would be irresponsible to wait any longer. We have waited for the Senate to act since June on the bill I drafted with Mr. SEIBERLING to create conservative corps jobs. We have waited for 20 months for the Reagan recovery to begin. We have waited while an additional 3 million Americans have lost their jobs.

We cannot wait any longer.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, the gap between the rich and the working people of this country is widening. The excessive tax cuts which were tauted as the remedy for our economy have only produced more dividends for the wealthy, but not the expansion of our workforce, which was promised.

More than 11 million workers are without a job. For many, this is the first time in 20 years, or more, that they are without work and unable to earn an income to support their families.

The expressions on their faces, as they wait in growing lines to collect unemployment compensation checks tell the sad story of the failed economic program which is plaguing our Nation.

This year's $20 billion in unemployment compensation being paid to willing workers who have been left without jobs is not producing any real long-term benefits for the people or for the country. The working man and woman in America is not looking for compensation—the American worker wants a job—a productive job which will benefit the country and which will benefit the local communities of this great land.

This urgent supplemental appropriations for jobs will not provide an absolute and final solution to America's economic crisis, but it will provide a beginning to revitalizing America's 11 million out-of-work force.

The 200,000 jobs this appropriation will provide will put people back to work revitalizing this Nation's deteriorating public infrastructure. For these people, this public works program will provide their only opportunity to work in more than a year. For most of these workers, their regular and extended unemployment benefits have been exhausted and this is their last hope. This Nation owes them an opportunity to work. And just as important, the jobs they will be doing are vitally important to the continued well-being of our cities, counties, and States.

Today, throughout our land, our infrastructure is suffering from years of neglect. More than one-quarter million of our highway bridges have been declared deficient or obsolete, half of our roads are in desperate need of repair, and many of our largest cities have water systems which have become deteriorated and waste millions of gallons a day of clean water—one of our most previous resources.

Rural and metropolitan areas in every section of the United States have immediate needs for repairs to city buildings, streets, and sewers, schools, and many other worthy projects. And their need for workers to perform the necessary jobs could be met through the workers who would be made available through the passage of this bill.

This Nation's investments in its public projects has fallen in the last two decades, which is one of the chief reasons we now face deteriorating transportation network and public facilities. In 1965 the United States spent nearly $34 billion on public capital investment but in 1980 that figure had fallen to $24 billion—a 30-percent decline.

We have gone from investing 3.6 percent of our gross national product in our public capital projects to less than 1.7 percent—a 54-percent decline.

Public works projects are necessary, beneficial and productive investments in our country. They have made it possible for us to build a modern, comfortable society in which industries can expand, schools can improve, hospitals can provide better health care and commerce can move efficiently and economically.

Now this bill represents a dual opportunity for the Congress to help this country. Through its passage we will be able to tell the people of this country that we will begin revitalizing the public works projects of this country and we will begin putting American workers back to work.

President Franklin Roosevelt led this country out of a depression by showing confidence in the American worker and pride in the Nation's roads, public buildings, parks, water systems, and other necessary facilities. We have no option—the work must be done in order for our cities and States to continue providing essential services. And the unemployed workers of this country must be able to work and again earn needed income to support their families. This bill is wise and needed legislation. I urge your support of House Joint Resolution 562.

□ 1450

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, just a few weeks ago on the floor of the House we were considering the jobs training bill, which passed with a large margin of votes. We are not in

conference, working out the differences between our version and the version of the other body. The reason we are working on the jobs training bill at this time and must complete our work so that we can get the conference report to the President before the end of this month is that the CETA program's authority is expiring.

CETA contained, among other things, a public service employment component. It is interesting to note, the one thing that we did not recreate in either the House bill or the Senate bill was public service employment. There is a good reason for that. It was an acknowledged failure. Over the course of the years public service employment caused more scandals, wasted more money, and failed worse than any other program in this area.

Having really made that judgment just a few short weeks ago, that public service employment did not work, we now have on the floor something which at best recreates public service employment and at worst is a program really without guidelines which may take months or years to get off the ground.

I hear people supporting this bill saying that we are going to build bridges, there are a lot of bridges that have been declared obsolete. How in the world are you going to take unskilled labor, working for a maximum of 6 months, and draw plans for the construction of bridges, get all of the necessary permits, procure the material, and then put this unskilled labor to erecting bridges, something that they have never done before in their lives? This is patently ridiculous.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Massachusetts.

Mr. CONTE. Does the gentleman think that the heavy construction workers' union for 1 minute would allow that to happen?

Mr. ERLENBORN. I will guarantee you if this bill passes there will not be one bridge built with the money from this bill.

Mr. CONTE. I am surprised at some of these union busters.

Mr. ERLENBORN. Let me say that the prescription of this bill is something that our Democratic friends have believed in for many years. It is a simple home remedy. They are taking a warm, green poultice of money and applying it to the ills of society, in the hope that this money, thrown at the ills, will cure them. It has never worked before, and it will not work with this bill. I hope it is defeated.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Chairman, a great deal has been said that the bill before us is not perfect, that it is not designed to solve problems, and that there are other answers.

Well, I think that we can stipulate to the fact that this bill is not perfect. But then I ask myself: What do we do in this House that is?

We can also stipulate to the fact that this bill is not designed to solve problems, but, I don't remember the last time we solved all problems in one piece of legislation.

We are told also that there are other answers, and there may be, but the truth of the matter is that we only have one piece of legislation before us, and that is the committee bill. All of the other answers to the unemployment problem that you may have are not before the House at this time.

This is a bill that is designed to give employment for 6 months to those individuals whose unemployment compensation, has been exhausted.

It is not a bill that is designed to build bridges, or roads or any other heavy construction project. This is a bill designed to provide a means by which public facilties can be rehabilitated and repaired. To provide 6 months employment to a very few of the too many out of work.

Just last Sunday I went to a parade in my district where thousands of people attended. It was not the joyous parade of yesteryear. It was a parade of sadness, for there were people there who were hollering out to me and to those public officials riding in the parades, "We want jobs. We want jobs."

The truth of the matter is that there are more than 11 million people unemployed in this Nation. More than 6 million of them are people whose unemployment compensation has been exhausted. These are people who do not want to go back to the soup lines that existed in yesteryears. They want to be able to work, stay out of public welfare and feed their families.

This again is not a perfect bill. But it is an answer to the outcry of the American unemployed who want something other than the Dole. They want work. We must pass this bill and after we do so we can take all of those other ideas that you talk about with regard to unemployment and permanent jobs and put them together into one package so that the Congress can address itself to this problem in the very near future.

Mr. CONTE. Mr. Chairman, I yield 6½ minutes to the minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, this resolution before us is a one-way ticket down memory lane. It is a nostalgic effort to play once again the golden oldies of the Carter years when we did have 21 percent interest rates, double-digit inflation and over 8 million unemployed, all at the same time.

Yes, Mr. Chairman, just like old times. After 2 years of enforced economic sobriety, the Democratic leadership wants to go on a binge again, drinking from the same old bottle of economic moonshine labelled "Old Budget-Buster."

This a jobs bill is an example of misleading advertising. This is not a jobs bill. It is not even one of your dramatic make-work bills. It is a fake-work bill. There is one good reason to vote for a fake-work bill, but there are 10 good reasons not to. The one reason to vote for it is simple. It will deceive, deflect and defang a lot of unsuspecting unemployed working Americans who want their Congressman to do something about their plight, and they do not care what. It is a great way to flimflam your way through the election.

There are 10 reasons to vote against this fake-work bill. Let me tick them off to you, if I might. The bill will not cost $1 billion, but $1.2 billion by the time you pay the 6 months of additional unemployment. It will not create 200,000 jobs and probably not even 175,000 jobs. If it becomes law the bill will not create a single job for at least 3 months and probably longer. There are no provisions for training, trainors or equipment to train. Someone unemployed for as little as 2 weeks can grab one of these free paychecks. Someone can quit a job and take one of these. This bill brings CETA back from the grave with all of its graft, corruption, waste, and abuse. Should I repeat some of those horror stories like the guy who made $500,000 profit managing one jobs program?

Well, I will tell you, the bill just adds to the deficit. Some of this money is going to be dumped into areas where there is no unemployment problem, just so that we can make everybody happy. That is the same old discredited kind of stuff that the people voted against in 1980, and here you come again, as was said in the course of the rule—the gentleman from Arizona (Mr. RHODES), I think it was—"Can't you on the Democratic side come up with something more modern, up to times, up to beat, instead of just rehashing that old discredited programs?"

Well, there is nothing to prevent one Member of a two-earner family from getting one of these jobs and the unemployment benefits that go along with them.

Bad weather States may not be able to take advantage of the program until late spring or early summer. The jobs may be gone by then, but that is where most of the high unemployment is.

In the 1974–75 recession, the Congress went on a spending spree, pretending to pull the country out of it. We spent $31 billion, but $23 billion of that $31 billion did not get spent until after 1977, after the recession was long gone. Go back and reread your history

on what we did after the fact and then what it all did to contribute to higher and higher inflation. Take a look at the history book. That has been the terrible deceit of political solutions to economic problems. It is like the movies we see these days, the sequel of an earlier version. From 1977-80, we had "The Jimmy Carter Story," an economic flop all across the country. And now we have "Jimmy Carter II: the Vengeance of CETA."

A few weeks ago, the Speaker thought he would have a little fun at my expense. Taking the floor, he looked over to where I was sitting and said, "I wonder how things are in Peoria this morning," if I quote the Speaker correctly. And again today, making specific reference to my own district. I will have the Speaker know, incidentally, in checking on those four bridge projects, each one of them is scheduled for rehabilitation as part of Peoria County's short range plan. These are all State and county funded repair projects.

There is a serious unemployment problem in Peoria, Mr. Chairman, if that is the answer you were seeking, there it is.

But it is nothing for the Democratic leadership to gloat about. The economy of Peoria may be sick but the unemployed back there know your brand of inflationary snake oil will not cure it. They know what produced these problems and they know what it will take to solve them, real work, not fake work.

□ 1500

There is not one thing going to be done by this bill here. As the gentleman from Massachusetts (Mr. CONTE) said, we have to break and bust all union rules, all OSHA requirements while they are painting bridges out our way; but I tell the Members, they are not doing it with inexperienced people. We had one of the most bitter union controversies out there of a contractor trying to use nonunion workers as against those who were organized for a really highly technical bridge painting job, high above the water and all the rest. I do not know what we are talking about in this measure.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I want to compliment our distinguished minority leader on his comments. Back in 1976 and 1977 this Congress appropriated $6 billion for public works projects. I read an article just a few months ago that at the beginning of this year, there were still between $600 and $700 million that had not been used in 6 years.

In addition, I checked today. There are still well over $100 million that have been authorized but not outlaid here now 5½ and 6 years later.

The point is that under this program, surely there are not going to be 100,000 bridges rehabilitated. I doubt there will be one bridge rehabilitated. There will not be millions of potholes filled. There probably will not be any filled.

The point of the matter is there will be little done. These will be very insignificant jobs in our society. We tried to amend Davis-Bacon and cut the cost of public construction and rehabilitation projects, and we have been thwarted on every attempt. This today is not the panacea that the people have demagogued about.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, when the Speaker addressed us this morning concerning his complaint about the bridges in the gentleman's district, that was all phony; is that correct?

Mr. MICHEL. It was about the same kind of flimflam as is being foisted on us with this proposition.

Mr. ROUSSELOT. In other words, it was more pure unadulterated bunk about what this bill will do?

Mr. MICHEL. The gentleman describes it pretty well.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I do not know if my colleague, the gentleman from Michigan (Mr. SILJANDER) is here, but the gentleman was going to yield to me, and he ran out of time, understandably.

Michigan—I say to the gentleman (Mr. SILJANDER)—could get $80 million and put 1.8 percent of its unemployed back to work for a few months. So for all of my Republican colleagues who are thinking about voting for this measure after the phoney substitute is dispensed with, I would just want to say I thank them on behalf of the 12,000 Michigan workers who might get 6 months—who might get 6 months of work that would be 1.8 or 1.9 percent of the total 637,000 people who are officially not working in Michigan.

Thanks a lot; we deeply appreciate it. We know that the Members have more long-range substantive solutions to this problem, but the question is what are we going to do this term?

I would like to accompany any Michigan Congressman to a debate anywhere in our State who can find a rationale to object to this pitiable billion dollars' worth of jobs for 6 months.

The disgrace about the legislation in the Congress is that it is so darned small.

If I have some more time, I would just like to point out that what we are doing is something I would like to commend the Speaker for. I could not figure out why we would take something so ridiculously small and sell it to the American people; but now I know. There actually are Members in the Congress in September 1982 who are going to go and campaign on why they would not support this bill. Fantastic. I will be there with the Members. I guarantee that.

This is so incredibly insulting to 11 million people without work. That is the official record. The real unemployment figure is 14 million, and in this bill we are dealing for 6 months with 1 percent of the unemployed work force, and here it is being made a mockery of. Foreclosures in Michigan are at a record high. Workers who have never been unemployed in their life are now losing their jobs and their cars, and we are making jokes about a billion dollar bill, that it will not work, it will not build a bridge, it will break union contracts.

I want to tell the Members something: Please come to my State and find out what the 637,000 people would like to tell those Members who choose to vote against this bill.

We need many, many times the amount in the bill to put all the workers in Michigan back to work for 6 months.

Mr. Chairman, House Joint Resolution 562 to appropriate roughly $1 billion for public works jobs for the unemployed—some 203,000 temporary jobs—ought not to be a matter of contention in this body today. It bewilders me to find, however, that this bill has opposition, especially since the bill appropriates money for useful jobs that would otherwise be spent on unemployment compensation.

I am further dismayed that some of my colleagues could possibly object to the type of jobs the bill would fund—public works jobs to repair and rehabilitate public facilities; clean up and improve the condition of public lands; repair roads, ports, and water and sewage systems.

I would like to remind my colleagues of the staggering deficit in the Nation's physical infrastructure, according to a study done a year ago by the Council of State Planning Agencies entitled, "America In Ruins," the study reports that the task of rebuilding the public infrastructure is of such magnitude that nothing short of a national, Federal effort can succeed. This bill is a small effort in that direction.

Let me give you a few examples, according to that report, of the extent of the lagging public works effort to arrest the decay of our infrastructure: 20 percent or 8,000 miles of the Interstate Highway System must be rebuilt; 45 percent of the Nation's bridges are

structurally unsound; one-third of the 9,000 dams in highly populated areas are unsafe; and water and sewage systems in both rural and urban areas are in terrible shape, and some 756 urban areas over the next 20 years will have to spend an estimated $110 billion to maintain their systems.

Some colleagues may argue that temporary jobs are not needed; permanent ones are. I say to them: Find the permanent jobs. Until those are found, what else is there other than idled workers?

If the officially unemployed are added to the involuntarily underemployed as well as discouraged workers—jobseekers who simply have given up out of frustration—we would probably find about 15 million unemployed today. Is there a need for jobs, any type of jobs that are useful? Of course, there is. And the American people know that.

The bill before us is just a drop in the bucket. At least it will provide some jobs, something the administration has difficulty doing.

I urge a strong vote for House Joint Resolution 562.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) has 5 minutes remaining, and the gentleman from Kentucky (Mr. NATCHER) has 8 minutes remaining.

Mr. NATCHER. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, we have been here most of this afternoon hearing pious incantations from the other side of the aisle about the economic recovery that is expected to come and complaints that the money is too little, or that the jobs to be created are not enough, or that it is not going to do the whole job; yet, they offer nothing in return.

They have a program that is a hoax in itself, and we have heard the term "hoax" used on that side of the aisle. We will discuss their substitute in a few more minutes.

The gentleman from Massachusetts (Mr. CONTE) earlier said there is not a bucket of asphalt in this bill, and the gentleman is right. The gentleman would have criticized us if we had put a bucket of asphalt or a pound of concrete in the bill.

I checked with the American Association of State Highway and Transportation Officials. States, as a matter of routine, keep road maintenance materials on hand in their highway departments and counties do the same. Those reserves of materials are at an all-time high among the States, because the highway program has been cut back. I am not pointing fingers of blame. I am laying facts out.

This program is not to be done 100 percent by the Federal Government. The States have a role to play, and county highway departments have a role to play, and they have the materials, and the materials are available.

Yes, they should contribute and participate, and they will, because those materials are stockpiled at an all-time high with the county departments.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

What I said, if the gentleman was here, is there is not a bucket of cement or asphalt or steel in this bill to repair or build the bridges. I said I was for the old Wright bill and spoke for it when my party was against the Wright bill, that did build bridges, did build buildings, and that is the kind of bill I think I had a colloquy with the gentlemen before my committee about. That is the kind of bill I think we ought to be supporting today.

Mr. OBERSTAR. I just do not want the impression to be left that the bill will create jobs for which there are no materials and which cannot, therefore, be undertaken, because, in fact, this is to be a partnership with State and local governments; and they do have materials available.

We heard the minority leader talk about moonshine. I want to tell the Members, I think there are some of those on the other side of the aisle who have been taking the moonshine if they think this administration's economic recovery program has been working in the last year and a half. Why is this bill needed?

Let me give the Members a few reasons why this jobs program is needed. In northeastern Minnesota—which provides 70 percent of the iron ore for the Nation's steel industry—Reserve Mining Co., 2,100 workers laid off; Erie Mining Co., 1,650 employees laid off; Butler Taconite Co., 380 employees laid off; National Steel Pellet Co., 1,100 laid off; Inland Steel, 200 employees laid off; United States Steel's Minntac operations, 3,800 employees laid off; Hibbing Taconite, 1,240 employees laid off; Eveleth Mines, 130 workers laid off, a large percentage of that company's work force.

□ 1510

Nearly all the iron ore miners in northeastern Minnesota are laid off. There is 90-percent unemployment among taconite production workers, 85-percent unemployment in the building trades, and the State of Minnesota responded. They did a jobs program very similar to the one that we have before us today. They appropriated $10 million from the future economic development fund that was set aside for the year 2000, but the year 2000 is here now.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. NATCHER. Mr. Chairman, I yield the balance of the time of this side, 4 minutes, to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield.

Mr. WALKER. Mr. Chairman, I have been trying to find out all afternoon just exactly how many people are going to be put to work in districts. The gentleman seems to have some pretty good figures there. Can the gentleman tell me how many people are going to be put to work in the district of the gentleman by the bill that the gentleman is speaking in favor of?

Mr. OBERSTAR. We do not have a precise formula. The gentleman understands that. The gentleman knows very well there is no precise formula.

Mr. WALKER. Well, we have a precise formula here that we are supposed to be discussing.

Mr. OBERSTAR. We can give the gentleman some estimates. We will do that later on.

Mr. WALKER. In other words, the gentleman does not want to do it now?

Mr. OBERSTAR. I want to point out that the State of Minnesota with its $10 million created a jobs program and of those 13,000 unemployed miners 9,000 of them signed up for jobs.

We have heard complaints from people that, oh, how are you going to get a trained craftsman and a trained steelworker to take a job under the conditions of this bill? Well, they are out there. They are lined up.

We have got 3,500 people working in northeastern Minnesota right now under that jobs bill and they are happy to have the jobs. You bet they are. They will take the jobs created under this bill, too.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. Yes, I yield to the gentleman.

Mr. ALBOSTA. Mr. Chairman, I think it would be the wrong conception here to think that this was a long-term solution to our problem.

I think what this Congress ought to be doing, and I think the gentleman from Minnesota would agree with me and so would the chairman of the Public Works Committee and the Labor Committee and the Appropriations Committee; what we ought to do, as our first tasks during the next session of this Congress would be to put together a long-term plan for this country for public works.

Just recently on a trip to Europe, I have seen the way they were keeping up their infrastructure. Their highways are better than ours. Their bridges are better than ours. Their dams and their dikes along the rivers are better kept than ours.

I think it is time we made some changes. I certainly think we should in the Public Works Committee come up with some logical plan for the long term.

Mr. OBERSTAR. I thank the gentleman for his contribution. Time is running short.

There are so many holes in the arguments made on the other side that it is impossible to plug them all, but I do want to address some the points that have been raised on the other side.

Now, how can this program be put into effect, they ask? Yes, it can. It requires that the money be allocated within 30 days.

Can that be done? If this administration is willing to put people to work, if you are willing to go to bat and make the administrative machinery work, it can be done.

In the summer of 1980 under the public works impact program of the Economic Development Administration, a program to create summer jobs was announced on July 1; applications were submitted to EDA by July 9; projects were approved by July 16 and the work was essentially completed by October 15.

You bet it can be done. It can be done if you have the will, if your administration will direct that Labor Department to put people to work; but you are hiding behind a hoax over there. You do not want to put people to work. Jobs are serious business.

Mr. KEMP. Mr. Chairman, will the gentleman stop pointing and answer some serious questions?

Mr. OBERSTAR. Yes, I yield to the gentleman from New York.

Mr. KEMP. There were 8 million people unemployed when the gentleman in the well was with President Carter down at the White House and I never heard one speech from the gentleman about jobs. He did not say anything to Jimmy Carter about jobs.

Mr. OBERSTAR. We were putting people to work. We were voting our jobs program to put people to work. We did put people to work and now we come here with a program for 200,000 jobs, your side says it is too little and it will not work and they do not want to do it, because they do not want to work for a program their President is opposed to. That is why.

We have a program that will put people to work. We have people who want to work and there is a job to be done out there.

From the U.S. Conference of Mayors, a sample of urban—my goodness, they are all excited over there. Maybe they will vote for it, too.

Mr. Chairman, I just want to cite the work that can be done and is needed to be done for example in Detroit, Mich.: sewer system rehabilitation, water system rehabilitation, public works side rock repair, street resurfacing, alley repair.

No, these are not permanent jobs. There is all kinds of work to be done, but we did not come here with a long-term jobs program. We came here with a need facing this country of 13 million Americans out of work and we say put 200,000 of them to work.

Vote for it. Do not talk against it.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, when the talk is about jobs, no State listens better than Ohio. More than most States, even more than most States in the industrial Midwest, Ohio has suffered from the unemployment tragedy during the past 3 years.

In Ohio, our unemployment problems began in the 1970's; for it was then that employment in the State started to decline. Though most of the increase in unemployment took place before 1981, unemployment has continued to rise and it is now double what it was in 1979. In almost every area of the economy—construction, mining, transportation, wholesale trade, retail trade, and even government—employment has declined steadily from 1979. Ohio, which for the early 1970's had an unemployment rate below the national average, now has an unemployment rate of almost 13 percent, after Michigan, and perhaps Illinois, second or third highest in the United States.

No State has a greater need or desire for a meaningful national economic recovery than Ohio. But it is important to stress that this recovery must be meaningful, and not a temporary upturn triggered by myths or gimmicks. Ohioans have had enough of the easy answers; they want real answers.

Less than 1 month ago, we, with a bipartisan effort, took a step in providing a real answer to our economic problems. We, in surprisingly large numbers, agreed that the raid on the Federal Treasury must stop. We, in a strong, unified voice, said that deficits do matter and we were going to do something that hurt politically but was necessary for the good of the country. We, in no uncertain words, promised, less than 1 month ago, to the American people we would cease relying on deficit spending to achieve our economic goals.

Because of that promise we must approve the Martin amendment. That amendment is superior to House Joint Resolution 562 because it will help the truly needy—those who do not receive unemployment compensation, the long-term unemployed and AFDC recipients. Also the Martin amendment must pass because it offsets expenditures for jobs with reductions in welfare benefits, thereby reducing the cost of the amendment below that of the Wright bill. This amendment will not violate the budget and it will preserve the honor of our recent promise to the American people.

As I said earlier no one wants and needs an economic recovery more than Ohioans. But, all Americans want to be able to trust their elected officials. There has been much to discourage them in this latter concern. But last month they saw a new Congress, willing to bite a political bullet and act responsibly. A vote for the Martin amendment will be a vote for economic recovery and for lessening the misery of unemployment but, most importantly, it will also be a vote that reaffirms that this Congress is willing to keep its word with the American people.

Mr. CONTE. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire (Mr. GREGG).

Mr. GREGG. Mr. Chairman, what we are hearing today is a tired rhetoric, it is a rhetoric which evolved in the thirties, went through the forties and fifties, the sixties, and the seventies and was totally disproved as being ineffective. For the last 2 years we have listened to the liberal leadership of this House flay the administration for not having a program, and now what is the program they give us? The same program which they dealt the American people for the last 40 years, a program that failed, a program that gave us high interest rates, high inflation and an economy that suffered under lack of productivity.

What do they want to do, put everybody on the Federal payroll, is that what the idea was from the gentleman from Michigan when he cited that he wanted to put everybody on the program who was out of work?

The fact is that every time you put somebody on the Federal payroll, you reduce the productivity of everybody else in this country, because they have to pay for that job.

The simple fact is that what we have here is a leadership that is intellectually bankrupt and is giving us a political ploy in a political year, and that is all it is.

Mr. CONTE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN) for a stirring speech.

Mr. COUGHLIN. Mr. Chairman, certainly the debate we have had this afternoon has indicated the travesty of this 1930's WPA program that is being proposed.

The majority leader waved about in the Rules Committee pictures of the needs for changes and improvements in infrastructure and talked about bridges and roads; but this bill, we know, is not going to build a bridge or a road.

Right after we consider this bill we will have the transportation appropriations bill up. That is where the roads are built. That is where the

bridges are built, not in the bill here that takes untrained people and puts them on for 6 months and about the time they learn what they are doing, they are off again and they are nonunion people, anyway.

There is a requirement in the bill that projects have to be only for physical improvements. Well, every community that will get its ladle of the goodies will have to look for physical improvements that they may not even need. That is what they will be making, physical improvements that we may not need in any case. Those improvements and those jobs and those programs should be done through the process that we have, through public works, through the transportation appropriations and other appropriation processes; that is where we develop those kinds of programs.

□ 1520

It is said this bill will reduce the amount of unemployment compensation necessary. We know that is not true. We will be paying both the unemployment compensation and the money for this bill one on top of the other. It is bad legislation. It is a bad program.

There are claims that we are going to really have people at work and working at jobs that are not leaf-raking jobs, and that is just not the case.

Mr. KEMP. Mr. Chairman, will the gentleman yield to me,

Mr. COUGHLIN. I would be glad to yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Chairman, the only thing people learn from history is that no one seems to learn from history—I thank my friend for yielding and I agree with him totally.

John Maynard Keynes once argued that we could get our economy moving by paying people to bury empty bottles in the sand and then dig them up again. Even when Keynesian orthodoxy was at its dizziest height most people could not swallow that. But if we pass this so-called jobs bill, Congress will be swallowing that notion today and repeating the mistakes of history.

Yes, of course we need a jobs program. I do not need to hear any lectures about unemployment, when I represent a district where unemployment is near 13 percent, where more than half of the autoworkers and steelworkers are out of work, many since 1979, and where families are in danger of losing their homes and possessions as their unemployment benefits run out. I agree with Members on both sides of the aisle that it is both callous and economically wrongheaded to tell unemployed workers that their personal economic catastrophe is the price we have to pay to bring down inflation. Recession is no answer to inflation and unemployment is no solutio to rising prices.

I support a full-scale jobs program for this Nation. This is why I have called for a repudiation of a monetary policy that through a Federal Reserve-engineered credit crunch has destroyed thousands of businesses and millions of jobs. This is why I have supported tax incentives for jobs and more production. This is why I have introduced legislation to create jobs and enterprise zones in America's hardest hit communities—a real jobs program with bipartisan support that this Congress has not yet acted upon. This is why I have supported a major Federal job training initiative, and unemployment compensation reforms to protect workers in our struggling industrial communities.

What we are being offered today, however, is not a strategy for creating permanent, well-paying jobs. The Democratic leadership is instead proposing to renew a bankrupt experiment: already twice rejected by this Congress in the fiscal year 1982 reconciliation bill and the Job Training Partnership Act; in creating short-term, dead-end jobs by transferring resources from workers and entrepreneurs to the Government through increased spending and borrowing.

True, those temporary public sector jobs will be highly visible. It is much harder to see the jobs that private enterprise, and above all the small businesses that are the great job generators of our economy, will lose or fail to create. It may make political sense to trade some visible temporary jobs for more, and more permanent, jobs in the private economy. And this is certainly a political bill. But I will not offer that kind of false promise and unfair economic sleight of hand to the unemployed workers in my community, because it offers them nothing.

My friend and colleague, the gentlelady from Illinois (Mrs. MARTIN) has proposed a substitute jobs measure which I believe is far more likely to create new opportunity. Rather than just tax away private jobs to create public jobs, the substitute amendment would take money from an unnecessary and unfair Federal corporate welfare program: the Synfuels Corp. Instead of extending eligibility to any worker who has been unemployed at least 2 weeks, it insures that jobs will go to the neediest, to welfare recipients and the long-term unemployed. I commend her efforts, and strongly urge my colleagues to support this substitute which targets real jobs to areas hardest hit by unemployment and not spread a few jobs over all areas of the Nation.

We need to focus attention on the Federal Reserve high interest rate policy which is strangling the oxygen supply of our "body-economic."

Let Congress once again exercise its constitutional responsibility to regulate the value of money and pass legislation that will direct the Fed to lower interest rates not by printing more money but by changing it's target from the supply of money to the stabilization of the purchasing power of money.

Mr. WRIGHT, Mr. BYRD of West Virginia, Mr. QUAYLE, Mr. BOWEN of Oklahoma, and Mr. MITCHELL of Maryland are Members of Congress who are progressive enough to realize the failures of Monetarism and the need to return to the normalcy of lower interest rates when the Fed target the price of money, real interest rates and more stable exchange rates. I join them in efforts to focus attention on a more positive and progressive monetary policy for American jobs.

Mr. COUGHLIN. The majority leader referred to this as a tourniquet. It is not even a band-aid.

● Mr. FRENZEL. Mr. Chairman, I rise in opposition to House Joint Resolution 562, the urgent supplemental job bill. In my judgment, this bill is contradictory to all of our continuing efforts to bring fiscal responsibility back into the Federal budget.

This good old-fashioned make-work program right out of the 1930's increases Federal deficit by a billion dollars. In addition, the Department of Labor estimates that House Joint Resolution 562 would increase outlays on unemployment compensation by $220 million.

The sponsors of this bill claim that it would provide productive, meaningful work. Yet we have passed this sort of bill again and again over the past 50 years with little effect except that we spent money uselessly. We also provided some overtime to employees who had jobs anyway.

There are no provisions in this proposal for vocational training. Planning and administrative costs are not considered in the resolution. The criteria for hiring and eligibility are vague. In fact, the whole bill is fuzzy.

Passing this bill will, in my judgment, create another high-priced CETA-type program that will fail to provide decent employment. Instead, its extra cost will delay permanent solutions to the unemployment problem.

This bill has all the odors and barnyard sounds of a purely political exercise. All it does it to present another splendid opportunity for the American taxpayer to fund another poorly planned, misguided, and wasteful Government program. The taxpayer does not deserve this, nor do the employed whose employment opportunities will be delayed by this extra, unneeded expenditure. I urge my colleagues to vote against this resolution.●

● Mr. MAVROULES. Mr. Chairman, I rise in support of House Joint Resolution 562.

Jobs, jobs, jobs, Mr. Chairman. That is what we are talking about today, and it is about time.

This resolution will put hundreds of thousands of Americans back to work—meaningful, important work, restoring this Nation's crumbling economic infrastructure of roads, bridges, water, and sewer systems, and public facilities.

With over 10 million Americans unemployed, the most since the Great Depression, the most important work on our agenda must be to put America back to work. Back to work now.

We can no longer be patient with the way things are going. Unemployment lines simply grow longer.

Patience does not put money in the pockets of laid-off American workers. Or food on their table. Or clothing on the backs of their children.

Only work can do that.

It is ironic that there are those of us who continue to refuse to address this problem, claiming the cure being offered today is worse than the disease. That this $1 billion jobs programs means more tax dollars for the Government and a bigger budget.

That is utter nonsense. In case you have missed the point before, let me stress it now. Growing unemployment means more Federal spending: $20 billion tax dollars are now going out to aid the unemployed in the form of unemployment compensation.

It is cheaper today to put people to work than it is to keep them in soup lines.

There is another group around here that continue to hold on to the notion that Government has only an indirect role in resolving unemployment problems. That jobs creation is the domain of the private sector, helped along the way, when the need arises, by Federal tax incentives.

I would say to these folks that we have tried that route last year, with the biggest business tax incentive program in the Nation's history.

The result? Again, over 10 million Americans are unemployed today; 3 million since this administration took office.

The lesson of the past year and a half is that business cannot do it alone. That Government has a major responsibility in addressing this national problem.

This resolution meets that responsibility. And, again, it does it in a way that not only helps the unemployed but also the economy at large.

There is a lot of work to be done to turn this economy around. The most important of which is repairing the roads, bridges, and public facilities that support our economy—the Nation's infrastructure.

Forty-five percent of all the Nation's highway bridges, for example, are in need of repair, or worse, obsolete. It is this way too in other parts of the infrastructure.

Can we not take off our ideological blinders for one moment, for one vote, and see the connection between the crumbling foundation of the economy and this modest jobs program?

For us to continue to take a hands-off policy to our unemployment problem is dead wrong.

Ten million Americans are hollering for work. The private sector alone can not meet the challenge. And we simply cannot afford the cost of continuing as we have. I stress this point again.

There is work to be done, Mr. Chairman, so let us put the unemployed to work doing it.●

● Mr. WEISS. Mr. Chairman, the urgent supplemental appropriation to create public works employment is only a small step in the direction Congress must act to counter current depression-level unemployment. Using Federal moneys to provide useful, productive work to those most in need reflects our Nation's commitment to employment for all those able to work.

Still, the $1 billion appropriated in the resolution before us is woefully inadequate in this current crisis of unemployment. Five or ten times this amount could be usefully applied to create jobs which serve public needs including repairs and improvements to the Nation's infrastructure. Unfortunately, the President has led an all-out assault on the unemployed by chopping away at funding for job training and employment assistance and forcing an end to public employment programs. Hopes for rapid, significant improvements in the labor market have been felled by this disregard for American workers.

We now have the largest number of unemployed, involuntarily part-time workers, and discouraged workers since the beginning of World War II. The official unemployment rate for August was 9.8 percent, and it is likely to rocket above 10 percent in the coming months. Almost 11 million Americans who want and seek work are not able to find jobs, and additional millions have stopped looking or can find only part-time work.

Nearly 2 years after President Reagan's election, it is obvious that his economic program is not working. No longer can we suspend our better judgment and accept empty promises of imminent economic recovery. Congress cannot wait for the President to acknowledge these uncomfortable realities and his pathetic policy failures. We cannot wait until the economy reaches crisis proportions before taking action.

House Joint Resolution 562 would provide approximately $1 billion to the Labor Department for youth employment and training programs. This money is stopgap in nature, a mechanism made necessary by the sluggishness of the President's economic program. The resolution properly targets aid to areas with high unemployment and prohibits displacement of existing jobs.

Equally important, the assistance given under this legislation would be provided for the purpose of making improvements in our public works infrastructure. This application of public employment funding is both productive for the economy and necessary to our crumbling infrastructure. According to a recent study, "America in Ruins":

One of every five bridges in this country requires major rehabilitation or reconstruction;

Many of our harbor facilities are unable to service efficiently world shipping coming to American docks;

The 756 largest urban areas will require between $75 billion and $110 billion over the next 20 years to maintain their water systems;

Over $40 billion must be spent in New York City alone during the next 5 years to repair, service, and rebuild basic public infrastructure;

Over $25 billion will be required over the next 5 years to meet current water pollution control standards.

These public works are vital to our Nation. The emergency funding provided in House Joint Resolution 562 should be used as a model for a permanent countercyclical public works employment project for the structurally unemployed. This would be used to create jobs when construction in the private sector declines.

The Democratic leadership is to be commended for stepping in with this bold funding proposal when Reaganomics is dismally failing the American people. The President had had his chance and his ideas have proved bankrupt. I urge passage of House Joint Resolution 562, which will help put more than 200,000 Americans back to work.●

● Mr. MARKEY. Mr. Chairman, I rise today in support of House Joint Resolution 562. I believe it is essential that we pass this resolution today. The American economy cannot wait. The jobless millions cannot wait. The hungry families cannot wait. This Congress must not wait. The administration tells us that recovery is on the way and that we are approaching the promised land. I suggest that recovery has been lost on the way and that we are approaching the barren land of broken promises.

In August, 9.8 percent of the American people were out of work, including 7.3 percent of the work force in Massachusetts. These statistics should not just upset us. They should outrage us. For these are not merely statistics. These are individuals—your constituents and mine—out of work. This bill

will at least put some of them back to work. It will restore human dignity and a feeling of worth to the 200,000 Americans who could immediately be put back to work repairing and rebuilding our bridges, roads, and water systems.

The administration opposes this bill, claiming that public service employment has been tried before and has failed. Tell that to the millions of Americans who have benefited from public works projects across this country. The administration claims the bill is too costly. Tell that to the millions of Americans outraged by the bloated defense budget of the administration. The administration claims the bill fails to address the unemployment problem.

Tell that to the 200,000 Americans who will be put back to work.

This bill is by no means a panacea for the problems of our economy. But it is a start. I ask Democrats and Republicans alike to join together to share this new beginning. Let us demonstrate our willingness to search for answers to the problems that the administration seeks to ignore. If the economy is to thrive again, we must restore work to our citizens.●

● Mr. BEARD. Mr. Chairman, I want to say that in refusing to vote for your so-called jobs legislation I am doing so with good reason. You have obviously introduced this bill for purely political reasons and in so doing are playing on the emotions of those unfortunate Americans who are now unemployed. To be so cynical is a shameful use of the legislative process.

I never cease to be amazed at your ability to avoid looking at the real cause of our current economic problems. When the prime interest rates reached the unprecedented heights of 21.5 percent under Jimmy Carter I do not seem to recall your expressions of outrage. Instead you and your liberal colleagues were still proposing the expansion of the Comprehensive Employment and Training Act, despite the fact that CETA had proved to be a total failure.

I would suggest to you that this current bill will do no more than did CETA at the outset, and if given time will expand into a huge new bureaucracy that only aids those with political connections.

Last month's unemployment rate was the same as prior month's. Let us hope that we have finally seen the bottom of this particular recession. If that does not prove to be the case, I would suggest that we all gather after the coming elections to consider the bill for its purely humanitarian aspects rather than just a political diversion to enhance your own reelection prospects. I would remind you that there is already a growing movement to convene such an extraordinary session. As you know, that movement stems from a bipartisan effort to examine the ailments of a social security system that you and some of your colleagues continue to diagnose as healthy.●

● Mr. AuCOIN. Mr. Chairman, I rise in support of House Joint Resolution 562, the urgent supplemental appropriation to put unemployed Americans who are desperate for work back to work in communities that are suffering severe rates of unemployment caused by the scorched-earth policies of this administration.

We have heard here today from the opponents of this resolution that it is only a bandaid, that it will not go very far to relieve the worst economic misery this Nation—and my State of Oregon—has been suffering since 1933.

Mr. Chairman, that this resolution is no panacea is not in dispute. But when people are bleeding, as they are in my State, whatever bandages as are available ought to be applied. I refuse, when there is an opportunity to do something—and to do it within the budget this Congress has already adopted—to do nothing and just let them bleed.

That is the attitude we have heard expressed over and over by the administration's cheerleaders. Mr. Richard DeVos, the finance chairman of the Republican Party, captured the essence of that attitude when he said on June 4 of this year that this recession "has been a beneficial thing, a cleansing thing for this society."

I will tell you how cleansing the administration's policies have been. They have cleaned the economy of jobs and businesses faster than any administration since Herbert Hoover's.

Mr. Chairman, this was the economic program that was supposed to unleash the most immediate, unprecedented economic boom this country had ever seen. It was only that promise of general prosperity that kept this program from being seen from the outset as a raw shift of resources from the folks at the bottom of society to the folks at the top—a massive shift of resources away from programs that create jobs and pay dividends to the Treasury in order to accelerate the building of bombs and missiles.

In my State, Mr. Chairman, there is another shift going on as well—a shift of human resources. I look at the unemployment figures for Oregon and note that they have declined for the last 3 months running—from 10.9 percent in June to 10.1 percent in August, from 145,100 unemployed down to 131,900 unemployed. But over the same 3-month period, the figures show that total employment has declined by 15,900 jobs, while 29,100 Oregonians have dropped out of the State's labor force.

I see the victims who make up these statistics in my district, Mr. Chairman. I see them standing alongside the freeway interchanges outside Portland, with suitcases in hand and signs marked "Sacramento," "Denver," "Salt Lake City"—anywhere they think there may be jobs to be had, for there are none to be had in Oregon.

This bill will create several thousand jobs in Oregon for people who are desperate to work and for whom a job of any kind, of any duration, is better than nothing, which is the only answer the opponents of this measure have to give.●

● Mr. WILLIAM J. COYNE. Mr. Chairman, I rise in strong support of House Joint Resolution 562, the urgent supplemental appropriations for jobs.

In this body, we often hear the word "urgent" used to describe a particular appropriations bill. For the 200,000 unemployed Americans who stand to gain useful, productive, temporary employment as a result of this measure, the word "urgent" is not an overstatement of the need. For some, especially those who face a cutoff in unemployment benefits as a result of administrative policy, the situation is near desperate. If we fail to approve this bill today, many Americans will continue to be victims of a stalled economy.

While there may be economic jubilation on Wall Street, there is little hope on the Main Streets throughout western Pennsylvania for an upturn in the economy. The disastrous economic policies of this administration have forced thousands of workers, especially those in backbone industries such as steel, onto the unemployment rolls. In July 1981, the unemployment rate for wage and salary workers in primary metal industries was 7.8 percent. In July 1982, after 1½ years of Reaganomics, that figure rose to a frightening 20.3 percent unemployed. I would like, at this point, to share with my colleagues the unemployment rates for primary metals and other industries:

UNEMPLOYMENT RATES FOR WAGE AND SALARY WORKERS IN SELECTED INDUSTRIES

[In percent]

Industry	July 1981	July 1982
Manufacturing	7.3	12.0
Durable goods	7.1	12.7
Lumber and wood products	10.9	17.0
Furniture and fixtures	7.2	13.3
Stone, clay, and glass products	6.2	14.5
Primary metal industries	7.8	20.3
Fabricated metal products	8.5	16.9
Machinery, except electrical equipment	5.2	10.9
Electrical equipment	6.1	9.2
Transportation equipment	8.7	13.0
Automobiles	11.8	15.9
Other transportation equipment	6.2	10.9
Nondurable goods	7.6	11.0
Food and kindred products	10.1	12.0
Textile mill products	8.5	19.3
Apparel and other textile products	12.1	15.0
Printing and publishing	4.9	7.0
Chemicals and allied products	4.6	5.8
Petroleum and coal products	4.6	4.6
Rubber and plastic products	9.3	13.9
Transportation and public utilities	4.1	6.1
Wholesale and retail trade	7.9	10.5

UNEMPLOYMENT RATES FOR WAGE AND SALARY WORKERS IN SELECTED INDUSTRIES—Continued

[In percent]

Industry	July 1981	July 1982
Finance, insurance, and real estate	3.8	5.4
Services	6.2	7.5
Private households	5.9	7.7
Other services	6.3	7.5

Source: Appropriations Committee.

The administration and its supporters contend that we should not develop temporary jobs for the unemployed of these and other industries. That would be too expensive, they argue. I would submit that what is costing the Government money at this point is not Federal action on employment, but Federal inaction on unemployment. The mistaken economic policies of this administration have proved expensive. In this fiscal year alone, the Federal Government will spend more than $20 billion on unemployment benefits. House Joint Resolution 562 appropriates only 5 percent of the amount in order to put people to work repairing and maintaining bridges, improving deteriorating streets, rehabilitating aging water systems, repairing public buildings, and other productive activities. In Pittsburgh, these are jobs that need to be done. I can assure my colleagues that we also have the people, many of whom are nearing the end of their unemployment benefits, who are ready to do the work.

Let us put them to work. Let us not stand in the way of allowing the jobless to become productive members of our society. Let us pass House Joint Resolution 562, the urgent supplemental appropriations for jobs.●

● Mrs. BOUQUARD. Mr. Chairman, while opponents of this bill are elaborating on its shortcomings and why it should not be passed in its present form, 10 million Americans are out of work. These are 10 million who are unable to make a significant contribution to any kind of economic recovery. Instead of being productive workers and taxpayers providing needed stimulus to an economy whose industrial output is 10 percent below last year and helping to reduce record high Federal deficits, these people will be drawing $20 billion in unemployment benefits. This bill, although providing employment for only 6 months, will put the long-term unemployed back to work and, more importantly, put them to work at gainful employment.

Testimony before the Economic Development Subcommittee indicated that needed investment in public works is upward of $400 billion including $300 billion for highways, $48 billion for bridges, and $90 billion for railroads. This same testimony showed that total public construction spending by all levels of Government was only $50 billion for 1981. So we have an urgent public need for these improvements and we have an urgent need for jobs. The obvious solution is to put the two together.

My own district just recently experienced heavy flooding. Damage was extensive; two counties were declared disaster areas. The July unemployment figures for those two counties were 12.2 percent and 14.8 percent. Again, here was a need for able-bodied workers to provide assistance to victims of the flooding, to repair roads and bridges, to rehabilitate public buildings and to work on flood and erosion control. And here was a total of 18,690 people out of work. A program such as this could relieve a great deal of suffering for the people of my district. It deserves to be passed in its existing form.●

● Mr. HOLLENBECK. Mr. Chairman, I rise in strong support of the supplemental appropriations bill before us this afternoon to provide immediate short-term relief for unemployed workers. This program is clearly the quickest means of putting the most people in jobs. With approximately 10 million Americans presently unemployed, I think we can little afford to delay this much-needed appropriation.

It is my understanding that of the funds appropriated under House Joint Resolution 562, the overwhelming margin, nearly 85 percent, would be used to provide jobs for the unemployed. The remaining 15 percent would be allocated to the Labor Department for youth employment and training programs. Jobs provided under the bill could last no longer than 6 months and the maximum salary would be $5,000. The measure would prohibit the displacement of currently employed workers with funds provided under the bill. It would offer temporary employment for the repair, maintenance, and rehabilitation of public facilities as well as the conservation and improvement of public lands. Certainly, we all realize that the repair of many public facilities and similar work on public lands is also a current priority. What better way is there to make these needed repairs than to put some of our current 10 million unemployed back to work at the same time?

Furthermore, House Joint Resolution 562 targets assistance to those areas with the highest unemployment. It gives State and local governments the ability to accomplish useful projects many of which have been deferred because of Federal program cuts. House Joint Resolution 562 has also been carefully drafted to make use of State and local government experience in implementing similar Federal jobs programs during the past.

Mr. Chairman, this appropriation is needed and it is needed now. I urge my colleagues to join me in voting for passage of House Joint Resolution 562 and providing jobs for thousands of unemployed workers and helping to recover our Nation's heavy investment in people and national resources.●

● Mr. GONZALEZ. Mr. Chairman, I support this effort to put people back to work.

We have 11 million Americans out of work today, almost 10 percent of the total labor force. Most of those have been out of work for better than 5 weeks, most are people who have been laid off because of economic conditions, and most do not have unemployment insurance benefits.

For the first time since the Depression, we have a growing number of poor people, not a shrinking number. For the first time since the Depression, the Nation is seeing its wealth shrink, not grow.

At a time when there are millions of idle people, we have a President who proclaims that antipoverty programs did more harm than good. Did it harm children to get a decent education? Did it harm people to get decent diets? What harm was there in job training, or in putting people to work? Is he saying that it is better to have millions unemployed than it is to bring people out of poverty? Is he saying that a 100-percent increase in teenage unemployment is good for us? That a 100-percent increase in the overall rate of unemployment since 1980 has brought joy to the Nation?

We need this bill because Americans need work.

We need this bill because our highways, our bridges and all manner of our public facilities are in a state of disrepair. This bill provides a billion dollars. This Nation could easily use 100 times that much and still not repair its eroding public facilities. At a time when so much needs to be done, it is a shame not to get it done.

Earlier this year, I suggested that we should develop a public works trust fund—much like the highway or airport fund. I suggested that we should have a dedicated tax for the sole purpose of providing urgently needed maintenance and replacement of public facilities—the roads that have been too long neglected, the bridges that are in a state of disrepair, the water and sewer works that need replacement, refurbishment or extension; the schools that need attention, the parks that have been ignored, and all the rest. I asked, when there is so much work to be done, and so much of it urgently needed, how can we tolerate mass unemployment? The answer is that we cannot.

This bill is a step in the right direction. We need to go further. We need to set up a long-term program to build and replace public facilities. We could do this through a dedicated tax.

President Reagan has said that he is against welfare, against dependency.

Everybody is. But he also opposes programs to provide work to people who have been thrown out of jobs through his economic program. He says he is against dependency, but his programs create it. This bill aims to provide work to people who cannot in any conceivable way hope to find work in today's depressed economy. It aims to provide jobs to people who need jobs, work for people who want to work. I support it, I commend those who brought it forward, and I condemn those who have brought us to this sorry and endless recession, and who then smile and say that poverty builds character. Only in Hollywood. Everywhere else, poverty is a blight and a badge of shame, something to escape. This bill is a ladder out of the pit of Reaganomics. It deserves our support.●

● Mr. CLAY. Mr. Chairman, it is critically important that we enact the urgent supplemental appropriations for jobs legislation (H.J. Res. 562). Unemployment is our Nation's most urgent problem and it should be this Congress' foremost priority. Instead, we have done very little to help the more than 15 million unemployed Americans. Until Congress gives some impetus to help relieve the unemployment crisis we are negligent in our responsibility to promote the human enterprise. We must take positive steps today to alleviate the adverse impacts of the unemployment situation or our Nation's economic ability will continue to stagnate and the quality of life in American society will continue to diminish.

The causes of today's unemployment are multifold. We live in an ever-changing world where priorities and conditions; truths and untruths are apt to overturn without warning. Congress does not have a single formula for restoring our Nation's positive growth and prosperity, and the jobs appropriations bill is not the solution to the widening gap between the real job availabilities and the skills of the average unemployed worker. Obviously, we must formulate and institute long-range employment policies to address these needs. But, in the meantime, we must be pragmatic and acknowledge the real needs of the unemployed American. The urgent supplemental appropriations for jobs legislation is an honest step in the right direction. The jobs it will create will be of tangible benefit to all citizens.

As elected Representatives of the people we cannot pretend to tolerate the conditions of unemployment any longer. Unemployment perpetuates a dangerous waste of human talent and ultimately destroys lives. Less than maximum productivity is neither healthy nor moral. Government has a duty to help keep the willing and able-bodied citizen employed. People are our most precious resource. We must begin programs to utilize the talents of all our citizens. We cannot continue to waste our most precious resource or we will become a very poor nation. Full productivity is the only key we have to the future. I encourage my colleagues to move in the direction of a more productive future and to support the urgent supplemental appropriations for jobs legislation.●

● Mr. BROWN of California. Mr. Chairman, today we are considering a $1 billion jobs package, a package which will have a substantial impact on my district—a district which now has an unemployment rate of more than 13.6 percent. For these people, the economic recovery is not "just around the corner." In fact, my area's unemployment rate rose a full 2 percent from July to August. To these unemployed people, and others affected by their unemployment, it appears that the U.S. Government, including the Congress, intends to maintain its "wait and see" attitude.

But to follow this policy while economic indicators continue to decline or sputter along is callous and irresponsible. While I realize that some of my colleagues are committed to the President's economic philosophy, we must also consider the individuals affected by this severe recession. A 9.8-percent unemployment rate nationwide is unacceptable no matter what economic philosophy one adheres to. This jobs package, while not the complete answer, is one small, temporary step which will help to alleviate the problem.

The $1 billion requested to fund this antirecessionary program is admittedly a stopgap measure. It equals only 5 percent of the unemployment compensation for this fiscal year. But it will help to renew the hope and promise of America. There are some, no doubt, who will argue that $1 billion is far too much; that we must consider the ever-increasing Federal deficit; that this will only exacerbate the entire economic woes of the country. But neglected in all this rhetoric is the fact that it has been estimated that for each percentage point of unemployment, the Federal Government loses $25 to $40 billion in reduced revenues and increased benefits. By spending a few dollars now, we may save more in the long run.

And these savings will not only be done on the Federal level. This bill will help to get people back to work in worthwhile productive jobs which, because of other fiscal constraints, have been neglected. These new jobs will be of tangible benefit to a community in such areas as street repair, bridge repair, rehabilitation of public buildings, park and playground rehabilitation, and repair of water systems. And it rewards people for their productive work, rather than merely sustaining them with unemployment compensation or other Federal benefits. This is in the tradition of the American work ethic.

No one should expect this bill to work miracles. In coordination with this measure, we must work to strengthen the very foundations of our economy. Government does have a vital role in this area which cannot be ignored. We have the responsibility to enhance the peformance of American industrial productivity. The present administration, and many of my own colleagues, believe that the Government of this great country has no business in job training and creation. I do not agree.

To sustain a revitalization of our economy, we must commit ourselves to training the hard working, displaced worker as well as the young, inexperienced worker for the jobs of the future. We already have many of the resources for such an endeavor available. The National High Technology Technician Training Act, H.R. 6950, sponsored by Congressman WALGREN, is but one example on how to approach this problem. By encouraging the training to take place in our already established community colleges, we use our available resources to meet our future needs. Other programs which help to acheive this vital goal include the Defense Production Act, H.R. 5540, and the the Jobs Training Partnership Act, H.R. 5320.

The appropriations set aside today for the formation of additional jobs cannot possibly resolve our economic problems. But neither will it harm it. The problems inherent to the unemployed cannot be ignored. Congress has the responsibility to soften the economic blows which may have been exacerbated by its very policies. I urge my colleagues to remember the plight of the unemployed and support this measure.●

● Ms. FERRARO. Mr. Chairman, I rise in support of House Joint Resolution 562, aid in opposition to the substitute, and I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, this legislation is our chance to prove, by action instead of mere words, that we are committed, as a top priority, to putting people back to work. This program does not say "let us cross our fingers and hope interest rates will come down, or investment in productive enterprises will go up, or that by some magical and mystical formula people will find work." This bill is simple and straightforward. It provides jobs—200,000 jobs—for people who are unemployed.

This is truly an urgent supplemental appropriation. Unemployment is now at 9.8 percent, and is expected to go even higher. Officially, there are 10.8 million people unemployed. That figure does not, however, include another 1.5 million "discouraged work-

ers," who have been unemployed so long they have given up looking, and 5.5 million more who have had their working hours shortened because of the recession. The total number of workers unemployed or underemployed is 17.8 million, or over 15 percent of the work force.

On the basis of the unemployment picture alone, then, this bill is justified. We cannot continue making speeches about "putting America back to work" and banging our fists on the table shouting "jobs," "jobs," "jobs." We need direct action to provide jobs, and this bill so acts.

But the bill's value goes even beyond simply providing work for people who need it. The jobs provided will help address one of the most serious problems facing our country today, the crumbling public infrastructure.

The need for renewed efforts to rebuild America's public physical plant has been increasing at a dangerous rate. Streets strewn with potholes, collapsing subway tunnels, falling bridges, and leaking water supply systems plague our major cities. Municipal parks where you once could run barefoot through the grass are now minefields of broken glass.

I represent the city with the greatest public infrastructure repair needs. Estimates of the funds needed to repair New York's 6,000 miles of streets, 6,200 miles of sewers, 775 bridges, and 1.5 billion gallon-a-day water system range from $20 to $40 billion. While the situation in New York is more serious than that in other cities, every major metropolitan area, in all regions of the country, faces the same issues.

These two problems—rising unemployment and the need for repairs of public facilities—seem made for each other. The bill before us addresses both of them by putting the unemployed to work repairing streets, rebuilding bridges, rehabilitating public buildings and parks, and repairing water systems.

Putting people to work on public facilities is not a new approach. In fact, this bill is the direct descendant of Franklin Delano Roosevelt's Works Project Administration. It is an idea that has been tested, and it works.

Far from being a make-work scheme, the WPA achieved tremendous results. In its first year alone, the WPA built over 6,000 schools, 5,000 other public buildings, 7,000 water and sewer systems, and 130,000 rural roads. President Reagan, in an interview last December, expressed his unreserved admiration for the WPA's accomplishments.

There are two additional points I would like to address. Opponents of this legislation make two basic arguments. They argue that with almost 11 million unemployed, creating 200,000 jobs is not enough, and they say that the bill's cost, $1 billion, will "bust the budget."

Let me point out that to some extent, those positions are contradictory. The first statement asserts that the bill is too small, and will not do enough, and the second says the bill is too big.

Obviously, this bill will not solve the unemployment problem. But it is a constructive step, and for the 200,000 Americans who are now out of work and who will get jobs under the plan, it is the best economic news they have had in months.

As for the argument that it costs too much, this Congress, by passing the supplemental appropriations bill over the President's veto, saved almost $2 billion that the President had requested. The bill before us spends only half that, and there is no better purpose to which that money could be put than giving people jobs.

There is no reason why we cannot recreate the success of the WPA. There is no doubt that the times require serious, direct action to give jobs to people who are without them. I urge my colleagues to support this bill.●

● Mrs. COLLINS of Illinois. Mr. Chairman, today I rise in support of the urgent supplemental appropriations for the Department of Labor now before us. With over 10½ million persons out of work and dismal prospects for increased employment opportunities, there is no more urgent or important business facing the Congress than putting Americans back to work. It has been over a year since the President's economic recovery programs became law. Induced by promises of prosperity—including fourth quarter unemployment projections of 7 percent for 1982—the Congress has given President Reagan everything he wanted. As a result, the jobless total has risen 2.9 million in the last year, unemployment in July peaked at 9.8 percent (the highest since the Great Depression of the 1930's), and 1½ million more persons have simply stopped looking for jobs and therefore are not counted as unemployed.

This bill offers the Congress an excellent opportunity to give Americans a chance to put their skills and talents to work on vital public works and public health and safety projects which are of tangible benefit to communities and individuals, especially those experiencing the greatest hardships. Many will say that these programs provide only makeshift jobs, but if you look around at cities and towns across this country, you will see that our public buildings are in disrepair, water systems need repairs, roads and bridges are deteriorating, in short, useful jobs are there, and the challenge to put the skills of the unemployed to work, rebuilding their communities lies before us. The time to act is now. So far, the recession has cost at least $83 billion in lost incomes and output. The number of persons living below the poverty level rise by 2.6 million during the past 12 months and is certain to increase significantly due to the devastating impact high interest rates have had on the economy, which in turn has brought record unemployment.

I urge you to join me in supporting enactment of this essential effort to adopt a new course and remove some of the obstacles now encountered by hopeless and discouraged jobseekers nationwide.●

● Mr. FORD of Michigan. Mr. Chairman, the emergency jobs initiative is vitally needed legislation. The bill would create approximately 203,000 jobs, mainly in those areas where unemployment is highest and jobs are needed the most. With nearly 11 million Americans unemployed, we can no longer sit back and hope against hope that the Reagan recovery program will work as the unemployment rate continues to climb. Three million Americans have lost their jobs since July of last year, and more will be lost if the Congress does not repudiate Reaganomics and act swiftly to save the economy.

The emergency jobs initiative is a first step toward recovery for the whole Nation. It will put unemployed people back to work, doing useful projects which State and local governments, hard hit be recession and falling tax revenues, cannot afford to do themselves. The jobs that will be created, such as filling potholes, repairing public buildings and conservation activities are not "make-work." They will bring about real improvements in our communities and will benefit every taxpayer. I know with absolute certainty that the cities and townships in my congressional district will have no trouble finding productive work to match the skills and energy of the jobless people who will be employed.

How can David Stockman and his followers complain about the cost of this bill? Since July of last year, President Reagan's policies have cost the taxpayers $3 billion in additional unemployment compensation costs. I would far prefer that the Government pay to employ people than that it pay unemployment insurance and get no productive work in return.

I regret that this legislation will not help all of the millions of jobless workers, but as I said earlier, it is a first step in the right direction. The emergency jobs initiative will not exceed the President's budget. It is a responsible measure that will benefit thousands of communities and hundreds of thousands of needy Americans and their families. I urge all of my colleagues to support it.●

● Mr. BOLAND. Mr. Chairman, few bills deserve the description "urgent supplemental" as much as House Joint Resolution 562.

As my colleagues know, House Joint Resolution 562 will provide $1 billion to the Department of Labor. The funds will enable approximately 200,000 unemployed Americans to secure temporary employment at a time when employment prospects in the private sector are bleak.

There can be no argument over the fact that people want, and need, jobs. The Reagan administration took office promising "jobs", "jobs", but that promise remains unfulfilled. Unemployment has increased since the administration took office, and we now face a situation where 11 million Americans are out of work. Actually, the situation is worse than that because in addition to the 11 million people officially listed as "unemployed," an additional 1.5 million have given up trying to find work and therefore do not even show up in the statistics.

It seems to me that we have two choices. We can wait for the President's economic program to live up to its billing, and produce the economic resurgence it was supposed to guarantee; or we can take some action that will help some of the people who do not have jobs. I believe that we have waited long enough and that we cannot ask the people who are out of work to wait any longer. We must provide some relief, and House Joint Resolution 452 is a bill which can accomplish that goal.

This legislation will put people back to work, and it will have them working on what should be one of our national priorities—the reconstruction of our deteriorating infrastructure. Our roads, our bridges, our ports, our water systems—all of the structures upon which a healthy economy depends—need repair. The private sector is not going to do that job, and State and local governments do not have the resources to do it; it is going to be up to the Federal Government. It is a job that should not be delayed any longer, and passage of House Joint Resolution 452 will allow us to get started on it.

Mr. Chairman, no one piece of legislation is going to cure our economic ills or resuscitate the physical plant of this Nation. An inability to do everything we need to do in one neat package, however, is no reason to wring our hands and do nothing. House Joint Resolution 452 is admittedly a small step, but it is an important step and, I believe, a constructive step. It deserves our support.●

The CHAIRMAN. Under the rule, all time has expired.

Pursuant to House Resolution 582, the joint resolution is considered as having been read for amendment under the 5-minute rule. No amendments are in order except one amendment offered by Representative MICHEL or his designee, which shall not be subject to amendment but which shall be debatable for not to exceed 1 hour, equally divided and controlled by Representative MICHEL or his designee and the chairman of the Committee on Appropriations.

The joint resolution is as follows:

H.J. RES. 562

Whereas unemployment has increased to 9.5 per centum on a national basis, varying from a high of 14.3 per centum in the State of Michigan to a low of 4.3 per centum in the State of North Dakota;

Whereas unemployment compensation payments have reached an annual rate of over $20,000,000,000;

Whereas hundreds of thousands of workers have exhausted the period of time for which they are entitled to draw unemployment compensation;

Whereas legislation is now pending to extend that period, which will increase the cost; and

Whereas it is deemed to be to the best interest of the unemployed and the Nation that productive and essential work replace unemployment and the resulting payment of unemployment compensation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in an effort to reduce unemployment cost, to increase the benefit of expenditures, and to put people back to productive work, where the benefits of the efforts will be of value, there is hereby appropriated to the Department of Labor a sum equal to 5 per centum of the latest estimated cost to the Federal Government of unemployment compensation for the current fiscal year, to remain available until December 31, 1982, of which—

(1) 85 per centum shall be available to provide productive jobs for those unemployed in accordance with section 2, and

(2) 15 per centum shall be available for the youth employment and training programs of the Department of Labor (92 Stat. 1982).

SEC. 2. (a) No individual assisted with funds available in accordance with this section—

(1) shall be eligible for unemployment compensation during the period of productive job employment under this section; or

(2) shall be paid except upon certification in writing by the supervising official that such job was performed.

(b) Individuals assisted with funds available in accordance with this section—

(1) shall be certified as unemployed for at least two weeks in accordance with criteria established by the Secretary of Labor, with priority given those who are not currently eligible for unemployment compensation;

(2) shall be paid at a rate which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1968, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed, but in no case shall the annual rate of such wage exceed $10,000; and

(3) subject to subsection (a)(1), shall be provided benefits and employment conditions comparable to the benefits and conditions provided to others employed in similar occupations by the same employer.

(c) No currently employed worker shall be displaced by any individual employed with funds under this section, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits.

(d) Funds available in accordance with this section may be used for the purpose of providing unemployed individuals with temporary employment for not more than six months in repair, maintenance, and rehabilitation of public facilities and the conservation, rehabilitation, and improvement of public lands, such employment to include (but not be limited to) employment in—

(1) road and street repair,

(2) bridge painting and repair,

(3) repair and rehabilitation of public buildings,

(4) repair and rehabilitation of water systems,

(5) erosion, flood, drought, and storm damage assistance and control,

(6) removal of refuse from drainage ditches, illegal dumping sites, and other public areas,

(7) park and playground rehabilitation,

(8) installation and repair of drainage pipes and catch basins in areas subject to flooding,

(9) stream, lake, and waterfront harbor and port improvement and pollution control,

(10) forestry, nursery, and silvicultural operations,

(11) fish culture and habitat maintenance and improvement,

(12) rangeland conservation, rehabilitation, and improvement,

(13) installation of graded ramps for the handicapped, and

(14) energy conservation.

(e) Funds available in accordance with this section shall be allocated as follows:

(1)(A) Eighty-three per centum of the funds available in accordance with this section shall be allocated among eligible entities which, during the three months preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of the national average rate of unemployment for such three months.

(B) In making such allocation, the Secretary shall allocate 50 per centum of the funds under this paragraph on the basis of the relative number of unemployed persons, 25 per centum of such funds on the basis of the relative number of unemployed persons residing in areas of substantial unemployment, and 25 per centum of such funds on the basis of the relative excess number of unemployed persons (in excess of 4.5 per centum of the labor force).

(2) Two per centum of the funds available in accordance with this section shall be allocated among Native American tribes, bands, and groups for use in meeting the need for employment and training and related services of such tribes, bands, and groups.

(3)(A) The remainder of the funds available in accordance with this section shall be allocated, in the manner described in paragraph (1)(B), among eligible entities which are not eligible for an allocation under paragraph (1) for the purpose of serving a locality—

(i) which has had a large scale loss of jobs caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances, or

(ii) which has experienced a sudden or severe economic dislocation.

(B) In expending funds from such allocation in the case of an eligible entity serving two or more such localities, the eligible entity shall take into consideration the severity of unemployment in each such locality.

(f)(1) For purposes of this section, an eligible entity is—

(A) a unit or consortium of units of general local government or concentrated employment program grantee (serving a rural area) with a population of less than one hundred thousand persons which has demonstrated the capacity to operate employment and training programs;

(B) a unit of general local government with a population equaling or exceeding one hundred thousand persons or a consortium including such a unit and other units of general local government; and

(C) a State.

(2) A State shall not qualify as an eligible entity with respect to an area served by another eligible entity. A larger unit of general local government shall not qualify as an eligible entity with respect to an area served by a smaller such unit.

SEC. 3. The Secretary of Labor shall notify recipients within thirty days after the date of enactment of this Act of the allocation of funds appropriated herein.

SEC. 4. The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out the purposes of this joint resolution.

COMMITTEE AMENDMENT

Mr. NATCHER. Mr. Chairman, I ask unanimous consent that the committee amendment, which is technical in nature and printed in the joint resolution, be considered as adopted.

Appearing on page 6, at the bottom of the page, is the wording: "or concentrated employment program grantee (serving a rural area)". Using the same words that my distinguished friend, the gentleman from Massachusetts, knows about, the committee amendment moves those words to the end of the sentence.

Mr. Chairman, I make that as a unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. CONTE. We have no objection on this side, Mr. Chairman.

The CHAIRMAN. The Chair hears no objection.

The committee amendment just adopted reads as follows:

Committee amendment: On page 6, beginning on line 25, strike "or concentrated employment program grantee (serving a rural area)", and on line 4, page 7, after "programs" insert a comma and "or a concentrated employment program grantee (serving a rural area)".

The CHAIRMAN. For what purpose does the gentleman from New York (Mr. SOLOMON) rise?

Mr. SOLOMON. Mr. Chairman, as I stated in my remarks during the debate, I rise to ask unanimous consent to offer my amendment which would prohibit any of these jobs going to people who are in violation of the Draft Registration Act.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAWKINS. Mr. Chairman, reserving the right to object, on technical grounds, I personally have no objection to the amendment. As a matter of fact, I have supported the gentleman's amendment on other occasions. However, I would request that if he desires to have the unanimous consent, at least as far as I am concerned, that he limit the unanimous-consent request to the amendment which has been presented and which we have had given to us on this side, so that the amendment will not be subject to any further amendment.

If it is confined merely to this request, on that basis I certainly would remove my objection.

Mr. SOLOMON. I would make that request.

The CHAIRMAN. Is there objection to considering the amendment with the understanding that it is not subject to amendment?

Mr. LIVINGSTON. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. HAWKINS. My objection would be moot, then, Mr. Chairman, I was going to remove my reservation of objection, but it was the gentleman's colleague on the other side who objected.

The CHAIRMAN. The Chair now recognizes the gentlewoman from Illinois (Mrs. MARTIN).

Mrs. MARTIN of Illinois. Mr. Chairman, I am the designee, as the Chair mentioned, of the minority leader.

AMENDMENT OFFERED BY MRS. MARTIN OF ILLINOIS

Mrs. MARTIN of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MARTIN of Illinois: On page 2, line 7, immediately after the work "Labor", strike all that follows and insert in lieu thereof the following: "from the unobligated balance of the Energy Security Reserve established by Public Law 96-126 (93 Stat. 970) a sum of $1,500,000,000 to remain available until December 31, 1982, to provide productive jobs for those unemployed in accordance with section 2.

SEC. 2. (a) No individual assisted with funds available in accordance with this section—

(1) shall be eligible for unemployment compensation during the period of productive job employment under this section; or

(2) shall be paid except upon certification in writing by the supervising official that such job was performed; or

(3) shall be eligible for unemployment compensation because of the period of productive job employment under this section.

(b) Individuals assisted with funds available in accordance with this section—

(1) shall be certified as unemployed for at least six months in accordance with criteria established by the Secretary of Labor or shall have exhausted their unemployment benefits;

(2) shall be paid at a rate which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1968, (B) the minimum wage under the applicable State or local minimum wage law, (C) their unemployment benefit rate for the period such individuals would otherwise be eligible for such benefits, or (D) their AFDC benefits rate, but in no case shall the annual rate of such wage exceed $10,000; and

(3) subject to subsection (a)(1), shall be provided benefits and employment conditions comparable to the benefits and conditions provided to others employed in similar occupations by the same employer.

(c) No currently employed worker shall be displaced by any individual employed with funds under this section, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits.

(d) Funds available in accordance with this section may be used for the purpose of providing unemployed individuals with temporary employment for not more than six months in repair, maintenance, and rehabilitation of public facilities and the conservation, rehabilitation, and improvment of public lands, such employment to include (but not be limited to) employment in—

(1) road and street repair,

(2) bridge painting and repair,

(3) repair and rehabilitation of public buildings,

(4) repair and rehabilitation of water systems,

(5) erosion, flood, drought, and storm damage assistance and control,

(6) removal of refuse from drainage ditches, illegal dumping sites, and other public areas,

(7) park and playground rehabilitation,

(8) installation and repair of drainage pipes and catch basins in areas subject to flooding,

(9) stream, lake, and waterfront harbor and port improvement and pollution control,

(10) forestry, nursery, and silvicultural operations,

(11) fish culture and habitat maintenance and improvement,

(12) rangeland conservation, rehabilitation, and improvement,

(13) installation of graded ramps for the handicapped, and

(14) energy and conservation and weatherization.

(e) Funds available in accordance with this section shall be allocated among eligible entities which, during the three months preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment in excess of the national average rate of unemployment for such three months.

(1) In making such allocation, the Secretary shall allocate 50 per centum of the funds under this paragraph on the basis of the relative number of unemployed persons, 25 per centum of such funds on the basis of the relative number of unemployed persons residing in areas of substantial unemployment, and 25 per centum of such funds on the basis of the relative excess number of unemployed persons (in excess of 4.5 per centum of the labor force).

(2) An entity receiving funds shall allocate 50 per centum of the funds provided by this Act for jobs for persons receiving unemployment benefits, 25 per centum of such funds for jobs for persons receiving AFDC benefits, and 25 per centum of such funds for jobs for persons receiving neither unemployment benefits or AFDC benefits.

(f)(1) For purposes of this section, an eligible entity is—

(A) a unit or consortium of units of general local government with a population of less than one hundred thousand persons which has demonstrated the capacity to operate employment and training programs, or a concentrated employment program grantee (serving a rural area);

(B) a unit of general local government with a population equaling or exceeding one hundred thousand persons or a consortium including such a unit and other units of general local government; and

(C) a State.

(2) A State shall not qualify as an eligible entity with respect to an area served by another eligible entity. A larger unit of general local government shall not qualify as an eligible entity with respect to an area served by a smaller such unit.

SEC. 3. The Secretary of Labor shall notify recipients within thirty days after the date of enactment of this Act of the allocation of funds appropriated herein.

SEC. 4. The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out the purposes of this joint resolution.

SEC. 5. The Secretary of Labor shall insure that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section.

Mrs. MARTIN of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the Chair recognizes the gentlewoman from Illinois (Mrs. MARTIN) for 30 minutes.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield myself such time as I may consume.

The philosophical arguments concerning the worth of any bill that uses public funds for employment I leave to those, who have made those arguments, to be settled later.

I also leave the political arguments of what or how this should be handled. Is it indeed a Democratic ploy? Will the Senate pass it? Will the President sign it?

If we are sincere, what we should be doing is trying to make the best bill possible. Frankly, the committee bill just is not very good yet.

My amendment does a number of things. First, if indeed we want to help people get jobs, my amendment will provide twice as many jobs, by every conservative estimate, as the committee bill will.

Second, for those of us from areas dependent upon the automobile, construction, and machine tools, major kinds of capital commitments, the deficit does matter. We should be looking at ways to fund projects that do not increase the deficit, and thus will not affect the interest rates.

This, then, funds twice as many jobs from the Synthetic Fuels Corporation. That money has not been spent and, frankly, Mr. Chairman, although I recognize it is the pet of many around here, it it and it remains welfare for Exxon, welfare for big oil.

Now, if indeed the opposition party and my party care about people, then we must look at a bill that takes away from those who should not be enjoying Government largesse and gives a chance to those who find themselves caught in the incredibly vicious circle of unemployment.

Third, the bill targets. In doing so, I recognize that it may lose the votes, that indeed every Member of the Congress will not take back to their districts dollars for jobs, because districts that have low unemployment will not be eligible. We are looking at the people who want to work, but who cannot work and cannot just move families and homes to other areas.

So this bill suggests that instead of the rather frivolous 2 weeks that would mean that every mayor who had any brains would lay off everybody in the city that they could and just use the Federal money to do it, this says that you must have been unemployed for 6 months.

It also does something that I think matters to those men and women who wish to work. It restores dignity. If one is on welfare, he or she can be eligible for a job under this bill. If one is on unemployment benefits, he or she can be eligible for a job under this bill.

Now, if there are those who do not want to work who prefer benefits or prefer to let them run out, they are not forced to take the job. But if people want to work and if someone says, "I want to work," then they go to the bill and they are not penalized for that desire. They are paid at the same benefit level that they are receiving, whether it is from AFDC or from unemployment benefits.

The savings are obvious. First of all, there is minimal addition to the deficit; and second, there is a switch between benefit programs. And most importantly, they are earning every penny that they are receiving. They are doing the kind of work mentioned in the committee bill because we have retained the physical public works aspect of what the committee has proposed.

□ 1530

In other words, and I cannot claim this bill for mine; I act in place of the minority leader because I have the district that has the highest unemployment in the United States of America, this amendment takes what may well have been a political bill, although I sincerely hope that many people wished it, and targets it, keeps it from affecting the deficit, and indeed doubles the number of people it can help.

Now, I did not comment during the earlier debate because I listened to people especially from the other side of the aisle say $1 billion was not enough, and I agree. Therefore, this substitute can double what will surely not totally replace the private initiatives that we need, what can help people through these difficult times. People on this side of the aisle such as Representative JEFFORDS, Representative DENARDIS, Representative CONTE, found, because of the rule, that they could not add their own insightful additions that could have even perhaps produced something better. There is no question in my mind that if we are sincerely looking at helping the people of any district, the people of the districts around this Nation who have both Republicans and Democrats representing them, if we are interested in helping people, aside from the political choice it will grant us as individuals, that across the board, across the aisle, we will be supporting this bill.

Mr. ROUSSELOT. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. She will indeed yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. Many of us in the House are pleased you have offered this superior alternative. I just want to repeat this, I am sure some of my colleagues may have missed a major point or two—the gentlewoman provides twice the jobs that the other side does, is that correct?

Mrs. MARTIN of Illinois. That is indeed correct.

Mr. ROUSSELOT. And she puts a 15-percent limitation on administrative costs, so that guarantees that more of this money will go to produce real jobs?

Mrs. MARTIN of Illinois. That is correct.

Mr. ROUSSELOT. I thank my colleague for this very well constructed program. Let me review again the major advantages of the Martin substitute:

The funds are targeted in a fairer way: $750 million to individuals on extended unemployment benefits; $375 million to individuals in AFDC families; and $375 million to individuals who have been unemployed 26 weeks or longer.

Administration costs are limited to 15 percent of total program expenditures.

Supplies would be provided by local communities.

Provides for 411,000 new jobs—twice as many as the other bill.

I urge support for her alternative bill.

Mrs. MARTIN of Illinois. I appreciate that.

Mr. Chairman, I reserve the balance of my time.

Mr. NATCHER. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I, too, received this morning this letter from the gentlewoman from Illinois which made the statement that "I will offer nearly twice as many jobs at approximately half the cost," and I must confess that that sounds very attractive. But, I was wondering how she could do it until I had an opportunity to read the amendment this afternoon in its detail.

It is no great secret now, it seems to me, what she proposes to do. She proposes to really eliminate this as a jobs program entirely. The amendment, I think the Members should understand, those who are concerned about their districts, the amendment would eliminate funding for areas which do not have unemployment equal to or in excess of the national average. Now, there are many areas that temporarily may be in that fortunate situation in that their unemployment is slightly below the national average. Certainly, I do not think you can bring about 9.5 percent, let us say, on unemployment. If you want to go back to your districts and brag that because you are in that fortunate situation, that your unemployment is only 9.5 or 9.6 percent, and that therefore you are saved from some destruction under this amendment, then you do that, but under the bill without this amendment those areas would have at least 15 percent set aside for that.

This means that is you have an otherwise prosperous city or county, but you have a great unemployment area within that area where perhaps layoffs have occurred recently, some plant has closed up, you will be unable to deal with it. That is precisely what this amendment will do.

Second, let me point out to the Members also that the amendment strikes from the pending proposal and reference to youth, so that the youth program is completely eliminated. If you want to go back to your districts, where more than one-third of the unemployed who have been unemployed in the last year as a result of certain policies, have become unemployed, and tell them that you are supporting an amendment, a substitute that will offer no assistance to them, then you will support certainly this amendment.

In addition to that, and I hope I have some time to give all the groups that are eliminated under this amendment whereby they can make this magical reduction, reducing the cost and doing twice as much according to the claim——

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. If I get time on the gentlewoman's time I will be very glad to discuss the issue.

There is no incentive under this program for anyone to leave unemployment, because to take a job under this program one will be worse off than one would be on welfare, or one would be worse off in terms of the wage under this proposal because that would certainly place the person in a position in which he would be financially taking a sacrifice to leave unemployment in order to go on this program under this amendment.

Mrs. MARTIN of Illinois. Will the gentleman yield on that matter?

Mr. HAWKINS. At the end, if I may give the reasons. The gentlewoman may want to ask all of them together.

The amendment provides, as I say, no money for youth unemployment at a time when one-third of jobs lost have been lost by young workers. In addition to that, it refers to those who are not receiving any benefits. Now, over 6 million Americans are not receiving any benefits under the unemployment compensation program. Under this Martin amendment, these individuals would be reduced to 25 percent of the allocation to any area. So, 6 million persons who are not receiving unemployment insurance would be in a sense the means of reducing the allocation for those areas.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. Just briefly.

Mr. AuCOIN. Mr. Chairman, I appreciate the gentleman yielding. Is it not true that the Democratic proposal provides 100 percent of the jobs benefits under this bill to people who have no help of any kind today and under the Republican amendment 75 percent of the jobs would go to people who are already receiving some kind of benefits?

Mr. HAWKINS. That is precisely correct. The priority is set for individuals.

I think individuals should read this amendment and not be misled by rhetoric.

Mrs. MARTIN of Illinois. Mr. Chairman, very briefly before I do call on someone else, I think everyone understands that with the only $1 billion that is in the Democratic bill, certainly 15 percent of that is not going to take care of youth unemployment. There is already $3 billion in youth training in other bills. We are talking about people unemployed for months and months. That is whom this Congress said it was going to help. Now if we want a big package $1 billion would not do it, we are talking about 3 cents per person.

Mr. CORCORAN. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to my colleague from Illinois.

Mr. CORCORAN. Mr. Chairman, I thank my colleague from Illinois for yielding. One of the criticisms of the gentleman from California to the Martin amendment is that he assumes unemployment is going to get worse. I would just like to call his attention to testimony before a congressional committee this morning by the Director of the Congressional Budget Office.

The current CBO forecast shows moderate growth in economic activity during the second half of this year and next year, and continued moderation of inflation.

And here is the critical sentence, Mr. Chairman:

The unemployment rate should begin to decline gradually later this year, resulting in an average annual unemployment rate of 8.8 percent to 9.3 percent in 1983.

□ 1540

Mr. Chairman, Alice Rivlin is hardly an advocate of Republican policies, and yet she provides a premise for our alternative.

Mrs. MARTIN of Illinois. Mr. Chairman, I thank the gentleman from Illinois (Mr. CORCORAN), and I yield 2 minutes of my time to the gentleman from Alabama (Mr. SMITH).

Mr. SMITH of Alabama. Mr. Chairman, our distinguished colleague from Illinois has done a great service in offering a sensible, workable, and positive alternative to the bill we have before us.

For my constituents in the Birmingham, Ala., area and for any district struggling with staggering unemployment rates, Mrs. MARTIN's plan offers the dignity of productive work to those on the unemployment and welfare rolls. My constituents would much rather be working than standing in line for demeaning public handouts.

Mrs. MARTIN's plan is far superior to the bill we are considering. For example, the Martin substitute targets relief to those who really are eligible.

The present bill allows benefits for those who have been unemployed for just 2 weeks, which is the approximate length of a good vacation.

The Martin substitute makes eligible those unemployed for at least 6 months, which is responsible.

The present bill lays yet another burden on the taxpayer and increases the national deficit by $1 billion. But Mrs. MARTIN's approach adds no tax burden by shifting existing funds to provide wages—instead of handouts—for the unemployed.

Each of us here is very much aware of our role as a public trustee. Each of us is aware of the crushing problem of unemployment in our districts. And each of us, I believe, wants to be responsible about solving it.

Mr. Chairman, it is clear that my colleague on the Budget Committee is

offering a responsible solution. I urge bipartisan support for her efforts.

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. AUCOIN).

Mr. AUCOIN. Mr. Chairman, I would repeat the point that was brought out by the gentleman from California (Mr. HAWKINS) in colloquy with me only a few minutes ago. I hope that all my colleagues who are listening to this debate understand the differences between the amendment being offered by the gentlewoman from Illinois (Mrs. MARTIN) and the committee's bill.

The committee's bill provides that 100 percent of the jobs benefits go to people who are receiving no help at all now. The amendment would provide only 25 percent of its jobs benefits to those people.

Who are these people? We are talking about 3.25 million Americans who have exhausted their unemployment benefits and no one is offering them a helping hand; no one is offering them any hope. Our bill does offer them hope, not just an unemployment check. Our bill offers a job that can give some degree of dignity and self-worth.

No one can tell me that the Martin amendment, which denies a helping hand to those who have exhausted their unemployment benefits is a sensible idea. It is not a sensible idea. We have a limited amount of money to work with here. We ought to be focusing on those people who are without hope today, those people who do not have unemployment benefits any longer, those people who have given up looking for a job.

The gentlelady's amendment is not targeted. Nor is it wise, producitive, effective, compassionate, or sensible. We need to be dealing with the human misery caused by the loss of jobs that results because of the administration's economic policies which have been advocated by the gentlewoman from Illinois.

My friend, the gentleman from Massachusetts (Mr. CONTE), the ranking minority member of the Appropriations Committee, stood up in the well a few minutes ago and said that there is not a bucket of asphalt in our bill. He said there is not a bucket of steel in our bill. We would like to have the kind of jobs that have buckets of asphalt and steel and all the rest. We listened to the administration, and they promised jobs, jobs, and more jobs, but they did not come through because their program failed.

We are dealing with the misery caused by that failure, and we want to offer something more than just an unemployment check. We want to offer some assistance to those people who have had unemployment checks and seen those benefits become exhausted.

If the Members think that unemployment is not getting worse, I ask them to come out to Oregon and talk to mill workers in Tillamook, in Tillamook County, Oreg., who are 30 percent unemployed today. The Oregon unemployment rate has just gone up another large fraction of a percentage point. It is 10.8 percent. You tell Oregonians that the unemployment problem is not getting worse.

Mr. Chairman, I ask the Members to defeat the amendment and to support the committee bill.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Chairman, I thank the gentlewoman for yielding me this time, and I appreciate the debate that is going on here on the floor of the House.

I rise in support of the Martin substitute—its targeted to jobs in the areas of the country like upstate New York with tragically high unemployment rates as well as to the people who need the jobs the most.

I also like the idea of using synfuel money. Let us take $1.5 billion from the corporate welfare program that subsidizes oil companies to create synfuels and use it to create jobs in this targeted way.

Here are the targets—

Mr. Chairman, a person must have been unemployed for at least 6 months or have exhausted his unemployment benefits.

First, 50 percent of the jobs must be reserved for persons receiving unemployment benefits;

Second, 25 percent of the jobs must be reserved for persons receiving AFDC benefits; and

Third, 25 percent of the jobs may go to nonunemployment or non-AFDC recipients;

Jobholders shall be paid the minimum wage, except that recipients of unemployment benefits shall be paid at the rate of the unemployment benefits during the remaining period of eligibility for those benefits, and except that recipients of AFDC benefits shall be paid at the rate of their AFDC benefits, if the unemployment benefit and AFDC rates are higher than the minimum wage rate.

The funds will be allocated only to those entities with unemployment rates above the national average.

Mr. Chairman, because 75 percent of the jobs must go to persons receiving unemployment or AFDC benefits, reductions in those benefits will offset a good deal of the total cost of the program. Actual outlay increases will thus be less than a billion dollars to the Federal Government, and the States will also realize some cost savings because the cost of some of the benefits is shared between the Federal Government and the States.

If we want to get America moving again, lets start talking about how the Fed got us into this recession in 1979 and how a lower interest rate policy in 1982 can create the jobs for all Americans who seek gainful employment. We should accept full employment and price stability and nothing less.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Chairman, during the debate we have heard many charges regarding a belief that the bill before us is imperfect. That discussion and/or charges came from the other side of the aisle, claiming that the legislation was not perfect, ill timed, and not necessary. I think we can stipulate to the fact that it is not perfect, but not that it is ill timed or unnecessary. We were also told that the legislation did not solve the problem and we stipulate to that.

□ 1550

But I think we must also admit that the Republican amendment also comes under the same criteria—that it does not solve problems and that it is not perfect. In fact, it makes the legislation before us even more imperfect for various reasons.

Under the amendment, 50 percent of the jobs would be reserved for persons receiving unemployment benefits. Under the committee bill, people whose unemployment compensation has been exhausted get priority.

One other point is that $155 million under the committee bill would be reserved to take care of unemployed youth. Under the amendment no mention is made of youth at all.

What we have before us then is a choice between the original bill before the House and the substitute amendment. Based on that choice we must decide which one of the two would bring the most benefit to the most people with the greatest need. The amendment before us does not. The committee bill does.

Mr. Chairman, a very important point was made by the gentleman from Michigan when he said that if only one-half of 1 percent of the unemployed people of Michigan would receive jobs under this legislation, that the unemployed would be most grateful for just a few weeks of unemployment, since they have been out of work for far too long. The more than 200,000 unemployed throughout the Nation that will receive work under the bill will be most grateful if we reject the amendment and pass the bill.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield myself 10 seconds to assure the body that in reference to the earlier colloquy between the gentleman from Puerto Rico and the gentleman from California regarding the

committee bill, it is the intent of the amendment that those areas also be included.

I did wish to assure the body of that.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DUNN).

Mr. DUNN. Let me thank the gentlewoman for both her amendment and for the opportunity to speak.

I want to address two issues. No. 1, the targeting.

Under the original bill we could have a situation in the District, 2 or 3 percent, a man quits his job or a woman quits her job for 2 weeks and she qualifies.

The previous speaker talked about Michigan. The chairman of the committee said, and he actually urged, and I was surprised he actually urged his colleagues not to support it because there might not be something in it for their district.

Of course we target in this program. We target in every bill in front of us. Should I not vote for a farm bill, should I not vote for marine fisheries, should I not vote for defense, simply because it does not benefit my district?

We have to look at the problems of the Nation. The problems of the Nation are in the high unemployment areas.

The gentlewoman's amendment targets those areas by putting a restriction in there of 6 months and by putting a restriction of "above-the-national-average" on unemployment.

Furthermore, the gentlewoman's amendment addresses the problem.

The problem is the size of the Federal deficit. Rather than adding to these deficits, as the committee bill would do, she takes from allocated funds, that being from synfuels.

So if you have ever not liked the boondoggles of synfuels, if you have ever not liked unbalanced budgets, and if you have ever liked to truly help the truly needy then I would urge my colleagues to vote for the Martin amendment.

Mr. NATCHER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, as you will recall, during general debate on this bill we had a number of speakers call attention to the types of jobs set forth in the bill.

In the substitute that we have before the Committee at this time, offered by the gentlewoman from Illinois—by the way, the gentlewoman presented her substitute in an excellent manner—in the substitute the gentlewoman offered, Mr. Chairman, the types of jobs are identical with the types of jobs in the bill that is before the Committee.

I think the Committee ought to know that, Mr. Chairman.

All during general debate we heard quite a bit about bridge repair, bridge painting and repair, and a number of other jobs. It was said, "How will you do it?" "When will you do it?"

Every job listed in this substitute, Mr. Chairman, on page 2, beginning with road and street repair—that is No. 1—and No. 2, bridge painting and repair and so on down the list for 14 different types of jobs, identical assignments, identical jobs, is copied right out of the bill.

Mr. Chairman, when you get right down to it and you talk about a boondoggle, if there is a boondoggle, why did you not change the type of jobs? You used the identical jobs as in the bill before the Committee.

Not only that, Mr. Chairman, another matter that I want to call to the attention of the Committee is that they cut out the youth employment section in this bill. They cut that out, Mr. Chairman, $150 million, the 15 percent the bill provides for, added to the amount in the continuing resolution of $192 million, and we have $342 million on our side, Mr. Chairman, for the unemployed youth in this country.

That is a good program, an excellent program, with $342 million on this side, and they cut it out on the Republican side, Mr. Chairman.

But when you talk about the type of employment and the type of jobs and you copy identically the 14 different types of jobs that are to be used, Mr. Chairman, the criticism is not well founded.

In addition to that, the substitute offered by the gentlewoman—and I say to the gentlewoman that she offered it in an excellent manner—is for 1.5 billion American dollars, a transfer, of course, $1,500,000,000 and the bill offered on this side, Mr. Chairman, by the gentleman from Minnesota, Mr. OBERSTAR, the gentleman from California, Mr. HAWKINS, the gentleman from Texas, Mr. WRIGHT, and the gentleman from Kentucky, Mr. PERKINS, provides for $1,035,000,000.

It is true that it is a transfer. If this is such a boondoggle, why provide $1,500,000,000 for it, even in a transfer?

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. COATS).

Mr. COATS. Mr. Chairman, I thank the gentlewoman for yielding.

I think there are many reasons to support this substitute over the original bill presented. Let me enumerate two of the more important reasons. First of all, the Martin substitute transfers funds from existing sources rather than spends new funds, and we all know that with the budget in the situation that it is that the new spending is just adding to the problem.

Second, the eligibility requirements of the committee bill as presented are badly flawed. It allows those unemployed for only 2 weeks to be eligible for this program.

I can just see the big city mayors rubbing their hands in glee with the prospect of once again replacing their street department, their public works department, replacing their payroll the same way they did under the old CETA program, providing public service jobs to their locally employed people by using taxpayer funds—Federal taxpayer funds—rather than local funds.

This is not only a rehash of the CETA program but it is a rehash of the worst part of that CETA program, the public service portion which people on both sides of the aisle agreed was badly flawed, which was removed in this year's jobs training bill, which was agreed upon as being a flawed program.

The substitute provides that 6 months is the eligibility requirement and I think this is a serious failure of the bill. I find it hard to believe that the other side, as the Speaker said this morning, worked 6 months on this bill and yet comes up with a portion of it as flawed as it is.

The big city mayors have to be just waiting for us to pass this, not because it is going to employ any new people but because it is going to allow them once again to have the opportunity to replace part of their payroll, maybe improve the city budget, but replace part of the payroll at the taxpayers' expense.

That is not going to employ any new people that are unemployed.

If I thought this employed any people in my town, and we have many that are unemployed, and would put them to work I could support it. But I can just see the same thing coming down the line that happened before, and I think for that reason the substitute is far preferable to the bill that was provided by the committee.

□ 1600

Mr. NATCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. SMITH), a member of the committee.

Mr. SMITH of Iowa. Mr. Chairman, here we are again today, considering an amendment which includes a formula which will not treat some Americans equally and will in fact discriminate against some who are as much in need as those who are not discriminated against.

Twenty-five percent of the money in the substitute would go only for those who have been lucky enough to have had a job and received unemployment compensation. There are a lot of people in this country who have never been lucky enough to have worked in covered employment. Why should they be discriminated against and limit the jobs to those who have been lucky enough to at one time have had a job and unemployment compensation?

Another 25 percent is only for those who have been on AFDC. Do some not understand that there are people in this country who could be eligible for AFDC who do not go on AFDC? Why should someone be discriminated against because they do not choose to apply for AFDC?

It is another attempt to discriminate against Americans if they do not take advantage of programs that they could take advantage of.

The substitute also limits jobs to those areas which have higher-than-average unemployment. A person who happens to be unemployed is just as much in need of a job whether he has two neighbors unemployed or 4 neighbors unemployed. He needs a job. There is no attempt here to equalize—make benefits available to those Americans who have not been lucky enough to have had a job, to help the youth even though in some cases 40 or 50 percent do not have a job. The substitute does not provide benefits of whatever meager program we have for youth programs. We are not talking about a program that is going to have an excess of jobs, but if statistics are to be used, they should not be faulty statistics. And all we have in the area of unemployment compensation statistics is faulty statistics.

Some of us have been working for years to try to secure better statistics because the statistics we have do not really measure the number of people who are unemployed in an area who are looking for a job. They measure more accurately the number who have had a job. We need to have better statistics on who is available for a job before we use those kinds of statistics to exclude people from a program like this.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I think it is rather surprising to hear the side arguing about the formula that is in the Martin amendment. They today could not explain after supposedly 6 months of work on their bill anything about their formula. I asked on a number of occasions to have their formula explained. They could not do it. And yet they come out here and they complain about the formula that had to be written in 24 hours. I just find that absolutely amazing.

But that is hardly the point. Let us talk about what is really happening here today. What is really happening here today is that the Democrats have looked around, and they have seen that our economic recovery program is beginning to work. The interest rates have dropped from their 21½ percent down to 13½ percent; inflation has been cut in half; personal disposable income is up; the misery index has dropped; et cetera, et cetera, et cetera. So they know that their political hope lies in destroying that economic recovery program. It does not matter what happens to the country. It does not matter that that destroys what is going on in the country. But it is good politics. And that is all their bill is about today: It is pure politics. That is what they brought to this floor.

Well, it is a pretty good attempt at undermining our efforts, I must say that. What we are trying to do is put millions of Americans back to work on a broad-based scale. What they do is undermine that with increased deficits, thus raising interest rates and thus putting even more people out of work.

I cannot quite believe what the Speaker told us today, that they worked 6 months on this program. This is their jobs bill. This is all they have to offer. Think about it for a moment. They talk about 200,000 jobs. That means they are permanently going to leave 10.6 million people unemployed. After 6 months of work, that is what they came up with. "Let us leave unemployed 10.6 million people."

The Martin amendment at least keeps us on course. It has no new money in it, so it produces no new deficits; and therefore it keeps us on the economic course that we should be taking. I think that is one thing we ought to think about, because the Democrats' bill is an ET, it is an economic turkey. The trouble is, it does not get energized with Reeses Pieces either. It gets energized with hundreds of millions of new dollars that we cannot afford. I urge that we reject it and vote for the Martin amendment.

Mr. NATCHER. Mr. Chairman, I yield 5 minutes to the chairman of the Education and Labor Committee, the author of the bill, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I rise in support of the resolution and against the substitute.

First, let me state that the substitute, in my judgment, is unworkable. Under the resolution, reported by committee, we can put over 65,000 youth to work almost immediately. We would preclude the funding of any programs for the employment of youth if we were to adopt the substitute.

I know many of you have visited your State parks in the last year or 6 months. Today you have many fewer of the youth working to keep those parks safe and functioning than you had a year or a year and a half ago.

I think it is time that the Congress should move and do something about the unemployment situation. We cannot afford to stand idly by any longer and listen to these stories that prosperity is just around the corner—"Do not do anything to tinker with the economy from a governmental viewpoint by spending any money, otherwise we will cause interest rates to remain high."

They are making one of the craziest arguments that I have ever heard. That was the same type of argument that was made against Harry Truman when we tried to expand the Social Security Act when I first came to Congress in 1949, the same type of arguments made against Franklin Roosevelt when he founded the WPA and the CCC. But where we spent money on public improvements, bridges, roads, schoolhouses, and all types of public facilities, they are still standing and being utilized today. And by taking the jobless off the dole and giving them the jobs they so desperately want, we will improve the economy's chances for revival. But we do not intend to build any new bridges or any new water or sewer systems. We intend to only make the repairs and do some renovating on these vital public facilities that are crumbling today. That is what this bill calls for.

With the 10-percent unemployment rate throughout the Nation and with communities by the thousands that have roads, bridges, sewer systems and water systems deteriorating so rapidly, this money will be money well expended if we appropriate this billion dollars. It comes within the budget.

For fiscal year 1982, current Federal employment and training expenditures will not total more than $3.5 billion. We have cut these programs from about $8 billion in fiscal year 1980 down to about $4.1 billion, even if we appropriate this extra billion dollars for 1982. For fiscal year 1983 we do not have any money in either of the training bills now in conference with the Senate that will provide any jobs. We have training in the House and Senate bills, and that is all we have for fiscal year 1983 and beyond.

I think if this Congress fails to take steps to do something about the unemployment situation—oh, it can be said, "Let us not spend any Government money, let us keep doing everything we can to save money." That is a good argument, but when we have 13 million people unemployed, being paid all of this unemployment compensation, not paying any taxes, and on welfare, I think we have got to consider those costs, and not cut off our noses to spite our faces.

This economy is in a terrible shape. And you say, "Don't touch it, don't touch it. Let's not spend any Government money. It will make things worse." I say to you that if we take that attitude we will never get this economy moving again. Those arguments were thrown overboard under Harry Truman and under President Roosevelt.

□ 1610

The Government has to move in instances of extreme emergencies—that is its purpose. We should have moved long before this time not only on jobs legislation, but also on the interest rate and done something about it instead of letting the Federal Reserve and the administration destroy the economy of this Nation.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I would like both managers of these bills to tell me something: Does either bill cover a situation in a State which is slightly below the national average of unemployment but contains a county where there are 17-percent unemployed and cities where there are 15-percent unemployed?

Mr. NATCHER. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Kentucky.

Mr. NATCHER. The answer to the gentlewoman's question is "yes."

Mrs. FENWICK. In both cases?

Mr. NATCHER. As far as the committee bill before the committee, the answer is "yes." I will let the gentlewoman from Illinois (Mrs. MARTIN) answer on her side.

Mrs. MARTIN of Illinois. I am glad the gentleman is letting me answer even though the respected chairman wishes to answer.

The answer is "yes," although the difference is there probably would be twice as many jobs under my amendment.

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, the Reagan economic program has ravaged this Nation. Unemployment now stands at a rate higher than any time since the Great Depression. More than 10 million Americans are out of work.

The President and his supporters in Congress have brought this Nation to the edge of disaster—now we have an opportunity to repair some of the damage of Reaganomics.

This legislation will put people back to work. It will be directed at those jobs which will begin the monumental task of rebuilding this Nation's infrastructure—bridges, roads, sewers, and ports. This is not make-work, but a vitally important task which has been stalled by this administration's massive cutbacks in funds for transportation, wastewater treatment, and other important Federal programs.

I urge passage of this bill. The people of this Nation need jobs, not the failing economic experiments of the Reagan administration.

The CHAIRMAN. The Chair wishes to inform the gentleman from Kentucky (Mr. NATCHER) that he has 9 minutes remaining, and the gentlewoman from Illinois (Mrs. MARTIN) has 10 minutes remaining.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. Mr. Chairman, today, after many months of watching the White House and others railroad this House into voting outrageous sums of money for defense, and into whittling away the desperately needed funding for domestic programs, today we are finally coming to grips with one of the most frightening and dangerous problems we have in this country—the growing ranks of the unemployed. The urgent supplemental appropriation for jobs, which is before us today, finally begins to recognize the urgency of the problem of unemployment and the absolute necessity for us to deal with it.

Mr. Chairman, I know that many Members in this Chamber have heard from their constituents about the unemployment problems they face. Members who have been home lately have heard increasing angry and bewildered constituents who have never before been out of work beseeching them for answers.

I would doubt, however, if any Member of this body has had to face what we in Michigan have faced over the past 2 years, during this long Reagan recession. In Michigan, more than 630,000 people are now out of work. In the 13th District which I represent, one out of every four workers is unemployed. And that figure does not count the thousands who have given up looking for work. Furthermore, that figure does not reflect the depression that afflicts the minority and youth segments of the job force in Detroit, where their unemployment averages between 50 and 75 percent.

The bill before us today is a good bill. It provides jobs for the unemployed for up to 6 months on projects that would tangibly benefit their communities. It gives priority to those areas hardest hit by the Reagan recession. It gives State and local governments a partnership role in determining the projects to be included in the program. And, contrary to the claims being offered by our Republican colleagues, it does not "bust the budget."

As the Reagan recession continues to drag on, more and more Americans are finding themselves caught in the economic vise. This bill would begin to address their needs, and would provide useful temporary jobs to 200,000 Americans, most of whom have or will have exhausted their unemployment benefits. It would allow communities to tackle needed projects that have been scuttled or put on "back burners" as their own revenues dried up. And, most importantly, it would give a signal to the American people that this Congress is finally willing and able to tackle the real issues before us.

Mr. Chairman, I urge my colleagues to join me in supporting House Joint Resolution 562.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. Mr. Chairman, on many occasions during this 97th Congress, I have been extremely proud to be a Member of this body. There have been some excellent debates that have clarified and dramatized issues in contention. Sadly, this debate today does not rank with those occasions.

On the subject of jobs, the state of the art as discussed by this body in 1982 should transcend schoolboy and schoolgirl rhetoric, which unfortunately is all that we have had thus far.

The committee bill is a slapdash response to a critical problem. There is no effective job delivery and accountability system in the bill, not to mention a number of other defects that I have found in the bill. Unlike many on my side—and I want to assure those on the other side—I do believe there is a Federal role in dealing with high unemployment, particularly the problem of displaced workers who lose their jobs because of foreign trade and changes in consumers' buying choices, government policies and market responses. I must say that the committee bill inadequately deals with these and other problems connected with the merchanization of work in modern times. I commend the gentlewoman from Illinois (Mrs. MARTIN) for trying to make a poor bill better. The gentlewoman has improved the bill in several ways: the funding mechanism, eligibility standards, the allocation of jobs among them.

However, I disagree with the wage rate provision in the substitute bill. I think that is a dangerous undermining of the prevailing wage rate system. It can be condoned only because we are talking about short-term 6-month employment. Both bills, through, are not very creative approaches to the problem of unemployment in the 1980's.

What we are seeing today is not simply an economic upheavel but something far deeper, something that cannot be understood within the framework of conventional economics. That is why increasingly mystified economists complain that the old rules do not work any longer. We are seeing a general crisis in industrialism, a crisis that transcends the tired old economic debate between parties and ideologies.

We see emerging a different economic and social order: A postindustrial civilization that is increasing technological rather than industrial.

Our Federal "jobs policies" are quite pedestrian when measured to the high-speed world we now live in.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, unlike the bill that the Appropriations Committee has brought to the floor, the substitute does not provide funds for areas that have unemployment rates below the national average. It is very important to understand that. The committee bill has a 15-percent set-aside for those areas whose unemployment rates are below the national average.

Under the terms of the substitute bill, the following cities would be ineligible for funding: New York City, Los Angeles, Boston, Las Vegas, Philadelphia, Pittsburgh, Memphis, Atlanta, Kansas City, New Orleans, Miami, and Milwaukee.

How can one offer a bill that is a jobs program that does not touch some of the largest urban areas of the Nation? Our bill does provide for funding for such areas. Our bill is within the budget.

A letter from Budget Committee Chairman JAMES JONES to the Speaker certifies that the bill that we have brought to the floor is within the outlays remaining under the fiscal year 1982 budget resolution which has $1,096,000,000 in outlays remaining, and our bill is set at $1.035 billion. Those are some of the misconceptions that have been spread about this afternoon that have to be put to rest.

Furthermore, during the interim, I had my staff call some of the cities in my district and ask the public works department: "Are you ready to go to work? Are you ready to put people to work in 30 days if this bill is signed into law?"

The answer is: Yes, they are. They have people already lined up; people who have signed up for the jobs program in northeastern Minnesota that I mentioned earlier. The city of Duluth and the city of Virginia already have tar on hand, buckets of it, and asphalt for repairing city streets. They have aggregate piled up for fixing the potholes in those streets. They have wood for salt and sand boxes and they have paint ready to go on to the bridges and the buildings.

It is all ready to go. What they need is the money from this jobs bill to hire the workers. Let us pass the committee bill and put them to work.

□ 1620

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Chairman, this Martin substitute is a good substitute. Compassionate liberals who care about good government can vote for the Martin substitute because it cleans up some of the problems in the liberal leadership bill precisely by targeting the hardest hit unemployed areas and by providing jobs where jobs are most needed.

Conservatives who worry about budget deficits can vote for the Martin substitute because it takes money out of the Synfuels bill and away from giant corporations and turns that money into jobs for the unemployed without busting the budget.

Every Member who is concerned about the welfare system can vote for the Martin substitute because it does include a first step toward a workfare program to help welfare recipients gain real jobs.

The Martin substitute is compassionate, practical, targeted, and rationally written.

The Martin substitute is good politics, good government, good for this country and a good vote for any Member this afternoon.

Mr. OBERSTAR. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names.

[Roll No. 337]

Albosta	Coelho	Emery
Alexander	Coleman	English
Anderson	Collins (IL)	Erdahl
Andrews	Collins (TX)	Erlenborn
Anthony	Conable	Ertel
Applegate	Conte	Evans (DE)
Ashbrook	Conyers	Evans (IA)
Atkinson	Corcoran	Evans (IN)
AuCoin	Coughlin	Fary
Bailey (MO)	Courter	Fascell
Bailey (PA)	Coyne, James	Fazio
Barnard	Coyne, William	Fenwick
Barnes	Craig	Ferraro
Bedell	Crane, Daniel	Fiedler
Benedict	Crane, Philip	Fields
Bennett	Crockett	Findley
Bereuter	Daniel, Dan	Fish
Bethune	Daniel, R. W.	Fithian
Bevill	Dannemeyer	Flippo
Biaggi	Daschle	Florio
Bliley	Daub	Foglietta
Boggs	Davis	Foley
Boland	de la Garza	Ford (MI)
Boner	DeNardis	Ford (TN)
Bonior	Derrick	Fowler
Bouquard	Dickinson	Frank
Bowen	Dicks	Frenzel
Breaux	Dixon	Fuqua
Brinkley	Donnelly	Gaydos
Brodhead	Dorgan	Gejdenson
Broomfield	Dornan	Gephardt
Brown (CA)	Dougherty	Gibbons
Brown (CO)	Dowdy	Gilman
Brown (OH)	Downey	Gingrich
Broyhill	Dreier	Ginn
Burgener	Duncan	Glickman
Burton, Phillip	Dunn	Gonzalez
Byron	Dwyer	Goodling
Campbell	Dymally	Gore
Carman	Dyson	Gradison
Carney	Early	Gramm
Chappell	Eckart	Gray
Chappie	Edgar	Green
Cheney	Edwards (AL)	Gregg
Clay	Edwards (CA)	Grisham
Clinger	Edwards (OK)	Guarini
Coats	Emerson	Gunderson
Hagedorn	Martinez	Rudd
Hall (OH)	Matsui	Russo
Hall, Ralph	Mavroules	Sabo
Hall, Sam	Mazzoli	Sawyer
Hamilton	McCloskey	Schneider
Hammerschmidt	McCollum	Schroeder
Hance	McDade	Schumer
Hansen (ID)	McEwen	Seiberling
Hansen (UT)	McGrath	Sensenbrenner
Harkin	McHugh	Shamansky
Hartnett	Mica	Shannon
Hatcher	Michel	Sharp
Hawkins	Mikulski	Shaw
Hefner	Miller (CA)	Shelby
Heftel	Miller (OH)	Shumway
Hendon	Mineta	Siljander
Hightower	Minish	Skeen
Hiler	Mitchell (MD)	Skelton
Hillis	Mitchell (NY)	Smith (AL)
Holland	Moakley	Smith (IA)
Hollenbeck	Molinari	Smith (NE)
Holt	Mollohan	Smith (NJ)
Hopkins	Montgomery	Smith (OR)
Horton	Moore	Snowe
Howard	Moorhead	Solarz
Hoyer	Morrison	Solomon
Hubbard	Mottl	Spence
Huckaby	Murphy	St Germain
Hughes	Myers	Stangeland
Hunter	Napier	Staton
Hutto	Natcher	Stenholm
Hyde	Nelligan	Stokes
Ireland	Nelson	Stratton
Jacobs	Nichols	Studds
Jeffords	Nowak	Stump
Jeffries	O'Brien	Swift
Jenkins	Oakar	Synar
Jones (NC)	Oberstar	Tauzin
Jones (OK)	Obey	Taylor
Jones (TN)	Oxley	Traxler
Kastenmeier	Panetta	Trible
Kazen	Parris	Vander Jagt
Kennelly	Pashayan	Vento
Kildee	Patman	Volkmer
Kindness	Patterson	Walgren
Kogovsek	Paul	Walker
Kramer	Pease	Wampler
Lagomarsino	Perkins	Washington
Lantos	Petri	Watkins
Latta	Peyser	Weaver
Leach	Porter	Weber (MN)
Leath	Pursell	Weber (OH)
LeBoutillier	Quillen	White
Leland	Rahall	Whitley
Lent	Railsback	Whittaker
Levitas	Rangel	Whitten
Lewis	Ratchford	Williams (OH)
Livingston	Regula	Wilson
Loeffler	Rhodes	Winn
Long (LA)	Rinaldo	Wirth
Long (MD)	Ritter	Wolf
Lott	Roberts (KS)	Wolpe
Lowery (CA)	Roberts (SD)	Wortley
Lowry (WA)	Robinson	Wright
Lujan	Rodino	Wyden
Luken	Roe	Wylie
Lundine	Roemer	Yates
Lungren	Rogers	Yatron
Markey	Rostenkowski	Young (FL)
Marriott	Roth	Young (MO)
Martin (IL)	Roukema	Zablocki
Martin (NC)	Rousselot	Zeferetti
Martin (NY)	Roybal	

□ 1630

The CHAIRMAN. Three hundred and fifty-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair will state that there are 7 minutes remaining on the part of the gentlewoman from Illinois (Mrs. MARTIN) and 5 minutes remaining on the part of the gentleman from Kentucky (Mr. NATCHER).

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Illinois (Mr. CORCORAN).

□ 1640

Mr. CORCORAN. Mr. Chairman, again I want to thank my colleague from Illinois (Mrs. MARTIN) and congratulate the gentlewoman from Illinois for the wisdom of offering her alternative.

With respect to the provisions of her amendment, most of them have been addressed already. I would like to address two other aspects: First, the financing procedure for this amendment; and second, the comparison in the cuts thus far that have been made with the Synthetic Fuels Corporation which is involved in our amendment, and the reductions that have been made throughout the balance of the Federal Government elsewhere.

First of all, Mr. Chairman, with respect to the financing for our approach, it is a transfer of $1.5 billion from the Synthetic Fuels Corporation, which I think can be easily digested by that boondoggle operation because of the fact that 2 years ago we appropriated some $20 billion to that agency. Out of that $20 billion, some $14.9 billion remains unobligated and available for this kind of program, or, if the priorities are on the other side, with some additional synthetic fuel project.

There is no question about the fact, Mr. Chairman, that there is short-term outlay. Let there be no mistake about that. There are several differences however, Mr. Chairman, between the approach taken in House Joint Resolution 562 and the pending Martin amendment. First, we do not enlarge the size of the Government. We do not add to the power of the Federal Government in our society. In fact, what we do provide for is a transfer from an already appropriated funding program in the Synthetic Fuels Corporation to this jobs program.

It is an initial outlay, but on the other hand I would quickly point out that one of the things that concerns us the most is the fact that there will be huge outlays made by the Synthetic Fuels Corporation. The gentleman from Texas (Mr. WRIGHT), one of the prime advocates of Synthetic Fuels Corporation, will try to tell the Members that the loan guarantees, the price supports, and all the other kinds of subsidies to the large energy corporations do not amount to money, do not amount to real funding responsibilities on the part of the Federal Government. In fact, that is not true, and we have only to look again with reference to the Congressional Budget Office, Mr. Chairman, to see that their analysis suggests that in the next several years the outlays from the Synthetic Fuels Corporation will be somewhere between $4 and $5 billion.

As I said, Mr. Chairman, the Congressional Budget Office has estimated that the Synthetic Fuels Corporation outlay impact on the Federal budget and on our economy will be somewhere between $4 and $5 billion. In case my articulation is not too good, that is with a "B," "as in busted."

Second, Mr. Chairman, there is the impact that the presence of loan guarantees in the magnitude remaining of some almost $15 billion has on the money markets. One of our problems in this country today is that we have had the Federal Government too heavily in the credit markets. That is one of the reasons why we have not been able to get the interest rates down to realistic levels for people of this country.

Third, with respect to inflation, because our approach benefits the country not only from the standpoint of interest rates but inflation, as the Washington Post points out this morning, the Democratic alternative would exacerbate inflation.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 30 additional seconds to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, one other point I would like to make is this: As everybody in this House knows, we have made substantial reductions in the Federal budget for fiscal year 1982. In addition to that, for fiscal year 1983 we have cut the nutrition program 10 percent, the food stamp program 10 percent, COLA 15 percent, student loan programs 11 percent. We are now asking for a 10-percent cut in the Synthetic Fuels Corporation, $1.5 billion out of roughly $15 billion of remaining funds.

Do we want to continue from the standpoint of the Democratic Party, which, in my judgment, in this issue has lost its soul to support subsidies for the big oil companies, or do we want to change and reorder our priorities in view of existing circumstances? We can reorder our priorities by supporting a reduction in synfuels which would help us in the battle against high inflation and high interest rates while also taking people of welfare and putting them to work. I think the answer should be clear both to the Congress and the American people.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Illinois and in opposition to House Joint Resolution 562.

This bill is just another example of how the leadership of the majority party has failed to develop a constructive alternative to the President's economic recovery program. The only alternative they offer is a return to the policies of the past which led us into the current recession.

This bill is being presented as a "jobs" bill. Unfortunately, that is a misnomer. This is not a jobs bill but an antijobs bill. If the Congress were to enact this legislation, more Americans would lose their jobs than would be hired under the provisions of the bill. I say that Mr. Chairman, because this legislation would add another $1 billion to the deficit, thus rekindling inflation and increasing pressure to raise interest rates. The financial community of the Nation would react very negatively to passage of this legislation. Any hope of an economic recovery would be lost for months to come.

Any economist can tell you that the last area to show improvement when an economy comes out of a recession is unemployment. Before businesses can rehire laid-off employees, the economy must be stimulated. Interest rates must come down as well as the inflation rate. Yes, unemployment remains unacceptably high.

But as the economy picks up, people will return to work, to meaningful, long-term jobs. Our economy is now primed for the recovery. To yield now to the temptation to pass a bill entitled "Jobs," regardless of how poorly constructed that bill may be, would destroy the groundwork we have worked so hard to create.

It seems absolutely irresponsible for the leadership of this House to risk any chance we have of an economic recovery for the sake of preelection demagoguery. I have yet to hear the leaders of the majority party give the President credit for the improvements in the economy which have occurred since he took office. And in those cases where success has yet to be achieved, the only solutions offered are policies of the past. Policies such as those incorporated into this bill. Policies which have been proven to be failures. We have tried these make believe jobs bills in the past. Their history demonstrates that they fail and fail miserably to achieve their goals.

A great number of those who have expressed concern about the unemployment rate represent the Detroit area. Well, I represent a district heavily impacted by the auto industry. However, I know that not one unemployed auto worker will be returned to his or her job in an auto factory if this bill were ever enacted. It seems the cruelest hoax of all to offer this legislation as a solution to unemployment in the auto industry.

I have talked to a number of unemployed auto workers. Not one of them wants to be hired on a short-term public works job. They want to return to their chosen vocation and work for a living in a meaningful and rewarding job.

Perhaps the one sector of our economy which would most adversely be affected by passage of this legislation

are small businesses. Small businesses are the ones most adversely affected by the slow economy and therefore have the greatest stake in seeing the economy improved. I have read where 80 percent of all new jobs are created by small businesses. If we enact legislation which will increase interest rates, we will be doing exactly the opposite of what we desire to accomplish. More small businesses will be bankrupt and it will be harder than ever to find meaningful employment.

I urge my colleagues to reject this legislation. What this Nation wants is a strong economy. Americans want to be able to work in a meaningful job without fear of being unemployed. This bill does nothing to bring us closer to that goal. We owe our constituents a better effort than simply throwing up our hands and giving up on the President's economic recovery program. We owe our constituents our best efforts for long-term economic recovery. This bill does not represent our best effort, nor does it represent any hope for a long-term recovery. I urge defeat of the bill.

Mrs. MARTIN of Illinois. Mr. Chairman, I reserve the balance of my time.

Mr. NATCHER. Mr. Chairman, we only have one speaker on this side who will close debate. The balance of the time will be yielded to the majority leader.

Mrs. MARTIN of Illinois. May I ask a question of the Chair? As the sponsor of the amendment, I reserved time so that I could close the debate on this side of the aisle. Certainly if it is the wish of the majority leader to close, I wish to do what is appropriate, however, and I bow to the wishes of the Chair.

The CHAIRMAN. The Committee has the right to close, and so the gentlewoman will proceed.

Mr. NATCHER. Mr. Chairman, I yield the balance of the time on this side to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

The CHAIRMAN. The gentleman from Texas (Mr. WRIGHT) is recognized for 5 minutes.

Mr. WRIGHT. Mr. Chairman, I think it is somewhat remarkable that after all these months of telling us we did not need to do anything at all to create jobs, when we finally get a modest jobs bill up for consideration the Republican side now says, "Well, we are going to do it better. We are going to do twice as many jobs at half the cost."

That is indeed an extravagant claim and if it were achievable it would be worth considering. The difficulty is it does not really work that way, and I do not think anybody is deceived.

I do not suggest that the very charming and intelligent gentlewoman who is the author of the amendment is trying to deceive anybody. I do not make that suggestion.

But I do suggest that if anybody seriously believes there are going to be twice as many jobs for half the cost, that person is indulging in a self-deception. Obviously that claim is not true and is thoroughly uncreditable.

What are they trying to do with this substitute? They are trying to make it appear that they can perform the work and not cost anything. They say they will take it from synthetic fuels.

I wonder how long our memories are. Twice in a decade the American economy was brought to its knees by an Arab oil embargo. After the second time this House responded with an initiative. The synthetic fuels program passed this House by 368 to 25. Now the person who I understand had something to do with the drafting of this amendment, Mr. Stockman, was one of the 25. He has never believed in alternate fuels. Mr. Stockman has never supported the synthetic fuels program. But by a ratio of about 15 to 1 Democrats and Republicans did.

We staked out our claim. We said we are going to make this Nation of ours energy independent, however long it takes. That was our firm resolve.

Now scarcely 2 years later some are back saying, "Oh let's take that money from the energy independence program and put it on this program and that way it won't cost anything."

Some tried to do that scarcely 4 months ago when we had a housing initiative. The gentleman from Illinois (Mr. CORCORAN) who seems really more interested in destroying the alternate fuels program than he is in helping to create jobs, made his speech then. It was the same as his speech today, and it was rejected by a bipartisan vote of 240 to 158. That position did not prevail then and it will not prevail today.

Obviously if you take the money that is appropriated for future expenditures, for loan guarantees, and spend it this year it adds just exactly that much to this year's deficit. You do not get any free lunch; no such thing. If you spend it, it is spent. And it adds to the deficit.

So that is the choice.

The second thing they say is this: "Oh, well, it is not going to cost us so much because we shall pay only those people who are drawing benefits."

Stop and analyze whom that leaves out. Only two-fifths of the unemployed are drawing those benefits.

Who are the hardest hit? Three and a half million people already have exhausted their benefits and at the end of this month another 600,000 will join the ranks of those for whom the benefits are exhausted, 4 million.

Sixty percent of the unemployed do not draw the benefits. Are they not after all those who are in most need of help? Yet they are the very people who would be excluded by the Republican substitute.

Finally, it is suggested, I suppose, that you can have more jobs for less money by paying substandard wages. Perhaps you could.

But surely an enlightened citizenry long since has determined the policy and a wise public policy that public funds should not be used to depress wages in any market. It never ought to be said that we have used public funds for the purpose of offering substandard wages, below the prevailing wage.

So for all of these three reasons the amendment reluctantly offered by our friends from the Republican side, those who never offered anything by way of a jobs initiative until this bill came to the floor, really is flawed and wanting.

If you are serious about wanting to provide some jobs for some people, not all of them unemployed—this bill is no panacea—but if you want to help to provide a tourniquet to staunch the hemorrhage by which this economy is bleeding, and unemployment still rising, if you want to try to put people back to work and turn the economy around, maybe begin the recovery that everybody has been anticipating, some have been prophesizing, others already heralding, but which by the statistics has not yet arrived, then vote for the bill. Reject the substitute and support the bill.

PREFERENTIAL MOTION OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. CONTE moves that the Committee do now rise, and report the joint resolution back to the House, with the recommendation that the resolving clause be stricken out.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) will be recognized for 5 minutes.

Mr. CONTE. Mr. Chairman, I listened very attentively to this debate today from both sides of the aisle.

When I first got up here today I spoke against the Democratic bill and termed that bill as a "watermelon" which was 99 percent water and filled with seeds, and I said that if we passed that bill, we will be spitting those seeds out for a long, long time to come.

There is nothing in the bill on waste, abuse, and fraud. We saw what happened with the old CETA program. It was loaded with waste, fraud, and abuse.

Now we come over here with a Republican bill and I am going to term that bill the muskmelon bill. Same thing, 99 percent water; the seeds are smaller, but they are just as tough to digest.

It is an election year and everybody wants to get on the bandwagon to show that they are doing something

for the unemployed. They want to go back home, pound the tom-toms, and say "we have done something."

This is pouring corn down a rat hole and a waste of $1 billion of taxpayers' money.

Nobody got up here today and said what is the root cause of our problem. There are two primary reasons why unemployment is so high in this country: the automobile industry and the housing industry.

The housing industry is sick because of high interest rates.

You know we passed that tax bill—that was a bipartisan bill—a couple of weeks ago and that was really great, great to have the Democratic leadership and the Republican leadership come in here together for a good bill. We saw the reaction on Wall Street, and we saw what happened in the stock market.

Are we going to send them a signal now that we are coming up here with a balloon that will do nothing but give people some jobs for shuffling papers?

The gentleman from Minnesota keeps talking about how there is plenty of cement out there, there is plenty of paint out there, and there is plenty of steel out there.

Mr. CONTE. Let me tell you something, you have got to have the expertise to take on a job to fix those bridges.

Let me tell you another thing, as an old union man. The last thing in the world you want to do is to bring someone up there that has never worked on a bridge or never worked on a high structure and say, "Look, come in here and do this work."

One, he is going to get hurt, or she is going to get hurt, and, second you are busting the unions. That is what you are doing.

□ 1700

These workers are not members of that union, and they do not qualify for those unions. And you do not want any scabs on the job. And if you get those interest rates down and you start building houses, then you will see that people will start buying appliances, stoves, washing machines, dishwashers, and dryers. This will put people to work.

Then there is the automobile industry. Look at what happended, the tragedy. You cannot blame this on the Republicans. You cannot fool the American public. The automobile industry was sick during the Carter administration. Unemployment in Michigan was 20 or 21 percent during the Carter administration. It was the Japanese and it was the Europeans who were coming in here, flooding our markets, putting those good people in Michigan out of a job. If you will put the automobile industry back to work, you will have the glass industry back to work, you will have the steel industry back to work. But this bill here will put nobody back to work.

Now, we passed a good bill here recently, the old CCC bill, the old Civil Conservation Corps bill. I remember that bill during the depression because my father was laid off from the General Electric Co. I went through that Depression and I know what we went through, and I know what people are going through today. Roosevelt came in with the CCC camps. He put people to work in the front. He took people from the cities who were unemployed and brought them up to the forests, and there they built campsites, trails, and picnic areas. And those places today are functioning. You tell me what is going to function after this bill is passed. You will not even be able to find a piece of paper after it is passed.

That is why I said I was for the Wright bill, the old Wright bill, the old public works bill. That was a good bill.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

Mr. CONTE. What a shame.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, during the debate on this bill, as you will recall, we pointed out that in the committee bill we had $1,035,000,000. We still have remaining, if this bill is enacted, about $2,100,000,000 under our section 302 allocation for the Committee on Appropriations.

Now, the substitute offered by the gentlewoman—and, Mr. Chairman, as I have said to her twice before, she handled her substitute in an excellent manner—$1,500,000,000, just transfer the money. On this side, in the committee bill, Mr. Chairman, we have $1,035,000,000. The substitute is more expensive.

During general debate on this bill a number of speakers said, "Why, take a look at the jobs they are talking about in the bill." Road and street repair, that is No. 1, set out on page 4 in the bill. No. 2, bridge painting and repair. And, Mr. Chairman, you will recall, they said, "How many bridges are you going to repair? How are you going to do it?" And then the substitute comes along with 14 types of jobs and every category copied out of the committee bill.

Mr. Chairman, let me say this to you: In the committee bill we keep the 15 percent for the youth program, $150 million. I do not believe that a Member in this House will tell you that this is a bad program, that this is a squandering of money. That $150 million, added to the $192 million in the continuing resolution, gives us about $342 million for the youth in this country. That is in the committee bill.

And I say to you, Mr. Chairman, the fact remains in this country we have about 11 million people walking the streets, looking for jobs. They want to go to work, Mr. Chairman. Eleven million people, 9.8 percent. Mr. Chairman, those are the facts.

This bill on the committee side is a step in the right direction.

You say it is a boondoggle. When are you going to move? When do you intend to take that step? This is the day to take it.

Mr. Chairman, the preferential motion should be refused. The substitute offered by the gentlewoman from Illinois should be refused. This bill should be voted up and enacted into law.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Massachusetts (Mr. CONTE).

The preferential motion was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Mrs. MARTIN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. MARTIN of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 243, not voting 37, as follows:

[Roll No. 338]

AYES—152

Anderson	Emerson	Martin (NC)
Archer	Emery	Martin (NY)
Ashbrook	Erdahl	McDonald
Atkinson	Evans (DE)	McEwen
Badham	Evans (IA)	McGrath
Bailey (MO)	Fenwick	McKinney
Benedict	Fiedler	Michel
Bereuter	Fields	Miller (OH)
Bliley	Findley	Mitchell (NY)
Breaux	Fish	Molinari
Broomfield	Frenzel	Moore
Brown (CO)	Gingrich	Morrison
Brown (OH)	Goldwater	Myers
Broyhill	Gradison	Napier
Burgener	Gramm	Nelligan
Campbell	Grisham	O'Brien
Carman	Gunderson	Ottinger
Chappie	Hagedorn	Parris
Cheney	Hammerschmidt	Pashayan
Clausen	Hansen (ID)	Paul
Coats	Hartnett	Porter
Coleman	Hillis	Pursell
Collins (TX)	Holt	Quillen
Corcoran	Hopkins	Railsback
Coughlin	Hunter	Regula
Courter	Hyde	Rhodes
Coyne, James	Jeffries	Ritter
Craig	Kazen	Roberts (KS)
Crane, Daniel	Kemp	Roberts (SD)
Crane, Philip	Kindness	Robinson
Daniel, Dan	Kramer	Roemer
Daniel, R. W.	Lagomarsino	Rogers
Dannemeyer	Latta	Roth
Daub	Leach	Rousselot
Davis	Lent	Schneider
DeNardis	Lewis	Sensenbrenner
Derwinski	Livingston	Shaw
Dickinson	Loeffler	Shumway
Dornan	Lott	Shuster
Dreier	Lowery (CA)	Siljander
Duncan	Lujan	Smith (AL)
Dunn	Lungren	Smith (NE)
Edwards (OK)	Martin (IL)	Smith (NJ)

Smith (OR)
Snowe
Solomon
Spence
Stangeland
Stanton
Staton
Tauzin
Taylor
Trible
Vander Jagt
Walker
Wampler
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Williams (OH)
Winn
Wolf
Wortley
Young (FL)

NOES—243

Addabbo
Albosta
Alexander
Andrews
Anthony
Applegate
Aspin
AuCoin
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Bennett
Bethune
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brown (CA)
Burton, Phillip
Byron
Carney
Chappell
Chisholm
Clay
Clinger
Coelho
Collins (IL)
Conable
Conte
Conyers
Coyne, William
Crockett
D'Amours
Daschle
de la Garza
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erlenborn
Ertel
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gray
Green
Gregg
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Hansen (UT)
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leath
LeBoutillier
Lehman
Leland
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marks
Marriott
Martinez
Matsui
Mavroules
Mazzoli
McCollum
McDade
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Montgomery
Mottl
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Oxley
Panetta
Patman
Patterson
Pease
Perkins
Petri
Peyser
Rahall
Rangel
Ratchford
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roukema
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shelby
Skeen
Skelton
Smith (IA)
Solarz
St Germain
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
White
Whitley
Whitten
Williams (MT)
Wilson
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NOT VOTING—37

Akaka
Annunzio
Bafalis
Beard
Blanchard
Bolling
Brooks
Burton, John
Butler
Deckard
Evans (GA)
Forsythe
Fountain
Johnston
Lee
Madigan
Marlenee
Mattox
McClory
McCloskey
McCurdy
Moorhead
Pepper
Pickle
Price
Pritchard
Reuss
Rose
Santini
Schulze
Simon
Smith (PA)
Snyder
Tauke
Thomas
Weiss
Young (AK)

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Beard for, with Mr. Annunzio against.
Mr. Butler for, with Mr. Pepper against.
Mr. McClory for, with Mr. Akaka against.
Mr. Tauke for, with Mr. Weiss against.
Mr. Young of Alaska for, with Mr. Smith of Pennsylvania against.
Mr. Moorhead for, with Mr. Rose against.
Mr. Thomas for, with Mr. Reuss against.
Mr. Johnston for, with Mr. Simon against.

Mr. BETHUNE and Mr. CARNEY changed their votes from "aye" to "no."

Mrs. ASHBROOK changed her vote from "no" to "aye."

So the amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker, having resumed the chair, Mr. MINETA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 562) making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982, pursuant to House Resolution 582, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. CONTE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit the joint resolution (H.J. Res. 562) to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 169, not voting 40, as follows:

[Roll No. 339]

YEAS—223

Addabbo
Albosta
Alexander
Anderson
Andrews
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey (PA)
Barnes
Beilenson
Benedict
Bennett
Bevill
Biaggi
Bingham
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brown (CA)
Brown (OH)
Burton, Phillip
Chappell
Chisholm
Clausen
Clay
Coelho
Collins (IL)
Conyers
Coyne, James
Coyne, William
Crockett
D'Amours
Daschle
Davis
de la Garza
Dellums
DeNardis
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dunn
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Ertel
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Holland
Hollenbeck
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jones (NC)
Jones (TN)
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Leach
Lehman
Leland
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Marks
Martinez
Matsui
Mavroules
Mazzoli
McDade
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Motti
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Pease
Perkins
Peyser
Rahall
Railsback
Rangel
Ratchford
Rinaldo
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Skelton
Smith (IA)
Smith (NJ)
Solarz
St Germain
Stark
Staton
Stokes
Stratton
Studds
Swift
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Whitley
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—169

Archer	Gramm	Oxley
Ashbrook	Green	Parris
Badham	Gregg	Patman
Bailey (MO)	Grisham	Patterson
Barnard	Gunderson	Petri
Bedell	Hagedorn	Porter
Bereuter	Hall, Ralph	Pursell
Bethune	Hall, Sam	Quillen
Billey	Hammerschmidt	Regula
Breaux	Hance	Rhodes
Broomfield	Hansen (ID)	Ritter
Brown (CO)	Hansen (UT)	Roberts (KS)
Broyhill	Hartnett	Roberts (SD)
Burgener	Hendon	Robinson
Byron	Hightower	Roemer
Campbell	Hiler	Rogers
Carman	Hillis	Roth
Carney	Holt	Roukema
Chappie	Hopkins	Rousselot
Cheney	Horton	Rudd
Clinger	Hunter	Sawyer
Coats	Hyde	Sensenbrenner
Coleman	Ireland	Shaw
Collins (TX)	Jeffords	Shelby
Conable	Jeffries	Shumway
Conte	Jenkins	Shuster
Corcoran	Kemp	Siljander
Coughlin	Kindness	Skeen
Courter	Kramer	Smith (AL)
Craig	Lagomarsino	Smith (NE)
Crane, Daniel	Latta	Smith (OR)
Crane, Philip	Leath	Snowe
Daniel, Dan	LeBoutillier	Solomon
Daniel, R. W.	Lent	Spence
Dannemeyer	Levitas	Stangeland
Daub	Lewis	Stanton
Derwinski	Livingston	Stenholm
Dickinson	Loeffler	Stump
Dornan	Lott	Synar
Dreier	Lowery (CA)	Tauzin
Duncan	Lujan	Taylor
Dyson	Lungren	Trible
Edwards (AL)	Madigan	Vander Jagt
Edwards (OK)	Marriott	Walker
Emerson	Martin (IL)	Wampler
Emery	Martin (NC)	Weber (MN)
English	Martin (NY)	Weber (OH)
Erdahl	McCollum	White
Erlenborn	McDonald	Whitehurst
Evans (DE)	McEwen	Whittaker
Fiedler	McGrath	Winn
Fields	Michel	Wolf
Gingrich	Miller (OH)	Wortley
Ginn	Molinari	Wylie
Goldwater	Montgomery	Young (FL)
Goodling	Moore	
Gradison	Morrison	

NOT VOTING—40

Akaka	Johnston	Pritchard
Annunzio	Jones (OK)	Reuss
Bafalis	Kastenmeier	Rose
Beard	Lee	Santini
Blanchard	Marlenee	Schulze
Bolling	Mattox	Simon
Brooks	McClory	Smith (PA)
Burton, John	McCloskey	Snyder
Butler	McCurdy	Tauke
Deckard	Moorhead	Thomas
Evans (GA)	Paul	Weiss
Forsythe	Pepper	Young (AK)
Fountain	Pickle	
Frenzel	Price	

□ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Beard against.

Mr. Pepper for, with Mr. Butler against.

Mr. Akaka for, with Mr. McClory against.

Mr. Weiss for, with Mr. Tauke against.

Mr. Smith of Pennsylvania for, with Mr. Young of Alaska against.

Mr. Rose for, with Mr. Moorhead against.

Mr. Reuss for, with Mr. Thomas against.

Mr. Simon for, with Mr. Johnston against.

Mr. John L. Burton for, with Mr. Frenzel against.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RESOLUTION TO EXPRESS THANKS TO FORMER FIRST LADY BETTY FORD

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 407) a resolution to express thanks to former First Lady Betty Ford, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Michigan?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I shall not object, I want to thank the gentleman from Michigan for his motion here.

What I have introduced is a concurrent resolution commending our former First Lady, Betty Ford, for the efforts that have led to the establishment of the Betty Ford Center at the Eisenhower Medical Center in Rancho Mirage, Calif. They are going to dedicate this center on October 3, and what we would obviously like to have is a concurrent resolution passed by the House and the other body in time for that very special dedication ceremony.

I thank the gentleman from Michigan again for his cooperation.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield.

Mr. FORD of Michigan. Mr. Speaker, I would simply like to thank the gentleman from Illinois for the opportunity to join in this very worthwhile tribute to a great American who is especially close to us in Michigan. We appreciate the gentleman's initiative on her behalf.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, I simply want to take this moment to join in saying how appropriate is this tribute and urge support of the resolution.

Mr. MICHEL. I thank the gentleman.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman, and I thank the House for the consideration of this resolution to thank a beautiful and remarkable lady who has been such a good friend to all of the people of the United States, particularly those who are suffering with cancer.

I applaud the gentleman from Illinois and the gentleman from Michigan for giving us this opportunity to say thank you to her.

Mr. MICHEL. I thank the gentlewoman, and will be seeing the former First Lady tomorrow in Michigan at the ceremonies at the library in Grand Rapids, and I shall be sure to tell her of the comments of the gentlewoman from Louisiana, the distinguished majority leader, and the cooperation of my friend from Michigan (Mr. FORD).

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 407

Whereas former First Lady Betty Ford has shown exemplary courage in making public her personal problems with alcohol and drug addiction; and

Whereas Betty Ford's unselfish revelation has given hope and incentive to countless Americans who have been engaged in unsuccessful battles with alcohol and drugs; and

Whereas Betty Ford has not only overcome her own problems with chemical addiction, but has led a vigorous and beneficial life dedicated to helping those struggling with alcohol and other drugs; and

Whereas Betty Ford has devoted her talents to securing passage of legislation by the State of California providing for high quality yet lower cost care for victims of this disease and in leading a successful fundraising drive to create such a facility to offer treatment and hope to those suffering from chemical dependency; and

Whereas Betty Ford's efforts have led to the establishment of the Betty Ford Center at Eisenhower as a part of the Eisenhower Medical Center in Rancho Mirage, California, and whereas the Betty Ford Center will be dedicated on October 3, 1982 and will begin treating its first patients, suffering from chemical dependency, on October 4, 1982.

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States expresses its grateful appreciation to Betty Ford, on behalf of the people of the United States, for the courage and dedication of her efforts to recognize the massive problem of chemical dependency, and to give care and hope to those who labor under the burden of this heinous disease: and, therefore, be it

Further resolved,

That a copy of this concurrent resolution be duly presented to the Betty Ford Center and to Mrs. Ford.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend

their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CELEBRATING THE 172D ANNIVERSARY OF MEXICAN INDEPENDENCE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 586) celebrating the 172d anniversary of Mexican independence, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, may I ask my colleague, is this the resolution that several of us have been encouraging be brought to the floor today, the one I have cosponsored with the gentleman?

Mr. ZABLOCKI. The gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 586

Whereas September 16, 1982, marks the one hundred and seventy-second anniversary of the declaration of Mexico's independence from the Kingdom of Spain;

Whereas Mexico has enjoyed a longer uninterrupted period of democratically elected self-government than any other nation in Latin America;

Whereas the destinies of our two countries are inextricably bound together by geographic, cultural, historic, and economic ties; and

Whereas the people of the United States have long recognized the important contributions made by its citizens of Mexican descent who have immeasurably enriched our own society and culture: Now, therefore, be it

Resolved, that the House of Representatives—

(1) extends to the Government and people of Mexico its warmest congratulations and sincerest best wishes on the occasion of the anniversary of Mexican independence;

(2) expresses confidence that Mexico, in cooperation with other nations, will help overcome the economic difficulties facing the hemisphere; and

(3) renews the expressions of friendship and understanding which have long characterized relations between our two countries.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume, and I yield to the gentleman from Texas (Mr. WRIGHT), the distinguished majority leader and a principal sponsor of the resolution.

Mr. WRIGHT. Mr. Speaker, this resolution commends our sister Republic of Mexico and our good neighbor across the border on their valiant efforts to restore economic stability and the declaration of faith in their future on this, the day on which they celebrate their independence.

I think all Members most surely would want to join in support of this resolution.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Resolution 586.

Mr. Speaker, I would like to join the distinguished majority leader, who spoke earlier today with his usual eloquence and historical perspective, in recognizing that today, September 16, 1982, marks the 172d anniversary of the Declaration of Mexican Independence.

The majority leader has described the events of that day in the year 1810, which began Mexico's long struggle for freedom, national dignity, and self-determination. Today, it should be noted that Mexico has enjoyed the longest period of democratic self-government of any nation in Latin America. As that country's closest neighbor, we recognize that Mexico's destiny is inextricably linked with our own.

The history of Mexico's independence movement, which has brought that country to the forefront of world attention as one of the leading nations of the Third World, is increasingly recognized and understood by Americans in all regions of this land. Our peoples are linked by cultural, family, and economic ties and more of our own citizens visit Mexico than those of any other country. To Mexico, tourism has emerged as the second largest and most significant industry.

We have also learned to recognize and appreciate the important contributions made by Americans of Mexican descent to our own society, our economy, and culture. The impact of Mexico on our national life is not, in fact, limited to the 2,000-mile border area—often referred to as one of the longest undefended borders in the world today. Even in areas as far north as my own Fourth Congressional District in Wisconsin, the Mexican-American community plays a vital and constructive role in local government and community affairs.

Mr. Speaker, Mexico today is experiencing severe economic problems and a period of financial uncertainly—caused to a considerable extent by world economic trends and dislocations—as the Government's leadership attempts to cope with the challenges of recession, foreign indebtedness, and high unemployment. Mexico is, however, a land of vast natural and human resources and has a clear potential for future development and prosperity.

I know that Members of this body join me in expressing the profound hope, and indeed basic conviction, that these current difficulties will be successfully overcome in a spirit of international cooperation and mutual understanding. Our interest in Mexico's ultimate fate and survival as a democratic nation in this hemisphere is, we fully realize, inseparable from our own, and we must work together as neighbors to insure that Nation's economic viability and stability.

□ 1750

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, as the ranking minority member of the House Foreign Affairs Committee, I am pleased to join with the chairman in supporting this legislation which recognizes the 172d anniversary of the declaration of "El Grito de Dolores," the "Cry of Dolores," the inspiring call to freedom for Mexicans. It is the day when our great neighbor, Mexico, celebrates the spirit of freedom and the extension of human rights and privileges to the populace of that country.

On that day in 1810, Father Miguel Hidalgo y Costilla, a parish priest in Dolores, Mexico, spurned his usual sermon; he, instead, asked his followers to take up arms against their Spanish oppressors. Father Hidalgo's parishioners, consisting of Indians and Mestizos, were fully prepared to answer the call; they banded together and began to attack Spanish outposts. Inroads against Spanish troops were continually made. Father Hidalgo was captured and later executed. Others took up the struggle. Spain finally acknowledged Mexico's independence after many bloody and arduous years.

Throughout the history of our two nations, the people of Mexico and the United States have maintained a close friendship. This affinity is based on the common heritage of our struggle for freedom from European domination. It is necessary and fitting that we honor those Mexicans and their descendants for contributing to the unending quest to maintain human dignity. They also fought to preserve a unique cultural heritage.

Today, Mexico and America are becoming increasingly interdependent as two dominant nations in the Western Hemisphere. Mexico has made great strides in developing its natural resources and its economy. As an important trading partner and a growing market for Mexican energy exports, the United States can share with pride its close neighbor's economic progress.

Let us not forget, however, the cultural contributions of Hispanic-Americans to our Nation. Americans of Hispanic heritage are becoming an ever-increasing political force in our coun-

try. As its largest ethnic minority group, Hispanic art, music, food, and language have greatly enhanced the richness of American life.

This is why we celebrate this day to honor Father Hidalgo y Costilla as a great patriot. Not only did he lead the movement toward independence for his country, but he gave hope for a better life to the poorest in his country.

I take great pride in saluting Mexico and our citizens of Mexican descent on this, the day of "El Grito de Dolores."

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time, and I move the previous question on the joint resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6995, FEDERAL TRADE COMMISSION ACT AUTHORIZATION EXTENSION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-821) on the resolution (H. Res. 587) providing for the consideration of the bill (H.R. 6995) to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5723, DEPARTMENT OF TRANSPORTATION AUTHORIZATION FOR CERTAIN MARITIME PROGRAMS, 1983

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-822) on the resolution (H. Res. 588) providing for the consideration of the bill (H.R. 5723) to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 5543, OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 555 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 555

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5543) to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the Fund, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may use.

Mr. Speaker, the resolution provides for the consideration of the bill, H.R. 5543, a bill to establish an ocean and coastal resources management and development fund, and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Merchant Marine and Fisheries. This is a straight open rule, allowing any germane amendment to be offered under the 5-minute rule. There are no waivers of points of order in this rule. There is one motion to recommit in order.

Mr. Speaker, H.R. 5543 establishes a coastal zone management fund from a portion of the total revenues the Treasury receives from its Outer Continental Shelf mineral leasing. The bill provides that 10 percent of all future receipts from the Outer Continental Shelf revenues, up to a maximum of $300 million annually, shall be deposited in the coastal zone fund. The Secretary of Commerce shall then use the fund to make block grants to coastal States based on their relative amounts of population, coastline, and off-shore leasing activity. The grant money can then be used by the States for any of the activities listed under five broad categories in the bill.

Mr. Speaker, the purpose of this bill is to facilitate the management of offshore oil and mineral leasing activities by making the States and Federal Government partners in this management. This bill recognizes the role the States must play in the managing and developing of our off-shore resources. The bill also earmarks money for the national sea grant college program.

Mr. Speaker, it is important that we maintain our commitment to those States that must share the burden of developing our energy and mineral resources in the national interest. I urge my colleagues to adopt House Resolution 555, so that the House may proceed to the consideration of this very important legislation.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 555 is a straightforward, open rule providing for consideration of legislation to create a new program of block grants to the States for improving the management of ocean and coastal zones.

The rule is a simple one, allowing any and all germane amendments, and containing a straight motion to recommit.

The bill it makes in order, however, H.R. 5543, is a complicated effort on the part of the Committee on Merchant Marine and Fisheries to undertake a new Federal expense at a time when our main focus is—and should remain—the reduction of expenditures and bringing under control our almost overwhelming Federal deficit.

When this legislation was considered in the Committee on Rules, we were told of the high degree of controversy over this bill. The ranking Republican member of the Merchant Marine Committee, the distinguished gentleman from Kentucky (Mr. SNYDER), described this bill as "an insult to the American taxpayer."

Mr. Speaker, I am inclined to agree with the gentleman from Kentucky, who also told us that this bill "flies in the face of everything we have been trying to accomplish to decrease Federal spending, decrease Government regulation, and decrease the Federal deficit."

As reported from committee, the bill made in order by this rule, will earmark up to $300 million to fund a sea grant program. I am told that this inventive program is designed to assist college graduate students in getting their education paid for by the taxpayer. In addition, the bill provides a revenue-sharing program with funds going to coastal States to continue the federally funded jobs for planners of State coastal zone management.

The bill would finance all these programs out of the revenues from the Outer Continental Shelf oil and gas leasing receipts, receipts which go directly to the U.S. Treasury.

Mr. Speaker, even with the controversy surrounding the committee's bill, we are not told that a substitute will be offered to replace the block grant concept with a genuine revenue-sharing program. That is a wonderful

improvement, I guess—but the Federal financial liability is increased in the substitute from $300 million per year to $500 million.

I am very pleased to call to the attention of the Members that the gentleman from Kentucky (Mr. SNYDER) has filed in the CONGRESSIONAL RECORD of September 9 a series of amendments. There are 28 in all, and I am told that he intends to offer each and every one of them.

Mr. Speaker, while I do not like to oppose an open rule, I certainly hope the Members consider carefully the bill this rule makes in order.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Illinois.

(By unanimous consent Mr. MICHEL was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I ask the gentleman to yield noting that the majority leader is on the floor, and I wonder if it might be appropriate for us to take time at this juncture to aprise Members of what is in store for us for the balance of the day.

I am apprehensive that some Members might have thought we had concluded the business and would be taking leave when there may very well be a rollcall or two here.

If that is in order, Mr. Speaker, I would like to yield to the distinguished majority leader out of the time allotted me here that we might find out for sure what is taking place for the rest of the evening.

□ 1800

Mr. WRIGHT. I thank the gentleman, and I agree that it is appropriate at this time.

I had not supposed that we would have any controversy on this rule. I was not aware that the rule had controversy, and we had planned that we would take up this rule on this bill and then the rule on the Department of Transportation appropriation bill, and we would then complete general debate on the Department of Transportation appropriation bill. The manager of the bill, the gentleman from Florida (Mr. LEHMAN), indicates to me that it is his belief that it can be done with a minimum of expended time. That was our hope, in order that we could conclude the debate tonight and not have any session tomorrow at all.

The House would meet at noon on Monday, but would postpone any recorded votes on a series of suspensions which are scheduled until Wednesday, and that we would conclude general debate on a bill for which the presently pending rule would make a 1-hour open rule in order, but not take up anything beyond general debate on Monday. So there will be no votes on Monday.

On Tuesday we would begin with the Private Calendar, then take up the Agriculture appropriation, bill for fiscal year 1983 and complet consideration of the Transportation Department appropriations bill for fiscal year 1983. Thereafter we shall try to finish the ocean and coastal resources management bill.

For Wednesday and the balance of the week, the House would meet at 10 o'clock. The first thing we shall do is to take recorded votes on suspensions debated on Monday. Members should expect that a continuing appropriations bill for fiscal year 1983 might be considered, perhaps on Wednesday, if the Appropriations Committee can perfect such a bill on Tuesday.

In addition to that, we want to complete the Defense Industrial Base Revitalization Act, which has been on the floor more than once. There is a bill clarifying jurisdiction of Securities and Exchange Commission and another companion bill known as the Commodity Futures Trading Act of 1982. We have some obligation to try to get those enacted.

The FTC authorization, subject to a granting of the rule.

The Surface Transportation Act of 1982, also subject to the granting of a rule, as are the others which I shall hereinafter name:

Health Planning Block Grant Act; Health Research Extension Act; Regulatory Reform Act of 1982, about which the gentleman from Georgia (Mr. LEVITAS) frequently has inquired; and the nuclear waste disposal bill.

Members should expect that there will be a Friday session next week. We have only a relatively few days remaining before our expected adjournment of October 8, and we would like to conclude as much of the business as possible by that time.

We would expect, of course, to adjourn by 3 p.m. on Friday, and on other days we will just have to announce the adjournment hour from time to time. Of course, conference reports may be brought up at any time, and any further changes will be announced.

Mr. MICHEL. I thank the distinguished majority leader. While the gentleman said that he understood there was no controversy on this rule, it is my understanding that at least one Member was concerned about it and wanted to have a rollcall vote. Now, I am not sure whether or not that Member would still exercise that prerogative, but I think it is best that Members be put on notice, as a precautionary move, rather than having Members needlessly miss a rollcall vote.

I see the gentleman from Georgia (Mr. LEVITAS) is on the floor. He has been persistently arguing and agitating for the Regulatory Reform Act to be brought to the floor of the House. I see a broad smile on his face indicating his pleasure, obviously, that at least it is scheduled. I hope that we get to it. I would be happy to yield to the gentleman if he has some comment to make.

Mr. LEVITAS. I thank the gentleman from Illinois for yielding, and I express my appreciation to him for his assistance. But I also want to commend the leadership, the majority leadership, for scheduling this bill. I realize it is subject to a rule being granted. But we take them one at a time as we get them. I think it is consistent, of course, with a letter which the Speaker wrote to President Reagan, saying that he expected to complete action on regulatory reform by mid-September. The Speaker, obviously and quite clearly, is a man of his word, and I think that the inclusion of regulatory reform legislation on the calendar for next week is totally consistent with that. I am glad that we will finally have the opportunity to do what the American people want us to do.

Mr. MICHEL. In conclusion, Mr. Speaker—and if I might have the attention of the majority leader—on the transportation appropriation bill, the administration does seem to have some reservation about that. So if we were to achieve final resolution of that yet this evening, it would be quite obvious there would be a rollcall or two. If it gets deferred until next week, of course, that is another thing.

Mr. WRIGHT. All things that are deferred until next week will not be voted on today.

Mr. MICHEL. That is quite obvious; yes.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of House Resolution 555, as reported from the Committee on Rules. This resolution would provide for the consideration of H.R. 5543, a bill on which the Committee on Merchant Marine and Fisheries has worked diligently through the entire 97th Congress.

By way of a brief summary, this bill would institute a legislative concept known as "OCS revenue sharing." This program would be based upon 10 percent of the future growth in Federal OCS receipts, up to $300 million annually. It is based on Secretary Watt's acceleration of OCS leasing and is intended to provide a partnership with State governments so that the program may proceed smoothly while protecting the coastal environment.

We will be discussing the details of the bill when the House considers it in general debate. I simply want to point out to my colleagues that 56 Members

have sponsored the legislation and the bill has the support of at least 20 individual Governors. Also, it has the support of the New England, Western, Southern and National Governors Associations. There is broad grassroot support from local governments, private associations, and individuals.

H.R. 5543 is a timely and thoroughly considered piece of legislation with solid and proven support from our coastal States and local governments. I urge support of House Resolution 555, which provides an open rule and 1 hour of general debate.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PHILIP M. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 8, not voting 82, as follows:

[Roll No. 340]

YEAS—342

Addabbo	Chappie	Dwyer
Albosta	Cheney	Dymally
Alexander	Clausen	Dyson
Anderson	Clay	Early
Andrews	Clinger	Eckart
Anthony	Coats	Edgar
Applegate	Coelho	Edwards (AL)
Archer	Coleman	Edwards (CA)
Ashbrook	Collins (IL)	Edwards (OK)
Aspin	Conable	English
Atkinson	Conte	Erdahl
AuCoin	Conyers	Erlenborn
Badham	Corcoran	Evans (DE)
Bailey (MO)	Coughlin	Evans (IA)
Bailey (PA)	Courter	Evans (IN)
Barnard	Coyne, James	Fary
Barnes	Coyne, William	Fascell
Bedell	Craig	Fazio
Beilenson	Crane, Daniel	Fenwick
Bennett	Crane, Philip	Ferraro
Bereuter	D'Amours	Fiedler
Bethune	Daniel, Dan	Fields
Bevill	Daniel, R. W.	Findley
Biaggi	Dannemeyer	Fish
Bingham	Daschle	Flippo
Boggs	Davis	Florio
Boland	de la Garza	Foglietta
Boner	Deckard	Foley
Bonior	Dellums	Ford (MI)
Bonker	DeNardis	Ford (TN)
Bouquard	Derrick	Fowler
Bowen	Derwinski	Frank
Breaux	Dickinson	Frost
Brinkley	Dicks	Fuqua
Brodhead	Dingell	Gaydos
Broomfield	Dixon	Gejdenson
Brown (CA)	Donnelly	Gephardt
Brown (CO)	Dorgan	Gibbons
Broyhill	Dornan	Gilman
Burgener	Dougherty	Gingrich
Burton, Phillip	Dowdy	Ginn
Byron	Downey	Glickman
Campbell	Dreier	Goldwater
Carney	Duncan	Gonzalez
Chappell	Dunn	Goodling
Gore	Marriott	Sabo
Gradison	Martin (IL)	Savage
Gramm	Martin (NC)	Sawyer
Gray	Martinez	Scheuer
Green	Matsui	Schroeder
Gregg	Mavroules	Schumer
Grisham	Mazzoli	Seiberling
Guarini	McCollum	Sensenbrenner
Gunderson	McDade	Shamansky
Hall (OH)	McEwen	Shannon
Hall, Ralph	McGrath	Sharp
Hall, Sam	McHugh	Shaw
Hamilton	McKinney	Shelby
Hammerschmidt	Mica	Shumway
Hance	Miller (CA)	Shuster
Hansen (UT)	Miller (OH)	Siljander
Harkin	Mineta	Skeen
Hartnett	Minish	Skelton
Hatcher	Mitchell (MD)	Smith (AL)
Hawkins	Moakley	Smith (IA)
Heckler	Molinari	Smith (NE)
Hefner	Mollohan	Smith (NJ)
Heftel	Montgomery	Smith (OR)
Hertel	Moore	Snowe
Hiler	Morrison	Solarz
Hillis	Murphy	Solomon
Hollenbeck	Murtha	Spence
Holt	Myers	St Germain
Hopkins	Natcher	Stark
Horton	Neal	Staton
Howard	Nelligan	Stenholm
Hoyer	Nelson	Stokes
Hubbard	Nowak	Stratton
Hughes	Oakar	Studds
Hunter	Oberstar	Stump
Hutto	Obey	Swift
Jacobs	Ottinger	Synar
Jeffords	Panetta	Tauzin
Jeffries	Parris	Trible
Jenkins	Pashayan	Udall
Jones (NC)	Patman	Vander Jagt
Jones (TN)	Patterson	Vento
Kastenmeier	Pease	Volkmer
Kazen	Perkins	Walgren
Kennelly	Petri	Walker
Kildee	Peyser	Watkins
Kogovsek	Porter	Waxman
Kramer	Pursell	Weaver
LaFalce	Quillen	Weber (OH)
Lagomarsino	Rahall	White
Lantos	Railsback	Whitehurst
Leach	Rangel	Whitley
Leath	Ratchford	Whittaker
LeBoutillier	Regula	Whitten
Lehman	Rhodes	Williams (MT)
Leland	Rinaldo	Williams (OH)
Levitas	Ritter	Wilson
Livingston	Roberts (SD)	Winn
Loeffler	Robinson	Wirth
Long (LA)	Rodino	Wolf
Long (MD)	Roe	Wolpe
Lott	Roemer	Wright
Lowery (CA)	Rogers	Wyden
Lowry (WA)	Rostenkowski	Yates
Lujan	Roth	Yatron
Luken	Roukema	Young (FL)
Lungren	Rousselot	Young (MO)
Madigan	Roybal	Zablocki
Markey	Rudd	Zeferetti

NAYS—8

Benedict	Hansen (ID)	Michel
Daub	Kindness	Taylor
Emerson	McDonald	

NOT VOTING—82

Akaka	Forsythe	Marks
Annunzio	Fountain	Marlenee
Bafalis	Frenzel	Martin (NY)
Beard	Garcia	Mattox
Blanchard	Hagedorn	McClory
Bliley	Hendon	McCloskey
Bolling	Hightower	McCurdy
Brooks	Holland	Mikulski
Brown (OH)	Huckaby	Mitchell (NY)
Burton, John	Hyde	Moffett
Butler	Ireland	Moorhead
Carman	Johnston	Mottl
Chisholm	Jones (OK)	Napier
Collins (TX)	Kemp	Nichols
Crockett	Latta	O'Brien
Emery	Lee	Oxley
Ertel	Lent	Paul
Evans (GA)	Lewis	Pepper
Fithian	Lundine	Pickle
Price	Schulze	Wampler
Pritchard	Simon	Washington
Reuss	Smith (PA)	Weber (MN)
Roberts (KS)	Snyder	Weiss
Rose	Stangeland	Wortley
Rosenthal	Stanton	Wylie
Russo	Tauke	Young (AK)
Santini	Thomas	
Schneider	Traxler	

□ 1820

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair will inform the Members that we have a partial computer breakdown. Regular order is being pursued. A terminal malfunction is causing a delay in the recording of written votes, and there will be a delay in concluding the vote accordingly.

□ 1830

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 17, 1982, TO FILE CONFERENCE REPORT ON H.R. 6133, ENDANGERED SPECIES ACT AMENDMENTS OF 1982

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Friday, September 17, 1982, to file a conference report on H.R. 6133, the Endangered Species Act Amendments of 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6529 AND H.R. 3269

Mr. ROEMER. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of the bills, H.R. 6529 and H.R. 3269.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1983

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 583 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 583

Resolved, That during the consideration of the bill (H.R. 7019) making appropria-

tions for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 12 through page 4, line 17; beginning on page 5, line 6 through 15; beginning on page 14, lines 3 through 14; beginning on page 15, lines 1 through 4; beginning on page 16, lines 1 through 22; beginning on page 18, lines 12 through 22; beginning on page 20, line 14 through page 21, line 6; beginning on page 21, line 20 through page 23, line 2; beginning on page 28, line 12 through page 30, line 2; and beginning on page 34, line 4 through page 36, line 2; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 4, lines 6 through 13; beginning on page 16, lines 1 through 22; and beginning on page 18, lines 12 through 22.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 583 waives certain points of order against specific portions of the bill, H.R. 7019, making appropriations for the Department of Transportation and related agencies for the fiscal year 1983.

H.R. 7019 provides $11,199,399,919 in new budget authority for the programs of the Department of Transportation and related agencies. This figure represents an increase of $802,588,000 above the President's budget request. But the bill is $42 million below the section 302(b) Budget Act allocation to the Subcommittee on Transportation of our Appropriations Committee under the budget adopted by Congress.

Mr. Speaker, this legislation is the handiwork of our late beloved colleague, Adam Benjamin, who chaired the Subcommittee on Transportation most ably until his recent untimely death. It bears the mark of the diligent craftsman he was, and it is one of the cruel ironies of fate that he left his committee work well attended but was not permitted to see the legislation through on the floor. For those of us whose districts are deeply dependent upon the Coast Guard, upon urban mass transit, upon highway and railroad programs, we owe Adam Benjamin a last debt of gratitude for his careful consideration of programs so important to the Nation's welfare.

The Benjamin bill recommends a total new budget authority of $10,568,066,350 for the Department of Transportation for fiscal year 1983. This amount would fund the Office of the Secretary, the Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the National Highway Traffic Safety Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the Office of the Inspector General, as well as the Research and Special Programs Administration. Related agencies funded by this bill are provided a total new budget authority of $665,852,569 for fiscal year 1983. These agencies are the Architectural and Transportation Barriers Compliance Board, the National Transportation Safety Board, the Civil Aeronautics Board, the Interstate Commerce Commission, the Panama Canal Commission, the U.S. Railway Association, and the Washington Metropolitan Area Transit Authority.

I want to make special note of an appropriation of $32 million for rural public transportation. This is a vital program for rural people, and these funds are essential to keep this lifeline open to isolated rural areas.

The rule provides a waiver of points of order under clause 2 of rule XXI, which prohibits consideration of unauthorized appropriations or legislation in appropriations bills, against paragraphs making appropriations for the Coast Guard, the National Highway Traffic Safety Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, and the Panama Canal Commission. Most of these authorizations have already passed the House. A clause 2 waiver is also included for Federal-aid highways and highway safety construction programs.

The rule, in addition, provides a waiver of points of order under clause 6 of rule XXI, prohibiting reappropriations, against consideration of parts of the bill dealing with certain Coast Guard programs, Conrail labor protection, and commuter rail service.

Chairman WHITTEN's letter of September 2, 1982, addressed to Chairman BOLLING, explained the need for these waivers is herewith included in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 2, 1982.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: On August 19, 1982, the Committee on Appropriations reported the Department of Transportation and Related Agencies Appropriation Bill for the fiscal year ending September 30, 1983.

The bill includes appropriations for a number of programs for which authorizing legislation has not yet been enacted or items which technically constitute legislation in an appropriation bill. The principal items in this category involve the activities of the following agencies:

TITLE I—DEPARTMENT OF TRANSPORTATION

Some or all of the Coast Guard appropriations under the paragraphs operating expenses; acquisition, construction and improvements; alteration of bridges; and research, development, test, and evaluation, are not authorized. Authorization for these items is contained in H.R. 5617, which passed the House of Representatives on July 15, 1982.

Authorization is also required for part of the appropriation for operations and research, National Highway Traffic Safety Administration. Authorization for these items is contained in H.R. 6273, which passed the House of Representatives on June 14, 1982.

The appropriations for railroad safety and commuter rail service, Federal Railroad Administration, are not authorized. These authorizations are contained in H.R. 6308, which passed the House of Representatives on August 12, 1982. The appropriation for Conrail labor protection, Federal Railroad Administration, also may technically be subject to a point of order.

The appropriations for administrative expenses; research, development and demonstration and university research and training; non-urban formula grants; and urban formula grants, Urban Mass Transportation Administration, require authorization. The authorizations for these items are contained in H.R. 6211, which was reported by the Committee on Public Works and Transportation on May 17, 1982.

TITLE II—RELATED AGENCIES

The appropriations for operating expenses and capital outlay, Panama Canal Commission, are not authorized. Authorization for these items is contained in H.R. 6196, which was reported by the Committee on Merchant Marine and Fisheries on May 12, 1982.

TITLE III—GENERAL PROVISIONS

The limitation on obligations for Federal-aid highways contained in section 10 may technically be subject to a point of order since it contains a formula for distributing the funds under the limitation. The language is virtually identical to the language contained in H.R. 6211.

Accordingly, in the interest of orderly legislative procedure, we respectfully request a hearing before your Committee to seek a rule waiving points of order under clauses 2 and 6 of Rule XXI against the items specified above.

Your cooperation is greatly appreciated.

Sincerely,

JAMIE WHITTEN,
Chairman.

Mr. LONG of Louisiana. Mr. Speaker, I am unaware of any controversy concerning the waivers provided by this rule. I yield to the gentleman from Tennessee for purposes of debate, and reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7019, Transportation and related agencies appropriation bill for 1983, needs to be debated on the floor and it needs to be passed.

The administration opposes the measure because it is some $800 million over the budget request, but nevertheless there is no objection to the rule.

Mr. Speaker, I urge adoption of the rule and I have no requests for time. I yield back the balance of my time.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7019, making apppropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LEHMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. COUGHLIN) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. LEHMAN).

The motion was agreed to.

□ 1840

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7019, with Mr. GEPHARDT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Florida (Mr. LEHMAN) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we submit for your consideration and for the consideration of the Committee the bill H.R. 7019, the Department of Transportation and related agencies appropriation bill for fiscal year 1983.

This is not an easy task for me. This bill is a product of the legislative craftsmanship of Adam Benjamin, who was an outstanding chairman of our subcommittee. As my colleagues on the subcommittee well know, Adam was a strong and effective chairman, but above all he was fair in balancing Federal support among the conflicting transportation needs both of the various transportation modes and of the different regions of our Nation.

I was struck by an observation made by the gentleman from Missouri (Mr. BOLLING) shortly after the news of Adam's untimely death reached the House floor. Mr. BOLLING remarked on how quickly Adam had achieved power and influence in the House, and on what an extraordinary Congressman he was.

I agree entirely; and it seems to me that while we have lost other valuable Members during my 10 years in this body, I have not observed that any other death has touched so many of our colleagues so deeply as Adam's.

At this time, Adam would recognize the contributions of his friends and colleagues on the subcommittee, including the gentleman from Minnesota (Mr. SABO), the gentleman from Oregon (Mr. AUCOIN), the gentleman from Pennsylvania (Mr. GRAY), the gentleman from Massachusetts (Mr. CONTE), the gentleman from Alabama (Mr. EDWARDS), and the gentleman from Michigan (Mr. PURSELL). He would mention the very special working and personal relationship he had with the gentleman from Pennsylvania (Mr. COUGHLIN). And he would not forget the efforts of the staff, Tom Kingfield, Greg Dahlberg, and Jeni Leasor. Each of these people played an important role in preparing H.R. 7019.

I would like to add my own thanks to the subcommittee members and staff. We all lost a chairman as well as a friend, and their help and support have been invaluable as I have worked to take on the responsibility of guiding Adam's bill to enactment.

TRANSPORTATION AND ECONOMIC RECOVERY

Mr. Chairman, with the host of budgetary issues confronting this body concerning such important matters as social security, defense, food stamps, and taxes, many of us tend to underestimate the importance of some of the other programs supported by the taxpayers—including transportation. I suspect that one of the reasons we sometimes take transportation for granted is that the public-private partnership that has existed to develop our transportation system has worked so well. We have indeed developed a transportation system that is second to none—our highway and air transport systems are the envy of the world; our rail freight system is highly developed and provides efficient service to hundreds of thousands of shippers; transit systems currently exist in 279 urban areas around the country. Our transportation network is truly unmatched anywhere in the world.

The importance of our transportation system to the national defense and the American economy cannot be overstated. It is vital for transporting American citizens to work, bringing food to our tables, maintaining our national defense, and supporting the exchange of goods and ideas.

SENIOR CITIZENS JOB BILL

As Chairman Benjamin stated last year, the committee believes the trend of reduced capital investment in this national asset must be reversed. This problem has also been recognized by the Secretary of Transportation. As the Secretary has stated, and I quote from his December 14, 1981, letter to David Stockman:

> There is a pressing need for added capital investment in transportation generally. The deferral of capital improvements in recent years is reflected in marked deterioration of both highway and transit facilities and services. Necessary capital investments were further postponed in the fiscal year 1982 budget and accompanying legislation to achieve the immediate goal of controlling Federal expenditures. Unless this trend is reversed, the resulting inefficiencies and increased costs, in both goods and people movement, will begin to erode private sector productivity gains and dampen the Nation's economic recovery.

When prudent transportation capital investments are deferred, maintenance and operating costs rise significantly. The cost of these actions can be measured in many ways, including delays in the movement of both freight and passengers, increased wear and tear on transportation vehicles, and increased accidents. Inadequate and higher cost transportation will also increase the cost of production and limit the ability of producers to market their products.

The committee does not agree that the budget requested by the administration is sufficient to meet our transportation challenges. As past experience has shown, decreases in capital investments result in the deferral of necessary construction and maintenance work and a more rapid deterioration of our transportation facilities. The committee believes that there are ample statistical reports to support this conclusion, particularly with regard to our highway system. The committee also believes that the American traveling public has come to the same conclusion, that is, our national transportation infrastructure is deteriorating and needs attention.

SUMMARY OF THE BILL

Mr. Chairman, the bill before you contains $11.199 billion in new budget authority. Compared to the President's proposals, the bill is $802,588,000 over the budget. I would

like to make special note of the fact that this bill is just $81 under the subcommittee's 1983 allocation of budget authority for discretionary programs under section 302 of the Budget Act. Any amendments for increased spending in any discretionary program should therefore be accompanied by proposals for corresponding decreases in other accounts.

MAJOR ITEMS

Some of the major provisions in this bill are as follows:

First. The appropriation of $1.63 billion for the urban discretionary grant program of the Urban Mass Transportation Administration;

Second. A general provision providing for obligations of not to exceed $8 billion for Federal-aid highways—an increase of $300 million over the budget;

Third. The appropriation of $1.588 billion for operating expenses of the Coast Guard;

Fourth. The appropriation of $788 million for Amtrak;

Fifth. The appropriation of $2.457 billion for operations of the Federal Aviation Administration;

Sixth. Appropriations totaling $865 million for highway and transit projects substituted for Interstate Highway segments, including an increase of $350 million over the budget for substitute highway projects;

Seventh. The appropriation of $1.3 billion for urban mass transportation formula grants; and

Eighth. A general provision providing for obligations of not to exceed $600 million for airport development and planning grants, an increase of $150 million over the budget estimate.

OFFICE OF THE SECRETARY

For the functions of the Office of the Secretary of Transportation, the bill contains $39,532,000—an increase of $1,682,000 from the current level and a decrease of $9,968,000 compared to the budget. The committee remains concerned about the size of the Secretary's policy office and expects continued action to streamline this office.

COAST GUARD

With respect to the Coast Guard, the committee has become disturbed by the continued lack of support for this agency from the administration. The Coast Guard has been plagued by continual budgetary gamesmanship on the part of the administration which the committee believes must end for the good of the Nation. For instance, last year the committee was forced to call to the GAO's attention the administration's illegal impoundment of $216 million that was earmarked to help renew the Coast Guard's aging fleet of ships. The committee also had to apply pressure on the administration to operate 18 brand new jet aircraft that OMB directed be mothballed in the desert as soon as they were delivered off the assembly line. In addition, the Congress had to recommend an urgent fiscal year 1982 supplemental appropriation which was not requested by the President to prevent the closure of 13 search and rescue stations which safeguard the lives and property of American citizens. The administration could not adequately defend these cuts and would not oppose their restoration.

Judging from these actions, the committee is concerned that the OMB has lost sight of the value of the Coast Guard's mission and is causing irreparable harm to this service. As demonstrated in fiscal year 1982, the OMB is making single-minded, short-sighted budgetary decisions without regard to their impact on life and property and the long term viability of the Coast Guard. The committee will continue its close scrutiny of the administration's actions in fiscal year 1983 to insure that congressional intent is carried out.

For fiscal year 1983 the bill contains $1,587,980,000 for Coast Guard operating expenses, which is $9,950,000 more than the amended budget request and $213,808,000 more than the fiscal year 1982 level. This level should continue Coast Guard operations at their fiscal year 1982 level of service.

For acquisition, construction and improvements, we are recommending $287 million which includes $9 million by transfer. This will continue the procurement programs for new 270-foot medium endurance cutters, medium-range surveillance jet aircraft, and short-range helicopters. It will also provide funds for renovation of four 210-foot cutters and one patrol boat, and construction of various shore facilities. The bill includes $12.7 million for the alteration of two bridges that are unreasonable obstructions to waterborne commerce, and $20 million for research, development, test and evaluation. The sum of $336 million is provided for retired pay of military personnel of the Coast Guard and Coast Guard Reserve. For reserve training, the deepwater port liability fund and the offshore oil pollution compensation fund, we have approved the full budget requests. The committee has not approved the $5 million request for the recreational boating safety programs authorized by the Recreational Boating Safety and Facilities Act of 1980.

FEDERAL AVIATION ADMINISTRATION

The largest single appropriation in the bill is $2,456,783,000 for the operation of our national air traffic control system and for the execution of aviation regulatory, research, and financial assistance programs.

I know many of you are interested in the status of the air traffic control system, so let me recap the situation for you. According to the FAA, over 11,300 termination notices were issued after the PATCO strike. The FAA estimates that 8,500 new controllers will be needed to restore the system to prestrike air traffic demand levels. Since the strike, 4,330 air traffic control trainees have been enrolled at the FAA Academy. The first graduates, totaling 2,660 as of August 31, have arrived at critical facilities for classroom and on-the-job training. In addition, over 1,195 former military controllers have been hired who, based on their traffic control experience, have been assigned directly to facilities—primarily towers. Controller checkouts on operating positions have now begun. We are informed by the FAA that the system is currently accommodating 88 percent of the prestrike workload. The FAA has testified that all capacity restraints on the system will be removed completely by the end of 1983. In every case, a new controller will be fully qualified for his or her assigned position before assuming the duties of that position. The recommended funding level fully accommodates this schedule.

The bill includes $382.98 million—including $7.45 million by transfer—for the installation of new facilities and equipment. This is $42.02 million below the budget request. The committee has deferred action on an additional sum of $300 million which the administration has proposed for later transmittal. The committee has yet to receive a budget request for this item.

In addition, the bill includes appropriations of $16.2 million for facilities, engineering, and development; $93 million for research, engineering, and development; and $43,035,000 for the operation and capital improvements at Dulles and National airports. For the grants-in-aid for airport development, we are recommending a $600 million limitation on obligations. The bill also includes language limiting the authority for new Federal Government guarantees of private aircraft loans to any unused authority carried over from the $100 million fiscal year 1982 limitation.

FEDERAL HIGHWAY ADMINISTRATION

Under the Federal Highway Administration, the bill includes a limitation on contract authority obligations for the Federal-aid highways program of $8 billion during fiscal year 1983. This is $300 million more than the level proposed in the budget and the same level as the fiscal year 1982 limitation.

The bill also contains $500 million for highway projects substituted for Interstate highway segments. This amount is $350 million more than the budget request. We believe that this increased funding level is required to make a meaningful reduction in the large balance of unfunded authority under this program. That balance, as of December 31, 1981, was over $5.69 billion, and according to estimates of

the Federal Highway Administration, may rise to as much as $10 billion by the end of 1983. We believe that higher funding levels must be provided for this program if we are to avoid making this a permanent grant program.

The bill also includes appropriations for motor carrier safety, highway safety research and development, and territorial highways. General operation expenses of FHWA would be limited to $188.5 million in fiscal year 1983, a reduction of $3.062 million from the budget request.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For the National Highway Traffic Safety Administration, the bill includes $70 million for operations and research which is $11.6 million below the budget request and $4.9 million below the fiscal year 1982 level.

The administration has been quick to blame the safety programs and regulations of the National Highway Traffic Safety Administration for many of the financial ills plaguing our auto industry. Even though we doubt that NHTSA is the real villain in this story, we hesitate to recommend additional funding for an agency whose mission has not been clearly articulated by the current administration. The administration has simply not adequately explained how it plans to manage the programs and responsibilities of this agency in a manner consistent with its rhetoric extolling the evils of auto safety regulation and the necessity for transferring Federal governmental functions to State and local jurisdictions. Until we can be assured that the taxpayers' dollars will be used effectively, we cannot recommend higher funding levels for this program.

With respect to those highway safety programs financed with contract authority and administered by States and communities, we are recommending a limitation on obligations of $100 million. This is $23 million more than the amount requested in the budget. This increase is intended to permit a minimum allocation of $23 million for drunk driving countermeasure projects.

FEDERAL RAILROAD ADMINISTRATION

Mr. Chairman, for the Federal Railroad Administration, major recommendations include $23.232 million for railroad safety, $17 million for research and development, $30.84 million for rail service assistance, $115 million for the Northeast corridor improvement project, $20 million derived by transfer for Conrail labor protection and $75 million derived by transfer for commuter rail assistance.

The bill would also provide $788 million for Amtrak for fiscal year 1983. This $788 million level is consistent with Amtrak's request as well as the fiscal year 1983 authorization. We understand that Amtrak has estimated that it can operate all of its existing system under this funding level.

RAILROAD ABANDONMENT IN ILLINOIS

Mr. Chairman, the committee learned just within the past few days, too late to address the issue in our bill or report, of the plight of a group of agricultural shippers in the State of Illinois which requires attention. These groups, known locally as the "Bloomer shippers," are striving to acquire an abandoned railroad line for future redevelopment which runs from Normal, Ill., to the vicinity of Kankakee, Ill. It is the committee's understanding that the railroad formerly operating this line was, prior to the rail deregulation movement, adjudged to be in violation of its basic common carrier obligation with respect to the service over that line and its maintenance. The Bloomer shippers strongly supported rail service on this line and invested a substantial amount of funds based on the historic scheme of regulation. Railroad deregulation action has had an adverse affect on the shipper's ability to acquire this line. Based on the unique and unusual circumstances of this situation, the Federal Government should take all practicable steps necessary to bring about a fair and equitable resolution of this problem.

URBAN MASS TRANSPORTATION ADMINISTRATION

Under the committee recommendations, a total program level of $3.6435 billion would be provided for the activities of the Urban Mass Transportation Administration for fiscal year 1983. This is $493 million more than the President's request, but is $82.2 million less than the amounts provided for similar activities for fiscal year 1982. Under this recommendation, $1.3 billion would be provided for the section 5 "urban formula" program which provides subsidies to our transit authorities around the country to operate their systems. This is $65.25 million less than last year's level. The bill also provides $1.63 billion for section 3 "urban discretionary" grants to buy buses; extend and modernize existing rail transit systems; and continue or begin work on new rail transit systems in Baltimore, Miami, Atlanta, Buffalo, Detroit, Los Angeles, Santa Clara, and Denver. The bill also contains $32 million for the nonurban formula program in fiscal year 1983. This program is designed to assist in the development of public transportation in small communities and rural areas. In addition, we estimate over $100 million in carryover funds will be available for this program in fiscal year 1983.

The bill also includes $365 million for transit projects which have been substituted for interstate highway segments. As I stated earlier, we are concerned about the unfunded balance in this program which is currently hovering at $5.69 billion. Without significant appropriations to draw down this balance, interstate transfers will become a permanent fixture in our budget which was not the intent of Congress.

The bill also includes a new appropriation of $230 million for continuing the construction of the Washington Metro rail system. This amount, when combined with the $45 million provided in the interstate transfer account, will provide a total of $275 million for Metro construction in fiscal year 1983.

The bill also includes $86.5 million for the research and administrative expenses of UMTA.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

The bill includes $20,022,000 for the Research and Special Programs Administration, which includes the materials transportation bureau, the transportation systems center and grants to States for natural gas pipeline safety. The amount recommended is $1,278,000 less than the budget request.

OFFICE OF INSPECTOR GENERAL

For the Office of Inspector General, the bill contains an appropriation of $24,946,000 in fiscal year 1983. This is the amount requested in the President's budget.

TITLE II—RELATED AGENCIES

Title II of the bill contains $631,333,569 for seven transportation related agencies and commissions. This is $34,519,000 below the budget requests and $58,505,431 below last year's level.

More specifically, the committee is recommending $1.9 million for the Architectural and Transportation Barriers Compliance Board; $19.97 million for the National Transportation Safety Board; $72.75 million for the Civil Aeronautics Board; $66.3 million for the Interstate Commerce Commission; $416.75 million for the Panama Canal Commission; $2 million for adminstrative expenses of the U.S. Railway Association; and $51,663,569 for the Washington Metropolitan Transit Authority.

Mr. Chairman, the bill before you is the product of our very able subcommittee. The bill was reported by the full Appropriations Committee on August 19. The committee held 27 days of hearings and received testimony from 8 Members of Congress, 131 officials from the executive branch, and 103 interested individuals and representatives of groups and organizations. The committee printed 7 volumes of hearings, numbering 5,877 pages.

Mr. Chairman, I believe we are bringing a balanced and carefully considered bill to the committee today and I ask for its favorable consideration and approval.

Mr. COUGHLIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for the last several hours in this Chamber we have been debating a so-called jobs bill that, during the course of the debate, was claimed would do something about the infrastructure of this country, our roads and our bridges. Of course, a great many of us feel that that particular bill will do nothing for the infrastructure of this country and our roads and our bridges; that it is simply a make-work program that will not produce real wealth for the country; that will do nothing for our infrastructure, and it will just be pouring money down a drain.

This bill, the bill we have before us now, is the one that does do something about the infrastructure of our country. It is the bill that does build the roads. It is the bill that does repair the bridges. It is the transportation appropriations bill for this year.

□ 1850

This is where those funds should be. This is where they should be funded, not in some wild special bill that is going to turn into simply a pot of waste.

So I rise in support of the fiscal year 1983 transportation appropriation bill. This bill is in a real sense a tribute to the late Adam Benjamin, the chairman of this subcommittee, and it is with a somewhat heavy heart that I know that the acting chairman and I bring this bill before the Congress.

It is sad that he is not here with us today to work the product of his handicraft which he did so very well. One would have been hard pressed to find a more knowledgeable or hardworking subcommittee chairman than Adam Benjamin.

The bill itself is a testimony to his high degree of skill and I can think of no better tribute than swift completion of this bill on which Adam labored so long and hard.

Carrying on in the Benjamin tradition, our acting subcommittee chairman, BILL LEHMAN, has done an excellent job of explaining the bill, so I will not belabor the House with a repeat of what has been heard and will be in the RECORD.

Let me just touch on a few of the major recommendations.

The bill provides $11,199,399,919 in new budget authority for programs of the Department of Transportation and related agencies.

I note that although this is above the President's budget request, it is $81 below the section 302(b) allocation.

If anyone has an $81 project, I might add, that they would like to add into this, we can still put that in under the section 302(b) allocation.

Of course, it is that section 302(b) allocation by which the appropriations subcommittees are governed under the budget process.

The bill contains $1,630,000,000 for urban discretionary grants in the Urban Mass Transportation Administration. It has an $8 billion obligational ceiling for the Federal-aid highways; $1,587,000,000 for the Coast Guard operating expenses; $788 million for grants to the National Railroad Passenger Corporation; $2,456,000,000 for operations of the Federal Aviation Administration; $865 million for highway and transit projects substituted for interstate highway segment; $1,300,000,000 for formula grants of the Urban Mass Transportation Administration; $600 million obligation ceiling for airport development and planning grants; $287 million for capital acquisition, construction, and improvement programs of the Coast Guard; $115 million for continued Northeast corridor improvement project work; and $382,980,000 for facilities and equipment of the Federal Aviation Administration.

The minority supports this bill.

I particularly want to pay compliments to the staff who also worked long and hard on this, Tom Kingfield, Greg Dahlberg, and Jeni Leasor from the majority, Betsy Stark from Congressman Benjamin's office, and Kennie Kraft from my own for the minority side.

This a good bill. This is always a tough bill to work on because it contains so many projects of such great interest to Members of this House.

But Chairman Benjamin has been, as acting Chairman LEHMAN has been, fair to the Members and fair in the way the bill is presented.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I know that he and the members of the committee worked extremely hard on this bill and I want to congratulate them for that.

But I had some understanding that the administration has some problems with this bill. Is there not an indication from the Office of Management and Budget that this bill might be subjected to veto for some of the provisions in it and, if so, could the gentleman detail for me what his understanding of those problems are?

Mr. COUGHLIN. There are two objections that the Office of Management and Budget have, two primary objections.

One was the bill does not include provision for some $233 million in Federal Aviation Adminstration acquisition for new radars and so forth.

The fact is that the budget request for that has not yet come down and the fact is that when we held the hearings Secretary Lewis testified that that request was contingent upon the user fee legislation passing so that we did not include it in the bill at the time we wrote it because the user fee legislation had not passed and the budget request had not come down.

The user fee legislation has now passed. The budget request still has not come down and so that will have to be handled at a later time.

Mr. WALKER. If the gentleman will continue to yield, so that is $233 million of additional spending that they are complaining about rather than $233 million in savings?

Mr. COUGHLIN. There is no additional spending in for that. That is not in the bill.

Mr. WALKER. If the gentleman would yield further, in other words, though, to meet the administration's request in that case you would have to add $233 million to your bill?

Mr. COUGHLIN. They would have to have a supplemental request of some sort.

Mr. WALKER. I thank the gentleman.

What was the other?

Mr. COUGHLIN. The other is the air traffic controllers' pay question.

Again, there is no authorization for that and that is about $61 million. Again, that would have to be handled once there is an authorization for it. There is no budget request and there is no authorization.

Once we get a budget request and an authorization that would have to be handled also as a supplemental matter.

Mr. WALKER. The problem with getting the authorization there is the fact that in the Post Office and Civil Service Committee they have refused to consider any fee for the air traffic controllers unless we do something to try to hire back all of the people that went on strike; is that not the problem?

Mr. COUGHLIN. That is essentially correct.

The gentleman will recall that last year on the final, I believe it was, continuing resolution of the last session of Congress we tried to add money in for the controllers that stayed on the job and tried to have that included in that continuing resolution. It was eventually knocked out before we finally got a continuing resolution that was adopted, unfortunately, in my opinion.

I have sought in this legislation to provide money for the controllers who stayed on the job, but there is simply no way to do it when we do not have any authorization.

Mr. WALKER. If the gentleman would yield further, then, do I understand that in both instances where the administration has objections to this bill they are objecting because you are spending too little rather than they are objecting because you are spending

too much? Is that a fair characterization?

Mr. COUGHLIN. I think what they would like to see is maybe more room left so that later, when additional requests come down, and there would be less money spent now, and they could spend that money later. But they are going to ask for additional spending, there is no question about that.

Mr. WALKER. If the gentleman will yield further, then, the question here is whether or not by putting items into the bill you have, therefore, blocked them from adding a couple of hundred million more in one case, and I have forgotten what the figure was in the other.

Mr. COUGHLIN. $61 million.

Mr. WALKER. So you are talking, in other words, about $300 million all told, you block them from doing that other than as an add-on in a supplemental later on? Is that their objection?

Mr. COUGHLIN. It has not blocked them. They would have to come down with a request and a supplemental.

Mr. WALKER. But they would prefer to leave room in this budget or in this appropriation rather than have to come in with a supplemental that is an add-on; is that correct,

Mr. COUGHLIN. I would say that is accurate. But they have not come in either with the budget request that we need so that we could include it in this bill.

Mr. WALKER. I thank the gentleman very much.

Mr. COUGHLIN. I reserve the balance of my time.

Mr. LEHMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman as chairman of the Subcommittee on Coast Guard and Navigation, I want to congratulate the Committee on Appropriations for doing the best it possibly could for the Coast Guard, given the limitations of the first congressional resolution on the budget. I will be offering an amendment shortly which I believe will further improve the bill within the limits of the budget resolution, and I hope that this will be approved without controversy.

I do feel an obligation to point out to Members, however, the impact which the budget resolution, a resolution which, incidentally, I did not support, will have on the Coast Guard during the coming year.

The appropriations bill before us calls for a $275 million reduction in Coast Guard funding compared to what Congress has appropriated for the current year. There is no money presently in this bill to restore cutbacks which have had to be made in Coast Guard aids to navigation services throughout our country, in Coast Guard recruiting and training programs, and in the budget for routine maintenance functions which provide the bread and butter of Coast Guard operations every day of the year.

This bill contains no money to replace the C-130 transport plane which recently crashed while on a mission in Alaska, killing two coastguardsmen and seriously injuring several more; it contains no money to replace helicopters lost while on training or search and rescue missions during the past year in Alabama, Oregon, and Hawaii, accidents which took the lives of a total of eight additional Coast Guard men and women.

This bill contains no additional money to help the Coast Guard perform its vital law enforcement functions, including its role in restricting the flow of illegal drugs into this country. It is true that a diversion of resources to southeast Florida has had an effect in that part of the country, but the evidence is overwhelming that smugglers have chosen to move north to New York and New England and that the national problem is not being solved.

This bill does not contain sufficient funds to keep Coast Guard Reserve training at the level which existed in 1982. That level, providing for a reserve strength of 12,000, was still only 55 percent of the amount estimated to be necessary for defense mobilization requirements, and this is despite the very critical role which the Coast Guard Reserve plays in the performance of normal peacetime Coast Guard missions such as search and rescue and law enforcement.

Finally, this bill does not even begin the job of eliminating the immense backlog in Coast Guard procurement and maintenance projects which have been built up over the past decade.

Mr. Chairman, the funds for the Coast Guard which are contained in this legislation are not sufficient for that service to do the kind of job which the American people have come to expect from the Coast Guard in years past. I think this lack of funding is clearly harmful to our economic well-being, and to the health and safety of all those who live or work in coastal areas of the United States. I urge my colleagues to consider these facts carefully, and I hope that they will be willing in the months ahead, to provide additional funds—through supplemental appropriations, a continuing resolution or other means—to give the Coast Guard the resources it requires to operate successfully on behalf of the people of the United States.

□ 1900

Mr. PURSELL. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. I appreciate the gentleman yielding.

Mr. Chairman, for the purpose of legislative history, I would like to address the $9.8 million contained in this bill providing for construction of 550 feet of unpaved safety strip at the north end of runway 36 and improvements on the south overrun, all at National Airport in the Washington metropolitan area.

I am pleased to join with my colleague, the gentleman from Virginia (Mr. WOLF), in informing the Congress that we have received assurances from the Department of Transporation that this authorization intends in no way to amend the National Airport operating plan or the policies contained therein, that no approval for the use of National Airport by wide-bodied jets is intended or implied, and there are no plans to permit that type of equipment in National Airport in spite of the construction of the additional safety areas. I am pleased and satisfied with those assurances and I look forward to the added safety factor that this construction will provide at National Airport.

Mr. PURSELL. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, as a member of the Coast Guard and Navigation Subcommittee, I would like to add my support for H.R. 7019 and for the amendment to be offered to the Coast Guard portion of title I of this bill. Further, as the ranking minority member on the Panama Canal/OCS Subcommittee, I wish to alert my colleagues in the House to actions taken by the Approrpriations Committee concerning fiscal year 1983 funding for the Panama Canal.

The Coast Guard amendment to be offered by the gentleman from Massachusetts, who is the chairman of the Coast Guard and Navigation Subcommittee, and supported by a gentleman from Alaska, the ranking minority member of that subcommittee, would transfer $18 million from the retired pay account of the Coast Guard to other accounts where additional funding is needed. This transfer is possible because the Coast Guard will be able to meet its obligations to retired personnel without this additional amount. Thus, the transferred amount would be divided between operating expenses and Reserve training in the amounts of $14 million and $4 million respectively.

The additional amount for operating expenses will be to support ongoing Coast Guard programs, but in particular the short-range aids to navigation program, recruiting and training programs, the Haitian migrant interdiction operations, and needed routine maintenance of vessels and aircraft used for search and rescue and law enforcement. The additional funds for Reserve training are to support the Reserve program at the newly authorized level of 12,000 reservists. I urge all

my colleagues to approve this amendment which will serve to make the Coast Guard more effective and keep the total funds within the bill at the level approved by the Appropriations Committee.

With regard to the funding for the Panama Canal Commission in title II of the bill, I want to commend the members of the Appropriations Committee and especially the members of the Transportation Subcommittee under the chairmanship of our distinguished colleague, the late Adam Benjamin, Jr., for approving our Authorizing Committee's figures for operating expenses and capital outlays. The Merchant Marine and Fisheries Committee unanimously approved a Panama Canal authorization of $416,750,000 which is $35,839,000 less than the administration's fiscal 1983 request.

Not only is this reduced spending level consistent with reduced operating expenses anticipated by the Panama Canal Commission in fiscal 1983, but it minimizes the need for a toll increase. Indeed, this reduced spending recommendation is already having a positive effect; the members of the Panama Canal Commission Supervisory Board have agreed to defer action on a proposed 9.8 percent toll increase—an increase which most assuredly would have been passed along to American shippers and consumers in the form of higher transportation costs and higher prices of consumer goods.

As ranking minority member of the Panama Canal/OCS Subcommittee, I have worked long and hard to carry out the oversight responsibilities with which our committee is charged. I want to see the canal operated safely and efficiently by the Panama Canal Commission, a U.S. Government agency. In addition, I am anxious to make sure that the requirements of the 1977 treaties and the implementing legislation are met.

According to the General Accounting Office, the reimbursement of the general fund of the Treasury is appropriate and is in keeping with the provision of the Panama Canal Act of 1979 (22 U.S.C. 3712) that requires the Commission to be self supporting and financed totally from its revenues.

Accordingly, at the proper time, I intend to offer an amendment similar to one which was included in a previous Department of Transportation Appropriations Act, Public Law 96-400. Its purpose is to continue the reimbursement of taxpayer funds appropriated in late 1979 as a "startup" fund to operate the canal during the period when tolls had just started to be deposited into the Commission fund.

Mr. PURSELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to congratulate the subcommittee on an outstanding bill, particularly our late chairman, an outstanding young man from Indiana, 47 years old, Adam Benjamin. We attended his funeral. I think the respect of his colleagues was outstanding, and I want to congratulate his replacement here, the gentleman from Florida (Mr. LEHMAN), who has done an exceedingly good job of homework at this point in replacing an outstanding young man, Mr. Benjamin.

I want to say a bit about transportation in general. I think this is a comprehensive piece of legislation dealing with water and air transportation, ground, public transportation and highway programs. I want to compliment the staff, which has done an outstanding job in assisting us in the markup and in the congressional hearings that have been held earlier this spring.

I would like to address one relevant issue. I know that the evening is late and that we want to move onward and go home to our families. But I would like to compliment the staff, particularly in the committee report, to address the issue of the St. Lawrence Seaway and the Great Lakes, particularly with relevance to the Midwest.

Going back and looking at all of the history of the St. Lawrence Seaway and the Great Lakes, this Congress has had an outstanding record of history in the development of that project in respect to our growth. It is a program that was developed under the Truman and Eisenhower years. By the way, through the National Security Council, I read all of the congressional testimony, way back then, when President Eisenhower called upon Congressman George Dondero from Michigan and Senator Wiley from Wisconsin, and developed the basic St. Lawrence Seaway Corporation.

At this present time, the Great Lakes serves as a useful tool mainly to Canada. The Midwest does not utilize the Great Lakes to its maximum potential. So in looking at the possible future modernization, both from an environmental standpoint and widening standpoint, we cannot get the Great Lakes usage because the great seagoing vessels are too wide in order to get through the locks like the Welland Canal. Consequently, concerning the present status of the St. Lawrence Seaway, which I have traveled and visited, both the Corporation and the locks themselves, I would like to suggest that the Transportation Committee in this Congress work in a bipartisan effort with the authorization committee and other members of interest not only to the Midwest but to the whole United States, and in a partnership with Canada in developing further improvement that is environmentally sound and economically sound, to see that we draw some great opportunities for being competitive in a world trading market.

At this point in history, Canada uses that seaway at about 70 percent of its capacity and usage, and the United States only 30 percent. In the Midwest we are losing a great deal of what I consider competitive product delivery in the world trading market because the Canadians are bringing a great deal of products up by rail into Canada and shipping out overseas by boat; consequently, we are losing a competitive edge, not only as a partner with Canada, but, more importantly, with other countries in the world.

So I would like to suggest later on that we continue in our transportation studies. I have read about 30 different management marketing consulting studies in the Great Lakes region, by various consulting firms that we have paid through contract through this bill and other appropriate public works bills, and in looking at the development of public works projects through the Corps of Engineers, I would just like to say in closing that I would hope that Congress in our partnership with Canada continually look to upgrade and modernize the St. Lawrence Seaway, because at one time more tonnage passed through the St. Lawrence Seaway than any passageway in the entire world. I think from a competitive standpoint that we ought to address that issue. I am very happy that this committee is beginning to recognize that, what I call phase 1 of looking at that future development possibility. It would be my hope that the committee continue that support, and I would encourage a bipartisan effort to improve and develop the Great Lakes and use it at a maximum potential and still be environmentally sound.

I rise in support of this legislation which makes appropriations for the Department of Transportation and related agencies for the coming fiscal year. The bill is a well-balanced approach to the transportation needs of America and stands as a tribute to the late chairman of the House Transportation Appropriations Subcommittee, Adam Benjamin. Under Chairman Benjamin's leadership, the subcommittee has approved funding recommendations addressing the needs of public mass transportation; the Interstate Highway System; the activities of the United States Coast Guard; and America's railroad system.

Chairman Benjamin and the distinguished ranking Republican of the subcommittee, Congressman COUGHLIN, recognize the fundamental importance of meeting America's transportation needs. In many respects, the variety of transportation methods made available to the American public and business is taken for granted. Our Interstate Highway System is the best

in the world and has fostered the economic growth of America. America's railroads continue to provide reliable, efficient transportation of American commerce. To a large degree, the growth and expansion of the American economy occurred only because of America's transportation system. And during this current period of economic sluggishness in America, it is absolutely essential that transportation remain funded at adequate levels.

I believe the appropriations recommendations of the Subcommittee on Transportation adequately fund the activities of the Department of Transportation. However, I also believe that more needs to be done before the transportation systems of the United States can both contribute to and lead an economic recovery. The interstate transportation system continues to demand funds for maintenance. Without attention to problems of deteriorating highways and secondary roads, the efficiency and competitive costs of transporting goods will be reduced. I also believe the Congress must maintain as a priority funds for mass transit. Urban and rural bus systems, for example in the State of Michigan, continue to provide essential service in cities like Jackson and Ann Arbor. In both of these communities, public transportation is provided for the elderly, the handicapped, and the working commuter. And finally, I believe Congress must continue to explore methods by which America's waterways can contribute to the national and international flow of goods. This year's transportation appropriations report contains language expressing the interest of the subcommittee in taking actions to enhance the economic viability of the St. Lawrence Seaway, especially those actions which will make the needs of the seaway more visible.

Again, I offer my support for passage of this measure and express my appreciation for the work of our late chairman, Adam Benjamin. Congressman COUGHLIN, our subcommittee's ranking Republican is also to be congratulated for his effectiveness in shaping this bill.

● Mr. CONTE. Mr. Chairman, I rise in support of the Department of Transportation appropriations bill we are presently considering, and urge my colleagues to do the same.

I would like to say at this point, Mr. Chairman, that the absence of our former colleague, Adam Benjamin, is probably very much in the thoughts of the Members here today since Adam was the chairman of the Transportation Subcommittee and would have been before the House today.

I know Adam would want the membership to pass this bill in the interest of our Nation, and he would want the membership to give the gentleman from Florida, (Mr. LEHMAN), the support he deserves in his efforts to move this bill to passage.

Mr. Chairman, this bill provides funds over and above what the administration requested for fiscal year 1983, but for good reason. The committee looked on the Nation's transportation needs this year as being somewhat unfulfilled at this point in time. Thus, the bill is oriented toward trying to make up for the gap between the country's transportation needs and its present state.

This year, we looked more at the overall role our transportation system plays in our economy, and how we could best insure that our transportation infrastructure contributes to improving our Nation's productivity. As was noted in the committee report, inadequate transportation increases the cost of production and stifles the ability of producers to market products. This in turn is reflected through increase prices to consumers.

Touching briefly on a few points, I continue to feel that the committee needs to pay more attention to the Coast Guard and its ever-present fiscal problems. As I have said before on this floor, we continue to strap the Coast Guard with requirements, and we continue to expect them to produce, but when it comes time to give them the resources to live up to our expectations, we too often get a little stingy. Oh yes, the Coast Guard always manages to hang in there and perform, but often without needed spare parts, for aircraft, for example. I think we need to continue to pay more attention to this service, and I am going to try to do my part to achieve that end.

In the area of rail assistance, the committee has provided $788 million to Amtrak. This is a considerable degree above the budget request, but it eliminates the need to suspend service on some of Amtrak's routes. Also, we have provided the full $115 million budget request for the Northeast corridor improvement program, which is vitally important to the heavily traveled Northeast rail passenger segments of our railroad system. We must continue to strive toward more safe and reliable rail travel for this portion of the country.

We have provided some $3.6 billion in authority in the urban mass transportation category, including transit projects substituted for Interstate Highway segments. Of that amount, $105 million is earmarked for the Red Line extension project in Boston. I also note here that we have provided $32 million in non-urban formula grants for assistance to transit operators in small and rural communities.

All in all Mr. Chairman, I think we have a balanced bill here, given the need to be mindful of the inflationary impact of Federal spending, and at the same time, the importance of our transportation infrastructure to the Nation's economy. I strongly urge my colleagues to support it.●

● Mrs. SNOWE. Mr. Chairman, I rise in support of the Department of Transportation bill being discussed here today. While I feel all segments of this piece of legislation are quite worthy of this body's support, I would like to point out that full funding for the Coast Guard is particularly essential to the Nation. Coming from the State of Maine, which has over 3,000 miles of coastline and supports a huge commercial fishing and recreational boating population, I see a well-equipped, well-manned Coast Guard as vital.

It is no secret that we demand that the Coast Guard fulfill an ever-increasing amount of tasks while asking them to perform these duties with delapidated equipment. We must provide adequate funding for replacement of these aged vessels and decrepit aircraft.

Also, we must recognize that enforcement of the 200-mile limit is a full-time job which requires much time and effort. But when one factors in the marked upswing in drug trafficking, it is easy to see why the Coast Guard is stretched thin. To meet these challenges, an increase in manpower is necessary. But this bill will barely maintain our present manpower levels for the Coast Guard. To agree to anything less would be imprudent. Of course, we are all aware of the need to be austere with our limited resources, as deficits continue to loom. But, we also must recognize priorities in our spending. To allow the Coast Guard to be funded at levels which would threaten public safety would be totally irresponsible. Therefore, I urge my colleagues to support this Transportation appropriation bill. Thank you, Mr. Chairman.●

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7019, the fiscal 1983 appropriations bill for the Department of Transportation and related agencies.

This legislation provides the resources and Federal funding for a wide variety of critical transportation programs of the Federal Government, programs which fund highways so necessary to the development of our country and those of the Urban Mass Transportation Administration, the major source of funding for our bus systems in urban and rural areas on the mainland and in Puerto Rico.

H.R. 7019 also funds, I am pleased to note, the airport development and aid program which was recently reauthorized due to the splendid work of Congressman NORM MINETA and the House Aviation Subcommittee.

The bill before us is $802,588,000 more than the administration's budget requests and is clear congressional recognition that the surface and air

transportation needs of this country are considered to be a major priority. The legislation is also a tribute to the late Congressman Adam Benjamin, a dedicated public servant who will be sorely missed in the House of Representatives.

The funding levels for urban and discretionary and formula grant programs for the Urban Mass Transportation Administration and the Federal Highway Administration, as well as the $5,630,000 increase for the Coast Guard are noteworthy and, as Congress nears the target date for adjournment, I am pleased to note the progress of this and other appropriations measures still pending on the calendar.

This bill is vital to the transportation needs and I am pleased to support this measure.●

● Mr. FRENZEL. Mr. Chairman, H.R. 7019, the Department of Transportation and related agencies appropriation for fiscal year 1983 is described in a House Budget Committee early warning report for the week of September 13, 1982, as over the outlay targets for both its mandatory and discretionary programs.

Any relationship between this bill and the budget resolution is either casual or coincidental. By any standard it is a budget buster. It deserves the fate of budget busters—either defeat or veto.

When H.R. 7019 is scored against the budget resolution assumptions for discretionary budget authority, it is $64 million over target. But when the necessary supplementals are added, the overage climbs to a whopping $516 million.

According to the Budget Committee's early warning summary, the overall bill is $720 million over the budget. The Appropriations Committee of course is not sound by outlay totals.

But this House ought to be bound. I believe the administration even though it considers the budget too high, will consider itself bound. I believe the American people will take more than a passing interest in a bill that spends three-forths of a billion dollars more than the budget approved by the Congress.

The overages occur in many places throughout the bill, with one of the more flagrant cases being the FAA facilities and equipment and FAA research, engineering and development accounts. Pursuant to the recently passed increases in aviation taxes, budget amendment increases for these two accounts totaling $323 million were required. However the Appropriations Committee has deferred action on the $323 million, setting it aside for a later supplemental. Regretably however, the committee increased funding for other discretionary programs where funding should have been reduced.

In the end, the discretionary funding level has been raised, and the two FAA programs for which the $323 was earmarked will be funded in the spring supplemental. At the same time, however, the budget is busted.

With another account, FAA operations, the committee omitted $61 million that will be required once Congress approves a pay package for air traffic controllers. There is no reason why this $61 million should be deferred. Camouflaging overfunding of the discretionary accounts with this $61 million and the $323 million mentioned earlier is a customary, but deceptive policy.

This bill does violence to the budget resolution in many ways. Interstate transfer grants for highways, urban mass transportation, Coast Guard operating expenses, and the FAA accounts are all over the budget resolution assumptions in either budget authority, outlays, or both. Further, while the bill is over budget now, it will take another quantum leap over the budget once the necessary supplementals are enacted.

I do not necessarily assume that the overspending here is intentional but, nevertheless, it is here, and therefore the bill should not be passed. The committee may someday learn that outlay targets must be met. Budgeting by supplemental is unacceptable and contrary to our efforts toward responsible fiscal and budgetary policies.

This bill should be defeated. If passed, it should be vetoed.●

● Mr. WOLF. Mr. Chairman, the Department of Transportation and related agencies appropriations for fiscal year 1983, which the House is considering today, includes an appropriation requested by the Metropolitan Washington Airports for $9.8 million to construct a runway safety overrun at National Airport.

As my colleagues know, I have been persistent in my efforts to bring a balance to the air transportation system in the Washington area, which includes National and Dulles Airports, the only two airports owned and operated by the Federal Aviation Administration. Those efforts have included implementation of the Metropolitan Washington Airports policy which limits growth and improves safety at the congested National Airport and emphasizes a new and expanded service role for the underutilized Dulles Airport.

I am pleased to join with my colleague Mr. PARRIS in stating it is our understanding that the request for $9.8 million for a safety overrun at National Airport is consistent with this policy. In a letter I received from James A. Wilding, director of the Metropolitan Washington Airports, on June 8, 1982, Mr. Wilding stated, in answer to a question on the reason for the runway project:

> The project is being proposed solely to enhance the runway safety areas at the airport. The project is desirable to handle the traffic that exists at the airport today. It is not our intention by this project to alter the operating length of National's main runway or to allow longer nonstop flights or larger aircraft to operate at National.

I hope this information helps to clarify the reason for this appropriation request.●

Mr. PURSELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

□ 1910

Mr. LEHMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RALPH M. HALL) having assumed the chair, Mr. GEPHARDT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT, FRIDAY, SEPTEMBER 17, 1982, TO FILE REPORT ON H.R. 5238, THE ORPHAN DRUG ACT

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight, Friday, September 17, 1982, to file a report on H.R. 5238, the Orphan Drug Act, which passed the committee unanimously.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ADJOURNMENT TO MONDAY SEPTEMBER 20, 1982

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 o'clock noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednes-

day rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I am very concerned about us putting aside Calendar Wednesdays at this point. The Speaker announced on television this morning that this House would not be considering the school prayer legislation, and we would not be considering the balanced budget legislation. We see the regulatory reform bill scheduled for next week but the Rules Committee, as I understand it, has not been scheduled to even meet on that bill.

The only way that we are ever going to have a change to even get at some of these bills is to begin to go through the committees and take a look at some of this legislation; so I am constrained to object and do object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

NATURAL GAS POLICY ACT SHOULD BE AMENDED

(Mr. YOUNG of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of Missouri. Mr. Speaker, throughout this Congress I have been forecasting sharp increases in natural gas prices for this fall and winter. As you know, Mr. Speaker, I introduced legislation earlier this year addressing this problem of skyrocketing gas prices and to provide residential consumers protection from unreasonably high natural gas prices.

Mr. Speaker, this week articles in both U.S. News & World Report and Business Week confirm my unhappy predictions. According to U.S. News the Energy Department has predicted residential natural gas prices 20 percent higher this winter than last. Business Week forecasts gas price increases of up to 50 percent this winter.

Experts universally blame the phased-in deregulation of natural gas prices established by Congress in the Natural Gas Policy Act of 1978 for these increases. U.S. News quite accurately points out that this act (the NGPA) forces utilities to pay higher prices for gas even though currently there exists a surplus of natural gas supplies such that some producers have shut down wells because they cannot sell the output.

Mr. Speaker, I emphasize once again that unless the Natural Gas Policy Act is amended, gas prices will continue to increase faster than the rate of inflation and many people will be unable to afford to heat their homes this winter. My bill provides the means necessary for Congress to protect residential consumers from unreasonbly high natural gas prices by containing those prices at just and reasonable levels.

I urge my colleagues to take a look at this week's issue of U.S. News and Business Week relative to the problem of natural gas and begin work now to prevent a disaster this winter.

Mr. Speaker, I include copies of the articles referred to here in the RECORD, as follows:

[From U.S. News and Business Week, Sept. 20, 1982]

A PRICING PLOY TO KEEP INDUSTRY HOOKED ON GAS

With individual buyers of natural gas facing rate increases of up to 50 percent this winter, competition between oil and natural gas for industrial customers is heating up. Plagued by soaring natural gas costs, recession-crimped demand for energy in industrial markets, and sinking fuel oil prices, the nation's gas utilities are losing the battle

Now, in a scramble to retain high-volume industrial customers, a handful of the utilities are asking state regulatory commissions to approve price discounts for these customers, even though consumer gas rates are rising sharply. Favorable rulings from the commissions are likely to send more gas companies scurrying for similar assistance.

Over the past year, gas prices have ballooned by 20 percent. Under the Natural Gas Policy Act of 1978 (NGPA), written in response to supply shortages, price controls are gradually being lifted from about 40 percent of the nation's gas supplies from now to 1985. But with a steady supply of gas now assured well into the 1980s, U.S. utilities find themselves facing unexpectedly fierce price competition from residual fuel oil. In many regions of the country, "residual" is selling at below $5 per million Btu to industrial customers, while the industrial price of gas has risen to $5.18 per million Btu or more (chart). Industrial buyers, who last year burned 40 percent of the 20.5 trillion cu. ft. of all gas used, are switching to oil with alarming frequency.

In response, local gas utilities are seeking lower rates for their eroding industrial markets. In August the Pennsylvania Utility Commission granted Pittsburgh-based Equitable Gas Co. permission to set a special "floating rate" that will allow the utility to tie its industrial gas price to the price of fuel oil—now underselling gas by 14 percent in the area—without holding public hearings. People's Gas, Light & Coke Co., a Chicago distributor, is hoping for approval of a similar plan by the Illinois Commerce Commission by December. "We're hurting right now," says John A. Lawrisuk, a vice-president at People's. "Gas prices are going to be higher than residual straight through 1983, and we expect sizable [industrial] load losses if the new rate is not approved."

Up in arms

Utilities contend that unless lower prices to industrial users are approved, gas rates will be forced up for all customers. If significant industrial fuel-switching occurs, utilities would have to increase rates to their remaining customers to earn an allowed rate of return on assets now ranging from 10 percent to 15 percent. But consumer groups are already up in arms over price increases that analysts expect will average 20 percent over the next year. In California, Michigan, and Illinois, some consumers may see stunning increases of up to 50 percent in their gas bills, which will make price breaks to industrial users a bitter political pill. "We're between a rock and a hard place on this one," says Charles Pavalko, a staff analyst at the Ohio Public Utility Commission.

Over the past few years, however, industrial customers have carried much of the burden of rising gas prices. The incremental pricing provision of the NGPA charged industrial customers up to 50 percent more than other users for increased gas consumption. With the supply uncertainties of the 1970s, such burdens drove industry away from gas. Industrial consumption fell from 10.4 trillion cu. ft. in 1973 to 8.4 trillion cu. ft. in 1980. Now, with gas supplies in excess, utilities are struggling to prevent more losses.

Interstate gas transmission companies, which supply gas utilities, also are worried about the industrial market (BW—Aug. 2). In late August, Columbia Gas Transmission Corp., which wholesales gas in eight Northeastern states and is locked into expensive long-term contracts with producers, asked the Federal Energy Regulatory Commission to allow a price cut of $1 per thousand cu. ft. on 88 billion cu. ft. of gas slated for industrial use. Not surprisingly, distribution companies that buy gas from Columbia are applauding the move. "It's a very interesting proposal," says one executive at an Ohio gas utility. "Residential rates are going up, but they'll go up even more if we don't hang on to the industrial market. If we don't save those customers, everyone loses."

[From U.S. News & World Report, Sept. 13, 1982]

SAY GOODBYE TO CHEAP GAS HEAT

Even as air conditioners continued to hum, grim news came in early September for many Americans about the winter ahead: Costs of heating and cooking with natural gas will shoot up sharply.

Gas utilities throughout the country warned customers to prepare for the same kind of shock experienced in recent winters by owners of homes heated by oil or electricity.

Utility officials blamed phased deregulation of natural-gas prices, approved by Congress in 1978. The law, executives complained, forces them to pay higher prices for gas even though the fuel is in such a surplus that some producers have shut down wells because they cannot sell the output.

Nationwide, the Energy Department predicted, residential natural-gas prices will be 20 percent higher this winter than last. But costs will differ widely from place to place.

Southern California Gas Company said residential customers will find their heating bills 70 percent higher. Residents in Massachusetts and New Jersey face 20 percent increases.

Lone Star Gas Company requested a rate increase that could raise residential gas bills by 13 percent in Texas and up to 67 percent in Oklahoma. In Cleveland, East Ohio Gas plans to boost prices 15 percent in November on top of a 15 percent rise in May and a 4 percent hike in August. Gas costs in Cincinnati will increase 33 percent.

In Maryland, home-gas rates are going up 30 percent, and costs to commercial and industrial users are jumping 50 to 60 percent. Baltimore Gas & Electric Company ran newspaper ads putting the blame for the rises solely on its gas supplier, Columbia Gas Transmission Corporation.

Columbia, which sells gas to utilities in much of the Eastern half of the country, has shut down some 20,000 gas wells in the Appalachian region because the recession has dried up the demand for gas. The company still must charge high prices for gas, its executives explained, because it is locked into costs fixed in long-term contracts that it signed with other producers.

Gas prices are expected to keep rising through 1985, when all controls will be lifted. Still, officials doubt gas will cost more than oil or electricity.

What about using another fuel?

Heating-oil prices this winter, analysts say, may rise a penny or two a gallon over those of last winter.

Electric-heat costs are expected to go up 6 percent nationwide, with sharp variations from area to area. Customers in the West may find bills lower—a result of abundant water this summer for hydroelectric dams—but many users will pay extra for rising expenses of building nuclear power plants.

CABLE TV/COPYRIGHT BILL

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAILSBACK. Mr. Speaker, as one of the original cosponsors of H.R. 5949, the so-called cable TV/copyright bill, I remain hopeful that it will be possible to pass this important bill before the end of the 97th Congress. The legislation originated in the Judiciary Committee's Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of which I have the privilege of being the ranking Republican. Along with our distinguished colleague and subcommittee chairman (Mr. KASTENMEIER), we have been working to revise the copyright laws to take into account major changes in the television industry in recent years.

We have worked with many concerned parties—program producers, broadcasters, cable TV operators, and others—who have a direct interest in this matter and have fashioned a bill that makes significant improvements in existing law. But as I told the subcommittee when it considered the matter, and as I emphasized when the full Judiciary Committee reported the bill almost 5 months ago, we have failed to include the valid concerns of one significant party of interest, and that is professional sports. I offered a very limited amendment in this area; it garnered the votes of nine other members of the Judiciary Committee.

Since the Judiciary Committee favorably reported this legislation, it has been pending in the Telecommunications Subcommittee of the Energy and Commerce Committee, where I know sincere efforts to move the bill are now being made. But I cannot help but wonder whether if we had heeded the pleas of professional sports, best represented by baseball Commissioner Bowie Kuhn, if this legislation might not have progressed more rapidly.

Commissioner Kuhn provided the subcommittee with excellent testimony on the need for relief from the compulsory license. He made effective and eloquent arguments, and by failing to respond to Commissioner Kuhn, we denied ourselves a significant and valued ally. During these past several months, I would have far preferred to have someone of his ability, someone well known and well liked on Capitol Hill such as Commissioner Kuhn, working with us to secure legislation, rather than being forced to the sidelines.

As I said at the outset, Mr. Speaker, I am hopeful that H.R. 5949 will be enacted this year. But I continue to believe strongly that the bill will have a better chance of success, if the Congress would provide a positive response to the legitimate concerns of professional sports, which were so ably advocated by Commissioner Kuhn.

JOBS FOR AMERICA'S UNEMPLOYED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. FIEDLER) is recognized for 60 minutes.

GENERAL LEAVE

Ms. FIEDLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. FIEDLER. Mr. Speaker, I have called this special order today so that Members may further address the crucial issue of jobs for America's unemployed. Of all the economic problems which we must deal with in this Congress, unemployment is the most devastating for American families and communities across the Nation.

The key to long-term solutions to high unemployment lie in first recognizing that it is a structural problem in our economy that will continue through the decade, unless we address its causes: movement in our economy toward high technology, service and information industries, changes in industry due to automation and innovation, shifts in consumer demand for different products, and the problem of increasingly strong and unfair foreign competition.

My colleagues and I will highlight the positive steps we believe Government can take to revitalize the private sector to stimulate employment for years to come.

In the present population of unemployed Americans, a portion can be termed "dislocated." They are people who have lost their jobs and remained unemployed for long periods of time as a result of structural change in the economy. Even as we recover from the current recession, these workers are not likely to regain employment easily at previous jobs or elsewhere.

Shifts in foreign competition are causing many traditional manufacturing industries such as steel, automotive, and textile firms, to grow slowly or decline in the years ahead. This will contribute substantially to the displacement of labor in the 1980's. The number of such dislocated workers in 1983 may equal 20 percent of the Nation's unemployed.

I have introduced two bills which address both the cause and effect of this type of economic dislocation. H.R. 7006 strengthens Congress power to deal with foreign countries engaged in unfair trade practices that are threatening the whole global free trade system. H.R. 7007 creates strong incentives for industry to hire and retrain those dislocated workers.

The first bill, H.R. 7006, acts to reduce unemployment by strengthening Congress power to act under the Trade Act of 1974. America is a trading nation, an exporting nation. Yet the unfair trade practices in foreign countries have threatened the global economy. Unfair trade practices have cost American products and services markets at home and abroad.

The Trade Act of 1974 is a powerful and flexible tool to deal with this issue. It permits a wide range of remedies, including tariffs and quotas. Currently, action under this act is initiated in two ways, either by the President directly or through the Special Trade Representative.

H.R. 7006 would create a third way. It would allow the Congress, by passing a concurrent resolution, to request Presidential action under the provisions of the Trade Act of 1974. This would bring congressional factfinding and investigative strengths into direct involvement with the problem of international unfair trade practices.

To provide Congress with a groundwork for its investigative actions, H.R. 7006 also requires the President to submit a report on each country with which the United States has a negative balance of trade, setting forth to what extent this is due to unfair trade practices and also setting out what actions have been taken to remedy the situation. By giving Congress direct access to the remedies of the Trade Act of 1974, H.R. 7006 will strengthen our ability to react to unfair trade practices that have cost jobs in the United States.

The second bill which I have introduced, H.R. 7007, is a new version of the targeted jobs tax credit, for employers who hire long-term unemployed workers. Under the bill, the targeted jobs tax credit would provide employers with a tax credit for a por-

tion of first and second year wages—50 percent of the first $6,000 in the first year and 25 percent of the first $6,000 in the second year—of those dislocated workers who fall into two categories: First, those who have exhausted all of their extended unemployment benefits; and second, those who have exhausted all of their regular unemployment benefits in States where extended benefits are not available and who qualify for trade adjustment assistance. The program would be targeted on those who are eligible only in 1982–83, but it would be in effect for 5 years, so that employers would have ample time to incorporate the incentive into their hiring practices.

In effect, this jobs proposal targets assistance to those unemployed Americans hardest hit by foreign competition in high unemployment States. The bill gives tax-generating, expanding industries a strong incentive to bring those workers back into the labor force in new jobs. The proposal does not create an elaborate and costly bureaucracy. It would use the resources of the present unemployment service system to place workers in jobs.

It is my hope that these two initiatives, along with the proposals my colleagues will discuss, will strengthen the expansion of our private sector and lead us to a stronger, more vital economy in the years ahead.

Mr. EMERSON. Mr. Speaker, will the gentlewoman yield?

Ms. FIEDLER. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I want to thank the gentlelady from California (Ms. FIEDLER) for providing us this opportunity to discuss one of the most serious problems our economy faces today; unemployment. Although the U.S. economy is now employing 57.5 percent of the total adult population, 11 million people are idle.

The most substantial group of unemployed workers now are the so-called blue-collar workers. One of the reasons U.S. blue-collar workers have been displaced is because of increased competition by our foreign competitors for a place in the U.S. market. It is simple economics that a company that can produce a product at a cheaper cost will be the one which will obtain a larger share of the market. Many of our foreign competitors have been able to accomplish this by means of employing workers at a lower cost or subsidizing their industries, thereby producing goods at a cheaper price.

Another reason for the displacement of blue-collar workers has been a decline in the demand for the products that they help produce. Indeed, this Nation is on the verge of a technical revolution, and many of the jobs to be had now and in the future are not in the traditional manufacturing occupations, but in the field of high technology.

There is no doubt that a problem exists and what we should be asking ourselves is: What is the Government's role in insuring that the American worker can again find and keep meaningful employment that will contribute to the high standard of living that is the right of all Americans who are willing to work for it?

First of all, I strongly believe that this Nation must continue to pursue a strong trade policy which will make clear to our trading partners abroad that we expect a fair shake. Foreign competitors which flood U.S. markets with goods while blocking American products in their own countries presents a problem that runs counter to our policy of fair trade. We all know that while the Japanese flood our free market with their vehicles, American cars imported to Japan are virtually priced out of the market. This is only one of many examples of the inequities that exist. Although I am a strong proponent of free trade, I do not believe we should be the only country practicing it, at the expense of our labor force and our entire economy.

On that same note, I believe that we must enact policies which will encourage U.S. companies to do business abroad. There is currently legislation pending before a House/Senate conference committee that would encourage small and medium businesses to increase their exports, which would, in turn, create several thousands of jobs. This bill, S. 734, would establish a new office in the Department of Commerce to promote the formation of export trading associations and companies. It would also allow bank holding companies to invest in export trading companies. This legislation would work to eliminate the many obstacles to exporting and pave the way for businesses to increase their export trade. It has been estimated that this legislation, if enacted, would result in the creation of anywhere between 4,500 and 5,900 private enterprise jobs in Missouri alone.

Another solution to our present problem of the dislocated worker is to retrain the work force so that they will be able to gain new skills to respond to the demand for those skills in growing industries. Mr. Speaker, we have always been a nation of progress, and technological progress in the United States will mean that many jobs presently performed by men and women will be performed by machines in the future. However, this progress also means that many new and exciting job opportunities will open up. For example, increased automation of many of our industries will require well-trained people to operate and repair electronic equipment. It is encouraging news that many of the Nation's labor unions have begun training programs to teach new skills to those workers who have become victims of the decline in manufacturing.

Furthermore, the distinguished Member from California (Ms. FIEDLER) has introduced legislation that will provide tax incentives to expanding industries to hire and retrain unemployed workers so that the proper adjustments in the present demand and supply of labor can be made.

Many of the problems we currently face with unemployment will not be resolved overnight. The problems in many industries are complex and do not lend themselves to simple solutions. We must look to tomorrow and assure that we are in the vanguard of attaining a smooth transition to our changing world and the skills that will be required to run it.

● Mr. NELLIGAN. Mr. Speaker, I am honored to have this opportunity to participate in the special order of the gentlewoman from California. I share the concerns of participants here today about the future course of our economy. I believe that discussions such as this are vital to the development of strategies for restoring the economic base of our great Nation.

While much of the discussion today has centered on national tendencies and trends, it is also important to note that our country is a collection of disparate regions, States and communities, all with distinctive problems, and all in need of separate strategies for economic recovery.

Along with many of my Republican colleagues, I sometimes have been identified solely as a "supporter of President Reagan," to the exclusion of nearly everything else I have tried to accomplish during my term in Congress. This ploy, which is widely used by the media, and which has caught on among many of our Democrat opponents, is not without a basis in fact. But, like so many shortcut labels, it serves to focus attention too exclusively on some of the major Federal initiatives we Republicans have undertaken under the able leadership of our President. It obscures the fact that we Republicans, like our Democrat colleagues, represent diverse constituencies, with diverse needs. As responsible legislators, our actions are conditioned not only by our commitment to the Republican national program, but also by the distinctive needs of the people who have elected us.

During my 20 months in Congress, I have been proud to support the major initiatives of President Reagan. I believe that program will be successful. Already there are signs that inflation has moderated for good. That interest rates may be coming down for an extended period. That home mortgages are becoming available again at costs families will be able to afford. All of these are good signs for the future,

and I believe the President, and the Republicans in Congress along with many Democrats deserve a great deal of credit for them.

But despite these positive signs, unemployment remains a serious national problem. It is even a more serious problem in certain regions, States, and communities around the country. My own congressional district—Pennsylvania's 11th—is one of the hardest hit areas, with an unemployment rate of about 12 percent. Our district's unemployment problems are not of recent origin. In fact, I am somewhat amazed when I speak with Members from other areas of the country who refer to such terms as "structurally unemployed," "labor displacement," and "dislocated workers" as if these were new phenomena.

In Pennsylvania's 11th District, these terms are already well understood, and not just in an intellectual sense. Many of our citizens experienced "displacement" and "structural employment," as early as the 1940's and 1950's. That was the period when the anthracite coal industry—which for a century had defined our region—went into decline. In the 1960's and 1970's, civic, business, and labor leaders in our area were successful in attracting literally hundreds of new industries to our region. This cooperation not only saved the region's declining economic base, but it provided thousands of jobs for dispossessed coal miners and their descendants.

In short, our area residents are already well versed in the fine art of job creation strategy. We have some of the best professional redevelopment experts in the Nation. Our redevelopment organizations have won national awards. Our strategies have been imitated across the Nation. Our area has begun to look, feel, and think better about itself than it has in 30 years.

This is not to say the problems associated with job creation are solved in our area—far from it. Ironically, we are now faced with the fact that many of the industries we attracted in the 1960's, including the textile, apparel, shoe, and heavy metal equipment industries, are now themselves beset with problems. Plant closings and job losses remain crucial problems in our area. For the remainder of my time, I want to discuss some of the initiatives I have taken which have been specifically tailored to retain existing jobs, and create new jobs, in our area. I believe there are three distinctive categories of actions I have undertaken, and I shall form my remarks around these categories. The first group is actions to reduce foreign imports and encourage American exports; the second is actions to provide structural improvements to aid area industries; and the third is actions designed to improve the human resources among the work force in our area.

One of the most serious problems confronting our area is unfair foreign competition. I have taken several legislative actions to help stem the growth of imports. I was an early cosponsor of H.R. 5133, the Domestic Content Act, which would require that increasing percentages of all cars sold in the United States would have to be manufactured in the United States with American Labor. One of the largest industries in our area manufactures parts for automobiles, and I believe passage of this legislation cannot help but have a positive effect on area employment.

As a member of the Congressional Steel Caucus, I am also a cosponsor of H.R. 6505, which would establish restrictions on carbon and specialty steel imports. Such restrictions are necessary to defend Pennsylvania's steel industry against unfair competition.

I have also cosponsored a bill, H.R. 6239, which would discourage the growth of imports in the cut flower industry, a major product in the district I represent.

Currently, the single largest employer in our area is the apparel industry. That is why I have taken every opportunity I could to promote an awareness among Federal officials of the need for additional import protections for this vital industry. Too often in the past, ill-advised Federal import policies have contributed to the decline of the apparel industry, instead of serving to help offset inherent wage disadvantages now threatening the industry. I was gratified last year when the Reagan administration successfully renegotiated the multifiber arrangement, the international treaty which regulates textile and apparel trade in the international market. While the MFA was toughened to the advantage of American textile and apparel companies, I would like to see it toughened even more.

I feel the same way about the shoe industry, which employs about 2,000 people in the 11th District. I believe that additional import protections are necessary to preserve jobs in this industry. I have consistently opposed any provisions of the proposed Caribbean Basin Initiative which would grant any trade advantages to shoes produced in that region.

In addition to changing treaties and laws which regulate foreign trade, I believe we must take actions to make it easier for American companies to export. As the Congressman from a district which is a leading producer of anthracite coal, I am proud to be a founding member of the House task force on coal exports. As a member of the task force, I am especially interested in finding ways to increase anthracite coal exports.

I am also a cosponsor of legislation to create the so-called export trading companies. This legislation would allow banks to set up trading companies to help assist small businesses—such as our area's anthracite industry—in increasing exports. Department of Commerce studies indicate that ETC's could produce thousands of additional jobs in Pennsylvania alone, and hundreds of thousands nationwide.

A second major type of jobs-creation activity I have undertaken for my district is what I refer to as structural improvements. We all know that each of our congressional districts is unique, with a different set of strengths and weaknesses. I have taken several actions which are designed to help solve specific structural problems that thwart economic development, and jobs creation, in the 11th District.

Two of these efforts pertain to our area transportation network. By working closely with Federal officials, railroad representatives, and area businessmen, I have been instrumental in maintaining adequate rail service to our area, in the face of threatened route abandonments by Conrail. I was extremely gratified to learn that the Interstate Commerce Commission recently gave unanimous approval to a plan I supported allowing the purchase of the Delaware and Hudson Railroad by a Connecticut firm. This plan will continue vital service to our district on D. & H. lines, and provide for continued transport of 11th District products throughout the Northeast and the rest of the Nation. Loss of such railroad service would have meant the loss of hundreds, perhaps thousands, of jobs in our region.

Another transportation problem confronting our area is our deteriorating highway bridges. Many of our most important bridges are up to 60 years old. In order to help solve this problem, I have become a cosponsor of H.R. 3227, to increase the allowable Federal share of financing for bridge replacement and rehabilitation projects.

Other actions I have taken have been designed to revitalize our area's anthracite industry. While anthracite production has decreased markedly during the past 30 years, I believe that our changed national energy situation bodes well for the revival of the industry, which will, in turn, create jobs for our people.

To help revitalize the anthracite industry, I have sponsored legislation to extend energy tax credits to anthracite stoves. I have cosponsored legislation that would make it easier for small anthracite producers to obtain Federal loan guarantees to help finance expansion of their operations.

I have also worked to bring Federal projects related to anthracite to our region. Last year, I was successful in obtaining $3.1 million for a fluidized bed combustion boiler which will be

fueled by anthracite, and which will provide steam heat for the entire downtown area of the city of Wilkes-Barre, Pa. Projects such as this will not only provide a market for anthracite products, but will also make our region more attractive as a place to locate other businesses.

I have also been active in defending Department of Defense contracts to purchase anthracite for heating overseas military bases. I have met repeatedly with DOD officials, in an effort to preserve these contracts, which have provided the primary export market for anthracite for 20 years, but which have recently been threatened by foreign competition.

Working closely with my esteemed colleague, Representative JOSEPH M. MCDADE, I have been successful in obtaining revised DOD contract terms to benefit the industry. I have also been successful in adding language to the fiscal year 1982 supplemental appropriations bill that would require DOD to purchase only American-produced coal for its heating requirements in Europe. Actions such as these should help to preserve the jobs of hundreds of miners in our region.

The third area of activity I would like to discuss briefly concerns my efforts to develop the human resources in our area, so as to improve the economic climate. Let me emphasize that the work force in the 11th District is among the most highly motivated in the entire country. Like other areas, however, our workers need to be able to obtain the skills necessary to remain competitive in our quickly changing technological environment.

Toward this end, I have utilized existing Federal programs and treaties to preserve area jobs, and to provide benefits for those who lost jobs to foreign competition. I assisted one area firm in qualifying for assistance under the Trade Adjustment Assistance Act. I presented a written statement on behalf of another area industry that had petitioned the Federal Trade Representative for relief from unfair trade competition. In each case, my efforts were successful.

I also supported legislation which recently passed the House which would create a new and improved Federal jobs training program. As you know, this bill had wide, bipartisan support. It was widely agreed that, by placing renewed emphasis on private sector input, the revised job training program envisioned by the legislation would serve to train individuals for meaningful jobs in the private sector. Such training programs are vital to the well-being of our area, and I am pleased to have had the opportunity to support the legislation.

Finally, I want to mention a legislative initiative I have undertaken which may ultimately help create jobs in our area for disadvantaged youths. Last year, I introduced legislation which would create a special fund for maintenance projects in our national parks. The fund would consist of all franchise fees currently paid by concessioners in national parks.

I was gratified when the funding mechanism contained in my bill was adopted as part of the legislation adopted by the House in June which would create the American Conservation Corps. Modeled after the Civilian Conservation Corps of the 1930's, the ACC would create job opportunities for youths from high unemployment areas to improve and maintain our Federal lands. I am hopeful that this legislation will be enacted in the Senate.

In brief, these are a few of the actions I have undertaken to help create needed jobs in our region. I am grateful to my colleague, the gentlewoman from California, for providing me with this opportunity to point out that the Republican plan to bring about economic recovery does not end with appropriations bills, budget resolutions, and tax bills, but includes the efforts of each Republican Member to improve the economic climate in his or her own congressional district.●

● Mr. LAGOMARSINO. Mr. Speaker, there are few things as demeaning to a person as being out of work. For most of us, a job means dignity, self-respect, and making our own way in the world, and when retirement comes, we see it as our reward for having contributed to society and to our own and our family's enrichment.

When a person's job disappears through no fault of his own, it is more than a personal tragedy; it is a loss to society as well. That is why the current unemployment figures are a matter of such serious concern. Today, almost 1 person in 10 in the available work force of the Nation is idle. The causes of this dilemma are many and complex. They include foreign competition; loss of productivity; a drying up of capital and investment funds; the past ravages of inflation; and Government bungling. Some go so far as to say we are experiencing a realinement in the nature of our labor force comparable to that which occurred when we shifted from an agrarian economy to an industrial economy. Whether that is true or not—and I think the question is open to debate—there seems little doubt that a relatively high level of unemployment, say in the range of 5 to 6 percent, has persisted in the economy for many years and is likely to persist for some time to come.

It may be useful to look behind these figures to gain some historical perspective on our current problems. One point which is pertinent is the changing nature of the work force itself. The 15 years of rapid Government growth which followed the institution of the Great Society in the mid-sixties vastly increased the revenues of the Federal Government. It also vastly increased the load of taxation on working people, and caused a rapid inflation in the cost of living, which peaked in the double-digit inflation rates experienced at the end of the Carter administration.

One of the most rapidly increasing components of the cost of living in recent years has been interest rates. Heavy Government borrowing to finance Government growth was the primary cause of the runup in interest rates. And high interest rates, were the primary cause of the runup in housing costs and subsequent stagnation of the housing industry.

As costs rose, more and more families found they needed more than a single salary to get by. Women who had remained as homemakers now entered the labor force. Then the shortage of credit caused by Government borrowing began to impact on industry. Expansion was deferred, as were plant improvements. Productivity declined, and foreign products became more competitive, resulting in declining markets and eventually, in job losses. The workers who were the first to be let go were those who had most recently entered the market: Young people and homemakers. People attempting to enter the market for the first time, found themselves shut out. And the unemployment rate soared.

Interestingly, the percentage of the total working-age population now employed—the so-called employment ration—now stands at 57.7 percent—two full points higher than at any time in the boom years of the sixties. In the depths of the Great Depression, this ratio had fallen to 44 percent—with a corresponding unemployment rate of 24 percent. In 1975, at the low point of the last serious recession, the employment ratio was 55.3 percent, nearly two full points below today's, even though the unemployment rate was 8.5 percent, more than a point below today's rate. This seeming contradiction between the employment ratio and the unemployment rate is due to the changing definition on the unemployment rate and to the changing character of the work force. Many of today's unemployed are members of families which still have an income, as compared to the 1930's, when many sole breadwinners were out of work. In addition, the existence of unemployment compensation and other social assistance programs has mitigated, to an extent, the full impact of job loss. This is illustrated by a study at Northeastern University in Boston which found that the average family with an unemployed household head, still managed to maintain an income at the national and statewide median level.

This is not to say that unemployment is not serious; it remains a serious problem and current levels are too high. Most economists now agree that a 5- to 6-percent unemployment rate is built into the economy, due to the mobility of the work force and the number of optional workers. So we are still several points above a normal level.

What is the remedy for this problem? One remedy would be to reduce the deficit. Less Federal borrowing to meet the deficit could free up billions of dollars for job creation and expansion, as we witnessed so vividly when the stock market took off last month following passage of the tax bill and the lowering of interest rates. Business improvements would also allow us to meet head on the challenge of overseas competition, which is due in part to a newer physical plant. This alone could substantially reduce the unemployment rate.

In conclusion, Mr. Speaker, there are a number of steps we can take to reduce unemployment, but the first and most critical step has to be to reduce the deficit. And generally, that means reducing the rate of Government expansion. The answer is not, as some have suggested, zero growth in the private sector.●

● Mr. ROGERS. Mr. Speaker, I would like to commend the gentlewoman from California for having called for this special order. She is entirely correct—the question of jobs certainly deserves careful consideration in the Congress.

Americans are seeking employment in record numbers. Each of us is hit monthly with national, State, and local figures reflecting Americans out of work. The population is shifting continuously motivated by the desire for gainful employment. Rural Americans are searching for work in the cities, urban Americans are moving to the country; northerners are moving South and West, and southerners are moving North and West; and on and on. Our constituents are leaving their communities, their States, their regions, in hopes of finding an adequate livelihood.

What can we do? What are we doing as a Congress to solve this problem? The burden is certainly on our shoulders.

First of all, we must improve the state of the economy—reduce inflation, stimulate economic growth, curb illegal immigration and employment practices, implement effective training and employment legislation and much more.

Currently, House and Senate conferees are hammering out the details of H.R. 5320 and S. 2036 which will help train and employ Americans—our youth, our aging, our veterans, our handicapped, our poor, our homemakers. From past experience we know it is imperative to emphasize training for available and future job opportunities rather than throw money into temporary and meaningless employment. We know from past programs which have been ineffective in the long run that employers must play a major role in planning training and employment programs. Coordination at the State and local levels is essential to avoid duplicative and wasteful efforts. We have an opportunity with the current job training bills to make great strides toward an effective employment program.

The fact is Mr. Speaker, that privately-owned businesses, run with the expertise of entrepreneurs across the country, are the only way for us to create and keep permanent jobs. The best legislation is not legislation which will create yet another Federal program—a program which businesses in all of our districts will end up paying for and which will skim off capital which would be better invested in growth and jobs. The best legislation is to get rid of the regulations, taxes, and high interest rates which have crippled all of our businesses and especially our small businesses.

The Export Trading Company Act is a prime example of this kind of beneficial legislation. This bill, which was endorsed by the administration, got rid of unnecessary and restrictive laws and allowed small businesses to combine their efforts in order to give them more clout in the export market. In my own State, where there is extensive interest in exporting coal, the Commerce Department estimates that this bill could lead to between 2,000 and 5,000 jobs. And this program, while creating jobs, will not cost the taxpayers a single cent. On the contrary, we could end up saving money with lower welfare and unemployment costs when we put workers back on the job.

I am looking into legislation now to prevent cheap clothing imports from flooding our markets and shoving our workers onto the unemployment lines. The past import policy has allowed jobs, jobs which we need so badly here at home, to slip away to the cheapwage countries in Asia. It is high time our trade laws became responsive to the needs of Americans.

And we need to continue to support the President's program for economic recovery, so we can get our economy back into shape and so we can get rid of the outrageous interest rates left in our laps by the previous administration. Given just half a chance, the small businesses which have been the bedrock foundation for our economy, the strongest economy on the face of the Earth, will be able to get back to the task which they do so well of providing jobs in each of our districts.

The private sector is the key to our country's growth and the key to creating jobs. We have got to have the guts to stick to the administration's policy, so we can get our country and our businesses back onto their feet, once and for all. This is the only solution which will give us the jobs we so need and want.●

● Ms. HOLT. Mr. Speaker, the high unemployment rate is a concern to every compassionate American, but it cannot be discussed in isolation from the general condition of the economy.

It is our goal to restore the American economy to the strength we all remember, to the robust growth that offered abundant jobs and advancement opportunities for people. We are correcting the problems that have afflicted our economy for years.

In the recession year of 1980, American people elected President Reagan and changed the character of Congress because they wanted to stop the economic decline that had been proceeding for years. The seventies was a decade of rising inflation, a rising tax burden, rising interest rates, and rising unemployment.

We are turning this around. We are correcting the problems that dragged our economy into stagnation. The new economic program came too late to prevent the deep recession of 1981–82, but the things we have done offer great hope for the future.

The inflation rate has been cut from 12.4 percent in 1980 to 8.9 percent in 1981 to an estimated 6 percent for this year. The 10-percent cut in personal income tax rates on July 1 will be followed by another 10-percent cut next July 1. Interest rates have been slowly falling.

All of this means hope and opportunity for the American people. It means the blight of unemployment will be reduced as the great American economic engine responds to the policies that encourage growth.

Republicans are too often accused of not caring about the unemployed, which is nonsense. It is because we care that we have undertaken the difficult program of restoring the strength of the American economy.

At the risk of offending potent special interests, we have reduced Government spending so that the productive sector of our economy will have the resources to grow and create jobs. It is seldom that politicians have the courage to do such things, but the painful choices we have had to make have helped to establish the foundation for economic growth.

We have eliminated many of the extravagances that have been built into the Federal budget over the years, but we have maintained programs essential for the support of the elderly, disabled, and our neediest citizens.

It takes time to lay the foundation for economic growth after years in which the strength of the productive

sector was eroded by the growth of Government, but I believe we are creating that foundation.

Our goal is jobs, jobs, and more jobs for the American people.●

● Mr. VANDER JAGT. Mr. Speaker, I want to commend my colleague from California (Ms. FIEDLER) for her leadership in bringing employment and jobs issues to the forefront of debate in this body. Her deep concern over economic and employment problems is indicative of the seriousness that Republican leaders have in getting the economy moving, and giving American workers the opportunity for meaningful employment.

When President Reagan took office last year, he clearly made the economy his No. 1 priority. His actions once in office reaffirmed that commitment as he wasted no time in pushing hard for policies to set the stage for economic recovery—with budget and tax reductions as his centerpiece.

In his inaugural speech, President Reagan warned that it would not be easy to get the Nation back on course, that recovery would not come overnight. There has been great progress in controlling the runaway inflation we faced just 2 years ago, and there is considerable basis for optimism that the recession has finally bottomed out, with good prospects for a healthy recovery over the next few months.

And, while the unemployment rate is still high—far too high—there are some optimistic indicators as well. The employment rate among the U.S. working age population is high, 57.5 percent in June. That is a statistic frequently overlooked and overshadowed by the unemployment rate, but is perhaps a better indicator of the health of the economy. That 57.5 percent of the working age population is employed is important. That is an employment rate higher than 1972 by 1½ percent, and 2½ percent higher than in 1960. In fact, the employment rate has seldom been higher.

But, rather than arguing about one statistic or another, we should really be talking about what we can do to make the economy stronger, to put even more Americans to work in productive jobs. That is where we must have better ideas, to look forward to our needs and goals, rather than turning to the past and repeating our mistakes.

I am proud that Republicans do have better ideas, that we are looking forward and not resorting to the same wornout ideas that have not worked before. With the unemployment rate at 9.8 percent just 8 weeks before election day, it is easy to call for a budget-busting program to create make-work Government jobs, but that will not help the problem.

The ultimate solution is revitalizing the private sector, to create new jobs that will give a worker an opportunity for a productive career for years to come. That has been the focus of the Reagan economic program, and that is the focus of legislative initiatives I have taken during the past 2 years.

One of the most significant contributions I have made during my service in the House came last year during action on the tax bill with the new incentives for industrial research and development. The tax incentives included in the 1981 Economic Recovery Tax Act have already encouraged American industries to undertake more R&D activities, and that effort will translate into higher productivity, more innovative products, greater competitiveness in the future and new jobs. American business must be innovative and productive to successfully compete in the international markets of the future, and the R&D undertaken today will contribute to the success of the future.

Another legislative effort in which I have been deeply involved is the targeted jobs tax credit. This mechanism provides a tax credit to employers who hire workers from certain target groups, including low-income youth, veterans, and the handicapped. I worked this year to develop legislation, H.R. 6700, to expand those categories to include unemployed workers who have exhausted their extended unemployment benefits, or who qualify for Trade Adjustment Assistance and have exhausted their regular unemployment benefits. This tax credit would help unemployed workers who have been out of the work force for an extended period or have been displaced by imported products get rehired by another employer in the private sector. I am convinced that this would be an effective way to get workers off the unemployment and welfare rolls, and on tax rolls as a productive worker.

And last, I want to recognize the important initiative taken by the President in cooperation with many of my colleagues in developing the urban enterprise zone legislation. This is the kind of innovative approach we need to solving the problems of our aging urban areas, to restore economic vitality and employment opportunities in areas that have been left to waste. I have been proud to join as a cosponsor of that legislation, H.R. 6009, and I look forward to its serious consideration in the Congress later this year or during the 1983 session.

We must continue to look forward, to plan for the economy of the eighties and nineties, not look back on the programs of the thirties. Innovation, productivity, and competitive aggressive American industries will be the strength of our economy, and we must develop programs which will accelerate that progress, not impede it.●

● Mr. SHUMWAY. Mr. Speaker, I am pleased to have this opportunity to express my thinking on the crucial jobs and employment issue, particularly since the House is scheduled to consider so-called jobs creation legislation this week.

I am certain that most of my colleagues have had experiences similar to my own when traveling through their districts this summer. No matter where I go, the No. 1 economic problem besetting my constituents is easy to identify: unemployment. In some sections of northern California, unemployment rates approach 30 percent. Clearly, this critical problem must be responsibly and effectively resolved, not simply patched or haphazardly bandaged in a stopgap manner.

For entirely too long, we have tended to turn to Washington for answers, no matter what the question, and no matter whether it was appropriate for the Federal Government to intervene. I have always maintained that it is not the role of the Federal Government to "create" or directly provide jobs. Instead, a more appropriate Government function would be to stimulate a healthy economic climate in which plentiful private sector jobs can meet employment needs.

Before us this week will be legislation which is a classic example of the old "spend-and-patch" thinking. House Joint Resolution 562, the urgent supplemental for job creation, will do virtually nothing to solve unemployment. It will, however, add $1 billion to the deficit, thereby increasing inflationary pressures. Reinstituting the costly and ineffective public service employment program of CETA is no answer, particularly when one considers that no jobs could be "created" until 1983. The bill is not even a good "stopgap" measure.

The most effective way to end unemployment is to heal the economy, and the most effective way to heal the economy is to continue what we have already begun: cutting spending, cutting taxes, and reducing burdensome Government regulations. Continued dedication to those three goals cannot help but produce a chain reaction of beneficial results. Less Federal spending will reduce the deficit, thus the Government will not be forced to consume so much of the private credit market in order to meet its obligations. More available capital in private markets will ultimately result in lower interest rates, thus encouraging businesses to expand. Reduced taxes will leave more money in the hands of Americans, and an incentive tax policy will encourage savings and investment. Increased savings and investment will permit critical capital formation to occur, thus providing the resources for increased business production. And increased production means jobs, real jobs, not hastily contrived public serv-

ice positions underwritten with nonexistent public moneys.

Easing Federal regulations, some of which are little more than Government sanctioned restraints on employment, will also reduce the jobless rate. As side benefits, lower Federal spending levels and a restoration of individual freedom of choice will also result from reduced regulations.

Finally, the achievement of these three reductions will leave more money in wage earners' wallets once they are earning wages again. It makes far more sense to me for Americans to keep their money, rather than giving it to Uncle Sam to spend for them.

An example of specific legislation which I believe will ease unemployment is the export trading company measure which has passed both the House and Senate. As a sponsor of the bill, and as a member of the House Banking Committee which contributed to its authorship, I am extremely enthusiastic about its potential for increasing U.S. export opportunities and reducing unemployment. In fact, the Department of Commerce estimates that as many as 30,000 new jobs will result from implementation of the bill in California alone. As passed, the bill seeks to increase U.S. exports through the formation of export trading companies (ETC's), which would serve as intermediaries for U.S. companies, large and small. On the whole, many companies have shied away from foreign markets because of unfamiliarity with overseas laws, languages and practices, as well as the staggering cost and potential risk involved. With the passage of this effort, ETC's will orchestrate American skill and resources, and will attract producers of goods and services along with export management companies, banks, freight forwarders and other service businesses into a joint effort to exploit foreign markets. This legislation is a fine example of a congressional effort to remove obstacles in the path of private sector production, and to encourage the very type of thriving economy so necessary to promote adequate employment opportunities.

I would like to share with my colleagues some very touching comments passed along to me by two of my constituents who understand far better than any of us the burdens of unemployment. Not only is the husband in this family out of work—his unemployment benefits have just run out. Still, this is what they had to say:

> We urge you to support the President's economic program . . . we can see beyond the present situation to a better time.
>
> We feel this better time is worth some sacrifice and efforts on our parts, and we are willing to "tough it out" in good faith. We are looking forward to a more sound fiscal program . . .

And so am I. It seems clear that these individuals understand some basic truths about our economy better than many of our big-spending colleagues. They realize that we have spent far too long throwing money we do not have at problems which are not appropriately within our purview as Federal legislators. By contrast, we spend too little time implementing positive and constructive approaches which keep in mind the basis of our free market system.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 5 minutes.

● Mr. GILMAN. Mr. Speaker, on September 15, 1982, I was unavoidably absent due to an economic development meeting with Japanese industrialists in our congressional district, causing us to miss the following rollcalls:

On rollcall No. 326, on agreeing to the conference report on S. 923, the Pretrial Services Act, which was agreed to by a vote of 367 yeas to 20 nays, had I been present I would have voted "yea"; on rollcall No. 327, on resolving into the Committee of the Whole for consideration of H.R. 6956, which motion passed by a vote of 346 yeas to 5 nays, had I been present I would have voted "yea"; on rollcall No. 329, on agreeing to an amendment offered by Mr. SCHEUER to add $33.1 million to the EPA research and development account, which failed by a vote of 263 nays to 131 yeas, had I been present I would have voted "yea"; on rollcall No. 330, on agreeing to Mr. FLIPPO's amendment to delete the $140 million appropriated for the sole-source procurement of a Centaur upper stage, which failed by a vote of 316 nays to 77 yeas, had I been present I would have voted "nay"; on rollcall No. 331, on agreeing to the Walgren and Dannemeyer amendment to prohibit the use of EPA funds to impose sanctions on States that have not complied with the vehicle emission inspection and maintenance program, which was agreed to by a vote of 200 yeas to 184 nays, had I been present I would have voted "yea"; on rollcall No. 332, final passage of H.R. 6956, the Housing and Urban Development and independent agencies appropriation which passed by a vote of 343 yeas to 38 nays, had I been present I would have voted "yea."●

PUERTO RICAN STATEHOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BAILEY) is recognized for 10 minutes.

Mr. BAILEY of Pennsylvania. Mr. Speaker, yesterday I introduced a resolution expressing the sense of the House that enabling legislation passed by this body in the future, pertaining to Puerto Rico, should Puerto Rico decide to seek statehood, encourage, promote, and maintain the needs of our fellow citizens there. The resolution is timely, particularly so because of the tax bill enacted recently. A major issue debated and decided during passage of the measure was the tax status of Puerto Rican industry.

Incidentally, Mr. Speaker, as someone who has diligently fought for Puerto Rico and its needs, I think a special effort should be made here to recognize the terrific job that was done in their behalf. BALTASAR CORRADA, the Puerto Rican Representative here, is not only a good friend, but has worked very, very hard to promote and maintain the interests of Puerto Rico. The Governor of Puerto Rico, Governor Ramirez, and in particular a fellow who has become a friend of mine, Jose Madera, administrator of the economic development administration, all did a tremendous job during the recent legislative scuffle. The time and effort spent by these people, and others I might add, who came from all parts of Puerto Rico, representing various political, business, and labor interests on the island, did a great job. They worked very closely with a conferee respected by all of us here, and that was Congressman CHARLIE RANGEL of New York. Congressman RANGEL was particularly effective in working on behalf of Puerto Rico during the conference committee deliberations. All of these people deserve a great deal of praise and credit.

But that conference committee action and the controversy that swirled around the tax bill, pointed up the need for direct representation for our fellow citizens from Puerto Rico. My resolution merely expresses the sense of the Congress that should our fellow citizens in Puerto Rico decide to petition this Congress for admission as a State, that in the event that they do so, any enabling legislation would preserve, protect, and defend in the interests of all of the States the interests and needs of Puerto Rico.

There are a number of fears on the island that this resolution would help calm. One is that there either would be no propensity nor any mechanism to recognize some of the unique difficulties which Puerto Rico faces. And neither one of those doubts, of course, have any merit.

I shall be seeking support for my resolution here in the House and plead with all Members to join me in this effort. I, for one, feel honored and privileged to share my American citizenship with the hard working people in Puerto Rico. The courage, hard work, and energy exhibited by our citizens there are unequalled anywhere else in the United States.

One need only look at the honor rolls of our veterans to see the vividly

painful, but most deeply appreciated contribution that the American citizens of Puerto Rico have made to the well-being and safety of the United States of America. The blood they have spilled, the lives they have lost, and the tremendous capacity for hard work, creativity and courage can only strengthen and contributed to the overall greatness of the United States, should we and they properly recognize and advance the common ties that should bind us irrevocably forever.

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RETHINK SINAI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, I wonder how many of my colleagues, how many citizens, remember that the United States still has a sizable number of soldiers in the Middle East. The Marines have indeed left Beirut, but the Army is still in the Sinai as part of the multinational force that is charged with overseeing the peace between Israel and Egypt.

It is difficult for me to understand why this commitment is necessary. It is clear that Egypt and Israel are not about to go to war. If they did want to fight, the multinational force there is no more insurance against conflict than was the hapless U.N. force that stood between Israel and Lebanon. If a token of good faith is needed, why must it be indefinite, open-ended? After all, the adventure in Beirut was a strictly limited affair. That was a commitment of 30 days or less, and our troops did get out in less than 30 days. If we have no reason to doubt the good faith of the agreement to demilitarize the Sinai, there is no need for troops to be there at all, certainly not on an open-ended basis.

I remind you that I opposed the Kissinger scheme that committed American civilians to the Sinai earlier; I also opposed the commitment of troops that came as a result of negotiations in the Carter administration. I expressed my doubt about the wisdom of sending Americans there, when the Reagan administration acted to do so. I reiterate my concern today.

What can those soldiers do? They are too few and too lightly armed to resist any serious attack by anyone. They are nothing more nor less than hostages, hostages in the ancient sense—there to guarantee that anyone who violates the peace does so at the risk of inflaming the United States. But why is it necessary to take that risk? If the parties have acted in good faith, there is no need for anyone to act as a guarantor of that faith. If they have not acted in good faith, our troops can do nothing to turn any aggressor away.

I understand the present strain that tests the long ties between the United States and Israel, and in turn the more recent and much more fragile ties between Israel and Egypt. Yet I cannot believe that the national interest or the good faith between these countries needs to be sealed in blood, nor that a blood seal makes any bond between them any stronger. Peace is in the interest of Egypt and also in the interest of Israel. They do not need foreign soldiers to guarantee it, nor would they be deterred from breaking the peace by the presence of any such token contingent.

The administration is in the process of making a bold move to settle the Palestinian problem. Surely that problem can never be resolved without some good faith in all the many parties that are in conflict there. It seems clear that foreign troops did more to destroy Lebanon than to preserve it. Events of the past few days suggest that the greatest need in Lebanon would be for Syrians and the PLO to leave altogether, and for Israel to do likewise. Maybe then the Lebanese could sort out their own problems. However that tragedy ends, it can only end by the good faith and good sense of all concerned. The same is true in the Sinai. I do not believe that faith is inspired by foreign police, foreign border guards, or foreign hostages. I believe that the commitment must be rethought. If we bring those forgotten soldiers home, we might in turn be doing more than anything else to promote the peace. In the end, it will be faith and good sense, not a blood seal, that keeps the agreement in the Sinai.●

HIGH HOLY DAYS 5743

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the evening of September 17, the first day in the autumn month of Tishri, 5743, commences Rosh Hashana, marking the beginning of the Jewish New Year. For Jews all over the world, this is a joyous, but solemn, holy day of deep religious significance, and the start of a 10-day period of penitence, the Days of Awe, culminating in Yom Kippur, the holiest day of the year.

According to Jewish tradition, on Rosh Hashana, also called the Day of Judgment, God remembers all his creatures and judges humankind, and their destinies are inscribed in the Book of Life. It is a time of reflection, prayer, and penitence. During the evening celebration in the home, festival candles are lit, and a holiday meal is served, including a round loaf of bread and apples dipped in honey to symbolize the hope for a sweet new year. The next day is devoted to prayer and self-reflection in the synagogue. Reform and Israeli Jews celebrate Rosh Hashana for 1 day from sundown to sundown, while Orthodox and Conservative Jews observe this holiday for 2 days.

The high point in the Rosh Hashana service is the blowing of the shofar, or ram's horn, symbolizing the beginning of the high holy days. Its shattering sound is meant to awaken man's conscience, to renew his faith, and to return him to God, and to summon all Jews to meditation, self-examination, and repentance. This year, because the first day of Rosh Hashana also falls on the Jewish Sabbath, a day of rest, the shofar cannot be blown until the very end of the day.

During the Days of Awe, Jews search their souls and repent for their sins, and their deeds and fate are weighed in the balance, to be sealed on the last day. Beginning on the 10th evening, Yom Kippur, the Day of Atonement, Jews fast until the next sundown. Most of this time is spent in the synagogue, repenting, and asking pardon from God and from their fellow men. In turn, they freely forgive their neighbors. At the end of the day, the shofar is blown one last time, and with a cleansed heart, all Jews look forward to a good new life for the following year, and return to their homes for a hearty break-the-fast dinner.

As Congressman for the 11th District of Illinois, I am happy to join my colleagues in Congress, and my constituents and friends of the Jewish faith in extending my greetings and best wishes for a happy, healthy, and prosperous new year. "May you be inscribed in the Book of Life." I also hope and pray that the coming year brings an end to persecution of the hundreds of thousands of Jews living under Communist oppression, who are unable to observe these most holy days, so they too may worship in religious freedom, "Next year in Jerusalem."●

DEMOCRATIC RESPONSE TO PRESIDENT'S SPEECH ON NEED FOR TAX INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. DICKS) is recognized for 5 minutes.

● Mr. DICKS. Mr. Speaker, I am submitting for the RECORD the August 16 Democratic response to President Reagan's speech on the need for a tax increase.

As my colleagues know, this response was made by the distinguished Majority Whip THOMAS S. FOLEY, who hails from the great State of Washington and the fine city of Spokane.

As my friends also know, I agree with the majority whip's remarks and

believe that they should be printed in the RECORD so that all in this House may read them.

REMARKS BY THOMAS S. FOLEY

Good Evening.

I am Tom Foley, a Member of Congress from the state of Washington. With me is Senator David Boren of Oklahoma.

We are speaking to you from the Capitol of the United States.

I want to thank this network for giving us the chance to respond to what President Reagan said tonight. This issues the President discussed—the condition of our economy, the need to cut interest rates and put people back to work—are matter of critical importance to all Americans. They are matters of historic concern to those of us in the Democratic Party.

Ours is a party dedicated to economic growth, economic opportunity and economic justice. We believe that the most important task our country has right now is get the millions of unemployed workers back to work, to restore dignity and self-reliance to the jobless and restore confidence to those concerned about the economic future.

President Reagan is trying to rally support for the tax bill now before the Congress. It is obvious that there are major differences within both Parties on this bill. Those differences are real. No one person can presume to speak for every member of either Party.

Yet, weighing the benefits of passing this bill against the cost of not passing it, I have come to the conclusion that dispite our differences in the past this is one occasion when the President's position is right. He said that we need this revenue measure—and we do.

We need to take action, and action now, in dealing with our country's growing economic crisis. This is not just a matter of political urgency for the President or the Congress. It is a matter of economic urgency for the entire country.

I am sure most of you watching at home tonight agree. You do not want to see a lot of finger-pointing. You watched and listened to the President, you are watching and listening to us now, to get some answers.

Looking to the difficult months ahead, there is enough work, and enough economic challenge, for all of us to share. When we can agree together, we must act together for the good of the country.

To this end, I support the President's position. I take this view not because I support all of the President's economic theories. Democrats do agree on many of the broad goals of economic growth and expansion, but we've had differences with the President on how to attain them.

Most of us favored cutting taxes. Most of us supported strengthening our national security. But we questioned the wisdom of enacting the largest tax cut in history in the same year that we enacted the largest increase in defense spending in history. We felt that such a combination, particularly in years to come, only guaranteed enormous deficits—and higher interest rates.

Most Democrats ageed it was necessary to control federal spending. But we opposed the President's most severe budget cuts because we felt they were unfair. We felt that last year's tax bill gave the greatest benefits to those who already have the most and that it failed to give enough tax relief to those who need it the most.

Where we disagreed with the President, we offered sound and constructive alternatives.

In each significant case, these alternatives were rejected and the President's economic program was adopted and put into effect.

Unfortunately, the President's legislative successes did not translate into the economic successes we all sought. Even the Administration's own leadership now admit that the promises made for its program have yet to be realized. The recession has instead become worse.

The great advantage of the tax bill now before the Congress is that it helps to balance many of the excesses enacted last year.

It helps to cut down on the deficits—and therefore helps relieve pressure on interest rates.

It helps to cut down on the basic unfairness in last year's tax bill. It plugs some loopholes and helps to divide the cost of our society more fairly.

The Democratic influence on the compromise now before us is unmistakable. We won extended unemployment benefits. We helped shift the burden from the individual taxpayer. We have worked to protect the benefits of those who need that protection the most.

I support the revenue bill because it is fair and because it brings some long-overdue moderation to the Administration's economic program.

We Americans, all of us, have a stake in this moderation. We have a stake in bringing balance—and commonsense—to our country's economic policies. Only by cutting back on the deficit, only by bringing a measure of fairness to our tax policies can we enlist the confidence of the American people in our country's future.

I know how important it is that we rebuild this confidence. I represent an agricultural and industrial area in our country's great Northwest. I know first-hand the hardship that people are feeling today—on the farm, in the timberlands, in many thousands of small businesses, as well as in major industries. People may not be demonstrating in the streets. They may not be crying out loud, but they are certainly feeling the pain—there and throughout the rest of the nation.

Those people have a right to expect that members of both parties are doing their best to turn the economy around.

It is never easy to pass any tax bill. But somehow we have to stop the economic slide. This is a critical first step. Some say we need a vote of political courage. I say we need a vote for economic reality.

Not too long ago, Congressman Richard Bolling of Missouri had a similar opportunity to respond to a Presidential address. He said then that our problems are not Democratic problems, or Republican problems. They are American problems, and we must overcome them together.

That was true four months ago. It is even more true today. And it is in that spirit that I join with the President in asking for your support.●

TENNESSEE FLOOD VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. GORE) is recognized for 20 minutes.

● Mr. GORE. Mr. Speaker, many Tennesseans hit hard by the recent flooding now face unfair obstacles as they seek Federal disaster aid to rebuild homes, farms, and businesses that were damaged.

These victims of Tennessee's worst flooding in recent memory come from varied economic backgrounds—some are farmers, small businessmen and homeowners. But all now share a similar challenge to regain and reestablish what the floods washed away. Thousands of acres of valuable crops, including dozens of homes and some factories were flooded, and several lives were lost.

Swept off balance by the economic losses, many of the flood victims have turned to the Federal Government—to its disaster relief programs in particular—for help in getting their feet back on the ground. But a large number of these victims, when they applied for Government assistance, found that confusing policy changes over the past 2 years have transformed once generous disaster relief programs into unreasonable plans that offer ridiculously high interest rates on loans and tight eligibility requirements. Like pouring salt into an open wound, many people—their lives shattered and financial standing on shaky ground—were turned away in frustration.

These policy changes were set into place just last year, after the current administration proposed deep reductions in the Federal Government's disaster relief funds. The year before these reductions were brought forth, our Nation's disaster programs provided $2.5 billion to meet the needs of citizens who were suffering from the destruction of natural disasters. In the past, these programs have offered a helping hand to get crippled businesses started again, farms back into productive operation and homes rebuilt. Through affordable low-interest loans, like Farmers Home Administration credit programs once offered at 3-percent interest, victims of natural calamities found opportunities that provided direction on the road to recovery. There were some problems with the programs in the past, and changes were proposed. Then however, for budget reasons, the new administration slashed the programs across the board. Now, after the sweeping changes, the same FmHA loans provided at 3-percent interest had their rates bumped up to between 8 and 17 percent. Coupled with these record high borrowing rates, tighter restrictions on credit eligibility now require that applicants must be rejected by other financial institutions before even being considered for Government aid.

The recent flooding in the Fourth District was the first test of these new disaster policies, and after witnessing the unbelievable obstacles to relief that victims have encountered, I have concluded that our Nation's disaster

programs are failing miserably. In fact, the experiences of Smith County victims—who suffered more than $2.5 million in flood damage—will, I hope, form the basis for a powerful argument in favor of change in our disaster programs.

In an effort to restore critical funds for America's disaster relief programs, I am introducing this legislation to return disaster loans and eligibility requirements to reasonable levels. But the success of my efforts will depend heavily on whether the Congress and the American people can be convinced that more assistance is warranted. Our attempt to restore funding will mean bucking a trend that this administration has followed with regard to domestic programs.

Disaster relief should be a high priority on our Nation's agenda. We are historically a nation of caring people, willing to help a neighbor in time of need. But to accomplish this task I need your support. Join with me in the fight to restore the effectiveness of disaster relief programs to levels where they can do the most good.●

STOP SHORTCHANGING GUAM'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. WON PAT) is recognized for 5 minutes.

● Mr. WON PAT. Mr. Speaker, I am today asking Congress to come to the aid of Guam's veterans. There is an estimated 10,000 veterans on Guam plus their dependents. These brave men and women served this Nation in time of war and in time of peace.

They do not ask their Nation for the impossible. Nor do they seek more than what is given to other American veterans.

Yet, the sad truth is this: Guam's veterans are denied many basic services, including lifesaving health care.

The closest veterans' hospital to Guam is 3,500 miles away in Hawaii. Guam's own medical facilities are working overtime to care for our people. But we lack the sophisticated medical techniques, the costly new medical devices, and the highly trained doctors found in veterans' hospitals in the States.

Today, I am introducing a resolution to cure this terrible situation. My resolution calls on the Secretary of Defense and the Veterans' Administration to designate the naval hospital on Guam a joint-use facility to permit Guam's veterans to receive full-time medical care at that hospital.

This is not presently the case. The naval hospital on Guam has reserved only five beds in that vast facility for local veterans and their dependents. Five beds to serve a veterans population of thousands. This would not be tolerated in California or New York. It will not be tolerated any longer in Guam.

My constitutents have paid their dues. Many of our veterans have wounds from combat. They deserve more from their Government than five beds in a naval hospital. It is time that Washington rally behind Guam's veterans and give them justice.

The naval hospital is not overworked. In fact, it is closing down wards because of limited military needs. Why waste this valuable resource any longer when Guam's veterans need these services now. A seriously ill veteran on Guam faces two choices today: He can either take his chances in getting into the naval hospital or he can be evacuated to Hawaii. Many Guam veterans have gone to Hawaii only to be away from their families for months. This is no way to treat our veterans. The cure is provided by my resolution. I ask that it be adopted quickly by my colleagues. Guam's veterans are counting on you.●

PRELIMINARY RESULTS OF NAVY DRUG TEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 10 minutes.

Mr. ADDABBO. Mr. Speaker, in 1980 a worldwide survey of drug and alcohol abuse by military personnel revealed that 60 percent of all Navy and Marine Corps personnel of pay grades E-5 and below used drugs, excluding alcohol, for nonmedical purposes. The study showed that for these same junior enlisted personnel, 1 in 4 suffered some degree of work impairment due to drug abuse and 1 in 25 was actually dependent upon drugs.

I have long been concerned over the abuse of both drugs and alcohol by personnel in the military services. Drug and alcohol abuse not only impairs the lives of users but also impacts adversely on military readiness. For example, drug and alcohol abuse accounted for 44 percent of the 5,342 disqualifications of personnel in the nuclear weapons reliability program during 1980; a Hawk missile battery of 400 marines in North Carolina reported 35 to 40 drug incidents during the first 6 months of 1981, including several sergeants arrested for sale of drugs; and at a sensitive Navy communications facility in Great Britain, 25 percent of the sailors were implicated in drug abuse.

In an announcement on September 14, 1982, the Navy released the results of a recent survey on drug abuse. Administered on August 30, 1982, by the firm of Booze, Allen & Hamilton Associates, the surprise urinalysis survey indicates that marihuana usage among Navy junior enlisted personnel has been cut by nearly two-thirds in San Diego and by one-half in Norfolk for an overall average abuse rate of between 20 to 25 percent.

I have long been a critic of the Navy's lax attitude toward drug abuse. However, based upon these recent positive results I have sent a letter, which I request be included at this time in the RECORD, to Adm. James D. Watkins, Chief of Naval Operations. In this letter, I commend the Navy for its aggressive program to eradicate drug abuse. Now that the Navy brass has let it be known that drug abuse is not acceptable in the U.S. Navy, our fine young sailors are responding to this positive leadership which was absent for too long a time.

I am pleased to report this positive development and pledge the continued support of the Defense Appropriations Subcommittee in the battle against drug and alcohol abuse in our Armed Forces.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 15, 1982.

Adm. JAMES D. WATKINS, USN,
Chief of Naval Operations, Department of the Navy, Washington, D.C.

DEAR ADMIRAL WATKINS: This morning I received a most welcome call from Real Admiral Paul Mulloy concerning the dramatic results of the recent surprise urinalysis survey at Norfolk and San Diego.

I wish to congratulate you and your predecessor, Tom Hayward, for taking a tough stand on drug abuse in our Armed Forces. As a consequence of your resolute, and in some quarters unpopular, decision to promote a drug-free environment for those dedicated people who are defending our country, there has been a 50 percent reduction in marijuana usage among our junior sailors. The long term impact of these dramatic results should not be minimized since the character and self-discipline instilled by the Navy can be expected to last a lifetime.

I believe the results of this survey show a clearly improved situation and should be considered vindication for the Navy's "get tough" policy. Every sailor who has stood up to the tremendous peer pressure to abuse drugs deserves special praise. That simple but often-time courageous decision surely represents the U.S. Navy at its finest.

Sincerely,

JOSEPH P. ADDABBO,
Chairman, Defense Subcommittee.●

TAX RELIEF FOR HOMES LOST BY DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I am introducing legislation to address an inequity which presently confront residents in the Love Creek area of Santa Cruz County, Calif., in my congressional district. These residents have been forced to vacate and demolish their homes following the tremendous disaster which hit this area in January. Following the January disaster, the Army Corps of Engineers did a

study of this area and concluded that the area was unsafe because of its proximity to the area where slide activity had occurred and because of the threat of further slide activity. The county government under provisions of its uniform code proceeded to issue an abatement notice forcing residents of Love Creek to either relocate or demolish the existing structures. The homeowners of this area have experienced the unfortunate occurrence of having their homes—ranging in value from $100,000 to over $400,000—become virtually economically worthless.

In the wake of this dreadful situation, an inquiry was made to the Internal Revenue Service to determine whether these residents would be eligible for deductions for casualty losses as result of their being forced to remove or demolish the existing structures in the area. In responding to the inquiry, the IRS has concluded that under current regulations, these residents would not be entitled to a casualty loss deduction in this situation. The IRS indicated that this decision was reached because it found no proximate relationship between the occurrence of the disaster and the loss sustained by the residents because of the abatement order issued by the country.

Mr. Speaker, the simple fact is that if these residents would have suffered any kind of physical damage to their homes as a result of the disaster, they would be eligible to apply for a casualty loss deduction. This fact was clearly pointed out to me in a meeting I held with IRS officials discussing this situation. Like homeowners who experience physical damage to their residences, the residents in Love Creek have suffered a tremendous economic devastation. They have experienced a virtual total economic loss. Because of the absence of physical damage, I do not feel that in this situation, these residents should be prevented from applying for a casualty loss deduction.

Therefore, I am today introducing legislation to allow residents who, as a result of a disaster, are issued an order by a local government requiring homeowners in the area affected by the disaster to remove or demolish their homes to be eligible to apply for a casualty loss deduction. I think that in such a unique situation, these residents should be provided recourses provided to other taxpayers who experience similar economic loss.

The situation which has developed in Love Creek has proven to be a test case in reference to our disaster assistance program in many ways. So far, the unique circumstances which are evident in this area have found Federal disaster aid to be unfulfilling. I think appropriate changes are necessary in our tax code to meet the unique situation which has occurred in the Love Creek area. I would hope that in this instance the taxpayers and homeowners of Love Creek who have been forced to abandon their homes will find Federal policies available to meet their distressful needs.

Following is the text of this legislation:

H.R. 7134

A bill to amend the Internal Revenue Code of 1954 to allow a disaster loss deduction with respect to a taxpayer's residence for losses which occur where the taxpayer is ordered to demolish or relocate such residence because of the danger of mudslides, earthslides, or flooding

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISASTER LOSS DEDUCTION ALLOWED FOR RESIDENCES IN DISASTER AREAS WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE BECAUSE OF DANGER OF MUDSLIDES, EARTHSLIDES, OR FLOODING.

(a) GENERAL RULE.—Section 165 of the Internal Revenue Code of 1954 (relating to losses) is amended by adding at the end thereof the following new subsection:

"(j) TREATMENT AS DISASTER LOSS WHERE TAXPAYER'S RESIDENCE IS IN DISASTER AREA AND TAXPAYER, BECAUSE OF DANGER OF MUDSLIDES, EARTHSLIDES, OR FLOODING, IS ORDERED TO DEMOLISH OR RELOCATE SUCH RESIDENCE.—

"(1) IN GENERAL.—In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, if—

"(A) within 120 days after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and

"(B) such order is based on a determination that there is a danger of mudslides, earthslides, or flooding.

then any loss attributable to such order shall be treated as a loss described in subsection (i)."

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply to taxable years beginning after December 31, 1981, with respect to residences in areas determined by the President of the United States, after such date, to warrant assistance by the Federal Government under the Disaster Relief Act of 1974.●

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON JOINT RESOLUTION MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on a House joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

INTRODUCTION OF BILL TO STRENGTHEN THE CONGRESSIONAL BUDGET ACT OF 1974, AND FOR OTHER PURPOSES

(Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JONES of Oklahoma. Mr. Speaker, today I am introducing on behalf of myself and a bipartisan group of colleagues a bill which we hope will become the central discussion vehicle for changes in the way Congress addresses spending issues.

The bill is a product of innumerable meetings between Members on our side of the aisle, and other meetings with some of our thoughtful colleagues on the other side of the aisle.

Many of us privately and publicly have serious misgivings about the advisability and workability of a constitutional amendment to require a "balanced budget."

Most of us, however, share the goal of implementing the best possible economic policy for our Nation. That policy dictates that we close the deficit gap, and bring some sanity and control to our fiscal policy. For the past few weeks, we have been working on some possible solutions to our economic problems that would address the concerns about deficits, interest rates, unemployment, and productivity through a statutory approach.

It is not correct, as critics charge, that "Congress already has a statute in place that requires a balanced budget." True, there has been simple language passed by a previous Congress that calls on Congress to pass a balanced budget. Nothing, however, provides any mechanism for Congress to achieve that goal. In that sense, the existing statutory admonishment is as deficient as the proposed constitutional amendment pending before the House of Representatives.

What is needed is not more politically attractive language calling on Congress to balance the budget. That will not extricate us from the difficulties we are in, and will not fool the American public. What is needed is a coherent procedure to insure that Congress can enforce the spending and taxing decisions that we make.

This bill is in part due to the diligent efforts of our colleagues, DICK GEPHARDT and BILL FRENZEL, who have worked hard with their respective party members to craft a bill which is not perfect, but which embodies the desire we all have to make the budget process more meaningful.

Other Members who have contributed to the shaping of this bill include our colleagues BILL HUGHES, BILL GRADISON, JOHN MURTHA, BERYL ANTHONY, RALPH REGULA, JOEL PRITCHARD, TONY BEILENSON, GERALDINE FERRARO, TOM LUKEN, JOHN LAFALCE,

JERRY PATTERSON, PHIL SHARP, and BERKLEY BEDELL.

In addition to these actual cosponsors of the bill, other Members have expressed an interest in our efforts. For instance, Congressman LEON PANETTA, who has taken a vocal role in speaking out on budgetary issues, has in the past sponsored legislation which contains many of the features of this bill. Congressman PANETTA, Congressman MINETA, and Congressman HOYER are attracted to our bill, but have delayed cosponsoring because they would prefer to see a limit on the Federal deficit rather than a limitation on Federal spending as a percentage of GNP. Whatever differences we might have on the technical aspects of this approach, I think we all agree that it is time that we took a strong public stand against political slogans. Instead we must roll up our sleeves to take the hard positions, grapple with the difficult facts, and make the choices that will get us to sounder economic footing.

The economic difficulties we face are real and will not go away until the public, the administration, and responsible Members of Congress pull together to put their votes and their positions on the line, and make these hard public choices. We hope you will carefully consider the proposals described in our draft bill, a summary of which follows, and work with us in the future to strengthen budget discipline.

If you would like to cosponsor our legislation, or have any ideas or questions concerning our proposal, please call the chief counsel of the Budget Committee, Wendell Belew, at 225-7233.

SUMMARY OF H.R. 7123

1. Modifies the budget process beginning with the fiscal year 1984 budget, aimed towards the goal of a balanced budget.

2. Requires the President to submit to Congress a balanced budget. Should the President determine that due to economic necessity or national security a balanced budget is infeasible for that fiscal year, he may also submit a budget not in balance with appropriate explanation why a balanced budget is not being recommended.

3. Requires the Committees on the Budget to report a budget resolution in balance for each fiscal year. The Committees could recommend an alternative budget out of balance if in their view a balanced budget was not appropriate for any given fiscal year.

4. Provides for a reduction in Federal spending as a percentage of GNP (gross national product) as a transition to a balanced budget. The Committees on the Budget would be required to report budget resolutions, beginning with fiscal year 1984, which reduce outlays as a percentage of "Trend GNP" on the basis of a projection of the average GNP level and growth rate for the last five completed fiscal years.

5. Strengthens budget discipline by requiring three-fifths of the members voting to waive the spending ceiling or revenue floor for any bill exceeding the spending ceiling or breaching the revenue floor in the budget previously adopted. The proposal also streamlines the budget process by eliminating a mandatory second budget resolution.

6. Requires the Chairmen of the House and Senate Budget Committees and a designated representative of the President, after consultation with the Board of Governors of the Federal Reserve System and the Congressional Budget Office, to meet and agree upon economic assumptions to be used to evaluate the President's budget and the congressional budget on common terms so as to focus debate on policy rather than confusing and conflicting numbers. The proposal also requires them to calculate "Trend GNP" and submit it to the Committees on the Budget.

7. Directs the Committee on Government Operations of the House and the Committee on Governmental Affairs of the Senate to study the budget and accounting systems, including capital budgets of states required to maintain balanced budgets by their constitutions and the impact of off-budget activities on the budget process. After completing such a study, the Committees shall recommend appropriate changes in the Federal budget and accounting system necessary to operate within a Federal balanced budget framework.●

INTRODUCTION OF A BILL TO ESTABLISH A COMMISSION ON MONETARY POLICY

(Mr. DICKS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DICKS. Mr. Speaker, today I am introducing a bill to create a Commission on Monetary Policy. The need for such a commission, I believe, is clear. Our monetary system has undergone a series of broad changes during the last decade. Many of those changes were made without the benefit of public discussion, congressional input or executive examination. Yet those changes effect the economy of the Nation in profound ways. We see their influence in everything from the price of a loaf of bread to the stability of business, and everywhere from Wall Street to our local banks. It is time—perhaps it is past time—when the process by which monetary policy is set should be examined by the Congress and the people of the United States. The bill I am introducing today will provide such an opportunity.

Informed opinion seems to be moving away from strict monetarism as a guide to money policy. Yet the debate continues to rage concerning what approach to adopt in its stead.

Many seem to desire more rigid controls on the Federal Reserve Board, requiring policy modifications in times of economic trouble. Others feel that bringing the Federal Reserve into the control of the political realm would cause its decisions to be excessively short term in nature, thereby jeopardizing the confidence of Wall Street. Some suggest a return to the policies of Arthur Burns, under whose direction the Federal Reserve Board observed a practice of pegging interest rates, and allowing monetary growth to follow only as a secondary factor. Still others recommend a combination policy—tracking both money growth and money cost. But transcending all this discussion is a concern that any change might cast us back into the inflationary spiral, undoing all the progress we have made during the past year.

To address some of the questions facing us on monetary policy formulation, I am today proposing the establishment of a Monetary Commission. This Commission would be charged with the duty of examining the various proposals for change, and making a recommendation to the Congress, the President, and the Federal Reserve Board for future action. It would be composed of nine members representing the Congress, the Federal Reserve, the President, small business, labor, agriculture, and economics. These people would have 9 months in which to prepare their report, and would spend that time analyzing current economic conditions and considering the effect of any proposed alterations in policy direction.

In order to effect an economic recovery, people must be put back to work. Yet the high cost of money has caused businesses to cut back on employment rather than expanding. Until the financial climate becomes more favorable, the average businessman is going to stay in the trenches. He is going to aim at staying in business by following the most conservative program he can. And that means he's not going to increase his exposure by hiring additional help. Until interest rates fall, business in this country is not going to expand. And that means that the recession will drag on. We cannot afford to let that happen. We must modify our monetary policy, and provide some relief to the millions of Americans who are currently looking for work. Interest rates must come down to achieve that goal.

But at the same time, if interest rates drop and inflation increases, we may not be much farther ahead than we are now. We need to identify and pursue a policy which will bring us affordable credit and inflation control. We need to take another look at recent policy changes by the Federal Reserve and their effect on the price of money. The Commission I am asking for by introducing this legislation today will help us formulate a solution to our current economic crisis. It will provide us with the background we so desperately need to create a new monetary policy which will make credit affordable.

Mr. Speaker, I urge my colleagues to join me in supporting the establishment of this Commission.

Thank you.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. CHAPPELL, for September 15, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. EMERSON) to revise and extend their remarks and include extraneous material:)

Mr. GILMAN, for 5 minutes, today.

Mr. ROGERS, for 5 minutes, today.

Mr. MICHEL, for 60 minutes, on September 21.

Mr. MICHEL, for 60 minutes, on September 22.

Mr. MICHEL, for 60 minutes, on September 23.

(The following Members (at the request of Mr. LEHMAN) to revise and extend their remarks and include extraneous material:)

Mr. BAILEY of Pennsylvania, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. DICKS, for 5 minutes, today.

Mr. GORE, for 20 minutes, today.

Mr. WON PAT, for 5 minutes, today.

Mr. ADDABBO, for 10 minutes, today.

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERSON) and to include extraneous matter:)

Mr. GOODLING.

Mr. LENT in two instances.

Mr. GREEN in three instances.

Mr. PORTER in two instances.

Mr. MCKINNEY.

Mrs. ASHBROOK.

Mrs. FENWICK.

Mr. LEE.

Mr. NELLIGAN in two instances.

Mr. FINDLEY in two instances.

Mrs. HOLT.

Mr. MYERS in two instances.

Mr. GILMAN.

Mr. WORTLEY.

Mr. GUNDERSON.

Mr. DANIEL B. CRANE.

Mr. COLLINS of Texas.

Mr. COUGHLIN.

Mr. RITTER.

Mr. WOLF.

(The following Members (at the request of Mr. LEHMAN) and to include extraneous matter:)

Mr. FAUNTROY.

Mr. ROE in two instances.

Mr. BRODHEAD in two instances.

Mr. WALGREN.

Mr. WEISS.

Mr. MOAKLEY in two instances.

Mr. AUCOIN.

Mr. LUNDINE in two instances.

Mr. COELHO.

Mr. GORE.

Mr. BONIOR of Michigan.

Mr. HARKIN.

Mr. CORRADA.

Mr. SHARP.

Mr. WASHINGTON in three instances.

Mr. SYNAR.

Mr. ROSENTHAL in two instances.

Mr. EDWARDS of California.

Mr. ECKART.

Mr. YOUNG of Missouri.

Mr. STARK.

Mr. STOKES in three instances.

Mr. MARKEY in three instances.

Mr. MOFFETT in two instances.

Mr. EDGAR.

Mr. WYDEN.

Mr. SKELTON.

Mr. FRANK.

Mr. DE LUGO.

Mr. CONYERS in two instances.

Mr. CLAY in two instances.

Mr. BEDELL in two instances.

Mr. OBERSTAR.

Mr. FLIPPO.

Mr. HAWKINS.

Mr. GAYDOS.

Mr. ADDABBO.

Mr. LEHMAN.

Mr. KASTENMEIER.

SENATE BILLS, JOINT AND CONCURRENT RESOLUTIONS REFERRED

Bills, joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 349. An act to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes; to the Committee on Veterans' Affairs;

S. 2420. An act to protect victims of crime; to the Committee on the Judiciary;

S.J. Res. 241. Joint resolution to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on Post Office and Civil Service;

S.J. Res. 243. Joint resolution authorizing and requesting the President to designate October 15, 1982, as "National Poetry Day"; to the Committee on Post Office and Civil Service.

S. Con. Res. 120. Concurrent resolution to commemorate the seventy-fifth anniversary of the Washington Cathedral; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 923. An act to amend chapter 207 of title 18, United States Code, relating to pretrial services.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 1710. An act to authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives;

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.;

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke; and

H.R. 6068. An act to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

ADJOURNMENT

Mr. LEHMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until Monday, September 20, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4769. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report on negotiated contracts for experimental, developmental, test or research work, or for industrial mobilization in the interest of the national defense, covering the period October through March 1982, pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

4770. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Turkey (Transmittal No. 82-81), pursuant to section 813 of Public Law 96-106; to the Committee on Armed Services.

4771. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting a report on the impact on the provision of basic human needs of economic

adjustment programs supported during 1981 by financing from the International Monetary Fund, pursuant to section 30(b) of the Bretton Woods Agreements Act, as amended; to the Committee on Banking, Finance and Urban Affairs.

4772. A letter from the Director, Federal Mediation and Conciliation Service, transmitting the agency's 34th annual report covering fiscal year 1981, pursuant to section 202(c), chapter 120, of the act of June 27, 1947; to the Committee on Education and Labor.

4773. A letter from the Secretary of Health and Human Services, transmitting the annual progress report on the 5-year plan for family planning services and population research, pursuant to section 1009(a) of Public Law 94-63; to the Committee on Energy and Commerce.

4774. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to facilitate the adjudication of certain claims of U.S. nationals against Iran, to authorize the recovery of costs incurred by the United States in connection with the arbitration of claims of U.S. nationals against Iran, and for other purposes; to the Committee on Foreign Affairs.

4775. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of political contributions by Ambassador-designate Robert B. Oakley, and members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4776. A letter from the Director, Defense Security Assistance Agency, transmitting quarterly and annual reports on foreign military sales of June 30, 1982, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4777. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment and service to Turkey (Transmittal No. 82-81), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620C(b) of the act; to the Committee on Foreign Affairs.

4778. A letter from the Deputy Director, Office of Management and Budget, transmitting a draft of proposed legislation to terminate unnecessary Government instrumentalities; to the Committee on Government Operations.

4779. A letter from the Inspector General of the Veterans' Administration, transmitting a copy of the Administration's computer matching program report, pursuant to section 5(b) of the Public Law 95-452; to the Committee on Government Operations.

4780. A letter from the Executive Director, President's Commission on Executive Exchange, transmitting a draft of proposed legislation to amend section 1304(e)(1) of title 5, United States Code; to the Committee on Post Office and Civil Service.

4781. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final report from the Chief of Engineers on the shoreline erosion control demonstration program, pursuant to section 54 of Public Law 93-251; to the Committee on Public Works and Transportation.

4782. A letter from the Secretary of Energy, transmitting the eighth quarterly report on biomass energy and alcohol fuels, pursuant to section 218(a) of Public Law 96-294; jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

4783. A letter from the Comptroller General of the United States, transmitting a report on an examination of the Overseas Private Investment Corporation's financial statements for the year ended September 30, 1981; jointly, to the Committees on Government Operations and Foreign Affairs.

4784. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Neighborhood Reinvestment Corporation's fiscal year ended September 30, 1981 (GAO/AFMD-82-89, September 15, 1982); jointly, to the Committees on Government Operations and Banking, Finance, and Urban Affairs.

4785. A letter from the Comptroller General of the United States, transmitting a report on the changes needed in U.S. assistance to deter deforestation in the developing countries (GAO/ID-82-50, September 16, 1982); jointly, to the Committees on Government Operations, Banking, Finance, and Urban Affairs, and Foreign Affairs.

4786. A letter from the Secretary of Energy, transmitting the Department's fourth annual report to Congress, pursuant to section 657 of Public Law 95-91; jointly, to the Committees on Armed Services, Foreign Affairs, Energy and Commerce, Interior and Insular Affairs, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6818. A bill to provide for a paid diversion and acreage reduction program for the 1983 crop of wheat and feed grains and for other purposes; with amendments (Rept. No. 97-813). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7048. A bill to require a separate family contribution schedule for Pell grants for academic years 1983-84 and 1984-85, to establish restrictions upon the contents of such schedule, and for other purposes; with amendments (Rept. No. 97-814). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5553. A bill to provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes; with an amendment (Rept. No. 97-815). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5916. A bill to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians; with an amendment (Rept. No. 97-816). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5795. A bill to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the U.S. Court of Claims, and for other purposes (Rept. No. 97-817). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6122. A bill to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for 99 years certain lands held in trust for such band; with an amendment (Rept. No. 97-818). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6403. A bill to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes (Rept. No. 97-819). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 6976. A bill to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons). (Rept. No. 97-820). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 587. A resolution providing for the consideration of H.R. 6995, A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes. (Rept. No. 97-821). Referred to House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 588. A resolution providing for the consideration of H.R. 5723, A bill to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes. (Rept. No. 97-822). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1872. An act to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes; with amendments (Rept. No. 97-823). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 6872. A bill to provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes; with an amendment (Rept. No. 97-824, Pt. I). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6875. A bill to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes; with an amendment (Rept. No. 97-825). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6055. A bill to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); with amendments (Rept. No. 97-826). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 1524. A bill to amend

sections 46(f) and 167(l) of the Internal Revenue Code of 1954 with respect to the treatment of public utility property; with amendments (Rep. No. 97-827). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3191. A bill to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions; with an amendment (Rep. No. 97-828). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3581. A bill to amend the Internal Revenue Code of 1954 to exclude certain foreign commodity income from treatment as foreign personal holding company income; with amendments (Rep. No. 97-829). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4577. A bill to amend Public Law 97-34; with amendments (Rep. No. 97-830). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4948. A bill to amend the Internal Revenue Code of 1954 to provide for the application of cash or deferred arrangement rules to money purchase plans; with an amendment (Rept. No. 97-831). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5470. A bill to amend the Internal Revenue Code of 1954 to insure periodic payments for damages received on account of personal injuries or sickness, and for other purposes; with amendments (Rept. No. 97-832). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 7093. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income. (Rept. No. 97-833). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes. (Rept. No. 97-834). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows.

By Mr. BIAGGI:

H.R. 7121. A bill to amend the Internal Revenue Code of 1954 to permit certain cooperative housing corporations to replace conventional financing with tax-exempt financing; to the Committee on Ways and Means.

By Mr. BROWN of Ohio (for himself and Mr. RITTER):

H.R. 7122. A bill to amend the National Gas Policy Act of 1978 to restrain natural gas price increases by facilitating price responsiveness during periods when supplies exceed demand, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of Oklahoma (for himself, Mr. GEPHARDT, Mr. FRENZEL, Mr. REGULA, Mr. ANTHONY, Mr. BEDELL, Mr. BEILENSON, Ms. FERRARO, Mr. GRADISON, Mr. HEFTEL, Mr. HUGHES, Mr. LAFALCE, Mr. LUKEN, Mr. MURTHA, Mr. PATTERSON, Mr. PRITCHARD, and Mr. SHARP):

H.R. 7123. A bill to amend the Congressional Budget Act of 1974 to strengthen the budget process, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. COURTER:

H.R. 7124. A bill to reform the insanity defense; to the Committee on the Judiciary.

By Mr. DICKS:

H.R. 7125. A bill to establish a Commission on Monetary Policy for purposes of evaluating the formulation and implementation of monetary policy by the Federal Reserve System; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DREIER:

H.R. 7126. A bill to repeal the withholding on interest, dividends, and patronage dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982 and to require, in lieu of such withholding, the Secretary of the Treasury to use existing information returns to insure that the proper amount of tax is collected with respect to interest, dividends, and patronage dividends; to the Committee on Ways and Means.

By Mr. EDGAR:

H.R. 7127. A bill to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of ownership of Cultural Property; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 7128. A bill to amend the Internal Revenue Code of 1954 to improve Internal Revenue Service procedures concerning investigations and audits of churches, and for other purposes; to the Committee on Ways and Means.

By Mr. FRANK:

H.R. 7129. A bill to amend the Internal Revenue Code of 1954 to increase the 2-year periods for rollover of gain on sale of principal residence to 3 years; to the Committee on Ways and Means.

By Mr. FUQUA (for himself, Mr. WALGREN, and Mrs. HECKLER):

H.R. 7130. A bill to provide a national policy for engineering, technical, and scientific manpower, to provide for cost sharing by the private sector in training such manpower, to create a national Coordinating Council on Engineering and Scientific Manpower, and for other purposes; to the Committee on Science and Technology.

By Mr. GORE:

H.R. 7131. A bill to amend the Consolidated Farm and Rural Development Act to reduce the interest rate payable on certain disaster emergency loans made and insured under such act; to the Committee on Agriculture.

By Mr. KASTENMEIER:

H.R. 7132. A bill to amend title 28 of the United States Code regarding jurisdiction in bankruptcy proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 7133. A bill to amend title II of the Social Security Act to provide for continued payment of disability benefits during appeals of terminations of such benefits and to provide more equitable basis for findings of ability to engage in substantial gainful work in making disability determinations; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 7134. A bill to amend the Internal Revenue Code of 1954 to allow a disaster loss deduction with respect to a taxpayer's residence for losses which occur where the taxpayer is ordered to demolish or relocate such residence because of the danger of mudslides, earthslides, or flooding; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 7135. A bill to strengthen the security and the economic and cultural progress of the Nation through Federal assistance for improved student opportunities in mathematics, science, technology, and foreign languages in the elementary and secondary schools; to the Committee on Education and Labor.

H.R. 7136. A bill to provide for a moratorium on terminations of disability benefits under title II of the Social Security Act based on determinations made under the continuing disability investigation program and a moratorium on the collection of overpayments based on determinations under such program and to amend such title II to provide for continued payment of disability benefits during appeal of terminations of such benefits; to the Committee on Ways and Means.

By Mr. SIMON (for himself, Mr. PERKINS, Mr. ERDAHL, and Mr. SMITH of Iowa):

H.R. 7137. A bill to increase the authorization of appropriations for certain education programs, and for other purposes; to the Committee on Education and Labor.

By Mr. TAUKE:

H.R. 7138. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for expenses incurred in the care of elderly family members; to the Committee on Ways and Means.

By Mr. WILSON:

H.R. 7139. A bill to name the building to be constructed in Lufkin, Tex., and leased to the United States as the "Col. Homer Garrison, Jr. Federal Building"; to the Committee on Public Works and Transportation.

By Mr. WHITTEN:

H.J. Res. 593. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes; to the Committee on Appropriations.

By Mr. BARNES (for himself, Mr. HANSEN of Utah, Mr. HOWARD, and Mr. CLAUSEN):

H.J. Res. 594. Joint resolution to provide for the designation of the week of December 12, 1982, through December 18, 1982, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI: (for himself and Mr. GARCIA):

H.J. Res. 595. Joint resolution designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day"; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK:

H.J. Res. 596. Joint resolution to commemorate the 100th anniversary of Christ Church of Short Hills, N.J.; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H.J. Res. 597. Joint resolution to authorize a study of surveys to prevent flooding along the Fork Branch Creek; jointly, to the Committees on Public Works and Transportation and Agriculture.

By Mr. WALGREN (for himself, Mr. WAXMAN, Mr. LELAND, and Ms. MIKULSKI):

H.J. Res. 598. Joint resolution to provide for the designation of the month of October, 1982, as "National Spinal Cord Injury Month"; to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Con. Res. 407. Concurrent resolution to express thanks to former First Lady Betty Ford; to the Committee on Post Office and Civil Service.

By Mr. DASCHLE:

H. Con. Res. 408. Concurrent resolution expressing the sense of the Congress that surplus U.S. grain should be used to feed hungry people at home and abroad; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. WRIGHT (for himself, Mr. ZABLOCKI, Mr. DE LA GARZA, Mr. RHODES, Mr. MARTINEZ, Mr. ROYBAL, Mr. GARCIA, Mr. BROOMFIELD, Mr. ROUSSELOT, and Mr. GONZALEZ):

H. Res. 586. Resolution celebrating the 172nd anniversary of Mexican independence; to the Committee on Foreign Affairs.

By Mr. GILMAN (for himself and Mr. FISH):

H. Res. 589. Resolution expressing the sense of the House of Representatives that an Office of the Consumer Advocate be established within the Nuclear Regulatory Commission; to the Committee on Interior and Insular Affairs.

By Mr. MOFFETT (for himself, Mr. DINGELL, and Mr. RODINO):

H. Res. 590. Resolution to provide for the establishment of a Select Committee on Reindustrialization; to the Committee on Rules.

By Mr. SOLARZ:

H. Res. 591. Resolution expressing the sense of the House concerning martial law on Taiwan; to the Committee on Foreign Affairs.

By Mr. WON PAT:

H. Res. 592. Resolution for the purpose of urging the Secretary of the Department of Defense and the Administrator of the Veterans' Administration to consider designating the Naval Regional Medical Center in Guam as a joint-military facility both for active duty/retired military personnel and their dependents and for veterans; jointly, to the Committees on Armed Services and Veterans' Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

480. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the Federal Home Loan Mortgage Corporation, to the Committee on Banking, Finance and Urban Affairs.

481. Also, memorial of the Legislature of the State of California, relative to housing; to the Committee on Banking, Finance and Urban Affairs.

482. Also, memorial of the Legislature of the State of California, relative to equal education opportunity for women; to the Committee on Education and Labor.

483. Also, memorial of the Legislature of the State of California, relative to Federal telecommunications legislation; to the Committee on Energy and Commerce.

484. Also, memorial of the Legislature of the State of California, relative to hydroelectric energy; to the Committee on Energy and Commerce.

485. Also, memorial of the Legislature of the State of California, relative to the establishment of a National Academy of Peace and Conflict Resolution; to the Committee on Foreign Affairs.

486. Also, memorial of the Legislature of the State of California, relative to the Mount Shasta Ski Area; to the Committee on Interior and Insular Affairs.

487. Also, memorial of the Legislature of the State of California, relative to Children's Peace Day; to the Committee on Post Office and Civil Service.

488. Also, memorial of the Legislature of the State of New York, relative to furthering the rights of women; to the Committee on Post Office and Civil Service.

489. Also, memorial of the Legislature of the State of California, relative to radioactive waste; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Science and Technology.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 767: Mrs. BOGGS.

H.R. 1713: Mr. ANTHONY.

H.R. 2205: Mr. PEPPER, Mr. DOUGHERTY, Mr. RATCHFORD, Mr. DENARDIS, Mr. EDGAR, Mr. LEBOUTILLIER, Mr. SOLOMON, and Ms. FERRARO.

H.R. 2530: Mr. GINGRICH.

H.R. 2801: Mr. SEIBERLING.

H.R. 3300: Mr. TRIBLE and Mr. FLIPPO.

H.R. 4015: Mr. TAUKE.

H.R. 4686: Mr. SYNAR.

H.R. 4773: Mr. COLLINS of Texas.

H.R. 4786: Mr. GOODLING.

H.R. 5717: Mr. MCDADE, Mr. MARLENEE, Mr. JAMES K. COYNE, Mrs. MARTIN of Illinois, Mr. OXLEY, Mrs. SNOWE, Mr. MADIGAN, Mr. WON PAT, Mr. PASHAYAN, and Mr. TAYLOR.

H.R. 6045: Mr. HANCE.

H.R. 6353: Mr. MARTIN of North Carolina.

H.R. 6781: Mr. EDWARDS of Alabama, Mr. ST GERMAIN, Mr. TRIBLE, Mr. NOWAK, Mr. OXLEY, Mr. BENNETT, Mr. ANDREWS, Mr. RAILSBACK, Mr. DE LUGO, Mr. SENSENBRENNER, Mr. RINALDO, Mr. TAYLOR, Mrs. HECKLER, Mr. HIGHTOWER, and Mr. MOORHEAD.

H.R. 6820: Mr. PERKINS, Mr. CORRADA, and Mr. MINETA.

H.R. 6829: Mr. WON PAT.

H.R. 6903: Mr. BEDELL.

H.R. 6928: Mr. JOHN L. BURTON, Mr. BAILEY of Pennsylvania, Mr. FRANK, Mr. WHITEHURST, Mr. MINISH, Mr. PEASE, Mr. TRAXLER, Mr. UDALL, Mr. FAZIO, Mr. WEISS, Mr. HOWARD, Mr. EDGAR, Mr. MAVROULES, Mr. MITCHELL of Maryland, Mr. RINALDO, Mr. BOLAND, Mr. AKAKA, Mr. YATES, Mr. WILSON, Mr. GILMAN, Mr. MCKINNEY, Mr. MITCHELL of New York, Mr. ROSE, Mr. CROCKETT, Mr. MOTTL, Mr. WEAVER, Mr. CLAUSEN, Mr. DOUGHERTY, Mr. DIXON, Mr. FORD of Tennessee, Mr. CORRADA, Mr. GEJDENSON, Mr. SCHUMER, and Mrs. FENWICK.

H.R. 6950: Mr. FRANK, Mr. MCDADE, Mr. FLIPPO, Mr. PEPPER, Mr. ROE, Mr. MITCHELL of Maryland, Mr. PRITCHARD, and Ms. FERRARO.

H.R. 7048: Mr. BIAGGI, Mr. WEAVER, Mr. LEHMAN, Mr. MILLER of California, and Mr. MARTINEZ.

H.R. 7063: Mr. EMERSON, Mr. LEBOUTILLIER, Mr. EDWARDS of Oklahoma, Mr. FRANK, Mr. HANSEN of Idaho, Mr. KINDNESS, Mr. JOHNSTON, Mr. RAHALL, Mr. BROWN of Colorado, Mr. DANIEL B. CRANE, Mr. SPENCE, Mr. LAGOMARSINO, Mr. FIELDS, Mrs. HOLT, and Mr. LOEFFLER.

H.J. Res. 295: Mr. BENNETT.

H.J. Res. 460: Mr. KRAMER, Mr. YOUNG of Missouri, Mr. ERTEL, Mr. FROST, Mr. PHILLIP BURTON, Mrs. SNOWE, Mr. YATRON, Mr. MOTTL, Mr. GREEN, Ms. FIEDLER, Mr. BONIOR of Michigan, Mr. NICHOLS, Mr. MILLER of California, Mr. DECKARD, and Mr. MOLINARI.

H.J. Res. 484: Mr. HILER, Mr. OXLEY, Mr. LUNDINE, Mr. PETRI, Mr. TAYLOR, and Mr. RUDD.

H.J. Res. 496: Mr. NEAL, Mr. GEPHARDT, Mr. DORGAN of North Dakota, Mr. PANETTA, and Mr. CAMPBELL.

H.J. Res. 499: Mr. COLLINS of Texas.

H.J. Res. 557: Mr. BARNES, Mr. BOLAND, Mr. EDWARDS of California, Mr. ERTEL, Ms. FERRARO, Mr. FOGLIETTA, Mr. FOWLER, Mr. HERTEL, Mr. HUGHES, Mr. LANTOS, Mr. LEVITAS, Mr. MARKEY, Mr. OTTINGER, Mr. PANETTA, Mr. STOKES, Mr. VENTO, and Mr. BEARD.

H.J. Res. 565: Mr. ANNUNZIO, Mr. MOLINARI, Mr. FORD of Tennessee, Mr. O'BRIEN, Mr. HUGHES, Mr. CONYERS, Mr. BARNES, Mr. LAGOMARSINO, Mr. WINN, Mr. ANTHONY, Mr. ROBINSON, Mr. MONTGOMERY, Mr. CLAUSEN, Mr. RUDD, Mr. QUILLEN, Mr. STENHOLM, Mrs. FENWICK, Mrs. HOLT, Mr. ROBERTS of South Dakota, Mr. BRINKLEY, Mr. SCHEUER, Mr. SIMON, Mr. FLIPPO, Mr. FROST, Mr. ROE, Mr. HILER, Mr. YATRON, Mr. REGULA, Mr. GRISHAM, Mr. BONER of Tennessee, Mr. SHELBY, Mr. ADDABBO, Mr. BOWEN, Mr. DASCHLE, Mr. DONNELLY, Mr. DYMALLY, Mr. WORTLEY, Mr. DYSON, Mr. GINN, and Mr. GORE.

H. Con. Res. 275: Mr. HAMILTON.

H. Con. Res. 361: Mr. FRANK and Mr. OTTINGER.

H. Con. Res. 362: Mr. OTTINGER and Mr. LEHMAN.

H. Con. Res. 381: Mr. DENARDIS, Mr. WAXMAN, Mrs. FENWICK, Mr. LOWRY of WASHINGTON, Mr. PORTER, and Mr. ECKART.

H. Con. Res. 384: Mr. MAVROULES, Mr. BEVILL, Mr. DYSON, Mr. O'BRIEN, Mr. SCHEUER, Mr. BARNES, Mr. GINGRICH, Mr. YATRON, Mrs. KENNELLY, Mr. LONG of Maryland, Mr. FLORIO, Mr. GONZALEZ, Mr. DWYER, Mr. PANETTA, Mr. LANTOS, Mr. STOKES, Mr. LOWRY of Washington, Mr. HUGHES, Mr. DE LUGO, Mr. BOLAND, Mr. CROCKETT, Mr. CONYERS, Mr. VENTO, Mr. MITCHELL of Maryland, Mr. MOLLOHAN, Mr. FASCELL, Mr. EDGAR, Ms. MIKULSKI, Mr. MOAKLEY, Mr. MAZZOLI, Mr. WEAVER, Mr. ANNUNZIO, Mr. HARKIN, Mr. YOUNG of Alaska, Mr. HORTON, Mr. RAILSBACK, Mr. JENKINS, Mr. EVANS of Iowa, Mr. DORGAN of North Dakota, Mr. BLANCHARD, Mr. HATCHER, Mr. ZEFERETTI, Mr. FOGLIETTA, Mr. MATSUI, Mr. SUNIA, Mr. OBERSTAR, Mr. LEHMAN, Mrs. BOGGS, Mr. HOYER, Mr. ROE, Mr. EDWARDS of California, Mr. SOLARZ, Mr. DASCHLE, Mr. BONIOR of Michigan, Mr. BINGHAM, Mr. MINETA, Mr. RODINO, Mr. GIBBONS, Mr. BEREUTER, Mr. ROSENTHAL, Mr. RAHALL, Mrs. SCHNEIDER, Mr. HALL of Ohio, Mr. OTTINGER, Mr. MARKEY, Mr. STARK, Mr. YATES, Mr. BEDELL, Mr. GEJDENSON, Mr. TRAXLER, Mrs. COLLINS of Illinois, Ms. OAKAR, Mr. FRANK, Mr. FAZIO, Mr. RANGEL, Mr. FUQUA, Mr. MADIGAN, Mr. FINDLEY, Mr. FISH, Mr. WORTLEY, Mr. HEFTEL, Mr. DUNN, Mr. BRINKLEY, Ms. FERRARO, Mr. EVANS of Delaware, and Mr. MITCHELL of New York.

H. Con. Res. 391: Mr. JEFFRIES.

H. Res. 268: Mr. ZABLOCKI, Mr. YATES, Mr. PEPPER, Mr. WILLIAM J. COYNE, Mr. DOWNEY, Mr. GRAY, Mr. STARK, Mr. FORSYTHE, Mr. BONKER, Mr. FARY, Mr. MATTOX, Mr. MOAKLEY, and Mr. WALGREN.

H. Res. 421: Mrs. FENWICK, Mr. GILMAN, Mr. ROSE, Mr. MARTIN of North Carolina, and Mr. HOLLENBECK.

H. Res. 532: Mr. BIAGGI, Mr. LELAND, Mr. PEYSER, Mr. HUGHES, Mr. WALGREN, Mr.

GOODLING, Mr. BINGHAM, Mr. MCCLORY, Mr. BONER of Tennessee, Mr. WHITEHURST, Mr. DUNN, Mr. STRATTON, Mr. HYDE, Mr. MAVROULES, Mr. WOLPE, Mr. FAZIO, Mr. RAILSBACK, Mr. CORRADA, Mrs. BYRON, Mr. BARNES, Mr. LONG of Maryland, Mr. HILER, and Mr. WON PAT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3269: Mr. ROEMER.
H.R. 6529: Mr. EDGAR and Mr. ROEMER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

592. By the SPEAKER: Petition of Religious Society of Friends, Westbury, Long Island, N.Y., relative to conscientious objectors; to the Committee on Armed Services.

593. By Mr. SMITH of Alabama, et al.: Petition relative to H.R. 1454, gay rights; to the Committee on the Judiciary.

594. Also, petition relative to H.R. 3955, family protection; to the Committee on the Judiciary.

595. By the SPEAKER: Petition of Mrs. Frances A. Regan, Setauket, N.Y., relative to social security benefits; to the Committee on Ways and Means.

596. Also, petition of the Ewing Township Committee, Trenton, N.J., relative to mutual nuclear freeze; jointly, to the Committees on Armed Services and Foreign Affairs.

597. Also, petition of the Council, Village of Munroe Falls, Munroe Falls, Ohio, relative to content requirements for motor vehicles sold in the United States; jointly, to the Committees on Energy and Commerce and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5540

By Mr. BETHUNE:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Administrator of the Environmental Protection Agency conducts a feasibility study to determine the potential costs, benefits and environmental impacts of such loan, loan guarantee or commitment for loan."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Commerce conducts a feasibility study to determine the potential costs, benefits and environmental impacts of such loan, loan guarantee or commitment for loan."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury conducts a feasibility study to determine the potential costs, benefits and environmental impacts of such loan, loan guarantee or commitment for loan."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Defense conducts a feasibility study to determine the potential costs, benefits and environmental impacts of such loan, loan guarantee or commitment for loan."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Interior conducts a feasibility study to determine the potential costs, benefits and environmental impacts of such loan, loan guarantee or commitment for loan."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Commerce determines that such loan, loan guarantee or commitment for loan guarantee is economically justified."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee or commitment for loan guarantee is economically justified."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Defense, Secretary of Labor, Secretary of Commerce and the Secretary of Interior determines that such loan, loan guarantee or commitment for loan guarantee is economically justified."

Redesignate the following subsections accordingly.

—Page 25, line 9, strike out "This Act may be cited as the Defense Industrial Base Revitalization Act" and insert in lieu thereof "This Act may be cited as the Throw Money at the Problem Act.".

—Page 25, line 9, strike out "This Act may be cited as the Defense Industrial Base Revitalization Act" and insert in lieu thereof "This Act may be cited as the Corporate Welfare Act of 1982.".

—Page 30, after line 10, insert the following:

"(p)(1) The total amount of loans, loan guarantees, and commitments for loan guarantees issued under this section in any fiscal year shall not exceed $100,000,000.

"(2) Notwithstanding paragraph (1) or any other provision of law, if the deficit in the Budget of the United States for any fiscal year, as contained in the Second Concurrent Resolution on the Budget for that fiscal year, exceeds $100,000,000,000, the amount specified in paragraph (1) shall be reduced by an amount equal to the amount by which such deficit exceeds $100,000,000,000.".

Redesignate the following subsections accordingly.

By Mr. ERLENBORN:

—Page 41, beginning on line 22, strike out all of subsection (m) through line 2 on page 43, and redesignate the succeeding subsections accordingly.

By Mr. LUNDINE:

—Page 51, after line 9, insert the following:

COST-ACCOUNTING STANDARDS

SEC. 4. (a) Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) is amended to read as follows:

"COST-ACCOUNTING STANDARDS

"SEC. 719. (a)(1) The Director of the Office of Management and Budget (hereinafter in this section referred to as the 'Director') shall from time to time promulgate cost-accounting standards designed to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts. Such promulgated standards shall be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $500,000, other than contracts or subcontracts where the price negotiated is based on (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation.

"(2) In promulgating such standards and major rules and regulations for the implementation of such standards, the Director shall take into account, and shall report to the Congress in the transmittal require under subsection (b)(3), the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits, including advantages and improvements in the pricing, administration, and settlement of contracts.

"(b)(1) The Director is authorized to make, promulgate, amend, and rescind rules and regulations for the implementation of cost-accounting standards promulgated under subsection (a). Such regulations shall require defense contractors and subcontractors as a condition of contracting to disclose in writing their cost-accounting principles, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs, and to agree to a contract price adjustment, with interest, for any increased costs paid to the defense contractor by the United States because of the defense contractor's failure to comply with duly promulgated cost-accounting standards or to follow consistently his disclosed cost-accounting practices in pricing contract proposals and in accumulating and reporting contract performance cost data. Such interest shall be paid at the rate determined under the last two sentences of section 105(b)(2)(A) of the Renegotiation Act of 1951 from the time such payments were made to the contractor and subcontractor to the time such price adjustment is effected. If the parties fail to agree as to whether the defense contractor or subcontractor has complied with cost-accounting standards, the rules and regulations relating thereto, and cost adjustments demanded by the United States, such disagreement will constitute a dispute under the contract dispute clause.

"(2) The Director is authorized to prescribe rules and regulations exempting from the requirements of this section such classes or categories of defense contractors or subcontractors under contracts negotiated in connection with national defense procure-

ments as he determines, on the basis of the size of the contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by this section.

"(3) Cost-accounting standards promulgated under subsection (a) and rules and regulations prescribed under this subsection shall take effect not earlier than the expiration of the first period of thirty calendar days of continuous session of the Congress following the date on which copies of the proposed standards, rules, or regulations are transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. For the purposes of this paragraph, in the computation of the thirty-day period, there shall be excluded the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die.

"(4) The Director shall coordinate existing cost-accounting standards with the procurement policies, regulations, procedures, and forms promulgated pursuant to the Office of Federal Procurement Policy Act.

"(c)(1) Prior to the promulgation under this section of rules, regulations, cost-accounting standards, and modifications thereof, notice of the action proposed to be taken, including a description of the terms and substance thereof, shall be published in the Federal Register. All parties affected thereby shall be afforded a period of not less than thirty days after such publication in which to submit their views and comments with respect to the action proposed to be taken. After full consideration of the views and comments so submitted, the Director may promulgate rules, regulations, and cost-accounting standards, and modifications thereof which shall have the full force and effect of law and shall become effective not later than the start of the second fiscal quarter beginning after the expiration of not less than thirty days after publication in the Federal Register.

"(2) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(3) The provisions of paragraph (1) shall not apply to rules and regulations prescribed by the Director under subsection (b)(2).

"(d) For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost-accounting standards and has followed consistently his disclosed cost-accounting practices, any authorized representative of the head of the agency concerned or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost-accounting standards and principles.

"(e) The Director shall appoint and fix the compensation of not more than 10 employees for purposes of carrying out the provisions of this section.

"(f)(1) The Director may utilize personnel from the Federal Government (with the consent of the head of the agency concerned) or appoint personnel from private life without regard to chapter 51, subchapters III and VI of chapter 53, and chapter 75 of title 5, United States Code, and those provisions of such title relating to appointment in the competitive service, to serve on advisory committees and task forces to assist the Director in carrying out his functions and responsibilities under this section.

"(2) The authority granted to the Director under this section may not be delegated to any other officer or employee of the United States.

"(g) All departments and agencies of the Government are authorized to cooperate with the Director and to furnish information, appropriate personnel with or without reimbursement, and such financial and other assistance as may be agreed to between the Director and the department or agency concerned.

"(h) The Director shall make an annual report to the Congress with respect to his activities and operations, together with such recommendations as he deems appropriate.".

(b) All orders, standards, determinations, rules, regulations, interpretations, waivers, and contracts, made, issued, or granted by the Cost-Accounting Standards Board in connection with any function which is transferred by this section, and which is in effect at the time of such transfer shall continue in effect to the same extent as if such transfer had not occurred, until amended or repealed by the Director of the Office of Management and Budget (hereinafter in this section referred to as the "Director").

(c) The provisions of this section shall not affect any proceedings pending before any agency, or part thereof, at the time this section takes effect, but such proceedings, to the extent that they relate to functions so transferred shall be continued before the Director.

(d) No suit, action, or other proceeding commenced by or against any office, agency, or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this section, but the court on motion or supplemental petition filed at any time within 12 months after such transfer takes effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the question involved, may allow the same to be maintained by or against the appropriate office, agency, or officer of the United States.

(e) All records and property of the Cost-Accounting Standards Board are hereby transferred to the Office of Management and Budget.

(f) With respect to any function transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the Cost-Accounting Standards Board shall be deemed to be a reference to the Director of the Office of Management and Budget.

(g) This section shall take effect on October 1, 1982.

H.R. 6995

By Mr. MADIGAN:

—Page 14, after line 19, insert the following new section (and redesignate the subsequent sections, and any references to such sections, accordingly):

INFORMATION DISCLOSURES AND CERTIFICATIONS REGARDING SALE OF USED MOTOR VEHICLES

SEC. 8. The Federal Trade Commission Act, as amended in sections 6 and 7, is further amended by inserting after section 25 the following new section:

"INFORMATION DISCLOSURES AND CERTIFICATIONS REGARDING SALE OF USED MOTOR VEHICLES

SEC. 26. (a) For purposes of this section:

"(1) The term 'buyer' means any person who is not a seller of a used motor vehicle. Such term shall not include any dealer who purchases a used motor vehicle from any other dealer for purposes of resale.

"(2) The term 'motor vehicle' does not include any motor vehicle with a gross vehicle weight rating of 8,500 pounds or more, a curb weight of 6,000 pounds or more, or a frontal area of 46 square feet or more.

"(3) The term 'seller' means any dealer and any other person who transfers ownership of a used motor vehicle to a buyer.

"(4) The term 'used motor vehicle' means any motor vehicle driven more than the limited use necessary in moving or road testing a new motor vehicle before delivery to a buyer. Such term does not include any motor vehicle which is sold only for scrap or parts, if title documents are surrendered to the State involved and a salvage certificate is issued by such State for such motor vehicle.

"(D) (1) Each seller of a used motor vehicle shall furnish the buyer, at the time of sale, with a written statement which contains the following information with respect to such used motor vehicle—

"(A) the present tire tread depth for each tire, as compared to the original tire tread depth for each tire;

"(B) the present compression ratio for each engine cylinder, as compared to such compression ratio as stated by the manufacturer of such used motor vehicle at the time of its sales as a new motor vehicle;

"(C) the present condition and performance of each battery cell, as compared to the original condition and performance of each battery cell; and

"(D) the present thickness of the brake linings or pads, as compared to the original thickness of such brake linings or pads.

"(2) The Commission shall have authority to issue interpretive rules to the extent necessary to carry out the provisions of this section.

"(c)(1) Each seller of a used motor vehicle shall furnish the buyer, at the time of sale, with a written certification that the brake system, headlights, horn, steering system, taillights, and tires of such used motor vehicle are in safe operating condition.

"(2) The certification required in paragraph (1) shall be included as a provision of the contract or other agreement for the sale of a used motor vehicle, or incorporated into such contract or other agreement by reference. The provisions of such certification shall supersede any contrary or inconsistent provision in such contract or other agreement.

"(d)(1) If a buyer notifies the seller of a used motor vehicle, before the end of the period of 10 business days following the date of the sale of such used motor vehicle, that any component certified by such seller under subsection (c)(1) was not in safe operating condition at the time of such sale, then such seller shall—

"(A) provide for the repair or replacement of such component before the end of the period of 10 business days following such notice; or

"(B) rescind the contract or other agreement under which such used motor vehicle was sold to such buyer.

"(2) If a seller elects to provide for the repair or replacement of a component under paragraph (1)(A), but then fails to repair or replace such component before the end of the period of 10 business days specified in paragraph (1)(A), then the buyer may re-

scind the contract or other agreement under which the used motor vehicle was sold.

"(3) In the case of any rescission of a contract or other agreement under paragraph (1)(B) or paragraph (2), the seller shall refund the purchase price of the used motor vehicle to the buyer, excluding the cost of any repairs made necessary by any damage sustained by such used motor vehicle during possession by such buyer.

"(e) Any buyer purchasing a used motor vehicle may elect to waive the imposition of requirements upon the seller under subsection (b) and subsection (c). Such waiver shall be made in writing and furnished to such seller at the time of sale. Such waiver shall be included as a provision of the contract or other agreement for the sale of a used motor vehicle, or incorporated into such contract or other agreement by reference.

"(f)(1) Any seller who, with intent to defraud, violates any requirement imposed in this section shall be liable to the buyer involved in an amount equal to the sum of—

"(A) three times the amount of actual damages sustained by such buyer of $1,500, whichever is greater; and

"(B) in the case of any successful action to enforce the liability imposed in subparagraph (A), the costs of the action together with reasonable attorney fees incurred by such buyer, as determined by the court.

"(2) If any seller violates any requirement imposed in this section, the chief law enforcement officer of the State in which the violation occurs may bring an action—

"(A) to restrain such violation; or

"(B) to recover amounts for which such seller is liable under paragraph (1) to each buyer on whose behalf such action is brought.

"(3) An action under paragraph (1) or paragraph (2) may be brought in a United States District Court without regard to the amount in controversy, or in any other court of competent jurisdiction, during the two-year period following the date upon which the liability arises.

"(4) If the Commission determines that any State is not enforcing the requirements of this section in a manner consistent with the purposes of his section, the Commission shall furnish notice of such determination to the Secretary of Transportation. The Secretary, after receiving any such notice, may exercise the authority established in paragraph (2), in lieu of the chief law enforcement officer of such State.

"(5) The penalties and procedures established in this section for purposes of enforcing the requirements of this section are in lieu of, and not in addition to, any other penalties or enforcement procedures established in this Act or the National Traffic and Motor Vehicle Safety Act of 1966.

"(g) It is the intent of the Congress that the provisions of this section shall not be construed to supersede any State laws insofar as such laws currently or hereafter establish requirements relating to the disclosure of information and certifications by sellers of used motor vehicles which are the same as, or more stringent than, the requirements established in this section.".

Page 5, line 7, strike out "section 26 and section 27" and insert in lieu thereof "section 27 and section 28".

H.R. 7019

By Mr. STUDDS:

—On page 3, line 18, after the word "reduction" insert the following: ", together with an amount not to exceed $14,000,000 which shall be derived from appropriations for retired pay,".

On page 5, line 5, after "$50,094,000" insert the following: "together with an amount not to exceed $4,000,000 which shall be derived from appropriations for retired pay".

EXTENSIONS OF REMARKS

THE NUCLEAR THREAT

HON. FORTNEY H. (PETE) STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. STARK. Mr. Speaker, the debate on the nuclear weapons freeze continues. Many of the arguments are becoming well known. I believe, however, that the following interview will shed some new light on the subject. In a recent interview published in "Common Cause," Admiral Noel Gayler, who has become an outspoken opponent of an increased military build-up, and a supporter of arms reduction, lets us know his view on the issues we are facing.

As the former commander and chief of U.S. forces in the Pacific, and the former Director of the National Security Agency, as well as the deputy director of the Strategic Target Planning Staff of the Joint Chiefs, Admiral Gayler brings expert insight into the debate. I think his comments deserve close attention.

[FROM COMMON CAUSE, AUGUST 1982]

THE NUCLEAR THREAT: CUTTING THROUGH THE TOUGH TALK

(In the following interview, retired Admiral Noel Gayler answers some of the complex and puzzling questions frequently asked about nuclear arms control. He concludes that now is the time for the United States and the Soviet Union to negotiate bilateral arms reduction treaties.

(Gayler is former commander in chief of United States forces in the Pacific (1972-76) and former director of the National Security Agency (1969-72). He is also the former deputy director of the Strategic Target Planning Staff of the Joint Chiefs.)

Are you really worried about the possibility of a nuclear war?

Yes, I think it's reason for grave concern. I don't think it's likely, but it certainly is not impossible. There are very practical ways to cut back on the possibility of nuclear war, and we should lose no time adopting them.

What are some of those ways?

The first thing I think we have to do is to stop trying to convince the Soviets and get the Soviets to stop trying to convince us that we or they really might contemplate nuclear war under some circumstances. We need to have a statement on the part of both that they do not contemplate nuclear war under any circumstances. A statement like that would be very important. I also think we should put an end to the intemperate and threatening rhetoric between the United States and the U.S.S.R.

I have two observations about that argument, which you often hear. One is that it betrays a complete lack of understanding of the nature of nuclear weapons and, as a matter of fact, of the nature of war.

Your expression about keeping the Russians in line—well, to risk nuclear war in any way in order to keep the Russians in line about such things as the integrity of Europe, for example, is just a complete confusion of ways and means. Europe can be defended without resort to nuclear weapons. This is not a statement of "better Red than dead." It's a statement that we need be neither Red nor dead. Furthermore, I think it's a very dangerous doctrine to keep the Russians uncertain, because if we do, the Russians are going to keep the Americans uncertain. Neither one of our societies understands the other very well. I've been shocked at the misperceptions that professional Russian observers have about the United States. And I think the same is probably true of our total understanding of Russia. So the notion that we're going to keep each other guessing is an extraordinarily dangerous idea, because they might guess the wrong thing. They might believe we were going to strike them, and feel the need to strike us first.

President Reagan says that we have to continue the arms buildup because we have a "window of vulnerability." Do you agree?

No. Taking the nuclear forces as a whole, there is no "window of vulnerability." There's no window of vulnerability because there's no vulnerability when it comes to our bomber forces and our submarine forces (which could not be easily destroyed). And it's quite dubious, I think, that even the fixed land-based missiles are as much at risk as people suggest. It would be suicide for the Russians to attempt to use a preemptive strike.

I don't think that the Russians are ahead of us. We have more of some things; they have more of others. I think it's interesting that if you ask senior military people in office if they would trade our own armed forces for the Russians', they would decline to do so.

The important thing to remember is that we now both have thousands of nuclear weapons, so there's nothing realistic even about the idea of being ahead or behind, for example, when he's got 6,000 and you've got 9,000 and it takes only 400 megatons to destroy a country. In point of fact, it makes more difference what the targeting policy is; it makes more difference what the fusing policy is, whether they choose to blow up at ground level and create fallout. It even makes more difference which way the wind is blowing, carrying fallout on a given day, than an extra thousand missiles on either side.

Then why do we continue to hear that the United States is behind?

You're in the public affairs business. You tell me why people can't see simple truths. The idea of strategic nuclear superiority and inferiority at these force levels simply has no meaning.

What is the mutual assured destruction (MAD) theory? Does it have any relevance?

It sure does. Mutual assured destruction is the idea that neither side will dare start a nuclear war because it knows that if it does, it will get it in return. That requires that a sufficient amount of the nuclear forces on either side be relatively or totally invulnerable to a first strike from the other side. We're both in that position now, and as far as I can see we will be indefinitely. The attempt to attain nuclear superiority is an illusion. There is no such thing.

Is a first strike capability important?

A first strike capability is an illusion. It's generally used to refer to the idea that an adversary will strike the nuclear forces of the other country and keep it from attacking back. The fact is that it's impossible. First, it's impossible because the submarine forces of either side can't be effectively attacked. Second, it's impossible because not all of the bomber forces of either side can be effectively attacked. But this illusion is extremely dangerous.

Many people are worried about negotiating with the Russians because they feel we just can't trust the Russians. That seems to be a major concern of many Americans.

Let's see why. Because the Russians might cheat? All right, what if they cheated? Suppose they cheated by a thousand weapons. It wouldn't make any difference, but we would be very likely to know it. If they cheated by 10,000 weapons, we would be certain to know it.

Isn't it important to have nuclear weapons as a deterrent against other war?

I can't prove it, but in my opinion, it's certainly not true that nuclear arms have prevented war. As a matter of fact, we've had major wars all over the place and are continuing to have them right now. There has not been war in Central Europe, in my judgment, because the U.S.S.R. has correctly estimated that the potential gains are not worth the risk.

But you could still argue that nuclear weapons have served as a deterrent in Europe, for example.

I understand the argument. I'm telling you that I don't think it has any validity because nuclear weapons can't be used by us in any sensible way, and they can't be used by the Russians in any sensible way.

But since they can't be used in a sensible way, doesn't that mean they've served as a deterrent?

They don't serve as a deterrent to conventional war and they haven't. We remember Korea and Vietnam. There's a conventional war going on in Lebanon, Iran, Iraq. There's a conventional war still going on in Afghanistan. We just finished one in the Falklands. What good did their nuclear weapons do the British there? They did not prevent the U.S.S.R. from taking over Czechoslovakia by armed force, from taking over Hungary by armed force, from abolishing the Baltic states, Latvia, Lithuania, Estonia, doing all of those things.

How do you think a nuclear war might start? Would it most likely be an accident?

I don't think an accident is as likely as a misguided attempt to use nuclear weapons in some limited way, with the exchanges escalating to a total nuclear exchange. I think that's the most dangerous possibility. Another quite dangerous possibility is the temptation to use nuclear weapons by some third country, perhaps in the Middle East. There are some pretty unstable figures out there. And we could be drawn into it.

For example, if there's a nuclear explosion in Leningrad, you could understand how the Russians might think we did it, but we might have had nothing to do with it.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I don't think the deliberate massive attack by Russia against the United States is something to worry about very much because I think it would be insane on their part. But these other things are things to worry about. And unfortunately, neither we nor the Russians have much credibility in inducing other countries to forego nuclear weapons because we're not foregoing them ourselves. In fact, we're not even doing anything very serious about reducing them.

We keep hearing talk about "a limited nuclear war." Is such a thing possible today? We had one in Nagasaki and Hiroshima, of course.

That was because there was only one nuclear power. Now there are two major nuclear powers, and a number of others. And the two major nuclear powers have roughly equivalent forces. It's a totally different situation.

The reason I don't think there could be a limited nuclear war is because any nuclear initiative will have a reply. And the reply will be bigger than the initiative. That's the way doctrine is on both sides, and that's the way people are. And so it's only a question of how many steps up the ladder of escalation before you have the total holocaust.

What do you think about civil defense plans?

I think that civil defense for the purpose of disaster relief in the case of earthquake, flood, fires and so forth is a very valuable thing, but I think that the proposed civil defense program which is directed toward allegedly reducing the impact of nuclear war is totally impractical and will not work. It is bad because it tends to create the illusion that somehow or other nuclear war isn't so bad. That illusion is a very dangerous thing.

Do you think it's possible we could survive a nuclear war?

It depends on what you mean by "survive." I think that depending on a lot of things, that some Americans might still be living after a nuclear exchange if they live in some place well away from targets and they don't get caught in the heaviest of the fallout. But I don't think that either the United States or Russia would survive as a civilization, and I don't think that those who were left would be very happy with living anymore.

Why do we keep hearing that the Soviet Union has an elaborate civil defense plan?

Because it suits the purposes of people who want to push a civil defense plan in this country, and it also suits the purposes of people who either enjoy the illusion or wish to push the idea that the Soviets somehow or other have got a strategic advantage.

If you go to competent, intelligent Soviet sources, you find out that while they spend a lot of money on civil defense, it's pretty much a sham, just like it is here. They, too, have been the victims of wishful thinking. It's a turkey, and there's no reason why we should copy it.

You don't think, then, that they know something that we don't know about civil defense or that they've got some sort of secret weapon?

No, I don't think that.

Do you agree with those who say that building more nuclear weapons reduces our security and increases the risk of nuclear war?

Yes, I do. It increases our risk because the more weapons there are, the more terrible the consequences of a nuclear war and also the more likely that a military commander might imagine that he could use them for some purpose or other. It also increases the chances of accidental or unauthorized use or the possibility that a weapon or two would fall into the hands or terrorists.

Do you think the MX missile is a good idea?

No, I don't think the MX missile is a good idea. I think it is a destabilizing weapons system because nobody has figured out a way yet to make it invulnerable to attack, and therefore it's in that position where officials would be tempted to use them or lose them. And it puts the Russians in the same bind—increasing the risk to us.

What about SALT II? Should we ratify SALT II?

I think that that would be a healthy first step.

Do you think the Soviets are just as scared of us as we are of them?

In the nuclear field, I think yes. I think they're very much concerned about what they regard as saber-rattling and illogical behavior, and they're worried to death about nuclear war.

How do you respond to those who say the recent concern about the nuclear arms threat is just an overreaction that has been whipped up by the media?

I find it very hard to comment on that dispassionately. I think that is so wrongheaded that it's very difficult to be temperate about it. People who talk like that have never seen a nuclear weapon explode. They've never taken the trouble to look at what happened at Hiroshima and Nagasaki, and they've never taken the trouble to analyze what would happen with nuclear weapons exploding over our cities or theirs. I just think it's a totally irresponsible, damnable position to take.

But haven't we had the same threat of a nuclear war for years?

As a matter of fact that's not true. We have not had this threat for years. In recent years the total number of nuclear weapons and the disposition among the powers has more than doubled. Even more important, the level of rhetoric since about 10 years ago and the irresponsible cracks about potential ways in which you might fight war with nuclear weapons have increased. I think we're in worse shape than we have been.

Do you think that's why people seem to be worked up over this issue now?

I think it's a very reasonable thing to be worked up over. After all, it is a situation where you're going to get slaughtered without any warning and without your consent, you and your family and everybody you know, and your civilization and everything else. It seems that it ought to be something to get your attention.

Do you support a nuclear freeze?

Yes, I do. I understand the arguments made about the imbalance resulting from a freeze; I understand the arguments about verification; I understand the arguments about the time it would take to negotiate and so forth. I think those are all manageable, and that they all pale into insignificance when compared to the importance of stopping the continuous buildup while we negotiate for deep arms reductions.

I don't think the freeze is a substitute for deep arms reductions, but I can't see how it does anything but help with the negotiating process toward them. I particularly reject the idea that we should or can build up our nuclear forces in order to gain an advantage over the Soviets before we can negotiate. I think that's nonsense. They can build up just as fast, and in my judgment, they will.

But you said before that you think we're about equal now.

That's my opinion, yes.

Can citizens make a difference on this issue?

If by citizens you mean voters, yes. And I think it's extraordinarily important that those citizens who feel strongly on this issue should become voters. At the same time I hope very much that this very sound revulsion against nuclear weapons doesn't spill over into a general antimilitary attitude.

We need to keep and improve a military capability to defend Europe by conventional means, so nobody will be tempted to use nuclear weapons. We need to keep the oceans open, because the Western alliance is an oceanic alliance. We need to be able to protect remote places in the world, such as the Middle East, for peacekeeping and because our vital interests are at stake there. These are things which we very much need. And they come together under the rubric of conventional weapons, and those are things that we need for our security and our freedom and much of the world's.

So do you think citizens should be voting for those people who want to do something about the nuclear arms buildup?

Yes, I think it is the most effective thing and, of course, sensitive political antennae will be out long before the voting even takes place. So the fact that there are citizens concerned about this and that they intend to vote will be registered by politicians, and it will result in changes in policy.

Now let me make it clear that I'm not talking about unilateral U.S. actions. I'm talking about developing the political will here and in the U.S.S.R. to reduce the probability of nuclear war.

But how can we influence what the U.S.S.R. does?

They follow us very closely, and I think they pay a great deal of attention to what they perceive our intentions and our capabilities are.

In my judgment, what it really takes is the political will on the part of the United States and the political will on the part of the U.S.S.R. to tell their negotiators, "You find the means to take this terrible peril away." With that political will, I promise you there is no security obstacle, no physical obstacle, no technical obstacle, no economic obstacle to making massive reductions in nuclear weapons. All that is the political will between the two of us.

Is that likely to happen?

I think so. I think that the present nuclear arms situation is so dangerous to the security of the United States and so dangerous to the security of Russia that logic and common sense should compel us to get together and do something about it. And in this area we and the Russians have two very strong, common interests. One is that we don't want to be blown up and the other is that we don't want nuclear weapons all over the world in the hands of Qaddafi anf Khomeini and people like that.

Do you think that there's any evidence that the Soviets would be willing to put down some of their arms?

Yes, I think there's a lot of evidence—their pronouncements at the highest levels in the Soviet Union, from Brezhnev on down. They have formally, of course, agreed to nuclear arms reductions and to the negotiations of further nuclear arms reductions. So I don't think there's any reason to doubt that they're willing, if we can negotiate something that's clearly in the interests of both of us. And I think that's entirely a matter of political will.●

H.R. 6046—THE WRONG ANSWER TO THE PROBLEM OF TERRORISM

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. WYDEN. Mr. Speaker, I rise to urge my colleagues to oppose H.R. 6046, the Extradition Reform Act of 1982, if it is brought up for a vote on the floor of the House as presently written.

The objective of this bill is clear and commendable: to reform the process under which the United States, through extradition treaties with more than 90 foreign nations, attempts to combat the specter of international terrorism.

However, the mechanism embodied in H.R. 6046 is wrong. If we pass this bill as written, we would tie the hands of our courts and condone the suppression of political dissent in some of the world's most totalitarian countries.

By gutting the political exception defense to requests for extradition, we would tell political refugees seeking sanctuary in this country that our most cherished principles of freedom of expression and individual liberty do not apply to them.

By requiring our courts to jail foreign nationals solely on the basis of unsubstantiated allegations by foreign governments of violent activity, we would replace the fundamental safeguards of due process and probable cause with a system of arbitrary detention that is contrary to everything this country stands for.

H.R. 6046 also would not allow our courts to question the motives of a country seeking extradition or to attempt to determine whether the approval of a request would subject the individual involved to persecution and torture based on his political beliefs once expelled from this country.

Under this bill, the State Department—rather than the courts—would have the sole authority to determine whether an extradition request should be denied on the basis of gross violations of human rights in the country seeking extradition.

I, for one, feel very uncomfortable entrusting this determination to an agency that recently certified substantial progress in the protection of human rights and political freedom in El Salvador.

Mr. Speaker, I hope the leadership does not bring this bill up for a hurried vote as we rush toward adjournment. This is a serious matter that needs to be thoughtfully debated. If it is scheduled for floor action, I urge my colleagues to support a number of corrective amendments that will be offered.

For more than 200 years, this country has been a shining light for freedom-loving people throughout the world. The United States was founded on the principle of political dissent and we should proceed very cautiously with any attempts to abrogate that fundamental principle.●

THE MEDIA'S MISTAKE IN LEBANON

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GREEN. Mr. Speaker, Bayard Rustin, president of the A. Philip Randolph Education Fund, wrote to the New York Times about the contrasting impressions of Lebanon he and a group of travelers to southern Lebanon and Israel found, and those presented by the news media.

Contrary to media reports, towns like Tyre, Sidon, and Nabatiya were not reduced to rubble; rather, they were swiftly rebuilding. Nor was the PLO's departure mourned; rather, the PLO was openly vilified by all who spoke with the group of Americans.

Mr. Rustin wrote hoping to set the record on Lebanon straight before media-inspired misconceptions of the war become rooted in our minds. If we are to understand the war properly, Mr. Rustin warns, we must take due note of the depth of and the reasons for the Lebanese hatred of the PLO. For the benefit of my colleagues, I ask that this letter be placed in the RECORD at this point. Thank you.

THE MEDIA'S MISTAKE IN LEBANON

To the EDITOR:

I am writing in behalf of a group of disparate people, from several religious faiths and representing different constituencies, who visited Israel and Lebanon together, having returned on Aug. 23.

We spent two days in Southern Lebanon, including east Beirut, with the cooperation of the Israeli Government, which hoped that our findings would help dispel what it considered the extremely unfair and grossly inaccurate media coverage of the events in Lebanon. The discussions among ourselves, both there and on our return, indicated remarkable agreement and a feeling that at least some of our findings should be made known as soon as possible.

First, we agree that the coverage of Israel's military advance into Lebanon was inaccurate and unfair and did not depict what actually happened.

Among other cities, we visited Tyre, Sidon and Nabatiya, which had been reported as virtually destroyed. We found them vital, populated and thriving, with their own civilian control, and, in every way we could see, ready and capable of picking up their lives. The energy and recuperative power of the Lebanese people were striking.

Sidon was the most damaged of these three cities, but even there only isolated sections of the main street—the road to Beirut—showed heavy damage. The side streets and most of the main thoroughfare were relatively untouched. So it was clear to us that the damage reported by the U.S. media had been grossly exaggerated.

The final, perhaps most important point we wish to convey is the widespread loathing of the Lebanese people for the P.L.O. We spoke to dozens, stopped at random on the streets. All were willing, indeed eager, to talk with Americans, and all damned the P.L.O.

The P.L.O. had seized a number of cities during its seven-year reign of terror in the area. All law there was P.L.O. law; all justice P.L.O. justice. And we heard stories of murder, rape, pillage, intimidation, sacrilege and what have you—from Maronite Christians and from Shi'a Muslims alike. One has only to visit the Christian cities of Damour or Aichiyah, or Shi'a Nabatiya, to be convinced.

Those who traveled with me were the Rev. Carl E. Flemister, executive minister of the American Baptist Churches of Metropolitan New York; Thomas Y. Hobart Jr., president of New York State United Teachers; John E. Nikas, former president of the Hellenic-American Neighborhood Action Committee, and the Most Rev. Joseph E. Sullivan, auxiliary bishop of the Roman Catholic Diocese of Brooklyn.

They have read and approved this letter and join me in urging that our media conduct intensive investigations among the Lebanese people. They will discover the depth of those people's hatred for the P.L.O., and the reasons therefore. It behooves us to pay heed.●

KEITH SEBELIUS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. DERWINSKI. Mr. Speaker, it is with deep sadness that I wish to join my colleagues in honoring my old friend, Keith Sebelius, who died September 5, 1982. It was an honor and a privilege to serve with Keith during his 12 years in Congress. He was an outstanding Member of Congress, a true public servant, dedicated to his constituents.

Through his years of valuable service, Keith was a noted legislator in the field of agriculture. His knowledge and wisdom in the agriculture field were frequently sought out by other Members and widely respected both inside and outside of Congress.

Keith Sebelius' distinguished career in the House has left him with many friends who feel the loss of this wise and admirable man. My wife, Pat, joins me in our heartfelt condolences to his wife, Bette, and their sons, Doug and Gary.●

WHAT THE TAX BILL WAS ALL ABOUT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. PORTER. Mr. Speaker, what was this tax package passed narrowly by the Congress and signed into law by the President last week all about?

We know generally what it does and who it affects. It increases Federal revenue by $96.3 billion over 3 years, primarily by closing out excesses written into the code in passing the tax reduction a year ago. Some sacrifice is asked of each of us, but the bill most impacts high income taxpayers and corporations.

It leaves intact three-fourths of the tax deductions set into law last year, reducing their impact from $430 billion to about $330 billion for 1983, 1984, and 1985. Most importantly, it reduces the projected deficit for fiscal year 1983 by $20 billion more for the next 2 years.

Finally, it carries out the revenue provisions of the budget resolution Congress adopted only last June. As for the $38.4 of spending cuts also directed by the resolution to be made over the 3 years, some have been made already, and the remainder, the President has said, if not made by Congress, would be made by his vetoing all over-budget appropriations.

We can conclude, that the tax conference report's adoption was a signal that Congress could act responsibly—in an election year to boot—to carry out its budget resolution and take action to help reduce the deficit, cut interest rates and get unemployed Americans back to work as soon as possible.

With all this and more at stake, then, one would think that at passage the focus was on the ability of the President and the Congress to govern.

Many Republicans to the end remained adamantly opposed to any kind of revenue increase. They felt that the President was backtracking on his own ideology and that more revenues in the Federal hopper would only give the spenders both the excuse and the means to avoid scheduled budget cuts. I have to admit to much the same feelings. I did not come to Washington to increase taxes either. But, clearly, without this part of the budget resolution in place, and even higher deficits—in the $200 billion range—facing us next spring, surely the pressure to undo the third year of the tax reductions would have been overwhelming. To protect that last 10 percent reduction, and tax indexing, I felt this measure was needed.

In the final analysis, however, for most of the 103 Republicans who, however reluctantly, supported the bill, it was the question of governing—of providing leadership and direction for our country—that pulled their votes in.

This President was elected in November 1980 to deal with an economic mess 20 years in the making. Last year, under his leadership, we put in place new policies to curb the rate of increase in government spending, reduce the burden of taxes, encourage savings and investment, and cut back excessive Government regulation of the economy.

This year, to gain further spending cuts, protect the tax reductions already enacted, and send a good signal to the economy by reducing projected deficits, the President determined that the tax package was necessary.

What does this mean in the Congress? Though the Democrats still control the House of Representatives, the Republicans are perceived as the party of power today in Washington. Republicans can no longer sit on the sidelines engaging in theoretical discussions of how it might be when their policies are put in place. They are no longer the minority. They now must govern dealing with the world as it is, pulling together the majorities needed to accomplish direction, and in some cases, compromising in the short term to preserve and assure that they ultimately reach their goals.

The change in mind-set from loyally opposing to governing is not easy. By its very nature, your ideology gets compromised to some degree when you try to reach a consensus. But, governing in a free Republic such as ours has never shown a history of philisophic purity, and never will. We move forward haltingly, gaining direction by pulling together for short times, groups of basically divergent ideologies.

This explains much of what this tax package is all about.●

KEITH SEBELIUS: ABLE, EFFECTIVE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. FUQUA. Mr. Speaker, it is with a feeling of deep personal loss that I rise today to join my many colleagues in honoring former Congressman Keith Sebelius who so ably represented the First District of Kansas for 12 years.

Keith Sebelius and I shared two major legislative interests, in agriculture and energy, as well as many personal interests during the years when we served together in this House.

His commitment to a sound and workable agricultural policy will probably be the intellectual monument for which he is best remembered both by his colleagues and the tremendous agricultural district he represented.

But having had the opportunity to work with him even more closely on a national energy policy, his devotion to the cause of America's energy independence will always be one of the hallmarks of my remembrance of Keith Sebelius.

Keith Sebelius will be remembered by all who had the honor of serving with him, and by those he served so well, as a wonderful, kind, thoughful, and intellectual human being.

I commemorate his spirit even as I mourn his loss.●

AMERICANISM FOUNDATION

HON. JEAN S. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mrs. ASHBROOK. Mr. Speaker, I am pleased to have within the 17th District of Ohio the Americanism Foundation, an organization dedicated to promoting the importance of maintaining the basic freedom and liberty which we as a nation have long enjoyed. The Americanism Foundation impresses upon the youth of the community of Norwalk the necessity of preserving and protecting our individual freedom.

Each year the foundation holds an essay contest. This year's theme was, "The Meaning of Freedom and How To Advance It." First place winner is Susan Bohart, a junior at St. Wendelin High School in Fostoria, Ohio. Second place winner, a senior at South Central High School in Greenwich, Ohio, is Cregg Fetter. It gives me great pleasure to congratulate these students on their fine essays, and insert them in the CONGRESSIONAL RECORD:

THE MEANING OF FREEDOM AND HOW TO ADVANCE IT

(By Susan Bohart)

What is freedom? What does it mean to you? John Stuart Mill declared: "The only freedom which deserves the name, is that of pursuing our own good in our own way." I believe that real freedom is the power to act, speak, and think without the imposition of restraint, but in a way that does not deny the rights of others.

We, as a nation, should be proud that we were one of the first to include the right of freedom in our doctrines. Our nation was built by those searching for freedom. Each building block of our country was placed there to support our ideas of life, liberty, and the pursuit of happiness. Our founders were setting a shining example to all those who suffered from oppression and inequality. The Declaration of Independence was of significance not only to us, but for all people because it upheld the basic rights of all men. Equality is not only necessary for liberty, it also allows man to work free of restraints and to excel in his own initiative and intelligence.

We are given many things in this world; but freedom is an especially significant gift given to us by God—one that no man has a right to take away. It gives us the right to make our own decisions about religion, politics, and many other important issues. Freedom gives us the power to be individuals.

Unbelieveably, some people try to take freedom away from others. We witness this fact everytime we turn on the T.V. and watch the news: murder, kidnappings, the invasion of Poland and the Falkland Islands. Communists even base a large part of their system on restricting personal rights and liberties. As the impending threat of war looms near, we must recognize and stand up for our own principles. We believe in the self-determination of peoples and we have the right to govern ourselves as we see fit.

Awareness is not enough. It is also necessary that we act to guarantee our freedom. We all need to exercise our democratic rights as citizens by voting and taking part in our government—especially we, the youth of America. As we grow up and begin to receive more and more liberties from parents, teachers, and other adults, we must also look to the future and plan for the preservation of America's freedom.

Our constitution gives us the right to vote, speak, assemble, and worship. By using the freedom of speech, as I am doing now, and by using the power of our vote, we are, as Martin Luther King once said, ". . . speeding up that day when all of God's people will be able to join hands and sing togehter 'Free at last, free at last, thank God almighty, we are free at last!'"

THE MEANING OF FREEDOM AND HOW TO ADVANCE IT

(By Gregg Fetter)

When one talks of freedom, a wide variety of responses will be received from different persons. If one were to converse with a former prisoner of war, his response would differ greatly from that of someone who has never helped defend his country from an aggressive force. In contrast, freedom is thought to be achieved at the completion of high school, living apart from one's parents, and free of their authority. Freedom is advanaced in various ways, also. Both radical and peaceful methods have been administered in trying to advance freedom. The following is my psersonal view of what freedom represents, and what is necessary to achieve the most freedom obtainable.

Freedom is the ability to do just about anything one enjoys, providing it is lawful, which, in a real sense is not freedom at all because of the restrictions placed upon every person. To find freedom, one must look deeper than the ability to perform things that are pleasing to oneself. If one were to try to think of anything that represents freedom, he would find this task impossible because every action performed by a person is regulated—in some way—and is not isolated from everything else. Freedom, therefore, is something that has no links with actions that can be performed; literally, freedom is nonexistent.

How one interprets freedom is the amount one has. To illustrate this point, if a person were to move from Russia to the United States to live, he would feel he has total freedom compared to what he had. Now compare this Russian's view to one of a lifetime United States resident. The two resulting opinions of the amount of freedom offered in the United States would greatly differ—even though no difference occurs. Both have the same amount of freedom, yet the two opinions conflict on the acutal amount received. Based on this example, it can be assumed that freedom is only a state of the mind. In the United States, one is not free to do anything one wishes, one is only less restricted than is an individual from a foreign country such as Russia.

Lastly, freedom is only advanced by protecting what gives individuals their "state-of-the-mind freedom"—our country. This country is one of the few where freedom is said to exist. It offers what serves as a model to other countries. "The land of the free," so-called because of the opportunities presented, will remain this way only if people are willing to fight for the ideals it stands for. How much freedom one is willing to fight for is what will determine how much freedom one will receive.●

AIRPORT AND AIRWAY SYSTEMS DEVELOPMENT ACT OF 1982

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MARKEY. Mr. Speaker, I wish to commend those Members who worked so diligently for passage of the Airport and Airway Systems Development Act of 1982. The act creates set-aside funding for airport noise abatement programs to insure that these important programs continue as promised by the Aviation and Noise Abatement Act of 1979. Of particular importance is the recognition the conferees have given to the value of public building soundproofing, especially for educational institutions. The Massachusetts Port Authority (Massport), operator of Boston's Logan International Airport, has done an enviable job in the area of airport noise control and seeks to do more under this new legislation.

Logan presents Massport with a host of unique challenges in noise abatement. The world's 13th busiest airport, and the major hub for a six-State region, Logan is located largely within the city of Boston with its four major runways surrounded on three sides by heavily populated neighborhoods. Quite naturally, it produces adverse environmental effects on those who live near the airport or under its flight path.

As jet traffic and Logan itself expanded during the 1960's and early 1970's, those effects often led to considerable differences between airport and community. These frequent conflicts not only failed to reduce noise, they often impeded Massport's ability to respond to the legitimate air service needs of the New England region.

This deadlock was broken in 1976, when Massport instituted active noise abatement and community relations programs. Combined with intelligent and aggressive air service marketing, these programs allowed Massport to accomplish what had been considered impossible: A reduction in airport noise accompanied by an increase in air service. Massport's noise abatement office and public affairs staff working in conjunction with the community, the airlines, and various government agencies, particularly the Federal Aviation Administration, made this possible.

By pursuing a course of cooperation rather than confrontation, Massport has created a noise abatement program that is second to none, while providing the highest level of air service to the people and businesses of New England that use Logan International Airport.

For example, in the first 4 years of its existence, the Massport noise abatement program for Logan produced significant noise relief for over 65,000 people living near the airport. Even more dramatic, the number of people affected by noise at night—between the sleeping hours of 11 p.m. and 7 a.m.—has been cut nearly in half, 47 percent; and the affected land area has been reduced by 5 square miles. This success is due to both the Logan nighttime noise restrictions and to a decrease, 25 percent, in nighttime operations.

Paralleling this progress in noise reduction, Massport made major air service gains at Logan. During the same 4-year period, passenger traffic grew 29 percent and cargo volume increased 22 percent. Also, 18 new carriers, including 9 commuter lines, entered the Boston market, adding service to more than two dozen new U.S. cities. At the same time, annual commercial air carrier operations experienced a slight decrease, indicating more efficient use of the Boston hub, a benefit to the carriers, the community, the traveling public, and the Nation as a whole.

Aside from these overall gains in noise abatement, Massport has led the way in soundproofing for noise impacted public education facilities. In the fall of 1981, Massport received a FAA demonstration grant for the soundproofing of East Boston High School. The grant was the first of its kind and represented such an innovative approach to airport noise control that Massport received the First Aviation Environment Award issued by Administrator Helms. Massport, with the help of the FAA, hopes to carry this program to other schools located in Winthorp, Chelsea, and Revere, which are also noise impacted.

Passage of the Airport and Airway Systems Development Act will certainly aid in the enhancement of what is already an effective noise program at Massport. Again, I commend those Members who worked for the successful completion of this legislation.●

THE DEATH OF GEMAYEL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GOODLING. Mr. Speaker, the assassination of President-elect Bashir Gemayel of Lebanon has thrown an unexpected and immensely tragic twist in the already complex and highly volatile situation in Lebanon and the entire Middle East. Gemayel's death, along with the deaths of many high-ranking members of his party, creates a void in the political situation which can only be filled without much bloodshed if all the parties and factions in Lebanon, both Muslim and Christian, put aside their differences and work for the restoration of Lebanese sovereignty and stability.

While Gemayel's character and policies were uncertain, he at least introduced an element of hope to the war-torn land of Lebanon. The leader of the rightist Christian Phalange Party, Gemayel was thought to have been a puppet of Israel. However, when it came to the sovereign integrity of Lebanon, he did distance himself from Israel and Israeli policies, calling for the complete withdrawal of all foreign troops, Arab and non-Arab alike. At the same time he did begin to make overtures to the Muslim population of Lebanon. Described as an "iron-fisted man of law and order," Gemayel's elevation to the Presidency of Lebanon was the spark of hope that Lebanon needed: hope for an end to the foreign occupation, hope for an end to the civil war that has torn Lebanon asunder for so long now, hope for peace.

Gemayel was not a Sadat, but he was a democratically elected President, and like Sadat he carried the burden of bringing about a lasting peace for his war-weary country. It is not so much his death that threatens the hope for peace in Lebanon, as it is the manner of his death which has served only to continue the cycle of violence and hate that was just on the verge of being broken. In mourning the death of Gemayel, let us not also mourn the death of hope.

For myself, I have introduced a resolution calling upon the leaders of the parties and factions of Lebanon to put aside their differences and overcome this latest obstacle to peace. I also call upon all nations affected by this tragedy to join together and stop the senseless pursuit of conflicting policies and bring peace to Lebanon. If we can somehow achieve this end, Bashir Gemayel will not have died in vain.●

COAL SLURRY BILL NEEDS CONSUMER PROTECTIONS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. FLORIO. Mr. Speaker, the House may soon consider legislation to grant the right of eminent domain to coal slurry pipelines. I have a number of very serious concerns about this legislation, particularly about how coal slurry pipelines would affect utility rates. Some have contended coal slurry pipelines will result in reduced utility rates. I am afraid the result could instead be higher utility rates. I am also concerned about possible adverse environmental impacts of coal slurry pipelines.

To deal with these concerns, I have today inserted into the RECORD four amendments. The first three would provide important consumer protections and would help to prevent possible utility rate increases from the construction of pipelines. The last would require a comprehensive assessment of certain environmental effects—especially potential hazards of solid waste disposal—resulting from construction and operation of slurry pipelines.

AMENDMENT NO. 1—CERTIFICATE OF NEED

This amendment would require the appropriate State regulatory commission to certify to the Interstate Commerce Commission (ICC) that a proposed contract between a utility and a pipeline would further the interests of electric consumers, before such a contract could be entered into. This would insure that State regulatory commissions could review the effect of proposed pipeline contracts on the interests of consumers.

AMENDMENT NO. 2—CONSTRUCTION WORKS IN PROGRESS

This amendment would prevent a utility from passing on to its consumers any cost related to a coal pipeline, before the actual receipt of the coal. This would insure that consumers would not have to pay for a pipeline until they actually receive some benefit from it.

AMENDMENT NO. 3—COST CONTAINMENT AMENDMENT

This amendment would require the ICC to set a maximum allowable cost for the construction of a coal pipeline. There would be certain exceptions, such as inflation or unanticipated natural disasters.

Slurry proponents have argued against similar amendments in the past, saying you cannot prevent costs from rising through legislation. This provision deals with that criticism. The total pipeline cost could exceed the maximum set by the ICC, but the additional cost could not be passed on to pipeline customers, either through a contract or a regulated rate. Thus, cost overruns would be at the risk of the pipeline promoters.

I have been particularly concerned that pipeline construction projects would be subject to large cost overruns. This amendment would insure that consumers would not have to pay for these overruns.

AMENDMENT NO. 4—HAZARDOUS WASTE TASK FORCE

The last amendment would require an interagency task force consisting of the Departments of Interior, Energy, Transportation, and the Environmental Protection Agency to study the effects of a proposed pipeline on a number of environmental factors. These include the effects of a proposed pipeline on water quality at point of discharge, the extent of and hazards of solid waste disposal, and other health and environmental effects such as effects of possible pipeline rupture and release. The task force would recommend appropriate conditions to the ICC for inclusion in the pipeline's certificate. The ICC could not grant a certificate until the task force has finished its review. This is similar to an amendment I proposed to the coal slurry bill 2 years ago which the Slurry Transport Association indicated it would support.

Mr. Speaker, these amendments would insure necessary protections for the consumer and the environment. I urge my colleagues to support them.●

VAN H. PRIEST CO.

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. FUQUA. Mr. Speaker, I would like to call to the attention of my colleagues a retail business that has been an institution in my district for 57 years. The Van H. Priest Co., a chain of retail variety stores in north Florida and south Georgia, is closing its doors at the end of this year after being in business since 1925. The founder and president, Mr. Van Hood Priest, is retiring and I want the Members of this body to know about this friend of mine.

Van Priest was born in Levy County, Fla., where he grew up on a farm and small cattle ranch. His great grandfather, Gabriel Priest, was a member of the Florida Territorial Legislature and served as one of the first State senators after Florida gained statehood.

Mr. Priest moved to his current hometown of Madison, Fla., in 1918 to attend Florida Normal Institute. On his second day there, he met and fell in love with Rosalie Noegel. They were married a year and a half later on December 28, 1919. Van and Rosalie have

3 daughters, 9 grandchildren, and 14 great grandchildren.

The Priests are members of the First Baptist Church of Madison, where Van has been a Deacon since 1927. They have been active in church work both at the local and State level. He also served his country in World War II, as a Captain in the Army Air Force stationed in Europe.

Van became active in Florida politics in the mid-1930's. His involvement was sparked by the realization that something had to be done to combat restrictive governmental intervention in private enterprise. His career in politics and public service spanned 35 years of his life. This public service included a term in the Florida Legislature in 1940-41, and 20 years as a member of the city commission of Madison from 1945-65. For 11 of those years he served as mayor of the city.

Mr. Priest's public service is best exemplified in his participation and leadership in the various organizations that serve the retailing industry and the business community in general. His service to Florida retailers included the presidency of the Florida Chain Store Council, which was the forerunner of the Florida Retail Federation, an organization that he later served as chairman. He was also a director of the Florida Chamber of Commerce. Many national organizations have benefited from his leadership, including the American Retail Federation, the Association of General Merchandise Chains, and the U.S. Chamber of Commerce. His participation in these organizations has brought him to Washington to testify before several congressional committees. Van has been a successful retailer and a strong supporter of the business community.

Mr. Speaker, Van has become something of a legend as a toastmaster in civic and business organizations, due principally to his winning personality and warmth of his humor. With the House's indulgence, I would like to conclude my remarks with a few quotes from Van H. Priest that would serve all Members of this body well:

I am in this business and it has been good to me. The least I can do is work with friends and competitors alike for its progress.

A passive attitude toward government by businessmen will place us in a position of being dominated by those we elect. As a businessman, I have an obligation to myself and every other member of the community to do what I can to keep our commercial economy healthy and flourishing.●

NEED FOR CHILD AND FAMILY SERVICES

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MOFFETT. Mr. Speaker, I am presenting today—in the series of presentations begun in the RECORD yesterday—the opening remarks made by Representative GEORGE MILLER at the forum on the New Federalism and its effect on the children of Connecticut. The eloquence of Congressman MILLER in stating the need for child and families services in this Nation was greatly appreciated by all who heard it at the forum, and I commend the following statement to all of my colleagues here in the House of Representatives.

REMARKS BY CONGRESSMAN GEORGE MILLER AT ST. JOSEPH COLLEGE, HARTFORD, CONN., SEPTEMBER 8, 1982

It is with a great deal of delight that I have come to Connecticut today. I am, of course, pleased to sit on this panel with my distinguished colleagues and friends, Toby Moffett and Barbara Kennelly. Both Toby and Barbara have recognized that the citizens of Connecticut are deeply concerned about the lives and futures of their children, and have persisted in consistently representing those concerns in the Congress. (Barbara has had less time, but is a welcome and thoughtful addition to the Connecticut delegation and to the all too few Members of Congress who have placed children, youth and families high on their agenda.)

St. Joseph College should also be commended for hosting this day's forum on the impact of New Federalism on Connecticut's children, youth and families. Connecticut is fortunate that its universities and colleges have developed strong programs in early childhood education and child development, which make the connection between the activities of front line professionals and workers in child-caring agencies—and the policies which governments at every level, and the private sector, develop and carry out.

I am greatly heartened by the numbers of people who have joined us today, including the students who are here, and hope the forum will be productive for all involved.

The subject of these hearings is especially important because, as some of you may have heard me say in the past, children are neither partisan nor are they powerful. They do not lobby Congress, they do not contribute to our campaigns, and as a result, generally they remain the victims of this administration's proposals for budget cuts and policy changes.

What outrages me is that the program cuts, the so-called New Federalism, or turnback of programs to the States, the deregulation which this administration has proposed or in many cases already achieved—these have touched the very programs which have been most successful in turning around poverty, in getting rid of illiteracy, in providing children a chance to read and write, in bringing millions of handicapped children into the educational system with their non-handicapped peers, in ridding this country of malnutrition.

They are the programs that have been least beset by fraud, waste and abuse.

They are the programs that have begun to bring equity to black and Hispanic and other minority children, to young girls, and to disabled children.

They are the programs that have worked, by the admission of the very officials who are calling for their dismantling. According to these officials, the programs save children, save money, and are effective.

The Education Secretary admitted that title I helps disadvantaged children do better in school. But he endorses cuts of hundreds of millions from that program. He admits that Public Law 94-142 has brought an appropriate education to millions of handicapped children, yet he calls for dramatic revisions in the regulations fundamental to this program which would clearly undermine the intent of Congress, and represent a substantial retreat from the hard fought rights for handicapped children and their parents.

The Deputy Agriculture Secretary testified that WIC saves lives and produces healthier babies. But he wants to slash hundreds of millions from that program. And most recently, he has begun to prepare regulations which tamper with the high protein foods carefully identified to aid low-income pregnant women and children who have been certified to be at nutritional risk.

The official in charge of Head Start and the President have called it one of the most effective programs, and yet have endorsed major cuts and regulatory changes.

It strains the imagination to believe that they, or the administration they represent, want to cut these programs to make them work better. I would be delighted if someone who testifies today could tell me that any of the changes that have occurred so far have been beneficial to the children and families affected. I have not heard this yet in my community, nor in the Education and Labor Committee, of which I am a member.

Now Connecticut is a small State, certainly compared to my home State of California, and Connecticut is known for its relative affluence. But let this not mask the needs of the 26 percent of its population who are its children:

More than 12 percent of these children live in poverty.

More than half of the mothers in Connecticut are in the labor force, including 42 percent of those with children under 5 and more than two-thirds of those with school-age children.

27 percent of the female-headed families in Connecticut lived below the poverty line in 1979; over 60 percent of those families with children under 6 lived in poverty.

Connecticut's black population is small—only 7 percent of the State's citizens—but its children are exceedingly vulnerable:

Nearly 30 percent of all blacks lived in poverty;

A black child in Connecticut is almost four times as likely as a white child to be classified mentally retarded for school purposes;

A black child in Connecticut is twice as likely as a white child to be suspended or expelled from public school.

Infant mortality and low birthweight seem to be significant problems in this State:

In 1980, 1 in 98 infants in Connecticut died;

In 1978, 1 in 43 black infants in Connecticut died;

Over 1 in 14 babies born in Connecticut is low birthweight;

20 percent of the births in Connecticut in 1977 were to women who had not completed high school;

Hartford alone has the highest teenage pregnancy rate, and the largest number of infants born to teenagers; Hartford's infant mortality rate is almost twice that of the State.

Surely it is tragic for a government to know of the great needs of its people, but be unable to aid them.

But it is far more tragic for a government to possess the ability to relieve the suffering of its people, and yet to turn away, or to single them out as frauds and loafers.

Last year alone, Connecticut lost $3.5 million in Federal funds which it uses to provide breakfasts and lunches for thousands of schoolchildren, clinics for maternal and child health care, teachers and aides for educationally disadvantaged children who need special help, training and work opportunities for unemployed teenagers and adults alike.

This administration would have you believe that the private sector can fill this gap. There is no question that neither this Nation, nor this State could deliver needed services to its residents without the aid of the private sector.

But there is also no denying that private family and child-serving agencies, churches, and others have been making a substantial contribution to the welfare of this Nation for years. We can all do more, and we should all do more.

Yet, even if corporate America, much of which is headquartered in Hartford and has contributed substantially to the life of this city, doubled or tripled its efforts in the next years, it would only touch a fraction of what has been cut from the Federal budget for child and family services.

No; in my view, budget cutting does not equal a policy; deregulation does not equal a policy; turning programs back to State and local governments does not equal a policy. These are just code words for those who argue, with considerable popular support, that government can do nothing to remedy the problems because government, itself, is the problem.

I reject that rhetorical and narrow view and so must you.

We are here today to learn from active and knowledgeable people in this State just how Federal policies in the past year or two—policies which represent a radical departure from the past several decades—have affected the children, youth and families in this State.●

PERSONAL EXPLANATION

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, weather conditions in South Dakota caused a flight delay which prevented me from being here to vote on several measures during yesterday's session.

Had I been here, I would have voted as follows: 'Yea" on rollcall No. 321, the Shipping Act of 1982; "yea" on rollcall No. 322, the Patent Term Restoration Act; "nay" on rollcall No. 323, the Federal Boat Safety Act amendments; "nay" on rollcall No. 324, the Sailing School Vessels Act of 1982; "nay" on rollcall No. 325, technical corrections in health laws.

Also, Mr. Speaker, I was necessarily absent during the session last evening. Had I been present I would have voted "yea" on rollcall No. 331, the Walgren amendment to H.R. 6956, and "yea" on rollcall No. 332 on final passage of H.R. 6956.●

NOTES ON THE MEXICAN CRISIS

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. JEFFRIES. Mr. Speaker, in presenting the following material, I must respect the desire for anonymity of those Latin American neighbors who have brought to my attention an analysis of recent political, economic, and social trends in their country. Many live in countries in which it is unwise to be overly critical of the left.

Therefore, let the following stand on its merits. It is the position of many Latin Americans that the past two presidential administrations in Mexico, covering the 12-year period since 1970, have seen a deliberate change in the direction of political affairs from that which prevailed under President Gustavo Diaz Ordaz. It is their contention that both President Luis Echeverria and his hand-picked successor, President Jose Lopez Portillo, have conducted a deliberate campaign of renewed radical socialism within Mexico, and collaboration with the forces of communism in their conduct of foreign affairs.

While the following open letter may be difficult reading for those unfamiliar with Mexican affairs, I do believe that this information will reward your attention. Surely all of us are aware that Mexico's problems affect the United States in strong and complex ways.

The open letter follows:

MEMORANDUM: THE FINANCIAL AND POLITICAL SITUATION IN MEXICO

It would be a grave error if the current crisis in Mexico should be considered merely an economic phenomenon expressed by the devaluation of the Mexican currency in relation to the U.S. dollar, because of the serious difficulties in the payment of it's financial compromises which were acquired in order to promote it's development.

To explain the recent nationalization of private banking only as a method of controlling an extremely critical economic situation is to be guilty of ingenuity and superficial reasoning. Viewed seriously, as it must be, it is seen as a definite process, predetermined and well-planned, which will bring about the gradual socialization of Mexico in order to lead it to Communism. The President himself recognized as much in his last message to the nation when he reaffirmed that, "The revolution has lost its fears and has retaken its revolutionary course." "Today we nationalize the banks", he announced, "and we will continue to move forward with other measures".

The stage has been set, the actions of the Mexican government in the last twelve years have confirmed it and now, waiting in the wings are other entities of the private sector waiting to be nationalized, the announcement of which will be given at the propitious moment in a somewhat vieled form in order for these latest actions to be accepted in Mexico and not rejected by that zone of influence which we call the West or free world, and certainly not by the U.S.

BRIEF ANALYSIS OF THE ECONOMIC CRISIS

In 1970, at the end of the term of President Gustavo Diaz Ordaz, the external debt of Mexico was $3.6 billion. During the following twelve years, under Presidents Luis Echeverria and Jose Lopez Portillo, Mexico's national debt has risen to about $80 billion.

At the same time, because of the oil boom beginning for Mexico in 1975, a total of about $70 billion in oil reveneues became available to the Echeverria and Lopez Portillo administrations. Thus, there has been a tremendous inflow of capital directly into the hands of the Mexican government.

Consider that the internal needs of Mexico were always more or less covered by the internal income of the nation. The question then becomes, what has the government of Mexico done with $150 billion in foreign capital? And how is it possible that the international bankers should fail to notice the disappearance of such an enormous sum of money until very recently?

If this money had been truly invested in Mexico, the nation should have been transformed into the most developed country in Latin America. Instead, the Mexican peso has been made nearly worthless, the country's virtual bankruptcy is known to all, and Mexico faces its worst crisis in many decades.

There can be no doubt that the Communist Mafia within the government of Mexico, which has developed such power during the past two administrations, has put enormous sums of money to its own uses. In effect, this money has been stolen from the Mexican people.

We must note these additional facts:

1. That the peso has decreased in value from 12.50 per dollar to a current official rate of 70 per dollar. The "free market" rate is, in fact, less than one cent per peso.

2. That this tremendous devaluation has made it at least five times more difficult for Mexico to repay its debt, even at the official rate.

3. That Mexico needs emergency measures for ninety days to save the situation in relation to its debts, principally its interest payments as well as to prevent further erosion of its currency. Mexico also needs more profound and far-reaching measures in order to renegotiate its external debt and to pay within a reasonable length of time, which in our judgment will not be possible unless the new government of Mexico decides on an all-encompassing global plan which can save the economy of Mexico today and in the future with its petroleum, using it adequately and without extravagant waste. Besides this, Mexico must effectively accomplish a measure of self sufficiency in its food production, take advantage of its oceans, coasts and beaches in order to stimulate tourism with international cooperation, as well as developing its mineral resources. More than

all this, however, is the need to utilize its man-power and managerial capabilities for its development because no where in this world can this be accomplished if not under the system of free enterprise, away from the false and illusory formulas of Socialism, forerunner of the implantation of totalitarian Communism.

4. That the announced measures by the Bank of Mexico have established absolute control over the current rate of exchange and led to the expropriation and nationalization of the private banks. These measures are on target and present the only possible solution, given the seriousness of the current economic crisis in Mexico. Nevertheless, these measures can never in any way justify the nationalization of the banks and their expropriation, because these could have been dictated by the Banking Commission, a dependency of the "Secretaria de Hacienda y Credito Publico" (the equivalent of the IRS) since before the crisis and within the system of free enterprise, or the system of mixed enterprise which existed. What was being done by the private banking system is the same as is being done by the officials—all directed by the government officials. That is why is there is blame to be assigned, the principal offenders were the Mexican Officals, in their capacity as total guardians of the economy and finances of Mexico. The flight of private capital outside the country was a result of the alarm and lack of confidence which was generated by the government and in no way justifies the nationalization of the banks, especially since according to reliable statistics the principal looters of their own country were the Mexican government officials.

The factors which have caused this economical situation will not be discussed in detail because they fall into the sphere of public opinion and are well known to you, but to summarize:

(a) Lack of adequate planning in many official programs.

(b) Serious corruption carried to extremes not only by politicians at the highest levels but by the whole system and particularly by the Communist Mafia which has taken hold of the Mexican government and its official party, the P.R.I.

(c) The systematic nationalization of Mexican businesses and production media which has been accomplished by the government in order to enlarge what they have called the public business sector, to the detriment of the private sector. The result of this policy has been that the official administration has become highly inefficient as far as administrating and stimulating those businesses which it has acquired or expropriated, and not only does it not produce utilities in these state businesses, paralyzing the enormous resources invested therein, but instead it utilizes a very large part of the Mexican national tax base in order to cover the permanent deficit in these businesses. Of course, in these so-called parastate businesses, there exists intense corruption as well.

(d) An important part of the economic problems of Mexico is not only the unworkability of its socialist systems, but the fact that there is a real maliciousness in the upper political circles which know well that the road to Communism is made smoother by the chaos which is produced by an economic crisis.

The foregoing is a simple analysis of the economy of Mexico.

AN ANALYSIS OF THE POLITICAL AND SOCIAL SITUATION OF MEXICO

The Mexican revolution is nationalistic in its origens and founded on an excellent doctrinal and constitutional base. It was accepted and supported by the Mexican people and has merited international respect, including of course the U.S.A. This revolution provides a mixed economic system and a just balance of individual and social guarantees. It has generated, in several of the past presidential periods, effective progress and solid principles of development.

The Mexican revolution recently has deviated from its course because it has been managed by a Communist Mafia of intellectuals who were the leaders of the teachers and students during the so-called Student Movement of 1968. This movement was intended to be a Communist take-over led by the Communists who mobilized the students of Mexico. This intent was frustrated thanks to the energy and sacrifices of then President of Mexico, Gustavo Diaz Ordaz who put down the insurrection with the help of the army.

Unfortunately, President Diaz Ordaz made the mistake of nominating as his successor, President Luis Echeverria. He was a hidden director of the same revolutionary movement of 1968 who, on assuming power as President of the Republic, began calling his leaders and directors to power, nominating them as Secretary of State, Undersecretaries and directors of numerous dependencies of the Mexican Government. The unsuccessful University rebelling of 1968, for all practical purposes did succeed by rewarding its participants with key positions in government and in the official party. This was carried out with the complicity of President Luis Echeverria.

In reality, the socialist action has kept up a constant and continuous pace since 1970. At the beginning Echeverria acted very cautiously because he was afraid of President Richard Nixon but the trend toward Communism was accelerated when the Nixon administration was attacked and nullified. The socialization was effected through a series of unconstitutional laws such as the famous "Water Law" among others, which attempted to limit to twenty hectares the maximum ownership allowed under the law. Modifications to the Constitution were also introduced in order to facilitate the Socialist trend. The official workers union, the C.T.M. was in competition with the radical Communist unions which Echeverria secretly supported. Echeverria and the Communist Mafia were not able to accomplish their goal of socialization during his term of office. Echeverria finally passed on the Presidency to his friend and classmate not only from school days but also from the same socialist sect, Licenciado Jose Lopez Portillo, who continued slowly, patiently and efficiently to implant socialist measures.

The principal exponents of the socialist Mafia of 1968 who participated in diverse activities with Echeverria and who were transferred to the government of Lopez Portillo are, among others: Porfirio Munoz Ledo, Pedro Ojeda Paullada, Jesus Reyes Heroles, Augusto Gomez Villanueva, Horacio Flores de la Pena, Carlos Tello Macias, Jorge Castaneda, Andres de Oteiza, and dozens more who are still in government and are preparing to continue on into the next administration of Miguel de la Madrid, supported by Lopez Portillo. This Mafia of course is composed of many other directors who act in the extreme left wing of the party within the official plans of the so-called political reform which allows for other valid options within the framework of socialism and is one of the many strategies which the communist world uses.

During the last two presidential periods, the administrations of Echeverria and Lopez Portillo have brought to Mexico as immigrants or political exiles the widest range of agitators, pseudo-intellectuals and specialized guerrillas ever gathered in any country of the world. They have come from the rest of America and from all over the world, increasing the Communist danger which menaces from within and threatens also from outside the government. The risk is great not only for Mexico but for the security of the United States as well.

Of course they prefer the slow road of expropriations of different sectors of the economy and even of private property.

The political compromise felt by the last two presidents of Mexico, Echeverria and Lopez Portillo, especially the latter to collaborate with the plan of Communist aggression in the Caribbean and on the American continent is a clear and categorical compromise which he has carried out with true passion and socialist fanaticism. The intemperate cry of Lopez Portillo, "Viva Nicaragua" in his last State of the Union message and his passionate and incomprehensible defense of Nicaragua, of the guerrillas of El Salvador and even of Cuba, which culminated with the admission made by the President of Mexican investment of foreign aid to these outbreaks of Communism on American soil, help which he himself calculated at 700 million dollars (money which has borrowed at the expense of the Mexican people), speaks eloquently of the true posture of those who govern Mexico.

The explanations and diplomatic maneuvers which they accomplish in order to cover up and which produce results thanks to accomplices in the U.S. State Department or with certain "liberal" senators and representatives should be seen and judged for what they are.

This is a real tough brief explanation of the Mexican situation. One is the economical situation and the other is the social and political, and although both are interrelated, there should be no confusion. It must not be thought that the remedy will be found only in a technical-economic sense, the matter is not merely financial.

Conclusion.—If the ninety day grace period which President Lopez Portillo requested of the financial institutions and the United States is granted, he should be warned not to continue the process of nationalization which will lead this country to Communism. Simplistic and false explanations must be rejected.

It is known that the new President Miguel de la Madrid wants to remedy the situation fundamentally, but he is surrounded by the Communist Mafia which will try to tie his hands. Of course Mexico should be allowed the opportunity to cleanse itself which it needs, as well as the redirection of the labors of all Mexicans. In order to help him react and to shake off the Communist Mafia, he should carry out a clear and energetic policy for the well being of Mexico and the vital security of the United States and the free world.

Today, the principal weapon of the U.S.A. is represented by economic negotiations. If banking executives or middle management North American diplomats are permitted to manage these negotiations without supervi-

sion from the upper echelons, socialism or communism in Mexico will be reinforced.

Liberal bankers and diplomats should not be given the opportunity to solve the situations taking into account only the financial point of view, since they could help to build a political problem south of the border of incalculable gravity. They could be allied with the Communist Mafia.

Regarding Central America, we suggest ignoring the traps and subterfuges of Socialist Mexicans and liberal Americans and solving the situation of Central America fundamentally, as was outlined at the start of the Republican Administration—a policy which automatically would help to discipline the Communist Mafia in Mexico, which should be eliminated at the first opportunity.

The weaknesses in Central America have inspired Mexican Communism and the politicians which support it at the highest level of government.

The free world has relatively recently lost Cuba in favor of Communism, Viet Nam, Cambodia, part of Africa and other countries—the most recent being Nicaragua with the imminent risk of its spread throughout all of Central America.

Finally, can North America afford the luxury of tolerating Communism in Mexico?

A Group of Concerned Latin Americans.●

TRIBUTE TO MR. LEROY COX

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to join the Raytown Area Chamber of Commerce in saluting Mr. Leroy Cox, Raytown, Mo.'s, first mayor.

Mr. Cox has a long and impressive record of service to the city of Raytown. He is a lifelong member of the Raytown Historical Society, the Sectoma Club, the Saddle Club, and the American Saddle Horse Association. He is also an honorary member of the Raytown Kiwanis Club, a 50-year member of the Raytown Masonic Lodge No. 391, and a member of the Scottish Rite of Free Masonry. Mr. Cox has served as a past president of the Brooking Township Democratic Club, past president of the Congress of Democratic Clubs, chairman of the YWCA Building Fund Committee, and a board member of the Jackson County Planning Commission Board of Zoning Adjustment. He is also a member, past president, and has served on the board of directors of the Raytown area Chamber of Commerce.

Aside from his memberships in various civic organizations, Leroy Cox has also taken a great interest in the young people of his area. He sponsored the Raytown Piperettes women's AAU basketball team which has ranked fifth or above nationally for 15 years and has also served as benefactor to numerous college students through the years.

Perhaps the most memorable of Leroy Cox's accomplishments came during his 9 years as mayor of Raytown. During that period he was instrumental in instigating sewer projects, resurfacing city streets, setting up the city police department, and installing street and traffic lights. Clearly, Mr. Cox's actions at this critical period of the formation of the city have paved the way for the city's successful operation.

The dedication and hard work of Americans like Leroy Cox have made this country what it is today. I join the citizens of Raytown, Mo., in thanking Mr. Cox for his service to his community and I want him to know how proud we are that he is a Missourian.●

EXTRADITION REFORM ACT OF 1982

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. FRANK. Mr. Speaker, I would like to take this opportunity to voice my concern about certain provisions of the Extradition Reform Act of 1982. The points I will discuss were recently brought to my attention by the American Civil Liberties Union. I think there is considerable reason to reform the extradition laws in this country. However, H.R. 6046, as it now stands presents several problems. My primary objection to this piece of legislation is that the bill would prohibit a court from determining if an accused individual is being extradited for political opinions, race, religion, or nationality. Under the new law, upon the simple request of a foreign government, extradition procedures may be commenced at the mere accusation of a foreign government under an extremely loose definition of "violent activity" on the part of the accused.

Historically, our Nation has taken in political leaders who have been persecuted in their home countries by oppressive regimes. The net effect of this law would be to create a vast loophole by which these regimes can extradite their political opposition leaving these individuals with little protection in this country. As much as we have an obligation to cooperate with countries in extraditing individuals who have committed criminal acts, we must not create a situation in which the United States becomes a partner in the persecution of individuals because they may have been involved in political activity which is displeasing to the regime in power. Currently, there is a case involving the Philippines where we have been told that the Philippine Government will seek extradition of Mr. Benigro Aquino, a leading opponent of the Marcos regime who advocates peaceful opposition. Yet he has been charged by the government with planting bombs and he will be vulnerable for extradition under the proposed law.

Mr. Speaker, I believe that we must seek reform of the current law. However, the adoption of this bill as it now stands will result in abrogating the standard of justice which this country has maintained for so long. We must be careful that we do not provide oppressive regimes with the means to manipulate American law by making accusations which rest on flimsy charges, yet which conform to the new extradition law. Mr. Speaker, based on the information which the ACLU has now brought to my attention, I would like to see some revisions of this bill in order that the United States maintain an extradition policy which provides for an equitable and just procedures in which criminals are extradited to stand trial for their crimes, but protects political activists who are subject to persecution by a ruling regime abroad.●

BILL GREEN COMMENTS ON THE PRESIDENT'S MIDEAST PROPOSALS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GREEN. Mr. Speaker, I was privileged to address the sisterhood of the Brotherhood Synagogue in New York City on Sunday, September 12, on the subject of the President's proposals for bringing peace to the Mideast.

I welcome the President's initiative in reviving the stalled peace process, but have serious reservations about some of the details of his plan. My speech on Sunday appraised the President's proposal, and for the benefit of my colleagues, I would ask that it be printed in the RECORD at this point. Thank you.

REMARKS BY REPRESENTATIVE BILL GREEN AT THE BROTHERHOOD SYNAGOGUE

I am delighted to join you today to discuss the situation in the Mideast. Little did I know when I accepted this invitiation that I would be speaking to you at such a crucial juncture, right after the PLO departure from Lebanon, and after the President's proposal for the next stage of the Camp David talks.

Despite the great attention that the President's proposals have received, they certainly are not an abrupt change in American policy. For many years, American Presidents have been discouraging Israeli settlements on the West Bank, have opposed the creation of a Palestinian state there, and have sought to involve Jordan in negotiations with Israel.

What is new is the decision of an American President to suggest a specific outcome of the negotiations called for in the Camp David plan. Though in the past it has been clear the American policy opposed annex-

ation of the West Bank by Israel, and opposed creation of a new country on the West Bank, the Camp David agreements had not precluded either as a possible outcome of the process. In that respect, the President's plan does change the bargaining process envisaged at Camp David.

Whatever one thinks of the President's proposals, and, as will be clear, I have serious concerns about these, one cannot assert that they are beyond the pale as far as Israel is concerned. Quite the contrary, the President's proposals appear to be consistent with the Allon plan, which has for some time been the Israeli Labor opposition's basic policy on the West Bank.

The Allon plan essentially proposed that Israel establish a strong military presence along the immediate West Bank of the Jordan River—a sparsely populated area—whose basic purpose would be to interdict any flow of weapons from Jordan to the West Bank. Under the Allon plan, Jordan would assume responsibility for civil governance of the balance of the West Bank. The border between Israel and the West Bank would be modified under the Allon plan so as to insure greater protection of Israel. And of course, the Allon plan assumes a united Jerusalem as the capital of Israel.

As one reads the President's proposals, the Allon plan is an entirely possible outcome. Small wonder then that the Labor coalition in Israel has expressed a willingness to proceed on the basis of the President's plan.

Having said all that, I must also say that I think there are some minor but nonetheless serious omissions in the President's proposal; there are some hard issues that all parties to the negotiations must face, and, finally there is one major aspect of the problem that the President totally ignores but that must be addressed if there is to be peace in the Mideast.

My first criticism of President Reagan's statement is that it appeared to place the onus on Israel for the present status of the Camp David negotiations. That is plainly unfair and incorrect. At the moment, the Camp David peace process is not in process because the Egyptians refuse to come to the bargaining table. They have done so by stating that they will not resume the process until Israel has totally withdrawn from Lebanon, and they have done so knowing that Israel will not withdraw from Lebanon until the Syrians have also done so. thus, Egypt has in essence given Syria the power to prevent the resumption of the Camp David process. I hope President Reagan will take due note that Syria, having been given this power by Egypt, has now rejected his plan.

My second criticism of President Reagan's proposal is its failure to acknowledge that the reason its proposed solution has not been on the table in the Camp David talks is that the Jordanians have not been at the table. For this reason, I was shocked when Secretary of Defense Weinberger suggested earlier this year that we sell weapons to Jordan: Jordan has been a consistently hostile opponent of Israel and the cause of peace in the Mideast. I was appalled by the idea of rewarding Jordan for its intransigent behavior. Though the administration has tempted the Jordanians with armaments to mitigate their hostility to peace, now it seems the President has taken a higher road, placing the diplomatic "ball" in King Hussein's "court." I am pleased the administration has realized that Jordan must be involved in the process, and has firmly challenged King Hussein to come to the table. This is clearly preferable to past unworkable suggestions of buying stability through selling arms to the opponents of peace.

I am also puzzled by the President's omitting Lebanon from his framework for peace. I would think an Israeli-Lebanese peace treaty should be a priority on the U.S. Mideast agenda. Until all foreign troops leave Lebanon and a peace with Isreali in the south is established, the potential for renewed violence and instability remains.

Now let me now step back and review the West Bank problem from both the Israeli and, as best I can, the Jordanian point of view.

From the Israeli point of view, the West Bank poses a most difficult dilemma. However, much one rectifies frontiers, the West Bank is inevitably the high ground from which modern weaponry can shoot down on the heart of Israel. So one does not have to go back to Biblical times to understand Israeli concern about the West Bank.

But demographics make annexation of the West Bank an uneasy solution for Israel. Israel proper has a total population of about 4 million, 15 percent of whom are Arab. Despite the differing birthrates of the two groups—about 4 percent for Arabs, and about 2 percent for Jews—Israel within its present boundaries and assuming continued immigration, will plainly be a predominantly Jewish state for the indefinte future. In stark contrast, in the West Bank, there are some 800,000 Arabs, and no more that 25,000 to 30,000 Jews. The birthrates for Arabs and Jews are for each group less than in Israel proper, but clearly the West Bank has a growing Arab population. In fact, if Israel absorbs the West Bank, it will go from having 15 percent of its population composed of Arabs, to having almost 30 percent of its population composed of Arabs. The problem this poses is even more acute if Israel seeks to absorb the Gaza Strip and its nearly one-half million Arabs.

Despite Jordan's past abortive effort—accepted only by Great Britain and Pakistan—to annex the West Bank, the West Bank represents very much the same demographic time bomb for King Hussein that it does for the Israelis.

Jordan, you will remember, was once Trans-Jordanian Palestine, that part of Palestine to the east of the Jordan River. After World War I, Great Britain, faced with its conflicting commitments to the Arabs and to the Jews, installed the present royal family in Jordan while equivocating on its commitment to create a Jewish National Homeland in the balance of Palestine. The Jordanian royal family imposed by Britain came from the Hashemite nomads rather than the Palestinian Arabs. Thus King Hussein has always been uncomfortable, despite the unsuccessful Jordanian effort to annex the West Bank, at the prospect of having to try to govern a country dominated by the Palestinians rather than the Hashemites. This is already a problem in Jordan, were the West Bank incorporated into Jordan, the problem would be very much aggravated.

Thus we face a situation where the Begin government in Israel appears ready to assume the demographic consequences of annexation of the West Bank, while the Labor opposition opposes such an approach as too fundamental an alteration of Israel's essential character as a Jewish state. King Hussein, too, faces a demographic bind as well. Clearly, negotiating the West Bank's status involves some very harsh realities for both sides of the negotiations, and promises some protracted difficulties.

In light of what the President's proposal may hold for either Israel or Jordan, I want to conclude by pointing out that gravest problem of the President's plan is not how it proposes to deal with the West Bank, but its silent assumption that once the West Bank is dealt with, peace will fall into place in the Mideast.

Unfortunately, that is simply not the case. The real problem has never been who gets the West Bank. The real problem has always been the failure to deal responsibly with the Arab end of the great Mideast population exchange that occurred in 1948, 1949, and the 1950's. In those years, hundreds of thousands of Arabs fled from what is now Israel. And hundreds of thousands of Jews fled from the Arab countries to Israel. The Jews who fled the Arab countries were integrated into Israel at Israeli expense. But, by and large, the Arabs who fled Israel were not integrated into the Arab lands to which they fled. Rather, by quiet agreement between those states and the United Nations Refugee and Works Administration—the latter financed in considerable measure by the United States—the Arab refugees were denied citizenship by the Arab states in which they came to live and were denied the opportunity to integrate themselves into the economic lives of those countries. So it is that we have refugee camps for Palestinians who fled Israel more than a third of a century after the event—and for their children and their grandchildren—though we have no refugee camps for the Jews who fled the Arab lands at that same time.

There is little prospect that the West Bank can absorb all of those Palestinian refugees. Some 3 million Palestinian Arabs live outside Israel, the West Bank, and Gaza. According to the U.N., there are approximately 420,000 Palestinians in camps in Jordan, Syria, and Lebanon. It is impossible to estimate what portion of these refugees would want to settle on the West Bank. But it is certain the West Bank cannot absorb more than a handful—probably just over 100,000—of additional inhabitants unless some major technological leap is made in solving the West Bank's water shortage. Even in the unlikely event that the technology of irrigation, and water distribution and disposal improves remarkably, many feel the area could hold no more than double its current population, or 1.6 million.

These figures indicate that the West Bank alone cannot solve the Palestinian refugee problem. Arab leaders must act responsibly toward these populations. If the administration wants peace between Israel and its Arab neighbors, it must make clear that those Arab neighbors must assume the same responsibility for Arab refugees that Israel did for Jewish refugees. The West Bank alone clearly cannot provide this.●

TWENTY-FIVE YEARS OF SPACE EXPLORATION

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thrusday, September 16, 1982

● Mr. FLIPPO. Mr. Speaker, on June 30, 1982, the National Air and Space Museum of the Smithsonian commemorated 25 years of space exploration. A small ceremony was held to preview a new exhibit in the museum,

and Mr. R. L. Walquist, vice president and general manager of the TRW Space and Technology Group was the principal speaker.

Mr. Walquist very concisely summarized the results of those 25 years in his brief speech. Of course he could have spoken for hours but by recounting in a very few minutes all our achievements—by naming one success after another—he dramatically illustrated the great, cumulative progress we have made. Indeed, we tend to take for granted that there will always be such progress, but we must remember that our earlier progress and the consequent benefits followed large initial investments by the Federal Government. We must make further investment today to insure tomorrow's benefits.

Mr. Speaker, as the Shuttle becomes first operational and then routine we must not take it and our space program for granted, NASA is working hard to make Shuttle flights almost an everyday occurrence. They hope eventually to achieve 40 launches per year and if each flight lasts 5 days this will mean that at any given time there will be a Shuttle in orbit more often than not. As it becomes routine, we must not loose the excitement of space exploration. As we will be using the Shuttle routinely to transport us to space, we must concentrate our attention on the work being done there—the scientific results, the applications, the commercial ventures which build upon what we have already done.

In his fine speech at the Air and Space Museum, Mr. Walquist brilliantly recalled our historical successes, which form the basis for and point the way to our future. I would like to share this with my colleagues and, therefore, I want to insert it in the RECORD at this point.

NATIONAL AIR AND SPACE MUSEUM—25 YEARS OF SPACE EXPLORATION

(By R. L. Walquist)

Thank you very much, Mr. Walter Boyne, and good evening ladies and gentlemen. It is a great honor for me to be here at the National Air and Space Museum tonight to help welcome you to a preview of a very exciting new exhibit commemorating 25 years of space exploration.

I think it is appropriate at this time that we take a few minutes to remember some of the great space achievements of this past quarter of a century; to touch on a few of the benefits which have occurred to mankind because of it; and, finally, I would like to give you my opinion of some national space objectives which should be high on our priority list as we move into the next 25 years.

THE HISTORY

Twenty-five years ago tomorrow was the first day of the International Geophysical Year. This was an event which stimulated space exploration and led mankind to take its first steps away from the security of the Planet Earth into the unexplored reaches of space.

In October 1957, Sputnik was placed in orbit around the Earth. In January 1958, Explorer 1 was sent into orbit by a Jupiter C launch vehicle. The space adventure had started. For the balance of the 1950's, we tried many different space feats including unsuccessful space probes to the Moon. We discovered, and mapped, the Van Allen Radiation Belt that circles the Earth, and we sent back the first crude television pictures of our planet from space.

The decade of the 1960's probably contained the most spectacular advances in space exploration. After briefly testing the new environment of space on mice and monkeys, we declared this new frontier "fit for humans" with the Mercury Program and John Glenn's historic orbital flight in 1962. Several Mercury flights and the very successful two-man Gemini flights followed to pave the way for man's next giant step.

President Kennedy declared his intention to land a man on the Moon before the end of the decade, and we did just that when Neil Armstrong made his "small step for man and giant step for mankind" in 1969. The Apollo series was truly spectacular and showed man's ability to conquer the "New Frontier" and rise to the challenges and technological demands of the "Space Age." Mankind would never again be earth-bound.

The 60's also saw us laying the foundations for future applications of space to benefit man here on Earth. Navigation satellites like Transit, weather satellites such as Tiros, established the feasibility of using space for services to help our daily lives.

In a period of seven months, from July 1962 to February 1963, a trio of experimental satellites were launched that would have a major impact on our lives here on Earth. These were the Relay, Telstar, and Syncom communications satellites. Before the end of the decade, the world's first global, commercial communications satellite system, Intelsat III, was established. Man would never again be ignorant of events happening around his world.

The decade of the 70's saw many spectacular events in the Planetary Exploration Program. We explored the atmosphere of Venus and examined the planet Mercury. We landed on the planet Mars and, much to the disappointment of many, found no water in its canals and no Martians. We saw the first spectacular close-up pictures of Jupiter and Saturn. These programs generated much new scientific data and significantly increased man's understanding of the solar system, and clearly established the uniqueness of the third planet from the Sun-Earth. We also established several space applications systems a part of our daily life here on Earth. The Landsat Program gave us spectacular data on earth resources which have been of immense practical value in water conservation, forestry management, crop improvements, geological surveys, and oil exploration. The Nimbus and Tiros weather satellites have significantly improved our ability to forecast weather and their cloud cover maps are a regular item on TV news shows.

The most spectacular advancement was in communication satellites. The international Comsat area increased its capability by more than an order of magnitude with the evolution of the Intelsat IV and V systems. Domestic communications systems became established with the introduction of Westar, Satcom, Comstar and the Canadian Anik system. Space had finally come "down to Earth!"

At the end of the '70's, and into the early 1980's, the civilian space program has concentrated on the development of Shuttle, an exciting new space transportation system that will be the cornerstone of our space activities for the next decade and beyond.

To date, our space program has been spectacular and extremely successful. Much of the credit for this is due to the outstanding technological excellence and high quality performance of all the U.S. aerospace companies over the last 25 years.

THE BENEFITS

The spin-off benefits from the space program have been many. Major industries have developed on Earth as a result of space technology: computers, microelectronics, and advanced communications systems, to name a few; medical techniques on Earth have been improved by space technology. The Viking spacecraft, which landed on Mars, alone spawned several advances in medical devices. The technology which has gone into the computer enhancement of photos from our planetary probes has been put to work sharpening the images from human X-rays and from ultra-sound probes which examine blood flow and diagnose arterial blockages. The space communications business today generates more revenue in one year than the total NASA investments in that technology over the past 23 years!

Let us not underestimate another major benefit from our space program—national pride. Space exploration events are spectacular, get good coverage by the media, and instill a justifiable sense or pride in the American people. This same awareness and pride have motivated many of our young people to enter careers in science and engineering and to accept the technical challenges of the next generation.

THE FUTURE

A new national space policy is due to be released by the Administration any day now. In these days of extremely tight budgets it is imperative that we develop a well thought out space plan (within the space policy guidelines) and implement it without major, and costly, changes of direction over the next decade.

In an attempt to conserve dollars, we should look for more synergy between military and civilian space technology development, where it makes sense and does not jeopardize our national security. For instance, as a part of the space transportation system, including advance, lower cost, orbital transfer vehicles; possibly new, high frequency, communications technology.

Clearly, our number one space priority at this time must be to get Shuttle operational and use it as the cornerstone upon which to build our new space ventures. STS-4 is flying overhead today, some 160 miles up there. This is the last of the four orbital tests. STS-5, to be launched in November, is designated as the first operational Shuttle and will carry a pair of communications satellites for commercial, paying customers. However, development work will still continue on Shuttle until it becomes a dependable, cost-effective space transportation system. This should be achieved over the next two to three years.

We need to continue a well planned, sustained program of space exploration. This must include astrophysics programs such as the Gamma Ray Observatory, the Space Telescope, the Advanced X-Ray Astrophysics Facility, and the Solar Optical Telescope. We must also include a planetary and interplanetary program which presently has scheduled only one new vehicle for the 1980's, Gallileo.

We also need to take the next step and establish man's permanent presence in space. An evolutionary manned space station, launched and tended by Shuttle, will extend the scientific and applications capabilities of Shuttle, the European Spacelab, and of Man. This new national initiative will provide focus for NASA and the civilian space industry into the next century.

There is a quote from that great author, James Michener, that I like to use and I think it is a very appropriate way to end my talk tonight:

"A nation which loses its forward thrust is in danger, and one of the most effective ways to retain that thrust is to keep exploring possibilities. The sense of exploration is intimately bound up with human resolve, and for a nation to believe that it is still committed to forward motion is to ensure its continuance."

Thank you, and good evening.●

EMERGENCY MEDICAL SERVICES IN MARYLAND

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mrs. HOLT. Mr. Speaker, the State of Maryland in recent years has developed an emergency medical services system that ranks among the best in the Nation, and it is very fitting that our Governor has proclaimed this week as Emergency Medical Services Week to honor the people who make the system work.

I commend those personnel, who serve with great commitment and without much public recognition, I share the sentiments expressed in the proclamation.

Through the tireless and selfless efforts of emergency medical technicians, cardiac rescue technicians, aviation trauma technicians, nurses and physicians, all Marylanders are assured of a superior level of emergency medical care; and

Through many years of research, dedication and service, Maryland has established an outstanding EMS system which has won worldwide acclaim; and

It is fitting that our citizens recognize the 10,000 emergency medical technicians, and 1,200 cardiac rescue technicians, most of whom are volunteers, and our many medical and fire associates who devote themselves to administering the highest calibre of emergency medical care; and

It is important that all citizens become aware that trauma is the third leading killer in the United States and realize that preventative measures and an advanced and active EMS system are the most effective deterrents of trauma death.●

PROTRACTED NUCLEAR WAR

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. McKINNEY. Mr. Speaker, since the unsuccessful vote August 5 on the call for a nuclear arms freeze, public and congressional attention has turned away from arms reduction policy. Before the vote, there were massive demonstrations, a great deal of media attention, and large grass roots citizen participation. Since then efforts to end the nuclear arms race have been subdued. There is legislation still before Congress calling for a genuine nuclear freeze (H.R. Res. 571), for adoption of nuclear test ban treaties and for a policy for minimizing the risk of nuclear war (S. Res. 444). However, it appears unlikely they will be considered before the 97th Congress comes to a close. This is most disturbing to me since there still is not consensus on what U.S. arms control policy is. Last August 6 an editorial appeared in my State's largest newspaper, the Hartford Courant, which asks several very good questions on where U.S. policy is headed. As the article correctly concludes, it is terrifying. I commend the article to my colleagues.

PROTRACTED NUCLEAR WAR

What is the Reagan administration up to in arms control?

The question came in the form of a resolution, sponsored by 21 U.S. senators last week. Statements and actions by the president "have caused anxiety at home and abroad," said the chief sponsor, Sen. John C. Danforth, Republican from Missouri.

Anxiety does not quite describe the situation. The Reagan policy is downright terrifying. Plans apparently are being drawn to fight and win a nuclear war of several months duration. Mr. Reagan and the National Security Council reportedly are expected to give this scheme, which includes an $18 billion command and communcations center, their approval.

At one time, only generals came up with such bizarre options, as part of a pseudo-intellectual exercise that no civilian government actually would dare develop into a plan. No more. Six-month-long nuclear wars are actually being considered, at the highest level of government, as survivable and, incredibly, winnable.

The pattern of a radically new direction in policy has been evident for more than a year. Mr. Reagan has asked for relaxation of export controls on nuclear fuel and sensitive nuclear technologies. He has deferred negotiations on a comprehensive test ban treaty. He has raised the possibility of abrogating the 1972 ABM Treaty, which imposes limits on defense against ballistic missile weapons.

Mr. Reagan has refused to send to the Senate, for ratification, the Strategic Arms Limitation Treaty. Chemical weapons are to be developed. The president is unhappy with the Geneva Protocol of 1925 and the Biological Weapons Convention of 1972, prohibiting the production, development, stockpiling, transfer and use of chemical and biological weapons.

The pattern has alarmed a bipartisan group of 21 U.S. senators. Several former negotiators of the U.S. Arms Control and Disarmament Agency have expressed apprehension, as have former secretaries of state who served in Republican and Democratic administrations. Allies in Western Eurpoe have sent messages of "serious concern," noting the mass demonstrations against nuclear arms.

Mr. Reagan maintains that he supports significant and mutual reductions in arms, but with major qualifications. He will not sign agreements which do not have on-site verification procedures, because, he reminds critics, one cannot trust the Soviet Union. He will not sign an agreement until U.S. rearmament takes place.

These qualifications bar the signing of any meaningful arms control agreement during Mr. Reagan's term, unless he were to reverse himself. But a change in direction does not seem probable—not when the approval of a plan to win a nuclear war lasting perhaps half a year is on the president's agenda of feasible contingencies.

Terrifying.●

POST'S IMPRUDENT POLARIZATION OF NONPROLIFERATION

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mrs. BOUQUARD. Mr. Speaker, I would like to call to the attention of my colleagues a letter to the editor of the Washington Post by Deputy Secretary of Energy W. Kenneth Davis. This thoughtful letter, which appeared in the August 25 issue of the Post, deplores that newspaper's polarization of the nuclear nonproliferation issue.

I find it ironic that the Post has chosen the Carter administration's nonproliferation policies as the high standard against which to judge the Reagan approach. Indeed, the Post's characterization is such a gross misreading of contemporary history that it is no wonder that its staff must continually resort to hyperbole in order to obscure this fact.

In point of fact, the Carter approach to nonproliferation was totally nonproductive. Not only did it stimulate the proliferation of nuclear suppliers worldwide, but it also simultaneously caused us to lose significant nuclear export business and lessened our ability to influence the nuclear policies of other nations.

If the United States is to maintain a major leadership role in nuclear nonproliferation area in the years ahead, then we must adopt a genuine selective approach which carefully distinguishes those who wish to pursue peaceful nuclear power programs and those who represent real proliferation threats. The Post's continual advocacy of a return to a simpleminded, nonworkable, and discredited policy is not only unrealistic, but dangerous.

The letter follows:

WHY POLARIZE THE NUCLEAR ISSUE?

(By W. Kenneth Davis)

As one who had devoted much of his life to the goals of developing the beneficial uses of nuclear energy and at the same time taking strong and effective measures to restrain nuclear proliferation, I deplore the tone of The Post's editorial "The Bomb Trade" [Aug. 9] and disagree with its representation. That editorial characterized the

Reagan administration as insensitive to the nuclear nonproliferation issue. It asserted that the administration has displayed "contempt" for previous U.S. policies of keeping sensitive weapons-making materials and technologies away from inappropriate countries. And it also implied that the administration has no basic nonproliferation policy other than to ease the barriers on nuclear exports.

I believe it is a regrettable tendency on The Post's part to treat the nonproliferation issue in a polarized and biased fashion, which is contrary to the public interest.

President Reagan and this administration, like all recent administrations, deeply believe that the potential spread of nuclear weapons is a serious threat to global peace and security. Like its predecessors, the Reagan administration has been a strong advocate of the nonproliferation treaty, the Treaty of Tlatelolco, of the concept of full-scope safeguards where appropriate, of strengthening International Atomic Energy Agency safeguards and controls, and of other measures to avoid the spread of sensitive materials and technology to countries that might use them for making nuclear weapons.

The current adminstration differs specifically from the previous administration in dealing with Japan and those countries in Western Europe that already have operating nuclear power programs. All of these countries have excellent nonproliferation credentials, having either signed the nonproliferation treaty or agreed to abide by its requirements. Unfortunately, these particular countries, as well as others, viewed the policies of the previous administration as designed to disrupt their domestic nuclear programs, as unilateral in character and as incompatible with their needs for energy self-sufficiency. Hence, serious tensions arose in our normal relationships, even though President Carter alleged that he had no intention of interfering with the progress of their nuclear programs.

Moreover, the efforts of the previous administration in deferring U.S. domestic reprocessing and breeder programs had little or no effect on the direction of the Japanese and European programs, or on those of other countries. Each country's programs continued to advance; only the U.S. nuclear programs suffered technologically and commercially as a consequence of these policies.

Against this background, the Reagan administration is seeking to restore good working partnerships with Japan and Western Europe. In addition, we are trying to reestablish our own technological leadership and global influence by showing that the United States can be a reliable partner through credible export policies—export policies that strengthen and are consistent with nonproliferation objectives. We believe we cannot positively influence foreign nuclear programs if we are perceived as more interested in changing other countries' policies than in helping them meet their energy needs.

As a realistic matter, we believe that the United States must be selective in its international nuclear relationships, and we will differentiate between nations that possess good nonproliferation credentials and nations that do not. Those countries that are risks will not be sold critical American technology, and we will do everything possible to convince other nuclear supplier countries to refrain from selling to those countries as well.

The Post is incorrect in suggesting that we are abandoning prudent export controls. Several of the exports The Post has publicized in recent weeks are, in my view, not sensitive, or even relevant, from a realistic proliferation standpoint. In fact, the Department of Energy, along with the Department of State and others, conducts detailed reviews of export applications and will always use conservative criteria in rendering final judgments on applications. Moreover, we are not subordinating nonproliferation values to command gains. Rather, our objective is to restore U.S. credibility and influence by restoring predictability to our international relationships with countries having ongoing commercial nuclear power programs.●

H.R. 6307, THE RCRA REAUTHORIZATION ACT—CLOSING THE HAZARDOUS WASTE BURNING LOOPHOLE

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MOLINARI. Mr. Speaker, the House of Representatives passed last week H.R. 6307, the Resource Conservation and Recovery Act Reauthorization Act of 1982 by the overwhelming margin of 317-32. I strongly support it, and during the debate I addressed the necessity to regulate small quantity generators of hazardous wastes.

H.R. 6307 also includes provisions of particular importance to New York State, and to New York City and my district in particular. I have expressed my strong concerns about hazardous wastes being sold as fuel, or mixed with heating oil, posing a major health and environmental problem. But EPA has exempted from RCRA regulations the blending and burning of hazardous wastes for energy recovery.

The RCRA Reauthorization Act, H.R. 6307, closes this major regulatory loophole that now exempts from regulation one-half of all hazardous wastes generated in this country. Twenty million metric tons a year are burned in boilers, cement kilns, and other units that are not subject to EPA's hazardous waste regulatory program. A recent study done by Fred C. Hart Associates for SCA Services, the leading high-technology hazardous waste treatment company in the country, estimates that such uncontrolled burning may mean 1.2 million tons of pollutants are emitted annually—300 times more pollutants than EPA allows for an incinerator complying with applicable standards. I ask that a summary of that report be included at the conclusion of my remarks.

Unknown quantities of hazardous wastes are being blended with heating oil, diesel oil, and gasoline and are sold to consumers. EPA does not require any recordkeeping or data on this practice, let alone regulate it. The State of Michigan recently estimated that as much as 1 billion gallons of blended fuel may be sold annually in Michigan alone. The burning of inappropriate wastes in inappropriate boilers poses direct health risks to the individuals exposed, as well as contributes to overall air pollution. The selling of adulterated fuel to unknowing consumers may also mean their boilers are being damaged by hazardous wastes, and they are paying for heating value in the fuel that they are not receiving.

National media attention on hazardous wastes as a fuel has focused on New York City and the metropolitan area. Several Federal and State investigations are ongoing. I ask unanimous consent that articles on fuel blending abuses be included at the end of my remarks.

New York State is moving aggressively to deal with improper fuel-burning practices. New regulations are being proposed to regulate the burning of used oils, waste oils, and solvents in stationary sources to have a legally enforceable mechanism to prevent pollution caused by the burning of waste fuels. Without these regulations, the New York Department of Environmental Conservation says that "fuel dealers and owners and operators of air contamination sources currently would have no internal incentives to abate their emissions without these regulations." The proposed regulations, which I ask be included at the end of my remarks, will also take away the economic advantage now enjoyed by illicit fuel dealers, who currently sell adulterated fuel oil for which they pay less than they would for virgin fuel oil.

The New York State proposal to establish standards for waste fuels that may be burned, and also for the facility burning waste fuels, includes a prohibition on burning waste fuels in any facility of less than 1 million Btu's. New York State also is proposing reporting, sampling and analysis, and recordkeeping (including sources and destinations) of fuel oil and waste fuel.

The New York proposal for boiler standards is similar to regulations governing boilers now in effect in New Jersey. New Jersey allows burning of hazardous wastes in boilers if the boiler is greater than 50 million Btu per hour, has an air quality permit, burns for the primary purpose of recovering useful heat, and the amount of wastes burned does not exceed 10 percent by weight of the total material burned. Revisions to lower the Btu threshold, but add additional controls, are being considered.

Rhode Island currently regulates as incinerators boilers which burn hazardous wastes generated offsite and is proposing to regulate onsite generated wastes. Rhode Island is proposing also to establish a 1 million Btu cutoff, and

to require a regulatory program that essentially tracks the regulations that would be required by H.R. 6307.

California requires a permit program that basically parallels EPA's incinerator requirements, issued on a case-by-case basis, usually with the involvement of the air quality program.

But numerous States are able to regulate hazardous waste burning only if EPA regulates it, and cannot go beyond EPA's program. Thus, in the current absence of any EPA program, they cannot do anything to fill the EPA regulatory void. Interstate enforcement also is a problem. This is why a national program, as required by section 6 of H.R. 6307, is so urgently needed.

Mr. Speaker, New York State, as usual, is far ahead of the U.S. Environmental Protection Agency. The RCRA reauthorization bill will require EPA to close the regulatory loopholes for burning and blending of hazardous wastes. Section 6 will require notification to EPA by the owners and operators of facilities burning or blending hazardous wastes, and by persons selling blended fuels. Any person subject to the notification requirements is prohibited from selling a blended fuel if the bill of sale does not contain a warning label and an identification of the included wastes. This will help prevent the kind of consumer protection abuses found in New York City.

The bill also will require EPA to develop regulations under section 3004 governing burning and blending. I hope that EPA will draw upon New York's experience to assure that regulations will be promulgated within the statutory deadline. In particular, I want to reiterate the committee's urging that EPA phase in its regulations, so that the development of final performance standards need not hold up EPA proposing such interim measures as recommended in the Hart report and proposed by New York, that is, manifesting, reporting, recordkeeping, sampling, and analysis.

Mr. Speaker, I commend the Subcommittee on Commerce, Transportation and Tourism, its chairman, Mr. FLORIO, and the ranking member and neighboring New Yorker, Mr. LENT, for their initiative in acting so responsibly and so promptly to end the abusive fuel-burning practices in the New York metropolitan area. I hope the Senate will act promptly on this crucial legislation.

[From the New York Times, Apr. 18, 1982]

USE OF TOXIC WASTES IN GAS AND HEATING OIL SUSPECTED

(By Joseph P. Fried)

Federal and state investigators are looking into reports that significant amounts of heating oil, diesel oil and gasoline have been adulterated with toxic chemical wastes before being sold to consumers in the New York metropolitan area.

How frequent such adulteration might have been and the degree to which it may be continuing is not clear, the investigators say. But "there are indications" that, it has been carried on to a considerable extent, at least as far as heating oil is concerned, according to Jeremiah McKenna, counsel to the New York State Select Committee on Crime, one of the bodies looking into the matter.

Health specialists say that motorists who use adulterated gasoline and occupants of buildings where adulterated heating oil is used could be endangered, as could employees who handle the substances. The specialists also say the contaminated fuel oil or gasoline could add to environmental pollution generally.

Some of the wastes suspected of having been used have been linked to cancer.

According to the investigators and to industry spokesmen—who are themselves concerned about the problem—the adulteration has been engaged in by wholesalers and retailers seeking to boost profits or to undercut competitors who sell unadulterated products. There is no indication of involvement by the major oil producers, one investigator said.

Other investigators said that the offending fuel and gasoline companies worked with other companies that were in the business of disposing of toxic chemical wastes. Sometimes, they said, the waste-disposal companies and the suppliers of the adulterated fuel were one and the same.

Representative Guy V. Molinari said he believed that the reported abuses in the New York area were part of a larger problem. The Staten Island Republican, who is a member of the Energy and Environment Subcommittee of the House Small Business Committee, said that testimony at a subcommittee hearing indicated that the problem of "lacing" heating fuel with toxic substances "exists in many of the states."

In New York, the office of the State Attorney General, Robert Abrams, has "a number of specific cases under investigation" in which "adulteration of fuel oil by toxic materials" is believed to have occurred, according to Timothy Gilles, a spokesman for the office.

FEDERAL INQUIRIES REPORTED

Two Federal grand juries, one in Manhattan and one in Brooklyn, are also reported to be looking into the subject or preparing to do so. The investigation in Brooklyn is reportedly part of an overall inquiry into charges that some gasoline wholesalers and retailers in the metropolitan area have enhanced their profits through various illicit schemes that also include tax evasion.

Some investigators not involved with the Brooklyn inquiry said that, because of the nature of the products, it seemed that the adulteration of gasoline would be less successful than the adulteration of heating or diesel oil. But sources who are familiar with the inquiry said that the allegations that gasoline had also been adulterated were being looked into.

The Brooklyn inquiry is being conducted by the Justice Department's Organized Crime Strike Force for the Eastern District of New York. Its head, Thomas P. Puccio, declined to comment.

The separate Federal inquiry in Manhattan is said to be part of an investigation into the overall matter of the illegal disposal of toxic wastes. Previous public statements about this inquiry have dealt with charges that the wastes had been dumped at New York City landfills and into sewers. But last week, officials said that the investigation also covered the disposal of the wastes by mixing them into fuels.

"It's fair to say we're investigating all aspects of the illegal disposal of toxic chemical wastes," said John F. Kaley, an assistant United States Attorney in Manhattan. His office is cooperating with the State Select Committee on Crime, which is headed by State Senator Ralph J. Marino of Oyster Bay, L.I.

Mr. McKenna, the state committee's counsel, said that one of the toxic wastes suspected of being illicitly used to adulterate heating and diesel oil is benzene. This substance is normally used in the manufacture of such things as varnishes and dyes.

Dr. Bernard Davidow, an assistant New York City health commissioner, said that use of heating or diesel oil mixed with benzene could be hazardous if vapors from the illicit products escaped from the tanks in which they were stored. As for burning such substances, he said that if they were "completely burned, then there is no problem" because "you end up with carbon dioxide and water."

But if a furnace of diesel engine cannot burn the mixed product completely, he said, the resulting smoke or fumes could contain contaminants.

IMPACT OF BURNING OF HAZARDOUS WASTE IN BOILERS

(Prepared by Fred C. Hart Associates, Inc.)

Fred C. Hart Associates, Inc. was retained by SCA Services, Inc. to conduct a study comparing the potential environmental and public health impacts of the combustion of hazardous waste in industrial and commercial boilers as compared to hazardous waste incinerators. The results of that study are summarized as follows, which describe:

The issue—That hazardous wastes are substantially unregulated if burned in industrial or commercial boilers.

The risks—That far greater numbers of people are exposed to higher concentrations of hazardous air pollutants when wastes are burned in boilers.

The recommendation—That existing regulatory loopholes be closed through a national program establishing minimum regulatory safeguards.

THE ISSUES

1. Under a loophole in the RCRA regulations, hazardous wastes are substantially unregulated if burned in industrial or commercial boilers to recover usable energy:

A hazardous waste identified by one of the four RCRA tests (i.e., for toxicity, ignitability, corrosivity, or reactivity) is not regulated:

A generator need not noftify USEPA that he generates the waste; the manifest system need not be used for waste shipments; and the regulatory safeguards that govern treatment, storage, and disposal facilities (such as contingency plans, inspection plans, closure plans, and recordkeeping and reporting requirements) do not apply.

A hazardous waste which is listed is subject to certain minimal requirements: USEPA must be notified, the manifest system must be used, and certain storage requirements must be complied with.

Most important, boilers which are burning hazardous waste need not comply with strict standards for design, construction, and operation which apply to hazardous waste incinerators. Incinerators must:

Conduct test burns to show that 99.99 percent of the principal organic hazardous constituents are destroyed or removed; control

emissions of particulate matter (such as heavy metals) and hydrogen chlorides, with emission control systems such as wet scrubbers and/or electrostatic precipitators; and continuously monitor key operating parameters such as the combustion temperature, waste and air feed rate, and carbon monoxide emissions to assure optimal operating conditions.

Fuel blenders are not regulated as treatment, storage, and disposal facilities. Furthermore, shipment of blended fuels does not require a manifest or any type of notice.

2. While the extent of waste combustion in boilers is unknown, the use of the practice is extensive:

Industry has a strong incentive to burn waste in boilers because (1) it simplifies or eliminates the need to comply with RCRA requirements and (2) it provides for cost savings of roughly $2.00 for each gallon of fuel oil replaced by waste as fuel ($0.95 per gallon for fuel oil not used plus $1.00 per gallon for costs of hazardous waste disposal avoided).

A recent USEPA study estimated that roughly 20 million tons out of approximately 40 million tons of hazardous waste generated annually are currently burned as fuel in boilers.

COMBUSTION OF WASTE IN BOILERS

1. There are approximately two million industrial and commercial boilers in the United States. Large boilers provide the major portion of boiler capacity:

3 percent with capacities over 10 million BTU per hour account for about two-thirds of the firing capacity.

1.6 percent with capacities over 25 million BTU per hour account for about half of the firing capacity.

2. Boiler emissions are affected by a variety of factors:

Small boilers have lower destruction efficiencies than large boilers because of shorter residence time and other operational parameters.

If waste has different properties than the fuel for which a boiler was designed, a decrease in combustion efficiency will result, which will reduce the waste destruction efficiency.

In actual field operations, the waste destruction efficiency will be even lower as the result of system deterioration and less than optimal operating conditions.

3. Available data indicates that destruction efficiencies as high as 99.99 percent may be achievable in large, well maintained and carefully operated boilers, but that lower destruction efficiencies—from 97.0 percent to 99.9 percent—are more likely to be found in the field, with some small boilers as low as 95 percent.

4. Hence emissions of contaminants will be significantly higher:

	Emissions, percent of feed
Incinerator (99.99 percent destruction removal efficiency)	0.01
Boiler (99.9 percent destruction efficiency)	0.10
Boiler (99.0 percent destruction efficiency)	1.00
Boiler (97.0 percent destruction efficiency)	3.00

INCREMENTAL RISK ANALYSIS

1. The incremental effects on air contaminant levels and the attendant health risks were addressed by conducting an atmospheric dispersion modeling study to estimate the level of human exposure to emitted pollutants.

2. Methodology—Five waste combustion scenarios were evaluated:

A hazardous waste incinerator with the required waste destruction efficiency of 99.99 percent.

Three average-sized boilers with a waste destruction efficiency of 99.9 percent—the *upper* end to be expected in an industrial boiler.

Three average-sized boilers with an efficiency of 97 percent—the *expected* performance under actual field operations.

Fifteen small boilers with a waste destruction efficiency of 99 percent—the *upper* end to be expected in a small industrial boiler.

Fifteen small boilers with an efficiency of 97 percent—the *expected* performance under actual field operations.

Five widely used waste constituents were analyzed:

The benzene component of ethylene manufacturing waste.

The styrene component of ethylene manufacturing waste.

Toluene.

Stoddard solvent.

The trimethyl benzene component of Stoddard solvent.

Twenty-five scenarios (five combustion scenarios/five wastes) were assessed in an atmospheric dispersion/population exposure analysis using USEPA Population Exposure Model.

3. The results show that far greater numbers of people are exposed to higher concentrations of hazardous air pollutants under all boiler scenarios compared to the incinerator scenario (Figure 1). The difference is extremely pronounced at lower destruction efficiencies (e.g. 97 percent).

ANALYTICAL PERSPECTIVE

1. Other factors increase the hazard potential of emissions from boilers burning hazardous waste:

The destruction efficiencies used in the model are representative of better on-site combustion. In practice, wastes shipped offsite under the RCRA loophole may wind up in poorly operated facilities with much lower destruction efficiencies.

The scenario analyzed wastes that are good fuel substitutes. In practice, wastes with poor combustion properties (high chlorine content, poor burning characteristics) may be burned in boilers to avoid regulation. This would result in greater emissions of potentially hazardous organic matter and hydrogen chloride.

In an actual urban industrial station, a much greater number of boilers than those assumed in the study scenarios will be burning waste, which would increase public health risks.

Any real life situation would involve exposure to other sources of the modeled constituents, other hazardous air contaminants, and other sources of exposure (i.e. workplace exposure), thus increasing exposure levels and enhancing the potential for synergism.

Combustion of waste in boilers is likely to increase exposure to higher levels of potentially hazardous products of incomplete combustion as well as unburned waste constituents.

POTENTIAL NATIONAL IMPACT

1. All people living in industrialized areas are exposed to contaminants emitted from industrial boilers and would therefore be additionally exposed to potentially hazardous waste combustion process emissions if a number of these boilers burned hazardous waste.

2. If 20 million tons of hazardous waste is burned annually, the difference in annual emissions between the RCRA incinerator standard of 99.99 percent and the expected boiler destruction efficiency of 97 percent is 4,000 tons as compared to 1,200,000 tons—a factor of 300 to 1.

3. The potential increased national exposure is estimated at 147 million people, or 68 percent of the population.

STATE REGULATORY STATUS

1. Several states, including New York, New Jersey, Rhode Island, and California, have developed programs to regulate burning of hazardous waste in boilers. Nevertheless, regulation at the state level is limited and inconsistent at this time.

RECOMMENDATIONS

1. The existing regulatory loophole should be closed through a national program establishing minimum regulatory safeguards. The regulatory program should be carefully designed so as not to be burdensome to implement or onerous to comply with.

2. A workable regulatory program should be based on the following principles:

Waste combustion should be prohibited in boilers smaller than 25 million BTU per hour. This would eliminate boilers unsuited for effectively burning hazardous waste and reduce the number potentially in need of regulation from two million to 34,000.

Larger boilers should be permitted. Those which can meet the incinerator standards would be permitted to burn all appropriate hazardous wastes. Those which can safely burn particular wastes would be permitted to handle those wastes. A system of class permits should be used.

An exempt waste list—those wastes that cause no greater environmental or health risks than the fuels displaced—should be developed.

A prohibited waste list—those wastes that should never be burned in boilers unless they meet incinerator standards—should be developed.

3. The regulatory program should be implemented on a phased basis:

An interim program for the next two years should accomplish these objectives:

To bring boilers burning hazardous waste into the RCRA regulatory system;

To assure a minimum degree of protection of public health and the environment; and

To development of a better data base for a long-term program.

A full regulatory program should include performance and operating standards for all boilers burning hazardous waste.

4. The annualized costs of the regulatory program would be:

$7,000 per facility for the interim program.

$76,000 per facility for the full regulatory program.

5. As shown in Table 1, the savings in fuel costs from burning waste will significantly offset the increased compliance costs for most facilities burning substantial quantities of hazardous waste. For a 60 million BTU per hour boiler, the annual savings in fuel costs range from $250,000 to $2,500,000 depending on the percent waste burned, while annual compliance costs for the full program are estimated at $76,000. For a 25 million BTU per hour boiler, the annual savings range from $105,000 to $1,040,000 depending on the percent waste burned, while annual compliance costs are also $76,000.

EXAMPLE REGULATORY COMPLIANCE COSTS AND SAVINGS

Boiler size	Program cost		Annual savings	
	Interim	Annual full	Dollars	Percent of fuel replaced by waste
60 million Btu/hour	$7,000	$76,000	2,500,000	(50)
			2,000,000	(40)
			1,500,000	(30)
			1,000,000	(20)
			500,000	(10)
			205,000	(5)
25 million Btu/hour	$7,000	$76,000	1,040,000	(50)
			830,000	(40)
			625,000	(30)
			420,000	(20)
			210,000	(10)
			105,000	(5)

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PERSONAL EXPLANATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. LEE. Mr. Speaker, due of official business, I was unable to be present on the House floor yesterday, September 15. Had I been present, however, I would have cast my vote in the following manner:

Rollcall No. 321, the Shipping Act of 1982, "yea."

Rollcall No. 322, the Patent Term Restoration Act of 1982, "yea."

Rollcall No. 323, the Federal Boat Safety Act Amendments, "yea."

Rollcall No. 324, Sailing School Vessels Act of 1982, "nay."

Rollcall No. 325, technical corrections in health laws, "nay."

Rollcall No. 326, Pretrial Services Act of 1982, "yea."

Rollcall No. 329, an amendment to the HUD/Independent Agencies appropriations bill, to increase the funding for EPA research and development activities by $25 million, "no."

Rollcall No. 330, an amendment to the HUD/Independent Agencies appropriations bill to delete $140 million for the continued integration of the NASA Centaur high energy upper stage into the Space Shuttle, "no."

Rollcall No. 331, an amendment to the HUD/Independent Agencies appropriations bill that prohibits the use of funds by EPA to implement a mandatory inspection and maintenance program for vehicle emissions, "aye."

Rollcall No. 332, HUD/Independent Agencies appropriation bill for fiscal 1983, "yea."●

HONORING NATIONAL HISPANIC HERITAGE WEEK

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. HAWKINS. Mr. Speaker, September 12 to 18 marks the fifth consecutive year of National Hispanic Heritage Week. The theme for this year is "Su Voto Es Su Voz" or "Your Vote is Your Voice."

In honor of this week, Mr. Speaker, it is only appropriate that we pay special tribute to the outstanding and vital contributions Hispanic Americans continue to make in our country.

Since the birth of our great Nation, Hispanic men and women helped forge new frontiers through the early establishment of settlements and missions across America. This great spirit of achievement is evidenced today in the lasting contributions Hispanic Americans have made in the field of politics, art, industry, science, technology and other important areas.

In my 29th Congressional District of California, Hispanic Americans have enriched the community with their intellectual and cultural achievements. Mr. Speaker, I am proud to associate myself with the agenda of events which will honor the proud history of our Hispanic brothers and sisters during National Hispanic Heritage Week.●

A CALL FOR AN END OF U.S. SUPPORT FOR MARCOS ABUSES

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. OBERSTAR. Mr. Speaker, in one's private life, one feels a certain reluctance to greet an invited guest with anything less than politeness; one certainly would not want to point out that one wishes the guest had not come. I do not feel the same reluctance in discussing the visit of President Ferdinand Marcos to the United States. Today, President Reagan receives President Marcos at the White House. I wish that such a visit, President Marcos' first visit since 1964, was not taking place.

This visit does a great injustice to the people of the Philippines and to those of us in the United States who believe that increasing respect for human rights should be a basic goal of American foreign policy.

Mr. Marcos kicked off preparations for his departure for the United States by arresting dissident labor leaders and by exercising emergency powers he retained despite the nominal lifting of martial law last year.

The Marcos family has given little assurance that it will allow democratic changes within the country. Continued U.S. support and encouragement of the regime are contrary not only to fundamental principles of human rights, but also to long-term interests of the United States in the Philippines and in the Pacific.

I am convinced that the United States will ultimately be far worse off by having given such extensive support to President Marcos, his family, and to their regime.

We provide over $100 million annually in military aid to a government whose military forces are responsible for gross violations of fundamental human rights. The military is a repressive antidemocratic force of terror.

The United States has a tremendous opportunity to encourage the development of democratic practices in the Philippines. Our extensive aid and longstanding cultural ties and warm relations between our two peoples place us in an important position of influence. Unfortunately, the administration has chosen not to exercise the positive potential of our position.

The unqualified and unconditional support for President Marcos and his attempts to suppress legitimate political dissent do nothing to further the principles of human rights about which the people of our country feel so strongly.

Earlier this month, I joined with seven of our colleagues in asking that the invitation to President Marcos be withdrawn. Perhaps it was unrealistic to expect the administration to grant such a request. It is not unrealistic, however, to expect the administration, at least privately, to express to President Marcos the very extensive and very grave reservation in the House regarding continued American moral, political, and economic support for an authoritarian, repressive, and apparent dynastic regime.●

SHIMON PERES AND PEACE IN THE MIDDLE EAST

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. FINDLEY. Mr. Speaker, no one yearns for peace more than the people of Israel whose own security is threatened by war and the risk of war in the Middle East. There are many now in Israel who are giving expression to their strong desire for peace.

One of the most prominent of these is Shimon Peres, the leader of the Labor Party, which is the largest single party in the Knesset. Shimon Peres is emerging as the bright star of hope for peace. His forceful encouragement of the peace process proposed

by President Reagan enhances the prospects for an eventual Middle East negotiated settlement.

Mr. Peres did not embrace the Reagan plan in all its aspects, but he is open to negotiations. In an editorial in the September 12 issue of the Washington Post, Shimon Peres demonstrates that he is a man of courage and vision, as he spells out his concept of Israel's needs in the peace process.

[From the Washington Post, Sept. 12, 1982]

THE REAGAN MIDEAST PLAN—CREATING PARTNERS FOR PEACE

(By Shimon Peres)

The difference between the Israeli-Egyptian peace negotiations and the negotiations that are to be conducted with respect to the Palestinian question lies in the fact that those with Egypt had definite and exclusive partners: Egypt on one side, Israel on the other. Regarding the Palestinian issue, however, there is only one definite side—Israel. It is not altogether clear who is the other side—Jordan, the population of the territories acquired in 1967, or the Palestine Liberation Organization itself.

I think that one of the important and clever aspects of President Reagan's speech of Sept. 1 is that he tried to create partners for negotiations even though no general trend for the negotiations has crystallized. In fact, defining the partners for negotiations is the primary condition in making negotiations possible, and therein lies the advantage of the Reagan plan as compared with former American plans.

In the past, the United States tried several times to propose peace plans—the Dulles and Rogers plans, for instance. But those plans immediately drove away the intended partners instead of bringing them to the table. The truth is that a plan that aspires to define in the opening phases the final character of the solution only stresses all the existing differences between the parties. Those differences can be overcome only by dialogue at the negotiating table. They cannot be solved without negotiations or prior to negotiations.

Reagan has made a special effort to present to the potential partners positive ideas that may being them to negotiations. But he has not proposed an enforced solution or formalized a final program in unequivocal language.

The conception that lies at the heart of Reagan's speech is interesting in several aspects.

First, he avoids laying out a final program, but he announces what the American position will be in two likely situations: during the transition period and during the negotiations for a lasting solution. Thus has he made clear that a solution cannot be found in one leap but can be achieved in stages. That will make it easier for the parties to conduct their negotiations gradually, as happened with Egypt. In that instance, the American positions were not presented as an order but as an approach based on the wish to serve as a bridge between the parties.

Second, in formulating the American positions, Reagan has attempted to respond to the principal issues in a way that will reassure each side in the opening phases of the negotiations. To Israel, he promises secure and defensible boundaries with no return to the borders of 1967. He says the United States will not support either an additional Palestinian state or negotiations with or recognition of the PLO as long as the PLO has not recognized the right of Israel to exist and has not agreed to U.N. Security Council Resolution 242.

These assurances to Israel also answer in a certain measure the secret expectations of the Kingdom of Jordan. The establishment of an additional Palestinian state means the establishment of a rival and hostile state not only at the gates of Jerusalem but also at the gates of Amman. King Hussein is sufficiently openminded to recognize that such a state might endanger the security of his country and its peace more than anything else. A separate state under the leadership of the PLO will not rest and will not remain idle until it succeeds in undermining the authority of Hussein in Jordan itself. Obviously, this is something that Hussein can do without.

Moreover, Hussein is promised two substantial things: trade, economic and cultural ties between the West Bank and the Gaza strip and Jordan during the transition period, but without isolating them from Israel, and association between those territories and Jordan in the permanent settlement. The final boundaries between Israel and Jordan will be determined in full negotiations and will take into consideration the security needs of Israel.

To the population of the territories, the Reagan plan presents an opening to take part with Jordan in the negotiations. However, the people there are not promised the "right of self-determination," because this privilege, as Reagan said, is understood in the Middle East as favoring the establishment of an additional Palestinian state. But they were promised "a leading role" in the determination of their future.

Egypt was assured that the American administration remains true to the Camp David Accords, which Egypt considers the cornerstone of the policy it has followed ever since President Anwar Sadat's historic visit to Jerusalem. It is only appropriate to stress the great importance of Egypt's participation in future negotiations. Egypt is the largest and most important Arab country. All parties to negotiations must have the will that the precedent of peace between Israel and Egypt will not go sour.

Third—and, in my opinion, this is decisive—the United Sttes has now stated who it sees as the partners participating in the negotiations. Selecting the partner actually means establishing the relationship to the most favored solution. It may be said that the selection of the partner is almost a condition to giving a chance to the negotiations. Because the truth is that the program repels partners more than it makes partners, whereas the selection of partners can create the possibility of an agreed solution. Reagan prefers Jordan to the PLO, as does Israel, and as secretly also does Jordan and possibly also Egypt. If God forbid, the president preferred the PLO, he would immediately lose Israel as well as Jordan.

Israel cannot conduct negotiations with the PLO: not only because of the PLO's past but because of the geographical map of Israel itself. Israel is settled in its length and not in its breadth. President Reagan has already pointed out that, at its narrowest, Israel does not exceed 10 miles. A country that has been attacked several times in the past not only from the north and south but from the east cannot agree that a hostile army—and a Palestinian army is necessarily an ambitious and hostile army—will be encamped on its narrow hips or at the gates of Jerusalem.

Unfortunately, the difference between the moderates and the extremists in the PLO lies here. The moderates propose to "deal" with Israel in two stages, the first being the establishment of a Palestinian state and the second being an attack by the army of this state on Israel. The extremists in the PLO want to achieve these stages simultaneously, using terror as the most suitable strategy.

No intelligent Israeli can agree either to the moderate program, establishment of a Palestinian army, which is predestined to attack Israel, or to the extremist's program to turn the West Bank and Gaza Strip into a base and state of terrorism. This was the situation that prevailed in Lebanon. On this issue, Israel is united.

On the other hand, it seems possible to achieve an agreement with Jordan, which will rule over the population in the territories, without its army crossing the Jordan River westward. Egypt, too, when it got back the Sinai, agreed of its own will to leave most of the Sinai peninsula demilitarized for the future, in order to release Israel from its suspicion of a sudden Egyptian attack. The Egyptian president can therefore serve future negotiations with Jordan.

Israel will and must insist that its army, which is supported by the network of settlements along the Jordan River, will ensure the security of its eastern border and will prevent the risk of a sudden attack when all those densely populated areas come to be administered by the Kingdom of Jordon and by representatives of the areas. Basically, this also suits the Jordanian interest.

The selection of partners to negotiations can also give an answer to another question—of boundaries. The issue is not as vague as it was in the past. Every modern state distinguishes between formal and informal boundaries, between economic, security and national boundaries. The best economic border is an open one, which makes possible an economic relationship between neighboring countries without unnecessary annoyance. The most secure border is the strategic one—to provide a certain time in the event that a sudden danger might arise. The best national border is that which reduces as much as possible the need of one people to rule over another—the national majority in one country must not rule over a large national minority of another people.

I believe that the basic assumption in Reagan's speech makes it possible to define such borders—or, even better, such a relationship—between the partners to the conflict today and the partners to peace tomorrow. Therein lies its great advantage. We cannot fully identify ourselves with the president's speech. Certainly as an Israeli I think there are some points that we reject, especially on the subject of the future of Jerusalem. Indeed, the president promises that he supports a "united Jerusalem," but that its destiny must be agreed upon in negotiations. Israel today is united in the resolute decision that Jerusalem must remain united in its entirety as the capital of the state of Israel.

Nevertheless, President Reagan's speech is a most realistic basis for negotiations and for the continuation of the peace process in the Middle East, and therefore it is a great asset. The Israeli Labor Party, which I represent, understood long ago that in negotiations and in peace, in contrast to war, there does not exist a sole and crushing decision. Negotiations for peace are built on patience,

on discussion and also on compromise, including territorial compromise.

The attitude of the Labor Party suffered in the past from the fact that its approach did not find sufficient Arab response. I believe that the president's speech will evoke a response in the Arab world directed at avoiding wars and building a peace on the basis of compromise.

The Reagan program has laid such a basis, though there is no certainty of it. I believe we must not miss the first step if only because there are so many people who envisage the difficulties entailed in the following steps. Difficulties will arise. But it is better to have peace with difficulties, than difficulties that lead to the resumption of military confrontations.●

TWENTY-FIFTH ANNIVERSARY OF MIDDLEWEIGHT CHAMPIONSHIP FIGHT

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. WORTLEY. Mr. Speaker, I would like to call your attention and that of my colleagues to the upcoming 25th anniversary of the greatest moment in the history of central New York sports personalities. Twenty-five years ago, on September 23, 1957, Carmen Basilio, a former onion picker from Chittenango, N.Y., a community I have the honor of representing, won his second world boxing title. On this night in a furious 15-round fight in Yankee Stadium, Carmen took the middleweight championship away from Sugar Ray Robinson. He had previously won the welterweight championship by clawing and scrambling his way up through the ranks. As the New York Times said after the middleweight fight: "* * * Basilio is the toughest little onion picker in the State of New York. He has a chin of iron and determination to match." He was elsewhere described as the "gallant warrior from Chittenango."

In recognition of his accomplishments as a fighter, Carmen was named the Professional Athlete of the Year in 1957.

A quarter of a century later, Carmen continues to be a source of pride to central New York. He is an active civic figure in the area he grew up in; he has never forgotten his friends. I salute this determined, classy gentleman on the eve of the anniversary of his great triumph.●

MAX AND MIM BLOOM RECEIVE HUMANITARIAN AWARD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. EDWARDS of California. Mr. Speaker, it is with great pleasure I inform my colleagues that my good friends, Max and Mim Bloom, are the recipients of the 1982 National Humanitarian Award, presented by the Santa Clara Valley Friends of the National Jewish Hospital and Research Center. The Blooms will be honored at a dinner-dance on October 20.

Max is a fellow San Jose native, a long-time businessman and active partipant in community affairs. He has been involved with the Heart Association, the San Jose Light Opera Co., the San Jose Museum of Art, the Symphony Association and the Fine Arts Commission of the city of San Jose. He is also a valued member of the San Jose Rotary Club.

Mim Bloom, a native of Kentucky, met and married Max while he was in the service. Mim is a businesswoman and a vivacious and effective community worker. She has been active in the Cancer Society, the Symphony Association, the Crippled Children Society, the Villa Monte League, the San Jose Opera Guild and the San Jose Museum of Art.

It is a very real pleasure to have a small part in honoring Max and Mim for their many years of service to the people of the Santa Clara Valley. Besides being the kind of people who contribute their time and energy to their community, Max and Mim are delightful people. They are good company and approach life with a sense of humor that is infectious. Most important to me, they are my good friends. It is a joy to have known Max and Mim for these many years. I count their friendship as a very special privilege.●

TRIBUTE TO CAPT. ANTHONY MARICICH OF THE LOS ANGELES FIRE DEPARTMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ANDERSON. Mr. Speaker, it gives me great pleasure to pay tribute to Capt. Anthony Maricich, a hard-working man who will be honored on October 5, 1982, for his service to the Los Angeles-San Pedro community. On June 7, 1982, Captain Maricich retired from the Los Angeles Fire Department after 34 years of dedicated service.

A native-Californian, Anthony moved to San Pedro when he was 11. Upon graduation from San Pedro High School in 1941, Anthony went to work for Western Union. In 1943, heeding the call to serve his Nation, Anthony Maricich joined the merchant marine. He saw action in the Pacific and the Atlantic theaters. On December 1, 1947, Anthony Maricich joined the Los Angeles Fire Department.

When he started, Anthony Maricich manned the hoses that dosed the fires. As time passed, Anthony's achievements and capabilities were recognized and he was promoted. In 1955, he became an engineer, operating the fire pumps. In 1972, he was promoted to captain.

As a captain, Anthony Maricich's responsibilities increased tremendously. Recognizing that he needed further training, Captain Maricich took, and successfully completed, several officers training courses, including courses at the U.S. Navy Fire Fighting School, the Fire Officers' School, the Tank Vessel Inspectors' School, and the Scuba Fire Fighting School.

Captain Maricich is married to Louise Mary Maricich and they are the proud parents of a lovely daughter: Toni Marie.

Mr. Speaker, in Capt. Anthony Maricich we have an exemplary American: a family man, a man dedicated to the service of his community. I am sure that all Members of Congress would like to join me in congratulating Captain Maricich on his retirement and his remarkable contribution of service.

To Captain Maricich, his wife, Louise, and daughter, Toni Marie, my wife, Lee, and I, extend our warmest best wishes, good health, and personal fulfillment in the years ahead.●

TRIBUTE TO DOUGLAS FRASER, PRESIDENT, UNITED AUTO WORKERS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. FAUNTROY. Mr. Speaker, this weekend, September 17 and 18, the men and women who comprise the Congressional Black Caucus will host the 12th annual CBC legislative weekend which will help the caucus formulate legislative issues for the future. In addition to our legislative work, we will also take time as a group to recognize those persons who have made outstanding contributions to our Nation, in general, and to black America specifically.

As chairman of the Congressional Black Caucus, I want to note that one of those who has worked with us in our program for progress, whom we will salute is Douglas Fraser, the president of the United Auto Workers Union. Mr. Fraser is retiring next year so we wanted to take this occasion of the coming together of the black nation to reflect on his stewardship as a leader in the American labor movement.

In his poem "Adjuration," black poet Charles Enoch Wheeler wrote:

Let those who can endure their doubts speak for the comfort of the weary . . .

In the tradition of his predecessors, Walter P. Reuther and Leonard Woodcock, Doug Fraser is an eloquent spokesman on behalf of the common folk, the working folk, and all Americans who seek to strengthen our country through a strong economy that recognizes the utility of a decent wage for an honest day's work. Not only has Doug Fraser been on the front line in seeking equitable pay and humane conditions in the workplace in which blacks have shared the benefits, he has also been at our side in the campaign to eradicate racism and bigotry from work places and the American labor movement.

Because he has accepted the responsibility to speak for the comfort of the weary without fear in times of worsening economic stagnation, we are proud to say that he is a friend of the Congressional Black Caucus and black America. We wish him and his wife Winifred much success and God's abundant blessings in the many years ahead.

To underscore what I have said above I enclose an informative and useful article about Douglas Fraser which recently appeared in the Washington Post.

[From the Washington Post, Sept. 5, 1982]

FRASER NEARS RETIREMENT AS UAW GRAPPLES WITH DETROIT'S DOWNTURN

(By Kathy Sawyer)

Douglas A. Fraser, leader of 1.2 million auto workers, stood at the foot of a long, descending escalator at the Atlanta airport, looking up.

"Think we oughta try it?" he asked Joe Loesche, who has been driver-bodyguard-companion for every United Auto Workers president since the late Walter P. Reuther. The two have a running joke about their occasional sprint up a Down escalator, about the funny looks they get, these two crazy silver-haired guys.

To travel around with Fraser for a few days just before Labor Day, it was hard to believe he is 65 and will soon give up his powerful position to retire to some quiet teaching job. And it was easy to forget that he is presiding over the darkest period in the history of his union.

Fraser acts like a guy who enjoys running up life's Down escalators. To many Americans, he is only vaguely familiar from television news as the down-to-earth labor leader who won a seat on the Chrysler board of directors and convinced his membership to make concessions estimated at $4.5 billion to help a mortally stricken auto industry recover.

Fraser's union has lost over 300,000 members in the past five years and many will never return to the assembly lines. Foreign auto makers have captured 31 percent of the market in the United States for what was once the quintessential American product.

Fraser's retirement, scheduled for next summer, is viewed by many in the labor movement as "the end of an era." He is the last UAW chief to be drawn from the inner circle of Reuther, the Depression leader who forged the union into a potent social and political force.

Fraser, who has been UAW president since 1977, is respected as a gutsy leader with a gruff, crusty humanity. A high-school dropout who married a university professor, he lives with his wife in a small co-op apartment near downtown Detroit, travels coach with his long legs scrunced up on his briefcase, refuses the fancier cars that come with his job and says nasty things about labor corruption. Open, approachable and good-humored, but with a hair-trigger temper betrayed by a sudden reddening of the face, he draws crowds wherever he goes.

In his recent round of speeches, news conferences, trips to Washington for an AFL-CIO meeting, to Knoxville and Tulsa for union gatherings, and work in his Detroit headquarters, Fraser started to acknowledge the strain of what promises to be a painful leave-taking from the world he entered as a teen-age fender-mender about a half century ago; months and months of sentimental hugs and handshakes and questions.

Some people may worry about pressure, but "I think Doug is worried about how he's going to get along *without* stress and pressure," said his trim, outgoing wife Winnifred—"Winnie" to friends—a dean at Wayne State University.

That week, Fraser had much to worry about. The Chrysler negotiations were heating up again. The Canadian UAW was threatening to strike rather than make concessions as its U.S. brothers had—the first major split in the union's international membership. General Dynamics, formerly the Chrysler tank division, was on the verge of potentially violent strike. All were expected to come to a head by mid-September.

Fraser also was getting angrier and angrier about congressional resistance to the union's number one legislative priority: a controversial bill to protect auto industry jobs by requiring foreign auto makers that sell cars in the United States to make the bulk of them here. Fraser blamed the delays on House Commerce Committee Chairman John D. Dingell, the Democrat from Detroit. By the end of the week, he vowed softly, "I don't think I'll ever speak to John Dingell again. He let us down."

Fraser said he gets weariest with all the questions about lazy, greedy workers and why aren't they to blame for the soaring prices and declining quality of cars, inflation-inducing high wages and so on. "It takes two to tango," he said at one point, insisting that managers share the blame with workers and that in any case the situation was not so easy to size up way back in 1979, before the roof fell in.

One night, he reminded a Detroit audience of auto industry managers and suppliers that just two or three short years ago even the Japanese small cars were hard to sell. "And you couldn't give away Vegas or Pintos—first of all they were rotten cars [big laugh]—but the people of the United States really wanted to drive large cars. . . . We had an absolute monopoly, in large cars. . . . So I think there was a tendency to be self-satisfied, complacent. All of this contributed to our downfall."

Another evening, Fraser had a rare, small "victory" to celebrate by sharing a pitcher of light beer with his staff at a neighborhood bar next to the bleak hulk of a shutdown rubber factory, near UAW's Solidarity House. A Reagan administration official, Michael Driggs of the Department of Commerce, had come to Detroit and enraged the community by saying unemployed auto workers weren't as bad off as everybody thought, thanks to their benefits and working wives and so on, and that in fact they had an average income of $28,000.

Fraser and his young public relations chief, David Mitchell, had thrown together an impromptu news conference at which Fraser, flanked by a couple of black unemployed workers whose benefits had run out, called Driggs a cynical, cruel "bum." The story got a lot of play across the country, at the same time the administration was trying to convince the public it is not insensitive.

Later, with his lopsided grin, Fraser said, "I know Mac Baldrige [Driggs' boss, Secretary of Commerce Malcolm Baldrige]. I think I'll give him a call and see if he'll let Driggs out of his cage one more time, see if we can't get him back here again before the election, maybe get him to go to Ohio, and Pennsylvania and some other states, too. . . ."

The "succession thing," Fraser said, as he waited in one of those plastic airport chairs one day, "is starting to bother me."

One of the fears that has caused him some sleepless nights is that, under his successor, the union might abandon its tradition as a progressive social force, he said. There is a belief in some quarters that this was a role UAW leaders could afford to play only as long as times were fat and the rank-and-file was in clover.

Although the membership, as wages improved, has grown more and more conservative and middle class, all of the contenders for Fraser's job express a commitment to what they call the "Reuther legacy:" compassion for the poor, support for the causes of women and blacks. But, said Fraser, "it's like anything else. There are shadings, and some are more committed than others."

Fraser, who was born in Scotland, the son of an electrician, has always been an activist, a left-wing Democrat, who counts among his credits the desegregation of a union hall toilet in Memphis as far back as the late 1940s.

It's true, he told a group of black journalists, that many union members resented certain costly social programs. But President Reagan has given them a new perspective. Many are no longer protesting because now "they're on food stamps themselves."

Fraser has refused to say whom he favors as a successor. The decision will be made by UAW's 26-member executive board. The two front runners reportedly are UAW Secretary-Treasurer Raymond Majerus and Vice President Donald Ephlin, with two other vice presidents trailing.

Fraser and his predecessor, Leonard Woodcock, each had 15 years in national union offices to establish themselves, he said. "These poor guys, all of them have only been there for 2½ years, the worst goddamned years in the history of our union, so it's really unfair . . ."

On a visit to Knoxville, Tenn., Fraser was greeted with the sort of spine-tingling union theater sure to shake up even the most hardened right-to-worker. It was a political "summer school" for union members from all up and down the eastern seaboard and across the South, designed to get out the union vote this fall.

As the regional leader proudly led him into the auditorium, 500 men and women in "Buy American" caps sprang to their feet, raised their clasped hands high over their heads and started to sing along with two union guitarists on the stage. They sand the union anthem, "Solidarity Forever," to the tune of "The Battle Hymn of the Republic."

"It is we who plowed the prairies, built the cities where they trade . . . Now we stand outcast and starving 'midst the won-

ders we have made . . . But our union makes us strong!"

Fraser talked to them, bluntly about the hard facts of life in the auto industry, but assured them he would grant no further concessions to Chrysler (they cheered).

And he told them goodbye. "This is the last time I will address you as president," he said, and went on to pave the way for the next fellow. The struggles of the '30s and '40s were difficult "physically," he said, but "not nearly as difficult and complex as those of today."

He said he has heard the talk that, because the new crop of leaders was not reared in the Depression, they lack the sense of commitment of Fraser's generation. "I don't accept that. Commitment is an intellectual development."

What his successor can look forward to coping with, besides "enormous pressures," Fraser said later are a smaller but more highly skilled and secure membership, more trimming in the staff of the UAW itself (Fraser has cut 95 people), a fast-changing industry, a continuing need for "flexibility" at the bargaining table. Also, there is the fact that layoffs have gutted a whole younger generation of workers.

He believes the old adversarial spirit will resurface in labor-management relations to some extent when the economic pie expands again. "But what will never, never change again is the so-called democratization of the work place."

Though many unionists miss the the good old days, Fraser said, he prefers the new, better-educated workers who question the union leader, as well as the boss. "When I was a steward, Christ, the people would just do anything I wanted and they didn't even ask me why."

He said this despite the fact he suffered one of his greatest disappointments in the recent General Motors negotiations, when he was unable to sell his membership on an initial agreement and, on a second try, won approval with only 52 percent of the vote.

On Labor Day, Fraser said, he planned to march in a parade in Detroit. "Me and probably about five other guys," he added with a sharp, dry laugh. The workers have other things to do these days, thanks to their union. "They go to their weekend cottages. Their cottages! Me, I still love a Labor Day parade."●

H.R. 6046—THE EXTRADITION ACT

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. BRODHEAD. Mr. Speaker, the full House may consider in the coming weeks H.R. 6046, the Extradition Act. Extradition law reform is needed to modernize and reform procedures while facilitating the extradition of those charged with serious crimes.

However, I believe it is essential that we include proper safeguards to insure that extradition procedures are not subject to political abuse. I have recently been contacted by the American Civil Liberties Union and the Women's International League for Peace and Freedom, which have raised serious concerns about H.R. 6046, including provisions that would:

Require the courts to hold an individual for at least 10 days based solely on a request of a foreign government, with no supporting evidence, unless the person can affirmatively demonstrate that he or she should be released;

Prohibit a court from inquiring into allegations that a State is seeking extradition of a person for the purpose of prosecuting such person because of his or her political opinions, race, religion, or nationality;

Define the long-standing political crime exception to extradition so narrowly as to exclude in almost all circumstances crimes which in any way include violent conduct—even in cases in which a person used violence to escape from a foreign prison where he was being tortured.

I think these are very serious concerns that deserve the fullest scrutiny and debate on the floor of the House. My colleague, GEORGE CROCKETT and others have prepared a series of amendments to H.R. 6046 to address the problems listed above.

Our Nation's extradition laws say a lot to other countries about our commitment to freedom, human rights, and the administration of justice. It is essential that we send the right message abroad and, at the same time, preserve the civil liberties of persons within our legal jurisdiction. It is for these reasons I believe this matter must be fully debated and discussed if it should come to the floor of the House.●

ANNIVERSARY OF THE BIRTH OF GENERAL VON STEUBEN

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. NELLIGAN. Mr. Speaker, September 17 is the anniversary of the birth of one of our country's most important Revolutionary War patriots, Gen. Friedrich Wilhelm von Steuben. This native of Prussia volunteered his services to Gen. George Washington, and arrived at Valley Forge in February 1778. He brought his military expertise to an army that was cold, hungry, and ill-clad after a rough winter, and inspired in our early patriots a great sense of discipline. For this, he is properly called "the first teacher of the American army." Without his services, our revolutionary fight would have been much more difficult. Along with German-Americans who have lent us such great cultural, scientific, and economic accomplishments, I wish to commemorate General von Steuben's outstanding service in helping to found our Nation.

Mr. Speaker, there is another person of German descent born on this date to whom this American is most certainly grateful: Mary Melissa Gansel Nelligan, my mother. Happy birthday, Mom!●

CONTRACT SANCTITY

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. FINDLEY. Mr. Speaker, last week, I introduced a bill to guarantee the sanctity of farm product export contracts. Today, many of the world's grain firms are reluctant to enter into contracts with the Soviet Union because they have no assurance that the U.S. Government will allow them to deliver products in excess of the 8 million tons guaranteed by the United States-Soviet grains agreement.

As I indicated last week, farm groups strongly support this legislation. In late July, the Senate Banking Subcommittee on International Finance and Monetary Policy held hearings on this issue. In that hearing, Charles E. Hamon, president of the American Soybean Association, said:

We all know how disastrous the 1980 Soviet embargo has been to American agriculture. In 1979, the Soviets were our fifth largest soybean market purchasing almost 2 million metric tons of soybeans and soybean products.

This year, our sales to the Soviets are only 700,000 metric tons, about one-third of the pre-embargo level. Our competitors in Brazil and Argentina are supplying the remainder of the Soviets' soybean needs, and we see little chance U.S. soybean and soybean product exports will reach their pre-embargo level in the near future.

Short of a U.S. policy to never impose an export embargo in the future, ASA believes the best alternative is for the Congress to adopt legislation forbidding the President from canceling previously reported outstanding commercial export contracts for agricultural commodities, except under the most dire circumstances.

Mr. Speaker, no one has worked harder to see this become law than the ASA affiliate in my own State, the Land of Lincoln Soybean Association. In testimony before the House Agriculture Subcommittee on Wheat, Soybeans, and Feed Grains in a field hearing in Springfield, Ill., last May, Jerry Gates, president of the association, said:

The integrity of the United States as a reliable supplier of farm products has been undermined as a result of at least four major grain embargoes since 1973.

The Land of Lincoln Soybean Association feels it is essential that the U.S. Government quickly establish a policy to honor the sanctity of export contracts. Such a policy declaration would immediately improve our international image as an exporting Nation and open the way for increased foreign sales. These potential increased sales are

needed to both help regain lost sales from previous buyers and to expand foreign markets further. Farm profitability shall be positively affected when export guarantee legislation is enacted.

Mr. Speaker, Mr. Gates will be in Washington next week to press the case for this legislation. I urge all of my colleagues to heed his message. With farm income projected to be well below normal, this country simply cannot afford to ignore its reputation as a reliable supplier. We cannot afford to forget that agriculture is the backbone of the Nation. Thank you.●

SOVIET JEWS DENIED VISAS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. WOLF. Mr. Speaker, today in the Soviet Union there are hundreds of thousands of Jews who have applied for exit visas, and who have been refused these visas. At the same time they are being persecuted because of their desire to emigrate.

Aleksandr Yampolski is one of these refuseniks. After making known his desire to leave Russia and settle in Israel he lost his job as an electronic engineer and has been forced to labor as a janitor in Leningrad's Kirov Sports Stadium.

The "official" reason for the Government's refusal to allow Aleksandr Yampolski to have an exit visa involves security considerations. But he has not worked in his field of electronics for 8 years since he first made his application and any knowledge he may have retained must certainly be obsolete now.

There is, therefore, no real reason for the Soviet Union to keep Aleksandr Yampolski under its control and to deny him the freedom to go to Israel. I therefore call on the leaders in the Kremlin to allow him, and the thousands like him, to leave the country. At the same time I appeal to him not to lose heart and abandon his quest for freedom because there are thousands of us in the free world who support him in the desire to live in the country of his choice.●

JOBS BILL FLAWED

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. SYNAR. Mr. Speaker, I voted against the so-called jobs bill today. I am in full agreement that bold action is needed to help put America's 10 million unemployed workers back to work, but the program proposed in this bill is fatally flawed. It simply will not work. It will amount to nothing more than a symbol. And $1 billion is too high a price tag for mere symbolism.

What is worse, this bill holds out a false hope to unemployed citizens and gives only lipservice to a devastating problem that continues to grow.

I hope we have not forgotten the lesson of the Gramm-Latta/Reagan budget fiasco last year: Good legislation is not made in 1 day—or in 1 week. A budget drafted by David Stockman in the wee hours of the morning last summer, and passed with very little debate, created problems that we are still trying to correct. Let us not make the same mistake again.

As I said, this bill is fatally flawed. Let me point out some of the practical problems.

First, this appropriation would be spent by localities in the next 2 months, by December 31, 1982, to pay for road repair, bridges, rebuilding and repairing facilities, and other public projects. Mr. Speaker, any worker in the Frost Belt knows that you cannot build roads, paint bridges, or repair buildings in the cold of winter. It does not work. You get frozen paintbrushes, crumbling asphalt, and a lot of cold, wet mud.

Next, even if winter were miraculously delayed for 2 months, the program still would not work because it provides no funding for materials. This bill is based on the premise that there are severely depressed communities that are falling apart and need urgent help. Does it help to give them a payroll but no materials? And to expect them to come up with the materials in 2 months? It is obvious that we are creating an impossible situation.

And finally, even if winter were miraculously delayed and seriously depressed communities found bonanzas of unused, already-collected revenues to pay for materials, the program still would not help. The numbers tell the tale: Ten million Americans are out of work; the bill provides—at best—200,000 new jobs; and the net result is a net reduction in total unemployment of about two-tenths of 1 percent (and putting only about 2 percent of the unemployed back to work).

I share with my colleagues a deep concern for the unemployed and their families and I am frustrated by our inability to solve our economic problems. And I share their concern for our deteriorating infrastructure of road and other public facilities on which future commerce depends. But in my heart, I cannot support spending $1 billion on a program that is doomed to failure.●

DORIS AND ALLISTER MacKAY—50 YEARS OF COMMITMENT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MARKEY. Mr. Speaker, Representatives of Congress often have occasion to meet with constituents whose civic efforts add a rich and textured quality to community life. Two such constituents of mine are Doris and Allister MacKay.

Residents of Winchester, the MacKays represent the New England spirit of community involvement, civic responsibility and good old-fashioned respect and reverance for American traditions and values. Al and Doris MacKay, who will celebrate their 50th wedding anniversary on September 24, have made a personal and lasting commitment to each other and to their family that is matched only by their commitment to the community in which they live. In 1943, Allister MacKay became a member of the New England Deaconess Association, and became its president in 1952. During those years, the number of residents in the association's facilities increased from 24 to 300; its budget increased from $60,000 to $2 million yearly; and the range of its services expanded many fold. The association's services now include three retirement homes, one long-term facility, and apartments for the retired.

In addition to his many years as vice president of the First National Bank of Boston and his involvement in the New England Deaconess' many programs, Mr. MacKay has also been active in the First Methodist Church, Medford, Mass., and more recently in the Crawford Memorial United Methodist Church, Winchester, Mass. He has served as chairperson of the board of trustees; chairperson of the pastorial relations committee; member of the board of stewards; and Sunday school superintendent.

Mr. MacKay has also served as a member of the board of trustees of the Preachers' Aid Society. He has been chairperson of the finance commission and then treasurer of the Morgan Memorial, Boston, Mass.

In 1975, the Health and Welfare Ministries Division of the Board of Global Ministries conferred its highest honor on Al MacKay when it named him to the Hall of Fame in Philanthropy in Philadelphia.

Doris MacKay has worked beside her husband in his many church and civic activities. For the 50 years of their marriage, Doris MacKay has provided a supportive environment for her husband and family. An active member of the Winchester Garden Club, Doris MacKay has raised two

sons, both New Englanders: Gordon MacKay, a senior vice president at New England Life Insurance Co. of Boston and R. Bruce MacKay, chairman of the social studies department of Berlin High School in New Hampshire. Doris has also lavished her love and abiding attention on her four fine grandchildren.

The MacKays have raised a family that shares their sense of strong civic pride and their interest in good work and community involvement.

It is fitting to recognize the MacKays relatively quiet but exceptional achievements on their golden wedding anniversary. They have forged and maintained a relationship of respect, mutual understanding, caring, love, trust and personal growth that should be the bedrock of American family life. In addition, they have shared their gifts of permanence and giving with the people in their community. We are all the richer for that and I would like to acknowledge their personal and civic achievements on this, their 50th and golden wedding anniversary.●

CORPORATE CANNIBALISM IS HURTING INNOVATION

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. BEDELL. Mr. Speaker, the current takeover battle involving United Technologies Corp., Martin Marietta Corp., and Bendix Corp. has dominated the business news for much of the past month. Undoubtedly, a great deal of high-level planning went into designing the game plans for these takeover participants. And, I am sure that we can look forward to at least a few more weeks of tender offers and legal battles among these three corporate giants.

All this leads me to wonder, who is minding the store? It would appear that the customers that do business with these three companies have to seriously ask how efficiently their needs are being met when so much of the time and energy of the top management of Martin Marietta, United Technologies, and Bendix is spent concentrating on the "golden parachutes," tender offers, stock swaps, antitrust guidelines, and tax recaptures attendant to the proposed takeover attempts.

All three of these companies are major contractors to the Federal Government, especially in the vital areas of space technology and national defense. All three companies do business for the American taxpayer that collectively runs into the billions of dollars each year. Therefore, it is troubling to me that these companies are diverting so much of their top management's time and effort away from their primary tasks and directing them instead to the corporate equivalent of a feeding frenzy.

One company, Bendix, last week called a meeting of its board of directors. The most pressing business on the meeting schedule was not how the company could best serve its customers, including the U.S. Government, from which Bendix annually collects about $1.1 billion in contract sales. No; they spent their time considering how to design the best "golden parachute." A golden parachute, for those who are not familiar with the new language of the merger makers, is an employment contract that protects a company's top executives by guaranteeing their jobs and financial security in the event of a hostile takeover.

Mr. Speaker, at a time when our economy is in such deep trouble, I have to ask if our society's interests are well served by our corporate leaders spending so much vital human and capital resources on such unproductive and wasteful behavior. And, as a major client to these three companies, our Government has to take a close look at suppliers who spend more time on the phone with investment bankers than they do with their production staffs.

I know of few small businesspeople who can afford to go on a month-long shopping spree and leave their stores in the hands of employees who are not even sure if the owners are coming back. Their customers would not stand for it.

At this point, I would like to insert into the RECORD an excellent article by economics writer Robert Sammuelson that appeared in the Washington Post on September 14. He discusses the effect of megamergers, especially the Bendix-United Technologies-Martin Marietta merger, on our national productivity. I recommend it to my colleagues.

[From the Washington Post, Sept. 14, 1982]

CORPORATE CANNIBALISM MAY HURT INNOVATION

(By Robert J. Samuelson)

Perhaps the most striking thing about the struggle by Bendix Corp., Martin Marietta Corp. and United Technologies Corp. over who will swallow whom—or whether anyone will swallow anyone—is that it seems so routine. Megamergers are so frequent that they no longer startle.

The genuinely intriguing question about this corporate cannibalism is whether the quest for survival and growth compromises overall economic creativity. The economy derives much of its strength from its capacity to innovate. But many modern mergers are the antithesis of innovation and, at the same time, an attempt to accommodate it.

Innovation in this context does not mean exclusively, or even primarily, invention or discovery. It means the conversion of technical advances (including advances in management and marketing) into commercially useful products. This is something at which big companies do not necessarily excel.

Economist Joseph Schumpeter long ago observed that innovation is intitally a destructive process. It threatens markets for existing products and the companies, plants and workers serving those markets. Consequently, what is called innovation at many firms consists primarily of important—but derivative—improvements of existing technologies and products.

Major innovations often have originated outside existing industries. Horse and buggy companies generally did not become major automobile firms. Traditional office machine firms didn't perfect rapid photocopying; a newcomer, Xerox Corp., did that. Although the basic technology was no secret, oldline electronics firms—RCA Corp., General Electric Co.—didn't pioneer integreted circuits (electronic "chips").

Bendix typifies the path toward giantism followed by many American companies. Vincent Bendix, the founder, started his first auto company in 1907. It was one of 94 new automakers that year and one that didn't survive. His first big break came in 1913, when he designed an automatic engine starter; by 1919, production had reached 1.5 million.

Bendix was the classic entrepreneur; that is, he was almost a compulsive gambler. His company never made the automatic washing machine that bore his name. But Bendix reached the inventors and lent them laboratory space and his name. Bendix's company ultimately outgrew his personality. Heavy real estate losses forced him into personal bankruptcy in 1939. When he died in 1945, he no longer was associated with the firm.

Now his namesake is a sprawling enterprise (1981 sales: $4.4 billion) engaged in electronics, machine tools and auto parts. Chairman William Agee, 44, has a reputation for being brash, outspoken, self-confident and, so far, successful. He aims to reduce Bendix's dependence on auto parts—clearly a mature market—and emphasize high technology.

Agee has operated Bendix like a multi-billion-dollar jigsaw puzzle. By selling parts of the company, he raised more than $500 million, which, while interest rates were high, was invested in high-yielding securities. The $1.7 billion bid for Martin Marietta (1981 sales: $3.3 billion) represents an effort to expand Bendix's aerospace business. Martin Marietta is the prime contractor for the MX missile.

Bendix's history underlines the problem of the large modern corporation. As firms grow, they acquire distinct institutional interests: namely, self-preservation and growth. At the same time, they see the initial source of their growth fade while they face new outside threats.

Most companies cannot prevent shifts in technology or tastes. Eight of the original top 20 firms of the 1955 Fortune magazine list of the 500 largest industrial corporations in terms of sales have dropped in the rankings or disappeared. Among the missing: Bethlehem Steel Corp., Chrysler Corp and Swift & Co. The modern corporation either adapts or decays.

The voguish response to this is "strategic planning." Roughly speaking, this means examining your company, deciding where it ought to go and devising a plan to get there. This is the game Agee tried to play. Mergers, acquisitions and divestitures are standard tactics. In the first half of 1982, there were 1,198 of them, worth nearly $28 billion,

according to W.T. Grimm & Co. About one-third were divestitures.

The attraction of mergers is that they look easier and safer than starting businesses from scratch. A study by Ralph Biggadike of the University of Virginia reviewed ventures started by 200 of the Fortune 500 and found that, on average, it took eight years for new units to attain a positive cash flow. Acquiring a firm seems to promise faster and fatter profits.

Does this maximize innovation for society as a whole? In some ways, the answer is yes. As Bendix's history indicates, many entrepreneurs lack the temperament or intellect to oversee the expanded organizations needed to exploit their innovations. Acquisitions also can spread innovations. Thus General Electric is committed to the electronically controlled "factory of the future." Fulfilling the commitments, though, has meant acquiring small firms that make chips and specialize in computer-aided design and manufacture.

But the other side of the story is this: Management of big companies becomes increasingly abstract, divorced from intimate familiarity with its component parts; planning becomes a game with its own realities. Top executives and directors grow remote from the firms they're buying or the divisions they're managing. Their decisions increasingly reflect consultants' studies, personal power lust or financial fads.

Some years ago, the fad was diversification into many industries to neutralize fluctuations in any of them. Now, The Wharton Magazine of the University of Pennsylvania reports that companies with the greatest product diversity have the lowest profit rates. More recent, the fad was to buy natural-resource firms as a hedge against inflation. In a deflationary world, this looks increasingly suspect.

The Bendix brawl has precious little to do with innovation. The dilemma of a mature economy is that investment decisions are dominated by mature corporations, that may have a conservative bias. Doing big things to keep themselves big, they may ignore the small things that start tomorrow's industries.●

PROTECTING THE UNEMPLOYED AND WORKING TO SOLVE THE PROBLEM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. PORTER. Mr. Speaker, high unemployment is one of the most pressing problems facing our Nation. It is the topic of conversation in board rooms and at dinner tables everywhere as newspaper headlines document the gloomy statistics.

Nationwide, the unemployment rate was 9.8 percent in August. In Illinois it was 11.8 percent in August, a drop from 12.3 percent in July, but still leaving much room for improvement.

The battle against unemployment has to be fought on two fronts. In the short run, we must cushion the financial impact unemployment has on families of laid-off workers. In the long term, we have to restore the strength of the economy which provides people with productive jobs, for which no financial compensation can substitute.

Steps have been taken in Congress to accomplish these goals. As a result of a provision in the tax bill passed August 19, starting next week the Federal Government will provide an extension of benefits from 6 to 10 weeks, depending on the State. Workers in Illinois will be eligible for the full 10 weeks.

This action, which I supported, was necessary to prevent about 50,000 Illinois jobless from losing financial support.

These additional benefits will be made available to the unemployed worker after he has received up to 39 weeks of benefits from the State and Federal Government combined.

I have cosponsored pending legislation aimed at relieving the strain that unemployment has placed on family finances and State budgets. One aspect of the bill sets up regions to which additional extended benefits would be targeted. The targeted areas would be locations where high unemployment continues, even if the State's overall economy has improved.

Another piece of pending legislation waives Federal interest charges for States where the unemployment rate has been high for extended periods. This would be a great help to Illinois, where the unemployment compensation fund is $1.7 billion in debt to the Federal Government.

However, unemployment benefits only provide temporary relief, they are no substitute for a job.

Steps are also being taken to address the needs of the unskilled and chronically unemployed. The House passed last month, with my support, a bill to establish a workable partnership between government and the private sector to provide job training and employment to those in need. Called the Job Training and Partnership Act, it is intended to replace the Comprehensive Employment and Training Act (CETA), which expires next month.

I believe this program promises to be far more cost effective than CETA because it allows the business community a greater role in determining how participants are trained and what they are trained for.

The Senate has passed its own version of a job training bill and the differences between the two programs will be resolved in conference committee next month. However, those two bills share a feature crucial to success: Emphasis on training people for jobs in the private sector—jobs with a future—rather than on creating costly and unproductive make-work.

I am hopeful that these programs, in conjunction with what appears to be the start of a long awaited economic recovery, can restore the American people's faith in our country as the land of opportunity. It is that faith that has provided America with its greatest natural resource—the initiative, the energy and the integrity of the American worker.

TRIBUTE TO HALF A CENTURY OF COMMUNITY SERVICE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GREEN. Mr. Speaker, I rise today to pay tribute to a woman who has devoted nearly half a century of service to her community in New York City. The leadership and guidance Mrs. Celine G. Marcus provided the Lenox Hill Neighborhood Association (LHNA) as executive director for 12 years will indeed be missed when she retires this month.

It was a great pleasure for me to have had the opportunity to work with her in the community. Mrs. Marcus, who joined LHNA in 1959, served as assistant and associate executive director before assuming her present post in 1970. A graduate of Barnard College in the field of social services, she has worked continuously on programs that would improve the quality of life in the community.

Through her direction and innovative ideas the LHNA has grown and developed a wide variety of programs to handle local needs. For the elderly, several programs were established including a comprehensive senior citizen center, an outreach program to the homebound, and the Caring Neighbor, a program that provides round-the-clock home attendant services for elderly and handicapped persons.

Programs for the youth of the community were also developed to include job development and vocational guidance services for local teenagers, urban and rural environmental education for school district No. 2 students, year-round camping at Lenox Hill Camp in Connecticut, and youth involvement in service projects for older persons. Mrs. Marcus and the association worked to expand self-help efforts in the community stressing local anticrime initiatives, block and tenant associations, and community recreation leagues.

Mrs. Marcus, apart from her service to LHNA, was instrumental in the founding of Stanley M. Isaacs Neighborhood Center, Interfaith Neighbors, Volunteer Services to the Elderly of Yorkville, and the Yorkville Emergency Alliance. In conjunction with her years at the association, she was actively serving on the boards of the Criminal Justice Coordinating Council, Community Board No. 8, the Yorkville Civic Council, United Neighborhood Houses, and the New York State

Association of Settlement Houses, among others to numerous to list.

I take pride in paying tribute to someone so dedicated to service for the benefit of the community and wish Mrs. Marcus well in her future endeavors which, undoubtedly, will involve service for the betterment of our neighborhoods.●

KEITH SEBELIUS

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MYERS. Mr. Speaker, I remember well the first time I met Keith Sebelius. As a new Member of Congress representing the big First District in Kansas, the Committee on Agriculture was a natural for him. He requested assignment to the committee and received it because of his experience and knowledge in agriculture. We sat next to each other in the committee for 2 years. Because of our seating arrangements I learned to know Keith very early in his distinguished service in the Congress.

Keith had a quality that many people wish they had. He had the ability to see beyond the surface of issues to the far-reaching impact that amendments on legislation we were considering might have. Never, did he lose his temper or back down when he believed he was right. Most often, he was right and those of us who learned to know him, learned to seek his counsel.

We were saddened when he announced in 1980 that he would not seek reelection. I called him a number of times after he returned to his home in Kansas. Many of us still sought his advice. When we learned of his physical problem, we remembered him in our prayers.

The First District of Kansas, his native Kansas, the Congress, and the Nation, has lost a great friend. Carol and I extend our sympathy and our prayers to his wife Betti and his family.

Thanks for sharing Keith with us those years.●

ASSASSINATION ATTEMPT ON THE POPE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. RITTER. Mr. Speaker, I would like to insert a couple of articles regarding the assassination attempt on the Pope into the CONGRESSIONAL RECORD for the benefit of my colleagues and encourage them to read them.

[From the Washington Post, Sept. 3, 1982]

BULGARIA AND THE ATTACK ON THE POPE

(By Stephen S. Rosenfeld)

The problem with modern life is that something hits you at a particular time but you have no direct way to react to it. You can fuss or oh and ah but then your anger or delight dissipates and you are left feeling, if you remember to feel anything, at all, that you have responded inadequately and are the worse for it. It is the disconnect syndrome.

So it was that I read in a vacation-place newspaper last month a brief report on Claire Sterling's investigation of the May 1981 shooting of Pope John Paul II by one Mehmet Ali Agca, since sentenced to life by a Rome court. The thrust of it was that the Bulgarian secret service, which does nothing except on the instructions of the Soviet KGB, had set up a young Turkish terrorist to assassinate the Polish-born prelate for being the spiritual father of Poland's Solidarity movement.

Since I admire Claire Sterling's work on uncovering the facts of international terrorism and since I do not put anything past the Kremlin, I was inclined to believe that brief report on her Reader's Digest investigation. Meanwhile, however, I boiled at the thought of the lousy, slavish Bulgarians doing Moscow's truly dirty work for it. But it was vacation time and, soon, time for tennis, for the sweet hush of sunset in Vermont. Who could maintain a rage against Bulgaria?

Only back in Washington was it possible to read the full Sterling text. What needs to be said is that it demolishes virtually any possibility that Agca was simply a nut, either right-wing or left-wing, or that he was somehow the typical product of a turbulent, avenging Islamic fundamentalist wave.

He was an international terrorist, a low-born student recruited at university and trained in Beirut who escaped from a Turkish military prison while on trial for killing an editor and took sanctuary for 50 days in Bulgaria before returning to Europe, where he spent some $50,000 in cash living the high life before shooting the pope. In Sofia, Agca had met two men who provided him with the requisite passport and assassination pistol. They are associates of a Turk long used by the Bulgarian secret service to run guns to the terrorists (of all stripes) who almost destroyed Turkey in the 1970s.

As always in these matters, Sterling's account is factual, documented, unattributed and circumstantial in turn. I found her making of the case judicious and her suggested conclusions at the very least plausible. She convinced me it is highly probable the Bulgarians, which is to say the Soviets, contrived "The Plot to Murder the Pope."

The very idea of a state's undertaking to arrange a crime of this boldness is unthinkable to many people, either preposterous at face and in any event beyond courtroom proof or evidence in itself of a hostile political intent on the part of the person raising the question. It takes an imaginative leap or, perhaps better, a realistic leap to contemplate it, unless you come at it from the point of view of the weary cynic who has seen and who excuses everything.

Once you are ready to contemplate the idea, there is the further difficulty of accepting its implications. How is one to deal with a government that may have ordered up or encouraged such a monstrous crime? What might a government that would do that not do?

In respect to the Soviet Union, perhaps there should be and can be no special response—beyond the airing of the charge. Either you reject it or you credit it, in which case you probably see it as confirmation of something very ugly that you already knew. Your reaction feeds into everything else.

In respect to Bulgaria, however, things are a bit different—and here I come to my Vermont impulse to connect, to act on the anger stirred by reading that the Bulgarians were into murdering popes. Not many of us know much about Bulgaria or have a Bulgaria policy. I was in that category until last Wednesday, when I saw in The New York Times a full-page ad peddling Bulgarian wine.

"Bulgaria," the ad copy said, "is the fifth leading exporter of wine in the world. And for good reasons."

And I thought: Bulgaria is the fifth (or whatever it is) leading exporter of terrorism in the world. And for bad reasons. You may wish to buy their "smooth and elegant" Trakia Merlot (catch the name), "a Monsieur Henri selection with the modest price of less than $3 a bottle." Please do not ask me to share a glass.

DOCUMENTARY BY JIM ANDERSON

WASHINGTON (UPI).—The Soviet Union may have been behind the attempted assassination of Pope John Paul II last year because the pontiff threatened to go to Poland to defend the Solidarity Union movement, a network documentary reports.

The NBC documentary, "The Man Who Shot the Pope, a Study in Terrorism," to be broadcast next Tuesday, lays out a chain of circumstantial evidence and allegations by Vatican and Western intelligence sources to conclude:

"The evidence suggests the possibility that the Russians watched the plot against the Pope, or, at a minimum, knew about the plot and did nothing to stop it."

The documentary's narrator, correspondent Marvin Kalb, said, however, "a Soviet connection is strongly suggested, but it cannot be proved."

NBC quotes Vatican sources as saying the Polish-born Pope sent a secret emissary to the Soviet Union at the time of the rise of the Solidarity labor movement in Poland with a letter to President Leonid Brezhnev.

According to NBC, John Paul's letter said "If the Russians moved against Poland, he would lay down the crown of St. Peter and return to his homeland to stand shoulder to shoulder with his people."

The documentary says this persuaded the Soviets "to gamble on coexistence with Solidarity rather than run the risk of an open confrontation with the Pope."

But when Solidarity became stronger, and more independent, the Russians became desperate and decided to strike at the principal international support behind the Polish freedom movement, the Pope.

Cardinal Silvio Oddi of the Vatican, interviewed in the program, says of the attempted assassination, "Who is interested in this affair? A private person is not interested unless he's a fool. And this man (the attempted assassin, Nehmet Ali Agca), he was not a fool. That's proved. He's a killer, really, a professional. So, he was certainly acting in the name of others."

The Pope was shot May 13, 1981, as he rode through St. Peter's Square in an open vehicle. Agca was immediately arrested, con-

victed July 22 after a 2-day trial, and sentenced to life in prison.

John Paul spent 2½ months in the hospital recovering from three bullet wounds from a 9mm pistol, one in the hand, another in the arm, and third in the abdomen. Part of his large intestine was removed.

The NBC program, shown to a preview audience Tuesday, follows a complicated chain of links between Agca and the Bulgarian secret police and the Kremlin.

The links, described as characteristic of complex espionage operations, run from Agca to the Turkish neo-fascist "Gray Wolf" organization, to the Turkish mafia, which runs drugs and guns to Bulgaria, to the Bulgarian Secret Service, to the Soviet KGB.

The strongest evidence comes from the financial trail left by Agca, ostensibly a 23-year-old student and escaped prisoner, who had access to some $50,000 between the time he broke out of jail in Turkey in November 1979 up to the time he shot the Pope.●

TRIBUTE TO A DEDICATED CITIZEN, GEORGE JOHANSSEN

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. LENT. Mr. Speaker, one of the distinctions of Nassau County, N.Y., part of which I have the honor to represent, is that it has more volunteer firefighters than any other county in the United States.

I rise today to bring to the attention of my colleagues the outstanding record of service of one of those Nassau County volunteers, George Johanssen. His devotion to duty exemplifies the work of the dedicated volunteer firefighters, whose selfless efforts benefit their fellow citizens, their communities and our great Nation.

Mr. Johanssen is now observing his 50th year as an active volunteer firefighter with the Wantagh, N.Y., Fire Department. For half a century, Mr. Johanssen has responded faithfully to the calls of assistance from residents of the Wantagh community.

To honor this amazing record of service, Mr. Johanssen's friends and neighbors are planning a celebration for him at the Wantagh Fire Department Headquarters on October 9. I know that my colleagues will wish to share in this tribute to a most remarkable man.

During his half-century as a volunteer firefighter, Mr. Johanssen has seen great changes in the Wantagh Fire Department, as his community has grown from a small rural village to a thriving suburban community. Its growth reflects the tremendous commercial and residential development in Nassau County over the past five decades.

During his 50 years with the Wantagh Fire Department, Mr. Johanssen has served in many capacities. He has been a lieutenant and a captain, and for 15 years was chief chaffeur of the department. In that capacity he supervised the training of Wantagh firefighters in driving the various pieces of fire equipment, operating the pumping equipment on the rigs, and in other training activities. He has responded to thousands of fire and rescue calls, and demonstrated courage and leadership qualities of the highest kind.

Mr. Johanssen is a life-long resident of Long Island. He was born and raised on his family's vegetable farm in Queens County, near the present La-Guardia Airport. In 1925, his father moved the family to the Hunt Farm on Wantagh Avenue, near its present intersection with Hunt Road, and Mr. Johanssen has lived in the community ever since.

The changes he has seen in the Wantagh community and in the fire department are only a small part of the changes that have taken place in every phase of American life in the decades since his birth.

But sweeping as those changes have been, Mr. Johanssen has never swerved from his devotion to the principles of service to his fellow citizens and neighbors, and to his community. Through all of those decades, he has done his very best to be of assistance when assistance is needed. His service is in the highest traditions of good citizenship. Such individual efforts and dedication have helped to build our country and have made it the envy of the world.

Mr. Speaker, I salute George Johanssen for his outstanding public service. His dedication to his community deserves the highest commendation. I know that every one of my colleagues in the U.S. House of Representatives joins me in offering our sincerest congratulations and our best wishes to this exemplary citizen.●

THE NEED FOR LONG-TERM SOLUTIONS TO UNEMPLOYMENT

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. YOUNG of Missouri. Mr. Speaker, today, we consider the urgent supplemental appropriation for jobs bill (H.J. Res. 562), an important attempt to put the unemployed back to work. This bill will employ 200,000 jobless Americans for up to 6 months in a variety of community service projects, including repairing and rebuilding our bridges, roads, and water systems. Funds under this bill will be targeted to areas with the highest unemployment rate, and priority will be given to those who have exhausted their unemployment benefits.

The benefits of the urgent supplemental appropriation for jobs bill are twofold. On the one hand, it would put the unemployed back to work. At the same time, it would enable economically troubled communities to undertake badly needed public service projects. I do not think that we can afford to vote against this measure.

However, I want to caution my colleagues that in singing the praises of this legislation, we must not lose sight of the fact that it is a band-aid approach to our unemployment problems. Most of the public service jobs which are provided under this bill will not lead to permanent employment because there is an essential ingredient missing in this legislation—the private sector. Only by forging a public-private partnership can we hope to put this country back to work.

Fortunately, both the House and Senate have approved comprehensive employment and training measures in which the private sector is an essential ingredient. As I indicated in my testimony at the March hearings which culminated in this employment legislation, of all the lessons to be learned from the CETA program, "I think that the most important is the need to involve the private sector in Federal jobs programs." The House and Senate jobs legislation, which is collectively known as the Training for Jobs Act, is currently pending before a conference committee. Both the House and Senate measures give private industry councils, which are made up of business and industry leaders, an equal voice with local officials in determining how Federal job training funds should be spent. This type of private sector involvement is essential if we are going to place the unemployed in unsubsidized jobs. While I support House Joint Resolution 562, I urge my colleagues to turn away from stopgap approaches to unemployment and concentrate their efforts on long-term solutions such as the "Training for Jobs Act."●

MAKING OCTOBER 1982 NATIONAL SPINAL CORD INJURY MONTH

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. WALGREN. Mr. Speaker, today, I am introducing a resolution designating October 1982 as "National Spinal Cord Injury Month." I hope that my colleagues will join me seeking prompt House approval of this bill.

Spinal cord injury and paralysis are conditions that could happen to any of us at any time. In the next 24 hours, spinal cord injuries will paralyze another 68 Americans. It just happens. And once it happens, it is devastating.

In the words of one mother of a spinal-cord-injured son:

It's more than just being stuck in a wheelchair. It's an on-going, life-threatening, painful trauma, an insatiable consumer of energy, time and psychological strength. The emotional hurt is relentless—and it gets harder, not easier.

Spinal cord injury exacts tragic and painful emotional costs. And it may also be the single most expensive medical problem in the country today. The same mother, Louise McKnew, head of the National Spinal Cord Injury Association, described her family's costs in this way:

Were my son to spend the rest of his life paralyzed, it would cost anywhere from $1 to $5 million. His initial hospitalization averaged $1,000 a day, the rehabilitation hospital cost $7,000 a month, the surgeon's fee for his first operation cost $2,500—and the expenses continue:

A modified van which he drives cost $25,000.

The house addition and modification cost $30,000.

Aides total $9,000 a year.

Physical therapy is $54 an hour.

Leg bags are $128 each.

Wheelchair batteries cost $84 each.

And that's just a sample.

Medical deductions filed with my income tax for 1978, the year he spent in the hospital, totaled $14,872. These were expenses not covered by high option Blue Cross-Blue Shield insurance. This past year they were $24,226. The indirect costs are also high: Yale University invested over $170,000 in architectural modifications for Donny's freshman year—he was their first undergraduate to come in a wheelchair. The total continues to climb, and so does my debt.

For the Federal Government, the annual costs for the support and care of spinal-cord-injured persons is approximately $3 billion. There is another $3 billion in private expenditures. And these costs are rising rapidly, as antibiotics keep those with spinal cord injuries alive longer.

In good conscience, we must direct more resources to the needs of those faced with spinal cord injury. We must do more on research for a cure, on medical care, and on rehabilitation programs, housing, and education, and training opportunities.

Most people have no way to be aware of the trauma involved and the staggering costs faced by victims of spinal cord injury and their families. To focus public attention on the need to address this critical health care problem and the need to find a cure, we propose that Congress designate October as National Spinal Cord Injury Month. A number of States have already taken this step. It is the least we can do.

Out of greater awareness may come much future progress.

This small step can serve as an impetus to accelerate research and to increase public support for programs to help the 500,000 spinal cord injured Americans today.

I hope my colleagues will join me and cosponsor this effort.●

HOW ABOUT RADIO HAVANA?

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. HARKIN. Mr. Speaker, the absurdity of spending the $7½ million (or $10 million, which the cost may be eventually) to build Radio Marti is captured in a recent editorial by Rick Morain, the editor of the Jefferson Herald in Jefferson, Iowa. Congress should put an end to this nonsense for once and for all and get down to the serious business of negotiating with Castro to put an end to these "radio wars" before they become "shooting wars." I commend the editorial to my colleagues.

[From the Jefferson (Iowa) Herald, Aug. 12, 1982]

HOW ABOUT RADIO HAVANA?

It appears that Congress is giving its approval to the administration's plan to spend $7½ million for a government-operated radio station to beam news and propaganda from the U.S. to Cuba. It also appears that the Cuban people will never hear the station: Castro has promised to jam the transmission with a 500,000 radio transmission of his own.

The battle of the airways would knock WHO Radio off the air everywhere except for a small area within 45 miles or so of Des Moines. Greene county might or might not be able to pick up WHO broadcasts. The new U.S. station, to be called "Radio Marti", would broadcast on 1040 kh, the same frequency as WHO's 50,000 watt clear-channel station. When Castro jams Radio Marti, he will also jam the Des Moines station.

We were pleased to see that all six U.S. Representatives from Iowa worked against the wild-eyed Radio Marti proposal, although their efforts proved unsuccessful. The government's about to spend $7½ million for a radio station that the Cuban people will never hear, and Iowans will lose the WHO signal in the bargain.

But it won't be a total loss. If Castro can beam 500,000 watts of power to the United States, it seems reasonable that we in Iowa will be able to pick up his station's signal. After all, WHO goes coast-to-coast and border-to-border with just 50,000 watts. Think of what we'll hear:

Havana talk-radio, with citizen comment on local Cuban candidates, the pros and cons of evolution, and welfare cheaters in Santiago.

Ag programs on the prospects for this year's sugar cane crop, the possibilities of sugar-cane gasohol, and comments about the National Sugar Cane Expo.

The latest hurricane warnings from the entire Caribbean area.

And finally, and most important, Havana's counter to Jim Zabel, with statistics, prospects, coaches' interviews, recruiting accomplishments and play-by-play of the University of Havana Redeyes soccer team.

Maybe Castro will add an English-language overlay to the Spanish for us, the way French and English are both broadcast in Montreal and Quebec. And who knows—maybe some obscure broadcaster at the Havana station will catch the eye of the Cuban entertainment industry and go on to stardom, and from there to politics, rising eventually to succeed Castro himself.

Nah—no chance.●

SOME SPENDING CUTS ARE STUPID

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ECKART. Mr. Speaker, the Lake County News Herald recently published an editorial opposing the Reagan administration's foolish and thoughtless proposal to scale back the Nation's waste water treatment program. Clearly, this proposal is anti-clean water, antienvironment and as the editorial states succinctly "one examle of Government economy that is ill advised and stupid."

This Congress should not sound any retreat on any program that is proving to be successful. Any action that allows an increase in water pollution is, indeed, a turning back of the clock.

SOME SPENDING CUTS ARE STUPID

Cutting back on the federal government's unnecessary intrusions into our everyday lives was one of the chief campaign promises of candidate Ronald Reagan when he sought the presidency in 1980.

So far, he has been trying mightily to succeed in this area of endeavor.

Hardly a week goes by that we do not get word of some sector in which an attempt is being made to trim the government's role.

That's because much of the government's work is sheer bureaucracy—full of sound and fury and signifying nothing, as Shakespeare so eloquently put it.

The key to success, though, is for the administration to keep in mind that its goal is to cut back only on "unnecessary" intrusions.

There are a good many functions of the government that are vital to the health and well-being of our citizens because they involve the sort of things that people simply cannot do for themselves.

Individuals, for example, cannot protect their environment without the government's assistance.

Yet it was reported this week that the administration is taking a new look at the Clean Water Act, with results that could prove disastrous to residents of this area.

The administration is encouraging cities to scale back on their sewage treatment facilities. This would increase the flow of organic pollutants into rivers and coastal waters.

The government expects up to 800 applications to allow discharge of incompletely treated sewage.

If the requests are granted, it is estimated that municipalities would save between $4 billion and $10 billion in construction and operating costs of sewage treatment plants.

Would you care to put a price tag on Lake Erie?

Would you like to sit on the edge of a dead lake, with fish floating belly up and the stench rolling in like the fog, and con-

sole yourself with the thought that, oh well, some cities saved a lot on money on their sewage plants?

There seems to be some difference of opinion, though, over what effect the proposal would have.

Environmental Protection Agency officials admitted the change would increase the flow of organic pollutants into the nation's waters, but said the agency would not permit enough additional pollution to endanger fish habitats or recreational use of the waterways.

Robert G. Hampston, an assistant director of the New York State Department of Environmental Conservation, said, "We will maintain water quality. We're essentially saying it will not affect water standards."

But Richard Newman, regional water engineer with the same department, warned that marine life and recreational use of the region's waters could be hurt if cities are allowed to cancel plans to build secondary sewage treatment facilities.

Cuyahoga County Sanitary Engineer John J. Garner is even more alarmed. He says that if the removal rate of biological material is allowed to go down to 25 percent, "there will be significant deterioration of our rivers and lake. Some of it will occur immediately." He's talking about Lake Erie.

There are better ways for our government to save money than by turning our rivers and lakes into open sewers.

This is one example of government economy that is ill-advised and stupid.●

CONCERN ABOUT H.R. 6046

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. BONIOR of Michigan. Mr. Speaker, I rise to express my concern over H.R. 6046, the Extradition Act of 1982.

I understand the need to revamp our current extradition laws, which have not been revised since 1882, and to bring them in line with the evolving tenets of international law. In doing so, however, we must take precautions to protect those values upon which this Nation was founded—the respect for individual liberty, especially the right to political dissent.

This bill does not provide adequate protection for these rights. Under its provisions, an individual—even an American citizen—could be held without bail on the mere allegation by a foreign government that an extraditable crime had been committed. This would provide foreign governments with powers that our Constitution and laws have explicity prohibited to our own authorities. The bill would also greatly narrow the definition of the political defense exemption, which now protects political dissidents from extradition proceedings. Moreover, the bill contains insufficient safeguards to insure that a request for extradition is not a veiled attempt to persecute political opposition, and lacks provisions to insure that due process will be guaranteed for the accused.

Democracy and the right to political dissent are uncommon entities in the modern world. If this bill is passed unamended, we in Congress will strike a blow against these all too fragile principles. While international cooperation is necessary to combat terrorism, we must take steps to insure that our own laws do not become an arm of foreign governments engaged in terrible repression of their own peoples.

The Extradition Act is significant not only as an expression of our own Nation's commitment to human rights and individual liberties; it is a matter of life and death to many courageous people who have spoken against tyranny in their own land and sought refuge in this country. It deserves the most careful consideration. I hope this bill will not be scheduled for floor consideration in the next week. If it is, I intend to participate in the debate and will urge others to speak out in support of amendments to protect civil liberties.●

EXHIBITIONS OF AMERICAN ARTISTS

HON. HAROLD WASHINGTON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. WASHINGTON. Mr. Speaker, the paintings and graphics of Dr. Margaret Burroughs, a long-time friend and resident of the First Congressional District in Chicago, Ill., will be jointly exhibited in Washington, D.C., with sculptures of the late Marion M. Perkins.

Patrons and scholars of the visual arts will be treated to a highly significant and historical event from September through November 1982 when the talents of Dr. Burroughs and Mr. Perkins will be displayed at the Evans-Tibbs Collection of American Art. The Evans-Tibbs Collection, located at 1910 Vermont Avenue NW., is a nonprofit organization formed to preserve and exhibit works of art by and bibliographic material on American artists of known African ancestry. Named for Mrs. Tibbs, an internationally acclaimed lyric soprano known professionally as Madam Evanti, the collection undertakes the presentation of artistic exhibits of historical significance in its galleries for the benefit of the public.

Dr. Burroughs was cited in a White House ceremony honoring Afro-American artists by former President Carter for her achievements in the arts. Gifted with a wide range of artistic talents, she has established herself in the Chicago community not only as a fine artist, but also as a leader in the effort to educate and develop young artists. These efforts and her interests in African-American history and culture led to her to becoming a founding member of the South Side Community Art Center, originator of the Lake Meadows outdoor art fair, and one of the founders and presently director of the DuSable Museum of African American History.

Mr. Perkins chose to work with stone to create his works. As one of the leaders of the social realist movement in Chicago, Perkins' work communicates this realism within a didactic artistic milieu. His work has been exhibited worldwide and is included in the collections of Chicago's DuSable Museum, the Embassy of Ghana, the National Conference of Christians and Jews, and the South Side Community Art Center in Chicago—to name a few. In the 1950's, Perkins was awarded several purchase prizes from the famous Chicago Art Institute.

This retrospective exhibition which will highlight the contributions of these two great American artists to 20th century American art, is significant and deserving of national recognition. It is through the brilliant statements in the works of Burroughs and Perkins that significant artistic movements materialized to further develop an American school of expression known as social realism. And, it is through their works and those of other artists, that the American esthetic is preserved.●

RCRA REAUTHORIZATION

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GORE. Mr. Speaker, the burning, for energy recovery, of hazardous wastes in boilers and cement kilns without the application of any RCRA requirements is a serious environmental problem that may grow larger in the future. EPA now exempts burning hazardous wastes for the "primary purpose of energy recovery." EPA has never defined what that test is, or how such a test would be applied. Unregulated burning will become even more economically attractive as EPA's regulatory program becomes more effective in closing down illegal practices and in restricting land disposal of hazardous wastes. This burning loophole must be closed now.

The seriousness of this problem has been underscored by a recent report, "Impact of Burning of Hazardous Wastes in Boilers," prepared by Fred G. Hart Associates, Inc., for SCA Chemical Services.

Citing EPA studies, the Hart report shows that one half of all the hazardous waste generated annually in this country is burned as fuel in boilers. That is 20 million metric tons a year exempt from environmental control.

Boilers can destroy as much as 99.99 percent of the hazardous waste feed if they are large, well-maintained, and carefully operated. This is the same standard required by EPA of existing and new hazardous waste incinerators.

But lower destruction efficiencies—from 97 percent to 99.9 percent—are more likely to be found in actual field operations, with some boilers as low as 95 percent. A boiler with a 97 percent destruction efficiency will emit 300 times more pollutants than a permitted incinerator. This means that 1.2 million tons of pollutants may be put into the environment because the boilers cannot meet the same destruction and removal standard as an incinerator. The Hart study estimates that 147 million more people, or 68 percent of the population, may be exposed nationally to pollutants from burning hazardous wastes in boilers with an expected destruction efficiency of 97 percent, rather than 99.99 percent.

This loophole will be eliminated by section 6 of the RCRA reauthorization bill, H.R. 6307. It will require EPA to develop regulations applicable to all facilities that burn hazardous wastes as a fuel. While flexibility is needed, it is clear from this bill that the present regulatory loophole for boilers and cement kilns burning hazardous wastes will not be tolerated. This is not to say that all facilities burning hazardous wastes must be subject to all the requirements applicable to an incinerator, although the incinerator regulations should be the starting-off point.

The Hart report identifies three factors that must be considered in developing a regulatory program for the incineration of [hazardous] waste in boilers:

The design of the boiler—its size and type;
The operating characteristics of the boiler in terms of residence time, temperature, turbulence, and other operating conditions;
The waste to be burned.

The national boiler regulatory program recommended in the Hart report would "differentiate between different types and sizes of boilers and different hazardous wastes to determine whether, and under what conditions, hazardous wastes could be burned."

Until the full regulatory program recommended by the Hart report and required by section 6 of H.R. 6307 is established, EPA should promptly implement an interim regulatory program for manifesting, monitoring, waste analysis, reporting, and recordkeeping. This also is a recommendation of the Hart report, which is entirely consistent with the committee's report on H.R. 6307:

The Committee believes that the Standards (under 3004(e)) should include the requirements listed in subsection (a) of Section 3004 as appropriate. EPA may make different standards effective at different times. For example, manifesting and recordkeeping may be immediately required, while other substantive standards may be imposed at a later time within the two year deadline.

H.R. 6307 also requires EPA to regulate persons who blend and sell hazardous wastes as a fuel, in addition to regulating the owners and operators of facilities burning the hazardous wastes. Blended fuels will have to be accompanied by a warning label. Customers would otherwise have no way to know that they are being sold adulterated fuel oil. These provisions applicable to fuel blenders will close this additional regulatory gap, as well as provide consumers with protection against the unscrupulous marketing of blended fuel to unknowing purchasers. The magnitude of this problem is evident from a recent survey by the State of Michigan that estimated that close to 1 billion gallons of blended fuel may be marketed annually in Michigan.

Mr. Speaker, section 6 of H.R. 6307 closes one of the last major loopholes in Congress program to regulate hazardous wastes. Approval of the RCRA Reauthorization Act should be a clear signal that there is a bright economic future for those companies like SCA that are committed to providing environmentally sound hazardous waste treatment services. Profitability and environmental controls are, in fact, mutually reinforcing. The demand for high technology hazardous waste treatment services will continue and grow, because the Congress will not tolerate midnight dumping, indiscriminate land disposal, or unregulated burning of hazardous wastes.●

THE CHERISH PROGRAM

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. COELHO. Mr. Speaker, I rise today to recognize the Second Annual Cherish Picnic, which is being held in Merced, Calif., on Wednesday, September 29. The Cherish program is a project of the Merced County Community Action Agency and is a model for other senior citizens programs throughout the State and Nation.

The Cherish project has provided nutritional, health, recreational, and information services at seven locations throughout Merced County and has been able to do so with the support and cooperation of the communities of Merced County.

I would like to take this opportunity to commend those who have contributed their time and efforts to make the quality of life better for the senior citizens of Merced County and to recognize the outstanding support which the community has given to the Cherish project.●

A SALUTE TO ELDER BURTON D. CLEMONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. STOKES. Mr. Speaker, I take this opportunity to join with the members of the Tower of Prayer Church of God in Christ and countless other persons in northeastern Ohio in saluting Elder Burton D. Clemons' 25th year in the ministry. Mr. Speaker, my good friend, Elder Clemons, is the pastor of this well-known and highly regarded church in Akron, Ohio. On Saturday, September 18, 1982, the church membership will host a testimonial dinner in Akron in honor of his tireless work in the church and the community.

Mr. Speaker, I can think of few other persons who have been such a pillar of strength and shining star in the community as Elder Clemons. Through his successful business endeavors and the religious inspiration he has shared with his church members and the community, Elder Clemons has made an indelible mark on the fiber of that community and the souls and hearts of many people.

Because of his numerous achievements within the church and the community, Mr. Speaker, I would like to take this time to capsulize the life of Elder Clemons for my colleagues.

Elder Burton Delano Clemons came to Ohio and the city of Cleveland in 1946. He attended and graduated from the Cleveland public schools in 1950. He later received a bachelor of arts degree in marketing psychology from my alma mater, the Cleveland State University. Currently, he is a senior candidate for a masters degree in pastorial counseling and psychology at the Ashland Theological Seminary.

Mr. Speaker, Elder Clemons and his lovely wife, Gene, have seven children, one of which, Lori, served a few years ago as my congressional page. All of his children have excelled educationally and have become productive contributors in their respective communities.

Mr. Speaker, the excellence of his children and their instinctive determination to succeed mirrors Elder Clemons' drive for success. He has reached heights of achievement that few men even dare to dream of.

Elder Clemons was involved in several businesses over a period of 28 years. He owned and operated two successful service stations. The last one was one of the highest volumed Shell stations in Ohio. He was awarded a franchised auto dealership by the Chrysler Motor Corp. and became the first black to be so designated in the State of Ohio. During 1977, Elder Clemons was saluted by Black Enterprise magazine as

the youngest member of the top 100 black businesses in America. He remained a member of this exclusive group of black entrepreneurs as long as he was in business. Mr. Speaker, in 1977, during the Holy Convocation in Memphis, Tenn., the Church of God in Christ honored him as the Pentecostal businessman of the year.

Mr. Speaker, perhaps more than any other achievement, Elder Clemons is respected for and would point to his work in the church as his primary reason for existence. He accepted his call into the ministry in 1957. He was licensed in 1958 and ordained in 1965.

During that time, he worked with the Williams Temple Church of God in Christ in a host of positions including the trustee board, youth Sunday school superintendent, Boy Scout institutional representative, associate minister and district Y.P.W.W. president.

In March 1968, Elder Clemons was appointed pastor of the Prayer Tower Church of God in Christ in Akron, Ohio. Even though the spirits of the church members were low when elder Clemons came, effectively combining his spirit and positive determination to uplift the work of the Lord, Elder Clemons became a positive catalyst for the church and the surrounding community. Under his leadership, the church has acquired and paid for property valued at over $100,000. Elder Clemons was given a vision by the Lord and decided to change the name of the church to the Tower of Prayer. This name change was to appropriately reflect the new mission of the church which he believes will become the center of prayer for Akron and northeastern Ohio.

Together with his wife and the support of the members of the Tower of Prayer Church of God in Christ in Akron, Elder Clemons is bringing a new meaning to the word "church". The church services and ministries are extended far beyond the church building in an attempt to wrestle with the problems of the community.

Mr. Speaker, it is evident that Elder Burton Delano Clemons is a rare and dynamic human being and servant of God. During his 25 years in the ministry and 28 years in the business world, he has done more than the average human being could ever hope to achieve in a lifetime. He has truly been a blessing to all of those who have come to know and love him. On behalf of the residents of the 21st Congressional District of Ohio, I take this opportunity to salute Elder Clemons on the occasion of the testimonial dinner in his honor on Saturday, September 18, 1982.●

REFORM OF THE BUDGET PROCESS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. CONYERS. Mr. Speaker, yesterday I testified before the Task Force on the Budget of the Rules Committee. The relationship of the Federal budget to the social and economic needs of the Nation is a paramount issue. The task force has the responsibility to consider changes in the budget process that will make it more responsive to what is happening in the Nation.

I want to share with my colleagues a few of the points I made and recommendations that I offered. A summary follows:

Mr. Chairman and Members of the Task Force. What is it we are budgeting for, when we consider budget resolutions? Where do we want to go in the nation, and do the budgets we write enable us to get there?

As it now stands, the budget process is, at best, counterproductive to the necessary task of debating, determining, setting and implementing national social and economic goals. As long as budgets are written, as they are now, without a conception of the goals we ought to pursue and the policies and programs we ought to create, we then are simply budgeting in a vacuum.

I suggest that my colleagues review, if they have not already, an article that appeared in the Washington Post on September 5, 1982, entitled "Summer of '82: A Journal of Distress: Across the Land, Recession Takes Toll." The article describes the following reality: mainstreets of small towns across the country in which most of the shops are boarded up . . . families, roaming nomadically from town to town, camping out on riverbeds or in public parks, unable to find work . . . individuals who scavenge for food or things of value . . . children separated from their fathers so that they can obtain meager public assistance . . . disillusion and despair in many places, in the sunbelt as well as the frostbelt.

These Americans described in the article are simply unable to pull themselves up by their own bootstraps, which happens to be the official social theory in Washington today. Nor can the corporations, or State and local governments, or voluntary organizations do for them what they need to have done. They need jobs, adequate income, security. They need to see the factories of America at full production. This will not happen in any decent interval of time without a national, federal effort and a national, federal plan of action.

What do the budgets we write have to do with this reality? I am afraid, very little. In our budget process, we basically set aside consideration of national social and economic needs. Because our budgets do not relate to national goals—a number of which like full employment are statutory goals, in the law—our nation's needs go unaddressed in any rational, systematic way, and whatever our goals happen to be, they are simply unimplementable and unenforceable.

The Council of State Planning Agencies a year ago published a report entitled, "America in Ruins: Beyond the Public Works Pork Barrel." The study depicts a national public infrastructure of roads, bridges, dams, water and sewage systems, and public buildings that is in a state of acute decay. The study estimates that it will cost upwards of $3 trillion to repair and rebuild the nation's infrastructure. Do our budget resolutions address this reality? Unfortunately, no.

I am proposing that the budget process be directly linked, and become a part of, a framework for national and local economic planning. Budgeting has to be linked to planning. There is no other way for Congress to deal with the economic crisis in the nation today other than to inventory and assess the needs of citizens and communities in a comprehensive way, formulate alternative national plans for dealing with them, and set a series of economic and social goals, as well as fiscal ones, through the budget process, that would become the instrument for implementing these goals and plans.

A proposal similar to this was advanced in 1975 by Chairman Bolling, which he called a "Balanced Economic Growth Plan." A proposal for planning and budgeting that I happen to think is very sound was advanced several years ago by Mr. Nat Weinberg, chief economist of the U.A.W. for 28 years, and a member of the National Commission on Supplies and Shortages, to whom he presented his plan. That proposal was subsequently printed by G.P.O. under the title, "Additional Views of Commissioner Weinberg on Indicative Planning."

Mr. Weinberg envisages that alternative national plans would be proposed by a independent, federal planning commission. The President and Congress would consider the plans or propose entirely new ones. These plans would be debated before the American people. Congress would approve a plan, and the budget resolutions would be required to be consistent with the objectives of the plan.

Under this framework of planning an budgeting, budget resolutions world stipulate goals for employment, production, investment, etc., as well as the current revenue and spending goals.

In 1945, Congress and the President were concerned about the 11 million fighting men and women, and the 12 million other citizens engaged in wartime production, who would have to find jobs in a post-war civilian economy. In response to President Roosevelt's call for a right to a job for every American, a group of Senators led by James Murray of Montana introduced the first full Employment bill. A centerpiece of that legislation was the "National Production and Employment Budget," a form of budgeting that is very close to what I have been talking about today.

Today we are discussing budget reform in the context of a deepening and spreading economic crisis. It has been festering for years. The crisis is not just a matter of cyclical ups and downs, but of long-term industrial and economic decline. The economy may perk up now and then, and yet it is likely to remain chronically stagnant. The cumulative impact of this long-stand decline and distress is staggering. The Task Force, in recommending changes in the budget process, has an opportunity to transform the budget process into an instrument for achieving the goals that all of us want to see achieved.●

"CHINA CARD" IS RUSSIAN ROULETTE

HON. DANIEL B. CRANE
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. DANIEL B. CRANE. Mr. Speaker, President Reagan, in his historic address to Parliament in London, called for all freedom-loving peoples to relegate communism to its rightful place on the ash heap of history.

We in the United States can best respond to that call by consistently opposing communism in whatever form, be it Soviet-style, Chinese-style or Eurocommunism.

Much has been made of the differences between the Marxism of Mao and his successors in Red China and the Marxism of Lenin and his legacy in the Soviet Union.

Some even suggest that U.S. policy should exploit these differences. In our relations with the Soviets, it is called playing the China card.

Mr. Speaker, foreign policy is not a game. Playing the China card is closer to Russian roulette than diplomacy. It does not comfort me that the Soviets and Red Chinese disagree over how to bury us.

In fact, the stronger the Chinese Communists become, the more likely it is they will find accommodation with the Soviets. The game of playing the China card can only end in one of two ways: War with the Soviet Union or Chinese-Soviet reconciliation.

Dr. Ku Cheng-kang examined this subject in depth in an address before the Captive Nations Week meeting of the Republic of China in Taipei. I hope my colleagues will study his remarks of July 23, 1982, carefully.

GLOBAL CAMPAIGN FOR DEMOCRACY TO DEFEAT MARXISM-LENINISM

(By Dr. Ku Cheng-Kang)

Premier Sun, Distinguished Guests, Ladies and Gentlemen, A sacred task of all men is to protect and promote freedom. A fundamental requirement of the task is salvation of captive peoples. More than 1 billion people of the world are in chains under Communist tyranny, and the freedom of the free world is seriously threatened by expansionist Communists. This Captive Nations Week Meeting today is to make freedom-loving people the world over bring forth their strength for freedom against Communism so as to enhance the freedom of the free and wipe slavery off the other half of the world.

I. ULTIMATE VICTORY OF FREEDOM AND DEMOCRACY

All indications are that the present dark period of man's history is about to be over. Forces of freedom and democracy are rising vigorously as the main stream of the age.

Communist rule is suffering insuperable crises, as testified by the heroic Polish struggle and by the Chinese mainland situation that has forced the Peiping regime to call for learning from Taiwan. The Afghans and Salvadoreans are bravely hitting back at the Communists.

The march of the Chinese in the name of the Three Principles of the People against Peiping's Marxist-Leninist-Stalinist-Maoism is the most forceful proof that those who stand for freedom and democracy will ultimately triumph over all Communists.

II. RED UNITED FRONT SCHEMES

The Communists are bent on world communization and human enslavement. There is no possibility whatsoever of their peaceful coexistence with freedom and democracy. We must not entertain the wishful hope that we may through negotiation maintain the balance needed for coexistence with Communists.

Nevertheless, the Communists have kept launching peace offensives, proffering baits of peace possibilities. Such united front moves are to spiritually disarm free democratic forces, weaken the free world defense, and create conditions for armed aggression.

The Soviets have since World War II used negotiations as covers for their positive development of nuclear weapons and missiles, and of naval and air strength.

The Chinese Communists are pushing their peace talk united front schemes. Their attempt is to hoodwink international circles, deceive and force the United States into stopping arms sales to the Republic of China, weaken and isolate the ROC, then use force for their venture across the Taiwan Straits.

Free nations must know well that this is not the first time the Chinese Communists are pushing peace talk united front designs. They had on three occasions in the past half century relied on such offensives for expansion. They repeatedly said that Communism did not suit the Chinese environments, that the Three Principles of the People should be implemented, and that they would not resort to rioting and other tactics of communization. Away from the conference table, however, they augmented their strength through treacherous means and rose to usurp the Chinese mainland power. These bitter lessons must be remembered by all, not just by the Chinese but by all the free people of the world. We must blast all such Communist united front schemes. We should never allow the Communists to wreck the morale and unity of the free democratic camp.

III. IDEALS OF CAPTIVE NATIONS WEEK

Observance of the Captive Nations Week is to promote assistance to the struggle for freedom, democracy, and human rights waged by those held captive behind the Iron Curtain. Communist tyranny over them should never be regarded as an unchangeable fact.

Truly praise-worthy are President Reagan's Captive Nations Week Proclamation of July 16 and the speech he made, in a tone fully reflecting his righteous spirit and moral courage, at that first public signing of the annual proclamation. We strongly support Mr. Reagan's call for the renewal of "our sacred resolve that someday all the people of the earth will enjoy the God-given rights of free men and women," and for the reaffirmation of "our faith over the rule of force and coercion which denies human rights to many other parts of the world today." The President also said: "We renew especially our hope that those countries of Eastern Europe, Asia, Africa, and Latin America now under Communist domination will someday regain their national sovereignty and, again, enjoy the dignity of their own national tradition." This should be taken earnestly by all as the sacred goal of the "Captive Nations Week" campaign today.

The lofty ideals of Captive Nations Week observance must be held high. If free nations were to reconcile with the Communists and let them continue human enslavement, masses of people behind the Iron Curtain of the East and the West would be grievously disappointed in the free democratic forces outside.

The lofty ideals of Captive Nations Week observance must be fully attained. All the people of the free world must rise and squarely face the crises provoked by the expansionist Red slavemasters. Unity and action must be enhanced against them. Efforts must continue for the return of freedom and independence to captive peoples and nations.

IV. RESPONSE TO PRESIDENT REAGAN'S CALL

When addressing Members of Parliament in London on June 8, President Reagan called for a global march of democracy to leave Marxism-Leninism on the ash heap of history.

As we respond to that call, we must emphasize that a global campaign for democracy requires first of all a clear demarcation between friend and foe, and that all the Marxist-Leninist regimes should be dealt with. We must stand against Soviet Russia, against the Chinese Communists, and against all other Red regimes. As a tyrannical regime with persistence in Marxism-Leninism written into its constitution, Peiping should be a primary target of the campaign. The Marxist-Leninist regimes of Peiping and Moscow must both be left on the ash heap of history. Fundamentally, anti-Marxism-Leninism does not allow any double standard permitting cooperation with the Chinese Communists for opposition to the Russians.

A strong stand against Marxism-Leninism on the Chinese mainland is the effective first step against Marxism-Leninism in the Soviet Union. Once the 1 billion Chinese are freed from the Marxist-Leninist yoke, peace and security can be assured in the entire Asian-Pacific region. Once the 1 billion people are added to the free democratic camp, the Marxist-Leninist Russian expansionists certainly will be checked.

A global campaign for democracy requires full implementation of President Reagan's stand for peace through strength. In other words, all the free democratic nations must first be able to effectively defend their freedom and security. A global campaign for democracy must start with the U.S. extending assistance to those free democratic nations requiring help against Red aggression.

V. REQUIRED ANTI-COMMUNIST STEPS TODAY

We fully concur in President Reagan's outstanding view that the nature of the struggle between freedom and slavery "is ultimately one that will be decided, not by military might, but by spiritual resolve and confidence in the future of freedom, especially in the face of the decaying and crumbling dreams of Marxism-Leninism."

A prerequisite of anti-Communism is that the free world should not be so eager about peace through power balance as to sacrifice captive peoples or damage the rights and interests of any free democratic nation.

The focus of the "Captive Nations Week" campaign in the present stage should be fully in line with the calls President Reagan issued in his latest historic speech. The weapon in our hand that is much stronger than conquest, deception, and sabotage is the strength of truth. We must fully inject

this strength into Iron Curtain campaigns for freedom and into a global alliance for peace.

The U.S. Government must immediately translate into action the clear-cut, forceful calls of President Reagan. The first step should be rejection of the contradictory tactics of cooperation with the Chinese Marxist-Leninists for opposition to the Marxist-Leninist Russians.

As proven by facts, rapport with the Marxist-Leninist Chinese can only spur the expansionist moves of Marxist-Leninist Russians into the Western Pacific, South Asia, Latin America, and Africa. The United States must refrain from creating another strong Marxist-Leninist force by helping the presently confused and backward Chinese Communists.

What if the Chinese Communists really grow? The better they become able to confront Moscow, the greater the possibility will be of reconciliation between the two Marxist-Leninist regimes. The danger of American association with Peiping is either walking into the regime's trap where the U.S. will find itself at war with the Soviets, or prompting Moscow and Peiping to rejoin hands for a joint world communization drive.

To avert such dangers, the United States must stop befriending the Marxist-Leninist Chinese, sternly reject their interference, faithfully implement the Taiwan Relations Act, and help the Republic of China enhance its military strength for the defense of freedom and democracy. Support to the ROC is also to facilitate China's free democratic unification. That is the only way to end Marxism-Leninism in China. That also is the only effective way to blot Marxism-Leninism out of Russia.

Ladies and gentlemen: Communist challenges to man's freedom are unprecedented. Now is the time for all the free democratic forces to unite strongly and deal blows at Marxist-Leninst forces of enslavement. We should urge all the free democratic nations to respond to President Reagan's call for a global campaign for democracy. We should see to it that free nations convene a conference on anti-Marxism-Leninism. All those who stand for democracy, irrespective of race, nationality, political background, diplomatic connection, and religious belief, should forge a strong unity and carry out these three major tasks:

First, development of the "Captive Nations Week" Movement into a global campaign for the elimination of Marxism-Leninism and enslavement, and for the establishment of a great alliance for freedom, democracy, and peace.

Second, establishment of a global anti-Communist strategy that joins the regional defense organizations and expand them into a global common security system for freedom and democracy.

Third, positive support to the anti-tyranny struggle everywhere behind the Iron Curtain and to the struggle of threatened nations to safeguard their freedom. Spiritual resolve and strength of truth must be fully brought forth for a thorough destruction of the Marxist-Leninist stronghold.

Ladies and gentlemen: At this turning point of history, all the Chinese should, together with all other freedom-loving people of the world, enhance unity and redouble efforts for a thorough defeat of Marxism-Leninism, and for a decisive victory of freedom and democracy.●

THE EXTRADITION ACT OF 1982—FULL DEBATE IS NEEDED

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ROSENTHAL. Mr. Speaker, I am deeply concerned that what happened in the Senate in mid-August not be repeated in the House—that the proposed Extradition Act of 1982, H.R. 6046, not be rammed through this legislative body without due consideration, debate and amendment. If this bill is brought to the floor at all, it should be with an open rule allowing full and complete consideration.

While our extradition procedures do need to be modernized, this must not be done at the expense of weakening civil liberties and the United States reputation as a refuge for those who are victims of authoritarian regimes.

There are a number of specific provisions in the bill which bear further debate and modification. First, the proposed act would remove the authority of the courts to decide whether the alleged criminal is protected by the political nature of his crime and would instead give sole discretion to the Secretary of State. Not only would this pose a threat to our constitutional system of checks and balances, but it would make these decisions subject to political pressure from countries with whom we have extradition treaties—El Salvador, for example.

Second, the accused, even if he is an American citizen, could be arrested without any proof that he is guilty of a crime. As the ACLU, which joins many other civil liberty and human rights groups in opposing this bill, states.

A foreign government's mere, unsubstantiated allegation that an American citizen had, on a visit to the country, conspired to commit a violent act, coupled with a promise to produce evidence at a later date, would compel that the person be held without bail for at least 10 and perhaps for more than 60 days.

Finally, the bill would restrict the definition of political offense to exclude ameliorating circumstances such as when a person uses violence to escape from a foreign prison where he is being tortured. Under the present language there would be no political exception defense to extradition in this, or similarly justifiable circumstances.

This bill is in opposition to everything we hold sacred in the American system of justice. It presumes guilt, puts the burden of proof on the accused and subordinates the U.S. judiciary to foreign regimes who would deal in torture and repression.

I feel certain that when my colleagues take a good look at the provisions of this bill, they will have a good deal more to say about it—and against it.●

H.R. 6113—OCEAN DUMPING AMENDMENTS ACT OF 1982

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. JONES of North Carolina. Mr. Speaker, on Monday, September 20, 1982, the House will consider under suspension of the rules H.R. 6113, the Ocean Dumping Amendments Act of 1982. H.R. 6113 was ordered reported by the Committee on Merchant Marine and Fisheries on May 5, 1982, and was referred sequentially to the Committee on Public Works and Transportation which reported the bill with amendments on July 29, 1982. Subsequently, both committees have reached an agreement on amendments to H.R. 6113 that would reconcile the differences in the bill as reported by each committee. An amendment in the nature of a substitute will be offered in the motion to suspend the rules. The following is the substitute that will be offered:

That this Act may be cited as the "Ocean Dumping Amendments Act of 1982".

SEC. 2. DUMPING PERMIT PROGRAM.

(a) Section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended—

(1) by amending subsection (a)(C) by striking out "and beaches." and inserting in lieu thereof ", beaches, and wetlands."; and

(2) by amending subsection (c) to read as follows:

"(c)(1) The Administrator shall designate sites at which materials may be dumped pursuant to this section and, after consultation with the Secretary, at which materials may be dumped pursuant to section 103; except that no site may be designated by the Administrator under this subsection until the Administrator undertakes and completes an analysis of the characteristics of the site and its suitability for dumping and of the environmental effects which will likely result from dumping. In undertaking such an analysis of each site, the Administrator shall take into consideration the criteria set forth in subsection (a) and shall specifically take into account the following factors:

"(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources.

"(B) the ability of the waters at the site to disperse, detoxify, or neturalize the materials.

"(C) The importance of the site to the surrounding biological community, including the presence of breeding, spawning, nursery or foraging areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms.

"(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the persistent effects on the ecosystem within the site.

Nothing contained in this paragraph shall be construed to limit the authority of the Secretary under section 103.

"(2) The Administrator shall—

"(A) periodically monitor, or cause to be monitored, the effects of the dumping of materials at or adjacent to each site for which the Administrator determines, on the basis of the characteristics of the site and the materials to be dumped, that such monitoring is necessary to accomplish the purposes of this title; and

"(B) at the close of the third year after the site designation and at every three-year interval thereafter until such time as the designation is terminated, estimate the extent of the dumping and other waste inputs that will occur in and adjacent to each site during the next three-year period.

"(3) If at any time the Administrator, on the basis of the factors taken into account under subparagraphs (A) through (D) of paragraph (1), or on the basis of the monitoring or estimates, or both, required under paragraph (2), determines that the site is no longer suitable for such dumping, the Administrator shall—

"(A) limit dumping at the site to certain materials or at certain times or both; or

"(B) suspend or terminate the designation of the site under paragraph (1).

In making a determination under the preceding sentence that a site is no longer suitable for dumping pursuant to section 103, the Administrator shall consult the Secretary.".

(b) Section 103(b) of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413(b)) is amended by striking "recommended" in the last sentence.

SEC. 3. PERMIT CONDITIONS.

Section 104 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Permits issued under this title shall designate and include—

"(1) the type of material authorized to be transported for dumping or to be dumped;

"(2) the amount of material authorized to be transported for dumping or to be dumped;

"(3) the location where such transport for dumping will be terminated or where such dumping will occur;

"(4) the length of time for which the permits are valid and their expiration date;

"(5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, to minimize the harm from dumping, which may include measures that the permittee must take to plan, develop, acquire, or implement, as appropriate—

"(A) alternatives for the disposal of the material,

"(B) processes for reducing or eliminating any contaminants in the material, or

"(C) processes for recycling the material;

"(6) after consultation with the Secretary of the Department in which the Coast Guard is operating, any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, for the monitoring and surveillance of the transportation or dumping; and

"(7) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.".

(2) Subsection (b) is amended to read as follows:

"(b) The Administrator or the Secretary, as the case may be, shall prescribe and collect from the applicant, unless the applicant is a Federal agency, an application fee in an amount commensurate with the reasonable administrative costs incurred or expected to be incurred by the Administrator or Secretary in processing the permit. The application fee shall be deposited to the principal appropriation account or accounts used to carry out the processing of permits under this title.".

(3) The following new subsections are added at the end thereof:

"(h) The Administrator or Secretary, as the case may be, may prescribe such reporting requirements as he or she deems appropriate with regard to actions taken by permittees pursuant to permits issued under this title.

"(i)(1) Two years after the date of the enactment of the Ocean Dumping Amendments Act of 1982, the Administrator may not issue a permit under this title for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements under this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

"(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and exposure levels in rems at the inside and outside of each container;

"(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

"(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

"(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

"(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes:

"(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

"(G) an analysis of the economic impact upon other users of marine resources;

"(H) alternatives to the proposed action;

"(I) comments and results of consultation with States officials and public hearings held in the coastal states that are nearest to the affected areas;

"(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

"(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

"(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

"(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(4)(A) No permit to which this subsection applies shall take effect before the 45th calendar day of continuous session of the Congress after the day on which the permit was issued, and shall be terminated by the Administrator if before the close of such 45th day either House of Congress by resolution disapproves its taking effect.

"(B) For purposes of subparagraph (A), the continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period. If a permit subject to this subsection is issued during any Congress and the last session of such Congress adjourns sine die before the expiration of the 45 calendar days of continuous session (or a permit is granted after the last session of the Congress adjourns sine die), the permit shall be deemed to have been reissued on the first day of the succeeding Congress and the 45-day period referred to in subparagraph (A) shall commence on the day after such first day.".

SEC. 4. CONVENTION ADHERENCE.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by adding at the end thereof the following new subsection:

"(g) To the extent that they may do so without relaxing the requirements of this title, the Administrator and the Secretary shall adhere to and apply the requirements of the Convention, including its annexes, that are binding upon the United States.".

SEC. 5. TRANSITIONAL PROVISIONS.

(a) Until completion of the site designation or denial of site designation by the Administrator of the Environmental Protection Agency with respect to any areas of ocean waters approved for dumping on an interim basis before July 1, 1982, and any areas of ocean waters used for dumping pursuant to a court order, the amendments made by this act to the Marine Protection, Research, and Sanctuaries Act of 1972 (other than subsection (c) (2) and (3) of section 102 thereof as added by section 2(a)(2) of this Act and other than those made by sections 3, 5(b), 8, 9, and 10 of this Act) shall not be applicable to those areas of ocean water.

(b) Notwithstanding any provision of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 to the contrary, during the two-year period beginning on the date of the enactment of this Act, no permit may be issued under such title I that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

(1) that the proposed dumping is necessary to conduct research—

(A) on new technology related to ocean dumping, or

(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes

of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialities, and other legitimate uses;

(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

SEC. 6. DEFINITION OF "MONITORING".

Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended by adding at the end thereof the following new subsection:

"(m) 'Monitoring' means the systematic, time-series observation of materials, contaminants, or pertinent components of the marine ecosystem over a period of time sufficient to determine the existing levels, trends, and natural variations of measured components in the water column, sediments, and biota for the purpose of ensuring that immediate harmful effects of dumping are detected, and cumulative and long-term effects are detected, forecasted, and evaluated. Observations may include, but are not limited to, the following procedures, depending upon the type of waste to be dumped and the characteristics of the site: (1) seasonal sampling and analyses of the infaunal community and sediment for purposes of characterizing structural composition and size distribution; (2) sampling and analyses of sediment and selected organisms to determine levels of hydrocarbon, trace metals, and chemical and pathogenic contaminants identified as constituents of wastes to be dumped; (3) profiling measurements of standard oceanographic parameters including dissolved oxygen, salinity, and water temperature; (4) characterization of large-scale surface topography and megafaunal structure and composition; and (5) sampling and analyses to determine levels of nutrients and organic carbon.".

SEC. 7. DEFINITION OF "OCEAN WATERS".

Section 3(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402(b)) is amended by inserting ", and the subjacent areas," immediately after "those waters".

SEC. 8. WRITS OF MANDAMUS.

Section 105(g) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, is amended—

(1) by redesignating subparagraph (5) as subparagraph (6) and adding the following:

"(5) Upon application of any person, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding the Administrator to implement in a timely manner the site designation provisions of this title, as applicable either pursuant to court order or upon application for a permit under section 102 or section 103, except that nothing in this paragraph is intended to affect the conduct of any dumping activity under a permit issued under this title pending the completion of site designation proceedings. Paragraph (4) of this subsection shall not apply to any suit brought pursuant to this paragraph."; and

(2) by striking the word "injunctive" in redesignated subparagraph (6).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended by striking "and" immediately following "fiscal year 1981," and inserting "and not to exceed $4,213,000 for fiscal year 1983," immediately after "fiscal year 1982,".

SEC. 10. SCHEDULE FOR COMPLETION.

The Administrator of the Environmental Protection Agency shall establish a schedule for expeditiously completing the study and designation or denial of designation of all areas of ocean waters approved before July 1, 1982, for dumping on an interim basis and areas of ocean waters used for dumping pursuant to a court order. The Administrator shall submit this schedule to Congress not later than the one hundred and eightieth day after the date of enactment of this section.●

LONG-TERM SOLUTION TO UNEMPLOYMENT?

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GUNDERSON. Mr. Speaker, our unemployed people today need permanent, productive jobs in the private sector, not temporary, make-work jobs funded by the taxpayers.

Yet that is what they would get if we pass the public works job proposal. If we have learned nothing more in the last 2 years, most Americans have learned that we must not retrogress to the worn-out, bankrupt public jobs programs of the past.

Federal spending on such short-term, unproductive efforts has been one of the major causes of today's chronic unemployment predicament. We are confusing the cure with the cause of the insidious unemployment illness that plagues the country today.

Indeed this proposed "cure" may well be worse than the disease. While the proposals contained in the urgent supplemental for the Department of Labor for a job creation program may at first appear inviting, they do little, in reality, to solve the plethora of unemployment difficulties facing our Nation in the long run. Unemployment has remained the one area which the economic recovery program has yet failed to conquer and, to aid the American jobless, Congress recently extended the termination deadline for unemployment compensation benefits.

The jobs program contained in House Joint Resolution 562 appropriates a sum equal to 5 percent of the latest estimated level of unemployment compensation benefits, a figure approximating $1 billion, for the creation of public and community service jobs. It is estimated that this program will provide jobs for 200,000 workers for a period of 6 months.

Although I would rather see these unemployed Americans working than collecting unemployment as they look for a job, this program is simply a short-term, quick-fix answer to a long-term problem. It is unacceptable to promote this temporary program as a solution to employment difficulties facing this Nation. Employing 200,000 of the Nation's 10 million unemployed to perform make-work services for 6 months, only to throw them back into the streets with no new marketable skills or training will not even begin to heal our unemployment wounds.

The return of a healthy labor force will require a drastic reshaping of our work force so that it will keep up with the technological, fast-moving economic world of America's future. Clearly, the retraining of our workers is the primary task necessary to prepare America for its latest industrial revolution and, at the same time, reduce unemployment. In response to this challenge, Congress has already initiated legislation, the Job Training Partnership Act which is presently in conference, to redraw the face of labor.

Examples of the shortage of certain skills are quickly becoming apparent. Machinists are a case in point. The average age of the Nation's machinists is 58 and many are beginning to retire, but only a quarter of those needed to replace them are being trained. It is estimated by the National Tooling and Machining Association that the shortage of machinists will grow to 240,000 by 1985.

In fact, the Bureau of Labor Statistics estimates that over 1 million skilled jobs went unfilled last year, despite the 10 million Americans who were looking for work. The face of American industry and business is rapidly changing. Labor must be provided the opportunity to change it. Just as American agriculture became mechanized and reduced its work force, American manufacturing and other industries are doing the same. It is therefore urgent that our workers be retrained for the skilled jobs that will be demanded.

Along with this retraining effort, the President's program to reduce interest rates must be continued. These high rates have remained the principal cause of unemployment in such beleaguered industries as housing and construction. The economic recovery program has already yielded a significant reduction in interest rates. These initiatives must not be halted in order that the rates may be further reduced.

This program is further unacceptable because it will add significantly to the Federal deficit. As such, the Martin substitute, drawing its funds from the unused synfuels budget, will not counteract the deficit reductions already accomplished by this Con-

gress. However, neither of these alternatives will achieve a long-term solution to the unemployment problem we currently face. Both, despite their obvious differences, would not offer a permanent cure.

Finally, the American people must not be mislead to believe that quick fix programs such as this jobs bill will yield long-term corrective solutions to the deep-seated difficulties of unemployment. This proposal is simply a temporary solution which will not correct the problem, but will delay the constructive application of real solutions. Retraining labor and lowering interest rates are the answer for the long run, while this jobs program will continue the attempt to postpone reality another 6 months.●

CHRIST CHURCH OF SHORT HILLS, N.J.

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mrs. FENWICK. Mr. Speaker, I rise today to recognize the 100th anniversary of an organization which has played a significant role in the lives of many people of my district. Christ Church of Short Hills, N.J., is celebrating its centennial this year. In the past century, the church has grown from 19 founding members to an active body of over 800 congregants.

Since its first service on October 15, 1882, Christ Church has continued its tradition of involvement with the town of Short Hills, one of the oldest and most beautiful suburban communities in the United States. True to Short Hills' community ideals, Christ Church, as reflected in its motto "Ye are all one in Christ," has been operated as a community church to serve all denominations. Through programs such as Outreach, which donates time and money to worthy projects, the church has developed its long and distinguished history of worship, fellowship, and service.

I am introducing a joint resolution to commemorate the centennial of Christ Church of Short Hills. I ask the Members of the 97th Congress to join me in offering their congratulations in the hope that 100 years from now our successors will be able to offer it bicentennial congratulations.●

A FRENCH PERSPECTIVE ON THE U.S. BREEDER PROGRAM

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mrs. BOUQUARD. Mr. Speaker, on August 18, Dr. George Vendryes, Director Delegate attached to the Office of the Chairman of France's Atomic Energy Commission, and one of the chief architects of that country's fast breeder reactor development program, visited with me and other Members to discuss the French nuclear power development activities and to give us his view of the role of the U.S. nuclear breeder reactor program from a global perspective. I would like to submit for the RECORD a report of that meeting prepared by the staff of my Energy Research and Production Subcommittee.

REPORT ON MEETING WITH MEMBERS AND DR. G. VENDRYES (CEA) AND MR. BARRE (NUCLEAR ATTACHÉ)

The morning meeting was attended by the following Members: Mrs. Bouquard, Mr. Brown, Mr. Shamansky, Mr. Bevill, Mr. Morrison.

Dr. Vendryes began with a discussion of the status of the Super Phenix plant at Creys-Malville. Construction is about 75 percent complete. All of the critical parts of the reactor structure are enclosed and under security. Within six months, all nuclear parts will be enclosed. By mid-year of 1983, they will begin sodium tests at uniform temperature as well as check the operation of components under sodium. Power production is expected to begin in mid-1984.

Mr. Bevill asked Dr. Vendryes to express his views regarding the Clinch River project. Accordingly, he reiterated his strong support for this U.S. effort, "The U.S. needs a vigorous breeder program, because the breeder will be needed in the future to solve the world's energy problem." He did not place much credence in the timing arguments used by the project's detractors. In France, the urgency is probably greater than in the U.S. because of their lack of domestic resources such as coal, gas or oil. However, the fact remains, according to Dr. Vendryes, that the breeder will be needed on a global scale. In his view, the U.S. invests more dollars than France in breeder research and technology; but this larger investment is meaningless unless it is focused on producing and operating a powerplant such as CRBR.

The U.S. was definitely the world leader in breeder technology when France decided to develop their own program some 28 years ago. Dr. Vendryes recalled his early visits to the U.S. and his discussions with Walter Zinn of Argonne. These visits and conversations influenced France's decision to start their own fast breeder program. It was clear at that time that (1) sodium technology was well in hand; (2) the U.S. was confident of its ability to produce breeders. As a result the French engineers (Vendryes, et al.) became convinced that they also could master the technology of breeders and operate them safely.

Since that time France has pursued its program without interruption. The effort has had the political and financial support of the political leadership throughout this period of some 27 years, not an insignificant fact when one considers the multiplicity of governments ruling France over this period of time. The French Government did not question priority or budgets as far as France's effort to develop nuclear power in general, and the breeder in particular. He cited the following reasons for this support. First, all French leaders were sure that the breeder will be needed as an important component of the global energy supply. Second, over the past 25 years, France was able to develop solid expertise through its national utility system and assembling and training highly qualified technical and engineering support personnel. In his view, continuity of effort in a project of the magnitude of CRBR cannot sustain a five-to-ten-year delay without risking the loss of expertise and competence. People become disenchanted and leave for greener pastures. It took France 20 years to develop the level of professional expertise they have.

Mr. Bevill then asked if Parliament has been supporting their breeder work at 100 percent, or has their been opposition? Dr. Vendryes responded by noting that of the four major political parties in France, and before the present administration was elected to office, the two majority parties strongly supported the nuclear power program. Of the two minority parties, the Communists were in support of France's strong nuclear posture, while the Socialists were divided on the issue. Following the elections, with the Socialists now in the majority, an intense and heated national debate ensued which lasted from June to September of 1981. In October 1981, the Socialists presented their energy proposal to the Parliament for a vote. Regarding the nuclear power issue, there were two prevailing options to be decided: to essentially terminate the program upon completion of projects in progress, or to continue a strong nuclear power development posture that included continuation of the fast breeder development. The result of this vote was that the nuclear effort received its first majority vote to continue national support. Since then, there has been no problem, according to Dr. Vendryes. In fact, the Prime Minister of France, Mr. Mauroy, has taken an active role in policy related matters associated with the program.

Dr. Vendryes made some reference to the La Hague operation, noting that it is the largest reprocessing plant in the world. France reprocesses all its spent fuel and vitrifies the fission products. He noted that this may become a big issue when they have to consider the next plant after Super Phenix. People there are still sensitive to the waste disposal problem, because this waste occupies such a relatively large volume in a country where most land is at a premium. Thus, final disposal of both high and low-level waste still remains a problem. Dr. Vendryes believes, based on his personal inquiries, that the chief concern of those in opposition to the breeder is that it prolongs the nuclear power option well into the future.

Mrs. Bouquard then asked him if the U.S. could buy breeder technology from France when it is needed here. In Dr. Vendryes' opinion, this would be a mistake. He again argued that the U.S. spends more money than France does on its breeder technology development program. The U.S., he said, needs to build a demonstration plant and a reprocessing facility so that the program can be focused and rendered meaningful to potential users, suppliers and others. The U.S. "needs to revitalize its fast breeder program." The CRBR design has been reviewed and improved over the years, even though delays have been imposed on the project. He made some additional strong arguments in support of our CRBR effort, noting that even though Super Phenix is not considered by French engineers to be the ultimate design, it is needed to understand safety and engineering aspects better. Such under-

standing cannot be gained without actually constructing and operating a plant. He suggested also that using the information derived from CRBR, we could perhaps work together to develop the best systems for the future.

Mr. Brown asked Dr. Vendryes if there was any U.S. contractor involvement in the multinational agreements on Super Phenix. The answer was that to the best of his knowledge—no; at least there was no major U.S. involvement. He then proceeded to describe the multinational agreement on Super Phenix in some detail. The principals in this arrangement are France (51%), Italy (33%), and Germany (17%). There are some management problems (e.g., any decision must be made jointly), but on the whole the arrangement has worked fairly well. Some features of the agreement are as follows:

All partners have full access to data and plant operation experience.

The three countries receive a share of the generated electricity in proportion to their percentage contribution to project.

The various participants share, also proportionately, in equipment contracts. This has produced some serious constraints on deliverable equipment and schedules.

Even with such a complex arrangement, the division of labor and collaboration has worked.

Finally, Mr. Morrison inquired as to whether FFTF capabilities would be of use to the French program. Dr. Vendryes responded that FFTF schedules are geared toward U.S. program needs. If France were to use this facility, they would want to control projects to meet their needs. He did not think that this arrangement would be possible at this time.●

THE FAIR PRACTICES IN AUTOMOBILE PRODUCTS ACT

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. LUNDINE. Mr. Speaker, today I am joining a growing number of my colleagues in the House in cosponsoring the Fair Practices in Automobile Products Act. As someone who has long supported an enlightened free trade policy, I do not take this action casually. But, we cannot ignore the fact that our U.S. automobile industry is rapidly yielding its markets to foreign producers. Since 1978, the percentage of foreign sales in the U.S. market has increased from 17.7 percent to over 27 percent currently.

The effects of this trend are far-reaching. As sales continue to decline, hundreds of thousands of U.S. auto workers have been permanently put out of work. Auto production facilities have continued to close as the rate of capacity utilization in the U.S. auto industry continues to hover below 50 percent. Unless we soon take action to preserve a U.S. auto industry, we may very likely soon be without one.

The threat of total erosion of this country's capacity to produce automobiles demands our serious attention and consideration of extraordinary measures such as that being proposed in H.R. 5133. The auto industry is a key linkage industry that is central to almost every aspect of both our civilian and defense industrial productive capacity. Rubber, glass, steel, and many other critical industries depend upon the existence of a viable American automobile industry.

I am persuaded that a domestic content law can positively contribute to the problems facing the automobile industry for several reasons. First, we must address this problem without further delay. A recent report issued by the National Research Council appropriately confirms this.

The U.S. automobile industry is in a crisis. Vigorous import competition, drastic shifts in consumer preferences, and anemic final sales combined to make 1980 and 1981 two of the most difficult years in the industry's history.

The study goes on further to point out that the future prospects for recovery are uncertain.

If the industry is to survive, the next five years will see wrenching changes in its productive and financial base as new product technologies are introduced, manufacturing plants are retooled, and new relations are established among management, labor, and government.

There are other available options for dealing with the crisis in our automobile industry. I can conceive of even more positive options. Unfortunately, there appears to be little resolve to seriously pursue them on the part of this administration through international negotiation with our trading partners or domestic policies. In addition, there is no other policy option realistically available to Congress in the short term.

Earlier this year, I wrote letters to several of the key congressional leaders on this subject, as well as key administrative trade officials urging them to work together to pursue alternatives to imposition of a domestic content requirement on automobiles. However, neither a coordinated nor a serious effort has been forthcoming to deal with the massive unemployment and erosion of our automobile productive capability in response to my concern.

Second, the fundamental structural adjustment which will be needed to insure a healthy auto industry over the long term will take time. The effects of the current recession on auto industry efforts to achieve this adjustment have been devastating. The lack of a clear and specific national policy to help facilitate this adjustment is also contributing to the erosion of the auto industry. Continuity in the economy will be necessary to maintain the kind of environment to permit successful structural adjustment. A content requirement can provide this continuity.

Third, I am particularly concerned with the increasing tendency on the part of major U.S. car manufacturers to move to foreign out-sourcing of components and parts for their cars. If this trend continues, the vision of only two or three world automobile companies in the future may be closer than we believe. Certainly the recent emphasis on talks regarding a joint venture between General Motors and Toyota for the manufacture of small cars are indicative of such a movement. I believe that were this to occur, it would be extremely unfortunate for our economy and seriously handicap our ability to compete effectively in many, many areas of industrial production.

Four, the threat or actual imposition of such a requirement by the United States would certainly demonstrate to our trading competitors the U.S. resolve to take strong action when critical U.S. interests are threatened by the trade policies of our international partners. In my opinion, we have been all too lax in our pursuit of a firm and tough international trade policy. As a result, we have often done serious damage to the ability of many of our most important industries to remain competitive. While imposition of a domestic content requirement per se would be a departure from past U.S. foreign trade policies, such a requirement is not unprecedented on the part of many of our trading partners who maintain content and/or quota requirements on a variety of products, including cars.

All this notwithstanding, I also continue to have some concerns about the impact such a content requirement might have on the incentive over the long term for U.S. auto firms to modernize and compete. As a result, I believe that the House should consider attaching a sunset provision to the content requirement, or develop a scheme to insure maximum reinvestment of profits by U.S. auto firms in their domestic operations.

At the outset of this debate I had additional concerns over the feasibility of meeting the size of the percentage content requirement that was contained in the original legislation. Since that time, however, this percentage requirement has been made more realistic in redrafted versions of the bill.

In summary, Mr. Speaker, we need to strengthen our international trade policy. No longer can we afford to blindly pledge allegiance to a free-trade doctrine when other nations clearly do not do so when their vital interests are at stake. Movement of the content bill can contribute to strengthening our resolve in this area of national policy.

Our domestic auto industry is in serious trouble. I challenge the Administration to propose an effective alternative to this proposed legislation.

For several months now, I have advocated the development of a national industrial strategy based on development of a consensus between labor, management, Government, and the public interest for both troubled and growth industries. This would also require strengthening our international trade policy. I remain committed to the continued development of such an economic policy for the coming decade and intend to continue to develop other options for assisting the auto industry as a part of these efforts.●

CONGRESSIONAL SALUTE TO LT. FRANK JOSEPH STEVENS, OF PATERSON, N.J., DISTINGUISHED CITIZEN, ESTEEMED PUBLIC SAFETY OFFICER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ROE. Mr. Speaker, on Friday, September 24, the residents of my congressional district and State of New Jersey will join with Local No. 265 of the P.B.A. in testimony to the outstanding public service rendered by one of our most esteemed public safety officers, distinguished citizen and good friend, Lt. Frank Joseph Stevens, of Paterson, N.J., who has announced his retirement as lieutenant of detectives of the Passaic County Prosecutor's Office.

Mr. Speaker, as Lieutenant Stevens retires from his law enforcement career, I know that you and our colleagues here in the Congress will want to join with me in deep appreciation of all of his good works and share great pride in the success of his achievements with his good wife Naomi (nee Brooks); his sister, Kathlyn Stevens Conlon, and family.

Lieutenant Stevens has indeed earned the highest respect and esteem of all of us for the quality of his leadership and highest standards of excellence in seeking to achieve optimum public safety for all of our people. We applaud his 35 years and 5 months of public safety and law enforcement career pursuits in service to our people.

Mr. Speaker, in 1947, Frank served as a fireman for the city of Paterson, N.J., and in December 1947, he was fondly referred to as one of the "Blizzard Cops" appointed by Mayor Furrey to the Paterson Police Department. In October 1951, he was appointed to the Paterson Police Detective Bureau where he was promoted to sergeant in 1956, and 2 years later, on April 1, 1958, was appointed to the Passaic County Prosecutor's Office. He attained his present high office of public trust as lieutenant in April 1976.

Lieutenant Stevens is a lifetime resident of the city of Paterson in my congressional district and served overseas with the U.S. Marine Corps in World War II. He enlisted in the U.S. Marine Corps in June 1942, and served our country with distinction as a sergeant in the Asiatic Pacific and Philippines. He received his honorable discharge in October 1945.

Mr. Speaker, throughout his lifetime, Frank has forged ahead with dedication, devotion, and sincerity of purpose in combating crime and protecting the life of our people. He was the recipient of the New Jersey State PBA's highest Award of Valor in September 1951 and has received many decorations for his valiant courage and heroic deeds performed at great risk and violent danger to his personal well-being. Among some of his major commendations are the following exemplary citations of merit and esteem that he received from the most prestigious Board of Police and Fireman: Capture of murderer (armed) Tom Carino; capture of holdup man (Peter Poth); capture of Mutt-Jeff holdup men; and capture of Ugene Ali when Ed Post was shot (cat-burglar).

We applaud Frank's knowledge, training, hard work, and personal commitment that has enabled him to achieve the fullest confidence and strongest support of his fellow-officers and the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

Lieutenant Stevens has been a staunch supporter and active participant in many civic and community improvement programs and we commend the quality of his professional expertise and leadership endeavors for over three decades in the vanguard of our public safety officers.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America and I am pleased to have the opportunity to call your attention to his lifetime of outstanding public service.

As Lieutenant Stevens retires his official leadership badge of courage and valor, I respectfully seek this national recognition of his contribution to our country in placing others above self in providing safety on the streets, security in the home, and optimum public safety for all of our people. We do indeed salute a great American—the Honorable Frank Joseph Steven of Paterson, N.J.—for his contribution to the quality of life for the people of our community, State and Nation.●

REPRESENTATIVES MOFFETT, DINGELL, AND RODINO INTRODUCE RESOLUTION TO CREATE A SELECT COMMITTEE ON REINDUSTRIALIZATION

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MOFFETT. Mr. Speaker, I am introducing today—with our friends, committee chairmen RODINO and DINGELL—a resolution to create a House Select Committee on Reindustrialization. The committee would work for 1 year, beginning with the 98th Congress, to conduct a thorough study of American industry. At the conclusion of this period, the committee would report the results of its investigation to the House for possible legislative action.

The Reagan economic program of tax and budget cuts has failed markedly to deal with the deeply seated economic problems which plague our industries and Nation.

The program ignores the issues of skill shortages in professions as diverse as computer science to mechanics.

The program ignores the problems of scarce capital for small business.

The program does nothing to increase exports or to deal with unfair foreign trade products.

The program has done nothing to increase lagging steel production despite the fact that our mills are running at 40-percent capacity.

The program pleads poverty at a time when our infrastructure—the bridges, ports, highways, railroads of this Nation—are in shocking disrepair.

All of the committees in the House have legislative jurisdictions which can attack the discrete segments of these problems. But there does not exist a forum for discussing the issues which cross committee jurisdictions. And, there is no central policy panel within the Congress that can build the coalition needed to push through a comprehensive program to deal with these issues.

Because of this, our select committee will draw from nine major policymaking committees members with expertise in these areas. It will examine the issues for a year, and then issue a report. The members will return to their committees and develop a legislative program, where appropriate, to deal with the problems identified in the study. And the result will be a substantial and workable alternative to the economic program which has produced little besides unemployment, high interest rates, high deficits, and no hope.

Printed below is a brief factsheet on our proposal. I would urge the support

and cosponsorship of this measure by all my House colleagues.

FACT SHEET—SELECT COMMITTEE ON REINDUSTRIALIZATION

POLICY

The resolution would create a Select Committee on Reindustrialization. It would begin work at the start of the 98th Congress. The resolution provides for a year long investigation and would require the Committee to report legislative recommendations to the House by December 31, 1983.

The Committee would be directed to conduct a thorough study of the condition of U.S. industry focusing on—whether capital markets generate sufficient investment; what education programs should be emphasized in the 1980's; whether existing training or retraining programs are adequate; the skill areas in which personnel shortages can be forecast; whether industry can improve its adoption of new technologies; the causes of America's lagging productivity; how to address our deteriorating infrastructure; the role of small business in reindustrialization; whether the tax code should be revised to increase investment; what needs to be done about the housing, steel and auto firms; whether existing trade laws adequately protect domestic industry against unfair foreign practices; the proper role for exports in reindustrialization.

MEMBERSHIP

A total of 27 Members will be appointed from the House Committees on Banking, Education, Energy, Government Operations, Judiciary, Public Works, Science, Small Business and Ways and Means.

POINTS TO REMEMBER

1. The Committee will not have special legislative jurisdiction; rather, its role will complement the activities of the legislative Committees by providing a forum for discussion of issues which naturally cross the existing Committee jurisdictions.

2. The existence of the Committee will help publicize problems and solutions which fall outside the narrow and unworkable policies of the Reagan Administration.

SPONSORS

Congressman Toby Moffett; House Judiciary Committee Chairman Peter Rodino; House Energy and Commerce Committee Chairman John Dingell.●

TRIBUTE TO TWO PENNSYLVANIA SCOUTS

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. NELLIGAN. Mr. Speaker, I join my colleagues today in honoring two Boy Scouts from the 11th District of Pennsylvania, which I am privileged to represent. These two Scouts have recently received the highest Scouting award, the coveted Eagle Scout Award.

Mark A. Harmon, 18, son of Mr. and Mrs. Donald Harmon, will be entering the U.S. Marine Corps this fall. As an active member of a Danville, Pa., Scout troop, he provided volunteer services for an area nursing home facility. He is a graduate of Danville Senior High School.

Jeffrey B. Hall, 14, son of Mr. and Mrs. Alfred Hall, is a sophomore at Dallas High School, where he is an honor student involved in wrestling and football. He is a member of Trinity United Presbyterian Church in Dallas.

I commend the troop's Scout leaders for spurring these young men on to such an outstanding achievement, and I join parents, friends, and members of the communities in wishing these young men equal success in their future endeavors.●

CONGRATULATIONS TO MS. SARAH ALICE WRIGHT

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Sarah Alice Wright of St. Albans, N.Y., who recently received the coveted Candace Award of the National Coalition of Black Women. This significant national organization of 15,000 members named only 17 recipients nationwide, and Ms. Wright was the only winner from New York. Because of the great honor and prestige associated with the Candace Award, I would like to share the following article written by Stephen McFarland of the New York Daily News:

ST. ALBANS WOMAN WINS A NATIONAL AWARD

(By Stephen McFarland)

Sarah Alice Wright of St. Albans, national executive director of the Young Women's Christian Association, has been named one of 17 national winners of the annual Candace Award of the National Coalition of 100 Black Women. Wright is the only winner from the New York area this year.

"It's an honor to receive this award," Wright said yesterday, "because 100 Black Women is a very significant national organization, but I was really quite surprised. I was not aware that I was under consideration for the award."

The National Coalition of 100 Black Women is an advocacy organization of socially active black women drawn from all walks of life that seeks the "empowerment of black women," according to Jewel Jackson McCabe of 100 Black Women. It has 15,000 members in 19 states and the District of Columbia. The Candace (pronounced "can-DAY-say") Award takes its name from the ancient Ethiopian title for queen or empress.

The award, which is being presented for the first time this year, recognizes achievement in eight fields of endeavor. Wright is receiving her award in the field of community service. There are two recipients in each of the eight fields and a special Distinguished Service Award that has been won by Rachel Robinson, widow of Jackie Robinson, the first black baseball player in the major leagues.

Wright, who was born in Harrisburg, Pa., has been professionally associated with the YWCA for 30 years. She received a bachelor's degree from the Pennsylvania State College at West Chester, a master's in education from the University of Pennsylvania in Philadelphia and a master's in social work from the University of Pittsburgh.

She began her career with the YWAC in Youngstown, Ohio, and, after coming to New York, served as associate executive director before being named national executive director in 1974. Wright is the first black woman to hold that post.

Wright, who admits to being "60ish," said that in the 1950s and '60s she was active in the Program for Youth of the National Board of the YWCA. "I guess you could say that my first love is working with young people," she said. She also teaches Sunday school and is an active member at Christ Memorial Baptist Church in St. Albans, of which her husband, Emmett, is pastor.

The Candace Award program has been made possible by a subsidy from Bailey's Original Irish Cream Liquer. The awards themselves have been donated by Avon through Tiffany, the Fifth Ave. jewelry concern, which is an Avon subsidiary. The awards are in crystal and depict the head of a black woman.

They will be formally presented at ceremonies on Sept. 30 in the Temple of Dendur of the Metropolitan Museum of Art, Fifth Ave. at 81st St., Manhattan.●

TURKEY

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. COLLINS of Texas. Mr. Speaker, in a recent speech on the House floor, I included a statement relating to the Ecumenical Patriarchate. We have all been concerned with the outstanding historical role of the Eastern Orthodox Church which is headquartered in Istanbul, Turkey. Various issues were raised concerning this report.

I was delighted to hear from the Turkish Ambassador to the United States, Sukru Elekdag. He expressed a full and deeply concerned voice in support of religious freedom with the strong belief of Turkey in complete religious freedom.

I would like to include this statement to me by Ambassador Sukru Elekdag of Turkey.

Allow me to inform you that all Turkish citizens and existing religious institutions in Turkey enjoy religious freedom. Historically, Turkish people have traditionally been tolerant towards other religions and nations. Turkish people are proud of this exemplary tolerance and the privilege of Turkey to have the historical sites of the principal religions. The Ecumenical Patriarchate, a Turkish religious institution, is also under the guarantee of the Turkish Constitution and laws.

The Patriarchate, as a religious institution, discharges its duties without any restraint whatsoever. The Patriarch and the personnel of the Patriarchate as a whole enjoy all the fundamental rights and liberties recognized in the Constitution for all the Turkish citizens. The Patriarch himself,

had the opportunity to state on several occasions to world public opinion that Turkish citizens belonging to Christian minority groups were under no repression in a secular state where all citizens enjoy religious freedom.

In 1979, during his visit to Turkey, His Holiness Pope John Paul II himself testified to this and said (as translated from french): "Today you Christian residents of Turkey are living within a modern state which respects faiths without identifying itself with any and which gives to all the freedom of expressing their belief."●

REDBOOK REPORTS ON HEALTH RISKS OF FORMALDEHYDE FOAM INSULATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. ROSENTHAL. Mr. Speaker, the October 1982 issue of Redbook magazine provides a fascinating and inspiring first person account of how one Michigan family fought against and overcame the health hazards of urea formaldehyde foam insulation.

On May 18 and 19, 1982, the Commerce, Consumer, and Monetary Affairs Subcommittee, which I chair, held hearings into the Federal response to the health risks of formaldehyde in home insulation, mobile homes, and in other consumer products. On August 4, the Subcommittee on Safety Issues Affecting Small Businesses of the House Committee on Small Business also examined the formaldehyde issue.

Mr. Speaker, legislation is pending in the House, including my bill H.R. 6524, which would, in various ways, compensate the victims of formaldehyde offgassing. The health hazards associated with formaldehyde are extremely serious and widespread throughout our Nation. In many ways, the Federal Government "endorsed" the use of formaldehyde foam insulation. It is now the Government's responsibility to assist those whose health and economic well-being have been jeopardized by formaldehyde products.

Redbook magazine should be congratulated for bringing home to the American people in such a human way the tribulation and triumph of a family threatened by a dangerous chemical product. The text of the Redbook article appears below.

[From Redbook Magazine, October 1982]

OUR HOUSE WAS ENDANGERING OUR HEALTH

(By Diane Burton Rabb)

My husband Chris and I couldn't quite believe we were the owners of a brand-new yellow Cape Cod. It was our first house, and though the building process had been carefully orchestrated, we still found it hard to realize it was ours.

We'd planned our home with an eye toward the future—a huge yard and a vegetable garden, bedrooms assigned to future children, a school within walking distance. Built in the wake of the energy crisis, it also had energysaving features most people hadn't even begun to consider. For example, we installed most of the windows on the south side of the house so that we could take advantage of the sun's warmth during our cold Michigan winters. Central to the plan was a new kind of wall insulation that seemed far superior to anything else on the market. Even at nearly double the cost of fiber glass, we were certain urea-formaldehyde foam insulation would be of enormous benefit in that northern climate.

It certainly was strange-looking stuff. A crowd of neighbors gathered as the installers hauled long hoses from the truck into the unfinished house. They filled every wall cavity with a white, powerful-smelling material that spewed out like shaving cream and later dried to a crumbly, spongelike consistency. The fumes were overwhelming, and for several weeks my allergy-prone sister couldn't walk upstairs without having her eyes smart. But by the time we moved in, the house had only a pleasant "new" smell we attributed to fresh paint and wood. Months later we still remarked on our house's newness with pride, savoring the smell every time we came home after a few days' absence.

It was not until our daughter was born, three years later, that we began to suspect the persistent odor might mean that something was very wrong. One evening early in the winter, I was half listening to the news and my attention was caught by a story about a family forced to move from a trailer insulated with urea-formaldehyde foam. The fumes were unbearable. The little girl had cancer. Was there a connection? I looked at Chris, whom I'd hurriedly called in. "That's different. It was a trailer," he said. But that moment a nagging, unspoken fear took root in both of us.

Our concern grew into anxiety a few weeks later when we read a newspaper article citing the growing numbers of complaints from homeowners whose houses were insulated with urea-formaldehyde foam. Tests performed with rats suggested potential health hazards such as tumors and Massachusetts had already banned the material. Yet, other scientists insisted that it would be impossible for human beings to endure the level of fumes necessary to cause tumors in the rats. Still, tumors. Hidden in the assurance was a frightening possibility.

We had already experienced the sinus problems and irritations the article listed as possible effects of formaldehyde. We'd always blamed them on Michigan's fickle weather, but now our symptoms took on a new importance. The thought of our newborn daughter's spending 24 hours a day in an environment that could jeopardize her health made our tight, energy-efficient home seem like a prison. Without telling our friends or each other, Chris and I each began to scout our favorite areas for "for sale" signs.

Some days the whole idea that formaldehyde could be dangerous seemed ridiculous. My father, a chemist with a healthy disrespect for cancer scares, didn't think we should worry. My husband's family voiced its concern. Friends offered a sympathetic ear. I wanted to yell out loud, "Why doesn't someone just tell us this is silly!"

But no one did, including the Michigan Department of Public Health, which began offering an air-testing service [now discontinued] for those who suspected a formaldehyde problem in their homes. The man from the state put testing equipment in an upstairs bedroom and in the family room, and left it to collect air samples for three hours. He told me about a family that had tried pumping ammonia into the insulation to bind the irritant chemically; another family had been forced to move into a trailer behind its home, and later built a room to live in separate from the house. As he left he offered sympathetically, "I hope we don't find anything. Especially with a baby in the house."

I thanked him, assuring him he probably wouldn't. But my confidence was shaky.

For weeks we awaited the test results. My last hope sank as I walked away from the mailbox, letter in hand. "We've got it." I said quietly to Chris as I walked into the house. "Higher in our bedroom than down here." I felt panicky as I thought of our daughter's room, next to ours. It was smaller, and often seemed stuffy.

Chris tried to put the letter into perspective. "Look how small the levels are," he said, and he was right. The figures were infinitesimal, measured in parts per million. We had no idea what they meant. But they shouldn't have been there at all.

The letter said that it couldn't be concluded that exposure at our levels caused health problems, but warned that sensitized individuals could suffer adverse effects at levels below those detectable by smell or eye irritation. Sensitization could happen immediately or after months of exposure. The Public Health Advisory accompanying the letter included a health-effects disclosure that listed possible eye, nose and throat irritation, coughing, dizziness, nausea and other symptoms. It warned, among other things, that formaldehyde gas could continue to be released over a long period of time. Worst of all, in some cases the gas could not be controlled by "ventilation or other inexpensive means." There was a doctor's form attached to the letter, to be returned to the state. We could hardly believe it. This was serious.

We became increasingly unable to cope with the problem, alternating between periods of intense anxiety and slumps of apathy. When one of us was ready to take action, the other retreated, pretending nothing was wrong. We seldom talked about it, and as the problem began to pervade our every thought, we hardly talked at all. We began driving around endlessly, looking for houses for sale, too numb to discuss how we were to find another house like ours when inflation and spiraling mortgage costs meant we could no longer afford it. We didn't talk about how we could sell a house with a serious fault. We never mentioned the immensity of what we would be giving up, or how dearly we loved our house, much of which we had built ourselves. Emotionally we had already deserted it.

Later in the spring the Consumer Product Safety Commission replied to my request for information with a copy of their proposed ban on urea-formaldehyde foam insulation. There were 22 pages of figures and conclusions drawn from a two-year inhalation study on mice and rats, and it was worse than we could have imagined. It stated that even people who were exposed to formaldehyde and didn't suffer acute illness still risked developing cancer. Most frightening of all was the conclusion that there is no exposure level "below which it is certain that formaldehyde will not induce cancer." The only reliable remedy: "physically removing the product from the walls

of the building," at a cost of thousands of dollars.

The information jarred us out of our apathy. We consulted a lawyer. He thought we might have a case, but in the absence of any serious present illness or disability we would be able to sue only for the cost of replacement, and the fight might be expensive. He suggested that we first talk with the local installer, expressing our concern and firmly suggesting the company take responsibility.

The installer was sympathetic but didn't feel the results of the study were conclusive. No, the product was no longer being used; no, they hadn't had any other complaints out of 2,800 homes (we knew of problems in others); no, they weren't responsible. If we wanted an air purifier, he'd lend us one. We felt like frightened children who had just been offered a night light. Chris was furious when he hung up the phone. "I hope he has it in his house," he fumed.

The lawyer had also told us we shouldn't sell the house without a full disclosure. If the new owner proved sensitive to formaldehyde, we could be liable. Admission of the problem would certainly damage the selling price. And it looked as if the cost of any attempts to remedy the problem ourselves would come out of our own pockets. Whichever way we turned, we lost.

Meanwhile there seemed to be a new and growing realization on every level of the hazards of formaldehyde. When Dad, our last remaining advocate for staying in the house, urged us not to spend another winter there, we knew we had to remove the insulation at any cost.

For the first time we began to open up to neighbors and friends. Almost miraculously, the casual discussions that followed generated countless suggestions, as well as commitments of labor and equipment. The contractor building a house across the street was interested in taking on the job during a slack period, letting Chris and a volunteer crew provide the labor. A call to the original siding contractor led us to speculate that it might be possible to pull off and reuse the siding and Styrofoam-board insulation. Buoyed for the first time in months, we decided to go ahead.

On a hot August morning, refrigerator well stocked for the band of friends, relatives and neighbors assembled outside, the project began. Every piece of siding was carefully removed, numbered, and laid out on the lawn like a jigsaw puzzle. The foam sheeting was taken off and carefully stacked. The white insulation broke into chunks and crumbled, littering the yard and swirling like snow as it was stuffed into huge bags. The workers wore face masks, but that didn't keep particles of foam from covering their hair, their clothing and their sweating skin. The foam came out easily, but every stud had to be carefully scrubbed with a stiff brush to remove the residue. It was unnerving to watch the house being stripped bare—a sudden thunderstorm could have meant disaster.

In just one long, arduous weekend, two sides of the house had been stripped, cleaned out, reinsulated and put back together without a single telltale mark. The whole project took three weekends. Because volunteers supplied the labor, the contractor charged us only for his time and materials, bringing the total cost to a little over $1,000. (We have since spent an additional $500 to remove some interior walls to get at insulation inaccessible from the outside). We had received an initial rough estimate of $6,000 for the entire job, so we were thrilled. Recycled materials and volunteer labor saved us thousands. We consider it our great good fortune to have had friends and neighbors who rallied behind us, working up to ten hours a day in sweltering weather without ever making us feel this was anything but the most vital project in the world. To them we owe our health and peace of mind, as well as the spirit of sharing that has pervaded our neighborhood ever since, making us doubly glad we were able to stay.

We'd decided even before we tackled the project not to take legal action. We were afraid that if we lost, we would no longer have the money to remove the material from the walls. Afterward, just being free of the problem was like a brand-new start, one we didn't want to muddle with the anxiety and expense of a court battle. But we're still angry at having had to pay twice over for our energysaving efforts; furious that the product was placed on the market without testing; impatient with the snail's pace of action to establish whether there truly was a hazard; concerned for the countless families for whom there is no simple solution. And sometimes, in the wee hours, I'm unable to shake the tiny bur of anxiety that says there may still be health effects to come. My husband and I have realized for the first time just how alone the consumer can really be. And as new parents, how vast our responsibilities are.

And yet, some very good things came out of our experience. We have a clean, odor-free house. Most of our symptoms have lessened or vanished. We've come to recognize the strong network of people we can count on. And ultimately we have the satisfaction of knowing that as consumers and as parents, we were able to stand up and take action against what seemed at first an insurmountable threat to our family's well-being.●

BANKRUPTCY DILEMMA

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. KASTENMEIER. Mr. Speaker, almost 4 years ago, in the final hours of the 95th Congress, this House approved the Bankruptcy Reform Act of 1978 (Public Law 95-598), designed to extensively amend the Nation's bankruptcy laws and upgrade the bankruptcy courts. Legislative approval followed months of debate among House Members and weeks of negotiations with the Senate over the kind of court that should be created for resolving bankruptcy law cases. The issue was relatively simple: Should bankruptcy courts be established as supporting units within the U.S. district courts or as independent separate entities with a general jurisdiction grant of authority fully equal to the district courts? The Congress answered that the former view was preferable. The Supreme Court has now called at least part of that judgment into question.

Advocates of both arrangements regarded the bankruptcy courts as "specialized courts" designed to handle a type of "specialized cases"—bankruptcy cases. Those of us who believed they should remain supporting units within the district courts felt that the "specialized" nature of the work did not require conferring authority which would permit bankruptcy judges to render final decisions in antitrust, criminal, and civil rights cases. Those supporting expansive jurisdiction argued that the bankruptcy courts' work was of vital enough importance to require a conferral of the full range of Federal judicial power.

The House first rejected general jurisdiction for the bankruptcy courts on October 28, 1977, but later approved it on February 1, 1978 (H.R. 8200, 95th Cong.). The Senate, in September of 1978, passed a bill (S. 2266) in which a supporting-unit-arrangement was created. The compromise between the two bodies which was finally sent to the President for approval retained bankruptcy courts as supporting units within the district court structure, but conferred upon them expansive jurisdictional authority equivalent to the district courts in an allegedly narrow field of practice.

On June 28, 1982, in *Northern Pipeline Construction Co.* v. *Marathon Pipe Line Co., Inc., et al.* U.S. , 50 U.S.L.W. 4892 (Nos. 81-150 and 81-546, June 28, 1982), the Supreme Court of the United States concluded that at least a portion of the compromise arrangement approved by Congress in 1978 is unconstitutional. The Court stayed its judgment until October 4 to "afford Congress an opportunity to reconstitute the bankruptcy courts or to adopt other valid means of adjudication * * *."

On August 19, the Committee on the Judiciary ordered reported a bill, H.R. 6978, which would "restructure" the bankruptcy courts as courts of general jurisdiction under article III of the Constitution. The bill may be before this House next week. I do not intend to vote for it. It is the wrong way to respond to the Supreme Court's decision.

In the Northern Pipeline case, the Court held that powers conferred in one section of the 1978 act could not be constitutionally exercised by bankruptcy judges. According to the certiorari petition, the issue before the Court was:

> Whether the assignment by Congress to bankruptcy judges of the jurisdiction granted in Sec. 241(a) of the Bankruptcy Act of 1978, 28 U.S.C. Sec. 1471 . . . violates Article III of the Constitution.

The Court concluded that language in section 1471 as created by section 241(a) of the act conferring jurisdiction over "all civil proceedings arising under title 11 or arising in or related to cases under title 11" was not constitutionally valid. Because the 1978 act did not create bankruptcy courts as

courts under article III of the Constitution—courts whose judges would hold office for life with an absolute guarantee that their salaries of office could not be reduced—the Court held that jurisdiction over all civil proceedings "arising in or related to cases under title 11" is invalid. Whether the Court went further is open to a serious legal dispute.

Realistically, one way Congress can easily correct that jurisdictional defect directly is by amending section 241(a) of the 1978 act. That action would not cost any money at all, and would immediately provide clarification for the bar and business community. In a report filed on September 10 with every Member of the House, the Judicial Conference of the United States recommended precisely that course of action. The conference also specifically recommended that a restructuring of the bankruptcy courts in the manner provided in H.R. 6978 be rejected by Congress as unnecessary, disruptive of sound principles of court administration, and immediately and potentially very expensive. I commend to the attention of all members the conference's analysis and its cost estimates which anticipate immediate increases in expenditures of at least $33 million.

We only have a few weeks left in which to take action. We should act to reassure the public. But we should not rush to judgment by creating an entirely new court structure. Those persons urging adoption of H.R. 6978 tell us bankruptcy judges' work consists of thousands of contested and complex cases. The Judicial Conference tells us that is not a correct assessment. The Conference claims that cases of the type involved in the Marathon case involve only about 5 percent of the bankruptcy filings.

Proponents of H.R. 6978 argue that a new court system is the only way to avoid costly litigation to resolve questions of jurisdictional validity. Yet that is not certain. Any competent lawyer can almost always find a way to raise a jurisdictional question. A new court structure will not eliminate jurisdictional issues; it will generate as many questions as it answers. We literally have no idea, and the Judicial Conference candidly admits that it has no idea how much work will be created for appellate courts by H.R. 6978. How many more judgeships can we create? H.R. 6978 alone will add 227 new lifetenured judges to the more than 1,000 judges already in the Federal courts. I fear we are rushing heedlessly down a road to creating more and more judges and authorizing more and more appropriations for supporting personnel and courthouses, without realizing what the final costs to our court structure and our budget will be.

In sum, we should act responsibly. We could clarify jurisdiction as the Judicial Conference has recommended. I have introduced such a measure today. If problems arise, we can later correct errors easily. Alternatively, we could establish a small number; for example, 15 to 20, of article III bankruptcy judges to hear the cases that require adjudication by a life-tenured judge. Yet a final option is to seek a further stay of the Supreme Court's October 4, 1982, mandate.

If we create a huge new court system like that proposed in H.R. 6872 and then we find 2 years from now that the system is not needed, we cannot correct the damage. Those judges will be there for life. The new court structure is not a proven necessity. If it turns out to be an error, the cost of the mistake will be tremendous and the error will apparently be irreversible.

I noted at the beginning of this statement the origin of our problem: a hasty compromise at the end of the 95th Congress. That effort to compromise then created this problem. Let us not repeat the mistakes of the past.●

GOLD, SILVER, AND BRONZE FOR THE VIRGIN ISLANDS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. DE LUGO. Mr. Speaker, athletes from the U.S. Virgin Islands recently participated in the Central American and Caribbean games (CAC) that took place in Cuba. These athletes competed in a variety of events including swimming, boxing, and wind surfing.

Even though the Virgin Islands may be small in size, a number of outstanding athletes have come forth from our shores. The young people who have competed in the CAC games were quite successful in their endeavors, winning a total of two gold, five silver, and four bronze medals—the largest number of medals won by a Virgin Islands group in an international competition.

Shelly Cramer and Jodie Lawaetz had outstanding performances in the swimming competitions. Shelly, a senior at the University of South Carolina, captured the gold medal in the 200-meter butterfly event and established a new record 2:18:54 in the event. She collected a total of six medals during the games. Jodie, who is 16 years of age and a senior at Good Hope High School in St. Croix, won a silver medal in the 400-meter individual medley and a bronze medal in the 100-meter butterfly event.

A gold medal was won by Kenneth Klein in the wind surfing event. James Larson, who serves in the U.S. Navy, was awarded a silver medal in the boxing competition. A bronze medal was presented to Clifton Charles Wells in his particular event.

These outstanding young people represented the U.S. Virgin Islands and the United States in a manner of which we can all be proud during the course of the Central American and Caribbean games held in Cuba. I am sure that my colleagues in the House join me in congratulating and showing appreciation to these athletes for a job well done.●

JOURNAL OF COMMUNITY ACTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. CONYERS. Mr. Speaker, the Journal of Community Action is only a few years old, but already it has established itself as one of the leading publications in the field of community economic development, neighborhood government, and Federal, State, and local relations. Edited by two veteran community organizers and analysts, Nelson Rosenbaum, formerly of the Urban Institute, and Milton Kotler, founder of the National Association of Neighborhoods, the journal is fast becoming an indispensable source of news, analysis, and ideas on community life.

Each issue contains research reports, policy perspectives, and a section entitled, "Notes From the Field," which surveys the most innovative experiments in community action taking place across the Nation. To illustrate its high standards of journalism, I am attaching for the Members' review an article that appeared in the January/February issue of this year. Lawrence Bailis' article, "Community-Based Organizations and CETA," is an important contribution to understanding the role of community organizations in job training and employment programs. Excerpts from the article follow:

COMMUNITY-BASED ORGANIZATIONS AND CETA

(By Lawrence N. Bailis)

As is almost always the case, federally funded employment and training programs are now at a critical crossroads. During the past fifteen years, supporters of these programs have seen expenditures for the Comprehensive Employment and Training Act (CETA) and its predecessors grow from less than a billion dollars a year to more than $10 billion, only to see them reduced sharply to less than one-third that size, with further cuts likely.

The growth of these programs has been accompanied by the rise of non-profit organizations that claim to serve all or portions of the client community, groups known as "community based organizations" (CBOs) in the CETA parlance. Many nationwide as well as local unaffiliated community groups

were created largely in response to the availability of funding for what were then known as manpower programs (and are now known as employment and training programs since the term "manpower" is currently considered a sexist word). Other community groups had been in existence long before the creation of manpower programs but used the CETA program and its predecessors as an opportunity to widen the range of services that they were providing to the community.

During the past decade, the destinies of the employment and training programs and the CBOs that have provided services in them have become increasingly intertwined. Aided in part by federal regulations that encourage utilization of community groups, CBOs have received as much as one-fifth of the monies allocated to training adults, and the bulk of the monies for certain youth employment and training programs.

The importance of community based organizations to CETA has outweighed their share of total funding dollars. The documented successes of certain community groups in reaching, training, and employing disadvantaged Americans—and the political support enjoyed by many of these organizations—helped to promote the sustained growth in CETA funding. The equally well documented shortcomings in CBO management practices have, on the other hand, hurt the overall image of the program, and thereby contributed to the atmosphere that has helped to promote the recent and ongoing cutbacks.

While many CBOs have developed a broad base of public and private sector funding sources, CETA has become the primary source of funding for many others. Federal grants have helped to sustain many organizations which have become spokesmen for the disdavantaged in areas that go far beyond preparation for the world of work. The cutbacks in CETA and other federal funding sources are thus jeopardizing the viability of many community groups, and forcing almost all of them to step up their efforts to provide alternative sources of funding.

Most of the discussion about the future of federally funded employment and training programs has focused on structural issues such as whether or not the current Prime Sponsor system should be preserved, or on the roles to be played by state government, local government, and the business community. However, for the reasons outlined above, analysis of the potential roles to be played by community groups should play an important part in ongoing efforts to enact a new federally funded employment and training system to replace CETA.

FRAMEWORK FOR DECISIONMAKING

Decisions about the future role of CBOs in employment and training systems should be made on the basis of two kinds of considerations: (a) the future shape of these systems and their objectives, and (b) assessments about the ability of community-based organizations to promote achievement of these objectives as evidenced by their previous track record.

At first glance, neither of these considerations can provide clear guidance. First, while a large number of different legislative proposals have been considered, no one can be sure what federal employment and training programs of the future will look like. Second, nearly a decade of CETA research and evaluation studies has failed to provide definitive conclusions about the strengths and weaknesses of CBOs as service deliveries, or even more general information about what factors contribute to making an organization an effective provider of training services.

However, prudent planners cannot wait until the future is totally clear and predictable, and those who seek to affect the future do not have the luxury of waiting until all of the relevant data had been collected and analyzed. If they do wait, they will find that others have already made key decisions without ever consulting them. Therefore, now is an opportune time to review the role of CBOs in the past and reach conclusions about the role that they can play in the future.

WHITHER CETA?

Before attempting to prescribe the proper role for community based organizations in future federally funded employment and training systems, one must first address two sets of issues:

Is there likely to be any federal funding for such programs beyond the next year or two, and

If so, what are the program goals and structure likely to look like?

While it is always hazardous to make predictions on topics such as this (and doubly hazardous to put one's predictions into print where they can be so easily retrieved and reviewed), several conclusions appear justified by the contents of the legislative proposals offered by Senators Quayle and Kennedy and Representatives Hawkins and Jeffords.

First, major changes in the structure and functioning of employment and training programs seem inevitable. Even those who are happiest with the current CETA system admit that severe cutbacks are raising questions about such previously fundamental aspects of the CETA system as reliance upon local general-purpose governments representing 100,000 or more citizens as the basic planning and operational unit ("Prime Sponsor") under the system, and the importance of providing training allowances to permit low-income disadvantaged men and women to participate in training programs at all

Beyond this, a general consensus appears to have emerged from recent Congressional hearings on CETA that the goals of the reauthorized or redesigned program should stress provision of training opportunities rather than Public Service Employment to the disadvantaged, and in particular to disadvantaged youth.

Despite these changes, the goals of future employment and training efforts are likely to resemble many of the current ones. It also seems reasonable to expect important continuities in the overall structure in which planning and service delivery takes place. Some have called for retaining the current Prime Sponsor System in which cities and counties with a population of 100,000 or more are responsible for employment and training, with the state governors responsible for portions of states that do not meet the 100,000 cutoff. Others have called for raising the population cutoff, and/or increasing the role of the governor as overseer or operator of the entire system within a state. Almost everyone seems to be calling for an increased role by the business community in planning and operating future programs. But, whichever of these or other alternatives is finally chosen, it is clear that some organization will be given responsibility for providing training and related services in a given jurisdiction. That organization will have to decide (a) whether it wishes to provide these services directly or to subcontract for at least some of them, and (b) if they are subcontracted, whom to subcontract them to.

In short, it seems increasingly likely that there will be either government bodies or consortia including government that will be deciding what role—if any—CBOs should be playing in the planning and administration of skills training programs for disadvantaged Americans. While politics will inevitably play a role in making these decisions, empirically based evaluations of the potential and limitations of community groups can also be expected to be influential. The remainder of this article seeks to provide information that will further such planning at both the federal and local levels.

LESSONS FROM THE PAST

During the first eight fiscal years of CETA, community-based organizations have played virtually every conceivable role in the planning and delivering of employment and training services. Many Prime Sponsors, especially the larger ones, have permitted CBOs to function as comprehensive service deliverers, i.e., to perform all needed services from outreach and recruitment of trainees through provison of training and supportive services to eventual placement of clients and followup on their progress on-the-job. Other Prime Sponsors have divided responsibility for client services among a number of organizations, but have given CBOs a number of important functions to carry out.

A recent survey of utilization of CBOs among twenty Prime Sponsors revealed the extent to which CBOs provide training services in adult programs. (Urban Systems, 1979). In cases where community outreach was subcontracted, it was done exclusively by community based organizations. Nearly 80 percent of the subcontractors with responsibility for provision of counseling and related supportive services were CBOs, and more than half of the agencies that provided specialized job development and/or placement were community groups. In addition to this, nearly half of the combined outreach, intake, assessment, and classroom training responsibilities that were subcontracted were assigned to CBOs as well. CBOs were also the leading choice of Prime Sponsors to deliver so-called work experience (on-the-job programs in which the primary benefit is developing work habits rather than skill acquisition) and represented more than 40 percent of the sub-grantees with responsibility for on-the-job training.

If there were universally accepted standards of performance for community-based service deliverers and adequate data to assess their performance, one could review this past experience and decide what CBOs did best, under what circumstances, and so forth. Unfortunately, neither the standards nor the data exist, and so the lessons from the past are more dependent upon judgment than mathematical manipulation of performance data. While there are disputes about all parts of the CBO record to date, it is possible to make relatively conclusive assessments of the role of CBOs as advocates for the client community, as links between that community and the more mainstream training institutions, and as direct deliverers of classroom training services.

THE ADVOCACY ROLE

While statistics about impact of training on earnings of trainees are sometimes hard to come by, there is broad recognition of the fact that community based organizations have been playing a client advocacy role

since their initial involvement in employment and training programs. While all agencies that provide CETA services have felt pressures to "cream," i.e., to serve those who are most likely to succeed within the overall eligible group, many CBOs have apparently been relatively successful in resisting these pressures. While the employer community has incentives to press for serving those who are most likely to become model employees, CBOs have competing incentives to remind government agencies and employers alike that one cannot measure the effectiveness of programs in terms of overall placement rates and cost per placement.

The creative tension between the drive to demonstrate cost-effectiveness and the need to serve those most in need is likely to persist into the forseeable future. While government agencies serving as Prime Sponsors or overseers of employment and training programs might try to resist pressures to cream, a review of the CETA record to date does not give one total confidence that this can be expected to occur throughout all of the decentralized components of employment and training programs across the Nation.

Given this situation, it would seem reasonable to maintain the current statutory role for CBOs in planning employment and training programs—and to consider expanding it. Care must be taken, of course, to insure that advocacy of client needs does not become distorted into advocacy for providing money for CBOs regardless of their merits. The experience with CETA to date, however, suggests that there is little reason to be concerned that CBOs will become overly influential in a planning process that is shared among government officials, business leaders, and other key actors.

LINKAGES TO THE COMMUNITY

Community based deliverers of employment and training services have been funded, in large part, to remedy the perceived failures of so-called mainstream service deliverers (such as public schools, community colleges, and proprietary schools) to serve minorities and other disadvantaged clients. While CBOs have sometimes been seen as competitors to these mainstream groups, they have also often served as the "glue" that has linked the mainstream employment and training system together with the minority and disadvantaged client community.

The history of employment and training programs is replete with examples in which community groups have successfully promoted linkages between mainstream agencies and their disadvantaged clientele through the conduct of such activities as:

Outreach to the client community that is promoted by formal and informal ties between CBO staff and potential client groups,

Intake that is promoted by the location of many CBOs directly in the neighborhoods where clients live,

Assessment of client needs that is promoted by the rapport that can be developed between CBO staff and clients, and

Direct placement of minority groups to further affirmative action goals of major employers that is promoted by all of the other three above-listed factors.

With the increased emphasis on economic develoment within the employment and training systems, community-based organizations have the potential to provide new forms of linkages. Perhaps the most promising of these is promoting ties between minority small businesses and larger Chambers of Commerce or Private Industry Councils.

In recent years, there has been a trend toward centralization of the functions of outreach, intake, assessment and placement, with Prime Sponsors directly carrying out these activities rather than subcontracting them to CBOs and other groups. It is widely believed that these centralized efforts are most desirable in smaller Prime Sponsors where geographic compactness and the relatively small numbers of clients permit centralized facilities to be accessible to those from outlying neighborhoods and where it is administratively feasible to carry them out in a single location. If, as seems likely, the service delivery areas of the future will be larger than the current prime sponsorships, the desirability of centralized outreach, intake, assessment, and placement will decline, and the relative attractiveness of delegating these tasks to community groups with a strong base in the neighborhoods where clients are drawn from will increase.

The above discussion provides logical arguments in favor of utilizing community groups to deliver services that link the mainstream organizations that are delivering employment and training services with the members of and organizations within the client community. But even if the logic is convincing to supporters of community groups, it is doubtful whether it will be enough to convince those with operational responsibility for future employment and training systems. Therefore, the burden of proof is likely to fall on community groups themselves to demonstrate that (a) such linkages are necessary if the overall system is to function as intended and (b) the community groups are better equipped to provide these linkage services than other organizational alternatives.

Doing so will not be easy. The CETA evaluation literature does not provide definitive conclusions on the relative advantages and disadvantages of utilizing community groups for outreach, intake and placement, as opposed to centralizing them within a single government agency. But the difficulty of the task does not diminish the need to proceed with it.

OSHA'S FIRST RULEMAKING: A BIT OF FANCY FOOTWORK?

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. GAYDOS. Mr. Speaker, after more than a year of concentrating on administrative changes and standard modification, the new management of the Occupational Safety and Health Administration has taken a clear first step of its own in originating regulation.

It is a half step at best or, at worst, a piece of fancy footwork that gives the dancer the appearance of moving forward while actually shuffling back, critics say.

In February 1981, in one of its first acts, the new administration pulled back a formally proposed health protection standard that was meant to give workers useful information on dangerous chemicals in the substances they use at work. This was called the hazards identification standard and it was proposed in the closing days of Eula Bingham's administration at OSHA.

The withdrawal was accompanied by promises to proceed expeditiously with a new and equally effective standard that would be drawn according to the commandments of cost effectiveness and the other imperatives of deregulation such as performance orientation.

OSHA Under Assistant Secretary of Labor Thorne Auchter published a notice of proposed rulemaking on the promised new measure in March 1982. This is called the hazard communication standard. It is in the comment stage.

However, the changes made in the intervening year are more than the difference between identification and communication many health professionals and labor unions say.

The chief difference is in the starting point, apparently. Normally a Government agency begins rulemaking with a broad scope that often is narrowed and modified to a point of more-or-less universal acceptability in the give-and-take of the process. This one begins from a point of weakness that critics say may never be overcome.

So the criticism is that the new hazard communication standard inverts the rulemaking process that had been followed in the old hazards identification standard; that the new standard approaches worker health with an air of foot-dragging acceptance of duty rather than deep concern.

Mr. Speaker, the standard and the idea of labeling hazardous material is of deep concern to the Subcommittee on Health and Safety, of which I am chairman, and the subcommittee held 8 days of oversight hearings on it during this Congress.

American workers deal with more than 55,000 substances and compounds containing chemicals and combinations, many of which cause some early reaction and others that bury themselves in parts of the body to show up years later as cancer and nerve diseases and damaged lungs and deformed or stillborn children. Many of these substances in their containers carry only trade names and offer no information on composition or the danger they hold.

Furthermore, the 91st Congress was discussing the idea of labeling more than 10 years ago when the Occupational Safety and Health Act passed. Labeling was one of the hypothetical protections the new agency could offer. The idea was to provide a warning, to state appropriate aid in case of accident, and to establish records of who used what substance to assist in

treatment if disease developed years after the exposure.

How would the recordkeeping be useful? Right now the automobile industry is finding higher than usual rates of certain kinds of cancer in the craftsmen who do its wood modeling work. The agent is not yet identified, but we must assume it will be someday.

Suppose it turns out to be a substance in wide industrial use? Would it not immeasurably advance the effectiveness of occupational health and public health to know when it was used? And where it was used? And to have those who used it alerted to a potential danger? Would it not help avoid future mass confusion of the type we see today with asbestos?

Mr. Speaker, no one in any oversight hearing on labeling disputed that some of these substances are highly dangerous or that the Nation needs to establish some way of dealing with them; not one witness that we heard.

Now, one criticism of the communication standard is the number of workers it affects compared to the number of workers who use these substances.

According to the United Steelworkers of America, about 14 million workers in manufacturing would be under it while about 50 million in construction, utilities, transportation, warehousing, and agriculture would go uncovered.

Another objection is that OSHA's standard would preempt more stringent State and local regulation that began developing in the absence of Federal action. Preemption would overturn the generally accepted idea that States are free to be tougher than the Federal Government if they choose. And it would contradict the trend that OSHA has been fostering by encouraging more States to take up health and safety responsibilities.

One of the more detailed criticisms comes from Dr. Arthur Oleinick, a medical doctor and a lawyer, who is an associate professor of the University of Michigan's School of Public Health. His field is public health law.

Dr. Oleinick, the physician, questions the communication standard's claim of performance orientation.

For example—

He said—

the present proposal neither defines carcinogen nor specifies the minimum data set that will trigger a finding that a chemical poses a cancer hazard. Regardless of which hazard evaluation process the chemical manufacturer uses, the standard's objective in the area of carcinogen labeling and hazard communication remains obscure.

Dr. Oleinick, the lawyer, sees a possibly illegal redelegation by OSHA of the authority delegated to it by Congress.

The standard as proposed—

He said—

will permit the chemical manufacturers to define individually the health hazards to be covered and then to determine whether a hazard is present, using their own notion of what constitutes proof of hazard.

Dr. Oleinick's opinion is that the new communication standard will not yield uniform labeling results while the old identification standard would.

The old would impose costs of $248 million while the new would have a price tag of $230, he estimated, adding the new, "can hardly be justified on the grounds that it will be substantially less expensive than the more comprehensive process" first proposed.

He finds shortcomings medically and legally and in economic justification.

What is Dr. Oleinick's overall opinion?

These deficiencies are so substantial, in my mind, as to raise grave doubts as to both the potential effectiveness and the legality of the present proposal,

He commented.

Dr. Oleinick's perspective for these comments and conclusions is as the consultant who was the guiding hand in drafting the old standard. But even making a substantial allowance for that role, the questions point to the possibility of extensive and expensive litigation and to lengthy delay. Such developments would benefit no one.

The rulemaking process still is open and will be for some time, and right now there is no reason on the record to believe that Secretary Auchter will not heed those critical comments that are valid and well meant.

The subcommittee hearings show there is a universally recognized need for a standard.

They show effective labeling can be attained. We saw instances in which innovative companies established good programs that met most of the needs outlined. And they give away no trade secrets in doing it, by the way.

So to fall short of the mark toward which this first step should lead will put indelibly on record much about this administration.

Foremost, it will say whether this administration is attempting to move toward effective regulation by a new method or whether it is engaged in just another fancy fast shuffle that leads nowhere.●

PUBLIC HIGH SCHOOL FOOTBALL CENTENNIAL YEAR

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the 100th anniversary of the first Needham and Wellesley High School football games. This Massachusetts high schools football rivalry represents the oldest such high school rivalry in the Nation.

On November 30, 1982, teams from Needham and Wellesley High School met at Hunnewell Park in Wellesley, starting what has now become a significant lasting Thanksgiving Day tradition. Of course, today, events like the Needham-Wellesley football game have joined the turkey dinner as an important part of our Thanksgiving Day ritual. And, since that initial encounter in 1882, generations of young people from Needham and Wellesley have squared off every Thanksgiving morning and have provided countless thrilling moments for their friends and families and for local sports fans alike.

Today, the Needham-Wellesley rivalry embodies all of the virtues of athletic competition. The contests have always been noted for their exciting and enthusiastic nature, epitomizing the type of hearty spirit that is unique to high school athletics. Second, the young athletes have consistently demonstrated a high caliber of skill and talent, the dividends of their diligence and their many long hours spent in practice. And finally, while vigorously engaging in competition and striving for victory, the participants have refused to compromise their admirable standards of sportsmanship and have—much to the communities' benefit—fostered good relations and friendship among all those involved.

We are all proud of the history and competitive spirit of this long-standing rivalry. In commemoration of the centennial anniversary of "The Nation's Oldest Public High School Football Rivalry" the year 1982 has been proclaimed "Public High School Football Centennial Year" in the Commonwealth of Massachusetts. Mr. Speaker, I would like to conclude by joining with the Governor and the people of Massachusetts in congratulating all of those past and present, who have taken part in this traditional rivalry and in wishing them every success in their future endeavors.●

CONTINUING STRONG FIRE PREVENTION EFFORTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. WALGREN. Mr. Speaker, I am pleased that yesterday the House passed H.R. 6956, the Department of Housing and Urban Development-Independent Agencies appropriations bill for fiscal year 1983 which included $6 million for the U.S. Fire Administration (USFA). The Reagan administration did not propose funding for the USFA for 1983. The Senate Appropriations Committee has reported

$4.15 for the USFA. Both appropriations and authorizing committees have gone on record in support of continuing the USFA.

The USFA, now a part of the Federal Emergency Management Agency has provided valuable technical and education assistance to local fire departments that respond to approximately 2.7 million fires each year.

I stand with many of my colleagues in Congress, the Joint Council of Fire Services Organizations, and State and local leaders across the country, in support of continuing the USFA and carrying out the mandates of the Federal Fire Prevention and Control Act of 1974.

America's fire problem is grim—approximately 8,100 deaths, over 200,000 injuries, $5 billion worth of property damage and $1.23 billion in direct losses due to arson each year. The 8,100 deaths are roughly equal to having two jumbo jets crash in midair every month. Our national fire problem leaves little justification for a haphazard approach to preventing and controlling fires.

Fire prevention and control is a national problem which demands a national coordinated approach. We must support this effort to continue the USFA.●

HUMAN DRAMA OF GUATEMALA

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. BEDELL. Mr. Speaker, we all know of the great human drama of El Salvador. Less well known, however, is what is happening today in Guatemala. There is an Iowa priest who has been serving in Guatemala for 25 years. For 25 years, he has served and watched the human rights situation there deteriorate. For 25 years, he has been concerned, but he maintained his silence, writing occasionally on what he knew, but insisting on his anonymity.

On Sunday, his silence was broken. On Sunday, the Des Moines Register carried on the front page Father Hennessey's accusations of atrocities by the Guatemalan Army. Why did he change his mind and ask his sister, a nun from Dubuque, Iowa, to release to the public the letters he has written about the conditions of Huehuetenango Province? There are two reasons that have caused him to now place his life in a position of extreme jeopardy.

First, the level and scope of the massacre in the Indian highlands have dramatically increased since the March 23, coup that brought Gen. Efrain Rios Montt to power. "Please use this and anything else I sent to get others to stop this madness," he wrote to his sister.

Second, Father Hennessey learned that the Congress had approved the Reagan administration's request to send $11 million in economic assistance to the Montt government (in reality this figure was $10 million—$1 million being cut by the Appropriation Committee). He decided that if we could approve that aid, it meant that the American people and the Congress were totally unaware of the real conditions that exist within Guatemala today.

The "madness" Father Hennessey speaks of is the wholesale slaughter of Indians in the rural highlands of Guatemala. While he, like many other independent observers, always point out that the guerrilla factions do kill those individuals who refuse to cooperate with them, it is only the army and its allies which engage in the massacres and total destruction of entire Indian villages and hamlets.

Father Hennessey reported that there were 20 incidents in his parish alone during July. For instance, 300 Guatemalan soldiers hearded the people of town 13 into three buildings and told them to pray. The soldiers then set fire to the buildings and 60 families, save 3 men, perished in the flames.

That represents one incident alone. I have asked that his letter to the Des Moines Register be inserted into the RECORD.

Father Hennessey is a man caught in the middle. He wrote to his sister that "The guerrillas are not the answer." Most recently he told her that he feels compassion for the men serving in the Guatemalan Army. Remember that it is quite easy to forget that soldiers are human too. On August 11, however, after a month-long spree, reminiscent of the horrors of Auschwitz, one of those soldiers showed his appall over events within his country by trying to commit suicide in San Mateo. He was not successful, so he was severely punished.

I believe it important for us to now turn our attentions to events within Guatemala, to tell President Montt that we cannot tolerate genocide, to ask that he provide us with a response to these damning allegates and to insure that Father Hennessey will not suffer reprisals for now speaking out. Finally, I would like to humbly urge the Foreign Affairs Committee to review Father Hennessey's allegations and other reports of increased violations of basic human rights in Guatemala so that we may better review the wisdom of our decision to forward $10 million in economic support moneys to the Montt regime. Perhaps we may not be able to put an end to the current madness and terror that grips this nation, but certainly we do not have to condone it.

PRIEST SERVING IN GUATEMALA CHARGES ATROCITIES BY ARMY: DUBUQUE NUN GETS A LETTER ABOUT KILLING

(By Kenneth Pins)

DUBUQUE, IOWA.—A Maryknoll priest and native Iowan serving in Guatemala recently released accounts of government slayings of Mayan Indians that appear to contradict the State Department version of human rights conditions in that country.

"Please use this and anything else I sent to try to get others to help stop this madness," wrote the Rev. Ron Hennessey.

The Aug. 16 letter was smuggled out of Guatemala and sent to Hennessey's sister, a Dubuque nun.

Hennessey, a native of Ryan, Ia., serves Mayans in underdeveloped Huehuetenango province in western Guatemala. He's been almost helplessly recording the destruction of his parishioners for the last few months. And he claims most of the killing has been at the hands of the Guatemalan army, which is under the control of President Efrain Rios Montt, a born-again Christian who is supported by the U.S. government.

Entire villages of innocent people have been destroyed by Rios Montt's army under the pretense of removing "subversives" who aid and abet anti-government guerrillas, Hennessey wrote.

"I see no end to this type of thing," he wrote in the letter received here Tuesday by Sister Dorothy Marie Hennessey.

Like El Salvador and Honduras, Guatemala has been enduring a persistent bloodletting between army forces and guerrillas opposing the regime. But since Rios Montt came to power in March, says U.S. Representative Tom Harkin all the Indians have been labeled subversives, and the government policy "borders on genocide."

"The guerrillas are not the answer," Hennessey wrote. They, too, have killed innocent people who refused to provide them with food, "but nothing like all the people of a village."

A team of State Department officials spent two days in Guatemala in August investigating human rights at the invitation of the Guatemalan government.

"Basically, my impression is that there has been a great change in the attitude," Undersecretary of State Melvin Levitsky said Friday. "Guatemala City is no longer a city of fear."

But in the countryside, where Levitsky said insurgents often ambush army patrols, "The picture is a mixed one and confused."

"It's a struggle for the loyalty of these [Indian] people," Levitsky said, "and many of them are caught in the middle."

Levitsky conceded that the State Department relies heavily on information from the Guatemalan government, and he said he and others involved in the August visit never got out to Huehuetenango province where much of the fighting is going on. But, Levitsky said, "the government claims it does not use indiscriminate violence."

He added: "We've been encouraged by what this new government has been doing." As a result, the United States has increased aid to Guatemala under the Caribbean Basin Initiative.

Hennessey, a missionary in Guatemala for 18 years, sees it differently.

In a letter sent out of Guatemala in late July he wrote: "On the spot I cannot tell if Rios Montt is truly a mystic elevated beyond the cruel reality . . . or if he is really a genocidist in the guise of a Christian prophet.

"Let me give you a few of the happenings of just this month in just this parish, and let you decide for yourselves." Hennessey listed 20 incidents in his parish alone during July that he knows of personally, or has been told about.

July 2—The military came to San Mateo, where Hennessey is pastor, and read a list of 40 names of people who they said would become part of the new civil defense. Ten of those people presented themselves, and were led out of the village where their hands were tied behind their backs and their throats were slashed. Their bodies were found tossed off a cliff.

July 9—Soldiers hanged Diego Mario Mateo head downward from a light pole in the town square, applied their boots to his face, shot him and let him hang there for 24 hours before throwing him into the river. Two other people, supposedly runners for the guerrillas, were taken away to entertain people of other towns in the same way.

July 12-13—In the village of Sebep, soldiers divided the people into three groups and forced one group to kill another, and they forced a third group to kill the second. Thirty-seven people were killed in all.

July 14—The local military commander sent word for all of the people of the village of Petenac to assemble at 11 a.m. All the men were then bound and escorted to a house, where they were shot and stabbed. Their bodies were piled on top of each other and the house was set on fire.

The women of the village, some with babies on their backs, were killed and burned the same way. The children, however, were tied one to another and led into a house where they were burned alive.

July 18—Soldiers told all of the people of the village of San Francisco to assemble in the church to pray, and then set all the village buildings on fire. Sixty families died in the flames.

"There's no way you can confirm any of this," Levitsky said. "One sees burned-out villages when one flies over the country, but who burned them?"

Levitsky argued that it's possible that guerrillas posing as army members committed some of the atrocities, but Sister Dorothy Marie doesn't believe that.

"Roe's right there, he ought to know," she said.

Despite Guatemalan government claims to the contrary, Hennessey said, the army arbitrarily kills villagers thought to have dealings with the guerrillas, Guerrillas often, at gunpoint, force villages to feed them, and Hennessey said the army has made giving food to guerrillas a capital offense. Missionaries who interfere to protect people caught in the middle are often themselves threatened or killed Hennessey, 52, has been threatened for his intervention, which has included offering medical aid and pleading for the release of prisoners.

His sister fears of his safety but said she followed through with his request to release the letters in hopes the killing will be abated.

According to Harkin, "every credible source" has claimed that the rural killing has increased under Rios Montt. "The government has a policy of liquidating Indians," he said, "and Rios Montt has given that his tacit approval."

Hennessey has turned down three opportunities to leave Guatemala, and he was theatened with expulsion for intervening to save three lives in July.●

SOVIET VIGIL

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 16, 1982

● Mr. MOAKLEY. Mr. Speaker, I rise today to join with my distinguished colleague from New York, Mr. LENT, in remembering the plight of those citizens in the Soviet Union seeking immigration to Israel. I would like to take this opportunity to thank Mr. LENT for organizing and leading this year's vigil and for his many efforts on behalf of those Soviet Jews who are not allowed to immigrate to Israel.

I would now like to address the issue of the fate of a Mrs. Galda Nuhimovna Levina, a woman who has continually applied for an exit visa for the last 12 years, only to be refused after each subsequent request. The pain and disappointment this woman has experienced must be indescribable. Unfortunately though, her situation is not at all unique. Over the decades, many people have applied for visas only to be repeatedly refused, becoming virtual prisoners in a country which will not grant them their humble request.

In the specific case of Mrs. Levina, she is a 67-year-old widow who is suffering from cancer, and her prognosis for the future is dim. She survives on a minimal pension provided for her by the government, who also prescribed for her a communal apartment which she shares with two women who are strangers to her. Mrs. Levina's only son was granted an exit visa in 1978, and although he did not wish to leave his mother, he did so at her insistence. Since that time, he has married and is now living in my district in Massachusetts.

At this point in her life, it would seem normal for Mrs. Levina to be enjoying the fruits of her many years of labor in a missile factory, but due to her alleged knowledge of state secrets learned during her employment, she has lived in a state of limbo, waiting for her freedom to be granted, away from her only child and suffering from a debilitating disease. It is my belief that this is a horrendous way for any elderly person to be spending the final years of his or her life.

We in these United States are extremely fortunate to have the religious and personal freedoms that our forefathers made such an integral and crucial part of our Constitution. We are one of the few nation's on this Earth whose citizens are guaranteed the right of self-determination, which I fear we all too often take for granted. Refuseniks of the Soviet Union, such as Galda Levina, do not know what this rare ability is like, but they do know that it is something for which they will fight with every ounce of strength they possess.

This dream of freedom which is held by all the Soviet Jewry is that which has led them this far in their quest for emigration rights to Israel. We are keeping this vigil in the United States in remembrance of their courage and fortitude against a government that holds them captive, though they have committed no grievous act. It is my fervent hope for the future that these people we are supporting and praising today will soon know that security we have as free citizens. And perhaps one day soon, all those who have so valiantly sought freedom and have finally attained it may be seen standing on the shores of a new land, with dreams of a new future before them.●

SENATE—*Friday, September 17, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

God of Abraham, Ishmael, Isaac, and Israel, as Jewish people through America and the world anticipate the High Holy Days which celebrate their new year, we pray for the peace of Jerusalem and the Middle East. Grant to the leadership of those peoples the will to peace. Give them transcendent wisdom in their decisions and actions. Help our President, Secretary of State and others involved in the situation to fulfill our Nation's role in establishing peace.

May the prophecy of Micah soon come to pass:

And they shall beat their swords into plowshares, and their spears into pruninghooks: nation shall not lift up a sword against nation, neither shall they learn war any more.—Micah 4: 3.

On this 195th birthday of the Constitution of the United States, we thank Thee for this remarkable political document on which our Nation is based. We thank Thee for the radical concept "We the people of the United States in order to form a more perfect union." We thank Thee for the strength and flexibility of the Constitution which still works 200 years after its framing.

Thank Thee, O God. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order and the special order for Senator CHILES, that there be a period for the transaction of routine morning business not to extend beyond 10:30 a.m. today in which Senators may make speeches for not to exceed 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, today the Senate will continue consideration of the amendments to House Joint Resolution 520, the debt ceiling bill.

Under a previous order, following the special order for the Senator from Florida (Mr. CHILES) and a period for routine morning business, the Senator from Montana (Mr. BAUCUS) will be recognized to continue debate on his amendment.

There has been no order preventing rollcall votes, so Senators are reminded that there is still a possibility of votes.

On yesterday, however, the majority leader did indicate to the Senate that we would recess today by approximately 2 p.m.

Mr. President, after the session today the Senate will have but 9 working days left until the beginning of the new fiscal year. Thus far, out of the 13 annual appropriation bills necessary to keep the Government operating, the Senate has received only two appropriation bills from the other body, the military construction bill which passed the House on August 19, and the HUD appropriation bill which passed the House last Wednesday.

We face the problem of having to function the majority of the Government, including defense, under a continuing resolution. In my opinion, the country cannot afford to operate under a formula that is sewn together in just a few days, the complications of which are difficult to understand in such a short time.

In my role as chairman of the Defense Appropriations Subcommittee I have been attempting this past week to mark up the Defense appropriation bill for fiscal year 1983.

Some people accuse our committee of trying to spend too much; other people accuse our committee of not spending enough. As a practical matter, the reason why I bring this to the attention of the Senate at this time, is to ask the Senate to do everything it can to avoid having the Defense appropriation bill become a part of a continuing resolution that lasts for just a few months. It will literally cost the taxpayers of this country hundreds of millions of dollars each month if we operate on a month-to-month basis in the largest procurement department of the Federal Government. It is not possible to properly plan and execute the procurement programs and the defense strategy of the United States on a month-to-month basis.

Last year almost on a daily basis my good friend from West Virginia, the distinguished minority leader, asked the Republican leadership when the Senate planned to act on the appropriation bills for fiscal year 1982. The difficulty now is, and my friend has nothing to ask really, because we have only two bills here in the Senate now from the other body for fiscal year 1983. The Appropriations Committee marked up three Senate bills yesterday and we will move as rapidly as possible on those bills.

I am not trying to belabor the point, Mr. President, except to say that there is great frustration brewing in the Senate, and I think it is over the appropriation and budget processes. Members of the Senate still have a chance to make this system work in the next 2 weeks, and one of the ways to make it work is to insist that the defense appropriation bill ought to be a full annual bill in order to save the taxpayers of this country the money that can be saved by acute congressional oversight of the very extensive program of the Department of Defense in this period of modernization.

Mr. President, much remains to be done in the next 2 weeks. I hope the Senate will assist those of us who are trying to do it right.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. CHILES. I notice the distinguished minority leader is not here today, and he did trigger the remarks that he made last year.

I was a little confused with the Senator's statement. I certainly agree with the Senator that we should have an annual defense bill, and we ought to take that bill up. I am a little bit confused as to why we do not have that bill. On the one hand, we do not have a bill over from the House but, on the other hand, the distinguished Senator from Alaska has been saying we cannot mark up the bill we have now because he cannot get the administration to give us any figures as to where the cuts should go.

So what is the problem? Is the problem with the House or with the administration or is it with both places?

Mr. STEVENS. I say to my friend the problem of not having a bill rests with the other body, but the problem of not having an agreement as to the levels of defense to be achieved under the budget process rests with OMB and the Budget Committee.

That has been resolved and we will start marking up the defense appropriation bill on Tuesday.

There was a legitimate dispute. It arose, Mr. President, out of the fact that the Department of Defense was the only Department that was asked to absorb a portion of the pay increase that will come about because of the 4-percent cost-of-living adjustment before the request had been received from the President to increase pay in a supplemental appropriation request. Under the budget procedure, the Defense Department was asked to absorb $1.2 billion before the request had been received. We have now worked that out so they will absorb that cost, as all other departments will, when the supplemental is received next year. We will proceed to mark up the defense bill on that basis. That was a legitimate issue between the Office of Management and Budget and the Budget Committee. The Defense Subcommittee had the unfortunate situation of being in the middle, and so did the Department of Defense.

The Department of Defense was instructed by OMB and the Appropriations Subcommittee, the Defense Appropriations Subcommittee, was instructed by the Budget Committee in the Senate, and we had to get those two bodies that were issuing instructions together so that the rest of us could do our work.

I am happy to report to the Senator from Florida and to the Senate that that matter has been resolved. We are still going to have disputes, though, over the defense bill. I do not think anyone will misunderstand that, but we will not be involved in this basic dispute as to the $1.2 billion.

Mr. CHILES. I thank my friend.

Mr. STEVENS. I meant no disparaging remark with respect to my good friend, the Senator from West Virginia. I meant it is not possible for him to ask these questions this year concerning action on appropriation bills, because we do not have the bills on which to act. We do hope that in the course of considering the continuing resolution the Senate will insist that the defense portion of that bill be for a full year and have the details, in fact, of a full defense bill. That is my goal. I hope it is the goal of the Senate.

I thank the Senator from Florida and the Senate.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. ABDNOR). The acting Democratic leader is recognized.

Mr. PROXMIRE. Mr. President, in the absence of Senator BYRD, I will take only a minute and then yield back the floor and reserve the remainder of his time for his later use if he wishes to use it.

MICHAEL GOLDBERG: A LIFE SCARRED BY GENOCIDE

Mr. PROXMIRE. Mr. President, today I bring to the attention of the Senate the spiritual wounds genocide inflicted upon a young child, Michael Goldberg. Goldberg's book, "Namesake," which recounts his lifelong odyssey toward peace of mind, was reviewed in the New York Times on September 5, 1982.

According to the review, Michael Goldberg was born in France in the late 1930's, the worst possible time to be a Jew in Europe. His father was deported during the war and died in a gas chamber at Auschwitz. His mother remarried, and to save her son from the Nazis, gave him his stepfather's non-Jewish surname. She did not tell Michael that he was of Jewish origin. Hence Michael Goldberg became Michael Cojot, a change that saved his life, but scarred his soul.

Why did Michael's name change damage his soul? His ignorance of his ethnic heritage allowed him to fall prey to the Nazi culture and propaganda of occupied France. He became anti-Semitic, and developed other Nazi traits, such as sadism, destructive ambition, and contempt for others.

The later discovery that he was Jewish aroused a strong sense of self-hatred in Goldberg, which he carried with him for years. His personality was a paradox that only genocide could produce: he was a Jewish Nazi.

When Goldberg was an adult, he lived and worked in a bank in La Paz, Bolivia. He discovered that the Nazi war criminal who caused his father's death at Auschwitz was also living in Bolivia. To avenge his father's death, Goldberg decided to murder the man.

Goldberg posed as a reporter to gain the man's confidence. After an interview, he had the man at bay and was on the verge of pulling the trigger when he had a sudden revelation:

Something tells me that to kill is not the right solution.

In fact, Goldberg did kill a Nazi, but it was not the one he meant to kill. By choosing not to murder another man, he killed the Nazi in himself. He finally triumphed over the evil that had grown within him, but the battle was never easy.

Mr. President, nobody should have to endure that kind of mental agony. Nobody. But Michael Goldberg is just one of millions of people in our time who has lived—or died—under the spectre of genocide.

What we must do to help prevent what happened to Michael Goldberg from happening to others, Mr. President, is make genocide a crime under international law. I therefore call upon the Senate to ratify the Genocide Convention.

CLINCH RIVER

Mr. PROXMIRE. Mr. President, Wednesday, Senator BUMPERS and Representative COUGHLIN sponsored a forum on the Clinch River breeder reactor. The speakers included some of the most knowledgeable scientists and economists to study this program.

Their evidence against the program was overwhelming—huge cost overruns, obsolete technology, ample substitute fuels at dramatically lower costs, and increased danger of nuclear proliferation.

But that is not the worst part. According to Dr. Theodore Taylor, former Deputy Director of the Defense Atomic Support Agency, if just one breeder reactor were bombed, emissions of strontium-90 and cesium-137 would equal the radiation produced by the explosion of all the nuclear bombs in the world. That is right, all the nuclear bombs.

Is this risk worth taking? No way. According to Congressman OTTINGER the true cost of the project is about $10 billion, and this expense is to demonstrate a technology which, according to the Department of Energy's own figures, will not be competitive until at least 2040.

There is not one good reason to fund this project now when we have had to severely cut back on so many worthwhile programs.

Even the Department of Energy's own Energy Research Advisory Board has a low opinion of the Clinch River plant. They rated Clinch among the worst of the Department of Energy's current energy supply programs.

I urge my colleagues to stop funding this project now.

EXCUSES, EXCUSES FOR LACK OF ARMS CONTROL

Mr. PROXMIRE. Mr. President, three critically important treaties—representing years of arms control negotiations and the best product of our military experts—lie languishing in the Senate. I refer to the Threshold Test Ban Treaty of 1974, the Peaceful Nuclear Explosions Treaty of 1976, and the 1979 SALT II Treaty.

At a time when the world is desperate for progress in the arms control arena, three major advances rest peacefully unattended in the Senate. For this state of affairs, there are a

number of excuses. The Carter administration, for one, did not push for the Peaceful Nuclear Explosions Treaty out of fear that it would upset preparations for a Comprehensive Test Ban Treaty. SALT II died initially due to aggressive Soviet actions and it has been ruled out by the present administration.

The Senate, as an institution, has a responsibility to take some action on these treaties instead of letting them remain here with no prospect of attention.

The alternatives facing the Senate have been cogently spelled out in an excellent article on this subject by Carl Marcy—the longtime chief of staff of the Senate Foreign Relations Committee who now is codirector of the American Committee on East-West Accord.

Mr. Marcy notes that the Senate could:

First. Consent to ratification of the treaties and send them to the President, who would then have the option of ratification.

Second. Consent to the treaties with suitable reservations and understandings.

Third. Return the treaties to the President after having failed in a two-thirds vote.

Fourth. Or allow them to remain in legislative limbo—an unacceptable alternative.

Mr. President, I think Mr. Marcy is exactly right in his assessment. The Senate should hold to its obligation under the Constitution and take action on these treaties—be they modified, accepted or rejected. That is our duty.

Mr. President, I ask unanimous consent that the Carl Marcy article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 15, 1982]

ADVICE? CONSENT? WHAT?

(By Carl Marcy)

WASHINGTON.—Whatever happened to the Senate? The Constitution endows it with the power to give its advice and consent to treaties. Yet it has given neither to three of the most important treaties ever negotiated and that are now physically and legally pending before it.

Senators have not accepted the opportunity to discharge their obligation to stand up and be counted on the Threshold Test Ban Treaty of 1974, the Peaceful Nuclear Explosions Treaty of 1976 and the 1979 treaty limiting strategic arms. Why?

As the November election approaches, how come the electorate does not know, by the evidence of recorded votes, how the senators stand on a treaty limiting underground nuclear tests to 150-kiloton explosions, on a treaty regulating the use of nuclear explosives for peaceful purposes, and, most important of all, on SALT II—the only treaty signed by the President of the United States and the Chairman of the Presidium of the Soviet Union that would limit the number of nuclear weapons on each side?

The reason the Senate has not acted on all three was well put recently by Fred Ikle, Under Secretary of Defense for Policy and formerly Director of the Arms Control and Disarmament Agency. Referring to the threshold and the peaceful nuclear explosion treaties, he said, in an interview in The Washington Post: "The Senate Foreign Relations Committee was about to vote out favorably the recommendation for ratification when the Carter Administration pulled the package back because they felt it would divert from the effort to get a Comprehensive Test Ban Treaty." As for SALT II, negotiated by Presidents Gerald R. Ford and Jimmy Carter. Mr. Ikle said: "The treaty was pulled back from ratification by the Carter Administration."

Use of the phrase "pulled back" does not mean the treaties were returned to the President: it means rather that Mr. Carter decided to leave the treaties pending before the Senate in the expectations that the Senate would do nothing if he so asked. He was right. The Senate did nothing. As for President Reagan he didn't need to ask the Senate to do anything. His statement that SALT II was "totally flawed" was enough to deter that body from any action.

There you have it. The Senate, at the request of the President, has utterly failed to exercise its constitutional prerogative to give or withhold, its advice or consent on three treaties dealing with the most devastating weapon ever devised.

Consider the alternatives.

1. The Senate, by a two-thirds vote, could have consented to ratification of the three pacts. Even if it did, the President would not have been required to exchange documents of ratification with the other party—the formality that would bring these treaties into effect. (There have been past instances when the Senate has approved treaties and Presidents have failed to ratify them.) But at least it would be the President who would have to accept the onus for failure to bring the treaties into effect.

2. The Senate, by a two-thirds vote, could have sent the treaties to the President with its consent to ratification contingent on such reservations and understanding as the Senate might have adopted by a majority vote. This procedure would have given the President the benefit of the Senate's advice on how the treaties might have been changed to obtain the necessary consent to ratification. The Senate would have done its duty: The President would have been advised.

3. The Senate, by less than a two-thirds vote, could have failed to consent to ratification, and the rejected treaties would have been returned to the President. The Senate would have spoken, and the public would now know how each senator voted. This is generally accepted as a significant exercise of the democratic process.

4. The last and most undesirable alternative is what the Senate has in fact done. By leaving these three treaties pending, in limbo, on its calendar, it has abandoned its role in the treaty process. The President can now decide, without Senate action, to honor these treaties—as he is doing with much ambiguous language—or can decide to reject them, as he has threatened.

There are, incidentally, some dozen other treaties upon which the Senate has not acted, including the Genocide Convention, pending for 33 years. In some instances, there may be justification for letting sleeping dogs lie. But treaties involving the control of nuclear weapons should not fall into that category.

Perhaps the time has come for the Senate to amend its rules to require that all treaties submitted by the President be voted on within a certain time. The American people would then know where the Senate stands.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for not to exceed 15 minutes.

REFORM OUR CRIMINAL JUSTICE SYSTEM

Mr. CHILES. Mr. President, I rise again today to speak out on the the need for the Senate to act promptly to pass legislation to fight crime, and to reform our criminal justice system. I have been speaking out here on the Senate floor now for almost 4 months, along with Senator NUNN, on the urgent need for the Senate to take action to solve one of the most pressing problems this Nation faces. Senator NUNN and I introduced a package of crime fighting proposals, S. 2543, and were able to have the bill placed onto the Senate Calendar. Soon afterward, Senator THURMOND and Senator BIDEN, the chairman and the ranking member of the Senate Judiciary Committee, introduced another crime package, S. 2572, which Senator NUNN and I cosponsored. That bill was also placed on the Senate Calendar, and, like S. 2543, it could be called up for consideration by the Senate at any time. What is disturbing is that the Senate has not acted, despite 3 months of opportunity, and now has as few as 12 days in which to act. I believe that we still have enough time to pass anticrime proposals before this session comes to an end, but only if we act promptly.

One of the most important things we do by acting to pass anticrime legislation is to send a message to people all across the country that the Senate, and the Federal Government, is concerned about crime and is committed to the fight against crime. We set an example for State legislatures, and for local governments by passing laws which they in turn can pass on the State and local level. By our inaction, we send out the wrong kind of signals. Yet today, even with our failure to act, we can see State governments that are moving on their own to pass new laws aimed at fighting crime.

Earlier this week, Florida Gov. Bob Graham, Attorney General Jim Smith and other law enforcement officials kicked off a campaign to get the people of Florida to support two anticrime amendments to the Florida State constitution. The two amendments will come before the voters in November's election.

The first of the two amendments would modify the Florida constitution so as to limit the reach of the exclusionary rule. After the Supreme Court first made the exclusionary rule applicable to the States back in 1961, Florida amended its constitution to include the language of the exclusionary rule within the body of the Florida constitution. Over the last 10 years, the U.S. Supreme Court, in a series of decisions, has cut back on the reach of the exclusionary rule. In many instances, the State of Florida was unable to follow the lead of the Supreme Court because the provision in the Florida constitution prevented a more narrow reading of the exclusionary rule. The proposal now before the voters of Florida would specify that the exclusionary rule, as it applies to cases in Florida, shall be interpreted consistently with the more restrictive recent Supreme Court decisions. Mr. President, that would help assure that the operation of the exclusionary rule is brought more into line with its purpose, which is to deter willful police violations of the search and seizure rules. Today, the exclusionary rule is often applied in a mechanical way, so that technical violations of the search and seizure rules are used to exclude crucial evidence at trial. As a result, prosecutors do not bring cases because they know that the exclusionary rule will be used to prevent crucial evidence from being used at trial. Earlier this week, Ed Austin, Florida's State attorney for Jacksonville reported that Jacksonville prosecutors have had to drop 79 felony cases this year because of technical search and seizure violations. It is no wonder that the American public has such little confidence in the ability of the courts to convict and sentence criminals.

The second proposed amendment that will be presented to the people of Florida modifies the bail provisions of the State constitution to allow a person who has been arrested to be held without bail pending trial if the court determines that the person's release would pose a danger to the community. Floridians are all too familiar with today's revolving door bail system, in which a person who is arrested gets out on bail practically before the police are able to fill out his arrest forms. Under current laws, the judge is unable to consider how dangerous it would be to let the person who has been arrested out on bail. He simply applies a rather mechanical rule, which asks whether or not the person is likely to show up for later proceedings. If we allow the judge to consider whether or not release on bail poses a danger to the community, we will give the court system more flexibility to protect society against dangerous criminals who have been arrested.

Mr. President, there are counterparts here in the Senate to both of the ballot questions that will be before the voters of Florida this year. Earlier this week, the President submitted a bill to the Congress that would make changes in the exclusionary rule to prevent the rule from being used to exclude evidence, where the police violation of the search and seizure rules was technical and the police acted in good faith. The President's proposal, which is now pending on the Senate Calendar, is similar to a bill proposed by Senator DECONCINI and cosponsored by myself. Bail reform provisions similar to those before the voters of Florida are contained in both the anticrime packages, S. 2543 and S. 2572, now pending on the Senate Calendar. We in the Senate have the opportunity in the remaining days to pass the kinds of changes on the Federal level that the State of Florida is considering adopting. If we act before we adjourn, we will send a message to people from Florida, and to people from around the country, that the Senate is in tune with the concerns and desires of the public to do something to reform our courts and to stop the crime which is plaguing this country. Both S. 2543 and S. 2572 can be taken off the calendar and passed at any time. Both bills would reform our bail laws, and would make other important changes to help in the fight against crime. The people of Florida are doing their part to make their communities safe once again. It would be tragic if the Senate did not try to do its part on the Federal level to fight crime, especially since we have this unique opportunity to take positive action. I urge my colleagues not to let this opportunity slip away. The fight against crime is too important.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business.

The Senator from Alabama is recognized.

SESQUICENTENNIAL OF RANDOLPH COUNTY, ALA.

Mr. HEFLIN. Mr. President, as the senior Senator from the State of Alabama, I am quite pleased and proud to congratulate the citizens of Randolph County, Ala., on the approaching occasion of the 150th anniversary of their being a part of Alabama.

In the 1830's, people poured west across the border between Alabama and Georgia to settle the fertile, mineral-rich territory which would become Randolph County.

Randolph County was created by the State legislature on December 18, 1832, and was formed from the last Creek Indian cession. It bears the name of John Randolph of Virginia, a prominent Member of Congress around the beginning of the 19th century.

The first county seat was created at Hedgeman Triplett's Ferry, on the west bank of Big Tallapoosa River. Two years later, it was moved about 10 miles west, to Wedowee, located in the central part of the county. This was named for an Indian chief whose village stood near the present site of the town.

Through the years, Randolph County has had a full and rich history—from the days of the Indians through the settling by early pioneers and the battles of the Civil War and on into the present day.

Walking through local pine forests, one finds remnants of Creek Indian towns, including a stonehenge-like circular structure of stone, some 2 or 3 feet high, with entrances on the east and west. These remains were found just a few miles from Wedowee. Some years ago, a row of stone piles or pillars, extending over a distance of more than 1 mile, at intervals of 100 yards, were found at the same site. No one knows why they were placed there.

Randolph County is blessed with outstanding natural resources—rich mineral beds, fertile farmland, pure and plentiful water. In fact, the name of the county seat, Wedowee, means "rolling water," and the name is certainly justifiable. There is scarcely a square 40-acre tract of land in all of Randolph County that is not penetrated by a stream, creek, or river.

All of this contributes to its reputation of being a healthy environment. In fact, during the national census of 1880, the census official assigned to Randolph County turned his report in to his Washington headquarters, only to have it returned to him for correction. The officials at the headquarters had declared the death rate as too small to be true. The original report, however, was returned to Washington unchanged, as there had been no mistake in figures.

Mr. President, Randolph County does have a grand history, outstanding natural resources, and a pleasant climate. I believe, however, that the most important attribute the county has is its people. I must admit that I may be somewhat biased in saying that—for I do have some close ances-

tral ties to Randolph County. Two of my great grandfathers were early settlers of this county—Wyatt Heflin and Harrington Phillips. I have many relatives today residing there including those that bear the names of Phillips, Gay, Blake, Stell, Poole, McMurray, Daniels, and Heflin. Randolph County has a warm spot in my heart. I do sincerely believe that all the citizens of Randolph County, through the years, have shown themselves to be great Alabamians and Americans. Together, they have weathered many storms, always demonstrating a great sense of community pride and determination.

It is a true pleasure representing Randolph County in the Senate, and even more of a pleasure to congratulate the people of Randolph County on their approaching 150th birthday.

AN AMENDMENT TO THE SOCIAL SECURITY ACT

Mr. HEFLIN. Mr. President, I was shocked when I learned that almost $1 billion each year in social security benefits are going to illegal aliens and foreign nationals. This loophole in the social security system is inexcusable at a time when the system is straining to meet its commitments to the millions of elderly Americans who have worked hard to earn their benefits.

It is unbelievable that, at the present time, there are more than 300,000 persons living abroad in more than 60 countries who receive $962 million annually in social security benefits, 70 percent of these recipients are not American citizens. An example of the abuse to the social security system which has resulted from this loophole is the case of a foreigner who moved to the United States and worked here for a number of years and then returned to his homeland at the age of 70. Upon returning to his native country, he married a 17-year-old girl and subsequently had three children before he died at the age of 75. After his death, his newly acquired family, who had never been to the United States, began collecting thousands of dollars annually in social security benefits. It is unfair that this sort of abuse is allowed to exist during a time when American elderly citizens who have worked hard all of their lives to earn social security benefits have been threatened with potential cuts in those benefits.

If we do not act to close this loophole and stop this type of abuse to the social security system, those elderly Americans who have earned and truly deserve social security benefits will be the ones who suffer. To remove this unneeded burden on our social security system and for the benefit of elderly Americans who have retired in reliance upon our social security system I have cosponsored an amendment offered by my distinguished colleague from Indiana (Mr. LUGAR), and I urge all of my colleagues to join me in support of this measure to insure that social security benefits continue to go to those truly deserving American citizens.

THE PRESIDENT IS RIGHT

Mr. HARRY F. BYRD, JR. Mr. President, I think the President of the United States is exactly right in demanding a special session of Congress to handle the appropriations bills. Congress has not yet passed a single one of the 13 appropriations bills. This fiscal year ends in less than 2 weeks, yet Congress has done nothing in regard to passing the necessary appropriations bills.

The President said it is bad economics and bad management of the Government's finances. I agree with that. I support his demand for a special session. I hope that it means that he is determined also to force a reduction in the excessive spending that Congress has been engaged in for so long.

It is time for Congress to act on these appropriations bills, it is time for Congress to reduce runaway and excessive Government spending. I hope that is what the President had in mind when he issued his call for a special session in November.

Mr. HEFLIN. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Virginia.

ONE-LEGGED CLIMBER

Mr. JACKSON. Mr. President, hundreds and hundreds of people from all over the world attempt to climb Mount Rainier in my native State of Washington every year. It is a tremendous test of one's physical and mental condition and endurance. For those who reach the top of this 14,410-foot volcanic peak, it is an exhilarating accomplishment.

In fact, even young people in good condition train for weeks and even months before trying to climb Mount Rainier. It often is described by those who are successful, as well as those who are unsuccessful, as the most grueling physical test of their lives.

I mention this, and draw my colleagues' attention to it, because I recently had occasion to meet a man, Mr. Donald H. Bennett, Mercer Island, Wash., who become the first amputee in the world to climb to the top of Mount Rainier. He was aided only by one leg and his crutches.

Mr. Bennett—and the members of his climbing team, John Skirving, Vashon Island; Rick Hanika, Seattle; Bob Hartz, Federal Way; Cy Perkins, Enumclaw; and Al Shelley, Tacoma—made the climb to emphasize what people can do if they lose a limb. Their climb was sponsored by the Seattle Chapter of the National Handicapped Sports and Recreation Association.

Mr. Bennett uses an artificial leg in his daily life, but used specially rigged ski poles as crutches to help him with the climb. To prepare for the rugged climb, he hopped 5 miles a day for 2 months prior to the climb.

A documentary film entitled "Hop to the Top" is being made about the climb.

Mr. President, the commendable success of Mr. Bennett and his team members can serve as an inspiration to all handicapped persons—as well as all Americans. His motto is "can do" and it serves us well to reflect upon his philosophy and share it with others.

An article about the climb appeared in the Bellevue Journal American and I ask unanimous consent to have printed in the RECORD the text of the article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE-LEGGED CLIMBER: NEVER A MAYBE

(By Barbara Winslow)

The 52-year-old one-legged man who hopped his way to the top of Mount Rainier last weekend never doubted that he could make it.

"I think it was one of the greatest experiences of my life," Don Bennett of Mercer Island told reporters Monday morning. But he said he has no plans to climb any other mountains.

Bennett, who is believed to be the first one-legged climber to reach Mount Rainier's summit without use of an artificial leg, said there was never a "maybe" as he and his five-member team trekked up the mountain that beat him a year ago. The tanned, lean mountain climber described the trip as "really good" and said the weather cooperated with the expedition.

Bennett arrived home about 2 a.m. Monday after a small celebration of fried chicken and pitchers of beer on Crystal Mountain Sunday night.

"I should be tired, but I'm really not," he said. "I'm still up on the mountain!"

It was just one year ago that the handicapped man tried to conquer the mountain, but gave up when bad weather struck. He had come within 400 feet of the top when a blinding snow storm, known as a whiteout, struck and he was told he had to turn around.

"I couldn't believe what I was hearing," Bennett recalled of that try. "You could just see the summit."

He vowed that he wouldn't try again, but two or three months later when the soreness of his limbs was just about to fade, he was planning another attempt.

Bennett uses an artificial leg in his daily life, but did not take it with him to Mount Rainier. He used specially rigged ski poles as crutches to help him up the mountainside.

The poles have a seal-skin circular base and hand grips half-way down the shaft.

The physical conditioning Bennett did prior to this trip made a difference in his strength, he said. For the past two or three months, he hopped five miles a day and swam.

"I felt physically much better," he said.

The expedition departed Thursday and hit the rim of the mountain crater about 5:30 p.m. Saturday, where they slept that night.

"It's a fantastic sight," Bennett said.

There was fog in the crater that evening, but the next morning the team members were exclaiming that the sun was shining. The whole team shared the thrill of making the summit, he said.

"You're up like you're on top of the world," Bennett said.

Fifteen or 20 minutes later they began their descent, eventually deciding to come all the way down in one day. The team, which climbed the north side of the mountain, arrived at White River campground at about 9 p.m.—12 hours after leaving the summit.

The purpose of the trip was to emphasize to people what they can do if they lose a limb, not what they can't do, Bennett said. He lost his leg in an accident 10 years ago.

He played tennis and jogged before he lost his leg. Now he swims and pilots a kayak.

"That's the 'can do,' " he said.

When he awoke after his accident he wasn't remorseful over the loss of his leg, he said.

"I was so damn glad to be alive," Bennett said. His trip was sponsored by the Seattle chapter of the National Handicap Sports and Recreation Association and some commercial sponsors.

Sunday's success was Bennett's second time at the top of the mountain. He made it to the summit two years before he lost his leg.

For now at least, Bennett says he isn't planning another trip up Mount Rainier or any other peak.

"I definitely do not have another mountain to climb," he said.

WATT'S SELLING; NOBODY'S BUYING

Mr. JACKSON. Mr. President, I share with my colleagues George F. Will's column which appeared in the August 19 Washington Post.

Mr. Will suggests that the administration's plan to help reduce the public debt by leasing oil tracts, selling coal leases, increasing timber cutting, and selling off the public lands is not only ill-conceived but ill-timed. He reports that recent polls increasingly confirm the country's concern for environmental protection and its unwillingness to sacrifice its natural resources for narrow economic gain.

I ask unanimous consent to have printed in the RECORD Mr. Will's remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

WATT'S SELLING; NOBODY'S BUYING

(By George F. Will)

ASPEN, Colo.—Having worn a look of patient suffering through seven summers while wearing heavy leather hiking boots, I note bitterly that now there are boots of feather-light fabric and cushiony soles that are comfortable from the first step. Thus does American capitalism produce comforts that subvert the Calvinist spirit that produced American capitalism in the first place.

This does not mean that hiking trails will suddenty be congested. Many, perhaps most, Americans feel as the Rev. Tom Marshfield does. The protagonist of John Updike's splendid novel, "A Month of Sundays," says: "Athletic fields and golf courses excepted, the out-of-doors wears an evil aspect, dominated as it is by insects and the brainless proliferation of vegetable forms."

But America will not soon be paved over or otherwise manicured. The amount of standing forest is about what it was 50 years ago, and 75 percent of what it was in 1620. And in spite of rhetoric about getting government "off the back of" and "out of" this and that, poll after poll reveals a national consensus for governmental activism concerning environmental protection.

Indeed, if the Reagan years become locust years that will be because a few strategically placed persons recognize and regret that consensus. The administration's plan to offer for lease, quickly, one billion acres of offshore oil tracts looks like an attempt to seize a fleeting opportunity. It is economically improvident to dump tracts onto a depressed market; it is environmentally rash to do so at a pace likely to overwhelm the capacity for supervision.

At a first sale, held two weeks ago, bids were received on only 40 of the 554 available tracts. The 40 high bids totaled just $12.3 million, the lowest yield per acre in the 28 years of federal offshore leasing. Recent leasing on Alaska's North Slope brought $70 million. At least $500 million had been anticipated.

A recent sale of coal leases in the Powder River Basin of Montana and Wyoming brought such disappointing revenues that the sale may be challenged in court as a violation of the law requiring that the public get fair market value for coal. Of the 13 tracts for lease, eight attracted one bidder, three tracts attracted two bidders, and two tracts attracted one. The Interior Department plans to lease 5 billion tons of coal over the next two years. Critics say the market is already glutted: given the current rate of mining, two centuries worth of coal land had already been leased.

Congress' fiscal 1983 budget resolution anticipates $13.7 billion in revenues as a result of administration "management initiatives." these executive branch initiatives are the most important deficit-reducing measures. The biggest component of the package of initiatives is supposed to be bonus bids royalties and rents from offshore oil exploration. Yields from these sources are supposed to double in fiscal 1983. They will not.

James Watt, the interior secretary, plans to sell up to 35 million acres of public lands—a chunk of America about the size of Iowa. The administration is eager to increase timber cutting in national forests, in spite of the fact that today there are 30 billion board-feet of cut but unsold timber. The administration is nothing if not reverent about the law of supply and demand, but it seems careless about increasing supply in a period of slack demand. The explanation probably is that the administration thinks such sales are good for the nation's soul, regardless of economic results, because shrinking the public sector is inherently good.

Watt is the administration's most vigorous (some would say lurid) exponent of this doctrine. He is the only person conspicuous in the upper reaches of the administration who tends to confirm the cartoon of Ronald Reagan as an immoderate ideologue. He has the sharpest tongue and the bluntest policical instincts in Washington. In a city of subtleness and nuances, many of the most effective operators have public personalities as pale as candles. Watt is a blowtorch.

That is one reason why, after 19 months of doing battle with Watt, environmentalists are merry as crickets. they are holding their own, in Congress and courts, regarding the Clean Air Act, pesticide controls, leasing in wilderness areas, offshore leasing and other matters.

This is not because most American closets contain hiking boots (either the old, character-building kind or the new decadent sort). Rather, it is because even Americans who resemble the Rev. Marshfield—who think, with reason, that the story of civilization is the story of mankind's long hike from the heath to concrete—know that acid rain falls on golf courses, too.

ACID RAIN

Mr. FORD. Mr. President, yesterday I had printed in the RECORD the statement of Mrs. Kathleen Bennett, Assistant Administrator for Air, Noise, and Radiation of the U.S. Environmental Protection Agency, presented before a Senate Energy Committee hearing on acid rain and congressional attempts to control it. Today I offer for my colleagues' information the statement of Mr. Jan W. Mares, Acting Under Secretary of Energy, which was given at the same forum.

Mr. Mares' testimony is particularly incisive in its criticism of the acid rain control strategy that has been adopted by the Committee on Environment and Public Works. He hits on the head one of the most glaring flaws in the proposal when he points out that the legislation would single out sulfur dioxide emissions for massive reductions when "[T]here are a number of other pollutants that are believed to be potential precursors of acid rain or which may play important roles as catalysts in the atmosphere." The examples he offers are nitrogen oxides which "not only contribute to rainfall acidity but also may play a critical role in the atmospheric chemistry of sulfur oxide."

Mr. Mares also echoes Mrs. Bennett's concern about this particular control strategy:

> While our estimates of the cost of proposed controls for acid rain reduction are admittedly uncertain, these cost uncertainties are small compared to the uncertainties in our understanding of the benefits, if any, that will be obtained. We have no estimate of the reduction in acidic deposition that would result from a reduction in emissions . . . further research is required before the modeling work can be considered as relevant for decisionmaking.

I hope my colleagues are beginning to realize how precipitous and limited in scope the Environment Committee proposal is, and I ask unanimous consent that Mr. Mares' statement be printed in full in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF JAN W. MARES, ACTING UNDER SECRETARY

Mr. Chairman and Members of the Committee, thank you for inviting the Department of Energy to testify on the issue of acid rain. This subject is of great importance to us; the Department has committed a significant amount of its resources to this problem and is working closely with a number of other Federal departments and agencies. Specifically, the Department is an active participant in the Interagency Task Force on Acid Precipitation established pursuant to Title VII of the Energy Security Act of 1980. In addition, the Department is continuing to support the State Department in the on-going negotiations with Canada concerning Transboundary Air Pollution.

We recognize, and are concerned about, the claims of environmental damage attributed to acid rain and other forms of acidic deposition. We are equally concerned, however, with the manner in which this issue is being addressed. We are concerned that rhetoric is too often outweighing balanced deliberation; that there are efforts underway to seek an immediate legislative solution; and that massive costs are involved in proposals currently receiving Congressional consideration. This is especially disconcerting in light of the fact that major scientific uncertainties abound in the area of acid rain and that we have little understanding of the benefits, if any, that would result from the current legislative proposals. For these reasons, Mr. Chairman, the Department of Energy welcomes the interest being shown by this Committee.

The United States has an unparalleled record of accomplishment in reducing air pollution. Our Clean Air Act is among the toughest in the world. We have accomplished more and expended more dollars in total as well as more dollars per capita in this area than virtually any other Nation on earth. For example, the Environmental Protection Agency has estimated that the United States spent some $150 billion dollars over the last 11 years on air pollution controls. This does not include the billions of dollars exported to oil-producing countries as a result of the conversion of many of our powerplants from coal to oil, primarily for environmental reasons, during the last 20 years.

Over the past few years, the American public has been barraged with stories of how acid rain is destroying the lakes, forests, and agriculture of major portions of North America. Those responsible for these predictions point an accusing finger at the Nation's older coal-fired power plants—those prior to the air quality regulations that now govern new electric and industrial powerplants. They propose a massive pollution control program beyond that provided for in the Clean Air Act. This approach to the acid rain issue is embodied in the proposed acid rain legislation approved by the Senate Committee on Environment and Public Works.

One of the primary targets of this proposed legislation, older coal-fired plants, will not be with us forever. Retirements are going to cause almost every one of them to be taken out of service and replaced by new powerplants incorporating Best Available Control Technology between the years 1995 and 2020. As a result, we anticipate that during that period, sulfur oxide emissions will decrease by roughly the same amount or even more than what is called for in the current legislative proposal. The proposed legislation will not add to this decrease, but simply accelerate it by a few to at most 30 years.

I would also point out that the proposed legislation singles out sulfur oxide emissions for massive reductions. There are a number of other pollutants that are believed to be potential precursors of acid rain or which may play important roles as catalysts in the atmosphere. For example, nitrogen oxides not only contribute to rainfall acidity but also may play a critical role in the atmospheric chemistry of sulfur oxide.

I make these points because too often we hear the issue of controlling emissions from older powerplants portrayed as an "all or nothing" affair. That is not the case. The structure of the current Clean Air Act will eventually accomplish the same results as the proposed acid rain legislation. Therefore, the issue is quite straightforward: Are the costs of accelerating the reduction of sulfur emissions balanced by the benefits?

COST OF EMISSION CONTROLS

The Department of Energy has undertaken a number of studies of the costs that would be incurred if such a massive control program were legislated with the intent of reducing rainfall acidity. The most recent of these studies is a staff analysis entitled "Costs to Reduce Sulfur Dioxide Emissions," which I have provided to the Committee. This analysis also summarizes the results of earlier Department of Energy studies.

As you are aware, the proposal now pending before the Senate would mandate a reduction in annual sulfur dioxide emissions in 31 eastern states by 8 million tons below 1980 levels. However, by the time the control program is fully in force, additional industrial and electric utility growth will have taken place so that the total level of reduction required by the proposed legislation is probably closer to 10 million tons annually. According to the Department's best estimate, a reduction of annual sulfur dioxide emissions by 10 million tons will require a minimum, average annual expenditure of $3.5 to $4.6 billion.

These cost projections are average annualized costs and have been calculated assuming that the extra controls would be used for 30 years. Therefore, over the lifetime of the proposed legislation, some $100 to $140 billion, in 1982 dollars, would be expended, again at the very minimum.

In conducting its cost analyses, the Department of Energy reviewed the various technical means currently available to achieve sulfur dioxide reductions. The choices are limited: switching from a higher to a lower sulfur coal, flue gas desulfurization, and coal cleaning. No single method was found to be the least expensive in all cases; costs will vary, depending upon the location of the powerplant and site specific constraints. Coal switching, however, appears on the average to be the method of economic choice. Moreover, due to the inherent sulfur removal limitations of currently available coal cleaning technology, most of the reductions would have to come from either switching coals or installing flue gas desulfurization equipment.

It is important to recognize that the $3.5 to $4.6 billion range of annual costs represents the minimum costs anticipated from the proposed legislation. Actual costs will probably be significantly higher. One reason is that calculations performed in Washington often underestimate the complexities frequently encountered in the real world that tend to raise costs. Second, these costs were calculated assuming that the legislation would be implemented through a set of near perfect, economically efficient regulations. Past history has shown that this will almost surely not be the case. Third, the calculations assume that the entire market place will be at equilibrium; that is, the selling price of low-sulfur coal will be strictly proportional to mining costs. In contrast, the market for coal is likely to be seriously disrupted, as I will discuss in a moment. These three assumptions are not unique to the Department of Energy analyses, but are inherent in all the analyses we have seen which attempt to estimate the costs of reducing sulfur oxide emissions. Taking these points into consideration, it would not be unreasonable to estimate that the actual costs of the proposed legislation are in the range of $5 to $7 billion annually.

These dollar costs translate directly into increased utility bills for consumers. Subject to the same caveats associated with cost estimating, the Department has calculated a 3 to 10 mills per kwh increase in electricity generation costs. This, in turn, will cause electricity rates to rise by between 4 and 25 percent depending upon the specifics of the utility serving a particular customer. Moreover, since utilities don't average their costs over a 30 year period, significantly higher cost increases are probable during the initial implementation period.

There are also indirect costs associated with the proposed legislation. By far, the greatest will be incurred by our Nation's coal supply sector; i.e., coal firms, the miners employed by those firms, their families, and the regions in which they work and live.

To achieve the proposed level of sulfur dioxide reduction more than 200 million tons of coal per year will have to be either switched or subjected to flue gas desulfurization. Two hundred million tons is approximately one fourth of our entire Nation's present annual coal use. If we assume that two thirds of the reduction will be achieved by switching and one third by flue gas desulfurization, we are talking about idling more than 160 million tons of the annual production of eastern higher sulfur coals and putting an equivalent amount of stress on low sulfur coal supplies. While overall net coal mine employment is likely to remain stable, some 40,000 miners will be looking for new jobs.

Unfortunately, the mines that will be required to supply lower sulfur coals will generally not be in the same geographical area as the mines that are shut down. Many miners will face not only unemployment but also the likelihood of moving their families to new areas. The average miner's family consists of about 2.6 persons, in addition to the miner, so the impact would adversely affect the lives of about 150,000 citizens. On top of this, local businesses and the communities in which these miners live will undoubtedly experience substantial economic and social disruption.

The imbalance in our Nation's coal supply infrastructure will cause the demand for premium low sulfur eastern coals to significantly increase, with the result that the market equilibrium, which I referred to earlier, will be lost. Higher prices for lower sulfur coals will adversely affect more than the large number of utility and industrial powerplants that would be forced to switch from higher sulfur coals. Current users of low sulfur coal will also see higher coal prices. In addition the economics of coal conversion, especially by industrial boiler users, will be adversely impacted.

Ultimately the cost increases will be passed to consumers and industrial users of electricity and coal. Initially, however, electric utility industry will bear a major financial and regulatory burden. The Nation's utility industry is already experiencing severe difficulties in raising capital necessary to meet growth projections. Additional financial requirements, such as the capital costs for flue gas scrubbing equipment and/or plant modifications necessary for receiving low sulfur coals, will significantly add to the financial stress of our Nation's utilities.

BENEFITS OF INCREASED SULFUR DIOXIDE REDUCTIONS

While our estimates of the costs of proposed controls for acid rain reduction are admittedly uncertain, these cost uncertainties are small compared to the uncertainties in our understanding of the benefits, if any, that will be obtained. We have no estimate of the reduction in acidic deposition that would result from a reduction in emissions. Attempts have been made to model how sulfur compounds are transported in the atmosphere and transformed into acidic species. Unfortunately, our current knowledge of the chemistry of sulfur oxides and other chemicals contributing to acid transformation in the atmosphere and in clouds is insufficient. As a result, further research is required before the modelling work can be considered as relevant for decisionmaking. I would like to emphasize here that I am not talking about reducing scientific uncertainties by a few percentage points; the scientific uncertainties I am discussing cover a broad range of possible outcomes. We cannot even rule out the possibility that the proposed massive emission reductions would have an insignificant impact on acidic deposition in Eastern North America.

The transport and chemistry of acidic pollutants in the atmosphere is only one area that is dominated by major scientific uncertainties. We also have an extremely poor scientific understanding of how changes in rainfall acidity would lessen the damages currently being attributed to acidic deposition. In fact, we have a highly incomplete understanding of what damages are taking place today because of present levels of rainfall activity.

Acid deposition has been blamed for the accelerated decay of manmade materials and structures, and damage to agricultural crops, forests and fresh water ecosystems. At present, the largest percentage of economic damage caused by acid deposition is being related to the decay of manmade materials and structures. There is no doubt that manmade pollution contributes to this decay; however, most of the damages are occurring primarily in urban areas. Studies in both this country and in Europe generally agree that this is a short range pollution problem and that the vast majority of the pollutants responsible are of local origin, coming from the combustion of fossil fuels within the same urban areas receiving the damage. These pollutants are exactly those covered under the Clean Air Act. States currently have the authority to modify their State Implementation Plans to deal with this problem. No new legislation is necessary. In fact, the proposed acid rain legislation is unlikely to significantly affect decay of manmade materials and structures.

Present environmental damage to agricultural crops is known to largely result from ozone, a pollutant that also can travel great distances from both industrial and urban sources. Ozone formation has been related to nitrogen oxides and hydrocarbons, not sulfur oxides. There have been some laboratory tests in which crops have been exposed to various levels of rainfall acidity. These experiments are difficult to perform and, at present, results are mixed: some crop yields diminish while other improve.

For forests, the Europeans have reported evidence of damage; however, their results have not been corroborated by similar observations in North American forests.

For aquatic ecosystems, there is evidence of adverse effects due to excessive water acidity, primarily in certain high-altitude lakes. The extent to which this problem is correlated to acidic deposition is still uncertain. The economic damage to aquatic ecosystems is expected to be small, however.

To understand the benefits of the legislative proposal, we require more than a knowledge of what damage is actually being incurred. We need to know what portion of these damages would be alleviated by reducing the level of emissions. We have no knowledge, at present, of the benefits that would accrue due to the implementation of any proposal to substantially reduce sulfur dioxide emissions in a geographically board area, such as the region covered by the 31 eastern states.

RESEARCH INITIATIVES

This Administration, in recognition that sufficient technical information is not available now, has proposed an accelerated research program. This, of course, responds to the Congressional initiatives in the Energy Security Act of 1980.

Even in these times of tight Federal budgets, Federal agencies nearly doubled the acid rain research budget from fiscal year 1981 levels to $22 million in fiscal year 1983. Much of this work follows initial directions set by DOE and ERDA in the mid 1970s. DOE also actively participates on the Interagency Task Force on Acid Rain and we conduct approximately $2 million in acid rain research, about 10 percent of the Federal budget for such research. Further, our National laboratories continue to play a major role in advancing our state of knowledge through a comprehensive program of research and technical assessments.

CONCLUSION

We share the concerns of those who value our environment and our Nation's natural resources. The Department of Energy will continue to fully support and participate in the Administration's program of accelerating research into the causes, effects and alternative means of controlling acidic precipitation. The scientific insights which will be forthcoming over the next few years should place both the Administration and the Congress in a position to intelligently address alternative courses of action. We will be in a position to know better if accelerated action is required or whether we can wait for the natural retirements of older coal-fired powerplants. If action is deemed necessary, we will understand which pollutants should be controlled. Control of sulfur oxides may be less effective than focusing controls on other atmospheric pollutants, especially those capable of converting sulfur dioxide to acidic compounds. We will also have a much better understanding of which control strategies are most effective. The geographically broad, massive emissions reduction strategy currently being proposed is but one approach. Effective results might be obtained with a less expensive program, for example, focused on local sources that may be contribution to acidic deposition.

In summary, Mr. Chairman, the Department of Energy finds that acid rain control measures currently being proposed represent a premature move towards legislation mandating a massive control program. In essence, we are being asked to set aside billions of our Nation's wealth to obtain benefits that have yet to be quantified. These proposals are all the more disturbing considering the current state of the Nation's economy and the importance of coal in meeting our Nation's energy security objectives.

STATES, LABOR, ENVIRONMENTALISTS, AND HEALTH GROUPS OPPOSE CHANGES IN FIFRA

Mr. CRANSTON. Mr. President, as I announced to my colleagues on September 15, I oppose the changes approved by the Senate Agriculture Committee to section 24(a) of the Federal Insecticide, Fungicide and Rodenticide Act. Section 24(a) authorizes a State to regulate the sale or use of federally registered pesticides as long as the State does not permit use or sale prohibited by the Environmental Protection Agency. The FIFRA legislation, H.R. 5203, approved by the Senate Agriculture Committee earlier this week makes a number of changes which would significantly restrict a State's authority to regulate pesticide use. I strongly believe that section 24(a) should remain unchanged so that States can protect the health and safety of their citizenry.

Since the committee action, I have heard from numerous State government organizations, labor, environmental, and health groups who share my concerns. These groups have objections to the bill in its present form and all oppose any changes in section 24(a). I want to bring to my colleagues attention the names of these groups:

National Association of State Departments of Agriculture.
National Governors Association.
Council of State Governments.
Southern Legislative Conference.
Southern Governors Association.
State of California.
AFL-CIO.
Longshoremen's Union.
The National Grange.
National Farmers Union.
Migrant Legal Action.
The National Coalition Against the Misuse of Pesticides.
The National Audubon Society.
Friends of the Earth.
The Sierra Club.
March of Dimes.
American Public Health Association.

S. 2853, THE HATTERS' FUR TARIFF ACT OF 1982

Mr. BAKER. Mr. President, I rise today to join my distinguished colleague from Illinois, Senator PERCY, in supporting a modest change in the tariff laws. Presently, a 15 percent duty is imposed on hatters' fur that is imported from abroad. I should point out, Mr. President, that there are vir-

tually no domestic suppliers of hatters' fur and therefore the present tariff is not protecting an American industry. While that alone may be reason enough to suspend the tariff, a more egregious inequity exists. Finished, or partially finished imported products which contain hatters' fur are subject to a maximum tariff of 5.3 percent—and in many cases, none at all. Therefore, a domestic producer of hats pays an additional 15 percent on a major raw material while its foreign competitors pay little or no tax on the fur used for hats and related items.

S. 2853, Mr. President, would temporarily suspend this tariff—until 1985—and relieve domestic manufacturers of this burden. A companion bill (H.R. 5386) has been introduced in the House, where hearings were held. The Ways and Means Trade Subcommittee has favorably reported the bill to the full committee. The administration favors this temporary suspension of the tariff. It is my hope, Mr. President, that this measure may be incorporated in the miscellaneous tariff bill presently in markup in the Senate Finance Committee.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON THE DEVELOPMENT OF SYNTHETIC FUELS UNDER THE DEFENSE PRODUCTION ACT OF 1950—MESSAGE FROM THE PRESIDENT—PM 179

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was refered to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with Section 106 of the Energy Security Act (P.L. 96-294), I transmit herewith the second annual report on activities undertaken by the United States Synthetic Fuels Corporation and the Department of Energy to implement the development of synthetic fuels under the Defense Production Act of 1950, as amended. The report covers the period from December 1, 1981, through June 30, 1982.

RONALD REAGAN.

THE WHITE HOUSE, *September 17, 1982.*

ANNUAL REPORT OF THE DEPARTMENT OF EDUCATION FOR FISCAL YEAR 1981—MESSAGE FROM THE PRESIDENT—PM 1980

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 426 of the Department of Education Organization Act (P.L. 96-88), I transmit herewith the second annual report of the Department of Education which covers fiscal year 1981.

RONALD REAGAN.

THE WHITE HOUSE, *September 17, 1982.*

MESSAGE FROM THE HOUSE

At 9:41 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5658. An Act to authorize the use of education block grant funds to teach the principles of citizenship.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 5658. An Act to authorize the use of education block grant funds to teach the principles of citizenship.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1184. A joint resolution adopted by the Northern Marianas Commonwealth Legislature; to the Committee on Energy and Natural Resources:

SENATE JOINT RESOLUTION No. 3-11, H.D. 1

"Whereas, Section 601(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America provides that "the income tax laws in force in the United States will come into forece in the Northern Mariana Islands as a local territorial income tax on the first day of January following the effective date of this Section, in the same manner as those laws are in force in Guam"; and

"Whereas, by Presidential proclamation, these income tax laws were to have come into effect on January 1, 1979, in the Commonwealth; and

"Whereas, the Commonwealth of the Northern Mariana Islands established a local tax system in its Public Law 1-30, effective January 1, 1979, which rebated the local territorial income taxes due under Section 601 of the Covenant on all income from sources within the Commonwealth; and

"Whereas, the United States Government in its Public Laws 95-348, 96-205, and 96-597 delayed the effective date for implementation of Section 601 of the Covenant to January 1, 1983; and

"Whereas, the Commonwealth of the Northern Mariana Islands has established new tax legislation in Public Law 3-11 which repeals Public Law 1-30, but incorporates a similar local tax system and rebate provision, but with an addition in Section 821 that local business gross revenue and employee wage and salary taxes "shall terminate upon midnight, December 31, 1982; PROVIDED, that the Commonwealth has adopted a local income tax and sales tax system for individuals and businesses by the date"; and

"Whereas, Section 601 of the Covenant is based upon the mirror-image application of the United States Internal Revenue Code, a concept which has been thoroughly discredited by two studies prepared by the United States Department of the Treasury:

"(1) 'Territorial Income Tax System's prepared by the United States Department of the Treasury in October, 1979, discussing the tax systems in the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa;

"(2) 'United States Federal Tax Policy Towards the Territories' prepared by Karla Hoff, International Economist on the Department of Treasury staff, in August, 1981, analyzing and critiquing the income tax systems in Puerto Rico, the Virgin Islands, and Guam; and

"Whereas, the mirror-image application of the Internal Revenue Code would disasterously affect the economic development of the Commonwealth at a time when the Commonwealth is seeking to achieve economic development on a par with that enjoyed by the continental United States; and

"Whereas, pursuant to Section 601 of the Covenant and U.S. Public Law 96-597, the provisions of the Internal Revenue Code will apply in the Commonwealth as of January 1, 1983; and

"Whereas, by House Joint Resolution No. 6, the Legislature of the Commonwealth of the Northern Mariana Islands has indicated its desire that Section 601 of the Covenant be modified to allow the Commonwealth to develop an alternative income tax system for individuals and businesses residing in the Commonwealth; and

"Whereas, by the same House Joint Resolution No. 6, the Government of the United States was asked to enact legislation to modify Section 601 of the Covenant for this purpose; and

"Whereas, House Joint Resolution No. 6 also requested financial and technical assistance from the United States to develop an alternative income tax system for the Commonwealth; and

"Whereas, best estimates are now that it may require up to two years to develop a satisfactory alternative tax system and modify Section 601 of the Covenant as requested; now, therefore,

"Be it resolved, That the Commonwealth of the Northern Mariana Islands hereby expresses its desire that the United States Government act to amend U.S. Public Law to defer the implementation date of the United States Internal Revenue Code income tax system in the Commonwealth

from January 1, 1983 until January 1, 1985; and

"Be it further resolved, That the Governor and the Washington Representative to the United States for the Commonwealth of the Northern Mariana Island are hereby authorized to take all steps necessary to facilitate a deferral of the implementation date of the United States Internal Revenue Code for income taxes to January 1, 1985 within the Commonwealth; and

"Be it further resolved, That the President of the Senate and the Speaker of the House of Representatives shall certify and the Senate Legislative Secretary and House Clerk shall attest to the adoption of this resolution and the Senate Clerk shall thereafter transmit a certified copy to the Governor who shall endorse the resolution and forward copies of it to the President of the United States, the Secretary of the Department of the Treasury, the Commissioner of the Internal Revenue Service, the President of the United States Senate, and the Speaker of the United States House of Representatives."

POM-1185. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 27

"Whereas, The oceans of the world are vital to all life on the continents; and

"Whereas, The oceans waters off the shore of California are the basis for the state's commercial and recreational fisheries which are a source of food for the people of California and are important to coastal recreation and tourism economies; and

"Whereas, The marine environment is a fragile ecosystem that may be significantly altered or contaminated by shortsighted disposal of radioactive wastes; and

"Whereas, Radioactive wastes have been dumped in the coastal waters off the shore of California and some samples of ocean sediment have been found to be contaminated with radioactive materials, including plutonium; and

"Whereas, The consequences of nuclear wastes in the marine environment are poorly understood and pose a threat to the human food chain; and

"Whereas, Congress is considering HR 6113 by Representative Norman D'Amours of New Hampshire to extend and amend the Marine Protection Research and Sanctuaries Act; and

"Whereas, Representative Glenn Anderson of California has proposed an amendment to HR 6113 to require that any federal agency proposing to dump radioactive wastes in the ocean shall provide Congress and the public with site-specific information about the full health, environmental, and economic consequences of the proposed dumping; and

"Whereas, The Anderson amendment also would allow either house of Congress to veto any permit the Environmental Protection Agency might issue for ocean dumping of radioactive waste; and

"Whereas, The United States Environmental Protection Agency is preparing regulations to lift the current moratorium on ocean dumping of radioactive wastes in United States territorial waters, which has been in effect since 1970, and the United States Department of Energy is developing the option of seabed disposal of radioactive wastes; and

"Whereas, The United States Navy is considering plans to scuttle decommissioned nuclear submarines in the ocean, possibly off the shore of Cape Mendocino; and

"Whereas, Japan is considering plans to dump high-level radioactive wastes in the Pacific Ocean north of Micronesia, a United States trust territory; and

"Whereas, The Pacific Marine Fisheries Commission, formed by interstate compact of the Pacific states, is scheduled to meet in Monterey, California, on November 15, 16, and 17, 1982, and is scheduled to discuss radioactive waste dumping in the Pacific Ocean; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly That the Legislature of the State of California respectfully memorializes the President and Congress to ban the scuttling of nuclear submarines off the coast of California and all other radioactive waste disposal in Pacific Ocean waters under the control of the United States until and unless future valid and reliable scientific studies prove it is safe; and be it further

"Resolved, That the Legislature supports the Anderson amendment to the Marine Protection Research and Sanctuaries Act as a reasonable interim measure while further scientific research is conducted; and be it further

"Resolved, That the Legislature proposes an international treaty to ban the disposal of radioactive wastes anywhere in the Pacific Ocean until and unless future vaild and reliable scientific studies prove it safe, and requests that the Congress and the President work diplomatically to oppose any disposal of radioactive wastes anywhere in the Pacific until the treaty takes effect; and be it further

"Resolved, That the Legislature respectfully memorializes the Congress to conduct an investigation of the effects of all radioactive contamination of the oceans from all sources to determine the effects of the contamination and to prevent repetition of radioactive waste dumping done without public notice or in violation of laws; and be it further

"Resolved, That the Legislature finds and declares that regular monitoring of marine life in the vicinity of the existing radioactive waste dumpsites off the shore of California, including those near the Farallon Islands, is necessary to protect the public health of the people of California; and be it further

"Resolved, That the Legislature requests that the Congress, the President, the Environmental Protection Agency, the National Marine Fisheries Service, and the National Oceanic and Atmospheric Administration provide for this needed regular monitoring and provide full information from the monitoring to the California Legislature and to the California State Department of Health Services; and be it further

"Resolved, That the Legislature requests that the Congress and the President require the Environmental Protection Agency to provide Pacific coast state and local governments with advance notice prior to publication in the Federal Register of any changes in ocean dumping regulations, and require the Environmental Protection Agency to consult with Pacific coast state and local governments and to conduct public hearings on the Pacific coast before adoption of any changes in ocean dumping regulations; and be it further

"Resolved, That the Legislature respectfully requests the Pacific states and United States Pacific territories to join California in opposing all radioactive waste disposal in the Pacific until and unless future valid and reliable scientific studies prove it is safe, and invites the Pacific states and United States Pacific territories to a meeting in Monterey, California, on November 15, 16, and 17, 1982, in connection with the meeting of the Pacific Marine Fisheries Commission, to plan common strategy for this opposition; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Administrator of the Environmental Protection Agency, to the Director of the National Marine Fisheries Service, to the Administrator of the National Oceanic and Atmospheric Administration, and to the Governors and presiding officers of the Legislatures of Alaska, Hawaii, Idaho, Oregon, and Washington, and to the Governor of each of the United States Pacific territories."

POM-1186. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 41

"Whereas, At a time when Californians are vitally concerned about their ever-increasing utility bills, the New Melones Dam is completed, but remains unfilled, denying a less expensive source of a clean, renewable hydroelectric power; and

"Whereas, In July 1973, the Legislature of the State of California, by adoption of Assembly Joint Resolution No. 7, urged Congress to proceed with construction of New Melones Dam as quickly as possible; and

Whereas, In 1974, the people of California, by means of a statewide vote on an initiative measure, expressed their desire not to keep the Stanislaus River as a wild and scenic river; and

"Whereas, In May 1980, the Legislature, by adoption of Assembly Joint Resolution No. 58, reaffirmed its position by urging Congress to proceed to fill the New Melones Reservoir to its maximum operating level; and

"Whereas, Nearly 350 million dollars have been expended to construct this major project which is now fully operational and will provide the people of California extensive benefits, including fish and wildlife enhancement, water quality protection, hydroelectric power, irrigation water storage, and flood control prevention; and

"Whereas, New Melones Dam will significantly help to restore the Stanislaus River fisheries run to its historical levels; and

"Whereas, A fully operational reservoir would help to foster and maintain environmentally beneficial water quality standards for the southern portion of the Sacramento-San Joaquin Delta; and

"Whereas, New Melones Dam is vitally needed to prevent unnecessary flooding and seepage damage to prime farmlands along the Lower Stanislaus River and the Sacramento-San Joaquin Delta; and

"Whereas, The average annual generation by the New Melones Dam over a long period of years is 455 billion watt hours of electricity, which would conserve an average of 750,000 barrels of fuel oil, and the State Water Resources Control Board's decision restricting the dam's water level at 844 feet denies the public the benefit of 275 billion

watt hours, causing the consumption of an additional 455,000 barrels of fuel oil; and

"Whereas, The lost watts of renewable energy amounts to 24 million dollars that the public must absorb and replace with more expensive, less desirable, oil-generated power; and

"Whereas, New Melones Dam, with a capacity of 2.4 million acre-feet, has the potential to provide over 222,000 acre-feet of irrigation water, a supply sufficient to serve 80,000 acres, with revenues of over 40 million dollars annually from farmland productivity; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the Secretary of the Interior in his efforts to operate the New Melones Reservoir at its maximum capacity to fully achieve all the benefits envisioned by Congress when the project was authorized; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1187. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

ASSEMBLY JOINT RESOLUTION No. 86

"Whereas, Public utilities providing gas and electric energy to consumers in California have historically been governed by the "flow-through" method of accounting for current tax reductions in ratemaking; and

"Whereas, The "flow-through" method of accounting allows the utilities' current tax reductions to be immediately reflected in lower rates to utility customers; and

"Whereas, The federal Economic Recovery Tax Act of 1981, proposed and signed into law by President Reagan, provides that in order to be eligible for the investment tax credit and accelerated cost recovery tax reductions provided by that act, public utilities must use the "normalization" method of accounting in ratemaking; and

"Whereas, The "normalization" method of accounting does not allow the utilities' current tax reductions to be immediately reflected in lower rates to utility customers; and

"Whereas, This federal act therefore has the effect of granting windfall tax breaks to investor-owned utilities and prohibits them from passing the savings on to the ratepayers; and

"Whereas, Gas and electric utility rates have increased extraordinarily rapidly in California in recent years, causing severe financial burdens and economic dislocations for utility customers; and

"Whereas, In 1982, 687 million dollars in gas and electric utility rate increases for California consumers are directly attributable to the use of the "normalization" method of accounting as required by this federal act, and 844 million dollars in 1983 gas and electric utility rate increase will occur as a direct result of the provisions of that act; and

"Whereas, Failure to pass the tax relief on to consumers is, in effect, a utility rate increase of a magnitude such as was recently experienced in the 909 million dollar rate increase granted to Pacific Gas and Electric Company, approximately 20 percent of the increase being due to the effects of the Economic Recovery Tax Act of 1981; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to revise the federal Economic Recovery Tax Act of 1981 to provide that the tax benefits to investor-owned electric and gas utility companies resulting from changes in accelerated depreciation rules, investment tax credits and other tax deductions be passed through to the utilities' ratepayers; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Chairman of the House and Senate Committees on Taxation."

POM-1188. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 46

"Whereas, The California State Lands Commission administers trust lands containing crude oil reserves and provides by contractual arrangements with private firms for development of these reserves; and

"Whereas, The development of these reserves produces revenues for the state which are dedicated to public purposes and which are intended to be exempt from the windfall profit tax on crude oil; and

"Whereas, The state is using net profits contracts for the development of the crude oil reserves on its trust lands; and

"Whereas, The United States Treasury Department and the Internal Revenue Service have interpreted the Crude Oil Windfall Profit Tax Act of 1980 as requiring allocation of crude oil production to net profits interests in a manner which imposes an unintended windfall profit tax burden on a property with an exempt state net profits interest that, if the tax is treated as a reimbursable expense, is borne by the state net profits interest, thereby diverting to the United States Treasury oil revenues that would have been used for public purposes in the State of California; and

"Whereas, Congress did not intend for any state interest, including a net profits interest, to bear the burden of the windfall profit tax; and

Whereas, Senators Cranston and Hayakawa have introduced S. 753, Congressman Glenn Anderson has introduced H.R. 3044, and Congressman Rostenkowski has introduced H.R. 6056, the Technical Corrections Act of 1982 which has been amended by Congressman Matsui and joined by Congressmen Stark and Rousselot, before the 97th Congress which are bills amending the Crude Oil Windfall Profit Tax Act of 1980 to provide for allocation of crude oil production to net profits interests in proportion to their respective percentage shares of net profits, thereby eliminating the unintended windfall profit tax burden placed on the state's net profits interest by the interpretation of the act's present language by the United States Treasury Department and the Internal Revenue Service; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact and the President to approve S. 753 by Senators Cranston and Hayakawa, H.R. 3044 by Congressman Glenn Anderson, and H.R. 6056 by Congressman Rostenkowski amending the Crude Oil Windfall Profit Tax Act of 1980 to provide for allocation of crude oil production, for the purpose of assessing the windfall profit tax, among the holders of net profits interests in proportion to their respective shares of net profits, so that states employing or intending to employ net profits contracts for development of crude oil reserves in their trust lands may enjoy a complete exemption from the windfall profit tax; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California as well as other appropriate members in the Congress of the United States, to the Secretary of the Department of the Treasury, and to the Commissioner of the Internal Revenue Service."

POM-1189. A joint resolution adopted by the legislature of the State of California; to the Committee on Finance:

"SENATE JOINT RESOLUTION No. 70

"Whereas, There are more than 4 million Californians over the age of 60, and more than 2.5 million Californians over the age 65; and

"Whereas, More than 3.1 million Californians who are aged or disabled, or who are the survivors or dependents of persons eligible for Social Security benefits, depend for their economic security on the integrity of the Social Security System; and

"Whereas, Social Security System expenditures to and on behalf of citizens of California are currently approximately as much as 80 percent of the budget of the government of the State of California each year; and

"Whereas, In May of 1981 the President presented Congress with a set of proposals for reforming the benefit structure and financing of the Social Security System; and

"Whereas, Those proposals were found to be so onerous and unacceptable by the community of senior citizens of this country that the President withdrew them from consideration by Congress and instead appointed a National Commission on Social Security Reform, which is directed to report to the President and Congress on or before December 31, 1982; and

"Whereas, The 97th Congress has authorized interfund borrowing between the Old Age and Survivors Insurance Fund, the Disability Insurance Fund, and the Health Insurance Fund, which collectively constitute the financial bases of the Social Security System; and

"Whereas, The interfund borrowing authorization, which will be essential to permit continued payment of Social Security benefits beginning in the last calendar quarter of 1982, expires on December 31, 1982; and

"Whereas, There is great fear and concern among members of the senior citizens community and among other groups whose economic security is vitally linked to the integrity of the Social Security System that the pending expiration of the interfund borrowing authority will be used as an excuse to recall the 97th Congress in a "lame duck" session after the November 1982 elections and, in such a session to attempt to adopt the President's original drastic and strin-

gent revisions of the Social Security Act that would provoke extreme political opposition if attempted prior to the November 1982 elections; and

"Whereas, It would be highly inappropriate for any major action to change the Social Security System to be taken in a lame duck session of Congress, but would be entirely appropriate for such decisions, if any, to be left to the deliberations of the 98th Congress, which will convene in January of 1983 and will have two full years in which to grapple with the problems of Social Security; and

"Whereas, It is possible that significant numbers of Members of Congress meeting in a lame duck session would, in fact, themselves be "lame ducks" by virtue of retirement or defeat in the elections and therefore not appropriately accountable to the electorate for major policy decisions enacted under such circumstances; and

"Whereas, A lame duck session would not be necessary if the 97th Congress were to extend the interfund borrowing authority beyond December 31, 1982, before it adjourns for the November 1982 elections; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to extend the provisions of Public Law 97-123, which authorized interfund loans and transfers, to at least the first two calendar quarters of 1983; and be it further

"Resolved, That the President and the leadership of the Senate and the House of Representatives be urged to assure the senior citizens of this state and this country that no efforts will be made to enact major changes in the benefit or financing structure of the Social Security System during the balance of the 97th Congress; and be it further

"Resolved, That the Secertary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1190. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

SENATE JOINT RESOLUTION No. 68

"Whereas, The California raisin industry, one of the oldest industries in our state, is currently facing damaging and unfair competition in world trade as a result of the European Economic Community subsidization of Greek raisin sales; and

"Whereas, The lack of a strong international trade policy on the part of the United States government has already resulted in serious economic injury to California's canning fruit and vegetable industry; and

"Whereas, If the common market policy continues to be extended, trade with most of California's agricultural products will be similarly adversely affected; and

"Whereas, The common market unfair trade actions have caused, and are expected to continue to cause, substantial economic losses to our California farm families and the thousands of farm laborers, packinghouse employees, and other persons engaged in related industries, such as wine, transportation, banking, real estate, and numerous others; and

"Whereas, It has been determined that the California raisin industry alone does not have sufficient capital resources to survive the unfair common market attack on California raisin markets; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the Congress and President of the United States to immediately take whatever action is necessary to promptly protect our California raisin industry's established markets and restore fair world trade in light of unfair practices being engaged in by the European economic community; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1191. A resolution adopted by the International Typographical Union opposing the contemplated changes by the Reagan Administration on our social security system; to the Committee on Finance.

POM-1192. Joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 62

"Whereas, People throughout California are concerned about the rise in social and cultural hostilities, the increasing incidence of violent conflicts among nations and peoples, and the ever-present threat of nuclear war; and

"Whereas, There is a need to promote nonviolent methods of resolving human conflict; and

"Whereas, Conflict resolution techniques have repeatedly been demonstrated to provide a constructive, cost-effective means of resolving potentially violent human conflicts; and

"Whereas, Legislation is now pending in Congress which would establish the United States Academy of Peace and Conflict Resolution, which would serve to advance international peace through the development and implementation of programs to promote the use of conflict resolution techniques in international conflicts; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California supports the passage of the "United States Academy of Peace and Conflict Resolution Act," H.R. 5088; and be it further

"Resolved, That the Legislature of the State of Califorina respectfully memorializes the California delegation to the Congress of the United States to work to secure that bill's passage; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-1193. Joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 103

"Whereas, 1982 marks the 10th year of Title IX becoming law; and

"Whereas, Women now comprise over 50 percent of the student population of the elementary, secondary, and postsecondary educational institutions in the State of California; and

"Whereas, The State of California has demonstrated a long standing history and commitment to equal opportunity in education; and

"Whereas, Equal opportunity in education is assured to women students in educational institutions in the State of California by Title IX of the Federal Education Amendments of 1972; and

"Whereas, The 1975 Title IX regulations and the 1979 Intercollegiate Athletics Policy Guidelines define the effect of Title IX and address concerns of collegiate athletics; and

"Whereas, Title IX is necessary to present and future generations of students to promote and ensure sex equity in education; and

"Whereas, The Administration of President Reagan as represented by the Secretary of the Department of Education, has expressed its intent to rewrite Title IX, weakening and limiting the equity protection afforded by the law and the regulations implementing it; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes each Senator and Representative from California in the Congress of the United States to preserve the scope and strength of Title IX and to work for the defeat of any legislation which would weaken or dismantle Title IX; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States; and be it further

"Resolved, That the Assembly and Senate of the State of California jointly proclaim June 23, 1982, Title IX Day."

POM-1194. Joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

SENATE JOINT RESOLUTION No. 67

"Whereas, The Constitution of the United States of America is an inspired document 'of the people, by the people, and for the people', and

"Whereas, The people's freedom of religion, of speech, of the press, to peaceably assemble, and to petition, of their own free will and accord, are inspired ideas set forth in the Constitution of the United States; and

"Whereas, The Constitution has sheltered the pursuit of free enterprise, resulting in the extraordinary availability of jobs, food, clothing, and shelter in every community in America; and

"Whereas, On September 17, 1787, one hundred and ninety-five years ago, George Washington, the chairman of the constitutional convention, Benjamin Franklin, and thirty-seven other great Americans approved this immortal instrument of government; now, therefore, be it

"Resolved by the Senate and the Assembly of the State of California, jointly, That the President of the United States of America, the Congress of the United States, the Governor of the State of California, the governors of the several states, and the legislatures thereof be respectfully urged to join with all Americans in proclaiming our fidelity to the principles contained in the Constitution of the United States; and be it further

"Resolved, That every citizen of the United States is urged to actively participate in the observance of this anniversary and advance in understanding of the Consti-

tution so that we shall 'secure the blessings of liberty to ourselves and our posterity', and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor of California, and to the governors and legislatures of each of the 50 states."

POM-1195. A petition from a citizen of Kansas City, Mo. urging Congress to reject "the Gay Bill of Rights"; to the Committee on the Judiciary.

POM-1196. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Labor and Human Resources:

"SENATE CONCURRENT RESOLUTION No. 731

"Whereas, The Senior AIDES Program is an employment program for senior citizens which is funded under Title V of the Older Americans Act. This program, along with all others under Title V, is scheduled for elimination. This program has been particularly effective in enabling low-income seniors the opportunities they need to supplement their incomes and provide them with meaningful activities. Its elimination would be devastating to countless senior citizens throughout Michigan and the country as as a whole; and

"Whereas, Title V programs provide employment to approximately 54,000 of the nation's senior citizens. The AIDES of the Senior AIDES Program honors older workers for their alert, industrious, dedicated, and energetic service. The people who work under this program's auspices must be at least fifty-five years of age, willing and able to work, and at or below the U.S. Department of Labor's low-income guidelines. They work in nonprofit organizations approximately twenty to twenty-five hours per week and earn an average of $3.50 per hour. Such employment may include driving senior citizens, delivering food to homebound seniors, or helping in various other aspects of senior services; and

"Whereas, Seniors benefit not only financially, but find their work rewarding, stimulating, and interesting. Through their work they meet people and participate in the mainstream of American life rather than sitting by on the sidelines and being spectators in life. We cannot allow these critically needed employment opportunities to disappear; now, therefore, be it

"*Resolved by the Senate (the House of Representatives concurring),* That the Congress of the United States be memorialized to maintain funding for the Senior AIDES Program for 1983; and be it further

"*Resolved,* That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Michigan delegation to the Congress of the United States, and the President of the United States."

MEASURE PLACED ON CALENDAR

The Committee on the Budget was discharged from the further consideration of the resolution (S. Res. 447) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1606; and the resolution was placed on the calendar.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND (for Mr. SIMPSON), from the Committee on Veterans' Affairs, without amendment:

S. 2913. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans employment programs administered by the Department of Labor, and for other purposes (Rept. No. 97-550).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 2922. A bill relating to defense of insanity, and for other purposes; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD:

S. 2923. A bill for the relief of Joseph Benjamin Pearson, formerly of South Africa; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 2924. A bill to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. RANDOLPH:

S. 2925. A bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 9(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN (for himself, Mr. HART, Mr. RANDOLPH, Mr. KENNEDY, Mr. LUGAR, Mr. BRADLEY, and Mr. CRANSTON):

S. 2926. A bill to create a National Commission on the Rebuilding of America which will conduct an inventory of our Nation's water and sewer systems, bridges, highways, and roads; develop a 10-year investment plan to rebuild the public improvements essential to economic development; make recommendations concerning changes in Federal laws and regulations that influence the pattern of Federal expenditures for public improvements; and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 2927. A bill provide for the disposition of certain undistributed judgment funds awarded the Creek Nation; to the Select Committee on Indian Affairs.

By Mr. HATFIELD:

S. 2928. A bill to provide for equal access to public secondary schools; to the Committee on Labor and Human Resources.

By Mr. NICKLES (for himself, Mrs. HAWKINS, Mr. HUMPHREY, Mr. LAXALT, Mr. EAST, Mr. GRASSLEY, Mr. MATTINGLY, and Mr. THURMOND):

S. 2929. A bill to amend the Davis-Bacon Act; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. QUAYLE, Mrs. HAWKINS, and Mr. HELMS):

S. 2930. A bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON (for himself and Mr. JACKSON):

S. 2931. A bill to provide for the disposition of funds appropriate to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218 and for other purposes; to the Select Committee on Indian Affairs.

By Mr. D'AMATO:

S.J. Res. 248. Joint resolution to proclaim Ukranian Insurgent Army Day; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS (for himself and Mr. SARBANES):

S. Res. 468. Resolution to pay tribute to Earl Weaver; considered and agreed to.

By Mr. PERCY (for himself, Mr. BURDICK, Mr. HELMS, Mr. LUGAR, Mr. NUNN, Mr. QUAYLE, Mr. GRASSLEY, Mr. PRESSLER, Mr. DIXON, Mr. SASSER, Mr. HUDDLESTON, Mr. BOSCHWITZ, and Mr. ABDNOR):

S. Con. Res. 122. Concurrent resolution relating to the processed product share of U.S. agricultural exports; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 2922. A bill relating to defense of insanity, and for other purposes; to the Committee on the Judiciary.

FEDERAL INSANITY DEFENSE BILL

Mr. HEFLIN. Mr. President, the Hinckley verdict has caused a tremendous amount of discussion on the issue of insanity and its relationship to the criminal justice system. A large number of American citizens followed the accounts of the trial of John Hinckley and were shocked when the jury returned the verdict of not guilty by reason of insanity. This has evoked indignation on the part of many citizens that the criminal justice system is not living up to its responsibilities.

The Judiciary Committee has had extensive hearings on the relationship of the defense of insanity in the criminal justice system. I would like to commend Senator THURMOND, Senator SPECTER and their able staffs for the capable and thorough review in the hearings. It is a complex issue and the

hearings have brought forth scholarly and enlightening views from many diverse corners.

Five of the jurors in the Hinckley case appeared voluntarily before the committee. These jurors stated in substance that they heard testimony from the defense psychiatrists that Hinckley was insane and therefore not responsible for his acts; then they heard testimony from the prosection psychiatrists that Hinckley was sane and therefore responsible for his acts. After hearing this conflicting testimony, the trial judge charged the jury that the burden of proof was on the prosecution to prove beyond a reasonable doubt that Hinckley was sane. The judge's charge was the deciding factor in their decision.

My home State of Alabama and other States have statutes that recite in substance that every person over 14 years of age charged with crime is presumed to be responsible for his acts and that the burden of proving a defense of insanity is upon the accused, not the prosecution. The U.S. Supreme Court has upheld a similar statute from the State of Oregon.

I am convinced from hearings that the most important thing that can be done to prevent Hickley verdicts in the future is to change the burden of proof to the accused. Today, I am introducing a bill to toughen our Federal law regarding the insanity defense. Most significantly, my bill will place the burden of proving insanity squarely on the defendant. I believe this is the most important structural change that this Congress can make relative to the issue of insanity as a defense. My bill will basically follow the Alabama statute and create a presumption that every person over 14 years of age is presumed to be mentally responsible for his acts and change the burden of proof from the prosecution to the defendant when the defendant raised the defense of insanity.

My bill als provides for an automatic Federal commitment for one who is acquitted by reason of insanity, followed by a court determination of whether the person presents a risk of bodily injury to himself and others. Had John Hinckley been acquitted in Alabama in a Federal district court, he could have walked out of the courtroom until such time as the State could file a commitment proceding. The situation would be the same in most States which do not have automatic commitment procedures themselves. My bill will insure the public safety through an immediate commitment. It will insure the rights of the acquitted by a timely court determination, not more than 45 days after the verdict is rendered.

My bill also provides for direct commitment to the custody of the Department of Health and Human Services, or if the person is a veteran, to the Veterans' Administration. I believe that Federal commitment is imperative for those acquitted by reason of insanity under Federal law. While proposals have been made to turn custody of these individuals over to the State in which the Federal proceeding occurred, I do not believe this is proper policy.

The States should not be expected to take the care, custody, and responsibility for those who have been charged under Federal law, and I am not certain that the Federal Government has the power to force the States to do so. Furthermore, as Federal courts, and not State courts, will retain jurisdiction to review whether the acquittee can be released, it is more appropriate for a Federal facility to retain control.

Also, without a definite commitment to a Federal facility, the acquitted individual, who is in need of psychiatric treatment, runs the risk of being juggled back and forth between Federal and State facilities, or even possibly released, while the Federal and State entities wrangle over custody. A Federal disposition will insure Federal control, Federal treatment, and Federal responsibility.

Finally, my bill will maintain the issue of insanity as a separate affirmative defense. I realize that some of my distinguished colleagues have advocated the elimination of a separate insanity defense and, instead, allowing evidence of mental disease to go only to the issue of state of mind. But I have previously raised my concerns to this body that this test will only expand the insanity defense and probably permit a thousand Hinckleys to go loose.

Now, having heard the testimony of Federal judges, defense lawyers, psychiatrists, and State legislators, I am more than ever convinced that a mens rea test will only liberalize the insanity defense and open the door to unlimited psychiatric evidence. It would be used to reduce charges and to plea bargain on lesser included offenses and punishment.

I, therefore, advocate that the separate insanity defense be maintained with the burden of proof on the accused for the issue of insanity.

In closing, I am hopeful that Congress can move forward with this legislation, or some measure to shift the burden of proof. The American people are shocked, indignant, and disturbed. I believe it is incumbent on this Congress to rectify our Federal law and restore the confidence of the public.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Chapter 1 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"Sec. 16. Insanity defense

"(a) It is an affirmative defense to a prosecution for an offense against the United States that, at the time of the conduct alleged to constitute the offense, the defendant, as a result of severe mental disease or defect, lacked the capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law.

"(b) As used in this section, the terms 'mental disease or defect' do not include an abnormality manifested primarily by repeated criminal or otherwise antisocial conduct.

"(c) "Every person over 14 years of age charged with crime is presumed to be mentally responsible for his acts, and the burden of proving that he is mentally irresponsible is cast upon the accused. The accused shall have the burden of proving the defense of insanity by clear and convincing evidence."

(b) The table of sections at the beginning of chapter 1 of title 18 of the United States Code is amended by adding at the end the following: "16. Insanity defense.".

SEC. 2. (a) The first sentence of paragraph (a) of Rule 12 of the Federal Rules of Criminal Procedure is amended by adding after "guilty" the following: ", not guilty by reason of insanity".

(b) Rule 12.2 of the Federal Rules of Criminal Procedure is amended by deleting "defense of insanity" in subdivision (a) and inserting in lieu thereof "affirmative defense of insanity".

(c) If the issue of insanity is raised as provided by law, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity."

SEC. 3. Add to chapter 313 of title 18 of the United States Code the following new section:

"SEC. 4249. COMMITMENT OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY

"(a) In any case in which a person is charged with a federal offense in the course of which he caused, threatened to cause or created a substantial risk of serious injury to the person of another, and is found "not guilty by reason of insanity", he shall be committed by the trial court to a suitable facility of the Department of Health and Human Services, or if the person is a veteran, of the Veteran's Administration, for examination and treatment.

"(b) Within 45 days of the date of confinement for examination and treatment, the superintendent of the facility shall forward to the committing court an evaluation of the mental condition of the committed person and the court shall promptly thereafter hold a hearing to determine whether the person presents a risk of bodily injury to himself or others and whether the person is in need of treatment.

"(c) If the court finds by clear and convincing evidence that the committed person will not in the reasonable future pose a risk of bodily injury to himself or others, and is no longer in need of treatment, the court shall order such person unconditionally re-

leased from further confinement. If the court does not so find, the court shall order such person shall remain committed to a suitable facility of the Department of Health and Human Services or if the person is a veteran, the Veterans' Administration for treatment.

"(d) Where any person has been committed to a suitable facility of the Department of Health and Human Services or the Veterans' Administration, pursuant to subsection (c) of this section, and thereafter the superintendent of such facility certifies that: (1) the person is no longer in need of treatment; (2) in the opinion of the superintendent, the person will not in the reasonable future pose a risk of bodily injury to himself or others; and (3) in the opinion of the superintendent, the person is entitled to his unconditional release from the hospital; and such certificate is filed with the clerk of the committing court and a copy thereof served on the Untied States Attorney who prosecuted the person; the court shall, after due notice, hold a hearing on the mental condition of the person. If the court finds by clear and convincing evidence that the person is no longer in need of treatment and will not in the reasonable future pose a risk of bodily injury to himself or others, the court shall order such person unconditionally released from further confinement. If the court does not so find, the court shall order such person returned for treatment.

"(e) Where, in the opinion of the superintendent of the facility a person confined under subsection (b) of this section does not pose a risk of bodily injury to himself or others and may be effectively treated if released under supervision, the superintendent shall so certify and file and serve such certificate as provided in subsection (d) of this section. The court shall, after due notice, hold a hearing on the mental condition of the person. If the court finds by clear and convincing evidence that the person will not in the reasonable future, pose a risk of bodily injury to himself of others, the court may order the release of such person under such conditions for supervision as the court sees fit.

"(f)(1) A person committed or conditionally released pursuant to the provisions of this section may file a motion before the committing court for release or other relief concerning his custody.

(2) A motion for relief may be made at any time after a hearing has been held pursuant to subsection (b) of this section.

(3) Unless the motion and the files and records of the case conclusively show that the person is entitled to no relief, the court shall cause notice thereof to be served upon the prosecuting authority, grant a prompt hearing thereon, determine the issues, and make findings of fact and state conclusions of law with respect thereto. On all issues raised by his motion, the person shall continue to have the burden of proof. If the court finds that the person is entitled to his release from confinement, either conditionally or unconditionally, a change in the conditions of his release or other relief, the court shall enter such order as may be appropriate.

(4) A court shall not be required to entertain a second or successive motion for relief under this section more often than once every 6 months.

(5) An appeal may be taken from an order entered under this section to the court having jurisdiction to review final judgments of the court entering the order.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 2924. A bill to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes; to the Committee on Energy and Natural Resources.

FIRE ISLAND NATIONAL SEASHORE AMENDMENTS ACT OF 1982

● Mr. MOYNIHAN. Mr. President, I rise today, along with my distinguished colleague from New York, Senator D'AMATO, to introduce legislation to amend the Fire Island National Seashore Act (Public Law 88-587). This bill is similar to a bill (H.R. 6771) introduced in the House of Representatives on July 15, 1982, by Congressman THOMAS DOWNEY.

The Fire Island National Seashore was established by Congress in 1964 for the purpose of "conserving and preserving for use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, N.Y., which possess high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population * * *." Fire Island, located just 50 miles east of New York City, is composed of sandy beaches, salt marshes, and sand dunes, which are among the highest in the Northeast. Within the boundaries of the seashore there are 18 small, heavily developed communities, primarily consisting of single-family homes and cottages and the businesses serving them and day visitors.

The 1964 act grants the Secretary of the Interior limited powers of condemnation in order to further the purposes of preserving the natural features of the seashore. In 1980, I joined Senator Jacob K. Javits, one of the prime sponsors of the legislation creating the seashore, in requesting that the General Accounting Office (GAO) review the Nation Park Service's land acquisition and management policies and practices for the Fire Island National Seashore. The GAO report (CED 81-78) issued on May 8, 1981, made several suggestions concerning ways to improve land acquisition and management policy at the seashore.

The legislation I introduce today is designed to perfect certain provisions of Public Law 88-587. The bill allows the Secretary of the Interior to sell certain acquired property, with covenants to insure future conforming uses, and to retain the proceeds from such sales for additional seashore acquisitions. Second, it permits the Secretary to apply for an injunction or temporary restraining order to prevent any use of, or construction upon, property after the commencement of a condemnation action taken pursuant to the Seashore Act. Finally, it clarifies the power of the Secretary to condemn property, in the seashore's developed communities, that becomes the subject of a variance or exception under any applicable zoning ordinance.

The bill specifically implements two of the recommendations contained in the May 1981 GAO report. First, the GAO suggested that the National Park Service should sell unneeded land. This bill adds a new subsection to the law that provides for a "turn around" provision that would direct that certain lands in the developed communities, acquired as nonconforming properties and not needed to further the purposes of the act, be sold. Properties thus sold would carry with them restrictions to insure that their use conforms to all applicable seashore regulations. The Park Service is currently in the process of identifying which of its present holdings may be eligible for such a turnaround. The revenues from the sale of these properties would be used to create a "revolving fund" to pay for future Park Service acquisitions within the seashore.

Second, the GAO pointed out a need to clarify land acquisition policy within the seashore's developed communities. This bill addresses that issue by amending section 3(e) of the current law. The new language provides that the Secretary's authority to condemn property in the developed communities with approved zoning ordinances would be reinstated only if a property becomes the subject of a zoning variance or exception and the Secretary finds that such an exception or variance results in the property being used in a manner that is inconsistent with the Secretary's guidelines issued pursuant to section 3. Currently, the Secretary does not make the latter finding. As the GAO observed, existing law "does not create a variance process that would permit the Park Service to certify if a nonconforming structure might harm the resource or not." The GAO went on to say, "The Secretary's authority to suspend condemnation is not discretionary." The new language in the bill will make it clear that a zoning variance is not, in and of itself, cause for condemnation. Instead, only a zoning variance that results in a use inconsistent with the purposes of the act would be cause for condemnation. This would put the Park Service back into the business of resource protection, where it belongs.

Mr. President, as I previously stated, the intent of this bill is to simply perfect the existing law (Public Law 88-587). This is necessary not only to make the operations of the seashore more efficient but also to help alleviate some very real concerns being expressed by Fire Island landowners about land acquisition policies within

the seashore. It is for these reasons that I am today introducing this bill.

Mr. President, I should add that this matter was brought to my attention by the Honorable Thomas J. Schwarz, mayor of the village of Ocean Beach. Mayor Schwarz has long been dedicated to preserving the beauty of the natural features and comfortable settings that abound on Fire Island. I am confident that his legislation will serve to further such purposes.●

By Mr. RANDOLPH:

S. 2925. A bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and empoyees in the construction industry, and for other purposes; to the Committee on Labor and Human Resources.

PERFORMING ARTS LABOR RELATIONS AMENDMENTS

● Mr. RANDOLPH. Mr. President, today I am introducing the performing arts labor relations amendments, legislation which amends the National Labor Relations Act to provide necessary changes with regard to the performing and entertainment industry. My bill would extend to the entertainment industry the same provisions currently covering workers in the apparel and industry. The performing industry and professional musicians are similar to the apparel and construction trades in that workers experience hardships and instabilities associated with short-term employment, often with many different employers, minimal job security, and additionally must travel frequently in order to find employment. These circumstances do not fit neatly into the work experience generally addressed by the National Labor Relations Act (Taft-Hartley). Because of this, organized individuals in the performing industry have had a difficult time with purchasers of their services. Under interpretations by the National Labor Relations Board, the purchasers of music, for example, cannot be compelled to recognize the musicians' collective bargaining agent, and the musicians are compelled to bargain individually since the purchasers under the National Labor Relations Board's interpretation, are not considered the employers of the musicians, even though the purchasers exercise the rights of employers in setting working conditions. The definitions of "employer" and "employee" are key to the Taft-Hartley Act. By denying that the purchasers are employers under the meaning of the act, this denies the workers the rights of employees.

My bill will correct these inequities by clarifying the employer under the National Labor Relations Act, as purchaser of musical performance services. It will also allow a performers union to collect dues after 7 days of employment, just as the construction industry may do now, as a recognition of the brevity of employment experiences. Under current law, the period is 30 days. The legislation would also authorize prehire agreements and legitimate collective bargaining.

I believe these amendments to the National Labor Relations Act are long overdue. I am pleased that there is similar legislation pending in the House of Representatives. I believe the unique circumstances of the performing industry must be recognized under the labor laws of the Nation. Musicians and other performers must be afforded fair and equitable treatment under the laws, not be penalized simply because the work experience is not of a permanent nature.●

By Mr. MOYNIHAN (for himself, Mr. HART, Mr. RANDOLPH, Mr. KENNEDY, Mr. LUGAR, Mr. BRADLEY, and Mr. CRANSTON):

S. 2926. A bill to create a National Commission on the Rebuilding of America which will conduct an inventory of our Nation's water and sewer systems, bridges, highways, and roads; develop a 10-year investment plan to rebuild the public improvements essential to economic development; make recommendations concerning changes in Federal laws and regulations that influence the pattern of Federal expenditures for public improvements; and for other purposes; to the Committee on Environment and Public Works.

REBUILDING OF AMERICA ACT OF 1982

Mr. MOYNIHAN. Mr. President, today I introduce, on behalf of myself and my distinguished colleagues from Colorado (Mr. HART), West Virginia (Mr. RANDOLPH), Massachusetts (Mr. KENNEDY), and Indiana (Mr. LUGAR), the Rebuilding of America Act of 1982. The purpose of the bill is to begin one of the most important tasks facing us in the coming two decades—rebuilding the public works infrastracture of our Nation.

The bill we introduce today would lead to the development of a national investment plan, setting priorities to guide Federal expenditures for public improvements over the succeeding 10 years. The national investment plan would be predicated on the facts and findings contained in a national inventory of public improvements.

To conduct the inventory and develop the plan, a National Commission on the Rebuilding of America would be established. The Commission would have 2 years to complete its work. As part of its responsibilities, the Commission would draw up a list of proposed changes in Federal statutes and regulations which would be necessary to implement the investment plan.

For some years, as our economic ills have come more and more apparent, there has been discussion of the need to reindustrialize America, to modernize the equipment and facilities of private manufacturing. Only recently, however—really within the past year—has attention begun to focus on the need to rebuild and recapitalize America, to repair, replace, and modernize the public improvements such as roads, bridges, and water supply systems without which productive economic activity cannot take place. And, surely, this rebuilding must accompany any attempt at reindustrialization.

A sampling of the past year's articles on the state of our public works infrastructure will suffice to underscore the alarm with which those who look even cursorily at the problem come to view it:

Time magazine, April 27, 1981, "The Crumbling of America."

The New York Times, July 18, 1982, "Alarm Rises Over Decay in U.S. Public Works."

Business Week, October 26, 1981, "The Decay That Threatens Economic Growth."

Newsweek magazine, August 2, 1982, "The Decaying of America."

I ask unanimous consent that the texts of these and several other articles on this topic be printed in the RECORD after my remarks.

Perhaps the most persuasive case for rebuilding America was made in a 1981 publication of the Council of State Planning Agencies, "America in Ruins," by Pat Choate and Susan Walter. These authors state the problem succinctly:

America's public facilities are wearing out faster than they are being replaced. Under the exigencies of tight budgets and inflation, the maintenance of public facilities essential to national economic renewal has been deferred. Replacement of obsolescent public works has been postponed. New construction has been cancelled.

The deteriorated condition of basic facilities that underpin the economy will prove a critical bottleneck to national economic renewal during this decade unless we can find ways to finance public works.

The following facts suggesting the magnitude of the problem emerge from "America in Ruins":

The 42,500 mile Interstate Highway System is deteriorating at a rate requiring reconstruction of 2,000 miles of road per year. Because of inadequate funding in the 1970's, over 8,000 miles of the system and 13 percent of its bridges are now beyond their designed service life and must be rebuilt.

The costs of rehabilitation and new construction necessary to maintain existing levels of service on non-urban highways will exceed $700 billion during the 1980's.

One of every five bridges in the U.S. requires either major rehabilitation or reconstruction. ($33 billion)

The 756 urban areas with populations over 50,000 will require between $75 billion and $110 billion to maintain urban water systems over the next 20 years. Approximately one-fifth of these communities will face investment shortfalls.

Over $25 billion in government funds will be required during the next five years to meet existing water pollution control standards.

Despite unmistakable evidence of such deterioration, the nation's public works investments, measured in constant dollars, fell from $38.6 billion in 1965 to less than $31 billion in 1977—a 21 percent decline. On a per capita basis, public works investments in constant dollars dropped from $189 per person in 1965 to $140 in 1977—a 29 percent decline. When measured against the value of the nation's Gross National Product, public works investments declined from 4.1 percent in 1965 to 2.3 percent in 1977—a 44 percent decline.

At least one half—and possibly up to two-thirds—of the nation's communities are unable to support modernized development until major new investments are made in their basic facilities that undergird the economy.

There can be no doubt that this problem is public in nature, national in scope, and appropriately attended to by the Federal Government. Geography, economics, and history all argue for Federal leadership.

Our public works infrastructure, or public improvements, as Jefferson so much more elegantly termed them, constitute an economic investment that is peculiarly public. These facilities epitomize what the economists call a "public good"—a commodity that everyone values, but that private enterprise is loath to supply because it is difficult or impossible to sell the goods in discrete units and to deny the benefits of the good to those who do not pay for them.

Our national experience, both remote and recent, demonstrates that public improvements are matters for the Federal Government. In 1807, the Senate, at the prompting of President Jefferson, asked the Secretary of the Treasury to prepare a plan "for the application of such means as are constitutionally within the power of Congress, to the purpose of making roads, for removing obstructions in rivers, and making canals; together with a statement of the undertakings of that nature now existing within the United States which, as objects of public improvement, may require and deserve the aid of Government." The following year, Secretary Albert Gallatin produced the landmark "Report on Roads and Canals," a 10-year plan calling for a federally supported system of roads and canals.

In 1824, the Congress directed Secretary of War John C. Calhoun to prepare surveys and plans for roads and canals. This legislation initiated the meritorious service of the Army Corps of Engineers in extending the development of the Nation.

The Federal Government is now responsible for fully one-half of all public works investment in the United States through grants and direct investment. We are therefore well-beyond the 19th century arguments about whether the Federal Government should be involved with "internal improvements." Extensive Federal involvement is an indisputable fact. However, our failure to coordinate planning and expenditure of these sums—nearly $25 billion annually—is also an indisputable fact.

A 1980 Commerce Department study, "Public Works Investment in the United States," made several interesting observations with regard to the regional allocation of Federal funds for public works:

The western and southern regions of the U.S. received over three-fourths of all direct Federal public works investment in 1972 and 1977.

On a per capita basis, the Mountain region received $97 per capita in 1977 and the New England region received $3 per capita.

From the Federal perspective, public works projects fall into three basic categories: First, federally owned; second, federally assisted but owned by a State or local government; and third, totally non-Federal projects. Most public works projects in the north-eastern region of the United States fall into the third category. Cities and States in the Northwest traditionally have built their canals, highways, and water systems without assistance from the Federal Government.

Clearly, the Federal programs through which the $25 billion is spent each year are not meeting the needs of a significant portion of our population. Those areas are instead struggling to meet their own needs, and in most cases, they are failing to do so.

It is not the purpose of this legislation to preempt State and local prerogatives in the matter of roads and water systems, but rather to help focus and coordinate Federal assistance.

I shall ask that hearings on this legislation be scheduled at the earliest opportunity in the Committee on Environment and Public Works. I would hope that even at this late date in this Congress, we can begin receiving comments on the legislation.

I ask that a copy of a summary of the bill and the bill itself be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Rebuilding of America Act of 1982."

FINDINGS

SEC. 2. The Congress finds and declares that—

(a) highways, roads, bridges, and water supply and sewer systems are public improvements vital to national development and prosperity;

(b) public works investment in the United States has declined at an alarming rate over the last decade and has resulted in the poor condition of much of our public improvements;

(c) the national costs of deteriorated public improvements are significantly higher than the costs of repairing, rehabilitating, improving or replacing existing facilities;

(d) the Federal government is responsible for one half of all public works investment in the United States through grants in aid and direct investment;

(e) the Federal government has no institutional means of formulating a comprehensive national public improvements plan and ordering national priorities; and

(f) direct Federal public works investment has been spread unevenly throughout the regions of the Nation.

POLICY

SEC. 3. It is the policy of the Congress that—

(a) states and local governments shall retain their traditional primacy in decisions affecting the use of land and water within their jurisdictions;

(b) the Federal government shall adopt practices and procedures that will lead to regionally balanced economic development;

(c) prior Federal involvement in a national public improvement shall be a primary consideration but not sole determinant in establishing future national priorities; and

(d) disincentives for maintaining, repairing, rehabilitating and replacing deteriorating national public improvements that now exist in Federal laws and regulations shall be corrected to encourage the most economically efficient pattern of investment in public improvements by the Federal government.

NATIONAL INVENTORY OF PUBLIC IMPROVEMENTS

SEC. 4. The National Commission on the Rebuilding of America, established pursuant to Section 7 and hereinafter referred to as the "Commission", shall conduct an inventory of existing major public improvements by region, state, and major metropolitan area of the United States and by type of facility, surveying especially—

(i) age and condition of the facility;

(ii) trends in the condition of the facility over the last twenty years and the relation of those trends to usage and maintenance schedules;

(iii) means of financing the maintenance, repair, rehabilitation, replacement, and new construction of facilities;

(iv) comparison of condition of public improvements within a region, state, or major metropolitan area and the pattern of economic development over the last twenty years; and

(v) trends in public expenditures for maintenance, repair, rehabilitation, replacement, and new construction of public improvements by region, state, and major metropolitan area and by level of government.

DEVELOPMENT OF A NATIONAL PUBLIC IMPROVEMENTS PLAN

SEC. 5. (a) The Commission shall develop a National Public Improvements Plan, hereinafter referred to as the "Plan", listing in priority order, needed maintenance, repair, rehabilitation or replacement of public im-

provements in each region, for the next ten and twenty years, or such other time periods as the Commission may deem appropriate, to sustain regionally balanced national economic development. Priorities shall be listed by type of facility for the Nation as a whole and for each region, and shall further consider the relative priorities among the various types of facilities. The Plan shall include recommended means of financing the needed maintenance, repair, rehabilitation and replacement, taking into account the least-cost life-cycle costs of developing and maintaining national public improvements and the appropriate mix of Federal, state and local resources to implement the Plan. The Commission shall consider prior Federal involvement, level of prior maintenance, and regional equity in its recommendations on financing the Plan.

(b) As an integral part of the Plan, the Commission shall suggest specific revisions in Federal laws, regulations and policies and further suggest alterations in the current responsibilities of Federal, state and local governments that may be necessary to reverse the pattern of disinvestment in national public improvements and sustain econmic development. The Commission shall include analyses and recommendations in accordance with policies set forth in Section 3 concerning:

(i) the establishment of the Federal capital budget;

(ii) changes in the imposition or allocation of excise taxes, user fees, other sources of public revenue, and borrowing authorities;

(iii) statutory or regulatory revisions in grants-in-aid, direct construction, or subsidy programs that would eliminate corruption, waste, and delay; that would encourage consideration of least-cost life-cycle costs in developing and maintaining facilities; and that would correct regional imbalances and disincentives for maintenance of facilities in Federal programs; and

(iv) the desirability and feasibility of scheduling public improvements construction and major renovation work in a manner counter to national or regional economic cycles in order to reduce the cost of such work and to dampen economic fluctuations.

PROCEDURES

SEC. 6. (a) The Commission shall submit to Congress and the President, not later than one year from the date of enactment of this Act, the national inventory of public improvements required pursuant to Section 4.

(b) Not later than 18 months after the enactment of this Act, the Commission shall submit to Congress and the President a draft Plan required pursuant to Section 5. For purposes of soliciting and considering public comment, the Commission shall further distribute the draft Plan to Federal agencies, all Members of Congress, major public interest groups, the Governors of the states, local officials, and make the report generally available to the public. All affected Federal agencies must submit written comments to the Commission.

(c) Not later than 24 months after the enactment of this Act, the Commission shall submit to the Congress and the President the final version of the Plan pursuant to Section 5.

(d) Unless the Congress enacts a joint resolution of disapproval of that portion of the Plan required pursuant to subsection 5(a) within 120 calendar days of receipt of the final Plan, that portion of the Plan shall be deemed to be approved by the Congress and shall be the policy of the Federal government; provided, however, that no statute or regulation of the Federal government, of a state or political subdivision thereof shall be in any way altered by Congressional approval of that portion of the Plan pursuant to subsection 5(a).

(e) The Senate Environment and Public Works Committee and House Public Works and Transportation Committee shall hold hearings on the proposed changes in existing law pursuant to Section 5 and shall report legislative proposals to the Senate and House of Representatives regarding such changes within 180 days of receipt of the Plan to permit full Federal implementation of the Plan.

ESTABLISHMENT OF THE COMMISSION

SEC. 7. (a) There is hereby established a National Commission on the Rebuilding of America which shall assess the condition of the national public works infrastructure, analyze causes of disinvestment on the national public works infrastructure, and evaluate the need to repair, maintain, replace, and expand the national public works infrastructure to support balanced development of the national economy.

(b) The Commission shall be composed of—

(1) the Secretary of the Army, the Secretary of Transportation, and the Secretary of Commerce; in the event the Secretary is unable to attend a meeting of the Commission, he may designate a representative but in no case may the designee be of a rank lower than assistant secretary;

(2) representatives of each of the following organizations: the National Governors Association, the National Conference of State Legislatures, the National League of Cities, U.S. Conference of Mayors, and the National Association of Counties; and

(3) five individuals from the private sector selected by the President who among them have experience in and knowledge of public investment financing, civil engineering, state and local budgeting practices, and regional planning.

(c) The President shall designate one of the five individuals as Chairman of the Commission. The Chairman shall be an individual of national recognition with experience in both public affairs and private enterprise. The Chairman shall be confirmed by the Senate.

(d) The Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Interior, and the Administrator of the Environmental Protection Agency or their designees shall attend the meetings of the Commission as non-voting members.

(e) The Commission shall be convened within 30 days of enactment of this Act.

DEFINITIONS

SEC. 8. For the purposes of this Act—

(a) The term "national public improvement" means the nation's systems of highways, roads, bridges, main water supply and distribution systems, and sewer systems;

(b) the term "facility" means any physical structure such as a highway, road, or bridge, or structure related to a water supply storage, treatment, and distribution system or sewage treatment and collection system which is owned and operated by the Federal government, a state, municipality, or other public agency or authority organized pursuant to State or local law;

(c) the term "maintenance" means routine and regularly scheduled activities intended to keep the facility operating at its design specifications;

(d) the term "repair" means the correction of a structural flaw in the facility without adding significantly to the design life of such a facility;

(e) the term "rehabilitation" means the correction of structural flaws in a facility so as to extend the engineered design life of such a facility;

(f) the term "replacement" means the reconstruction of an existing facility;

(g) the term "life cycle cost" means the total cost of constructing, operating, and maintaining a facility, including the interest on any borrowed funds, over the design engineered life of the facility;

(h) the term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Trust Territories, or the Virgin Islands, and

(i) the term "region" means one of the nine geographical groups of states defined by the Bureau of the Census in the Statistical Abstract of the United States.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) There shall be a staff for the Commission consisting of no more than 30 full-time employees of the Federal Government, who shall be detailed by the various agencies upon request of the Chairman of the Commission: *Provided*, That nothing in this section shall be construed to permit an increase in the level of total Federal employment.

(b) The Army Corps of Engineers shall assign a Civilian employee as staff director for the Commission, with the concurrence of the Chairman of the Commission, and shall also provide office space, supplies, equipment, and necessary contracting and other support services to the Commission and its staff.

(c) The heads of all Federal agencies are directed to cooperate with the Commission to the maximum extent possible, and to provide, on a timely basis, such information as the Commission may request.

(d) There is hereby authorized to be transferred or reprogrammed from appropriations otherwise available to the Army Corps of Engineers, the Department of Transportation, and the Department of Commerce, the total of five million dollars to carry out the duties of the Commission during its tenure, said sum to be exclusive of salaries for staff.

(e) The private members of the Commission shall be compensated for their time engaged on Commission business at the daily rate established for employees at grade 18 of the general schedule.

THE REBUILDING OF AMERICA ACT OF 1982—SUMMARY OF THE BILL

The "Rebuilding of America Act" would establish a National Commission on Rebuilding America to devise a program for reconstructing and rehabilitating the nation's public improvements—the system of roads, bridges, water supply and sewer systems without which industry and business cannot function.

The bill states the Congress's findings that national public improvements have been deteriorating at an alarming rate, that there is a serious regional imbalance in the capability of such facilities to support economic activity and growth, and that the Federal Government has failed to develop a response to the problem.

Accordingly, the bill would establish a National Commission on the Rebuilding of America that would be required to:

(1) conduct an inventory of national public improvements by region, state, and

metropolitan area and by type of facility, with attention to the condition of the facilities, their sufficiency to support economic growth, and recent patterns of investment and deterioration (Section 2 of the bill); and

(2) develop a national public improvements plan, setting priorities and detailing the means of financing needed public improvements over the next ten and twenty years and further recommending changes in Federal laws, regulations, and policies that would permanently insure adequate investment, and clarifying the relationship among Federal, state, and local responsibilities for development and maintenance of public improvements (Section 3).

The 13-member Commission would be composed of five distinguished individuals from the private sector who are conversant with infrastructure needs, one of whom would be Commission chairman; the Secretaries of the Army, Transportation and Commerce; and representatives of the five major organizations of state and local elected officials (section 5).

The Commission would have two years and a budget of five million dollars to complete its work (Section 6). The $5 million would be drawn from existing appropriations and no new spending would be required to fund the Commission. The Commission's recommendations regarding investment priorities would become binding unless disapproved by the Congress within 120 days of their submission (Section 4).

The Army Corps of Engineers, which spearheaded the development of the Nation's public improvements in the 19th and early 20th centuries, would provide principal administrative support to the Commission. The Commission would be restricted to no more than thirty full-time employees, drawn from and paid by various Federal agencies. No new Federal employees would be hired.

[From the Washington Post Aug. 11, 1982]

HOW TO KEEP AMERICA FROM CRUMBLING

(By Roger J. Vaughan)

America is falling apart. Our roads are crumbling, our bridges are impassable and our sewers are backing up. Politicians have always believed in the talismanic power of public works to generate jobs and to gather votes, and the sheer size of the "infrastructure problem" presents an unprecedented opportunity to do both.

One study, provocatively titled "America in Ruins," estimates that we must quadruple our annual public spending from the present total of $70 billion if we are to prevent further deterioration. This would mean a 40 percent increase in all state and local taxes—a prospect that would drive the beleaguered taxpayer to something less democratic than a tax limitation referendum. It would grossly inflate construction costs, expose local governments to massive fraud and abuse and lead to inhumane cuts in other public services.

Fortunately, there are some solutions to this crisis that do not require an impossible increase in public expenditure. First, local governments can stop using scarce tax-exempt bond revenues to subsidize private investments. Last year, less than half of the revenues from bond issues were used for public works projects. The rest were used to finance private projects, including hospitals ($5.4 billion), pollution control for private corporations ($4.5 billion), industrial development ($3.2 billion). Cut these subsidies out and we could double public construction spending for public purposes. Private investment was generously encouraged under the 1981 Tax Recovery Act. Further public aid is redundant.

Second, state and local governments can start charging for the services they provide. There is no reason why citizens at large should pay for expensive water supply systems unless they use the water. Yet, in most states, gereral obligation bonds are used to pay for irrigation systems for farmers, orewashing for mining companies and green lawns in new suburban subdivisions. A water user fee will encourage greater cconservation, reducing the need for new reservoirs and water treatment facilities. Those who would argue that "user fees" are hard on the poor should compare them with the alternative of cutting back on social service spending to continue the present subsidies for inefficient development.

Third, we can stop giving away the local tax base through tax abatements and exemptions to attract business. There is no evidence that the $1 billion given away annually by states and cities to lure business has had any real effect. The resources would be better used repairing streets, improving the local education system and modernizing our ports.

These are not easy steps to take. But local officials must face some painful facts. It should be clear by now that the federal government will not help. While Washington wrestles with its own enormous deficits, it is unlikely to bail out states and cities from the results of their profligate subsidies to local businesses. Second, the tax-exempt bond market will not be a source of low-cost money in the foreseeable future. Interest rates will remain high, and investors will carefully scrutinize new issues. Fiscal gimmicks—from zero-coupon bonds to the tax leasing of public facilities to private corporations—will prove little more than placebos. With no cheap sources of funds, local governments will have to make some painful decisions about which projects really require a public subsidy.

Public infrastructure investments are an important ingredient for successful economic recovery. The past level of underinvestment is endangering growth. But we should use this "crisis" as an opportunity to define new priorities. Public funds should not be used to build convention centers, industrial parks and buildings for large corporations. A sound fiscal strategy and a clear allocation of responsibility between the public and private sectors are much more powerful development incentives than speculative projects and tax subsidies. Construction activities may provide local politicians with photo opportunities. But, in the long run, the local voters will be more impressed with a leader who can fill their potholes, hold down the cost of local debt and lay the foundation for sustained economic growth. And that will require saying "no" to a lot of pork-barrel projects and making the users of public facilities pay for the privilege.

(The writer is a consultant to the Council of State Planning Agencies.)

[From the Wall Street Journal, Aug. 11, 1982]

HOW NEW YORK DEALS WITH PERILOUS PROBLEM OF CRUMBLING BRIDGES

(By Bill Paul)

NEW YORK.—George Zaimes, in the five years that he has been this city's chief engineer, has become a skilled practitioner of urban triage.

Put bluntly, his main task is to keep New York's hundreds of decaying bridges from collapsing. Like a medic at wartime, he moves among the wounded and dying, assessing which patients can be saved, which need attention first, and which must be left to die. Ordering a wooden buttress here, a batch of plastic there, he buys time and sets priorities. The critical—but salvageable—cases come first.

It is one of the world's most-impossible—and thankless—jobs.

If he were to make a serious mistake in judgment, hundreds or even thousands of people might die. Yet those people whose safety he fights for complain loudly when he inconveniences them. And the politicians who would be held accountable if an accident occurred keep cutting his funds, making catastrophe no longer unthinkable.

The balding, 54-year-old Mr. Zaimes is a soldier in what is perilously close to a losing battle: The fight to save the nation's crumbling highways and bridges. Old age, neglect and continual battering by today's larger trucks have taken a heavy toll on America's roads and bridges. Nearly half of all highway bridges are deficient or obsolete, according to the Transportation Department. About half of the 43,000-mile interstate highway system, if not soon repaired, will have to be rebuilt. Thousands of miles of less-traveled roads have already been allowed to revert to a natural state by counties and towns. In all, the Federal Highway Administration estimates it will cost more than $230 billion over the next 13 years to rehabilitate the nation's primary roads and bridges.

. . . than in the aging and financially pressed city of New York. After more than 50 years of abject neglect, city officials awoke to the imminent dangers in 1977: Bridges and highways, some more than 75 years old, were rapidly deteriorating, with only a handful of untrained ironworkers regularly inspecting them. Mr. Zaimes, a state employee, was summoned to head a new city-state task force on bridge rehabilitation. His mandate: Rebuild, repair and, above all, prevent disaster.

But even with the hard-charging Mr. Zaimes, a beefed-up staff of 200 and hundreds of outside consultants now inspecting and repairing New York's 2,000-plus bridges, the city is still uncomfortably close to a major accident. The roads and bridges are decaying faster than money and manpower can be found to make needed repairs.

SAVING THE DAY

"I'd say we've headed off eight catastrophies in the last five years," Mr. Zaimes says matter-of-factly, chomping on a cigar in his World Trade Center offices.

Perhaps the most chilling near-miss involved the Queensboro Bridge, which carries motor vehicles and subway trains over the East River between Manhattan and Queens. Shortly after stepping in as head of the task force, Mr. Zaimes conducted the first inventory ever of all New York bridges. During that survey, he discovered that the two outer lanes of the Queensboro were about to collapse. "There were heavy trucks riding in those lanes and any one of them could have caused the roadway to give," he recalls. He immediately ordered the lanes closed and repairs begun. "We were very lucky no one died," he says.

Since then, Mr. Zaimes has built extensive files on all of the city's bridges. Each file contains a detailed report on the condition of the bridge made within the last two years by one of the 450 or so engineers Mr. Zaimes employs as consultants, as well as

photographs of the structure from every considerable angle. If a bridge has a serious defect requiring immediate attention, the file is pulled and placed with over 300 other "red flag" files.

STOPGAP MEASURES

It is one thing to identify problems, however, and quite another to correct them. At last count, Mr. Zaimes had been forced to close 19 bridges. At least 100 others aren't receiving the immediate attention they need. Dozens more are getting at best only "Band-Aid" repairs, such as the application of plastic sealants to retard erosion or the installation of wooden supports to reinforce cracked concrete columns. Sometimes all that can be done is to bore a hole at the end of a developing crack in a bridge's steelwork; this keeps the crack from spreading but doesn't prevent new cracks from forming.

Such half-measures are costly, Mr. Zaimes says. Right now, for example, seven viaducts on seven different expressways could be preserved if $30 million were spent to chip away and replace the top layer of pavement. Acid from snow-melting salt is leaking through the worn pavement and corroding the underlying steelwork. Instead, Mr. Zaimes settled for a cheaper asphalt repaving, which gives a smoother ride but still allows acid to leak. Mr. Zaimes figures that if he can't fix the viaducts properly for another 10 years, it will cost $150 million to replace all the steel rotted by then. "This is agony," he says. "Agony."

Quite likely, Mr. Zaimes says, many other bridges will be closed over the next couple of years for lack of repair funds. He says he could do the needed work in a decade, given $250 million a year. (When he first came to town, he was give that much to work with. But today, thanks primarily to cuts in federal funding, his budget has been more than halved.)

The chief culprit is an "obligation ceiling," imposed for the past two years by the Reagan administration, that limits state spending on road and bridge repair to roughly half the level appropriated by Congress. In New York City's case, if has meant a loss of $100 million in federal funds in the current fiscal year.

"If we can't spend it, what the hell good is allocating it?" Mr. Zaimes fumes.

For a while this spring, Mr. Zaimes thought he could recover part of that lost federal money. Drew Lewis, the Transportation Secretary, had proposed a five-cent-a gallon gasoline tax increase, with four of those five cents earmarked for road and bridge repair. New York City's share would have amounted to about $35 million.

His hopes were dashed in April, when the president tabled the plan, deciding he couldn't ask Congress to raise taxes at a time he was urging it to trim the federal budget.

New York State's fiscal problems have forced it, too, to cut back funding for bridge and road repair. The combined effect has meant Mr. Zaimes has had to cannibalize, his own programs. This year, for example, he received only $6 million of the $24 million in federal money needed to fix viaducts on the Henry Hudson Parkway north of Manhattan. To make up the difference, he postponed repairs on half a dozen other bridges

"RACE AGAINST TIME"

Repairs on the Henry Hudson couldn't wait. The parkway is at the northern end of the West Side Highway, one of Manhattan's two north-south arteries, and it must be fixed before problems on Franklin D. Roosevelt Drive, the other artery, become critical. It will take at least two years to complete work on the Henry Hudson, by which time the FDR Drive viaduct between 79th and 96th Streets will be becoming unsafe. "I'm in a race against time," Mr. Zaimes says. "If I gut the FDR viaduct before I've got the Henry Hudson fixed, I'll strangle the city."

He shudders at the thought of beginning the FDR Drive work, which will entail closing some lanes and rerouting traffic onto city streets that crisscross some of the world's most expensive real estate, "I know that residents aren't going to like it and there"ll be a big stink at City Hall," Mr. Zaimes says.

The city is so strapped for funds that Mr. Zaimes is giving serious consideration to a scheme that would have done P.T. Barnum proud. Next year, the centennial of the Brooklyn Bridge, he proposes cutting up all the rotten wire that he plans to replace on the bridge and selling small mounted lengths of it as souvenirs. If he cut 500,000 pieces of wire and charged $50 each, he figures he could garner $25 million. So far, city officials have been cool to the plan, but he keeps pushing. "I'll do anything to raise money," he says, "I'm fighting a war here."

DIFFICULT CIRCUMSTANCES

Mr. Zaimes's 54th-floor office at the World Trade Center in some respects resembles a war room. A hard hat is always within reach. A blackboard stands next to his desk so that he can diagram logistical problems. The desk itself is weighted with paper—mostly communiques from Washington and Albany. A slogan on the wall attests to his frustration: "When all is said and done," it reads, "more is said than done."

Mr. Zaimes's colleagues in and out of government credit him with doing the best job possible under the circumstances. "George is an excellent man, but even Superman would have a difficult time if he were up against what George is," says Arthur Asserson, the city's construction coordinator for transportation. Janet Weinberg, executive director of a citizens' group, Transportation Alternatives, adds, "I wouldn't want his job for anything."

Mr. Zaimes' wouldn't argue with that assessment. "I'm burning out and so is my staff," he says. "I don't know how much more I can take."

At any moment in his typical 12-hour days, a crisis can erupt, and he is on 24-hour call for emergencies. A few weeks ago, for example, a dangerous crack appeared on the Manhattan Bridge which carries vehicles and subway trains between Manhattan and Brooklyn. The fissure was in a vertical steel beam, directly under the subway tracks. Mr. Zaimes faces a tough decision. Should he remove the subway trains, the vehicles—or both—from the bridge until the beam is fixed? Given the city's traffic problems on even a normal day, he knew that any rush-hour diversion would cause massive snarls.

After consulting with transit officials, he rerouted the subways but allowed the cars to continue traveling over the bridge. "I was very close to taking the cars off, too," he recalls.

The Manhattan Bridge is a textbook case of the physical decay Mr. Zaimes's task force must contend with. While the bridge is still safe to use, it is notably weaker than the day it opened over 73 years ago. Years of neglect have resulted in the hopeless clogging of the drains that once siphoned rain-water and melting snow off the bridge. As acid from the salt spread on the pavement collects, it eats into the steel structure.

Compounding the acid corrosion—a problem shared with all other city bridges—is weakening caused by the subway trains traveling in the Manhattan Bridge's outer lanes. Their weight causes excessive twisting of the steel work and eventually, cracking. To help lessen the strain, Mr. Zaimes's crews have begun padding the bridge with neapreme, a sort of super-sturdy "Silly Putty."

Between crises, Mr. Zaimes presses on with the drudgery of paper work and public relations. He personally answers complaints from citizens—such as bike riders protesting the closing of their lane during repairs on the Queensboro Bridge. He also plays host to local Congressmen, pitching for more federal funds.

When pressures get too great, Mr. Zaimes retreats to the Bronx delicatessen that his 87-year-old father still owns. "Sometimes I just go up there and whack hell out of the meat," he says. "It helps."

More often, he grabs his hard hat and tours trouble spots. On a recent outing he bobbed out on the East River in a rubber dinghy to view the underbelly of the decaying FDR Drive viaduct. There, steel rods that should span the roadway hung down into the murky water like rusty Spanish moss. Then, on to the Williamsburg Bridge to examine anchorage cables buried in cement at the base of the bridge's Manhattan side. When he was out of earshot, one of the workmen said of Mr. Zaimes: "The guy cares, you know what I mean? It's more than a job to him."

[From Newsweek, Aug. 2, 1982]

THE DECAYING OF AMERICA

(No one noticed the spidery crack inching its way along the concrete casing of New York City's 65-year-old water tunnel No. 1. But one weekday morning, 600 feet below the Bronx, the steady torrent of water loosened one chunk of concrete, then another, then another, until an underground landslide closed the tunnel off. Manhattan's water trickled to a stop. Within minutes pumps in high-rise buildings, trying to compensate for the loss of pressure, caused a widespread blackout. Elevators stopped at mid-floor. Subways rolled dead, their antiquated electrical backup systems unable to handle the sudden load. Sewers backed up. Fires raged. Before rescue workers could come to their aid, thousands of panic-stricken New Yorkers headed for the only means of escape—the city's dilapidated bridges. Overloaded with humanity and cars, the 73-year-old Queensboro bridge cracked, groaned and toppled into the East River.)

That vision of urban apocalypse isn't farfetched. America's infrastructure—the vast, vital network of roads, bridges, sewers, rails and mass-transit systems—is heading toward collapse. The decay is most acute in older industrial cities, but clogged highways and strained water systems also threaten to strangle booming Sun Belt towns, and even in dusty rural communities, potholes batter chassis and jangle motorists' nerves. Two weeks ago, in one 24-hour period, an 80-year-old earthen dam burst in Colorado, sending a wall of water through the town of Estes Park, and a major aqueduct broke in Jersey City, N.J., leaving nearly 300,000 residents without drinkable water for six days. Says Robert Harpster, executive director of the Iowa League of Municipalities, "Our sewers leak like sieves, our mass transit is in

bad shape and our roads look like the Ho Chi Minh trail."

Ever since the canal boom of the 1800's, public works have shaped the nation's character and accommodated its growth. But today one-quarter of the interstate-highway system is worn out and needs resurfacing. One-half of Conrail's rails and roadbeds are seriously decayed. Half of all American communities cannot expand because their water-treatment systems are at or near capacity. One-fifth of the nation's bridges are so dangerously deficient they are either restricted or closed. "We're living on our laurels of the 1950s and 1960s," says Transportation Secretary Drew Lewis. Agrees Pat Choate, co-author of "America in Ruins," a study of the crisis for the Council of State Planning Agencies: "We've been squandering a major part of our national wealth."

All told, the cost of needed repairs around the country could run as high as $3 trillion. But the bills are coming due at a time when there is little money to spare. The Reagan Administration favors cutting Federal aid for highways, bridges and pollution-control projects and plans to phase out mass-transit operating subsidies by 1985, leaving state and local governments to pick up the slack. For their own part, many states and cities are already in fiscal extremis and will be forced to spend more and more scarce funds for simple operating costs as Federal aid to other programs diminishes. Money is even tighter where strict local tax-cut measures are in effect. Under Proposition 2½, for example, Massachusetts is devoting only .5 percent of its budget this year to maintenance and repair—a policy one expert on the state's budget, Mark Ferber, calls "pennywise and pothole foolish."

At the same time, record interest rates have driven the cost of issuing municipal bonds—the traditional means of raising capital funds—prohibitively high. And other recent Federal policies have hardly helped. All Savers certificates, Individual Retirement Accounts, accelerated depreciation and "safe harbor" leasing laws have all reduced the incentives for individuals and corporations alike to invest in tax-exempt municipal bonds. "The U.S. Treasury is slowly choking the ability of states to raise money," charges Massachusetts bond counsel Francis X. Meany. Some economists warn that Reagan's plan to stimulate the growth of the private sector through tax cuts could backfire if the roads, bridges, rails and water systems that businesses depend on are allowed to collapse from too little government support.

Human toll: Already the nation's decaying physical plant is costing Americans dearly. In Houston, for example, city planners estimate that motorists pay a "traffic congestion tax" of $800 a year in time and gasoline wasted on the city's snarled expressways. U.S. Steel spends an extra $1 million a year detouring its trucks around a closed bridge in Pittsburgh. TRIP (The Road Information Program), a highway-in-industry group, estimates that the aggregate cost of the private sector of bad roads and bridges is $30 billion a year-for everything from broken axles to lost business. Even worse, the infrastructure crisis is exacting a heavy human toll. A recent Federal Highway Administration study found that spending an extra $4.3 billion to fix dilapidated bridges and roads could save 480,000 injuries and 17,200 lives over fifteen years.

There are nearly as many reasons for infrastructure decay as there are potholes. Some of it stems simply from old age. Built largely in the 1950's, the interstate-highway system, for example, was designed to last only 25 years. Many roads, bridges and water systems are also bearing far greater burdens than they were ever expected to accommodate. Boston's six-lane Southeast Expressway, built in 1959 for 75,000 cars a day, is now an axle-crunching obstacle course that carries 150,000 cars daily. And everywhere, age and abuse have been compounded by neglect. Investment in public works by all levels of government has dropped by more than 25 percent since 1972 (chart, page 18). As the fiscal crises of the 1970s hit, many local officials balanced budgets by canceling preventive maintenance and deferring needed repairs. "In the choice between laying off police or maintaining sewers," says Lincoln, Neb., Mayor Helen Boosalis, "the sewers always lose."

Although billions of dollars have been spent on public works in recent years, the vast bulk of expenditures has gone not to maintain old facilities but to build ambitious new pork-barrel projects, often determined more by politics than actual need (page 18). Says E. S. Savas, Assistant Secretary for Housing and Urban Development, "Have you ever seen a politician presiding over a ribbon-cutting for an old sewer line that was repaired?" All too often the cost of such projects is wildly inflated by corruption on the part of construction firms, labor unions, public officials and organized crime—all at the taxpayers' expense (page 17). Meanwhile, the longer the repairs are put off, the costlier they become. "Deferred maintenance becomes reconstruction," says Choate's co-author, Susan Walter.

One big obstacle to good infrastructure maintenance is the very system that controls it. Responsibility for maintaining public facilities rests with more than 100 Federal agencies, as well as the 50 states, more than 3,000 counties and thousands of local agencies. In Cleveland four separate municipal departments share authority over hundreds of dilapidated bridges. In Eaton Rapids, Mich., city manager Dennis Craun has compiled a 120-page booklet of all the Federal regulations that pertain to a 90-year-old one-lane bridge that is not strong enough to carry trucks or buses—but is nevertheless listed in the National Register of Historic Places, and therefore cannot be destroyed. "I'm about at the point where I'd consider driving an 80,000-pound tanker over it," he says. "That would do the trick."

Citizen opposition has also stood in the way of preventive maintenance, since road, bridge and water-main work can be inconvenient as well as costly. But as the decay worsens, some citizens are taking the lead—and some deteriorating facilities have become key political issues. Last March women in Grosse Pointe Farms, Mich., got so fed up with the potholes on Detroit's Lakeshore Road that they donned hard hats and hockey helments and fixed them. U.S. Representatives Barney Frank and Margaret Heckler are fighting a re-election battle over a 76-year-old bridge in redistricted Fall River, Mass. Frank recently brought the chairman of the House Public Works and Transportation Committee to visit the bridge; Heckler brought Drew Lewis. "If this is what it takes to get action, I'll take it," says bemused Fall River Mayor Carlton Viveiros.

"Bumpy Rug": Aware of the growing potency of pothole politics and the genuine dangers of serious breakdown, many city officials are belatedly fighting to save their public facilities—at no small cost to city coffers. Chicago's Mayor Jane Byrne has announced a two-phase, $187.5 million plan to rebuild 22 bridges and viaducts, 90 intersections and 46 railroad crossings. New York City has embarked on a ten-year, $34.7 billion program to renovate streets, bridges and mass transit and work has begun on a third water tunnel. In Pittsburgh Mayor Richard Caliguiri is devoting $60 million of his city's $225 million budget this year to maintenance projects—deferring work on recreation programs. "We can no longer sweep these problems under the rug," says Cleveland's director of public utilities, Edward R. Richard. "The rug is getting too bumpy."

A sampling of the nation's worst infrastructure problems:

Highways. Still 1,500 miles short of completion, the once proud 40,500-mile interstate-highway system will need $33 billion worth of repairs in the next decade. But the Federal Highway Trust Fund, which supported the system throughout the 1960s on ever-burgeoning revenues from the 4-cent-a-gallon Federal gasoline tax, has been sorely depleted with the advent of smaller, more fuel-efficient cars. Conditions are even worse on the larger network of primary and secondary roads. The U.S. Department of Transportation (DOT) estimates that the work needed to keep nonurban highways at current levels will cost more than $500 billion over the next ten years—more than Federal, state and local governments combined spent on all public works in the 1970s.

City streets. It takes 100 pounds of asphalt to fill the average pothole, and the record-cold winter of 1982 left a plague of them—1 million, by some counts, in Chicago alone. But city officials are finding that it can also be costly to leave them unrepaired. Two years ago, after paying $20 million in negligence claims, New York City enacted a pothole "prior notice" law, exempting it from responsibility for accidents caused by any street defect not reported at least fifteen days earlier. Not to be thwarted, a citizens group called Big Apple Pothole and Sidewalk Protection Corp. sent an army of workers out to document every crack and rut in Manhattan, Brooklyn and the Bronx.

Bridges. Nationwide, 248,500 bridges—45 percent of the total—are structurally deficient or functionally obsolete. But DOT estimates that needed repairs could cost as much as $47.6 billion. Meanwhile, two Federal programs are supposed to provide for periodic inspections and aid to the most dangerous bridges, but a 1981 General Accounting Office report found that many national safety standards were not being met. Heavy trucks continue to barrel over the Mountain Avenue Bridge in Malden, Mass., for example, even though it was "posted" at a maximum of 6 tons in 1977.

Mass transit. Believe it or not, conditions on subways and buses are actually improving in many cities. Since 1979, when two Philadelphia buses caught fire on the road and only 26 of 108 subway cars were operating on the Broad Street line one night, the Southeastern Pennsylvania Transportation Authority (SEPTA) has raised capital spending from $17 million to $110 million and even brought aged repairmen out of retirement to teach a new generation of mechanics how to fix its 1920s car motors. New York City's Metropolitan Transportation Authority (MTA) has embarked on a five-year, $5.8 billion renovation program, though frequent glitches with its new buses and subway cars have actually compounded maintenance problems in the vintage repair

shops. Meanwhile, critics remain leery of the rescue plan, since the financing includes $1.6 billion in bonds to be paid off by farebox revenues. MTA Chairman Richard Ravitch "may be known in the future for two things," says Gene Russianoff of the watchdog group Straphangers Campaign, "rebuilding the system and the $3 fare."

Railroads. Tempers have been rising along with fares on U.S. commuter rails. In 1980 half the ridership of the Long Island Rail Road joined in a one-day strike, refusing to show their tickets. "We pay ransom for the privilege of being hermetically sealed in dirty, smelly cars," says Lorraine Pirro, a citizen adviser to New York's commuter rails, which will spend $1.3 billion on capital improvements over the next five years. Many systems are saddled with ancient equipment never designed for stop-and-go commuter service. "Edison Cars," dating back to 1923 when Thomas A. Edison threw the first switch, still make up 10 percent of the New Jersey Transit Corp.'s fleet.

Commuter headaches will be compounded later this year when Conrail gets out of the commuter-rail business, leaving local transit agencies completely responsible for 210,000 riders daily. SEPTA officials warn that unless contracts and work rules are renegotiated (the average Conrail worker earns $40,000 a year), they may have to close down the area's thirteen commuter lines. The precedents set by public takeover of bankrupt freight lines are not encouraging. In Michigan, for instance, half of the 931 miles of freight track run by the state lies dormant in disputes over subsidies.

Water and sewage systems. Every day more than 1 million gallons of tap water disappear through leaks beneath the streets of Berwyn, Ill. In Milwaukee there were 170 water-main breaks in January alone. And in New York City, though the complete failure of one of the two giant water tunnels is unlikely, neither has ever been inspected. Experts say a breakdown of some kind is all but certain within the next twenty years. Sometimes made of brick, wood or cast iron and often more than 100 years old, America's sewer and water systems are subterranean time bombs. Choate estimates that 756 major urban areas will have to spend $75 billion to $110 billion to maintain their water systems over the next twenty years, and just meeting pollution-control standards will cost $25 billion over the next five years.

Dams. Like the earthen dam that burst in Colorado earlier this month, many U.S. dams are tiny, aged and privately owned—yet their collapse would jeopardize hundreds of lives and homes. State and Federal officials didn't even know where many of the dams were until the 1977 collapse of a dam in Toccoa, Ga., spurred Jimmy Carter to send the Army Corps of Engineers out to survey them. In a four-year study the Corps counted 68,000 non-Federal dams. The Corps inspected nearly 9,000 dams in highly populated areas and found roughly one-third to be unsafe, with 130 in danger of imminent collapse. But even where repairs were ordered, they have often not been carried out, because the dams' owners either couldn't afford them or couldn't be found.

Public buildings. "Hardly a week goes by that we don't have some kind of roof problem at one of our 29 fire stations," says St. Louis budget director Jack Webber, whose city-hall roof nearly fell in on him last year. In New York City nearly half of the 1,087 public schools are at least 50 years old and many suffer rotted windows and outdated plumbing and electrical systems. Worse still are the nation's 3,500 prisons, as many as 3,000 of which need substantial renovation or expansion. In Texas 3,800 inmates of the state penal system sleep in tents for lack of space. In some states prisoners are being paroled early to ease overcrowding.

Growing pains. Public works in Sun Belt cities have not kept up with population growth. In sprawling Phoenix a scant 36 miles of freeway now serve a population of 1.5 million, 97 percent of whom travel by car. Every day between 1970 and 1980, roughly 250 more cars joined Houston's expressways, and traffic there has become so chronically awful—with "rush periods" lasting twelve hours a day—that some executives now commute by helicopter (page 53). Texas planners figure it will take 300 miles of new freeway and 1,400 miles of streets, costing $16.2 billion, to bring traffic conditions back to what they were in 1975.

Water is also a serious problem in the West and Sun Belt, where overtapping of ground resources causes more and more giant fissures and sinkholes. Meanwhile, the nation's ports have not kept up with the increasing demand for coal exports. At one point, 15 percent of the world's bulk coal was sitting useless at the port in Hampton Roads, Va., due to congestion in unloading.

Solutions: How will the staggering infrastructure needs be met? Proposed solutions range from a gigantic New Deal-style public-works program to increased user fees, but none will be easy. One of the most sensible ways of raising highway revenues, for example, would be to boost the Federal gas tax, which has been 4 cents a gallon since 1959. Transportation Secretary Lewis has proposed doubling the gas tax and raising levies on heavy trucks, to generate $5 billion annually. But the powerful automobile and trucking lobbies oppose Lewis's plan to use $1 billion of that revenue for mass transit, and President Reagan has vetoed the idea for now.

On their own, 31 states have raised state gas taxes and other fees in recent years and several are considering more road tolls. By charging an average of 2.4 cents per mile, for example, the 40-year-old Pennsylvania Turnpike pays for resurfacing 30 to 50 miles a year. Many communities are also raising rates for water and sewer services—systems experts say should be self-supporting. Often that requires creating a separate local agency, such as Boston's acclaimed five-year-old Water and Sewer Commission. The danger, critics warn, is that the proliferation of local agencies will diffuse accountability and multiply administrative costs.

Private businesses are also assuming a greater share of the burden—voluntarily or not. At the Sycamore housing development in Danville, Calif., where Proposition 13 prohibits raising taxes to pay for basic services, a local approval board is asking the developer to provide two new water tanks, a freeway interchange, a new elementary school and a new fire engine. The cost, of course, ultimately gets passed on to consumers: the town's decree is raising the cost of each new home there by $15,000. Private donors are helping to renovate the crumbling Statue of Liberty and restore San Francisco's 107-year-old cable cars, which will shut down this September for twenty months of repairs. And in some cities business leaders are donating management expertise. "If Cleveland goes to hell, we all go to hell with it," says attorney Carlton Schnell, chairman of a coalition advising the city on its infrastructure needs.

Dabbling: In desperation, local officials are experimenting with a wide variety of other revenue-raising schemes, including selling off public buildings. The Port Authority of New York and New Jersey is considering leasing vacant office space to raise funds for a "bank for regional development" that would lend money to local governments for infrastructure needs. Others are dabbling in "leveraged leasing." New York's MTA sold 620 buses and ten commuter-rail cars to Metromedia, Inc., at $15.5 million over the cost. Metromedia will take the tax depreciation on the equipment and lease it back to the MTA, which will use the net gain for operating costs. Atlanta. Officials are considering an even more complicated plan. A local Lockheed plant would build a plane for a Japanese trading company, take payment in Japanese-made subway cars, then sell the cars to the transit agency for less than their usual cost.

On a larger scale, New York investment banker Felix Rohatyn has suggested a revival of the Reconstruction Finance Corp., which would issue $25 billion in federally backed loans to cities to help maintain their facilities. Aware that the infrastructure crisis coexists with record-high unemployment, the House Education and Labor Committee has proposed a massive five-year, $11 billion public-works program to provide jobs ranging from painting bridges to patching potholes. And a growing number of economists lawmakers are calling for creation of a "national capital budget" that would fund infrastructure projects outside the Federal budget, where they are currently vulnerable to spending cuts.

Whatever the mechanism—higher taxes, higher user fees or higher consumer prices—the cost of repairing the nation's physical plant will inevitably come out of citizens' pockets. Already, the problems of decay and growth have pitted East against West, rural residents against city dwellers, truckers against straphangers and almost everyone against the Federal government.

Canoes? Federal allocation formulas currently favor building urban, not rural, highways—even though the expense of clearing city land can push the cost per mile as high as $500 million. Allocation formulas also favor "multiple use" waterways, rather than city water and sewer systems. "If I could fugure out a way to put canoeists down there, maybe our problems would be solved," jokes New York Mayor Ed Koch. Reagan's plan to phase out mass-transit operating subsidies while continuing to fund transit capital needs has angered people on both sides of the issue. And because of opposition, the Administration is likely to table its New Federalism plan for roads that would have returned to the states their share of Federal gas taxes—along with the responsibility for maintaining highways. "Based on the amount of money it generates in gas taxes, Montana would barely pay for the signs on its highways, let alone the highways," says Lewis. "You can say fine, don't build any interstates in Montana, but what do you do when you get to the Montana border—get a horse and wagon?"

In general, the Reagan Administration believes that state and local governments rely far too heavily on the Federal government for their infrastructure needs. "The fact that there are potholes all over America doesn't mean that it's time for the Federal government to pay for filling them," says HUD's Savas. Historically, the pattern has been for the Federal government to build major public works, but leave them to states

and cities to repair—and some local officials are beginning to decide that they can't afford the Federal largesse. Cincinnati, for example, has adopted a policy of "planned shrinkage" of its physical plant where possible—even turning down Federal grants to concentrate its own funds on maintaining what it has.

Scaling back: As the national budget debate increasingly becomes one of guns vs. butter vs. asphalt, planned shrinkage may become the public-works policy of the future. Already, officials doubt that the interstate-highway system, as originally conceived, will ever be completed. The Federal government has indefinitely postponed building the once planned $3 billion rail and road system for the congested Houston area and the proposed $2.1 billion "people mover" in Los Angeles. Not a single road links Juneau to the rest of Alaska, but the cost of building one may be too high even for that oil-rich state.

What will such decisions mean for the boom towns of the future? And if older cities are allowed to decay and contract, can citizens who "vote with their feet," as Reagan has suggested, hope to find better conditions anywhere else? In past decades public works made America a nation of highways, of automobiles, of vital cities and water systems that are the envy of the world. Today's hard choices will determine the shape of America in the decades to come.

[From the New York Times, July 18, 1982]

ALARM RISES OVER DECAY IN U.S. PUBLIC WORKS

(By John Herbers)

In Pittsburgh, the United States Steel Corporation contends that it is paying at least $1 million a year to detour its trucks 26 miles around a major bridge that the state closed two years ago for lack of repair.

In Albuquerque, motorists are up in arms because sewer lines are crumbling under the streets, many of which have become impassable as the city struggles to make piece-by-piece replacements.

In Houston, the magazine Texas Monthly asserted that it had counted 1.5 million potholes in a city that is a center of great wealth.

In New York, broken water mains, subway failures and the deterioration of other facilities above ground and below have become so common that the seemingly mundane subject of "the infrastructure" has become a prominent issue for both the city and state governments.

News of a neglected and decaying infrastructure—public facilities such as water systems, sewers, streets, highways, bridges and rails, which undergird life and commerce in every community—has taken on a new prominence on the national scene at a time when the country is suffering from a recession, high unemployment, decline of much of its basic industry and the reduction of public services by governments at all levels.

The situation is similar to that of a family whose income has been cut, that is behind on the mortgage payments and unable to buy shoes for the children, and then learns that tree roots have plugged the drainage pipes, the furnace must be replaced and termites have weakened the foundation of the house.

In the urban policy report the Administration made public last week, President Reagan said he wanted to do something about the infrastructure problem but had not decided what.

Meanwhile, a bipartisan coalition is growing in Congress to force action by the national Government, partly on the ground that Mr. Reagan's goal of revitalizing American industry cannot be reached until something is done about inadequate public facilities. Many Democrats say that repairing public works would provide jobs for many of the unemployed.

One difficulty is that public works projects have been so fragmented between the various levels of governments that no one knows the extent of the decay, or how much money would be needed for repairs and new construction necessary to support the economy and quality of life at reasonable levels.

Only in the past year or so has the concern of policy makers about the neglect of basic public works grown urgent. Studies by George E. Peterson of the Urban Institute and by Pat Choate and Susan Walter of the Council of State Planning Agencies documented the inadequacy of public facilities, not only in older, fiscally troubled cities such as New York and Boston but in suburban and rural communities in every region of the nation.

Their findings have been confirmed and expanded by a number of Government agencies and by Congressional investigations. These are some of the more serious deficiencies cited:

Obsolete and decaying bridges. The Transportation Department recently classified 45 percent of the nation's 557,516 highway bridges as "deficient or obsolete." Replacement or repair could cost $47.6 billion, the department said.

Crumbling highways. The 42,000-mile interstate system, begun in the 1950's and not yet completed, is deteriorating at a rate that would require reconstruction of 2,000 miles a year, in addition to a backlog of 8,000 miles in need of rebuilding that accumulated because of cuts in financing in recent years. The condition has contributed to costly traffic jams on the expressways of most major urban areas.

Deteriorated rail facilities. The condition of roadbeds and rolling stock of Conrail and other rail systems is so poor that some officials say there are no reliable estimates available on the cost of replacement and repair. But frequent derailments and delays in shipments attest to the need, according to a range of officials.

Leaking water and sewer mains. The Urban Institute, in a survey of 28 cities, found that 10 of them, Cleveland, St. Louis, Pittsburgh, Tulsa, Philadelphia, Hartford, Kansas City, Mo., Cincinnatti, Buffalo and Baltimore, were losing 10 percent or more of their treated water because of deteriorated pipes. And the survey did not include New York and Boston, with two of the leading all-time water-leaking systems. Probably a larger problem, from the standpoint of waste, is leaky sewers in which ground water flows into the pipes, adds to the volume of sewage and greatly increases the cost of treatment.

Shortage of capacity of many facilities. A survey conducted by the Economic Development Administration in 1978 showed that half of the nation's communities had wastewater treatment systems operating at full capacity, meaning they could not support new economic or population growth without costly new construction.

The estimates of need tend to become astronomical. Nationally the figures run into the trillions. Last fall, the New York State Legislature estimated that $8 billion to $10 billion a year would be needed in New York State for repairs, replacement and construction of the infrastructure, which would double current expenditures.

A more precise expression of need was published by the Joint Economic Committee of Congress, which said that New York City alone over the next few years would have to service, repair or replace 1,000 bridges, two aqueducts, one large water tunnel, several reservoirs, 6,200 miles of streets, 6,000 miles of sewers, 6,000 miles of water lines, 6,700 subways cars, 4,500 buses, 25,000 acres of parks, 17 hospitals, 19 city university campuses, 950 schools, 200 libraries and several hundred fire houses and police stations.

The causes of neglect and decay are more easily documented than the extent of need. Mr. Choate, an economist and a former Federal official who is now the senior analyst for a giant corporation, said in a paper prepared for the House Wednesday Group, made up of moderate Republican representatives, that investments in capital projects had declined sharply.

The nation's public capital investments fell from $33.7 billion in 1965 to less than $24 billion in 1980, a 30 percent decline," he wrote. "Public works investments dropped from $174 per person in 1965 to less than $110 per person in 1980, a 36 percent decline, and shrank from 3.6 percent of the gross national product in 1965 to less than 1.7 per cent in 1980, a 54 percent decline."

In the 1960's and 70's public works projects frequently were delayed so that the Government could finance such endeavors as the Vietnam War, social programs, education and space exploration. Nevertheless, the Federal Government assumed a much larger share of public works costs, which previously had been borne by state and local governments. In 1957, the Federal Government paid 10 percent of the costs. By 1980 its share had risen to 40 percent.

RESPONSIBILITY FRAGMENTED

The responsibility for maintaining public facilities, Mr. Choate pointed out, was fragmented between 100 Federal agencies, 50 state governments, 3,042 counties, 35,000 general-purpose governments, 15,000 school districts, 26,000 special districts, 2,000 areawide units of government, 200 interstate compacts and nine multistate regional development organizations.

But the Federal Government, the dominant player, never achieved any rational method for allocating the funds. Mr. Choate said Federal laws favored new construction over repairing of existing facilities.

Public works money, which often has been handed out for purposes of politics rather than need, became increasingly subject to waste and fraud, according to Mr. Choate and others. In 1980 alone, 219 state and local public officials were convicted of criminal abuse of public funds, a figure three times greater than the 1970 level.

At the same time environmental requirements enacted in the 1970's increased the need for higher expenditures for public works.

Many authorities say they believe, however, that the greatest cause for inadequacy of public facilities lies in the spread of the population and industry out of the central city to suburbs and remote communities around the nation.

Retired people moved in large groups into new communities, many in rural recreational areas; factories settled along the freeways

and new urban development sprang up near them; state governments spread their colleges over once remote areas; people migrated from the old industrial cities to the South and West, where urban and rural sprawl was greatest; after the 1980 census the Federal Government designated 36 former small towns as metropolitan areas. All this new development required enormous amounts of capital investment for streets, curbs, water and sewer facilities, airports and other facilities.

DEMAND IN CITIES REMAINED

But the new growth did not lessen the demand in the thinned-out central cities. The infrastructures in old cities, which sufferd heavy population losses, serve many vacant lots, half-empty buildings and closed factories and warehouses. But the facilities must usually be maintained as though they were being used at capacity.

At a recent conference on land use sponsored by the Engineering Foundation in Rindge, N.H., Philip Finkelstein of the Center for Local Tax Research in New York pointed out that when the city government suggested that it could no longer afford to maintain basic facilities in the South Bronx, where many buildings had been abandoned, there was a storm of protest and the suggestion was dropped.

"I don't think there is any way to do that with any degree of acceptability," he said, in reference to a suggestion that there be a contraction of public facilities in the cities.

Americans in 1982 are separated as never before by great stretches of pavement, communication and electric lines and water and sewer pipes. Many authorities are questioning whether the nation can any longer afford to maintain what it already has built and continue to provide for new communities.

LAND USE AT THE HEART

Harry E. Pollard, president of the Henry George School of Social Science of Los Angeles, said the way it is now, "A bus driver in order to collect one acre of people has to drive five acres to find them. And he has to drive past five miles of sewer pipe instead of one. It is a land-use problem. If you have to finance five miles for every one you will forever be in financial trouble."

According to a number of authorities, no national administration has succeeded in bringing order to the chaos of public works spending. The Carter Administration, they said, was beginning to coordinate Federal spending so that priorities could be established.

The Reagan Administration, according to those officials, abandoned the coordination but to some extent has stopped the use of Federal funds for capital projects in new areas. For example, it refused to finance water treatment plants in new communities around Orlando, Fla. The rationale was that if people there wanted new communities they could finance them themselves.

FUTURE OF FEDERAL ROLE

Yet even high White House officials acknowledged that the Reagan Administration had no comprehensive policy on public works, except that it intends to drastically reduce the Federal role. Richard S. Williamson, assistant to the President for intergovernmental relations, said Mr. Reagan wanted to help the cities with their infrastructure problems, and he ordered that this concern be put in the Administration's urban policy report that went to Congress.

The report, however, sought to show that the picture was not so bleak as had been depicted. It pointed out that demand had lessened for schools and new highways and said many cities were moving on their own to step up capital projects. And it pointed to local innovations. New York, for example, had switched emphasis from new buildings to repairing streets, bridges, mass transit, water and sewage systems. Other cities, such as Boston, were putting the authority for public works in the hands of independent commissions for greater efficiency, while others, such as Cleveland, were enlisting private interests for help.

The Federal Government's role, the report said, was to gather information about more cost-effective methods of financing public works while "other aspects of Federal aid remain to be determined."

Meanwhile, members of Congress have stepped into the void. Some have been spurred by such reports as bridges being closed for long periods in Kansas City, Mo., while motorists drive blocks out of their way and school children in Altoona, Pa., having to leave their bus, walk across a bridge and wait for the empty bus to follow because the bridge can no longer support the weight of both children and bus.

PROPOSAL BY HOUSE MEMBERS

Two Pennsylvania Representatives, William S. Clinger Jr., a Republican, and Robert W. Edgar, a Democrat, have been pushing legislation for a capital budget that would require the Administration to take an inventory of capital needs and assign priorities for spending on public works, as a first step toward long-term recovery.

They were joined in their effort by such diverse leaders as Speaker Thomas P. O'Neill Jr. and Representative Jack Kemp, the conservative Republican from Buffalo, who were among a number of Congressmen signing a letter to Mr. Reagan asking him to consider the idea. A similar bill has been introduced in the Senate by Christopher J. Dodd, Democrat of Connecticut.

Meanwhile, a number of Democrats around the country have taken up the issue on ground that rebuilding the nation's capital plant would fight unemployment.

In New York, Assembly Speaker Stanley Fink has made repairing of the infrastructure one of his major concerns and Governor Carey, in the recent legislative session, proposed increases in taxes and fees to help pay the costs. The tax legislation, however, was defeated, in part because it was an election year. Officials on the national and state levels predict the issue will become more heated in the years ahead.

In response to questions about how the nation could let basic facilities decay to the extent that many authorities say they have, Maury Seldin, president of the Homer Hoyt Institute, a nonprofit foundation in land economics, and a professor at American University, said, "We as a nation are accustomed to living on uppers and downers."

He said that in recent years the nation had become accustomed to "taking a fix" for whatever bothers it without much thought to the long-range consequences, especially in response to various special interests that can command support for narrow goals, and policy is fragmented.

He called for a maturing of the political processes so that various interests could reach compromises for the overall good and "be willing to settle for a fair shake."

[From the New York Times, June 16, 1982]

STUDY SEES PERILS FOR ROAD SYSTEM

(By Ernest Holsendolph)

WASHINGTON, June 15.—The national highway program. Is plunging deeply into the red, requiring an urgent and complete overhaul in the next year, the Congressional Budget Office reported today in a 94-page study.

In a separate action not prompted by the report, a bipartisan group of House members introduced a bill to require the Federal Government, for the first time, to set priorities for rebuilding roads, bridges, sewers and other major capital projects in a coordinated public works program. The group was led by Representative William F. Clinger, Jr., a Republican, and Representative Robert W. Edgar, a Democrat, both of Pennsylvania.

The budget office study said the costs of completing the Interstate System and doing essential renovation work were huge: The remainder of the Interstate alone could cost $38 billion in 1979 dollars, and the cost of renovating existing roads is estimated at $16 billion from now to 1990.

Although only 1,579 miles remain to be completed in the Interstate System, construction projects and maintenance programs now scheduled will cost $8 billion additional a year, the study said. Clearly what is needed, it said, is a scaling back of present plans, retaining only the completion of the open-road portions of the Interstate plan and leaving the rest to local construction programs.

AID FOR LOCAL PROJECTS

The Government will help to finance these local projects only where they are of a high priority, the budget office said, adding that only about 50 percent of such projects are likely to get Federal help.

"All of these developments," said the report, "portend a major review of highway programs, and the Interstate program in particular, during the coming year."

Even if the highway programs were changed in order to reduce the Federal financing burden, the programs would require an additional annual outlay of $3.9 billion to $5.8 billion, according to the study, which was ordered by the Senate Committee on Environment and Public Works.

Whatever the choice, new revenues in some measure, such as gasoline taxes, will be needed soon to meet the highway program's minimal needs, the study said.

[From Business Week, Oct. 26, 1981]

STATE AND LOCAL GOVERNMENT IN TROUBLE

How well will the Reagan economic revolution work? Most attempts to answer that question so far have focused on the overall U.S. economy and on the financial markets. But the true test of Reaganomics will come at the state and local level. The President is shifting more of the burden of government away from Washington at a time when the local infrastructure is decaying, when the ability of states and cities to borrow is withering, and when state and local revenues are shrinking. The problems are so severe as to constitute a crisis for state and local government. In the pages that follow, the editors of Business Week document the extent of the crisis and examine its implications for economic growth and for the growing rivalry between regions, as well as its probable political and social impact.

THE DECAY THAT THREATENS ECONOMIC GROWTH

While high interest rates have led in recent weeks to doubts over the prospects for President Reagan's economic program, Americans at large still seem to be committed to its central premise—that a revolutionary curtailment of the government's role in the economy should release resources to the private sector and create a new era of noninflationary growth. Vast tax and spending cuts have been passed that are intended as enabling legislation for unleashing the private sector. But in its zeal to put the U.S. back on a fast-growth track, the Reagan Administration may unwittingly have created a barrier to the success of its program.

Falling revenues are now combining with an inability to borrow in a way that is making it extremely difficult for Washington's great partner in the federal system, state and local government, to fill its traditional role of producing the basic government infrastructure for growth—such elementary things as bridges, roads, sewage, water, and mass transit. So serious is the decay of the nation's infrastructure and so poor the prospects for its refurbishment that many sophisticated businessmen and economists believe the U.S. is entering a period of severe crisis for state and local government.

The nation's physical infrastructure is only part of the state and local authorities' problem. Compounding the crisis are cuts in federal funding in the no less important area of human capital—job training, vocational education, and health care. Letting such public services decline could have high costs not only in social and political terms but also in terms of the operating environment for business.

Acceptance of decay

To a nation that has already experienced the virtual bankruptcy of New York City in 1975, the forced reorganization of Cleveland's finances in 1978, and the recurring difficulties of many cities and states, including Michigan and Missouri, in meeting their payrolls, the idea that local governments are once again in dire straits may seem like nothing to get alarmed about. Indeed, as the passage of Proposition 13 in California and similar tax-spending-limitation moves in 18 other states has shown, the American public is sick and tired of paying high local taxes, even if tax relief means accepting a reduction in services and living with potholes in the streets, bridges that are on the verge of collapse, and an interstate highway system that is about 95% complete but already needs $26 billion in repairs.

But the current crisis is far more severe than in the past. For a series of forces is now at work that calls into question the ability of local governments throughout the nation—not only in the traditionally depressed Northeast and Midwest but even in the fast-growing Sunbelt—to provide the infrastructure needed for economic growth. These forces are:

Massive Cuts in Federal Aid to State and Local Government

After growing almost fourfold in the 1970s, federal grants-in-aid will be drastically reduced, falling from $88 billion in 1980 to $78.6 billion in 1983.

A Reduced State and Local Tax Base

With the cut in federal taxes—especially for business—some 30 states that tie their taxes to federal taxes will face declining revenues.

Record-Breaking Interest Rates

The rates that states and cities have had to pay for money have almost doubled since 1977. The average municipality now has to pay 85% of what the U.S. Treasury has to pay for long-term money; only two years ago it was 70%. So prohibitive have borrowing costs become that even such financially sound states as California have recently suspended new bond offerings.

A Reduction in the Attractivenss of State and Local Bonds

To spur private saving and investment, the Reagan Administration has lightened the tax load, particularly in the upper brackets, and has provided special tax-exempt investment vehicles as the All Savers certificates and has broadened the scope of Individual Retirement Accounts. This has reduced the attractiveness of tax-exempt municipals to the rich, who have been their traditional purchasers.

The effect of these four forces is to put municipal finance in an unprecedented vise at a time of growing need.

According to the Urban Institute, neglect in maintaining the country's existing infrastructure will push maintenance investment alone to over $660 billion in the next 15 years. This is as much as state and local government has spent on new investment in the past 20 years; it is equal to 20% of the entire U.S. gross national product in 1980.

If state and local government cannot find a way out of this bind, the effects will be devastating. It is perfectly true that the private sector has carried the responsibility for economic growth throughout the history of this nation. But at virtually every stage of the nation's history, growth was dependent on a balance between private and public investment.

The great canal boom of the early 19th century was financed mainly by private sources, but public subsidies provided a favorable investment climate. This was even more true of the railroad boom of the late 19th century. The growth of the nation's great manufacturing centers, with their dense concentrations of population, was dependent on public spending for streets, bridges, and mass transit. The great auto boom of the 20th century could never have occurred without huge public investment in roads and highways. Similarly, the great post-World War II airliner boom was dependent on complementary public investment. There is no reason to believe that this historical necessity for balanced investment has come to an end. So even if, initially, President Reagan's economic program does unleash a surge of private investment, it would be likely to abort if state and local government cannot find the wherewithal to build the public facilities needed for support.

In the past decade, the crisis of state and local government has occurred mainly in the Frostbelt. But it would be a serious mistake to infer that the states of the Sunbelt will therefore be immune to the infrastructure crisis of the 1980s. For just as New York City needs a $5 billion investment in mass transit to prevent a further erosion of jobs and population, Houston needs to invest heavily in new freeways or mass transit in order to prevent the traffic congestion that threatens to strangle its growth.

The crisis of the 1970s became highly visible because some cities and states were hanging by their financial fingernails and had to reduce expenditures sharply and restructure debt. Bankruptcies and near-bankruptcies may also occur during the 1980s. But these lurid financial episodes only serve to worsen the real growth problem. For in the past local politicians have responded to financial stress by postponing the maintenance of existing capital plant and deferring the building of new plants, much the same way an executive in the private sector acts when his company is in a financial bind. Says New York State Comptroller Edward V. Regan, "You can always delay public investment, but in the end it catches up with you."

A wave of anxiety

The Reagan Administration argues that, until now, a good part of the infrastructure crisis has been the result not of insufficient spending but of inefficient, wasteful spending. It maintains, for example, that subsidies to mass transit are not cost-effective and that the sewerage-treatment program, which cost $3.4 billion in 1980, is in need of overhaul. It believes that federal spending for roads should be confined to major highways essential for national defense. These arguments reflect the Administration's basic philosophy that more and more federal functions should be shifted to state and local government. And the Administration maintains that it has taken a large step in that direction by consolidating 57 separate federal programs into 9 new or modified categories of block grants.

Although many state and local officials may have welcomed the added flexibility in the way they can spend federal money, the Reagan-imposed austerity, particularly the proposed second round of budget cuts, is now stirring a wave of anxiety among local officeholders, including many key Republican governors and mayors. They fear that the states and cities have been set adirift, because there may simply not be enough money from any source. They say that Reagan's new federalism has assigned them a role that they plainly do not have the resources to fill. As a consequence, a desperate hunt is on for new ways for cities and states to raise revenues and to increase the borrowing power needed to attack the infrastructure crisis. But no one thinks funding solutions will be easy.

INFRASTRUCTURE: A NATIONWIDE NEED TO BUILD AND REPAIR

For years cities and states have neglected their basic life support systems. Voters demanded more policemen and teachers and a cap on transit fares. • • •

Recently, however, growing numbers of bursting water mains, flooding basements, creaking bridges, collapsing roads, and stalling buses have awakened the public and elected officials alike to the problem of the deteriorating infrastructure. Yet the Reagan Administration's $35 billion first-round budget cuts and proposed $13 billion second round, coming when the municipal capital markets are in chaos, could prevent this new awakening from being translated into effective action. If that occurs, the result would be supremely ironic. For the economic expansion Reagan is predicting requires a strong and healthy public infrastructure. Industry cannot expand without adequate water and sewage systems and well-maintained roads, bridges, and mass transit systems to get its employees to work and its goods to market.

Says Pat Choate, author of *America in Ruins* and currently an economist at TRW Inc.: "I don't want to sound like the Joe Granville of public works, but the fact is that much of America's infrastructure is on the verge of collapse." The problem is so

widespread, he says, that "three-quarters of America's communities can't participate in Reagan's economic growth program."

The decay is evident in all parts of the nation's stock of public capital:

Streets and Highways

More than 8,000 mi. of the interstate highway system's 42,500 mi. and 13 percent of its bridges are now beyond their designed service life and must be rebuilt. And just to maintain current service levels on the roads and highways outside urban areas that are not part of the interstate system will require more funds for rehabilitation and reconstruction during the 1980s—$700 billion—than all levels of government spent on all public works investments during the 1970s.

Bridges

It will cost $41.1 billion to replace or rehabilitate the more than 200,000 deficient bridges—two out of every five—in the nation.

Sewers

To meet existing water pollution control standards, federal and local governments will have to invest more than $31 billion in sewer systems and wastewater treatment plants over the next five years.

Water

The 756 urban areas with populations over 50,000 will have to spend up to $110 million over the next two decades just to maintain their water systems. Even more money will be required to develop more water sources for fast-growing areas in the Southwest and West.

Mass Transit

Spurred by the Administration's proposed elimination of operating subsidies and other pressures, up to one-quarter of the country's 300 metropolitan transit systems might have to cease operation by 1985. The New York City Transit Authority must raise $5 billion to rebuild its rusty, dilapidated rail and bus systems. Chicago's system raised its fare to 90 cents from 60 cents this year, and scheduling, maintenance, and financial problems still abound.

Deterioration of the infrastructure hurts growth because its costs must be borne by America's businesses. U.S. Steel Corp. is losing $1.2 million per year in employee time and wasted fuel rerouting trucks around the Thompson Run Bridge, in Duquesne, Pa., which is posted for weight restrictions because it is in such disrepair. Companies wanting to locate in certain parts of downtown Boston must bear the additional cost of a sewage holding tank to avoid overloading the sytem in peak hours. And companies in Manhattan lost $166 million a year for each additional five-minute delay on the subways and buses.

In real terms, Reagan's first-round budget cuts represent a 25 percent reduction in state and local aid, and a substantial part of that will come straight out of spending for roads, bridges, mass transit systems, and sewers. Morever, there is a danger that these first-round federal cuts will induce state and local governments to shift their own funds to services and out of infrastructure. And while Reagan's second round of cuts—12 percent across the board—is being resisted by Congress, there is little doubt that the final result will be to shrink even further the money available for upkeep of local public capital.

Not only older cities

The blow these cuts will deal to older cities will be especially severe, for that is where the problems are most advanced. Financially strapped New York City must spend $40 billion to repair and rebuild its 6,000 mi. of streets, 6,200 mi. of sewers, the 775 bridges it owns, and the 1.5 billion gal.-per-day water system. Cleveland needs $124 million to rehabilitate more than 40 of its 490 bridges. And Chicago is seeking $3.3 billion—half from the feds—over the next five years to rehabilitate everything—roads, bridges, sewers, and mass transit.

But even the cities in the Sunbelt, which have newer physical plants and rapidly expanding tax bases, face problems with their infrastructure. Fast-growing Dallas must raise some $700 million for water and sewage treatment facilities over the next decade and more than $109 million to repair deteriorating streets. And booming Denver has begun informally delaying its repair and maintenance schedules.

Obviously youth and growth do not guarantee sound and adequate infrastructures any more than age and stagnation necessarily condemn the physical plant to decay. Maintenance, management, and revenues explain why Cincinnati's infrastructure is stronger than Cleveland's and why the bridges run by the Port Authority of New York and New Jersey are better kept than those controlled by New York City. And sophisticated maintenance management is why Dallas' infrastructure, while not perfect, is in better shape than most.

The lack of maintenance has inflicted severe damage on the roads, bridges, and mass transit systems that form the life-line of the nation's business. Bad roads and bridges keep some 25% of America's communities out of the growth business, says Choate. Even the relatively new interstate highway system is spotted by dilapidation. The federal government, which did not provide funds for "the three Rs"—resurfacing, restoration, and rehabilitation—until 1976, blames the states for failing to keep the highways in good repair. The states complain of the federal government once again saddling them with the responsibility of maintaining whatever Washington builds. The Reagan approach is to take most of its overall cuts in funds for secondary and urban roads and to use them for the interstate program, which will require $53.8 billion through 1990 to complete and repair. This would leave the states and localities to bear the entire cost of local roads. The federal govenment now pays 75% of that.

This proposal retreat from aid for local roads means that the potholes that already dominate many local roads will only proliferate. In New York City, where street repair slowed to a near standstill in the late 1970s, streets, which engineers say have about a 25-year life, are being replaced at a 700-year rate; the replacement rate is 49 years in Cleveland, 50 years in Baltimore, and 100 years in Oakland.

The deterioration of the mass transit systems that move people to and from work has been even more profound. Nowhere is this more evident than in New York City. The Metropolitan Transportation Authority of the State of New York "literally stopped preventive maintenance in 1975," when the city's fiscal crisis hit, says City Council President and MTA board member Carol Bellamy. The results were stark: The number of serious breakdowns en route rose to 12,291 in 1977 and tripled to an estimated 36,000 this year; and the number of miles traveled by the average subway car before having to be laid up for major repairs dropped from 13,627 in 1977 to 6,500 in 1981.

The MTA's plans to borrow some $5 billion to rebuild its system have been set back by high interest rates and will suffer further from Reagan's proposed cuts, which could reduce captial aid by $30 million and operating assistance by $165 million over three years, forcing higher taxes or a 15¢ fare increase, to 90¢, says Steve Polan, special counsel at the MTA. And if the rebuilding is delayed, transit failures will choke the economic vitality of the region even further.

In Massachusetts, federal operating subsidies will decline $13 million in fiscal 1982 and $28 million more over the next two years. "The first third that goes we can cope with," says James F. Carlin, Massachusetts' Transportation Secretary. "But when the cuts go up to $20 million, we could have some problems. One of their problems will be caused by Conrail's consolidation, which will leave the communities in the southeast of the state without service. "The state is going to have to come in and acquire the railways and then get some carrier to come in and run those lines," explains Carlin.

Since fast-growing cities in the Sunbelt have avoided reliance on federal help for their still small transit systems, the cuts will not hurt them as much. The Metro bus system in Houston does not use federal money for operating expenses, so it will not be affected immediately by any budget cuts. Most of the federal money for two bus maintenance facilities has already been committed. And work on contraflow lanes and raised tracks for buses will continue with local money. Nevertheless, Houston's plans to develop a rail line to link southwest Houston with downtown will be slowed, even though the city will continue to fund engineering studies with some $10 million in local taxes.

The vital connections

Similarly, Dallas, which has been slow in reacting to the need for a sophisticated system, is now faced with bearing the full burden of financing its future mass transit needs unless the state helps. Although the voters just last year rejected the establishment of a regional transportation authority, mass transit like sewers, is vital for growth. If growth continues at its present rate, without the development of a mass transit system, cities like Dallas and Houston could eventually be paralyzed.

Inadequate and dilapidated sewer lines and wastewater treatment plants are also stalling economic activity both in stagnating cities that have to bring their systems up to congressionally mandated standards and in growing areas that need additional capacity. Wastewater treatment plants in 47% of the communities surveyed by the Commerce Dept. in 1978 were operating at 80% or more of capacity, while the generally accepted effective full capacity utilization rate is 70%. That means that new plants and homes could not be hooked up to those systems. The Florida Environmental Protection Dept., for example, recently prohibited Orlando, one of the fastest-growing areas in the U.S., from adding more homes to its overloaded sewer system. The moratorium was lifted only when Orlando signed court decrees promising to build more sewage treatment plants.

If the Administration's plans for distributing treatment plant funds go through—it wants to limit funds to the cities' needs as of 1980—Orlando and other growing cities and suburbs will have to build capacity for new population without federal money. Capital spending for wastewater treatment

facilities by all levels of government has tripled since the Clean Water Act was passed in 1972, making it the largest single public works program now underway. The Administration wants to cut the estimated remaining federal costs for treatment plants to $24 billion from $90 billion. And Reagan would slice annual federal expenditures from $3.5 billion to $2.4 billion.

Water and the West

If Reagan's changes become law, there will be less money to spend overall, but changes in the allocation formula will benefit some cities and cost others. It could end up penalizing growing areas and helping older cities. Baltimore, for example, needs to spend nearly $1.5 billion, or $1,880 per capita, to get its sewers and waste treatment system in shape, according to estimates by the U.S. Environmental Protection Agency. With current levels of federal aid, it has been spending around $35 per capita per year, according to the Washington-based Urban Institute, which has made a major study of infrastructure needs. Reagan's proposals are expected to give Baltimore more money. But in the Chicago area, where the sewer systems overflow raw sewage into homes and lakes and rivers alike with a disturbing regularity, the Metropolitan Sanitary District is less likely to get the funds it wants to build a $3.4 billion, 131-mi. "deep tunnel" to upgrade its system. It has already sunk $1.2 billion into pollution control and will probably have its flood control moneys slashed by Washington.

Reagan's approach could also reduce grants going south of the Mason-Dixon Line and west of the Mississippi. Right now there is little concern among local officials, partly because the spending requirements to meet standards on these newer systems are low: $3 per capital for Tulsa, Tucson, San Jose, and Dallas.

But over the long run the cuts could create problems. Houston is receiving 75% federal matching funds for a large sewage plant, which the city needs to meet federal clean water standards. Once that is spent, City Controller Kathryn J. Whitmire does not expect any more federal funds. "If we don't have federal assistance, we'll finance as much as is feasible through revenue bonds based on user fees," she says. "But for large additional projects, we'll have to turn to the developers; we've already seen developers ready to participate." But some experts point out that this will raise the cost of new construction, and that could slow growth.

Huge investments also will be required in water systems over the next two decades to maintain economic vitality. "The history of much of the West is the history of its water projects," says Choate. "And water will determine its future." The water systems in much of the West have not been well maintained, and they will require additional spending in the 1980s. Since the federal government does not support local water systems, Reagan's cuts will have no direct impact. But where water is controlled by cities instead of independent authorities, the cuts in other areas could force politicians to divert funds that would normally go to maintain the water system, and that could increase problems in the future.

In the East, too, money will have to be spent on water, but there the problem is storage, treatment, and distribution. "One half of the water lines are so decrepit that they need to be replaced," says Choate. New York City, for example, loses 100 million gal. of water per day because of leaks.

The squeeze on state and local governments is not coming only from Reagan's austerity push. Even while federal capital aid is being slashed, court-mandated improvements in jail conditions are requiring many cities and states to upgrade their prisons. "If the federal government doesn't give the local governments and states the money for jail and prison construction," says Susan Walters, an infrastructure expert at the Council of State Planning Agencies, "the trend of mandating jail replacement by the judiciary means that streets, water systems, and schools will go.

Cities and states are scrambling to find ways to buffer their infrastructures from these revenue shortfalls. One approach being considered by cities that still control their sewers and water supplies and other facilities is to turn these over to independent operating authorities that have pricing and bonding power. Experts have noted that, since they have their own revenue sources, the authorities' maintenance programs have been insulated from the fiscal squeeze that has led many municipalities to skimp on maintenance. They "generally maintain their capital plants better and have healthier financing," says Urban Institute economist George E. Peterson. "There's not a pothole in the George Washington Bridge," says Peter C. Goldmark, Jr., executive director of the Port Authority of New York & New Jersey, the largest multipurpose operating authority in the U.S. "We resurfaced it two years ago." The City of New York, by contrast, has so neglected maintenance on the Manhattan Bridge that it must sharply limit traffic there for several years while it rebuilds.

A long recovery

Yet independent authorities have their drawbacks: Every time one is set up, it limits the flexibility of the government to shift funds to meet its most pressing priorities. There is no way city officials can subsidize street repair out of water fees, for example, if the water system is operated by an independent authority. Says Peterson, head of UI's infrastructure study: "If you generalize that model so every service has its own financing and operating authority, it eliminates all trade-offs between services. How far can you go?"

The crisis in America's infrastructure has been building for decades, and its resolution will take decades. "This is not a crisis for the short-winded," says former New York City Budget Director David A. Grossman. "Most rebuilding will take a decade or decade and a half," adds TRW's Choate. Yet even with such a long horizon, there is no doubt that the cuts Reagan has made and the cuts he has proposed portend a major setback to the rebuilding of America's infrastructure.

[From the New York Times, Sept. 11, 1981]

PUBLIC FACILITIES HELD FACING CRISIS

(By B. Drummond Ayres, Jr.)

WASHINGTON, Sept. 10.—A national crisis is developing because the nation's transportation, sewage, water and other public works facilities are wearing out faster than they are being repaired or replaced, urban affairs and economic development specialists warned Congress today.

They placed much of the blame on the Federal Government and Congress, asserting that capital aid programs and monetary policy had often been misdirected.

"It is national policy that is the principal deterrent to action," Alan Beals, executive director of the National League of Cities, told the House Subcommittee on Economic Stabilization. The subcommittee is holding hearings on revitalizing the national economy, which Mr. Beals said "simply cannot succeed" without massive aid to rebuild the nation's public works systems.

Mr. Beals said the tight monetary policy of the Federal Reserve Board had made a "shambles" of the municipal credit market. He added that recent changes in Federal tax laws would make matters worse because many investors would be encouraged to put their money into the tax-free savings certificates to be offered beginning Oct. 1 instead of investing in municipal bonds.

CURRENT AID PLANS ASSAILED

As for current Federal aid programs, Mr. Beals said that too many supported new construction of public facilities rather than maintenance and repair of existing facilities.

Asked to assess the overall status of the nation's streets, highways, bridges and water and sewer systems, Mr. Beals replied, "In some communities, it may be characterized as a crisis."

The subcommittee chairman, Representative James J. Blanchard, Democrat of Michigan, agreed with Mr. Beals, saying, "Unchecked, the situation threatens the health, safety and quality of our citizens' lives."

Details about the extent of the deterioration of public facilities were provided to the committee by Pat Choate, author of "America in Ruins," a recent study of the state of the nation's public facilities. He said that tight budgets, inflation and bad public policy had caused a 28 percent drop in public works investment over the last 15 years, adding:

"Today, one of every five bridges requires major rehabilitation or total reconstruction. The nation's Interstate Highway System has deteriorated to the point that almost one of every four miles requires replacement. Conrail faces the prospect of abandoning half of its lines. One-quarter of the nation's 3,500 prisons are so antiquated, crowded and inadequate that riots are a constant hazard, or, as in Florida, judges are forcing the early release of some criminals to allow the jailing of new inmates."

WATER LOSSES IN NEW YORK

New York loses about 100 million gallons daily because of leaks in aging water lines, Mr. Choate continued. He said that in Albuquerque, New Mexico, a third of the city's sewer lines have decayed to the point that they are often crushed when trucks pass over them and added that half of the water mains in Washington needed to be replaced. In all, Mr. Choate said, the deterioration of vital public facilities "afflicts" three of every four American communities.

Mr. Choate estimated that half the nation's cities could not allow substantial industrial expansion because of inadequate water and sewage systems. Another quarter of the nation's communities, he said, could not improve their economies because their roads, streets and certain other public facilities were worn out, obsolete or already operating at full capacity.

"We have a major problem," he concluded, calling upon Congress and the Federal Government to establish a national public works budget to bring "coherence" to the rehabilitation task ahead.

Another witness at today's hearings, Eugene P. Foley, former Assistant Secretary of Commerce for economic development in

the Kennedy and Johnson Administrations, agreed that the Federal Government needed to give more direction to its public works expenditures and plans. Referring to the tendency of Congress to appropriate funds for new construction, he said, "It's ridiculous budgeting to put all this money into new facilities when we could rebuild and repair for so much less."

PROBLEMS IN BOND MARKETS

Melvin Mister, deputy director of the United States Conference of Mayors, told the subcommittee that the municipal bond market had become so hectic and confused that even the booming Sun Belt cities were finding it difficult to raise funds. "You can have a good bond rating but still not be able to carry out the needed functions," he said.

Attempting to sum up the situation his committee was studying, Representative Blanchard told of a recent visit he made to Detroit to make a speech on urban revitalization. While being driven to the speech site, he said, he attempted to drink a cup of coffee while studying an outline of his remarks.

"But there were so many potholes in the streets of Motor City," he continued, "that I couldn't get it down."

Mr. HART. Mr. President, America—it is reported—is crumbling all around us. Streets are cracking, dams are breaking, bridges are collapsing, sewers are overflowing, and water mains are leaking.

America's "infrastructure"—the stock of public facilities that underpin our national economy—has so deteriorated as to impede efforts to restore our economic health. And it continues to deteriorate faster than we can repair or replace it. It makes little sense for us to worry about the decline in investment in private capital, such as industrial plant and equipment, while we disregard chronic underinvestment in the vital public facilities—roads, bridges, ports, and dams—that support our Nation's commerce.

Because I consider rebuilding our national infrastructure essential for revitalizing our economy—and particularly our distressed communities—I join the distinguished Senator from New York (Mr. MOYNIHAN), in introducing the Rebuilding of America Act of 1982.

This bill would take a crucial first step toward establishing a comprehensive Federal policy for rebuilding the infrastructure in all regions of the country. It would establish a National Commission on Rebuilding America to: First, inventory the existing major public facilities by region, State, and major metropolitan area; and Second, develop within 2 years a National Facilities Investment Plan (NFIP) to develop priorities for the needed repairs, improvements or expansions of specific public facilities over the next 10 years. The NFIP would become the infrastructure policy of the Federal Government, unless disapproved by joint resolution of the Congress.

This bill assumes, as its major premise, that simply throwing money into any public works project that comes along will not necessarily improve the Nation's infrastructure. We cannot continue the failed "pork barrel" politics of the past. Rather, we must spend our limited resources on those projects that will provide the greatest benefit to the public.

Just as the strength of our military depends not on how much we spend but rather on how effectively we spend, so the strength of our infrastructure depends on how closely our spending follows an effective infrastructure strategy like the one the NFIP would include.

Mr. President, the Senator from New York has done an excellent job in explaining the details and logic of the bill. I will not repeat that effort. I would like to discuss, however, the three issues this bill addresses that I consider particularly important. First, the bill directs the National Commission on Rebuilding America, as part of the NFIP, to make recommendations on establishing a Federal capital budget. Virtually all major corporations, all State governments, and most local government use capital budgets as a basic policy and administrative tool. It is amazing that the Federal Government does not also have a capital budget to guide national policy for investing in public works. For that reason, I offered an amendment to the balanced-budget constitutional amendment resolution (S.J. Res. 58) that would have directed the President to prepare and submit to the Congress a capital budget as part of the annual budget process.

The administration opposes a capital budget because it would present "formidable accounting problems" and raise questions about whether to classify certain expenditures as capital or noncapital. These arguments are not persuasive. The Federal Government already includes 11 special analyses in its annual budget to highlight specified program areas and enable it to coordinate policy. Moreover, accounting always presents difficult choices in classification, yet accountants make those choices knowing that even some classification will improve the budget process. Some capital budgeting is certainly better than none at all.

A Federal capital budget would reverse years of uncoordinated investment and management practices by Federal public works agencies that now make policy decisions "flying blind." It would permit the administration and the Congress to conduct a comprehensive review of the Federal Government's capital expenditures and to consider public works activities in light of other national needs.

Second, this bill requires the National Commission to consider life cycle costs in evaluating public facilities and setting investment priorities. Too often, government agencies consider only the front-end construction costs in deciding whether to fund a project. As a result, to make a facility more politically acceptable, an agency may try to reduce front-end costs by "cutting corners" in construction and design that actually increase the costs of operation and maintenance. Life-cycle costing would minimize this problem by taking into account all the estimated costs of a facility—construction, operation, and maintenance—throughout its life.

Finally, the bill requires the National Commission to address the serious problem of waste and fraud in public works programs. Fraud costs the taxpayer inestimable amounts of money through increased project costs and deficient construction. Many States and communities have virtually institutionalized the process of awarding government contracts on the basis of political contributions. In 1980, the Justice Department obtained indictments against 34 companies and 41 persons in four States for conspiring to raise prices and allocate highway construction contracts. The establishment of an independent inspector general corps as part of a comprehensive Federal infrastructure policy would go a long way toward stopping fraud in projects receiving Federal funds. In addition, government agencies should set standards for construction of various types of public facilities and notify the public of all contracts they propose to let.

Waste also drains the funds available for rebuilding the national infrastructure. Waste occurs, in part, because so many government agencies have responsibility for funding public facilities. For example, 100 separate Federal agencies, 50 State governments, the District of Columbia, Puerto Rico, the protectorates, 3,042 counties, 35,000 general-purpose local governments, 15,000 school districts, almost 26,000 special districts, 2,000 areawide units of government, over 200 interstate compacts, and nine multistate regional development organizations have responsibility for public works. This fragmentation of the Nation's public works activities prevents the most efficient use of funds and leads to costly delay in project approvals; duplication of some facilities and services and omission of others; fragmented regulatory activities and conflicting program procedures; and uncertainty over which agencies have responsibilities for financing, constructing, rehabilitating, maintaining, and operating a facility.

Mr. President, the Rebuilding of America Act would establish for the first time a coherent national strategy for attacking the problem of a deteriorating national infrastructure. But, we should not underestimate the enormity of the challenge before us. Experts predict we will have to spend between

$2.5 and $3 trillion simply to maintain our infrastructure in its current condition. The additional improvements necessary for sustaining a growing economy will cost billions more. Yet, we cannot afford to wait:

One of every five bridges in the United States requires major rehabilitation or reconstruction.

The Interstate Highway System requires reconstruction at a rate of 2,000 miles each year.

A Commerce Department survey of 6,870 communities found that 3,000—or 46 percent—had wastewater treatment facilities operating at over 80 percent of capacity and thus could not accommodate any further industrial expansion.

The Nation's 756 urban areas with populations over 50,000 will need between $75 and $110 billion to maintain their water systems over the next 20 years.

A large number of the Nation's 43,500 dams require additional investment to reduce hazardous deficiencies.

The Corps of Engineers has inspected 9,000 of these dams and found many needing safety improvements.

We need a major program of expanding our ports if we hope to increase significantly our exports of coal and other products.

Mr. President, the rapid deterioration of the national infrastructure is a timebomb waiting to explode. If we do not act now to reverse this trend, we may soon find our public facilities can no longer support a modern industrial economy. I urge the Senate to consider and pass this bill as one weapon in the fight to revitalize our economy.

Mr. President, I ask unanimous that an article from the AFL-CIO American Federationist follow my statement in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the AFL-CIO American Federationist, August 1981]

PUBLIC FACILITIES: KEY TO ECONOMIC REVIVAL

(By Pat Choate and Susan Walter)

For nearly a decade, the critical public facilities that underpin many community services have been wearing out faster than they have been replaced. Today, one in every five bridges requires major rehabilitation or total reconstruction. The nation's interstate highway system has deteriorated to the point where almost one of every four miles requires replacement. In Albuquerque, New Mexico, a third of all sewer lines are so deteriorated that trucks traveling over them frequently cause the collapse of lines and covering streets. Half the water mains in the District of Columbia require replacement. In New York City, approximately 100 million gallons of water are lost daily through leaks in old water lines.

These are not isolated or extreme examples. America's public works are wearing out in every part of the country—North, South, East, West, suburb and core urban areas. Unless these trends are markedly reversed, and soon, the nation will end this decade with substantially fewer public facilities in usable condition—fire stations, prisons, parks, libraries, reservoirs, aqueducts, bridges, paved streets, street lights, highways and community buildings—than exist today.

More ominously, the deteriorated condition of essential public facilities that undergird the economy threatens the Administration's program for national economic renewal. Half the nation's communities cannot permit major expansions of existing firms or new plant locations because community wastewater and water treatment facilities are operating at or near full capacity. Another quarter of the nation's communities are unable to improve their economies because other public facilities such as roads, streets and industrial waste disposal sites are either worn out, obsolete or operating at full capacity. Overall, three-quarters of America's communities will be unable to participate in whatever economic renewal program the Reagan Administration gets through Congress until major improvements are made in their public facilities. Revitalization of these facilities is the keystone to renewal.

The primary source of America's public works decline is long-term massive underinvestment. Under the exigencies of tight budgets and inflation, maintenance of vital public facilities has been deferred. Replacement and rehabilitation of obsolescent public works have been postponed. New construction has been cancelled or "stretched out."

Despite unmistakable evidence of deterioration, the nation's public works investments, measured in non-inflated purchasing power, fell from $33.7 billion in 1965 to less than $25 billion in 1979—a 28 percent decline. On a per capita basis, public works investments in constant dollars dropped from $174 per person in 1965 to $111 in 1979—a 36 percent decline. Measured against the value of the nation's Gross National Product, public works investments declined from 3.6 percent of GNP in 1965 to 1.7 percent in 1979—a 53 percent decline.

Yet unbelievable as it may seem, the federal government does not have or use a capital budget for its public works expenditures. National public works decision making has been dominated by the Congress, whose attention to public works is fragmented among numerous committees. The disorder in federal policies and administrative procedures, in turn, creates major obstacles to effective state and local public works policymaking and management.

Well-conceived public works are not pork-barrel projects. Investment in public facilities is as essential for national and local economic renewal as investment in our industrial plant. Indeed, public works, along with education and research and development expenditures, are the only "supply-side" investments that government makes.

In addition to facilitating private sector investment, public works expenditures can be used to assist in (1) achieving a desired level of employment, output, income and prices; (2) stabilizing state and local budgets; and (3) eliminating problems of economic obsolescence for specific geographic areas, economic sectors and population groups. To date, however, little attention has been given these uses of public works expenditures.

FIRMS AND EMPLOYMENT IN CONSTRUCTION, 1977

[In thousands]

Industry	Establishments	Employees	
		Total	Construction workers
Contract construction	473	4,210	3,550
General building contractors	154	1,160	960
Heavy construction contractors	30	890	740
Special trade contractors	289	2,160	1,850
Plumbing, heating, air-conditioning	57	460	370
Painting, paperhanging, decorating	27	130	120
Electrical	37	370	310
Masonry and stonework	25	150	140
Plastering, drywall, insulation	17	190	160
Carpentering	24	120	110
Roofing and sheet metal	21	170	150
Concrete work	18	140	130
Excavating, foundation work	16	100	90
Other	47	290	250
Subdividers and developers	5	40	20
Total	478	4,250	3,570

Note: Data have been rounded.

Source: Bureau of the Census. Statistical Abstract of the United States: 1979, U.S. Department of Commerce, Washington, D.C., 1979.

Public works and jobs. The construction industry is a major sector in the U.S. economy. In 1977, nearly 478,000 firms employing more than 4.2 million, were directly engaged in construction activity. Some 3.5 million of these persons, earning more than $43 billion, were construction workers (see Table 1).

Public works investments account for a substantial share of construction activity. Of the $228 billion in new construction put in place in 1980, over $56 billion was for public works—almost 24 percent of the total investment. Furthermore, the public sector investd an additional $30 billion in the purchase of right-of-ways, existing buildings and equipment.

Nor is the impact of the construction industry and its public works component limited to the several millions directly employed in construction activities. It is closely linked with a wide range of industry and service institutions which are subject to expansions and contractions in construction industry activity. The Rand Corporation and the U.S. Department of Labor traced these industrial linkages for 22 types of public works projects and drew the following conclusions:

The most significant short-term impacts of public works projects are found not in on-site construction but in equipment, materials and other industries. For every on-site construction job created by public works projects, three additional jobs are created in the overall economy.

There are substantial variations in the number of on-site construction jobs generated by different types of public works projects. Public school construction requires almost 25 percent less on-site labor than does college housing construction. Highway construction uses less than half the on-site labor required for dam, levee and local flood control projects.

Substantial variations exist in the quantities and types of materials and equipment used in different types of public works projects.

Such variations are important because we can take advantage of them to tailor public works investments to meet a number of objectives, including stabilizing the economy, alleviating structural unemployment and helping distressed areas to adapt to new economic development possibilities.

Public works and communities. A large and growing number of communities are now hamstrung in their economic revitalization efforts because their basic public facilities—streets, roads, water systems and sewerage treatment plants—are too limited, obsolete or worn out to sustain a modernized industrial economy. A Department of Commerce survey of the wastewater treatment capacities of 6,870 communities found that over 3,000—46 percent—of these systems were operating at 80 percent or more of capicity. A system operating at this level of capacity generally cannot accommodate additional industrial load. The same survey indicated that water treatment and distribution systems were operating at effective full capacity in a third of these communities.

When the condition of other public facilities essential to private sector investment are also considered, it becomes clear that most of the nation's communities are unable to support modernized development until major new investments are made in the basic public facilities that undergird their economies.

A number of studies have attempted to measure the influence of public works on the location and investment decisions of individual firms. The most comprehensive was a Census Bureau survey conducted in the mid-1970s for the Economic Development Administration. Over 2,000 firms operating in 254 distinct product classes were examined. For virtually all 254 categories studied, the survey found that the availability of public works facilities was either of critical or significant importance to location decisions. Moreover, public facilities were almost always a more important locational consideration than were local tax incentives or industrial revenue bond financing.

VALUE OF NEW CONSTRUCTION TRENDS AND PROJECTIONS, 1978–81

[In millions of current dollars]

Type of construction	1978	1979	1980	1981	Percent change 1980–81
Total new construction	205,460	228,950	228,300	270,330	18
Private construction	159,560	179,950	171,600	206,700	20
Public construction	45,900	49,000	56,700	63,600	12
Buildings	15,240	15,860	18,100	20,100	11
Housing and redevelopment	1,050	1,210	1,600	2,000	28
Industrial	1,180	1,410	1,800	2,300	30
Education	6,260	6,900	7,700	8,500	10
Hospital	1,820	1,650	1,600	1,600	0
Other public	4,920	4,680	5,400	5,700	5
Highways and streets	10,710	11,920	15,500	17,800	15
Military facilities	1,510	1,640	1,700	2,000	20
Conservation and development	4,460	4,590	5,000	5,500	10
Other public construction	13,990	15,000	16,400	18,200	11
Sewer systems	6,770	7,300	7,700	8,500	10
Water supply facilities	2,660	2,490	3,500	4,200	20
Miscellaneous	4,560	5,220	5,200	5,500	5

Source: U.S. Department of Commerce. 1961 U.S. Industrial Outlook, Washington, D.C. 1961.

Note: Figures for 1976 and 1978 have been rounded. Figures for 1980 and 1981 are estimates by the Bureau of Industrial Economics.

It has long been assumed that public works investments could be modulated to help stabilize the ups and downs of the economy. In practice, however, the United States has given little attention to such uses of public works expenditures.

The current recession is the sixth such decline in the economy since the end of World War II. As with previous recessions, the 1980–81 economic decline has created substantial unemployment and underutilization of production capacities in the construction, materials and equipment industries. In 1980, the unemployment rate in the construction industry averaged 17 percent nationwide and as high as 40 percent in some regions. The steel industry, closely linked to construction, operated at about 50 percent of capacity throughout 1980, idling some 80,000 steelworkers.

Economic policy might reduce the harsh impacts of a severe recession by using the nation's $80 billion of annual public works investments as a countercyclical tool to provide employment in the construction, materials and equipment industries. But precisely the opposite has occurred. Public works investments in the United States have long been made in a perverse pattern, increasing during expansions in the economic cycle and decreasing during contractions. Such "procyclical" management of public works investments creates adverse consequences:

Increasing public works investments during periods of economic expansion makes the costs of materials, equipment and labor artificially high and contributes to inflation: and

Decreasing public works investments during economic downturns exacerbates underutilization of labor and industrial facilities in the construction, materials and equipment industries, and worsens the recession.

WASTEWATER TREATMENT CAPACITIES

State	Communities surveyed	Using 80 plus percent of capacity
Alabama	156	40
Alaska	11	55
Arizona	62	47
Arkansas	112	51
California	369	62
Colorado	95	47
Connecticut	90	38
Delaware	11	27
Florida	231	37
Georgia	215	39
Hawaii	29	21
Idaho	41	44
Illinois	363	52
Indiana	133	54
Iowa	124	48
Kansas	144	46
Kentucky	114	48
Louisiana	155	43
Maine	57	51
Maryland	76	29
Massachusetts	92	33
Michigan	203	(1)
Minnesota	117	36
Mississippi	96	26
Missouri	186	38
Montana	39	48
Nebraska	59	47
Nevada	22	36
New Hampshire	33	52
New Jersey	242	52
New Mexico	45	33
New York	363	52
North Carolina	163	45
North Dakota	23	48
Ohio	400	53
Oklahoma	166	39
Oregon	96	21
Pennsylvania	461	43
Rhode Island	14	29
South Carolina	202	52
South Dakota	27	59
Tennessee	136	41
Texas	486	59
Utah	48	63
Vermont	45	56
Virginia	137	47
Washington	102	35
West Virginia	77	51
Wisconsin	176	57
Wyoming	26	31
Total	6,870	46

[1] Not available.

Source: Report on Municipal and Industrial Wastewater Treatment Systems: A Statistical Compendium, Norman, Okla., 1978.

Since 1960, Congress has enacted three countercyclical public works programs—the $1.9 billion Accelerated Public Works Program (APW) in 1961–62: the $130 million Public Works Impact Program (PWIP) in 1972–83; and the $6 billion Local Public Works Impact Program (LPW) in 1976–77. Studies of the latter two programs concluded that they fell far short of meeting stated objectives, that is, stimulating employment for the structurally unemployed in distressed areas during an economic downturn. Evidence suggests that these shortcomings lay in the timing and administration of these expenditures and in the narrowness of program goals.

The temporary countercyclical LPW program of 1976–77 did nothing to relieve the 1974–77 recession until late in 1976. Over 80 percent of the employment generated directly by LPW projects did not occur until the recovery phase of the cycle had begun. This time lag reflects less on the efficiency of public works as a countercyclical device than on the sclerosis of the executive and legislative process. Lags occurred because of delays in securing passage of legislation. Presidential approval, appropriation of funds, selection of projects and construction. For two years after the onset of the 1974 recession, until the summer of 1976, the use of countercyclical public works for economic stabilization continued to be rejected in favor of traditional fiscal and monetary measures.

Occasional recessions are inevitable. And federal public works expenditures can exert major economic stabilizing influences. Thus, it is both timely and prudent to devise policies and administrative techniques for managing public works investments in anticipation of the economic cycle.

Using public works funds as a countercyclical tool has many potential advantages. The first, perhaps most important, is to reduce the adverse consequences of the current pro-cyclical pattern of these investments. In many ways, these pro-cyclical investment patterns are akin to loose cargo in a ship in turbulent waters. As the ship sways from side to side, the cargo shifts and accentuates the sways. A permanent countercyclical public works policy would directly address this issue, something temporary programs cannot, by their very nature, accomplish.

If delays are eliminated, a large portion of the benefits of countercyclical public works projects can be generated during contractions in the economic cycle. Also, recovery can be accelerated at the beginning of the economic expansion. After all, there is little merit in having massive unemployment and unused production capacity during a slow recovery period.

A number of reforms are worth discussion, including (1) standby authorities for public works construction; (2) identification of a backlog of projects which would serve both countercyclical purposes and long-term national and local development; and (3) creation of purchasing techniques that would permit stockpiling of materials and equipment for use in future projects.

By careful planning, government can target benefits to help both people and specific industries. Currently, for example, the steel, aluminum, fabricated metals, concrete, equipment and related industries are all operating well below full capacity. To counter this economic sluggishness, the current $100 billion backlog of appropriated, but unspent, public works funds could be used to purchase needed materials and equipment in advance of actual construction.

This would produce many benefits. For example, purchasing steel when the industry is operating at only half its capacity would avoid ensuing price rises: permit the industry to operate closer to normal levels of production: improve conditions of certainty in that sector: create jobs for laid-off workers, many of whom reside in distressed areas; and eliminate almost $10 million per week in unemployment payments. A range of industries could be similarly assisted.

Targeting specific sectors can be an effective means for addressing major regional variations in the economic cycle. Pre-purchasing would also stimulate basic industries operating at low capacity in distressed areas.

At this time, it is difficult to even estimate the range of potential investments that will be required for public facilities. This reflects

(a) the absence of national capital budgeting;

(b) the absence of common standards for public works facilities and the services they provide;

(c) inadequate information on the inventory and condition of existing facilities and costs of repair; and

(d) lack of potential consensus on what types of projects should be given priority.

Even though the magnitude of the problem cannot now be specified public works investment requirements for the 1908s clearly will be enormous. For example, the costs of rehabilitation and new construction necessary to maintain existing levels of service on non-urban highways will exceed $700 billion during the 1980s. Even excluding the estimated $75 billion required to complete the final 1,500 miles of the interstate system, the balance required for rehabilitation and construction is still greater than all public works investments made by all units of government during the 1970s.

Clearly not all needed projects can be funded. Because so many other compelling public and private uses of capital exist, difficult strategic choices must be made. The first is to determine how much of the Gross National Product is to be allocated to consumption and how much encouraged into savings for new capital investment. The second is to determine how much of that capital investment will be used by the public sector and how much by the private sector. The third set of choices involves the allocation of what will inevitable be limited public works funds among places and classes of projects.

Financing the nation's public works in the foreseeable future will require better use of existing financing techniques as well as the creation of new financing approaches. The most basic financing challenge is how to cope with federal fiscal retrenchment at a time when almost half of all public works funds come from federal programs. Rapid withdrawal of federal support would devastate the capital programs of most communities. Such a withdrawal must be preceded by a careful reassessment of the allocation of authorities and responsibilities within our federal system.

Applying user charges. In addition to redefining their federalist roles, state and local governments will increasingly be forced to apply user charges to public works related services. By reducing pressures on general revenue sources, fee-for-service charges will improve a community's access to capital markets if a dedicated, guaranteed flow of revenues can be shown. User charges also have the virtue of more directly relating prices to consumption and real costs. Although user charges have been rejected in some places because of their adverse impact on low-income citizens, special income adjustments for the poor could make such financing equitable.

The General Accounting Office, in a series of analyses on federal aid for urban water distribution systems, found that management and financing were better where fee-for-service financing existed. In these communities, actions had been taken to improve conservation, reduce leakage and control other nonrevenue-producing water uses, such as meter underregistration. Applicable user charges can be tailored and applied to virtually every type of public facility.

Shifting from public to private. Still another financing alternative is private operation of some facilities that in recent decades have been the responsibility of the public sector. Competition in garbage collection, fire protection, street cleaning and parcel delivery are examples. Although this approach is not an option in all circumstances, it can be applied to the construction and operation of many kinds of public facilities.

Reducing costs of delay and fraud. Another important way to increase purchasing power for public facilities is to reduce the enormous costs of delay, waste projects. The nation can get much more from its public works dollars than it has been getting.

The time required to build major projects, for example, is continually being expanded by government regulations and administrative procedures. Many of these delays are unnecessary and are reducing real capital investment as funds are diverted to the nonproductive task of financing increased interest charges generated when projects take longer to put into operation. Additional funds are also required to keep pace with inflation-devalued public works purchasing power as delays put off construction. About 20 percent of the nation's annual public works appropriations are now used to finance delay—a major waste of shrinking public capital.

The magnitude of funds lost through fraudulent practices or poor construction is impossbile to estimate. The number of indictments and convictions for public works related fraud suggests that it is widespread. Actions to reduce fraud, such as requiring public announcements on bidding, warranties on construction and more rigorous oversight, are possible and needed to increase usable funds for public works projects.

The federal, state and local governments have long used budgets as a device for bringing policy and administrative coherence to their operations. Virtually all major corporations, all state governments and most local governments use capital budgets as basic policy and administrative tools. Some states such as Pennsylvania and some cities such as Cincinnati, Ohio now include lifecycle costing in their capital budgets.

A major flaw in federal public works policymaking and program administration is the absence of national public works investment policies and a supporting capital budget. This omission is no accident and in fact is the consequence of explicit decisions not to have a capital budget.

The annual federal budget submitted to Congress contains three fundamental components: (1) the basic budget in overview; (2) a detailed budget appendix; and (3) the special analyses. The special analyses of the Office of Management and Budget are designed to highlight specified program areas or provide other significant presentations of budget data. These analyses help bring together policy and administrative overviews of areas of major federal concern.

The special budget analysis of federal credit programs, for example, demonstrates how useful a comprehensive annual accounting of fragmented federal activities can be. An assessment of the federal government's numerous credit activities was not possible until the special analysis was created. Now that the magnitude of these credit activities is clear, OMB is better able to manage them.

The creation of a national capital budget analysis would permit a similar overview of the federal government's capital expenditures and commitments. It would also permit consideration of public works activities in light of other national needs, as well as explicit consideration of construction, rehabilitation, maintenance and operation requisites.

The OMB's technical success in creating other complex special budget analyses demonstrates that it can surmount the accounting and classification problems that might arise in creating a national public works capital analysis and a national public capital budget.

A national capital budget would consist of three essential components: (1) current and projected capital needs and expenditures; (2) current and projected operation and maintenance needs and expenditures; and (3) sources of financing. Such a budget would bring new coherence to public works policymaking and program management by providing a framework for legislative and administrative decisions. It would also provide a framework for systematic analysis of a number of issues:

One: The aggregate potential for domestic nondefense public works investments relative to other potential claims such as national defense and social programs.

Two: The impacts of government regulatory actions on public works investments and operations. For example, mandated investments to assist the handicapped on public transportation threaten to bankrupt some public transportation systems such as those in New York City.

Three: The consequences of allocations of limited public works funds as between new construction, rehabilitation of existing facilities and operation/maintenance.

Four: The social and equity issues associated with the distribution of public works funds among and between various regions.

Five: The sources, consequences and alternative financing sources of public works projects and their operation.

Capital budgeting is ultimately a political process through which resources are allocated. Advocates of federal public works investments would negotiate potential expenditures against other uses of federal funds; funds would be allocated among programs such as transportation, water treament, navigation, and so forth; and funds would be allocated among construction, operation, maintenance and rehabilitation activities.

A capital budget would serve as a device by which the President and the Congress could bring necessary control to the present "free form" investment and management practices of the various federal public works agencies. It would also permit effective congressional management, especially of congressional committee actions which have contributed substantially to duplication and inconsistency.

Public works investments reflect a history of choices, decisions, bargains, compromises and allocations which provide a foundation for present and future actions. A capital budget could chronicle this information. It could also articulate a statement of the future, specifying goals and resources needed to attain those goals. States and communities, now dependent on federal public works funding, operate on a year-to-year basis with the ever present possibility that federal "commitments" will be altered or regulations changed. State and local governments need more certaintly than is provided in a one-year federal budget. The private sector would likewise profit from more certainty.

The deteriorated condition of the basic facilities that underpin the economy will prove a critical bottleneck to national economic renewal during this decade unless we can find ways to finance critical public facilities. Our success in this effort hinges on the willingness of the Executive Branch to share responsibility for creating and managing public works policy more coherently than in the past. Specifically:

Congress should require the preparation of an annual special analysis outlining the nation's public works needs as they affect national economic performance.

Congress should direct the Executive Branch to undertake an inventory of national public works needs as they affect the economy.

With the inventory as a starting point, Congress should require presentation of a capital budget that proposes phased capital investments matched with both short-term cyclical and long-term national economic needs. The budget would display preconstruction, construction, maintenance and operating costs.

Congress should direct the Executive Branch to report steps for reducing delays in public facilities construction through reforms in federal, state and local administrative procedures. Similiar efforts in reducing other regulatory delays are already underway at the direction of the President.

Congress and the Executive Branch should consider undertaking a series of reforms designed to minimize the corruption and waste connected with public works expenditures.

The Executive Branch should undertake an administrative evaluation of the scattered public works activities of the federal government and be prepared to consummate consolidated reforms simultaneous with the proposed public works report to Congress.

Congress or the Executive Branch should direct the Advisory Commission on Intergovernmental Relations or a new body constituted for the purpose to review the public works responsibilities of each level of government and propose appropriate guidelines for allocating functions and responsibilities.

It would be tempting to avoid disentangling the knotted threads of intergovernmental complexity and to assume that federal public works expenditures must be drastically curtailed in the face of current economic conditions. But such a course would thwart the very purpose of economic policy now being formulated.

Economic renewal must be the major focus of domestic policy in this decade. Our public infrastructure is strategically bound up in that renewal. We have no recourse but to face the complex task at hand of rebuilding our public facilities as an essential prerequisite to economic renewal.

Mr. RANDOLPH. Mr. President, I am pleased to join with my colleagues in introducing the Rebuilding of America Act of 1982.

For most of our 206 years as a nation the United States has placed great emphasis on building. From a wilderness we have constructed a strong and prosperous nation which provides to its citizens the highest standard of living in the world. Our economy and our way of life were created and are supported by a public infrastructure representing investments of billions of dollars. We are becoming increasingly aware, however, that the public facilities on which we depend so greatly are wearing out faster then they are being replaced. In recent years our investments in public works have declined dramatically. It is necessary only to drive on some of our roads, ride our trains, examine our water systems, or calculate the need for sewage treatment to know that we cannot continue to ignore these underpinnings of America.

We have failed to keep pace with growing needs for transportation, sewer and water facilities, waste disposal, and the other elements of infrastructure that contribute to sound economies and healthy communities.

A reliable report indicates that total investments in public works by Federal, State and local governments declined by two-thirds in constant dollars over a recent 10-year period. The study also reported that between one-half and two-thirds of our Nation's communities are unable to support modernized development until major new investments are made in their basic facilities.

Public works are too often mistakenly considered unnecessary "pork barrel" projects. When opportunities are sought to slash budgets, funds for these basic necessities are often the first targets.

In this era when we look for ways to revitalize our economy, we must look to new investments in public facilities if we are to be successful.

Mr. President, I believe that the situation we face is a result of several factors. In recent years we have recognized the need for Government involvement in many new programs. With limited resources at our disposal we have reduced public works expenditures in order to support these new needs. Inflation has limited the return we receive from these reduced investments and the situation has been exacerbated by efforts in the past 2 years to reduce Federal spending in general.

Mr. President, the measure we introduce today is the first step in reordering priorities to assure that the development and maintenance of vital public facilities receive adequate attention. This bill establishes the procedure for an inventory of our public infrastructure and its needs. It provides for considering Federal public facilities spending on a unified overall basis.

Mr. President, we do not anticipate that the Congress will act on this legislation during the short time remaining in the 97th Congress. Rather, we introduce it as another means of bringing attention to the critical situation which exists. I would hope that hearings can be scheduled this fall or early in 1983 to allow us to examine in detail our needs for public facilities and the ways in which we meet these needs.

By Mr. HATFIELD:

S. 2928. A bill to provide for equal access to public secondary schools; to the Committee on Labor and Human Resources.

(The remarks of Mr. HATFIELD on this legislation appear earlier in today's RECORD.)

By Mr. NICKLES (for himself, Mr. EAST, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HUMPHREY, Mr. LAXALT, Mr. MATTINGLY, and Mr. THURMOND):

S. 2929. A bill to amend the Davis-Bacon Act; to the Committee on Labor and Human Resources.

DAVIS-BACON ACT AMENDMENTS

Mr. NICKLES. Mr. President, today, I am introducing legislation—along with Senators EAST, GRASSLEY, HAWKINS, HUMPHREY, LAXALT, MATTINGLY, and THURMOND, to reform the Davis-Bacon Act. Speaking for myself, I believe that the act has long outlived its usefulness and currently is so outmoded that it cannot be administered fairly absent statutory changes. Frequently, the result reached by the Labor Department's predetermined prevailing wage calculations are inequitable to the very persons the act is designed to protect—local construction craftsmen and their employers.

To its credit, the Reagan administration has tried to bring the 50-year-old act into the late 20th century, but has been stymied by a court-imposed restraining order obtained by the real beneficiaries of artificially determined prevailing wages—the building trade unions. I suspect that if the Congress delays action on Davis-Bacon until this legal dispute is finally resolved by the courts, then additional years will pass and several billion dollars more will be wasted on inaccurate wage determinations.

I believe the Congress has a responsibility to clean up the act quickly so that the taxpayers may benefit forthwith.

The legislation I am submitting today mirrors the administration's key proposed changes in all but one provision—the threshold level. The four changes I am proposing are:

First, for the first time a definition of "prevailing wages" would be written into the act. Currently, in the absence of a statutory definition, the Labor Department uses the notorious 30 percent rule. This legislation requires the DOL to use a majority rule or, if a majority wage rate cannot be identified, a weighted average.

Second, an outright ban on importing urban wage rates into rural civil subdivisions and vice versa.

Third, the addition of a helper classification would be formally written into the act. This practice is not new. For years the Department of Labor has recognized helper classifications in several States and has issued wage determinations accordingly. But this recognition needs to be expanded. The use of helpers is common in the construction industry and the Labor Department's failure to take helpers into account leads to numerous situations where indigenous contractors and their employees lose work to outside, higher priced competition.

Fourth, the current $2,000 threshold is upped to $100,000. This modest increase is long overdue and will give greater latitude to the contracting officers of the various Federal agencies in awarding small contracts more quickly and efficiently.

If enacted today, the Congressional Budget Office calculates that these four changes will save the taxpayer some $3.5 billion over the next 5 fiscal years—with savings of over $1 billion per year thereafter. Copies of the CBO estimate are available from the Senate Labor Subcommittee upon request.

This legislation is designed to retain the rationale behind the Davis-Bacon Act—that prevailing wage scales and practices should not be undercut by the Federal Government's construction program. However, these four changes will bring the act back into balance by permitting and encouraging indigenous contractors to bid on Federal work—a practice frequently denied to them because the Davis-Bacon Act forces up the true prevailing wage scale in an area and/or precludes the efficient use of their work force as utilized on private sector projects. Davis-Bacon changes are long overdue and I believe that the Congress will eventually accept these statutory changes.

Mrs. HAWKINS. Mr. President, I am pleased to support Senator NICKLES' bill amending the Davis-Bacon Act. It seems to me that times have changed, our economy has changed, most labor and management laws have changed, but the Davis-Bacon Act has remained the same. To put it simply, the Davis-Bacon Act is out of date—and it is costing our constituents a lot of money.

The Davis-Bacon Act was first adopted in 1931 to promote fairness and consistency in the construction industry. I am all for fair wages and consistent treatment of laborers, but I believe the Davis-Bacon Act is now counterproductive. The act now provides the prevailing excuse for unfairness and inconsistency in the construction industry as well as an empty pocketbook for taxpayers.

The Davis-Bacon Act was designed to insure that laborers on Federal and federally assisted construction projects were paid the prevailing wage. The formula that the Department of Labor now uses to determine prevailing wage is rightfully under suspicion, however. Briefly, the prevailing wage is now defined as the rate paid to 30 percent or more of construction workers, mostly union workers, in a given classification. In theory the act appears fair. But let us get back to the realities of space and time here. Fifty years ago a determination of a prevailing wage was a necessary tool to protect workers. But, today, workers are protected from exploitation by the Taft-Hartley Act, the Fair Labor Standards Act, the Walsh-Healy Act, and scores of State and local laws. Fifty years later, the act inflates the cost of Federal and private construction. In an effort to curb excessive construction costs, our bill defines prevailing wage as the rate paid to 50 percent or more of the construction workers in a given classification. By doing so, the "prevailing wage" formula will more closely measure the actual earnings of average workers.

Clearly, the Davis-Bacon Act also makes no allowances for changes in time—or in space. Currently, for example, the Department of Labor makes prevailing wage determinations in urban areas but also uses them in rural areas—where the cost of living is considerably lower. Our bill requires more localized wage-rate surveys to prevent this.

It may seem impossible to save the taxpayers over $1 billion a year in unnecessary construction costs without eliminating a single construction job or canceling a single construction project. But Senator NICKLES has done just that in his amendments to the Davis-Bacon Act. And I urge my colleagues to support them.

By Mr. HATCH (for himself, Mr. QUAYLE, Mrs. HAWKINS, and Mr. HELMS):

S. 2930. A bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes; to the Committee on Labor and Human Resources.

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

● Mr. HATCH. Mr. President, I am today introducing, with the cosponsorship of my distinguished colleagues, Senator QUAYLE, Senator HAWKINS, and Senator HELMS, a bill to supercede the Farm Labor Contractor Registration Act (FLCRA). This bill, which will be cited as the "Migrant and Seasonal Agricultural Worker Protection Act," (MSPA) was recently submitted to the Congress by the administration. For the past 18 months the Department of Labor has engaged in extensive negotiations with the various interest groups to develop new legislation that would strengthen enforcement over labor contractors as well as enhance labor standard protections for migrant and seasonal agricultural workers. Among the representative groups consulted were the American Farm Bureau Federation, the AFL-CIO and its affiliate, the United Farm Workers of America, the migrant legal action program, the National Cotton Council, the National Council of Agricultural Employers, the National Food Processors Association, the United Fresh Fruit and Vegetable Association, and the Western Growers Association. As Secretary Donovan indicated in the letter transmitting the measure, "the bill represents a consensus among the parties who are most directly affected."

Congress enacted the current law FLCRA in 1963 to curb the exploitation of migrant agricultural workers and their employers by irresponsible farm labor contractors. Known commonly as crew leaders, these contractors typically traveled the country, following the planting and harvesting season. They recruited, transported, supervised, handled pay arrangements, and otherwise acted as intermediary between migrant workers and agricultural employers. Congressional hearings, however, revealed sordid abuses in many instances. Migrant workers were commonly promised higher wages and more work than they eventually received; they were transported long distances in unsafe vehicles and under degrading conditions; they were housed in hovels; they were subjected to physical abuse and kept in virtual slavery. The hearings also showed that itinerant crew leaders at times victimized agricultural employers. Lured by a more lucrative arrangement in the interim, a crew leader might break a previously made contract to supply labor to a farmer, who would then face financial ruin if he could not get help to harvest his crop in time.

The 1963 act regulated these crew leaders through a system of Federal registration and the imposition of affirmative obligations with respect to vehicle liability insurance, recordkeeping, and disclosure of prospective terms and conditions of employment. However, the act proved ineffective. After a decade of experience and several congressional studies, the Congress in 1974 adopted sweeping amend-

ments. The amendments provided an express private right of action to migrant workers; it extended coverage to intrastate contracting activities; It extended registration requirements; it imposed affirmative duties on the Secretary of Labor to monitor and investigate the activities of contractors; and, It imposed substantive duties on a contractor with respect to transportation and housing. The amendments also imposed on farmers and other employers the requirement of confirming that a contractor in properly registered and the requirement to maintain payroll redcords on migrant workers furnished by the contractor.

Unfortunately, the experience under the 1974 amendments has been anything but satisfactory. Newspapers and the news magazines still periodically report on continuing exploitation of migrant workers, on squalid housing, and on unscrupulous crew bosses. At the same time, strong criticism has been directed against the Department of Labor, particularly against its expansive interpretation of the act and its enforcement policies. Congressional hearings have confirmed that the Department in the past concentrated its scarce resources on securing the registration of every employer who might conceivably be construed a farm labor contractor. In an inordinate number of cases, farmers and other agricultural employers—basically fixed situs employers, who were easy targets for Government enforcement—were cited for technical violations dealing with registration requirements. The impact of this enforcement policy has not been the improvement of the migrant workers' lot in the workplace.

The overriding result has been the harassment of agricultural employers. They have expended valuable time and energy in attempting to comply with burdensome registration requirements which in fact are of little utility when it comes to stationary employers. They have wasted resources fighting legal battles over technical violations. If anything, the whole enforcement philosophy of the past has undermined cooperation between the Government and the agricultural employer community in curbing the exploitation of migrant workers.

The bill introduced today seeks to rectify these fundamental problems with current law. It eliminates redtape, paperwork, and administrative burdens. Yet the bill preserves the rights of migrant and seasonal farm workers against abusive employment practices. As outlined in the Secretary's transmittal letter, this consensus measure follows certain basic principles.

First, unlike FLCRA, the bill distinguishes between the traditional, itinerant crewleaders and fixed situs agricultural employers by totally eliminating the obligation of fixed situs employers to register as crewleaders. Second, it maintains the basic farmworker protections under the present FLCRA and has made clear that these protections are to be provided by the appropriate agricultural employer or association, irrespective of whether that employer is a crewleader or a fixed situs employer; those protections pertain to vehicle safety, adequate housing, disclosure of wages, and working conditions, and maintenance of certain records. Third, the bill distinguishes between migrant agricultural workers and seasonal agricultural workers; under the bill migrant agricultural workers are those who are working away from their home overnight, while seasonal agricultural workers are those who live at home and commute to agricultural employment. Fourth, exemptions are provided for labor unions, family businesses and small businesses. Fifth, ambiguous words and phrases which have caused extensive litigation under FLCRA have been eliminated.

I am hopeful that the Congress can give this legislation prompt attention. It is my understanding that the House Education and Labor Committee held hearings on an identical measure, H.R. 7102, 3 days ago. Moreover, because the measure has been reviewed by many eyes—the Department of Labor, representatives of the various agricultural employer groups, and employee representatives—we have a measure of confidence that it has been well crafted. What remains is the need to review it carefully, so as to assure both that it is free of technical flaws and ambiguities and that the policy decisions inherent in the bill are fully understood by all.

I include here a section-by-section analysis of the bill and I ask unanimous consent that the text of the bill be printed in the RECORD; I also want to include in the RECORD the statement of the Department of Labor which was presented to the House Labor Standards Subcommittee on September 14, 1982. The statement sets forth an analysis of the bill, which will be useful for purposes of legislative history. I ask unanimous consent that that document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1.—This section provides the table of contents for this Act and that the Act may be cited as the "Migrant and Seasonal Agricultural Worker Protection Act".

Section 2.—This section states that the purpose of this Act is to remove the restraints on commerce caused by activities deterimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.

Section 3.—This section provides for the definitions of terms to be used for the purpose of this Act.

(1) The term "agricultural association" is defined as "any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker."

(2) The term "agricultural employer" is defined as "any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker."

(3) The term "agricultural employment" is defined as "employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state."

(4) The term "day-haul operation" is defined as "the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day."

(5) The term "employ" is defined as "having the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act."

(6) The term "farm labor contracting activity" is defined as "recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker."

(7) The term "farm labor contractor" is defined as "any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity."

(8) The term "migrant agricultural worker" is defined as "an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence." Specifically excluded from the definition of a migrant agricultural worker are any immediate family member of an agricultural employer or a farm labor contractor and any temporary nonimmigrant agricultural H-2 alien worker.

(9) The term "person" is defined as "any individual, partnership, association, joint stock company, trust, cooperative, or corporation."

(10) The term "seasonal agricultural worker" is defined as "an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or (ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing oper-

ations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation." Specifically excluded from the definition of a seasonal agricultural worker are any migrant agricultural worker, any immediate family member of an agricultural employer or a farm labor contractor, and any temporary nonimmigrant agricultural H-2 alien worker.

(11) The term "Secretary" is defined as "the Secretary of Labor or the Secretary's authorized representative."

(12) The term "State" is defined to include "any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam."

Section 4.—This section addresses the applicability of this Act and specifically excludes certain persons.

Subsection (a) enumerates the persons who are not subject to this Act.

(1) The family business exemption applies to any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) The small business exemption applies to any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

(3) Other exemptions include—

(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debreaking, desexing, or health service operation provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.

(G) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultral employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person. The exemption is further extended to certain persons to the extent that they are supplied with the specified workers.

(H) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person. The exemption is further extended to certain persons to the extent that they are supplied with the specified workers.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

Subsection (b) states that Title I of this Act does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

TITLE I—FARM LABOR CONTRACTORS

Section 101.—This section requires that no person shall engage in any farm labor contracting activity unless the person has a certificate of registration from the Secretary specifying which farm labor contracting activity is authorized. This section further prohibits a farm labor contractor from hiring, employing or using any individual to perform farm labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of a farm labor contractor, which authorizes the activity. The section states that a farm labor contractor shall be held responsible for violations of this Act by any employee regardless of whether the employee possesses a certificate based on the contractor's certificate of registration.

The section also requires the farm labor contractor and the farm labor contractor employee to carry the certificate of registration at all times while engaging in farm labor contracting activities and to exhibit the certificate, upon request, to all persons with whom he is dealing as a contractor.

The section would deny the use of the State employment service system, as provided through the Wagner-Peyser Act, to any contractor who refused or failed to produce, when asked, a certificate of registration.

Section 102.—This section authorizes the Secretary, after appropriate investigation, to issue a certificate of registration or a certificate of registration as an employee of a farm labor contractor to any person who has filed a written application which contains the following information: a declaration stating the applicant's permanent place of residence and the contracting activities for which the certificate is requested, and any other relevant information; a statement identifying each vehicle to be used to transport migrant or seasonal workers and the appropriate documentation concerning ownership or control and compliance with the motor vehicle safety requirements of section 401; a statement identifying each facility or real property to be used to house migrant workers and the appropriate documentation concerning ownership or control and compliance with the safety and health standards of housing under section 203; a set of fingerprints; and a declaration consenting to the designation of the Secretary as an agent available to accept service of summons if the contractor has left the jurisdiction in which the action is commenced, or is otherwise unavailable.

Section 103.—This section provides for determinations with respect to a certificate of registration. In accordance with regulations, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate if the applicant or holder: has knowingly made any misrepresentation; is not the real party in interest and the real party in interest has been refused a certificate, or has had a certificate suspended or revoked, or does not qualify for a certificate; has failed to comply with this Act or the regulations; has failed to pay a court judgment under the Farm Labor Contractor Registration Act of 1963 (FLCRA) or to comply with a final order issued by the Secretary, as a result of a violation under this act or FLCRA; or has been convicted within the preceding five years, or a crime relating to gambling or to the sale, distribution or possession of alcoholic beverages, in connection with any farm labor contracting activity, or of any felony involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage or smuggling or harboring individuals who have entered the country illegally.

Any person who is refused the issuance or renewal of a certificate or whose certificate is suspended or revoked will be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of the refusal, suspension, or revocation. The hearings are held in accordance with the Administrative Procedures Act and the agency determination shall be made by final order.

If no hearing is requested, the refusal, suspension, or revocation shall constitute a final and unappealable order. If a hearing is requested, the initial agency decision shall be made by an administrative law judge and the decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of an intent to modify or vacate the decision shall be issued to the parties within 30 days after the decision of the administrative law judge.

Any person against whom a final order has been entered after an agency hearing may obtain review by the district court by filing a notice of appeal within 30 days from the date of such order, simultaneously sending a copy to the Secretary. The Secretary shall certify the record to the court. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence. Any decision, order or judgment of the United States District Court shall be subject to appeal to the appropriate circuit courts.

Section 104.—This section provides that a certificate of registration may not be transferred or assigned. Unless suspended or revoked, a certificate shall expire 12 months from the date of issuance, except that certificates issued between December 1, 1982 and November 30, 1983 may be issued for a period of up to 24 months to provide for an orderly transition. Certificates may also be temporarily extended by filing an application with the Secretary at least 30 days prior to its expiration date. The Secretary may renew a certificate for additional 12-month periods or for periods in excess of 12 months but not greater than 24 months. The eligibility for renewals of periods in excess of 12 months shall be limited to contractors who have not been cited for a viola-

tion of this Act or FLCRA during the preceding 5 years.

Section 105.—The section requires each farm labor contractor to provide to the Secretary, within 30 days, a notice of each change of permanent place of residence. The section also authorizes the Secretary to amend a certificate whenever a contractor intends to: engage in another farm labor contracting activity; use another vehicle to transport migrant or seasonal workers; or use another facility or real property to house migrant workers.

Section 106.—This section states that no farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any illegal alien. The contractor will be considered to have complied with this provision if he demonstrates that he relied in good faith on documentation prescribed by the Secretary and that he had no reason to believe that the individual was an illegal alien.

TITLE II—MIGRANT AGRICULTURAL WORKER PROTECTIONS

Section 201.—This section provides for informing migrant agricultural workers of their wages and working conditions and for the maintenance of records.

The section requires each farm labor contractor, agricultural employer and agricultural association which recruits migrant workers to ascertain and disclose to the worker the following information in writing at the time of the worker's recruitment: the place of employment; the wage rates to be paid; the crops and kinds of activities on which the worker may be employed; the period of employment; the transportation, housing and other employee benefits and their costs; the existence of a strike or other concerted work stoppage, slowdown, or interruption of operations at the place of employment; and the existence of any arrangements under which the farm labor contractor, agricultural employer or association is to receive a commission as a result of any sales to the workers.

The section requires each farm labor contractor, agricultural employer and agricultural association which employs migrant workers to post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded the workers under this Act, including their right to receive, upon request, a written statement of the information described in the preceding paragraph.

If housing is provided by a farm labor contractor, agricultural employer or agricultural association, they must post or present to the migrant workers a statement of the terms and conditions, if any, of occupancy.

The section requires, with respect to each worker, that each farm labor contractor, agricultural employer and agricultural association which employs migrant workers make, keep and preserve, for three years, records of the following: The basis on which wages are paid; the number of piecework units earned; the number of hours worked; the total pay period earnings; the specific sums withheld and the purpose of each withholding; and the net pay. The above information must also be provided through an itemized written statement to each migrant worker for each pay period.

If a farm labor contractor furnishes migrant workers to another contractor, agricultural employer or association, the farm labor contractor must provide copies of all records with respect to the above information for the workers so provided; the recipient of the records must keep them for a period of three years from the end of the period of employment.

The section further provides that no farm labor contractor agricultural employer or association shall knowingly provide false or misleading information to any migrant worker concerning the terms, conditions, or existence of employment required to be disclosed by the preceding paragraphs.

The information required to be disclosed to migrant workers when recruited, employed or housed must be in written form in English, or as necessary and reasonable, in Spanish or other fluent or literate in English. The Department will provide forms in English, Spanish and other languages, as necessary, which may be used in providing migrant workers with the required information.

Section 202.—This section provides for further protections for migrant workers with respect to wages, supplies and other working arrangements.

This section requires each farm labor contractor, agricultural employer and association to pay the wages owed to the migrant workers when due. The section also prohibits the contractor, employer or association from requiring migrant workers to purchase any goods or services solely from them. Finally, the section states that no contractor, employer or association shall, without justification, violate the terms of any working arrangements made with any migrant worker.

Section 203.—This section provides for the safety and health of housing. This section requires that each person who owns or controls a facility or real property which is used as housing for migrant workers shall be responsible for ensuring that the housing complies with substantive Federal and State safety and health standards applicable to that housing.

The section prohibits the occupancy of such housing by migrant workers unless the housing has been certified by an appropriate State or local health authority that it meets the applicable safety and health standards, and a copy of the certification of occupancy is posted at the site. The section notes that the receipt of such a certification does not relieve any person of the responsibilities of ensuring that the housing complies with substantive Federal and State safety and health standards. The owner of the housing is required to retain the original certification for a period of three years.

If a request for inspection and certification of a facility or real property is made to the appropriate State or local health agency at least 45 days prior to the anticipated date of occupancy by migrant workers and the agency has not conducted the investigation, this section permits the housing to be occupied, although occupancy would not relieve any person of the responsibilities of ensuring that the housing complies with substantive Federal and State safety and health standards.

Finally, this section does not apply to any person who, in his ordinary course of business, regularly provides housing on a commercial basis to the general public, such as an innkeeper.

TITLE III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

Section 301.—This section provides for informing seasonal agricultural workers of their wages and working conditions and for the maintenance of records.

The section requires each farm labor contractor, agricultural employer and agricultural association which recruits seasonal workers, other than day-haul workers, to ascertain and disclose to the worker, upon request, the following information in writing when an offer of employment is made to such worker: the place of employment; the wage rates to be paid; the crops and kinds of activities on which the worker may be employed; the period of employment; the transportation and other employee benefits and their costs; the existence of a strike or other concerted work stoppage, slowdown, or interruption of operations at the place of employment; and the existence of any arrangements under which the farm labor contractor, agricultural employer or association is to receive a commission as a result of any sales to the workers.

In the case of day-haul workers, the information shall be required to be disclosed at the place of recruitment.

The section requires each farm labor contractor, agricultural employer and agricultural association which employs seasonal workers to post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded the workers under this Act, including their right to receive, upon request, a written statement of the information described in the preceding paragraphs.

The section requires, with respect to each worker, that each farm labor contractor, agricultural employer and agricultural association which employs seasonal workers make, keep and preserve, for three years, records of the following: the basis on which wages are paid; the number of piecework units earned; the number of hours worked; the total pay period earnings; the specific sums withheld and the purpose of each withholding; and the net pay. The above information must also be provided through an itemized written statement to each seasonal worker for each pay period.

If a farm labor contractor furnishes seasonal workers to another contractor, agricultural employer or association, the farm labor contractor must provide copies of all records with respect to the above information for the workers so provided; the recipient of the records must keep them for a period of three years from the end of the period of employment.

The section further provides that no farm labor contractor, agricultural employer or association shall knowingly provide false or misleading information to any seasonal worker concerning the terms, conditions, or existence of employment required to be disclosed by the preceding paragraphs.

The information required to be disclosed to seasonal workers when recruited or employed must be in written form in English, or as necessary and reasonable, in Spanish or other language common to the seasonal workers who are not fluent or literate in English. The Department will provide forms in English, Spanish and other languages, as necessary, which may be used in providing seasonal workers with the required information.

Section 302.—This section provides for further protections for workers with respect to wages, supplies and other working arrangements.

This section requires each farm labor contractor, agricultural employer and association to pay the wages owed to the seasonal workers when due. The section also prohibits the contractor, employer or association from requiring seasonal workers to purchase any goods or services solely from them. Finally, the section states that no contractor, employer or association shall, without justi-

fication, violate the terms of any working arrangements made with any seasonal worker.

TITLE IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

Section 401.—This section provides for motor vehicle safety and applies to the transportation of any migrant or seasonal agricultural worker. The section does not apply to transportation of any migrant or seasonal agricultural worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

The section requires each farm labor contractor, agricultural employer and agricultural association to ensure that any vehicle used to transport a migrant or seasonal agricultural worker conforms to certain standards to be prescribed by the Secretary and other applicable Federal and State safety standards. The section would also ensure that the driver of each vehicle possess a valid and appropriate license and provides for the existence of an insurance policy or liability bond insuring against liability for damage to persons or property arising from the ownership or operation of the vehicle. The Secretary is required to issue regulations which would prescribe standards to protect the health and safety of migrant and seasonal agricultural workers and in issuing the standards for the protection of those workers, consider, among other factors, the type of vehicle used, the passenger capacity in the vehicle, the distance which such workers will be carried in the vehicle, the type of roads and highways on which such workers will be carried in the vehicle, and the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

The standards prescribed by the Secretary shall be in addition to, and shall not supersede or modify, any standard under the Interstate Commerce Act relating to the transportation of migrant workers which is independently applicable. A violation of these standards shall also constitute a violation under this Act.

In the event the Secretary fails to prescribe the standards by the effective date of this Act, the standards prescribed under the Interstate Commerce Act relating to the transportation of migrant workers shall be deemed to be the standards prescribed by the Secretary and shall, as appropriate and reasonable in the circumstances, apply: (1) without regard to the mileage and boundary line limitations of that Act, and (2) until superseded by standards actually prescribed by the Secretary.

The level of insurance required by this section should be at least the amount required for common carriers under the Interstate Commerce Act.

If the farm labor contractor, agricultural employer or association is the employer of any migrant or seasonal worker for the purposes of State workers' compensation law and thus provides coverage for the workers in the case of bodily injury or death, the section would excuse the requirement of an insurance policy or liability bond if the workers are only transported under circumstances where there is coverage under State law. An insurance policy or liability bond will be required for those circumstances where there is no coverage under State law.

Finally, the section requires the Secretary to promulgate regulations, not later than the effective date of this Act and in accordance with section 511 of this Act.

Section 402.—This section requires that prior to utilizing the services of a farm labor contractor all persons should take reasonable steps to determine that the contractor posseses a valid certificate of registration which authorizes the activity to be performed. The section states that the person may rely on the possession of a certificate of registration or on confirmation by the Department of Labor. The section also requires the Secretary to maintain a central public registry of all persons issued a certificate of registration.

Section 403.—This section requires each farm labor contractor to obtain at each place of employment and make available for inspection to the workers he furnishes a written statement of the conditions of employment described in sections 201 and 301.

Section 404.—This section states that no farm labor contractor shall violate, without justification, the terms of any written agreements made with agricultural employers or associations pertaining to any contracting activity or worker protection under this Act. The provision also notes that written agreements under this section do not relieve the parties of any responsibilities that they would otherwise have under the Act.

TITLE V—GENERAL PROVISIONS

Part A—Enforcement provisions

Section 501.—This section provides for criminal sanctions of a fine of not more than $1,000 or a prison term not to exceed three years, or both, for willful and knowing violations of this Act. The section also provides for a fine of not more than $10,000 or a prison term not to exceed three years, or both, for any person who has been denied a certificate, or has failed to obtain a certificate or has had his certificate suspended or revoked and such person has been found to have recruited, hired, employed or used, with knowledge, the services of an illegal alien.

Section 502.—This section provides for judicial enforcement by permitting the Secretary to petition any appropriate district court for temporary or permanent injunctive relief if the Secretary determined that this Act, or any regulation, has been violated. This section also permits the Solicitor of Labor to appear for, and represent, the Secretary in any civil litigation brought under this Act, subject to the direction and control of the Attorney General.

Section 503.—This section provides for administrative sanctions of a civil money penalty of not more than $1,000 for each violation of this Act or the regulations. In determining the amount to be assessed the Secretary must take into account the previous record of the person in terms of compliance with this Act and with comparable requirements of FLCRA, and the gravity of the violation. Any person assessed a civil money penalty will be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of assessment. The hearings are held in accordance with the Administrative Procedures Act and the agency determination shall be made by final order.

If no hearing is requested, the assessment shall constitute a final and unappealable order. If a hearing is requested, the initial agency decision shall be made by an administrative law judge and the decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of an intent to modify or vacate the decision shall be issued to the parties within 30 days after the decision of the administrative law judge.

Any person against whom a final order has been entered after an agency hearing may obtain review by the district court by filing a notice of appeal within 30 days from the date of such order, simultaneously sending a copy to the Secretary. The Secretary shall certify the record to the court. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence. Any decision, order or judgment of the United States District Court shall be subject to appeal to the appropriate circuit courts.

All penalties collected under the authority of this section shall be paid into the Treasury of the United States.

Section 504.—This section provides for a private right of action by any person aggrieved by a violation of this Act, or the regulations, by a farm labor contractor, agricultural employer, agricultural association or other person. The aggrieved party may file suit in any district court having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies. The court is authorized to appoint an attorney for such complainant, upon application, and may authorize the commencement of the action.

If the court finds that the respondent has intentionally violated any provision of this Act, or the regulations, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to $500 per plaintiff per violation, or other equitable relief. Multiple infractions of a single provision of this Act, or the regulations, shall constitute only one violation for purposes of determining statutory damages due a plaintiff. If a complaint is certified as a class action, the court shall award no more than the lesser of up to $500 per plaintiff per violation, or up to $500,000 or other equitable relief.

In determining the amount of damages to be awarded, the court is authorized to consider whether an attempt was made to resolve the issues in dispute before resort to litigation.

Civil actions brought under this section shall be subject to appeal to the appropriate circuit courts.

Section 505.—This section prohibits the discrimination against any migrant or seasonal agricultural worker and provides that no person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against such worker because the worker has filed a complaint or caused a complaint to be filed under this Act, or has exercised any rights or protections afforded by this Act.

A worker who believes that he has been discriminated against by any person in violation of this section, may within 180 days after the violation occurs, file a complaint with the Secretary. The Secretary shall investigate the complaint and if he determines that the provisions of this section have been violated, he shall bring an action in any appropriate district court against such person. The courts shall have jurisdiction, for cause shown, to restrain the violation and to order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

Section 506.—This section states that agreements by employees purporting to

waive or to modify their rights under this Act shall be void as contrary to public policy, except for waivers or modifications in favor of the Secretary which shall be valid for purposes of enforcement of this Act.

Part B—Administrative provisions

Section 511.—This section authorizes the Secretary to issue rules and regulations as are necessary to carry out this Act.

Section 512.—This section authorizes the Secretary to investigate and pursue complaints, including the inspection of places and records and the questioning of persons and gathering of information to determine compliance with the Act or its regulations. The provision authorizes the Secretary to issue subpoenas requiring the attendance of witnesses or the production of evidence. The provision extends to the Secretary the authority contained in sections 9 and 10 of the Federal Trade Commission Act relating to the attendance of witnesses and the production of documents. The provision also makes it a violation of this Act for any person to interfere in any manner with an official during the performance of his investigation or law enforcement function under the Act.

Section 513.—This section permits the Secretary to enter into agreements with Federal and State agencies to use their facilities, and to delegate authority, other than rulemaking, as may be useful in carrying out this Act to a State agency pursuant to a written State plan. The State plan must include a description of the functions to be performed, the methods of performance and the resources to be devoted to the performance of such functions. The State plan must also provide assurances that the State agency's performance of functions so delegated will be at least comparable to the performance of such functions by the Department. The provision also permits the allocation or transfer of funds to the agencies for expenses incurred pursuant to such agreements.

Part C—Miscellaneous provisions

Section 521.—This section states that the Act is intended to supplement State action and therefore does not excuse anyone from compliance with State law or regulation.

Section 522.—This is a transition provision which permits the Secretary to deny a certificate of registration to any farm labor contractor who has a judgment outstanding against him under FLCRA or is subject to a final order of the Secretary under FLCRA assessing a civil money penalty which has not been paid. The provision also permits the use of any findings under FLCRA to be applied to determinations of willful and knowing violations under this Act.

Section 523.—This section repeals FLCRA.

Section 524.—This section establishes December 1, 1982 as the effective date of this Act and provides for its classification in title 29, United States Code.

S. 2930

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act, together with the following table of contents may be cited as the "Migrant and Seasonal Agricultural Worker Protection Act."

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PURPOSE

SEC. 2. It is the purpose of this Act to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections and migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "agricultural association" means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employes, furnishes, or transports any migrant or seasonal agricultural worker.

(2) The term "agricultural employer" means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(3) The term "agricultural employment" means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(4) The term "day-haul operation" means the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day.

(5) The term "employ" has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act.

(6) The term "farm labor contracting activity" means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker.

(7) The term "farm labor contractor" means any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity.

(8)(A) Except as provided in subparagraph (B), the term "migrant agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term "migrant agricultural worker" does not include—

(i) any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United Staes under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and National Act.

(9) The term "person" means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(10)(A) Except as provided in subparagraph (B), the term "seasonal agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(B) The term "seasonal agricultural worker" does not include—

(i) any migrant agricultural worker;

(ii) any immediate family member of an agricultural employer or a farm labor contractor; or

(iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(11) The term "Secretary" means the Secretary of Labor or the Secretary's authorized representative.

(12) The term "State" means any of the States of the United States, the District of

Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

APPLICABILITY OF ACT

SEC. 4. (a) The following persons are not subject to this Act:

(1) FAMILY BUSINESS EXEMPTION.—Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual on an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) SMALL BUSINESS EXEMPTION.—Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

(3) OTHER EXEMPTIONS.—(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debeaking, desexing, or health service operation provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours.

(G)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(H)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

(b) Title I of this Act does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

TITLE I—FARM LABOR CONTRACTORS

CERTIFICATE OF REGISTRATION REQUIRED

SEC. 101. (a) No person shall engage in any farm labor contracting activity, unless such person has a certificate of registration from the Secretary specifying which farm labor contracting activities such person is authorized to perform.

(b) A farm labor contractor shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of the farm labor contractor employer, which authorizes the activity for which such individual is hired, employed, or used. The farm labor contractor shall be held responsible for violations of this Act or any regulation under this Act by any employee regardless of whether the employee possesses a certificate of registration based on the Contractor's certificate of registration.

(c) Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities a certificate of registration and, upon request, shall exhibit that certificate to all persons with whom they intend to deal as a farm labor contractor or farm labor contractor employee.

(d) The facilities and the services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et. seq.), known as the Wagner-Peyser Act, shall be denied to any farm labor contractor upon refusal or failure to produce, when asked, a certificate of registration.

ISSUANCE OF CERTIFICATE OF REGISTRATION

SEC. 102. The Secretary, after appropriate investigation and approval, shall issue a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) to any person who has filed with the Secretary a written application containing the following:

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 401 with respect to each such vehicle;

(3) a statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 203 with respect to each such facility or real property;

(4) a set of fingerprints of the applicant; and

(5) a declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

REGISTRATION DETERMINATIONS

SEC. 103. (a) In accordance with regulations, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) if the applicant or holder—

(1) has knowingly made any misrepresentation in the application for such certificate;

(2) is not the real party in interest in the application or certificate of registration and the real party in interest is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify under this section for a certificate;

(3) has failed to comply with this Act or any regulation under this Act;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this Act or any regulation under this Act or under the Farm Labor Contractor Registation Act of 1963 or any regulation under such Act, or

(B) to comply with any final order issued by the Secretary as a result of a violation of this Act or any regulation under this Act or a violation of the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act; or

(5) has been convicted within the preceding five years—

(A) of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any farm labor contracting activities; or

(B) of any felony under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally.

(b)(1) The person who is refused the issuance or renewal of a certificate or whose certificate is suspended or revoked under subsection (a) shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of the refusal, suspension, or revocation. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order has been entered after an agency hearing under this section may obtain review by the United States district court for any district

in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any decision, order or judgment of the United States District Court shall be subject to appeal as provided in Chapter 83 of title 28, United States Code.

TRANSFER OF ASSIGNMENT; EXPIRATION; RENEWAL

SEC. 104. (a) A certificate of registration may not be transferred or assigned.

(b)(1) Unless earlier suspended or revoked, a certificate shall expire twelve months from the date of issuance, except that (A) certificates issued under this Act during the period beginning December 1, 1982, and ending November 30, 1983, may be issued for a period of up to 24 months for the purpose of an orderly transition to registration under this Act, (B) a certificate may be temporarily extended by the filing of an application with the Secretary at least thirty days prior to its expiration date, and (C) the Secretary may renew a certificate for additional 12-month periods or for periods in excess of 12 months but not in excess of 24 months.

(2) Eligibility for renewals for periods of more than 12 months shall be limited to farm labor contractors who have not been cited for a violation of this Act, or any regulation under this Act, or the Farm Labor Contractor Registration Act of 1963, or any regulation under such Act, during the preceding 5 years.

NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION

SEC. 105. During the period for which the certificate of registration is in effect, each farm labor contractor shall—

(1) provide to the Secretary within 30 days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the certificate of registration whenever the farm labor contractor intends to—

(A) engage in another farm labor contracting activity,

(B) use, or cause to be used, another vehicle than that covered by the certificate to transport any migrant or seasonal agricultural worker, or

(C) use, or cause to be used, another real property or facility to house any migrant agricultural worker other than that covered by the certificate.

PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

SEC. 106. (a) No farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any individual who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

(b) A farm labor contractor shall be considered to have complied with subsection (a) if the farm labor contractor demonstrates that the farm labor contractor relied in good faith on documentation prescribed by the Secretary, and the farm labor contractor had no reason to believe the individual was an alien referred to in subsection (a).

TITLE II—MIGRANT AGRICULTURAL WORKER PROTECTIONS

INFORMATION AND RECORDKEEPING REQUIREMENTS

SEC. 201. (a) Each farm labor contractor, agricultural employer, and agricultural association which recruits any migrant agricultural worker shall ascertain and disclose in writing to each such worker who is recruited for employment the following information at the time of the worker's recruitment:

(1) the place of employment;

(2) the wage rates to be paid;

(3) the crops and kinds of activities on which the worker may be employed;

(4) the period of employment;

(5) the transportation, housing, and any other employee benefit to be provided, if any, and any costs to be charged for each of them;

(6) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(7) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this Act, including the right of a migrant agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association which provides housing for any migrant agricultural worker shall post in a conspicuous place or present to such worker a statement of the terms and conditions, if any, of occupancy of such housing.

(d) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

(A) the basis on which wages are paid;

(B) the number of piecework units earned, if paid on a piecework basis;

(C) the number of hours worked;

(D) the total pay period earnings;

(E) the specific sums withheld and the purpose of each sum withheld; and

(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(e) Each farm labor contractor shall provide to any other farm labor contractor, and to any agricultural employer and agricultural association to which such farm labor contractor has furnished migrant agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (d)(1). The recipient of such records shall keep them for a period of three years from the end of the period of employment.

(f) No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any migrant agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), (c), or (d).

(g) The information required to be disclosed by subsections (a) through (c) of this subsection to migrant agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to migrant agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

WAGES, SUPPLIES, AND OTHER WORKING ARRANGEMENTS

SEC. 202. (a) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall pay the wages owed to such worker when due.

(b) No farm labor contractor, agricultural employer, or agricultural association shall require any migrant agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any migrant agricultural worker.

SAFETY AND HEALTH OF HOUSING

SEC. 203. (a) Except as provided in subsection (c), each person who owns or controls a facility or real property which is used as housing for migrant agricultural workers shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing.

(b)(1) Except as provided in subsection (c) and paragraph (2) of this subsection, no facility or real property may be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards. No person who owns or controls any such facility or property shall permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. The receipt and posting of a certificate of occupancy does not relieve any person of responsibilities under subsection (a). Each such person shall retain the original certification for three years and shall make it available for inspection and review in accordance with section 512.

(2) Notwithstanding paragraph (1) of this subsection, if a request for the inspection of a facility or real property is made to the appropriate State or local agency at least 45 days prior to the date on which it is occupied by migrant agricultural workers and such agency has not conducted an inspection by such date, the facility or property may be so occupied.

(c) This section does not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and

conditions as is provided to the general public.

TITLE III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

INFORMATION AND RECORDKEEPING REQUIREMENTS

SEC. 301. (a)(1) Each farm labor contractor, agricultural employer, and agricultural association which recruits any seasonal agricultural worker (other than day-haul workers described in section 3(10)(A)(ii)) shall ascertain and, upon request, disclose in writing the following information when an offer of employment is made to such worker:

(A) the place of employment;

(B) the wage rates to be paid;

(C) the crops and kinds of activities on which the worker may be employed;

(D) the period of employment;

(E) the transportation and any other employee benefit to be provided, if any, and any costs to be charged for each of them;

(F) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(G) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(2) Each farm labor contractor, agricultural employer, and agricultural association which recruits seasonal agricultural workers through use of a day-haul operation described in section 3(10)(A)(ii) shall ascertain and disclose in writing to the worker at the place of recruitment the information described in paragraph (1).

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this Act, including the right of a seasonal agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide, upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

(A) the basis on which wages are paid;

(B) the number of piecework units earned, if paid on a piecework basis;

(C) the number of hours worked;

(D) the total pay period earnings;

(E) the specific sums withheld and the purpose of each sum withheld; and

(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(d)(1) Each farm labor contractor shall provide to any other farm labor contractor and to any agricultural employer and agricultural association to which such farm labor contractor has furnished seasonal agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (c)(1). The recipient of these records shall keep them for a period of three years from the end of the period of employment.

(e) No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any seasonal agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), or (c).

(f) The information required to be disclosed by subsections (a) and (b) of this section to seasonal agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to seasonal agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

WAGES, SUPPLIES, AND OTHER WORKING ARRANGEMENTS

SEC. 302. (a) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall pay the wages owed to such worker when due.

(b) No farm labor contractor, agricultural employer, or agricultural association shall require any seasonal agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any seasonal agricultural worker.

TITLE IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

MOTOR VEHICLE SAFETY

SEC. 401. (a)(1) Except as provided in paragraph (2), this section applies to the transportation of any migrant or seasonal agricultural worker.

(2) This section does not apply to transportation of any migrant or seasonal agricultural worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

(b)(1) When using, or causing to be used, any vehicle for providing transportation to which this section applies, each agricultural employer, agricultural association, and farm labor contractor, shall—

(A) ensure that such vehicle conforms to the standards prescribed by the Secretary under paragraph (2) of this subsection and other applicable Federal and State safety standards,

(B) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle, and

(C) have an insurance policy or a liability bond that is in effect which insures the farm labor contractor, the agricultural employer, or the agricultural association against liability for damage to persons or property arising from the ownership, operation, or the causing to be operated, of any vehicle used to transport any migrant or seasonal agricultural worker.

(2)(A) For purposes of paragraph (1)(A), the Secretary shall prescribe such regulations as may be necessary to protect the health and safety of migrant and seasonal agricultural workers.

(B) To the extent consistent with the protection of the health and safety of migrant and seasonal agricultural workers, the Secretary shall, in promulgating regulations under subparagraph (A), consider, among other factors—

(i) the type of vehicle used,

(ii) the passenger capacity of the vehicle,

(iii) the distance which such workers will be carried in the vehicle,

(iv) the type of roads and highways on which such workers will be carried in the vehicle, and

(v) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

(C) Standards prescribed by the Secretary under subparagraph (A) shall be in addition to, and shall not supersede or modify, any standard under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of subtitle IV of title 49, United States Code, or regulations issued thereunder, which is, independently applicable to transportation to which this section applies. A violation of any such standard shall also constitute a violation under this Act.

(D) In the event that the Secretary fails for any reason to prescribe standards under subparagraph (A) by the effective date of this Act, the standards prescribed under section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a)), relating to the transportation of migrant workers, shall, for purposes of paragraph (1)(A), be deemed to be the standards prescribed by the Secretary under this paragraph, and shall, as appropriate and reasonable in the circumstances, apply (i) without regard to the mileage and boundary line limitations contained in such section, and (ii) until superseded by standards actually prescribed by the Secretary in accordance with this paragraph.

(3) The level of the insurance required by paragraph (1)(C) shall be at least the amount currently required for common carriers of passengers under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of subtitle IV of title 49, United States Code, and regulations prescribed thereunder.

(c) If an agricultural employer, agricultural association, or farm labor contractor is the employer of any migrant or seasonal agricultural worker for purposes of a State worker's compensation law and such employer provides worker's compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the requirements of subsection (b)(1)(C) relating to having an insurance policy or liability bond apply:

(1) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

(2) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

(d) The Secretary shall, by regulations promulgated in accordance with section 511 not later than the effective date of this Act, prescribe the standards required for the purposes of implementing this section. Any

subsequent revision of such standards shall also be accomplished by regulation promulgated in accordance with such section.

CONFIRMATION OF REGISTRATION

SEC. 402. No person shall utilize the services of any farm labor contractor to supply any migrant or seasonal agricultural worker unless the person first takes reasonable steps to determine that the farm labor contractor possesses a certificate of registration which is valid and which authorizes the activity for which the contractor is utilized. In making that determination, the person may rely upon either possession of a certificate of registration, or confirmation of such registration by the Department of Labor. The Secretary shall maintain a central public registry of all persons issued a certificate of registration.

INFORMATION ON EMPLOYMENT CONDITIONS

SEC. 403. Each farm labor contractor, without regard to any other provisions of this Act, shall obtain at each place of employment and make available for inspection to every worker he furnishes for employment, a written statement of the conditions of such employment as described in sections 201(b) and 301(b) of this Act.

COMPLIANCE WITH WRITTEN AGREEMENTS

SEC. 404. (a) No farm labor contractor shall violate, without justification, the terms of any written agreements made with an agricultural employer or an agricultural association pertaining to any contracting activity or worker protection under this Act.

(b) Written agreements under this section do not relieve a person of any responsibility that such person would otherwise have under this Act.

TITLE V—GENERAL PROVISIONS

PART A—ENFORCEMENT PROVISIONS

CRIMINAL SANCTIONS

SEC. 501. (a) Any person who willfully and knowingly violates this Act or any regulation under this Act shall be fined not more than $1,000 or sentenced to prison for a term not to exceed one year, or both. Upon conviction for any subsequent violation of this Act or any regulation under this Act, the defendant shall be fined not more than $10,000 or sentenced to prison for a term not to exceed three years, or both.

(b) If a farm labor contractor who commits a violation of section 106 has been refused issuance or renewal of, or has failed to obtain, a certificate or registration or is a farm labor contractor whose certificate has been suspended or revoked, the contractor shall, upon conviction, be fined not more than $10,000 or sentenced to prison for a term not to exceed three years, or both.

JUDICIAL ENFORCEMENT

SEC. 502. (a) The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this Act, or any regulation under this Act, has been violated.

(b) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act, but all such litigation shall be subject to the direction and control of the Attorney General.

ADMINISTRATIVE SANCTIONS

SEC. 503. (a)(1) Subject to paragraph (2), any person who commits a violation of this Act or any regulation under this Act, may be assessed a civil money penalty of not more than $1,000 for each violation.

(2) In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account (A) the previous record of the person in terms of compliance with this Act and with comparable requirements of the Farm Labor Contractor Registration Act of 1963, and with regulations promulgated under such Acts, and (B) the gravity of the violation.

(b)(1) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any decision, order or judgment of the United States District Court shall be subject to appeal as provided in Chapter 83 of title 28, United States Code.

(d) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(e) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

PRIVATE RIGHT OF ACTION

SEC. 504. (a) Any person aggrieved by a violation of this Act or any regulation under this Act by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

(c)(1) If the court finds that the respondent has intentionally violated any provision of this Act or any regulation under this Act, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to $500 per plaintiff per violation, or other equitable relief, except that (A) multiple infractions of a single provision of this Act or of regulations under this Act shall constitute only one violation for purposes of determining the amount of statutory damages due a plaintiff; and (B) if such complaint is certified as a class action, the court shall award no more than the lesser of up to $500 per plaintiff per violation, or up to $500,000 or other equitable relief.

(2) In determining the amount of damages to be awarded under paragraph (1), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(3) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

DISCRIMINATION PROHIBITED

SEC. 505. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this Act, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

(b) A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

WAIVER OF RIGHTS

SEC. 506. Agreements by employees purporting to waive or to modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this Act.

PART B—ADMINISTRATIVE PROVISIONS

RULES AND REGULATIONS

SEC. 511. The Secretary may issue rules and regulations as are necessary to carry out this Act, consistent with the requirements of chapter 5 of title 5, United States Code.

AUTHORITY TO OBTAIN INFORMATION

SEC. 512. (a) To carry out this Act the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate, and in connection therewith, enter and inspect such places (including

housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this Act, or regulations prescribed under this Act.

(b) The Secretary may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this Act, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(c) It shall be a violation of this Act for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform an investigation, inspection, or law enforcement function pursuant to this Act during the performance of such duties.

AGREEMENTS WITH FEDERAL AND STATE AGENCIES

SEC. 513. (a) The Secretary may enter into agreements with Federal and State agencies (1) to use their facilities and services, (2) to delegate, subject to subsection (b), to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this Act, and (3) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreement under clause (1) or (2) of this section.

(b) Any delegation to a State agency pursuant to subsection (a)(2) shall be made only pursuant to a written State plan which—

(1) shall include a description of the functions to be performed, the methods of performing such functions, and the resources to be devoted to the performance of such functions; and

(2) provides assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (1) and that the State agency's performance of functions so delegated will be at least comparable to the performance of such functions by the Department of Labor.

PART C—MISCELLANEOUS PROVISIONS

STATE LAWS AND REGULATIONS

SEC. 521. This Act is intended to supplement State law, and compliance with this Act shall not excuse any person from compliance with appropriate State law and regulation.

TRANSITION PROVISION

SEC. 522. The Secretary may deny a certificate of registration to any farm labor contractor, as defined in this Act, who has a judgment outstanding against him under the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), or is subject to a final order of the Secretary under that Act assessing a civil money penalty which has not been paid. Any findings under the Farm Labor Contractor Registration Act of 1963 may also be applicable to determinations of willful and knowing violations under this Act.

REPEALER

SEC. 523. The Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), is repealed.

EFFECTIVE DATE

SEC. 524. The provisions of this Act shall take effect on December 1, 1982, and shall be classified to title 29, United States Code.

STATEMENT OF ROBERT B. COLLYER, DEPUTY UNDER SECRETARY OF LABOR

Mr. Chairman and Members of the Subcommittee: Thank you for your invitation to appear before the Subcommittee today to describe the Administration's proposed legislation to replace the Farm Labor Contractor Registration Act (FLCRA).

The Administration's bill was developed because of concerns raised about FLCRA in the Congress and in the agricultural community among both employer and worker groups. In response to these concerns, we entered upon a cooperative effort to replace FLCRA with a new law better designed to provide needed protections for farmworkers and, at the same time, eliminate unnecessary regulatory requirements that FLCRA has placed on agricultural employers.

This cooperative effort has now resulted in a consensus bill, endorsed by the AFL-CIO, the Migrant Legal Action Program and by major agricultural employer organizations, such as the American Farm Bureau Federation, the National Food Processors Association and the National Council of Agricultural Employers. While none of these groups believes the bill to be ideal from its individual standpoint, there is important agreement that the bill materially improves the law. As a public administrator, there is no doubt in my mind that it does. Therefore, the Administration urges the Congress to give our proposal careful consideration and expedite its enactment.

Before describing our bill, I want to provide the Subcommittee with a brief background sketch of current law. FLCRA was enacted in 1964, following considerable media attention about the conditions of migrant agricultural workers. That concern was centered on crewleaders, who are the middlemen between agricultural workers and farm operators. In this capacity, crewleaders often transport agricultural workers to jobsites; they may also have some supervisory responsibility for these workers in the fields; they may act as a paymaster for the workers or furnish and maintain farmworker housing, collect rent or occasionally supply meals.

Evidence was developed at the time of the original Congressional hearings that crewleaders did not always provide these services to farm operators or to farmworkers in an honest way. The original Act was designed, therefore, to prevent exploitation by crewleaders engaged in interstate activities and to improve working conditions of migrant farmworkers who were employed by crewleaders. The Act required all farm labor contractors covered by its provisions to register with the U.S. Department of Labor and to observe certain requirements in dealing with farmworkers and farm operators.

In 1974—ten years after enactment of the original statute—Congress reviewed farmworker conditions and determined that an expansion of coverage was appropriate. These 1974 amendments to FLCRA had the effect of broadening coverage of individuals and entities other than the traditional crewleader by including any person who, for a fee for himself or another, recruited, solicited, hired, furnished, or transported any migrant worker for agricultural employment, either within a State or across State lines. One result of this broadening language was that large numbers of fixed-situs agricultural employers such as growers and processors were included as farm labor contractors and are now required to register as contractors under the Act. The situations however, under which these fixed-situs employers must register were not clearly stated in the amendments, and the exemptions from registration were even less clear.

The 1974 amendments dealt with other issues as well. For example, they eliminated the requirement pertaining to the recruitment of 10 or more workers and extended the Act's application to intrastate farm labor contracting activities. They also provided greater protection for workers injured while being transported in a contractor-owned or controlled motor vehicle, by increasing motor vehicle insurance requirements. Applicants for registration were required to have proof of a liability insurance policy equivalent to that required for vehicles transporting passengers under the Interstate Commerce Act. The amendments also strengthened the statutory enforcement machanisms.

Thus, it is clear that the 1974 amendments made several important improvements in the law, but it is also clear that the amendments created substantial uncertainty about the status of fixed-situs agricultural employers and have resulted in great numbers of these employers being treated as if they were crewleaders with no fixed addresses or financial integrity. As a result, the Labor Department's administration of the 1974 amendments with regard to fixed-situs agricultural employers has become controversial, and our efforts to register fixed-situs employers have led to a great deal of litigation.

These matters have caused substantial concern in the Congress. In late 1979, the Department received a letter signed by 52 United States Senators expressing their concern about the issues I have just discussed. In 1980, legislation passed the Senate which would have substantially amended FLCRA. Soon after the Reagan Administration took office in 1981, the Department, therefore, set out to resolve these problems. Our guiding principle, as I have stated, Mr. Chairman, was to develop consensus legislation which would provide essential protections for farmworkers within a rational statutory structure that eliminated unnecessary paperwork and reduced the constant litigation which has been the hallmark of current law. We have achieved that goal.

Now, Mr. Chairman, let me describe this consensus bill.

We are proposing a completely new statutory structure. Our proposal repeals FLCRA and creates a new law, the "Migrant and Seasonal Agricultural Worker Protection Act"—MSPA. The bill encompasses five basic principles:

First, it distinguishes between the traditional crewleader and the fixed-situs agricultural employer, eliminating the fiction that fixed-situs employers are crewleaders and thus must register as such with the Labor Department.

Second, it provides important worker protections, irrespective of whether the worker is employed by a crewleader, a fixed-situs employer or both: vehicle safety, housing safety and health requirements, disclosure of wages, hours and working conditions,

maintenance of necessary records, and provision to workers of itemized information concerning pay and withholding.

Third, the bill distinguishes between migrant workers, seasonal workers and day-haul workers. Day-haul workers are included within the seasonal worker category.

Fourth, the bill provides exemptions for both family businesses and small businesses.

Fifth, the bill deletes the ambiguous words and phrases which have caused extensive litigation under the current law.

In examining these five principles, I want to emphasize the importance of distinguishing between fixed-situs employers and traditional crewleaders. Nothing under the current law has caused more bitterness—not to mention more litigation—than the failure to do so. Under MSPA, therefore, we have excluded fixed-situs employers from the definition of farm labor contractor. Agricultural employers and associations—and the employees of both—would not be required to register as farm labor contractors or carry out the requirements designed specifically for contractors under the Act, such as being fingerprinted. However, as we have emphasized in our second principle, these fixed-situs employers and associations would be required to comply with the substantive labor protections provided in the new law when they are the employers of migrant or seasonal agricultural workers. Of course, traditional crewleaders would also be required to comply with all of these worker protection provisions and would be required, in addition, to adhere to registration requirements, such as designating the farm labor contracting activities to be performed, providing the address of their permanent place of residence, providing documentation on housing and vehicle compliance, providing a set of fingerprints, and consenting to have the Secretary accept service of summons in certain instances. Agricultural employers and associations are specifically excluded from these registration requirements which apply to farm labor contractors.

As noted in our third principle, the bill would establish two categories of covered farmworkers. The term "migrant agricultural worker" has been redefined so it includes only those farmworkers who are away from their home overnight for purposes of agricultural employment. A new category of covered worker is established, namely "seasonal agricultural worker", to include persons who are employed on a farm or ranch but do not live away from their permanent residence. A seasonal agricultural worker employed on a farm or ranch to perform field work relating to planting, cultivating or harvesting operations is covered by the bill; but the bill does not cover local "in-plant" workers who commute daily to their jobs and are not part of a day-haul operation. "Field work" would typically be hand-work such as setting out plants, hoeing, or picking, but could also include loading baskets on a truck or riding on a potato harvester to sort the potatoes. It would not, for example, include tractor drivers, operators of complex or major farm machinery or truck drivers.

The bill would fully cover day-haul workers, including those employed by canneries, processing plants and similar agricultural employers, as listed in the bill. Day-haul is defined to mean the assembly of workers at a pick-up point where they are waiting to be hired and employed, transported to the agricultural employment, and then returned to a drop-off point at the end of the same day. Experience has shown that protection is needed for day-haul agricultural workers, irrespective of whether they are living away from home, as they are often highly vulnerable individuals who can be easily subjected to abuse.

As stated in our fourth basic principle, the bill contains a separate section which enumerates various exemptions from the Act. Included are exemptions for family and small businesses. The family business exemption applies where all farm labor contracting activity is performed exclusively by the owner (or owners) or a member of the immediate family, whether or not the family business is incorporated. The small business exemption is structured to exempt those employers who are also exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act by reason of the "500 man-day" test for small agricultural employers under the FLSA.

Other exemptions in FLCRA are retained in MSPA—for example, the exemption for any custom combine, hay harvesting or sheep shearing operations. In the past, the Department has limited the custom combine exemption to grain combining. This interpretation will be continued.

The current exemption for employment of full-time students in the production of seed corn and sorghum has been clarified to include all seed production and to eliminate the four-week limitation on employment. A similar exemption has been provided for the employment of full-time students in the stringing and harvesting of shade grown tobacco.

To resolve the paradox concerning employees of otherwise exempt entities, the bill provides an exemption to ensure that employees of exempt employers are not subject to the new Act.

The exemption provision also provides a specific coverage exclusion for labor unions.

Finally, in order to deal with the potentially ambiguous situation where workers may be jointly employed by a farm labor contractor and an agricultural employer, the bill adopts the definition of the term "employ" used under the Fair Labor Standards Act (FLSA) as that term has been interpreted by the courts over the years for joint-employment circumstances. For example, under the FLSA regulations a worker may be an employee of two or more employers. That determination is based on the facts of the individual case. Joint employment includes situations where there is an arrangement between employers to share the service of an employee or where one employer is acting directly or indirectly in the interest of another employer in relation to the employee. For example, crew members would be considered jointly employed by the labor contractor and farmer if the crewleader assembles a crew and brings them to the farm, and the farmer exercises the power to direct, control or supervise the work or to determine the pay rates and the methods of payment.

Our goal in dealing with "joint employer" issues was very simple: if a fixed-situs agricultural business "employs" a covered farmworker for FLSA purposes, it also "employs" that farmworker for MSPA purposes. The exact same principles will be used to define the term "employ" in MSPA "joint employment" situations as are used under FLSA.

As a related matter, the current definition of "agricultural employment" in the FLCRA would be retained under the new law.

Now, Mr. Chairman, I would like to describe the employer responsibility and worker protection provisions in the bill. Title I of the bill establishes the basic obligations of farm labor contractors—traditional crewleaders—beginning with the requirement that they be registered with the U.S. Department of Labor. There is a clear statement in the bill that this title will not apply to other types of agricultural employers or agricultural associations. The registration of employees of farm labor contractors who perform farm labor contracting activities for their employer remains unchanged. We intend that contractors should be fully responsible for the farm labor contracting activities of their employees.

Title II of the bill sets out the specific protections for migrant agricultural workers—those working away from their permanent residence. Title III sets out specific protections for seasonal workers. Title IV sets out protections for both.

For migrant workers, information about wages and working conditions must be provided in writing at the time of recruitment. For seasonal workers this basic information must be available, upon request, at the time employment is offered. Employers are required to keep certain payroll records, and employees must be given an itemized statement of earnings and deductions for each pay period. Each employer is also required to post at the place of employment a poster which sets forth the rights of workers under the Act, such as wage rates, period of employment, crops and activities on which the worker will be employed, the existence, if any, of a strike or work stoppage at the place of employment, and the right of a worker to have, upon request, a written statement pertaining to work and conditions of work. When there is joint employment, compliance by either employer will satisfy any requirement.

The bill also would expand the protections related to housing for migrant agricultural workers. For example, when more than one entity is involved in providing the housing, such as when the grower owns it and the farm labor contractor operates it, both will be responsible for the safety and adequacy of the housing. This is a significant change from the present law which fixes responsibility only on the farm labor contractor who may or may not own the housing. Substantive Federal and State housing health and safety standards must be complied with at all times. The bill provides for State and local health authorities to certify that the housing meets these standards based on inspection prior to occupancy. The bill, however, also provides sufficient enforcement flexibility so that employers will not be cited for mere technical or non-substantive violations that do not impact worker safety and health.

An exemption to the housing requirement is provided for hotels and motels that may provide accommodations to migrants and others in the general course of doing business. We do not, of course, intend that migrant labor camps would qualify for this "innkeeper exemption" simply by offering lodging to the general public.

The MSPA transportation provisions differ in several respects from the current FLCRA. MSPA recognizes that standards now in place under the Interstate Commerce Act are not always appropriate with respect to transportation of agricultural workers under certain circumstances, particularly on farms and for other local travel. The bill directs the Secretary to develop regulations that will apply to the transportation of farmworkers not covered by De-

partment of Transportation regulations. The Department of Labor regulations will take into account the distances traveled, the type of vehicle used, the number of passengers, the types of roads to be traveled and the extend to which any standards would impose an undue burden on the person providing the transportation, while continuing to provide for the health and safety of migrant and seasonal agricultural workers.

The transportation standards will not be applied to farm equipment or machinery when used for its intended purpose, but use of such equipment or machinery purely for the transportation of workers from place-to-place will be regulated. The vehicle insurance requirement of the current FLCRA will be retained, except that no additional insurance will be required where transportation is fully covered by a State workers' compensation law and the employer provides such coverage.

The bill prohibits the using of services of a farm labor contractor without first taking reasonable steps to determine that a contractor is properly registered. Unlike the current law, the bill would not penalize farmers who do take those reasonable steps.

The enforcement provisions of the bill retain FLCRA's civil and criminal penalties, and the investigative authority of the Department of Labor. A new provision makes it unlawful to interfere with officials of the Department in the performance of their duties under the bill. This section has been added as a result of the increasing number of incidents involving threats of bodily harm to our compliance officers.

The bill would change the current Act's provisions on private rights of action. It is our basic intent to encourage resolution of differences without resorting to litigation, while retaining full access to the Federal courts by injured private parties. Currently, however, FLCRA exposes employers to substantial monetary awards for highly technical violations, especially those related to registration status, when there may be very little actual damages. Where an intentional violation of the Act has been committed, the bill would allow courts to award up to $500 per plaintiff, per violation, as statutory damages in a private lawsuit with an upper limit of $500,000 for a class action. However, there is no limit on the amount of actual damages that can be awarded by a court.

Multiple infractions of a single provision, however, would be counted as only one violation. For example, failure to keep accurate hours-worked records over a period of several weeks would be considered one violation for each worker involved. In determining the amount of damages, the Federal courts are authorized to consider whether an attempt was made to resolve the issues in dispute before resorting to litigation. The provision in the bill prohibiting individuals from waiving their rights is not intended to preclude their entering into settlements under the private right of action section in order to avoid litigation and reach resolution.

The bill also retains the current FLCRA provision prohibiting discrimination with respect to individuals who have filed a complaint or have testified in any proceeding under the Act. The Secretary of Labor will continue to have authority to investigate complaints alleging such discrimination and may seek redress in the Federal courts. The bill expands upon the provision of the FLCRA allowing for agreements with Federal and State agencies in order to ensure that those functions delegated, especially to the States, are performed with adequate resources and in a manner comparable to Federal enforcement efforts.

There will, of course, be the matter of the transition from the application of the current statute to the new one. With regard to enforcement and compliance, the bill provides that for the purposes of determining appropriate action under the new law, the record of violations under the current FLCRA will be a factor to be considered if that individual or entity violates this Act.

Certificates of registration may be denied under this bill if the applicants under FLCRA have either failed to pay their court judgments obtained under FLCRA or failed to comply with a final order issued by the Secretary under FLCRA. Registration under the new Act will also require a phase-in. It is our intention to use a 12-month period for each certificate of registration based on the applicant's date of birth rather than the current calendar year method which creates an unnecessary administrative burden upon the Department at the close of each calendar year.

Mr. Chairman, in concluding my statement, I want to reemphasize two major points. First, the revised farm labor statute that we are proposing today greatly enhances the Labor Department's ability to protect migrant and seasonal agricultural workers. Second, the bill eliminates the unnecessary, burdensome and costly regulation of fixed-situs agricultural employers which has been so troublesome under current law. Enactment of the bill will, therefore, enable the Department to concentrate its enforcement efforts on those areas of farmworker employment where the most egregious violations of workers' rights occur.

I also want to again thank all those persons and organizations who participated in the cooperative effort over the past 18 months to develop this legislation. Without their thoughtful assistance—not to mention their vigorous advocacy—we would not be here, today.●

By Mr. GORTON (for himself and Mr. JACKSON):

S. 2931. A bill to provide for the disposition of funds appropriate to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218 and for other purposes; to the Select Committee on Indian Affairs.

DISPOSITION OF COWLITZ INDIAN JUDGMENT FUNDS

● Mr. GORTON. Mr. President, today I am pleased to introduce a bill that will provide for the disposition of funds appropriate to pay a judgment in favor of the Cowlitz Tribe of Indians in Indian Claims Commission docket No. 218.

The bill provides for the distribution of money which was appropriated to the Cowlitz Tribe and its members more than 9 years ago. The money is in compensation for the taking by the Federal Government more than 100 years ago of the tribe's aboriginal lands which today constitute several counties in the State of Washington.●

ADDITIONAL COSPONSORS

S. 2309

At the request of Mr. CHAFEE, the name of the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 2309, a bill to amend the Endangered Species Act of 1973, to authorize funds for fiscal year 1983, and for other purposes.

S. 2837

At the request of Mr. GARN, the name of the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2837, a bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability of engage in commerce, and for other purposes.

S. 2902

At the request of Mr. THURMOND, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

SENATE JOINT RESOLUTION 220

At the request of Mr. QUAYLE, his name was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war.

SENATE CONCURRENT RESOLUTION 122—CONCURRENT RESOLUTION RELATING TO AGRICULTURAL EXPORTS

Mr. PERCY (for himself, Mr. BURDICK, Mr. HELMS, Mr. LUGAR, Mr. NUNN, Mr. QUAYLE, Mr. GRASSLEY, Mr. PRESSLER, Mr. DIXON, Mr. SASSER, Mr. HUDDLESTON, Mr. BOSCHWITZ and Mr. ABDNOR) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 122

Whereas without ignoring other concerns in the trade field, the American economy urgently needs the stimulus of increased agricultural markets to create jobs, increase personal income, improve our balance of payments position, and broaden and expand the tax base for needed Government revenue; and

Whereas the efficient productivity of the agricultural sector provides one of the greatest opportunities for such expanded exports; and

Whereas it is in the best interest of American agriculture and economy that export expansion include processed, as well as unprocessed agricultural products; and

Whereas export of value-added processed agricultural products has not shared proportionately in the growth of world demand for

such products as has the export of unprocessed products; and

Whereas economic studies by the United States Department of Agriculture show export value-added agricultural products creates a great multiplier of economic benefits in terms of jobs and income and increased revenue to the Government; and

Whereas expanding exports of such value-added processed agricultural products increases Government revenues from the broadened tax base of the resulting stimulated economy and increase in employment and personal income; now, therefore, be it

Resolved, by the Senate (the House of Representatives concurring), That it is the sense of this Congress that the President should take every possible action to encourage increasing the processed product share of United States agricultural exports, including but not limited to:

(1) Urging our negotiators to attempt to include a quantity of value-added processed agricultural products in any further extension or renewal of grains agreements with the Soviet Union, or other non-market economy countries;

(2) Seeking the elimination of unfair trade practices by foreign competitors, through vigorously pursuing international trade negotiations to assure fair competition for United States agricultural processors in world markets;

(3) Utilizing the authority of Public Law 480 to encourage inclusion of a greater share of processed products under both title I concessional sales and title II food aid programs; and

(4) Utilizing authorities of the Commodity Credit Corporation of the United States Department of Agriculture and the Export-Import Bank to ensure that credit arrangements for agricultural and agricultural product exports are on terms equal to those offered by other countries to assure fair competition.

Mr. PERCY. Mr. President, I send to the desk a concurrent resolution on behalf of myself and Senators BURDICK, HELMS, LUGAR, NUNN, QUAYLE, GRASSLEY, PRESSLER, DIXON, SASSER, and HUDDLESTON, and ask for its appropriate referral.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, the concurrent resolution will be appropriately referred.

Mr. HELMS. Mr. President, I wonder if the Senator from Illinois will be willing to yield to me.

Mr. PERCY. I yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I join with the Senator from Illinois in urging the distinguished majority leader to act promptly on this resolution. At the same time, I think it would be appropriate for us to take note of the remarkable efforts by the distinguished Secretary of Agriculture, one of Senator PERCY's fellow Illinoisans, who has dedicated a tremendous amount of his time to this problem. He has traveled the world over urging purchases of American products.

Mr. President, the distinguished Senator from Illinois is exactly right. For a long time, we have engaged in a bipartisan folly of not pressing the interests of the U.S. farmers and workers in terms of exports. We have, too often, as the saying in North Carolina goes, taken a "dumb pill" each morning on this question. We have let other countries ride roughshod over us. It is time for the United States to exercise some backbone. Jack Block is doing that and Bill Brock is doing that. The President of the United States, as recently as Tuesday of this week, gave absolute assurance to a group of us who went there on an identical problem relating to textiles.

I commend the Senator from Illinois on his fine statement, and I join with him wholeheartedly in the legislation that he is offering. I thank him very much for allowing me to be a cosponsor.

Mr. PERCY. Mr. President, I am delighted that the chairman of the Committee on Agriculture, Senator HELMS is in the Chamber. A growing number of American businessmen in the community from which I come, labor leaders and policymakers, are concerned about increasing U.S. exports of processed agricultural products because of the sizable potential economic benefit which could be realized if a greater proportion of our agricultural exports were processed or finished at home.

My colleague, Senator BURDICK, and I are submitting a Senate concurrent resolution which expresses the sense of Congress that the President should take every possible action to encourage the increase of U.S. exports of processed or value-added agricultural products.

The American food system is a mainstay of the U.S. economy, accounting for 20 percent of the gross national product (GNP), 23 percent of all U.S. employment, and 19 percent of all U.S. export earnings. America's agribusiness is the largest contributing factor to the U.S. balance of payments. Its economic benefits extend far beyond the farm into farm supply industries, food processing distribution, and other agribusiness. These processing and service activities, accompanying the flow of agriculture commodities from farm to consumer, directly raise U.S. employment and income.

Agricultural exports are vital to the economic health of this Nation. It is only appropriate that we capitalize on our abundance to insure that the maximum economic benefits are being generated to the U.S. economy.

As one of our distinguished Senators said to us yesterday, and I believe Senator HELMS might have been in the room at the time, there are three principal issues facing this country: jobs, jobs, and jobs. That is all I will hear about when I go to Illinois this afternoon. I am sure it is what the distinguished Senator from North Carolina hears about every time he returns, as he does so frequently, to North Carolina.

This is what our job is, to create jobs in the United States of America, and we can, through the proposal that we will be making, a number of us, in this resolution.

I am delighted that the chairman of the Agriculture Committee, Senator HELMS, is a cosponsor of this concurrent resolution.

Encouraging exports of processed or value-added commodities makes sound economic sense. According to a U.S. Department of Agriculture study, if even 10 percent of current raw exports of wheat, corn, and soybeans were shipped as processed products, the GNP would increase by nearly $16 million, personal income would rise by over $3 billion—that personal income would go just where it is most needed—and more than 300,000 new U.S. jobs would be created.

Our colleague in the House, Congressman TIP O'NEILL, the Speaker of the House, is introducing a measure which would cost the American taxpayer $1 billion. It would create 200,000 dead-end jobs. In other words, they are made jobs. They are Government jobs. There is no guarantee they will continue unless we continue to put more billions into those jobs.

Here is a proposal that will create 300,000 new U.S. jobs. They will be continuing jobs. They will be jobs that will create income that can be taxed both at the personal and the corporate level.

This proposal, we think, is a fundamentally sound proposal in line and in keeping with the philosophy of this administration that private sector jobs, not public sector jobs, are the most important thing.

As a last resort, you can always consider that, but we have not gone to the last resort because there are many things that can be done.

I might add that by encouraging exports of value-added agricultural commodities, this legislation does not seek to decrease U.S. exports of raw materials; rather, the goal to increase value-added exports is an additional effort to enhance and expand U.S. export markets to insure that processed food products share in the future growth of food exports.

Last year I was pleased to help launch the Export Processing Industry Coalition (EPIC). EPIC is a unique coalition uniting labor and industry to strengthen the American agricultural processing and export economies.

The cross-section of support EPIC has received is an indication of the urgency of the resolution we are submitting today.

The organizations that are supporting this resolution include:

National Association of State Departments of Agriculture;

National Governors' Association;

Poultry and Egg Institute of America;

American Farm Bureau Federation;

Wine Institute;
American Association of Port Authorities;
Potato Chip/Snack Food Association;
National Cattlemen's Association;
Protein Grain Products International;
Western Great Lakes Maritime Association;
North Dakota Agricultural Products Utilization Commission;
National Broiler Council;
Food Processing Machinery and Supplies Association;
Rice Millers Federation;
National Turkey Federation;
National Farmers Organization;
National Conference of State Legislatures;
Independent Bankers Association;
National Rural Electric Cooperative Association; and
National Sunflower Association.

At a time when our markets for raw agricultural products have been reduced, we must think of innovative ways of marketing our agricultural abundance overseas.

We have quality products that can benefit consumers in both the developed and lesser developed countries. In the past, we have placed a low priority on the establishing of our presence in these markets for processed or value-added food. By value-added, I simply mean improving the quality of the product as it moves from farm to market. In Illinois, for instance, value-added processors have added billions of dollars to the State economy. As an example, the sugar and confectionary industry in Illinois employ 160,900 employees and generates $674 million in income, according to the latest census data. Yet candy manufacturers have to overcome a variety of tariff and nontariff barriers, when they try to expand their markets overseas.

Let us just take, for instance, the second industrial giant in the world, the economy of Japan, the second most powerful economic nation on Earth. Yet here they are, after we had given a tremendous amount of help in the postconstruction period, after the war—here they are protecting—what do they call it, an infant industry?

Candy manufactured in Illinois is subject to a 7-percent tariff or duty at our borders. We let in candy from all over the world, including Japan, Switzerland, and other countries, and charge 7-percent duty, which is not a protective tariff at all. It is an income-bearing measure.

What does Japan do? Thirty-one percent. What if we put a 31-percent duty on automobiles? You would not have Datsuns, you would not have Toyotas, driving around our streets. We would just shut them off.

That is why a wave of protectionism is going through these Chambers, the House and the Senate, and across this country.

The House and the Senate, across this country—I have never heard so much anti-Japanese talk as I have on the trade issue. They must recognize this. A Los Angeles Times survey, a nationwide survey released just a few days ago, indicated that Americans feel imports are one of the greatest causes of lost jobs and the depressed economy in the United States today. That means we all have to stop, look, and listen, all of our friends, and I speak to Japan as a friend.

I have been a friend of Japan since the war. We have worked together. I have manufactured in Japan, we have shipped to it and bought from it. I have led the fight for years in industry and here to have an era of freer trade. But we certainly cannot countenance a disparity of 7 percent and 31 percent and try to say that we have fairness in trade today.

Processed meats offer another promising area for exports, yet our processors are faced with rigid sanitary requirements that go beyond commonly accepted health standards in the United States.

In some cases, in order to sell specialty foods in certain European countries, the vendor must belong to a particular trade association. For U.S. manufacturers, this is an impossibility because membership is only open to domestic firms in those countries. Therefore, U.S. firms are effectively excluded from the marketplace.

The list of these nontariff barriers is quite long. To keep the trade lanes open, it is critical that nations that export processed food items to the United States understand that they must give equal treatment to processed food items from the United States. The supermarkets of America are bulging with wine, cheeses, crackers, distilled water, and other specialty food items from other countries, yet it has been pointed out that it is very difficult to locate a U.S.-origin processed product on a supermarket shelf in those countries that sell to us.

Almost a year ago, I announced the formation of EPIC at a Senate hearing in Urbana, Ill. Urbana is right in the heart of east central Illinois, where raw corn and soybeans are processed into such valuable byproducts as high fructose corn sweeteners, ethanol, soybean meal and oil, starch, corn gluten feed, and distillers dried grains.

We must begin a well-organized program, utilizing all sectors of the economy, to export these and other products to potential buyers. There are a number of ways that the public and private sectors can work together to accomplish this. For example, I commend the actions taken by the National Soybean Processors Association in educating Soviet agricultural officials on the benefits of soybean meal. Instead of waiting for the Soviets to show interest in this value-added product, NSPA officials have traveled directly to Moscow to provide personal briefings. This is the type of direct industry marketing effort that is required to get the message out about the benefits of value-added products. I would like to see it supplemented by the Government making the sale of soybean meal and other protein feed ingredients a part of any new grain agreement with the Soviet Union.

I ask unanimous consent to print a statement on value-added exports that was made by Mr. Larry Werries, director of the Illinois Department of Agriculture. Mr. Werries describes the promise of value-added exports and some of the major obstacles that must be removed if the United States is to market processed foods in overseas markets.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ILLINOIS DEPARTMENT OF AGRICULTURE, MR. LARRY A. WERRIES, DIRECTOR, BEFORE THE SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND GOVERNMENT PROCESSES, U.S. SENATE, OCTOBER 16, 1981

The vital importance of American agricultural products in world trade is well-known, especially in regard to raw commodities such as wheat, feed grains, and soybeans. American agricultural exports have grown to more than $40 billion, generating new demand for farm products and income for farmers, and greatly offsetting America's negative balance of trade. In 1981, anticipated agricultural exports of $46 billion are expected to create $94 billion of activity throughout the United States economy, and jobs will be provided for 1.2 million full-time equivalent workers.[1]

This hearing focuses on the increasingly protectionist moves of the European Economic Community (EEC) against processed agricultural products from the United States. Since the particular products in question are soybean oil and corn gluten meal, the immediate impacts of protectionist moves against these products will be felt in the Illinois economy. The Illinois Department of Agriculture is concerned about expanding international agriculture trade, and supports open access to markets such as the EEC.

Since the particular questions in regard to soybean oil and corn gluten meal are being addressed in other testimony; I would like to discuss the importance of value added exports in general. In spite of impressive export figures, the question can always be asked, "Are we fully exploiting our competitive advantage in production of food and agricultural products?"

It has been the posture of the Illinois Department of Agriculture for several years to support the concept that the United States take fuller advantage of world demand for our food and agricultural products. The Illinois Department of Agriculture developed and maintained a program of services to aid farmers, agribusinesses and food processors in exporting their products. This program continues to serve the needs of large and small exporters of agricultural products from Illinois.

Illinois is a populous and industrialized state, and is also the leading agricultural export state, ranking first in exports of feed grains, soybeans, protein meals, and soybean oils. Economic activity resulting from agricultural exports greatly benefit this state's economic health.

Almost all of the agricultural products exported from the United States undergo a series of processing steps before reaching the ultimate consumers. Economic activity resulting from these processes is substantial. The theoretical gains to be had from further processing of our agricultural products will be more farm income and industry revenues, higher employment, and economies of scale in agricultural processing. Much of the marketing effort by state departments of agriculture, along with federal and regional groups, has been to support value added exports. While raw agricultural commodities are exported by relatively few, highly competent and efficient companies, the processing of agricultural commodities into a tremendous array of products is carried on by thousands of firms. The Illinois Department of Agriculture facilitates exports from any of these sources.

Few attempts have been made to quantify the domestic economic and employment benefits that are implied by adding more value to our agricultural exports. Social, political, and economic trade realities greatly affect the attainment of our potentials.

By looking at the Illinois census data from 1977, one can see the importance of value added by manufacture of agricultural products to the state's economy. The following table [2] summarizes some of this activity for domestic and export consumption:

Illinois industry	Total number of establishments	Total number of employees [1]	Value added by manufacturer [2]
Food and kindred products	1,270	103.9	4,725.6
Meat products	218	14.6	426.9
Dairy products	154	6.6	340.8
Preserved fruits and vegetables	119	10.8	456.4
Grain mill products	146	14.4	921.8
Bakery products	173	16.1	584.6
Sugar and confectionary	93	16.9	674.2
Fats and oils	51	5.3	194.2
Beverages	142	10.9	717.5
Miscellaneous	174	8.2	409.1

[1] Times 1,000.
[2] Times dollars in millions.

These data give an indication of the absolute size of the food products manufacturing activity in Illinois without showing any trends or analysis of its effect on exports.

Schluter and Clayton recently developed a net agricultural exports model that isolated the differential impacts of processed products, and they were able to present some preliminary estimates of the economic activity and employment associated with exports of raw versus processed agricultural commodities.[3] They concluded that certain sizable benefits do exist for the United States economy and employment situation from having a greater proportion of processed products in our agricultural export mix. Both direct and indirect advantages result from exporting processed commodities, since an export market is enlarged for the services required to assemble, process, and distribute the processed products. Greater employment prospects and new disposable income generated have indirect impacts on the economy, seen as a sequence of economic activity in the demand chain.

Table 2 shows a summary of Schluter's and Clayton's work with examples of the effects of processing on three economic indicators.

Net increases in gross output, employment, and income reflects a range of impacts from exporting certain processed products in place of the raw commodities. Dressed poultry exported in place of corn has considerably greater impact than the differential between raw and processed soybean exports.

Schluter and Clayton point out that due to the usual location of processing plants near the sources of raw commodity supplies, the net effects of exporting processed products tends to be concentrated in the same regions as the effects of exporting the raw products. New expansions of processing capacity could cause some regional shifts.

Problems are encountered with attempts to change the proportion of processed products in the agricultural export mix.

External factors are very important in determining the nature of United States agricultural exports including: (1) trade and agricultural policies of major importing and exporting countries, (2) level of agricultural production, (3) the pace of economic activity, (4) demographic trends, (5) the international exchange value of the United States dollar, and (6) market acceptance of processed products.[4]

An increasing number of countries today pursue policies that are designed to stimulate high levels of agricultural production and to encourage the development of their own domestic processing industries. The desire for food self-sufficiency, for favorable balances of payment situations, and for domestic employment and income benefits provide the impetus for countries to develop a variety of policies for price and income support, for resource use, and for new technologies. Various degrees of governmental intervention in foreign trade have developed and are increasing, serving to insulate national food and agricultural sectors from foreign competition. Policies that keep agricultural prices above world market levels can be maintained only by restricting the terms of entry of competitive products through tariff and nontariff barriers.[5] In general, trade barriers are lower for products that serve as inputs to a further stage of processing i.e., raw commodities. A variety of nontariff barriers also are faced by United States agricultural exporters; licensing, state valuations, state trading, special duties on imports for port improvement, special standards, and health regulations.[6] As a leading export state and a major processing state, Illinois is very vulnerable to increased trade barriers.

By nature, further processing diversifies and expands the product mix offered for export. By purchasing value added products, additional demands are often placed on a country's limited foreign exchange earnings. Market demand is more selective and complex requiring more sophistication in meeting those demands, however, a country can derive long-term benefit from processed product imports. For example, if the Soviet Union were to import more protein concentrates, such as soybean meal, their ration formulations in animal feeds could be less dependent on imported feed grains.

External factors are not alone in holding down growth of processed agricultural product exports. Domestic considerations also influence American ability to increase the proportion of processed products in the export mix. Processed products require greater marketing efforts and expenditures per unit of sales than do raw materials, so incentives for individuals or firms to pursue these markets must be greater. Profit potential and long-term market consistency are necessary to our exporters. Continued expansion of our exports in processed agricultural products requires more investments in transportation and infrastructure to handle more specialized and diverse products. Small, medium, and large sized processors require the availability of credit and export aids. Increased processed food exports mean a greater need for qualified international marketing people. To commit the necessary resources, United States firms must see open market opportunities that will not be constantly threatened by new restrictions, external or domestic.

The agricultural community is concerned today about declining farm prices, in the face of rising interest rates. A stronger dollar is reflected in higher prices overseas for our agricultural products. Perhaps it is time to reevaluate some of our strategies and policies for international agricultural trade. In the present climate, it is unlikely that any massive new supports or subsidies will be instituted for American agricultural exports.

The United States has always been at a psychological disadvantage in international trade, simply because we are blessed with a huge domestic market and have not been forced to acquire international trade skills or to develop a coherent, long-term agricultural trade policy. Times have changed. In the past couple of decades, the United States has taken an ever greater role in world agricultural trade. Consequently, we have become more vulnerable to the fluctuation of world markets and changes in trade restrictions.

As a first step toward realizing our potential, farmers, businessmen, labor, promotional organizations, and government must come together to lobby for national agricultural export policies. A favorable export credit policy, providing competitive credit terms that are accessible to all exporters, would encourage more export activity. Production and investment in processing could be encouraged through tax incentives for exporting. Tax incentives that are competitive with other major exporting nations would encourage more companies to hire American personnel for their overseas positions, and would encourage more companies to acquire international trade management expertise. American firms need the management skills that will enable them to put their international marketing efforts on a par with their domestic efforts.

We wish to adhere as much as possible to the principles of free trade. American agricultural policies should insure American reliability as a supplier and should institute some systematic measures that would discourage protectionist actions overseas. If our buyers and competitors were certain that their actions would be followed by an American reaction, perhaps the doors would open more widely to the vast array of American food and agricultural products.

Finally, marketing efforts, especially in the case of processed products, are of paramount importance. Orders will not fall in our laps without first perceiving the needs of the world's diverse customers and marketing our products to them in a way that will provide the buyers with clear benefits. Systematic and readily available market research is necessary for up-to-date information on market potentials, buyers, and trade barriers.

Export promotion are presently carried on at several levels; industry and industry groups, commodity associations, chambers of commerce, and federal, state, and municipal government programs. Each of these efforts needs the support of the others to define their functions, avoid duplication of services, and to develop reliable supplier-overseas buyer relationships.

TABLE 2.—NATIONAL NET EFFECTS OF RAW VERSUS PROCESSED EXPORTS [1]

[Dollars in millions]

	Gross output			Gross employment (workers)			Personal income		
	Raw product	Processed product	Net change	Raw product	Processed product	Net change	Raw product	Processed product	Net change
Flour for wheat	$5.42	$14.26	$8.84	143	335	192	$1.54	$3.45	$1.91
Dressed poultry for corn	5.32	50.22	44.90	147	1,300	1,153	1.40	10.69	9.29
Soybean oilmill products for soybeans	5.21	8.00	2.79	135	183	48	1.48	1.91	.43
Cottonseed mill products for cottonseed	5.61	13.28	7.67	209	372	163	1.36	2.96	1.60
Wet corn milling products for corn	5.32	14.21	8.89	147	337	190	1.40	3.37	1.97

[1] Based on million dollars in sales of raw commodity exports and equivalent amount of processed product.

FOOTNOTES

[1] Gerald Schluter and Kenneth C. Clayton, "Expanding the Processed Product Share of U.S. Agricultural Exports", ERS Staff Report No. AGESS 810701, National Economies Division, ERS, USDA, Washington, D.C., July 1981, Pg. 2.

[2] U.S. Department of Commerce, Bureau of the Census, 1977 Census of Manufactures, Geographic Area Series, Illinois, Table 5, "Statistics by Selected Industry Group and Industry for the State: 1977 and 1972", Pg. 14-13.

[3] Stephen C. Schmidt, "International Trade and Illinois Agriculture", AERR 166, Department of Agricultural Economies, University of Illinois, Urbana, Illinois, September 1979, Pg. 18.

[4] Ibid, Pg. 22.

[5] Ibid.

[6] G. Schluter & K. C. Clayton, Pg. 3.

Mr. PERCY. I thank my colleague very much. It would have sounded parochial if I had, once again, lauded the distinguished Secretary of Agriculture, Jack Block, who was formerly Secretary of Agriculture of Illinois under Governor Thompson. I was with him last Sunday, and with the Governor. I agree that he has been absolutely outstanding in protecting the interests of agriculture and also looking after the value that we can contribute to the economies of the world.

When I say that, I mean that, in Japan, they pay 70 percent more for food—every Japanese, on the average, pays 70 percent more than the people of New York, primarily because of the protectionist policies imposed upon them by 10 percent. That means the other 90 percent are paying the bill and reducing their standard of living and increasing their cost of living. Jack Block is just trying to point out around the world that the great abundance of American agriculture can bring down the cost and improve the quality of life for all over the world if we just have access to markets and if they would not try to protect those markets in such a way that they protect inefficiency.

We should reward efficiency all over the world. Certainly, we are a model—agriculture is the clearest demonstration we have that the Communist system has failed in the most basic thing mankind has tried to do for itself, just feed itself. Communism has failed miserably in that regard. We have such an abundance that we produce for ourselves and then export more than all other countries combined and still have abundance left over. It is to get that left over out to people so that a billion people do not go to bed hungry at night, that they have access to this food, that we are trying to work together.

I appreciate very much the way in which the distinguished chairman of the Committee on Agriculture has worked so closely with the Secretary of Agriculture in working for the American farmer. Not just the farmers of North Carolina—they are really protected by my distinguished colleague. All the farmers in this country owe him a debt of gratitude for what he has done.

Mr. HELMS. I thank the Senator.

SENATE RESOLUTION 468—RESOLUTION TO PAY TRIBUTE TO EARL WEAVER

Mr. MATHIAS (for himself and Mr. SARBANES) submitted the following resolution; which was considered and agreed to:

S. RES. 468

Whereas Earl Weaver, manager of the Baltimore Orioles for the past 13½, years, has led the Birds to six eastern division championships, four American League pennants and one world championship, and

Whereas Earl's won-lost percentage ranks third on the all time list, and he is tied with the Yankees' great Joe McCarthy and trails only the immortal Connie Mack in winning 100 games or more per season, and

Whereas Earl's intensity for inspiring Oriole victories by feisty finagling and limitless legerdemain has won the unflagging support of Oriole fans and the ire of umpire and opponent, and

Whereas Earl has achieved distinction in alternate careers as author, Shakespeare scholar and nurturer of prize Maryland tomatoes, which in yonder bullpen groweth, and

Whereas Earl has managed the same team for a longer period than any current manager: Now, therefore, be it

Resolved, That the United States Senate wishes to honor and pay tribute to Earl Weaver on the occasion of "Thanks Earl Day" Sunday, September 19, 1982, at Memorial Stadium, Baltimore, Maryland.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Earl Weaver.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY EXTENSION OF PUBLIC DEBT LIMIT

AMENDMENT NO. 3279

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for Mr. HATCH, for himself, Mr. SYMMS, Mr. EAST, Mr. DENTON, Mr. BOREN, and Mr. ZORINSKY) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 3280

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for himself, Mr. RANDOLPH, Mr. STAFFORD, and Mr. BENTSEN) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NO. 3281

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTONG, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. ZORINSKY, and Mr. RUDMAN) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NO. 3282

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr.

BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. ZORINSKY, and Mr. RUDMAN) submitted an amendment intended to be proposed by them to the reported amendment to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NO. 3283

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. ZORINSKY, and Mr. RUDMAN) submitted an amendment intended to be proposed by them to the amendment of Mr. HELMS concerning school prayer to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NO. 3284

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. ZORINSKY, and Mr. RUDMAN) submitted an amendment intended to be proposed by them to the amendment of Mr. HELMS concerning school prayer to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NO. 3285

(Ordered to be printed and to lie on the table.)

Mr. SYMMS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. CANNON, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. DOMENICI, Mr. EAST, Mr. GARN, Mr. GOLDWATER, Mr. GRASSLEY, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. QUAYLE, Mr. PRESSLER, Mr. PRYOR, Mr. RANDOLPH, Mr. ROTH, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. ZORINSKY, and Mr. RUDMAN) submitted an amendment intended to be proposed by them to the amendment of Mr. WEICKER (No. 2039) to the joint resolution (H.J. Res. 520), supra.

AMENDMENTS NOS. 3286 THROUGH 3421

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted 135 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a meeting to consider pending legislative and administrative business on Wednesday, September 22, 1982, at 9:30 a.m., in room 301, Russell. The agenda for the meeting will include death gratuities, printing resolutions, and requests for equipment.

For further information concerning this meeting, please call Rules Committee staff at extension 40278.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a hearing on budget act reform on Tuesday, September 21, beginning at 10 a.m. in room 6202, Dirksen Senate Office Building. Dr. Alice Rivlin, Director, Congressional Budget Office, and Mr. Charles A. Bowsher, Comptroller General of the United States will testify.

ADDITIONAL STATEMENTS

HERITAGE FOUNDATION PAPER SUPPORTS MILITARY REFORM VIEW

● Mr. HART. Mr. President, I would like to bring to the attention of my colleagues an excellent paper recently published by the Heritage Foundation, "Close Air Support and the Soviet Threat," by Dr. Jeffrey G. Barlow of the Heritage Foundation staff.

Dr. Barlow's paper builds on a viewpoint held by many military reformers; namely, that for airpower to be effective in combat, it must be closely linked to the action of ground forces. This means that the missions of close air support and battlefield interdiction take on great importance. Unfortunately, the U.S. Air Force has tended to downgrade these missions, instead focusing on deep interdiction—what was called strategic bombing in World War II—against enemy supply lines, infrastructure, industry, and so on.

After Vietnam, the Air Force did become interested in close air support, and procured an aircraft, the A-10, specially designed for the mission. Now, however, there are disturbing signs the Air Force is reverting to its traditional emphasis on deep interdiction, and is planning to neglect close air support. The clearest evidence was the acquiescence of the Air Force in the Congressional cancellation of the A-10 program in the fiscal year 1983 authorization bill—a cancellation done with the Air Force's approval, even though the President's budget request included 20 additional A-10's.

Even more significant is the failure to move forward with a replacement for the A-10. As Dr. Barlow's study notes, two major improvements could be made over the A-10 in a new aircraft: the size, and thus the vulnerability and cost, could be reduced, and the aircraft could be made more agile. In its VISTA 1999 study, the National Guard has called for such an aircraft. But the Air Force apparently has no plans to develop one.

Mr. President, the Heritage Foundation study does a good job of bringing these issues to the fore. They are important issues for the Senate, because they relate directly to the question of whether our investment in tactical aviation will prove effective in combat. I strongly urge my colleagues to read the study, and to join with me in urging the Air Force to begin development of the new close support aircraft recommended by the National Guard.

Mr. President, I ask that Dr. Barlow's paper, "Close Air Support and the Soviet Threat," be printed in the RECORD.

The paper follows:

Close Air Support and the Soviet Threat

INTRODUCTION

Close air support (CAS) is defined by the Joint Chiefs of staff as "air attacks against hostile targets which are in close proximity to friendly forces and which require detailed integration of each air mission with the fire and movement of those forces." Thus, for an air mission to qualify as close air support, it must be in direct support of engaged troops and be coordinated with the ground commander. Although known by a number of different names over the decades, the CAS mission has officially existed for some sixty years.[1] For much of its existence, however, it had been neglected by airpower proponents, in favor of air missions that have promised to provide a more decisive application of military force. It is a mission in direct support of one service (the Army), but it is a mission which is the responsibility of another service (the Air Force) with vastly different priorities and strategic conceptions. In a very real sense, then, it is a mission destined by circumstances to be neglected except in times of most immediate need.

Following its experiences with tactical airpower in Southeast Asia and its subsequent analysis of the emergency conventional force disparities in Central Europe, the Air Force, to its credit broke with tradition and procured an aircraft designed specifically for close air support. This aircraft, the A-10 Thunderbolt II (immediately nicknamed the Warthog), has been operational in Europe since 1979. Moreover, the Air Force has perfected a series of low-level flying tactics that will help the A-10 perform its tank-killing mission during a Central Front war, even in the face of the Soviet Army's formidable air defenses.

Now, however, there are disturbing signs that budget constraints are prompting the Air Force to weaken its commitment to CAS and concentrate once again almost exclusively on air superiority and interdiction as the roles for tactical airpower.[2] This could be a serious mistake, since effective CAS could well make the difference in allowing NATO to maintain a viable defense on the Central Front in the first, crucial days of a Warsaw Pact invasion. The Warsaw Pact invasion. The Air Force now has an A-10 force that will peak in strength at just over 700 aircraft in 1984. With peacetime attrition, this specially designed CAS force will begin declining in fighting effectiveness just when it is needed more than ever.

CLOSE AIR SUPPORT: A DOCTRINAL HISTORY

During America's participation in the First World War, air warfare was completely controlled by ground commanders, and the support of ground forces was seen as the predominant offensive mission for military aviation, once air superiority had been achieved. The close air support mission began in October 1918, during the latter stages of the Meuse-Argonne Offensive, when Brigadier General William "Billy" Mitchell, commander of the Air Service, Army Group, AEF, recognized the important role that Army pursuit aircraft were playing in keeping the German forces continually off balance during the offensive (at one point disrupting German reserves poised for a counterattack) by bombing and strafing enemy troop concentrations in the battle zone.[3] Accordingly, just before the hostilities ended, the Air Service, AEF, began planning for a number of designated ground attack squadrons.

Between the Wars, the fate of the close air support mission was very much intertwined with the attempts by the Air Service to carve out an an independent role for itself. During the early inter-war period, the theory of General Guilio Douhet (Command of the Air), Lord Trenchard and Count Gianni Caproni—that strategic bombardment of enemy industrial centers would prove to be the decisive factor in future wars—gained increasing credence from American airpower enthusiasts. The doctrine of strategic bombardment not only offered a belief in the decisive role of airpower but, in light of this belief, lent the Air Corps as a whole a significant argument to use in favor of its eventual autonomy from the Army. On the other hand, the ground attack mission merely enhanced the Air Corps' existing subordinance to the ground army.[4] The result was a diminution of the role of attack and other tactical aviation in doctrine and planning. As one author remarked in connection with the Air Corps Tactical School: "Attachment to this commitment [strategic bombardment] was, however, so inflexible that it inhibited the development of tactics for escort, for air defense, for support of ground forces and for reconnaissance and transport aviation."[5] The first attack group was formed in 1921 and this was followed by the formation of only one additional attack group more than a decade later.[6] Thus, where in 1922 there had been four attack and seven bombardment squadrons, by 1932 there were still only four attack squadrons, but the number of bombardment squadrons had increased to twelve.

The mission of these attack squadrons, as defined at the time, was: "To assist the ground troops in their action against enemy positions; to attack hostile front line troops, supports, reserves, troop concentrations, road traffic of whatever nature, tanks, airdromes, and hostile batteries."[7]

During the Second World War, the close air support mission continued to suffer relative to the strategic bombardment and interdiction missions. Wartime Army Air Forces trends in doctrinal support of "independence of control and operations" reached their zenith in mid-1943, with the publication of Field Manual 100-20—Command and Employment of Air Power—which set forth the new doctrine that "Land power and air power are co-equal and interdependent forces; neither is an auxiliary of the other."[8] This document noted:

"Massed air action on the immediate front will pave the way for an advance. However, in the zone of contact, missions against hostile units are most difficult to control, are most expensive, and are, in general, least effective. . . . Only at critical times are contact zone missions profitable."[9]

In operational practice, Army Air Force units in the Mediterranean, European, and Pacific Theaters flew thousands of direct support missions for Allied troops and with some spectacular results—witness the XIX Tactical Air Command's success in protecting the exposed right flank of Patton's Third Army along the Loire River in 1944. In looking back, however, it becomes apparent that the AAF's primary interest lay in strategic bombardment and secondarily in interdiction missions.

The Army Air Force's principal interest in strategic airpower continued to dominate the postwar Air Force, garnering the bulk of the attention and most of the available funding. Though the Korean and Vietnam Wars demonstrated the need for adequate tactical air support, particularly CAS, in neither situation was the Air Force prepared at the outset with the proper mix of aircraft for tactical missions involving close support of ground forces.[10] In fact, the Air Force was forced, at the start of its combat deployment in South Vietnam, to use World War II-design Navy A-1E and A-1H Skyraider aircraft in order to provide reliable close air support to the South Vietnamese troops.[11]

The Air Force's general lack of interest in the CAS mission was to change by the time that the war in Vietnam was winding down for the United States. One reason was perception of tactical air needs on the NATO Central Front.

THE THREAT TO NATO'S CENTRAL FRONT

The central front

The forward edge of NATO's Central Front stretches south from the Elbe-Trave Canal in the West German State of Lower Saxony to Germany's southern border with Austria—a line about 650 miles long. Some twenty-six NATO divisions are deployed in this area. Adding in the in-country European forces earmarked for the Central Front (including those in Great Britain) brings the total to thirty-two divisions, equipped with 7,150 tanks and about 3,470 artillery pieces and mortars.[12] The aircraft deployed with these NATO forces number 1,869 fixed-wing planes, including fighter/bombers, interceptors, and reconnaissance types.

The bulk of NATO's forces on the Central Front are deployed close to the intra-German border because of political necessity. Such "forward defense" serves to reassure Bonn that, if war breaks out, NATO forces will endeavor to protect against the loss of any West German territory by forming a coherent defense line as far forward as possible, holding back the Warsaw Pact forces while awaiting the release of tactical nuclear weapons, and confining collateral damage to a minimum. NATO's supply lines, of necessity, run near and parallel to the intra-German border, making it likely that initial Warsaw Pact penetrations of NATO's defense will disrupt or even sever the supply lines.

Warsaw pact strength

Of the four groups of Soviet forces deployed in Eastern Europe, two are oriented directly toward operations against the NATO Central Front.[13] These are the Group of Soviet Forces, Germany (GSFG), headquartered in Zossen-Wünsdorf, near Berlin, and the Soviet Central Group of Forces (CGF), headquartered in Milovice, Czechoslovakia, northeast of Prague. Together, they have twenty-six Soviet Category I divisions, twelve of them tank divisions.[14] If the Soviet armies deployed within the USSR which would be used in direct support of Central Front operations and the available Eastern European forces are included, NATO faces on the Central Front a formidable Warsaw Pact military force of about ninety divisions, about half of which are capable of an unreinforced, standing-start attack. The tanks alone in this unreinforced offensive force number over 13,000,[15] while an additional 7,000 tanks are readily available in Soviet Central Front-committed Military Districts. Over two-thirds of the tanks deployed in Eastern Europe and over one-half deployed in the USSR's Western Military Districts are modern design T-62s

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Footnotes at end of article.

and T-64/T-72s, while the rest are obsolescent T-54s and T-55s.

The offensive

The Soviet Army practices three primary forms of offensive action—the meeting engagement, the breakthrough attack (now primarily the breakthrough attack from the march, in contrast to the World War II-derived steamroller breakthrough attack from contact), and the pursuit. The meeting engagement, which occurs when both the attacking and defending forces are on the move, is considered by the Soviets to be the most important form of offensive action. As David Isby describes it:

"The advance guard of a Soviet unit will attack upon encountering the enemy, seize the initiative, penetrate the enemy covering forces, and pin down the enemy main body while simultaneously covering the deployment of the Soviet main body, which will attempt to envelop or outflank the enemy. The Soviets will fully exploit the cross-country mobility of their vehicles and their willingness to take advantage of any path or track to carry out their outflanking or enveloping maneuvers.[16]

At the operational level, it is expected that Soviet commanders would launch a series of thrusts across the length of the Central Front. NATO military responses to these thrusts would determine how each effort would be followed up. Those attacks successfully contained by NATO troops would be converted into holding actions by the Soviets, keeping just enough pressure on the engaged NATO forces to prevent their being readily shifted to other positions. However, those attacks that pushed through the initial defenses would be augmented by reinforcements as rapidly as possible.[17]

Rapid rates of advance would be essential to the Soviet plan for a short war. Soviet military commanders estimate that under such circumstances their forces would need to make advances of 70-100 kilometers a day in nuclear conditions and 25-35 kilometers a day in conventional warfare.[18] The aim would be to quickly breach the NATO defenses, wedging open gaps sufficient for Soviet second echelon tank formations to penetrate deep into NATO rear areas.[19] Thus, tanks are the key to the successful exploitation of the offensive penetration and the Warsaw Pact's maintenance of rapid rates of advance.

Clearly then, one of the essential tactics for delaying the Warsaw Pact's offensive timetable and for giving the overextended and maldeployed NATO forces additional time to respond to the enfolding Soviet offensive would be early employment of NATO's tactical airpower.[20] In the short-war-structured offensive, given the NATO Central Front's numerical inferiority and the linear nature of its defensive preparations, close air support and battlefield air interdiction (BAI) would be crucial to a successful NATO defense.[21]

By picking off the tanks in large numbers and by creating bottlenecks that canalize Soviet movement, these close support aircraft could impede the offensive, perhaps giving NATO Commanders the time to patch together a coherent defense until reinforcements arrive.

THE A-10 AND CLOSE AIR SUPPORT

A-10 program development

The U.S. air effort in Vietnam was in full swing in 1966 when Air Force Chief of Staff John McConnell proposed that his service procure a specialized close air support aircraft, which would embody the best characteristics of the A-1 Skyraider and the soon-to-be-flown A-7D Corsair II. In March 1967, the Air Force sent out Request for Proposals (RFP) for design studies to twenty-one companies; in May, it awarded study contracts to four of these companies for the aircraft then designated A-X.[22] Three years later, RFPs for competitive prototype development were issued to twelve companies. By August 1970, six companies, including Boeing and Lockheed, had responded with proposals. This number, in turn, was whittled down to a final two—Northrop and Fairchild—by that December.

The fact that by 1970 the Air Force leadership was on the verge of contracting for a specialized close air support aircraft illustrated the pronounced change that had overtaken earlier attitudes. As General William Momyer, commander of the Tactical Air Command, explained to the members of the Senate subcommittee in October 1971:

"In the past, the Air Force has developed its aircraft on the principle of multipurpose systems. As a result[,] all current fighter and attack aircraft have varying capabilities for close air support. However, several factors have developed which impinge significantly on the force structure of tactical air forces. These factors establish a requirement for a large number of airframes and tend to emphasize specialization." [23] Among the factors were the high cost of the technology required to overcome the enemy's defenses and the requirement for the Air Force to employ its tactical fighter forces in widely divergent missions simultaneously.

Northrop and Fairchild each built two prototypes of their version of the A-X, designated by the Air Force the A-9 and the A-10, respectively. Service testing began in October 1972 and was completed two months later, with Fairchild's A-10 emerging as the winner. As both the Department of Defense and the Air Force saw it, tanks were to be the CAS aircraft's primary target, and the A-10 had been shown to be almost twice as effective at tank-killing as Northrop's A-9. In March 1973, Fairchild Republic Company was awarded a cost-plus-incentive-fee contract for continued prototype testing and for the pre-production aircraft. Earlier, the Air Force had settled upon 733 aircraft as the total A-10 buy.

General Electric and Philco-Ford competed for the contract for the A-10's principal armament, designed especially for tank-killing, the GAU-30mm gun. In June 1973, the Air Force awarded the contract to General Electric.

Following the six pre-production aircraft funded in fiscal year 1974, fifty-two production models were contracted for FY 1975 and 1976A. Equipping the first training wing with A-10s—the 355th Tactical Fighter Wing at Davis-Monthan Air Force Base, Arizona—was completed in March 1976. Air Force follow-on operational testing (FOT&E) of the production A-10s began in August of that year and lasted through the following February. Test results showed that despite deficiencies noted in system components—such as the head-up display, the stability augmentation system, and the fuel system—the A-10 was superior to other USAF aircraft for the close air support mission.

The tests, among other things, judged the aircraft's capability in nine CAS mission subareas. Some of the Evaluations noted:

Troops in Contact— ". . . The A-10A can provide effective, accurate, and timely support to ground forces in direct contact with the enemy. . . ."

Armed escort— ". . . AE of a ground column/convoy is a mission well-suited for the A-10A. The maneuverability, firepower, and escort time offered by the A-10A is unmatched by any other aircraft in the inventory. . . ."

Low visibility operations— ". . . The capability of the A-10A to operate in low ceiling/visibility is unmatched by any other aircraft in the inventory today. . . ." [24]

The first operational squadron was activated in June 1977 and achieved operational status that October. In August 1978, the 354th Tactical Fighter Wing at Myrtle Beach Air Force Base, South Carolina, became the Air Force's first fully combat-ready A-10 wing. Five months later, a squadron of the 81st Tactical Fighter Wing, based at RAF Bentwaters/Woodbridge, Great Britain became the first European stationed A-10 squadron, followed eight months later by the first delivery of A-10s to the Air National Guard.

In the fiscal year 1981 Five Year Defense Program, the Department of Defense increased the number of A-10s to be procured from the original 733 to 825 to provide for peacetime attrition and to maintain the aircraft's required force-level life.[25] At the beginning of 1981, however, the Carter Administration's outgoing fiscal year 1982 defense budget, because of fiscal considerations, reduced the number to 687. The Reagan Administration's fiscal year 1982 defense budget restored the original procurement level of 733 A-10As and added fourteen two-seat A-10Bs, for a total of 747 aircraft.[26] This later was reduced during Pentagon budget cuts to 727. The fiscal year 1983 budget originally requested funding for the last twenty of these 727 aircraft of the program, but in May the Pentagon, suddenly claiming that it did not need any additional A-10s, acquiesced to the Senate's decision to cut the funding for these last twenty. As it now stands, the total A-10 production will remain at 707 aircraft.

THE A-10 AND THE CENTRAL FRONT

When the last of the A-10 production aircraft have entered Air Force inventory in February 1984, the Service will have fully equipped six CAS wings.[27] Only the 81st Tactical Fighter Wing at RAF Bentwaters/Woodbridge, with it six squadrons and 108 aircraft, is forward deployed in Europe. In wartime, these A-10s will fly into West Germany to operate out of German airbases, designated Forward Operating Locations, close to the battle area. Eight-aircraft CAS detachments from the 81st are familiarizing themselves with the operational technique by operating for short periods of time alternately out of each of the four Forward Operating Locations that are active in peacetime—Ahlhorn, Noervenich, Sembach, and Leipheim.[28]

Once in combat, the A-10s should prove themselves extremely capable close air support aircraft. The foremost characteristics of a good CAS aircraft are lethality, survivability, reliability, and responsiveness. The A-10 meets all four.

The A-10's high lethality against the whole variety of armored vehicles and soft targets derives from a number of factors—its deadly accurate GAU-8/A, seven-barrel, 30mm gun; its heavy payload-carrying capacity, which enables it to carry a large (up to 16,000 pounds), mixed-ordnance payload of optimized CAS munitions; and, because of its relatively slow-speed approach, its ability to deliver its free fall munitions with reasonably small mean miss distances.

The 30mm gun is the key to its superior lethality against armored vehicles compared to weapons fired by faster and more sophisticated aircraft such as the F-15 and F-16. The GAU-8/A is mounted internally, along the centerline of the aircraft, which gives the gun excellent stability. Armed with 1,174 rounds of depleted uranium penetrator ammunition—each penetrator weighing .66 pound—the gun has muzzle velocities of 3,280 feet per second and is capable of firing at rates of 2,100 or 4,200 rounds per minute. The 30mm gun produces bursts capable of killing tanks now in the Soviet arsenal at a slant range of 4,000 feet. Lightly armored vehicles can be destroyed as far away as two miles.[29]

The A-10's high survivability rating is due to the aircraft's design and the low-level penetration tactics employed in flying it. The plane carries 3,177 pounds of survival provisions, including armor plate and foam for the fuel tank. The pilot is protected by a titanium armor plate "bathub" weighing over 1,400 pounds, which can stop direct hits from Soviet 23mm and 57mm shell.[30]

The A-10's low altitude tactics were developed primarily by the 66th Fighter Weapons Squadron at Nellis Air Force Base, Nevada. Their characteristics include: very low altitude ingress to the target (100 feet above ground level); short exposure above terrain masking while jinking (three seconds or less exposure while flying at 300-400 feet above ground level) to locate the target; short attack exposure while jinking; and very low altitude egress and maneuver for reattack.[31] Because of its slower approach speed, the A-10 can turn faster than a higher-performance aircraft, making it easier for it to reacquire the target and reattack. Using these low altitude tactics, the A-10 is able to counteract and defect formidable anti-aircraft missile defenses and major low-level, anti-aircraft gun threats, such as the Soviet ZSU-23-4 system, with its radar-controlled, quadruple 23mm guns.[32] The short exposure times prevent radar lock-on, necessitating the use of manual aiming. In addition, the A-10's GAU-8/A gun outranges the ZSU-23-4.

The A-10 is designed for easy maintenance, including such things as the large doors and panels provided for ready access to aircraft equipment and the onboard auxiliary power unit. And with its short scramble time and its low ceiling and visibility flying capability, the A-10 can operate from short fields, close to the forward edge of the battle area.

THE NEED FOR MORE CAS AIRCRAFT

In sum, the A-10 is an extremely capable CAS aircraft, well-suited to the vital role of engaging and killing Soviet first and second echelon armored vehicles. The problem is that there are not nearly enough aircraft available to NATO, which like the A-10, are dedicated to the close air support and battlefield air interdiction missions and can be used in the early stages of a possible Warsaw Pact offensive to blunt the armored onslaught.

The planned size of the force currently envisioned by the Air Force will see peacetime attrition decrease before 1987 the available aircraft below the Service's reduced Required Force Level.[33] Once that point is reached, such attrition will begin eating away at the aircraft in the operational inventory at a gradual rate. The planned procurement level of 825 aircraft called for in the Carter FY 1981 Five Year Defense Program would have kept the A-10 force above the Required Force Level until 1993, given the continuance of the present attrition rate.[34]

The Air Force's response to this situation recalls its earlier, pre-Vietnam views of the value of the CAS mission. Having decided that it has enough A-10 aircraft (given the tight budget situation), commanders have begun looking to the possibility of converting models of the more complex and much faster F-16 and F-15 into true multi-role aircraft, by equipping them for the long-range interdiction mission. The lure of F-15E Strike Eagles and F-16Es or XLs seems hard for senior Air Force generals to resist.

Although such aircraft would undoubtedly be capable of handling a variety of air superiority and interdiction missions, they could not handle the close air support mission nearly so well as could the A-10. For example, lethality studies conducted during the Carter Administration, comparing the A-10 with such aircraft as the A-7 and F-16, showed that the A-10 achieved almost three times the armored vehicle kill rate of the A-7 and F-16.[35] And, it should be noted, neither the F-15 nor the F-16 has the level or armor protection in the A-10. Of equal import, the CAS and BAI missions will have a more significant impact in the early stages of a short-war-structured, Soviet combined-arms offensive.

CONCLUSION

In the short term, the Air Force should increase procurement of A-10s to the 825 level called for in 1980, even at the expense of additional fighter assets. This increase at least would provide a stable A-10 force until the mid-1990s. Fulfilling requirements for additional close air support squadrons or for bringing National Guard and Reserve squadrons up to full strength would necessitate increases above this minimum benchmark. Over the longer term, however, it is clear that a new CAS aircraft will be needed.

The A-10 simply has become too expensive for the Air Force to afford in the large quantities needed for augmenting NATO's ground force strength on the Central Front. Since FY 1978, the A-10's flyway unit cost has climbed from $5 to $12 million (in FY 1982).[36] And once the cost of a close air support aircraft reaches or surpasses that of a first-line fighter such as the F-16, the Air Force will always choose to spend the money on the "more capable" plane. Of course, much of the A-10's cost increase has had to do with the low and uneconomical rates of the aircraft's recent procurement, the cost of equipment add-ons, and the increases caused by inflation. A good portion of the increased costs, however, are related to the aircraft's size: the A-10 is too big. Larger, heavier aircraft, over time, tend to become more costly to procure than smaller, lighter aircraft. A big aircraft, moreover, presents larger targets. In this case, admittedly, Fairchild was following the Air Force's lead—it wanted a heavily-armored aircraft capable of carrying a large ordnance payload.[37]

Exactly what the follow-on CAS aircraft should look like is still an issue of intense debate. However, several design aspects appear to be relevant. It should be smaller than the A-10, with a maximum external payload only a quarter to a third that of the A-10. It should be powered by engines designed for low fuel consumption in low-level cruising. And it should retain the internally-mounted 30mm gun that has proved so successful in the A-10, although, if judged necessary, the GAU-8/A's 4,000 pound weight penalty could be reduced by going with the lighter, four-barreled GAU-13/A.

The Air National Guard came out with its proposal for a "combined forces fighter" to eventually take the place of the A-10, in its March 1982 report. Paralleling many of the design concepts espoused by TacAir consultant Pierre Sprey, the Air National Guard called, among other things, for a smaller aircraft than the A-10, which would have better maximum Gs (the gravitational pull on the pilot), much better acceleration, and better roll/pitch transients (particularly in the 150 to 350 knots region) and which could operate from roads and grassfields.[38]

Precisely because such a new development project will be very prolonged, if past history is any judge, the Air Force should immediately begin increasing its procurement of A-10s to ensure an adequate close air support force until the mid-1990s. The A-10A is still the best CAS aircraft in the inventory and one that can have a major role in the event of a Soviet invasion of Europe during the next decade.

From the early days of its existence as a component element of the Army to times as recent as a decade ago, the U.S. Air Force has almost continually ignored the value of the close air support mission as a decisive factor in the land battle. Preferring to concentrate its efforts on loftier missions, such as strategic bombardment and deep interdiction, which promise an early end to wars, Air Force leaders have slighted those aspects of tactical aviation that hearken back to their Service's earlier subservience to the Army.

The changed Air Force thinking of the 1970s, which owed its rationale to the lessons of Vietnam and the emerging reality of the dangers facing NATO's Central Front and produced service support for the A-10, seems now to be reverting to traditional channels of thought. At a time when the gap between NATO's and the Warsaw Pact's deployed military power is growing larger, it is vital to maintain sufficient close air support assets to help reduce the disparities in the military capability now favoring the Soviets. This can be done only if the leadership of the Air Force reaffirms the essential nature of this long disparaged mission.

JEFFREY G. BARLOW, Ph.D.,
Policy Analyst.

FOOTNOTES

[1] The term "mission" as it is used in this case and as it is most often used throughout this paper means: "Any particular business, service, or duty assigned to be accomplished by a person, organization, office, detachment, or the like with the object of contributing functionally to an overall objective." Woodford Agee Heflin, ed., The United States Air Force Dictionary (Maxwell Air Force Base, Alabama: Air University Press, 1956), p. 329.

[2] Air superiority refers to obtaining control of contested airspace.

[3] For example, the First Army Air Service's Battle Order No. 44 of November 3, 1918, noted: "1. The Allied Armies have forced the enemy into a precipitate retreat . . . . The aviation of the enemy has been destroyed or driven back wherever found, his balloons have been burned, and our air planes continually harry and demoralize his ground troops with bombs and machine guns . . . . (emphasis added). "48. Battle Orders Air Service, First Army September-November 1918," in The U.S. Air Service in World War I, Volume II: Early Concepts of Military Aviation, edited and compiled by Maurer Maurer (Washington, D.C.: The Office of Air Force History, Headquarters USAF, 1978), p. 249.

[4] Perry McCoy Smith, The Air Force Plans for Peace 1943-1945 (Baltimore: Johns Hopkins Press, 1970), p. 27.

[5] Quoted in ibid., p. 33.

[6] Maurer Maurer, ed., Air Force Combat Units of World War II: History and Insignia (Washington,

D.C.: Zenger Publishing Company, Inc., reprinted 1980), pp. 29-30, 61.

[7] "32. Attack aviation," in Other Arms—Air Service (Fort Riley, Kansas: Department of Tactics, The Calvary School, 1923-1924), copy of a mimeographed document, p. 27.

[8] Quoted in James A. Huston, "Tactical Use of Air Power in World War II: The Army Experience," Military Affairs, Vol. 14 (Winter 1950), p. 167.

[9] Quoted in ibid., p. 168.

[10] Perry McCoy Smith noted: "The doctrinal dedication to strategic bombardment at the expense of close air support and interdiction led to difficulties, among them lack of adequate support for ground forces during the Korean conflict, deemphasis of tactical training, and lack of development of tactical weapons systems and tactical munitions (much of the development in these areas was done by the Navy in the two decades following World War II). Smith, Air Force Plans for Peace, p. 28.

[11] The AD/A-1 Douglas Skyraider was first produced in 1945 for the Navy, as a replacement for the SB2C and TBM torpedo bombers. The last attack version of the A-1 was retired in April 1968. "Appendix IV. U.S. Navy Airplanes, 1911-1969," in Dictionary of American Naval Fighting Ships, Volume 5 (Washington, D.C.: Naval History Division, Navy Department, 1970), p. 546. For comments on the Air Force's procurement of A-1s, see General William W. Momyer, USAF (Ret.), Air Power in Three Wars (WW II, Korea, Vietnam) (Washington, D.C.: Government Printing Office, 1978), pp 263-264.

[12] The totals are derived from subtracting the (approximately) two Danish divisions and the German VI Armored Infantry Division assigned to Allied Forces Northern Europe (AFNORTH) for the defense of Schleswig-Holstein and Jutland from the combined AFNORTH/AFCENT totals given in NATO and the Warsaw Pact: Force Comparisons (Brussels: North Atlantic Treaty Organization, 1982), figure six, p. 29.

[13] The four are the Group of Soviet Forces, Germany, the Soviet Northern Group of Forces (based in Poland), the Soviet Central Group of Forces (based in Czechoslovakia), and the Soviet Southern Group of Forces (based in Hungary). Although the Northern Group and Southern Group could support offensive operations on NATO's Central Front, it is apparent that their Primary responsibilites would be to the Baltic area and Southern Europe, respectively.

[14] "Soviet Army order of battle," in David C. Isby, Weapons and Tactics of the Soviet Army (London: Jane's Publishing Company Limited, 1981), p. 24; and Friedrich Weiner and William J. Lewis, The Warsaw Pact Armies (Vienna: Carl Ueberreuter Publishers, 1977), pp. 62-63.

[15] Total derived by comparing and adding tank figures (for GSFG, CGF, East German Army and first-line Czech units) from "Estimated Soviet tank inventory (mid-1979)," in Isby, Weapons and Tactics of the Soviet Army, p. 30.; Weiner and Lewis, Warsaw Pact Armies, pp. 25 and 31; and Military Balance 1981-1982, pp. 18-19. NATO's most recent published estimate for the Warsaw Pact forces—lumping together the first and follow-on echelon divisions together and including some forces that would be deployed against the southern portion of AFNORTH's territory—is ninety-five divisions and 25,500 tanks. NATO and the Warsaw Pact, figure six, p. 29.

[16] Isby, op. cit., p. 35.

[17] See Steven L. Canby, A Comparative Assessment of the NATO Corps Battle ([Potomac, Maryland: C&L Associates ?], November 24, 1978), copy of a typescript document, pp. 19-22.

[18] Isby, Weapons and Tactics of the Soviet Army, p. 33. John Erickson commented: "The duration of these [Soviet high-speed] operations depends critically on early initial success and the reduction of NATO as an effective military entity before the arrival and deployment of reserve forces, a requirement which necessitates striking to a depth of 600 km within 10 to 14 days." John Erickson, "Trends in the Soviet Combined-Arms Concept," Strategic Review, Vol. 5 (Winter 1977), p. 46.

[19] Soviet tactics are tank tactics writ large. As David Isby remarked: "Their mission is to outflank, envelop and pursue, defeating the enemy through maneuver rather than by frontal attack." Isby, ibid., p. 71.

[20] As Air Force General William Momyer noted: ". . . we recognize that there is a deficiency in the NATO armored forces to counter the anticipated massive ground thrust. The application of air power is the only possible military action that could constrain or reduce the Communist ground forces to a level that the NATO ground forces could contain." "Statement of General William W. Momyer, USAF, Commander, Tactical Air Command, U.S. Air Force," in Congress, Senate, Committee on Armed Services, Special Subcommittee on Close Air Support: Hearings, 92nd Congress, 1st session, October 22, 26, 28, 29; November 1, 3, 8, 1971, USGPO, 1972; p. 180.

[21] The purpose of battlefield air interdiction is "to bring airpower to bear on those enemy forces not yet engaged but positioned to directly effect the land battle." Thus BAI missions would be directed against enemy second echelon regiments and divisions. "Allied Tactical Publication (ATP) 27 (B), Offensive Air Support," quoted in Lieutenant Colonel Donald J. Alberts, "An Alternate View of Air Interdiction," Air University Review, Vol. 32 (July-August 1981), p. 40.

[22] Lou Drendel, A-10 Warthog in Action (Carrolton, Texas: Squadron/Signal Publications, 1981), P. 4.

[23] "Statement of General William Momyer, USAF," in Senate Armed Services Committee, Close Air Support: Hearings, p. 179.

[24] A-104 FOT&E Phase I Final Report (Kirtland Air Force Base, New Mexico: Air Force Test and Evaluation Center, May 1977), copy of a typescript document, pp. 13, 15 and 19, respectively.

[25] A-10 Force Life (Fairchild Republic Company, March 24, 1981), p. [4].

[26] Ibid.

[27] The delivery date for the 707th aircraft comes from A-10 Program Status (Fairchild Republic Company, [1982], copy of a printed document, graph, p. [4].

[28] "Statement of Brigadier General Perry M. Smith, Deputy Director of Plans, Deputy Chief of Staff Operations, Plans and Readiness," in Congress, Senate, Committee on Armed Services, Department of Defense Authorization for Appropriations for Fiscal Year 1982: Hearings, Part 3—Tactical Warfare, 97th Congress, 1st Session, February 19, 23, 27, March 3, 5, 10, 12, 1981, USGPO, 1981, p. 1247. Two additional forward operating locations would be available in wartime.

[29] A-10A (Fairchild Republic Company, [1981]), pp. [10] and [27]; and Drendel, A-10 Warthog, pp. 14 and 20.

[30] Weights obtained by converting from kilograms to pounds. A-10A, pp [59-60]; and Drendel, ibid., p. 14.

[31] Testimony of General Alton D. Slay, Commander, Air Force Systems Command, in Congress, House, Committee on Armed Services, Hearings on Military Posture and H.R. 5068 [H.R. 5970], Part 2: Procurement of Aircraft, Missiles, Tracked Combat Vehicles, Torpedoes, and Other Weapons—Title I, 95th Congress, 1st Session, February 3, 7, 8, 9, 18, 23 and 24, 1977, USGPO, 1977, pp. 778-784' and Tactical Aircraft Survivability (Fairchild Aircraft Company, [1982]), p. [25]. In jinking, the aircraft makes use of frequent and random maneuvering to throw off the accurate prediction of the aircraft's future position by enemy anti-aircraft guns.

[32] For detailed information on the ZSU-23-4's capabilities and tactical employment, see Isby, Weapons and Tactics of the Soviet Army, pp. 237-241.

[33] A-10 Program Status, graph, p. [14]. The A-10's current rate of attrition is 5.9 aircraft per 100,000 flying hours. Ibid., p. [9].

[34] Ibid., p. [14].

[35] Information from International Defense Review, 2/1979; quoted in A-10A, p. [26].

[36] A-10 Program Status, p. [10]. The estimates for fiscal year 1983 are between $14 and $16 million per aircraft.

[37] See the testimony of General Momyer, in Senate Armed Services Committee, Close Air Support: Hearings, pp. 181-182.

[38] Vista 1999: A Long-Range Look at the Future of the Army and Air National Guard (Vista 1999 Task Force, March 1982), pp. 62-63.

CREDIT SCORING SYSTEMS: A CRITICAL ANALYSIS

● Mr. MATHIAS. Mr. President, the statistical and factual bases on which many current economic and fiscal decisions are founded are being widely questioned. If our assumptions are in error, can our judgment be accurate?

Our colleague and friend, Jacob Javits of New York, has called my attention to a study by Noel Capon, associate professor of business, Graduate School of Business, Columbia University, which deals with credit scoring practices.

In the present economic climate this is a serious subject for borrowers whose business survival depends on the availability of credit. It has implications for the economic future of the country.

I agree with Senator Javits that the article merits wide attention and I ask that it be inserted in the RECORD.

The article follows:

[From the Journal of Marketing, Spring 1982]

CREDIT SCORING SYSTEMS: A CRITICAL ANALYSIS

(By Noel Capon)

"Our society has been taught to believe that an individual's creditworthiness is primarily related to their personal credit history. I feel certain that for anyone who has any regard for the concept of individuality, reviewing the credit-scoring systems of some of our major national creditors would be a chilling experience." [1]

The importance of consumer credit in the U.S. economy has grown markedly through the 20th century. A combination of growth in the supply and form of credit and increased consumer demand has led to an average annually compounded rate of growth in consumer credit outstanding of 7.5 percent from 1919, the first year for which Federal Reserve figures are available, to the present. This figure is much greater than the average growth rate of GNP for the same period (Board of Governors of the Federal Reserve System 1976a, 1976b, 1980).

The ever-increasing ability to offer credit has important sales and profit implications for marketers, just as the ability to obtain credit has important quality-of-life implications for consumers. However, despite the growth in credit availability, many consumers are unable to gain access to the credit that they need and believe they deserve. The importance of this issue was recognized by Congress, which in 1974 passed the Equal Credit Opportunity Act prohibiting discrimination in the granting of credit on the basis of sex and marital status (ECOA 1975). In 1976 the Act was amended to include race, color, religion, national origin, receipt of income from a public assistance program, and age as proscribed characteristics. Further, in 1977, the Federal Trade Commission decided to devote a significant percentage of its then increased resources to the handling of all forms of credit abuse problems (Advertising Age 1977).

The federal legislation was directed largely at abuses in judgmental methods of granting credit. However, at that time judgmental methods that involve the exercise of individual judgment by a credit officer on a case-by-case basis were increasingly being replaced by a new methodology, credit scoring. William Fair has recently estimated that between 20 and 30% of all consumer credit decisions are now made by credit scoring, and that most of the very large credit granters including banks, finance compa-

[1] Opening Statement of Senator PAUL E. TSONGAS (D., Mass.). See *Credit Card Redlining* 1979, p. 2.

nies, oil companies, retail merchants, and travel and entertainment cards now score their applicants (Credit Card Redlining 1979, p. 183–184).

This paper provides a critical analysis of credit scoring and may be viewed in part as a response to Nevin and Churchill's (1979) paper in this journal, which generally endorsed credit scoring systems. It will be shown that not only has their adoption led to major changes in the manner in which credit decisions are made but that these changes and the methodologies employed raise significant public policy issues.

CREDIT DECISION METHODS

The conceptual framework for judgmental credit decisions has endured for many decades. This framework consists of the three "c's" of credit, character, capacity and capital, often joined by collateral and conditions, and indicated primarily by credit history and such other characteristics as income, occupation and residential stability. However, for such reasons as credit officer error, inconsistency in application of credit policies across credit officers, and high costs both in training and employing credit officers and in purchasing credit reports, innovative creditors have long sought more automated ways of making credit decisions.

Numerical scoring systems, first developed in the mail order industry in the 1930s and later used by large personal finance companies, were an attempt to address these concerns (Smalley and Sturdivant 1973, p. 229; Wonderlic 1952). In a typical system a number of predictor characteristics were chosen for their ability to discriminate between those who repaid their credit (goods) and those who did not (bads), and points were awarded to different levels of each characteristic. An individual applicant was judged on the relationship between his/her summated score across characteristics and independently set accept/reject cut-off values. Early systems employed such characteristics as occupation, length of employment, credit bureau clearance, personal references, marital status, bank account, neighborhood, collateral, length of residence, income, rent, life insurance ownership, sex and race. Although the Spiegel system (Smalley and Sturdivant 1973, p. 229) and a major study for the National Bureau of Economic Research (Durand 1941) used statistical procedures (one characteristic at a time) to determine the point assignments, most systems were based on trial and error.

Although the ability to make credit decisions on a quantitative rather than a judgmental basis represented an important advance, the widespread diffusion of quantitative methods did not occur until development of the necessary computer technology in the early 1960s. In computer-based systems, hereafter termed *credit scoring systems*, the computational power of the computer is employed to identify, from a creditor's own historic files, those characteristics that best discriminate between the goods and the bads and to determine the point values for the various levels of each selected characteristic.

CREDIT SCORING SYSTEMS: DEVELOPMENT

The basic procedure for developing credit scoring systems involves the selection of samples of goods and bads from the creditor's files. Upwards of 50, and as many as 300 (Duffy 1977) potential predictor characteristics are obtained from the application blank. A multivariate statistical technique such as regression or discriminant analysis (see, for example, Beranek and Taylor 1976; Chatterjee and Barcun 1970; Long 1976; Myers and Forgy 1963) is employed, frequently in a stepwise manner, to identify those predictor characteristics, typically from eight to twelve, which contribute most to separation of the two groups. These selected characteristics, determined in part by the initial set of characteristics available from the application blank and in part by the data, and their point values are unique to an individual system. An example of a regionally based system of a major national retailer is shown in Table 1.

An applicant for credit is evaluated in a credit scoring system by simply summing the points received on the various application characteristics to arrive at a total score. This score may be treated in a number of ways depending on the system design. In the single cut-off method, the applicant's total score is compared to a single cut-off point score. If this score exceeds the cut-off, credit is granted; otherwise the applicant is rejected. More complex systems are based on a two-stage process. For example, the applicant's total score may be compared to two cut-off figures. If the score exceeds the higher cut-off, credit is awarded automatically, while if it falls below the lower cut-off, credit is automatically denied. If the score is between the two cut-offs, credit history information is obtained, scored, and the points added to the total score obtained from the application blank. If this new score is above a new higher cut-off, credit is awarded; if not, credit is denied.

The creditor sets his/her cut-off values on the basis of the probabilities of repayment and nonpayment associated with the various point scores and the trade-offs between type I and type II errors. The higher an acceptance cut-off is set, the lower the type I error (accepting applicants who fail to repay), while the lower a rejection cut-off value, the lower the type II error (failing to accept applicants who would have repaid).

Table 1.—Major national retailer's final scoring table for application characteristics

Zip code:	
Zip Codes A	60
Zip Codes B	48
Zip Codes C	41
Zip Codes D	37
Not answered	53
Bank reference:	
Checking only	0
Savings only	0
Checking and Savings	15
Bank name or loan only	0
No bank reference	7
Not answered	7
Type of housing:	
Owns/buying	44
Rents	35
All other	41
Not answered	39
Occupation:	
Clergy	46
Creative	41
Driver	33
Executive	62
Guard	46
Homemaker	50
Labor	33
Manager	46
Military enlisted	46
Military officer	62
Office staff	46
Outside	33
Production	41
Professional	62
Retired	62
Sales	46
Semi-professional	50
Service	41
Student	46
Teacher	41
Unemployed	33
All other	46
Not answered	47
Time at present address:	
Less than 6 months	39
6 months to 1 year 5 months	30
1 year 6 months to 3 years 5 months	27
3 years 6 months to 7 years 5 months	30
7 years 6 months to 12 years 5 months	39
12 years 6 months or longer	50
Not answered	36
Time with employer:	
Less than 6 months	31
6 months to 5 years 5 months	24
5 years 6 months to 8 years 5 months	26
8 years 6 months to 15 years 5 months	31
15 years 6 months or longer	39
Homemakers	39
Retired	31
Unemployed	29
Not answered	29
Finance company reference:	
Yes	0
Other references only	25
No	25
Not answered	15
Other department store/oil card major credit card:	
Department store only	12
Oil card only	12
Major credit card only	17
Department store and oil card	17
Department store and credit card	31
Major credit card and oil card	31
All three	31
Other references only	0
No credit	0
Not answered	12

Since the early 1960s the use of credit scoring systems has expanded enormously, as journals serving practitioners have been filled with articles extolling their virtues (e.g., Churchill, Nevin and Watson 1977a, b; Cremer 1972; Long and McConnell 1977; Main 1977; Myers 1962; Weingartner 1966). Further, passage of the Equal Credit Opportunity Act Amendments (*Federal Register* 1976) offered further endorsement of credit scoring systems when instructions regarding their use were specifically included in Regulation B, which implements the Act (*Federal Register* 1977).

In the hearings on the amendments creditors argued that adherence to the law would be improved if credit scoring systems were used. They contended that whereas credit decisions in judgmental systems were subject to arbitrary and capricious behavior by credit evaluators, decisions made with a credit scoring system were objective and free from such problems. Regulation B thus envisioned two categories of credit decision systems, statistically sound and empirically derived credit scoring systems, and all others not satisfying the criteria of statistical soundness and empirical derivation, which are termed judgmental systems. This distinction has practical importance. For example, although age is a proscribed characteristic under the Act, if the system is statistically sound and empirically derived, it can be used as a predictive characteristic, provided that the elderly receive the maximum points awarded to any age category. The appropriate manner in which both types of

systems should be used was spelled out in the Regulations.

Presently credit scoring systems are used extensively, especially among major credit granters. It is claimed that their use reduces bad debt losses, that more consumers are granted credit, and that organizational consistency in decision making is achieved. Further, the costs of granting credit are reduced, since less skilled personnel are required and fewer credit reports need be purchased (*Credit Card Redlining* 1979, pp. 234–240; Fair, Isaac and Company 1977). However, despite the torrent of words endorsing credit scoring systems, when they are subject to detailed analysis many troubling issues of a consumer and public policy perspective can be identified.

ANALYSIS OF CREDIT SCORING SYSTEMS: VARIABLES AND POINTS

The critical distinction between extant credit scoring systems and other methods of credit evaluation is the absence, in credit scoring, of an explanatory model. While judgmental systems are based, however imperfectly, upon a credit evaluator's explanatory model of credit performance, credit scoring systems are concerned solely with statistical predictability. Since prediction is the sole criterion for acceptability, any individual characteristic that can be scored, other than obviously illegal characteristics, has potential for inclusion in a credit scoring system. A partial list of characteristics used by creditors in the development of their systems is presented in Table 2. Few of these variables bear an explanatory relationship to credit performance. At best they might be statistical predictors whose relationship to payment performance can exist only through a complex chain of intervening variables. The overwhelming concern of creditors for prediction and a total unconcern for other issues was perhaps most tellingly demonstrated in the exchange between Senator Carl Levin (D., Michigan) and William Fair, chairman of Fair, Isaac and Company, the leading developer of credit scoring systems, at the Senate hearings on S. 15. Senator Levin asked Mr. Fair whether he *should be allowed* to use certain characteristics in the development of credit scoring systems (*Credit Card Redlining* 1979, p. 221):

Table 2.—Partial list of factors used to develop credit scoring systems

Telephone at home	First letter of last name
Own/rent living accommodations	Bank savings account
Age	Bank checking account
Time at home address	Zip code of residence
Industry in which employed	Age of automobile
Time with employer	Make and model of automobile
Time with previous employer	Geographic area of U.S.
Type of employment	Finance company reference
Number of dependents	Debt to income ratio
Types of credit reference	Monthly rent/ mortgage payment
Income	Family size
Savings and Loan references	Telephone area code
Trade union membership	Location of relatives
Age difference between man and wife	Number of children
Telephone at work	Number of other dependents
Length of product being purchased	Ownership of life insurance
	Width of product being purchased

Senator Levin: "You feel that you should be allowed to consider *race?*" (emphasis added)

Mr. Fair: "That is correct."

Senator Levin: "Would the same thing be true with *religion?*"

Mr. Fair: "Yes."

Senator Levin: "Would the same thing be true with *sex?*"

Mr. Fair: "Yes."

Senator Levin: "Would the same thing be true with *age?*"

Mr. Fair: "Yes."

Senator Levin: "The same thing be true with *marital status?*"

Mr. Fair: "Yes."

Senator Levin: *"Ethnic origin?"*

Mr. Fair: "Yes."

This exchange demonstrates very clearly that in the development of credit scoring systems, for Fair, Isaac and Company at least, no issue other than statistical predictability is of any consequence.[2] Although professing a commitment to obey the law, Fair, Isaac and Company, if statistical predictability were found and it were so able, would provide its customers with credit scoring systems that discriminated on the basis of race, religion, sex, age, marital status and ethnic origin.

The result, for consumers, of such a focus on prediction can be seen by examining two scoring tables which, in the author's experience, are typical of those in general use today. Table 1 presents the scoring table of the major national retailer. Of particular note are the following items:

There are no economic variables such as income, debts, living expenses and the like.

There are no variables for credit history.

Zip code is a very important characteristic, and a "bad" residential location can put the applicant at a tremendous disadvantage.

Applicants score fewer points if they rent their accommodations than if they own or are buying their home.

The length of time the applicant has been at his/her present address or has been with his/her current employer are important characteristics. However, rather than greater residential and employment stability being worth an increasing number of points, as stability increases, the points awarded first decrease and then later increase.

An applicant's occupation is an important characteristic. However, to be gainfully employed in the categories of driver, labor, or outside gains no more points than being unemployed.

If the applicant fills out the application honestly and admits that he/she borrowed money from a finance company, he/she is severely penalized. Whether or not the loan was satisfactorily repaid is irrelevant.

For many of the characteristics more points are awarded if the question goes unanswered than are awarded for many of the possible answers. Thus, the second most favorable way to score on the zip code characteristic is not to provide the information.

A second system, developed and used by the finance subsidiary of a major consumer durables manufacturer, is noted in Table 3. The following items are of interest:

Income is an important variable. However, the points relationship does not increase monotonically; rather, the points fluctuate wildly as income increases.

There are no variables for credit history.

Applicants who own their own home score many more points than those with other arrangements.

Increasing residential and employment stability are worth increasing numbers of points.

The points awarded for age have a curvilinear relationship.

Occupation is an important characteristic, and the unemployed category achieves the highest possible point score.

Honestly providing a small loan reference results in being penalized.

Many points are awarded for maintenance of either a checking or savings account, irrespective of the balances.

Though Congress embraced credit scoring systems, believing that their claimed objectivity offered advantages in enforcement of the Equal Credit Opportunity Act, the key goal of the Act was to:

". . . establish(ed) as clear national policy that no credit applicant shall be denied the credit he or she needs and wants *on the basis of characteristics that have nothing to do with his or her creditworthiness . . .*" (*Equal Credit* 1976, p. 3) (emphasis added)

Congress insisted that creditors advise applicants of the reasons for adverse action since it was concerned with the educational value of such knowledge:

". . . rejected applicants will now be able to learn where and how their credit status is deficient and this information should have a pervasive and valuable educational benefit . . ." (*Equal Credit* 1976, p. 4)

In identifying a set of proscribed characteristics (enumerated in ECOA), the clear intent of Congress was that acceptable characteristics are those that related to creditworthiness. While "relationship to creditworthiness" was not spelled out, many of the characteristics noted in Tables 1 and 3 do not evince a face valid relationship, for instance, those variables whose values are fluctuating—time at present address, time with employer (Table 1), and unpaid cash balance, age and income (Table 3). Given the concern for consumer education, it is difficult to believe that Congress would have accepted the fact that increased income (Table 3) and greater residential and employment stability (Table 1) should be regarded as indicators of *reduced* creditworthiness.[3]

Many other problems concerning the variables used and the points awarded exist with credit scoring systems. There is a real question of misleading the applicant. One might expect that provision of a financial reference would be reviewed positively, yet in both systems noted above, honesty is penalized. Also, there is the possibility that characteristics actually employed act as surrogates for proscribed characteristics. Thus the Senate has heard testimony that a zip code acts as a surrogate for race (*Credit Card Redlining* 1979, p. 20–63, 261–264, 314–317). Accordingly, discrimination can result when zip code is used as a predictor charac-

[2] A logical extension of Mr. Fair's position would allow the inclusion of such characteristics as color of hair (if any), left or right-handedness, wear eyeglasses, height, weight, early morning drink preference (tea, coffee, milk, other), first digit of social security number, last digit of social security number, sexual preference (none, same, different, both), educational level, sports preference (football, baseball, tennis, soccer, golf, other), and favorite movie star (select from list), if it could be shown that they were statistically related to payment performance.

[3] The Senate Committee report asserts that: ". . . consumers particularly should benefit from knowing, for example, that the reason for their denial is their *short residence in the area, or their recent change of employment . . .*" (emphasis added).

teristic, when different cut-off values are employed for different zip codes, or when credit scoring systems are developed at the individual zip code level. Differential treatment of types of income, such as that from part-time employment, alimony, child support and separate maintenance payments, discriminates against women. Furthermore, own/rent accommodation may discriminate against minorities as a result of historical discrimination in granting of mortgage loans, just as occupation and length of time with employer may discriminate against women because of historic employment practices and reduced employment stability due to pregnancy and childbearing, respectively. In the same way, age of automobile may discriminate against the handicapped.[4]

Since credit history information only enters credit scoring systems at a second stage, if at all, many applicants are denied credit despite the fact that they had excellent credit records (Chandler and Ewert 1975; *Credit Card Redlining* 1979, p. 63-70). Their reputations are unjustly injured, and severe psychological trauma may also ensue (*Credit Card Redlining* 1979, p. 135-136). The use of mere statistical prediction to make decisions may violate the constitutional guarantees of the equal protection and due process clauses of the 5th and 14th Amendments (*Credit Card Redlining* 1979, p. 137-138). The equal protection clause addresses the question of making decisions on individuals on the basis of characteristics that are both "irrelevant and unchangeable," while due process states that "individual cases must be decided on their own merits." In passing ECOA, Congress proscribed characteristics that were either immutable (race, color, national origin, sex) or central to the individual's life (religion, marital status). Characteristics still frequently employed in credit scoring systems such as number of dependents, age, occupation and place of residence appear to have many similarities to these proscribed characteristics, both in terms of being "irrelevant and unchangeable" and having little or nothing to do with "merit" in the case of a credit decision.[5]

ANALYSIS OF CREDIT SCORING SYSTEMS: DEVELOPMENT

The focus of the previous section was on problems involving the selection of predictor characteristics and the award of point values. In this section a series of methodological issues in the development of credit scoring systems is addressed. It will be shown that there are real questions as to whether credit scoring systems satisfy the legal requirements of empirical derivation and statistical soundness. The areas of concern are several and are discussed below.

Bias

The correct way to develop a credit scoring system is to sample randomly an historic applicant population. Creditors typically do not sample in this manner, however, for only data from those applicants previously awarded credit can provide samples of goods and bads. Since a considerable percentage of applicants was historically denied credit, systems based only on a population of accepted applicants where there is a corresponding population of denied applicants must be biased. Indeed, it has been shown that not only are biased estimates obtained, it is not possible to estimate in which direction the bias lies (Avery 1977). This problem is more severe in those systems that were originally developed before enactment of ECOA, when variables that are now illegal were used to make credit decisions. Despite revalidation, these systems are both biased and contaminated by illegal discrimination.

Developers of credit scoring systems are aware of the problem of using biased samples and have developed techniques in attempts to solve it. In the augmentation method, a sample of denied applicants is separated into goods and bads on the basis of the relationship of their application characteristics to those of the actual goods and bads. The actual and denied goods are then grouped, as are the actual and denied bads, and the credit scoring system is developed from the augmented sample. However, as Shinkel (1977) has shown, biased estimates are still obtained with this and alternative procedures.[6]

Multicollinearity

Credit scoring systems are developed from a large group of contender characteristics. In stepwise procedures the characteristic that explains the greatest variance enters the discriminatory function first, followed by other characteristics which in turn explain the greatest residual variance. However, there is no requirement that despite their ability to explain residual variance, subsequently entered variables are not correlated with variables previously entered. Thus, the coefficients of variables entered early to the equation are continually modified as successive variables are entered. The final point values assigned are far from being a true reflection of the discriminatory power of the single variable and are contaminated by a host of intercorrelations (Hsia 1978). A variable with good predictive ability but highly correlated to an entered variable will not enter the final equation. No greater concern for multicollinearity is shown in systems where the characteristics are preselected.[7]

An associated problem of intercorrelation of variables arises in the development of the second stage of two-stage systems in which the potentially discriminating credit history variables act only on the residual variance. Because of the intercorrelation between credit history variables and those variables already entered, the effect of credit history is severely circumscribed.

Sample size

Credit scoring systems are frequently developed with insufficiently large samples to achieve reliability in the assignment of point values. Thus, for the occupation characteristic of a credit scoring system employed by a major oil company, the occupations of farm foremen and laborers, enlisted personnel, clergymen, entertainers, farmers and ranchers, and government and public officials received few points. However, the sample sizes on which the point scores are based were, respectively, three, twenty-three, four, four, three and three. The point values are clearly unreliable. Similar patterns occur when zip code is used as a characteristic. Thus, for a regional trading area with hundreds of zip codes, the use of sample sizes of 3,000 or fewer subjects results in the point scores for many zip codes being based on very few data points. The system described in Table 3 was developed from a mere 640 data points (which may in part explain the strange income relationship).[8]

Judgmental aggregation

The empirical requirement for credit scoring systems is vioated when credit scores attempt to overcome the reliability problem. Then they aggregate individual units of a variable but in a nonempirical, arbitrary manner. The geographic unit, for example, may be defined not as a small unit such as zip code but as a state or regional grouping of states under no rationale other than, perhaps, geographic contiguity.[9] In the system described in Table 1, the 20 gross occupation categories were developed from 300 or more fine level occupations (*Credit Card Redlining* 1979, p. 166-168).

Not only are the occupation categories developed in an arbitrary manner, they are not a mutually exclusive set: an individual applicant could be assigned to a number of different categories. Thus, for example, a sales manager could be assigned as executive (62 points), manager (46 points), office staff (46 points), professional (62 points) or sales (46 points). A U.S. Senator might be classified as executive (62 points), professional (62 points), manager (46 points) or all other (46 points).

Judgmental system constraints

Since the methodology used to develop credit scoring systems is brute force empiricism, point value assignments to levels of characteristics in the final scoring table are often absurd, as indicated in the previous section. To overcome the consequent problems of credit scoring personnel ignoring the system, developers impose constraints on point assignments a priori (Churchill, Nevin and Watson 1977b; Fair, Isaac and Company 1977). While final scoring tables may thus be less absurd than otherwise, the impact of this procedure is to violate the empirical requirement of ECOA.

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[4] Whether or not such surrogate variables could legally be employed in a credit scoring system would depend upon the results of application of an "Effects Test." See *Griggs v. Duke Paper Co.*, 401 U.S. 424 (1971), and *Albermarle Paper Co., v. Moody*, 422 U.S. 405 (1975).

[5] Nevin and Churchill (1979) present empirical support for the proposition that if characteristics correlated with proscribed characteristics were disallowed in credit scoring systems, the predictive ability of the model would be reduced. On the basis of an example in which "we have tried to make the assumptions realistic with respect to industry experience" (p. 102), they show that not only would the fictional consumer finance company earn less profit, fewer applicants would be awarded credit, using a restricted model. They fail to note that a profit maximizing finance company should award credit to all applicants, in which case profits would be $1.9M versus $1.78M and 9,000 versus 6,019 "good" applicants would be granted credit.

[6] Eisenbeis (1978) has discussed a number of statistical problems relating to the use of discriminant analysis in credit scoring. They include violations of the assumption about the underlying distributions of the characteristics, use of linear instead of quadratic discriminant functions when group dispersions are unequal, difficulty in demonstrating the significance of each characteristic included in the system, and estimation of classification error rates.

[7] The multicollinearity problem could perhaps be addressed by factor analysis and the use of factor scores. However, such a procedure would run into the problem of a legal requirement to disclose reasons for adverse action, where the "reason" would now be a factor score correlated to a greater or lesser extent with many original variables.

[8] The zip code analysis for the Table 1 system was based on between 500 and 600 individual zip codes, which, at an estimated maximum sample size in the 3,000 to 5,000 range, implies that many zip codes contained very few data points.

[9] For a worked example of the problems of aggregation with geographic units, see *Credit Card Redlining*, p. 122-125. Also see p. 384-86 for a discussion of aggregation and homogeneity problems in the use of zip codes.

Table 3.—Final scoring table for finance subsidiary of consumer durables manufacturer

Unpaid cash balance:	
0–$299	26
$300–$499	16
$500–$599	20
$600–$699	15
$700 and above	4
Time at present address:	
Less than 1 year	4
1–2 years	6
3–9 years	8
10 years or longer	10
Time with present employer:	
Less than 1 year	2
1–2 years	10
3–5 years	12
6–9 years	16
10 years or longer	22
Residence:	
Own	17
Rent or live with relative	0
Age:	
26–29	5
30–34	0
35–39	4
40–49	9
50–54	14
55 and above	17
Income (monthly):	
0–$599	37
$600–$699	47
$700–$799	40
$800–$899	36
$900–$1,099	44
$1,100–$1,299	39
$1,300 and above	49
Coapplicant: Employed	6
Financial:	
Major credit card	22
Small loan reference	(7)
No checking or savings account	(18)
Occupation: *	

Group 1–19

Accountants, Auditors	Machinists
Architects, Designers	Physicians, Dentists
Bank tellers/clerks	Pilots (nonmilitary)
Business executives	Postal employees
College professors	Real estate personnel
Computer programmers	Reporters, newsmen
Engineers, Chemists	Salesmen (not department store)
Factory inspectors	Supervisors, nonoffice
Factory workers (semi-skilled)	Supervisors, office
Farm owners	Systems analysts
Field representatives	Teachers, instructors
Firemen, Rangers	Unemployed
Insurance agents, Appraisers	

Group 2–13

Building superintendents	Medical and Dental assistants
Carpenters, Craftsmen	Office managers
Clergymen	Plumbers, Pipefitters
Clerical workers, Bookkeepers	Policemen, Detectives
Computer operators	President/Owner of small firm
Electricians	Printers, Pressmen
Foremen, factory	Railroad employees
Government employees	Registered nurses
Guards	Repairmen
Installers	Sales clerks
Lawyers, Judges	Seamen (nonmilitary)
Maintenance men	Secretaries, Stenographers
Managers, other than office	Shipping and stock clerks
Mechanics	Stewards, Stewardesses
Taxi drivers, Chauffeurs	Technicians, Researchers

Group 3–0

Artists, Entertainers, Writers	Hospital employees (unskilled)
Assemblers	Hotel and Restaurant employees
Bartenders	Laborers (unskilled)
Construction workers	Machine operators
Contractors, Builders	Painters
Cooks, Bakers, Butchers	Social workers
Delivery and Route men	Tailor/Seamstress
Dishwashers	Truck and Bus drivers
Domestics, Janitors	Waiter/Waitress
Heavy equipment operators	Warehousemen
	Welders

Group 4–0

Other—Not directly related to Groups 1, 2 or 3 above.

* All self-employed should be investigated.

Overriding

The overriding procedure is also a violation of the empirical requirement. Overriding exists when a declined applicant calls to complain and, either on the basis of no information other than the protest or on the basis of some extra information, the decision is reversed and credit is awarded. Not only is use of the overriding procedure a statement that the system is not doing the job it was designed to do, it is descriminatory procedure against those who are less vociferous following credit denial.

Histogram error

When continuous characteristics such as time are used, serious errors may be introduced to the scoring table by using a series of discrete categories rather than the underlying continuous characteristic. Thus, for the characteristic "time at present address" in the scoring system described in Table 1, there are a series of histogram errors. For instance, an applicant with a residency of seven years and five months scores 30 points and one month later scores 39 points, a "present" of nine points. Conversely, a person with a residency of five months scores 39 points and one month later "loses" nine points. Errors of over 25 percent misclassification have been noted because of this histogram effect (The Sorites Group 1978).

In this section, seven areas of methodological concern have been noted. Not only were troubling statistical issues raised, it was shown that the procedures employed for the development of credit scoring systems may violate the legal requirements of ECOA that they be empirically derived and statistically sound. Certainly, the institution of careful procedures may obviate some problems, for example, overriding, but fatal methodological flaws may render some insoluble.

DISCUSSION

In this paper the background, development and rationale of credit scoring systems have been described. The benefits to creditors of such systems have been so vigorously promoted that regulations concerning their use have been specifically written into the law, and their adoption has been extremely widespread, especially among major creditors. Thus, within the past 20 years a major change in credit granting practice affecting millions of consumers has occurred in the United States. However, public debate has been virtually absent on this topic.

This paper redresses the balance and focuses a critical eye on credit scoring systems. When subject to intensive examination, a very different picture emerges from that portrayed by the multitude of credit scoring boosters.

An examination of the development of credit scoring systems reveals a host of statistical issues that may pose severe legal problems for creditors. Statisticians have only recently begun to investigate these systems, yet their early findings are very troubling. It is perhaps not unlikely that 20 years of intensive study of these systems paralleling the 20 years of development just past may lead to conclusions even more serious than are justified by our present knowledge.

The more troubling aspect, however, has less to do with statistical issues than with conceptual ones. The brute force empiricism that characterizes the development of credit scoring systems leads to a treatment of the individual applicant in a manner that offends against the traditions of our society. When predictive decisions regarding individuals have to be made, they are based typically on variables that bear an explanatory rather than a statistical relation to the behavior being predicted, notably the actual historic performance in a similar or related area. For instance, job promotion rests heavily on job performance; selection for college is based on high school grades and aptitude tests. Yet credit scoring developers use any characteristic that discriminates as long as they can get away with it; they have even used the first letter of a person's last name.[10]

As far as individuals not yet in the credit marketplace are concerned, who have no credit history, the characteristic of extant systems that they ignore credit history is no argument for their use. It is arbitrary and unfair to make decisions on these applicants on the basis of points awarded arbitrarily for the characteristics of those already in the market. Experience of enterprising retailers suggests that a system characterized by low initial credit limits and tight controls is a better way to treat new applicants.

What is needed, clearly, is a redirection of credit scoring research efforts toward development of explanatory models of credit performance and the isolation of variables bearing an explanatory relationship to credit performance. Such variables are likely related to economic factors (ability to pay) and credit history factors (demonstrated willingness to pay). In present systems, economic factors do not always enter the credit scoring tables, in part because they are highly correlated with other entering variables, for instance, zip code and income. Furthermore, since creditors are unwilling to pay the cost of credit reports, credit history factors are relegated to the second stage and their use is thus minimized, despite ample evidence that they provide the strongest relationship to future credit performance (Chandler and Ewert 1975; *Credit Card Redlining* 1979, p. 376; Long and McConnell 1977).

It is, of course, possible that well-developed explanatory models would be less predictive overall and more costly to implement than currently employed credit scoring systems. Even if this were true, and it may not

[10] Disclosure by Morton Schwartz, General Credit Manager, J. C. Penney Company, at a meeting of the Trustees of the Credit Research Center, Atlanta, Ga., November 10, 1977.

be so, such increased costs should be weighed against the social cost of employing systems such as those described in this paper that provide a dispassionate observer with "a chilling experience."

This analysis should not be construed as advocacy for traditional judgmental systems nor as argument against the thrust toward objectivity and consistency in credit decision making. Such a direction is clearly a positive one. What is critical, however, is treatment of the individual in a fair and just manner and his/her protection from arbitary treatment. The individual should be judged on characteristics that are ultimately related to the decision under consideration; brute force empiricism has no place in decisions of such importance to individual citizens.●

THE CONSTITUTION AND FREEDOM—ADDRESS BY FORMER SENATOR SAM J. ERVIN, JR.

● Mr. EAST. Mr. President, on April 30, 1982, the Sam J. Ervin, Jr., program in public affairs was dedicated at the School of Humanties and Social Sciences at North Carolina State University. The renaming of the program in public affairs at this outstanding university is a fitting tribute to North Carolina's favorite son. While he was always a loyal Democrat, Senator Ervin earned the respect and love of all North Carolinians for his outspoken defense of constitutional liberties as he understood them. I ask that former Senator Ervin's remarks given at the dedication ceremony be printed in the RECORD for the edification of my colleagues and as another small tribute to this remarkable man.

THE CONSTITUTION AND FREEDOM

(Remarks prepared by Sam J. Ervin, Jr. for delivery at North Carolina State University at Raleigh at 2 p.m. April 30, 1982. For release at that time)

IMPLICATIONS OF TODAY'S EVENTS

Words cannot adequately express my gratitude to former aides and the other friends whose generosity made the painting of my portrait and today's events possible; to Marcos Blahove whose artistic genius and charity of heart enabled him to paint this outstanding portrait of me; to North Carolina State University at Raleigh, one of earth's most useful institutions of learning and research, for accepting my portrait, and naming a significant program of its School of Humanities and Social Seciences "The Sam J. Ervin, Jr. Program in Public Affairs;" and to my ever young sweetheart, Margaret Bell Ervin, for gracing this occasion by her presence, and for standing beside me in sunshine and shadow with inspiration and love for fifty eight years.

Today's events have a portent for the future which vastly transcends in importance the high honor they accord to me. These events reveal these things:

1. Those who made them possible share my abiding conviction that the causes I have cherished and championed, namely the government of laws ordained by the Constitution and the freedoms enshrined in the North Carolina Declaration of Rights and the Bill of Rights, must prevail if America is to enjoy constitutional government and Americans are to be free; and,

2. The State University is determined that the yound men and women who come to her for intellectual enlightment in the years ahead are to have the opportunity to know the truth that can keep America and Americans free, that is to say, the truth about constitutional government and freedom.

MY REVERENCE FOR CONSTITUTIONAL GOVERNMENT AND FREEDOM

As a citizen, I have cherished and championed constitutional government and freedom all my life; and as a public servant for some fifty years, I have endeavored to preserve them and make them realities in our land at all times between my service in the days of my youth in the North Carolina Legislature through my last week in the United States Senate, when I piloted to enactment the Speedy Trial Act and the Privacy Act.

My motivation has been my certainty that "whatever government is not a government of laws is a despotism, let it be called what it may";[1] that "the condition upon which God hath given liberty to man is eternal vigilance";[2] and that "a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty."[3]

Despite the *Miranda Case*, I will make a confession that while serving in the North Carolina Legislature I made a concession to the enemies of freedom. While opposing the resolution to prohibit the teaching of evolution in North Carolina's schools and colleges, I conceded its adoption would delight the monkeys in the jungle because it would absolve them from responsibility for the conduct of the Legislature in particular and the human race in general.

MY OFFICIAL ACTIVITIES

During my 20 years in the Senate, I sought to preserve constitutional government and freedom by opposing the concentration of power in the federal government; the abdication of state power to that government; confiscatory taxes, deficit financing, and unbalanced budgets; taxation to finance religious institutions; proposals to amend the First Amendment to confer on school boards the power to teach religion by prescribing prayer in public schools; compulsory unionism to enable unions to obtain members by legal coercion rather than by voluntary persuasion; preventive detention imprisoning Americans for crimes they had not committed and might never commit; no-knock proposals nullifying Fourth Amendment prohibitions of unreasonable governmental searches and seizures; the withholding by President and federal departments and agencies of information necessary to enable Congress to legislate wisely, and non-security information necessary to enable Americans to know what their government is doing; presidential evasion of the treaty making power of the Senate under the Constitution by executive agreements; wanton invasions of the privacies of Americans by Presidents and federal departments and agencies; encroachments by Presidents and federal departments and agencies on the freedom of thought, speech, and association, and the private lives of federal employees; the use of the army to spy on Americans exercising their First Amendment rights of freedom of thought, speech, association, and peaceable assembly; congressional suspension of the power to legislate reposed in the States by the Constitution; and the tyranny of federal bureaucrats and judges who order forced busing of helpless children to integrate them in the schools in racial proportions pleasing to them.

Unhappily my opposition and that of like-minded senatorial colleagues did not outlaw some of these tyrannies. Happily, however, we were able to forestall some of them, or at least ameliorate their most evil consequences.

During my years in the Senate, I sought to promote and protect constitutonal government and freedom in America in a positive way by proposing and seeking adoption of bills, resolutions, and amendments drafted by me to achieve that objective. Unfortunately, some of them were defeated by national legislators more concerned with magnifying the power of the federal government than with making it just and the people free.

Fortunately, however, Congress did add to the laws of the land proposals sponsored by me to secure constitutional rights to mentaly ill persons in the District of Columbia; rights to Indians residing on reservations comparable to those conferred on other Americans by the Bill of Rights; rights to poor people unable to give monetary bail to freedom while awaiting trial on charges of crime in federal courts; rights to representation by law trained counsel to poor people charged with crime in federal courts; rights to procedural and other safeguards in administrative proceedings and courts-martial to persons serving in the armed forces; prohibitions of unwarranted invasions by federal departments and agencies of the privacies of the people; rights to speedy trials in federal courts to persons charged with crime; and nullification of the inexcusable agreement made by the Administrator of General Services with former President Nixon and revealed on the day the pardon was granted by President Ford which empowered former President Nixon to hinder historical truth by destruction of the Watergate tapes.

COMMENTS ON CURRENT NEGATIONS OF CONSTITUTIONAL GOVERNMENT AND FREEDOM

My devotion to constitutional government and freedom impels me to comment on prevalent negations of them, which are popular in many quarters. These comments are likely to prompt persons whose sincerity I do not question to charge me with racism.

I make these comments solely on my own authority and without the known approval of any institution or any other than myself participating in today's events.

I am no racist. Like Abou Ben Adhem, I love all men whom the Tennessee poet, Walter Malone, rightly calls fellow travelers to the tomb. I esteem the Constitution for this reason.

The Constitution in its present form is color blind. It confers on all Americans of all races equality of constitutional and legal rights, and forbids government at any level to nullify this objective by using race as a criterion for the bestowal of rights or the imposition of responsibilities.

I wholeheartedly applaud the legitimate endeavors of Americans of all races to make of themselves everything their ambition, talent, industry, and Creator gave them any possibility of becoming.

Many persons of undoubted sincerity labor under the honest delusion that the federal government has a paramount obligation to banish all racial discrimination and even all racial preference from America by any means available, and that the most ef-

[1] Daniel Webster: *Speech at Bangor, Me.*, 25 August, 1835.

[2] John Philpot Curran: *Speech Upon The Right of Election*, 10 July, 1790.

[3] North Carolina Constitution of 1776, *A Declaration of Rights*, Section.

fective means of achieving this objective is for it to heap new racial discriminations on Americans, including those in no wise reponsible for any discrimiation, past or present.

I deny the validity of this obsession. Government negates constitutional government, and freedom, when it subjects the basic rights of any Americans to the personal demands of members of any particular race.

THE FIRST AMENDMENT

I revere the First Amendment. It was added to the Constitution to make and keep Americans politically, economically, intellectually, and spiritually free.

The federal government is now practicing racial discrimination in reverse. By affirmative action programs, it requires the establishment of racial quotas, which it euphemistically calls goals, and which command employers to employ specified numbers of blacks before they employ any whites; and by substituting race for merit, it requires the employment of blacks in preference to whites in industry and educational institutions, and the admission of blacks in preference to whites to colleges and professional schools.

This is not all by any means.

GOVERNMENTAL ORTHODOXY

The Supreme Court interpreted the First amendment aright in *West Virginia State Board of Education v. Barnette,* when it ruled:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us."[4]

This constitutional declaration is now being flouted by Congress, the President, the Supreme Court, and federal departments and agencies. They usurp and exercise the power to establish governmental oxthodoxies which decree what truth is in respect to matters in controversy among Americans. I cite three exemples.

The Internal Revenue Service establishes as its criterion for granting or withholding exemptions from income taxation of contributions of individuals to educational institutions the acceptance or rejection by such institutions of its determinations of truth in respect to race and what religion teaches about race.

The Department of Health and Welfare spends tax moneys to influence the private habits of Americans, and induce them to stop smoking cigarettes in obedience to the Surgeon General's determination of what truth is in respect to that habit.

Acting under distortions by the Supreme Court of the Thirteenth Amendment and the Civil Rights Act of 1866, which began in 1968 in the case of *Jones v. Alfred H. Mayer Company,*[5] federal courts are now compelling individual white persons against their wills to make personal contracts with blacks, to convey private property to them, to employ them in private undertakings, and to admit them to private white schools and social clubs operated entirely at their own expense.

Irrespective of whether this judicial compulsion is righteous, it negates constitutional government and freedoms Americans have always enjoyed, finds no support in the Thirteenth Amendment and the Civil Rights Act of 1866, and conflicts with every Supreme Court decision antedating the *Jones Case* which interprets them.

The most peculiar offspring of the *Jones Case* is the recent pronouncement of the Supreme Court in *McDonald v. Santa Fe Trail Transportation Company,*[6] where a majority of the Justices adjudged that the Amendment and Act as revamped by them made it illegal for an employer to fire two white employees for misappropriating goods they were hired by him to transport safely because he did not fire their black accomplice as well. The majority of the Justices reached this conclusion, notwithstanding white persons have never been slaves in the United States and notwithstanding the Civil Rights Act of 1866 does not confer any right on any white person.

CONCLUSION

Justice Brandeis, one of the wisest men who ever sat on the Supreme Court, made this comment on the dangers of governmental contempt for constitutional government and freedom in his illuminating dissenting opinion in *Olmstead v. United States:*

1. "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning, but without understanding."

2. "In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipotent, teacher. For good or ill, it teaches the whole people by its example. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."[7]

My remarks end with this observation: The tides of distrust of government are rising. The anchors of faith in it are dragging. It is at such a time America needs constitutional government and freedom the most.●

[4] 319 U.S. 624, 87 L. Ed. 1628, 63 C. St. 1178, 147 A.L.R. 1674.

[5] 392 U.S. 409, 20 L.Ed.1189, 88 S.Ct. 2186.

[6] 427 U.S. 273, 49 L.Ed.2d 493, 96 S.Ct. 2574.

[7] 277 U.S. 438, 72 L.Ed. 944 (957, 960), 48 S.Ct. 564.

DEFENSE SPENDING EDITORIAL

● Mr. LEAHY. Mr. President, one of the leading newspapers in Vermont, the Times Argus of Montpelier, has provided an excellent analysis of the recent veto of the supplemental appropriations bill. The editorial reveals the inconsistency in President Reagan's claim that the supplemental was a budget buster and yet his seeming unconcern with waste and sky-high cost overrides in the Defense Department. I urge all of my colleagues to pay careful attention to this thoughtful article written by Nicholas Monsarrat, the editor of the Times Argus. I ask that the editorial be printed in the RECORD.

The editorial follows:

BEYOND THE VETO OVERRIDE

President Reagan tried last week to tar the $14.1 billion supplemental appropriations bill and anyone supporting it with the labels "budget buster" and "big spender". The truth is, however, that nobody has been recommending more spending, with less careful investigation of what the money might be spent for, than President Reagan in the area of defense spending.

The congressional decision last week to override the president's veto of this supplemental appropriations bill seems a perfect time for Congress to start doing something about this gross imbalance in the Administration's budget-making.

The president has no leg to stand on when, despite huge and mounting federal budget deficits, he continues to refuse to pare significantly his preposterous plan to spend $1.5 trillion in the next five years on new weapons systems and other defense related projects. He magnifies his credibility problems when be demands; cajoles and pleads with members of Congress to kill a supplemental appropriations bill that would benefit necessary human service programs that are already reeling from earlier cuts. And members of Congress have looked like perfect patsies when they have failed to deal critically, carefully or prudently with the massive defense budget proposals that keep pouring in from the White House.

You would think there had never been a cost-overrun in the history of defense spending, instead of a litany of massive and disgraceful cost-overruns over the years. Yet Congress has had to approve laws protecting federal employees from government reprisals for speaking up when they see gross mismanagement and outright thievery in the defense spending area—priorities backwards as usual

It's as if one member of a family, in trying to prepare a new household budget, said to the rest of the family: "We're going to cut mom's spending for food drastically, junior's spending for gas drastically, and sis's spending for clothes, but we're going to double our spending for dad's beer budget and life insurance policy."

We would like to think that the congressional override of the president's veto of the supplemental appropriations bill was not just an election-eve appeal for votes by Congress, although it was surely that in part. We would like to believe that it was also a long overdue acknowledgement by Congress of two things:

1. That there is a limit to how far the federal government can go in cutting federal spending for people programs.

2. That no budget, particularly for defense spending, can be above criticism and cuts.

As for the charge of "budget busting," the fact remains that the bill vetoed by the president was actually $1.3 billion less than the bill the president himself had originally asked Congress to pass. The real difference was that, once again, the president had wanted still more money spent on the military and less on people programs than the bill approved by Congress.●

SOCIAL SECURITY DISABILITY

● Mr. HEINZ. Mr. President, the problems surrounding the current social security disability review system have been well documented. The Senate Finance Committee recently held hearings on this subject. And just this week, a number of our colleagues in the House communicated to our distinguished chairman of the Finance Committee, BOB DOLE, their conviction, which I and other Senators share, that Congress must take urgent action to alleviate these problems.

The goal of reviewing the disability status of individuals on the social security rolls is a sound and necessary principle. But when Congress mandated, in 1980, a 3-year review of individuals on the disability rolls, no one foresaw the high rates of termination and the poor quality of reviews that we are witnessing today. The Social Security Administration has been terminating 45 percent of the beneficiaries it reviews. When Congress passed the Disability Amendments of 1980, the periodic disability reviews were not expected to produce any net savings during the first 3 years of operation; fiscal years 1982 through 1984. And, during the 4-year period fiscal year 1982 through fiscal year 1985, the periodic reviews were projected to save only $10 million. Yet, the President's fiscal year 1983 budget indicates that the program of periodic reviews will now save $3.25 billion in fiscal year 1982-84—or 325 times the original estimate.

On the front page of today's Los Angeles Times, there appears a troubling story relating the tales of 11 individuals who have died from disabilities which the Social Security Administration denied their having. I submit this article for the RECORD and urge my colleagues to read it with care. It emphasizes the need to continue working with the administration to enact legislation at the earliest opportunity to redress this sorry situation.

The article follows:

[From the Los Angeles Times, Sept. 17, 1982]

PURGED AS FIT TO WORK—11 Denied Social Security Disability Die of Illnesses

(By Doug Brown)

Four Californians who were cut off from or denied long-term Social Security disability payments during current federal cutbacks—ostensibly because they were well enough to work—have died within the last four months of the same disabilities that sidelined them in the first place.

These deaths and at least seven others across the nation are the first to be documented since the Reagan Administration began its purge of the Social Security disability rolls in an attempt to cut costs and reduce abuse of the $22-billion-a-year disability insurance system.

The deaths have raised angry cries from congressional critics who were already aroused by stories of what they considered cold and arbitrary decision-making in the removal of 200,000 people from the Social Security disability payment rolls during the past fiscal year.

The benefit cutoffs have not been medically blamed for any of the deaths. But critics of the way the purge has been conducted insist that the circumstances are far more than coincidental, and say the facts form a persuasive argument that the benefits should have been continued—at least while the cases were still under appeal.

All but one of the 11 people who died had filed appeals seeking reinstatement of benefits. Slightly more than half of cases that are appealed end with the benefits being reinstated.

The Californians who died were:

Thomas A. Alvey, 47, of La Habra. He died Aug. 16 of heart disease six months after he had been declared fit for work and no longer eligible for disability benefits. After his benefits were cut off, the former supermarket manager was forced to subsist on an $81.67 monthly federal stipend and help from his mother, whose only income was from Social Security.

Ernestina Orozco, 45, of La Puene. A mother of two teenagers, she was to have been informed by the Social Security Administration that her two types of cancer were not sufficiently serious to keep her from working. But on Aug. 9—two days before the notification was mailed—Orozco died of cancer of the colon.

Willie Simmons, 47, of Reseda. He was purged from the disability rolls in February because his extremely painful "multiple neurological degenerative diseases" were not considered debilitating enough to keep him from working as a hospital clerk. He died of those multiple ailments in May.

Victor Graf, 59, of Stockton, who had been receiving disability benefits because of a heart condition. He received a letter from Social Security in July saying his disability payments would cease in September. He visited his cardiologist on Aug. 2 to get more medical evidence in an attempt to show disability evaluators they had erred in his case. But within six hours after he left the doctor's office, Graf died of a heart attack. "That letter killed him," his widow said.

Besides the Californians, four people from Oklahoma, two from Ohio and one from Arkansas have died since April of ailments after having been denied further disability benefits, according to medical and legal records provided by congressmen, their aides, and the victims' attorneys.

To be eligible for Social Security disability benefits, an individual must be unable to engage in "substantial gainful activity" by reason of a medically determinable physical or mental impairment that is expected to last at least 12 months.

"What these deaths shows is that the Social Security Administration is cruel and without any compassion," said Rep. Michael L. Synar (D-Okla.), a member of the House Select Committee on Aging, noting that four of his constituents were among those who died. "Their insensitivity is so incomprehensible that you would think that they have never sat at a table across from a disabled person and seen what it means to be unable to work."

A conservative Republican member of the same committee, Rep. John Paul Hammerschmidt of Arkansas, said, "We've got to change the law. . . . There's going to be a lot more damage to people's lives unless things are corrected."

Hammerschmidt has a bill pending in Congress that would slow the continuing disability review, allow recipients to continue to receive benefits until the appeal process has been completed and allow recipients to meet the disability evaluators face to face. Nearly all reviews of medical records and other documents have been done by mail.

Meanwhile, reacting to complaints from Hammerschmidt and other Congressmen, the Social Security Administration last week announed it is slowing the pace of eligibility reviews and making other changes.

In addition, Social Security officials said that at the outset of future eligibility reviews there will be face-to-face interviews between disability evaluators and recipients facing termination of benefits.

Social Security Administrator John Svahn, a Reagan appointee who was among the inner circle of officials who designed an overhaul of welfare programs in California when Reagan was governor, refused to be interviewed about the deaths, but John Trollinger, a deputy press secretary in the agency, defended the cutoff policy.

"Our evaluations are based on the best evidence available at the time," Trollinger said. "The fact that a recipient dies following our review doesn't mean our evaluations were incorrect.

"We may not have had all the evidence on the medical condition of the recipient at the time," he said. "And their conditions could have worsened after the evaluation."

But Trollinger also said, "We have made some mistakes, with some people being taken off the rolls who should not have been."

Trollinger said he has ordered Thomas Alvey's disability file sent to Washington for review by the Social Security Administration.

"We can't respond to the 11 documented cases . . . without more information on their particular cases," Trollinger said.

Trollinger said that before inquiries by The Times, he had been aware of only one death related to the loss of disability benefits, and that case was far less direct than those found by The Times. It involved a virtually blind Michigan man who took a cemetery job after his benefits were cut off, and was then hospitalized for gangrene. He subsequently died of a heart attack.

The Social Security Administration runs two separate disability programs: Disability Insurance, which is financed through payroll taxes and pays benefits to disabled workers and their families based on the worker's past earnings, and Supplemental Security Income (SSI), which is funded by general revenues and pays benefits to low-income, blind and disabled people based on proven need.

It is the operation of the Disability Insurance program that has come in for the heaviest criticism.

In the fiscal year ending last June 30, 200,000 workers, their spouses or their children were trimmed from the Disability Insurance rolls, bringing the level down to 4.2 million people. The Social Security Administration said this meant a saving of $372 million in fiscal 1981-82, but Trollinger acknowledged that $156 million of this was eaten up by administrative costs, lowering the net savings to $216 million.

In announcing that it will slow the pace of its disputed eligibility reviews, Social Security said the number of planned reviews in the next year is to be reduced by 20%, down to 640,000 cases from the previously announced target of 806,000 cases.

However, Hammerschmidt and Synar said the new administrative changes will not prevent them from pushing to revise disability review laws. They said the changes announced last week by the Social Security Administration will not guarantee against situations in which people with terminal illnesses are cut off from disability benefits.

PLEADING LETTER

Carolyn Jones, an Orange County Legal Aid Society attorney, who had represented Alvey, said Alvey had written to Social Security imploring that he not be cut off from benefits.

Alvey presented the Social Security Administration with extensive medical records and recommendations from his doctor that

his "chronic obstructive pulmonary disease" precluded him from returning to work.

Rejecting his evidence, Social Security sent Alvey a letter on March 10 that stated: "Medical evidence reveals that you are post myocardial infarction (heart attack) with objective medical evidence no longer reflecting an impairment of sufficient severity to preclude you from returning to your past work.

"Medical data further reflects no changes per your electrocardiogram and it is felt your pulmonary condition to be of a mild nature. Your overall condition is no longer of a severe nature to prevent you from performing your usual duties." His benefits were cut off.

Alvey, who had been receiving $437 a month in disability benefits based on his past earnings as a supermarket manager, appealed the ruling but was receiving no benefits pending his hearing. He died less than two months before the hearing was to be held.

"He used to call me twice a week about his case," said Legal Aid's Jones, who had been helping him with his appeal. "He was a very nice man, but the stress was getting to him and every time he talked he would get more and more upset."

There were similar tales in the cases of three other Californians who died.

The notice denying Ernestina Orozco's request for disability payments arrived at her La Puente home Aug. 13. It said: "You said you could not work because you have cancer of the neck and cancer of the colon. The medical evidence shows that your cancer is currently under control and being treated. We have concluded, therefore, that your condition does not restrict you from doing your usual activities."

But Mrs. Orozco never read the letter. She had died four days earlier of cancer of the colon. Mrs. Orozco was the only one of the 11 recorded deaths who applied for disability benefits but had not yet received any.

She had not worked since February at her job on an assembly line making blood bags at a Covina hospital supply manufacturing company. Both Mrs. Orozco's employer of 11 years and her doctor said her mobility was limited by the cervical collar she was forced to wear because the cancer had made her neck bones brittle.

"She really tried to work," said her husband, Fred Orozco, "but the chemotherapy really drained her. She had to do a lot of sitting on a stool on her job and that was really hard to do eight hours a day."

Mrs. Orozco was not the only disabled person to find that the pain of sitting for long periods of time on the job was beyond endurance.

Willie Simmons, who had been on disability for five years, was terminated in February because Social Security believed his condition would allow him to take work as a hospital records clerk. But Simmons found sitting for long periods to be extremely painful. He died in May of the multiple neurological degenerative diseases that had caused him such extreme discomfort.

Victor Graf, a construction worker who had been on disability since December, 1976, received a letter in July from an evaluator saying a review of his medical records showed he had recovered sufficiently from his heart aliment to allow his return to work.

"The medical evidence shows that you had a heart attack in 1978 but your condition has improved," the evaluator wrote.

"You have responded well to treatment and medication. You are considered able to carry out the following work activities: lift 50 pounds maximum, stand/walk six to eight hours per eight-hour workday."

Graf, who had been treated by Stockton cardiologist Edward Caul and heart specialists at Stanford University in Palo Alto, was confused and angered by the letter, his wife, Myrtle, recalled.

DOCTOR'S FINDINGS

On Aug. 2, Graf went to Caul's office in Stockton to try to find out if Social Security had made a mistake. In his notes on the visit, Caul said, "Social Security office has totally misunderstood the significance of the patient's problem. He has marked damage of his left ventrical from cardiovascular diseases resulting in a large akinetic heart proved by echocardiographic studies.

"The patient gets along well in a relative sense by restricted physical activity," Caul continued. "He requires multiple medications and is constantly at risk for sudden death and determination in the future of congestive heart failure.

"In no way can the patient return to remunerative work conducive to his background, education and training."

Within six hours after leaving Caul's office, Graf died of a heart attack.

In a letter to Social Security after Graf's death, Caul labeled the decision to end Graf's benefits "arbitrary and without attention to the facts of record."

In an ironic footnote, two weeks after Graf died and 10 days after Caul's letter, Social Security sent a letter addressed to Graf announcing that since it had received no additional medical information showing that Graf was still disabled, it was going forward with its plans to terminate benefits.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room 4229 of the Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 14, 1982.

In reply refer to: I-03569/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN. Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-90 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Pakistan for defense articles and services estimated to cost $27 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-90]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Pakistan.

(ii) Total Estimated Value:

	Million
Major defense equipment [1]	$18
Other	9
Total	27

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or Services Offered: Five AN/TPO-36 radar systems with spares, support equipment, technical assistance, and training.

(iv) Military Department: Army (VCH).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agree to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in section 28 report.

(viii) Date Report Delivered to Congress: September 14, 1982.

POLICY JUSTIFICATION

Pakistan—AN/TPQ-36 radar systems

The Government of Pakistan has requested the purchase of five AN/TPQ-36 radar systems with spares, support equipment, technical assistance, and training at an estimated cost of $27 million.

This sale will contribute to the foreign policy objectives of the United States by enabling Pakistan to increase its capability to provide for its own security and defense, particularly in view of the increased threat resulting from the Soviet invasion of Afghanistan.

The Government of Pakistan requires these Firefinder weapon locating radar systems as a primary means of countering hostile mortar fire. This sale is a part of Pakistan's overall force modernization plan.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of four additional U.S. Government personnel and one contractor representative to Pakistan for four months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales

under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 15, 1982.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229 Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 15, 1982.
In reply refer to: I-24160/82.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an Asian Country tentatively estimated to cost in excess of $50 million.

Sincerely,

PHILIP C. GAST,
Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 13, 1982.
In reply refer to: I-02848/82ct.
Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-74, concerning the Department of the Air Force's proposed Letter of Offer to France for defense articles and services estimated to cost $275 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-74]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: France.
(ii) Total Estimated Value:

	Millions
Major defense equipment[1]	0
Other	$275
Total	275

[1]As defined in Section 47(6) of the Arms Export Control act.

(iii) Description of Articles or Services Offered: Incremental purchase and installation of 11 modification kits consisting of all hardware items, to include CFM-56 engines, necessary to accomplish the Class V modification of the 11 French C-135F aircraft.

(iv) Military Department: Air Force (YAD).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Two of these Class V modification kits were included in the report for the quarter ending 30 June 1982.

(viii) Date Report Delivered to Congress: September 13, 1982.

POLICY JUSTIFICATION

France—Class V modification of French C-135F aircraft

The Government of France has requested the incremental purchase and installation of 11 modification kits consisting of all hardware items, to include CFM-56 engines, necessary to accomplish the Class V modification of the 11 French C-135F aircraft at an estimated cost of $275 million.

This sale will contribute to the foreign policy and security objectives of the United States by improving the defensive capabilities of an ally. Although French forces are not now committed to NATO command, France nevertheless bases its defense on cooperation and interoperability with NATO. As a further potential benefit, this sale will contribute to the standardization and interoperability of French and U.S. equipment, as well as demonstrate the seriousness of the U.S. commitment to cooperative arms programs with alliance partners. France's commitment to this program may well have positive effects on French willingness to participate in other multinational, cooperative arms programs.

France intends to re-engine all 11 of their C-135F tanker aircraft with CFM-56 turbo fan engines. The 11 engine production kits will be installed by Boeing Aircraft Company; The CFM-56 is a commercially available engine produced by CFM International, a General Electric (U.S.)/SNECMA (France) joint owned company. Re-engining the tankers will reduce fuel consumption, improve take-off performance, lower operating and support costs, improve fuel off-load capability, enhance aircraft survivability, and reduce smoke and noise pollution.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Boeing Military Airplane Company of Wichita, Kansas.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to France.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., Sepetmber 15, 1982.
In reply refer to: I-03191/82ct.
Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-81, concerning the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $76 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-81]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Turkey.
(ii) Total Estimated Value:

	Millions
Major defense equipment*	0
Other	$76
Total	76

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Cooperative logistics supply support (FMSO II) for follow-on spares and supplies in support of C-130H, F-4E, F/RF-5A, F-100C/D/F, RF/F-104G, T-33, T-37C, and T-38 aircraft and other systems and subsystems of U.S. manufacture.

(iv) Military Department: Air Force (KBN).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 15, 1982.

POLICY JUSTIFICATION

Turkey—Cooperative logistics supply support

The Government of Turkey has requested the purchase of cooperative logistics supply support (FMSO II) for follow-on spares and supplies in support of C-130H, F-4E, F-/RF-5A, F-100C/D/F, RF/F-104G, T-33, T-37C, and T-38 aircraft and other systems and subsystems of U.S. manufacture at an estimated cost of $76 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Turkey needs these logistics support systems to maintain the readiness of the Turkish Air Force weapon systems of U.S. origin. The cooperative logistics support will be provided in accordance with, and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

Procurement of these items and services will be from the many contractors providing similar items and services to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

U.S. DEPARTMENT OF STATE, UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,

Washington, D.C., September 10, 1982.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of cooperative logistics supply (FMSO II) is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.●

Mr. HEFLIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will state by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

AMENDMENT NO. 2040

The PRESIDING OFFICER. The pending question is the Baucus amendment No. 2040.

Under the previous order, the Senator from Montana (Mr. BAUCUS) is now recognized.

Mr. BAUCUS. Mr. President, I rise once again in support of the pending amendment, which declares that the Federal courts must remain open to citizens who wish to litigate their constitutional rights.

I also rise to express my fierce opposition to the underlying Helms amendment.

Mr. President, I guess that labeling these days is a fact of life in our society. Particularly for those of us in public life labeling is something we have to learn to live with.

However, I continue to be distressed that the underlying Helms amendment and the debate here in the Chamber continue to be labeled as a school prayer amendment and a school prayer debate.

The underlying Helms amendment does not alter the Supreme Court's school prayer decisions. It simply prevents the Supreme Court from hearing future school prayer cases. This is a court stripping, not a school prayer amendment.

Mr. President, if the Senate, for example, were considering legislation that prevented the Supreme Court from hearing taxation cases, would that be considered tax reform? Absolutely not. That would be court stripping.

If the Senate were considering legislation that prevented the Supreme Court from hearing cases involving the right to bear arms, would that be considered gun control legislation? Again, no. That would be court stripping.

Mr. President, in the same vein, we do not have the school prayer legislation before us today. We have court stripping.

Mr. President, I believe that what is being missed by many who are involved or are observing the debate is that the Senate is being asked to totally alter the rules by which we have protected constitutional rights in this country for 200 years.

Today constitutional rights are protected by the Supreme Court, and if Congress or the people want to alter a constitutional right or the Court's interpretation of such rights, that alteration requires approval by two-thirds of the Congress and three-quarters of the States.

However, the proposal before us would permit Congress by a simple majority vote to dilute or entirely remove constitutional protections.

If this Helms revision, this provision, is passed by Congress and upheld as constitutional, each of our constitutional rights will be hanging on the slenderest of threads—that is, on a mere majority acting according to the whims of the times.

If freedom of the press is no longer the order of the day, let us pass a statute and get the President to sign it. That is all it would take, and the Supreme Court could no longer enforce the constitutional guarantee of freedom of the press.

If freedom of religion is no longer the order of the day, let us pass a statute and get the President to sign it. That is all that would take, and the Supreme Court would no longer enforce any constitutional guarantee of freedom of religion.

If the Government decides that citizens can now have the privacy of their homes invaded by Government officials operating without a warrant, let us pass a statute and get the President to sign it. That is all it would take, and the Supreme Court could no longer enforce the constitutional protection against unwarranted searches and seizures.

The pattern is clear. What is being proposed here is a fundamental change in the rules by which constitutional protections are guaranteed. What is more, this can happen here on the floor of the Senate by a simple majority vote. That is all it takes.

If the proponents of these measures want us to begin to dismantle the Constitution by simple majority vote, then let them put together a national consensus of two-thirds of the Congress and three-quarters of the States to permanently alter the rules by which constitutional protections are guaranteed. Let them propose a constitutional amendment, but let us not permit them to make the kind of fundamental change in our form of government by a simple majority vote that is being offered here as "school prayer legislation."

Mr. President, it is important to remind this body that President Reagan and his Attorney General understand the necessity for responding to constitutional decisions of the Court by constitutional amendment. This adminstration has proposed a constitutional amendment involving school prayer, and the President has reiterated his support for that proposal. He did so just yesterday. That pro-

posal is pending before the Senate Judiciary Committee. A third day of hearings on that proposal was held yesterday afternoon.

I might add, Mr. President, that the Attorney General has stated often that he is not in favor of this approach pending today, the statutory approach, because, as the country's highest legal officer, he knows that the way to change Supreme Court decisions, the way to change fundamental constitutional rights, is by proposing and enacting constitutional amendments. It is not by prohibiting Supreme Court jurisdiction over review of such rights.

The Attorney General by letter and in various forms has indicated that the administration advocates the constitutional rather than the statutory approach, I believe the administration takes such a position because it knows full well that to set the precedent of prohibiting Supreme Court review of Federal constitutional issues will begin a process of undermining the Constitution and thereby will undermine our form of government as we know it, in such a way that American citizens will no longer have Federal constitutional guarantees.

I do not wish to discuss the merits of the school prayer issue today. This is another matter, but I do know the constitutional amendment process is the correct way of resolving the school prayer issue, and I commend the administration for advocating that process because it is the process that our framers provided for. It is the right process; it is the process by which we would continue to have strong constitutional guarantees.

I believe the Attorney General's assessment of the serious dangers of the court-stripping proposal pending before us is what led to the administration's decision to support a constitutional amendment—not only the amendment itself, but the whole process as well. I think it is important to review that analysis, and I now wish to read it for the benefit of my colleagues.

Before I read that analysis contained in the letter from the Attorney General, I would like to point out that today, September 17, is the 195th anniversary of the signing of the Constitution. Just think of that, 195 years ago today on September 17, 1787, our Constitution was signed, and I think it is particularly appropriate and particularly fitting for us here today to stand up on that anniversary, the 195th anniversary, in defense of and in support of our Constitution because it has served us so well.

For nearly 200 years our Constitution has withstood assaults of various kinds, of various forms, and I think, Mr. President, that we again should stand up today on the 195th anniversary to protect our Constitution.

I now have before me, Mr. President, a letter from the Attorney General of the United States, Attorney General William French Smith. This letter is to the chairman of the Senate Judiciary Committee, the Honorable STROM THURMOND, Senator from South Carolina. This letter concerns the court-stripping proposal before us and, in particular, school prayer. This letter is dated May 6 of this year:

DEAR MR. CHAIRMAN: This letter is written to you as Chairman of the Committee on the Judiciary. It is written in response to a number of earlier inquiries from members of your Committee concerning S. 1742, a proposal which would withdraw jurisdiction from the Supreme Court to consider "any case arising out of any State statute, ordinance, rule, (or) regulation . . . which relates to voluntary prayers in public schools and public buildings." A second provision of the bill would withdraw the jurisdiction of the district courts over any case in which the Supreme Court has been deprived of jurisdiction. This bill raises fundamental and difficult questions regarding the role of the Supreme Court in our constitutional system, as well as the power of Congress to define and circumscribe that role. The issues involved have been the subject of intense scholarly debate and prominent constitutional scholars have differed as to the extent of congressional power to limit Supreme Court jurisdiction.

This is perhaps to be expected since the question of congressional power over the appellate jurisdiction of the Supreme Court implicates in a basic way the relations between Congress and the Supreme Court, two co-equal branches of government. Relations between the different branches in our tripartite system are generally governed by the doctrine of separation of powers. Neither the Constitution nor the decisions of the Supreme Court have attempted to define the precise contours of this doctrine. As two astute students of our constitutional system have noted:

"The accommodations among the three branches of government are not automatic. They are undefined, and in the very nature of things could not have been defined, by the Constitution. To speak of *lines* of demarcation is to use an inapt figure. There are vast stretches of ambiguous territory." Frankfurter & Landis, *Power of Congress Over Procedure in Criminal Contempts in "Inferior" Federal Courts*, 37 Harv. L. Rev. 1010, 1016 (1924) (emphasis in original).

The doctrine of separation of powers touches fundamentally on how the Nation is governed, and, as the Supreme Court noted last term in a separation of powers case, "it is doubtless both futile and perhaps dangerous to find an epigrammatical explanation of how this country has been governed." *Dames & Moore* v. *Regan*, 101 S. Ct. 2972, 2977 (1981). In this area more than any other, we must heed Justice Holmes' wise admonition that "(t)he great ordinances of the Constitution do not establish and divide fields of black and white." *Springer* v. *Philippine Islands*, 277 U.S. 189, 209 (1928) (dissenting opinion).

There is no doubt that Congress possesses some power to regulate the appellate jurisdiction of the Supreme Court. The language of the Constitution authorizes Supreme Court appellate jurisdiction over enumerated types of cases "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court has upheld the congressional exercise of power under this clause, even beyond widely accepted "housekeeping" matters such as time limits on the filing of appeals and minimum jurisdictional amounts in controversy. See *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1869).

Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

Think of that, Mr. President. That is a statement of Attorney General William French Smith in a letter, dated May 6, 1982, to the chairman of the Judiciary Committee. Let me repeat that paragraph from Attorney General William French Smith:

Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

Continuing in that letter, the Attorney General goes on to say:

In determining whether a given exception would intrude upon the core functions of the Supreme Court, it is necessary to consider a number of factors, such as whether the exception covers constitutional or non-constitutional questions, the extent to which the subject is one which by its nature requires uniformity or permits diversity among the different states and different parts of the country, the extent to which Supreme Court review is necessary to ensure the supremacy of federal law, and whether other forums or remedies have been left in place so that the intrusion can properly be characterized as an exception.

Concluding that Congress may not intrude upon the core functions of the Supreme Court is not to suggest that the Supreme Court and the inferior federal courts have not occasionally exceeded the properly restrained judicial role envisaged by the Framers of the Constitution. Nor does such a conclusion imply an endorsement of the soundness of some of the judicial decisions which have given rise to various of the legislative proposals now before Congress. The Department of Justice will continue, through its litigating efforts, to urge the courts not to intrude into areas that properly belong to the State legislatures and to Congress. The remedy for judicial overreaching, however, is not to restrict the Supreme Court's jurisdiction over those cases which are central to the core functions of the Court in our system of government.

To repeat:

The remedy for judicial overreaching, however, is not to restrict the Supreme Court's jurisdiction over those cases which are central to the core functions of the Court in our system of Government. This remedy would in many ways create problems equally or more severe than those which the measure seeks to rectify.

Those are the words of our Attorney General, William French Smith:

With respect to other pending legislation, the Department of Justice has concluded that Congress may, within constraints imposed by provisions of the Constitution

other than Article III, limit the jurisdiction or remedial authority of the inferior federal courts. See letter from the Attorney General to Chairman Rodino concerning S. 951. The question of congressional power over lower federal courts is quite different from the question of congressional power over Supreme Court jurisdiction, and the two issues should not be confused.

The letter now goes into various sections. I shall now begin the first section, roman numeral I.

I.

Proponents of Congressional constitutional authority to limit the Supreme Court's entire appellate jurisdiction have contended that such authority exists under the "Exceptions Clause" of Article III of the Constitution. Article III provides, in pertinent part:

Section 1

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish . . .

Section 2

The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, *with such Exceptions, and under such Regulations as the Congress shall make.* (Emphasis Added.)

The language of the Exceptions Clause, underscored above, does not support the conclusion that Congress possesses plenary authority to remove the Supreme Court's appellate jurisdiction over all cases within that jurisdiction. The concept of an "exception" was understood by the Framers, as it is defined today, as meaning an exclusion from a general rule or law. An "exception" cannot, as a matter of plain language, be read so broadly as to swallow the general rule in terms of which it is defined.

The Constitution, unlike a statute, is not drafted with specific situations in mind. Designed as the fundamental charter of our political system, its most important provisions are phrased in broad and general terms. As eloquently expressed by Justice Holmes in *Missouri v. Holland,* 252 U.S. 416, 433 (1920):

"(W)hen we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being a development of which could not have been foreseen completely by the most gifted of begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in light or our whole experience and not merely in that of what was said a hundred years ago."

For example, a literal interpretation of Article III as a whole would seem to mandate that Congress vest the full judicial power of the United States either in the Supreme Court or in an inferior federal court. Under such an interpretation, Congress could make "exceptions" to the Supreme Court's appellate jurisdiction only if it vested the jurisdiction at issue either in an interior federal court or in the Supreme Court's original jurisdiction. This interpretation, which would require the conclusion that any measure which entirely ousted the federal courts from exercising any portion of the judicial power of the United States and vested that authority in state courts would be unconstitutional, is rejected by all authorities today.

The Constitution contains a number of other pronouncements which, although seemingly unambiguous and absolute, have necessarily been interpreted as limited in their applicability. See e.g., *Home Building & Loan Ass'n.* v. *Blaisdell,* 290 U.S. 398 (1934) (Contract Clause); *Everson* v. *Board of Education,* 330 U.S. 1 (1947) (Establishment Clause); *Reynolds* v. *United States,* 98 U.S. 145 (1878) (Free Exercise Clause); *Brandenburg* v. *Ohio,* 395 U.S. 444 (1969) (per curiam) (Free Speech Clause). The Supreme Court has also recognized that even when a statute is otherwise within a power granted to Congress by the Constitution, extrinsic limitations on congressional power contained in the Bill of Rights or elsewhere may nevertheless render the statute unconstitutional. See. e.g., *National League of Cities* v. *Usery,* 426 U.S. 833 (1976) (limitations on Commerce Clause); *McCulloch* v. *Maryland,* 17 U.S. (4 Wheat.) 316, 421 (1819) (limitations on Necessary and Proper Clause).

In light of these principles of constitutional interpretation, the Exceptions Clause may not be analyzed in a vacuum, but must be understood in terms of Article III as a whole, as evidenced by the history of its framing and ratification, its place in the system of separation of powers embodied in the structure of the Constitution, and its consistency with external limitations on congressional power implicit in the Constitution and contained in The Bill of Rights. The construction of the Exceptions Clause that is most consistent both with the plain language of the Clause and with other evidence of its meaning is that Congress can limit the Supreme Court's appellate jurisdiction only up to the point where it impairs the Court's core functions in the constitutional scheme.

The events at the Constitutional Convention support a construction of the Exceptions Clause that would preclude Congress from interpreting with the Supreme Court's core functions. The framers agreed without dissent on the necessity of a Supreme Court to secure national rights and the uniformity of judgments. The resolves which were agreed to by the Convention and given to the Committee of Detail provided, simply, that "the jurisdiction (of the Supreme Court) shall extend to all cases arising under the Natl. Laws: And to such other questions as may involve the Natl. peace & harmony." No mention was made of any congressional power to make exceptions to the Court's jurisdiction. The Committee of Detail, charged with drafting a provision to implement these Resolves, proposed the language of the Exceptions Clause. It seems unlikely that the Committee of Detail could have deviated so dramatically from the Convention's Resolves as to have given Congress the authority to interfere with the Supreme Court's core functions without considerably more attention to the subject at the Convention.

This inference is strengthened by the events surrounding the adoption of the Judicial Article by the full Convention. In determining the scope of the Court's jurisdiction, the Convention agreed to provisions expressly confirming that the jurisdiction included cases arising under the Constitution and treaties; but it rejected, by a 6-2 vote, a resolution providing that, except in the narrow class of cases under the Court's original jurisdiction, "the judicial power shall be exercised in such manner as the legislature shall direct."

To repeat, the committee rejected, by a 6-to-2 vote, a resolution providing that, except in a narrow class of cases under the court's original jurisdiction, "the judicial power shall be exercised in such manner as the legislature shall direct."

That resolution, rejected by a 6-to-2 vote, is what the proponents of the underlying amendment want, in effect—that the judicial power shall be exercised in such manner as the legislature shall direct.

To adopt such a measure here today would mean that Congress, willy-nilly, according to its discretion and in the manner it provides, would limit the Supreme Court's jurisdiction, effectively nullifying the Supreme Court of the United States and thereby also effectively nullifying one of the three coequal branches of Government.

To continue with the letter, Mr. President, from Attorney General William French Smith in opposition to the statutory approach of limiting the Supreme Court jurisdiction:

The Convention thus rejected a clear statement of plenary congressional power over the Court's appellate jurisdiction. Nevertheless, on the same day—without any recorded debate or explanation—the Framers adopted the Exceptions and Regulations language now contained in Article III. In light of the value placed on the Supreme Court's appellate jurisdiction, as evidenced by other actions of the Convention, it seems highly unlikely that the Framers would have agreed, without the slightest hint of controversy, to a provision that would authorize Congress to interfere with the Court's core constitutional functions.

There are additional reasons why the lack of controversy surrounding the adoption of the Exceptions Clause supports the inference that no power to intrude on the Court's core functions was intended. First, the historical materials show the great importance which the Framers attached to these functions. They envisaged that the Supreme Court was a necessary part of the constitutional scheme and believed that the Court would review state and federal laws for consistency with the Constitution. These sentiments were echoed by the authors of the *Federalist Papers,* a work which is justly regarded as an important guide to the meaning of the Constitution. In light of this explicit recognition by the Founding Fathers of the Court's vital role in the con-

stitutional scheme, it seems unlikely that they would have adopted, without controversy, a provision which would effectively authorize Congress to eliminate the Court's core functions.

A second reason for inferring a more limited construction of the Exceptions Clause from the lack of discussion at the Convention concerns the compromise agreed to by the Framers regarding the establishment of inferior federal courts. While the necessity of a Supreme Court was accepted without significant dissent among the Framers, there was vigorous disagreement over whether inferior federal courts should be provided. The Convention first approved a provision calling for mandatory inferior federal courts, then struck this provision by a divided vote, and finally determined to leave to Congress the question whether to establish inferior federal courts. The Supreme Court was viewed as a necessary part of the constitutional structure and was established by the Constitution itself; Congress was given no control over whether the Court would be created. The inferior federal courts, however, were viewed as an optional part of the Government and were authorized but not estabished by the Constitution.

The decision whether to create them was given to Congress. This distinction, and the role explicitly assigned to Congress with respect to the inferior federal courts implies that the powers of Congress were to be quite different with respect to the Supreme Court and the inferior federal courts.

If the Exceptions Clause authorized Congress to eliminate the Supreme Court's appellate jurisdiction, thus limiting it to the exercise of original jurisdiction, the power Congress over the Supreme Court would be virtually indistinguishable from its power over inferior federal courts. Just as Congress could decline to create inferior federal courts it could, in the guise of creating "exceptions" to the Supreme Court's appellate jurisdiction, deny the Supreme Court the vast majority of the judicial powers which the Framers insisted "shall be vested" in the federal judiciary. Congress could not eliminate Supreme Court, but it could reduce it to a position of virtual impotence with only its limited original jurisdiction remaining. Such an interpretation cannot be squared with the stark difference in treatment which the Framers accorded to the Supreme Court and the inferior federal courts. Given the intensity of the debate regarding inferior federal courts, and the compromise arrived at by the Framers, it seems highly unlikely that the Convention would have adopted without comment a provision which, for most practical purposes, would place the Supreme Court and the inferior federal courts in the same poition vis-a-vis Congress.

A third reason to infer a limited construction of the Exceptions Clause from the lack of debate accompanying its adoption is found in the theory of separation of powers which formed the conceptual foundation for the system of government adopted by the Convention. The Framers intended that each of the three branches of Government would operate largely independently of the others and would check and balance the other branches. The purpose of this approach was to insure that governmental power did not become concentrated in the hands of any one individual or group, and thereby to avoid the danger of tyranny which the Framers believed inevitably accompanied unchecked governmental power.

I might add, Mr. President, parenthetically, that our framers had much experience with respect to unchecked tyrannical governmental power.

Continuing with the letter from the Attorney General to the chairman of the Committee of the Judiciary:

Indeed, it is not an exaggeration to say that the single greatest fear of the Founding Fathers was tyranny, and that concentration of power was, in their minds, "the very definition of tyranny."

Essential to the principle of separation of powers was the proposition that no one branch of government should have the power to eliminate the fundamental constitutional role of either of the other branches. As Madison stated in Federalist No. 151:

(T)he great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary consitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack.

This basic principle of the Constitution—that each branch must be given the necessary means to defend itself against the encroachments of the two other branches—has special relevance in the context of legislative attempts to restrict judicial authority. The Framers "applaud(ed) the wisdom of those states who have committed the judicial power, in the last resort, not to a part of the legislature, but to distinct and independent bodies of men." Federalist No. 81 (Hamilton). They believed that, by the inherent nature of their power, the legislature would tend to be the strongest and the judiciary the weakest of the Branches.

This insight is reflected in the very structure of the Constitution: the provisions governing the legislature are placed first, in Article I; those establishing and governing the Judicial Branch are in the third position, in Article III. Madision recognized the great inherent power of the Legislative Branch in Federalist No. 48. Drawing extensively from Jefferson's Notes on the State of Virginia, Madison concluded that in a representative republic "(T)he legislative department is everwhere extending the sphere of its activity and drawing all power into its impetuous vortex." See also Federalist No. 51 (Madison).

It was in no sense a derogation on the concept of governance responsive to popular will that the Founding Fathers desired checks on the power of the Legislature they were creating. The Acts of Parliament as well as those of the King formed the litany of grievances which produced the Revolution. The Founding Fathers believed in the voice of the people and their elected representatives and placed substantial power in the Legislature. At the same time, however, they were acutely sensitive to the rights of individuals and minorities. Most of them had first-hand experience with persecution. The idea of a written Constitution was precisely to place a check on the popular will and, in large part, to restrain the most powerful branch. They crafted a representative republic with restraints on the legislature. "(A)n elective *depotism* was not the government we fought for. . . ." *Federalist* No. 48 (Madison), quoting Jefferson's *Notes on the State of Virginia* (emphasis in original).

The Supreme Court was viewed as a part of this restraint, but, nonetheless, inherently as the last dangerous branch. Hamilton, in a famous passage from Federalist No. 87, eloquently testified to the inherent weakness of the Judicial Branch:

Whoever attentively considers the different departments of power must perceive that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. If may truly be said to have neither FORCE nor WILL but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments. As a consequence of this view, Hamilton believed that it was necessary for the judiciary to remain "truly distinct from the Legislature and the Executive. For I agree that 'there is no liberty, if the power of judging be not separated from the Legislative and executive power'." Id., quoting Montesquieu's Spirit of Laws. Thus, he concluded: "The complete independence of the courts of justice is peculiarly essential in a limited Constitution."

Mr. President, I now ask unanimous consent that I might yield to the Senator from Vermont without losing my right to the floor, and that upon being rerecognized a continuation of my speech not be counted as a second speech under rule XIX, and that I be allowed to leave the Chamber while I have so yielded.

I also ask unanimous consent that the Senator from Vermont be permitted to yield the floor under the same circumstances.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I thank the Chair and the distinguished Senator, my friend from Montana, for yielding under these curcumstances.

Mr. President, I stand here 195 years after the Constitution was signed. However necessary it may be, it is always a little sad when the Members of this body are compelled to rise to defend the most obvious, most fundamental features of our constitutional system of Government, and the present rider to the debt ceiling on school prayer should bring true sadness to anyone who sees the strength of the Constitution arising from the way it disperses power among the branches of Government and the zeal with which it protects individual liberties. The debate over the school prayer rider is not only a debate over religion. We are also debating the temptation of one branch of Govern-

ment to subdue another branch by relieving it of its authority.

Ironically enough, Mr. President, the most conservative of the Members of this body should be the ones in the forefront seeking the rejection of this rider, because this is nothing more than a device for stripping the courts of their authority. It is nothing less than a wholesale rejection of what the framers of the Constitution intended 195 years ago.

The ongoing debate over limiting Federal court jurisdiction to make changes in the nature and quality of rights declared by the Supreme Court under the Constitution is not new. It seems that every generation is bound to test the strength and the limits of the principles of an independent judiciary and the separation of powers. I compare the current assault on Federal court jurisdiction to attacks through our history on the first amendment. It is by now a truism that the first amendment is most ardently embraced when there is relatively little dissent in the society and most challenged when unpopular views seem to disturb the placid consensus.

Much the same can be said of our courts, the branch of government devoted to interpreting our Constitution and laws, free of the pressures of the passing majority. A healthy and independent judiciary is never more necessary than at a time when there is impatience and discontent with the way the Supreme Court chooses to interpret the Constitution.

In addition to the present school prayer rider to the debt ceiling bill, there are numerous other bills before the Senate that seek to limit or eliminate the jurisdiction of the Federal courts on issues like abortion, school prayer, and busing. On some of the issues a majority of this body will agree with the underlying social goals of particular bills. This Senate was willing to adopt a measure that would limit the jurisdiction of both the lower Federal courts and the Supreme Court in order to limit busing. But much more than busing, school prayer, and abortion are at stake, and much more than court jurisdiction will be limited if we let expediency become the engine of change.

In all of these examples, the right involved is a right declared and protected by the courts. The impatience and outrage of some Americans is directed to the fact that the courts move more slowly than legislative bodies, and a change in the law is brought about not in response to a public outcry for change but as a byproduct of a legal dispute arising under our laws—that is, a case or controversy.

In normal times we all perceive a great personal stake in the independence of the courts. No one can safely predict whose rights will depend on that independence in the future.

Mr. President, I say to all my colleagues, all 99 of them, can any one of us say at what time it might be our individual rights that are protected by the independence of these courts? Is there any one of us who is willing to strip the courts of that independence and tell our constituents in each of the 50 States that someday their rights may be lost because we, in a moment of passing fancy, stripped the courts of the independence they need to protect the rights not just of the 100 men and women who serve in this body but of the 220 million Americans we represent?

How many of us can vote for this knowing that someday we may have to answer honestly what we did; that someday we may have to go beyond the direct mail appeals for funds that may go out from some who support this amendment and answer honestly about what these court-stripping measures do; that would require each one of us to go back to our 50 States and stand before our constituents and say, "I voted to give away some of your rights; I voted to give away rights that you have had for 195 years; I gave away your right to independent and free courts; I gave away your right for one last chance. I gave it away in a moment of political passion on a vote"?

Mr. President, I cannot do that. I cannot vote that way, and I hope that my colleagues will not.

We favor a strong judiciary, under law, rather than a judiciary that bends first in one popular direction, then in another. But to make this system work, no one has the right to look to the courts for a quick fix. No one has a stake in courts that can be easily persuaded to follow the howls rather than the law.

The amendment before us would seek to use the exceptions clause in article III, section 2, clause 2 of the Constitution to justify eliminating Supreme Court appellate jurisdiction in cases reviewing State enactments on school prayer. Article III gives the court appellate jurisdiction "with such exceptions, and under such regulations as the Congress shall make." Cases from the Court itself and nearly two centuries of legal scholarship have not defined the limits of this congressional power. And I doubt that it is within the realm of likelihood that the scope of the power is about to become the subject of complete agreement among the branches of Government or among legal scholars. I believe that every one of us has a duty to read the Constitution as a living document and to pass on matters before us as if the responsibility for the perpetuation of its genius fell to each one of us, because, quite frankly, it does.

David R. Brink, former president of the American Bar Association, made this point very well in a statement that Senator BAUCUS presented to this body in observance of Law Day last spring. Mr. Brink said, as Senator BAUCUS quoted:

> Sometimes in the press of current problems we forget the origin of our system of government and the source of our liberties. We must never forget the well-springs of our heritage and our progress. But the Constitution is not self-executing. To make its grand policies a reality, it needs interpretation and enforcement by the courts and wise implementation and extension by the legislative and executive branches. It needs the coordinated work of all three branches of government.

In order to conclude that article III of the Constitution permits the Congress in the guise of carving exceptions, to carve up the Supreme Court itself, much of the rest of the Constitution has to be ignored.

Article V of the Constitution lays down very explicit rules for the amendment process. The process is long and arduous, and the Consititution has been amended very few times as a result. It is difficult to believe that the authors of the Constitution, as politically astute a group of people as one might imagine, would have framed a careful mechanism for amendment and then would have permitted a simple statute to work as an amendment by eliminating review of that statute by the Supreme Court. Prof. Leonard Ratner of the University of Southern California Law School argues in a compelling manner that the Constitutional Convention considered and rejected alternative language to the exceptions clause which would have read:

> In all the other cases before mentioned the judicial power shall be exercised in such manner as the legislature shall direct.

Professor Ratner concluded that:

> (H)ad the Convention desired to give Congress (plenary control over Supreme Court appellate jurisdiction), the reasonable course would have been to adopt the unequivocal language of the amendment in place of the more ambiguous phrasing of the Committee's draft. The defeat of the amendment thus may reasonably be construed as a rejection by the Convention of plenary congressional control over the appellate jurisdiction of the Court and as indicating that the purpose of the clause was to authorize exceptions and regulations by Congress not incompatible with the essential constitutional functions of the Court.

I do not accept the proposition that if Congress creates lower Federal courts, it must endow them with unlimited authority to vindicate every federally created right. There have been limitations on Federal court jurisdiction such as increases in the jurisdictional amount, changes in the nature of diversity and removal jurisdiction, and a few—very few—instances where Congress has limited Federal court jurisdiction altogether, such as the Norris LaGuardia Act and the Tax Injunction Act of 1937.

But not even the few instances where Congress limited the jurisdiction of the Federal courts in specific subject areas did Congress ever go so far as to remove from the total protection of the Federal courts rights guaranteed under the Constitution. Through this lengthy and sometimes tumultuous history of Congress, many bills have been introduced to do just that, and none has ever passed. Through that long history the power of Congress to establish lower Federal courts and to make exceptions to the appellate jurisdiction of the Supreme Court has been exercised to adjust the scope and authority of the judiciary to better serve the needs of the litigants, to promote efficiency, to maintain a healthy balance between the State and Federal systems.

But there should be a clear distinction in the minds of every Senator between legislation to improve the courts and legislation to use the courts to accelerate changes in substantive constitutional law. The thrust of the court-stripping bills now before the Senate is to short circuit the normal processes for amending the Constitution, which are difficult and time consuming. But they are difficult and time consuming for a reason. The Constitution should reflect the wise resolve of the people, tested over time.

In the Constitution Subcommittee hearings on court jurisdiction conducted in May and June 1981, we observed the Nation's finest legal scholars in a sincere and technically complex discussion of the constitutionality of various proposals to limit lower and appellate Federal court jurisdiction on an issue-by-issue basis. It is hard to predict the outcome of that same debate in the courts, simply because there is a scarcity of precedents truly on point. The scarcity, however, results from the devotion of past Congresses to the principle of shared powers and an unwillingness to buy fast changes in law at a steep constitutional price.

Among the eminent law professors who appeared before the Constitution Subcommittee some believed that there were few limitations imposed by the Constitution on Congress under article III and that an underlying purpose of Congress to extinguish particular rights did not, in general, signal a violation of the Constitution. But it is interesting that most of the scholars who read article III broadly—and that includes all of those who appeared before the committee besides two committed supporters of S. 158, the Human Life Statute, also believe that it would be a tradegy for Congress to forgo the self-restraint that has united each generation with the next.

One witness, Prof. Martin Redish of Northwestern University Law School, believed that Congress has a broad authority under article III and that the court-stripping bills may be constitutional. But he ended his visit with us on a very different note:

> In past years, previous Congresses were also disturbed with many substantive decisions of the Supreme Court. They, too, considered legislation to curb that Court's jurisdiction. But, with rare exception, those Congresses declined to take such drastic action. I strongly urge you to exercise similar restraint, both for the good of the nation and for the rule of law.

The hearings and the opinions can only help us to decide if we have the authority to act. We must answer the question of whether we ought to act. It is that issue which must concern us all. The current debate on stripping the Federal court jurisdiction gives us an interesting look at how the judicial branch can be both underestimated and overestimated in the loose talk of politics. The court's power and responsibility are overestimated when the court is made the repository of our unsolved social agenda. The courts did not create the deep division in this country over issues like abortion and school busing. The courts did not create the environmental and poverty problems that have resulted in statutes which institutionalize difficult and complex judicial decisions interpreting these laws. The courts did not create racial discrimination and did not set into motion the two-century old conflict between the Federal Government and the States, two other problems that have spawned controversial litigation. Mr. Brink of the ABA put it well in his Law Day statement:

> It must be remembered, first, that, unlike the executive and the legislative, the courts do not initiate policy on their own motion; they simply decide actual cases between opposing parties that have not been resolved by the other branches. What has happened, I think, is that the executive and legislative branches have either failed to develop constitutional solutions to state or federal problems, have failed to enforce laws already on the books, or have left policies unclear so that they require court interpretation. In some instances they have dumped implementation of policies in controversial areas on the courts, which have to decide the cases and which have no means to defend themselves from the attacks by the public and but other branches of government that follow their decisions.

At the same time, the flexibility and resourcefulness of the institution of the Supreme Court have been underestimated. The Court is never locked into a mode of thought that ignores developments in the other branches and in the public generally. The growth of law is never static, but can always evolve if the stimulus to evolution is proper and change is needed in light of the historical development of our constitutional law. Professor Ratner in a recent law review article pointed out a number of ways in which the power of the courts in judicial review is overestimated. Criticism from elected officials, private citizens, and the media is not without weight. Congress can affect unpopular decisions with statutes where the Constitution is not contravened. The power to appoint judges has an immense role to play in the direction of future courts. Amendments and the threat of amendments to the Constitution have a part in shaping the norms that inevitably affect the courts.

If changes may be brought about through such means, it may be asked why many of us in the Senate express such intense interest in bills that simply bring about the same substantive changes, but through other means; namely, the limitation of court jurisdiction.

Nothing less than the rule of law is at stake. It may be shocking to think that not every syllable of every word necessary to protect the rights of citizens under the Constitution is located within the four corners of that document, that so much of the quality of constitutional government rests with the judgment of the fallible men and women who serve in Government.

Limiting the jurisdiction of the courts as a means of reversing particular decisions or limiting their effects is a grave and protential threat to our system of checks and balances.

The separation of powers has never been absolute in our system of government. The three branches overlap. The lines of authority are at times unclear.

Underlying the success of the system over nearly 200 years is a strong notion of comity and accommodation among the branches. The self-restraint exercised by each branch is strengthened by genuine concern about destroying that sense of comity, just as one is careful to nurture a faithful relationship with a good neighbor.

The 75th Congress was faced with a dilemma not unlike our own when it considered and rejected President Roosevelt's court-packing proposal. The Senate Judiciary Committee rose to the occasion, despite the great pressure to speed along legislation that was designed to ease the pains of the Great Depression. The words of that committee could be our own today:

> Let us, of the Seventy-fifth Congress, in words that will never be disregarded by any succeeding Congress, declare that we would rather have an independent court, a fearless court, a court that will dare to announce its honest opinions in what it believes to be the defense of liberties of the people, than a court that, out of fear or sense of obligation to the appointing power or factional passion, approves any measure we may enact. We are not the judges of the judges. We are not above the Constitution.

Mr. President, I said earlier that each one of us has a responsibility not only to our constituents but to every American. How many of us could vote

for these court-stripping bills and then go back and look our constituents in the eye and have to tell them, "We removed some of your freedom; we removed the freedoms that Americans have enjoyed for all these years; we cut back on your freedom"?

Mr. President, I am not going back to Vermont to say that. I will oppose every one of these court-stripping bills.

I applaud the distinguished Senator from Montana for the efforts that he has made and I applaud the rather lonely fights in this Chamber which he and the distinguished Senator from Connecticut (Mr. WEICKER), have conducted. It is in the finest tradition of the Senate, but even more so, it is in the finest tradition of protecting the freedoms our country has always treasured.

CLOTURE MOTION

(The following proceedings occurred during Mr. LEAHY's remarks and are printed at this point by unanimous consent:)

Mr. BAKER. Mr. President, I send a cloture motion to the desk and ask that it be reported.

The PRESIDING OFFICER (Mr. SYMMS). The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, James A. McClure, Roger W. Jepsen, Jake Garn, Howard Baker, John P. East, Steve Symms, Strom Thurmond, Charles E. Grassley, Don Nickles, Gordon Humphrey, William Armstrong, and Edward Zorinsky.

(NOTE.—The above cloture motion was subsequently withdrawn and a replacement therefor filed. See later proceedings in today's RECORD.)

Mr. BAKER. Mr. President, this is a cloture motion against further debate on the Helms prayer amendment which will occur on Tuesday, if cloture is not invoked on Monday. There will be a vote on Monday on a cloture motion filed yesterday.

I call the attention of Senators to the fact that there is no time agreement by unanimous consent for that vote, and the vote will occur 1 hour after we convene, to follow the establishment of a quorum, under the provisions of rule XXII.

ORDER FOR RECESS UNTIL 2 P.M. ON MONDAY NEXT

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR NUNN ON MONDAY NEXT

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order on Monday next, I ask unanimous consent that the distinguished Senator from Georgia (Mr. NUNN) be recognized on special order for not to exceed 15 minutes.

It is anticipated that after the execution of the special order, there may be a brief period for the transaction of routine morning business; but, in any event, it will not interfere with the establishment of a quorum under the provisions of rule XXII and the cloture vote to follow thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BAUCUS. Would it be in order for the Senator from Montana to request that the majority leader ask unanimous consent that when the Senate returns to the debt limit bill on Monday, after the cloture vote, the Senator from Montana be recognized?

Mr. BAKER. I am sure that will be all right, and I will be pleased to put such a request. Let me first do one check on our side as to a notation on our calendar, which I think is not a problem. But as soon as that is done, I will be happy to make that request.

Mr. BAUCUS. I thank the Senator.

(Conclusion of earlier proceedings.)

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to yield the floor at this point without this being construed as the end of a speech for the purposes of the two-speech rule and to yield back to the Senator from Montana under the unanimous-consent agreement, originally entered into.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I thank the Senator from Vermont from the bottom of my heart.

The Senator from Vermont in all the time I have known him—and it has been several years—has continually and consistently stood up for basic principles of our constitutional form of government, and he has consistently stood up for honesty and got what is right. Over the long haul he has been able, I think, more than most people I have ever known, to withstand temptations that sometimes occur in political life to immediately satisfy some short-term whim where over the longer haul to do so would be to jeopardize or undermine some longer goal or gain.

I very much thank the Senator from Vermont for his efforts in these regards.

Mr. President, in that same vein, the Senator from Vermont has touched on the difference between the temptation to vote for this underlying amendment because it is sometimes characterized as a "school prayer amendment," on the one hand, and, on the other hand, need to withstand that temptation and instead protect the Constitution.

Mr. President, I might ask those who were supporting this amendment, What is really more important? Is it more important to vote for a statute which at some level apparently but not in reality satisfies those who disagree with the Court's decision in school prayer; or is it more important—and I am not exaggerating this one bit—to vote against such a statute in order to protect the Constitution of the United States?

I suggest perhaps presumptuously that those who think they would be pleased with a favorable vote on this underlying statute would actually be very displeased and very unhappy with the consequences of the action taken—the jeopardizing of their own rights, as well as the rights of others, under the Constitution. That is the issue here today.

It is a matter of education. It is a matter of understanding. If Americans realize that the underlying Helms school prayer amendment, which is essentially a courtstripping amendment, in fact would not give what they think they are getting but rather would take away their constitutional rights, I doubt that they would ask their Senators and Representatives to vote for it.

That is the issue up here today.

Mr. President, I see the distinguished Senator from Connecticut in this Chamber.

I ask unanimous consent that I might yield to the Senator from Connecticut without losing my right to the floor and upon being rerecognized the continuation of my speech not be counted as a second speech under rule XIX and that I be allowed to leave the Chamber while I have so yielded and that the Senator from Connecticut be permitted the floor under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, before I completely yield, I again commend the Senator from Connecticut for his yeoman efforts here. He has been a stalwart in protecting the Constitution of the United States. I admire his efforts very much.

Mr. WEICKER. I thank my distinguished colleague and good friend, the Senator from Montana. He is out there in the forefront, at the constitutional wall, and were it not for his efforts a long time ago the result might be quite different than it is today, and the result today is that the Constitution is as good today as it was yesterday. How long that is going to last, I do not know. Everyone seems to be taking a pretty good run at it. There is only a handful out here who are protecting it. I would hope we would have even more of our colleagues stand up on these issues.

Let me say at the outset that I could not help but note that there was comment in the paper that possibly it might be that the record vote should be taken on the matter of school prayer so it could be used against those who are up for reelection in the sense that they are not for prayer and are somewhat lacking in their enthusiasm for religion.

I use this occasion to point out it really should not have anything to do with the argument, that men who are standing up here and arguing on behalf of the Constitution, more particularly the first amendment, who are arguing against the establishment of any religion are not an irreligious group. Indeed, there are many of us who are of very deep faith. But it is that very fact, the fact that we believe in all prayer and all faith, we do not want a state prayer and we do not want a state religion.

That is what is at issue, pure and simple. It has nothing to do with being religious. It has nothing to do with belief in prayer.

I would hope that everyone prays mightily. I hope everyone prays his particular faith with overwhelming enthusiasm daily.

But all this to be done and can be done only in a free society. As soon as the society dictates as to what is going to happen in religious terms or more specifically the words that apply to that religion, then our freedom is whittled just that much and is something a good deal less than it is at present.

Mr. President, today is the 195th anniversary of the signing of the Constitution of the United States of America at the Constitutional Convention of September 17, 1787. So it has been about 200 years probably since as much attention has been paid to that document as is the case right now, as we have a flood of amendments seeking to alter or end-run it.

We are right now debating an amendment to the debt limit bill. An amendment, as I understand it, falls in the category of legislation. If the amendment is adopted, such adoption is concurred in by the House of Representatives, and signed by the President, it then becomes law.

The first amendment to the Constitution of the United States is as follows:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Without even getting into the substance, we are in violation of the Constitution. Nobody is going to deny that this certainly has to do with religion. It does not have anything to do with the economy; it does not have anything to do with housing; it does not have anything to do with the labor unions; it does not have anything to do with minorities; it does not have anything to do with railroads. It has to do with religion.

Do we have a copy of the amendment here on the desk? Let us just see what we are talking about. Here is the amendment:

> Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.

The Senator from Montana has eloquently argued the constitutional principle involved in stripping the Supreme Court of its jurisdiction. I will leave those arguments to him because he does it very well. But is there anybody who is going to argue that this amendment deals with religion? Yet the Constitution of the United States is very precise on the point:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

I would ask the question next, what salutary result is going to stem from all this official prayer, this state prayer, this state intrusion into religion? What is going to happen? Is the interest rate going to go down 5 or 6 points? Right now small businesses are going belly-up about 600 a week; is that going to stop? Are the conflicts in the Middle East, in Northern Ireland, throughout this world, Central America, and so forth, going to cease?

Is the fact that only 3 percent of this country can buy homes right now going to stop? What is it? The problem is, in this debate, that I have yet to hear why anybody wants this amendment, and probably in the explanations you will find the best reason for its defeat.

There is nothing wrong with the Constitution of the United States. There is a lot wrong with the economy, a lot wrong with unemployment, a lot wrong with housing, a lot wrong with the world, but there is nothing wrong with the Constitution. There is nothing wrong with my religion, nothing wrong with somebody else's. I do not even know what the religion is. If there was anything wrong about it I would not know about it.

Religions—you know, they belong in another category. I do not see what we are trying to do out here when we cannot even take care of the United States in terms of its secular problems and its secular needs. All of a sudden now we have become great theologians. We cannot even be great politicians. I do not think we are needed in terms of what resides in the human spirit, in terms of that which is in each of us and in what we believe, to whom we look as being our superior and our supreme being. I do not need to help anybody on that score.

Believe me when I say it that even there I have got all I can do to handle myself, and in that regard I am probably very inadequate in the expression of my faith. So why am I going to go around and start urging somebody else as to what he should or should not do?

Then I always appreciate the fact that, "Well, believe me this will be innocuous, it won't offend anybody, this prayer." Well, if I were a minister or priest or rabbi or however the shepherd of the flock is termed in whatever the faith happens to be, I think the last thing I would accede to would be to something that would be innocuous. At least, as I understand religion, it is not supposed to be innocuous. It is supposed to stand for something. Indeed even to a far greater extent in the ecclesiastical sense than that which mankind professes in a secular sense, it is supposed to be the ideal, the zenith of excellence, the epitome of courage. All of these things, as I understand it, apply to any faith regardless of what the specific belief.

But what we are going to have is an innocuous state prayer. It seems to me that is not only an insult to the Constitution but an insult to religion.

Mr. President, I ask unanimous consent that I be allowed to yield the floor to the distinguished Senator from Maryland (Mr. MATHIAS) at this point without its being construed as the end of a speech for the purposes of the two-speech rule, and I ask that upon the conclusion of his remarks that I then be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, before the Senator from Maryland speaks, I just want to express my great admiration for all he has stood for over the years as being a man of great courage, great perception, and certainly one of those who has proven in a lifetime's work of his adherence to and his advocacy of the Constitution of this Nation.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from Maryland.

Mr. MATHIAS. Madam President, I want to thank the Senator from Con-

necticut for yielding to me, and to thank him for his generous words. He has undertaken an important battle and I hope Senators will rally to his cause and that citizens will rally to his cause because it is important. I join with him in opposition to the amendment offered by the Senator from North Carolina (Mr. HELMS) which, in my view, would deprive the Supreme Court and all Federal courts of jurisdiction to consider voluntary school prayer cases.

Today's debate is the latest step in a determined and sustained effort in the 97th Congress to restrict the remedial powers or the jurisdiction of Federal courts.

Never before in my 20 years in Congress have I witnessed such a concerted assault on the Federal judiciary as has been mounted in the 97th Congress. In fact, Senator HELMS' amendment is just one of more than 30 such proposals that are before us. And, on March 2 of this year, one of these legislative proposals was actually passed by the Senate. At that time the Senate adopted the most extensive restrictions on the power of Federal judges to issue remedial busing orders ever passed by either House of Congress.

I have opposed such jurisdictional and remedial limitations in the past; I will continue to do so today and I will continue to do so in the future. They are, in my opinion, contrary to the letter and to the spirit of the Constitution and, beyond that, they are unwise as a matter of public policy.

This is certainly not the first time court curbing has been a hot topic in America. In fact, it goes back to at least 1793, when the U.S. Supreme Court ruled that States could be sued in Federal court in the case of Chisholm against Georgia. That decision raised a hue and cry of really dreadful proportions. One newspaper said it "involved more danger to the liberties of America than the claims of the British Parliament to tax us without our consent." The Georgia House of Representatives reacted even more violently. It passed a bill providing that anyone who executed any process issued in the case would be "guilty of a felony, and shall suffer death, without benefit of clergy, by being hanged." Fortunately for the citizens of Georgia, that bill died in the Georgia Senate.

The Chisholm decision was in fact overturned, in 1978, but it was done according to the procedures specified in the Constitution, specifically by an amendment, the 11th, to the Constitution. Nevertheless, since then literally hundreds of legislative proposals have been introduced in Congress and in State legislatures to counteract controversial court decisions or to preclude unwanted judicial pronouncements, frequently to do so by means other than the amending process laid out in the Constitution. President Franklin D. Roosevelt's abortive attempt in 1937 to pack the Supreme Court with justices who would support his New Deal was only the most flamboyant in a long line of efforts to curb the Court. Some of these court-curbing proposals called for constitutional amendments to rebuke the Court, but others followed a straight statutory route. Most were prompted by a single decision by the Court, a few by a series of judicial rulings. Neither liberals nor conservatives have been immune to the temptation to curb the Court, so it is not an ideological question. Lawmakers of every political coloration have introduced such measures. Despite their political differences, they were all motivated by a single desire: to undo the work of the Court.

In the past, Congress has considered constitutional amendments that would not simply change the effect of a Court decision, but rather would change our constitutional scheme by allowing Congress to review and veto certain high court rulings. It has contemplated amendments that would require more than a simple majority of the Supreme Court to invalidate an act of Congress. It has entertained a bill that would require unanimous court agreement to void any act of Congress, State law, or State constitutional provision. And it has even deliberated over a resolution that called for a constitutional amendment providing that Supreme Court Justices would be appointed by a panel composed of one judge from each of the highest State tribunals.

Since the Supreme Court's decision in Brown vensus Board of Education in 1954, almost every controversial high court ruling has provoked a legislative response aimed at limiting the Court's jurdisdiction. Rulings on reapportionment, obscenity, criminal confession, school segregation, and Communist subversion have all triggered such proposals. But not one of these post-Brown bills became law. On a few occasions, these legislative efforts got off to a fast start; but, each time, people on Capitol Hill and perhaps more importantly people off Capitol Hill, took a hard look at the proposal and realized the grave threat it posed to our constituional system of government; and, each time, Congress backed off. I hope history will repeat itself now. Although the proponents of the court jurisdiction bills seem to have had the early momentum in the 97th Congress, the tide is shifting. A number of developments bear this point out:

In August 1981, the American Bar Association overwhelmingly adopted a resolution opposing congressional curtailment of the jurisdiction of the Supreme Court or inferior Federal courts for the purpose of effecting changes in constitutional law.

On January 30, 1982, the Conference of State Chief Justices expressed its "serious concerns" about the court jurisdiction bills and characterized them as "a hazardous experiment with the vulnerable fabric of the Nation's judicial systems * * *."

In hearings before subcommittees of both the House and Senate Judiciary Committees, the overwhelming majority of legal scholars urged Congress not to enact any of these court jurisdiction proposals.

On March 17, 1982, 14 Members of this body took the floor of the Senate to express grave concern over the court-stripping bills. Among those speakers was the distinguished Senator from Arizona (Mr. GOLDWATER), who worried about the impact these proposals would have on the independence of the Federal judiciary and termed them "destructive of our federal system" and "contrary to the will of the Framers (of the Constitution)."

On May 6, 1982, Attorney General William French Smith strongly suggested that S. 1742, the school prayer court jurisdiction bill, was unconstitutional and expressed concern over such proposals as a matter of public policy.

In July 1982, a message was sent to Congress by 25 prominent lawyers calling on Congress to reject "all efforts to remove Federal court jurisdiction over constitutional rights and remedies." And this message was signed not just by 25 rank-and-file, garden-variety members of the bar, but by four former Attorneys General, four former Solicitors General, and by a former Justice of the Supreme Court of the United States.

So clearly, I think, we who oppose amendments of this kind are gaining momentum. Nonetheless, supporters of the court jurisdiction bills persist both in their legislative efforts and in their belief that these bills are a constitutional and wise response to controversial Supreme Court decisions.

The supporters of the Helms amendment are quite candid about their opposition to the Supreme Court's school prayer decisions and their intention to bypass these constitutional rulings. When Senator HELMS introduced his school prayer jurisdiction bill, early last year, he laid his cards right on the table. After condemning the Supreme Court's school prayer decisions as a distortion of "the intent and language of the (first) amendment," Senator HELMS stated:

> The limited and specific objective of this bill is, then, to restore to the American people the fundamental right of voluntary prayer in the public schools.

The proponents of the amendment of the Senator from North Carolina do not question its legitimacy under the Constitution. They argue that the amendment is a valid exercise of con-

gressional authority set forth in two provisions of article III of the Constitution:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.
>
> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original jurisdiction. In all other Cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

It is obvious that these provisions mean something. They give Congress some authority to regulate the jurisdiction of both the Supreme Court and the lower Federal courts. But, it is equally obvious that they do not deprive our entire Federal court system of the jurisdiction to decide certain types of constitutional issues. Clearly they do not give Congress free license to alter unpopular Supreme Court interpretations of the Constitution. Court decisions may be changed either by the means provided within the Constitution itself—in this case by invoking article V—or by the Court itself when it alters one of its prior constitutional holdings. There is no question in my mind that what this amendment is seeking to do is to find a back door for changing the organic law of the land. That is not our constitutional system of government. Nor should it be.

By approving the amendment now before us, Congress would preclude the Supreme Court and lower Federal courts from dealing with an important issue. Once Congress starts down this road, there is no area of human endeavor that could not be reached by a simple act of Congress altering the jurisdiction of the Federal courts to control the outcome of cases. Tomorrow, our most basic constitutional protections could be at stake. The entire Bill of Rights, it is not too much to say, could literally be "up for grabs."

David Brink, former president of the American Bar Association, told the House Judiciary Committee that proponents of the Court jurisdiction bills read the relevant portions of article III "as though they were the sole provisions of the Constitution." Supporters of these proposals ignore what Mr. Brink called our "total plan of government." They gloss over several key elements of our constitutional scheme, including the doctrines of separation of powers, judicial independence and judicial review, the supremacy clause of article VI and the constitutional amendment procedures set forth in article V. Above all, they fail to acknowledge the radical and deleterious alteration this amendment and related proposals would work on our constitutional edifice.

The Constitution's division of power among three branches of Government is hardly a product of happenstance. Rather, it is the keystone to the Founding Fathers' deliberate development of a theory of government. The authors of the Constitution were worldly men. They were scholars steeped in the history of civilization. Having no television to watch, they read history books. They knew how the human race had dealt in the past with problems of government, authority, power, and conflict. They knew what had been successful and what had failed. And they distilled this knowledge of the history of mankind into the Constitution. I feel confident that a majority of them had read Montesquieu's The Spirit of the Laws and adapted his conception of the appropriate division of governmental powers to fit their own ideas, to fit this climate, this geography. Thus the Founding Fathers constructed strong and independent branches of Government specifically to prevent the concentration of too much power in one branch, and in the words of Justice Louis Brandeis, "to save the poeple from autocracy." Then, to make sure that no one branch would dominate the others, they added some institutional checks and balances. One was judicial review—the power given to the Supreme Court to void State and Federal laws that it judged as violating the Constitution.

Alexander Hamilton pointed out the fundamental importance of this power in Federalist 78. "Without this," he wrote, "all the reservations of particular rights or privileges would amount to nothing." Yet it is precisely this check—the power of judicial review—that this amendment would emasculate.

Of all the concepts that we should conserve, that we should be conservative about, this is surely one.

Moreover, this diminution of the scope of judicial review would undermine both the uniformity in constitutional interpretations provided by the Supreme Court and the constitutional requirement of the supremacy of the Constitution and laws of the United States. There would no longer be a single tribunal to act as the final arbiter as to the meaning of certain provisions let us say, of the first amendment. Each State would be able to determine the meaning of this constitutional language in its own way.

I would predict that we would soon have 50 interpretations.

The result, as a distinguished Marylander, a former Secretary of State, a former Attorney General, William Rogers warned over 20 years ago would be that a person's constitutional rights would depend on where a person lived, in which State he happened to have his residence.

Enactment of this amendment would also make a mockery of the supremacy clause set forth in article VI, clause 2, of the Constitution:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

This constitutional command would be, as Prof. Leonard G. Ratner told the Senate Judiciary Subcommittee on the Constitution, "no more than an exhortation," if there were no tribunal with nationwide authority to interpret and apply the supreme law, over a century ago, Chief Justice Roger Taney, of Frederick, Md., made this very point.

He began his historic career as a member of the bar in Frederick County, Md., the bar to which I also belong. When he was Chief Justice, he made this same point. He said:

> But the supremacy thus conferred on this Government could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; . . . Without such a tribunal, it is obvious that there would be no uniformity of judicial decision; and that the supremacy (which is but another name for independence), so carefully provided in the clause of the Constitution above referred to, could not possibly be maintained peacefully, unless it was associated with this paramount judicial authority.

But the danger is not limited to this. These bills also undermine the doctrine of judicial independence, which is a principle worth preserving. It is not a new principle; it is an ancient one. Its origin can be traced back long before the Constitution of the United States was written. Herodotus, the historian of ancient Greece, has passed down to us this description of the Persian legal system of his day:

> These royal judges are specially chosen men, who hold office either for life or until they are found guilty of some misconduct; their duties are to determine suits and to interpret the ancient laws of the land, and all points of dispute are referred to them.

I am sure our Founding Fathers had read Herodotus. They were aware that by grafting judicial independence into the Constitution they were embodying the wisdom of the ages into our organic law. In this area, they were not creating a new experiment in government.

In addition, they were all too familiar personally with the abuses associated with a dependent judiciary, and they were determined to avoid them. In fact, one of the principal grievances listed against the British in the Declaration of Independence was that the King had made the colonial judges "dependent on his will alone, for the tenure of their offices, and the

amount and payment of their salaries."

As a result, the Constitutional Convention adopted a system of life tenure for Federal judges, subject only to the power of impeachment, and protected their salaries from diminution. It also specifically rejected the concept of legislative control over the judiciary by defeating a proposal to create "a national judiciary * * * to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature to hold office during good behavior." As one scholar has written, the Founding Fathers "hoped to make Judges free from popular pressure and legislative control. Their purpose was to create a truly independent judiciary limited only by the cumbersome process of impeachment."

Clearly, the framers conferred on Federal judges a degree of independence unprecedented in the annals of history. As the Supreme Court noted in United States against Will:

> A judiciary free from control by the Executive and legislature is essential if there is a right to have claims decided by judges who are free from potential domination by other branches of government.

But, we may ask ourselves how independent and free from domination from the legislature are our Federal judges, if they must constantly be fearful that their decisions may offend a majority of the Congress and result in enactment of a proposal like the one before us? As Whitney North Seymour, distinguished New York lawyer and former Assistant Solicitor General, told the Senate Judiciary Subcommittee on Internal Security 24 years ago:

> It is imperative in our system of government, that no branch of government can be subservient to other branches and that the courts retain the ultimate freedom to exercise independent judgment. No court can be completely independent if it is forced to feel that, when its decisions are unpopular, it may be stripped of its right to hear and decide similar cases. In the field of individual rights, such a shadow on the independence of courts might seriously jeopardize those rights.

Finally, the amendment now before the Senate is wholly inconsistent with the clear and unambiguous language of article V which sets forth the constitutionally permissible means of amending our organic law.

To be sure, the Founding Fathers realized there would be need periodically to change our organic law, and they wanted the procedures for amending the Constitution to be more flexible than those in the Articles of Confederation, which required the unanimous agreement of the States. But they did not want to make the process too easy. Only after lengthy debate was a compromise struck that, to quote James Madison:

> Guards equally against that extreme facility, which would render that Constitution too mutable; and the extreme difficulty, which might perpetuate its discovered faults.

This amendatory procedure set forth in article V of the Constitution was designed specifically to deal with the types of changes in the Constitution sought by the proponents of this amendment. But they want no part of the constitutionally prescribed procedures. They prefer, I regret to say, to substitute congressional legislation for the carefully crafted procedures set forth in article V. With all due respect to my colleagues in the Senate, I side with our Founding Fathers on how to go about altering our organic law. Their approach has stood the test of time and has served us well. It should be conserved.

It is inconceivable to me that the authors of the Constitution, who took such pains to construct a delicate balance between the coordinate branches of Government, who conferred on Federal judges a degree of independence unparalleled in the annals of history, and who devoted so much time and care to devising a method of amending the Constitution, would today endorse a method of circumventing constitutional rulings by a simple majority vote of both Houses of Congress. The fact is, they would not.

Constitutional considerations aside, there are other undesirable side effects to this amendment. It is advertised as a simple and easy way of undoing the effect of controversial Supreme Court decisions. It is suggested that a cure for "judicial tyranny" has been discovered. A discovery—eureka! But, I think that, in the end, these expectations will surely be dashed for one or more good reasons.

First, the amendment, if enacted, could be ruled unconstitutional—and I believe it would be. That, of course, would end the issue for once and for all. Court opponents would be back at square one, with no option but to follow the route they should have used in the first place: the constitutional amendment process.

Second, even if sustained by the courts, there is no certainty that this amendment would achieve the desired result. The Supreme Court's interpretations of the Constitution are the law of the land. As the Supreme Court stated in Cooper against Aaron:

> Article VI of the Constitution makes the Constitution the "supreme Law of the Land." . . . (*Marbury* v. *Madison*) declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. It follows that the interpretation of the Fourteenth Amendment enunicated by this Court in the *Brown* case is the supreme law of the land, and Art. VI of the Constitution makes it of binding effect on the States "any Thing in the Constitution or Laws of any State to the contrary notwithstanding."

Thus, Madam President, for this amendment to achieve the ends which its proponents seek, State judges would have to ignore their oath to support the Constitution and render decisions counter to the prevailing Supreme Court rulings on school prayer. Understandably, this very point was quite troubling to the Conference of State Chief Justices:

> First these proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oaths to obey the United States Constitution, nor their obligation to follow Supreme Court decisions interpreting and applying that Constitution, thus breaking with a 200 year practice and tradition. So viewed, these efforts to transfer jurisdiction to the state courts for these purposes neither enhance the image of those institutions, nor demonstrate confidence that state court judges will do their duty.

I think that the Senator from North Carolina and other advocates of this amendment misjudge the loyalty that State jurists feel to the Constitution. I am certain that these judges would observe the supremacy clause and continue to follow Supreme Court precedent. Thus, the net effect of this entire venture might be to perpetuate the very decisions that prompted all the fuss in the first place.

Even though State judges are surely loyal to the Constitution, this amendment would work a great—indeed, a cruel—hardship on the exercise of that loyalty because it would shift the legal battleground for a controversial social issue from the Federal to the State courts. Unlike their colleagues on the Federal bench, most State judges are elected to office. They do not have the security of life tenure, and they are not free from political pressures. They are, in fact, very vulnerable to the public mood and the tyranny of the majority. Thus, as the American Bar Association has noted, proposals like the one before us would "subject State judges to often hard choices between oath and career."

Last September, we saw a strenuous attempt in the Senate Judiciary Committee to force a Supreme Court nominee to commit herself, prior to confirmation, to voting to overturn the Court's 1973 decision on abortion. It does not take much imagination to picture the pressures that would be brought to bear to elicit such assurances from State judges during election campaigns.

One of the great strengths of the American system is that we have not allowed our Constitution to be pulled and hauled with each ebb and flow of the tide of public opinion. Today, however, the tug-of-war in Congress over these court-curbing bills threatens to rend the fabric of our Constitution—"the most wonderful work ever struck

off at a given time by the brain and purpose of man."

We must not let that happen.

Madam President, at the time he announced his retirement from the Supreme Court, former Justice Potter Stewart had the following conversation with a reporter:

He was asked the question:

(T)here are numerous proposals in Congress that would strip the Supreme Court of jurisdiction in subject matter areas. Without asking you about the constitutionality of this, does that concern you as a procss and as a prospect?

Justice STEWART. Yes; it does concern me. There is nothing new about having such bills in Congress. I think there have been such bills in Congress ever since I've been here, in fact long before that. The reason that people are concerned about it nowadays is that there seems to be considerably more of a possibility that one or more of such bills might be enacted. If they were enacted, if any such bill were enacted, it would present immediately very difficult constitutional questions. I'm glad I am not going to be here to have to wrestle with those, and I hope this Court will never have to wrestle with such questions because I hope that no such legislation will be enacted. So yes, I am concerned.

Madam President, I share Justice Stewart's concern. I do not share his sense of relief that he is not there to wrestle with it. I wish, in fact, he were there to wrestle with it because his service on the Court was of great distinction and of great value to the country, I do share with him the hope that the Court will never have to rule on the constitutionality of one of these Court jurisdiction bills. Obviously we in the Senate have much to say about whether or not the Court will ever have to render such a decision. And, by defeating the amendment now before us decisively and overwhelmingly, we can send out a clear signal that these proposals have no place in our constitutional government and that they should be shelved for once and for all. I urge my colleagues to join me in doing that and to defeat this amendment.

Madam President, I ask unanimous consent that I may be allowed to yield the floor at this point to the Senator from Ohio without such action being construed as the end of a speech for the purpose of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.

Mr. METZENBAUM. Madam President, I think we have here a situation that goes far beyond the matter before us. We are dealing with a proposal specifically spelling out that and I quote:

The Supreme Court shall not have jurisdiction to review by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation or any part thereof, or arising out of any act interpreting or applying or enforcing a State statute, ordinance, rule or regulation—and there we talk about what the bill is all about—which relates to voluntary prayers in public schools and public buildings.

If this measure is accepted by the Congress of the United States and signed into law by the President, then we have truly made a grave mistake in our Nation's approach to the separation of powers—its approach to the question of whether or not the Congress of the United States is going to say what the Supreme Court can hear and what they cannot hear. If we can enact legislation of this kind, which this Senator believes is patently unconstitutional, and if it is held valid and it succeeds in depriving the Court of jurisdiction relating to voluntary prayers in public schools and public buildings, then what is to keep us from going further and including within the prohibition any laws, regulations, ordinances, rules, or statutes relating to free speech? It would totally destroy the magnificent rights of free speech that we in this country have by saying that the Court could not rule in such cases.

What about the right of a free press? What would be the attitude of the people of this Nation if we were suddenly to say that the Court could not deal with any cases having to do with a free press? What would the newspapers, the radio, and the TV—say if some of us in Congress determined that we ought to limit the Court's jurisdiction as it pertains to the issues of a free press or the guarantees provided in the Bill of Rights and the Constitution?

Looking further, what about the right of freedom of assembly, the right of trial by jury, the question of slavery or involuntary servitude? What about the question of equal protection of the laws, the deprivation of life, liberty, or property without due process of law, the taking of property without just compensation? How about that particular right?

If we offered an amendment to this proposal that the Court could not have jurisdiction of any cases relating to the taking of property without just compensation, would some of those who are the great advocates of this particular proposal feel the same way about the Court's jurisdiction? Or would they start to concern themselves about the proper rights of individuals as those rights are protected by the Constitution of the United States?

We have to examine our consciences, examine where we are coming from and what our concerns are.

Once we have broken down that barrier and taken away from the Supreme Court of the United States the right to hear cases having to do with voluntary prayer in public schools and public buildings, then we have made the fateful inroad. The dike has been broken, and it is thereafter possible to enact legislation which would deprive the people of this country of the rights they truly treasure as provided in the Constitution of the United States.

This is a proposal that says, in essence, that the Consititution of the United States should no longer be followed. That is the whole issue before the Congress of the United States. There are those who, for political purposes, would attempt to make the issue of voluntary prayer in schools an issue on the merits, but you cannot look at the issue in that way so far as the measure before us is concerned; because this measure does not deal with the question of voluntary prayer in schools as an issue itself, but, rather, deals with the denial of the court's jurisdiction to hear cases pertaining to that particular subject.

If you can open the door, if you can take the lock off the gate guarding the courts' jurisdiction in one area there is no question that you have opened a Pandora's box, and you have probably totally destroyed the Constitution of the United States in the process.

A vote for this measure, in this Senator's opinion, is a vote to destroy the efficacy and the effectiveness of the Constitution of the United States.

Take other subjects: unreasonable searches and seizures; the question of slavery, involuntary servitude; the right of citizens to vote. Should we take away jurisdiction in any of those areas? If we enact this particular measure, have we not truly then said that the Court may be deprived of jurisdiction in any area in which we disagree with that particular part of the Constitution of the United States?

The issue here is the integrity of the court system and our constitutional way of government. Either you believe in that constitutional way of government, either you believe in the integrity of the court systems, or you do not. If you believe in the integrity of the court system, if you believe in the Constitution of the United States, then this proposal cannot be supported. This proposal goes further than the language of the proposal itself, and the implications of this proposal are totally unlimited. The implications are that the Constitution can be broken indirectly when the people of the country would not be willing to undo any of the constitutional provisions by the normal procedures as provided in that document, and that is by amending the Constitution.

The issue before the people of the country on these measures which would deny the courts jurisdiction is not an issue having to do with the matter of abortion or busing or school prayer or any of the other very emotional issues. All of these are issues it is fashionable these days to deal with through court-stripping legislation.

But, stripping the Federal courts of jurisidiction because transient political majorities do not like the court's constitutional interpretations undermines our society's democratic framework. It is bad public policy, and it is shortsighted. Simply stated, if you do not like the court's decisions, then use the procedures that we have in the constitution to change them. Do not do it by an amendment depriving the court of jurisdiction.

Madam President, such court-stripping amendments do not make sense. I find it hard to believe that the Members of this body support that approach. That simply cannot be the position of any person who believes that our constitutional system of Government is a sacred system and is one that we all want to protect.

Let me read what the Attorney General of the United States himself said on this subject:

> Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.
>
> The remedy for judicial overreaching, however, is not to restrict the Supreme Court's jurisdiction over those cases which are central to the core functions of the Court in our system of government. This remedy would in many ways create problems equally or more severe than those which the measure seeks to rectify.
>
> Essential to the principle of separation of powers was the proposition that no one branch of government should have the power to eliminate the fundamental constitutional role of either of the other branches.
>
> It is appropriate to note, however, that even if it were concluded that legislation in this area could be enacted consistent with the Constitution, the Department would have concerns as a policy matter about the withdrawal of a class of cases from the appellate jurisdiction of the Supreme Court. History counsels against depriving that Court of its general appellate jurisdiction over Federal questions. Proposals of this kind have been advanced periodically, but have not been adopted since the civil war. There are sound reasons that explain why Congress has exercised restraint in this area and not tested the limits of constitutional authority under the exception clause.

Madam President, I ask unanimous consent that I be allowed to yield the floor at this point without this being construed as the end of the speech for the purpose of the two-speech rule, and I yield to the Senator from Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Madam President, I wish to share with our colleagues my impression of one of the real issues in this debate, which I fear has been overlooked, and that is as it relates to the first amendment to the Constitution and the way in which the first amendment today is being applied that infringes upon the rights of students to free speech and which discriminates against them because of the religious content of their speech.

I am introducing statutory language which will accomplish this goal without utilizing the ill-advised method of stripping the Federal court jurisdiction over school prayer.

In Widmar against Vincent the Supreme Court held that, absent a compelling purpose, a public university may not deny the use of its facilities to student groups who wish to meet and speak on religious subjects if it makes its facilities generally available to student groups for meetings on nonreligious subjects. The Court based this holding not on the free exercise of religion clause but on the freedom of speech clause of the first amendment as made applicable to the States through the 14th amendment, for once the university "created a forum generally open for use by student groups," the Court said the university could not "discriminate against student groups and speakers based on their desire to . . . engage in religious worship and discussion * * *."

I recall that while I was Governor of my State a well-known Communist speaker by the name of Gus Hall was making a round of college and university campuses across the country. There was a great outcry by many in my State for me to prevent Gus Hall from the use of the public universities from which to make his statements relating to Karl Marx. I could not and would not, due to the constitutional guarantee of free speech, in any way attempt to intervene to prohibit Gus Hall from speaking on our campuses.

However, that being the case, not only in Oregon but other States to have had Billy Graham come to the campus or any other prominent religious leader and speak in the same forum about Jesus Christ would have been interpreted to violated the establishment of religion" clause and thereby a violation of separation of church and state.

Madam President, I find this ridiculous in a free society dedicated to the principles of free thought.

The denial of opportunities to exercise free speech because of its religious content is now occurring throughout the country today.

Let me cite a few examples:

At Guilderland High School in New York, Christian students sought and have been denied the right to meet before classes for prayer and Bible study. The meetings were strictly voluntary, required no school announcements, no school sponsorship, but a Federal district court and appeals court have upheld the school board's refusal to allow the group to meet.

And yet students can voluntarily associate themselves in that school for other purposes, philosophical societies, camera-photography societies or clubs, all the kinds of clubs in which they voluntarily associate themselves there because of mutual interest and have open and freedom of discussion, but they cannot meet to study the Bible.

I do not support the school prayer amendment. I oppose the idea of any kind of mandated prayers in schools. I do not believe that is in line with our constitutional separation of church and state.

Frankly, I do not have time to write all the prayers, and I do not trust anyone else to. So consequently I have to oppose the whole concept.

But I am speaking today not on the right of religious exercise but I am speaking on the freedom of speech, the first amendment of the Constitution, that is being denied under this ridiculous interpretation by the courts relating to freedom of religious activity.

In Lubbock, Tex., the school board drafted a careful policy that accommodated student initiated religious activity on an equal basis with other student groups in the use of school facilities for meetings before and after school. The U.S. Court of Appeals for the Fifth Circuit struck down this school board policy and forced a total ban of voluntary, student-initiated religious activity. *Lubbock Civil Liberties Union* v. *Lubbock Independent School District*, 669 F.2d 1308 (5th Cir. 1982) is the citation of that case.

And yet in that same school district they could meet and probably have a political discussion on any part of political philosophy they wanted to. They could have a meeting on economic philosophy. They could have a meeting on social philosophy, but not on religion.

Madam President, once a school board establishes the forum for the pursuit of information or knowledge then that forum cannot discriminate on the content of that association or voluntary organization. That is what the Supreme Court ruled as it related to universities and colleges.

What I want to do in my bill is to apply that same constitutional principle the Court applied to the colleges and universities to the elementary and secondary school systems of this country.

Let me cite a third example.

In Williamsport, Pa., the public high school allows students to participate in student clubs and groups such as Student Government, Key Club, Language Clubs, Future Homemakers, music and publication groups. The clubs allow students to exchange ideas and personal opinions on a broad range of topics, subjects, and issues, and no one attempts to intervene to determine the content of those discussions. The clubs meet from 7:55 a.m. to 8:23 a.m. each Tuesday and Thursday

mornings during a regularly scheduled activity period. The clubs may also meet before and after school hours.

In September 1981, a group of students at Williamsport High School requested permission to form a student club to be called Petros which would meet voluntarily during the regularly scheduled activity period on Tuesday and Thursday mornings. The purpose of this student club was for students to aid one another in their personal, social, emotional, and intellectual growth and development by studying the Bible, discussing religious subjects, praying together, and sharing personal experiences. The principal of the high school and the superintendent of the district denied the request on the ground that the meetings would be religious in content. In January 1982, at a meeting of the school board, the request by the students was denied on the same ground.

Hopefully, the students will prevail in their complaint that they are being denied their first amendment rights of free speech because of the religious content of the proposed meetings. However, if the Brandon and Lubbock decisions are followed by the court, a further unfortunate precedent would be set.

The bill I introduce today extends the principle of the Widmar decision to the public secondary school. When a school generally allows groups of students to meet during a noninstructional part of the school day, that school cannot discriminate against any meeting because of the religious content of the speech at the meeting.

What would it be if we had a political club meeting and the students decided they wanted to discuss Karl Marx and communism? I would defend that right of that student group to engage in that discussion as I would defend anyone's right but I also say I would defend their right to have a meeting to study the Bible and discuss the person of Jesus Christ, or Buddha, or Mohammed, or any other religious leader.

School boards and school administrations have no right to abridge the first amendment, freedom of speech, by declaring what the contents of those meetings are or will be only in the case of religion.

The legislation that I introduce also insures that school officials will continue to have discretion to insure that the meetings are voluntary, orderly, lawful, do not in any way engage in illicit or illegal or inappropriate activity. That is the right of administering any school organization. But it should be applied across the board.

Most importantly, this language specifically states that no student can be forced to participate in prayer or any religious activity. It has to be strictly voluntary.

Moreover, State or school officials will have no authority to influence the form or content of any prayer or other religious activity that such clubs may engage in. This language is similar to the amendment suggested by the National Association of Evangelicals in testimony with respect to the President's prayer amendment to the Constitution.

What needs to be addressed is the recent series of lower court decisions that have singled out religious speech as the one form of speech unworthy of protection in the schools. It is even more alarming to see school officials throughout the country deciding to ban all religious speech from public schools. By protecting the free speech rights of students in public high schools the bill is consistent with the Widmar decision.

In prohibiting State sponsorship or influence in formulating the content of prayer or other religious activities, the legislation is consistent with the original Supreme Court decisions of Engel against Vitale and Abington against Schempp.

Madam President, I ask unanimous consent to have printed in the RECORD a copy of my testimony before the Senate Judiciary Committee on this issue and the memorandum mentioned in the statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR MARK HATFIELD

In 1962 the Supreme Court invalidated a non-denominational prayer that had been written by the New York Board of Regents and approved by local school boards. By imposing a "watered down" prayer on young students, the New York Regents adopted a useless gesture that was neither "spiritual" nor "prayer."

Since that decision, the Supreme Court's ruling has been blamed for the deteriorating quality of public education, for the breakdown of the American family, for the decay in moral principles and abdication of governmental institutions to the norm of secular humanism. The school prayer decision has served as a symbol for all that is wrong in America. "Prayer Amendments" to the U.S. Constitution, legislative initiatives and even attempts to remove the jurisdiction of the U.S. Supreme Court have been vigorously pursued in the Congress. Most recently, President Reagan submitted his proposed Constitutional Amendment which would allow "Voluntary Prayer" in public schools.

Mr. Chairman, I strongly believe that this nation needs to have a spiritual renaissance—one that begins in the hearts and minds of individuals and works its way through our churches, schools and public institutions. The First Amendment to the U.S. Constitution is a limitation on the power of government to promote, establish, or discourage religion but it sets no limit on private initiated prayer, observances of religious customs or political action that stems from moral beliefs. Instead of concentrating our attention on initiatives like a School Prayer Amendment, I would urge my Colleagues to devote their energies to rooting out ridiculous barriers that have been erected to forbid voluntary meetings of students who seek to meet and pray in non-disruptive ways.

Let me give you two examples that demonstrate the problems that vibrant believing students are facing across the country.

(1) At Guilderland High School in New York, Christian students sought and have been denied the right to meet before classes for prayer. The meetings were voluntary, required no school announcements or sponsorship. A federal district court and Appeals Court have upheld the school board's refusal to allow the group to meet. *Brandon* v. *Guilderland Control School District*, 635 F.2d 971 (2d Cir. 1980), Cont. denied, 102 S.Ct. 970 (1981).

(2) In Lubbock, Texas the school board drafted a careful policy that accommodated student initiated religious activity on an equal basis with other student groups in the use of school facilities for meetings before and after school. The United States Court of Appeals for the 5th Circuit struck down this school board policy and forced a total ban of voluntary, student-initiated religious activity. *Lubbock Civil Liberties Union* v. *Lubbock Independent School District*, 669 F.2d 1308 (5th Cir. 1982)

Mr. Chairman, it is unduly restrictive actions like those in Lubbock and Guilderland High School to which the Congress should devote its attention. By chilling sincere efforts to pray for God's grace, and forgiveness in voluntary meetings that do not disrupt the academic functions of a public school, we do far more damage to the nation's moral fiber than through any Supreme Court decision that invalidates a routine, formalistic, and spiritually bankrupt prayer that the New York Regents drafted in the 1960s.

Because of these concerns, I asked the Christian Legal Society to provide me with a legal memorandum outlining the problems that have developed in restricting the religious freedom which may be enjoyed by students on public campuses. CLS has done some extraordinary work in researching, litigating and advocating on behalf of religious freedom. I would like to have the Committee consider the CLS memorandum and recommendations for legislative initiatives as a realistic alternative to the School Prayer Amendment.

MEMORANDUM OF JULY 13, 1982

To: Samuel E. Ericsson.
From: Stephen H. Galebach and Lowell V. Sturgill, Jr.
Question Presented: What is the best legislative means to apply the principles of the *Widmar* v. *Vincent* decision to the context of public schools?

President Reagan recently introduced an amendment to overturn the Supreme Court's controversial decisions of the early 1960's against state-initiated prayer and Bible-reading in public schools. Some of the most serious obstacles to religious activity by students in public schools, however, have received little public attention. In recent years many school administrators, and some lower courts, have begun to prohibit even those forms of religious speech by high school students that are purely voluntary and initiated by students with no sponsorship by the state. Administrators and judges have prohibited student clubs that are religious in nature, and have banned before and after school small-group meetings—thus

going beyond any prohibitions the Supreme Court has required.

Because these more extreme measures against religious expression are not mandated by the Supreme Court, they can be remedied more quickly than by constitutional amendment. While the President's amendment would protect such purely voluntary student meetings, it is possible at the same time for Congress to pass a stop-gap statute to provide immediate protection for those forms of student religious activity that are most clearly voluntary and removed from state sponsorship.

The more extreme actions of school administrators and judges are especially subject to persuasive attack, because they are contrary to the reasoning of the Supreme Court's *Widmar* v. *Vincent* decision of December, 1981. That decision rested on the principle that states may not discriminate against forms of speech that are religious in content. Many of the more extreme restrictions on student religious speech are precisely discriminations based on content. This memorandum considers the possible legislative means to apply the Widmar principle not only to state universities (as the Supreme Court did in that case), but also to state secondary schools.

I. THE PRINCIPLE OF *WIDMAR* V. *VINCENT*

In *Widmar* v. *Vincent*, 102 S. Ct. 269 (1981), a student group called "Cornerstone" requested access to public facilities on the campus of the University of Missouri, for the purpose of holding religious meetings. Id. at 272. Cornerstone sought access on the same terms that applied to the use of university facilities by more than 100 other student groups. The University denied the request pursuant to a university policy prohibiting religious meetings on campus. Id. The Supreme Court ruled against the University, holding that it could not deny use of its facilities for religious meetings if it allowed similar use by non-religious groups on a general basis. Id. at 278.

In so ruling, the Supreme Court reaffirmed the First Amendment principle that regulation of speech must be "content-neutral." See *Heffron* v. *International Society for Krishna Consciousness, Inc.*, 101 S. Ct. 2559 (1981). This principle means that a state may not discriminate against a particular type of speech based on the content of the speech, without offering a compelling interest in justification. See *Carey* v. *Brown*, 447 U.S. 455 (1980).

The Widmar decision confirms that the principle of "content-neutrality" governs state action in the context of a state university. Widmar holds that once a state university creates an "open forum" for speech—for instance, by allowing student groups to meet freely on campus—it may not discriminate against meetings where the speech has religious content or any other particular content. The Widmar Court left open, however, the question of how the principle of content neutrality will apply to state action in the context of student meetings in public secondary and elementary schools.

II. THE PROBLEM: PUBLIC SCHOOL AUTHORITIES AND LOWER FEDERAL COURTS HAVE REFUSED TO ENFORCE THE WIDMAR CONTENT-NEUTRALITY PRINCIPLE WITH RESPECT TO PUBLIC SECONDARY SCHOOLS

A. The Supreme Court decisions on "prayer in school."

In the context of public schools, the Supreme Court has struck down only forms of prayer and religious activity that are initiated in various ways by the state. Specifically, the Court has ruled unconstitutional state policies that initiated student recitation of the Lord's Prayer in class, *Engel* v. *Vitale*, 370 U.S. 421 (1962); reading from the Bible over a school intercom, *School District of Abington Township* v. *Schempp*, 374 U.S. 203 (1963); bringing a religious teacher on campus to do class instruction, *McCollum* v. *Board of Education*, 333 U.S. 203 (1948); and posting of the Ten Commandments on school walls, *Stone* v. *Graham*, 449 U.S. 39 (1980). The Supreme Court thought these practices violated the principle of state neutrality toward religion, because the state initiated the religious activity, the context indicated state sponsorship of the religious activity, and the students could avoid the religious activity only by taking the affirmative step of asking to be excused. The Supreme Court has never held against religious activity which is purely voluntary, initiated by students, and merely *allowed* by the school on the same basis as student-initiated non-religious activities.

B. Actions of school authorities and lower courts.

A limited sampling of public schools across the country by the Christian Legal Society has already uncovered the following examples of actions by school authorities which are contrary to the content-neutrality principle of Widmar:

1. In Williamsport, Pennsylvania, a student group applied to the local school board for permission to start a club called "Petros", which planned to hold religious meetings before school, after school, or during a school club period. The school board refused the request, forcing the students to file suit in federal district court to seek protection of their rights of freedom of speech and freedom of assembly.

2. In Anderson, South Carolina a public high school opens its doors one-half hour early each day for peaceable student meetings in vacant rooms. For some time, a group of students has used this opportunity for voluntary meetings to pursue Bible study, prayer, and worship. Recently, the local representative of the American Civil Liberties Union has publicly threatened to file suit against the local school board to require it to police the content of student speech by banning any meetings with religious content.

3. For several years prior to the 1980-81 school year, students at North Allegheny High School in Pittsburgh, Pennsylvania, had met on school grounds to study the Bible and pray. The meetings occurred during a twenty-five minute period of time after the arrival of school buses and before the beginning of homeroom period. When this practice was brought under question, high school administrators and then the superintendent of the school district denied a formal request made by the students to use a classroom before school hours began.

4. In Dixon, Illinois (the hometown of President Reagan), a local school board has voted to ban all voluntary religious activities of students on school grounds. Also, the same school board will allow outside community groups only four opportunities per year to rent or reserve school facilities for meetings after school hours if these groups intend religious speech; non-religious groups enjoy after-hours access without this restriction.

5. In *Brandon* v. *Guilderland Central School District*, 635 F.2d 971 (2d Cir. 1980), cert. denied, 102 S. Ct. 970 (1981), the United States Court of Appeals for the Second Circuit upheld the decision of the Guilderland Board of Education to ban voluntary, student-initiated religious meetings from school property during, before, and after school hours with language implying that no religious activity whatsoever is permissible in public schools. The Second Circuit said that an "adolescent may perceive 'voluntary' school prayer in a different light if he were to see the captain of the school's football team, the student body president, or the leading actress in a dramatic production participating in communal prayer meetings in the 'captive audience' setting of a school." 635 F.2d at 978. This language would logically lead school officials to prevent students from bowing their heads to say a prayer before lunch, carrying their Bible to school, or doing any other overt religious act of free exercise of religion within the boundaries of the school. The Supreme Court declined to review this decision in December, 1981, shortly after deciding Widmar.

6. In *Lubbock Civil Liberties Union* v. *Lubbock Independent School District*, 669 F.2d 1308 (5th Cir. 1982), the United States Court of Appeals for the Fifth Circuit went even farther than the Second Circuit did in Brandon, by forcing a total ban of voluntary, student-initiated religious activity in a school district that wanted to accommodate the free exercise of religion and freedom of speech rights of public school students. The Fifth Circuit upset a carefully drafted school board policy, adopted after public deliberation, which purported only to treat all student-initiated groups equally with regard to access to school facilities for meetings before and after school.

III. CONGRESSIONAL LEGISLATION TO ADDRESS THE PROBLEM

The basic question is whether Congress can legislate to apply the Widmar principle of content-neutrality to public schools, without violating the Establishment Clause. The Widmar decision held that a content-neutral policy of equal access to state university facilities did not violate the Establishment Clause, because any religious meetings would be student-initiated and would receive only incidental benefits from the state on the same basis as non-religious meetings, with no appearance of state sponsorship.

In a footnote, however, the Widmar Court carefully reserved the question whether the Establishment Clause prevents application of the content-neutrality principle to protect religious speech at the secondary and primary school levels. 102 S. Ct. at 276 n.14.

A. The Establishment Clause As Applied to Public Schools.

In *Widmar* v. *Vincent*, the Supreme Court declined to consider whether an open forum policy in a public elementary or secondary school, allowing students to meet equally in religious and non-religious groups, is neutral toward religion vs. non-religion. The Court suggested, however, that the neutrality of such a policy will turn at least partly on the "impressionability" of students in the public schools. 102 S. Ct. at 276 n.14. In other words, the Court thought that the immaturity of younger students might cause those students to perceive state sponsorship of religion from an open forum policy, even though the same policy would not connote state sponsorship in a university setting.

Therefore, the application of the Establishment Clause to public schools will turn at least partly on the fact question of whether the students involved are significantly less mature than college students. A

further important question will be, given the maturity level of the students, will they be likely to perceive an equal access policy as state favoritism or sponsorship toward religion, or will they be likely to perceive discrimination against meetings with religous content as a form of state hostility toward religion?

B. The Appropriate Role for Congress.

The maturity of public school students and the relationship of maturity to the impression of state sponsorship of religion are factual questions that Congress is well-able to resolve through its investigatory and factfinding powers. Congress is well-suited to exercise its legislative fact-finding capacity to solve the problem at issue here, by investigating relevant facts and deciding at what grade level students are mature enough to choose freely among various types of extracurricular student group activities, both religious and non-religious, without danger of student perception of state sponsorship of religion. For example, Congress might very well decide that secondary school students are mature enough to choose freely among the types of voluntary student activities in which they will participate, while elementary students are not sufficiently mature.

IV. CONGRESS HAS AUTHORITY TO PROVIDE A SOLUTION TO THE PROBLEM

A. Congressional Power Under Section Five of the Fourteenth Amendment.

The Fourteenth Amendment's due process and equal protection clauses incorporate several individual constitutional rights as binding on the states, including the freedom of speech, *Fiske* v. *Kansas*, 274 U.S. 380 (1927), and the freedom of assembly, *DeJonge* v. *Oregon*, 229 U.S. 353 (1937). Section Five of the Fourteenth Amendment provides that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Therefore Congress has general authority to enact legislation requiring states to respect constitutional rights of free speech and free association.

The content-neutrality requirement, a fundamental incident of the right of freedom of speech, also falls within the due process and equal protection obligations imposed on the states by the Fourteenth Amendment. See *Widmar* v. *Vincent*, 102 S. Ct. 269 (1981). Therefore, Congress has authority pursuant to Section Five of the Fourteenth Amendment to enforce the content-neutrality principle upon state administered public schools, by appropriate legislation.

Congress should not be deterred from applying Widmar to public schools merely because of the refusal of two circuit courts to do so. See *Lubbock Civil Liberties Union* v. *Lubbock Independent School District*, 669 F.2d 1308 (5th Cir. 1982); *Brandon* v. *Guilderland Central School District*, 635 F.2d 971 (2d Cir. 1980), cert. denied 102 S. Ct. 970 (1981). A recent Congressional Research Service memorandum commenting on Senator Jepsen's proposed Widmar bill concludes that since the Supreme Court has not ruled on this issue, Congress has authority under Section Five to make its own determination and legislate accordingly. Congressional Research Service Memorandum at 12. See *Fitzpatrick* v. *Bitzer*, 427 U.S. 445 (1976); *Katzenbach* v. *Morgan*, 384 U.S. 641 (1966). The lower federal courts are split on this issue; a district court in the Sixth Circuit has allowed student-initiated religious expression during non-instructional hours. *Reed* v. *Van Hoven*, 237 F. Supp. 48 (W.D. Mich. 1965). Thus, Congress could supply clarity where the lower courts have created confusion.

B. Congressional Authority Over The Appropriations of the Federal Government.

A bill applying the Widmar principle to public schools is independently supported by Congressional authority over federal government appropriations. Congress has broad power to attach conditions to its grant-in-aid programs, as long as those conditions are themselves constitutional. See, e.g. *Fullilove* v. *Klutznick*, 448 U.S. 448 (1980); *Steward Machine Co.*. v. *Davis*, 301 U.S. 548 (1973); cf. *Harris* v. *McRae*, 448 U.S. 297, reh. den. 448 U.S. 917 (1980).

Again, the absence of any definitive statement by the Supreme Court on whether content-neutrality at the public secondary school level violates the Establishment Clause as applied to religious speech has led the Congressional Research Service to conclude that this "proposed condition cannot at this time be said to impose an unconstitutional condition on federal assistance to such schools." See Congressional Research Service memorandum at 6. In sum, Supreme Court silence on the Establishment Clause question in the public secondary school context leaves the Congress free to enact a statute that would apply the Widmar principle of content-neutrality to public schools in a manner consistent with the Establishment Clause according to the view of Congress.

V. WHAT WOULD BE THE RELATIONSHIP OF A BILL EXTENDING THE WIDMAR PRINCIPLE TO PUBLIC SCHOOLS WITH THE PRESIDENT'S PROPOSED PRAYER AMENDMENT?

The President's Prayer Amendment, under its most likely interpretation, would solve the problem addressed by a bill extending Widmar to public schools, that is, the failure of lower courts and school boards to so apply the Widmar free speech principle of content-neutrality.

The President's proposed Prayer Amendment reads as follows:

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No persons shall be required by the United States or by any State to participate in prayer."

The proposed amendment would seem to address the failure of lower courts and school officials to allow voluntary, student-initiated religious group meetings on the same basis as non-religious groups as required by the Widmar content-neutrality principle.

The essence of the prayer amendment is to correct the current judicial and public misconception that the First Amendment Establishment Clause bars religion from any influence on public life in general, and public schools in particular. The effect of the amendment's reaffirmation of an earlier understanding would be to allow reinstatement of non-coerced individual and group prayer in all public institutions insofar as the First Amendment has been considered a bar. But it would not require such reinstatement, if states construed such a bar from state laws or constitutions.

As a corollary effect, the prayer amendment would elminate use of the Establishment Clause as a justification for discrimination against meetings and speech of public school students when religious in nature. Thus, the prayer amendment in part pursues the same objective as would a bill applying the Widmar content-neutrality rule to public secondary schools.

In addition to being compatible with the prayer amendment, a bill applying content-neutrality to public secondary schools enhances the cause of that amendment in several ways. First, Administration and Congressional support of a bill extending the Widmar principle to public secondary schools would demonstrate the resolve of those branches to deal with the loss of voluntary religious activity from public schools. Second, while the President's Amendment will take at least several years to enact, a statute could correct relatively quickly the most recent and perhaps the most extreme of the judicial distortions at which the amendment is aimed. Third, a Widmar bill, within its sphere of impact, could make an affirmative requirement of neutrality, rather than just removing the federal Constitution as the asserted reason for discrimination against religious activity.

Furthermore, a statute extending Widmar to public schools focuses attention on those violations of freedom of speech and association that are most offensive to the overwhelming majority of American people. This has been indicated in informal conversations between Christian Legal Society attorneys and representatives of several groups which normally express reservations about state-sponsored prayer, but which endorse the content-neutrality principle.

Congressional hearings on this bill could easily be consolidated with hearings on the President's Prayer Amendment. They are simply two mutually consistent answers to the same problems. A bill would be only a temporary solution to a part of the problem; thus, it would in no way eliminate the need for an amendment.

VI. PROPOSED LANGUAGE FOR A BILL EXTENDING THE WIDMAR PRINCIPLE TO THE PUBLIC SCHOOLS

Several good proposals have already been offered for such a bill, including proposals by Senator Jepsen, Senator Helms, and the law firm of Ball and Skelly. The only question is which is best. Copies of each proposal are attached to this memorandum for references as appendices.

A. Christian Legal Society Also Has Drafted Language for a Widmar Bill in Public Schools. It Reads As Follows:

"No public secondary school receiving federal financial assistance, which generally allows groups of students to meet during non-instructional periods, shall discriminate against any meeting of students on the basis of the content of the speech at the meeting, provided that the meeting shall be voluntary and orderly and that no activity which is in and of itself unlawful need be permitted." [1]

B. Explanation of Terms of Christian Legal Society Proposal.

1. The proposed statute limits the application of Widmar content-neutrality to secondary schools. The statute omits reference to primary schools. This is in recognition that Congress, and perhaps the Supreme Court as well, might consider the danger of perceiving state sponsorship from equal treatment of religious activity too great for primary-age children.

2. The statute applies only against those schools that receive federal financial assistance. This self-limitation should satisfy those who defend the rights of local schools that do not accept federal funds to administer their programs free from federal intervention. Regarding the time period during

[1] An alternative proposal might add the word "religious" before the word "content" in this statute. See infra at 15.

which a school must have accepted federal funds to come within the requirements of this statute, the statute leaves this matter open as the subject of reasonable and appropriate regulation by proper federal administrative officials, in light of legislative history that should be clearly established after hearings.

3. The statute applies to schools that "generally" allow student meetings. Use of the term "generally" conforms to the decision of the Supreme Court in *Widmar* v. *Vincent*, 102 S. Ct. 269, 277 (1981). The significance of the term is that by its use, the statute applies not to schools which have allowed one or two groups to meet on a one-time basis, but to schools that allow many student groups to meet in general. *Cf.* Congressional Research Service memorandum (arguing that Senator Jepsen's proposal has a weakness in its omission of the term "generally.")

4. Use of the term "groups" of students also comports with the Supreme Court's decision in Widmar. See 102 S. Ct. at 273. The statute by its terms does not require content-neutrality regarding the isolated religious speech of one student absent a listener. (Students are already allowed to pray silently by themselves.)

5. The statute limits application of content-neutrality to "students". Thus, the statute does not address whether faculty, staff, or school administrators may engage in religious group meetings on a public school campus. Again, this limitation comports with Widmar, where the Court expressly limited its holding to students. 102 S. Ct. at 273 n.5.

6. The statute demands that the state must not discriminate against any student "meeting" on the basis of speech. Use of the limiting term "meeting" mirrors the holding in Widmar, which precluded content-based discriminations only against student "meetings". 102 S. Ct. at 273. Of course, the statute incorporates the Widmar Court's implicit teaching that not only may states not discriminate against student meetings on a content basis, but also that the state may not regulate speech occurring in a meeting on a content basis.

7. By use of the term "non-instructional periods", the statute intends to mean any period of time, either before, during, or after the school day, during which the students who wish to meet as a group for religious purposes do not have classes or other scheduled activities. A time period unscheduled for class for several group members constitutes a "non-instructional period" allowing those members to meet for purposes of this statute, even though other members officially part of the group have classes scheduled, and therefore cannot meet at that time.

8. The statute uses the term "discrimination" instead of the word "exclusion" as used in *Widmar* v. *Vincent* for several reasons. First, the term "discrimination" better represents the hostility toward religion that a school board shows by denying meeting privileges to student religious groups on an equal basis with non-religious groups. Second, "discrimination" is a broader term than "exclusion". The term "discrimination" includes a prior restraint policy of total refusal of access to meeting facilities as was the case in Widmar, as well as after-the-fact penalties against students who chose to attend a religious meeting, and subtler forms of discrimination against student religious groups falling short of a total exclusion from meeting privileges.

9. "Content of the speech at the meeting" is a broad phrase precluding school officials from discriminating against many forms of speech, including educational, ethical, religious or vocational speech but not to the exclusion of speech of other subject matter. Any speech "at the meeting" is subject to the content-neutrality requirement against state discrimination, no matter whether the discrimination would occur before the meeting would be held, during the pendency of the meeting, or after the meeting had ended.

10. The statute's requirement that student meetings must be "voluntary" ensures that a public school will neither use student meetings as a means of infringing the free exercise of religion rights or freedom of speech "right to hear" rights of students, nor as a vehicle for state initiated religious or non-religious activity of the sort that would violate the Establishment Clause.

11. The statute requires that student meetings must be "orderly". The term "orderly" is intended to summarize and represent the right and duty of school officials to administer an educational program without material disruption by students, as established in the case of *Tinker* v. *Des Moines Independent School District*, 393 U.S. 503 (1969).

12. The statute used the phrase "in and of itself unlawful" to designate those types of speech that are not normally protected forms of speech under the First Amendment, such as criminal speech. A school could prevent students from meeting to discuss illegal narcotics deals.

13. Finally, it is important to note that the proposed language of this statute, in contrast to the language of other similar proposed statutes, does not use the word "religious", or purport to "guarantee the rights of religious speech on the same basis as non-religious speech" for several reasons. First and foremost, a statute drawn in strictly neutral terms should draw the support of a number of groups engaged in many different forms of speech better than would a statute drawn on religious terms. Second, the Fifth Circuit seized upon the religious focus of a school board's equal access policy in *Lubbock Civil Liberties Union* v. *Lubbock Independent School District*, 669 F.2d 1308 (5th Cir. 1982) to strike down that policy as having an impermissible religious purpose condemned by the Establishment Clause.

On the other hand, there are good reasons for drafting the statute to ban discrimination based on the religious content of speech, rather than banning all content-based discriminations. Banning all content-based discriminations may be undesirable if it precludes school officials from protecting students against influence from witchcraft or other harmful activities and ideas.

14. One possible miscellaneous objection to the proposed bill is that, by requiring public secondary schools to treat speech in a content-neutral manner, the bill might open school doors to the influence of unsavory groups such as religious cults or the communist party. The proposed bill should not fall to this objection, however, for two reasons. First, the fear of undue influence by unpopular groups in the public schools is in large part a fear that adult representatives will use access to school facilities as a means to convert unsuspecting and impressionable students. In contrast, the proposed bill leaves intact the authority and discretion of school officials to regulate the access of adult outsiders to school facilities. The bill requires equal treatment of speech only for student initiated groups with student membership.

Second, unpopular groups already have substantial rights on the public school campus as a matter of constitutional law. For example, at least one court has held the public school officials may not discriminate against communist speech in the school campus because of its content. See *Danskin* v. *San Diego Unified School District*, 28 Cal.2d 536, 171 P.2d 885 (1946). Thus, in actual effect the proposed bill would merely extend to religious speech those privileges that courts now require for other forms of student speech.

QUESTIONS AND ANSWERS CONCERNING A BILL REQUIRING NONDISCRIMINATION AGAINST RELIGIOUS SPEECH IN PUBLIC HIGH SCHOOLS

1. Why should Congress act to ensure equal treatment of religious speech with non-religious speech on public secondary school campuses?

American public schools have a tradition of instilling in our young citizens the value of free exchange of ideas. Our schools have taught that robust debate between differing views leads toward mutual understanding, and fuels the search for truth and meaning. Veneration for the right of free speech has even led one court to require a public school to allow a Communist speaker to lecture students in the public school environment. *Danskin* v. *San Diego Unified School District*, 28 Cal. 2d 536, 171 P.2d 885 (1946).

Yet, for some reason, a recent line of court decisions have singled out religious speech as the one form of speech unworthy of protection in the public schools. Worse, these decisions are only the tip of the iceberg. School officials throughout the country are deciding to ban all religious speech from public schools at an alarming rate.

These officials have banned purely voluntary student-initiated meetings for prayer or Bible study during school club periods or before or after schools. Many officials wrongly believe that such prohibitions are required by Supreme Court decisions forbidding school-initiated, state-sponsored forms of prayer in the schools.

Congress must act to correct this error by school administrators and lower courts, by requiring equal treatment of religious and nonreligious speech under the constitutional principle of content-neutrality.

2. What is the free speech principle of content-neutrality, as it applies to public schools?

The idea of content-neutrality in public schools is that once school officials have created a forum generally open to student speech, they may not discriminate against any person or group regarding use of that forum on the basis of the content of speech. For example, in *Widmar* v. *Vincent*, 102 S. Ct. 269 (1982), the United States Supreme Court said that a public university had created a forum generally open for use by student groups by accommodating group meetings on campus, and having done so, could not deny equal access to religious groups.

3. Why cannot students who want to engage in religious speech, merely go off campus to do so?

This question, while often heard, arises from an assumption which is contrary to the First Amendment. A state facility may not justify a content-based ban on speech on grounds that other forums are available. If this theory were tolerated, religious speech could be restricted to church buildings, as in many Soviet-run countries.

4. To what degree will public school teachers be involved in student religious activity guaranteed by the content-neutrality principle?

To begin, the proposed bill does not purport to guarantee the rights of teachers to engage in religious activity in public schools. It refers only to student rights. Therefore, participation of teachers in student religious meetings will remain subject to the discretion of local school officials.

On the other hand, many public schools may require faculty supervision of student religious meetings. Other schools may allow parents to provide the necessary supervision, or may require no supervision at all. In any event, faculty or parent supervision of student religious groups is perfectly proper under the Establishment Clause as long as the school is not undertaking the shaping of the religious content of the meeting through the supervision process.

5. Does the proposed content-neutrality bill mean that school officials will have to let students engage in religious discussions whenever and wherever they please?

No. The Supreme Court has said that public schools and other state agencies always have discretion to limit the expression of protected forms of free speech by reasonable time, place, and manner restrictions. See *Heffron* v. *ISKCON,* 101 S. Ct. 2559 (1981). The proposed bill would have this discretion intact in public schools, as long as school officials promulgate time, place and manner restrictions in content-neutral terms. See id at 2564.

6. How does the bill apply to public schools that allow no student clubs to use school facilities for club meetings?

The bill would allow any public school to adopt a policy allowing no student group, religious or non-religious, to use school facilities. Schools would simply have to treat religous and non-religious groups the same.

7. What are the "non-instructional periods" during which the content-neutrality principle limits state regulation of student speech?

A non-instructional period is any time, either before or after classroom hours or during the school day, during which students are not scheduled for classroom instruction. Non-instructional periods might include recess, lunch time, study hall, club period, or any other time when a public school allows student clubs or groups to meet in general. By contrast, the principle of content-neutrality would not apply during periods when students are undergoing instruction in or out of the classroom.

8. Why does the proposed bill apply the content-neutrality principle only to public secondary schools, and not to elementary schools?

The proposed bill applies the content-neutrality requirement only to secondary schools in recognition that the immaturity of elementary students may cause them to misperceive a public school's accommodation of religious discussion on an equal basis as non-religious speech as state sponsorship of religion. See *Widmar* v. *Vincent,* 102 S. Ct. 269, 276 n.14. Students in secondary schools generally are accustomed to choosing among a variety of student groups in which to participate; elementary school students generally are not.

Mr. HATFIELD. Now, Madam President, although I have no intention of offering this language as a substitute or as an amendment to the court-stripping proposal before the Senate, which I oppose, I believe it is a sound approach to protecting the first amendment free speech rights of public high school students.

Madam President, I only hope some of my good liberal friends, such as in the American Civil Liberties Union, who are always so anxious to protect people's rights of freedom of speech when it comes out of the left and all the Communist organizations and everything else that they are always anxious to jump up and protect that freedom of speech, will demonstrate a little interest in protecting the freedom of speech of people who want to speak on religious subjects. I see no consistency in all this pious outpourings of protecting the rights of speech when it comes out of the left of the political spectrum, but little interest demonstrated once in a while when the same abridgement of constitutional rights happens to come out of conservative areas.

If such groups as the ACLU and other liberal groups, that I associate with and consider as my friends, would have been just as concerned about the rights, constitutional rights, of the people in the area of freedom of speech on religious subjects, we would not be having this issue here today. We would not have all of these efforts to strip the Supreme Court and other courts of their rightful jurisdiction. We would not have these efforts to amend the Constitution to require a kind of balkanization of the prayer issue, to provide mandatory prayer in States like Alabama, that are at least efforts being made in States like Alabama.

I just do not feel that we can any more ignore the abridgement of the right of freedom of speech when it happens to be a religious subject than we can when it happens to be a political subject.

I want to reemphasize that I put my own political future on the line, put it at stake, when I defended the right of Gus Hall to speak as an American Communist on the campuses of my State universities when, at the same time, people who wanted to speak about Jesus Christ or have a Bible study could not even meet on some of these campuses in this country. That is why we had the Widmar decision of the Supreme Court saying that once those forums are established in any school for the pursuit of information or knowledge on a voluntary basis, the school boards have no right to limit it to nonreligious subjects. The first amendment does not exempt religious subjects from the right of free speech. That is why I offered the amendment because of some of the efforts made by these same school administrators to limit the right of speech on religious subjects, and they have provided forums for nonreligious subjects.

I ask unanimous consent to have my legislative proposal printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no public secondary school receiving Federal financial assistance, which generally allows groups of students to meet during non-instructional periods, shall discriminate against any meeting of students on the basis of the religious content of the speech at the meeting, if (1) the meeting is voluntary and orderly, and (2) no activity which is in and of itself unlawful is permitted.

SEC. 2. Nothing in this Act shall be construed to permit the United States, or any State or political subdivision thereof to (1) influence the form or content of any prayer or other religious activity and (2) require any person to participate in prayer or other religious activity.

SEC. 3. (a) Any individual aggrieved by a violation of this Act may bring a civil action in the appropriate district court of the United States, or in any State court of competent jurisdiction, for damages or for such equitable relief as may be appropriate, or both.

(b) The district courts of the United States shall have jurisdiction of actions brought under this Act without regard to the amount in controversy.

(c) Each district court of the United States, and each State court of competent jurisdiction, shall provide such equitable relief, including injunctive relief, as may be appropriate to carry out the provisions of this Act.

(d)(1) It shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge of the circuit (or in his absence, the acting chief judge), who shall then designate a district or circuit judge of the circuit to hear and determine the case.

(2) It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing within thirty days after the filing with the court. A hearing of a case shall be held within one hundred and eighty days after the proper filing of the case with the court.

SEC. 4. The provisions of this Act shall supersede all other provisions of Federal law that are inconsistent with the provisions of this Act.

The PRESIDING OFFICER (Mr. KASTEN). The Senator from Connecticut.

Mr. WEICKER. Mr. President, will the distinguished Senator yield for a question?

Mr. HATFIELD. Yes.

Mr. WEICKER. I agree in terms of voluntary associations, in terms of courses that teach comparative religion, and so forth. It is not my understanding that this in any way is

touched upon by the substance of the amendment we have before us.

It is not the contention of the Senator from Oregon, is it, that a voluntary prayer or rather a prayer in the public schools is something that would be beneficial by its establishment as it relates to the Constitution? I am finding a little difficulty. I agree with all the Senator says, and I am a very dear friend of his, and I think most of the time we see exactly alike, and I agree with him as to the matter of association and discussion and total freedom in this area of religion.

But really the issue before us is whether or not you are going to have a State prayer in our schools and, of course, I believe anything like that cannot be voluntary because merely the nature of having to attend school makes it involuntary.

Mr. HATFIELD. No; I would respond I am sorry the Senator was not on the floor at the beginning of my remarks. I am making the case under the first amendment based upon the Widmar case handled by the Supreme Court recently, that whenever an institution of education establishes a forum for voluntary associations to rise among the students, political societies, fraternal organizations, whatever they might be, music societies, publication societies, that then that institution has no right to say any voluntary association will be permitted outside of a religious one. They cannot use the facilities of that campus for a religious club. I am not talking about voluntary prayers being offered at the beginning of class or anything like that.

So when the Supreme Court recently ruled that the universities and colleges of this Nation cannot discriminate under the first amendment by determining the content of those organizations, I am trying to apply this to the secondary school programs wherein a secondary school establishes an activities hour that is not in any way intruding into the classwork or the other commitments of the school, but an activity hour where students are permitted to voluntarily organize political clubs, music clubs, drama clubs, and so forth.

I cited three specific cases and two court opinions that have said those forums can be organized for anything but a religious club. They are verboten. I am saying that under the Widmar decision of the Supreme Court that is a violation of the freedom of speech right for those students who want to voluntarily associate themselves in an orderly way under the rules and regulations governing any other club, but in which the school association or board or administration has determined the content and said, "We do not permit that kind of association that has a religious commitment or a religious purpose."

I am saying that this is an example of why we are dealing with this subject today because local school boards have overreacted. The Supreme Court never ruled voluntary prayer out of our public schools in the first instance, as the Senator knows.

But because of the nervous Nellies and the overreaction by a lot of local school boards, they got up and said they cannot do this and they cannot do that and they have swung that pendulum so far that it has gone beyond the question of the right of religious freedom.

I am saying now, as proven by the Widmar case, we have seen that pendulum swing so far it is now a question of the right of freedom of speech, the first amendment, is being violated. I think there is a very direct relationship between them, because it is part of the same overall cultural, political, and social reaction against the Court's action that did not really rule out the right of voluntary prayer but only mandated prayer, which I fully support the Court's ruling on that case. And I fully support the position today that we have no right to strip the Court of that jurisdiction and that we have no practical purpose in trying to balkanize it by directing it as to the State's right to decide whether we will have mandated prayer or not.

I do not want mandated prayer in any school of this country. But, by the same token, I believe that there is a right, freedom of speech, together voluntarily to have an association to discuss religious subjects, whether it is Buddhism or Christianity, or Judaism, or whatever religion it may be.

Mr. WEICKER. I thank the distinguished Senator from Oregon. My query was not in the nature of being antagonistic to what the Senator from Oregon has said, but rather agreeing with the premises he laid forth there and having it fully explained.

As I recall, when I attended Yale University, I remember the Hillel Foundation, which represented the Jewish community and the Thomas Moore Society, representing the Catholics, et cetera. They were part of the structure of these organizations that had the opportunity to get together to pursue their particular faiths. And I could not agree more, because I think the point we are trying to make on the floor is that in no way do any of us want to restrict freedom of religion. We want to expand freedom of religion, it only being my opinion that any time you have a state-dictated prayer, that is restrictive of freedom of religion.

Mr. HATFIELD. That is restriction and not expansion.

Mr. President, I ask unanimous consent that I may be allowed to yield the floor to the Senator from Montana at this point without this being construed as the end of a speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I wish to thank the Senator from Oregon for his most recent series of contributions to this subject. I find the latest proposal by the Senator from Oregon very attractive.

I, too, have been bothered by the trend and direction of Supreme Court decisions which go so far in protecting the establishment clause in the first amendment that it is beginning to impinge upon the free exercise clause as well as the free speech provisions of that amendment. I see nothing wrong with activity periods or after school periods when students can come together to exercise their religious prerogatives. I want to commend the Senator from Oregon for taking that approach. I think it is a very salutary and very valuable contribution to resolving some of these dilemmas. I thank the Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Montana.

Mr. BAUCUS. Mr. President, when I last spoke this morning, I was reading into the RECORD portions of a letter from Attorney General William French Smith written to the chairman of the Senate Judiciary Committee on May 6, 1982. I was referring to those portions of the letter which argue against statutes which limit Supreme Court jurisdiction over Federal constitutional questions. The letter pointed out the branches of Government, the executive and the legislative.

The Attorney General was pointing out that, as a matter of essential functions, the judicial branch is probably inherently more weak than the other two branches; that it has less to protect itself with, less to defend itself with from onslaughts of pursuit of the other two branches of Government.

In that regard, the Attorney General quoted Alexander Hamilton in Federalist No. 78 on this very point, the underlying point that our Founding Fathers certainly intended to build into the Constitution measures to protect the judicial branch from onslaughts from the executive and the legislative and that they attempted to prevent the legislative branch from undermining the core functions of the judicial branch, particularly the core functions of the U.S. Supreme Court.

This is the quotation from Alexander Hamilton in Federalist No. 78 pointing out the inherent weakness of the judicial branch and, therefore, the need to strengthen the judicial branch from efforts on the part of the other two branches to undermine that judicial branch.

Whoever attentively considers the different departments of power must perceive

that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

That is Alexander Hamilton in Federalist No. 78 pointing out the essential weaknesses of the judicial branch compared to the other two branches of Government, therefore implying that our Founding Fathers intended to strengthen the judiciary, to make it truly a coequal branch of Government; that is, not to allow the Congress to willy-nilly, in its own discretion, undermine the power of the Supreme Court's right to decide constitutional questions.

Continuing in the letter, Mr. President, from Attorney General William French Smith to Senator THURMOND on May 6, 1982:

As a consequence of this view, Hamilton believed that it was necessary for the judiciary to remain truly distinct from the Legislature and the Executive. For I agree that "There is no liberty, if the power of judging be not separated from the legislative and executive power." *Id.*, quoting Montesquieu's *Spirit of Laws*. Thus, he concluded: "The complete independence of the courts of justice is peculiarly essential in a limited Constitution."

It was in recognition of the inherent weakness of the judiciary, particularly as contrasted with the inherent power of the legislature, that the farmers determined to give special protections to the judiciary not enjoyed by officials of the other branches. Federal judges were given lifetime positions during good behavior, and were protected against siminution of salary while in office. The purpose of these provisions was largely to provide the judiciary, as the weakest Branch, with the necessary tools for self-protection against the encroachments of the other branches.

The notion that the Exceptions Clause grants Congress plenary authority over the Supreme Court's appellate jurisdiction cannot easily be reconciled with these principles of separation of powers. If Congress had such authority, it could reduce the Supreme Court to a position of impotence in the tripartite constitutional scheme. The Court could be deprived of its ability to protect its core constitutional functions against the power of Congress. The salary and tenure protections so carefully crafted in Article III could be rendered virtually meaningless in light of the power of the Congress simply to eliminate appellate jurisdiction altogether, or in those areas where the Court's decision displeased the legislature.

It is significant that while the Framers did not focus on the Exceptions Clause, they did point to the impeachment power as "a complete security" against risks of "a series of deliberate usurpations on the authority of the legislature," *Federalist* No. 31.

To repeat, it is significant that while the framers did not focus on the exceptions clause, they did point to the impeachment power as "a simple, complete, security" against risks of "a series of deliberate usurpations of the authority of the legislature."

That is, the framers felt that the impeachment power was in itself a proper route to follow in trying to overturn what would influence decisions on the Supreme Court rather than giving the legislature the power to overturn such Supreme Court decision.

In light of these basic considerations, it seems unlikely that the Framers intended the Exceptions Clause to empower Congress to impair the Supreme Court's core functions in the constitutional scheme. Even if some of the Framers could have intended this, it is improbable that the Exceptions Clause could have been approved by the Convention without debate or controversy, or indeed without any explicit statement by anyone associated with the framing or ratification of the Constitution that such a deviation from the carefully crafted separation of powers mechanisms provided elsewhere in the Constitution were intended.

Look at that, Mr. President. There was no debate about how much power to give to the legislative branch, except as I pointed out earlier, a 6-to-2 vote the Committee on Detail expressly voted against giving the legislature discretion to undermine the Constitution.

Mr. PERCY. Mr. President, will my distinguished colleague mind yielding to me without losing his right to the floor so that I can introduce a bill on behalf of myself and a number of our colleagues who wanted this legislation introduced today?

Mr. BAUCUS. Mr. President, I will be happy to so yield to the Senator from Illinois so long as the continuation of my speech will not be considered as a second speech and that I will be recognized upon the termination of the remarks by the Senator from Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. PERCY at this point in connection with the introduction of legislation are printed under "Routine Morning Business," later in today's RECORD.)

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, before the last interlude, I was commenting on a letter from the Attorney General, William French Smith, which he sent to the chairman of the Senate Committee on the Judiciary in opposition to these court-stripping bills, particularly the school prayer bill. The portion of the letter that I was referring to points out how the judiciary branch, among our three branches of Government, is inherently more weak than the other two branches of Government. I quoted, as did the Attorney General, a portion of the Federalist Papers where Alexander Hamilton pointed out this essential weakness. At this point, I would like to continue with the letter.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor and without counting this as a second speech?

Mr. BAUCUS. Yes, Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I am prepared to go off this bill shortly and go into a period for the transaction of routine morning business if the Senator is agreeable.

Mr. BAUCUS. That will be fine, Mr. President, as far as this Senator is concerned.

Mr. BAKER. Mr. President, the Senator had indicated to me earlier that he would like to have a unanimous-consent request that he be next recognized. I regret to advise him that we cannot clear that at this time, but I urge the Senator to be on the floor. I expect he probably would not have trouble being recognized. I know of no effort to deprive him of recognition, which, of course, no Senator could do in any event.

Mr. BAUCUS. I thank the Senator for making the inquiry and informing the Senator. Yes; I will be on the floor and will be seeking recognition as soon as we return to this bill.

Mr. BAKER. I thank the Senator.

WITHDRAWAL OF CLOTURE MOTION

Mr. BAKER. Mr. President, earlier there was a technical mixup in the cloture motion that was filed. I have cleared this with the minority leader.

I ask unanimous consent that the cloture motion filed earlier today on the Helms amendment, 2031, as modified, be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a new cloture motion to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt,

Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steve Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard Baker.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I now ask unanimous consent that there be a period for the transaction of routine morning business to extend not past 2 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, before we do the wrapup, I understand that the distinguished Senator from Maryland may seek recognition for the introduction of a matter.

TRIBUTE TO EARL WEAVER

Mr. MATHIAS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 468) to pay tribute to Earl Weaver.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the request to proceed to the immediate consideration of the resolution as far as this side is concerned.

There being no objection, the Senate proceeded to consider the resolution, which was submitted by Mr. MATHIAS, for himself and Mr. SARBANES.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 468) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 468

Whereas, Earl Weaver, manager of the Baltimore Orioles for the past 13½ years, has led the Birds to six eastern division championships, four American League pennants and one world championship, and

Whereas, Earl's won-lost percentage ranks third on the all time list, and he is tied with the Yankees' great Joe McCarthy and trails only the immortal Connie Mack in winning 100 games or more per season, and

Whereas, Earl's intensity for inspiring Oriole victories by feisty finagling and limitless legerdemain has won the unflagging support of Oriole fans and the ire of umpire and opponent, and

Whereas, Earl has achieved distinction in alternate careers as author, Shakespeare scholar and nurturer of prize Maryland tomatoes, which in yonder bullpen groweth, and

Whereas, Earl has managed the same team for a longer period than any current manager: Now, therefore, be it

Resolved That the United States Senate wishes to honor and pay tribute to Earl Weaver on the occasion of "Thanks Earl Day" Sunday September 19, 1982 at Memorial Stadium, Baltimore, Maryland.

SEC. 2 The Secretary of the Senate shall transmit a copy of this Resolution to Earl Weaver.

Mr. MATHIAS. Mr. President, are we now in morning business?

The PRESIDING OFFICER. We are now in routine morning business.

TRIBUTE TO JOSEPH MEYERHOFF

Mr. MATHIAS. Mr. President, in the Book of Genesis we are told the story of Joseph, and one of the first things that we learn about Joseph is that he was resplendent in a coat of many colors, a coat so famous that its description has lasted for 5,000 years. During that period of time, people have talked and read about Joseph and his coat of many colors.

We have in Maryland, in the city of Baltimore, another Joseph who also wears a coat of many colors, a coat not of wool or cotton or linen but a coat fashioned by himself out of the fabric of life and consisting of the many contributions that he has made during a long and fruitful life. The colors of this coat consist of philanthropy in many parts of the world, charities in the United States, schools and hospitals in the State of Israel. They include the homes that he has helped to construct where families now gather and community facilities that serve daily neighborhood needs.

Most recently, they include a great symphony hall which was dedicated last night in the city of Baltimore. The Baltimore Symphony acquired its own hall largely as a result of the personal efforts of Joseph Meyerhoff.

His is a coat of many colors, more glorious than that of the original Joseph. I suspect that the reason that Joseph of the Bible is remembered is not solely because of his coat but because of the kind of man who wore the coat, and that is why Joseph Meyerhoff will be remembered, because of the kind of man that he is, a man of dedication and vision and commitment. He is in many ways a Biblical figure.

He and his wife Rebecca, who have worked so hard together for the Baltimore Symphony and for the arts, are patriarchal in the Biblical sense; they lead a large family of children and grandchildren and nieces and nephews, each of whom makes a personal and varied contribution to the community.

Like the Joseph in Genesis, we will long remember Joseph Meyerhoff.

Mr. President, I ask unanimous consent that an editorial which appeared in the Baltimore Sun this morning be included in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Sept. 17, 1982]

MEYERHOFF HALL

The Joseph Meyerhoff Symphony Hall that had its gala opening last night enlarges and enriches Baltimore. It is a better—and may prove an ideal—place to present symphony music. It will improve the dynamic between players and audience. The result should be finer music from a better orchestra enjoying greater public support.

The departure of the Baltimore Symphony in turn frees the Lyric Theater to fulfill its destiny as a fully equipped large musical theater for opera, musical comedy and dance. That is a function no other house in Baltimore can provide. The Lyric's reopening later in the season, delayed by a strike at the seat manufacturer, will make clear that Baltimore is getting two large performance halls, each better than the old Lyric.

Together, they will present an array of performing arts in coming years that could not have been contemplated earlier. More world class companies will come. More people will attend them. Baltimore will grow in amenities and in reputation. Too much can be made of how much higher Baltimore will rise in some cultural pecking order, however. Other cities are also adding to cultural plant. For Baltimoreans, the absolute improvement here is what matters most.

Meyerhoff Hall is a tribute to the relentless determination of Joseph Meyerhoff to see it built, as well as to his boundless generosity. The large state contribution resulted from the statesmanship of legislators from every part of Maryland who understood the value of the Baltimore Symphony to their communities.

The hall is one pudding the proof of which is in the hearing. Both planners and architects got the priorities right. Other halls are more expensive, prepossessing outside, grander in their lobbies. Meyerhoff Hall does not overwhelm its neighbors. It complements their rectangularity with its ovals. From a distance, it seems almost small.

Inside, in the great room designed for performing and hearing symphony music, Meyerhoff Hall seeks greatness. This building was designed for one purpose and from the inside out. Acoustics dictated the shape of that room, the size and shape of the balconies as well as the clouds. Its pleasing, somewhat Art Deco style is a happy byproduct.

Acoustics is rapidly becoming more than an occult art. The day is past when a fabled conductor could say, "I don't understand acoustics; neither do architects." Meyerhoff Hall is built for sound in ways that the halls of Lincoln Center in New York and Kennedy Center in Washington were not. Baltimore is a greater city than it was yesterday.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

A METHODIST DAY OF PRAYER FOR THE WORLD

Mr. HEFLIN. Mr. President, on Sunday the 19th of September, this very weekend, millions of people from all corners of the globe will be praying that the walls of division which stand between the countless peoples of the world will fall.

The World Methodist Council and the religious publication, "The Upper Room," have called for Sunday to be a day of "Prayer for the World." More than a quarter of a million Methodist congregations spanning the world are expectd to answer the call by observing special prayer services on this day.

In places which are particularly symbolic of the tragedy caused by divisions among people, such as Berlin and Belfast, special prayer events have been planned. In West Berlin, the site of the prayer service will be the Church of the Wall, the "Ruferkirche." This church itself is particularly symbolic for this purpose, for it was formed and built by Methodists in West Berlin who were cut off from their chosen places of worship in East Berlin by the infamous Berlin Wall.

According to Rev. Eddie Fox, North American Regional Secretary for World Evangelism for the World Methodist Council, the millions of Methodists observing the day of prayer will be joined by more than 8 million readers of "The Upper Room."

This daily devotional guide is published in many languages around the world, and has chosen to focus on the theme of "Prayer for the World" during the time leading up to the ceremonies on Sunday in an attempt to fully express the world's needs in prayer.

The day of "Prayer for the World" will focus on four specific issues which serve to divide mankind. These four issues are poverty, racism, war, and spiritual darkness.

I believe it is important for each of us to realize that, although a Berlin or a Belfast may be a more dramatic illustration of the divisions of people, these four issues are also a tragic and divisive influence in this very country, and, indeed, in all areas of our country. These are problems of the world, not of any particular nation or nations—men and women and children in all corners of the world are suffering, and are all in need of help through prayer.

With economic problems and unemployment seeming to increase everywhere, the pains of poverty are naturally increasing. Hunger and physical suffering are multiplying. Countless people continue to suffer from racial and political persecution and oppression. I cannot believe that there is a member of this body, or a person anywhere who would not pay a great price to see an end put to all this suffering.

As the son of a Methodist minister, I have long been a believer in the positive power of prayer.

I hope that on this coming Sunday millions will answer the call of the World Methodist Council, and remember the millions of tragically divided people around the world—and remember them not only in their thoughts but also in their prayers.

Mr. BAKER. Mr. President, I have a few routine matters to take care of unless somebody is seeking recognition.

Mr. President, both of these items I believe have been cleared by the minority leader, and I make the request now for the benefit of the Senate and the acting minority leader and others.

CORRECTIONS IN ENROLLMENT OF H.R. 3517

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 405.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 405) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3517.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOUNDARY OF CIBOLA NATIONAL FOREST

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 778, S. 2405.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2405) to further amend the boundary of the Cibola National Forest to allow an exchange of lands within the city of Albuquerue, N. Mex.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause and insert the following:

That, in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

(a) Amend section 1 to read as follows:

"A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture, lying east of a line depicted on plat of survey dated April 1982, prepared under the supervision of A. Dwain Weaver, N.M.P.L.S. No. 6544, and further described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, New Mexico principal meridian, on the south boundary of said grant and extending north 00 degrees 03 minutes 21 seconds east, 2,670.40 feet to a point; thence north 00 degrees 03 minutes 21 seconds east, 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along section line common to said sections 25 and 26, north 00 degrees 17 minutes 37 seconds east, 1,346.11 feet to a point; thence leaving said section line and continuing south 84 degrees 40 minutes 00 seconds east, 178,00 feet to a point; thence south 53 degrees 20 minutes 00 seconds east, 218.00 feet to a point; thence north 52 degress 50 minutes 00 seconds east, 364.00 feet to a point; thence east 225.00 feet to a point; thence north 66 degrees 00 minutes 00 seconds, east, 1,244.14 feet to a point; thence north 06 degrees 12 minutes 25 seconds west, 1,765.08 feet to a point; thence north 07 degrees 27 minutes 00 seconds west, 2,008.00 feet to a point; thence south 80 degrees 38 minutes 00 seconds west, 984.00 feet to a point; thence south 64 degrees 45 minutes 00 seconds west, 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence north 00 degrees 44 minutes 22 seconds west, 1,382.97 feet to the southeast corner of Sandia Heights South, unit 14, as the same is shown and designated on the plat filed in the office of the county clerk of Bernalillo County, New Mexico on February 12, 1975; thence continuing along the easterly boundary of said unit 14, north 00 degrees 04 minutes 20 seconds east, 1,951.63 feet to the notheast corner of said unit 14, said corner also being the southeast corner of Sandia Heights South, unit 10 as the same is shown and designated on the plat filed in the office of the county clerk of Bernalillo County, New Mexico on March 11, 1974; thence continuing along the easterly boundary of said unit 10, north 00 degrees 02 minutes 31 seconds east, 1,493.53 feet to the northeast corner of said unit 10, said corner also being the southeast corner of Sandia Heights South, unit 3, as the same is shown and designated on the plat filed in the office of the county clerk of Bernalillo County, New Mexico on August 3, 1971; thence continuing along the easterly boundary of said unit 3, north 00 degrees 03 minutes 29 seconds east, 1,867.10 feet to the northeast corner of said unit 3, said corner also being the southeast corner of Sandia Heights South, unit 2, as the same is shown and designated on the plat filed in the office of the county clerk of Bernalillo County, New Mexico on October 20, 1970; thence continuing along the easterly boundary of said unit 2, north 00 degrees 03 minutes 29 seconds east, 1,869.70 feet to the northeast corner of said unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the county clerk of Bernalillo County, New Mexico on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, north 00 degrees 03 minutes 29 seconds east, 1,725.76 feet to the northwest of the tract herein described, said

corner being a point on the northerly boundary of the Elena Gallegos Grant; thence continuing along said Grant boundary, south 81 degrees 06 minutes 04 seconds east, 1,983.01 feet to a point; thence south 81 degrees 06 minutes 04 seconds east, 481.50 feet to the 7½-mile corner on the north boundary of said Grant; thence south 81 degrees 06 minutes 04 seconds east, 213.67 feet to the southeast corner of the Sandia Pueblo Grant; consisting of 7,935.84 acres, more or less:"."

(b) Add a new section 5 to read as follows:

"SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the city of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the city of Albuquerque.

"(b) The lands to be conveyed are subject to valid existing rights.

"(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provison of ths section and shall be made within 90 days of enactment of this Act: Provided, That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1263

(Purpose: Technical amendment to S. 2405, as reported)

Mr. BAKER. Mr. President, I have a technical amendment which I send to the desk.

Mr. LONG. Mr. President, will the Senator explain the nature of the committee amendment? Is it similar to the bill or something different?

The PRESIDING OFFICER. The committee amendment struck the language of the original bill and inserted new committee language.

Mr. LONG. Mr. President, will the majority leader give me some idea what the new language to be inserted is?

Mr. BAKER. Mr. President, the Senator from Louisiana has me at a disadvantage, because this was cleared for action on both sides by unanimous consent.

I withdraw my request for consideration of this matter.

Mr. LONG. Does the Senator have a memorandum which would show what this is?

Mr. President, I suggest that we return to this in a few minutes.

Mr. BAKER. Mr. President, this is all I have, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand that the Senator from Louisiana now has examined the amendment which is at the desk. Is he prepared now to proceed?

Mr. LONG. Yes.

Mr. BAKER. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. MCCLURE, proposes an unprinted amendment numbered 1263.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, delete lines 4 through 25 and on page 4, delete lines 1 through 25, and on page 5, delete lines 1 through 23, and insert in lieu thereof:

Delete all of section 1 and insert the following language in lieu thereof:

All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled "Summary Plat of a Portion of the Elena Gallegos Grant", (the "Summary Plat") recorded in the office of County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight (8) pages, said line being the western limits of the tract described herein being further described as follows:

Beginning at the closing corner between secs. 35 and 36 of T. 11 N., R. 4 E., NMPM, on the south boundary of said Grant; thence N. 00°03'21" E., 2,670.40 feet to a point; thence N. 00°03'21" E., 1,244.73 feet to the projected section corner common to secs. 25, 26, 35, and 36; thence continuing along the projected section line common to said secs. 25 and 26, N. 00°17'37" E., 1,346.11 feet to a point; thence leaving said section line and continuing S. 84°40'00" E., 178.00 feet to a point; thence S. 53°20'00" E., 218.00 feet to a point; thence N. 52°50'00" E., 364.00 feet to a point; thence East 225.00 feet to a point; thence N. 66°00'00" E., 1,244.14 feet to a point; thence N. 06°12'25" W., 1,765.08 feet to a point; thence N. 07°27'00" W., 2,008.00 feet to a point; thence S. 80°38'00" W., 984.00 feet to a point; thence S. 64°45'00" W., 621.00 feet to the projected section corner common to secs. 23, 24, 25, and 26; thence N. 00°44'22" W., 1,382.97 feet to the southeast corner of Sandia Heights South, Unit 14, as the same is shown and designated on the plat filed in the office of the county clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, N. 00°04'20" E., 1,951.64 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, N. 00°02'31" E., 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, N. 00°03'29" E., 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, N. 00°03'29" E., 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, N. 00°03'29" E., 1,725.76 feet to the Northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant: *Provided, however,* That the tract of land described in this section not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located in such tract for open space or city park use."

● Mr. McCLURE. Mr. President, subsequent to the Senate Energy and Natural Resources Committee ordering S. 2405 as amended reported (Senate Report No. 97-539), the following letter was received from the U.S. Forest Service on August 25, 1982. I ask that the letter be printed in the RECORD.

The letter follows:

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., August 25, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On June 3, 1982, the U.S. Department of Agriculture provided reports on S. 2021 and S. 2405, two bills pertaining to Federal acquisition of a portion of the Elena Gallegos Grant east of Albuquerque, New Mexico.

Our reports offered technical and clarifying amendments in the form of a substitute bill, a copy of which is enclosed. Of major concern was the need to amend Section 1 of P.L. 95-614 amending the boundary of the Cibola National Forest. Section (a) of our substitute bill included a metes and bounds survey description as illustrated on a plat of survey dated April 1982, prepared under the supervision of A. Dwain Walker, N.M.P.L.S. No. 6544.

Subsequent to our June 3 report and to the May 27 hearing before the Public Lands and Reserved Water Subcommittee, Mr. Weaver's plat of survey was revised on a subdivision plat entitled "Summary Plat of a Portion of the Elena Gallegos Grant" and

recorded in the Office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183.

The revised June 1982 plat was used in the description of the property conveyed from the City of Albuquerque to the United States. A copy of the deed signed on July 23, 1982, and recorded in Bernalillo County Record Book D166-A, pages 180-184 is enclosed.

The June 1982 plat and the July 23 deed describe the same lands as shown on the April 1982 plat and in our substitute bill. The proposed amended boundary of the Cibola National Forest does not change. The on-the-ground monuments have not changed. The surveyor merely made some technical changes in the plat.

To ensure that there is uniformity in the pending legislation, in the plat recorded with the county clerk in Volume C19, Folio 183, and in the deed to the United States recorded in Book D166-A, pages 180-184, we recommend that Section (a) of our June 3 substitute bill be revised by using the description used in the 2nd and 3rd paragraphs of the deed to the United States. We have identified this description in the enclosed copy of the Special Warranty Deed.

We regret any inconvenience this may have caused; however, at the time of the hearing the technical changes in the plat were not known.

Sincerely,

GARY E. CARGILL,
Associate Deputy Chief.

Enclosures.

SPECIAL WARRANTY DEED

The city of Albuquerque, a New Mexico municipal corporation, Grantor, acting pursuant to the General Exchange Act of March 20, 1922 (42 Stat. 465, as amended; 16 U.S.C. 485-486) and the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716-1717), and in consideration of an exchange of certain public and National Forest lands equal in value to the lands herein conveyed, hereby grants to the United States of America, c/o USDA Forest Service, 517 Gold Avenue S.W., Albuquerque, New Mexico 87102, Grantee, and its assigns, the following described real estate situated in Bernalillo County, New Mexico:

All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled "Summary Plat of a Portion of the Elena Gallegos Grant", (the "Summary Plat") recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight (8) pages, said line being the western limits of the tract described herein being further described as follows:

Beginning at the closing corner between secs. 35 and 36 of T. 11 N., R. 4 E., NMPM, on the south boundary of said Grant; thence N. 00°03'21" E., 2,670.40 feet to a point; thence N. 00°03'21" E., 1,244.73 feet to the projected section corner common to secs. 25, 26, 35, and 36; thence continuing along the projected section line common to said secs. 25 and 26, N. 00°17'37" E., 1,346.11 feet to a point; thence leaving said section line and continuing S. 84°40'00" E., 178.00 feet to a point; thence S. 53°20'00" E., 218.00 feet to a point; thence N. 52°50'00" E., 364.00 feet to a point; thence East 225.00 feet to a point; thence N. 66°00'00" E., 1,244.14 feet to a point; thence N. 06°12'25" W., 1,765.08 feet to a point; thence N. 07°27'00" W., 2,008.00 feet to a point; thence S. 80°38'00" W., 984.00 feet to a point; thence S. 64°45'00" W., 621.00 feet to the projected section corner common to secs. 23, 24, 25, and 26; thence N. 00°44'22" W., 1,382.97 feet to the southeast corner of Sandia Heights South, Unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said Unit 14, N. 00°04'20" E., 1,951.64 feet to the northeast corner of said Unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, N. 00°02'31" E., 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the Count Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, N. 00°03'29" E., 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, N. 00°03'29" E., 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, N. 00°03'29" E., 1,725.76 feet to the Northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant.

Together with rights of ingress and egress for National Forest administration and for public access to and across the property herein conveyed, along and within a fifty (50) foot access it identified on the Summary Plat as Tracts D and E from Tramway Boulevard easterly to the westerly boundary of the 640-acre tract identified as Excepted Parcel 1 following:

Less and excepting therefrom;

Parcel 1—A certain tract of land situated within the boundaries of the parcel being conveyed, depicted on the Summary Plat as "Tract B, 640 Acre Park Site", and being more particularly described by New Mexico State plane grid bearings (Central Zone) and ground distances as follows:

Beginning at the northwest corner of the tract herein described, the TRUE POINT OF BEGINNING, from whence the mile post 7½ on the northerly boundary of the Elena Gallegos Grant bears N. 00°47'56" E., 3,720.65 feet and S. 81°06'04" E., 481.50 feet; thence, N. 87°59'21" E., 1,331.79 feet to a point; thence, S. 21°17'39" E., 2,458.70 feet to a point; thence, N. 88°22'21" E., 3,212.50 feet to a point; thence, S. 02°20'39" E., 1,677.40 feet to a point; thence, S. 40°25'21" W., 4,494.50 feet to a point, thence, S. 01°05'39" E., 572.07 feet to the southeast corner of the tract herein described, thence continuing along the southerly boundary of the tract herein described, S. 88°54'21" W., 2,505.78 feet to the southwest corner of the tract herein described; thence, N. 00°41'29" W., 7,870.84 feet to the TRUE POINT OF BEGINNING, containing 640 acres, more or less.

Parcel 2—A certain tract of land situated within the boundaries of the parcel being conveyed, depicted on the Summary Plat as "Tract C. Bear Canyon Scenic Easement Area", and being more particularly described by New Mexico State plane grid bearings (Central Zone) and ground distances as follows: Beginning at the southwest corner of the tract herein described, the TRUE POINT OF BEGINNING, from whence the closing corner of secs. 35 and 36, T. 11 N., R. 4 E., NMPM (having New Mexico State plane coordinates, Central Zone, X = 431,287.46; Y = 1,504,207.17) on the south boundary of the Elena Gallegos Grant, bears S. 40°02'20" W., 7,105.15 feet; thence N. 01°05'39" W., 860.00 feet to the northwest corner of the tract herein described, thence continuing along the northerly boundary of the tract herein described, N. 77°27'19" E., 1,447.55 feet to a point; thence, S. 64°18'38" E., 2,801.07 feet to a point; thence, N. 43°01'28" E., 3,065.96 feet to a point; thence, N. 77°27'19" E., 500.00 feet to the northeast corner of the tract herein described; thence S. 07°24'44" W., 1,923.59 feet to a point; thence, S. 39°56'46" W., 4,099.01 feet to the most southerly corner of the tract herein described; thence, N. 29°36'19" W., 2,409.57 feet to a point; thence, N. 75°08'13" W., 2,514.52 feet to the TRUE POINT OF BEGINNING, containing 270 acres, more or less.

Containing, after recognizing the exceptions, 7,025.84 acres, more or less, with special warranty covenants.

Subject to:

1. Reservation to the Albuquerque Academy or its assigns of all interest in and to all mineral rights (other than those reserved by the United States of America by Patent) and all oil and gas rights which mineral and oil and gas rights are subject to the regulations of the Secretary of Agriculture (35 CFR 251.15) "Conditions, Rules and Regulations to Govern Exercise of Mineral Rights Reserved in Conveyances to the United States" as the same may be amended from time to time; provided that no surface occupancy for the purpose of extracting minerals or oil and gas shall occur in the exercise of the rights reserved in this paragraph 1 on the portion of the lands herein conveyed that are included within the Sandia Mountain Wilderness so long as such lands within the Sandia Mountain Wilderness are withdrawn from all forms of surface entry or apropriation under the mining laws and from the operation of the mineral leasing laws of the United States, but the preceding clause shall not prohibit Grantor from nonmotorized entry at any time upon the lands conveyed within the Sandia Mountain Wilderness to explore and prospect for minerals, oil, and gas using non-surface disturbing methods, or from appropriating minerals or oil and gas from such lands within the Sandia Mountain Wilderness by methods other than actual surface entry from the Sandia Mountain Wilderness lands; and provided further that if the mining and/or mineral leasing laws at any time permit entry onto and appropriation from the Sandia Mountain Wilderness lands for the purpose of mining or mineral oil and gas extraction, Grantor, its successors and assigns may enter upon such lands of the Sandia Mountain Wilderness for the purpose of mining or extracting minerals and oil and gas to the extent permitted by law.

2. Reservation by the City of Albuquerque, Grantor, of a fifty (50) foot access road, depicted on the Summary Plat as Tract E, across a portion of the land herein conveyed

to provide public access to the 640-acre parcel identified as Excepted Parcel 1, described preceding, subject to the rights granted the United States identified preceding.

3. Rights of ingress and egress to the 270-acre parcel identified as Excepted Parcel 2, described preceding, within and along the roadway depicted on the Summary Plat as the Bear Canyon Access Road Easement, as previously reserved by the Albuquerque Academy.

4. An easement, outstanding in the City of Albuquerque, for the existing Empedito Canyon training dike, as recorded on September 26, 1978, Misc, Bk. 641, pages 101-104, records of the County Clerk of Bernalillo County.

5. An easement, outstanding in the Albuquerque Metropolitan Arroyo Flood Control Authority, for construction and maintenance of the Upper Bear Canyon Training Dike, as recorded on April 25, 1979, Misc. Bk. 684, pages 789-792, records of the County Clerk of Bernalillo County, together with rights of access along the Access Road Easement to the Training Dike as depicted on the Summary Plat.

6. Reservation by the City of Albuquerque, Grantor, of an easement for a City water reservoir site, depicted on the Summary Plat as Tract F, a twenty (20) foot easement for an associated water line, and a fifty (50) foot easement for an associated service road, both as depicted on the Summary Plat.

7. Rights of the United States and third persons, if any, under the following reservations contained in the patent for the Elena Gallegos Grant:

a. "* * * title to any gold, silver, or quicksilver mines or minerals of the same, but all such mines and minerals shall remain the property of the United States with the right of working the same."

b. "* * * limitations and terms of the act of Congress of March 3, 1891."

8. Rights if any, of claimants under mesne mining claims.

● Mr. DOMENICI. Mr. President, the purpose of S. 2405 as reported, with the technical amendment, is to expedite the acquisition of a 7,985.84 acre portion of the Elena Gallegos grant so that a portion may be added to the Sandia Mountain Wilderness in the Cibola National Forest, N. Mex. The bill corrects the acreage figure and the forest boundary as established in Public Law 95-614; and it directs the Secretary of Agriculture in cooperation with the Secretary of the Interior to exchange approximately 32,800 acres of Federal lands in New Mexico with the city of Albuquerque for the 7,935.84 acre area to be added to the Cibola National Forest. This is to be accomplished within 90 days of the date of enactment of this act.

I should like to compliment the city of Albuquerque, including both the city officials and the citizens of the Duke City, for the numerous actions they have taken during the last year to insure that this acquisition takes place. This bill is the product of their continued support.

First, Albuquerque is purchasing 640 acres of the tract at a cost of over $5 million. Also, the city purchased the remainder of the tract by establishing a quarter-cent sales tax. This tax was supported by almost every organization in the city of Albuquerque.

Several years ago the Government Accounting Office issued a report, "The Drive to Acquire Lands by the Federal Government Should be Reassessed." The report and others called on the Federal Government to find new and innovative ways to acquire lands other than the typical straight purchase at appraised value. In 1978, in response to this report, the Congress authorized the addition and acquisition of the tract to the Cibola National Forest in Public Law 95-614. In 1980, the Congress amended that law by making the tract an addition to the approximately 30,000 acre wilderness. The Congress did this in Public Law 96-248. Last year the Public Lands and Reserved Water Subcommittee of the Energy and Natural Resources Committee held a 2-day workshop on the subject of Federal land acquisition policies.

The city of Albuquerque has come up with an innovative method of land acquisition that allows the Federal Government to acquire a very important parcel of land. In addition it puts over 30,000 acres of unneeded Federal land to use by both city government and the private sector. This is a significant accomplishment in light of the fact that we have had a moratorium on land purchases and the fact that even before that moratorium, these purchases were being criticized.

I again point out that the Forest Service, the city of Albuquerque, the State of New Mexico, which contributed money for the acquisition, enthusiastically support this measure. Environmental groups, civic organizations, countless thousands of New Mexico citizens agree that this bill is a good idea. The Committee on Energy and Natural Resources, which voted unanimously to report the bill, supports this legislation. This is an impressive coalition. I only wish we could reach this type of agreement on all of the legislation we face.

In these difficult economic times the people involved in this Elena Gallegos tract acquisition have shown us a way we can continue to acquire special lands for preservation.

In closing, I thank Senator MALCOLM WALLOP of Wyoming, chairman of the Public Lands and Reserve Water Subcommittee of the Energy and Natural Resources Committee. His assistance in this Wilderness System has been invaluable.

I also thank the chairman of the Energy and Natural Resources Committee, JAMES MCCLURE, as well as committee staff members for their help on this bill which I believe will have longlasting significance far beyond the borders of New Mexico.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1263) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

(a) Delete all of section 1 and insert the following language in lieu thereof:

"All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled "Summary Plat of a Portion of the Elena Gallegos Grant," (the "Summary Plat") recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight pages, said line being the western limits of the tract described herein being further described as follows: Beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, New Mexico principal meridian on the south boundary of said grant; thence north 00 degrees 03 minutes 21 seconds east, 2,670.40 feet to a point; thence north 00 degrees 03 minutes 21 seconds east, 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along the projected section line common to said sections 25 and 26, north 00 degrees 17 minutes 37 seconds east, 1,346.11 feet to a point; thence leaving said section line and continuing south 84 degrees 40 minutes 00 seconds east, 178.00 feet to a point; thence south 53 degrees 20 minutes 00 seconds east, 218.00 feet to a point; thence north 52 degrees 50 minutes 00 seconds east, 364.00 feet to a point; thence east 225.00 feet to a point; thence north 66 degrees 00 minutes 00 seconds east, 1,244.14 feet to a point; thence north 06 degrees 12 minutes 25 seconds west, 1,765.08 feet to a point; thence north 07 degrees 27 minutes 00 seconds west, 2,008.00 feet to a point; thence south 80 degrees 38 minutes 00 seconds west, 984.00 feet to a point; thence south 64 degrees 45 minutes 00 seconds west, 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence north 00 degrees 44 minutes 22 seconds west, 1,382.97 feet to the southeast corner of Sandia Heights South, unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said unit 14, north 00 degrees 04 minutes 20 seconds east, 1,951.64 feet to the northeast corner of said unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, north 00

degrees 02 minutes 31 seconds east, 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, north 00 degrees 03 minutes 29 seconds east, 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and deisgnated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, north 00 degrees 03 minutes 29 seconds east, 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on June 20, 1966; thence continuing along the easterly boundary of said Sandia Heights South, north 00 degrees 03 minutes 29 seconds east, 1,725.76 feet to the northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant: *Provided, however,* That the tract of land described in this section not be included within the Cibola National Forest until the Secretary of Agriculture determines that the city of Albuquerque, New Mexico, has acquired a tract of land containing approximately six hundred forty acres located in such tract for open space or city park use.".

(b) Add a new section 5 to read as follows:

"SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the City of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the City of Albuquerque.

"(b) The lands to be conveyed are subject to valid existing rights.

"(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: *Provided,* That the rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF SENATOR BRADLEY ON MONDAY NEXT

Mr. BAKER. Mr. President, I believe there is a special order in favor of the Senator from Georgia (Mr. NUNN) for Monday next. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I add to that a unanimous-consent request that the distinguished Senator from New Jersey (Mr. BRADLEY) be recognized after the Senator from Georgia, on special order, for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, the Senate will convene at 2 p.m. on Monday next.

Under the provisions of rule XXII, 1 hour after convening there will be an automatic quorum call. As soon as a quorum is established, the vote on cloture will occur, pursuant to the cloture motion that has been filed against further debate on the Helms amendment.

RECESS UNTIL 2 P.M. ON MONDAY, SEPTEMBER 20, 1982

Mr. BAKER. Mr. President, I inquire of the acting minority leader if he has any further matter he wishes to address to the Senate.

Mr. BAUCUS. Mr. President, so far as I know, we have no other business on this side at this time.

Mr. BAKER. I thank the Senator.

Mr. President, as I have indicated previously, it is desirable that the Senate stand in recess early today because of the religious observance which requires that certain Members leave the floor prior to sundown, to travel to their hometowns.

At this time, I move, in accordance with the order previously entered, that the Senate stand in recess until 2 p.m. on Monday next.

The motion was agreed to; and at 1:54 p.m. the Senate recessed until Monday, September 20, 1982, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1982:

DEPARTMENT OF AGRICULTURE

Orville G. Bentley, of Illinois, to be an Assistant Secretary of Agriculture, new position.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

L. Clair Nelson, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1988, vice Marian Pearlman Nease, resigned.

DEPARTMENT OF STATE

David Joseph Fischer, of Texas, a Career Member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

DEPARTMENT OF JUSTICE

James K. Stewart, of California, to be Director of the National Institute of Justice, new position.

COMMODITY FUTURES TRADING COMMISSION

Fowler C. West, of Texas, to be Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1987, vice David Gay Gartner, term expired.

NATIONAL MEDIATION BOARD

Walter C. Wallace, of New York, to be a Member of the National Mediation Board for the term expiring July 1, 1984, vice George S. Ives, term expired.

FOREIGN SERVICE

The following-named Career Members of the Senior Foreign Service for promotion in the Senior Foreign Service to the classes indicated:

Career Members of the Senior Foreign Service of the United States of America, class of Career Minister:

Robert L. Barry, of New Hampshire.
Frederic L. Chapin, of New Jersey.
Joan M. Clark, of New York.
Peter Dalton Constable, of New York.
Morris Draper, of the District of Columbia.
Henry Allen Holmes, of the District of Columbia.
Robert V. Keeley, of Florida.
George W. Landau, of Maryland.
Loren E. Lawrence, of Maryland.
Thomas P. Shoesmith, of Pennsylvania.

Career Members of the Senior Foreign Service of the United States of America, class of Minister-Counselor:

Donald Milton Anderson, of the District of Columbia.
George M. Barbis, of California.
Robert D. Blackwill, of Maryland.
Donald J. Bouchard, of Maine.
M. Lyall Breckon, of Oregon.
Elinor Greer Constable, of New York.
John R. Countryman, of Florida.
Edmund DeJarnette, of Virginia.
Thaddeus J. Figura, of Ohio.
Charles Wellman Freeman, Jr., of Rhode Island.
Frank M. Fulgham, of Maryland.
Charles Wyman Grover, of New Hampshire.
Robert Gordon Houdek, of Illinois.
George Fleming Jones, of Texas.
William E. Knepper, of California.
George E. Knight, of Pennsylvania.
Shepard Cherry Lowman, of Virginia.
Robert W. Maule, of Washington.
Sherrod McCall, of Illinois.
Richard L. McCormack, of Florida.
James M. Montgomery, of New Jersey.
Ernest Andrew Nagy, of California.
Chester E. Norris, Jr., of Maine.
Nancy Ostrander, of Indiana.
William Thornton Pryce, of Pennsylvania.
Alexander L. Rattray, of Washington.
Elmore Francis Rigamer, M.D., of Louisiana.
Fernando Enrique Rondon, of Virginia.
Charles A. Schmitz, of Missouri.
Roger C. Schrader, of Arizona.
William T. Shinn, Jr., of Maryland.
Walter John Silva, of Texas.
Thomas W. Simons, Jr., of the District of Columbia.
N. Shaw Smith, of Virginia.
Walter Edward Stadtler, of New York.
Paul K. Stahnke, of Illinois.

Gordon L. Streeb, of Colorado.
William Lacy Swing, of North Carolina.
Clyde Donald Taylor, of Maine.
Frank G. Trinka, Jr., of Florida.
James Rodney Wachob, of Maryland.
Howard Kent Walker, of New Jersey.
W. Robert Warne, of Virginia.
La Rae Herring Washington, M.D., of Maryland.
Joseph A. B. Winder, of Maryland.
Arthur Hamilton Woodruff, of Florida.
Donald Robert Woodward, of California.

The following-named Career Members of the Foreign Service for promotion into the Senior Foreign Service, and Consular Officer and Secretary in the Diplomatic Service appointments, as indicated:

Career Members of the Senior Foreign Service of the United States of America, class of Counselor:

Alvin P. Adams, Jr., of Virginia.
Charles R. Baquet III, of Louisiana.
Frank C. Bennett, Jr., of California.
David L. Blakemore, of Maryland.
John A. Boyle, of New York.
Charles F. Brown, of Nevada.
John Eignus Clark, of Maryland.
Anthony S. Dalsimer, of Florida.
Charles F. Dunbar, Jr., of Maine.
Clarke N. Ellis, of California.
Robert Duncan Emmons, of California.
Paul L. Engle, of California.
Vincent J. Farley, of New York.
Ronald D. Flack, of Minnesota.
Alan H. Flanigan, of Tennessee.
Anthony G. Freeman, of New Jersey.
Roger R. Gamble, of New Mexico.
John Charles Garon, of Georgia.
Charles A. Gillespie, Jr., of California.
Harry J. Gilmore, of Pennsylvania.
Larry C. Grahl, of Ohio.
Robert T. Grey, Jr., of Connecticut.
Scott S. Hallford, of Tennessee.
Frederick H. Hassett, of Florida.
Irvin Hicks, of Maryland.
Richard C. Howland, of New York.
Arthur H. Hughes, of Nebraska.
Larry Craig Johnstone, of Washington.
John P. Jurecky, of Arizona.
Dalton V. Killion, of California.
John C. Kornblum, of Michigan.
Vladimir Lehovich, of New York.
Mark C. Lissfelt, of Pennsylvania.
George Quincey Lumsden, Jr., of Maryland.
Hugh Cooke MacDougall, of New York.
Robert A. Martin, of Pennsylvania.
James A. Mattson, of Minnesota.
George A. McFarland, Jr., of Texas.
Thomas E. McNamara, of New York.
Gerald Joseph Monroe, of New Mexico.
Robert B. Morley, of New Jersey.
Day Olin Mount, of Massachusetts.
Jerome C. Ogden, of New York.
Robert A. Peck, of California.
Miles S. Pendleton, Jr., of Washington.
John H. Penfold, of Colorado.
Dale M. Povenmire, of Florida.
Donald Fraser Ramage, of California.
Mary A. Ryan, of Texas.
John J. St. John, of Pennsylvania.
P. Peter Sarros, of New York.
Frank M. Schroeder, of Virginia.
William E. Spruce, of Texas.
John Todd Stewart, of California.
David H. Swartz, of Illinois.
Peter Tomsen, of Ohio.
Theresa A. Tull, of New Jersey.
John R. Vought, of New York.
Douglas K. Watson, of California.
James A. Weiner, of California.
Philip C. Wilcox, of Colorado.
Brooks Wrampelmeier, of Ohio.

Career Members of the Senior Foreign Service, class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

John H. Clemmons, of Texas.
Kenneth A. French, of Virginia.
Wallace H. Gilliam, of New Jersey.
Frank L. Hart, M.D., of Oklahoma.
James B. Lackey, of Maryland.
Bernard C. Meyer, M.D., of Florida.
Arthur J. Rollins, M.D., of California.
Emmett N. Wilson, Jr., M.D., of Texas.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Harold F. Hardin, Jr., xxx-xx-xxxx [redacted] age 54, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Donald M. Babers, xxx-xx-xxxx U.S. Army.

HOUSE OF REPRESENTATIVES—*Friday, September 17, 1982*

CONFERENCE REPORT ON H.R. 6133

Pursuant to the order of September 16, 1982, Mr. JONES of North Carolina submitted the following conference report and statement on the bill (H.R. 6133) to authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-835)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6133) to authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Endangered Species Act Amendments of 1982".

SEC. 2. LISTING PROCESS.

(a) Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating subparagraphs (1) through (5) of paragraph (1) as subparagraphs (A) through (E), respectively;

(B) by amending that part of paragraph (1) which precedes subparagraph (A) (as so redesignated) by inserting "promulgated in accordance with subsection (b)" immediately after "shall by regulation";

(C) by striking out "sporting," in paragraph (1)(B) (as so redesignated) and inserting in lieu thereof "recreational,";

(D) by striking out the last two sentences in paragraph (1); and

(E) by adding at the end thereof the following new paragraph:

"(3) The Secretary, by regulation promulgated in accordance with subsection (b) and to the maximum extent prudent and determinable—

"(A) shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, designate any habitat of such species which is then considered to be critical habitat; and

"(B) may, from time-to-time thereafter as appropriate, revise such designation.".

(2) Subsection (b) is amended to read as follows:

"(b) BASIS FOR DETERMINATIONS.—(1)(A) The Secretary shall make determinations required by subsection (a)(1) solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas.

"(B) In carrying out this section, the Secretary shall give consideration to species which have been—

"(i) designated as requiring protection from unrestricted commerce by any foreign nation, or pursuant to any international agreement; or

"(ii) identified as in danger of extinction, or likely to become so within the foreseeable future, by any State agency or by any agency of a foreign nation that is responsible for the conservation of fish or wildlife or plants.

"(2) The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

"(3)(A) To the maximum extent practicable, within 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to add a species to, or to remove a species from, either of the lists published under subsection (c), the Secretary shall make a finding as to whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. If such a petition is found to present such information, the Secretary shall promptly commence a review of the status of the species concerned. The Secretary shall promptly publish each finding made under this subparagraph in the Federal Register.

"(B) Within 12 months after receiving a petition that is found under subparagraph (A) to present substantial information indicating that the petitioned action may be warranted, the Secretary shall make one of the following findings:

"(i) The petitioned action is not warranted, in which case the Secretary shall promptly publish such finding in the Federal Register.

"(ii) The petitioned action is warranted, in which case the Secretary shall promptly publish in the Federal Register a general notice and the complete text of a proposed regulation to implement such action in accordance with paragraph (5).

"(iii) The petitioned action is warranted, but that—

"(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded by pending proposals to determine whether any species is an endangered species or a threatened species, and

(II) expeditious progress is being made to add qualified species to either of the lists published under subsection (c) and to remove from such lists species for which the protections of the Act are no longer necessary,

in which case the Secretary shall promptly publish such finding in the Federal Register, together with a description and evaluation of the reasons and data on which the finding is based.

"(C)(i) A petition with respect to which a finding is made under subparagraph (B)(iii) shall be treated as a petition that is resubmitted to the Secretary under subparagraph (A) on the date of such finding and that presents substantial scientific or commercial information that the petitioned action may be warranted.

"(ii) Any negative finding described in subparagraph (A) and any finding described in subparagraph (B)(i) or (iii) shall be subject to judicial review.

"(D)(i) To the maximum extent practicable, within 90 days after receiving the petition of an interested person under section 553(e) of title 5, United States Code, to revise a critical habitat designation, the Secretary shall make a finding as to whether the petition presents substantial scientific information indicating that the revision may be warranted. The Secretary shall promptly publish such finding in the Federal Register.

"(ii) Within 12 months after receiving a petition that is found under clause (i) to present substantial information indicating that the requested revision may be warranted, the Secretary shall determine how he intends to proceed with the requested revision, and shall promptly publish notice of such intention in the Federal Register.

"(4) Except as provided in paragraphs (5) and (6) of this subsection, the provisions of section 553 of title 5, United States Code (relating to rulemaking procedures), shall apply to any regulation promulgated to carry out the purposes of this Act.

"(5) With respect to any regulation proposed by the Secretary to implement a determination, designation, or revision referred to in subsection (a)(1) or (3), the Secretary shall—

"(A) not less than 90 days before the effective date of the regulation—

"(i) publish a general notice and the complete text of the proposed regulation in the Federal Register, and

"(ii) give actual notice of the proposed regulation (including the complete text of the regulation) to the State agency in each State in which the species is believed to occur, and to each county or equivalent jurisdiction in which the species is believed to occur, and invite the comment of such agency, and each such jurisdiction, thereon;

"(B) insofar as practical, and in cooperation with the Secretary of State, give notice of the proposed regulation to each foreign nation in which the species is believed to occur or whose citizens harvest the species

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

on the high seas, and invite the comment of such nation thereon;

"(C) give notice of the proposed regulation to such professional scientific organizations as he deems appropriate;

"(D) publish a summary of the proposed regulation in a newspaper of general circulation in each area of the United States in which the species is believed to occur; and

"(E) promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of publication of general notice.

"(6)(A) Within the one-year period beginning on the date on which general notice is published in accordance with paragraph (5)(A)(i) regarding a proposed regulation, the Secretary shall publish in the Federal Register—

"(i) if a determination as to whether a species is an endangered species or a threatened species, or a revision of critical habitat, is involved, either—

"(I) a final regulation to implement such determination,

"(II) a final regulation to implement such revision or a finding that such revision should not be made,

"(III) notice that such one-year period is being extended under subparagraph (B)(i), or

"(IV) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based; or

"(ii) subject to subparagraph (C), if a designation of critical habitat is involved, either—

"(I) a final regulation to implement such designation, or

"(II) notice that such one-year period is being extended under such subparagraph.

"(B)(i) If the Secretary finds with respect to a proposed regulation referred to in subparagraph (A)(i) that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned, the Secretary may extend the one-year period specified in subparagraph (A) for not more than 6 months for purposes of soliciting additional data.

"(ii) If a proposed regulation referred to in subparagraph (A)(i) is not promulgated as a final regulation within such one-year period (or longer period if extension under clause (i) applies) because the Secretary finds that there is not sufficient evidence to justify the action proposed by the regulation, the Secretary shall immediately withdraw the regulation. The finding on which a withdrawal is based shall be subject to judicial review. The Secretary may not propose a regulation that has previously been withdrawn under this clause unless he determines that sufficient new information is available to warrant such proposal.

"(iii) If the one-year period specified in subparagraph (A) is extended under clause (i) with respect to a proposed regulation, then before the close of such extended period the Secretary shall publish in the Federal Register either a final regulation to implement the determination or revision concerned, a finding that the revision should not be made, or a notice of withdrawal of the regulation under clause (ii), together with the finding on which the withdrawal is based.

"(C) A final regulation designating critical habitat of an endangered species or a threatened species shall be published concurrently with the final regulation implementing the determination that such species is endangered or threatened, unless the Secretary deems that—

"(i) it is essential to the conservation of such species that the regulation implementing such determination be promptly published; or

"(ii) critical habitat of such species is not then determinable, in which case the Secretary, with respect to the proposed regulation to designate such habitat, may extend the one-year period specified in subparagraph (A) by not more than one additional year, but not later than the close of such additional year the Secretary must publish a final regulation, based on such data as may be available at that time, designating, to the maximum extent prudent, such habitat.

"(7) Neither paragraph (4), (5), or (6) of this subsection nor section 553 of title 5, United States Code, shall apply to any regulation issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of fish or wildlife or plants, but only if—

"(A) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary; and

"(B) in the case such regulation applies to resident species of fish or wildlife, or plants, the Secretary gives actual notice of such regulation to the State agency in each State in which such species is believed to occur.

Such regulation shall, at the discretion of the Secretary, take effect immediately upon the publication of the regulation in the Federal Register. Any regulation promulgated under the authority of this paragraph shall cease to have force and effect at the close of the 240-day period following the date of publication unless, during such 240-day period, the rulemaking procedures which would apply to such regulation without regard to this paragraph are complied with. If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best appropriate data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it.

"(8) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulation; and if such regulation designates or revises critical habitat, such summary shall, to the maximum extent practicable, also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be affected by such designation.".

(3) Subsection (c) is amended—

(A) by amending paragraph (1) by striking out ", and from time to time he may by regulation revise," in the first sentence thereof, and by adding at the end thereof the following new sentence: "The Secretary shall from time to time revise each list published under the authority of this subsection to reflect recent determinations, designations, and revisions made in accordance with subsections (a) and (b).",

(B) by striking out paragraphs (2) and (3) thereof; and

(C) by redesignating paragraph (4) thereof as paragraph (2).

(4) Such section 4 is further amended—

(A) by amending subsection (d) by striking out "section 6(a)" and inserting in lieu thereof "section 6(c)";

(B) by striking out subsection (f) thereof;

(C) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively;

(D) by amending the second sentence of subsection (f) (as redesignated by subparagraph (C)) by striking out "recovery plans," and inserting in lieu thereof "recovery plans (1) shall, to the maximum extent practicable, give priority to those endangered species or threatened species most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other developmental projects or other forms of economic activity, and (2)";

(E) by amending subsection (g) (as redesignated by subparagraph (C))—

(i) by striking out "subsection (c)(2)" in paragraph (1) and inserting in lieu thereof "subsection (b)(3)",

(ii) by striking out "for listing" in paragraph (3) and inserting in lieu thereof "under subsection (a)(1) of this section", and

(iii) by striking out "subsection (g)" in paragraph (4) and inserting in lieu thereof "subsection (f)"; and

(F) by inserting at the end thereof the following new subsection:

"(h) If, in the case of any regulation proposed by the Secretary under the authority of this section, a State agency to which notice thereof was given in accordance with subsection (b)(5)(A)(ii) files comments disagreeing with all or part of the proposed regulation, and the Secretary issues a final regulation which is in conflict with such comments, or if the Secretary fails to adopt a regulation pursuant to an action petitioned by a State agency under subsection (b)(3), the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.".

(b)(1) Any petition filed under section 4(c)(2) of the Endangered Species Act of 1973 (as in effect on the day before the date of the enactment of this Act) and any regulation proposed under section 4(f) of such Act of 1973 (as in effect on such day) that is pending on such date of enactment shall be treated as having been filed or proposed on such date of enactment under section 4(b) of such Act of 1973 (as amended by subsection (a)); and the procedural requirements specified in such section 4(b) (as so amended) regarding such petition or proposed regulation shall be deemed to be complied with to the extent that like requirements under such section 4 (as in effect before the date of the enactment of this Act) were complied with before such date of enactment.

(2) Any regulation proposed after, or pending on, the date of the enactment of this Act to designate critical habitat for a species that was determined before such date of enactment to be endangered or threatened shall be subject to the procedures set forth in section 4 of such Act of 1973 (as amended by subsection (a)) for regulations proposing revisions to critical habitat instead of those for regulations proposing the designation of critical habitat.

(3) Any list of endangered species or threatened species (as in effect under section 4(c) of such Act of 1973 on the day before the date of the enactment of this Act) shall remain in effect unless and until determinations regarding species and designations and revisions of critical habitats that require changes to such list are made in accordance with subsection (b)(5) of such Act of 1973 (as added by subsection (a)).

(4) Section 4(a)(3)(A) of such Act of 1973 (as added by subsection (a)) shall not apply

with respect to any species which was listed as an endangered species or a threatened species before November 10, 1978.

SEC. 3. COOPERATION WITH THE STATES.

Section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is amended—

(1) by striking out "66⅔ per centum" in subsection (d)(2)(i) thereof and inserting in lieu thereof "75 percent"; and

(2) by striking out "75 per centum" in subsection (d)(2)(ii) thereof and inserting in lieu thereof "90 percent".

SEC. 4. INTERAGENCY COOPERATION AND COMMITTEE EXEMPTIONS.

(a) Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended as follows:

(1) Subsection (a) is amended by redesignating paragraph (3) as paragraph (4), and by inserting immediately after paragraph (2) the following new paragraph:

"(3) Subject to such guidelines as the Secretary may establish, a Federal agency shall consult with the Secretary on any prospective agency action at the request of, and in cooperation with, the prospective permit or license applicant if the applicant has reason to believe that an endangered species or a threatened species may be present in the area affected by his project and that implementation of such action will likely affect such species.".

(2) Subsection (b) is amended to read as follows:

"(b) OPINION OF SECRETARY.—(1)(A) Consultation under subsection (a)(2) with respect to any agency action shall be concluded within the 90-day period beginning on the date on which initiated or, subject to subparagraph (B), within such other period of time as is mutually agreeable to the Secretary and the Federal agency.

"(B) In the case of an agency action involving a permit or license applicant, the Secretary and the Federal agency may not mutually agree to conclude consultation within a period exceeding 90 days unless the Secretary, before the close of the 90th day referred to in subparagraph (A)—

"(i) if the consultation period proposed to be agreed to will end before the 150th day after the date on which consultation was initiated, submits to the applicant a written statement setting forth—

"(I) the reasons why a longer period is required,

"(II) the information that is required to complete the consultation, and

"(III) the estimated date on which consultation will be completed; or

"(ii) if the consultation period proposed to be agreed to will end 150 or more days after the date on which consultation was initiated, obtains the consent of the applicant to such period.

The Secretary and the Federal agency may mutually agree to extend a consultation period established under the preceding sentence if the Secretary, before the close of such period, obtains the consent of the applicant to the extension.

"(2) Consultation under subsection (a)(3) shall be concluded within such period as is agreeable to the Secretary, the Federal agency, and the applicant concerned.

"(3)(A) Promptly after conclusion of consultation under paragraph (2) or (3) of subsection (a), the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action.

"(B) Consultation under subsection (a)(3), and an opinion issued by the Secretary incident to such consultation, regarding an agency action shall be treated respectively as a consultation under subsection (a)(2), and as an opinion issued after consultation under such subsection, regarding that action if the Secretary reviews the action before it is commenced by the Federal agency and finds, and notifies such agency, that no significant changes have been made with respect to the action and that no significant change has occurred regarding the information used during the initial consultation.

"(4) If after consultation under subsection (a)(2), the Secretary concludes that—

"(A) the agency action will not violate such subsection, or offers reasonable and prudent alternatives which the Secretary believes would not violate such subsection; and

"(B) the taking of an endangered species or a threatened species incidental to the agency action will not violate such subsection;

the Secretary shall provide the Federal agency and the applicant concerned, if any, with a written statement that—

"(i) specifies the impact of such incidental taking on the species,

"(ii) specifies those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact, and

"(iii) sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or applicant (if any), or both, to implement the measures specified under clause (ii).".

(3) Subsection (c) is amended by amending the penultimate sentence in paragraph (1) by inserting ", except that if a permit or license applicant is involved, the 180-day period may not be extended unless such agency provides the applicant, before the close of such period, with a written statement setting forth the estimated length of the proposed extension and the reasons therefor" immediately after "agency" and before the parenthesis.

(4) Subsection (e)(10) is amended by striking out the first sentence thereof.

(5) Subsection (g) is amended as follows:

(A) The sideheading is amended to read as follows: "APPLICATION FOR EXEMPTION AND REPORT TO THE COMMITTEE.—".

(B) The second sentence of paragraph (1) is amended to read as follows: "An application for an exemption shall be considered initially by the Secretary in the manner provided for in this subsection, and shall be considered by the Committee for a final determination under subsection (h) after a report is made pursuant to paragraph (5).".

(C) Paragraph (2) is amended—

(i) by striking out the first sentence of subparagraph (A) and inserting in lieu thereof the following: "An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f), not later than 90 days after the completion of the consultation process; except that, in the case of any agency action involving a permit or license applicant, such application shall be submitted not later than 90 days after the date on which the Federal agency concerned takes final agency action with respect to the issuance of the permit or license. For purposes of the preceding sentence, the term 'final agency action' means (i) a disposition by an agency with respect to the issuance of a permit or license that is subject to administrative review, whether or not such disposition is subject to judicial review; or (ii) if administrative review is sought with respect to such disposition, the decision resulting after such review."; and

(ii) by amending subparagraph (B)—

(I) by inserting "(i)" immediately after "promptly",

(II) by striking out "to the review board to be established under paragraph (3) and", and

(III) by inserting "; and (ii) publish notice of receipt of the application in the Federal Register, including a summary of the information contained in the application and a description of the agency action with respect to which the application for exemption has been filed" immediately before the period.

(D) Paragraphs (3), (4), (9), and (11) are repealed.

(E) Paragraph (5) is redesignated as paragraph (3) and is further amended to read as follows:

"(3) The Secretary shall within 20 days after the receipt of an application for exemption, or within such other period of time as is mutually agreeable to the exemption applicant and the Secretary—

"(A) determine that the Federal agency concerned and the exemption applicant have—

"(i) carried out the consultation responsibilities described in subsection (a) in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which would not violate subsection (a)(2);

"(ii) conducted any biological assessment required by subsection (c); and

"(iii) to the extent determinable within the time provided herein, refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d); or

"(B) deny the application for exemption because the Federal agency concerned or the exemption applicant have not met the requirements set forth in subparagraph (A)(i), (ii), and (iii).

The denial of an application under subparagraph (B) shall be considered final agency action for purposes of chapter 7 of title 5, United States Code.".

(F) Paragraph (6) is redesignated as paragraph (4) and is further amended to read as follows:

"(4) If the Secretary determines that the Federal agency concerned and the exemption applicant have met the requirements set forth in paragraph (3)(A)(i), (ii), and (iii) he shall, in consultation with the Members of the Committee, hold a hearing on the application for exemption in accordance with sections 554, 555, and 556 (other than subsection (b)(1) and (2) thereof) of title 5, United States Code, and prepare the report to be submitted pursuant to paragraph (5).".

(G) Paragraph (7) is redesignated as paragraph (5) and is further amended—

(i) by striking out that part which precedes subparagraph (A) and inserting in lieu thereof "Within 140 days after making the determinations under paragraph (3) or within such other period of time as is mutu-

ally agreeable to the exemption applicant and the Secretary, the Secretary shall submit to the Committee a report discussing—";

(ii) by striking out the period immediately after "by the Committee" in subparagraph (C) and inserting in lieu thereof "; and"; and

(iii) by adding at the end thereof the following:

"(D) whether the Federal agency concerned and the exemption applicant refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d).".

(H) Paragraph (8) is redesignated as paragraph (6).

(I) Paragraph (10) is redesignated as paragraph (7) and is amended to read as follows:

"(7) Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Secretary to assist him in carrying out his duties under this section.".

(J) Paragraph (12) is redesignated as paragraph (8) and is further amended by striking out "of review boards" and inserting in lieu thereof "resulting from activities pursuant to this subsection".

(6) Subsection (h)(1) is amended—

(A) by striking out "90 days of receiving the report of the review board under subsection (g)(7)" in the matter preceding subparagraph (A) and inserting in lieu thereof "30 days after receiving the report of the Secretary pursuant to subsection (g)(5)";

(B) by striking out "review board" in subparagraph (A) and inserting in lieu thereof "Secretary, the record of the hearing held under subsection (g)(4)";

(C) by striking out "and" at the end of subparagraph (A)(ii);

(D) by inserting immediately after subparagraph (A)(iii) the following:

"(iv) neither the Federal agency concerned nor the exemption applicant made any irreversible or irretrievable commitment of resources prohibited by subsection (d); and".

(7) Subsection (o) is amended to read as follows:

"(o) Notwithstanding sections 4(d) and 9(a)(1)(B) and (C) or any regulation promulgated to implement either such section—

"(1) any action for which an exemption is granted under subsection (h) shall not be considered to be a taking of any endangered species or threatened species with respect to any activity which is necessary to carry out such action; and

"(2) any taking that is in compliance with the terms and conditions specified in a written statement provided under subsection (b)(4)(iii) shall not be considered to be a taking of the species concerned.".

(b) Paragraph (11) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is repealed.

SEC. 5. CONVENTION IMPLEMENTATION.

Section 8A of the Endangered Species Act of 1973 (16 U.S.C. 1537a) is amended—

(1) by amending subsection (c) by inserting "(1)" immediately after "SCIENTIFIC AUTHORITY FUNCTIONS.—", and by adding at the end thereof the following new paragraph:

"(2) The Secretary shall base the determinations and advice given by him under Article IV of the Convention with respect to wildlife upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice.";

(2) by amending subsection (d) to read as follows:

"(d) RESERVATIONS BY THE UNITED STATES UNDER CONVENTION.—If the United States votes against including any species in Appendix I or II of the Convention and does not enter a reservation pursuant to paragraph (3) of Article XV of the Convention with respect to that species, the Secretary of State, before the 90th day after the last day on which such a reservation could be entered, shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives, and to the Committee on the Environment and Public Works of the Senate, a written report setting forth the reasons why such a reservation was not entered."; and

(3) by amending subsection (e) to read as follows:

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—(1) The Secretary of the Interior (hereinafter in this subsection referred to as the 'Secretary'), in cooperation with the Secretary of State, shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere (56 Stat. 1354, T.S. 982, hereinafter in this subsection referred to as the 'Western Convention'). In the discharge of these responsibilities, the Secretary and the Secretary of State shall consult with the Secretary of Agriculture, the Secretary of Commerce, and the heads of other agencies with respect to matters relating to or affecting their areas of responsibility.

"(2) The Secretary and the Secretary of State shall, in cooperation with the contracting parties to the Western Convention and, to the extent feasible and appropriate, with the participation of State agencies, take such steps as are necessary to implement the Western Convention. Such steps shall include, but not be limited to—

"(A) cooperation with contracting parties and international organizations for the purpose of developing personnel resources and programs that will facilitate implementation of the Western Convention;

"(B) identification of those species of birds that migrate between the United States and other contracting parties, and the habitats upon which those species depend, and the implementation of cooperative measures to ensure that such species will not become endangered or threatened; and

"(C) identification of measures that are necessary and appropriate to implement those provisions of the Western Convention which address the protection of wild plants.

"(3) No later than September 30, 1985, the Secretary and the Secretary of State shall submit a report to Congress describing those steps taken in accordance with the requirements of this subsection and identifying the principal remaining actions yet necessary for comprehensive and effective implementation of the Western Convention.

"(4) The provisions of this subsection shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate resident fish or wildlife under State law or regulations.".

(b) The amendment made by paragraph (1) of subsection (a) shall take effect January 1, 1981.

SEC. 6. EXPERIMENTAL POPULATIONS AND OTHER EXCEPTIONS.

Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) PERMITS.—(1) The Secretary may permit, under such terms and conditions as he shall prescribe—

"(A) any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species, including, but not limited to, acts necessary for the establishment and maintenance of experimental populations pursuant to subsection (j); or

"(B) any taking otherwise prohibited by section 9(a)(1)(B) if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

"(2)(A) No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant therefor submits to the Secretary a conservation plan that specifies—

"(i) the impact which will likely result from such taking;

"(ii) what steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement such steps;

"(iii) what alternative actions to such taking the applicant considered and the reasons why such alternatives are not being utilized; and

"(iv) such other measures that the Secretary may require as being necessary or appropriate for purposes of the plan.

"(B) If the Secretary finds, after opportunity for public comment, with respect to a permit application and the related conservation plan that—

"(i) the taking will be incidental;

"(ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking;

"(iii) the applicant will ensure that adequate funding for the plan will be provided;

"(iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

"(v) the measures, if any, required under subparagraph (A)(iv) will be met;

and he has received such other assurances as he may require that the plan will be implemented, the Secretary shall issue the permit. The permit shall contain such terms and conditions as the Secretary deems necessary or appropriate to carry out the purposes of this paragraph, including, but not limited to, such reporting requirements as the Secretary deems necessary for determining whether such terms and conditions are being complied with.

"(C) The Secretary shall revoke a permit issued under this paragraph if he finds that the permittee is not complying with the terms and conditions of the permit.".

(2) Subsection (d) is amended by striking out "subsections (a)" and inserting in lieu thereof "subsections (a)(1)(A)".

(3) Subsection (f) is amended—

(A) by amending paragraph (1)(B) by inserting "substantial" immediately before "etching" and before "carving", and by adding at the end thereof the following new sentence: "For purposes of this subsection, polishing or the adding of minor superficial markings does not constitute substantial etching, engraving, or carving."; and

(B) by adding at the end thereof the following new paragraph:

"(9)(A) The Secretary shall carry out a comprehensive review of the effectiveness of the regulations prescribed pursuant to paragraph (5) of this subsection—

"(i) in insuring that pre-Act finished scrimshaw products, or the raw materials for such products, have been adequately ac-

counted for and not disposed of contrary to the provisions of this Act; and

"(ii) in preventing the commingling of unlawfully imported or acquired marine mammal products with such exempted products either by persons to whom certificates of exemption have been issued under paragraph (4) of this subsection or by subsequent purchasers from such persons.

"(B) In conducting the review required under subparagraph (A), the Secretary shall consider, but not be limited to—

"(i) the adequacy of the reporting and records required of exemption holders;

"(ii) the extent to which such reports and records are subject to verification;

"(iii) methods for identifying individual pieces of scrimshaw products and raw materials and for preventing commingling of exempted materials from those not subject to such exemption; and

"(iv) the retention of unworked materials in controlled-access storage.

The Secretary shall submit a report of such review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on the Environment and Public Works of the Senate and make it available to the general public. Based on such review, the Secretary shall, on or before October 1, 1983, propose and adopt such revisions to such regulations as he deems necessary and appropriate to carry out this paragraph. Upon publication of such revised regulations, the Secretary may renew for a further period of not to exceed three years any certificate of exemption previously renewed under paragraph (8) of this subsection, subject to such new terms and conditions as are necessary and appropriate under the revised regulations; except that any certificate of exemption that would, but for this clause, expire on or after the date of enactment of this paragraph and before the date of the adoption of such regulations may be extended until such time after the date of adoption as may be necessary for purposes of applying such regulations to the certificate. Notwithstanding the foregoing, however, no person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce any pre-Act finished scrimshaw product unless such person has been issued a valid certificate of exemption by the Secretary under this subsection and unless such product or the raw material for such product was held by such person on the date of the enactment of this paragraph.".

(4)(A) Subsection (h)(1) is amended—

(i) by striking out "(other than scrimshaw)"; and

(ii) by amending subparagraph (A) to read as follows:

"(A) is not less than 100 years of age; ".

(B) The amendment made by subparagraph (A) shall take effect January 1, 1981.

(5) Subsection (i) is amended to read as follows:

"(i) NONCOMMERCIAL TRANSSHIPMENTS.—Any importation into the United States of fish or wildlife shall, if—

"(1) such fish or wildlife was lawfully taken and exported from the country of origin and country of reexport, if any;

"(2) such fish or wildlife is in transit or transshipment through any place subject to the jurisdiction of the United States en route to a country where such fish or wildlife may be lawfully imported and received;

"(3) the exporter or owner of such fish or wildlife gave explicit instructions not to ship such fish or wildlife through any place subject to the jurisdiction of the United States, or did all that could have reasonably been done to prevent transshipment, and the circumstances leading to the transshipment were beyond the exporter's or owner's control;

"(4) the applicable requirements of the Convention have been satisfied; and

"(5) such importation is not made in the course of a commercial activity,

be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act while such fish or wildlife remains in the control of the United States Customs Service.".

(6) At the end thereof insert the following new subsection:

"(j) EXPERIMENTAL POPULATIONS.—(1) For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising solely therefrom) authorized by the Secretary for release under paragraph (2), but only when, and at such times as, the population is wholly separate geographically from nonexperimental populations of the same species.

"(2)(A) The Secretary may authorize the release (and the related transportation) of any population (including eggs, propagules, or individuals) of an endangered species or a threatened species outside the current range of such species if the Secretary determines that such release will further the conservation of such species.

"(B) Before authorizing the release of any population under subparagraph (A), the Secretary shall by regulation identify the population and determine, on the basis of the best available information, whether or not such population is essential to the continued existence of an endangered species or a threatened species.

"(C) For the purposes of this Act, each member of an experimental population shall be treated as a threatened species; except that—

"(i) solely for purposes of section 7 (other than subsection (a)(1) thereof), an experimental population determined under subparagraph (B) to be not essential to the continued existence of a species shall be treated, except when it occurs in an area within the National Wildlife Refuge System or the National Park System, as a species proposed to be listed under section 4; and

"(ii) critical habitat shall not be designated under this Act for any experimental population determined under subparagraph (B) to be not essential to the continued existence of a species.

"(3) The Secretary, with respect to populations of endangered species or threatened species that the Secretary authorized, before the date of the enactment of this subsection, for release in geographical areas separate from the other populations of such species, shall determine by regulation which of such populations are an experimental population for the purposes of this subsection and whether or not each is essential to the continued existence of an endangered species or a threatened species.".

SEC. 7. ENFORCEMENT.

Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended as follows:

(1) Subsection (e) is amended by adding at the end thereof the following new paragraph:

"(6) The Attorney General of the United States may seek to enjoin any person who is alleged to be in violation of any provision of this Act or regulation issued under authority thereof.".

(2) Subsection (g) is amended—

(A) by amending paragraph (1)—

(i) by striking out "any State." in subparagraph (B) and inserting in lieu thereof "any State; or",

(ii) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under section 4 which is not discretionary with the Secretary.", and

(iii) by amending the first sentence following subparagraph (C) (as added by clause (ii) of this subparagraph), by inserting "or to order the Secretary to perform such act or duty," immediately after "any such provision or regulation,"; and

(B) by amending paragraph (2) by adding the following new subparagraph immediately after subparagraph (B) thereof:

"(C) No action may be commenced under subparagraph (1)(C) of this section prior to sixty days after written notice has been given to the Secretary; except that such action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife or plants.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. (a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $27,000,000 for each of fiscal years 1983, 1984, and 1985 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $3,500,000 for each of fiscal years 1983, 1984, and 1985 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $1,850,000 for each of fiscal years 1983, 1984, and 1985 to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

"(b) COOPERATION WITH STATES.—For the purposes of section 6, there are authorized to be appropriated not to exceed $6,000,000 for each of fiscal years 1983, 1984, and 1985.

"(c) EXEMPTIONS FROM ACT.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 7(e), (g), and (h) not to exceed $600,000 for each of fiscal years 1983, 1984, and 1985.

"(d) CONVENTION IMPLEMENTATION.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $150,000 for each of fiscal years 1983 and 1984, and not to exceed $300,000 for fiscal year 1985, and such sums shall remain available until expended.".

(b) Sections 6(i) and 7(q) of such Act of 1973 are repealed.

SEC. 9. MISCELLANEOUS AMENDMENTS.

(a) Section 2(c) of the Endangered Species Act of 1973 (16 U.S.C. 1532(c)) is amended—

(1) by inserting "(1)" immediately before "It is"; and

(2) by adding the following new paragraph:

"(2) It is further declared to be the policy of Congress that Federal agencies shall coop-

erate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.".

(b) Section 9 of the Endangered Species Act of 1973 (16 U.S.C. 1538) is amended—

(1) by amending subsection (a)(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting the following new subparagraph immediately after subparagraph (A) thereof:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction;";

(2) by amending subsection (b)(1) to read as follows:

"(b)(1) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—The provisions of subsections (a)(1)(A) and (a)(1)(G) of this section shall not apply to any fish or wildlife which was held in captivity or in a controlled environment on (A) December 28, 1973, or (B) the date of the publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 4 of this Act: Provided, That such holding and any subsequent holding or use of the fish or wildlife was not in the course of a commercial activity. With respect to any act prohibited by subsections (a)(1)(A) and (a)(1)(G) of this section which occurs after a period of 180 days from (i) December 28, 1973, or (ii) the date of publication in the Federal Register of a final regulation adding such fish or wildlife species to any list published pursuant to subsection (c) of section 4 of this Act, there shall be a rebuttable presumption that the fish or wildlife involved in such act is not entitled to the exemption contained in this subsection."; and

(3) by amending subsection (b)(2)(A) by striking out "This section shall not apply to" and inserting in lieu thereof "The provisions of subsection (a)(1) shall not apply to".

(c) Section 11(a)(1) and (b)(1) of such Act of 1973 are each amended by striking out "or (C)" immediately after "(a)(2)(A), (B)," and inserting in lieu thereof "(C), or (D)".

And to the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert the following: "An Act to authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes."

And the Senate agree to the same.

WALTER B. JONES,
JOHN BREAUX,
GERRY E. STUDDS,
DAVID R. BOWEN,
GENE SNYDER,
EDWIN B. FORSYTHE,
DAVE EMERY,

Solely for consideration of section 4 of the House bill and modification committed to conference:

DON BONKER,
JIM LEACH,
Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
SLADE GORTON,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6133) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The House also recedes from its disagreement to the title of the bill. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION-BY-SECTION ANALYSIS

Section 1. Title

The short title of this bill is the "Endangered Species Act Amendments of 1982."

Section 2. Listing of species

Section 2 of the Conference substitute amends section 4 of the Act in several ways. The principal purpose of these amendments is to ensure that decisions in every phase of the process pertaining to the listing or delisting of species are based solely upon biological criteria and to prevent non-biological considerations from affecting such decisions. These amendments are intended to expedite the decisionmaking process and to ensure prompt action in determining the status of the many species which may require the protections of the Act.

Section 2(a)(1) adopts provisions which amend section 4(a) of the Act and which appear in both the House bill and the Senate amendment. Section 4(a) is first amended by substituting the word "recreational" for the word "sporting" in the summary of factors that are to be considered by the Secretary when determining whether a species is endangered or threatened. Section 4(a) is further amended by changing the requirement that the Secretary, to the maximum extent prudent, must designate critical habitat at the time a species is listed. New section 4(a)(3) will require such designation only to the maximum extent prudent and determinable.

Section 2(a)(2) adopts provisions appearing in both the House bill and the Senate amendment. This provision amends Section 4(b) of the Act and sets forth the standards and procedures that must be used by the Secretary when determining whether a species is an endangered or threatened species and when designating critical habitat.

The Committee of Conference (hereinafter the Committee) adopted the House language which requires the Secretary to base determinations regarding the listing or delisting of species "solely" on the basis of the best scientific and commercial data available to him. As noted in the House Report, economic considerations have no relevance to determinations regarding the status of species and the economic analysis requirements of Executive Order 12291, and such statutes as the Regulatory Flexibility Act and the Paperwork Reduction Act, will not apply to any phase of the listing process. The standards in the Act relating to the designation of critical habitat remain unchanged. The requirement that the Secretary consider for listing those species that states or foreign nations have designated or identified as in need of protection also remains unchanged.

The Committee adopted, with modifications, the Senate amendments which combined and rewrote sections 4(b) and (f) of the Act to streamline the listing process by reducing the time periods for rulemaking, consolidating public meeting and hearing requirements and establishing virtually identical procedures for the listing and delisting of species and for the designation of critical habitat.

Section 4(b)(1), as amended, sets forth the standard that shall be used to determine whether any species is an endangered species or a threatened species. Section 4(b)(2), as amended, sets forth the standard that shall be used to designate critical habitat.

The petition process (currently found in section 4(c)(2) of the Act) is amended by merging the House bill and the Senate amendment and by redesignating the section 4(b)(3). Section 4(b)(3), as amended, alters the evidentiary standard petitioners must satisfy to warrant a status review of the species proposed for listing or delisting. The Act previously required the Secretary to determine whether a petitioner had presented substantial evidence justifying a status review. The amendment clarifies that petitioners are not required to present economic information relevant to the proposed listing or delisting of species. Petitioners are required to present only scientific or commercial information that is, biological information or trade data. The amendments do not change the amount of information needed to warrant a status review of the species. As under the existing law, the petitioners need only present information sufficient to indicate that addition to, or removal from, the list may be warranted and, thus, that a status review of the species should be conducted.

In several ways, these amendments will replace the Secretary's discretion with mandatory, nondiscretionary duties. For example, under current law, if a petition presents substantial evidence warranting a review of the status of a species, the Secretary is to undertake such a review. However, the statute imposes no deadlines within which such review is to be completed. In practice, such status reviews have often continued indefinitely, sometimes for many years. The amendments will force action on listing and delisting proposals by requiring that the Secretary, to the maximum extent practicable, within 90 days after receiving a petition, publish a finding whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. The Secretary must begin a status review when he publishes a finding that a petition to list or delist a species presents such substantial information.

The phrase "to the maximum extent practicable" addresses the concern that a large influx of petitions coupled with an absolute requirement to act within 90 days would force the devotion of staff resources to petitions and deprive the Secretary of the use of those resources to list a species that might be in greater need of protection. The phrase is not intended to allow the Secretary to

delay commencing the rulemaking process for any reason other than that the existence of pending or imminent proposals to list species subject to a greater degree of threat would make allocation of resources to such a petition unwise. The listing agencies should utilize a scientifically based priority system to list and delist species, subspecies and populations based on the degree of threat, and proceed in an efficient and timely manner. Distinctions based on whether the species is a higher or lower life form are not to be considered.

If a petition presents substantial information indicating that the petitioned listing or delisting may be warranted, the Secretary must, within 12 months after receiving the petition, make one of three findings and, depending upon which finding is made, promptly publish in the Federal Register certain items. Specifically, the Secretary must find:

(a) That the petitioned action is not warranted; or

(b) That the petitioned action is warranted; or

(c) That the petitioned action is warranted but that ongoing work on other listing and delisting actions precludes the proposal of a regulation to implement the petitioned action at that time.

The Secretary is required to publish notice of all such findings in the Federal Register. If he finds that a listing is warranted, the Secretary must also publish the text of the proposed regulation to implement the action or a description and evaluation of the reasons why he is precluded from proceeding with the proposal.

If the Secretary determines (a) that a petition does not present substantial information indicating that the petitioned action may be warranted, or (b) that the petitioned action is not warranted, such negative determinations shall be subject to judicial review. The object of such review is to determine whether the Secretary's action was arbitary or capricious in light of the scientific and commercial information available concerning the petitioned action.

If, within 12 months of receiving a petition that warrants the publication of a proposed regulation, the Secretary determines that he is unable to propose such action at that time or, if able to propose the action, unable to make a final determination within the statutorily specified and judicially enforceable time frame, he will be excused temporarily from publishing a proposed regulation at that time provided he satisfies several, limited conditions.

First, the Secretary must be actively working on other listings and delistings and must determine and publish a finding that such other work has resulted in pending proposals which actually preclude his proposing the petitioned action at that time. Second, the Secretary must determine and present evidence that he is, in fact making expeditious progress in the process of listing and delisting other species. These determinations are subject to judicial review under the same standard dicussed above. In cases challenging the Secretary's claim of inability to propose an otherwise warranted petitioned action, the court will, in essence, be called on to separate justifications grounded in the purposes of the Act from the foot-dragging efforts of a delinquent agency.

If the Secretary s excused from publishing a proposed regulation to implement a petitioned action within 12 months after receiving the petition, the Secretary must continue to consider the petition and shall publish the proposed regulation as soon as possible. For the purposes of the 12-month deadline referred to above, a petition for which implementing action is delayed shall be deemed to have been resubmitted and received on the date that notice of such delay is published. It will not be necessary for the Secretary to make and publish another finding whether the petition presents substantial information. The Secretary must, within twelve months, make one of the findings required to be made pursuant to section 4(b)(3), as amended, at the end of the initial twelve month period. Specifically, he must (a) publish a proposed regulation to implement the petitioned action, or (b) make a finding that the petitioned action is not warranted, or (c) make a new finding that he is unable to propose such action at that time or to make a final determination within the statutorily specified time frame and evidence that he is continuing to make progress in the process of listing and delisting other species.

Petitions to revise critical habitat designations may be treated differently. As with petitions to revise the lists of endangered and threatened species, the Secretary shall, to the maximum extent practicable, within 90 days after receiving the petition, make, and promptly publish, a finding whether the petition presents substantial information indicating that the petitioned action may be warranted. Petitioners are not required to present economic information relevant to the proposed revision. If such substantial information is found to be present, the Secretary shall, within 12 months after receiving the petition, determine, and promptly publish a notice indicating, how he intends to proceed with respect to the petitioned action.

New section 4(b)(5) sets forth the procedures that shall be used to promulgate regulations concerning determinations of any species' status as endangered or threatened and designations or revisions of critical habitat. The Secretary is required to allow the public a minimum 60-day comment period on a proposed regulation and an opportunity to request, within 45 days after the date of the general notice of proposed rulemaking, a public hearing on the action. If one or more requests are made in a timely manner, the Secretary must promptly conduct a public hearing on the proposed action. A single hearing may satisfy multiple requests although the Secretary is not precluded from having more than one hearing if, in his judgment, circumstances so require.

The requirement that a summary of the proposed regulation be published in at least one newspaper of general circulation in each area in which the species is believed to occur is limited to areas and newspapers within the United States.

As part of the public comment process, the Secretary is required to provide to the state agency responsible for the conservation of fish or wildlife or plants in each state in which the species is believed to occur, and to the chief officer of each county or equivalent jurisidiction in which the species is believed to occur, actual notice of a proposed regulation concerning the listing or delisting of such species or the designation or revision of critical habitat.

To ensure that proposals, whether developed initially by the Secretary or by petition, are acted upon quickly, the Committee adopted a provision, new section 4(b)(6)(A), to shorten the allowable time for final action on section 4 proposals to list or delist a species from 2 years to one year from date of proposal. The one-year period after proposal within which the Secretary must make a final determination is also applicable to revisions of critical habitat and may, under limited circumstances, be extended to eighteen months. New section 4(b)(6)(B) provides that such extension is permissible only if the Secretary finds that there is substantial disagreement among specialists regarding the sufficiency or accuracy of the information received concerning the determination or revision. This extension shall apply only in those instances where the biological information is being questioned by scientists knowledgeable about the species. Extensions to allow additional time to conduct the economic or other analyses relating to the designation of critical habitat are not permissible.

Within such one-year period (or 18 month period, if an extension occurs), the Secretary must make a final determination with respect to proposals to list or delist a species or to revise critical habitat. He must determine, on the basis of the information then available, either that the species should be listed or delisted, or that the proposal for listing or delisting should not be promulgated as a final regulation. A similar determination must be made with respect to proposals to revise critical habitat designations.

If the Secretary determines that a final regulation is not warranted because of insufficient information to promulgate the proposed action, the proposal shall be withdrawn. A determination to withdraw a proposal shall be subject to judicial review to determine whether the Secretary's decision was arbitrary or capricious in light of the information available concerning the proposed action. If the Secretary determines that a final regulation is warranted, he must promptly publish the final regulation.

Section 4, as amended, requires that the Secretary make various findings within specified periods of time. Such mandatory findings are usually to be followed by "prompt" publication of such findings, a proposed regulation, or a final regulation. Unless explicitly qualified, the time periods set forth in section 4, as amended, must be strictly adhered to by the Secretary. The requirement that certain findings be followed by "prompt" publication in the Federal Register does not authorize the Secretary to delay decisions or actions. Use of the word "prompt" is intended to account for the fact that the exact timing of Federal Register notices are not within the control of the Secretary.

New section 4(a)(3) provides that the Secretary must, to the maximum extent prudent and determinable, designate critical habitat at the time a species is listed. If a critical habitat designation accompanies the listing, or if the Secretary determines that the designation of critical habitat would not be prudent, the listing may be made final, in accordance with new section 4(b)(5), at any time within the one-year period (or 18 month period) provided for in new section 4(b)(6). New section 4(b)(6)(c) restates the general requirement of concurrent listing and designation but authorizes the Secretary to make a listing proposal final without the concurrent designation of critical habitat in limited circumstances.

The first such circumstance is when the designation of critical habitat would not be prudent because the designation would identify the location of the species. The second is where the scientific and commercial information indicates that it is essential for the

conservation of the species that it be promptly listed but the analysis necessary to determine and designate critical habitat has not been completed. When such a situation occurs *within* the one-year period, the Secretary may make the listing proposal final without designating critical habitat. Although the Secretary must justify listing a species without designating critical habitat, findings such as those required by new section 4(b)(7) regarding emergencies posing significant risks to the well-being of species are not required.

The third circumstance addressed in new section 4(b)(6)(C), is similar to the second. If at the end of the one-year period (or 18 month period) provided for in new section 4(b)(6) the scientific and commercial information indicates that the species should be listed but the analysis necessary to determine and designate critical habitat has been completed, the Secretary must comply with the new section 4(b)(6) time requirement and promulgate the proposal to list as a final regulation.

If critical habitat is not designated at the same time that a listing is made final because the Secretary deems that such habitat is not then determinable, the Secretary may extend the one-year period provided for in new section 4(b)(6)(A) by not more than one year. At the end of that second year, however, or sooner if possible, the Secretary must designate to the maximum extent prudent, on the basis of such data as may be available at that time, critical habitat of such species. As new information becomes available, revisions of critical habitat designations may be made by regulation.

New section 4(b)(7) restates the existing emergency regulation provision with a minor modification to clarify that emergency designations of critical habitat are also authorized.

Section 2(a)(3) of the Conference substitute adopts several technical and conforming amendments.

Section 2(a)(4) of the Conference substitute adopts several technical and conforming amendments as well as provisions appearing in the House bill and the Senate amendment.

Paragraph (D) of section 2(a)(4) modifies and adopts a provision appearing in the House bill which would have required the Secretary to give priority in the preparation of recovery plans to those species that are, or may be, in conflict with construction or other development projects. This requirement is designed to ensure that such conflicts, or potential conflicts, will receive priority attention from the Secretary so as to limit the occasions upon which major problems under Section 7 of the Act may arise. The conferees modified this provision to ensure that this requirement will not divert attention from critically endangered species that benefit from recovery plans but are not threatened with conflicts with human activity.

Paragraph (E)(ii) of section 2(a)(4) amends section (4)(h) of the Act to clarify that the mandate to prepare and publish agency guidelines establishing a ranking system for identifying species that should receive priority review, applies for listings and delistings.

Paragraph (F) of section 2(a)(4) modifies and adopts a provision appearing in the Senate amendment. As modified, written justification for the Secretary's failure to adopt regulations consistent with a state agency's comments or petitions must be submitted to the state agency. The term "state agency" is defined in section 3(18) of the Act.

Section 2(b) of the Conference substitute contains provisions regarding the transitional effect of the amendments made by section 2 of the Conference substitute to section 4 of the Act.

Paragraph (1) of section 2(b) provides that all pending petitions and proposals to revise either of the lists published under section 4(c) of the Act or to designate or revise designations of critical habitat shall be treated as having been filed or proposed on the date of enactment of the Conference substitute. The procedural requirements that are set forth in Section 4(b) as amended by the Conference substitute shall be deemed to be complied with to the extent that similiar requirements set forth in section 4 of the Act were complied with before the date of enactment of the Conference substitute. All such petitions and proposals shall be subject to the standards and the mandatory, judicially enforceable time periods contained in the Conference substitute.

Section 3. Cooperation with the States

This section follows the analogous provisions of both the House bill and the Senate amendment to increase the maximum share of grants to States from 66⅔ percent to 75 percent for single state projects and from 75 percent to 90 percent for multi-state projects.

Section 4. Interagency cooperation and the exemption process

Section 4 of the Conference substitute makes several amendments to the consultation and exemption provisions of Section 7 of the Act.

Section 4(a)(1) of the Conference substitute adopts the House amendment to Section 7(a) of the Act to authorize the Secretary to consult on any project requiring a permit prior to the applicant filing for such permit. However, where the House bill provided for direct consultation between the Secretary and the permit applicant, the Committee agreed to an amendment requiring that the consultation be between the Secretary and the Federal agency that issues the permit. This consultation will be initiated at the request of the permit applicant and it is the clear intention of the Committee that the applicant should be involved in every aspect of the consultation process. Restricting the actual consultation to the Secretary and the Federal agencies involved is appropriate in light of the fact that it is the Federal agency which issues the permit and which, under the provisions of section 7(a)(2) of the Act, must ensure that the issuance of the permit does not jeopardize the continued existence of an endangered or a threatened species or adversely modify its critical habitat. This early consultation is, however, subject to such guidelines as the Secretary may establish. In these guidelines, the Secretary should define the types of activities eligible for early consultation. The Secretary should exclude from such early consultation those actions which are remote or speculative in nature and include only those actions which the applicant can demonstrate are likely to occur. The guidelines should require the prospective applicant to provide sufficient information describing the project, its location, and the scope of activities associated with it to enable the Secretary and the Federal agency to carry out a meaningful consultation.

New section 7(b)(3)(B) provides that a biological opinion issued by the Secretary following an early consultation undertaken pursuant to section 7(a)(3), as amended, is to be treated as an opinion issued pursuant to section 7(a)(2), as amended, if the Secretary reviews the action before the permit is issued and finds that there have been no significant changes with respect to both the activity planned and the information used during the initial consultation.

Section 7(b) of the Act is also amended to provide that promptly after the conclusion of consultation, whether it is a consultation provided for under section 7(a)(2), as amended, with a Federal agency or an early consultation provided for in section (7)(3), as amended, the Secretary shall provide the Federal agency and the applicant, if any, a written statement detailing whether the proposed action will jeopardize the continued existence of the endangered or threatened species involved or result in the destruction or adverse modification of the species' critical habitat.

Both the House bill and the Senate amendment amend section 7(b)(1) of the Act to limit the period for which section 7(a)(2) consultation involving Federally permitted actions can be extended. The Committee adopted the Senate timetable, which authorizes the Secretary and the Federal agency to agree to one extension of up to 60 days without the agreement of the permit applicant. The only condition for such an extension is that the Secretary, before the close of the original 90 day period, must submit to the applicant a written statement that specifies the reasons why a longer period is needed, what additional information is needed to complete consultation and the estimated date on which the biological opinion will be rendered. Extensions of the consultation period for longer than 60 days beyond the original 90 day period require the consent of the permit applicant. If the initial extension will be for more than 60 days, the Secretary must obtain the applicant's consent before the close of the original 90 days. If, during an initial extension, it becomes clear that a second extension is needed, the Secretary must obtain the applicant's consent before the close of the initial extension period.

These limitations on the consultation period will only apply to consultations undertaken pursuant to section 7(a)(2), as amended. Consultations initiated at the instigation of a prospective permit applicant pursuant to section 7(a)(3), as amended, are to be concluded within such period as is mutually agreeable to the Secretary, the Federal agency and the applicant concerned.

Under the existing provisions of the Act, Federal agencies that receive favorable biological opinions which conclude that the agency action would not violate section 7(a)(2) remain subject to the section 9 prohibition against taking individual specimens of endangered or threatened species of fish or wildlife. Should a taking occur, therefore, the offending party may be subjected to citizen suits or civil or criminal penalties for violating section 9 of the Act. The House bill and the Senate amendment contained similar language to address this problem. New section 7(b)(4) and section 7(o), as amended, adopt the House provisions.

Section 4(a)(3) of the Conference substitute adopts the House amendment to section 7(c) of the Act which provides that the 180-day period allowed for biological assessments may not be extended unless the Secretary provides the permit or license applicant, if any, with a written statement of the

reason for the extension and the length of the extension.

Section 4(a)(4) of the Conference substitute adopts the Senate amendment to section 7(e)(10) to delete the requirement that representatives of members of the Endangered Species Committee be Presidential appointees subject to Senate confirmation.

Both the House bill and the Senate amendment streamline the exemption process. Sections 4(a)(5) and (6) of the Conference substitute reflect this basic consensus and contain a series of provisions to resolve the areas where inconsistencies existed.

Whereas the House bill allowed permit applicants access to the exemption process when the permitting agency informed them they were likely to be denied a permit for reasons related to endangered species, the Senate amendment required final action on the permit before an application for an exemption would be ripe for review. The Committee resolved this issue by authorizing permit applicants to enter the exemption process only after being denied a permit. However, the permit applicant need not exhaust his administrative remedies prior to applying for an exemption, but is eligible to seek an exemption after receipt of a permit denial that is subject to administrative review, whether or not it is subject to judicial review. If the project concerned requires several Federal permits, the denial of one permit primarily because of the application of section 7(a) of the Act qualifies the applicant to enter into the exemption process. Projects which are not denied permits primarily because of the application of section 7(a) of the Act may not be considered for an exemption. Persons denied permits may seek administrative review of the denial prior to applying for an exemption if they so choose. However, an applicant denied a permit may not seek administrative review and begin the exemption process simultaneously.

Sections 4(a)(5) and (6) of the Conference substitute provide that the Secretarial report to the Endangered Species Committee will be prepared by the Secretary that issued the biological opinion. The Secretarial report is to be prepared in consultation with the members of the Endangered Species Committee. However, to ensure that the reports will be nonbiased and that proponents and opponents of the exemption have the opportunity to present their views, new section 7(a)(6) requires that a formal adjudicatory hearing be held. It should be noted that this hearing must be conducted by an administrative law judge within the time frame allocated for preparation of the report. This requirement in no way alters the responsibilities of the Secretary in preparing the report. The formal hearing, presided over by an administrative law judge, will provide the record on which the report is to be based. It is not intended to interject the administrative law judge into the report writing process. Endangered Species Committee decisions shall be based on the report of the Secretary, the record of the hearing, and such other testimony or evidence as the Endangered Species Committee may receive.

Sections 4(a)(5) and (6) of the Conference substitute adopt a compromise time frame which provides that the initial findings set forth in section 7(g)(3), as amended, are to be made by the appropriate Secretary within 20 days of receiving the application; the report completed within 140 days after the Secretary makes the initial findings or within such time as is mutually agreeable to the Secretary and the exemption applicant; and the final decision made within 30 days after receipt of the Secretarial report.

The Conference substitute adopts provisions of the Senate amendment which deleted the requirement that the Secretary make a threshold finding that an irresolvable conflict exists before proceeding through the exemption process. This requirement was deleted because all conflicts are "resolvable" whether by accommodation, exemption or otherwise. The other threshold requirements of good faith consultation, completion of the biological assessment and no irretrievable or irreversible commitment of resources by the applicant would continue to apply. However, because of the often complex nature of the finding regarding the commitment of resources and the short time frame allocated to making the initial findings, the Committee agreed to language requiring the Secretary to make this finding only if it is determinable in the time period provided for making the decision. In the event it is not so determinable, the issue of commitment of resources shall be included in the Secretarial report and the Endangered Species Committee must determine, prior to granting an exemption, whether there has been any such commitment of resources.

Section 5. Convention implementation

Section 5 of the Conference substitute adopts provisions of the House bill amending Section 8A of the Act. Section 5 adds a new paragraph to Section 8A of the Act to overrule the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Defenders of Wildlife, Inc.* v. *Endangered Species Scientific Authority*, 659 F. 2d 168 (D.C. Cir. 1981); amends Section 8A(d) of the Act to abolish the International Convention Advisory Commission; provides that if the United States votes against including any species in Appendix I or Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flura, and if the United States elects not to enter a reservation pursuant to Article XV of the Convention with respect to that species, the Secretary shall, within 90 days after the last day on which the reservation could be entered, submit to the Congress a written report specifying the reasons why a reservation was not entered; and amends Section 8A(e) of the Act to implement the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

With respect to new Section 8A(c)(2), if population estimates are available for a particular species, such information shall be considered with other data in making export decisions.

Section 6. Experimental populations and other exemptions

Section 6 of the Conference substitute amends section 10 of the Act. Sections 6(1) and (2) give the Secretary more flexibility in regulating the incidental taking of endangered species. Sections 6(2) and (4) adopt provisions of the House bill to continue, subject to certain important qualifications, the exemption from trade restrictions for certain finished scrimshaw products; to refine the definition of "scrimshaw product" found in section 10(f)(1)(B) of the Act; and to amend the antique articles exemption contained in section 10(h) of the Act. Section 6(5) adopts a provision of the Senate amendment concerning noncommercial transshipments of fish or wildlife. Section 6(6) adopts provisions appearing in both the House bill and the Senate amendment to give greater flexibility to the Secretary in the treatment of experimental populations.

Sections 6(1) and (2) adopt, with amendments, a provision appearing in the House bill to give the Secretary more flexibility in regulating the incidental taking of endangered and threatened species. This provision establishes a procedure whereby those persons whose actions may affect endangered or threatened species may receive permits for the incidental taking of such species, provided the action will not jeopardize the continued existence of the species. This provision addresses the concerns of private landowners who are faced with having otherwise lawful actions not requiring Federal permits prevented by section 9 prohibitions against taking.

As amended, section 10(a) of the Act will authorize the Secretary to permit any taking otherwise prohibited by section 9(a)(1)(B) of the Act if the taking is incidental to, and not the purpose of, an otherwise lawful activity. An applicant for such a permit must submit to the Secretary a conservation plan that specifies the impacts which will likely result from such taking, what steps the applicant will take to minimize and mitigate those impacts, what other alternatives that would not result in the takings were analyzed, and why those alternatives were not adopted. The Secretary will base his determination as to whether or not to grant the permit, in part, by using the same standard as found in section 7(a)(2) of the Act, as defined by Interior Department regulations, that is, whether the taking will appreciably reduce the likelihood of the survival and recovery of the species in the wild. Use of the regulatory language adopted by the Secretary of the Interior to implement section 7(a)(2) rather than the language of the provision itself eliminates the implication that other permits issued under section 10 do not require consultation and biological opinions issued pursuant to section 7. To issue the permit, the Secretary would also have to find that the taking would be incidental, that the applicant will minimize and mitigate the impacts of the taking, and that the applicant will ensure that there will be adequate funding for the conservation plan.

As with all section 10 permits, the legislation provides that the Secretary shall prescribe terms and conditions to ensure that appropriate measures are taken by the applicant and shall revoke the permit if the permittee is not complying with those terms and conditions. Because this provision contains its own exlicit and detailed standards for the issuance of permits, it is exempted from the general permit conditions specified in section 10(d) of the Act.

Although the conservation plan is keyed to the permit provisions of the Act which only apply to listed species, the Committee intends that conservation plans may address both listed and unlisted species.

In enacting the Endangered Species Act, Congress recognized that individual species should not be viewed in isolation, but must be viewed in terms of their relationship to the ecosystem of which they form a constitutent element. Although the regulatory mechanisms of the Act focus on species that are formally listed as endangered or threatened, the purposes and policies of the Act are far broader than simply providing for the conservation of individual species or individual members of listed species. This is consistent with the purposes of several other fish and wildlife statutes (e.g. Fish

and Wildlife Act of 1956, Fish and Wildlife Coordination Act) which are intended to authorize the Secretary to cooperate with the states and private entities on matters regarding conservation of all fish and wildlife resources of this nation. The conservation plan will implement the broader purposes of all of those statutes and allow unlisted species to be addressed in the plan.

The Committee intends that the Secretary may utilize this provision to approve conservation plans which provide long-term commitments regarding the conservation of listed as well as unlisted species and long-term assurances to the proponent of the conservation plan that the terms of the plan will be adhered to and that further mitigation requirements will only be imposed in accordance with the terms of the plan. In the event that an unlisted species addressed in an approved conservation plan is subsequently listed pursuant to the Act, no further mitigation requirements should be imposed if the conservation plan addressed the conservation of the species and its habitat as if the species were listed pursuant to the Act.

To the maximum extent possible, the Secretary should utilize this authority under this provision to encourage creative partnerships between the public and private sectors and among governmental agencies in the interest of species and habitat conservation.

A comprehesive conservation plan prepared pursuant to section 10(a) would be developed jointly between the appropriate Federal wildlife agency and the private sector or local or state governmental agencies. This provision is modeled after a habitat conservation plan that has been developed by three Northern California cities, the County of San Mateo, and private landowners and developers to provide for the conservation of the habitat of three endangered species and other unlisted species of concern within the San Bruno Mountain area of San Mateo County.

This provision will measurably reduce conflicts under the Act and will provide the institutional framework to permit cooperation between the public and private sectors in the interest of endangered species and habitat conservation.

The terms of this provision require a unique partnership between the public and private sectors in the interest of species and habitat conservation. However, it is recognized that significant development projects often take many years to complete and permit applicants may need long-term permits. In this situation, and in order to provide sufficient incentives for the private sector to participate in the development of such long-term conservation plans, plans which may involve the expenditure of hundreds of thousands if not millions of dollars, adequate assurances must be made to the financial and development communities that a section 10(a) permit can be made available for the life of the project. Thus, the Secretary should have the descretion to issue section 10(a) permits that run for periods significantly longer than are commonly provided for under current administration practices. In this regard the Committee notes that the existing permit regulations of the Department of the Interior contained in 50 CFR, Parts 13 and 17, do not establish a limit on the acceptable duration of section 10(a) permits. No particular time limit should be implied.

The Secretary is vested with broad discretion in carrying out the conservation plan provision to determine the appropriate length of any section 10(a) permit issued pursuant to this provision in light of all of the facts and circumstances of each individual case. Permits of 30 or more years duration may be appropriate in order to provide adequate assurances to the private sector to commit to long-term funding for conservation activities or long-term commitments to restrictions on the use of land. It is recognized that in issuing such permits, the Secretary will, by necessity, consider the possible positive and negative effects associated with permits of such duration.

The Secretary, in determining whether to issue a long-term permit to carry out a conservation plan should consider the extent to which the conservation plan is likely to enhance the habitat of the listed species or increase the long-term survivability of the species or its ecosystem.

It is also recognized that circumstances and information may change over time and that the original plan might need to be revised. To address this situation the Committee expects that any plan approved for a long-term permit will contain a procedure by which the parties will deal with unforseen circumstances.

Because the San Bruno Mountain plan is the model for this long term permit and because the adequacy of similar conservation plans should be measured against the San Bruno plan, the Committee believes that the elements of this plan should be clearly understood. Large portions of the habitat on San Bruno Mountain are privately owned. Prior to the discovery of two species of endangered butterflies, the landowner planned to develop much of its land. The butterflies face threats to their existence, however, even in the absence of any development. The primary threats to the species consist of insufficient regulation of recreational activities and encroachment on the species' habitat by brush and exotic species.

Prior to developing the conservation plan, the County of San Mateo conducted an independent exhaustive biological study which determined the location of the butterflies, and the location of their food plants. The biological study also developed substantial information regarding the habit and life cycles of the butterflies and other species of concern. The biological study was conducted over a two year period and at one point involved 50 field personnel.

The San Bruno Mountain Conservation Plan is based on this extensive biological study. The basic elements of the plan are the following:

1. The Conservation Plan addresses the habitat throughout the area and preserves sufficient habitat to allow for enhancement of the survival of the species. The plan protects in perpetuity at least 87 percent of the habitat of the listed butterflies;

2. The establishment of a funding program which will provide permanent ongoing funding for important habitat management and enhancement activities. Funding is to be provided through direct interim payments from landowners and developers and through permanent assessments on development units within the area;

3. The establishment of a permanent institutional structure to insure uniform protection and conservation of the habitat throughout the area despite the division of the habitat by the overlapping jurisdiction of various governmental agencies and the complex pattern of private and public ownership of the habitat; and

4. A formal agreement between the parties to the plan which ensures that all elements of the plan will be implemented.

Section 6(5) adopts a provision of the Senate amendment concerning noncommercial transshipments of fish or wildlife. Section 11 of the Act authorizes the seizure and forfeiture of any fish or wildlife or plant that has been imported in violation of the law. As noted in a Fish and Wildlife Service Law Enforcement Memorandum dated April 30, 1982, however, discretion must be applied to avoid unnecessarily harsh forfeiture actions in certain noncommercial importation violations. Seizure for the purpose of seeking forfeiture will not always be appropriate where the conduct providing the grounds for seizure and forfeiture involves a noncommercial importation violation which is also non-culpable, that is, where there is no indication of fraud, negligence, or intent to violate the law.

Game trophies in transit through the United States were specifically addressed in the above-referenced memorandum. It was properly noted that noncommercial shipments of endangered species in transit through the United States should not be seized where such shipments were lawfully exported from the country of origin and of re-export, may be lawfully imported into the country of destination, and the exporter (or owner) gave explicit instructions not to ship through the United States or did all that could have reasonably been done to prevent transshipment and the circumstances leading to the property's transshipment were beyond the exporter's (or owner's) control. This exception, however, does not authorize the importation for the purpose of processing wildlife products or mounting of trophies in the United States and subsequent exportation without proper permits.

Section 6(5) codifies the above-stated policy. Civil and criminal penalties as well as forfeiture will be affected. However, the burden of proof will be on the person claiming the applicability of this exception. The Government will not have to offer proof that the numerous elements of this affirmative defense have not been satisfied.

Because it is impossible to differentiate commercial from noncommercial shipments without inspection, the amendment will maintain the ability of the Fish and Wildlife, National Marine Fisheries, and Customs Services to inspect all shipments of fish or wildlife. The exception created by this amendment is a narrow one. Among the conditions that must be satisfied is a requirement that the importation be accidental. The United States must not become a free port for endangered species. The amendment does not authorize the shipment of wildlife into the United States for storage in a warehouse under customs control until a foreign recipient can be located and reexport can occur.

Section 6(6) adopts provisions appearing in both the House bill and the Senate amendment. This section gives greater flexibility to the Secretary in the treatment of populations of endangered or threatened species that are introduced into areas outside their current range.

Section 6(6) adds a new subsection (j) to section 10 of the Act. Paragraph (1) of new section 10(j) defines the term "experimental population." To qualify for the special treatment afforded experimental populations, a population must have been authorized by the Secretary for release outside the current range of the species. Populations resulting from releases not authorized by the Secretary are not considered "experimental

populations" entitled to the special provisions of this subsection.

To protect natural populations and to avoid potentially complicated problems of law enforcement, the definition is limited to those introduced populations that are wholly separate geographically from nonexperimental populations of the same species. If an introduced population overlaps with natural populations of the same species during a portion of the year, but is wholly separate at other times, the introduced population is to be treated as an experimental population at such times as it is wholly separate. Such a population shall be treated as experimental only when the times of geographic separation are reasonably predictable and not when total separation occurs as a result of random and unpredictable events.

Under paragraph (2) of new section 10(j) the Secretary may authorize the release of populations of endangered or threatened species outside their current range if he determines by regulation that doing so will further the conservation of the species. Before authorizing the release of an experimental population, the Secretary must also determine by regulation whether the population is essential to the continued existence of an endangered or threatened species. In making the determination, the Secretary shall consider whether the loss of the experimental population would be likely to appreciably reduce the likelihood of survival of that species in the wild. If the Secretary determines that it would, the population will be considered essential to the continued existence of the species. The level of reduction necessary to constitute "essentiality" is expected to vary among listed species and, in most cases, experimental populations will not be essential.

The purpose of requiring the Secretary to proceed by regulation, apart from ensuring that he will receive the benefit of public comment on such determinations, is to provide a vehicle for the development of special regulations for each experimental population that will address the particular needs of that population. Among the regulations that must be promulgated are regulations to provide for the identification of experimental populations. Such regulations may identify a population on the basis of location, migration pattern, or any other criteria that would provide notice as to which populations of endangered or threatened species are experimental.

The Secretary, acting through the Fish and Wildlife Service of the National Marine Fisheries Service, as appropriate, may avoid the need for step-by-step review and promulgation of specific regulations concerning Federal actions by entering into written agreements or memoranda of understanding with other Federal land managing agencies to develop long-term programs for the conservation of experimental populations.

Paragraph (3) of new section 10(j) clarifies that any population now in existence which may meet the definition of an experimental population shall be treated as such only when determined by regulation. Thus, until such time as the Secretary makes an affirmative determination that a particular population is an experimental population, it shall remain subject to the same protections as any other population of the same species.

All experimental populations, once determined to be such, are to be treated as though they have already been separately listed as threatened species. This provision obliges the Secretary to issue such regulations as he deems necessary and advisable to provide for the conservation of the experimental populations, just as he now does under section 4(d) of the Act for any threatened species.

The Conference substitute restricts the application of section 7 of the Act as it pertains to experimental populations. As noted above, whenever the Secretary determines that a particular population, whether it is already established or proposed to be established, is an experimental population, he is also to determine, as part of the same rulemaking, whether the population is essential to the continued existence of the species. If he determines that it is, then the experimental population remains subject to the full protection of section 7 of the Act. If he determines that it is not, then solely for the purposes of section 7 of the Act the population is subject only to those protections of section 7(a)(1) of the Act and those of section 7 of the Act that apply to species proposed to be listed as an endangered or threatened species. Critical habitat may not be designated for such nonessential populations. However, any experimental population that is found on any unit of the National Wildlife Refuge System or the National Park System remains subject to the full protection of Section 7 of the Act.

Section 7. Enforcement

Section 7 of the Conference substitute adopts provisions of the Senate amendment amending Section 11 of the Act. Section 7 explicitly provides to the Attorney General the authority to seek injunctive relief. Section 7 also amends the citizen suit provision of the Act to authorize actions against the Secretary for failure to perform the acts and duties that are imposed by Section 4, as amended.

Section 8. Authorization

Section 8 of the Conference substitute adopts provisions appearing in both the House bill and the Senate amendment. Section 8 adopts the authorization levels and duration recommended by both the House and the Senate. A separate authorization for implementation of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere is also adopted. The authorization provisions appearing in Sections 6, 7 and 15 of the Act are consolidated and will now appear in Section 15, as amended.

Section 9. Miscellaneous

Section 9 of the Conference substitute adopts provisions of the Senate amendment. Section 9 adds a new paragraph to subsection 2(c) of the Act, the statement of Congressional policy; amends Section 9 of the Act by adding a provision to prohibit the removal and reduction to possession of any endangered plant that is on Federal land; resolves a conflict between two Federal circuit court opinions regarding the applicability of the prohibitions of Section 9 of the Act to pre-Act wildlife held in the course of a commercial activity after December 28, 1973; and clarifies the scope of the Section 9(b)(2) exception to the prohibition contained in Section 9 of the Act.

WALTER B. JONES,
JOHN BREAUX,
GERRY E. STUDDS,
DAVID R. BOWEN,
GENE SNYDER,
EDWIN B. FORSYTHE,
DAVE EMERY,

Solely for consideration of section 4 of the House bill and modification committed to conference:

DON BONKER,
JIM LEACH,
Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
SLADE GORTON,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
Managers on the Part of the Senate.

SENATE—*Monday, September 20, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Give unto the Lord, O ye mighty, give unto the Lord glory and strength. Give unto the Lord the glory due unto His name; worship the Lord in the beauty of holiness.—Psalm 29: 1, 2.

Holy Lord God, Thy word declares that "* * * there is no power but of God: the powers that be are ordained of God." (Romans 13: 1) May it be understood by the rulers of the world that they hold authority by divine appointment. Help the leaders of our Nation to understand that they rule by the good pleasure of God. Help them to realize that they are accountable to Thee as well as to the people—that they will someday stand before Thee to give an account of their stewardship.

Grant to them the grace O Lord, to take their stewardship seriously as servants of the Living God, to seek to know Thy will in their deliberations, and to do it. Let Thy will be done in this place as it is in Heaven. In the name of the Sovereign Lord of history. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE DEATH OF JOHN GARDNER

Mr. BAKER. Mr. President, last week, John Gardner was killed at the age of 49 near his home in Pennsylvania. His is a tragic loss, which will be mourned by those inside and outside the literary world.

I ask unanimous consent that a poetic portion from his work "Jason and Media" be printed at this point in the RECORD, and following it, the text of an appreciation which appeared in the Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM JASON AND MEDIA

The true artist, who speaks with justice, who rules words in the fear of God, is like morning light at sunrise filling a cloudless sky, making the grass of the earth sparkle after rain.

But false artists are like desert thorns whose fruit no man gathers with his hand; no man touches them unless it's with iron or the shaft of a spear, and then they are burnt in the fire.

" 'For men, not earth, the time has run out. Though oceans die, meadows and fields, green hills, they hold no grudge against their murderer. They drift through time in their long slumber, secretly waiting, like beasts asleep in caves. Deep space bombards the poisoned seas with bits of life, and the seas grow whole again, renew themselves like a heart awakening. Algae forms along shores. Great, dark, ungainly beasts dream from the deeps toward land, and out of the slime of blood and bone—witless, charged with sorrow like a dying horse—mind comes groping, tentative, fearful, sly as a snake and as quick to love or strike. So spring moves in again, as usual, and flowers are invented, and wheels and clocks, and tragedies, and eventually, as the mind grows old, familiar with its quirky ways, even comedy is born again—fat clowns strutting, alone and rediculous, shaking their fists at mirrors and fleeing in alarm, to teach that the joke on them is them. So autumn comes again, as usual: Splendid triumph of color, when every tree turns philosophical and the seas, dying, past all repair, provide mankind with jokes. (All consciousness is optimistic, even a frog's. Otherwise who would evolve the handsome prince?) So plankton dies, and the whales turn belly up, become one world-wide stench of decaying symphonies; the grass withers. Starvation; plague. A silent planet again, for a time; drifting boulder pocked with old cities till space sends life. And once more goggle-eyed creatures gaze amazed at the brave new world with goggle-eyed creatures in it, as usual. And all that past minds dreamed or wrote, feared, predicted with terrible insight—all mind loved and mocked—is vanished like snow, cool archaeology. Cheer up, sailors! The wind of time was always dark with ghosts; pacing, angrily muttering to be born.'

"The death-ship vanished, and a moment later, the music; finally the smell. We talked, held councils; but obviously we could make no sense of senselessness, and so, in the end, pushed on. And had adventures, each more lunatic than the last.

[From the Washington Post, Sept. 15, 1982]

JOHN GARDNER'S DRIVEN LIFE: "YOU BELIEVE IN SOMETHING AND YOU PUSH IT"

(By Curt Suplee)

He lived with a frantic and desperate intensity, and he died horribly and in character.

John Gardner, who was killed yesterday in a motorcycle accident near his home in Susquehanna County, Pa., had driven his talent as hard as any writer in American letters. He was 49, and had already written more than two dozen novels and plays, as well as numerous stories, poems, librettos, works of criticism and an epic poem. He had taught for nearly 30 years at nine universities, establishing a reputation for tireless generosity to students. He had founded and edited the literary magazine MSS. And he had become a bohemian legend in the literary world with his nonstop martinis, leather jerkins, shoulder-length shock of silver hair and the brutally powerful Harley-Davidsons he had been riding since his teens.

Yet his art was as scrupulous and earnest as his image was wild. Fiction should be a "vivid and continuous dream," he believed, and said in an interview last July that "in all my work, I'm trying to break down the distinction between reality and fiction, to make the world fiction, to get back to the real real world, where all the myths are true." His philosophical narratives often took the form of ethical dialetics enacted in mythic or magical settings, evoked in vibrantly keen physical description and enhanced by a profusion of metaphor.

His superbly haunting and poetic reconstruction of the Beowulf story, "Grendel," (1971) was cited by Time and Newsweek as one of the best novels of the year. The New York Times called him "a major contemporary writer," a distinction he confirmed with "The Sunlight Dialogues" (1972), an ambitious examination of the anarchic moral forces loose in the '60s. It became a best seller, followed by the brooding comedy "October Light" (1976), which won the National Book Critics Circle Award. In his landmark critical study, "On Moral Fiction" (1978), he said, "I agree with Tolstoy that the highest purpose of art is to make people good by choice." His demand that fiction provide "life-affirming, just and compassionate behavior" provoked a heated national debate about the state of the novel. When he died, his new novel, a philosophical, supernatural thriller, "Mickelsson's Ghosts," was still in the stores. And Gardner was at work on two more, hopeful of an esthetic breakthrough: "I've tried to tear everything that I've done apart," he said in that July interview, "and do something different."

But if he was pushing his genius relentlessly, he was pushing himself even harder. He drank heavily, chain-smoking pipes and cigarettes, many times carousing until dawn. Whether at the Bread Loaf Writer's Conference or at the State University of New York at Binghamton, where he headed the creative writing program, he worked and played at a fierce pitch that even his friends

feared was self-destructive. Mickelsson, the boozy professor of his last novel, is "a man who's destroying his career," Gardner said this summer. "He wants to start over. And so on a sort of unconscious level he does everything in his power to wreck himself. It's mad . . . but it's sort of heroic." And autobiographical? "I am Mickelsson in a sense."

Within a space of two or three hours, Gardner could display a bewildering spectrum of moods. He would be a mesmerizingly charming raconteur, eager to lavish praise on fellow writers, swinging his fuming pipe in a flourish of barroom gregariousness. He would be by turns defensive—"I'm absolutely *loved* in the Midwest and West"—and humble about his own work: "I grew up and began to understand Bellow," he'd say, or "Yeah, I'm coming around to Updike. You know, I'm slow." Then at times his face would suddenly darken and his voice go bleak with woe, as if recalling—after two failed marriages, thoughts of suicide, awesome debts owed for back taxes, surgery for colon cancer, and the terrible enmity of many writers he castigated in "On Moral Fiction"—a life too surfeited with sorrow and the long legacy of guilt.

As a boy, he was driving a tractor on his parents' farm near Batavia, N.Y., when his younger brother was crushed under his machine. He would "watch it happen in his mind," Gardner wrote in a short story about the event, "with nearly undiminished intensity and clarity, all his life." He blamed himself for the death. "I was terrific at guilt, and I did everything in my power to get guiltier," including racing motorcycles as a teenager. "I'm still a motorcycle kid" at heart, he said, recalling how he used to run "flat out," how "when you get near the finish line, you'd just put your hands down on the bars like this"—plopping on the table, elbows splayed—"and then you'd stick your head under."

The same image occurred to him later. He had been "badly hurt" by the generally lukewarm or negative reviews of "Mickelsson's Ghosts." "These people in New York have decided that John Gardner is no good." Eyes dropping, the pipe masking his face, he said he was too depressed to write. But soon the mood began to lift. "You know, I think I'm a really great artist . . . It's the same thing as motorcycle racing. You believe in something and you push it and you just don't worry about what's going to happen."

ORDER OF BUSINESS

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order there will be two special orders of 15 minutes each in favor of the Senator from Georgia (Mr. NUNN) and the Senator from New Jersey (Mr. BRADLEY).

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders that there be a brief period for the transaction of routine morning business, to extend not past the hour of 3 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I take this opportunity to bring my colleagues up to date on the status of the Senate schedule for the remainder of this year.

First, it is fairly apparent, after listening to the distinguished Speaker of the House of Representatives, that the House of Representatives will be in session until October 8.

As a result, Senators should be aware of the possibility, perhaps even the probability that the Senate will also be conducting business until October 8, and they should make their plans accordingly, I suggest.

Second, subsequent to President Reagan's statement in respect to a session of Congress after the election to complete the appropriations process, it is likely then that the Senate will return, and I speculate at this moment that the return will be Monday after Thanksgiving, which would be November 29, I believe.

That date is not fixed and firm, so I caution Members who may be listening in their offices not to accept that as the last word but for the sake of planning they should know that the leadership on this side, and I believe on the other side as well, are considering a date to return for the lameduck session of November 29. Obviously, no concluding date for that session can be set.

Mr. President, the Senate will have a cloture vote today, pursuant to the provisions of rule XXII, filed against further debate on the Helms first-degree amendment dealing with school prayer.

The vote is not set for a time certain except as the rule so provides and after a live quorum, which is mandatory under the rule, is conducted and established. The vote will occur I estimate sometime shortly after 3 p.m.

Mr. President, if cloture is invoked, then, of course, we will remain on this issue for the remainder of the day. If cloture is not invoked, Members should recall that a motion has already been filed which will require a vote on cloture against the same debate on the same measure tomorrow.

If cloture is not invoked today, I will then try to negotiate a time certain for the cloture vote on Tuesday.

I yield now to the distinguished Senator from North Carolina.

JAPANESE TRADE BARRIERS

Mr. HELMS. Mr. President, I have at hand a letter from Charles Dunn, executive vice president of the North Carolina Textile Manufacturers Association, regarding Japanese trade barriers. Along with his letter Mr. Dunn sent a copy of an article that appeared in the Charlotte Observer of August 30. Incidentally, Mr. Dunn is a fine citizen of my State, and a one-time director of the State bureau of investigation.

We hear much about the flood of imports into the United States, particularly of textiles and apparel, but sometimes we forget that American businessmen are aggressively trying to export U.S. made goods to foreign countries. I have talked with countless businessmen who are frustrated because they cannot sell their products abroad. Many foreign governments have erected insurmountable trade barriers to eliminate foreign competition. This is a serious problem we need to be working to solve.

I encourage Senators to consider how we might help open foreign markets to U.S. businessmen.

Mr. President, I ask unanimous consent that Mr. Dunn's letter and accompanying article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NORTH CAROLINA TEXTILE MANUFACTURERS ASSOCIATION, INC.,
Raleigh, N.C., September 3, 1982.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Attached for your information is a copy of an article entitled "Carolinas Firms Seeking Opening in Japan Trade" which appeared in the Charlotte Observer on Monday, August 30. While it does not focus directly on textiles, I feel it makes the point on trade practice inequities which we have been trying to make for some years now. That point is the United States and their foreign competitors play by different rules—rules which have proven to be unfair and detrimental to American business and industry.

The Japanese trade restrictions on United States products described in the article are not unique. Our manufacturers encounter them in many countries. Some other countries appear to be more concerned about and active in support of their manufacturers and farmers than does the United States. International trade is often considered a political tool in this country and an economic tool elsewhere.

I certainly appreciate the support that you have given the textile industry and hope the attached article will be of interest and benefit to you.

Sincerely,

CHARLES DUNN,
Executive Vice President.

[From the Charlotte Observer, Aug. 30, 1982]

CAROLINAS FIRMS SEEKING OPENING IN JAPAN TRADE

(By Jan Stucker)

Three years ago, Charles DuBose, president of a Roseboro-based trading company called DuBose International, decided to start doing business with Japan.

"I had clients who wanted to sell pork, poultry, furniture—all kinds of things," he

says. So DuBose went to Japan, hired a Japanese businessman experienced in the ways of trading companies, and brought the man to North Carolina for six months, where he was a guest in DuBose's home.

Despite his efforts, DuBose still hasn't peddled his first item in Japan. The powerful farmers' union in Japan lobbied hard to keep out food items that DuBose wanted to sell, and his company has been unable to break into the country's ancient distribution system—several layers of middlemen that work like an exclusive club.

"We've chased and chased and chased," DuBose sighs. "It's very easy to buy from the Japanese, but not to sell to 'em."

It's a familiar complaint from Carolinas business executives who want greater access to Japanese markets, and who claim that the Japanese aren't playing fair. The Japanese ". . . have seldom focused on the fact that trade is a two-way street," wrote Ted Sumner, chairman of Charlotte-based First Union National Bank in a recent issue of Business Perspectives, a monthly newsletter for small-to-medium businesses.

Japanese Prime Minister Zenko Suzuki says he doesn't understand all the criticism. He points to Japan's gradual cutting of tariffs since the early 1970s, removal of many quotas, and easing of controls on foreign investment. But critics say that while formal trade barriers may be coming down, a tangle of cultural barricades remain, notably a distribution system based on long-term personal relations that is unfriendly to outsiders. A host of bureaucratic regulations and other strategems, including time-consuming approval requirements, also remain.

These formal and informal trade barriers, critics say, have prevented any American product from capturing even 10 percent of the Japanese market.

The Japanese, on the other hand, according to the U.S. Department of Commerce, have 23 percent of the U.S. car market, 90 percent of motorcycles, 50 percent of recording equipment, 50 percent of radios, 30 percent of cameras, and 25 percent of televisions.

In the process, the U.S. trade deficit with Japan soared to a record $10 billion for the first six months of 1982, up from $15.8 billion for all of 1981. In 1976, America's trade deficit with Japan was just $5.4 billion.

Gary Davidson, a 48-year-old Newport Beach, Calif., lawyer, says those figures make him angry, and he's betting that he's not alone. Davidson is using Charlotte as a sort of test market to convince Congress to fight back.

Through a series of eye-catching advertisements which began in July in Charlotte newspapers (placed by his old friend, Max Muhleman, of Matthews Muhleman McLean Inc., a Charlotte-based advertising agency), readers are being urged to lend their support to a campaign "to see that emergency action is taken to correct the inequities in our foreign trade."

The ads are blunt: "If We Had Protected Our Country The Way We Protect Our Trade Rights, We'd All be Speaking Japanese Today," reads one. "It's no wonder that some say we're becoming 'an economic colony of Japan,'" says another.

So far, 112 Charlotteans have clipped the coupons accompanying the ads, demanding U.S. action. At the end of the local campaign, Davidson will weigh the Charlotte response to decide whether to start a nationwide grassroots campaign.

Critics like Davidson often single out Japanese "administrative regulations," better known as red tape. "There are so many of these regulations that it's hard to get a handle on them," says Jeffrey Arpan, a professor of international business at the University of South Carolina and a specialist on Japan.

The red tape often is couched in safety and environmental concerns, says Arpan, so it's hard to attack them directly.

Imported Japanese-made autos, for example, need only a manufacturer's label certifying that the cars meet American safety standards. But before an American car can be sold in Japan, its government requires volumes of documents on standards for each model, plus local testing of most vehicles—requirements that add as much as $500 to the retail price.

This cuts down on American car sales in Japan, a fact that has a direct effect on the Carolinas, which makes carpeting and other textile products used in autos.

Inspection processes required for many foreign products are also a problem. The University of South Carolina's Arpan remembers one case when Japan had only one inspector to authorize an American company's product. That inspector was out of the country most of the year.

Responding to increasing international criticism of such tactics, the Japanese government announced a series of "market-opening measures" in late May. Monthly talks are being held by Japanese and U.S. officials to ensure implementation, though American officials said earlier this month that more work needs to be done.

Manufacturers of three mainstay industries in the Carolinas—finished tobacco products, textiles and furniture—are watching those talks closely. None of the trio has made significant inroads into Japan's potentially huge market of 116 million people.

With the cigarette industry at least, it's not for want of trying, says Mike Morrison, director of public relations for R. J. Reynolds Tobacco International, a subsidiary of Winston-Salem-based R. J. Reynolds Industries Inc.

Reynolds and two other American cigarette manufacturers—Philip Morris and Brown & Williamson Tobacco—have banded together to plead for better access to Japan, where four in 10 people smoke, compared to three in 10 in the United States, where per capita consumption has been decreasing since 1975.

Japanese government restrictions, say American cigarette manufacturers, have limited imported brands to slightly more than 1 percent of the $10-billion-a-year retail sales. A 35 percent Japanese tariff plus other taxes mean that local brands sell for 45 cents a pack less than the $1.25 price of American cigarettes. In addition, sharp restrictions on U.S. advertising and promotion activities and having to rely on their competitor—the government tobacco monopoly, the Japan Tobacco and Salt Corp.—for distribution of their products, have made most efforts to increase American cigarette sales go up in smoke.

Carolinas textile and apparel industries haven't had much better luck. In 1981, according to the U.S. Department of Commerce, American textile exports totaling $106.8 million accounted for 1.3 percent of Japan's market; American apparel exports to Japan totaling $62 million accounted for 2 percent. By contrast, Japan exported $698 million worth of textile and apparel products to the U.S. in 1981.

Some American apparel products sell well in Japan—sportswear, for example. "Japan looks to the U.S. for casual styles, and we've been able to penetrate the Japanese market in the sports an leisure area," says Larry Brill, a spokesman for the U.S. Department of Commerce office of textiles and apparel.

But American government officials say frankly that increasing textile exports to Japan isn't a high priority. "Our problem is trying to keep foreign imports out (of the U.S.) rather than sell more abroad," Clyde Prestowitz, deputy assistant Commerce Department secretary, said in a recent interview.

Prestowitz and others say the biggest reason why the door to Japan has been barely cracked to American textile and apparel products is a distribution system that operates on long-term personal relations and is often hostile to outsiders.

"Japanese retailers have been doing business with the same (Japanese) wholesalers for 150 years," says Walter Johnson, the N.C. Department of Commerce's liaison with Japan. "It's very hard to break into that network."

The story is the same for most Carolinas furniture makers, who manufacture about 25 percent of America's furniture but who so far have made few inroads into Japan. (Drexel Heritage Furnishings Inc. Of Drexel, N.C. is an exception. See accompanying story).

Furniture-making is an ancient industry in Japan and, as with textiles, the retailers have dealt with the same wholesalers for a century and a half, says the University of South Carolina's Arpan. The fact that Japanese homes traditionally have little furniture hasn't helped.

Sales of U.S.-made wooden, household furniture in Japan were only $2 million in 1981. By comparison, sales to the United Kingdom—an entity with 60 million fewer people—were about $12 million.

But the outlook for U.S. furniture sales in Japan is upbeat, say government and industry experts, as Western-style furniture is becoming increasingly popular in Japan. The Japan Retail Furniture Association, and industry trade group, will visit the Southern Furniture Market this October in North Carolina, with an eye to increasing sales of American furniture in Japan.

Mr. HELMS. Mr. President, I thank the distinguished majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, the Senator from Vermont is acting as minority leader at this point, and I yield so that he may seek recognition.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. LEAHY. Mr. President, I thank the Chair.

THE MIDDLE EAST

Mr. LEAHY. Mr. President, I shall discuss for a few moments the very tenuous situation in the Middle East and comment on the President's new initiative for reinvigorating the negotiating process.

First, let me emphasize that I wholeheartedly welcome President Reagan's proposal as a new chance to pursue a

peace settlement that will protect the legitimate security requirements of Israel, while according the Palestinian people their rights to self-determination and a homeland of their own. The great hopes engendered by the historic Camp David accords in September 1978 and the Egypt-Israel Peace Treaty of March 1979 have been sorely threatened by the unfortunate attempt of the administration to develop a nonexistent strategic consensus among Israel and the moderate Arab States against Soviet and radical influence in the Middle East.

That fruitless preoccupation diverted the attention and energy of the administration from the key issues of peace in that region: What is to be done about the Palestinian people, and what is to be the final status of the West Bank and Gaza? Until those basic questions are resolved, in my judgment there is no prospect of a comprehensive peace between Israel and the Arab States, and little chance for broader security cooperation between the United States and the moderate states of the area.

Talking about a Soviet threat is not going to distract the Middle East countries from historic animosities.

Unfortunately, the tragic assassination of Lebanese President-elect Bashir Gemayel and the ghastly mass murder of scores, perhaps hundreds, of innocent Palestinian men, women, and children in the refugee camps of West Beirut have aborted the more positive atmosphere that seemed to be emerging in that war-torn and bleeding country. Israel cannot evade its measure of responsibility for the violence that is shaking Lebanon to its foundations. The savagery of the Christian militias, who were permitted to enter the Palestinian refugee camps by Israeli forces, makes a terrible mockery of Israel's claim of preserving order for its military move into West Beirut. The real reason for ignoring the agreement worked out by Philip Habib was to root out any PLO remnants. Israel must comply with its assurances given to the United States, pull back from West Beirut at once, and cease interfering with the Lebanese Army's reassertion of its authority in the city. As soon as a suitable framework can be negotiated, Israel should withdraw completely from Lebanon. Certainly that would give a lot more credence to the statements of General Sharon that they desire not 1 inch of Lebanon's soil.

Once again Lebanon's agony is drawing attention away from the issues of the West Bank and Palestinian autonomy. The likelihood of intensified sectarian and political conflict has dramatically increased since Israel's massive intervention, and with it the difficulty in securing the withdrawal of Syrian, PLO, and Israeli forces from all of Lebanon. I am pessimistic about the effect these shocking events will have on American attempts to facilitate negotiations for the total withdrawal of all foreign forces, as well as on the hopes for President Reagan's new initiative.

The time is at hand when the United States must urgently lead the international community to assist Lebanon in preventing further violence, either through a greatly strengthened United Nations peacekeeping force or another multinational force, while the Lebanese people work out a new modus vivendi.

However, I continue to believe that it will be unwise to use American forces for such a purpose until we have a far greater level of confidence in the credibility of the countries we will be dealing with. There is too much risk for our being drawn directly into the Lebanese civil war, and American forces would be a magnet for Soviet involvement. Before American troops could be used there must be consultation with Congress and a consensus of opinion—and especially support—for their use.

That is especially important, a consensus, bipartisan opinion, for their use. No one should underestimate the danger potential in their involvement.

Mr. President, I believe there are two absolutely fundamental principles which should guide American policy in pursuit of an equitable settlement and a durable peace: First, Israel's reasonable security concerns must be satisfied. The people of Israel have the right to live free from the constant fear of artillery attacks, terrorist outrages, and the ever present spectre of an Arab war of annihilation. But, at the same time the United States must insist that Israel's security not be a cover or codeword for annexation or continued occupation of foreign territory, whether in the West Bank and Gaza, or in Lebanon. The President has rightly made clear the U.S. position that U.N. Security Council Resolution 242 requires Israel to withdraw on all fronts, including the West Bank and Gaza, in return for peace from the Arabs. This is and always has been the basic bargain in the Middle East question, and it is necessary that all parties understand America has an unequivocal position on this matter.

At present, and for the foreseeable future, Israel has complete military superiority over any feasible combination of Arab States, this, partly because of Israel's own efforts, unstinting American assistance, and the peace treaty with Egypt, fruit of the courage and statesmanship of Anwar Sadat and Menachem Begin, and the leadership of Jimmy Carter. We must not relax our essential commitment to the security of Israel. At the same time, Israel must understand that to have real peace—not just an armed truce—it must use its unchallenged military supremacy to negotiate a fair, equitable settlement that does not depend solely on the overshadowing power of the Israeli defense forces.

The second fundamental principle that should guide our efforts is that no just, lasting peace is possible without resolving the problem of the Palestinian people in a way that accords them their legitimate rights. The Camp David accords developed the basis for addressing this supremely complicated problem. It provided that there should be a 5-year transition period for the West Bank and Gaza during which the inhabitants should exercise "full autonomy" through an elected self governing authority, and should participate in negotiations on the final status of the territories together with Israel and Egypt, and Jordan if it would join.

The President has called on King Hussein to participate in negotiations on the basis of the Camp David accords. Jordan's presence is indispensable to a final resolution of the status of the West Bank and Gaza. King Hussein's response has been encouraging and I am pleased to see him finally make such a response as a beginning. Realistically, however, we cannot expect Jordan to risk joining the peace process unless it can credibly argue that negotiations offer the prospect of an outcome acceptable to the Palestinian people and Arab dignity. I applaud the President's insistence that the United States would support a definition of full autonomy giving the Palestinians real authority over themselves, the land, and its resources. This conception of full autonomy is crucial to the changes for Arab participation.

President Reagan's proposal is based on Camp David, and is one which all Americans can support. The President has made crystal clear the American commitment to Israel, while simultaneously indicating to the Arabs that a solution must give the Palestinians self government. He said that the United States would not support an independent Palestinian State, but would favor Palestinian self government in the West Bank and Gaza in association with Jordan. If I understand the President correctly, however, the final outcome is to be determined in negotiations, and the United States is not trying to prescribe the eventual result. It is essential that the United States not be perceived by the parties as seeking to impose its favored solution to such an emotion-laden and explosive question but rather is using its position to help bring about a negotiable settlement.

Of very great significance, especially in view of the administration's previous permissive attitude, is the President's call for a freeze on Israeli settlements in the West Bank and Gaza. The importance of this position for

holding open the possibility of an eventual favorable Arab response cannot be overemphasized. From the Arab point of view, the settlements are a form of "creeping annexation," all the more so in light of the Begin government's repeated declarations that Judea and Samaria, the West Bank, are by right part of the land of Israel. Unless Mr. Begin can be induced to show restraint in his settlements policy, it may prove extraordinarily difficult—if not impossible—to persuade Jordan and moderate Palestinians to join any negotiating process.

Mr. President, there has also been another peace initiative in recent days: The so-called "Fez Charter" produced by the assembled Arab leaders in Fez, Morocco, on September 9. All elements of that plan—in particular the call for recognition of the PLO and for an independent Palestinian State on the West Bank and Gaza with East Jerusalem as its capital—are unacceptable to Israel. However, as Secretary of State George Shultz has noted, it may be that the plan's call for the U.N. Security Council to guarantee "peace among all states of the region including the independent Palestinian State" could imply recognition of the right of Israel to live in peace. If so, it would mark a major step forward in Arab thinking, possibly a long-awaited opening to start moving the Arab States along the road taken by Egypt in 1979. Eventually, for there to be real peace there must be open, unreserved, and complete recognition of the legitimacy of Israel. But it is unrealistic to expect the Arab world to reach that stage without long, hard bargaining for Israel's withdrawal from the occupied territories and an acceptable arrangement for Palestinian self-determination.

The initial reaction of most of the parties, especially that of Israel, to the President's initiative has been disappointing, although not surprising. The only sensible reaction for the United States is to regard the Israeli rejection and the Fez Charter as opening moves in a reactivated diplomatic arena. The President needs strong bipartisan support from Congress and the American people as the political and negotiating situation evolves.

Certainly, each one of us in the U.S. Senate should pledge ourselves to work with President Reagan in bringing about a bipartisan consensus. The U.S. ability to negotiate in this part of the world is hopelessly crippled if any one of the Middle East countries thinks that the President deals with a sharply divided Senate behind him.

Certainly the chances of a Middle East peace are badly damaged if any group, any country feels that they can come and get Members of the U.S. Senate to make efforts to shoot down the President's proposals before they even have a chance to get off the ground. After all, the President's proposal is only the beginning in a long, difficult road. It will doubtless undergo modification as the positions of the sides become clearer and as actual negotiations draw nearer. That is all the more reason for it to be a bipartisan effort.

I am pleased the Reagan administration has chosen to pursue the most vital American interest in the Middle East: a negotiated settlement to the Palestinian question which could open the way to a comprehensive peace between Israel and all the Arabs.

I urge President Reagan to remain steady on his course in the face of harsh criticism from all sides and the demonstrated unpredictable events in that tumultuous area. Certainly I will do everything I can to work with him in bringing that about. I urge my colleagues in the Senate to do likewise.

(Mr. MATTINGLY assumed the chair.)

The PRESIDING OFFICER. The Senator's time has expired.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I continue to daily address this Congress on the problem of habeas corpus abuse by career criminals. Example after example clearly indicate that corrective legislation is needed to relieve our criminal justice system of this needless and burdensome litigation. The problem is so severe that members of the legal community at every level—local, State, Federal—have been sending strong signals to this Congress for action to eliminate habeas corpus abuse. The cases themselves are perhaps the strongest and clearest proof of the need for reform in habeas corpus proceedings.

Typically, violent criminals successfully utilize the writ of habeas corpus to prolong finality of judgment. The "great writ of liberty" is too often distorted into an easy means by which convicted criminals avoid their deserving punishment. Take, for example, the case of William Howard Cross of Marietta, Ga.

Cross had been arrested several times for felony gambling charges and convicted of gambling as well as bribery of a police officer. Despite a substantial criminal record, Cross was still not serving his 5-year jail sentence some 6 years after his conviction and 8 years after the crime itself. Termed a "legal legend" by the press, Cross had successfully used both habeas corpus and appeal proceedings to delay and delay again the imposition of sentence.

Cross had begun by appealing his original conviction through the State system. The conviction and sentence was affirmed not only by the Georgia Court of Appeals, but also by the Georgia Supreme Court, the U.S. district court, and the U.S. Court of Appeals for the Fifth Circuit. Finally the U.S. Supreme Court refused Cross' request to review the case.

With his appeal litigation temporarily exhausted, Cross was required to begin serving his sentence after the Supreme Court's refusal to hear the case.

After a mere 2 months in jail, Cross was released when a State court judge granted his newly filed motion for a new trial. When the Georgia Supreme Court later reversed that ruling, Cross was ordered incarcerated, but first granted an additional 30 days to put his affairs in order.

Cross wasted little time in using those 30 days to prepare a petition for habeas corpus relief which he then filed in U.S. district court. In that petition he again attacked the very same conviction which court after court after court had already upheld as valid. Despite his past record of unsuccessful and repetitive litigation, a U.S. magistrate again delayed an order to incarcerate Cross, pending the outcome of the habeas corpus litigation. A justifiably disappointed police official commented on the absurdity of the Cross litigation: "This is just a classic case. It goes on forever."

It is time that this Congress decides that criminal cases cannot and should not be allowed to go on forever. S. 2543, the Crime Control Act of 1982 which Senator CHILES and I have introduced, provides an effective legislative remedy for criminal opportunists like Cross. The bill includes a 3-year statute of limitations for the filing of habeas corpus petitions and assigns greater weight to previous State court determinations of factual issues. With provisions like these enacted into law, convicted criminals like Cross would no longer be able to endlessly delay their punishments. I again call for the prompt consideration and adoption of S. 2543 and its proposals for habeas corpus reform.

Mr. President, I might add that I am hopeful that we will be able to bring up the overall legislative package by Senator THURMOND and Senator BIDEN on which we entered into a time agreement before the August recess but on which no action has been taken. I am hopeful that that legislation can be brought up on its own right, but I wish to alert my colleagues that unless we are able to reach some agreement on bringing it up this session, I will cer-

tainly make every effort to work with others in the body to attach that legislation to some pending bill.

Mr. President, I yield back the remainder of my time.

RECOGNITION OF SENATOR BRADLEY

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey (Mr. BRADLEY) is recognized for not to exceed 15 minutes.

LENDING RISKS IN THE DEVELOPING WORLD

Mr. BRADLEY. Mr. President, nearly a month ago, I addressed my colleagues twice about the potential risk to our international banking system. Today, unfortunately, the contingency of instability in financial markets has come closer to reality. Soon we may not need just precaution but a cure.

Mexico's currency crisis over the last month is more ominous than the Polish debt crisis—especially for our economy. Mexico is a friend, a neighbor, a strategic ally, and a much bigger debtor to U.S. banks and the Western banking community as a whole. Further, Mexico's plight compounds the troubles raised for the world banking system by Poland. And it springs from economic problems which in varying degrees are shared by many other borrowers in the developing world. Mexico is a dramatic symptom of a serious malady, not an isolated case.

Just over a month ago, Mexico's money troubles flashed to the front pages of our newspapers. Mexico then devalued the peso for the second time in 6 months and established a dual exchange rate, one floating and one preferential, to conserve Mexico's depleting pool of dollars.

These currency measures only triggered fears of capital controls and accelerated the flight of capital abroad.

One week later, the Mexican Finance Ministry reconfirmed those fears by converting all withdrawals from foreign currency accounts to pesos at the below-market exchange rate of 69.5 pesos to the dollar, and barred the transfer abroad of these foreign currency accounts. The next day the Ministry closed the foreign exchange markets, and the black market drove the dollar up to 150 pesos per dollar.

Business transactions came to a halt as companies found themselves unable to meet their dollar obligations and the businesses to whom they owed dollars refused pesos. Also, the dollar-denomination debts of Mexican businesses became unsupportable. Consequently, many Mexican businesses found themselves on the brink of bankruptcy and many Mexican banks came close to insolvency. Worse, the country of Mexico was in danger of becoming unwelcome in international business and banking circles.

But the Western nations have too much at stake, economically and politically, to be indifferent to Mexico's problems. That is why an international rescue operation for Mexico was launched on August 19. This operation will mobilize about $5 billion by the end of the year through bridge loans and new money from Western central banks, the International Monetary Fund, the U.S. Government and commercial banks.

These measures probably will spare Mexico, but not without pain and difficulty. The rescue operation will carry, as it should, conditions requiring Mexico to adopt measures to reduce inflation, government spending and its growing current account deficits. Labor, leftist, and nationalist groups are likely to oppose both the outside interference and the austerity of the necessary policies. Partly to assuage such opposition, President Portillo nationalized Mexican banks on September 1. But the nationalization, joined to complete exchange controls, was also an effort to head off a feared collapse of Mexico's banking system.

The events in Mexico have made for dramatic reading over the last month, but they were not sudden or unanticipated. Mexico, with a $80 billion foreign debt, tumbling oil revenues, a gaping budget deficit and galloping inflation had been veering toward financial crisis for some time.

Falling oil prices probably have raised Mexico to the rank of the world No. 1 debtor, ahead of Brazil. Last year, sluggish oil markets reduced Mexico's anticipated earnings by $7 billion, while other export earnings were off about $3 billion.

If oil prices continue to fall, say to $25 a barrel, Mexico could lose another $14 to $15 billion over the next 3 years. This will be added to the billions Mexico borrowed in the late 1970's to finance the oil expansion which is not paying off as anticipated. It will also be added to this year's new and rescheduled debt which Mexico will have to service at higher interest rates.

With about 50 percent of Mexico's bank debt falling due this year, it has been estimated that, including refinancings, Mexico would need to borrow about $25 to $28 billion this year to stay afloat. Before the recent currency crisis, Mexico had borrowed some $6.5 billion with the promise to pay higher interest rates than before.

The international rescue package will help narrow the financing gap, but it is still unclear how Mexico will bridge it.

It is worrisome that the world financial community has been forced to try to cope with Mexico's crisis with an ad hoc operation. Warnings from Mexico and elsewhere have been sounding for some time. Those warnings should have precipitated a financial contingency plan, preparing the financial system to cope immediately with emergencies and perhaps averting more intense pressures that would arise if the public loses confidence in an exposed bank, or in the security of the whole banking system. Talks of Mexico's troubles stirred a movement of capital in the United States from commerical paper and certificates of deposit into Treasury bills. It also forced a number of U.S. banks with known Mexican exposures to pay a premium over the going rate in order to be able to sell their CD's. Reports suggest that worldwide—a tiering of banks is occurring, with some paying more for money than others.

Mr. President, the banking system's problems could worsen because the economic ills of Mexico—and Poland—are not unique. Their ills were progressive and events combined to create a crisis. But other countries may face the same problem. Without new safeguards, coping with new crises, on top of the existing troubles, could prove too much for the international financial system.

Despite the high levels of growth achieved by some developing countries during the 1970's, for nearly a decade the nonoil developing countries of the world have faced adverse external environments. They have known recurring recession or slow growth in their industrialized world markets, declining terms of trade, high nominal and real interest rates and rapidly rising energy costs. For those countries who nonetheless sought to maintain industrialization and economic development, it was necessary to borrow abroad. Many of them did—on an unprecedented scale—which left many of the nonoil developing world borrowers with an enormous debt. As the global recession continues, some of the loans may be at risk, and some of the borrowers may be pushed to the brink of default.

Much of today's sovereign debt is different than in the past. In the past, balance of payments financing was needed to manage cyclical liquidity problems. Today, to a growing degree, balance of payments financing problems are built in. They arise from spiralling import costs, especially oil import costs, declining terms of trade, Government deficit spending, price controls, subsidies and exchange rate policies and perhaps worse, a self-perpetuating debt cycle, in which borrowing is done largely to service outstanding loans.

Consequently, many debtor countries face periods of basic structural adjustment. To escape the cycle of debt, these countries will have to implement austere adjustment programs. For some, the road to adjustment will

be hazardous, with the political risks even more grave than the economic ones. Because Western banks are highly exposed in several adjusting countries, some of them may become the reluctant partners of these countries in their high-risk adjustment ventures.

The task of adjustment for many developing countries is made harder by the continuing recession, and the contraction of world trade. It is a sign of our troubled times that last year, for the first time since the end of World War II, the physical volume of world trade declined. The exports of the nonoil developing world, which had grown an average of 9 percent yearly during 1976 to 1979, fell to 4 percent. Their combined real output dropped from 6½ percent in 1978 to 2½ percent last year. For the first time in recent history, recession in the industrialized world fostered a slump in the developing world. The further contraction of trade and credit is likely to exacerbate the problems of slow growth in both the developed and developing worlds.

The debt problems of the developing countries have placed international bankers in a double bind. Reducing credit to strapped debtors could impair their ability to service old debt, but maintaining or raising levels of credit to them could leave the banks with too risky exposure in a single country. So by moving their level of lending to major borrowers either up or down, many banks could endanger their assets.

This dilemma haunts more than a few banks. Eighty percent of the largest U.S. banks are exposed in at least one developing country in an amount that is greater than 30 percent of their capital. The aggregate exposure of the nine largest U.S. banks in developing countries rose from 1½ times total capital in 1977 to more than double total capital in 1980.

Total outstanding loans to nonoil developing countries from $97 billion in 1973 to $505 billion in 1982. Loans by private creditors alone rose from about $49 billion to $306 billion over the same period. Of course, American bankers are not alone in this dilemma. As I said, foreign lending is becoming a big business for the banks of all industrialized countries. For the OECD banking system as a whole, the ratio of foreign assets and liabilities to total assets and liabilities nearly doubled during the 1970's rising from 12 percent to 20 percent.

If we count the Mexico rescue as a success, to date, the enormous growth in foreign lending has produced no major disasters for the international banking system. Nonetheless, the Group of 30's international bank study group found that most bankers believe that the risks to the entire system have increased and will increase more rapidly in the future.

In recent years, lenders have had to work harder to try to keep their foreign assets to working order. The record on official debt rescheduling reflects the growing workload for bankers. Since 1956, there have been 56 official reschedulings; 22 of them—involving 13 countries—have occurred since 1975. Since 1975, more funds have been involved than for all the rescheduling in the past 30 years before.

The amounts involved in recent rescheduling have varied. For example, in 1978, Peru rescheduled $518 million. In 1979, Sudan rescheduled $421 million, and Zaire rescheduled $1.3 billion; $580 million was rescheduled for Nicaragua in 1980, and $3 billion was rescheduled for a nearly insolvent Turkey. Mexico, of course, will reschedule several billion this year alone.

The number of countries in arrears—countries who are not making payments of interest and therefore creating nonworking assets for their creditors, also has grown. One recent study found that while, in 1974, there were only 3 countries in arrears for a total of about $500 million, by 1981 more than 25 countries were in arrears, and the total amount involved was at least $6.5 billion.

However, looking at the aggregate debt picture may cloud the view of risk to the international banking system. From one perspective, an aggregate view overstates the risk because the bulk of lending has gone to a few countries whose repayment capabilities are viewed as good because of their potential oil or general export revenues. From another perspective, the concentration of lending has enhanced the risk to the system. Trouble for any one or two major borrowers could ripple through the whole banking system.

Let us take a closer look at some of the major borrowers. Brazil and Mexico are the system's superborrowers. Each alone accounts for 40 percent of the bank capital of the nine largest U.S. banks, and for 25 to 30 percent of the bank capital of all major banks in the world. Unhappily for bankers who have them both as major customers, what would most help improve Mexico's current account deficit—rising oil prices—would most hurt Brazil's. By the same token, the softened oil markets, which have given Brazil some relief in the last year or so, have helped create an unanticipated currency crisis for Mexico.

Mexico's woes have been Brazil's good fortune and the world's longtime biggest borrower has used the opportunity to restore its current account position. Using painful austerity measures and vigorous export promotion techniques, Brazil last year was able to turn its widening deficits since 1977 into a $1.2 billion surplus. A 16 percent rise in exports generated $23 billion, which help bring Brazil's reserves back above the $7 billion mark.

Nonetheless, the $1.2 billion surplus will still leave Brazil about $17 billion short of what it will need to service its existing debt, a heavy debt which it built up during the 1970's to maintain economic growth in the face of the oil shocks. Even with last year's strong export performance, debt service alone will eat up over 70 percent of Brazil's export earnings.

Moveover, Brazil has paid a heavy price for even this success. Last year, for the first time in 30 years, Brazil's economy failed to grow. Industrial production fell by 9.3 percent and more than 1 million jobs were lost. Interest rates on overseas borrowing proved 5 percent higher than the worst case anticipated by Brazil's financial managers when they first embarked on their adjustment program. Finally, the low prices in world markets commodities still responsible for a third of Brazil's exports added to the difficulties.

Brazil's external position remains precarious. The world market may become even more sluggish, and some of the markets which supported Brazil consumer exports last year, such as Chile and Uruguay, may now be saturated. Further, Brazil holds $1.5 billion of Poland's shaky debt. This debt was made to finance Brazilian exports at interest rates of 5 to 7 percent when Brazil was borrowing abroad at three times that rate. Like other Polish creditors, Brazilian banks are sensitive to the potential loss of Polish assets. But for Brazil, this may compound reservations which international bankers must have about lending to the banks of a country that still carries a debt of near $80 billion dollars, much of it at historically high real rates of interest. Despite its progress, Brazil remains a large off-balance domino in the international banking system.

Errors of economic policy compounded by a devastating error of foreign policy have turned Argentina into the financial sick man of Latin America. Argentina's problems make Mexico's pale by comparison. Massive borrowing in 1979–80 to sustain an excessively overvalued Argentine peso set the conditions for growing deficits and debt. Argentina's invasion of the Falkland Islands then sent its economy and its bank creditors into a panic, making the chances for near-term financial recovery remote. The August 24 resignation of Argentina's economic minister after only 7 weeks in office has worsened the bankers' fears.

With the debts of war, Argentina has run up its external debt of about $40 billion, thereby quadrupling its debt since 1976 and raising it to about one-third its GDP: $14 billion is due this year, an amount equal to 150 percent of Argentina's export earnings.

Since early July, the Argentine peso has plunged from 15,000 to the dollar to 40,000 to the dollar.

The truth is Argentina simply cannot pay its hard currency debt. But its lenders have no interest in declaring a default. Default would rob Argentina's bank creditors of book assets. U.S. banks hold $9.2 billion of these assets. Along with their European—including British—colleagues, they will be trying to work Argentina and themselves out of the financial mess made by the pointless Falkland Islands war. Putting back together the pieces of Argentina's finances should prove one of the toughest challenges faced by international bankers. One comfort they can take is that they are not faced with the magnitude of debt held by Brazil or Mexico.

Latin America, of course, is not the only area with financial problems, though there is some evidence that the Falkland crisis has cooled bankers' interest in the region as a whole. Latin America gets a lot of attention in the United States because it is the region in which American banks are most exposed. But financial pipelines link the stability of the international banking system—and U.S. banks through it—to the fates of many countries around the world. Eastern European debts, owed largely to Western Europe, recently has earned the worried attention of many bankers. I plan to devote another statement to the subject of Eastern European debt. But economic troubles in other countries have many small holes which could undermine the ability of the international banking system to sustain the pressure of default by a single large debtor.

Friendly countries like Turkey, Zaire, and Egypt have had serious balance of payments struggles in recent years. Turkey and Zaire have had long, tortuous sessions with creditors unhappy about having to reschedule their sizable debt. Egypt's debt-to-export ratio has risen so high that a major drop in external assistance—which comes largely from the United States—could precipitate a debt crisis there.

Another country important to the United States with unnerving financial troubles is Nigeria. The oil slump is putting downward pressure on the oil revenues Nigeria depends on to keep its economy afloat. Its foreign currency reserves have fallen to under $3 billion, which barely covers its imports for 6 weeks. These imports have been running $600 million a month above Nigeria's oil income.

Consequently, Nigeria will have to borrow more than the $3.1 billion it planned for 1982. At the same time, its central bank has suspended letters of credit and import registrations indefinitely, hoping to chill imports. Nigeria is now looking to Saudi Arabia and other Persian Gulf lenders for generous credit terms.

Given the projected world economic trends, generous credit terms are certain to be scarce for any country—even an OPEC ally. The terms of credit are turning against borrowers throughout the developing world.

To the extent that adverse borrowing conditions forces highly leveraged countries to adjust their economies and national credit to its most productive use, the effects may be positive over the long term. But financially strapped countries make unreliable borrowers, which is bad news for the banks who already hold their debt on their books. They also make poor trading partners for an industrialized world whose growth is increasingly interdependent with theirs. And finally, they make poor friends and allies to democracies who hope for their political stability and for the liberalization of their societies.

The rising debt of the developing world cannot be written off as a bankers' problem. The economic and strategic interests of all Western people involves us all in this problem. The world economy requires sufficient liquidity to sustain productive investments, permit heavy debtors to adjust their way back from the brink of insolvency, and sustain confidence in the international banking system. It is a big job. No single proposal will maximize all the objectives. Nonetheless, new measures should be carefully drafted to avoid encouraging banks and countries to continue risky lending and spending practices in the future, that is to avoid what is known in bankers' parlance as the moral hazard problem.

I believe that, first, we must firm up the 1975 central bankers' agreement concerning who has lender of last resort responsibilities for each type of banking operation. This entails defining what is considered a bank for such purposes, so as to avoid the uncertainty that worsened the Banco Ambrosiano fiasco. Uncertainty about responsibilities can create unnecessary alarm about the safety of international deposits. However, such an agreement must assure that imprudent banking is disciplined through the repayment and restructuring terms demanded by the lender of last resort.

Second, the International Monetary Fund or the Bank for International Settlement should create a means for quickly intermediating currencies for the central bank who assumes lender of last resort responsibilities. This would assure that there were available sufficient amounts of the currency required to cover a vulnerable bank's liabilities.

Third, in view of the current and potential financial crisis of many large borrowers in the developing world, we should authorize participation in an emergency fund to be administered under strict conditions by the IMF. To avoid the potentially dangerous ramifications of insolvency on the part of a debtor country, loans which the commercial market would not bear must be made by official agencies or with official guarantees. But they must be made on condition that their recipients correct economic practices which produced or could exacerbate their financial problems.

Finally, I believe an increase in the quotas of participants in the IMF is warranted. The fund will need resources to help manage the financial problems of so many developed countries and stave off the serious global recessionary impact which a shortage of funds could produce. Again, we must assure that fund credit is made available on terms aimed at restoring the current accounts of debtors to balance and creating the domestic basis for sustained production.

The time is ripe for action. Too much is at stake to succumb to wishful thinking or shortsighted indifference.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

THE CLOTURE VOTE—A FATEFUL CHOICE

Mr. MOYNIHAN. Mr. President, I thank the Chair for allowing me to rise on this occasion to speak in the minutes remaining before the live quorum at 3 p.m., when the Senate will make the fateful choice whether we shall maintain the constitutional separation of powers and the independence of the Supreme Court and the rule of law as basic to our Nation, or whether we shall move away from that constitutional regime which has served us for just on two centuries and which was thought to be as secure an arrangement as any in the world. That is the choice we shall make at 3 o'clock, and it may be the world is not much watching what we do, but if we fail in our duty, I doubt the world will ever forget what we did. This is one of those moments when history is made by persons not sufficiently aware of what they are doing.

To those who might be listening in their offices, may I offer the thought—I cannot assert I make the point because that is for any to judge and others can judge equally with me, but I offer the thought and plead the case that the issue is not school prayer; the issue is the constitutional nature of American Government. If we vote to invoke cloture this day, we shall change the constitutional nature of American Government.

On the last occasion that I spoke to this matter, I observed that what defined American Government was not majority rule as such. Majority rule is, in fact, not an unusual phenomenon, not unknown in the world. It is majority rule with minority rights that is singular, that defines a democracy and produces the stability that our democracy, almost alone in the world of nations in the world, can claim. There is a claim that Iceland might make, and I, for one, should be willing and happy to concede it. But as a large Nation, as a continental Nation, as a world power, no country on Earth has lived under a written constitution so long as we have done. None is close to having done so.

I have, on more than one occasion, risen on this floor to recount an afternoon in the United Nations General Assembly—during my time as our Ambassador there—when I was whiling away the hours and thinking of odd things to occupy my mind apart from the addresses of the occasion. I started looking down the list of names of members of the United Nations. I asked myself how many of these nations both existed in 1914 and had not had their form of government changed by force since then. The answer, Mr. President, was seven. Seven nations that can claim to have existed in 1914 and not to have had their form of government changed by force in that interval.

What a precious thing is the stability of the American Republic. How rare, apart from being precious. It would be precious if it were common. It is not only precious, but it is almost singular. And we have seen the Attorney General of the United States tell us that the proposal before us is unconstitutional.

The Attorney General, William French Smith, wrote on March 6, 1982:

> Congress may not, however, consistent with the Constitution, make exceptions to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

This bill would do that. There is none in the visitors' gallery who should not know that their right to assemble is threatened, their right to be in that gallery threatened. There is none in the press gallery who should not know that if we can strip the Supreme Court of its jurisdiction in some matters, we can strip the free press from the first amendment also. There is no limit to the legislative tyranny that can follow—no restraint, no institution, no rule.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MOYNIHAN. Mr. President, I sincerely hope we will not do this. I assure the President that history will record it, if we do that, in a way that will disgrace us all.

I see that my distinguished friend from Montana is on the floor. My time having expired, I look forward to having his further views upon this fundamental approach.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I congratulate and pay my due respects to the senior Senator from New York who has eloquently and fundamentally defined the issue before us. The Senator from New York has many times taken the floor and has many times spoken before committees of this body passionately defending the constitutional rights of Americans. I wish that more Americans knew the degree to which the Senator from New York has passionately stood for and defended their constitutional rights; that he has exercised his utmost abilities to try to dissuade Members of the body and various committees from adopting measures which in the short term may seem easy, which in the short term may satisfy the whimsical desires of various individuals but at the same time would fundamentally alter, to say the least, and, more than that, undermine our constitutional form of Government.

It is a difficult point to make in these times in America but he has, I think, stated the argument very well. I thank the Senator from New York.

Mr. MOYNIHAN. The Senator is most gracious.

COURT STRIPPING

Mr. BAUCUS. Mr. President, I rise in support of the pending amendment and in opposition to the underlying Helms amendment.

I sincerely hope that we are making some progress in explaining to our colleagues, to American citizens, and to the press what the real issue is before us. The press accounts continue to describe the ongoing dialog and today's procedural vote as involving "school prayer."

Mr. President, the ongoing debate is about court stripping. Today's procedural vote is about court stripping. I am here today because I am concerned about court stripping.

The American Bar Association opposes this pending amendment because it is court stripping. The Attorney General of the United States has not endorsed the Helms amendment because it is court stripping. The President of the United States has not endorsed the Helms amendment because it is court stripping.

All of us involved in this ongoing dialog are trying to explain to the American people and to the press that we are not talking about school prayer. We are not talking about religion in our schools. We are talking about court stripping.

This precise point was made most cogently in an editorial which appeared in the New York Times this morning. The title of the editorial is most appropriate. It is: "The Issue Is Court-Stripping."

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE ISSUE IS COURT STRIPPING

Last week a weary Senate finally tabled an anti-abortion rider to the vital debt ceiling bill. Today it decides whether to cut off debate on another legislative parasite on the same bill, a school prayer rider. This time the issue is far more than a politically sensitive "social issue." It is the structure of constitutional government. If a filibuster by a number of committed Senators is the only way to make that point clear to their colleagues, then the filibuster should continue.

Senator Jesse Helms, who sponsored the rider, believes the Supreme Court was wrong two decades ago in ruling that officially sponsored prayer violates the First Amendment. But his rider would strip all the Federal courts, including the Supreme Court, of the power to rule at all in prayer controversies.

Passage of such a measure would provoke a constitutional crisis. It would challenge the role of the Federal judiciary as interpreter of the Constitution—indeed, as a co-equal branch of the Government.

The proper way to overcome a Supreme Court constitutional ruling is by amending the Constitution. That is the basis of Attorney General Smith's objection to legislative shortcuts. President Reagan showed similar awareness when he called for a vote this year on the school prayer constitutional amendment he has proposed.

For good reason, amending the Constitution is far more deliberate than passing a law. It requires a two-thirds vote of Congress and ratification by three fourths of the states. The success of Mr. Helms's measure would mean that a simple majority in Congress could render the Constitution unenforceable in Federal courts—and subject to varying interpretations in state courts.

Let the debate continue until the entire Senate understands, and knows that the voters understand, that the issue is not prayer but court-stripping.

Mr. BAUCUS. Someone may well ask: "Senator BAUCUS, fine, the issue is court stripping. What difference does that make? Why does this issue deserve any more discussion than a tax bill or an appropriations bill or any other matter before the Senate?"

Mr. President, my response is quite simple. What is being proposed on the Senate floor by Mr. HELMS is a totally radical departure from the way we have protected constitutional rights for nearly 200 years in this country. It may seem on its face like a simple, substantive vote on an issue that concerns some of our constituents. But, in fact, if the proposal before us is enacted, and withstands court challenges, from that moment on the Su-

preme Court will only be able to protect those constitutional rights that Congress permits it to protect.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. BAUCUS. Gladly.

Mr. MOYNIHAN. The Senator says if it is enacted and survives the court challenge. Would it not be safe to say, if this is enacted and the court should declare it unconstitutional, that we would have a full-blown constitutional crisis?

Mr. BAUCUS. The Senator is absolutely correct because this body would then feel that it has the right to so limit Supreme Court jurisdiction. The Supreme Court says Congress does not have that right. There is an absolute impasse; a constitutional crisis of the most dramatic proportion. The Senator is absolutely correct.

Let me state the same underlying point again. If the proposal before us is enacted and does withstand court challenges, from that moment on the Supreme Court would only be able to protect those constitutional rights that Congress permits it to protect.

Mr. President, I hope my fellow Senators fully appreciate what that means. I hope my fellow Americans fully appreciate what that means. I hope the press covering this debate fully appreciates what that means.

Mr. MOYNIHAN. Will the Senator yield for one question? Could he perhaps describe to me what is the nature of the legal system in the Soviet Union with respect to the political authorities? Do Soviet courts decide what they will pass upon or do the political authorities decide?

Mr. BAUCUS. As the Senator is implying in his question, quite obviously in the Soviet Union there is no court which protects fundamental constitutional rights. For example, the Bill of Rights, there is no document which protects citizens of that country from governmental onslaught.

Mr. MOYNIHAN. If Dr. Sakharov wished to appeal to the courts from his present arrest and exile, would he have likely any success? Would there be any independent standard against which he might appeal?

Mr. BAUCUS. As the Senator knows, to ask the question is to answer it. Obviously, he would not have those rights.

Mr. MOYNIHAN. Right.

Mr. BAUCUS. Mr. President, what this bill would mean to Americans if it passes and is upheld by the courts, it would mean that Congress would be free to deny citizens any right it cares to. Congress would be free to take away personal property from individual citizens without due process of law. Congress would be free to authorize searches of individuals' homes without a search warrant. Congress would be free to close down the Nation's pressrooms. Congress would be free to establish a national religion. These were the very abuses of government that those who founded our country were running away from. These were the abuses they were trying to prevent government from engaging in when our framers came to this country and framed our Constitution. They established a judicial branch and a Supreme Court to assure that the constitutional protections that they placed in the Constitution would be honored by the other branches of government.

This principle, as the Senator from New York has pointed out, was well understood 200 years ago in our history.

I am afraid that today we are taking this principle for granted. I am afraid that we in this country have been so fortunate to have avoided the tyrannies of government for so long that we are no longer sensitive to the basic principles of our Government that have kept those tyrannies from occurring.

Mr. President, I fully appreciate the need to protect American citizens from those tyrannies. I also believe that President Reagan and William French Smith fully appreciate the need to protect American citizens from those tyrannies. I believe the American people fully appreciate the need to keep themselves protected from those tyrannies.

We should keep in mind that this administration has been unwilling to endorse the pending Helms amendment. The President wants to restore voluntary prayer to the schools—he said so in his radio address to the Nation on Saturday. But he is not advocating that we strip the Supreme Court of its jurisdiction to hear school prayer cases. He wants us to vote on his proposed constitutional amendment, not only because he supports it, but also because he knows that it is the constitutional amendment process that is the correct way for us to address constitutional decision of the Supreme Court.

The PRESIDING OFFICER (Mr. GRASSLEY). The period for morning business has now expired.

Pursuant to rule XXII, 1 hour having passed since the Senate convened, the clerk will report the cloture motion.

Mr. BAUCUS. Mr. President, I ask unanimous consent that my full statement appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the Senator be allowed to finish his train of thought, for 5 minutes.

Mr. JOHNSTON. I object.

The PRESIDING OFFICER. Objection is heard.

(The remainder of Mr. BAUCUS' remarks is as follows:)

Mr. BAUCUS. I challenge the President to speak out and help get the Senate off the track we are now headed down. I will join with him to have us address the school prayer issue in the context of a constitutional amendment, but I urge him to join with me in rejecting the course of attempting to strip the Supreme Court of its jurisdiction over school prayer cases.

Last week, I began to read a very lengthy letter written by Attorney General William French Smith to Senate Judiciary Committee Chairman STROM THURMOND. In that letter, the Attorney General presents an excellent analysis of why the court stripping bills in general and the underlying Helms court stripping bill in particular are dangerous. Later today I plan to continue reading from that letter.

THE CLOTURE VOTE ON AMENDMENT NO. 2031, AS MODIFIED

● Mr. DOLE. Mr. President, it is my intention to vote in favor of cloture; but at the same time, wish to express my strong reservations about the proposed school prayer amendment. I have been a consistent supporter of voluntary prayer in public schools and a consistent critic of those court decisions which, in my opinion, have placed ridiculous limitations on the right of schoolchildren to the freedom of religious expression. But as has been repeatedly pointed out during the debate, this amendment involves far more than the underlying moral and social issue of voluntary prayer in public schools. Because this amendment would strip not only the lower Federal courts, but also the Supreme Court, of jurisdiction to decide voluntary school prayer cases, it raises fundamental constitutional and policy issues concerning the role of the Supreme Court in our system of checks and balances and the power of the Congress to define and circumscribe that role.

For this reason, I have strong reservations about the amendment, and in particular, share the concerns expressed by Attorney General Smith in his May 6 letter to the chairman of the Senate Judiciary Committee. In that letter, the Attorney General raised significant questions concerning the constitutionality of this proposal, pointing out that the Supreme Court, as an independent and equal branch of Government, has certain core functions into which the Congress may not intrude under the guise of the "exceptions clause". He also lodged strong public policy objections to withdrawing an entire class of cases from Supreme Court review. Noting that history counsels against taking such an action, he concluded that the integrity

of our system of Federal law itself depends upon the Supreme Court having the final say on the resolution of Federal questions.

Thus, while I will vote to invoke cloture, it is not because I have decided to support the amendment, but rather because I believe ample time has been allowed to debate the merits and it is now time to bring the debate to a close. I would prefer that the Senate give consideration to the President's proposed constitutional amendment, Senate Joint Resolution 199, and hope that we will be able to comply with the President's request to bring Senate Joint Resolution 199 to a floor vote. I am troubled by certain aspects of Senate Joint Resolution 199, particularly with regard to a State's involvement in prescribing the content of prayer in public schools. But, I do believe that the vast majority of Americans want us to restore voluntary prayer in public schools, and that the President's constitutional amendment provides the most appropriate mechanism for giving the American people what they want.

I urge the sponsors of the amendment now being debated to give careful consideration to the views I have expressed today. If a vote on this amendment is the only opportunity we in the Senate have to record our position on this issue in this Congress, I will reluctantly vote in favor of it, However, I will do so with the belief that the President's approach represents the wiser course and that it will be the actual vehicle for final resolution of this issue.●

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, 1 hour having passed since the Senate convened, the clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031 as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Jake Garn, Harry F. Byrd, Jr., Steven Symms, S. I. Hayakawa, Don Nickles, James A. McClure, Strom Thurmond, Charles E. Grassley, Malcolm Wallop.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll, to ascertain the presence of a quorum.

The legislative clerk called the role, and the following Senators answered to their names:

[Quorum No. 45 Leg.]

Abdnor	Baker	Baucus
Byrd, Harry F., Jr.	Grassley	Mattingly
Byrd, Robert C.	Helms	Moynihan
Garn	Johnston	Weicker
	Leahy	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

Andrews	Hart	Nunn
Armstrong	Hatch	Packwood
Bentsen	Hatfield	Pell
Biden	Hawkins	Percy
Boren	Hayakawa	Pressler
Boschwitz	Heflin	Proxmire
Bradley	Heinz	Pryor
Cannon	Hollings	Quayle
Chafee	Huddleston	Randolph
Chiles	Humphrey	Riegle
Cochran	Inouye	Roth
Cohen	Jackson	Rudman
Cranston	Jepsen	Sarbanes
D'Amato	Kassebaum	Sasser
Denton	Kasten	Schmitt
Dixon	Kennedy	Simpson
Dodd	Laxalt	Specter
Dole	Levin	Stevens
Domenici	Long	Symms
Eagleton	Lugar	Thurmond
East	Mathias	Tower
Exon	Matsunaga	Wallop
Ford	Metzenbaum	Warner
Glenn	Mitchell	Zorinsky
Goldwater	Murkowski	
Gorton	Nickles	

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2031, as modified, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), the Senator from Missouri (Mr. DANFORTH), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. MELCHER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from Arkansas (Mr. BUMPERS), would vote "nay."

The PRESIDING OFFICER (Mr. ABDNOR). Are there other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 39, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—50

Abdnor	Baker	Boren
Armstrong	Bentsen	Byrd, Harry F., Jr.
Cannon	Heflin	Pell
Cochran	Helms	Pressler
D'Amato	Huddleston	Proxmire
Denton	Humphrey	Quayle
Dole	Jepsen	Randolph
Domenici	Johnston	Roth
East	Kassebaum	Sasser
Exon	Kasten	Schmitt
Ford	Laxalt	Simpson
Garn	Long	Stevens
Gorton	Lugar	Symms
Grassley	Mattingly	Thurmond
Hatch	Murkowski	Tower
Hawkins	Nickles	Warner
	Nunn	Zorinsky

NAYS—39

Andrews	Glenn	Matsunaga
Baucus	Goldwater	Metzenbaum
Biden	Hart	Mitchell
Boschwitz	Hatfield	Moynihan
Bradley	Hayakawa	Packwood
Byrd, Robert C.	Heinz	Percy
Chafee	Hollings	Pryor
Chiles	Inouye	Riegle
Cohen	Jackson	Rudman
Cranston	Kennedy	Sarbanes
Dixon	Leahy	Specter
Dodd	Levin	Tsongas
Eagleton	Mathias	Weicker

NOT VOTING—11

Brady	DeConcini	Stafford
Bumpers	Durenberger	Stennis
Burdick	McClure	Wallop
Danforth	Melcher	

The PRESIDING OFFICER. On this vote there are 50 yeas and 39 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the cloture motion is rejected.

ORDER OF PROCEDURE

Mr. BAKER and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I thank the Senator from New York for permitting me to make an announcement or an observation.

First, Mr. President, I would remind Senators there is another cloture motion pending which will produce a vote tomorrow under rule XXII.

Mr. President, it is my hope that shortly we will be able to enter into a unanimous-consent agreement for tomorrow to waive the quorum required by rule XXII and to vote on cloture at 12 o'clock noon. That has not yet been cleared. Senators should be on notice that that request will be made shortly.

Mr. President, since cloture was not invoked today, I would not expect the Senate to be in late today, but, Mr. President, I would expect the Senate to be in late tomorrow. Senators should be on notice that tomorrow may be a late day, perhaps a very late day. I observe the Senator from Arizona making appropriate remarks, but fortunately they are not audible to me.

Mr. President, I now yield the floor, once again saying that I hope we can clear this agreement.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to congratulate the Senate. We have once again affirmed our commitment to constitutional liberties in the United States on both sides of the aisle, and, second, an emphatic statement that we will not see the constitutional arrangements of 195 years debauched on the floor of this body.

We have lived 2 centuries with an indpendent judiciary and it is clear we mean to go on with an independent judiciary. The principle we have been voting on today has nothing to do with the nominal subject of the amendment. The issue has to do with the independence of the Supreme Court.

The senior Senator from Arizona, who I think would accept the thought that he is not only one of the more venerable but one of the more conservative Members of this body, voted to conserve the Constitution.

The senior Senator from Massachusetts, who would accept the thought that he is one of the most liberal men in this body, voted the tradition of political liberalism embodied in that Constitution.

The Constitution won, and the American people have won. Let us hope they continue to do so.

I thank the Chair for its indulgence.

The PRESIDING OFFICER. The Senate will please be in order. The galleries will be quiet.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I appreciate the comments of the Senator from New York. He is his usual spirit of consistency. He protected the Constitution, I suppose, when he voted to limit the jurisdiction of the courts in the matter of the Voting Rights Act. So what it is, Mr. President, is a matter of whose ox is being gored.

We will get cloture, I predict, and the Constitution will be protected, but Senators who vote to limit the jurisdiction of the courts sometime and then piously say, "Oh, no, we must not do anything to the courts," do not earn a badge of constistency.

Mr. KENNEDY. Will the Senator yield?

Will the Senator from North Carolina indicate how we voted to limit the jurisdiction of the Supreme Court on the Voting Rights Act?

Mr. HELMS. I will answer by asking the Senator if he really does not know.

Mr. KENNEDY. As the Senator is aware, I was one of the managers of the Voting Rights Act on the Senate floor, and I am familiar with the act and with the entire debate. As the record made clear, the Senate did not change the jurisdiction of the Court on the Voting Rights Act in any respect. The Senator from North Carolina opposed the Voting Rights Act at every stage of the debate. His allegation that the Senate in some way modified the jurisdiction of the Supreme Court in the Voting Rights Act should not go unchallenged. That allegation is basically and fundamentally wrong. If the Senator has any proof of his allegation, I believe he has an obligation to submit it.

Mr. HELMS. What the Senator did when he voted for the Voting Rights Act was to limit the jurisdiction of the courts and he knows it.

Mr. KENNEDY. The Senator is completely incorrect in that statement, and the record will bear me out.

Mr. MOYNIHAN. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. MOYNIHAN. Is he aware of any legal body or any judicial body that has suggested anything of the kind, that has suggested, in effect, that the Voting Rights Act did anything more than confirm the right of American citizens to go to the courts in pursuit of their constitutional right and have the court decide?

Mr. KENNEDY. The Senator is quite correct. In fact, the Supreme Court has ruled many times on constitutional issues under the Voting Rights Act. The Supreme Court's jurisdiction has never been limited in any way by the act. We had lengthy debates in the Judiciary Committee and on the Senate floor on all aspects of the Voting Rights Act. I am surprised that the Senator from North Carolina would make such an unfounded statement. I see now that he is not prepared to back it up.

Mr. MOYNIHAN. Mr. President, I would remind the Senators present that the president of the American Bar Association has declared the matter before us today and this last week to involve the gravest constitutional crisis since the Civil War. This is not the judgment of an individual; it is the judgment of the bar. Speaking for the American Bar, he has said to us, "Do not do this," and we so far have not done it.

History would not forgive this body of such an act. It would be recorded in history as the moment the Americans began to back away from their fundamental belief in law, equal justice under law, majority rule, and minority rights.

If you can strip from the Supreme Court the right to hear one question, you can strip from it the right to hear any question. There is no right in the Constitution that would not be placed in jeopardy.

The great fear of the Founding Fathers was that we should have a tyranny of the majority. They spoke over and over again of a tyranny of the majority and they devised the Court as the institution in which minority rights would be protected.

Those rights are embodied in the Constitution and the right of the Supreme Court in the end to say, as Justice Marshall said, it is emphatically the province of the Court to declare what the law is. It is not for us to do. We may have our views, we make the laws, but we make them in the context of a higher law, the Constitution, and the Court compares.

This very moment, this very day, Mr. President, the New York Times ran an editorial, which I shall read to the Chamber.

"The issue is court stripping," said the New York Times this morning:

> Last week a weary Senate finally tabled an anti-abortion rider to the vital debt ceiling bill. Today it decides whether to cut off debate on another legislative parasite on the same bill, a school prayer rider. This time the issue is far more than a politically sensitive "social issue."

If I may interject, men and women of this body with the utmost conviction of the rightness of school prayer might and do oppose the effort to bring it about by stripping the Court of its right to hear a case involving first amendment free exercise rights.

The Times continues:

> It is the structure of constitutional government. If a filibuster by a number of committed Senators is the only way to make that point clear to their colleagues, then the filibuster should continue.
>
> Senator Jesse Helms, who sponsored the rider, believes the Supreme Court was wrong two decades ago in ruling that officially sponsored prayer violates the First Amendment. But his rider would strip all the Federal courts, including the Supreme Court, of the power to rule at all in prayer controversies.
>
> Passage of such a measure would provoke a constitutional crisis.

If I may interject again, Mr. President, you may recall the exchange I had with the distinguished Senator from Montana, who suggested that, if this bill were to pass, it would either be in effect or it would go to the Court and the Court would strike it down. Then I asked, if the Court struck it down, would we not then be in a constitutional crisis? He said most assuredly, we would:

> It would challenge the role of the Federal judiciary as interpreter of the Constitution—indeed, as a coequal branch of the Government.
>
> The proper way to overcome a Supreme Court constitutional ruling is by amending the Constitution.

I, for my part, would have no objection in the least to bringing to this floor a proposed amendment to the Constitution. That is the way we have worked. It is the way the Constitution provides for us to work. That is the proper way. The New York Times continues:

> That is the basis of Attorney General Smith's objection to legislative shortcuts.

President Reagan showed similar awareness when he called for a vote this year on the school prayer constitutional amendment he has proposed.

For good reason, amending the Constitution is far more deliberate than passing a law. It requires a two-thirds vote of Congress and ratification by three fourths of the states.

The difference between what the Constitution provides as an amending process and what we have here, a plebiscitary process, is that here a plain majority in either House and an acquiescent President would purport to change the Constitution.

Look at any nation not having such an arrangement and find how permanent are their laws, how stable are their institutions. You do not found and maintain a republic for 195 years without knowing something of the nature of men and their governors.

We have chosen to be spare in the changes we make in our Constitution. We have chosen to do so by a deliberative process. We have chosen to conserve the values of the Republic and not open them to the passions of a majority of one at a given moment. Above all, we have chosen not to bring the equal branches of Government into unresolvable collision and conflict. That, more than any other thing, is what we are here in the body to preserve and surely, we will not, out of anxiety about a particular issue, not an ultimate issue—if there were something in our land that forbade prayer, that would be an ultimate issue—but a ruling that a particular prayer in an educational institution constitutes the establishment of a religion.

Arguably, Mr. President, it does. We sometimes think of churches as physical structures or bureaucratic organizations. No church, no synagogue, no temple is anything more than the physical manifestation of a belief in God that is embodied in prayer. To choose one over another is unavoidably to prefer one to another. It is not in the nature of men to be able to find an agreed-upon common ground here. So the court, understanding the Constitution, ruled as it ought to have done.

It might change its mind. The court changes its mind frequently, over time. Our obligation to the court is not to agree with it. Our obligation to the court is merely to obey it and to respect the constitutional arrangements that have given rise to its role.

Mr. President, it is not for me to monopolize discussion at this point, or debate. The distinguished senior Senator from North Carolina is on the floor. He is studiously involved, I fear, in reading a court decision. If he wishes to speak, I shall be more than happy to listen and I hope I shall do so with the courtesy he invariably shows those who cannot agree with him always.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Senator from New York. There has never been a moment when we disagreed when either of us was disagreeable.

Mr. MOYNIHAN. I thank the Senator for his kindness.

Mr. HELMS. I admire the Senator, and he knows that. I disagree with his position. I disagree with the basis for his position. History is replete with pronouncements by the Court itself about this business of limiting jurisdiction of the Federal courts. I was in conversation with a distinguished former Member of this body, Senator Sam Ervin, not long ago. He said he counted, as I recall, 57 times when Congress had voted to limit the jurisdiction of the court's.

Congress limited the jurisdiction of the Federal courts in the Voting Rights Act by granting exclusive jurisdiction in voting rights cases to the District Court for the District of Columbia, thereby denying such jurisdiction to all other district courts. There is no question about that.

I have an article, which I shall shortly ask unanimous consent to have printed in the RECORD written by a distingushed constitutional scholar, Dr. Charles E. Rice, who is professor of law at Notre Dame Law School.

Also, Mr. President, I call attention to the fact that Raul Berger of Harvard once wrote a book, in the year 1969, as I recall, disagreeing with the approach that I am now attempting. Professor Berger is not a conservative. I believe he has said that he seldom agrees with the Senator from North Carolina but, in this case, the Senator from North Carolina is correct, and he made a 180-degree turn in his position on this business of limiting the jurisdiction of the courts.

It is quite all right with me for Senators to oppose prayer in school, but let them not pretend that there is any nefarious scheme afoot in trying to limit a runaway judiciary. I thought that is what we were elected to do.

I will say to my friend from New York that judicial tyranny is just as bad as any kind of tyranny. If you do not believe it, ask the mothers and fathers of schoolchildren who have been hauled across cities and counties just to satisfy the whim and caprice of some Federal judge. If anything, this Congress has been remiss in not putting the brakes on a runaway judiciary. I, for one, will not stand silently by and fail to do everything I can to correct the injustices perpetrated by a runaway court.

This is, after all, a tripartite Government. It is a three-legged stool. If Congress is going to kick its leg out and say, "Oh, well, we are subservient to the court; we are not going to try to represent the people," that is up to each Senator to judge. But let no one try to pretend that there is any novelty about this business of limiting the jurisdiction of the courts.

The article by Professor Rice has several interesting quotes. For example, one from Chief Justice Harlan F. Stone, who said:

All Federal courts, other than the Supreme Court, derive their jurisdiction wholly from the exercise of the authority to "ordain and establish" inferior courts, conferred on Congress by Article III, section 1, of the Constitution.

I ask unanimous consent that the remainder of that quote be printed in the RECORD.

There being no objection, the quote was order to be printed in the RECORD, as follows:

All federal courts, other than the Supreme Court, derive their jurisdiction wholly from the exercise of the authority to "ordain and establish" inferior courts, conferred on Congress by Article III, § 1, of the Constitution. Article III left Congress free to establish inferior courts or not as it thought appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by state courts, with such appellate review by this Court as Congress might prescribe. The Congressional power to ordain and establish inferior courts includes the power of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.

Mr. HELMS. He goes on to quote Hamilton. He quotes John Marshall. He has quote after quote from Supreme Court decisions. But Senators can read for themselves this excellent paper written by Professor Rice.

I rise to say that I have no quarrel with any Senator who does not want to restore the right of voluntary prayer to our schools. All I ask is that the Senate take a vote on it and let each Senator take a position.

But to filibuster a perfectly reasonable constitutional proposal with self-serving declarations that those who are proposing to limit the jurisdiction of the Court are somehow bringing down the pillars of justice is a little more than I wish to countenance. I say that with all due respect and admiration for my friends who disagree with me. They can list their constitutional scholars. I can list mine. But you get down to the bottom line: Are we going to do anything about this Court decision, this most unfortunate, tragic Court decision which banned prayer from the schools, which in its latest version says that children cannot even meet outside of classes on school property for Bible reading and prayer?

Mr. President, I think this Congress is obliged to act, and I have no apology for my proposal to limit the jurisdiction of the courts because article III,

sections 1 and 2 clearly bestow upon us that authority and that duty.

Mr. President, I hope we can get to a vote one of these days on this proposal. I have been waiting around this place for the better part of 5 or 6 weeks while my friends have conducted a filibuster. I have been amazed that they did not move to table the abortion amendment earlier because, as I repeatedly said to the news media, I did not know how many Senators would come down on the side which I am trying to represent. They can save themselves a lot of time, and if they feel so confident on the prayer amendment, let them move to table that.

One thing we have done throughout these past 4 or 6 weeks or more, however, is to unmask a lot of things going on in the Senate. I have not had any predisposition to spare Senators their obligation to take a position on this and other matters.

Now, the New York Times may not like what I am doing. The New York Times does not like very much of anything that I do. And the New York Times is seldom accurate in its basis for criticism, not only of me but other conservatives. The last time I checked the New York Times had no member of its staff on the Supreme Court. So to read an editorial from the New York Times in the RECORD reminds me of a fellow named Lum Garrison down in North Carolina who, when asked about a talkative member of his community, said, "Well, he doesn't know anything and he's got that tangled up." So that is the way the Washington Post and the New York Times and a lot of other liberal newspapers help form the opinion of various citizens on certain matters.

I do not think that Senators should read too many editorials. They better follow the advice of some constitutional scholars, one of whom I am not. I do not pretend to be. I am not even a lawyer. But when constitutional authorities representing a philosophical spectrum from liberal to conservative such as Roul Berger and Charles E. Rice say that we not only have a right but a duty to limit the jurisdiction of the Court, I am inclined to rest my case.

Mr. President, I yield the floor.

(Mr. MOYNIHAN addressed the Chair.)

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator from New York.

Mr. HELMS. If the Senator will yield, let me ask unanimous consent to insert this article in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS AND THE SUPREME COURT'S JURISDICTION

(By Charles E. Rice) †

I. INTRODUCTION

When a ruling of the Supreme Court meets with Congressional disfavor there are several remedies available to Congress. If the decision is not on a constitutional level, a later statutory enactment will suffice to reverse or modify the ruling. If, however, the Court's decision is an interpretation of a constitutional mandate, such as the requirement of the fourteenth amendment that legislative districts be apportioned according to population,[1] then a statute could not reverse the decision because the statute itself would be subject to that constitutional mandate as defined by the Court.

The obvious method of reversing a Supreme Court interpretation of the Constitution is by constitutional amendment. But amending the Constitution is a long and problematic process.[2] Furthermore, the Constitution should be as compact a document as possible. If constitutional amendments became the common respone to objectionable rulings by the Supreme Court, the Constitution would soon resemble a code of legislation in its length and complexity.

The disadvantages of the amendment process, however, may be avoided by the exercise of Congress' power to withdraw a particular subject from the appellate jurisdiction of the Supreme Court and from the original as well as appellate jurisdiction of the lower federal courts. This technique, which has been sparingly used and is not widely understood, offers a chance to restrain excesses of judicial power on the part of the Supreme Court without altering the basic charter of our government.

Congress' power to control lower federal court jurisdiction stems from article III of the United States Constitution, which provides: "The judicial power of the United States, shall be vested in one Suprme Court, and in such inferior courts as the Congress may from time to time ordain and establish." [3]

Congress' power to make exceptions to Supreme Court jurisdiction also comes from article III, which in pertinent part states: "[T]he Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."[4]

II. JURISDICTION OF THE LOWER FEDERAL COURTS

There is no question but that Congress has the power to define or even entirely eliminate the jurisdiction of the lower federal courts.[5] Indeed, as Chief Justice Harlan F. Stone stated:

"All federal courts, other than the Supreme Court, derive their jurisdiction wholly from the exercise of the authority to 'ordain and establish' inferior courts, conferred on Congress by Article III, § 1, of the Constitution. Article III left Congress free to establish inferior courts or not as it thought appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by state courts, with such appellate review by this Court as Congress might prescribe. The Congressional power to ordain and establish inferior courts includes the power of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good." [6]

The Supreme Court has often acquiesced in Congress' use of its power to withdraw particular subjects from the jurisdiction of the lower federal courts. For example, in Lauf v. E.G. Shinner & Co.[7] the Court affirmed the congressional divestiture of lower federal court jurisdiction to issue injunctions in labor disputes.[8] In Lockerty v. Phillips [9] the court allowed the lower federal courts to be divested of jurisdiction to hear civil actions arising under the Emergency Price Control Act of 1942.[10]

It must be emphasized that the withdrawal of lower federal court jurisdiction does not deprive a litigant of the right to bring his federal claim. State courts are available and adequate forums for vindication of rights created by federal law in the event of a divestitute of lower federal court jurisdiction. State courts are bound to apply federal law by the supremacy clause,[11] and thus there is no danger that federal rights will be diluted. Indeed, for almost the first century of the Republic, the only courts with general jurisdiction over all actions arising under the state or federal law were the state courts. Even with the creation by Congress of federal question jurisdiction in 1875,[12] the lower federal courts had concurrent jurisdiction with the state courts. Such is the situation today.

III. APPELLATE JURISDICTION OF THE SUPREME COURT

Beyond a doubt, therefore, Congress may withdraw particular subjects from the jurisdiction of the lower federal courts.[13] The more interesting issue, however, is the power of Congress to make exceptions to the appellate jurisdiction of the Supreme Court. This remedy has been urged from time to time with respect to various issues, such as legislative apportionment,[14] obscenity,[15] and others.[16] Currently, there is before Congress legislation which would remove the Court's appellate jurisdiction in cases involving prayer in public schools [17] and abortion.[18] However, none of these attempts at removing Supreme Court jurisdiction from any of these controversial issues has become law. Whatever the merits of the existing Supreme Court rulings in any of these areas, this discussion is concerned only with the existence and extent of Congress' power to withdraw the Court's appellate jurisdiction over particular subjects.

A. The intent of the exceptions clause

The exceptions clause of article III, section 2, provides that "the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." [19] The clause was intended, according to Alexander Hamilton, to give "the national legislature . . . ample authority to make such *exceptions*, and to prescribe such regulations as will be calculated to obviate or remove" the "inconveniences" which might arise from the powers given in the Constitution to the federal judiciary.[20] Much of the debate surrounding the adoption of the clause centered upon the Framers' concern that a supreme court would exercise appellate powers to reverse jury verdicts on issues of fact.[21] Although this possibility was the most troubling to the Framers, the congressional power conferred by the clause is clearly much broader. This is evident in the language of article III, section 2, which gives the Supreme Court "appellate jurisdiction, both as to Law and Fact." [22] As Hamilton observed:

Footnotes at end of article.

"The amount of the observations hitherto made on the authority of the judicial department is this: that it has been carefully restricted to those causes which are manifestly proper for the cognizance of the national judicature; that in the partition of this authority a very small portion of original jurisdiction has been preserved to the Supreme Court, and the rest consigned to the subordinate tribunals; that the Supreme Court will possess an appellate jurisdiction, both as to law and fact, in all cases referred to them, but subject to any exceptions and regulations which may be thought advisable; that this appelate jurisdiction does, in no case, abolish the trial by jury; and that an ordinary degree of prudence and integrity in the national councils will insure us solid advantages from the establishment of the proposed judiciary, without exposing us to any of the inconveniences which have been predicted from that source." [23]

Thus, in purposefully restricting the original jurisdiction of the Court to very narrow issues, and providing for congressional exceptions to the Court's appellate jurisdiction, the Framers intended Congress to have a broad check over potential "inconveniences" caused by an abuse of the Court's power.

B. The "Negative Pregnant" Doctrine: The Supreme Court will exercise only appellate jurisdiction explicitly "granted" by Congress

The power of Congress contained in article III, section 2, was broadly interpreted by the Supreme Court, so that a specific grant of appellate jurisdiction by Congress was construed to imply that such jurisdiction was excluded in all other cases. This "negative pregnant" doctrine was enunciated by Chief Justice Marshall in *United States v. More,*[24] where the Court held that it had no criminal appellate jurisdiction because none had been expressly granted by Congress. The claimant in *More* sought review by the Supreme Court of his criminal conviction, noting that article III granted the Court appellate jurisdiction over law and equity. Reasoning that because Supreme Court appellate jurisdiction over criminal cases was neither specifically excluded by the Constitution nor specifically regulated by Congress, More argued that the Court had jurisdiction over his case. The Court, however, rejected this argument, concluding that the Constitution was not totally controlling in matters of Supreme Court jurisdiction. Although the Court's appellate jurisdiction may have been prescribed in the Constitution, the Court held that Congress' power to regulate jurisdiction must be understood to prohibit the exercise of jurisidiction unless Congress had explicitly granted it to the Court. Speaking for the *More* Court, Chief Justice Marshall stated that "as the jurisdiction of the Court has been described [in the Constitution], it has been regulated by Congress and an affirmative description of its powers must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described." [25]

Marshall further explained that the exceptions clause did not merely give Congress the power to make exceptions to the Supreme Court's jurisdiction, but it also implicitly mandated that the Surpreme Court possessed only that jurisdiction specifically granted by Congress. Marshall stated:

"When the Constitution has given Congress power to limit the exercise of our jurisdiction, and to make regulations respecting its exercise; and Congress, under that power, has proceeded to erect inferior courts, and has said in what cases a writ of error or appeal shall lie, an exception of all other cases is implied. And this court is as much bound by an implied as an express exception." [26]

It is interesting to note that criminal cases were not appealable to the Supreme Court until 1891. This was simply because until then Congress had not specified that they could be so appealed. With regard to its power to review criminal cases, the Supreme Court noted: "The appellate jurisdiction of this court rests wholly on the acts of Congress." [27]

This broad interpretation of Congressional control over Supreme Court jurisdiction was first advanced in 1796 by Chief Justice Ellsworth, who had been a member of the Constitutional Convention's Committee on Detail which drafted the exceptions clause.[28] In *Wiscart v. D'Auchy,*[29] Ellsworth said:

"The constitution, distributing the judicial power of the U.S., vests in the Supreme Court, an original as well as appellate jurisdiction. . . . Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise our appellate jurisdiction; and if the rule is provided, we cannot depart from it. The question, therefore, on the constitutional point of appellate jurisdiction, is simply, whether Congress has established any rules for regulating its exercise." [30]

In 1810, in *Durousseau v. United States,*[31] Chief Justice Marshall again emphasized that the Court is bound by implied exceptions to its appellate jurisdiction, so that, in effect, it can exercise jurisdiction only where expressly granted by Congress:

"The appellate powers of this Court are not given by the judicial act. They are given by the constitution. But they are limited and regulated by the judicial act, and by such other acts as have been passed on the subject. When the first legislature of the Union proceeded to carry the third article of the constitution into effect, they must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court. They have not, indeed, made these exceptions in express terms. They have not declared, that the appellate power of the Court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affirmative description has been understood to imply a negative on the exercise of such appellate power as is not comprehended within it.

"The spirit as well as the letter of a statute must be respected, and where the whole context of the law demonstrates a particular intent in the legislature to effect a certain object, some degree of implication may be called in to aid that intent. It is upon this principle, that the court implies a legislative exception from its constitutional appellate power, in the legislative affirmative description of those powers." [32]

Similarly, when Chief Justice Taney spoke to the issue in *Barry v. Mercein,*[33] he said: "By the constitution of the United States, the Supreme Court possesses no appellate power in any case, unless conferred upon it by act of Congress; nor can it when conferred be exercised in any other form, or by any other mode of proceeding than that which the law prescribes." [34]

C. The McCardle Case

Prior to *Ex Parte McCardle* [35] in 1868, the Supreme Court was never called upon to decide the validity of an act of Congress which made a specific exception to its appellate jurisdiction. McCardle, a Mississippi editor, was imprisoned by the federal reconstruction authorities on account of seditious statements he had made. Seeking a writ of habeas corpus, McCardle asked the federal circuit court to rule that his detention was invalid. When his petition was denied he appealed to the Supreme Court under a statute which specifically permitted such appeals.[36] After the Supreme Court heard argument on the case and while the Court was deliberating, Congress, fearing an unfavorable decision, enacted a statute repealing that part of the prior statute which had given the Supreme Court jurisdiction to hear such appeals from the circuit court.[37] The Court, in confronting for the first time the issue of a positive congressional exception to its appellate jurisdiction, dismissed the appeal for want of jurisdiction, even though the case had already been argued and was before the Court.

The Court first discussed and reaffirmed Marshall's "negative pregnant" doctrine.[38] The Court noted, however, that the exceptions clause provides not only for implicit divestiture of Supreme Court appellate jurisdiction, but also for the more specific and direct explicit exceptions to jurisdiction. The Court stated:

"The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of *habeas corpus* is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words. . . . Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case. And this is not less clear upon authority than upon principle." [39]

It is true that the statute upheld in *McCardle* did not bar the Supreme Court from reviewing all habeas corpus cases. Rather, it only barred review sought under the 1867 statute which had provided one avenue of review of such cases from the circuit court. The Supreme Court retained the habeas corpus review power which had been given it by the Judiciary Act of 1789 and which Congress had chosen not to withdraw. Chief Justice Chase observed for the Court in *McCardle:*

"It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the Constitution and the laws confer.

"Counsel seems to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of *habeas corpus,* is denied. But this is in error. The act of 1868 does not affect the jurisdiction which was previously exercised." [40]

Later in that same year, the Court made this distinction in *Ex parte Yerger.*[41] On facts very similar to *McCardle,* Yerger re-

quested the Supreme Court to issue its own writ of habeas corpus to the circuit court, as authorized by the Judiciary Act of 1789. The Supreme Court, in an opinion written by Chief Justice Chase, the author of the *McCardle* opinion, held that the 1868 statute had left untouched the Supreme Court's power to issue a writ of habeas corpus to a lower court as provided in the Judiciary Act of 1789.[42] However, there was no indication in *Yerger* that the Court would not have upheld an act withdrawing appellate jurisdiction in all habeas corpus cases from the Court. Although the Court in *Yerger* indicated that such a result would not lightly be presumed and that such a statute would be narrowly construed,[43] the Court acknowledged that it was within Congress' power. When discussing the power of Congress to limit jurisdiction, as evidenced by the Repealer Act of 1868, the *Yerger* Court noted:

"The effect of the act was to oust the court of its jurisdiction of the particular case then before it on appeal, and it is not to be doubted that such was the effect intended. Nor will it be questioned that legislation of this character is unusual and hardly to be justified except upon some imperious public exigency.

"It was, doubtless, within the constitutional discretion of Congress to determine whether such an exigency existed; but it is not to be presumed that an act, passed under such circumstances, was intended to have any further effect than that plainly apparent from its terms." [44]

D. The Klein Case

Four years later, in *United States v. Klein*,[45] the Court had occasion to spell out an important limitation to Congress' power under the exceptions clause. *Klein* is the only Supreme Court decision ever to strike down a statute enacted under the exceptions clause. The claimant in *Klein*, who had been a Confederate, sued in the Court of Claims to recover the proceeds from the sale of his property seized and sold by the Union forces. Because he had received a full presidential pardon for his Confederate activities, the Court of Claims ruled in his favor. If he had not received a pardon, the governing statute would have prevented his recovery. While the appeal of his case was pending before the Supreme Court, Congress enacted a statute which provided that whenever it appeared that a judgment of the Court of Claims had been founded on a presidential pardon, without other proof of loyalty, the Supreme Court should have no further jurisdiction of the case. The statute further declared that every pardon granted to a suitor in the Court of Claims which recited that he has been guilty of any act of rebellion or disloyalty, shall, if accepted by him in writing without disclaimer of those recitals, be taken as conclusive evidence of such act of rebellion or disloyalty and his suit shall be dismissed.[46] While declaring the statute unconstitutional, the Supreme Court expressly reiterated that Congress does have the power to deny appellate jurisdiction "in a particular class of cases":

"Undoubtedly the legislature has complete control over the organization and existence of that [Supreme] court and may confer or withhold the right of appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient.

"But the language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great and controlling purpose is to deny to pardons granted by the President the effect which this court had adjudged them to have. The proviso declares that pardons shall not be considered by this court on appeal. We have already decided that it was our duty to consider them and give them effect, in cases like the present, as equivalent to proof of loyalty. It provides that whenever it shall appear that any judgment of the Court of Claims shall have been founded on such pardons, without other proof of loyalty, the Supreme Court shall have no further jurisdiction of the case and shall dismiss the same for want of jurisdiction. The proviso further declares that every pardon granted to any suitor in the Court of Claims and reciting that the person pardoned has been guilty of any act of rebellion or disloyalty, shall, if accepted in writing without disclaimer of the fact recited, be taken as conclusive evidence in that court and on appeal, of the act recited; and on proof of pardon or acceptance, summarily made on motion or otherwise, the jurisdiction of the court shall cease and the suit shall be forthwith dismissed.

"It is evident from this statement that the denial of jurisdiction to this court, as well as to the Court of Claims, if founded solely on the application of a rule of decision, in causes pending, prescribed by Congress. The court has jurisdiction of the cause to a given point; but when it ascertains that a certain state of things exists, its jurisdiction is to cease and it is required to dismiss the cause for want of jurisdiction.

"It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power.

"The court is required to ascertain the existence of certain facts and thereupon to declare that its jurisdiction on appeal has ceased, by dismissing the bill. What is this but to prescribe a rule for the decision of a cause in a particular way?" [47]

The statute in *Klein* attempted to dictate the outcome of a particular class of cases, under the guise of limiting the Court's jurisdiction. The Court lost jurisdiction only when the Court of Claims judgment was founded on a particular type of evidence, that is, a pardon. The statute further prescribed that the effect of the pardon would be such that the recitals in the pardon of acts of rebellion and disloyalty would be conclusive proof of those acts. This was an intrusion upon the judicial process and an effort to dictate the rules to be used in deciding cases.[48] Moreover, the statute in *Klein* intruded upon the President's pardoning power by attempting "to deny to pardons granted by the President the effect which this court had adjudged them to have." [49] In these major respects the statute involved in *Klein* was wholly different from a statute simply withdrawing appellate jurisdiction over a certain class of cases. As the Court said in the *Klein* case itself: "There could be no doubt that a denial of the right of appeal in a particular class of cases" would be within Congress' power under the exceptions clause.[50]

E. Supreme Court Statements Since 1872

Since *Klein*, the Supreme Court has not had occasion to further define the limits of the exceptions clause. In *The Francis Wright* case,[51] the Court upheld a statute under which the appellate jurisdiction of the Supreme Court in admiralty cases was limited to determination of questions of law rather than of issues of fact. Chief Justice Waite in his opinion for the Court said that:

"What the 'appellate powers' of the Supreme Court 'shall be,' and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes of cases be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to re-examination and review, while others are not. To our minds it is no more unconstitutional to provide that issues of fact shall not be retried in any case, than that neither issues or law nor fact shall be retried in cases where the value of the matter in dispute is less than $5,000. The general power to regulate implies power to regulate in all things. The whole of a civil law appeal may be given, or a part. The constitutional requirements are all satisfied if one opportunity is had for the trial of all parts of a case. Everything beyond that is matter of legislative discretion, not of constitutional right.[52]

In his opinion Chief Justice Waite referred to "the rule, which has always been acted on since, that while the appellate power of this court under this Constitution extends to all cases within the judicial power of the United States, *actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe.*" [53] Statements of several individual justices in the intervening years reinforce this conclusion. Justice Frankfurter, in his dissenting opinion in *National Insurance Co. v. Tidewater Co.*,[54] noted that:

"Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *sub judice.*" [55]

In *Glidden v. Zdanok*,[56] While discussing the power of Congress over Supreme Court appellate jurisdiction, Justice Harlan stated:

"Congress has on occasion withdrawn jurisdiction from the Court of Claims to proceed with the disposition of cases pending therein, and has been upheld in so doing by this Court . . . . But that is not incompatible with the possession of Article III judicial power of the tribunal affected. Congress has consistently with that article withdrawn the jurisdiction of this Court to proceed with a case then *sub judice, Ex parte McCardle* . . .; its power can be no less when dealing with an inferior federal court. . . . For as Hamilton assured those of his contemporaries who were concerned about the reach of power that might be vested in a federal judiciary, "it ought to be recollected that the national legislature will have ample authority to make such exceptions, and to prescribe such regulations as will be calculated to obviate or remove [any] . . . inconveniences." [57]

Justice William O. Douglas, in his dissent in *Glidden*, expressed some doubt about the continuing vitality of *Ex parte McCardle*. Referring to Justice Harlan's opinion in *Glidden*, Justice Douglas said:

"First, that opinion cites with approval *Ex parte McCardle, . . . in which Congress withdrew jurisdiction of this Court to review a habeas corpus* case that was *sub judice*, and then apparently draws a distinction between that case and *United States v. Klein*, . . . where such withdrawal was not permitted in a property claim. There is a se-

rious question whether the *McCardle* case could command a majority view today. Certainly the distinction between liberty and property (which emanates from this portion of my Brother Harlan's opinion) has no vitality even in terms of the Due Process Clause." [58]

In his concurring opinion in *Flast v. Cohen*,[59] in 1968, however, Justice Douglas appeared to have resolved his doubts in favor of the continued vitality of *McCardle:* "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of Section 2, Article III." [60]

F. The meaning of the exceptions clause

In summary, the exceptions clause is clear, unambiguous, and unqualified. The decisions of the Supreme Court and the statements of its justices have expressly recognized the plain meaning of the clause as conferring upon Congress' broad powers to limit the Court's jurisdiction. Indeed, this power has been so expansively interpreted by the Court that an exception will be implied in cases where Congress has not specifically "granted" appellate jurisdiction to the Court.

III. OBJECTIONS TO THE EXERCISE OF POWER UNDER THE EXCEPTIONS CLAUSE: THE "ESSENTIAL ROLE" ARGUMENT

The text of article III, section 2, explicitly and unmistakably gives to Congress the power to withdraw certain subjects from the Supreme Court's appellate jurisdiction. The obvious reading of the entire text of article III is that this power was given to Congress, not capriciously, but as an integral part of a system of checks and balances. Through the exceptions clause, Congress was given the power, in Hamilton's words "to obviate or remove" the inconveniences" arising from the judicial power.[61] It has been argued, however, that the power of Congress under the exceptions clause is limited by the very nature of the constitutional system and of the judicial power. It has been urged by Professor Henry Hart that the exceptions "must not be such as to destroy the essential role of the Supreme Court in the constitutional plan."[62]

Professor Hart's test creates the difficulty of determining what is the Supreme Court's "essential role." [63] In addition, that test would make the Court itself the final arbiter of the extent of its powers. Despite the clear grant of power to Congress in the exceptions clause, no statute could deprive the Court of its "essential role"; but that role would be whatever the Court said it was. It is hardly in keeping with the spirit of checks and balances, however, to imply such virtually unlimited power into the Constitution. If the Framers intended to permit the Supreme Court to define its own jurisdiction even against the will of Congress, it is fair to say that they would have made that intention explicit.

Furthermore, the "essential role" test was advanced by Professor Hart in response to the suggestion that Congress could satisfy the exceptions clause by removing all but a "residuum of jurisdiction," for example, by withdrawing appellate jurisdiction in "everything but patent cases." [64] Whatever the cogency of Professor Hart's "essential role" test would be to a wholesale withdrawal of jurisdiction, if it were ever attempted by Congress, his test cannot properly be applied to narrowly drawn withdrawals of jurisdiction over particular types of cases.[65]

If Congress were to make such wholesale "exceptions" to the Court's appellate jurisdiction, so that there was little or nothing left of that jurisdiction, it could be plausibly argued that such a wholesale withdrawal of jurisdiction was not the making of "exceptions" at all and therefore was not authorized under the exceptions clause.[66] The decision in such a case would have to be made by the Supreme Court, and a constitutional crisis could result if the Court and Congress were to persist in opposed positions on this point. Significantly, however, the persistent support by the Supreme Court for John Marshall's "negative pregnant" theory indicates that even such a wholesale withdrawal of appellate jurisdiction could be constitutional since that theory led to the Court's acceptance of the idea that the Court should exercise appellate jurisdiction only in those cases in which Congress has specifically granted it.

Even if a wholesale withdrawal of appellate jurisdiction from the Supreme Court were to be unconstitutional as an interference with the Court's "essential role," the same could hardly be said of a pin-pointed withdrawal of appellate jurisdiction over a narrowly defined class of cases, such as those involving school prayer or abortion. It could hardly be argued that the "essential role" of the Supreme Court depends on its exercising appellate jurisdiction in every type of case involving constitutional rights. Such a contention would be contrary to the clear language of the exceptions clause and to the consistent indications given by the Supreme Court itself.

A. The need for uniformity and supremacy of Federal law arguments

Professor Hart's theory that the jurisdiction of the Supreme Court could not be limited beyond its "essential role" was later expanded and given definition by Professor Ratner.[67] The essential role of the Court was defined by Ratner as providing for uniformity of federal statutory and constitutional law and the supremacy of federal law over state law.[68] Under the supremacy clause of the Constitution, the Constitution and the laws of the United States "made in Pursuance thereof" are "the supreme Law of the Land."[69] Ratner argued that if the Constitution and federal laws are not uniformly interpreted by one ultimate arbiter—the Supreme Court—the supremacy principle will be reduced to a nullity because the Constitution and the federal law will be at the mercy of local courts. Constitutional rights will mean one thing in one state and something else in another. The result, it is claimed, would be a fragmentation of the Union. As Justice Oliver Wendell Holmes put it: "I do not think the United States would come to an end if we [the Supreme Court] lost our power to declare an act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several states." [70]

Alexander Hamilton expressed a similar concern:

"If there are such things as political axioms, the propriety of the judicial power of a government being coextensive with its legislative, may be ranked among the number. The mere necessity of uniformity in the interpretation of the national laws, decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government from which nothing but contradiction and confusion can proceed." [71]

It should be remembered, however, that is was Hamilton who argued in the same number of The Federalist that Congress' power under the exceptions clause was a salutary means "to obviate and remove" the inconveniences "resulting from the exercise of the federal judicial power." [72]

The argument that fundamental rights should not be allowed to vary from state to state begs the question of whether there is a fundamental right to uniformity of interpretation by the Supreme Court on every issue involving fundamental rights. The supremacy clause provides that the Constitution and the laws of the United States are the supreme law of the land. The purpose of the clause is to bind the states and their courts to follow the Constitution and federal law. But there is no basis for reading the supremacy clause to require uniformity of interpretation among the states on every issue involving constitutional rights. The exception clause is itself part of the supreme law of the land. Judging from what the Supreme Court has said about it over the years, the Court accepts the plain meaning of the exceptions clause. The Court evidently regards the clause not only as an important element of the system of checks and balances but also as granting wide discretion to Congress in exercising power under it. There is, in short, a constitutional right to have the system of checks and balances maintained in working order. Without that system, the more dramatic personal rights, such as speech, privacy and free exercise of religion, could quickly be reduced to nullities. This right to a preservation of the system of checks and balances is itself one of the most important constitutional rights.

If it be contended that the exceptions clause cannot be used to deprive the Supreme Court of appellate jurisdiction in cases involving fundamental constitutional rights, it must be replied that such a limitation can be found neither in the language of the clause nor in its explications by the Supreme Court. Indeed, the Supreme Court's conclusion, prior to 1891, that there was no general right of appeal to the Court in criminal cases, surely involved the denial of the right to appeal in cases involving fundamental constitutional rights.[73] For what constitutional right is more fundamental than the fifth amendment right not to be deprived of life or liberty without due process of law?

When it is argued that Congress cannot take away the Court's jurisdiction to hear appeals involving fundamental rights, it must be remembered that the various rights protected by the Bill of Rights against federal encroachment have been made fully applicable against the state and local governments only through fairly recent constructions by the Supreme Court itself.[74] Until the adoption of the fourteenth amendment in 1868, it was clear that the protections of the Bill of Rights bound only the federal government.[75]

For nearly a century, the Supreme Court correctly interpreted the fourteenth amendment so as to restrict the state only to a limited extent.[76] As Justice John Marshall Harlan described this rule:

"[O]ur function in reviewing state judgments under the Fourteenth Amendment is a narrow one. We do not decide whether the policy of the State is wise, or whether it is based on assumptions scientifically substantiated. We can inquire only whether the state action so subverts the fundamental liberties implicit in the Due Process Clause that it cannot be sustained as a rational exercise of power. The States' power to make printed words criminal is, of course, con-

fined by the Fourteenth Amendment, but only insofar as such power is inconsistent with our concepts of 'ordered liberty.' [77] "

Only in fairly recent years has the Supreme Court held that the states are uniformly bound by all the protections of the Bill of Rights as those protections are interpreted by the Supreme Court.[78] In the process, the Court has implied and defined new constitutional rights in various areas, such as abortion and school prayer. These rights are innovative creations of the Supreme Court itself.[79]

The argument that the Supreme Court cannot be deprived of jurisdiction to hear appeals when they involve rights which the Court has itself created, is an exercise in bootstrap jurisprudence. It would make the Supreme Court not only supreme, but also absolutist in some of the most sensitive areas of our lives. Clearly, the exceptions clause was designed to empower Congress to prevent such a result.[80]

There are those who believe that it would be unwise for Congress to exercise its exceptions clause power even with respect to a single, narrowly drawn class of cases. But doubts as to the wisdom of the exercise of a power cannot be translated into a denial of the existence of the power. The members of Congress are entitled to form their own judgments as to the wisdom of exercising the exceptions clause power in specific instances. The views of those who doubt the wisdom of that exercise are to be seriously considered. However, Congress' power to limit Supreme Court jurisdiction is clearly affirmed in the Constitution itself. Those who are convinced that is is prudent and necessary to withdrawn appellate jurisdiction from the Supreme Court in specified matters ought not to be intimidated by those who wrongly contend that Congress does not even possess that power.

It should be noted, however, that Congress, in its exercise of the exceptions clause power, is not liberated from other constitutional prohibitions which restrict all its actions. It would seem clear that Congress could not withdraw from the lower federal courts or from the appellate jurisdiction of the Supreme Court, jurisdiction, for example, "in any case where a Baptist shall be" a plaintiff or an appellant. This would be unconstitutional, not because the exceptions clause power is limited in itself, but because of a specific prohibition, elsewhere in the Constitution, which restricts the exceptions power, the commerce power and every other power of Congress. The religion of the appellant has nothing to do with the nature of the case. Congress is forbidden by the first amendment to prohibit appeals by Baptists or Jews—or to prohibit their engaging in interstate commerce, or to in any other way infringe the free exercise of religion. This does not mean, however, that there is any restriction on Congress' power to exclude classes of cases, as determined by the nature of the case, from the jurisdiction of the lower federal courts and the appellate jurisdiction of the Supreme Court.

It might be argued that the withdrawal of lower federal court and Supreme Court appellate jurisdiction in, for example, abortion cases would be an unconstitutional denial of a remedy for violations of the right of reproductive privacy which the Supreme Court has declared to be a fundamental right in relation to abortion.[81] But this argument is without merit because the withdrawal of jurisdiction would leave untouched the right of recourse to the state courts. These courts are no less obligated to enforce constitutional rights than are the federal courts.[82]

Nor could it be soundly argued that the withdrawal of jurisdiction in abortion cases would amount to a denial to a class—pregnant women who desire to have abortions—of the equal protection of the laws which is implicitly guaranteed by the fifth amendment.[83] The equal protection guarantee; whether the explicit one in the fourteenth amendment or the implicit one in the fifth, forbids only "purposeful discrimination." [84] Such purposeful discrimination could only readily be found in a withdrawal of jurisdiction in cases where discrete and well-defined groups were precluded from access to the Court. For instance, a statute which withdrew jurisdiction only in those cases where "Baptists or blacks" were parties could be found to be purposefully discriminatory. It is true, however, that proof of purposeful discrimination can be shown by evidence of the disproportionate impact of the law on the suspect class in question.[85] The withdrawal of lower federal court and Supreme Court appellate jurisdiction would diminish—but not abolish—the legal remedies available to pregnant women who seek abortions. It could hardly be contended, however, that discrimination against that class of women would be the purpose of such a withdrawal in the way that discrimination against Baptists would be the purpose of a withdrawal of jurisdiction in cases brought by Baptists. The withdrawal of jurisdiction in abortion cases would be prompted instead by other purposes: First, to restore legal remedies to unborn children who have been decreed to be non-persons by the Supreme Court [86] and, second, to curtail the Supreme Court's continual excursion beyond its proper role in abortion cases. The purposes of such legislation then, would be to vindicate the rights of a minority who are wholly deprived of rights by their definition as nonpersons, and to vindicate the separation of powers and the system of checks and balances.

Those who would deny to Congress the power to make exceptions to the appellate jurisdiction of the Supreme Court would be well advised to follow the course of Justice Owen J. Roberts. In 1949, as a retired Supreme Court Justice, he proposed a constitutional amendment to protect the Court against Congressional tampering with its appellate jurisdiction. His position was straight-forward. He did not pretend that the power so clearly conferred by the exceptions clause was somehow not there. Rather, he proposed to remove that power by constitutional amendment.[87] His analysis and reasons are instructive:

"Why did they [the Framers] then leave it to Congress to regulate the appellate jurisdiction of the Court? I think they did not envisage any such large federal judiciary as we have today. The federal judiciary was rather in the background—that is, the lower judiciary. The theory was that constitutional questions would arise in state courts and then an appeal would come to the Supreme Court from a decision of a state court on a constitutional question.

"There came into play state pride, the states' rights feeling, and another feeling that since Anglo-Saxons prize the jury system, giving the Supreme Court appellate jurisdiction as to matters of law and fact would give it the opportunity to overturn jury verdicts, [and] jury decisions. . . . The best compromise that could be made in the situation was to leave to Congress the right to define the appellate jurisdiction of the Supreme Court.

"You know what the result of that has been. The appellate jurisdiction of the Supreme Court depends upon the judiciary acts—the original Judiciary Act passed in the first session of Congress and the amendments that have been adopted to it since—and Congress has set forth in what cases the Supreme Court can entertain an appeal.

"Very early the Court was faced with the question whether it has a general appellate jurisdiction, modified by what Congress had said on the subject. Chief Justice Marshall, in two decisions, said that was not the way to read the Constitution. He said that the Congress and the judiciary acts, having set forth in which cases the Supreme Court might have jurisdiction on appeal, impliedly provided that it should not take jurisdiction in any other class of cases.

"That is the settled law and I think it is right. It remains, therefore, so far as we can see, that Congress could affect the Court's powers, just as President Roosevelt could have in his way, unless there was a popular uprising that would frighten them out of doing what they threatened to do." [88]

IV. EFFECT OF A WITHDRAWAL OF SUPREME COURT APPELLATE JURISDICTION

Unlike a constitutional amendment, withdrawal of the Supreme Court's appellate jurisdiction over a particular matter would not actually reverse the Court's rulings on the subject.[89] If Congress were to withdraw the Supreme Court's appellate jurisdiction in school prayer cases, for example, that action would leave undisturbed the existing Supreme Court cases in that area. Lower federal courts—if Congress had not removed their jurisdiction over the issue as well—and state courts could regard themselves as bound by those decisions as the last authoritative expression of the meaning of the first amendment, even though the Supreme Court could no longer rule on the subject. The withdrawal of jurisdiction would thus be a limited response to an erroneous Supreme Court decision, and would have no permanent impact on the Constitution. If experience showed the withdrawal to be unwise, it could be readily repealed by a statute. Furthermore, an exercise of the exceptions clause power is foreseeable only in matters in which the Supreme Court's interpretations are so at variance with the sense of Congress and the nation as to be regarded as usurpations. The school prayer decisions, whatever else one may think of them, are a classic example of judge-made law through which the Supreme Court, by its own decree, has virtually amended the Constitution.

Most proposals to withdraw Supreme Court jurisdiction in school prayer and abortion cases would also withdraw those cases from the jurisdiction of lower federal courts. If, for a time, state courts were allowed to make their own decisions in cases involving school prayer, no great hardship would result. Presumably, at least some of those courts would hold themselves bound by the Supreme Court's decisions even though that Court could no longer rule on the subject. Even so, there would at least be no opportunity for the Court to further extend its errors. For example, in cases where supporters of the school prayer decisions sought to extend them to outlaw evangelization efforts by individual students outside of class time, those state courts would be apt to show a greater measure of prudence than the Supreme Court has sometimes shown on the subject.

Finally, it may be expected that some state courts would openly disregard the Supreme Court precedents and would decide in favor of allowing school prayer once the prospect of reversal by the Supreme Court had been removed. That result would not be such a terrible thing. It must be remembered that we are talking about Supreme Court decisions which, in the judgment of the elected representatives of the people and the President—or of two-thirds of the Congress overriding his veto—are gravely erroneous and urgently in need of correction. One healthy method of correcting those decisions would be for the people to trust in the state courts for a time and thereby be protected against further excesses in that area on the part of the Supreme Court. In the process, the Court might learn a salutary lesson so that future excursions beyond the Court's proper bounds could be avoided. Finally, because the correction is statutory, rather than by constitutional amendment, the Court's jurisdiction could readily be restored should the need for it become apparent.

The withdrawal of jurisdiction on school prayer has been used as an example in this discussion to illustrate the effects of a withdrawal of jurisdiction. Similar conclusions are appropriate with respect to the withdrawal of jurisdiction in the school busing and abortion cases. In the abortion area, urgency is lent to the issue by the fact that at least 1,500,000 lives are taken by legalized abortion each year in this country.[90] This is equivalent to more than the combined populations of Kansas City, Minneapolis and Miami. While school prayer is a largely symbolic issue, abortion is a life-and-death issue of enormous proportions. In view of its involving of the very right to live, it is a more important issue than school prayer or "busing."

Roe v. Wade held that, whether or not the unborn child is a human being, he is not a "person" for purposes of the fourteenth amendment.[91] The holding is thus the same, in effect, as a pronouncement that an acknowledged human being is a non-person. The case is thus a reincarnation, in a different context, of the principle enunciated in the *Dred Scott* case.[92] One would expect the legal profession to be favorably disposed toward any attempt, of at least arguable validity, to remedy such a ruling and the consequences of it. *Roe v. Wade*, however, has been accepted with equanimity by the organized bar.[93] In addition, the general reaction of the organized bar to the proposals to curb the Supreme Court's appellate jurisdiction over abortion cases as well as on other issues has been strongly negative.[94] However, notwithstanding the bar's general disfavor toward legislation limiting jurisdiction, the life and death urgency of the abortion issue mandates the use of whatever means available to focus attention on, and perhaps bring changes to, the current law on abortion.

V. CONCLUSION

In the eyes of some critics, the proposed Congressional exercise of power expressly given to Congress by the Constitution is viewed as a threat to the Constitution itself.[95] Whatever its outcome, however, the jurisdiction controversy will serve a useful purpose if it illuminates several uncritical assumptions which appear to underly the claim that the jurisdiction limiting proposals are unconstitutional. The most important of the arguments against the use of the exceptions clause power is based on an assumption of judicial exclusivity and supremacy in the interpretation of the Constitution. Implicit in this assumption is a belief that Supreme Court holdings and opinions on constitutional issues have a status equivalent to the language of the Constitution itself and that they can be corrected only by a constitutional amendment.[96] What seems to be overlooked is the fact that the Supreme Court can render an unconstitutional decision. In *Erie Railroad Co. v. Tompkins*,[97] for example, Justice Brandeis described *Swift v. Tyson*[98] as "an unconstitutional assumption of powers by courts of the United States which no lapse of time or respectable array of opinion would make us hesitate to correct." It would be most extraordinary if the Supreme Court, alone among the three branches of government, were incapable of acting unconstitutionally. If the Supreme Court has rendered an unconstitutional decision, why should it be necessary to change the Constitution to rectify the error? In his first inaugural address, Abraham Lincoln stated: "[i]f the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, . . . the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that eminent tribunal."[99] Fortunately, the exceptions clause was intended to provide, among other things, a remedy for this problem.

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[1] *See* Reynolds v. Sims, 377 U.S. 533 (1964).

[2] *See* U.S. CONST. art. V. A constitutional amendment may be proposed by either a two-thirds majority of both houses of Congress or a resolution adopted by the legislatures of two-thirds of the states. *Id.* The amendment, to become effective, must then be ratified by the legislatures of three-fourths of the states. *Id.*

The most recent amendment to the Constitution, the twenty-sixth amendment, which lowered the voting age to 18, was ratified in 1971, three months after it was submitted to the states. In contrast, the proposed equal rights amendment, submitted to the states on March 22, 1972, has failed after over ten years to be ratified by the required number of states.

[3] *Id.* art, III, § 1. Article III, in pertinent part, reads as follows:

"Section 1. The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

"Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority. . . .

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original jurisdiction. In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." *Id.* art. III.

[4] *Id.* art III, § 2. For the text of this section, see note 3 *supra*.

[5] *See* Sheldon v. Sill, 49 U.S. (8 How.) 440 (1850). In *Sheldon*, the assignee of a mortgage bond brought an action in federal court to recover on the bond. *Id.* at 442. Diversity of citizenship existed between the assignee and the mortgagor, but not between the assignor-mortgagee and the mortgagor. *Id.* at 440–41. *See generally* 28 U.S.C. § 1332 (1976). Although recognizing that article III could allow such an action in a federal court, the Court concluded that "courts created by statute can have no jurisdiction but such as the statute confers." 49 U.S. (8 How.) at 448. The Court noted that the result might have been different had the lower courts been created by the Constitution itself, but since there was no such constitutional basis for jurisdiction, the federal courts are bound by the jurisdictional limits set by Congress. *Id.*

[6] Lockerty v. Phillips, 319 U.S. 182, 187 (1943), *citing* Kline v. Burke Constr. Co., 260 U.S. 226 (1922); McIntire v. Wood, 11 U.S. (7 Cranch) 504 (1813).

[7] 303 U.S. 323 (1938).

[8] 303 U.S. at 329–30. *See generally* 29 U.S.C. § 101 (1976).

[9] 319 U.S. 182 (1943).

[10] *Id.* at 186–88. *See generally* Comment, *Congressional Power over State and Federal Court Jurisdiction: The Hill-Burton and Trans-Alaska Pipeline Examples*, 49 N.Y.U. L. REV. 131 (1974).

[11] *See* U.S. CONST. art. VI, cl. 2. The text of the supremacy clause is as follows:

"This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Id. For a discussion of whether state courts would be bound by existing Supreme Court precedents in the event of a withdrawal of Supreme Court jurisdiction, see notes 89 & 90 and accompanying text *infra*.

[12] Judiciary Act of March 3, 1875, ch. 137, 18 Stat. 470 (1875).

[13] *See generally* Redish & Woods, *Congressional Power to Control the Jurisdiction of Lower Federal Courts: A Critical Review and a New Synthesis*, 124 U. PA. L. REV. 45 (1975).

[14] *See, e.g.*, H.R. 11926, 88th Cong., 2d Sess. (1964).

[15] *See, e.g.*, S. 4058, 90th Cong., 2d Sess. (1968).

[16] *See, e.g.*, S. 450, 96th Cong., 1st Sess. (1979) (provides greater discretion for Supreme Court review—eliminates automatic review by the Supreme Court); S. 438, 96th Cong., 1st Sess. (1979) (eliminates Supreme Court jurisdiction in school prayer cases).

[17] *See, e.g.*, S. 1742, 97th Cong., 1st Sess. (1981).

[18] *See, e.g.*, S. 1741, 97th Cong., 1st Sess. (1981).

[19] U.S. CONST. art. III, § 2.

[20] THE FEDERALIST No. 80, at 559 (A. Hamilton) (H. Dawson ed. 1863). *See also id.* No. 81.

[21] *See* Levy, *Congressional Power Over the Appellate jurisdiction of the Supreme Court: A Reappraisal*, 22 N.Y.U. INTRA. L. REV. 178, 180–81 (1966). *See also* Brant, *Appellate Jurisdiction: Congressional Abuse of the Exceptions Clause*, 53 OR. L. REV. 3 (1973).

Professor Brant argues that the sole purpose of the exceptions clause was to permit Congress to limit the Supreme Court's appellate review of factual issues. *Id.* at 11. For a discussion of the state and federal convention debates concerning the exceptions clause, see 5 J. ELLIOT, THE DEBATES IN THE STATE CONVENTIONS ON THE ADOPTION OF THE FEDERAL CONSTITUTION 483 (2d ed. 1836); 1 M. FARRAND, RECORDS OF THE CONSTITUTIONAL CONVENTION 221 (1911); J. MADISON, NOTES OF DEBATES IN THE FEDERAL CONVENTION OF 1787 530–39 (A. Koch ed. 1966).

[22] U.S. CONST. art. III, § 2.

[23] THE FEDERALIST No. 81, at 571 (A. Hamilton) (H. Dawson ed. 1863).

[24] 7 U.S. (3 Cranch) 159 (1805).

[25] *Id.* at 172. Marshall compared Congress's ability to control Supreme Court jurisdiction with its power to determine the "amount in controversy" requirement, stating:

"Thus, the appellate jurisdiction of this court, from the judgments of the circuit courts, is described affirmatively; no restrictive words are used. Yet, it has never been supposed, that a decision of a circuit court could be reviewed, unless the matter in dispute should exceed the value of $2,000. There are no words in the act, restraining the Supreme Court from taking cognizance of causes under that sum; their jurisdiction is only limited by the legislative declaration, that they may re-examine the decisions of the circuit court, where the matter in dispute exceeds the value of $2,000. This court, therefore, will only review those judgments of the circuit court of Columbia, a power to re-examine which, is expressly given by law." *Id. See generally* 28 U.S.C. §§ 1331, 1332 (1976).

[26] 7 U.S. (3 Cranch) at 170. *See also Ex Parte* Vallandigham, 68 U.S. (1 Wall.) 243 (1863). The *Vallandigham* Court applied the "negative pregnant" doctrine stating: "[A]ffirmative words in the Constitution, declaring in what cases the Supreme Court shall have jurisdiction must be construed negatively as to all other cases." *Id.* at 252.

[27] United States v. Sanges, 144 U.S. 310, 319 (1892). *See also* United States v. Cross, 145 U.S. 571 (1892); *Ex Parte* Bigelow, 113 U.S. 328 (1885).

[28] The Convention's Committee on Detail also included John Rutledge, Edmund Randolph, Nathaniel Gorham, and James Wilson. *See* Merry, *Scope of the Supreme Court's Appelate Jurisdiction: The Historical Basis*, 47 MINN. L. REV. 53, 57 (1962).

[29] 3 U.S. (3 Dall.) 321 (1796). It is interesting to note that of the six judges on the *Wiscart* Court, two of them—James Wilson and Oliver Ellsworth—were members of the 1787 Committee on Detail which drafted the exceptions clause. *See* note 28 *supra*. Ellsworth and William Patterson, another member of the *Wiscart* Court, drafted the Judiciary Act of 1789. *See* Brant, *supra* note 21, at 13.

[30] 30. U.S. (3 Dall.) at 327. *Wiscart* involved the Supreme Court's competency to review findings of fact of a trial court sitting without a jury. *Id.* at 321-22. Justice Wilson's dissent argued that the Court's constitutional jurisdiction provided for a limited form of factual review. *Id.* at 325 (Wilson J. dissenting). The majority concluded, however, that all appellate powers by Congress. *Id.* at 325.

[31] 10 U.S. (6 Cranch) 307 (1810).

[32] *Id.* at 313-14. Marshall's views, after *More* and *Durousseau*, appeared to be that:

"(1) Congress has a wide discretion in legislating exceptions to the constitutional jurisdiction of the Court; (2) if Congress does not exercise that discretion the Court retains its full consitutional jurisdiction; [and] (3) if Congress exercies the discretion by specifying the cases to which the jurisdiction extends, those cases not designated are impliedly excepted" Ratner, *Congressional Power Over the Appelate Jurisdiction of the Supreme Court*, 109 U. PA. L. REV. 157, 177 (1960).

[33] 46 U.S. (5 How.) 103 (1847). *Barry* involved Supreme Court review of a lower court's denial of a writ of habeas corpus in a child custody case. *Id.* at 118-19. The appelant's estranged wife lived with the couple's daughter in New York, while the appellant, a British citizen, lived in Canada. *Id.* at 104, 119. The lower court, reasoning that the value of custody of the child was not quantifiable in monetary terms, determined that it had no jurisdiction over the case since the requisite $2,000 amount in controversy was not present. *Id.* at 119. The Supreme Court affirmed, concluding that since its jurisdiction could only be based upon review of a lower court decision, it had no jurisdiction to issue the writ. *Id.* at 119-20.

[34] *Id.* at 119. *See also* St. Louis, I.M. & S. R.R. v. Taylor, 210 U.S. 281 (1908); United States v. Bitty, 208 U.S. 393 (1908); Colorado Cent. Consol. Mining Co. v. Turck, 150 U.S. 138 (1893); United States v. Cross, 145 U.S. 571 (1892); National Exch. Bank v. Peters, 144 U.S. 571 (1892); United States v. Sanges, 144 U.S. 310 (1892); United States v. Bigelow, 113 U.S. 328 (1885); United States v. Young, 94 U.S. 258 (1876); Daniels v. Railroad Co., 70 U.S. (2 Wall.) 250 (1865); *Ex Parte* Vallandigham 68 U.S. (1 Wall.) 243 (1863); Forsyth v. United States, 50 U.S. (9 How.) 570 (1850).

[35] 74 U.S. (7 Wall.) at 506 (1868). *See generally* Van Alstyne, *A Critical Guide to ex Parte McCardle*, 15 ARIZ. L. REV. 229 (1973).

[36] 74 U.S. (7 Wall.) at 507. The United States Constitution provides: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." U.S. CONST. art. I, § 9, cl. 2. For an historical account of the development of the writ, see Van Alstyne, *supra* note 35, at 233-36.

[37] 74 U.S. (7 Wall.) at 508. The repealed state, designed to assure quick release of Union sympathizers held in southern jails after the Civil War, provided that federal courts were empowered to grant writs of habeas corpus "in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States." *Id.* at 507. The statute provided for appeals to the federal circuit courts and to the Supreme Court. *Id.*

[38] *Id.* at 513. Although the negative pregnant doctrine was inapplicable to the facts of the case, the Court reaffirmed its validity, stating:

"It is unnecessary to consider whether, if Congress had made no exceptions and no regulations, this court might not have exercised general appellate jurisdiction under rules prescribed by itself. For among the earliest acts of the first Congress, at its first session, was the act of September 24th, 1789, to establish the judicial courts of the United States. That act provided for the organization of this court, and prescribed regulations for the exercise of its jurisdiction.

"The source of that jurisdiction, and the limitations of it by the Constitution and by statute, have been on several occasions subjects of consideration here. In the case of *Durousseau v. The United States*, particularly, the whole matter was carefully examined, and the court held, that while 'the appellate powers of this court are not given by the Constitution,' they are, nevertheless, 'limited and regulated by that act, and by such other acts as have been passed on the subject.' . . .

"'They [the Congress] have described our jurisdiction affirmatively,' . . . and this affirmative description has been understood to imply a negation of the exercise of such appellate power as is not comprehended within it.'

"The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, it was an almost necessary consequence that acts of Congress, providing for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it." *Id.* at 513-14. For further discussion of the negative pregnant doctrine, see notes 24-34 and accompanying text *supra*.

[39] 74 U.S. (7 Wall.) at 514. One commentator has stated: "Though more than a century old, *McCardle* still stands as the leading case regarding the extent to which Congress may use the exceptions clause to oust the Court of its appellate power even as to the substantive constitutionality of acts of Congress." Van Alstyne, *supra* note 35, at 232.

[40] 74 U.S. (7 Wall.) at 515. Professor Van Alstyne argued that the alternative basis in the Judiciary Act of 1789 for the issuance of a writ of habeas corpus supports a narrow reading of McCardle. *See* Van Alstyne, *supra* note 35, at 258. The limited reading of McCardle advocated by Professor Van Alstyne is that the decision was based not upon Congress' exceptions clause power, but rather upon Congress' power to enact and repeal jurisdictional statutes. *Id.* at 249-50. Thus, as Professor Van Alstyne interpreted *McCardle*, the Repealer Act only eliminated a right of access conferred upon a special class of litigants rather than effect a general withdrawal of Supreme Court jurisdiction. *Id.* at 250. Consequently, neither the constitutional right to habeas corpus nor the statutory provisions of the Judiciary Act of 1789 were involved. *Id.* at 251-54. Professor Van Alstyne concedes, acknowledging the powers of Congress to withdraw jurisdiction through the acknowledging the powers of Congress to withdraw jurisdiction through the exceptions clause. *Id* at 255.

[41] 75 U.S. (8 Wall.) 85 (1868).

[42] *Id.* at 105. The Court stated that the 1868 repealer statutes "do not purport to touch the appellate jurisdiction conferred by the Constitution, or to except from it any cases not excepted by the Act of 1789. They reach no act except the act of 1867." *Id.*

[43] *Id.* at 103. The Court cautioned that to except all habeas corpus jurisdiction would "greatly weaken the efficacy of the writ, deprive the citizen in many cases of its benefits, and seriously hinder the establishment of that uniformity in deciding upon questions of personal rights which can only be attained through appellate jurisdiction." *Id.*

[44] *Id.* at 104.

[45] 80 U.S. (13 Wall.) 128 (1872).

[46] *Id.* at 143-44.

[47] *Id.* at 145-46 (emphasis added).

[48] *Id.* at 145-46. That *Klein* was an assertion by the Court of the independence of the judiciary has been recognized by the commentators. *See e.g.*, Ratner, *supra* note 32 at 181; Note, *The Nixon Busing Bills and Congressional Power*, 81 Yale L. J. 1542, 1557 (1972).

[49] 80 U.S. (13 Wall.) at 145. The Court wrote: "Congress has inadvertently passed the limit which separates the legislative from the judicial power." *Id.* at 147.

[50] *Id.* at 145.

[51] 105 U.S. 381 (1881).

[52] *Id.* at 386. The Court again analogized Congress' power to control Supreme Court appellate jurisdiction with Congress' ability to establish a minimum amount in controversy as a prerequisite to federal court jurisdiction. *Id. See* note 25 *supra*. The Court noted that there was no right to appellate review by the Supreme Court, since it is "a matter of legislative discretion, not of constitutional right." 105 U.S. at 386. *See also* Luckenback S.S. Co. v. United States, 272 U.S. 533, 536-37 (1926).

[53] 105 U.S. at 385 (emphasis added).

[54] 337 U.S. 582 (1949).

[55] *Id.* at 655 (Frankfurter, J., dissenting) (citations omitted). *See also* Luckenback, S.S. Co. v. United States, 272 U.S. 533, 536 (1926). *See generally* Brant, *supra* note 21, at 28; Merry, *supra* note 28, at 53.

[56] 370 U.S. 530 (1962).

[57] *Id.* at 567-68 (citations omitted). Justice Harlan did note that Congress' authority to limit Supreme Court jurisdiction was not boundless, stating:

"The authority is not, of course, unlimited. In 1870, Congress purported to withdraw jurisdiction from the Court of Claims and from this Court on appeal over cases seeking indemnification for property captured during the Civil War, so far as eligibility therefor might be predicated upon an amnesty awarded by the President, as both courts had previously held that it might. Despite *Ex parte McCardle*, the Court refused to apply the statute to a case in which the claimant had already been adjudged entitled to recover by the Court of Claims, calling it an unconstitutional attempt to invade the judicial province by prescribing a rule of decision in a pending case." *Id.* at 570, *citing* United States v. Klein, 80 U.S. (13 Wall.) 128 (1872).

[58] 370 U.S. at 605 n.11 (Douglas, J., dissenting) (citations omitted).

[59] 392 U.S. 83 (1968).

[60] *Id.* at 109 (Douglas, J., concurring), *citing* Ex parte McCardle, 74 U.S. (7 Wall.) 506 (1868).

[61] The Federalist No. 80 (A. Hamilton).

[62] *See* Hart, *The Power to Limit the Jurisdiction of the Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362, 1365 (1953). *See also* Ratner, *supra* note 32, at 200-01.

[63] *See* Merry, *supra* note 28, at 54-57; Redish, *Congressional Power to Regulate Supreme Court Appellate Jurisdiction Under the Exceptions Clause: An Internal and External Examination*, 27 Vill L. Rev. 900, 906 (1982).

[64] *See* Hart, *supra* note 62, at 1364.

[65] Professor Hart acknowledges that his "essential role" theory has never been addressed by the Supreme Court, but only because Congress has never attempted a jurisdictional withdrawal audacious enough to justify its application. *See id.* at 1365.

[66] Ratner, *supra* note 32, at 169. Professor Ratner argues that Congress' power under the exceptions clause could never be so great as to permit it to divest the Supreme Court of all appellate jurisdiction since, by definition, an exception cannot nullify the general rule that the court "*shall* have appellate Jurisdiction." *Id.* at 169, 171. *See* U.S. Const. art III, § 2, cl. 2 (emphasis added).

[67] *See generally* Ratner, *Supra* note 32. Ratner, *Majoritarian Constraints on Judicial Review: Congressional Control of Supreme Court Jurisdiction*, 27 VILL L. REV. 929, 941-55 (1982).

[68] Ratner, *supra* note 32, at 160.

[69] U.S. CONST. art. 6, cl. 2. For the text of the supremacy clause, see note 11 *supra*.

[70] O.W. HOLMES, *Law and the Court*, in COLLECTED LEGAL PAPERS 295-96 (1920).

[71] THE FEDERALIST No. 80 (A. Hamilton).

[72] *See* note 61 and accompanying text *supra*.

[73] *See* notes 24 & 25 and accompanying text *supra*.

[74] *See, e.g.*, Roe v. Wade, 410 U.S. 133 (1973) (abortion); Duncan v. Louisiana, 391 U.S. 145 (1968) (jury trial); Griswold v. Connecticut, 381 U.S. 479 (1965) (access to contraceptives); Malloy v. Hogan, 378 U.S. I (1964) (privilege against self-incrimination).

[75] Barron v. Baltimore, 32 U.S. (7 Pet.) 243 (1933).

[76] *See* R. BERGER, GOVERNMENT BY JUDICIARY (1977), ch. 8. *See also* McClellan, *Congressional Retraction of Federal Court Jurisdiction Over the Reserved Powers of the States: The Helms Prayer Bill and a Return to First Principles*, 27 VILL. L. REV. 1019, 1024 (1982).

[77] Roth v. United States, 354 U.S. 476, 501 (1957) (Harlan, J., concurring).

[78] *See, e.g.*, Malloy v. Hogan, 378 U.S. 1 (1964).

[79] *See, e.g.*, Roe v. Wade, 410 U.S. 133 (1973); Griswold v. Connecticut, 381 U.S. 479 (1965); Engel v. Vitale, 370 U.S. 421 (1962).

[80] *See* Wechsler, *The Courts and the Constitution*, 64 COLUM. L. REV. 1001, 1005 (1965). Professor Wechsler sees the purpose of the exceptions clause as to enable Congress to "strike at what it deems [to be] judicial excess." *Id.* at 1005.

[81] Roe v. Wade, 410 U.S. 133 (1973).

[82] *See* U.S. CONST. art. VI.

[83] *See* Bolling v. Sharpe, 347 U.S. 497 (1954).

[84] *See e.g.*, Mobile v. Bolden, 446 U.S. 55, 66 (1980); Washington v. Davis, 426 U.S. 229 (1976).

[85] *See* Arlington Heights v. Metropolitan Hous. Dev. Corp., 429 U.S. 253, 266 (1977).

[86] *See* Roe v. Wade, 410 U.S. 133 (1973).

[87] Roberts, *Fortifying the Supreme Court's Independence*, 35 A.B.A.J. 1 (1949).

[88] *Id.* at 2-3.

[89] *But see* Ratner, *Majoritarian Constraints on Judicial Review: Congressional Control of Supreme Court Jurisdiction*, 27 VILL. L. REV. 929, 936-38 (1982). Professor Ratner argues that it is the power of the Supreme Court to reverse decisions of the lower courts that binds the lower courts. Thus, once the Court's appelate jurisdiction is excised, the lower courts, both federal and state, would constitutionally be free to interpret the Constitution as they saw fit. *Id.* at 937.

[90] *See* Chicago Tribune, March 11, 1982, at 8, col. 1.

[91] 410 U.S. 113, 158 (1973).

[92] Scott v. Sandford, 60 U.S. (19 How.) 393 (1857).

[93] For example, the House of Delegates of the American Bar Association resolved in 1978, "[t]hat the American Bar Association supports legislation on the federal and state level to finance abortion services for indigent women." A.B.A. House of Delegates, Summary of Action, August, 1978, 26. The American Bar Association has a history of supporting abortion. "Generally, it would appear appropriate for the American Bar Association, through any or all of its functioning arms, to clearly go on record in support of the principles of personal freedom enunciated in the abortion cases." 1 A.B.A. SEC. INDIVIDUAL RTS. & RESP. 812 (1973).

[94] *See, e.g.*, S. Taylor, Jr., *A Worried Bar Fraternity*, New York Times, Jan. 25, 1982, p. 14, col. 1.

[95] *See id.*

[96] It was not until 1958, however, that the Supreme Court itself ventured to say that its interpretation of the Constitution "is the supreme law of the land." *See* Cooper v. Aaron, 358 U.S. 1, 18 (1958).

[97] 304 U.S. 64, 79 (1938).

[98] 41 U.S. (16 Pet.) 1 (1842).

[99] American Historical Documents (Syrett, ed. 1980), 273.

Mr. MOYNIHAN. Mr. President, I ask similar consent if I might place in the RECORD at this time the memorandum of law, which it basically is, of the U.S. Attorney General addressed to Hon. STROM THURMOND, chairman of the Committee on the Judiciary, on May 6, 1982, in which he argues that the Congress may not impede into the core functions of the Court.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., May 6, 1982.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is written to you as Chairman of the Committee on the Judiciary. It is written in response to a number of earlier inquiries from members of your Committee concerning S. 1742, a proposal which would withdraw jurisdiction from the Supreme Court to consider "any case arising out of any State statute, ordinance, rule, [or] regulation . . . which relates to voluntary prayers in public schools and public buildings." A second provision of the bill would withdraw the jurisdiction of the district courts over any case in which the Supreme Court has been deprived of jurisdiction. This bill raises fundamental and difficult questions regarding the role of the Supreme Court in our constitutional system, as well as the power of Congress to define and circumscribe that role. The issues involved have been the subject of intense scholarly debate and prominent constitutional scholars have differed as to the extent of congressional power to limit Supreme Court jurisdiction.

This is perhaps to be expected since the question of congressional power over the appellate jurisdiction of the Supreme Court implicates in a basic way the relations between Congress and the Supreme Court, two co-equal branches of government. Relations between the different branches in our tripartite system are generally governed by the doctrine of separation of powers. Neither the Constitution nor the decisions of the Supreme Court have attempted to define the precise contours of this doctrine. As two astute students of our constitutional system have noted:

"The accommodations among the three branches of government are not automatic. They are undefined, and in the very nature of things could not have been defined, by the Constitution. To speak of *lines* of demarcation is to use an inapt figure. There are vast stretches of ambiguous territory. Frankfurter & Landis, *Power of Congress Over Procedure in Criminal Contempts in "Inferior" Federal Courts*, 37 Harv. L. Rev. 1010, 1016 (1924) (emphasis in original).

The doctrine of separation of powers touches fundamentally on how the Nation is governed, and, as the Supreme Court noted last Term in a separation of powers case, "it is doubtless both futile and perhaps dangerous to find any epigrammatical explanation of how this country has been governed." *Dames & Moore* v. *Regan*, 101 S. Ct. 2972, 2977 (1981). In this area more than any other we must heed Justice Holmes' wise admonition that "[t]he great ordinances of the Constitution do not establish and divide fields of black and white." *Springer* v. *Philippine Islands*, 277 U.S. 189, 209 (1928) (dissenting opinion).

There is no doubt that Congress possesses some power to regulate the appellate jurisdiction of the Supreme Court. The language of the Constitution authorizes Supreme Court appellate jurisdiction over enumerated types of cases "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court has upheld the congressional exercise of power under this clause, even beyond widely accepted "housekeeping" matters such as time limits on the filing of appeals and minimum jurisdictional amounts in controversy. See *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1869).

Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

In determining whether a given exception would intrude upon the core functions of the Supreme Court, it is necessary to consider a number of factors, such as whether the exception covers constitutional or nonconstitutional questions, the extent to which the subject is one which by its nature requires uniformity or permits diversity among the different states and different parts of the country, the extent to which Supreme Court review is necessary to ensure the supremacy of federal law, and whether other forums or remedies have been left in place so that the intrusion can properly be characterized as an exception.

Concluding that Congress may not intrude upon the core functions of the Supreme Court is not to suggest that the Supreme Court and the inferior federal courts have not occasionally exceeded the properly restrained judicial role envisaged by the Framers of our Constitution. Nor does such a conclusion imply am endorsement of the soundness of some of the judicial decisions which have given rise to various of the legislative proposals now before Congress. The Department of Justice will continue, through its litigating efforts, to urge the courts not to intrude into areas that properly belong to the State legislators and to Congress. The remedy for judicial overreaching, however, is not to restrict the Supreme Court's jurisdiction over those cases which are central to the core functions of the Court in our system of government. This remedy would in many ways create problems equally or more severe than those which the measure seeks to rectify.[1]

With respect to other pending legislation, the Department of Justice has concluded that Congress may, within constraints imposed by provisions of the Constitution other than Article III, limit the jurisdiction or remedial authority of the inferior federal courts. See letter from the Attorney General to Chairman Rodino concerning S. 951. The question of congressional power over lower federal courts is quite different from the question of congressional power over Supreme Court jurisdiction, and the two issues should not be confused.

I.

Proponents of congressional constitutional authority to limit the Supreme Court's entire appellate jurisdiction have contended that such authority exists under the "Exceptions Clause" of Article III of the Construction. Article III provides, in pertinent part:

"SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferor courts as the Congress may from time to time ordain and establish. . . .

"SECTION 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Construction, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a

[1] The Department of Justice, in previous Administrations, has consistently opposed proposals to restrict Supreme Court jurisdiction. *See Hearings Before the Subcomm. To Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Sen. Comm. on the Judiciary*, 85th Cong., 2d Sess. 573-74 (1958) (statement of Attorney General Rogers) ("full and unimpaired appellate jurisdiction of the Supreme Court is fundamental under our system of government"); Memorandum for the Attorney General from Assistant Attorney General Malcolm R. Wilkey, Office of Legal Counsel (February 25, 1958) (bills to limit Supreme Court jurisdiction are constitutional but bad policy); Memorandum for the Deputy Attorney General from Assistant Attorney General Tompkins, Internal Security Division (February 14, 1958) (unconstitutional); Letter to Sen. James O. Eastland, Chairman, Senate Comm. on the Judiciary, from Deputy Attorney General Richard Kleindienst (September 4, 1969) (not clearly distinguishing constitutional and policy objections); Memorandum for the Attorney General from Assistant Attorney General William H. Rehnquist (September 16, 1969) (not clearly distinguishing constitutional and policy objections); letter from Assistant Attorney General Alan Parker to Rep. Peter Rodino, Chairman, House Comm. on the Judiciary (June 19, 1980) (unconstitutional); *Prayer in Public Schools and Buildings, Hearings Before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Comm. on the Judiciary*, 96th Cong., 2d Sess. 11 (1980) (testimony of John M. Harmon, Assistant Attorney General, Office of Legal Counsel) (unconstitutional).

Party; to Controversies between two or more States: between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, *with such exceptions, and under such Regulations as the Congress shall make.*" (Emphasis added.)

The language of the Exceptions Clause, underscored above, does not support the conclusion that Congress possesses plenary authority to remove the Supreme Court's appellate jurisdiction over all cases within that jurisdiction. The concept of an "exception" was understood by the Framers, as it is defined today, as meaning an exclusion from a general rule or law. An "exception" cannot, as a matter of plain language, be read so broadly as to swallow the general rule in terms of which it is defined.

The Constitution, unlike a statute, is not drafted with specific situations in mind. Designed as the fundamental charter of our political system, its most important provisions are phrased in broad and general terms. As eloquently expressed by Justice Holmes in *Missouri* v. *Holland*, 252 U.S. 416, 433 (1920):

"[W]hen we are dealing with words that also are a constitutent act, like the Constitution of the United States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in light of our whole experience and not merely in that of what was said a hundred years ago."

For example, a literal interpretation of Article III as a whole would seem to mandate that Congress vest the full judicial power of the United States either in the Supreme Court or in an inferior federal court. Under such an interpretation, Congress could make "exceptions" to the Supreme Court's appellate jurisdiction only if it vested the jurisdiction at issue either in an inferior federal court or in the Supreme Court's original jurisdiction. This interpretation, which would require the conclusion that any measure which entirely ousted the federal courts from exercising any portion of the judicial power of the United States and vested that authority in state courts would be unconstitutional, is rejected by all authorities today.[2]

The Constitution contains a number of other pronouncements which, although seemingly unambigous and absolute, have necessarily been interpreted as limited in their applicability. *See, e.g., Home Building & Loan Ass'n.* v. *Blaisdell, 290 U.S. 398 (1934) (Contract Clause); Everson* v. *Board of Education, 330 U.S. 1 (1947) (Establishment Clause); Reynolds* v. *United States*, 98 U.S. 145 (1878) (Free Exercise Clause); *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969) (*per curiam*) (Free Speech Clause). The Supreme Court has also recognized that even when a statute is otherwise within a power granted to Congress by the Constitution, extrinsic limitations on congressional power contained in the Bill of Rights or elsewhere may nevertheless render the statute unconstitutional. *See, e.g., National League of Cities* v. *Usery*, 426 U.S. 833 (1976) (limitations on Commerce Clause); *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 421 (1819) (limitations on Necessary and Proper Clause).

In light of these principles of constitutional interpretation, the Exceptions Clause may not be analyzed in a vaccum but must be understood in terms of Article III as a whole, as evidenced by the history of its framing and ratification, its place in the system of separation of powers embodied in the structure of the Constitution, and its consistency with external limitations on congressional power implicit in the Constitution and contained in the Bill of Rights. The construction of the Exceptions Clause that is most consistent both with the plain language of the Clause and with other evidence of its meaning is that Congress can limit the Supreme Court's appellate jurisdiction only up to the point where it impairs the Court's core functions in the constitutional scheme.

II.

The events at the Constitutional Conventin support a construction of the Exceptions Clause that would preclude Congress from interfering with the Supreme Court's core functions. The Framers agreed without dissent on the necessity of a Supreme Court to secure national rights and the uniformity of judgments. The Resolves which were agreed to by the Convention and given to the Committee of Detail provided, simply, that "the jurisdiction [of the Supreme Court] shall extend to all cases arising under the Natl. laws: And to such other questions as may involve the Natl. peace & harmony." No mention was made of any congressional power to make exceptions to the Court's jurisdiction. The Committee of Detail, charged with drafting a provision to implement these Resolves, proposed the language of the Exceptions Clause. It seems unlikely that that the Committee of Detail could have deviated so dramatically from the Convention's Resolves as to have given Congress the authority to interfere with the Supreme Court's core functions without considerably more attention to the subject at the Convention.

This inference is strengthened by the events surrounding the adoption of the Judicial Article by the full Convention. In determining the scope of the Court's jurisdiction, the Convention agreed to provisions expressly confirming that the jurisdiction included cases arising under the Constitution and treaties; but it rejected, by a 6–2 vote, a resolution providing that, except in the narrow class of cases under the Court's original jurisdiction, "the judicial power shall be exercised in such manner as the Legislature shall direct."[3] The Convention thus rejected a clear statement of plenary congressional power over the Court's appellate jurisdiction. Nevertheless, on the same day—without any recorded debate or explanation—the Framers adopted the Exceptions and Regulations language now contained in Article III. In light of the value placed on the Supreme Court's appellate jurisdiction, as evidenced by the other actions of the Convention, it seems highly unlikely that the Framers would have agreed, without the slightest hint of controversy, to a provision that would authorize Congress to interfere with the Court's core constitutional functions.

There are additional reasons why the lack of controversy surrounding the adoption of the Exceptions Clause supports the inference that no power to intrude on the Court's core functions was intended. First, the historical materials show the great importance which the Framers attached to these functions. They envisaged that the Supreme Court was a necessary part of the constitutional scheme and believed that the Court would review state and federal laws for consistency with the Constitution.[4] These sentiments were echoed by the authors of the *Federalist Papers*, a work which is justly regarded as an important guide to the meaning of the Constitution.[5] In light of this explicit recognition by the Founding Fathers of the Court's vital role in the constitutional scheme, it seems unlikely that they would have adopted, without controversy, a provision which would effectively authorize Congress to eliminiate the Court's core functions.

A second reason for inferring a more limited construction of the Exceptions Clause from the lack of discussion at the Convention concerns the compromise agreed to by the Framers regarding the establishment of inferior federal courts. While the necessity of a Supreme Court was accepted without significant dissent among the Framers, there was vigorous disagreement over whether inferior federal courts should be provided. The Convention first approved a provision calling for mandatory inferior federal courts, then struck this provision by a divided vote, and finally determined to leave to Congress the question whether to establish inferior federal courts. The Supreme Court was viewed as a necessary part of the constitutional strucutre and was established by the Constitution itself; Congress was given no control over whether the Court would be created. The inferior federal courts, however, were viewed as an optional part of the Government and were authorized but not established by the Constitution. The decision whether to create them was given to Congress. This distinction and the role explicitly assigned to Congress with respect to the inferior federal courts, implies that the powers of Congress were to be quite different with respect to the Supreme Court and the inferior federal courts.

If the Exceptions Clause authorized Congress to eliminate the Supreme Court's appellate jurisdiction, thus limiting it to the exercise of original jurisdiction, the power of Congress over the Supreme Court would be virtually indistinguishable from its power over inferior federal courts. Just as Congress could decline to create inferior federal

[2] *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803), established that Congress has no authority to enlarge the Supreme Court's original jurisdiction by creating "exceptions" to its appellate jurisdiction. In *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 330–31 (1816), Justice Story argued that, if Congress creates any inferior federal courts, it must confer on them the full federal jurisdiction. This view, however, has never since been accepted by a majority of the Supreme Court.

[3] 2 M. Farrand, *The Records of the Federal Convention of 1787* 46 (1911).

[4] *See, e.g.*, 1 *id.* at 124; 2 *id.* at 589 (Madison).

[5] *See, e.g., Federalist* No. 39 (Madison) (Supreme Court is clearly essential to prevent an appeal to the sword and a dissolution of the compact") *id.* No. 80 (Hamiltion); *id.* N. 82 (Hamilton).

courts, it could, in the guise of creating "exceptions" to the Supreme Court's appellate jurisdictiom deny the Supreme Court the vast majority of the judicial powers which the Framers insisted "shall be vested" in the federal judiciary. Congress could not eliminate the Supreme Court, but it could reduce it to a position of virtual impotence with only its limited original jurisdiction remaining. Such an interpretation cannot be squared with the stark difference in treatment which the Framers accorded to the Supreme Court and the inferior federal courts. Given the intensity of the debate regarding inferior federal courts, and the compromise arrived at by the Framers, it seems highly unlikely that the Convention would have adopted without comment a provision which, for most practical puposes, would place the Supreme Court and the inferior federal courts in the same position vis-a-vis Congress.

A third reason to infer a limited construction of the Exceptions Clause from the lack of debate accompanying its adoption is found in the theory of separation of powers which formed the conceptual foundation for the system of goverment adopted by the Convention. The Framers intended that each of the three branches of Government would operate largely independently of the others and would check and balance the other Branches. The purpose of this approach was to ensure that governmental power did not become concentrated in the hands of any one individual or group, and thereby to avoid the danger of tyranny which the Framers believed inevitably accompanied unchecked governmental power. Indeed, it is not an exaggeration to say that the single greatest fear of the Founding Fathers was tyranny, and that concentration of power was, in their minds, "the very definition of tyranny." [6]

Essential to the principle of separation of powers was the proposition that no one Branch of Government should have the power to eliminate the fundamental constitutional role of either of the other Branches. As Madison stated in *Federalist* No. 51:

"[T]he great security against a gradual concentration of the several powers in the same department consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack."

This basic principle of the Constitution—that each branch must be given the necessary means to defend itself against the encroachments of the two other branches—has special relevance in the context of *legislative* attempts to restrict *judicial* authority. The Framers "applaud[ed] the wisdom of those states who have committeed the judicial power, in the last resort, not to a part of the legislature, but to distinct and independent bodies of men." *Federalist* No. 81 (Hamilton). They believed that, by the inherent nature of their power, the legislature would tend to be the strongest and the judiciary the weakest of the Branches. This insight is reflected in the very structure of the Constitution: the provisions governing the legislature are placed first, in article I; those establishing and governing the Judicial Branch are in the third position, in Article III. Madison recognized the great inherent power of the Legislative Branch in *Federalist* No. 48. Drawing extensively from Jefferson's *Notes on the State of Virginia*, Madison concluded that in a representative republic "[t]he legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex." *See also Federalist* No. 51 (Madison).

It was in no sense a derogation on the concept of governance responsive to popular will that the Founding Fathers desired checks on the power of the Legislature they were creating. The Act of Parliament as well as those of the King formed the litany of grievances which produced the Revolution. The Founding Fathers believed in the voice of the people and their elected representatives and placed substantial power in the Legislature. At the same time, however, they were acutely sensitive to the rights of individuals and minorities. Most of them had first-hand experience with persecution. The idea of a written Constitution was precisely to place a check on the popular will and, in large part, to restrain the most powerful Branch. They crafted a representative republic with restraints on the legislature. "[A]n elective *despotism* was not the government we fought for . . . . "*Federalist* No. 48 (Madison), quoting Jefferson's *Notes on the State of Virginia* (emphasis in original).

The Supreme Court was viewed as a part of this restraint, but, nonetheless, inherently as the least dangerous Branch. Hamilton, in a famous passage from Federalist No. 78, eloquently testified to the inherent weakness of the Judicial Branch:

"Whoever attentively considers the different departments of power must perceive that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse but prescribes the rules by which the duties and rights or every citizen are to be regulated. The Judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments."

As a consequence of this view, Hamilton believed that it was necessary for the judiciary to remain "truly distinct from the Legislature and the Executive. For I agree that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers.' " Id., quoting Montesquieu's Spirit of Laws. Thus, he concluded: "The complete independence of the courts of justice is peculiarly essential in a limited Constitution." Id.

It was in recognition of the inherent weakness of the judiciary, particularly as contrasted with the inherent power of the legislature, that the Framers determined to give special protections to the judiciary not enjoyed by officials of the other Branches. Federal judges were given lifetime positions during good behavior, and were protected against diminution of salary while in office. The purpose of these provisions was largely to provide the judiciary, as the weakest Branch, with the necessary tools for self-protection against the encroachments of the other Branches.

The notion that the Exceptions Clause grants Congress plenary authority over the Supreme Court's appellate jurisdiction cannot easily be reconciled with these principles of separation of powers. If Congress had such authority, it could reduce the Supreme Court to a position of impotence in the tripartite constitutional scheme. The Court could be deprived of its ability to protect its core constitutional functions against the power of Congress. The salary and tenure protections so carefully crafted in Article III could be rendered virtually meaningless in light of the power of the Congress simply to eliminate appellate juridiction altogether, or in those areas where the Court's decisions displeasued the legislature. It is significant that while the Framers did not focus on the Exceptions Clause, they did point to the impeachment power as "a complete security" against risks of "a series of deliberate usurpations on the authority of the legislature." *Federalist* No. 81.

In light of these basic considerations, it seems unlikely that the Framers intended the Exceptions Clause to empower Congress to impair the Supreme Court's core functions in the constitutional scheme. Even if some of the Framers could have intended this, it is improbable that the Exceptions Clause could have been approved by the Convention without debate or controversy, or indeed without any explicit statement by anyone associated with the framing or ratification of the Constitution that such a deviation from the carefully crafted separation of powers mechanisms provided elsewhere in the Constitution was intended. Nor does it seem likely that the Convention would have developed the Exceptions Clause as a check on the Supreme Court in such a manner that an exercise of power under the Clause to remove Supreme court appellate jurisdiction would not return authority to Congress, but vest it in the state courts instead. Hamilton regarded even the possibility of multiple courts of final jurisdiction as unacceptable.

"The mere necessity of uniformity in the interpretation of the national laws, decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government, from which nothing but contradiction and confusion can proceed. *Federalist* No. 80."

Thus, unless there is sound and compelling evidence of a contrary interpretation in the decisions of the Supreme Court, or in the long-accepted historical, practices regarding congressional control of Supreme Court jurisdiction, it must be concluded that the Exceptions Clause does not authorize Congress to interfere with the Court's core functions in our constitutional system.

III.

An examination of the Supreme Court's cases does not require any different interpretation. The Supreme Court has provided only inconclusive guidance on the meaning of the Exceptions Clause. In *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816), the Court noted "the importance, and even the necessity of uniformity of decisions throughout the whole United States upon all subjects within the purview of the constitution." In the absence of the Supreme Court, Justice Story observed, "the laws, the treaties and the Constitution of the United States would be different, in different states . . . . The public mischiefs that would attend such a state of things would be truly deplorable; for it cannot be be-

[6] *Federalist* No. 47 (Madison).

lieved, that they could have escaped the enlightened convention which formed the Constitution . . . . [T]he appellate jurisdiction must continue to be the only adequate remedy for such evils." Similar statements are found in the opinions of Chief Justice Marshall, *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 415 (1821), and Chief Justice Taney, *Ableman* v. *Booth*, 62 U.S. (21 How.) 506, 517-18 (1858).[8] Although these cases do not squarely address the question whether Congress could constitutionally deprive the Court of its core functions, the Court's language seems strong enough to cast considerable doubt, at least by implication, on the power of Congress to eliminate Supreme Court jurisdiction over cases in which a final, uniform and supreme voice is necessary in the guise of creating "exceptions" to that jurisdiction. In the words of Chief Justice Taney, the exercise of such a power would withdraw authority which is "essential . . . to [the] very existence [of the Federal] government [and] essential to secure the independence and supremacy of [that] Government." *Id.*

The Supreme Court has, in a number of early cases, referred to the power of Congress over its appellate jurisdiction as being quite broad. For example, in *Barry* v. *Mercein*, 46 U.S. (5 How.) 103 (1847), the Court stated that "[i]f Congress has provided no rule to regulate our proceedings, we cannot exercise our appellate jurisdiction, and if the rule is provided, we cannot depart from it." *See also The "Francis Wright,"* 105 U.S. 381, 386 (1881); *Daniels* v. *Railroad Co.*, 70 U.S. (3 Wall.) 250, 254 (1865); *Durousseau* v. *United States*, 10 U.S. (6 Cranch) 307, 313-14 (1810); *United States* v. *More*, 7 U.S. (3 Cranch) 159 (1805); *Wiscart* v. *Dauchy*, 3 U.S. (3 Dall.) 321, 327 (1796). However, every one of these statements is *dicta;* the Court has never held that Congress has the power entirely to preclude the Court from exercising its core functions. It may also be doubted whether these broad statements are intended to cover cases in which such an extraordinary congressional power was exercised. They may instead be designed to recognize a broad power which, like the Commerce Clause, is limited by other provisions of the Constitution and by the structure of the document as a whole.

Proponents of the "plenty power" thesis rely most heavily on the only Supreme Court decision which could be characterized as upholding a power of Congress to divest the court of jurisdiction over a class of constitutional cases: *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1869). At issue in that case was the constitutionality of an 1868 statute repealing a provision enacted the previous year which had authorized appeals to the Supreme Court from denials of habeas corpus relief by a circuit court. In a brief opinion which did not discuss the scope or implications of the Exceptions Clause, the Court upheld Congress' withdrawal in 1868 of jurisdiction under the 1867 law, stating that "the power to make exceptions to the appellate jurisdiction of this court is given by express words." *Id.* at 514. Despite this broad language, the Court suggested that the withdrawal of jurisdiction provided by the 1867 law did not deprive the Court of jurisdiction over habeas corpus cases that had been conferred by § 14 of the Judiciary Act of 1789. "Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of habeas corpus, is denied. But this is an error." *Id.* at 515.

The Court's *Dictum* regarding alternative procedures for Supreme Court review of habeas corpus cases was converted into a holding several months later in *Ex Parte Yerger*, 75 U.S. (8 Wall.) 85 (1869). The petitioner in that case had invoked the Court's jurisdiction under the Judiciary Act of 1789. In holding that it had jurisdiction, the Court in *Yerger* made it clear that the 1868 legislation considered in *McCardle* was limited to appeals taken under the 1867 act and upheld the petitioner's right to Supreme Court review under the proper jurisdictional statute. The Court noted that the 1868 act did "not purport to touch the appellate jurisdiction conferred by the Constitution. . . ." *Id.* at 105. In doing so, the Court observed that any total restriction on the power to hear habeas corpus cases would "seriously hinder the establishment of that uniformity in deciding upon questions of personal rights which can only be attained through appellate jurisdiction. . . ." *Id.* at 103. Thus, within months of the *McCardle* decision, the Court made it clear that *McCardle* did not decide the question of Congress' Power to deprive it of all authority to hear constitutional claims in habeas corpus cases. For this reason, while the *Yerger* Court acknowledged that the Court's jurisdiction as given by the Constitution "is subject to exception and regulation by Congress," *id.* at 102, neither *McCardle*, nor *Yerger*, nor any other case, constitutes an authoritative statement that Congress could deprive the Court of its core functions.

IV.

Finally, the historical record regarding the authority actually asserted by Congress to control the Court's appellate jurisdiction supports, on balance, the construction that the Exceptions Clause does not authorize Congress to interfere with the Court's core functions. It is indeed true that Congress did not, in the First Judiciary Act explicitly authorize the Supreme Court to exercise the full range of appellate jurisdiction established by Article III. Perhaps the most prominent category of cases in which the Court was not granted statutory jurisdiction were federal criminal cases, which were not explicitly brought within the Court's appellate jurisdiction until 1889. Although Supreme Court review over these cases may have been available in special circumstances, it is probably true that most federal criminal cases were not reviewable by the Supreme Court during this period under the terms of the applicable legislation. The Judiciary Act also failed to grant the Supreme Court appellate jurisdiction over state court decisions striking down state laws as being inconsistent with the federal Constitution, or upholding federal statutes against constitutional attack.

The failure of Congress in the First Judiciary Act to provide the Court with the full appellate jurisdiction authorized under Article III does not undermine the conclusion that Congress cannot interfere with the Supreme Court's core functions, for several reasons. First, while Congress did omit certain specific categories of cases from the appellate jurisdiction provisions of the First Judiciary Act, it is noteworthy that the first Congress, containing among its members many delegates to the Constitutional Convention, recognized the Court's appellate jurisdiction over an extremely broad range of constitutional cases. Most significantly, the Court was given authority under § 25 of the Judiciary Act to review decisions of state courts striking down federal statutes or upholding state statutes against constitutional attack. That authority was conferred despite the intense controversy which it sparked among the states—controversy which resulted in state resistance to Supreme Court judgments and in attempts in Congress, foreshadowing the current attempts to limit the Court's jurisdiction, to repeal § 25 of the Judiciary Act. The fact that the Judiciary Act did not explicitly recognize jurisdiction over state court decisions upholding the validity of federal laws or striking down state laws, or over federal criminal cases, does not undercut the position that the Court cannot be divested of its ability to fulfill its essential responsibility under the Constitution. The supremacy of federal law, guaranteed by the Supreme Court, would not be seriously threatened by state court decisions upholding federal laws or striking down state laws on federal constitutional grounds.

Second, the history of Supreme Court appellate review has confirmed the importance of its core functions. To the extent that any inferences can be drawn from the failure of the First Judiciary Act explicitly to recognize the full range of the Supreme Court's appellate jurisdiction over constitutional cases, those inferences are subject to refutation by later events. The Supreme Court now has appellate jurisdiction over all federal cases. Each of the areas of incomplete jurisdiction has long since been fulfilled. The vast majority of constitutional decisions which are on the books today, and which affect our national life in many and important ways, have been rendered by the Court under a statutory regime which included such broad appellate jurisdiction. As Justice Frankfurter said in another context, "the content of the three authorities of government is not to be derived from an abstract analysis . . . . It is an inadmissibly narrow conception of American constitutional law to confine it to the words of the Constitution and to disregard the gloss which life has written upon them." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 610 (1952) (concurring opinion). The gloss which life has written on the Supreme Court's jurisdiction is one which protects the essential role of the Court in the constitutional plan.

As noted at the outset, Congress has substantial authority over the jurisdiction and power of the inferior federal courts. It also is given the power under Article III to regulate the Supreme Court's appellate jurisdiction in circumstances which do not threaten the core functions of the Court as an independent branch in our system of separation of powers. Congress may, for example, specify procedures for obtaining Supreme Court review and impose other restraints on the Court. But the question of the limits of Congress' authority under the Exceptions Clause is an extraordinarily difficult one. Thoughtful and respected authorities have come to conclusions which differ.

The legislative process itself is often important in assessing not only the meaning but also the constitutionality of Congressional enactments. The Court has stated that it must have "due regard to the fact that this Court is not exercising a primary judgment but is sitting in judgment upon those who also have taken the oath to observe the Constitution and who have the re-

[8] *Cf.* the famous statement of Justice Holmes: "I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that determination as to the laws of the several states." O.W. Homes, *Collected Legal Papers* 295 (1920).

sponsibility for carrying on government." *Rostker* v. *Goldberg*, 453 U.S. 57, 64 (1981).

If Congress considers the subject matter of S. 1742 it may wish to do so in light of the principles enunciated above and carefully weigh whether whatever action is taken would intrude upon the essential functions of the Supreme Court as an independent branch of government in our system of separation of powers. As the Court has stated, "The customary deference accorded the judgments of Congress is certainly appropriate when . . . . Congress specifically considered the question of the Act's constitutionality." *Id.* at 64.

Ultimately, it is for Congress to determine what laws to enact and for the Executive Branch to "take care that the Laws be faithfully excuted." It is settled practice that the Department of Justice must and will defend Acts of Congress except in the rare case when the statute either infringes on the constitutional power of the Executive or when prior precedent overwhelmingly indicates that the statute is invalid. Accordingly, should the Department be called upon to defend the constitutionality of this bill before the courts, it responsibly could and would do so.

It is appropriate to note, however, that even if it were concluded that legislation in this area could be enacted consistent with the Constitution, the Department would have concerns as a policy matter about the withdrawal of a class of cases from the appellate jurisdiction of the Supreme Court. History counsels against depriving that Court of its general appellate jurisdiction over federal questions. Proposals of this kind have been advanced periodically, but have not been adopted since the Civil War. There are sound reasons that explain why Congress has exercised restraint in this area and not tested the limits of constitutional authority under the Exceptions Clause.

The integrity of our system of federal law depends upon a single court of last resort having a final say on the resolution of federal questions. The ultimate result of depriving the Supreme Court of jurisdiction over a class of cases would be that federal law would vary in its impact among the inferior courts. State courts could reach disparate conclusions on identical questions of federal law, and the Supreme Court would not be able to resolve the inevitable conflicts. There would also exist no guarantee through Supreme Court review that state courts accord appropriate supremacy to federal law when it conflicts with state enactments.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

Mr. MOYNIHAN. Mr. President, having made the constitutional legal argument, the Attorney General turns in his concluding paragraphs to the question of the prudence and wisdom of what is involved. The Attorney General writes:

It is appropriate to note, however, that even if it were concluded that legislation in this area could be enacted consistent with the Consitution, the Department would have concerns as a policy matter about the withdrawal of a class of cases from the appellate jurisdiction of the Supreme Court. History counsels against depriving that Court of its general appellate jurisdiction over federal questions. Proposals of this kind have been advanced periodically, but have not been adopted since the Civil War. There are sound reasons that explain why Congress has exercised restraint in this area and not tested the limits of constitutional authority under the Exceptions Clause.

Mr. President, I conclude my remarks this afternoon by saying that that is a statement written in May by the Attorney General. Let me read a statement written in September of 1796 by the first President of the United States, or spoken by him, and, in the judgment of some, written by Hamilton.

We have the fine custom of reading Washington's Farewell Address in this Chamber on his birthday. In it is this passage—his counsel, his legacy, to us. He said:

It is important . . . that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

It seems to me that if we will not attend to the judgment of our Attorney General, let us at least hear the views of the first President of the United States in his farewell address.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from today's New York Times.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 20, 1982]

THE ISSUE IS COURT-STRIPPING

Last week a weary Senate finally tabled an anti-abortion rider to the vital debt ceiling bill. Today it decides whether to cut off debate on another legislative parasite on the same bill, a school prayer rider. This time the issue is far more than a politically sensitive "social issue." It is the structure of constitutional government. If a filibuster by a number of committed Senators is the only way to make that point clear to their colleagues, then the filibuster should continue.

Senator Jesse Helms, who sponsored the rider, believes the Supreme Court was wrong two decades ago in ruling that officially sponsored prayer violates the First Amendment. But his rider would strip all the Federal courts, including the Supreme Court, of the power to rule at all in prayer controversies.

Passage of such a measure would provoke a constitutional crisis. It would challenge the role of the Federal judiciary as interpreter of the Constitution—indeed, as a coequal branch of the Government.

The proper way to overcome a Supreme Court constitutional ruling is by amending the Constitution. That is the basis of Attorney General Smith's objection to legislative shortcuts. President Reagan showed similar awareness when he called for a vote this year on the school prayer constitutional amendment he has proposed.

For good reason, amending the Constitution is far more deliberate than passing a law. It requires a two-thirds vote of Congress and ratification by three-fourths of the states. The success of Mr. Helms' measure would mean that a simple majority in Congress could render the Constitution unenforceable in Federal courts—and subject to varying interpretations in state courts.

Let the debate continue until the entire Senate understands, and knows that the voters understand, that the issue is not prayer but court-stripping.

Mr. BAUCUS. Mr. President, I thank the senior Senator from New York for his continuing efforts to speak out on behalf of the Constitution. That may sound like an idle statement, but it surprises me that there are quite a number of Senators who, so far, are not going to protect the Constitution. It is necessary for some, including the Senator from New York—in his eloquent fashion—to state the importance of the Constitution—not only the importance of the Constitution but also the necessity of maintaining a strong Constitution if we are going to retain our present form of government.

Mr. President, last week I was referring to excerpts of a letter from the Attorney General of the United States, William French Smith, which he sent to the chairman of the Senate Judiciary Committee, the Senator from South Carolina (Mr. THURMOND), in May of this year. In that letter, the Attorney General, very cogently, very succintly, and very clearly explains why it would be a very serious strain to the Constitution if the U.S. Congress were to attempt to inhibit Supreme Court jurisdiction by statute.

I will now continue with a portion of that letter. When I last referred to that letter, the Attorney General was referring to portions of the Federalist Papers which point out the inherent weakness of the judiciary compared with the legislative and executive branches of Government. In making that point, the Attorney General argued that because of that inherent weakness, our Founding Fathers intentionally tried to shore up some protection of the Federal judiciary

against potential encroachments by the legislative or executive branches in order to maintain in our form of government three coequal branches of government—the judiciary, the legislative, and the executive.

I will now continue reading from that letter. This is a letter written by the Attorney General to the chairman of the Senate Judiciary Committee, Senator STROM THURMOND. I might add that the Attorney General is here referring to the Constitutional Convention.

Nor does it seem likely that the Convention would have developed the Exceptions Clause as a check on the Supreme Court in such a manner that an exercise of power under the Clause to remove Supreme Court appellate jurisdiction would not return authority to Congress, but vest it in the state courts instead. Hamilton regarded even the possibility of multiple courts of final jurisdiction as unacceptable.

"The mere necessity of uniformity in the interpretation of the national laws, decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government, from which nothing but contradiction and confusion can proceed." *Federalist* No. 80.

Mr. President, the point is that the Attorney General was pointing out that Alexander Hamilton and other Founding Fathers, in the Federalist Papers, point out the necessity of uniformity in interpretation of national laws and certainly uniformity of interpretation of Federal constitutional issues—free speech, freedom of assembly, the right against self-incrimination, and so forth—because we are one Nation, one Government; and when it comes to interpreting the Federal Constitution, as opposed to State constitutions, we do need uniformity in judgment, and the U.S. Supreme Court is the tribunal set up to maintain that uniformity of Government.

I add here, also, Mr. President, as I have stated many times before, if the Helms amendment is adopted, we would no longer have uniformity of interpretation of Federal constitutional issues. Rather, because the Supreme Court would not have jurisdiction, we would have 50 separate interpretations. Each in the various 50 States courts would then decide Federal constitutional questions, free speech, right against self-incrimination, right to bear arms, whatever. For any of the provisions of the U.S. Constitution there could be 50 separate decisions from 50 separate courts, It would be contradictory, confusing, and certainly our country would begin to disintegrate if that were the case.

Continuing now with the letter from Attorney General Smith.

Thus, unless there is sound and compelling evidence of a contrary interpretation in the decisions of the Supreme Court, or in the long-accepted historical practices regarding congressional control of Supreme Court jurisdiction, it must be concluded that the Exceptions Clause does not authorize Congress to interfere with the Court's core functions in our constitutional system.

III

An examination of the Supreme Court's cases does not require any different interpretation. The Supreme Court has provided only inconclusive guidance on the meaning of the Exceptions Clause. In *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816), the Court noted "the importance, and even the necessity of uniformity of decisions throughout the whole United States upon all subjects within the purview of the constitution." In the absence of the Supreme Court, Justice Story observed, "the laws, the treaties and the Constitution of the United States would be different, in different states. . . . The public mischiefs that would attend such a state of things would be truly deplorable; for it cannot be believed, that they could have escaped the enlightened convention which formed the Constitution . . . [T]he appellate jurisdiction must continue to be the only adequate remedy for such evils." Similar statements are found in the opinions of Chief Justice Marshall, *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 415 (1821), and Chief Justice Taney, *Ableman* v. *Booth*, 62 U.S. (21 How.) 506, 517-18 (1858). Although these cases do not squarely address the question whether Congress could constitutionally deprive the Court of its core functions, the Court's language seems strong enough to cast considerable doubt, at least by implication, on the power of Congress to eliminate Supreme Court jurisdiction over cases in which a final, uniform and supreme voice is necessary in the guise of creating "exceptions" to that jurisdiction. In the words of Chief Justice Taney, the exercise of such a power would withdraw authority which is "essential . . . to [the] very existence [of the Federal] government [and] essential to secure the independence and supremacy of [that] Government."

The Supreme Court has, in a number of early cases, referred to the power of Congress over its appellate jurisdiction as being quite broad. For example, in *Barry* v. *Mercein*, 46 U.S. (5 How.) 103 (1847), the Court stated that "[i]f Congress has provided no rule to regulate our proceedings, we cannot exercise our appellate jurisdiction, and if the rule is provided, we cannot depart from it." See also The *"Francis Wright,"* 105 U.S. 381, 386 (1881); *Daniels* v. *Railroad Co.*, 70 U.S. (3 Wall.) 250, 254 (1865); *Durousseau* v. *United States*, 10 U.S. (6 Cranch) 307, 313-14 (1810); *United States* v. *More*, 7 U.S. (3 Cranch) 159 (1805); *Wiscart* v. *Dauchy*, 3 U.S. (3 Dall.) 321, 327 (1796). However, every one of these statements is dicta; the Court has never held that Congress has the power entirely to preclude the Court from exercising its core functions. It may also be doubted whether these broad statements are intended to cover cases in which such an extraordinary congressional power was exercised. They may instead be designed to recognize a broad power which, like the Commerce Clause, is limited by other provisions of the Constitution and by the structure of the document as a whole.

If I might paraphrase that paragraph, Mr. President, the Attorney General is pointing out that the Supreme Court has never ever directly held that Congress can limit Supreme Court jurisdiction in this matter. There are some vague statements that it can limit some jurisidictions, but it is clear by reading of the Supreme Court cases, in addition to the interpretation of the Constitution itself, in addition to the record of the Constitutional Convention, that never was there any intention to give Congress the power to limit the core functions, that is, the essential nature of the Supreme Court, and to limit Supreme Court jurisdiction is certainly limiting the core function of the Court.

Continuing now with the letter of the Attorney General:

Proponents of the "plenary power" thesis rely most heavily on the only Supreme Court decision which could be characterized as upholding a power of Congress to divest the Court of jurisdiction over a class of constitutional cases: *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1869). At issue in that case was the constitutionality of an 1868 statute repealing a provision enacted the previous year which had authorized appeals to the Supreme Court from denials of habeas corpus relief by a circuit court. In a brief opinion which did not discuss the scope or implications of the Exceptions Clause, the Court upheld Congress' withdrawal in 1868 of jurisdiction under the 1867 law, stating that "the power to make exceptions to the appellate jurisdiction of this court is given by express words." Despite this broad language, the Court suggested that the withdrawal of jurisdiction provided by the 1867 law did not deprive the Court of jurisdiction over habeas corpus cases that had been conferred by § 14 of the Judiciary Act of 1789. "Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of habeas corpus, is denied. But this is an error."

The Court's dictum regarding alternative procedures for Supreme Court review of habeas corpus cases was converted into a holding several months later in *Ex parte Yerger*, 75 U.S. (8 Wall.) 85 (1869). The petitioner in that case had invoked the Court's jurisdiction under the Judiciary Act of 1789. In holding that it had jurisdiction, the Court in *Yerger* made it clear that the 1868 legislation considered in *McCardle* was limited to appeals taken under the 1867 act and upheld the petitioner's right to Supreme Court review under the proper jurisdictional statute. The Court noted that the 1868 act did "not purport to touch the appellate jurisdiction conferred by the Constitution. . . ." In doing so, the Court observed that any total restriction on the power to hear habeas corpus cases would "seriously hinder the establishment of that uniformity in deciding upon questions of personal rights which can only be attained through appellate jurisdiction. . . ." Thus, within months of the *McCardle* decision, the Court made it clear that *McCardle* did not decide the question of Congress' power to deprive it of all authority to hear constitutional claims in habeas corpus cases. For this reason, while the *Yerger* Court acknowledged that the Court's jurisdiction as given by the Constitution "is subject to exception and regulation by Congress," neither *McCardle*, nor *Yerger*, nor any other case, constitutes an authoritative statement that Congress could deprive the Court of its core functions.

Finally, the historical record regarding the authority actually asserted by Congress to control the Court's appellate jurisdiction supports, on balance, the construction that

the Exceptions Clause does not authorize Congress to interfere with the Court's core functions. It is indeed true that Congress did not, in the First Judiciary Act explicitly authorize the Supreme Court to exercise the full range of appellate jurisdiction established by Article III. Perhaps the most prominent category of cases in which the Court was not granted statutory jurisdiction were federal criminal cases, which were not explicitly brought within the Court's appellate jurisdiction until 1889. Although Supreme Court review over these cases may have been available in special circumstances, it is probably true that most federal criminal cases were not reviewable by the Supreme Court during this period under the terms of the applicable legislation. The Judiciary Act also failed to grant the Supreme Court appellate jurisdiction over state court decisions striking down state laws as being inconsistent with the federal Constitution, or upholding federal statutes against constitutional attack.

The failure of Congress in the First Judiciary Act to provide the Court with the full appellate jurisdiction authorized under Article III does not undermine the conclusion that Congress cannot interfere with the Supreme Court's core functions, for several reasons. First, while Congress did omit certain specific categories of cases from the appellate jurisdiction provisions of the First Judiciary Act, it is noteworthy that the first Congress, containing among its members many delegates to the Constitutional Convention, recognized the Court's appellate jurisdiction over an extremely broad range of constitutional cases. Most significantly, the Court was given authority under § 25 of the Judiciary Act to review decisions of state courts striking down federal statutes or upholding state statutes against constitutional attack. That authority was conferred despite the intense controversy which it sparked among the states—controversy which resulted in state resistance to Supreme Court judgments and in attempts in Congress, foreshadowing the current attempts to limit the Court's jurisdiction, to repeal § 25 of the Judiciary Act. The fact that the Judiciary Act did not explicitly recognize jurisdiction over state court decisions upholding the validity of federal laws or striking down state laws, or over federal criminal cases, does not undercut the position that the Court cannot be divested of its ability to fulfill its essential responsibility under the Constitution. The supremacy of federal law, guaranteed by the Supreme Court, would not be seriously threatened by state court decisions upholding federal laws or striking down state laws on federal constitutional grounds.

Second, the history of Supreme Court appellate review has confirmed the importance of its core functions. To the extent that any inferences can be drawn from the failure of the First Judiciary Act explicitly to recognize the full range of the Supreme Court's appellate jurisdiction over constitutional cases, those inferences are subject to refutation by later events. The Supreme Court now has appellate jurisdiction over all federal cases. Each of the areas of incomplete jurisdiction has long since been fulfilled. The vast majority of constitutional decisions which are on the books today, and which affect our national life in many and important ways, have been rendered by the Court under a statutory regime which included such broad appellate jurisdiction. As Justice Frankfurter said in another context, "the content of the three authorities of government is not to be derived from an abstract analysis . . . It is an inadmissibly narrow conception of American constitutional law to confine it to the words of the Constitution and to disregard the gloss which life has written upon them." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 610 (1952) (concurring opinion). The gloss which life has written on the Supreme Court's jurisdiction is one which protests the essential role of the Court in the constitutional plan.

V.

As noted at the outset, Congress has substantial authority over the jurisdiction and power of the inferior federal courts. It also is given the power under Article III to regulate the Supreme Court's appellate jurisdiction in circumstances which do not threaten the core functions of the Court as an independent branch in our system of separation of powers. Congress may, for example, specify procedures for obtaining Supreme Court review and impose other restraints on the Court. But the question of the limits of Congress' authority under the Exceptions Clause is an extraordinarily difficult one. Thoughtful and respected authorities have come to conclusions which differ.

The legislative process itself is often important in assessing not only the meaning but also the constitutionality of Congressional enactments. The Court has stated that it must have "due regard to the fact that this court is not exercising a primary judgment but is sitting in judgement upon those who also have taken the oath to observe the Constitution and who have the responsibility for carrying on government." *Rostker* v. *Goldberg*, 453 U.S. 57, 64 (1981).

If Congress considers the subject matter of S. 1742 it may wish to do so in light of the principles enunciated above and carefully weigh whether whatever action is taken would intrude upon the essential functions of the Supreme Court as an independent branch of government in our system of separation of powers. As the Court has stated, "The customary deference accorded the judgments of Congress is certainly appropriate when . . . . Congress specifically considered the question of the Act's constitutionality." Id. at 64.

Ultimately, it is for Congress to determine what laws to enact and for the Executive Branch to "take care that the Laws be faithfully executed." It is settled practice that the Department of Justice must and will defend Acts of Congress except in the rare case when the statute either infringes on the constitutional power of the Executive or when prior precedent overwhelmingly indicates that the statute is invalid. Accordingly, should the Department be called upon to defend the constitutionality of this bill before the courts, it responsibly could and would do so.

It is appropriate to note, however, that even if it were concluded that legislation in this area could be enacted consistent with the Constitution, the Department would have concerns as a policy matter about the withdrawal of a class of cases from the appellate jurisdiction of the Supreme Court. History counsels against depriving that Court of its general appellate jurisdiction over federal questions. Proposal of this kind have been advanced periodically, but have not been adopted since the Civil War. There are sound reasons that explain why Congress has exercised restraint in this area and not tested the limits of constitutional authority under the Exceptions Clause.

The integrity of our system of federal law depends upon a single court of last resort having a final say on the resolution of federal questions. The ultimate result of depriving the Supreme Court of jurisdiction over a class of cases would be that federal law would vary in its impact among the inferior courts. State courts could reach disparate conclusions on identical questions of federal law, and the Supreme Court would not be able to resolve the inevitable conflicts. There would also exist no guarantee through Supreme Court review that state courts accord appropriate supremacy to federal law when it conflicts with state enactments.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

(Mr. ABDNOR assumed the chair.)

Mr. BAUCUS. Mr. President, in the last several days I have referred to that letter, the letter from William French Smith, the Attorney General, to the chairman of the Judiciary Committee, STROM THURMOND, and I referred to that letter for two basic reasons: First of all, it is a letter from the Attorney General, the chief law enforcement officer of the United States. He is a person to whom we should listen. He is charged with upholding the Constitution of the United States.

The second reason is that in that letter the Attorney General points out very succinctly, very cogently, and very eloquently, the need to maintain the strong third branch of government, a strong Federal judiciary, and the inadvisability, that is, the lack of wisdom, of limiting in any significant way the core function, the basic function, the essential function of the U.S. Supreme Court.

That letter goes on to point out that the pending underlying amendment, the Helms amendment, which limits Supreme Court jurisdiction, would be such an effort, such an attempt, which would begin to limit the underlying core essential functions of the Supreme Court and, therefore, seriously undermine and jeopardize not only the Supreme Court, but all of the various provisions of our Constitution which give Americans and confer upon Americans basic individual rights such as freedom of the press, freedom of assembly, freedom of religion, and free speech, to say nothing of all the other provisions in the Bill of Rights and other portions of the Constitution.

I commend that letter, the letter of our Attorney General, William French Smith, to each Member of the Senate and to the press because that letter, I think, is probably one of the best statements that points out some of the deepest concerns that this underlying amendment would cause in our form of government if it is enacted.

Mr. President, let me just briefly recap where we are. I am speaking now in support of the pending amendment but actually, Mr. President, the main point of my taking the floor is to

speak in opposition to the underlying Helms amendment.

I sincerely hope we are here today making some progress in explaining to our colleagues and to American citizens and to the press what the real issue is before us.

The national press tends to continue to describe the ongoing dialog in today's procedural vote as involving school prayer. But, Mr. President, this ongoing debate is about court stripping. Today's procedural vote, the last vote we took on cloture, I think is about court stripping and I am here today because I am concerned about court stripping.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Montana may yield to me without losing his right to the floor and without an interruption showing and not counting as a second speech for this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, under those provisions, I gladly yield to the majority leader.

CLOTURE MOTION

(The following proceedings occurred during Mr. BAUCUS' remarks and are printed at this point by unanimous consent:)

Mr. BAKER. Mr. President, I send a cloture motion to the desk and ask that it be reported.

The PRESIDING OFFICER. (Mr. HAYAKAWA). The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steve Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard Baker.

ORDER FOR CLOTURE VOTE AT 2:30 P.M. TOMORROW

Mr. BAKER. Mr. President, I understand that we have cleared a mutually satisfactory time on both sides of the aisle for the cloture vote to occur tomorrow. If the minority leader is agreeable, I will put that request at this time.

Mr. President, I ask unanimous consent, notwithstanding the provisions of rule XXII, at 2:30 p.m. tomorrow, without the intervention of the mandatory quorum required by the rule, that the Senate proceed to vote on cloture pursuant to the motion filed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am prepared to ask the Senate to go into a period for the transaction of routine morning business, unless the Senator from Montana wishes to defer that for the moment.

Mr. BAUCUS. Mr. President, I am sure the majority leader has important business to transact and probably more important to many, particularly the majority leader, than the pending business. I gladly yield to the majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

REQUEST FOR RECOGNITION TOMORROW

Mr. BAUCUS. Mr. President, would it be appropriate for the majority leader to again request, as he has in days past, for the Senator from Montana to have the first right to be recognized when we return to the debt limit bill?

Mr. BAKER. Mr. President, let me try to do that tomorrow, if I may. I have not cleared that. I will ask my cloakroom to try to do that while we are proceeding in morning business with some other routine matters.

Mr. BAUCUS. I thank the majority leader.

ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Mr. President, it is my understanding that tomorrow the House of Representatives will hold a hearing on proposed legislation dealing with the railroad strike to begin at 9:30 a.m. It is also my information that there will be a separate Senate hearing on that subject at 10 a.m.

Mr. President, I think it is unlikely that we will be asked to turn to the consideration of a message from the House on this subject or a bill from our own committee on this subject during the morning hours. But, just to make provisions for it in case we do, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CHILES TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order, the distinguished Senator from Florida (Mr. CHILES) be recognized on a special order of not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF PROBABLE RECESS TOMORROW FROM 12 NOON UNTIL 2 P.M.

Mr. BAKER. Mr. President, there will probably be a period for the transaction of routine morning business tomorrow. I will not make that request at this time, but I anticipate such request may be made after the Senate convenes on Tuesday.

Mr. President, since it is Tuesday and since caucuses will be conducted on both sides of the aisle during the hours of 12 noon and 2 p.m., I expect that the Senate will recess during that time but, once again, I will forbear to make that request this evening so that the Senate may have an ample opportunity to deal with any legislation that may come before it dealing with the railroad strike situation. But Senators should be on notice that, absent such a requirement, the Senate will be asked to stand in recess from 12 noon until 2 p.m. tomorrow.

Mr. President, I have three matters that appear to be cleared for action by unanimous consent at this time. I ask the minority leader if he is in a position to consider first H.R. 5288 for action.

Mr. ROBERT C. BYRD. Mr. President, the bill, H.R. 5288, has been cleared on this side.

Mr. BAKER. I thank the Senator.

COMPACT BETWEEN THE STATES OF NEW HAMPSHIRE AND VERMONT CONCERNING SOLID WASTE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5288.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5288) granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was read a second time by title.

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. STAFFORD. Mr. President, on August 19, H.R. 5288 was ordered held at the desk. I would like to ask unanimous consent that the bill be called up and acted on by the Senate at this time.

H.R. 5288 grants congressional consent to the States of Vermont and New Hampshire to enter into cooperative agreements to construct and operate facilities for processing solid waste.

On December 4, 1981, I introduced S. 1915 for myself and Senators LEAHY, HUMPHREY, and RUDMAN. That bill, which is the Senate companion to H.R. 5288, was referred to the Judiciary Committee. I have consulted with the chairman and ranking member of that committee and have received assurances that they have no objection to the Senate's taking up H.R. 5288.

The Environmental Protection Agency, which under the terms of the Resource Conservation and Recovery Act must review and approve proposed interstate compacts, supports congressional approval of the bill.

Mr. President, I urge my colleagues to pass H.R. 5288.●

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I am prepared to consider H.R. 4441 if the minority leader is in a position to do so.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to consider H.R. 4441.

Mr. BAKER. I thank the minority leader.

FEES OF THE COPYRIGHT OFFICE

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4441.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 4441) entitled "An Act to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BAKER. Mr. President, I move that the Senate agree to the request from the House requesting a conference and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. ABDNOR) appointed Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. DECONCINI, and Mr. ZORINSKY.

Mr. BAKER. Mr. President, I would now inquire of the minority leader if he is in a position to consider a conference report on H.R. 6133 to the Endangered Species Act.

Mr. ROBERT C. BYRD. Mr. President, this side of the aisle is ready to proceed.

Mr. BAKER. I thank the Senator.

ENDANGERED SPECIES ACT AMENDMENTS — CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 6133 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6133) to amend the Endangered Species Act of 1973, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report was printed in the House proceedings of the RECORD of September 17, on pages 24148 to 24158.)

Mr. CHAFEE. Mr. President, I am pleased to report that the conferees on the bill (H.R. 6133) to amend the Endangered Species Act and to extend the authorization of appropriations for the act have completed their work and agreed on a substitute.

The House and Senate positions and bills (H.R. 6122, S. 2309) have been very close from the start. Information, goals, and philosophy were shared by the two authorizing committees throughout this year's reauthorization process. The House and Senate addressed virtually identical issues in their respective bills and the treatment of those issues differed more in style than in substance.

On June 8, the House unanimously approved H.R. 6133. On June 9, the Senate unanimously approved S. 2309. Today, we have the opportunity to reaffirm our steadfast commitment to this important environmental program and I urge my colleagues to join me in a vote to approve the conference report.

For informational purposes, I will review the various provisions contained in the Senate bill (S. 2309) and state which provisions of the conference substitute address the same issues:

Short title—Sec. 1 of S. 2309 and conference substitute;

Experimental populations—Sec. 2 of S. 2309 and Sec. 6 of conference substitute;

Cooperation with the states—Sec. 3 of S. 2309 and conference substitute;

Listing process—Sec. 4 of S. 2309 and Sec. 2 of conference substitute;

Exemption process—Sec. 5 of S. 2309 and Sec. 4 of conference substitute;

Consultation process—Sec. 6 of S. 2309 and Sec. 4 of conference substitute;

Relationship of Sec. 7 and 9 of Act—Sec. 7 of S. 2309 and Sec. 4 of conference substitute;

Convention implementation—Sec. 8 of S. 2309 and Sec. 5 of conference substitute;

Enforcement—Sec. 9 of S. 2309 and Sec. 7 of conference substitute;

Miscellaneous—Sec. 10 of S. 2309 and Sec. 9 of conference substitute;

Removal of plants—Sec. 11 of S. 2309 and Sec. 9 of conference substitute; and

Authorization of appropriations—Sec. 12 of S. 2309 and Sec. 8 of conference substitute.

Mr. President, on June 9, 1982, I submitted for the record an excerpt from an article by David Quammen entitled, "Jeremy Bentham, the Pieta, and a Precious Few Grayling." That article notes the limitations of a utilitarian approach to legislation such as the Endangered Species Act and suggests a compelling, alternative argument. I urge all who are interested in this issue to read that article and to seriously consider the arguments presented by Mr. Quammen.

At this time, Mr. President, I want to thank my colleagues in the Senate for their support of this legislation and my fellow conferees, Senators STAFFORD, RANDOLPH, GORTON, and MITCHELL for their assistance throughout this year's reauthorization process. The dedication and hard work of Congressmen BREAUX, FORSYTHE, and JONES should also be noted and I wish to thank them for their efforts. It has been a pleasure working with them on this bill.

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. STAFFORD. Mr. President, the Endangered Species Act is one of our most important environmental laws. It has set the example for State laws, and for those of other nations as well. We can well be proud of the program it created, and of our national leadership in the field of wildlife conservation.

Today the Senate will take up the conference report on H.R. 6133, the final version of our bill to reauthorize appropriations for the Endangered Species Act program. It is my pleasure

to support the bill reported by the conference committee.

This bill combines the House and Senate bills, retaining the best features of each. It strengthens several provisions of the act, makes modifications to improve its administration, and extends for 3 years the authorization of appropriations for the endangered species program.

Not since 1973 has the Endangered Species Act been examined so carefully and thoughtfully. Throughout this year's reauthorization process, the discussion has been factual and specific. At the conclusion of the process, I am not surprised that the decision of both the House and the Senate has been that only minor changes in the act were needed.

Mr. President, the principal authors of the Senate bill, Senators CHAFEE, MITCHELL, and GORTON, deserve special credit for the success of this legislation. They have worked long and effectively to consider the issues raised fairly and rationally. I am glad to join in their expression that the tools needed to make the endangered species program work smoothly and efficiently were either in the act before, or have been added by these amendments. It will now be the responsibility of the administration and the public to use these tools wisely for the benefit of us all.

I urge my colleagues to unanimously approve the conference report, just as they unanimously approved the Senate bill, S. 2309, on June 9, 1982.●

Mr. GORTON. Mr. President, I am proud today to stand up for the endangered species conference report, and to urge that my colleagues join me in enthusiastically supporting it.

The Endangered Species Act is a landmark piece of environmental legislation. Its passage established the United States as a world leader in the international effort to rescue hundreds of invaluable forms of plant and animal life from the threat of extinction. In the 10 years since passage of the act, the protections it provides have become even more urgently needed, for as many as one to three species a day are becoming extinct, and the Council on Environmental Quality has suggested that as many as a million additional species—15 to 20 percent of all species on earth—may become extinct by the year 2000. The measurement of such a loss would be impossible. Some have suggested that we should not permit the disappearance of other species on moral and aesthetic grounds. Although my own State, Washington, would sorely miss the beauty of the peregrine falcon and the awesome spectacle of the black bear, there are other reasons as well for which we should strive to preserve genetic diversity.

Scientists tell us that the potential use of genetic material is virtually unlimited. Today, nearly 40 percent of the world's medicines contain as their chief ingredients compounds derived from plants. The preservation of species also means the preservation of the potential for gene transfer, with important implications for agricultural application.

We cannot afford to close these opportunities to ourselves or to future generations. It is our responsibility to see that the hope which genetic diversity offers in the fields of medicine and agriculture, as well as the aesthetic beauty and enrichment of the world which the many species that inhabit it offer us, are preserved for the future.

Mr. President, I believe that the endangered species conference report is a sound bill, which will enhance the workability and predictability of the Endangered Species Act, while at the same time demonstrating to the Nation and to the world that this Congress is committed to one of our most farsighted environmental laws. I am pleased and proud to have been a part of this effort since the reauthorization bill was first introduced, and to have had an opportunity to join my colleagues Senator CHAFEE and Senator MITCHELL, as well as all the other cosponsors of the reauthorization bill, in this historic effort.

Mr. RANDOLPH. Mr. President, the Senate is considering the conference report for S. 2309, to reauthorize appropriations for one of this countries landmark conservation laws, the Endangered Species Act. I am a cosponsor of this legislation and strongly support its approval by the Senate.

The State of West Virginia is blessed with an abundance of natural resources. Our lakes and streams, forests, and wildlife, are loved and enjoyed not only by West Virginians, but by many visitors to the State who are drawn to its great beauty. West Virginians understand the importance of the conservation and sound stewardship of our State's natural resources. They have let me know that the Endangered Species Act reflects their commitment to protecting and preserving wildlife and plants for the benefit and enjoyment of future generations.

The conference report we are considering maintains this commitment. It would reauthorize appropriations for the act at current levels for 3 years. It incorporates the thoughtful suggestions received during hearings on the act for making it stronger and more workable. It retains those provisions in the measure which was unanimously adopted by the Senate. It once again deserves the strong support of the Senate.

In closing, I would recognize and thank Senator STAFFORD, chairman of the Committee on Environment and Public Works, and Senator CHAFEE, chairman of the Subcommittee on Environmental Pollution, for their leadership in reauthorizing a strong and workable act. The hard work of Senator MITCHELL and Senator GORTON should also be recognized as instrumental in retaining the integrity of the act.

Mr. MITCHELL. Mr. President, the Senate is presently considering the conference report to H.R. 6133, legislation to reauthorize appropriations for the Endangered Species Act. I am a cosponsor of this bill in the Senate (S. 2309) which, with minor revisions, is reflected in the conference report. Both the bill and the conference report maintain the integrity and strength of the Endangered Species Act, and I urge my colleagues to give the measure their favorable consideration.

The Endangered Species Act, as revised and strengthened in 1973, is one of the world's strongest laws for protecting and conserving plants and wildlife. It has made this Nation a leader in the preservation of endangered and threatened species. The Endangered Species Act Amendments of 1982 continue to recognize, nearly 10 years later, the importance of insuring that no species becomes lost forever. The conference report that is before us should not, and I believe does not, detract from this commitment to help save wildlife that is on the brink of extinction.

During consideration of this measure the Committee on Environment and Public Works received constructive proposals from a variety of environmental and scientific organizations, as well as representatives from State and Federal agencies and industry. Many of these thoughful suggestions have been adopted in the amendments presently before us and will enhance the strength of the act by making it more workable. These amendments will encourage the listing of species that are endangered or threatened, and the establishment of new or experimental populations of endangered species. They will streamline the section 7 exemption process and eliminate the statutory conflict between sections 7 and 9 of the act. They will also provide additional protection for plants on Federal lands. Unfair references to sporting activities as a cause of endangered species will be eliminated. I am satisfied that all of these provisions make the act more sensible and workable in its application while continuing its primary purpose, strong protection for endangered species. I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNITION OF SENATOR BAUCUS TOMORROW

Mr. BAKER. Mr. President, I have been advised that the request of the Senator from Montana does not meet with any objection on this side. If there is no objection from the minority leader, I now ask unanimous consent that when the Senate resumes consideration of the debt limit bill, the Senator from Montana be first recognized to continue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I thank the majority leader.

RECORD OPEN UNTIL 5:30 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open today until the hour of 5:30 p.m. for the introduction of bills, resolutions, and so forth, and for the insertion of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there is one item on today's Executive Calendar together with nominations placed on the Secretary's desk which have been cleared on this side. Can I inquire of the minority leader if he has cleared those items on his side of the aisle?

Mr. ROBERT C. BYRD. They have been cleared, Mr. President.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination appearing under the Communications Satellite Corporation, item No. 944, through nominations placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS SATELLITE CORPORATION

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The assistant legislative clerk proceeded to read sundry nominations in the Coast Guard.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations placed on the Secretary's desk in the Coast Guard be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

Coast Guard nominations beginning Timothy P. Powers, and ending William A. Henrickson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1982.

Coast Guard nominations beginning Robert B. Jordan, and ending Stephen W. Price, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. Byrd. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER, Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DESPICABLE MASSACRE AT SHATILA AND SABRA CAMPS IN BEIRUT

Mr. LEVIN. Mr. President, all Americans are hoping that the perpetrators of the despicable massacre at Shatila and Sabra camps in Beirut will be brought to justice. While it does not appear that Israeli soldiers participated in the slaughter, if they were aware of the nature of the murderous acts intended, and permitted them to take place or if they did not act promptly to stop those acts once their character became known, then those soldiers must be held accountable for their actions or inactions also.

The tragic events of this weekend demonstrate again the need for the Lebanese central Government and Army to control their own capital and country. All foreign forces should promptly leave Lebanon.

FATHER EDICIO DE LA TORRE

Mr. LEVIN. Mr. President, Friday, the Senate Foreign Relations Committee hosted a reception for President Marcos of the Philippines who is currently in the United States on a 5-day state visit.

At the reception, I raised the case of Father Edicio de la Torre, a personal acquaintance, who is currently being held in jail in the Philippines. I asked President Marcos if Father de la Torre would receive a speedy civilian trial and he responded with an unqualified, "Yes."

Father de la Torre was arrested on April 22, 1982, on charges of subversion. He received a hearing on his habeus corpus petition, but no decision has been reached by the court on it. Meanwhile, he remains in jail with no prospect of a trial anytime in the near future.

Many of my colleagues share my concern for Father de la Torre's welfare, and hope he will receive a civilian trial expeditiously. I, along with many others, will continue to follow his case closely.

THE CURRENT 5-YEAR DEFENSE PROGRAM

Mr. LEVIN. Mr. President, on Wednesday, September 15, I had the opportunity to participate in a congressional briefing conference sponsored by the Office of Personnel Management for approximately 40 senior civil service executives from the Army's Material Development and Readiness Command. My remarks to the group concerned the level of defense spending proposed in the current 5-year defense program, and the potentially negative effects on our combat readiness that will result from the current 5-year defense program if the Congress does not reorder the priorities within the administration's defense budget, beginning this year.

As the Congress gets ready to turn its attention to the fiscal year 1983 defense appropriations bill, I would like to share with my colleagues my thoughts on this subject.

I ask unanimous consent that the full text of my remarks at the recent congressional conference be printed at the appropriate place in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR CARL LEVIN BEFORE SENIOR EXECUTIVES OF THE ARMY'S MATERIEL DEVELOPMENT AND READINESS COMMAND (DARCOM),

As I was gathering material for my remarks this afternoon, I was looking over a summary of what exactly DARCOM does, and I was impressed by how broad your mission is. You are involved in research and development, in procurement and production, in training for new systems, in logistics management, and in depot maintenance—in fact, in almost every aspect of materiel development and combat readiness. Since your mission is so broad, I think you are in a unique position to appreciate the changes that are being proposed in this country's defense spending.

These changes will have a significant impact in each of the areas of DARCOM's mission. I am concerned that many of them could be negative, with the end result that we will be weaker, not stronger, at the end of the proposed five year defense program.

OVERALL LEVEL OF DEFENSE SPENDING

The first concern a growing number of us in Congress have with President Reagan's defense program is the level of defense spending that he has proposed for the next five years.

There is a consensus in this country that we need to improve our national defense through prudent, sustained increases in defense spending, but this consensus is breaking down as a result of the defense proposals of the administration. In the face of enormous, staggering deficits facing the economy—$109 billion in fiscal year 1982 and over $150 billion in fiscal year 1983—this administration continues to press for unprecedented increases in defense spending.

The fiscal year 1983 defense budget request represented 13 percent real growth in defense budget authority over fiscal year 1982. This level of defense spending is higher in real terms than in any year since fiscal year 1952—the height of the Korean war. At the same time we are being asked to support record levels of defense spending, we are drastically reducing expenditures for domestic programs.

We need to reduce government spending, but we need to do it in a balanced manner. The drastic reductions in domestic programs make the defense budget a logical target for people's frustrations. We are already seeing a growing backlash against defense spending and an evaporation of the consensus to improve our national defense.

Murray Weidenbaum, who resigned last month as Chairman of the President's Council of Economic Advisers, pointed out in an interview after his resignation that President Reagan's insistence on record levels of defense spending have defeated his efforts to control government spending and have contributed to the "horrendous deficits" now facing the country.

Budget Office officials estimate Congress has cut about $46 billion in non-defense spending in fiscal year 1982 and 1983 combined. During the same period, the administration is predicting defense spending to rise by nearly $45 billion. As Murray Weidenbaum pointed out: "We have shifted priorities * * * We have cut non-defense spending substantially but for the first two years have we on balance cut the budget? No, it is a wash."

OVEREMPHASIS ON BIG-TICKET PROCUREMENT PROGRAMS WILL UNDERMINE READINESS

The second thing that concerns me about the administration's defense program is the commitment we are being asked to make this year to big-ticket procurement programs—the MX, the B-1, two nuclear carriers—of enormous cost and very dubious value. If Congress approves these programs this year as requested by the administration, the ultimate loser, and it is going to be sooner rather than later, will be our soldier's combat readiness. To illustrate this point, I brought along two charts this afternoon that I have been using this year. To simplify matters, I am using the procurement accounts as an indicator of our modernization efforts and the O&M accounts as an indicator of our readiness efforts in these charts.

The first chart compares the relative percentage of procurement and O&M funding within the total defense budget for fiscal year 1974 through fiscal year 1986.

You can see that from fiscal year 1974 to fiscal year 1982, O&M represented a larger percentage of the defense budget than did the procurement accounts. Beginning in fiscal year 1983, however, procurement passes O&M as a percentage of the defense budget and the gap continues to widen in favor of procurement through fiscal year 1986.

CHART NO. 1.—PROCUREMENT AND OPERATIONS AND MAINTENANCE (O&M) FUNDING IN CONSTANT FISCAL YEAR 1983

[Dollars in billions and as percent of annual Defense budget (TOA)]

	Fiscal years—												
	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
O&M	$51.2	$51.5	$52.3	$53.6	$53.9	$54.4	$57.6	$61.5	$66.3	$70.4	$71.6	$77.5	$82.8
Percent total DOD budget	30.2	31.1	30.5	29.8	30.1	30.5	31.6	30.4	29.1	27.3	26.5	26.0	26.4
Procurement	$36.3	$33.5	$38.0	$44.9	$45.2	$42.8	$44.1	$54.8	$69.8	$89.6	$95.8	$111.2	$119.5
Percent total DOD budget	21.4	20.2	22.1	25.0	25.2	24.0	24.2	27.1	30.6	34.7	35.5	37.4	38.0

You are probably saying to yourself that this trend doesn't necessarily mean that O&M and readiness are getting shortchanged. It just shows that the defense budget is getting bigger, and within the defense budget procurement is getting a lot bigger. O&M could still be adequately funded.

But the fact is that the Preparedness Subcommittee of the Armed Services Subcommittee received testimony that even in fiscal year 1983 the O&M accounts are beginning to lose out to the procurement accounts in the internal battles for resources. General Welch, the Army's Director of Supply, Maintenance and Transportation, testified before the Prepardness Subcommittee earlier this year that the Army's maintenance support activities in fiscal year 1983 were short 2,500 civilian personnel and were underfunded by $251 million. My amendment in the Senate added $62 million to the fiscal year 1983 O&M authorization request in this area, but the final conference agreement added only $40 million. We are also seeing reports that the Navy is having to cancel all but the most critical steaming time for its ships because of the shortage of operating funds. And the much-publicized elimination of depot maintenance backlogs that was supposed to come about with the fiscal year 1983 budget is certainly not going to take place in fiscal year 1983, and unless we change our priorities, it is not likely to take place in the next five years. Senator Stennis, who was chairman of the Senate Armed Services Committee for 12 years, summed up perfectly the situation we are facing in one of our hearings on the Army's fiscal year 1983 O&M authorization when he said "Procurement is robbing the cost of our daily operations."

But let me turn to the second chart to make another point. This second chart compares the composition of defense outlays from current and prior-year appropriations in each fiscal year from 1981 through 1987. The top line of the chart shows the percentage of defense outlays from current year appropriations, and the bottom line shows the percentage from prior year appropriations. The trend is rather dramatic. In fiscal year 1981, 72 percent of defense outlays were from current-year appropriations, while 28 percent were from prior-year appropriations. By fiscal year 1987, 59 percent of defense outlays will be from current-year appropriations and 41 percent will be from prior-year appropriations.

This chart tells us three things. First, the composition of the administration's defense program with its heavy emphasis on big-ticket procurement items will result in a significant reduction in the percentage of defense outlays that are controllable in the year of appropriation.

Second, from fiscal year 1981 to fiscal year 1987, the percentage of outlays resulting from prior-year appropriations, that is, the outlays that are essentially uncontrollable in the year of appropriation, will have increased by almost 50 percent.

COMPARISON OF THE PERCENTAGE OF DEFENSE OUTLAYS FROM CURRENT AND PRIOR YEAR APPROPRIATIONS FISCAL YEARS 1981–87

Fiscal year	Percent of total defense outlays from—	
	Current year appropriations	Prior year appropriations
1981	72	28
1982	70	30
1983	68	32
1984	65	35
1985	63	37
1986	61	39
1987	59	41

But the most important point is that this shift in outlay patterns is going to require that any future restraint in the level of defense expenditures is going to be even more directed against readiness and sustainability programs funded in the O&M accounts

than have previous defense budget cuts because neither the Defense Department nor the Congress is likely to terminate the B-1 program or the two nuclear carriers once these programs are started.

This last point really brings me to the main point I want to leave you with. Defense spending in fiscal year 1983 and beyond is going to have to be restrained below what the President has asked for. We in the Congress and you in the executive branch need to make sure that the reductions in the increases in defense spending proposed by the administration aren't made by short-changing O&M and readiness.

We can do this by eliminating from the five-year plan some of the big-ticket procurement items that consume scarce defense dollars far out of proportion to any contribution they make to our military capabilities.

We need to modernize the air-breathing leg of the Triad, but we don't need to develop two new airplanes to do it. We should scrap the B-1 and focus on the Stealth bomber. Through fiscal year 1987, the administration plans to spend over $27 billion on the B-1 program. That's a lot of money to fill a short gap from the IOC of the B-1 to the IOC of the Stealth bomber.

There is no justification for spending one dime on procurement of the MX missile before we decide how and where we are going to base it.

For the last several years, we heard that the Navy needed 13 carrier platforms to carry us into the next century. Now, suddenly we are not only told that number is 15 but that if we buy two nuclear carriers this year we can save $754 million. Especially when their support ships are factored into the equation, nuclear carriers remain an unsound investment in terms of improving the overall combat effectiveness of the entire Navy.

WHAT WE SHOULD DO INSTEAD

I want to emphasize that many of us, Republicans and Democrats, who are criticizing the administration's defense program are not seeking to cut the defense budget in real terms. Instead, we are trying to do two things.

First, we are trying to restrain the growth in defense spending to a more reasonable, sustainable level. There is no question that the Soviet threat has been growing and that it must be faced by improving the military capabilities of the United States and our allies. However, excessive focus on this threat obscures a second threat that is also facing us—the economic threat posed by a stagnant, deficit-starved economy in the throes of the worst recession since 1929.

Some of you may have been to the tank-automotive command in Warren, Michigan recently. I don't have to tell you what this recession has done to the economy and people of the State I represent.

We can have growth in our military strength and in the defense budget while at the same time letting defense make its fair contribution toward lowering the staggering deficits we are facing. Permitting 3 percent real growth in the defense budget in fiscal year 1983 is certainly a respectable figure during our current economic problems. This level not only would keep our commitments to our NATO allies (although many of them are failing to keep theirs) but it would also reduce the fiscal year 1983 defense budget by almost $25 billion in budget authority and $7-$8 billion in outlays.

The second thing we should try to do is to reorder the priorities within the administration's current defense program to better address our true military needs. These needs are much greater, for example, in our conventional forces arena, especially in the Rapid Deployment Force, than in the strategic nuclear sphere. If we don't eliminate from this year's budget the big-ticket, gold-plated procurement items that we don't really need and we can't afford, then when the inevitable crunch to reduce defense spending comes, either next year or the year after, it is the readiness of our troops that is going to suffer.

U.S. News & World Report said in an article last week that "among many Pentagon professionals the fear is that as the scramble for defense dollars heats up what will be hit hardest will be funds for beans, bullets, training, and other items that are unglamorous but vital in wartime—in short, combat readiness."

Maybe some of you are the anonymous "Pentagon professionals" quoted in this article. I hope so. If you weren't, I hope my remarks this afternoon will help you support these arguments when you get back to your offices later this week.

CONCLUSION

Modernization is one of the keys to maintaining our military capability. Of all the services, I think the need for modernization is greatest in the Army, because it has been delayed the longest.

But we all learned—at least I thought we all learned—in the late 1970's the problems we create by underfunding the O&M and readiness accounts. Only a year or two after beginning to fix that problem we are threatening to do the same thing all over again by creating massive procurement entitlement programs which will increase their percentage of the defense budget over the coming years and leave less and less room in the defense budget for O&M and readiness funds.

We must strike a proper balance between modernization and readiness, the fiscal year 1983 defense budget, and the five year defense plan, do not strike this balance. If we don't change this course we will be denying our soldiers and sailors and pilots the bullets, the spare parts, the fuel, and the training they are going to need to be ready to fight a war all of us hope we'll never have to fight, but which all of us know we have to be ready to fight.

A USEFUL FORM OF PREPAREDNESS FOR NUCLEAR WARFARE

Mr. PROXMIRE. Mr. President, I am sure that every Member of the U.S. Senate has spent some time considering the probability of the use of a nuclear weapon in an act of aggression. I am equally certain that each Senator, regardless of his or her political leanings, party affiliation, or points of view on the wide variety of issues we debate in these Chambers, has come to the realization that the potential for such a dreaded nuclear event is higher—much higher—now than ever before in the history of the world. The extent to which this threat can grow before our worst fears are realized is unknown. I am worried that it is already too great.

Mr. President, the efforts of some Members of Congress to enact measures which would greatly restrict the probability of nuclear proliferation have been only partially successful. The prospect of less stable nations gaining access to nuclear weapons capability is more threatening every day. The increased proliferation has also the similarity frightening effect of diminishing the power of the United States to step in and stop or at least retard this horrifying spread. So much is now beyond our control because of our failure to take steps to prevent any proliferation.

I have cited many examples of the relaxation of American control in recent weeks. The Government of India has been the most recent beneficiary of our easing of controls. Perhaps "beneficiary" is the wrong word to describe any nation subject to less control of its nuclear resources. If this or any other easing of restrictions should in any way enable an eventual offensive use of nuclear weapons, there will be no beneficiaries, only losers. There will be losers in every land on this planet.

We have allowed ourselves to fall into a state of peril for ourselves and the entire world. However, we must continue to do whatever is possible to retard the furthering of this proliferation. It is more urgent than ever before that we take some steps to minimize the impact of the first use of a nuclear weapon in attack by whatever nation, radical group or madman should resort to such a deplorable action.

It would be foolish for the United States to ignore the threat of an offensive use of nuclear weapons and have no civil defense preparedness. However, I believe that it would be even more foolhardy if we embarked on an enormous civil defense program in which billions of dollars of this Nation's precious resources were poured into projects to shield our people from the destruction of the enormously powerful weapons that exist today. We might as well pour the money down a hole dug for an MX missile and cover it over for all the good it would do us should full scale nuclear warfare ever break out between superpower nations. There are just too many weapons with too much power to be shielded against.

There are, however, some forms of preparation which can and should be wisely employed. The sorts of preparations to which I refer are also not going to send the Federal deficit into the stratosphere.

In all probability, the first use of an offensive nuclear weapon will be made by someone or some organization other than a superpower nation. Radicals, zealots, or governments led by unstable tyrants are the most likely first perpetrators of nuclear attack.

There are several U.S. Government departments and agencies with significant responsibilities in studying and

preparing for a nuclear attack. Over the past few months, I have asked a number of questions of these organizations in the executive branch which have these duties. I directed this series of questions to the Departments of Defense, State, and Energy as well as the Federal Emergency Management Agency. These agencies were also able to provide me with some information on the steps taken by some of our allies to deal with these problems.

My premise in these questions was that if a single nuclear explosion were to take place, what would be the mechanisms to determine the perpetrator—or cause, should it be the other form of horror—a nuclear accident. What mechanisms would render assistance to the victims and which would coordinate these efforts with other nations.

I have found the responses to be interesting, although somewhat alarming in they illustrate some large holes in our planning and, even more so, that of our allies. The answers also make evident the fact that there are some areas in which the various departments and agencies have some differences of opinion of responsibilities of other governmental functions.

Mr. President, I ask unanimous consent that the responses to my questions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF DEFENSE,
Washington, D.C., June 25, 1982.

Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in reply to your recent letter to Russell Rourke concerning our ability to deal with the consequences of an unanticipated nuclear explosion at home or abroad.

As you are aware, the Department of Defense maintains an extensive disaster preparedness capability in each of the services, including a capability to deal with nuclear disasters. The questions posed in your letter, however, went beyond purely military concerns. Our views on the specific issues raised are enclosed, together with copies of current memoranda of agreement governing interdepartmental cooperation in nuclear disaster matters.

We recognize that the worldwide spread of nuclear technology increases the likelihood that eventually a nuclear disaster will occur somewhere in the world. Concern for our ability to cope with such a disaster within the United States is one of the reasons behind the Administration's commitment to expand the U.S. civil defense program. That program contains radiological defense capabilities applicable to man-made as well as natural disasters.

International nuclear disaster assistance is a more complex problem, since perspectives in this area are inevitably colored by the ebb and flow of global tensions and suspicions. Bilateral intergovernmental mechanisms do exist for extending aid to victims of a nuclear disaster after the fact. Multilateral mechanisms for cooperative nuclear disaster preparedness planning, however, are more tenuous, acknowledging—as they must—sovereign prerogatives, differences among foreign national priorities, and disparities among nations in the volume of resources internally available for meeting them. For this reason, we are not sanguine about the prospects for significantly improving matters by commissioning new studies or new international organizations to deal with the problem.

Sincerely,

FRED C. IKLE.

QUESTIONS FROM SENATOR PROXMIRE

1. What is the status of planning by the United States and any other major Western Nation for providing assistance to an area after a nuclear attack?

Answer. In the United States, nuclear attack preparedness planning is part of the civil defense effort. The Administration plans major improvements in this program beginning in FY 1983. If funded as requested, the improvements will provide an enhanced capability for dealing with nuclear disasters in the United States, and give added emphasis to attack recovery planning. In the NATO arena, the United States participates in ongoing civil emergency preparedness planning through membership on the Civil Defense Committee. There is no evidence, however, that such planning includes formal cooperative nuclear attack assistance measures. Disaster preparedness and civil defense are considered largely self-help efforts for all nations involved.

2. What plans have been made in this regard by any Western international organizations or alliance based organization? Is it your perception that an organization needs to be created to meet this need?

Answer. International organizational mechanisms already exist that could, in principle, plan for cooperative measures and expedite international assistance. The NATO Civil Defense Committee, International Atomic Energy Agency, and the Office of the United Nations Disaster Relief Coordinator are examples. Given the broad political character of such organizations, however, it is not clear that the products of cooperative planning would produce results superior to those promised by existing bilateral arrangements. At present, nuclear disaster preparedness is considered a national responsibility and prerogative.

3. What resources (such as decontamination services, medical supplies and treatment, airlift, food, economic assistance, etc.), could be supplied by nations today? What nations are likely to do so?

Answer. Within the United States, federal assistance is available through the Federal Emergency Management Agency to state and local governments. Cooperative agreements exist between the Department of Defense, the Federal Emergency Management Agency, the Department of Energy, and the Federal Bureau of Investigation for providing federal assistance to locales affected by actual or potential nuclear disasters. Assistance could include any or all of the supplies and services cited in the question. Internationally, a similar arrangement exists between the Department of Defense and the Department of State for providing natural disaster assistance to foreign countries through the Defense Security Assistance Agency and the Agency for International Development. Normally, such assistance would follow from ad hoc intergovernmental agreements. In principle, it could include nuclear disaster assistance. The Department of Defense is not in a position to identify nations with similar capabilities.

4. What could the United States be doing to urge other nations to do this type of planning, either jointly with the U.S. or other Western nations or independently?

Answer. A year ago, within the International Atomic Energy Agency, the U.S. proposed a Nuclear Safety Convention that would define the extent of worldwide U.S. assistance in civil nuclear disasters. If adopted, this convention would define in advance what the U.S. would—or would not—be able to do, and the limits of U.S. liability. Action on the proposal is pending. There are major international political risks attached to U.S. proponency of improved nuclear disaster preparedness on an international scale because of it obvious similarity to wartime nuclear damage limiting preparations. Such efforts would provide least opportunity for anti-U.S. propaganda and most opportunity for success if pursued in a low key manner bilaterally or within the context of existing international arrangements. In either case, the extent of U.S. willingness to fund cooperative efforts would have to be addressed.

5. What is your considered opinion of the potential for such planning or preparations making a nuclear event more or less "thinkable" or likely?

Answer. In the Department's view, planning or preparations to prevent nuclear disaster or to cope with their consequences in no way make such events more likely. Because such events are already "thinkable," prudence dictates that we develop effective measures for dealing with them. If such measures have a low profile, they are less likely to have undesirable international political side effects.

6. What preparations have been taken, or should be taken, to determine if a nuclear event is accidental or, if deliberate, to identify the perpetrator such that the threat of succeeding attacks can be considered in the assistance efforts?

Answer. Techniques for discriminating between nuclear events within the United States that are accidental and those that are deliberate are within the purview of the Department of Energy and the Federal Bureau of Investigation. Obviously, appropriate intelligence agencies would also be consulted if foreign imvolvement were suspected or confirmed. The Memorandum of Agreement between DOE, DOD and the FBI details specific signatory responsibilities. (TAB C).

7. Is it possible to identify which geographic areas have greater likelihood of falling victim to an isolated explosion? Have studies like these been done for the United States or other Western Nations?

Answer. Within the United States, nuclear facilities and densely populated areas are the most obvious candidates. The Defense Nuclear Agency and other research organizations have addressed hypothetical enemy targeting scenarios in the contest of U.S. strategic vulnerability analyses. Their findings might provide an indirect measure of relative vulnerability. Identification and differentiation of vulnerable locales abroad, however, becomes a matter of judgment. Because predictive accuracy is, in part, a function of extant safeguards, and because sufficiently detailed information on foreign locales is not always available, it may not be possible to predict vulnerable areas with precision. Absence of information itself suggests that a listing of vulnerable geographic areas could be sizable. Rank orderings of vulnerability also could shift with changes

in the international political climate. Therefore, the practical utility of such a list is questionable.

8. Is it possible to examine probable conditions in an area of an isolated nuclear explosion as they are affected by such things as topology, prevailing climates, population density, economic infrastructure, etc.? Would it not make sense to study three "different" cases to explore the range of possibilities?

Answer. It is possible. Such examinations have been conducted for the United States in the context of nuclear attack vulnerability. Without more specific definition of what new studies would address, however, it is impossible to determine whether three more generic studies would add significantly to what is already known. Any further study effort should begin with a survey of research that has already been done in and out of government.

9. To what extent could any of the studies suggested above be affected by precedents for massive international relief such as have followed major natural disasters such as earthquakes, droughts, volcanos, conventional wars, etc.?

Answer. The effect could be both quantitative and qualitative, if the intent of the studies is to forecast differential vulnerability or differences in the volume and type assistance that might be required. Prior experience in coping with natural disasters clearly affects the quality of extant safeguards at any locale. The impact on vulnerability, therefore, is indirect. In marshalling indigenous disaster mitigation capability, however, some areas have been able to draw upon more resources than others. Some have been able to cope without outside help. Others have not. Awareness of this lies at the heart of FEMA's civil defense disaster preparedness arrangements with state and local governments, and at the heart of the DoD/DoS foreign disaster assistance arrangement. Similarly, awarness that the kinds of assistance required for volcanic eruptions in Pacific islands may differ from the kinds of assistance required for similar eruptions in Oregon, for example, coupled with awarness of the differences in assistance required as a function of differences in types of disaster, point to the need for localized planning. Apart from that, only the most general "all-purpose" planning seems useful.

DEPARTMENT OF STATE,
Washington, D.C., July 23, 1982.

Hon. WILLIAM PROXMIRE,
U.S. Senate.

DEAR SENATOR PROXMIRE: I am replying to your thoughtful letter of May 12 concerning our nuclear arms control efforts and United States and international measures to cope with the consequences of nuclear explosions.

We understand that you have also been in touch with the Department of Defense and the Federal Emergency Management Agency on the same subject and that they have provided detailed answers to your questions. We have little to add to their comments, except to emphasize that this Administration shares your concern over the risk of nuclear war and the proliferation of nuclear arms. As the President has stated, it is our fundamental objective to reduce the likelihood of nuclear war and to seek negotiations with the Soviet Union to reduce the number of nuclear weapons on both sides, thus enhancing stability. The President has also expressed our commitment to seeking measures to reduce the risk of war by accident or miscalculation, including improvement of the emergency communications links between the U.S. and the USSR, and other military confidence-building measures. We will continue to seek ways to enhance the stability of the nuclear balance and preserve the peace.

Although our primary effort is directed toward averting war, we must be prepared in case our policy of deterrence fails. That is why the President has proposed a long-term effort to enhance our civil defense capabilities. This program has two major objectives: To save lives in the event of a nuclear attack or other national emergency, and to enhance deterrence and reduce the risk of war.

This program will complement our primary reliance on strategic deterrent forces, and is part of our overall plan to improve the national security of the United States. As Mr. Louis O. Giuffrida, Director of the Federal Emergency Management Agency, said in his March testimony before the Subcommittee on Military Installations of the House Armed Services Committee, the civil defense program "is designed to make nuclear war less likely by improving our ability to deter the Soviet Union from an attack on the United States. In conjuction with our strategic forces, civil defense will help contribute to a strong deterrent posture. It also reduces the ability of the Soviets to coerce the United States with nuclear blackmail."

As Mr. Giuffrida explained, the President's program is a moderate, orderly, and responsible way to provide some measure of protection for the civilian population should war break out. However, we believe it important to note, in answer to your fifth question, that our civil defense planning and preparations to save lives in case of nuclear attack by no means make the prospect of nuclear conflict any more thinkable or tolerable. We have no illusions: war—especially nuclear war—would be a catastrophe for all mankind no matter what defensive measures might be taken. We also believe that the extensive civil defense program in place in the Soviet Union does not make Soviet leaders any less conscious of the terrible destruction that a nuclear conflict would bring for their people.

I hope this will contribute to your formulation of views on this subject. Should you have any further questions, please do not hesitate to let us know.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

THE SECRETARY OF ENERGY,
Washington, D.C., July 26, 1982.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: This is in response to your letter of June 21, 1982, concerning preparations for nuclear explosion emergencies. The Department of Energy (DOE) has a major role to play in planning for continuity of government, operational safety and internal security in the event of such emergencies and works closely with other government bodies in this regard. In addition, DOE would be prepared to provide radiological technical assistance in the event of such emergencies.

The responsibility for the specific areas covered by your questions lies with the Federal Emergency Management Agency (FEMA). We have been in contact with Mr. Kingsley of your staff who informed us that a similar letter was sent to that agency. We trust that the response to your letter from FEMA will meet your needs.

Sincerely,

JAMES B. EDWARDS.

FEDERAL EMERGENCY MANAGEMENT AGENCY,
Washington, D.C., August 9, 1982.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: This is in response to your letter of May 12, 1982, requesting our Agency's views and opinions on nine specific questions dealing with responses to an accidental or purposeful nuclear explosion.

Answers to the nine questions posed are enclosed. We trust that they are responsive to your need.

Sincerely,

LEE M. THOMAS,
Associated Director, State and Local Programs and Support.

RESPONSES TO QUESTIONS POSED BY SENATOR PROXMIRE

Question 1. What is the status of planning by the United States and any other major Western nation for providing assistance to an area after a nuclear attack?

Answer. Nuclear attack preparedness planning is considered to be a national effort to be undertaken by individual nations usually as part of a civil defense program. In the United States, such planning is currently being accomplished by State and local governments with funding support from the Federal Government. At the Federal level, planning to prepare for nuclear attack and other national emergencies is carried out by many agencies in accordance with Executive Order No. 11490. Generally speaking, the capability of our governments at all levels to respond in case of a nuclear explosion or other large-scale disaster is not satisfactory. The seven year program proposed by the Reagan Administration to revitalize the nation's civil defense would go a long way toward correcting deficiencies in this area.

Under a Department of State Memorandum of October 22, 1979, the Federal Emergency Management Agency (FEMA) was assigned the responsibility for planning, developing and implementing United States involvement in NATO civil emergency coordinating planning programs, by providing United States participation in meetings of the NATO Senior Civil Emergency Planning Committee, and coordinating participation in its eight subordinate Planning Boards and Committees. Working in close cooperation with other Federal Departments and Agencies having primary interests (Commerce, Transportation, Agriculture, Energy, and National Communications System), plans have been developed for NATO-wide cooperation in crisis or wartime, in the areas of civil aviation, communications, civil defense, and shipping and supply (petroleum, industrial and food and agriculture). NATO civil emergency planning also includes plans for post-attack recovery. Exercises are conducted annually to test the response capabilities of the NATO Civil Wartime Agencies.

Question 2. What plans have been made in this regard by any Western international organizations or alliance-based organiza-

tions? Is it your perception that an organization needs to be created to meet this need?

Answer. NATO civil emergency planning includes provision for members to share all materials and services in time of war.

A bilateral wartime agreement exists between the United States and Canada for a wide range of civil emergency joint planning activities. In addition, the Red Cross Societies, the Salvation Army and other international volunteer organizations would play an important role in the field of civil defense.

It is the United States view that NATO, having been in existence for over 30 years, provides the most appropriate and advantageous forum for such cooperation between its fifteen member nations.

Question 3. What resources (such as decontamination services, medical supplies and treatment, airlift, food, economic assistance, etc.) could be supplied by nations today? What nations are likely to do so?

Answer. Resources required would depend on specific scenarios and whether or not a nuclear detonation had actually taken place. We cannot speak for other countries, but the United States can and frequently does provide medical, transportation, economic and other assistance to foreign nations struck by major disasters.

FEMA has limited personnel resources at its Headquarters and Regional Offices where some 10–15 radiological specialists experienced in measuring gamma radiation are utilized in developing radiological plans as part of the Agency's nuclear attack preparedness effort. In addition, FEMA and its predecessor agencies have procured about four million radiation detection instruments, the bulk of which have been granted to State emergency preparedness offices. It is conceivable that arrangements could be made to transfer some of these instruments to the country requesting the aid. Trained personnel to operate the instruments would still remain a problem. Only about 50–75 persons are trained and currently available at the State-level. To accomplish action on an expedited basis in response to a request for aid would necessitate considerable advance planning to obtain the desired instruments and trained people to operate them. Also coordination would be necessary with the Department of State.

The Office of the United States Foreign Disaster Assistance, Agency for International Development has been contacted by us to provide you with additional information concerning the points noted in your Questions 3 and 4. They have been asked to respond directly to your office.

Question 4. What could the United States be doing to urge other nations to do this type of planning, either jointly with the United States or other western nations or independently?

Answer. The United States, through its participation in NATO, both militarily and through cooperation, and its alliances with other countries, plays a leading role in promoting adequate civil emergency preparedness planning and development. In addition, FEMA as the Federal Agency responsible for nuclear attack preparedness also promotes the exchange of preparedness information with other friendly governments, organizations and individuals, through literature and a visitor program.

Question 5. What is your considered opinion of the potential for such planning or preparations making a nuclear event more or less "thinkable" or likely?

Answer. FEMA does not subscribe to the theory that planning to mitigate the effects of a nuclear war, accidental weapon release, or terrorist incident will make such a nuclear event more likely. To the contrary, planning, such as improved civil defense, will enhance deterrence and that will help make nuclear war less likely.

The purposes of such planning is to save lives and to mitigate the effects of a nuclear detonation or war. Such planning should be accomplished for its humanitarian aspects. It is government's responsibility to provide protection for its citizens through development of contingency plans. Being prepared to respond to such contingencies does not mean that it will make the event more likely to happen.

Question 6. What preparations have been taken, or should be taken, to determine if a nuclear event is accidental or, if deliberate, to identify the perpetrator such that the threat of succeeding attacks can be considered in the assistance efforts?

Answer. It is difficult for FEMA to respond to this question since it extends beyond the Agency's responsibilities. Under existing legislation and Executive Orders, FEMA is responsible for preparedness and response actions for a wide variety of disasters, emergencies, and catastrophic events including nuclear attack. FEMA is not responsible for determining the perpetrator of the threat or event. FEMA is a user of the intelligence data and not a generator of it.

Question 7. Is it possible to identify which geographic areas have greater likelihood of falling victim to an isolated explosion? Have studies like these been done for the United States or other western nations?

Answer. FEMA does not believe that it is possible to predict which geographic areas have a greater likelihood of falling victim to an isolated explosion. There are too many variables and possible scenarios involved to make such projections meaningful. We are not aware of any studies that have been done to identify geographical areas likely to be the victim of isolated explosions.

Question 8. Is it possible to examine probable conditions in an area of an isolated nuclear explosion as they are affected by such things as topology, prevailing climates, population density, economic infrastructure, etc.? Would it not make sense to study three "different" cases to explore the range of possibilities?

Answer. It is certainly possible to conduct studies such as those proposed. Several years ago, FEMA sponsored a research project which included a preliminary examination of the effects of 1 kiloton nuclear weapon detonated in a city by terrorists. Other studies dealing with the impact of a low yield nuclear weapon detonation in an urbanized area have also been made by the Defense Nuclear Agency. Your staff may wish to review the research already completed prior to making a determination on the need for additional studies.

Question 9. To what extent could any of the studies suggested above be affected by precedents for massive international relief such as have followed major natural disasters such as earthquakes, droughts, volcanoes, conventional wars, etc.?

Answer. There are too many variables involved to expect that the suggested studies may be affected by precedents for massive relief efforts that have followed major natural disasters. One can expect that jurisdictions that have experienced certain types of natural disasters will have taken some action to mitigate the effects of future disasters (especially if these are of a recurring nature). Thus, the jurisdiction should be better prepared to respond to future disasters because of its past experiences and may not require much in the way of outside assistance. Other jurisdictions may not have had such experience and because of limited resources, may require massive outside assistance for recovery. Furthermore, the type of outside assistance needed may vary considerably from community to community depending on the nature of the disaster, extent and type of damage, casualties, and available resources (e.g., special equipment, medical care, supplies, shelters, etc.). To make studies meaningful, one has to prescribe a set of study assumptions dealing with the situation likely to be encountered. It would be surprising if the situation for an actual disaster matched the study assumption. For this reason, FEMA advocates that jurisdictions develop emergency operations plans which provide for flexibility in responding to any and all types of disasters that the jurisdiction may encounter. Being prepared to respond to a broad spectrum of emergencies is a desired goal.

THE REAPPEARANCE OF THE TOOLS OF GENOCIDE

Mr. PROXMIRE. Mr. President, many of us in this body can still recall vividly our shock and disbelief when the first pictures of the German concentration camps were published and when the numbers of gassed victims were tallied by the liberating armies of Europe. Before that horrible event, genocide was an abstraction; an alien concept for many of us. However, the Nazis' brutality soon ridded each of us that early naivete and brought us face to face with the most depraved and demented part of man's character. The fresh memories of cremetoriums and gas chambers spurred the world to action and in 1984, largely due to this Nation's influence, the General Assembly adopted the Genocide Convention.

Humanity was appalled and outraged by what they found within the camps. The combination of German efficiency and procedural rigidity gave places like Dachau an unnatural aura like some enormous machine with human attendants but no human controls or feelings. The Germans continually improved the machine's capabilities; extending its capacities for human slaughter further and further until every ounce of human compassion or unnecessary comfort had been squeezed out of the system. When bullets were determined to be too costly they switched to ovens and when oven construction proved prohibitive they employed gas. Day in and day out they tinkered and adjusted their killing machine and when they had finished they presented the world with the 20th century's first streamlined, high performance genocidal factories.

Today those scenes and stories seem like they happened 1,000 years ago. Dachau and Auchwitz are now muse-

ums and their creators but faint caricatures in our memories. The emotion and determination that initially pushed the Genocide Convention through the General Assembly has now largely dissipated and, as if the confiscation of the Nazis' ovens meant immunity from future holocausts, the world has once again left genocide in the abstract.

I wish I could stand before you today and say that the Genocide Convention and its ugly subject could be safely put away and that genocide was a past phenomenon without contemporary meaning but that would be untrue and self-deluding. Throughout the world a new generation of genocidal weapons are being utilized by major world powers and the successors of the German crematoriums are as, if not more, deporable as their predecessors. It is the saddest and most depressing of ironies that one of the allied powers that helped liberate the concentration camps and bring the Nazis leadership to justice is now responsible for the proliferation of these new weapons. In Kampuchea (Cambodia), Laos, and Afghanistan lethal chemical weapons are being used and supplied by the Soviet Union for the indiscriminate killing of inhabitants of certain rebel-held territories. The use of these toxic weapons have been well documented and over 980 deaths in Kampuchea 3,000 deaths in Afghanistan, and 6,300 deaths in Laos are being attributed to these mycotoxins. The toxic chemicals can be used in various forms such as poisoned bullets and flechetts—steel darts—aerial dusting, artillery explosions, liquid spray, and gas bursts. The toxins can take seconds or days to kill their victims. In Afghanistan rebel fighters have been found still laying in firing positions; fingers still on the triggers of their weapons.

While there is no proof that these weapons are actually being employed in genocidal campaigns, their potential for large scale extermination increases the possibility of genocide by giving individuals greater ability to order it. The new tools of holacosts would not require trains or camps but instead would allow mass executions to take place wherever a pocket of undesirables might be found. Now all that will be required is the desire to match the capability. I hope that the increased destructive potential of these weapons will inspire greater interest in the ratification of the Genocide Convention. Genocide has become too easy of a crime and the world too uncertain of a place.

NATIONAL GUARD AND RESERVES BEST BUY FOR THE DOLLAR

Mr. PROXMIRE. Mr. President, it cannot be said loud enough or long enough that the best buy for the defense dollar rests with the National Guard and Reserves. The Active Force advocates do not really want to talk about it. Pentagon officials like to give lip service to the notion—but little or no funding and Congress usually is left with the responsibility of finding ways of supporting the Guard and Reserves.

But the saying is true. A full-time active duty individual costs the Pentagon budget over $20,000 annually including support costs. That same individual in the Guard and Reserve will cost $3,000 annually.

And man for man, woman for woman, these members of the Guard and Reserve are at least as well qualified and in many cases more so than their active duty brethren.

We cannot fight a conventional war without a highly trained, effective Guard and Reserve Force. That is just a matter of mathematics. A conventional war will require a full mobilization and that means only the Guard and Reserves will be available in the near term for combat duties.

At the present time there are plans to use Reserve and Guard personnel to fill out units in the war theater. Frankly, I think that is a mistake although I can see the reasoning behind it. The Guard and Reserve units would be put to better use if they could perform their duties as a unit—rather than as fillers. They are trained as a unit, they exercise as a unit, they know their roles as a unit. And that is how they should be utilized in our war plans.

Mr. President, I ask unanimous consent that an article in the St. Louis Globe-Democrat on our Guard and Reserves by Maj. Gen. Henry Mohr (retired) be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the St. Louis Globe-Democrat, Aug. 14-15, 1982]

NATIONAL GUARD AND RESERVE ARE REAL DEFENSE BARGAINS

(By Maj. Gen. Henry Mohr)

Not only are National Guard and Reserve forces far less expensive to maintain, they have proven themselves capable of taking on wartime missions requiring deployment in remarkably short times.

The cost of maintaining a full-time person on active duty with pay, clothing and food is estimated at about $20,000 a year. In comparison, the average peacetime cost for a guardsman or reservist is estimated near $3,000 a year. Quite a difference.

The big question is whether Reserve and Guard units can be sufficiently trained and ready if a crisis comes. The answer is that they can be. This has been proven by performance. In fact, the National Guard and Reserve can do almost any job in the military services, if they are provided with the modern equipment called for by the mission, if adequate manpower is assigned and if they have enough money for training.

This capability has been recognized, and progressively, Guard and Reserve units are being assigned to more meaningful missions. Some have even been assigned to the Rapid Deployment Joint Task Force. Reserve personnel in those units have their bags packed and are ready to move out at a moment's notice. The military services naturally favor giving priority to their full-time, active-duty units but are recognizing the need for equitable treatment of their reserves. Competition for modern equipment between the reserve and active components is being replaced with policies supporting priorities that match the missions, regardless of the type of unit.

A special characteristic of the Reserve forces is their home station role. They are part of their communities and frequently help the home folks with their military skills.

Some examples:

On the Fourth of July, millions of people crowded the St. Louis riverfront in blistering summer heat and humidity. Hundreds of people became heat casualties. On the spot was the 25th Combat Support Hospital—a St. Louis unit of the U.S. Army Reserve, treating the injured.

The National Guard routinely each year responds to hundreds of emergencies—floods, tornadoes and other situations—to protect life and property.

When Mount St. Helens exploded violently, helicopters from Army National Guard and Army Reserve units in the states of Washington and Oregon flew dangerous and urgent rescue missions night and day.

Somewhere in Germany, reservists serving their annual two-week period of active duty for training pitch in with skilled hands to assist with a huge maintenance load on NATO military equipment, working side-by-side with their active Army counterparts. Their skill and efficiency are praised by active service commanders.

Combat realism is stressed as National Guard and Reserve forces train with active force elements in NATO exercises.

Military cargo planes transporting essential supplies to overseas destinations often are manned entirely by Air Force Reserve pilots and crews.

Coast Guard vessels patrolling the U.S. coastline, carrying out rescue and other missions, frequently are manned by Reservists.

Near Houston, Texas, a violent explosion shatters a refinery. Flames and debris are hurled wildly; people are seriously injured. Within minutes, Army Reserve helicopters arrive and quickly carry the injured to hospitals. Lives have been saved.

These incidents and many more like them are real. But they show only a fraction of the importance of the Reserve forces to this country.

The fact is that the United States cannot fight a war without mobilizing the Guard and Reserve. Never, since the Revolutionary War, has such a heavy weight of responsibility been placed on our civilian soldiers, sailors, airmen and women. In the Army, the Reserve forces have more than half the Army's total combat power and two-thirds of its support units. Overall, Reserve forces make up about a third of our nation's armed forces. Readiness for mobilization and, if necessary, battle, is the name of the game.

Across the country, our Reserves, their civilian employers and families are rising to meet the challenge. Sacrifices are being made by all on behalf of the defense of America.

These are bright spots of uncommon dedication and patriotism. But the Guard and Reserve are not without problems. Perhaps the greatest need today is for equipment that will match the importance of their missions. Then, too, there are opportunities for greater use of the economical capabilities of our Reserve forces in the national defense. We will discuss these things another day.

But for the moment, we feel there should be an increased awareness of the service to our country being provided by the civilian components—the Guard and Reserve, by their employers and families. If you are searching for patriotism in America, you can find it there.

ARMSTRONG WILLIAMS, WINNER OF THE CONGRESSIONAL BLACK CAUCUS YOUTH AWARD

Mr. THURMOND, Mr. President, I rise today to pay tribute to an outstanding young man from my home State of South Carolina, Armstrong Williams.

Last Friday evening, I had the pleasure of attending a ceremony at which he received the Congressional Black Caucus Youth Award, and I can think of no one more deserving of that high honor than he.

Mr. President, this is a young man who has distinguished himself as a person dedicated to public service. At 22, he has the honor of being the youngest appointee of the Reagan administration. He has received numerous awards throughout his high school and college careers and is a native son of whom South Carolina can be proud.

The son of James and Thelma Williams of Marion, S.C., Armstrong is a graduate of that city's Rains-Centenary High School. He received his bachelor's degree in political science from South Carolina State College in Orangeburg in 1981. Throughout his high school and college years, he has demonstrated those qualities associated with leadership.

Armstrong served as student council president during his high school years and earned many accolades as an active 4-H Club member and public speaker. These early achievements were prolog to an impressive college career.

At South Carolina State College, he was the first student to serve two consecutive years as Student Government Association president. I am proud to say that he ran as a Republican. His activities in academic, ROTC, and student government affairs brought him many coveted awards, including a listing in Who's Who in American Colleges and Universities.

The year following his graduation, Armstrong received the South Carolina State College Student Outstanding Service Award, which is given to graduates who have made outstanding contributions toward the well-being of the student body and the institution. I am certain that he will continue to make his alma mater proud.

This young man's interest in the governmental process led to his becoming an intern in several congressional offices during his college years. He has been an intern in the offices of my fellow South Carolina Members of Congress, Representatives FLOYD SPENCE, (Republican, South Carolina), and CARROLL CAMPBELL, (Republican, South Carolina), and in my own, where he learned about the making of our Nation's laws and how our Government operates on the Federal level.

Immediately following his graduation from college, Armstrong was named by President Ronald Reagan to be Legislative Analyst for the Animal and Plant Inspection Service of the Department of Agriculture, thereby becoming this administration's youngest appointee.

I ask you to join me in congratulating Armstrong Williams on his achievements, and I add my best wishes to his fine parents, who have reared an outstanding son.

Mr. President, I ask unanimous consent that two newspaper articles, which appeared in the Orangeburg (S.C.) Times & Democrat and the Summerville (S.C.) Journal-Scene, be printed in the CONGRESSIONAL RECORD.

There being no objection, the articles were orderd to be printed in the RECORD, as follows:

[From the Orangeburg Times & Democrat]

A FUTURE LEADER

21-year-old Armstrong Williams, a 1981 graduate of South Carolina State College, is working in Washington as a confidential special assistant to the director of congressional relations.

He serves as the liaison between Congress and the United States Department of Agriculture. Williams was appointed to that position by President Ronald Reagan through the efforts of Sen. Strom Thurmont, R-S.C.

He's the youngest presidential appointee in history.

Williams was graduated cum laude from S.C. State with a degree in political science on May 10 and went to work in Washington on May 11. He was back in Orangeburg a couple of weeks ago at State's homecoming.

He says he's the only representative from the Southeast in this sort of role, and the first black from this area to handle such a job. "We are the voices for the secretary (John Block) on the Hill," Williams says.

The position of authority he has attained in such a short time may amaze some persons. But it doesn't surprise Williams himself, because he's always believed he could do whatever he wanted to do.

Williams is from Marion County. He is the middle child in a family of 10 persons, brought up by James and Thelma Williams on a farm.

He was student body president of his high school class of 27 persons, class of '77. He held that same position during his junior and senior years at S.C. State.

Williams knows that being black and being a Republican isn't common. The combination wouldn't have made him very popular in many circles, either, if he wasn't the type of person who says he can get almost anything accomplished.

Ever since he was a child, Williams has been absolutely determined to be the best at whatever he decided to do. "I always like to prove what people say can't be done."

His candidacy for the role of student body president during his junior year was considered by some a hopeless cause. He was conservative and he had openly supported Thurmond, which didn't always win him friends in powerful circles on campus.

And he said what he thought. But he won the election by 69 votes, and he was re-elected the following year by a landslide.

Why? Because Williams produced, as he says. He brought a number of cultural events to the campus, including concerts, movies and speakers, and the students loved it.

He says he was successful in campus politics because, in his words, "I talk common sense. And that's politics."

Lee Martin of Summerville worked on Williams' campaign last year and is on the entertainment committee at S.C. State. He hopes to follow Williams' footsteps into the presidency of the school's student body before he graduates in three years.

To help him, Williams is teaching Martin about politics.

Politics is being able to deal with persons, to the point of predicting what they're thinking and how and when to say what they want to hear, Williams says. He knows how to do that.

He met Thurmond when he was a high school student. He wanted to find out for himself what sort of a man Thurmond was.

He was impressed by what he found. And he sincerely believes in most of the issues that the Republican Party supports.

No race should segregate itself into one party, though the blacks have done just that with the Democrats, Williams said. If a race or any group does that, there are no leaders who support its policies when the "other" party is in power.

"That's our problem. We let others think for us," Williams says. He's not just including blacks in that statement—he says he's speaking of most persons.

"They let their heart get in the way of their mind," he says. That's something Williams proudly says that he never does.

One of his biggest thrills since going to work in Washington has been the two times he's been invited to eat lunch with Reagan.

When he's asked who he sees himself as—such as, perhaps, a young Julian Bond, Andrew Young or perhaps as a young Strom Thurmond—he says frankly that he only sees himself as Armstrong Williams. He's not a copy of anyone else, he's not molding his life after that of anyone else, he's not grasping hold of the thoughts of anyone else to portray as his own.

"You see, I have a mind of my own. And it functions."

And he's got some advice for others.

"Know from whence you cometh," Williams quotes from the Bible. Then you can take it from there, as far as you want to go.

[From the Summerville Journal-Scene]

WILLIAMS URGES BLACK ACHIEVEMENT

"Blacks must understand that the economic and social problems we suffer are not entirely the fault of government, or directly related to racism.

"I don't believe racism is the problem it used to be. In proportion, there are as many black racists as there are white racists."

Armstrong Williams, the youngest presidential appointee in the history of the country, made these remarks during the interview while on a holiday visit with his closest friend, Lee Martin of Summerville.

Williams, a 21-year-old political science graduate of South Carolina State University, went to work as a confidential special assistant to the Secretary of Agriculture the day after his May 10, 1981 graduation.

Still addressing the problem of unemployment and economic difficulties, blacks in general are suffering, Williams said, "Blacks still want everything given to them. They are impatient, and want everything right now, without having to spend the time needed to gain these advantages through personal achievement. This doesn't work for anything.

"If anyone wants to really improve his lot in life, he has to get out there and work for it, and start young. A man can achieve a great deal in his own productive lifetime, and his offspring can start where he left off and go at least that much further. You usually have to start with smaller achievements, but as you go along, each step becomes a bigger, more important step. If you're satisfied with inches, you'll never make that quantum jump."

Williams, wants the young black generation to stop complaining, find motivation and get moving, or put the steam to the wheels instead of the whistle.

"If this generation of young blacks will get the lead out and achieve everything their potential will allow, the next generation will have very little to complain about," he said.

Williams feels it's important for those young people who have achieved some measure of success to visit home often.

"I think it's important to come back and show achievement. This can encourage and motivate others to do the same thing," he said.

The young Republican said he feels the goals of high achievement among blacks can be more quickly realized by supporting a two-party system.

"There are very few black Republicans, for historic reasons. The Republican vs Democratic philosophy has been a primary reason, but as more blacks move up in the economic structure, there will be more black Republicans.

"You see, it's not the party that makes the man, it's the man who makes the party. You need a strong two-party system, with two adversary political philosophies to keep the democratic system viable. If everyone agrees, there will be no change, no progress."

Williams was elected Student Government President at S.C. State twice, running as a Republican, and there is no Republican party at the S.C. State campus.

"You see, it doesn't really matter what party you represent any more. What matters is your own motivation and your own achievement. The uncommitted vote has almost formed a third party in this country, and I feel this is a result of general apathy because all politicians seem to be saying the same thing. Both parties are trying to hold the middle of the road, so as not to alienate anyone. The only thing that seems to matter any more is personalities. If the guy is likable, and expounds on popular causes, he's probably going to get elected.

Then, when he doesn't deliver, his party is blamed.

"If blacks want to improve the status quo, each individual is going to have to accomplish something, and more blacks are going to have to get involved in politics. The reason no one has been able to beat the system is because it's a good system. It was invented to operate at its best with adversary relationships active within, not attacking it from without."

Williams, at 21, is far from an obscure individual. He has been interviewed by Ebony, Jet, Newsweek, Sepia, Dollars and Sense, Business Week, the Washington Post, Black Enterprise and the Black Collegian. He has also appeared on many radio talk shows and CBS's Tony Brown's Journal.

His personal message to blacks in South Carolina is, "That is what I have done, and I'm not done yet. Watch me go—and you can do it too!"

He is a native of Marion, S.C., where he was raised on a farm. He doesn't feel his a "rags to riches" story, but one of personal achievement.

"Sure, I'm proud of myself. But don't I have a right to be?"

HOUSE WARMING

Mr. MATHIAS, Mr. President, a unique feature of the inaugural concert of the Baltimore Symphony in its new home, Meyerhoff Hall, was the performance of a specially commissioned work by Morton Gould, appropriately entitled "House Warming." The commission was the latest of many contributions to the Baltimore Symphony by Mr. and Mrs. Robert H. Levi. In her continuing work in support of the symphony, Mrs. Levi was also cochairman of the inaugural planning committee.

The program for the premiere gala concert which was held on September 16, 1982, under the direction of Sergiu Comissiona, describes the new Morton Gould composition as follows:

The title describes the intention of the piece. It is in three short movements, which can be done together or separately. The first, "Tunings," starts with the oboe sounding the traditional "A" and from this the various sections of the orchestra engage in figurations. These figurations are over a hymn-like pattern, evoking the feeling of a benediction.

The second section, "Fanfarades," is a bright and sparkling overture on fanfare motifs and uses the orchestra in virtuoso fashion. The third, "Acclamations," starts with a spiritual-like theme that changes to a rhythmic and pulsating statement. This movement has, along with the orchestra percussion, optional hand-clapping by the audience, which can serve the purpose of both acclaiming the hall and tuning it at the same time. (Handclaps are a common device for testing a hall.) However, with or without audience participation, this movement is in a jubilant and affirmative mood.

It was my great privilege to be present for the inaugural concert of the Baltimore Symphony and I want to express with confidence of unanimous agreement the appreciation of the people of Maryland to Sergiu Comissiona, to Morton Gould and to Mr. and Mrs. Levi for a special and unique portion of a distinguished performance.

The gift by Mr. and Mrs. Levi which has resulted in this important addition to the American repertoire may also generate some discussion about the support of the arts in the United States. Although I am an ardent advocate of an appropriate public contribution to the support of the arts, I am reminded by "House Warming" that the support of private patrons is also important today as it was in Mozart's Salzburg or Hayden's Vienna. I am glad that Mr. and Mrs. Levi have been willing to fill this role and hope that others will follow their example.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS

Mr. KENNEDY. Mr. President, on the afternoon of June 18, 1982, the Senate took an historic step. We extended the Voting Rights Act of 1965 in a way that preserved its vital safeguards and insured continued protection of minority access to the political process. The most important modern civil rights law still stands. The Congress of the United States has kept faith with its commitment 17 years ago that no American would be denied the right to vote.

The August 16 issue of the New Republic magazine contained an excellent story by Barton Gellman on the crucial role that the Leadership Conference on Civil Rights played in that great moment.

The final Senate vote was overwhelming, and the House of Representatives vote was equally impressive, but those rollcalls cannot convey our long and difficult struggle to renew the act without crippling amendments.

For almost a year, the administration could not make up its mind whether or not it would support an extension of the crucial preclearance provisions. When the administration did decide, it sought several crippling changes in the legislation already approved by the House and sponsored by a bipartisan majority of the Senate. Indeed, while the Justice Department has tried subsequently to take credit for the Dole-Kennedy version of the bill which became law, the fact is that Assistant Attorney General Brad Reynolds was trying to scuttle that consensus version until the last minute before it was favorably reported by the Senate Judiciary Committee.

Faced with overwhelming support for the legislation, the administration finally endorsed it. And, however, belated, we welcomed that conversion. Even then supporters of the Voting Rights Act faced a filibuster and more crippling amendments on the Senate floor, both of which had to be defeated.

The victory was a happy one to those of us who fought the battle for voting rights in 1965, again in 1970,

and then again in 1975. Millions of black, Hispanic, and Indian voters are now assured of the right to vote and to have their vote fairly counted.

The road to that victory was long and hard. There were many obstacles and a constant drumbeat of lobbying by opponents of the Voting Rights Act, who tried to derail it with scare tactics and delays.

We overcame that opposition with the help and dedicated hard work of many people. The Congressional Black Caucus, and other Members of the House and the Senate, civil rights groups, and other sympathetic organizations devoted countless hours to the task. But the single most important factor was the broad-based grassroots support of thousands of individual citizens—Americans of every race and creed who joined hands once again to protect the most fundamental right in a democracy, the right to vote.

The Leadership Conference on Civil Rights played a key role in forging that grassroots coalition. As it has so many times in the past, the conference provided the leadership, the information and the logistic coordination which enable individual citizens to express their convictions in the informed and timely manner that proved so effective.

For decades, the conference has played a crucial part in the march to equal opportunity for minorities. It has always been in the forefront of that fight.

Congress looks to the leadership conference for thoughtful, well-documented analyses and proposals on civil rights legislation and oversight of enforcement by the executive branch. And we are never disappointed. The credibility and effectiveness of the conference has made it a rallying point for all Americans concerned with human rights and social justice.

Mr. Gelman's article recalls the formidable efforts by the conference in this Congress on behalf of the voting rights extension and describes their plans for further important efforts in the future. I commend this article on the leadership conference to my colleagues, and to the conference I say: "Well Done."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Republic]

THE NEW OLD MOVEMENT

(By Barton Gellman)

(NOTE.—Why civil rights is making a comeback, sort of.)

Early in June of 1981, a tense civil rights delegation filed into a fifth-floor conference room at the Justice Department to talk about the Voting Rights Act. Form preceded content. Elaine Jones of the NAACP Legal Defense and Education Fund turned to William French Smith and, gesturing toward a Hispanic leader at her side, began the meeting like this: "Antonia Hernandez was not invited to this meeting, Mr. Attorney General, but she has agreed to come anyway—and if she leaves, we all do." Smith was shocked. He had demanded, despite objections from the civil rights community, that black and Hispanic leaders meet with him separately. Now they were calling his bluff. "We were insistent," says Ralph Neas, who attended the meeting, "that we were not going to let them play divide and conquer."

That scene could not have taken place ten years ago, or even five. As late as 1975 blacks and Hispanics were so deeply divided over key civil rights measures that they feuded bitterly in public. Generally, in fact, civil rights groups have often been diverted by intramural battles over priorities and tactics. But in the recent eighteen-month effort to extend and improve the Voting Rights Act, a broad coalition called the Leadership Conference on Civil Rights displayed a new maturity, an unprecedented unity, and an impressive political clout. Civil rights leaders are now beginning to wonder how and when they can apply it again.

They've done a good deal already. It's probably too soon to judge the impact on civil rights of the most conservative Congress and White House since the seminal legislation of the 1950s and 1960s. But the early indications are unexpectedly—if still tentatively—hopeful. The Reagan Administration, though it has conspicuously ignored the existing civil rights enforcement apparatus, has not been able to dismantle it. Meanwhile, the 97th Congress is soon to expire, and organizers paced by the Leadership Conference have not only helped stall every legislative attack on civil rights but also, against all odds, contrived the passage of the strongest and most bipartisan Voting Rights Act ever. The story of the voting rights battle, which went little noticed beyond the floor debate, says a great deal about the future of civil rights under Reagan.

As coalitions go, the Leadership Conference on Civil Rights is a strange and unwieldy creature. It has no membership to speak of. Its constituents are themselves civil rights organizations, or organizations interested in civil rights, which is by no means the same thing. Some Leadership Conference members come as no suprise: the NAACP, the National Urban League, the Mexican-American Legal Defense and Education Fund, the Anti-Defamation League of B'nai B'rith, the AFL-CIO and many of its constituent unions, now, the League of Women Voters, the ACLU, and religious groups from the Catholic Conference to the Presbyterian Church. But the members also include Actors Equity, the Improve Benevolent & Protective Order of Elks, the YMCA and YWCA, and business groups, albeit predominately black ones, like the National Association of Real Estate Brokers, the National Beauty Culturists' League, the National Business League, the National Dental Association, and the National Funeral Directors and Morticians Association.

When the Leadership Conference was founded in 1950, thirty groups signed on as members. Today there are more than five times as many. This sounds like good news, but there's a catch. The Leadership Conference operates by consensus, not majority rule. That means it can take no position unless it has unanimous support. The coalition's full-scale exertions—though crucial to every major civil rights effort since 1957—are therefore few and far between. "You don't do it every day, you don't do it every month," says David Brody of B'nai B'rith, who sits on the executive committee. "But you build on victory. You win a marathon today, you look ahead to next year's marathon." When it does gear up, says John Shattuck of the ACLU, "the coalition is infinitely more effective than any individual group or organization can be."

On voting rights, this lumbering, 160-headed beast turned its full attention to a single law and gave a show of what it can accomplish when aroused. The result was formidable. "The notion of working on issues in coalition has been around as long as I've been in this town—since the 1960s," says Jane O'Grady of the AFL-CIO. "It just hasn't always worked so well. On the Voting Rights Act we had almost everything come together." Top civil rights litigators—Frank Parker and Barbara Phillips from Mississippi, Armand Derfner from South Carolina, Laughlin McDonald from Georgia, Lani Guinier from New York—came to Washington to help draft the legislation and give substantive advice. Experienced Washington lobbyists coordinated strategy in twelve- and fourteen-hour meetings around a brown felt-top table at the Leadership Conference's Embassy Row townhouse. And hundreds of thousands of people took part in a minutely planned grass-roots campaign that spanned fifty states and 435 Congressional districts. "We just overwhelmed them," says Representative Don Edwards, a California Democrat who chairs the Judiciary subcommittee on civil and constitutional rights.

No one was more surprised at this turn of events than the Leadership Conference. A year ago, Edwards was hosting gloomy strategy sessions in his Rayburn Building office, as coalition leaders pondered whether they could possibly slip the bill past the House, still less the Senate, without crippling amendments. The fact that Ronald Reagan, no great friend of the Voting Rights Act, was at the peak of his power in Congress did little to cheer the dissussions. "See," Edwards burst out in one such meeting late last July, pointing as the vote on Reagan's tax package flashed across his video screen, "that's what Ronald Reagan can do" Not on voting rights. Reagan's pet amendments all failed, and not for lack of lobbying by the Justice Department. Joseph L. Rauh Jr., who has been with the Leadership Conference since the early days, still cannot conceal his amazement at the eventual 20-to-1 and 10-to-1 victories in the House and Senate. "Our fondest hopes of 1981 were exceeded," he says.

All the strategists in Washington could not have put that victory together without the likes of Mona Martin, the president of the Iowa League of Women Voters. Charles Grassley, an Iowa Republican who sits on a key Senate subcommittee, was wavering on an important vote last March. The Leadership Conference in Washington sent Martin a list of local organizers from unions, church groups, black and Hispanic groups, farm and education groups, and Common Cause. Martin then applied the heat where it counted. The Church Forum—representing denominations from Catholic to Episcopal and Baptist to Presbyterian—sent out "minister advisories" suggesting sermon ideas on voting rights. A "media committee" held press conferences, distributed slick p.r. packages, wrote Op-Ed pieces, and took out a quarter-page ad in the *Des Moines Register*. Borrowing a WATS line phone bank from a local business, Martin organized "telephone trees," which work like chain

letters, Grassley got five hundred calls from constituents in one day alone. "We were just letting him know that we expected him to do the right thing," Martin says. He did.

Variations on this theme played in nearly every state, with the organizing work shared in a classical division of labor. the Mexican-American group ran the Southwest grass-roots efforts, as did the Urban League and NAACP in the South, the AFL-CIO in the industrial Northeast, and so on. "Each group was there to provide the things that that group uniquely could do," says Althea Simmons, Washington director of the NAACP. All the coalition lacked was, well, the two main ingredients of most modern lobbying campaigns: a lot of money and a room full of computers. The usual pre-addressed, pre-printed, pre-paid postcards played no part in the Leadership Conference campaign. There was no voting rights PAC to dispense $45,000 in contributions to friendly Representatives and Senators. Yet the Leadership Conference managed as impressive a showing of legislative savoir faire as anything done by the big-time agriculture, defense, or business lobbies.

In all this, the Leadership Conference followed time-honored methods. The coalition remains in many ways what it has always been, only more so. What began as an alliance of blacks, labor unions, and religious activists now includes organizations—of Hispanics, Asian Americans, women, gays, the elderly, and the handicapped—that had not even formed in the 1950s. There were coalition efforts as effective as this year's in the early days, but none were nearly so broad-based or so complicated. What the coalition has gained in breadth, on the other hand, it has lost in passion. Elks Lodges, fraternities, sororities, lawyers, farmers, and real estate brokers do not ground staging sit-ins and rallies. The coalition has become cautious, moderate, middle of the road. No one today refers to the Leadership Conference, in Representative James A. Haley's immortal words of 1964, as "those vultures in the gallery." As David Brody says, "The whole movement was much more visible in the 1960s. Today it might almost be called a nuts and bolts operation." But according to William Taylor, a former staff director of the U.S. Commission on Civil Rights, the nuts and bolts aspect has "enormous potential": "We've learned more about how to use community and grass-roots efforts. We now have more professionally skilled advocates for civil rights. You have had an expansion of civil rights law to encompass groups other than blacks. And the Reagan Administration has helped bring people together and see their basic common interests."

Well, yes and no. Basic common interests are more readily discerned in the abstract than in the details of legislation. Even on voting rights ("the purest brand of motherhood," one Senate staffer calls it) the Leadership Conference was hard pressed to keep its disagreements private. The coalition held, but only just. "It's very much like a collective bargaining situation," says O'Grady of the AFL-CIO. "Hot flames fly, and sometimes you just have to clear the room and cool off."

It got so hot in the coalition in the last two days of July 1981 that, by the time the differences were reconciled, a splinter group on the Conference's voting rights steering committee had already prepared an angry press release and begun planning how to fight its former allies. Much of the steering committee, fearing hostile amendments on the House floor, wanted to make concessions while the voting rights bill was still in Judiciary Committee markup. They favored striking a deal with Illinois Republican Henry Hyde that would have diluted crucial enforcement provisions in exchange for his support. Four dissenters said the deal was outrageous. "There was a whole lot of screaming and name-calling," says Antonia Hernandez. "It was a terrible time." Frank Parker, a red-bearded veteran of death threats and voting rights lawsuits in the South, was the purest of the purists. "Their judgment was totally and completely wrong," says Parker, who chain-smoke cigars and likes his adverbs in pairs. "We would have publicly and openly opposed the bill, and in fact we were developing a strategy to do that. It threatened to break up the coalition." The deal with Hyde finally fell apart, and the coalition decided—consensus renewed—to stop negotiating with him. There ensued an incident of extraordinary rarity in Congress: the four principal members of Edwards's subcommittee staff, incensed at the risks of abandoning Hyde, staged an angry walkout and refused to take part in redrafting the disputed section of the bill. "Everybody was yelling at everybody," recalls one of the aides. "At that point they decided to rewrite the whole thing. At that point I went home."

This was the worst of many disputes, and it raises doubts about whether the Leadership Conference will be able to hold its unity—its most potent weapon—on future issues. The man charged with maintaining that unity is Ralph Graham Neas, a 36-year-old dynamo who is the first full-time director of the Leadership Conference. Neas has perpetually tousled hair, a five o'clock shadow that arrives before noon, and the slightly red-faced look of overexertion. He has an uncommon pedigree for his job. "I'm white, male, Republican, and Catholic," he admits ruefully, "which is 0-for-4." Neas, a graduate of Notre Dame and Chicago Law School, spent eight years as the Senate's senior staffer on civil rights. He smiles well. He does his homework. He is a good coalition-builder. He is secretly pleased that Glamour magazine recently rated him among the top four male feminists in Washington. He says, "It's not often that you're going to bring together 160 organizations. But when you do, then you've got a dynamite situation. What I'd like to be able to do is to tap in repeatedly to those groups and those resources." He is an optimist.

Chances are that the Leadership Conference will not soon duplicate the scale of the voting rights effort. "You can't do it often," says a Congressional aide who has worked closely with the coalition. "It's physically, emotionally, psychically impossible." To say nothing of financially. For mailing and photocopying alone, many groups went through their whole annual budgets during the voting rights fight. Besides, there is the matter of finding another issue to prompt consensus. Many of the traditional civil rights causes won't do. Abortion, school prayer, and tuition tax credits split religious groups from libertarians. Immigration laws pit Hispanic groups against labor and the NAACP. Affirmative action divides blacks from some Jewish and labor groups. "I'm appalled at our position—or lack of position—on some issues," says Rauh. "People ask me all the time, 'How can you be general counsel to an organization that doesn't favor freedom of choice of abortion?' What we did with the Voting Rights Act is the answer."

That answer doesn't answer for everyone. Some civil rights leaders privately complain that the Leadership Conference is too timid or too established or too divided to represent them well on many issues. Relations between the coalition and other leaders—including Congressional Black Caucus members and Jesse Jackson of Operation PUSH—have often been cool, and there are prominent omissions in the Leadership Conference's membership list. Arnold Torres, for instance, says his League of United Latin American Citizens, the nation's largest Hispanic group, is "just not ready" to join: "We look at them and we see how they address our concerns, and we decide it isn't enough. We don't want to feel as if we're going to be ignored."

If the coalition does gear up again any time soon, it will probably be to try to amend the Fair Housing Act of 1968. Many civil rights leaders say the act is going unenforced, and they want to put some teeth in it. But at least some members of the Leadership Conference are skeptical that the group can reach consensus at all.

In any case, the coalition can more often agree about what it does not like. Hatch alone has introduced ten bills to weaken civil rights laws, including those concerning attorney's fees for civil rights lawyers and the right to sue local government. Other bills pending would strip federal courts of jurisdiction on abortion, school prayer, and desegregation; roll back affirmative action programs; and consolidate all civil rights enforcement in the Justice Department. On these issues the Leadership Conference knows exactly what it wants: nothing of the kind.

Most of all, the Leadership Conference is no longer running scared. Back in February, the theme of its annual dinner was "Civil Rights in Crisis." Talk turned more and more to the dangers of a second Post-Reconstruction period, in which decades of civil rights gains might be wiped out by the President and Congress that took power in 1980. The Voting Rights Act has changed the picture considerably. Now, when Ralph Neas talks about the coming session of Congress, he says the victory can be repeated. He says the grass-roots supporters have been encouraged. He says he looks forward to "one hell of a fight after another." And he smiles.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Commerce, Science, and Transportation

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND JAPAN—MESSAGE FROM THE PRESIDENT—PM-181

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, pursuant to Public Law 94-265:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and Japan signed at Washington on September 10, 1982.

This agreement is one of a series to be renegotiated in accordance with that legislation to replace existing bilateral fishery agreements which are due to expire this year. I urge that the Congress give favorable consideration to this agreement at an early date and recommend that Congress consider issuance of a joint resolution to bring this agreement into force before the agreement expires on December 31, 1982.

RONALD REAGAN.

The White House, *September 20, 1982.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute:

H.R. 5203. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act (Rept. No. 97-551).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, without amendment:

S. 1661. A bill to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes (Rept. No. 97-552).

S. 1964. A bill to designate certain lands in the Mark Twain National Forest, Mo., which comprise about 17,562 acres, and known as the Irish Wilderness, as a component of the National Wilderness Preservation System (Rept. No. 97-553).

S. 1965. A bill to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System (Rept. No. 97-554).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1978. A bill to quiet title and possession with respect to a certain private land claim in Livingston Parish, La. (Rept. No. 97-555).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with an amendment:

S. 2279. A bill to designate the Alben Barkley National Historic Site (Rept. No. 97-556).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute an amendment to the title:

S. 2710. A bill to establish a wilderness area in the Hoosier National Forest area, Indiana (Rept. No. 97-557).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S.J. Res. 155. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site" (Rept. No. 97-558).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, without amendment and with a preamble:

H.J. Res. 207. Joint resolution to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial (Rept. No. 97-559).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with an amendment:

H.R. 1281. A bill to provide for the conveyance of certain lands in Alaska comprising trade and trade manufacturing site A-056802 without regard to the 80 rod limitation provided by existing law (Rept. No. 97-560).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, without amendment:

H.R. 6029. A bill to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana (Rept. No. 97-561).

H.R. 6188. A bill to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes (Rept. No. 97-562).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 459. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1999.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 463. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2671.

S. Res. 464. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1701.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 469. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5203; to the Committee on the Budget.

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, without amendment:

S. Res. 470. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2279; to the Committee on the Budget.

S. Res. 471. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6188; referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. BENTSEN):

S. 2932. A bill to extend for 1 year the taxes authorized by law to be collected for the Highway Trust Fund established pursuant to the Highway Revenue Act of 1956, and to extend such Trust Fund for 1 year; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 2933. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. BUMPERS, Mr. BURDICK, Mr. CANNON, Mr. CHILES, Mr. CRANSTON, Mr. DECONCINI, Mr. DOLE, Mr. DURENBERGER, Mr. EXON, Mr. GORTON, Mrs. HAWKINS, Mr. HEINZ, Mr. INOUYE, Mr. MATHIAS, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PELL, Mr. QUAYLE, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. WEICKER, and Mr. LUGAR):

S.J. RES. 249. A joint resolution to provide for the designation of the month of October 1982 as "National Spinal Cord Injury Month."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 469. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5203; to the Committee on the Budget.

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources:

S. RES. 470. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2279; to the Committee on the Budget.

S. RES. 471. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6188; to the Committee on the Budget.

STATEMENTS ON BILLS AND JOINT RESOLUTIONS

By Mr. MATSUNAGA:

S. 2933. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin

Islands source income; to the Committee on Finance.

WITHHOLDING TAX IN THE VIRGIN ISLANDS

Mr. MATSUNAGA. Mr. President, I am today introducing a bill at the request of Congressman RON DE LUGO, delegate from the Virgin Islands.

Federal law imposes on the Virgin Islands an income tax structure identical to the U.S. Internal Revenue Code. Tax revenues raised in the Virgin Islands under the "mirror" tax law finance the local government operations.

Under the mirror tax code, a 30-percent withholding tax is imposed on gross dividends, interest, rents, royalties, and other passive income paid to individuals outside the Virgin Islands. This tax has seriously deterred businesses from investing in the Virgin Islands.

The government of the Virgin Islands would like to reduce the tax to encourage new business investment; but it is unable to legislate a tax reduction, since the mirror tax code is required by Federal statute.

The House Ways and Means Committee on September 15, 1982, approved legislation to allow the Virgin Islands legislature a degree of self-government in this matter. The bill, in compliance with the Virgin Islanders' desire, lowers the withholding tax from 30 to 10 percent; it allows the Virgin Islands legislature to reduce the tax further, if it desires.

To hasten congressional approval of this minor change, I am introducing the House bill for Senate consideration. The measure is relatively insignificant, but it does provide a measure of self-government and fiscal responsibility to the local Virgin Islands Government. I urge expeditious Senate action on this bill in view of the favorable action taken in the House Ways and Means Committee.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2933

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions) is amended by inserting after section 934 the following new section:

"SEC. 934A. REDUCTION IN INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

"(a) GENERAL RULE.—For purposes of determining the tax liability incurred by citizens and resident alien individuals of the United States, and corporations organized in the United States, to the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands—

"(1) the rate of the taxes imposed by sections 871(a)(1) and 881 shall not exceed 10 percent, and

"(2) subsection (a) of section 934 shall not apply to such taxes.

"(b) REDUCED RATES NOT TO APPLY TO PRE-EFFECTIVE DATE EARNINGS.—

"(1) IN GENERAL.—The reduction under subsection (a)(1), and any reduction under section 934 pursuant to subsection (a)(2), in a rate of tax imposed by section 871(a)(1) or 881 shall not apply to dividends paid out of earnings and profits accumulated for taxable years beginning before the effective date of the reduction.

"(2) ORDERING RULE.—For purposes of paragraph (1), dividends shall be treated as first being paid out of earnings and profits accumulated for taxable years beginning before the effective date of the reduction (to the extent thereof)."

(b) WITHHOLDING.—Subchapter A of chapter 3 of such Code (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING ON VIRGIN ISLANDS SOURCE INCOME.

"For purposes of determining the withholding tax liability incurred to the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands by citizens and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 934 of such Code is amended by inserting before the period at the end thereof "or in section 934A".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part III of subchapter N of chapter 1 of such Code is amended by inserting after the item realating to section 934 the following new item:

"Sec. 934A. Reduction in income tax rate on Virgin Islands source income."

(2) The table of sections for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding on Virgin Islands source income."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

(2) WITHHOLDING.—The amendment made by subsection (b) shall apply to payments made after the date of the enactment of this Act.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. BUMPERS, Mr. BURDICK, Mr. CANNON, Mr. CHILES, Mr. CRANSTON, Mr. DECONCINI, Mr. DOLE, Mr. DURENBERGER, Mr. EXON, Mr. GORTON, Mrs. HAWKINS, Mr. HEINZ, Mr. INOUYE, Mr. MATHIAS, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PELL, Mr. QUAYLE, Mr. RANDOLPH, Mr. RIEGLE, Mr. SARBANES, Mr. STAFFORD, Mr. TSONGAS, Mr. WEICKER, and Mr. LUGAR):

S.J. Res. 249. Joint resolution to provide for the designation of the month of October 1982, as "National Spinal Cord Injury Month"; to the Committee on the Judiciary.

NATIONAL SPINAL CORD INJURY MONTH

● Mr. KENNEDY. Mr. President, over 500,000 Americans are now paralyzed because of spinal cord injuries. Each year an additional 20,000 Americans fall victims to this devastating condition. Of these, 80 percent are young men, at the average age of 19, injured as a result of motor vehicle accidents, falls, sports and recreational activities, and violence.

Spinal cord injury represents the single most expensive medical problem in the United States today. The lifetime costs to sustain a person with spinal cord injury paralysis are between $1 and $5 million.

Nationally, the costs are proportionately staggering: The annual costs to the U.S. Government for the support and care of spinal cord injured persons, including veterans, has been estimated to be $3 billion. In addition to the Government's contribution, private dollars add another estimated $3 billion.

Despite its prevalence, the general public is virtually ignorant of the profound personal consequences and the staggering costs faced by the victims of spinal cord injury and their families. Spinal cord injured persons require the delivery of prompt, first-rate care, both acute and chronic.

However, it is believed that only 15 percent of the newly injured spinal cord victims receive appropriate, immediate, and quality medical attention. The results and prognosis for patients whose immediate care is mismanaged can be catastrophic—physically, psychologically and financially.

The rehabilitation picture, like that of acute care, is not much better. Institutions that have the sufficient information, technology, and resources to provide good care, training, and reasonable hope of independence to a victim of spinal cord injury paralysis are not numerous. Thousands of people needlessly waste away in rehabilitation halls, or return home to empty rooms, absent families, and inadequate medical attention.

However, paralysis due to spinal cord injury need not remain permanent, as was previously believed. Recent breakthroughs in spinal cord regeneration research offer unprecedented promises. Scientists around this country—and in other countries—have reached the consensus that a cure is not only feasible, but inevitable.

Transplant techniques, genetic engineering, biochemical and neurophysiological discoveries offer unprecedented promise for not only modifying, but preventing and curing the paralysis that follows a spinal cord injury. Evidence suggests that the human spinal cord is capable of regeneration and that restoration of function to paralyzed muscles is possible.

Until a cure for spinal cord paralysis can be found, it will continue to strike productive citizens in the prime of their lives. Each day, researchers seeking contributions and support will need to educate the public about the nature of spinal cord paralysis and the prospects for a cure. And each day, organizations like the National Spinal Cord Injury Association and the Paralyzed Veterans of America, committed to bringing together research and service will need resources, both economic and technical, to continue the delivery of quality health care to all spinal cord injured persons, both acute and chronic.

I propose we designate October of this year as National Spinal Cord Injury Month, to focus the attention of the public on the need to address this critical health care problem that touches the lives of millions of Americans. It can help to offer hope to the many people whose lives are drastically changed by spinal cord injuries. And it can provide the impetus to keep research going and to increase public support for programs to aid spinal cord injured victims and their families.

Four of our friends and distinguished colleagues on the House side, Congressmen WALGREN, WAXMAN, and LELAND, and Congresswoman MIKULSKI have sponsored a similar resolution, House Joint Resolution 598, in the House. Clearly, they feel that the problem of spinal cord injury paralysis is in greater need for attention and encouragement to raise our national consciousness about the needs of the spinal cord injured victim.

That is why I have introduced this resolution designating the month of October as National Spinal Cord Injury Month. It is why so many other Senators, more than 25, have agreed to be original cosponsors of this resolution.

I solicit the support of my colleagues for this resolution, and I respectfully request the President and the majority and minority leaders for their considerable assistance in granting this legislation the very earliest action.●

● Mr. WEICKER. Mr. President, I am pleased to join with my colleague, the distinguished senior Senator from Massachusetts in cosponsoring this resolution to designate October of this year as National Spinal Cord Injury Month.

The first step toward reaching a solution to any problem is recognizing that the problem indeed exists. In the case of devastating spinal cord injury, the 500,000 Americans now disabled, and the 20,000 additional victims injured each year know only too well its tragic effects. And the costs in both human and economic terms are indeed staggering.

By calling the prevalence of spinal cord injury to the attention of the American people it is my hope that the public awareness so critical to marshaling the resources necessary to identify a cure for spinal cord injuries will be heightened.

Our Nation's medical researchers can build on the regeneration research already yielding great promise for spinal cord injured persons. We have the capability to move forward in this area: All that is needed is the will and commitment to do so. This resolution is an expression of the Congress' awareness and I urge all my colleagues to support it.●

ADDITIONAL COSPONSORS

S. 2061

At the request of Mr. MOYNIHAN, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2204

At the request of Mr. HATFIELD, the names of the Senator from Washington (Mr. GORTON), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2204, a bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes.

S. 2805

At the request of Mr. HATFIELD, the names of the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2805, a bill to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes.

S. 2901

At the request of Mr. DOLE, the name of the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2901, a bill to establish a National Commission on Neurofibromatosis.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Oregon (Mr. HATFIELD), the Senator from Arkansas (Mr. PRYOR), the Senator from Georgia (Mr. NUNN), the Senator from South Carolina (Mr. THURMOND), the Senator from New York (Mr. D'AMATO), the Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE JOINT RESOLUTION 245

At the request of Mr. KENNEDY, the names of the Senator from Nevada (Mr. CANNON), the Senator from Illinois (Mr. DIXON), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Joint Resolution 245, a joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. MATTINGLY, the name of the Senator from New Hampshire (Mr. HUMPHREY) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Resources to conduct a study on steps which might be taken to correct the social security benefit disparity known as the notch problems.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maryland (Mr. SARBANES), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. PERCY, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of Senate Concurrent Resolution 122, a concurrent resolution relating to the processed product share of U.S. agricultural exports.

SENATE RESOLUTION 469—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 469

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5203, an act to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

The waiver of section 402(a) is necessary to permit consideration of statutory authority to extend the Federal Insecticide, Fungicide, and Rodenticide Act which is the basic

statute regulating the use of pesticides in the United States. That Act is administered by the Environmental Protection Agency which is charged with the responsibility for ensuring that pesticides do not cause unreasonable adverse effects on the environment. The Act is primarily carried out through a complicated registration program for pesticides, which is important to ensure the availability of safe and effective pesticides in this country.

H.R. 5203 is an extremely complex piece of legislation that is intended to correct problems that have been experienced in the operation of the pesticide registration program. The delay in reporting H.R. 5203 was occasioned by the need for time to develop and refine, with the interested parties, many of the important legislative proposals to be considered.

SENATE RESOLUTION 470—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 470

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2279, a bill to designate Alben Barkley National Historic site. S. 2279, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of S. 2279. Such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

SENATE RESOLUTION 47—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 471

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6188, a bill to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes. H.R. 6188, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of H.R. 6188. Such bill was not reported on or before May 15, 1982, required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The State of Nebraska has been actively engaged in the preparation of the comprehensive Platte River Basin study since January 1982. Contracts have been let for portions of the study and funds have been appropriated by the State Legislature. In addition, funds have been contributed at the local level as well as a grant has been made by the Platte River Whooping Crane Trust. The study and related activities have been premised on participation by the Bureau of Reclamation and Federal financial assistance. Without that participation, the study will be indefinitely delayed resulting in increased costs and possibly lost opportunities for advancement of water resource management in Nebraska.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY EXTENSION OF PUBLIC DEBT LIMIT

AMENDMENT NOS. 3422 THROUGH 3575

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted 154 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary extension in the public debt limit.

AMENDMENT NO. 3576

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

AMENDMENT NO. 3577

(Ordered to be printed and to lie on the table.)

Mr. CHILES (for himself and Mr. NUNN) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 520), supra.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Subcommittee on Urban and Rural Economic Development, Committee on Small Business, will hold a hearing on Tuesday, September 28, 1982, room 424 of the Russell Senate Office Building, at 9:30 a.m., on "Oversight Hearing on SBA's Section 503, Economic Development Program." Senator ALFONSE D'AMATO will chair the hearing. For further information, please contact Bob Wilson of the Small Business Committee staff at 224-2130.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Monday, September 20, for the purpose of receiving testimony concerning S. 2784, Major League Sports Community Protection Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, September 20, to consider the nominations of J. F. Morris to be Deputy Administrator of the Agency of International Development, and Edward A. Curran to be Deputy Director of the Peace Corps.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 21, at 2:30 p.m., to consider the nominations of Theodore C. Maino to be Ambassador to the Republic of Botswania; Peter Dalton Constable to be Ambassador to the Republic of Zaire; and Robert B. Oakley to be Ambassador to the Somali Democratic Republic.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 21, at 3:30 p.m., to hold a top secret consultation on START.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Alcoholism and Drug Abuse, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Tuesday, September 21, at 11:30 a.m., to hold a hearing on the effects of alcohol consumption during pregnancy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREIGN AGRICULTURE POLICY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Agriculture Policy, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, September 21, at 9:30 a.m., to hold an oversight hearing on the benefits of processed and value-added products for agriculture exports.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of

the Senate on Tuesday, September 21, at 10 a.m., to hold an oversight hearing on the Department of Energy's laboratories.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, September 22, at 10 a.m., to hold an oversight hearing on benefits to former Presidents.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, September 23, at 2 p.m., to hold a hearing on the nomination of K. William O'Connor to be special counsel for the Merit Systems Protection Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

● Mr. QUAYLE. Mr. President, I am pleased to cosponsor the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) with Senator HATCH. This bill will replace the Farm Labor Contractor Registration Act (FLCRA) which was enacted in 1964 and amended several times thereafter. The purpose of this bill is to regulate the activities of farm labor contractors and to shield migrant and seasonal farmworkers from those crew leaders who are unscrupulous. We believe that this legislation is still needed because abuses of migrant and seasonal farmworkers continue despite unceasing efforts by the Department of Labor to enforce the provisions of the act and guarantee its protections to farmworkers. We feel it is critical that farmworkers continue despite unceasing efforts by the Department of Labor to enforce the provisions of the act and guarantee its protections to farmworkers. We feel it is critical that farmworkers be afforded all the protections of the law; at the same time we are convinced that farmers and other agricultural processors and producers who treat their employees fairly should be free from harassment and Government intervention in their businesses. The Migrant and Seasonal Agricultural Worker Protection Act is designed to accomplish just that.

This bill is the result of a compromise worked out by farmworker representatives and employer representatives. It has been the subject of negotiations for over a year. We now have before us a consensus bill which has the administration's fullest support as well as that of the AFL-CIO, the National Council of Agricultural Employers and the American Farm Bureau Federation. These groups and many others have voiced their support for this bill. I understand that agricultural employers continue to believe that imposition of many of the bill's requirements upon employers of local and seasonal workers is unnecessary, and to a degree discriminatory. At the same time, they approve and support enactment without change of the Migrant and Seasonal Agricultural Worker Protection Act as a significant and much needed improvement over the Farm Labor Contractor Registration Act.

The Migrant and Seasonal Agricultural Worker Protection Act represents a significant departure from current law. However, FLCRA has been subject to many legal challenges and much litigation has arisen over the interpretation of who must register as a farm labor contractor. In my work as chairman of the Employment and Productivity Subcommittee, which has jurisdiction over FLCRA, I have learned that those problems have been particularly difficult with regard to fixed situs employers such as farmers, whose status has been subject to continuous litigation. Endless legal issues have greatly hindered effective administration of the act and I feel that the proposed bill will help to remedy that problem.

The proposed bill makes several fundamental changes from current law. These changes are needed attempts to deal with the problems that have arisen under FLCRA and relate specifically to those difficulties. The first difference between this bill and current law is that it distinguishes between the traditional farm labor contractor and the fixed situs agricultural employer by eliminating the requirement for agricultural employers to register as farm labor contractors. This change eliminates an extremely burdensome and unnecessary requirement for agricultural employers. There is good reason why the customary agricultural employer should not be required to register under the act. Basic differences distinguish the traditional "crew pusher" from the farmer. By definition, crew leaders are usually transient and hard to find. They will often recruit a crew in Louisiana or Texas or some other State and transport their crew to work elsewhere. Traditional crew leaders are hard to find, and even harder to locate and control. Farmers and processors, on the other hand, are quite easy to find. They are permanently located and are tied to their farm, processing plant, or other property. If it appears that they are abusing migrant workers, they can easily be held accountable under the many laws that protect migrant and seasonal farmworkers. Indeed, registration requirement for fixed situs employers are redundant and unnecessary.

A second major change of the proposed bill clarifies the extent to which agricultural employers are responsible for worker protections. While the bill maintains the worker protections in FLCRA, it specifically requires agricultural employers to comply with basic vehicle safety, sanitary and housing standards, reporting and withholding requirements, and records maintenance and preservation. Agricultural employers have agreed that this is a necessary part of the new act and support this clarification.

The proposed bill makes three other changes which are significant. The bill distinguishes between true migrant workers, who travel from State to State in search of work, and seasonal farmworkers who work in the area around their home, but who are not required to be away from home overnight. This distinction is important because "day-haul" workers will be covered under the new definition of seasonal agricultural workers. "Day-hauls," like seasonal workers work the area around their home, but they may be only occasional workers, picked up at an agreed point in a city or town and returned to that same point each night. The DOL feel that coverage of these workers is essential to this bill irrespective of whether those workers are living away from home because DOL has found "day-haul" workers highly vulnerable individuals who can easily be subject to abuse.

Another important change in this bill is a specific exemption for labor unions, small businesses, and family businesses. Finally, the MSPA eliminates the vague and ambiguous language which has lead to so much litigation under FLCRA. The format of FLCRA begins by broadly describing activities in which many who are obviously not crew leaders frequently engage, then narrowing the scope by a series of exclusions until supposedly only crew leaders remain. In theory such a drafting plan can be made to work, but here the combined effect of the format, vague definitions, and vague qualifications within exclusions have provided the legalistic rationale for a subversion of Congress clear intention that farmers, and other agricultural producers as well as migrant and seasonal farmworkers be protected from unscrupulous crew leaders.

In summary, the Migrant and Seasonal Agricultural Worker Protection Act would abolish the unclear and oftimes confusing language of the Farm Labor Contractor Registration Act. It would continue to provide and even expand protections for migrant and

local seasonal farm workers. It would remove certain unnecessary and burdensome requirements upon agricultural employers and agricultural associations, and will clarify language and criminal penalties and court awards as well. Thus, this act will serve the interests of both employers and workers alike. I support this bill, and urge my colleagues to do the same.●

AMERICAN CONSERVATION CORPS—S. 2061

● Mr. MOYNIHAN. Mr. President, I would again like to bring to my colleagues' attention that the Subcommittee on Public Lands will hold a hearing this Wednesday, September 22, to discuss S. 2061, a bill Senator MATHIAS and I have introduced to create an American Conservation Corps. Seventeen members of this Chamber are cosponsoring S. 2061, and the legislation has attracted widespread editorial support. Sunday's New York Times ran a perceptive piece by the eminent columnist Tom Wicker on the need for an American Conservation Corps, and I ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 19, 1982]

RECYCLING AN IDEA

(By Tom Wicker)

Near my hometown in the Sandhills of North Carolina, stands of tall pine trees line the roadsides, the gray earth beneath them richly carpeted with brown needles. The trees grow in straight rows, as if planted that way by human design.

They were. I well remember from the 1930's the young men of the Civilian Conservation Corps setting them out, in row after row of pine seedlings across the eroded old fields. That kind of thing made the C.C.C. one of the most useful and successful projects of the New Deal.

President Reagan, sometimes an admirer of Franklin Roosevelt, has a good piece of evidence close at hand. Camp David, where he spends weekends and entertains foreign visitors, was built by the C.C.C. as a low-cost resort for Federal workers.

The C.C.C. lasted for nine years, employed over three million Depression-age younsters, planted 1.3 billion trees and carried out conservation projects worth $1.5 billion. Much of this work, like those North Carolina pine forests, is still visible and still environmentally valuable nearly 50 years later.

There's no way to measure the other achievements of the C.C.C.—the hope it gave to the hopeless, the skills it taught the unskilled, the social dynamite it defused by providing alternatives to idleness and resentment, even the quasi-military field life to which it introduced a generation destined to emerge from Depression into World War II.

Senator Daniel P. Moynihan of New York and his Republican co-sponsor, Senator Mac Mathias of Maryland, now propose a rebirth of this proven program—proven not only in the old C.C.C. but in more recent examples such as California's flourishing Conservation Corps. The House already has passed its own bill setting up a National Conservation Corps; a Senate subcommittee will open hearings on the Moynihan-Mathias bill Sept. 22.

The idea is simplicity itself. About 70,000 to 100,000 unemployed young people—aged 16 to 25, men and women—would be paid the minimum wage to fill conservation-related jobs. An additional summer work force would be recruited among those 15 to 21. Preference would be given to the disadvantaged, or to those who live in areas of particularly high unemployment.

What would they do? One idea comes from the Office of Management and Budget and the Interior Department, although the Reagan Administration so far opposes the conservation corps concept. These agencies want to use revenues earmarked for new park acquisition for the rehabilitation of existing parklands—many of which badly need it. Mr. Moynihan sees this as a project that could be carried out splendidly by the proposed corps of young workers.

There's no lack of other suitable and needed tasks—reforestation, roadbuilding, bridge and dam construction, cutting fire trails and fighting forest fires, drainage and flood control projects, land reclamation, to name only a few.

The program would be paid for by earmarked Federal revenues from various leasing and permit activities on Federal lands—oil and gas leasing, for example, or timber cutting.

The House-passed bill, principally sponsored by Representative John Seiberling of Ohio, provided for $50 million in fiscal 1983 and $250 million in each of the following five years—an affordable total of $1.3 billion between now and 1989. The House bill requires the states to match 15 percent of these funds; the Senate may increase that requirement.

The Administration opposes the legislation on the grounds that two smaller conservation corps programs, now defunct, were not effective; but that's a weak case.

Mr. Moynihan says that in New York State alone, the former Young Adult Conservation Corps returned $2.83 in appraised work for every dollar spent; the costlier Youth Conservation Corps returned $1.04 per dollar invested. And those figures don't measure the job skills, character development and sense of self-worth imparted to many participants, or whatever reduction in youth crime and delinquency might have resulted.

The California Conservation Corps, functioning since 1977, costs $36 million annually and pays the minimum wage to a turnover of about 4,000 young people a year, for an average of six months each. In 1981, the corps logged three million hours of work, a third in emergency situations, the rest in home and forest improvement, conservation and historical preservation. Three million trees were planted that year.

The California C.C.'s slogan—"Hard Work, Low Pay, Miserable Conditions"—suggests that it is not a picnic or hiking trip. A Federal version could be just as demanding; and, among other things, it probably would do more to diminish street crime than any of the dubious crime-fighting proposals President Reagan recently unveiled.

Just in case he thinks he has philosophical objections, he might remember something called the Ecology Corps, a forerunner of the California Conservation Corps. You guessed it. The Ecology Corps was launched by Governor Ronald Reagan, and a good day's work, too.●

MANDATORY NATIONAL SERVICE: IDEALISM GONE WRONG

● Mr. HATFIELD. Mr. President, as expenditures for exotic weaponry and protracted nuclear conflict continue to rise, the fundamental components of Armed Forces readiness are the first to bear the brunt. We have been down this road before. Those who would have us abandon the volunteer concept in exchange for a draft are generally disinclined to protest such shifts in priorities for it constitutes the surest means of obtaining their goal. We are witnessing such a drift today.

Perhaps the most dangerous adjunct to this strategy to bring back the draft is the national service concept. It is little more than a wolf in sheep's clothing so far as the draft is concerned. Mr. Douglas Bandow, who formerly worked for the White House and is now the editor of Inquiry magazine makes an excellent case for the dismissal of the national service concept in an article he published in the Los Angeles Times. I submit it for the RECORD for the benefit of my colleagues.

The article follows:

[From the Los Angeles Times, Feb. 14, 1980]

MANDATORY NATIONAL SERVICE: IDEALISM GONE WRONG

(By Doug Bandow)

Not satisfied with the federal government's previous failures in attempting to restructure and reform American society, an odd coalition of liberals and conservatives is seeking to commit the United States to the most ambitious social-engineering scheme ever. This disparate group has been pushing for the institution of mandatory national service, which would force all American young people to turn their lives over to the government for a specified period.

The plan that has received the most attention so far is that of Rep. Paul N. (Pete) McCloskey Jr. (R-Calif.), which would require that every person register before reaching his or her 18th birthday and choose from among four different military and civilian service alternatives. University of Chicago economist Morris Janowitz advocates a longer-range compulsory program. And in a report for the Washington think tank, the Potomac Institute, the Committee for the Study of National Service offers a detailed voluntary plan.

Such proposals are not new. In 1887 Edward Bellamy proposed a truly universal plan, one that encompassed the old as well as the young. Others, from William James in 1910 to Margaret Mead in 1967, have suggested national service as a solution to many of society's ills.

National-service proponents embark on this authoritarian course for two reasons. The first is to force the inculcation of their own values in the otherwise unreceptive younger generations. Bellamy, for example, expected his plan to teach men the "habits of obedience, subordination and devotion to duty." Mead suggested that national service would provide young people with a sense of satisfaction. Contemporary proponents have called it a way to "restore civic morality," to cultivate "altrusin" and to emphasize "collective rather than individualistic goals."

The second rationale joins this hope of personal growth with the goal of solving the problems of society. The Potomac study committee's report lamented that "until the spirit of service is restored among American citizens, the most pressing human problems of society will not be solved." Thus national service is seen as a way to end youth unemployment and to fulfill society's unmet needs. Others such as economist Janowitz, see national service as necessary to meet our military needs while eliminating the obvious inequities of a selective military draft.

Though these goals are praiseworthy, the methods are untenable. Not content with relying on voluntary association in a free society, service proponents are seeking to turn every young person into a government resource to be exploited at will. Even the study committee, which recommended a voluntary program, admitted that "only by a mandatory system could we be sure that those who may need the experience the most will serve."

This is the crux of the matter. National-service supporters recognize that most American youth, whether rich or poor, privileged or not, do not want to turn their lives ever to high-minded paternalists. Thus they must be forced to do so.

There is simply no adequate justification for allowing these self-appointed guardians of the public interest to fix their personal goals for a beneficient society on the young. In a free society, it should be up to each individual to determine his or her commitment to that society, and the level of service that he or she feels obligated to provide. Even if most people believe that an obligation of some sort is imposed by merely living—a presumptious notion at best—it is still strictly a personal, moral burden, not one that should be enforced by law.

Moreover, if service is owed to the country, it is strange that only the young are liable for the debt. Virtually all national-service proponents talk as if the young are singularly selfish, wayward, insensitive and parasitic. Thus everyone else—those who are safely out of the proposed age range of service—can stand back and determine what the goals of the young should be, and how their particular moral obligations should be fulfilled.

It has been suggested that national service is an equitable alternative to a selective military draft. Though a draft is obviously unfair in that only some people must serve, it is likely that the young would prefer an equal chance of being drafted to an equal certainty of involuntary service.

Even if one accepts the premise of national service, it is difficult to see how many of the proposed programs would achieve their lofty goals. The idea of compulsery compassion is nonsensical; service ceases to be service once it is coerced. Thus, rather than "imbuing youth with the spirit of service to society," involuntary servitude will succeed only in embittering them toward an oppressive government. Rather than cultivating "altruism," such a program would merely highlight the selfishness of the rest of the population that exempted itself. And the "civic morality" that would be learned would be that of the power to force others to do one's will.

The preponents of national service have accurately identified many of the problems facing our nation—youth unemployment, unmet social needs, national defense. But their proposed solution is incompatible with a free society. This is illustrated even by the study committee's own report, which noted that two members traveled to China and "came back impressed and challenged by the extraordinary mobilization of the talent of young people possible under authoritarian, post-revolutionary conditions. They came back more determined than before to try to devise a democratic equivalent."

What these members apparently don't realize is that there can be no equivalent program in a free society. In China, the state owns every person, and can therefore allocate lives at will. In contrast, a free society must be built on the opposite premise—that each individual is entitled to run his or her own life as long as that person doesn't interfere with the rights of others. Mandatory national service—no matter how short, no matter how well-intentioned, no matter what—is inconsistent with the personal freedom of us all.

A truly free society should seek to generate the voluntary support necessary to solve its problems. A society without the moral authority to persuade people to freely come to its aid surely lacks the moral right to force those same people to support it.●

FESTIVAL OF LIGHT

● Mr. KASTEN. Mr. President, I rise today to bring to the Senate's attention an event which will take place later this month in the Fox River Valley in Wisconsin—the Fox Valley Festival of Light.

The Fox Valley Festival of Light is a 4-day celebration scheduled in Appleton, Wis., September 30 to October 3, 1982. The purpose of the festival is to celebrate the centennial of the first practical, commercial application of hydroelectric power in the United States. The first water-driven Edison electric central station was placed in successful operation at Appleton on September 30, 1882.

Over the past century, our Nation has changed dramatically. Much of the progress we have made as a Nation can be attributed to our ability to harness electrical power. The industrial revolution was made possible by our ability to constructively use electricity and, today, America is a world leader in the electricity-powered computer industry. In additon, nearly every convenience of modern-day living relies on electricity. From televisions and stereos to refrigerators and hairdryers, electricity had played a vital role in making our lives what they are today.

Mr. President, a major step in the history of electricity took place in the Fox River Valley in 1882 when a group of Appleton businessmen successfully tested a variation of Thomas Edison's incandescent lamp and brought the first hydroelectric light in America to an Appleton home and a few mills.

The progress made in the Fox Valley is representative of the progress made across the Nation with the coming of commercial electricity. Fox Valley industry left behind the era of gaslights and kerosene lamps and leaped into the future. One of the many resulting achievements was the development of Wisconsin's first hydroelectric trolley in 1886.

Mr. President, on behalf of the U.S. Senate, I commend the people of the Fox River Valley on the work they have done to put the Festival of Light together, and wish them success as they celebrate the historical event that took place in Appleton a 100 years ago.●

DISCHARGE OF SENATE RESOLUTION 447

● Mr. DOMENICI. Mr. President, S. 1606, the Electric Utility Nuclear Accident Cost Allocation Act was reported by the Committees on Energy and Natural Resources and Environment and Public Works on August 13, 1982. Senate Resolution 447 to waive section 402(a) of the Congressional Budget Act was referred to the Budget Committee on August 13, 1982.

This act would establish a national trust fund for the purpose of allocating and defraying costs of the cleanup of Three Mile Island Unit No. 2 (TMI-2). Income to the fund would be derived from an annual fee on nuclear powerplant capacity owned by nuclear utilities. Fees would be assessed during calendar years 1982 through 1987, and the receipts would be available without fiscal year limitation.

A waiver was requested because it was believed that the bill authorized appropriations. Upon reviewing the text of the bill after the final version was reported, Budget Committee staff concluded that a waiver was not required because S. 1606 did not authorize the enactment of new budget authority.

Therefore, Mr. President, the waiver request has been discharged from consideration by the Committee on the Budget, because no action on the part of our committee was necessary.●

MASSACRE IN BEIRUT

● Mr. PELL. Mr. President, I am deeply shocked and saddened by the senseless slaughter that took place at the Palestinian refugee camps in Beirut late last week. Israel claimed that its forces occupied West Beirut in an effort to avoid bloodshed following the assassination of President-elect Gemayal. Yet, according to press accounts, including one report quoting an Israeli Government source as saying that Israel knew in advance about Lebanese militia plans to enter the refugee camps, Israeli forces did nothing to prevent the militia forces from entering the camps.

By all accounts Israeli forces were not directly involved in the killings and apparently even tried to expel the militia forces once it was known what the militia was doing; nevertheless Israel must bear a share of the respon-

sibility for what happened at camps it controlled. Given the conflict and the animosity that have razed Lebanon for 7 years, Israel should have known what would happen by permitting militia forces to enter the refugee camps. More generally, what happened in Beirut is the logical consequence of an Israeli policy of arming private Lebanese militias and giving them free rein in the areas occupied by Israeli forces.

Israel should now withdraw entirely from Beirut and turn over security for the city to the Lebanese army and whatever U.N. and Western forces are willing to assist the Lebanese in protecting innocent civilians. The highest priority should also be given to negotiations to remove all Israeli, Syrian, and PLO forces from Lebanon so that the Lebanese can solve their own problems.●

AMNESTY FOR ILLEGAL ALIENS

● Mr. EAST. Mr. President, Edwin Harwood, a national fellow at the Hoover Institution, recently analyzed the immigration reform bill passed by the Senate a few weeks ago. Mr. Harwood, writing in the Wall Street Journal for September 17, 1982, notes that the amnesty provisions are an open invitation to massive fraud.

Mr. Harwood makes the point that Congress has failed to give the Immigration and Naturalization Service the resources to enforce the existing laws in the face of escalating illegal entries. Our illegal immigration crisis is a law enforcement breakdown. We cannot solve the problem without spending more money and having the courage to enforce the laws. Most of the additional funds needed for immigration law enforcement could be raised by modest user fees charged those who cross our borders. Where Congress and the administration will obtain the determination to enforce the law in the face of noisy charges of discrimination, I cannot say.

I ask that Mr. Harwood's essay be printed in the RECORD for the benefit of my colleagues.

The essay follows:

[From the Wall Street Journal, Sept. 17, 1982]

CONGRESS'S BAD IMMIGRATION BILL

(By Edwin Harwood)

Congress is considering a measure that its supporters think would effectively reduce the problem of people entering the U.S. from countries such as Mexico to work here illegally. The 1982 Immigration Reform and Control Act has passed the Senate and is in the House, its last hurdle before reaching the president.

Should this Simpson-Mazzoli bill become law, it would legalize millions of illegal aliens by granting them temporary or permanent legal-resident status, depending on their length of residence here. In exchange for a generous amnesty, the bill's supporters are counting on the bill's "employer sanctions" to deter future illegals. Facing fines of $1,000 or $2,000 per illegal alien caught working, the argument runs, employers won't want to hire them. As a result, the aliens won't want to come.

Will it work? If Congress better understood the Immigration and Naturalization Service's problems with current immigration law enforcement, the optimism might sour.

First, there's no assurance Congress will grant enough funds to step up enforcement. Even if it does, it may not be enough to overcome the many legal and logistical handicaps the immigration service will have to deal with.

For example more funds for the Border Patrol will increase apprehensions of border-crossers, but unless these people are smuggling-guides or have been caught crossing too many times, almost all will get the penalty-free "voluntary return" to Mexico, whence they are free to re-enter. The revolving door, as agents describe it, may just revolve faster.

WOULD LIBERALS APPROVE FUNDS?

If more were held for deportation hearings, that would increase the cost to illegals because most of them can't post bond and would be detained. But that requires more detention space, and congressional liberals aren't about to fund that. But even with more detention space, more immigration judges would be needed to handle the load. Because immigration courts in places like Los Angeles and El Centro (the main detention facility in California's Imperial Valley) already have as much business as they can handle, even a deportation hearing isn't much penalty. It will keep a Mexican national away from his job for a week or two while he sits in El Centro. He's still apt to be granted voluntary return in exchange for waiving his appeal to the Board of Immigration appeals, which has its own backed-up caseload, Congress has mandated these generous appeals provisions and INS resources are at the breaking point in some districts.

Federal court rulings have also weakened the ability of U.S. attorneys to prosecute immigration violations with criminal punishments that sting. Miranda, the probable-cause requirement for smuggling searches, tougher evidence standards, and the federal Ninth Circuit Mendes-Rodriques requirement that aliens picked up in a smuggling load (sometimes they can number 70 or more) be held as material witnesses have stretched INS enforcement resources to the point where federal prosecutors must plea bargain many alien smuggling felonies down to misdemeanors.

Will employer sanctions repair all this? Perhaps, if aliens *believe* that employer sanctions work. Unfortunately news of any new weaknesses in the INS legal or resource operations spreads quickly, thanks to the illegal-alien grapevine and activist lawyers who repeatedly file suits they know will hamstring the immigration service.

The bill's amnesty provision could encourage more Mexican nationals to choose deportation hearings since voluntary return might jeopardize their legalization chances. The result: more clogging of the appeals system.

The Reagan administration may be hoping that the legalization of large numbers of illegals already here will free INS resources to check employer verification of alien job-holders. But the proposed amnesty is the joker in the deck. Amnesty fraud could well eclipse marriage and all the other frauds currently perpetrated by aliens wanting immigrant status, because if an alien gets legalized through amnesty, he won't have to worry about employer verification. With the Mexican economy collapsing, many are sure to try.

If voluntary agencies do the initial amnesty screening, as the bill contemplates, will their staffs be sufficiently trained and motivated to sniff out suspect legalization documents? Though the burden of proof may initially fall on the alien to establish his continuous residence before the cut-off dates, aliens and their attorneys are sure to litigate over the documentation requirements, charging "arbitrary and unreasonable" discretion by INS officers who turn applications down because of insufficient bona fides. Standards intended to screen out amnesty fraud could weaken as the burden of proof reverts to the INS to establish that an alien hasn't been living in the U.S. as long as he claims.

It's already happened with the present law's marriage provision: Though the burden of proof of a bona fide marriage to an alien once fell on the citizen and alien, the courts have put it back on to the service by requiring the INS to prove fraud. The result: Marriage fraud is tougher to weed out now. With only 700 INS criminal investigators, is it reasonable to think they can investigate thousands of suspect amnesty applications on top of their workloads?

But if amnesty fraud isn't checked, the word will be out and the rush to the borders will be on. Document counterfeiters in Tijuana and elsewhere are apparently already gearing up production.

The employer sanctions will also create headaches. Will an employer hire an alien who lacks the required work-verification documents but says he qualifies for amnesty? Might employers who refuse to hire an amnesty litigant be taken to court by the alien? Or will the INS sue an employer who keeps the alien on?

Employers who follow the Simpson-Mazzoli verification procedure of checking drivers licenses, Social Security cards, etc. have little to fear. They've complied in good faith. They can't be expected to detect document fraud, so once again the burden shifts back to the immigration service.

A CATCH-22 RULING

If the service acts on employers' suspicions, the activists will complain that Latinos are being unfairly singled out, because if employers report their suspicions at all (the House Judiciary Committee's concern about this issue notwithstanding), they're more apt to report less sophisticated blue-collar Hispanics than, for example, white-collar Filipinos, Canadians and other nationalities.

If the INS returns to the "factory survey," which is how most apprehensions inside the U.S. are obtained, and enter businesses they receive tips on to question workers, officers face the Catch-22 ruling handed down recently by the federal Ninth Circuit in the Government Workers Union case. With Alice-in-Wonderland logic, the Ninth Circuit suggested that employer sanctions be relied upon for halting the influx of illegals, while at the same time prohibiting INS agents from conducting factory surveys in a "detentive" manner violating the Fourth Amendment rights of citizen and legal-resident workers in a plant. INS investigators in the Ninth's jurisdiction must now have reasonable suspicion that each worker they subject to detentive questioning is an alien illegally in the country. But unless workers

bolt and run, an officer can't easily know which workers are illegal until after he talks to them. Barring a Supreme Court ruling in the service's favor, INS officers are going to have trouble. If illegals can be spotted, then INS will still have to interview each suspect worker, a time-consuming chore.

There's another Catch-22. Unless the alien concedes his alien status, which he is under no obligation to do, the service will have to find out who he is in order to establish that he isn't authorized to work. His use of fraudulent documents to get work may make him theoretically liable to perjury but they do not establish that he is an alien.

With Simpson-Mazzoli, the cart has been put before the horse. Before passing a law with such radical innovations and then throwing it in the lap of the Justice Department to figure out how to enforce it, Congress ought first to examine whether the new provisions can be enforced any more effectively than the present law. Lawmakers should look first at what the wide appeals process and other due-process requirements have done to the parent Immigration and Nationality Act, how the courts have widened legal loopholes further and at the fact that the resources available to the INS are simply not up to the task of coping with today's avalanche of immigration cases.●

NATURAL GAS POLICY ACT

● Mr. GRASSLEY. Mr. President, I am pleased to be a cosponsor of S. 2892, which will clarify the definition of abuse in the Natural Gas Policy Act. I join my distinguished colleague from Iowa (Mr. JEPSEN) in supporting changes in the pricing policy of natural gas. It is imperative that Congress examine the issue of high natural gas prices, particularly in view of reports that the cost of natural gas will continue to rise dramatically this winter.

No issue is more important to consumers in my State than the prospect of rapidly rising fuel costs. I am sure my colleagues from other cold-climate States receive correspondence from their constituents relaying present difficulties in meeting their energy costs. The tragedy of high fuel bills is more disturbing when evaluated in conjunction with evidence that the United States is currently experiencing a natural gas surplus.

At the heart of the problem is the long-term contracts entered into by natural gas producers and pipelines. These long-term contracts were agreed to at a time when it appeared that natural gas would always be in short supply; therefore, pipelines entered into these contracts in an effort to guarantee their access to this valuable energy source. Natural gas production has increased, but the pipelines are still locked in to contractual agreements negotiated during a far different economic climate.

Iowans have been extremely successful in their conservation efforts, and the State has greatly utilized the low-income weatherization program. Rather then enjoying the benefits of their conservation efforts, the consumer is faced with rising natural gas bills. This experience is not restricted to Iowa.

S. 2892 will focus on specific ways to reduce the passthrough costs on natural gas. It gives the Federal Energy Regulatory Commission legislative authority to more appropriately evaluate these passthrough cost increase requests. The bill would expand the definition of abuse in the Natural Gas Policy Act to include restrictions on increases attributable to take-or-pay provisions, price escalator clauses, and most favored nation clauses. Additionally, a rebuttable presumption would be established for contracts which do not include "market-out" clauses.

These changes are vital to provide some measure of relief to consumers, and also to address specific inadequacies of the Natural Gas Policy Act which have become increasingly apparent.●

HARFORD COMMUNITY COLLEGE 25TH ANNIVERSARY

● Mr. SARBANES. Mr. President, for 25 years Harford Community College has been opening the doors of opportunity for the young people of Harford County, Md.

This is an outstanding center of higher education that has demonstrated real leadership in keeping pace with the rapidly growing requirements of the community that it serves so well. Once a small junior college with 119 students and four full-time faculty members, Harford Community College now has nearly 5,000 students enrolled in 770 classes, plus 6,500 students in 300 continuing education classes. Similarly, its curriculum has in 25 years been expanded and supplemented to include credit, transfer, and career programs in more than 50 disciplines.

In addition to its impressive academic opportunities, Harford Community College has been a dynamic center for cultural and artistic activities in its community. With strong focus and leadership as the responsible administrator of the county's excellent adult education program, the college has been very successful in all of these endeavors.

Mr. President, on September 24 Harford Community College will be having an academic convocation as the first part of a year-long celebration of its silver anniversary, and I wish to commend this outstanding school as a fine example of the potential for superior educational opportunities in our Nation.●

THE CONGRESSIONAL BUDGET OFFICE COST ESTIMATE OF S. 2879

● Mr. GARN. Mr. President, on September 3, 1982, I filed the Banking Committee's report to accompany S. 2879, the Depository Institutions Amendments of 1982. At that time, the Congressional Budget Office's cost estimate of the legislation was not completed. The total savings under the bill are estimated to be at least $1.5 billion over the next several years.

I ask that the CBO cost estimates for S. 2879 be printed in its entirety in the RECORD at this time.

The estimates are as follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., September 17, 1982.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for S. 2879, the Depository Institutions Amendments of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAY C. SCHEPPACH
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

1. Bill Number: S. 2879.

2. Bill Title: Depository Institutions Amendments of 1982.

3. Bill Status: As ordered reported by the Senate Committee on Banking, Housing and Urban Affairs on August 19, 1982.

4. Bill Purpose:

S. 2879 would establish a program allowing the Federal Deposit Insurance Corporation (FDIC) and the Federal Savings and Loan Insurance Corporation (FSLIC) to issue income capital certificates (ICC's) to increase the capital of qualifying savings banks and savings and loan institutions (S&L's). It would increase the lending powers of these thrift institutions, allowing them to invest up to 15 percent of assets in commercial loans, up to 30 percent in consumer loans, up to 40 percent in non-residential real estate, and up to 100 percent in state and local government obligations.

S. 2879 would codify the powers of the FDIC and FSLIC to assist problem banks and S&L's through mergers, requiring certain priorities be considered when approving acquisitions. It would authorize the Depository Institutions Deregulation Committee (DIDC) to phase out all interest rate differentials no later than January 1, 1985, and require the DIDC to authorize a new short-term account similar to those currently available through money-market funds. Other provisions of the bill include amendments to the Financial Institutions Regulatory Act (FIRA) and to the Federal Credit Union Act.

5. Cost Estimate: The income capital certificate program will enable the FSLIC to reduce cash assistance to troubled savings and loan institutions during fiscal years 1983 through 1986, at the cost of some increased outlays in later years. The estimated outlay impact relative to the baseline projections for FSLIC underlying the First Budget Resolution are shown in the following table.

[By fiscal year, in billions of dollars]

	1983	1984	1985	1986	1987
Estimated FSLIC outlays:					
Baseline	−0.1	−0.3	−0.6	−0.6	−0.6
Under S. 2879	−.7	−.9	−.9	−.7	−.6
Estimated net cost (+) or savings (−) to FSLIC	−.6	−.6	−.3	−.1	

Notes issued by the FSLIC and outstanding at the end of fiscal year 1987 would be in excess of $1 billion, and some additional redemptions of these notes are likely to be required in subsequent years.

While it is likely that the FDIC would also issue some ICC's, it is not clear at this time the extent to which it will use this new authority rather than the kinds of assistance currently being provided. As a result, no savings have been estimated for the FDIC, although some reduction in outlays is possible.

S. 2879 would also broaden the authority of the federal financial regulators to allow interstate mergers, and would expand the lending and investing powers of the thrifts. Although it is not possible to precisely measure the extent to which outlays would be affected by these provisions, potential savings to the FDIC and the FSLIC could total several hundred million dollars by 1990 as a result of strengthened thrift institutions.

6. Basis of Estimate:

For purposes of this estimate, it was assumed that S. 2879 would be enacted on or around October 1, 1982. Based on data provided by the Federal Home Loan Bank Board (FHLBB), it was assumed that five-year interest-bearing ICC's would be issued to qualified institutions beginning in fiscal year 1983. Based on the formula established in the bill, the level of assistance provided would be inversely proportional to the net worth of the thrift, with a maximum of 100 percent of losses in the preceding period covered by the ICC's.

According to the insurance agencies, these ICC's would expand the options available for dealing with problem institutions. However, alternative forms of assistance will continue to be provided through the insurance funds, since not all thrifts will qualify under the criteria established by the bill or the current agency guidelines for handling problem institutions. Nonetheless, outlays to the insurance agencies, relative to the First Concurrent Resolution on the Budget, would be reduced by an estimated $600 million in each fiscal year 1983 and 1984, $300 in fiscal year 1985, and $100 million in 1986. By fiscal year 1987, however, the cumulative interest payment would begin to offset reductions in levels of assistance, resulting in no net budget impact. Beginning in 1988, additional outlays would be incurred by the FSLIC to redeem ICC's for S&L's still in financial difficulty. It is expected that a total of more than $1 billion in ICC's would be outstanding at that time.

The estimated outlay savings would be somewhat less when calculated relative to a recent CBO update to the FSLIC baseline projections underlying the First Concurrent Resolution. The more recent projections primarily reflect the recently adopted policy of the FSLIC to minimize cash outlays for assistance to problem institutions, and to disburse contributions over a five-year or longer period. The table below summarizes the estimated cost or savings for S. 2879 relative to the updated baseline estimates.

[By fiscal year, in billions of dollars]

	1983	1984	1985	1986	1987
Estimated FSLIC outlays:					
Updated baseline	−0.8	−0.3	−0.3	+0.5	−0.7
Under S. 2879	−1.2	−.9	−.7	−.6	−.7
Estimated net cost (+) or savings (−) to FSLIC relative to updated baseline	−.4	−.6	−.4	−.1	

7. Estimate comparison: None.

8. Previous CBO estimate:

On September 9, 1982, the Congressional Budget Office prepared a cost estimate for S. 2879, as ordered reported by the Senate Committee on Banking, Housing and Urban Affairs on August 19, 1982. That estimate referred to an Administration estimate which was preliminary and is currently being reviewed. This revised estimate eliminates that reference.

9. Estimate prepared by: Mary Maginniss (226-2860).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.●

DISAPPOINTMENT AT FEZ

● Mr. KENNEDY. Mr. President, I would like to bring to the attention of all my colleagues a compelling article by Thomas A. Dine which appeared in today's New York Times.

In his article, "Dashed by the Arabs," Mr. Dine notes that he and like-minded Americans "share Israel's concerns about America's latest peace proposal but found reason for hope" in President Reagan's recent initiative on the Middle East.

However, Arab leaders meeting at Fez, Morocco "have dashed these hopes" by "a regressive Arab plan that in effect rejects not only the Reagan proposals but also the Camp David accords and calls instead for a PLO-controlled Palestinian state." As Mr. Dine points out, the Arab leaders blocked a constructive negotiating role for Jordan, failed to agree to recognize—let along negotiate—with Israel, and undercut efforts for peace in Lebanon. "All of this is a victory for those who would trade away good relations with Israel in the forlorn hope of buying the Arab radicals."

Thomas Dine has been an extremely thoughtful obsever of the Middle East for many years. As a friend who has worked closely with him during his service in the Senate, the Brookings Institution, and the American Israel Public Affairs Committee, I know that his first concern is the national interest of the United States—as it is the first concern of all Americans. I commend his article to the Senate, and I request that it appear at this point in the RECORD.

The article follows:

[From the New York Times, Sept. 17, 1982]

DASHED BY THE ARABS

(By Thomas A. Dine)

WASHINGTON.—Americans like myself who share Israel's concerns about America's latest peace proposal but who found reason for hope in President Reagan's speech have now suffered crushing disappointments.

Our hopes had been nourished by Mr. Reagan's call on the Arab states to recognize and negotiate peace directly with Israel and by his clear rejection of an independent Palestinian state. His initiative was given further significance by private assurances to him that King Hussein was prepared to negotiate on the basis of the American proposals and that Arab "moderates" would work to insure that the summit meeting at Fez, Morocco, either avoided taking a position or produced a mandate for Jordanian participation in direct negotiations. It was this hope that Hussein might at last be prepared to talk peace that led so many to find promise in the Reagan plan.

The Arabs' actions at Fez have dashed these hopes. First, Hussein has not come forward; instead, he signed a regressive Arab plan that in effect rejects not only the Reagan proposals but also the Camp David accords and calls instead for a P.L.O.-controlled Palestinian state. This is already clear from Hussein's interview, aired by the British Broadcasting Corporation, in which he admits that he has no mandate and declares that he will not negotiate with Israel.

Even if Hussein were prepared to negotiate, the summit meeting has insured that he could act only as a Palestine Liberation Organization proxy. In these circumstances, Prime Minister Menachem Begin is correct in fearing that if Hussein gained the West Bank he would have to hand it to Yasir Arafat—including, if the Arabs had their way, the keys to Jerusalem.

Second, the summit participants rejected the central principle of the Camp David agreement—the five-year transition period of Palestinian autonomy—and instead called for a P.L.O. state after a brief three-month United Nations-controlled transition. This was, by implication, a rejection of the President's entire package.

Third, not a word was spoken about recognition of, nor negotiations with, Israel. The formulation that only the Security Council, with its Soviet veto, should "guarantee peace among all states of the region" is a giant step backward from even the plan offered by Crown Prince (now King) Fahd of Saudi Arabia last year that at least had the Arabs affirming "the right of all countries of the region to live in peace." That the news media could interpret this as implicit Arab recognition of Israel represents an extraordinary failure to understand that the Arab world has now moved even further away from, rather than toward, recognition of Israel.

Fourth, in repeating their earlier rejectionist efforts against Egypt, the Fez partners decided to pressure Lebanon, the second Arab state that might have made peace with Israel, not to do so. This provides yet another measure of Arab unwillingness to accept Israel. And now the agents of rejectionism have carried their position to its conclusion by assassinating the Lebanese President-elect, Bashir Gemayel, who like Anwar el-Sadat wanted peace with Israel.

Finally, the classic pattern of Arab duplicity and American Naïveté has been demonstrated once again. America seizes upon some vague hint that one or another Arab leader might be prepared to negotiate with Israel. Then the Arabs get together and rework their position in an ever more radical direction to appease the most rejectionist parties. In this way, the Syrian and P.L.O. radicals retain their veto over what any of the others might do.

Mr. Reagan banked on moderate Arab support for his proposal. Instead, Saudi Arabia and Jordan again seem to have let America down. This has brought on a confrontation with Israel and underminded Camp David for no good reason. It has forced Israel out of the autonomy negotiations without victory for those who would trade away good relations with Israel in the forlorn hope of buying the Arab radicals.

The Arabs must be told in no uncertain terms that their position is unacceptable, that there can be no negotiations on the basis of the Fez communiqué and no progress until they declare their willingness to recognize and negotiate directly with Israel. Now that the Administration's Jordanian option has foundered on the rock of Arab intransigence, and the situation in Lebanon has become even more precarious, it is urgent that attention be devoted to the stabilization of Lebanon and removal of all foreign forces. In working toward these objectives, Washington can also help reverse Arab rejectionism by supporting the negotiation of a peace treaty between Lebanon and Israel.

There were positive points in the President's initiative. His vision of Israel living in genuine peace with its neighbors behind secure and defensive borders deserves support. But the strategy behind the speech has failed to achieve its purpose. Washington should at least recognize that it cannot buy Arab cooperation by confronting Israel; its immediate task must be to rebuild Israel's confidence in America.●

KILLING IN LEBANON

● Mr. KENNEDY. Mr. President, words are not adequate to express the revulsion we all feel at the killing of men, women, and children in West Beirut. In statements in August and following President-elect Gemayel's death, I expressed the hope that all sides in Lebanon would recognize the necessity of restraint and an end to violence. This calamity is precisely the sort of tragedy which we most had to fear, and which all who respect the sanctity of human life must condemn. Continued warfare in the Middle East and repeated cycles of reprisal involving factions inside Lebanon offer no solution to the problems which plague that country or that region.

I believe that Israel, as a functioning multi-party democracy, should urgently carry out an open and public investigation as to how this tragedy occurred and how it might have been prevented, to establish accountability, and to take any appropriate action. The Lebanese Government should conduct a similar inquiry of its own.

The United States and other friends of Lebanon should take every possible step to speed restoration of an effective central government with full authority and power to restore order in all parts of Lebanon, simultaneously with the peaceful withdrawal of all foreign forces—Syrian, Israeli as well as those of the PLO.●

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 10:30 a.m. After the recognition of the two leaders under the standing order, the Senator from Florida will be recognized on a special order for not to exceed 15 minutes.

It is anticipated that after the execution of the special order, time will be provided for the transaction of routine morning business. It is also anticipated that at the hour of 12 noon the Senate will stand in recess until the hour of 2 p.m.

At 2 p.m., Mr. President, the Senate will resume consideration of the unfinished business and a vote will occur on the cloture motion previously filed against further debate on the Helms amendment at 2:30, according to the unanimous-consent order entered on today.

If cloture is invoked, the Senate will continue to debate the amendment under the provisions of rule XXII dealing with postcloture procedures. If cloture is not invoked, Senators are reminded that another cloture motion has been filed which will provide for a vote on Wednesday.

Mr. President, it is anticipated that both the House and the Senate will be asked to consider legislation dealing with the railroad strike during the day tomorrow. I hope to have a further announcement to make during the time of the opening of the Senate on tomorrow.

Mr. President, Senators once again should be reminded that every night this week is a possible late evening. As much as it pains me to say so, Senators should also be on notice of the possibility of a Saturday session this week and next Saturday as well.

Mr. President, I have no further business to transact. I inquire of the minority leader if there is any other matter he wishes to address to the Senate at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. Will the majority leader yield for a parliamentary inquiry?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, will the Chair inform the minority leader approximately how many amendments have been filed at the desk?

The PRESIDING OFFICER. Approximately 1,500 amendments.

Mr. ROBERT C. BYRD. Approximately 1,500?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, in the event cloture is invoked, would the first- and second-degree amendments to the bill automatically be ruled out of order by the Chair without a point of order being made from the floor under the precedents of the Senate in 1977 under the Natural Gas Deregulation Act when cloture was invoked thereon?

The PRESIDING OFFICER. The Baucus amendment would be ruled out of order.

Mr. ROBERT C. BYRD. Automatically by the Chair without a point of order being made?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. But not the first-degree amendments?

The PRESIDING OFFICER. The Weicker amendment would not fall because it is restrictive and germane.

Mr. ROBERT C. BYRD. The Weicker amendment would be considered to be germane to the bill, it being an amendment in the first degree.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL TOMORROW AT 10:30 A.M.

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. Therefore, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and the Senate, at 4:56 p.m., recessed until Tuesday, September 21, 1982, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 20, 1982:

FEDERAL TRADE COMMISSION

George W. Douglas, of Texas, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1982, vice Robert Pitofsky, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 20, 1982:

COMMUNICATIONS SATELLITE CORPORATION

Justin Dart, of California, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the corporation in 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning Timothy P. Powers, and ending William A. Henrickson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 4, 1982.

Coast Guard nominations beginning Robert B. Jordan, and ending Stephen W. Price, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on August 4, 1982.

HOUSE OF REPRESENTATIVES—*Monday, September 20, 1982*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. BENNETT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
September 16, 1982.

I hereby designate the Honorable CHARLES E. BENNETT to act as Speaker pro tempore on Monday, September 20, 1982.

THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Eternal God, from whom we have received all good gifts, we ask Your blessing upon people who pray for Your protection and are in need of strength. We place before You our innermost thoughts that You would direct us in the way we should go and show us the paths of peace. To the needy we pray for support and loving care, and to the lonely, we pray for comfort. May Your Spirit never leave us, but continue to be our constant hope through all the days of life. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On August 10, 1982:

H.R. 5380. An act to recognize the organization known as American Ex-Prisoners of War; and

H.J. Res. 494. Joint resolution with regard to Presidential certifications on conditions in El Salvador.

On August 20, 1982:

H.J. Res. 516, Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week"; and

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

On August 26, 1982:

H.R. 2160. An act to amend the Potato Research and Promotion Act;

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States; and

H.R. 6530. An act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

On August 27, 1982:

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

On September 3, 1982:

H.R. 4961. An act to provide for tax equity and fiscal responsibility, and for other purposes.

On September 8, 1982:

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes;

H.R. 3126. An act to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes;

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act;

H.R. 6350. An act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration health professional scholarship program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs, and for other purposes;

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes;

H.R. 6732. An act to amend the International Safe Container Act; and

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

On September 13, 1982:

H.R. 3239. An act to amend the Communications Act of 1934, and for other purposes; and

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib; and

H. Con. Res. 405. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 3517.

The message also announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2852. An act to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983–84, and 1984–85, and for other purposes;

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day";

S.J. Res. 234. Joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week";

S.J. Res. 235. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day";

S.J. Res. 238. Joint resolution to designate October 9, 1982 as "National Running and Fitness Day"; and

S.J. Res. 239. Joint resolution designating October 16, 1982, as "National Newspaper Carriers Appreciation Day."

The message also announced that the Vice President, pursuant to Public Law 84–689, appointed Mr. BENTSEN as a delegate, on the part of the Senate, to the North Atlantic Assembly meeting, to be held in London, United Kingdom, November 14–19, 1982.

CONSENT CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

AMENDING THE EMERGENCY FUND ACT

The Clerk called the Senate bill (S. 1628), to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052).

There being no objection, the Clerk read the bill, as follows:

S. 1628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize an emergency fund for the Bureau of Reclamation to assure the continuous operation of its irrigation and power systems", approved June 26, 1948, is amended by striking the words "irrigation and power systems" in the title and substituting the words "project facilities" and by changing the first sentence of section 1 of the Act to read as follows: "In order to assure continuous operation of all projects and project facilities governed by the Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), including any project and facilities constructed with funds provided by the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof or supplementary thereto) or with funds provided by the Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto), there is hereby authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN REAL PROPERTY TO THE PERSHING COUNTY WATER CONSERVATION DISTRICT

The Clerk called the bill (H.R. 5652) to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING AND DIRECTING SECRETARY OF THE INTERIOR TO ACCEPT CERTAIN LANDS FOR THE BENEFIT OF THE SYCUAN BAND OF MISSION INDIANS

The Clerk called the bill (H.R. 5204) to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians.

There being no objection, the Clerk called the bill, as follows:

H.R. 5204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is directed, upon the acquisition thereof and upon the request of the Sycuan Band of Mission Indians, to accept on behalf of the United States in trust for the Sycuan Band of Mission Indians the title to the following described land: lot 8, section 13, township 16 south, range 1 east, San Bernardino meridian, California.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING THAT CERTAIN LANDS SHALL BE HELD IN TRUST BY THE U.S. FOR BURNS PAIUTE INDIAN COLONY OF OREGON

The Clerk called the bill (H.R. 5007) to provide for the designation of the Burns Paiute Indian Colony of Oregon as the beneficiary of a public domain allotment and to provide that all interests in public domain allotments in Harney County, Oreg., which are held by Indian allotees who die intestate and without heirs shall escheat to the United States to be held in trust for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation.

There being no objection, the Clerk read the bill, as follows:

H.R. 5007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the public domain allotment numbered 144-111, which is located in the northwest quarter, section 32, township 235, range 32½ east, Willamette Meridian, Harney County, Oregon, and which reverted by escheat to the United States from the estate of the late Jesse Joseph James, Burns allotee numbered 144-N1116, who died intestate and without heirs, is designated to be held in trust by the United States for the benefit of the Burns Paiute Indian Colony of Oregon, pursuant to section 2 of the Act approved November 24, 1942 (25 U.S.C. 373b), and shall be added to the Burns Paiute Indian Reservation.

SEC. 2. Any restricted allotment of land on the public domain, or interest in such an allotment, which is located in Harney County, Oregon, and held by an Indian allotee who dies intestate without heirs, and which reverts by escheat to the United States under section 2 of the Act approved November 24, 1942, shall be held in trust by the United States for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation, notwithstanding the provision of such section which provides that such land will become part of the public domain or the provision of such section which gives to the Secretary of the Interior, or reserves to the Congress, the authority to designate the Indian tribe for the benefit of which such lands will be held in trust. Any reversion by escheat of a public domain allotment to which this Act applies shall be subject to any other restriction imposed by section 2 of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1021, 1022; 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144-N1116, consisting of a public domain allotment, Burns Paiute public domain allotment numbered 144-111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridian, Harney County, Oregon, is hereby declared to be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.

SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: ": *Provided further,* That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation". However, no non-Indian lands in Harney County, Oregon, shall be considered Indian country as defined in 18 U.S.C. 1151.

SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b) is amended by deleting "$2,000" and inserting in lieu thereof "$50,000".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1468) to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144-N1116, consisting of a public domain allotment, Burns Paiute domain allotment numbered 144-111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridian, Harney County, Oregon, is hereby declared to be held in trust by the

United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.

SEC. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: *Provided further*, That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation".

SEC. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022; 25 U.S.C. 373b), is amended by deleting "2,000" and inserting in lieu thereof "50,000".

MOTION OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KILDEE moves to strike out all after the enacting clause of the Senate bill (S. 1468), and to insert in lieu thereof the provisions contained in the bill, H.R. 5007, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to provide for the designation of the Burns Paiute Indian Colony of Oregon as the beneficiary of a public domain allotment and to provide that all interests in public domain allotments in Harney County, Oreg., which are held by Indian allotees who die intestate and without heirs shall escheat to the United States to be held in trust for the benefit of the Burns Paiute Indian Colony of Oregon and added to the Burns Paiute Indian Reservation."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5007) was laid on the table.

The SPEAKER pro tempore. This concludes the call of the eligible bills on the Consent Calendar.

YES, VIRGINIA, THERE IS A SANTA CLAUS—IT IS THE GOP

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last week the Democratic Study Group released a report documenting the record deficits of the Reagan administration and the direct relationship between Republican Presidents and high Federal deficits.

First, the report shows that the Reagan deficits break the bank in every respect: gross total, percentage of GNP, and adjusted for inflation.

Second, the DSG report also documents that Republican administrations have run up substantially higher deficits than Democratic administrations. In the post-World War II era, 1947 through 1981, the average Republican deficit was more than twice as high as the average Democratic deficit. If the proposed Reagan deficits are factored in, the average Republican deficit jumps to triple the Democratic deficit.

Third, in that same period, Republican administrations ran up 8 of the 10 highest Federal deficits.

Finally, to shatter one last myth, in every year except two from 1947 through 1981, Congress appropriated less money than requested by the President.

The DSG study is the first comprehensive documentation of post-World War II Federal spending. It ought to put to rest a lot of hoary old myths about the Democrats being the party of deficit spending.

During the post-World War II period, the Democratic and Republican parties have split control of the White House: Truman, Eisenhower, JFK/LBJ, Nixon/Ford, Carter, and Reagan. The Democrats have controlled both Houses of Congress since 1947 except for brief Republican interregnums: House, 1947–49; Senate, 1947–49, 1953–55, and 1981 to date.

THE LATE DAVID DUBINSKY

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, I rise to mourn the passing of David Dubinsky who was a giant in the field of labor. He was the father of the modern version of the ILGWU, and he had a particularly profound impact on my family. The Italian half of my family came to these shores in 1904 and worked in the garment industry for some 30 or 40 years. My great aunts and uncles would tell me often of the terrible conditions that they had to labor under prior to Mr. Dubinsky's active involvement. As a matter of fact, my great uncle witnessed personally the Triangle Shirtwaist fire that killed over 100 of the people who were working in that facility. Dubinsky brought livable wages to the people who worked in the needle trades. He made life better. He was a person who was a statesman, although he did not like that term, in the field of labor. We will miss him sorely.

AN AFFRONT TO THE CONSCIENCE OF THE HUMAN RACE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the senseless massacre in Beirut in cold blood of unarmed men, women, and children must be an assault on the conscience of everyone here in America and throughout the world. We cannot turn a blind eye to these incredible slayings if we have any intellectual integrity at all. We in this House bear a special onus. For all too long this House has been mute as a tomb on the ongoings in Lebanon.

Is history going to ask someday: And where were you when unarmed men, women, and children were slaughtered? Where was your voice? Where was your conscience?

I commend the President for speaking out on this affront to the conscience of the human race. We in this body, in this House of Representatives, have a special onus because we spend billions and billions of dollars for arms overseas over which we have no control. The American taxpayers and our conscience and the voice of mankind must ask us to reassess our policy.

THE HORROR OF BEIRUT

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, the horror of Beirut is still unfolding. We must all cringe under the knowledge that this dreadful massacre has occurred, and we must search our conscience for things undone that might have averted it.

But now a question of great moment is before the United States.

President Reagan is pondering whether to send U.S. troops into Beirut. My fervent hope is that no U.S. force will be sent—either alone or as part of a multinational group.

Once there, U.S. troops will likely be bogged down for months or even years. Lebanon could be another Vietnam-like quagmire, costly in lives and injuries—not to mention money.

The goal of U.S. policy must be to get Israeli troops, and all foreign troops out of Lebanon, not more foreign troops in. Instead of going in with troops, the United States can best serve its own interests and the interests of blood-stained Lebanon by suspending aid to Israel until Israeli troops are out.

The question of U.S. troops to Lebanon is so important and urgent that Members of Congress must take part. Members have a duty to speak up.

With these words I implore my colleagues to send messages to President Reagan, urging no U.S. troops be sent to Lebanon.

FEDERAL DEFICITS

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, a moment ago a Member from the other side of the aisle tried to lay deficits at the doorstep of Republican Presidents. Well, of course, I know that we all take time occasionally to read the Constitution, and we recognize that the purse strings of the Federal Government are held in this House and the U.S. Senate.

It is interesting that this attempt would be made to lay the blame for deficits on Republican Presidents when, during that entire period of time, with the exception of two brief periods, control of both Houses of Congress was in the hands of the Democratic Party.

I remember well, as President Ford attempted to bring veto after veto to bring those high deficits down, that there was a notable absence of votes from the other side of the aisle. But perhaps today is a hearkening of a new day. Perhaps today was the first trumpeting, the first sound of the fact that the people on the other side of the aisle are going to join President Reagan as he invites us to sustain his vetoes for overspending. I hope that is the case.

HONORING WORK AND ACHIEVEMENTS OF ARTIST ALLYN COX

Mr. HAWKINS. Mr. Speaker, I offer a resolution (H. Res. 593) honoring the work and achievements of the artist, Allyn Cox, and recognizing those who made possible the program of beautifying the Capitol with historical murals, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 593

Whereas Allyn Cox has contributed his talents to the beautification of the United States Capitol over the past quarter century, and in particular to the completion of the Hall of Capitols and the Great Experiment Hall;

Whereas the art program in the Capitol was carried out under the sponsorship of the United States Capitol Historical Society;

Whereas the Congress itself authorized the art program and the master plan for the Halls of the House side of the Capitol;

Whereas the Hall of Capitols by Allyn Cox was made possible through the contributions of the United States Capitol Historical Society, and more recently the Great Experiment Hall, approved by the joint resolution of October 1, 1976, was achieved through the generosity of the National Society of the Daughters of the American Revolution;

Whereas all of these adornments were made possible by the Joint Committee on the Library in cooperation with the Committee on House Administration and the Architect of the Capitol; and

Whereas the historic scenes depicted by the murals in the Hall of Capitols and the Great Experiment Hall will stand through the years as constant reminders of our early hard beginnings and our Nation's birth and development into a Republic, and into a Government of the people, by the people, and for the people: Now, therefore, be it

Resolved, That the House of Representatives hereby designates Tuesday, September 21, 1982, as a time for special tribute to the achievements of Allyn Cox, N.A., D.F.A., of New York City, and the art program sponsored by the United States Capitol Historical Society; and for this purpose special ceremonies of recognition shall be held in the National Statuary Hall at 10:30 a.m. on that date. The leadership of the two Houses of Congress shall be invited to participate in the ceremonies, and all Members of both Houses shall be encouraged to attend. As part of the ceremonies the assemblage shall be addressed by leading Members of the Congress, including those who presently serve on the executive committee of the United States Capitol Historical Society, and a special tribute shall be presented to Allyn Cox from the artistic community of the Nation.

SEC. 2. The ceremonies held and tributes presented under this resolution and otherwise shall give due recognition to the efforts of the United States Capitol Historical Society, in this the twentieth year of its existence, on behalf of the preservation and improvement of the Capitol, to the immeasurable artistic achievements of Allyn Cox, and to the generousity of the National Society of the Daughters of the American Revolution.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, I do so for the purpose of yielding to the distinguished chairman of the Committee on House Administration so that he may explain the resolution.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Speaker, the purpose of this resolution is to provide a suitable ceremony honoring Allyn Cox, the noted muralist, who has worked tirelessly for the last several years to turn the bare walls and ceilings of the House side of the U.S. Capitol into splendid scenes depicting our national heritage. Allyn Cox also painted murals in the Capitol Rotunda which compliment the decorative art of Constantino Brumidi, whose unfinished work he completed.

The resolution before the House today designates Tuesday, September 21, 1982, as a day of recognition of Allyn Cox, to be highlighted by a ceremony in Statuary Hall. Mr. Cox's most recent murals in the Capitol were part of the art program sponsored by the U.S. Capitol Historical Society.

It is with special thanks that we pay tribute to Allyn Cox, the talented painter and muralist, who has spent the last quarter century beautifying the U.S. Capitol.

Mr. FRENZEL. Further reserving the right to object, Mr. Speaker, I concur in all that the distinguished chairman has said. Allyn Cox has made a magnificent and remarkable contribution to the artistic history of this Capitol.

The minority supports the resolution and invites the attention of the body to the fact that the work was accomplished under the auspices not only of the House of Representatives, but also the Capitol Historical Society and the Daughters of the American Revolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representative:

WASHINGTON, D.C.,
September 20, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 9:50 a.m. on Friday, September 17, 1982 and said to contain a message from the President wherein he transmits the second annual report of the Department of Education.

(2) At 9:50 a.m. on Friday, September 17, 1982 and said to contain a message from the President wherein he transmits the second annual report on activities undertaken by the United States Synthetic Fuels Corporation and the Department of Energy to implement the development of synthetic fuels under the Defense Production Act of 1950, as amended.

With kind regards, I am,
Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

□ 1215

SECOND ANNUAL REPORT ON ACTIVITIES UNDERTAKEN BY SYNTHETIC FUELS CORPORATION AND DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of Friday, September 17, 1982).

SECOND ANNUAL REPORT OF THE DEPARTMENT OF EDUCATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of Friday, September 17, 1982).

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND JAPAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-237)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of Monday, September 20, 1982).

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 22, 1982.

SUBCHAPTER S REVISION ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6055), to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations), as amended.

The Clerk read as follows:

H.R. 6055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Subchapter S Revision Act of 1982".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. AMENDMENT OF SUBCHAPTER S.

Subchapter S of chapter 1 is amended to read as follows:

"Subchapter S—Tax Treatment of S Corporations and Their Shareholders

"Part I. In general.

"Part II. Tax treatment of shareholders.

"Part III. Special rules.

"Part IV. Definitions; miscellaneous.

"PART I—IN GENERAL

"Sec. 1361. S corporation defined.

"Sec. 1362. Election; revocation; termination.

"Sec. 1363. Effect of election on corporation.

"SEC. 1361. S CORPORATION DEFINED.

"(a) S CORPORATION DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'S corporation' means, with respect to any taxable year, a small business corporation for which an election under section 1362(a) is in effect for such year.

"(2) C CORPORATION.—For purposes of this title, the term 'C corporation' means, with respect to any taxable year, a corporation which is not an S corporation for such year.

"(b) SMALL BUSINESS CORPORATION.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'small business corporation' means a domestic corporation which is not an ineligible corporation and which does not—

"(A) have more than 35 shareholders,

"(B) have as a shareholder a person (other than an estate and other than a trust described in subsection (c)(2)) who is not an individual,

"(C) have a nonresident alien as a shareholder, and

"(D) have more than 1 class of stock.

"(2) INELIGIBLE CORPORATION DEFINED.—For purposes of paragraph (1), the term 'ineligible corporation' means any corporation which is—

"(A) a member of an affiliated group (determined under section 1504 without regard to the exceptions contained in subsection (b) thereof),

"(B) a financial institution to which section 585 or 593 applies,

"(C) an insurance company subject to tax under subchapter L,

"(D) a corporation to which an election under section 936 applies, or

"(E) a DISC or former DISC.

"(c) SPECIAL RULES FOR APPLYING SUBSECTION (b).—

"(1) HUSBAND AND WIFE TREATED AS 1 SHAREHOLDER.—For purposes of subsection (b)(1)(A), a husband and wife (and their estates) shall be treated as 1 shareholder.

"(2) CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.—

"(A) IN GENERAL.—For purposes of subsection (b)(1)(B), the following trusts may be shareholders:

"(i) A trust all of which is treated (under subpart E of part I of subchapter J of this chapter) as owned by an individual who is a citizen or resident of the United States.

"(ii) A trust which was described in clause (i) immediately before the death of the deemed owner and which continues in existence after such death, but only for the 60-day period beginning on the day of the deemed owner's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the deemed owner, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'.

"(iii) A trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day period beginning on the day on which such stock is transferred to it.

"(iv) A trust created primarily to exercise the voting power of stock transferred to it.

This subparagraph shall not apply to any foreign trust.

"(B) TREATMENT AS SHAREHOLDERS.—For purposes of subsection (b)(1)—

"(i) In the case of a trust described in clause (i) of subparagraph (A), the deemed owner shall be treated as the shareholder.

"(ii) In the case of a trust described in clause (ii) of subparagraph (A), the estate of the deemed owner shall be treated as the shareholder.

"(iii) In the case of a trust described in clause (iii) of subparagraph (A), the estate of the testator shall be treated as the shareholder.

"(iv) In the case of a trust described in clause (iv) of subparagraph (A), each beneficiary of the trust shall be treated as a shareholder.

"(3) ESTATE OF INDIVIDUAL IN BANKRUPTCY MAY BE SHAREHOLDER.—For purposes of subsection (b)(1)(B), the term 'estate' includes the estate of an individual in a case under title 11 of the United States Code.

"(4) DIFFERENCES IN COMMON STOCK VOTING RIGHTS DISREGARDED.—For purposes of subsection (b)(1)(D), a corporation shall not be treated as having more than 1 class of stock solely because there are differences in voting rights among the shares of common stock.

"(5) STRAIGHT DEBT SAFE HARBOR.—

"(A) IN GENERAL.—For purposes of subsection (b)(1)(D), straight debt shall not be treated as a second class of stock.

"(B) STRAIGHT DEBT DEFINED.—For purposes of this paragraph, the term 'straight debt' means any written unconditional promise to pay on demand or on a specified date a sum certain in money if—

"(i) the interest rate (and interest payment dates) are not contingent on profits, the borrower's discretion, or similar factors,

"(ii) there is no convertibility (directly or indirectly) into stock, and

"(iii) the creditor is an individual (other than a nonresident alien), an estate, or a trust described in paragraph (2).

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be neces-

sary or appropriate to provide for the proper treatment of straight debt under this subchapter and for the coordination of such treatment with other provisions of this title.

"(6) OWNERSHIP OF STOCK IN CERTAIN INACTIVE CORPORATIONS.—For purposes of subsection (b)(2)(A), a corporation shall not be treated as a member of an affiliated group at any time during any taxable year by reason of the ownership of stock in another corporation if such other corporation—

"(A) has not begun business at any time on or after the date of its incorporation and before the close of such taxable year, and

"(B) does not have taxable income for the period included within such taxable year.

"(d) SPECIAL RULE FOR QUALIFIED SUBCHAPTER S TRUST.—

"(1) IN GENERAL.—In the case of a qualified subchapter S trust with respect to which a beneficiary makes an election under paragraph (2)—

"(A) such trust shall be treated as a trust described in subsection (c)(2)(A)(i), and

"(B) for purposes of section 678(a), the beneficiary of such trust shall be treated as the owner of that portion of the trust which consists of stock in an S corporation with respect to which the election under paragraph (2) is made.

"(2) ELECTION.—

"(A) IN GENERAL.—A beneficiary of a qualified subchapter S trust (or his legal representative) may elect to have this subsection apply.

"(B) MANNER AND TIME OF ELECTION.—An election under this paragraph shall be made—

"(i) separately with respect to each S corporation the stock of which is held by the trust,

"(ii) separately with respect to each successive income beneficiary of the trust, and

"(iii) in such manner and form, and at such time, as the Secretary may prescribe.

"(C) ELECTION IRREVOCABLE.—An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

"(D) GRACE PERIOD.—An election under this paragraph shall be effective up to 60 days before the date of the election.

"(3) QUALIFIED SUBCHAPTER S TRUST.—For purposes of this subsection, the term 'qualified subchapter S trust' means a trust—

"(A) which owns stock in 1 or more S corporations,

"(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States, and

"(C) the terms of which require that—

"(i) at any time, there shall be only 1 income beneficiary of the trust,

"(ii) any corpus distributed during the term of the trust may be distributed only to the current income beneficiary thereof,

"(iii) each income interest in the trust shall terminate on the earlier of the death of the income beneficiary or the termination of the trust, and

"(iv) upon the termination of the trust during the life of an income beneficiary, the trust shall distribute all of its assets to such income beneficiary.

"(4) TRUST CEASING TO BE QUALIFIED.—If a qualified subchapter S trust ceases to meet any requirement under paragraph (3), the provisions of this subsection shall not apply to such trust as of the date it ceases to meet such requirements.

"SEC. 1362. ELECTION; REVOCATION; TERMINATION.

"(a) ELECTION.—

"(1) IN GENERAL.—Except as provided in subsection (g), a small business corporation may elect, in accordance with the provisions of this section, to be an S corporation.

"(2) ALL SHAREHOLDERS MUST CONSENT TO ELECTION.—An election under this subsection shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election.

"(b) WHEN MADE.—

"(1) IN GENERAL.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the taxable year and on or before the 15th day of the 3d month of the taxable year.

"(2) CERTAIN ELECTIONS MADE DURING 1ST 2½ MONTHS TREATED AS MADE FOR NEXT TAXABLE YEAR.—If—

"(A) an election under subsection (a) is made for any taxable year during such year and on or before the 15th day of the 3d month of such year, but

"(B) either—

"(i) on 1 or more days in such taxable year before the day on which the election was made the corporation did not meet the requirements of subsection (b) of section 1361, or

"(ii) 1 or more of the persons who held stock in the corporation during such taxable year and before the election was made did not consent to the election,

then such election shall be treated as made for the following taxable year.

"(3) ELECTION MADE AFTER 1ST 2½ MONTHS TREATED AS MADE FOR FOLLOWING TAXABLE YEAR.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the 15th day of the 3d month of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as made for the following taxable year.

"(c) YEARS FOR WHICH EFFECTIVE.—An election under subsection (a) shall be effective for the taxable year of the corporation for which it is made and for all succeeding taxable years of the corporation, until such election is terminated under subsection (d).

"(d) TERMINATION.—

"(1) BY REVOCATION.—

"(A) IN GENERAL.—An election under subsection (a) may be terminated by revocation.

"(B) MORE THAN ONE-HALF OF SHARES MUST CONSENT TO REVOCATION.—An election may be revoked only if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made consent to the revocation.

"(C) WHEN EFFECTIVE.—Except as provided in subparagraph (D)—

"(i) a revocation made during the taxable year and on or before the 15th day of the 3d month thereof shall be effective on the 1st day of such taxable year, and

"(ii) a revocation made during the taxable year but after such 15th day shall be effective on the 1st day of the following taxable year.

"(D) REVOCATION MAY SPECIFY PROSPECTIVE DATE.—If the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective on and after the date so specified.

"(2) BY CORPORATION CEASING TO BE SMALL BUSINESS CORPORATION.—

"(A) IN GENERAL.—An election under subsection (a) shall be terminated whenever (at any time on or after the 1st day of the 1st taxable year for which the corporation is an S corporation) such corporation ceases to be a small business corporation.

"(B) WHEN EFFECTIVE.—Any termination under this paragraph shall be effective on and after the date of cessation.

"(3) WHERE PASSIVE INVESTMENT INCOME EXCEEDS 20 PERCENT OF GROSS RECEIPTS AND CORPORATION HAS ACCUMULATED EARNINGS AND PROFITS.—

"(A) TERMINATION.—

"(i) IN GENERAL.—An election under subsection (a) shall be terminated whenever the corporation—

"(I) has gross receipts for any taxable year more than 20 percent of which is passive investment income, and

"(II) has subchapter C earnings and profits at the close of such taxable year.

"(ii) WHEN EFFECTIVE.—Any termination under this paragraph shall be effective on and after the first day of the taxable year referred to in clause (i).

"(B) SUBCHAPTER C EARNINGS AND PROFITS.—For purposes of subparagraph (A), the term 'subchapter C earnings and profits' means earnings and profits of any corporation for any taxable year with respect to which an election under section 1362(a) (or under section 1372 of prior law) was not in effect.

"(C) GROSS RECEIPTS FROM SALES OF CAPITAL ASSETS (OTHER THAN STOCK AND SECURITIES).—For purposes of this paragraph, in the case of dispositions of capital assets (other than stock and securities), gross receipts from such dispositions shall be taken into account only to the extent of the capital gain net income therefrom.

"(D) PASSIVE INVESTMENT INCOME DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom).

"(ii) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(1).

"(iii) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

"(iv) TREATMENT OF CERTAIN LIQUIDATIONS.—Gross receipts derived from sales or exchanges of stock or securities shall not include amounts received by an S corporation which are treated under section 331 (relating to corporate liquidations) as payments in exchange for stock where the S corporation owned more than 50 percent of each class of stock of the liquidating corporation.

"(e) TREATMENT OF S TERMINATION YEAR.—

"(1) IN GENERAL.—In the case of an S termination year, for purposes of this title—

"(A) S SHORT YEAR.—The portion of such year ending before the 1st day for which the termination is effective shall be treated

as a short taxable year for which the corporation is an S corporation.

"(B) C SHORT YEAR.—The portion of such year beginning on such 1st day shall be treated as a short taxable year for which the corporation is a C corporation.

"(2) PRO RATA ALLOCATION.—Except as provided in paragraph (3), the determination of which items are to be taken into account for each of the short taxable years referred to in paragraph (1) shall be made—

"(A) first by determining for the S termination year—

"(i) the amount of each of the items of income, loss, deduction, or credit described in section 1366(a)(1)(A), and

"(ii) the amount of the nonseparately computed income or loss, and

"(B) then by assigning an equal portion of each amount determined under subparagraph (A) to each day of the S termination year.

"(3) ELECTION TO HAVE ITEMS ASSIGNED TO EACH SHORT TAXABLE YEAR UNDER NORMAL TAX ACCOUNTING RULES.—

"(A) IN GENERAL.—A corporation may elect to have paragraph (2) not apply.

"(B) ALL SHAREHOLDERS MUST CONSENT TO ELECTION.—An election under this paragraph shall be valid only if all persons who are shareholders in the corporation at any time during the S termination year consent to such election.

"(4) S TERMINATION YEAR.—For purposes of this subsection, the term 'S termination year' means any taxable year of a corporation (determined without regard to this subsection) in which a termination of an election made under subsection (a) takes effect (other than on the 1st day thereof).

"(5) TAX FOR C SHORT YEAR DETERMINED ON ANNUALIZED BASIS.—

"(A) IN GENERAL.—The taxable income for the short year described in subparagraph (B) of paragraph (1) shall be placed on an annual basis by multiplying the taxable income for such short year by the number of days in the S termination year and by dividing the result by the number of days in the short year. The tax shall be the same part of the tax computed on the annual basis as the number of days in such short year is of the number of days in the S termination year.

"(B) SECTION 443(d)(2) TO APPLY.—Subsection (d)(2) of section 443 shall apply to the short taxable year described in subparagraph (B) of paragraph (1).

"(6) OTHER SPECIAL RULES.—For purposes of this title—

"(A) SHORT YEARS TREATED AS 1 YEAR FOR CARRYOVER PURPOSES.—The short taxable year described in subparagraph (A) of paragraph (1) shall not be taken into account for purposes of determining the number of taxable years to which any item may be carried back or carried forward by the corporation.

"(B) DUE DATE FOR S YEAR.—The due date for filing the return for the short taxable year described in subparagraph (A) of paragraph (1) shall be the same as the due date for filing the return for the short taxable year described in subparagraph (B) of paragraph (1) (including extensions thereof).

"(f) INADVERTENT TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the termination was inadvertent,

"(3) no later than a reasonable period of time after discovery of the event resulting in such termination, steps were taken so that the corporation is once more a small business corporation, and

"(4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the terminating event, such corporation shall be treated as continuing to be an S corporation during the period specified by the Secretary.

"(g) ELECTION AFTER TERMINATION.—If a small business corporation has made an election under subsection (a) and if such election has been terminated under subsection (d), such corporation (and any successor corporation) shall not be eligible to make an election under subsection (a) for any taxable year before its 5th taxable year which begins after the 1st taxable year for which such termination is effective, unless the Secretary consents to such election.

"SEC. 1363. EFFECT OF ELECTION ON CORPORATION.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter and in section 58(d), an S corporation shall not be subject to the taxes imposed by this chapter.

"(b) COMPUTATION OF CORPORATION'S TAXABLE INCOME.—The taxable income of an S corporation shall be computed in the same manner as in the case of an individual, except that—

"(1) the items described in section 1366(a)(1)(A) shall be separately stated,

"(2) the deductions referred to in section 703(a)(2) shall not be allowed to the corporation, and

"(3) section 248 shall apply.

"(c) ELECTIONS OF THE S CORPORATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any election affecting the computation of items derived from an S corporation shall be made by the corporation.

"(2) EXCEPTIONS.—In the case of an S corporation, elections under the following provisions shall be made by each shareholder separately—

"(A) subsection (b)(5) or (d)(4) of section 108 (relating to income from discharge of indebtedness),

"(B) section 163(d) (relating to limitation on interest on investment indebtedness),

"(C) section 617 (relating to deduction and recapture of certain mining exploration expenditures), and

"(D) section 901 (relating to taxes of foreign countries and possessions of the United States).

"(d) DISTRIBUTIONS OF APPRECIATED PROPERTY.—If—

"(1) an S corporation makes a distribution of property (other than an obligation of such corporation) with respect to its stock, and

"(2) the fair market value of such property exceeds its adjusted basis in the hands of the S corporation,

then, notwithstanding any other provision of this subtitle, gain shall be recognized to the S corporation on the distribution in the same manner as if it had sold such property to the distributee at its fair market value.

"PART II—TAX TREATMENT OF SHAREHOLDERS

"Sec. 1366. Pass-thru of items to shareholders.

"Sec. 1367. Adjustments to basis of stock of shareholders, etc.

"Sec. 1368. Distributions.

"SEC. 1366. PASS-THRU OF ITEMS TO SHAREHOLDERS.

"(a) DETERMINATION OF SHAREHOLDER'S TAX LIABILITY.—

"(1) IN GENERAL.—In determining the tax under this chapter of a shareholder for the shareholder's taxable year in which the taxable year of the S corporation ends (or for the final taxable year of a shareholder who dies before the end of the corporation's taxable year), there shall be taken into account the shareholder's pro rata share of the corporation's—

"(A) items of income (including tax-exempt income), loss, deduction, or credit the separate treatment of which could affect the liability for tax of any shareholder, and

"(B) nonseparately computed income or loss.

For purposes of the preceding sentence, the items referred to in subparagraph (A) shall include amounts described in paragraph (4) or (6) of section 702(a).

"(2) NONSEPARATELY COMPUTED INCOME OR LOSS DEFINED.—For purposes of this subchapter, the term 'nonseparately computed income or loss' means gross income minus the deductions allowed to the corporation under this chapter, determined by excluding all items described in paragraph (1)(A).

"(b) CHARACTER PASSED THRU.—The character of any item included in a shareholder's pro rata share under paragraph (1) of subsection (a) shall be determined as if such item were realized directly from the source from which realized by the corporation, or incurred in the same manner as incurred by the corporation.

"(c) GROSS INCOME OF A SHAREHOLDER.—In any case where it is necessary to determine the gross income of a shareholder for purposes of this title, such gross income shall include the shareholder's pro rata share of the gross income of the corporation.

"(d) SPECIAL RULES FOR LOSSES AND DEDUCTIONS.—

"(1) CANNOT EXCEED SHAREHOLDER'S BASIS IN STOCK AND DEBT.—The aggregate amount of losses and deductions taken into account by a shareholder under subsection (a) for any taxable year shall not exceed the sum of—

"(A) the adjusted basis of the shareholder's stock in the S corporation (determined with regard to paragraph (1) of section 1367(a) for the taxable year), and

"(B) the shareholder's adjusted basis of any indebtedness of the S corporation to the shareholder (determined without regard to any adjustment under paragraph (2) of section 1367(b) for the taxable year).

"(2) INDEFINITE CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—Any loss or deduction which is disallowed for any taxable year by reason of paragraph (1) shall be treated as incurred by the corporation in the succeeding taxable year with respect to that shareholder.

"(3) CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS TO POST-TERMINATION TRANSITION PERIOD.—

"(A) IN GENERAL.—If for the last taxable year of a corporation for which it was an S corporation a loss or deduction was disallowed by reason of paragraph (1), such loss or deduction shall be treated as incurred by the shareholder on the last day of any post-termination transition period.

"(B) CANNOT EXCEED SHAREHOLDER'S BASIS IN STOCK.—The aggregate amount of losses and deductions taken into account by a shareholder under subparagraph (A) shall

not exceed the adjusted basis of the shareholder's stock in the corporation (determined at the close of the last day of the post-termination transition period and without regard to this paragraph).

"(C) ADJUSTMENT IN BASIS OF STOCK.—The shareholder's basis in the stock of the corporation shall be reduced by the amount allowed as a deduction by reason of this paragraph.

"(e) TREATMENT OF FAMILY GROUP.—If an individual who is a member of the family (within the meaning of section 704(e)(3)) of one or more shareholders of an S corporation renders services for the corporation or furnishes capital to the corporation without receiving reasonable compensation therefor, the Secretary shall make such adjustments in the items taken into account by such individual and such shareholders as may be necessary in order to reflect the value of such services or capital.

"(f) SPECIAL RULES.—

"(1) SUBSECTION (a) NOT TO APPLY TO CREDIT ALLOWABLE UNDER SECTION 39.—Subsection (a) shall not apply with respect to any credit allowable under section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil).

"(2) REDUCTION IN PASS-THRU FOR TAX IMPOSED ON CAPITAL GAIN.—If any tax is imposed under section 56 or 1374 for any taxable year on an S corporation, for purposes of subsection (a)—

"(A) the amount of the corporation's long-term capital gains for the taxable year shall be reduced by the amount of such tax, and

"(B) if the amount of such tax exceeds the amount of such long-term capital gains, the corporation's gains from sales or exchanges of property described in section 1231 shall be reduced by the amount of such excess.

For purposes of the preceding sentence, the term 'long-term capital gain' shall not include any gain from the sale or exchange of property described in section 1231.

"(g) CROSS REFERENCE.—

"For rules relating to procedures for determining the tax treatment of subchapter S items, see subchapter D of chapter 63.

"SEC. 1367. ADJUSTMENTS TO BASIS OF STOCK OF SHAREHOLDERS, ETC.

"(a) GENERAL RULE.—

"(1) INCREASES IN BASIS.—The basis of each shareholder's stock in an S corporation shall be increased for any period by the sum of the following items determined with respect to that shareholder for such period:

"(A) the items of income described in subparagraph (A) of section 1366(a)(1),

"(B) any nonseparately computed income determined under subparagraph (B) of section 1366(a)(1), and

"(C) the excess of the deductions for depletion over the basis of the property subject to depletion.

"(2) DECREASES IN BASIS.—The basis of each shareholder's stock in an S corporation shall be decreased for any period (but not below zero) by the sum of the following items determined with respect to the shareholder for such period:

"(A) distributions by the corporation which were not includible in the income of the shareholder by reason of section 1368,

"(B) the items of loss and deduction described in subparagraph (A) of section 1366(a)(1),

"(C) any nonseparately computed loss determined under subparagraph (B) of section 1366(a)(1),

"(D) any expense of the corporation not deductible in computing its taxable income and not properly chargeable to capital account, and

"(E) the amount of the shareholder's deduction for depletion under section 611 with respect to oil and gas wells.

"(b) SPECIAL RULES.—

"(1) INCOME ITEMS.—An amount which is required to be included in the gross income of a shareholder and shown on his return shall be taken into account under subparagraph (A) or (B) of subsection (a)(1) only to the extent such amount is included in the shareholder's gross income on his return, increased or decreased by any adjustment of such amount in a redetermination of the shareholder's tax liability.

"(2) ADJUSTMENTS IN BASIS OF INDEBTEDNESS.—

"(A) REDUCTION OF BASIS.—If for any taxable year the amounts specified in subparagraphs (B), (C), (D), and (E) of subsection (a)(2) exceed the amount which reduces the shareholder's basis to zero, such excess shall be applied to reduce (but not below zero) the shareholder's basis in any indebtedness of the S corporation to the shareholder.

"(B) RESTORATION OF BASIS.—If for any taxable year there is a reduction under subparagraph (A) in the shareholder's basis in the indebtedness of an S corporation to a shareholder, any net increase (after the application of paragraphs (1) and (2) of subsection (a)) for any subsequent taxable year shall be applied to restore such reduction in basis before any of it may be used to increase the shareholder's basis in the stock of the S corporation.

"(3) COORDINATION WITH SECTION 165(g).—This section and section 1366 shall be applied before the application of section 165(g) to any taxable year of the shareholder or the corporation in which the stock becomes worthless.

"SEC. 1368. DISTRIBUTIONS.

"(a) GENERAL RULE.—A distribution of property made by an S corporation with respect to its stock to which (but for this subsection) section 301(c) would apply shall be treated in the manner provided in subsection (b) or (c), whichever applies.

"(b) S CORPORATION HAVING NO EARNINGS AND PROFITS.—In the case of a distribution described in subsection (a) by an S corporation which has no accumulated earnings and profits—

"(1) AMOUNT APPLIED AGAINST BASIS.—The distribution shall not be included in gross income to the extent that it does not exceed the adjusted basis of the stock.

"(2) AMOUNT IN EXCESS OF BASIS.—If the amount of the distribution exceeds the adjusted basis of the stock, such excess shall be treated as gain from the sale or exchange of property.

"(c) S CORPORATION HAVING EARNINGS AND PROFITS.—In the case of a distribution described in subsection (a) by an S corporation which has accumulated earnings and profits—

"(1) ACCUMULATED ADJUSTMENTS ACCOUNT.—That portion of the distribution which does not exceed the accumulated adjustments account shall be treated in the manner provided by subsection (b).

"(2) DIVIDEND.—That portion of the distribution which remains after the application of paragraph (1) shall be treated as a dividend to the extent it does not exceed the accumulated earnings and profits of the S corporation.

"(3) TREATMENT OF REMAINDER.—Any portion of the distribution remaining after the application of paragraph (2) of this subsection shall be treated in the manner provided by subsection (b).

"(d) CERTAIN ADJUSTMENTS TAKEN INTO ACCOUNT.—Subsections (b) and (c) shall be applied by taking into account (to the extent proper)—

"(1) the adjustments to the basis of the shareholder's stock described in section 1367, and

"(2) the adjustments to the accumulated adjustments account which are required by subsection (e)(1).

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ACCUMULATED ADJUSTMENTS ACCOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'accumulated adjustments account' means an account of the S corporation which is adjusted for the S period in a manner similar to the adjustments under section 1367 (except that no adjustment shall be made for income which is exempt from tax under this title and no adjustment shall be made for any expense not deductible in computing the corporation's taxable income and not properly chargeable to capital account).

"(B) AMOUNT OF ADJUSTMENT IN THE CASE OF REDEMPTIONS.—In the case of any redemption which is treated as an exchange under section 302(a) or 303(a), the adjustment in the accumulated adjustments account shall be an amount which bears the same ratio to the balance in such account as the number of shares redeemed in such redemption bears to the number of shares of stock in the corporation immediately before such redemption.

"(2) S PERIOD.—The term 'S period' means the most recent continuous period during which the corporation has been an S corporation. Such period shall not include any taxable year beginning before January 1, 1983.

"PART III—SPECIAL RULES

"Sec. 1371. Coordination with subchapter C.

"Sec. 1372. Partnership rules to apply for fringe benefit purposes.

"Sec. 1373. Foreign income.

"Sec. 1374. Tax imposed on certain capital gains.

"SEC. 1371. COORDINATION WITH SUBCHAPTER C.

"(a) APPLICATION OF SUBCHAPTER C RULES.—

"(1) IN GENERAL.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders.

"(2) S CORPORATION AS SHAREHOLDER TREATED LIKE INDIVIDUAL.—For purposes of subchapter C, an S corporation in its capacity as a shareholder of another corporation shall be treated as an individual.

"(b) NO CARRYOVER BETWEEN C YEAR AND S YEAR.—

"(1) FROM C YEAR TO S YEAR.—No carryforward, and no carryback, arising for a taxable year for which a corporation is a C corporation may be carried to a taxable year for which such corporation is an S corporation.

"(2) NO CARRYOVER FROM S YEAR.—No carryforward, and no carryback, shall arise at the corporate level for a taxable year for which a corporation is an S corporation.

"(3) TREATMENT OF S YEAR AS ELAPSED YEAR.—Nothing in paragraphs (1) and (2) shall prevent treating a taxable year for which a corporation is an S corporation as a taxable year for purposes of determining

the number of taxable years to which an item may be carried back or carried forward.

"(c) EARNINGS AND PROFITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no adjustment shall be made to the earnings and profits of an S corporation.

"(2) ADJUSTMENTS FOR REDEMPTIONS, LIQUIDATIONS, REORGANIZATIONS, DIVISIVES, ETC.—In the case of any transaction involving the application of subchapter C to any S corporation, proper adjustment to any accumulated earnings and profits of the corporation shall be made.

"(3) ADJUSTMENTS IN CASE OF DISTRIBUTIONS TREATED AS DIVIDENDS UNDER SECTION 1368(C)(2).—Paragraph (1) shall not apply with respect to that portion of a distribution which is treated as a dividend under section 1368(c)(2).

"(d) COORDINATION WITH INVESTMENT CREDIT RECAPTURE.—

"(1) NO RECAPTURE BY REASON OF ELECTION.—Any election under section 1362 shall be treated as a mere change in the form of conducting a trade or business for purposes of the second sentence of section 47(b).

"(2) CORPORATION CONTINUES TO BE LIABLE.—Notwithstanding an election under section 1362, an S corporation shall continue to be liable for any increase in tax under section 47 attributable to credits allowed for taxable years for which such corporation was not an S corporation.

"(e) CASH DISTRIBUTIONS DURING POST-TERMINATION TRANSITION PERIOD.—Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of the stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account.

"SEC. 1372. PARTNERSHIP RULES TO APPLY FOR FRINGE BENEFIT PURPOSES.

"(a) GENERAL RULE.—For purposes of applying the provisions of this subtitle which relate to employee fringe benefits—

"(1) the S corporation shall be treated as a partnership, and

"(2) any 2-percent shareholder of the S corporation shall be treated as a partner of such partnership.

"(b) 2-PERCENT SHAREHOLDER DEFINED.—For purposes of this section, the term '2-percent shareholder' means any person who owns (or is considered as owning within the meaning of section 318) on any day during the taxable year of the S corporation more than 2 percent of the outstanding stock of such corporation or stock possessing more than 2 percent of the total combined voting power of all stock of such corporation.

"SEC. 1373. FOREIGN INCOME.

"(a) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of subparts A and F of part III, and part V, of subchapter N (relating to income from sources without the United States)—

"(1) an S corporation shall be treated as a partnership, and

"(2) the shareholders of such corporation shall be treated as partners of such partnership.

"(b) RECAPTURE OF OVERALL FOREIGN LOSS.—For purposes of section 904(f) (relating to recapture of overall foreign loss), the making or termination of an election to be treated as an S corporation shall be treated as a disposition of the business.

"SEC. 1374. TAX IMPOSED ON CERTAIN CAPITAL GAINS.

"(a) GENERAL RULE.—If for a taxable year of an S corporation—

"(1) the net capital gain of such corporation exceeds $25,000, and exceeds 50 percent of its taxable income for such year, and

"(2) the taxable income of such corporation for such year exceeds $25,000,

there is hereby imposed a tax (computed under subsection (b)) on the income of such corporation.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be the lower of—

"(1) an amount equal to the tax, determined as provided in section 1201(a), on the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or

"(2) an amount equal to the tax which would be imposed by section 11 on the taxable income of the corporation for the taxable year if the corporation were not an S corporation.

No credit shall be allowable under part IV of subchapter A of this chapter (other than under section 39) against the tax imposed by subsection (a).

"(c) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to an S corporation for any taxable year if the election under section 1362(a) which is in effect with respect to such corporation for such taxable year has been in effect for the 3 immediately preceding taxable years.

"(2) NEW CORPORATIONS.—Subsection (a) shall not apply to an S corporation if—

"(A) it (and any predecessor corporation) has been in existence for less than 4 taxable years, and

"(B) an election under section 1362(a) has been in effect with respect to such corporation for each of its taxable years.

"(3) PROPERTY WITH SUBSTITUTED BASIS.—If—

"(A) but for paragraph (1) or (2), subsection (a) would apply for the taxable year,

"(B) any long-term capital gain is attributable to property acquired by the S corporation during the period beginning 3 years before the first day of the taxable year and ending on the last day of the taxable year, and

"(C) the basis of such property is determined in whole or in part by reference to the basis of any property in the hands of another corporation which was not an S corporation throughout all of the period described in subparagraph (B) before the transfer by such other corporation and during which such other corporation was in existence,

then subsection (a) shall apply for the taxable year, but the amount of the tax determined under subsection (b) shall not exceed a tax, determined as provided in section 1201(a), on the net capital gain attributable to property acquired as provided in subparagraph (B) and having a basis described in subparagraph (C).

"(d) DETERMINATION OF TAXABLE INCOME.—For purposes of subsections (a)(2) and (b)(2), taxable income of the corporation shall be determined under section 63(a) without regard to—

"(1) the deduction allowed by section 172 (relating to net operating loss deduction), and

"(2) the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures).

"PART IV—DEFINITIONS; MISCELLANEOUS

"Sec. 1377. Definitions and special rule.

"Sec. 1378. Taxable year of S corporation.

"Sec. 1379. Transitional rules on enactment.

"SEC. 1377. DEFINITIONS AND SPECIAL RULE.

"(a) PRO RATA SHARE.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), each shareholder's pro rata share of any item for any taxable year shall be the sum of the amounts determined with respect to the shareholder—

"(A) by assigning an equal portion of such item to each day of the taxable year, and

"(B) then by dividing that portion pro rata among the shares outstanding on such day.

"(2) ELECTION TO TERMINATE YEAR.—Under regulations prescribed by the Secretary, if any shareholder terminates his interest in the corporation during the taxable year and all persons who are shareholders during the taxable year agree to the application of this paragraph, paragraph (1) shall be applied as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(b) POST-TERMINATION TRANSITION PERIOD.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'post-termination transition period' means—

"(A) the period beginning on the day after the last day of the corporation's last taxable year as an S corporation and ending on the later of—

"(i) the day which is 1 year after such last day, or

"(ii) the due date for filing the return for such last year as an S corporation (including extensions), and

"(B) the 120-day period beginning on the date of a determination that the corporation's election under section 1362(a) had terminated for a previous taxable year.

"(2) DETERMINATION DEFINED.—For purposes of paragraph (1), the term 'determination' means—

"(A) a court decision which becomes final,

"(B) a closing agreement, or

"(C) an agreement between the corporation and the Secretary that the corporation failed to qualify as an S corporation.

"(c) MANNER OF MAKING ELECTIONS, ETC.—Any election under this subchapter, and any revocation under section 1362(d)(1), shall be made in such manner as the Secretary shall by regulations prescribe.

"SEC. 1378. TAXABLE YEAR OF S CORPORATION.

"(a) GENERAL RULE.—For purposes of this subtitle—

"(1) an S corporation shall not change its taxable year to any accounting period other than a permitted year, and

"(2) no corporation may make an election under section 1362(a) for any taxable year unless such taxable year is a permitted year.

"(b) PERMITTED YEAR DEFINED.—For purposes of this section, the term 'permitted year' means a taxable year which—

"(1) is a year ending December 31, or

"(2) is any other accounting period for which the corporation establishes a business purpose to the satisfaction of the Secretary.

"(c) EXISTING S CORPORATIONS REQUIRED TO USE PERMITTED YEAR AFTER 50-PERCENT SHIFT IN OWNERSHIP.—

"(1) IN GENERAL.—A corporation which is an S corporation for a taxable year which includes December 31, 1982, shall not be treated as an S corporation for any subsequent taxable year beginning after the first day on which more than 50 percent of the stock is newly owned stock unless such subsequent taxable year is a permitted year.

"(2) NEWLY OWNED STOCK.—For purposes of paragraph (1), the stock held by any person on any day shall be treated as newly owned stock to the extent that—

"(A) the percentage of the stock of such corporation owned by such person on such day, exceeds

"(B) the percentage of the stock of such corporation owned by such person on December 31, 1982.

"(3) STOCK ACQUIRED BY REASON OF DEATH.—For purposes of paragraph (2), if—

"(A) a person acquires stock in the corporation after December 31, 1982, and

"(B) such stock was acquired by reason of the death of a person who held such stock (or predecessor stock) on such date,

then such stock shall be treated as held on December 31, 1982, by the person described in subparagraph (A). A similar rule shall apply in the case of a series of such acquisitions.

"SEC. 1379. TRANSITIONAL RULES ON ENACTMENT.

"(a) OLD ELECTIONS.—Any election made under section 1372(a) (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall be treated as an election made under section 1362.

"(b) REFERENCES TO PRIOR LAW INCLUDED.—In applying this subchapter to any taxable year beginning after December 31, 1982, any reference in this subchapter to another provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a reference to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982.

"(c) DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME.—If a corporation was an electing small business corporation for the last preenactment year, subsections (f) and (d) of section 1375 (as in effect before the enactment of the Subchapter S Revision Act of 1982) shall continue to apply with respect to distributions of undistributed taxable income for any taxable year beginning before January 1, 1983.

"(d) CARRYFORWARDS.—If a corporation was an electing small business corporation for the last preenactment year and is an S corporation for the 1st postenactment year, any carryforward to the 1st postenactment year which arose in a taxable year for which the corporation was an electing small business corporation shall be treated as arising in the 1st postenactment year.

"(e) PREENACTMENT AND POSTENACTMENT YEARS DEFINED.—For purposes of this subsection—

"(1) LAST PREENACTMENT YEAR.—The term 'last preenactment year' means the last taxable year of a corporation which begins before January 1, 1983.

"(2) 1ST POSTENACTMENT YEAR.—The term '1st postenactment year' means the 1st taxable year of a corporation which begins after December 31, 1982."

SEC. 3. S CORPORATION TREATED LIKE PARTNERSHIP FOR PURPOSES OF CERTAIN PROVISIONS.

(a) DEPLETION IN THE CASE OF OIL AND GAS WELLS (SECTION 613A).—Subsection (c) of section 613A (relating to exemption for independent producers and royalty owners) is amended by adding at the end thereof the following new paragraph:

"(13) SUBCHAPTER S CORPORATIONS.—

"(A) COMPUTATION OF DEPLETION ALLOWANCE AT SHAREHOLDER LEVEL.—In the case of an S corporation, the allowance for depletion with respect to any oil or gas property shall be computed separately by each shareholder.

"(B) ALLOCATION OF BASIS.—The S corporation shall allocate to each shareholder his pro rata share of the adjusted basis of the S corporation in each oil or gas property held by the S corporation. The allocation shall be made as of the later of the date of acquisition of the property by the S corporation, or the first day of the first taxable year of the S corporation to which the Subchapter S Revision Act of 1982 applies. Each shareholder shall separately keep records of his share of the adjusted basis in each oil and gas property of the S corporation, adjust such share of the adjusted basis for any depletion taken on such property, and use such adjusted basis each year in the computation of his cost depletion or in the computation of his gain or loss on the disposition of such property by the S corporation. In the case of any distribution of oil or gas property to its shareholders by the S corporation, the corporation's adjusted basis in the property shall be an amount equal to the sum of the shareholders' adjusted bases in such property, as determined under this subparagraph.

"(C) COORDINATION WITH TRANSFER RULE OF PARAGRAPH (9).—For purposes of paragraph (9)—

"(i) an S corporation shall be treated as a partnership, and the shareholders of the S corporation shall be treated as partners, and

"(ii) an election by a C corporation to become an S corporation shall be treated as a transfer of all its properties effective on the day on which such election first takes effect.

"(D) COORDINATION WITH TRANSFER RULE OF PARAGRAPH (10).—For purposes of paragraphs (9) and (10), if an S corporation becomes a C corporation, each shareholder shall be treated as having transferred to such corporation his pro rata share of all the assets of the S corporation."

(b) WINDFALL PROFIT TAX.—

(1) Paragraph (1) of section 4996(a) (defining producer) is amended by adding at the end thereof the following new subparagraph:

"(C) SUBCHAPTER S CORPORATIONS.—

"(i) IN GENERAL.—If (but for this subparagraph) an S corporation would be treated as a producer of any crude oil—

"(I) such crude oil shall be allocated among the shareholders of such corporation, and

"(II) any shareholder to whom such crude oil is allocated (and not the S corporation) shall be treated as the producer of such crude oil.

"(ii) ALLOCATION.—Except to the extent otherwise provided in regulations, any allocation under clause (i)(I) shall be determined on the basis of the shareholder's pro rata share (as determined under section 1377(a)) of the income of the corporation."

(2) Section 4992 (relating to independent producer oil) is amended by adding at the end thereof the following new subsection:

"(f) S CORPORATION TREATED AS PARTNERSHIP.—For purposes of subsections (d) and (e)—

"(1) an S corporation shall be treated as a partnership, and

"(2) the shareholders of the S corporation shall be treated as partners of such partnership."

(c) OPTIONAL WRITEOFF OF CERTAIN TAX PREFERENCES (SECTION 58(i)).—

(1) Subparagraph (C) of section 58(i)(4) (defining nonlimited partnership intangible drilling costs) is amended to read as follows:

"(C) NONLIMITED INTANGIBLE DRILLING COSTS.—For purposes of this paragraph, the term 'nonlimited intangible drilling costs' means any qualified expenditure described in paragraph (2)(C) of an individual which is not allocable to a limited business interest (as defined in section 55(e)(8)(C)) of such individual."

(2) Subparagraph (D) of section 58(i)(5) is amended—

(A) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of an S corporation and its shareholders.", and

(B) by striking out "PARTNERS" in the subparagraph heading and inserting in lieu thereof "PARTNERS AND SHAREHOLDERS OF S CORPORATIONS".

(3) The paragraph heading for paragraph (4) of section 58(i) is amended by striking out "INTEREST AS LIMITED PARTNER" and inserting in lieu thereof "LIMITED BUSINESS INTEREST".

(d) USED PROPERTY FOR PURPOSES OF INVESTMENT CREDIT (SECTION 48(c)).—Subparagraph (D) of section 48(c)(2) (relating to partnerships) is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of an S corporation and its shareholders.", and

(2) by striking out "PARTNERSHIPS" in the subparagraph heading and inserting in lieu thereof "PARTNERSHIPS AND S CORPORATIONS".

(e) INCOME FROM DISCHARGE OF INDEBTEDNESS (SECTION 108).—Paragraph (6) of section 108(d) (relating to application of section at partner level) is amended to read as follows:

"(6) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT PARTNER LEVEL OR S CORPORATION SHAREHOLDER LEVEL.—In the case of a partnership, subsections (a), (b), and (c) shall be applied at the partner level. In the case of an S corporation, subsections (a), (b), and (c) shall be applied at the shareholder level."

(f) ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS (SECTION 179).—Paragraph (8) of section 179(d) (relating to dollar limitation in the case of partnerships) is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of an S corporation and its shareholders.", and

(2) by striking out "PARTNERSHIPS" in the paragraph heading and inserting in lieu thereof "PARTNERSHIPS AND S CORPORATIONS".

(g) AMORTIZATION OF REFORESTATION EXPENDITURES (SECTION 194).—Subparagraph (B) of section 194(b)(2) (relating to partnerships) is amended—

(1) by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of an S corporation and its shareholders.", and

(2) by striking out "PARTNERSHIPS" in the subparagraph heading and inserting in lieu thereof "PARTNERSHIPS AND S CORPORATIONS".

(h) TREATMENT OF LOSSES AND UNPAID EXPENSES AND INTEREST IN THE CASE OF TRANSACTIONS BETWEEN S CORPORATIONS AND CERTAIN RELATED ENTITIES (SECTION 267(b)).—

(1) Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new paragraphs:

"(10) An S corporation and a partnership if the same persons own—

"(A) more than 50 percent in value of the outstanding stock of the S corporation, and

"(B) more than 50 percent of the capital interest, or the profits interest, in the partnership;

"(11) An S corporation and another S corporation if the same persons own more than 50 percent in value of the outstanding stock of each corporation; or

"(12) An S corporation and a C corporation, if the same individual owns more than 50 percent in value of the outstanding stock of each corporation."

(2) Section 267 is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR UNPAID EXPENSES AND INTEREST OF S CORPORATIONS.—

"(1) IN GENERAL.—In the case of any amount paid or incurred by an S corporation, if—

"(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

"(B) at the close of the taxable year of the S corporation for which (but for this paragraph) the amount would be deductible under section 162, 212, or 163, both the S corporation and the person to whom the payment is to be paid are persons specified in one of the paragraphs of subsection (b),

then no deduction shall be allowed in respect of expenses otherwise deductible under section 162 or 212, or of interest otherwise deductible under section 163, before the day as of which the amount thereof is includible in the gross income of the person to whom the payment is made.

"(2) CERTAIN SHAREHOLDERS, ETC., TREATED AS RELATED PERSONS.—For purposes of applying paragraph (1)—

"(A) an S corporation,

"(B) any person who owns, directly or indirectly, 2 percent or more in value of the outstanding stock of such corporation, and

"(C) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)(A)) to a person described in subparagraph (B),

shall be treated as persons specified in a paragraph of subsection (b).

"(3) SUBSECTION (a)(2) NOT TO APPLY.—Subsection (a)(2) shall not apply to any amount paid or incurred by an S corporation."

(3) Subsection (b) of section 267 is amended by striking out "or" at the end of paragraph (8), and by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon.

(i) WITHHOLDING FROM INTEREST AND DIVIDENDS.—

(1) Paragraph (1) of section 3453(b) (relating to certain middlemen treated as payors) is amended by striking out "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) any S corporation which receives any payment,".

(2) Subsection (b) of section 3454 (defining dividend) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Paragraph (2) of section 3454(b) (as redesignated by paragraph (2)) is amended by inserting "and" at the end of subparagraph (F), by striking out ", and" at the end of subparagraph (G) and inserting in lieu thereof a period, and by striking subparagraph (H).

(4) Subsection (d) of section 31 (as amended by section 302 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended to read as follows:

"(d) YEAR FOR WHICH CREDIT ALLOWED.—Any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning."

SEC. 4. TAX TREATMENT OF SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Chapter 63 (relating to assessment) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Tax Treatment of Subchapter S Items

"Sec. 6241. Tax treatment determined at corporate level.

"Sec. 6242. Shareholder's return must be consistent with corporate return or Secretary notified of inconsistency.

"Sec. 6243. All shareholders to be notified of proceedings and given opportunity to participate.

"Sec. 6244. Certain partnership provisions made applicable.

"Sec. 6245. Subchapter S item defined.

"SEC. 6241. TAX TREATMENT DETERMINED AT CORPORATE LEVEL.

"Except as otherwise provided in regulations prescribed by the Secretary, the tax treatment of any subchapter S item shall be determined at the corporate level.

"SEC. 6242. SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.

"A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return unless the shareholder notifies the Secretary (at the time and in the manner prescribed by regulations) of the inconsistency.

"SEC. 6243. ALL SHAREHOLDERS TO BE NOTIFIED OF PROCEEDINGS AND GIVEN OPPORTUNITY TO PARTICIPATE.

"In the manner and at the time prescribed in regulations, each shareholder in a corporation shall be given notice of, and the right to participate in, any administrative or judicial proceeding for the determination at the corporate level of any subchapter S item.

"SEC. 6244. CERTAIN PARTNERSHIP PROVISIONS MADE APPLICABLE.

"The provisions of—

"(1) subchapter C which relate to—

"(A) assessing deficiencies, and filing claims for credit or refund, with respect to partnership items, and

"(B) judicial determination of partnership items, and

"(2) so much of the other provisions of this subtitle as relate to partnership items,

are (except to the extent modified or made inapplicable in regulations) hereby extended to and made applicable to subchapter S items.

"SEC. 6245. SUBCHAPTER S ITEM DEFINED.

"For purposes of this subchapter, the term 'subchapter S item' means any item of an S corporation to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporate level than at the shareholder level."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"Subchapter D. Tax treatment of subchapter S items."

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—

(1) SECTION 44D(d)(9).—Paragraph (9) of section 44D(d) (relating to pass-thru in the case of subchapter S corporations, etc.) is amended to read as follows:

"(9) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(2) SECTION 44E(d)(5).—Paragraph (5) of section 44E(d) (relating to pass-thru in the case of subchapter S corporations, etc.) is amended to read as follows:

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(3) SECTION 44F.—

(A) Subparagraph (A) of section 44F(f)(2) (relating to pass-thru in the case of subchapter S corporations, etc.) is amended to read as follows:

"(A) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(B) Clause (iv) of section 44F(g)(1)(B) is amended by striking out "an electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation".

(4) SECTION 46(a)(4).—The second sentence of paragraph (4) of section 46(a) (defining liability for tax) is amended by striking out "section 1378 (relating to tax on certain capital gains of subchapter S corporations)," and inserting in lieu thereof "section 1374 (relating to tax on certain capital gains of S corporations),".

(5) SECTION 46(c)(8)(C).—Subparagraph (C) of section 46(c)(8) (relating to special rules for partnerships and subchapter S corporations) is amended by striking out "electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "S corporation".

(6) SECTION 46(e)(3).—Paragraph (3) of section 46(e) (relating to noncorporate lessors) is amended by striking out "an electing small business corporation (as defined in section 1371)" and inserting in lieu thereof "an S corporation".

(7) SECTION 48(e).—Subsection (e) of section 48 (relating to subchapter S corporations) is hereby repealed.

(8) SECTION 48(k)(5)(D)(i).—The second sentence of clause (i) of section 48(k)(5)(D) (relating to allocation of direct production costs) is amended by striking out "an electing small business corporation (within the meaning of section 1371)" and inserting in lieu thereof "an S corporation".

(9) SECTION 50A(a)(3).—The second sentence of paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 1378 (relating to tax on certain capital gains of subchapter S corporations)," and inserting in lieu thereof "section 1374 (relating to tax on certain capital gains of S corporations),".

(10) SECTION 50B(d).—Subsection (d) of section 50B (relating to subchapter S corporations) is hereby repealed.

(11) SECTION 52(d).—Section 52 is amended by striking out subsection (d) and by re-

designating subsections (e) and (f) as subsections (d) and (e), respectively.

(12) SECTION 53(a).—The second sentence of subsection (a) of section 53 (relating to limitation based on amount of tax) is amended by striking out "section 1378 (relating to tax on certain capital gains of subchapter S corporations)," and inserting in lieu thereof "section 1374 (relating to tax on certain capital gains of S corporations),".

(13) SECTION 55(e)(8)(C).—Subparagraph (C) of section 55(e)(8) is amended by striking out "an electing small business corporation (as defined in section 1371(b))" and inserting in lieu thereof "an S corporation".

(14) SECTION 57(a).—The last sentence of section 57(a) (defining items of tax preference) is amended by striking out "an electing small business corporation (as defined in section 1371(b)) and".

(15) SECTION 57(b).—Subsection (b) of section 57 is amended—

(A) by striking out "an applicable corporation" in paragraph (1) and inserting in lieu thereof "a corporation",

(B) by striking out "applicable corporation" in paragraph (2) and inserting in lieu thereof "corporation", and

(C) by striking out paragraph (3).

(16) SECTION 58(d).—Subsection (d) of section 58 (relating to electing small business corporations and their shareholders) is amended to read as follows:

"(d) CERTAIN CAPITAL GAINS OF S CORPORATIONS.—If for a taxable year of an S corporation a tax is imposed on the income of such corporation under section 1374, such corporation shall be subject to the tax imposed by section 56, but computed only with reference to the item of tax preference set forth in section 57(a)(9)(B) to the extent attributable to gains subject to the tax imposed by section 1374."

(17) SECTION 62(9).—Paragraph (9) of section 62 (relating to pension, etc., plans of an electing small business corporation) is hereby repealed.

(18) SECTION 163(d)(4).—Paragraph (4) of section 163(d) (relating to limitation on interest on investment indebtedness) is amended by striking out subparagraphs (B) and (C) and redesignating subparagraph (D) as subparagraph (B).

(19) SECTION 168(f)(8)(B).—Clause (i) of section 168(f)(8)(B) (relating to special rules for leases), as in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "an electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation".

(20) SECTION 168(f).—Subclause (I) of section 168(f)(8)(C)(i) (as added by subsection (a) of section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out "an electing small business corporation within the meaning of section 1371(b)" and inserting in lieu thereof "an S corporation".

(21) SECTION 170(e).—

(A) Subparagraph (A) of section 170(e)(3) (defining qualified contributions) is amended by striking out "an electing small business corporation within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation)".

(B) Clause (i) of section 170(e)(4)(D) is amended to read as follows:

"(i) an S corporation,".

(22) SECTION 172(f).—Subsection (f) of section 172 (relating to disallowance of net operating loss of electing small business corporations) is hereby repealed.

(23) SECTION 183(a).—Subsection (a) of section 183 (relating to activities not engaged in for profit) is amended by striking out "an electing small business corporation (as defined in section 1371(b))" and inserting in lieu thereof "an S corporation".

(24) SECTION 189(d).—Paragraph (2) of section 189(d) is amended by striking out "an electing small business corporation (within the meaning of section 1371(b))" and inserting in lieu thereof "an S corporation".

(25) SECTION 280(a).—The second sentence of subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended by striking out "an electing small business corporation (as defined in section 1371(b))," and inserting in lieu thereof "an S corporation,".

(26) SECTION 280A.—

(A) Subsection (a) of section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking out "an electing small business corporation," and inserting in lieu thereof "an S corporation,".

(B) Paragraph (1) of section 280A(e) is amended by striking out "an electing small business corporation" and inserting in lieu thereof "an S corporation".

(C) Paragraph (2) of section 280A(f) is amended to read as follows:

"(2) PERSONAL USE BY SHAREHOLDERS OF S CORPORATION.—In the case of an S corporation, subparagraphs (A) and (B) of subsection (d)(2) shall be applied by substituting 'any shareholder of the S corporation' for 'the taxpayer' each place it appears."

(27) SECTION 291.—

(A) Subsections (a) and (b) of section 291 are each amended by striking out "an applicable corporation" each place it appears and inserting in lieu thereof "a corporation".

(B) Subsection (e) of section 291 is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(28) SECTION 447(c)(1).—Paragraph (1) of section 447(c) (relating to exception for small business and family corporations) is amended to read as follows:

"(1) an S corporation,".

(29) SECTION 447(g).—*Clause (i) of section 447(g)(4)(A) is amended to read as follows:*

"(i) *an S corporation, or*".

(30) SECTION 464(c)(1).—Paragraph (1) of section 464(c) (defining farming syndicate) is amended by striking out "an electing small business corporation (as defined in section 1371(b))" each place it appears and inserting in lieu thereof "an S corporation".

(31) SECTION 465.—

(A) Paragraph (1) of section 465(a) (relating to deductions limited to amount at risk) is amended by adding "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(B) Paragraph (3) of section 465(a) is amended—

(i) by striking out "paragraph (1)(C)" and inserting in lieu thereof "paragraph (1)(B)", and

(ii) by striking out "PARAGRAPH (1)(C)" in the paragraph heading and inserting in lieu thereof "PARAGRAPH (1)(B)".

(C) The last sentence of paragraph (2) of section 465(c) is amended—

(i) by striking out "an electing small business corporation" the first place it appears and inserting in lieu thereof "an S corporation", and

(ii) by striking out "an electing small business corporation" the second place it appears and inserting in lieu thereof "the S corporation".

(D) Clause (ii) of section 465(c)(3)(B) is amended by striking out "electing small business corporation (as defined in section 1371(b))" and inserting in lieu thereof "an S corporation".

(E) Subparagraph (A) of section 465(c)(4) is amended by striking out "subsection (a)(1)(C)" and inserting in lieu thereof "subsection (a)(1)(B)".

(32) SECTION 992(d)(7).—Paragraph (7) of section 992(d) (relating to corporations not eligible to be a DISC) is amended to read as follows:

"(7) an S corporation."

(33) SECTION 1016(a)(18).—Paragraph (18) of section 1016(a) (relating to adjustments to basis) is amended to read as follows:

"(18) to the extent provided in section 1367 in the case of stock of, and indebtedness owed to, shareholders of an S corporation;".

(34) SECTION 1101(a)(3)(D).—Subparagraph (D) of section 1101(a)(3) (relating to non-pro rata distributions from certain closely held corporations) is amended by striking out "section 1371(a)(1)" and inserting in lieu thereof "section 1361(b)(1)(A)".

(35) SECTION 1212(a).—Subsection (a) of section 1212 (relating to capital loss carrybacks and carryovers of corporations) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(36) SECTION 1251(b)(2)(B).—

(A) Subparagraph (B) of section 1251(b)(2) (relating to excess deductions account) is amended—

(i) by striking out "an electing small business corporation (as defined in section 1371(b))," and inserting in lieu thereof "an S corporation,", and

(ii) by striking out "electing small business corporation" each place it appears in the second and third sentences and inserting in lieu thereof "S corporation".

(B) Subparagraph (D) of section 1251(b)(2) is amended by striking out "an electing small business corporation" and inserting in lieu thereof "an S corporation".

(37) SECTION 1254(b)(2).—Paragraph (2) of section 1254(b) (relating to special rules for gain from dispositions of interest in oil, gas, or geothermal property) is amended by striking out "an electing small business corporation (as defined in section 1371(b))," and inserting in lieu thereof "an S corporation,".

(38) SECTION 1256(e)(3)(B).—Subparagraph (B) of section 1256(e)(3) (defining syndicate) is amended by striking out "an electing small business corporation within the meaning of section 1371(b)" and inserting in lieu thereof "an S corporation".

(39) SECTION 6037.—

(A) Section 6037 (relating to return of electing small business corporation) is amended—

(i) by striking out "Every electing small business corporation (as defined in section 1371(b))" and inserting in lieu thereof "Every S corporation",

(ii) by striking out "and such other information" and inserting in lieu thereof "each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information", and

(iii) by striking out "ELECTING SMALL BUSINESS CORPORATION" in the section heading and inserting in lieu thereof "S CORPORATION".

(B) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out "electing small business corporation" in the item relating to

section 6037 and inserting in lieu thereof "S corporation".

(40) SECTION 6042(b)(2).—Paragraph (2) of section 6042(b) (defining dividend) is amended to read as follows:

"(2) EXCEPTIONS.—For purposes of this section, to the extent provided in regulations prescribed by the Secretary, the term 'dividend' does not include any distribution or payment—

"(A) by a foreign corporation, or

"(B) to a foreign corporation, a nonresident alien, or a partnership not engaged in a trade or business in the United States and composed in whole or in part of nonresident aliens."

(41) SECTION 6362(f)(7).—Paragraph (7) of section 6362(f) (relating to partnerships, trusts, subchapter S corporations, and other conduit entities) is amended—

(A) by striking out "electing small business corporations (within the meaning of section 1371(a))" in subparagraph (D) and inserting in lieu thereof "S corporations", and

(B) by striking out "SUBCHAPTER S CORPORATIONS," in the paragraph heading.

(42) Section 6661(b).—Subparagraph (B) of section 6661(b)(1) is amended by striking out "an electing small business corporation (as defined in section 1371(b))" and inserting in lieu thereof "an S corporation".

(43) Subsection (d) of section 408 of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 1379 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of the Subchapter S Revision Act of 1982".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by striking out the item relating to subchapter S and inserting in lieu thereof the following:

"SUBCHAPTER S. Tax treatment of S corporations and their shareholders."

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

(b) TRANSITIONAL RULES.—

(1) SECTIONS 1379 AND 62(9) CONTINUE TO APPLY FOR 1983.—Sections 1379 and 62(9) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act) shall remain in effect for years beginning before January 1, 1984.

(2) ALLOWANCE OF EXCLUSION OF DEATH BENEFIT.—Notwithstanding section 241(b) of the Tax Equity and Fiscal Responsibility Act of 1982, in the case of amounts received under a plan of an S corporation, the amendment made by section 239 of such Act shall apply with respect to decedents dying after December 31, 1982.

(c) GRANDFATHER RULES.—

(1) SUBSIDIARIES WHICH ARE FOREIGN CORPORATIONS OR DISC'S.—*In the case of any corporation which on June 23, 1982, would have been a member of the same affilitaed group as an electing small business corporation but for paragraph (3) or (7) of section 1504(b) of the Internal Revenue Code of 1954, subparagraph (A) of section 1361(b)(2) of such Code (as amended by section 2) shall be applied by substituting "without regard to the exceptions contained in paragraphs (1), (2), (4), (5), and (6) of subsection (b) thereof" for "without regard to the exceptions contained in subsection (b) thereof".*

(2) CASUALTY INSURANCE COMPANIES.—

(A) IN GENERAL.—In the case of any qualified casualty insurance electing small business corporation—

(i) the amendments made by this Act shall not apply, and

(ii) subchapter S (as in effect on July 1, 1982) of chapter 1 of the Internal Revenue Code of 1954 and part III of subchapter L of chapter 1 of such Code shall apply.

(B) QUALIFIED CASUALTY INSURANCE ELECTING SMALL BUSINESS CORPORATION.—The term "qualified casualty insurance electing small business corporation" means any corporation described in section 831(a) of the Internal Revenue Code of 1954 if—

(i) as of July 12, 1982, such corporation was an electing small business corporation and was described in section 831(a) of such Code,

(ii) such corporation was formed before April 1, 1982, and proposed (through a written private offering first circulated to investors before such date) to elect to be taxed as a subchapter S corporation and to be operated on an established insurance exchange, or

(iii) such corporation is approved for membership on an established insurance exchange pursuant to a written agreement entered into before December 31, 1982, and such corporation is described in section 831(a) of such Code as of December 31, 1984.

A corporation shall not be treated as a qualified casualty insurance electing small business corporation unless an election under subchapter S of chapter 1 of such Code is in effect for its first taxable year beginning after December 31, 1984.

(3) CONTINUITY REQUIRED.—

(A) IN GENERAL.—This subsection shall cease to apply with respect to any corporation after—

(i) any termination of the election of the corporation under subchapter S of chapter 1 of such Code, or

(ii) the first day on which more than 50 percent of the stock of the corporation is newly owned stock within the meaning of section 1378(c)(2) of such Code (as amended by this Act).

(B) SPECIAL RULES FOR PARAGRAPH (2).—

(i) Paragraph (2) shall also cease to apply with respect to any corporation after the corporation ceases to be described in section 831(a) of such Code.

(ii) For purposes of determining under subparagraph (A)(ii) whether paragraph (2) ceases to apply to any corporation, section 1378(c)(2) of such Code (as amended by this Act) shall be applied by substituting "December 31, 1984" for "December 31, 1982" each place it appears therein.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6055, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6055, the Subchapter S Revision Act of 1982, is intended to simplify and modify the tax rules relating to eligibility for subchapter S status and the operation of these small business corporations. This is accomplished principally by removing unnecessary eligibility restrictions, and by revising the rules relating to income and distributions that tend to create traps for the unwary.

Congress originally enacted the subchapter S provisions to minimize the effect of Federal income taxes on the choice of a business organization's form, and to permit the incorporation and operation of certain small businesses without the imposition of a tax at both the corporation and shareholder levels.

H.R. 6055 maintains the ability of small business corporations to elect a single level shareholder tax on the corporate earnings, and by simplifying the rules governing the election, encourages more small business to take advantage of this election.

The bill replaces the rules of present law with a partnership-like scheme of taxation for subchapter S corporations. In addition, because the history of subchapter S demonstrates the ability of sophisticated taxpayers, or those with sophisticated advisers, to reap unintended tax benefits from the subchapter S rules, the bill attempts to eliminate these unwarranted benefits.

H.R. 6055 was introduced on April 1, 1982, by the ranking minority member of the Committee on Ways and Means, Mr. CONABLE, and myself. This introduced bill was developed by the staffs of the tax-writing committees in cooperation with the Treasury Department, professional bar and accounting groups, and small business representatives to simplify the operation of the subchapter S provisions.

Mr. Speaker, H.R. 6055 will simplify subchapter S for small businesses. I strongly urge adoption of H.R. 6055, the Subchapter S Revision Act of 1982.

At this time, Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Select Revenue Measures who has worked on this bill; and I want to take this opportunity to thank the gentleman from California (Mr. STARK) and compliment him on a job well done.

Mr. STARK. Mr. Speaker, as the chairman of the Committee on Ways

and Means, Mr. ROSTENKOWSKI, stated, H.R. 6055 is the considered product of years of efforts by the staffs of the Joint Committee on Taxation, the Committee on Ways and Means, the Senate Finance Committee, and the Department of the Treasury, with valuable assistance from outside professional groups. The Subcommittee on Select Revenue Measures conducted a public hearing on H.R. 6055 on June 14, 1982, where testimony was generally favorable. On June 23 and July 12, 1982, the subcommittee considered H.R. 6055, adopting several amendments to improve the introduced bill before favorably reporting the bill to the full Committee on Ways and Means. One further improvement was made there.

The bill before the House today, has been the subject of much deliberation and refinement. It deserves careful attention and ultimate support by all Members of the House. I urge the speedy adoption of H.R. 6055.

I would at this point like to address a question to the chairman of the Committee on Ways and Means, the gentleman from Illinois. In H.R. 6055 as reported by the Ways and Means Committee, insurance companies generally are not eligible corporations under subchapter S. However, a transition rule allows certain insurance companies to elect subchapter S status if they are admitted to an insurance exchange prior to December 31, 1982, and would be described in section 831(a) of the code prior to December 31, 1984.

Mr. ROSTENKOWSKI. If the gentleman will yield, that is correct, yes.

Mr. STARK. I am concerned that promoters of tax shelters will set up "shelf" corporations to take advantage of this transition rule. Although these shelf corporations may be formally admitted to an insurance exchange, the ultimate stockholders of these corporations will not have acquired their interests in the corporations by December 31, 1982 and the corporations will not have taken any serious steps toward conducting insurance business by that date. It is my understanding that this transition rule is not intended to allow such corporations to simply set up as "shelf" corporations by the end of this year in order to find investors in the future.

Am I correct that this was the committee's intent?

Mr. ROSTENKOWSKI. Yes, the gentleman's understanding is correct.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. RANGEL. I thank the gentleman for yielding.

Mr. Speaker, I heard some of the debate. That was not my understanding of what took place in the gentleman's subcommittee. As relates to these insurance companies that have not moved to incorporate, it was my understanding that many State legislative bodies—such as New York State did, in fact—intend to create insurance exchanges and my commissioner of insurance, Commissioner Albert Lewis, did in fact work with the insurance industry in the State of New York.

Legislation was passed both in the assembly and the Senate and signed into law to enable them to set up an exchange in the State of New York. I do not think that they have met the criteria the gentleman from California (Mr. STARK) and the chairman of the full committee are trying to establish by this dialog.

I am hoping and certainly I had the encouragement of the subcommittee chairman, that the Senate might take another look at this and allow those States that have passed laws for the purposes of setting up exchanges to allow them to take advantage of the so-called transition rule.

Is it the gentleman's understanding that this dialog between the gentleman and the chairman of the full committee would not do violence to the spirit in which the gentleman suggested that the matter be taken up in the Senate?

Mr. STARK. This may very well do violence to bringing the matter up later. As the gentleman knows, in the consideration of this bill, it was agreed by the minority and the majority and the Joint Committee and the Treasury that operating these insurance companies or exchanges under subchapter S was not desirable. We did recognize that some had been set up relying on previous law, and it was not the intent of the subcommittee at that time to penalize them.

I would suspect that the Senate would find the same result. However, the colloquy between myself and the chairman today would not preclude a corporation from being set up and operating by December 31, 1982, if they could make it within that date.

Mr. RANGEL. If the gentleman will continue to yield, I just wanted to make certain, Mr. Chairman, that this exchange between the gentleman and the chairman of the full committee did not do violence to the understanding between the gentleman from California (Mr. STARK) and me as relates to active consideration of this matter in the Senate.

I am going to continue to look forward to the cooperation of the gentleman on this matter notwithstanding the exchange the gentleman has had with the chairman.

Mr. STARK. I would tell the gentleman from New York (Mr. RANGEL) if the corporations that the gentleman has referred to can fit within the rules of the transition rule, they would qualify, this colloquy notwithstanding.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6055, the Subchapter S Revision Act of 1982.

When the chairman of the Committee on Ways and Means, the gentleman from Illinois (Mr. ROSTENKOWSKI) and I introduced this measure, I requested comments on several technical points. Those comments are reflected in the provisions of the bill. The 80 percent foreign income test has been repealed; the 20 percent passive income test and the one class of stock requirement have been liberalized; and the overall objective making the treatment of subchapter S corporations similar to that of partnerships has been dealt with.

Mr. Speaker, when I first joined the Ways and Means Committee in 1967, this was a high item of priority on the committee's agenda. It has not been acted on in all the intervening years. It does, however, represent now the culmination of more than 10 years of work by the representatives of various professional groups, the Treasury, and our professional staffs.

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I know that there is some disappointment that some items are not included in this that were appropriately to be considered as part of the subchapter S reform; but that does not mean, of course, that we will not have a continuing obligation to review subchapter S rules as we move forward and make further reform efforts as time goes on.

The process that we have been going through has served to resolve numerous differences that have developed.

I would hope that there would be no opposition to this measure simply because it is not more inclusive than it is. It is an appropriate step in the right direction and I urge its adoption.

I note in connection with that the comments of my distinguished colleague, the gentleman from New York, about the issue involving subchapter S use with respect to casualty insurance and think his remarks are entirely appropriate. We should not find grandfather discriminating against any particular State. I hope it will be reviewed with an eye not to giving any undue preference to foreign insurers also, such as Lloyds of London, who have some preference, even under the measure as it has been presented.

I do urge the adoption of H.R. 6055, Mr. Speaker.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, when H.R. 6055, the Subchapter S Revision Act of 1982, came from subcommittee

to the full Ways and Means Committee, it provided for a continuation of the "passive income test" for subchapter S corporations.

During the committee markup, I intended to move an amendment to eliminate the passive test altogether. After some discussion, the subcommittee chairman, the distinguished gentleman from California (Mr. STARK) suggested a compromise which was agreed to by me and accepted by the committee.

That compromise provided that there would be no passive income test for subchapter S eligibility, except for S corporations which had been regular corporations and had chapter S status while they had accumulated earnings and profits.

I accepted that version because it was a giant step in the right direction, not because it was the right direction. I still favor elimination of the passive income test and hope that our friends in the other body will hold the same opinion.

Mr. CONABLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KILDEE). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 6055, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MULTIEMPLOYER PENSION PLAN MANAGEMENT ACT

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7094) to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of determination letters relating to independent management of the assets of multiemployer plans, as amended.

The Clerk read as follows:

H.R. 7094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX ON FAILURE TO ADHERE TO CONDITIONS OF AGREED UPON EXISTING DETERMINATION LETTER RELATING TO INDEPENDENT MANAGEMENT OF PLAN ASSETS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1954 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4976. TAX ON FAILURE TO ADHERE TO CONDITIONS OF AGREED UPON EXISTING DETERMINATION LETTER RELATING TO INDEPENDENT MANAGEMENT OF ASSETS.

"(a) TAX IMPOSED.—If—

"(1) any independent asset management condition to an existing determination letter has been agreed to in writing by or on behalf of any multiemployer plan (within the meaning of section 414(f)) before September 15, 1982,

"(2) the Secretary has not agreed in writing to a withdrawal of such condition, and

"(3) any trustee or plan administrator with respect to the plan—

"(A) takes any action which he knows (or should know) will result in a violation of such condition, or

"(B) fails to take all reasonable action to prevent or correct any such violation,

then there is hereby imposed a tax with respect to the action (or failure to act) of such trustee or plan administrator for each calendar month during any part of which such violation is in effect.

"(b) AMOUNT OF TAX.—In the case of any plan, the amount of the tax imposed by this section for any calendar month shall be the lesser of—

"(1) one-half of 1 percent of the fair market value of the plan assets involved in the violation on the day during such calendar month on which such fair market value is the highest, or

"(2) $400,000.

"(c) JOINT AND SEVERAL LIABILITY.—The liability under this section of the trustees and plan administrator with respect to any violation shall be joint and several.

"(d) SECONDARY LIABILITY.—If any trustee does not have sufficient assets to pay the tax imposed by this section for any calendar month, his liability for such tax shall be treated as also the liability of the organization or other person which appointed such trustee.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXISTING DETERMINATION LETTER.—The term 'existing determination letter' means a letter of determination issued before September 15, 1982, by the Secretary as to the qualification of the plan under section 401 and as to the exemption under section 501 of the trust to which such plan relates.

"(2) INDEPENDENT ASSET MANAGEMENT CONDITION.—The term 'independent asset management condition' means a condition relating to a requirement that some or all of the assets of the plan be held by qualified independent managers (as defined in paragraph (38) of section 3 of the Employee Retirement Income Security Act of 1974).

"(f) ABATEMENT OF TAX IN CERTAIN CASES.—If the taxpayer establishes to the satisfaction of the Secretary—

"(1) that his action (or failure to act) is due to reasonable cause, and

"(2) that he has taken action to correct the violation,

then the Secretary may (after consultation with the Secretary of Labor) abate part or all of the tax imposed by subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4976. Tax on failure to adhere to conditions of agreed upon existing determination letter relating to independent management of assets."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to action taken (or failed to be taken) after September 14, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7094, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1976, the Internal Revenue Service revoked the tax-exempt status of the Teamsters' Central States pension fund. This action was due to evidence of large-scale misuse of fund assets. Fund assets, which now are approximately $3.5 billion, were placed under the control of independent asset managers as a condition of the reinstatement of the fund's tax-exempt status. The fund's current contracts with the independent asset managers, entered into pursuant to the 1977 reinstatement, expire on October 3, 1982.

On November 11, 1981, the IRS issued a new favorable determination letter to the fund. This letter included an independent asset management condition. The condition was agreed to in writing on behalf of the fund.

Under present law, revocation of the fund's tax-exempt status is the only potential remedy available to the IRS if the condition requiring independent asset managers is violated. This disqualification sanction does not directly affect a plan trustee or administrator who violates the condition. However, it would affect employers who contribute to the fund, who could be denied deductions for their contributions. It also could affect employees, who could be taxed on benefits as they vest. As a result, the ability of the fund to pay benefits to its 500,000 participants and beneficiaries could be seriously impaired.

H.R. 7094 imposes a new excise tax sanction on plan trustees or adminis-

trators who violate an independent asset management condition under certain conditions. The bill at the desk contains technical amendments in order to clarify that the bill applies only to plans where an agreed-to determination letter is presently in effect, namely, the Central States Teamsters' pension fund. Under this legislation, revocation of the fund's tax-exempt status would no longer be the only available sanction. The bill follows the specific request of the administration that the Congress take prompt action on legislation to provide the additional remedy to safeguard plan assets more effectively for the benefit of participants and beneficiaries under a multiemployer plan. The administration cites as the immediate reason for the urgency of their request, their concern that this additional sanction is needed to insure that the fund continues to have qualified independent asset managers after the expiration of the current contracts on October 3 of this year. The Subcommittee on Oversight of the Committee on Ways and Means confirmed the need for this legislation by letter to the full committee on August 3, 1982, after the subcommittee's hearing on July 26, 1982.

Mr. Speaker, I urge adoption of H.R. 7094.

Mr. Speaker, I commend my colleague, the gentleman from New York (Mr. RANGEL) for the work that he has done, and I yield such time as he may consume to the gentleman.

Mr. RANGEL. Mr. Speaker, I think as the chairman pointed out, the administration requested the gentleman from Texas (Mr. PICKLE) and I to get this out. We had hearings. The Teamsters testified, and they are not opposed to this.

We have the correction in the bill as it relates to the specific agreement and I hope the body adopts the legislation in its present form.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support passage of H.R. 7094, which provides for taxes on trustees and managers of multiemployer pension plans who take action which they know, or should know, will violate conditions contained in determination letters issued to those plans by the Internal Revenue Service.

In 1976, the Internal Revenue Service withdrew the tax-exept status of one of the largest of the multiemployer pension funds. That tax-exempt status was reissued, on the condition that a large percentage of the plan's assets be controlled, not by the trustees of the fund or the fund management, but by independent asset managers.

The cumulative effect of the withdrawal of tax-exempt status from that fund or any other fund so situated, could have an adverse effect on the rights and pensions of thousands of workers who are protected by these pension plans. This bill would give the Government a better alternative, a more direct means of imposing sanctions on those individuals who violate conditions imposed upon plans and a way to avoid withdrawing tax-exempt status.

The bill has the support of the Department of Labor, and I ask my colleagues to approve it. H.R. 7094 will provide the Federal Government with an additional and needed tool to enforce conditions which have been attached to Internal Revenue Service determination letters.

Mr. CONABLE. Mr. Speaker, I am not aware of any further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 7094, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of existing determination letters relating to independent management of the assets of multiemployer plans."

A motion to reconsider was laid on the table.

NORMALIZATION METHOD FOR PUBLIC UTILITY PROPERTY

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1524) to amend sections 46(f) and 167(l) of the Internal Revenue Code of 1954 with respect to the treatment of public utility property, as amended.

The Clerk read as follows:

H.R. 1524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORMALIZATION METHOD FOR PURPOSES OF DEPRECIATION.

(a) GENERAL RULE.—Paragraph (3) of section 168(e) of the Internal Revenue Code of 1954 (relating to special rule for certain public utility property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (B) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (B).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (B)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i)."

(b) AMENDMENT TO SECTION 167(l).—Subparagraph (G) of section 167(l)(3) of such Code (defining normalization method of accounting) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, rules similar to the rules of section 168(e)(3)(C) shall apply."

SEC. 2. COMPUTATIONS FOR PURPOSES OF INVESTMENT CREDIT.

Subsection (f) of section 46 of such Code (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following new paragraph:

"(10) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC., FOR PURPOSES OF PARAGRAPHS (1) AND (2).—

"(A) IN GENERAL.—One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the taxpayer's depreciation expense and rate base.

"(C) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in subparagraph (B)) which are to be treated as inconsistent for purposes of subparagraph (A)."

SEC. 3. EFFECTIVE DATES.

(a) GENERAL RULE.—The amendments made by sections 1 and 2 shall apply to taxable years beginning after December 31, 1979.

(B) SPECIAL RULE FOR PERIODS BEFORE MARCH 1, 1980.—

(1) IN GENERAL.—Notwithstanding the provisions of sections 167(l) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

(A) any estimates or projections relating to the amounts of the taxpayer's tax expense, depreciation expense, deferred tax reserve, credit allowable under section 38 of such Code, or rate base, or

(B) any adjustments to the taxpayer's rate of return,

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate of return adjustments, were included in a qualified order.

(2) QUALIFIED ORDER DEFINED.—For purposes of paragraph (1), the term "qualified order" means an order—

(A) by a public utility commission which was entered before March 13, 1980,

(B) which used the estimates, projections, or rate of return adjustments referred to in paragraph (1) to determine the amount of the rates to be collected by the taxpayer or the amount of a refund with respect to rates previously collected, and

(C) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(c) NO INFERENCE.—The application of subparagraph (G) of section 167(l)(3) of the Internal Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by sections 1 and 2 of this Act or from the rules contained in subsection (b) of this section. Nothing in the preceding sentence shall be construed to limit the relief provided by subsection (b).

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1524, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1524 clarifies the tax rules relating to the so-called normalization accounting methods for investment tax credits and accelerated cost recovery deductions attributable to certain public utility property. In general, the normalization rules require these tax benefits to be taken into account, for utility ratemaking purposes, over the service life of the asset that generates the benefits. Normalization assures that these tax benefits reduce the cost of new investments rather than immediately reduce utility rates.

The bill also authorizes the Treasury Department to issue regulations concerning the conditions under which ratemaking projections and adjustments would not be treated as consistent with those rules. These provisions apply to taxable years beginning after December 31, 1979.

In response to a controversy relating to certain rate orders issued during the 1970's by the California Public Utilities Commission, the bill also provides a special transition rule. Under the special rule, a ratemaking projection or adjustment that violated the normalization requirements would not result in a public utility's loss of eligibility for the investment tax credit or accelerated depreciation if the projection or adjustment: First, applied for a period ending before March 1, 1980; second, was included in an order entered by a public service or public utility commission before March 13, 1980; and third, was used to determine the amount of rates which were ordered to be collected or refunds which were ordered to be made.

The transition rule is designed to benefit Pacific Telephone & Telegraph Co., General Telephone Co. of California, and Southern California Gas Co. These companies made refunds or rate adjustments ordered by the California regulatory authority, thus passing on the tax benefits from accelerated depreciation and the investment tax credit. The Internal Revenue Service has taken the position that the orders do not comply with the existing normalization accounting rules and thus, the tax benefits must be repaid to the Treasury.

If the IRS position is sustained, the transition rule is expected to result in a revenue loss of approximately $2.2 billion, of this amount, it is anticipated that a revenue loss of $117 million would occur in fiscal year 1983 for refunds of taxes previously paid. The remainder would probably occur after fiscal year 1987, because of the timing of the audit process and delays of presumed litigation. If the IRS position is not correct, the transition rule in the bill would not result in any revenue loss.

Mr. Speaker, I urge adoption of H.R. 1524.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I rise to speak in support of H.R. 1524, legislation which addresses a terribly inequitable situation caused by conflicting Federal and State rulings governing the proper method of accounting for the tax benefits of accelerated depreciation and the investment tax credit.

H.R. 1524 provides clarification of the normalization requirements for public utilities with respect to the investment tax credit and accelerated depreciation. More importantly, the bill provides a special rule so that Pacific Telephone, General Telephone of California, and Southern California Gas will not have to proceed with protracted litigation to determine their eligibility to claim accelerated depreciation benefits and ITC for the period from 1974 to 1980. Without such relief, these companies and their ratepayers may incur massive penalties and forfeitures estimated at $2.2 billion. In addition, the pendency of this litigation has cast a shadow of financial uncertainty over these utilities, which is already jeopardizing their bond ratings and impairing their ability to provide facilities and services so essential to California's economy.

In 1971, and again in 1974, the California Public Utilities Commission issued orders permitting the utility companies to account for the tax benefits in a manner that clearly complies with the normalization requirements of the code—full normalization. In both instances, the California Supreme Court reversed the commission orders, requiring the commission to consider alternatives to full normalization that would be more favorable to current ratepayers. The commission then implemented its 1977 order, requiring the utility companies to make refunds to customers, totaling approximately $520 million, in June 1980, and June 1981.

The Internal Revenue Service has ruled that the commission's partial flow-through methods embodied in the 1977 order do not satisfy the code's normalization requirements. If this position is ultimately sustained by the courts, the utility companies will retroactively lose the right to claim the tax benefits of accelerated depreciation and the investment tax credit, and will, through no fault of their own, incur back tax liabilities—including interest—of approximately $2.2 billion through December 31, 1979.

The utility companies and their customers are caught in the middle between conflicting Federal and State interpretations of the normalization requirements. H.R. 1524 would provide the necessary equitable relief. It would clarify the normalization provisions of the code so as to prevent similar disputes from arising in the future and would forgive the potential back tax liabilities of the utility companies.

H.R. 1524 would not treat the utility companies any more favorably than other utilities in the United States which normalize their tax benefits. These utilities are permitted to receive the benefits of accelerated depreciation

tion and the investment tax credit. This bill would operate merely to place the utility companies in the same position.

In addition to the adverse financial burdens this lengthy tax dispute has imposed on California utilities, there are grave concerns regarding its effect on jobs. Unless H.R. 1524 is approved, there may be substantial layoffs of public utility workers and other employees who provide support services to these utilities. This layoff will be the direct result of the commencement of the utilities' cost reduction efforts necessary if they are to meet their potential billion dollar tax liability. As Glenn Watts testified before the Ways and Means Committee:

In these times of 9.5 percent unemployment, I don't think anyone wants to see additional workers on the unemployment rolls.

The relief afforded by this legislation is fair. Without such legislative intervention, Congress objectives of stimulating investment through the normalization of tax benefits could be thwarted by a Federal court ruling sustaining California's position. Without the relief afforded by H.R. 1524, three California utilities' financial soundness would be severely jeopardized should the Federal court sustain the IRS. Only legislation can provide the immediate equitable relief preferable for all parties. It alone can reaffirm and strengthen Congress mandate for normalization while removing the financial cloud that so threatens my State's utilities and the citizens they serve. I ask for your support of H.R. 1524.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill arises out of an irritating situation. It has a long history. It reflects the difficulty we have had, particularly with the California Utility Commission, which has a tendency to want to flow through to all consumers the various tax incentives designed here to encourage capital formation.

The effect of this action over the years, Mr. Speaker, has been to give a short-term benefit to current consumers, to the long-term detriment of those who use utilities, the consumers, over a longer period of time and to create a short-term subsidy by other taxpayers to the consumers in those areas where flow through is required.

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The gentleman from California (Mr. MATSUI) has described this condition and a Member on our side of the aisle, the distinguished gentleman from California (Mr. ROUSSELOT) has been very interested in correcting this situation.

I would like to think that our utilities commissions have a longer view of the necessity of internal generation of capital by utilities, just like the unregulated industries, if we are going to have a level of productivity and be able to meet the needs of the people over a period of time rather than currying short-term favor with the consumers by requiring tax flow throughs which then lead us to give additional tax incentives for capital formation purposes and to create distortions in the capital flow that the utilities have in particular.

Mr. Speaker, I support the suspension of the rules and passage of H.R. 1524, a bill which clarifies the tax treatment of public utility property.

Public utility tax accounting is one of the most complex subjects under the Internal Revenue Code. While the details may be difficult to understand, the broad policy goals in this area are clear. The policy is to treat the tax benefits of accelerated depreciation and the investment tax credit as capital incentives which are to be reflected in the utility's rate base over the projected lifetime of the utility's capital investments. Normalization is the accounting method which reflects this decision.

The alternative to normalization accounting would be a system which immediately reduces a utility's rate base by the amount of its accelerated depreciation and investment tax credit. This is called flow-through accounting. It was so nicknamed because it "flows through" immediately to the customers the tax reductions associated with accelerated depreciation and the investment tax credit. This accounting method may result in lower, near-term utility rates but it deprives the utility of the capital investment incentive necessary to develop long-term capacity.

The situation is further complicated because it involves three parties—the utility, the State utility commission, and the Internal Revenue Service. Since State utility commissions are not under Federal jurisdiction, the potential exists for inconsistent positions to arise among the three parties. Such inconsistent situations have occurred, and the objectives of H.R. 1524 is to resolve them.

H.R. 1524 reinforces and clarifies the existing tax policy that public utilities must use normalization accounting for ratemaking purposes in order to be eligible for the special capital investment tax incentives.

It also waives certain past violations which could be devastating, if I may say, were they to be fully enforced against some of the utilities in California. The waived violations are for those occurring before March 1, 1908, which were the result of public utility commission order entered prior to March 13, 1980.

The beneficiaries of waiving past violations will be several California utilities which have been caught up in a three-sided dispute involving themselves, the Internal Revenue Service, and the California Public Utility Commission.

H.R. 1524 is substantially similar to H.R. 6806 which passed the House on September 24, 1980, by a voice vote. The 96th Congress adjourned before final action on this issue could be concluded, complicated by the attachment of an irrelevant additional condition.

Mr. Speaker, H.R. 1524 should bring better understanding to a complicated area of the tax law. I support its passage.

I know of no further requests for time, and I yield back the balance of my time.

● Mr. ROUSSELOT. Mr. Speaker, I rise in support of H.R. 1524, a bill dealing with the treatment of public utility property under section 46(f) and 167(l) of the Internal Revenue Code.

Public utility tax accounting is one of the most complex areas in the Internal Revenue Code. While the details may be difficult to understand, the broad policy is to treat the tax benefits of accelerated depreciation and the investment tax credit as a capital investment incentive which is to be reflected in the utility's rate base over the projected lifetime of the utility's capital investments. Normalization is the accounting method which reflects this decision.

The alternative to normalization accounting would be a system which immediately reduces a utility's rate base by the amount of its accelerated depreciation and investment tax credit. This is the result of flow-through accounting. It was so nicknamed because it flows through immediately to the customers the tax reductions associated with accelerated depreciation and the investment tax credit.

Thus, flow-through accounting passes the Federal tax benefits directly to the utility customers. This results in lower, near-term utility rates, but it deprives the utility of the capital investment incentive necessary to develop long-range utility capacity.

Enforcement of the Federal policy in this area is complicated because the taxpayer utilities are regulated by State commissions which are not under Federal jurisdiction. The tax law addresses the enforcement issue by language which requires a utility to use normalization accounting for ratemaking purposes, or else it is not eligible for the benefits of accelerated depreciation and the investment tax credit.

H.R. 1524 reinforces and clarifies the existing tax policy that public utilities must use normalization accounting for ratemaking purposes in order to be eligible for the special capital investment tax incentives. It also waives certain past violations. The waived violations are for those occurring before March

1, 1980, which were the result of public utility commission orders entered prior to March 13, 1980. The waiving of past violations will enable several California utilities which have been caught up in a three-sided dispute involving themselves, the Internal Revenue Service, and the California Public Utility Commission to be relieved of an unfair tax burden.

Mr. Speaker, H.R. 1524 should bring better understanding to a complicated area of the tax law. I support its passage.

An identical bill as H.R. 1524 passed this House on September 24, 1980, by unanimous voice vote. Hearings were held in the Senate, and the Senate Finance Committee approved of the measure by unanimous voice vote on November 20, 1980. On December 16, 1980, Senator Long of Louisiana, as chairman of the Senate Finance Committee, sought unanimous consent of the Senate for the passage of the measure without amendments since the House had already adjourned sine die and could not accept any change in the bill. Both Senators from California spoke in support of the bill. Unfortunately it failed to pass the other body, since one Senator objected to it under a unanimous-consent request, as he wished to offer an amendment which would defer obligations of the unemployment compensation funds of certain States. That objection blocked the bill from any further consideration in the last Congress.

However, the need for H.R. 1524 is even greater this year. Why? First, with the divestiture of Pacific Telephone from the Bell System, Pacific Telephone will be left with an enormous tax liablity. This liability will be reflected in its Moody's and Standard & Poor rating, which will affect its ability to expand, construct facilities, or improve its service.

Second, due to a clause in the recently passed tax bill, TEFRA—Tax Equity and Fiscal Responsibility Act—which requires daily compounding of interest at current prime rates of tax deficiencies, General Telephone of California will have its liability increased from the present amount of approximately $400 million to over $800 million by 1988.

Mr. Speaker, in section 209(d)(4) of ERTA, this Congress stated its intent to address the matter of normalization in the near future, granting the Treasury Department only interim authority to issue regulations "until Congress acts further." Congress then anticipated prompt legislative action in this area, as would be accomplished by enactment of H.R. 1524.

Surely, the Members of this body must realize the terribly unfair and inequitable position this places on these public utilities. This is the reason for passage of H.R. 1524. It is designed to prevent a similar problem from arising in California and elsewhere in the future and to provide relief to these utilities during a limited transitional period ending on March 1, 1980.

Mr. Speaker, passage of this bill means jobs. We were all here on the floor of the House just last week discussing the importance of jobs to our economy. Before us today we have a bill that will do just that—keep the employed employed.

Jobs will be lost in California unless this measure passes. And, if you do not take my word for it, let me tell you what the president of the Communications Workers of America stated in testimony given on June 21, 1982, before the Committee on Ways and Means. Mr. Glenn E. Watts emphatically stated that failure to enact H.R. 1524 would seriously affect CWA members in many ways. There would be layoffs of telephone workers as a result of cutbacks in services as the company attempts to reduce costs to meet the tax burden. Thousands of companies which depend upon telephone company contracts for supplies and services would also be severely impacted. To quote Mr. Watts: "In these times of 9.5 percent unemployment, I don't think anyone wants to see additional workers on the unemployment rolls."

Public utilities must continually expand to keep pace with other competitors and to give the fastest, cheapest, and most efficient services possible to the general public. Major layoffs at any time, but especially in today's economy, could seriously affect the quality of services given by Pacific Telephone and General Telephone of California.

I believe that the testimony of the president of the CWA brings out other valuable points, citing the benefit of final passage of his measure, and I would like to take the liberty of inserting this testimony into the RECORD at this time:

TESTIMONY OF GLENN E. WATTS

Mr. Chairman, members of the Committee:

My name is Glenn Watts, and I am the president of the Communications Workers of America (CWA), a labor union which represents 650,000 working men and women in both the telecommunications industry and the public service sector.

I appreciate the opportunity to appear before you today to testify in favor of H.R. 1524. In the interest of time, I will make my remarks brief.

Let me lead-off by saying that CWA represents the bargaining rights of well over 65,000 employees of the Pacific Telephone and Telegraph Co., and over 18,000 workers employed by the General Telephone Co. of California. It is my opinion that failure to enact H.R. 1524 will seriously affect our Union members in a number of ways.

First, and most important, should the telephone companies not receive the tax normalization embodied in H.R. 1524, I can predict there will be thousands of lay-offs of telephone workers and a resultant cutback in services as the telephone companies attempt to reduce their costs to meet this potential tax burden. In these times of 9.5% unemployment, I don't think anyone wants to see additional workers on the unemployment rolls.

Second, although I can't speak directly for them, there are thousands of workers in hundreds of companies that benefit from telephone company contracts for supplies and construction services that would also be severely impacted by this legislation. As the telephone companies curtailed or cancelled the contracts with their suppliers the ripple effect would produce additional lay-offs and unemployment.

Third, public utility companies like the telephone companies must continually expand and modernize to keep pace in the highly competitive telecommunications industry. Part of this modernization is the extensive training our Union members must undergo on a continuing basis to keep their high productivity standards. Major lay-offs in this highly trained workforce could seriously affect the quality of service provided by Pacific Telephone and General of California.

And finally, employee morale would be seriously affected. Our members have a long tradition of pride in giving good service. That's what makes the American telephone system the best in the world. To be deprived of the resources needed to give good service would be very demoralizing to CWA members.

Before I conclude my testimony, I would like to bring to your attention another area in which H.R. 1524 will have a very definite impact.

As you may be aware, sometime in 1984 the American Telephone & Telegraph Co. will divest itself of its 22 Bell operating companies—Pacific Telephone included—under a consent agreement reached with the Department of Justice. It is of a primary concern to CWA that when this divestiture occurs, Pacific Telephone be in the soundest financial position possible, not only to the benefit of its employees, but also to the benefit of its customers.

I ask you, what kind of a future will Pacific Telephone have with a $3 billion tax liability hanging over its head?

For all of these reasons, I ask that you favorably report H.R. 1524.

I thank you for your time and your consideration.

Mr. Speaker, the Department of the Treasury, in public hearings, has stated that it has no objection to the enactment of sections 1 and 2 of H.R. 1524, and takes no position on section 3 of the bill. In testimony before the House Ways and Means Committee, a Treasury spokesman for Buck Chapoton, Assistant Secretary for Tax Policy, stated:

Although (section 3) of the bill would eliminate substantial potential tax liabilities, the revenue from the collection of these tax liabilities was not included in our estimates of the FY 1983 budget. In addition, while we believe that the rate orders of the California Public Utility Commission violated the normalization requirements, we anticipate that any asserted tax liabilities would be challenged by the affected taxpayers in court. It is unlikely that additional taxes would be collected for at least several additional years. Accordingly, enactment of this bill would affect our revenue estimates

only to the extent that it will require a refund of taxes already paid.

Mr. Speaker, this legislation is the result of many years of misinterpretation by, and lack of cooperation from, the Congress, the courts, the California Public Utilities Commission, and the Internal Revenue Service. This squabbling has placed two regulated utilities in the State of California in a position of flowing through to ratepayers a portion of their tax benefits for a period of 2 years which potentially makes these utilities ineligible to receive any tax benefits for the years the books are left open. In fact, they will owe the Federal Government back taxes for this privilege. Mr. Speaker, you can see that the magnitude of the penalty is tenfold to twentyfold the small amount that flows through to the customers.

This legislation is essentially remedial in nature, and is not intended to provide any special treatment for specific private enterprises. It is necessary. It restates and clarifies the present normalization rules relating to the investment tax credit and accelerated depreciation, and authorizes the Department of the Treasury to promulgate specific regulations detailing conditions under which ratemaking and adjustments are consistent with normalization It will provide for and insure uniform treatment of utilities with respect to these tax benefits.

I urge my colleagues to vote with me to pass this bill. It spells jobs. It spells equality.

As a legislator concerned with preserving equal treatment under the law, I support H.R. 1524. Letting California utilities take advantage of the normalization accounting—a method which utilities in your own States are permitted to use—it means better service and increased investment by the utilities. In the long run, Mr. Speaker, it is the consumer who benefits.

I recommend an "aye" vote. Thank you.●

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 1524, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to provide that certain prcedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property."

A motion to reconsider was laid on the table.

TAX TREATMENT OF DIVIDENDS RECEIVED BY CERTAIN CONTROLLED FOREIGN CORPORATIONS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3581) to amend the Internal Revenue Code of 1954 to exclude certain foreign commodity income from treatment as foreign personal holding company income, as amended.

The Clerk read as follows:

H.R. 3581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of section 954(a)(1) of the Internal Revenue Code of 1954, foreign base company income does not include any dividend received by a controlled foreign corporation from a qualified foreign subsidiary if—

(1) the dividend is out of earnings and profits of the qualified foreign subsidiary (for a taxable year beginning after 1982—and is attributable to the active conduct of the business of buying, selling, and distributing coffee,

(2) neither the country of incorporation of the controlled foreign corporation nor the country where the principal office of such corporation is located imposes any tax with respect to the receipt of such dividend,

(3) the controlled foreign corporation was incorporated before 1962 and its principal activity is carrying on a trade or business which it carried on for many years before 1962 and which it has continuously carried on since 1962 and through the date of the distribution, and

(4) the taxpayer acquired control of the controlled foreign corporation in 1978, but such control has been limited at all times after 1978 and before the date of the distribution by the fact that more than ½ of the stock which it holds in the controlled foreign corporation is held as beneficiary of a trust with respect to which the taxpayer's authority to appoint trustees is shared with the management of the controlled foreign corporation.

For purposes of paragraph (1), dividends out of the earnings and profits for any taxable year shall be treated as attributable to the active conduct of the business of buying, selling, and distributing coffee to the extent that such dividends do not exceed the portion of the earnings and profits attributable to such business for such year.

(b)(1) For purposes of this section, the term "qualified foreign subsidiary" means any foreign corporation—

(A) substantially all the stock of which is owned by the controlled foreign corporation, and

(B) to which an election under this subsection applies.

(2) An election under this subsection may be made only by the taxpayer described in subsection (a)(4) and only with respect to 1 foreign corporation. Such an election shall be made not later than the 60th day after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(c) The provisions of this section shall apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3581, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3581 deals with the taxation of certain earnings of a foreign corporation controlled by a U.S. shareholder.

Under present law, dividends received by a foreign corporation which is controlled by U.S. shareholders may be taxable to the U.S. shareholders. However, there is no current taxation of the dividend if the corporation receiving the dividend was not acquired in order to reduce taxes, and the payment of the dividend is not for tax avoidance purposes.

In one case, the Internal Revenue Service has ruled that there should be current taxation of a U.S. majority shareholder of a Dutch company on dividends paid to that Dutch company, despite several factors that show the absence of a tax avoidance purpose. First, Dutch tax authorities have been putting pressure on the Dutch company to have its subsidiaries pay dividends. Second, 60 percent of the interest of the U.S. shareholder—Consolidated Foods Corp.—in the Dutch company is under the control of a voting trust. Finally, this Dutch company has been in business since 1753 and has been operating under its current structure for a number of years.

This bill generally does not disturb the Internal Revenue Service ruling position, and does not disturb it for past years for this taxpayer. For future years, the bill will exempt from current U.S. taxation, in narrowly defined circumstances, dividends received by a foreign corporation if certain conditions are met. These conditions are designed to apply to certain dividends received by the Dutch com-

pany partially owned by Consolidated Foods Corp.

Mr. Speaker, I urge adoption of H.R. 3581.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. STARK), chairman of the Subcommittee on Select Revenue Measures, who has had this under consideration.

Mr. STARK. I thank the chairman of the committee for yielding to me.

Mr. Speaker, H.R. 3581, introduced by the gentleman from Illinois (Mr. RUSSO), makes a narrow exception to the rule that dividends received by a foreign corporation which is controlled by U.S. shareholders may be taxable to the U.S. shareholders for one case where it has been argued that no tax avoidance purpose in making the dividend distribution is present. The intended beneficiary of this bill is Consolidated Foods Corp.

Mr. Speaker, at this point I would be glad to yield to the gentleman from Illinois (Mr. RUSSO) who has worked on this bill.

Mr. RUSSO. Mr. Speaker, I rise to urge my colleagues' support for the adoption of H.R. 3581, legislation dealing with the treatment of a particular source of foreign commodity income.

Under current law generally, income earned by foreign subsidiaries of U.S. companies remains untaxed until distributed to the U.S. parent company as dividends. However, if a foreign subsidiary directly or indirectly owned by a U.S. corporation meets certain tests designed to eliminate the use of tax havens and other low-tax countries to avoid tax on income from the United States and other high-tax-rate countries, then the U.S. shareholder is deemed to have received a dividend whether or not a dividend had actually been paid.

This rule does not apply if the income of the foreign subsidiary was derived from the sale of agricultural commodities which are not grown in marketable quantities in the United States. Obviously, in that case, there is no avoidance of U.S. tax. However, if income from that exempt commodity actually is paid in the form of a dividend to a foreign holding company, then that holding company may be deemed to have paid a dividend to its U.S. parent.

This anomalous result occurs because the otherwise exempt income has been turned into nonexempt income by appearing on the books of the foreign holding company as a dividend, even though the foreign holding company would be treated as having exempt income if it had directly earned the commodity income itself. My original bill, H.R. 3581, was introduced to alleviate the inequity caused by the interrelationship of these rules.

In October of 1981, the Subcommittee on Select Revenue Measures of the Committee on Ways and Means held a hearing on my bill, H.R. 3581. Testimony was received at that hearing from the Department of the Treasury, the Joint Committee on Taxation staff, and the general public. Subsequent to the hearing, on July 12, 1982, that subcommittee ordered favorably reported by voice vote H.R. 3581. My legislation was amended to reflect the observations raised at that hearing. Essentially, the subcommittee legislation was drafted to apply in the future to the Consolidated Foods Corp. The legislation is in no way retroactive. On September 15, 1982, the Committee on Ways and Means ordered the bill favorably reported and made minor technical amendments.

The salient facts of the subject transaction demonstrate the equity of the committee's action. In 1978, Consolidated Foods Corp., a U.S. corporation, purchased 65 percent of Douwe Egberts, a Dutch corporation. Douwe Egberts is engaged in the purchase, sale, and distribution of coffee, tea, and tobacco products. While incorporated in Holland in 1919, Douwe Egberts has been in business since 1753. Forty percent of Consolidated Foods' interest in Douwe Egberts—26 percent of the total stock—is held directly by Consolidated Foods, while 60 percent of the Consolidated Foods' interest—39 percent of the total stock—is held by a voting trust. The trustees of that trust are three independent Dutch citizens. Consequently, Consolidated Foods, in practical effect, controls less than a majority of the voting stock.

Douwe Egberts has several active non-Dutch subsidiaries with accumulated earnings and profits. The Dutch taxing authorities have been concerned that Douwe Egberts, by financing its activities through borrowing rather than through dividends from those non-Dutch subsidiaries, would obtain unwarranted interest deductions. Therefore, Douwe Egberts has been subject to some pressure from the Dutch taxing authorities to cause its subsidiaries to declare dividends, even though Holland would impose no tax on dividends remitted by those subsidiaries.

Consolidated Foods takes the position that any dividends remitted to Douwe Egberts by the subsidiaries would not be foreign personal holding company income and therefore not taxable to the U.S. parent under current U.S. law. However, in response to a ruling request from Consolidated Foods, the Internal Revenue Service disagreed, ruling that any dividends remitted would be taxable to the U.S. parent, Consolidated Foods, as foreign personal holding company income. The Service based this ruling on the view that the payment of dividends to Douwe Egberts would have as one of its significant purposes a substantial reduction of income tax—section 954(b)(4). If necessary, Consolidated Foods will litigate this issue and believes it will be successful. Of course, such litigation is expensive and very time consuming to the company and the U.S. Government alike.

The committee believed that in this case, the long history of operation of the foreign business and the concerns of the Dutch tax authorities tend to indicate a lack of tax avoidance purpose. While not intending to disturb the Internal Revenue Service ruling position for past years, the committee believed that these factors warrant exclusion of certain dividends from foreign base company income in future years; the legislation is prospective only.

The legislation before the House today will exempt from foreign base company income any dividend received from a qualified foreign subsidiary if certain technical conditions are met. As stated, the bill is drafted to address future transactions affecting Consolidated Foods Corp. In general terms, the four technical conditions that must be met are: First, the dividend is out of earnings and profits of the qualified foreign subsidiary and is attributable to the active conduct of the business of buying, selling, or distributing coffee; second, the country of incorporation and the principal office of the controlled foreign corporation do not impose a tax on the receipt of such dividend; third, the controlled foreign corporation was incorporated before 1962 to the date of distribution; and fourth, the taxpayer acquired control of the controlled foreign corporation in 1978 but such control has been limited by certain described circumstances.

Under the legislation, a qualified foreign subsidiary is a foreign corporation substantially all of the stock of which is owned by the controlled foreign corporation, and for which the controlled foreign corporation has elected the rule of exclusion that this bill provides. The legislation contains technical rules relating to this election.

It should be noted that this legislation is prospective only. The legislation will apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of U.S. shareholders within which or with which such taxable years of such foreign corporations end.

Nor is there any significant revenue loss associated with this legislation. On the basis of projections supplied by representatives of Consolidated Foods, it is estimated that this bill will reduce budget receipts by approximately $4 million annually beginning in fiscal year 1984. However, it is understood that the taxpayer would oppose an assertion by the Internal Revenue Service that the dividend distributions in

question are in fact taxable. Consequently, there would be an effect on budget receipts only if the taxpayer's position were not sustained by the court.

This legislation should be passed by us today so that it may be sent to the Senate for expeditious action this year.

Mr. Speaker, I thank the gentleman from California (Mr. STARK) for assisting in this matter, and also the chairman of the committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, as stated, this measure relates to the taxation of certain foreign personal holding company income. When the Congress moved in 1962 to enact provisions of the Internal Revenue Code of 1954 designed to curb certain foreign income abuses, it did not take into account the situation which gave rise to this bill. Because of those 1962 changes, the Committee on Ways and Means learned that through a transaction required by a foreign government, not by a U.S. corporation or its subsidiaries, a U.S. company will be subject to taxation.

The fact that the transaction, referred to in H.R. 3581, was undertaken at the request of the foreign government, as well as the foreign corporation's long history of actively conducting a specific type of trade or business, both indicate the tax avoidance has not motivated this transaction.

As a matter of fact, Mr. Speaker, as stated, one of the corporations involved here was formed in 1753, so clearly it was not one of those "shell" transactions designed to deal with taxes.

H.R. 3581 establishes a very limited exception to the 1962 rules. Under this exception, the bill's benefits can only be elected for one subsidiary, and the election must be made within 60 days of the bill's enactment.

It has been called to my attention that the administration opposes this measure. It was not made apparent to the members of the committee on this side of the aisle, and there was no substantial objection to it at the time it came up in committee.

For that reason, I will leave to the Members their view of the administration's reasons. It may be that it is because it is designed for a very limited transaction that they object to it. However, that also limits the chance of abuse. I think the Members should take that into account.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I would like to point out that the administration does oppose enactment of this bill. It is my understanding that their opposition is based upon the fact that there is no adequate or compelling reason to permit the U.S. shareholders to exclude from their gross income dividends received from controlled foreign corporations.

So their objection seems to be on a fairly general basis to the bill, but I would point out that because the administration does oppose enactment of this particular bill that I will ask for a record vote on it so that the Members have an opportunity to register their views.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for explaining his position.

I must say I do believe there is an issue of fairness involved here, as well as a precedent, and at least this legislation has been carefully drawn so that precedentially it will not lead to widespread abuse.

Mr. STARK. Mr. Speaker, will the gentleman yield to me?

Mr. CONABLE. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from New York well knows, this bill came before the subcommittee which I chair and the subcommittee is very cautious about reporting single-purpose legislation.

I think I am correct in stating that the bill came out of our subcommittee unanimously.

Mr. Speaker, we recognized that it was for the relief of a particular taxpayer, but I think we felt that while there may have been some rather elaborate reincorporation procedures that the taxpayer could go through that in this instance justified our bringing legislation to the floor.

Mr. CONABLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the bill H.R. 3581, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

APPLICATION OF SECTION 252 OF ECONOMIC RECOVERY TAX ACT OF 1981 TO CERTAIN TRANSFERS IN 1973

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4577) to amend Public Law 97-34, as amended.

The Clerk read as follows:

H.R. 4577

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) IN GENERAL.—Notwithstanding subsection (c) of section 252 of the Economic Recovery Tax Act of 1981, the amendment made by subsection (a) of such section 252 (and the provisions of subsection (b) of such section 252) shall apply to any transfer of stock to any person if—

(1) such transfer occurred in November or December of 1973 and was pursuant to the exercise of an option granted in November or December of 1971,

(2) in December 1973 the corporation granting the option was acquired by another corporation in a transaction qualifying as a reorganization under section 368 of the Internal Revenue Code of 1954,

(3) the fair market value (as of July 1, 1974) of the stock received by such person in the reorganization in exchange for the stock transferred to him pursuant to the exercise of such option was less than 50 percent of the fair market value of the stock so received (as of December 4, 1973),

(4) in 1975 or 1976 such person sold substantially all of the stock received in such reorganization, and

(5) such person makes an election under this section at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(b) LIMITATION ON AMOUNT OF BENEFIT.—Subsection (a) shall not apply to transfers with respect to any employee to the extent that the application of subsection (a) with respect to such employee would (but for this subsection) result in a reduction in liability for income tax with respect to such employee for all taxable years in excess of $100,000 (determined without regard to any interest).

(c) STATUTE OF LIMITATIONS.—

(1) OVERPAYMENTS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented on the date of enactment of this Act (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 6-month period.

(2) DEFICIENCIES.—If the assessment of any deficiency of tax resulting from the application of subsection (a) is prevented on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, assessment of such deficiency (to the extent attributable to the application of subsection (a)) may, nevertheless, be made within such 6-month period.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from New

York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4577, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4577 permits certain individuals who received stock in 1973 pursuant to the exercise of employee stock options to elect to have section 252 of the Economic Recovery Tax Act of 1981 apply retroactively in certain limited circumstances. This will allow certain "insider trading" rules of the securities law to be taken into account in determining when the stock received is transferable and therefore taxed.

Under the bill, any reduction in tax pursuant to such election could not exceed $100,000 with respect to any one employee. The statute of limitations is amended by the bill to permit refunds, or credits, or assessments, attributable to the provisions of the bill. The intended beneficiaries of this bill are John G. Franzia, Jr., Joseph S. Franzia, and Fred T. Franzia. It is estimated that this bill will reduce budget receipts by a negligible amount.

Mr. Speaker, I urge adoption of H.R. 4577.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 4577, which amends the restrictive property rules in Public Law 97-34.

The Economic Recovery Tax Act of 1981 adopted certain rules relating to the taxation of stock received upon the exercise of a "nonqualified stock option." The rules apply prospectively only.

This prospective application prevents the rules from applying to certain transactions undertaken prior to 1981. H.R. 4577 allows the 1981 act rules to apply to certain transactions occuring prior to 1981 under very limited circumstances.

The measure was approved without dissent by the Committee on Ways and Means. Thus, I know of no substantial opposition on this side of the House.

The administration, I understand, opposes this measure also. It involves, in effect, only three members of the Franzia family, and I think it is important to put this fact on the record so that there will not be claimed something is being slipped through for the benefit of individuals. Even if that is the case, Mr. Speaker, if it appears to be special interest legislation, if an issue of substantial injustice is involved, I see no reason why the House should not consider that and try to rectify an injustice. In this situation we are a court of last resort.

I will say that there is some controversy about this question of this limited application. It is not dissimilar to the earlier bill we discussed just a few minutes ago.

Mr. Speaker, I yield to the gentleman from California (Mr. STARK) if he wishes to make some remarks in view of my comments and in view of the announced opposition of the administration.

Mr. STARK. Mr. Speaker, I thank the distinguished ranking minority Member for yielding to me to just say again that I take a back seat to no one for opposing most special interest legislation in the Tax Code. This is a situation, if I can restate it, wherein the sellers of the securities were caught up on a conundrum which has now been rectified in the Code, so we are basically making a rule that we found to be correct retroactive.

What happened basically was that the people were required to pay the tax at the time their stock was sold. The Securities and Exchange rules prohibited them from selling the stock, and then the tax was assessed at a time when they could not sell the stock, causing two different Federal rules, in effect, to cause them a great deal of financial loss at the time. One alternative is to say that that is too bad. The other is to say that that was an unintended result. It was a law that we have since sought to correct, and I understand that on the basis of symmetry the administration's opposition, but I think again this was reported unanimously from the Subcommittee on Select Revenue Measures, and I would urge its adoption.

Mr. CONABLE. In effect, these taxpayers were prohibited from taking advantage of an opportunity that other taxpayers had by virtue of an order which was not germane to this particular issue.

Mr. STARK. The gentleman is absolutely correct. I thank him for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. Again, the information I have been provided indicates the administration feels that the precedent being set here, there is no adequate or compelling reason for it, for making section 252 of the Economic Recovery Tax Act of 1981 retroactive. Once again, because of that opposition, I will get a record vote on the measure.

I thank the gentleman for yielding.

Mr. CONABLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4577, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

MONEY PURCHASE PLAN AMENDMENTS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4948) to amend the Internal Revenue Code of 1954 to provide for the application of cash or deferred arrangement rules to money purchase plans, as amended.

The Clerk read as follows:

H.R. 4948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL RULE.

Subsection (k) of section 401 of the Internal Revenue Code of 1954 (relating to cash or deferred arrangements) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "A money purchase pension plan shall not be considered as not safisfying the requirements of subsection (a) merely because the plan includes a qualified salary reduction arrangement.",

(2) by inserting after "arrangement" in paragraph (3)(A) the following: "under a profit-sharing or stock bonus plan, or a qualified salary reduction arrangement under a money purchase pension plan,", and

(3) by adding at the end thereof the following new paragraph:

"(5) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—A qualified salary reduction arrangement is an arrangement, under a money purchase pension plan—

"(i) under which a covered employee may elect to have the employer make payments as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash, and

"(ii) which provides that an employee's right to his accrued benefit derived from employer contributions made to the trust pursuant to his election is nonforfeitable.

"(B) MONEY PURCHASE PENSION PLAN.—For purposes of this subsection, the term 'money purchase pension plan' means a pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)),

"(ii) which was in existence on June 27, 1974, and which, on that date, included a salary reduction arrangement, and

"(iii) under which neither the employee contributions nor the employer contributions may exceed the levels provided for by the contribution formula in effect under the plan on that date."

SEC. 2. TAXABILITY OF BENEFICIARIES.

Paragraph (8) of section 402(a) of the Internal Revenue Code of 1954 (relating to cash or deferred arrangements) is amended by inserting after "(as defined in section 401(k)(2))" the following: ", or a qualified salary reduction arrangement under a money purchase pension plan (as defined in section 401(k)(5))".

SEC. 3. CONFORMING AMENDMENTS.

(a) The caption of subsection (k) of section 401 of the Internal Revenue Code of 1954 is amended by inserting "; QUALIFIED MONEY PURCHASE PENSION PLAN" after "ARRANGEMENTS".

(b) The caption of paragraph (8) of section 402(a) of such Code is amended by inserting "; QUALIFIED MONEY PURCHASE PENSION PLAN" after "ARRANGEMENTS".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 1 shall apply with respect to taxable years beginning after December 31, 1980. The amendment made by section 2 shall apply with respect to contributions made after that date. The amendments made by section 3 shall take effect on the date of enactment of this Act.

(b) TRANSITION RULE.—Any contribution made after December 31, 1979, and before the first day of the first plan year beginning after December 31, 1980, to a trust under a plan which includes a salary reduction plan or arrangement described in section 2006(b)(2) of the Employee Retirement Income Security Act of 1974 shall be treated as made to a trust which is part of a plan which includes a qualified salary reduction arrangement (as defined in section 401(k)(5) of the Internal Revenue Code of 1954), whether or not the trust to which the contribution is made meets the requirements of section 401(k)(5) of such Code, and section 135(c)(2) of the Revenue Act of 1978 shall apply in respect of such a contribution under any pension plan.

The SPEAKER pro tempore. Is a second demanded?

Mr. CONABLE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on H.R. 4948, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4948 affords certain deferred compensation arrangements under money purchase pension plans tax treatment comparable to that afforded cash or deferred arrangements under profit sharing or stock bonus plans by the Revenue Act of 1978.

Under the 1978 Revenue Act, amounts deferred by an employee after 1979 pursuant to a cash or deferred arrangement under a profitsharing or stock bonus plan are excluded from the employee's income if certain requirements are met. No rules were provided by the 1978 act for amounts deferred pursuant to a similar salary reduction arrangement under a money purchase pension plan.

Many tax-exempt organizations have money purchase pension plans with a salary reduction feature. This feature is similar to a cash or deferred arrangement under a profitsharing or stock bonus plan. Tax-exempt organizations may be precluded from adopting profitsharing or stock bonus plans.

H.R. 4948 provides that amounts deferred by an employee after 1979 pursuant to a salary reduction arrangement under a money purchase pension plan which was in existence on January 27, 1974, will be excluded from the employee's income if the plan satisfies rules with respect to employee participation and prohibited discrimination in favor of employees who are officers, shareholders, or highly compensated employees. The bill applies to money purchase pension plans of taxable employers and tax-exempt organizations.

Mr. Speaker, H.R. 4948 extends the favorable tax treatment afforded deferred compensation arrangements meeting certain qualifications to similar arrangements not currently able to enjoy such treatment. The bill will have a negligible effect on budget receipts. It corrects an inequity in our current tax laws. Therefore, I urge the adoption of H.R. 4948.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, H.R. 4948 addressesses an anomaly in existing pension tax law. An anomaly which discriminates severely against nonprofit organizations and tax-exempt entities.

Existing law recognizes three distinct types of pension plans that are accorded favorable tax treatment. They are profit sharing plans, stock bonus plans, and money purchase pension plans. One means for funding these three pension plans is through a cash or deferred arrangement. Under such an arrangement, an employee is given the choice of receiving a stipulated amount of cash as current compensation or of contributing all or part of that amount to a retirement plan.

Prior to 1972, elective contributions under a cash or deferred arrangement were not taxed currently to plan participants. Although the Treasury Department in 1972 proposed to subject these plans to immediate taxation, ERISA stayed the implementation of these regulations until the Congress could review the matter further.

The Revenue Act of 1978 provided permanent protection for qualified cash or deferred arrangements under profit sharing or stock bonus plans. Elective contributions under these arrangements are not taxed currently to plan participants if the plans meet the statutory strandards relating to nondiscrimination in participation and contribution, vesting, and timing of plan distributions. The 1978 act however, did not provide any permanent protection for money purchase pension plans containing cash or deferred arrangements. Moreover, those plans in existence as of June 27, 1974, which were previously protected under ERISA were not afforded any protection.

This distinction between profit sharing and money purchase plans with qualified cash or deferred arrangements appears not to be based on sound policy. This inequality is important in that money purchase pension plans are the principal means by which small tax-exempt and nonprofit organizations provide for the retirement needs of their employees. Tax-exempt organizations are precluded from participating in profit sharing or stock bonus plans due to their nonprofit and nonstock issuance status.

H.R. 4948 proposes to place money purchase pension plans with cash or deferred arrangement on parity with these other pension plans. The 1978 Revenue Act nondiscrimination standards applicable to stock or profit plans would be extended to money purchase pension plans. Therefore, participants making elective contributions to money purchase pension plans under cash or deferred arrangements would be accorded favorable tax treatment only where the plans meet the requirements that the 1978 act imposed on profit sharing and stock bonus plans.

Money purchase pension plan participants with cash or deferred arrangements in existence on June 27, 1974, would be grandfathered in; however, their level of contribution would be frozen at the 1974 rate. Grandfathering of these plans prevents disruption of retirement plans for those persons who had relied on the controlling

law. Similar treatment was afforded to stock bonus and profit sharing in the 1978 act.

It is most appropriate that the Congress proceeds to address this problem immediately. Pending Treasury regulation will require all employees who participate in salary reduction money purchase pension plans to include in their gross income all contributions made after December 31, 1979. At a time when the Congress has adopted a strong public policy in favor of employee contributions to retirement plans, it would be most inequitable to abandon those employees who have in good faith been participating in a common and valid retirement program.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4948 relating to certain money purchase pension plans.

The 1978 Revenue Act established statutory rules governing the tax treatment of cash and deferred profit-sharing plans. These plans offer participants a great deal of flexibility in planning for their retirement years and are therefore very attractive to employer and employee.

The 1978 act cash and deferred rules were not, however, extended to money purchase pension plans. This has created problems because, in operation, cash and deferred arrangements under money purchase pension plans and profit-sharing plans are the same. Administrative efforts to correct these problems have been unsuccessful because of lack of adequate statutory authority.

H.R. 4948 extends the 1978 act's cash and deferred provisions to money purchase pension plans that meet specific requirements, including the provisions of the 1978 act regarding participation and discrimination. Thus, the provisions of the bill are not available to money purchase pension plans that violate the current cash and deferred rules on discrimination.

I urge the bill's adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4948, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERIODIC PAYMENT SETTLEMENT TAX ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5470) to amend the Internal Revenue Code of 1954 to insure periodic payments for damages received on account of personal injuries or sickness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Periodic Payment Settlement Tax Act of 1982".

SEC. 2. TREATMENT OF RECIPIENT OF SETTLEMENT PERIODIC PAYMENTS.

Paragraph (2) of section 104(a) of the Internal Revenue Code of 1954 (relating to compensation for injuries or sickness) is amended by striking out "whether by suit or agreement" and inserting in lieu thereof "whether by suit or agreement and whether as lump sums or as periodic payments".

SEC. 3. TREATMENT OF ASSIGNEE-PAYOR.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. CERTAIN PERSONAL INJURY LIABILITY ASSIGNMENTS.

"(a) GENERAL RULE.—Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding assets.

"(b) TREATMENT OF QUALIFIED FUNDING ASSETS.—In the case of any qualified funding asset—

"(1) the basis of such asset shall be reduced by the amount excluded from gross income under subsection (a) by reason of the purchase of such asset, and

"(2) any gain recognized on a disposition of such asset shall be treated as ordinary income.

"(c) QUALIFIED ASSIGNMENT.—For purposes of this section, the term 'qualified assignment' means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of personal injury or sickness—

"(1) if the assignee assumes such liability from a person who is a party to the suit or agreement, and

"(2) if—

"(A) such periodic payments are fixed and determinable as to amount and time of payment,

"(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,

"(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor,

"(D) the assignee's obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

"(E) such periodic payments are excludable from the gross income of the recipient under section 104(a)(2).

"(d) QUALIFIED FUNDING ASSET.—For purposes of this section, the term 'qualified funding asset' means any annuity contract or obligation of the United States if—

"(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

"(2) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

"(3) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 130 and inserting in lieu thereof the following new items:

"Sec. 130. Certain personal injury liability assignments.

"Sec. 131. Cross references to other Acts."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years ending after December 31, 1981.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was not objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5470, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5470, the Periodic Payment Settlement Tax Act of 1982, clarifies the tax treatment of periodic payments of awards for personal injury damages.

The bill specifically excludes from a recipient's income amounts received as damages for personal injury or sickness whether paid in lump sums or periodic payments. In addition, any amount received for agreeing to assume a liability for periodic payments for personal injury damages will not be included in income to the extent used to purchase an annuity or U.S. obligation to cover the liability.

The changes made by H.R. 5470 afford taxpayers certainty in structur-

ing personal injury settlements or judgments. At the same time, the bill is carefully crafted to prevent the possibility of abuse by taxpayers who make the payments to injured parties.

It is estimated that the bill will have a negligible effect on budget receipts.

Mr. Speaker, I urge the adoption of H.R. 5470.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5470, relating to the tax treatment of personal injury damages.

Currently, amounts received as compensation for personal injuries are excluded from gross income under statutory rules if received in a lump sum, and administratively, if received as periodic payments.

Statutory rules do not exist governing the tax treatment of a third party that assumes the responsibility for paying personal injury damages.

H.R. 5470 establishes statutory rules governing the tax treatment of: First, damages received as compensation for personal injuries whether received as a lump sum or as periodic payments; and second, amounts received by third parties which assume responsibility for paying the personal injury damages. Under these rules, personal injury damages received as a lump sum or as a periodic payment will continue to be tax exempt. In addition, amounts received by third parties to compensate others for personal injuries generally will not be taxable to the third party if invested in an annuity or obligation of the United States and if the proceeds of these investments are used to compensate the injured party.

H.R. 5470 makes necessary changes in our tax laws and I urge its adoption.

Mr. Speaker, there is no objection to this bill of which I am aware. I have no requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5470, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness."

A motion to reconsider was laid on the table.

COMPUTER EQUIPMENT CONTRIBUTION ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5573) to amend the Internal Revenue Code of 1954 to encourage contributions of computers and other sophisticated technological equipment to elementary and secondary schools, as amended.

The Clerk read as follows:

H.R. 5573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Equipment Contribution Act of 1982".

SEC. 2. CHARITABLE CONTRIBUTIONS OF COMPUTER EQUIPMENT TO PRIMARY AND SECONDARY SCHOOLS.

Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS OF COMPUTER EQUIPMENT TO PRIMARY AND SECONDARY SCHOOLS.—

"(A) LIMIT ON REDUCTION.—In the case of a qualified contribution of computer equipment, the reduction under paragraph (1)(A) shall be no greater than the amount determined under paragraph (3)(B).

"(B) QUALIFIED CONTRIBUTION OF COMPUTER EQUIPMENT.—For purposes of this paragraph, the term 'qualified contribution of computer equipment' means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of section 1221, but only if—

"(i) the contribution is to a qualified educational organization and is made through the governing body of such organization,

"(ii) the contribution is made pursuant to a written plan of the taxpayer under which there will not be undue concentrations of the taxpayer's contributions of computer equipment from the geographic standpoint or from the standpoint of the relative economic status of the donees' students,

"(iii) the property is assembled by the taxpayer and the taxpayer is regularly engaged in the business of assembling and selling computer equipment of the same kind as such property,

"(iv) the contribution is made—

"(I) not later than 6 months after the date the assembly of the property is substantially completed, and

"(II) during 1983,

"(v) the original use of the property is by the donee,

"(vi) the property is computer equipment substantially all the use of which by the donee will be at the institution directly in the education of students,

"(vii) the property is not transferred by the donee in exchange for money, other property, or services, and

"(viii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (vi) and (vii).

"(C) QUALIFIED EDUCATIONAL ORGANIZATIONS.—For purposes of this paragraph, the term 'qualified educational organization' means—

"(i) an educational organization which is described in subsection (b)(1)(A)(ii), and

"(ii) a school operated as an activity of an organization described in section 501(c)(3) and exempt from income tax under section 501(a) if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

Such term shall not include any institution of higher education (as defined in section 3304(f)) and shall not include any organization not located in the United States.

"(D) COMPUTER EQUIPMENT.—For purposes of this paragraph, the term 'computer equipment' means—

"(i) a data processor which—

"(I) can be programed in at least 3 standard computer languages,

"(II) has a random access memory with a capacity for at least 32,000 bytes, and

"(III) is (or can be) connected with a screen for visual display of the data,

"(ii) if donated by the taxpayer for use in connection with a data processor described in clause (i) donated by the taxpayer—

"(I) a display screen,

"(II) a printer, or

"(III) a disc drive, and

"(iii) any installation equipment for equipment described in clause (i) or (ii).

"(E) CORPORATION.—For purposes of this paragraph, the term 'corporation' shall not include—

"(i) an electing small business corporation (as defined in section 1371(b)),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a service organization (as defined in section 414(m)(3))."

Sec. 3. Effective Date.

The amendment made by section 2 shall apply to taxable years ending after December 31, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker. I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There is no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5573, presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1315

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5573, the Computer Equipment Contribution Act of

1982, provides a special increased income tax deduction for charitable contributions, made during 1983, of newly manufactured computers to primary and secondary schools, for use at the school directly in the education of students. The objective of the bill is to encourage manufacturers to donate computers for use in classrooms throughout the country, so that young students will become trained in new technology. Skill in using computers has become essential as more and more jobs require computer competency.

To obtain the favorable tax treatment afforded by H.R. 5573, a donating company must demonstrate that the computers will be donated to a wide cross section of students, so that there will not be a concentration of donated computers from a geographic standpoint nor from the standpoint of the relative economic status of the students. In addition, certain other requirements are imposed by the bill to assure that the donated computers are not obsolete, and that they are used directly in the education of students.

H.R. 5573 is effective for contributions made during calendar year 1983. The delay in effective date until next year will allow companies to prepare for contributing computers to schools under a program that satisfies the distribution requirements in the bill. While one manufacturer, Apple Computer, has announced that it plans to contribute tens of thousands of computers to elementary and secondary schools under the bill, any computer company may take advantage of the special deduction rule provided by the bill. It is estimated that the bill will reduce budget receipts by $15 million in fiscal year 1983, $21 million in fiscal year 1984, and a negligible amount in 1985.

Mr. Speaker, I urge adoption of H.R. 5573.

Mr. Speaker, I yield to the gentleman from California (Mr. STARK), the chairman of the subcommittee that considered this legislation.

Mr. STARK. Mr. Speaker, I thank the chairman of the committee for yielding to me.

Mr. Speaker, I rise in support of H.R. 5573, the Computer Equipment Contribution Act of 1982, which I introduced and which is cosponsored by over 85 of our colleagues. This legislation would liberalize the charitable deduction that a business could take for donating personal computers to our primary and secondary schools.

Mr. Speaker, education, more than ever, seems to hold the key to this Nation's economic reassurance. Recent studies have indicated that economic expansions may be more impacted by Government policy on education than Government policy on captial formation. All fields of education are vital, but in the scheme of things they may not all be equal. What determines our national destiny at a point in history is partly a reflection of the values and subjects which we have emphasized in our Nation's schools. Few doubt that the tremendous emphasis that we placed on mathematics and the sciences after Sputnik produced noticeable and beneficial results.

Today the United States has somewhat of a lead in the rapidly expanding areas of computers, communications, and other forms of high technology. This lead, where it exists, is slipping, and we need to make every effort to assure that our educational system is responding to that challenge. In this regard, I introduced H.R. 5573, which I hope will be one step in insuring a greater educational commitment to these vital areas of study.

H.R. 5573 would allow companies who donated computers to primary and secondary schools, a deduction for the cost of the equipment, plus one-half of the difference between their cost and the fair market value. This rule is identical to a provision currently in law for valuing donation of scientific equipment to colleges and universities for research purposes. The company donating the equipment would be required to have a written plan assuring economic and geographic diversity in its donation program. The equipment donated could be no more than 6 months old and must be used directly in the education of students. This legislation was drafted partly in response to an extremely generous offer by the Apple Computer Co. to donate a computer—and supporting equipment—to many of public and private elementary and secondary schools in the country. The Joint Committee on Taxation estimates that the legislation would reduce revenues by $15 million in 1983 and $21 million in 1984. I think that this legislation represents a good deal for the American taxpayer, a good deal for our schools, and a good deal for companies interested in increasing this Nation's ability to compete in the ever more sophisticated world of computers and high technology.

I hope my colleagues will support passage of this vital legislation.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

A number of school districts in my area have had the foresight to go ahead and buy large volumes of computers for their schools and have expended a number of tax dollars in the current year and last year for such equipment. Is this bill not basically penalizing those school districts by saying that although they made the expenditure to actually purchase the equipment, other school districts are now going to get it through donation.

Mr. STARK. Mr. Speaker, if the chairman of the committee will yield, I would respond to the gentleman by saying that on the purchase of these computers, I think the schools in the gentleman's district were very wise, and I think he will find that they have been successful and they would like more. The one offer that was made publicly, for instance, is that any school in the United States, elementary or secondary, that requires one will receive one from the Apple Computer Co., for example.

So the effect of this bill would be to add to the program, and I would be almost certain that the gentleman would find his schools are happy with what they already have and could use additional equipment because it would allow more students to have access and more students to use these computers in a variety of situations.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, that may be fine if they can get donated equipment of a compatible nature with what they have purchased. However, if the companies from whom they have purchased computers would not be participating in this program in some way, it could well be they could not receive compatible equipment, which means that the programs into which they have also put considerable tax money would not be available for use across the board.

Mr. STARK. Mr. Speaker, the gentleman might very well be correct if the same computer company would not donate additional computers. However, the computer companies that have indicated their interest in donating this equipment also intend to provide software, so that while they may not be able to expand the same teaching system, these schools may benefit from additional courses.

For example, some computers can be programed to substitute for expensive science experiments. So they could have a real educational benefit in having additional opportunities.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, I have one other point.

Mr. ROSTENKOWSKI. Mr. Speaker, the gentleman from Illinois refuses to yield further. There are other Members here who want to speak on the bill, and the gentleman can get time on his own side.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 5573.

The act is as it has been described by the preceding speakers. The House will recall that the general rule for giving away equipment is that the

donor is allowed to deduct the cost of the equipment. There are two exceptions, one of rather long standing, relating to contributions to charitable organizations to take care of the ill or the needy or infants with medical supplies, food, and so forth. They are allowed a larger deduction. Last year we allowed also a larger deduction for contributors of computer type equipment for research in colleges.

This bill extends that exception a little further. The reason that it is a problem for me, Mr. Speaker, is that it will enable certain computer manufacturers to make all the computers that they can conceivably sell, and a few more. If they do not sell them, they still have the ability within 6 months of manufacture to contribute them to a school and receive twice their cost for the deduction against their taxes. To me that would seem to give a rather unfair advantage to computer companies of a certain kind that had a productive capability or that were in a field where there was a technological turnover and models would have to be changed.

To me, Mr. Speaker, it is a little bit like our dairy law because it gives an incentive to manufacturers to manufacture more than the market needs, because they can always sell more to the Government; they can truck them off to their local high school or vocational technical school.

There is another problem with the bill, and that is that it is rather exclusive. It seems to be aimed at one company, although a number of companies, it is true, may take advantage of it.

But we are using only computers. I wonder why. We are training people for all kinds of jobs in our vocational schools. I do not know why we would not give the same kind of deduction for a lathe, particularly one of these pneumeric driven machines or other machinery which were not necessarily computers but represent new technological skills in today's production processes. Those are not included.

Mr. Speaker, because the bill seems to me to be overly specific, because it seems to me to give an unreasonable incentive to certain companies to produce and be able to have a guaranteed market for their machinery, I intend to oppose the bill.

Mr. Speaker, does the gentleman from Pennsylvania (Mr. WALKER) seek recognition?

Mr. WALKER. I do, Mr. Speaker.

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

If I may, I would like to address a further question. A few moments ago, when I was quizzing with regard to the bill, the gentleman indicated some concern about software. Is software included in this bill? Would the school districts have the software donated to them as well?

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding.

As to software, to the extent it is part of the computer package, the operational software for the computer would be included. The software manufactured by separate manufacturers who may sell software as a separate business is not included.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. FRENZEL. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, if I understand it correctly, once they got the donated machinery which, of course, does put them in a stream for software, they will have to purchase all the software, which, of course, can become a very expensive item for the school districts as well, and they would have no ability to really negotiate on some of that because the software stream would be established by the donation. Is that a correct assumption?

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I think that would depend on the donor and the particular type of equipment. Some personal computers take a wide range of software, and it could be an expensive proposition. Other personal computers are very simple, and the operational software is available. Some computers can take software from other companies.

This would depend tremendously on the different products and computers that are available. It is the intention of one donor to make available a complete package, including some software, but the only difference would be that this donor—in this case the Apple Computer Company—would not be able to get a deduction for the software. They intend to donate it anyway, but they would not get the tax deduction.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. STARK. Mr. Speaker, if the gentleman will yield further so I could just go one step further and correct his statement on his objection, they would not be able to get double the cost. The way the deductions are structured, if they paid at the full 46-percent rate, the maximum they would be able to get is 92 percent of the cost, and they might not be able to get that much because it is limited to their actual cost plus half the difference in value, and that could vary. But in all instances they would have some investment, if you will, although it could approach a very small amount.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for that correction. It is accurate, and I regret my overstatement.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. FRENZEL. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

That was the next point I wanted to explore with the gentleman from Minnesota, if I could. Do I understand correctly that as to the donated value that will be a tax writeoff, it can be considerably above the figure of the cost of manufacture?

Mr. FRENZEL. It can be up to twice as much as the cost. It is either the retail value if the producer sells in retail or whatever the wholesale value is if he sells into that stream of commerce. But it is a maximum in either case of twice the manufacturer's cost of the machinery.

Mr. WALKER. Mr. Speaker, I thank the gentleman very much for his clarification, and I thank him for yielding.

Mr. FRENZEL. Mr. Speaker, may I ask the gentleman from California (Mr. STARK) is that an accurate statement of the limitation?

I yield to the gentleman for a response.

Mr. STARK. Mr. Speaker, it is my understanding that it would be 92 percent if you are in the 46-percent tax bracket. You could not use the 100 percent; you would always have that marginal difference.

Mr. FRENZEL. I agree, Mr. Speaker, and I also believe that with the normal markups on this kind of equipment it will always be at the ceiling; it will be at two times the cost.

Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I rise in support of H.R. 5573, the Computer Equipment Education Act of 1982.

I bring a special interest to this legislation as chairman of the Congressional Clearinghouse on the Future. We have been looking at the matter of computer literacy during the past few years and earlier this year sponsored a special session for Members of Congress.

What has become crystal clear during these informal examinations is that computer literacy is becoming a necessary tool as our Nation and the world moves into a new era of high technology—technology developed and deployed not only for industry, defense, and Government, but for every American of every age.

In early June, the National Science Foundation released the "Institute for the Future" report on the implications of new electronic information technology on our lives in the coming years. One of the points made in the study is that we will all be living and learning with computers. It follows that those of us who are prepared to deal with this new technology in our daily lives will be the first to prosper with it.

In fact, the ability to incorporate basic computer literacy into the skills of our young people could be the difference between a generation of occupational misfits or a rapid growth in productivity at all skill levels in our economy.

As they enter the job market, our high school students are the most vulnerable to inadequacy in skills. We are told that millions of jobs will be lost in manufacturing and other labor sectors in the coming two decades—all because of rapid technological developments bringing about new productivity gains. We also know that there is another side to that scale—millions of jobs will be created in the service sector and in new aspects of older industries, most incorporating sophisticated new computer and communications technology.

In a just released study by the Office of Technology Assessment, it is stated that—

> The growing use of information technology throughout society is creating major new demands for education and training in the United States and is increasing the potential economic and social penalty for not responding to those demands.

We must be sure that the students of today do not become a lost generation. We must remember that students are able to pursue an elective education only so far—often only as far as a school's resources. In the case of computer hardware and instruction, those resources are nil.

Certainly, some students will find a way to acquire computer skills even if they do not get them in elementary and secondary schools. However, the millions of teenagers who will not be able to pick and choose such post-secondary instruction will be those who need these skills the most, because they are the ones who are most vulnerable to the kinds of disastrous economic swings we are now witnessing.

Our schools and educational planners recognize this problem, but their hands are often tied by budgetary constraints. The purchase of a $2,000 computer and maintaining the instructor to use it is simply out of reach for most public schools, certainly those in my district and throughout my home State of Tennessee.

The modest tax deduction allowed in H.R. 5573 may be one answer—a very limited impact on revenues with a clear long range benefit for schools throughout the Nation and for our society. This Congress has already extended tax incentives to stimulate donations of computer hardware for research purposes. I suggest that the payoff in long-term increased scientific achievement might be even greater if our Nation's primary and secondary schools were able to obtain the hardware necessary to begin basic instruction.

I strongly urge my colleagues to support H.R. 5573.

□ 1330

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Speaker, I want to rise in support of the legislation and compliment both the chairman of the subcommittee, the gentleman from California (Mr. STARK) and the chairman of the full committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. Speaker, today we have an opportunity to take a relatively painless step that would have important, positive consequences for the economy of this country.

By supporting H.R. 5573, the Computer Equipment Contribution Act, we can see to it that computers become available to schools all across this Nation.

This legislation would extend a provision added last year to the Tax Code. For a single year, it would allow deductions for companies who donate computers to schools.

It is estimated that by 1985 this country will have a shortage of 100,000 engineers in the electronic industry. At a time when so much of our economic future depends on our high tech industries, it is folly for us to ignore this statistic. High tech training and education is essential to our Nation's future. This bill is a simple, positive way of responding to that need.

When this bill was first proposed, some objections were raised. The final bill responds to most of those objections. For instance, the bill's original 30 percent of income cap has been lowered to the 10 percent applicable to other charitable contributions. Restrictions have been added to assure that contributions are not limited to wealthy schools or narrow geographic areas.

This Nation has already suffered unnecessary economic setbacks. We have seen it in autos, and we have seen it in steel.

The time for America to prepare for its high tech future is now.

This bill helps see to it that we will have the trained personnel to keep this critical sector of our economy strong and thriving.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the chairman and want to compliment the gentleman from California (Mr. STARK) as well for bringing forth this very, very creative and very much needed piece of legislation.

What this legislation does more than any other act that we will take part in this year in the Congress is recognize the changing nature of the American economy.

It is necessary for us to recognize the need to instill some computer literacy into the grammar schools and into the high schools of this country. The way we were taught the skills that we were given, all of us who serve in this body, will not be the new jobs which are created in the latter part of this decade and into the 1990's and the 21st century. A whole new era has dawned upon this country.

In the area of high technology, microelectronics, telecommunication, robotics, this entire revolution promises to impact every single part of the American economy and our lifestyle. If we do not make that changeover to training young people in these high thought content areas then we will lose the opportunity of giving the leadership in the coming generations to the world in the production of these products.

We right now are not giving that kind of opportunity to our young people. This cooperation between the private sector and our secondary and primary schools will help to telescope a process which could take a decade but which, with this kind of cooperative effort, might only take two, three, or four years to begin to instill in secondary and primary schools the primacy which ought to be attached to this kind of education.

What will it do? It will provide the new jobs for our economy. Five percent of the new jobs in the past decade have come from the manufacturing sector and that is all. Eighty-nine percent of the jobs have come from the service sector, and that is where this new training will pay dividends because that is where the new jobs are going to come from.

And not just there, but in the electronic milking schedules for the farmer, in the electronic fund transfer for banks, the automatic dialing of telephones, biotechnology, revolutionary designs of new transportation systems and all of this will be affected.

Here is the problem right now in this country: we are engaged in the

education equivalent of a book burning. Right now in the vast majority of high schools our graduates have no chemistry, no physics, no computer science, and they have only a modicum of math.

The percentage of science and engineers in our society has declined since 1965. It has doubled in Japan. It has increased fourfold in the Soviet Union.

In Japan, with half our population, they have graduated 74,000 engineers a year whereas we have 58,000. The Soviet Union has 400,000.

In the field of computer sciences there is an estimated demand in this country for 54,000 graduates a year. We are graduating only 13,000.

Mr. Speaker, we are eating our seed corn in cutting education budgets and in cutting aid for education. We cannibalize our universities and we make it impossible for us to produce those people that will be able to fill these needs in our future.

● Mr. PARRIS. Mr. Speaker, I rise in support of the bill, H.R. 5573, the Computer Equipment Contribution Act of 1982. This bill will allow companies to donate computers and other technological equipment to elementary and secondary schools. This donation will give public school systems the opportunity to significantly expand their capacity to provide students with training and instruction in the use of technological equipment of the future.

In addition, this legislation will allow a company to donate a maximum of 30 percent of its taxable income for a temporary period of time. The current ceiling for such donations is set at 10 percent of the company's annual income. In an era of budget cuts and limited funds for educational programs, I appreciate the desirability of obtaining such costly items as computers and technological equipment by private sector donations.

Basic technological and computer training for America's youth is a necessary step to insure our country's future position in the world's rapidly expanding and competitive high technology areas. I therefore urge my colleagues to support and pass this vital legislation.●

● Mr. CONABLE. Mr. Speaker, I rise in support of H.R. 5573, relating to contributions of computers to certain schools.

The Economic Recovery Tax Act of 1981 established special rules governing the deductibility of contributions made to colleges or universities of scientific equipment used for certain types of research. These rules are not applicable to contributions to primary and secondary schools.

Current budget problems prevent many school boards and districts from providing pupils with computers and related equipment needed to develop the skills required in the job markets of the future. H.R. 5573 attempts to correct this problem to a limited degree by extending the principles of the 1981 act to certain contributions of computers that are made to primary and secondary schools.

Specifically, the computers must be donated during 1983 and within 6 months of their completion to primary or secondary schools under a program that results in the computers being distributed to schools that are diverse in terms of location and economic status. Other requirements are provided. H.R. 5573 Thus provides a limited incentive.●

● Mrs. HECKLER. Mr. Speaker, the Computer Equipment Act of 1982 (H.R. 5573) represents a vitally important component in America's efforts to counteract a wave of scientific and technological illiteracy that is spreading across the country. In the next two decades, as many as 75 percent of the work force will need computer skills to perform their jobs. If the emerging work force is not adequately prepared for this coming "decade of technology," they will not only become functionally illiterate, but our very ability to excel in scientific and technological endeavors will be threatened. At stake is the competitiveness of American products in international markets, reduced productivity in the electronics/information processing industry—which is fast approaching 50 percent of our gross national product—and a diminished national security capability.

There are some experts who feel that an understanding of computers may be fundamental to democracy itself. According to Adeline Naiman, managing director of the Technical Education Research Centers in Cambridge, Mass:

> In a democracy, in order for people to know how to make their own decisions, it will be important for them to understand computers.

Clearly, with the rapid increase of computers in commerce and everyday life, the need to begin familiarizing today's students in computer technology is critical. This is why I was the first cosponsor of this bill; as the ranking minority member on the Science, Research and Technology Subcommittee of the Committee on Science and Technology, I quickly recognized the importance of this legislation. Before the bill's introduction I discussed the issue with Steven Jobs, president of Apple Computer, who offered to provide, at no cost, a computer center to the Nation's 75,000 primary and secondary schools.

Even though a number of Massachusetts' high-technology firms; that is, Wang, Raytheon, Digital Equipment Corp., have already been donating equipment, I believe this bill will encourage broader participation.

Computers are as essential as pencil and paper to insure a proper education. In today's highly competitive and computer-oriented job market, students must have access to "hands-on" computer training. Those school districts that provide computer instruction will give their students a competitive advantage over those that do not, and those States that offer the highest number of qualified workers will do a better job of attracting high-technology companies and other firms that rely on information processing.

The Computer Equipment Contribution Act represents a natural extension of my efforts last year to convince the administration to add a similar provision that allowed deductions on computer equipment donated to colleges and universities to the Economic Recovery Act. This legislation will extend the current tax deduction for scientific equipment allowed for universities to secondary and primary schools. For students to properly excell in college they really need to become familiar with computers at a much younger age. We all know how young people take to computer and video games. It is time we channeled those productive energies in more employable directions.

There are many advantages to incorporating computers into the classroom. Experts have found that computers actually enhance the learning process itself. There are three primary factors that improve the learning experience. First, the computer provides for immediate reinforcement. Second, a computer makes a perfect fit into the theory that a child's ability to manipulate objects is directly related to learning. Finally, the automatic feedback from the computer supports goal-directive behavior and might be adding to the extended attention span students are developing.

There are also advantages in the application of computers in science and math classrooms. Students can use the equipment for data analysis and process control, allowing more time to think about the experiments. Learning to write programs will improve problem-solving skills as students reduce complex problems to a series of simpler problems.

According to a recent National Science Foundation (NSF) study, the field of computer technology is changing so quickly that educational institutions will need some help in absorbing the new potential applications for the classroom.

Computing not only calculates but transforms information. Traditionally, computers have been used in education as research tools, subjects of study, and vehicles for training students in computing languages. These applications are rapidly broadening so that computers are now commonly used to:

One, aid in instruction—computer-aided instruction and computer-based education; two, edit text and process publications; three, access libraries and data bases; four, communicate messages—electronic mail.

These new opportunities provide additional capabilities in accomplishing intellectual tasks.

The next stages of computer use will have new and qualitatively different effects that will ripple through the framework of existing institutions causing controversy and competition for already tight resources. Opportunities for diversifying the educational process will arise as we develop new and more productive instructional techniques through the confluence of computing, communications, and video disk technology. Already we see a large growth taking place in education outside of traditional institutions. Today over $10 billion is spent per year on continuing education; that is, seminars, training.

The revolution in computer power—25 percent per year gains in performance for the past 15 years—continues to create options for new applications. Each student will soon be able to afford his or her own microprocessor/terminal. The market for some computers in the United States has grown from zero 5 years ago to over 300,000 units per year today. The current talent pool in higher education capable of meeting the needs for instruction and research in computing fails to meet our national needs by an order of magnitude. Reports from the National Science Foundation, the Bureau of Labor Statistics, and computer-science groups indicate that this imbalance will continue to grow.

The deficit of teachers at these demand levels is exacerbated by the difficulty of retaining young faculty members due to the lure of high salaries and the availability of specialized computing facilities within industry. This is precisely why I introduced the National Science and Technology Improvement Act (H.R. 6930), a bill that encourages secondary and college/university science and math teachers to stay on the job. I would ask my colleagues to examine my bill as a companion to H.R. 5573.

We must broaden the framework for discussion of computing to consider the current role of education in the transformation of the United States from an industrial to an information society.

The predominant occupational distribution has shifted in the last 100 years from farming to industry to information handling. Information processing has become the dominant national economic activity. Information activities—both direct and indirect—now account for over 46 percent of the gross national product, and over 50 percent of the labor income is now earned by information workers.

Information is the foundation of organizations and the essence of education. How information is gathered and stored, who has access to it, how it is used—all these affect the structure of an institution.

Business and industry are fast realizing that the computer is not a computer for calculating but a tool for information processing. New applications of these information tools—computers, communications, and software—reflect new opportunities to improve the productivity and efficiency of this segment of our economy, which in turn affects all other sectors.

These changes are leading to what has been called the information society. Other nations have identified the links between education, computing, research, productivity, and the information society and are planning and investing to achieve new economic goals. The Japanese have an information society plan, the French have a plan telematique. The United States is just beginning to identify the roles of, and the relationship between, the different sectors in this transformation.

These points highlight the relationships between computing in higher education and national needs. Not only in computer science, but in all areas of training, research and instruction, higher education contributes to national goals and productivity, trade, research, and citizen participation in society. As our economy becomes increasingly dependent on the production and distribution of information services, the many roles which computing plays in higher education will become more important to our national welfare.

However, if computing is to make significant new contributions to educational and national goals, we must have computers in the schools.

I would urge my colleagues to support the Computer Equipment Contribution Act in order to facilitate the transfer of computer technology to the classrooms of America.●

● Mr. BIAGGI. Mr. Speaker, as a member of the House of Education and Labor Committee and a consponsor of H.R. 5573, the Computer Equipment Contribution Act, I wish to express may strong support for this legislation and urge its immediate passage.

Consideration of this bill comes at a time when we find education at the crossroads. School budgets at the local level are being stretched to the limit as a result of massive cuts in education funding—nearly 25 percent in the past 2 years. This bill will provide a small, but important incentive for incorporating educational technology into our schools. It allows a 1-year rule, for 1983 only, for charitable contributions of newly manufactured computers to primary and secondary schools. It provides assurance that in the provision of such equipment to schools, that there be geographical equity as well as educational access to the services of these computers by children of all income levels.

This legislation was generated by the offer of the Apple Computer Co. to give their computers to schools next year. At a hearing conducted before our Select Education Subcommittee last week on educational technology, we learned that a variety of computerized devices are available to schools to assist them in teaching both studetns and teachers. We also learned that there are a number of companies which are involved in this area. It is my hope that this legislation would provide a substantial incentive to other computer companies to follow the lead of Apple and donate there equipment to schools. The companies will benefit, as will the students and their teachers.

Mr. Speaker, in light of our present lack of adequate resources for educational programs, we must look to alternative methods of instruction which will serve the greatest numbers of people at the least cost. It is clear that computers are and will continue to be vital to this effort, particularly with advances in technology which make greater numbers of computers available to more people at lower costs. This bill is a forward-sighted piece of legislation that would provide important incentives to schools and private industry to look to technology for our schools. I urge its immediate adoption.●

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5573, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO FILE REPORT ON H.R. 5133, DOMESTIC CONTENT LEGISLATION

Mr. GORE. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until

midnight tonight to file a report on the bill, H.R. 5133, domestic content legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. FRENZEL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REDUCTION IN RATE OF CERTAIN TAXES PAID TO VIRGIN ISLANDS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7093) to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income.

The Clerk read as follows:

H.R. 7093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SECTION 1. REDUCTION IN INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions) is amended by inserting after section 934 the following new section:

"SEC. 934A. REDUCTION IN INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

"(a) GENERAL RULE.—For purposes of determining the tax liability incurred by citizens and resident alien individuals of the United States, and corporations organized in the United States, to the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands—

"(1) the rate of the taxes imposed by sections 871(a)(1) and 881 shall not exceed 10 percent, and

"(2) subsection (a) of section 934 shall not apply to such taxes.

"(b) REDUCED RATES NOT TO APPLY TO PRE-EFFECTIVE DATE EARNINGS.—

"(1) IN GENERAL.—The reduction under subsection (a)(1), and any reduction under section 934 pursuant to subsection (a)(2), in a rate of tax imposed by section 871(a)(1) or 881 shall not apply to dividends paid out of earnings and profits accumulated for taxable years beginning before the effective date of the reduction.

"(2) ORDERING RULE.—For purposes of paragraph (1), dividends shall be treated as first being paid out of earnings and profits accumulated for taxable years beginning before the effective date of the reduction (to the extent thereof)."

(b) WITHHOLDING.—Subchapter A of chapter 3 of such Code (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING ON VIRGIN ISLANDS SOURCE INCOME.

"For purposes of determining the withholding tax liability incurred the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands by citizens and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 934 of such Code is amended by inserting before the period at the end thereof "or in section 934A".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part III of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 934 the following new item:

"Sec. 934A. Reduction in income tax rate on Virgin Islands source income."

(2) The table of sections for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding on Virgin Islands source income."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

(2) WITHHOLDING.—The amendment made by subsection (b) shall apply to payments made after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration, H.R. 7093.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 7093 deals with certain taxes imposed by the Virgin Islands on payments of passive-type income to U.S. corporations and individuals.

Under present law, the Internal Revenue Code of the United States is generally applied as the local tax law in the Virgin Islands. Under the code, the Virgin Islands may reduce its income tax only for United States and Virgin Islands corporations that earn a significant portion of their income in the Virgin Islands.

The Internal Revenue Code requires the Virgin Islands to impose a 30-percent tax on passive investment income paid by Virgin Islands persons to non-Virgin Islands persons, including U.S. persons. The Virgin Islands cannot now forgive this tax. Although there is some dispute about this tax liability for the recipient of passive investment income from the Virgin Islands, it is the position of the Internal Revenue Service that the recipient is liable for the tax.

The current 30-percent tax on the gross amount of passive investment income paid by Virgin Islands persons to U.S. persons discourages investment by U.S. persons in the Virgin Islands. Because no deductions are allowed, the tax on this income, in many cases, is higher than the regular corporate or individual tax would be if deductions were allowed. Reduction of this tax will remove as impediment to investment in the Virgin Islands by U.S. persons.

H.R. 7093 will reduce the 30-percent tax imposed by the Virgin Islands to 10 percent when the recipient is a U.S. individual or corporation, and will impose a corresponding withholding obligation on the Virgin Islands payor of the income. The bill will allow the Virgin Islands Government to reduce this 10-percent rate further in its discretion. The bill will not affect payments of Virgin Islands source passive income to non-U.S. persons. The bill is expected to have a negligible effect on budget receipts.

Mr. Speaker, I urge adoption of H.R. 7093.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from the Virgin Islands (Mr. DE LUGO).

Mr. DE LUGO. Mr. Speaker, I thank the chairman of the committee for yielding and wish to thank him for his assistance on this legislation and the members of the committee for their support.

Mr. Speaker, I ask the support of my colleagues for the passage of H.R. 7093. This bill reduces the 30-percent withholding tax in the Virgin Islands to 10 percent for U.S. citizens and residents of the United States and for corporations organized in the United States, and allows the Virgin Islands Legislature to reduce the tax further as it sees fit. The bill is extremely important to the economic growth of the Virgin Islands, a matter of particular urgency given the difficulties faced by the territory as a result of Federal budgetary constraints.

The bill, which has full administration support, passed the House Ways and Means Committee last week. I thank the chairman, Mr. ROSTENKOWSKI, for his support in getting the bill through his committee and to the floor for consideration today. I also thank my cosponsors of the bill, Mr. HOLLAND, Mr. HEFTEL, and Mr. SCHULZE. Their consistent support of this legislation and sympathy for the problems it addresses is deeply appreciated by myself and the people of the Virgin Islands. I particularly want to

thank Mr. SCHULZE for his support of the bill here on the floor today.

The bill addresses the need in the U.S. Virgin Islands for direct measures to attract new investment. With the numerous trade agreements the United States has entered into, the Virgin Islands is finding it increasingly difficult to compete for offshore businesses. Several businesses have declined the Virgin Islands Government's efforts to get them to locate in the territory, citing the 30 percent withholding tax as their sole impediment. Furthermore, the 30 percent withholding tax has not produced resounding tax benefits for the Virgin Islands Treasury. The burden of paying the 30 percent tax on interest has stifled business expansion due to reluctance by mainland banks to lose 30 percent of their interest on loans to Virgin Islands taxes. On the other hand, dividends have not been declared by many businesses who chose to avoid the tax by accumulating earned surplus instead of declaring dividends.

The bill is important for the people of the Virgin Islands. It provides investment incentive that should lead to a better circulation of capital, more available mortgage money, and potential for funding a much-needed housing development, but most importantly, it will provide jobs for our people. It promises more in revenues to the Virgin Islands Treasury through this expansion than ever resulted from withholding of the 30 percent tax.

For these reasons, I ask you to vote for the passage of H.R. 7093.

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill has been described by previous speakers on this floor.

As far as I know, there is no objection within the committee to this bill.

In particular, one of the Members on the minority side, the distinguished gentleman from Pennsylvania (Mr. SCHULZE) has been a strong proponent, along with the delegate from the Virgin Islands, of this particular legislation.

Mr. Speaker, this only lets the Virgin Islands reduce the withholding from its own tax system. It does not necessarily affect U.S. taxes.

But I think the committee is wise to have passed this. I think the House should adopt it. But I think we should all understand that this implies no obligation on the part of the U.S. Government to make up any of this revenue foregone.

I am delighted to see that the people of the Virgin Islands have become determined supply siders. They believe increased investment is actually going to increase tax revenues. So do I.

There may have to be, however, a slight lag. I just want them to be sure that they are prepared for that.

Mr. Speaker, I yield back the balance of my time.

● Mr. SCHULZE. Mr. Speaker, I rise in support of H.R. 7093 relating to withholding of taxes on certain income from the Virgin Islands.

Currently, the Treasury Department and certain taxpayers are in disagreement over: First, whether the Virgin Islands may impose a withholding tax on dividends and other types of passive income paid by Virgin Islands' corporations to taxpayers that are outside the Virgin Islands; and second, the amount of this tax.

The bill resolves these disagreements in the case of payments of dividends, interest and other types of passive income from Virgin Island sources to U.S. taxpayers by providing that these payments are subject to a 10-percent withholding tax. The bill allows the Virgin Islands to reduce this 10-percent rate further.

It is my hope that further amendments will be made to the rules governing the taxation of income earned in the Virgin Islands. The amendments will clarify the applicable rules and allow the Virgin Islands to attract additional businesses that will provide residents of the Virgin Islands with new employment opportunities.●

● Mr. CONABLE. Mr. Speaker, I rise in support of H.R. 7093, relating to the taxation of investment income from Virgin Islands' sources.

A controversy currently exists over the manner in which passive investment income earned in the Virgin Islands should be treated under our tax laws. Litigation has not resolved the controversy.

H.R. 7093 establishes statutory rules governing the taxation of passive investment income earned in the Virgin Islands by U.S. taxpayers, and thus provides a limited solution to the current controversy. The bill does not address the issue of how foreign recipients should be taxed on this type of income. It thus has limited, but helpful application, and I urge its adoption.●

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 7093.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

MISCELLANEOUS TARIFF AMENDMENTS OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6867) to change the tariff treatment with respect to certain articles, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF TARIFF SCHEDULES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Permanent Changes in Tariff Treatment

SEC. 101. FURS FROM CHINA.

Headnote 4 to subpart B of part 5 of schedule 1 is amended by striking out "or of the People's Republic of China".

SEC. 102. CERTAIN FISH NETTING AND FISH NETS.

(a) With respect to articles entered after December 31, 1982, and before January 1, 1984, item 355.45 is amended by striking out "18¢ per lb. + 28.6% ad val." and inserting in lieu thereof "15¢ per lb. + 26.7% ad val.".

(b) With respect to articles entered after December 31, 1983, and before January 1, 1985, item 355.45 is amended by striking out "15¢ per lb. + 26.7% ad val." and inserting in lieu thereof "9¢ per lb. + 22.8% ad val.".

(c) With respect to articles entered after December 31, 1984, and before January 1, 1986, item 355.45 is amended by striking out "9¢ per lb. + 22.8% ad val." and inserting in lieu thereof "3¢ per lb. + 18.9% ad val.".

(d) With respect to articles entered after December 31, 1985, item 355.45 is amended by striking out "3¢ per lb. + 18.9% ad val." and inserting in lieu thereof "17% ad val.".

(e) As used in this section, the term "entered" means entered, or withdrawal from warehouse for consumption, in the customs territory of the United States.

SEC. 103. CERTAIN FOURDRINIER WIRE.

(a) Subpart B of part 3 of schedule 6 is amended by striking out item 642.30 and inserting in lieu thereof the following:

	"Fourdrinier wires, seamed or not seamed, suitable for use in papermaking machines (whether or not parts of, or fitted or attached to, such machines):			
642.31	With 240 or more wires to the linear inch.	Free	10% ad val.	75% ad val.
642.32	Other	19.4% ad val.	10% ad val.	75% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 642.32 (as added by subsection (a)) shall be subject to any staged rate reductions for item 642.30 which were proclaimed by the President before the effective date of the amendment made by subsection (a).

(2) Whenever the rate of duty specified in column numbered 1 for such item 642.32 is reduced to the same level as the correspond-

ing rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 104. CLASSIFICATION OF DOLLS AND TOY FIGURES

(a)(1) Subpart E of part 5 of schedule 7 is amended—

(A) by adding at the end of the headnotes thereto the following new headnotes:

"3. For the purposes of the superior heading to items 737.47 and 737.49 and of item 737.51, 'toy figures of inanimate objects' are only imaginary creatures that either—

"(i) do not possess features of human or other earthly creatures;

"(ii) possess both earthly and non-earthly features but are predominantly non-earthly in nature; or

"(iii) possess features which are a hybrid of features of more than one animate object.

This definition does not cover toy figures of objects which are readily recognizable as vegetables, minerals, robots, or machines, whether or not such figures possess humanoid or earthly features.

"4. Items 737.23, 737.28, 737.30, and 737.47 do not include any doll or toy that either—

"(i) will maintain the three dimensional shape of its torso if the stuffing or filler is removed, or

"(ii) is constructed such that the 'filler' material consists of one piece (such as one piece of foam rubber) or more than one piece that achieves the same effect as one piece.

"5. For the purposes of items 737.26 and 737.51, 'skins' are the outer coverings or shells of those dolls or toy figures which, if imported stuffed or filled, would be classified in items 737.23, 737.28, 737.30, and 737.47, but do not contain stuffing or filling in the torso when imported.

"6. For the purposes of item 737.47, the term 'filled' includes toy figures which are not completely filled or are filled with materials such as plastic beads or crushed nutshells but which otherwise possess the characteristics of toy figures classifiable as 'stuffed'.";

(B) by redesignating items 737.45 and 737.50 as 737.42 and 737.43, respectively; and

(C) by adding in numerical sequence the following new items:

	"Toy figures of inanimate objects, not having a spring mechanism:			
737.47	Stuffed or filled	13.6% ad val.	7% ad val.	70% ad val.
737.49	Other	13.6% ad val.	7% ad val.	70% ad val.
737.51	Skins for toy figures of animate or inanimate objects.	13.6% ad val.	7% ad val.	70% ad val.".

(2) The rates of duty in column numbered 1 for items 737.47, 737.49, and 737.51 (as added by subsection (a)(1)(C)) shall be subject to any staged rate reductions for item 737.95 which were proclaimed by the President before the effective date of the amendments made by subsection (a).

(3) Whenever the rate of duty specified in column numbered 1 for each of such items 737.47, 737.49, and 737.51 (as added by paragraph (1) of this subsection) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower rate, the rate of duty in such "LDDC" column shall be deleted.

SEC. 105. BUTTON BLANKS OF CASEIN.

(a) Subpart A of part 7 of schedule 7 is amended—

(1) by striking out "(item 745.40)" in headnote 2(b) of such subpart and inserting in lieu thereof "in the superior heading to items 745.41 and 745.42"; and

(2) by striking out item 745.40 and inserting in lieu thereof the following:

	"Button blanks and molds, and parts of buttons:			
745.41	Button blanks, of casein	Free		45% ad val.
745.42	Other	22.1% ad val.	11.4% ad val.	45% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 745.42 (as added by subsection (a)(2)) shall be subject to any staged rate reductions for item 745.40 which were proclaimed by the President before the effective date of the amendments made by subsection (a).

(2) Whenever the rate of duty specified in column numbered 1 for such item 745.42 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 106. MATERIALS CERTIFIED BY NASA.

(a) Subpart A of part 3 of schedule 8 is amended—

(1) by inserting immediately after "Subpart A—United States Government" the following headnote:

"Subpart A headnote:

"1. With respect to item 837.00, the return of materials from space by the National Aeronautics and Space Administration shall not be considered an importation, and an entry of such materials shall not be required."; and

(2) by adding immediately after item 836.00 the following new item:

	"Articles for the National Aeronautics and Space Administration and articles imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:		
837.00	Materials certified by it to the Commissioner of Customs to be imported to be launched into space, spare parts, or necessary and uniquely associated support equipment for use in connection with a launch into space.	Free	Free".

(b) Item 837.00 (as added by subsection (a)) shall not apply to articles entered, or withdrawn from warehouse for consumption, after December 31, 1994.

Subtitle B—Temporary Changes in Tariff Treatment

SEC. 121. CANTALOUPES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.65	Cantaloupes, fresh, if entered during the period from January 1 to May 15, inclusive, of any year (provided for in items 148.12 and 148.17, part 9B, schedule 1).	Free	No change	On or before 5/15/85".

SEC. 122. HATTERS' FUR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.85	Fur, not on the skin, prepared for hatters' use (provided for in item 186.20).	Free	No change	On or before 12/31/85".

SEC. 123. NEEDLECRAFT DISPLAY MODELS.

Subpart B of part 1 of the Appendix is amended as follows:

(1) The headnotes to such subpart are amended by adding at the end thereof the following new headnote:

"5. For the purposes of the superior heading to items 906.10 and 906.12, the term 'mass-produced kits' includes only those which are designed to be sold in the customs territory of the United States exclusively in kit form.".

(2) The following new superior heading and new items are inserted in numerical sequence:

	"Needle-craft display models, primarily hand stitched, of completed mass-produced kits:			
906.10	Articles provided for in items 355.16, 360.70, 360.78, 364.18, 364.23, 364.30, 365.78, 365.84, 365.86, 366.79, 367.34, 367.55, 367.60, 386.04, 386.06, 386.09, 386.50, 388.40, and 389.62 of schedule 3 (except shoe uppers and tents).	Free	No change	On or before 6/30/85
906.12	Aprons and baby bibs (provided for in items 383.03, 383.08, 383.20, and 383.50 of schedule 3).	Free	No change	On or before 6/30/85".

SEC. 124. CERTAIN DISPOSABLE GOWNS AND SURGICAL DRAPES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"905.50	Bonded fiber fabric disposable gowns designed for use in hospitals, clinics, laboratories or contaminated areas, of man-made fibers (provided for in items 379.96 and 383.92, part 6F, schedule 3) and bonded fiber fabric disposable surgical drapes, of man-made fibers (provided for in item 389.62, part 7B, schedule 3).	5.6 percent ad val.	26.5 percent ad val.	On or before 1/1/88".

SEC. 125. P-HYDROXYBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.00	P-Hydroxybenzoic Acid (provided for in item 404.44, part 1, schedule 4).	Free	No change	On or before 9/30/85".

SEC. 126. TRIPHENYL PHOSPHATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.00	Triphenyl phosphate (provided for in item 404.48, part 1B, schedule 4).	Free	No change	On or before 9/30/85".

SEC. 127. BIS (4-AMINOBENZOATE)-1,3 PROPANEDIOL (TRIMETHYLENE GLYCOL DI-P-AMINOBENZOATE).

Item 907.05 of the Appendix is amended—

(1) by striking out "however provided for in items 402.36 through 406.63" and inserting in lieu thereof "provided for in item 405.07"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/84".

SEC. 128. COLOR COUPLERS AND COLOR INTERMEDIATES.

(a)(1) Item 907.10 of the Appendix is amended by striking out "6/30/82" and inserting in lieu thereof "9/30/85".

(2) Item 907.12 of the Appendix is amended by striking out "6/30/82" and inserting in lieu thereof "9/30/85".

(b) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after June 30, 1982.

SEC. 129. ETHYLBIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.14	Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4).	Free	No change	On or before 6/30/85".

SEC. 130. DICOFOL.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.15	1,1-Bis (4-Chlorophenyl)-2,2,2,-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4).	11.2% ad val.	7¢ per lb. + 41% ad val.	On or before 9/30/85".

(b) Effective with respect to articles provided for in item 907.15 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on and after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1983	10.3% ad val.
January 1, 1984	9.5% ad val.
January 1, 1985	8.6% ad val.

(c) The rate of duty on an article provided for in such item 907.15 that is—

(1) entered, or withdrawn from warehouse for consumption on or after the effective date of the amendment made by subsection (a) and before October 1, 1985; and

(2) a product of a least developed developing country;

shall be 6.9 percent ad valorem.

SEC. 131. UNCOMPOUNDED ALLYL RESINS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.16	Allyl resins, uncompounded (provided for in item 408.96, part 1C, schedule 4).	Free	No change	On or before 9/30/84".

SEC. 132. CAFFEINE.

Subpart B of part 1 to the Appendix is amended by inserting in numerical sequence the following new item:

"907.22	Caffeine (provided for in item 437.02, part 3B, schedule 4).	6% ad val.	No change	On or before 12/31/83".

SEC. 133. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "6/30/81" and inserting in lieu thereof "12/31/84".

SEC. 134. COPPER SCALE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"911.05	Copper scale (provided for in item 603.70, part 1, schedule 6).	Free	No change	On or before 9/30/85".

SEC. 135. CERTAIN CLOCK RADIOS.

Subpart B of part 1 of the Appendix is amended—

(1) by adding at the end of the headnotes to such subpart the following new headnote:

"6. For the purposes of item 911.95, the term 'entertainment broadcast band receivers' means receivers designed principally to receive signals in the AM (530–1710 KHz) and FM (88–108 MHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands such as aviation, television, marine, public safety, industrial, and citizens bands."; and

(2) by inserting in numerical sequence the following new item:

"911.95	Entertainment broadcast band receivers valued not over $40 each (however provided for in schedule 6), incorporating timekeeping or time display devices, not in combination with any other article, and not designed for motor vehicle installation.	Free	No change	On or before 9/30/84".

SEC. 136. BICYCLE PARTS.

(a) Item 912.05 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

(b) Item 912.10 of the Appendix is amended—

(1) by deleting "click stick levers," and inserting in lieu thereof "trigger and twist grip controls for three-speed hubs,";

(2) by inserting "including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length," immediately after "parts of all the foregoing,"; and

(3) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 137. HEAT-SET, STRETCH TEXTURING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.07	Machines designed for heat-set, stretch texturing of continuous man-made fibers (provided for in item 670.06, part 4E, schedule 6).	Free	No change	On or before 9/30/85".

SEC. 138. HOSIERY KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.08	Single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines (provided for in items 670.16 and 670.18, part 4E, schedule 6).	Free	No change	On or before 9/30/85".

SEC. 139. DOUBLE-HEADED LATCH NEEDLES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.09	Double-headed latch needles (provided for in item 670.58, part 4E, schedule 6).	Free	No change	On or before 6/30/85".

SEC. 140. PROSTHESES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.20	Externally-powered electric prosthetic devices for amputees (provided for in item 709.57, part 2B, schedule 7), and parts thereof.	Free	No change	On or before 9/30/84".

SEC. 141. TOY AND NOVELTY ITEMS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.25	Articles provided for in parts 5D and 5E of schedule 7 (except balloons, marbles, dice, and die-cast vehicles), valued not over five cents per unit; and jewelry provided for in part 6A of schedule 7 (except parts), valued not over 1.6 cents per piece.	Free	No change	On or before 12/31/86".

SEC. 142. CERTAIN DOLLS AND TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting at the end thereof the following new items:

"912.30	Stuffed dolls (with or without clothing) and doll skins for stuffed dolls (provided for respectively in items 737.21, 737.23 and 737.26, part 5E, schedule 7).	Free	No change	On or before 12/31/85
912.34	Stuffed or filled toy figures of inanimate objects not having a spring mechanism (provided for in item 737.47, part 5E, schedule 7).	Free	No change	On or before 12/31/85
912.36	Skins for stuffed toy figures of animate and inanimate objects (provided for in item 737.51, part 5E, schedule 7)..	Free	No change	On or before 12/31/85".

Subtitle C—Taking Effect of Amendments to Tariff Schedules

SEC. 151. EFFECTIVE DATE.

Except as provided in sections 102 and 128(b), the amendments made by subtitles A and B shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, but not before October 1, 1982.

TITLE II—MISCELLANEOUS CUSTOMS PROVISIONS

SEC. 201. INTERNATIONAL TRANSMISSION OF BUSINESS DOCUMENTS; IMPORTERS OF RECORD.

(a) General headnote 5 is amended—

(1) by striking out "and" at the end of subdivision (d);

(2) by redesignating subdivision (e) as subdivision (f); and

(3) by adding immediately after subdivision (d) the following:

"(e) records, diagrams, and other data with regard to any business, engineering, or

exploration operation, whether on paper, cards, photographs, blueprints, tapes, or other media; and"

(b) Item 870.10 is repealed.

(c) Section 483 of the Tariff Act of 1930 (19 U.S.C. 1483) is repealed.

(d) Section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) by amending subsection (a)—

(A) by amending that part of paragraph (1) thereof which precedes subparagraph (A) to read as follows: "Except as provided in sections 490, 498, 552, 553, and 336(j) of this Act and in subsections (h) and (i) of this section, one of the parties qualifying as 'importer of record' under paragraph (2)(C) of this subsection, either in person or by an agent authorized by him in writing—",

(B) by redesignating paragraph (2)(C) as paragraph (2)(D), and by inserting immediately after paragraph (2)(B) the following:

"(C) When an entry of merchandise is made under this section, the required documentation shall be filed either by the owner or purchaser of the merchandise or, when appropriately designated by the owner, purchaser, or consignee of the merchandise, a person holding a valid license under section 641 of this Act. When a consignee declares on entry that he is the owner or purchaser of merchandise, the appropriate customs officer may, without liability, accept the declaration. For the purposes of this title, the importer of record must be one of the parties who is eligible to file the documentation required by this section.", and

(C) by striking out "consignees" in paragraph (2)(D) (as redesignated by subparagraph (B)) and inserting in lieu thereof "importers of record";

(2) by striking out "consignee" in subsections (c) and (d) and inserting in lieu thereof "importer of record"; and

(3) by amending subsections (h) and (i) to read as follows:

"(h) The carrier bringing the merchandise into the port at which entry is to be made may certify any person to be the owner, purchaser, or consignee of the merchandise, and that person may be accepted as such by the appropriate customs officer. A carrier shall not certify a person pursuant to this subsection unless it has actual knowledge of or reason to believe in the accuracy of such certification.

"(i) For the purposes of this section, the appropriate customs officer may accept a duplicate bill of lading signed or certified to be genuine by the carrier bringing the merchandise to the port at which entry is to be made.".

(e) Sections 485, 487, 494, and 505(a) of the Tariff Act of 1930 (19 U.S.C. 1485, 1487, 1494, and 1505(a)) are each amended by striking out "consignee" wherever it appears and inserting in lieu thereof "importer of record".

(f) Section 557 of the Tariff Act of 1930 (19 U.S.C. 1557) is amended—

(1) by inserting "purchaser" immediately after "owner" in the first sentence of subsection (a); and

(2) by striking out "consignee" in subsection (d) and substituting in lieu thereof "importer of record".

(g) The amendments made by this section shall apply with respect to merchandise entered on and after the 30th day after the date of the enactment of this Act.

SEC. 202. DELIVERY INTO SUCCESSIVE BONDED WAREHOUSES REGARDLESS OF LOCATION.

The first sentence of the eighth paragraph of section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended by striking out "at an exterior port" and "immediate".

SEC. 203. WATCHES AND WATCH MOVEMENTS FROM THE INSULAR POSSESSIONS.

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of the amendments made by subtitles A and B of title I of this Act—

(1) general headnote 3(a)(i) is amended by striking out "(or more than 70 percent of their total value with respect to watches and watch movements)"; and

(2) headnote 6 of part 2 of subpart E of schedule 7 is amended—

(A) by striking out "paragraph (b)" in paragraph (a) and inserting in lieu thereof "paragraphs (b) through (h)";

(B) by striking out "an insular possession of the United States outside the customs territory of the United States" in paragraph (a), and inserting in lieu thereof "the Virgin Islands, Guam, and American Samoa (hereinafter in this headnote referred to as the 'insular possessions')"; and

(C) by striking out paragraphs (b) through (d) and inserting in lieu thereof the following new paragraphs:

"(b) Watches and watch movements produced or manufactured in an insular possession which contain any foreign component may be admitted free of duty without regard to the value of the foreign materials they contain if they conform with the provisions of this headnote, but the total quantity of such articles entered free of duty shall not exceed the amounts established by or pursuant to paragraph (c) of this headnote.

"(c) In calendar year 1983 the total quantity of such articles which may be entered free of duty shall not exceed 7,000,000 units. In subsequent calendar years, the Secretaries of Commerce and the Interior (the 'Secretaries'), acting jointly, shall establish a limit on the quantity which may be entered free of duty during the calendar year, and shall consider whether such limit is in the best interest of the insular possessions and not inconsistent with domestic or international trade policy considerations; except that the quantity they establish in each calendar year shall not—

"(i) exceed 10,000,000 units, or ⅛ of apparent domestic consumption (as determined by the International Trade Commission pursuant to paragraph (d) of this headnote), whichever is greater;

"(ii) be decreased by more than 10 percent of the quantity established for the immediately preceding calendar year; and

"(iii) be increased to more than 7,000,000 units or by more than 20 percent of the quantity established for the immediately preceding calendar year, whichever is greater.

"(d) On or before April 1 of each calendar year (beginning with the first year in which watch imports from the insular possessions exceed 9,000,000 units), the International Trade Commission shall determine the apparent United States consumption of watches and watch movements (including solid state watches and watch movements) during the preceding calendar year, shall report such determination to the Secretaries and shall publish such determination in the Federal Register.

"(e) In calendar year 1983, not more than 5,200,000 units of the total quantity of such articles which may be entered free of duty shall be the product of the Virgin Islands, not more than 1,200,000 units shall be the product of Guam, and not more than 600,000 units shall be the product of American Samoa. For calendar years after 1983, the Secretaries may establish for each of the insular possessions new shares of the total amount which may be entered free of duty, taking into account the capacity of the insular possession to produce and ship its assigned amounts; except that no share of an insular possession may—

"(i) for any calendar year be fewer than 500,000 units;

"(ii) for each of calendar years 1984 and 1985, be reduced by more than 200,000 units below its share for the immediately preceding year; and

"(iii) for each calendar year after 1985, be reduced by more than 500,000 units below its share for the immediately preceding calendar year.

"(f) The Secretaries, acting jointly, shall allocate the calendar year duty exemptions provided by paragraphs (b), (c), and (e) of this headnote on a fair and equitable basis among producers located in the insular possessions, and shall issue appropriate licenses therefore. Allocations made by the Secretaries shall be final. In making the allocations, the Secretaries shall consider the potential impact of production in the insular possessions on domestic production of like articles and shall establish allocation criteria, which may include minimum assembly requirements, that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

"(g) TEMPORARY PRODUCTION INCENTIVE CERTIFICATES.—

"(i) Effective January 1, 1983, the Secretaries, acting jointly, shall verify the wages paid by each producer to permanent residents of the insular possessions in the preceding calendar year, and, by March 1 of each year through calendar year 1994, shall issue to each producer a certificate for a portion of the amount so verified, determined pursuant to subparagraph (ii) of this paragraph.

"(ii) The value of each producer's certificate shall equal 90 percent of each producer's creditable wages on the assembly of the first 300,000 units produced annually, plus a graduated declining percentage to be annually established by the Secretaries of the producer's creditable wages on the assembly of additional units, up to a maximum of 750,000 units annually; except that—

"(A) the aggregate value of all certificates may not exceed an annual certificate limit, the value of which bears the same ratio to $5,000,000 as the gross national product of the United States for the preceding calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1982, and if such limit is exceeded, the value of each producer's certificate shall be reduced proportionately by an amount sufficient to account for the amount by which the aggregate base amount exceeds the annual certificate limit; and

"(B) each producer's certificate shall not be reduced below an amount equal to 90 percent of each producer's creditable wages on the assembly of up to the first 300,000 units produced annually, unless the aggregate of these reduced certificates exceeds the annual certificate limit, in which event each producer's certificate shall again be reduced proportionately to account for the excess.

"(iii) Such certificates entitle the certificate holder to secure the refund of duties equal to the face value of the certificate on watches and watch movements (including

solid state watches and watch movements) and, with the exception of discrete cases, parts therefor imported into the customs territory of the United States by the certificate holder. Such refunds shall be made under regulations issued by the Treasury Department. Not more than 5 percent of these refunds may be retained as a reimbursement to the Customs Service for the administrative costs of making the refunds.

"(iv) Such certificates, or portions thereof, are negotiable.

"(v) Such certificates shall expire 1 year from the date of issuance and may be applied against duties on imports of watches and watch movements the entry of which were made within 2 years prior to the date of issuance of the certificate.

"(vi) For purposes of calculating the value of each producer's production incentive certificates to be issued during calendar year 1983 only, the greater of either (A) a producer's creditable wages for calendar year 1982, or (B) an amount equal to 60 percent of a producer's creditable wages for calendar year 1981 shall be considered the creditable wages for calendar year 1982 for purposes of subparagraph (ii) of this paragraph.

"(h) The Secretaries are authorized to issue such regulations, not inconsistent with other provisions herein, as they determine necessary to carry out their respective duties under this headnote. Such regulations shall include minimum assembly requirements. Any duty-free entry determined not to have been made in accordance with applicable regulations shall be subject to the applicable civil remedies and criminal sanctions, and, in addition, the Secretaries may cancel or restrict the license or certificate of any manufacturer found in willful violation of the regulations.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration, H.R. 6867.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6867, as reported by the Committee on Ways and Means, is an omnibus bill incorporating 30 miscellaneous tariff and trade provisions which were considered in the committee with amendments. They involve temporary duty suspensions, permanent duty eliminations, duty reductions, certain provisions affecting U.S. Customs Administration, and the lifting of an embargo.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Trade, the gentleman from Florida, (Mr. SAM GIBBONS,) for the purpose of presenting H.R. 6867.

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Mr. GIBBONS. Mr. Speaker, as the distinguished chairman of the Committee on Ways and Means has explained, H.R. 6867 consolidates 30 miscellaneous tariff and trade bills which, less one completely noncontroversial exception, were subject to public hearings and consideration in the Subcommittee on Trade.

In both the Subcommittee on Trade and the Committee on Ways and Means, we have sought to fully examine the merits of each provision in the bill. I recognize that it is not possible to fully satisfy every individual who might be affected by one of these provisions but, where there has been any question, we have sought to work with the parties to establish positions that best meet the needs of all parties involved.

I believe that H.R. 6867, as it stands today, is a package of tariff and trade provisions which are meritorious and best meet the needs of all interested parties.

Let me again say that these provisions have been reviewed in depth prior to being brought here today. I will be happy to answer any questions my colleagues may have. I would like to briefly explain the provisions of H.R. 6867, as follows:

Section 101 contains a provision, introduced by myself as H.R. 5707, which would repeal an existing embargo on the importation of seven types of fur skins from the People's Republic of China. The current embargo, which applies both to the Republic of China and the U.S.S.R., bans the U.S. import of mink, fox, muskrat, marten, weasel, ermine, and kolinsky fur skins.

Section 102, as amended, contains a provision introduced by Mr. STUDDS as H.R. 4002. It would accelerate the scheduled duty reduction of TSUS item 355.45, "other fish netting and fishing nets (including sections thereof), of textile materials," by implementing the planned column 1 (MFN) rates earlier than scheduled. The 1984 rate would be implemented in 1983, the 1986 rate in 1984, the 1988 rate in 1985, and the 1989 rate of 17 percent ad valorem in 1986.

Section 103 contains a provision introduced by Mr. GOODLING as H.R. 4494. It would establish a new tariff item providing permanent duty-free treatment on Fourdrinier wire suitable for use in capacitor papermaking machines. Other Fourdrinier wire would continue to be dutiable.

Section 104 contains a provision, introduced by Mr. GUARINI as H.R. 5764, which provides definitions for and reclassification of certain stuffed dolls and other toy figures. Section 142 of H.R. 6867 contains the remaining provisons of the original bill.

Section 105 contains a provision introduced by Mr. RATCHFORD as H.R. 5080. It provides permanent duty-free treatment to button blanks of casein by establishing a new tariff item and by appropriately amending subpart A headnote of part 7 of schedule 7.

Section 106 contains a provision, introduced by Mr. FUQUA as H.R. 4844, which provides duty-free treatment to articles for NASA (and other articles launched into space under launch services agreements with NASA) if NASA certifies that such articles are to be launched into space, are spare parts, or are necessary and uniquely associated support equipment for use in connection with a launch into space. In addition, it provides that materials being returned from space by NASA would not be considered an importation and thereby entry of such materials would not be required. These provisions would be effective for materials entered between 15 days after enactment and December 31, 1994.

Section 121 contains a provision, introduced by Mr. DE LA GARZA as H.R. 5790, which provides until June 15, 1985, column 1 (MFN) duty-free treatment of fresh cantaloups during the period from January 1 to May 15 of each year. Cantaloups entering during the referenced period incur a duty of 35-percent ad valorem for both column 1 and column 2 entries.

Section 122 contains a provision, introduced by Mr. DERWINSKI as H.R. 5386, to suspend until December 31, 1985, the 15-percent ad valorem column 1 (MFN) rate of duty on hatters' fur.

Section 123 contains a provision, introduced by myself as H.R. 6396, to provide column 1 (MFN) duty-free treatment until June 30, 1985, on imports of needlecraft display models which are replicas of needlecraft kits.

Section 124 contains a provision, introduced by myself as H.R. 5891, to provide a temporary reduction until January 1, 1988, in duties on disposable gowns and surgical drapes made of bonded fiber fabric and designed for use in hospitals, clinics, laboratories, and contaminated areas. The provision would equalize the rates of duty between paper products and the bonded fiber fabric products.

Section 125, as amended, contains a provision introduced by Mr. SCHULZE as H.R. 5498. It would provide a 3-year duty suspension on column 1 imports of p-hydroxybenzoic acid. This would be accomplished by establishing a new tariff item for that purpose. This provision would suspend until September

30, 1985, the current rate of duty of 11.3 percent ad valorem for column 1 (MFN) entries and 7 percent ad valorem for LDDC entries.

Section 126, as amended, contains a provision introduced by Mr. GEPHARDT as H.R. 5730. It provides a 3-year duty suspension on column 1 (MFN) entries of triphenyl phosphate, a chemical used chiefly as a plasticizer.

Section 127 contains a provision, introduced by Mr. SHANNON as H.R. 5499, which would extend until June 30, 1984, suspension of the column 1 (MFN) rate of duty on bis(4-aminobenzoate)-1,3 propanediol (trimethylene glycol di-p-aminobenzoate). The duty on this article is currently suspended until June 30, 1983.

Section 128 contains a provision, introduced by Mr. FRENZEL as H.R. 6943, which would continue, until September 30, 1985, the suspension of column 1 (MFN) duty on color couplers and color intermediates. Current law provided a duty suspension which expired June 30, 1982; this provision would be retroactive to that date.

Section 129 contains a provision, introduced by Mr. VANDER JAGT as H.R. 4642, which would temporarily suspend until June 30, 1985, the column 1 (MFN) rate of duty on isomeric mixtures of ethylbiphenyl.

Section 130 contains a provision, introduced by myself as H.R. 4913, to reduce the duty on dicofol, an insecticide used on many fruit, vegetable, ornamental, and field crops.

Section 131 contains a provision, introduced by Mr. GEJDENSON as H.R. 4806, to temporarily suspend the column 1 (MFN) rate of duty until September 30, 1984, on uncompounded allyl resins.

Section 132 contains a provision, introduced by Mr. DOWNEY as H.R. 5811, which provides a reduction in the column 1 (MFN) rate of duty on caffeine from the current level of 8.5 percent to 6 percent until December 31, 1983. This duty will currently reduce, as a result of the multilateral trade negotiations, to 8 percent on January 1, 1983.

Section 133 contains a provision, introduced by Mr. GUARINI as H.R. 5041, to extend the temporary suspension of the column 1 (MFN) rate of duty on natural graphite which expired on June 30, 1981, until January 1, 1985.

Section 134 contains a provision, introduced by Mr. VANDER JAGT as H.R. 4641, to provide for the temporary suspension of the column 1 (MFN) rate of duty on copper scale until September 30, 1985.

Section 135 contains a provision, introduced by Mr. VANDER JAGT as H.R. 5554, which provides, until September 30, 1984, temporary suspension of the column 1 (MFN) rate of duty on clock radios which have solid state clocks and the radio portion of other clock radios.

Section 136 contains a provision, introduced by Mr. ROSTENKOWSKI as H.R. 5823, which provides, until June 30, 1986, a continued suspension of the column 1 (MFN) rate of duty on certain bicycle parts.

Section 137 contains a provision, introduced by Mr. BROYHILL as H. R. 5884, which temporarily suspends until September 30, 1985, the column 1 (MFN) rate of duty on machines designed for heat-set, stretch texturing of continuous manmade fibers.

Section 138 contains a provision, introduced by Mr. BROYHILL as H.R. 5839, which temporarily suspends until September 30, 1985, the column 1 (MFN) rate of duty on single cylinder, fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines.

Section 139 contains a provision, introduced by Mr. MARTIN of North Carolina as H.R. 4155, to temporarily suspend the column 1 (MFN) rate of duty on double-headed latch needles until June 30, 1985.

Section 140 contains a provision, introduced by Mr. SAWYER as H.R. 4602, to temporarily suspend, until September 30, 1984, the column 1 (MFN) rate of duty on externally-powered electric prosthetic devices and their parts.

Section 141 contains a provision, introduced by Mr. SCHEUER as H.R. 6268, which temporarily suspends until December 31, 1986, the column 1 (MFN) rate of duty on small toy and novelty items valued not over 5 cents per unit and jewelry valued not over 1.6 cents per piece.

Section 142, as amended, contains a provision. introduced by Mr. GUARINI as H.R. 5764, to temporarily suspend until December 31, 1985, the column 1 (MFN) rate of duty on stuffed dolls, skins for stuffed dolls, skins for stuffed toy figures of animate and inanimate objects, and stuffed or filled toy figures of inanimate objects.

Section 201, as amended, contains a provision, introduced by Mr. FRENZEL as H.R. 5170, to allow business documents to enter the United States in a no-entry-required status as "intangibles." Such documents primarily enter duty free as provided in TSUS item 870.10. In addition, the provision would prohibit nominal consignees from conducting customs business on behalf of any other person unless the consignee is a licensed customshouse broker.

Section 202 contains a provision, introduced by Mr. SCHULZE as H.R. 4690, which would allow articles to be delivered into successive customs bonded storage warehouses as long as the ultimate purpose remains that of export. Under current law, articles withdrawn from a bonded manufacturing warehouse may be delivered only to a bonded storage warehouse at an exterior port for the sole purpose of immediate export.

Section 203 contains a provision, introduced by Mr. DE LUGO as H.R. 5758, to encourage production of watches in the insular possessions of the United States. Section 203 provides a rebate of duties paid on other watch imports for the industry on a by-company basis which would reflect the amount of insular possessions' labor content in the watches, eliminating the existing limit of 70 percent foreign content, establishing the annual limit on duty free entry at 7 million units which can be adjusted downward by no more than 10 percent in any 1 year or upward by no more than 20 percent in any 1 year, and continuing to provide country allocation authority to the Secretaries of Commerce and Interior.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I know that the bill permits the importation of furs from the People's Republic of China.

There has been some concern expressed by the domestic mink industry that this would provide for a substantial undercutting of domestically produced furs.

Did the Ways and Means Committee consider this particular issue during its markup of this bill?

Mr. GIBBONS. Yes, it did. In fact, we had a spokesman for the fur producers in this country, and when we explained to him that these were not furs from Russia, these were furs from China, he said, "I do not care, as long as they are not furs from Russia."

We thought that all of the objections to that particular provision had been dropped.

No one has ever made me personally aware of any objection to this bill. As I say, I am the primary sponsor, and so are other leading members of the Ways and Means Committee. I do not think it would do disastrous to our fur industry.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I would like to just talk about this for a little bit, because I have had a couple of letters from mink ranchers who apparently were unaware that their organization or an organization actually endorsed this bill in our hearings.

The fact is that once we grant MFN status to any country under our international obligations, we are not allowed to embargo, to boycott, or to charge column 2 duty unless we have a pretty good justifiable reason, like a war or something.

In this case there was a flat-out embargo on Chinese furs, which was contradictory to our treaty and particularly contradictory to our MFN agree-

ment with China. This has been a source of great irritation in our international relations as we have sought to draw our country closer to the People's Republic of China and vice versa. It is a very modest thing. The minks that are produced in China are definitely of a substandard grade. I think the nervousness that exists among breeders is that eventually they will breed up and become competitive. I think at that time we can look at the tariff, because I do want to assure everyone that we are not eliminating the tariff.

Mr. GIBBONS. That is right.

Mr. FRENZEL. We are leaving the tariff on imported mink. I think once all of the people involved in the business understand that, they will feel a lot more comfortable. I think many of them believed that we were going to remove the tariff altogether. This bill does not do that, and that is not our intention.

Mr. GIBBONS. I thank the gentleman from Minnesota for that explanation. It is a very accurate explanation.

Mr. Speaker, if there are no further questions from the Members, I yield back the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, support the passage of H.R. 6867, a bill that combines a number of separately introduced bills making miscellaneous changes in the Tariff Schedules of the United States. Most of the provisions are noncontroversial and have a very limited impact on the collection of customs revenue and on the economy in general.

As the distinguished chairman of the Trade Subcommittee has already explained, H.R. 6867 makes three types of changes. Title I, first of all, covers a group of products on which the duty will be permanently eliminated. These products have not been produced in the United States for a number of years and an evaluation of the market shows little likelihood of any domestic production in the future.

The section of permanent duty eliminations also covers certain imports where special circumstances warrant duty-free entry. An example is the duty-free entry of materials to be launched into space, or those items returned to this country by NASA after having been launched into space. There is little need for a tariff on importations of this type, and eliminating the tariff and entry documentation in this case will reduce the overall cost of space flights.

The second category of provisions in title I is temporary duty suspensions. Those items for which temporary suspensions are sought usually are not at the present time being made in this country, but the potential for domestic production still exists.

Often the temporary suspension gives an American firm relief from the duty of an imported component while production facilities in the United States are being built. In any case, the temporary nature of the suspension allows Congress to review, at the end of a 3-year period, the current status of the marketplace and the effect of duty-free treatment on any emerging domestic production.

The final category of provisions covered by H.R. 6867 relates to customs procedures and qualifications for two special cases of importations—business documents and watches imported from the insular possessions. I am the sponsor of the changes in tariff treatment for business documents and the related provision clarifying that customs brokers are required to prepare the entry papers in cases where the owners of the business documents or other items are not making the entry in their own name.

This addresses a problem that arose as a result of the expanding courier service industry and the subsequent confusion over who is responsible for the customs entry of business documents and packages transported by such couriers. I hope the changes we expect to accomplish here will eliminate most of the confusion among couriers, customs brokers, and the Customs Service over imports of business documents.

Mr. Speaker, the provisions made by this bill will offer duty relief to a wide range of industries using those kinds of products or components of products, where imports are necessary to assure the continued health of existing domestic production. The bill also provides clarification and simplification of certain customs procedures. The cost of the bill is $42 million, but applied to individual provisions the cost is minimal.

I urge my colleagues to join me in support of H.R. 6867.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

● Mr. GUARINI. Mr. Speaker, I rise in general support of H.R. 6867, the miscellaneous tariff and trade bill. This omnibus bill is a carefully crafted measure that deserves the support of this body. H.R. 6867 is the result of weeks of hearings and deliberations by the Trade Subcommittee of the House Ways and Means Committee. I would like to thank Chairman GIBBONS for his efforts in bringing this bill before us today.

There are two sections of H.R. 6867 in which I had a direct role. Section 131 of H.R. 6867 calls for a duty suspension on natural graphite until December 31, 1984. This item was originally introduced by me as H.R. 5041.

The suspension of duty on natural graphite is very noncontroversial. There has been a duty suspension on natural graphite for the 6 years before June 1981 when the present legislation expired.

There is absolutely no American production of natural graphite. The administration wholeheartedly supports this measure, as does the Pencil Makers Association, Inc. American producers who use graphite in their products are currently at a disadvantage with many foreign producers since all of the graphite they use must be imported. The high quality natural graphite which would be affected by this proposed legislation exists in limited quantity worldwide. Continuation of the duty suspension would control raw material costs for U.S. firms which manufacture products using this graphite. Otherwise, U.S. firms would pay a duty of 6.4 percent ad valorem under column 1.

The second item in H.R. 6867 which I have a direct interest in is section 140, legislation I introduced to bring increased employment to certain industrial sectors of our society. This legislation, originally H.R. 5764, seeks a 3-year duty suspension on the importation of certain stuffed inanimate toy objects and the skins for stuffed dolls.

I can assure my colleagues that this legislation has undergone thorough scrutiny and revision to insure that no domestic firms will be adversely affected by this legislation. Section 140 allows for the duty-free importation of the skins of stuffed animals. These skins are stuffed by American workers in what is a very highly labor intensive procedure. American workers then add the outer workings of the stuffed animal (such as eyes and any clothing), and the product is boxed and marketed in this country. This bill does not allow for the importation of doll clothing imported separately or the importation of stuffed toy figures of animate objects, what we commonly refer to as stuffed animals.

As a result of the changes made at the committee level, this bill has the full backing of the administration. Also, with the large concentration of textile workers in my district, I can assure you that the ILGWU and the American Textile Manufacturers Institute (ATMI) have no objection to this legislation.

Passage of this legislation will be a great help to the support industries that provide the packaging, the paper, and the accessory items. Most of these

American industries have been hard pressed in recent years. This legislation offers us a change to keep these industries working and increase employment in the American soft toy industry.●

● Mr. CONABLE. Mr. Speaker, I support the passage of H.R. 6867, which encompasses many miscellaneous changes in the Tariff Schedules of the United States. The changes proved to be noncontroversial at committee level and do not adversely affect in any substantial way the collection of customs revenue.

H.R. 6867 changes existing law in three basic ways. First, it permanently eliminates the duty on products which have not been made domestically for years and are not likely to be produced here in the foreseeable future.

Second, the bill makes temporary duty suspensions on items which are not now being made in this country, but which might be produced domestically at some time in the future.

Third, H.R. 6867 includes provisions dealing with customs procedures and qualifications for two special cases of importations—business documents and watches imported from our insular possessions.

The bill thus would make numerous, relatively minor improvements in current law. It would not in any way, as far as the Committee on Ways and Means has been able to determine, damage domestic interests in the slightest respect, and it should have the desirable effect of enhancing our position in world trade.●

● Mr. DERWINSKI. Mr. Speaker, I would like to bring to the attention of my colleagues H.R. 6867, a bill under consideration today which incorporates a number of tariff bills approved by the Committee on Ways and Means.

The Subcommittee on Trade initially held hearings on each of the bills in this omnibus legislation. The bill which I initially introduced, H.R. 5386, has been incorporated into the bill under consideration. H.R. 5386 calls for providing temporary duty-free treatment of imported hatters' fur and would suspend until December 31, 1985, the column 1 (MFN) duty on fur not on the skin, prepared for hatters' use. The temporary suspension is designed to end with the expiration of the U.S. Generalized System of Preferences (GSP). There would be no change in the column 2 (statutory) duty of 35 percent ad valorem.

Hatters' fur currently enters the United States under Tariff Schedules of the United States (TSUS) item 186.20, at a column 1 (MFN) duty 15 percent ad valorem. This item is eligible for duty-free treatment under the GSP. No reduction was made in the tariff of this item in the multilateral trade negotiations.

The need for H.R. 5386 was called to my attention by a hat manufacturing firm located in my congressional district since hoods imported from GSP-eligible countries are completely free of duty. The high duty on rabbit fur, compared to the duty on semifinished hoods, is hurting my constituent firm severely and has forced this firm to reduce its work force substantially. The firm's major competitors now import hoods duty-free from GSP countries thus avoiding the higher labor costs of producing hoods from the raw fur in the United States.

The problem is clear. My constituent firm and others importing hatters' fur under that provision, continue to be subject to a rate of duty that makes it increasingly impossible to sell its specialized products which are military and police hats and Western style hats in competition with importers under other tariff provisions whose importations are duty free or subject to extremely low rates.

The proposal for duty-free treatment of hatters' fur for a 3-year period is equitable. It offsets the anomaly which causes the raw material to be subject to substantial duty, while a semifinished product is imported duty-free, and it will terminate the exportation of jobs that has resulted from that irregularity.

I offer my support for H.R. 6867 and urge my colleagues to offer full support for this measure.●

● Mr. GEJDENSON. Mr. Speaker, I rise in support of H.R. 6867, the miscellaneous tariff bill that is before us.

This bill is a compilation of various tariff measures that were referred to the Trade Subcommittee during previous months. Each provision has been carefully examined for its effect on the economy and for its consistency with U.S. trade policy. The subcommittee worked closely with the administration and sought private-sector comment. Any measure that was found to be controversial, or that required further study, was put aside to be worked on at a later date.

H.R. 6867 includes duty reduction and suspension measures designed to change outdated items in the Tariff Schedules of the United States. One such provision—section 129—resulted from legislation that I introduced last year to repeal the tariff on an industrial prepolymer resin. The substance, allyl resin, is used in making engineering plastics that eventually go into producing electric and electronic components. There is an 8-percent ad valorem duty on the substance that is scheduled under the multilateral trade negotiations (MTN) to be reduced to 5.8 percent by 1987. This is a protective tariff: Prior to 1980 a domestic producer furnished the substance. The U.S. firm has ceased production, however, and there no longer is a domestic interest to protect. H.R. 6867 will remove this unnecessary tariff that is ultimately passed along to consumers. Additionally, the electronic connectors that are manufactured with allyl resin go into computers, process controllers, and telecommunications equipment. Spokesmen from the full political spectrum have acknowledged the role that high-technology advancement holds in creating jobs, revitalizing the economy, and making the United States more competitive in international trade. It is to our advantage to relieve the industry of this nonproductive tariff.

I urge my colleagues' passage of H.R. 6867. The bill represents a careful effort by the Trade Subcommittee, and by its chairman, Mr. GIBBONS, that warrants our support.●

● Mr. BEDELL. Mr. Speaker, I rise to address my concerns with one provision of H.R. 6867, the Miscellaneous Tariff Amendments of 1982. This bill amends certain aspects of the tariff schedules of the United States to foster trade and to encourage economic growth. The Committee on Ways and Means has crafted a bill largely deserving of support and I commend its efforts.

I am concerned about one section of this bill which would lift our current embargo on furs exported from the People's Republic of China. There is a great fear among the fur farmers in Iowa that a repeal of this embargo will have drastic impact on their industry.

The fur industry employs a great many people in Iowa and throughout the United States, on family farms, in processing, in byproducts, and in retailing. It would be a great tragedy to see these hard-working Americans impacted by a move to allow the influx of cheap furs from the People's Republic of China. This bill would authorize China to export mink, fox, marten, muskrat, kolinsky, ermine, and weasel pelts to the United States.

We have heard a great deal of debate on the impacts of this legislation on the American fur producer. According to the Committee on Ways and Means, the impact will be minimal. Their figures estimate that the total value of Chinese furs, if they doubled their capacity, would not exceed $1.2 million per year, or about 1.5 percent of the current imports into our country. These figures do not suggest that opening trade with the People's Republic of China would have significant impact on our markets. However, many trade consultants have expressed divergent opinions from those expressed by the committee, and I believe we must not act in a manner that will endanger the livelihood of America's fur farmers.

It is important to allay the fears of those fur farmers who have misunderstood this legislation; the bill will not remove the tariff schedule in effect

for fur pelts followed by all other fur-exporting countries. Thus the tariff which currently offers some protection for our domestic fur producers will continue to do so in the future. And this bill does not allow the Soviet Union to export its furs to the United States.

The United States imposed its embargo on China as a result of the Korean war; this embargo has remained in effect to the present notwithstanding our new trade relationship with China. It is against the policy of the United States to embargo products produced by a country that we have granted a most-favored-nation status, as we have done in the case of the People's Republic of China. However, we must not forget that opening of trade in new markets can be a disruptive and often destabilizing situation for our own domestic markets.

I hope my colleagues will consider the impact of this legislation on the Nation's fur industry when voting today on H.R. 6867. Thank you.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 6867, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

UNIFORMED SERVICES PAY ACT OF 1982

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6317) to revise the manner in which the October 1, 1982, pay increase for members of the uniformed services is to be determined, to make various adjustments in military personnel and compensation programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Pay Act of 1982".

TITLE I—COMPENSATION ISSUES

SEVERANCE OF LINKAGE BETWEEN MILITARY PAY RAISE AND FEDERAL CIVILIAN PAY RAISE FOR OCTOBER 1, 1982, PAY RAISE

SEC. 101. (a) The adjustment required by section 1009 of title 37, United States Code, in certain elements of the compensation of members of the uniformed services to become effective on October 1, 1982, shall not be made.

(b)(1) Based upon the most recent annual survey conducted by the Bureau of Labor Statistics for the purpose of section 5305(a)(1)(A) of title 5, United States Code, the President's agent provided for under section 5305(a)(1) of such title shall include, in the report required by such section for the compensation adjustment to be effective with respect to the first pay period beginning on or after October 1, 1982, a recommendation for an appropriate overall percentage adjustment in the elements of compensation specified in section 1009(a) of title 37, United States Code. Such recommendation shall be based upon increases in rates of pay over the previous twelve-month period for workers in private enterprise.

(2) Except as provided in subsection (c), the President shall adjust the elements of compensation specified in section 1009(a) of title 37, United States Code, in accordance with the recommendation of the agent under paragraph (1), effective on October 1, 1982.

(c)(1) If, because of national security considerations, national emergency, or economic conditions affecting the general welfare, the President should consider it inappropriate to make the compensation adjustments required by subsection (b), he shall prepare and transmit to Congress before September 1, 1982, such alternative plan with respect to an adjustment for the elements of compensation specified in section 1009(a) of title 37, United States Code, as he considers appropriate, together with the reasons therefor, in lieu of the compensation adjustments required by subsection (b). Any such alternative plan shall specify an overall percentage adjustment in the elements of compensation specified in section 1009(a) of title 37, United States Code.

(2) An alternative plan transmitted by the President under paragraph (1) becomes effective on October 1, 1982, and continues in effect unless, before the end of the first period of thirty calendar days of continuous session of Congress after the date on which the alternative plan is transmitted, either House adopts a resolution disapproving the alternative plan so recommended and submitted, in which case the compensation adjustments for the elements of compensation specified in section 1009(a) of title 37, United States Code, shall be made effective as provided by paragraph (4). For the purposes of this paragraph, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

(3) The provisions of subsections (d)-(k) of section 5305 of title 5, United States Code, apply with respect to an alternative plan transmitted by the President under paragraph (1) in the same manner as such provisions apply with respect to an alternative plan transmitted by the President under subsection (c)(1) of that section.

(4) If either House adopts a resolution disapproving an alternative plan transmitted under paragraph (1), the President shall take the action required by subsection (b)(2) and adjust the rates of compensation specified in section 1009(a) of title 37, United States Code, effective as of October 1, 1982.

(5) The rates of pay that take effect under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted before the effective date of all or part (as the case may be) of the adjustment; and

(B) any prior recommendations or adjustments which took effect under other provisions of law.

(6) The rates of pay that take effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.

(d) Subsections (c) and (d) of section 1009 of title 37, United States Code (other than subsection (d)(2)(B) of such section), shall apply to any pay adjustment made pursuant to this section in the same manner as such subsections apply to an increase described in subsection (b)(3) of such section.

ADJUSTMENT IN BASIC PAY OF CERTAIN OFFICERS WITH PRIOR ENLISTED AND WARRANT OFFICER SERVICE

SEC. 102. (a) Section 203(d) of title 37, United States Code, is amended to read as follows:

"(d) The basic pay of a commissioned officer who is in pay grade O-1, O-2, or O-3 and who is credited with a total of over four years' active service as a warrant officer and enlisted member shall be computed in the same manner as the basic pay of a commissioned officer in the same pay grade who has been credited with over four years' active service as an enlisted member.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR ACTIVE FORCES

SEC. 103. (a) Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1987".

(b) Section 308f(c) of such title is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1987".

FREEZE ON CERTAIN ALLOWANCES DURING FISCAL YEAR 1983

SEC. 104. (a) During fiscal year 1983, the amounts in effect for the following allowances may not exceed the amounts in effect for such allowances on the date of the enactment of this Act:

(1) The rates for dependents for the monetary allowance in lieu of transportation under section 404(d) of title 37, United States Code.

(2) Weight allowances for transportation of baggage and household effects prescribed under section 406(b) of such title.

(b) During fiscal year 1983, the regulations determining when permission to mess separately may be granted for purposes of the basic allowance for subsistence paid under section 402(b) of such title may not be revised so as to authorize any category of members to be granted such permission which was not eligible for such permission on the date of the enactment of this Act.

HAZARDOUS DUTY PAY FOR CERTAIN TOXIC FUEL HANDLERS

SEC. 105. (a) Section 301(a)(12) of title 37, United States Code, is amended by inserting "or the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used" after "propellants".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

CLARIFICATION OF ELIGIBILITY FOR SEPARATION PAY

SEC. 106. (a) Subsection (c) of section 1174 of title 10, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraphs (2) and (3), a member of an armed force other than a regular member who after September 14, 1981, is discharged or released from active duty and who has completed five or more, but less than twenty, years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary concerned, if—

"(A) the member's discharge or release from active duty is involuntary; or

"(B) the member was not accepted for an additional tour of active duty for which he volunteered.

"(2) If the Secretary concerned determines that the conditions under which a member described in paragraph (1) is discharged or separated do not warrant separation pay under this section, that member is not entitled to that pay.

"(3) A member described in paragraph (1) who was not on the active-duty list when discharged or separated and who had not completed at least five years of continuous active duty immediately before such discharge or release is not entitled to separation pay under this section.".

(b) Subsection (g)(2) of such section is amended by inserting ", other than section 1212 of this title," after "any other provision of law".

(c) The amendments made by this section shall take effect on October 1, 1982.

EXTENSION OF MINIMUM INCOME PROVISION FOR CERTAIN WIDOWS

SEC. 107. (a) Section 4(a)(1) of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended by striking out "on the effective date of this Act is, or within one calendar year after that date becomes," and inserting in lieu thereof "on September 21, 1972, was, or during the period beginning on September 22, 1972, and ending on March 20, 1974, became,".

(b) Any annuity payable by reason of subsection (a) shall be payable only for months after September 1982.

MODIFICATIONS TO RESERVE OFFICER TRAINING CORPS' SCHOLARSHIP PROGRAM

SEC. 108. (a)(1) Section 2101(3) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "(except that, in the case of a student enrolled in an academic program which has been approved by the Secretary of the military department concerned and which requires more than four academic years for completion of baccalaureate degree requirements, including elective requirements of the Senior Reserve Officers' Training Corps course, such term includes a fifth academic year or a combination of a part of a fifth academic year and summer sessions).".

(2) Section 2104(a) of such title is amended by inserting "at least" before "two".

(3) Section 2107(c) of such title is amended by inserting after the first sentence the following new sentence: "In the case of a student enrolled in an academic program which has been approved by the Secretary of the military department concerned and which requires more than four academic years for completion of baccalaureate degree requirements, including elective requirements of the Senior Reserve Officers' Training Corps course, financial assistance under this section may also be provided during a fifth academic year or during a combination of a part of a fifth academic year and summer sessions.".

(4) Section 209(a) of title 37, United States Code, is amended by striking out "20" and inserting in lieu thereof "30".

(b)(1) Section 2005 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Secretary concerned shall require, as a condition to the Secretary providing financial assistance under section 2107 or 2107a of this title to any person, that such person enter into an agreement described in subsection (a). In addition to the requirements of clauses (1) through (4) of such subsection, any agreement required by this subsection shall provide—

"(1) that if such person fails to complete the education requirements specified in the agreement, the Secretary will have the option to order such person to reimburse the United States in the manner provided for in clause (3) of such subsection without the Secretary first ordering such person to active duty as provided for under clause (2) of such subsection and section 2107(f) and 2107a(f) of this title; and

"(2) that any amount owed by such person to the United States under such agreement shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the member is first notified of the amount due to the United States as a reimbursement under this section.".

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into after September 30, 1982.

(c)(1) Section 2107(b)(5) of title 10, United States Code, is amended—

(A) by striking out "either" in the matter preceding subparagraph (A);

(B) by striking out "or" at the end of subparagraph (A);

(C) by striking out the period at the end and inserting in lieu thereof "; or"; and

(D) by adding at the end the following:

"(C)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the sixth anniversary of the receipt of such appointment, unless such appointment is otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as may be prescribed by the Secretary of the military department concerned.".

(2) The second sentence of section 2107(b) of such title is amended—

(A) by inserting "or (5)(C)" after "(5)(B)"; and

(B) by striking out the period at the end and inserting in lieu thereof ", except that performance of service under clause (5)(C) shall include not less than two years of active duty.".

(3) The amendments made by this subsection shall apply with respect to agreements entered into under section 2107(b)(5) of title 10, United States Code, after September 30, 1982.

TITLE II—COMPUTATION OF RETIRED PAY

TERMINATION OF SIX-MONTH ROUNDING RULE FOR COMPUTING RETIRED PAY

SEC. 201. (a)(1) The text of each of the footnotes listed in paragraph (2) is amended to read as follows: "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.".

(2) The footnotes referred to in paragraph (1) are the following:

(A) Footnote 3 of the table in section 1401 of title 10, United States Code.

(B) Footnote 2 of the table in section 1402(a) of such title.

(C) Footnote 1 of the table in section 1402(d) of such title.

(D) Footnote 1 of the table in section 1402a(a) of such title.

(E) Footnote 1 of the table in section 1402a(d) of such title.

(F) Footnote 4 of the table in section 3991 of such title.

(G) Footnote 2 of the table in section 3992 of such title.

(H) Footnote 4 of the table in section 8991 of such title.

(I) Footnote 2 of the table in section 8992 of such title.

(b) Subsection (f) of section 1174 of title 10, United States Code, is amended to read as follows:

"(f) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(c)(1) The text of section 6328 of such title is amended to read as follows:

"In determining the total number of years of service to be used as a multiplier in computing the retired pay of officers retiring under this chapter, each full month of service that is in addition to the number of full years of service creditable to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(2) The first sentence of section 6330(d) of such title is amended to read as follows: "For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(3) Paragraph (2) of section 6151(b) of such title is amended to read as follows:

"(2) In determining the number of years to be used as a multiplier under this subsection, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(4) The text of section 6404 of such title is amended to read as follows:

"In determining the total number of years of service to be used as a multiplier in computing retired pay and separation pay on discharge under this chapter, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(d) The fourth sentence of section 423 of title 14, United States Code, is amended to read as follows: "In computing the number of years of service by which the rate of 2½ percent is multiplied, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(e) Subsection (b) of section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

"(b) In computing the number of years of service of an officer for the purposes of subsection (a), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(f) Section 211(e) of the Public Health Service Act (42 U.S.C. 212(e)) is amended by striking out "a part of" and all that follows and inserting in lieu thereof "each full month of service that is in addition to the number of full years of service credited to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(g) The amendments made by this section shall apply with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after September 30, 1982, and (2) the recomputation of retired pay under section 1402, 1402a, 3992, or 8992 of title 10, United States Code, of any individual who after September 30, 1982, becomes entitled to recompute retired pay under any such section.

TITLE III—PERSONNEL MANAGEMENT ISSUES

TRANSFER OF PUBLIC HEALTH SERVICE OFFICERS TO OTHER UNIFORMED SERVICES

SEC. 301. (a)(1) Section 716 of title 10, United States Code, is amended to read as follows:

"§716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service

"(a)(1) The President may, within authorized strengths and with the consent of the officer involved, transfer any commissioned officer of a uniformed service from his uniformed service to, and appoint him in, another uniformed service. The Secretary of Defense, the Secretary of the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Commerce, and the Secretary of Health and Human Services shall jointly establish, by regulations approved by the President, policies and procedures for such transfers and appointments.

"(2) In this section, 'uniformed service' means any of the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service.

"(b) An officer transferred under this section may not be assigned precedence or relative rank higher than that which he held on the day before the transfer.

"(c)(1) An officer who previously served on active duty as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service and who is appointed or reappointed as a commissioned officer in any other uniformed service shall be credited for purposes of computing such officer's eligibility to retire, and the amount of such officer's retired pay, with the number of years of service with which he was credited for such purposes on the day before the termination of his previous period of active duty.

"(2) For the purpose of determining the grade and rank within grade of a commissioned officer of the Public Health Service who transfers to, and is appointed as a commissioned officer in, an armed force, the Secretary concerned may, under regulations prescribed by the Secretary of Defense, credit such officer at the time of such appointment with any period of active commissioned service that such officer performed as a commissioned officer in the Public Health Service.".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

"716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.".

(b) Clause (13) of section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), is amended to read as follows:

"(13) Section 716, Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.".

NOMINATIONS TO SERVICE ACADEMIES

SEC. 302. (a)(1) Clause (10) of section 4342(a) of title 10, United States Code, relating to the number of cadets at the United States Military Academy, is amended to read as follows:

"(10) One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa.".

(2) Clause (10) of section 6954(a) of such title, relating to the number of midshipmen at the United States Naval Academy, is amended to read as follows:

"(10) One from American Samoa, nominated by the Delegate in Congress from American Samoa.".

(3) Clause (10) of section 9342(a) of such title, relating to the number of cadets at the United States Air Force Academy, is amended to read as follows:

"(10) One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa.".

(b)(1) Clause (8) of section 4342(a) of title 10, United States Code, is amended to read as follows:

"(8) One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States.".

(2) Clause (8) of section 6954(a) of such title is amended to read as follows:

"(8) One nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States residing in the Republic of Panama who are citizens of the United States.".

(3) Clause (8) of section 9342(a) of such title is amended to read as follows:

"(8) One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States.".

APPOINTMENT OF CITIZENS OF NORTHERN MARIANA ISLANDS AS COMMISSIONED OFFICERS

SEC. 303. (a) Notwithstanding any provision of law respecting citizenship and in accordance with the covenant entitled "A Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" (approved on March 24, 1976, by Public Law 94-241), a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States an intent to become a citizen, and not a national, of the United States upon full implementation of such covenant, and who is otherwise qualified for military service under applicable laws and regulations, may be appointed as an officer in the Armed Forces of the United States, may be appointed or enrolled in the Senior Reserve Officers' Training Corps program of any of the Armed Forces under chapter 103 of title 10, United States Code, and may be selected to be a participant in the Armed Force Health Professions Scholarship program under chapter 105 of such title.

(b) This section shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

TITLE IV—MISCELLANEOUS

LIMITATION ON CONTRACTING-OUT CERTAIN FUNCTIONS

SEC. 401. Section 502 of the Department of Defense Authorization Act, 1981 (94 Stat. 1086; 10 U.S.C. 2304 note), is amended by adding at the end thereof the following new subsections:

"(g) A commercial or industrial type function of the Department of Defense may not be performed by a private contractor if the Secretary of Defense determines that in order to meet national defense needs such function must be performed by military or civilian personnel of the Department of Defense. An activity of the Department of Defense that is a commercial or industrial type function shall be considered to be necessary to meet national defense needs if the Secretary determines that—

"(1) the activity or the military personnel assigned thereto are utilized in, or are subject to deployment in, a direct combat role;

"(2) the activity is essential for training in skills that are exclusively military in nature;

"(3) the activity is needed to provide work assignments for a rotation base for overseas or sea duty assignments;

"(4) the activity performs depot or intermediate-level maintenance or logistical support and is necessary to ensure—

"(A) a ready and controlled source of technical competence and resources to meet effectively and efficiently peacetime, mobilization, and sustained combat equipment readiness requirements, or

"(B) that combat and combat support activities be self-sufficient insofar as possible in providing maintenance or logistical support for assigned weapons systems and equipment;

"(5) performance of the function by other than military or civilian personnel of the Department of Defense would adversely affect national defense capabilities; or

"(6) in the case of an activity performed on a military installation, performance of the function by military or civilian personnel of the Department of Defense is so critical to safety or security at the installation or to the well-being of personnel assigned to duty at the installation that any interruption in the performance of the function would be potentially hazardous or deleteri-

ous to the safety of personnel or security at the installation.

"(h) As a part of any notification to Congress under subsection (a)(2)(A), the Secretary of Defense shall include (without modification) the assessment of the military commander of the major operating command to which is assigned the function to be studied for possible performance by a private contractor as to whether such function, under any of clauses (1) through (6) of subsection (e), must be performed by military or civilian personnel of the Department of Defense in order to meet national defense needs.

"(i) In performing any cost comparison required by subsection (a)(2)(B), the Secretary of Defense shall ensure that the cost comparison includes a full and complete accounting of costs for both the Government and private contractor performance. In any such cost comparison, the cost to the Government of the cost comparison process, the preparation of the statement of work for the function, and any other costs associated with the contracting process shall be included among the costs of performance by private contractor.

"(j)(1) Except as provided in paragraph (2), in the case of any new requirement for a commercial or industrial type function or activity of the Department of Defense established after the end of the 60-day period beginning on the date of the enactment of this subsection, the Secretary of Defense shall determine (before deciding whether to use Department of Defense personnel or a private contractor for the performance of the function or activity) whether performance of the function or activity would be less costly to the Government using Department of Defense personnel or a private contractor. Any such determination shall be made based on a cost comparison carried out in accordance with such procedures as the Secretary of Defense may prescribe.

"(2) Paragraph (1) does not apply to a function that under subsection (e) may not be performed by a private contractor because of a determination by the Secretary of Defense under that subsection.".

MEDICAL MALPRACTICE PROTECTION FOR HEALTH-CARE PERSONNEL OF THE SOLDIERS' AND AIRMEN'S HOME

SEC. 402. (a) Subsection (a) of section 1089 of title 10, United States Code, relating to defense of certain suits arising out of medical malpractice, is amended by inserting "the United States Soldiers' and Airmen's Home," after "the Department of Defense,".

(b) Subsection (f) of such section is amended by striking out "or his designee may, to the extent that he or his designee deems" and inserting in lieu thereof "may, to the extent that the head of the agency concerned considers".

(c) Subsection (g) of such section is amended—

(1) by striking out "and" at the end of clause (2);

(2) by redesignating clause (3) as clause (4); and

(3) by inserting after clause (2) the following new clause (3):

"(3) the board of commissioners of the United States Soldiers' and Airmen's Home, in the case of an employee of the United States Soldiers' and Airmen's Home; and".

(d) The amendments made by this section shall apply only to claims accruing on or after the date of the enactment of this Act.

REPEAL OF REPORTING REQUIREMENT RELATING TO EMPLOYMENT IN DEFENSE INDUSTRIES

SEC. 403. Section 410 of Public Law 91-121, approved November 19, 1969 (50 U.S.C. 1436), is repealed.

ACCEPTANCE OF VOLUNTARY SERVICES FOR MILITARY MUSEUMS AND FAMILY SUPPORT PROGRAMS

SEC. 404. (a) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1587. Authority to accept certain voluntary services

"(a) Notwithstanding section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)), the Secretary of a military department may accept from any person voluntary services to be provided for a museum or a family support program operated by that military department.

"(b) A person providing voluntary services under subsection (a) shall be considered to be an employee for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and to be an employee of the government for the purposes of chapter 171 of title 28, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1586 the following new item:

"1587. Authority to accept certain voluntary services.".

CLARIFICATION OF RELATIONSHIP BETWEEN AUTHORIZATIONS AND APPROPRIATIONS

SEC. 405. Subsection (a) of section 138 of title 10, United States Code, is amended to read as follows:

"(a) No funds may be appropriated for any fiscal year for the military functions of the Department of Defense or obligated or expended—

"(1) for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, naval torpedoes and related support equipment, other weapons, ammunition, or other procurement;

"(2) for research, development, test, or evaluation (or procurement or production related thereto);

"(3) for operation and maintenance; or

"(4) for military construction (as defined in subsection (f));

unless such funds have been specifically authorized by law.

TECHNICAL AMENDMENTS

SEC. 406. (a) Title 10, United States Code, is amended as follows:

(1) Effective on October 1, 1982, section 520(a) is amended—

(A) by striking out "For the fiscal year beginning on October 1, 1980" and all that follows through "1982, the" and inserting in lieu thereof "The";

(B) by striking out "such fiscal year" the first place it appears in the last sentence and inserting in lieu thereof "any fiscal year"; and

(C) by striking out "number of such" and all that follows through "into" in the last sentence and inserting in lieu thereof "total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in".

(2) The heading of section 532 is amended to read as follows:

"§ 532. Qualifications for original appointment as a commissioned officer".

(3) Section 1405 is amended by striking out "(formula B)" both places it appears and inserting in lieu thereof "(formula A)".

(4) The heading of section 1448 is amended to read as follows:

"§ 1448. Application of plan".

(5) Section 2005 is amended—

(A) by striking out "of this section" each place it appears in subsections (c) and (d); and

(B) by striking out "section—" in subsection (e) and inserting in lieu thereof "section:".

(6) Section 2101 is amended—

(A) by striking out "chapter—" and inserting in lieu thereof "chapter:";

(B) by striking out " 'program' " and inserting in lieu thereof " 'Program' ";

(C) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period;

(D) by striking out " 'member' " and inserting in lieu thereof " 'Member' ";

(E) by striking out "; and" and inserting in lieu thereof a period; and

(F) by striking out " 'advanced' " and inserting in lieu thereof " 'Advanced' ".

(7)(A) Section 2116 is repealed.

(B) The table of sections at the beginning of chapter 104 is amended by striking out the item relating to section 2116.

(8) Section 2120 is amended by striking out "chapter—" and inserting in lieu thereof "chapter:".

(9) Section 2134 is amended by striking out the second sentence of such section.

(b) Title 37, United States Code, is amended as follows:

(1) Section 305a(d) is amended by striking out "clause (B)" and inserting in lieu thereof "clause (2)".

(2) Section 308b(a)(1) is amended by striking out "services" and inserting in lieu thereof "service".

The SPEAKER pro tempore. Is a second demanded?

Mrs. HOLT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes, and the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, on behalf of the gentleman from Alabama (Mr. NICHOLS) the distinguished chairman of the Subcommittee on Military Personnel and Compensation, I am pleased to bring to the floor H.R. 6317, the Uniformed Services Pay Act of 1982.

Mr. Speaker, the bill is broad in scope. It provides for a pay raise for military personnel this October; and it contains additional restrictions regarding contracting out of defense activities.

Though broad, it would have a substantial impact on specific problem areas. It renews the authority to pay

enlistment and reenlistment bonuses; it improves the provisions related to the Reserve Officer Training Corps scholarship program; and it enhances the ability to transfer needed health professionals from the Public Health Service to the Armed Forces.

However, the committee also determined that some elements of military compensation, although important and meriting increases in the future, have less priority than other provisions contained in the bill. As a result of that consideration, the bill provides for a freeze at today's levels on certain elements of compensation for which the President's budget requested increases in fiscal year 1983.

I would like to comment briefly on several of the major provisions of the bill.

OCTOBER PAY INCREASE

Of course, the major issue we addressed in the bill was the October pay raise for military personnel. The administration proposed an 8-percent pay increase of military personnel and a 5-percent increase for Federal civilians.

Under current law, a survey of wages in the private sector is conducted each year to determine the increase in those wages over the preceding year. The President can, without further action from the Congress, increase Federal civil service pay by the amount indicated by the survey. In addition, he has the authority to provide a lesser increase to the Federal civilian work force if he believes that to be desirable, but the Congress may pass a resolution in either House disapproving the lesser amount, in which case the President must increase Federal civilian pay by the amount indicated by the survey.

Military pay is then increased, under current law, by the same percentage as Federal civilian pay.

This year the survey indicates that private sector pay has increased by between 8 and 9 percent over last year. In effect, the President's budget recommended the full 8-percent increase for military personnel to maintain comparability with the private sector (which was just reestablished last year) but recommended a "cap" on pay for Federal civilians at 5 percent. This recommendation could not be implemented under current authority: both Federal civilian pay and military pay must be increased by the same percent. Thus, the committee saw a need to enact special military pay legislation to authorize the flexibility to provide a higher raise for the military.

As the Members know, all bills providing authorization must be reported by May 15 under the Budget Act. When the committee reported this bill, there was some uncertainty regarding the level of cuts to be proposed in the defense budget.

With regard to the pay raise, the committee recommended continuation of the present mechanism. However, for the October 1, 1982, pay raise only, the military increase would be based on the increase in wages in the private sector since last year (as opposed to the increase recommended for the civil service as is currently authorized), and the President would retain his authority to cap the pay increase but could cap the military and civilian at different levels (as opposed to requiring the caps to be at the same level as is currently authorized).

The bill, as reported by the committee, has obviously been overtaken by events with regard to this provision. There is general agreement within the executive and legislative branches that both military and civilian employees should receive a 4-percent increase in October. In fact, the President has submitted a plan which, under current law, would result in such an increase.

TEMPORARY FREEZE ON CERTAIN ALLOWANCES

The bill would place a 1-year limitation on certain allowances for service members. The Department of Defense has requested increases in the mileage allowances for members and dependents who are assigned a permanent change of station and in the weight allowances for transportation of household goods in conjunction with such a move. The Department is also requesting funds to expand eligibility for payment of career basic allowance for subsistence to single enlisted members in pay grade E-5 and above.

The bill would freeze these allowances at the levels in effect during fiscal year 1982—except the mileage allowance for the member would be permitted to increase if appropriations are granted for that purpose.

Although the committee believes that all these requested increases can be justified under normal circumstances, we believe that these increases have lower priority than some of the other items in the bill and can be deferred.

CONTRACTING OUT RESTRICTIONS

Finally, Mr. Speaker, the bill also contains language that would impose additional guidelines on the contracting out process.

The language does essentially three things. It places into law criteria for exempting activities from consideration for contracting out based on national security needs. The criteria in the bill are identical to those that have already been established by regulation by the Secretary of Defense. There is one additional criterion meant to address the problem raised by Federal firefighters. The additional criterion would permit the Secretary of Defense to exclude from contracting out those activities whose performance is so critical to the safety of personnel on the base that a risk of interruption in performance would be unacceptable.

Under these criteria, although the authority for determining when exemptions are appropriate is vested in the Secretary of Defense, the commander of the major command, a three or four-star officer, would also be required to submit his personal assessment of the impact of contracting each of these functions under the established criteria.

In addition, this legislation would require the Department of Defense to attribute the cost of the study process to the private contractor for purposes of the cost comparison since the Government would not be incurring this cost unless contracting proves to be cheaper overall.

The final provision would simply require the Department of Defense to determine if it is cheaper to perform new requirements by private contractor or by Government personnel. This is consistent with the basic philosophy of the Office of Management and Budget circular but is contrary to a new revision under consideration that directs that all new functions be performed by private contractor regardless of cost.

The committee is convinced that the issue of contracting out is an important one in its impact on readiness and hopes that the proposed language will reorient the program so that it insures that money is saved where appropriate but does not affect functions important to national defense.

SUMMARY

Mr. Speaker, the cost of the bill has been recently reestimated by the Congressional Budget Office to be about $700 million per year. The vast bulk of this cost is attributable to the extension of existing bonus authority for enlisting and reenlisting in critical skills.

Mr. Speaker, this is an important bill, and I strongly urge the Member's support.

The bill also contains a number of other important provisions:

UNIFORMED SERVICES PAY ACT OF 1982

COMPENSATION ISSUES

October pay increase

Sever current link with civil service for October 1, 1982, pay raise.

Tie to current index but measure increase over previous year.

Continue capping authority of President, but permit capping of either civilian or military pay or both but at different levels.

Technical correction to allow prior enlisted and warrant officer service to be added in determining eligibility to use separate prior service officer pay tables.

Extend reenlistement/enlistment bonus authority

Extend for 5 years to September 30, 1987.

Limit increases in certain allowances in fiscal year 1983

Dependent travel: Freeze dependent mileage reimbursement rate at 7¢ per mile.

Weight allowances for transportation of household goods: Freeze weight allowances at current levels.

Career Basic Allowance for Subsistence: Freeze payment of BAS to single enlisted personnel to those currently receiving it.

Other issues

Clarify application of hazardous duty pay for fuel handlers: Provide pay to fuel handlers who work on components of rocket engines and aircraft as well as other fuel handlers who work on the rocket engines and aircraft themselves and who currently receive this pay.

Clarify separation pay eligibility: Provide only for officers whose careers have been involuntarily interrupted; exclude officers voluntarily called to active duty for short periods of time.

Provide open enrollment period for reserves in Survivor Benefit Plan: Provide same open enrollment for reservists who had completed 20 years of service, but who are not yet age 60 as was provided recently for active duty retirees.

Extend coverage of minimum income widow provision: Cover individuals who became widows during the last 6 months of the initial 18-month open enrollment period for the Survivor Benefit Plan.

Provide extended financial assistance to ROTC participants: Provide tuition and subsistence allowance for more than 4 years; and Require additional commitment to serve on active duty.

Require recoupment of cost of ROTC scholarships from participants who fail to complete the program and who are not called to active duty.

Modify service requirement for ROTC participants: Provide scholarship recipients with an additional form of service to meet their obligation: 2 years on active duty plus 4 years in the selected reserve.

RETIREMENT CHANGES

Authorize rounding of years of service to closest month in computing retired pay instead of closest year.

PERSONNEL MANAGEMENT ISSUES

Public Health Service transfer authority: Provide same transfer of PHS service credit for grade determination and retirement that is authorized for other uniformed services.

Appointment of citizens of American Samoa to academies: Authorize the Delegate instead of the governor to nominate one cadet to each academy.

Technical language change on appointments to academies by Administrator of Panama Canal Commission.

Authorize appointment of citizens of the Northern Mariana Islands as commissioned officers.

OTHER ISSUES

Contracting-out restrictions

Codify the current national defense exclusion criteria used for exempting activities from contracting out, including an additional criterion that would exempt an activity if the risk of interruption of service would be unacceptable.

Require that commander of the major command submit his personal assessment of the impact of contracting out a function.

Require that the cost of conducting the study be attributed to the cost of the contractor performance.

Require the Department of Defense to determine whether performance of a new requirement by private contractor or government employees would be less expensive.

Medical malpractice protection for Soldier's and Airman's Home: Provide same malpractice protection for physicians at the Home that exists for physicians in similar facilities.

Repeal reporting requirement for retirees employed in defense industry: Repeal reporting requirement that is nearly never used.

Military museums and family support programs: Permit voluntary work to be performed and cover such individuals under Tort Claims Act and Federal Employees Compensation Act.

Mr. Speaker, I reserve the balance of my time.

Mrs. HOLT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6317, the Uniformed Services Pay Act of 1982. This bill deals with the mechanism for this October's military pay raise, as well as a number of other personnel-related issues.

When the committee reported this legislation to the House earlier this year, in compliance with the May 15 deadline contained in the Budget Act, Congress had not yet established the budget ceilings for fiscal year 1983. As a result, the committee structured the pay raise mechanism in H.R. 6317 to provide the maximum flexibility to adjust to the requirements of the budget. The committee's recommendations would have made it possible for the President to give military and civilian employees the same pay raise, different raises, or no pay raise at all depending on the state of the economy.

The pay raise mechanism provided in this legislation has largely been overtaken by events, however. The first concurrent resolution on the budget, approved in June, provides authority for only a 4-percent pay raise for both Federal civilian and military personnel. Further, the President in late August announced that he was recommending a pay raise of 4 percent for Federal workers. As a result, there is little question that this October's military pay raise will be only 4 percent, rather than the 8 percent proposed in the President's budget as necessary to maintain comparability with salaries in the private sector.

After finally reestablishing comparability last year—in other words, after bringing military pay back up to a par with salaries paid in the private sector—I hate to see us begin to backslide immediately. By the same token, these are extraordinary times, and they demand extraordinary measures. The budget deficit must be brought down to more manageable levels, even though this may require sacrifice from all segments of our society.

I am deeply concerned, however, that we not permit the 4-percent pay cap this year to become a recurrent feature of the military compensation system, as was the case in the late seventies. As recently as just 2 years ago, we were wringing our hands in despair at the decline in recruit quality, as well as the exodus of skilled mid-career technicians and noncommissioned officers. One service official characterized the situation as a "hemorrhage of talent."

In recent months we have witnessed a dramatic reversal. The caliber of recruits and the retention of experienced personnel are at record levels. Many factors have contributed to this remarkable turnaround: A change in national attitude toward military service, the worsening economy, and, most importantly, the comprehensive package of compensation initiatives enacted by the Congress during 1980 and 1981.

We should not confuse the current flush of success with a permanent solution to our manpower shortfalls. It is critically important, I believe, that the restrictions imposed this year be a one-time phenomenon. The House must remain committed to keeping military pay competitive with private industry. This October's pay cap is tolerable only because of the extraordinary economic conditions facing our Nation today. We must be especially careful to counteract the adverse effects with positive actions next year.

I want to turn now to several other provisions of H.R. 6317. The extension of the current authority to pay enlistment and reenlistment bonuses is undoubtedly the most important.

During last year's military pay debate, much attention was focused on the question of targeting; that is, directing additional pay to those individuals who are hard to recruit or to retain in the service. The present compensation system provides a substantial degree of targeting through enlistment and reenlistment bonuses. Bonuses are a cost-effective expenditure of manpower funds and provide substantial flexibility to the individual services to meet their unique manpower requirements by directing added resources into the areas of greatest need. The authority for enlistment and reenlistment bonuses expires at the end of this month, and the committee recommends a 5-year extension of this important program.

The House is well aware of the growing shortage of scientists and engineers nationwide and the serious impact of this situation on national defense. The Reserve Officer Training Corps scholarship program is increasingly becoming the primary source of new engineers for the services. Many schools of engineering now require a 4½ or even a 5-year program of study in order to complete a bachelor's degree in engineering. Regardless of the requirements, however, ROTC scholarships cover a maximum of 4 year of education. H.R. 6317 would authorize tuition assistance and subsistence payments for up to an additional 10 months beyond the 4 years if that

is a degree requirement. It should be emphasized that this does not affect an individual who simply needs more time because of poor or failing grades. Further, the individual who receives added ROTC benefits will incur an added military service obligation.

Other revisions in the ROTC program recommended by the committee would provide greater flexibility for the services in the type of military service obligation they can require in exchange for educational assistance, as well as an improved recoupment mechanism for those who fail to complete the program.

Last year's Omnibus Reconciliation Act mandated the closure of the Public Health Service hospitals and clinics. It is administratively possible for Public Health Service commissioned officers to transfer to the military services, but they may not receive credit for their PHS service for either grade determination or retirement purposes. This is an obvious disincentive. Although physician staffing in the military services has improved substantially over the past few years, some shortages persist, particularly for specialists. H.R. 6317 would make transfer to the military services substantially more attractive to those physicians and other health care personnel that the services may wish to attract and would facilitate the selective use of this available pool of skilled medical manpower.

In conclusion, I again urge my colleague's favorable support of H.R. 6317. Although the military pay raise provisions contained in the legislation has been overtaken by the budget process, it is critically important that the present mechanism in the law to target moneys to critical skills and shortage areas—the enlistment and reenlistment bonus programs—be extended prior to their September 30 expiration.

□ 1400

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. IRELAND).

Mr. IRELAND. Mr. Speaker, there are many features of this bill that I strongly support. However, it is unfortunate that a piece of legislation of this magnitude is being debated before a very empty House. It is more unfortunate that this bill is on the Suspension Calendar. Not only are we talking about approval of a great expenditure of money, this bill will place into permanent law new contracting out prohibitions which I do not believe are in the national interest.

I want to bring to the attention of the Members that H.R. 6317 directs that the expense of a cost comparison study conducted by the Government, the preparation of a statement of work and all other costs associated with the contracting process, be added to a contractor's bid or proposal when calculating the cost of performance by a private sector firm. For my colleagues less familiar with the procurement process, there are a variety of costs associated with conversion to contract performance. These range from procurement costs associated with the preparation of a work statement and other costs relative only to the preformance of the study which determines the decision to convert.

Section 401 fails to make necessarily distinctions between the kinds of costs appropriately borne by a contractor and those which are part of the Government's internal management costs. The provisions as presently written will provide a decisive edge to in-house performance of activities by agency personnel in many cost comparisons studies.

It is in the national interest to assure a full and complete accounting of all costs associated with Government contracting activities in an equitable and financially reliable fashion. While in some cases it is appropriate to allocate these costs to a contractor. It should not include costs which are incurred regardless of whether an activity is performed in-house or not. Just as the Government accures savings over time as a result of the conversion, the cost associated with the study as the determinant in that conversion should be amortized over the period of contract performance. Amortization would assure that no single business assumes a disadvantage due to arbitrary cost differentials. The OMB cost comparison handbook which provides guidelines to agencies on this issue, currently uses 5 years for amortization for conversion costs and cost savings. I suggest that a better approach to this issue would be to instruct OMB to devise criteria for fair and equitable amortization of costs.

By assuring full and equal accounting for costs for both in-house and contractor performance, we can be assured that the decisions based on cost studies actually reflect the best interests of the Government and the taxpayers. Government should not be in the business of competing with the private sector. As a result of this bill's requirements, I find myself in the position that I must vote nay on H.R. 6317. I would ask the committee to allow the entire House to vote on this legislation.

Mrs. HOLT. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Speaker, while I am often and generally in agreement with the positions advocated and the actions taken by the House Armed Services Committee, I am compelled in this instance to voice my opposition to certain provisions contained in the 1983 military pay bill, and I would like to associate myself with the remarks of the gentleman from Florida (Mr. IRELAND) and make one other observation as to the restrictions placed on the Secretary of Defense's discretionary authority to determine the appropriateness of contracting out services.

Section 401 provides that commercial or industrial type functions at the Defense Department may not be performed by a private contractor if the Secretary determines that those functions should be performed by Government personnel in order to meet national defense needs. I agree wholeheartedly with that concept, and I would have no objections to this legislation if the committee had stopped there and preserved the Secretary's ability to make that determination.

The committee, however, sets forth the section 401 six broad categories of functions which should be kept in-house because they involve national security requirements. Five of these six categories are already factors which keep national security functions performed by Government personnel.

My objection is directed to the categories which may essentially leave the Secretary no choice but to find these types of functions intrinsic to national security and, therefore, cannot be performed by the private sector.

It seems to my these provisions may prevent the Secretary from drawing upon the private sector to meet those needs when appropriate. By restricting his authority, the committee may be encouraging the DOD to hire its own civilian work force or use its military personnel to perform activities ranging from aircraft maintenance to advanced date processing.

I am not suggesting that we compromise national security interests to allow these activities to be performed by the private section. Quite the contrary. We must insure that any function involving national defense capabilities be performed by Government employees, not by private contractors.

I strongly suggest, however, that we may be restricting the Secretary's authority and ability to make those types of decisions if the language of section 401 as it now exists is not modified.

Just one additional point, Mr. Speaker, and this is one that concerns me: That is that title I of the pay bill severs the link between military and civilian pay raises in the Defense Department. Although my office has not heard from any Federal employee organizations on this matter, I am concerned in reviewing this measure that this action may establish an unfortunate precedent at the expense of the civilian employee.

I appreciate having the opportunity to voice these concerns. I would like to urge the committee to address and consider these areas in conference by taking the steps the conferees deem to

be appropriate before determining the provisions of this legislation that we will be called upon to adopt or reject in final passage of the conference report.

Mr. MONTGONERY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. WHITE), a member of the subcommittee.

Mr. WHITE. Mr. Speaker, we have had a running battle over the years as to contracting out. In fact, last year, as an illustration, there was an attempt made to call for contracting out for hospitals. The Armed Services Committee reacted to this by saying that, in fact, this would really erode the ability of trained personnel to respond in time of emergency; and the Senate did recede on that particular issue.

We have before us now an issue in the pay bill attempting to respond to a call for this House to come forward with criteria after the House itself has called for a moratorium of 1 year. There were six criteria under which it was said that the Secretary of Defense could not contract out. I might say that of those six, five are already in the Secretary of Defense's rules and regulations.

This committee only added one additional criterion. So the first five are already set out in the bill. The last one pertains to security of the installation and safety of the personnel, which I think is very apt as far as criteria for not contracting out.

Whatever we do here today, of course, will be ironed out in the conference report. It would be a shame if we should stall on this important measure of pay for military personnel on the basis of matters that could certainly be addressed at the time of the conference.

I want to point out, as far as the question of who should absorb the costs, too often illustrations have been made and shown where a contracting out was attempted, and at the time of the study it was determined that indeed the study itself cost more than the estimated savings that would be realized over the period of the time of the contract.

It was decided, in the discretion of this committee, that the wisest procedure would be to include the cost of determining whether there would be a savings in the actual first bid. That, I think, is certainly a savings to the taxpayer, because it certainly slows down the Department of Defense in going forward with the contracting-out provisions that in themselves inherently are not appropriate and certainly would find it would be determined, in fact, to not be responsive to the needs of the taxpayers themselves.

What we are saying here is, "If the Department is going to contract out, then one has to consider the cost of the study itself in the bid; and if the Department does not think there will be that much saved, they should not go forward with it in the first place."

Furthermore, for small business purposes, we make an exception to this. We say: "If the company has 10 or less employees then they can make a simplified cost estimate so they do not have the voluminous estimates and studies now required for cost studies."

In other words, small business is addressed. They will not have this great expenditure added to their bid themselves, if there are 10 persons or less involved in the contracting out.

We think the criteria set out are appropriate. We are under a 1-year moratorium. We are under a charge to come forward with recommendations and criteria, and set forth guidelines to the Secretary of Defense. Five of those already are in the regulations. We only add one. We think that the committee should certainly go forward and adopt this bill and send it over to the Senate and let us go forward in a conference report to iron out the differences between the two Houses.

Mrs. HOLT. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I simply would like to point out that the arguments just made by the gentleman from Texas (Mr. WHITE), I think, are excellent arguments. I think they show why this bill should never have been brought up under the Suspension Calendar. These are problems that should have been addressed by the Members of this body. They should not be addressed in a conference committee where this body has limited opportunity to address the issues, whether one addresses them from the standpoint of the Federal employees or from the standpoint of small business.

It would have been well on the contracting-out issue that we have an opportunity to vote, amend, do whatever this House desired.

□ 1415

Bringing it up under this particular procedure means that we will not have that kind of opportunity; so I am disappointed, Mr. Speaker, that we find ourselves with a bill that has major spending in it and also has some controversial items in it and that we find ourselves with it having been brought up under suspension, giving us no opportunity to work the will of the House.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Guam (Mr. WON PAT).

Mr. WON PAT. Mr. Speaker, I am pleased to join my illustrious colleague, Congressman SONNY MONTGOMERY, in support of H.R. 6317, the uniform services pay bill.

As a cosponsor of this important bill, I am pleased to call on the House today to approve this bill which will give our fighting men and women an 8-percent pay raise. We who sit on the House Armed Services Committee believe that this Nation must support those who serve in the military with decent pay and decent benefits. This bill will help accomplish this goal by supporting the administration's request for an 8-percent pay raise for members of the U.S. military.

This bill also carries with it a vital amendment which was approved by the House Armed Services Committee that permits residents of the Northern Mariana Islands to be appointed as commissioned officers in the Armed Forces of this Nation. Several years ago, Congress approved another bill at my request which authorized citizens of the Northern Marianas to serve as enlisted personnel in the various branches of the military. I am pleased to note that several hundred residents of Saipan have taken advantage of that public law. Today, we seek to extend this privilege of service to those in the Northern Marianas who desire to become officers. This provision is needed.

There are a number of young men who have either graduated from Reserve officer training courses or are already enrolled in ROTC courses. Unless this amendment becomes law, they will not be able to assume their commissions. That would be a tragic loss to these young people and to this Nation. The Pentagon has notified me that they support this proposal and I urge that it be adopted today.

I am equally supportive of the other provisions of this bill, including extension of the special recruiting bonuses. I have been very proud to endorse previous military pay raises and ask that we help our military men and women meet the high cost of living in today's society. Thank you.

Mrs. HOLT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to briefly talk about the contracting out. The gentleman from Florida and the gentleman from Pennsylvania have made good points. One of the problems we have had in getting this bill up at such a late date, we really did not know what the pay raise would end up being, either 4 or 8 percent; so we had some delays caused by the administration.

I would hope either gentleman would not call for a vote of this legislation. If it was defeated, it would mean we would have to go back to the committee and we would have to reconsider and rework the bill again.

We need to move right along. October 1 is right upon us. I assure the gentleman from Florida and the gen-

tleman from Pennsylvania that we on the committee who will be on the conference committee will certainly look into this matter that has been pointed out on the contracting-out issue.

It is a broad bill, but this is the only way we could get it up and move ahead with the bill to have it effective October 1 and I hope the bill will be passed today.

● Mr. BENNETT. Mr. Speaker, I rise today to support a provision in H.R. 6317 that incorporates legislation I have introduced for several years to correct an oversight in the law relating to benefits for military widows. My legislation makes certain widows of retired military personnel eligible for annuities payable under the survivor benefit plan, if they became widows within 18 months after the 1972 effective date of the Armed Forces Survivor Benefit Plan Act.

The principal purpose of the Armed Forces Survivor Benefit Plan Act was to establish a survivor benefit plan as an element of the military retirement system. In doing this, the act provided automatic coverage for retiring military personnel who were married or had dependent children. Military personnel who had retired prior to the 1972 effective date of the act were allowed a 1-year period in which they could elect to participate in the plan.

Similarly, the widows of such retirees were allowed 1 year in which to elect to participate. In subsequent changes to the act, the period of open enrollment in the plan was extended 6 months for military personnel who retired prior to 1972. However, the corresponding enrollment period for widows was not extended. My bill would correct this oversight, and make the provisions of the act more uniform and fair in their application. I urge the Members of the House to support this legislation.●

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 6317, as amended.

The question was taken.

Mr. PARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6317.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERSONAL EXPLANATION

(Mr. GUARINI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUARINI. Mr. Speaker, on rollcall No. 331, the Walgren amendment to the fiscal year 1983 appropriations bill for the Department of Housing and Urban Development and related agencies, I had intended to vote "nay." I oppose this amendment as I had last year, yet inadvertently I was recorded as voting "yea."

Mr. Speaker, I ask unanimous consent that this statement as opposed to the Walgren amendment appear in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

VETERANS' EMPLOYMENT AND EDUCATION ASSISTANCE ACT OF 1982

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6794) to amend title 38, United States Code, to improve job training and job placement programs and educational assistance programs for veterans, as amended

The Clerk read as follows:

H.R. 6794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; AMENDMENTS TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Employment and Education Assistance Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EMPLOYMENT ASSISTANCE

CONGRESSIONAL FINDINGS

SEC. 101. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among veterans as a group and particularly among disabled veterans, Vietnam-era veterans, and recently separated veterans.

(2) Alleviating unemployment and underemployment among veterans is a national responsibility.

(3) Because of the special nature of veterans employment and training problems and the national responsibility to meet those problems, programs to address those problems can best be administered through a systematic, uniform Federal program to provide funds for veterans employment assistance programs.

EXTENSION OF JOBS PROGRAMS TO VETERANS WITH 10 AND 20 PERCENT DISABILITIES

SEC. 102. (a) Section 2011 is amended—

(1) in paragraph (1)—

(A) by striking out "special"; and

(B) by striking out "for a disability rated at 30 per centum or more";

(2) by striking out paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) Section 2001 is amended—

(1) by striking out "special" in paragraph (1);

(2) by striking out paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3) and by striking out "2011(4)" in such paragraph and inserting in lieu thereof "2011(3)"; and

(4) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c)(1) Section 2007(c) is amended by striking out "special disabled veterans,".

(2) Subsections (a) and (b) of section 2012 are amended by striking out "special".

(3) Section 2014(g) is amended by striking out "special disabled veterans" and inserting in lieu thereof "disabled veterans with disabilities rated at 30 percent or more".

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 103. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting "priority in the provision of employment and training services and" after "and persons".

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 104. Section 2002A is amended by adding at the end the following new sentence: "The officials within the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment.".

STATE DIRECTORS FOR VETERANS' EMPLOYMENT

SEC. 105. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the Veterans' Employment Director to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Each State Director for Veterans' Employment and Assistant Director for Veterans' Employment (1) shall be an eligible

veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title. If the Assistant Secretary determines that no qualified veteran who has been a bona fide resident of the State for at least two years is available at the time of an appointment under the preceding sentence, the Assistant Secretary may appoint any qualified eligible veteran.

"(c) Each such Director for Veterans' Employment and Assistant Director for Veterans' Employment shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the public employment service system staff and the staffs of each such other program in the State, the Director for Veterans' Employment and such director's assistants shall—".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) be functionally responsible for the supervision of the participation of veterans in Federal and federally-funded employment and training programs and monitor the implementation and operation of such programs to assure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive priority in the provision of services when such priority is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for the supervision of complaints of discrimination filed under section 2012 of this title to assure complaints are resolved in a timely fashion;

"(10) cooperate with employers to identify disabled veterans who have completed or are taking training under chapter 31 of this title and who are in need of employment by working closely with Veterans' Administration officials in the Office of Vocational Rehabilitation and Counseling; and

"(11) when requested, shall assist Federal and State agencies and private employers in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM

SEC. 106. (a) Subsection (a) of section 2003A is amended by adding at the end the following new paragraph:

"(5) Funds appropriated to make grants or otherwise provide assistance to States under this section shall be appropriated from general revenues and shall be specifically set forth in appropriation Acts. Funds made available to States under this section may only be used for the purposes of this section.

"(6) The Secretary shall carry out his functions under this section through the Assistant Secretary of Labor for Veterans' Employment.".

(b) Subsection (b)(2) of such section is amended by inserting after the first sentence the following new sentence: "The Assistant Secretary, after consultation with the appropriate State directors assigned under section 2003 of this title, may grant waivers of the limitation in the preceding sentence.".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in clause (4) and inserting in lieu thereof "appropriate grantees under other Federal and federally-funded employment and training programs"; and

(2) by adding at the end the following:

"(8) Development of outreach programs with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, non-degree-granting institutions (including vocational and technical schools), and with employers to assure maximum assistance to disabled veterans enrolled in a program under chapter 31 of this title.".

(c) Subsection (e) of such section is amended by adding at the end the following new sentence: "The Assistant Secretary shall monitor the employment of disabled veterans' outreach program specialists to ensure that the provisions of subsection (a)(2) of this section with respect to the employment of such specialists are complied with.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 107. (a) Subsection (a) of section 2006 is amended—

(1) by inserting "and chapters 42 and 43 of this title" after "of this chapter" in the first sentence; and

(2) by adding at the end the following new sentence: "These funds shall include amounts necessary to fund disabled veterans' outreach program specialists programs under section 2003A of this title and shall only be approved by the Assistant Secretary of Labor for Veterans' Employment if the level of funding proposed is in compliance with section 2003A of this title. Each budget submission with respect to such funds shall include a separate listing of the proposed number and specific locations for disabled veterans outreach program specialists appointed under section 2003A of this title.".

(b) Subsection (d) of such section is amended by inserting ", in consultation with the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 108. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

NATIONAL EMPLOYMENT ASSISTANCE PROGRAM FOR VETERANS

SEC. 109. (a)(1) Chapter 41 is amended by adding at the end the following new section:

"§ 2009. Veterans' employment assistance program

"(a)(1) The Congress determines that many veterans, particularly disabled and Vietnam era veterans, continue to experience employment problems and that it is necessary and appropriate to increase the opportunities for veterans to obtain employment, job training, counseling, and job placement services.

"(2) The Secretary of Labor, through the Assistant Secretary of Labor for Veterans' Employment, shall establish and administer a national employment and training assistance program for the provision of such services to veterans through grants to qualified recipients as determined under this section.

"(b)(1) Grants under subsection (a) of this section may be made to State agencies, to agencies of political subdivisions of any State, and to private, nonprofit organizations. Before making a grant to any such entity, the Secretary shall determine whether the entity can effectively provide services described in subsection (a) of this section through such a grant, taking into consideration—

"(A) the experience of the entity involved with employment and job training problems of veterans;

"(B) the familiarity of the applicant with the community where the applicant will provide services to veterans under the program; and

"(C) the capability of the applicant to administer effectively a comprehensive employment and training program for veterans.

"(2) Before a grant may be made to any entity that the Secretary has determined to be a qualified recipient of such a grant, the entity shall submit an application for the grant to the Secretary. Each such application shall be submitted in such form and manner and shall contain such information as the Secretary may require.

"(c)(1) In order to make maximum use of existing programs, the Secretary shall encourage recipients of grants under this section to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and organized labor in addition to cooperative arrangements with other Federal and State employment and job training programs to provide such services.

"(2) The Secretary shall ensure that maximum effectiveness and efficiency are achieved in providing the services described in subsection (a) of this section by coordinating, in consultation with the Administrator, the administration of the program established under this section with the administration of other employment and job training programs, vocational rehabilitation programs, and readjustment counseling programs administered under this title. The Secretary shall give particular emphasis to coordinating the administration of this section with the administration of section 612A of this title by the Administrator.

"(d)(1) Programs of on-the-job training for which grants are made under this section shall be designed so as to achieve maximum coordination with programs for which benefits are authorized under section 1787 of this title.

"(2) Employability development programs for which grants are made under this section shall be designed in coordination and cooperation with Veterans' Administration programs of readjustment counseling under section 612A of this title and with veterans assistance offices established pursuant to section 242 of this title.

"(3) Because State Employment Services have responsibility for other veterans job

placement programs and activities, including the disabled veterans outreach program under section 2003A of this title and the local veterans employment representatives program under section 2004 of this title, job placement programs for which grants are made under this section shall be designed in each State in coordination and cooperation with the State Employment Service for that State.

"(4) Grants may be made under this section for demonstration programs in cooperation with the Department of Defense and the Veterans' Administration to provide to members of the Armed Forces preseparation counseling concerning opportunities in the civilian labor market and preseparation job search assistance for members who decline to reenlist in the Armed Forces.

"(e) The Secretary shall approve or disapprove any application for a grant under this section within ninety days after the receipt of the application for such grant.

"(f) The Secretary may, either directly or by way of grant, contract, or cooperative agreement, furnish such technical assistance and conduct such research and development projects as the Secretary considers necessary to establish and carry out the program described in subsection (a) of this section.

"(g) Regulations prescribed to carry out this section shall include provisions establishing proper fiscal controls, accountability, and program performance of grant recipients under this section. To determine the effectiveness of the program authorized by this section, such regulations shall require that each recipient of a grant under this section, as a condition of receiving such grant, agree to submit a report to the Assistant Secretary for each year for which the recipient receives funds under such grant. Each such report shall include, as determined by the Secretary, the following information with respect to the previous year:

"(1) The number of eligible veterans requesting assistance from the grant recipient.

"(2) The number of eligible veterans referred to job interviews by the grant recipient.

"(3) The number of eligible veterans referred to job interviews by the grant recipient who completed job interviews.

"(4) The number of eligible veterans placed in jobs to which they had been referred by the grant recipient.

"(5) The number of eligible veterans counseled by the grant recipient after being placed in jobs to which they had been referred by the grant recipient.

"(6) The number of eligible veterans placed in permanent jobs to which they had been referred by the grant recipient.

"(7) Such additional information as may be required by the Secretary or provided by the grant recipient.

"(h) Not later than January 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the operation of the program established under this section during the preceding fiscal year. Each such report shall include an evaluation of the effectiveness of the program in carrying out the purposes of this section during the fiscal year, the efficiency with which services were provided under the program during the fiscal year, and such recommendations for further legislative action relating to veterans' employment as the Secretary considers appropriate.

"(i) The authority of the Secretary to enter into contracts or make grants under this section is subject to the availability of appropriations for that purpose.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2009. Veterans' employment assistance program.".

(b) The Secretary of Labor shall prescribe regulations to implement the grant program authorized by section 2009 of title 38, United States Code, as added by subsection (a), not later than one hundred and eighty days after the date of the enactment of this Act.

SECRETARY OF LABOR'S COMMITTEE ON VETERANS' AFFAIRS

SEC. 110. (a) Chapter 41 is amended by adding after section 2009 (as added by section 109) the following new section:

"§ 2010. Secretary of Labor's Committee on Veterans' Affairs

"(a) There is established within the Department of Labor an advisory committee to be known as the 'Secretary's Committee on Veterans' Affairs'. The members of the Committee shall serve without compensation or other reimbursement.

"(b) The Committee shall be chaired by the Secretary of Labor. The Assistant Secretary of Labor for Veterans' Employment shall serve as vice chairman of the Committee. The Committee shall include—

"(1) representatives of—

"(A) the Secretary of Health and Human Services;

"(B) the Administrator;

"(C) the Director of the Office of Personnel Management;

"(D) the Chairman of the Equal Employment Opportunity Commission; and

"(E) the Administrator of the Small Business Administration;

"(2) a representative of each of the chartered veterans' organizations having a national employment program; and

"(3) such other members as may be appointed by the Secretary after consultation with the Assistant Secretary for Veterans' Employment.

"(c) The Committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans' employment.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2009 (as added by section 109) the following new item:

"2010. Secretary of Labor's Committee on Veterans' Affairs.".

PERSONS ELIGIBLE FOR CHAPTER 42 EMPLOYMENT AND TRAINING PROGRAMS

SEC. 111. Section 2011 is amended—

(1) in clause (1)—

(A) by striking out "or"; and

(B) by inserting ", or (C) a person who but for receipt of military retired pay would be eligible to receive compensation" after "service-connected disability"; and

(2) in clause (4) (as redesignated by section 2(a)) by inserting "and the United States Postal Service and Postal Rate Commission" after "title 5".

VETERANS EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS

SEC. 112. Section 2012 is amended by adding at the end the following new subsection:

"(d) Each contractor to whom subsection (a) of this section applies shall report at least quarterly on the total number of new hires of such contractor and the number of such hires who are Vietnam era veterans, disabled veterans, and other eligible veterans. Each such report shall be filed with the State Veterans' Employment Director provided for in section 2003 of this title.".

VETERANS EMPLOYMENT WITH THE FEDERAL GOVERNMENT

SEC. 113. (a) Section 2014(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) Any veteran who believes that information concerning opportunities to participate in a competitive civil service examination was not made available to the employment offices of the United States Employment Service as required by section 3327 of title 5 and that such veteran was thereby denied an opportunity to participate in such examination may file a complaint with the Office of Personnel Management, which shall promptly investigate the complaint.".

(b) Subsection (d) of such section is amended by striking out "Each report under the preceding sentence shall" and inserting in lieu thereof "Each such report shall include the number of employment openings listed pursuant to section 3327 of title 5, together with the number of veterans referred to such openings and the number actually receiving jobs, and the number of complaints filed under subsection (c)(2) of this section, and the disposition of such complaints, and shall also".

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 114. Section 6 of Public Law 90-83, approved September 11, 1967 (29 U.S.C. 601-607), is repealed.

EFFECTIVE DATE

SEC. 115. The amendments made by this title shall take effect on October 1, 1982.

TITLE II—EDUCATION ASSISTANCE

REPEAL OF VETERANS' REPRESENTATIVES PROGRAM

SEC. 201. (a) Section 242 is amended by adding at the end the following new subsection:

"(c) The Administrator may station veterans benefits counselors at locations other than Veterans' Administration offices, including educational institutions, to provide assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.".

(b)(1) Section 243 is repealed.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to such section.

REPEAL OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL SCHOOLS

SEC. 202. (a) Section 1673(a) is amended—

(1) by striking out "(1)" before "The";

(2) by redesignating clause (A) as clause (1);

(3) by striking out clause (B) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;";

(4) by redesignating clause (C) and (D) as clauses (3) and (4), respectively; and

(5) by striking out paragraph (2).

(b) Section 1723(a) is amended—

(1) by striking out "(1)" before "The";

(2) by redesignating clause (A) as clause (1);

(3) by striking out clause (B) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;";

(4) by redesignating clauses (C) and (D) as clauses (3) and (4) respectively; and

(5) by striking out paragraph (2).

(c) The amendments made by this section shall take effect on October 1, 1982.

TECHNICAL AMENDMENT RELATING TO 85-15 RULE

SEC. 203. (a) Section 1673(d) is amended—

(1) by striking out "The Administrator" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Administrator";

(2) by striking out "(other than" and all that follows through "of this title)"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection—

"(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

"(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

"(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.".

(b) Section 1691(c) is amended by striking out "section 1673(d)" and inserting in lieu thereof "section 1673(d)(1)".

RATE OF EDUCATIONAL ASSISTANCE FOR INDEPENDENT STUDY PROGRAMS

SEC. 204. Section 1682(e) is amended by striking out "entitlement shall be charged at one-half of the full-time institutional rate" and inserting in lieu thereof "the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis".

REVISION OF RATES FOR INCARCERATED PERSONS

SEC. 205. (a) Section 1508(g) is amended—

(1) by striking out "(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistence allowance may" and inserting in lieu thereof "A subsistence allowance may not"; and

(2) by striking out paragraph (2).

(b) Section 1682(g) is amended—

(1) by striking out "(1) Subject to the provisions of paragraph (2) of this subsection, the" and inserting in lieu thereof "The"; and

(2) by striking out paragraph (2).

(c) Section 1780(a) is amended by striking out "prison or jail" and inserting in lieu thereof "penal institution for conviction of a felony".

CLARIFICATION OF CLASS HOUR FOR PURPOSES OF LABORATORY AND SHOP COURSES

SEC. 206. Section 1788(a) is amended by inserting after the second sentence the following new sentence: "For purposes of clauses (B) and (C) of the preceding sentence, the requirement of two hours of attendance per week for the laboratory portions of such courses, and the requirement of three hours of attendance per week for the shop portions of such courses, shall be considered to be satisfied even though the last hour of attendance in any class is fifty minutes in order to allow customary intervals between hours of instruction and even though customary rest periods are allowed.".

DISCONTINUANCE OF EDUCATIONAL ASSISTANCE

SEC. 207. Section 1790(b) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding the evidence required to discontinue educational assistance to an individual eligible veteran or eligible person under paragraph (2) of this subsection, the Administrator may discontinue such assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment of any eligible veteran or eligible person, in any course with respect to which the Administrator (A) finds (i) that the course fails to meet any of the approval requirements of this chapter, or (ii) that the educational institution offering the course has violated the recordkeeping or reporting requirements of this chapter or chapter 31, 32, 34, or 35 of this title, and (B) finds that the State approving agency and the educational institution offering the course have been advised of such violation and the institution has failed to take corrective action within a reasonable period of time (as determined by the Administrator) after such notification. Whenever the Administrator discontinues assistance under this paragraph, the Administrator shall give notice as required under paragraph (2) of this subsection.".

MODIFICATION OF REPORTING REQUIREMENT ON DEFAULT RATES UNDER LOAN PROGRAM

SEC. 208. The second sentence of section 1798(e)(3) is amended—

(1) by striking out "in maximum feasible detail";

(2) by inserting "and" at the end of clause (A); and

(3) by striking out clauses (B) and (C) and inserting in lieu thereof the following:

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) other loans made under this section.".

ADMINISTRATIVE IMPLEMENTATION OF CERTAIN DEPARTMENT OF DEFENSE EDCUCATIONAL ASSISTANCE PROGRAMS

SEC. 209. Section 1622 is amended by adding at the end the following new subsection:

"(e) Any amount transferred to the Administrator from the Secretary of a military department under an interagency agreement for the administration by the Veterans' Administration of an educational assistance program established by the Secretary under chapter 107 of title 10 may be deposited into and disbursed from the fund.".

ADJUSTMENT OF COMPUTATION OF RATE OF BENEFIT PAYMENT FOR PARTICIPANTS MAKING LUMP-SUM CONTRIBUTIONS UNDER CHAPTER 32 PROGRAM

SEC. 210. Section 1622(d) is amended by striking out "$75" and inserting in lieu thereof "$100".

EXTENSION OF PERIOD FOR ENROLLMENT IN CHAPTER 32 PROGRAM

SEC. 211. Section 408(a)(1) of the Veterans' Education and Employment Assistance Act of 1976 (38 U.S.C. 1621 note) is amended by striking out "December 31, 1981" and "June 1, 1981" and inserting in lieu thereof "March 30, 1983" and "January 15, 1983", respectively.

TITLE III—MISCELLANEOUS PROVISIONS

PERIOD FOR WAIVER BY THE ADMINISTRATOR OF IMPROPER PAYMENTS, OVERPAYMENTS, AND DEBTS

SEC. 301. (a) Section 3102(a) is amended by striking out "two years" and inserting in lieu thereof "one hundred and eighty days".

(b) The amendment made by subsection (a) shall apply only with respect to notifications of indebtedness that are made by the Administrator after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. SAWYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Education, Training, and Employment, the distinguished gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I encourage my colleagues in this House to unanimously endorse this legislation we are considering today, H.R. 6794, the Veterans' Employment and Education Assistance Act of 1982.

I say this because we are in a period of the highest unemployment among Vietnam veterans since the end of the Vietnam conflict. In July nearly 700,000 Vietnam veterans were out of work and, adding discouraged workers, that number soars. Too many of these veterans, because of the time spent serving their country in the Armed Forces, are still 2 to 4 years behind their nonveteran peers in job experience and proficiency. Consequently, they have been the last hired and first fired during this time of recession and economic instability. Others have had psychological readjustment problems that have been severely exacerbated by unemployment and underemployment. The team leader at one of the Veterans' Administration vet centers recently stated:

This program (the VA Psychological Readjustment Counseling Program) began in March of 1980, and clearly the situation for Vietnam vets is the worst it has been in the last 2 years. Never have I seen people so desperate in terms of work. You cannot expect anyone to readjust without a job.

Mr. Speaker, since last fall the Subcommittee on Education, Training and Employment has held six hearings here in Washington and one field hearing on the employment situation of Vietnam veterans. We thoroughly reviewed veterans employment pro-

grams administered by the Veterans' Administration, the Department of Labor, the Office of Personnel Management, and the U.S. Postal Service. We also reviewed the education and training programs administered by the Veterans' Administration. The subcommittee concluded, after evaluating the many hours of extensive testimony, that unemployment and underemployment is a severe, continuing problem for Vietnam veterans and that legislation is necessary to strengthen and expand existing programs with innovative changes and additions to the existing structure and service. On July 22, the Committee on Veterans' Affairs ordered reported H.R. 6794, the Veterans' Employment and Education Assistance Act of 1982, legislation designed to improve and make more effective the assistance Congress has made available to help veterans obtain employment.

Very briefly, H.R. 6794 would strengthen and improve the Veterans' Employment Service in the Department of Labor. In that regard, the bill would clarify the duties and responsibilities of the position of the Assistant Secretary of Labor for Veterans' employment, a position established by the 96th Congress as one of the provisions of Public Law 96-466. H.R. 6794 would also clarify the responsibilities of the State Directors of Veterans' Employment who are under the jurisdiction of the Assistant Secretary of Labor for Veterans' Employment. Another major provision would require line-item funding by the Department of Labor for the Disabled Veterans Outreach Program (DVOP). Additionally, the bill would require that Department of Labor funds allocated to grantees for veterans' training, employment, counseling and job placement services shall be administered by the Assistant Secretary of Labor for the granting of such funds as well as the accountability and performance of those who receive grant funds for veterans' purposes.

This is a particularly significant provision in view of both the legislation we are considering today and the amendment to the recently passed H.R. 5320, the Job Training Partnership Act, which set aside funds for the implementation of veterans' programs specified in that legislation. Public Law 96-466 created the position of Assistant Secretary of Labor for Veterans Employment (ASVE) in order to give more force, clarity, and direction to all veterans' employment programs within the Department of Labor. The ASVE is the chief advocate and adviser to the Secretary of Labor regarding these programs. I believe it is vital to include in this legislation a reconfirmation of congressional intent regarding the authority and role of the ASVE.

The educational provisons of H.R. 6794 include minor program revisions and technical changes requested by the Veterans' Administration. One of the changes would repeal the requirement that vocational schools report on the number of graduates who, during the preceding 2-year period, have obtained employment in the field for which the school provided training. The repeal of the so-called 50 percent employment rule will save an estimated $223,000 in fiscal year 1983. There are a number of other minor provisions in this bill which are explained in the section-by-section analysis which I will include at the end of my statement.

This bill has received the strong support and endorsement of the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the AMVETS, and the Vietnam Veterans of America among other nationally recognized veterans organizations.

Mr. Speaker, unemployment is a national problem which affects all members of the population, veterans and nonveterans alike. There is no doubt, however, that many of the unemployment problems facing veterans, particularly those with service-connected disabilities and Vietnam era veterans, are related to their military service. Although the Congress has consistently placed particular emphasis on the unique nature of veterans employment and readjustment problems and targeted this group for specialized assistance, H.R. 6794 would, for the first time in law, clearly state that veterans' unemployment problems are a national responsibility. This bill will not solve the employment problems of all these veterans. It will, however, go a long way toward strengthening education programs and providing an improved and more effective program of job training and job placement for unemployment and underemployed veterans.

I want to express my thanks to all the members of the Subcommittee on Education, Training, and Employment, and particularly MARGARET HECKLER, the ranking minority member of the subcommittee, for their help in the drafting of this bill. I also want to thank the chairman of the full committee, SONNY MONTGOMERY. His assistance and full support for this legislation is very much appreciated.

I urge unanimous support for this much needed legislation.

I hereby request that the section-by-section analysis of the bill be included as part of my remarks:

SECTION-BY-SECTION ANALYSIS—H.R. 6794, VETERANS' EMPLOYMENT AND EDUCATION ASSISTANCE ACT OF 1982

TITLE I—EMPLOYMENT ASSISTANCE

The first section of the bill provides that the act may be cited as the "Veterans Employment and Education Assistance Act of 1982".

Section 101 outlines the following congressonal findings: (1) that there exists serious unemployment and underemployment among veterans; (2) alleviating these problems is a national responsibility; and

(3) programs to address those problems can best be administered through a systematic, uniform Federal program.

Section 102 of the bill contains a number of technical amendments to Chapters 41 and 42 that extend eligibility under the Federal Contractor Job Listing program to all disabled veterans entitled to VA compensation by eliminating the "special disabled veteran" category—those rated at 30 percent or more.

Section 103 makes two amendments to Chapter 41, § 2002. The first would require the Assistant Secretary for Veterans' Employment to promulgate and administer "regulations," in addition to policies dealing with veteran job placement and related activities. The second amendment would require that veterans and eligible persons be provided "priority in the provision of employment and training services" in addition to maximum opportunities.

Section 104 of H.R. 6794 would make officials administering the Veterans' Reemployment Rights (VRR) program administratively and functionally responsible to the Assistant Secretary for Veterans' Employment.

Section 105 makes a number of amendments to § 2003, Chapter 41, including renaming the section "State Directors for Veterans' Employment." The amendments would: require the full-time clerical support of the State Directors to be "Federal" and preference for veterans in such appointments; allow appointment to the positions of Veterans Employment Service State Director or Assistant, in any State, of any qualified veteran if the Assistant Secretary determines that no qualified veteran who has been a bona fide resident of the State for at least two years is available at the time of the vacancy in the position; add to the responsibilities of the VES directors and assistants (1) functional responsibility for the supervision of the participation of veterans in Federal employment and training programs; (2) supervision of job listings, referrals and complaints under the Federal Contractor Job Listing program; (3) to cooperate with employers who identify veterans who have completed or are taking training under Chapter 31, Title 38; and (4) upon request, to assist Federal and State agencies and private employers in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the disabled veterans' employability.

Section 106 of the bill contains a number of technical amendments to section 2003A—Disabled Veterans Outreach Program Specialists. The first would require funds appropriated for DVOP to be appropriated from general revenues and requires the Secretary of Labor to carry out his functions for the DVOP through the Assistant Secretary for Veterans' Employment (ASVE). The second amendment allows for the AVSE to grant a waiver to the three-fourths limitation on the number of DVOP staff to be stationed at Job Service offices. The third deletes references to CETA and inserts "appropriate grantees under other Federal and federally funded employment and training programs" and adds a new function for the DVOP specialist of development of outreach programs with various en-

tities to assure maximum assistance to disabled veterans enrolled in a program under Chapter 31 of Title 38. The fourth change adds a new requirement for the AVSE to monitor the employment of DVOP specialists to ensure compliance with the required appointment priorities.

Section 107 amends section 2006 of Chapter 41 by including Chapters 42 and 43 with Chapter 41 for the requirement to estimate the funds necessary for proper and efficient administration of those Chapters. The amendment specifically requires amounts necessary for the DVOP and a separate listing of the proposed number and locations of DVOP staff. Amendments also require the Secretary to consult with the ASVE to consider a demonstrated lack of need for utilization of such funds for any other purpose.

Section 108 amends § 2007 of Chapter 41 by requiring inclusion of activities carried out under section 2003A (DVOP) in the annual report to Congress.

Section 109 provides for the inclusion of a new section to Chapter 41 entitled "§ 2009. Veterans' employment assistance program". The new Section 2009 provides for the following:

Part (a) requires the Secretary to establish and administer a national employment and training assistance program for veterans through grants to qualified recipients.

Part (b) sets forth general criteria by which the Secretary will determine the suitability of grant applications and information to be included in an application.

Part (c) requires maximum use of existing programs by requiring the Secretary to encourage grantees under this section to enter into cooperative agreements with entities dealing directly or indirectly with employment and training matters. The Secretary, in consultation with the VA Administrator, is to ensure maximum effectiveness and efficiency in providing services under this section by coordinating with other programs administered under title 38.

Part (d) requires coordination in the development of OJT, employability development, and job placement programs with VA programs for OJT readjustment counseling and veterans assistance office, and DOL's DVOP. This part also authorizes grants for demonstration programs in cooperation with DOD and VA to provide preseparation counseling and job search assistance.

Part (e) requires the Secretary to approve or disapprove any grant application within 90 days after receipt.

Part (f) authorizes the Secretary to provide directly or through grant, contract, or cooperative agreement, such technical assistance, research and development projects as are necessary to establish and carry out the program of this section.

Part (g) requires that regulations be issued establishing proper fiscal controls, accountability, and annual program reporting requirements to be submitted by the grantee to the Assistant Secretary.

Part (h) requires an annual report to the Committees on Veterans' Affairs of the House and Senate detailing the program established, effectiveness, efficiency and recommendations for legislative action.

Section 110 provides for establishment of a Secretary of Labor's Committee on Veterans' Affairs. Part (a) of the new section 2010 establishes the subject advisory committee; part (b) sets forth the following Committee membership: Chairman, Secretary of Labor; Vice Chairman, ASVE; Representatives of the Secretary of Health and Human Services, the VA Administrator, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, the Administrator of the Small Business Administration, and a representative of each of the chartered veterans organizations having a national employment program.

Section 111 of the bill makes two amendments to § 2011 of Chapter 42. The first amends the definition of "disabled veteran" to include "a person who but for receipt of military retired pay would be eligible to receive compensation." The second would expand the definition of "department or agency" to include the United States Postal Service and Postal Rate Commission. This has the effect of making the USPS and PRC subject to the provisions of Chapter 42, namely the Federal Contractor Job Listing program and employment emphasis programs within the Federal Government.

Section 112 of the bill would require Federal contractors to report at least quarterly on the total number of new hires, separately identifying Vietnam-era veterans, disabled veterans, and other eligible veterans.

Section 113 amends § 2014 of Chapter 42. The amendment provides for complaints under this subpart to be filed with and investigated by the Office of Personnel Management. Second, this subsection is amended by requiring OPM to report the number of employment openings listed pursuant to section 3327 of Title 5, together with the number of veterans referred and placed in such jobs, and the number of complaints filed under subsection (C)(2) of this section, and the disposition of such complaints.

Section 114 would repeal the Exemplary Rehabilitation Certificate program.

Section 115 makes the amendments of this Act effective October 1, 1982.

TITLE II—EDUCATION ASSISTANCE

Section 201(a) of the bill would add a new subsection (c) to section 242 of title 38. This change would specifically authorize the Administrator to station veterans' benefits counselors at locations away from the VA regional offices.

Subsection (b) would repeal authority presently contained in section 243 which authorizes the Veterans' Representatives (Vet-Rep) program.

The table of sections at the beginning of chapter 3 would be amended to delete the reference to section 243.

Vet-Reps were originally established a number of years ago through administrative action on the part of the VA to assist schools and veterans at a time when there were peak enrollments of veterans attending school under the GI Bill. The administrative action was subsequently formalized in the law in section 243.

At the time the program was established in law, many veterans were experiencing long delays in obtaining their education checks and the Vet-Reps were assigned to establish lines of communications in an effort to correct this as well as other problems. The Vet-Reps were to be present full time on school campuses having large enrollments of eligible veterans and eligible dependents, and were to visit other schools periodically. With the passage of time and the decline in enrollments, the need for these individuals has diminished considerably. At the VA regional offices, veterans' benefits counselors are now effectively performing many of the duties previously accomplished by the Vet-Reps. Thus, the special authority contained in section 243 authorizing this program is no longer required and should be repealed.

Section 202(a) of the measure would amend section 1673(a) to repeal the current GI Bill requirement that vocational schools report on the numbers of their graduates who, during a specified 2-year period, have obtained employment in the field for which the school has provided training.

Subsection (b) would amend section 1723(a) to repeal the same 50-percent employment requirement, set forth in chapter 35, applicable to the dependents' education program area.

Subsection (c) would provide that the repeal take effect on October 1, 1982.

The 50-percent employment requirement was originally enacted in Public Law 93-508 and was designed to prevent and mitigate abuses of the VA's education programs. At the time this provision was placed in the law, there were over 600,000 veterans enrolled in vocational training who were pursuing several thousand courses in these schools. It was determined that many of these courses were not providing training that would allow the veteran to obtain employment following completion. Therefore, in order to assure that the training these veterans received would lead to jobs, the requirement was placed in the law providing that these schools substantiate that at least 50 percent of those who graduated within a specified 2-year period had actually been employed in the field for which trained. This requirement resulted in the disapproval of several hundred courses which could not meet the mandate of the law.

Since that time, the number of courses which have been disapproved has dropped from the initial 25 percent to approximately 3 percent. In addition, the number of veterans pursuing these courses has also dropped—to approximately 129,000 in fiscal year 1981.

Preparing and filing these employment reports is quite costly and necessitates considerable numbers of man-years of effort on the part of schools, the state approving agencies, and the VA. Over the past few years, the Congress has enacted a number of changes which have had the effect of eliminating a considerable number of schools from the reporting requirement. For example, schools are exempt if they can demonstrate that filing the report would result in an administrative hardship on them or if they can show that the number of veterans and dependents enrolled in their courses is minimal. The VA indicates the reporting requirement has had the desired result of reducing the number of courses which have not met the goal of providing jobs and recommends it now be eliminated.

Section 203(a) of the measure would amend section 1673(d) to insert a cross-reference to section 1691(c), which provides that schools in which service personnel pursuing high school completion or GED (general equivalency certificate) courses without charge to their entitlement must comply with the 85-15 veteran-dependent enrollment provisions set forth in section 1673(d).

Subsection (b) would amend section 1691(c) to change the citation from 1673(d) to 1673(d)(1) to reflect a slight recasting made in this latter section by the bill.

In the enactment of Public Law 96-466, the Congress amended section 1691 to permit service personnel, as well as veterans, who lack a high school diploma or an equvialency certificate, to pursue such training without charge to any entitlement to educational assistance they may have under VEAP (chapter 32) or the GI Bill (chapter 34). Schools providing such train-

ing would be required to meet the 85-15 enrollment requirements of section 1673(d). In amending the law, the Congress did not incorporate a cross-reference in this latter section. The Committee believes it would be appropriate to provide the cross-reference for clarification purposes and to assure that this requirement is specifically cited in section 1673(d).

Section 204 of the measure would amend section 1682(e) to correct an oversight which resulted from the enactment of Public Law 96-466. Language was included in that section to require that entitlement for pursuit of a pure independent study program be charged at the half-time rate. This has resulted in an unintended situation where a veteran, who is pursuing this type of study on less than a half-time basis, is charged entitlement at a greater rate than course pursuit. The change made here would merely base the entitlement charge on the actual rate of pursuit.

Subsections (a) and (b) of section 205 of the bill would modify the basis for paying subsistence allowance to incarcerated veterans pursuing programs of vocational rehabilitation under chapter 31 and for paying educational assistances to incarcerated veterans and dependents pursuing programs of education under chapters 34 and 35.

In the enactment of Public Law 96-466, the Congress provided that a veteran, incarcerated in a Federal, State, or local penal institution based upon a felony conviction, would not be paid a subsistence allowance while pursuing a vocational rehabilitation program under chapter 31. The veteran would continue to be paid his or her educational costs.

In the same law, the Congress also provided that a veteran, pursuing a program of education under chapter 34, or a dependent pursuing a program of education under chapter 35, would be limited to his or her educational costs as well.

These limitations were imposed because it was determined that the payment of the educational allowances represented a duplication of benefits, in that the veteran or dependent was already having his or her subsistence provided by the governmental unit in charge of the prison or jail. Moreover, the additional monies received by these individuals were causing problems for prison officials in that the funds often were being used for illicit purposes, such as the purchase of drugs; invited thefts; and resulted in other disciplinary problems for the prison officials.

In the same law, the Congress also provided that where the veteran was in a work-release program or a halfway house, the Administrator would be required to determine whether all of the individual's living expenses were being defrayed by a Federal, State, or local government. If so, the veteran or dependent was barred from receiving the additional subsistence or educational allowance. The VA states this provision has caused administrative problems in having to make these determinations, and has not been cost effective.

The proposal contained in subsections (a) and (b), while retaining the bar to payment of subsistence and limiting the educational assistance allowances to educational costs for incarcerated veterans and dependents, would include individuals in half-way houses or in work-release programs connected with their incarceration. Because of the administrative difficulties and costs regarding the requirements on verification of living expenses required in section 1682(g)(2) the Committee accepts the recommendation to eliminate section 1682(g)(2).

Subsection (c) would amend section 1780(a) to modify clause (6). This provision was added to the law by Public Law 96-466. This provision bars the payment of educational benefits to those veterans and dependents who are incarcerated in a Federal, State, or local prison or jail, for any course to the extent that the tuition and fees are paid under any Federal (other than VA), State, or local program, or for which there are no tuition or fees. This provision is applied in any case where the veteran is incarcerated—whether based upon a felony or a misdemeanor conviction.

This provision has required the Veteran's Administration to make determinations as to the type of conviction, as well as the amount of payments which are being made by some other government unit. The Veterans' Administration states that applying this section to misdemeanor convictions has created administrative problems. Individuals are released from incarceration for a misdemeanor in a short period of time, and the necessity of making needed adjustments in benefits generally in small amounts has not been cost effective.

The Committee, therefore, would have Section 1780(a)(6) apply only in those cases where the veteran or dependent is incarcerated for conviction of a felony.

Section 206 would amend section 1788(a) to permit certain veterans, who are pursuing nondegree vocational programs at institutions which also provide diploma or degree programs, a 10-minute period of time at the end of a laboratory or shop course to go to the next class.

Under current law, such an individual must be in attendance in the last hour of the laboratory or shop portion of the class for the full 60-minute period. This can result in the veteran being late to the next class. The proposal would alleviate this situation.

Those veterans pursuing degree-type or nondegree classroom-theory courses are allowed a 50-minute hour plus the 10-minute interval between classes for course measurement purposes. The change being proposed here would allow the nondegree student sufficient time to move to the subsequent class.

Section 207 would amend section 1790(b) to add a new clause (3) which would allow the Administrator, under certain conditions, to discontinue the enrollment of all eligible veterans and eligible persons in certain courses.

Public Law 95-202 added a new clause (2) to section 1790(b) to require that, where the Administrator took action to discontinue (including to suspend) the benefits of any eligible veteran or eligible person in a course, he must find that the veteran or eligible person is not or was not entitled to such assistance. In addition, this new provision also required the Administrator to concurrently provide written notice to any such veteran or eligible person of the action being taken and to advise the veteran or eligible person that he or she was, thereafter, entitled to a statement of the reasons for such action and the opportunity to be heard thereon.

In the view of the Veterans' Administration, this requirement has unduly prolonged erroneous payments to individuals simply because the initial evidence, although indicating widespread statutory violations, does not implicate every single veteran or eligible dependent enrolled.

The change being recommended here would minimize and prevent overpayments of benefits by allowing the Administrator to discontinue educational assistance en masse where there is evidence that a course fails to meet approval requirements, or where the recordkeeping or reporting practices of the educational institution cannot be relied upon as a basis for continued payment of such allowances. Such discontinuance of benefits would be made only after the school and the State approving agency has been notified of the problem and the school has failed to take corrective action within a reasonable period of time. The veteran or eligible person would be notified that this or her benefits are being affected, the reason for the action being taken, and the right to be heard in the same manner as is required under current law.

The inability of the VA under existing law even to suspend benefits pending investigation of the effect of noted violations has led to many preventable overpayments. This proposal would assist the VA in curtailing such overpayments.

Section 208 of the measure would amend section 1798(e)(3) to delete the requirement that the Administrator report to the Congress annually on the default rate under the VA's education loan program on a school-by-school basis.

The education loan program has, in recent months, been drastically curtailed by law. The compiling of the required school-by-school statisitics has proved to be administratively costly. The VA would continue to report to the Congress once a year on the default rate in this program, but on an overall basis, not by individual schools.

Section 209 would amend section 1622 to permit the Veterans' Administration to utilize the educational assistance account, established for the deposit and disbursement of contributory education funds under the Post-Vietnam Era Veterans' Assistance Program (VEAP), for receipt and payment of funds received from the Department of Defense for the new so-called "901" education program.

In the enactment of Public Law 96-342, the Congress authorized a new educational program for individuals enlisting or reenlisting in the armed services between October 1, 1980, and October 1, 1981. This new program is termed the "901" program. It will be funded by the Department of Defense, but administered by the Veterans' Administration.

The VEAP account is an established automated system which lends itself to the modification required to run the new "901" program. Allowing the VA to deposit funds received from the military services for the 901 program into the VEAP account, while keeping the two funds separate, would enable the VA to use the VEAP account for administration of both programs. Without this authority, the VA would be required to establish a completely manual system for the new program, a situation which, on its face, would make it difficult to administer.

Section 210 of the measure would amend section 1622(d) to strike out "$75" and insert "$100."

In the enactment of Public Law 96-466, authority was granted individuals to make lump-sum contributions to the VEAP fund in addition to, or in lieu of, a regular monthly contribution. The law also provided that these lump-sum contributions would be considered to have been made by monthly contributions from the participant's military pay rate at the rate of $75 per month. In

the same law, the maximum amount an individual contributing monthly could make on such basis was raised from $75 to $100.

Thus, when computing the rate of payment under the lump-sum contribution system, the lower rate of $75 was used, rather than the higher rate authorized under the monthly contributory basis. The change made here would merely equate the lump-sum amount with the monthly amount, thereby equalizing the amount of the monthly benefit the individual may be paid under the formula set out in section 1631(a)(2) of title 38.

Section 211 of the measure would amend section 408(a)(1) of the Veterans' Education and Employment Assistance Act of 1976 (38 U.S.C. 1621 note) by striking out "December 31, 1981, and June 1, 1981" and inserting in lieu thereof "March 30, 1983" and "January 15, 1983" respectively.

On May 30, 1981, the President sent a message to Congress regarding the Veterans' Education Assistance Program in which he stated, "Over the next several months the Administration will be continuing its evaluation and review of both the VEAP and Department of Defense test programs, with a view toward developing legislative recommendations regarding education programs for servicemembers and veterans. In view of this effort, I am recommending that the VEAP program be continued beyond its current termination date of December 31, 1981. This will permit the Administration to complete its review and will provide time for submission of legislative recommendations that I anticipate will be submitted in early 1982.

"Recently, the Veterans' Administration submitted legislation to the Congress that would authorize a 1-year extension of the Veterans' Educational Assistance Program and make certain other adjustments in Public Law 94-502. I urge the Congress to enact this legislation." Therefore, in accordance with the President's request, the changes in the termination dates for this program would be effected by this section.

TITLE III

Miscellaneous provisions and effective dates

Section 301(a) of the measure would amend section 3102(a) to reduce from the current 2 years to 180 days, the period of time within which an individual may request a waiver of recovery of an overpayment made to such individual.

Subsection (b) would provide that the revision set forth in subsection (a) would apply only to notifications of indebtedness made by the Administrator after the date of the enactment of the bill.

When the 2-year period was originally enacted into law, the policy, as shown by the legislative history of this provision, was that veterans should be given at least as much time to request a waiver as a Federal employee who had been overpaid. Since that time, however, the VA benefit overpayment problem has become more critical. The Committee believes that allowing the individual 180 days within which to request a waiver is sufficient. This would mean that the time during which a waiver request could be considered would be a period during which events are fresh, memories relatively unclouded, and witnesses more available. This would also mean the individual would be given a speedier resolution of the matter and the VA would be in a better position to provide needed documents, witnesses, and an explanation while these are close at hand.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I commend the gentleman for this legislation. I certainly support it.

I do have two questions as I look at it. One, the gentleman has alluded to, and that is repealing the requirement that vocational schools report on the number of their graduates who have obtained employment in the field they are receiving training for.

It looks to me that that is a protection so that we do not have these fly-by-night schools. I am sure there is some reason for that, but I would be curious as to the gentleman's explanation here.

Mr. EDGAR. Well, for a long period of time it did provide protection and we think that enough protection has been provided to this point that there are enough checks and balances in the system and that we are getting good reporting in other ways, so that this provision was redtape that these schools had to provide. We have had enough reviews from other agencies that review the technical capabilities of the vocational schools.

We did have a problem with this in past years. I believe that much of that problem has been corrected in that area.

Mr. SIMON. Mr. Speaker, I thank the gentleman and I will take his word on that.

I also note that we repeal the veterans representative program on the campuses. Is this because of the duplication between the two programs and we do not need that?

Mr. EDGAR. I was a very strong supporter of the Vet Rep program, but we discovered that we have gone down to I think one person in the whole country who is a Vet Rep. We just felt that that was such an insignificant program at this point and there were other veterans counselors provided on the campuses that that was no longer needed in law. If it was a program as it was many years ago where it was spread throughout the Nation on an equal basis and Vet Reps were providing the specialized services to the veterans that are so important, we would have surely continued that program, but because other programs have come in and overlapped and because the importance of that particular provision had dwindled administratively, we just felt that it was inappropriate to continue it on the books.

Mr. SIMON. I thank the gentleman. I commend the gentleman for his leadership, as well as my colleague, the gentleman from Mississippi, and I strongly support the bill.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us is intended to accomplish the very praiseworthy goal of expanding and strengthening existing programs that were excellent in design but, in practice, fell short of achieving their purposes. I support H.R. 6794 because it acknowledges that veterans' employment problems are a national responsibility, that veterans are suffering from a high incidence of unemployment, and creates a new structure for Federal veterans' assistance programs.

The chairman of the Subcommittee on Education, Training, and Employment of the House Veterans' Affairs Committee, BOB EDGAR, and the subcommittee's ranking minority member, MARGARET HECKLER, have worked with dedication and skill to develop this legislation and I join the full committee's chairman in commending them.

Through many hours of hearings the need for administrative modifications and changes in the language of existing law became clear. One of those changes that is particularly praiseworthy, in my opinion, concerns the Disabled Veterans Outreach program. The primary purpose of this program is to identify disabled veterans in need of employment assistance and help them obtain employment services.

Although it is widely acknowledged that DVOP is highly successful, it has been troubled by funding uncertainties, section 106 of the bill before us is designed to correct that flaw by providing that DVOP will be funded from the general revenues rather than employer taxes.

This provision along with other excellent features of the measure will, I believe, improve the Federal Government's job training and job placement efforts for veterans, and I recommend its unanimous endorsement.

□ 1430

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support the legislation before us today, the Veterans' Employment and Education Assistance Act of 1982. H.R. 6794 will go a long way toward strengthening existing education programs for veterans and providing an improved and more effective program of job training and job placement for unemployed and underemployed veterans.

Unemployment today among disabled veterans and veterans of the Vietnam era is at an all time high. In June of this year, over 700,000 Vietnam era veterans were looking for work. The unemployment rate for those veterans between the ages of 25 and 29 was a devastating 17.3 percent, almost 7 percentage points higher than that for nonveterans in the same age group. Too many of these unemployed veterans have been laid off during the recent economic slump be-

cause of the "last hired, first fired" practice. While these veterans were serving their country during the longest and most controversial conflict since the Civil War, their nonveteran peers began their civilian careers, thus establishing 2-4 years of seniority over those who were serving in the military.

Further, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," a report prepared for the Veterans' Administration by the center for policy research and released in March 1981, concluded that:

When background differences between veterans and non-veterans are statistically controlled, veterans still show some residual disadvantage in educational and occupational attainment, especially in the case of vietnam veterans. This leads us to conclude that military service in vietnam had a negative effect upon post-military achievement.

This is a situation that concerns all of us, and I want to commend my colleague, BOB EDGAR, for taking the lead in addressing this critical problem by introducing and developing the legislation before us. BOB's concern for all veterans, particularly disabled and Vietnam era veterans, has been well demonstrated by the long hours and hard work he has put in as chairman of the Subcommittee on Education, Training, and Employment. I also want to commend MARGARET HECKLER, the ranking minority member of the subcommittee, for her contribution to this legislation, and the support of all members of the subcommittee which held a number of hearings in developing the legislation before us today. I also want to thank the ranking minority member of the committee, JOHN PAUL HAMMERSCHMIDT, for his cooperation and assistance on this legislation.

I strongly urge all members to vote in favor of H.R. 6794.

● Mrs. SNOWE. Mr. Speaker, I rise in support of the Veterans Employment and Education Assistance Act of 1982. This bill is designed to greatly improve the job training and job placement programs and educational assistance programs for our Nation's veterans.

We as a nation have a tremendous obligation to the veterans of this country, especially where veteran employment and job opportunities are concerned. As a whole, unemployment is a human tragedy, but veterans have been particularly hard hit by joblessness in recent months. It is discouraging to note that the current unemployment rate among disabled and Vietnam-era veterans is the highest since the end of the Vietnam conflict in 1973. Faced with this fact, I am especially pleased that Congress in making a concerted effort, as evidenced by this bill, to bolster existing job service programs for veterans and secure a consistent funding source for the Disabled Veterans Outreach program (DVOP).

Specifically, the bill would fund through the use of general revenues the highly successful DVOP program. Past evidence has shown that this program has been a tremendous benefit to the veteran. I know that the program in my home State of Maine was so successful that it had essentially became a role model for similar programs across the Nation. I certainly would like to see this tradition continue.

H.R. 6794 sets up a national employment assistance program for veterans. It allows grants to be administered to qualified recipients, including State and community agencies and private, nonprofit organizations, to operate job training, counseling, and placement programs and employment service programs. Authorizations for related research, demonstration programs and technical assistance also are also included in the bill.

The emphasis here is simply on the idea of a community based outlet providing targeted assistance to area veterans in search of jobs.

After sacrificing and contributing so much, our veterans face unemployment in great numbers, but hundreds of thousands are underemployed. I believe that is incumbent upon us to right this terrible wrong plaguing our society, and I am pleased that this legislation is before us today to do just that.

I am proud to be a cosponsor of H.R. 6794, and hope that my colleagues will join me in supporting this worthwhile measure.●

● Mr. CORRADA. Mr. Speaker, I rise in strong support of H.R. 6794, the Veterans Employment and Education Assistance Act of 1982 which introduces innovative changes in veterans employment programs as well as in veterans educational assistance programs.

The bill brings forth a systematic and uniform program administered by the Department of Labor through local State employment service offices to efficiently face the employment needs of our veterans. It also includes adjustments in veterans education programs to strengthen them in line with their objectives of aiding in the readjustment process.

The act is designed to revive our past intensive efforts to expedite the rehabilitation process of our returning servicemen by putting them to work. The record shows that the job counseling, training and placement services we set up for our veterans have not been successful enough. This is particularly true for Vietnam-era veterans whose unemployment level in all age groups dramatically exceeds their nonveterans counterpart and to this day 685,000 of them still remain unemployed. In Puerto Rico, for instance, the general unemployment rate is 24.6 percent while among veterans it exceeds 40 percent.

Even at times when our Nation faces economic difficulties we must not disregard the needs of these brave and faithful citizens. It was at times of uncertainty and despair that they pulled through and answered to our country's call to duty. Times are harder and are bound to get harder, therefore we must redouble our efforts in this quest for their readjustment to civilian life if we are to pull through for them in as much as they did for us. I realize there are no quick fixes or easy solutions to the problem of high unemployment and underemployment among veterans but we must certainly do our most to assist them in recognition for their sacrifices on behalf of our freedom and democracy.

I urge my colleagues to vote for the passage of this legislation.●

● Mr. APPLEGATE. Mr. Speaker, I wish to express my strong support of H.R. 6794, the Veterans' Employment and Education Assistance Act of 1982.

Although this comprehensive measure is important to all veterans in that it will improve job training and job placement assistance for veterans, it particularly addresses the problems faced by Vietnam and disabled veterans. Hearings held by my colleague from Pennsylvania have attested to the existing high unemployment rate among these individuals. Unfortunately, the unemployment and underemployment rate for veterans has soared in our floundering economy.

The unilateral approach contained in this bill—that is, the administration of a systematic uniform Federal program totally geared toward veterans' employment problems—is vital if we are to alleviate this national responsibility. In the long run, the provisions of this bill will not only enhance veterans employment—both in the private sector and at State and Government levels—it will assist the Nation's economy as a whole.

It is my understanding that the bill also makes necessary changes in the administration of the education programs.

I wish to commend the chairman of the Subcommittee on Education and Training, the Honorable BOB EDGAR from Pennsylvania for his dedication to the welfare of this Nation's veterans which has been demonstrated time and time again. I also wish to express appreciation to the chairman of the full committee, the Honorable G. V. (SONNY) MONTGOMERY of Mississippi for his strong and capable leadership.

Mr. Speaker, I urge favorable consideration of this bill.●

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend

the rules and pass the bill, H.R. 6794, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 6794.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

WOLF TRAP FARM PARK ACT

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6875) to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6875

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes", approved October 15, 1966 (16 U.S.C. 284-284b), is amended by adding at the end the following new sections:

SEC. 4. (a) The Secretary is authorized to make available to the Foundation, in the form of a grant, $9,000,000 to be used for the reconstruction of the Center, subject to the provisions of this section. Such grant shall be made available in increments as needed for such purpose and only if the Foundation has agreed under terms and conditions satisfactory to the Secretary to provide, from non-Federal sources, sufficient contributions on a timely basis to complete the reconstruction of the Center.

"(b) The Secretary may make loans to the Foundation to the extent needed to complete the reconstruction of the Center in an amount equal to twice the amount of non-Federal contributions received, and provided, by the Foundation for such reconstruction work. The total amount of such loans may not exceed $8,000,000. Loans made under this subsection shall be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketing obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus such additional charge, if any, as the Secretary may determine, for the purpose of covering other costs of servicing the loan. In determining the terms and conditions governing any loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

"(c) No grants or loans may be made under this section unless the Secretary has entered into a written agreement with the Foundation under which the Foundation agrees—

"(1) to expend all funds for the reconstruction of the Center (and for construction or reconstruction of any related structures or fixtures) only in accordanace with circulars published by the Office of Management and Budget applicable to Federal grants to nonprofit organizations, and in accordance with the provisions of the Davis-Bacon Act (40 U.S.C. 276a-a7);

"(2) to comply with such other terms and conditions as the Secretary deems appropriate; and

"(3) to maintain, during the term of the cooperative agreement described in section (5), and at the Foundation's expense, insurance on the Center respecting such risks, in such amounts, and containing such terms and conditions, as are satisfactory to the Secretary. Any repairs or reconstruction carried out with Funds obtained from the receipt of the proceeds of any such insurance shall be subject to the approval of the Secretary.

"(d) The Secretary shall be responsible for overseeing the reconstruction and shall have final approval over the plans for, and location and design of, the Center, and the Foundation shall be responsible for managing the construction activities, including the selection (in accordance with the requirements referred to in paragraphs (1) and (2) of subsection (c)) of persons to perform architectural, engineering construction, and related services.

"(e) No grants or loans may be made under this section unless the Secretary has received what the Secretary deems to be adequate written assurance from the Administrator of the Federal Aviation Agency that any easement granted to the Commonwealth of Virginia by the Administrator for construction of the Dulles Toll Road will contain conditions acceptable to the Secretary (including acceptable noise and air pollution standards) legally enforceable by the Administrator and by the Secretary which are adequate to protect the park from undue noise and air pollution and visual degradation attributable to such toll road both during and after its construction, and will also contain legally enforceable assurances that the Commonwealth of Virginia will promptly take such steps as may be necessary after such road is contructed to ensure that noise and air pollution levels do not exceed the standards specified in the easement. Such steps may include a partial or total ban on truck traffic on the toll road or other mitigation recommended by the Secretary or the Administrator.

"(f) The Secretary may also provide support services, as requested by the Foundation, on a reimbursable basis, for purposes of reconstruction of the Center.

"SEC. 5. (a) The Secretary is authorized and directed to enter into a cooperative agreement with the Foundation respecting the presentation of performing arts and related educational and cultural programs at the Center, and in such other areas of the park as may be agreed to. The Secretary may provide technical and financial assistance under such a cooperative agreement for such purposes, pursuant to such terms and conditions as he deems appropriate.

"(b) As a condition of entering into a cooperative agreement under this section, the Secretary shall require that—

"(1) the Foundation maintain the insurance described in section 4(c)(3) of this Act; and

"(2) the Foundation maintain its status as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from taxation under section 501(a) of such Code.

"(c) A cooperative agreement under this section shall provide that—

"(1) the Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access to any pertinent books, documents, papers, and records of the Foundation to make audits, examinations, excerpts, and transcripts;

"(2) the Foundation shall prepare an annual report to the Secretary, which shall also be submitted to the appropriate committees of the United States House of Representatives and the United States Senate, summarizing the activities of the previous year (together with a comparison of goals and objectives with actual accomplishments) and presenting a plan for the forthcoming year; and

"(3) such cooperative agreement may be terminated at the convenience of the United States if the Secretary determines that such termination is required in the public interest.

The cooperative agreement shall contain such other terms and conditions as the Secretary deems appropriate. Until such cooperative agreement is entered into, nothing in this section shall be construed to affect or impair the validity of the agreement between the National Park Service and the Foundation dated September 16, 1980. Such agreement shall remain in force and effect until terminated under the terms and conditions of such agreement or until an agreement is entered into under this section. Nothing in this section shall be construed to affect the authority of the Secretary under any other provision of law to enter into a contract or an agreement, not conflicting with the cooperative agreement described in this section, with any other organization or entity with respect to the administration of the park.

"SEC. 6. All right, title, and interest in the Center shall be vested in the United States. Nothing in this Act shall be construed to provide that the Foundation shall be considered to be a Federal agency or instrumentality for purposes of applying any law or regulation of the United States or of any State.

"SEC. 7. Following disbursement of any grant under this Act for the reconstruction of the Center, the Secretary shall submit quarterly reports to the appropriate committees of the United States House of Representatives and the United States Senate setting forth the progress of the reconstruction, any present or anticipated problems of any type, the financial projections for remaining work, and the progress made by the Foundation in raising funds for purposes of the reconstruction. The report shall set forth quarterly goals respecting the reconstruction of the Center and shall compare the performance during the prior quarter to the goals set forth for that quarter.

"SEC. 8. (a) The Secretary shall cooperate with, and seek cooperation from, other Federal, State, and local agencies (including the Federal Aviation Administration) to protect the park from undue noise intrusions, air pollution, and visual degradation.

"(b) The Secretary shall monitor air and noise pollution within the park which is associated with the Dulles road corridor (including the airport access and toll roads) and shall notify the Federal Aviation Administration, the Commonwealth of Virginia, and the appropriate committees of Con-

gress if, after conferring with the Administrator of the Federal Aviation Administration, the Secretary finds that such air or noise pollution is exceeding the standards set forth in section 4(e). Within sixty days after any such notification, the Administrator of the Federal Aviation Administration shall take steps to reduce air or noise pollution so as to conform to such standards. The Secretary or the Foundation may bring an action in the United States District Court for the District of Columbia to enjoin any violation by the Commonwealth of Virginia of the easement referred to in section 4(e).

"SEC. 9. A general management plan for the park shall be prepared and periodically revised in a timely manner in accordance with the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825: 16 U.S.C. 1a through 1a-7). Such plan shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than January 1, 1984, and such revisions shall be submitted to such committees of the Congress in a timely manner.

"SEC. 10. There is authorized to be appropriated not more than $17,000,000 to carry out sections 4 to 5 of this Act. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts.

"SEC. 11. As used in this Act, the term—

"(1) 'Secretary' means the Secretary of the Interior.

"(2) 'Park' means the Wolf Trap Farm Park established under this Act, including the Center.

"(3) 'Center' means the Filene Center in the Park. Such term includes all real property and fixtures which are within or directly related to the Filene Center.

"(4) 'Foundation' means the Wolf Trap Foundation for the Performing Arts organized pursuant to the District of Columbia Nonprofit Organization Act.

"SEC. 12. This Act may be referred to as the 'Wolf Trap Farm Park Act'.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. LUJAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, H.R. 6875 would authorize the Secretary of the Interior to provide financial assistance to the Wolf Trap Foundation for the reconstruction of the Filene Center, located at Wolf Trap Farm Park, Va., a unit of the national park system. The bill also would direct the Secretary to enter into a cooperative agreement with the Foundation regarding programing at the Filene Center.

When fire destroyed the Filene Center at Wolf Trap Farm Park, Va., on April 4, 1982, it was, as renowned opera star Beverly Sills testified:

An international loss . . . and mustn't be treated as a minor casualty. (Losing it) is a catastrophe.

During the 10 years that the Filene Center at Wolf Trap was in operation, 5½ million people have enjoyed more than 23,000 artists from throughout the United States and abroad in some 900 separate performances of nearly 600 different productions. The Center accommodated 3,500 people under the roof, with room for 3,000 more outdoors on the adjoining lawn. In addition, millions of Americans have enjoyed the series of televised performances called "In Performance at Wolf Trap."

Established by act of Congress in 1966, Wolf Trap Farm Park encompasses approximately 145 acres in Fairfax County, Va., 13 miles from Washington, D.C. About 100 acres of the park were donated to the United States by Mrs. Jouett Shouse. Mrs. Shouse also donated five usable buildings and funds for construction of the Filene Center.

The park, including the Filene Center, is administered by the Secretary of the Interior as a unit of the national park system. The Wolf Trap Foundation, established in 1968 at the request of the Secretary, handles the presentation of performing arts programs under a cooperative agreement with the National Park Service.

Because the Filene Center was a Federal facility, the Filene Center was considered "self-insured," meaning that the Federal Government would bear the costs of its repair or replacement in the event of its damage or loss. The estimated cost of reconstruction is $18 million, according to current National Park Service figures.

I might add that if anyone thinks that that is an enormous sum for reconstructing this type of facility, I had occasion this summer to attend a performance at the Blossom Music Center in my community, which is the summer home of the Cleveland Orchestra. It is a magnificent outdoor performing arts center.

I asked the manager and architect how much they estimated it would cost to replace the building at the Blossom Music Center and they said $36 million. That is just exactly twice what it is estimated to cost to replace the Filene Center in Wolf Trap Farm Park.

Mr. Speaker, the Wolf Trap Foundation has agreed to raise sufficient funds from private contributions to pay for half the estimated costs of the reconstruction if the Federal Government will provide the other half. The Foundation would manage the construction activities, under the close supervision of the National Park Service. Even though the reconstructed facility will be Federal property, the foundation has agreed to maintain insurance coverage for the new facility.

The Subcommittee on Public Lands and National Parks held 2 days of hearings on the legislation. Concerns were expressed about the possible adverse environmental effects—especially noise—on the new Filene Center resulting from an adjacent toll road proposed to be built by the Commonwealth of Virginia. The toll road would be parallel to the existing Dulles Airport access road under terms of an easement to be granted by the Federal Aviation Administration. It would pass within 300 feet of the original Filene Center site.

Concerns were also expressed about the ability of the Foundation to repay the loan, and the appropriate role of the Foundation with respect to National Park Service.

As a response to these concerns, a detailed and comprehensive amendment in the nature of a substitute was approved by the full committee. Basically, the substitute does the following:

First. It provides more precise controls on the use of Federal funds for the reconstruction, including a requirement that any loans be provided only so as to match, on a 2-to-1 basis, funds raised by the Foundation. It also reduces the total authorized loan authority from $9 million to $8 million. The substitute also clarifies the respective roles of the National Park Service and the Foundation in the reconstruction effort.

Second. It requires that legally enforceable measures be taken to protect Wolf Trap from the impact of the Dulles road corridor, particularly from the proposed new toll road.

I might say those measures would be primarily the erection of sound absorbing barriers between the road and Wolf Trap Park.

The substitute also requires that the Secretary monitor air and noise levels at Wolf Trap after the toll road is constructed.

Third. It provides for development of a cooperative agreement between the National Park Service and the Wolf Trap Foundation for the presentation of performing arts and related educational and cultural programs, and specifies a number of requirements to be included in the agreement.

Before closing, I would like to thank several people who helped on this legislation, most particularly its sponsors, Mr. UDALL, Mr. LUJAN, and Mr. WOLF, and several Members of the Interior Committee who raised important concerns, including Mr. VENTO, Mr. WILLIAMS, Mr. KILDEE, Mrs. BYRON, Mr. WEAVER, Mr. CLAUSEN, and Mr. BROWN.

I would also like to thank the staff who worked so hard on this bill, including Loretta Neumann, Clay

Peters, Mark Trautwein, Janet Chisholm, Senellie Singeo, and Barbara Phillips of the committee staff, and Rick Healy of Mr. VENTO's staff.

Last but no means least, I would like to thank Mrs. Jouett Shouse, whose great contribution made Wolf Trap possible, and representatives of the Wolf Trap Foundation including G. William Miller, Carol Harford, and Robert Mendelsohn. Also, from the Interior Department, Jack Fish, Jack Benjamin, Ben Biderman, and Ross Dembling.

Mr. Speaker, I urge all the Members of the House to support this legislation.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Ohio for his patience and leadership on this legislation, and also the staff, who worked very hard.

Mr. Speaker, the legislation now before us represents a great deal of work by the Interior Committee to perfect and fine tune a bill which authorizes Federal aid in the reconstruction of the Filene Center Theater at Wolf Trap Farm Park, in Virginia.

The Filene Center was originally built over a decade ago with private funds. It and the land upon which it sits, in excess of 100 acres, was donated to the Federal Government, and is now a unit of our national park system operated by the National Park Service as the Wolf Trap Farm Park. The Wolf Trap Foundation works in close cooperation with the National Park Service, and the foundation is principally responsible for providing the programs scheduled for the center. The entire arrangement represents a close cooperative relationship between the Government and the private sector.

After the catastrophic fire of last April which totally destroyed the center, the administration proposed legislation which embodied a partnership in cost sharing between the Government and the Wolf Trap Foundation; the center would be rebuilt on a 50-50 cost sharing basis. H.R. 6875, as initially introduced, embraced this cost-sharing approach. The legislation before us, while embodying a totally new text, preserves that 50-50 cost-sharing approach. However, the current bill text is much more detailed in the provisions of how this partnership will work. It endeavors to more precisely define responsibilities, timetables, construction and performance standards, and later operational arrangements for the overall park, including the new center itself. This bill is designed to provide the best working arrangements between the Government and the foundation, and hopefully protects with sensitivity and care, the Government's financial investment.

Mr. Speaker, a great deal of credit for the well-thought-out details of this bill is deserved by the chairman of the Subcommittee on Public Lands and National Parks, the Honorable JOHN SEIBERLING, and particularly by his staff person, Loretta Neumann. The hearings and further staff investigations brought forth a great many details of concern, and the bill provisions represent an effort to deal with these matters.

Mr. Speaker, while I believe that both the bill and the committee report quite comprehensively address most matters related to the rebuilding, there are a number of matters which I believe deserve further comment.

A significant concern has developed with regard to possible extraneous noise intrusion problems coming upon the center and adversely affecting the performances, emanating from the nearby Dulles Road corridor—airport access and yet-to-be constructed toll road. In order to minimize that type of problem, and also to minimize the extent and cost of mitigation effort to be undertaken by the highway interests, it is crucially important that the site chosen for the reconstruction of the center be located in the best location within the park to separate it as far as possible from highway noise.

Several alternate locations have been considered, but the long favored choice of the foundation is to return to the original site, some 300 feet from the existing highway corridor. The alternate sites are farther distance from the corridor. There has been some concern that the foundation may desire a return to the original site more on a basis of sentiment than on a basis of it factually representing the best choice with regard to the most freedom from extraneous noise conflict. It is crucially important that the Federal investment here be amply protected by assuring that the most noise-free site be chosen, unless the difference from other sites is only marginally better and/or other factors such as increased cost strongly override such a choice. The language of the bill (section 4(d)) which gives final reconstruction decisions to the Secretary—particularly as to location and design—was strengthened by the full committee to emphasize this very concern, and the feeling of the committee is strong and absolute that the Secretary fully and purposefully exercise his authority here to assure that the final decision as to location and design for the center is made by him with total assurance that it is in the best interests of maximum reduced conflict with extraneous noise, and maximum beneficial internal acoustical properties. It well may be necessary for even more noise measurements, analysis, and evaluations to be made, beyond those already completed, in order to totally assure the proper conclusion as to the best location and design.

The Department of Transportation and the Federal Aviation Administration should check this matter very closely as well, as their interests have much at stake in the final center location and design decisions. They will have to arrange and pay for necessary mitigation from unacceptable noise, and they should help assure the minimization of such potential conflict and difficulties by assuring that the final reconstruction site is the best correlated to minimal noise conflict.

The final point I wish to make has to do with the cooperative relationship between the National Park Service and the Wolf Trap Foundation which is so essential for the optimum operation of the overall park. The bill provides for a cooperative agreement to constitute the basic document for setting forth this relationship, and such an agreement is already in place at the moment, and is working. Among other essential ingredients, it is important that any new agreement address such subjects as both entities keeping each other totally informed of the other's planned public activities for the park, in a timely manner; the disposition and handling of food service and similar typically concession type operations; the responsibility of all operational costs for all aspects of the park; and the proper financial separation of the foundation's park-related operations from its nonpark operations, as it relates to the overall Wolf Trap Farm Park operation. In regard to the latter, it is important that the foundation's operation of nonpark properties such as "the Barns" be properly financially and otherwise separated from its Government-related Wolf Trap Farm Park operations. To the extent there are current questions or problems related to these types of matters, the current cooperative agreement should possibly be amended.

Mr. Speaker, as I have already said, I believe this is a good and responsible bill. I urge my colleagues to lend their support to its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, before I make my statement, I want to pay special thanks to Chairman SEIBERLING and Chairman UDALL and Congressman LUJAN. The gentleman from Ohio (Mr. SEIBERLING) and the gentleman from New Mexico (Mr. LUJAN) have really made a difference in getting this out in a very quick and efficient manner. Had the Congress gone home before it acted, I think it would have meant that Wolf Trap would not be open

either next year or the year after that, probably.

So before I begin, I want to thank both of those gentlemen and their staffs for the great job they have done.

Mr. Speaker, I am pleased today to rise in support of this legislation, H.R. 6875, which authorizes the Secretary of the Interior to provide financial assistance for the reconstruction of the Filene Center, located at Wolf Trap Farm Park, a National Park Service facility in northern Virginia. This bill is the product of an agreement between the administration and the Wolf Trap Foundation to secure funding on a private/public partnership basis for the prompt rebuilding of the performing arts center which was destroyed by fire in April. Under this agreement, the Federal Government and the Wolf Trap Foundation are sharing the cost through a $9 million grant and an $8 million loan, with interest, to the foundation.

This effort between the Federal Government and the Wolf Trap Foundation will allow the Filene Center to be rebuilt at a cheaper cost than the Government alone would have been required to pay, since the private sector is sharing the cost. Under this bill, the prompt rebuilding of the Filene Center can begin which will also mean a cost savings to taxpayers since inflation and other factors would substantially add to the cost of a long-term government-only project.

Because the Federal Government owns and operates this park facility, I believe there exists an obligation for Federal involvement in its rebuilding. As a self-insurer, the Federal Government would have, in time, financed this project. Moreover, H.R. 6875 contains a provision to secure and maintain satisfactory insurance on the Filene Center, at the Wolf Trap Foundation's expense, for so long as the foundation has a cooperative agreement with the National Park Service.

Wolf Trap Farm Park Filene Center has provided evenings of great entertainment for millions of vistors from across the country and around the world besides serving residents in the Washington metropolitan area. The active interest and involvement of individuals and private businesses in this cooperative partnership is a clear expression of dedicated participation resulting in legislation signifying effective government working with, and for, the people.

I support passage of this bill as favorably reported by the Interior Committee and urge my colleagues to join in supporting this bill.

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Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to my colleague from Virginia.

Mr. PARRIS. Mr. Speaker, I appreciate the gentleman yielding, and I want to associate myself with the remarks of the previous speaker, particularly those of my colleague from Virginia, Mr. WOLF.

In a typically modest manner, he did not mention his literally untiring efforts on behalf of the reconstruction of Wolf Trap since the date of this tragic fire. I just want to thank him publicly for his leadership in the passage of this legislation and for this facility, which has been such a force in the cultural community of Northern Virginia.

Mr. WOLF. I thank the gentleman.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I just simply want to echo what our colleague from Virginia (Mr. PARRIS) said. We accept all the accolades and all that for doing our jobs. After all, the bill comes before us in the committee and we act on it, but the gentleman in the well, the gentleman from Virginia (Mr. WOLF) certainly deserves most of the credit. He kept after us and after us and after us until we finally got it done, and he deserves a lot of the credit.

Mr. WOLF. I thank the gentleman very much for those comments.

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I just wanted to take a brief moment to extend to the chairman of the subcommittee, Mr. SEIBERLING, and to our ranking member of the full committee, Mr. LUJAN, my own personal appreciation for the kind of attention given to the scheduling of the hearings and the movement on this reconstruction of the Wolf Trap facility.

I think those of us who have had the privilege of attending some of the events that have occurred out there have come to recognize that this is a true national treasure, so it is to that end that the reconstruction of Wolf Trap, which was in fact a sort of local disaster because of the fire, has the potential of having that new beginning and rebirth of the activity that made it the very fine facility it has been, and has attracted so many of the great talents from throughout the Nation and, in many cases, the world, to come to the Washington, D.C., area to add to the culture, to the arts, and the quality of performance we have observed.

I certainly want to extend my appreciation for the leadership of the committee, and also my appreciation to the gentleman from Virginia (Mr. WOLF) who certainly has, as has been stated, done yeoman work in presurring us to advance this legislation and to consider it here on the floor.

● Mr. BROYHILL. Mr. Speaker, the House of Representatives today has before it legislation which would provide a grant of $9 million and loans of $8 million to the Wolf Trap Foundation for the reconstruction of the Filene Center.

There is no other city in the United States which attracts as many visitors as Washington, D.C. As the Capital of our Nation, the people of Washington, D.C., have always been proud of its unparalleled cultural activities. The Filene Center at Wolf Trap Farm Park is recognized around the world as a great forum for the performing arts. It has hosted 23,000 artists and almost 6 million people since its opening in 1972.

The Wolf Trap farm was donated to the Federal Government by Mrs. Kay Shouse. Her generosity and the generosity of thousands of citizens combined with past appropriations from Congress has resulted in one of the finest outdoor parks in the Nation. This, combined with the Filene Center, a unique facility for the performing arts, makes Wolf Trap second to none in the country.

When fire destroyed the Filene Center, the Wolf Trap Foundation initiated a massive fundraising effort to rebuild the Center. The private sector is committed to raising half of the funds required. Since the Filene Center is a Federal facility and the Federal Government does not insure its property, I rise in support of this action to help restore Wolf Trap to its status as a great forum for the performing arts.●

● Mr. McCLORY. Mr. Speaker, one of the great tragedies of this century—certainly a monumental loss to our area and to the whole institution of American culture—was the disastrous destruction by fire of the Filene Center at the Wolf Trap Farm Park.

This great facility, made possible largely through the generosity and dedication of Catherine (Mrs. Jouett) Shouse, has served to entertain and enrich the lives of millions of Americans who have attended the musical and dramatic performances at this great cultural facility.

Mr. Speaker, my wife Doris and I have personally attended many of the programs at Wolf Trap, and we have participated in the activities with many public-spirited citizens who have supported the facilities at Wolf Trap. We are aware individually of the great benefits which have been derived by those who have visited Wolf Trap and have attended performances both within the enclosure of the Filene Center or on the grounds which surrounded this structure. Wolf Trap rivals some of those other comparable areas such as Ravinia Park near Chi-

cago, Robin Hood Dell near Philadelphia, Tanglewood near Boston, and the Hollywood Bowl near Los Angeles.

If permitted to have been insured, the funds would probably already be available and substantial reconstruction would now be in progress. However, being a Federal facility and, therefore, self-insured by the U.S. Government, the pending legislation, H.R. 6875, is necessary in order to provide a substantial portion of the financing for a new Filene Center. Certainly, no more enduring investment could be approved by this Congress and no more far-reaching benefits could be derived from any Federal appropriation or expenditure than those which are authorized by this legislation. Mr. Speaker, I commend Catherine Shouse on her great courage and determination to see that the Filene Center at Wolf Trap is rebuilt. She and the Center's Executive Director, Carol Harford, through their ingenuity and persistence have been able to maintain continuity in the cultural programs at Wolf Trap this year in a portable structure on loan from the Government of Saudia Arabia. Passage of the Wolf Trap Farm Park Act will assure that the Congress and the administration recognize the need to reestablish the permanent facility which can enable Wolf Tarp to fulfill its great cultural role in our area and our Nation.

Mr. Speaker, I urge the Members to give their wholehearted support to this measure.●

● Mr. UDALL. Mr. Speaker, today I am most pleased to offer for the consideration of the House H.R. 6875, the Wolf Trap Farm Park Act. I am sure that all of us will recall that on the night of April 4, 1982, the magnificient Filene Center at Wolf Trap Park was destroyed completely by fire. This was a tragic event for lovers of the performing arts not only in the Washington metropolitan area but also for those around the world. The Filene Center was certainly one of the most beautiful and cherished outdoor amphitheaters in the world and the programing there—from opera to jazz, from ballet to Chinese acrobats—provided something for everyone at a reasonable price.

The tragedy was further underscored by the fact that what was destroyed was a living monument to cooperation between generous American citizens and the Federal Government. For the Wolf Trap Farm Park became a unit of the national park system in 1966 when about 100 acres of rolling northern Virginia land, along with five buildings, were donated to people of the United States by Mrs. Jouett Shouse. The Filene Center itself was financed by private contributions and donated to the Federal Government. The partnership continued over the years as the Wolf Trap Foundation, a nonprofit group of prominent citizens representing the best in the fields of the performing arts, cultural and educational affairs, business and Government, conducted programing at the Filene Center and elsewhere in the park at the request of the Secretary of the Interior.

Now that fire has destroyed this immensely popular facility, today we are drawing on that same spirit of cooperation and dedication to rebuild the Filene Center. Because the Filene Center was owned by the Federal Government it did not carry private insurance. Instead, it was self-insured by the Government—in other words, the Government itself assumed the responsibility for replacing it in the event of a tragedy such as the one that occurred on the night of April 4.

As we soon discovered, the cost of rebuilding the Filene Center under this self-insurance policy would not be cheap—the latest estimates put the price tag at somewhere around $18 million. So the Park Service and the Wolf Trap Foundation have agreed to split the bill down the middle. In other words, the Federal Government will put up $9 million to reconstruct its facility, while the foundation pledges to generate from private sources the remaining $9 million. Already it has raised nearly $2 million. H.R. 6875 confirms this agreement and, in addition, provides that the Government may make loans to the foundation of up to $8 million at a 2 to 1 matching ratio, all loans to be repaid the Government within 5 years. In addition, the bill requires the foundation to maintain private insurance on the Filene Center so that we are never faced with this situation again.

The bill contains numerous provisions assigning responsibility for all reconstruction activities and guaranteeing close oversight by the responsible committees of the Congress. It also contains requirements that the Dulles highway corridor, about to be joined by a new four-lane toll road that will come within 300 feet of the Filene Center, not impair the usefulness of the Center, especially by generating intolerable noise.

Finally, the bill formally recognizes the unique partnership between the National Park Service and the Wolf Trap Foundation by instructing the Secretary to enter into a cooperative agreement, similar to the one now in effect, regarding the presentation of performing arts programing and related educational and cultural activities at the park.

Mr. Speaker, this is an excellent bill that we have worked on long and hard to guarantee that the magnficient Filene Center is returned to the people but that it be done at minimal cost to the taxpayers and that all activities associated with the reconstruction be closely scrutinized by the Park Service and Congress. The bill is supported by the adminstration and was reported out of the Interior and Insular Affairs Committee without opposition. I urge my colleagues to support this bipartisan effort.●

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) to suspend the rules and pass the bill, H.R. 6875, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the RECORD on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GRAZING IN CAPITOL REEF NATIONAL PARK

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1872) to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes, as amended.

The Clerk read as follows:

S. 1872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Where any Federal lands included within the boundary of Capitol Reef National Park are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1987,

notwithstanding the provisions of section 3 of the Act of December 18, 1971, entitled "An Act to establish the Capitol Reef National Park in the State of Utah" (85 Stat. 740; 16 U.S.C. 273b), the Secretary of the Interior shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1987.

SEC. 2. The Secretary of the Interior, acting through the Director of the National Park Service, shall take such steps as may be necessary to, within ninety days after the enactment of this Act, enter into a contract

with the National Academy of Sciences for the purpose of conducting a study of grazing in Capitol Reef National Park and vicinity to:

(1) determine the historic and current impact of grazing upon the natural ecosystem and cultural resources of the park;

(2) determine the impacts of grazing upon visitor use within the park;

(3) evaluate alternatives to grazing within Capitol Reef National Park including means to increase grazing carrying capacity on adjacent Bureau of Land Management lands;

(4) determine the economic impact upon grazing permit holders, and on the local economy, if such permits were terminated; and

(5) include such other information and findings as may be deemed necessary by the Director of the National Park Service.

Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Director of the National Park Service no later than January 1, 1987. Progress reports regarding the study shall be transmitted to the above Committees on January 1, 1984, and January 1 of each year thereafter.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Nothing in this section shall be construed to prevent the Secretary of the Interior from utilizing, for purposes of the contract referred to in section 2, funds which are available to the Secretary for such purposes under authority of law.

The SPEAKER pro tempore. Is a second demanded?

Mr. HANSEN of Utah. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Utah (Mr. HANSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1872 would direct the Secretary of the Interior, acting through the Director of the National Park Service, to take appropriate action during 90 days, to execute a contract with the National Academy of Sciences for the purpose of conducting a 4-year study of grazing at Capitol Reef National Park, in the State of Utah. In addition, the bill would allow the persons currently holding grazing privileges which would be subject to termination, under existing law, before December 31, 1987, to retain those privileges until that date.

Capitol Reef National Park was established by the act of December 18, 1971, which redesignated the Capitol Reef National Monument previously established by Executive order, as a national park. The 1971 act provided that the Secretary was to allow holders of existing grazing permits and their heirs to continue to exercise those permits during the term of the permit and one period of renewal thereafter.

The first of the grazing permits within Capitol Reef National Park were scheduled for termination during 1982.

Hearings were held by the Subcommittee on Public Lands and National Parks on S. 1872 and on a similar bill, H.R. 5892 introduced by our colleague from Utah, JIM HANSEN, on August 10, 1982. Both bills would have extended grazing privileges in the park, held by current permittees through the life of the permittee and the life of any family heir. Testimony presented at the hearing convinced the subcommittee that there was insufficient information regarding the problems of grazing within Capitol Reef National Park to overturn the existing law. Accordingly, the Committee on Interior and Insular Affairs adopted the language we have before us today.

Mr. Speaker, I believe the bill, as amended, provides the means to acquire the information that the Congress will need to properly consider this complex problem, and maintains the status quo as far as the existing permittees are concerned until such time as the Congress does act after receiving the appropriate information from the National Academy of Sciences. I recommend that the House act favorably on this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN of Utah. Mr. Speaker, I rise in support of S. 1872, and I yield myself such time as I may consume.

Mr. Speaker, if you look at the history of this particular park we are looking at today, originally this was a national monument, and during the Johnson administration it was changed to a park. At that particular time it was worked out in the House and the Senate to be 40,000 acres, and later it was changed in the last 90 minutes of President Johnson's term to be 245,000 acres.

So, here we find in two little counties, Wayne County and Garfield County in Utah, that their main support is agriculture. The main part of the agriculture is grazing Hereford cattle. We now find that phasing these people out, these ranchers, who since 1880 have depended upon this particular livelihood, which is the tax base of these two counties, and those folks who come from the East, I do not know if they can appreciate the size of these counties where possibly the largest city is 600 people and some areas have just received electricity 10 years ago, now find that the tax base will be seriously eroded.

Contrary to people's belief, people coming through the area in the way of tourism do not add anywhere near the amount of money that should be expected. Therefore, if we look at this group of ranchers and find them in a situation of, how do they take care of this ranch. Those Members who have been through this Capitol Reef area will find that there is only a very small part of it that the tourist actually stop to look at; a beautiful place of rocks in an area where most of it is not even accessible unless it is by four-wheel drive vehicles which now are eliminated because of various reasons, and they have to go in by horseback.

It is these areas that are inaccessible where we are finding the cattle that are grazing. I have a hard time believing that a few white-faced cattle in any way take away from the esthetics of this beautiful area.

Therefore, I appreciate the work of Chairman SEIBERLING, that he has seen fit to hold these hearings to extend the livelihood, the very lifeblood of Wayne County and Garfield County, that they can continue with the base as it is looked at by the National Academy.

I would also like to point out that when we are asked the question are we hurting the range, can anyone imagine a man whose very livelihood depends on this range, having those cattle in there, that he would in any way desecrate or hurt in any way, shape or form this particular range? These are the custodians and the stewards of it. These are the people that have a greater interest in it than any range ecologists or any environmentalists or any person from anywhere in the world. I certainly cannot believe that these people would want to hurt it in any way, shape or form.

Therefore, I am happy and pleased that we are able to get it this far, and I hope that this will go through because if it does not make it, we have in effect slit the throats of 41 families and the whole economic base of two counties. I feel that this is a reasonable, prudent thing, and hope it will be passed. I urge this body to pass it.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. HANSEN of Utah. I yield to the distinguished ranking minority member of our committee, the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, when Capitol Reef National Park was authorized by the Congress in 1971, it provided for the phaseout of commercial livestock graz-

ing to occur in following years. Such livestock grazing is traditionally considered to be antithetical to the objectives of the preservation of natural ecosystems in national parks, and this policy and philosophy contributed to the phaseout rationale adopted in the 1971 act.

The bill before us, however, proposes to extend the phaseout deadline by 5 years, which would permit continued grazing operations by a number of affected persons during that period. During the first 4 years of that period, a professional study would be conducted by the National Academy of Sciences, to determine the effect of the grazing on the natural ecosystem and on visitor use, and to determine the economic effect of a phaseout on the local economy and on the permit holders.

Mr. Speaker, this is a simple bill, and I have no further comments to make on it.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 1872, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to provide for a study of grazing phaseout at Capitol Reef National Park, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the RECORD on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PELL GRANT MODIFICATIONS

Mr. SIMON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7048), to require a separate family contribution schedule for Pell grants for academic years 1983-84 and 1984-85, to establish restrictions upon the contents of such schedule, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

MAXIMUM PELL GRANT

SECTION 1. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 under such Act shall not exceed $1,800 or 50 per centum of the cost of attendance (subject to section 3 of this Act) at the institution at which the student is in attendance.

SEPARATION OF PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 2. The Secretary of Education shall establish or approve separate systems of need analysis for academic year 1983-1984 and for academic year 1984-1985 for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act of 1965.

COST OF ATTENDANCE

SEC. 3. Notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1983-1984

SEC. 4. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such Grants for the academic year 1983-1984.

(b) Each of the amounts allowed as an offset for family size in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for academic year 1982-1983 by 7.3 per centum, and rounding the result to the nearest $100.

(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be published in the Federal Register not later than fifteen days after the date of enactment of this Act.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1984-1985

SEC. 5. (a)(1) Except as provided in subsection (b), the family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by April 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives on the date of such publication.

(2) The proposed schedule shall be subject to public comment for thirty days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than May 15, 1983, for the academic year 1984-1985.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution schedule for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before July 1, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than fifteen days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984-1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. If the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(c)(1) Each of the amounts allowed as an offset for family size in the family contribution schedule for academic year 1984-1985 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for academic year 1983-1984 (as set by section 4(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes for paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers is the change, expressed as a percent, between the arithmetic mean of such Consumer Price Index for the period from October 1, 1981, through September 30, 1982, and the arithmetic mean of such Index for the period from October 1, 1982, through September 30, 1983.

(3) The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of this subsection immediately after publication by the Secretary of Labor of the Consumer Price Index for September 1983.

(d) If, under subsection (a) or (b), the family contribution schedule for academic year 1983-1984 is required to be the family contribution schedule for academic year 1984-1985, the family contribution schedule for academic year 1983-1984 shall be modified by the Secretary of Education for use for academic year 1984-1985 to reflect the most recent and relevant data.

(e) The modified family contribution schedule under subsection (d) shall be published in the Federal Register not later than July 15, 1983.

LINEAR REDUCTION OF PELL GRANTS

SEC. 6. (a) Section 411(b)(3) of the Higher Education Act of 1965 is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

"(I) the full amount for any student whose expected family contribution is $200 or less, or

"(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.".

(b) The amendment made by subsection (a) of this section shall be effective with respect to the computation of Pell Grants under section 411 of the Higher Education Act of 1965 for academic year 1983-1984 and for succeeding academic years.

VETERANS ELIGIBILITY FOR PELL GRANTS

SEC. 7. Notwithstanding any other provision of law, such sums as may be necessary not to exceed $30,000,000 of the amount appropriated by Public Law 97-257 for Pell Grants shall be available for the purpose of restoring eligibility for (and the amount of) Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97-92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. The Secretary of Education shall take such steps as may be necessary to notify such individuals of such restored eligibility and to make appropriate allocations of the sum reserved by the preceding sentence.

The SPEAKER pro tempore. Is a second demanded?

Mr. ERLENBORN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. SIMON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not take the 20 minutes on a bill that is important to this body and to the Nation. This bill was cosponsored by every member of the Subcommittee on Postsecondary Education. Let me pay tribute to my colleagues, the ranking member of the Committee on Education and Labor on the other side, my colleague from Illinois (Mr. ERLENBORN), and the ranking member of the full committee, the minority spokesman there, Mr. COLEMAN of Missouri.

□ 1500

This bill was passed out of committee unanimously. It is supported by the entire Committee on Education and Labor, and let me add that the chairman of the full committee (Mr. PERKINS) would be here to join in the discussion were he not involved right now in conference.

H.R. 7048 establishes a statutory family contribution schedule for the Pell grant program for the 1983-84 year and a mechanism for assuring that a family contribution schedule is in place for the 1984-85 school year if the Secretary of Education fails to timely publish and submit the 1984 schedule. The timetable has existed in law for many years. However, the Department, both HEW and the new Department of Education, have failed since the 1978-79 school year to submit the schedule on time.

Although the 1983-84 schedule was to be published in the Federal Register on April 1, 1982, for public comment and submitted to the Congress as a final rule for congressional review by July 1, 1982—the Department did not publish the proposed rule until August 2, 1982—more than 4 months late. This year's delay not only promises to delay the processing of Pell grant applications next year, but has already seriously interfered with the preparation and publication of the forms—private and Federal—which are usually available about October 1 of each year for use in the subsequent year's application process.

H.R. 7048 is the only way to assure that Pell grants for the 1983-84 school year will be processed on time and the forms for applying for all Federal aid and most State and institutional scholarship programs will be made available in a timely manner. Although the Department has expressed its objection to parts of the bill, the Secretary's regulatory authority has been preserved if he complies with the law and submits the 1984-85 family contribution schedule on time.

It is important that we move, and that schools and those who process the forms know what is happening. This simply assures that that can take place. It does not take away authority from the Secretary of Education if suggestions for modification are received on time. H.R. 7048 is our way of assuring that.

In addition, H.R. 7048 does the following:

It establishes an $1,800 maximum grant for 1983-84, the 1983 fiscal year, which is the same as the current law; it separates the needs analysis for families' income and assets for the Pell grant from the campus-based programs, the SEOG, work study, and NDSL; it substitutes a more progressive linear reduction system for the current ratable reduction system in the event that the Pell grants are not fully funded in the appropriations process; and it restores the eligibility of Vietnam-era and other veterans for Pell grants for fiscal year 1982-83 and succeeding years.

Here, Mr. Speaker, let me pay tribute to my colleague, the gentleman from Pennsylvania (Mr. EDGAR), and my colleague, the gentleman from Mississippi (Mr. MONTGOMERY), who has also expressed an interest in this problem. For those Members who may have received mail in their districts about veterans being knocked out of Pell grants or veteran's assistance, this will take care of that particular problem.

I want to impress upon my colleagues that there are no cost implications in the sense that we are going above what we have done already. There are cost implications in the sense that we are above what the administration has requested, but here, if the Appropriations Committee and the authorizing committee wish to restrict, they have that ability.

Mr. Speaker, I would finally underscore the importance of the House taking prompt action. The other body has already acted last Thursday on this. It is a matter of no small importance to the schools and to the students of this Nation. I hope we can move ahead and move rapidly, and I urge support for this bill.

● Mr. PERKINS. Mr. Speaker, I rise in support of H.R. 7048. This bill has two major purposes.

First, it makes available to veterans Pell grants which they have been denied for this current school year. This amendment is necessary because of a change in the law adopted last year dealing with the treatment of veterans' benefits in determining eligibility for Pell grants. Unfortunately that modification, which was proposed by the Reagan administration, has meant that hundreds and hundreds of veterans were abruptly denied Pell grants when they enrolled in school this September. Most of these veterans were denied these funds without any prior notice.

This amendment reserves up to $30 million for this purpose from the recently enacted supplemental appropriations of $140 million for the Pell grant program. This is the amount which the Department estimates would be the maximum needed to restore veterans to their eligibility for these grants. The remainder of this $140 million would be used to fully pay $1,800 maximum grants to eligible recipients.

The Committee on Education and Labor adopted this amendment due to our concerns about this problem and due to strong urgings from Congress-

man NEAL SMITH from Iowa and Congressman BOB EDGAR from Pennsylvania. Mr. SMITH was an ardent advocate of restoring these benefits to these veterans, and he deserves a good measure of credit for our committee's taking this action. Congressman EDGAR introduced a bill to correct this problem, and he vigorously argued before our committee on behalf of these veterans.

The second major purpose of this bill is to bring stability to the Pell grant program through requiring an automatic updating of the previous year's family contribution schedule for the next 2 academic years, 1983-84 and 1984-85, whenever the Department of Education fails to comply with the legislatively mandated time schedule for the submission of these income schedules.

This amendment is needed because the administration has dragged its feet for the past 2 years in complying with the time schedules for the Pell grant program. The effects of that laxness have been enormous uncertainty among students as to their receipt of financial student aid and tremendous administrative backlogs in campus student aid offices.

Recent studies have shown that these uncertainties about student aid have caused a number of students to shift from private universities to lower cost public colleges and universities. Some studies have even shown that students have not been able to enroll in higher education at all due to these financial uncertainties.

We must bring some order to Federal student aid programs, or we run the risk of harming the future social and economic well-being of our country through dampening our citizens' drive for greater education.

Mr. Speaker, for these reasons I urge the House to approve this bill, and I highly compliment Congressman PAUL SIMON, chairman of our Subcommittee on Postsecondary Education, for bringing this bill to the floor so promptly. I also congratulate TOM COLEMAN, the ranking minority representative on the subcommittee, and all of the other members of that subcommittee.●

Mr. ERLENBORN. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to make certain that we have on the record the fact that the administration does strongly oppose this bill for several reasons. According to the administration's projections, this bill could cost, if fully funded, a total of $1.2 billion above the administration's fiscal year 1983 budget request.

I would point out on that score that I recognize the committee has brought forth a bill that comes within the congressional budget request. I think that is what we have to operate under, but since the administration is so strongly opposed to this bill, I think we ought to recognize that there is a threat of the administration's taking some kind of action in the way of a veto if it is not changed.

Mr. SIMON. Mr. Speaker, will the gentleman yield on that point?

Mr. WALKER. I am glad to yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I just wonder how recently the gentleman has talked with the administration on this. I have had some conversations with people high in the administration, and there is some indication that they may not oppose the legislation. I am not saying that they are not oppose to it, but they may not be in opposition and there is a possibility that the President may sign the bill.

Mr. WALKER. Mr. Speaker, I thank the gentleman for making that point. What I have is a paper that was prepared over the weekend. The gentleman may have more current information than I do.

I just thought it was well to raise these objections because the Members do not want to get caught in a bind because they were not even aware that the administration did have some problems with this legislation. From my personal standpoint, I do not know that I do have any serious problems with it.

The main issue that I have as a problem that the administration is raising is the fact that we are going to back down on the double funding question that supposedly was resolved in the reconciliation bill of 1981. The administration has expressed some concerns about that. I have some concerns about that because that does have a budget impact, not only in the current year but in the years ahead, if we reinstate that double funding procedure.

So, Mr. Speaker, in that case I think we might want to look at this bill closely. That one point does concern me. It would not cause me to vote against the bill as a whole, but I do raise it as a concern where I think the administration does have some legitimate fears.

Mr. SIMON. Mr. Speaker, if the gentleman will yield, I simply want to say that as of last Thursday I talked to someone very high in the administration and the indication was at that point that there seemed to be a reasonable possibility that the President would sign this bill.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Illinois (Mr. SIMON).

There was one other concern that the administration did raise about the bill, and that is that they do feel the Secretary's flexibility to modify family contribution schedules would be upset by this bill.

I understand why the committee is taking the action it is taking, but once again, I think the administration's views on this should be expressed.

Mr. Speaker, I just wanted to make the point that because of the administration's objections to the bill and because there is some controversy about a bill of this magnitude coming up on the Suspension Calendar, I do want to be assured that the Members of the House have an adequate opportunity to cast a vote on this question, and so I, therefore, will ask for a record vote on this particular bill.

Mr. Speaker, again I thank the gentleman from Illinois (Mr. ERLENBORN) for yielding this time to me.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7048.

This legislation is the result of close cooperation between the majority and the Republican members of the Subcommittee on Postsecondary Education. In drafting H.R. 7048, the subcommittee sought to address the problem of an unsatisfactory Pell grant regulation issued over 3 months behind the schedule called for in the Higher Education Act, while making minimal legislative changes.

The regulation in question was issued by the Department of Education on August 2. It is unsatisfactory because it is designed to force a severe reduction in Pell grant appropriations through a series of significant program changes. These changes would, in my view, result in an unreasonable burden being placed on the families of low-income college students.

Many of these changes were contained in an administration bill which radically altered the data elements used in assessing the need for a Pell grant. This bill called for the elimination of consideration of items such as number of family members in postsecondary institutions and home equity. Other significant changes were contained in the proposed regulation.

Unfortunately, because the August 2 regulation was published 3 full months behind schedule, there was no time for the Subcommittee on Postsecondary Education to consider the administration's proposed legislative changes. Because of the effect these changes would have had on the Pell grant eligibility of thousands of low-income students extensive hearings were essential. Proper consideration of the administration bill, however, would have delayed the timetable for Pell grants for the 1983-84 academic year to the point of crisis. This crisis would have consisted of wholly unnecessary confusion resulting in many of this country's poorest college students

not knowing what, if any, Pell grant assistance would be available to them.

H.R. 7048 seeks to prevent such a crisis from arising. It is intended to override the August 2 regulation and set into law the parameters for the awarding of Pell grants for the 1983-84 academic year. These parameters are directly based on those in place for the 1982-83 academic year, just now underway.

In addition to correcting the immediate problem of establishing a family contribution schedule for the 1983-84 academic year, the bill also attempts to address the problem of delays in the 1984-85 schedule. H.R. 7048 establishes a mechanism which will assure the timely promulgation of the family contribution schedule for the 1984-85 academic year. In my view, enactment of this particular provision will help us avoid a repeat next year of the highly undesirable position we are now in of facing an unsatisfactory regulation with only a few legislative days remaining in the session.

In closing, I want to emphasize that H.R. 7048 will not increase 1983 appropriations for Pell grants. The bill is neutral with regards to appropriations and authorizations. In fact, because the legislation enacts new language for the distribution of Pell grants in the event of less than full appropriations, it actually will make it easier for Congress to adjust funding to account for limitations set in the budget process.

H.R. 7048 is a sound bill which is needed to assure the smooth operation of the Pell grant program. I urge passage of the bill.

● Mr. MONTGOMERY. Mr. Speaker, I want to compliment the gentleman from Illinois (Mr. SIMON), chairman of the Education and Labor Committee's Subcommittee on Postsecondary Education, for bringing this bill before the House.

As I understand it, among other things, the bill would direct the Education Department to set aside $30 million of the $140 million in supplemental appropriations for veterans. In addition, the bill would require that half rather than all of the student benefits be counted toward student income to establish eligibility.

Mr. Speaker, earlier this year joint hearings were held on this issue. BOB EDGAR, chairman of our Subcommittee on Education, Training and Employment, conducted hearings with Mr. SIMON and his subcommittee. It was generally agreed that a change should be made in determining veterans' eligibility for grant programs administered by the Office of Education. I compliment both the gentleman from Pennsylvania (Mr. EDGAR) and the gentleman from Illinois (Mr. SIMON) for working together to bring about a change I think will be in the best interest of our Nation's veterans.●

● Mr. DENARDIS. Mr. Speaker, I would like to express my support for H.R. 7048, a bill to establish a family contribution schedule (FCS) for the Pell grant program for academic year 1983-84 in law.

The family contribution schedule for the Pell grant program, normally promulgated through regulation by the Department of Education, is the basis for the formula by which Pell grants are made to needy students. The formula is an essential step in the process of obtaining sutdent assistance, and therefore, it is key that the formula be available at an early enough date to be of use to high school counselors, high school and college students, their parents, and the colleges and universities themselves.

The family contribution schedule for the next academic year was due to be issued on April 1, 1982. The Department of Education instead sent the family contribution schedule to Congress 4 months late in August. Clearly, the Department of Education failed to meet the statutory deadline in promulgating this proposed regulation. If we continue to follow the timetable which allows a comment period on the proposed regulation, then publication of the final regulation, and thena a congressionan review priod before the regulation becomes effective, we are delaying the process of determining eligibility for Pell grants even more. Already, the delay is being felt by high school and college counselors who are unable to give their students, who are trying to make their plans for the next school year, any firm idea of what the eligibility requirements might be. Another problem created by adherence to the regulation timetable would be that the Congress would not have any say on the final rule issued by the Department of Education because, most likely, the Congress will be in adjournment when that rule is published. If the Department continues to base its formula on a low funding level, as they have done so with the proposed family contribution schedule—all indications are that they will do so—then the final family contribution schedule would be unacceptable, too. However, if the Congress has adjourned, nothing could prevent the Department from implementing that schedule.

H.R. 7048 would remove the uncertainty associated with next year's family contribution schedule by setting it into law right now. The family contribution schedule for academic year 1984-85 would also be established if the Department of Education does not act according to the statute in a timely fashion. Very simply, H.R. 7048 would base next year's family contribution schedule on the one being used this year, updated for inflation by 7.3 percent. By setting into law the family contribution schedule for next year, we are sending a signal to students and colleges across the country which shows our concern for the Pell grant program and for the low-income student who benefits from this program.

The Pell grant program serves the neediest students who are pursuing a higher education. Last year, approximately 2.7 million students were served. The majority of those students had family incomes of $15,000 or below. By enacting H.R. 7048, we are helping these students who have the greatest need. If we fail to enact this bill, we are throwing into jeopardy their academic plans, hopes, and futures.●

● Mr. BIAGGI. Mr. Speaker, I rise to urge support of this legislation before us, H.R. 7048, which would establish a statutory contribution schedule for the Pell grant program for the next school year. As a consponsor of this legislation, I urge its immediate adoption.

The issue of delays in the processing of Pell grants is not new. Each and every year, colleges finaicial aid officials are plagued by the lack to timely publication of this schedule, which assists them in determining the amount of awards that eligible students will receive under this program. It takes into accoaunt both student and family assets, as well as student need. This year we are again faced with an inordinate delay in the publication of this proposed schedule—4 months after the deadline set forth in law and 33 days after the final rule was to be published. This is clearly unacceptable.

This bill, which enjoys bipartisan support in the Education and Labor Committee—where I am the ranking New York member—will put an end to this delay once and for all. It would provide a family contribution schedule for the 1983-84 academic year similar to this year's schedule. It would also provide for a backup provision which would give us a contribution schedule for the following 1984-85 year if again, the IYS publication is subject to inordinate and unnecessary delays by the Secretary. Finaly, it would grant long overdue peace of mind to both families and schools to allow for appropriate financial planning at a time when resources to pay for college expenses are being stretched to the brink.

I am also very supportinve of the provisions in H.R. 7048 which would reestablish veterans benefits being counted as in previous years. This year, veterans benefits are being counted as students aid, thus making a majority of veterans ineligible for Pell grants. Such a provision is a direct slap in the face of the hundreds of thousands of noble men and women who served their Nation in time of war and in time of peace. The benefits they receive are but a small repayment that we can make to them in

return for their service. To discount them from this program in such a mannger is foolhardy and ill-conceived at a time when the majority of veterans are seeking to retrain and educate themselves so that they can return to civilian life as productive members of society. This bill will assist in this effort by insuring that they remain eligible for this important education aid program.

This bill is a timely response to the pressing need to provide a minimal guarantee to families and schools that the Pell grant contribtuion schedule can and should be removed from partisan, political bickering. I urge my colleges to join us in supporting this proposal.●

Mr. ERLENBORN. Mr. Speaker, I have no further requests for time.

Mr. SIMON. Mr. Speaker, I have no further requests for time.

□ 1510

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and pass the bill, H.R. 7048, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMUNITY SERVICES BLOCK GRANT ACT AMENDMENTS

Mr. SIMON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7065) to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

The Clerk read as follows:

H.R. 7065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 682(b)(4) of the Community Services Block Grant Act (42 U.S.C. 9911(b)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) by inserting "or to entities designated under subparagraph (B)" before the period at the end thereof; and

(3) by adding at the end thereof the following new subparagraph:

"(B)(i) In any case in which a community action agency is denied refunding or is terminated for cause by the Secretary during fiscal year 1982 (regardless of whether such community action agency seeks review of such determination), the Secretary, with the concurrence of the chief executive officer of the State involved, may designate another public or private nonprofit agency to administer a community action program (as defined in section 210(a) of the Economic Opportunity Act of 1964, as in effect on September 30, 1981) in the same community.

"(ii) If, after the Secretary makes a designation under clause (i) and before the State involved begins operating programs under the block grant established in this subtitle, a final determination is made to restore funding to the community action agency which was terminated or whose refunding was denied, than the agency designated under clause (i) shall lose its designation (as of the effective date of such final determination).

"(iii) Notwithstanding the foregoing provisions of this section, if the Secretary makes a designation under clause (i), then the agency so designated shall be considered to be an eligible entity for purposes of this subtitle through fiscal year 1983.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. SIMON) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

H.R. 7065 is a bill which makes a technical clarification to the community services block grant. This bill will enable the Department of Health and Human Services to designate an interim community services agency in Sacramento, Calif., to replace the previous agency that was defunded by the Department earlier this year.

This bill is noncontroversial. It has the support of the majority and minority as well as the support of the Department of Health and Human Services. It will not adversely impact on any other community, and the bill will cost no additional money. It will simply allow Sacramento to receive its fiscal year 1982 community services funds.

Mr. Speaker, I urge my colleagues to support the passage of this technical amendment.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7065.

This legislation makes a small technical clarification in the Community Services Block Grant Act enacted by Congress in reconciliation last year.

H.R. 7065 involves no new commitment of funds and was drafted in close cooperation with the Department of Health and Human Services. It will have absolutely no adverse effect on any other community action agency serving other communities.

I urge adoption of the bill.

Mr. SIMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MATSUI).

I want to add my commendation to him for his vigorous pursuit of this problem which impacts on his community.

Mr. MATSUI. Mr. Speaker, first I would like to thank the gentleman from Illinois (Mr. SIMON) for carrying this matter to the floor today. I appreciate his efforts very much and, of course, the gentleman from North Carolina (Mr. ANDREWS) and the gentleman from Connecticut (Mr. RATCHFORD) were extremely helpful in committee. Again I would like to also thank the gentleman from Illinois (Mr. ERLENBORN) on the minority side of the aisle.

Mr. Speaker, the bill is a technical clarification of the Community Services Block Grant Act. It is entirely noncontroversial, will cost the Treasury no additional funds, and will simply enable the community of Sacramento, Calif., to collect its $758,000 in community services funds for fiscal year 1982.

Earlier this year, the Department of HHS, with the full concurrence of local elected officials, defunded Sacramento's community services agency. The Department then said, however, that it lacked authority under the Community Services Block Grant Act to designate an interim agency that could handle community service programs until the block grant took effect in fiscal year 1983. As a result, Sacramento was unable to receive its funds.

Despite repeated attempts to work out an administration solution to this problem with HHS, we have been forced to resort to a legislative remedy.

H.R. 7065 will clarify that the Secretary of HHS has authority to designate an interim community services agency when the previous agency has been defunded or terminated for cause.

The bill is noncontroversial. It has received the support of the Department of HHS, which has determined that the bill will not adversely impact any other communities.

It is important that the bill be passed into law before the end of the fiscal year. Otherwise, Sacramento will lose the money.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr.

SIMON) that the House suspend the rules and pass the bill, H.R. 7065.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PUBLIC HEALTH SERVICE AMENDMENTS

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6458) to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

THE ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION AND THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, AND THE NATIONAL INSTITUTE ON DRUG ABUSE

SECTION 1. (a)(1) Title V of the Public Health Service Act is transferred to the end of the Public Health Service Act and redesignated as title XXI and sections 501 through 515 are redesignated as sections 2101 through 2115, respectively.

(2) Sections 217(c), 217(d), and 384 of the Public Health Service Act (42 U.S.C. 218 and 278) are each amended by striking out "501" and inserting in lieu thereof "2101".

(b)(1) The Public Health Service Act is amended by inserting after title IV a new title designated as follows:

"TITLE V—ADMINISTRATION AND COORDINATION OF THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, AND THE NATIONAL INSTITUTE ON DRUG ABUSE

"PART A—ADMINISTRATION AND INSTITUTES".

(2) Section 201 of the Act of May 14, 1974 (42 U.S.C. 3511) is transferred to title V of the Public Health Service Act established by paragraph (1), redesignated as section 501, and amended—

(A) by striking out "of Health, Education, and Welfare" each place it occurs;

(B) in subsection (c), by striking out "of the Public Health Service Act"; and

(C) by adding at the end the following:

"(e) There shall be in the Administration an Assistant Administrator to whom the Administrator shall delegate the function of promoting the prevention research programs of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and coordinating such programs between the institutes and between the institutes and other public and private entities.

"(f) The Administrator shall establish a process for the prompt and appropriate response to information provided the Administrator respecting (1) scientific fraud in connection with projects for which funds have been made available under this Act, and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this Act." The process shall include procedures for the receiving of reports of such information from recipients of funds under this Act and taking appropriate action with respect to such fraud and violations.".

(3) Section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is transferred to title V of the Public Health Service Act, inserted after the section 501 inserted by paragraph (2), redesignated as section 502, and amended—

(A) in subsection (a)—

(i) by striking out "this Act" the first time it occurs and inserting in lieu thereof "this section",

(ii) By striking out "assigned to the Secretary of Health and Human Services hereafter in this Act referred to as the Secretary')" and inserting in lieu thereof "related to alcohol abuse and alcoholism assigned to the Secretary", and

(iii) by striking out "of the Public Health Service Act",

(B) by amending subsection (d) to read as follows:

"(d) The Director of the institute shall establish in the Office of the Director an office to administer and promote the prevention research programs of the institute.", and

(C) by amending the section heading to read as follows:

"NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM"

(4) Section 501 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 502 inserted by paragraph (3) of this subsection, redesignation as section 503, and amended—

(A) in subsection (a)—

(i) by inserting SEC. 503." before "(a)",

(ii) by striking out "this title" and inserting in lieu thereof "this section",

(iii) by striking out "of the Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') with respect to drug abuse prevention functions" and inserting in lieu thereof "relating to drug abuse assigned to the Secretary by this Act", and

(iv) by striking out "of the Public Health Service Act",

(B) by striking out "(hereinafter in this title referred to as the 'Director')" in subsection (b)(1),

(C) by amending subsection (d) to read as follows:

"(d) The Director of the institute shall establish in the Office of the Director an office to administer and promote the prevention research programs of the institute.", and

(D) by striking out the section heading "§ 501. Establishment of Institute" and inserting in lieu thereof the following:

"NATIONAL INSTITUTE ON DRUG ABUSE"

(5) Subsection (a) of section 406 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to section 503 (as so redesignated), inserted after subsection (d), and redesignated as subsection (e).

(6) Section 455 of the Public Health Service Act is inserted in title V of the Public Health Service Act after the section 503 inserted by paragraph (4) of this subsection, redesignated as section 504, and amended—

(A) by striking out "designate an administrative unit in the Institute" in subsection (d) and inserting in lieu thereof "establish in the Office of the Director an office", and

(B) by striking out "and" at the end of paragraph (2) of such subsection, by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding after paragraph (3) the following new paragraph:

"(4) administer and promote the prevention research programs of the Institute.".

(7) The following sections are inserted in title V of the Public Health Service Act after the section 504 inserted by paragraph (6):

"REPORTS ON ALCOHOLISM, ALCOHOL ABUSE, AND DRUG ABUSE

"SEC. 505. (a) The Secretary shall submit to Congress on or before the expiration of the one-year period beginning on the date of the enactment of this section and every three years thereafter a report—

"(1) containing current information on the health consequences of using alcoholic beverages,

"(2) containing a description of research findings made with respect to alcohol abuse and alcoholism, and

"(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

"(b) The Secretary shall submit to Congress on or before the expiration of the one-year period beginning on the date of enactment of this section and every three years thereafter a report—

"(1) describing the health consequences and extent of drug abuse in the United States;

"(2) describing research findings made with respect to drug abuse; and

"(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

"PEER REVIEW

"SEC. 506. (a) The Secretary, after consultation with the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse shall by regulation require appropriate technical and scientific peer review of biomedical and behavioral research and development grants, cooperative agreements, and contracts to be administered through the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse.

"(b) Regulations promulgated under subsection (a) shall require that the review of grants, cooperative agreements, and contracts required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of the Health

Research Act of 1982 to grants under this Act for biomedical and behavioral research, and,

"(2) to the extent practical, by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(d) The Administrator of the Administration shall establish procedures for periodic, technical, and scientific peer review of research at the National Institute of Mental Health, and National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. Such procedures shall require that—

"(1) the reviewing entity be provided a written description of the research to be reviewed; and

"(2) the reviewing entity provide the advisory council of the institute involved with such description and the results of the review by the entity.".

(8) The following heading is inserted in title V of the Public Health Service Act after the section 506 inserted by paragraph (6):

"PART B—RESEARCH

"Subpart 1—Alcohol Abuse and Alcoholism"

"(9) Sections 501, 503, and 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are transferred to the subpart 1 of part B of title V of the Public Health Service Act established by paragraph (7), redesignated as sections 510, 511, and 512, respectively, and amended as follows:

(A) Section 510 (as so redesignated) is amended—

(i) by striking out "the Institute" in subsection (a) and inserting in lieu thereof "the National Institute of Alcohol Abuse and Alcoholism (hereinafter in this subpart referred to as the 'Institute')",

(ii) by striking out "and such Council shall give" in subsection (b)(3) and inserting in lieu thereof "giving", and

(iii) by amending the section heading to read as follows:

"ALCOHOL ABUSE AND ALCOHOLISM RESEARCH".

(B) Section 511 (as so redesignated) is amended—

(i) by striking out the last sentence of subsection (a),

(ii) by striking out the second sentence of subsection (b),

(iii) by striking out "of the Public Health Service Act (42 U.S.C. 292a)" in subsection (b), and

(iv) by striking out subsection (c).

(C) Section 512 (as so redesignated) is amended—

(i) by striking out "this title" and inserting in lieu thereof "this subpart",

(ii) by inserting before the period at the end of the first sentence a comma and the following: "and $33,000,000 for the fiscal year ending September 30, 1983, $50,000,000 for the fiscal year ending September 30, 1984, and $75,000,000 for the fiscal year ending September 30, 1985", and

(iii) by striking out "section 503" and inserting in lieu thereof "section 511".

(10) The following heading is inserted in title V of the Public Health Service Act after the section 512 inserted by paragraph (8):

"Subpart 2—Drug Abuse Research".

(11) Section 503 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to the subpart 2 of part B of title V established by paragraph (10), redesignated as section 515, and amended—

(A) by striking out "The Director" the first time it occurs in subsection (a) and inserting in lieu thereof "The Director of the National Institute of Drug Abuse",

(B) by inserting before the period in subsection (c) a comma and the following: "$47,000,000 for the fiscal year ending September 30, 1983, $53,000,000 for the fiscal year ending September 30, 1984, and $59,000,000 for the fiscal year ending September 30, 1985",

(C) by striking out the section heading and inserting in lieu thereof the following:

"DRUG ABUSE RESEARCH",

and

(D) by inserting before "(a)" in subsection (a) the following: "SEC. 515.".

(12) The following heading is inserted in title V of the Public Health Service Act after the section 515 inserted by paragraph (10):

"PART C—MISCELLANEOUS PROVISIONS RELATING TO ALCOHOL ABUSE AND ALCOHOLISM AND DRUG ABUSE".

(13) Sections 301, 201, 321, and 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are transferred to the part C of title V established by paragraph (12), redesignated as sections 501, 521, 522, and 523, respectively, and amended as follows:

(A) Section 520 (as so redesignated) is amended—

(i) by striking out "the Institute" in subsection (a) and inserting in lieu thereof "the National Institute of Alcohol Abuse and Alcoholism",

(ii) by striking out "section 321" in subsection (a)(4) and inserting in lieu thereof "section 522", and

(iii) by striking out "under this Act and under the Drug Abuse Prevention, Treatment, and Rehabilitation Act" and inserting in lieu thereof "under this title".

(B) Section 521 (as so redesignated) is amended—

(i) by striking out "section 413(b) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act" in subsection (b)(4) and inserting in lieu thereof "section 525",

(ii) by striking out "title" in subsection (d) and inserting in lieu thereof "section", and

(iii) by striking out subsection (e).

(C) Section 522 (as so redesignated) is amended by striking out "of the Public Health Service Act" in subsection (a).

(14) Section 502 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 523 inserted by paragraph (12), redesignated as section 524, and amended—

(A) by striking out "The Director" in subsection (a) and inserting in lieu thereof "The Director of the National Institute on Drug Abuse",

(B) By striking out ", to promote the purposes of this Act," in subsection (b)(2),

(C) by striking out "section 407" in subsection (d) and inserting in lieu thereof "section 526",

(D) by striking out "under this Act and under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" in subsection (d) and inserting in lieu thereof "under this title",

(E) by striking out the section heading and inserting in lieu thereof:

"TECHNICAL ASSISTANCE TO STATE AND LOCAL AGENCIES",

and

(F) by inserting before "(a)" in subsection (a) the following: "SEC. 524.".

(15)(A) Section 413 of the Drug Abuse and Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 524 inserted by paragraph (14), redesignated as section 525, and amended—

(i) by striking out the section heading and inserting in lieu thereof:

"DRUG ABUSE AMONG GOVERNMENT AND OTHER EMPLOYEES";

(ii) by inserting before "(a)" the following: "SEC. 525."; and

(iii) by striking out "section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" in subsection (b)(4) and inserting in lieu thereof "section 521".

(B) Sections 407 and 408 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act are transferred to title V of the Public Health Service Act, inserted after the section 525 inserted by subparagraph (A), redesignated as sections 526 and 527 and amended as follows:

(i) Section 526 (as so designated) is amended—

(I) by striking out the section heading and inserting in lieu thereof:

"ADMISSION TO DRUG ABUSERS TO PRIVATE AND PUBLIC HOSPITALS";

and

(II) by inserting before "(a)" in subsection (a) the following: "SEC. 526.".

(ii) Section 527 (as so redesignated) is amended—

(I) by striking out the section heading and inserting in lieu thereof:

"CONFIDENTIALITY OF PATIENT RECORDS"

(II) by inserting before "(a)" in subsection (a) the following: "SEC. 527."; and

(III) by striking out "of Health and Human Services" in subsection (g).

(c)(1) Sections 102, 103, 311, 312, and 502 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are repealed.

(2) Sections 405, 410, 411, and 504 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act are repealed.

(d) Title V of the Medical Facilities Construction and Modernization Amendments of 1970 (Public Law 91-296) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 6458 is to extend for 3 fiscal years the authorization of appropriations for research activities sponsored by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA). In addition, the legislation contains a

technical revision of Federal alcohol, drug abuse and mental health research authorities to consolidate reporting requirements and to centralize these authorities within title V of the Public Health Service Act.

Mr. Speaker, the abuse of alcohol and drugs is one of the most grave public health problems facing our country today. It afflicts all levels of society. It diminishes the Nation's productivity with crippling blows to the work force. It increases health care costs by increasing demand for health care services.

The social and economic costs of alcohol and drug abuse have been estimated to exceed $60 billion annually. As many as 13 million Americans can be classified as problem drinkers and millions more experiment with or abuse licit and illicit drugs.

For more than a decade the Federal Government has supported alcohol and drug abuse treatment programs through Federal formula and project grants. With passage of the Omnibus Budget Reconciliation Act of 1981, these programs were consolidated with programs for mental health into the Alcohol, Drug Abuse and Mental Health Services block grant. While support for these vital programs must continue, the Federal Government's role in research emerges as a particularly important responsibility.

If we are to lessen the effects and reduce the incidence of alcohol and other drug abuse, the Nation's commitment to a strong research agenda is critical. We continue to need greater understanding of the causes of addiction and through support of carefully controlled services demonstrations, the most effective forms of treatment and most productive strategies for prevention. The sponsorship of prevention-oriented research is particularly important and the committee's report has instructed the agencies to expand their activities in this area.

Mr. Speaker, H.R. 6458 was reported from the Energy and Commerce Committee by unanimous voice vote. I urge each Member's support.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to offer my support for this legislation and urge its adoption by my colleagues.

As pointed out by the gentleman from California, we had several days of hearings on these and related issues and after a rather lengthy drafting process we favorably reported this bill.

Members will want to know that although some components of the reauthorizing legislation for the National Institutes of Health are controversial, those contained in H.R. 6458 are not.

As implied by the short title to the bill, H.R. 6458 extends authorities for and provides consolidation of research in alcohol and drug abuse and mental health.

Over the next 3 fiscal years the bill authorizes a total of $158 million for alcohol abuse research conducted by the National Institute of Alcohol Abuse and Alcoholism. For the same period $159 million is authorized for drug abuse research engaged in by the National Institute of Drug Abuse.

Further, the bill provides for establishment of appropriate protocols for technical and scientific peer review of those contracts awarded by the three institutes involved, formal procedures for review of purported scientific misconduct by grantees, and creation of offices focusing on prevention activities within each of the Institutes.

In sum, I believe this is balanced, reasoned legislation and I urge its support.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I would be happy to yield to my colleague from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

It is my understanding that the administration has some problems with this bill, particularly in the levels of funding; is that correct?

Mr. MADIGAN. I believe that is the only problem they have, yes.

Mr. WALKER. It would be my understanding that one of the problems they have is the fact that this is being brought up under suspension of the rules so those funding levels cannot be reduced by amendment but that the funding levels with regard to alcohol and drug abuse research activities are in one case 30 percent and in another case 66 percent higher than the President's budget for 1983.

Is that the gentleman's understanding?

Mr. MADIGAN. I think it would be correct to say that those percentages are higher than the original request of the President. It would not be correct to say that they are higher by those percentages than the budget adopted by the Congress as a whole.

I believe the position of the administration is that the language they would prefer, rather than specific numbers, would be that the bill simply said, "such sums as may be necessary."

But I would point out to the gentleman, as he well understands, that that could be an amount of money even more than what is included in the bill at this point.

I would further point out to the gentleman we are talking here about the authorizing levels and not the amounts to be actually appropriated by the appropriations process.

Finally, I would point out to the gentleman that if the authorizing levels were less than this and in a supplemental appropriation it would be determined by the administration, as has sometimes been the case in the past, that too little money had been devoted to drug or alcohol abuse problems and if they then were in the position of saying we want to devote more money to this, the Appropriations Committee could not do that without the passage of another authorizing bill, something that has been contemplated by the gentleman from Illinois but apparently not by the Department.

Mr. WALKER. If the gentleman will yield further for a question, can the gentleman tell me how the funding within the authorizing matches with the congressionally passed budget?

Mr. MADIGAN. No, I cannot, except to tell the gentleman that the percentages are considerably lower than those referred to by the gentleman from Pennsylvania.

Although I have asked for that information it is not here on the floor yet.

Mr. WALKER. If the gentleman would yield further, are we taking about authorizing levels which exceed the budget request?

Mr. MADIGAN. It is my understanding that we are not. We are talking about authorizing levels that exceed the original request of the President for fiscal year 1983 but we are not talking about authorizing levels, if this gentleman's understanding is correct, that exceed those levels actually contemplated in the budget resolution adopted by the Congress as a whole.

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Mr. WALKER. If the gentleman will yield further, this is within the limits of the budget adopted by this Congress; is that correct?

Mr. MADIGAN. That is my understanding. And, as I mentioned a moment ago, I have asked for that specific information, when I saw the one-pager here from the conference, but that information has not yet come to the floor.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding to me.

We have the President's 1983 figures in this proposal for authorization; and, therefore, I do agree with the comments of my colleague that it is within the budget resolution adopted by this House for 1983.

We have not received any specific dollar amount from the administration for 1984 and 1985. They requested that we authorize such sums as may be necessary. What we did was set a specific figure which, of course, as the gentleman knows, is a ceiling on the amount that can be spent. It is then up to the Appropriations Committee to decide how much within that amount will in fact be appropriated.

Mr. WALKER. If the gentleman will yield further, the real question here is

the 1984-85 outyears, as I understand it, far more so than the 1983 authorization; is that correct?

Mr. WAXMAN. If the gentleman will yield to me to respond to that question, that is correct.

Mr. MADIGAN. Except, if I may reclaim my time, the statement contained on the one-pager from the conference with regard to the administration's view obviously must be in error or the information supplied by the administration must be in error. If they state we are 30 percent and 66 percent higher respectively in each of the 2 outyears but never provided as with figures for those outyears, then how can the statement be made that we are higher if the figures for which the comparison is being made have never been supplied, if the gentleman understands my point.

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 6458, to amend the Public Health Service Act and related laws. This bill consolidates the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. It also introduces a slight increase in the budget of two of the mentioned institutions: The National Institute on Drug Abuse and the National Institute of Alcohol Abuse and Alcoholism, and sets specific figures for their respective fiscal years 1984 and 1985.

The Alcohol, Drug Abuse and Mental Health Administration is an agency under a major operating division of the Department of Health and Human Services; it was established in 1974. The agency is an umbrella organization covering three major institutes: the National Institute of Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health.

The National Institute of Alcohol Abuse and Alcoholism was established in 1970 as part of the Institute of Mental Health. In 1973, the NIAAA became a separate institute by an amendment of the act. The institute has been responsible for Federal efforts to combat the harmful use of alcohol, and up to 1981 it did so through grants and contracts to States and nonprofit public and private organizations, and through work in three areas: research, services (prevention and treatment), and clinical training. After the drug alcohol abuse, mental health block grant to States in fiscal year 1981 (Public Law 97-35) the mechanism by which local programs were funded has been modified. The funds now go directly to the respective States and are not handled by the institute. However, it continues to provide national leadership in research (as a repository of data, for example), technical assistance to States and to anyone interested in the area when requested.

The National Institute on Drug Abuse was authorized in 1972, and actually came into existence in 1974-75 as part of the Health Education and Welfare Department. Its primary role, up to 1981, had been in drug abuse prevention, rehabilitation, research, treatment, and training. In the last 10 years the institute has been involved in several areas, working closely with States through grants—which went to local programs for training and prevention—and generating drug abuse research. Due to last year's legislation in Congress the institute is now more research oriented, and no funding will be used for drug abuse treatment, or training. However, the increase in funding is needed for research, dissemination of knowledge to the field and the public, and to assist States and localities when asked.

The National Institute of Mental Health was mandated by Congress to promote the mental health of the Nation, and President Truman signed the National Mental Health Act in 1946. The Institute was to work on three areas: research, training, and services. As in the other cases, the field of action of this Institute was limited last year to research performed by the Institute itself, and, through grants and awards, by other institutions.

Each of these institutes now exist on separate pieces of legislation. The NIDA exists under the Drug Abuse Prevention Treatment and Rehabilitation Act; the NIMH exists under the Public Health Service Act; and the NIAAA exists under the Comprehensive Alcohol Abuse and Prevention Treatment and Rehabilitation Act. This piece of legislation takes the authorities left over—basically research—and moves them to the Public Health Service Act. In short, it organizes into a more coherent body of legislation all the Institutes' authorities dealing with the same subject matter.

The work and activities developed by these institutes, are of great importance to Puerto Rico since we suffer of a critical problem of alcohol consumption and also of a high incidence of mental health problems.

I urge my colleagues to vote for H.R. 6458 and thank them for their support.●

Mr. MADIGAN. Mr. Speaker, I have no further requests for time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 6458, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRESSIONAL REPORTS ELIMINATION ACT OF 1982

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6005) to discontinue or amend certain requirements for agency reports to Congress, as amended.

The Clerk read as follows:

H.R. 6005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Reports Elimination Act of 1982".

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 616(b) of the Act of December 15, 1980, entitled "An Act making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1981, and for other purposes" (31 U.S.C. 28(b); 94 Stat. 3117), is repealed.

(b) Section 126(b) of the Military Construction Act of 1981 (31 U.S.C. 28, note; 94 Stat. 1869) is repealed.

REPORT BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 102. Section 6002(g) of the Solid Waste Disposal Act (42 U.S.C. 6962(g)) is amended to strike everything after the word "resources" and to insert in lieu thereof a period.

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 103. (a) Section 1303(d) of the Food and Agriculture Act of 1977 (7 U.S.C. 2011, note; 91 Stat. 980) is repealed.

(b) Paragraph (a) of the Act of March 4, 1913, entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and fourteen" (16 U.S.C. 502; 37 Stat. 843), is amended by striking out the second sentence.

(c) Section 9 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590i; 50 Stat. 329) is amended by striking out the third sentence.

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 104. (a) Section 1081 of title 10, United States Code, is amended by striking out the second sentence.

(b) Section 2677(c) of title 10, United States Code, is repealed.

(c) Section 2110(b) of title 10, United States Code, is amended by striking out "The Secretary of each military department shall report to Congress in April of each year on the progress of the flight instruction program.".

REPORT BY THE DEPARTMENT OF EDUCATION

SEC. 105. Section 112(b)(3) of the Rehabilitation Act of 1973 (29 U.S.C. 732(b)(3); 87 Stat. 372) is repealed.

REPORTS UNDER THE DEPARTMENT OF ENERGY

SEC. 106. (a) Section 203 of the Clean Air Act Amendments of 1977 (42 U.S.C. 7551) is amended by—

(1) striking out subsection (b); and

(2) striking out the subsection designator "(a)".

(b) The Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 is amended by striking out the last sentence of section 7(e)(1) (15 U.S.C. 2506(e)(1)).

(c) Section 4(c)(8) of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808(c)) is amended by striking out "and report to the Congress on".

(d) Section 742 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8452) is repealed.

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 107. (a) Section 1120(b) of the Social Security Act (42 U.S.C. 1320) is amended by striking out subsection (b) and by striking out "(a)".

(b) Section 329(f)(5) of the Public Health Service Act (42 U.S.C. 254b(f)(5)) is amended by striking out the last sentence.

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 108. (a) Section 4 of the joint resolution of August 14, 1976, entitled "Joint resolution providing for Federal participation in preserving the Tule Elk population in California" (16 U.S.C. 673g; 90 Stat. 1189), is amended by striking out the final sentence thereof.

(b) Section 3 of the Act of August 21, 1951 (25 U.S.C. 673; 65 Stat. 195) is repealed.

(c) The Tribally Controlled Community College Assistance Act of 1978 is amended by striking out subsection (e) of section 106 and the last sentence of subsection (c)(2) of section 107 (25 U.S.C. 1807(e) and 1808(c)(2); 92 Stat. 1327).

(d) Section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d; 88 Stat. 2216) is amended by striking out the last sentence.

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 109. (a) Section 4352(b) of title 18, United States Code (88 Stat. 1141), is repealed.

(b) Section 203 of the Truth in Lending Act (18 U.S.C. 891, note; 82 Stat. 162) is repealed.

REPORTS BY THE DEPARTMENT OF LABOR

SEC. 110. (a) Section 6(f) of Public Law 90-83 (29 U.S.C. 606; 81 Stat. 221) is repealed.

(b) Section 41(b)(1) of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941(b)(1); 72 Stat. 835) is amended by striking out "and from time to time make to Congress such recommendations as he may deem proper as to the best means of preventing such injuries".

(c) The second sentence of section 19(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(b); 84 Stat. 1590) is repealed.

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 111. (a) Section 151(g) of title 23, United States Code (87 Stat. 285), is amended by striking out the third and fourth sentences and inserting in lieu thereof, "No State shall submit any such report to the Secretary for any year after the second year following completion of the pavement marking program in that State.".

(b) Section 602 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 792; 87 Stat. 1022) is repealed.

(c) Section 4417a(19) of the Revised Statutes (46 U.S.C. 391a(19)) is repealed.

(d) Section 515 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 835; 90 Stat. 82) is repealed.

(e) Section 10 of the Emergency Rail Services Act of 1970 (45 U.S.C. 669; 84 Stat. 1978) is repealed.

REPORT BY THE DEPARTMENT OF THE TREASURY

SEC. 112. Section 602(c) of the Act of June 3, 1980, entitled "An Act to provide for increased participation by the United States in the Inter-American Development Bank, and the African Development Fund" (22 U.S.C. 262j(c); 94 Stat. 433), is repealed.

REPORT BY THE INTERSTATE COMMERCE COMMISSION

SEC. 113. Section 10327(j) of title 49, United States Code (92 Stat. 1350), is amended by striking out the last two sentences.

REPORT BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 114. Section 2304(e) of title 10, United States Code, is repealed.

REPORT BY THE NUCLEAR REGULATORY COMMISSION

SEC. 115. Section 11 of the Act of November 6, 1978, entitled "An Act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes" (42 U.S.C. 2205a; 92 Stat. 2953), is repealed.

TITLE II—MODIFICATIONS

REPORTS BY THE EXECUTIVE OFFICE OF THE PRESIDENT

SEC. 201. (a) Section 552a(e)(4) of title 5, United States Code, is amended by striking out "at least annually" and inserting in lieu thereof "upon establishment or revision".

(b) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) ANNUAL REPORT.—The President shall annually submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

"(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding year;

"(2) describing the exercise of individual rights of access and amendment under this section during such year;

"(3) identifying changes in or additions to systems of records;

"(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.".

(c) Effective July 1, 1983, section 6(c) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking out the first sentence and inserting in lieu thereof the following: "The President shall, not later than December 31 of each year, make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year.".

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 202. (a) Section 302(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(d)) is amended to read as follows:

"(d) The Secretary shall submit a biennial report to the Congress, on or before March 1 of every other year beginning in 1984, setting forth a comprehensive review of his actions during the previous two fiscal years undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.".

(b) Section 7 of the National Climate Program Act of 1978 (15 U.S.C. 2906) is amended by striking out "not later than January 30 of each year" and inserting in lieu thereof "not later than March 31 of each year".

(c) Section 4(a) of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 (33 U.S.C. 1703(a)) is amended by striking out "and a revision of the plan shall be prepared and so submitted by September 15 of each odd-numbered year occurring after 1979" and inserting in lieu thereof "and a revision of the plan shall be prepared and so submitted by September 15 every three years after 1979".

(d) Section 8 of the Fair Packaging and Labeling Act (15 U.S.C. 1457) is amended by striking out the following: "or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act,".

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 203. (a)(1) Section 808(a) of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520(a); 91 Stat. 334) is amended by striking out clause (1) and by striking out "(2)".

(2) Section 409(a) of the Act of November 19, 1969, (50 U.S.C. 1511(a); 83 Stat. 209), is amended by adding the following sentence at the end thereof: "The report shall include a full accounting of all experiments and studies conducted by the Department of Defense in the preceding year, whether directly or under contract, which involve the use of human subjects for the testing of chemical or biological agents.".

(b) Section 201 of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc-11; 69 Stat. 585) is amended by striking out "odd-numbered years" and inserting in place thereof "the first odd-numbered year following the year in which the Presidential election is held".

(c) Section 2455(b) of title 10, United States Code, is amended by striking out "yearly period ending with the preceding December 31" and inserting "preceding fiscal year".

REPORT BY THE DEPARTMENT OF EDUCATION

SEC. 204. Section 605(b) of the Higher Education Act of 1965 (20 U.S.C. 1125(b); 79 Stat. 1264) is amended by striking out "which shall include an index and analysis" and inserting in lieu thereof "listing".

REPORT BY THE DEPARTMENT OF ENERGY

SEC. 205. (a) Section 208(c) of the Department of Energy Organization Act (42 U.S.C. 7138(c); 91 Stat. 576) is amended to read as follows:

"(c)(1) The Inspector General shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

"(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities during the reporting period;

"(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to subparagraph (A);

"(C) an identification of each significant recommendation described in previous re-

ports under this subsection on which corrective action has not been completed;

"(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

"(E) information concerning the numbers and types of audit reports completed by the Office during the reporting period.

"(2) Within sixty days of the transmission of each semiannual report to the Congress, the Secretary shall make copies of such report available to the public upon request and at a reasonable cost.".

(b) Section 208(d) of such Act is amended by striking out "thirty days" and inserting in lieu thereof "seven days".

REPORTS BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 206. (a) Section 336A of the Public Health Service Act (42 U.S.C. 254i) is amended in the matter preceding paragraph (1) by striking out "on May 1 of each year".

(b) Section 8 of the Fair Packaging and Labeling Act (15 U.S.C. 1457) is amended by striking out the last two sentences and inserting in lieu thereof the following: "All agencies except the Department of Health and Human Services and the Federal Trade Commission shall submit their reports in January of each year. The Department of Health and Human Services shall include this report in its annual report to Congress on activities under the Federal Food, Drug, and Cosmetic Act, and the Federal Trade Commission shall include this report in the Commission's annual report to Congress.".

(c) Subsections (a) and (b) of section 204 of Public Law 94-505 (42 U.S.C. 3524 (a), (b)) are amended to read as follows:

"SEC. 204. (a) The Inspector General shall, not later than May 31 and November 30 of each year, submit to the Secretary and the Congress semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to —

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Department disclosed by such activities during the reporting period;

"(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

"(3) an identification of each significant recommendation described in previous reports under this section on which corrective action has not been completed;

"(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

"(5) a summary of each report made to the Secretary under section 205(b)(2) during the reporting period; and

"(6) information concerning the numbers and types of audit reports completed by the Office during the reporting period.

"(b) Within sixty days of the transmission of each semiannual report to the Congress, the Secretary shall make copies of such report available to the public upon request and at a reasonable cost.".

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 207. (a) Section 817 of the Housing Act of 1954 (12 U.S.C. 1701p; 68 Stat. 648) is amended by striking out ", and shall also contain" and all that follows through "that section".

(b) Section 311(4) of the Energy Conservation and Production Act (42 U.S.C. 6840(4); 90 Stat. 1125) is amended by inserting before the period at the end thereof the following: ", except that, with respect to reports transmitted to the Congress after August 14, 1981, such reports shall be transmitted biennially".

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 208. (a)(1) The second proviso of the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564), is amended to read as follows: *"Provided further,* That the Secretary shall report such adjustments and eliminations to the Congress not later than sixty calendar days following the end of the fiscal year in which they are made:".

(2) The last proviso of said Act of July 1, 1932, is amended by striking out "sixty legislative days" each place it appears and, in each instance, inserting in lieu thereof "ninety calendar days".

(b) Section 1136 of the Education Amendments of 1978 (25 U.S.C. 2016; 92 Stat. 2327) is amended by adding the following at the end thereof: "Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include (1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d; 88 Stat. 2216) and recommendations with respect to the future use of such funds; (2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and (3) the plans required by section 1121(f), and 1122(c); and 1125(b) of this Act (25 U.S.C. 2001(f), 2002(c), and 2005(b)).".

(c) The first sentence of section 3 of the joint resolution of August 14, 1976, entitled "Joint resolution providing for Federal participation in preserving the Tule Elk population in California" (16 U.S.C. 673f; 90 Stat. 1189), is amended by striking out "of each year" and inserting in lieu thereof "of 1983 and each third year thereafter".

REPORTS BY THE DEPARTMENT OF JUSTICE

SEC. 209. (a) Section 918(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693p(a); 92 Stat. 3740) is amended by striking out the first and fourth sentences thereof and inserting in lieu of the first sentence the following: "Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board shall make reports to the Congress concerning the administration of its functions under this title, including such recommendations as the Board deems necessary and appropriate.".

(b) Section 114 of the Truth in Lending Act (title I of the Consumer Credit Protection Act) (15 U.S.C. 1613; 82 Stat. 151) is amended by striking out the first sentence and inserting in lieu thereof the following: "Each year the Board shall make a report to the Congress concerning the administration of its functions under this title, including such recommendations as the Board deems necessary or appropriate.".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 210. (a) Section 409 of the Staggers Rail Act of 1980 (49 U.S.C. 1654a; 94 Stat. 1948) is amended by adding at the end thereof: "In each report the Secretary shall advise the Congress on the past and anticipated financial condition and operations during the fiscal year of the Railroad Rehabilitation and Improvement Fund established under section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) and of the Obligation Guarantee Fund established under section 511(b) of that Act. In addition, the Secretary shall include in the report information on the financial condition of each railroad having a loan guaranteed under the Emergency Rail Services Act of 1970 (Public Law 91-663), throughout the existence of such loan.".

(b) Section 152(g) of title 23, United States Code (92 Stat. 2723), is amended by inserting "(including but not limited to any projects for pavement marking)" after "program" in the third sentence.

REPORT BY THE DEPARTMENT OF THE TREASURY

SEC. 211. Subsection (c)(1) of section 701 of the International Financial Institutions Act (22 U.S.C. 262d(c)(1); 91 Stat. 1070) is amended by inserting immediately before "including" the following: "excluding section 704 and".

REPORT BY THE FEDERAL ENERGY REGULATORY COMMISSION

SEC. 212. Section 4(d) of the Federal Power Act (16 U.S.C. 797(d); 41 Stat. 1065) is amended by striking out "Such report shall contain the names and show the compensation of the persons employed by the Commission.".

REPORT BY THE NATIONAL LABOR RELATIONS BOARD

SEC. 213. Section 3(c) of the National Labor Relations Act (29 U.S.C. 153(c); 61 Stat. 139) is amended by striking out "stating in detail the cases it has heard, the decisions it has rendered, and an account of all moneys it has disbursed" and inserting in lieu thereof "summarizing significant case activities and operations for that fiscal year".

REPORT BY THE NATIONAL SCIENCE FOUNDATION

SEC. 214. Subsection 4(j) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(j); 64 Stat. 149) is amended to read as follows:

"(j)(1) The Board shall render to the President, for submission to the Congress no later than January 15 of each even numbered year, a report on indicators of the state of science and engineering in the United States.

"(2) The Board shall render to the President for submission to the Congress reports on specific, individual policy matters related to science and engineering and education in science and engineering, as the Board, the President, or the Congress determines the need for such reports.".

REPORT BY THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 215. The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601, et seq.; Public Law 94-282) is amended as follows:

(1) section 209 is deleted; and

(2) in section 205(a)(11), strike out "section 209" and insert in lieu thereof "section 206";

(3) section 206 is amended to read as follows:

"SCIENCE AND TECHNOLOGY REPORT AND OUTLOOK

"SEC. 206. (a) Notwithstanding the provisions of Reorganization Plan Number 1 of 1977, the Director shall render to the President for submission to the Congress no later

than January 15 of each odd numbered year, a science and technology report and outlook (hereinafter referred to as the 'report') which shall be prepared under the guidance of the Office and with the cooperation of the Director of the National Science Foundation, with appropriate assistance from other Federal departments and agencies as the Office or the Director of the National Science Foundation deems necessary. The report shall include—

"(1) a statement of the President's current policy for the maintenance of the Nation's leadership in science and technology;

"(2) a review of developments of national significance in science and technology;

"(3) a description of major Federal decisions and actions related to science and technology that have occurred since the previous such report;

"(4) a discussion of currently important national issues in which scientific or technical considerations are of major significance;

"(5) a forecast of emerging issues of national significance resulting from, or identified through, scientific research or in which scientific or technical considerations are of major importance; and

"(6) a discussion of opportunities for, and constraints on, the use of new and existing scientific and technological information, capabilities, and resources, including manpower resources, to make significant contributions to the achievement of Federal program objectives and national goals.

"(b) The Office shall insure that the report, in the form approved by the President, is printed and made available as a public document."; and

(4) in section 205(a)(11), insert "and the Congress" after "President".

REPORT BY THE VETERANS' ADMINISTRATION

SEC. 216. Section 4142(h)(4) of title 38, United States Code, is amended by striking out the following "together with a summary of the reasons that such scholarships were not accepted".

The SPEAKER pro tempore. Is a second demanded?

Mr. ERLENBORN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6005 as amended would eliminate or modify 69 reports which executive branch agencies are currently required by law to send to Congress on a recurring basis. This effort to reduce the number of reporting requirements is part of a continuing process conducted by Congress, with the assistance of the General Accounting Office and the Office of Management and Budget. By eliminating requirements which are no longer useful and reducing the frequency of other reports, we can assure that Federal resources assigned to the reporting process are used in those areas of greatest need to Congress.

H.R. 6005, as introduced, was a compilation of recommendations received by the OMB from executive branch agencies. These recommendations called for the elimination or modification of a large number of reporting requirements which, in the opinion of the departments and agencies, are either no longer necessary to Congress on a recurring basis or which require modification. The Government Operations Committee asked other committees of the House whether the reports could be eliminated without harm to their oversight activities. The committees made recommendations for amendments to the bill in order to assure the continuing receipt of information which is still pertinent and useful. All amendments recommended by committees of the House to delete or modify provisions of the bill were approved by the Government Operations Committee. In addition, 8 provisions have been deleted from the bill at the request of the Senate. This will facilitate acceptance of the House bill by the Senate prior to final adjournment.

The 35 reports eliminated and the modification of 34 other reporting requirements will result in a savings to the Federal Government of approximately $4 million.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as one who is troubled by the continued proliferation of recurring reporting requirements imposed upon executive branch agencies, I find it refreshing that we have before us a bill that actually seeks to reduce those reporting requirements. Although it falls far short of eliminating or modifying as many reports as this Congress will generate, H.R. 6005 is a commendable piece of legislation and I enthusiastically support it.

As my colleague from Texas, Mr. BROOKS, has pointed out, this bill will affect a total of 69 recurring reporting requirements. It will completely eliminate 35 reporting requirements and will constructively modify some 34 others. Based on agency estimates of the costs of preparing reports submitted to the Congress, the Congressional Budget Office has estimated the potential annual cost savings associated with this bill to be approximately $4 million. This savings, of course, could be reflected either in reduced spending or in a reallocation of resources to other activities.

It should be noted that Congress generates new, recurring reports at the rate of several hundred per Congress. General Accounting Office testimony before our committee, in fact, revealed that at the present time there are more than 2,900 congressionally mandated recurring reporting requirements. So while this bill hardly scratches the surface as far as paperwork reduction is concerned, it at least is a step in the right direction.

I should also point out that the Government Operations Committee went to great lengths to verify that the reports to be eliminated or modified by this bill are, indeed, no longer useful or in many cases are even obsolete. Contact was made with every committee of jurisdiction and with every affected agency. As far as we have been able to determine, there is no objection to any modification or elimination in this bill.

Mr. Speaker, I am fully supportive of H.R. 6005, and I urge its approval.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 6005, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OCEAN DUMPING AMENDMENTS ACT OF 1982

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6113) to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended.

The Clerk read as follows:

H.R. 6113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Dumping Amendments Act of 1982".

SEC. 2. DUMPING PERMIT PROGRAM.

(a) Section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412) is amended—

(1) by amending subsection (a)(C) by striking out "and beaches" and inserting in lieu thereof ", beaches, and wetlands."; and

(2) by amending subsection (c) to read as follows:

"(c)(1) The Administrator shall designate sites at which materials may be dumped pursuant to this section and, after consultation with the Secretary, at which materials may be dumped pursuant to section 103; except that no site may be designated by the Administrator under this subsection until the Administrator undertakes and

completes an analysis of the characteristics of the site and its suitability for dumping and of the environmental effects which will lilely result from dumping. In undertaking such an analysis of each site, the Administrator shall take into consideration the criteria set forth in subsection (a) and shall specifically take into account the following factors:

"(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources.

"(B) The ability of the waters at the site to disperse, detoxify, or neutralize the materials.

"(C) The importance of the site to the surrounding biological community, including the presence of breeding, spawning, nursery or foraging areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms.

"(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the persistent effects on the ecosystem within the site.

Nothing contained in this paragraph shall be construed to limit the authority of the Secretary under section 103.

"(2) The Administrator shall—

"(A) periodically monitor, or cause to be monitored, the effects of the dumping of materials at or adjacent to each site for which the Administrator determines, on the basis of the characteristics of the site and the materials to be dumped, that such monitoring is necessary to accomplish the purposes of this title; and

"(B) at the close of the third year after the site designation and at every three-year interval thereafter until such time as the designation is terminated, estimate the extent of the dumping and other waste inputs that will occur in and adjacent to each site during the next three-year period.

"(3) If at any time the Administrator, on the basis of the factors taken into account under subparagraphs (A) through (D) of paragraph (1), or on the basis of the monitoring or estimates, or both, required under paragraph (2), determines that the site is no longer suitable for such dumping, the Administrator shall—

"(A) limit dumping at the site to certain materials or at certain times or both; or

"(B) suspend or terminate the designation of the site under paragraph (1).

In making a determination under the preceding sentence that a site is no longer suitable for dumping pursuant to section 103, the Administrator shall consult the Secretary.".

(b) Section 103(b) of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413(b)) is amended by striking "recommended" in the last sentence.

SEC. 3. PERMIT CONDITIONS.

Section 104 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Permits issued under this title shall designate and include—

"(1) the type of material authorized to be transported for dumping or to be dumped;

"(2) the amount of material authorized to be transported for dumping or to be dumped;

"(3) the location where such transport for dumping will be terminated or where such dumping will occur;

"(4) the length of time for which the permits are valid and their expiration date;

"(5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, to minimize the harm from dumping, which may include measures that the permittee must take to plan, develop, acquire, or implement, as appropriate—

"(A) alternatives for the disposal of the material,

"(B) processes for reducing or eliminating any contaminants in the material, or

"(C) processes for recycling the material;

"(6) after consultation with the Secretary of the Department in which the Coast Guard is operating, any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, for the monitoring and surveillance of the transportation or dumping; and

"(7) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.".

(2) Subsection (b) is amended to read as follows:

"(b) The Administrator or the Secretary, as the case may be, shall prescribe and collect from the applicant, unless the applicant is a Federal agency, an application fee in an amount commensurate with the reasonable administrative costs incurred or expected to be incurred by the Administrator or Secretary in processing the permit. The application fee shall be deposited to the principal appropriation account or accounts used to carry out the processing of permits under this title.".

(3) The following new subsections are added at the end thereof:

"(h) The Administrator or Secretary, as the case may be, may prescribe such reporting requirements as he or she deems appropriate with regard to actions taken by permittees pursuant to permits issued under this title.

"(i)(1) Two years after the date of the enactment of the Ocean Dumping Amendments Act of 1982, the Administrator may not issue a permit under this title for the disposal of radioactive waste material until the applicant, in addition to complying with all other requirements under this title, prepares, with respect to the site at which the disposal is proposed, a Radioactive Material Disposal Impact Assessment which shall include—

"(A) a listing of all radioactive materials in each container to be disposed, the number of containers to be dumped, the structural diagrams of each container, the number of curies of each material in each container, and exposure levels in rems at the inside and outside of each container;

"(B) an analysis of the environmental impact of the proposed action, at the site at which the applicant desires to dispose of the material, upon human health and welfare and marine life;

"(C) any adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

"(D) an analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive waste material when initially deposited at the specific site;

"(E) a plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes;

"(F) a determination by each affected State whether the proposed action is consistent with its approved Coastal Zone Management Program;

"(G) an analysis of the economic impact upon other users of marine resources;

"(H) alternatives to the proposed action;

"(I) comments and results of consultation with State officials and public hearings held in the coastal States that are nearest to the affected areas;

"(J) a comprehensive monitoring plan to be carried out by the applicant to determine the full effect of the disposal on the marine environment, living resources, or human health, which plan shall include, but not be limited to, the monitoring of exterior container radiation samples, the taking of water and sediment samples, and fish and benthic animal samples, adjacent to the containers, and the acquisition of such other information as the Administrator may require; and

"(K) such other information which the Administrator may require in order to determine the full effects of such disposal.

"(2) The Administrator shall include, in any permit to which paragraph (1) applies, such terms and conditions as may be necessary to ensure that the monitoring plan required under paragraph (1)(J) is fully implemented, including the analysis by the Administrator of the samples required to be taken under the plan.

"(3) The Administrator shall submit a copy of the assessment prepared under paragraph (1) with respect to any permit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(4)(A) No permit to which this subsection applies shall take effect before the 45th calendar day of continuous session of the Congress after the day on which the permit was issued, and shall be terminated by the Administrator if before the close of such 45th day either House of Congress by resolution disapproves its taking effect.

"(B) For purposes of subparagraph (A), the continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period. If a permit subject to this subsection is issued during any Congress and the last session of such Congress adjourns sine die before the expiration of the 45 calendar days of continuous session (or a permit is granted after the last session of the Congress adjourns sine die), the permit shall be deemed to have been reissued on the first day of the succeeding Congress and the 45-day period referred to in subparagraph (A) shall commence on the day after such first day.".

SEC. 4. CONVENTION ADHERENCE.

Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416) is amended by adding at the end thereof the following new subsection:

"(g) To the extent that they may do so without relaxing the requirements of this title, the Administrator and the Secretary shall adhere to and apply the requirements of the Convention, including its annexes, that are binding upon the United States.".

SEC. 5. TRANSITIONAL PROVISIONS.

(a) Until completion of the site designation or denial of site designation by the Administrator of the Environmental Protection Agency with respect to any areas of ocean waters approved for dumping on an interim basis before July 1, 1982, and any areas of ocean waters used for dumping pursuant to a court order, the amendments made by this Act to the Marine Protection, Research, and Sanctuaries Act of 1972

(other than subsections (c)(2) and (3) of section 102 thereof as added by section 2(a)(2) of this Act and other than those made by sections 3, 5(b), 8, 9, and 10 of this Act) shall not be applicable to those areas of ocean water.

(b) Notwithstanding any provision of title I of the Marine Protection, Research, and Sanctuaries Act of 1972 to the contrary, during the two-year period beginning on the date of the enactment of this Act, no permit may be issued under such title I that authorizes the dumping of any low-level radioactive waste unless the Administrator of the Environmental Protection Agency determines—

(1) that the proposed dumping is necessary to conduct research—

(A) on new technology related to ocean dumping, or

(B) to determine the degree to which the dumping of such substance will degrade the marine environment;

(2) that the scale of the proposed dumping is limited to the smallest amount of such material and the shortest duration of time that is necessary to fulfill the purposes of the research, such that the dumping will have minimal adverse impact upon human health, welfare, and amenities, and the marine environment, ecological systems, economic potentialties, and other legitimate uses;

(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact; and

(4) that the proposed dumping will be preceded by appropriate baseline monitoring studies of the proposed dump site and its surrounding environment.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping.

SEC. 6. DEFINITION OF "MONITORING".

Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended by adding at the end thereof the following new subsection:

"(m) 'Monitoring' means the systematic, time-series observation of materials, contaminants, or pertinent components of the marine ecosystem over a period of time sufficient to determine the existing levels, trends, and natural variations of measured components in the water column, sediments, and biota for the purpose of ensuring that immediate harmful effects of dumping are detected, and cumulative and long-term effects are detected, forecasted, and evaluated. Observations may include, but are not limited to, the following procedures, depending upon the type of waste to be dumped and the characteristics of the site: (1) seasonal sampling and analyses of the infaunal community and sediment for purposes of characterizing structural composition and size distribution; (2) sampling and analyses of sediment and selected organisms to determine levels of hydrocarbon, trace metals, and chemicals and pathogenic contaminants identified as constituents of wastes to be dumped; (3) profiling measurements of standard oceanographic parameters including dissolved oxygen, salinity, and water temperature; (4) characterization of large-scale surface topography and megafaunal structure and composition; and (5) sampling and analyses to determine levels of nutrients and organic carbon.".

SEC. 7. DEFINITION OF "OCEAN WATERS".

Section 3(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402(b)) is amended by inserting ", and the subjacent areas," immediately after "those waters".

SEC. 8. WRITS OF MANDAMUS.

Section 105(g) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, is amended—

(1) by redesignating subparagraph (5) as subparagraph (6) and adding the following:

"(5) Upon application of any person, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding the Administrator to implement in a timely manner the site designation provisions of this title, as applicable either pursuant to court order or upon application for a permit under section 102 or section 103, except that nothing in this paragraph is intended to affect the conduct of any dumping activity under a permit issued under this title pending the completion of site designation proceedings. Paragraph (4) of this subsection shall not apply to any suit brought pursuant to this paragraph."; and

(2) by striking the word "injunctive" in redesignated subparagraph (6).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended by striking "and" immediatley following "fiscal year 1981," and inserting "and not to exceed $4,213,000 for fiscal year 1983," immediately after "fiscal year 1982,".

SEC. 10. SCHEDULE FOR COMPLETION.

The Administrator of the Environmental Protection Agency shall establish a schedule for expeditiously completing the study and designation or denial of designation of all areas of ocean waters approved before July 1, 1982, for dumping on an interim basis and areas of ocean waters used for dumping pursuant to a court order. The Administrator shall submit this schedule to Congress not later than the one hundred and eightieth day after the date of enactment of this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. PRITCHARD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Washington (Mr. PRITCHARD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with my colleagues—Mr. D'AMOURS, Mr. HOWARD, and Mr. ROE—in urging the House to pass H.R. 6113, as amended, a bill to amend and reauthorize title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

Title I instructs the Administrator of the Environmental Protection Agency and the Army Corps of Engineers to issue permits for the dumping of materials in ocean waters when such dumping will not unreasonably degrade the marine environment. As my colleagues are aware, ocean dumping is becoming more important as the land-based disposal options for society's wastes become less available. It is thus ever more important that the ocean dumping program of EPA and the corps adequately protect our oceans.

H.R. 6113 proposes certain improvements in the ocean dumping program. It would require EPA to designate specific sites for ocean disposal and require both EPA and the corps to assess permit fees to recover the administrative costs associated with processing ocean dumping permits. It would also impose a 2-year moratorium on the ocean disposal of low-level radioactive wastes to allow the adequate study of the effects of such dumping before it occurs. Finally, it would authorize $4.213 million for this important program for fiscal year 1983.

I urge my colleagues to support these improvements in the ocean dumping program by passing the bill, and now yield to its sponsor, the gentleman from New Hampshire (Mr. D'AMOURS) the chairman of the Subcommittee on Oceanography.

Mr. D'AMOURS. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 6113, the Ocean Dumping Amendments Act of 1982. I want to thank the chairmen and the members of the Committees on Merchant Marine and Fisheries and Public Works and Transportation for their support of this legislation. This bill reauthorizes title I of the Marine Protection, Research, and Sanctuaries Act for fiscal year 1983 and provides several strengthening amendments to title I.

The Marine Protection, Research, and Sanctuaries Act, commonly known as the Ocean Dumping Act, was enacted in 1972 as a result of concern over the effects of unregulated ocean dumping. The act seeks to prohibit or strictly limit the ocean dumping of materials harmful to humans or the marine environment.

Title I prohibits the dumping of certain materials and establishes a permit system by which the Environmental Protection Agency and the Corps of Engineers regulate dumping of all other materials in ocean waters.

Mr. Speaker, H.R. 6113 reauthorizes title I of the act at level funding of $4.213 million for fiscal year 1983. In addition, the bill addresses several current ocean dumping problems.

First, the Environmental Protection Agency has been extremely negligent

in completing the studies that are needed for evaluating whether historically used dump sites are suitable for continued dumping. Instead, the Environmental Protection Agency has extended interim site designations for such a long period of time that interim sites have become de facto permanent sites.

To insure that designation procedures for these sites move forward in an expeditious manner, the bill requires the Environmental Protection Agency to establish a schedule for completing site designations. A mandamus provision has also been added to the bill to permit legal action to be instituted to compel the Administrator to meet the designation schedules that the Environmental Protection Agency has published in the Federal Register, presented in testimony, and committed to under court order. To avoid unnecessary delays while the designation procedures are completed, existing interim sites can continue to be used.

The site designation procedures provide important protection for the ocean by requiring that new ocean dumping sites are adequately studied before final designation, that materials are dumped at appropriate ocean locations, that dumping and its effects are monitored when appropriate, and that dumping can be restricted or eliminated if a site is no longer suitable for dumping.

Second, during the 97th Congress we have learned that the Environmental Protection Agency is attempting to reverse a longstanding policy of not allowing the ocean dumping of radioactive wastes. This policy is being reversed despite the fact that past records are inaccurate and incomplete, that past dumping contained inadequate safeguards to insure protection of human health and the marine environment, and that the Environmental Protection Agency is reluctant to initiate the studies and programs that are needed to determine the effects of past dumping. Until we have sufficient information, it is foolhardy to proceed with plans to reopen the ocean for radioactive waste disposal.

H.R. 6113 will put a halt to this policy shift by emplacing a 2-year moratorium on the issuance of permits for low-level radioactive wastes. High-level wastes are prohibited from being dumped by existing legislation. The moratorium will insure that the Congress will have the opportunity to review the Environmental Protection Agency's forthcoming regulations, its programs for assessing the impact of past dumping, and its plans for monitoring future radioactive waste dumping. The moratorium will also give the Congress the opportunity to review proposals to dump radioactively contaminated soils from the Manhattan project and to scuttle decommissioned U.S. Navy nuclear submarines in the ocean.

Mr. Speaker, I have serious reservations about using the ocean to dump society's wastes because of the too easy convenience of ocean dumping. As a common-access resource, the ocean is not protected by the same economic and political forces that protect private property. Dumpers are not forced to pay for the use of the ocean and thus do not have to pay for the immediate or long-term damage they cause. Unlike land disposal, there is no nearby effected group of concerned citizens to protest the resulting hazards that might be created. Thus ocean dumping is economically and politically convenient.

It is up to the Members of Congress to provide a voice for the ocean and to insure that the ocean has sufficient protection. We are specifically charged with the mandate of providing our citizens and our future generations a healthy and unpolluted ocean environment.

Mr. Speaker, this bill strengthens the provisions of the Marine Protection, Research, and Sanctuaries Act. It will provide added protection for our ocean. I urge my colleagues to support this legislation.

The following section-by-section analysis of H.R. 6113 reflects the changes that have been agreed to by both the Merchant Marine and Fisheries Committee and the Public Works and Transportation Committee:

SECTION-BY-SECTION ANALYSIS OF H.R. 6113

SECTION 1. SHORT TITLE

This Act may be cited as the Ocean Dumping Amendments Act of 1982.

SECTION 2. AMENDMENTS TO THE DUMPING PERMIT PROGRAM

Section (2)(a)(1) of the bill adds wetlands to the list of factors in section 102(a)(C) of the Marine Protection, Research and Sanctuaries Act (MPRSA) which the Administrator shall consider when assessing the effects of dumping.

Wetlands are of great biological significance to living marine resources. Wetlands can trap fine-grained toxic components of waste, resulting in increased toxicity levels in wetland sidiments. Inasmuch as commercially important marine organisms spend a portion of their early lives in estuarine and wetlands areas, wetlands should be protected.

The Committee has therefore adopted this amendment to extend to wetlands the protections afforded other resources and areas by the Act.

Section (2)(a)(2) of H.R. 6113 provides a number of changes to section 102(c) of the Act including requiring the Administrator of the Environmental Protection Agency (EPA) to designate ocean dumpsites. Current law states that the Administrator may designate recommended dumpsites. The Committee is making site designations mandatory because of its dissatisfaction with EPA's delays in designating ocean dumpsites. Further, the Committee adopts this amendment to insure that potential dumpsites are adequately studied to assess their suitability for dumping. Once designated or selected, sites must be adequately monitored, and if a site is no longer suitable for dumping, the Administrator must take appropriate measures to protect the resources of the dumpsite and the surrounding areas.

When designating sites, section (2)(a)(2) requires the Administrator to consider the criteria set forth in section 102(a) of the Act for evaluating ocean dumping permits and to take into account the following factors:

(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources;

(B) The ability of the waters at the site to disperse, detoxify or neutralize the materials;

(C) The importance of the site to the surrounding biological community, including the presence of breeding, spawning, nursery or forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms;

(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the presistent effects on the ecosystem within the site.

Site designations will be based not only on the types and quantities of wastes to be dumped at a specific location, but also the types and quantities of other wastes and pollutants that are deposited in or adjacent to a site. Consideration of other sources of pollutants entering the site is necessary to determine the ability of the site to assimilate additional pollutants from ocean dumping. Other sources could include, but need not be limited to, pollutants from reverine or estuarine sources, urban runoff, point and non-point source discharges, dredging, Outer Continental Shelf (OCS) mining or drilling activities, and atmospheric sources.

Site designations will also be based on the suitability of ocean waters to assimilate certain wastes and the impacts of dumping on the surrounding biological community. Some wastes would be better accommodated in a shallow, near-shore environment while others are better suited for a deep, off-shore site. Some materials could be placed in a low-dispersion environment, while other materials would require a highly dispersive environment to reduce harmful impacts.

In designating dumpsites, the Administrator is required to evaluate the persistent effects of proposed dumping on the ecosystem of the dumpsite, and to evaluate the immediate and cummulative effects in areas surrounding the dumpsite. The Committee recognizes that all dumping effects the marine environment. Since the ocean can assimilate certain wastes and since some effects are limited, it is not the intent of the Committee to restrict the use of a site solely because of immediate or short-term effects within the boundaries of the site. However, through the site designation and monitoring process, the Committee expects the Administrator to protect sites from unreasonable degradation by designating sites or times within which certain materials may not be dumped and by placing limits on dumping at established dumpsites.

According to EPA officials, these site designation requirements are similar to the procedures that EPA currently follows in designating sites and will not require substantive changes. However, to ensure that current site designation proceedings progress with minimal disruption, section (5)(a) of H.R. 6113 provides that the amendments in the legislation, with certain exceptions, shall not apply to those areas of

ocean waters that are presently designated for use on an interim basis or pursuant to court order. Existing interim designations shall continue in force until each site is designated for continuing use or terminated for further use on a final basis.

EPA and the U.S. Army Corps of Engineers have traditionally cooperated closely in designating site to ensure that the necessary sites for dredged material disposal are available. The Committee applauds this cooperation, and fully expects that it will continue. While section 102(c) vests final site designation authority with the Administrator, the Coimmittee expects the Administrator to consult with the Corps when designating dredged material sites, and expects the Secretary to continue to recommend dredged material dumpsites for designation. The changes in section 102(c) are not intended to affect the authority of the Secretary under section 103(b) of the Act.

Section (2) of the bill further amends section 102(c) of the Act by requiring periodic monitoring of the effects of the dumping of materials at or adjacent to dumpsites. The purpose of this provision is to ensure that the harmful effects of dumping of any material which would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities are identified in a timely manner so that appropriate actions may be taken.

The Administrator will be required to periodically monitor, or cause to be monitored, the effects of the dumping including, where appropriate, such factors as movement of materials beyond dumpsite boundaries, accumulation of materials or constituents, water quality changes, or change in composition or numbers of species. The phrase "cause to be monitored" recognizes the fact that in some instances the permittee or the Secretary may be required to perform monitoring. The Committee expects that the determination by the Administrator on sites and frequency of monitoring will depend upon the characteristics of the site, the types and volumes of materials disposed of, and the contamination levels of the materials. The Committee recognizes the differences among sites and types and amounts of material being dumped. Therefore, monitoring may not necessarily be required at every site and monitoring requirements at different sites may not necessarily be the same. For frequently used sites involving large volumes of materials, or for sites receiving heavily contaminated materials, the Committee expects monitoring to occur on a regular and frequent basis. For those sites that are used only infrequently for the disposal of innocuous materials, the Committee regards less frequent monitoring as appropriate.

At three year intervals, the Administrator is also required to estimate the extent of the dumping and other waste inputs that will occur in and adjacent to the site during the next three year period. If at any time, the Administrator determines that a site is no longer suitable for dumping, he must suspend or terminate the designation of the site, or limit dumping at the site to certain materials or certain times or both.

Section (2)(b) makes a conforming change to section 103(b) of the Act.

SECTION 3. PERMIT CONDITIONS

Section (3)(1) of H.R. 6113 amends section 104(a) of the Act by restructuring the subsection and providing additional discretionary authority to the Administrator and Secretary. The purpose of this provision is to give authority to the Administrator or Secretary, as the case may be, to impose on permittees any special provisions deemed necessary to minimize the harm from dumping. Such provisions may include measures that the permittee must take to plan, develop, acquire, or implement the following: alternatives for the disposal of the material; processes for reducing or eliminating any contaminants in the material; or processes for recycling the material.

Section (3)(2) of H.R. 6113 amends section 104(b) of the Act which addresses fees and reporting requirements. The amendment makes mandatory the existing discretionary authority of the Administrator and the Secretary to charge fees to cover permit processing costs. Application fees shall revert to the EPA or the Corps for deposit in the principal appropriation account or accounts used to carry out the processing of permits. This provision will not apply if the applicant is an agency of the Federal government.

Current law authorizes the Administrator and the Secretary to assess permit processing fees to recoup administrative costs. In making these fees mandatory, the Committee does not intend at this time to authorize or require recoupment of costs beyond those associated with processing permits. The phrase "reasonable administrative costs" means that the fee charged is to be commensurate with the costs incurred in processing the permit, and is not to include costs associated with the studies leading to the designation of dumping sites, or non-processing costs such as those associated with research and development, testing and sampling, development of regulations, enforcement activities, environmental impact statement preparation, and similar matters.

Section (3)(3) adds two new subsections to section 104 of the Act; subsections (h) and (i). Subsection (h) provides authority for imposing reporting requirements on permittees that is presently contained in section 104(b) of the Act. Subsection (h) describes certain requirements which federal, state or private applicants must meet in order to be issued a permit for dumping of radioactive waste following the close of the two-year moratorium contained in section 5 of H.R. 6113.

Subsection (h) requires a site-specific Radioactive Material Disposal Impact Assessment to be completed by the applicant and approved by the Administrator. The assessment shall be transmitted to the Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works. The assessment shall include the following:

(1) A listing of all radioactive materials in each container, the number of containers, structural diagrams, the number of curies of radioactive material in each container, and the exposure levels on the interior and exterior of each container;

(2) An analysis of the environmental impact this proposed disposal would have upon human health and welfare and marine life;

(3) Any and all adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

(4) An analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive material when initially deposited at this specific site. This is intended to be a worst-case study which would assess the impact should the containers be broken open or corrode;

(5) A plan for the removal or containment of the disposal nuclear material if the container leaks or decomposes. In the monitoring plan to be conducted under this section the state of the containers will be examined. If they are leaking or corroding so as to indicate they will not contain the radioactive materials until it becomes harmless then the permit applicant must have a plan for removing or re-encasing the containers;

(6) A determination by each affected state that has an approved Coastal Zone Management Program (16 U.S.C. 1451) that the activity authorized by the pemit is consistent with such program.

(7) An analysis of the economic impact the disposal of the radioactive material may have upon other users of marine resources. This impact may be due to a real threat, as detailed in this assessment, or a perceived threat which may result in lower fish sales or other marine activities in this region;

(8) Alternatives to disposing of the radioactive material at the site;

(9) Comments and the results of consultation with State and local officials and public hearings held in the coastal states that are nearest to the affected areas;

(10) A comprehensive plan for the regular monitoring of the disposal site to determine the full effect of the disposal on the marine environment, living resources, or human health. This includes an examination of the containers to determine whether they will continue to contain the radioactive material until it becomes harmless;

(11) Any other information which the Administrator may require in order to determine the full effects of the proposed disposal.

The Committee believes that the Congress should retain the power to override permits authorizing the disposal of radioactive material in those cases where, in its judgement, the risks are too great. Therefold, a one-houses legislative veto has been included in subsection (h) which allows for a one-house resolution of disapproval of the permit within 45 legislative days from Congressional submission of the assessment.

Subsection (h) is not intended to apply to materials containing only background levels of radioactive contaimination.

SECTION 4. LONDON DUMPING CONVENTION

Section 4 of the Act, entitled "Convention Adherence", contains what the Committee regards as a largely technical amendment to the MPRSA. Section 4 makes clear that the Administrator or the Secretary, as the case may be, must adhere to the requirements of the London Dumping Convention, including its Annexes, that are binding upon the United States when acting pursuant to the MPRSA, so long as those requirements do not otherwise relax the requirements of the MPRSA.

Following Senate consent ratification of the London Dumping convention on August 3, 1973, the 93rd Congress amended the MPRSA, to ensure that actions taken pursuant to Title I of the MPRSA accord with U.S. obligations under the Convention. The intent of the Committee in adopting section 4 is the same as that which underlay the original 1973 amendment to section 102(a).

Certain concerns have been raised that existing law may require the Administrator or the Secretary to consider the requirements of the Convention when establishing criteria under section 102(a), but that they may otherwise disregard U.S. oabligations under the Convention when acting pursuant to the authorities contained in the other provisions of Title I.

While the Committee regards these misgivings as unfounded, it has adopted section 4 to make it entirely clear that actions taken by the Administrator or the Secretary pursuant to Title I must accord with the requirements of the Convention to which the U.S. is bound. Of course, to the extent that the MPRSA imposes more stringent requirements, they shall govern.

SECTION 5. TRANSITION PROVISIONS

Section 5(a) is a "grandfather" provision that allows continued use of certain sites until site designation procedures are completed. The intent is to preserve existing statutory requirements with respect to these sites pending completion of necessary site studies so as to avoid undue disruptive effects on existing activities. The section provides that, until completion of site designation or denial of site designation by the Administrator with respect to any areas of ocean waters approved for dumping on an interim basis before July 1, 1982, and any areas used for dumping pursuant to a court order, the amendments made by H.R. 6113 shall, with certain exceptions, not be applicable. The exceptions include the moratorium on the dumping of radioactive materials, fees for permit processing, authorization of funding, mandamus proceedings relating to site designation, the schedule for completion of site designation studies included in section 10, site monitoring requirements, determination of whether a site is suitable for continued dumping, special permit conditions applied by the Administrator or Secretary, and requirements for disposing of radioactive waste after the two-year moratorium expires.

Section (5)(b) establishes a two-year moratorium on the issuance of permits for low-level radioactive wastes. Under the terms of the provision, the Administrator may issue a research permit only on the basis that the dumping is necessary to conduct research on new disposal technology and on the effects of radioactive dumping on the marine environment. If a research permit is issued, the dumping must be limited to the smallest amount of material and to the shortest period of time necessary to complete the research, so as to minimize adverse effects of the dumping.

The moratorium will ensure that the Congress will have an opportunity to review EPA's forthcoming regulations, programs for assessing the impact of past dumping, and the plans for monitoring future radioactive waste dumping. The moratorium will also give the Congress the opportunity to review proposals to dump radioactive contaminated soils from the Manhattan Project and to scuttle decommissioned U.S. Navy nuclear submarines in the ocean.

The Committee does not intend that this two-year moratorium apply to the disposal of dredge material containing only background levels of radioactive contamination.

SECTION 6. DEFINITION OF "MONITORING"

Section 6 of the bill adds a definition of monitoring to the Act. This definition, in combination with the monitoring provision contained in section 2 of the bill, is designed to ensure that the monitoring activities required in section 2 identify and warn against harmful effects of ocean dumping.

Monitoring involves checking and observing the effects of dumping by gathering pertinent data so that managers can determine whether the effects are degrading the marine environment and whether controls on dumping operations are needed. The principle consideration in establishing a monitoring program, therefore, is detecting and evaluating the deleterious effects that dumping may have on the living component of the ecosystem and on human health. A monitoring program should be initiated when adverse effects of dumping are likely to occur and should continue until the cumulative and long-term effects can be forecasted with reasonable accuracy.

Systematic, time-series observations are necessary to detect, evaluate and forecast effects of ocean dumping. Systematic means that a monitoring program should have a well-designed sampling strategy that includes determinations on sampling methods, frequency, times locations, etc. Monitoring programs should be designed in such a way that the results are useful to managers, that the program can be coordinated and compared with other monitoring programs, and that the program has application to current and projected marine pollution problems. Systematic also means that the sampling strategy should be continued over time. Time-series observations are needed in order to provide a source of information upon which future decisions can be based. Time-series observations provide information on existing levels, trends and natural variations of various components of the marine environment.

The Committee recognizes the difficulty in separating pollution-induced ecological changes from natural variations and the difficulty in demonstrating specific cause and effect relationships for various pollutants. Many changes in marine ecosystems are caused by environmental changes. For example, meteorological and climatic changes can affect physical and chemical properties of a body of water. This can alter the distribution of nutrients which controls the growth of primary producers which in turn affect higher levels of the food web.

The Committee expects, however, the Administrator to develop monitoring programs that will, in the long-term ensure that major ecological changes caused by natural variability are identified and separated from pollution-induced changes. Further, the Committee expects monitoring programs to be established that will eventually alert managers to natural perturbations that would aggravate the effects of dumping.

The definition includes a list of procedures which may be applied (when applicable for a specific site or waste) in assessing the effects of ocean dumping. The purpose of this clause is to establish a common set of procedures that can be used to develop a uniform base of scientific information for use in assessing the impacts of ocean dumping. By specifying components of a comprehensive monitoring effort, ocean dumping effects can be uniformly analyzed on a nationwide basis. Procedures that may be applied include:

1. Changes in communities of organisms living in the sediments of the site and changes in the size range of the sediment in which they dwell. Alterations of either parameter can affect the character and productivity of the site environment.

2. Changes in levels of contaminants of concern in the sediments or in selected organisms in the area. The sediment content provides an index of the incorporation of contaminants into biological tissues and thus made available to other organisms and ultimately to man.

3. General oceanographic parameters that provide the scientist with a knowledge of the environment in which a waste is to be dumped. These parameters provide for a better assessment of the path of contaminant impact.

4. An overview of the seabed to provide information on surface changes and composition of larger organisms living on or near the bottom. Such broad-scale information allows better selection of discrete areas to sample on a more intensive basis.

5. Changes in nutrient levels, i.e. phosphates, nitrates, organic carbon, etc. provide the scientist with an index of the area's ability to assimilate waste.

SECTION 7. DEFINITION OF "OCEAN WATERS"

Section 7 of the bill amends the definition of "ocean waters" to expand the term to include the seabed and subsoil. The provision was adopted to clarify that the Act applies to the dumping or storage of materials on the seabed or within the subsoil. It is not the purpose of the provision to remove the subseabed disposal of high-level radioactive wastes as a potential disposal option. At the present time, the Department of Energy is conducting research on the permanent storage of high-level radioactive waste in the subseabed.

The Committee strongly expressed its concern that the subseabed research program should continue at a level which is sufficient in order that U.S. leadership is maintained in this area.

SECTION 8. WRITS OF MANDAMUS

Section 8 of the bill specifies that the district courts of the United States shall have jurisdiction to issue writs of mandamus to compel the Administrator to comply with the requirements of section 102(c), as amended, by designating existing interim sites in a timely manner. The Commission adopts this explicit grant of jurisdiction to demonstrate its finding that the issuance of such a writ would constitute an appropriate remedy where the Administrator fails to comply with section 102(c).

Continued delay in the Environmental Protection Agency's progress in completing the necessary environmental evaluations and in designating sites on a final basis compels the Committee to take this action. In adopting Section 8, the Committee intends to signal its dissatisfaction with these delays. In particular, the Committee notes two schedules which specify EPA's obligations: first, the Stipulation of Settlement and Dismissal Agreement between the National Wildlife Federation and EPA, et al., in the United States District Court for the District of Columbia, Civil Docket Number 80-0405 (September 25, 1980), in which EPA, with court approval, agreed to promulgate regulations that would provide for the completion of environmental impact statements and final site designations or terminations in accord with a schedule in Attachment B to the Agreement; and second, EPA also submitted to the Subcommittees on Oceanography and on Fisheries and Wildlife Conservation and the Environment an additional site designation schedule that included ten sites in addition to those in the court-approved agreement.

In addition, Section 10 requires the Administrator to establish and submit to the Congress a schedule for completing site studies and designations for all sites with interim designation as of June 30, 1982. The mandamus provision would also apply to this schedule.

The Committee is especially concerned that EPA adheres to these schedules and that dumpsites and areas receive the prompt and complete attention of EPA. The

Committee is of the opinion that, in the absence of compelling and persuasive justifications to the contrary, the failure to adhere to these schedules would constitute a violation of section 102(c). In such an event, the issuance of a writ of mandamus, along with the appropriate actions, would constitute an entirely appropriate remedy.

Section 8 also references permit applications under sections 102 or 103 as appropriate times to undertake site designation proceedings since the necessity to designate sites most frequently arises is proposals to use new areas for dumping in conjunction with such applications. Permit applications, in general, trigger site designations, and the Committee expects that the Administrator will respond to such requests in a timely fashion.

Section 8 explicitly provides that nothing in the section will affect the conduct of any dumping pursuant to a permit pending the completion of final site designation proceedings. The intent of the Committee in adopting this provision is to ensure that, just as the responsibilities to designate sites fall to the Administrator, so too should the consequences of failing to do so: Permittees should not bear the burden of designation delays by being prohibited from using sites that remain designated on an interim basis.

Finally, section 8 provides that paragraph (4) of subsection 105(g) shall not apply to actions brought under the new paragraph (5). The Committee adopts this provision to ensure that courts will not award attorney fees and other costs of litigation in actions brought under paragraph (5).

SECTION 9. AUTHORIZATION OF APPROPRIATIONS

This section authorizes appropriations of $4,213,000 for FY 1983. This is the same level that was authorized for FY 1982.

SECTION 10. SCHEDULE FOR COMPLETION

This section directs the Administrator to establish a schedule for expeditiously completing the study and designation of denial of designation of sites used for dumping under interim designations or court order. This schedule is to be submitted to the Congress within six months after the date of enactment of the section.

□ 1530

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. JONES) has 12 minutes remaining.

Mr. JONES of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ROE), the chairman of the Subcommittee on Water Resources.

Mr. ROE. Mr. Speaker, H.R. 6113, the Ocean Dumping Act Amendments of 1982, was sequentially referred to the Committee on Public Works and Transportation after being reported by the Committee on Merchant Marine and Fisheries. The bill amends title I of the Marine Protection, Research, and Sanctuaries Act of 1972. Our committee adopted five amendments to H.R. 6113. The substitute incorporates these amendments with necessary conforming changes.

The Ocean Dumping Act provides for the regulation of the dumping of materials into the oceans. The Administrator of the Environmental Protection Agency is given authority to regulate the dumping of materials other than dredged material. Dredged material is regulated by the Secretary of the Army.

The Administrator is authorized to issue permits for dumping where the Administrator determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator establishes and applies criteria for reviewing and evaluating permit applications. The Administrator is further authorized to designate recommended sites or times for dumping.

The Secretary of the Army is authorized to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Secretary must apply the criteria established by the Administrator. The Secretary must, to the extent feasible, utilize recommended sites designated by the Administrator.

Prior to issuing a permit, the Secretary is required to notify the Administrator. If the Administrator disagrees with the Secretary, the determination of the Administrator prevails. A waiver, however, may be granted where the Secretary finds that there is no economically feasible alternate site, unless the administrator finds that the dumping will result in an unacceptably adverse impact on water supplies, shellfish, wildlife, fisheries, or recreational areas.

The substitute for H.R. 6113, developed jointly by the two committees, makes a number of changes to existing law designed to strengthen the act and increase the protection of ocean waters and marine life from environmental degradation. The existing discretionary authority of the Administrator to designate dumping sites is made mandatory. EPA has not been sufficiently diligent in performing studies at sites used for dumping in order to determine the suitability of the sites and the environmental effects of the dumping. As a result, the majority of dumping sites have been designated on an interim basis. Under the provision in the amendment, EPA will be required to perform the necessary studies leading to final site designation or denial of designation. This, coupled with a mandamus provision permitting legal actions to compel designation and the requirement that a site study schedule be submitted to Congress within 6 months, will expedite the performance of site designation studies.

The sites which are currently being used either under an interim designation or a court order will be "grandfathered." Until completion of site designation or denial of site designation, the amendments made by H.R. 6113 will, with certain exceptions, not be applicable. The exceptions include the moratorium on the dumping of radioactive materials, fees for permit processing, authorization of funding, mandamus proceedings relating to site designation, and the schedule for completion of site designation studies. This provision will insure that dumping at these sites can continue for current and future permitees subject to the requirements of the Ocean Dumping Act as in effect prior to enactment of H.R. 6113 until completion of site designation or denial of designation. Application of the existing section 102(c) criteria, the National Environmental Policy Act, and court orders and consent decrees will not be affected. This will avoid undue disruptive effects on existing activities.

The authority of the Secretary of the Army under section 103 of title I of the act to issue permits for the dumping of dredged material where it is not feasible to utilize EPA designated sites remains unchanged. Likewise, EPA's authority to disagree with the determination remains. When the Administrator disagrees with the Secretary's determination as to compliance with the criteria established pursuant to section 102 or because of determinations made to limit or suspend dumping pursuant to section 102(c)(3), the determination of the Administrator prevails.

Section 103(c) of the act refers to the restrictions established pursuant to section 102(c) relating to critical areas. Section 102(c) authorizes the Administrator to designate sites or times within which certain materials may not be dumped when he finds it necessary to protect critical areas. The amendment to section 102(c) contained in H.R. 6113 no longer refers to the construction of critical areas but rather gives EPA the authority to limit or suspend dumping when it is determined that a site is no longer suitable for dumping. The reference in section 103(c) to restrictions established pursuant to section 102(c) is to be read as referring to determinations of the Administrator under new section 102(c)(3).

These changes to the Ocean Dumping Act will significantly improve our efforts to prevent environmental degradation of ocean waters.

Mr. Speaker, I urge passage of the bill. And I enclose a letter from the director of the pollution and toxic substanced division of the National Wildlife Federation:

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., September 17, 1982.

Hon. ROBERT A. ROE,
Chairman, Water Resources Subcommittee, Committee on Public Works and Transportation, Rayburn House Office Building, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The National Wildlife Federation supports adoption of H.R. 6113 (the "Ocean Dumping Amendments Act of 1982").

While we are not deliriously happy with a number of the bill's provisions, we appreciate the delicate process by which the amendments were negotiated and refined. We believe the resultant bill is the product of a good faith and largely successful effort to accommodate the major concerns of all concerned parties.

For example, in connection with the designation of ocean dumpsites for dredged material, the bill in several ways encourages accelerated completion of the site study process—a welcome and constructive step (and one which affords greater certainty and protection to dredgers as well as benefitting the environment). On the other hand, through a broad "grandfather" provision, the bill greatly reduces the exposure of ocean-dumpers (at existing interim-approved dumpsites) to legal challenges which might compromise their ability to continue dumping at incompletely studied or designated sites. (This is acceptable to us as an adjunct to provisions accelerating dumpsite studies.)

I commend you and your staff, and Chairman Howard and the full committee staff, for you diligent and progressive efforts in fashioning a bill which advances the cause of safeguarding the marine environment, without unduly penalizing those who have relied on existing administrative mechanisms to gain approval for ocean dumping.

Sincerely,

KENNETH S. KAMLET,
Director, Pollution and Toxic Substances Division.

Mr JONES of North Carolina. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 6113, the Ocean Dumping Amendments Act of 1982 and urge my colleagues to adopt this measure, which provides several much-needed reforms to title I of the Marine Protection, Research, and Sancturaies Act.

As my colleagues on the Merchant Marine and Fisheries Committee have already pointed out, this bill addresses a number of complex issues related to the continued ocean dumping of society's waste. Among other things, the amendments require the Administrator to designate ocean dumping sites and to undertake a complete analysis of each site and its suitability for dumping—including a survey of the environmental effects which will likely result from the dumping activity. The legislation also sets out strict monitoring requirements and permit conditions, establishes a 2-year moratorium on the ocean disposal of low-level radioactive wastes, and clarifies our responsibilities to adhere to the provisions of the London Ocean Dumping Convention to which the United States is a signatory.

Despite these much-needed changes, however, the bill does not go far enough. As all of us know, Congress enacted legislation in 1977 which called for a complete halt to the ocean dumping of sewage sludge which unreasonably degraded the marine environment by the end of 1981; 1980 amendments to the Ocean Dumping Act reaffirmed the deadline provision and called for a similar halt to the ocean disposal of harmful industrial wastes. Despite Congress overwhelming support for these measures, however, the ocean dumping of harmful material continues, and in the case of sewage is increasing dramatically.

The continuation of slude dumping in the coastal waters off of northern New Jersey has been an issue of major concern both to me and to many of my colleagues. As a member of the Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment, I had the opportunity to actively participate in a long series of oversight hearings the committees undertook to explore the complex and controversial issues raised by the continued ocean dumping of harmful materials. As my colleagues on the Public Works Committee and the Science and Technology Committee also know from their careful investigation into this subject, there are no simple solutions to the myriad of environmental, scientific, and public policy problems which surround this issue. The complexity of the problem, however, and the fact that fast and easy solutions do not exist, does not relieve us of the responsibility which Congress must exercise in order to bring about a timely and effective solution to this ongoing problem.

Despite the fact that this bill is the first step in the right direction, it is not enough. The issue of continued ocean dumping in the waters off the coasts of New York and New Jersey must be addressed by comprehensive legislation designed to insure that these waters—recognized as the Nation's most severely degraded coastal area—get the recognition and protection which they deserve.

Far too often, proponents of continued ocean dumping—those who have a tremedous economic incentive to oppose the development of suitable alternatives—have come before our committees to voice their view that ocean dumping does not degrade the marine environment. To support their premise, they claim that stopping sludge dumping in the New York bight would not significantly improve the quality of the water in that area. That argument, however, is based on the premise that the patient is already dead, and beyond help.

It is clear that ocean dumping constitutes one of several sources of input for harmful and persistent toxic materials which pollute these waters. There is no question that the continued influx of contaminants from the Hudson-Raritan estuary also constitutes a major source of pollutants to the New York bight as does runoff from coastal and urban areas. These pollutant sources must also be addressed before the health of this body of water can be fully restored and efforts are underway to do this. At the same time, however, the specific and direct contribution of contaminants which ocean dumping adds to these waters needs to be addressed.

Let there be no mistake, my concern over the continuation of ocean dumping extends much further than the New York bight. A number of municipalities and industries are closely watching what is happening in Congress and at the EPA to determine whether ocean dumping will become a viable waste-disposal option for them as well.

Cities such as Washington, D.C., San Francisco, Boston, and Baltimore, to name a few, are among those already investigating the feasibility of ocean dumping to meet sewage disposal problems. At the same time, Philadelphia, which found workable alternatives to ocean dumping after Congress enacted the deadline provisions, has not ruled out the possibility of returning to the less-costly option of ocean dumping should Congress and the EPA fail to uphold the mandate of current law. Meanwhile, the volume of sludge already being dumped in the oceans continues to grow, from roughly 5 million wet tons in 1977, to 7 million tons in 1981. The amount which could be dumped in the oceans by 1985 if dumping at sea is allowed to continue may reach an alarming 17 million tons.

Clearly, Congress must take some decisive action—and soon. In the next session I plan to introduce a major legislative initiative to reform title I of the Ocean Dumping Act to specifically address the problem of continued ocean dumping of harmful material in severely polluted coastal areas such as the New York bight. At the same time, I, along with other concerned members of the Merchant Marine and Fisheries Committee, will be closely watching EPA's activities in developing new ocean dumping regulations and in designating ocean dumping sites to assure that the agency does not undertake any actions which will reverse the intent of Congress to once-and-for-all phase out harmful ocean dumping.

My colleague, TOM EVANS of Delaware, and I are the authors of 1977 amendments which established the ocean dumping deadline. We are appalled by the fact that the EPA has al-

lowed a lower Federal court ruling to reverse a decade of progress in phasing out ocean dumping. Ocean dumping has remained the choice alternative for several municipalities simply because it is cheap for them. These municipalities have demonstrated a complete unwillingness to make any changes whatsoever unless forced to do so by decisive Federal action. By failing to act decisively, Congress will only allow this practice to continue.

I urge all of you to support this legislation and to join me in the next Congress in developing legislation which will address the problem of continued ocean dumping head-on and assure the American public that Congress has no intention of allowing the ocean dumping of harmful materials to continue. In the meantime I congratulate the gentleman from New Hampshire, the chairman of the subcommittee for his outstanding efforts in fashioning a compromise and in particular my colleague from Delaware, TOM EVANS, one of the leaders in the fight to develop a rational ocean policy.

□ 1540

Mr. JONES of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. PRITCHARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6113, the Ocean Dumping Amendments Act of 1982. The Committee on Merchant Marine and Fisheries has worked closely with the Public Works and Transportation Committee in developing a bill which would amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (Public Law 92-532), commonly referred to as the Ocean Dumping Act.

H.R. 6113 will strengthen the MPRSA by directing the Administrator of the Environmental Protection Agency (EPA) to implement a dumpsite designation and monitoring program, to establish a 2-year moratorium of dumping low-level radioactive wastes, and to authorize appropriations to carry out the provisions of title I for fiscal year 1983 at a level of $4.213 million.

Several events during the past few years have focused increased attention on utilizing the oceans for waste disposal. As other disposal alternatives are reduced or eliminated, new permit applications for industrial waste dumping are anticipated. Ocean-based incineration of hazardous and toxic wastes, which is regulated as an ocean dumping activity, is a growing alternative to land filling and land incineration. There is increasing interest in radioactive waste disposal at sea as well as marked increase in dredge materials requiring disposal that result from energy-related port improvements.

The potential increases in ocean dumping will most likely tax EPA's ability to process permit applications for ocean dumping, to evaluate and monitor the effects of increased dumping, and to conduct research to produce the information needed for management decisions. Moreover, a substantial increase in ocean dumping raises additional questions about the cumulative impacts associated with such increases.

I think H.R. 6113 will help move us in the right direction to deal with the concerns I have outlined, and I would strongly urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he might need to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to join in the remarks of the gentleman from Washington in extending my sincere appreciation to the chairman of the full committee and the gentleman from New Hampshire for the kind of extended cooperation that the Merchant Marine and Fisheries Committee gave to us.

I also want to extend to our own subcommittee chairman, the gentleman from New Jersey (Mr. ROE) my personal appreciation for the kind of expeditious consideration that he gave to the request that we are making once the bill was sequentially referred from the Merchant Marine and Fisheries Committee to our committee.

Mr. Speaker, I am pleased to rise in strong support of H.R. 6113, the Ocean Dumping Amendments Act of 1982. The chairman of the Subcommittee on Oceanography, the gentleman from New Hampshire (Mr. D'AMOURS), and the subcommittee's ranking Republican, the gentleman from Washington (Mr. PRITCHARD) are to be complimented for crafting a very sound and environmentally protective reauthorization bill. The gentleman from Louisiana, the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment (Mr. BREAUX) and the gentleman from New Jersey, the chairman's Republican counterpart (Mr. FORSYTHE) provided valuable leadership on this legislation, as did the gentleman from North Carolina (Mr. JONES) and the gentleman from Kentucky (Mr. SNYDER), the chairman and the ranking Republican respectively of the full Committee on Merchant Marine and Fisheries. And special recognition should also be given to our Public Works and Transportation Committee chairman, the gentleman from New Jersey (Mr. HOWARD), his New Jersey colleague (Mr. ROE), the chairman of the Subcommittee on Water Resources, and his subcommittee Republican counterpart from the State of Arkansas (Mr. HAMMERSCHMIDT), all of whom contributed significantly to developing the legislation that we bring to the floor here today.

Since its passage in 1972, the Ocean Dumping Act, more formally referred to as the Marine Protection, Research and Sanctuaries Act, has been the principal Federal statute focusing on preventing or strictly limiting the ocean dumping of any material that would adversely affect human health, welfare, or amenities, or the marine environment, ecological system, or economic potentialities. During its 10-year existence, the act has succeeded in relieving some of the increasing pressures our oceans have been under to serve as a ready repository for the disposal of municipal and industrial wastes.

H.R. 6113 amends and reauthorizes title I of the Ocean Dumping Act. Title I of the act provides a mechanism for the issuance of permits by the Secretary of the Army for the ocean dumping of dredged material and by the Administrator of the Environmental Protection Agency for the dumping of most other materials into the oceans, such as sewage sludge, industrial wastes, radioactive wastes, and wastes to be incinerated at sea. Criteria established by the Administrator are required by title I to be applied in determining whether a permit should be issued. Title I currently gives the Administrator the discretionary authority to designate sites recommended for dumping. It gives the Secretary the discretionary authority to dispose of dredged materials in different sites when the Administrator agrees that no economically feasible method or site is available.

H.R. 6113 was reported with amendments by the Committee on Merchant Marine and Fisheries on May 17 of this year. On the same day the bill was sequentially referred to the Committee on Public Works and Transportation for consideration of those of the bill's provisions and amendments within our committee's jurisdiction. After a hearing, the Public Works Committee favorably reported H.R. 6113 with a small package of amendments.

The bill before us today is a combination of the different versions reported by the two committees. It strengthens current law regulating the disposal of waste material in the oceans and is significant in a number of respects. H.R. 6113 mandates that EPA designate sites which may be used for the disposal of materials covered by the Ocean Dumping Act. In the interests of maintaining the vital flow of commerce through our Nation's ports, the bill grandfathers a number of dredged material disposal sites. It prevents the designation and use under section 102

of any nongrandfathered site until complete study and analysis of the site has been performed. The bill imposes mandatory rather than discretionary ocean dumping permit processing fees and requires EPA to periodically monitor the effects of ocean dumping at sites deemed necessary by the Administrator. H.R. 6113 adds a new mandamus provision giving the U.S. district courts jurisdiction, upon application of any person, to compel EPA to implement in a timely fashion the site designation requirements of the act. The bill places a 2-year moratorium on the ocean dumping of low-level radioactive wastes and it requires, at the end of the moratorium, strict new rules concerning study, assessment, and congressional oversight before any new permit for the disposal of low-level radioactive wastes can become effective.

Mr. Speaker, I would like to provide, if I might, a little clarification concerning two features of H.R. 6113. The first concerns the need to avoid unnecessary disruption in the U.S. Army Corps of Engineers dredged material disposal activities, so vital to preserving the free flow of the Nation's commerce through our ports. The second concerns the provisions of H.R. 6113 relating to restrictions on the ocean dumping of low-level radioactive wastes.

There are currently 112 Corps of Engineers navigation projects which presently require, at least in part, ocean disposal of the dredged spoil. These projects are located along the entire length of our Nation's coast, on the Atlantic and Pacific Oceans and the Gulf of Mexico. The number of corps projects requiring ocean disposal may increase in future years as suitable inland disposal alternatives become increasingly costly and difficult to locate. Each of the sites associated with these 112 projects has received interim disignation by EPA.

According to information made available to the Public Works Committee, there are currently 127 ocean sites that have interim dumpsite designation from EPA for dredged material disposal. Five additional disposal sites, all off Hawaii, have received final ocean dumpsite designation.

During our Public Works Committee hearings, serious concerns were raised with respect to the possibility that the language of H.R. 6113 as reported by the Merchant Marine Committee could be read to have significant adverse consequences for dredging associated with these projects or these sites. The Public Works Committee, therefore, adopted an amendment to section 5(a) of the bill to grandfather existing dumpsites.

The amendment adopted by the Public Works Committee—and included, with only slight modification, in the compromise bill being brought to the floor today—is a version of an earlier amendment which was adopted by the Subcommittee on Water Resources but which was redrafted in order to eliminate a misinterpretation of the committee's intent with respect to the amendment's legal effect.

The Water Resources Subcommittee amendment provided that:

To the extent that the Secretary may do so consistent with the requirements of this title, the Secretary shall adhere to and apply the requirements of the convention, including its annexes, that are binding upon the United States.

Although it was never the intention of the author of the amendment or of the subcommittee to require such a result, concerns were raised that the amendment would have exempted the Corps of Engineers from the need to adhere to any London Dumping Convention requirements not expressly incorporated in the Ocean Dumping Act as it existed prior to 1974. The Corps of Engineers, under this reasoning, would thus be relieved of any obligation to evaluate the environmental suitability of a proposed dumpsite, in cases where the corps rather than EPA was selecting the dumpsite, prior to permitting the dumping at the site.

Nothing in our subcommittee amendment was intended to produce this result and counsel has informed us that the wording of the amendment's language would not likely have led to such a legal conclusion. Nevertheless, in order to remove any doubt, the full Public Works Committee agreed to revisit the matter and reworded the language of the amendment to more clearly reflect the committee's intent.

The amendment, which the Public Works Committee adopted and which is substantially incorporated in the bill before us today, was also designed to meet two technical problems. First, the designations for the previously promulgated sewage sludge dumping sites expired last December, and have not yet been renewed.

Dumping at these sites is presently being accomplished under court order. The amendment included these sites in the grandfathering provision.

Second, the completion of baseline or trend assessment surveys occurs prior to final site designation. Linking the grandfathering to these surveys would result in a gap between their completion and the final determination. Therefore, the amendment made the grandfathering effective until completion of site designation or denial of site designation.

Reflecting the action taken by the Public Works Committee, section 5(a) of H.R. 6113 changes the grandfather provision by providing that, until completion of site designation or denial of site designation by the Administrator with respect to any areas of ocean waters approved for dumping on an interim basis before July 1, 1982, and any areas used for dumping pursuant to a court order, the amendments made by H.R. 6113 shall, with certain exceptions, not be applicable. The exceptions include the monitoring and dumping restriction provisions of the bill, the moratorium on the dumping of radioactive materials, fees for permit processing, authorization of funding, mandamus proceedings relating to site designation, and the schedule for completion of site designation studies included in new section 10.

Section 5(a) of the bill preserves existing law with regard to sites which, as of July 1, 1982, have been designated for dumping on an interim basis, as well as those sites being used pursuant to court order. This will insure that dumping at these sites can continue for current and future permittees, subject to the requirements of the Ocean Dumping Act as in effect prior to enactment of H.R. 6113, until completion of site designation or denial of designation for the site or sites. Application of the existing section 102(c) criteria, the National Environmental Policy Act, and court orders and consent decrees will not be affected. The existing statutory and regulatory schemes are preserved pending completion of necessary site studies so as to avoid undue disruptive effects of existing activities. Maintenance dredging of our Nation's ports will thus be able to continue, thereby preserving essential needs of commerce. At the same time, the necessary studies of interim designated sites must proceed on an expeditious basis so that any harmful effects can be identified and addressed.

Nothing in section 5, or in any other provision of the compromise version of H.R. 6113 that we bring to the floor today is intended to change the nature of the London Dumping Convention, to accord "self-executing" status to the convention, or to obviate the requirement for the convention's legally binding provisions to be implemented domestically through promulgation of necessary rules and regulations. Currently, the London Dumping Convention and its annexes have no independent status providing the basis for judicial challenge of any action by the Administrator or Secretary, or of any recipient of a permit issued under the act, beyond relevant implementation through the act. This situation is intended to be unchanged by H.R. 6113.

Certain of the new requirements in H.R. 6113 are, however, being applied immediately. These include the monitoring and dumping restriction provisions of section 2 of the bill, the moratorium on dumping of radioactive materials, the imposition of fees for permit processing, mandamus proceedings relating to site designation, and the schedule for completion of site designation studies contained in new section 10 added by the committee.

These latter two provisions are designed to insure that site designation studies proceed on an expeditious basis. The mandamus provision permits legal action to be instituted to compel the Administrator to implement the site designation provisions of the act. New section 10 directs the Administrator of EPA to establish a schedule for expeditiously completing the study and for designation or denial of designation of sites used for dumping under interim designations or court order.

In taking the approach embodied in H.R. 6113, the Public Works and Merchant Marine Committees fully support and wish to affirm in the strongest possible way their intent that required studies of sites, especially where dumping is currently underway in large volumes, should be completed as expeditiously as possible. The committees also agree that completion of full prior studies of new proposed sites for dumping on a continuing basis—sites not grandfathered by H.R. 6113—is necessary before commencement of dumping activity. It is further the strong intent of the committees that necessary dredging and disposal of dredged materials must continue in order to maintain the vital flow of commerce through our Nation's ports.

Mr. Speaker, the second major feature of H.R. 6113 that I would like to discuss relates to the bill's provision imposing a 2-year moratorium on the ocean dumping of low-level radioactive waste and establishing strict new post-moratorium rules concerning such dumping.

Our distinguished colleague, the gentleman from California (Mr. ANDERSON) and I teamed up to develop and introduce H.R. 6144, a bill to impose a 2-year moratorium on the ocean disposal of low-level radioactive wastes and to provide, after expiration of the moratorium, for new procedures and congressional veto of low-level radioactive waste ocean disposal permits. This language was offered as an amendment to H.R. 6113 during Merchant Marine Subcommittee markup and was unanimously adopted.

It was also unanimously adopted by the Public Works Committee and is included in the compromise bill we bring to the floor today. We are convinced, Mr. Speaker, that the ocean disposal of radioactive materials—including low-level radioactive materials—should take place only with the strictest environmental safeguards, if at all. Our bill and the provisions of H.R. 6113 before us today move substantially in that direction.

H.R. 6113 mandates, after expiration of the 2-year moratorium on any ocean dumping of low-level radioactive wastes and before a permit can be issued for any such dumping, that a radioactive material disposal impact assessment must be prepared which shall include a listing of all materials and quantities in each container; an analysis of the environmental impact at the specific site; a listing of adverse environmental effects which cannot be avoided; an analysis of the resulting environmental and economic consequences if material leaks when it is dumped; a plan for recovering or controlling leaking containers; an analysis of the economic impact upon other users of marine resources; a listing and study of alternatives to dumping in the ocean; and a comprehensive monitoring plan to make sure there are no adverse effects upon human health and marine life while the material remains in the ocean. Perhaps most importantly, H.R. 6113 makes provision for a congressional veto of any permit determined to pose an unncessary threat to human life or the marine environment.

Mr. Speaker, the issue of radioactive waste disposal is one of the most difficult yet crucial environmental issues of our times. Just a little more than a year ago, the Council on Environmental Quality, in its 11th annual report, acknowledged that—

> There are critical gaps in knowledge of what happens chemically and biologically to wastes deposited at deep sea sites—for example, where radioactivity leaking from canisters in the North Atlantic dumpsite is going and whether radioactive substances are being taken up by living organisms.

This is part of the reason that the United States has not disposed of any low-level radioactive wastes in the oceans since 1970.

Mr. Speaker, I am unalterably opposed to the dumping of nuclear wastes of any kind off the north coast of California. This is particularly true with respect to the potential for dumping at any site near the Humboldt-Mendocino-Sonoma County coastline.

The issue is important to California, but it goes much beyond the interests of that State alone. It is a national issue that demands national attention and the strictest of scrutiny before any decision is reached to dispose of low-level radioactive wastes in the ocean anywhere near our coastline.

Allegations will be made that we currently have adequate knowledge and data to enable us now or in the near future to decide to dump low-level radioactive wastes in the oceans. I reject those allegations. Our Water Resources Subcommittee hearings clearly pointed out that, with respect to ocean dumping of radioactive wastes, it will be years before we understand the mechanisms at work. It will be years before we know all we need to about the organisms affected, the leakage that is taking place, and what the impacts might be on man and his environment.

Mr. Speaker, H.R. 6113's low-level radioactive waste provisions are designed to force us to be thorough and cautious before we reinstitute ocean dumping of these wastes. They are designed to afford the level of protection that our coastline and natural resources are entitled to. I am proud to have had a role to play in developing these provisions and I strongly urge my colleagues to support them and the entire bill here today. H.R. 6113 is an important addition to our Nation's body of environmental law. It fully deserves our support.

□ 1550

I thank my colleagues for their cooperation which they have extended to me.

Mr. PRITCHARD. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding this time to me.

Mr. Speaker, once again I rise to point out that this is a bill to which the administration is opposed. Once again, we have on the Suspension Calendar today a bill which we are not able to amend, and to which the administration has raised a number of important objections.

One of the objections of the administration is that this bill authorizes too much money. They point out that the EPA had originally asked for about $3½ million and this bill appropriates or authorizes, instead, $4.2 million.

They also point out the provisions of the bill are going to hamper the Environmental Protection Agency's ability to effectively manage the ocean dumping permit program.

So my objection is not as much to the bill as it is to the procedure under which we are considering this bill which gives this House no opportunity at all to meet some of the very definite objections that the administration has raised, and I would hope that in the future when we get a bill with this kind of controversy about it, it will not be brought out here under the Suspension Calendar.

Mr. Speaker, I thank the gentleman for yielding.

● Mr. LENT. Mr. Speaker, I rise in support of H.R. 6113, authorizing $4.213 million to carry out title I of the Marine Protection, Research and Sanctuaries Act, commonly known as the Ocean Dumping Act.

In addition, this bill makes needed improvements that clarify the law concerning ocean waste disposal.

H.R. 6113 requires that dumpsites be designated, thereby closing the loophole in current law that states EPA may designate recommended dumpsites. Mandatory site designation can help insure that potential dumpsites are adequately studied to assess their suitability for dumping. Furthermore, the bill requires that EPA periodically monitor the effects of dumping includ-

ing the movement of materials beyond dumpsite boundaries, accumulation of materials, and water quality changes.

In addition, the legislation provides for a 2-year moratorium on the ocean disposal of low-level radioactive waste.

As a strong supporter of the Ocean Dumping Act, I am hopeful that this legislation will help us develop the information we need to assure our precious marine environment and its many resources are properly protected.

I urge my colleagues to support this bill reauthorizing the Ocean Dumping Act.●

● Mr. STUDDS. Mr. Speaker, I rise in support of H.R. 6113. This legislation reflects a carefully designed compromise worked out by members of both the Merchant Marine and Fisheries Committee, and the Committee on Public Works and Transportation. I do not believe the measure is controversial, and I hope that it will be approved without difficulty today.

During the course of debate on this legislation within the Committee on Merchant Marine and Fisheries, I offered an amendment to provide a more specific definition of the term "monitoring." This definition was later the subject of discussions between the two committees, but the final language retains the purpose of the amendment as it had originally been proposed.

The purpose of the amendment, quite simply, is to increase the likelihood that we will learn the effects of what we are doing in the ocean in a manner sufficiently timely to permit us to alter our activities if necessary to prevent long-term or irreversible damage to vitally important resources. The definition of "monitoring" contained in the bill is intended to guarantee the development of a flexible, but comprehensive, program of monitoring, using a broad range of data collection options. It will also facilitate the development of more uniform monitoring practices throughout the Environmental Protection Agency's national structure than has been possible in the past.

Finally, I believe that this revised definition of "monitoring" is necessary to keep faith with the public. We have an Environmental Protection Agency. We have a requirement for the monitoring of dumpsites. The public ought to be able to derive from these facts a sense of confidence that the environmental effects of ocean dumping will be carefully observed, and that these observations will play a major role in any decision to continue permitting such dumping. This amendment is designed to improve the chance that this particular environmental program will actually accomplish the purpose for which it was constructed.

I am pleased by the inclusion of this language in the final version of H.R. 6113, and I hope the entire bill will become law before the work of the 97th Congress is completed.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of H.R. 6113. Those of us who live in coastal States recognize that our ocean's resources are priceless. Our tourism and fishing industries, which employ thousands, depend on clean oceans and beaches. We cannot allow critically important jobs to be jeopardized by big cities looking for a place to dump their wastes.

H.R. 6113 is a compromise measure and a workable package for the short term. I am especially pleased that this bill places a 2-year moratorium on the dumping of radioactive waste. In addition, H.R. 6113 requires that EPA consider environmental and scientific factors in choosing dump sites and allows EPA to require dumpers to pay the cost of processing permits.

I would like to remind my colleagues that in addition to H.R. 6113, the fight against dumping sewage sludge continues. In 1977, Congress passed legislation which the gentleman from New Jersey, Mr. HUGHES, and I initiated that prohibits ocean dumping of harmful sewage sludge. The EPA has not been aggressive enough in enforcing that prohibition, and I have entered into a lawsuit with the National Wildlife Federation to force EPA to more vigorously enforce the law of the land.

At this point, I would like to commend the gentleman from New Jersey, Mr. HUGHES, for his strong and effective leadership in the effort to protect the economies of coastal States. I look forward to working with him in the continuing battle against the dumping of harmful sewage sludge off our coasts.●

● Mr. HOWARD. Mr. Speaker, I rise in support of the bill.

I want to compliment the Committee on Merchant Marine and Fisheries, its two subcommittees which worked on the bill, and our Subcommittee on Water Resources for the fine job they have done in bringing to the floor legislation which makes significant improvements in our ability to protect our oceans.

The Marine Research, Protection, and Sanctuaries Act, commonly known as the Ocean Dumping Act, was enacted in 1972 as a result of concern over the effects of unregulated ocean dumping. The act established a policy to prohibit or strictly limit the ocean dumping of materials harmful to people or the marine environment. No dumping of material other than dredged material may be done without a permit from the Environmental Protection Agency. Likewise, no dumping of dredged material may be done without a permit from the Secretary of the Army. In issuing these permits, environmental criteria established by EPA will be considered. This act represents a significant step forward in the prevention of pollution of our ocean waters. However, experience has demonstrated that the act does need to be strengthened. Formal site designation preceded by detailed studies to determine the environmental effects of dumping has not occurred as much or as rapidly as it should have. As a result, the vast majority of ocean dumping is taking place at sites which either have received only an interim designation or are being utilized pursuant to court order. Not only have adequate studies not been performed at these sites, the monitoring of the effects of the dumping is inadequate.

The purpose of H.R. 6113 is to overcome these problems—to insure that dumping is permitted at designated sites following adequate environmental studies and that proper monitoring will take place to insure that the ocean environment is indeed being protected. In order to accomplish this purpose, the bill makes site designation mandatory rather than discretionary. EPA must designate sites at which dumping is to be permitted. Coupled with thisis a mandamus provision which allows legal actions to be brought to compel site designation studies. Also, our committee added a provision requiring EPA to prepare and submit to Congress within 6 months a schedule of site designation studies for those sites which presently are being used pursuant to an interim designation or pursuant to court order.

These provisions will provide needed impetus to EPA's lagging site designation study program and will hasten the study process so that adverse effects resulting from dumping at improper sites will be addressed as soon as possible.

It is not, of course, possible to shut down all sites immediately pending completion of the studies. For this reason, the bill "grandfathers" existing sites until completion of the studies and final site designation or denial of designation. This "grandfathering" provision, however, insures that existing law plus the monitoring required by the bill will apply to these sites in the interim. Upon designation or denial of designation, the new provisions of the bill will be phased in. During this interim period, all existing requirements of law, including the existing criteria, the National Environmental Policy Act, and court orders and consent decrees will continue to apply.

Mr. Speaker, this bill represents the culmination of many months of intensive effort by our committee and the Committee on Merchant Marine and Fisheries. It is a bill which is satisfactory to our committees, to the environmental community, and to navigation interests. It will hasten the day by which we have truly effective environ-

mental controls to protect our oceans and the vast amounts of life which they contain. I urge passage of H.R. 6113.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 6113 is the result of a great deal of effort by both the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation.

This legislation extends for 1 year the authorization of title I of the Marine Protection, Research and Sanctuaries Act, also known as the Ocean Dumping Act. It makes changes in the program for regulating ocean disposal, especially of dredge material and sludge. There have been numerous legal challenges to the activities of EPA and the Corps of Engineers as they have carried out the act. Overall, however, it is clear that the basic act with its program for environmental protection and safe disposal of materials at sea has been an important and effective environmental law.

The Committee on Public Works and Transportation has a strong interest in title I of the act because of our jurisdiction over the Clean Water Act and Corps of Engineers projects and other activities. We have worked with the Merchant Marine Committee and with environmental and other interests to insure that the authorization of the act continues without disruption of ongoing programs and without weakening the provisions of the act.

H.R. 6113 answers the need to see that the process of designating disposal sites and of granting permits is expedited. Delays serve neither the environment nor the need of the Nation to keep our harbors dredged. I believe that the language changes we have agreed upon with the Merchant Marine and Fisheries Committee provide significant improvements in this direction. The bill insures both that the ongoing process of designating environmentally acceptable ocean disposal sites will be speeded up and that needed dredging of the Nation's ports will continue.

H.R. 6113 now provides workable and effective improvements to the Ocean Dumping Act. I fully support this important environmental legislation and urge all my colleagues to support it as well.●

● Mr. ANDERSON. Mr. Speaker, I rise today in strong support of H.R. 6113, the Ocean Dumping Amendments Act of 1982. The oceans are vital to life on this planet, and it is imperative that we do all we can to protect this environment. We must not be deceived by the apparent vastness of the oceans, for there is a limit to which even they can absorb man-made pollution.

These amendments will do a lot to further protect the ecology of our seas. In particular, I would like to support the nuclear-waste provisions in this legislation. This bill provides for a 2-year moratorium on the disposal of low-level radioactive materials in the ocean, in addition to the permanent moratorium on the disposal of high-level wastes included in present law.

During our hearings concerning past practices of disposing of nuclear materials in the ocean the committee has found many instances of inadequate safeguards to protect the marine environment and to safeguard human health. Therefore, the committee has included a proposal I made to amend section 104 of the Marine Protection, Research and Sanctuaries Act relating to the future disposal of radioactive materials in the ocean.

After the 2-year moratorium expires, the EPA Administrator may not issue a permit to dispose of any radioactive materials in the ocean to a Federal, State, or private applicant unless a site specific radioactive material disposal impact assessment is completed and transmitted to the Committee on Merchant Marine and Fisheries of the House and the Committee on Environment and Public Works of the Senate.

This assessment must include:

First. A listing of all radioactive materials in each container, the number of containers, structural diagrams, the number of curies of radioactive material in each container, and the exposure levels on the interior and exterior of each container;

Second. An analysis of the environmental impact this proposed disposal would have upon human health and welfare and marine life;

Third. Any and all adverse environmental effects at the site which cannot be avoided should the proposal be implemented;

Fourth. An analysis of the resulting environmental and economic conditions if the containers fail to contain the radioactive material when initially deposited at this specific site. This is intended to be a worst-case study which would assess the impact should the containers be broken open or corroded;

Fifth. A plan for the removal or containment of the disposed nuclear material if the container leaks or decomposes. In the monitoring plan to be conducted under this section the state of the containers will be examined. If they are leaking or corroding so as to indicate they will not contain the radioactive material until it becomes harmless then the permit applicant must have a plan for removing or reencasing the containers;

Sixth. If the information gathered in this assessment indictates that the proposed action may potentially impact upon a State's coastal resources, then a determination must be made by each affected State whether the proposed action is consistent with its federally approved coastal zone management program (16 U.S.C. 1451);

Seventh. An analysis of the economic impact the disposal of the radioactive material may have upon other users of marine resources. This impact may be due to a real or potential threat, as detailed in this assessment, or a perceived threat which may result in lower fish sales or other marine activities in this region;

Eighth. Alternatives to disposing of the radioactive material at this ocean site must be detailed;

Ninth. Comments and the results of consultation with State and local officials and public hearings held in the coastal States that are nearest to the affected areas;

Tenth. A comprehensive plan for the regular monitoring of the disposal site to determine the full effect of the disposal on the marine environment, living resources, or human health. This includes an examination of the containers to determine whether they will continue to contain the radioactive material until it becomes harmless;

Eleventh. Any other information which the Administrator may require in order to determine the full effects of the proposed disposal.

We also feel the Congress should retain permitting authority and retain the power to ban the ocean dumping of radioactive material in those cases where the risks are too great, but also provide a flexible mechanism for the disposal of other materials.

Therefore, a one-house legislative veto has been included in this bill which will allow either the House or the Senate to stop a permit from taking effect if they pass a resolution of disapproval within 45 legislative days. In keeping with our aim to provide a flexible approach for the ocean disposal of radioactive material the committee feels the 2-year moratorium in conjunction with this section provides greater latitude than a permanent moratorium or a ban on the ocean disposal of radioactive material unless each plan to dispose of material is approved by concurrent or joint resolution. But we will examine these other options in the future if they are needed.

Mr. Speaker, it is imperative that the safeguards provided for in this act be enacted to protect us and our succeeding generations. Therefore, I urge my colleagues to vote to suspend the rules and pass H.R. 6113, the Ocean Dumping Amendments Act of 1982.●

● Mr. BIAGGI. Mr. Speaker, I rise in strong support of H.R. 6113, the Ocean Dumping Amendments Act of 1982—amending title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

This package of amendments represents the culmination of an extensive and time-consuming effort at the leadership of the Committee on Merchant

Marine and Fisheries and the Committee on Public Works and Transportation. In particular, for their tireless efforts in reaching the underlying compromise reflected in these amendments, I wish to commend the distinguished chairman of the Subcommittee on Oceanography, the gentleman from New Hampshire (Mr. D'AMOURS) and my colleagues from the Committee on Merchant Marine and Fisheries, the gentleman from Louisiana (Mr. BREAUX) and the gentleman from New Jersey (Mr. FORSYTHE).

The Marine Protection, Research, and Sanctuaries Act was enacted in 1972 for the twin purposes of regulating the disposal of waste materials in the marine environment and the authorizing of a national research program regarding the environmental impacts of ocean-based waste disposal. The act establishing a comprehensive regulatory regime encompassing the sources, types, and quantities of materials dumped in the ocean and incorporating specific permit requirements for future dumping of materials which do not unreasonably degrade the marine environment and implicit authority for designation of sites deemed appropriate for receiving waste materials.

Administered jointly by the Environmental Protection Agency and the U.S. Army Corps of Engineers, the act represents an intricate sharing of authority between those agencies in which each continues to pursue its statutory program responsibilities for preservation of the environment and facilitation of waterborne commerce and economic activity.

Thus, the act incorporates a balancing of the risks and benefits associated with the land, air, and ocean disposal of waste as an integral component of the ocean-dumping program. This balancing test is critical for protecting the air we breathe, the ground water that supplies us with our drinking water, and the land on which we move and grow our food—in addition to protecting the integrity of the ocean environment.

Mr. Speaker, in my judgment—and I am certain in that of the majority of my colleagues, the underlying rationale reflected in enactment of the Ocean Dumping Act a decade ago continues to be fundamentally sound in concept today. My concern with the administration of this program stems principally from the fact that it has never been fully implemented. EPA and the Corps of Engineers have not moved expeditiously in the assessment and designation of appropriate sites for ocean waste disposal.

This is critically important in the disposal of dredged materials—90 percent of which result in benign impacts on the ocean environment and for which there is no acceptable disposal alternative. This is also true on a site-specific basis in the case of sewage sludge disposal in those instances where the environmental impacts of ocean disposal—from a multimedia perspective—are clearly less significant than alternative methods of waste disposal. In addition, regulatory proceedings concerning individual permits have become interminably delayed as a result of frequent shifts in EPA policy, engendering litigation between EPA, and individual permittees.

In response, the committees reporting this legislation sought to remedy shortfalls in the administration of this program that had been revealed in our oversight hearings. The resulting package of amendments before us include:

The requirement that EPA expeditiously undertake site assessment and designation proceedings for ocean waste disposal sites determined to be acceptable for specific types of waste. A corollary requirement mandates periodic site reevaluation at 3-year intervals. This mandatory site designation provision is the subject of a specific conference of jurisdiction upon U.S. district courts to issue writs of madamus, commanding EPA to implement site designation proceedings in a timely manner;

Specific requirements relating to monitoring of designated ocean waste disposal sites to be exercised in conjunction with the authority of the Administrator of the Environmental Protection Agency to limit, suspend, or terminate dumping in violation of applicable regulations;

Conference of expanded authority upon the Administrator to specify special provisions deemed necessary to minimize environmental consequences of ocean dumping in certain instances;

Imposition of a 2-year moratorium on the disposal of low-level radioactive waste materials;

Incorporation by reference and mandatory adherence to all requirements of the London Dumping Convention and its annexes that are binding upon the United States and are more restrictive than the Marine Protection, Research, and Sanctuaries Act, recognizing that the Convention is not self-executing;

Requirement for the consideration of wetlands in the evaluation of the environmental effects of ocean dumping; and, finally,

Provision of authority for EPA to recover reasonable administrative fees incurred in the processing of non-Federal dumping permits.

In sum, these amendments provide a well-reasoned response to demonstrated shortcomings in the program's administration over the last decade and should result in significant improvements resulting in greater effectiveness in its implementation in the future.

Mr. Speaker, I emphasize that a technically sound and environmentally balanced ocean waste disposal program is of major importance to New York City—a portion of which I represent. To this extent, the implementation of the Ocean Dumping Act affects the public health and welfare of New York City residents and the continuation of operation of the Port of New York—the Nation's largest commercial seaport.

New York City currently provides secondary treatment to 1.3 billion gallons of sewage—and, as a result, generates approximately 260 dry tons of sewage sludge daily. The city—along with municipalities in New Jersey and Westchester and Nassau Counties—has been disposing of sludge in the New York Bight for nearly 60 years. After lengthy study and research, the city has determined that the only interim land-based alternative to ocean disposal is the composting of sludge in conjunction with land spreading.

It has been determined that this very costly alternative can only be utilized for a period of 7 years at most. Additionally, it poses the clear possibility of more severe environmental impacts than those resulting from ocean disposal. Once the limited land available for sludge disposal is exhausted, the only other feasible long-term option available to the city would be thermal reduction and incineration. These alternatives pose the environmentally unacceptable prospect of atmospheric releases of harmful compounds, including vaporized heavy metals, resulting in a significant increase in other pollutants in the already environmentally stressed New York region.

Ironically, hydrologic pathways for these emissions would ultimately result in the deposition of contaminants in ocean environment. Moreover, the cost of these alternatives—running into the hundreds of millions of dollars—would only further divert funds from other essential projects of demonstrated environmental merit such as waste water treatment construction programs designed to insure secondary treatment for all of New York City's waste water.

Comparing these alternatives and weighing their economic and environmental consequences, the EPA concluded in its final environmental impact statement on ocean dumping of sewage sludge in the New York Bight in 1978 that moving the sewage sludge disposal site out of the bight apex was "unnecessary and potentially more damaging to the environment than taking no action whatsoever."

Additional research conducted on the bight since that time has confirmed EPA's earlier finding. The opinion of district court Judge Sofaer in *City of New York* v. *EPA* (S.D.N.I., 1981)—in balancing alternative methods for disposing of New York City

sludge—reached substantially similar conclusions. EPA elected not to appeal that decision.

In specifically rejecting proposals which would have unconditionally banned further waste disposal in the New York Bight, the committee elected to follow the recommendation of the National Advisory Committee on Oceans and Atmosphere (NACOA), contained in a January 1981 special report entitled "The Role of the Ocean in a Waste Management Strategy"—that "the ocean should be utilized for the disposal of certain wastes if land disposal, deep-well injection, or incineration would more significantly degrade the environment or pose a greater risk to human health."

This recommendation echoed the findings of the national workshop entitled "Assimilative Capacity of U.S. Coastal Waters for Pollutants," conducted at Crystal Mountain, Wash., in 1979 under the auspices of the National Oceanic and Atmospheric Administration (NOAA). Adding to this consensus of the necessity for adopting an integrated approach to sludge management were the findings of a 1978 study by the National Academy of Sciences entitled "Multimedium Management of Municipal Sludge," which determined that "only when sludge is managed as an integral increment of the whole environmental protection effort can economic, environmental, and social costs be validly compared with benefits will all risks be effectively assessed."

The result of the committee's reaffirmation of the integral balancing test requirements incorporated in the Ocean Dumping Act applicable in the case of New York City is to fulfill the city's desire to expeditiously complete pending administrative regulatory proceedings, incorporating its final site designation and special permit application for sludge disposal. A recent exchange of correspondence between the Honorable Edward I. Koch, mayor of the city of New York, and the Honorable Anne M. Gorsuch, Administrator of the Environmental Protection Agency, indicates that EPA is actively pursuing the completion of pending proceedings. Nothing contained in the amendments before us today is in derogation of this effort.

Furthermore, it is my interpretation that nothing in this bill affects the decision of the district court of New York to allow dumping, until such time as a complete examination of all statutory factors relative to a permit decision are fully considered and that those statutory factors that must be considered in a final decison on the merits of evaluating New York City's permit application remain unchanged.

Moreover, with respect to the general application of these amendments to the ocean dumping permit process, it is my understanding that:

The periodic site monitoring which EPA is required to perform by section 2(a)(2) is not equivalent to the monitoring required of permittees and that permittees will still be required to perform compliance monitoring or the monitoring required by this subsection;

Section 3(a)(5) is intended only to allow the EPA Administrator to require a permittee to develop disposal alternatives or mitigating measures where continued ocean disposal is unacceptable because of extensive environmental health impacts or where disposal alternatives are demonstrated through a comparative assessment to be preferable but cannot be immediately implemented;

The special provisions to minimize the harm from dumping contained in section 3(a)(5) are not intended to force otherwise valid permittees to terminate ocean waste disposal—but only to insure that all reasonable measures to minimize potential environmental impacts are adopted;

The provisions relating to radioactive waste disposal contained in sections 3(i) and 5(b) do not apply to materials such as sewage sludge and dredged materials which may contain radionuclides at trace levels;

The section 4 language regarding adherence to the London Dumping Convention does not apply to an amendment to the Convention or its annexes not ratified or accepted by the United States; and, finally,

Under the section 2(c)(1) provisions regarding site-designation assessment that a suitable site analysis could consist of a compilation and evaluation of all valid published literature—where that alone is sufficient—on an area that would insure that a particular site was environmentally acceptable to accommodate the types and quantities of wastes proposed for disposal.

Mr. Speaker, in conclusion I reemphasize that the leadership of both committees have considered at great length the substantive issues underlying these proposed amendments—and the result is a truly consensus approach to resolving our mutual and joint concerns. We have applied the same midcourse corrective approach to the Ocean Dumping Act as has been applied to the Clean Water Act, Clean Air Act, and other important pieces of environmental legislation enacted over the past decade.

In my judgment, these modifications are warranted, responsible, timely, and—most importantly—will result in significantly improving the effectiveness of the Ocean Dumping Act in attaining its stated purpose to preclude the unreasonable degradation of the marine environment. I am pleased to have played a substantial role in the development of these amendments, and I strongly recommend their adoption by my colleagues in the House and acceptance by the other body.●

Mr. PRITCHARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 6113, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6113, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL COURT REFORM ACT OF 1982

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6872) to provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Short Title

SECTION 1. This Act may be cited as the "Federal Court Reform Act of 1982".

TITLE I—SUPREME COURT REVIEW

REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

SEC. 101. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 102. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 103. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 104. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 105. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c)(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

(d) Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 106. (a) Section 310 of the Federal Election Campaign Act (2 U.S.C. 437h) is amended by repealing subsection (b).

(b) Section 2 of the Act of May 18, 1928 (25 U.S.C. 652), is amended by striking out ", with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit".

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such distinct court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "1252, 1254, 1291," and inserting in lieu thereof "1291".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 988(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

EFFECTIVE DATE

SEC. 107. The amendments made by this title shall take effect ninety days after the date of the enactment of this Act, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

TITLE II—JURORS AND SUMMONS FOR JURY SERVICE

INJURY COMPENSATION FOR JURORS

SEC. 201. (a) Chapter 81 of title 5, United States Code, is amended by inserting immediately after section 8141 the following new section:

"§ 8141a. Federal petit and grand jurors

"(a) For purposes of this section, 'Federal petit or grand juror' means a person who is selected pursuant to chapter 121 of title 28 and summoned to serve as a petit or grand juror and who is entitled to the fees provided for attendance in section 1871 of title 28.

"(b) Subject to the provisions of this section, this subchapter applies to a Federal grand or petit juror, except that entitlement to disability compensation payments does not commence until the day after the date of termination of service as a Federal petit or grand juror.

"(c) In administering this subchapter with respect to a Federal petit or grand juror—

"(1) a Federal petit or grand juror is deemed to receive monthly pay at the minimum rate for grade GS-2, except that in any case in which the actual pay of any such juror is higher—

"(A) monthly pay is determined in accordance with section 8114 of this title, subject to subparagraphs (B) and (C) of this paragraph,

"(B) any reference in section 8114 of this title to employment by or employee of the Government shall, in the case of a juror who is not otherwise an employee for purposes of this subchapter, be deemed to refer to employment by or employee of the actual employer, and

"(C) the average annual earnings of a juror who is not otherwise an employee for purposes of this subchapter may not exceed the minimum rate of basic pay for GS-15; and

"(2) 'performance of duty' as a Federal petit or grand juror includes that time when the juror is (A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, or (D) traveling to and from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of court such as for the taking of a view.".

(b) The chapter analysis of chapter 81 of title 5, United States Code, is amended by inserting immediately after the item relating to section 8141 the following new item:

"8141a. Federal petit and grand jurors.".

(c) Section 8101(1) of title 5, United States Code, is amended—

(1) by striking out subparagraph (F); and

(2) in clause (iv) by striking out "; and" and inserting in lieu thereof a period.

(d) The amendment made by subsection (a) shall take effect on October 1, 1982.

TAXATION OF JUROR ATTORNEY'S FEES

SEC. 202. Section 1875(d) of title 28, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)"; and

(2) by amending paragraph (2) to read as follows:

"(2) In any action or proceeding under this section, the court may award a prevailing employee who brings such action or proceeding by retained counsel a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney fees and expenses incurred on behalf of a prevailing employee, in any case in which such fees and expenses were paid pursuant to paragraph (1) of this subsection. The court may award a prevailing employer a reasonable attorney's fee as part of the costs only if the court finds that the action or proceeding is frivolous, vexatious, or brought in bad faith.".

SERVICE OF SUMMONS FOR JURY SERVICE

SEC. 203. (a) The second paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"Each person drawn for jury service may be served personally, or by registered, certified, or first class mail addressed to such person at his usual residence or business address.".

(b) The fourth paragraph of section 1866(b) of title 28, United States Code, is amended to read as follows:

"If such service is made by mail, the summons may be served by the marshal, clerk, or jury commission, or their duly designated deputies, who shall make affidavit of service and shall attach thereto any receipt from the addressee for a registered or certified summons.".

TITLE III—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 301. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provisions of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits."

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 302. The following provisions of law are amended:

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(11) is repealed.

(B) Section 310 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h), as amended by section 106(a) of this Act, is further amended—

(i) by striking out "(a)" after "SEC. 310."; and

(ii) by repealing subsection (c).

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4)) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C.687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(i)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section

in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110), is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C. 160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "The court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(40)(A) Section 2004(e) of the Revised Statutes of the United States (42 U.S.C. 1971(e)) is amended—

(i) in the third paragraph, by striking out "An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application" and inserting in lieu thereof "The execution of an order disposing of an application pursuant to this subsection"; and

(ii) in the eighth paragraph, by striking out the first sentence.

(B) Section 2004(g) of the Revised Statutes of the United States (42 U.S.C. 1971(g)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the third paragraph.

(41)(A) Section 10(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973h(c)) is amended by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited".

(B) Section 301(a)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973bb(a)(2)) is amended by striking out ", and to cause the case to be in every way expedited".

(42)(A) Section 206(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-5(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(B) Section 706(f)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(2)) is amended by striking out the last sentence.

(C) Section 706(f)(5) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(5)) is amended to read as follows:

"(5) The judge designated to hear the case may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

(D) Section 707(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-6(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under subheading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of The Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than 60 days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(55) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(56) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 305. The amendments made by this title shall not apply to cases pending on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, H.R. 6872, the Federal Court Reform Act of 1982 is a noncontroversial measure that has the strong support of the administration, the Judicial Conference of the United States and the organized bar, including the American Bar Association.

Title I of the bill represents an attempt to bring rationality to the method by which the Supreme Court selects which cases to hear. Under current law there are esentially two ways in which cases can be appealed to the Supreme Court:

First, cases can be chosen by the Court upon an application by a party for a writ of certiorari; or second, in certain narrow circumstances the Supreme Court is obligated by statue to hear the case. The vast majority of cases are heard through the certioari type mechanism. The Supreme Court under this approach can pick out the cases that are of the greatest national importance. This bill expands this practice to virtually all cases. Under current law there are three types of cases that require the Supreme Court to dispose of appeals on the merits. Unfortunately this congressional mandate has not produced the desired result. The Supreme Court workload is so great that these cases cannot be given plenary consideration. Thus, most of the cases end up being given only a cursory review. Because of the nature of the review of these mandatory appeals, the precedential effect of such decisions is murky at best.

I should note the importance of title I of this bill to the Supreme Court. During the deliberations on this bill in my subcommittee we received a letter signed by all nine Justices of the Supreme Court supporting these provisions. Not only is a unanimous Supreme Court unusual; in my time in Congress, I cannot recall any other similar letter to this House on any legislation.

The second part of this bill relates to various features of Federal law that relate to jurors. Title II of the bill has three parts; the first part corrects an oversight in the 1978 Jury System Improvement Act by permitting the assessment of attorneys fees in cases involving the appointment of counsel. This provision will affect relatively few cases, but will save the courts and the Government some money.

The second part of title II provides that persons who are injured are eligible for workers' compensation. Under current law only persons who are Federal employees are eligible for such coverage. This bill ends this irrational discrimination against non-Federal employees. While the number of injuries that arise out of jury service are few and relatively nonserious, this measure has a larger symbolic importance. This bill means that persons called upon to serve their fellow citizens and the justice system will not be impaired because of any injury that arises out of such service.

The third part of the second title provides that the courts may use first class mail to effect service of a notification of the person's jury duty. Under current law these notices must be made by certified or registered mail. The new system will save between $400,000 and $600,000, according to the Congressional Budget Office. This savings offsets the costs associated with any expenses that may be incurred by the juror compensation provisions.

Title III of the bill gives back to the courts an appropriate amount of discretion with respect to cases that require expeditious handling. Under current law there are over 85 different provisions of law that require the courts to give expedited treatment to different types of cases. Among the cases that are required to receive expedited treatment are actions to enforce the Federal Seed Act and challenges to certain administrative actions that are now time barred. This welter of conflicting priorities is irrational and not susceptible of implementation. Quite obviously 85 types of cases cannot all be first on the docket.

This bill replaces the existing ad hoc set of civil priorities with a set of general rules. Three types of cases are given statutory priority status: First, cases that involve issues of personal liberty, such as habeas corpus claims and recalcitrant witnesses; second, cases involving applications for temporary restraining orders or preliminary injunctions; and third, cases where good cause has been shown. In addition, the bill authorizes—and in some ways encourages—the Federal courts to establish court rules on this subject.

The Subcommittee on Courts, Civil Liberties and the Administration of Justice has been able to move this legislation forward because of the bipartisan, even nonpartisan nature of the support for the bill. The Department of Justice—especially the Office of Legal Policy—has been most supportive of our efforts. The Judicial Conference of the United States through the Federal Judicial Center and the Administrative Office of the United States has been very helpful in our work. Finally, we all owe a great debt to the American Bar Association and its Committee on Coordination of Judicial Improvements for acting as a catalyst for reform in all three of the areas affected by this bill.

Let me close by calling to the attention of my colleagues some remarks made on September 9 of this year by Justice Brennan that are most important to this bill.

> Congress could afford the Court substantial assistance by repealing to the maximum extent possible the Court's mandatory appellate jurisdiction and shifting those cases to the discretionary certiorari docket. A bill to this end is pending in the Congress and every member of the Court devoutly hopes it will be adopted. Cases on appeal consume a disproportionate amount of the limited time available for oral argument. That's because time and again a Justice who would conscientiously deny review of an issue presented on certiorari cannot conscientiously say that when presented on appeal the issue is insubstantial, the test on appeal. Policy considerations that gave rise to the distinction between review by appeal and review by writ of certiorari have long since lost their force and abandonment of our appellate jurisdiction, (leaving a writ of certiorari as the only means of obtaining Supreme Court review) is simply recognition of reality.

Before yielding the floor to my colleague from Illinois, I should correct an erroneous reference in the committee report 97-284 on this bill. On page 17 of the bill the reference in footnote 18 should be to footnote 17, rather than what appears in the printed committee report. In addition, the footnote should contain an additional reference to 7 U.S.C. 8(a) (actions by commodity exchanges to the Court of Appeals if the Commodity Futures Trading Commission fails to approve a new futures contract or suspends or revokes the designation of an existing contract).

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Mr. Speaker, let me conclude by saying that we all owe a great debt to the American Bar Association and to its Committee on Coordination of Judicial Improvements for acting as a catalyst for reform in these three areas affected by the bill.

I particularly want to pay my respects to the members of the subcommittee, and in particular the author of the bill, the gentleman from Illinois (Mr. RAILSBACK). It is his bill. He, however, is just as much the author of many, many, many other bills we have produced in the past that have perhaps just by reason of his being a member of the minority or perhaps for other reasons that do not justify it, not been mentioned as the primary author. He is of this particular bill, and I want to pay my respects to him as a person for whom I have had the greatest pleasure working with over many, many years on the subcommittee.

This alone cannot be a testament to his service, but surely in some small way pays a sort of a debt we have to TOM RAILSBACK for his contributions certainly in the area of this subcommittee.

Mr. Speaker, I would also like to state that some Members or some committees may have reservations about the wisdom of repealing a priority provision with respect to a favored or preferred civil cause of action. For example, some Members may be concerned about the deletion of an expediting provision with respect to cases brought under the Freedom of Information Act. As a person who has long supported the underlying principles regarding citizen access to Government information, I share your concern.

I must say, however, that the existence of over 85 civil priority provisions precludes their rational application by the courts. During the hearings before the subcommittee the representative of the Judicial Conference all but admitted that because of the large number of civil priorities that congressional directives of this type are virtually ignored. It is impossible to place first on the court calendar FOIA cases, for example, when tens of statutes passed before, and since, require that other types of civil actions are also placed first on the calendar.

The repeal of existing civil priorities is not intended in any way to lessen the substantive impact of a congressional determination that a particular right is of importance. Rather this bill establishes a general rule that can be easily applied by the courts. The general rule is that cases that involve liberty—other than criminal cases which are governed by the Speedy Trial Act—such as habeas corpus cases, will be given priority. In addition, the bill provides that cases that involve the threat of imminent injury shall be given expedited treatment. Finally, the bill provides that priority shall be given to cases where a party has demonstrated good cause. The committee

concluded that an individualized assessment of the need for a speedy resolution of cases would produce results that are frankly more consistent with the original congressional intent. Frivolous cases that are brought under statutes that currently have priority status will no longer be given any advantage over other cases.

On the other hand the committee bill anticipates that the courts—ranging from the district courts to the courts of appeals to the Supreme Court—will establish by court rules which categories of cases shall be given expedited treatment. We anticipate that in many instances the existing statutory priorities will be continued by court rule. The advantage of the approach taken in the bill over current law is that modifications and reconciliations of overlapping civil priorities can be accomplished more easily and by judges more intimately familiar with the fact patterns common to particular types of cases.

In sum, while we can all agree that some cases are more important then others, the Judiciary Committee was not in a position—nor is any committee of the Congress—to reconcile all of the existing priorities. Thus, we choose to adopt a set of general rules that would serve to bring before the courts for rapid resolution those cases that involve the most fundamental liberties or the most pressing need for action.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I simply want to join in the remarks of my colleague from Wisconsin in commendation of my colleague from Illinois, who really has made substantial contributions. The decision made by the people in his district to go elsewhere is a decision that this body will live with, but we shall always be grateful for the contributions that he made. I am pleased that the gentleman from Wisconsin paid that tribute to our colleague.

Mr. KASTENMEIER. Mr. Speaker, I thank the gentleman from Illinois.

Mr. Speaker, I reserve the balance of my time.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, I rise in strong support of this measure and wish first of all to commend the chairman of the subcommittee and ranking member, Mr. RAILSBACK, for their diligent and skillful work in developing and presenting this measure to the House of Representatives today. I also certainly want to join in commenting on the highly valuable work of my colleague from Illinois (Mr. RAILSBACK). Mr. RAILSBACK and I both are leaving the Congress at the end of this session, and I do want to say in my own behalf that TOM RAILSBACK's service has been exemplary. It has been of the highest quality of service in this body, and he has brought to the Congress and to the Judiciary Committee his vast experience and knowledge of the law and in the practice of law.

Consequently, the other members of the committee and all the Members of this body as well as the people of this Nation have benefited from his major contributions.

Mr. Speaker, I rise in support of H.R. 6872, the Federal Court Reform Act of 1982. I want to commend my colleague from Illinois (Mr. RAILSBACK), the primary sponsor of this legislation. I believe this is a real tribute to him, because during his 16 years in this body he has made substantial contributions to revising and modernizing our Federal court system and this will be an area wherein he will be sorely missed.

As has been pointed out, H.R. 6872 contains three titles. Each of the titles relates to a different topic. Title I substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. This change in appellate review is supported by all nine Justices of the Supreme Court. As their letter of June 18, 1982, points out:

> It is impossible for the Court to give plenary consideration to all the mandatory appeals it receives, . . . to have done so during the 1980 term would have required at least nine additional weeks . . .

Because the proposal is precisely drafted, it may appear upon first impression to reach such a small spectrum of "classes of cases" that its impact upon the Court's business would be relatively slight. In fact, this bill would be of great value to the Court, to other courts in the Nation's Federal judicial system, to State courts, the bar—and, most of all, to the Nation's comprehensive body of jurisprudence.

Fortunately, full recognition of this proposal's great value appears to be universal, and appears to have been universal since the introduction of predecessor bills in the 95th Congress in 1977. At least since 1978, a broad consensus of support for this legislation has been obvious. It has been diverted from final passage in the past two Congresses only because it has been "linked" by amendments to controversial—and extraneous—issues.

It is a proposal in full conformity with the evolutionary "modernization" of the Federal judicial system, which realistically began in the second half of the 19th century and has accelerated in this century—in pace with the Nation's growth and rapidly developing demands upon all governmental institutions. In this century the Federal courts have been compelled to change their methods of conducting judicial business continuously to meet the people's expectations.

H.R. 6872 is merely another installment in a similar pattern of constructive reforms related to the adjudicatory elements of the system—reforms which have dramatically aided the system's ability to manage its workload burdens.

I urge my colleagues to vote in favor of this legislation.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to rise in support of this legislation. For those Members who have read the latest edition of the Congressional Quarterly, they have seen the position espoused by some of the Justices of the Court with their work overload, and while this bill does not have a vast effect, it is a step in the right direction of tending to ease some of that workload.

On the other part, the priorities of cases or precedents, somewhere between 80 and 100 different sets of priorities, all purporting to be No. 1 in being expedited, is something that kind of grew like Topsy over years. I doubt that many, if any trial lawyers using the court are even aware of these priorities, and I am sure the district judges who administer them in large part are not. They have been rather hard to ferret out and recreate, and I think it is a great step toward cleaning up a ridiculous set of priorities that is honored in the breach in any event.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me simply thank my colleagues for their very, very kind remarks, and I do rise in support of the bill.

Mr. Speaker, H.R. 6872 is important and noncontroversial legislation. It has the support of the administration, the Judicial Conference, all nine Justices of the U.S. Supreme Court, and the American Bar Association. I am not aware of any organized opposition to this bill. I introduced this legislation and it is cosponsored and supported by our Courts Subcommittee.

Mr. Speaker, this legislation is divided into three titles and at this time I would like to take a few minutes to explain these titles.

TITLE I

Title I substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court and the Court is obligated to hear and decide those cases. In most instances, these cases do not involve important issues of Federal constitutional law. The net

effect of these amendments is to convert the method of Supreme Court review to a discretionary rather than mandatory approach.

TITLE II

Title II of H.R. 6872 refers to Federal jurors' and makes adjustments regarding the manner in which they are notified of service.

TITLE III

Title III of the bill has the net effect of eliminating most of the existing civil priorities. Over the past 200 years various Congresses have acted in an ad hoc and random fashion to grant "priority" to particular and diverse types of civil cases. Unfortunately, so many expediting provisions have been added that it is impossible for the courts to intelligently categorize cases.

When this bill was introduced, approximately 40 expediting provisions had been located. As a result of a further computer-assisted search by the Library of Congress and Federal Judicial Center, an additional 40 priority provisions have been located.

This bill wipes the slate clean of such priorities with certain narrow exceptions. The courts are instructed under the bill to give appropriate priority to criminal cases and habeas corpus cases, because of the involvement of personal liberty. In addition, the courts are directed to give priority treatment to cases that involve either applications for temporary restraining orders or preliminary injunctions or to any other cases where good cause has been demonstrated. Moreover, because every congressional committee assumes that actions involving their jurisdiction are the most important, it is virtually impossible to reconcile competing priorities among the tens of provisions.

I am not aware of any organized opposition to this legislation and I urge the Members to vote favorably on H.R. 6872.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 6872, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE LANHAM TRADEMARK ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5154), to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business, as amended.

The Clerk read as follows:

H.R. 5154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1051-1127; commonly known as the Lanham Trademark Act), is amended by adding after section 39 the following new section 39a:

SEC. 39a. No State or other jurisdiction of the United States or any political subdivision or any agency thereof may require alteration of a registered mark, or require that additional trademarks, servicemarks, trade names, or corporate names that may be associated with or incorporated into the registered mark be displayed in the mark in a manner differing from the display of such additional trademarks, servicemarks, trade names, or corporate names contemplated by the registered mark as exhibited in the certificate of registration issued by the United States Patent and Trademark Office.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the need for H.R. 5154 arises out of a 1978 Nevada case, Century 21 Real Estate Corp. against Nevada Real Estate Advisory Commission. In that case the Supreme Court declined to overrule a three-judge district court decision holding that the Lanham Trademark Act did not preempt the Nevada Estate Commission from regulating the use of a federally registered trademark. Specifically, the district court upheld a State regulation requiring licensed real estate brokers to modify their trademarked logos so that 50 percent of the surface area of any advertisement would display the name of the local franchisee. The trademark registration on file with the Patent and Trademark Office provides for 20 percent of the surface area of the logo for the display of the name of the franchisee. In the aftermath of the Nevada decision, other States have adopted rules requiring different percentages of the logo to be devoted to the name of the local franchisee. Still other States have considered and rejected such rules as being anticompetitive, arbitrary, and onerous and have required other methods of disclosure of the independent nature of a franchisee who uses trademarks in advertising.

The result of these regulations has been the kind of confusion in uses of trademarks from one jurisdiction to another which the Lanham Trademark Act of 1946 was designed to eliminate.

The purpose of H.R. 5154 is to eliminate this confusion and to restore the preemptive nature of Federal trademark law. It in no way restricts the rights of States to otherwise regulate the activities of franchise realtors.

To make the limited scope of the bill clear the committee adopted an amendment, recommended by the Patent and Trademark Office, to make it clear that restriction on a State's power is limited to the display of the franchisee's name "in the mark" itself and not to other uses of trademarks in advertising.

The bill is supported by the Patent and Trademark Office, the International Franchise Association and the U.S. Trademark Association. During the course of hearings on the issue the committee received no notice of opposition to the bill.

H.R. 5154 is a technical bill designed to eliminate an uncertainty in existing trademark law.

Mr. Speaker, I urge all Members to vote for this simple bill.

□ 1620

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must say the chairman of the committee in my opinion very adequately covered the content of the bill. It is an important bill from the standpoint particularly of franchisers that have had to deal with some regulatory State commissions that in my opinion have imposed some rather arbitrary rules.

My hope is that this bill will be unanimously approved. I believe it should be.

Mr. Speaker, I rise in support of H.R. 5154.

This legislation was drafted in response to a 1978 Supreme Court decision in which the Court denied certiorari to the appeal of a three-judge court holding that the Lanham Trademark Act did not preempt the Nevada Real Estate Commission from regulating the use of federally registered trademark, (*Century 21 Real Estate Corp.* v. *Nevada Real Estate Advisory Commission,* 448 F. Supp. 1237.) Specifically, the district court upheld a state regulation requiring licensed real estate brokers to modify their trademarked logos so that 50 percent of the surface area of any advertisement would display the name of the local franchisee. The trademark on file with the Patent and Trademark Office provides for 20 percent of the surface area of the logo for the display of the name of the franchisee. The Nevada

ruling encouraged other States to adopt rules requiring different percentages of the logo to be devoted to the name of the local franchisee. The resulting confusion in the use of a federally registered trademark from one jurisdiction to another will be eliminated upon enactment of H.R. 5154.

The bill is narrowly written so that it expressly prohibits only State regulations that directly interfere with the use of a trademark or service mark as registered. No inference may be drawn from the amendment as to the validity of other State regulations that only indirectly affect the use of a trademark—for example, municipal ordinances that ban neon signs, some of which may contain registered marks, from certain neighborhoods. The legislation will only prohibit State laws and regulations that attempt to alter a registered mark.

The legislation has the support of the administration, the Patent and Trademark Office, the Department of Justice, the Department of Commerce, the National Association of Real Estate Brokers, The U.S. Trademark Association, the U.S. Patent Law Association, and the International Franchise Association. I am not aware of any opposition to this legislation.

● Mr. McCLORY. Mr. Speaker, I rise in support of H.R. 5154, a bill to amend the Lanham Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business.

By adding a new subsection to section 39 of the Lanham Act, this bill would prevent any State from requiring a trademark owner to display his trademark in a different manner from that which is shown in his Federal registration of the mark.

Trademarks are among the most valuable assets of modern business. In addition to identifying and distinguishing the goods or services of one individual from those of another, a trademark lets consumers continue to purchase those goods and services which they have found to be satisfactory.

H.R. 5154 would protect this dual role which trademarks have of protecting both the interests of businesses and those of consumers from improper State regulation. It is particularly important that businesses should not have to bear the burden of divergent State regulations concerning the display of federally registered marks where nationwide advertising and promotion of the marks are involved.

I urge my colleagues to vote in favor of H.R. 5154.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 5154, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills, H.R. 6872 and H.R. 5154, both having just been passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MISSING CHILDREN ACT

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6976) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons).

The Clerk read as follows:

H.R. 6976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information which would assist in the location of any missing person (including an unemancipated person as defined by the laws of the place of residence of such person); and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records and information".

(b) Section 534(b) of title 28, United States Code, is amended—

(1) by inserting "and information" after "records"; and

(2) by striking out "(a)(2)" and inserting "(a)(4)" in lieu thereof.

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§ 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

"534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California (Mr. EDWARDS) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a tragedy of our society that each year approximately 150,000 of our children are reported missing. The vast majority of these cases go unpublicized and apparently receive scant attention from harried law enforcement officials. It is our hope that the enactment of H.R. 6976 will contribute to alleviating the pressure and anxiety which must be borne by the families of any missing person and which is heightened in the case of a child. This bill seeks to aid local law enforcement officials in their attempts to identify all missing persons and encourages the FBI to expand their current NCIC system to more directly address the unique problem of missing children.

On November 18 and 30 of this year, the Subcommittee on Civil and Constitutional Rights heard testimony and solicited opinions from a wide range of witnesses. Based on the testimony received in those hearings and consultations with law enforcement groups, both the subcommittee which I chair and the full Judiciary Committee reported this bill favorably by a unanimous voice vote.

Mr. Speaker, I want to take this opportunity to commend the gentleman from Illinois (Mr. SIMON), the original sponsor of missing children legislation and the newest member of our subcommittee, the gentleman from Florida (Mr. SHAW), who worked together to draft H.R. 6976, the bill which is before us today. Both deserve credit for the success of this legislation and for the bipartisan effort which has characterized this bill from the beginning. The ranking minority member of the subcommittee, the gentleman from Wisconsin, Mr. SENSENBRENNER, also deserves our thanks for his support and help throughout the process.

I support this bill because I believe it will help alleviate some of the pressure and anxiety which is borne by the families of these children—anxiety which is worsened as a result of months or even years of uncertainty as to the fate of their loved one. This bill, for the first time, would create a national clearinghouse of information

to list descriptions of unidentified bodies. Currently there is no such national registry.

Second, the committee has learned that missing children present a special problem. Although the NCIC missing person index is currently available, only 10 percent of missing children are ever entered. Testimony received by my subcommittee has revealed that local police are either not sufficiently aware of the existing capabilities of the NCIC, or are frustrated by the limitations of the system itself. We have been told that the programing capabilities of the system need to be expanded to include additional physical descriptions beyond the child's name, date of birth, race, and sex. This bill makes clear congressional concern that the NCIC index system to be expanded and improved, while at the same time allowing the FBI to maintain some measure of flexibility in enhancing the system to the extent that it is technically feasible. Inasmuch as our subcommittee maintains FBI oversight responsibility, we will continue to monitor and evaluate their progress.

Local crime is best dealt with at the local level. The FBI is not, nor was it ever meant to be, a national police force. It can, however, serve as a central repository of information which will assist State and local officials in identifying missing persons. This bill is an important step in that direction and I support its enactment.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of H.R. 6976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6976.

This legislation highlights a very important problem that law enforcement has throughout the Nation and that is to locate and identify missing children as well as to provide some kind of central clearinghouse for unidentified dead.

There is nothing more heartwrenching for parents than to have their children missing, not knowing the whereabouts of their youngsters and not knowing whether they are alive or dead.

The problems that law enforcement has had in tracking down missing children have been accentuated in several very highly publicized cases where children have either been found brutually beaten or dead or after an expense that runs into the tens of thousands of dollars have been tracked down through private detective agencies alive and returned to their parents.

I do believe, however, that it is important to state that this legislation is not a panacea for all of the problems related to tracking down missing children. Perhaps it has been oversold by some of our friends in the news media.

The FBI has maintained an unidentified persons file since 1975. That file has applied to people of all ages, not just to children or other unemancipated people.

The big problem that the Subcommittee on Civil and Constitutional Rights discovered during the course of its hearings is that the entry of names and physical descriptions of missing children by local law enforcement officials has been spotty at best. I am proud to say the testimony revealed that local law enforcement in my own home State of Wisconsin ranked first among the 50 States in utilizing the NCIC file. But some local law enforcement officials have not entered the names of one missing person, child, or adult into this file even though the tool is and has been available.

□ 1620

The committee report indicates that FBI statistics show that only 10 percent of all missing persons are ever entered into the system. Furthermore, the Subcommittee on Investigations and General Oversight of the Labor and Human Resources Committee of the other body conducted a survey of 25 of the Nation's 35 largest police departments, which showed that only 14 to 24 percent of missing children had been reported to the FBI's NCIC missing persons file.

So I would hope that the debate over this legislation and the passage of this legislation would provide a hint to local law enforcement that, really, the burden is on them to utilize the machinery that has been available in the FBI since 1975, as well as the additional powers that are created in this bill.

In my judgment, an equally important element of this legislation involves the unidentified dead file. Although the FBI has been conducting a pilot program in Colorado for the past 2 years, with the express intention of expanding it nationwide when testing is complete, the system created by this legislation will be new to the law, and it should help identify missing persons generally, including unemancipated children.

There is nothing worse than to have lost a loved one and not to know whether he or she is alive or dead. In this sense, the parents and families of missing persons are in much the same emotional position as the parents and families of MIA's in Vietnam.

In sum, even though I have reservations as to whether this legislation will be as effective as some of his supporters believe, I urge its adoption by this body and hope that State and local law enforcement will learn from it and devote a higher priority to missing children, particularly children who disappear within their jurisdictional borders.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. SHAW). But before doing so, I would like to publicly commend him for his tireless work in pushing this legislation through both the subcommittee and the full committee. Without his efforts, this bill probably would not be before the House today and might not even have made it prior to our adjournment date.

Mr. SHAW. I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 6976, the Missing Children's Act, which I sponsored with my colleague from Illinois (Mr. SIMON) is an important bill because it helps protect this Nation's most important commodity, our young people, our children. In brief, this bill, will create by statute a file specifically designated for the retention of records relating to missing children as well as a second computer file devoted to identifying deceased individuals who are presently lying in morgues far from home as their families, unaware of their death, continue to hope for safe return. To me, and people in my home State of Florida, both of these programs are most important, for we have seen through the faces of John and Reve Walsh, of Hollywood, Fla., the tragedy of a missing child. As many of you know, young Adam Walsh was abducted from a shopping center in south Florida and later murdered. This tragic case has impressed many with the need to quickly adopt legislation to make the job of tracking missing children more effective. As a father of four children, I can only try to imagine the anguish and frustration that a parent must feel when they discover that one of their children is missing. I admire the hard work and dedication of John and Reve Walsh. In the midst of their grief, they diligently worked to stir up support for this legislation, we all owe them a debt of gratitude.

H.R. 6976 enjoys a wide range of support, from such groups as the American Bar Association, the AFL–CIO, the National Association of Counties, and the National Association of Social Workers to name just a few. I sincerely hope that adoption of this legislation will encourage local media to communicate to State and local law enforcement agencies and to the officers on the street, that a computer system exists, through the FBI, that can help in the identification of missing children. It is my hope, through passage of this legislation, that we draw attention to this system, that we draw attention to the fact that a

search for a missing child can extend beyond the boundaries of the victim's home and into other States and localities throughout this country. If we can achieve this, then we have certainly achieved a great deal.

I urge that the House adopt this bill and enable it to become law before the end of this session.

Mr. EDWARDS of California. Mr. Speaker, again I thank the gentleman from Florida for his immense help in fashioning this bill. The gentleman worked tirelessly all the way through the proceedings, which took a great many months.

Mr. Speaker, I yield 5 minutes to the author of the bill, the very distinguished gentleman from Illinois (Mr. SIMON).

Mr. SIMON. I thank the gentleman for yielding.

Mr. Speaker, I commend my colleague, the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), for his leadership on this, my colleague, the gentleman from Florida (Mr. SHAW), who is cosponsoring this, the minority leader, the gentleman from Wisconsin (Mr. SENSENBRENNER), as well as his predecessor on that subcommittee, the gentleman from Illinois (Mr. HYDE), who showed an interest in this.

I first got interested in this when I picked up a newspaper article and read about a family in New York by the name of Pates, who had a little 6-year-old who they sent to catch a school bus, and they never heard from that little child again. And the article said there was no Federal assistance whatsoever in this kind of a situation, including any kind of a clearinghouse.

I asked Marilyn McAdams of our subcommittee staff to check into this, and I found we have the unusual situation where if your car disappears, that automatically goes on that computer; if your child disappears, it does not. And just ironically, as these things happen, during the course of work on this legislation my old 1965 Mustang disappeared for about 24 hours, and that old Mustang gets preferential treatment. That, obviously is not what we in the House and in the Senate want. The statistics vary, and you can see all kinds of statistics. What is clear is that there are many thousands, I think 50,000, at least, young people who disappear each year, who are not runaways. And we need some assistance. What this bill does is to provide some assistance.

Our colleagues from Wisconsin is absolutely correct. This is not a cure-all, this is not going to provide dramatic results. But it can help in providing that national clearinghouse and second, doing something else we should have done anyway, a long time ago, and that is a clearinghouse on bodies.

□ 1630

If a body appears in Carbondale, Ill., a chief of police in Phoenix, Ariz., or some place in California or Madison, Wis., ought to be able to go to a central computer and find out where this is. One of the things I have found in talking to these parents is a great many parents—and I think we would do the same thing—if they cannot find that child, they spend a great deal of money on private detective agencies, putting ads in papers, putting up posters when—maybe—there is a body somewhere and while the grief is not lessened, there is at least a termination point to all of it. Parents ought to know that.

I would like to also thank the Director of the FBI, Judge Webster, with whom I met and worked, for his assistance in all of this. I think this is a step forward. It will do more to relieve grief and to help parents—not any huge numbers, but some numbers, some significant numbers. It will do more than probably 90 percent of the legislation that we pass.

I commend, again, my colleagues on the Judiciary Committee, including the chairman of the full committee who has been supportive, for what they have done. I think this is a step forward for the Nation.

Mr. Speaker, this bill is the culmination of over a year of work and investigation by my staff and the Subcommittee on Civil and Constitutional Rights. In investigating the problem of missing children, we found a great tragedy that was facing thousands of American families each year.

Each year 50,000 children are abducted by strangers, though all statutes are uncertain. Perhaps another 100,000 children are the victims of parental kidnapings. A million more run away from home each year because the conditions they live under become unendurable. Whatever the reason these million-plus children leave their homes, one thing is clear—once they are away from their families, they are in life-threatening danger. Most of these children are never seen again. Two to four thousand of them are found murdered. Often they have been tortured.

H.R. 6976 would set up a National Clearinghouse on Missing Children. Any child who disappears could be entered on a computer. This would mean that information on missing children would be available to police officers across the country. At the same time, a clearinghouse would also be set up for unidentified bodies. Many of the children who are missing are found dead in areas of the country far remote from their families. There is no way for these children to be identified and their parents notified because there is no centralized system for maintaining information on unidentified bodies in this country. For many parents, knowing even that their child is dead would be preferable to the anguish and uncertainty of not knowing what happened.

Many people were helpful to us in investigating the missing children problem. Parents of children who disappeared showed great courage in sharing their grief and thereby making the Congress and the Nation aware of this great tragedy. John and Louise Clinkscales of LaGrange, Ga., lost their son one night as he was driving back to college. That was in 1976. He has not been heard from since. Although their son was 22 years old, they still understand the tragedy that parents of small missing children face and have been leaders in encouraging action to help those parents. Other parents such as the Walshes of Hollywood, Fla., and the Patzes of New York City have also played a great part in making the Nation aware that losing a child can happen to anyone. We were also helped by people who are not parents of missing children. Patricia Leeds, a reporter from Chicago has been working for legislation to create an unidentified bodies clearinghouse for more than 5 years. Similarly, Ken Wooden, a freelance reporter has devoted the last several years of his life in investigating the problem of missing children and how that problem can be solved.

It is for these parents and people who care about missing children and the thousands of other parents who have in the past or may in the future find that their children have been stolen or kidnaped that H.R. 6976 exists. It is not a costly bill. It will cost less than $1 million. It will not make great headlines but it may help and touch more families in this country than more costly bills could ever hope to do. I urge you to vote "yes" on this bill which can help so many.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, I share the concerns that my colleagues—the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Illinois (Mr. HYDE), the former ranking minority member of the subcommittee—have regarding the extent to which this legislation will ultimately be effective in accomplishing what many of its proponents expect, an increase in the number of missing children found and returned safely to their parents.

Unfortunately, the fact is that the search for such children depends almost exclusively on the willingness of local law enforcement to apply its resources to that end. All the computer apparatus in the world will not substitute for the street cop nor for sensitivity on the part of State and local law enforcement.

What this bill really does is set up by statute and, therefore, make permanent a computer retrieval system which has already been operational for the past 7 years in the Justice Department.

I, too, however, want to applaud the persistence of my colleague, the gentleman from Florida (Mr. SHAW) and suggest to those who support the bill it was he who helped ram it through.

It is my sincere hope the attention which the media has given and will give to this issue combined with the symbolism which is represented by this bill will encourage the parents of missing children and spur them on to challenging State and local law enforcement agencies near their homes to reorganize their priorities so that they can do more with respect to the problem of missing children.

I support this bill, Mr. Speaker, but we must underscore the importance of local law enforcement in this effort. This bill creates a clearinghouse, but nonetheless it will require the efforts of local law enforcement in the first instance, and they are the ones that really have the job to do if we are to avert more tragedies and recover children before they have been completely lost to us.

This is an example of where the Federal Government can take a step, for we would be misleading our constituents back home to suggest that the major steps ought not to be taken and must continue to be taken by local and State law enforcement.

It is a particular need that must be addressed by our communities across the Nation. it is a subject that must be individually brought home to all of our constituents through the national media and what we do, but we must make sure that they prevail upon local and State authorities to do far more than has been done to date.

Missing children are a major problem in our country. It should not be relegated to the back burner by local and State law enforcement as sometimes unfortunately happens. It is my hope this bill will encourage more activity in this area so that, in fact, we will do more across the board to avert these tragedies in the future.

Mr. EDWARDS of California. Mr. Speaker, I, too, want to thank the people over at the FBI—and especially Judge Webster, the Director—for their cooperation in assisting us in putting together a bill that we think will work.

The NCIC was not set up to handle missing persons. It was originally set up to handle fugitives, stolen property, stolen cars, and things like that. Missing persons were only added a very few years ago and after some reluctance, because there are some problems in dealing with missing persons. There are privacy problems and other problems. The FBI has been very diligent in making sure that the policy in connection with missing persons in the NCIC was never abused. Even though this is an enlargement of the responsibility of this important law enforcement telecommunications system, the FBI and Judge Webster did say that they could handle it and that they are going to work with us in making this an effective program. I am sure we are all very grateful.

● Mr. LAFALCE. Mr. Speaker, as a cosponsor of H.R. 6976, the missing children bill, I want to take this opportunity to share my thoughts on the importance of enacting legislation providing assistance to the efforts of parents who are unable to find or identify their missing children.

Imagine the fear of having your child abducted from a store or library, or on the way to school. Then, imagine the increasing terror when your efforts to find that child, either alive or dead, has been found somewhere away from home, are nonexistent.

Imagine a country as sophisticated as ours, that has no systematic nationwide mechanisms to search for, or report about, missing or dead children. Those imaginings are real—but—the bill before the House of Representatives, H.R. 6976, may mean relief is real, as well.

Each year some 1.8 million children disappear from their homes. Most are runaways and fortunately return within 24 hours. Approximately 50,000 young people, however, are abducted and are somewhere—no one knows where—away from home. About 1,000 of these youngsters will never return, because they have died and been buried unidentified, by local authorities. Their parents will never know where their children are.

Such has been the tragic case. Our sophisticated Nation, able to develop machinery and systems to place men on the Moon, has failed to put in place a nationwide system to assist in finding missing children or identifying bodies. This sad analysis of our Nation's inadequate system of finding children was brought sharply into focus by the abduction and murder of Adam Walsh—a relative of families in my district—from the Hollywood Mall in Hollywood, Fla. Mr. and Mrs. Walsh pointed out the shock, frustration, and horror parents experience because of their inability to find their children or identify their bodies.

As a result of my involvement with the Walsh family, I authored and cosponsored missing children proposals. Hearings were held. Lengthy meetings between the Justice Department and members of the Judiciary Committee ensued. Finally, H.R. 6976, a modified version of the missing children bill passed the Judiciary Committee on August 19.

This bill establishes a national clearinghouse into which information about children reported missing or deceased can be entered. This clearinghouse will be part of the existing National Information Center run by the FBI. The Senate Judiciary Committee has passed a similar bill.

The process has been long and laborious, but hopefully, this body will approve this legislation today, and the Senate will follow a similar course, soon.

Without a doubt, the establishment of such a centralized information resource is long overdue and finally receiving the attention it deserves in Congress. This bill will neither guarantee that all missing children will be found nor prevent their deaths. It will, however, greatly relieve parents' concern and improve law enforcement officers' attempts to locate America's missing children.

I urge my colleagues to vote "yea" on H.R. 6976.●

● Mr. HEFTEL. Mr. Speaker, I am pleased to support H.R. 6976, the Missing Children's Act, and I want to commend both Chairman DON EDWARDS of the Civil and Constitutional Rights Subcommittee who has moved so expeditiously on this much needed legislation, and our colleague from Illinois (Mr. SIMON), who has been a driving force behind the bill.

Mr. Speaker, it is estimated that between 1.3 and 1.8 million children disappear from their homes yearly. While most are runaways who eventually return home unharmed, some 50,000 children are not runaways, but, instead, have been abducted. A majority of the 50,000 are never seen again by their parents. Such a staggering number is clearly unacceptable; this tragic problem must be addressed directly and forcefully.

Mr. Speaker, I am advised that presently, of the approximately 1.5 million children who run away each year or otherwise disappear, less than 10 percent are listed on the Federal Bureau of Investigation National Crime Information Center computer. H.R. 6976 directs the FBI to expand the use of this computer as a clearinghouse for information about missing children and unidentified bodies. The data would be instantly available to thousands of police departments nationwide to aid in the critical early hours in searches for these children. I strongly support this legislation and urge my colleagues to join with me in voting to pass this worthy and much needed measure.●

● Mr. McCLORY. Mr. Speaker, during full committee consideration of this bill, I was struck by much of what was said during general debate. I support the adoption of H.R. 6976 this afternoon, but I want to underscore the remarks of Mr. SENSENBRENNER when this bill was considered in committee. He indicated, properly, that this bill will have little effect on the discovery of missing children if it does not have

the ongoing cooperation and participation of local law enforcement agencies throughout the country.

The FBI computer system set up by this legislation has been in operation for years, and has maintained a file on missing persons of all ages since 1975. The complaints we have heard about the inability of parents to locate their children have more to do with the unwillingness or inability, of local law enforcement to do their share of the necessary legwork than it does with imperfections in the FBI's computer system. For example, Hawaii, Montana, Puerto Rico, South Carolina, and Washington submitted no data whatsoever to the NCIC missing persons file and I suspect there are many more jurisdictions which have submitted little more in offering parents the best odds for locating their missing children. During testimony before the Subcommittee on Civil and Constitutional Rights, Mr. David Nemecek, representing the FBI, noted that undereducation within local law enforcement agencies is one of the reasons why so few jurisdictions have supplied names and descriptions to the missing persons file since its beginning in 1975.

Let there be no mistake, then, that the principal responsibility for finding missing children lies at the feet of local law enforcement. The NCIC system which this bill statutorily creates has been operational, in practice, since 1975 and the unidentified dead file, which will work in conjunction with the missing persons file is new to the law. But again, this too was on track through a pilot program in Colorado and would have soon been operational. I strongly urge the adoption of this bill. It is imperative that we stress where the principal responsibility lies—at the local and State levels. Still, I am encouraged to believe that passage of this measure will assure greatly increased cooperation between investigative and law enforcement officials at all levels of government. This, in turn, should contribute to easing the anxieties of parents of missing children with whom the FBI will continue to work compassionately and effectively.●

● Mrs. SNOWE. Mr. Speaker, I rise in support of the Missing Children Act. This bill will allow our Nation to extend the use of modern computer technology to help insure the protection of our children.

It is very tragic that over 50,000 children each year who are not runaways or victims of parental kidnaping disappear from their homes. The overwhelming majority of missing persons are children, many of whom become the victims of crime, exploitation, and abuse. Every year there are approximately 2,000 unidentified children found dead. Surely this is a horrible and frightening statistic.

Almost 1 year ago, legislation was introduced in the House to create a national computer information network to assist law inforcement agencies in locating and identifying missing children. Currently, the Federal Bureau of Investigation collects information from States which choose to send it on a voluntary basis. Only 10 percent of all missing children are entered into a national missing persons file.

Because a computer system is already in place, the cost of the program would be relatively low. Access to the system would be available as soon as a child is reported missing, so the FBI could expedite efforts of police and parents in locating and identifying children. This would prevent harm to the children and would save parents from the anguish of waiting and worrying until information is available.

The Missing Children Act has been very enthusiastically received by the American public. A strong grassroots movement with support of people from all political parties and persuasions became very active in pursuing the help of Congress for a Federal solution to this problem. I have received hundreds of letters and phone calls from people in my State in favor of this bill. Most of these people have not encountered the tragedy of an absent child, but are sympathetic and compassionate toward those parents who have suffered through such a traumatic experience, and want to help.

I am proud to be a cosponsor of this legislation, and urge my colleagues to join me by voting in favor of H.R. 6976.●

● Mr. RODINO, Mr. Speaker, I would like to compliment the gentleman from California, the distinguished chairman of the Subcommittee on Civil and Constitutional Rights and the membership of that subcommittee on this important legislation. I believe the hearing record which the subcommittee has carefully complied amply demonstrates that the problem of missing persons in general, and missing children in particular, is a national tragedy deserving of greater attention.

As the gentleman from California has indicated, this bill establishes for the first time a national registry for unidentified deceased which may be matched against missing person data. Such a centralized registry will encourage greater sharing of information and communication between law enforcement agencies by standardizing the data collected and filed.

This bill is in response to the myriad problems of locating missing children and identifying "John or Jane Doe" deceased children. It merely enhances and expands the present FBI-NCIC computer informational capabilities to assist in combating this sad circumstance of our modern society.

Local police, not the FBI, must bear the primary responsibility for local crimes. However, we can encourage the Bureau to utilize its resources to assist these local officials in coping with this tremendous problem. As Mr. EDWARDS indicated, only 10 percent of missing children are now entered into the NCIC file—that means that 90 percent go unreported. That situation is intolerable and this bill will send a clear message to the Department of Justice and to State and local police that the problem of missing children is one that deserves greater attention. Both our children and concerned parents everywhere expect no less. I support the bill and compliment its sponsors, Mr. SIMON and Mr. SHAW.[1]

● Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of H.R. 6976, the Missing Children Act, and would urge my colleagues to support this legislation.

The tragic problem of children separated from their parents through criminal abduction or running away is one which all parents fear, and which has yet to be dealt with effectively in our society. We have a responsibility to help these children and their parents in any way possible.

The Missing Children Act would bring about the collection, classification and preservation of information which would assist in the location of missing children. I believe that this legislation represents a responsible and effective step toward solving the missing children problem.

A recent report in the Christian Science Monitor explores this tragic subject in some detail. I believe that the Missing Children Act is a big first step in dealing expeditiously with the questions raised in this article, and include the article at this point in the RECORD.

[From the Christian Science Monitor, Aug. 19, 1982]

MISSING CHILDREN—FINDING HELP FOR THEM AND THOSE WHO LOVE THEM

(By Lucille deView)

TAMPA, FLA.—It was going to be a special day for mother and daughter, a day or errands and then a movie, a day to "just be together."

While Lena Scofield, of Citra, Fla., took her driver's test, 12-year-old Dorothy (Dee) Scofield, the youngest of her five children, crossed the road to shop for a birthday gift for her brother, Joe. Mother and daughter would meet when both were done.

They never met. Dee disappeared. Her frantic mother searched everywhere. Yes, Dee had been seen buying a gift. Then—nothing. That was six years ago. The stricken mother has not seen her little girl since.

The Scofield family is not alone in its grief.

Every year, an estimated 50,000 children nationwide are criminally abducted while playing in their yards, going to or from school, riding bikes, camping, doing errands, being cared for by baby sitters, doing all the perfectly ordinary things all children do. Many are never heard from again.

(This figure does not include an additional 150,000 children "snatched" from one

parent by another in custody battles, or the 1.8 million runaways per year.)

Parents have felt alone and frustrated, and at a loss as to how to help one another and find solutions to this horror.

But there now are signs that all this is changing.

Families are banding together to find ways to prevent as many criminal abductions as possible and find missing children more quickly.

Among other things, they are:

Lobbying for passage of a national Missing Children Act to establish a clearinghouse of information, using a computer to help track missing children and to identify the remains of 5,000 unclaimed bodies found each year, many of which are of children.

Making joint appearances to testify for legislation and to explain the enormity of the problem to the public. In December, for example, parents Rosemary Kohm, Julie Patz, Camille Bell, and John Walsh appeared before a national symposium in Louisville, Ky., dealing with problems of child pornography, prostitution, abduction, and murder.

Building a network of support groups to offer comfort and aid to families of missing children.

The special anguish in criminal abductions is the knowledge that they almost always involve foul play, including sexual abuse or exploiting the child through pornography and prostitution.

Despite outpourings of sympathy from outraged communities and compassionate people, parents often find themselves isolated and sometimes even shunned or blamed by the insensitive few. Many parents have had to withstand implications that they were somehow careless, as if a child should never be allowed out of sight.

Such callousness, they say, is hard enough to bear. But even worse is the shock that comes when they turn to the police only to find, all too often, that the immediate and wide-ranging help they expect is not available or not available in time.

Many police departments will not begin to search for a missing child for 24 hours on the presumption that the child will "turn up" or that he has deliberately run away. However, in case after case where children have never been found or were found killed or injured, parents say this delay was crucial—that sightings and clues which could have led to victims and abductors came too late. The FBI will not enter a case unless there is a ransom note—proof there has been a kidnapping—or evidence the victim has been transported across state lines. There seems to be no clear mandate for the involvement of national law enforcement agencies. And local police, left with the problem, often lack the manpower or equipment to be effective.

Until recently, many families have had to virtually go it alone, augmenting police searches with their own, often meager resources. They have passed out leaflets, hired private detectives when they could afford to do so, and begged for attention from the local news media. In some cases that attention has been forthcoming. In others, parents were told their problem "is too common" to single out one child from the many who are missing in a particular city.

In the past decade, the United States has witnessed many multiple murders of children with little or no attention to the individual child until the numbers began to build—33 in Chicago; 28 in Atlanta; 27 in Houston; 14 in California; 7 in Detroit.

One of the pioneer support groups that parents of missing or murdered children have begun is the Dee Scofield Awareness Program Inc. (DEE), in Tampa. It was established in 1976 by the victim's aunt, Mrs. Betty DiNova, and her daughter-in-law, Mr. Ivana DiNova.

"We decided we had to do something, even if it was too late to help Dee," says Betty DiNova, who conducts the project from her Tampa home. Until recently, when local churches began helping her with telephone bills, printing, and postage costs, all expenses "came out of our own pockets, " she says.

The DEE organization, and others like it, compiles data on individual cases from newspaper accounts and referrals from other agencies and individuals; sends out literature and fact sheets to educate the public; provides a checklist of "things to do when your child disappears"; participates in safety conferences on children and youth; and tries to redress conditions that hamper searches.

DEE urges the elimination of bail and parole for accused child molesters and child murderers, and encourages parents to voluntarily have their children fingerprinted at local police agencies. This is done in Hillsborough County, Fla., by volunteers with training and supervision from the sheriff's department. Under the plan, spearheaded by the Limona Parent Teachers Association, parents keep the fingerprints in a safe place for identification purposes if needed.

(Mandatory fingerprinting of children is opposed by some groups, which see it as an invasion of a child's civil rights.)

One of the newest support groups is the Adam Walsh Child Resource Center in Fort Lauderdale, Fla. It grew out of a voluntary group that has provided child advocacy in the area for almost a decade.

One of the center's first activities was to establish and maintain a computer file of missing children from information supplied by the Broward sheriff's office. There are 150 cases at present.

The Adam Walsh Child Resource Center has a paid staff and operates under a federal grant from the Juvenile Justice Department.

John and Reve Walsh serve on the board. The Walshes did much to bring the missing-children issue to national attention with their appearances on network TV shows during the two-week search for their murdered only child, Adam.

The Walshes are spearheading a drive for passage of a Federal Missing Children Act, introduced in the Senate (S 1701) by Paula Hawkins (R) of Florida and the House (HR 3781) by Paul Simon (D) of Illinois). Hearings have been held in both chambers.

The proposed legislation would require the FBI to maintain a national computer information network to assist law enforcement agencies in locating and identifying missing children and other individuals. This bill covers all missing children including runaways and those who are kidnapped or who are victims of parental abduction. There is no restriction on how long the child must be missing before authorities can act. In addition, the bill would set up a national clearinghouse for information about bodies found without identification.

The bill is pending before subcommittees and awaiting further comment from the Justice Department on proposed amendments. Senator Hawkins hopes the bill will come before both houses before the August recess.

The FBI has objections to the bill but is working with Senator Hawkins's staff to iron out differences. The FBI is concerned that worried parents will come directly to it and fail to contact local police. However, an amendment to the bill allows parents to list a child in the FBI Missing Persons File *only* after contacting local police and if police fail to list the child.

FBI spokesmen point out that a nationwide Missing Persons File has actually existed since 1975. But they stress that their Missing Persons File is for distributing information only. There is a misapprehension among parents, they say, that once notified, the FBI will begin an investigation. But the FBI has no jurisdiction in missing-child cases unless there is evidence of an abduction. The problem, as they see it, is that the existing system has not been utilized.

According to Senator Hawkins only about 10 percent of the missing children are entered by local law enforcement agencies in the National Crime Information Center computer.

As a further step, the FBI says, it now supports establishing an unidentified dead file.

John Walsh says: "We are not asking for a national police force to search for every missing child. We are just asking for a centralized system and that the FBI assist, whenever possible, when a sighting of a child is out of state and the local police can't follow up that lead. It's not too much to ask of this great society."

Julie Patz, whose son, Etan, disappeared on his way to his school bus stop in Manhattan, didn't know for six hours that he had never boarded his bus. She would like to see an attendance reporting system so parents would be notified at once if their children did not reach school.

Parents of missing children are pressing hard for the Missing Children Act to become law. They point out that whenever a car, a boat, or other possessions are reported stolen anywhere in the country, a description is circulated nationwide almost at once.

Why, they ask, can't the same be done for missing children?●

● Mr. RAILSBACK. Mr. Speaker, I rise in support of H.R. 6976, the Missing Children Act, and would like to commend the members of the subcommittee, the gentleman from Illinois (Mr. SIMON) and the gentleman from Florida (Mr. SHAW) for the work they have done on this legislation. At this time, I would also like to recognize the efforts of Senator PAULA HAWKINS who has been in the forefront in the effort to increase public awareness of the problems parents encounter in trying to locate missing children.

I believe this legislation will heighten awareness of the Federal Bureau of Investigation's missing persons file and will encourage local law enforcement officials to broaden their scope in the search for missing children. Passage of this legislation is particularly pleasing to me in view of my longstanding interest in the establishment of a bureau to aid in the identification of the missing and/or dead.

In August 1977, I read an article in the Chicago Tribune which illustrated the frustration of law enforcement of-

ficers and families in locating missing children. The body of a teenage girl was found in a Chicago river and had it not been for the tenacity of Detective Sheldon Cissna of the Missing Person Bureau, no identification would ever have been made. Cissna exhausted all of the law enforcement procedures in an attempt to identify the drowning victim. After all of the conventional city, county, and State reports proved fruitless, Cissna broadened his investigation by using his personal funds to look farther.

After searching through volumes of nationwide police reports, Cissna learned of an Iowa family who submitted a local police report that fit the description of the unidentified body. As it turned out, the family even had a hood that buttoned onto the victim's coat. Thanks to Cissna's dedication this unidentified body was claimed, and two cases were sorrowfully completed. But, it is rare that any police department in our country has the manpower or manhours to take on an indefinite hit-or-miss proposition like this.

After reading the article, I discussed the problem with Ms. Patricia Leeds, a Chicago Tribune reporter, who suggested that a central location be created that would maintain information on all unidentified dead persons. As a result, in October 1977 I introduced H.R. 9598, which would have required the FBI to acquire and maintain identifying information for any decedent not identified within 30 days of death.

In addition, I had numerous contacts with the Federal Bureau of Investigation and became acquainted with work that was already being done in this area. For example, the Colorado Bureau of Investigation has been maintaining an unidentified dead file on a State basis for several years. Currently the FBI is conducting a pilot program in Colorado, and their experience should be extremely valuable in setting up this program on a national basis.

The State of California has also done work in this area. In 1978, California enacted assembly bill 81 which requires all State law enforcement agencies to submit dental charts and other data on missing adults and juveniles who have not been located within 30 days of their being reported missing. This information is maintained in a central State system available to investigators handling unidentified dead body cases. The system was put in place in April 1979 and by November 1981, the California Bureau had been able to identify 29 individuals and had helped in verifying the identification of 17 others. Four of these deceased individuals were from out of State.

In conclusion, I believe that we can draw upon the experiences of these two systems and establish a Federal clearinghouse which will assist parents and law enforcement officials alike. In 1977 when I first became interested in such a clearinghouse, the annual estimates of unidentified bodies was in the 150 to 1,000 range. Today those figures have escalated to an estimated range of 1,000 to 2,000, indicating that the need for a central repository has not diminished but, if anything, has become even more necessary and desirable. Again, I commend all of those whose efforts have made this legislation possible and hope that the passage of H.R. 6976 will help to alleviate some of the frustrations parents experience as a result of the disappearance of a child.●

● Mr. RITTER. Mr. Speaker, at this time, I would like to express my support for H.R. 6979, the Missing Children Act. The alarming trend of missing children has engrossed this country and has caused pain, grief, and suffering for many families. It has been estimated that over 50,000 children each year disappear from their families. These children are not habitual runaways or the object of parental kidnapping. Many of the children who has vanished are found murdered and are often left unidentified.

After the tragedy which beset the city of Atlanta, the disappearance and subsequent murder of children is beginning to receive the attention it deserves.

In a country where stolen cars are frequently returned to their owners it is sad that abducted children will most likely never be seen again by their parents. Unlike the efficiently centralized and computerized method for locating stolen automobiles, missing children cannot be found with the help of the current computer system, because the current system places various restrictions on missing children who should be listed on the National Crime Information Center (NCIC) computer file.

As a cosponsor of this bill, I believe that by creating clearinghouses for missing children and for unidentified bodies, some obstacles in locating missing children will be removed. To neglect and ignor missing children is a great injustice. It is our moral obligation to make available the resources necessary to deal with missing children. Most of us will never know the pain families and friends face when a loved one disappears. The thought of never seeing your child again and constantly praying for his or her safety and return is a misfortune no one should ever experience.

Mr. Speaker, for the sake of our missing children and their families, I urge my colleagues to support H.R. 6976.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the bill, H.R. 6976.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KASTENMEIER. Mr. Speaker, on Thursday, September 16, 1982, I am not recorded on rollcall No. 339, for whatever reason. Mr. Speaker, I thought I was in fact present and voting, but I am not recorded.

However, I make the unanimous-consent request that in the permanent RECORD following the vote my explanation appear with the statement that had I been recorded, I would have voted in the affirmative.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5543), to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES).

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 5, nays 4.

Mr. WALKER. Mr. Speaker, this is a matter of some importance. Some of our senior Members are not here. I would be constrained to object to that vote on the ground that a quorum is not present if the motion were allowed to stand.

The SPEAKER pro tempore. Under the agreement previously entered into, it was considered that we would not have any votes today.

Mr. JONES of North Carolina. Mr. Speaker, does the gentleman from Pennsylvania demand a rollcall?

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. JONES of North Carolina. Mr. Speaker, in view of the fact that there is a gentleman's agreement on this side of the aisle and, I assumed, that side of the aisle, under the circum-

stances I regret very much that I must withdraw by motion.

□ 1640

PUBLIC POWER

(The SPEAKER pro tempore, under a previous order of the House, the gentleman from Tennessee (Mr. GORE) is recognized for 30 minutes.)

Mr. GORE. Mr. Speaker, I take this time on a matter of utmost importance to the citizens of the congressional district I represent and to the citizens of congressional districts throughout Tennessee, the other six States served in part by the Tennessee Valley Authority and also a matter that is of importance to residents of the Pacific Northwest regions served by the Bonneville Power Administration and citizens of other regions served by the Power Marketing Administrations in the United States. There are five of them. TVA is separate from the Power Marketing Administration.

What this matter involves is a new plan that is underway on the part of an interagency working group published by the Cabinet Council on Natural Resources and Environment.

The way the President has organized the White House, there are several Cabinet Councils. This one, the Council on Natural Resources and Environment, is headed by Secretary of the Interior, James Watt.

In May, the Cabinet Council on Natural Resources and Environment had a meeting at which a discussion of public power took place. As a result of that discussion, an interagency working group was established under the leadership of the Council of Economic Advisers to look at electric rates and access to electricity from the hydroelectric facilities owned by the Federal Government. This interagency working group is under the leadership of Mr. William Niskanen. I hope I am pronouncing that correctly, Mr. Speaker. He is a member of the President's Council of Economic Advisers.

The other members of the working group include officials from the Department of Energy, the Federal Energy Regulatory Administration, the Interior Department's Bureau of Reclamation, the Army Corps of Engineers, and the Office of Management and Budget.

The first meeting of this interagency working group took place on July 29, I am informed, and at that meeting officials present were asked to begin collecting information about electric rates that were published by the Tennessee Valley Authority and by the five Power Marketing Administrations, not only the Bonneville Power Administration, but the Western Area Power Administration, the Alaska Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration.

I have a particular interest in the Southeastern Power Administration, because of the 36-some-odd dams that it operates, 9 of them are on the Cumberland River system and the power from those dams is sold to TVA.

My office called Mr. Niskanen to confirm the reports that we were getting about the White House Cabinet Council's intention with respect to this study. He confirmed to my office that they find it somewhat strange that hydroelectric power is sold at cost to the residential customers that buy this power.

The idea of the Cabinet Council apparently is that if the Federal Government can sell this hydroelectric power at the market rate, that is the rate being charged for electricity produced from generating sources of all kinds, then it could get a great deal of revenue from these hydroelectric dams and that revenue might help to offset the budget deficit.

I believe this plan is a very misguided plan that is based on a misunderstanding of what public power is all about and had always been about. The interagency working group is supposed to report back to the Cabinet Council in December. They expressed some surprise and concern that details of this plan had gotten out, but then Mr. Niskanen was quite candid in discussing the matter and he said that he knew it was likely to be controversial. He said that he had grown up in the Pacific Northwest and his father was a Republican, but always very strong on public power issues and he himself had an appreciation for the importance of public power, so he expected controversy, but he invited the response to be couched in terms of economic analyses instead of politics.

Mr. Speaker, this issue is not an economic issue. It will not be won or lost with economic charts or graphs. It is fundamentally a philosophic issue and a political issue. Public power is not defined as a device to raise money for the Federal Treasury. It is designed as a device to lift the standard of living for the people in the areas served by public power.

The history of public power is quite interesting. The origins of the preference clause can be traced back all the way to 1877 when the Congress first passed the first Federal statute providing that surplus reclamation water should be held for public use. The principle grew over the next 50 years and when Congress passed the Tennessee Valley Authority Act in 1933, it extended the preference clause to nonprofit cooperatives and authorized the construction of Federal transmission lines from Federal electric projects, thus reducing a reliance on private utilities.

The preference clause is, most simply, a recognition that publicly owned resources belong to the people of the United States of America and should be distributed directly to the people wherever it is possible to do so.

In point of fact, rates for the sale of Federal power to both preference customers and to nonpreference customers are not subsidized at all, but are set at levels which fully repay Federal investment in the facility. Since no Government entity or citizen prohibited from organizing a utility eligible to receive preference power, no improper favoritism exists.

The preference clause has a distinguished history and, I might say, Mr. Speaker, it has a great deal of support in this body.

So on this occasion at a time when this Cabinet Council group is preparing a plan that would have the effect of raising the electricity rates for all customers of the Tennessee Valley Authority in order to try to undo some of the damage that this economic program has done or has contributed to with respect to the Federal deficit, I am calling today on the President of the United States to stop this plan in its infancy, to stop it right now and not proceed with it any further.

□ 1650

The plan is flawed in its inception. It is misguided in its basic purpose, and it should be stopped right away.

If it were put into effect, the Tennessee Valley Authority estimates that the amount of extra electric rates that the people of the Tennessee Valley would have to pay amounts to about $400 million per year.

Now, on a base of $1.5 to $1.6 billion per year, that is a 25-percent increase in electric rates under the plan that is now under consideration. They have not implemented it yet; they are just talking about it. In other words, their hands are not in the cookie jar yet, but they have lifted up the lid and they are counting the cookies. I am calling on them to put the lid back on and get the thoughts out of their minds, because the opposition in this body is going to be quite strong and vigorous and they will have the fight of their lives on their hands if they think they are going to go forward with a plan of this kind.

To demonstrate the fact that the opposition to this plan comes not just from the Tennessee Valley area but from other parts of the country, I would like to yield to my distinguished colleague from Oregon (Mr. WYDEN).

Mr. WYDEN. I appreciate the gentleman yielding to me.

Mr. Speaker, I would like to associate myself with his remarks.

Mr. Speaker, as with the gentleman from Tennessee, I also serve an area of the country experiencing the largest

electric rate increases since the formation of the Bonneville Power Administration. The latest increase, scheduled to go into place October 1 will increase rates an average of 50 percent.

Now, as if these rate increases were not already sufficient to prolong the economic slump in the Pacific Northwest, we learn of the formation of an executive branch study group whose mission includes an examination of Federal power marketing agency pricing practices that could lead to significant rate increases as Federal deficit erasers.

Now, I have spoken with the head of this interagency task force about an hour ago and he has told me there are no specific proposals under consideration as of this moment.

But, given this administration's strong interest in the market place and the predisposition of one of the task force participants—the Office of Management and Budget—I fear it will lead to one inescapable conclusion—higher residential electric rates.

If the administration has its eye on electric rates as a means to erase the deficit, it will not only affect our residential ratepayers, it could also devastate our direct service industry users—primarily energy-intensive aluminum producers—who originally located in the Pacific Northwest because of the low-cost hydropower.

These firms are willing to bear their fair share of the burden of financing the cost of the Federal infrastructure that is responsible for their power. But at a time when plant's modernization capital is usurped by massive rate increases, when workers are laid off and when the prospects for recovery are not around the corner, it goes just a bit too far to also expect them to shoulder the added burden of covering the Nation's deficit spending.

I know of what I speak. Over the past weeks many of my constituents have pleaded for my assistance in putting them back to work. They are not asking for Federal dollars, only for an explanation as to why their employers are facing rate increases that are making their product uncompetitive.

One of my constituents described the human impacts of these rate burdens in a recent letter to me:

> As a fourth generation Oregonian who lost his job at this plant, I wish to protest. Now I must leave my home, family and friends, to go out of State in order to survive. Believe me, I want to stay here, but having exhausted every opportunity to find work here, I must now leave this State to work elsewhere.

Mr. Speaker, when the administration's interagency task force prepares their report to Secretary Watt and to David Stockman—which is interestingly timed for after the elections—I hope they will consider the human concerns at stake.

This study is simply not an exercise in classical economics. It is a foot in the door of an issue with far-reaching repercussions for all of us served by Federal power marketing administrations.

Mr. GORE. I thank my colleague for his statement and his generous words.

Mr. Speaker, I yield to my colleague, the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. I thank the gentleman from Tennessee for yielding to me.

Mr. Speaker, I want to congratulate him and say that we are in his debt for blowing the whistle on this action.

I am not going to prejudge where it is going, and I am not sure anyone can tell where this Commission will end up, but I think it is important that Congress watch it and watch it closely.

The cost, as the gentleman from Oregon has said, for power in our area has escalated at a great rate, and I do not think anything would be more injurious to the recovery of industry and job opportunities in the Northwest than for someone to add to the increases that we are now getting.

Power rates are essential to job opportunities in the Northwest, so I want to say that this gentleman will work with the gentleman from Tennessee in an oversight manner, watching what this group is going to be doing.

This is no time to put the brakes on possible recoveries in our economy.

I, like the gentleman from Tennessee, get rather fearful of people who see an opportunity to gather up some dollars for the Federal Treasury when in the long run it would be very counterproductive.

So I congratulate the gentleman from Tennessee (Mr. GORE).

Mr. GORE. I thank my colleague for his kind remarks.

I think they demonstrate that the administration can expect, if they go forward with this, strong opposition from both sides of the aisle and from different parts of the country.

Mr. Speaker, I yield further to my colleague from Oregon (Mr. WYDEN).

Mr. WYDEN. I thank the gentleman for yielding further to me.

Mr. Speaker, in addition to his fine work, I would like to praise the statement of the gentleman from Washington because I think it is going to take a bipartisan effort. I in no way want to prejudge what is going on in this area. As I say, I spoke with Mr. Niskanen about an hour or so ago. He said there were no specific proposals.

What has concerned me is the predisposition on the part of the people involved, the OMB, which has a track record of wanting to raise revenue to deal with the deficit, and, of course, the strong emphasis on marketplace economics.

I just appreciate my colleague from Washington rising because this must be a bipartisan effort. I commend him as well as the gentleman from Tennessee who originated this effort.

Mr. GORE. Mr. Speaker, I thank my colleague for his comments.

I want to echo one thing both of my colleagues have said here, and that is that the rates are already high enough.

In both of our areas, hydroelectric power was there very early. It is the cheapest power available, of course. But in recent years, as coal-generating capacity has been added, and more recently these very, very expensive nuclear powerplants have been constructed, the rate of increase in electric rates in our regions of the country has far exceeded the rate of increase around the rest of the United States.

Many patterns of living and patterns of business activity that really began at a time when we were way below the national average are under a great deal of stress during this time of escalating electric rates. About the only cushion that we have left to fall back on in this time of economic crisis and rising electric rates is the very small fraction of power that we still get from hydroelectric power.

In the Tennessee Valley area, only one-tenth of our electricity now comes from hydroelectric power, but that power is one-tenth of the price of electricity from a new nuclear powerplant. Any proposal to raise that remaining one-tenth of power up to the market level would obviously have an enormous impact. Yet, the head of this group, Mr. Niskanen, confirmed that that is precisely what they are looking at.

My staff said, "You realize this would involve a change in the TVA Act and perhaps in other laws relating to this matter?"

He said, "Yes, we do realize that. We are examining what kind of changes would be involved."

So I just want to advise them that they have a fight on their hands. Without the confirmation, I could hardly believe they were taking it seriously; but evidently they are proceeding seriously and, with all due deference, I could not believe that they were seriously thinking about putting supply side economics into effect, but they did. They may be seriously considering putting this kind of plan into effect. I think it ought to be nipped in the bud.

□ 1700

Again, I would simply like to call upon the President to stop this plan before it goes any further, and recognize the extent of the opposition which will arise in the Tennessee Valley and in other parts of the country that would be grievously affected if any such a plan were to be put into effect.

GENERAL LEAVE

Mr. GORE. Mr. Speaker, I would ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CHICAGO'S 17TH ANNUAL GENERAL VON STEUBEN PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on Saturday, September 18, I was happy to join the United German-American Societies of Greater Chicago, in their 17th Annual General von Steuben Parade, to commemorate the birth of Gen. Friederich von Steuben, the great patriot in the cause of American independence during the Revolutionary War.

The parade stepped off at 11:45 a.m. from the corner of Wacker Drive and Dearborn Street. Scores of floats that displayed the German contributions to America's strength and greatness, along with many marching units and musical contingents, proceeded past the reviewing stand at the Richard J. Daley Center. The Honorable Jane Byrne, mayor of Chicago, served as honorary grand marshal, Karl C. Laschet was the general chairman and grand marshal, Norbert Holzinger served as vice chairman and parade marshal, and Josef Anetzberger served as vice chairman.

Recruited in Paris by American Commissioners Benjamin Franklin and Silas Deane, von Steuben, a native German, whose spirit and imagination were aroused by the struggle for independence by a small group of Colonies an ocean away, arrived in Portsmouth, N.H., on December 1, 1777. In January 1778, he was received with high honors by the Continental Congress at York, Pa., and on February 23, he reported to Gen. George Washington at Valley Forge.

During the bitter cold days at Valley Forge, General von Steuben sustained the courage of his men and contributed his private funds for their well-being. General Washington assigned him the task of training the Continental Forces, and the capable drill company that von Steuben formed and commanded was emulated throughout the ranks, making the American troops able to overcome the strongest and most powerful fighting force in the world.

For his efforts, Washington obtained for von Steuben the appointment of Inspector General with the rank of major general on May 5, 1778. In the winter of that year, von Steuben wrote a book entitled, "Regulations for the Order and Discipline of Troops of the United States," an important manual in the basics of drill and field service regulations, which outlined the essentials of military procedure especially adapted for the American citizen-soldier. This volume became the standard drill manual, the "blue book," for the entire army, and served as the country's official military guide until 1812.

In 1781, von Steuben participated in the battle against British General Cornwallis' invasion of Virginia, and he also commanded one of the three divisions of Washington's army at the seige of Yorktown. For his outstanding service to the United States, the State of New York awarded General von Steuben a 16,000-acre estate, and Congress granted him a pension of $2,500 for the rest of his life.

The members and officers of the United German-American Societies of Greater Chicago have long been vital and creative citizens in their individual communities, and I congratulate them for their community service, their achievements, and their fine contributions to making Chicago a better place to live. The names and members of the Chicago General von Steuben Parade Committees follow:

Committee: Otto Alden, Fleix Bachmeier, Melvin Brandt, Stefan Dama, Rudi Dick, Ludwig Erdbeer, Willi Follmer, Karl Geier, Josef Gies, Oleg Geschwendt, John Hebling, John Kraus, Elisabeth Kraus, Fred Narunde, Josef Matzer, Wolgang Reinke, Julius Roth, Mrs. E. Seewald, Horst Seyferth, Willi Scharpenberg, Nick Schneider, Horst Tietz; Helen Meiszner, parade treasurer.

Trustees: Joseph Zottmann, Louise Jochum, Paula Zottmann, Comflower Chairlady; Clara Winkler, recording secretary; Betty Center, corresponding secretary; Edward Kmiec, coordinator.

Director: Joseph Freinburger, Karl Kurz, Elisabeth Kraus, Willi Follmer, Joseph Anetzberger, John Katrein, Joseph Zottmann, Helen Meiszner, Alfonse Schneemann.

Finance committee: Henrietta Baltis, George Bohling, Mr. & Mrs. Fandl.

Mr. Speaker, I extend my greetings and best wishes to German Americans in the 11th District of Illinois, which I am honored to represent, in the northwest metropolitan area of Chicago and all over the Nation, who commemorated the birth of that Revolutionary war hero, General von Steuben, and all German contributions to American greatness.●

CRIMINAL JUSTICE SUBCOMMITTEE TO HOLD HEARING ON PUBLIC SAFETY OFFICERS' BENEFITS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Criminal Justice which I chair, is scheduled to hold its third in a series of hearings on four bills to amend the Public Safety Officers Benefits Act on Wednesday, September 22, 1982, at 10:30 a.m. in room B-352 of the Rayburn House Office Building.

The witnesses scheduled to testify on Wednesday are: Keith Holterman on behalf of the National Association of Emergency Medical Technicians, as chairman of its legislative committee; Fred Williams, Esq., and David Dwyer, chief of Bethesda/Chevy Chase Rescue Squad, on behalf of the National Volunteer Fire Council; and Stanley Q. Lyman, executive vice president, International Brotherhood of Police Officers.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. SENSENBRENNER) to revise and extend his remarks and include extraneous material:)

Mr. BROYHILL, for 60 minutes, on September 28.

(The following Members (at the request of Mr. SIMON) to revise and extend their remarks and include extraneous material:)

Mr. GORE, for 30 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. BAILEY of Pennsylvania, for 60 minutes, on September 21; for 60 minutes, on September 22; and for 60 minutes, on September 23.

Mr. WHITTEN, for 60 minutes, on September 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MCCLORY, to revise and extend his remarks on H.R. 6875, Wolf Trap Farm Park Act.

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. STANTON of Ohio.

Mr. BROYHILL.

Mr. LENT.

Mr. PURSELL.

Mr. LEE.

Mr. LEBOUTILLIER.

Mr. COUGHLIN.

(The following Members (at the request of Mr. GORE) and to include extraneous matter:)

Mr. KILDEE in two instances.

Mr. HALL of Ohio.

Mr. BARNES in two instances.

Mr. MOFFETT.

Mr. SHANNON.

Mr. DYSON.

Mr. SKELTON.
Mr. BAILEY of Pennsylvania.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. CORRADA in two instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. BOLAND.
Mr. BONIOR of Michigan.
Mr. CLAY.
Mr. BARNARD.
Mr. OTTINGER.
Mr. STARK in three instances.
Mr. ROSTENKOWSKI.
Mr. SIMON in two instances.
Mr. WON PAT.
Mr. HUBBARD.
Mr. ZABLOCKI.
Mr. FRANK.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; to the Committee on Post Office and Civil Service;

S.J. Res. 234. Joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week"; to the Committee on Post Office and Civil Service;

S.J. Res. 235. Joint resolution to proclaim March 21, 1983, as "'National Agriculture Day"; to the Committee on Post Office and Civil Service;

S.J. Res. 238. Joint resolution to designate October 9, 1982 as "National Running and Fitness Day"; to the Committee on Post Office and Civil Service; and

S.J. Res. 239. Joint resolution designating October 16, 1982, as "National Newspaper Carriers Appreciation Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. GORE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 1 minute p.m.) the House adjourned until tomorrow, Tuesday, September 21, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4787. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Turkey (Transmittal No. 82-75), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Service.

4788. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Bahrain (Transmittal No. 82-777), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4789. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Belgium (Transmittal No. 82-84), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4790. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles to Spain (Transmittal No. 82-86), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4791. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the Administrative Telephone Service function at the Public Works Center, San Francisco, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4792. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes; to the Committee on Energy and Commerce.

4793. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Turkey (Transmittal No. 82-75), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620(C)(b) of the act; to the Committee on Foreign Affairs.

4794. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense articles and services to Bahrain (Transmittal No. 82-77), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4795. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to sell certain defense articles and services to Belgium (Transmittal No. 82-84), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4796. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to sell certain defense articles and services to Spain (Transmittal No. 82-86), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4797. A letter from the Acting Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during August 1982, pursuant to section 324 of Public Law 91-510; to the Committee on Government Operations.

4798. A letter from the Supervisor of Benefits, Farm Credit Banks of Spokane, Wash., transmitting the annual report of the 12th Farm Credit District retirement plan, covering calendar year 1981, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4799. A letter from the Assistant Attorney General, transmitting a letter in support of H.R. 6514, the Immigration and Nationality Act; to the Committee on the Judiciary.

4800. A letter from the Deputy Administrator, General Services Administration, transmitting lease prospectus amendments, pursuant to section 7(a) of Public Law 86-249, as amended; to the Committee on Public Works and Transportation.

4801. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers on Richard B. Russell Dam and Lake, Savannah River, Ga., and S.C., pursuant to section 2(c) of Public Law 85-624 (House Doc. 97-244); to the Committee on Public Works and Transportation and ordered to be printed.

4802. A letter from the Comptroller General of the United States, transmitting a report to establish a clear Federal policy guideline toward Canadian power imports (GAO/EMD-82-102, September 20, 1982); jointly, to the Committee on Government Operations and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 16, 1982, the following reports were filed on September 17, 1982]

Mr. JONES of North Carolina: Committee of Conference. Conference report on H.R. 6133 (Rept. No. 97-835). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5573. A bill to amend the Internal Revenue Code of 1954 to encourage contributions of computers and other sophisticated technological equipment to elementary and secondary schools; with amendments (Rept. No. 97-836). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 6867. A bill to change the tariff treatment with respect to certain articles, and for other purposes; with amendments (Rept. No. 97-837). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 7092. A bill to amend the Internal Revenue Code of 1954 to provide for a 1-year extension of the taxes which are transferred into the highway trust fund, and for other purposes; with an amendment (Rept. No. 97-838). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 7094. A bill to change the tariff treatment with respect to certain articles, and for other purposes; (Rept. No. 97-839). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5238. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare

diseases and conditions, and for other purposes; with an amendment (Rept. No. 97-840, Pt. I). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 6978 discharged from the Union Calendar; referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of September 16, 1982]

By Mr. WHITTEN:

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

[Introduced September 20, 1982]

By Mr. HUGHES (for himself, Mr. KASTENMEIER, Mr. GLICKMAN, Mr. SAWYER, and Mr. FISH):

H.R. 7140. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. WHITE:

H.R. 7141. A bill to repeal the provision of the Omnibus Budget Reconciliation Act of 1982 which provides for reductions in civil service pay in the case of individuals receiving cost-of-living increases in military retired or retainer pay; to the Committee on Post Office and Civil Service.

H.R. 7142. A bill to repeal the provision of the Omnibus Budget Reconciliation Act of 1982 which provides that civil service retirees under age 62 at the time of a cost-of-living adjustment receive only one-half of such adjustment; to the Committee on Post Office and Civil Service.

By Mr. HAWKINS:

H. Res. 593. Resolution honoring the work and achievements of the artist Allyn Cox, and recognizing those who made possible the program of beautifying the Capitol with historical murals; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1854: Mr. PHILLIP BURTON.

H.R. 3252: Mr. HUTTO and Mr. JONES of North Carolina.

H.R. 4147: Mr. ROE.

H.R. 5133: Mr. BROOKS and Mr. LUNDINE.

H.R. 5995: Mr. WILLIAMS of Montana.

H.R. 6142: Mrs. MARTIN of Illinois.

H.R. 6325: Mr. BLANCHARD, Mr. BONIOR of Michigan, Mrs. CHISHOLM, Mr. CONYERS, Mr. FITHIAN, Mr. FORD of Michigan, Mr. KILDEE, Mr. LELAND, Mrs. SMITH of Nebraska, Mr. TRAXLER, Mr. SIMON, and Mr. LAFALCE.

H.R. 6460: Mr. MATSUI, Mr. HOWARD, Mr. LEHMAN, Mr. FAZIO, Mr. FRANK, Mr. DASCHLE, and Mrs. KENNELLY.

H.R. 6482: Mr. RAHALL and Mr. GUARINI.

H.R. 6834: Mr. FORSYTHE, Mr. KOGOVSEK, Mr. HOWARD, Mr. LEBOUTILLIER, Mr. BETHUNE, Mr. ROE, Mr. D'AMOURS, and Mr. DYSON.

H.R. 6901: Mr. COURTER.

H.R. 6978: Mr. CLAUSEN.

H.R. 6989: Mr. PORTER, Mr. FORSYTHE, Mr. DOUGHERTY, Mr. TAUKE, Mrs. HOLT, Mr. MOTTL, Mr. CONYERS, and Mr. DENARDIS.

H.R. 6999: Mr. BONIOR of Michigan, Mr. CONYERS, Mr. DYMALLY, Mr. EDGAR, Mr. FAUNTROY, Mr. KILDEE, Mr. MCCLOSKEY, Mr. MILLER of California, Mr. NEAL, Ms. OAKAR, Mr. SIMON, Mr. WEAVER, Mr. BEDELL, Mr. FORSYTHE, Mr. MITCHELL of Maryland, and Mr. MINETA.

H.R. 7006: Mrs. MARTIN of Illinois.

H.R. 7007: Mrs. MARTIN of Illinois.

H.R. 7055: Mr. FRANK, Mr. RAHALL, Mr. MOLLOHAN, Mr. RATCHFORD, Ms. OAKAR, Mr. MITCHELL of New York, Mr. ROE, Mr. LOWRY of Washington, and Mr. STENHOLM.

H.J. Res. 531: Mr. HOLLENBECK, Mr. KINDNESS, Mr. OXLEY, Mr. RHODES, Mr. RINALDO, Mr. SHAMANSKY, Mr. SHAW, Mr. SNYDER, Mr. WILLIAMS of Ohio, Mr. YOUNG of Alaska, and Mr. WORTLEY.

H.J. Res. 539: Mr. BRODHEAD, Mrs. KENNELLY, Mr. ADDABBO, Mr. BROWN of Colorado, Mr. ANNUNZIO, Mr. CORRADA, Mr. PRITCHARD, Mr. PASHAYAN, Mr. PERKINS, Mr. HUBBARD, Mr. SAM B. HALL, JR., Mr. SHUMWAY, Mr. CHAPPIE, Mr. CONTE, Mr. CHENEY, and Mr. WEBER of Ohio.

H. Con. Res. 364: Mr. TAUKE, Mr. DE LUGO, and Mr. GOODLING.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6046

By Mr. CONYERS:

—Page 9, line 7, insert "(1)" after "(a)".

Page 9, after line 11, insert the following:

"(2)(A) The court shall dismiss, with or without prejudice, a complaint in a case in which the hearing under this section has not begun—

"(i) 180 days after the date the person sought to be extradited was first brought before a judicial officer for proceedings under this chapter; and

"(ii) 90 days after the date on which—

"(I) a new complaint is filed with respect to such person and based on the same factual allegations as a previous complaint: or

"(II) proceedings leading to extradition were invalidated or otherwise rendered ineffective, if new proceedings based on the same factual allegations occur thereafter.

"(B) In considering whether to dismiss a complaint with or without prejudice, the court shall consider, along with any other relevant factors—

"(i) the seriousness of the offense;

"(ii) the facts and circumstances of the case which led to the dismissal;

"(iii) the impact of further proceedings under this chapter on the administration of this paragraph and the administration of justice; and

"(iv) the impact of the dismissal on the treaty obligations of the United States.

"(C) In computing the time periods referred to in subparagraph (A) of this paragraph there shall be excluded any period of delay—

"(i) resulting from any proceeding or activity concerning the person sought to be extradited which is—

"(I) to determine such person's mental competency or physical capacity (including any examination) in connection with proceedings under this chapter;

"(II) a trial and connected proceedings with respect to criminal charges against such person;

"(III) an interlocutory appeal in connnection with proceedings under this chapter;

"(V) concerning a pre-hearing motion in connection with proceedings under this chapter;

"(V) a judicial proceeding concerning the transfer of such person to another jurisdiction or the removal of such person from a judicial district; or

"(IV) court-ordered transportation not to exceed ten days in duration of the person sought to be extradited; or

"(ii) during which the whereabouts of the person sought to be extradited or an essential witness—

"(I) are unknown and such person or witness cannot be discovered by due diligence; or

"(II) are known, but the presence of such person or witness for proceedings under this section cannot be obtained by due diligence;

"(iii) during which the defendant is mentally incompetent or physically unable to appear and participate in proceedings under this chapter;

"(iv) resulting from the granting of a request for a continuance by the person sought to be extradited; or

"(v) resulting from the granting of a continuance other than one requested by the person sought to be extradited, if the judge grants the continuance on the basis of findings (the reasons for which are set forth, either orally or in writing, in the record of the case) that the ends of justice served by taking such action outweight the best interest of the public and the defendant in a speedy proceeding under this chapter but no such continuance shall be granted because of general congestion of the court's calendar, or lack of diligent preparation or failure to obtain available witnesses on the part of the attorney for the Government, and in determining whether to grant any such continuance, the court shall consider whether—

"(I) the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice;

"(II) the case taken as a whole is so unusual and so complex, due to the number of persons sought to be extradited or the nature of the proceeding or otherwise, that it is unreasonable to expect adequate preparation within the periods of time established by this paragraph; and

"(III) the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to be described in subclause (II), would deny the person sought to be extradited reasonable time to obtain counsel, would unreasonably deny the person sought to be extradited or the Government continuity of counsel, or would deny counsel for the person sought to be extradited or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(D) The person sought to be extradited and the attorney for the Government may waive in writing the time limits established by this paragraph.".

H.R. 7019

By Mr. LENT:

—Page 30, after line 2, insert the following:

REIMBURSEMENT OF GENERAL FUND

The Secretary of the Treasury is authorized to transfer from the Panama Canal Commission Fund to the General Fund of the Treasury the unreimbursed balance of the amount appropriated for expenses necessary for the Panama Canal Commission for fiscal year 1980 by Public Law 96-131 (93 Stat. 1035).

H.R. 7072

By Mr. SKELTON:

—Page 25, line 18, strike out "$500,000,000" and insert in lieu thereof "$250,000,000".

Page 25, after line 23, insert the following:

AGRICULTURAL EXPORT CREDIT REVOLVING FUND

As authorized by section 4(d)(4) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(d)(4)), $250,000,000 shall be available without fiscal year limitation for the Agricultural Export Credit Revolving Fund. The annual limitation on new direct loan obligations for fiscal year 1983 under section 4(d)(8) of such Act shall be $250,000,000.

H.J. RES. 599

By Mr. BROYHILL:

—Page 19, after line 2, add the following new section:

SEC. 128. (a) None of the funds appropriated in this joint resolution may be used to carry out any functions of the Federal Trade Commission unless such use of funds is consistent with—

(1) the provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and

(2) the provisions of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374 et seq.);

as such provisions applied to the functions of the Commission and the use of funds by the Commission during fiscal year 1982, except that, if such provisions are amended by law after the date of the enactment of this joint resolution, then such use of funds shall be consistent with such provisions as amended.

(b) The provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and the provisions of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374 et seq.), which otherwise would expire at the end of fiscal year 1982 shall remain in effect during the effective period of this section (as determined in accordance with section 102), and the administration of such provisions by the Commission shall be carried out in accordance with this section.

EXTENSIONS OF REMARKS

AMERICA, SLAVE LABOR, AND THE SOVIET NATURAL GAS PIPELINE

HON. JOHN LeBOUTILLIER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, August 8, 1942: The U.S. State Department learns that Germany plans to "resolve, once and for all, the Jewish question in Europe." U.S. officials react skeptically. The message is nevertheless forwarded to London, where David Allen, of the British Foreign Office, takes a cautious view of the matter, demanding more evidence. He writes: "We have no confirmation of this report from other sources, although we have of course received numerous reports of large-scale massacres of Jews, particularly in Poland."

Four decades later, evidence is once again mounting of inhumanities in the East which, once again, are being greeted skeptically or dismissed in the West. This time the culprit is the Soviet Union. It is believed to be using forced labor—perhaps slave labor—on the Siberian gas pipeline.

The reports strike at the heart of Western values and ideals, at those principles on which America was founded. Two hundred years ago, the Founding Fathers claimed it self-evident "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Are we today, only two centuries after this Nation was founded, willing to renounce these ideals in their pursuit of profit? Are we once again going to hide behind the excuse of "insufficient evidence"? Is money now more important than liberty and human life?

According to a report released last June by the International Society for Human Rights, the Soviet Union has set up seven forced labor camps on construction stretches along the 3,000-mile pipeline route and that political and religious prisoners are being used for labor.

From this perspective, the pipeline is no longer simply an economic issue—it is an issue affecting human lives. Slave labor is not simply labor without pay. It is work under cruel and torturous conditions. Men will die. They die of starvation, torture, and overwork.

Some have attempted to dismiss this issue by drawing comparisons to chain gangs in the United States. This is naive. Men on the chain gangs are hardened criminals justly convicted for the violation of laws which are universally accepted by the members of our society. This is not the case in the Soviet Union.

All of us have heard of the Gulag and the labor camps in the Soviet Union, but what few Americans understand is that the men and women in prison in the Soviet Union have been convicted by a system of justice that is oppressive, immoral, and diametrically opposed to the one in this country.

In an article appearing in the Wall Street Journal on June 24, 1982, David Satter, formerly a correspondent in Moscow for the Financial Times, discusses how forced labor is not an exception in the Soviet Union. He states: "It (forced labor) is an integral part of the economic system, and it is extremely doubtful whether the current Soviet economy could function without it." Of the approximately 115 million persons working in the economy, approximately "5 million are either inmates of labor camps performing assigned work while in internal exile or serving out minor sentences by working in labor-intensive branches of the economy."

Moreover, "the population of forced laborers is (thus) constituted not just of hardened criminals, but in the majority, of people who are vulnerable to arrest because they have made typical adjustments to the nature of Soviet life." Most are convicted of either theft, hooliganism, or violations of the passport laws.

Do these crimes sound serious enough to require forced labor?

Soviet society is oppressive. Justice, as we know it, does not exist. Implementation of justice is arbitrary. Conviction can and does occur simply because a harvest is coming up or because a road needs to be built or because a gas pipeline from Siberia to West Europe will be profitable. At all levels of Soviet society, people are imprisoned, either physically or spiritually. The Soviet natural gas pipeline will contribute to this bondage and deserves no Western support. To give the Soviet Union access to our technology is to be an accomplice to this crime.

In closing, I would like to quote from Dr. Reinhard Gnauk, head of the International Society for Human Rights based in Frankfurt:

After World War II, German officers were convicted of war crimes on the basis of their participation in slave labor camps. Now, Western countries would share moral responsibility for Soviet labor camps through their financial and technical aid to the natural gas pipeline. If people in Western Europe are going to warm their feet or cook their food with that natural gas, they should know that others had to die, work, go hungry, or freeze to get the gas from there to here.

Mr. Satter's article is as follows:

[From the Wall Street Journal, June 24, 1982]

THE SYSTEM OF FORCED LABOR IN RUSSIA

(By David Satter)

There is unlikely ever to be conclusive evidence that the Soviet Union is using forced labor on the West Siberian gas pipeline, but all circumstantial evidence suggests that the inmates of Soviet labor camps will play their part in supplying Siberian gas to the West.

The exact route of the pipeline is unknown but if it originates in the Urengoye gas fields and leaves Soviet territory at Uzhgorod, its first stage should traverse the Komi autonomous republic in Western Siberia, which contains one of the densest concentrations of labor camps in the Soviet Union. The Soviet authorities are known to have used forced labor for pipeline construction at least twice—for an internal gas pipeline that originated at Ukhta, near the start of the West Siberian gas line, and on the "Friendship" line, which supplies gas to Eastern Europe.

Forced labor is by no means exceptional in the Soviet Union. It is an integral part of the economic system, and it is extremely doubtful whether the current Soviet economy could function without it.

The Soviet economy needs forced labor because it is extremely wasteful of manpower. Subordinated in its entirety to the regime's political goals, the economy does not allow managers the independent authority to make even the simplest cost savings.

The state planning agency tells factory directors what to produce, when to produce it, from whom to obtain materials and how many workers to employ. Unable to be efficient, enterprises overstate their resource requirements, particularly their need for manpower. The artificial shortages that are created are made good through forced labor.

WORKERS HAVE NO RIGHTS

The Soviet authorities publish no figures on the use of what amounts of slave laborers but enough is known to make it possible to estimate with reasonable certainty that of a total work force of approximately 115 million persons, as many as five million are either inmates of labor camps, performing assigned work while in internal exile or serving out minor sentences by working in labor-intensive branches of industry.

The inmates of labor camps, who comprise the largest and most economically significant group of forced laborers, are believed to number no fewer than three million, and they work in virtually all areas of the economy where manpower is in short supply.

Branches of industry heavily dependent on labor from the prison camps include logging, housing construction, road building and the mining of diamonds, uranium and gold.

In addition to labor-camp inmates, the Soviet reservoir of forced laborers includes at least a half million persons who have

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

been sentenced to internal exile and one million to two million, including chronic alcoholics, prostitutes and first offenders, who are serving in "chemicals," that is, working off their brief sentences by performing heavy work in labor-short industries.

The presence of such a vast reserve of forced laborers having no rights sets the tenor of the whole economy and sharply limits the concessions the Soviet authorities are obliged to make to motivate the non-prison work force. Problems in finding workers do not necessitate fundamental reforms because they can always be solved by increasing the number of people in confinement.

A generation ago, the inhabitants of the Gulag would have been political prisoners, but today there are only a few hundred persons in Soviet camps who have been formally convicted of political crimes.

The majority of labor-camp inmates are arrested and sentenced for terms of three to seven years on charges of either theft, hooliganism or violations of the passport laws.

In a society of endless shortages, where a value structure based on religion was forcibly destroyed, stealing flourishes. Theft is common at every level of Soviet society, including the very highest, and elaborate systems of falsification and theft exist in most industries.

This makes it relatively simple to find candidates for the labor camps. Large-scale arrests for stealing and black-market operations take place not because, in most cases, crimes were unexpectedly uncovered but because at one moment the authorities decided to change their attitude to the corruption that had existed all along.

Thousands of arrests for hooliganism are also a direct result of Soviet social conditions. Vodka sales are a major source of revenue for the state. In provincial cities and workers' districts, where there are few distractions, vodka is one of the few consumer goods that is always available. Mass drunkenness is common, and when fights break out, they can lead not only to the arrest and sentencing of the persons involved but also to labor-camp sentences for everyone who happened to be in the vicinity.

The passport laws, which are intended to help control the movements of every citizen, also help to maintain the labor-camp population. There are some people in Soviet society who live illegally in areas, usually large cities, where they are not registered. These are usually people who, for whatever personal reason, cannot adapt to the Soviet system of total control. Such persons, sometimes called "Bichi," from the abbreviation in Russian for "Formerly Intellectual Person," are rounded up regularly in identity checks that take place in cities all over the country.

The population of forced laborers is thus constituted not just of hardened criminals but, in the majority, of people who are vulnerable to arrest because they have made typical adjustments to the nature of Soviet life. This vast pool of rightless manpower is then used to solve many of the Soviet economy's endemic problems.

Labor-camp inmates can be assigned to any work in any place and moved from project to project at will. Their work norms are high but every prisoner knows that his conditions of confinement, bad to begin with, can be made immeasurably worse if he fails to comply.

PRISONERS ARE CHEAPER

The use of forced labor is inexpensive. The average salary for a prisoner is 60 to 80 rubles a month compared with a minimum salary of 150 rubles for a free worker and a possible salary of up to 500 rubles for a person who agrees to work in remote parts of Siberia.

Of the prisoner's salary, half is deducted by the state, a quarter pays for his food (the worst scraps in the Soviet distribution system) and for his share of the expense of running the labor-camp system. That leaves 15 to 20 rubles a month at his disposal.

Western businessmen who argue that it is possible to enter into profitable business relations with the Soviet Union without being a participant in the repressive Soviet system probably underestimate the extent to which repression is the way the system operates.

In a Western society, in which people are expected to find work, the punishment for failure to do so is unemployment. In Soviet society, where people are assigned work, the punishment for failure to accept it is a labor camp.

With their labor vitally necessary in the camps, the persons arrested every year for minor crimes stand little chance of being acquitted once an arrest has been made. Investigation in most cases is rudimentary, and the accused is often sentenced to a labor-camp term regardless of what it finds.

It is these convicted persons, many of them barely aware of the what they've been accused of, who, in their hundreds of thousands, are swept every year into the labor-camp system, to work anonymously and probably unwillingly on vast development projects, including, quite possibly, the West Siberian gas pipeline. Through their presence, the pipeline becomes a far more apt symbol of the true nature of East-West cooperation than its Western backers could imagine.●

INTER-AMERICAN DEVELOPMENT BANK: INCREASED STABILITY AND HOPE FOR LATIN AMERICA

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. STANTON of Ohio. Mr. Speaker, the Cincinnati Enquirer, a member of the Gannett Group, is a very respected and influential newspaper in my State.

For this reason, I thought that the Members of the House would be interested in a recent editorial from that newspaper, entitled "Latin America: Bank Lending Offering Hope and Stability."

The Bank in question is the Inter-American Development Bank (IDB), of which the United States is a major stockholder. It is a Bank which was established during the second Eisenhower administration to help finance sound development projects in Latin America. Today, the Bank's membership includes all of the countries of our hemisphere except for Cuba, as well as 14 European countries, Israel, and Japan.

As a member of the Committee on Banking, Finance and Urban Affairs which has jurisdiction over legislation authorizing U.S. participation in the IDB and other multilateral banks, I have had the opportunity periodically to review the Bank's operations and to see some of the projects it has helped to finance. I agree with the Enquirer's description of the important contribution which the IBD has been making and continues to make to increased stability and hope in Latin America.

I would like to underline that the IDB operates primarily with private financing, borrowing funds in the world's capital markets and relending them for carefully designed, sound, and productive projects in Latin America.

The editorial follows:

[From the Cininnati (Ohio) Enquirer, July 15, 1982]

LATIN AMERICA: BANK LENDING OFFERING HOPE AND STABILITY

Every cent wisely invested in Latin America can pay rich and immeasurable dividends. That's because they're not only in wages or profits but in increased stability and hope for a region in need of both. So a recent report of the Inter-American Development Bank comes as refreshing reminder that such investments are being made by private and public sources from within and without the Western Hemisphere.

Founded in 1959, the Washington-based bank was catalyst for $66 billion of investment in Latin America in the 1961-80 period. Almost $18 billion was from bank resources. The 17 neediest countries, while accounting for only 16% of the region's population, have received a third of the bank's total lending. Member countries provide capital through shares subscribed. The United States has accounted for 34.6%. But significantly, the bank has *never* called on a member to produce any of its callable capital. Only if it failed to meet its obligations from borrowings in capital markets or from its capital-backed loans would it be forced to do so—and it doesn't expect this to happen.

Hence the bank—including 27 regional members and, since 1976, 16 non-regional members (such as West Germany, France and Israel)—invests with confidence in its enduring strength. That doesn't mean it lends without close scrutiny of proposed projects, such as the central Honduran cement plant being built with help of a $15-million bank loan and expected to employ 400 workers. In this respect, it operates much like any other bank, though it may devote more effort to the neediest of the needy.

The bank is also doubtless spur to that regional economic integration beneficial not only to Latin countries but to their trading partners in North America. It's thus important to acknowledge an agency that was focusing Western capital on Latin needs while many of today's revolutionaries—with their grandiose schemes—were in knee pants.●

A TRIBUTE TO MR. JACK TAYLOR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to congratulate Mr. Jack Taylor, of Lexington, Mo., on his recent election as the chairman of the board of the Missouri Retailers Association. Mr. Taylor is currently president and chief operating officer of Mattingly Stores, Inc., in Lexington, Mo.

Mr. Taylor has a long and impressive record of service to the retail industry. He served as management consultant to the Agency for International Development and the Government of Costa Rico, a director of the Association of General Merchandise Chains in Washington, D.C., and a member of the Lexington Industrial Development Commission.

Aside from his dedication to his job, Mr. Taylor is also active in community affairs. He is a member of the Araret Shrine in Kansas City, the Masonic Lodge and Rotary Club in Lexington, and an elder in the First Christian Church of Lexington, Mo.

Again, I congratulate Mr. Taylor on his election as the chairman of the board of the Missouri Retailers Association.●

THE DECLINE IN OUR HOUSING STOCK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BONIOR of Michigan. Mr. Speaker, we are all familiar with the impact of the present recession and continued high mortgage interest rates on the housing industry in America. Yet, in some areas, the immediate cycle of record low housing starts and sales is only one aspect of a longer term housing problem, the less dramatic, but ongoing pattern of a decline in our housing stock.

Through neglect, and sometimes through the unintended effects of Federal policy, we are destroying housing faster than we are replacing it. The result is a net loss in housing that mounts with each passing year. Last year alone, the seven-county greater Detroit metropolitan area had a net loss of 1,309 housing units.

The result is also the loss of nearly irreplaceable older housing units that brought charm to our neighborhoods and represent a part of our heritage. In the end, the continuing loss of housing units is often just the prelude to the loss of vital neighborhoods as blocks become marked, and then scarred by abandoned units.

Mr. Speaker, the Federal Government needs to insure that its policies work to the advantage of housing preservation, not housing destruction. It needs to insure that its policies work to the advantage of our neighborhoods, not against neighborhood rebirth and growth.

I call my colleagues' attention to the attached editorial from the Macomb Daily which addresses the continuing problem of our declining housing stock.

[From the Macomb Daily, Sept. 7, 1982]

EARMARK GRANTS TO IMPROVE HOMES

Reversing a trend that has been long-standing, new homes today are being built smaller and more energy-efficient. People can't afford new homes anymore and as a result size is going down. But few new homes are being built.

Housing construction has reached its lowest point in the post-World War II era.

The only way to go today is housing rehabilitation—privately and governmentally. The existing stock of housing units must be relied upon to meet the dwelling needs of our population.

This is also the time for government to get "back to basics" in terms of the money it is giving away now in block grants and revenue sharing.

A group of seven senators on the Senate Urban Affairs Committee has filed a report saying block grants have lost their direction and have become another way of the federal government giving part of the tax money it raises to lower units of government to do with pretty much as they please.

In getting back to basics, the government needs to start respecifying what these funds are for—such as the rehabilitation of existing houses.

There is hardly anything more wasteful than the federal government giving funds to municipalities to knock down houses as "eyesores" when these houses can be rehabilitated to serve the needs of people and when the housing market is shrinking because of lack of new construction.

Many of our older homes are smaller and just need to be made more energy efficient. It costs far less to rehabilitate an old home than it costs to destroy it and have a new one built. With economy in government the themeword in Washington now, one of the biggest and wisest savings can be made via the redirection of funds the federal government makes available. Put them into specific good purposes, such as housing rehabilitation, and original intentions will be fulfilled.●

SACRED HEART COLLEGE OFFERS FREE EDUCATION FOR UNEMPLOYED

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BROYHILL. Mr. Speaker, Sacred Heart College, located in Belmont, N.C., a part of my congressional district, is now offering one semester of college education free to high school graduates who are currently unemployed.

I would like to bring to the attention of my colleagues this example of the work that the Sisters of Mercy in North Carolina are doing to help the unemployed receive further education in hopes of increasing their chances of finding a job. There will be two 8-week sessions. The first 8-week session will offer two courses; career and life planning and introduction to business. During the second 8-week session, the students may choose from the range of courses offered in the adult degree program.

All of the classes will be conducted at night and the semester will operate through the middle of December. All participants must also be 21 years of age, as well as unemployed and a high school graduate.

In a statement issued by the president of the college, Sister Mary Michel Boulus, said:

* * * Sacred Heart College feels that the best way the unemployed can spend their time is to further their education. This, in turn will assist them in upward mobility in employment. Sacred Heart College has historically been dedicated to higher education and those who have need.

I congratulate Sister Mary Michel Boulus and the Sisters of Mercy at Sacred Heart College for this unselfish, outstanding measure to better train the unemployed for today's job market.●

FORMER SENATOR GORE'S WORDS SHOULD BE HEEDED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. SIMON. Mr. Speaker, history repeats itself. And we learn so little from history.

Recently, I was paging through the book, "Let the Glory Out," by the former Senator from Tennessee, Albert Gore, the father of our esteemed colleague from Tennessee, ALBERT GORE, JR.

In 1969, faced with some economic problems nowhere near as great as those we faced in 1981, including an inflation rate of 6.1 percent, Senator Albert Gore said that the wise thing to do for the Nation would be no tax reductions at that time.

But faced with the choice of tax reductions which favor the wealthy or which were more equitable, he favored the more equitable tax reductions.

But his perspective on it is interesting. My history suggests that Senator Albert Gore was right, that the Nation would have been better off without the 1969 tax cut.

And there is no question that the Nation would have been better off

with a much more modest tax cut in 1981.

I am inserting in the RECORD a few sentences from the book "Let the Glory Out" by Senator Albert Gore.

With the help of the Democratic leadership of the Senate, but over the opposition of the Senate Finance Committee and its chairman, Russell Long, I completely rewrote the administration's tax bill on the floor of the Senate. I considered the raising of the personal exemption in 1969 my greatest triumph in tax legislation, yet I could not take wholehearted joy from it because 1969 really was not the time to reduce taxes. As I pointed out during debate on my amendments, "This amendment offers a fundamental choice to the Senate • • • between types of tax reductions. It may well be that the bill should contain no tax reductions, and I think I might prefer no tax reductions to the type proposed in the Committee bill." But that was not the choice. The choice was between a big tax cut for the few or a fair tax bill for all.●

A TRIBUTE TO A FRIEND

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. PURSELL. Mr. Speaker, it has been brought to my attention that John D. Kamego has just recently retired after more than 40 years of faithful service with the Michigan Bell Telephone Co. He had risen to become a senior official in the government relations department. It was, Mr. Speaker, this gentleman who first convinced me to enter the honorable profession of politics. So, in that sense, I can say that my presence here today is a result of Mr. Kamego's encouragement and hard work on my behalf. He developed the strategy and plan that saw me first get elected to the Michigan State Legislature. I know that he has been just as helpful to other public officials at the local, State, and Federal levels. During a distinguished career, he served on more commission boards, and chambers of commerce than most of us know exist. In the Second World War, Mr. Kamego served his country with great distinction as a Navy fighter pilot in the South Pacific. Until recently, he was a member of the U.S. Naval Reserves from which he retired as commander. In his younger days, Mr. Speaker, he was an outstanding athlete. His collection of trophies from baseball championships and awards as a champion boxer attest to this fact. In recognition of his skills as an athlete, Gov. William G. Milliken of the State of Michigan, appointed Mr. Kamego to the State athletic board of control on which he still serves. Mr. Kamego and his wife, Pat, have raised four beautiful daughters—Patricia, Martha, Mary, and Anne—with the same sense of being helpful to their fellowman as he himself has always been. I am sure that the retirement of Mr. Kamego will only mean that other charitable organizations will recieve more of his time and talent.●

THE TESTIMONY OF LAURA LEE SIMON

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. MOFFETT. Mr. Speaker, I am continuing today with the publication of testimony received at the child welfare forum in Connecticut. I am pleased to present the statement of the opening witness, Ms. Laura Lee Simon, chairperson of the Connecticut Consortium for Families, a statewide organization designed to facilitate public-private collaboration in support of children and families.

The testimony follows:

STATEMENT OF MS. LAURA LEE SIMON

I am Laura Lee Simon. I chair the Connecticut Consortium for Families. I am past chair of the White House Conference on Families for Connecticut. I administer a foundation that is committed solely to developing programs and services to children and their families.

Thirty years of advocacy on behalf of children and their families, have convinced me that in order to affect social policy in our local communities, our region, our state and our nation, there must be collaboration between those citizens who care, those professionals who provide services, representatives of business, civic and religious groups, and of branches of government. Over the years Connecticut has begun to exhibit precisely such public private cooperation.

It becomes clearer and clearer as one confronts the myriad of problems that families face today, that no single agency or even coalition of public and private agencies within the state, can provide all of the supports necessary to assure the health and welfare of our children.

For the last fifty years, through Democratic and Republican administrations alike, our federal government has shown an active growing concern for the human condition—committed to funding better ways of serving people in order to promote human development, alleviate pain and provide an opportunity for equity in our society. However, in the last year and a half there has been a radical, revolutionary ideological shift that undermines that fifty year commitment. Through punitive budget cuts, reduced entitlements and new regulations, the inhumane policy changes embodied in the so-called Economic Recovery Program, coupled with the New Federalism, threaten the future of millions of American children and their families.

By returning responsibility to the states and the private sector, it would seem that it is the goal of this Administration to eliminate human services as a federal responsibility. But in pursuing this goal this administration is abdicating its long held role as partner with the states and the private sector. I maintain that in breaking faith with our long held national commitment to all citizens to support those who depend on government for health, education, housing, training and even survival, that the federal government is committing a flagrant act of child abuse and neglect!

$35 billion in domestic program cuts were enacted last year. Approximately $18 billion more has been proposed for 1983. The Committee on Public Expenditures for Connecticut's Children is now in the midst of analyzing the direct effects of these cuts on our children so that accurate and complete figures are not yet available. Nevertheless, one doesn't have to be a specialist in the arcane realm of welfare policy to understand that nearly 700,000 families in this country will lose welfare eligibility. (81 percent of welfare families receiving AFDC are headed by women.) Because of new regulations 3856 Connecticut families have lost all their benefits and 4430 more had their benefits reduced including a loss of medicaid. Those changes affect approximately 16,572 Connecticut children and constitute governmental child abuse and neglect!

$6 billion over the next three years has been cut in the Food Stamp program. This means that 6000 Connecticut families are affected in the first round. That is child abuse and neglect!

In addition, school breakfast and lunch, Child Care food and other nutrition programs have been drastically cut—64 public and private schools serving 20,000 children in Connecticut have dropped out of the program. Food to Head Start children has been cut. The Food Research Action Center is documenting hard evidence of malnutrition equivalent to that in developing countries due to Governmental child abuse and neglect!

Ninety-seven percent of the funds for maternal and child health care in Connecticut are federally funded. One fourth of this funding has already been lost with more projected—Federal child abuse and neglect! Cuts in staffing in Head Start programs; Potential cuts in Title XX funds for day care for poor children—child abuse and neglect!

Cutbacks in school programs—Potentially drastic cuts for the educationally disadvantaged intended to insure that millions of children are provided a chance to acquire the basic skills necessary to lead productive lives—and some 2.5 million could be eliminated—governmental child abuse and neglect!

Continuing losses in federal support for training programs, legal services, juvenile justice programs, runaway programs, family planning, low income housing all affect children and constitute a form of federal child abuse and neglect!

A pluralistic approach that assures the health of our society, our economic growth and national security certainly depends on that public private partnership, severely jeopardized when the federal government abdicates its role of support.

And so we as child advocates are challenged by many serious issues as we define strategies for the 80's:

We are faced with a rapid growth of a permanent underclass in America of undereducated and underskilled who have no real hope of participating in the future of our country.

Problems now being experienced by middle class families more and more closely replicate those of the poor.

Demographics indicate that we are an aging society with few children due to fifteen years of a low birthrate, a plethora of young adults and mounting numbers of elderly. Fewer numbers of children today means scarce numbers of adults by the end

of this century to provide for our economic and national security.

In addition, the largest influx into the labor market in the last decade has been by women—for economic reasons. They include 62 percent of mothers with school aged children, 52 percent with children 3-5 years old, 41 percent with children under three years of age. It is now projected that by 1990, half of all mothers with children under 6 will be in tne workforce.

Further, American families now reflect a diversity of structure. The once prevalent nuclear family consisting of a breadwinner husband, a homemaker mother and two children—is now only typical of 10 percent of families. Significantly more typical is the two wage earner family and the single parent family. Divorce, occurring most frequently between the ages of 25-39 has determined that 19 percent of families are headed by a single parent. Half the children born in 1970 may live for a time with only one parent.

Given these social, economic and demographic changes, we must consider new strategies.

If we are constrained in our resources and still committed to decency, equity and the development of a productive adult population in the future, I suggest that we must begin together to formulate new social policies which give more than lip service to the diverse and complex needs of children and their families.

We must very seriously look at developmental and preventive programs and a continuum of care in order to avoid long run costs to families and society.

Connecticut is just beginning to address some of these possibilities but cannot do it alone.

We must rethink how basic systems such as housing, transportation, health care and employment, among others can be supported with federal, state, public and private initiatives.

We need to reexamine strategies that were effective in the 60's and 70's but which may no longer be appropriate to the needs of this decade—"an era of retrenchment—when we may have to do more with less." It is imperative that the federal government be part of the effort to make our programs more effective and efficient.

In order to develop a rational basis on which to formulate policy, we must all work together to gather the facts, develop reliable ways to evaluate the success of programs, carefully monitor the performance of public and private services, develop a detailed knowledge of programs in order to determine what is effective and assess the long range implications of legislative and fiscal decisions to be sure they are in the best interests of all our children. There is no better example of one way in which to develop a comprehensive understanding of children's issues to develop social policy than by implementing George Miller's suggestion to form a Select Committee on Children, Youth, and Families. Some of us here have worked hard to assure that Connecticut's entire delegation supports this resolution and hope that it will soon become a reality.

At the same time:

Human services professionals must look at new ways to empower families to help themselves rather than protract their dependency on costly professional support.

Voluntary agencies with shrinking resources must avoid "territorial imperatives", manage themselves differently and consider creative mergers with those with mutual concerns.

Academia must broaden its research in family systems and community mental health.

It is entirely unrealistic to expect that the vast gaps in public funding can be made up by the private sector either through financial support or through increased volunteer effort. "Philanthropy is at best a small supplement to government sponsored social programs and cannot be regarded as a standin for those programs." Corporations and foundations last year made grants totalling $5.6 billion—the federal cut backs to social services amounted to $35.6 billion. Nevertheless the independent sector cannot conduct business as usual and must find more effective ways of employing and stretching those limited philanthropic resources.

Business must continue to examine its social responsibilities and recognize as the Business Roundtable states that public policy and social issues are in the mainstream of business planning and management. In order to have a productive workforce in the future, it is in the interest of business to invest in human resources. In order to assure a productive workforce today, corporations must be pressed to support child care services and other personnel practices that relieve stress on families in the workplace.

The elderly, an increasingly powerful political force, as we face the "greying of America" must be persuaded that it *is* in their self interest to support the needs of the nation's young—for it will fall on those now young when they become adults, to support the largest entitlement program of all—social security.

And finally—we must begin to build new coalitions to forge a new social contract. We must join in common cause—in partnership—in a mutual sense of responsibility to all of our children—as citizens, human services professionals, academics, lawyers, doctors, business persons, labor, civic and religious leaders, the elderly, politicians, legislators and public officials at all levels of government.

Hubert Humphrey said, "the moral test of our Government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped."

It is imperative that we find new ways of collaborating now if we are to ever meet that moral test.●

AGENT ORANGE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BROWN of California. Mr. Speaker, I wish to submit to the RECORD an article that appears in the September 2 issue of Stars and Stripes. I wanted to share this information with my colleagues because they are all aware of the problems facing our veterans, which are diverse as well as complex. These problems are unlikely to disappear with time or simply go away by ignoring them. In fact, they are bound to grow and manifest themselves in new and equally distressing manners.

The article follows:

[From the Stars and Stripes, Sept. 2, 1982]

COMMITMENT, CONCERN

No where were the Vietnam veterans' suspicions that no one has ever really given a tinker's dam about their complaints more evident than after the Veterans Administration's Advisory Committee on Health-Related Effects of Herbicides in Washington, DC this week.

Dr. Barclay Shepard of the VA's Department of Medicine and Surgery who chairs the advisory committee, told the panel members that there would probably be no answers for another six to seven years.

The timetable of 1988 or 1989 before the results of the studies on whether exposure to the toxic herbicide Agent Orange had damaged the health of Vietnam veterans or their offspring, if a pilot study went well, was a staggering blow to the men and their families who are suffering a wide variety of ailments.

Each year since the men began to rotate home from the Vietnam War, their health complaints have mounted—cancers, nerve, liver and kidney disorders, tingling fingers, skin conditions, numbness, vision and hearing impairments, fatigue, reduced sexual drive, importence, an inordinate number of miscarriages suffered by their wives and a statistically higher number of birth defects in their children.

Most importantly, reputable medical authorities have noted the remarkable incidence of advanced aging in autopsied organs taken from deceased veterans who claimed exposure—and died long before they were forty years of age.

The fact that dioxin was effective in Southeast Asia specifically because it speeded up the life span of the vegetation it came into contact with, literally causing green plants to grow themselves to death, has also been noted.

What has not been noted, except by a few, is that a large group of America's most important resource, her citizens, are being shelved to twist and turn without hope of medical help, while the bureaucracy slowly grinds out sufficient scientific data.

In December, 1979, Congress directed the VA to conduct a study on Agent Orange and related suspected herbicides, but the project has encountered "a series of delays."

For example, the government must still determine whether it can adequately identify soldiers who came into contact with the herbicide.

We would point out that death knows no delays, as far as afflicted Vietnam veterans are concerned.

In the words of Illinois State Senator Karl Berning, who is Chairman of the Illinois Agent Orange Study Commission, "a lack of commitment, a lack of concern, a lack of interest on the part of the national Government" is rampant.

"Continued studies of the types that have been discussed here, we agree, are necessary," he told the scientific advisory group.

"However, I remind you that while you and I are talking, men and women, our fellow citizens, are suffering and dying now."

Although under a new law, VA hospitals must give priority treatment to Vietnam veterans who attribute their ailments to Agent Orange, by law the VA may not pay disability compensation or death benefits

until the studies prove that the herbicide was the culprit.

The pilot program will test the concept behind the main study, which will compare the health of 6,000 men identified as having been in contact with the sprayed herbicide with two other groups—one that served in Vietnam but were not exposed, and another group that did not serve in the war zone.

A nation that can compulsively react to the photograph of a tiny Lebanese child who was catastrophically injured during the Israeli-PLO conflict; a nation that unstintingly supports the feeble efforts of a foreign fledgling democratic government which continues to slaughter its citizens; a nation that immediately rallies to the support of those who are devastated by fire, flood, hurricane, or crime—surely this nation can indemnify its own against the horror of the medically unknown.

There is sufficient proof that the physical and mental calamities are occurring in our young and their families who went off to fight our last war.

Why must they wait for proof of the cause?●

H.R. 6046 IS FLAWED

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. KILDEE. Mr. Speaker, I would like to join a number of my colleagues in expressing reservations over some of the provisions in H.R. 6046, the extradition bill. Two general points concern me. First, our country has long served as a refuge for victims of political tyranny and oppression, and this bill reverses a long tradition. Second, the bill endangers some of the constitutional liberties which serve as the foundation of our political and judicial system.

My ancestors and the ancestors of millions of other Americans first came to our country to escape political and/or religious persecution in their native lands. This bill does violence to one of our most treasured traditions. I am disturbed by reports that foreign governments will use the provisions of this legislation to request the extradition of those who have expressed legitimate political dissent. As an example, the Government of the Philippines has already indicated that it may request the extradition of Benigno S. Aquino, Jr., whose major offense seems to have been having the audacity to oppose President Marcos in the last free election there.

The bill also would limit the ability of courts to decide a case. Courts would be prohibited from inquiring into allegations that a foreign country is seeking extradition because of political opinions, race, religion, or nationality. This indicates a basic distrust in the impartiality of our judicial system. I have seen little evidence that such a measure is necessary. Our courts have not been cavalier in their treatment of extradition requests. They have treated such requests very seriously.

I also object to the provision which permits the detention of a person, whether a citizen of our own country or of another, without evidence that a criminal offense has been committed. Such a provision is contrary to the basic precepts of American jurisprudence. We should not arrest and detain people without evidence. Furthermore, the very heart of our legal system is that the burden of proof is on those who are bringing the charges. Under this provision, a person would not be granted bail unless the person can affirmatively demonstrate that he or she should be released. We should be adamant in making clear that a foreign dictator cannot cause an American citizen, or any other person, to be held without bail in our country unless the same standards are met as are necessary for detaining someone under American law.

I would ask my colleagues not to be hasty in considering the provisions of this bill. As it was reported out of committee, H.R. 6046 has some serious flaws. As innocuous as it may appear, it does violence to some of the very basic principles on which our society has been based. Our individual liberties are fragile, and we should not support a measure which jeopardize them. A number of amendments will be offered to correct the flaws in this bill. I would urge my colleagues to give careful consideration to each of the amendments.●

WE MADE A DEAL; LET'S STICK TO IT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. HUBBARD. Mr. Speaker, I would like to take this opportunity to share with my colleagues an editorial from one of the newspapers in my district, the Paducah Sun. Fred Paxton is president, Jack Paxton is editor, and Don Pepper, the author of the August 22 editorial, is editorial writer for the Paducah Sun. Mr. Pepper urges the Congress to take a serious look at the budget deficit problem. Further, he urges the Congress to quit playing party politics. Now that the tax increases have been enacted it is time to cut spending as well. I would like to share this editorial with my colleagues, as follows:

WE MADE A DEAL; LET'S STICK TO IT

Let's hope we've been wrong.

We—The Paducah Sun, that is, The Wall Street Journal, all nine members of Kentucky's congressional delegation, the conservative wings of both political parties and, as polls showed, a substantial majority of the American people—thought it was foolish to raise taxes in the midst of a recession.

President Reagan and the Congress thought otherwise, so now we have a $99 billion tax increase. If higher taxes can fix a sick economy, that should do it.

If we've been right, the new taxes will not fix the economy but burden it. The recovery, which is surely coming sometime, will be slower than it would otherwise be.

We'd be glad to be proved wrong.

But maybe something positive has been achieved which hasn't been mentioned by either President Reagan or the Congress. Let's think about it a moment.

On one point both sides in this debate have agreed, and that agreement may be the most important result of the whole struggle, more important than the disagreements.

That agreement is that budget deficits are bad things. Let's spell it out in capital letters and bold type; and try not to let anyone forget it:

Budget deficits are bad. When even Tip O'Neill, Teddy Kennedy and the television commentators can be brought to say that it's urgent to reduce the gap between what the government takes in and what it spends, it's a major achievement, maybe even a historic one.

These folks have never paid any noticeable attention to deficits before. They never seemed to think they were important. The spectacle of Tip O'Neill leaving the Speaker's chair in the House rostrum to plead for cutting the budget deficit, to hear him warn that deficits keep interest rates high—well, it's a moment to treasure.

He's on record. He should not be allowed to forget it.

Mr. Reagan believes he got a deal. That's what he told the American people the other night. He'd hold his nose and swallow the tax increases if Tip's people would agree to some spending cuts.

Mr. Reagan believes he got the deal—$284 billion in spending cuts in exchange for $98 billion in tax increases.

We hope he's right and The Wall Street Journal is wrong. The Journal believes that $284 billion figure was obtained by some wishful thinking and self deception. If you want to make a show of cutting spending, the Journal noted, you start by "setting a 'base line,' which theoretically represents what the government would be spending three years from now if you simply let programs follow their natural tendencies to balloon. If you project the base line high enough, you can project some enormous savings."

Clever. Congress projected fiscal 1985 spending at $1.1 trillion, then cut its $284 billion from that. It came up with spending which has been cut to $881 billion in fiscal 1985.

That figure, the Journal notes wryly, is up "only 21 percent from the current fiscal year."

And when the appropriations committees got down to actually making the cuts for the coming fiscal year, they set a target of $27.15 billion to be cut. But after they finished, they didn't come close. The final figure was about $13.6 billion, about half of the target.

This tends to confirm our fear that we will never be able to pay as much in taxes as Congress, even a Congress making a show of budget cutting, can spend.

We who pay the bills, in the form not only of taxes but of inflation and high interest rates, have a right now to say to Congress:

We all agree at least that deficits are bad. We differ on how to reduce them. We be-

lieve in cutting spending. You believe in raising taxes. We have agreed to do both.

Now that the tax side of the bargain has been accomplished, it's up to you to make sure that the spending side is accomplished, too.

President Reagan has kept his side of the bargain. Now you keep yours.

You've raised taxes. Now cut spending. And make it real spending cuts, not phony ones.●

EDUCATIONAL OPPORTUNITY AND EQUITY ACT OF 1982

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. COUGHLIN. Mr. Speaker, as a longtime advocate of tuition tax credit initiatives and a cosponsor of President Reagan's tuition tax credit proposal for elementary and secondary education, I am pleased to note that the Senate Finance Committee last week approved S. 2673, the Educational Opportunity and Equity Act of 1982.

Education has been and will continue to be one of the Federal Government's highest priorities and educational alternatives are an important element in our Nation's educational system. While our public school system offers excellent instruction for the majority of students, I am sure no one would deny that not all children's educational requirements can be met under the same system of instruction or in the same schools.

Currently, 11 percent of all elementary and secondary school students are enrolled in private institutions. The majority of these children come from families with yearly incomes under $25,000. These families are now faced with the double burden of paying taxes to support the public school system while paying tuition expenses for private education. Unfortunately, increasing tuition costs, coupled with our troubled economic situation in general, has made it increasingly difficult for many families to exercise their right to choose between public and private education. Tuition tax credits are one way to insure that alternative education continues to be a viable option for many of these families.

The President's tuition tax credit proposal, as amended by the Senate Finance Committee, provided a maximum credit of $100 in 1983, $200 in 1984, and $300 in 1985. The measure further stipulates that no credit may exceed 50 percent of tutition expenses. By phasing out credits for higher income brackets—$40,00 to $50,000—the Educational Opportunity and Equity Act targets assistance to middle- and low-income families. With the inclusion of a refundability provision—the concept of which has already been approved by the committee—benefits can be further targeted to those who need them most.

The estimated cost of this legislation is only $900 million over the 3-year period from 1983 to 1985. Surely this is a modest investment when compared with the billions of dollars we are now spending for education at all levels, and one which will see increasing returns in the future.

One area of the President's tuition tax credit proposal which has received a great deal of attention is the antidiscrimination language contained in S. 2673 and in its companion bill H.R. 6701. I share the concerns that already have been voiced by a number of my colleagues in the House and the Senate and am wholely committed to insuring that any such legislation contains strong, enforceable provisions which will prevent tax credits from going to parents who send their children to schools that discriminate on a racial basis. The efforts of the White House and committee members to reach a reasonable and responsible compromise on this issue are commendable, indeed. Although the controversy over these provisions may continue, I am convinced that this problem is not insurmountable and that provisions which are satisfactory to all concerned can be worked out.

I sincerely hope the Senate will expedite consideration of the Educational Opportunity and Equity Act of 1982 and believe this legislation merits favorable consideration by both Houses of Congress.●

REQUEST FOR A RULE ON H.R. 7092, THE HIGHWAY REVENUE ACT OF 1982

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. ROSTENKOWSKI. Mr. Speaker, on September 15, 1982, the Committee on Ways and Means ordered favorably reported, with amendments, H.R. 7092, the Highway Revenue Act of 1982. The committee's report to the House was filed on September 17, 1982. I have been instructed by the committee to offer this legislation as a separate revenue title (title V) on the House floor to H.R. 6211, the Surface Transportation Assistance Act of 1982—a procedure which has been traditionally followed in the House in recent years on this type of legislation. H.R. 6211 was reported to the House by the Committee on Public Works and Transportation on May 17, 1981.

Pursuant to the rule of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule we will request for consideration of the Ways and Means Committee title of the bill. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule.

The Committee on Ways and Means has requested to be heard before the Committee on Rules concurrently with the other committee involved in this legislation.●

SCHOOL LUNCH SAVINGS RESULT IN REAL HARM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. SIMON. Mr. Speaker, we have begun another school year. And thanks to President Reagan and those who voted for the Gramm-Latta budget, it will be a year of headaches and growling stomachs for many of the 3½ million young people who no longer buy a nutritious school lunch, probably most of these because their families feel they can no longer afford it.

We turned our backs on those young people and their families, the working poor, last year when we went along with the President and slashed $1 billion from a proven program that has helped the Nation make significant gains in improving child nutrition. This year we held the line against further reductions and offered lunch programs about the same money they got last year. Which means inflation and rising costs will eat into school district budgets and force even more parents to say "no" when their child asks to buy lunch at school.

Earlier this year our State school superintendent in Illinois said the $23 million Illinois lost in Federal school lunch funds because of Gramm-Latta had forced 145,000 children each day to stop buying a school lunch in Illinois.

Lunches in my part of the State, southern Illinois, suddenly rocketed in some schools to $1 and more from the 50 to 60 cents children had been paying the year before. As a result, participation in the lunch program dropped 70 percent at Carbondale High School, 46 percent in the schools of Marion, 40 percent in Williamson County schools, 33 percent in Giant City Elementary School, and 26 percent in the public schools in Jackson and Perry Counties.

As our State Superintendent Donald Gill testified to the Education and Labor Committee, 95 percent of those who are no longer eating school lunches are students who paid for full-price meals. The increase in price was simply more than many family budgets could bear. So many are doing without—without a decent meal, without proper nutrition, without a full stomach, without the meal that for

many of them was the main meal of the day—all because the administration and the majority in Congress feels tax breaks for the powerful and excessive defense spending will lead to a better tomorrow.

I urge my colleagues to read the article below from the Sunday, September 5, 1982, Washington Post. It spells out what our actions have meant to local districts.

THIS YEAR'S SCHOOL LUNCH REPORT CARD—MORE CHOICE LESS WASTE IN THE FEDERAL PROGRAM

(By Sarah Fritschner)

Last year, the Ketchup-as-a-vegetable controversy brought a lot of attention to the school lunch program. This year, without attendant public furor, school lunch officials face a battle bigger than budget cuts.

THE FUTURE: "NEW FEDERALISM

The big worry among many who watch child-feeding programs—school breakfast, summer meals, special milk and child-care feeding in addition to school lunches—is that the administration is asking governors to assume these public programs as state responsibilities in keeping with the president's "new federalism."

"New federalism" would give the states more financial and administrative responsibility for all public programs, and many think it would strike a death blow to such meal plans as school lunch and breakfast.

Last spring, the Agriculture Department took the first step by asking Congress to give a lump sum of money to each state designated for nothing more specific than "child feeding." The state could spend all of the money on school breakfast, for instance, and abandon support for child care, special milk and summer meals. Or it could divide the money equally among the programs.

The proposal didn't mention school lunches, but members of Congress believe the situation is serious enough to reiterate support for a federally supported school lunch program. Reps. William Goodling (R-Pa.) and Carl Perkins (D-Ky.) have joined 100 co-sponsors to resolve that "a uniform national guarantee of nutrition should continue through federal leadership . . . the responsibility for federal child nutrition programs should not be turned back to the states."

Sen. Robert Dole (R-Kan.), plans to introduce a similar resolution when the senators return from recess, according to an aide. The National PTA, the American School Food Service Association and the National Farmers Union (a coalition of agriculture organizations), laud this action.

While a resolution doesn't bind anybody legally, it sends a message—and Goodling says in this case a strong message—to the administration that Congress wants to keep the school lunch program under the federal eye. If the federal government does not reimburse school systems for student lunches, said Goodling, "state and city [governments] won't pay the cash to support the program" and school lunch "will fall flat on its face. You've got a system that works and works well—why play with it?" he added.

THE PAST: SINCE LAST FALL

Meanwhile, cuts incurred last fall left the school lunch program about $1 billion poorer. The USDA's goal was to save money while allowing individual programs "more flexibility."

The USDA tried to change meal plans in order to save money for food service directors. One suggestion was to count ketchup toward a meal's vegetable allotment, an idea that got little support.

Last spring they put in effect a plan that allows schools to let students refuse two of five foods offered at each lunch, and yet get paid as if the student ate the entire meal.

In addition, reduced paper work means program directors should use 11 million fewer hours to fill out all the forms the USDA needs this year, according to one agriculture spokesman. This should let them concentrate more on serving good food and less on processing paper, she says.

Third, the law requires the USDA to hold schools accountable for the meals they serve free or at reduced prices to needy families. Attempting to discourage fradulent applications, the USDA now requires applicants to give their social security numbers when they apply for reduced-price meals. This practice, however, has been challenged in California on grounds that it is an invasion of privacy.

THE NEW SCHOOL LUNCH

If anything plagues the programs right now, it's making less money go further while enticing more students to buy school lunches.

About 3½ million fewer students are buying lunches this year; about 500,000 have quit eating school breakfasts. Some attend schools that have dropped the program, others have just quit buying school meals. Advocacy groups contend families are dropping out because they can't afford to buy lunch. But USDA officials say they are subsidizing fewer people who can afford to buy the lunch.

Yet existing programs depend on student participation—every time a meal is served, the school is reimbursed. No students, no meals, no reimbursement, no school lunch.

One way to ensure the future of school lunch is to maintain or increase the number of meals served. Joanne Styer, director of the Montgomery County school food service program, has discovered that she'll serve more pizza than she will meat loaf. She says food service directors are beginning to look at the student as a customer and not as a captive audience, and that's helping sales.

The Child Nutrition Forum—a coalition of 10 groups including the American School Food Service Association, the National Grange and the U.S. Conference of Mayors—sponsored a seminar aimed at helping school lunch directors deal with their limitations so they can save money and increase sales.

Studies show that lunchrooms can save money by offering more choices to the students. More students buy lunch if they know they can choose what they eat. In addition, when the lunchroom becomes an integral part of the school, more lunches are sold: Curtains sewn by home economics students and murals painted by art students increase student enthusiasm for the room and the lunch. And, says one worker, "We celebrate everything we can think of" to make eating fun for the students.

But participation is not the last word on food service costs. Schools are learning to stretch their resources by using food the government gives them—and Uncle Sam is long on dairy products these days. While macaroni and cheese bit the dust in Montgomery County, says Styer, cheese shows up on grilled sandwiches—daily in some schools—and on the ubiquitous pizza. Cheese, chicken and turkey appear on popular chef salads. Fairfax County schools serve commodity turkey in little fried nuggets with a sauce that uses government honey.

Money goes further when several school districts combine to make bulk purchases of paper and other storable products. And many school systems are attempting to buy directly from farmers, which lowers food costs and improves the quality of the food (thus enticing student participation).

With less money, school lunch workers need to learn about outside resources and develop allies among local businesses, government and school board members. Schools need to merchandise their meal programs, says Lynn Parker, nutritionist with the Food Research and Action Center (FRAC), an advocacy agency that supports the federal school lunch program. "A case really has to be made for school lunch and breakfast as part of the education process," says Parker, not only because students learn better when they are fed, but because nutrition lessons can be integrated with the meal program

As a result, school systems learn unconventional ways of involving the community. Some invite school board members to spend a day at the school, emphasizing school meals. Some invite area realtors—those selling houses to parents who ask "what are the schools like?"—to see, among other things, the lunchroom facilities. Others asks labor unions to educate the public about changes in school lunch application requirements. Since the federal government no longer replaces or repairs kitchen equipment, some lunchroom managers approach local businesses for help.

These projects not only fill immediate needs, says Parker, they involve the community in the school lunch program. She believes that a community that knows about the program will always vote to keep it.

Opponents of "new federalism" say that a child's nutritional needs do not vary from state to state. With community participation, student and employe support, the future of school lunch seems guaranteed, they contend, but only with continued federal support.●

NATIONAL FIREFIGHTER WEEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. KILDEE. Mr. Speaker, a grateful nation has designed the week of September 20, 1982, as "Firefighter Week." This week is set aside to pay tribute to our firefighters who on a daily basis risk personal injury or death to protect each of us. The firefighter contribution extends beyond dedicated bravery to a myriad of services that we have come to expect as routine. It has become obvious that our need for a professional and well-trained public firefighting service is fundamental.

In recent years we have seen the introduction of so-called innovations that replace full-time firefighters by a variety of methods designed ostensibly to save money. However, public safety is properly a public concern and an important public responsibility which

should be supported and controlled by the public for the protection of all the community. There should be a thorough assessment made of the fire protection needs of a community prior to any significant changes in its firefighting service.●

COMMANDER KELL LEAVING GUAM SHIP REPAIR FACILITY

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. WON PAT. Mr. Speaker, I rise to salute Comdr. Richard E. Kell, U.S. Navy, who is leaving Guam after serving for the past 2 years as commander of the naval ship repair facility there.

As the 16th commanding officer of Guam SRF since the facility was opened in August 1951, Commander Kell has served in the highest tradition of the Navy bringing his facility and those under his command to new heights of professionalism.

I was proud to have known and worked on numerous occasions with Commander Kell. He is an officer of the highest quality and is held in the greatest esteem by myself and others on Guam who have come to deeply appreciate the many talents of this officer and gentleman.

Replacing Commander Kell will be Comdr. W. A. Ericson, who will assume his new studies on Septemer 24, 1982, at a change of command ceremony on Guam headed by Rear Adm. Bruce deMars, USN, Commander, Naval Forces Marianas.

Commander Kell arrived on Guam several years ago at a crucial time in the history of naval forces in the western Pacific. An ever widening commitment by this Nation in other parts of the globe has created a serious drawdown on our forces in the Pacific. This in turn has placed an ever growing burden on men and vessels as they seek to fill the gap left by the decrease in forces.

I have been increasingly concerned by this development and have repeatedly called on the Pentagon and the Congress to rectify our military deficits in the Pacific at the earliest opportunity. We need more ships there; not less. And we need more officers of the experience and professional background of Commander Kell to insure that our forces are able to do the job they have been sent there to perform.

The role of the Guam ship repair facility has been very critical in this effort to keep our fighting forces strong.

Under the able leadership of Commander Kell, the Guam ship repair facility has done an outstanding job of keeping America's fighting forces on the front line with the least amount of down time. Guam SRF enjoys a world wide reputation for excellence and for its loyal and devoted patriotic spirit. I am very proud of the work force at the ship repair facility and we can all be very proud of Commander Kell and those who he has commanded for doing a fine job for this country despite limited resources.

Several years ago, shortsighted planners in the Pentagon wanted to close Guam SRF. We did not need it, they proclaimed, noting that the United States has two other facilities in the Pacific—one in Japan and one in the Philippines. But those who wanted to end the career of a base which has done so much failed to count on our friends in the Congress who agreed with me that there is no substitute for having a key base on American soil. Guam is American and this Nation knows that Guam can be counted on when the chips are down. We have no doubts about our loyalty on Guam and we have no doubts that our men and women there are willing and ready to serve our fellow Americans in time of war and peace.

Commander Kell has helped Guam SRF working for America and for this we all owe him a great debt of gratitude.

At this time I request to include a statement of Commander Kell's service record. Thank you.

COMDR. RICHARD E. KELL, U.S. NAVY

Commander Richard E. Kell, son of Mr. and Mrs. E. H. Kell, is a native of Mosinee, Wisconsin. Following graduation from Mosinee High School, he attended Wartburg College, Waverly, Iowa, for a year, then entered the U.S. Naval Academy. He was commissioned an ensign upon graduation from Annapolis in June 1963.

His first sea tour was as Main Propulsion Assistant/Assistant Engineer Officer aboard U.S.S. *Hull* (DD-945). After attending U.S. Naval Destroyer School in Newport, Rhode Island, he served as Engineer Officer aboard U.S.S. *Joseph K. Taussig* (DE-1030) from 1965-1967, followed by a tour as Planning/Production Officer at the Small Craft Repair Activity, Naval Support Activity, Danang, Republic of Vietnam.

In 1968 Commander Kell was assigned to Naval Postgraduate School at Monterey, California, in the Mechanical Engineering Curriculum. He graduated in 1971, earning a Master of Science Degree and Engineer's Degree in Mechanical Engineering. He was also awarded the Naval Ship Systems Command Award for scholastic achievement and professional excellence in the engineering curriculum.

Commander Kell was selected as Engineering Duty Officer in 1971. He then reported to Philadelphia Naval Shipyard where he served two years as Ship Superintendent on several destroyers and in the conversion of two DD's to missile destroyers. He then served as Type Desk Officer for the U.S.S. *Farragut* (DLG-6) 1200 PSI Improvement Complex Overhaul and DDG/DLG Type Desk Officer.

Leaving the Philadelphia Shipyard in 1974, Commander Kell reported to U.S.S. *Biddle* (CG-34) as Engineer Officer. From 1977 until May of 1980, he served at Naval Surface Force Atlantic Readiness Support Group, Norfolk, as Maintenance Officer, supporting 128 surface ships of the Atlantic Fleet.

Commander Kell has been awarded the Meritorious Service Medal, Navy Commendation Medal, Navy Unit Commendation Ribbon, National Defense Service Medal, the Vietnam Service Medal, Republic of Vietnam Armed Forces Unit Citation, and Vietnam Campaign Medal.

Commander Kell is married to the former Joyce C. Neville of Durham, North Carolina. The Kells leave Guam for Washington, D.C., where Commander Kell will work at Naval Sea Systems Command Headquarters.●

PERSONAL EXPLANATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. LEE. Mr. Speaker, due to official business, I was unable to be present on the floor of the House of Representatives on Thursday, September 16. Had I been present, however, I would have cast my vote in the following manner:

Rollcall No. 335, the rule making in order consideration of the urgent supplemental labor appropriation—"nay."

Rollcall No. 338, an amendment to the urgent supplemental labor appropriation that sought to provide for a temporary jobs program with an authorization of $1.5 billion to be transferred from the synfuels program—"aye."

Rollcall No. 339, the urgent supplemental labor appropriation—"nay."

Rollcall No. 340, the rule making in order consideration of the Ocean Coastal Resources Management Act—"yea."●

M1 TANK STILL TROUBLED BY BREAKDOWNS, GROUP SAYS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. CLAY. Mr. Speaker, in this morning's Washington Post is another article on the controversial M1 tank. According to this news report, there is reason to believe that the Department of the Army failed to supply Congress with all the available facts about the M1's performance. I recommend the following article by Mr. Pete Earley to all of my colleagues in Congress.

The article follows:

[From the Washington Post, Sept. 20, 1982]

M1 TANK STILL TROUBLED BY BREAKDOWNS, GROUP SAYS

PENTAGON WATCHDOG ORGANIZATION CLAIMS ARMY MANIPULATED TEST DATA ON DURABILITY AND SAFETY

(By Pete Earley)

The M1 tank is still beset by breakdown and by repair and other serious problems that could render it ineffective in combat, according to internal Army test reports released today by a civilian Pentagon watchdog group.

The Army has known about the troubling test results since last fall but apparently delayed releasing the data outside the Pentagon until after Congress voted to authorize $1.3 billion for procurement of 855 of the tanks and authorized another $380.9 million for advance procurement of 900 more. M1s, said Dina Rasor, who released the Army documents.

Rasor is director of the independent Project on Military Procurement.

The Army also manipulated data to make the tank look much more successful than it is, Rasor said. As recently as last March, the Pentagon assured Congress that the tank, each of which costs $2.7 million, "was the best tank in the world" and quoted figures that its own tests did not substantiate, the documents show.

The test results show that the durability of the Chrysler-made M1 actually has worsened since it was tested in early 1980. Repairs also continued to prove difficult even under peacetime conditions.

The documents also show that some M1 crews have switched off one of the tank's sophisticated gadgets, the muzzle reference system, during training exercises because they believe it caused the tank's main gun to fire inaccurately.

Rasor said the documents also show that hydraulic fluid used in the tanks, which M1 critics claimed is highly flammable, has been linked to at least two tank fires and that intense heat produced by the tank's turbine engines makes it difficult for the M1 to hide from an enemy equipped with forward infrared thermal imagers such as those being installed by the Soviets on their newest weapons systems.

According to the documents, M1 hatches leak in the rain and the .50-caliber machine gun is "susceptible to accidental firing"—a complaint made during earlier tests in 1980 but apparently not resolved.

Rasor said the most troubling aspect of the tests, supervised by the Army's Test and Evaluation Agency, was the tank's durability rate. The Army has said that 50 percent of the M1s must be able to go 4,000 miles without an engine, transmission or final drive replacement or overhaul.

In March, Army officials told Congress that 37 percent of the tanks tested could achieve that goal. But, Rasor said, test results show that the 37 percent figure is a combination of field testing and laboratory testing.

By combining the two test scores, the Army enhanced the tank's durability rating, she said. In the field, only 15 percent of the tanks could go 4,000 miles without breaking down, the test showed.

The documents also revealed results of a 96-hour field exercise at Fort Hood, Tex., that the Army said would "match or exceed the most stretchful [sic] and arduous mission" faced by the M1 during combat.

The exercise began with 39 tanks. Five days later, only 21 had completed the 178-mile course without breaking down, which means that nearly half of the new tanks became disabled during the exercise without facing enemy fire, Rasor said.

Last December, the General Accounting Office urged Congress to delay large-scale M1 production until the tank's power train could be made more durable. GAO said the power train failed after an average of 36 miles during testing at Fort Hood.

At congressional hearings in July, Maj. Gen. Richard Lawrence, commanding general at Fort Hood, blasted the GAO report, saying the agency did not base its report on any test data from Fort Hood. The Army's internal tests released by Rasor are identical to the GAO figures.●

EASTON LITTLE LEAGUE ALL STARS

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. DYSON. Mr. Speaker, I rise today in honor of a group of young men who have made Maryland proud. The Little League All Star Team of Easton recently earned the distinction of being one of the eight best Little League teams in the world. In doing so, they compiled an impressive 15 game winning streak against other all star teams from Maryland, New Jersey, Delaware, and Massachusetts. I congratulate them for their accomplishment.

Yesterday, the team was honored in Easton at "Little League Appreciation Day." The team participated in a parade, a luncheon sponsored by the town council and county commissioners, and a special public awards ceremony.

There is something very special about athletic competition and the very positive affect which it has upon American life. One need only remember the feeling of pride which all Americans felt following the victory of the American Olympic Hockey Team in the 1980 Olympics or the pride which all of Maryland felt in the 1979 Baltimore Orioles, the team that never quit.

That same pride is being felt on the Eastern Shore and elsewhere for the members of the Easton All Star Team. I share that feeling and offer my sincere congratulations to each member.

Team members are: Doug Shaw, Matt Saulsbury, Brenan Roser, David Derr, Mike Del Biondo, Jon Morris, John Mautz, Kelly Hawkins, Paul Thompson, Steve Satchell, Kurt Chase, Ty Camper, Brian Niskey, Ray Anderson, Maury Newnam, Coach Bill Del Biondo, and Coach Paul Cawel.●

FTC EXCEEDS REGULATORY AUTHORITY

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BARNARD. Mr. Speaker, the Federal Trade Commission reauthorization measure being considered in the House could, in a very real sense, alter the future of health care in America.

Although it is clear in reviewing legislative history that Congress never intended the FTC to regulate the licensed professions, the FTC continues to broaden its jurisdiction at will. Although FTC officials admit their ignorance of medicine, they use Federal antitrust laws to regulate the medical profession and set health care policy.

It is time for the Congress to take decisive action and strictly limit the FTC's authority.

Continuing to allow the FTC to investigate, to subpena, to prosecute, and to be the judge and jury of the professions means increased, unnecessary regulatory overlap, more and more of the paperwork shuffle, substantial compliance costs, and certainly the diversion of key talents.

Like Jim Miller, I strongly believe in competition—but competition is not the central issue here. What is at issue is the quality of medical care and Federal intrusion into jurisdiction. My fellow conservative colleagues who think that Chairman Jim Miller will be around forever are kidding themselves. We will have new administrations, with new cabinets, and the chairman of the FTC will dictate the direction of that agency. Imagine the dictates of a less free market-oriented chairman.

In my opinion, physicians should be physicians, dentists should be dentists, lawyers should be lawyers—and bureaucrats should be bureaucrats.

That the FTC staff think they have the power to go throughout the country "investigating" with the presumption of only "advising" amazes me. In reality, they do not have congressionally authorized power for the actions they take. Even if they had the training necessary to advise in professional, particularly medical, matters, they are doing far more than only advising.

There are many examples of time and money wasted on fulfilling FTC orders and requests. In some cases, the FTC has caused medical societies to stop work that was requested by other Federal or State entities. For example, the Minnesota Medical Society was forced by the FTC to stop its development of relative value scales—a charting of the range of charges for services in a given area. The development of the scale was in compliance with the

Minnesota medicaid office request for fee information.

In the area of dental care, the FTC is surveying 700 dental practices in California in order to compare the quality of care offered in traditional dental practices with that offered in dental clinics. As similar studies are already being conducted by the Department of Health and Human Services, the FTC survey can only serve to drain the energies of these dental practices from their service to the public. The paperwork involved in meeting FTC investigators' demands will mean enormous costs and lost time to dentists.

In my State of Georgia, the FTC has requested from the Georgia Medical Society, records of their activities going back as far as 1962. In complying with these requests, the Georgia Medical Society has already spent 1,000 manhours and $200,000. It is possible, if these requests continue, it could cost as much as a half million dollars for the society to meet the demands of the FTC.

Five different medical societies are being asked separately to present information on the same FTC case. Each county medical society has spent a minimum of $10,000 to $15,000 in responding. These figures do not include the costs attributed to such things as out-of-office time and travel expenses.

It is difficult enough for the larger State medical society to meet the time and expense losses incurred in these FTC actions. But the county societies in Atlanta, Savannah, Columbus, and Macon are especially hard hit because they do not have the size or resources of the larger groups.

In forcing professions to minimize or abandon responsible self-regulation, the real loser has been the public. And that is often the poor and unsophisticated, whom such self-regulation is designed to protect. The costs of legal actions has diminished the scarce amount of resources available to spend on education of both the public and the profession.

The self-policing of the profession at the local level—the peer review process—has long been an insurer of quality medical care. This program can be handled by the members of local societies who understand their community needs and are trained in the profession. No Federal agencies could effectively handle the matters.

In addition to responsible self-regulation, professionals are subject to antitrust scrutiny by the Department of Justice and State enforcement agencies. That is indeed where the responsibility should lie. That is where it will be once and for all if we pass the Luken-Lee amendment to the FTC authorization bill.

I am a cosponsor of the amendment which would place a moratorium on Federal Trade Commission action on the profesions until Congress allows the FTC to act. I urge my colleagues to support the amendment and cast a vote for true regulatory reform.●

VIKTOR BRAILOVSKY—PRISONER OF CONSCIENCE

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, I rise to call the attention of the U.S. House of Representatives to the plight of Soviet Jewish Prisoner of Conscience Viktor Brailovsky, a prominent Soviet scientist and leader of the Soviet Jewish emigration movement.

Prior to his trial in June 1981, Dr. Brailovsky was detained in prison for 7 months. He has now served an additional 14 months in exile, and it has naturally been a difficult ordeal for him, his family, and his friends.

Recently, it has been learned that Dr. Brailovsky will become eligible for early release from internal exile this September. I urge Soviet authorities to grant this dedicated scientist and cultural activist his one wish: to emigrate to Israel—the land of his people—where he can live reunited with his family.

Mr. Speaker, the tragedy of Viktor Brailovsky is only one example of what occurs on a regular basis in the Soviet Union. While we in the United States often take many of our freedoms for granted, nothing can be assumed there.

One freedom in particular we tend to assume is the freedom to emigrate. So close is this to our national spirit that when Emma Lazarus wrote her inscription for the Statue of Liberty she called upon the nations of the world to send "your tired, your poor, your huddled masses yearning to breathe free" and "the wretched refuse of your teeming shore."

The spirit of openness contained in these passages says much about us as Americans. It says first of all that we are a land of immigrants. And it says that we naturally expect that those who desire to come to our shores will be allowed to come. Unfortunately, the Soviet Union—the most perverse political system ever to darken the human record—does not respect the fundamental freedom to emigrate. What we in the United States assume as a natural inalienable right is flagrantly disregarded in the Soviet Union.

On August 1, 1975, in Helsinki, Finland, the heads of 32 European nations, the Soviet Union, and Canada, signed a document which declared their mutual "respect for human rights and fundamental freedoms." This document declared that:

> In the field of human rights and fundamental freedom, the participating states will act in conformity with the purpose and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field including inter alia the International Covenants on Human Rights, by which they may be bound.

One of the many principles laid in the Universal Declaration of Human Rights was that "everyone has the right to leave any country, including his own."

Mr. Speaker, no one was more pleased with the Helsinki agreement than Leonid Brezhnev. Addressing the audience, the Soviet Communist Party leader solemnly urged that the principles of Helsinki be "put into practical use and made a law of international life not to be breached by anyone." He also said that:

> We note with deep satisfaction that • • • these principles are imbued with respect and care for man, so that he can live in peace and look forward to the future with confidence.

Since that time, Mr. Brezhnev's own words and actions have made it quite clear that the Soviet Union does not intend to comply with the human rights provisions of the Helsinki accords. In a major address to a national trade union congress on March 21, 1977, Mr. Brezhnev bitterly assailed U.S. support for Soviet dissidents as unwarranted "interference in our internal affairs." He warned that:

> Normal development of relations on such a basis is unthinkable. . . . We will not tolerate interference in our internal affairs by anyone and under any pretext.

Rhetoric aside, there can be little doubt what atheistic Soviet communism thinks about human rights.

Mr. Speaker, I know that all in this Chamber join with me in expressing support for Dr. Brailovsky in his attempt to emigrate to Israel. To do so is fundamental to all Americans. For in the long hard march of mankind, America has been fortunate to occupy a special place in history. We have traditionally stood against the forces of tyranny, injustice, and vice. And we have been honored to offer the world a shining symbol of human freedom. Let us continue that tradition and let out with one voice a cry of protest against this yet another example of tyranny against the spirit of man. In conscience we can do no less.●

IMPACT OF UNFAIR IMPORTS ON THE U.S. CORDAGE INDUSTRY

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, last week, I introduced H.R. 7107, a bill which would amend the tariff schedules and result in all like cordage made from plastic material to be identically classified at the same duty rate regardless of the dimensions of the plastic material from which it is manufactured. Under current tariff schedules, some foreign-made cordage has received preferred tariff treatment because of an inadvertent and unintentional discrepancy in the custom laws. The result of this discrepancy is that two identical importations of plastic cordage of identical characteristics and use are classified under different tariff schedule categories at substantially different duty rates merely because one product was manufactured from plastic material over 1 inch in width while the other was not.

Today, I would like to present detailed information about the impact of these unfair imports on the U.S. cordage industry. I will include a paper prepared by the Cordage Institute that summarizes the economic conditions of the industry in relation to foreign competition. The paper was prepared to provide information to the U.S. Trade Representative for his bilateral negotiations with the Republic of Korea in support of the Cordage Institute's need for relief against the flood of imports in Korean cordage products. The U.S. Trade Representative did negotiate a quota in the subject tariff items as a result of the request.

The paper demonstrates the precarious nature of the domestic cordage industry in regard to the low-priced foreign imports—a case that was convincing to the U.S. Trade Representative before it was known that foreign imports were entering the United States duty free through the loophole in the tariff schedule that H.R. 7107 is designed to correct.

Since the influx of the duty-free cordage products, mainly from Korea, the U.S. industry has suffered even further. In the first 4 months of 1982, for example, sales by the U.S. industry decreased by 15 percent, dropping more than 2 million pounds down to 12,702,000 from 14,921,000 for the comparable period of 1981. In 1981, sales had fallen by 2½ million pounds for the year, with most of that drop coming in the last quarter when shipments under the tariff loophole began to be noticed.

Since the tariff classification 774.5590, which is being used by the importers as a loophole, is a basket category, it is impossible to determine how much of the goods in that classification are rope and cordage products, though I do not doubt that it is substantial.

The value of Korean imports in this category for past years was:

1981	$8,039,000
1980	7,503,000
1979	8,062,000
1978	4,622,000
1977	242,000

In the first 7 months of 1982, a total of $10,332,843 worth of Korean products has entered the United States and it is conceivable that nearly $20,000,000 will enter by year's end. I believe that an enormous amount of rope is included in these increased shipments. The tariff schedule loophole that is being actively and aggressively exploited to the detriment of the U.S. cordage industry must be closed. H.R. 7107 will do so.

SUMMARY PREPARED BY THE CORDAGE INSTITUTE FOR THE U.S. TRADE REPRESENTATIVE

The American synthetic cordage industry is suffering market disruption due to Korean imports. To avoid further injury to this industry, the discipline provided for in the Multifiber Arrangement (MFA) should be imposed as part of the bilateral agreement on textile trade now being negotiated with the Republic of Korea. A specific limit or sub-limits, with moderate growth coupled to the growth in domestic consumption should be set.

This submission to the Office of the U.S. Trade Representative and the Department of Commerce by the Cordage Institute, the industry's principal trade association, is designed to supply the United States negotiators with "a detailed factual statement of the reason and justification for this request including the latest [available] data concerning elements of market disruption." MFA, Art. 3, para. 3.

While liberalization of world trade in textiles is indeed an objective of the MFA, it is by no means its sole objective. Equally envisioned is a process, effected through bilateral negotiations, that avoids "disruptive effects in individual markets and on individual lines of production in both importing and exporting countries". MFA, Art. 9, para. 2. What is envisaged, then, is not absolute obedience to either of these sometimes divergent goals, but a balancing that affords proper weight to each.

The market disruption (and threat of further disruption) discussed in detail in this memorandum strongly suggests that the sharp increases in Korean synthetic cordage imports at extraordinarily low prices may be attributable in no small measure to unfair import practices (e.g., dumping or subsidies) that violate the spirit of both the MFA and the current, outstanding bilateral agreement between the U.S. and Korea. The Cordage Institute does not as yet have data sufficient to demonstrate such possible claims; in any event, the Institute wishes to observe the injunction of the MFA to employ MFA safeguards in preference to unilateral import restraint actions. See, MFA, Art. 9, para. 1.

UNDER THE MFA'S CRITERIA, THE DOMESTIC SYNTHETIC CORDAGE INDUSTRY HAS BEEN SERIOUSLY DAMAGED AND IS THREATENED WITH FURTHER SUCH DAMAGE

The American synthetic cordage industry displays all, or nearly all, of the indicia of serious damage identified by the MFA. The MFA provides that "[t]he existence of damage shall be determined on the basis of an examination of the appropriate factors having a bearing on the evolution of the state of the industry in question." MFA, Annex A, para. I. Ten such factors, "no one or [several of which] can necessarily give decisive guidance," are set forth: ". . . turnover, market share, profits, export performance, employment, volume of disruptive and other imports, production, utilization of capacity, productivity, and investment." Id. (Note that import penetration, a significant index of import volume, is but one of the factors enumerated.)

The body of this memorandum contains analytical findings as to each of these ten factors. In brief, our findings are as follows:

Turnover

Actual sales of synthetic rope by members of the Cordage Institute have declined by 23 percent from 1979 to 1980, and by an additional 3 percent from 1980 to 1981.

Market share

The progressive deconcentration of the industry is demonstrated by the fact the largest nine firms in the industry have accounted for ever-decreasing shares of total Cordage Institute sales of synthetic rope. When data on total Cordage Institute sales and imports are compared, it may be seen that the overall market share of the domestic industry has been steadily declining, from 92.5 percent in 1973 to 85.1 percent in 1977 to 75.7 percent in 1981.

Profits

Cordage Institute members report instances of price suppression as a result of extremely low-priced imports in recent years.

Export performance

Exports as a percent of shipments were 7.95 percent in 1977, which compares favorably with a number of related industries. Since then, however, the ratio of exports to total shipments has been declining. This situation is exacerbated by Korea's use of an import licensing program which requires the deposit of a 40% duty on synthetic cordage before a license is granted and entry permitted.

Employment

Using a "control group" to correct for employment patterns that are attributable only to changes in the membership of the Cordage Institute, it is seen that a deteriorating employment situation has occurred in the U.S. synthetic cordage industry. The number of employees declined by 13.5 percent, and the number of employee hours worked declined by 8.6 percent, from 1980 to 1981.

Volume of disruptive and other imports

Additional data document the dramatic increases in the volume of synthetic cordage imports, from all sources and from South Korea. It can be shown that imports of synthetic rope have increased by 156 percent between 1973 and 1981 (more than any other cordage category). Other available figures show the disruptive "surge" in synthetic rope imports specifically from South Korea. In absolute terms, import penetra-

tion generally and that of Korea specifically are not extraordinarily high, but in the context of the synthetic cordage industry, which is deconcentrated, highly competitive and extremely price sensitive, levels such as those here are significant.

Production

While specific production data are not now available from U.S. Government or industry sources, evidence outlined above concerning the drop in industry sales and in employee hours worked, together with a probable inventory depletion during the past 18 months in response to high interest rates, all point to the likelihood of substantial cuts in production for the domestic industry overall.

Utilization of capacity

Accompanying the shift in U.S. cordage markets from natural to synthetic fibers during the past two decades has been the encumbrance of full-line U.S. cordage producers with substantial idle capacity formerly used in the production of hard fiber cordage. To this has been added additional idle capacity in conjunction with likely production cuts, as noted above.

Productivity

Data from the most recent Census of Manufactures show that value added per employee in the U.S. cordage industry nearly doubled between 1967 and 1977, rising from $9,352 to $18,242. In terms of value added per production worker hour, the increase in productivity was over 120 percent during 1967-1977 (from $5.54 to $12.26 per production worker hour). The strongly positive finding in this area helps to explain the domestic industry's record of falling real prices during the highly inflationary 1970s.

Investments

According to the latest Census of Manufactures, new capital expenditures by the U.S. cordage industry averaged $6.5 million annually between 1967 and 1977. During the same period, the gross value of fixed assets in the industry rose more than 63 percent. These findings are positive, since they indicate the domestic industry's commitment to remain competitive internationally. The results of this commitment can be shown by the price performance of domestic and foreign cordage producers.

Of the ten economic factors cited in the MFA as relevant to a determination of the existence of damage to domestic producers, analysis has shown results supporting a finding that damage as defined by the terms of the MFA, clearly exists in the U.S. synthetic cordage industry.

THE DAMAGE SUSTAINED BY, AND THREATENED TO THE AMERICAN SYNTHETIC CORDAGE INDUSTRY IS, UNDER THE TESTS OF THE MFA, CAUSALLY RELATED TO KOREAN IMPORTS

Before discipline may be applied under the MFA, of course, imports must be shown to have caused the market disruption complained of. To justify discipline, within the terms of the MFA, the damage "must demonstrably be caused" by one (or both) of two specified factors: "(i) a sharp substantial increase or imminent increase of imports of particular products from particular sources" and (ii) the products are offered at prices which are substantially below those prevailing for similar goods . . . in the market of the importing country." Damage caused by such factors as technological changes or changes in consumer preferences do not justify the imposition of discipline. MFA, Annex A, para II. Each of those two factors is present with regard to synthetic cordage imports from Korea.

THERE HAVE BEEN SHARPLY INCREASED IMPORTS

The first factor is "a sharp substantial increase or imminent increase of imports of particular products from particular sources." If the claim is of imminent increase, it must be "measurable" and not based upon conjecture.

That there has been such an increase of imports of synthetic stranded rope from South Korea can be graphically illustrated from available data. Imports of this particular product from this particular source have in the past five years far outstripped those from all other sources combined.

Further, the removal in 1980 of a previous restraint on Korean synthetic stranded rope immediately led to a sharp upswing in imports in that category at a time when imports from other countries were stagnant or declining (44 Fed. Reg. 76573 (1979) (restraint imposed); 45 Fed. Reg. 64625 (1980) (restraint removed)).

This recent sharp increase, following on the heels of the lifting of the restraint, demonstrates measurably that the sharp upward trend of the recent past will continue to higher, unacceptable levels if discipline is not imposed. This projection is both buttressed and confirmed by the anticipated effect of the recently concluded MTN phased tariff reductions which will, on average, reduce cordage duties by 10 percent over the next five years. To a price sensitive market such as this one that is highly significant and, of course, will reduce Korea's already low prices still further.

KOREAN SYNTHETIC CORDAGE PRICES HAVE BEEN EXTRAORDINARILY LOW

The second factor that may be a cause of damage such as to justify discipline under the MFA is the offering of the goods in question "at prices which are substantially below those prevailing for similar goods of comparable quality in the market ot the importing country," by comparison with the prices both of domestically produced goods and goods imported from other countries.

Data submitted to the U.S. Trade Representative clearly document that imports of synthetic stranded rope from South Korea have consistently undersold those from all other sources, on average. Data show that they have undersold domestic producers as well. In addition, the Cordage Institute can demonstrate graphically that prices of this particular product from this particular source have been substantially below those prevailing for similar domestic and imported goods.

There can be but two explanations for this phenomenon: Either there has been extraordinary efficiency on the part of Korean producers—a possibility given little support by the available facts—or purposeful price suppression in some form or forms. In either case, the second causation criterion clearly has been met in this instance.

CONCLUSION

Both the existence of damage to the American synthetic cordage industry and its causation by imports of synthetic cordage from the Republic of Korea require that discipline under the MFA be imposed upon such imports. Waiting until the absolute percentage of import penetration reaches some higher level may prove fatal to the domestic industry. Action under the MFA is essential now if it is to be effective at all and if resort to unilateral import restrictions is to be avoided.

The following specific limit and sub-limits at current 1981 import levels should be placed upon imports of synthetic cordage from the Republic of Korea:

	Pounds
Category 605 of which no more than 1,609,000 pounds shall be of TSUS 316.6020	1,696,000
Category 669 with an overall sublimit for all six cordage products: TSUS 316.6010; 316.6020; 348.0065; 348.0075; 348.6565; and 348.0575 of	1,252,000
Total	2,948,000

Annual growth levels should thereafter be based upon consumption, so as to permit reasonable, orderly access to the United States market avoiding further harm to efficient domestic producers.

SUMMARY DATA—UNITED STATES-KOREAN TRADE IN SYNTHETIC CORDAGE PRODUCTS

1. Domestic sales currently are stagnant or declining for all categories of synthetic rope:

	Percent change, 1979–80 (pounds)	Percent change, 1980–81 (pounds)
Polyesters	−19.6	−3.3
Nylon	−32.3	−8.5
Olefins (polypropylene)	−19.2	+0.4
Total synthetics	−22.9	−2.9

2. Domestic sales of synthetic twine—historically about ¼ of the industry's total dollar sales—had been increasing strongly from 1977 through 1979 (annual average +56.5 percent). These slowed sharply in 1980 (+5.9 percent), then declined in 1981 (−1.9 percent).

3. During this period, overall imports of synthetic cordage were affected less severely by the 1980 drop in demand, and recovered rapidly in 1981:

	Percent of total imports, 1981	Percent change, 1979–80 (pounds)	Percent change, 1980–81 (pounds)
Synthetic rope (TSUS 316.6020, TSUS 348.0075, TSUS 348.0575)	(84)	−12.6	+21.0
Synthetic twine (TSUS 316.6010, TSUS 348.0065, TSUS 348.0565)	(16)	−14.3	+54.3

4. During this same period, imports of synthetic cordage from Korea have risen even more rapidly:

	Percent change, 1979–80 (pounds)	Percent change, 1979–80 (pounds)
Synthetic rope	+17.2	+36.5
Synthetic twine	−32.0	+97.5

5. Korea has rapidly assumed a dominant position among foreign suppliers of synthetic cordage during the past ten years:

[In percent]

	1972	1981
Korean imports as percent of total:		
Synthetic rope (TSUS 316.6020)	7.2	73.5
Synthetic rope (TSUS 348.0575)	4.8	72.0
Synthetic twine (TSUS 348.0565)	negl.	67.8

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EL SALVADOR'S INDEPENDENCE DAY

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BARNES. Mr. Speaker, September 15 marked the 161st anniversary of El Salvador's independence from Spain.

On that occasion the Ambassador of El Salvador to the United States, His Excellency Ernesto Rivas-Gallont, wrote to me to thank me and all Members of the House for our support of El Salvador during these difficult times. I am happy to comply with the Ambassador's request that I share his letter with my colleagues through the CONGRESSIONAL RECORD.

I am sure that all my colleagues join me in sending congratulations and best wishes to the people of El Salvador on this occasion.

EMBASSY OF EL SALVADOR,
September 13, 1982.

Congressman MICHAEL D. BARNES,
Chairman, Subcommittee on Inter-American Affairs, Committee on Foreign Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: September 15th will mark the 161st anniversary of El Salvador's independence from Spain. On this occasion I would like to take the opportunity to thank you and your colleagues for their support during this difficult period in our history.

As with your own independence day celebrations, Salvadoran citizens will mark the day with a mixture of festivity and thoughtfulness. For us the 15th will be an occasion to celebrate the victories of our forefathers in their struggles against foreign domination and colonialism and in their battles to secure the inalienable rights of men to live and work in peace.

This independence day will have a special poignancy, not simply because my country finds itself in a period marked by new struggles and new battles to secure peace and prosperity for its citizens, but also because the enemies of our own continuing "great experiment," the enemies of our own ongoing efforts to secure our democracy, once again draw their strength from foreign lands.

President Reagan's insights into the nature of the Soviet Union are nowhere as applicable as in my own country. The military, propaganda, and financial weapons of the immense Soviet empire are as surely "colonialist" in their nature and anti-democratic in their designs as the most misguided and excessive uses of power by the great European colonial powers in the 18th and 19th centuries.

There is a bitter irony in this year's celebration which should not pass unnoticed, even while we commemorate the victories of the past: On Wednesday, while most Salvadorans are relaxing with their families and enjoying a holiday from work, there will be young Salvadoran soldiers fighting and dying to maintain the independence won by their ancestors.

Much has changed in 161 years. Spain is now the friend; guerrillas and terrorists supported and inspired by Soviet and Cuban colonialism are now the enemy. Rather than fighting to win independence, we fight to keep the independence we've won. But the struggle is the same and the need for support from our friends who share our commitment to democracy is in no way diminished.

So long as there are men who lust for power, and nations intoxicated with visions of empire, then no battle—once won—is forever secure. Nations have not only to fight their own struggle to secure liberty, they must also stand guard against nations abroad who have failed to learn from history. For there remain nations bent on squandering the lives and resources of their people in order to impose their will and their government beyond their own ample borders.

We thank our allies for their support; now as in 1821.

Please convey to your colleagues in the House of Representatives our most sincere gratitude.

Sincerely,

ERNESTO RIVAS-GALLONT,
Ambassador.●

H.R. 6046

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. SHANNON. Mr. Speaker, I would like to express my deep concern about a bill that could seriously erode this Nation's tradition of offering a refuge to victims of political persecution.

The bill to which I refer is H.R. 6046, the Extradition Act of 1982, a similar version of which has already been approved by the Senate. If this bill is passed in its present form, repressive governments such as Albania, Romania, South Africa, and El Salvador would be able to extradite opponents of their regimes who had fled to this country to escape persecution. The courts would lose much of their traditional jurisdiction to examine such cases.

Specifically, the bill would require courts to hold individuals for 10 days or more based upon a mere request of a foreign government with no supporting evidence, unless the person can affirmatively demonstrate that he or she should be released. Furthermore, it would severely narrow the political crimes defense, which currently prevents those whose offenses are deemed political from being extradited, by forbidding courts to regard as political any offense involving bodily violence or a conspiracy to commit such violence. Thus, a person who used violence to escape from a prison where he was being tortured, or who used force as part of an uprising against an oppressive regime, would be subject to extradition. The Senate version is even worse—it removes jurisdiction over this defense from the courts and leaves it to the State Department to decide whether the case is sufficiently political to risk offending the government involved. Imagine, Mr. Speaker, how a State Department as anxious to curry favor with Latin dictatorships as this one is would utilize this jurisdiction.

Finally, the bill would forbid courts to question whether an extradition request is being used for the purpose of political persecution. They would also be prevented from considering whether torture may have been involved in the charges against the accused, or the fact that the requesting government has a history of human rights violations.

Mr. Speaker, I hope that this bill will not be brought to the floor this year. Legislation as important as this should not be rushed through Congress at the end of the session. If it is brought to the floor, however, I urge that it be done so in a manner that will allow time for full debate and careful consideration of amendments that could modify the worst aspects of this legislation.●

THE 1982 TAX ACT—AN OPPORTUNITY TO KICK THE LOOPHOLE HABIT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. STARK. Mr. Speaker, the New York Times of September 12, 1982, contains an article by Mr. Robert McIntyre, director of Federal tax policy for the public interest group, Citizens for Tax Justice.

In the article, Mr. McIntyre makes a number of good points about the impact of the 1982 Tax Act on corporations and the need for a national tax policy which promotes economic efficiency rather than tax gimmickry.

The article follows:

[From the New York Times, Sept. 12, 1982]

ENDING A CORPORATE ADDICTION

(By Robert S. McIntyre)

Like junkies denied their fix, many members of the business community are complaining mightily about the recently passed Federal tax reform act. Most strident are the loophole pushers who lobby in Washington. Some of them made millions peddling the tax breaks they helped create and they are bitterly upset that their supplier has started to crack down. If business executives can straighten out their heads long enough

to think clearly, however, they will fall down on their knees, thank God for this tax bill, and beg for more like it.

Business' unhealthy addiction to tax subsidies has grown like Topsy since the early 1970's. Successive Presidents and Congresses have responded to increasingly insistent pleas from business for more "confidence boosters" by adding and adding to the loophole dosage.

These deep corporate tax cuts may have induced temporary businesses euphoria, but they never had any noticeable effect on business investment as a share of the gross national product, a ratio that has shown no discernable trend up or down since World War II. And predictably, by favoring some kinds of investments over others, the ever-expanding loopholes seriously distorted capital spending patterns, to the detriment of business productivity.

Last year, business overdosed on tax breaks. The huge new injection literally turned the corporate income tax into a corporate income subsidy. So intemperate was the new approach that a panel of loophole-crazed executives told the House Ways and Means Committee this spring that they preferred it to paying no taxes at all.

At the same time, the 1981 act made corporate tax sheltering, rather than marketplace forces, the paramount factor in capital spending choices. Bad investments were made good, and good ones bad. So extreme were the act's distortions that, by 1987, an investment in an industrial plant would need over four times the expected pretax profitability of an investment in office equipment to compete on the after-tax bottom line. The victims of such loophole madness include economic growth, jobs, productivity, wages, and ultimately even business profits.

Compounding the problem, the cost of augmenting business' self-destructive dependence on tax breaks was financed with borrowed money. Unlike the pattern of previous years, the 1981 corporate tax cuts were not offset by automatic individual tax increases from inflation-driven "bracket creep."

Instead, the $500 billion in business tax reductions over this decade, together with the rapid defense buildup, created an intolerable imbalance between Federal receipts and expenditures. These changes—and not the illusory tax cuts for most individuals—share almost all the blame for the enormous booming Federal deficits.

Last year's hallucinogenic rosy scenario has been discolored by recession, high interest rates, runaway deficits, record unemployment and business failures, and declining investment. Facing up to the colossal failure of its experiment with subsidized corporate profits and suspension of the basic rules of economics, Congress responded so rationally and so responsively this year that one could almost forget it was the same deliberative body that enacted the 1981 bill.

The first task was to reduce the Government's fiscal imbalance without disturbing whatever fragile recovery we may be on the edge of. Here the 1982 tax act was finely crafted. Far from raising taxes during recession, as some have charged, the bill only nicks at next year's scheduled tax reductions, adding a mere $18 billion—or less than 3 percent—to expected fiscal year 1983 receipts. In fiscal year 1987, however, the act is expected to raise some $64 billion—cutting the deficit by about one-third.

At the same time, the 1982 act creates substantial new incentives for more productive, higher-quality business investment by cutting back on the worst excesses of last year's corporate tax changes. To be sure, most earnings from new equipment will remain slightly subsidized, or, at best, tax-exempt. But this is clearly an improvement over the huge tax rebates—ranging as high as 194 percent of pretax profits for some investments—instituted by the 1981 bill.

The efficiency of marker incentives will be further enhanced by provisions narrowing or closing loopholes under which particular industries—such as insurance, defense contractors, drug companies and oil—had been free-loading on the tax system and the economy for years.

Business leaders can complain that the 1982 act is a wage-earner's bill—and to a large degree that's right. The overwhelming bulk of the tax increases will come at the expense of corporate freeloaders and tax cheats—a far cry from the individual income tax increases advocated by big business or the consumer energy, taxes unsuccessfully floated by the Administration. But the 1982 act is good for business, too.

The decline in interest rates that paralleled progress on and passage of the 1982 bill may be mere coincidence, but it probably isn't. A return toward reliance on the marketplace to govern investment decisions is far more consistent with business avowed economic philosophy—and it makes far more sense—than the complex web, of tax subsidies enacted last year.

Business should see the 1982 act not as a defeat but as an opportunity—a chance for companies to start kicking the loophole habit and become productive, tax-paying members of society once again. If business leaders can finally face up to the pain of withdrawal and admit they can't win while everyone else is losing, the new tax bill will be an important first step on the rehabilitation process toward a fairer, more rational tax system and a healthier economy.●

THE GRUMMAN CORP.—HELPING DEFEND OUR NATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. LENT. Mr. Speaker, one of the best kept secrets of our times is the tremendous aerospace and electronics production capability of the many industries on Long Island, N.Y., part of which I have the honor to represent. These high-tech industries are making a vital contribution to the strength of our Nation's defenses. I believe it is time that my colleagues in the Congress become better acquainted with our Long Island industries.

With that purpose in mind, I rise to bring to the attention of my colleagues an article which appeared in the September 20, 1982 issue of Fortune magazine. It concerns the largest of the aerospace and electronics industries on Long Island, the Grumman Corp. Currently employing more than 26,000 workers, most of them on Long Island, Grumman produces serveral of the Navy's most outstanding aircraft including the Navy's F-14 Tomcat fighter, its A-6 attack bomber, and the E-2C Hawkeye, and EA-6B electronics surveillance and countermeasure planes.

The article, written by Myron Magnet, provides some valuable insights into the outstanding capabilities and defensive value of these Grumman products. I commend this article to my colleagues. I urge my colleagues to remember, as they study it, that the aircraft produced by Grumman represent the efforts of not only the very talented scientific, engineering, management, and production team at Grumman, but also reflect the skills and abilities of a team of subcontracting firms—scores of them—and most of them on Long Island. Together Grumman and its subcontractors form a magnificently coordinated combination to produce the most advanced technological achievements.

Yet, they represent just a part of the tremendous high-tech talent and ability our Long Island industries offer to our Nation. As Representative of the Fourth Congressional District on Long Island, I am tremendously proud of this impressive national resource.

Mr. Speaker, I ask that the Fortune article be inserted in the RECORD at this point in my remarks:

GRUMMAN'S COMEBACK

(By Myron Magnet)

In the destruction of war, victors are sometimes hard to distinguish from losers. But one apparent winner in the Falkland Islands and Lebanon conflicts is the Grumman Corp., whose controversial and fiercely held convictions about the kind of weaponry modern combat demands were triumphantly vindicated by both wars. After more than a decade of chronic crisis, during which Grumman flirted with bankruptcy, blundered into one disastrous acquisition after another, and nearly got acquired itself, the nation's ninth-largest defense contractor can't be faulted for its relief at something finally going so right.

Wedded long ago to the view that "electronics superiority is the key to air superiority," as Chief Executive John C. Bierwirth, 58, puts it, Grumman staked its future on highly complex aircraft. More than any other defense contractor, says Grumman President Joseph G. Gavin Jr., 62, "we recognized that there was more to a warplane than just a flying machine." The company's chief products—four of the Navy's major tactical aircraft—are prodigies of technological intricacy in an era when some serious military thinkers argue for simpler, cheaper weaponry. But the lesson of the Falklands and Lebanon is that planes like Grumman's seem to be exactly what modern wars require.

Grumman's stubby, propeller-driven E-2C Hawkeye illustrates the point. This $33.6-million airborne-early-warning plane is a modern electronic marvel, with a 24-foot-wide radar antenna perched on its back that makes it look like the dish running away with the spoon. If you squeeze yourself inside—it's like being swallowed by a computer—and survey the six-ton communications and radar system that puts out a million watts of power, it's not hard to understand why almost no plane outdoes this one in technological sophistication. Designed to

float 27,000 feet up in the sky and keep watch over three million cubic miles of airspace, the E-2C can track over 250 planes and cruise missiles, plot their courses and speed, finger the most threatening intruders, and guide fighters into striking distance of them.

A LETHAL PERFECTION

In Lebanon's Bekaa Valley the E-2C did all this to perfection. Even as Syrian MiGs thundered off runways, according to military analysts, Israel's E-2Cs spotted them and directed fighter pilots in for the kill. The score: 92 MiGs destroyed to two Israeli Jets lost.

One American analyst says that Israel's four E-2Cs also helped its pilots take out Syrian surface-to-air missile sites. As Israeli drones lured the SAM batteries to turn on their radar, hovering E-2Cs pinpointed them and marshaled in the F-15 and F-16 fighters build by McDonnell Douglas and General Dynamics.

In retrospect, such lethal success made Britain's lack of these carrier-based reconnaissance planes in the Falkland Islands look the more deplorable. Military analysts in near-universal chorus hammer home the fundamental lesson of that conflict: without air early warning, look what happens. U.S. Navy Secretary John Lehman asserted soon after the Falkland Islands war ended that the Argentine jet whose Exocet missile sank the British destroyer *Sheffield* "would not have gotten anywhere near" an American fleet boasting E-2C surveillance backed up by strong interceptor protection.

In light of the *Sheffield* sinking, former Chief of Naval Operations Admiral Elmo Zumwalt Jr. judges: "Politicians around the world will now tend to believe their military when they tell them the E-2C is necessary." Or as Edward Luttwak of the Georgetown University Center for Strategic and International Studies concludes, "Anybody who doesn't have an E-2C or its equivalent is not a serious person."

The strong interceptors Secretary Lehman cited were F-14 Tomcats, the Navy's principal fighter—and Grumman's best-selling plane. With variable-sweep wings continuously adjusted in flight by computer and a weapons-control system able to track 24 targets and shoot down half a dozen of them at once, this is unquestionably a hypercomplex machine. But the unique feature of the $33.3-million F-14 is its six radar-guided Phoenix missiles, built by Hughes Aircraft. The $979,000 missile's incomparable range of more than 100 miles lets it shoot down enemy planes before they get close enough to launch their missiles. The Falkland Islands conflict showed lucidly why a weapon like this is a friend in need.

Some of this fancy hardware can be hoodwinked by electronic countermeasures, whose value Israel's forces demonstrated in the Bekaa Valley by blinding the radar of Syria's Russian-built missiles and jets as their own pilots attacked. High-tech combat, it seems, is to be a continually escalating contest of ploy and counterploy—which means that Grumman stands to win doubly for it plays both sides of the electronic cat-and-mouse game. Grumman manufactures not only the Navy's radar-laden surveillance and fighter planes but also its radar-jamming aircraft, the $30.4-million EA-6B Prowler, standard equipment on U.S. carrier decks.

Additionally, the company is transforming General Dynamics-built F-111 bombers in to jammers for the Air Force, designed to block out radar control of enemy interceptors from the Baltic to the Adriatic. "It's one of the great exercises to fly this plane against the E-2C," says Jack Bierwirth. "We are constantly trying to keep the E-2C from being jammed, while at the same time we're trying to create the capability to jam anything."

Almost overnight, successes like these have put on the defensive that group of military experts—universally termed the reformers—who so oppose the complicated weapons Grumman's planes exemplify. According to the reformers, whose present Senate spokesman is Gary Hart and whose views were popularized a year ago by journalist James Fallows's big-selling book *National Defense*, the complexity of our war machinery is strangling our military capability.

These critics of the Pentagon establishment argue that exaggerated faith in technology, by its indifference to such values as initiative, boldness, and esprit de corps, works to erode exactly the martial virtues that have proved indispensable to victory since the dawn of war. A plane like the E-2C, for instance, could stifle the invaluable resourcefulness of the pilot on the spot by imposing on him the judgments of a combat controller hanging loftily above the battle. This, reformers have contended, is one more example of how our modern military is transforming a culture of leadership into one of mere management.

FLYING CHRISTMAS TREES

What's more, complicated arms break down in the dust and disorder of battle, and the elaborate maintenance they need makes them chronically unready for action. High costs limit the quantities of them that even rich nations can afford; and the swarm of simpler weapons that an equal or even smaller defense budget will buy can overwhelm a few complex weapons, no matter how effective, and destroy them by sheer force of numbers.

Even the potent radar that makes warplanes like Grumman's so sophisticated is not an asset, charge the reformers, but a serious liability. It lets the planes find targets and aim missiles from far away, true; but it also makes them as luminous as Christmas trees to electronic instruments, giving enemy pilots a clear tactical advantage. Radar works by bouncing beams off a target and then listening for the echo. The beams are "louder" then the echo, so a device called a radar detector, something like the Fuzzbuster on a speeding motorist's dashboard, can tell you enemy radar is looking for you before you appear on the other pilot's radar screen. This gives you ample time to zoom away.

Shoehorned into a fighter plane, moreover, fancy radar adds weight and cuts maneuverability, reducing the plane's edge in dogfights with light, nimble opponents. And the frequent ability of electronic countermeasures to defeat such technology suggests to critics that electronic warfare's day is coming to an end. Predicts a prominent reformer: "He's going to be tickling your beacon, and you're going to be tickling his beacon, and pretty soon everybody's going to be shutting them off."

A nation whose schoolchildren are brought up to chuckle with glee at the idea of George Washington's wily guerrillas picking off the vulnerable Redcoats in their rigid formations can't help responding to this argument, which, despite its "small is beautiful" tone, is put forth not by wholegrain-bread types but, for the most part, by tough-minded military people. During the Seventies, indeed, the reformers' views nearly prevailed, with calamitous consequences for Grumman.

This brush with disaster took place when the company was only just recovering from the effects of having avidly accepted the F-14 contract at a fixed price that was too low from the start and increasingly preposterous as production costs soared out of control. Staving off bankruptcy by convincing the Navy to renegotiate the contract in 1973, Grumman had to swallow a loss exceeding a quarter of a billion dollars, and the F-14 didn't earn a dime until 1975.

Just then, Congress—bent on economizing and influenced both by critics' views and the F-14's now hefty price—began to demand that the Navy buy a mix of F-14s and cheaper, less capable fighters instead of an all F-14 force. That meant Grumman could look forward to selling only half as many F-14s as the Navy originally intended to buy. And when that number had been built (production was to be spaced out until 1981), Grumman's principal contract might well come to an end. The outlook only darkened under the Carter Adminsitration, when not just the F-14 but also Grumman's second-biggest navy contract, the A-6 bomber, was threatened with extinction. As George M. Skurla, head of Grumman's aerospace division, recalls, "We were going into the Black Hole of Calcutta."

Management's first strategy was to comb the underbrush for new customers. Fervid hopes in 1975 that 80 planes ordered and paid for by the Shah of Iran signaled the dawn of a lucrative era of foreign sales proved illusory. The prospects of steady Iranian business followed the Shah into exile, and no other F-14 customer ever materialized overseas.

The next order of the day, after infiltrating lobbyists into Washington, was to diversify operations. But oh, what diversification. "They got involved," says a defense industry financial analyst, "in futuristic concepts whose time had passed—and it just didn't work out for them." There was Dormavac, for instance, whose low-pressure, low-temperature shipping containers for preserving perishables without freezing them were supposed to transport Australian lamb to Muslim countries disdainful of frozen meat. When eager Iranians opened their first Dormavac containers, the lamb has spoiled. The shipping difficulties might have been overcome, but the revolution scuttled the deal. Loss: $45.6 million.

There was Ecosystems, offering to turn your garbage into electricity, which would then incinerate your sewer sludge, with plenty of power left over for sale to consumers—if towns could be found eager to have sludge burned in their midst. Loss: $50 million. And then there was the Flexible bus (see "The Bogged-Down Bus Business," Fortune, March 9, 1981), whose highly public problems since its acquisition from Rohr Industries in 1978 have so far cost Grumman $125 million.

THE TEXAS PERIL

Doggedly fixing row upon row of crippled Flexibles a year ago, demoralized Grummanites must have thought nothing worse could happen to them. That's when LTV, seeing its Vought subsidiary's tactical-aircraft business dwindling away, made a grab for the company, igniting a takeover battle of uncommon ferocity.

Fifty-two-year-old Grumman is an old-fashioned, paternalistic institution: its top executives have mostly risen from within; it

spent $400,000 on Christmas turkeys for employees last year; its 27,000 non-union workers, averaging 45 years in age and 14 years in service, routinely speak of their Grummanite fathers before them and their wives and children who are co-workers now. Set in their ways and rooted in the Long Island potato fields where the company grew up, they scorned the thought of transplantation to—Texas.

With more acute employment worries, management launched an all-out publicity campaign, characterizing LTV as a "debt-ridden Texas conglomerate," and then sued, charging that the merger would violate anti-trust laws. Politicians were mobilized—Grumman has an energetic political-action committee and is Long Island's biggest employer by far. Thirty-eight Senators and Congressmen made protests.

On the financial front, Grumman's pension fund and employee investment plan started buying up Grumman stock in huge quantities. A Labor Department suit, still pending, charged the pension fund's trustees—top Grumman executives, including Bierwirth—with violating federal prohibitions against using such assets except to benefit plan participants. But by then the fund was through buying. Meanwhile the legal campaign had bogged LTV down. To universal relief in Bethpage New York, LTV Chief Executive Paul Thayer lifted his siege last November.

Wary of a second takeover bid, Grumman's employee trusts, its suppliers, and other friends continued to buy stock and now claim to control a majority of the outstanding shares. What's more, over two-thirds of the pension fund's participants have signed petitions supporting the trustees, even though the shares at one point were worth $20 million less than had been paid for them. But Grumman stock has been moving up from the year's low of $21 to a recent $36.25 a share. If the price tops $38, where the trustees bought, this could turn out to have been a good investment. All in all, says Bierwirth, despite the lawsuit hanging over him, "With hindsight you could hardly ask for something that was better for Grumman. It's been a fantastically unifying event. It renewed the sense of pride."

A STARVATION DIET

The underlying value LTV saw in Grumman is no illusion. Beneath the outlandish subsidiaries is a sturdy airplane manufacturer. The company reported 1981 earnings of $20 million on sales of $2 billion; aerospace accounted for three-quarters of the sales—and had that division been the whole company, profits would have almost doubled. Indeed, the corporation has been shedding such excess burdens as Ecosystems and Dormavac, leaving the basic aircraft business looking fitter and tougher. Even Fixible has been put on a starvation diet, and security analysts expect some of it to be sold to a foreign partner by the end of the year. Grumman will then be in fighting trim as an aircraft contractor. Just in time, too, for with defense spending on the rise in real terms, the aerospace industry, as George Skurla remarks, "is moving through its golden decade. The guys who are making the right stuff stand to do very well."

The Reagan Administration's military planners, never inclined to buy the reformers' small-is-beautiful ideas about weaponry, can only be strengthened by the Lebanon and Falkland Islands wars in thinking that Grumman has the right stuff. The 600-ship, big-carrier Navy they envisage will have ample room for all of Grumman's complex planes; the two nuclear carriers scheduled for delivery in 1989 and 1991 will carry a full complement of F-14s, E-2Cs, EA-6Bs, and A-6s and will require still more of these aircraft for training and replacement. These planes and the E-2Cs that foreign nations have already lined up to buy, along with such bread-and-butter work as subcontracting for other aerospace companies and building Navy cargo planes, promise a stretch of prosperity such as Grumman hasn't seen in years.●

THE 100TH ANNIVERSARY, MELLOR HOSE CO. NO. 3, PORT CHESTER, N.Y.

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. OTTINGER. Mr. Speaker, I rise today to call to the attention of my colleagues the 100th anniversary of the Mellor Engine and Hose Co. No. 3 from Port Chester, N.Y.

For 100 years the firefighters of Mellor Hose have dedicated themselves to community service, risking their lives in order to save the lives and property of others. In an era of dwindling concern for the needs of others, this spirit of voluntarism is truly commendable.

On October 12, 1870, Putnam Engine Co. No. 2 formed a group of boys and young men to assist them in getting the apparatus to the scene of a fire, help lay hose, pick up hose and perform other outside duties. They were not allowed to fight fires. This group was called the Putnam Runners and they were subordinate to the Putnam Engine Co.

The group grew in membership and declared that they wanted to become an independent company. On December 6, 1882, the Port Chester board of trustees passed the following resolution—"Resolved, a hose company be organized and known as Putnam Hose Co. No. 2."

Because the names of the two companies were so similar, Putnam Engine Co. No. 2 and Putnam Hose Co. No. 2, the board of trustees granted Putnam Hose Co. No. 2 permission to change the name to Morris Hose Co. No. 3. This took place on March 4, 1889, and there is no record as to why this particular name was chosen.

In the early part of 1894, Mr. and Mrs. B. S. Mellor of Grace Church Street, Port Chester, donated to Morris Hose Co. coachmen gray uniforms which, in the following years, won many prizes. In recognition of the generosity of Mr. and Mrs. Mellor, Morris Hose Co. No. 3, on December 20, 1894, changed the name of the company to Mellor Hose Co. No 3.

The law allowed a hose company to have 45 members and an engine company 60 members. Because Mellor Hose Co. had a waiting list of prospective members, they applied to the board of trustees and were granted permission on August 23, 1926, to change the name to Mellor Engine & Hose Co. No. 3.

This name remained unchanged until 1950 when, through the efforts of a good friend and honorary member, Attorney Robert McKeever, the company was incorporated under the laws of the State of New York and became Mellor Engine & Hose Co. No. 3, Inc., the name which it bears today. However, this company has been, is, and probably will be forever known simply as Mellor Hose.

During its 100 years of service to the community, six members have served as chief of the department: Philip Baker, Eric Jensen—who went on to become fire commissioner—Arden Smith, William Gregory, Daniel Ross, and Neils R. Hansen.

My home district of Westchester County, N.Y., has great reason to be proud of the great service the Mellor Hose Co. has been to the town of Port Chester, I ask all my colleagues to join me in saluting the fine service of these brave men.

KEITH SEBELIUS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. MICHEL. Mr. Speaker, many of our colleagues have honored the memory of our late colleague Keith Sebelius who died on September 5, 1982. I want to take this opportunity to simply add my voice to theirs in recalling an admirable man and a fine Representative.

His informed and tireless efforts on behalf of his constituents and his equally fervent work on behalf of American agriculture as a whole are well known to all of us.

Those from his district and from his beloved State of Kansas will, I know, sing his well-deserved praises in more specific terms. I only want to say that when he retired in 1980, we missed him. And now we will miss him even more. My sympathies go to his loved ones.●

PROBLEMS WITH THE EXTRADITION ACT OF 1982

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. HALL of Ohio. Mr. Speaker, the current state visit of Philippine President Ferdinand Marcos has helped to focus attention on the opposition to

his regime and highlighted the fact that many leading Filipino opponents of his dictatorship are living in the United States.

Under H.R. 6046, the Extradition Act of 1982, the status of some of the members of the opposition to Marcos in this country could be placed in serious jeopardy. The Extradition Act of 1982, coupled with approval of the extradition treaty between the Philippines and the United States, would make these individuals vulnerable to being returned to the hands of Marcos if the Marcos government claimed they were involved in plotting bombings or other crimes of violence in the Philippines. The flimsiest evidence would be sufficient to send them back.

Section 3194(e)(2) of the bill codifies and possibly alters current case law by stating that, except in extraordinary circumstances, certain crimes condemned in international agreements may not be considered "political offenses." Presently, a court in this country will not permit extradition if the person can demonstrate that he or she is actually being sought for "an offense of a political character."

Further, courts would not be permitted to explore whether a request for extradition by an authoritarian government was actually just a cover for political persecution. As section 3149(e)(3)(A) states:

> Any issue as to whether the foreign state is seeking extradition of a person for the purpose of prosecuting or punishing the person because of such person's political opinions, race, religion, or nationality shall be determined by the Secretary of State in the discretion of the Secretary of State.

It is not clear from the legislation what guidelines would be given to the Secretary of State with respect to the implementation of this provision. However, it is not comforting to consider that the State Department supported the recent certification that the conditions imposed by Congress concerning human rights improvements in El Salvador were being fulfilled.

I am very concerned that this bill could result in the return to countries like South Africa, El Salvador, and the Philippines of political exiles and dissidents living in the United States. I raised this concern when H.R. 6046 was before the House Rules Committee, and I continue to be troubled by it.

Unfortunately, the information that has come to my attention since the Rules Committee hearing has confirmed my original fears about the Extradition Act of 1982. In particular, the points raised by Christopher H. Pyle in an article for the New York Times were especially disturbing. For the benefit of my colleagues, his article entitled "Ruining Extradition," which appeared in the Times on August 11, 1982, follows:

RUINING EXTRADITION

(By Christopher H. Pyle)

SOUTH HADLEY, MASS.—For more than two centuries, the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. That policy may be about to end.

Under either of the extradition bills now cleared for debate in Congress, persons charged with political crimes would be stripped of their legal defense and United States courts would be turned into the long arms of foreign persecution.

The purpose of the bills—to facilitate the return of terrorists—is manifestly worthwhile. However, both bills are so badly written that they would endanger the very persons that American law governing extradition has always shielded: critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported.

For example, both bills provide for the arrest of an accused person without any proof that he is guilty of a crime. A mere allegation by a foreign dictatorship, coupled with a promise to produce evidence sometime in the future, would be sufficient to cause the United States Government to jail the accused for months. No United States prosecutor has this power of arbitary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

Under current law, no American court will allow a person to be extradited if it can be shown that he or she is really being sought for "an offense of a political character." Each bill would, in its own way, destroy this defense.

The Senate bill, which the Administration favors, would do so by stripping the courts of jurisdiction over the political crimes defense. Instead, the accused would have to raise his claim with the State Department, which could then decide whether protecting him from persecution is worth the risk of alienating the foreign government involved.

The State Department's motive for supporting this bill is clear. It wants to be able to swap alleged criminals with foreign countries the same way that children trade baseball cards: "We'll give you one terrorist if you give us three embezzlers."

The House bill seems more protective of political refugees than the Senate bill because it would keep in the courts the power to decide the political crimes defense. However, the appearance is deceptive, because the House bill would forbid the courts to regard as political, and hence not extraditable, any offense involving bodily violence or a conspiracy to commit bodily violence. There is a tiny exception for crimes committed under "extraordinary circumstances," but the bill does not say what they might be. All that is clear is the political message: Protecting foreign revolutionaries from return to authoritarian regimes should be a rare, not common occurence.

As if to emphasize a preference for authoritarian regimes, both bills would forbid the courts to question whether a request for extradition was really a subterfuge for persecution. Nor would the courts be allowed to hear evidence that the charges against the accused resulted from torture or to deny extradition on the ground that the requesting regime is notorious for brutal interrogations, unjust trials or cruel punishment. Judgments of this sort would be left to the State Department, which currently pretends that El Salvador protects human right.

The Administration claims that the courts should be denied the power to look into foreign injustice in order to assure the neutrality of the United States in foreign political conflicts. However, there can be no doubt where the Justice Department's sympathies would lie; both bills would require its lawyers to represent all foreign governments in their extradition requests. The United States would be neutral—on the side of whoever happens to be in power.

In anticipation of this legislation and a treaty to implement it, the Marcos dictatorship is requesting the extradition of more than dozen of its opponents now living in the United States. One of those charged with plotting in the United States to support bombings in the Philippines is Benigno Aquino Jr., an associate at Harvard University's School of International Affairs who ran against President Ferdinand E. Marcos in the last free election. The only "evidence" against Mr. Aquino comes from the confession of an alleged co-conspirator who late recanted, claiming he had been tortured. However, if either bill now before Congress passes, the evidence will be sufficient to send this democratic politician back into the hands of the dictator he opposed.●

RECOMMENDATIONS OF CALIFORNIA COMMISSION ON INDUSTRIAL INNOVATION

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. STARK. Mr. Speaker, at the beginning of September, the 19-member California Commission on Industrial Innovation issued its report entitled, "A New Industrial Strategy for California and the Nation."

It is an interesting and useful report, with a number of thought-provoking, new ideas.

It stresses improved education of our young as the key to rekindling our economy and improving our international competitiveness. The Congress is acting on several of the recommendations. But in many other areas, we seem to be moving in the opposite direction.

Personally, I think the commission has come up with an excellent blueprint and I would hope that in the 98th Congress we can implement more of their recommendations.

I would like to reprint the recommendations below for the benefit of non-California members:

The material follows:

WINNING TECHNOLOGIES—A NEW INDUSTRIAL STRATEGY FOR CALIFORNIA AND THE NATION

TABLE OF RECOMMENDATIONS

Industrial strategies for innovation

1. The California Commission on Industrial Innovation calls for the United States and California to develop national and state

industrial strategies, aimed at accelerating the invention and utilization of winning technologies.

Investment for innovation

2. The United States Congress should pass the Reciprocal Trade and Investment Act of 1982.

3. The President should aggressively negotiate lower trade barriers for high-technology products through the General Agreement on Tariffs and Trade (GATT).

4. The United States should expand the incremental research and development tax credit.

5. The United States should enact an antitrust exemption for joint research by high-technology companies.

6. California should establish antitrust exemptions for research and development cooperative ventures.

7. The United States should restore budget cuts in research in such critical areas as the National Institutes of Health, the National Science Foundation, and the national laboratories of the Department of Energy and NASA.

8. The United States should move toward the complete elimination of taxation of long-term capital gains. As a first step, the government should eliminate capital gains tax on investments in new companies, while taxing gains from investment in nonproductive investment as ordinary income, as has been legislated in California.

9. The United States should allow corporations, at their option, to write off equipment at the rate at which it becomes obsolete if this would result in faster depreciation than current schedules permit.

10. The United States should create financial free trade zones to attract foreign investment.

11. California should bring its treatment of incentive stock options and employee stock ownership plans into conformity with recent federal changes.

12. The United States should redirect policies and increase support for the Export-Import Bank to assist U.S. businesses in effectively meeting unfair foreign competition.

13. States should enact pension fund flexibility to invest in innovation, as called for in Proposition 6 on the November 1982 ballot in California.

14. The United States should encourage investment in existing U.S.-based growth technologies targeted by government policies of our major industrialized trading partners.

Education and job training for innovation

15. The United States should mobilize national resources to support math, science, computer, engineering and high-technology vocational education, as was done through the National Defense Education Act in the 1950s.

16. University and community college governing boards should raise entrance requirements in math, science and computer studies.

17. School boards should raise standards required for graduation from high school to at least three years of math and two years of science, including at least one semester of computer studies.

18. Private industry should extend support for summer study by students in math, science and computer studies.

19. California should include science and computer studies in statewide or local standard elementary and secondary school achievement tests.

20. State universities should train guidance counselors to encourage students to take math, science and computer courses, especially women and minorities.

21. California should reorient existing math and science achievement tests to stress problem-solving and not rote computation.

22. The United States and California should match funds with private industry to develop new curricula using new technologies like videos and computers.

23. Post-secondary education should expand the number of course offerings in math, science and computers available to secondary school students.

24. The U.S. Congress should pass legislation offering the same tax benefits for donations of computers to elementary and high schools as now exist for donations to universities.

25. California should promote the development of new computer software to expand computer education for interactive learning.

26. Until computers become more common, California should expose students to computers through mobile vans such as those sponsored by the Industry Education Council of California.

27. California should encourage school districts to form regional high-tech high schools which pool trained teachers, equipment and curricula.

28. School boards should offer teacher income supplements to math, science and computer teachers, based on what such skills are worth in the private sector.

29. Private industry should introduce recognition incentives for superior teachers. Universities should also recognize outstanding teachers.

30. The private sector should offer the use of employees as part-time teachers.

31. Private industry should provide employees to train teachers in math, science, and computer studies, and provide industry sites for hands-on computer training.

32. Universities and State Colleges should increase their commitment to math, science, and computer education.

33. State and federal governments could fund incentives in the form of teacher education scholarships to attract teachers into math, science and computer studies.

34. Private industry could also hire high school math and science teachers during the summer session, as a way to supplement their income and to gain upgrade training in new technologies.

35. School Boards should provide opportunities for all existing teachers to take training supplements in computer-aided education.

36. The State and federal governments should jointly fund inservice retraining for teachers in math and science, especially those with emergency credentials, through math/science computer institutes.

37. The United States and California should increase financial support to Schools of Engineering, Computer Science and related fields, so as to expand their capacity to produce qualified graduates.

38. The United States should not use the immigration laws to restrict the ability of foreign nations to work as engineers for U.S. companies or to serve as engineering faculty.

39. California should encourage the formation of university/industry research parks and expand other joint research efforts like MICRO, already established here, as a means of attracting new scientists and professors to the State.

40. California should encourage universities to revise patent policies to enhance industry cooperation.

41. The United States and state governments should encourage vocational programs to involve as much on-the-job training and employer participation as possible.

42. California should place a high priority on the development of vocational training programs in new and emerging technologies.

43. The private sector should establish Business/Labor councils to review existing programs, develop new ones, and take other actions to promote effective job-training.

44. The private sector should offer industry sites, equipment and empoloyees to serve as faculty to the community colleges for job-training programs.

45. California should make a comprehensive effort to retrain existing teachers for the new skills of the 1980s.

46. The U.S. and California should make special efforts to develop effective job-training programs for displaced workers.

Employee-management productivity for innovation

48. California should establish Tripartite Boards to promote increased worker participation and productivity.

49. California should set up a clearinghouse to provide technical assistance and information to public and private sector efforts to increase workplace productivity.

50. California should encourage the development of employee stock ownership plans, and incentive stock option proposals for both workers and managers.●

THE IMPORTANCE OF THE CARIBBEAN BASIN INITIATIVE

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. BARNES. Mr. Speaker, I wish to share with my colleagues a recent article by our Ambassador to Costa Rica, Frank McNeil, regarding the Caribbean Basin Initiative.

In arguing for passage of the initiative, Ambassador McNeil points out its importance to the democratic leaders of our region in Costa Rica, Honduras, the Dominican Republic, and other countries. "It's time we listened to these democratic leaders," he says. "If they fail, we fail."

I believe Ambassador McNeil states the problem precisely when he says that "our compelling interest in the Caribbean Basin Initiative has been obscured by the debate over El Salvador, leaving the importance of the initiative much better understood by our neighbors than in our own country * * *. If one-tenth of the time devoted to El Salvador had gone into public discussion of the Caribbean Basin Initiative, the initiative might well have become law by now." I could not agree more with that analysis. I have long argued that the initiative was dying for lack of support from an administration fixated on El Salvador.

I am gratified that Congress was able to save the foreign aid portion of the initiative by overriding the President's veto of the supplemental approprations bill. But the trade and investment parts of the initiative, which are in many respects more important, still languish in committee. I hope we will see action soon.

The article follows:

[From the New York Times, Aug. 23, 1982]

ACTION'S OVERDUE FOR THE CARIBBEAN

(By Frank McNeil)

LAKE WORTH, FLA.—If we want our country to play a constructive role in the Western Hemisphere in the decade ahead, instead of just reacting to unpleasant events, the first order of business is to make the Caribbean Basin Initiative a reality, particularly its trade and aid provisions.

Congress is likely to approve $300 million to $350 million of the emergency economic assistance that the Reagan Administration has requested for the small, struggling, mostly democratic countries of the Caribbean basin. But the heart of the initiative, the trade and investment incentives, remains bogged down, hostage to the Congressional calendar and domestic concerns.

Historically, Costa Rica is Latin America's most successful democracy, with sustained economic growth and the highest educational and health standards south of the Rio Grande. But in the last three years its economy has plunged into near-collapse, the victim of misallocation of resources and world economic conditions. Costa Rica's own recovery efforts, now under way, probably will not suffice without the initiative's trade and aid sustenance, which is similarly indispensable elsewhere around the Caribbean. The effects of economic collapse upon the vitality of the region's democratic institutions and upon the United States' other interests, security and economic, are easy to project.

It is somewhat correct to say that bipartisan foreign policy died with the Veitnam War. But while important foreigh policy differences divide our two parties, common sense suggests that fundamental national interests transcend partisan considerations. Our compelling interest in the Caribbean Basin Initiative has been obscured by the debate over El Salvador, leaving the importance of the initiative much better understood by our neighbors than in our own country.

I don't want to minimize the importance of El Salvador. But except for the hemisphere's terminal Leninists, who fear the consequences of anything good coming from Washington, all parties to the El Salvador debate should welcome the Caribbean initiative, if only because it will help avoid other El Salvadors.

If one-tenth of the time devoted to El Salvador had gone into public discussion of the Caribbean initiative, the initiative might well have become law by now. Concerns in this country about its effect on our economy and job picture—particularly understandable at a time of high unemployment—do not stand up under close scrutiny. Caribbean basin countries and their economies are so small that the proposed elimination of tariffs, which today apply to only 15 percent of the products they export, would have a negiligible effect on United States producers. Expansion of the small volume of Caribbean basin exports would for the most part come at the expense of larger, more distant foreign exporters who would not have tariff advantages.

What is of negligible importance to us, however, offers large benefits to these small countries, buoying their economies over a period of time and, in some cases, spelling the difference between economic and political success and failure.

After President Reagan announced the initiative, many Latin American political and economic leaders publicly judged it Washington's most important initiative since John F. Kennedy's Alliance for Progress, because it responded to Latin American countries' long-standing claim to access to our markets. That access would permit expanded investment, production and employment and earn more foreign exchange; otherwise, these countries would continue to go into ruinous debt, eventually ceasing to buy or products because they could no longer obtain dollar financing.

When Costa Rica's new President, Luis Alberto Monge, recently visited Washington at President Reagan's invitation, he came burdened with many economic problems and the aggressive meddling of neighboring Nicaragua. Nonetheless, he concentrated in his discussions with the executive branch, Congress, the news media, labor and business on the importance to the region of the Caribbean initiative. He surprised many people who expected only pleas for assistance when he said that access to markets was even more important than aid, because trade opportunities would sustain increases in employment, production and export revenues.

Similarly, the freely elected leaders of Jamaica, the Dominican Republic, Honduras and other countries have argued for the initiative, seeing it as an imaginative, sensible contribution to cutting the Gordian knot that ties their countries to the cycle of poverty, debt and instability that has made the region an obvious target for the attentions of Moscow, Havana and even Managua. It's time we listened to these democratic leaders. If they fail, we fail.

TEST BAN COULD SLOW NUCLEAR ARMS RACE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. MARKEY. Mr. Speaker, in the past 37 years, the nuclear weapons states have conducted more than 1,300 nuclear test explosions. And while it has been the goal of every American President since Dwight Eisenhower to stop these explosions, the testing continues to this day.

This is unfortunate, because a comprehensive test ban is within our grasps. Furthermore, a test ban with the Soviet Union would represent an important first step in implementing a bilateral nuclear weapons freeze between the two countries.

I am proud to be a cosponsor with my distinguished colleague from Iowa, Congressman BERKLEY BEDELL, of House Joint Resolution 556, which calls on the President to request Senate ratification of the Threshold Test Ban and Peaceful Nuclear Explosion Treaties and to resume trilateral negotiations toward conclusion of a verifiable comprehensive test ban treaty.

I would like to commend to my colleagues a perceptive and incisive response Congressman BEDELL wrote in the August 28, 1982 issue of the Washington Post to charges that the United States could not verify a comprehensive test ban.

As Congressman BEDELL's column points out, the United States has the technical capability to implement a comprehensive test ban. All that is required now is the political will:

YOU'RE SPECULATING, JACK ANDERSON

(By Berkley Bedell)

Jack Anderson, citing "secret documents and intelligence sources," charges 11 Soviet violations of the Threshold Test Ban Treaty Agreement of 1974 and suggests a complete U.S. inability to verify Soviet compliance with nuclear test bans ["U.S. Can't Tell If Russia Cheats on Test Ban," Aug. 10]. Since U.S. procedures for verification consist of a variety of methods that are not subject to the public domain, many of Anderson's assessments are purely speculative and narrow in scope. As one of the original authors of a new legislative initiative that is designed to prevent nuclear testing, I take exception to his conclusions.

An important fact that is frequently glossed over is that the Senate has yet to ratify the Threshold Test Ban. Therefore, although the Soviet Union has voluntarily stated that it would abide by the provisions of the agreement, it is by no means obligated to do so. Similarly, because the president has announced his intentions to seek renegotiation of the threshold test ban, the Soviets have little reason to believe that the United States ever intends to ratify it.

A second fact passed over by Anderson is that, because the formal instruments of ratification have yet to be exchanged, the detailed and unprecedented verification procedures established in the threshold test ban are not in effect. Under provisions established in the treaty protocol, the Soviet Union agreed to furnish geological data about test sites, as well as "yields, date, time, depth and coordinates for two nuclear weapons tests for calibration purposes." Such information is vital to the precise correlation that exists between the explosive yield and the seismic signal that is generated by an underground weapons test. By failing to ratify this agreement, the United States is denying itself the opportunity to measure accurately both the size of the Soviets' weapons tests and the sincerity of their arms control intentions.

Given our present imprecision in estimating the yield of Soviet tests, statements with respect to Soviet violations of the 150-kiloton limit should be examined carefully. The United States has not formally accused them of violating the treaty. Further, both sides agreed that, because of the technical uncertainties, one or two slight, unintended breaches of this limit per year would not be considered a violation. Obviously, however, any such violations would be cause for serious concern.

Anderson cites a Soviet test in September 1980 that "had a likely size of 350 kilotons." "Likely" is an accurate conclusion because the United States does not release yield estimates for Soviet tests. According to other

press reports, however, British intelligence estimated that test to be well within the 150-kiloton limit, and based on seismic data from the Hagfors Observatory in Sweden, the Stockholm International Peace Research Institute concluded that all Soviet nuclear weapons tests during 1980 were "below or around 150 kilotons."

Anderson also refers to a Pentagon briefing that disclosed "the United States could not verify Soviet compliance with a test ban." Linking yield estimation problems with the unratified status of the threshold test ban and detection difficulties alleged to be inherent in a comprehensive test ban obscures the fundamental difference between verifying a partial and comprehensive test ban. In all significant aspects, it is much easier to verify a comprehensive test ban than it is a threshold, or partial, test ban.

In an environment in which all nuclear testing was prohibited, any event even remotely related to a nuclear test would be highly suspicious. Moreover, the Soviets have already expressed a willingness to agree to a comprehensive test ban that would be accompanied by entirely new verification procedures. During trilateral negotiations in 1980, the Soviet Union agreed to several U.S. proposals, including the installation of specially equipped, tamper-proof seismographs on Soviet territory, a moratorium on all peaceful nuclear explosions for the duration of the treaty and the use of on-site inspection to resolve suspicious events.

Finally, Anderson quotes a highly sensitive White House report," which claims the continued testing of nuclear weapons is necessary to "verify the performance of weapons for stockpiling certification." This argument is no more than an attempt by U.S. weapons laboratories to ensure their livelihood into the next decade and beyond. A variety of nonnuclear test, such as meticulous inspection and disassembly of individual components and the remanufacture to original specifications of components, can ensure that time-tested and proven nuclear weapons designs remain operable.

The nuclear arms spiral has continued unabated for more than 37 years. A comprehensive test ban, which we know to be verifiable, represents a sound step toward the slowing and ultimate end to this costly and nonproductive spiral.●

A TRIBUTE TO DAVID DUBINSKY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. FRANK. Mr. Speaker, last week, this country lost one of its giants. David Dubinsky died at the age of 90 after a lifetime of leadership on behalf of working men and women. David Dubinsky is one of the people who shaped the modern American labor movement. He is also one of the labor leaders who has contributed enormously to American democracy—political, social, and economic.

Through his leadership of the International Ladies' Garment Workers Union, and through his enlightened statesmanship in national union affairs, David Dubinsky set an example of courage and dedication for all who came after him. He was a vigorous fighter for democracy and for the rights of the working men and women he represented. No one fought harder than he to ban the sweatshop from America. No one fought harder than he for the rights of immigrant workers to participate in and help build the American dream. He was fearless in confronting racketeers who sought to abuse the union movement for their own purposes and he was a staunch defender of democratic American unionism against Communist efforts to infiltrate that movement during the 1940's.

At a time when it has become fashionable for some to criticize the role of labor unions in this country, it is important that we hold up the example of David Dubinsky as a man who, as a labor leader, made an enormous contribution to every phase of American public life. David Dubinsky left behind him many monuments to his intelligence, his integrity, and his dedication. We should all mourn his loss.●

1982 BISHOP BARAGA DAYS CELEBRATION IN MILWAUKEE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. ZABLOCKI. Mr. Speaker, for 50 years the Baraga Association has been promoting the cause for sainthood of Bishop Frederic Baraga, a Slovenian missionary who devoted his life to working among the Indians of the Upper Great Lakes region. A native of Yugoslavia, Bishop Baraga, who was consecrated as the first bishop of Marquette, Mich., in 1853, labored among the native Americans of the region for 37 years, teaching them skills to improve their physical well-being as well as providing for their spiritual welfare.

He served his far-flung flock in the face of great adversity, traveling by snowshoe, canoe, and horseback to minister to their physical and spiritual needs. In serving his fellowman with such dedication and devotion, Bishop Baraga provided an example for all persons to follow irrespective of their religious convictions.

Mr. Speaker, for the first time since the cause of Bishop Baraga's sainthood in the Catholic Church was taken up, the annual Baraga Days Celebration honoring this man of God and promoting his cause for canonization has been held in Milwaukee.

The host parish for the 2-day celebration held on September 4-5, 1982, was St. John the Evangelist Church in Greenfield, Wis., in my congressional district, and the chairman of the 1982 Baraga Days was its pastor, Rev. Lawrence Grom, O.F.M.

It was a privilege for me to participate in the Baraga Days' celebration and I wish to share with our colleagues the inspiring sermon delivered at the Sunday afternoon liturgy by the Most Reverend Rembert G. Weakland, O.S.B., Archbishop of Milwaukee, as follows:

SERMON BY THE MOST REVEREND REMBERT G. WEAKLAND, O.S.B.

(Baraga Days, September 4, 1982, St. John's Cathedral. Mark 7:31-37)

My Dear Brother Bishops and friends all: The passage we just read from the Gospel of St. Mark, namely chapter seven verses 31 to 37, was indeed providentially selected for our celebration this year of Baraga Day. That holy apostle, Frederic Baraga, would be indeed pleased to see us meditate on this passage because it lends itself to a reflection on so many aspects of that Church and Christianity that were dear to him.

The scene described by Mark finds Jesus in the territory of the Gentiles. We are to understand that the curing, healing ministry of Jesus has no limits of place or of people: it must extend beyond the Jewish nation to all. Healing the deaf and dumb man is but a sign that the Messianic Kingdom is at hand. The prophecy of Isaiah has been fulfilled: the deaf hear, the dumb speak. God's presence and power is among us so that our ears can hear His message, our mouths can proclaim His word. The deaf is cured by means of a rite that is truly a sacramental one, a reminder of Baptism that opens us to new life in the Risen Lord, to salvation. Later, at the end of His earthly mission, Jesus will tell the Apostles to go forth and to baptize all nations. The mission of opening ears and healing, of bringing salvation to His people, was handed on, then, to the Church. With this miracle and its deep signification we are at the heart of the Church and its mission to evangelize. For this reason it is indeed appropriate for our meditation on this Baraga Day when we honor a man whose whole life takes meaning from the text we read.

It is, indeed, amazing that a man born in Slovenia on June 29, 1797, and who came to the United States in 1830 to work among the Indians, dying as Bishop of Marquette, Michigan in 1868, would still be for us an example and a model of the true mission of the Church. We recall his life today, not just for the sake of admiration and edification, but so that we, too, might become truly Christians, so that his life can be a model for our own desire of living according to the Gospel.

I would like to concentrate on four points that are suggested by the readings of this Sunday's liturgy, reflect on them first, in the light of Pope Paul's exhortation on "Evangelization in the Modern World of 1975," and then in the light of the life of Bishop Baraga—points I feel that are also of importance to us today as we strive to live the Gospel.

First of all, the whole life of Jesus is summed up in His desire to fulfill the will of His Father. We find Him in the Gospel today going out of the Jewish territory to the territory of the Gentiles. The Gospel miracle makes it clear that the mission of salvation is also to the Gentiles. They, too, are to hear the Word of God and be baptized. Bringing this Word and Sacrament to all is inherent in the missionary nature of the Church. Bishop Baraga was full of such missionary zeal; he understood this command of the Gospel and wanted to carry it out.

Pope Paul put it this way: "The Good News of the Kingdom which is coming and which has begun is meant for all people of all times. Those who have received the Good News and who have been gathered by it into the community of salvation can and must communicate and spread it."

Father Baraga was full of zeal to spread the message of salvation to all, and especially to the American Indian. Eagerness and Zeal are the words we would use to express the urgency he felt to spread the Gospel among the Indians. The first reading today (Is. 35:4-7) speaks of the courage we will need: "Be strong, fear not." Those words echoed in the life of Baraga. In spite of all the obstacles that came his way, he did not falter from his mission to preach the Gospel.

On this day in his memory we must then ask ourselves if we are people with a missionary thrust. Have we that same zeal to spread the Good News? Do we follow in his footsteps?

People who are inflamed by an idea cannot keep from talking about it. Those who have heard God's word cannot keep quiet; they must share with others the treasure they have found. This is missionary zeal; the Church cannot be Church, cannot fulfill its mission, without it. Baraga remains a contemporary model for us.

Secondly, we see that this zeal, this thrust, demands also holiness of life, self-sacrifice and discipline. Jesus is tireless in his pilgrimage around Galilee and now into other territory. He has no place to lay his head. He must preach to other cities. Later, we read of the supreme sacrifice He must make to fulfill His mission and to do the will of His Father, His suffering and death of the Cross. Pope Paul put it this way: "This Kindgom and this salvation, which are the key words of Jesus Christ's evangelization, are available to every human being as grace and mercy, and yet at the same time each individual must gain them by force—they belong to the violent, says the Lord, through toil and suffering, through a life lived according to the Gospel, through abnegation and the Cross, through the spirit of the Beatitudes.

But above all, each individual gains them through a total interior renewal which the Gospel calls metanoia; it is radical conversion, a profound change of mind and heart.

We read in the life of our saintly Bishop about the sacrifices he made, the many trips to unknown parts, the hardships of food and lodging. Most of all, we see him as a man of prayer, one who spent long hours with the Lord, one who made great sacrifices so that he could find the time to pray at length. All of this became his lifestyle so that he could be an authentic witness of the Gospel, preach by his life as well as by his words. What an example for us here! We can be evangelizers only if we are willing to be evangelized, changed and transformed by the Gospel.

In addition to zeal, then, we also need example. Our message must resonate in our lives. Jesus knew that His own disciples had much to learn before they were ready to be the bearers of His word to others. They did not fully understand who He was, nor His message. For this reason they were to keep silence until they were renewed by the Spirit. On Baraga Day we ask for the graces of being bearers of the Word, but also we ask that the example of the saintly Bishop move us to be witnesses through our lives of that kind of sanctity that knows no limits in sacrifice and renunciation for the Kingdom. We are willing to learn how to pray and how to endure hardships for the sake of Him and His Kingdom.

Thirdly, the Gospel today also makes it clear that the Good News must reach all peoples. We find Jesus going out now to the Gentiles.

Their ears must be opened, they too must be prepared to receive Him. There is no limit here. Baraga knew that aspect of the Kingdom well. His mission to the Indians and in regions far away from his native Slovenia followed from his correct understanding of the Gospel. Jesus came to save all. Pope Paul put this truth in these words: "But Christ also carries out this proclamation by innumerable signs, which amaze the crowds and at the same time draw them to Him in order to see Him, listen to Him and allow themselves to be transformed by Him; the sick are cured, water is changed into wine, bread is multiplied, the dead come back to life. And among all these signs, there is the one to which He attaches great importance, the humble and poor are evangelized, become His disciples and gather together "in His name" in the great community of those who believe in Him. For this, Jesus who declared, "I must preach the Good News of the Kingdom of God" is the same Jesus of whom John the Evangelist said that He had come and was to die "to gather together in unity the scattered children of God."

That message is still timely to us today. The Church must always see its mission in a particular way to the lowly, the poor, the needy—those who seemingly can give nothing in return. Baraga loved the Indians, he understood them. He knew they could easily become God's forsaken ones, the forgotten ones. If we are to be imitators of him, then we must look around and ask if we have the same zeal for the underprivileged, the same love and concern. There are still so many lowly among us who have not felt the love of Christ in their lives, who have not felt a part of that community of believers Pope Paul decribed. On this Barage Day we ask ourselves if we have become complacent, lazy, if we have closed our eyes to those truly in need.

He made the trip from Slovenia to Michigan and these regions, he suffered all kinds of hardships, he fought for the rights of the defenseless. How much we have yet to do to be Church in our day!

There is one last aspect of the Gospel today that I would like to bring to your attention that can be the source of much fruit on this day. You will notice that Jesus did not just perform the miracle by saying to the deaf and dumb man that he was healed. Instead, he performed a ritual. He knew that we are made of flesh and blood, that we creatures need signs and actions. He took a gesture that was a part of Jewish and Greek healing ceremonies and christianized it. He took spittle and placed it on the ears and eyes. He adapted to our needs. He entered our world, our culture, our ways of expressing things. He took a cultural sign that he found and raised it to a higher meaning.

All of us have been in admiration at Bishop Baraga's incredible skill in languages. The speed with which he learned the native tongues and became master of those languages is remarkable. Yet, he did not just learn these languages for their own sake; he knew that it was necessary to do so if he wished to spread the Gospel. He wanted the Indians to be able to pray in their own tongue and so made many sacrifices in order to be able to show them how this could be done. He lived among the Indians; he became one with them. Pope Paul put it this way: "Evangelization loses much of its force and effectiveness if it does not take into consideration the actual people to whom it is addressed, if it does not use their language, their signs and symbols, if it does not answer the questions they ask, and if it does not have an impact on their concrete life." ". . . what matters is to evangelize man's culture and cultures (not in a purely decorative way as it were by applying a thin veneer, but in a vital way, in depth and right to their very roots . . . always taking the person as one's starting point and always coming back to the relationships of people among themselves and with God."

Bishop Baraga understood all of this and will go down in history as one who sought to uncover the soul of those he evangelized by entering into their very lives through the only way possible: namely, through a deep knowledge of their language and its modes of expression.

In our own day this requires a deep knowledge of our Faith, of its essential truths, of its sacramental signs; it means that we let our lives be transformed by the Gospel and its message; that we permit that message and the life of Jesus that is a part of our sacramental heritage transform our lives totally and our culture. Pope Paul put it this way: "The split between the Gospel and culture is without a doubt the drama of our time, just as it was of other times. Therefore, every effort must be made to ensure a full evangelization of culture, or more correctly, of cultures. They have to be regenerated by an encounter with the Gospel. But this encounter will not take place if the Gospel is not proclaimed." He then exhorts us to proclaim this Gospel by our lives, by our witness as a people, as a community who follows Christ.

On Baraga Day we are moved by the example of this saintly Bishop who permitted the Gospel to fill his life and actions, one who lived the Good News and one whose whole life was dedicated to bringing that Good News to the lowly.

On this day what better resolution could we all make but to imitate his holiness, his zeal, this Gospel spirit. We, too, want to be proclaimers of the Word to all peoples by our lives.

His example in this region of the United States is with us still, urging us on to greater sanctity.

May the Lord continue to raise up among us the spirit that animated Bishop Baraga so that the Kingdom of God will continue to be preached in our midst by our zealous words and actions!●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 21, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 22

9:00 a.m.

Conferees

On S. 2586, authorizing funds for fiscal year 1983 for military construction programs of the Department of Defense.

H-139, Capitol

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Stephen A. Sharp, of Virginia, to be a Member of the Federal Communications Commission.

235 Russell Building

Labor and Human Resources

To hold hearings on the nominations of Harry M. Singleton, of the District of Columbia, to be Assistant Secretary of Education for Civil Rights, William A. Webb, of Pennsylvania, to be a Member of the Equal Employment Opportunity Commission, Lawrence F. Davenport, of Virginia, to be Assistant Secretary of Education for Elementary and Secondary Education, Gary L. Bauer, of Virginia, to be Deputy Under Secretary of Education for Planning and Budget, and Charles L. Heatherly, of Virginia, to be Deputy Under Secretary of Education for Management; to be followed by a business meeting, to consider the nomination of Gary L. Jones, of Virginia, to be Under Secretary of Education.

4232 Dirksen Building

Rules and Administration

Business meeting, to consider pending legislative and administrative business.

301 Russell Building

Select on Indian Affairs

To hold hearings on S. 2847, proposed Indian Housing Act.

5302 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, on pending calendar business.

3110 Dirksen Building

Environment and Public Works

To hold hearings on the nominations of Winifred A. Pizzano, of Virginia, to be Federal Cochairman of the Appalachian Regional Commission, and Jacqueline L. Phillips, of Maryland, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

4200 Dirksen Building

Foreign Relations

To hold hearings on the nominations of William A. Hewitt, of Illinois, to be Ambassador to Jamaica, and Everett E. Briggs, of Maine, to be Ambassador to Panama.

4221 Dirksen Building

Governmental Affairs

To hold hearings to review proposals providing benefits to former Presidents and their families, including S. 1325, reforming certain laws relating to former Presidents.

3302 Dirksen Building

Judiciary

To resume hearings on S. 2784 and S. 2821, bills clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.

2228 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

S-407, Capitol

Joint Economic

To hold hearings on Soviet pipeline trade sanctions.

2118 Rayburn Building

10:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Martin S. Feldstein, of Massachusetts, to be a Member of the Council of Economic Advisers.

5302 Dirksen Building

2:00 p.m.

Appropriations

Business meeting, to mark up proposed legislation appropriating funds for fiscal year 1983 for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

1114 Dirksen Building

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2061, providing for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and H.R. 4861, establishing the American Conservation Corps.

3110 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

3:00 p.m.

Foreign Relations

European Affairs Subcommittee

To hold hearings on U.S.-Soviet research studies.

4221 Dirksen Building

SEPTEMBER 23

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2801 and H.R. 6542, bills providing for the withdrawal of certain lands in the National Wilderness Preservation System and certain other lands from mineral leasing.

3110 Dirksen Building

Judiciary

Agency Administration Subcommittee

Business meeting, to resume markup of S. 1775, making the Federal Government liable for tort claims and generally the exclusive defendant in all tort suits involving Government employees acting within the scope of their employment.

6226 Dirksen Building

Office of Technology Assessment

The Board, to meet on pending business items.

EF-100, Capitol

9:30 a.m.

Budget

To resume hearings on proposals reforming the Congressional Budget Act of 1974, including S. 13, S. 59, S. 581, S. 582, S. 193, S. 265, S. 384, S. 938, S. 2629, S. 1683, S. 2008, S. 2069, and S. 2454.

6202 Dirksen Building

Judiciary

Criminal Law Subcommittee

To hold hearings on S. 1747, relating to the purchase of prison-made products by Federal departments, to allow in certain cases, the purchases of similar products from small businesses.

2228 Dirksen Building

Select on Indian Affairs

To hold hearings on H.R. 4364, declaring that certain lands in Pima County, Ariz., shall be held in trust by the United States for the Pascua Yaqui Indian Tribe, and H.R. 4365, providing that funds distributed per capita to certain members of an Indian tribe may be so distributed by the Secretary of the Interior or the governing body of any such tribe.

4232 Dirksen Building

10:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the alleged use of false identification to penetrate Federal programs.

3302 Dirksen Building

Judiciary

Agency Administration Subcommittee

To hold hearings on S. 2863, to extend Federal employees compensation benefits to all Federal jurors, to provide the awarding of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.

6226 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

S-407, Capitol

11:30 a.m.

Foreign Relations

International Economic Policy Subcommittee

Closed briefing on the world debt.

4221 Dirksen Building

1:00 p.m.

Judiciary

Immigration and Refugee Policy Subcommittee

To hold hearings on refugee consultation.

2228 Dirksen Building

2:00 p.m.

Governmental Affairs

To hold hearings on the nomination of K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board.

3302 Dirksen Building

*Judiciary

Security and Terrorism Subcommittee

To hold hearings on S. 2255, proposed Antiterrorism and Foreign Mercenary Act.

4232 Dirksen Building

3:00 p.m.
Armed Services
Closed briefing on the intermediate nuclear forces negotiations.
212 Russell Building

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on airline labor protection relating to mergers, acquisitions, and intercarrier transactions.
235 Russell Building

10:00 a.m.
Judiciary
Courts Subcommittee
To resume hearings on S. 1529 and S. 2035, bills establishing the National Court of Appeals, and to begin hearings on S. 1403 and S. 1874, bills to reform and improve the annuity program for survivors of Federal Justices and judges.
2228 Dirksen Building

SEPTEMBER 27

10:00 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings on certain constitutional and separation of powers issues involving the United States-China Joint Communique of August 17, 1982, and the Taiwan Relations Act (Public Law 96-8).
2228 Dirksen Building

2:00 p.m.
Finance
Savings, Pensions and Investment Policy Subcommittee
To hold hearings on S. 2860, eliminating the retroactive effective date of the withdrawal liability provisions of the Multiemployer Pension Plan Amendments Act (Public Law 96-364), and S. 2918, creating exemptions to permit investments by employee benefit plans in the residential mortgage market.
2221 Dirksen Building

SEPTEMBER 28

9:00 a.m.
Finance
To hold hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

9:30 a.m.
Armed Services
Closed briefing providing an update on the strategic arms reduction talks (START).
212 Russell Building

Budget
To resume hearings on proposals reforming the Congressional Budget Act of 1974, including S. 13, S. 59, S. 581, S. 582, S. 193, S. 265, S. 384, S. 938, S. 2629, S. 1683, S. 2008, S. 2069, and S. 2454.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on a proposal to guarantee full freedom of expression for the electronic media, focusing on technical and policy issues.
235 Russell Building

Small Business
Urban and Rural Economic Development Subcommittee
To hold oversight hearings on the implementation of the Small Business Administration's economic development programs, focusing on the certified development company program.
424 Russell Building

10:00 a.m.
Environment and Public Works
Business meeting, on pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the Hotel and Restaurant Workers Union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Select on Intelligence
To hold closed hearings on intelligence matters.
S-407, Capitol

SEPTEMBER 29

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1626, to reform and improve the regulation of oil pipelines.
235 Russell Building

10:00 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
To resume hearings on S. 2784 and S. 2821, bills clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.
2228 Dirksen Building

Select on Intelligence
To hold hearings on Soviet succession.
6226 Dirksen Building

10:30 a.m.
Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To resume oversight hearings on the implementation of the Paperwork Reductions Act (Public Law 96-511).
5110 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 30

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on a proposal to guarantee full freedom of expression for the electronic media, focusing on technical and policy issues.
235 Russell Building

Judiciary
Juvenile Justice Subcommittee
To hold hearings on proposed assistance to State and local law enforcements to reduce criminal case backloads.
5110 Dirksen Building

10:00 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of and contributions to Government contractors.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 2655, providing an alternative source of financial assistance for social security student benefit recipients.
4232 Dirksen Building

1:30 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on Presidential immigration emergency powers.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 22

9:30 a.m.
Labor and Human Resources
To hold hearings of the Department of Labor's need for additional assistance to combat organized crime.
4232 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation Subcommittee
To hold hearings on proposed legislation authorizing funds for soil and water

conservation programs of the Department of Agriculture.
324 Russell Building

Judiciary
To resume hearings on the impact of the Boulder, Colo., decision, relating to potential antitrust liabilities for local governments.
2228 Dirksen Building

SEPTEMBER 23

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
5302 Dirksen Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the use of computer matching in certain Federal agencies.
3302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, September 21, 1982*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, even as we thank You for the security that we know, we remember all people who know the violence and the uncertainty of the days. We offer this our prayer that respect and concord will mark the relationships between nations and that people will see the futility of strife. In spite of the urgency of the moment, keep our eyes on the goals that You have given Your creation, that right and justice will reign, and peace will come to every troubled heart. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5288. An act granting the consent of Congress to the compact between the States on New Hampshire and Vermont concerning solid waste.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6133) entitled "An act to amend the Endangered Species Act of 1973."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4441) entitled "An act to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. DECONCINI, and Mr. ZORINSKY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 97. Joint resolution to designate the second full week in October 1982 as "National Legal Secretaries' Court Observance Week."

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

JENNIFER FERRER

The Clerk called the bill (H.R. 1830) for the relief of Jennifer Ferrer.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

MOHAMMAD ISMAIL KHAN, HASHMAT ISMAIL KHAN, AND MURAD ISMAIL KHAN

The Clerk called the bill (H.R. 2276) for the relief of Mohammad Ismail Khan, Hashmat Ismail Khan, and Murad Ismail Khan.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SIRAJ YOOSUF PATEL, FARIDA FATIMA SIRAJ PATEL, HUMAIRA SIRAJ PATEL, FAYSAL SIRAJ PATEL, AND FAHD SIRAJ PATEL

The Clerk called the bill (H.R. 2277) for the relief of Siraj Yoosuf Patel, Farida Fatima Siraj Patel, Humaira Siraj Patel, Faysal Siraj Patel, and Fahd Siraj Patel.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TESSIE AND ENRIQUE MARFORI

The Clerk called the Senate bill (S. 191) for the relief of Tessie and Enrique Marfori.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LOURIE ANN EDER

The Clerk called the Senate bill (S. 215) for the relief of Lourie Ann Eder.

There being no objection, the Clerk read the Senate bill, as follows:

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lourie Ann Eder may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Federico P. Eder and Irinea R. Eder, a lawful permanent resident and a citizen of the United States, respectively, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MOCATTA & GOLDSMID, LTD., SHARPS, PIXLEY & CO., LTD., AND PRIMARY METAL & MINERAL CORP.

The Clerk called the bill (H.R. 5858) for the relief of Mocatta & Goldsmid,

Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal & Mineral Corp.

There being no objection, the Clerk read the bill, as follows:

H.R. 5858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any moneys not otherwise appropriated, to the following named silver dealers, the amounts indicated opposite their names, said amounts having been found by the Chief Commissioner of the Court of Claims, pursuant to the provisions of sections 1492 and 2509 of title 28 of the United States Code, to be equitably due to each of said companies from the United States, together with simple interest thereon at 6 per centum per annum from June 2, 1967, to the date on which said amounts are paid:

Mocatta and Goldsmid, Limited, 7 Throgmorton Avenue, London EC2, England	$1,502,462
Sharps, Pixley and Company, Limited, 19 Great Winchester Street, London EC2, England	1,001,641
Primary Metal and Mineral Corporation, 666 Fifth Avenue, New York, New York 10019	851,395

On March 18, 1980, the Chief Commissioner filed with the Speaker of the House of Representatives, the report which he was instructed to file by H. Res. 108 (91st Cong., 2d sess.).

With the following committee amendment:

On page 2, line 5, strike the comma and all that follows through "paid" on page 2, line 7.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

MEDICARE SHOULD NOT BE SUBJECT TO A MEANS TEST

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I have just introduced a resolution in the Congress, a sense-of-the-Congress resolution, that is also being introduced this morning in the Senate by Senator HART and Senator MOYNIHAN.

This resolution expresses that this Congress does not believe that medicare should be subject to a means test.

I was shocked, Mr. Speaker, this weekend, to see the story released by the administration or leaked by the administration that the administration is considering having senior citizens in our country qualify for medicare by a means test, as though this were some giveaway or welfare program.

Mr. Speaker, it illustrates clearly the insensitivity of this administration to elderly people. I have had calls in the last 2 days from elderly who are saying, "Am I going to lose my medicare?"

To create this anguish and suffering to please a test balloon put up by the OMB I think is outrageous, and I hope the Congress will act on this resolution, as I know the Senate will, and send a clear message to our seniors that we do not believe they should have a means test on medicare, and a message to President Reagan and his administration that they better stay away from these programs.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO SIT ON WEDNESDAY, SEPTEMBER 22, 1982, DURING 5-MINUTE RULE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be permitted to sit on Wednesday, September, 22, 1982, during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I do so to inquire of the gentleman whether or not this has been cleared with the minority.

Mr. LELAND. Mr. Speaker, if the gentleman will yield, yes, it has been.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, does the minority agree to the gentleman's request?

Mr. LELAND. The minority that we have conferred with does.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE CRISIS IN LEBANON

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I rise today to remind my colleagues that when dealing with the crisis in Lebanon, judgments made in haste and from afar ofttimes prove to be fraught with inaccuracies and distortion. Night after night on network television we saw footage which led viewers to believe that Israel had wiped out Beirut. I was in the Lebanese capital about 3 weeks ago and found just the opposite—in fact much of Beirut was unscathed.

So, too, are we finding judgments in haste being made in the aftermath of this weekend's deplorable massacre in Lebanon. I understand and join in the worldwide condemnation of this event. However, I am disturbed by the reckless charges being directed against Israel before all the facts are known. I am certain that very few people knew until this morning's ad in the Washington Post that the particular area of the camp where the murderers entered was not guarded by the Israeli Army. I urge my colleagues in Congress and those individuals in the media not to fuel the fires of hatred against Israel in this volatile time. Let us not lose sight of the fact that we are dealing with one of our strongest and most important allies which for its entire 34-year history as a modern and sovereign state has had but one goal—to live in peace. Sadly this is a goal which has yet to be achieved.

HELSINKI COMMISSION TO HOLD HEARINGS ON ATTEMPTED ASSASSINATION OF POPE JOHN PAUL II

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, on Thursday, September 23, this coming Thursday, the Commission on Security and Cooperation in Europe, the Helsinki Commission, will hold hearings on the attempted assassination of Pope John Paul II on May 13, 1981.

More and more information is coming to light which leads disturbingly to a Soviet KGB role in that assassination attempt.

My colleagues, I know this sounds incredible, I know it sounds unthinkable, but the facts seem to point in that direction. In the light of ongoing debate over how to deal with the Soviets over arms, over trade, indeed over East-West relations in general, these Helsinki Commission deliberations have great consequences.

I also urge my colleagues to watch the NBC White Paper tonight at 10 p.m., which is done by the highly respected diplomatic correspondent, Marvin Kalb, on this same subject.

The facts that would seem to link the Soviet Union to the assassination attempt on the Pope's life are indeed disturbing; but it would be the height of folly to ignore them.

ADMINISTRATION SLEIGHT OF HAND ON MILK PRICES

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, we are witnessing another cynical hidden ball trick on the part of this administration.

Last month the administration pushed through this Congress a proposal which gives the Agriculture Secretary the authority to cut milk prices on October 1 by 50 cents a hundred-

weight. But now, in an attempt to lure dairy farmers into believing that the administration and their buddies in Congress who voted with them to cut dairy farmers' income have had a change of heart, they are very skillfully delaying that reduction in the on-farm price until 1 month after the election.

The transparent fact is that they are suggesting this delay simply to hide their intentions until after the November elections to save the skins of a few of their friends in this House.

I do not think dairy farmers are going to be fooled by that move. It is nothing but a delayed sneak attack, a back door dead-of-night tax increase on milk, which is being withheld only temporarily in order to help a few weak-kneed Members of Congress pretend they are friends of the American dairy farmer.

THE BEIRUT MASSACRE

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, late last week as many as 1,000 Palestinian men, women, and children were massacred by Christian militiamen in two refugee camps in Lebanon. There are conflicting reports raising the possibility that these attacks continued with the knowledge of some Israeli officers and, possibly, some members of the Israeli Government itself.

The people of the United States have stood behind Israel for many years, even when other allies yielded to international pressure.

Our stake in Israel is too great and our belief in Israeli democracy too strong to allow us to abandon our commitment to her survival and her integrity. However, the circumstances of the Beirut massacre must be explained fully and those responsible must be brought to justice.

A neutral and credible international agency must undertake a thorough and independent investigation. All of the facts must be established beyond dispute. No coverup of the Beirut massacre will be tolerated by this country or by the international community.

REQUEST TO MAKE IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 599 ON WEDNESDAY, SEPTEMBER 22, 1982, OR ANY DAY THEREAFTER

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, September 22, 1982, or any day thereafter, to consider in the House, House Joint Resolution 599, and that an amendment be in order to change the termination dates in sections 101(e) and 102. That is the continuing resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Reserving the right to object, Mr. Speaker, do I understand that what the gentleman is asking is for permission to take up the continuing resolution without a rule?

Mr. WHITTEN. That is right.

Mr. WALKER. And further reserving the right to object, do I understand that the motion of the gentleman would not permit any amendments other than those specified in his motion?

Mr. WHITTEN. That is true, in that this resolution is a hybrid, and it would be open to any amendments that were germane and, for that reason, it could possibly be debated for at least 1 month.

Mr. WALKER. Further reserving the right to object, it seems to me, however, that what that does is preclude some Members who were going to offer substantive amendments from doing so.

For example, I know of at least one Member who was going to offer an amendment with regard to school prayer. I personally was going to offer an amendment with regard to the Soviet use of slave labor on the pipeline. There are a number of amendments that would be possible under this, and we are not going to be able to do so under the procedure that the gentleman is outlining; is that correct?

Mr. WHITTEN. I would like to call the attention of the House to the fact that the continuing resolution is a hybrid. It is both an appropriation and an authorization bill. That being true, it would be subject to any number of germane amendments that would keep us here until Christmas just on that resolution.

So in the absence of an agreement, we would have to ask for a unanimous-consent agreement that would limit it so that we might get on with the resolution.

So that is the situation. You can either do it here, or we will be required to ask for such a rule, because it is necessary if we are going to provide for the orderly continuation of Government activities beyond September 30.

□ 1215

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the problem I see with this is the fact that many of the issues that we would like to see addressed on this floor, we only have one opportunity to address and that is when the appropriation bills come out.

Now the gentleman is outlining a procedure whereby we are going to be unable to do so.

Could the gentleman tell me this. What are the levels in here? Are we talking about 1982 levels of appropriations across the board?

Mr. WHITTEN. I think I made it rather clear, the existing fiscal year ends September 30. It is necessary in view of the situation with regard to appropriation bills, that we act as soon as possible. This year we have been held up by the trouble of agreeing upon a target resolution or deal with a reconciliation bill that is contrary to the Budget Act. That delayed us to the point that despite our efforts, we have two bills before the Appropriations Committee today, we have two on the floor today, and with all our efforts to complete our business, we are going to have to ask for a continuing resolution.

A continuing resolution, as I say, is a hybrid. It is an appropriation and also a legislative bill.

Since it will cover the entire Government at this time, unless we reach some arrangement by the rule or by unanimous consent, and I have asked the Rules Committee for a rule, we will be required to continue Government operations for some period of time until we can pass our regular bills. There are no further answers that I know of; but that is the situation.

Mr. WALKER. Mr. Speaker, further reserving the right to object, the gentleman has not answered my question. Are all funding levels in the bill at 1982 levels for the continuing resolution?

Mr. WHITTEN. The resolution is available, it is House Joint Resolution 599 and it was filed on September 16, and may I say in most cases the rates are tied to the lowest of the figures for this year or the bill itself as it passed the House or has been reported. In some instances, it is somewhat different, and in those cases the committee report discusses the situation facing us.

For the defense bill, the rate is somewhat different. Under the circumstances, and due to the great amount of work done and investigation which has been going on, that is treated differently. It is tied to the present level or the bill as it is reported or passed the House, whichever is the lower.

Mr. WALKER. Mr. Speaker, further reserving the right to object, do I understand the gentleman then that the figures in the bill, at least in the defense area, are considerably higher than the 1982 levels?

Mr. WHITTEN. Not at the present time; the continuing resolution says it shall continue at the present level until such time as the bill may be reported by the Committee on Appropriations. That was made necessary due to the delay and the delay, as I understand it, is because of an investi-

gation that has been going on since last February.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would be glad to yield to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I take it if this unanimous consent request is granted would preclude a vote on an amendment to eliminate funding for the Clinch River breeder reactor; is that correct?

Mr. WHITTEN. There is no purpose here to preclude anything, except that it is essential that we bring this bill up without all the amendments that might be offered if we want to get through in time to keep the Government in operation by the first of October. I am talking about the purpose of keeping the Government operating.

Mr. WALKER. Mr. Speaker, further reserving the right to object, then I understand the answer to that question is no, you would not be permitted to offer an amendment to the Clinch River breeder reactor; is that the understanding of the gentleman from Pennsylvania?

Mr. COUGHLIN. That is my understanding.

Mr. WHITTEN. All these matters will be subject to attention by the Congress when the various 13 appropriation bills come before the Congress; but in a continuing resolution, to rewrite the whole bill is not in line with orderly procedure and with the desperate situation we face timewise; so it is not precluding any of these things from coming up in the regular order, because the bills will be reported here and they will be voted on; but in a continuing resolution it normally would be the lowest of the existing bill and we try to avoid anything new in this bill; so you would not be precluded from bringing this subject up at the proper time; but the purpose of a continuing resolution is to keep the Government in business. We have to do it under such conditions as would make it possible to move on while we bring up the bills where all the amendments will be in order.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would be glad to yield to the gentleman from Indiana.

Mr. MYERS. Mr. Speaker, we all appreciate what the gentleman is saying here and no one regrets having to do this more than the Appropriations Committee; but if the functions of Government, the important functions of Government are to continue after September 30, this is the vehicle to allow it to be done.

Now, what the chairman is saying, the individual items that the gentleman from Pennsylvania, both gentlemen from Pennsylvania are concerned about, will come up, hopefully, between now and the 1st of October in the regular appropriation bills.

This is the time no one is going to try to preclude amendments being offered, but we are trying to keep this as clean as possible. If we start loading it down, we will be here until Christmas with the continuing resolution.

No one likes the procedure, but it is not really new. We have had to do it before. It is not the fault of the Appropriations Committee that we are in this predicament, but the country has to continue after the 1st of October and this is the only way it can be done.

I hope the gentleman will understand that to allow this debate to come up on the individual appropriations bill and hopefully we will have every one of them up by the 1st of October so we will get a swing at it and they will prevail, that bill will prevail.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I understand what the gentleman from Indiana is saying. It is a point that this gentleman has made on a number of occasions, but I do not criticize the Appropriations Committee for doing what has to be done.

On the other hand, we have been left on this floor with making decisions in appropriations bills which we are now precluded from making under this bill.

Mr. MYERS. Mr. Speaker, will the gentleman yield one more time?

Mr. WALKER. I would be glad to yield to the gentleman from Indiana.

Mr. MYERS. We hope to bring those bills up so the gentleman will get the opportunity before October 1, but soon after that we hope we will have every one of them up here so every Member will have that opportunity. That is the best we can do.

Mr. WALKER. Mr. Speaker, further reserving the right to object, my problem is that my hopes have been shattered too many times.

I would be glad to yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding.

I have three questions to ask the chairman. One is similar to the question asked by my colleague, the gentleman from Pennsylvania (Mr. COUGHLIN).

The first question is that this unanimous consent that the gentleman is asking would also preclude any discussion of the Tennessee-Tombigbee Waterway as another large project that we have been attempting to reduce in funding and eliminate in some respects?

Mr. WHITTEN. I do not know that it would eliminate any discussion, but insofar as the continuing resolution is concerned, as I explained earlier, it is essential and the more that you use it as a vehicle to pass substantive legislation, to that degree if it is open on that basis, we never would get through because anything germane to the 13 appropriation bills would be in order, as I understand it. In order to have a continuing resolution and keep the Government operating, we have had to follow this course and we regret it very, very much. We have had to do it for the last 3 years, because our friends on the other side had many bills over there but they could not get to them.

May I say that this bill is in line with what we have done in previous years, that is to keep the Government in business, that is what is involved in it. We have had to make certain adjustments as to what you tie it to because in some cases the bills have not gotten through the Appropriations Committee; but in view of that, we have to do it this way.

Now, we can do it by unanimous consent, or we have to go before the Rules Committee and ask them to restrict it to this so that we will not keep the Government from being folded up on October 1; so we are faced with doing this, as I see it, either this way or by getting a rule.

Mr. WALKER. Mr. Speaker, further reserving the right to object I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his comments on that question.

Let me just speculate on something that may happen. Suppose the water and energy bill comes before the House floor. Suppose the gentleman from Pennsylvania (Mr. COUGHLIN) is successful in deleting some funds for the Clinch River breeder reactor or the gentleman from Pennsylvania is successful in deleting some funds for the Tennessee-Tombigbee Waterway. Which funding levels would be approved if the continuing resolution proceeds? Would it automatically go to the levels as passed by the House in terms of the specific appropriation bill, or would we in authorizing this continuing resolution be back at the committee level, which would include both of those projects?

Mr. WHITTEN. As I recall, the only exception would be defense where there is quite a difference in that the bill has not yet been approved, I say I think because of the investigation that is going on now.

Insofar as the remainder are concerned, it would be the lower figure.

Mr. EDGAR. It would be the lower figure?

Mr. WHITTEN. Yes.

Mr. EDGAR. Just one additional question, if the gentleman would yield.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I understand the gentleman's concern about not opening up a pandora's box with lots and lots of amendments.

Mr. WHITTEN. Now, let me just say, I do not know about opening it up but if we want to keep the Government in business after October 1, I think we must do it this way.

Mr. EDGAR. The gentleman has made his position clear. The point that the gentleman from Pennsylvania would like to raise is that as you take this appropriation to the Senate side, they do have the right to add, as we have seen in the past, several hundred amendments and they will add those amendments and in conference the appropriation conferees from our side will pick and choose as to which one of those amendments are accepted.

Would it not be a more reasonable process for the gentleman to go to the Rules Committee today to request a rule that closes out most of the extraneous amendments, but those amendments that have let us say 50 Members of Congress cosigning would be acceptable and that would include things like the Clinch River and the Tenn-Tom and other major projects.

Mr. WHITTEN. May I say again, all of us have the right to our own viewpoint, it is my opinion having served in this capacity a long time and regretting the last 3 years where we have had to follow this procedure, that we proceed to handle what we must and forget the other things at the moment.

Mr. EDGAR. But the Senate will not forget them.

Mr. WHITTEN. May I say again, all the amendments that anybody has will be in order, or presumably will be in order, when the regular bill comes up; but if this is the vehicle for keeping us in business, because we have not got the bills through, I think we should limit it to this request and let the amendments on the subject matter come up otherwise.

Mr. EDGAR. Is it not true that the other body will have a privilege that this body will not have, and that is to add extraneous amendments?

Mr. WHITTEN. I do not know what they have on the other side, but on our side we have stood pretty strong through the years. Each year, I think last year we were up three nights to have our way; so I think we can trust this Appropriations Committee and the subcommittee chairmen who usually are on the conference. I think you can look at the past record and see that we have made a good record of standing up to our colleagues; but now, the gentleman understands that we cannot control what they might do on the other side.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I thank the gentleman from Pennsylvania.

There are several questions.

Mr. WHITTEN. Certainly.

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, may I ask a parliamentary inquiry?

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. CONTE. Mr. Speaker, if this unanimous-consent request is agreed to, will I still have the right to have a motion to recommit on the joint resolution?

The SPEAKER. The answer is yes.

Mr. CONTE. I thank the Speaker. That knocks out a lot of our problems.

One, I am with the gentleman from Pennsylvania on Clinch River and I am with the other gentleman on the Tombigbee and we can put some of these things, I think into a motion to recommit and work it out that way.

The other thing is, I say to the chairman, the gentleman has a February 28 date on the continuing resolution. I understand the Senate has a December 15 date. I will offer in a motion to recommit, I am not saying I am going to put all these things in a motion to recommit, because it may weight it down and we may just go with a clear shot on Clinch River and nothing else; but could the gentleman go along with a December 15 date on the end of the conference report? Everybody will have the right then to come in with their particular projects if the public works bill is not taken to the floor. Then we will have another continuing resolution during the lame-duck session.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say when I first introduced the resolution, I put in the sine die adjournment date on the basis that it would leave the leadership on both sides to say what the continuing resolution deadline would be.

I began to get some complaints about making it too short and putting our backs to the wall in trying to work it out with our colleagues on the Senate side. When I introduced this, I put in a termination date of February 28 so as to have no complaint about that date and it would be far enough to where we would have available room to operate the Government without some of the problems in between.

□ 1230

But it never was intended to stand firm on that date, but to leave it up to the leadership on both sides to agree on a reasonable date. The unanimous-consent request that I make, provides for changing that date to such as might suit the will of the Congress.

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I feel strongly. I offered the amendment in the full committee. I feel very, very strongly right now that the date for this continuing resolution should be sine die on December 15, and hopefully we will be out of here by December 15. So then anybody who has worries about Clinch River or Tombigbee, they are dragging their feet on the public works bill, not bringing it out, we will then have another continuing resolution at that time and we could fight those issues.

I agree with the chairman that we ought to get the continuing resolution out here today and pass it so we can get out of here and go back home and campaign, because we are under that kind of pressure—at least some people are.

Mr. EDGAR. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for his comments.

Mr. Speaker, I support the gentleman's effort on the Clinch River. I remind the gentleman that the Tennessee-Tombigbee vote came within 10 votes in the House and 2 votes in the Senate, even closer than the Clinch River, a year ago.

It seems to me because of the large number of Members who want to voice their opinion on those issues that in the motion of the gentleman from Massachusetts to recommit with instructions, he may want to consider targeting both of those projects because I think the Members of the House would like to have that opportunity to vote on this continuing resolution, because of our interest in cutting waste.

Mr. CONTE. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield further to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. I certainly would consider it, although I have some people back here saying that they would just want to zero in on the Clinch River amendment. But we will wait, we will talk, we will get a group together and talk it over and see what we want to put in that motion to recommit so we can have a clear vote.

Mr. WALKER. Mr. Speaker, we are now getting assurances that we will be able to address some of these issues in a continuing resolution following the election. I happen to think that a lot of these issues ought to be addressed prior to the election so the American people know exactly where we stand.

Therefore, Mr. Speaker, I do object.

The SPEAKER. Did the Chair hear an objection?

Mr. WALKER. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT—ADVISORY OPINION NO. 6

(Mr. STOKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STOKES. Mr. Speaker, I submit for printing in the RECORD at this point a formal advisory opinion approved unanimously by the Committee on Standards of Official Conduct on September 14, 1982, stating the committee's interpretation of clause 6 of House rule XLIII, the Code of Official Conduct, and House rule XLV, prohibition of unofficial office accounts.

The opinion was issued as a result of an inquiry concerning the application of these two rules to the use by a Member of campaign funds to advertise or promote a town meeting in his district and in areas newly added to the district by reapportionment after notice of the meeting has been mailed under the frank.

Copies of the opinion will be sent to the offices of all Members.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, HOUSE OF REPRESENTATIVES, ADVISORY OPINION NO. 6 (ISSUED SEPTEMBER 14, 1982)

GENERAL INTERPRETATION OF HOUSE RULE XLIII, CLAUSE 6 AND HOUSE RULE XLV

Reason for issuance

The Committee has received an inquiry concerning the application of House Rule XLIII, clause 6, and Rule XLV, to the use by a Member of campaign funds to advertise or promote a town meeting in his district and in areas newly added to the district by reapportionment after notice of the meeting has been mailed under the frank.

Background

House Rule XLIII, clause 6, prohibits a member from expending funds from his campaign account that are not attributable to "bona fide campaign purposes." Rule XLV, clause 1, bars a Member from maintaining, or having maintained for his use, "an unofficial office account." These provisions were included in the amendments to the House Rules made by H. Res. 287, 95th Congress, adopted pursuant to the recommendations of the Commission on Administrative Review. The Commission, in explaining the purpose of these rules, observed (*Financial Ethics*, H.R. Doc. No. 95-73, 95th Congress, 1st Session 23 (1977)):

"The Commission strongly believes that a wall should be built between political expenses and private money and official expenses and public money, that private money should not be relied upon to pay for the conduct of the House's official business. It regards such a wall as critically important to the integrity of the representative process. . . ."

Although federal statutory law (2 U.S.C. § 439a) generally would allow a Member to use excess campaign funds to defray ordinary and necessary expenses incurred in connection with holding office, the amendment to House Rule XLIII, clause 6, made by H. Res. 287, 97th Congress, specifically prohibits this practice. As the Select Committee on Ethics observed in its final report (H. R. Report No. 95-1837, 95th Congress, 2d Session (1979)): "The intent of this rule is to restrict the use of campaign funds to politically related activities and thus to prohibit their conversion to personal use or to supplement official allowances." Rule XLV has a similar purpose. It was intended to eliminate the potential for " 'influence peddling' through private financing of the official expenses of Members of Congress." See *Financial Ethics, supra*, at 18.

In adopting these rules, the House was aware that "there are gray area expenditures which could be classified (as) either political or official . . ." See final report of the Select Committee on Ethics, *supra*. The rules do not include any definition of "political" or "official" expenses. As Representative Frenzel observed during the debate on H. Res. 287, 95th Congress (123 *Cong. Rec.* 5900 (March 2, 1977)):

"What is political is a matter of fact rather than of definition. . . ."

* * * * *

"(W)hat we have tried to do is to confine expenses from political accounts or volunteer committee accounts to expenses that are political. *By and large, that definition will be left up to the Member and to his volunteer committee*, and as it is broadly defined under the election law." (emphasis added)

The Select Committee on Ethics, in its final report, *supra*, also expressed the view that Members should make the determination as to whether gray area expenditures are to be classified as political or official.

Summary opinion

This committee agrees that the determination as to whether a particular expense is for political or official purposes should be made by the individual Member. A gathering of a Member's constituents at a "town meeting" could be either a political (campaign) event, or an official (representative) one. In such a case, the Member is free to use his judgment in defining it as political or official. However, this committee is of the view that once the Member makes his determination, he is bound by it. A single event cannot, for purposes of the House rules, be treated as both political and official.

When a Member sends announcements of a town meeting under the frank, he has thereby made the decision that the event is an official one. Under federal law, the franking privilege may only be used in the conduct of official business. 39 U.S.C. § 3210(a)(1). Having thus defined the event as an official one, he may not then use campaign funds (Rule XLIII, clause 6) or any other private funds (Rule XLV) to conduct, promote, or advertise the event. (It is noted that Rule XLV was intended to prohibit the expenditure of private monies for official purposes even if no particular account or repository as such is maintained. See the colloquy between Representatives Panetta and Obey during the debate on H. Res. 287, 95th Congress, 123 *Congressional Record* 5941 (March 2, 1977).)

Because the town meetings that are the subject of this opinion were promoted in the first instance by means of the frank, they thereby become official and representational functions and it is an improper mixture of public and campaign funding to promote such official town meetings as political events. In a case such as this, the wall between public and private funding is easily placed.

Further considerations

Having stated the general rule that certain events or activities may be deemed "official" or "political" but not both, and that the Member must exercise his judgment in making such determinations, there are long established practices not offensive to the principle of separation that are not affected by this Advisory Opinion.

One such practice is a campaign committee making use of materials originally generated and used solely in the course of the Member's official and representational duties once the official use of the material is exhausted. For example, a Member may, at official expense and by means of the franking privilege, reproduce and distribute otherwise frankable reprints from the *Congressional Record*, radio and television programs, correspondence from public officials, etc. The Committee believes that Rule XLV, which prohibits outside contributions for official purposes, does not ban a Member from later distributing such items at campaign committee expense provided that *all* the expenses associated with reproducing and distributing the material are paid from campaign funds and the material itself or the context in which it is presented clearly establishes its campaign or political purpose and thus its non-official use, so that there would be no appearance that private funds are supplementing official allowances.

Another such practice occurs if an individual or organization, *without the Member's consent*, expends funds or donates services to advertise or promote some official or representational activity of the Member. For example, no violation would occur if a radio or television station in a Member's district promoted a Member's previously announced town meeting in public service announcements.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DISTRICT OF COLUMBIA APPROPRIATIONS BILL

Mr. DIXON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, can the gentleman assure me that this has been cleared with the minority?

Mr. DIXON. If the gentleman will yield, Mr. Speaker, yes; the gentleman from Pennsylvania (Mr. COUGHLIN) was just on the floor and was going to reserve all points of order.

Mr. WALKER. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

Mr. MYERS reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER CONSIDERATION OF A BILL MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF COLUMBIA ON THURSDAY, SEPTEMBER 23, 1982, OR ANY DAY THEREAFTER

Mr. DIXON. Mr. Speaker, I ask unanimous consent that it may be in order on Thursday, September 23, 1982, or any day thereafter, to consider a bill reported by the Committee on Appropriations, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL PARK SYSTEM PROTECTION AND RESOURCE MANAGEMENT ACT OF 1982

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend this remarks.)

Mr. BEREUTER. Mr. Speaker, I would commend the gentleman from Missouri (Mr. YOUNG) for offering the interstate compact and am pleased to join him as a cosponsor.

Beyond that, I would say to the House that tomorrow the House Interior and Insular Affairs Committee will consider H.R. 5162, the National Park System Protection and Resource Management Act of 1982, a hybrid bill combining H.R. 5976 offered by this Member and Representative JOHN SEIBERLING'S H.R. 5552.

Dozens of our colleagues demonstrated their concern for the future of the precious natural resources and the irreplaceable cultural features and scenery preserved in our 333 unit national park system by cosponsoring either H.R. 5976 or H.R. 5552. This Member urges present cosponsors of either of these two bills to reaffirm that commitment by cosponsoring a third bill, the revised H.R. 5162. We urge all other Members to look at the record and join in this vital effort.

PEACE IN THE MIDDLE EAST IS VITAL

(Mr. PRITCHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRITCHARD. Mr. Speaker, I support the President's decision to return a U.S. military force to Lebanon. While fully realizing the serious implications of such an action, I believe the United States must take the lead in bringing stability to Lebanon. All of our many past strenuous efforts for peace in the Middle East are at stake right now. It is essential for the United States to stand firm, to oversee the withdrawal of all foreign military forces from Lebanon, and to restore order. This will not be accomplished in a short period. Congress and the American people should support the President in his decision. It is absolutely vital to our national interest that we have peace in the Middle East, and if it requires the temporary presence of American military forces to achieve that peace, then that is the price we must be willing to accept.

DEMOCRATIC "GRAND STRATEGY" FOR FUTURE OF AMERICA

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I just saw a copy of the Democratic leadership's grand strategy for the future of America that was unveiled today.

You should have left the veil on it. Seldom have I seen so much political and economic trivia being masqueraded as something deserving of public attention at a time when serious people are trying to really get something accomplished.

The document I saw was nothing but a rehash of old 1980 party platforms, and pages and pages of empty, hollow political rhetoric.

I think I know why the Democratic Caucus felt an obligation to publish the document. The Democratic leadership has spent the last 2 years contributing absolutely nothing to the economic recovery of this Nation. You can not go into the final leg of an election with a record like that. You have to have something to talk about. So, just as this Congress is coming to a close, with the election 6 weeks away, you come up with this. As I see it Mr. Speaker, it is not better than nothing. It is worse than nothing.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TO FILE PRIVILEGED REPORT ON ENERGY AND WATER APPROPRIATIONS BILL

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for energy and water for fiscal year 1983, and for other purposes.

Mr. MYERS reserved all points of order.

The SPEAKER pro tempore (Mr. DONNELLY). Is there objection to the request of the gentleman from Florida?

There was no objection.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1983

Mr. LEHMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. LEHMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 7019, with Mr. FOWLER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, September 16, 1982, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $2,000,000.

The CHAIRMAN pro tempore. The Chair recognizes the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Chairman, I move to strike the last word. I do this in order that I might invite the distinguished gentleman from Florida, the manager of the bill and acting chairman of the subcommittee, to engage in a brief colloquy.

I note in the language of the Appropriations Committee report on H.R. 7019, at page 68, that the committee directs that $12,500,000 be allocated for the purchase of the Rock Island rail line between Fort Worth and Dallas, Tex.

Mr. LEHMAN. Mr. Chairman, I am pleased to announce to our distinguished majority leader that that is correct.

Mr. WRIGHT. I have been informed that in such rail modernization and

extension projects, UMTA may award either a grant or a loan to carry out such congressional direction.

I ask the gentleman whether the committee intended one or the other in its report language.

Mr. LEHMAN. As the distinguished majority leader may note, the committee made the finding that the proposed rail line purchase is, in fact, a rail modernization and extension project. The committee's intent in allocating the money for this project is that the $12,500,000 be awarded as a grant rather than a loan to carry out the purchase.

□ 1245

Mr. WRIGHT. I thank the gentleman for his elucidation, and I congratulate the committee on a very fine, craftsman-like work. This particular rail line, if acquired as planned by the local authorities under this appropriation, can provide the basis for a balanced transportation system which can be of vital service to the citizens of that metroplex in the years to come.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk proceeded to read title I of the bill.

Mr. LEHMAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title I of the bill be considered as read and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order to title I?

If not, are there any amendments to title I?

AMENDMENTS OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Chairman, I offer a series of amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. The Chair will inquire, are the amendments to title I?

Mr. COUGHLIN. They are to title I, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The portions of title I of the bill to which the amendments relate are as follows:

INTERSTATE TRANSFER GRANTS—HIGHWAYS

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to highway projects, $500,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, $788,000,000, to remain available until expended, for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1983: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements not expressly provided for in an appropriation Act or prohibited by this Act shall be deemed a violation of 31 U.S.C. 665: *Provided further,* That, of the funds available, $25,000,000 shall be made available only for the rehabilitation, renewal, replacement, and other improvements on the line between Indianapolis, Indiana, Shelbyville, Indiana, and Cincinnati, Ohio, to ensure that such track will meet a minimum of class 4 standards as prescribed by applicable Federal regulations.

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

For necessary expenses for research and training, as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $58,250,000: *Provided,* That $55,050,000 shall be available for research, development, and demonstrations, $2,000,000 shall be available for university research and training and not to exceed $1,200,000 shall be available for managerial training as authorized under the authority of said Act.

URBAN DISCRETIONARY GRANTS

For necessary expenses for urban discretionary grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until September 30, 1986, $1,630,000,000: *Provided,* That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

URBAN FORMULA GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for urban formula grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,300,000,000, to remain available until expended: *Provided,* That this appropriation shall be apportioned and allocated using data from the 1970 decennial census for one-half of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census: *Provided further,* That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs: *Provided further,* That, where necessary, the Secretary shall assist grantees in making such evaluation: *Provided further,* That upon the enactment of H.R. 6211 or similar legislation establishing a "block grant" program there shall be transferred to this appropriation $880,000,000 from the appropriation "Urban discretionary grants" and all funds under this heading shall be distributed in accordance with H.R. 6211 or similar legislation.

The Clerk read as follows:

Amendments offered by Mr. COUGHLIN: On page 13, line 23, strike "$500,000,000" and insert "$450,000,000".

On page 17, line 15, strike "$788,000,000" and insert "$700,000,000".

On page 18, beginning on line 5, strike the colon and all that follows down to and including the word "regulations".

On page 18, after line 11, insert the following:

REDEEMABLE PREFERENCE SHARES

(RESCISSION)

Of the funds appropriated under this head in Public Law 97-102 and Public Law 97-257, making appropriations for fiscal year 1982, $60,000,000,000 are rescinded.

On page 21, line 1, strike "$58,250,000: *Provided,* That $55,050,000" and insert "$56,250,000: *Provided,* That $53,050,000".

On page 21, line 11, strike "$1,630,000,000" and insert "$1,610,000,000".

On page 22, line 7, strike "$1,300,000,000" and insert "$1,200,000,000".

Mr. COUGHLIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, I am offering these amendments on behalf of the administration. The amendments, coupled with the one that will be offered later, reduces the funds in the bill by a total of $320 million. This is a compromise figure reached with the Office of Management and Budget. If the amendments are adopted, I am authorized to say that OMB supports the bill and will recommend that the President sign it.

Reductions of this magnitude will allow room for a subsequent budget amendment for additional money for the Federal Aviation Administration. These funds would be used for the first step in upgrading the air traffic control system. The $320 million called for in this block of amendments would be applied as follows:

First, reduce interstate transfer grants-highways by $50 million. The budget request for this account was $150 million. The committee recommended $500 million. This is one place where we can achieve a modest saving. The $50 million reduction should be applied on a pro rata basis to the list of areas and amounts found on pages 37 and 38 of the report.

Second, reduce Amtrak by $88 million. The administration requested $600 million for grants to the National Railroad Passenger Corporation and the committee recommended $788 mil-

lion. Subsequent to the budget request from Amtrak, on which the committee's work was based, Amtrak has taken a number of rigorous economy measures to reduce its operating expenses and improve productivity. As a consequence of these efforts, Amtrak has spent about $88 million less on operating expenses and will be able to give up $88 million of the amount originally recommended in this bill.

Third, rescind $60 million in redeemable preference shares under the National Federal Railroad Administration. This would be a reduction of $45 million for the East St. Louis project and $15 million for the Twin Cities grain route. Both of these projects are not going anywhere at the present time and could be delayed.

Fourth, reduce the Urban Mass Transportation Administration research and development by $2 million. This would come out of "new technology" money to be used for advanced group rapid transit. The budget request for UMTA research and development, new technology, was $100,000. The committee recommended $12 million, so $2 million can certainly be saved there.

Fifth, reduce UMTA section 3 urban discretionary grants by $20 million; $10 million would come from the $35 million for Los Angeles new systems and $10 million for Santa Clara new systems. Both projects are opposed by the administration and would only be slowed by this amendment.

Finally, reduce UMTA section 5 urban formula grants by $100 million. This would come out of the additional $285 million added by the committee to the President's budget request. The funds are to come out of tier 1. The administration, as the Members know, wants to phase out mass transit operating subsidies.

Mr. Chairman, in all, these amendments are either in programs where the money can no longer really be used, where it is not necessary or they are really a very modest percentage cut in other programs. It seems to me that it is worth taking this very modest step to try and assure that we have a bill that will be enacted into law and will be signed by the President. If these modest amendments are adopted we will have a bill that OMB can recommend be signed by the President.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield.

Mr. EDGAR. Mr. Chairman, could the gentleman explain in a little bit more clarity the amounts of cuts in terms of operating assistance compared to what the operating assistance funds levels are for this year?

Mr. COUGHLIN. The urban section 5 urban formula grants would be reduced by $100 million. We increased in the committee over the original request by $285 million, so we would still be $185 million over the original budget request.

Mr. EDGAR. Is it also true that in the gentleman's amendment he is asking for a percentage cut in the research and development funds under this first title?

Mr. COUGHLIN. There is a small cut in the research and development, new technology. That is the advanced group rapid transit funding. The administration request for that, I might say, was $100,000. The committee recommended $12 million, and we are suggesting cutting $2 million out of the $12 million, so we would still be $9,900,000 more than the original administration request.

Mr. EDGAR. I thank the gentleman for his explanation of those two issues and the two areas, and I think a much more thoughtful, gradual concern——

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. COUGHLIN) has expired.

(At the request of Mr. EDGAR and by unanimous consent, Mr. COUGHLIN was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. I think the gentleman has explained the two points very well, but as a strong supporter of public transportation I am not sure that many of our rural communities can afford the kind of substantial cuts in operating assistance that had been requested initially by the administration. I commend the committee for making sure that we did not move as aggressively on that issue.

In the area of research and development, I think the gentleman in the well has been a strong leader in trying to recognize the importance of research and development to our overall economic policy as a nation, and I am nervous when I see us dipping into and cutting below figures in the research and technology area. I know the gentleman from Pennsylvania shares that concern and is offering this amendment on behalf of getting a responsible bill passed, but I think it should be noted that research and development is important, and adequate public transportation in our metropolitan areas is also important. Many of these cuts that go negatively into those areas really hamper and short change, I think, many of our communities, both rural and urban, that are looking for quality public transportation.

Mr. COUGHLIN. I certainly agree with the gentleman. As the gentleman from Pennsylvania knows, I have been a strong champion of mass transportation for many, many years, dating back to my service in the State legislature. I certainly would like to see additional funding, but I think it is also important to have a bill that we can have signed into law. I do not think we are taking any meat-ax approach in this relatively modest amendment, and as I pointed out, in some cases the funds simply will not be used in any case.

I think under those circumstances the amendments are worthy amendments.

Mr. LEHMAN. Mr. Chairman, I want to thank the gentleman from Pennsylvania for all the hard work he has done to help us to produce this bill as the ranking minority member of this subcommittee. However, I do rise in opposition to the amendments. As I indicated last week during the general debate, this bill is a product of the legislative craftsmanship of Adam Benjamin. In developing this legislation the committee heard testimony from more than 240 witnesses from the executive branch, from the Congress, and from other groups and organizations. All members of the subcommittee supported this bill in full committee. I repeat—all members of the subcommittee supported this bill.

We are now faced with an OMB sponsored amendment which would cut $320 million from the bill—a bill everyone agrees does do something about the infrastructure of our country. As the gentleman from Pennsylvania (Mr. COUGHLIN) said last week in proclaiming his support for this legislation and I quote:

> This bill, the bill we have before us now, is the one that does do something about the infrastructure of our country. It is the bill that does build the roads. It is the bill that does repair the bridges. It is the transportation appropriations bill for this year.

I agreed with the gentleman last week. I do not agree that we can reduce highway, rail, and transit programs by $320 million and still have a bill which is responsible and responsive to the transportation needs of our Nation.

The Transportation Subcommittee and the full Appropriations Committee worked hard to produce a bill which is within our section 302 budget allocations and which provides urgently needed funds to improve our Nation's highway, rail, and transit systems.

I am sure all the members of the committee are aware of the rapid rate at which highways are deterioriating. One only needs to drive a few miles from this building to find deteriorating highways and local roads filled with potholes. I cannot support a $50 million cut in our highway program.

Our transit and rail systems are also vital in transporting people to and from work and bringing food to our tables. Good transportation is not a luxury. It is essential for maintaining and accelerating our Nation's economic development.

Mr. Chairman, the committee, including the gentleman from Pennsylvania, has worked long and hard to produce a responsive and responsible

bill. It is within our section 302 allocation for new budget authority. I believe the Congress should write appropriations bills and not the Office of Management and Budget.

I urge that the amendments be rejected.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. COUGHLIN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. COUGHLIN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 341]

Addabbo	Conable	Fish
Akaka	Conte	Flippo
Albosta	Conyers	Florio
Alexander	Corcoran	Foglietta
Anderson	Coughlin	Foley
Andrews	Courter	Ford (MI)
Annunzio	Coyne, James	Ford (TN)
Anthony	Coyne, William	Fountain
Applegate	Craig	Fowler
Atkinson	Crane, Daniel	Frank
AuCoin	Crane, Philip	Frenzel
Badham	Crockett	Frost
Bailey (MO)	Daniel, R. W.	Fuqua
Bailey (PA)	Dannemeyer	Gaydos
Barnard	Daschle	Gejdenson
Barnes	Daub	Gephardt
Bedell	Deckard	Gibbons
Beilenson	DeNardis	Gilman
Benedict	Dickinson	Gingrich
Bennett	Dicks	Ginn
Bereuter	Dixon	Glickman
Bethune	Donnelly	Gonzalez
Biaggi	Dorgan	Goodling
Bliley	Dornan	Gore
Boggs	Dougherty	Gradison
Boland	Downey	Gramm
Boner	Dreier	Gray
Bonior	Dunn	Green
Bonker	Dwyer	Gregg
Bouquard	Dymally	Guarini
Breaux	Dyson	Gunderson
Brinkley	Early	Hagedorn
Brooks	Eckart	Hall (OH)
Broomfield	Edgar	Hall, Ralph
Brown (CA)	Edwards (AL)	Hall, Sam
Brown (CO)	Edwards (CA)	Hamilton
Broyhill	Emerson	Hammerschmidt
Burgener	Emery	Hance
Butler	English	Hansen (ID)
Byron	Erdahl	Hansen (UT)
Campbell	Erlenborn	Hartnett
Carman	Evans (DE)	Hatcher
Carney	Evans (IA)	Hawkins
Chappie	Evans (IN)	Hefner
Cheney	Fary	Heftel
Clausen	Fascell	Hendon
Clay	Fazio	Hertel
Clinger	Fenwick	Hightower
Coats	Ferraro	Hiler
Coelho	Fiedler	Hillis
Collins (IL)	Findley	Holland
Hollenbeck	Minish	Scheuer
Holt	Mitchell (MD)	Schneider
Hopkins	Mitchell (NY)	Schroeder
Howard	Moakley	Schulze
Hoyer	Molinari	Schumer
Hubbard	Mollohan	Seiberling
Huckaby	Montgomery	Sensenbrenner
Hughes	Moore	Shamansky
Hunter	Moorhead	Shannon
Hyde	Morrison	Sharp
Ireland	Mottl	Shaw
Jacobs	Murphy	Shelby
Jeffords	Murtha	Shumway
Jeffries	Myers	Skeen
Jenkins	Natcher	Skelton
Johnston	Neal	Smith (AL)
Jones (NC)	Nelligan	Smith (IA)
Jones (OK)	Nelson	Smith (NE)
Jones (TN)	Nichols	Smith (NJ)
Kastenmeier	Nowak	Smith (OR)
Kazen	O'Brien	Smith (PA)
Kemp	Oakar	Snowe
Kennelly	Oberstar	Snyder
Kildee	Obey	Solarz
Kindness	Ottinger	Solomon
Kogovsek	Oxley	Spence
Kramer	Panetta	St Germain
LaFalce	Parris	Stangeland
Lagomarsino	Pashayan	Staton
Latta	Patman	Stenholm
Leach	Patterson	Stokes
Leath	Paul	Studds
Lehman	Pease	Stump
Leland	Pepper	Swift
Lent	Perkins	Synar
Levitas	Petri	Tauke
Livingston	Peyser	Tauzin
Loeffler	Pickle	Taylor
Long (LA)	Porter	Thomas
Long (MD)	Price	Traxler
Lott	Pritchard	Trible
Lowery (CA)	Pursell	Udall
Lowry (WA)	Quillen	Vander Jagt
Lujan	Rahall	Vento
Luken	Railsback	Volkmer
Lungren	Rangel	Walgren
Madigan	Ratchford	Walker
Markey	Regula	Watkins
Marlenee	Reuss	Weaver
Marriott	Rhodes	Weber (MN)
Martin (IL)	Ritter	Weber (OH)
Martin (NC)	Roberts (KS)	White
Martin (NY)	Roberts (SD)	Whitehurst
Martinez	Robinson	Whitley
Matsui	Rodino	Whittaker
Mavroules	Roe	Whitten
Mazzoli	Roemer	Williams (MT)
McClory	Rogers	Williams (OH)
McCollum	Rose	Wilson
McCurdy	Rosenthal	Winn
McEwen	Rostenkowski	Wirth
McGrath	Roth	Wolf
McHugh	Roukema	Wolpe
McKinney	Rousselot	Wyden
Mica	Roybal	Wylie
Michel	Rudd	Yatron
Mikulski	Russo	Young (FL)
Miller (CA)	Sabo	Young (MO)
Miller (OH)	Santini	Zablocki
Mineta	Sawyer	Zeferetti

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The CHAIRMAN. Three hundred sixty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. COUGHLIN) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will announce that 5 minutes will be allowed for the recorded vote.

The vote was taken by electronic device, and there were—ayes 154, noes 221, not voting 57, as follows:

[Roll No. 342]

AYES—154

Archer	Gunderson	Nichols
Badham	Hagedorn	Oxley
Bailey (MO)	Hall, Ralph	Pashayan
Bennett	Hall, Sam	Patman
Bereuter	Hamilton	Paul
Bethune	Hance	Petri
Bliley	Hansen (ID)	Porter
Breaux	Hansen (UT)	Pritchard
Broomfield	Hartnett	Pursell
Brown (CO)	Hefner	Rhodes
Broyhill	Heftel	Ritter
Burgener	Hendon	Roberts (KS)
Butler	Hiler	Roberts (SD)
Campbell	Hillis	Robinson
Carney	Holt	Roemer
Chappie	Hopkins	Rogers
Cheney	Hubbard	Roth
Clausen	Huckaby	Roukema
Clinger	Hunter	Rousselot
Coats	Hyde	Rudd
Conable	Jeffries	Sawyer
Conte	Jenkins	Schroeder
Corcoran	Johnston	Schulze
Coughlin	Kazen	Sensenbrenner
Coyne, James	Kemp	Shaw
Craig	Kindness	Shumway
Crane, Daniel	Lagomarsino	Skeen
Crane, Philip	Latta	Smith (AL)
D'Amours	Leath	Smith (OR)
Daniel, R. W.	Lewis	Snowe
Dannemeyer	Livingston	Snyder
Daub	Loeffler	Solomon
Dickinson	Lott	Spence
Dornan	Lowery (CA)	Stangeland
Dreier	Lujan	Stenholm
Dunn	Lungren	Stump
Edwards (AL)	Marriott	Tauzin
Emerson	Martin (NC)	Taylor
Emery	Martin (NY)	Thomas
Erdahl	McClory	Trible
Erlenborn	McCollum	Vander Jagt
Evans (DE)	McDonald	Walker
Fiedler	McEwen	Weber (MN)
Fountain	Michel	Weber (OH)
Frenzel	Miller (OH)	White
Gibbons	Montgomery	Whitehurst
Gingrich	Moore	Whitley
Glickman	Moorhead	Whittaker
Goodling	Morrison	Winn
Gradison	Myers	Young (FL)
Gramm	Neal	
Gregg	Nelligan	

NOES—221

Addabbo	Courter	Frost
Akaka	Coyne, William	Fuqua
Albosta	Crockett	Gaydos
Alexander	Daschle	Gejdenson
Anderson	Deckard	Gephardt
Andrews	DeNardis	Gilman
Annunzio	Dicks	Ginn
Anthony	Dingell	Gonzalez
Applegate	Dixon	Gore
Aspin	Donnelly	Gray
Atkinson	Dorgan	Green
AuCoin	Dougherty	Guarini
Bailey (PA)	Downey	Hall (OH)
Barnard	Dwyer	Hammerschmidt
Barnes	Dymally	Hatcher
Bedell	Dyson	Hawkins
Beilenson	Early	Heckler
Benedict	Eckart	Hertel
Bevill	Edgar	Hightower
Biaggi	Edwards (CA)	Holland
Bingham	English	Hollenbeck
Boggs	Evans (IA)	Howard
Boland	Evans (IN)	Hoyer
Bolling	Fary	Hughes
Boner	Fascell	Ireland
Bonior	Fazio	Jacobs
Bonker	Fenwick	Jeffords
Bouquard	Ferraro	Jones (NC)
Brinkley	Findley	Jones (OK)
Brodhead	Fish	Jones (TN)
Brooks	Flippo	Kastenmeier
Brown (CA)	Florio	Kennelly
Byron	Foglietta	Kildee
Carman	Foley	Kogovsek
Clay	Ford (MI)	Kramer
Coelho	Ford (TN)	LaFalce
Collins (IL)	Fowler	Leach
Conyers	Frank	Lehman

Leland	Oberstar	Skelton
Lent	Obey	Smith (IA)
Levitas	Ottinger	Smith (NE)
Long (LA)	Panetta	Smith (NJ)
Long (MD)	Parris	Smith (PA)
Lowry (WA)	Patterson	Solarz
Luken	Pease	St Germain
Madigan	Pepper	Staton
Markey	Perkins	Stokes
Marlenee	Peyser	Studds
Martin (IL)	Pickle	Swift
Martinez	Price	Synar
Matsui	Quillen	Tauke
Mavroules	Rahall	Traxler
Mazzoli	Railsback	Udall
McCurdy	Rangel	Vento
McGrath	Ratchford	Volkmer
McHugh	Regula	Wampler
McKinney	Reuss	Watkins
Mica	Rodino	Waxman
Mikulski	Roe	Weaver
Miller (CA)	Rose	Whitten
Mineta	Rosenthal	Williams (MT)
Minish	Rostenkowski	Williams (OH)
Mitchell (MD)	Roybal	Wilson
Mitchell (NY)	Russo	Wirth
Moakley	Sabo	Wolf
Mollohan	Santini	Wolpe
Motti	Scheuer	Wright
Murphy	Schneider	Wyden
Murtha	Schumer	Wylie
Natcher	Seiberling	Yatron
Nelson	Shamansky	Young (MO)
Nowak	Shannon	Zablocki
O'Brien	Sharp	Zeferetti
Oakar	Shelby	

NOT VOTING—57

Ashbrook	Duncan	McCloskey
Bafalis	Edwards (OK)	McDade
Beard	Ertel	Moffett
Blanchard	Evans (GA)	Molinari
Bowen	Fields	Napier
Brown (OH)	Fithian	Rinaldo
Burton, John	Forsythe	Savage
Burton, Phillip	Garcia	Shuster
Chappell	Goldwater	Siljander
Chisholm	Grisham	Simon
Coleman	Harkin	Stanton
Collins (TX)	Horton	Stark
Daniel, Dan	Hutto	Stratton
Davis	Lantos	Walgren
de la Garza	LeBoutillier	Washington
Dellums	Lee	Weiss
Derrick	Lundine	Wortley
Derwinski	Marks	Yates
Dowdy	Mattox	Young (AK)

The Clerk announced the following pairs:

On this vote:

Mr. Young of Alaska for, with Mr. Lantos against.

Mr. Horton for, with Mr. Moffett against.

Mr. Ashbrook for, with Mr. Weiss against.

Mr. Siljander for, with Mr. Garcia against.

Mr. McCloskey for, with Mrs. Chisholm against.

Mr. Dan Daniel for, with Mr. Simon against.

Mr. Collins of Texas for, with Mr. Phillip Burton against.

Mr. CARMAN changed his vote from "aye" to "no."

Mr. HEFNER changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EDGAR

Mr. EDGAR. Mr. Chairman, I offer an amendment.

The portion of title I of the bill to which the amendment relates is as follows:

URBAN FORMULA GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for urban formula grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,300,000,000, to remain available until expended: *Provided*, That this appropriation shall be apportioned and allocated using data from the 1970 decennial census for one-half of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census: *Provided further*, That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded after an evaluation of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs: *Provided further*, That, where necessary, the Secretary shall assist grantees in making such evaluation: *Provided further*, That upon the enactment of H.R. 6211 or similar legislation establishing a "block grant" program there shall be transferred to this appropriation $880,000,000 from the appropriation "Urban discretionary grants" and all funds under this heading shall be distributed in accordance with H.R. 6211 or similar legislation.

The Clerk read as follows:

Amendment offered by Mr. EDGAR: On page 22, line 12, strike all after the colon down through line 18.

Mr. EDGAR. Mr. Chairman, the amendment which I am offering is a technical amendment and it deals with a very technical issue in transportation policy.

This technical issue has arisen most recently in bus procurement. The House authorizing committee, the Public Works and Transportation Committee on which I serve and the subcommittee dealing with surface transportation, has dealt I think adequately with this particular issue.

Mr. Chairman, in 1978 I offered an amendment to the Federal Aid to Transportation Act of 1978 dealing with life cycle costs. It was a provision that was hopefully to nudge local operators to look at the long-term costs of rolling stock, particularly bus and rail transportation, and not only to look at the low-cost bid but to look at the life cycle costs so that you could judge what quality buy you are getting in that life cycle cost.

As a result of my offering the original language in the 1978 provision, the Appropriations Subcommittee on Transportation over the past few years has placed language in this appropriation bill mandating that life cycle costs be adhered to.

Since that mandating has taken place this has caused some problems in terms of delay, confusion, and added costs which were not my original intent in offering what I thought would be a constructive amendment.

□ 1330

The original intent was merely to address some complaints that had arisen that the Federal Government was forcing local systems to take the lowest initial bid on a contract without allowing the locals to consider the special requirements of their system or to consider what the best long-range deal was on the contract.

Obviously, we want the local systems to have some flexibility in their procurement practices in order to meet their special needs and get the best deal in the long run. The problem is that the specific language that is now in the law mandated by the Appropriations Committee has been so narrowly interpreted as to cause a great deal of headaches for the local system and in fact for UMTA.

Two procurements which have taken place under the new system required in the 1982 Appropriations Act have been severely delayed and many systems now wishing to procure rolling stock are being hampered. We worked with the Secretary of Transportation staff, Secretary Drew Lewis, in developing language in the authorizing committee that cares very adequately with this particular issue. It neutralizes, does not favor either Grumman or GM, bus procurement dealers in the United States, it neutralizes any favorability to either of those companies or other domestic manufacturers. What it provides for is a quarterly system for procuring stock, rolling stock, and provides that local operators can at their discretion use life cycle costs as one of the ingredients.

I understand that the findings of the Public Works and Transportation Oversight Subcommittee has also supported the conclusions which we reached in our authorizing language in the House bill, H.R. 6211.

I also feel that the amendment that I have offered in eliminating this language and substituting it, the authorizing language that is coming through tomorrow, will provide for more clarity among local operators in how to proceed.

The second sentence of the amendment which I offered in the House bill on the authorizing committee directs the Secretary of Transportation to report to us on any problems and recommendations regarding procurement procedures in order that we can insure that these practices are fair and equitable and puts this issue to rest so that there is no longer any additional confusion.

Mr. Chairman, the House Public Works and Transportation Committee recently reported H.R. 6211, a new authorizing bill, which contains the concept of flexibility I am seeking to achieve, and I do not think it is appropriate for the Appropriations Committee to contradict the direction in which the authorizing committee is moving. The bill, H.R. 6211, was considered.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. EDGAR) has expired.

(By unanimous consent, Mr. EDGAR was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. I think that it is important that, as the author of the original provision, as a member of the authorizing committee, as a strong supporter of H.R. 6211 which was cleared by the Rules Committee today, it seems to me appropriate that we allow the orderly process in the authorizing committee here and in the other body to work.

Again I remind my colleagues that the amendment language in the authorizing committee is supported by the Department of Transportation. It did have the agreement of the two American bus procurement dealers, and it does, I think, have the strong endorsement of the House Public Works and Transportation Committee.

I urge my colleagues to support the amendment deleting this language which is contradictory in the Appropriations Committee, and move in an orderly process to accept the will of the House authorizing committee in eliminating the confusion on this particular provision.

Mr. LEHMAN. Mr. Chairman, I rise in opposition to the amendment.

I certainly appreciate the position of my friend, the gentleman from Pennsylvania. As he explained, once the authorizing committee has completed its work this language will no longer be a problem.

However, our bill includes language continuing the requirement that performance, standardization, life cycle costs, and other factors, be evaluated in the process of making transit equipment procurements. We included this provision on the grounds that the committee has an obligation to insure that the taxpayers are receiving the most for their money. If this provision were not included in the bill, transit authorities would be forced to buy equipment based solely on the lowest initial bid price. That may sound like a good idea on the surface, but basing procurements solely on the lowest initial bid price means that a city cannot make allowances if the cheapest bus or railcar costs more to operate or wears out faster or breaks down more frequently. We think a system which allows the transit authority to evaluate their costs over the life of the product makes more sense.

Mr. Chairman, as a longtime person in the automobile business, I know, as every Member of this House does, that in making personal decisions in buying cars or homes you do not necessarily buy the cheapest car on the market. You look at the gas mileage, the potential maintenance costs and many other factors to determine the best buy.

We think that rationale should apply to our transit vehicle procurements.

Now, some have criticized life cycle costs as being unworkable. We have been concerned that the initial life cycle cost procedures developed by Urban Mass Transportation Administration were too cumbersome and involved too much redtape. Since then UMTA has been working at our direction to simplify these procedures and promote them within the transit community. We think UMTA's efforts will pay off.

Also, the American Public Transportation Association told UMTA in May 19, 1982, that "In general, life cycle costing is considered a workable approach."

APTA is taking steps to establish a life cycle cost evaluation information exchange and is working on guidelines to assist in the procurement procedure.

In sum, we believe the transition problems of converting to a new procurement procedure can be overcome, and we believe the benefits of those life cycle cost procedures are worth the price.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding, and I thank the gentleman for his explanation of this issue.

I think the gentleman and I have the same common cause. My amendment does not delete life cycle costs. It simply says that the confusion that has arisen on life cycle costs within UMTA and within the industry be clarified by the authorizing language that is in the House authorizing committee. It is also in the same language that the Senate will be offering.

So whether you deal with the issues here or whether you deal with it in conference, we have assurances from the Senate that the clarification of this important issue, support of life cycle costs, will have to take place so that local operators will have some clarity as to how to proceed.

I commend the gentleman for suggesting that once the authorization bill that is before us tomorrow becomes law, it will supersede this language. And I also commend the gentleman in recognition that life cycle costs are important. My concern was that UMTA was in a great deal of confusion and so in our process we worked with the UMTA counsel to develop language within the authorizing legislation to preserve the concept of life cycle costs which in fact was my original amendment in 1978, but to do it in a clearer way than simply mandating it as you do in the appropriation bill at this time.

So I commend the gentleman for his support of life cycle costs. I, too, support them. I commend the gentleman for his willingness to accept the authorizing committee's work when it becomes law. I simply ask the gentleman to save himself some time and some energy in accepting this amendment so that we do give some clarity both to UMTA and the Department of Transportation and to the industry that deals with rolling stock.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, can the gentleman from Florida tell me what our situation would be if we adopt the amendment offered by the gentleman from Pennsylvania and then no transit bill becomes law?

The CHAIRMAN. The time of the gentleman from Florida (Mr. LEHMAN) has expired.

(By unanimous consent, Mr. LEHMAN was allowed to proceed for 1 additional minute.)

Mr. LEHMAN. I would answer the gentleman from Minnesota that the fact is that this amendment deletes the language and there is no certainty that the authorization will take effect, therefore, I have to continue to urge defeat of the amendment.

Mr. SABO. I thank the gentleman. I would join the gentleman in urging defeat of this particular amendment.

Mr. ALBOSTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Pennsylvania a couple of questions pertaining to his amendment so that I might better understand it. As I understand the amendment offered by the gentleman from Pennsylvania, the intent of it would be to eliminate the performance standardization life cycle costs requirement in order to loosen Federal control over the equipment procurement process and give greater decisionmaking authority to the transit agencies.

Mr. EDGAR. That is correct.

Mr. ALBOSTA. As the gentleman knows, I would support the amendment in an authorization bill which would have this impact. I have a particular concern at this time. Is it the gentleman's intent that if the requirement in this bill is removed, it is our clear intent that UMTA should not return to a mandatory low-bid policy?

Mr. EDGAR. It is the gentleman's intent that UMTA, which has agreed to the language which you and I supported in our authorizing committee, which makes it a part of the consideration but not a mandatory part of the consideration, and provides some strict guidelines on how rolling stock can be provided, would take effect. The gentleman I think asks an important question. It gives maximum flexibility to the locals while at the same time reminding those locals in a very strong and positive way that life cycle consid-

erations must be a part of their process.

Under the present existing language that this law reflects or this particular language reflects that I am trying to delete, presently we are causing a great deal of confusion at the local level as to whether locals or whether the Federal Government has the right to turn down a contract because life cycle costs may or may not have been the contributing factor to the decision.

I think the Department of Transportation's counsel, I think the counsel for the bus companies, both domestically and internationally, have looked at the language in the authorizing committee. Everybody came together and agreed the language on the Senate side agrees with the language that we have in our authorizing committee. This simply clarifies it so that we do not drag on two conflicting things, one mandated by the Appropriations Committee and one mandated by the authorizing committee.

Mr. ALBOSTA. Then it would be the intent of the gentleman's amendment that we could speed up the process in purchasing buses. I have a situation in Michigan where a certain city has been 18 months trying to negotiate how they are going to purchase those buses. It has been just a seesaw battle back and forth with the Department of Transportation, without any clear way that they could settle the differences in how those buses are going to be purchased.

Just to give you an example, this particular city has one particular make of bus that they carry parts for. They carry the head gaskets for the engines, they carry wheels, they carry brake linings, and so forth. And certainly it would make it much easier for them to be able to continue to use that bus, and it would have a life cycle repair cost that would be much more favorable than some other make of bus where they would then have to go into their parts and supplies, and so forth, and train mechanics to be able to repair them. So if that is the intent of the gentleman's amendment——

Mr. EDGAR. That is the intention of the gentleman from Pennsylvania. We have had great delays at a time when we need to get more buses on the road. We have had great delays in the procurement of buses. I think all of us want to have the best quality bus, not just the bus that lasts the longest, but the one that is the most efficient for the system. What we tried to get away from in offering the 1978 language was the fly-by-night outfits that were making buses that simply fell apart.

□ 1345

Now, I think we have toned and pressured the domestic manufacturers of buses to try to give us the most usable bus possible and the confusion in the appropriation language and the authorizing language has caused great delays. We wants to accelerate the process of bus purchases by conforming to what the authorizing committee of the House Public Works committee has already agreed to and that is the purpose of deleting this language that is contradictory in this bill.

Mr. ALBOSTA. I thank the gentleman for his answer.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment reluctantly, but I think we have to face the fact that unless the bill stays as it is, it would remove the requirement for life-cycle costing and would take us back to initial costing.

There is really no guarantee that the authorizing bill will pass. If it does pass, it supersedes this. However, there is no guarantee.

There has also been some question whether it might be vetoed by the President if indeed it does pass. If we are going to continue to have life-cycle costing it is necessary to continue to have this language in the appropriation bill.

I, therefore, reluctantly oppose the amendment of my colleague and hope it will be voted down.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I would be happy to yield to my colleague.

Mr. AuCOIN. I want to associate myself with the remarks of the gentleman from Pennsylvania.

I think Members ought to recognize that the Appropriations Committee has no quarrel with the authorization committee wanting to perfect, clarify and improve in any way what we seek to do here; but in the absence of legislative agreement by the authorizing committees, the striking of this amendment leaves no provision to protect the interests of the taxpayers.

I would remind our colleagues that the rolling stock we are talking about here is subsidized by the Federal Government approximately by 80 percent of the total purchase price. That is a fairly substantial Federal subsidy.

All we are saying is that when purchases are made and Federal subsidies are involved, we want to make sure that life cycle costs are fully reflected.

So I agree with the gentleman from Pennsylvania, we would be very premature to strike this language now before the authorizing committees have done this work that they say that they intend to do.

Mr. Chairman, I strongly support this bill and want to commend my friend and colleague Mr. LEHMAN for stepping in to guide this bill through the floor in the wake of the tragic loss of our good friend and colleague Adam Benjamin. I also want to call attention to the fine professional work done by the subcommittee staff Tom Kingfield, Greg Dahlberg, and Jeni Lessor, and I would like to thank them for their great assistance to me on the subcommittee. I also want to thank Betsy Stark who was of great assistance, not only to Adam, but to all of us on the subcommittee.

This bill is under budget. Among other things, it provides $3.6 billion for urban mass transit, $2.3 billion for the Coast Guard, $513 million for highway programs, and $2.5 for FAA program operations.

Few things are more vital to economic development than a thriving national transportation system. Businesses lose money because of bad roads, and so do consumers. But this country's roads, bridges, railroads, and airports are wearing out faster than they can be improved; 40 percent of this country's bridges need major repair—200,000 of them. Our airway system badly needs modernization. Ports are in danger of collapse.

A healthy and thriving transportation network means economic development, increased commerce, new plants, and it means jobs in the construction and supply parts industries, and for those who travel over our roads and use our transit systems to get to work.

Last week during debate on the emergency jobs bill we heard statement after statement calling attention to how badly this Nation's infrastructure needs rehabilitation and how badly our construction workers need jobs.

This bill could help create as many as 600,000 new jobs.

And again, our bill is under the budget resolution this House adopted just a few months ago.

It is pure folly to fail to recognize how severe our transportation problems are, and to fail to invest this Nation's resources into programs which are critical to any hope of economic recovery we might entertain. Putting off neeed repairs now will only cost us more later. Frank Francois, executive director of the American Association of State Highway and Transportation Officials, says, "Highway maintenance has been put on hold, but highway deterioration will keep rolling along, picking up speed * * * much of the Interstate System will go in the early 1980's."

And Secretary Lewis said in an interview with Rochelle Stanfield of the National Journal that "Our highway system, our bridges, and our mass transportation system are just falling down behind our ears." Repair "can be deferred 6 months, a year, 2 years—but sooner or later it cannot be deferred any longer. When you cut back by not fixing a pothole, you end up

with a highway rehabilitation project that escalates geometrically."

According to the Advisory Commission on Intergovernmental Relations, improved highways are as important as tax incentives to stimulating new business. Equally as important.

Putting off repairs is a double whammy for the taxpayers. They get hit once because delayed projects cost more once we get around to them and then again when businesses fail to invest and produce new jobs and economic growth because of crumbling pavements and bridges.

Another part of this bill deals with the Coast Guard, an agency of particular importance to the region of the country I represent. The Coast Guard's service to this country cannot and should not be underestimated by anyone. It is this country's first line of national defense, patrols our waters, enforces our fisheries agreements, searches and responds to water pollution disasters, maintains safe channels of navigation, prevents enormous quantities of drugs from reaching the streets of our cities, and most important of all, saves the lives of those who depend on the resources of the sea for their very livelihoods.

Last year alone, our dedicated personnel in the Coast Guard saved 5,500 lives. They seized contraband valued at more than the Coast Guard's entire operating budget. And they rescued private property valued at $2 billion. It has managed to provide these services with outdated equipment and inadequate funding for years. We have taken most of its missions for granted. We cannot afford to do so anymore.

It is severely overburdened at the same time it has been underfunded, and its services have been stretched to the breaking point. They have operated under a patch, fix, and repair mode for too long and it is well past time for us to back up our rhetoric of support with the wherewithal for the Coast Guard to do what we tell it to.

What bothers me the most about the irresponsible budget cuts this Congress was forced to adopt last December under the threat of a veto by the President, and by the series of revised cuts we were presented with last year and this year, is this fantasy that all of these cuts can take place and we will not substantially affect real responsibilities and service.

One example: Our committee learned from the Coast Guard during hearings that if we adopted the administration's original budget proposal for 1983, that the Coast Guard could not afford to operate 18 brand new medium range surveillance Falcon jets which are being delivered this year. Thankfully the administration has now requested the necessary funds to operate these jets and to continue the procurement program.

This committee, under the fine leadership of our good friend the late Adam Benjamin, refused to accept the concept of a "no growth" transportation budget. This bill addresses both the fiscal needs of the agencies it funds, and the need to make budget cuts where we can and must.

This is a good bill. I urge my colleagues to support it.

Mr. COUGHLIN. Mr. Chairman, I thank my colleague, and I yield to my colleague, the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, I, too, oppose this amendment.

I would like to read briefly a paragraph from a letter by William Chapman of the General Motors Corp.

Mr. Chapman indicated recently that of six known bids for advanced design buses which are now pending, four of the transit authorities, Buffalo, Flint, Madison, and San Juan, have chosen a life cycle cost system over a low bid.

What we are saying here is that the present language in the appropriation bill gives the secretary flexibility to do either/or.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to my colleague.

Mr. EDGAR. I am not going to call for a recorded vote on this. I think the discussion has been helpful, but I think the facts ought to be clear. The 1978 authorizing bill authorizes life cycle costs. If this language is deleted, that authorizing language is still in law.

The reason that I have offered it at this time is that the Department of Transportation, both GM and Grumman have come to our Public Works Authorizing Committee and said it makes no sense to continue the delays, the confusion over the question of life cycle costs. Everybody is in agreement that life cycle costing ought to be one of the considerations given to the local operators in making some choices.

The question is whether or not to mandate that as the only requirement compared to other requirements and through language that we have worked out with UMTA and the Department of Transportation and supported by them, and the gentleman from Pennsylvania has just offered an amendment supported by the administration, this, too, is supported by them, and they supported it in the authorizing committee and also worked out between the two major manufacturers, GM and Grumman.

I know it is not the right place to write this legislation on the House floor, but I am simply saying that both in the Senate and in the House authorizing committee we are going in a slightly different direction than this language mandates.

I commend the gentleman from Pennsylvania and the gentleman from Florida for agreeing to the fact that once the gentleman from California (Mr. ANDERSON) and the gentleman from New Jersey (Mr. HOWARD) bring their bill to the House floor and it passes and is signed by the President, continuing transportation authorization for a year, that language will supersede this.

The language in that bill was written by the gentleman from Pennsylvania (Mr. EDGAR) and was agreed upon by all those parties; Grumman, GM, and the Secretary of Transportation; so I think we are really making some statements here that are not exactly correct, but if this language is deleted that all chaos will break loose and that simply is not true. It simply will send a clearer message to those who are purchasing rolling stock.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. COUGHLIN was allowed to proceed for an additional 30 seconds.)

Mr. COUGHLIN. Mr. Chairman, I just would like to say, however, that we are all in agreement that when the authorizing legislation passes, it supersedes this.

There is a chance that that authorizing legislation will not pass. There also is a chance that if it does pass, it may be subject to a veto. For these reasons, we feel this should be kept in the bill.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EDGAR).

The amendment was rejected.

Mr. MYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will take just a few moments here to inquire of the chairman of the subcommittee of what supervision or oversight does the Federal Highway Administration provide for the various States as far as construction and the use of Federal money and Federal aid to highways are concerned.

I give an example in my own home State of Indiana, and even more particularly my own home county; a new bridge is needed over a small stream, needed very badly; yet the Indiana State Highway Commission is going to build at least a quarter-mile approach, the grade approaching that bridge, up about 6 feet, which will about double the cost of that construction when it really is not needed.

I have asked the State why they are going to build that grade up so high when only the new bridge is needed, and they have explained that it is for the 100-year flood.

I have lived in that community not quite a hundred years, but well over

half of it, and I have inquired of some people who have kept history there and that small creek has never gone over this grade. If it did, it would only be for a few hours; yet the State is going to waste money on raising this grade when there are so many other bridges that should be constructed with that additional money.

I realize that it is counter to my usual action here, that I think States and local governments can do a better job of spending money than the Federal Government can; but this is one instance where the State will be wasting money.

Is there any supervision provided by the Federal Highway Administration?

I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, I thank the gentleman from Indiana for bringing this to our attention. I am aware of the conversation that the gentleman had with our late chairman, the gentleman from Indiana, Adam Benjamin, with regard to this matter.

The obligation of the Federal Highway Administration is only to assure that Federal standards are met, not to superimpose a detailed Federal decisionmaking process on the State authorities themselves.

Mr. MYERS. In answer to my question, the State can go ahead and waste money like this, even though it is Federal money and we have little control over that waste of money?

Mr. LEHMAN. As long as it does not violate Federal Highway Administration standards, then the Federal Highway Administration does not intercede.

Mr. MYERS. Well, I have mixed emotions about this, because the gentleman and I both agree on States rights, and we are strong advocates of this; however, this is one instance, there are many bridges throughout the country that need to be replaced and two bridges could be built with the money instead of one if they would do it in a reasonable manner; yet they are going to waste money on this particular project.

Mr. LEHMAN. Well, certainly the New Federalism cuts both ways sometimes.

Mr. MYERS. That is true. I thank the chairman for his response.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment which appears in two parts: on page 3, line 18, and on page 5, line 5.

Mr. Chairman, inasmuch as this is an amendment which has been worked out with both the majority and the minority sides of the committee and it is acceptable to both the majority and the minority, I ask unanimous consent that it be in order at this time and that the two parts be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The portions of title I of the bill to which the amendment relates are as follows:

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles, for replacement only; and recreation and welfare, $1,587,908,000, of which $254,650 shall be applied to Capehart Housing debt reduction: *Provided*, That the number of aircraft on hand at any one time shall not exceed two hundred and ten exclusive of planes and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation, and, notwithstanding any other law, the Secretary may prescribe fees to recover the expenses of yacht documentation.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $50,094,000.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: On page 3, line 18, after the word "reduction" insert the following: ", together with an amount not to exceed $14,000,000 which shall be derived from appropriations for retired pay,".

On page 5, line 5, after "$50,094,000" insert the following: "together with an amount not to exceed $4,000,000 which shall be derived from appropriations for retired pay".

Mr. STUDDS. Mr. Chairman, this amendment provides for the transfer of $18 million from the Coast Guard retired pay account to operating expenses and reserve training. Three facts need to be emphasized with respect to this amendment:

First, it will not add one penny to appropriations currently contained in this bill;

Second, it is designed to address a host of problems facing the Coast Guard as a result of the tight budgetary situation within which the Coast Guard has had to operate during the past year and a half;

Third, the transfer of funds from the retired pay account will still leave the Coast Guard with sufficient funds to meet its obligations to retired Coast Guard personnel during the 1983 fiscal year. This money is available for two reasons: The Coast Guard retirement rate was considerably less during 1982 than anticipated due primarily to uncertainties about the economy, and second, because the Omnibus Reconciliation Act of this year provides for reduced cost-of-living increases for retirees below the age of 62, and for a delay in the cost-of-living increases for all Coast Guard retired personnel.

The increase in funds for operating expenses will be used for the following purposes:

First of all, approximately $1.4 million will be needed to restore budget cuts made in the short range aids to navigation program. These reductions have caused problems throughout the United States, and have led the Coast Guard to announce plans to remove nearly one-fourth of all offshore navigational aids off the mid-Atlantic and Northeast coasts of our country; they have caused the decommissioning of two Coast Guard buoy tenders, and resulted in reduced navigational aids maintenance capability in the gulf coast, the Great Lakes, and the Pacific Northwest.

The amendment would provide approximately $4 million to restore cuts made in Coast Guard recruiting and training programs. The Coast Guard Subcommittee has received a large amount of testimony over the past 2 years emphasizing the importance to the service of recruiting the best possible applicants, and of providing quality training in law enforcement and the other important missions of the Coast Guard. The funds in this amendment should help us to regain at least some of the ground lost in these areas as a result of budget cuts made last year.

The appropriations bill before us does not at present include any money for the continuation of the Coast Guard's Haitian migrant interdiction program. Although I personally continue to have problems in principle with this program, the fact is that this program has been successful in achieving its goal of reducing illegal immigration, and more importantly, I am convinced it has saved many human lives. The Coast Guard's most important mission is to save life, and the Haitian migrant program ought to be continued at least until a more satisfactory long-term solution to this problem can be achieved.

The appropriations bill also contains only half-year funding for the vessel traffic service systems presently operating in Berwick Bay, and New Orleans, La., and in San Francisco. I do not believe anyone here would be willing to support the abrupt termination of these services on March 30, and my amendment would provide funding to make certain that this does not occur.

Finally, my amendment would provide $4 million in funds for Coast Guard Reserve training. The appropriations bill as it now stands would result in a reduction in Reserve training from the 1982 level, despite the lack of any testimony from anyone that I am aware of that this would be

in the national interest. My amendment would permit the Coast Guard to finance support and training for the Coast Guard Reserve at the authorized level of 12,000, the same level it was able to maintain during 1982. I would point out that the 12,000 level is still only 55 percent of the level required for defense mobilization purposes, and that Coast Guard reservists contribute enormously and efficiently to the performance of regular Coast Guard peacetime missions, as well as in preparation for war or national emergency.

Let me repeat that this amendment will not add in any way to the cost to the taxpayer of the legislation before us. It will, however, make a significant contribution to all those who depend on the Coast Guard for any of the wide variety of services which it provides. I do not believe this amendment will be controversial and I hope it will be accepted by both the minority and majority sides.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, the majority has examined the amendment and has no objection to it and would like to see it adopted.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, as a member of the Coast Guard and Navigation Subcommittee, I would like to add my support for this amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

This amendment would transfer $18 million from the retired pay account of the Coast Guard to other accounts where additional funding is needed. This transfer is possible because the Coast Guard will be able to meet its obligations to retired personnel without this additional amount. Thus, the transferred amount would be divided between operating expenses and Reserve training in the amounts of $14 and $4 million, respectively.

The additional amount for operating expenses will be to support ongoing Coast Guard programs, but in particular the short-range aids to navigation program, recruiting and training programs, the Haitian migrant interdiction operations, and needed routine maintenance of vessels and aircraft used for search and rescue and law enforcement. The additional funds for Reserve training are to support the Reserve program at the newly authorized level of 12,000 reservists. I urge all my colleagues to approve this amendment which will serve to make the Coast Guard more effective and keep the total funds within the bill at the level approved by the Appropriations Committee.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, the minority has no objection to the amendment and certainly accepts the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I compliment the gentleman from Massachusetts for his amendment.

Mr. Chairman, I rise in support of this amendment and urge my colleagues to support it. We have an opportunity here to transfer funds to the Coast Guard's seemingly always shortchanged operations account.

It is my understanding that fewer personnel retired than were anticipated. In addition, lower COLA's, based on lower inflation rates, have made funds available which otherwise would not be. To this extent, and to the extent that we continue to expect the Coast Guard to perform at the optimum levels, I think we should agree to this amendment.

As I have said in the past, it is the Congress which has put numerous responsibilities on the shoulders of the Coast Guard, and it is the Congress which is always ready to criticize when the Coast Guard appears to be performing at less than expected. To those of my colleagues who do jump to criticize, this is a chance for you to help assure that the Coast Guard continues to render the level of service we expect.

By voting for this amendment, you will be voting to transfer funds to the category which pays for the services such as search and rescue and so forth. Thus you will be putting up the funds to allow the Coast Guard to live up to your expectations.

I urge a vote for the amendment.

● Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment offered by my colleague and the chairman of the Coast Guard and Navigation Subcommittee which would redistribute the money contained in title I of this bill for the Coast Guard.

First, I would like to commend the Appropriations Committee for bringing this bill to the floor and for the support they have shown for the programs of the Coast Guard. The Coast Guard traditionally has made great contributions to our country in the areas of search and rescue, law enforcement, military preparedness, drug interdiction, merchant marine safety as well as the other needed responsibilities with which they are charged. It seems that whenever the United States requires expertise in the maritime area, it turns to the Coast Guard. Thus, it is extremely important that we provide proper and adequate funding for these important programs.

As the Representative from the State of Alaska, I have repeated over and over again that the services of the Coast Guard are extremely valuable and essential to that region. However, I submit that they are required throughout the entire maritime community and ultimately to the Nation as a whole. We, in Alaska, need both effective fisheries law enforcement and search and rescue coverage to protect both the livelihood and lives of our people. Thus, the safety of life and property at sea and security of our Nation require that we approve the funding in this bill so that the Coast Guard can carry out these essential responsibilities and duties.

The amendment offered by the gentleman from Massachusetts transfers $18 million from the retired pay account of the Coast Guard to other accounts where additional funding is needed. The Coast Guard will still be able to meet all of its obligations to its retired personnel in the funds that remain in the retired pay account. Thus, the reduced appropriation figure will not adversely affect those who have completed their long and valuable careers in the service of the Coast Guard.

What the amendment provides is $14 million in additional funds for operating expenses and $4 million in additional funds for reserve training. The operating expense money will be used to carry out the day-to-day, multimission functions of the Coast Guard. In particular, the funds are needed to restore budget cuts in short-range aids to navigation programs and the recruiting and training programs. Further, it is to adequately finance the maintenance of the Coast Guard's vessels and aircraft and to continue activities such as the Haitian migrant interdiction operation throughout fiscal year 1983. The Reserve training funds will be used to train the Coast Guard Reserve at the newly authorized level of 12,000 ready reservists.

Thus, these additional funds which are being transferred from the retired pay account are going to be redirected to important activities and functions that the Coast Guard performs. Therefore, I urge that this amendment be accepted and approved as part of the overall DOT appropriations bill.●

● Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of the amendment. This amendment will not cost any money, and it will help one of the most cost effective agencies of the Federal Government to do its job even better. Each year the Coast Guard saves more than $1.5 billion of private property, which I might point out is more than its annual operating

budget. It also saves lives—more than 5,000 lives were saved last year alone and no dollar figure can be attached to that.

This amendment simply recognizes that one part of the Coast Guard's budget, retirement, has a surplus this year, while other parts are in desperate need of funding. The gentleman's amendment will restore funds to the short-range aids to navigation program, provide for maintaining aircraft and vessels, allow the continuation of the Haitian operation, and finance Reserve training. I know from experience in my own State of Delaware that short-range navigation aids are essential to the smooth functioning of our Nation's ports. Maintenance for ships and planes cannot be reduced without a corresponding reduction in essential services.

The amendment makes sense and allows the Coast Guard to target the areas of greatest need without adding to the deficit. I urge my colleagues to support the amendment.●

● Mr. GEJDENSON. Mr. Chairman, I strongly support H.R. 7019, the Transportation appropriations bill for fiscal year 1983. This legislation is imperative to revive and adequately fund the orphan of our military, the U.S. Coast Guard. Not one Government agency does so much, for so little. The U.S. Coast Guard is a versatile, highly motivated professional organization which performs a variety of services vital to national security, U.S. commerce, the marine environment and to the health and welfare of the American people. They deserve every dollar we allocate to them.

I also rise in support of the Studds amendment, which will transfer $18 million from the retirees pay account of the Coast Guard, which already has sufficient funds to meet all of its obligations to retired personnel in 1983, to other Coast Guard programs such as recruiting, Reserve training, maintenance, and to the restoration of navigation aids. This transfer of funds will keep those aids to navigation located in the Coast Guard's third district without discontinuing their use as proposed by the Coast Guard earlier this year as a way to reduce expenditures. Needless to say, aids to navigation are crucial to navigational safety and the public benefit.

In addition, I am pleased that this bill increases the research and development programs by $5 million to provide the necessary funds for expanded Coast Guard R&D projects. Clearly, this bill contains enough funds for the smooth operation of the research and development center in Groton, Conn. After a long fight to retain adequate personnel and funds for the R&D center, I am satisfied that this appropriations legislation respects and fulfills all mandates under the fiscal year 1983 Coast Guard authorization.

I urge my colleagues to support both the Studds amendment and the entire bill.●

● Mr. HUGHES. Mr. Chairman, I rise in support of the amendment of the distinguished chairman of the Coast Guard Subcommittee and urge my colleagues to approve this much needed amendment to provide additional funding for Coast Guard operations.

As my colleagues on the Merchant Marine and Fisheries Committee have repeatedly pointed out, Congress has given the Coast Guard numerous responsibilities without the sufficient resources to carry them out.

Over the past year, the Coast Guard Subcommittee has held a number of hearings on all phases of Coast Guard activities ranging from environmental and fisheries enforcement to search and rescue operations, boating safety and drug enforcement, and military readiness. The subcommittee has found that the imbalance between Coast Guard responsibilities and resources is causing a steady deterioration in the ability of the Coast Guard to effectively carry out its assigned missions.

As the representative of New Jersey's largest coastal district and as chairman of the Subcommittee on Crime, I am particularly aware of the important role which the Coast Guard provides in protecting life and property at sea and in the interdiction of the large influx of drugs which are coming into this country.

The Coast Guard is our Nation's only seagoing law enforcement agency and does an excellent job of interdiction despite inadequate resources. Far too many illegal drugs continue to come into this country, though.

The Coast Guard in coordination with the Drug Enforcement Administration believes that an effective level of interdiction of drugs that come into this country would be 75 percent. The current interdiction rate, however, is far short of that—only 15 percent. Certainly, this effort should not be allowed to deteriorate for want of adequate funds.

The protection of life and property at sea and the maintenance of a system of reliable navigational aids also sits high on the Coast Guard's list of priorities. Since Congress established the Revenue Marine in 1789, the Coast Guard and its predecessors have played an important and fundamental role in maintaining the security of our shores and protecting the lives and property of our citizens. Due to lack of sufficient resources, though, the Coast Guard has proposed removing a large number of buoys and other navigational aids from the Nation's waterways despite the fact that commercial and recreational boaters depend on these structures for safe boating.

In the State of New Jersey alone, more than 225 aids to navigation have been targeted for possible removal, most of which are located along the Inland Waterway—one of the Nation's busiest and most important waterways. I have been greatly concerned that the removal of aids to navigation both in New Jersey and throughout the country could result in unnecessary hazards for our citizens. It is essential that Congress take the necessary action to insure that the quality of our navigational system is not allowed to deteriorate because of insufficient Coast Guard funding.

The U.S. Coast Guard has demonstrated time and time again its ability to do the job which the American people expect from this "can-do" agency, whether it be search and rescue, fishery enforcement, or protecting our shores from the influx of illegal aliens or massive shipments of contraband. But to do the job properly, the Coast Guard needs the training, manpower, and resources which only we can provide.

I hope you will take this opportunity to help the Coast Guard receive the resources it needs to carry out its mission effectively.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment was agreed to.

Ms. OAKAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply want to commend the chairman and members of the committee for this very important bill. It is certainly very important to the people of northeast Ohio.

The safety of our citizens and the well-being of our economy demand the maintenance of major roads. Inconvenience, delay, and detours caused by road shutdowns or by deteriorated surfaces cost all of us money in the form of wasted efforts and diminished production. That is why I am pleased that the distinguished chairman of the Appropriations Subcommittee on Transportation, Congressman WILLIAM LEHMAN acquiesced to the request of Congressman STOKES and myself and included $25 million for our highway needs.

The money will be well spent. My own 20th Congressional District in northeast Ohio has a number of old and deteriorating roads and bridges that will now be able to be repaired. These include: Old River Road bridge in Cleveland; Ridge Road in Brooklyn and Cleveland; Sheldon Road and Grayton Road to Smith Road in Berea, Brook Park and Middleburg Heights; Bagley Road and Lindburg Boulevard to Easland Road in Berea; the dangerous Five Points Crossroads near Cleveland Hopkins Airport; and, the Big Creek Valley Bridge on U.S. 42

which is used daily by thousands of commuters from Parma, Seven Hills, and Cleveland on their way to jobs downtown and in the industrial portions of our city.

The money appropriated in this bill will provide a needed start on these projects.

Mr. STOKES. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be happy to yield to my friend, the gentleman from Cleveland, Ohio.

Mr. STOKES. Mr. Chairman, I just would like to concur in the remarks made by the gentlewoman from Ohio and also to express my commendation to the chairman and members of this committee for the bill that is here, which I intend to support.

Mr. Chairman, I strongly support H.R. 7019, the fiscal year 1983 Transportation Appropriations Act. This bill provides funding essential to developing, maintaining, and improving our Nation's transportation system. The deterioration of our Nation's transportation infrastructure, particularly our roads and highways, is reaching a crisis stage endangering our commerce and industry, and the public's health and safety. More than 8,000 miles of the 42,500 miles which comprise the Nation's Interstate Highway System and 13 percent of our interstate highway bridges are now beyond their designed service life and must be rebuilt.

I would especially like to recognize the work of the late Representative Adam Benjamin for his efforts on behalf of the city of Cleveland, Ohio. H.R. 7019 recommends an appropriation of $25 million for Cleveland's share of the interstate transfer grants-highways program. The interstate transfer grants-highways program finances substitute highway projects selected by local officials in lieu of no longer needed interstate highway segments. Cleveland's entitlement under this program now exceeds $220 million. Cleveland has a number of high priority road and bridge repair projects now on hold, pending the availability of funds.

While not meeting the total needs of Cleveland, the $25 million recommended in this bill will go a long way toward relieving hazardous and unsafe conditions and minimizing critical traffic problems. Some of the pressing projects which would be funded in my 21st Congressional District as a result of H.R. 7019 include upgrading and rehabilitating Brainard Road in Orange/Woodmere; widening and resurfacing Greed Road in South Euclid; rehabilitating the Green Road bridge in Shaker Heights; repairing the Old River Road bridge; replacing the Euclid Creek bridge; rehabilitating Solon Road in Bedford Heights/Oakwood; and rehabilitating the Bedford-Tinkers Creek bridge in Bedford.

Cleveland, Ohio, and, indeed, the entire Nation will reap a payoff in terms of improved transportation, economic growth, and jobs which will be created as a result of H.R. 7019. Therefore, I heartily endorse this measure and urge its passage by the House of Representatives.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to get the attention of the gentleman from Minnesota (Mr. FRENZEL) and the chairman of the committee, because I think I would like to enter into a colloquy and a dialog with these two gentlemen on the issue of how this particular appropriation bill stands with regard to the budget resolution and whether it is over or under the 302(b) allocation.

As I understand it, and I would also very shortly like to yield to the gentleman from Minnesota who is also a member of the Budget Committee and a member of the Budget Committee Task Force on Scorekeeping.

As I understand it, there are at least three different issues that this bill is concerned with, or the people who are interested in the bill being under or over target are concerned with.

One is the issue of outlays. There are two issues of budget authority. One is the issue of how we scorekeep these resolutions, whether we use what is called the 302(a)'s or the 302(b)'s, and the third issue is an issue of a couple items that are expected to come up in the future, future funding requirements. All these three things bear on the issue of whether or not this appropriation bill is within the target set by the budget resolution.

At this point I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct. There are some questions about this particular bill. The gentleman is also correct in saying that the committee meets its 302(b) totals just barely.

However, the committee has responsibility only for budget authority, not outlays. If you compute the outlays on which basis we passed the budget resolution, this is $750 million, three-quarters of a billion dollars over the budget.

□ 1400

As noted that overage is not necessarily the responsibility of the Appropriations Committee, but I think it is clearly the responsibility of this whole House, which may not want to vote for a bill that increases the deficit by three-quarters of a billion dollars over the budget resolution that we passed. I know I do not want to pass such a bill.

The gentleman is also correct about the problem of supplementals that are likely to arise from this bill. The gentleman and I have discussed the question of the FAA spending about $260 million which was part of the tax bill this Congress just passed. That and the $61 million for the air traffic controllers, which seems likely to be authorized before the fiscal year is out, makes a total of $323 million, for which this bill does not account.

The gentleman from Pennsylvania (Mr. COUGHLIN), tried to recoup that $325 million in an amendment which the House rejected. But that gives rise, of course, to the question of whether the bill may be vetoed.

Certainly there were enough Members voting for the Coughlin amendment to sustain a veto.

So I think it is appropriate at this time that the gentleman from Wisconsin inquire of the distinguished subcommittee chairman, the gentleman from Florida (Mr. LEHMAN), what his intentions are with respect to the supplementals.

We have seen year after year that we had appropriations bills that seemed to conform technically to the budget resolution, only to see the supplementals come down and bust it. I think this year some members of the Budget Committee, and certainly the administration, are going to try to be on their guard to see that we do not allow this to happen.

Mr. ASPIN. I thank the gentleman.

Mr. Chairman, before I yield to the distinguished gentleman from Florida, who is the chairman of the subcommittee, let me rephrase the question of the gentleman from Minnesota.

There are really two issues that raise the question or that OMB has raised the question about. One is the FAA facilities and equipment research, which is $323 million; and second, an item of $61 million for FAA operations. To make it clear to the members of this committee, nobody is saying, neither the gentleman from Minnesota nor I, that what is before us exceeds the budget authority in the budget resolution.

The question is: Are we going to fund at some future point these two items?

OMB claims that at some future point these two items will be funded, and when they become funded, then we are over the budget.

I look in the report issued by the committee, and it certainly does not say that the committee is not going to fund them in the future. In fact, it implies in several instances a kind of favorable thought about funding them in the future.

In one instance, it says that the money here is deferred without prejudice.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

(On request of Mr. FRENZEL and by unanimous consent, Mr. ASPIN was allowed to proceed for 4 additional minutes.)

Mr. ASPIN. So the question before the House, and I will yield to the gentleman from Florida, is: What is the intention of the subcommittee with regard to these two items?

Mr. LEHMAN. I thank the gentleman from Wisconsin and the gentleman from Minnesota for bringing this to the attention of the committee.

Mr. Chairman, as the gentleman knows, and has already stated, the administration has not requested the additional money as yet for FAA facilities and equipment and the legislative authorizing committee has not authorized the additional $61 million for pay increases for the air traffic controllers.

This committee is within the budget allocation, especially as it relates to discretionary funds.

We cannot predict what will happen in the future, regarding new authorizing legislation or additional administration requests. We certainly cannot predict what future supplemental bills will be required.

At this time, we have to go with what we know and be within the budget authority, as is required for his committee.

Mr. ASPIN. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I understand the position of the distinguished subcommittee chairman. But I think he will understand, too, that there are going to be a lot of people who cannot vote for this bill under his conditions because it is obvious that the supplementals are coming and none of us want to get caught over the budget.

I would, if I may, continue further under the gentleman's leave.

Mr. ASPIN. I yield further to the gentleman.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, there is a further matter, and that is the discretionary authority assumed in the budget resolution.

The Appropriations Committee, as usual, has exceeded the budget resolution assumptions by some $64 million. I would simply invite the body's attention to the fact that those kinds of overages, while they are clearly within the authority of the Appropriations Committee, are also irritants to the administration, which is trying to hold the budget to the assumptions that we all agreed on when we passed the budget resolution.

All of these three items, both the overage in outlays, the supplementals that are undoubtedly going to be required, and the boosting up of the discretionary authority are all items that attract the attention of those people who recommend vetoes.

Mr. Chairman, I just wanted the body to be aware of it.

I thank the gentleman for taking this time to go into some very sticky scorekeeping questions which none of us have total agreement on, which we do not wholly understand, but which we are trying to work through jointly so that we will all understand just what the fiscal considerations are. We want to be sure that no Member will be surprised at whatever happens here.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ASPIN) has again expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 2 additional minutes.)

Mr. ASPIN. Mr. Chairman, I appreciate the comments of the gentleman from Minnesota and I also appreciate the comments of the gentleman from Florida.

Let me state where I come out in terms of the three items that we were discussing.

I think that the last item that the gentleman from Minnesota raised is an interesting issue, but one that we can clearly not address this year because to accommodate what the gentleman from Minnesota wants to do with regard to 302(a) or 302(b) would require changing the system by which we do scorekeeping, and make that different now from what we did before. I do not think we can do that in the middle of the year.

The other two issues, there the gentleman from Minnesota has a point. I understand what the gentleman from Florida is saying. He cannot predict at this point what the future is going to be with regard to supplementals. We cannot either.

At this point, I would not recommend anybody voting against the gentleman's bill on those grounds. First of all, it has to go to conference. Maybe when it comes out of conference there may be money in here even if the supplemental comes later.

Second, if a supplemental comes later, maybe it will not be approved.

I think we do, however, have to look at this thing when it does come back from conference, and I would like the gentleman from Florida to know that it is not just the gentleman from Minnesota who is concerned about this money problem, but also the gentleman from Wisconsin is concerned about it, and to keep that in mind as he is negotiating with his colleagues in the other body in regard to these two issues.

We are concerned over the possibility that this bill might come over if the supplementals come back. We just want the gentleman to understand our concern.

The other final point, and then I will yield to the gentleman from Minnesota to finish up, is on outlays. That is a sticky issue. We do not control outlays. The Appropriations Committee, of course, controls budget authority but not outlays. In outlays, this is over by a lot. It is $750 million over in outlays.

One mitigating factor which speaks on behalf of the committee here which I would like to call to the attention of the members of the committee is the way this thing was set up and the scorekeeping benchmarks that were applied to the subcommittee allocations earlier in the year. I think there was some evidence that an error was made, and that not enough outlays were granted to this committee, and some money was granted to the HUD Appropriations Subcommittee should have been granted to this committee. In fact, the HUD bill was under.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ASPIN) has again expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 2 additional minutes.)

Mr. ASPIN. The HUD bill was under in outlays by $600 million. We are over, here, by $750 million.

It is not that this subcommittee is bad in terms of outlays so much as I think there was a mistake in allocation which has had an impact on the subcommittee of the gentleman from Florida.

So to summarize, I would not at this point recommend that anybody vote against this bill on the ground that it is over the budget resolution. As far as we can tell, it is within the budget resolution on those things that we control best, which is essentially budget authority.

I grant that the gentleman from Minnesota has a point that we have to be careful about how we treat these two items under the FAA and how it comes out of conference and how we might treat it in a supplemental.

Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I would not quarrel with any of his statements save one. I certainly would not particularly quarrel with his statement about blaming a subcommittee for doing something that is wrong. Clearly, the subcommittee is within the budget law as I understand it.

The one quarrel I have is his recommendation to vote for the bill. I think it gets us in trouble and the three-quarters of $1 billion over the resolution in added deficit is something that I choke on.

But I thank the gentleman for bringing up these items, trying to explain them so that we will be able to deal with them better in the future.

Mr. ASPIN. Mr. Chairman, I yield to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman from Minnesota and the gentleman from Wisconsin for their concern in these matters.

Mr. ASPIN. I thank the gentleman.

Mr. TRAXLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. LEHMAN), I would like to engage him in a colloquy concerning the NHTSA Safety Standard 208, passive restraint standard.

As the chairman knows, he and I have discussed the possibility of my offering an amendment to the bill which would have precluded NHTSA from using any moneys in this appropriation for the implementation or enforcement of Federal Motor Vehicle Safety Standard 208, the passive restraint standard. However, I believe such amendment is not necessary.

Mr. Chairman, am I correct that there are no moneys in this appropriation bill specifically dedicated to expediting the implementation of the passive restraint provisions of FMVSS 208 in any way?

Mr. LEHMAN. My friend, the gentleman from Michigan (Mr. TRAXLER) is absolutely correct.

Mr. TRAXLER. Further, Mr. Chairman, as we are all aware, the Administrator of NHTSA has determined on the latest and the best evidence that the passive restraint standard, which his predecessors established on the anticipation that some auto companies would thereby be compelled to build airbags, should be rescinded.

I concur in his finding that under the conditions that currently prevail, a move away from larger cars and a tragic situation in the marketplace have removed any possibility that airbags will enter the marketplace because of this standard.

However, his decision is being challenged in the courts. Now, Mr. Chairman, I believe under the circumstances, any investment in expediting the imposition of the standard would seem to be unwise.

Does that concur with the chairman's judgment?

Mr. LEHMAN. The gentleman is correct.

Mr. TRAXLER. I thank the chairman, and I yield to my good friend from Michigan (Mr. PURSELL).

Does he have anything further on this point of the air safety bags?

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am delighted to yield to my friend from Michigan.

Mr. PURSELL. Mr. Chairman, let me say that we support the concurrence of the gentleman from Michigan that there are no appropriations in this bill with regard to passive restraints and we appreciate the good gentleman from Saginaw bringing the issue before the House.

Mr. TRAXLER. I thank the gentleman, and I thank the chairman for his colloquy.

● Mr. WIRTH. Mr. Chairman, the Subcommittee on Telecommunications, Consumer Protection and Finance, which I chair has done a considerable amount of work, and has held hearings on the automatic crash protection standard, I have heard the colloquy between the gentleman from Michigan, Mr. TRAXLER, and Acting Chairman LEHMAN, and I ask permission to revise and extend my remarks on and insert a statement at this point.

On June 1, the U.S. court of appeals unanimously ruled that the Administation's recission of the automatic crash protection standard was "arbitrary, and capricious" and was done with "no regard to the facts at hand."

I applaud this decision, because the facts at hand ignored by the administration, include that this standard will:

Save up to 10,000 lives each year—American lives that are senselessly wasted each year on our highways;

Save 3 to 10 billion taxpayer dollars each year, from social security, health care and disability payments;

Keep the American automobile industry in a competitive position—by implementing American technology, before the Japanese take the intiative;

Provide the single best cure for epilepsy and other trauma-related disease.

Given these compelling facts, it is no wonder that the court of appeals reinstated the automatic crash protection standard effective for model year 1984 cars.

The admistration has appealed this resounding decision to the Supreme Court—and herein lies the reasoning for the previous colloquy concerning automatic crash protection.

Some of my colleagues hope to send a signal to the Supreme Court. They hope to send a message that Congress disapproves of the unanimous court of appeals decision. Well, as many of my colleagues know, Congress over the past several years has always supported the automatic crash protection standard.

In 1977, when the standard was proposed, Congress had ample opportunity to veto the standard. However, in its wisdom, Congress did not veto the implemtation of this critical lifesaving technology, and in fact, we cleared the way for its installation. In subsequent years, when appropriations riders were proposed, they had no effect whatsoever on the process of implementing automatic crash protection.

The central question here is: Can a Federal agency do by administrative flat what Congress refuses to do? Should we bail out this administration, which illegally revoked a lifesaving standard? I submit, Mr. Chairman, that we cannot allow a Federal agency to override the will of the Congress. The Federal appeals court has corrected the Department of Transportation's unlawful act, and I am confident that the Supreme Court will reaffirm the court's strong and very correct decision.●

Mr. ERDAHL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 7019. Frankly I am sorry that the amendment we tried a few minutes ago offered by the gentleman from Pennsylvania (Mr. COUGHLIN) was not adopted because I think its failure puts this bill in jeopardy of a Presidential veto that very likely cannot be overridden.

But I think most of us, now here in this assembly, have projects in our State that are justifiable. Just as an example, I would like to cite one of those.

North of the Twin Cities, the Mississippi River comes through and divides Anoka and Hennepin Counties, the most rapidly growing area of Minnesota. There has been a problem with congestion, long delays as commuters and others try to get into and through the metropolitan and suburban area.

A proposal that has been on the drawing boards for a long time is called the North Crosstown Bridge. This provides a necessary link across the Mississippi River north of the Twin Cities. It is one that can be justified by need and benefits. It has strong support of the Metropolitan Council, the Minnesota Department of Transportation, and people in the area.

Obviously, a construction project like this could create, over a period of time, thousands of new jobs. These jobs are an important byproduct of this necessary transportation link across the Mississippi.

□ 1415

As we look at this bill, in spite of budgetary restraints, I think this bridge in Minnesota is a good example of projects that are necessary that would enhance economically the regions in which they are to be built and established. I would hope that we can come together and support a bill that we will send over to the conference committee that ultimately can be accepted by the administration. I urge support of H.R. 7019.

Mr. IRELAND. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to take a moment to discuss a bridge in Florida known as the Green Bridge, which is located in Manatee County and provides access between the communities of Palmetto and Bradenton, Fla. This

bridge as long ago as 1979 served some 15,000 vehicles per day. Unfortunately, it is considered both structurally deficient and functionally obsolete. The structural deficiencies are rapidly approaching the point that will require restricted use of the bridge. As a matter of fact, the bridge has a sufficiency rating of 28.7. The Florida Department of Transportation estimated that it will cost some $16 million to replace it. Rehabilitation or repair of the bridge is economically unfeasible.

I suggest that this bridge is a strong candidate for funds under the special bridge replacement program, and I would ask the distinguished subcommittee chairman if he would comment on that.

Mr. LEHMAN. Mr. Chairman, I thank the gentleman from Florida, my colleague from the State of Florida, for bringing this to our attention. The answer is yes, that our staff and I are familiar with the Green Bridge. I agree that it is obviously a candidate for the bridge replacement program and that it should be funded by the Federal Highway Administration.

Mr. IRELAND. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); official reception and representation expenses of the Board; operation of guide services; residence for the administrator; contingencies of the administrator; not to exceed $25,000 for official reception and representation expenses of the Administrator, and to employ services as authorized by law (5 U.S.C. 3109); maintaining, improving, and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use; and for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accured thereafter, including accounts payable for capital projects, $392,084,000, to be derived from the Panama Canal Commission Fund: *Provided*, That there may be credited to this appropriation, funds received from the Panama Canal Commission's capital outlays account for expenses incurred for supplies and services provided for capital projects and funds received from officers and employees of the Commission and/or commercial insurors of Commission employees for payment to other United States Government agencies for expenditures made for services provided to Commission employees and their dependents by such other agencies: *Provided further*, That, to the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.

AMENDMENTS OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer amendments, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. JONES of North Carolina: On page 28, lines 17 and 18, strike out the words "official reception and representation expenses of the board";

On page 28, line 21, strike out the words "of the Administrator";

On page 29, line 6, after the comma following the word *"Provided,"* insert the following:

"That of the funds appropriated by this section:

"(1) not more than $217,000 shall be available for operation of guide services;

"(2) not more than $60,000 shall be available for a residence for the Administrator, as authorized by section 5913 of title 5, United States Code;

"(3) not more than $25,000 shall be available for disbursement by the Administrator for employee recreation and community projects;

"(4) not more than $520,000 shall be available for procurement of expert and consultant services as provided by section 3109 of title 5, United States Code;

"(5) not more than $4,000,000 shall be available for maintenance and alteration of facilities of the Government of the Republic of Panama, used by the Commission, of which the United States retains use pursuant to the Panama Canal Treaty of 1977 and related agreements; and

"(6) not more than $60,000 shall be available for expenses of the Supervisory Board established pursuant to section 1102 of Public Law 96-70 (93 Stat. 456), including travel and transportation expenses under section 5703 of title 5, United States Code: *Provided further,".*

On page 29, line 14, change the colon to a period and strike out the remainder of line 14 and all of lines 15 through 18.

On page 29, line 25, after the comma following the word *"Provided,"* insert the following:

"That of the sums referred to in this paragraph, not more than the following amounts shall be available for the following purposes:

"(1) for transit projects, $18,664,000;

"(2) for general support projects, $3,252,000;

"(3) for utilities projects, $1,870,000; and

"(4) for quarters improvement projects: $880,000: *Provided, further,".*

Mr. JONES of North Carolina. Mr. Chairman, my amendments would bring the appropriations bill, H.R. 7019, into conformity with certain limitations provided in the Panama Canal authorization bill. That bill, H.R. 6196, was reported by the Merchant Marine and Fisheries Committee on May 17.

First, let me make clear that my amendments in no way increase spending above the amount approved by the Appropriations Committee in H.R. 7019.

My amendments do several things.

First, our authorization bill lists several specific categories of spending and then sets dollar limits for each category. Today's appropriations bill does not contain such provisions. My amendments would incorporate into the appropriations bill the same spending limits and categories approved by the Merchant Marine and Fisheries Committee in our authorization bill.

Briefly, the categories and limits in my amendments are:

In operating expenses, for guide services, $217,000; for the Administrator's residence, $60,000; for employee recreation, $25,000; for consultant services, $520,000; for official reception and representation expenses, $25,000 (this would include entertainment); for expenses of the supervisory board, $60,000, and for improvements for employee housing, $4,000,000 (these are housing units that have been transferred to the Government of Panama, but which our country may use to house the decreasing number of American citizens employed at the canal);

In capital outlays, for transit projects, $18,664,000; for general support projects, $3,252,000; for utilities projects, $1,870,000; and for quarters improvement projects, $880,000;

Next, my amendments delete wording which would let the supervisory board spend unlimited money from the Commission's general operating budget for entertainment; this would be over and above the existing line-item account for reception and representation, which has traditionally been designed to cover entertainment.

Finally, my amendments also delete wording that would allow the Commission to incur obligations in advance of receipts from the Panama Canal Commission fund. That language would have the effect of exempting the Commission from the Anti-Deficiency Act, although the act is not referred to by name or by citation. It would also render inoperative that part of the 1979 Panama Canal Act which limits appropriations to the amount of canal revenues derived from operation of the canal and paid into the U.S. Treasury. My amendment will make sure that the canal's operations are financed solely by funds generated by tolls and other collected revenues, instead of being subsidized by tax dollars. Incidentally, during the authorization process, our committee was supplied a draft authorization bill containing the language in question, but we overwhelmingly rejected it when we approved H.R. 6196.

Mr. Chairman, I believe Members on both sides of the aisle will find these amendments worthy of support. I know there was bipartisan support for them when the Merchant Marine and Fisheries Committee incorporated them in the authorization bill. There

is precedent for accepting them in the appropriations bill because last year this House adopted by voice vote a very similar amendment which was offered under nearly identical circumstances. I recommend that we adopt these amendments to conform the appropriations bill with the authorizations bill. By doing so we preserve the close congressional oversight we contemplated and endorsed in 1979 when we enacted the statutes implementing the Panama Canal treaties.

Mr. LEHMAN. Mr. Chairman, will the gentleman from North Carolina yield?

Mr. JONES of North Carolina. I am happy to yield to our very able chairman.

Mr. LEHMAN. Mr. Chairman, the majority has considered these amendments, has found no objection to them, and suggests that they should be part of the bill.

Mr. JONES of North Carolina. I think the gentleman.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I am happy to yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, the minority concurs.

The CHAIRMAN. The question is on the amendments offered en bloc by the gentleman from North Carolina (Mr. JONES).

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CAPITAL OUTLAY

For acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-two passenger motor vehicles of which nineteen are for replacement only; to employ services authorized by law (5 U.S.C. 3109); $24,666,000: *Provided*, That funds appropriated are to be derived from the Panama Canal Commission Fund and to remain available until expended.

AMENDMENT OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LENT: Page 30, after line 2, insert the following:

REIMBURSEMENT OF GENERAL FUND

The Secretary of the Treasury is authorized to transfer from the Panama Canal Commission Fund to the General Fund of the Treasury the unreimbursed balance of the amount appropriated for expenses necessary for the Panama Canal Commission for fiscal year 1980 by Public Law 96-131 (93 Stat. 1035).

Mr. LENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LENT. Mr. Chairman, the purpose of this amendment is to continue the reimbursement of taxpayer funds appropriated in late 1979 to operate the canal during the period when tolls had just started to be deposited into the Commission fund.

The fiscal year 1980 Department of Transportation Act appropriated $463,887,000 to operate the canal.

The fiscal year 1981 Department of Transportation Appropriation Act required reimbursement to the general fund of the Treasury of total outlays in fiscal year 1980. To date, the Commission has reimbursed the Treasury for $350 million.

My amendment will continue the reimbursement process begun under Public Law 96-400.

It is supported by the General Accounting Office. They wrote me on August 27, 1982:

We believe the reimbursement of the General Fund of the Treasury is appropriate and is in keeping with the provision of the Panama Canal Act (22 U.S.C. 3712) that requires the Commission to be self-supporting and financed totally from its own revenues.

A full text of the GAO letter is attached for the RECORD.

The unreimbursed balance is $113,783,000. The current unappropriated balance in the Panama Canal Commission fund is $117,873,000. The Panama Canal Commission has sufficient funds to pay back this debt and the reimbursement should be completed at the earliest possible date.

The American people were promised that the Commission would not operate at taxpayer expense. This outstanding debt to the U.S. taxpayer should be repayed in its entirety. My amendment accomplishes that, and I urge its adoption.

Mr. Chairman, the letter from the Director of the General Accounting Office follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., August 27, 1982.

Subject: Unreimbursed Balance of Fiscal Year 1980 Appropriation for the Panama Canal Commission.

Hon. NORMAN F. LENT,
House of Representatives,

DEAR MR. LENT: In a letter to the Comptroller General of May 12, 1982, you requested information on the unreimbursed balance of the amount appropriated for expenses necessary for the Panama Canal Commission for fiscal year 1980. In addition you requested our comments on Section 4 of H.R. 6196, 97th Congress 2d Session.

Section 4 of H.R. 6196, provides that:

"The Secretary of the Treasury is authorized to transfer from the Panama Canal Commission Fund to the General Fund of the Treasury the unreimbursed balance of the amount appropriated for expenses necessary for the Panama Canal Commission for Fiscal Year 1980 by Public Law 96-131 (93 Stat. 1035)."

We believe the reimbursement of the General Fund of the Treasury is appropriate and is in keeping with the provision of the Panama Canal Act of 1979 (22 U.S.C. 3712) that requires the Commission to be self-supporting and financed totally from its own revenues.

The Department of Transportation and Related Agencies Appropriation Act, 1980 (P.L. 96-131) appropriated a total of $463,887,000 for operating expenses and capital outlays. Later in the year the Supplemental Appropriations and Recission Act (P.L. 96-304) reduced operating expenses by $104,000, resulting in a final appropriation of $463,783,000. All fiscal year 1980 appropriations for the Commission were from the General Fund of the Treasury.

The Department of Transportation and Related Agencies Appropriations Act, 1981 (P.L. 96-400) provided for reimbursement of $350 million from the Panama Canal Commission Fund to the General Fund of the Treasury. The repayment was affected in July 1981, leaving an unreimbursed balance of the amount appropriated to the Commission for fiscal year 1980 of $113,783,000.

In addition to the repayment of $350 million, the Commission has returned to the Treasury a total of $28,096,463.22 from the 1980 appropriation as surplus funds, thus contending that the unreimbursed balance of the 1980 appropriation is $85,686,536.78. Treasury correctly states that since the Commission retains access to those funds under certain circumstances, they can not be considered as reducing the unreimbursed balance. Treasury states and we concur that the $28.1 million must be restored to the Commission's Operating Expense Account in order to be credited against the outstanding unreimbursed balance of $113,783,000. If these funds were credited against the outstanding $113,783,000, it would leave a balance due of $85,686,536.78.

Sincerely yours,

FRANK C. CONAHAN,
Director.

Mr. LEHMAN. Mr. Chairman, will the gentleman yield?

Mr. LENT. I am happy to yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, the majority has read and studied this amendment and agrees that it should be accepted. We wholeheartedly support the amendment.

Mr. LENT. I thank the gentleman.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, we on this side of the aisle accept the amendment also.

Mr. LENT. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LENT).

The amendment was agreed to.

Mr. BENNETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the purpose of my taking this time is to have a colloquy with the chairman of the subcommittee.

I appeared before the authorization committee on the subject of the Acosta Bridge in Jacksonville, Fla., for discretionary funds. This bridge was built about 70 years ago, and was the first bridge across the St. Johns River, which is a very important river in the city of Jacksonville. Jacksonville has

built quite a number of bridges. It has built most all, if not all, of those bridges with local funds. It now comes to a position where the earliest bridge in Jacksonville has deteriorated so badly that it needs assistance. The city and State are prepared to put some money into it, but we would like to be considered for priority consideration under these discretionary bridge funds for some assistance, if we could.

Mr. LEHMAN. Mr. Chairman, I thank the gentleman and colleague from Florida, the dean of our delegation, for bringing this to our attention.

The answer is yes, our staff and myself are familiar with this project, and yes, it is obviously a candidate for the bridge replacement program and should be funded by the Federal Highway Administration under this program.

Mr. BENNETT. I thank the gentleman.

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words to engage in a colloquy with the chairman.

Does this appropriation for the Interstate Commerce Commission contemplate some reduction in salaries and expenses of the Commission?

Mr. LEHMAN. Yes, it does.

Mr. WILSON. Does the appropriation provide for ample staffing to enable the Interstate Commerce Commission to process expeditiously and timely all proceedings currently pending before the Interstate Commerce Commission and currently being processed by the Commission?

Mr. LEHMAN. This appropriation provides ample staffing to enable the Interstate Commerce Commission to process expeditiously and timely all such proceedings.

Mr. WILSON. Certainly, it is the intent of this House and I assume of the Appropriations Committee that all proceedings pending before the Interstate Commerce Commission should and will be processed in an expeditious and timely manner and that this appropriation should not be the cause of any delay in the processing of any of those proceedings. Does this appropriation for the Interstate Commerce Commission carry out that intent?

Mr. LEHMAN. I assure the gentleman that it does.

Mr. WILSON. Mr. Chairman, would the chairman consent to enter into another colloquy?

Mr. LEHMAN. I would be very happy to enter into another colloquy with my good friend, the distinguished gentleman from Texas.

Mr. WILSON. Mr. Chairman, I rise to express serious concerns with a portion of this bill which I believe is patently unfair to the citizens of growing cities and towns in the South and West. I am referring to the continued use of 1970 census data to apportion mass transit formula grant funds.

In 1983, this legislation would make available over $1.3 billion in formula grants for capital projects and operating assistance. Use of 1970 census data is allocating these funds is unfair to those States which have seen their populations increase over the last decade and now face growing demands for mass transit services. It is also contrary to the express direction of the underlying authorizing legislation which requires the use of the latest available census figures.

If allowed to stand, this legislative sleight of hand will transfer literally millions of dollars in vitally needed Federal funds away from cities in our part of the country. While I understand the concerns of those cities which would stand to lose some funding if 1980 census figures are used, I ask my colleagues if it is fair to resort to the use of 12-year-old census data to deny funds to communities in my part of the country whose needs are equally important as those in other regions?

We have all been involved before in arguments over the allocation for formula grant funds. In fact, the 1982 DOT appropriations bill contains a compromise in which 1970 data was to be used during the first 6 months of the year and 1980 data for the remainder. This was felt to be necessary to keep the program going until the new census data became available during the middle of the year. It was, however, clearly understood that this would be a temporary arrangement and would not be extended.

Mr. Chairman, I submit that the necessary 1980 census data is now available and that there is no longer any justification for using census data which is now more than 12 years old.

The use of 1970 data for a portion of the grant formula has been defended as necessary to assure a smooth transition for cities which stand to lose funding. In my experience, however, these transition periods have a way of extending indefinitely if not challenged. In this particular instance we are already being asked to continue last year's temporary compromise into a second year.

Because I believe it is important for us to settle the question of continuing the use of 1970 census data in these kinds of programs, I am prepared to offer an amendment to restore the use of the latest available census data. Although it is not my intention to provoke a confrontation, I believe it is long past the time that we in Texas and other Southern and Western States can accept the use of formulas which are so obviously biased against us.

Nonetheless, Mr. Chairman, after discussing this issue with my good friend from Florida, the distinguished chairman of the DOT Subcommittee, I am prepared, in the interests of harmony, to withhold my amendment if the gentleman will provide assurances that he and other members of the committee will agree to reconsider this issue in conference. It is my understanding that the Appropriations Committee in the other body intends, at this point, to hold firm on the use of 1980 census data so that the issue will indeed be conferencable. Under the circumstances, I believe this would be the most equitable way to resolve this problem.

Examples of States and cities unfairly treated by use of 1970 census data for mass transit formula grants—net amounts lost

	Thousands
Oregon	$931
Portland	395
Eugene	176
North Dakota	354
Bismarck-Maudan	202
Florida	8,069
Miami	1,930
Orlando	705
Tampa	313
Idaho	$306
Boise City	112
Texas	4,761
Dallas	1,150
Houston	1,489
Austin	310
Hawaii	1,134
Honolulu	724
South Carolina	992
Columbia	151
Charleston	142
Florence	165
Utah	743
Salt Lake City	446
Vermont	226
Burlington	232
Louisiana	596
Baton Rouge	152
New Orleans	149
Houma	186
South Dakota	137
Rapid City	166
Sioux City	2
Mississippi	525
Hattiesburg	161
Jackson	50
Pascagoula-Moss Point	183
Alaska	87
Anchorage	82
Georgia	904
Atlanta	506
Augusta	93
Athens	188
Nevada	863
Las Vegas	688
Arkansas	363
Little Rock	100
Fayetteville-Springdale	167
Arizona	2,748
Phoenix	1,791
Tuscon	469
Tennessee	767
Knoxville	138
Jackson	144
Johnson City	221
New Mexico	668
Las Cruces	174
Albuquerque	334
Santa Fe	154
New Hampshire	229
Nashua	47
Portsmouth-Dover-Rochester	231
Manchester	8

NOTE.—Figures based on funding levels recommended in H.R. 7019, fiscal year 1982 DOT appropriations bill as reported by committee.

Mr. LEHMAN. Mr. Chairman, if the gentleman would yield, I thank the gentleman from Texas, my good friend. We have been here together since we first came to the Congress.

I appreciate the concerns which the gentleman from Texas has expressed. As you know, my own State of Florida also has a significant stake in this issue.

Although as subcommittee chairman, I would feel obligated to oppose an amendment on this issue should the gentleman choose to offer one at this time, I appreciate his willingness to avoid a confrontation which could jeopardize passage of this important legislation. Under these circumstances, I am prepared to give him my assurances that if this issue becomes a part of a conference, it will be given careful consideration.

Mr. WILSON. I thank the gentleman.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield.

Mr. FIELDS. Mr. Chairman, I have a question of the subcommittee chairman. I was wondering if the chairman knew that under the formula as it is constructed presently that Houston, Tex., loses $1.5 million?

Mr. LEHMAN. I am aware, in general, of how it affects various communities, but I do not want to get into the effect on each separate community at this time because we would like to proceed with the bill as it was developed and worked out by our late leader, Adam Benjamin.

Mr. FIELDS. I have one further inquiry. I sit on the Public Works and Transportation Committee, and the formula as it is now structured is inconsistent with the provisions of the underlying authorizing legislation. I was wondering how this inconsistency materializes.

Mr. LEHMAN. I just want to reassure the gentleman that we on the Appropriations Committee are using this particular interim compromise measure to enable certain cities that are heavily affected by the loss of population over the last decade to make this transition with as little disruption and as little hardship as possible.

□ 1430

Mr. FIELDS. Mr. Chairman, I appreciate the remarks of the subcommittee chairman. Of course, some of us in Houston feel we are severely impacted. We are picking up 1,000 people per week, and we have tremendous problems in transportation. I want the subcommittee chairman to understand that we also have some problems.

Mr. Chairman, as we consider H.R. 7019, the Department of Transportation appropriations for fiscal year 1983, I feel compelled to bring to the attention of my colleagues a provision of this legislation which concerns me greatly. Specifically, I am referring to the allocation formula contained in H.R. 7019 which appropriates $1.3 billion for formula grants for capital projects and operating assistance under the Urban Mass Transportation Administration. Unfortunately, the allocation formula for these funds includes the use of 1970 census data.

Mr. Chairman, use of the 1970 census figures represents unfair and inequitable treatment for cities like Houston, States like Texas in addition to any other areas in the country which have experienced tremendous growth in the past decade. Furthermore and more important is the fact that use of these outdated census figures constitutes a deliberate disregard of the authorizing legislation which expressly requires the use of the latest available census figures.

Because of this departure from the authorizing legislation, Houston stands to lose $1.5 million in formula grants under the section 5 program. Overall, the State of Texas will lose over $5 million in transit funds due to this change.

Although these sums may seem insignificant in comparison to the overall appropriations total in this bill of $11 billion, it nonetheless represents a significant loss to the mass transit system in Houston. As a result of the 40-percent increase in population in Houston from 1970 to 1980, the pressures on the transit system have multiplied proportionately. Yet the Federal Government, through this transportation appropriations bill will knowingly deny this city its due apportionment.

Mr. Chairman, after having spent over $1 billion of the taxpayers' money for the 1980 census, it is only equitable to utilize this data and apportion back to the taxpayers and the 50 States their fair share of the Federal mass transit pie.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WILSON) has expired.

(By unanimous consent, Mr. WILSON was allowed to proceed for 1 additional minute.)

Mr. WILSON. Mr. Chairman, I would again like to thank the subcommittee chairman and thank my colleague and fellow Texan for his contribution. I would like to thank the chairman for his willingness to give this his full consideration in the conference.

I would also like to ask the gentleman, no matter how the conference comes out, if in his opinion, when we get to the 1983 and 1984 appropriations, he thinks the transition period will then be ended?

Mr. LEHMAN. Mr. Chairman, if the gentleman will yield, in my opinion this—fiscal year 1983—is the final year such a compromise will be considered.

Mr. WILSON. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

Mr. LEHMAN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there points of order to be lodged?

If not, for what purpose does the gentleman from Wisconsin rise?

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY: Page 39, after line 14, insert the following new section:

SEC. 323. Each sum appropriated by this Act for any account, activity, or project is reduced by an amount equal to 33.8 percent of such appropriated sum.

Mr. OBEY. Mr. Chairman, very simply, this amendment cuts each and every item in this bill before us today by not quite 34 percent, 33.8 percent to be exact. There are two reasons, frankly, why I am doing that. First, is the President. Despite the fact that the President has requested budgets which over a 4-year period of time will give us far larger deficits than any President in the history of the country, the President has gone before the television cameras in this Nation and has told the country with a straight face that he is really in his heart for a balanced budget and he wants a constitutional amendment to require not himself but his successors to accomplish that fact.

Second, we have a good many Members of this House, a majority of this House, as a matter of fact, who have on many occasions voted for budget resolutions and budget propositions of one kind or another which would grossly imbalance that budget, and yet we have at the present time over 200 Members of this House who have signed a discharge petition here at the desk again calling for a constitutional amendment to balance the budget, again not now, but 5 or 6 years down the line.

It seems to me that if the President is serious, if the President, is really straight faced about this, and if the Members of this House who have signed the discharge petition are really serious about it, then they ought to vote to apply it to the now, not just to the hereafter. Therefore, I am giving them an opportunity to do that today with this amendment. I suppose you could call it the Put-up-or-Shut-up Balanced Budget Amend-

ment of 1982. You might also call it the Hypocrisy Reduction Amendment of 1982.

The amendment, very frankly, has two purposes. One is to illustrate what would happen not 5 years from now but today if the Conable-Jenkins constitutional amendment were in effect today.

Second, it is to give a good many Members of this House who have been posing for holy pictures on the question of a balanced budget for a good long time to actually vote for one.

I am sure some of the Members are wondering how I get to the figure, 33.8 percent. Let me tell them how, The Congressional Budget Office estimates that we have a deficit of $150 billion and we will have outlays of about $770 billion this year; $300 billion of that is direct spending which is not subject to appropriation; examples are social security for $170 billion and interest for around $117 billion. That means that only about $450 billion to $460 billion in the budget is actually subject to appropriations, and of that $245 billion is mandatory, meaning that it goes for entitlements or it goes for contracts which are already entered into. That means that the total amount of discretionary spending in all of the 13 appropriation bills that will be before us this session is roughly $215 billion, and of that amount $126 billion is provided in the defense budget. That means that if you do not want to cut defense, as the President has indicated, then you have in effect a deficit of $150 billion facing us, and you only have $90 billion left in touchable programs, programs we can touch, if you are only going to go at those certain specified, nondefense items within the perview of the Appropriations Committee.

So, very simply, that means that if you did not want to cut defense, if you would eliminate—not just cut but eliminate—everything in the budget, everything for the Congress that pays salaries and pays to run the committees, everything for the IRS, everything for the Interior Department, everything that makes the Government go, if you did not just cut it, if you eliminated it, if you wiped it out, you would still have a deficit of about $60 billion this year. That means that if you are going to be sensible about it, you have got to take a look at each and every item. Assuming that this House is not going to cut social security, it seems to me, therefore, that we ought to try to apply an across-the-board reduction to demonstrate what would happen if the Conable-Jenkins proposal were before us this year.

That is all that this amendment does. It is the "Put-up-or-shut-up-baby" amendment of this session, and I urge all of you, if you are really serious about a balanced budget, if you are really serious and you want to keep a straight face for the rest of the campaign, you have no choice but to vote for this amendment.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(On request of Mr. WALKER, and by unanimous consent, Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I have asked for more time for the gentleman so that I may simply ask the gentleman whether or not the amendment that he is proposing would put us in compliance with the law of the land as it now stands, Public Law 95-435?

Mr. OBEY. Absolutely.

Mr. WALKER. So that, in other words, a vote for the gentleman's amendment would help us achieve what this Congress has on several occasions passed—and I think it was the last time by about a 400-to-6 margin—and that is that we believe it is in the best interest of the country to operate within a balanced budget; is that true?

Mr. OBEY. Mr. Chairman, I am not suggesting that it is in the best interests of the country to pass this amendment. As one mechanic in this place, I am merely trying to illustrate to the other mechanics what you really have to do if you want to apply the phony rhetoric we have had around this floor to actual reality, not 5 years down the line, but this year. If it is sauce for the successor, then it ought to be sauce for the incumbent, including this President.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, I was not suggesting that he made that suggestion. I am saying that the people who voted for Public Law 95-435 have certainly suggested that enacting a law which mandates a balanced budget, not 5 years from now, but mandates it for today. That is the law of the land, and I think the gentleman's amendment does speak to that particular law.

Mr. Chairman, I thank the gentleman for yielding.

Mr. OBEY. Mr. Chairman, I thank the gentleman.

Mr. LEHMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no Member of this body that I have more respect for than the gentleman from Wisconsin (Mr. OBEY). If this were the best of all possible worlds, perhaps I could even support his amendment, but this is the world of realities, and I need not take the time to explain to the Members what this amendment would actually do to our transportation system. Therefore, I do oppose the amendment, but I commend the gentleman from Wisconsin (Mr. OBEY) for his nonhypocrisy and his political reality in addressing these kinds of essential issues.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief. We, too, oppose the amendment. We think in principle the gentleman's thoughts are appropriate to have a balanced budget. We think, however, that this is rather arbitrary and rather deep in terms of an across-the-board cuts for the transportation bill. The President does not support this amendment.

Not speaking for the committee but for myself, I personally would like to see some budget reductions in other major appropriations bills, such as defense, but be that as it may, knowing the record historically here of some of us who opposed the first Reagan budget and then worked a fashioned compromise we believe this amendment does not conform to the budget resolution.

Therefore, Mr. Chairman, we oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. OBEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 343]

Addabbo	Bliley	Coelho
Akaka	Boggs	Coleman
Albosta	Boland	Collins (IL)
Alexander	Boner	Conable
Anderson	Bonior	Conte
Andrews	Bonker	Conyers
Annunzio	Bouquard	Corcoran
Anthony	Breaux	Coughlin
Applegate	Brinkley	Courter
Ashbrook	Brodhead	Coyne, James
Aspin	Broomfield	Coyne, William
Atkinson	Brown (CA)	Craig
AuCoin	Brown (CO)	Crane, Daniel
Badham	Broyhill	Crane, Philip
Bailey (MO)	Burgener	Crockett
Bailey (PA)	Butler	D'Amours
Barnard	Byron	Daniel, Dan
Barnes	Campbell	Daniel, R. W.
Bedell	Carman	Dannemeyer
Benedict	Carney	Daschle
Bennett	Chappie	Daub
Bereuter	Cheney	Deckard
Bethune	Clausen	Dellums
Bevill	Clay	DeNardis
Biaggi	Clinger	Derrick
Bingham	Coats	Dickinson

Dicks
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Lehman
Lent
Levitas
Livingston
Loeffler
Long (LA)
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

□ 1445

The CHAIRMAN. Three hundred seventy-five Members have answered to their names; a quorum is present, and the Committee will resume its business.

□ 1500

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. OBEY) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes in which to record their votes.

The vote was taken by electronic device, and there were—ayes 38, noes 349, not voting 45, as follows:

[Roll No. 344]

AYES—38

Archer
Ashbrook
Aspin
Broomfield
Brown (CO)
Cheney
Crane, Daniel
Crane, Philip
Dannemeyer
Dreier
Edwards (OK)
English
Fields
Gephardt
Gradison
Hagedorn
Hansen (ID)
Heftel
Hendon
Jeffries
Johnston
Lewis
Long (MD)
Lujan
Lungren
McDonald
Miller (OH)
Obey
Pashayan
Paul
Roth
Rousselot
Sensenbrenner
Shumway
Smith (OR)
Walker
Weaver
Weber (MN)

NOES—349

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brown (CA)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gibbons
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
LeBoutillier
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Morrison
Mottl
Murphy
Murtha
Myers
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—45

Bafalis
Beard
Blanchard
Bolling
Bowen
Brooks
Brown (OH)
Burton, John
Burton, Phillip
Chappell
Chisholm
Collins (TX)
Davis
de la Garza
Derwinski
Dowdy
Emery
Ertel
Evans (GA)
Fithian
Forsythe
Garcia
Gilman
Goldwater
Gregg
Grisham
Holt
Lantos
Lee
Marks
Mattox
Moffett
Moorhead
Napier
Railsback
Rinaldo
Savage
Siljander
Stanton
Stratton
Washington
Weiss
Wortley
Yates
Young (AK)

Messrs. HANSEN of Idaho, PASHAYAN, and HENDON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SIMON. Mr. Chairman, I move to strike the last word.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of the 1983 Department of Transportation appropriations bill and especially that provision of the bill which continues section 406 payments to air carriers providing essential air service to small- and medium-size communities. The $14 million provided for section 406 in this bill falls within the parameters of the first budget resolution and represents a 50-percent reduction in this program from fiscal year 1982, and a 160-percent reduction in appropriations from fiscal year 1980. Continuing the 406 program will result in a higher level of airline service for 37 communities in 14 States: A higher level that those communities would have received had the administration prevailed in its intention to terminate the program.

Since the passage of the Airline Deregulation Act in 1978 the quality and extent of air service to small- and medium-size communities has declined dramatically. Fares are up. Load factors are low. Route structures are thin. The system as a whole lacks unity. Losses have mounted for Western, Republic, and Continental. Air New England and Braniff have gone bankrupt. More than 15,000 employees have been furloughed. At least four communities in Minnesota have lost trunk service altogether.

This carnage in the airline industry requires that Congress exercise special vigilance in maintaining essential air service to all parts of the Nation.

Under the Federal Aviation Act of 1958 there are two programs to support airline service to small communities. The 419 program was designed to pay for minimum service levels by commuter air carriers, typically in aircraft of less than 20-passenger capacity. The 406 program, which continues until January 1, 1986, provides for service with larger aircraft by more established carriers. It is by no means clear that Federal moneys would be saved by communities being forced to switch from 406 to 419 subsidies. The Deregulation Act requires that small points receive "essential air service" until October 24, 1988, and that subsidy be paid under section 419 if necessary to assure such service. It is very likely that commuter airlines may not be able to provide replacement service at less subsidy.

The administration's proposal to terminate the program could not have come at a worse time. If a 406 carrier suspends service, commuter replacement carriers will need additional airport slots to offer the same number of seats per community. This at a time when the firing of air controllers has reduced the number of available slots nationwide. If 406 were to end now, there would be many more service suspensions and disruptions than if the program continued. Cities that had had a good chance of keeping existing large aircraft service under normal circumstances would lose that service permanently. Continuation of even a modest 406 program will encourage continuation of trunk carrier air service to many small communities, and provide an assist to their economies in these hard-pressed times.

The House Aviation Subcommittee recognized the importance of an orderly phaseout of the 406 program when it incorporated the provisions of legislation that I had introduced (H.R. 3901) into H.R. 5103. This legislation continues the 406 program until major trunk carriers can provide unsubsidized service to small communities or until the CAB can find adequate commuter replacement service. It limits the 406 subsidies to only those points than enplane less than 80 passengers a day. Moreover the Deregulation Act provides that beginning in 1983 a 406 carrier can be bumped by a 419 carrier if the latter can show it will provide better service at less subsidy.

In summary, I commend the Appropriations Committee for having the wisdom to continue the 406 program and hope that the other body will accept the House provision on the 406 subsidy. Based on the other body's most recent actions, it appears that small communities across the Nation will enjoy adequate air service, at least for 1 more year.

Mr. SIMON. Mr. Chairman, I would like to enter into a brief colloquy with the gentleman from Florida, the acting chairman of the subcommittee, for the purpose of discussing the railroad/highway crossings demonstration program, which is important to my district in southern Illinois. I know it is important to the gentlewoman from Louisiana (Mrs. BOGGS) and some others in this body.

The bill as reported by the subcommittee includes no funding for this program. What were the circumstances at the time of the subcommittee's markup of the bill which led to this result?

Mr. LEHMAN. If the gentleman will yield, as the gentleman knows, the authorization for this program, which consists of 19 projects, were designed to innovate solutions to serve rail/highway conflicts that were not in place at the time the subcommittee began its markup of this bill.

□ 1510

Mr. SIMON. Has the situation changed since that time?

Mr. LEHMAN. After the subcommittee reported H.R. 7019, the Committee on Public Works and Transportation included a reauthorization of the demonstration program as part of the 1 year highway bill, which will soon come before this body.

Mr. SIMON. It has been the position of many of us who support the program that not all of the 19 authorized projects will be completed, but that the best of these—those which have the full support of their communities, which have produced innovative designs which can benefit other communities across the country, and those which are making progress on construction—should be seen through to completion. Nothing else would be fair to those communities which are meeting their obligations under the program.

This also has apparently been the policy of the subcommittee. Last year $12.5 million was made available for this program—a figure significantly below the authorized level of $100 million, but a figure which does underscore a policy that the best of these projects should be completed.

Although it was too late for the subcommittee to include funding in this bill by the time the question of the authorization had become clearer, it has been my hope and the hope of others of us in the House that this program will have some funding, that can be included later in this bill by the other body or, if necessary, in a supplemental bill later in the fiscal year. This is something we had discussed with our late colleague, Chairman Adam Benjamin—a thoughtful and respected leader on this issue. We had some indication of initial support from him for our efforts.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

I thank the gentleman for his very fine leadership in this regard, and I would like to ask the gentleman from Florida (Mr. LEHMAN), about the projects, particularly the one, Mr. Chairman, in Metairie, La. The conflicts about that particular project have been resolved by the community leaders and everyone involved. It is ready to go now, and we were very hopeful, of course, that we would have a 4-year authorization instead of the 1-year authorization.

Can the gentleman from Florida (Mr. LEHMAN) tell me how the 1-year authorization will affect this project?

Mr. LEHMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, I would just like to say to my good friend the gentlewoman from Louisiana (Mrs. BOGGS) and my good friend, the gentleman from Illinois (Mr.

SIMON) that as soon as this is authorized, the Members can be assured that the Subcommittee on Transportation will certainly consider these matters.

Mrs. BOGGS. I thank the gentleman.

Mr. SIMON. I thank the gentleman from Florida and my colleague from Louisiana and yield back the balance of my time.

Ms. FERRARO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the bill which has been produced by the Committee on Appropriations, and I want to commend the fine work of the leadership of the committee and the subcommittee, especially Subcommittee Chairman LEHMAN, who has stepped at a very difficult time and done a outstanding job.

Last year, the Federal Aviation Administration announced, with no prior consultation with Congress, and no opportunity for public comment, its intention to reorganize its regional office structure. FAA Administrator J. Lynn Helms announced on June 12, 1981, a scheme that would have reduced from 11 to 6 the number of regional offices the agency would operate. The plan was to take effect on July 1, less than 3 weeks after the announcement.

The announcement, which was made on Friday afternoon with, as I have mentioned, no advance word at all, gave rise to a firestorm of congressional criticsm from both sides of the aisle and both Houses of Congress. Serious questions were raised about levels of service that would be provided under the reorganization and the impact on employees at the affected centers.

At the request of Members whose districts and States were affected, the committee included in its report on the 1982 transportation appropriations bill language requiring the FAA to submit any proposed plan to consolidate or reorganize its regional offices to both the House and Senate committees. Since that time, and in the wake of the strike by air traffic controllers, the FAA withdrew it ill-conceived plan and the issue seemed closed.

Recently, however, reports have emerged from FAA that the proposal has been revived, and that the agency plans to renew its efforts in the near future, perhaps shortly after the elections. Because the agency did such a disastrous job on this matter last year, and to forestall any possibility that it will try to spring another surprise on Congress, the Senate Appropriations Committee has approved language that prohibits the FAA from undertaking any reorganization of its regional office structure or beginning any studies dealing with such a reorganization without the prior approval of both House and Senate Appropriations Committees.

The purpose of the language is not to block efforts to improve efficiency in the FAA. We all favor efforts to improve agency efficiency so that vital public services are delivered smoothly and as cost-effectively as possible. The purpose of the language, rather, is to insert into the process a necessary element of congressional oversight, to insure that any plan that might be adopted will in fact achieve the goals we all share.

Last year's FAA plan failed miserably in this regard. The agency offered no supportive data when it released the plan, and when such data were requested, the agency lamely admitted that it would have to develop them, and that the plan had been based on, in the agency's phrase, "assumptive data." In fact, a careful study by private sector groups of the factors the FAA said its plan was based on found that the decision to close the New York regional office was unsupportable and a terrible misuse of agency personnel and equipment.

I believe that the language in the Senate committee bill provides needed safeguards against a recurrence of last year's debacle. I had considered offering an amendment today to insert the same language into our bill, but decided against such an action in favor of simply calling this important issue to the attention of the committee and urging that the Senate language be preserved in the conference.

Mr. McGRATH. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, although I do not plan to offer an amendment on the issue, I am pleased to join my colleague, Representative FERRARO, in calling the attention of my colleagues to a provision of the DOT appropriation, offered by Senator ALFONSE D'AMATO which has been accepted by the appropriations committee in the other body. The D'AMATO proposal would prevent the Federal Aviation Administration from proposing consolidation or conducting studies relating to the consolidation of FAA regional offfices without first consulting with the appropriations committees of the House and Senate.

Last year, as many of my colleagues will recall, the FAA Administrator proposed a sweeping reconfiguration of FAA regional headquarters which would have resulted in the closing of 5 of the 11 FAA regional offices. The FAA's plan, announced on June 12, 1981, was scheduled to take effect on July 1, only 3 weeks later. The plan was devised without consultation with Members of Congress whose States would have been affected. The plan, had it been implemented, would have closed FAA offices in the Nation's three largest cities. Only after strong expressions of congressional concern was the consolidation plan dropped by the FAA.

Mr. Chairman, I am as cognizant as anyone of the need to hold down Federal spending, and I understand and support FAA Administrator Helms' efforts to modernize and streamline FAA operations. But the question is not whether consolidation is a good idea, but how it can be carried out with the greatest saving and the least hardship to affected employees. This is a matter on which the Congress should be consulted. As was clearly demonstrated last year in the case of the proposed consolidation of the New York and Boston FAA offices, the FAA could not effectively show that the consolidation would have been efficient in either economic or human terms.

Any consolidation of FAA regional headquarters, even if it will result ultimately in a saving of money, will result in a net outlay of funds in the first year. It will impact on air safety and the effectiveness of the airspace system modernization plan the FAA is in the process of trying to implement. The FAA's decisions impact on all of us, and some more directly than others. It only makes good sense that the Congress be informed of the FAA's intentions every step of the way.

Although I do not suggest that the House adopt a provision similar to that which is included in the other body's version of the bill, I hope the House conferees will readily accept the Senate provision when they go to conference.

Mr. RAHALL. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I rise in support of H.R. 7019, the Department of Transportation appropriations for fiscal year 1983. This legislation will enable us to continue efforts to arrest the deteriorating conditions of this Nation's transportation infrastructure.

Among the many items contained in this bill is $788 million for the National Railroad Passenger Corporation more commonly known as Amtrak. According to the Appropriations Committee, this level of funding will allow continuation of all Amtrak routes operated in fiscal year 1982 including the Washington to Chicago Cardinal Line.

The Cardinal has been accused in the past of not meeting ridership and cost criteria and service was actually suspended for a brief period last winter. However, due to overwhelming congressional support for the Cardinal and the interest shown by our friend and colleague the distinguished chairman of the Subcommittee on Transportation, the late Adam Benjamin, language was added to an appropria-

tions measure which reinstated the Cardinal.

The Cardinal makes West Virginia stops in Prince, Thurmond, White Sulphur Springs, Charleston, and Huntington. Becasue of increased promotional activities, improved on-time performance and some rescheduling the Cardinal is now well on its way to being a top-notch performer. The Cardinal has a great deal of support among the people in southern West Virginia and offers them one of the few transportation opportunities they have left outside of private automobile use. I commend the members of the Appropriations Committee for their diligence in putting together this bill and urge all my colleagues to support it.

Ms. FERRARO. Mr. Chairman, I yield back the balance of my time.

Mr. NELSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on the occasion of this transportation appropriations bill, I want to urge the appropriate sovereign States to raise to age 21 nationwide the legal minimum age for drinking and purchasing alcohol in an effort to cut the highway death toll from drunken driving.

Available data now shows a direct correlation between the minimum drinking age and alcohol-related accidents in the 18- to 21-year-old age group.

In 1981 alone, 25,000 persons died in alcohol-related highway accidents. About 35 percent of those fatalities were between the ages of 16 and 24.

According to the National Highway Traffic Safety Administration, eight States which raised the age, reduced the fatalities of the 18 to 21 year olds and they reduced those fatalities by 28 percent.

This death toll of young Americans is grossly disproportionate and can be accurately termed a national scandal.

By raising the drinking age to 21 nationwide, it could help save these young lives.

□ 1520

Mr. Chairman, I would like to yield to the gentleman from Florida, the chairman of the subcommittee.

Mr. LEHMAN. I want to thank the gentleman from Florida (Mr. NELSON), my colleague from Florida, for bringing this to the attention of this body. I can assure the gentleman that his cause is most worthwhile and will receive the utmost attention from our subcommittee.

I also want to thank the gentlewoman from New York (Ms. FERRARO) for her kind remarks and for her support of this legislation. I certainly support the gentlewoman's concerns in regard to the Federal Aviation Administration.

● Mr. MINETA. Mr. Chairman, I rise in opposition to the amendment offered by Congressman COUGHLIN to delete funding for the Guadalupe corridor light rail transportation project in Santa Clara County. The Guadalupe corridor project is a perfect example of the kind of investment in infrastructure that the Federal Government should be promoting, rather than pursuing a shortsighted policy of cutting the important undergirdings of commerce and economic development in this country.

After a decade of study, the county and it component jurisdictions reached consensus that a major transportation improvement was needed if the area was to continue to grow in a controlled and positive way. The Santa Clara County area, or "Silicon Valley," is, by the way, probably at the heart of the high-technology industry in the United States with important impacts on the defense industry. Not only did the governmental jurisdictions conclude that this project was essential to the continued development of the county, but the public voted in a two-thirds majority that this was the project that they wanted in their community, and furthermore, that they were willing to pay for through a one-half-percent sales tax.

The State of California also has taken a strong leadership role in providing mass transportation solutions for the State's traffic problems and for the specific problem in Santa Clara. The State analyzed this project and made a commitment of over $100 million to the project. Consequently, the Santa Clara County is able to come to the Federal Government with a cost-effective and efficient project and with one-half of the funds they need to construct the project.

This level of State and local commitment, both in terms of financing and community support, is probably unparalleled in the country. So, while other projects have come to the Urban Mass Transportation Administration and asked for and received 80 percent Federal funding, Santa Clara County is able to provide 50 percent of their own funding.

For these reasons, I urge you to defeat the Coughlin amendment.●

● Mr. AUCOIN. Mr. Chairman, although the colloquoy between Chairman LEHMAN and Mr. TRAXLER clarifies that no funds in this appropriations bill will be used for enforcement of the automatic crash-protection standard, it should not be misconstrued to indicate for the record that there is agreement by the committee that the standard should not be implemented or enforced. In fact, there is considerable support in this body and from other members of the committee for implementation of the automatic crash-protection performance standard either through installation of airbags or automatic belts in new cars coming on line in 1984.

The U.S. court of appeals recently unanimously overturned the Department of Transportation's decision to rescind this standard and on August 4, 1982, the court reinstated the standard, to be effective in September 1983 because DOT had not justified its rescision. The court ruled that the Department's explanation for rescinding the automatic crash-protection rule was a "paradigm of arbitrary and capricious" decisionmaking. DOT violated the law and ignored Congress will in proceeding as it did. Federal agencies cannot overrule Congress. The court concurred.

In the interest of safety and saving thousands of lives, this performance standard should be met by our auto manufacturers. This standard could save 10,000 lives each year and help prevent millions of serious or life-threatening injuries. It will save billions in taxpayers dollars each year by reducing social security, health, and disability payments. It might even help, not hinder our automobile industry. We pioneered this technology and it would be a darn shame to see the competition come in and pull the rug out from under our industry by marketing cars with these protective devices before we do.

Some 50,000 people a year die in automobile crashes in this country. Auto accidents are the largest cause of paraplegia in this country. They are the major cause of epilepsy. They cause one-third of all occupational injuries. And on the average there are 140 auto fatalities a day—equal to a major airline crash such as the recent tragedy in New Orleans.

I strongly support implementation of this standard as do many of my colleagues here today and I concur wholeheartedly with the U.S. court of appeals decision upholding this standard.●

● Mrs. ROUKEMA. Mr. Chairman, today I reluctantly rise in opposition to this legislation. Reluctantly because this bill contains appropriations for a number of programs which are important to my own State, as well as appropriations for transportation programs important to our country as a whole.

It is unfortunate that the committee has chosen to jeopardize the funding of these vital programs by neglecting to report out a bill that represents true spending requirements.

First, due to recently passed increased aviation taxes, supplemental amounts totaling $323 million will be required for FAA, facilities and equipment, and research engineering and development.

Second, the committee bill does not include $61 million that will be required to increase pay and benefits for air traffic controllers once authorizing legislation is enacted.

Third, because of the committees decision to transfer $9 million from the Coast Guard pollution fund to acquisition, construction and improvements, additional appropriations will, no doubt, be required to supplement the Coast Guard pollution fund later in the year.

These are programs we have committed to funding. Yet there is neither funding in this bill, nor is there latitude to fund them later within the budget strictures.

If we pass this legislation today, the end result will be a transportation bill that will eventually exceed 1983 budget ceilings by $393 million. I, therefore, urge my colleagues to join in opposing this legislation.●

● Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 7019, the Department of Transportation appropriations bill of Transportation appropriations bill for 1983. While supporting the bill, I want to express my deep concern over the level of funds provided in H.R. 7019 for Coast Guard operating expenses and for acquisition, construction, and improvement of equipment and facilities. The Coast Guard has been given an increasing number of demanding missions over the years. Its resources, however, have not kept pace with its expanding responsibilities. That the Coast Guard had continued to carry out its functions as well as it has, despite declining resources and deteriorating equipment, is a tribute to the dedication and commitment of the Coast Guard's personnel.

This state of affairs cannot continue indefinitely, however, without seriously degrading the Coast Guard's performance. As chairman of the House Select Committee on Narcotics Abuse and Control, I am especially concerned about the Coast Guard's ability to fulfill its responsibilities for drug interdiction. The Coast Guard is our main line of defense against illicit marihuana, most of which is smuggled into our country by sea. This line is being stretched thinner and thinner.

Earlier this year, during the debate on the first concurrent resolution on the budget for 1983, I offered an amendment to increase funds for our Nation's primary drug law enforcement agencies including the Coast Guard. The levels proposed in my amendment were those approved by the House authorizing committees. In the case of the Coast Guard, these authorizations were subsequently approved by the House.

My amendment was intended to permit the Coast Guard to begin the job of upgrading its operational capabilities. In the drug enforcement area, for example, the Coast Guard estimates that it would have to interdict 50 to 70 percent of the illicit marihuana trade to have an appreciable impact on the traffickers. At its present levels of resources, the Coast Guard estimates that it is intercepting only 15 percent of the trade. Unfortunately, my amendment was not approved.

As a result, the amount appropriated for Coast Guard operating expenses in H.R. 7019 is $254 million less than the authorization approved by the House, and the appropriation for acquisition, construction and improvement is $383 million less than the amount authorized. The appropriation contained in the bill $1.588 billion for operating expenses and $287 million for acquisition, construction, and improvements—are intended to continue Coast Guard services and procurement programs at their 1982 levels. Under the limitations imposed by the first budget resolution the amounts approved by the Appropriations Committee are about the best can be done at this time. These amounts, however, simply are not enough for the Coast Guard to effectively perform the many duties assigned to it.

The bill does contain $19.6 million the administration indicated was needed to increase drug interdiction activities in the Southeastern United States. The Coast Guard has been one of the primary participants in the administration's crackdown on drug smuggling and related crime in south Florida. I fully support the operation of the South Florida Task Force and believe that is has helped to curtail the massive drug trafficking problem in that area. Concentrating our drug law enforcement resouces in that one area, however, is not enough to solve the drug problem. As I have consistently warned, the transfer of Coast Guard and other agency assets to south Florida has left other areas of our country more vulnerable to the drug trade. An increasing number of reports indicate that the drug traffickers are shifting their operations to points further up the east coast including New York and New England, where assets have been diverted.

If we are serious as a Nation about reducing the supply of illicit drugs reaching our shores, both the administration and the Congress must give higher priority to the budgetary needs of the Coast Guard and our other drug law enforcement agencies. Not until we provide resources needed to implement an effective national strategy for drug law enforcement can we hope to make any significant progress in controlling this most serious problem.●

The CHAIRMAN. Are there additional amendments? The Chair hears none.

Mr. LEHMAN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

To motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MINISH) having assumed the chair, MR. GEPHARDT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered. There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COUGHLIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 119, not voting 45, as follows:

[Roll No. 345]

YEAS—268

Addabbo	Broomfield	Dymally
Akaka	Brown (CA)	Dyson
Albosta	Butler	Early
Alexander	Clausen	Eckart
Anderson	Clay	Edgar
Andrews	Clinger	Edwards (AL)
Annunzio	Coelho	Edwards (CA)
Anthony	Coleman	Erdahl
Applegate	Collins (IL)	Evans (DE)
Aspin	Conte	Evans (IA)
Atkinson	Conyers	Evans (IN)
AuCoin	Coughlin	Fary
Bailey (PA)	Courter	Fascell
Barnard	Coyne, James	Fazio
Barnes	Coyne, William	Fenwick
Bedell	Crockett	Ferraro
Beilenson	D'Amours	Findley
Benedict	Daschle	Fish
Bennett	Dellums	Flippo
Bevill	DeNardis	Florio
Biaggi	Derrick	Foglietta
Bingham	Dicks	Foley
Boggs	Dingell	Ford (MI)
Boland	Dixon	Ford (TN)
Boner	Donnelly	Fountain
Bonior	Dorgan	Fowler
Bonker	Dougherty	Frank
Bouquard	Downey	Frost
Breaux	Duncan	Fuqua
Brinkley	Dunn	Gaydos
Brodhead	Dwyer	Gejdenson

Gephardt	Matsui	Sabo
Gibbons	Mavroules	Santini
Ginn	Mazzoli	Sawyer
Glickman	McClory	Scheuer
Gonzalez	McDade	Schneider
Goodling	McGrath	Schroeder
Gore	McHugh	Schumer
Gray	McKinney	Seiberling
Green	Mica	Shamansky
Guarini	Mikulski	Shannon
Hall (OH)	Miller (CA)	Sharp
Hall, Ralph	Mineta	Shaw
Hamilton	Minish	Shelby
Hammerschmidt	Mitchell (MD)	Shuster
Harkin	Mitchell (NY)	Simon
Hatcher	Moakley	Smith (AL)
Hawkins	Molinari	Smith (IA)
Heckler	Mollohan	Smith (NJ)
Hefner	Morrison	Smith (PA)
Heftel	Mottl	Snowe
Hertel	Murphy	Solarz
Hightower	Murtha	St Germain
Holland	Natcher	Stark
Hollenbeck	Neal	Staton
Horton	Nelligan	Stokes
Howard	Nelson	Studds
Hoyer	Nichols	Swift
Hughes	Nowak	Synar
Hutto	O'Brien	Tauke
Ireland	Oakar	Traxler
Jacobs	Oberstar	Trible
Jeffords	Obey	Udall
Jenkins	Ottinger	Vander Jagt
Jones (NC)	Panetta	Vento
Jones (OK)	Parris	Volkmer
Jones (TN)	Patman	Walgren
Kastenmeier	Patterson	Wampler
Kazen	Pease	Watkins
Kennelly	Pepper	Waxman
Kildee	Perkins	Weaver
Kogovsek	Petri	White
Kramer	Peyser	Whitley
LaFalce	Pickle	Whitten
Leach	Price	Williams (MT)
LeBoutillier	Pritchard	Williams (OH)
Lehman	Pursell	Wilson
Leland	Quillen	Wirth
Lent	Rahall	Wolf
Levitas	Railsback	Wolpe
Long (LA)	Rangel	Wright
Long (MD)	Ratchford	Wyden
Lowry (WA)	Reuss	Wylie
Luken	Ritter	Yatron
Lundine	Rodino	Young (FL)
Madigan	Roe	Young (MO)
Markey	Rose	Zablocki
Marks	Rosenthal	Zeferetti
Martin (IL)	Rostenkowski	
Martinez	Russo	

NAYS—119

Archer	Frenzel	Marlenee
Ashbrook	Gingrich	Marriott
Badham	Gradison	Martin (NC)
Bailey (MO)	Gramm	Martin (NY)
Bereuter	Gregg	McCloskey
Bethune	Gunderson	McCollum
Bliley	Hagedorn	McCurdy
Brown (CO)	Hall, Sam	McDonald
Broyhill	Hance	McEwen
Burgener	Hansen (ID)	Michel
Byron	Hansen (UT)	Miller (OH)
Campbell	Hartnett	Montgomery
Carman	Hendon	Moore
Carney	Hiler	Moorhead
Chappie	Hillis	Myers
Cheney	Hopkins	Oxley
Coats	Hubbard	Pashayan
Corcoran	Huckaby	Paul
Craig	Hunter	Porter
Crane, Daniel	Hyde	Regula
Crane, Philip	Jeffries	Roberts (KS)
Daniel, Dan	Johnston	Roberts (SD)
Daniel, R. W.	Kemp	Robinson
Dannemeyer	Kindness	Roemer
Daub	Lagomarsino	Rogers
Dickinson	Latta	Roth
Dornan	Leath	Roukema
Dreier	Lewis	Rousselot
Edwards (OK)	Livingston	Rudd
Emerson	Loeffler	Schulze
English	Lott	Sensenbrenner
Erlenborn	Lowery (CA)	Shumway
Fiedler	Lujan	Skeen
Fields	Lungren	Skelton
Smith (NE)	Stenholm	Weber (MN)
Smith (OR)	Stump	Weber (OH)
Snyder	Tauzin	Whitehurst
Solomon	Taylor	Whittaker
Spence	Thomas	Winn
Stangeland	Walker	

NOT VOTING—45

Bafalis	Deckard	Mattox
Beard	Derwinski	Moffett
Blanchard	Dowdy	Napier
Bolling	Emery	Rhodes
Bowen	Ertel	Rinaldo
Brooks	Evans (GA)	Roybal
Brown (OH)	Fithian	Savage
Burton, John	Forsythe	Siljander
Burton, Phillip	Garcia	Stanton
Chappell	Gilman	Stratton
Chisholm	Goldwater	Washington
Collins (TX)	Grisham	Weiss
Conable	Holt	Wortley
Davis	Lantos	Yates
de la Garza	Lee	Young (AK)

□ 1530

Mr. HARTNETT and Mrs. SMITH of Nebraska changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON WEDNESDAY, SEPTEMBER 22, 1982, DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Wednesday, September 22, 1982, to work on the bill, H.R. 6514, and the bill, H.R. 7140.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATION BILL, 1983

Mr. WHITTEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7072) making appropriations for Agriculture, Rural Development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentlewoman from Nebraska (Mrs. SMITH) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

□ 1540

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7072, with Mr. GORE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi (Mr. WHITTEN) will be recognized for 1 hour, and the gentlewoman from Nebraska (Mrs. SMITH) will be recognized for 1 hour.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, this bill makes appropriations for the Department of Agriculture. It also provides funds for many related activities, which include practically all governmental operations in our small towns, small cities, and rural areas. The bill is $3.7 billion less than 1982. The bill is $3.2 billion less than target, and $16.7 million less than the budget request. I mention this that Members may know that we are working within the limits of what we agreed to do in the allocations to our committee.

Mr. Chairman, I speak to you at a time when our Nation faces many problems, one of the greatest of which or one of the worst of which is the condition of American agriculture. As all of you know, less than 4 percent of our people are engaged in agriculture. The folks who have left the farm have been succeeded by the use of high-priced machinery and equipment, by pesticides, insecticides, and fertilizers, all of which cost a great deal of money. As I speak to the Members, I am, before I close, going to say to them what I told the Secretary of Agriculture this morning. I told the Secretary there is no way in the world for the farmers of this country to prosper unless they are able to get income beyond the cost of production.

The land of this country is in the care of those engaged in agriculture, the land on which all our children must look for the future. The farmer is the trustee only during his lifetime. Unless the farmer makes more than the cost of production he is going to first let the land go down and then the country will go down. We must remember that we can leave our children all the money in the world, but if we leave them a wornout land they will have nothing on which to build for the future.

Let me describe to the Members a situation with regard to what I told the Secretary this morning on the telephone. I said, "Mr. Secretary, this statement attributed to you about the American farmer, I know that it is not true and I know you meant the Common Market farmers in Europe. I know the misquote was corrected, but not in very big print. But I do say, Mr. Secretary, that as Secretary of Agriculture you owe it to the American people and to the world to let us produce food, to let the farmer get a high enough price to cover his cost plus a reasonable profit, and to keep the volume up so that we can feed the hungry people around the world instead of sending them airplanes and guns."

I cannot believe that he differs from that position. The decisions, unfortunately, are made at a higher level. I think the record will show that our foreign policy is financed by American agriculture. When it serves our foreign policy we hold our commodities off world markets. We pay storage on them, and those who advocate storing rather than selling will be screaming within 12 months about how much we are paying to store these commodities.

Let me tell the Members some of the problems faced by agriculture.

FACTS WE MUST FACE UP TO

American farmers are more than $200 billion in debt.

Interest rates range from 15 to 20 percent on outstanding loans.

The number of those engaged in agriculture is less than 4 percent, freeing the other 96 percent to do other things, including processing of agricultural commodities.

According to official figures, the minimum investment required to establish a family sized farm ranges from $400,000 for a winter wheat farm up to $1,300,000 for a cotton-soybean farm.

Agriculture, as an industry, is bigger than the auto, steel, and housing industries combined. Agriculture is the biggest industry and employer in our country, and the farmer is in the worst trouble since the Great Depression.

Since 1945, after World War II, the farmer's share of the consumer dollar has dropped from 51 percent to 31 percent last year—while, of course, labor and industry's share has increased from 49 percent to 69 percent for the same period.

The farmer's cost, since he buys from industry and labor, has gone up almost 1,100 percent since 1945, his investment has increased almost 1,200 percent, but his price is only up 300 percent.

In the last 2 years, farm costs have gone up 22 percent, while prices are down. The farmer has faced embargoes and threats of embargo. The result of embargoes is to merely turn the markets over to our foreign competitors.

We have refused to sell when we are dependent on exporting the production from 2 out of every 5 acres.

In a hungry world, this country should not hold back on food for people, while sending them guns and weapons of war, which the people do not want but their leaders do—as status symbols. Our records show we have sold or provided such weapons of war to 78 countries—many of them tiny countries you never heard of—and we are always surprised when they use them.

ECONOMY IN DANGER

Our greatest danger today is foreclosure of farm loans, which depresses the value of other farmland and farm equipment. The Federal Government has largely held up foreclosure of Farmers Home loans. However, the Government has no control over foreclosure by the Production Credit Associations or private lenders. The value of collateral to support the $200,000,000,000 indebtedness is reduced by forced sales which could leave many, many farmers in a bankrupt situation next year. Since agriculture is the largest business in this country, this situation represents a serious and imminent threat to our entire economy. Agriculture is responsible for 20 percent of our gross national product.

SECRETARY MUST ACT NOW

The Secretary must act now to prevent a wave of bankruptcies first on the farm and then throughout the rest of the economy. The law gives the Secretary the authority to set price to the farmer at such levels as to reflect cost of production plus a reasonable return. Our bill provides the money. This he must do.

We must also maintain volume. The farmer's profit is price times volume less cost. There are those who call for less volume in an effort to get higher prices. But, a higher price offset by a lower volume does not add to income, does not help meet world needs, nor serve the cause of world peace.

The error is that as a Government policy, we are giving away foreign markets, when the production of 2 acres out of every 5 must be exported for a healthy U.S. agriculture here at home.

EXPORTS ESSENTIAL

We have a vehicle to maintain our fair share of world trade—the Commodity Credit Corporation. CCC operates as a fully funded revolving fund of $25 billion with authority to support prices, to buy commodities, and to sell competitively in world trade. The proceeds are returned to the fund for further use. It is a revolving fund. CCC is the only organization of our Government that has the authority under its charter to buy and sell, in the same way as our competitors.

Our bill provides $3.7 billion in new cash for the CCC to carry out its programs. We have also provided $500 million for direct export credit loans. These loans will allow us to compete on an equal footing with our competitors. If we do not offer competitively either pricewise or creditwise, we do not sell—as history has proven.

I am very much concerned that many who are setting agriculture policy today are unaware of these errors of the past.

Mr. Chairman, I am one of the few here who can remember after World War II when this Government gave $22 billion to industry to let it reconvert. to peacetime. They did not give any help to American agriculture. So I say to the Members, we had better remember—if you have a hole in the roof of your house, you can patch it up; but if the foundation goes down, the whole thing goes down.

These are facts that I have called to the attention of the President and Secretary of State. I gave him four pages of handwritten notes, and I had a chance to say, "Mr. President, we are not at this moment saying your foreign policy is all wrong, but we are saying the American farmer can no longer finance it." We are financing it because of embargoes and because we are not producing and selling.

Any one of you knows this, but let me put it in simple form. Farm income is volume times price less cost. With the cost skyrocketing, we are going to have to protect price and volume. To protect volume, you are going to have to keep it on the counter available for sale to the world at competitive prices. To keep up prices you are going to have to relate it to what the farmer has to pay for what he has to buy. It is as simple as that.

What most folks do not realize is that when 4 percent of our population can free 96 percent to do other things, that is the key to our high standard of living. As I sometimes say, it takes so few of us to provide food, clothing, and shelter for all of us, that the rest of us can do something else.

□ 1550

I think it is time that we studied all these things and get back to the fact that the economy is now in serious danger. Let us see what the greatest danger is.

NEED FOR MORITORIUM ON FORECLOSURES

Last year, as chairman of the Subcommittee and chairman of the full Committee on Appropriations, I took it up with the Department of Agriculture and did what I could under the statutes that exist to stop the Farmers Home Administration from foreclosing because the statute lets them stretch out or postpone the term for repayment. I pointed out that in a forced sale land worth $1,400 an acre might

bring only $800 an acre. Next year the farmer would find his collateral worth about 60 percent of what it was last year.

So I say to the Members that the 75 percent of those engaged in agriculture who must borrow, they are facing a period next spring when with the decreasing value of their collateral, we will have a very serious situation. If bankruptcies start there, it spreads like wildfire to the rest of our economy. Agriculture is the foundation of our very economy.

LESSONS OF HISTORY

If you go back and look at our hearings, you will see that many years ago Mr. Ezra Taft Benson was Secretary of Agriculture. He was a fine gentleman and a good friend of mine. We differed in our viewpoints. He held 10 million bales of cotton off the world markets. His only basis was that he was not going to sell it for less than cost. Well, you do not sell anything unless you make your price competitive.

Do you know that our committee insisted that he sell, and with the support of the Congress, we finally got Mr. Benson to offer these commodities in the world market? They sold 10 million bales of cotton in 15 months.

Do you know that when we made the price competitive, we moved the rest of our commodities that were in storage? Do you know that if we had made our price competitive, we could have sold all these dairy products? The world is begging for them. But we did not do it.

So what I want to say to the Members is that we have got to break loose the shackles. I had the chance to say to our Secretary of Agriculture: "Mr. Secretary, these competitors of ours are going to do anything to move what they have and do not need. What you need to do is give thought to selling what we do not need, because the world is begging for food at a time when we need friends throughout the world."

You have heard me say many, many times, the source of our great danger is that agriculture today is getting as little return as it did at about the time of the Great Depression in the early 1930's. We cannot live with it; the farmer cannot live with it. If we do not correct it, we will go down with them.

REAL WEALTH

The United States is faced with very serious financial problems. A way must be found to balance the Federal budget, to bring down interest rates, and to stabilize the Federal debt. However, this must be done at a high enough level of income and outgo to make such action possible and acceptable, and to prevent a possible collapse in the Nation's economy in the process.

Fortunately, we in the United States have a strong nation, one which is endowed with rich, natural resources and is blessed with strong and resourceful people. If we protect the real wealth of our country—the soil, the water, the timber, and the productive capacity of our agriculture—we will have the means to solve our "money" problems today and to assure a good life for our children and grandchildren in the future.

After all, money is only a medium of exchange. And, the value of that medium is based on the physical assets and natural resources of our country. These resources must be preserved if we are to protect the value of our medium of exchange. No medium of exchange can feed present and future generations. Only the land and its productive capacity can do this.

Apparently there are those who either do not understand this simple fact, or who do not fully appreciate the wisdom in drawing a distinction between money and wealth.

If we are to succeed, we must see that this distinction is recognized in all decisions and actions taken by our President and our Congress as we address the serious challenges facing our Nation today.

In conclusion, Mr. Chairman, the bill is $16.7 million below the President's budget and includes funds for:

Agricultural research and cooperative extension programs, including land-grant colleges;

Grants and loans to small towns for water and waste disposal systems with 30 percent required for expansion of existing systems;

New starts on small watersheds; and

Farmers Home Administration operating loans, farm ownership loans, and housing loans.

I would also point out that the bill restores $190 million for the agricultural conservation program, which the Office of Management and Budget had proposed to cut to less than $50 million.

It is a good bill, Mr. Chairman, it provides for the foundation of our economy—agriculture—and I urge the support of all the Members.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank our chairman, the able gentleman from Mississippi, who has guided this subcommittee for 31 years. His leadership and concern for the well-being of this Nation's most important and largest industry is sincerely appreciated. I also wish to thank my minority colleagues and all my colleagues in the committee for their help and dedication through the year. I join the chairman in giving this Agriculture appropriation bill for 1983 strong support. The committee has done its best to bring a bill before the House that is not a budget buster and which complies with the budget resolution.

CBO estimates that H.R. 7072 is $2.7 billion below the committee section 302(b) allocation on budget authority and $2.5 billion below on outlays. The committee expects that these amounts will be needed to fully fund the nutrition assistance programs—food stamps, child nutrition, and WIC. We have funded these programs at less than full year levels in anticipation of administration supplemental requests to comply with the budget resolution assumptions.

Since the Depression there has not been a time when a strong agriculture appropriation bill is needed more. Agriculture is experiencing its 3d straight year of falling income. The USDA recently announced its estimate of 1982 agricultural income at $19 billion, down from $19.6 in 1981 and $24.4 in 1980.

The cost price squeeze continues with prices paid by farmers increasing while their incomes have fallen.

Farm indebtedness is 12 times higher than farm income—the highest ratio ever.

On top of poor commodity prices, borrowing power is being eroded by decreased land values for the first time in 30 years, As of June 1, 33.9 percent of the loans by Farmers Home Administration were delinquent.

I will not go on, but I could. What is most important for me to get across is that the agricultural industry must recover if we are to expect recovery in the rest of the economy.

Being larger than the auto, steel, and housing industry combined, and with more workers than any other industry, agriculture has a very large impact on the general economy.

A recent study completed by Chase Econometrics shows that full recovery cannot be achieved without recovery in the agricultural sector. The study shows that depressed farm prices are causing a national loss of $2.2 billion in gross national product, $4 billion in disposable personal income, and $2.8 in net farm exports.

Contrary to other industries agriculture is not undercapitalized or suffering from a decline in productivity, rather it is a victim of its own success. Our food production capacity is the envy of the world. It provides the basis for American consumers to spend less of their disposable income on food than any other group of people in the world. However, when our production is greater than demand it means bad times on the farm and ranch.

One note about our abundance, and that is to say that supply is only large relative to demand. Anyone who is knowledgeable about our international market will agree that this industry's marketing base has been ruined by embargo after embargo and the food weapon has been used at considerable

detriment to our demand side of the marketing equation.

The small amount of funds provided in this bill for agricultural programs is needed to help repair embargo market damage and protect our most important natural resource—the food producing capacity of American agriculture.

The committee provides $1,023 billion for agriculture research and extension activities. This is $34 million more than last year and demonstrates our commitment to maintaining the critical scientific work that has been probably the most important factor in expanding our production and efficiency. Science must now play a leading role in finding new uses for our products, pioneering less expensive methods of production, developing systems that do a better job of preserving our soil and water resources, and delivering that know how to the producers through our Cooperative Research Service.

For protection of plants and animals from pests and disease the committee has provided $268 million—down slightly from last year—but at adequate levels to continue the battle against disease and pests.

The committee has decided to restore funding for such control programs as goldern nematode, grasshopper, gypsy moth, imported fire ant, witchweed, and several other important programs that have proven effective over the years.

Rural development through the activities of the Farmers Home Administration is funded at levels that will allow the Department to maintain or in some cases increase its participation levels. We have provided the request for higher FmHA operating loan levels to see that producers have more adequate access to last resort lending during these hard times.

The Rural Electrification Administration is continued at virtually the same levels as last year. REA has provided a critical link in facilitating the modern and efficient agriculture we see today. It has also improved the living standard of our rural population. If it were not for past rural electrification programs our rural people would not enjoy the conveniences of modern day living.

In an effort to halt our very serious land and water erosion problem our committee has restored, as we are forced to every year, the funds for conservation and forestry efforts. Almost every major publication in this country has run stories on our critical erosion situation. Our intensive farming practices and push for volume to make up for low prices has aggravated the loss of our farmland. Producers cannot bear the expensive erosion control measures by themselves. It is to society's benefit that everyone join in the effort to preserve our natural resource base. As my chairman has said so many times—all real wealth is linked to the soil and if we destroy that resource we are destroying our foundation.

As I mentioned earlier, the food and nutrition programs that provide the needed assistance for low-income Americans are also funded in this bill. The committee has only provided the President's original request for the food stamp, child nutrition, and women, infants, and children programs. However, we have stated clearly in our report that these programs are to be administered at budget resolution assumption levels and that the committee has ample room under our 302 allocation for the supplemental requests needed to fund these programs for the full year. It is clearly not the intention of the committee to ignore the budget resolution.

H.R. 7072 also funds the international agricultural programs. The Foreign Agriculture Service will be receiving $3 million more in 1983 than in 1982. The primary function of this organization is to help American agriculture in maintaining and expanding foreign markets for agricultural products, so vital to the economic well-being of the Nation.

I, and the entire committee, remain very concerned about our lack of an effective way to combat the loss of our overseas markets. Other exporting countries are using every means available to export their surplus, eating away at our markets, and eroding the earning potential of our own producers.

One of the reasons our producers were able to take advantage of increased demand for grain during the 1970's was the fact that we had been operating a strong Public Law 480 concessional sales and food donation program. In addition, USDA operated a very successful direct loan program for financing export sales. These programs were used for market development and gave us the leading edge that allowed the United States to capture most of the world grain and vegetable oil market.

The committee believes that now is the time to revive a direct credit export program. Our carryover supplies of wheat, feed grain, soybeans, and dairy products has reached unmanageable levels. We can no longer sit back and hope that the export situation will change, or that some disaster will increase demand for our products.

The export credit program funded out of CCC existing authority at $500 million will help get rid of our products by offering terms and conditions more favorable than commercial lenders. If used in conjunction with funds provided in the budget reconciliation measure this program could be very effective in raising commodity prices by reducing inventory and could also reduce Government price support assistance.

In summary, I urge my colleagues to consider the plight of agriculture, recognize that to the committee's and CBO's best estimate we are under our targets set by the committee under the Budget Act, and that we are bringing you a bill that, when analyzed carefully, does not exceed the budget and provides ample room for needed supplementals in the feeding program areas. I ask your support and urge you to vote in favor of H.R. 7072.

□ 1600

Mr. COLEMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to my friend, the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, I want to thank the gentlewoman and congratulate her on a very fine statement and her leadership on the committee.

Mr. Chairman, H.R. 7072, the 1983 appropriations for agriculture and its related agencies, should be approved by the House. It contains the money needed for a response to many of the problems American agriculture faces today. It also meets the crucial needs of USDA's food and nutrition assistance programs as it recognizes the scope of the Agriculture Committee's intense efforts to reduce fraud, waste, and abuse.

Certainly, I do not agree with every line item treated in this legislation, but let me point out a few areas in which I commend the committee's work and diligence.

For instance, the committee again pointed out the need for more credit to export farm commodities. The Agriculture Committee authorized an export credit revolving fund in the 1981 farm act, and the Appropriations Committee has acted at every opportunity to fund this vital program.

With authority provided in the supplemental appropriations bill, the CCC is obligated to spend $500 million on export credits. In the Public Law 480 section, the Appropriations Committee urges full use of this important program. While I am concerned that nearly 38 percent of the funds obligated under title II will be spent for transportation of commodities, I am pleased that this program is being used. I would urge the Secretary to administer this program in a fair and expeditious manner.

The committee gave new life to the agricultural conservation program which the administration had all but abolished in its 1982 budget requests. The ACP has been the mainstay of this Nation's defense against soil erosion and water degradation. While I must agree with the administration's

emphasis on special funding for critical erosion areas, I do not believe we must allow other areas of the country to deteriorate in the meantime.

The committee also placed special importance on the resource conservation and development projects, restoring funds at near 1982 levels. These RC&D projects are extremely beneficial to the development of rural areas.

The committee has also recognized the importance of the brucellosis eradication program and has restored most of that funding. It is a necessary program, and the authorizing committee in its budgetary recommendations earlier this year made it a chief concern. Cattlemen across this country have very nearly controlled this disease which still causes millions of dollars in losses yearly in our beef and dairy herds. It is close to being eradicated. This is no time to stop fighting this disease. Let us finish it off. I am pleased the committee agrees with me.

The committee also recommended funding at fiscal year 1982 levels the special research on soybean cyst nematode. This research means a great deal to midwestern soybean farmers.

Although no funds were obligated to begin pseudorabies eradication projects, the committee did recommend that USDA consider such projects in its fiscal year 1984 budget meetings. I concur with that recommendation. The pork producers lose millions of dollars annually to pseudorabies.

The committee also dealt at length with the Federal Crop Insurance Corporation, which has been a disappointment to most every member of the Committee on Agriculture. While I did not vote for the all risk crop insurance program in 1980, I did wish once the program was under expansion to see it work. It has failed, and the authorizing committee will take a careful look at its operation next year in the 98th Congress.

Finally, in the pure farm aspects of the 1983 agriculture appropriations bill, I was heartened the committee showed support for the Agricultural Cooperative Service. It has come under criticism during the budget debate in the Agriculture Committee, but I believe it serves a useful purpose and will continue to benefit farmers cooperatives large and small.

The committee recommends a total of $9.541 billion for the food stamp program, $250 million of which is set aside and will be available after the Secretary has used available methods to combat waste, fraud, and abuse. This is the total amount initially requested by the administration.

I share the committee's concern about unrealistic budget estimates, whatever the source. Many of the proposals originally submitted by the administration for the food stamp program were not accepted by the Agriculture Committee. I believe that some of these proposals were unrealistic and provided work disincentives. Instead the Agriculture Committee accepted several proposals which will save a total of $1.9 billion over the 3-year reauthorization. I am pleased that one of these proposals will begin to address high error rates in the food stamp program and require States to reduce these error rates or repay a portion of their Federal administrative reimbursement. While I still believe my original proposal on error rate reductions and sanctions is superior, I do support this provision as a first step toward reducing the $1 billion a year that goes to people who are either ineligible or receive too many food stamps.

Based on the changes included in H.R. 6955, the omnibus reconciliation bill, the CBO estimated that the food stamp program would cost $12 billion in 1983, not including the funds for Puerto Rico. This figure includes the CBO baseline figures, the budget savings, offsets due to increases in food stamp costs as a result of decreases in AFDC and SSI benefits, and a 5-percent cushion.

However, CBO has recently reestimated and lowered their food stamp program costs. They now state that the program will cost $10.8 billion in 1983, not including the $825 million for Puerto Rico.

Members should be aware that the $9.541 billion in the committee's recommendation is available through July 15, 1983. Therefore a supplemental later next year will be necessary to fully fund this program—if the CBO estimates are accurate.

A more than reasonable cap on the food stamp program is incorporated in H.R. 6955. The 1982 cap of $11.3 billion will be sufficient to fund the program fully and with the CBO reestimates the 1983 cap will also be more than sufficient to fund the food stamp program fully.

The committee recommends $825 million for the food assistance block grant for Puerto Rico. This is the same figure that the Agriculture Committee incorporated into H.R. 6955 and the food stamp cap.

I am gratified that the committee recognized a major weakness with the Puerto Rico program—the issuance of cash to needy people under the guise of a food assistance program. The committee requires that the Department study the impact of a cash nutrition program on Puerto Rico's agriculture.

Nevertheless, H.R. 6955 incorporates a provision I offered that will require Puerto Rico to issue food assistance in forms other than cash no later than October 1, 1983. I offered this provision because I was concerned that a nutrition assistance program was being turned into a cash giveaway program. Those who conceived the Puerto Rico plan and those who approved it are concerned more with form than with the substance of the program.

Many argue that by cashing out the program, we can get rid of fraud and abuse in food stamps. Such an argument is specious. These people would have us close our eyes to a real problem, and then, because they no longer see it proudly announce it is gone. We will not eradicate fraud in the food stamp program through cash-out. What we will do is remove the ability to find out where the fraud exists. There will be no audit trails, no possibility of finding out who is abusing the program.

Have we given up on the battle on fraud in the food stamp program so easily? Do we want to turn the program over to hardened criminals? Do we want to give up any assurances that the poor can receive food assistance? Surely not. Cashing out the food stamp program in Puerto Rico may be the first step toward cashing-out the entire program.

Therefore, beginning no later than October 1, 1983, the administrators in Puerto Rico will have to find a better way to provide food assistance to their needy people—one that insures that the goals of the food stamp program are met.

I urge you to support H.R. 7072, the agriculture appropriations for 1983.

Mr. EMERSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I thank the gentlewoman for yielding.

I would like to join in commending our colleague, the gentlewoman from Nebraska (Mrs. SMITH) and the chairman, the gentleman from Mississippi (Mr. WHITTEN) for their very fine work on this bill.

I think this is in a very fine spirit of bipartisan cooperation that the product that we have before us has been arrived at and I want to express my strong support for it.

Included in this bill are funds for a wide range of programs that are essential to the success and productivity of our Nation's farming industry.

Within the agriculture, rural development, and related programs, there are funds which will allow us to move ahead with the soil conservation efforts that we must pursue if we are to insure the productivity of our dwindling farmland, funds for the Farmers Home Administration—dollars that will be used to maintain the loans that are so important to many farmers' survival during these hard times; and funding for the Rural Electrification Administration and other agencies that provide essential services to our rural areas.

Equally important are the appropriations which will go toward stabilizing farm income—assistance that today may well represent the key to enabling our farm producers to continue to produce the food and fiber that not only our Nation, but most of the world needs so badly.

Beyond these programs, this bill also provides encouraging allocation of dollars toward promoting farm exports. In view of lingering poor market conditions and the incredible productivity of the farm sector, exports hold the key to lasting prosperity in the agricultural economy. We have the capacity to greatly expand our already impressive foreign sales of food—and there is no shortage of potential buyers for that food. The missing link is adequate promotion of these sales and the financial resources that are needed for that promotion.

Included in H.R. 7072 is $500 million for direct export credit loans to be made by the Commodity Credit Corporation during fiscal year 1983. By approving this bill, we will finally be sending a meaningful signal to our farmers and to the world that we are serious about farm exports. To me, that is a signal that is long overdue, and that is essential to the long-term health of our most productive industry.

And finally, Mr. Speaker, I am pleased that H.R. 7072 contains funding for the extremely important research that is being conducted to find ways to combat the growing problem of soybean cyst nematodes, and want to thank Chairman WHITTEN and Mrs. SMITH of Nebraska for their cooperation in this effort.

Farmers plant a million and a half acres of soybeans each year in southeast Missouri—a figure that has increased steadily over the past 20 years. However, with the increased profitability and popularity of soybeans as a crop, we have also experienced alarming increases in the devastation caused by the soybean cyst nematode.

This problem that is costing our farmers millions of dollars each year, and that is threatening soybean production across the Nation. It has now been identified in 24 States; and, quite frankly, is outrunning our research in terms of control and the development of resistant varieties of soybeans.

The primary research on combating this problem is conducted at the University of Missouri's Delta Center Agricultural Experiment Station in Portageville, Mo. The work being done at this facility has already proven invaluable to our farmers and represents our best hope of winning the battle against the cyst nematode.

In conclusion, Mr. Speaker, this appropriations bill does not represent an option or a luxury that we can afford to do without—it represents a wide range of programs that are vital to our farmers and to the economy of rural America. I urge my colleagues to support this measure, and in doing so, allow our agricultural producers to go about their task of providing this Nation with an abundant supply of food and fiber.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may require to the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Chairman, the Subcommittee on Agriculture, Rural Development and Related Agencies Appropriations once again brings to the floor of the House for your approval, the annual appropriations bill for fiscal year 1983.

Our American farmer knows how to produce and today, our country is the world's largest exporter of food to the other nations of the world. It is imperative that we reforest our lands, protect our watersheds and conserve the soil and water in this country. We must leave to future generations a fertile land and a land sufficient to produce food for our people. The assets invested in agriculture today exceed those of any of the next 10 largest industries. Agriculture employs more workers than any of the other major industries and in fact, employs 23 times the number of people employed in the coal and oil industry and 5 times more than the number employed in the automobile industry. We know that agriculture is one of the major markets for the products of labor and industry. Agriculture spends more for equipment than any of the other large industries. It uses more steel in a year than is used for a year's output of passenger cars. Our farmer uses more petroleum products than any other industry in this country and uses more rubber each year than is required to produce tires for 6 million automobiles. The American farmer's inventory of machinery and equipment exceeds the assets of the steel industry and is 5 times that of the automobile industry.

Mr. Chairman, the American farmer is entitled to a fair share of our Nation's income. Today, the farmer does not receive enough money for his commodities. A bushel of corn today is selling for less than it did 35 years ago.

Agriculture is a major earner of foreign exchange which assists us each year in offsetting the high cost of oil and imports. It produces 50 percent of the world's wheat exports, 79 percent of all soybean exports, and 61 percent of world coarse grain exports.

The U.S. exports totaled $44 billion last year. Agriculture generates about 20 percent of the gross national product.

The farm debt has doubled in this country in the last 5 years and it is now nearly $200 billion. This is a serious situation and when the Secretary of Agriculture appeared before our committee this year, this was not only called to his attention, but stressed vigorously.

The cost of production is increasing annually and it is now imperative that we have a price support level that more accurately reflects costs of production, plus a reasonable profit.

The Secretary should act now and use his authority to raise prices to prevent a wave of bankruptcies first on the farm and then throughout the rest of the economy.

Out of every 5 acres of cultivated land in the United States 2 acres are devoted to production of food and fiber for export. The Department estimates that the equivalent of half a million farmers are engaged in growing U.S. export commodities and an even larger number of nonfarm people are engaged in processing and handling American agricultural products for export. Agricultural exports make a major contribution to the U.S. trade balance. They accounted for one-fifth of total U.S. exports in fiscal year 1981.

Food is all important in this world today. It has been said that the world is never more than 1 year ahead of starvation. The population of the world continues to grow. It reached the first billion by the year 1830. Only 100 years later, in 1930, it reached 2 billion. By 1960, only 30 years later, it reached 3 billion. By the year 2000, at the present rate of increase, it will double again to over 6 billion.

One of the most effective ways to help the farmer in this time of extreme financial stress on American farms, is to increase foreign markets for U.S. farm commodities. This will do much to improve farm prices and increase farm income needed to meet inflated production costs on domestic farms.

In this bill, Mr. Chairman, we request $453,530,000 for the Agricultural Research Service.

We request $230,082,000 for Cooperative State Research Service.

For Extension, we request $327,027,000.

For Animal and Plant Health Inspection Service, we request $266,531,000.

For Food Safety and Inspection Service, we request $315,557,000.

For Statistical Reporting Service, we request $50,823,000.

For Marketing Service, we request $31,912,000.

Mr. Chairman, for the Office of Rural Development Policy, we recommend $2,142,000.

For rural water and waste disposal grants for the Farmers House Administration, we recommend $125,000,000.

For rural electrification and telephone revolving fund, we recommend loan authorizations of $1,100,000,000.

For Rural Telephone Bank, we recommend $30,000,000.

For Soil Conservation Service, we recommend $326,198,000.

For ASCS we recommend $190,000,000.

For Foreign Agriculture Service, we recommend $70,947,000.

For Food and Drug Administration, we recommend $330,188,000.

Mr. Chairman, this is a good bill and our Committee on Appropriations recommends it to the Members of the House. We should keep in mind that if our country is to survive and prosper, certainly we must continue to be interested in and to assist when necessary the custodians of the natural resources of our country.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. ROBINSON).

Mr. ROBINSON. Mr. Chairman, I rise in support of this bill.

The committee has undertaken to provide for established programs necessary to the maintenance of orderly continuing production of food and natural fibers.

American agriculture is not in good shape—and we must try to help it get into good shape. The continuity of food and fiber production is essential to the health of our national economy and to the preservation of the fabric of our society. In economic terms, the problems of agriculture are the problems of us all. Millions of jobs in industries not obviously parts of agriculture are dependent on the viability of the rural communities of the Nation.

Selling production goods and services to agriculture, and selling consumer goods to farm families, represent billions of dollars on the ledger of our national economy. And we must keep in mind the tremendous contribution of agriculture, through exports, to our balance of payments account, which needs all the help it can get.

This bill comes to the House under budget for agricultural production, processing, marketing, and farm income stabilization programs. International programs also are below budget figures, as are the fundings for related agencies included in this bill.

A chief problem area is food stamps. We have an estimate here in the bill because, under existing law, food stamps must be made available to all persons found entitled to them, and we must put up the taxpayers' money—in this or supplemental appropriation bills—for whatever amount may be required to fund the program. Tightened administration, and, hopefully, further legislative action to curb this program, will be necessary if we are to cut this huge item in the bill, which should not be in the bill at all. It is not a program for the benefit of American agriculture. It is a welfare program and should be handled as such in the appropriation process.

There are some elements of this bill which I am particularly happy to support. For example, we find an increase of $3.5 million in research and extension over fiscal year 1982 money—and we still are within the budget recommendations on that. And we have undertaken to preserve animal and plant health inspection at substantially current levels by raising the President's figure. The Federal Crop Insurance Corporation would receive increased financing under the bill, but at a figure below budget.

We need to do more than we have been doing, and more than this bill permits, to maintain the momentum of production efficiency improvement which has kept American agriculture competitive in world markets, and permitted it to feed more and more Americans on ever fewer acres. But to deal effectively with this requirement, we must face up, legislatively, to the matter of getting the Department of Agriculture out of the welfare business.

In the meantime, we should discharge our responsibility, in this House, of moving forward a reasonable appropriation bill for agriculture and related agencies.

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Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. TRAXLER), the ranking majority member on the subcommittee.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Chairman, I wish to commend the chairman and the distinguished gentlewoman from Nebraska for bringing to us a bill that I am sure most Members of this House can support. It is well within the budget constraints placed upon the subcommittee. It is the best that we can do to assist the American farmer. Every one of us knows that it is not enough, it is not going to be adequate. We are also constrained by the authorizing legislation that does not permit us to do what many of us feel ought to be done on behalf of the grain farmers of this Nation. We understand the supluses that are developing. We also know that the levels of price supports in this bill are inadequate, that even established growers and producers are going to be in hard times.

I also predict that by next year, probably about February or March, you are going to see a concerted effort on both sides of the aisle to develop a farm program that will be meaningful, that will assure that rural America does not go bankrupt along with urban America.

Mr. Chairman, I rise in complete support of H.R. 7072, the bill making appropriations for the Department of Agriculture and related agencies for fiscal year 1983. I firmly believe that this bill represents the best judgment of our subcommittee as to how limited Federal funds should be spent to best serve the interests of America's farmers.

I want to compliment our distinguished chairman, the gentleman from Mississippi (Mr. WHITTEN) for his most skillful leadership. Only a man who has experienced so much as chairman of the subcommittee and now the full committee could provide sufficient leadership to respond to the problems facing us in the fiscal 1983 budget. I also want to compliment our ranking minority member, the gentlelady from Nebraska (Mrs. SMITH), for her excellent cooperation in bringing forth what is truly a bipartisan bill, and not simply one that is called bipartisan because of the coincidental sponsorship of legislation by members of the two different major political parties.

Mr. Chairman, this bill is more than $3 billion below our subcommittee's target under our section 302(b) budget allocation. It is more than $3 billion below the fiscal 1982 appropriation, and we are still nearly $17 million below the President's request for fiscal 1983, despite the fact that many of our priorities differ greatly from those of the President, and despite the fact that one may view his budget request as an improper request because it failed to request funding based on current law, but preferred to request funding based on changes in the law that the President would like to see. Our committee cannot make those changes, and we must deal with the budget based upon what current law tells us to do.

In order to correct this problem in the future, our committee report directs the Department to provide its budget justification to us for fiscal 1984 and subsequent years based upon current law, not a wish list of legislative provisions that no administration has ever fully expected to be adopted.

Mr. Chairman, our farmers are hurting. Farm income is at its lowest adjusted level since the Depression. Farm prices continue to decline. Interest rates make it impossible for farmers to get sufficient credit to continue their operations. More and more farmers are finding it essential to have off-farm income sources in order to continue to live at a reasonable standard.

Our price support programs have been changed, and I fear that many of these changes have been in the interest of the Office of Management and Budget, not the American farmer. Some of these policy changes lack sufficient credibility to convince any reasonable person that they are intended to help our farmers through these very tough times, which have only

gotten worse for them within the last 2 years.

It is for reasons such as these that our spending priorities within this bill must differ from those of President Reagan. We must deal with the situation as we find it, not as we might like it to be. We must be sure that adequate agricultural research is continued so that we can find new ways to help farmers reduce costs until such time that a more reasonable price for their commodities might be obtained. We must be sure that the Extension Service is able to continue to adequately serve our farmers so that they will know that new techniques are available in farming which will help them to reduce their costs and improve their yields. We need to be sure that adequate credit is available from the Farmers Home Administration so that farmers can continue to weather our economic storms, and that the policies of FmHA truly recognize the problems our farmers face. Our committee is not convinced by administration officials who say that FmHA is treating our farmers fairly. Too many farmers have complained to us about the lack of consideration given to them by FmHA officials, and the increased efforts to either foreclose or otherwise force farmers off FmHA credit assistance for us to believe that those FmHA policy officials who testified before our subcommittee are being totally honest with us.

And while I know that the title III feeding programs funded in this bill are not necessarily the most popular items within this bill, I think that it is essential that our bill continue to provide adequate food program assistance so that the literally millions of Americans who are unable to find work will know that they will continue to be able to at least obtain a modest meal in their times of need. I truly wish that we did not have to spend so much money on our feeding programs. But if the need is there, then so must be the funds. With unemployment at historic levels I think it is pure folly to say that we are spending too much on these programs. They are supposed to require large amounts of funds when Americans are in trouble, and Mr. Chairman, with unemployment in my home State of Michigan significantly above the national rate, there is no question in my mind that many Americans are facing trouble.

I would like to highlight certain provisions of this bill for the benefit of my colleagues who may not have had an opportunity to fully review it. It is a good bill, and one that deserves the support of every Member of this body who cares about the condition of American agriculture.

Title I provides funding for the basic agricultural programs of the Department of Agriculture. One of its chief features is that this is where one will find funding for research and extension programs, which I already described as two of the essential elements for the restoration of a healthy American agriculture.

President Reagan wants to tell us that we need to give greater credence to the capability of States to determine what is in their best interest. I agree that in certain respects States can do a more adequate job of recognizing their own needs, and it is for this reason that I have been a strong supporter of the Cooperative Research Service. Our bill provides an increase of nearly $9 million over fiscal 1982 for this agency, which provides the bulk of its funding to State agricultural colleges through the Hatch Act formula research grant program. Under this program, our agricultural colleges are given a share of funds to use on research projects that are of particular significance within each of the States. Frequently this research has a multistate application, and the agency is doing a commendable job of attempting to keep all of our agricultural college researchers apprised of what projects all other institutions are conducting so as to avoid any unnecessary duplication of research efforts. This pool of funds is the strongest method available of responding to ongoing problems that may be unique to a particular region of the country which might not get the attention of USDA researchers whose perspective might be a bit broader than significant regional problems. We provided an increase of $4.8 million over the President's request in this program so as to provide a more realistic increase that could withstand the higher costs of conducting research. The total increase in this program, as a result, will be slightly more than $8 million in fiscal 1983.

We once again have found it necessary to restore several special grant projects that the President's budget deleted in failing to recognize the significant need for these projects.

A number of these projects have particular relevance to Michigan, and I would like to briefly describe them to you. First, we provide $97,000 to continue work at the Saginaw Valley bean and beet research farm. This facility has been jointly funded by the Federal Government, the State of Michigan, and the Michigan dry bean industry in a cooperative fashion since fiscal 1978. The funding has resulted in the conduct of research activities crucial to dry bean and sugar beet growers in Michigan and throughout the Midwest. The bill provides a $15,000 increase over the amount provided in fiscal 1982 to reflect certain expansion at the Saginaw facility. The money is intended to be used to help conduct this increased activity, and is expected to be used in a fashion conducive to the best management of the variety of research projects that need to be done.

We also have restored funds for the dairy photoperiod project which is conducted at Michigan State University, as well as the funds for the bean flour research project which has been conducted jointly by Michigan State and Texas A&M Universities. These two projects stem from the basic principle of doing more with the resources currently available. Dairy production can be modified through the use of photoperiod techniques in a manner which will allow producers to make temporary modifications in the milk production of their herds without going through the more difficult efforts of actually modifying herd size. The bean flour project looks at ways of using the highly nutritious dry bean in a new form so as to increase both the availability of high protein food items, and the market for dry bean products.

We also restored funding to continue research work on blueberry shoestring virus, a disease that is creating great difficulties for Michigan's blueberry producers.

Once again we have cut the funds for the competitive research grant program. This program does accomplish meaningful research projects, but the issue, in my opinion, has always been whether or not competitive grants are a superior method of administering research than the regular contract grant method of USDA which already involves peer review utilizing USDA personnel. Once again the Department failed to answer this question to my satisfaction, and it is this dispute, coupled with the need to provide a more realisitic increase in Hatch funding, that led us to cut the program substantially below the President's request.

There are two items of special interest within the budget of the Agricultural Research Service. First, the bill identifies up to $100,000 to be used for recombitant DNA research on soybean varieties. This project can be very helpful in the development of new, disease-resistant varieties of soybeans, and the money identified within the bill is intended as startyp funds, and will certainly be reviewed as part of the fiscal 1984 budget.

Second, the report directs USDA to retain any unexpended funds for the toxicology research project while a decision is made as to the future of USDA's role in food toxicology research.

I am very pleased that we were able to do as well as we did with funding for the operations of the Extension Service. This agency does more to help farmers stay current with the latest developments in agriculture than any other agency, and is deserving of strong support.

The President did not provide for any increase in basic Smith-Lever funds which keep our cooperative extension efforts going. Our subcommittee, however provided an increase of $11,000,000 so that efforts could continue without interruption or reduction, while at the same time we restored funding for other important extension activities such as farm safety, pest management, and urban gardening. These efforts are modest, but they are essential. We need to keep our priorities straight, and Extension is one of our priorities.

We also made some significant restorations within the Animal and Plant Health Inspection Service. I am very pleased that we were able to restore $17.9 million for brucellosis eradication. The budget presumed that the problem was no longer significant enough to merit continued funding, and adopting that recommendation would almost certainly have meant that all of the progress made in reducing brucellosis would be lost for years to come. The restoration is targeted toward the most critical problem areas, again emphasizing the point that we are trying to use Federal dollars as prudently as possible.

We also restored funding for the Animal Welfare Act. The administration wanted to turn over enforcement activities to States and private groups. But during our hearings, the agency admitted that such a transfer of authorities could not be done under the law, and failure to provide a restoration would probably mean a substantial increase in the number of violations of the act. This item may not, again, seem to be the most important within this bill to a number of people, but it addresses the critical issue of the humane treatment of animals, a subject of great interest to both farmers who provide excellent care for their own farm animals, and pet owners who depend upon the assurances of pet shops that the animals they are purchasing are healthy.

Within funds for the Statistical Reporting Service, we have once again provided for $25,000 to continue data collection work in connection with the dry bean acreage program that the agency is currently conducting in Michigan. It is anticipated that these funds should complete the project, and are essential to be certain that the work is successfully completed.

I am pleased that we were able to provide a partial restoration for the Agricultural Cooperative Service. We did not restore all funds, believing that each agency must share in the general budget reductions that are being imposed throughout this budget. This agency is helping farmers start new cooperatives, and expand existing ones. Through the cooperative effort, farmers are able to get access to new markets and obtain better prices for their production. Farmers are likely to make greater use of ACS to assist them in efforts to export more food products, keeping in mind that agriculture already provides us with the largest positive item within our balance of trade.

Within the funds available to the Commodity Credit Corporation, we once again make available not less than $500,000,000 to conduct export credit activities. The only way that we can effectively sell our surplus crops is to increase our share of foreign markets. But to the extent that access to such markets is dependent upon credit at rates competitive with those available from other countries that as a matter of public policy provide great subsidies to their agricultural exports, this program will go a long way in making American products competitive.

Title II of this bill provides funds for the Farmers Home Administration, an agency that is of increasing importance to farmers in these difficult days. Farmers need access to credit at reasonable rates, and they need some understanding when market conditions require them to alter their previous credit arrangements.

This has, historically, been the case. But as I have already pointed out, the agency is not continuing to operate in this fashion. Efforts to get more farmers to surrender FmHA loans for private loans at substantially higher interest rates or face foreclosure do not constitute a reasonable means of dealing with farmers who are facing the toughest times since the depression. I have supported efforts to require FmHA to act in a more reasonable fashion, and I will continue to support such efforts.

The budget for FmHA requested by the President reflects this destruction of the basic purpose of FmHA to help farmers and rural communities. While requested levels for ownership and operating loans are good, the levels requested for housing assistance and rural development funds seem to point toward a lack of consideration for the quality of life in our Nation's rural areas. For this reason, the basic point of departure between our recommendations and the President's budget can be found within these programs, where we try to retain as many programs at fiscal 1982 levels as may be possible, recognizing the budget limitations under which we are operating.

We also, in title II, continue our mandates on minimum loan levels for programs operated by the Rural Electrification Administration. In the absence of such minimums, those who do not appreciate the importance of REA to rural electric and telephone service would continue their efforts to emasculate the program while claiming that private resources are enough to meet the need. They fail to remember that if private resources had been enough, we would not have had these programs in the first place. Until such time that credible information showing that these programs are not needed can be provided to our subcommittee, we will continue to support funds for these REA programs. Such a demonstration has not yet been made.

Title II also contains funding for several conservation operations. Agriculture is nothing without the land, and the land will not last unless we take careful steps to preserve it. Funds that we have provided for operations by the Soil Conservation Service and the Agricultural Stabilization and Conservation Service help us to preserve our land for future needs, while encouraging farmers to take the time and make the effort to protect their own land for their use and for the future.

As always, we have found it necessary to restore a substantial amount of funds for the agricultural conservation program. Somebody downtown thinks that we have done all that we need to do to preserve our land, or they think that one way to hold down the appearance of a budget is to not request funds that they are sure the Congress will restore.

We are willing to be honest with the American people. ACP is a vital program, and its funding will continue at responsible levels so long as we have a real need for this program. The chairman of our subcommittee, Mr. WHITTEN, is an eloquent defender of this program, and all of my colleagues can learn from his experience. The point is a simple one: We grow our crops on land. No land—no crops. No conservation—no land. No conservation—no land—no crops, and our position as the world's breadbasket will be lost forever.

We have also restored funds for the forestry incentives program. This program tries to preserve our forest lands for the future, much in the same way that new efforts are being made under the renewable resources program operated by the Extension Service, which is funded on the basis of carryover funds within this bill, since no funds were effectively obligated until just very late this summer.

Title III provides funding for all of the feeding programs operated by the Department of Agriculture. It is an expensive portion of our bill, and one which attracts the greatest controversy.

It was made particularly difficult this year by the fact that the budget request was not based on current law, but on an OMB wish list of block grants and other legislative changes beyond the jurisdiction of the Appropriations Committee. In many instances, the legislative proposals necessary to achieve these modifications

have not even been introduced. For this reason two items result: The President's budget understates the funding required to continue these programs at current services levels by $4 billion by USDA's own admission, and, second, we are constrained to fund programs based upon current law, not the wish list submitted by OMB.

As a consequence, we fund programs under this title for different durations, utilizing the dollars requested by the President for so long as they might be reasonably expected to last under current law. Should the President still obtain the legislative changes he might desire, then in that case funds will be spent in accordance with the new law. But until that time we are constrained to what existing law demands.

One major program which we fund until August 15 are the various child nutrition programs, including school lunch, school breakfast, child care feeding, and nutrition education training. We spend at a level roughly equal to a certain annualized rate which more adequately reflects what is truly needed, compared to the level requested in the President's budget.

With respect to the school lunch program, I would like to take this opportunity to remind the Department that the recently enacted supplemental appropriations measure directs the Department to treat bonus commodities within certain pilot school lunch projects in a manner different than they had hoped to treat them: they can give bonus cash or bonus letters of credit for administrative ease, but may not study such a modification because it goes beyond the scope of the authorized study, and because bonus commodities are a separate program, even though an important component of the school lunch program.

It is also important to note that there are a large number of commodities that are in surplus or price-weak conditions that the Department could acquire for use in the school lunch program and the other feeding programs that utilize USDA-purchased commodities. I regret that the Secretary has chosen to deny bonus commodity designation for wheat, and I call upon him to reverse his decision in the best interest of both these commodity feeding programs and our Nation's beleaguered wheat producers. I know that several other commodities will be seeking bonus designation, or purchase assistance, including navy beans if current market projections result in a price-depressed market. I hope that the Secretary will be more responsive to those requests when they come forth.

We have fully restored funds for the special milk program—$28.1 million. We hope that this program will continue without interruption, and expect that it will continue without any efforts to dissuade participation by those schools either currently in the program or who might be considering starting it.

We have provided funds for the women, infants, and children (WIC) program until May 15 in order to continue to serve as many people as possible. We expect that the Department will continue to follow our intent on this matter, and will not repeat last year's fiasco in which 200,000 people were dropped from the program as a result of the budgetary gamesmanship employed by OMB.

We have fully funded the commodity supplemental feeding program, including an additional $900,000 for senior citizen pilot CSF programs. Certain cities have had greater demand for this program, and we expect that caseloads will be allocated so as to serve those areas with the greatest demand, rather than lying idle among those operators who either do not have a demand which would fully utilize their caseload, or who are not making efforts to utilize their caseloads. According to USDA, they can currently support 146,000 people on this program, but recent estimates show that they are only serving about 125,000. Some of the CSFP operators have waiting lists for many people, and it is only proper that to the extent funds are available to serve the full caseload that the caseload be implemented, rather than simply assigned.

I am very pleased that we were able to provide funding for certain senior pilot CSFP programs. We are adding New Orleans within our bill so that it can be served as originally envisioned before the Department followed the erroneous course of assigning projects in a manner which did not include New Orleans as a designated site. This means that three cities—including Detroit and Des Moines—will operate this pilot program during fiscal 1983, and during fiscal 1984, since the legislation calling for these projects demands that they be operated for at least 2 years. We will expect to see the Department include an adequate budget request for these additional cities in its fiscal 1984 request, in accordance with our report directive telling the Department to develop its budget justifications based upon current law.

Since the Department already has the New Orleans technical proposal in hand, and since the Senate has also included New Orleans within its fiscal 1983 bill, we will expect the Department to implement the project as soon as possible upon enactment of either the regular fiscal 1983 appropriation or the continuing resolution for fiscal 1983, which includes this project.

The Department also should keep in mind that officials of the Department have already indicated that those funds that had been appropriated for the senior pilot CSFP projects in fiscal 1982 but have not yet been expended will remain available for the senior projects in fiscal 1983. This means that the $900,000 we provide is in addition to whatever unexpended funds remain available at the end of fiscal 1982, including any funds that are unexpended and unobligated. To use any of these funds for a purpose other than the senior pilot projects is contrary to congressional intent.

There is growing concern that the administrative funds provided for CSFP operators do not sufficiently reflect what is really happening in the program, particularly because of the fact that more surplus commodities are being given as bonus items in this program. The formula for the distribution of administrative funds to local agencies should reflect actual participation and the level of assistance provided by each agency to the project's clients. Simply, those programs that do more should get more administrative money, whether because of serving a larger caseload or because of distributing more items within the food package. Since under Food Program Administration we direct the Department to provide reimbursement for local distribution of surplus commodities, we can expect the Department to also use these funds in order to provide additional administrative assistance associated with the higher costs of distributing bonus commodities that are not included in the CSFP package, and also those items which even though bonus are regularly includable in the CSFP package and are not considered within the provision of administrative funds because funds were not specifically appropriated for their purchase for inclusion in CSFP. But if the Department is providing the same food package as it has previously, it should provide the same level of administrative funds as it did previously. I will expect the Department to make all appropriate regulatory changes and to advise me of any statutory changes that might be necessary in order to accomplish such a result, and I expect to raise this matter with the Department at next year's hearings.

We have provided funds for the food stamp program through July 15. Once again, the President did not request sufficient funds to continue the program through the full fiscal year as required by the authorizing legislation. I understand that the Senate has provided full year's funding with the endorsement of the administration, and I am hoping that we can resolve this matter in conference.

One out of every nine people in the State of Michigan is receiving food stamps. Recently more than 1 million people in Michigan were receiving

stamps, emphasizing the terrible problems facing our depressed economy. People need help, and I want to see them continue to get the help they need in order to live with dignity.

We provide for two very important items under the Food Program Administration section of the report. The first of these items directs the Department to reestablish the administrative procedures necessary for the domestic distribution of surplus food products held in CCC inventory to help hungry Americans. Commodities provide an additional source of assistance, and should be used to the extent practicable. Such distribution is not intended to replace any existing food program, and should not be treated as such. Rather, we are searching for an additional method of providing assistance to hungry Americans using a resource that we have in plentiful supply—food. This is one project I intend to follow with great interest.

Our report also directs support for another major activity—the existing donation of surplus foods on a local basis. There is no question that the legal authority exists for USDA to give local charitable groups, church groups, or public service organizations, the type of assistance that will enable them to continue to conduct the current surplus donation of dairy items, which could be expanded to include other food items in the future. We want the Department to provide reimbursement for the reasonable costs associated with local distribution, including but not limited to storage, transportation, reporting requirements, personnel, facilities, processing, and other similar items. Many communities are now saying that they cannot continue to operate this community food donation system in the absence of financial support for distribution costs. Volunteer efforts have been exhausted or are insufficient to meet the task. Failure to provide such assistance will mean that many localities will discontinue the program, and literally thousands of otherwise eligible people will be deprived of the opportunity to obtain these wholesome food items.

Title IV provides funding for our international agricultural programs, most importantly the Foreign Agricultural Service and Public Law 480. We depend upon export markets for a major portion of farm income. It is for this reason that we need to do all that we can to continue to cultivate our existing and potential markets overseas. If we are the world's food producer, then we can and should be the world's provider. It is only through strong international efforts that we will increase our market share, and responsible funding will help FAS to find these new markets for our producers.

But it is true that there are hungry people throughout the world. Our Public Law 480 program attempts to reach these people through their governments by providing commodities at competitive prices with attractive credit rates. Some of our Public Law 480 customers have become our better export customers when their economies have improved sufficiently to place them in a stronger trading position, avoiding the need for the special assistance that Public Law 480 provides.

Each year there are several proposals to increase our Nation's food aid programs. I have supported these efforts and will continue to support responsibile efforts in this regard. But no advocate of solving world hunger should lose sight of the fact that Public Law 480 is a great device for providing food assistance to needy nations around the world. We cannot ignore the tools we have while trying to design new ones.

Our report specially emphasizes using title I in order to open up new commercial markets. I hope that the Department will be successful in meeting this directive. It can mean a great deal to our balance of trade.

Mr. Chairman, this is an exhaustive bill. It serves the farmer and the consumer. It recognizes the tremendous interrelationship between the two, and the farmer as a consumer, particularly with farm credit programs. The bill appreciates the needs of all Americans, including the poor who need food stamps, the elderly who use the senior meals programs, and the young who use the child nutrition programs. It covers domestic and international trade.

Most importantly, Mr. Chairman, this bill adheres to its budget limitations. We cannot do all that each of us might like. We probably are doing some things within this bill now with which other Members might disagree. But as our chairman has said so clearly, this bill reflects the diverse needs of our Nation and tries to treat all of them fairly.

I urge my colleagues to support this bill. It is within budget limitations and it will do what is in the best interest of our Nation.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 6 minutes to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, I thank the gentlewoman from Nebraska for yielding this time so that we might talk about this bill, and I thank the members of the committee, as well as the staff, for the fine work, the outstanding work, that they once again have done.

Mr. Chairman, when I came here 16 years ago there were a number of Members of Congress who knew much about agriculture. When we had a bill like this on the floor or when we considered any agricultural bill, there would be at least 100 Members present on the floor to discuss that bill and to provide assistance. Today that is not true. We have very few Members of the House who are knowledgeable on agricultural matters. None exceed the knowledge of our chairman. The chairman and the gentleman from Kentucky (Mr. NATCHER) were here when I got here, and both are very knowledgeable on agricultural matters. We respect their judgments very much. I think the chairman of our committee knows more about agriculture than any other Member of this Congress, this body or the other, today. He can speak with authority. I can recall—if I may reminisce just briefly here—back when I was on the authorizing committee. Bob Poage was chairman. I remember riding along on a bus years ago—BILL WAMPLER, you were along—and Bob Poage would sit up in the jump seat and he would say, "Now, this farm up here, Bob Smith bought it 4 or 5 years ago," or "25 years ago, and he did this and that." Bob Poage knew every farm, I believe, in America, and he knew its potential. I say this about our chairman here today: He may not know every farm in America, but he knows every facet about this bill. No one is more knowledgeable in this Congress or downtown in the Department of Agriculture than Chairman WHITTEN. I am proud to have the opportunity to serve with him on this committee and with the other fine members of this committee. Our ranking Republican, Mrs. SMITH, is a practicing farmer from Nebraska. We certainly depend on her experience and advice. The House is fortunate to have these two leaders.

I suppose very few people have read the committee report. The first 20 pages should be required reading for every Member of this Congress before they have the right to vote on this bill today. And, for that matter, it would not be bad for everyone in the country to have to read the first 20 pages of this report before they had their dinner tonight. It concerns me, as I travel in some areas of the country, to have people say, "Oh, agriculture, we do not worry about agriculture; we do not need those farmers as much as we used to. Back in the olden days farmers were needed." It seems to have escaped our population that we are eating cheaper. As citizens of the United States, we are eating cheaper as a percentage of our spendable dollar than any other country in the world. We are eating for about 16 cents of our spendable dollar. That is what we are spending on food. The closest to us is our neighbor to the north, Canada, which spends about 20 cents; and then it jumps up to the United Kingdom, 25 cents, and it goes on, Japan, more than 25 cents out of every dollar goes for food. The Soviets spend half of their income for food. We have done it because we have had

technology, we have have had research, and we have had Congresses in the past which have had the farsighted vision to prepare for today. And this is what your committee has done today in providing for this bill.

Now, there are fewer Members of Congress today who actually know anything about agriculture and who are familiar with agriculture. All have a working knowledge of agriculture. But our bill today, of the $25 billion in this bill, less than half goes directly to farm producers. And this again is a change from the first days when we first came here. Yet so often we have Members say, "$25 billion going out to farmers who have to produce anyway and who are doing a good job." Well, more than half of this goes for other programs, such as feeding programs that have already been discussed.

This is a good bill. And I am sorry to say that some of the administration feel that we have gone over their request. We have not, as has been explained and will be explained further along the road this afternoon. We have not actually gone over. We have given them exactly what they asked for. In many instances they have asked for additional legislation to change programs. I support those additional changes in the programs. But you cannot have it both ways. They asked for so much money to provide for the program this year, until they got new legislation provided. Now, we have done just exactly what the Department of Agriculture and the administration asked us—provided that much money, and possibly we will get the legislation passed that will make better programs of these programs. I think I can support improving these programs. All of us probably support them in some fashion or another. But we do support this bill and we have not gone over the budget.

It is a blessing in this country that we can produce food for our country. We are self-sufficient. We are short of lots of metals and other things, but we have a blessing in our country that we have the quality of land, we have the climate, the temperature, the rain and, most importantly, operators of our farms out there that work and can produce. We have to do something today, and we have by providing $500 million as a small stimulus to help export, to share our blessings with the rest of the world which is less fortunate. The People's Republic of China, the mainland, has a population of about a billion people, with less than 15 percent of their land that can be farmed. So we have a great opportunity. But they do not have the money to pay for it. We are not subsidizing them necessarily, but we are providing a mechanism that they can buy the production of our American farmers.

American farmers own the land or someone does, and they have to produce. They have to pay their taxes on it. So in the judgment of this committee it seemed better for us to subsidize, if I may use that word—it really is not—but at least to give the assistance, the financial assistance, to export our food, our production, rather than paying farmers not to produce or paying farmers to store it someplace.

It is about the same dollars in the Commodity Credit Corporation, but we are encouraging exports. And this is important, as has already been explained. If it were not for agricultural exports, our balance of trade would really be in trouble. The value of our dollar would be less than it is today. Agriculture is not only important to the American people as they eat tonight and the rest of this year and they eat a good balanced diet, good wholesome food, but it is most important to foreign exports, to improve the balance of trade and help subsidize the dollar and help in other products, manufactured goods and services to be exported.

So this is a good bill. Your committee voted it out unanimously, and we are standing behind it today 100 percent. We hope that the full House will support our bill and our work. I am real proud to be member of this subcommittee.

Mr. WHITTEN. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. ALEXANDER), a member of the subcommittee.

□ 1620

Mr. ALEXANDER. I thank the gentleman for yielding.

I compliment the gentleman from Indiana (Mr. MYERS) who just spoke from the well a minute ago on the gentleman's remarks and especially in observing that there are few Members in the Chamber who are here today to listen to and participate in this vital debate and discussion on the agriculture appropriations bill.

Following the gentleman from Indiana's remarks, I counted the Members in the Chamber, and there are 16 Members present, which is a good reference to the number of Members of Congress who are concerned about the farmers of America.

One of the problems that we face in agriculture today is oversupply. During the last half dozen or so years our Government has embarked on a fence row-to-fence row production policy, and because of circumstances beyond our farmers' control, the markets have declined. Oversupply is a problem in the farm economy of rice and soybeans, wheat, feed grains, and other products that we produce in such great abundance in our great land.

Why are exports declining today? One reason among several is that our dollar is overvalued abroad. While this is difficult to explain, and difficult for people to understand, it is very much a fundamental part of our declining export problem.

For example, rice today is selling for about $18 a hundredweight. Translated into French francs, this is about 400 francs; but if a Frenchman wanted to buy a hundredweight of American rice, it would cost him 700 francs or about $24 for $18 worth of rice. That is because of the economic policy that we have in our land that overvalues the dollar abroad and makes it more expensive for foreign purchasers to buy American products.

So what can we do in the Congress in order to encourage exports? Congress, not the administration, is addressing this problem. We promoted farm exports in the supplemental appropriations bill that was just enacted over the President's veto about 2 weeks ago wherein we provide $500 million for the Commodity Credit Corporation export sales revolving fund. The revolving fund gives favorable rates to foreign buyers who will use the Commodity Credit Corporation to finance the sale of U.S. products to foreign buyers.

Congress is also providing an interest buy down for the guaranteed loan provision of the Commodity Credit Corporation; and Congress has taken this initiative over the objections of the administration. I congratulate the members of this committee on both sides of the aisle that have supported those initiatives to help take a national initiative to promote export sale of American farm products at a time when there is an enormous oversupply of those products available for export.

Another action that we take in this bill today which is important to our farmers addresses the matter of the fiscal crisis that persists across the farm community. I was visiting Clay County in my district a couple of weeks ago and learned that about 40 percent of the farmers there face bankruptcy. In connection with this bill today we have attempted to address the problem of farm credit. The Secretary of Agriculture, thus far, has seemed impervious to the debt problem of our farmers. So, we on the Committee on Appropriations Subcommittee on Agriculture have included in our report on this bill instructions and directions to the Secretary of Agriculture. We have told him that he should use his already existing authority, as Secretary of Agriculture, to impose a moratorium on debt repayment for those farmers who have employed good management practices and yet who are unable to pay their debt because of circumstances beyond their control.

The American farmer does not want a handout, he wants a helping hand. The Congress has, in this bill, stated

to the American farmer that we want to extend that helping hand so that those farmers who cannot repay their obligations because of circumstances beyond their control will be able to do so next year because of the initiatives that are taken in this agriculture appropriations bill.

I congratulate those hard-working Members of Congress who are dedicated to the survival of agriculture and the American farmer who are here today to participate in this vital debate.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 5 minutes to the distinguished ranking minority member of the Agriculture Committee, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I want to commend the distinguished chairman of the Appropriations Committee, the gentleman from from Mississippi (Mr. WHITTEN), the members of that committee, the gentlewoman from Nebraska (Mrs. SMITH), and particularly the members who serve on the Agriculture Appropriations Subcommittee. They have done a good job in a very difficult situation. The fiscal restraints under which we must operate at this time in our efforts to regain control of the Federal budget have greatly increased the problems faced by the committee in providing adequate funding for the many important agricultural programs in this bill. Certainly, many of us would like to see more generous funding in some of these areas, but if we are to come to grips with the serious economic problems facing our Nation, we must balance the pressing needs of agriculture with the need for Federal fiscal responsibility.

In the area of research and extension, the committee has done well under the circumstances. For the most part, their recommendations parallel the funding priorities that were outlined by the Committee on Agriculture earlier this year. The importance of several programs conducted by the Animal and Plant Health Inspection Service—including the brucellosis effort—have been reemphasized in the bill. Farmers Home Administration program lending levels are basically in line with those recently approved by the House in authorizing legislation. Conservation programs are supported at levels consistent with the serious needs that have been amply documented throughout this country. As to the feeding programs, I will have more to say in a moment.

Mr. Chairman, agriculture today faces unprecedented financial problems. Our agricultural bounty and the tremendous efficiency of U.S. producers have brought extreme downward pressure on commodity prices at a time when farmers and ranchers have been ground down economically by the combination of high interest rates and out of control inflation. It was only a few months ago that we were faced with double-digit inflation and interest rates at nearly 21 percent. We had a Federal budget that was growing at the rate of 17 percent a year. A great deal of progress has been made since then. Both inflation and interest rates are down sharply, and the struggles to control the budget continue. This is of little consolation, though, to producers who have been hanging on in the hope of some commodity price improvement as well.

Mr. Chairman, farmers and ranchers have suffered so much financial battering that we will see many more of them forced out of business unless commodity prices can be stabilized and improved. While increased export sales are not a panacea, they are a critical element in helping achieve this. I am pleased to see the emphasis the Appropriations Committee has placed on retaining and expanding export markets for U.S. agricultural products. The administration has made this a high priority as well. We must strengthen these efforts in every way possible.

Mr. Chairman, included in this bill is the appropriation for the food stamp program and other domestic food programs. The Committee on Appropriations recommends a funding level of $9.5 billion, through July 15, 1983, for the food stamp program.

This, I understand, does represent full funding for the food stamp program for that shortened period. Recent reestimates from the Congressional Budget Office indicate that the cost of the program in 1983 will be $10.8 billion, not including the $825 million for the Puerto Rico food assistance program.

The Committee on Agriculture has jurisdiction over the food stamp program and has taken steps this year to tighten the administration of this program to insure that only those people in need of benefits receive them.

In addition, the committee recommended, and the Congress, agreed, to continue authorization of the food stamp program with a "cap" on spending levels. The "cap" was initially established for the food stamp program a part of the Food Stamp Act of 1977. This was done because of congressional concern over the magnitude of program costs and a desire to keep the program from being a pure entitlement program.

The "cap" gives Congress a handle on the cost of the program and sends a signal to the Department that they must exercise control over high error rates and good administration.

This year, for the first time, the food stamp program will stay within the amount authorized—$11.3 billion. I believe it is possible to also stay within the "cap" for the next 3 years of reauthorization of the food stamp program.

In conclusion, Mr. Chairman, I want to again commend the Appropriations Committee for their work and urge my colleagues to support this bill.

□ 1630

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Chairman, I rise in strong support of this bill and urge its adoption by my colleagues.

Before I comment on the importance of passing this legislation during the current farm crisis, I want to commend the chairman of the committee, who is also chairman of the Subcommittee on Agriculture, for the many hours of work that he and his staff have devoted to bringing this bill to the floor today. Our bill is a first-class best composite piece of legislation. It is so because of the special concern that our chairman, Mr. WHITTEN, has for agriculture, the foundation of this great Nation of ours. The same can be said of the ranking minority member of our subcommitee, Mrs. SMITH, who also is one of the strongest supporters of the American farmer.

This bill contains funds to operate programs that are essential to the well-being of our ailing farm community. Most of the items in this bill are at, or below, the administration's budget recommendations for fiscal year 1983. In total, the bill is $35 million less than the administration's fiscal year 1983 budget request and $3 billion less than our fiscal year 1982 appropriation. It represents a clear attempt to meet the goals of reducing Federal spending while at the same time providing for the urgent needs of a farm community which is experiencing the greatest financial crisis since the Great Depression.

Without the funding for programs contained in this bill, the farm crisis of the 1980's would be far, far worse. Money is provided to combat infestations of insects and other pests that destroy our farmer's crops and sicken or kill his animals at an alarming rate. Without the essential programs of the Animal and Plant Health Inspection Service, farm losses would only be greater. These losses would translate into higher prices for food at the supermarket. The bill restores amounts not contained in the budget request for fighting such pests as the gypsy moth, witchweed, brucellosis, the imported fire ant, grasshoppers, and other noxious pests that add to costs on the farm and at the marketplace.

Another area where funds were restored is for programs of the Agricultural Cooperative Service. To deny farmer cooperatives vital research, technical assistance and cooperative education at a time when farm income

is at its lowest point since the Great Depression would only cause further unnecessary hardship for the American farmer. Requests for the technical assistance of the ACS increased by more than 100 percent between fiscal year 1980 and fiscal year 1981. Unless we provide the ACS with sufficient resources to respond to the increased needs of cooperatives, many farmers will face an even more difficult time surviving the current farm crisis.

I would like to have seen greater support for ACS from our committee. As it is, the ACS has been reduced significantly from the fiscal year 1982 budget levels. However, the amount provided in this bill is realistic in light of the current budget situation, and still deserves the support of the House.

The bill also contains funds for the Soil Conservation Service and the agricultural conservation program which helps to halt the depletion of farm resources and preserve the real wealth of our country for years to come. The bill contains $11.9 billion for essential feeding programs, including WIC, child nutrition, and food stamps. The list goes on and on. Most of these have been enumerated by Chairman WHITTEN. In short, this is a good bill and deserves your support.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I would like to pay a strong tribute and accolade to the distinguished chairman of this subcommittee, as well as the full committee, the dean of the House, the gentleman from Mississippi (Mr. WHITTEN), and to the gentlewoman from Nebraska (Mrs. SMITH), both of whom have worked tirelessly to try to provide the best possible bill for the benefit of the people of the country.

Mr. Chairman, as in any bill, there are portions of it that go against the grain of a good many people. I particularly want to talk a little bit about one of those sections of this bill. I think that a great deal more publicity should be given to the subject of food stamps.

Mr. Chairman, the bill we are considering today continues the pernicious legacy of the food stamp program, by increasing the money allotted for this overblown and blatantly abused program. The only difference this year is that a particularly deceptive method is being used to make it seem as though we are cutting the growth in the program, when in fact the opposite is true.

The President has requested $9.541 billion for fiscal year 1983, and in this bill we have exactly that amount. However, this appropriation covers the program for only 9 months, through July 15, 1983. On an annual basis, we are talking about spending $12 billion on food stamps, or nearly a billion more than last year. Is this any way to cut back on a program which is the stage for countless horror stories of abuse and fraud?

Since 1977, the cost of the food stamp program has skyrocketed, from $5.5 billion to the $12 billion level we are considering today. The number of recipients has mushroomed to the point that we are now subsidizing the food budget of more than 1 in 10 Americans. This statistic never ceases to astound me.

I believe that we have the most industrious and energetic people in the world, and I am incapable of believing that more than one-tenth of our people are unable to provide basic nutrition for themselves. No. What is more likely, and what practically every newspaper in the country reports, is that a huge portion of the money we appropriate for needy families is in fact poorly managed by the States and winds up in the hands of those who could provide for themselves, and worse, in the hands of criminals involved in the black-market trade of food stamps.

In my own State of Arizona, I am sorry to report, the rate of error for the issuance of food stamps is 15 percent. This means $1 in every $7 is wasted. In addition, I have received information which shows that in Arizona between April and August of this year, the level of food stamp recipients has grown more than 42 percent, from 172,294 to 245,131 far out of line with the increase in other welfare programs and even the number of those who lost their jobs during that period. It has been reported to me that almost anyone in Arizona can get food stamps: The eligibility requirements are shrugged off, and even proper identification is hardly necessary.

These reports concern me greatly. Not only because my State has a poor record of administering the food stamp program, but because we, here in Congress, are not providing proper incentive for the States to manage their programs frugally and efficiently. As long as the dollars keep rolling in, with no sign that there is any restraint being applied by Congress, the programs will never be efficient. I would ask my colleagues to think about the dismal record of this program before they vote to sustain the bloated food stamp program which angry and overburdened taxpayers are being forced to support.

□ 1640

Mr. WHITTEN. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. WATKINS) a member of the subcommittee.

Mr. WATKINS. Mr. Chairman, I rise in support of this agriculture appropriations bill. First and foremost, I commend the chairman, the gentleman from Mississippi, for his tremendous job in putting together, I think, another great bill trying to meet some of the needs of the American farmer.

Also, I want to commend the ranking Republican member, the gentlewoman from Nebraska, and all members of the subcommittee with whom I have had the opportunity to work.

Mr. Chairman, I would like to make one point in these few minutes which I have.

We hear a great deal of criticism by some people who do not know the facts when they say the American farmer has been subsidized. I would like to make one point to all the people within the sound of my voice and the people across America, and especially my colleagues in the House. For far too long, the American farmer has subsidized the American consumer.

Why should I say that to my colleagues in the House? Let me give you two or three reasons why. The American farmers today happen to be going through their third year of declining farm income. At no other time in the history of our country, except during the Great Depression, has our farmer faced the third year of a declining farm income.

In this year of 1982, the American farmer will receive less in real, non-inflated dollars than at any time since that year of the Great Depression. This year, in 1982, we will have more farmers go bankrupt and leave the farm than in my entire lifetime.

Yet in America we find not only the third year of declining farm income, but in the last 2 years the land values have not increased with inflation, and this year, when inflation is down in real dollars, we have land values that are less.

My friend from Indiana, Mr. Meyers, has been in the banking business and he knows that most farmers are out there on the land not for profit but because they love the land. When they have lost the equity in their land because of deflated dollars, then many financial institutions in this country cannot stay with the farm any more because their agricultural borrowers do not have the equity to refinance.

Many of our American farmers today find that they cannot continue in business. In my district, one-half—let me repeat—one-half of the farmers are supplementing their farm income with off-the-farm income in order to try to stay on the land and on the farm.

Yet in our country, the American consumer spends only 16 percent of the disposable income for food and fiber on the table for their families. That compares to 25 percent in Japan, 37 percent in Brazil, 43 percent in India, and over 50 percent in the Soviet Union.

Has the American consumer got a good deal from the American farmer? You had better believe it, because the American farmer is subsidizing the American consumer and the food on their tables.

Yet today our farmers find that for each $1 cash flow they have, they have $13 of indebtedness.

Is that very much? Let me show you something.

Back in 1950, the farmer was in debt $1 for each $1 of cash flow.

Back in 1960, for each $1 that the farmer had in cash flow, he had $1.30 in debt. But today, for each $1 of cash flow that the American farmer has, he has $13 indebtedness.

Mr. Chairman, I would like to make this point: The American farmer is receiving only about 50 percent of parity. Do you know the American farmer has invested in land and equipment an equivalent amount of dollars as the Fortune 500 has invested in its production? Fortune 500 and the American farmers have about $1.2 trillion invested, nearly the same. Yet the Fortune 500 of this country made a profit of $80 billion-plus last year, and that is not very good to write home about. But the American farmer only made a profit of around $20 billion.

Let me point this out: If the American farmer had received the like amount of net profit that the Fortune 500 received, the American farmer would be receiving 200 percent of parity.

Is that equity? Is that fairness? I predict to you that by the year 2000, Mr. Chairman, when the agriculture bill comes up, this Chamber will be full, and I predict to you that the press gallery will be full, because I think the great crisis that will occur by the year 2000 will be world hunger. And the shame of it all is this: That that problem can be solved by the American farmer.

It can be solved by this 3.3 percent of the people who are on the land making their living, but it can be solved only if they can make a profit.

Finally, Mr. Chairman, I want to draw the committee's attention to that section of the committee report addressing the Farmers Home Administration's proposal to close its county offices in Love County and Coal County in Oklahoma.

Farmers Home is trying to cut operating expenses, and that end is laudable. But their means to achieve that end in Oklahoma was to close five county offices in my congressional district. In these times of an agriculture price and credit crisis, their ends do not justify their means.

Mr. Chairman, I worked diligently with the State Director and the National Administrator of Farmers Home to find alternatives to complete closure of the five offices. In three instances, we were able to find mutually acceptable alternatives.

But Love County and Coal County are exceptional cases. The Love County office supervises a large number of relatively small loan portfolios. This is because there are a number of small, marginal farmers and ranchers in that county. The State Director proposed to close that office and combine its caseload with an adjacent county which had a smaller number of loan applicants and outstanding loans. This is not acceptable.

The FmHA office in Coal County is relatively new. I played a part in getting that office opened, because as a former homebuilder and a land developer, I knew firsthand of the lack of available credit in that county. I am also familiar with the chronically high unemployment and underemployment in that county. Mr. Chairman, last month Coal County had 18-percent unemployment, the highest in the State.

Farmers Home would close the only active investment credit window in the county with the highest unemployment in the State, reasoning that the relatively low volume of loan activity does not warrant a full-time office. Mr. Chairman, how are we expected to build loan demand in a county when our sole local source of investment credit from which to build the economic base to fuel that credit demand has been shut down?

That is why the committee directed Farmers Home to maintain full-time, full-service offices in these two counties. The committee expects each of these offices to be kept open during normal business hours, 5 days a week; that all services offered at other county offices be provided; and that a full-time county supervisor with full-time clerical help be maintained in each of these two offices. These staffing and service levels in Love County and Coal County shall not be achieved by reducing the level of services or staff in county offices serving other low-income, high-unemployment areas of the State.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentlewoman for yielding this time to me, and I thank her for her work on this bill, and also the hard work that the gentleman from Mississippi has put into this bill.

Mr. Chairman, let me start my remarks by pointing out, as the gentleman from Virginia pointed out before me, that only about half of this bill concerns itself with agriculture. There is no doubt that that most productive element of our economy needs to have some support from this level of Government, and I would hope that the people who are focusing on this particular piece of legislation will focus on the fact that it is really in two parts: One devoted to agriculture that we have heard a lot about today; but the other part devoted to welfare, the food stamp program and others like it. I make that mention because when we get to the welfare area there have been some very inventive things done in this particular bill. We have heard a lot of talk today about the fact that this bill comes in under budget, that we have met the budget targets, that we have done all these things.

Well, in fact, we have, except we just have not funded the programs for the full year. I mean, it is a little like the family that finds itself with $15,000 of income and $20,000 of expenses. What they say is: "Well, OK, fine, we have only $15,000 worth of income, so we will only pay our bills for three-quarters of the year, we will only pay them through September, and we will let the other 3 months go, and we have thereby balanced our budget."

That is exactly what we are doing in this particular bill. We are saying, "Fine, we cannot fund the programs adequately for the full year, so we will only do them for part of the year and then come in later on for a supplemental appropriation and expand the spending there."

By how much? The Congressional Budget Office estimates that for the programs that we have not funded for the full year that it is going to cost us about an extra billion dollars added on. That does not put us under budget, that puts us over budget, in my opinion.

All of a sudden more than 50 percent of the money in this bill is going for welfare costs rather than for agriculture.

So I am concerned about the fact that we have this very inventive kind of budget philosophy embodied to this bill.

As I say, we did not do that over in the agriculture area. Those programs are funded through September 30. It is primarily in the food stamp program where this is affected. What that means is that $9.5 billion that the administration requested in going to be covered in this bill, yes, but only for the first several months of the year, and then afterward we are going to have to find more money.

To the tune of how much, Maybe $1 billion, maybe $1½ billion. I think that this bill gives us good reason to question exactly the kind of appropriations process that we are engaging in in this House. It is the reason why earlier today, for instance, I raised the question about the continuing resolution, and some of the rest.

We find ourselves in a situation where we are being told that we are coming in under budget, that we are complying with the budget, only to find in the details of the bill that, in

fact, we have found a way to get around the budget commitments.

So when the appropriate moment comes in the case of the food stamp program, I am going to offer a very simple amendment to take the funding in this bill that matches the President's request, and instead of cutting it off on July 15 of next year, we go clear through to September 30 with that amount of money. Then we would really be within the budget, an extremely appropriate amendment and I hope that it would be passed.

□ 1650

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I would like to ask the distinguished chairman of the House Appropriations Committee, the gentleman from Mississippi a question.

In view of our current oversupply of agriculture commodities such as wheat and corn, I strongly believe we must find alternative ways of selling these commodities before farm prices tumble even lower. Over the past year, I have strongly urged the Department of Agriculture to establish a bartering program whereby Government-owned commodities would be exchanged for strategic minerals and materials as well as oil to enhance our national security.

There are many countries around the world that have these important minerals and materials which we need to stockpile for our national defense. Unfortunately, these countries often cannot raise enough food to feed their own people. The bartering program will allow an exchange of our abundant agriculture commodities in return for these critical materials. For example, there is no reason why we cannot barter corn or milk for oil to go into our strategic petroleum reserve.

My question, Mr. Chairman, is whether there is any prohibition in H.R. 7072 that would restrict the Department of Agriculture from establishing a bartering program involving U.S. agricultural commodities? I would also like to know, Mr. Chairman, your views on the establishment of such a program to alleviate the oversupply of commodities now existing in the United States.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, may I say to my colleague that I commend him for his efforts here. The whole theme of our report is that we do not have a surplus to world needs, but only a surplus to domestic needs. I think it would be a move in the right direction to get something that we do need for something that we do not need, and at the same time to make available food to the hungry peoples of the world.

Mr. ALBOSTA. I thank the chairman very much.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I take this time to enter into a discussion with the distinguished gentleman from Wisconsin (Mr. ASPIN) on the subject of the conformity of this bill to the budget resolution. I would now yield to him and ask him to give us his understanding of how the bill conforms.

Mr. ASPIN. Mr. Chairman, if the gentleman would yield, it seems to me—and then I would also like to get the distinguished chairman of the Appropriations Committee, Mr. WHITTEN, involved in the discussion—but it seems to me that listening to the debate and reading some of the "Dear Colleagues" that have been sent around on this issue, that there are about three or four different issues that we are dealing with.

One is the issue of the future funding that is going to be needed for the food stamps and WIC and child nutrition. That is one item.

The second item is whether we are to score-keep this resolution according to the 302(a) allocations or the 302(b) allocations. The third issue that keeps coming up is the issue about the CCC, export credit programs—$500 million.

The fourth item that I heard referred to and that keeps coming up is $185 million for the rural rental assistance payments. I ask the gentleman from Minnesota, does that pretty well cover the various things that have been mentioned in this bill?

Mr. FRENZEL. Yes, with one exception. The gentleman will recall on the last bill, the transportation bill, we discussed the additional problem of outlays exceeding the budget resolution.

Mr. ASPIN. For sure, there is that question here too—not to the same extent as we had there.

Mr. FRENZEL. It is only one-third.

Mr. ASPIN. Let us just talk about one item, because the gentleman from Pennsylvania (Mr. WALKER) raised it in the speech just previous to the gentleman from Minnesota, and that is the issue of the future requirements to fund the WIC program, the food stamp program, and the child nutrition program. As I understand it, and I ask the gentleman from Minnesota whether it confirms with his view of the thing and OMB's view, as I understand it, there is funding in this resolution now that if we fully funded that, we are still under budget. If we fund it, though—and the gentleman from Pennsylvania is correct in that the bill does not fully fund those for the full fiscal year. However, it is my understanding that the figures in this bill before us are such that even were we to fully fund this in this bill, or if we fully fund it through a supplemental coming up later, that in fact we are within the budget resolution.

Mr. FRENZEL. In terms of budget authority and in terms of 302(b) allocation, this bill would provide enough money for the expected budget authority needed to continue those programs through the end of the fiscal year.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman.

Mr. WHITTEN. May I say that we just went before the Rules Committee to begin working on a continuing resolution that is now needed because we spent all year talking about figures. The overall allocation made by the Appropriations Committee is well within the budget. And this bill is $3.2 billion below that allocation of funds. The budget request counted on a change in the law which did not happen. They requested enough money under the present law at the going rate to last only for part of the year.

I understand that the Senate has added on the additional funds required to operate these programs under the present law for the entire year. These are programs that I think my friend had trouble with in his Budget Committee operations. The amounts for these programs are well within the 302(b) allocation. It is the exact amount that is contained in the budget request, but the law says that the going rate will require additional funds. So on the other side of the Capitol, they have added it, so I understand.

I hope in conference to say to the OMB, "Come on and send us a budget request. You say, do it at the authorized rate, but you do not give us a request for appropriations."

But in any event, the bill is under the 302(b) allocation.

Mr. ASPIN. I think we all agree on that. The issue the gentleman from Minnesota raises is 302(a) versus 302(b).

Mr. FRENZEL. It is true that under our rules, the Budget Committee makes certain assumptions, and they are ratified by the House, and then the Appropriations Committee extends the total amount available to it through those 302(b) allocations, which are different than 302(a).

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mrs. SMITH of Nebraska. Mr. Chairman, I yield 3 additional minutes to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentlewoman for yielding.

So, if we take the 302(a) allocation, that is, the budget assumptions—and I must again warn the Members of this body that the administration believes in those budget assumptions, agreed with them, and is going to base its

scorekeeping on this—this budget is over slightly in 302(a).

Mr. ASPIN. I understand what the gentleman is saying. Clearly, the administration does believe that the 302(a)'s are the controlling factor, or ought to be the controlling factor. It is just that what we have done in Congress here, in previous years, has been to score the budget resolutions on the 302(b)'s, which is not the way the budget functions translate directly the appropriations subcommittees, but the subcommittees and the Appropriations Committee changed those in some ways and allocated the money among their subcommittees slightly differently.

It has been traditional since the Budget Committee began—that is a tradition of only 6 years—but it has been dealt with, the ways we have dealt with it in the past, is always to allow the Budget Committee to make the different allocations, called the 302(b) allocations, and scorekeep against the 302(b) allocation. I know the administration thinks we ought to do it the other way, but to change and start doing it now would be to change in the middle of the process.

Mr. FRENZEL. There is no question I would prefer we kept score the way the administration does, and I hope we change the Budget Act, but under the current operation, the committee is within its limits.

I would like to go on and say that because the committee appropriates with budget authority and the budget resolution speaks to outlays, almost invariably the Appropriations Committee comes up with a budget that is over in outlays.

□ 1700

That is true in this bill under Budget Committee or administration or anybody else's bookkeeping by about a quarter of a billion dollars.

Again, the committee has done its job within its budget restrictions. Nevertheless, it is presenting us with a bill that will add a quarter of a billion to the predicted deficit called for by the budget resolution and, therefore, it seems to me that the House has an obligation to say yes, the committee did what it was supposed to do, but maybe the House would want to to do something else.

That, of course, is my position. I want to conform to the letter of the budget resolution, and I shall vote against this bill because it does not.

Again, I thank the gentleman for getting into the outlay questions.

I yield to the gentleman.

Mr. ASPIN. I guess I agree with what the gentleman is saying. It is clear from the scorekeeping that we have on both sides, both the OMB and CBO scorekeeping, that we are talking about a slight coverage in the case of outlays, about $234 million according to the figures I have.

Mr. FRENZEL. That is correct.

Another problem we have discussed applies to the provision for $500 million to fund short-term CCC export credit. Under our agreed scorekeeping, we do not count this item. Instead, we show it as budget authority in an outyear.

However, the other body and the administration show it as budget authority for this year, which it is. It also should be classed as an outlay for this year, which it is.

My personal position is that this is a needed item which should be supported. But it should be accounted for accurately. With it in this bill, something else, or some combination of programs, should be cut by $500 million.

All things considered, the committee did a pretty good job on this bill, but not good enough to earn my support. I consider the budget resolution the absolute ceiling in outlays and budget authority. We need most of the items in the bill, but the committee could find at least $250 million in savings from a $25-bilion bill.

I shall vote against the bill.

Mr. ASPIN. Of course, that raises two questions. One is the question about how this is going to come out of conference. We, of course, just have a bill here before us. It is only slightly over in outlays.

Mr. WHITTEN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, we on the Appropriations Committee, have spent years trying to explain these facts to our colleagues. I will be glad to talk with the gentleman sometime, but now we have a very limited time and we have to get on with the bill.

May I say again that we have spent today working on a continuing resolution that is now needed because of the time we have consumed in debating the figures. The Budget Committee was set up to handle entitlements and backdoor spending, and here we are dealing with the situation again. I just regret not having time to pursue this further at the moment.

Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, as you know, as a result of the Glickman, Skelton, Stenholm amendment last year we authorized an export revolving fund. The Appropriations Committee, under the chairmanship of the gentleman from Mississippi (Mr. WHITTEN) has lived up to the spirit of what is in the language of the Glickman, Skelton, Stenholm amendment.

They have for the first time earmarked, as I understand it, $500 million on a direct loan revolving fund program. If this is true, it will be a milestone in helping us get the export markets to which we as Americans and the American farmers are entitled.

At this point I would ask the gentleman from Mississippi if he would engage in a colloquy with me on this point.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I will certainly yield to the gentleman from Mississippi.

Mr. WHITTEN. May I thank the gentleman for his longtime support of agriculture. I also thank all of the others who have participated today.

I will be glad to discuss this matter with the gentleman, who I know is a friend of agriculture and who recognizes the need for us to move what we produce into world use.

Mr. SKELTON. As the gentleman well recalls, my initial thought was to have a separate portion of the $500 million earmarked under a certain section. The gentleman understands.

Mr. WHITTEN. Yes, I do.

Mr. SKELTON. We discussed that; is that not correct?

Mr. WHITTEN. I think that would be appropriate. But may I say again this matter of scorekeeping is hard to understand. It is hard to understand that three different groups scored the same bill differently. But it would make a scorekeeping difference if this item were handled that way.

Mr. SKELTON. So in essence then, is it not correct that you have $500 million or no less than $500 million earmarked for exports in a revolving fund situation?

This is really the spirit of what we asked for in our amendment.

Mr. WHITTEN. That is correct.

For the record, may I point out that any of the income from sales will go into the revolving fund, so it does become available for further use of the CCC. This is the prime purpose for the Corporation's existence.

Mr. SKELTON. In other words, we have $500 million used as a revolving fund is export sales.

Mr. WHITTEN. That is right.

The word "revolving" is an exact description of what happens. Whatever they receive from sales goes back in and becomes available for the same purpose again.

Mr. SKELTON. So when the loan is repaid, then it goes back into the CCC for loans for future exports plus, of course, the interest that comes in.

Mr. WHITTEN. Yes, and also for restoration of capital impairment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman.

Mr. GLICKMAN. This is a very significant point. If the gentleman from Mississippi is saying that no less than $500 million is going to be appropriated for a direct loan program for ex-

ports, which is in effect a revolving fund.

Mr. WHITTEN. That is right.

Mr. GLICKMAN. Which means the money goes back in after being repaid to be used again, and then we are in effect today a revolving export fund which is a very significant step for the farmers of America.

I understand from talking to the gentleman from Mississippi that the Office of Management and Budget in previous years had objected to this kind of arrangement, but the gentleman from Mississippi has put language in the bill which appropriates the amendment the gentleman from Missouri and I offered establishing a revolving fund, which is a top priority of America's farmers.

I congratulate the gentleman.

Mr. WHITTEN. The word "appropriated" is probably not technically correct. What we do is authorize loans and make that much available under the existing funds.

Mr. SKELTON. I would like to congratulate the gentleman from Mississippi for his foresight in living up to the spirit of what the gentleman from Kansas and I started several months ago. I think it is a great step forward in helping us recapture those foreign export markets for the American farmer which we so desperately need to do.

Mr. WHITTEN. I appreciate the good work you both have done.

Mr. SKELTON. I thank the gentleman so much and yield back the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the delegate from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7072, the appropriations bill for the Department of Agriculture, rural development, and related agencies.

I would like to commend the distinguished chairman of the House Appropriations Committee, Mr. WHITTEN, who, in his dual capacity as chairman of the subcommittee reporting this legislation, has once again demonstrated his leadership role in helping maintain the leading place of agriculture in our national economy.

The bill before us today also contains significant input from every member of the Subcommittee on Appropriations for Agriculture and the legislation is a clear signal to the American farmer, and the agricultural economy of this Nation, that Congress recognizes the severe problems with which these sectors of the economy are confronted and that we intend to do something to maintain these financial resources.

This legislation has kept the total Federal expenditures within reasonable limits while funding national programs and activities which are essential to the maintenance of sound agricultural policy. In short, as the committee report notes, H.R. 7072 will enable the American farmer to stay in business while at the same time protecting and preserving the Nation's soil and water resources.

H.R. 7072 contains, among others, two specific provisions which are of importance to Puerto Rico.

The first is a restoration of funds for the USDA Animal and Plant Health Inspection Service—APHIS—which will allow the continuation—at the same level as the present fiscal year—of a vital tick eradication program in Puerto Rico.

By putting into the fiscal year 1983 budget a specific amount of $2,153,000 to continue a highly successful tick eradication effort which is presently a cooperative program funded by funds from both Puerto Rico and the USDA, we hope the eradication program will be successful. Both the bont tick and the boofalis tick, the latter of which was eliminated in 1954 but has returned to the detriment of our substantial dairy and cattle industry, will continue to be contained through spraying made possible by this APHIS program. It made no commonsense, in my opinion, to have a disease infestation program completely eliminated in the Federal budget process.

The restoration of these funds by the full Committee on Appropriations is, I want Members to know, deeply appreciated by Puerto Rico and our dairy farmers.

The second provision is the language, on pages 102 and 103 of the report on H.R. 7072, which provides the funding for the new nutritional assistance plan which replaced the former food stamp program in Puerto Rico.

Our funding was cut by 25 percent due to the first omnibus budget reconciliation and, on July 1 of this year Puerto Rico converted the block grant for nutrition to a cash-out of the block grant money.

The Appropriations Committee action continues the funding at the full authorized level and I am glad to note that no further cutbacks in a program already suffering a substantial reduction is asked for.

The committee requests a detailed assessment of the impact our new program will have on the island's agriculture, an evaluation to be done regardless of whether or not our Government in Puerto Rico continues to operate the nutrition assistance as a cash program.

This study is welcomed by me personally, and I have supported another study, contained in the farm bill, which is to analyze the operation of our new "cash assistance" program as it affects both our economy as well as how it is operating.

In short, Mr. Chairman, Puerto Rico welcomes the technical assistance which the U.S. Department of Agriculture is requested to provide through this evaluation.

H.R. 7072 is a sound measure that will help agriculture in the Nation including Puerto Rico in a sensible manner. It has my strong support.

□ 1710

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I thank the chairman of the subcommittee for yielding, and I want to say what other Members have said: I cannot think of any individual who has done more to further the cause of the American farmer than the gentleman from Mississippi (Mr. WHITTEN).

The state of American agriculture is bleak. I do not think it is any secret that it is the worst since the Great Depression.

Agriculture is America's strongest industry. In 1981, it spent over $140 billion for goods and services. At a time of increasing unemployment in America, one out of every five jobs in this country, in private enterprise today, is directly or indirectly related to agriculture. We have a very, very weak agricultural economy, and the thing that worries me the most when I go home is the hopelessness on the people's faces who tell me that nothing seems to be improving—the price of wheat, the price of corn, livestock has improved a little bit, but not dramatically—and they ask what we are doing in Congress.

The bill before us today provides funding for some of the mainstay programs, funding for the Commodity Credit Corporation, funding for soil and water conservation programs and a variety of other important things to keep American agriculture great.

But our real problems in agriculture are overproduction and oversupply, which has to do ironically with the wonderful productivity of the American farmer, as well as Government policies which have encouraged that; very weak export sales, including inconsistent Government policies on the issue of sales to countries overseas, and implied embargoes.

Finally, they relate to the fact that the administration feels, I think, that the Consumer Price Index can best be held down by aiming their target at the American farmer.

This bill, while it is an important bill and one that we could not live without in agriculture, does not cure the problem, which will be cured only with incentives for reduced production and expanded exports. Hopefully, one of these days a majority of the Members of this body and a majority of the American people will once again see that the revitalization of this economy

and this country will truly start with the revitalization of agriculture.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 7072, the fiscal year 1983 Agriculture, rural development, and related agencies appropriations bill. As in the past, Chairman WHITTEN and the members of the Appropriations Committee have done an excellent job of providing the support needed to maintain this country's leadership in agriculture. For those of my colleagues who may not be as enlightened on the reasons for the provisions of this bill, or perhaps not convinced of the value of agriculture to this country, I would recommend that they spend a few moments reading the report which accompanies this bill. It provides a good summary of the situation which faces American agriculture today.

If my colleagues will bear with me, I would like to detail some of the features of this bill which are causing me to lend it my strong support. As in the past, the necessary agricultural research functions are strongly emphasized in this bill. The future of American agriculture is contained in these programs which we are funding today, a future which we too often neglect in the face of current pressures.

Included in these programs, funded at a level slightly above last year's appropriations, are a number of forward-looking USDA functions. There is a needed increase in support for the national plant germplasm resources operations. If we are to continue our agricultural successes, we will need the genetic building blocks which we collect, categorize, and store in our germplasm system. The development of new crop strains and new commercial crops is essential to our agricultural vitality.

An example of some of this innovative research is the work being done on guayule, a semiarid shrub which grows in the Southwest and produces natural rubber. We are 100 percent dependent upon imports for our natural rubber supplies and there is an urgent need to develop this crop for national security reasons as well as the need to provide farmers in the Southwest with a low-water using cropping alternative. The funding for guayule research in the Agricultural Research Service (ARS) and the Cooperative State Research Service (CSRS) are wise investments in the future.

There are a host of valuable projects underway, funded out of the basic research funding for ARS and the formula funding for CSRS. I remain in strong support of the levels set by this bill for these programs beyond my own parochial interests mentioned above. However, my analysis of this bill would not be complete without my expressing some reservations on a few of the specific provisions contained here.

While I applaud the committee's action on increasing human nutrition research, I have some reservations about the direction which we are taking in these efforts under ARS. The proposal to run the Tufts Human Nutrition Center as a Government owned-contractor operated facility is something which disturbs me since I am not adequately convinced that there is enough technical expertise remaining in USDA to adequately manage this type of operation. I also have some questions about the coordination of Government policy on human nutrition research under this type of arrangement. While I know that my colleagues on the Appropriations Committee have considered these factors as well, I did want to emphasize them today. As USDA well knows, I have a strong interest in this research and will be closely monitoring this development.

I would also like to applaud the committee action in funding the competitive grants program under CSRS, although I feel that a higher figure would have been in order. This valuable research function has proven its value over the years and is, in my opinion, due for expansion. This program is an excellent addition to our basic research efforts and allows us to bridge other research results into agriculture. I hope that we will see this program rewarded in the future for its successful operation.

Moving to a related USDA function, the Cooperative Extension Service, I am pleased with the committee action there. The House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture, which I chair, is engaged in a major oversight of this valuable program and I fully support the Appropriations Committee, based upon what we have learned in our hearings to date. I would like to specifically endorse the funding for two pilot projects on technology transfer. The Cooperative Extension model for technology transfer is well known and has been copied by a number of other people attempting to enhance the technology transfer process. I look forward to reports on the progress of these two pilot projects.

I would also like to compliment the committee for fully funding the urban gardening program. I know of Mr. WHITTEN's support for this program and I know that I speak for millions of Americans engaged in gardening when I thank him personally for his effort this year. The gap between rural producer and urban consumer is narrowed through programs such as this.

As a final note, I would like to fully endorse the committee's admonition to the States to keep their contribution to the Cooperative Extension program at an adequate level. I realize the situation the States are in and the attractiveness of cutting the State contribution to this program when the Federal level increases. But this approach is shortsighted and could harm the partnership so essential to the continued success of Cooperative Extension.

I support the committee in their action to restore the ill-conceived funding cuts proposed to the Animal and Plant Health Inspection Service. The cuts proposed to the brucellosis, gypsy moth, hydrilla, and other pest control programs were a threat to American agriculture and the committee acted wisely in restoring funding for these operations. I am keenly interested in the ability of APHIS to provide the services which we require and am concerned that the overall reduction in their budget may force shortcuts in program operations which pose a threat to agriculture. But I am pleased that at least the most needed line programs were restored.

Turning now to the Foreign Agricultural Service. I am pleased that this function is receiving a small increase. Faced with the need to expand foreign markets, I wish we could have expanded the FAS functions more, but even a modest increase is testimony to a program's effectiveness these days. I am disturbed by one decrease, however, and that is the deletion for the Landsat funding request.

For the benefit of my colleagues, I would like to explain that FAS is using remote sensing data to produce more accurate overseas crop estimates. This data is analyzed and then delivered to the farmer, using a combination of space age technologies. The time lag in delivery of this information to farmers is being cut and the accuracy of predictions is being improved, a great gain for America's farmers. If we are to push expanded exports, then we must also supply the farmer with the support that an overseas expansion requires.

I know of the committee's reservations about pass-through funds such as the budget requests made for Landsat funding by FAS and the World Agricultural Outlook Board. But these services are essential to improving our position in the world market. To rely only upon Landsat funding from the National Oceanographic and Atmospheric Administration (NOAA) will not do the job. NOAA will not be bound to develop their operations to meet the needs of agriculture unless agriculture is a stakeholder in the program. I would urge a reconsideration of this move in future deliberations.

But the real culprit in the slow pace at which we are proceeding in our remote sensing programs, such as Landsat is this administration, which is cutting support for the continuation of these valuable programs. We suffer

from the lack of a civilian space policy and a policy on the commercial use of technologies such as these. There is vast potential for the use of remote sensing technologies in increasing the efficiency of American agriculture. But we will not achieve this until the Federal Government takes a leadership role in developing applications and continuing its support of Landsat until the commercial sector can take over.

As usual, I have digressed slightly and revealed my biases toward the use of cutting edge technologies to meet agriculture's needs. It is this vision of the future which I feel is fully shared by the committee and Chairman WHITTEN. The strong support which has been given to research and extension over the years is just one example of the concern which the committee has in the future of American agriculture. I realize the funding restrictions which we are under and this tempers any minor disagreements which I have with this bill. There are few among us who want to be faced with the choices which the chairman and the committee have been forced to make. I thank them for their efforts and urge my colleagues to fully support this bill.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, I rise in support of this appropriations bill, and urge my colleagues to vote for it. This bill is a carefully crafted measure which balances the needs of consumers and producers, and recognizes the responsibility that the Congress has to help sustain the economic vitality of our rural areas.

In addition, the bill appropriates funds for our major nutrition programs. These programs are designed to assure a nutritionally adequate diet for some of the most vulnerable people in our society, including the elderly, low-income families, and children. These people receive special attention because without it, they would be more susceptible to illness which, among other things, often results in greater public expense under programs like medicaid and medicare. Through the food stamp program, the school lunch program, and the special supplemental food program for women, infants, and children (WIC), we have made great strides toward eliminating hunger and malnutrition in our country.

Mr. Chairman, I am particularly pleased that our committee has included a favorable appropriation for WIC. This is one of the most cost-effective programs supported by the Federal Government, and deserves the bipartisan support it has consistently received in Congress.

More specifically, the bill appropriates $652 million for WIC, which is the amount requested by the President. However, in order to preserve current service levels, the bill directs that these funds be applied to the first 7½ months of the fiscal year, October 1, 1982, through May 15, 1983. The committee expects the administration to review the funding requirements of this program in an expeditious manner and transmit an appropriate supplemental request to cover the balance of the fiscal year. Our committee fully anticipates that such a supplemental will maintain the WIC program through the remainder of this fiscal year.

By providing $652 million for 7½ months, the committee is essentially funding WIC at an annual rate of $1,043.2 million. Under this bill, USDA would be required to allocate one-fourth of this amount ($260.8 million) to the States on October 1 for use during the first quarter of the fiscal year. It would be required to allocate another $260.8 million on January 1, and then on April 1 to allocate one-half the regular quarterly amount, $130.4 million, to cover the 45-day period from April 1 through May 15. In addition to the $652 million appropriated in the bill, USDA would be required to allocate any unspent funds carried over from fiscal year 1982. These carryover funds should be allocated to the States as quickly as they can be recovered and redistributed. We anticipate that the carryover funds will be quite small this year.

As the committee report notes, we adopted this funding level in an effort to maintain current participation levels to the fullest degree possible in this highly successful program. Therefore, the requirement that all $652 million be provided for use in the October 1 through May 15 period is firm and explicit. Any action by USDA to spread these funds over a longer period and to push States to reduce their WIC programs on the ground that only $652 million has been appropriated for the fiscal year would be a violation of this bill's clear direction and intent. Similarly, any action by States to reduce participation on the gound that the $652 million is to be spread over more than a 7½-month period would be in clear conflict with the bill's direction and intent.

Finally, the committee has again directed USDA to periodically reallocate fiscal year 1983 WIC funds during the 1983 fiscal year. This directive, which was first included in last year's agriculture appropriations conference report, assures that WIC funds will be utilized to the maximum extent possible during the fiscal year. In fiscal year 1982, the funds were reallocated twice from States with unspent funds to those needing additional resources. We have emphasized that these procedures, which are required by the Child Nutrition Act, are to be followed again in fiscal 1983.

I would also like to take note of the committee's directives regarding the provision of surplus commodities to needy Americans. In the past year, surplus cheese has been distributed, and now some butter is being distributed. Distribution of nonfat dry milk is also a possibility. The committee has been encouraging these efforts, and our report directs USDA to improve the distribution system by using a small amount of CCC funds to reimburse States for the reasonable administrative costs involved. The report also calls on USDA to consider the possibility of expanding the distribution of surplus commodities. Such distributions are not intended to take the place of our Nation's most basic food assistance program, the food stamp program. However, as has been the case this past year, surplus cheese and butter can help needy Americans stretch their food budget a bit further. This is especially important when we are experiencing both a deep recession and substantial cuts in the food stamp program.

Once again, Mr. Chairman, I urge my colleagues to support this legislation and these programs which are so important to our urban and rural communities.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I, too, want to commend the gentleman from Mississippi (Mr. WHITTEN), the gentlewoman from Nebraska (Mrs. SMITH) and other members of the subcommittee for working out as good a bill as they have under very severe budgetary conditions.

Our principal new resource in the United States is food. There are really only three origins of new wealth in the world: mining, fishing, and agricultural products. Due to our geographic situation and for other reasons, we have developed food as the principal new wealth that comes from the United States. This bill, of course, is very crucial in that area, not only with regard to the development of our natural resources, but with regard to research, distribution, and the whole food industry.

So again I commend the gentleman from Mississippi and others for what they have done in this area.

Since we produce more food per person than the average American can eat, and we export food, it certainly is not necessary or advisable to eliminate food programs and nutrition programs for those who through no fault of their own do not have enough food.

Now, a number of programs, of course, have to be watched very carefully because there is waste which creeps up in programs; but we should

not eliminate or reduce food programs at a time when we have surpluses like we have if it results in leaving people who need food without enough food.

One of those programs, is the WIC program, for women, infants, and children. The administration proposed that it be eliminated from this bill. The committee instead put in not only the amount of money they had last year, but some additional money. And three pilot programs will be financed, one of them in New Orleans, one of them in Detroit and one of them in Des Moines.

I just think that this is an example of the kind of thing that government should do, especially at a time when we have surpluses—to find better uses and better ways to distribute this kind of program. I want to ask the gentleman from Mississippi again: Is my understanding correct that you do provide the funds that are necessary for the WIC pilot program in Des Moines, Detroit, and New Orleans, in all three cities?

Mr. WHITTEN. Yes; we do. We have made provisions for these three pilot projects. We have made provisions for them in the bill. I think we have a good bill. I appreciate the kind of statements made by my colleague who contributes so much to American agriculture.

Mr. SMITH of Iowa. I thank the gentleman very much.

Mr. WHITTEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. HIGHTOWER), a member of the subcommittee.

Mr. HIGHTOWER. Mr. Chairman, so many times those of us who have the responsibility of appropriating for research are accused of wasting the taxpayers' money, because they will read critical and sarcastic stories about some of the research projects that are funded in our appropriations bills.

I have several agricultural experimental stations in my district. We know the value of research, and we know what it has meant to the agricultural economy of the country. Of course, so many times, because it is not an interesting, exciting story, it is just not headline material.

□ 1720

Several years ago—I do not recall exactly how many—before I came to Congress, this committee funded some research for a screwworm eradication program. The basic research was called, "A Study of the Sex Life of the Screwworm Fly." That got some attention because people who looked at research programs and studies thought that this is absolutely a waste of taxpayer's money.

Well, the research was carried out. A method of eradication of the screwworm was developed, and it has meant literally hundreds of millions, even billions of dollars to the taxpayers and the consumers of this country because of what it has done to revolutionize the production of cattle all over the world.

So many times we get excited about something that we do not know anything about, and when we read the stories of research, we often do not know the full story.

I appreciate the work of the chairman of the subcommittee and the funding that we were able to do in this bill for agricultural research. It is not a glamorous story; but if we are going to continue to be the breadbasket of the world, if we are going to continue to provide not only the food and fiber that we need to keep this country strong and great, we are going to have to fund research. It is a priority spending. We have cut many areas of the budget, but if we are going to keep our faith with the future, if we are going to be able to grow and to do the things that must be done, we must preserve research projects of the type that are funded in this bill.

I thank the chairman for the privilege of making these remarks.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I would like to associate myself with the remarks of the gentleman. I agree, sometimes the only thing the matter with these programs is that they are badly named. They are titled in such a way that they attract attention and sometimes laughter, but I remember Tiger Teague on the floor of this House, telling us how the investigation into the sex life of the fruit fly had saved so many orchards, and so much spraying with damaging chemicals, because the little insects were merely attracted into the lures.

I agree with the gentleman. I think it would be madness to stop our research. We do not know enough.

Mr. HIGHTOWER. I thank the gentlewoman for her comments. Of course, it is a story that can be told in many different ways, because we have perfected new strains of food stuff, and other materials that are very important to the economy of this Nation.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, I wish to commend the gentleman on his comments. I think those of us that do represent States that are dependent on the agricultural industry recognize how important these research programs are. One example that I want to pay particular attention to—and thanks to the chairman of the committee and the subcommittee in this instance—relates to the gypsy moth infestation and the fact that approximately $5.1 million was assigned for dealing with this infestation last year.

The administration recommended a drastic reduction to about $673,000 which would have been totally inadequate to deal with the problem.

The committee has restored that amount and our State, the State of California, has determined that because of this, they will be able to quarantine goods and hopefully have better control over a possible infestation that would literally destroy many crops in California and throughout the country.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

What about the Medfly? How are we doing on that?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield to me on that point?

Mr. HIGHTOWER. I yield to the gentleman from California.

Mr. BROWN of California. I am happy to announce the Assistant Secretary of Agriculture, Mr. McMillan, announced in California this morning the Medfly program had been successfully completed and all Medflies were eradicated in California.

Mr. HIGHTOWER. Is that the only pest in California?

Mr. ROUSSELOT. No, there is another one. What about the other guy—you Jerry Medfly? Did we get him in tow?

Mr. BROWN of California. If the gentleman will yield further, I think this announcement was made in order to assist the other guy the gentleman is referring to in his current activity.

Mr. ROUSSELOT. Assist him.

Mr. HIGHTOWER. I thank the chairman.

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

It is not easy in this day and time to get Members to serve on what I consider the most basic committee. I have served on it for many years and I appreciate the kind statements made. The members of this subcommittee on both sides of the aisle could not be more dedicated or do a finer job. I take this time to thank all those who have assisted the members of this subcommittee. I pay particular compliments, particularly, to the gentleman from California (Mr. BROWN).

He has been instrumental in a number of agriculture programs which have created an interest in our cities. In order to keep the city members interested, all one has to do is show them what agriculture does in their areas, programs such as urban garden-

ing and 4-H type work in the cities. Such programs are very, very beneficial to the country, but they are also very beneficial to increasing the understanding and support for agriculture. I deeply appreciate the help of all of our urban colleagues who have stayed with us over the years.

I could not help but appreciate deeply the kind remarks of my friend from Indiana (Mr. MYERS). Recently in my home community, they asked me who was the dark-headed fellow who spoke from time to time when I did. I said, "One of the ablest men in the Congress," and I say it here. The gentleman deserves everything I can say. I have never seen a time in the years I have served with the gentleman from Indiana, Mr. JOHN MYERS, that the gentleman did not carry his share of the load. All of us can rise to the occasion when it is popular. It is not every Member who is always on his toes and ready to go. I appreciate our friendship and I think the membership here appreciates the great job the gentleman from Indiana, Mr. JOHN MYERS, does in carrying his share of the load, whatever the issue.

Mr. Chairman, I yield back the balance of my time.

● Mrs. SNOWE. Mr. Chairman, I rise in support of H.R. 7072, the agriculture appropriations bill for fiscal year 1983. As a Member representing a rural State, I recognize the need of many Maine farmers and landowners to protect their croplands and water resources for present and future generations. When faced with rising production and maintenance costs, however, this objective becomes much harder to achieve. I therefore commend the Agriculture Committee members for restoring much needed funds for vital USDA soil and water conservation programs, as well as agricultural research programs.

I specifically want to thank the committee for their recommendation of $190 million for the agriculture conservation program (ACP), for the past several years, the State of Maine has received approximately $2.1 million in ACP funds which are widely distributed throughout every county in the State. Under the ACP program, many farmers have utilized such conservation practices as crop rotation, strip cropping, stubble mulching, minimal tillage, as well as various other integrated conservation measures.

In addition, the State of Maine received two special project grant awards in 1982 totaling $329,000—third highest State in the country to receive these special conservation program funds in Maine, Agricultural Stabilization, Conservation Service officials and farmers have made significant inroads in improving soil conditions in Maine. However, there still exists a lack of adequate water supplies which has retarded crop yields on more than 75 percent of Maine's croplands. I am therefore pleased to see that the agricultural conservation program will be continued in 1983.

I am also pleased to see that the committee increased potato research funds by $436,000 over 1982 funding levels for a total of $4.4 million in 1983. Mr. Speaker, many times I have outlined my concern with the existing unfair trade situation that Maine potato farmers face with their Canadian counterparts, and I personally feel that these research funds will put the Maine potato farmers on a more equal footing with their competitors in future years to come.

As you may know, in the past 4 years alone, imports of Canadian potatoes to the United States have increased an average of 75 percent each year, or a total of 300 percent. Eastern potato industry leaders estimate that their industry may lose more than 100 million dollars this season due to the increase of Canadian exports to the Northeastern markets.

And, a recently completed International Trade Commission potato report revealed that a majority of the imports of potatoes that enter Northeastern U.S. markets are round white potatoes of a type that compete directly with most of the production of the Northeastern regions. Thus, it is clear to see the dilemma our potato farmers face and the importance of providing additional funds to develop new potato varieties. The committee has wisely directed the USDA to expand potato seed and variety development at the University of Maine in order to make Northeast potato producing regions more competitive, and I am most appreciative of their efforts.

Again, I urge the support of my colleagues in passing this important piece of legislation. The Agriculture Committee has fashioned a bill which strikes a fine balance between much needed agricultural research programs for our farmers while recognizing our budgetary limitations.●

● Mr. BEREUTER. Mr. Chairman, for the RECORD, this Member supported this appropriations measure which funds the operations of our vital farm programs. I should not need to call to the attention of my colleagues the dire situation on the farms and ranches of America today. Commodity prices continue to fall far below the cost of production. Interest rates continue to exact a staggering toll on family farming operations. And this year, for the first time in many years, exports of agricultural products will actually decrease over last year. There is little reason for optimism in farm country, even as we approach another binbusting harvest.

The bill before us does offer some assistance, however, in the funding of the export credit revolving fund which was authorized by the 1981 farm bill. Despite the refusal of the administration and officials of the Department of Agriculture to request these needed funds, the Appropriations Committee has recommended a $500 million appropriation for the establishment of this export promotional effort, and I strongly urge my colleagues to support this provision of the bill.

Mr. Speaker, without a strong and sustained effort in the area of export promotion, there is no light at the end of the tunnel for the American farmer. We must make clear the commitment on the part of American agriculture to meeting the food and fiber needs of the world, and the revolving fund provisions of this bill will be of great assistance in that effort. I urge all of my colleagues to lend their support to the passage of this bill.●

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read title I.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title I? The Chair hears none.

Are there any amendments to title I?

If not, the Clerk will read.

The Clerk proceeded to read title II.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read and open to amendment at any point?

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

If not, are there any amendments to title II?

If not, the Clerk will read.

□ 1730

The Clerk read as follows:

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), $9,291,707,000 for the period October 1, 1982, through July 15, 1983: *Provided*, That funds provided herein shall remain available until September 30, 1983, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2029), $250,000,000 for the period October 1, 1982, through July 15, 1983, should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided*, That funds provided herein shall remain available until September 30, 1983: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 44, line 4, strike "July 15, 1983:" and insert "September 30, 1983:".

Mr. WALKER. Mr. Chairman, my amendment would leave the appropriations in this bill exactly as stated by the committee, except that instead of having those appropriations run for only part of the year, it would require, as we do on most appropriation bills, those appropriations to be for the full year.

The President originally requested about $9½ for a full year to cover the food stamp program. That is what the administration believes that this Nation can live with. That is what this committee put into the bill; however, instead of making that appropriation of $9½ run for the full year, the committee decided to cut off that appropriation after about 9½ months.

It seems to me that this is a rather strange kind of appropriating and budgeting authority. As I mentioned in my earlier remarks, it is something similar to a family with $15,000 worth of income and $20,000 worth of expenses deciding just not to pay their bills for the last 3 months of the year and calling their budget balanced. Well, I simply do not think that that kind of budgeting should go on under the guise of meeting budget targets.

So I would hope that we adopt this amendment as a way of finding some savings within the food stamp program.

Now, there are ways of doing this. I think first of all we have got to remember that this program over the period of its existence, which has been a relatively short existence, has risen in cost by 36,000 percent; so we have had a program here where we have encountered tremendous growth over a period of 10 to 15 years.

We can find ways of assuring ourselves that we can meet the kinds of budgeting that this gentleman is recommending in this amendment. For example, one of the options open to us, and this would not be open to the Appropriations Committee, but rather would be open to the authorizing committee, but if we adopted this budget it is certainly something that they could look at, would be to reinstate what was known as the purchase requirement. That is the way the food stamp program operated for a number of years. You can reinstate the purchase requirement, exempt the very poor, exempt the disabled, and exempt the elderly and still save between a billion and a billion and a half dollars every year. That is something we can certainly look at.

As a matter of fact, those kind of figures match up to just about exactly what the savings would be under my amendment.

What my amendment does is annualizes the budgeting process once again. Now, if we adopt the committee language, what we are really saying is that we are going to institutionalize the supplemental process. I do not happen to believe that supplemental appropriations are really in the best interests of the taxpayers. What always happens in supplemental appropriations is that we are told we have to enact these things on an emergency basis, that we have got to get them done because people otherwise will be without checks, and what we end up doing is appropriating money, any supplemental bill is over and above the budget, and so we appropriate a good deal of money that the taxpayers otherwise could expect to be saved.

I do not want to see that institutionalized. With this particular bill, adopted in the way that we are adopting it, we are in fact institutionalizing the supplemental process.

I would prefer to see us achieve some real cuts, as the administration wanted to do in the food stamp program. We can do this by simply taking the $9.5 billion that was originally contemplated by the administration, extending that through the full year to September 30 and thereby save some money.

This bill does not save money because it has a cutoff date earlier in the year; so my amendment would bring us into line with the need for food stamp savings and in total would save us about $1.6 billion.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, over the years we have had a whole lot of problems in handling this program. sometimes I think the American people do not realize that although we are the lawmaking body, all programs are handled by the executive department or by the States, and that is true with the food stamp program.

May I point out that our hearings record contains about 10 pages describing what has been done to tighten up the handling of this program. What money we have here is to carry on at the current authorized rate, after extensive effort by the administration and Congress to tighten up the handling of the program.

In addition to that, we put $250 million in reserve to encourage the Secretary to cut out waste and fraud.

I have before me a letter from Mr. Stockman dated September 16 in which he advocates the full amount needed for the year and congratulates the Senate committee for adding the money to carry out fully the program which the Office of Management and Budget says is needed.

What we have here is a failure to send up an official budget estimate. We have a letter from Mr. Stockman. We have action by the Senate, I know from talking to them. I would hope that we would defeat this amendment, because it is added by the Senate now. The Office of Management and Budget calls on us to carry out the program at this rate. They simply do not send up an official budget estimate to match against the additional money, which I hope we shall ask them to do in conference with the Senate. While you might take exception with the program in a whole lot of ways, the way to do it is to change the authorizing law. I think it is better to let us do it this way in appropriations action, and handle it in conference as it appears we will have to do.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate our chairman yielding.

Is it not normal, as our colleague, the gentleman from Pennsylvania said, to appropriate for a full year?

Mr. WHITTEN. It is.

Mr. ROUSSELOT. Would it not be better to do that?

Mr. WHITTEN. It is normal to get through appropriation bills individually and not have a continuing resolution. It is also normal if the Office of Management and Budget wants the Congress to appropriate the money to send up an official request, rather than try to handle it by letter to the other body. We have letters where the Office of Management and Budget wants the full amount, which the Senate has added, but they do not send us an official request for the additional money. In self-defense for the gentleman and the rest of us in the Congress, we thought this was the only way to handle it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. WHITTEN. I yield to my colleague.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

Is it not true, though, that the House of Representatives is supposed to originate spending bills?

Mr. WHITTEN. I did not catch the last part.

Mr. ROUSSELOT. Is it not true that the House of Representatives is sup-

posed to originate spending bills—I do not know about tax bills—so that we could, in fact, be saying that we think the appropriation should be for the full year?

Mr. WHITTEN. Certainly it is within the control of the Congress. I was explaining to the gentleman why we followed the course we did. They say they need the money, the Senate is going to add the money. They do not send us an official request. I can not recommend going so far over the official budget request, and that would be the situation. We are not above it as it stands, but this is the only way we can keep from being so.

Mr. ROUSSELOT. Well, I appreciate that comment, because that is probably the truth, as the gentleman has just spoken.

Is it not true, though, that this food stamp program is another one of those that has gotten way out of control and where we have had a lot of fraud and abuse?

Mr. WHITTEN. May I say that some years ago the committee recommended and the House and the Senate approved a $2 billion cut in this program.

Mr. ROUSSELOT. And we are asking for how much?

Mr. WHITTEN. Wait a minute, let me finish now. It went on through Congress and was signed by the President. When one individual judge issued an injunction, the President of one party did not appeal it. Then the President from another party got rid of the implementing regulation entirely.

Now, your committee and the Department of Agriculture have 10 pages describing what has been done to try to tighten it up. And your committee put up $250 million of money in reserve where it could be released if needed, but would be held in an effort to tighten up to prevent fraud.

We in the Congress do not handle this program. As the gentleman knows, it is handled in the executive branch and in many cases by the local welfare agencies in the States.

What I am saying is that if the gentleman wants to go further, I think a change in the law would be required.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for yielding.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. WHITTEN was allowed to proceed for 2 additional minutes.)

□ 1740

Mr. WALKER. The gentleman has made the point that this process is controlled by the executive branch and by the States.

Mr. WHITTEN. I would say "administered."

Mr. WALKER. Administered by them.

Mr. Chairman, I would point out to the gentleman that when the executive branch submitted their budget, the budget request which this committee has complied with was $9.5 billion.

Mr. WHITTEN. That is right. But in connection with that, they called for changes in the law which did not occur.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. WHITTEN. I yield further to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, that does not mean that the administration, if faced with a particular budget for the year, could not request those changes again.

Mr. WHITTEN. The Congress can do anything it wants to. I just wanted the gentleman to know that we did the best we could, and I think we are right about it.

Mr. MYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I am reluctant to speak against this amendment because I agree with what the gentleman from Pennsylvania is trying to accomplish here. In fact, I remember this committee—and I am certain every Member of this Congress—was trying to eliminate unnecessary spending wherever it is. One of the areas most often spoken about, as far as our committee is concerned, is this area of food stamps.

The remedy that the gentleman from Pennsylvania is recommending here, however, will not accomplish this because by merely changing the date from an arbitrary figure which we selected of July 15—and we might have said July 1 or August 15; maybe we did not select the right date—but that will not change the basic law, as the chairman has said.

In order to accomplish what I believe the gentleman from Pennsylvania is trying to accomplish, the basic authority must be changed and we cannot do that in our committee. Really, we are trying to help the administration by selecting this date in July, hoping that in the interim period between now and the 1st of October when this bill will become effective, hopefully, between then and July 15 the administration will get something passed to strengthen the tools that it presently has to make the program better and to save money for the American taxpayers, but yet take care of the needy in this country.

As the chairman said on several occasions, this committee has attempted to tighten up food stamp regulations. Each time it was unsuccessful because of either the courts or the administration, or combinations thereof. We have been struck down in our attempt to strengthen these laws.

So what we are doing here by setting this date, we are not changing the total dollars spent, and we are not in this way, whether Members know it or not. If we put September 30 and they run out of money, whatever date it is next year that they do run out, under the present authority they are forced to come back for a supplemental, that is, the administration.

So we are giving this date of July 15, trying to give a nudge to the Congress and the administration to work together to strengthen the program, to save the program to make it better.

Mr. WALKER. Mr. Chairman, will the gentleman from Indiana yield to me?

Mr. MYERS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I would feel far more comfortable with that philosophy if, in fact, we were achieving savings and not taking the full amount recommended by the administration of $9.5 billion, plugging that in for only the portion of the year involved and then coming in and saying that we are meeting the budget target here.

I would much prefer that either the committee had gone and done $7.5 billion for that period of time, or come in with a full year at the figure that we think might be needed, rather than trying to obfuscate—which is my terminology—the fact that this bill does involve perhaps as much as $2 billion more in spending over the year than is covered by the figures in the bill.

Mr. MYERS. I reiterate to the gentleman, regardless of what dollars we put in there, it will not affect the amount of food stamps going out today, or the regulations. The other committees must make those changes in cooperation with the full Congress.

The only thing we can do is go by the law. We cannot change the law in an appropriation bill. We have been fought many times in trying to make just minor changes.

We did the only thing possible. Again, by the action of this committee, we are keeping pressure both on the administration and on the Congress to take action.

Now, Mr. Stockman, in his letter to the Senate, commended them for adding the dollars. So he recognizes the problem we are in. In fact, we met with him last night and talked about this thing. He recognizes this. But we attempted to do the only thing that is reasonable. We have to abide by the law. We put the money in here, and we took that date of July 15. If you prorate it by law, that is where it should be running out of money.

Regardless of what happens with the amendment of the gentleman from Pennsylvania, whether it passes or not, that does not mean that they will not be in here asking for a supplemental.

I agree with the gentleman. No one likes supplementals. We are trying to avoid that.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. MYERS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding further.

Mr. Chairman, I want to point out that I guess it is a question of what puts the most pressure on the authorizing committees. I happen to believe that you put pressure on the authorizing committee by saying that this is the full year in terms of appropriation, and if we cannot live within that sum, "You had better figure out a way to live within that sum."

It seems to me as soon as we institutionalize the idea of a supplemental, we have let them off the hook; that "If in fact you cannot come up with the kind of reforms necessary to meet this, we are going to take care of it anyhow with a supplemental."

Mr. MYERS. In the past we have not been successful using any vehicle. This is a vehicle that we have not tried in the past.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. MYERS. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman in the well for explaining the situation. It is very much to the point.

Also, I sympathize with the objectives of the gentleman from Pennsylvania, but I do want to point out that we still are far enough under the budget, under 302(b) that we can add the necessary additional funds and still come out at the end of the year under budget.

Mr. MYERS. I thank the gentlewoman. I hope we will not have to.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think there are three points that I think have to be considered with regard to this amendment.

The first is that the committee is indeed responding to the request of the administration inserting the $9.2 billion to cover the period through July 15.

The request by the administration was for $9.2 billion. The committee is well within its 302 allocation by implementing that provision.

Second, with regard to the program itself, I think Members have to remember that as part of the reconciliation we adopted this year, there was a substantial savings achieved with regard to the food stamp program. In 1983, $538 million was cut; in 1984, $635 million was cut; in 1985, $756 million was cut, a total of close to $2 billion over the next 3 years will be reduced from the food stamp program, part and parcel of reconciliation.

So indeed, in terms of savings on the program itself, I think this program has been looked at very thoroughly for legitimate savings.

Last, the approach that somehow, by trying to extend the time period for funding, this will force additional savings if the program does not work. I might remind the Members that this is a program that has been operating under a cap for the last 3 to 4 years that I have been working with this program.

In each instance, once you reach that cap, the Congress is then faced with the issue: "Do we cut people off the food stamp rolls or do we try to extend the money that is necessary to try to assist those individuals?"

Every time the Congress has responded by extending the cap. So I think the psychology that somehow we are going to reach a point at which we are going to suddenly terminate people who qualify for this program is just not realistic in terms of how the institution responds.

So for those three reasons: First, the fact that this does respond to OMB's request for implementing $9.2 billion; second, the fact that substantial reconciliation savings were achieved in this program already; and third, the fact that a cap simply does not work when it comes to a program like the food stamp program for all of these reasons the amendment ought to be rejected.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Mr. Chairman, I was off the floor, but would the gentleman state what this amendment does? Is he trying to put the figures in for a whole year that are in this bill?

Mr. PANETTA. That is correct.

Mr. COLEMAN. If the gentleman will yield further, he knows we worked to try to get down and reduce the error rate, the fraud and abuse in this program. I think we made some substantial savings, almost $2 billion.

Mr. PANETTA. That is correct.

Mr. COLEMAN. We might kid ourselves that if we go with this amendment that we are saving a couple of billion dollars more, but we all know that come next year when the money runs out and the people start writing us and clamoring that they are running out of food stamps, we know we are going to provide some sort of relief for them.

So we ought to recognize that and not generate false hopes of false savings here. What the committee did, I understand, was to run this thing through for 8 or 9 months, recognizing that even under CBO, which came back with some new figures, we frankly saved more money; it looked like a lower cost for this program next year, and even if those figures firm up next year, we are still going to have to fund probably more for this program.

The gentleman is right. I believe in the cap; I sponsored a cap in the committee and on the floor, and it passed. I think we ought to keep the cap, because that to me means there is a goal there that we have to live within. But to come down with figures at this late hour, with really false figures and come up with a new cap and recompute it here under the Walker amendment, it is not rational, it is not the way to go on any program.

Mr. Chairman, I am afraid I have to oppose my friend from Pennsylvania.

□ 1750

I just do not see how we can buy this.

Mr. PANETTA. As the gentleman knows as a member of that subcommittee that deals with this, the gentleman's cap that he has instituted on this program is a cap based on the administration's request in terms of what it expects to spend.

Mr. COLEMAN. The gentleman is absolutely right. It is full funding of the program as we reformed it and reduced these errors of fraud and abuse in the system, plus a little cushion.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I want to join with the gentleman in opposition to this amendment. The authorizing committee, in my judgment, has done a remarkable job in ferreting out, as the previous speaker has said, the fraud and abuse in the system. Over the last 20 or 30 years this Nation has probably had some 7 or 10 different feeding programs. Whether we like it or not or accept it or believe it, this is the most efficient and effective one that has yet been devised.

Let me say to the opponents, if you have got a better idea, tell the authorizing committee. If you believe the needy ought to be fed, if the poor ought to be fed, if they are entitled to nutrition, if you have got a better way tell us.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. PANETTA

was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. It is too bad that the gentleman was not on the floor to hear that I did suggest and I did offer an amendment to reinstate the purchase requirement to the bill. We can have the disabled exempted. We can have the very poor exempted, and the elderly exempted and still gain back for the taxpayer $1 to $1.5 billion that will cover the cost of my amendment. So, I did suggest that in the course of my remarks. I am glad to have the opportunity to suggest it again.

Mr. PANETTA. If I may respond, all those ideas were carefully considered not only by the authorizing committee on the House side, but by the authorizing committee in the other body as well. In conference, what was determined were savings in the vicinity, as I said, of almost $2 billion over the next 3 years. In the last 4 years I think we have had five bills that have had essentially reduced the food stamp program, the last being reconciliation savings. So, this is not exactly a program that is being ignored when it comes to achieving savings.

Mr. TRAXLER. If the gentleman will yield further, the fact of the matter is, this is the best feeding program that this Nation has yet been able to devise since the Great Depression, and with the help of the authorizing committee this Committee on Appropriations has just made a mighty effort to weed out the ineligible people. The difficulty is, if you do not have the enforcement officers out there in the field to find them, track them down, then you are going to have some abuse. Wherever you have a program you have always got someone who is trying to find out a way to take advantage of the Government's and the taxpayers' money.

I might say that goes for the defense appropriation bill as well. I hope we will give as much attention to defense waste and abuse there as what you are doing here, because you are awfully silent when that bill comes on the floor, you hawks, hawks, hawks.

What I propose is that we turn down this amendment and continue to jealously guard the taxpayers' money here through abolishing the abuse and track down the offenders.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words. I would like to reemphasize what my colleague, Mr. WALKER, is trying to do with his amendment. After all those fine speeches by my colleague from Michigan, and by the way, we have tried when the authorizing committee bills have been here, I have offered several amendments to try to find ways to save money in this program and prevent the abuse.

All my colleague has done is, he has asked that we comply with what this administration said would be needed for food stamps for 1983, the full fiscal year, and that is $9.5 billion. Now, I would like to say to my other colleagues who have argued that attempts have been made to try to deal with this program and cope with it, because it is out of hand, it is far beyond the original intent for providing nutrition for the elderly and many of those other very fine and noble things, the problem is that the program got way out of control. All my colleague from Pennsylvania has tried to do is to have us comply with the original request of $9.5 billion for the full fiscal year. That is all he has asked to do.

In your appropriation bill you have allowed this $9.5 billion to be spent through July, and so it is not a full fiscal year. As our chairman has said, the overwhelming proportion of items in this appropriation are for a full fiscal year. That is all my colleague is trying to achieve, and now I will be glad to yield to my distinguished colleague from Michigan, who I know is just very anxious to speak.

Mr. TRAXLER. I thank my distinguished colleague from California, and I appreciate his patience and his yielding me some of his valuable time.

Mr. ROUSSELOT. It is valuable. I appreciate the gentleman recognizing it.

Mr. TRAXLER. I may add a little to it with this question. I am sure the gentleman is aware that the Nation is now laboring in the greatest depression since the Great Depression of the thirties. As a consequence of this, we have more unemployed. I know that comes not as a surprise to the gentleman because he is a compassionate human being.

Mr. ROUSSELOT. I voted to help expand the unemployment compensation so the gentleman's State would benefit. We worked with Mr. BROD-HEAD on that in the committee, and we were very conscious of that. I appreciate the gentleman bringing it up again.

Mr. TRAXLER. My question to the gentleman is, in view of the fact that we now nationally exceed over 9 percent unemployment, and with the prospect of going to over 10 percent by the end of the year, and we do not know what next year will be—perhaps the gentleman does, but I do not know and most economists do not either—the bottom line is this: Is this really enough money currently in the bill, in the gentleman's opinion to fund those untold hundreds of thousands who are going to be unemployed even by the first of the year?

Mr. ROUSSELOT. Well, my judgment is, on the basis of what we now know on those utilizing food stamps that really are eligible and properly should be using them, the $9.5 billion will in fact be adequate, and that is the guess. Now, I agree with my colleague, if things get better, if unemployment begins to come down, then obviously even this amount will not be needed, but my judgment is, on the basis of what we read in the Budget Committee reports and the other reports that have been made available to us, on the basis of the work done by the subcommittee which my colleague behind me, Mr. COLEMAN, who is, I think, trying also to get into the conversation, that committee, I believe, came up with a judgment that there was a way to eliminate the fraud and abuse and try to tighten up in the program, and some place between $9.5 and $10 billion would be more than adequate.

Now, as the gentleman knows, that is far more than was originally contemplated, as our chairman stated, when this program started out at some $400 million. It has grown way out of control, and what this subcommittee which Mr. COLEMAN serves on has tried to do is to change the law so that we do not need more than the $9.5 billion. I still have not heard my colleague from Michigan tell us why we should not go with a full year appropriation through September of next year, 1983. Why should we not accept the $9.5 billion that was originally recommended?

Mr. TRAXLER. Will my colleague yield further?

Mr. ROUSSELOT. Why, of course.

Mr. TRAXLER. Let me say, in terms first of all of where the program started, the program started simply as a pilot program, and of course there was a little appropriation at that time.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. TRAXLER, and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. I certainly do not object, and I would be glad to yield to my distinguished colleague from Michigan.

Mr. TRAXLER. Ever gracious, the Californian deserves my heartfelt thanks for this time.

Let me just say that the program started from a small acorn, and sure, it grew to an oak.

Mr. ROUSSELOT. An overbloated oak, way out of control. The gentleman know that.

Mr. TRAXLER. If the gentleman had 16 percent unemployment in his district——

Mr. ROUSSELOT. Well, we have 11 percent, but we have found ways—I want to complete one item. I want to assure the gentleman that in our County of Los Angeles the program is basically administered by our Los An-

geles County government, and they have tried to bring under control and make sure that people are not misusing the stamps. Does the gentleman want to complete on that?

Mr. TRAXLER. Again, I want to say the program is where it is because it has become the prime feeding program of the Nation, not a supplemental program. It is the way in which——

Mr. ROUSSELOT. It is the prime feeding program of the Nation?

Mr. TRAXLER. Yes; Government feeding program. It is not an experimental pilot program any longer. It is the way.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 346]

Akaka	Carman	Dunn
Albosta	Carney	Dwyer
Alexander	Chappie	Dymally
Anderson	Clausen	Dyson
Andrews	Clinger	Early
Annunzio	Coats	Eckart
Anthony	Coelho	Edwards (AL)
Applegate	Coleman	Edwards (OK)
Ashbrook	Collins (IL)	Emerson
Aspin	Conable	Emery
Atkinson	Conte	English
AuCoin	Conyers	Erdahl
Badham	Corcoran	Erlenborn
Bailey (MO)	Coughlin	Evans (DE)
Bailey (PA)	Courter	Evans (IA)
Barnard	Coyne, James	Evans (IN)
Barnes	Coyne, William	Fary
Bedell	Craig	Fascell
Beilenson	Crane, Daniel	Fazio
Benedict	Crane, Philip	Fenwick
Bennett	Crockett	Ferraro
Bereuter	D'Amours	Fiedler
Bethune	Daniel, Dan	Fields
Bevill	Daniel, R. W.	Findley
Biaggi	Dannemeyer	Fish
Bliley	Daschle	Flippo
Boggs	Daub	Foglietta
Boland	Davis	Foley
Boner	Deckard	Ford (MI)
Bonior	Dellums	Ford (TN)
Bonker	Derrick	Fountain
Bouquard	Dickinson	Fowler
Brinkley	Dicks	Frank
Brodhead	Dingell	Frenzel
Broomfield	Dixon	Fuqua
Brown (CA)	Donnelly	Gaydos
Brown (CO)	Dorgan	Gejdenson
Broyhill	Dornan	Gibbons
Butler	Dougherty	Gingrich
Byron	Dreier	Ginn
Campbell	Duncan	Glickman
Gonzalez	Marlenee	Rousselot
Goodling	Marriott	Roybal
Gore	Martin (IL)	Rudd
Gradison	Martin (NC)	Russo
Gramm	Martin (NY)	Sabo
Gray	Martinez	Santini
Green	Matsui	Sawyer
Gregg	Mavroules	Schneider
Guarini	Mazzoli	Schroeder
Gunderson	McClory	Schulze
Hagedorn	McCollum	Schumer
Hall (OH)	McCurdy	Seiberling
Hall, Ralph	McDade	Sensenbrenner
Hall, Sam	McDonald	Shamansky
Hamilton	McEwen	Shannon
Hammerschmidt	McGrath	Sharp
Hance	McHugh	Shaw
Hansen (ID)	McKinney	Shelby
Hansen (UT)	Mica	Shumway
Harkin	Michel	Shuster
Hartnett	Mikulski	Simon
Hatcher	Miller (CA)	Skeen
Hawkins	Miller (OH)	Skelton
Hefner	Mineta	Smith (AL)
Heftel	Minish	Smith (IA)
Hertel	Mitchell (MD)	Smith (NE)
Hightower	Mitchell (NY)	Smith (NJ)
Hiler	Molinari	Smith (OR)
Hillis	Mollohan	Smith (PA)
Holland	Montgomery	Snowe
Hollenbeck	Moore	Snyder
Holt	Moorhead	Solarz
Hopkins	Morrison	Solomon
Horton	Mottl	Spence
Howard	Murphy	St Germain
Hubbard	Murtha	Stangeland
Huckaby	Myers	Stark
Hughes	Natcher	Staton
Hunter	Neal	Stenholm
Hutto	Nelligan	Stokes
Hyde	Nelson	Studds
Jacobs	Nichols	Stump
Jeffords	Nowak	Synar
Jeffries	O'Brien	Tauke
Jenkins	Oakar	Tauzin
Johnston	Oberstar	Taylor
Jones (NC)	Ottinger	Thomas
Jones (OK)	Panetta	Traxler
Jones (TN)	Parris	Trible
Kastenmeier	Pashayan	Vander Jagt
Kazen	Patman	Vento
Kennelly	Patterson	Volkmer
Kildee	Paul	Walgren
Kindness	Pease	Walker
Kogovsek	Pepper	Wampler
Kramer	Perkins	Watkins
LaFalce	Petri	Weaver
Lagomarsino	Peyser	Weber (MN)
Latta	Pickle	Weber (OH)
Leach	Porter	White
Leath	Price	Whitehurst
LeBoutillier	Pursell	Whitley
Lehman	Quillen	Whittaker
Lent	Rahall	Whitten
Levitas	Railsback	Williams (MT)
Lewis	Rangel	Williams (OH)
Livingston	Ratchford	Wilson
Loeffler	Regula	Winn
Long (MD)	Ritter	Wirth
Lott	Roberts (KS)	Wolf
Lowery (CA)	Roberts (SD)	Wolpe
Lowry (WA)	Robinson	Wortley
Lujan	Rodino	Wyden
Luken	Roe	Wylie
Lundine	Roemer	Yatron
Lungren	Rogers	Young (FL)
Madigan	Rose	Young (MO)
Markey	Roth	Zablocki
Marks	Roukema	Zeferetti

□ 1810

The CHAIRMAN. Three-hundred sixty Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes in which to record their votes.

The vote was taken by electronic device, and there were—ayes 125, noes 246, not voting 61, as follows:

[Roll No. 347]

AYES—125

Archer	Hagedorn	Pashayan
Ashbrook	Hall, Sam	Paul
Atkinson	Hansen (ID)	Petri
Badham	Hansen (UT)	Porter
Bailey (MO)	Hartnett	Quillen
Barnard	Hiler	Ritter
Bennett	Hillis	Roberts (KS)
Bereuter	Holt	Roberts (SD)
Bethune	Hunter	Roth
Broomfield	Hyde	Rousselot
Brown (CO)	Ireland	Rudd
Broyhill	Jeffries	Santini
Campbell	Jenkins	Sawyer
Carman	Johnston	Schulze
Carney	Kindness	Sensenbrenner
Chappie	Kramer	Shaw
Cheney	Lagomarsino	Shelby
Coats	Latta	Shumway
Corcoran	Leath	Shuster
Coughlin	LeBoutillier	Skeen
Craig	Levitas	Skelton
Crane, Daniel	Lewis	Smith (AL)
Crane, Philip	Loeffler	Smith (NE)
Daniel, Dan	Lott	Smith (OR)
Daniel, R. W.	Lowery (CA)	Snyder
Dannemeyer	Lujan	Solomon
Daub	Lungren	Spence
Dickinson	Madigan	Stangeland
Dornan	Marlenee	Staton
Dreier	Martin (IL)	Stenholm
Dunn	Martin (NC)	Stump
Emerson	McClory	Taylor
Emery	McDonald	Thomas
Erlenborn	McEwen	Vander Jagt
Fiedler	McGrath	Walker
Fields	Michel	Weber (MN)
Frenzel	Miller (OH)	Weber (OH)
Gibbons	Montgomery	Whitehurst
Gingrich	Moorhead	Winn
Goodling	Morrison	Wortley
Gramm	Mottl	Young (FL)
Gregg	O'Brien	

NOES—246

Akaka	Crockett	Fowler
Albosta	D'Amours	Frank
Alexander	Daschle	Frost
Andrews	Davis	Fuqua
Annunzio	Deckard	Gaydos
Anthony	Dellums	Gejdenson
Applegate	Derrick	Gephardt
Aspin	Dicks	Ginn
AuCoin	Dingell	Glickman
Bailey (PA)	Dixon	Gonzalez
Barnes	Donnelly	Gore
Bedell	Dorgan	Gradison
Beilenson	Dougherty	Gray
Benedict	Downey	Green
Bevill	Duncan	Guarini
Biaggi	Dwyer	Gunderson
Bingham	Dymally	Hall (OH)
Bliley	Dyson	Hall, Ralph
Boggs	Early	Hamilton
Boland	Eckart	Hammerschmidt
Boner	Edwards (AL)	Hance
Bonior	Edwards (OK)	Harkin
Bonker	English	Hatcher
Bouquard	Erdahl	Hawkins
Brinkley	Evans (DE)	Heckler
Brodhead	Evans (IA)	Hefner
Brown (CA)	Evans (IN)	Heftel
Butler	Fary	Hertel
Byron	Fascell	Hightower
Clay	Fazio	Holland
Clinger	Fenwick	Hollenbeck
Coelho	Ferraro	Hopkins
Coleman	Findley	Horton
Collins (IL)	Fish	Howard
Conable	Flippo	Hubbard
Conte	Foglietta	Huckaby
Conyers	Foley	Hughes
Courter	Ford (MI)	Hutto
Coyne, James	Ford (TN)	Jacobs
Coyne, William	Fountain	Jeffords

Jones (NC)	Myers	Seiberling
Jones (OK)	Natcher	Shamansky
Jones (TN)	Neal	Shannon
Kastenmeier	Nelligan	Sharp
Kazen	Nelson	Simon
Kennelly	Nichols	Smith (IA)
Kildee	Nowak	Smith (NJ)
Kogovsek	Oakar	Smith (PA)
LaFalce	Oberstar	Snowe
Leach	Ottinger	Solarz
Lehman	Panetta	St Germain
Leland	Parris	Stark
Lent	Patman	Stokes
Livingston	Patterson	Studds
Long (MD)	Pease	Synar
Lowry (WA)	Pepper	Tauke
Luken	Perkins	Tauzin
Lundine	Peyser	Traxler
Markey	Pickle	Trible
Marriott	Price	Vento
Martin (NY)	Pritchard	Volkmer
Martinez	Pursell	Walgren
Matsui	Rahall	Wampler
Mavroules	Railsback	Watkins
Mazzoli	Rangel	Waxman
McCloskey	Ratchford	Weaver
McCollum	Regula	White
McCurdy	Reuss	Whitley
McDade	Robinson	Whittaker
McHugh	Rodino	Whitten
McKinney	Roe	Williams (MT)
Mica	Roemer	Williams (OH)
Mikulski	Rogers	Wilson
Miller (CA)	Rose	Wirth
Mineta	Roukema	Wolf
Minish	Roybal	Wolpe
Mitchell (MD)	Russo	Wyden
Mitchell (NY)	Sabo	Wylie
Molinari	Scheuer	Yatron
Moore	Schneider	Young (MO)
Murphy	Schroeder	Zablocki
Murtha	Schumer	Zeferetti

NOT VOTING—61

Addabbo	Edgar	Mollohan
Anderson	Edwards (CA)	Napier
Bafalis	Ertel	Obey
Beard	Evans (GA)	Oxley
Blanchard	Fithian	Rhodes
Bolling	Florio	Rinaldo
Bowen	Forsythe	Rosenthal
Breaux	Garcia	Rostenkowski
Brooks	Gilman	Savage
Brown (OH)	Goldwater	Siljander
Burgener	Grisham	Stanton
Burton, John	Hendon	Stratton
Burton, Phillip	Hoyer	Swift
Chappell	Kemp	Udall
Chisholm	Lantos	Washington
Clausen	Lee	Weiss
Collins (TX)	Long (LA)	Wright
de la Garza	Marks	Yates
DeNardis	Mattox	Young (AK)
Derwinski	Moakley	
Dowdy	Moffett	

□ 1820

Mr. CRAIG changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk completed the reading of title III and proceeded to read title IV.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against title IV?

Are there any amendments to title IV?

If not, the Clerk will read.

The Clerk proceeded to read title V.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order to title V?

Are there any amendments to title V?

Mr. DAUB. Mr. Chairman, I rise today to express my concerns with respect to the plight of agriculture. We have before us, for consideration, the Agricultural Appropriations Act for 1983, and I would like to remind my colleagues of several points.

The ability for the farmer to make a fair return on his labor is today, frightening. Faced with unparalleled bankruptices since the Great Depression, continued high interest rates, and continued rock-bottom commodity prices, how can we expect the farmer to continue to provide our country with the inexpensive and abundant food supplies to which we are accustomed?

I am encouraged that this appropriations bill will offer increased export funding, increased conservation funding, and increased research and development funding. These are necessary expenditures if we are to assist agriculture in coming out of its rut. I do not advocate that this bill is a cure-all. Problems do exist. I do, however, believe that it provides some needed aid to traditionally underfunded areas, and I therefore lend my support to passage of the measure.

□ 1830

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read.

Mr. WHITTEN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order against the remainder of the bill?

Are there any amendments to the remainder of the bill?

If not, does the gentleman from Mississippi offer a motion?

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. GORE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7072) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 105, not voting 63, as follows:

[Roll No. 348]

AYES—264

Akaka	Donnelly	Hall (OH)
Albosta	Dorgan	Hall, Sam
Alexander	Dougherty	Hamilton
Andrews	Downey	Hammerschmidt
Annunzio	Duncan	Hance
Anthony	Dunn	Hansen (UT)
Applegate	Dwyer	Harkin
Bailey (MO)	Dymally	Hartnett
Bailey (PA)	Dyson	Hatcher
Barnard	Early	Hawkins
Barnes	Eckart	Heckler
Bedell	Edwards (AL)	Hefner
Beilenson	Edwards (OK)	Heftel
Bereuter	Emerson	Hendon
Bevill	Emery	Hertel
Biaggi	English	Hightower
Bingham	Erdahl	Hillis
Boggs	Evans (DE)	Holland
Boland	Evans (IA)	Hollenbeck
Boner	Evans (IN)	Hopkins
Bonior	Fary	Horton
Bouquard	Fascell	Howard
Brinkley	Fazio	Hubbard
Brodhead	Fenwick	Huckaby
Brown (CA)	Ferraro	Hutto
Byron	Findley	Jeffords
Campbell	Fish	Jenkins
Carney	Flippo	Johnston
Clausen	Foglietta	Jones (NC)
Clay	Foley	Jones (OK)
Coats	Ford (MI)	Jones (TN)
Coelho	Ford (TN)	Kastenmeier
Coleman	Fountain	Kazen
Collins (IL)	Fowler	Kennelly
Conte	Frost	Kildee
Conyers	Fuqua	Kindness
Coyne, William	Gaydos	Kogovsek
Crockett	Gejdenson	LaFalce
D'Amours	Gephardt	Latta
Daniel, R. W.	Gibbons	Leach
Daschle	Ginn	Leath
Daub	Glickman	Lehman
Davis	Gonzalez	Leland
Deckard	Goodling	Lewis
Dellums	Gore	Long (MD)
DeNardis	Gray	Lowry (WA)
Derrick	Green	Lundine
Dicks	Guarini	Marks
Dingell	Gunderson	Marlenee
Dixon	Hagedorn	Marriott

Martin (IL)	Pickle	Spence
Martin (NY)	Price	St Germain
Martinez	Pritchard	Stangeland
Matsui	Pursell	Stark
Mavroules	Quillen	Stokes
Mazzoli	Rahall	Studds
McCurdy	Railsback	Synar
McDade	Rangel	Tauke
McEwen	Ratchford	Taylor
McHugh	Regula	Traxler
McKinney	Reuss	Trible
Mica	Roberts (KS)	Udall
Mikulski	Roberts (SD)	Vander Jagt
Miller (CA)	Robinson	Vento
Mineta	Rodino	Volkmer
Minish	Roe	Walgren
Mitchell (MD)	Rogers	Wampler
Mitchell (NY)	Rose	Watkins
Montgomery	Roth	Waxman
Morrison	Roybal	Weaver
Murtha	Sabo	Weber (MN)
Myers	Santini	White
Natcher	Sawyer	Whitehurst
Neal	Seiberling	Whitley
Nelligan	Shamansky	Whittaker
Nelson	Shannon	Whitten
Nichols	Sharp	Williams (MT)
Nowak	Shelby	Williams (OH)
O'Brien	Simon	Winn
Oakar	Skeen	Wirth
Oberstar	Skelton	Wolf
Parris	Smith (IA)	Wolpe
Pashayan	Smith (NE)	Wortley
Patman	Smith (NJ)	Wright
Pease	Smith (PA)	Wylie
Pepper	Snowe	Yatron
Perkins	Solarz	Young (MO)
Petri	Solomon	Zeferetti

NOES—105

Anderson	Frenzel	Molinari
Archer	Gingrich	Moore
Ashbrook	Gradison	Moorhead
Atkinson	Gramm	Mottl
AuCoin	Gregg	Murphy
Badham	Hall, Ralph	Ottinger
Benedict	Hansen (ID)	Patterson
Bennett	Hiler	Paul
Bethune	Holt	Peyser
Billey	Hughes	Porter
Broomfield	Hunter	Ritter
Brown (CO)	Hyde	Roemer
Broyhill	Ireland	Roukema
Butler	Jacobs	Rousselot
Carman	Jeffries	Rudd
Chappie	Kramer	Russo
Cheney	Lagomarsino	Schneider
Clinger	LeBoutillier	Schroeder
Conable	Lent	Schulze
Corcoran	Levitas	Schumer
Coughlin	Livingston	Sensenbrenner
Courter	Loeffler	Shaw
Coyne, James	Lott	Shumway
Craig	Lowery (CA)	Shuster
Crane, Daniel	Lujan	Smith (AL)
Crane, Philip	Luken	Smith (OR)
Daniel, Dan	Lungren	Snyder
Dannemeyer	Madigan	Staton
Dickinson	Martin (NC)	Stenholm
Dornan	McClory	Stump
Dreier	McCollum	Thomas
Erlenborn	McDonald	Walker
Fiedler	McGrath	Weber (OH)
Fields	Michel	Wyden
Frank	Miller (OH)	Young (FL)

NOT VOTING—63

Addabbo	Derwinski	Markey
Aspin	Dowdy	Mattox
Bafalis	Edgar	McCloskey
Beard	Edwards (CA)	Moakley
Blanchard	Ertel	Moffett
Bolling	Evans (GA)	Mollohan
Bonker	Fithian	Napier
Bowen	Florio	Obey
Breaux	Forsythe	Oxley
Brooks	Garcia	Panetta
Brown (OH)	Gilman	Rhodes
Burgener	Goldwater	Rinaldo
Burton, John	Grisham	Rosenthal
Burton, Phillip	Hoyer	Rostenkowski
Chappell	Kemp	Savage
Chisholm	Lantos	Scheuer
Collins (TX)	Lee	Siljander
de la Garza	Long (LA)	Stanton
Stratton	Washington	Yates
Swift	Weiss	Young (AK)
Tauzin	Wilson	Zablocki

□ 1840

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Burgener against.

Mr. Mollohan for, with Mr. Collins of Texas against.

Mr. Beard for, with Mr. Derwinski against.

Mr. Napier for, with Mr. Goldwater against.

Mr. Oxley for, with Mr. Rhodes against.

Mr. Siljander for, with Mr. Young of Alaska against.

Mr. PEYSER changed his vote from "aye" to "no."

Mr. BAILEY of Missouri changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7072, just considered, and that I be permitted to include extraneous matter.

The SPEAKER pro tempore (Mr. FUQUA). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 7072, AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATION BILL, 1983

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 7072, the Clerk be authorized to make technical corrections.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6173, HEALTH PLANNING BLOCK GRANT ACT OF 1982

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 97-844) on the resolution (H. Res. 594) providing for the consideration of the bill (H.R. 6173) to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6457, HEALTH RESEARCH EXTENSION ACT OF 1982

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 97-845) on the resolution (H. Res. 595) providing for the consideration of the bill (H.R. 6457) to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the National Research Institutes, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS, 1983

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 97-846) on the resolution (H. Res. 596) providing for the consideration of the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AMENDING THE RULES OF THE HOUSE TO ESTABLISH AN OFFICE OF THE HISTORIAN IN THE HOUSE OF REPRESENTATIVES

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 97-848) on the resolution (H. Res. 581) amending the Rules of the House of Representatives to establish an Office of the Historian in the U.S. House of Representatives, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION ESTABLISHING A SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 97-847) on the resolution (H. Res. 421) providing for the establishment of a Select Committee on Children, Youth, and Families, which was referred to the House Calendar and ordered to be printed.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent to dispense with the business in order under the Calendar Wednesday rule on Wednesday, September 22, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

□ 1850

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I move to dispense with the business in order under the Calendar Wednesday rule on September 22.

Mr. WALKER. Mr. Speaker, under the rules I demand that the debate time be allocated.

The SPEAKER pro tempore (Mr. FUQUA). The gentleman will be recognized.

The proponent of the motion will be recognized for 5 minutes, and the opponent of the motion will be recognized for 5 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, Members of the Congress who have had some years of experience here have never experienced the actual conduct of a Calendar Wednesday rule. The rules, for the refreshment of the memory of the Members, provide that the Union Calendar be subject to call by a committee chairman or by direction of a committee in the alphabetical order of the committees.

Now, I hesitate to suggest that there is another Wednesday less appropriate for the calling of Calendar Wednesday than is tomorrow, September 22. We have an urgent crisis in the transportation systen of the United States. The President of the United States has called upon the Congress to take special action to end that crisis. I am informed that the chairman of the Committee on Energy and Commerce will be requesting a unanimous-consent request on a bipartisan basis for the consideration tomorrow of legislation that is even now being considered in the other body.

For us to engage in this antique and somewhat whimsical parliamentary maneuver which cannot possibly seriously address the business of the House seems to me to be a particularly regrettable possibility. It requires, of course, under this motion a two-thirds vote to dispense with Calendar Wednesday, and the gentleman is within his rights in asking for that vote by rollcall if he chooses.

But, for this House at this particular time, in the midst of the present circumstance of the Nation's transportation crisis and all that that means to those who are working in industry and agriculture, to the business community of the United States, seems to me to run the risk of holding the House up to the somewhat legitimate contempt and criticism of the entire Nation.

I understand the gentleman has some problems with some bills in the Rules Committee that he thinks should be brought to the floor. This will not bring them to the floor. The bills he is interested in cannot possibly be guaranteed to be considered under this rule.

There are 2 hours of debate on every rule that any chairman might wish to call up tomorrow, so we could take the entire legislative day discussing relatively minor and relatively unimportant legislative matters just to satisfy a procedure that is routinely dispensed with week after week when it is in order by the unanimous consent of the House. So, it serves no purpose. It risks interfering with the very serious business that is pending before the House at the present time and will be pending tomorrow.

We also have the important matter of the continuing resolution to deal with, and I cannot imagine that Members of either party, addressing their responsibilities as they do at this time of year in a serious way, would want to do anything but to support the motion to dispense with this business.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania opposed to the motion?

Mr. WALKER. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman qualifies. The Chair recognizes the gentleman from Pennsylvania (Mr. WALKER) for 5 minutes.

Mr. WALKER. Mr. Speaker, the gentleman from Washington is very eloquent, and of course immediately brings us into a crisis situation that we have to face up to. I would suggest that this country has been in crisis for some months now, and earlier this year when the Nation was faced with crisis, this Congress did little or nothing, and put aside major pieces of legislation so that when we arrive here at the end of this session of Congress we do have many matters facing us which we should have handled earlier on in the year.

I find 23 pages in the Calendar of the House of bills that have been authorized by our committees and have yet to come to the floor of this House. Included in those bills are the kinds of things the gentleman refers as being whimsical, are the Regulatory Reform bill, which for months we have tried to get to the floor of the House; pension reform; civil rights; Department of Justice authorization, including things like the FBI; highway construction; the Caribbean Initiative of the President; housing for Indians; debt collection by the Federal Government; many matters which many Members of this House feel should be addressed.

Mr. FOLEY. Will the gentleman yield for a correction?

Mr. WALKER. I will be glad to after I finish my statement.

What I am saying is, this is all legislation that has been bottled up in this Congress. Many of these bills have been bottled up very purposely by either chairmen of the committees, by the Rules Committee, or by the Chair itself. I think it is high time that we have an opportunity to act on that legislation.

Now, the rules of this House are not whimsical. The reason why that Calendar Wednesday is there is to assure Members that when you have a capricious action on the part of the leadership, we have an opportunity to have those bills called up and acted upon. Under the procedure that I regretfully have to use, this is the only way we can do it, to make certain that at least those chairmen come to the floor and tell us that they do not want that legislation acted upon; that they do not want regulatory reform acted upon; that they do not want pension reform acted upon; that they do not want Department of Justice authorization acted upon; that they do not want these things done.

I think it is high time that the American people know that those chairmen are willing to come to this floor and do it. The way in which we have an opportunity to demonstrate that is under Calendar Wednesday. It is a rule of the House to protect the membership, to assure that membership that we do have an opportunity to get at bills that otherwise we would not have a chance to consider.

I yield to the gentleman from Washington.

Mr. FOLEY. If the gentleman will consult the RECORD, he will find my reference to "whimsical" was to the procedure and not to bills. I said, "This antique and somewhat whimsical procedure." I was referring to the Calendar Wednesday rule.

Mr. WALKER. I thank the gentleman for the correction. He is probably right. I guess my contention is, it is not a whimsical procedure. The rule was adopted for a specific purpose. It was adopted to make certain that when you have important legislation sitting on the calendar, that in fact the Members of this House can get that legislation considered.

I am sorry the gentleman does not see the necessity for some of these important bills to get considered. I would hope that given a call of the calendar, that some of the chairmen would have the authorization of their committees and also the best interests of the

American people at heart, and would allow us to consider this legislation.

But I would say to the Members of this House, a vote against Calendar Wednesday can be regarded as a vote against bringing up regulatory reform, pension reform, highway construction, the Caribbean Initiative, and a number of other major matters. That is precisely the point that this gentleman is trying to make by asking that we do have the call of the calendar on tomorrow.

I would be very glad to yield to the gentleman from Washington.

Mr. FOLEY. I just say to the gentleman that the procedure is well established. It starts with Agriculture. The gentleman does not have any bill on his calendar that is of interest to him that is in the Agriculture Committee. It goes from Agriculture to—I think it goes to Armed Services, and goes from Armed Services to Banking, and in neither the Armed Services nor the Banking Committee does the gentleman have any bills on his list. The bill he is concerned about, regulatory reform, is out of the Judiciary Committee.

Mr. WALKER. Of course, the gentleman has not explained that those chairmen, if they do not feel they have important legislation to be considered, they can simply not have legislation considered and we can go on down the line until we get to some of these bills that the American people want addressed, and I think that is what this gentleman wants done.

I would hope that the majority tomorrow would not take us through a process where we consider a lot of irrelevant bills, that we would get to some of these important matters that this gentleman from Pennsylvania has outlined. The only way we could have the kind of delay the gentleman is talking about is if the majority consciously attempted to keep the concerns of the American people from being addressed.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY).

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 79, not voting 127, as follows:

[Roll No. 349]

YEAS—226

Akaka	Atkinson	Bennett
Albosta	AuCoin	Bereuter
Alexander	Bailey (PA)	Bethune
Anderson	Barnard	Bevill
Andrews	Barnes	Biaggi
Anthony	Bedell	Biliey
Aspin	Benedict	Boggs
Boland	Gramm	Oberstar
Boner	Green	Obey
Bonior	Guarini	Ottinger
Bonker	Gunderson	Panetta
Bouquard	Hall, Ralph	Parris
Brinkley	Hall, Sam	Pashayan
Brodhead	Hamilton	Patman
Brown (CA)	Hammerschmidt	Pepper
Broyhill	Hance	Perkins
Byron	Harkin	Peyser
Chappie	Hatcher	Pickle
Clausen	Heckler	Quillen
Clinger	Heftel	Rahall
Coelho	Hertel	Ratchford
Collins (IL)	Hightower	Regula
Conable	Hollenbeck	Reuss
Conte	Hopkins	Ritter
Conyers	Horton	Robinson
Coyne, James	Howard	Rodino
Coyne, William	Hubbard	Roe
D'Amours	Hughes	Roemer
Daniel, Dan	Hyde	Rogers
Daniel, R. W.	Jacobs	Roukema
Daub	Jeffords	Roybal
Davis	Jenkins	Russo
Dellums	Jones (TN)	Scheuer
DeNardis	Kazen	Schneider
Dicks	Kildee	Schumer
Dingell	Kogovsek	Seiberling
Dixon	LaFalce	Shamansky
Dorgan	Lagomarsino	Shannon
Downey	Latta	Sharp
Duncan	Leach	Shaw
Dwyer	Leath	Simon
Dymally	Lent	Skeen
Dyson	Levitas	Skelton
Early	Lowery (CA)	Smith (IA)
Eckart	Lowry (WA)	Smith (NE)
Edwards (AL)	Lujan	Smith (NJ)
Emery	Luken	Snowe
Erdahl	Madigan	Solarz
Erlenborn	Markey	St Germain
Evans (IA)	Martin (NY)	Stenholm
Fary	Martinez	Stokes
Fascell	Matsui	Studds
Fazio	Mavroules	Tauke
Fenwick	Mazzoli	Tauzin
Findley	McCloskey	Traxler
Fish	McDade	Trible
Flippo	McGrath	Volkmer
Foglietta	McHugh	Walgren
Foley	Mica	Wampler
Ford (MI)	Michel	Weaver
Ford (TN)	Mikulski	Weber (MN)
Fountain	Miller (CA)	Weber (OH)
Fowler	Mineta	White
Frank	Minish	Whitley
Frenzel	Mitchell (NY)	Wirth
Frost	Molinari	Wolf
Fuqua	Montgomery	Wolpe
Gaydos	Morrison	Wortley
Gejdenson	Murphy	Wyden
Gephardt	Murtha	Wylie
Gibbons	Myers	Yatron
Ginn	Natcher	Young (FL)
Glickman	Neal	Young (MO)
Gonzalez	Nelligan	Zablocki
Gore	Nelson	
Gradison	Nowak	

NAYS—79

Archer	Gingrich	Moorhead
Ashbrook	Goodling	Mottl
Badham	Gregg	Patterson
Bailey (MO)	Hansen (ID)	Paul
Brown (CO)	Hartnett	Roberts (KS)
Campbell	Hendon	Roberts (SD)
Carman	Hiler	Roth
Carney	Hillis	Rousselot
Cheney	Hunter	Sawyer
Coats	Jeffries	Schulze
Coleman	Kramer	Sensenbrenner
Corcoran	LeBoutillier	Shelby
Coughlin	Lewis	Shumway
Courter	Livingston	Shuster
Craig	Loeffler	Smith (AL)
Crane, Daniel	Lott	Smith (OR)
Crane, Philip	Lungren	Snyder
Dannemeyer	Marlenee	Solomon
Daschle	Marriott	Spence
Deckard	Martin (IL)	Stangeland
Dornan	Martin (NC)	Staton
Dreier	McClory	Thomas
Dunn	McCollum	Walker
Edwards (OK)	McDonald	Whittaker
Emerson	McEwen	Winn
Fiedler	Miller (OH)	
Fields	Moore	

NOT VOTING—127

Addabbo	Goldwater	Porter
Annunzio	Gray	Price
Applegate	Grisham	Pritchard
Bafalis	Hagedorn	Pursell
Beard	Hall (OH)	Railsback
Beilenson	Hansen (UT)	Rangel
Bingham	Hawkins	Rhodes
Blanchard	Hefner	Rinaldo
Bolling	Holland	Rose
Bowen	Holt	Rosenthal
Breaux	Hoyer	Rostenkowski
Brooks	Huckaby	Rudd
Broomfield	Hutto	Sabo
Brown (OH)	Ireland	Santini
Burgener	Johnston	Savage
Burton, John	Jones (NC)	Schroeder
Burton, Phillip	Jones (OK)	Siljander
Butler	Kastenmeier	Smith (PA)
Chappell	Kemp	Stanton
Chisholm	Kennelly	Stark
Clay	Kindness	Stratton
Collins (TX)	Lantos	Stump
Crockett	Lee	Swift
de la Garza	Lehman	Synar
Derrick	Leland	Taylor
Derwinski	Long (LA)	Udall
Dickinson	Long (MD)	Vander Jagt
Donnelly	Lundine	Vento
Dougherty	Marks	Washington
Dowdy	Mattox	Watkins
Edgar	McCurdy	Waxman
Edwards (CA)	McKinney	Weiss
English	Mitchell (MD)	Whitehurst
Ertel	Moakley	Whitten
Evans (DE)	Moffett	Williams (MT)
Evans (GA)	Mollohan	Williams (OH)
Evans (IN)	Napier	Wilson
Ferraro	Nichols	Wright
Fithian	O'Brien	Yates
Florio	Oakar	Young (AK)
Forsythe	Oxley	Zeferetti
Garcia	Pease	
Gilman	Petri	

□ 1910

Mr. ROBERTS of South Dakota changed his vote from "yea" to "nay."

Mr. AKAKA and Mr. WAMPLER changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL HOME HEALTH CARE WEEK

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 113) to designate the week beginning November 8, 1981, as "National Home Health Care Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. LUKEN). Is there objection to the request of the gentleman from Michigan?

Mr. PANETTA. Reserving the right to object, Mr. Speaker—and I will not object—today, I am pleased that the House will be considering the Senate companion resolution, to the resolution I introduced along with Representative BARBER CONABLE to designate

the week beginning November 28, 1982, as National Home Health Care Week.

As we continue to experience excessive financial growth in the health care field, the cost-effective and humane form of long-term care that is provided by home health agencies has proven vital in providing necessary health care services to the elderly population in our Nation. Therefore, Mr. Speaker, I think it is quite appropriate that we recognize the valuable and important services performed by home care groups and encourage their further development and utilization.

Since the passage of Federal programs which allowed for patients to receive health care inhome, home health care agencies have increased from less than 500 to more than 3,000. Studies have been done to try and obtain data to indicate the cost-savings attributed to inhome care, but no hard statistices are available. However, I think we all would agree that receiving treatment inhome will provide measurable cost-savings over receiving such treatment in an institution. President Reagan clearly recognized this fact in describing the case of Katie Beckett who was prevented from receiving less costly inhome treatment because of inequitable medicaid regulations.

Moreover, beyond the cost-effective elements offered by home health care, the ability of this form of care to allow health care recipients to remain in their homes and communities with their families and friends is another commendable and worthwhile dimension. Surely, the desire to remain at home is a choice that many elderly persons in need of health care will choose. For a certain portion of the older population, nursing homes and other institutional care settings are appropriate and desirable.

However, we must not force patients into institutions to receive health care which many times is provided in excess to their needs. The option of alternatives to institutional care must be made available.

I take this opportunity to congratulate and commend those persons involved in the home health movement, and I do hope that the passage of this resolution will provide you with memorable recognition for which you truly deserve. The achievements and the services provided by home health care groups warrant this recognition of Congress. At this point I include the following letter:

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, D.C., September 15, 1982.

Hon. LEON PANETTA,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR REPRESENTATIVE PANETTA: I am sending you this letter on behalf of all the major organizations in the home health field including ourselves, the Home Health Services and Staffing Association and the New York based National Home Caring Council.

We are writing to commend you and Congressman Robert Garcia for your sponsorship of a resolution to create a National Home Care Week. We are gratified to have this recognition. We appreciate your courtesies.

I am writing because the proposed date for the National Home Care Week causes us great problems. Please understand, we are honored that Congress would establish such a week but we are simply asking if it is possible to have you designate the week of November 28 through December 4.

We would appreciate your consideration.

With best wishes,

Sincerely,

DON WORTLEY,
Chairman of the Board.

Mr. PANETTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. DAUB. Mr. Speaker, reserving the right to object—and I will not object—I join my colleagues in commending the committee for reporting this to the floor today for consideration.

Mr. Speaker, home health care gives the private sector an opportunity to show what it can do to lower the costs of care and do the right thing in our country. I certainly believe that it is appropriate in the economy to have this kind of subject brought to the attention of the American people. I thank the chairman for his work on this particular resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 113

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare program including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than three thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 8, 1981, hereby is designated "National Home Health Care Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan: On page 2, line 3, after the word "beginning" strike "November 8, 1981" and insert in lieu thereof, "November 28 through December 4, 1982".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD).

The amendment was agreed to.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 113, as amended designates the week beginning November 28, to December 4, 1982, as "National Home Health Care Week." Home health care is recognized as an effective and economical alternative to unnecessary institutionalization. Caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services. Many private and charitable organizations provide social services, occupational therapy, and home health aid services to millions of patients each year preventing, postponing, and limiting the need for institutionalization.

An identical bill has been cosponsored by more than 218 Members of the House.

● Mr. DERWINSKI. Mr. Speaker, I rise in support of Senate Joint Resolution 113, designating the week of November 28, 1982, as "National Home Health Care Week."

Today there are more than 1.2 million persons age 65 or older who reside in various types of institutions at a cost of approximately $10 million. Reports by the GAO have found that more than 25 percent of the patients do not need excessive institutional care. The current economic realities make it imperative that we maximize the utilization of scarce Federal resources.

Since the passage of the Community Health Services Act which expands Federal benefits for home health care, we have come to realize that home health care can be a cost-effective approach in meeting the health care needs of our older Americans.

Home health care agencies have increased from less than 500 to more than 3,000 since the passage of Federal programs which allowed for patients to receive health care in-home. They have proven they can give cost-effective quality care as an alternative to these health care situations. Most importantly, the care is given in the home where our elderly infirm citizens and family members would prefer to remain.

I urge my colleagues to join me in supporting this measure which would honor the work of those who help our growing population of senior citizens preserve their home lives and most importantly their independence.●

● Mr. COURTER. Mr. Speaker, I rise in support of Senate Joint Resolution 113 which would designate the week of November 28, 1982, as "National Home Health Care Week."

The home health care industry has become a vital and important element in our Nation's health care system. Home health care agencies have increased from less than 500 to more than 3,000 since the passage of Federal programs which allowed for patients to receive health care in-home. The services provided by these home health care agencies effectively prevent the unnecessary institutionalization of many older Americans.

I am sure that my colleagues are aware that we face a crisis with respect to developing cost-effective, humane, long-term care for our elderly. Approximately 1.2 million persons age 65 or older reside in various types of institutions at a cost of more than $10 million. Reports by the Government Accounting Office (GAO) have found that more than 25 percent of the patients do not need excessive institutional care.

In view of the budget reductions that we in Congress have enacted over the past few years, provisions have been enacted which expand Federal benefits for home health care. In my opinion, this is a positive sign in that we are now coming to realize that home health care can be a significant cost-effective approach in meeting the health care need of the growing population of our older Americans. The most important fact to consider is that health care is given in the home where our elderly and their family members would prefer to remain. This option for our senior citizens preserves not only their home life but their independence.

I urge my colleagues to support this resolution which would honor those Americans who help our senior citizens maintain their dignity and lifestyle at home.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. FORD of Michigan: Amend the title so as to read: "Joint resolution to designate the week beginning November 28 through December 4, 1982, as 'National Home Health Care Week'."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NATIONAL HIGH SCHOOL ACTIVITIES WEEK

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 101) designating "National High School Activities Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 101

Whereas more than half of the students in this Nation's senior high schools are involved in at least one extracurricular activity;

Whereas this "other half of education" plans a significant role in the total educational development of high school students;

Whereas participation in activities such as athletics, speech, music, debate, drama, and others generally leads to positive development for all and often leads to superior achievement;

Whereas participation and achievement in those areas often contribute to increased interest and performance in strictly academic areas;

Whereas both academic and extracurricular achievement contribute greatly to the social development and interaction of all high school students;

Whereas that development directly benefits local communities by channeling young people's interests and talents into positive efforts, and by instilling in them an early sense of civic duty and community pride;

Whereas, former President Gerald R. Ford has agreed to act as honorary national chairman of the effort to recognize the important role of extracurricular activities in this Nations's high schools: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President should designate the week of October 19 through October 25, 1981, as "National High School Activities Week", in recognition of the valuable contribution that such programs make in developing the interests and talents of young people at the community level.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan: On Page two, line 3 and 4 after the word "of" strike October 19 through October 25, 1981" and insert in lieu thereof, "October 17 through October 23, 1982".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD).

The amendment was agreed to.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 101, as amended, designates October 17 through October 23 as "National High School Activities Week." More than half of the students in the Nation's senior high schools are involved in at least one extracurricular activity and this "other half of education" plays a significant role in the total educational development of high school students. Both academic and extracurricular achievement contribute greatly to the social development and interaction of all high school students.

An identical bill, House Joint Resolution 323, has been cosponsored by more than 218 Members of the House.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CYSTIC FIBROSIS WEEK

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 186) to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 186

Whereas cystic fibrosis is the number one genetic killer of children in America, and between twenty thousand and forty thousand children and young adults in this country have cystic fibrosis; and

Whereas public knowledge about cystic fibrosis contributes to early detection and treatment of the disease and to improved understanding about the symptoms of cystic fibrosis; and

Whereas increased national awareness of cystic fibrosis and of the young people whose lives are affected by the disease stimulates public concern and increased attention to research seeking control and cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 19 through 25, 1982, is designat-

ed as "National Cystic Fibrosis Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 186 designates the week of September 19 through September 25, 1982, as "National Cystic Fibrosis Week." Cystic fibrosis is the No. 1 genetic killer of children in America and between 20,000 and 40,000 children and young adults in this country have cystic fibrosis. Public knowledge about this disease contributes to early detection and treatment of the disease and to improved understanding about the symptoms of cystic fibrosis.

An identical House bill, House Joint Resolution 454, has been cosponsored by more than 218 Members of the House.

● Mr. CONTE. Mr. Speaker, today, we have before us a joint resolution, which I originally sponsored here in the House, to declare the week of September 19 through 25, 1982 as "National Cystic Fibrosis Week." Enactment of this resolution will again, as in years past, reaffirm the hopes of those directly and indirectly affected by this unfortunate disease that we will eventually overcome this dread malady.

Cystic fibrosis is the number one genetic killer in this Nation. It is a disease which begins in infancy and progressively deteriorates the affected until death occurs. The research to find a prevention or cure is on-going. Awareness of the symptoms and treatment is growing. But we must continue to alert the American people so that early detection and treatment techniques are well-known.

For the past several years the Cystic Fibrosis Foundation has been conducting an intense public information campaign beginning in September of each year. This campaign is aimed at finding a key to the eradication of the disease through contributions for research and concerted efforts for better treatment. The recognition of a "National Cystic Fibrosis Week" is an important step in this campaign. I urge my colleagues to support the passage of this resolution.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD FOOD DAY

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 174) to authorize and request the President to designate October 16, 1982, as "World Food Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 174

Whereas hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world are those who are suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;

Whereas national policies concerning food, farmland, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished;

Whereas efforts to resolve the world hunger problems are critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the first World Food Day on October 16, 1981, was supported by proclamations of the Governors of all fifty States, a resolution of Congress, a Presidential proclamation, efforts of the United States Department of Agriculture, and by more than one hundred and seventy-five national private and voluntary organizations; and

Whereas the one hundred and fifty-two nations of the Food and Agriculture Organization of the United Nations designated October 16, 1982, as "World Food Day" because of the need to alert the public to the increasingly dangerous world food situation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating Ocotber 16, 1982, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 174 designates October 16, 1982, as "World Food Day." Hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world, and the children of the world are those who suffer the most. Although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups such as migrant workers, the elderly, and children remain vulnerable to malnutrition and related diseases, efforts to resolve the world hunger problems are critical to the security of the United States and the international community.

I urge the passage of this resolution.

● Mr. COURTER. Mr. Speaker, I rise in support of House Joint Resolution 430 designating October 16, 1982, as "World Food Day."

A similar resolution passed both Houses of Congress last year. The date is the anniversary of the founding of the U.N. Food and Agriculture Organization (FAO), which established World Food Day to raise public awareness of hunger problems around the world.

On the first World Food Day last year, observances were held in 150 countries around the world and in towns and cities across the United States and Canada. Millions of people who care about hunger and poverty wanted to offer not only a symbolic expression of their concern but to take some kind of solution oriented action.

As the resolution states, "Hunger and chronic malnutrition remain daily facts of like for hundreds of millions of people throughout the world." This is not meant to be a single day's event.

By the observance of World Food Day we will be able to measure the success by the kinds of ongoing programs that are initiated or strengthened and new public support given to organizations and groups concerned with world hunger. These private voluntary organizations are in the forefront of the antihunger struggle and the long-term effort to achieve world food security. This is a day when we can all consider what new steps we can take in the war against hunger.

I urge my colleagues to join me in supporting this measure which will help to answer questions and educate the American public why we should continue World Food Day observance and how the activities on such a day can help in the long struggle for food security and food justice.●

● Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 430, legislation requesting the Presi-

dent to issue a proclamation designating October 16, 1982, as "World Food Day" and I commend my distinguished colleague, the gentleman from New York (Mr. GARCIA), for expeditiously bringing this measure to the floor.

This resolution, in which I joined the gentleman from Illinois (Mr. SIMON) in introducing, is similar to the measure we introduced last year which was passed by Congress. We welcomed the President's proclamation last year and were heartened by the thousands of observances and activities throughout the United States on that day which helped to increase the public awareness of the critical problem of hunger and chronic malnutrition. In addition, activities were also organized in 145 nations around the world in recognition of the urgent need to accord the hunger issue a higher priority on our policymaking agenda.

The National Committee on World Food Day, under the direction of coordinator Patricia Young, is helping hundreds of groups and organizations throughout the United States plan and coordinate this year's World Food Day activities at the national, State, and local levels.

Accordingly, Mr. Speaker, because it is imperative that we intensify our efforts to increase public and policymaker awareness about the critical need to resolve the world hunger problem, I urge my colleagues to support House Joint Resolution 430, designating October 16, 1982, as World Food Day.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF THE BIBLE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 165) authorizing and requesting the President to proclaim 1983 as the "Year of the Bible," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 165

Whereas the Bible, The Word of God, has made a unique contribution in shaping the United States as a distinctive and blessed Nation and people;

Whereas deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation;

Whereas Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States;

Whereas many of our great national leaders—among them Presidents Washington, Jackson, Lincoln, and Wilson—paid tribute to the surpassing influence of the Bible in our country's development, as in the words of President Jackson that the Bible is "the rock on which our Republic rests";

Whereas the history of our Nation clearly illustrates the value of voluntarily applying the teachings of the Scriptures in the lives of individuals, families, and societies;

Whereas this Nation now faces great challenges that will test this Nation as it has never been tested before; and

Whereas that renewing our knowledge of and faith in God through Holy Scripture can strengthen us as a Nation and a people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate 1983 as a national "Year of the Bible" in recognition of both the formative influence the Bible has been for our Nation, and our national need to study and apply the teachings of the Holy Scriptures.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 165 designates 1983 as the "Year of the Bible." The Bible, the word of God, has made a unique contribution in shaping the United States as a distinctive and blessed nation and people. Deeply held religious convictions springing from the Holy Scriptures led to the early settlement of our Nation. This Nation now faces great challenges that will test this Nation as it has never been tested before and renewing our knowledge and faith in God through Holy Scripture can strengthen us as a nation and as people.

An identical bill, House Joint Resolution 487, has been cosponsored by more than 218 Members in the House.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ALZHEIMER'S DISEASE WEEK

Mr. FORD of Michigan. Mr. Speaker. I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 496) to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. LOWERY of California. Mr. Speaker, reserving the right to object, and I shall not object, on May 27 of this year, I introduced House Joint Resolution 496, which we are considering today, declaring the week beginning November 21, 1982, as "National Alzheimer's Disease Week." In the 4 short months since its introduction, the legislation has attracted the support of 257 Members of the House who have cosponsored the resolution. The fact that the bill has generated such a strong show of support in so short a time in this normally slow-moving body is an indicator of the tragic and widespread effect that Alzheimer's disease has had on our constituents across the United States.

Alzheimer's disease is a surprisingly common disorder that destroys certain vital cells of the brain, producing intellectual disability—senile dementia—in 15 percent of persons aged 65 or older. This mind-ravaging disease accounts for more than 50 percent of all nursing home admissions, and affects 1.5 million Americans. The disease, which is not a normal consequence of aging, is the fourth most common cause of death in the United States—behind heart disease, cancer, and stroke; accounting, directly or indirectly for up to 120,000 deaths a year.

Surprisingly enough, however, considering the vast numbers of Americans suffering from the disease, Alzhemeimer's disease is relatively unknown. It is, in fact, a silent epidemic.

The symptoms of Alzheimer's disease are slow and insidious, with the earliest impairment being that of recent memory. As the disease progresses, memory loss increases and reasoning deteriorates. Soon, simple daily tasks become impossible chores: Balancing a checkbook, following a recipe, or even putting together simple, coherent sentences. Usually the victim becomes depressed, agitated, irritable, and restless. In some cases, he becomes violent, and in others, placid and inert. In the final stages of the disease, the Alzheimer's victim is totally unable to care for himself, and requires constant, round-the-clock care.

There is no known cure for Alzheimer's disease. No way to reverse or retard the unrelenting process of deterioration. It is one of the most ignored and uniquely tragic diseases of our time, not just for what it does to the victim, but for its devastating effect on family and friends.

In the earliest stages of the disease, the victim can be cared for at home by the family and spouse. However, as the disease progresses, the victim becomes increasingly combative, unreasonable, and, finally, incontinent. Ultimately, the vast majority are committed to nursing homes, placing a tremendous burden, both financial and psychological, on family members. An estimated $17,000 a patient will be spent on nursing home care for Alzheimer's victims this year—an expense virtually uncovered by private insurance or medicare until the family's finances are depleted to public aid level. Thus, in their golden years, husbands

and wives must dip into their savings and pensions to provide private or nursing home care for their loved ones, with no possible hope of their eventual improvement or recovery.

The cause of Alzheimer's disease is, as yet, unknown. Currently, doctors diagnose the disease by ruling out everything else: metabolic disease, strokes, tumors, psychiatric depression. However, a number of extremely committed individuals across the country are working to unravel the mystery. One of my constituents, Dr. George Glenner, has established the world's first brain bank for the exclusive study of Alzheimer's disease at the University of California San Diego's School of Medicine. Dr. Glenner is optimistic that his research project, sponsored jointly by the San Diego chapter of the Alzheimer's Disease and Related Disorders Association and UCSD, will help to pinpoint the cause, and thus find a way to prevent Alzheimer's disease.

Mr. Speaker, I believe that declaration of the week beginning November 21 as "National Alzheimer's Disease Week" will help to increase national awareness of the plight of Alzheimer's victims, stimulating the interest and concern of the American people. This, in turn, will hopefully lead to increased research, and eventually to the discovery of a cure for this mind-ravaging disease.

Mr. Speaker, I withdraw my reservation of objection.

(Mr. LOWERY of California asked and was given permission to revise and extend his remarks.)

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. FORD)?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 496

Whereas Alzheimer's disease produces senile dementia in 15 percent of all individuals who have attained the age of 65 and is responsible for over 50 percent of all nursing home admissions;

Whereas more than one million five hundred thousand American adults are affected by this surprisingly common disorder that destroys certain vital cells in the brain;

Whereas more than $20,000,000,000 is spent annually in treating the ravages of Alzheimer's disease;

Whereas one parent in one out of three families will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease may stimulate the interest and concern of the American people which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 21, 1982, is designated as "National Alzheimer's Disease Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. FORD of Michigan. Mr. Speaker, House Joint Resolution 496 designates the week beginning November 21, 1982, as "National Alzheimer's Disease Week." Alzheimer's disease produces senile dementia in 15 percent of all individuals who have attained the age of 65 and is responsible for over 50 percent of all nursing home admissions. More than 1,500,000 American adults are affected by this surprisingly common disorder that destroys certain vital cells in the brain. Alzheimer's disease is not a normal sequence of aging and an increase in the national awareness of the problem may lead to increased research and eventually to the discovery of a cure for Alzheimer's disease.

This bill has been cosponsored by more than 218 Members of the House.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SCHOOLBUS SAFETY WEEK OF 1982

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 486), authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 486

Whereas twenty-two million students are transported by schoolbus to and from school each day;

Whereas the safety of these students deserves the highest priority; and

Whereas a national program is underway to call public attention to the importance of schoolbus safey during the week of October 3, 1982, through October 9, 1982: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982" and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities.

Mr. FORD of Michigan. Mr. Speaker, House Joint Resolution 486 designates the period October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982." At least 22 million students are transported by schoolbus to and from school each day.

Since the safety of these students deserves the highest priority, a national program is underway to call public attention to the importance of schoolbus safety during the week of October 3, 1982, through October 9, 1982. Therefore, I urge the adoption of this resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL RESPIRATORY THERAPY WEEK

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 193) designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. FORD of Tennessee. Mr. Speaker, reserving the right to object, and I will not object, I rise in support of House Joint Resolution 456, designating the week of November 7, 1982, as "National Respiratory Therapy Week."

I introduced this resolution to pay special tribute and recognition to a profession that plays a vital role in the delivery of health care.

There are over 100,000 respiratory therapy practitioners in the United States. They have traditionally been involved in the treatment and care of patients with serious deficiencies and abnormalities associated with the cardio-pulmonary system. They treat such conditions as emphysema, infant respiratory distress syndrome, black and brown lung disease, pneumonia, and pulmonary stress associated with heart disease.

In recent years, the field of respiratory therapy has expanded to include: post-operative pulmonary care, education, research, pulmonary testing and pulmonary rehabilitation. Where once respiratory therapy services were exclusively hospital based, we now find respiratory therapists delivering care in cost effective outpatient and home care settings.

Respiratory therapists have become an important part of the health care delivery team. It is time that we on a

national level recognize their vital contribution to the health and well being of all Americans.

I want to thank all of my colleagues who joined in sponsoring this resolution and I urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. FORD)?

There was no objection.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 193

Whereas respiratory therapy is recognized as one of the most modern and progressive segments of the health care delivery system in the United States;

Whereas there are over eighty thousand respiratory therapy practitioners in the Nation who are making an important contribution to the delivery of quality health care;

Whereas respiratory therapists are involved with therapeutic and life-sustaining cardiopulmonary care to patients suffering from lung and associated heart disorders; and

Whereas in recent years the field of respiratory therapy has expanded to include postoperative pulmonary care, education, research, pulmonary testing, pulmonary rehabilitation, and neonatal-pediatric specialties: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 7 through November 13, 1982, is designated as "National Respiratory Therapy Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate activities.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 193 designates the week of November 7-13, 1982, as "National Respiratory Therapy Week." Respiratory therapy is recognized as one of the most modern and progressive segments of the health care delivery system in the United States. Respiratory therapists are involved with therapeutic and life sustaining cardiopulmonary care to patients suffering from lung and associated heart disorders. This field has expanded to include postoperative pulmonary care, education, research, pulmonary testing and pulmonary rehabilitation.

An identical bill, House Joint Resolution 456, has been cosponsored by more than 218 Members of the House.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DR. ROBERT H. GODDARD DAY

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 568) to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. EARLY. Mr. Speaker, reserving the right to object, and I will not object, I hope the House will unanimously approve this joint resolution to celebrate the 100th anniversary of the birth of Dr. Robert H. Goddard, the father of the space age.

Dr. Goddard was born on October 5, 1882, in the city of Worcester, Mass. He received his primary and advanced education in our local schools there. He was a member of the faculty at Clark University in Worcester for 29 years.

It was during his teaching career at Clark University that Dr. Goddard initiated the basic experiments and developed the technique that resulted in the almost miraculous space accomplishments we see all around us today. It is very difficult to appreciate now that about 70 years ago this little known and often ridiculed scientist was able to foresee a time in the future when jet-driven aircraft and manned space travel would appear almost commonplace.

Today Dr. Goddard is universally recognized as one the world's foremost pioneers in space experiment and projection. Practically everyone in the scientific field acknowledges that his original work in space-flight experiment was the most important technical accomplishment in modern times. In reality his efforts represent a turning point in the history of man.

Nevertheless this resolution is not exclusively designed to recall and memorialize Dr. Goddard's unique scientific achievements in space. Our companion and equally important purpose is to ask our people to remember this remarkable man as a true example of an individual who overcame great disdain and discouragement by persevering study, effort and belief in one's self.

The testimony of his contemporaries reveals that Dr. Goddard was acclaimed, throughout his life, as a man of absolute integrity in all his private and professional activities. He was an individual of extraordinary intelligence, courage, and industry. He was a quietly loyal and unselfish patriot who cheerfully offered his immense talents to his country in two wars. He was a devoted husband, a faithful friend, a patient teacher, a diligent scholar, a compassionate neighbor and an exemplary citizen. The record shows that Dr. Goddard was a symbol of goodness for all ages and all times.

Mr. Speaker, our country is plagued today with an increasing number of enormously complex political, social, and economic problems. It seems obvious that our need was never greater for a meaningful example and a moving inspiration to do better, to work harder, to cooperate more fully with each other in trying to find more effective solutions to the very serious dangers facing us.

Beyond giving well merited honor to the memory of a renowned American scientist this joint resolution offers the means to provide such an inspiring example to our own people and the world. Therefore I urge the adoption of the resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 568

Whereas October 5, 1982, marks the 100th anniversary of the birth of Dr. Robert H. Goddard, the father of the space age;

Whereas this rocket pioneer's persevering pursuit of new knowledge has led us to orbit the Earth, to walk the Moon's surface, to fill the skies with countless tools for communications and scientific inquiry;

Whereas he was the first to explore the practicality of using rocket power to reach high altitudes;

Whereas he was the first to launch a liquid propellant rocket;

Whereas he was the first to develop gyrosteering apparatus, pumps, rocket motors and landing devices;

Whereas he was the first to dream the dream of jet-driven aircraft and interplanetary/interstellar space travel;

Whereas he neither sought, nor received public acclaim or financial reward during his lifetime; and

Whereas the Worcester Area Chamber of Commerce, Clark University and Worcester Polytechnic Institute in cooperation with the Worcester County Convention and Visitors Bureau and the Center of Business Information will honor Dr. Robert H. Goddard with a centennial celebration in Worcester, Massachusetts, on October 5, 6, and 7, 1982: Now, Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 5, 1982, is designated as "Dr. Robert H. Goddard Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. FORD of Michigan. Mr. Speaker, House Joint Resolution 568 designates October 5, 1982, as Dr. Robert H. Goddard Day.

Born in Worcester, Mass., on October 5, 1982, he taught at Clark University in Worcester for more than 25 years and conducted his early rocket experiments in that area. He was widely derided in 1920 for expressing his scientific opinion that it was possible a rocket could be assembled to reach the Moon. Nevertheless, practi-

cally all of Dr. Goddard's predictions about the future of manned space travel and jet-driven aircraft have come true. He is one of the most respected and famous citizens, scientists, and patriots in American history. On September 16, 1959, the 86th Congress authorized the issuance of a gold medal in honor of Prof. Robert H. Goddard.

In memory of this brilliant scientist a major space science laboratory, NASA's Goddard Space Flight Center in Greenbelt, Md., was established on May 1, 1959. House Joint Resolution 568 recalls the unique scientific achievements of Dr. Goddard and commemorates the 100th anniversary of his birth on October 5, 1982.

● Mr. BOLAND. Mr. Speaker, I want to compliment the gentleman from Massachusetts, Mr. EARLY, on his statement in support of House Joint Resolution 568, to provide for the designation of October 5, 1982, as Dr. Robert H. Goddard Day.

As my colleague indicated, Dr. Goddard is recognized as one of the pioneers in the field of rocketry and as the father of the space age. When he was young, Robert Goddard dreamed of shooting an arrow into space. He even tried it, and from that experience he realized that some method had to be developed to give the arrow an added push after it reached the maximum altitude to which a bow could send it. This was the crude beginning of modern rocketry. By 1916, Goddard had demonstrated the soundness of his theories and had revealed by actual tests that rockets had more thrust in a vacuum than in the air. When he prepared a report about a rocket that could go to the Moon, the result was widespread ridicule. He was called a crackpot and a faker, terms that hurt. However, he was undaunted and with the assistance of a grant from the Smithsonian Institution, he was able to test the world's first liquid-fuel rocket in Auburn, Mass., on March 15, 1926. Although other successes followed, Dr. Goddard's career was spent working virtually alone and with extremely limited financial support.

Mr. Speaker, Robert Goddard's death in 1945 came many years before the world recognized his genius. We know, however, that his work is the basis for most of the significant achievements in space exploration that have so exhilarated the human race for the last quarter century. Dr. Goddard's memory was honored by Congress through the issuance of a gold medal in 1959 and the work of NASA's Goddard Space Flight Center continues to honor that memory. I believe that it is appropriate that we take special notice of the 100th anniversary of his birth and House Joint Resolution 568 would permit a suitable commemoration. I urge the adoption of the resolution.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SEWING MONTH

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 205) to designate September 1982 as "National Sewing Month," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 205

Whereas the American Home Sewing Association is sponsoring a first industrywide promotion effort to increase consumer sewing education and family sewing participation; and

Whereas over 50 million consumers sew at home and over forty million citizens sew at least part of their wardrobe; and

Whereas the home sewing industry generates over $3,500,000,000 in sales annually for the United States economy; and

Whereas unnumbered careers in fashion, retail merchandising, fashion design, interior design, patternmaking, and textile design and parts of the garment industry have had their genesis in a seventh or eighth grade home economics sewing class: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1982 is designated "National Sewing Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. FORD of Michigan. Mr. Speaker, Senate Joint Resolution 205 designates September 1982 as "National Sewing Month." Over fifty million consumers sew at home and over 40 million citizens sew at least part of their wardrobe. The home sewing industry accounts for $3.5 billion in sales annually for the U.S. economy. Numerous careers in fashion, retail merchandising, patternmaking, and so forth, have begun in a seven or eighth grade home economics sewing class.

I urge its adoption.

NATIONAL SEWING MONTH

● Mr. BONER of Tennessee. Mr. Speaker, reserving the right to object, and I shall not object, as the author of House Joint Resolution 492, I rise in support of the request of the gentleman from New York (Mr. GARCIA). I want to thank him for his efforts in bringing this resolution to the House floor so expeditiously.

The American sewing industry involves textile machinery, fabrics, patterns, sewing machinery, sewing notions, needlework, and crafts. The importance of the industry is shown by these significant facts: Textile mills supply one out of every nine manufacturing jobs; 47 percent of all textile employees are women compared with only 31 percent in total manufacturing jobs; 18 percent of textile jobs are held by minorities compared with 11 percent in other manufacturing jobs. Also, the apparel industry ranks sixth in manufacturing employment and is the major manufacturing employer of women who constitute 78 percent of the work force.

The industry, however, is facing hard times now as a result of the increasing amounts of imports, dramatic declines in consumer spending in textile products, and a slump in demand for upholstery and industrial fabrics.

National Sewing Month is an industry-wide promotion effort designed to increase home-sewing interest, consumer-sewing education, and family sewing participation by inspiring consumers across the country with one universal sewing theme. This is the first step toward the industry's long-range goal of revitalizing the sewing spirit of America.

For most, home-sewing remains family oriented. But for others, the skills acquired have made a significant contribution to the economy. Countless careers in fashion, retail merchandising, fashion design, interior design, and patternmaking began in the home.

Every district represented in this chamber contains constituents interested in sewing. This resolution supports the family concept of sewing at home, but at the same time relates to fashion and design careers.

Again, I want to thank the gentlemen from Michigan (Mr. FORD) and New York (Mr. GARCIA) for bringing this matter to the floor.

I urge my colleagues to join me in honoring the industry by celebrating September 1982 as National Sewing Month.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1930

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous mate-

rial on the joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 600 OR AN IDENTICAL SENATE JOINT RESOLUTION

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that it shall be in order tomorrow or any day thereafter to consider in the House the joint resolution (H.J. Res. 600) or an identical Senate joint resolution if passed by the Senate, and that the previous question be considered as ordered thereon to final passage without intervening motion except one amendment to be offered by myself or my designee (which shall not be subject to amendment) and one motion to recommit with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MAJ. GEN. HARRY H. TREADAWAY—CONGRATULATIONS FOR A JOB WELL DONE

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, I invite your attention to the meritorious service of Maj. Gen. Harry H. Treadaway to the U.S. Army Reserve and the Nation. He will soon step down from his position as commander of the 310th Theater Army Area Command (TAACOM), the Army Reserve's senior logistical unit at a change of command ceremony to be held at Fort Belvoir, Va., on Saturday, October 16, 1982.

Since December of 1977, General Treadaway has guided the 310th TAACOM in preparing to assume its mission in the European theater in the event of mobilization.

Prior to joining the 310th TAACOM, General Treadaway served as the deputy commander of the 80th Division (training), headquartered in Richmond, Va. His recent accomplishments include service as chief logistician and general officer-in-charge of LOGEX—an annual major logistical exercise (1980–82), Reserve advisor to the Army's deputy chief of staff for logistics, chairman of the Army Reserve lieutenant colonel selection board (1982), and a member of the Army brigadier general selection board (1982).

He is a member of the Senior Army Reserve Commanders Association, serves on the board of directors of the U.S. Army War College Foundation, and is a life member of the War College Alumni Association. Recently, he was asked to join the Logistics Policy Board of U.S. Army Europe.

General Treadaway entered the Army as a private in July 1945, and was commissioned a second lieutenant in the infantry in December 1946. He was assigned to the 26th Infantry Regiment in Germany. After release from active duty, he continued his military career in the Army Reserve. His decorations included the World War II Victory Medal, Army of Occupation Medal (Germany), American Campaign Medal, Armed Forces Reserve Medal with two 10-year devices, and the Reserve Achievement Medal. General Treadaway is a graduate of the 3d Army School Center, Officer Basic Course, Seckenheim, Germany; the Engineer School; the Industrial College of the Armed Forces and the Army War College.

In civilian life, General Treadaway recently retired from the Dupont Co's., Richmond, Va., facility where he was project coordinator. He is the son of Mrs. Elsie Green Treadaway, a native of Forest City, N.C., and the late Randolph Treadaway of Wadesboro, N.C. He is married to the former Virginia Impara of Mount Vernon, N.Y. The Treadaways make their home in Richmond, Va.

Mr. Speaker, General and Mrs. Treadaway will be honored at the 310th TAACOM Ball to be held at the Fort Belvoir Officers Club on October 2, 1982. I would like to congratulate General Treadaway for a distinguished career, and to extend best wishes to General and Mrs. Treadaway.

INTRODUCTION OF AN INTERSTATE COMPACT FOR MISSOURI RIVER BASIN STATES

(Mr. YOUNG of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. YOUNG of Missouri. Mr. Speaker, I am today introducing legislation which calls for the States of the Missouri River Basin to enter into and negotiate an interstate compact for the fair and equitable allocation of water of the Missouri River and its tributaries.

Mr. Speaker, as the Congress and the American people have become increasingly aware, water is the most critical long-range problem facing the Nation. The inevitable shortage of clean, usable water poses a potentially more severe problem than the energy crisis. However, we have all come to know, that America's water problems are not new. The water crisis has been quitely building for many years. With recent droughts in the Northeast and West, and surface and groundwaters becoming increasingly polluted, the people of America must realize that our most vital natural resource can no longer be taken for granted.

As a member of the committee having related jurisdiction over water resources, the evidence presented to our committee suggests that signs of the impending crisis are everywhere. During the last few years, many of the Western States were experiencing drought conditions so severe that farmers were comparing it to the Dust Bowl period of the 1930's. The Northeastern States have seen serious water shortages due to the contamination of surface and ground water resources. It is estimated that in less than 20 years, every region of the country will confront severe water shortages unless we as a nation, recognize that we cannot continue to waste and pollute our most precious, life-giving commodity—water. As with any major natural resource, the hundreds if not thousands of local water problems across the country are building into an enormous national crisis.

The challenge now before the American people, to insure adequate water supplies, will have a profound effect on America's future growth. As every farmer knows, water means the difference between feast or famine. Irrigation for the Nation's farmers has almost tripled in the last 30 years. The water used for irrigation of our crops consumes more than 80 percent of all the water used in the Nation. In most cases, farmers in the West are pumping water from underground sources faster than nature can replace it. To a large extent, this is due to the substantial Federal subsidies for western water which causes artificially low prices and thus, they have no incentive to conserve this vital resource. Nearly 90 percent of the water in the West is used for irrigation, thus, competing against the growth of our cities and towns to use the water for drinking supplies, manufacturing and the production of critical energy resources.

It is due to these various problems with our water supplies that I have introduced a comprehensive interstate compact bill which I believe can resolve these questions equitably.

Mr. Speaker, a strong argument can be made for the formation of an interstate compact among the States of the Missouri River Basin. The first interstate water compacts predated the Constitution itself, originating under the Articles of Confederation. The earliest compacts were interstate agreements dealing with boundary problems, navigation, and fishing rights. Recognizing the value of these interstate agreements, our Founding

Fathers specifically created a "compact clause" in article I of the U.S. Constitution.

As large numbers of the population moved westward in search of economic and social opportunities, problems moved with them. When the number of people in an area increased to the point that water resources became in short supply relative to the demand, agreements were negotiated under which the water resources could be equitably divided among the various segments of society. These kinds of agreements among the sovereign States eventually developed into interstate river compacts.

Today, there are 20 major interstate river compacts in the United States that allocate water between and among the States.

Legislation which I have introduced today is patterned after the recommendation suggested 30 years ago by the Missouri Basin Survey Commission, and endorsed by Presidents Truman and Eisenhower.

The purpose of my legislation is to facilitate the industrial and agricultural development of the Missouri Basin through a unified intergovernmental program for the management, conservation, storage, utilization, and development of the land and water resources of the basin. The compact would establish a Missouri River Interstate Compact Commission of the U.S. Government and the participating States to integrate the programs and operations of State and Federal agencies and to eliminate the causes of present and future controversies by securing Federal-State and interstate coordination.

The Missouri River Interstate Compact Commission would be composed of one member from each of the 10 States designated or appointed by the Governor with the advice and consent of each State senate and one member appointed by the President of the United States. The Commission would have the authority to develop comprehensive policies to effectuate integrated operation in the release, storage, or diversion of the waters of the Missouri Basin.

If the Commission found that the operations of a governmental agency or private development having a substantial effect on interstate relations in the use of the waters of the Missouri River would conflict with a negotiated plan of integrated operation, it might make or adopt such recommendations and policies as necessary for action. The Commission would promote and aid the coordination of the activities of Federal and State water or other related natural resource planning agencies in the development and management of the resources.

It would make and negotiate integrated plans for the conservation and development and utilization of the water resources and submit the same to the member governments and the Congress. The Interstate Commission would evaluate and analyze and assess all proposals as to insure the control of future pollution and the abatement of existing pollution in the waters of the Missouri River Basin. Since water pollution constitutes a grave menace to the health, welfare, and recreational facilities of the people living in the downstream States and could occasion great economic loss within the region, the protection of the water resources from pollution can best be accomplished through the cooperation of the States in an interstate compact.

Mr. Speaker, as I have stated before, States with a common problem, have established planning and coordination by interstate compact. In my own State, the Bi-State Development Agency was set up by Missouri and Illinois in 1949 for the Greater St. Louis area to deal with problems of sewage disposal, drainage, coordination of water supplies, highways and other regional problems.

The Missouri River is an interstate stream and the rights and interests of all basin States to their equitable share of those waters must be respected. My legislation would promote and foster coordinated planning and decisionmaking while resolving interstate water conflicts.

In 1973, the National Water Commission recommended the interstate compact approach for dealing with regional water problems rather than through federally directed and dominated programs or by actions of the courts. Their recommendation specifically stated:

> The Federal interstate compact is recommended as the preferred institutional arrangement for water resources planning and management in multistate regions.

The Federal-interstate compact has been used successfully in the Delaware River Basin, the Upper and Lower Colorado River Basins, as well as one of the Missouri's main tributaries, the Yellowstone River. Other avenues exist to resolve interstate disputes such as congressional apportionment of the river or the apportionment of the river by the U.S. Supreme Court. However, these mechanisms would appear to be more devisive. Certainly, a direct attack on a single water user will produce no lasting resolution and may even serve to prejudice the legitimate claims that an adjoining State may have to its fair share of this vast river system in the future.

Already, Missouri, Iowa, and Nebraska are extemely concerned about proposals to divert Missouri River water to the State of New Mexico and the High Plains to replace water being drained from the Ogallala Aquifer. These States have already entered into litigation to prohibit the diversion of Missouri River water for a proposed energy project which would help free America from dependence on foreign oil.

On July 2, 1982, the U.S. Supreme Court issued its decision on Sporase against Nebraska. The opinion is consistent with its prior decisions recognizing the States' primary role in regulating water use and reaffirms the power of the Congress to delegate to the States its commerce clause powers. Under the commerce clause, Congress was granted the authority to regulate commerce among the several States. It is generally held that any State law or regulation which unreasonably burdens and interferes with interstate commerce is unconstitutional. Under the decision of the Court, water is not substantially different from oil or gas insofar as the export of the product is concerned. Water rights are freely marketed. The water itself is bought and sold as a commodity in every municipal water system for municipal and industrial use. Water is clearly an article of commerce and can be exported in a pipeline from State to State, either as a product for sale, or as a medium for the transportation of other products in solution. As an article of commerce, water is unquestionably subject to Federal regulation and control. This is no different than instrumentalities that facilitate the movement of items in interstate commerce, such as highways, communication systems, navigable waterways, and interstate natural gas pipelines. All of these are subject to Federal control and regulation.

The Federal Government is a participant, in a sense, in all compacts since they require congressional consent. The Federal Government participated in the negotiation leading up to all of the western water compacts. The United States has not signed as a party to any of these compacts. While the Constitution does not expressly mention agreements between the United States and a State, the Federal Government has made such agreements in the past and their validity has received judicial recognition when a function or power of the United States was furthered.

The mechanics of the compact approach are simple. Congressional consent in advance to interstate compact negotiations is traditional. By it no irrevocable step is taken, since the draft of the negotiations is subject to final ratification. All that is needed to give the impetus that might produce truly comprehensive, optimum development of water and land resources through the joint efforts of the Federal Government and the States is the enactment of the bill I have introduced today.

FRONT-END LOADED TENDER OFFERS

(Mr. HOLLENBECK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLENBECK. Mr. Speaker, I would like to take this opportunity to bring to the attention of the House a change that should be made to the securities law. I refer to the loophole which currently permits so-called front-end loaded tender offers in takeover situations. Under the front-end loaded approach, the bidding company may offer cash for a portion of the target company's shares, while offering dramatically lower priced securities in exchange for the remainder of those shares.

This approach presents serious problems for the small shareholder while providing enormous benefits to large, professional investors. Institutional holders and professional traders usually learn of these types of relatively high cash offers long before the small shareholder, and as a result can often reap a huge profit by selling its shares for cash. Meanwhile, the small shareholder often becomes aware of the offer only after it is too late to make an informed decision about disposing of his or her shares pursuant to the cash offer. In this situation if the small shareholder ultimately decides to sell, he receives only lower valued securities in exchange for his stock rather than the more lucrative cash offer. The most recent example of this strategy has been in the counteroffer of Martin Marietta Corp. for the Bendix Corp. In this case, the front-end load was $75, a full $20 per share higher than the lowered value securities of the second step. This kind of practice does not seem fair and should not be allowed.

Mrs. COLLINS of Illinois. Mr. Speaker, will the gentleman yield to me?

Mr. HOLLENBECK. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Speaker, I, too, am aware of the problems posed by the frontend loaded tender offers in takeover situations, and as a member of the subcommittee with legislative jurisdiction over the Securities and Exchange Commission, I share the gentleman's concern.

This is a relatively new strategy which is being used with increasing frequency, particularly in large takeover bids and which clearly discriminates against the Nation's small shareholders. I believe that such takeover strategies are so blatantly harmful to small shareholders that they should be absolutely prohibited.

Mr. Speaker, I understand the Securities and Exchange Commission has recognized the serious nature of this problem and is now reviewing the public comments on this proposal to close this loophole. However, what is especially troubling to me is that notwithstanding the Securities and Exchange Commission's publicly expressed concern, Martin Marietta utilized this discriminatory procedure anyway.

Therefore, I believe it may be necessary for the Congress to underscore its concern by possibly amending the statute to prohibit use of this unfair strategy and that companies should be on notice now that the use of this procedure may not be allowed.

Mr. HOLLENBECK. Mr. Speaker, I thank the gentlewoman for her comments. I hope her subcommittee will follow this situation closely and should it become necessary, take appropriate action.

ISRAELI POLICY IS NOT WRONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BAILEY) is recognized for 60 minutes.

Mr. BAILEY of Pennsylvania. Mr. Speaker, last night as I listened to the news, I heard the ultimate in self-righteous commentary from a so-called media analyst of the recent massacre in Beirut. Typically, of course, an analogy was drawn to the American experience in Vietnam. Coming from one of many who largely control public discussion about the role of many institutions, groups, and individuals, but who carefully avoid implicating themselves, such views are suspect.

The message was simple: Israel had somehow unleashed uncontrollable evil in Lebanon, much as America allegedly had in Vietnam. Outlining some nebulous reference to some self-perceived inherent moral conflict from which democracies suffer, our broadcast expert concluded with an innuendo that presented us with another unexamined assumption—that Israel was somehow responsible for the chain of events that caused the massacre, and that perhaps at some stage the Israeli nation, the people of Israel, perpetrated or controlled the atrocity.

Such a conclusion is outrageously absurd!

My Lai became a frequent reference point for the rationalizations of antiwar critics during the Vietnam war. As a combat veteran of that war, I am used to the continuing inability to reexamine that conflict and astounded and offended deeply by the refusal of Western political and religious leaders to respond to the incomprehensible tyranny, the incredibly vicious barbarism which has settled over Southeast Asia since our departure.

Similarly, Israel is not responsible for this horrible atrocity. An uncourageous West, a terroristic PLO, a mindless, diabolical, and clever hypocrite like Yasser Arafat has done far more to earn this bloody moniker than has even the most remote consideration of Israeli blame.

If there are individual Israeli soldiers or government leaders even partially responsible, they should, and I am sure will be held accountable. But any political leader or indeed any citizen of the free world who speaks of this terrible, terrible affront to human decency in a context of Israeli causation offends democracy and freedom.

The disgusting political tendency of leaders across this globe wishing to consummate that symbiosis of sensationalism and simplicity, which guarantee access to the world's airwaves, are more to blame than Israel could be if even an innocent error were involved.

Fight on, Israel—you are not wrong. If some error of tactical judgment or failure of intelligence resulted in an Israeli contribution to this sorrowful tragedy it should not deter recognition of the basic truths here. The truth is that terroristic behavior is not Israeli policy. Brutality is not Israeli policy. Viciousness is not Israeli policy. Cruelty is not Israeli policy. Democracy, conversely, is Israeli policy. Freedom and a respect for human life is Israeli policy.

Those who abuse these accepted and widely known truths harm mankind—and that includes our President and those loud and vocal critics of Israel who distort this issue in their own country. Just as no reasonable person anywhere could attempt explanation or even fractionally excuse this base violation of the right to life, neither can any reasonable person credibly attribute this horror to Israel—the people, the nation, the political entity.

It is reasonable to assume that bloodshed would have been immeasureably greater had Israel not intervened. How quickly our headlines forget the events of past days, such as the assassination of the Lebanese Prime Minister. It is almost as if her critics waited for some opportunity to pounce on Israel for making them uncomfortable. For having the courage to fight terrorists who kill her children—for being willing to stand against those committed to her death as a nation. Your sin, Israel, is the embarrassment you have caused a world full of politicians and religious leaders, a world full of free men who lack your courage and cannot emulate your example.

Every policy choice you make cannot and will not be correct. But your intent and purpose which are proper, admirable, and worth fighting for, worth dying for, should not be distorted by those events sure to flow, however tragically, from those events set in motion by your enemies.

LEGISLATION AMENDING INTERNAL REVENUE CODE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

● Mr. STARK. Mr. Speaker, I am today introducing legislation which will extend for 2 years section 190 of the Internal Revenue Code which provides a deduction for businesses which make their facilities accessible to the handicapped.

Since its enactment in 1976, this provision has been a vital component in our efforts to assure that the handicapped are fully integrated into our society. However, such integration necessitates the renewal of this provision as it is due to expire at the end of the year. Congress must act quickly to maintain the momentum originally generated by this provision, a momentum toward greater accessibility for the handicapped to jobs, recreational facilities, and shops.

Currently, section 190 provides for a deduction of up to $25,000 of the costs that businesses incur in the renovation of their facilities. In many cases, the costs are in excess of the allowable deduction. The cost to the Treasury in implementing this provision is at least partly offset by the taxable earnings of handicapped persons who are able to return to work or find new jobs because of greater opportunities.

Mr. Speaker, it has appeared to be the trend of late to eliminate or discontinue programs which were originally intended to assist certain less fortunate members of our society. The current administration, in particular, has engaged in a very aggressive program to dismantle many of the programs that Congress has enacted over the years in complete disregard of the success of some of these programs. While we may well be in the midst of a time of diminishing expectations, it would appear to be, at very least, an irreversible slight to the physically disadvantaged if we were to retract the singular consideration society has afforded them, some degree of latitude in the choice of where to go, what to do and where to work, a latitude not presently commensurate with our own.

Therefore, may I urge you to act quickly to extend this very vital provision.●

DR. FRED WEITZ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to Dr. Fred Weitz, a great humanitarian and civic leader and the director of the dental center at Northwest Hospital located in the 11th Congressional District of Illinois which I have the honor to represent. The entire city of Chicago has lost a devoted citizen and I have lost a close personal friend.

Dr. Weitz's death on August 10 leaves a tremendous void in the lives of his patients, associates, and friends. His warm heart and caring personality made him a man loved by over 8,000 active patients, and by all those who had the good fortune of coming in contact with him. He was admired and respected by hospital staffs and by fellow doctors, as a man of outstanding professional ability, personal integrity, compassion, and understanding. His humanitarian concerns, business attributes and capabilities, combined to make him a great community leader, who will be sorely missed in Chicago, especially by me because he was my good friend for many years, and I had the privilege of knowing personally his charity, his generosity, his dedication, and his effectiveness.

This remarkable man, a native of Brooklyn, N.Y., attended the University of Illinois, where he received his bachelor of science degree and his doctorate in dental science. After serving for 2 years as a lieutenant in the U.S. Navy, Fred Weitz did his postgraduate internship at St. Vincent's Charity Hospital in Cleveland, Ohio, and then began his practice in the Peterson Park community of Chicago in 1947.

In the mid-1950's, Dr. Weitz began pioneering implant dentistry, and for his work in this area, he had been continually recognized and honored by numerous academies and professional organizations. Hailed as the founder of dental implantology, he brought his talents to Northwest Hospital in 1966, where he established this new procedure, making the hospital known throughout the country as the center of such surgery in the Midwest.

During his 16-year association with Northwest Hospital, Fred Weitz devoted his time and energy to turning the one dental unit department into a multifaceted dental organization, that today consists of nine dental amphitheaters of which two have been established for oral surgery. Under his guidance as director of the dental department, and as a member of the board of trustees, Northwest Hospital can boast one of the finest units in the city, possessing the most modern equipment in the field of dentistry. He also was affiliated with Belmont Hospital, and was the head of the oral surgery department at Edgewater Hospital.

Fred Weitz was not just a competent doctor, he was also an active community leader. He served as chairman of the board of directors of the First National Bank of Lincolnwood, and as a member of the board of directors of the Peterson Bank, the Water Tower Bank, and the National Bank of Albany Park. He was an ardent golfer and loved the sport. He played in many tournaments and displayed the same enthusiasm and excellence in sports as he did in his profession. Fred Weitz will remain a legend on the Northwest Side of Chicago for he was an outstanding family man, an outstanding businessman, an outstanding doctor, and an outstanding sportsman.

My wife, Angeline, joins me in extending our deepest sympathy to his two children, Richard and Sarinda. Freddie's life was an inspiration to all who knew him and he will never be forgotten.●

THE DEVASTATING PERSONAL, PHYSICAL AND SOCIAL EFFECTS OF UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, on September 16, the Subcommittee on Forests, Family Farms and Energy, which I chair, held a hearing on the economic outlook for the housing and forest products industries. We heard from numerous distinguished authorities who detailed their predictions for housing, forest products, and the economy in general. These authorities forecast a very weak recovery which, contrary to precedent, will not be led by housing and forest products. Further, the subcommittee was privileged to hear from Mr. R. Denny Scott of Portland, Oreg., representing the International Woodworkers Union. Mr. Scott presented an eloquent and well-documented statement on the devastating personal, physical, and social effects of unemployment.

Mr. Scott's findings are very disturbing. They are a ringing indictment of the economic policies of this administration and of the Federal Reserve Board. I have not seen many stronger arguments for the policy changes we need to bring this Nation out of its economic morass. I include Mr. Scott's testimony in the RECORD, as follows:

STATEMENT BY R. DENNY SCOTT

My name is R. Denny Scott and I am in the Research Department of the International Woodworkers of America at 1622 N. Lombard Street, Portland, Oregon 97217. The International Woodworkers of America is a trade union representing 100,000 loggers, sawmill workers and plywood workers throughout the United States and Canada.

Our union welcomes the opportunity to discuss with this Subcommittee the serious impacts the prolonged housing slump has had on wood products workers and their families.

The lumber and wood products industry has been extremely hard hit by high interest rates and the resulting decline in housing starts. This unfortunate situation has persisted for 2½ years and tens of thousands of workers in the industry have been without jobs for all or a major part of that period.

The income loss to individuals and communities associated with plant closures is

but the tip of the iceberg to the often overlooked personal, social and physical problems that result. As unemployment rises, there is a corresponding increase in the need for social services, but the terrible irony is that, as community tax receipts shrink, many of these services are cut back.

Professor M. Harvey Brenner of Johns Hopkins University has attempted to measure some of the health and "social costs" associated with long term increases in unemployment, first in England and then in the United States. Brenner's findings indicate that, for every one percent sustained rise in the unemployment rate, we can statistically expect:

4.1% rise in the suicide rate.
5.7% rise in the homicide rate.
1.9% rise in death due to cirrhosis of the liver.
1.9% rise in cardiovascular renal disease.
3.4% rise in mental hospital admissions.
4.0% rise in prison admissions.

In addition to the rise in death/illness rates, we also know that rising unemployment contributes to increases in child abuse. Statistics from the National Center for the Prevention and Treatment of Child Abuse shows a clear rise in child abuse during the 1972-75 recession.

1972—280 cases of child abuse per million population
1973—348 cases of child abuse per million population
1974—380 cases of child abuse per million population

A recent article in the Wall Street Journal noted that child abuse cases are increasing in areas of high unemployment. The article points out that in Wisconsin, child abuse cases reported for the years 1979 through 1981 rose by 16 percent, but in those counties that experienced the greatest rise in unemployment, child abuse cases jumped by an alarming 69 percent.

These same indicators of the deep and personal health and social problems associated with unemployment have been observed and documented in timber communities of the west.

Foster Church, a reporter for the Oregonian newspaper, wrote a lengthy four-part series concerning the impacts of mill closures in two Oregon communities. He found that, in 1980, major criminal offenses increased by 31 percent in Coos Bay, Oregon. These crimes included homicide, rape, burglary, aggravated assault, larceny, motor vehicle theft and arson. Burglary rose by 42 percent and disorderly conduct increased by 30 percent. There was also a sharp rise in the number of domestic disturbances handled by the police and a 500 percent increase in clients at the Coos Bay Crisis Center for physically and emotionally battered women. According to the Crisis Center director, most of the clients had been abused by men who were either unemployed or disabled and could not work. Church also learned that the calls placed to the local Helpline for financial, legal and employment problems increased from 148 in 1979 to 972 to 1980. In addition, it was estimated that the population of Coos Bay declined by about 9 percent in 1980.

In Willamina, Oregon, the police reported a 50 percent increase in liquor-related crimes and a big jump in the number of tavern fights, thefts, bad checks, domestic quarrels and child and spouse abuse after a major plywood plant closed its doors forever.

Another reporter found a similar situation in Forks, Washington. The Forks police chief attributed the rise in domestic violence, petty thefts and burglaries to rising unemployment. He said that unemployment and the threat of losing everything made people more aggressive and short tempered. His department was ill equipped to handle the extra load since they had suffered from government cutbacks. The police department recently lost six CETA-funded staff positions—including three patrolmen. The Forks Community Action Center reported a sharp increase in the volume of calls from battered wives. Also, its crisis line was deluged with suicidal callers.

Dr. Edwards Weeks, Professor of Public Management at the University of Oregon, had been investigating the effects of economic shock in Oregon's rural wood products communities. To illustrate the social consequences of massive layoffs to the community, Weeks used two indicators: Per capita alcohol consumption and the rise in child abuse. Clinical and field studies have indicated that an increased use of alcohol is frequently a means of coping with anxiety and escaping temporarily from despair and depression. Weeks measured alcohol consumption as the value of distilled spirits sold in Prineville, Oregon. Prineville has a population of 5,300 and 97 percent of its manufacturing employees work in wood products. In 1980, three successive economic shocks were felt. In April, 200 people were laid off. In June, another mill closed, leaving 220 without jobs and in September, 50 more workers were laid off. The Week's study showed that each shock was followed by a sharp increase in alcohol sales. It rose by about 20 percent each time. This was a decided break from the seasonal buying pattern of previous years. January sales were very low, then growth was gradual through the year with a large surge during the December holiday season.

Weeks also found that increases in reported child abuse coincided with sharp increases in unemployment rates in Douglas County, Oregon. This investigation and other research tends to bear out the thesis that job loss increases parental stress and, consequently, more often leads to child abuse.●

STATEMENT OF HON. ROBERT W. EDGAR ON THE INTRODUCTION OF A BILL TO IMPLEMENT THE CONVENTION ON CULTURAL PROPERTY

(Mr. EDGAR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. EDGAR. Mr. Speaker, I have introduced a bill to implement the United Nations Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property, H.R. 7127.

The Convention was adopted on November 14, 1970, in order to end the destruction of the cultural heritage of many nations. Specifically, parties to the Convention will provide assistance to States requesting help from the major art-importing nations in halting the pillage of historical, cultural, archeological, and ethnological sites, as well as stopping the theft of this cultural property from museums, public monuments, and other institutions.

As one of the major art-importing nations, the United States has a unique ability to help preserve the cultural heritage of other countries. Realizing the importance of this Convention, as well as our special position, the Senate ratified the treaty on August 11, 1972 in a 77 to 0 vote. Because Congress has yet to enact the implementing legislation to make the Convention an effective part of international law, I am introducing this bill today. Similar legislation was introduced in the other body last year by Senator MATSUNAGA and Senator BAUCUS.

As of January 1982, 50 nations had ratified the Convention and adopted the necessary laws to make this ratification meaningful. Canada and Italy are the only major countries in the international art market included among the 50 adherents. Some have argued that the adoption of legislation authorizing import restrictions by the United States is ineffective and discriminatory to U.S. purchasers of art objects, particulary in the absence of similar action by other nations which are major markets for these materials. However, I submit that our active accession to the Convention will encourage other nations to ratify and implement it. We have an important role to play as a catalyst in making the 1970 Convention an effective document which will prevent the flourishing international trade in stolen cultural property from increasing further. Indeed, if the United States can pass implementing legislation such as this, it would be a major deterrent to pillagers who now look to the United States as a premier market for the sale of illgotten cultural materials.

The legislation I am introducing today allow the President to conclude bilateral and multilateral agreements which will restrict international commerce in cultural property in cases of theft or pillage. In addition, the bill provides for the establishment of a Cultural Property Advisory Committee to investigate and make recommendations on the requests of state parties for assistance in protecting their cultural patrimony. The Committee will also be charged with the responsibility for reviewing the continuing effectiveness of new agreements concluded under the Convention. I might add that the U.S. Senate noted in its resolution of ratification that the provisions of the Convention are not retroactive. Furthermore, this implementing bill exempts items which are imported into the United States for temporary exhibition or display.

Mr. Speaker, this bill allows us to increase international cooperation and understanding, and also permits us to take very important steps to halt the illegal flow of cultural property across

international boundaries. I urge my colleagues to join with me in supporting the implementation of 1970 Convention on Cultural Property.

The text of this bill follows:

H.R. 7127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Convention on Cultural Property Implementation Act".

SEC. 2. AGREEMENTS TO IMPLEMENT ARTICLE 9 OF THE CONVENTION.

(a) AGREEMENT AUTHORITY.—If the President determines, after request is made to the United States under article 9 of the Convention by any State party, that—

(1) the cultural patrimony of the State party is in jeopardy from the pillage of archaeological or ethnological materials of the State party;

(2) the State party has taken measures consistent with the Convention to protect its cultural patrimony;

(3) the application of the import restrictions set forth in section 6 with respect to archaeological or ethnological material of the State party would be of substantial benefit in deterring a serious situation of pillage, and remedies less drastic than the application of such restrictions are not available; and

(4) the application of such import restrictions in the particular circumstances is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes;

the President may enter into—

(A) a bilateral agreement with the State party to apply the import restrictions set forth in section 6 to that archaeological or ethnological material of the State party the pillage of which is creating the jeopardy to the cultural patrimony of the State party found to exist under paragraph (1); or

(B) a multilateral agreement with the State party and with one or more other nations (whether or not a State party) under which the United States will apply such restrictions, and the other nations will apply comparable restrictions, with respect to such material.

In implementing this subsection, the President should endeavor to obtain the commitment of the State party concerned to permit the exchange of its archaeological and ethnological materials under circumstances in which such exchange does not jeopardize its cultural patrimony.

(b) EFFECTIVE PERIOD AND EXTENSION OF AGREEMENTS.—The President may not enter into any agreement under subsection (a) which has an effective period beyond the close of the five-year period beginning on the date on which such agreement enters into force with respect to the United States. Any such agreement may be extended by the President for such additional period of time as the President deems reasonable.

(c) PROCEDURES.—If any request described in subsection (a) is made by a State party, or if the President proposes to extend any agreement entered into under such subsection, the President shall—

(1) publish notification of the request or proposal in the Federal Register;

(2) submit to the Committee such information, regarding the request (including, if applicable, information from the State party with respect to the implementation of emergency action under section 3) or proposal, that is appropriate to enable the Committee to carry out section 5(f); and

(3) consider, in taking action on the request or proposal, the views and recommendations contained in the Committee report required under section 5(f) (1) or (2), if the report is submitted to the President before the close of the one hundred and twenty-day period beginning on the day on which the President submitted information on the request or proposal to the Committee under paragraph (2).

(d) INFORMATION ON PRESIDENTIAL ACTION.—In any case in which the President enters into or extends an agreement pursuant to subsection (a) or (b), or applies import restrictions under section 3, the President shall, promptly after taking such action, submit to the Congress a document containing a description of such action (including the text of any agreement entered into), the differences (if any) between such action and the views and recommendations contained in any Committee report which the President was required to consider, and the reasons for any such difference. If any Committee report required to be considered by the President recommends that an agreement be entered into, but no such agreement is entered into, the President shall submit to the Congress a document which contains the reasons why such agreement was not entered into.

SEC. 3. EMERGENCY IMPLEMENTATION OF IMPORT RESTRICTIONS.

(a) DEFINITION.—For purposes of this section, the term "emergency condition" means, with respect to any archaeological or ethnological material of any State party, that such material is—

(1) a newly discovered type of material which is of importance for the understanding of the history of mankind and is in jeopardy from pillage, dismantling, or fragmentation;

(2) identifiable as coming from any site recognized to be of high cultural significance if such site is in jeopardy from pillage, dismantling, or fragmentation which is, or threatens to be, of crisis proportions; or

(3) a part of the remains of a particular civilization the record of which is in jeopardy from pillage, dismantling, or fragmentation which is, or threatens to be, of crisis proportions;

and application of the import restrictions set forth in section 6 on a temporary basis would, in whole or in part, reduce the incentive for such pillage, dismantling, or fragmentation.

(b) PRESIDENTIAL ACTION.—Subject to subsection (c), if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of any State party, the President may apply the import restrictions set forth in section 6 with respect to such material.

(c) LIMITATIONS.—(1) The President may not implement this section with respect to the archaeological or ethnological materials of any State party unless the State party has made a request described in section 2(a) to the United States; but this section may be so implemented whether or not the State party indicated, in such request, that an emergency condition exists.

(2) In taking action under subsection (b) with respect to any State party, the President shall consider the views and recommendations contained in the Committee report required under section 5(f)(3) if the report is submitted to the President before the close of the sixty-day period beginning on the day on which the President submitted information to the committee under section 2(c)(2) on the request of the State party under section 2(a).

(3) Subject to paragraph (4), no import restriction set forth in section 6 may be applied under this section to the archaeological or ethnological materials of any State party for more than five years after the date on which the request of a State party under section 2(a) is made to the United States. Such period may be extended by the President for not more than three additional years if the President determines that the emergency condition continues to apply with respect to the archaeological or ethnological material, except that, before making such extension, the President shall request and consider, if received within sixty days after that request, a report of the Committee setting forth in its recommendations, together with the reasons therefor, as to whether such import restrictions should be extended.

(4) Any import restrictions under this section shall cease to apply on or after the day on which an agreement is entered into under section 2(a) with the State party involved pursuant to the request of that State party.

SEC. 4. DESIGNATION OF MATERIALS COVERED BY AGREEMENTS OR EMERGENCY ACTIONS.

After any agreement is entered into under section 2, or emergency action is taken under section 3, the Secretary, after consultation with the Secretary of State, by regulation shall promulgate, and when appropriate shall revise, a list of the archaeological or ethnological material of the State party covered by the agreement or by such action. The Secretary may list such material by type or other appropriate classification, but each listing made under this section shall be sufficiently specific and precise to insure that (1) the import restrictions under section 6 are applied only to the archaeological and ethnological material covered by the agreement or emergency action; and (2) fair notice is given to importers and other persons as to what material is subject to such restrictions.

SEC. 5. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Cultural Property Advisory Committee.

(b) MEMBERSHIP.—(1) The Committee shall be composed of nine members appointed by the President as follows:

(A) Two members from among four nominees, two of which shall be selected by the American Association of Museums and two of which shall be selected by the Association of Art Museum Directors.

(B) Three members from among six nominees, two of which shall be selected by the Archaeological Institute of America, two of which shall be selected by the Coordinating Council of National Archaeological Societies, and two of which shall be selected by the American Anthropological Association.

(C) Two members from among four nominees, two of which shall be selected by the American Association of Dealers in Ancient, Oriental, and Primitive Art and two of which shall be selected by the National Antique and Art Dealers Association of America.

(D) Two members who shall represent the interests of the public.

(2)(A) No individual is eligible for nomination or appointment under paragraph (1)(D) if the individual is an officer or employee of,

or is otherwise related in an official capacity to, any organization listed in paragraph (1)(A) through (C).

(B) No individual is eligible for nomination or appointment under paragraph (1) unless the individual is specially qualified to serve on the Committee by virtue of the individual's education, training, or experience.

(C) Appointments and nominations made under paragraph (1) shall be made in such a manner so as to insure that there is fair representation of the various interests of the public sectors and the private sectors in the international exchange of archaeological and ethnological materials, and that within such sectors, fair representation is accorded to the interests of regional and local institutions and museums.

(3)(A) Except as provided in subparagraph (B), members of the Committee shall be appointed for terms of three years.

(B) Of the members first appointed—

(i) three shall be appointed for terms of one year,

(ii) three shall be appointed for terms of two years, and

(iii) three shall be appointed for terms of three years, as designated by the President at the time of appointment.

(C) Any individual appointed as a member of the Committee is eligible for reappointment for one additional term (whether or not consecutive); except that any member initially appointed to the Committee for less than a full term is eligible for reappointment for two additional terms.

(D) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) EXPENSES.—The members of the Committee shall be reimbursed for actual expenses incurred in the performance of duties for the Committee.

(d) TRANSACTION OF BUSINESS.—(1) Seven of the members of the Committee shall constitute a quorum. All decisions of the Committee shall be by majority vote of the members present and voting.

(2) A Chairman and Vice Chairman of the Committee shall be elected by the members.

(e) STAFF AND ADMINISTRATION.—(1) The Secretary of State shall provide the Committee with such administrative and technical support services as are necessary for the effective functioning of the Committee.

(2) The Administrator of General Services shall furnish the Committee with such offices, equipment, supplies, and maintenance services as are necessary.

(3) Upon the request of the Committee, the head of any Federal agency may detail to the Committee, on a reimbursable basis, any of the personnel of such agency to assist the Committee in carrying out its functions.

(f) REPORTS BY COMMITTEE.—(1) The Committee, with respect to each request of a State party referred to in section 2(a), shall investigate and review any matter referred to in section 2(a)(1) through (4) as it relates to the State party or the request and shall prepare a report setting forth—

(A) the results of such investigation and review; and

(B) its recommendation, together with the reasons therefor, as to whether or not an agreement should be entered into under section 2(a) with respect to the State party.

(2) The Committee shall, with respect to each agreement proposed to be extended by the President under section 2(b), prepare a report setting forth its recommendations, together with the reasons therefor, as to whether or not such agreement should be extended.

(3) The Committee shall, in each case in which the Committee finds that an emergency condition under section 3 exists (whether or not the State party indicated in its request under section 2(a) that an emergency condition exists), prepare a report setting forth its recommendations, together with the reasons therefor, as to whether or not emergency action under section 3 should be implemented. If any State party indicates in its request under section 2(a) that an emergency condition exists and the Committee finds that such a condition does not exist, the Committee shall prepare a report setting forth the reasons for such finding.

(4) Any report prepared by the Committee which recommends the entering into or the extension of any agreement under section 2 or the implementation of emergency action under section 3 shall set forth—

(A) such terms and conditions which it considers necessary and appropriate to include within such agreement, or apply with respect to such implementation, for purposes of carrying out the intent of the Convention; and

(B) such archaeological or ethnological material of the State party, specified by type or such other classification as the Committee deems appropriate, which should be covered by such agreement or action.

(5) If any member of the Committee disagrees with respect to any matter in any report prepared under this subsection, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

(6) The Committee shall submit to the Congress and the President a copy of each report prepared by it under this subsection.

(g) COMMITTEE REVIEW.—The Committee shall undertake a continuing review of the effectiveness of agreements entered into under section 2, and of emergency action implemented under section 3, and if the Committee finds, as a result of such review, that—

(1) any agreement or emergency action is not achieving the purposes for which entered into or implemented; or

(2) changes are required to this Act in order to implement fully the obligations of the United States under the Convention;

the Committee may submit a report to the Congress and the President setting forth its recommendations for improving the effectiveness of any such agreement, action, or this Act.

SEC. 6. IMPORT RESTRICTIONS.

(a) DOCUMENTATION OF LAWFUL EXPORTATION.—No designated archaeological or ethnological material that is exported (whether or not such exportation is to the United States) from the State party after the effective date of the regulation listing such material under section 4 may be imported into the United States unless the State party issues a certification or other documentation which certifies that such exportation was not in violation of the laws of the State party.

(b) CUSTOMS ACTION IN ABSENCE OF DOCUMENTATION.—If the consignee of any designated archaeological or ethnological material is unable to present to the customs officer concerned at the time of making entry of such material—

(1) the certificate or other documentation of the State party required under subsection (a); or

(2) satisfactory evidence that such material was exported from the State party—

(A) not less than ten years before the date of such entry and—

(i) no United States citizen or permanent resident of the United States contracted for or acquired an interest, directly or indirectly, in such material during the ten-year period preceding such date of entry, and

(ii) the State party received, or should have received, fair notice of the location of the material by means of exhibition, publication, or other circumstances occurring after its exportation from the State party; or

(B) on or before the effective date of the regulation prescribed under section 4 which lists such material,

the customs officer concerned shall refuse to release the material from customs custody and send it to a bonded warehouse or store to be held at the risk and expense of the consignee, notwithstanding any other provision of law, until such documentation or evidence is filed with such officer. If such documentation or evidence is not presented within ninety days after the date on which such material is refused release from customs custody, or such longer period as may be allowed by the Secretary for good cause shown, the material shall be subject to seizure and judicial forfeiture.

(c) The term "satisfactory evidence" means—

(1) for purposes of subsection (b)(2)(A), one or more declarations under oath by the consignor or shipper and the importer or consignee which state that the material was exported from the State party not less than ten years before the date of entry into the United States, which names those persons having an interest in the material during the ten-year period preceding such date of entry and declares that they are not United States citizens or permanent residents thereof, and which shows compliance with regulations issued by the Secretary with respect to exhibition, publication, or other circumstances relating to fair notice of the location of the material after exportation from the State party, together with certified copies of exporting documentation (including but not limited to bills of sale after exportation, catalogs of dates of exhibition, copies of publication, and export or import documents); and

(2) for purposes of subsection (b)(2)(B), one or more declarations under oath by the consignor or shipper and the importer or consignee which state that the material was exported from the State party on or before the effective date of the regulation prescribed under section 4 which lists such material, together with certified copies of exporting documentation (including, but not limited to, the kind described in paragraph (1)).

SEC. 7. STOLEN CULTURAL PROPERTY.

No article of cultural property appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State party which is stolen from such institution after the effective date of this Act, or after the date of entry into force of the Convention for the State party, whichever date is later, may be imported into the United States.

SEC. 8. TEMPORARY DISPOSITION OF MATERIALS AND ARTICLES SUBJECT TO ACT.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the United States in violation of section 6 or section 7, the Secre-

tary shall, upon application by any museum or other cultural or scientific institution in the United States which is open to the public, permit such material or article to be retained at such institution if the Secretary finds that—

(1) sufficient safeguards will be taken by the institution for the protection of such material or article; and

(2) sufficient bond is posted by the institution to ensure its return to the Secretary.

SEC. 9. SEIZURE AND FORFEITURE.

(a) IN GENERAL.—Any designated archaeological or ethnological material or article of cultural property, as the case may be, which is imported into the United States in violation of section 6 or section 7 shall be subject to seizure and judicial forfeiture. All provisions of law relating to seizure, judicial forfeiture, and condemnation for violation of the customs laws shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as such provisions of law are applicable to, and not inconsistent with, the provisions of this Act.

(b) ARCHAEOLOGICAL AND ETHNOLOGICAL MATERIAL.—Any designated archaeological or ethnological material which is imported into the United States in violation of section 6 and which is forfeited to the United States under this Act shall—

(1) first be offered for return to the State party;

(2) if not returned to the State party, be returned to a claimant with respect to whom the material was forfeited if that claimant establishes—

(A) valid title to the material, or

(B) that the claimant is a bona fide purchaser for value of the material; or

(3) if not returned to the State party under paragraph (1) or to a claimant under paragraph (2), be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

No return of material may be made under paragraph (1) or (2) unless the State party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery of the material, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(c) ARTICLES OF CULTURAL PROPERTY.—(1) In any action for forfeiture under this section regarding an article of cultural property imported into the United States in violation of section 7, if the claimant establishes valid title to the article, under applicable law, as against the institution from which the article was stolen, forfeiture shall not be decreed unless the State party to which the article is to be returned pays the claimant just compensation for the article. In any action for forfeiture under this section where the claimant does not establish such title but establishes that it purchased the article for value without knowledge or reason to believe it was stolen, forfeiture shall not be decreed unless—

(A) the State party to which the article is to be returned pays the claimant an amount equal to the amount which the claimant paid for the article, or

(B) the United States establishes that such State party, as a matter of law or reciprocity, would in similar circumstances recover and return an article stolen from an institution in the United States without requiring the payment of compensation.

(2) Any article of cultural property which is imported into the United States in violation of section 7 and which is forfeited to the United States under this Act shall—

(A) first be offered for return to the State party in whose territory is situated the institution referred to in section 7 and shall be returned if that State party bears the expenses incident to such return and delivery and complies with such other requirements relating to the return as the Secretary prescribes; or

(B) if not returned to such State party, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws.

SEC. 10. EVIDENTIARY REQUIREMENTS.

Notwithstanding the provisions of section 615 of the Tariff Act of 1930 (19 U.S.C. 1615), in any forfeiture proceeding brought under this Act in which the material or article, as the case may be, is claimed by any person, the United States shall establish—

(1) in the case of any material subject to the provisions of section 6, that the material has been listed by the Secretary in accordance with section 4; and

(2) in the case of any article subject to section 7, that the article—

(A) appertains to the inventory of a museum or religious or secular public monument or similar institution in a State party, and

(B) was stolen from such institution after the effective date of this Act, or after the date of entry into force of the Convention for the State party concerned, whichever date is later.

SEC. 11. CERTAIN MATERIAL AND ARTICLES EXEMPT FROM ACT.

The provisions of this Act shall not apply to—

(1) any archaeological or ethnological material or any article of cultural property which is imported into the United States for temporary exhibition or display if such material or article is immune from seizure under judicial process pursuant to the Act entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes", approved October 19, 1965 (22 U.S.C. 2459); or

(2) any designated archaeological or ethnological material or any article of cultural property imported into the United States if such material or article—

(A) has been within the United States for a period of not less than ten consecutive years and has been exhibited for not less than five years during such period in a recognized museum or religious or secular monument or similar institution in the United States open to the public; or

(B) if subparagraph (A) does not apply, has been within the United States for a period of not less than ten consecutive years and the State party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary shall by regulation prescribe) of its location within the United States.

SEC. 12. REGULATIONS.

The Secretary shall prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of this Act.

SEC. 13. ENFORCEMENT.

In the customs territory of the United States, and in the Virgin Islands, the provisions of this Act shall be enforced by appropriate customs officers. In any other territory or area within the United States, but not within such customs territory or the Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated after September 30, 1983, such sums as may be necessary to carry out this Act.

SEC. 15. DEFINITIONS.

For purposes of this Act—

(1) The term "agreement" includes any amendment to, or extension of, any agreement entered into under section 2.

(2) The term "archaeological or ethnological material of the State party" means—

(A) any object of archaeological interest;

(B) any object of ethnological interest; or

(C) any fragment or part of any object referred to in subparagraph (A) or (B);

which was first discovered within, and is subject to export control by, the State party. For purposes of this paragraph—

(i) no object may be considered to be an object of archaeological interest unless such object—

(I) is of cultural significance,

(II) is at least five hundred years old, and

(III) was normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water; and

(ii) no object may be considered to be an object of ethnological interest unless such object is—

(I) the product of a tribal or similar society,

(II) at least fifty years old, and

(III) important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people.

(3) The term "Committee" means the Cultural Property Advisory Committee established under section 5.

(4) The term "consignee" means a consignee as defined in section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).

(5) The term "Convention" means the Convention on the means of prohibiting and preventing the illicit import, export, and transfer of ownership of cultural property adopted by the General Conference of the United Nations Educational Scientific and Cultural Organization at its sixteenth session.

(6) The term "cultural property" includes articles described in article 1 (a) through (k) of the Convention whether or not any such article is specifically designated as such by any State party for the purposes of such article.

(7) The term "designated archaeological or ethnological material" means any archaeological or ethnological material of the State party which is covered by an agreement entered into under section 2(a), or subject to emergency action under section 3, and listed by regulation under section 4.

(8) The term "Secretary" means the Secretary of the Treasury.

(9) The term "State party" means any nation which has ratified, accepted, or acceded to the convention.

(10) The term "United States" includes the several States, the District of Columbia, and any territory or area the foreign relations for which the United States is responsible.

(11) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, association, or other legal entity organized or existing under the laws of any of the United States; or

(C) any department, agency, or entity of the Federal Government or of any government of any of the United States.

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the ninetieth day after the date of the enactment of this Act or on any date which the President shall prescribe and publish in the Federal Register, if such date is—

(1) before such ninetieth day and after such date of enactment; and

(2) after the initial membership of the Committee is appointed.

(b) EXCEPTION.—Notwithstanding subsection (a), the members of the Committee may be appointed in the manner provided for in section 5 at any time after the date of the enactment of this Act.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. CHAPPELL, for September 21, 1982, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARTIN of New York) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 60 minutes, on September 28, 1982.

(The following Members (at the request of Mr. BAILEY of Pennsylvania) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. SCHUMER, for 5 minutes, today.
Mr. WEAVER, for 5 minutes, today.
Mr. CONYERS, for 60 minutes, today.
Mr. DYSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDGAR, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,666.

Mr. AUCOIN, immediately following remarks of Mr. TRAXLER on H.R. 7019 in the Committee of Whole today.

Mr. WIRTH, during debate on H.R. 7019 in the Committee of the Whole today.

Mr. DAUB, in support of H.R. 7072, Agriculture appropriations for fiscal year 1983, in the Committee of the Whole today.

(The following Members (at the request of Mrs. MARTIN of Illinois) and to include extraneous matter:)

Mr. GILMAN in three instances.
Mr. CARMAN.
Mr. FISH.
Mr. WHITEHURST.
Mr. GOODLING in three instances.
Mr. CLINGER.
Mr. MCCLORY.
Mr. PRITCHARD.
Mr. HYDE.
Mr. LENT.
Mr. JEFFORDS.
Mr. LOWERY of California.
Mr. DANNEMEYER.
Mr. PETRI.
Mr. CAMPBELL.
Mr. GREEN.
Mr. DAVIS.
Mr. LIVINGSTON in two instances.
Mr. WOLF.
Mr. BEREUTER.
Mr. DREIER in two instances.
Mrs. HECKLER.

(The following Members (at the request of Mr. BAILEY of Pennsylvania) and to include extraneous matter:)

Mr. STOKES in two instances.
Mr. DINGELL in three instances.
Mr. FORD of Michigan.
Mr. MINETA.
Mr. MAZZOLI.
Mr. PEPPER.
Mr. EDGAR in three instances.
Mr. KASTENMEIER.
Mr. FLORIO.
Mr. NOWAK.
Mr. WOLPE.
Ms. OAKAR.
Mrs. SCHROEDER.
Mr. MCDONALD in five instances.
Mr. LAFALCE.
Mr. GAYDOS.
Mr. DOWNEY.
Mr. BARNES.
Mr. RODINO.
Mr. CONYERS.
Mr. MOTTL.
Mr. DELLUMS in three instances.
Mr. YATRON.
Mr. FASCELL in three instances.
Mr. LUNDINE.
Mr. GEJDENSON.
Mr. WON PAT.
Mr. DYSON.
Mr. ASPIN.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 97. Joint resolution to designate the second full week in October 1982 as "National Legal Secretaries' Court Observance Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1628. An Act to amend the Emergency Fund Act (act of June 26, 1948, 62 Stat. 1052).

ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3517. An Act to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes; and

H.R. 5288. An Act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

ADJOURNMENT

Mr. BAILEY of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 22, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4803. A letter from the Comptroller General of the United States, transmitting his review of the proposed rescission contained in the message from the President dated July 28, 1982 (H. Doc. No. 97-217); review of the rescission, deferral, and revisions to two previously reported deferrals, contained in the message from the President dated August 23, 1982 (H. Doc. No. 97-232), pursuant to sections 1014 (b) and (c) of Public Law 93-344 (H. Doc. No. 97-238); to the Committee on Appropriations and ordered to be printed.

4804. A letter from the Principal Deputy, Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of decision to convert to contractor performance the motor vehicle operations and maintenance function at the Pacific Missile Test Center, Point Mugu, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4805. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction with the National Power Corporation (NPC), the Philippines, exceeding $25,000,000, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4806. A letter from the Assistant Secretary of Legislative Affairs, Department of the Treasury, transmitting a report on the

International Export Credit Negotiations (1981-82) pursuant to section 381(b) of Public Law 97-35; to the Committee on Banking, Finance and Urban Affairs.

4807. A letter from the District of Columbia Auditor, transmitting a report entitled, "DHCD's Involvement in the Bates Street Housing Project," pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

4808. A letter from the president, National Public Radio, transmitting the radio's annual report on its activities; to the Committee on Energy and Commerce.

4809. A letter from the Director, Defense Security Agency, transmitting addenda to the quarterly report on foreign military sales as of June 30, 1982, pursuant to section 36(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4810. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4811. A letter from the Assistant Secretary of State for Congressional Relations, transmitting reports on political contributions made by Ambassador-designate Theodore C. Maino and by Ambassador-designate Everett E. Briggs, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4812. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Spain, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4813. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report regarding studies for flood control on the Alsea River and tributaries, Oreg., in response to a resolution by the Committee on Public Works and Transportation adopted October 5, 1966; to the Committee on Public Works and Transportation.

4814. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Trans-Alaska Pipeline liability fund's financial statements for the year ending December 31, 1981 (GAO/AFMD-82-108, September 21, 1982); jointly, to the Committees on Government Operations, Energy and Commerce, and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BENNETT: Committee on Armed Services. H.R. 7115. A bill to authorize the transfer of nine naval vessels to certain foreign governments (Rept. No. 97-843, Pt. I). Ordered to be printed.

Mr. HALL of Ohio: Committee on Rules. House Resolution 594. A resolution providing for the consideration of H.R. 6173, a bill to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning. (Rept. No. 97-844). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 595. A resolution providing for the consideration of H.R. 6457, a bill to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the national research institutes, and for other purposes. (Rept. No. 97-845). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 596. A resolution providing for the consideration of House Joint Resolution 599, joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes (Rept. No. 97-846). Referred to the House Calendar.

Mrs. CHISHOLM: Committee on Rules. House Resolution 421. A resolution to amend the Rules of the House of Representatives to establish a Select Committee on Children, Youth, and Families; with amendments (Rept. No. 97-847). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 581. A resolution to amend the Rules of the House of Representatives to establish an Office of the Historian in the U.S. House of Representatives (Rept. No. 97-848). Referred to the House Calendar.

Mr. DIXON: Committee on Appropriations. H.R. 7144. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-849). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee Appropriations. H.R. 7145. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1983, and for other purposes. (Rept. No. 97-850). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3252. A bill to establish the Coastal Barrier Resources System, and for other purposes; with an amendment; referred to the Committee on Banking, Finance and Urban Affairs and to the Committee on Public Works and Transportation for a period ending not later than September 22, 1982, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clause 1(d) and (p) of rule X, respectively (Rept. No. 97-841 Pt. I). And ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5133. A bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes; with an amendment; referred to the Committee on Ways and Means for a period ending not later than October 1, 1982, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X. (Rept. No. 97-842, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ZABLOCKI:

H.R. 7143. A bill to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs; to the Committee on Foreign Affairs.

By Mr. DIXON:

H.R. 7144. A bill making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. BEVILL:

H.R. 7145. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. DASCHLE:

H.R. 7146. A bill to amend title 38, United States Code, to establish a presumption of service connection for the disease of chloracne manifesting in veterans who served in Vietnam during the Vietnam era; to the Committee on Veterans' Affairs.

By Mr. FRANK:

H.R. 7147. A bill to amend title XVI of the Social Security Act to provide that eligibility for SSI benefits (and the amount of such benefits), in the case of disabled individuals who are mentally retarded and working in sheltered workshops and in other cases where disabled individuals' incomes are necessarily irregular or spasmodic because of the nature of the disabilities involved, shall be determined on the basis of annual rather than monthly income; to the Committee on Ways and Means.

By Mrs. HECKLER:

H.R. 7148. A bill to provide that States administering needs-related federally assisted programs must verify the income, assets, and eligibility of applicants for and recipients of benefits under such programs by crossmatching them against relevant public records; and to permit any State, upon request, to conduct crossmatches against its own records on behalf of another State; to the Committee on Government Operations.

By Mr. SIMON:

H.R. 7149. A bill to amend the Congressional Budget Act of 1974 to strengthen the budget process, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. WILSON:

H.R. 7150. A bill to provide specific statutory authority under the war powers resolution for the President to involve U.S. Armed Forces in hostilities in Lebanon; to the Committee on Foreign Affairs.

By Mr. YOUNG of Missouri (for himself, Mr. SKELTON, Mr. GEPHARDT, Mr. BEDELL, Mr. BEREUTER, and Mr. VOLKMER):

H.R. 7151. A bill granting the consent of Congress to the negotiation of an interstate compact relating to allocation of the waters of the Missouri River basin; to the Committee on Interior and Insular Affairs.

By Mr. DINGELL (for himself and Mr. BROYHILL) (by request):

H.J. Res. 600. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-manage-

ment dispute, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LOTT:

H.J. Res. 601. Joint resolution to provide for the designation of October 1, 1982, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

By Mr. WOLF (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. ALEXANDER, Mr. ANDERSON, Mr. APPLEGATE, Mr. ATKINSON, Mr. BAFALIS, Mr. BAILEY of Pennsylvania, Mr. BAILEY of Missouri, Mr. BARNARD, Mr. BARNES, Mr. BEARD, Mr. BENEDICT, Mr. BENNETT, Mr. BEREUTER, Mr. BLILEY, Mr. BOLAND, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BOWEN, Mr. BRODHEAD, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BROYHILL, Mr. BUTLER, Mrs. BYRON, Mr. CARMAN, Mr. CHENEY, Mr. CLAUSEN, Mr. COATS, Mr. COELHO, Mr. CONTE, Mr. CONYERS, Mr. CORCORAN, Mr. CORRADA, Mr. JAMES K. COYNE, Mr. CRAIG, Mr. DANIEL B. CRANE, Mr. CROCKETT, Mr. DAN DANIEL, Mr. DANNEMEYER, Mr. DASCHLE, Mr. DAUB, Mr. DE LA GARZA, Mr. DENARDIS, Mr. DERWINSKI, Mr. DICKS, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DORNAN of California, Mr. DOWDY, Mr. DREIER, Mr. DUNCAN, Mr. DYMALLY, Mr. DYSON, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EMERY, Mr. ERDAHL, Mr. EVANS of Iowa, Mr. EVANS of Delaware, Mr. FAUNTROY, Mr. FAZIO, Mrs. FENWICK, Mr. FINDLEY, Mr. FISH, Mr. FITHIAN, Mr. FORD of Tennessee, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUQUA, Mr. GAYDOS, Mr. GILMAN, Mr. GOLDWATER, Mr. GONZALEZ, Mr. GOODLING, Mr. GRAMM, Mr. GUNDERSON, Mr. HAMMERSCHMIDT, Mr. HANCE, Mr. HANSEN of Idaho, Mrs. HECKLER, Mr. HEFTEL, Mrs. HOLT, Mr. HOPKINS, Mr. HORTON, Mr. HOWARD, Mr. HOYER, Mr. HUBBARD, Mr. HYDE, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. KASTENMEIER, Mr. KEMP, Mr. KINDNESS, Mr. KOGOVSEK, Mr. KRAMER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEBOUTILLIER, Mr. LENT, Mr. LEWIS, Mr. LONG of Maryland, Mr. LUNGREN, Mr. MCCURDY, Mr. MADIGAN, Mr. MARRIOTT, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mr. MATSUI, Mr. MAVROULES, Mr. MILLER of California, Mr. MINISH, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOLINARI, Mr. MOLLOHAN, Mr. MOORHEAD, Mr. MURPHY, Mr. MYERS, Mr. NEAL, Mr. NELLIGAN, Mr. NELSON, Mr. OBERSTAR, Mr. O'BRIEN, Mr. OTTINGER, Mr. PARRIS, Mr. PASHAYAN, Mr. PAUL, Mr. PETRI, Mr. PICKLE, Mr. PORTER, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RAHALL, Mr. RAILSBACK, Mr. RATCHFORD, Mr. RHODES, Mr. ROBERTS of South Dakota, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. ROGERS, Mr. ROSE, Mr. ROTH, Mr. SAWYER, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SHAMANSKY, Mr. SHELBY, Mr. SHUMWAY, Mr. SHUSTER, Mr. SILJANDER, Mr. SIMON, Mr. SMITH of Alabama, Mr. SMITH of New Jersey, Mr. SMITH of Pennsylvania, Mrs. SNOWE, Mr. SNYDER, Mr. SPENCE, Mr. STANGELAND, Mr. STARK, Mr. STATON of West Virginia, Mr. STENHOLM, Mr. STOKES, Mr. STUMP, Mr. SUNIA, Mr. SWIFT, Mr. SYNAR, Mr. THOMAS, Mr. TRAXLER, Mr. TRIBLE, Mr. VANDER JAGT, Mr. VENTO, Mr. VOLKMER, Mr. WALGREN, Mr. WAMPLER, Mr. WEBER of Minnesota, Mr. WHITE, Mr. WHITEHURST, Mr. WHITLEY, Mr. WILSON, Mr. WINN, Mr. WON PAT, Mr. WORTLEY, Mr. WYLIE, Mr. ZEFERETTI, Mr. HUGHES, Mr. YOUNG of Missouri, Mr. WASHINGTON, Mr. MARKEY, and Mr. WEBER of Ohio):

H.J. Res. 602. Resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day"; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H. Con. Res. 409. Concurrent resolution regarding the massacre of Palestinians in Lebanon; to the Committee on Foreign Affairs.

By Mr. ANDERSON:

H. Res. 597. Resolution to express the sense of the House of Representatives in support of a prompt settlement of the National Football League strike; to the Committee on Education and Labor.

By Mr. BIAGGI:

H. Res. 598. Resolution to express the sense of the House of Representatives in support of a prompt settlement of the National Football League Players Association strike; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 7152. A bill for the relief of Robert Sewpal Matadial, Bepi Mata Matadial, Majnushri Matadial, and Jayshree Matadial; to the Committee on the Judiciary.

H.R. 7153. A bill for the relief of Hector Sarmiento; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1313: Mr. HYDE.

H.R. 1949: Mr. MARRIOTT, Mr. FIELDS, and Mr. MAVROULES.

H.R. 1981: Mrs. BYRON.

H.R. 3269: Mr. HOYER.

H.R. 3596: Mr. BROWN of Ohio and Mr. ANTHONY.

H.R. 3919: Mr. DIXON.

H.R. 5030: Mr. KOGOVSEK.

H.R. 5162: Mr. SEIBERLING.

H.R. 5238: Mr. CHAPPIE and Mr. DAVIS.

H.R. 5976: Mr. MINETA.

H.R. 6142: Mr. DAUB.

H.R. 6170: Mr. KOGOVSEK and Mr. WALKER.

H.R. 6347: Mr. PRICE and Mr. FOGLIETTA.

H.R. 6538: Mr. MINISH, Mr. HATCHER, Mr. RITTER, Mr. ENGLISH, Mr. HUBBARD, Mr. MURTHA, Mr. DANNEMEYER, Mr. PEASE, Mr. STATON of West Virginia, Mr. RAILSBACK, Mr. FASCELL, Mr. CROCKETT, Mr. PARRIS, Mr. SHUMWAY, Mr. ARCHER, Mr. WON PAT, Mr. BROWN of California, Mr. HANSEN of Utah, Mr. BENEDICT, Mr. WEBER of Ohio, Mr. LEATH of Texas, Mr. CHAPPIE, Mr. KAZEN, Mr. JONES of North Carolina, Mr. BAILEY of Missouri, Mr. DORNAN of California, Mr. PHILIP M. CRANE, Mr. TAYLOR, Mr. MILLER of California, Mr. WEBER of Minnesota, Mr. FAUNTROY, Mr. SKEEN, Mr. WALKER, Mr. HOWARD, Mr. THOMAS, Mr. JONES of Oklahoma, Mr. REUSS, Mr. BUTLER, Mrs. CHISHOLM, Mr. O'BRIEN, Mr. BARNES, Mr. ANTHONY, Mr. HANSEN of Idaho, Mr. NATCHER, Mr. COURTER, Mr. ROSENTHAL, Mr. FRENZEL, Mr. ERDAHL, Mr. MATTOX, Mr. BOLAND, Mr. CHENEY, Mr. SUNIA, Mr. YATRON, Mr. MARKS, Mrs. FENWICK, Mr. ADDABBO, Mr. QUILLEN, Mr. NOWAK, Mr. MAZZOLI, Mr. WEISS, Mr. ROGERS, Mr. VANDER JAGT, Mr. ANDREWS, Mr. SMITH of Oregon, Mr. ANNUNZIO, Mr. MOORHEAD, Mr. BROYHILL, Mr. HARTNETT, Mr. GRISHAM, Mr. NICHOLS, Mr. EMERSON, Mr. LEHMAN, Mr. JACOBS, Mr. WYLIE, Mr. SOLARZ, Mr. PEPPER, Mr. PAUL, Mrs. ASHBROOK, Mr. CONYERS, and Mr. PERKINS.

H.R. 6781: Mr. LEE, Mrs. BOUQUARD, and Mr. WRIGHT.

H.R. 6820: Mr. JEFFORDS.

H.R. 6932: Mrs. COLLINS of Illinois, Mr. PETRI, and Mr. GUARINI.

H.R. 6971: Mr. LUKEN, Mr. PEPPER, Mr. SANTINI, Mr. BOLAND, Mr. VENTO, Mr. MOAKLEY, Mr. YATES, Mr. EDGAR, Mr. LAFALCE, Mr. SABO, Mr. BIAGGI, Mr. LONG of Maryland, Mr. APPLEGATE, Mr. WAXMAN, Mr. YATRON, Ms. OAKAR, Mr. DOUGHERTY, Mr. RAHALL, Mr. WORTLEY, Mr. MICHEL, Mr. SIMON, Mr. BAFALIS, Mr. MITCHELL of Maryland, Mr. EMERY, Mr. DUNCAN, Mr. MOLINARI, Mr. HORTON, Mr. HUGHES, Mrs. CHISHOLM, Mr. RATCHFORD, Mrs. SNOWE, Mr. CLINGER, Mr. SOLARZ, Mr. MINETA, Mr. HANSEN of Idaho, Mr. ROE, Mr. CORRADA, Mr. JEFFORDS, Mr. SMITH of New Jersey, Mr. SHANNON, Mr. FAZIO, and Mr. CLINGER.

H.R. 6989: Mr. DWYER.

H.R. 7041: Mr. JEFFRIES, Mr. DORGAN of North Dakota, Mr. LEACH of Iowa, and Mr. RATCHFORD.

H.J. Res. 486: Mr. QUILLEN.

H.J. Res. 496: Mr. FITHIAN, Mr. PETRI, Mr. WAXMAN, Mr. MINETA, and Mr. HANSEN of Idaho.

H.J. Res. 557: Mr. COURTER.

H.J. Res. 591: Mr. DORGAN of North Dakota, Mr. HYDE, and Mr. WAXMAN.

H.J. Res. 592: Mr. O'BRIEN, Mr. BARNES, Mr. SUNIA, Ms. OAKAR, Mr. FUQUA, Mr. MATSUI, Mr. MITCHELL of New York, Mr. ROE, Mr. HOWARD, Mr. LOWERY of California, Mr. FRENZEL, Mr. KRAMER, Mr. RAHALL, Mr. DAUB, and Mr. HUGHES.

H. Res. 421: Mr. EDWARDS of Alabama, Ms. FIEDLER, Mr. HARTNETT, Mr. HEFNER, Mr. PRITCHARD, Mr. SMITH of Iowa, and Mr. TAUZIN.

H. Res. 506: Mr. SHAMANSKY.

H. Res. 558: Ms. FERRARO, Mr. HARKIN, Mr. FASCELL, Mr. SNYDER, Ms. OAKAR, Mr. SHANNON, and Mr. TRAXLER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

598. By the Speaker: Petition of the City Council, New York, N.Y., relative to compensation for lost revenue on foreign missions and embassies; to the Committee on Government Operations.

599. Also, petition of the City Council, New York, N.Y., relative to H.R. 6211 and S. 1402; highway safety and limiting the size of tractor-trailers; to the Committee on Public Works and Transportation.

600. Also, petition of the Department of Veteran Affairs, I.B.P.O. Elks of the World,

Philadelphia, Pa., relative to the rates of compensation for service-connected disabilities payable to veterans; to the Committee on Veterans' Affairs.

601. Also, petition of Board of Aldermen, Louisville, Ky., relative to a bilateral nuclear freeze; jointly to the Committees on Armed Services and Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

By Mr. FLORIO:

—Page 22, line 16, strike out "subsections (d)(1), (e), and (g) of".

Page 29, after line 2, insert the following:

"(h)(1) The Secretaries of the Interior, Transportation, and Energy and the Administrator of the Environmental Protection Agency shall jointly establish an interagency task force for purpose of carrying out the review and making recommendations to the Commission under this subsection. Such Secretaries and Administrator shall make available to the task force such personnel of their respective departments and agency as the task force deems necessary to carry out its functions under this subsection.

"(2) Whenever an application for a certificate is filed with the Commission under this section, the Commission shall promptly transmit a copy of such application to the interagency task force established pursuant to paragraph (1). Upon receipt thereof, the task force shall review—

"(A) the effects of the proposed pipline and related facilities on water quality at the point of discharge;

"(B) the extent to which solid waste (having the meaning such term has under the Solid Waste Disposal Act) will be disposed of in connection with the operations of the pipeline and the hazards associated with such waste disposal; and

"(C) any other effects which such pipeline may have on public health and the environment.

"(3) Upon request of the interagency task force established pursuant to paragraph (1), the Commission shall make available to the task force any environmental impact statement prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to each application filed under this section or any other environmental assessment prepared with respect to such application.

"(4) Following its review under paragraph (2) with respect to any application for a certificate, the interagency task force established pursuant to paragraph (1) shall report to the Commission on the results of its review and shall make recommendations to the Commission, for inclusion in the certificate, of any terms and conditions which the task force deems necessary to ensure that the proposed pipeline will not—

"(A) create undue adverse effects on water quality at the point of discharge;

"(B) result in solid waste disposal which presents an unreasonable risk to public health or the environment; and

"(C) present an unreasonable likelihood of releases of my material from the pipeline or related facilities which may endanger public health or the environment.

"(5) No application may be approved under this section until the task force established pursuant to paragraph (1) has completed its review with respect to such application and submitted the results of such review and its recommendations to the Commission."

—Page 23, line 23, strike out "and".

Page 23, line 24, strike out the period and insert in lieu thereof a comma and the following: "and (D) requiring the holder of the certificate not to enter into any contract or other agreement for the transportation of coal by the coal pipeline to any State regulated electric utility until the State regulatory agency having ratemaking authority over such utility certifies, in writing, to the Commission that the proposed contract or agreement would further the interests of the electric consumers of such utility.".

—Page 23, line 23, strike out "and".

Page 23, line 24, strike out the period and insert in lieu thereof the following: ", and (D) establishing a maximum allowable cost for the construction of the coal pipeline or extension. For purposes of the preceding sentence, maximum allowable cost shall be exclusive of any cost increase that results from subsequent inflation or an unanticipated grave, natural disaster or other natural phenomenon of an exceptional, inevitable, and unavoidable character.".

Page 37, after line 5, insert the following:

"(g) The commission may not approve under this section any contract for the transportation of coal by a pipeline with respect to which a certificate is issued under section 10952 of this subchapter if, under such contract, the holder of such certificate would recover any costs for construction of the pipeline or any extension thereof which exceed the maximum allowable costs established under subsection (b)(3) of such section for construction of the pipeline or extension.".

Page 37, line 6, strike out "(g)" and insert in lieu thereof "(h)".

Page 37, line 12, strike out "(h)" and insert in lieu thereof "(i)".

Page 37, line 16, strike out "(i)" and insert in lieu thereof "(j)".

Page 38, line 1, strike out "(j)" and insert in lieu thereof "(k)".

Page 38, line 8, strike out "(k)" and insert in lieu thereof "(l)".

Page 43, after line 10, insert the following:

(f)(1) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10752. Prohibition against recovery of certain construction costs by coal pipeline carriers

"A common carrier providing transportation of coal by a pipeline with respect to which a certificate is issued under section 10952 of this title may not establish or charge any rate for providing such transportation which would result in the recovery by such carrier of any costs for construction of the pipeline or any extension thereof which exceeds the maximum allowable costs established under subsection (b)(3) of such section for construction of the pipeline or extension.".

(2) The analysis for chapter 107 of title 49, United States Code, is amended by inserting

"10752. Prohibition against recovery of certain construction costs by coal pipeline carriers."

after

"10751. Business entertainment expenses.".

—Page 40, after line 13 insert the following:

"§ 10959. Financing

"A purchaser, consumer, or user (including an electric utility) of coal to be transported through a coal pipeline with respect to which a certificate is issued under section 10952 of this subchapter shall not, through use of a tariff or otherwise, require a customer of theirs to pay a fee, surcharge, or other payment relating to the coal pipeline at any time prior to the receipt of coal delivered through the pipeline.

Page 40, line 14, strike out "10959" and insert in lieu thereof "10960".

Page 42, after line 9, strike out

"10959. Definitions.".

and insert in lieu thereof

"10959. Financing.

"10960. Definitions.".

H.R. 5540

By Mr. BETHUNE:

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1991".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1990".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1989".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1988".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1986".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1985".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

—Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1992".

—Page 25, line 5, strike out "small- and medium-sized business, as defined by the Secretary of Commerce" and insert in lieu thereof the following: "small businesses as defined by the Administrator of the Small Business Administration.".

—Page 27, after line 20, insert the following:

"(3) No assistance may be extended under this subsection unless the Secretary of Commerce, in consultation with the Secretary of the Treasury, determines that any assistance to an applicant will enhance that applicant's procurement of credit for business ventures outside the territory of the United States."

—Page 27, after line 20, insert the following:

"(3) No assistance may be extended under this subsection to any business entity with annual gross sales in excess of $1,000,000,000 or to any business entity owned in whole or in part by a business entity with annual gross sales in excess of $1,000,000,000."

—Page 27, after line 20, insert the following:

"(3) No loan, loan guarantee or commitment for loan guarantee can be made under this section unless the Secretary of Defense compares the advantage of alternate technologies on the bases of costs and benefits."

—Page 27, after line 20, insert the following:

"(3) Assistance under this subsection shall be provided only to small businesses, as defined by the Administrator of the Small Business Administration, unless the President transmits to Congress a formal notification that the interests of national defense require an exception to this limitation".

—Page 28, line 17, strike out "relocating from one area to another".

—Page 30, after line 10, insert the following:

"(h) No assistance may be extended under provision of subsection (d) unless the Secretary of Interior determines that such assistance will create no negative affect on water resources and other land resources."

Redesignate the following subsections accordingly.

—Page 51, after line 9 insert the following:

"(g) No assistance shall be extended under this section unless the Secretary of Defense determines that the purposes of this Act cannot be otherwise achieved."

—Page 51, after line 9 insert the following:

"(g) No assistance shall be extended under this section unless the Secretary of Commerce determines that the purposes of this Act cannot be otherwise achieved."

—Page 51, after line 9, add the following:

"(g) Whenever the President determines that such action is necessary or appropriate to prevent or control high interest rates, or reduce unemployment in any sector of the economy, or to prevent or control inflation or recession, the President may authorize the Board of Governors of the Federal Reserve System or the Secretary of the Treasury to regulate or control any or all extensions of credit (loans, loan guarantees or commitments for loan guarantees) authorized under this Act."

By Mr. LAFALCE:

—Page 51, after line 9, insert the following:

(g) The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following:

"SEC. 721. (a) The Congress finds that—

"(1) the Nation's defense industrial base is threatened by the recent productivity growth rate trends in the United States; and

"(2) improved productivity will strengthen the domestic capability and capacity of the Nation's defense industrial base.

"(b) The President shall call a White House Conference on Productivity not later than one year after the date of enactment of this section in order to develop recommendations to stimulate the Nation's productivity improvement rate and to communicate to the public those productivity improvement techniques that have already been proven to be successful.

"(c) The President shall render all reasonable assistance to groups and organizations which are conducting district, State, or regional productivity conferences in preparation for the White House Conference on Productivity.".

H.R. 6211

By Mr. HOWARD:

(Amendment in the nature of a substitute.)

—At the end of the bill, add the following new title:

TITLE V—HIGHWAY REVENUE ACT OF 1982

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1982".

SEC. 502. 1-YEAR EXTENSION OF THE TAXES WHICH ARE TRANSFERRED INTO THE HIGHWAY TRUST FUND.

(a) GENERAL RULE.—The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1984" each place it appears and inserting in lieu thereof "1985":

(1) Section 4041(e) (relating to rate reduction).

(2) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(3) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

(4) Section 4071(d) (relating to imposition of tax on tires and tubes).

(5) Section 4081(b) (relating to imposition of tax on gasoline).

(6) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(7) Section 4481(e) (relating to period tax in effect).

(8) Section 4482(c)(4) (defining taxable period).

(9) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

(10) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or local transit systems).

(b) AMENDMENT OF SECTION 6412(a)(1).—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

(1) by striking out "1985" each place it appears and inserting in lieu thereof "1986"; and

(2) by striking out "1984" each place it appears and inserting in lieu thereof "1985".

SEC. 503. 1-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsections (c), (e)(1), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to Highway Trust Fund; 23 U.S.C. 120 note) is amended—

(1) by striking out "1985" each place it appears and inserting in lieu thereof "1986"; and

(2) by striking out "1984" each place it appears and inserting in lieu thereof "1985".

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C 4601-11) is amended—

(1) by striking out "1985" each place it appears and inserting in lieu thereof "1986"; and

(2) by striking out "1984" and inserting in lieu thereof "1985".

SEC. 504. 2-YEAR EXTENSION OF REFUND OF TAXES ON FUELS USED IN TAXICABS.

Paragraph (3) of section 6427(e) of the Internal Revenue Code of 1954 (relating to use in certain taxicabs) is amended by striking out "December 31, 1982" and inserting in lieu thereof "December 31, 1984".

By Mr. NEAL:

(Amendment in the nature of a substitute.)

—Page 52, after line 7, insert the following:

SEC. 141. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 157. REALIGNMENT OF CERTAIN INTERSTATE ROUTES.

"(a) Upon request of a Governor of a State, the Secretary may approve any construction project for realignment of any route or portion thereof on the Interstate System constructed and open for traffic before the date of enactment of this section (1) if such project is applied for in lieu of a construction project for upgrading such route or portion, (2) if the costs of the proposed upgrading project are included in the latest interstate cost estimate approved by Congress, (3) if the proposed upgrading project is eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, (4) if the proposed upgrading project requires upgrading of interchanges, replacement of bridges, construction of additional lanes on such route or portion, and acquisition of any public park land or historic property or site under Federal or State law, and (5) if approval of the project for realignment would not be greater in length of mileage than the length of mileage of the existing route or portion thereof to be replaced by the realignment route or portion.

"(b) The costs of construction for a project for realignment of a route or portion thereof on the Interstate System approved under this section shall be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956, as amended, as if such project were included in the latest interstate cost estimate; except that the amount of Federal funds available for expenditure on such project shall not exceed the Federal share of the cost of the project for upgrading the existing route or portion thereof of the Interstate System, as that cost is included in the latest interstate estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the upgrading project.

"(c) Upon approval of a project for realignment under this section, any funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of title 23, United States Code, and other eligible Federal-aid highway funds may be substituted in lieu thereof at the appropriate Federal share.

"(d) Upon approval of a project for realignment under this section, the Secretary shall remove from designation as a part of the Interstate System the existing route or portion thereof to be replaced by the realigned route or portion thereof and, notwithstanding section 103(e)(4) of this title, shall designate as a part of the Interstate System the realigned route or portion.

"(e) Any route designated as a part of the Interstate System under this section shall

not be eligible for withdrawal under section 103(e)(4) of this title.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Realignment of certain Interstate routes.".

By Mrs. SMITH of Nebraska:

(Amendments to the amendment in the nature of a substitute.)

—Page 9, line 23, insert "(1)" after "priority to".

Page 10, line 2, after the comma insert the following: "and (2) projects authorized by section 130 of this title which will alleviate the environmental, social, and economic impact of substantial or increased train traffic to meet national energy requirements in communities located along rail corridors incurring such traffic,"

Page 10, after line 3, insert the following:

(b) Section 120(d) of title 23, United States Code, is amended by adding at the end thereof the following: "The Federal share payable on account of any project authorized by section 130 of this title which the secretary determines, at the request of any State, will alleviate the environmental, social, and economic impact of substantial or increased train traffic to meet national energy requirements in communities located along rail corridors incurring such traffic shall in no event be less than 85 per centum of the cost of construction of such project.".

Page 10, line 4, strike out "(b)" and insert in lieu thereof "(c)".

H.J. RES. 599

By Mr. SMITH of Iowa:

—On page 5, line 11, prior to the colon, insert the following: "or at a rate not exceeding the current rate whichever is lower and under the terms and conditions provided in applicable Acts for fiscal year 1982".

89-059 O-86-20 (Pt. 18)

SENATE—*Tuesday, September 21, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Hear O Israel, the Lord our God is one Lord. And thou shalt love the Lord thy God with all thine heart and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart; and thou shalt teach them diligently unto thy children * * *—Deuteronomy 6: 4–7.

Kind Heavenly Father, when all is said and done, how we handled our responsibility as husbands and fathers will be the measure of our success in life. If we succeed as Senators and fail as fathers we have failed. As the family, so goes the Nation—if we lose the family, we cannot save the Nation.

Help us, dear God, to get our priorities straight. Help us to see that our children are not impressed with our ratings in the polls, that we may fool the people, and we may fool ourselves. But we do not fool our children and certainly we do not fool Thee.

Gracious God, show us the way home. In the name of Thy Son, the ever-living One. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TIME FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, yesterday, I did not ask the Senate to agree to a time for the transaction of routine morning business today because of the possibility, the remote possibility, that the Senate would be able to turn its attention to the railroad bill at an early hour. That does not appear feasible. It was my hope, indeed my expectation, that we would be able to deal with the railroad matter sometime today, but it now appears it will be late today. In view of that, I now ask unanimous consent that, after the recognition of the two leaders under the standing order and the execution of the special order in favor of the Senator from Georgia, there be a period for the transaction of routine morning business not to extend past the hour of 11:30 a.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TODAY FROM 12 NOON TO 2 P.M.

Mr. BAKER. Mr. President, today is Tuesday and, as all of my colleagues on both sides of the aisle will agree, but perhaps others may not be aware, on Tuesdays, there are caucuses of Senators of both parties held separately outside the Chamber.

Those caucuses have come to be important in terms of future positions of policy to be debated and adopted by the Senate. In deference to their importance, we have in the past provided for a time for the Senate to be in recess so Members may attend the caucuses. I ask unanimous consent now, Mr. President, that today, the Senate stand in recess from the hour of 12 noon until 2 p.m. for that purpose.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, the unfinished business is the debt limit legislation. A cloture motion has been filed and, by unanimous consent, that vote will occur at 2:30 p.m. today. The mandatory quorum under the rule was waived by unanimous consent order. Of course, Senators should be aware that, at 2:30 p.m., without a preceding quorum, we shall go directly to the vote on cloture against further debate on the Helms amendment dealing with court jurisdiction over cases involving prayer in public institutions. When the Senate resumes consideration of House Joint Resolution 520, at the end of the period for the transaction of routine morning business, by previous order, the Senator from Montana (Mr. BAUCUS) will be first recognized to resume debate. At that time, the Baucus amendment, No. 2040, will be pending.

Mr. President, if cloture is invoked today, I anticipate that the Senate will be in late, very late. If cloture is not invoked, this decision will be held in abeyance until we ascertain the wishes of the managers on both sides and the productivity that might result from a late session. In either event, Senators should be on notice of the strong possibility that the Senate will be in past the usual recess or adjournment hour of 6 p.m. I shall try to have another announcement on that as soon as possible, but it probably will not be before the vote at 2:30 p.m.

(Mr. ABDNOR assumed the chair.)

Mr. BAKER. Mr. President, I may say that I have not yet had an opportunity to talk to the chairman or ranking member of the committee holding hearings on the railroad legislation today. I shall do that in a moment. If there is some possibility that the Senate could turn to the consideration of the railroad bill between 12 noon and 2 p.m., it would be my inclination to vitiate the order for the recess in order for the managers of the bill to present that to the Senate during that period. I shall not now do that, but I shall consult with the responsible Senators. Senators may then anticipate that further request might be made.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. I am glad the majority leader has indicated that if the railroad legislation is ready for Senate action during the hours between 12 noon and 2 p.m., the Senate may indeed proceed to the consideration of that legislation during those hours. I think it is important that the Senate act fast and I thank the majority leader for alerting Members on both sides of the aisle about what he had just said, that indeed, the conferences may be interrupted and that, in any event, if the legislation is ready and the managers are ready, the Senate will proceed.

Mr. BAKER. I thank the Senator.

Mr. President, I agree with that, and I will make it my business to consult with the Senators who are conducting that hearing on this side and find out what their outlook is.

Mr. President, I have no further need for my time under the standing order, and I offer it to the minority leader if he wishes.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I will accept the time.

Does the Senator from Wisconsin wish me to yield time to him?

Mr. PROXMIRE. I would appreciate the time.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

LESSONS FROM THE CUBAN MISSILE CRISIS ON HOW TO AVOID A NUCLEAR HOLOCAUST

Mr. PROXMIRE. Mr. President, six of former President John F. Kennedy's top assistants have written an excellent brief essay that appeared in the most recent issue of Time magazine on the lessons this country should learn from the Cuban missile crisis. As the world moves ever closer to the grim possibility of nuclear war, these wise words on how this Nation avoided its closest brush with nuclear catastrophe provide extraordinarily useful advice.

The authors are Dean Rusk, Robert McNamara, George Ball, Roswell Gilpatric, Theodore Sorensen, and McGeorge Bundy.

Here is one sentence for each of the nine lessons they believe this country should have learned:

First: The importance of accurate and mutual assessment of interests between the two superpowers is evident and continuous.

Second: When the importance of accurate information for a crucial policy decision is high enough, risks not otherwise acceptable in collecting intelligence can become profoundly prudent.

Third: Americans should always respect the need for a period of confidential and careful deliberation in dealing with a major international crisis.

That means we should hold our fire, it seems to me, in criticizing the President when he has to deal with an international crisis.

Fourth: The Cuban missile crisis illustrates not the significance but the insignificance of nuclear superiority in the face of survivable thermonuclear retaliatory forces. It also shows the crucial role of rapidly available conventional strength.

This is something we certainly should not ignore. It is not the nuclear power we have but the conventional power that gives us the ability to avoid nuclear war under those dangerous circumstances.

Fifth: Effective communication is never more important than when there is a military confrontation.

That means communication between this country, a superpower, and the Soviet Union.

Sixth: There are times when a display of hard evidence is more valuable than protection of intelligence techniques.

Seventh: It is wrong in relations between superpowers for either side to leave the other with no way out but war or humiliation.

In that case, as we know, we agreed to withdraw our missiles from Turkey if the Soviet Union would withdraw its missiles from Cuba. We were going to withdraw our missiles from Turkey anyway, but it gave them an international face-saving action.

Eighth: When it will help your own country for your adversary to know your subtle intentions, you should find effective ways of making sure that he does, and a secret assurance is justified when (a) you can keep your word, and (b) no other course can avoid grave damage to your country's legitimate interests.

In this case, President Kennedy assured the Soviet Union we would not invade Cuba. We did not intend to invade them anyway, but that assurance was very helpful in achieving the withdrawal of the Soviet missiles.

Ninth: In any crisis involving the superpowers, firm control by the heads of both governments is essential to the avoidance of an unpredictably escalating conflict.

Mr. President, I ask unanimous consent that the full text of the Time essay be printed in the RECORD at this point.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE LESSONS OF THE CUBAN MISSILE CRISIS

For 13 chilling days in October 1962, it seemed that John F. Kennedy and Nikita S. Khrushchev might be playing out the opening scenes of World War III. The Cuban missile crisis was a uniquely compact moment of history. For the first time in the nuclear age, the two superpowers found themselves in a sort of moral road test of their apocalyptic powers.

The crisis blew up suddenly. The U.S. discovered that the Soviet Union, despite repeated and solemn denials, was installing nuclear missiles in Cuba. An American U-2 spy plane came back with photographs of the bases and their support facilities under construction: clear, irrefutable evidence. Kennedy assembled a task force of advisers. Some of them wanted to invade Cuba. In the end, Kennedy chose a course of artful restraint; he laid down a naval quarantine. After six days, Khrushchev announced that the Soviet missiles would be dismantled.

The crisis served some purposes. The U.S. and the Soviet Union have had no comparable collision since then. On the other hand, the humiliation that Khrushchev suffered may have hastened his fall. The experience may be partly responsible for both the Soviet military buildup in the past two decades and whatever enthusiasm the Soviets have displayed for nuclear disarmament.

Now, on the 20th anniversary of the crisis, six of Kennedy's men have collaborated on a remarkable joint statement on the lessons of that October. It contains some new information, particularly in Point Eight, and at least one of their conclusions is startling and controversial: their thought that, contrary to the widespread assumption of the past two decades, the American nuclear superiority over the Soviets in 1962 had no crucial influence with Washington or Moscow at the time—and that in general, nuclear superiority is insignificant.

The authors are Dean Rusk, then Secretary of State; Robert McNamara, Secretary of Defense; George W. Ball, Under Secretary of State; Roswell L. Gilpatric, Deputy Secretary of Defense; Theodore Sorensen, special counsel to the President; and McGeorge Bundy, special assistant to the President for national security affairs. Their analysis:

In the years since the Cuban missile crisis, many commentators have examined the affair and offered a wide variety of conclusions. It seems fitting now that some of us who worked particularly closely with President Kennedy during that crisis should offer a few comments, with the advantages both of participation and of hindsight.

First: The crisis could and should have been avoided. If we had done an earlier, stronger and clearer job of explaining our position on Soviet nuclear weapons in the Western Hemisphere, or if the Soviet government had more carefully assessed the evidence that did exist on this point, it is likely that the missiles would never have been sent to Cuba. The importance of accurate mutual assessment of interests between the two superpowers is evident and continuous.

Second: Reliable intelligence permitting an effective choice of response was obtained only just in time. It was primarily a mistake by policymakers, not by professionals, that made such intelligence unavailable sooner. But it was also a timely recognition of the need for thorough overflight, not without its hazards, that produced the decisive photographs. The usefulness and scope of inspection from above, also employed in monitoring the Soviet missile withdrawal, should never be underestimated. When the importance of accurate information for a crucial policy decision is high enough, risks not otherwise acceptable in collecting intelligence can become profoundly prudent.

Third: The President wisely took his time in choosing a course of action. A quick decision would certainly have been less carefully designed and could well have produced a much higher risk of catastrophe. The fact that the crisis did not become public in its first week obviously made it easier for President Kennedy to consider his options with a maximum of care and a minimum of outside pressure. Not every future crisis will be so quiet in its first phase, but Americans should always respect the need for a period of confidential and careful deliberation in dealing with a major international crisis.

Fourth: The decisive military element in the resolution of the crisis was our clearly available and applicable superiority in conventional weapons within the area of the crisis. U.S. naval forces, quickly deployable for the blockade of offensive weapons that was sensibly termed a quarantine, and the availability of U.S. ground and air forces sufficient to execute an invasion if necessary, made the difference. American nuclear superiority was not in our view a critical factor, for the fundamental and controlling reason that nuclear war, already in 1962, would have been an unexampled catastrophe for both sides; the balance of terror so eloquently described by Winston Churchill seven years earlier was in full operation. No one of us ever reviewed the nuclear balance for comfort in those hard weeks. The Cuban missile crisis illustrates not the significance but the insignificance of nuclear superiority

in the face of survivable thermonuclear retaliatory forces. It also shows the crucial role of rapidly available conventional strength.

Fifth: The political and military pressure created by the quarantine was matched by a diplomatic effort that ignored no relevant means of communication with both our friends and our adversary. Communication to and from our allies in Europe was intense, and their support sturdy. The Organization of American States gave the moral and legal authority of its regional backing to the quarantine, making it plain that Soviet nuclear weapons were profoundly unwelcome in the Americas. In the U.N., Ambassador Adlai Stevenson drove home with angry eloquence and unanswerable photographic evidence the facts of the Soviet deployment and deception.

Still more important, communication was established and maintained, once our basic course was set, with the government of the Soviet Union. If the crisis itself showed the cost of mutual incomprehension, its resolution showed the value of serious and sustained communication, and in particular of direct exchanges between the two heads of government.

When great states come anywhere near the brink in the nuclear age, there is no room for games of blindman's buff. Nor can friends be led by silence. They must know what we are doing and why. Effective communication is never more important than when there is a military confrontation.

Sixth: This diplomatic effort and indeed our whole course of action were greatly reinforced by the fact that our position was squarely based on irrefutable evidence that the Soviet government was doing exactly what it had repeatedly denied that it would do. The support of our allies and the readiness of the Soviet government to draw back were heavily affected by the public demonstration of a Soviet course of conduct that simply could not be defended. In this demonstration no evidence less explicit and authoritative than that of photography would have been sufficient, and it was one of President Kennedy's best decisions that ordinary requirements of secrecy in such matters should be brushed aside in the interest of persuasive exposition. There are times when a display of hard evidence is more valuable than protection of intelligence techniques.

Seventh: In the successful resolution of the crisis, restraint was as important as strength. In particular, we avoided any early initiation of battle by American forces, and indeed we took no action of any kind that would have forced an instant and possibly ill-considered response. Moreover, we limited our demands to the restoration of the status quo ante, that is, the removal of any Soviet nuclear capability from Cuba. There was no demand for "total victory" or "unconditional surrender." These choices gave the Soviet government both time and opportunity to respond with equal restraint. It is wrong, in relations between the superpowers, for either side to leave the other with no way out but war or humilation.

Eighth: On two points of particular interest to the Soviet government, we made sure that it had the benefit of knowing the independently reached positions of President Kennedy. One assurance was public and the other private.

Publicly we made it clear that the U.S. would not invade Cuba if the Soviet missiles were withdrawn. The President never shared the view that the missile crisis should be "used" to pick a fight to finish with Castro, he correctly insisted that the real issue in the crisis was with the Soviet government, and that the one vital bone of contention was the secret and deciet-covered movement of Soviet missiles into Cuba. He recognized that an invasion by U.S. forces would be bitter and bloody, and that it would leave festering wounds in the body politic of the Western Hemisphere. The no-invasion assurance was not a concession, but a statement of our own clear preference—once the missiles were withdrawn.

The second and private assurance—communicated on the President's instructions by Robert Kennedy to Soviet Ambassador Anatoli Dobrynin on the evening of Oct. 27—was that the President had determined that once the crisis was resolved, the American missiles then in Turkey would be removed. (The essense of this secret assurance was revealed by Robert Kennedy in his 1969 book Thirteen Days, and a more detailed account drawn from many sources but not from discussion with any of us was published by Arthur M. Schlesinger Jr., in Robert Kennedy and His Times in 1978. In these circumstances, we think it is now proper for those of us privy to that decision to discuss the matter.) This could not be a "deal"—our missiles in Turkey for theirs in Cuba—as the Soviet government had just proposed. The matter involved the concerns of our allies, and we could not put ourselves in the position of appearing to trade their protection for our own. But in fact President Kennedy had long since reached the conclusion that the outmoded and vulnerable missiles in Turkey should be withdrawn. In the spring of 1961 Secretary Rusk had begun the necessary discussions with high Turkish officials. These officials asked for delay, at least until Polaris submarines could be deployed in the Mediterranean. While the matter was not pressed to a conclusion in the following year and a half, the missile crisis itself reinforced the President's convictions. It was entirely right that the Soviet government should understand this reality.

This second assurance was kept secret because the few who knew about it at the time were in unanimous agreement that any other course would have had explosive and destructive effects on the security of the U.S. and its allies. If made public in the context of the Soviet proposal to make a "deal," the unilateral decision reached by the President would have been misread as an unwilling concession granted in fear at the expense of an ally. It seemed better to tell the Soviets the real position in private, and in a way that would prevent any such misunderstanding. Robert Kennedy made it plain to Ambassador Dobrynin that any attempt to treat the President's unilateral assurance as part of a deal would simply make that assurance inoperative.

Although for separate reasons neither the public not the private assurance ever became a formal commitment of the U.S. Government, the validity of both was demonstrated by our later actions; there was no invasion of Cuba, and the vulnerable missiles in Turkey (and Italy) were withdrawn, with allied concurrence, to be replaced by invulnerable Polaris submarines. Both results were in our own clear interest, and both assurances were helpful in making it easier for the Sovet government to decide to withdraw its missiles.

In part this was secret diplomacy, including a secret assurance. Any failure to make good on that assurance would obviously have had damaging effects on Soviet-American relations. But it is of critical importance here that the President gave no assurance that went beyond his own presidential powers; in particular he made no commitment that required congressional approval or even support. The decision that the missiles in Turkey should be removed was one that the President had full and unquestioned authority to make and execute.

When it will help your own country for your adversary to know your settled intentions, you should find effective ways of making sure that he does, and a secret assurance is justified when a) you can keep your word, and b) no other course can avoid grave damage to your country's legitimate interests.

Ninth: the gravest risk in this crisis was not that either head of government desired to initiate a major escaluation but that events would produce actions, reactions or miscalculations carrying the conflict beyond the control of one or the other or both. In retrospect we are inclined to think that both men would have taken every possible step to prevent such a result, but at the time no one near the top of either government could have that certainty about the other side. In any crisis involving the superpowers, firm control by the heads of both governments is essential to the avoidance of an unpredictably escalating conflict.

Tenth: the successful resolution of the Cuban missile crisis was fundamentally the achievement of two men, John F. Kennedy and Nikita S. Khrushchev. We know that in this anniversary year John Kennedy would wish us to emphasize the contribution of Khrushchev; the fact that an earlier and less prudent decision by the Soviet leader made the crisis inevitable does not detract from the statesmanship of his change of course. We may be forgiven, however, if we give the last and highest word of honor to our own President, whose cautious determination, steady composure, deep-seated compassion and, above all, continuously attentive control of our options and actions brilliantly served his country and all mankind.

MASSACRES OF MAYA INDIANS REMIND OF POTENTIAL FOR GENOCIDE IN THE WORLD

Mr. PROXMIRE. Mr. President, recently I had the chance to read an article which describes the gruesome massacres of the Maya Indians which took place in Guatemala since the regime of Gen. Efraim Rios Montt came to power in March. The article was written by Marlise Simons and published in the New York Times on Wednesday, September 15, 1982. The article serves to remind us of the horror of widespread killing and the potential for genocide which exists in the world today.

The Maya Indians make up at least one half of Guatemala's population, which numbers 7 million; because many Indian communities support, or are members of, the guerrilla movement they are the primary targets for the regime's counterinsurgency program. Although the Government's program includes civic action, it depends heavily on military operations. According to the article, the Government's new program "includes herding

thousands of Indian villagers into army-controlled zones."

Although the Government of Guatemala has attempted to improve its world image, widespread killing nonetheless continues with the victims often being women and children. It is true that the guerrillas are guilty of killing too, but it has been reported that they assault individual enemies rather than slaughtering entire families as does the Guatemalan Army.

The journalist describes an incident which took place at Las Pacayas, Guatemala. On the morning of June 11 men dressed in civilian clothes went through, shooting into huts and setting them on fire. This particular campaign resulted in the deaths of at least 60 men, women, and children.

Another massacre occurred on July 14 in the village of Petenac and, according to workers in the Roman Catholic Church, resulted in the death of 89 people. The journalist quotes a document prepared by them as saying, "* * * the soldiers escorted the men into a house, stabbed and shot them, piled them on top of each other, sprinkled them with gasoline and set them on fire." The soldiers also slaughtered the women in like fashion and burned children.

Mr. President, the horror of such methodical widespread killing is difficult to contemplate. Such incidents should caution us; they should teach us, as part of the world community, to be on guard against the possibilities of genocide. Since 1967 I have pressed my colleagues here in the Senate to ratify the Genocide Convention because the destruction of any ethnic group is cause of international concern. Mr. President, I call on the United States to ratify this treaty officially and join with over 80 nations in their stand against genocide.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The leader has 9 minutes remaining.

Mr. ROBERT C. BYRD. I have 9 minutes remaining. I thank the Chair.

AMENDMENTS AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I make the following parliamentary inquiry: How many amendments are there at the desk in the event cloture is invoked?

The PRESIDING OFFICER. There are 1,379 amendments.

Mr. ROBERT C. BYRD. 1,379 amendments. I thank the Chair.

I yield the remainder of my time to Mr. CHILES.

Mr. CHILES. I thank the minority leader.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, for over 4 months now, Senator NUNN and I have come to the floor of the Senate every day to speak out on crime, and to urge the Senate to move on the anticrime bills now pending on the Senate calendar.

Today, I would like to share an editorial which appeared this past weekend in the Tampa Tribune with my colleagues, It talks about the need for reform in one aspect of our criminal justice system: habeas corpus laws. The editorial is entitled "Stop the Murderers' Merry-Go-Round" and it reads like this:

Florida offers an excellent agrument to support the controversial anticrime measure that President Reagan sent to Congress last week.

One provision would limit the Federal courts' consideration of "habeas corpus" petitions which seek to overturn State court convictions on constitutional grounds.

The bill supported by Mr. Reagan would bar consideration of any issue the defense didn't attempt to raise in State courts. In addition, it would cut off petitions to Federal courts 1 year after efforts to reverse convictions are exhausted in State courts.

Currently, petitions are unlimited and flow like endless rivers, inundating Federal judges.

Virtually at the same time the President's anticrime bill was handed to lawmakers, the 11th Circuit Court of Appeals in Atlanta gave convicted murderer Charles William Proffitt of Tampa a new lease on life. It ordered Florida to convene a 12-member jury to consider evidence and render a new verdict either for or against his execution.

Proffitt, ruled the appellate court, was denied his constitutional rights during the penalty stage of his original trial because he did not have a chance to confront and cross examine psychiatrists who testified regarding his inclination toward violence.

Proffitt was convicted by a Tampa jury on March 17, 1974, for the July 10, 1973, murder of Joel Ronnie Medgebow, a Robinson High School wrestling coach, during a burglary. Medgebow was stabbed to death with a bread knife while his wife slept beside him in their Beach Park area apartment.

The jury recommended the death penalty for Proffitt and the judge agreed. But the last 8 years, that sentence has been thwarted by numerous appeals which have reached all the way to the U.S. Supreme Court.

In fact, the Proffitt case became a landmark in 1976 when the U.S. Supreme Court cited it in upholding Florida's revised death penalty law, which became a model for new capital punishment laws in the United States. The law requires a separate jury hearing on the penalty—life or death—after a conviction of first degree murder.

However, the privilege of unlimited petition has kept Proffitt's case on a judicial merry-go-round. His appeals have been rejected by the Florida Supreme Court twice. The U.S. Supreme Court has twice turned aside his petitions for a rehearing, and the Governor and the State cabinet have denied his pleas for clemency on two occasions.

Governor Graham signed a death warrant for Proffitt June 16, 1979, but his attorneys obtained a stay of execution from U.S. Judge W. Terrell Hodges in Tampa on the now-familiar plea that his trial lawyer was "ineffective". Judge Hodges referred the case to Magistrate Thomas G. Wilson for a hearing and recommendation.

A year later Wilson recommended that Proffitt be given a new jury hearing on whether he deserved a death sentence. Judge Hodges rejected the recommendation and lifted the stay of execution.

Proffitt's attorneys then rushed to the 11th Circuit Court for relief and found it, at least for the present. If a second jury hearing results in another death penalty, it can be expected that the defense will file a further appeal to block Proffitt's execution.

This repetitious process of appeal has made a mockery of this State's capital punishment laws. Logic argues strongly that there be a point beyond which a conviction and sentence cannot be further contested. The defendant's day in court should not be extended to a lifetime of appeals.

Florida's death row houses criminals guilty of exceedingly gruesome crimes, but under prevailing law and judicial procedure, they can delay their punishment indefinitely. President Reagan's proposed changes in the law would help correct this situation, and establish a reasonable time frame for Federal court reconsideration of convictions within the State courts.

It is significant that Florida Senator Lawton Chiles is also sponsoring a habeas corpus reform bill with Senator Strom Thurmond, the chairman of the Senate Judiciary Committee. Where President Reagan seeks 1-year limitation on initiating a habeas corpus petition, Senators Chiles and Thurmond propose a 3-year restriction.

This move has been endorsed by the National District Attorneys Association, the International Association of Chiefs of Police, the National Association of Attorneys General, the National Governors Association and the National Conference of Chief Justices.

Civil libertarians will oppose any move to limit appeals in criminal cases. So will the professional foes of capital punishment.

But the issue is not whether capital punishment is right or wrong. The issue is whether the penalty provided by a State's law, determined in a fair trial and upheld by higher courts, is to be thwarted by endless appeals to Federal judges.

Both President Reagan and Senator CHILES seek to repair a grave weakness in our judicial system. Congress should recognize and act to stop the murderers' merry-go-round.

Mr. President, I appreciate the words of support from the Tampa Tribune. But words of support will not change our habeas corpus laws. Nor will they make the other changes which must be made in our Federal criminal justice system. Those changes must be made by passing new laws, and we in the Senate have an opportunity to pass those much needed reforms. Two bills now pending on the

Senate calendar could be called up and voted on at any time. The first, S. 2543, was introduced by Senator NUNN and myself and is cosponsored by 16 other Senators. The other, S. 2572, was introduced by Senators THURMOND and BIDEN, and it has the support of 54 Senators—over half the Senate. We could fight crime and reform our criminal justice system by passing either one of these proposals, but we must act now. As few as 10 days remain in this session of Congress. Unless we act, we will fail the American people and allow the merry-go-round to continue.

S. 2838, THE FINALITY OF CRIMINAL JUDGMENTS IMPROVEMENTS ACT.

Mr. THURMOND. Mr. President, on August 16, 1982, I introduced S. 2838, a bill to improve present procedures for the collateral review of criminal judgments and to insure the finality of criminal convictions. Senator NUNN and Senator CHILES joined me in introducing this legislation.

Mr. President, Senator NUNN and Senator CHILES have diligently reminded the Senate of the urgent need to reform our habeas corpus procedures by detailing the brutal and vicious crimes committed by convicted criminals who seek to evade punishment by the abusive use of habeas corpus petitions.

S. 2838 represents the culmination of the extensive hearings, study, and consultation that were carried out in connection with earlier legislative proposals introduced on this subject. Thus I believe that S. 2838, which is pending on the Senate Calendar, is the most appropriate vehicle for legislative action.

Mr. President, I ask unanimous consent that the legislative history of S. 2838 as well as a section-by-section analysis of the bill be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND CONCERNING THE LEGISLATIVE HISTORY OF S. 2838, THE FINALITY OF CRIMINAL JUDGMENTS IMPROVEMENTS ACT

S. 2838 proposes reforms in the procedures governing collateral relief in the Federal courts for State and Federal prisoners. It is similar to S. 2216, a comprehensive reform bill that I introduced on March 16, 1982. The test of the current bill reflects certain clarifying amendments which were advanced in connection with hearings cn S. 2216 before the Judiciary Committee.[1]

On March 16, 1982, I introduced S. 2216, a bill proposing a number of important reforms in habeas corpus procedures. S. 2216 was preceded by an earlier bill addressing habeas corpus reform which was introduced by myself and Senator Chiles on March 10, 1981. The earlier bill, S. 653, was endorsed specifically by the National Association of Attorneys General,[2] and in principle by the Conference of Chief Justices.[3] Recommendations similar to those appearing in S. 653 were also advanced by the Attorney General's Task Force on Violent Crime, a special advisory group convened by the Attorney General to propose approaches and solutions to the problem of criminal violence.[4]

Hearings on S. 653 were held before the Subcommittee on Courts of the Judiciary Committee on November 13, 1981.[5] The Subcommittee hearings provided ample substantiation of S. 653's identification of deficiencies in the current system of Federal habeas corpus, and suggested a number of areas in which reform efforts might be extended or carried further. The hearings and subsequent further study led to the drafting and introduction of S. 2216, which revised the implementation of a number of reforms proposed in S. 653 to achieve a more complete correction of existing deficiencies. S. 2216 also proposed reforms in several areas which had not previously been addressed, including the availability of collateral relief for Federal prisoners, access to appeal in Federal collateral proceedings, and the operation of the "exhaustion" requirement in connection with State prisoners' applications for Federal habeas corpus.

Hearings on S. 2216 were held before the full Judiciary Committee on April 1, 1982. At those hearings testimony generally favorable to the revised proposals were given by participants from the National Association of Attorneys General and the Conference of Chief Justices, including Attorney General Jim Smith of Florida, Chief Justice C. C. Torbert of Alabama, and Chief Justice W. Ward Reynoldson of Iowa. In addition, supporting testimony was given by Senator Lawton Chiles, co-sponsor of S. 653, and by Assistant Attorney General Jonathan C. Rose on behalf of the Administration.

NEED FOR REFORM

The writ of habeas corpus ad subjiciendum, sometimes referred to as the "Great Writ," has been regarded in the common law tradition as an important bulwark of personal liberty, assuring an individual subject to detention or confinement of a means by which judicial review of its legality can be obtained. The importance of the writ in this character was recognized by the Framers of the Constitution, who included in the Constitution the provision that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require it." At the time of the Constitution's enactment, however, it was universally understood that an application for habeas corpus could not be employed to secure additional review of the legality of detention imposed pursuant to the order or judgment of a court of competent jurisdiction. Its function, rather, was essentially that of ensuring that an initial judicial determination could be obtained of the legality of detention pursuant to executive authority.[6]

S. 2838 is not addressed to the historical function of the Great Writ, but to the results of much later historical developments. Following the creation of the United States, the availability of habeas corpus in the federal courts was initially restricted to federal prisoners, and the common law limitations on the scope of the writ were observed. After the habeas corpus jurisdiction of the federal courts was extended to persons in state custody in 1867, however, the traditional restrictions on access to habeas corpus were gradually eroded through case-law development. The end result of this development was that federal habeas corpus became routinely available about thirty years ago as a means for review in the lower federal courts of state criminal judgments on grounds of alleged deprivations of federal rights.[7]

It is the present character of federal habeas corpus, as a quasi-appellate jurisdiction of the lower federal courts over state judgments, that has given rise to the problems with which S. 2838 is concerned. The shortcomings of the present system are aptly summarized in a passage from the leading treatise on federal procedure:

"The most controversial and friction-producing issue in the relation between the federal courts and the states is federal habeas corpus for state prisoners. Commentators are critical of its present scope, federal judges are unhappy at the burden of thousands of mostly frivolous petitions, state courts resent having their decisions reexamined by a single federal district judge, and the Supreme Court in recent terms has shown a stong inclination to limit its availability. Meanwhile, prisoners thrive on it as a form of occupational therapy and for a few it serves as a means of redressing constitutional violations." [8]

The disaffection of state officials, including state judges and state attorneys general, with the present system of federal habeas corpus was amply confirmed in the course of the Judiciary Committee's consideration of S. 2216 and its predecessor S. 653.[9] Moreover, federal judges have been equally emphatic in their calls for reform. Judge Henry Friendly of the Second Circuit Court of Appeals, for example, has characterized the present system of collateral attack as "a gigantic waste of effort." [10] Judge Carl McGowan of the D.C. Circuit has stated similarly:

"A matter that has rankled relations between state and federal courts for some years now is the collateral attack on final state criminal convictions provided by Congress in the federal courts. A state prisoner who has unsuccessfully exhausted his avenues of state trial and appellate relief can, even many years later when retrial is not practically feasible, attack that conviction in the federal district court as violative of federal law, and procure his release if such a violation is established. Since the same claim of federal law violation can, and often is, made in the trial and appellate courts of the state, with certiorari review available in the Supreme Court, the state judges understandably have some difficulty in seeing why their work should be reexamined in the federal courts whenever a colorable claim of violation is alleged.

The early finality of criminal convictions is generally desirable, and especially so when that can be assured without duplication of judicial effort. The resources of the federal courts at the present time as strained by their own criminal caseloads. They should not have to exercise a supervisory authority over the administration of state criminal laws unless that is plainly necessary in the interest of justice.[11]

Comparable criticisms have been voiced by Justices of the Supreme Court. Chief Justice Burger, for example, has recently

[1] Footnotes appear following "Section-by-Section Analysis."

urged Congress to consider restricting narrowly the availability of federal habeas corpus for state prisoners, stating that "[t]he administration of justice in this country is plagued and bogged down with lack of reasonable finality of judgments in criminal cases." [12] Justice Stevens has also asserted that "[i]n recent years federal judges at times have lost sight of the true office of the great writ of habeas corpus," [13] and Justice Powell has observed:

"[T]he present scope of habeas corpus tends to undermine the values inherent in our federal system of government. To the extent that every state criminal judgment is to be subject indefinitely to broad and repetitious federal oversight, we render the actions of state courts a serious disrespect in derogation of the constitutional balance between the two systems." [14]

The overall picture presented by the assessments of state judges and attorneys general, federal judges, and leading commentators, is that of widespread dissatisfaction with the present system of federal collateral review on grounds of federalism, proper regard for the independent stature of the state courts, the need for finality in criminal adjudication, and conservation of limited criminal justice resources. The features of the present system which give rise to the most serious difficulties on these grounds are most conveniently discussed in connection with the specific reforms of S. 2838 that are designed to correct them:

READJUDICATION OF CLAIMS PREVIOUSLY ADJUDICATED IN STATE PROCEEDINGS

The bill would establish an appropriate standard of review in habeas corpus proceedings, according deference to the results of state adjudications that are "full and fair." [15] The bill's sponsors believe that this reform is plainly warranted, and constitutes an obvious improvement over existing rules of mandatory re-adjudication, which result in pointless and duplicative re-litigation of claims in habeas corpus proceedings that have already been fairly considered and decided by state courts at the trial and appellate levels.[16] In practical terms, the present rules produce results that border on the absurd, requiring reversal of judgments many years after the normal conclusion of state proceedings on grounds that the habeas court may regard as no more than reasonable differences of opinion concerning close or unsettled questions in the interpretation or application of federal law on which the federal courts themselves may well disagree.[17] In addition to enhancing the finality of criminal judgments and avoiding the burden on the state of re-trying the petitioner which may occur when a writ is presently granted in such a case, this reform is likely to make it possible to decide cases more easily and with less extensive litigation, whether or not the petitioner would ultimately obtain relief under the current rules. A cogent illustration was provided by Chief Justice Reynoldson in his testimony on S. 2216:

"Explore with me for a moment the anatomy of a 1975 Iowa murder trial *State v. Moore.* Moore, who assaulted and injured a jailer at a recess, in the course of trial badgered a witness, used vulgar language, and persisted in profane and disrespectful statements to the court. After calling another recess and subsequently warning him, trial court ultimately had Moore removed from the courtroom during twenty-five minutes of an expert's testimony. In a 1979 decision, the Iowa Supreme Court ruled Moore had waived his sixth amendment right to confront the adverse witness and upheld his conviction. Our opinion quoted the relevant portion of the transcript and applied as controlling the Supreme Court's standards laid down in *Illinois v. Allen.* In 1980 a federal trial judge, ruling on Moore's application for writ of habeas corpus, set out the same portion of the transcript, found *Illinois v. Allen* to be controlling, but issued the writ. In 1981, following the State's appeal the Eighth Circuit, again quoting the then-familiar portion of the transcript and for the third time applying *Illinois v. Allen* standards, agreed with the Iowa Supreme Court and reversed the federal district court.

"Thus Moore was permitted to collaterally attack his conviction in two federal courts even though the identical issue was fairly and fully considered and decided in his state court direct appeal. This process injected over two years of uncertainty into his case after his state appeal was concluded, cost Iowa substantial resources to defend the judgment it had secured in one state court and retained in another, and risked tensions between state and federal courts in Iowa.

"No one suggests federal oversight of state decisions involving federal constitutional rights should be eliminated. Adoption of S. 2216, however, would avoid many unfortunate and wasteful proceedings. For example, proposed new subsection (d) to section 2254 of title 28 provides: 'An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in state proceedings.'

"Such a provision, promptly applied by the federal district judge in the Iowa case just discussed, would have terminated the *Moore* litigation in the federal courts."[18]

CONSIDERATION OF CLAIMS NOT PROPERLY RAISED IN STATE PROCEEDINGS

A common problem in federal habeas corpus proceedings is the propriety of entertaining a claim that the state courts refused to hear on account of the petitioner's failure to comply with a state rule of procedure. The existing rules governing the decision to entertain such claims are beset with fundamental uncertainties. In some instances the pertinent inquiry is whether the petitioner can establish "cause and prejudice" in relation to the failure to raise the claim properly in state proceedings, but in others it is whether the petitioner "deliberately bypassed" state procedures. The relative scope of application of these standards has never been definitively settled.[19] The meaning of the "cause and prejudice" standard itself has been a source of great uncertainty and division in the lower courts.[20] The general uncertainties in this area are heightened by indications in Supreme Court decisions that access to federal collateral relief may also depend partially on the large and confusing body of case law relating to "adequate and independent state grounds" barring direct review in the Supreme Court.[21]

The bill would resolve all major uncertainties concerning access to federal collateral remedies following a failure to raise a claim properly in normal criminal proceedings, establishing "cause and prejudice" as the exclusive governing standard. The existing confusion over the meaning of "cause" would be resolved by provision of a definition normally focusing on the question of whether the state provided an opportunity to raise federal claims that satisfied the requirements of federal law.[22] The bill's sponsors believe that this reform will avoid many years of additional litigation throughout the nation that would be required to resolve the existing uncertainties through case law development, avoid inconsistency in the treatment of similar cases that would otherwise result from continuing confusion in this area, and establish a clear and properly motivated standard that affords due weight to both the protection of federal rights and the integrity of state and federal criminal procedures.

LIMITATION OF THE TIME FOR APPLYING FOR FEDERAL COLLATERAL RELIEF

The bill would establish a one year time limit on access to federal habeas corpus for state prisoners, normally running from the time state remedies are exhausted.[23] In practical terms, a prisoner who has properly exhausted state remedies will generally have presented his claims previously at the trial and appellate levels in state proceedings.[24] When a prisoner has done so, it is eminently reasonable to require him to delay for no more than a year before re-presenting the same claims to a federal habeas court. The approach to time limitation taken by the bill would afford every state prisoner an opportunity to apply for federal habeas corpus following the conclusion of the state criminal process which could be held open for a reasonable period of time. It would, however, create a means for control of the filing of petitions years or decades after the normal conclusion of criminal proceedings, when the passage of time has made reliable determination of the claims asserted or re-trial of the petitioner difficult or impossible. As Chief Justice Reynoldson of Iowa observed in his testimony on S. 2216:

"Another welcome and reminded provision in S. 2216 is new subsection (e) proposed to be incorporated in section 2244 of title 28, providing for a one-year limitation for habeas application. This should obviate those long-delayed applications brought after the witnesses have forgotten the facts, or died. It would avoid the necessity to expose the victims—especially rape victims—to a traumatic confrontation with the accused, dredging up memories suppressed with great difficulty." [25]

The bill would also create, for similar purposes, a two year time limit on applications for collateral relief by federal prisoners, normally running from finality of judgment.[26]

The present absence of time limits on application for federal habeas corpus and the corresponding collateral remedy for federal prisoners reflects a failure of the procedures associated with federal collateral relief to keep pace with its expanding scope. When habeas corpus was essentially confined to testing the legality of executive detention which had never been judicially sanctioned, the absence of a time limit was quite understandable. In relation to the present normal character of federal habeas corpus as a means for providing additional review of the legality of detention pursuant to a criminal judgment, however, the absence of a time limit is at odds with the approach taken in other contexts by federal law to the review or re-opening of judgments. For example, a federal defendant must normally decide whether to appeal within 10 days,[27] a state defendant seeking direct review in the Supreme Court must normally apply within 90 days, [28] and a federal defendant seeking retrial on grounds of newly discovered evidence must do so within 2 years of final

judgment.[29] The last-mentioned limitation has the particularly curious effect that a federal prisoner who discovers proof of his innocence more than two years after final judgment has no judicial remedy, but must seek executive clemency, while a state or federal prisoner who asserts violations of Constitutional rights which may cast no real doubt on his guilt is afforded a federal judicial remedy without limitation of time. The time limitation rules of S. 2838 would reduce this discrepancy, bringing the availability of collateral relief into closer conformity with the approach taken by federal law in other contexts to maintenance of orderly procedures and assurance of finality in criminal adjudication.

PROMOTING EFFICIENCY THROUGH REFORM OF THE EXHAUSTION REQUIREMENT AND THE PROCEDURE OF APPEAL

The bill also addresses two issues of a more technical nature which are nevertheless important for reasons of efficiency. First, it would make it clear that a petition can be denied on the merits notwithstanding the petitioner's failure to exhaust state remedies, thereby avoiding the waste of time and effort that presently occurs when a frivolous petition is dismissed on grounds of non-exhaustion and is later brought back to the federal court following its unsuccessful presentation to the courts of the state.[30] Empirical studies indicate that this reform would ameliorate a major source of inefficiency in the current system.[31] Second, the bill would change the present rule which affords a State petitioner in a habeas corpus proceeding repetitive opportunities to persuade a district judge and then a circuit judge that an appeal is warranted. It would also bring the procedure governing access to appeal in collateral proceedings involving Federal prisoners into line with that employed in connection with State prisoner's petitions.[32] As Judge Friendly of the Second Circuit Court of Appeals has stated:

"In view of the staggering growth in the case loads of the courts of appeal . . . Congress should move promptly to amend 28 U.S.C. § 2253 . . . so as to place the authority to issue certificates of probable cause solely in the courts of appeals and require similar authorization for appeals by federal prisoners in cases under 28 U.S.C § 2255 . . ." [33]

In sum, I firmly believe that this bill constitutes a sound response to the patent shortcomings of the present system of Federal collateral relief. It would, in my judgment, most appropriately define the scope and function for Federal collateral remedies without jeopardizing the legitimate protection of Federal rights.

A detailed section-by-section analysis of S. 2838 is set out below.

SECTION BY SECTION ANALYSIS

I. INTRODUCTION

The bill proposes amendments to various sections of chapter 153 of title 28 of the United States Code and a related rule of appellate procedure in order to establish a more appropriate scope and function for federal habeas corpus for state prisoners, accord more appropriate weight to state interests in finality and orderly procedures in criminal adjudication, improve the efficiency of habeas corpus litigation and appellate review in such litigation, and effect certain corresponding improvements in the operations of collateral remedies for federal prisoners. The proposed amendments would change the operation of federal collateral remedies in several respects:

First, the proposed amendments would preclude granting relief with respect to matters that have been fully and fairly adjudicated in state proceedings in order to enhance the finality of state criminal adjudications and avoid duplicative litigation of claims that have already been adequately considered and decided.

Second, the proposed amendments would generally bar cognition of claims that have not been properly raised in state proceedings, provided the state has afforded the petitioner an opportunity consistent with the requirements of federal law to raise his claims in the state proceedings.

Third, the proposed amendments would establish a one-year limitation period for the filing of habeas corpus petitions by state prisoners, which would generally run from the time of exhaustion of state remedies. This limitation period would discourage or prevent the filing of petitions when the passage of time has made reliable adjudication of the petitioner's claims or re-trial of the petitioner difficult or impossible. The limitation period would also advance the policies supporting finality and repose in criminal adjudication.

Fourth, the proposed amendments would clearly state that a federal habeas court can deny a petition on the merits without requiring prior exhaustion of state remedies, thereby avoiding the waste of judicial resources that results when a person presenting a frivolous petition is sent back to the state courts to exhaust state remedies.

Fifth, the proposed amendments would vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. This could entrust the decision concerning the propriety of an appeal to the judges who are in the best position to determine if there is a realistic likelihood of reversal. It would also avoid duplicative consideration of the suitability of a case for appeal, first by a district judge, and then by a circuit judge.

Sixth, the proposed amendments would make similar changes in the law governing applications for collateral relief by federal prisioners pursuant to 28 U.S.C. § 2255 in the areas of appeal, procedural default and time limitation.

II. SECTION 1—POPULAR NAME

Section 1 of the bill states that the Act may be cited as the "Finality of Criminal Judgments Improvements Act."

III. SECTION 2—PROPOSED AMENDMENTS TO 28 U.S.C. § 2244 RELATING TO PROCEDURAL DEFAULTS IN STATE PROCEEDINGS AND THE TIME FOR FILING APPLICATIONS FOR HABEAS CORPUS

Section 2 of the bill would add two new subsections to 28 U.S.C. § 2244. The first new subsection would clarify and partially change the law concerning consideration of a claim by a federal habeas court if the petitioner has not complied with state procedural rules directing when or how a claim must be raised in state proceedings. The second new subsection would establish a one-year limitation period within which state prisoners must apply for federal habeas corpus. The limitation period would run in most cases from the time state remedies have been exhausted.

A. The effect of procedural defaults

In both the state and federal systems, many procedural rules exist which result in the forfeiture of claims for purposes of all subsequent proceedings if they are not raised at a certain time or in a certain manner. In a typical jurisdiction such rules may include, for example, requirements that challenges to grand jury composition or to the seizure of evidence be made before trial;[35] provisions that most other claims cannot be raised initially on appeal or collateral attack, where they were not raised at trial;[36] and provisions that claims which should have been raised on appeal but were not are forfeited for purposes of subsequent collateral proceedings. A defendant's failure to comply with such a rule, together with the absence of any exception to the rule's operation applicable to the particular case, is referred to as a "procedural default." The effect of a procedural default in state proceedings on the subsequent availability of federal collateral relief has been a perennial problem in federal habeas corpus procedure.

Under current law, this issue is governed by two principal cases: *Fay v. Noia*[37] and *Wainwright v. Sykes.*[38] In *Fay*, the Supreme Court held that a federal habeas court could decline to hear a claim if the petitioner "deliberately bypassed" state procedures. In *Wainwright*, however, the Court held that certain types of procedural defaults would not be excused unless a more exacting standard is satisfied—the petitioner must establish "cause" for the default and "actual prejudice" resulting from the failure of the state court to hear the claim.

Proposed subsection (d) of 28 U.S.C. § 2244 addresses the subject of procedural defaults presently governed by *Fay* and *Wainwright.*[39] It would codify the requirement of "actual prejudice" and "cause," and provide that "cause" exists only if one of three conditions is satisfied. It would, moreover, establish "cause and prejudice" as the exclusive standard governing the effect of procedural defaults,[40] thereby resolving a number of other uncertainties under current law.

1. "Actual Prejudice" and "Cause"

Under current law, the "actual prejudice" requirement of *Wainwright v. Sykes* has generally been treated as a variant of the harmless error doctrine of *Chapman v. California.*[41] Under this approach, the petitioner must establish reasonable doubt that the conviction, sentence or other disposition complained of would have occurred in the the absence of the alleged error underlying his claim.[42] The bill's sponsors approve of this interpretation of the "actual prejudice" requirement, and intend that the "actual prejudice" requirement of proposed subsection (d) be understood in the same sense.

The requirement of "cause," by contrast, has been a source of great uncertainty and division in the lower federal courts.[43] Proposed subsection (d) would replace these fundamental uncertainties with a uniform standard whose definition is set out in three clauses.

The central inquiry is set out in clause (1) of the definition, which allows "cause" to be found if "the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States." The notion reflected in the standard is essentially one of estoppel. If the claim was not raised in state proceedings as a result of state action in violation of federal law, the state should not be heard to complain if the deficiency is made up by consideration of the claim in subsequent habeas corpus proceedings. But if the state has provided an opportunity consistent with its obligations under federal law to raise federal claims in its criminal proceedings, and the

opportunity has not been taken, then the state's lawful procedural requirements should not be disregarded or overridden in a subsequent federal habeas corpus proceeding.

The main practical significance of this standard is in connection with attorney error or misjudgment, which is the ground normally advanced as "cause" for a procedural default.[44] Under the standard of proposed subsection (d)(1), attorney error in failing to raise a claim properly would qualify as "cause" if it was sufficiently serious to deprive the petitioner of Constitutionally effective assistance of counsel, since in such a case the default would be the result of the state's failure, in violation of the sixth amendment to the Constitution, to afford the petitioner the effective assistance of counsel.[45] But less serious forms of error or misjudgment—which even the most able attorney will sometimes engage in, given the complexities and pressures of criminal litigation—would not qualify as "cause."

In relation to current law, this approach would adopt uniformly the rule of *Indiviglio v. United States*, in which the Second Circuit Court of Appeals held that attorney error falling short of Constitutional ineffectiveness does not qualify as "cause".[46] It can also be compared to the special rules governing access to federal habeas corpus in guilty plea cases. For such cases the Supreme Court has held that a petitioner generally cannot raise in habeas corpus proceedings claims of violations of federal rights occurring prior to a guilty plea, but is required to establish that he was denied the effective assistance of counsel in connection with the plea.[47]

In addition to the basic standard set out in clause (1), proposed subsection (d) would recognize two other grounds of "cause." Clause (2) of subsection (d) would establish "cause" where "the Federal right asserted was newly recognized and is retroactively applicable."

The application of such a standard is illustrated by the decision of the Supreme Court in the case of *Engle* v. *Isaac*.[48] In that case the petitioner attacked the allocation of the burden of proof on the defense of self-defense in his state trial, citing Supreme Court decisions concerning the right to proof beyond a reasonable doubt in criminal cases. The Court intimated that "cause" could be based on subsequent recognition of a right in appropriate cases.[49] It found no "cause" in the case presented, however, on the ground that there had been sufficient recognition of the right asserted in the case of *In Re Winship*, which had been decided some years prior to the petitioner's trial, notwithstanding the further elaboration and application of the right in later cases cited by the petitioner.[50] This approach to "cause" in connection with claims asserting newly recognized rights is fully consistent with the intended interpretation of proposed subsection (d)(2), which is meant to allow claims to be raised which are based on the subsequent recognitions by the Supreme Court of retroactive rights that are truly novel, but not to allow claims based on subsequent decisions which only elaborate on the interpretation or application of rights that have previously been recognized. The bill's sponsors approve of the approach to the distinction of such cases taken by the Supreme Court in *Engle* v. *Isaac*, and intend for the "new rights" provision of proposed subsection (d)(2) to be understood in the same sense.

The third ground of "cause" is set out in clause (3) of proposed subsection (d) which would allow "cause" to be found where "the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default." This provision is essentially self-explanatory, and is comparable to "reasonable diligence" or "due diligence" standards that appear in other contexts in federal law. For example, the Supreme Court has employed such a standard in interpreting the "cause shown" exception to Rule 12 of the Federal Rules of Criminal Procedure.[51]

2. Resolution of Other Uncertainties in Current Law

The opinion in *Wainwright v. Sykes* left open the question of which categories of defaults would be subject to its "cause and prejudice" standard rather than the more permissive "deliberate bypass" standard of *Fay v. Noia*.[52] In the absence of authoritative guidance from the majority opinion, lower courts have tended to rely on the Chief Justice's concurrence in *Wainwright*, which stated that the *Fay* standard should continue to apply to certain basic decisions that are ordinarily made by the defendant rather than his attorney, such as the decision whether to plead guilty waive a jury, take the witness stand, or pursue an appeal.[53]

The bill's sponsors believe that is is preferable to employ the "cause and prejudice" standard as the exclusive standard governing the excuse of procedural defaults in habeas corpus proceedings. As formulated in the bill, it is sufficiently flexible to give appropriate weight to the distinctions noted in the Chief Justice's concurrence. Insofar as decisions normally committed to the personal choice of the defendant tend to be of basic importance to the further conduct of a case, poor advice by counsel in relation to such decisions is more likely to render his assistance Constitutionally ineffective, providing "cause" in the sense of proposed subsection (d)(1).

In practical terms, decisions normally committed to the personal choice of the defendant that may result in the forfeiture of federal claims are likely to be the decision whether to plead guilty and the decision whether to pursue an appeal. The effect of the decision to plead guilty on access to federal habeas corpus is already governed by special caselaw rules, focusing on the effectiveness of counsel's assistance, which are similar to the basic default rule of proposed subsection (d), and which would not be changed by enactment of the bill.[54] The decision concerning appeal also does not appear to call for any special treatment. If an "effectiveness of counsel" standard is adequately protective of defendants' interests in connection with guilty pleas—which normally result in forfeiture of the possibility of raising federal claims both at trial and on appeal—such a standard would also seem adequately protective in connection with decisions not to appeal, which only result in forfeiture of the possibility of raising federal claims on appeal.

A further uncertainty that would be resolved by proposed subsection (d) is the relationship between the cause and prejudice standard and the doctrine of Supreme Court practice which holds that the existence of an adequate and independent state ground will bar Supreme Court review. In *Wainwright*, the Court undertook a preliminary inquiry as to whether the default at issue gave rise to an adequate and independent state ground that would bar direct review in the Supreme Court.[55] There is, however, no reason in policy why the availability of collateral relief in the lower federal courts should be coordinated to the availability of direct review in the Supreme Court, and doing so would pointlessly complicate and render uncertain decisions concerning the excuse of procedural defaults in habeas corpus proceedings.[56] Hence, no determination of whether a procedural default gave rise to an adequate and independent state ground that would bar direct review in the Supreme Court is required under the standard of proposed subsection (d).[57]

B. Limitation of time for filing

Proposed subsection (e) of 28 U.S.C. § 2244 would impose a one year time limit on applications for federal habeas corpus.[58] The general rule that the limitation period runs from the time state remedies are exhausted is set forth in clause (1) of subsection (e). Clauses (2)–(4) create exceptions to this general rule, which parallel the definition of "cause" in proposed 28 U.S.C. § 2244(d)

The notion of "exhaustion of state remedies" incorporated as the normal starting point in clause (1) is taken from existing statutory law (28 U.S.C. § 2254(b)) and caselaw governing access to federal habeas corpus. The general rule is that state remedies have been exhausted with respect to a claim if it has once been properly presented to the highest court of a state, either on direct review or on collateral attack.[59] In addition, the bill's sponsors intend that state remedies be regarded as "exhausted" for purposes of this provision if a state places a time limit on access to its collateral remedies, either in general or with respect to certain classes of cases or claims, and the defendant has not pursued state remedies within the time allowed.[60] This would ensure the effectiveness of state limitation rules guarding against excessive delay by defendants in exhausting state remedies.[61] If the state limitation period expired and the defendant had not pursued state remedies, federal habeas corpus would become unavailable a year beyond that point.[62]

Clause (2) of proposed subsection (e) defers the starting point of the limitation period if a defendant was prevented from filing by state action in violation of federal law. This exception would be applicable, for example, if state prison officials unlawfully prevented prisoners from seeking federal collateral relief.[63] The exception reflects the same estoppel notion as the corresponding clause in the definition of "cause."[64]

Clause (3) of proposed subsection (e) creates an exception for claims asserting "newly recognized rights." The remarks concerning the intended interpretation of the corresponding "new rights" clause in the definition of "cause" are equally applicable in this context.[65]

Clause (4) states a final ground for deferring the commencement of the limitation period, where the factual predicate of the claim could not have been discovered earlier through the exercise of reasonable diligence. Use of a reasonable diligence standard in fixing the starting point of a limitation period is, of course, found in a number of areas of federal law. For example, in relation to actions based on certain types of securities violations, 15 U.S.C. § 77m provides: "No action shall be maintained to enforce any liability . . . unless brought within one year after the discovery of the unture statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence . . . ." As noted earlier, "reasonable diligence" or "due diligence" standards are also employed in other

ways in the application of procedural bars in federal law such as the "cause shown" standard of Fed. R. Crim. P. 12[66] and the caselaw rules governing motions for new trials on grounds of newly discovered evidence under Fed. R. Crim. P. 33.[67]

The starting points specified by the clauses of proposed subsection (e) are meant to be applied on a claim-by-claim basis. If, for example, a petition raised two claims, A and B, of which A was time-barred by the normal operation of proposed subsection (e), but B was timely because it was based on recently discovered facts as described in clause (4), the timeliness of B would not excuse the petitioner's failure to raise A at the proper time. The habeas corpus court could consider claim B but not claim A.

IV. SECTION 3—PROPOSED AMENDMENTS TO 28 U.S.C. § 2253 RELATING TO APPEAL IN FEDERAL COLLATERAL RELIEF PROCEEDINGS

Section 3 of the bill would amend 28 U.S.C. § 2253 to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant to 28 U.S.C. § 2255.[68]

Under current law, to appeal a district court's adverse decision on his petition, a petitioner is required to obtain a certificate of probable cause from either the district judge or an appellate judge. The requirement of a certificate is designed to avoid the burden of a decision on the merits by an appellate panel in the absence of a prior determination by a district or appellate judge that some basis for the appeal exists.[69]

While this general approach is desirable and promotes efficiency, it is inefficient in its specific provision that either a district judge *or* an appellate judge may issue the required certificate. Denial of a certificate by the district court does not preclude the petitioner from subsequently applying to the appellate court for the certificate, requiring an appellate judge to take a second look at the case's suitability for appeal.[70] If the district court does issue a certificate, the judges of the appellate court are not free to override the district court's determination, but must decide the appeal on the merits. This feature of the present system is anomalous, since it is the judges of the appellate court who are in the best position to assess whether there is a realistic possibility of reversal that would warrant issuing a certificate of probable cause.[71]

Section 3 of the bill would eliminate these inefficiencies by assigning the probable cause determination in connection with habeas corpus appeals exclusively to the judges of the courts of appeals.

Although there is no certificate requirement presently imposed upon appeals by federal prisoners from district court denials of § 2255 motions, a certificate requirement is equally desirable in that context. Like habeas corpus petitions by state prisoners, motions pursuant to § 2255 seldom raise genuine issues. Given the high number of frivolous motions, a requirement that § 2255 appeals satisfy a probable cause determination is an appropriate threshold for a movant to meet before his appeal will be heard by an appellate panel. The amendments of section 3 would impose such a requirement.

V. SECTION 4—PROPOSED AMENDMENTS TO FEDERAL RULE OF APPELLATE PROCEDURE 22

Section 4 of the bill would amend Federal Appellate Rule 22 to bring it into conformity with the amendments to 28 U.S.C. § 2253 proposed in section 1003.

VI. SECTION 5—PROPOSED AMENDMENTS TO 28 U.S.C. § 2254 RELATING TO EXHAUSTION OF STATE REMEDIES, READJUDICATION OF MATTERS PREVIOUSLY ADJUDICATED IN STATE PROCEEDINGS, AND PRESUMED CORRECTNESS OF STATE COURT FACTUAL DETERMINATIONS

Section 5 of the bill would add a new subsection to 28 U.S.C. § 2254 and amend two existing subsections of that section. It would amend subsection (b) of § 2254 to clarify that a federal habeas corpus court can deny a petition on the merits notwithstanding the petitioner's failure to exhaust state remedies. It would add a new subsection—proposed subsection (d)—that would require deference to state court determinations on matters that have been fully and fairly adjudicated in state proceedings. Finally, it would redesignate current subsection (d) as subsection "(e)" and shorten it, clarify it and conform it to proposed new subsection (d). The remaining subsections of 28 U.S.C. § 2254 are carried forward without change, except for redesignation of current subsections (e) and (f) as "(f)" and "(g)" respectively.

A. Subsection (a)—Denial on the merits without requiring exhaustion of State remedies

Section 5(a) of the bill would amend 28 U.S.C. § 2254(b) so as to make it clear that a petition can be denied on the merits without requiring prior exhaustion of state remedies. While this is not literally precluded by the current language of § 2254(b),[72] it appears that exhaustion is usually regarded as a prerequisite to a disposition on the merits whether favorable or unfavorable.

This approach carries substantial costs. It is generally recognized that a large proportion of habeas corpus applications by state prisoners are frivolous. If a frivolous petition is dismissed on the procedural ground that state remedies were not exhausted, the prisoner is, in effect, being told to re-petition the federal court after he has run through the state judicial process. After presenting his frivolous claims to at least two or three state courts, he may return to the federal court only to be informed that his claims are without merit. The federal court has had to consider his petition twice, first on the exhaustion issue [73] and then on the merits; state courts at several levels have had to consider his claims; and the petitioner himself discovers that years of waiting have been for naught when an adverse decision on the merits is finally obtained from the federal court. Had the federal court denied his petition on the merits when it was first presented, this needless expenditure of time and effort would have been avoided.

Permitting denial of relief on the merits in such cases, as the amendment would allow, would neither frustrate nor undermine the policies supporting the exhaustion requirement. These policies—comity, deference to state processes, and the desirability of allowing state courts to correct errors in state proceedings—are not offended by the denial of frivolous petitions prior to exhaustion. No incentive would be created for a petitioner to by-pass available state remedies and go directly to federal court, since only an unfavorable result would be possible if state remedies were not exhausted. The desirability of affording state courts an opportunity to correct errors in state proceedings would also not be significantly impaired when the lack of merit in the petitioner's claims is apparent and the federal court's options are limited to finding that no state-court error occurred.[74]

Hence, denial on the merits, notwithstanding a petitioner's failure to exhaust state remedies, can avoid substantial delays and litigational burdens at the federal and state levels without impairment of the interests protected by the requirement of prior recourse to state processes. What is called for on the part of the district judge in deciding whether to dismiss a petition for non-exhaustion or consider a denial on the merits under amended § 2254(b) is a pragmatic judgment, taking account of judicial economy at the state and federal levels and the policies underlying the exhaustion requirement.

B. Subsection (b)—Deference to full and fair State adjudications

1. Relationship to Current Law

Proposed 28 U.S.C. § 2254(d) in section 5(b) of the bill would change current law by granting conclusive effect in habeas corpus proceedings to the results of full and fair state adjudications. Under current law, a federal habeas court may refrain from holding an evidentiary hearing, and state court fact-findings are rebuttably presumed to be correct, if a number of poorly defined conditions are met.[75] The federal court, however, is automatically required to make an independent determination of questions of law, and to re-apply the law to the facts, no matter how fully and fairly that has been done in state proceedings.[76]

The present unqualified requirement that federal habeas courts re-adjudicate questions of law and mixed questions of law and fact that state courts have already resolved defies both common sense and sound judicial policy.[77] As a practical matter, these redundant adjudications seldom produce a different result from that obtained in state proceedings. As Judge Friendly of the Second Circuit Court of Appeals has noted:

"My observation of the work of the excellent state courts of New York, Connecticut and Vermont does not suggest that federal determination of . . . [disputed factual issues and the application of recognized legal standards to ascertained facts] . . . is notably better [than a state court determination]. In the vast majority of cases we agree with the state courts, after a large expenditure of judges' and lawyers' time. In the few where we disagree, I feel no assurance that the federal determination is superior. When I am confident that the issue has received real attention and the state trial and appellate judges have been in accord among themselves, I see no sufficient reason to elevate my views over theirs in a close case."[78]

Examination of the historical origin of the current rules of mandatory re-adjudication tends to confirm their arbitrary nature. Prior to the decision of *Brown v. Allen* [79] in 1953, a contrary rule prevailed under which a petitioner's contentions would not be re-examined by a federal habeas court if they had been fully and fairly adjudicated in state proceedings.[80] In *Ex Parte Hawk*,[81] for example, the Court stated:

"Where the state courts have considered and adjudicated the merits of . . . [a petitioner's] . . . contentions . . . a federal court will not ordinarily reexamine upon writ of habeas corpus the questions thus adjudicated. . . . But where resort to state court remedies has failed to afford a full and fair adjudication of the federal contentions raised, either because the state affords no remedy . . . or because in the particular case the

remedy afforded by state law proves in practice unavailable for seriously inadequate . . . a federal court should entertain his petition for habeas corpus, else he would be remediless."[82]

The current approach of *de novo* determination of questions of law and re-application of law to fact emerged abruptly in Justice Frankfurter's conclusory statement[83] in *Brown v. Allen* that deference to the state courts on non-factual issues is not allowed under the habeas corpus statute.[84] The statute, however, merely provides that custody in violation of the Constitution or laws of the United States is a ground on which federal habeas corpus may be sought.[85] There is nothing in the statute that determines the effect to be given to prior state adjudications. There is also nothing in the statute that affords any basis for distinguishing unlawful custody based on a mistaken factual determination from unlawful custody based on a mistaken view of federal law.

Hence, the current approach to re-adjudication of matters previously adjudicated in state proceedings is unjustified in terms of policy, and was unsupported at its inception by history or precedent.

2. The Meaning of "Full and Fair"

Proposed 28 U.S.C. § 2254(d) would place the existing rules of mandatory re-adjudication with a limited standard of review which would condition the granting of relief on a showing by the petitioner that the state process was inadequate. The specific requirement is a showing that the state adjudication was not "full and fair." The "full and fair" language is presently employed in defining the standard of habeas review in a number of specialized areas, including re-determination of factual questions,[86] review of fourth amendment exclusionary rule claims,[87] and review of court martial proceedings.[88] It is also, as noted above, the same as that used by the Supreme Court prior to *Brown* v. *Allen* when describing the general scope of re-examination of claims previously adjudicated in state proceedings.[89]

The "full and fair adjudication" standard of proposed 28 U.S.C. § 2254(d) is not, however, meant to be understood in the sense of any of these other standards employing the same verbal formula. Most of these standards have not acquired a sufficiently definite or detailed meaning for use as a general criterion governing the proprietary of re-adjudication. The "full and fair hearing" standard of *Townsend* v. *Sain* was interpreted in considerable detail in that case, but many of the elements in its interpretation are overly vague, and it was not defined so as to apply to re-determination of the non-factual aspects of a claim.[90] Hence, it is the intent of the bill's sponsors that the "full and fair adjudication" language of proposed § 2254(d) be understood as embodying a new concept which consists of the following requirements:

(i) *Decision on the merits.* For the full and fair adjudication standard of § 2254(d) to apply, the claim presented must have been decided on the merits in state proceedings. If it has not been, the propriety of considering the claim would not depend on the re-adjudication rule of proposed § 2254(d), but on other rules governing access to federal habeas corpus, such as the rules governing the requirement of exhaustion of state remedies or the rules governing the excuse of procedural defaults in state proceedings.

(ii) *Reasonableness.* A state adjudication would not be full and fair in the intended sense if the determination arrived at did not meet a minimum standard of reasonableness. Specifically, the determination must reflect a reasonable interpretation of federal law, a reasonable view of the facts in light of the evidence presented to the state court, and a reasonable disposition in light of the facts found and the rule of law applied.[91]

This requirement—reasonableness of the determination—is the most important element in the definition, in the sense that the habeas court's decision concerning deference to the state court's determination under proposed § 2254(d) is likely to depend in most cases on its application.[92] The following two points should be noted in relation to it:

First, in light of the reasonableness requirement, the limited review contemplated by proposed § 2254(d) could not in any way impair the role of the lower federal courts in ensuring that the federal rights of state prisoners are respected in state proceedings, which is the justification normally advanced for federal habeas review of state judgments. The decision as to whether the state determination was reasonable would, of course, be made by federal district courts considering habeas corpus petitions and by federal appellate courts reviewing their judgments or orders in such cases. Hence, deference to the state determination would be required only when, *in the federal courts' own estimation,* such differences as they may have with the state courts reflect at most reasonable differences of opinion concerning the interpretation or application of federal law, or pertinent factual conclusions, in cases in which the proper determination is unclear. The general requirement of deference outside of situations in which this standard is satisfied reflects the common sense notion that overturning a state judgment—often years later and after a defendant has been accorded the various remedies and layers of review available in the state courts—should require a finding by the federal habeas court that something more substantial was amiss in the state proceedings than a mere difference of opinion regarding a matter on which courts may reasonably disagree.

Second, the reasonableness standard applies to review of the legal as well as the factual aspects of claims. Examples of limited, as opposed to *de novo,* review of law appear in other contexts in federal law.[93] For example, a federal appellate court will not consider a claim of trial error to which no objection was made at trial unless it amounts to "plain error." This limiting standard of review extends to pure questions of law, such as the formulation of jury instructions.[94] A second analogy is provided by judicial review of the legality of state executive action in suits for damages pursuant to 42 U.S.C § 1983. In such suits state executive officials are generally provided with a "good faith" defense or immunity, under which no liability results if the official reasonably believed that his actions were lawful.[95] Hence, the disposition depends not on whether, in the court's estimation, the official was correct in his view of federal law, but on whether his view of federal law and its implications under the circumstances was reasonable.

(iii) *Conformity to Federal Procedural Requirements.* A further requirement is that a state adjudication, to be full and fair in the intended sense, must be conducted in a manner consistent with the procedural requirements of federal law that are applicable to state proceedings. These are, in general, the complex of general and specific procedural rights that fall under the rubric "due process," together with certain procedural rights grounded in the Constitutional requirement of equal protection.[96]

(iv) *New Evidence and Changes of Law.* Readjudication would also be allowed under proposed § 2254(d) if new evidence of substantial importance to the decision of the claim is produced which could not have been obtained through the exercise of reasonable diligence at the time of the state adjudication. Similarly, a subsequent retroactively applicable change of federal law of substantial importance which is binding on the courts of the state would warrant readjudication of the claim.[97]

In sum, an adjudication of a claim in state proceedings is full and fair in the sense of proposed § 2254(d) unless—

(1) the adjudication did not involve a decision of claim on the merits;

(2) the adjudication involved an unreasonable interpretation of federal law, an unreasonable determination of the facts in light of the evidence presented, or an unreasonable disposition resulting from the application of the law to the facts;

(3) the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings;

(4) new evidence is produced which could not have produced at the time of the adjudication through the exercise of reasonable diligence, where a reasonable doubt is established that the disposition of the claim would have been the same had such evidence been produced in the state proceedings; or

(5) a retroactively applicable change in federal law which is binding on the courts of the state has occurred subsequent to the adjudication, where a reasonable doubt is established that the disposition of the claim would have been the same had the changed law been applied in the state proceedings.

3. Expected Benefits

The bill's sponsors believe that replacement of the current rules of mandatory re-adjudication with the "full and fair" standard of proposed § 2254(d) would yield the following benefits:

First, the proposed standard would not share the demeaning character of the current rules, which relegate the highest courts of the states to the status of fact-finding commissioners whose conclusions on purely factual questions will be trusted under certain circumstances, but whose interpretation and application of law is accorded at best persuasive effect. As Justice O'Connor has stated:

"If our nation's bifurcated judicial system is to be retained, as I am sure it will be, it is clear that we should strive to make both the federal and the state systems strong, independent, and viable. State courts will undoubtedly continue in the future to litigate federal constitutional questions. State judges in assuming office take an oath to support the federal as well as the state constitution. State judges do in fact rise to the occasion when given the responsibility and opportunity to do so. It is a step in the right direction to defer to the state courts and give finality to their judgments on federal constitutional questions where a full and fair adjudiciation has been given in the state court." [98]

Second, the current rules can require difficult, if not arbitrary, decisions as to whether a particualr state court determination is

purely one of fact or reflects an application of law to fact, since the rule governing readjudication of factual questions (deference allowed under certain circumstances) differs from that governing re-adjudication of mixed questions of law and fact (re-adjudication uniformly mandated).[99] Since the "full and fair" standard would apply the same criterion of "reasonableness" to review of both factual and non-factual determinations, such hairsplitting distinctions would no longer be required.

Third, the proposed reform would further the interests of finality and judicial economy. It would do so by reducing the incidence of successful petitions based on the decision of close questions, and by shortening and simplifying litigation in habeas corpus proceedings, whether or not a favorable outcome would ultimately occur under the current rules.[100]

C. Subsection (c)—Presumed correctness of State fact-finding

Proposed § 2254(e) would simplify current § 2254(d), which is verbose, confusing and obscure, and bring its formulation into conformity with that of the proposed new subsection (d). Proposed subsection (e) would provide specifically that a state court's full and fair determination of a facutal issue is presumed to be correct. The presumption could be rebutted by clear and convincing evidence. The intended interpretation of the "full and fair" language is the same as that of the corresponding language in proposed subsection (d), insofar as the definition set out earlier is applicable to the determination of factual issues. Hence, a state court factual determination is "full and fair" in the intended sense unless:

(i) the determination was unreasonable in light of the evidence presented to the state courts;

(ii) the process by which the determination was arrived at was inconsistent with the procedural requirements of federal law that are applicable to state proceedings;

(iii) new evidence is produced which could not have been produced at the time of the making of the determination through the exercise of reasonable diligence, where a reasonable doubt is established that the determination would have been the same had such evidence been produced in the state proceedings.

The impact of proposed subsection (e) would be a minor one, since under proposed subsection (d) the results of a full and fair state adjudication could not be overturned. However, there are certain narrow situations in which proposed subsection (e) would apply. To satisfy the standard of proposed subsection (d), both the non-factual and factual aspects of the petitioner's claim must be fully and fairly adjudicated. If, for example, the rule of law applied by a state court in deciding a petitioner's claim reflected an unreasonable view of federal law, the state adjudication would not be considered full and fair. The claim would accordingly be open to re-examination by the federal habeas court. Notwithstanding the unreasonableness of the legal determination, there might be no proof that the treatment of the factual issues raised by the claim had not been full and fair. The rule provided by proposed § 2254(e) for this narrow type of situation is that the state court's determination of the facts is presumed to be correct, but the petitioner may overcome this presumption by clear and convincing evidence.[101]

D. Redesignated provisions—Availability and admissibility of State records

The bill carries forward without revision current 28 U.S.C. § 2254(e), subject to a change of its designating letter from "(e)" to "(f)". The provision addresses generally the production of state records and the unusual case in which such records have been lost or cannot be produced for some other reason. It provides in substance that if the petitioner challenges the sufficiency of the evidence to support a factual determination of the state court, and the pertinent part of the state record cannot be produced, then the normal rules of deference to state court determinations do not apply. In such a case "the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination."

This provision is equally germane in the context of the changed rules contemplated by the bill. The applicability of the rules of deference in proposed § 2254(d) and proposed § 2254(e) depends on whether the state adjudication or determination was "full and fair." This includes a determination by the habeas court of whether the state court's factual conclusions were reasonable in light of the evidence presented to the state court.[102] If the record of the pertinent evidence has not been preserved by the state, this determination would necessarily be difficult or impossible. Since it is the state's responsibility to preserve the records of criminal proceedings, it is proper to provide that the normal rules of deference do not apply when it has failed to do so.

The bill also carries forward without amendent current 28 U.S.C. § 2254(f), subject to a change of its designating letter from "(f)" to "(g)". The provision provides for the admission of official state records and other reliable indicia of the state court's factual determinations. Retention of this provision is not, of course, intended to limit the admissibility of state records pertinent to the determination of non-factual issues by the state court.

VII. SECTION 6—PROPOSED AMENDMENTS TO 28 U.S.C. § 2255 RELATING TO APPEAL, PROCEDURAL DEFAULTS, AND THE TIME FOR MAKING § 2255 MOTIONS

Section 6 of the bill would amend 28 U.S.C. § 2255. The justifications for the amendments are essentially the same as those for the corresponding changes in habeas corpus procedures effected by the earlier sections.

The deletion of the penultimate paragraph of 28 U.S.C. § 2255 is incidental to the amendment of 28 U.S.C. § 2253 effected by section 3 of the bill. Since appeal in § 2255 motion proceedings would be addressed explicitly in amended § 2253, there would be no need for a statement in § 2255 that an appeal in proceedings pursuant to that section is to be as from a final judgment on application for a writ of habeas corpus.

The first paragraph that would be added at the end of § 2255 by section 6 of the bill specifies that the cause and prejudice standard also applies to procedural defaults in federal criminal adjudications.[103] The express definition of cause and the intended definition of prejudice are the same as in the case of state procedural defaults.[104]

The second paragraph that would be added by section 6 of the bill creates a limitation period that normally runs from finality of the judgment, that is, from the time remedies on direct review are exhausted or the time for seeking direct review has expired.[105] The limitation period is two years rather than one year since the time afforded to the defendant is not in addition to whatever time may be allowed by state law to pursue state collateral remedies—as is the case with habeas corpus applications under the amendments of section 2 of the bill—but starts immediately when the judgment becomes final.

FOOTNOTES

[1] Full Committee hearings on S. 2216 were held on April 1, 1982.

[2] *See* Resolutions of the Nat'l Ass'n of Attorneys General Regarding Habeas Corpus Proceedings, adopted at the Annual Meeting in Jackson Hole, Wyoming, June 24–27, 1981, and the Annual Meeting in Crystal Bay, Nevada, June 8–11, 1980.

[3] *See* Resolution II of the Conference of Chief Justices, adopted August 5, 1981, at the 33rd Annual Meeting in Boca Raton, Florida.

[4] *See* Final Report of the Attorney General's Task Force on Violent Crime, Recommendation 42 and Commentary (Dept. of Justice 1981).

[5] *See* Habeas Corpus Procedures Amendments Act of 1981: Hearings on S. 653 before the Subcomm. on Courts of the Senate Comm. on the Judiciary, 97th Cong., 1st Sess. (1981).

[6] *See* Hart and Wechsler's The Federal Courts and the Federal System 1513 (2d ed. 1973): "The proceedings of the Convention do not cast much direct light on just what the Framers assumed the "privileges" of the writ to be; but it was of course the clear contemporaneous understanding that the fundamental function of the writ was to test executive detentions and that convictions by a criminal court of competent jurisdiction could not be reexamined on habeas corpus at all." *See generally Swain* v. *Pressley*, 430 U.S. 430 U.S. 372, 384–86 (1977) (Burger, C.J., concurring); Friendly, *Is Innocence Irrelevant? Collateral Attack on Criminal Judgments*, 38 U. Chi. L. Rev. 142, 170 (1970); Oaks, *Legal History in the High Court—Habeas Corpus*, 64 Mich L. Rev. 451, 459–68 (1966).

[7] *See Townsend* v. *Sain*, 372, U.S. 293, 318 (1963); *Brown* v. *Allen*, 344 U.S. 443, 506–08 (1953) (Frankfurter, J., concurring). *See generally* Bator, *Finality in Criminal Law and Federal Habeas Corpus for State Prisoners*, 76 Harv. L. Rev. 441, 463–507 (1963).

[8] Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction § 4261, at 588 (1978).

[9] *See* notes 2–3 *supra* and resolutions cited therein; Habeas Corpus Procedures Amendments Act of 1981: Hearings on S. 653 Before the Subcomm. on Courts of the Senate Comm. on the Judiciary, 97th Cong., 1st Sess. 35–83 (1981) (testimony of Attorney General Jim Smith of Florida and supplementary materials); *id.* at 85–102 (testimony of Chief Justice C. C. Torbert of Alabama and supplementary materials).

[10] Friendly, *supra* note 6, at 148.

[11] McGowan, "The Morrison Lecture," delivered at the Annual Meeting of the California State Bar Ass'n in San Diego, California, Oct. 12, 1981.

[12] Year-End Report on the Judiciary 21 (Dec. 28, 1981).

[13] *Rose* v. *Lundy*, 50 U.S.L.W. 4272, 4282 (Mar. 3, 1982) (Stevens, J., dissenting).

[14] *Schneckloth* v. *Bustamonte*, 412 U.S. 218, 263 (1973) (Powell, J., concurring).

[15] This reform would be accomplished by proposed 28 U.S.C. § 2254(d) in section 5(b) of the bill. The intended interpretation of the "full and fair" standard is set out later in this statement. *See* notes 86–97 and accompanying text *infra*.

[16] Under existing rules, state court fact-finding may be deferred to if certain poorly defined conditions are met, but the federal habeas court must make an independent determination of the law and re-apply the law to the facts. See *Townsend* v. *Sain*, 372 U.S. 293 (1963); 28 U.S.C. § 2254(d).

[17] *See* Friendly, *supra* note 6, at 165 n.125: "My observation of the work of the excellent state courts of New York, Connecticut and Vermont does not suggest that federal determination of . . . [disputed factual issues and the application of recognized legal standards to ascertained facts] . . . is notably better [than a state court determination.] In the vast majority of cases we agree with the state courts, after a large expenditure of judges' and lawyers' time. *In the few where we disagree, I feel no assurance that the federal determination is superior.*" (emphasis added).

[18] State of Chief Justice W. Ward Reynoldson of Iowa Concerning S. 2116 Before the Senate Com-

mittee on the Judiciary (April 1, 1982) (footnotes omitted).

[19] *See Wainwright* v. *Sykes*, 433 U.S. 72, 87-88 & n.12 (1977).

[20] *See* Goodman & Sallett, *Wainwright* v. *Sykes: The Lower Federal Courts Respond*, 30 Hastings L.J. 1683, 1725 (1979).

[21] *See Wainwright* v. *Sykes*, 433 U.S. 72, 78-79, 81-87 (1977); Goodman & Sallett, *supra* note 20, at 1690-91 & n.40.

[22] This reform would be accomplished by proposed 28 U.S.C. § 2244(d) in section 2 of the bill.

[23] This reform would be accomplished by proposed 28 U.S.C. § 2244(e) in section 2 of the bill.

[24] *See generally* Wright, Miller & Cooper, *supra* note 8, § 4264, at 625-30; P. Robinson, An Empirical Study of Federal Habeas Corpus Review of State Court Judgments 17 & n.18 (Dept. of Justice 1979).

[25] Statement of Chief Justice W. Ward Reynoldson of Iowa Concerning S. 2216 Before the Senate Committee on the Judiciary (April 1, 1982).

[26] This reform would be accomplished by the proposed final paragraph to 28 U.S.C. § 2255 in section 6 of the bill.

[27] *See* Fed. R. App. P. 4(b).

[28] *See* Sup. Ct. R. 11, 22.

[29] *See* Fed. R. Crim. P. 33.

[30] This reform would be accomplished by section 5(a) of the bill, amending 28 U.S.C. § 2254(b).

[31] *See* Shapiro, *Federal Habeas Corpus: A Study in Massachusetts*, 87 Harv. L. Rev. 321, 358-59 (1973); P. Robinson, *supra* note 24, at 19-20.

[32] The reforms in appeal procedure would be accomplished by section 3 of the bill, amending 28 U.S.C. § 2253, and section 4 of the bill, amending Fed. R. App. P. 22.

[33] Friendly, *supra* note 6, at 144 n.9.

[34] Not included.

[35] *See, e.g.*, Fed. R. Crim. P. 12(b), (f) (claims of defects in institution of prosecution and motions to suppress evidence are waived if not raised before trial, unless court grants relief from waiver for cause shown).

[36] *See, e.g., United States* v. *Frady*, 50 U.S.L.W. 4388, 4391 (April 5, 1982); *id.* at 4395-96 (Brennan, J., dissenting); *United States* v. *Atkinson*, 297 U.S. 157, 159-60 (1936) (discussion of rule that claims of trial error not raised at trial will not be heard on appeal except in cases of plain error).

[37] 372 U.S. 391 (1963).

[38] 433 U.S. 72 (1977).

[39] In line with this intent, the reference to "State rules of procedure" in proposed 28 U.S.C. § 2244(d) should be understood to refer to the totality of the state's procedural requirements, including caselaw requirements as well as codified rules and statutes.

[40] Proposed subsection (d) is not, however, meant to change existing rules concerning the availability of federal habeas corpus to prisoners who have pleaded guilty and assert claims of "antecedent" violations of federal rights. The effect of guilty pleas is a distinct question from the effect of procedural defaults, which is governed by a distinct line of cases. See *Tollett* v. *Henderson*, 411 U.S. 258 (1973); *McMann* v. *Richardson*, 397 U.S. 759 (1970).

[41] 386 U.S. 18 (1967).

[42] *See United States* v. *Frady*, 50 U.S.L.W. 4388, 4393-94 (April 5, 1982) (no "prejudice" from allegedly erroneous jury charge given absence of substantial likelihood that disposition of case would have differed); Goodman & Sallett, *Wainwright* v. *Sykes: The Lower Federal Courts Respond*, 30 Hastings L.J. 1683, 1707, 1724 (lower federal courts have generally approached "prejudice" inquiry as variant of harmless error analysis).

[43] *See* Goodman & Sallett, *supra* note 42, at 1725.

[44] *See id.*

[45] *See Cuyler* v. *Sullivan*, 446 U.S. 335, 342-45 (1980) (unanimous holding that ineffectiveness of counsel, whether retained or appointed, involves state action); *id.* at 344 ("The right to counsel prevents the state from conducting trials at which persons who face incarceration must defend themselves without adequate legal assistance.").

With respect to the interpretation of the sixth amendment requirement of effective assistance of counsel, see *Indiviglio* v. *United States*, 612 F.2d 624, 632 (1979) (Mansfield, J., concurring), and cases cited therein.

[46] *See* 612 F.2d 624, 631 (1979): "Without some showing that counsel's mistakes were so egregious as to amount to a Sixth Amendment violation, a mere allegation of error by counsel is insufficient to establish 'cause' to excuse a procedural default." *Cf. Engle* v. *Isaac*, 50 U.S.L.W. 4376, 4383 (April 5, 1982): "We have long recognized . . . that the Constitution guarantees criminal defendants only a fair trial and a competent attorney. It does not insure that defense counsel will recognize and raise every conceivable constitutional claim."

[47] *See Tollett* v. *Henderson*, 411 U.S. 258 (1973); *McMann* v. *Richardson*, 397 U.S. 759 (1970). *See generally* Cover & Aleinikoff, *Dialectical Federalism: Habeas Corpus and the Court*, 86 Yale L.J. 1035, 1069-71 (1977).

Under both th present guilty plea rules and the approach of proposed 28 U.S.C. § 2244(d), a question is raised of whether certain claims will be heard in a habeas corpus proceeding, and the central role in answering this question is assigned to the determination of whether an attorney's failure to pursue such claims in state proceedings was so far amiss as to render his assistance Constitutionally ineffective. Specifically, under *Tollett* v. *Henderson*, *supra*, a petitioner must show that his attorney's advice to him to plead guilty, notwithstanding the existence of possible antecedent violations of federal rights, deprived him of the effective assistance of counsel. To meet the "cause" standard of proposed 28 U.S.C. § 2244(d), a petitioner would normally have to show that his attorney's failure to raise a claim in conformity with state procedural rules deprived him of the effective assistance of counsel.

[48] 50 U.S.L.W. 4376 (April 5, 1982).

[49] *See id.* at 4382.

[50] In support of this conclusion, the Court noted that many other defendants had raised comparable claims following the decision in *In Re Winship*, and that it accordingly could not be concluded that the respondents "lacked the tools to construct their constitutional claim." *See id.* at 4382-83.

[51] *See Shotwell Mfg. Co.* v. *United States*, 371 U.S. 341, 362-63 (1963) ("cause shown" exception not applicable because "the facts concerning the selection of the grand and petit juries were notorious and available to petitioners in the exercise of due diligence before the trial").

[52] *See* 433 U.S. at 88 & n.12.

[53] *See* 433 U.S. at 91-94 (Burger, C.J., concurring); Goodman & Sallett, *supra* note 42, at 1689-90.

[54] *See* note 40 *supra;* note 47 and accompanying text *supra.*

[55] *See* 433 U.S. at 78-79, 81-87.

[56] *See* Goodman & Sallett, *supra* note 42, at 1691 & n.40.

[57] The caselaw relating to the "adequate and independent state ground" requirement is characterized by a lack of clear standards and principles. A valid function of a more definite nature that can be abstracted from this caselaw is that of assuring that a state court cannot bar federal review by means of a procedural dismissal of a claim that amounts to a violation of due process or that masks defiance of federal rights in violation of the state court's obligations under the Supremacy Clause. *See* Hart and Wechsler's The Federal Courts and the Federal System 544-47 (2d ed. 1973); *Rogers* v. *Alabama*, 192 U.S. 226 (1904). The standard of proposed subsection (d)(1) would automatically be satisfied in such a case, however, since in such a case the failure of the claim to be heard in state proceedings would be the result of state action in violation of federal law.

[58] There is currently no time limit on application for federal habeas corpus. *See generally* notes 23-29 and accompanying text *supra.*

[59] *See* Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction § 4264, at 627-28 (1978).

[60] The stipulation that exhaustion has occurred in such a situation does not directly follow from the general formula governing the exhaustion inquiry, *see* text accompanying note 59 *supra*, but it is almost certainly consistent with the way a federal habeas court would currently handle such a case. If a limitation period on application for state collateral remedies had expired, a federal habeas corpus court would not send the petitioner back to the state courts to exhaust state remedies because it would be apparent that no such remedies remained open to him. *Cf. Engle* v. *Isaac*, 50 U.S.L.W. 4376, 4381 n. 28 (April 5, 1982) (exhaustion has occurred where petitioner did not raise before finality claim which state law bars raising on collateral attack).

In case a state has replaced the traditional bifurcated system of direct review and collateral attack with a unitary system of review, either in general or in connection with certain types of cases or claims, the expiration of the time for seeking such unitary review would have the same effect.

[61] *See generally* Shapiro, *Federal Habeas Corpus: A Study in Massachusetts*, 87 Harv. L. Rev. 321, 360-61 (1973) (noting value of time limits on state collateral remedies).

An example of a time limit applicable to pursuit of collateral remedies within a single court system is provided by the proposed final paragraph to 28 U.S.C. § 2255 in section 6 of the bill. The proposed provision would create a two year time limit running from finality on applications for collateral relief by federal prisoners, subject to a later starting point for newly discovered claims, claims asserting newly recognized rights, and cases in which unlawful governmental action has prevented the pursuit of collateral remedies.

[62] The "borrowing" of state limitation periods for purposes of determining the availability of federal remedies has parallels in various other areas of federal law. For example, in civil suits for violations of federal rights pursuant to 42 U.S.C., § 1983, the limitation period applicable to corresponding state remedies is looked to to determine the time within which the federal remedy of § 1983 may be pursued. *See Beard v. Stephens*, 372 F.2d 685, 688 (5th Cir. 1967).

[63] *See Ex Parte Hull*, 312 U.S. 546 (1941). *See generally* Schaefer, *Federalism and State Criminal Procedure*, 70 Harv. L. Rev. 1, 21-22 (1956).

[64] Proposed subsection (d)(1) of 28 U.S.C. § 2244.

[65] *See* text accompanying notes 48-50 *supra.*

[66] *See* note 51 and accompanying text *supra.*

[67] *See* Wright, Federal Practice and Procedure: Criminal § 557, at 515-16, 520-22 (1969) (in motion for new trial based on newly discovered evidence made more than 7 days after verdict, relief is unavailable if the defense did not show due diligence to learn of the evidence).

[68] The amendments of section 3 have been proposed by Judge Friendly of the Second Circuit Court of Appeals. *See* Friendly, *supra* note 6, at 144 n.9 (1970). They have also appeared in habeas corpus reform legislation considered in earlier Congresses. *See* S. 3833, 92d Cong., 2d Sess (1972).

[69] For general discussion of the certificate requirement, *see* Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction § 4268, at 715-16 (1978); Blackmun, *Allowance of In Forma Pauperis Appeals in § 2255 and Habeas Corpus Cases*, 43 F.R.D. 343, 351-54 (1968); *Developments in the Law—Federal Habeas Corpus*, 83 Harv. L. Rev. 1038, 1192-95 (1970); P. Robinson, *supra* note 24, at 34-36.

[70] Available empirical data indicates that this often occurs. *See* P. Robinson, *supra* note 24, at 34.

[71] *See* Friendly, *supra* note 6, at 144 n.9: "In 1969, collateral attacks by state prisoners . . . and by federal prisoners . . . comprised more than 20 percent of all appeals from district courts . . . [T]he state prisoner figures . . . include cases where the district court has issued a certificate and . . . the court of appeals has been obliged to hear the appeal although it believed the certificate was improvidently issued. . . . In view of the staggering growth in the caseloads of the courts of appeals . . . Congress should move promptly to amend 28 U.S.C. § 2253 . . . so as to place the authority to issue certificates of probable cause solely in the courts of appeals. . . . This is the opposite of the solution proposed in [a student article]. . . . While the authors profess concern over "the time spent on deciding whether to issue a certificate," any judge could have told them how small this is as compared to the time spent in hearing an appeal and the burden on assigned counsel of having to argue a hopeless case."

[72] The statute only states that an application "shall not be granted" in case of non-exhaustion. Some cases have taken this at face value, holding that exhaustion is not a prerequisite to denial on the merits. *See Kelly* v. *Maroney*, 414 F.2d 1228, 1231 (3d Cir. 1969); *Drew* v. *Myers*, 327 F.2d 174, 182-83 (3d Cir. 1964); *In re Ernst's Petition*, 294 F.2d 556, 561-62 (3d Cir. 1961). *See also* Shapiro, *Supra* note 31, at 359 n. 202. *But see Trantino* v. *Hatrack*, 563 F.2d 86, 95-97 (3d Cir. 1977), *cert. denied*, 435 U.S. 928 (1978) (indicating stricter view of exhaustion requirement).

[73] The determination of the exhaustion issue can be as burdensome as a determination of the merits. *See* P. Robinson, *supra* note 24, at 19.

[74] *See* Shapiro, *supra* note 31, at 358-59: "The wasted effort which results from the exhaustion doctrine, and its burdens on the courts as well as on litigants, lead one to consider whether it should be abandoned . . . . I conclude that, on balance, the requirement should be retained . . . . But the system is plainly not working as well as it should, and a few means for improvement can be suggested.

First, it seems unnecessary and even inappropriate to dismiss for lack of exhaustion when a petition is plainly lacking in merit . . . . [T]he exhaustion requirement in habeas corpus . . . seeks to further federal-state comity by allowing the states ample opportunity to consider, and if necessary, to correct their alleged consitutional errors. It is clear that if there has been no such error no deferral of the federal decision should be required."

[75] *See Townsend* v. *Sain*, 372 U.S. 293 (1963); 28 U.S.C. § 2254(d).

[76] *See id.* at 318.

[77] *See generally* Bator, *Finality in Criminal Law and Federal Habeas Corpus for State Prisoners*, 76 Harv. L. Rev. 441, 444-62 (1963).

[78] Friendly, *supra* note 6, at 165 n.125.

[79] 344 U.S. 443 (1953).

[80] *See* Bator, *supra* note 77, at 463-65, 493-99.

[81] 321 U.S. 114 (1944).

[82] *Id.* at 118.

[83] *See* Bator, *supra* note 77, at 500-01.

[84] *See* 344 U.S. at 506-08.

An equally conclusory statement suggesting that state court decisions of non-factual issues have only persuasive effect in habeas corpus proceedings appeared in the opinion of the Court in the case. *See* 344 U.S. 458: "[W]here there is a material conflict of fact in the transcripts of evidence as to deprivation of constitutional rights, the District Court may properly depend upon the state's resolution of the issue . . . In other circumstances the state adjudication carries the weight that federal practice gives to the conclusion of a court of last resort of another jurisdiction on federal constitutional issues."

[85] *See 28* U.S.C. § 2241(c)(3).

[86] *See Townsend* v. *Sain*, 372 U.S. 293, 312-13 (1963).

[87] *See Stone* v. *Powell*, 428 U.S. 465, 494 (1976).

[88] *See Burns* v. *Wilson*, 346 U.S. 137, 142, 144 (1953). *See generally* Strassburg, *Civilian Judicial Review of Military Criminal Justice*, 66 Mil. L. Rev. 1, 25-30, 54-55, 59-60 (1974); *Developments in the Law—Federal Habeas Corpus*, 83 Harv. L. Rev. 1038, 1208-09 (1970).

[89] *See Ex Parte Hawk*, 321 U.S. 114, 118 (1944).

[90] *See* 372 U.S. at 312-18.

[91] If the state court had made express findings of fact and conclusions of law, the reasonableness determination could be carried out straightforwardly. In the absence of express findings and conclusions, review of the claim would be carried out in a somewhat different manner, but would not be significantly more difficult. It would remain open to the petitioner to present to the habeas court the record of the evidence on which the claim was decided in the state proceedings, and for the habeas court to determine whether the state court, taking a reasonable view of federal law, could reasonably have come to the disposition arrived at in light of the evidence presented to it. A negative answer on this point would mean that the reasonableness requirement was not satisfied, and that the claim was accordingly open to re-adjudication. An affirmative answer would mean that the petitioner had failed to carry his burden of proof in establishing that the state adjudication was not full and fair on grounds of unreasonableness. Re-adjudication would then not be warranted unless the petitioner could establish that the state adjudication was not full and fair in one of the other senses set out in the accompanying textual definition. The unusual case in which the reasonableness determination cannot be reliably carried out on account of the unavailability of the pertinent portions of the state record is governed by special rules which are discussed in section VI.D of this Analysis, *infra*.

[92] The bill's sponsors are aware that, in light of the reasonableness requirement, the scope of review contemplated under the full and fair adjudication standard of proposed § 2254(d) is more extensive than that presently engaged in by most courts in reviewing fourth amendment exclusionary rule claims under the "full and fair litigation" standard of *Stone* v. *Powell*. *See* Halpern, *Federal Habeas Corpus and the Mapp Exclusionary Rule After Stone* v. *Powell*, 82 Colum. L. Rev. 1 (1982). Hence, application of the standard of proposed § 2254(d) in review of fourth amendment exclusionary rule claims would result in fuller re-examination of state determinations of such claims in habeas corpus proceedings than that which presently occurs. This result is not intended. The rule of proposed § 2254(d), in common with the other reforms of the bill, is only intended to mark the outer limits of the federal court's authority in granting collateral relief. It is not intended to prevent the courts from imposing additional limitations on the availability of collateral relief or on the scope of review in collateral proceedings.

[93] The policies affecting the scope of review of questions of law by lower federal courts in habeas corpus proceedings should not be confused with those affecting the scope of review of questions of law on direct review of state judgments in the Supreme Court. *De novo* determination in habeas corpus proceedings, unlike *de novo* determination on direct review in the Supreme Court, does not produce uniformity in the interpretation of federal law. The lower federal courts frequently divide on such questions, and their determinations have no binding effect on the state courts outside of the particular case. *See* Cover & Aleinikoff, *Dialectical Federalism: Habeas Corpus and the Court*, 86 Yale L. J. 1035, 1053 (1977).

[94] *See, e.g., United States* v. *Frady*, 50 U.S.L.W. 4388, 4391 (Apr. 5, 1982).

[95] *See Wood* v. *Strickland*, 420 U.S. 308, 316-22 (1975); *Pierson* v. *Ray*, 386 U.S. 547, 555-57 (1967).

[96] *See, e.g., Long* v. *District Court of Iowa*, 385 U.S. 192 (1966); *Roberts* v. *LaVallee*, 389 U.S. 40 (1967) (right of indigents to free transcripts grounded in equal protection).

[97] New evidence is of "substantial importance" in the intended sense if the petitioner establishes reasonable doubt that the disposition complained of would have come about had the evidence been produced in the State proceedings. Similarly, a change of law is of substantial importance if reasonable doubt is established that the disposition would have been the same had the changed law been applied in the State proceedings. *Cf.* text accompanying note 42 *supra* (definition of "prejudice" in standard governing effect of procedural defaults).

[98] O'Connor, *Trends in the Relationship between the Federal and State Courts from the Perspective of a State Court Judge*, 22 William and Mary L. Rev. 801, 814-15 (1981). *See* Bator, *The State Courts and Federal Constitution Litigation*, 22 William and Mary L. Rev. 605 (1981).

[99] *See, e.g., Sumner* v. *Mata*, 449 U.S. 539, 555-59 (1981) (Brennan, J., dissenting).

[100] *See* notes 17-18 and accompanying text *supra*.

[101] The reasoning behind this approach is as follows: On the one hand, in the case posed, no specific showing was made that the state court's determination of the facts was not full and fair. This would support a rule of deference to the state factual determination. On the other hand, the fact that the state court adopted an unreasonable view of federal law adverse to the petitioner might in itself afford grounds for a cautious attitude concerning the reliability of its associated fact-finding. This would support allowing the facts to be re-determined. Proposed 28 U.S.C. § 2254(e) accommodates these competing considerations by creating a presumption of correctness for the state fact-finding in such a case, but allowing the petitioner to overcome it if he can carry an elevated burden of proof.

[102] *See* text accompanying note 91 *supra*.

[103] This follows current law. *See United States* v. *Frady*, 50 U.S.L.W. 4388 (April 5, 1982).

[104] *See* notes 41-51 and accompanying text *supra*.

[105] Section 2255 provides that a federal prisoner may apply for a writ of habeas corpus if the motion remedy of that section "is inadequate or ineffective to test the legality of his detention." In the context of the proposed amendments to § 2255, the fact that the limitation period has expired should not be taken as making the motion remedy "inadequate or ineffective." A contrary interpretation would make habeas corpus freely available to federal prisoners two years after finality, defeating the purpose of the limitation period.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, which will not last beyond 11:30 a.m., during which Senators may speak for 5 minutes each.

PROPOSED MEDICARE RESTRICTIONS

Mr. MOYNIHAN. Mr. President, over the past weekend, we learned in the press that the administration has under consideration a proposal to impose a means test as a way to restrict medicare benefits under social security.

This news first appeared in the Washington Post, by the always vigilant Spencer Rich, and the headline reads: "U.S. Eyes Means Test as Way To Restrict Medicare Benefits." The following day, in the New York Times, Mr. Robert Pear confirmed this story in a long article, again on the front page: "U.S. Officials Study Means Test for Medicare Benefits for Elderly."

Mr. President, Congress can only, in my view, respond with dismay at yet another instance of a pattern of behavior in the Executive that begins to raise the question of good faith with respect to the social security system.

I speak as the ranking minority member of the Subcommittee on Social Security of the Committee on Finance. I have had as my responsibility on this side of the aisle the task of defending the social security system, acknowledging its difficulties where they exist, and attending to those difficulties. But in that process, we have continuously been subject to sharp, sudden, and wholly unexpected and, in my view, wholly unwarranted shocks and surprises from the administration.

For example, on May 12, 1981, with no notice—none—the administration sent to Congress a proposal to cut social security benefits for persons retiring at age 62 by 40 percent, beginning January 1, 1982. Benefits for all persons would be cut 10 percent by January 1, 1982. That is to say, with 8 months' notice, there would be these large reductions in social security benefits.

The significance of the age 62 proposal is that the majority of Americans retire at age 62, and of those, the majority are clearly persons who are ill or who have no work. Social security, to which they are entitled, is their best option, and they exercise it. They do so at a penalty already imposed, an actuarially sound reduction of 20 percent in the payments they would have received had they waited until 65. This is, I repeat, an actuarial sound benefit. The administration would have changed this, reducing early retirement benefits to 49 percent of a full benefit, rather than the actuarial 80 percent.

This was altogether unwarranted and untoward and unseemly; and on the 20th of May, 8 days later, I brought to the floor a sense of the Senate resolution asking that this not be done. The distinguished chairman of the Committee on Finance appeared and offered, in effect, to substitute his amendment for mine. It was not any different in his clauses having to do with the purposes. His resolution was very much the same. In the end,

by a vote of 96 to 0, that afternoon the Senate rejected the administration's proposal.

In the course of the winter, recognizing as we do—as does anyone who is familiar with this most important of all domestic programs—that there were problems of funding in the near term and possibly in the long term, in medicare as well as retirement benefits, it was agreed that we would establish a tripartite commission, the National Commission on Social Security Reform, with five members appointed by President Reagan, five by the Speaker of the House, and five by the distinguished majority leader of the Senate.

As is the custom of comity and goodwill in both legislative bodies, the appointments were shared between the two parties. I am a Democratic Member of the Senate who serves on that commission. We met just yesterday, having been meeting regularly for nearly a year.

Mr. President, appointing the commission was to have put an end to sudden surprises. Yet the following May, almost 12 months to the date, a budget proposal on one sheet of paper written in hand, was agreed to, agreed to with about 2 hours' deliberation. That made $40 billion in "savings" from social security. $40 billion. Not specifying what, where, why. Again we went to the floor, again we said no and at that time, with a touch, I dare to think, of warranted acerbity, the proposition was that we would let the commission deal with these matters. We stopped.

Here it is not even May yet. If I am correct, we are only halfway to May of 1983. But again we have a shock and a surprise. We learn that medicare is to be made a means-tested program.

Mr. President, the whole point of social security is that it is an insurance program. The major social security programs are called entitlements because they are just that. They entitle persons covered by the program to receive the benefits provided by the program.

In the case of medicare we have health insurance. Medicare is divided into two parts. There is the first part that deals with hospital benefits, medicare part A. It covers 90 days of inpatient hospital care. For the first 60 days the "reasonable cost" of hospital care is fully covered after the first $260 is paid by the patient. From the 61st to the 90th day the patient must pay a copayment of $65 daily. Medicare covers the rest, and the amount of that copayment rises yearly. An additional lifetime reserve of 60 days may be drawn upon whenever hospitalization requires more than 90 days; 100 days in skilled nursing facilities are covered in a similar pattern, as are necessary home health services.

Part B of medicare pays 80 percent of "reasonable charges" for doctor bills, diagnostic services, medical equipment, outpatient and lab services. The insured pays the first $75, then medicare coverage begins.

Mr. President, in effect, this is insurance. It requires all parties to pay a certain minimum. After that, insurance takes up the bulk.

During 1982, 7.3 million persons received services under medicare part A, which is to say hospitalization. Of these about 800,000 were disabled. And 19 million received services under part B, which is doctors' services or laboratory services, going to see the doctor.

It is a basic system of social insurance. It is well known to nations in industrial democracies throughout the world and now well known to us. It has been in place for 17 years since having been proposed by President Johnson at the height of the Great Society, that Great Society which we learn from the current President set back the cause of social equality in America. I wonder whether the 19 million Americans who saw a doctor this year and found part of their bill paid by social insurance thought the Great Society set back the cause of social equality. Well, two of the major newspapers of America report that some in the White House do.

What they are opposed to is the insurance principle and that is the heart of social security. You receive benefits because you have paid into a benefit fund and are entitled to them.

It is the happy citizen who pays into medicare part A and opts for medicare part B and never draws a nickel. It is not a happy event to go to the hospital. It is not good fortune to have to see a doctor save on routine matters. It is a measure of ill fortune, and the lucky person is he or she who never has a moment's benefit from the program, excepting the psychological comfort of knowing that whatever happens will be covered. Those who do receive benefits pay a portion at the beginning but know that they will not be financially ruined by catastrophic illness.

Mr. President, this is a new condition in modern life. Not a generation ago, a generation in which I was raised, people died young. They died of pneumonia. They died of undiagnosed viruses that could not be controlled before penicillin. They died of failures of various bodily organs which could not be dealt with by heart bypasses, dialysis, and such measures. The fear of a long illness under intensive medical care was relatively limited because there was relatively limited care of that order.

Now, thanks to science, we have this opportunity, and we use it. It is a mixed blessing. If the advance were only the availability of services, there would be no problem. But there is a problem, because medical costs can ruin you, can destroy you and your children, force you to sell the house, sell the car, put your children in debt, all in order to buy a hospital bed for a month or two or three. Medicare has taken that anxiety out of our lives, not just the lives of the older citizens but of their children who will not have to pay for father's broken hip or mother's kidney transplant.

I think I do not in any way bring personal matters to the Chamber if I say both my mother and my mother-in-law have benefited from medical services within the last year. That is theirs by right. They worked all their lives. They have nothing beyond their small savings and their social security entitlements. It is theirs. They worked for it. And it matters a great deal to them that they did not have to ask their children for anything and they did not. They got flowers and love, and that was all they needed. Now a proposal appears to be coming from the administration to take away the psychological and financial comfort they and millions of other Americans rely on. Surely we will not do this.

Mr. President, I hope the Senate will resolve, in September 1982 that medicare must remain a system to protect all persons covered against catastrophic illness. To do less would indeed be to break faith with the people now receiving it, with future generations who have looked forward to it, and with a tradition that does indeed come from the 1960's, of which some of us are not ashamed, but proclaim with a sense of achievement.

Would you like to have a vote in November as to whether the American people would prefer to go back before medicare, back before social security? It is not we on this side of the aisle who are insisting on it, but will they never stop putting it forward from the White House? If they do not, we would welcome such a vote, and if they do not abandon this medicare proposal quickly, we will have one sooner perhaps than any of us anticipate.

Mr. President, I thank the Chair for his patience and attention with which he has heard my remarks.

I ask unanimous consent that the article by Mr. Spencer Rich of the Washington Post and Mr. Robert Pear of the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1982]

U.S. EYES MEANS TEST AS WAY TO RESTRICT MEDICARE BENEFITS

(By Spencer Rich)

Proposals to use a means test in Medicare and deny some or most Medicare benefits to higher income elderly persons are under study by the Reagan administration.

Sources stressed that consideration of a means test, never before applied to any major Social Security program, is only in the preliminary stage and may be junked before it gets very far. No decisions have been made, and the idea is just being weighed to see how much it could save for the $55 billion program.

But any plan to use a means test would breach the deeply embedded principle of automatic entitlement to rights earned by paying the Social Security payroll tax and would run into a firestorm of opposition. The AFL-CIO, American Association of Retired Persons and Save Our Security Coalition said yesterday that they would go all-out against the plan.

White House and Office of Management and Budget officials are aware of the potential opposition and are wary of stirring it up. But they are eager to find ways to cut the giant program, both to strengthen its shaky funding and to hold down government spending generally. Two proposals are under study:

Setting some income cutoff for the elderly, perhaps $30,000 a year, and denying regular Medicare benefits to those over the cutoff. These people, however, would be given a new "catastrophic insurance" guarantee under which once an individual with heavy medical bills had paid $2,500 or $3,000 out of his own pocket, the government would pay the rest.

One problem with this idea, according to a government expert, is that very few elderly people have income that high, so in order to get any real money out of this approach, the cutoff would have to be much lower than $30,000. In that case, large numbers of people of rather moderate income (instead of just a handful of wealthy) would be subjected to a means test and have large out-of-pocket medical bills.

The administration is trying to find out how low the cutoff would have to be to realize large savings. If it's too low, said one administration source, it would be both unfair and "political craziness to try to do it."

Increasing the amount most Medicare patients must pay out-of-pocket for days in the hospital, but allowing low-income people to escape the extra charges. At present, a Medicare beneficiary pays $260 for his first day in the hospital, then gets free hospital care through the 60th day.

When Congress created Social Security in 1935, it decided against making it a charity program, said former secretary of health, education and welfare Wilbur J. Cohen, who served as research aide in 1934 to one of the chief planners of the act.

"The idea was to forestall poverty and dependency, not to take care of people by welfare after they became poor." Cohen said yesterday.

By giving people benefits to which they contribute by paying payroll taxes, and then making them automatically entitled to benefits, Social Security provides real security; having to ask for welfare and prove you need it isn't the same kind of security at all, he said.

[From the New York Times, Sept. 19, 1982]

U.S. OFFICIALS STUDY A MEANS TEST FOR MEDICARE BENEFITS FOR ELDERLY

(By Robert Pear)

WASHINGTON, Sept. 18.—Federal officials said today that the Office of Management and Budget was studying proposals to trim the cost of the Medicare program by requiring elderly people to demonstrate financial need as a condition of receiving benefits.

The officials acknowledged that the introduction of a "means test" would represent a significant change, making Medicare less of an insurance program for the elderly and more of an income assistance program like Medicaid.

Lyndon K. Allin, deputy press secretary at the White House, said he knew of "no plans under consideration at the White House involving a means test for Medicare."

Senior White House officials have said they were deliberately keeping themselves uninformed about details of the proposals for Medicare, Social Security and other benefit programs because they did not want to move toward decisions on such controversial issues before the Nov. 2 elections.

About 26 million elderly and three million disabled Americans are enrolled in Medicare. Its cost, about $50 billion this year, is expected to reach almost $100 billion in 1987 if the law continues unchanged.

Government data indicate that the average Medicare benefit for a recipient this year is about $2,500. Medicare pays for most in-patient hospital care, skilled care in nursing homes, home health care and other medical costs after certain deductions. For the optional insurance that covers physician services, an elderly person must pay a premium of $12.20 a month.

The idea of a means test for Medicare arose in planning for the 1984 budget that President Reagan must submit to Congress in January. He is looking for Medicare savings of $4 billion to $6 billion for the 1984 fiscal year, according to officials of the budget office. That would be in addition to the $2.8 billion in savings achieved by Congress through changes in hospital reimbursement and other Medicare cuts that take effect in fiscal year 1983, which starts Oct. 1.

Donald W. Moran, executive associate director of the budget office, and Randy Teach, a senior official of the Federal Health Care Financing Administration, which supervises Medicare and Medicaid, confirmed that there had been discussions of a means test for Medicare.

"Obviously, it's politically horrific, but we ought to think about the possibilities," Mr. Moran said, adding that no decisions had been made.

Lynn Etheredge, an economist involved in the discussions at the Office of Management and Budget, said a means test was a way of directing benefits to people who need them most. He noted the large savings being sought in 1984 and said: "When one starts making those kinds of reductions, I think it is necessary to start thinking about means testing. Otherwise you really do wind up hurting the poor very badly."

Mr. Etheredge, an expert on the financing of health care, resigned last week after more than 10 years on the staff of the budget office. He said he wanted to seek an academic position and had "a lack of enthusiasm" for the next round of budget reductions.

Eugene Eidenberg, director of the Democratic National Committee, said that if the Administration was serious about a means test for Medicare, it would generate a "firestorm of reaction." He predicted that Republicans would disavow the proposal but that Democrats nevertheless "will campaign on the issue."

FURTHER FUEL ON THE FIRE

"Social Security is already a whitehot issue," Mr. Eidenberg said. "This throws further fuel on the fire."

Mr. Moran of the budget office, using a similar metaphor, said he did not want to discuss the proposal because "any further discussion is just going to pour gasoline on a match."

Since a means test would make Medicare more similar to Medicaid, the medical assistance program for the poor, some Administration officials have suggested that the proposal might be described as an expansion of Medicaid, to include more of the elderly, rather than a cutback in Medicare. As part of his "new federalism" initiative, President Reagan has proposed that the Federal Government pay Medicaid costs now borne by the states.

Michael D. Bromberg, executive director of the Federation of American Hospitals, a trade association, said Reagan Administration officials had discussed with him the idea of a means test for Medicare. He said it might be difficult for the Administration to propose such a test because it would affect "the same population group" as would changes in Social Security.

PANEL STUDYING SOCIAL SECURITY

President Reagan has established a 15-member commission under Alan Greenspan, the economist, to recommend a bipartisan solution to the longterm financial problems of the Social Security system. The commission, which includes seven members of Congress, must submit its report by the end of the year.

In the budget submitted to Congress in February, President Reagan said there was an urgent need to trim the Medicare program because otherwise "the Medicare hospital insurance trust fund will see expenditures exceeding income in 1985 and will be exhausted by the early 1990's."

Some Democrats disagree with that forecast. But in any event, Administration officials said, the problems of the Medicare trust fund would probably become worse if there was a transfer of money from the Medicare fund to the Social Security trust fund, which finances old age and survivors insurance benefits. Congress has authorized such "interfund borrowing."

Mr. Teach of the Health Care Financing Office said the Office of Management and Budget "has been talking about a means-tested system" for Medicare as one of several options. Edwin L. Dale Jr., a spokesman for the budget office, said he would not call it a "means test" but preferred to describe it as a "layering of benefits according to your income."

WOULD STILL PAY HIGH EXPENSES

Under one proposal, Mr. Etheredge said, the Government would still protect the elderly by paying the cost of hospital and physician services above a specified amount, perhaps $3,000 or $4,000. The elderly could buy coverage for medical expenses below that amount, he said. Those with income above a certain level would have to pay the full cost of such insurance, while the Government would subsidize the coverage of those who could demonstrate financial need.

Under this arrangement, he said, elderly people would be automatically entitled to the portion of Medicare financed through Social Security payroll tax contributions. But the portion of the program financed with general revenues would be subject to a means test.

Dr. Robert J. Rubin, an Assistant Secretary of Health and Human Services, said he doubted that a means test would save much money because the median income of Medicare beneficiaries was only about $15,000 a year.

Other Federal officials said it was not easy to verify the income of elderly people. Large numbers of the elderly file no tax returns, either because they have small incomes or because they receive income, such as Social Security benefits, that is not subject to income tax.

Mr. MOYNIHAN. Mr. President, I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATTINGLY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further morning business?

Mr. BUMPERS. addressed the Chair.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BAKER. Does the Senator wish to extend the time?

Mr. BUMPERS. By about 3 minutes.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for routine morning business be extended for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I thank the majority leader.

AMERICAN TROOPS TO BEIRUT

Mr. BUMPERS. Mr. President, I just want to go on record this morning as expressing my sincere and deep concern about the President's commitment, or apparent commitment, to send American troops back into Beirut.

When the decision was made to send troops to Beirut the first time, there were several of us who met with Secretary of State Shultz, who told us that the President had decided to send 800 marines into Beirut along with French and Italian forces. I was the only one there who expressed some reservation about it at that time. I did not object strenuously, though I thought it was a mistake.

Today, I think it is a grave mistake. We should bear in mind a couple of things. First, if the Israeli soldier who fired at an American marine on top of the American Embassy in Beirut the other day had had better aim, there would already be considerable public outcry in this country to do either of two things: To send troops in en masse to restore peace or to pull them all out. I think you would get a mixed reaction.

In light of what has happened in the Palestinian refugee camps, the common perception in the Arab world is that the United States has blood on its hands for not having exercised more persuasion and shown more tenacity in trying to get the Israelis to back out of Beirut. This—combined with the hostilities that already exist between the Moslem and Christian populations of Beirut—almost guarantees the death of some American marines. I am not sure what the future will hold for us, but I believe there are sufficient countries who would be willing to fulfill this role and eliminate the necessity for the United States being there.

The United States is seen by some as an active conspirator, if not a passive, acquiescing party, in everything that has happened. I think countries that are less involved with the warring parties there ought to be performing this mission.

Finally, the United Nations, in spite of the fact that it is not as credible as I would like for it to be, is the proper authority to man this peace force, rather than some special countries who have been asked to send troops there.

Mr. President, I simply want to say, and go on record this morning as saying, that I believe the President is making a mistake. I can tell you that the concern I am expressing here is one that is very common and pervasive around the country. People are frightened about sending American troops back into Beirut, and I think justifiably so.

Mr. President, I yield back to the majority leader for whatever floor action he chooses.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I know of no further business to be transacted during this period. I ask the Chair to inquire if there is further morning business.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The Senate will resume the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 520), to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the concurrent resolution.

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise in support of the pending amendments and in opposition to the underlying Helms amendment. I repeat what I said before: The amendment before us, introduced by Senator HELMS, is not a school prayer amendment, it is a court-stripping amendment. This precise point was made most cogently in an editorial which appeared in the New York Times yesterday. The title of that editorial, too, is most cogent and most appropriate. It is "The Issue Is Court-Stripping."

I should like to insert into the RECORD that editorial:

Last week a weary Senate tabled an anti-abortion rider to the vital debt ceiling bill. Today it decides whether to cut off debate on another legislative parasite on the same bill, a school prayer rider. This time the issue is far more than a politically sensitive "social issue." It is the structure of constitutional government. If a filibuster by a number of committed Senators is the only way to make that point clear to their colleagues, then the filibuster should continue.

Senator Jesse Helms, who sponsored the rider, believes the Supreme Court was wrong two decades ago in ruling that officially sponsored prayer violates the First Amendment. But his rider would strip all the Federal courts, including the Supreme Court, of the power to rule at all in prayer controversies.

Passage of such a measure would provoke a constitutional crisis. It would challenge the role of the Federal judiciary as interpreter of the Constitution—indeed, as a co-equal branch of the Government.

The proper way to overcome a Supreme Court constitutional ruling is by amending the Constitution. That is the basis of Attorney General Smith's objection to legislative shortcuts. President Reagan showed similar awareness when he called for a vote this year on the school prayer constitutional amendment he has proposed.

For good reason, amending the Constitution is far more deliberate than passing a law. It requires a two-thirds vote of Congress and ratification by three-fourths of the states. The success of Mr. Helms's measure would mean that a simple majority in Congress could render the Constitution unenforceable in Federal courts—and subject to varying interpretations in state courts.

Let the debate continue until the entire Senate understands, and knows that the voters understand, that the issue is not prayer but court-stripping.

Mr. President, we should keep in mind that this administration has been unwilling to endorse the pending Helms amendment, as alluded to in the New York Times editorial. The President wants to restore voluntary prayer to schools. He said so in his radio address to the Nation on Saturday. But he is not—this is a crucial point—he is not advocating that we strip the Supreme Court of its jurisdiction to hear school prayer cases. Rather, he wants us to vote on his proposed constitutional amendment, not only because he supports it but because he knows that it is the constitutional amendment process that is the correct way for us to address constitutional decisions of the Supreme Court.

I challenge the President to speak out and help get the Senate off the track that we are now headed down. I shall join with him to have us address

the school prayer issue in the context of a constitutional amendment. I urge him to join with me in rejecting the course of attempting to strip the Supreme Court of its jurisdiction over school prayer cases.

While some may disagree with the substance of the President's proposed constitutional amendment, all of us can agree that it is the proper way—that is, the amendment process—for addressing the school prayer issue. I stated yesterday and I restate today that I believe it is proper for the Senate to address the school prayer issue as long as it is doing so in the means provided for in the Constitution.

It would be easy to simply view the pending amendment as a school prayer issue. However, unfortunately, as unpopular as it may be to oppose a provision which is labeled as a school prayer proposal, in my view, it is part of my obligation under my oath of office to uphold the Constitution to speak out against court stripping. Such obligation carries with it the duty to oppose all proposals that run counter to the letter or spirit of the Constitution.

Mr. President, I, too, hope that we can end the Senate's deliberation on the debt limit bill. This would be beneficial in my view for two reasons: First, it will mean that we can lay aside the pending court-stripping proposal and take up the school prayer issue in the context of a constitutional school prayer amendment.

Second, I strongly believe that Americans want us to keep our focus on the pressing issues of the economy. They want us to deal with burgeoning deficits and skyrocketing unemployment. Those are very real issues that affect Americans and that should not be forgotten as we continue this constitutional dialog.

Mr. President, I wish to proceed by reading some comments on the pending court-stripping proposal as they have appeared in various newspapers around the country. I first wish to read, Mr. President, an editorial which appeared in the Philadelphia Inquirer on September 9 of this year, which is highly critical of the pending court-stripping proposal. That editorial is entitled "A Solemn Mockery."

The ringmaster of the Senate's far-right bloc, Sen. Jesse Helms, (R., N.C.), has introduced a school-prayer measure, backed by President Reagan, that would take away the Supreme Court's right to review any state law or regulation "which relates to voluntary prayers in public schools and public buildings."

This is not merely a measure to permit prayer in the schools. It represents a radical change in the American system of government, upsetting the delicate balance of powers wrought in the Constitution by the Founding Fathers and undermining the Constitution itself.

That, of course, is not what the backers of the Helms amendment to the debt ceiling bill say. What they say is that they seek to reverse the Supreme Court's rulings, in 1962 and 1963, striking down Pennsylvania and New York laws requiring the recitation of prayers and the reading of the Bible in the public schools.

Such a reversal is a bad idea in itself, but if those who think it is a good idea want to amend the Constitution, why don't they follow the processes of amendment set forth by the Constitution?

Those processes are difficult, and they were meant to be difficult. How much easier it is to amend the Constitution by legislative fiat. If the Congress can reverse one set of Supreme Court decisions by passing a law, what is to stop it from reversing others, according to the will or whim of a temporary majority?

This, not school prayer, is the issue in the Helms bill now being subjected to "extended debate," otherwise known as a filibuster, by its opponents. It is the issue in that other Helms constitutional amendment that seeks to do an end around the Supreme Court's 1973 decision guaranteeing women's right to abortion.

To forbid the judiciary to inspect one part of the Constitution would be, as Chief Justice John Marshall declared in *Marbury* vs. *Madison*, in 1803, "worse than a solemn mockery."

"It is emphatically the province and duty of the judicial department to say what the law is," Chief Justice Marshall wrote in that historic decision. There is nothing conservative about bills under which Congress would relegate that "province and duty" to itself, not only passing laws but interpreting them. The extended debate should continue until the Helms measures are defeated.

Mr. President, I now wish to read another editorial. This one appeared on September 12 in the Los Angeles Times. It, too, is critical of the Reagan administration's failure publicly to criticize the court-stripping proposal involving school prayer. The title of that editorial is "The Constitution Is Misread." That Los Angeles Times editorial reads as follows:

President Reagan is overlooking the traditional independence of America's judicial system in his headlong attempts to appease his most doctrinaire backers.

In announcing that he will not oppose a bill to strip the U.S. Supreme Court of jurisdiction over school prayer, Reagan not only played politics and erred on the issue itself but also ignored the sound legal advice of his own attorney general, William French Smith. Smith hasn't flatly called the current congressional attempts unconstitutional, but in May he issued a 16-page analysis that clearly implied just that.

The Senate is debating school prayer and antiabortion measures that have been attached to an important bill to raise the federal debt ceiling. While Reagan has also renewed his call for a constitutional amendment to legalize school prayer, he says that he will not oppose this court-stripping legislation, which is sponsored by Sen. Jesse Helms (R-N.C.).

Smith has opposed taking jurisdiction over school prayer away from the Supreme Court because he says the American federal system "depends on a single court of last resort having a final say on the resolution of federal questions."

Limiting the Supreme Court's jurisdiction by legislation would compromise the court's function as an equal and independent arm of government, Smith said. That might create problems even more severe than those that the legislation seeks to correct, he added.

It is wise counsel that should be heeded by both the President and the Senate. If they are dissatisfied with the Constitution, or the Supreme Court's interpretation of it, they must follow the Constitution's prescription for amendments. These must be passed by two-thirds votes of Congress and ratified by three-fourths of the states—not passed by simple majorities in Congress, as Helms and his followers are seeking to do.

On the issue itself, Reagan also misses a rather important point in the Constitution. The First Amendment says that Congress shall make no law regarding the establishment of religion. That means that it shall neither outlaw any religion nor officially sanction any. In 1963, when the Supreme Court ruled against officially sanctioned prayer or Bible verses in public schools, it said that "a union of government and religion tends to destroy government and degrade religion."

Religion is a voluntary, personal act. The involvement of government negates the entire experience. Reagan should understand that allowing even voluntary prayer places a government stamp on religion. That is not what the Constitution intended, and the Supreme Court should not be stripped of the authority to say so.

Mr. President, as I have often said in the last week, I am taking the floor not to address the merits of school prayer. That is another issue. At another time it is an issue which we should address, a rather important issue. Rather, I am taking the floor because I am vehemently opposed to legislative efforts to prohibit the U.S. Supreme Court from reviewing Federal constitutional questions. I am vehemently opposed to these court-stripping amendments.

If the Senate and the House by a simple majority, 51 percent of the votes cast, can tell the Supreme Court that, no, the Supreme Court can no longer hear any cases involving school prayer, then, Mr. President, we in the Congress, we in the country will have begun down that slippery slope of temptation where the Congress at a future date by majority vote will strip the Supreme Court of other Federal constitutional issues—the right to bear arms, free speech, all of the other guarantees to Americans in the Constitution.

ORDER FOR VOTE ON CLOTURE TO OCCUR AT 12 NOON TOMORROW

Mr. BAKER. Mr. President, will the Senator yield to me? I ask unanimous consent that he may do so without losing his right to the floor, without any interruption in his presentation appearing in the RECORD, and without it being counted as a second speech today.

Mr. BAUCUS. Mr. President, under those conditions, I will be very happy to yield to the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I inquire of the minority leader if he would be in a position to agree to a time certain for a vote on cloture tomorrow if such a vote is necessary?

Mr. ROBERT C. BYRD. Mr. President, we have checked on our side of the aisle, and we are I think agreeable to such a request.

Mr. BAKER. Yes. Mr. President, we have checked on our side, and the most convenient time appears to be 12 noon.

Mr. President, that is cleared here, and I now ask unanimous consent that the vote to occur on cloture against further debate on the Helms amendment pursuant to provisions of rule XXII occur tomorrow at 12 noon without the requirement of the mandatory quorum under the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the minority leader, and I thank the Senator from Montana for permitting us to transact this business.

Mr. BAUCUS. I thank the majority leader.

Mr. President, I now refer to an editorial from the Chicago Tribune of September 12 which also criticizes the court-stripping proposal now before us.

This is an editorial in the Chicago Tribune dated September 12 of this year. The title of that editorial is "Some Radical Ideas From the Right."

[From the Chicago Tribune, Sept. 12, 1982]

SOME RADICAL IDEAS FROM THE RIGHT

If you had come in late in the performance, you might think President Reagan was some wildeyed radical running a campaign against the Constitution. He has given a wink to advocates of a bill to strip the Supreme Court of the power to decide certain 1st Amendment cases involving prayer in the public schools. And he is out giving speeches that invoke the name of God on behalf of overcoming Supreme Court decisions concerning abortion.

It is only because people are familiar with the political lineup on these issues that so few are struck by the enormous irony of seeing the Constitution being manhandled by people who call themselves conservatives. President Reagan, pressed by a right-wing faction with a "social agenda" that would require changes in the structure of government, has embraced some very risky proposals, which could provoke a showdown between the elected branches of government and the Supreme Court. The conservationism he is touting now is not the kind of conservatism that is reluctant to make dramatic attacks upon longstanding traditions.

The question of prayer in the public schools is a case in point. The new right faction has been outraged by Supreme Court decisions that say the 1st Amendment prohibits public schools from holding voluntary sessions of prayer. This strikes some people as an example of just how godless our society has become.

There are proposals in Congress that would attempt to stop the Supreme Court from ruling in school prayer cases. The Reagan Justice Department raised some constitutional questions about these proposals, but it didn't want to offend the right wing and so declined to declare the idea flatly unconstitutional. Now President Reagan has announced that he does not oppose the school prayer proposal. Perhaps there is just enough of the old-fashioned conservative in him that he could not bring himself to endorse this drastic measure, but his announcement was taken as a signal that he would sign the bill if it were enacted.

There are two serious problems with the school prayer proposal, either one of which should have led the Justice Department and President Reagan to denounce it. First, it offends the tradition of religious freedom that has served this country well for centuries. The reason public schools are prohibited from sponsoring prayer sessions is that no matter how they are handled they can put pressure on vulnerable children whose beliefs do not conform with the religious ceremony. The way to appreciate the Supreme Court's position is to imagine the effect upon a child of being the only one in the class not to engage five minutes of "voluntary" mockery of God.

The second problem is even more fundamental. It goes to the very heart of our system of government. If Congress, by a simple majority vote, can prevent the Supreme Court from protecting individual liberty against infringement by the state, the mechanism that safeguards our basic freedoms will be weakened. The Constitution, which can be changed only by the difficult process of amendment, is meant to make it impossible for a political majority to violate the rights of any American. The school prayer proposal, if it were to succeed in preventing Supreme Court review, would establish that the majority can prevail over constitutional liberties. And that would be a step toward tyranny.

A conservative ought to recoil at some of the things the new right has on its "social agenda." They are offered as ways to reinvigorate a certain kind of moral climate, but in reality they would jeopardize the traditions of government and individual liberty that have sustained us since the beginning of the Republic.

Mr. President, as I said, that is an editorial by the Chicago Tribune on September 12 of this year.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. The Senate will now stand in recess until 2 p.m. today.

Thereupon, at 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

Mr. BAKER. Mr. President, during the recess from 12 until 2 p.m., there is an impact on the provisions of rule XXII in respect to the filing of second-degree amendments.

I freely acknowledge that is an oversight on my part because without any provision to the contrary, the time for the filing of second-degree amendments would expire at 1:30 p.m. We recessed at 12 o'clock, so for an hour and a half no one would have been permitted to introduce second-degree amendments, which does not seem like an equitable way to proceed.

I have consulted with the minority leader on this subject and with the principals on both sides of the debate, and I believe the request I am about to make will, perhaps, not be objected to. I hope not.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that any amendments filed at the desk prior to the hour of 1:30 p.m., notwithstanding the fact that the Senate was in recess, shall be considered as timely filed for the purposes of rule XXII.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object—the majority leader is right. Had there not been a recess any Senator could have filed second-degree amendments up until the hour of 1:30 which is 1 hour prior to the cloture vote at 2:30.

By inadvertence, no request was made to allow Senators to file amendments until 1:30, notwithstanding the fact that the recess was going on. So it was an inadvertence, and had there not been a recess—and the majority leader, of course, had it within his power not to have a recess—for the two caucuses, amendments could have been filed by 1:30.

I would personally not object, and I hope no one would object, because otherwise it does prevent any Senator from offering second-degree amendments at this point, and only by reason of the unintentioned oversight. So I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the Chair, I thank the minority leader, and I especially thank the Senator from Montana and others who were directly involved in this debate.

THE RAILROAD STRIKE

Mr. President, the information I am about to give to the Senate is secondhand. Therefore, I have not yet had an opportunity to confirm it independently. But it is my understanding that our Committee on Labor and Human

Resources, which has jurisdiction of the legislative request of the administration in respect of the railroad strike, may be prepared either to report or to present a bill this afternoon. Members should know if, indeed, that occurs it would be my intention to ask the Senate to act on that measure today, and as soon as possible.

I will try to have a further announcement to make on that as soon as I am able to ascertain the exact situation.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, we approach once again a fateful decision concerning the nature of the American constitutional system and the independence of the judicial branch thereof.

By emphatic votes we have resisted the effort to go forward with this measure to strip the Supreme Court of jurisdiction over questions dealing with constitutional rights. It happens to be that the particular constitutional right involved is that of the free exercise of religion provided in the first amendment. But the particular is secondary. What we are considering is whether Congress can deny Supreme Court jurisdiction in cases involving the Court's fundamental activity, interpreting the Constitution.

The argument made by the distinguished Senator from North Carolina in the Law Review article he submitted yesterday speaks of an unlimited applicability of the exceptions clause. It is not in any sense confined to the right of a free press, the right to assemble, the right to bear arms. Thus the right to bear arms, if there is any representative of the National Rifle Association present, need merely be circumscribed by a single vote of a majority in both Houses and the acquiescence of the President, and the Bill of Rights provision disappears, in effect, from the Constitution.

This would be the most profound change in the separation of powers arrangement in the history of our system.

I have written at some length on this. I have written an article entitled, "What to Do When the Supreme Court is Wrong," because the Supreme Court has been frequently wrong over its history, wrong in the sense that it subsequently declared itself to be wrong.

It was wrong in Dred Scott. The reconstruction amendments obviated the necessity for the Court to reverse itself, but we may declare with some certainty that subsequent Court decisions acknowledged the error.

Justice Brandeis in Erie Railroad—forgive me, my memory never was thorough on these matters and indeed needs best to be consulted—in Erie Railroad against Tompkins, Justice Brandeis noted:

> An unconstitutional assumption of powers by courts of the United States which no lapse of time or respectable array of opinion would make us hesitate to correct.

The Court found it had acted unconstitutionally, and it corrected itself.

We have developed the most elaborate and yet forthright proceedings for correcting the Court when we think we should. I have put them in the hierarchy of debate, litigate, legislate; debate the issue, litigate the issue, and then in time let the Congress pass another and similar law and see if the Court has not changed its view. That so clearly happened in the case of Lochner against New York, when in 1905 the Court held that State legislatures had no power to regulate the hours of persons working in bakeries. At the time, Mr. Justice Holmes said:

> The 14th amendment does not enact Mr. Herbert Spencer's social statics.

Indeed, it does not, and indeed, 30, 40 years—well, 35, 36, 37—passed before the Court started saying:

> Of course, it did not; never did. We should not have done that.

Obviously, if a legislature wants to say 10 hours a day are all you need to work in a coal mine, that comes within the police powers and the powers concerning the general welfare. The Court said, "We no longer hold contrary." That is all.

Plessy against Ferguson said separate but equal facilities, separating the races, were constitutional. In Brown againt Board of Education, the Supreme Court said, "No, they are not."

We are under no obligation to agree with the Supreme Court, Mr. President. We are only under the obligation to obey it, to appear before it and to litigate and legislate. It does change its mind. The system works. The Court changes its mind.

What, however, if we were to establish now the principles that the Court will not be given a chance to change its mind? What a profound departure from the traditions of this Nation.

How perilous would be any right, how jeopardized any interest, any property: Any individual interest of conscience could be stripped from the Constitution.

We have said to ourselves with pride, and properly so, that we have been a country of majority rule and minority rights; that there are things you could not do to Americans regardless of the number of people who wish to do them. If 225,999,999 think one thing, there are some things they cannot force that last American to do because it is his right to say no.

Now we are in a situation where if a majority of one in each body so votes and a President acquiesces, the Constitution changes. That is not the way we have provided for the Constitution to change. To the contrary, seeing just this question in his farewell address which each February we read from that seat in which you sit now, Mr. President, George Washington had this to say:

> It is important . . . that the habits of thinking in a free country should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity or reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern: some of them in our country and under our own eyes.—To preserve them must be as necessary as to institute them.

I repeat Mr. President:

> To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

George Washington spoke precisely to the issue of those Senators who ask themselves: Is there not a large and good purpose to be achieved by stripping the Court of jurisdiction in this matter? As it is a matter of such respectable and indeed reverential purpose?

Well, I do not dispute that purpose. I suggest anyone who advances it does so in the best of conscience and with the greatest legitimacy. But to do it by usurpation, that is "the customary weapon by which free governments are destroyed."

George Washington wrote in conclusion:

> The precedent must always greatly overbalance in permanent evil, any partial or transient benefit which the use can at any time yield.

Mr. President, have we endured 195 years of constitutional government not to have learned this? Do we customarily read this address from the Presiding Officer's podium not to attend to it, but in an empty ceremony, a ceremony in which the words have lost their meaning and the symbols are associated only with ancestry worship and self-satisfaction? Do we no longer attend to the urgent warnings which the first President of the United States gave to us? He saw this day. He foresaw this vote, not in any

specific and tangible sense, but as a man who was willing to acknowledge what most governments have not been willing to acknowledge: The love of power and propensity to abuse that predominates in the human heart.

He saw that. He did not see a nation of angels, a world of new Soviet men, a transcendent Buddhist valley. He saw Americans, recognizable warts and all, prone to love power, prone to abuse, and a government designed to check that power, to see that no matter how many might wish to do wrong, there would be an institution that would uphold right. And he warned us—do not let the transient benefit of the moment, the vision of righting a wrong decision by improper means impose the greater evil: the precedent that those means can be used. If the Court be wrong, challenge it again. If the Court be right but the Constitution inadequate to our purposes, change the Constitution. But do not usurp the power of the Court to declare what the law is.

John Marshall stated most emphatically that it is the province and duty of the Court to declare what the law is. And when that province is taken from the Court, it ceases to be an independent and equal branch, and the usurpation George Washington warned of will have taken place. Who will bring it back? The least dangerous branch? As James Madison in the Federalist Papers wrote, the judiciary is the least dangerous branch. What will it send against Congress should the Congress violate its sworn obligation to uphold the institution? Will it mass its forces? Will it cut off Congress funds? Will it impose its powers both physical and financial as we can do? No. It cannot. That is why our duty is so particular. If we can prevail in this vote, if the forces of the Constitution prevail today, history will have been reaffirmed, confirmed, and vindicated.

I thank the Chair for his great patience and attendance to these remarks.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that I may be permitted to proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, we have a whole bevy of constitutional experts telling what is right and what is wrong. I can produce an endless list. The distinguished Senator from New York can produce a list.

Mr. President, I ask unanimous consent that an article from the Villanova Law Review entitled, "Congressional Retraction of Federal Court Jurisdiction to Protect the Reserved Powers of the States: The Helms Prayer Bill and a Return to First Principles," by James McClellan, be printed in the RECORD at this point. I think this will answer all of the comment that has been made.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RETRACTION OF FEDERAL COURT JURISDICTION TO PROTECT THE RESERVED POWERS OF THE STATES: THE HELMS PRAYER BILL AND A RETURN TO FIRST PRINCIPLES

(James McClellan)

Since the earliest days of the Warren court, countless bills have been introduced in Congress which would deny the federal courts jurisdiction over a great variety of subjects ranging from busing to abortion. The exceptions clause of article III of the Constitution provides Congress with the authority to enact such bills. While none of these proposed bills has been enacted into law, it is noteworthy that two have passed at least one house of Congress, and that both of these have sought to deny all federal courts, including the Supreme Court, jurisdiction over certain cases arising under the fourteenth amendment. The first of these two bills, introduced by Representative William Tuck of Virginia in the 88th Congress in 1964, would have eliminated federal court jurisdiction over state legislative apportionments. It passed the House of Representatives but was defeated in the Senate. The second measure, the Helms Prayer Bill, passed the Senate two years ago but failed to get out of the House Judiciary Committee. The Helms Bill sought to deny all federal courts jurisdiction over cases involving voluntary prayer in the public schools. Its chief sponsor was Senator Jesse Helms of North Carolina, who has been introducing similar legislation since 1974. He has again introduced it in the 97th Congress, and its chances of passage seem excellent, not only because it passed before under a Democrat-controlled Senate, but also because it was endorsed by the Republican Party platform of 1980 and apparently also by President Reagan.

These bills limiting jurisdiction all have one subject in common: they all deal with civil rights issues. This is true of every bill introduced since 1957 which has challenged the jurisdiction of the federal courts. Moreover, these bills all involve the fourteenth amendment. While a few deal with rights under the equal protection clause, the overwhelming majority—of which the Helms Bill is representative—affect rights guaranteed by the Bill of Rights as applied to the states through the due process clause of the fourteenth amendment. Individually considered, they represent a rejection of specific Supreme Court holdings. Taken together, however, they reveal a distinct pattern of widespread dissatisfaction with the Court's nationalization of the Bill of Rights, or what is commonly referred to as the doctrine of incorporation. Although no member of Congress has articulated the conflict in quite these terms, it is clear that what we are witnessing is something more than random dissatisfaction with judicial legislation. More fundamentally, these legislative efforts to reverse the Court are part of a growing, and increasingly popular, movement in Congress to return power over civil rights to the states. The controversy, then, is not simply about the substantive meaning of these rights, but about federalism. It is not simply about *what* our rights are, but about *who* is to say what they are.

Indeed, none of the bills limiting federal court jurisdiction introduced over the past twenty years has sought to impose upon the American people or the states a single-minded, monolithic definition of a particular liberty guaranteed by the Bill of Rights or by the fourteenth amendment. Instead, these bills invariably seek to lodge final review in the state supreme courts and to allow the states to decide for themselves the content of individual freedom. Thus, the thrust of this legislation is not uniformity, but diversity. As I shall presently argue, this is not only entirely in keeping with the original purpose of the Bill of Rights, but also is a modest attempt at restoring the original design of our constitutional system. Our federal system, as originally conceived, left the individual states free to define the civil rights of these citizens because the Bill of Rights was applicable only to the federal government. Nevertheless, this system has been radically altered—without an explicit constitutional amendment and without public debate over the merits of the alteration—by the Supreme Court's incorporation of the Bill of Rights into the word "liberty" in the due process clause of the fourteenth amendment.

Turning back to the period during which the Bill of Rights was considered and adopted, we recall that it was George Mason of Virginia who proposed at the Constitutional Convention of 1787 that a declaration of rights be included in the Constitution. Yet, Elbridge Gerry's motion that a committee be appointed to prepare such a statement was voted down unanimously. The members of the Convention generally agreed that a bill of rights was unnecessary since the expressly enumerated powers of the federal government did not include power over "the liberties of the people." Without much of a struggle, however, the Federalist supporters of the Constitution agreed to the adoption of a bill of rights during the ratification effort in the state conventions. One reason they so readily acceded to Antifederalist demands for a bill of rights was that they felt such a declaration changed nothing regarding the constitutional structure, and neither reduced federal power nor increased state power. The Bill of Rights, in other words, simply declared what was already understood by the Framers of the Constitution—that the national government had no authority in the general area of civil liberties. Thus, Federalists and Antifederalists were in general agreement that the states, not the federal government, would determine under their own bills of rights the meaning and substance of civil liberty within their respective jurisdictions. As James Madison explained in the *Federalist*, "the powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, *liberties* and prosperity of the people; and the internal order, improvement and prosperity of the State." Consequently, the debate in 1787 was not over the substantive meaning of the civil liberties, but rather over the issue of whether the Constitution should be explicit regarding their enforcement.

It is important to bear in mind, therefore, that the Bill of Rights actually had a dual purpose: to protect each *individual* against the abridgment of his civil liberties by the federal government, and to assure each *state* that the federal government would not encroach upon the jurisdiction of the states over such matters. In the latter regard, the Bill of Rights is essentially a states' rights document. Each amendment was a guaran-

tee to the individual *and* to the states. Indeed, the protection of states' rights by the Bill of Rights was widely regarded in 1791 as far more important than the protection it afforded to the individual. Six of the states which ratified the Constitution urged the adoption of numerous amendments before it went into effect. With respect to those proposed amendments, Benjamin F. Wright has noted:

"It has frequently been stated that the motive behind these amendments was a desire to secure greater protection for the natural rights of the people. This is true only in part. An examination of the proposals of the first three States to make them, Massachusetts, South Carolina, and New Hampshire, will afford sufficient evidence of the fact that the members of these conventions were much more disturbed about the rights and powers of the States than about the rights of the people."

Massachusetts proposed nine amendments, but only the sixth, which referred to indictment by grand jury, dealt with individual liberty as such. The short list proposed by South Carolina made mention of "the freedom of the people," but otherwise dealt with the issue of the "sovereignty of the states," while of the twelve proposed amendments offered by New Hampshire, only the last three had a direct bearing on individual liberty. Only Virginia and North Carolina, it seems, proposed a true bill of rights for the people.

Of further significance is the fact that the First Congress, which proposed the Bill of Rights, rejected an attempt to apply portions of it to the states. The fifth resolution of James Madison's proposed series of amendments for a bill of rights provided that "[n]o *State* shall violate the equal rights of conscience, or the freedom of the press, or the trial by jury in criminal cases." But, Madison's suggestion was defeated in the Senate. As Tucker of South Carolina observed:

"This [proposal] is offered as an amendment to the Constitution of the United States, but it goes only to the alteration of the constitutions of particular States. It will be much better, I apprehend, to leave the State Governments to themselves, and not to interfere with them more than we already do; and that is thought by many to be rather too much."

Charles Pinckney, a Framer of the Constitution, later explained the purpose and effect of the Bill of Rights in these striking words:

"When those amendments became a part of the Constitution, it is astonishing how much it reconciled the States to that measure; they considered themselves as secure in those points on which they were the most jealous; they supposed they had placed the hand of their own authority on the rights of religion and the press, and . . . that they could with safety say to themselves: 'On these subjects we are in future secure; we know what they mean and are at present; and such as they now are, such are they to remain, until altered by the authority of the people themselves—no inferior power can touch them.'"

For nearly a century and a half, the Supreme Court respected these views, thereby securing one of the major objectives of the Bill of Rights. Speaking for a unanimous Court, Chief Justice Marshall declared in *Barron v. Baltimore* that the first eight amendments "contain no expression indicating an intention to apply them to the state governments." This position was consistently maintained in subsequent decisions involving the first, fourth, fifth, sixth, seventh, and eighth amendments between 1833 and 1868. In *Permoli v. New Orleans*, for example, a unanimous Court upheld a municipal ordinance challenged by the Catholic Church as a denial of the free exercise of religion, asserting that "[t]he Constitution makes no provision for protecting the citizens of the respective states in their religious liberties; this is left to the State consitutions and laws." Even after the adoption of the fourteenth amendment, which prohibited the states from denying any person "life, liberty, or property, without due process of law," the Supreme Court continued to follow and apply *Barron*—a factor strongly supportive of the view that the fourteenth amendment was not intended, by those who witnessed its creation and sought to apply its provisions, to defeat the original purpose of the Bill of Rights. Throughout the late nineteenth and early twentieth centuries, state and federal courts uniformly upheld the principle that the Bill of Rights applied only to the federal government. "In at least twenty cases between 1877 and 1907," Charles Warren observed, "the Court was required to rule upon this point and to reaffirm Marshall's decision of 1833." As late as 1922, in *Prudential Insurance Co. v. Cheek*, the Court declared that "neither the fourteenth amendment nor any provision of the Constitution imposes restrictions upon the state about freedom of speech."

The Court suddenly reversed itself in 1925 when it offhandedly remarked in *Gitlow v. New York* that "[f]or present purposes we may and do assume that freedom of speech and press—which are protected by the First Amendment from abridgment by Congress—are among the fundamental personal rights and 'liberties' protected by the due process clause of the Fourteenth Amendment from impairment by the states." Thus began the piecemeal incorporation of first amendment freedoms into the word "liberty" of the due process clause of the fourteenth amendment, reversing *sub silentio* and *Barron* decision and thereby undermining one of the great objects of the Bill of Rights, i.e., exclusive state jurisdiction and control over the freedoms protected by the first eight amendments. In 1931, in *Near v. Minnesota*, the Court embarked upon the revolutionary course outlined in *Gitlow* by incorporating the freedoms of speech and press into the fourteenth amendment. In subsequent cases, the Court arbitrarily transferred the freedom of assembly and the freedom of religion into the fourteenth amendment, finally completing the incorporation of the first amendment with the inclusion of the establishment clause in *Everson v. Board of Education* in 1947. Since 1961 the doctrine of incorporation has been extended to the fourth, fifth, sixth, eighth, and ninth amendments. As Charles Fairman has noted, however, "the record of history is overwhelmingly against" the idea that section 1 of the fourteenth amendment "was intended and understood to impose Amendments I to VIII upon the states."

Viewed in historical perspective, the *Everson* case was significant in two respects. For the first time, the Supreme Court interpreted the establishment clause as a restriction on the states. By this bold and fundamental innovation the Court overturned more than a century of constitutional law that had regularly permitted the states to determine church-state relationships in accordance with their own laws and constitutions. Second, and equally novel, was the Court's absolutist theory of religious establishment which held that the first amendment erected a "wall of separation" between church and state which prohibited a state from giving any aid of any kind—not merely to specific religious sects but to religion generally. Based upon its pronouncements in *Everson*, the Court subsequently ruled in *Engel v. Vitale* that the voluntary recitation of a state-composed school prayer, though nondenominational, constituted an establishment of religion.

The Framers of the Bill of Rights were generally inclined toward the view that government had a duty to promote religion and morality in society, and at the time the Bill of Rights was adopted, most states actually provided varying degrees of aid to established religions within their jurisdictions. The "wall of separation" rhetoric, which appears in a private letter written by Thomas Jefferson, was not widely accepted even in the nineteenth and early twentieth centuries. The State of Massachusetts, for example, actually required bible-reading in the public schools in 1826, and between 1913 and 1930, eleven more states enacted similar statutes. Little wonder that Mark de Wolfe Howe has described the Court's incorporation of the establishment clause and its imposition of the "wall of separation" doctrine as a complete "distortion of the intellectual background of the First Amendment."

In response to these developments, the Helms Prayer Bill seeks to restore the establishment clause to its original purpose, for its effect would be to lodge in the highest courts of each state final authority over questions involving this one aspect of state aid to religion. Regardless of the success or failure of the bill, Senate consideration of its merits will serve to focus public attention on the origin and purpose of both the establishment clause and the Bill of Rights generally, while possibly generating debate over the doctrine of incorporation itself—a public debate that is long overdue and goes to the very heart of the fundamental question of whether it is wiser or proper for nine unelected judicial officials, serving for life, to possess the awesome power of deciding what our freedoms shall be.

When our Constitution was adopted, the American people overwhelmingly agreed that liberty is safest when protected at the state and local level. The doctrine of incorporation, which has become the great wellspring of judicial activism in our time, thus runs counter to the basic proposition upon which our nation was founded. Putting aside the issue of whether Congress has the authority under article III to limit the appellate jurisdiction of the Supreme Court and return jurisdiction seized by the Court back to the states—a question which both the Constitution and the Court itself have, in this writer's judgment, answered in the affirmative—the great strength of the Helms Prayer Bill lies in the fact that it promises to stimulate public discussion and debate about the very essence of the American political system.

In another sense, of course, the debate over court regulation under the exceptions clause of article III is one of separation of powers and democratic theory.* * *

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I appreciate the request of the Senator from North Carolina. I also ask unani-

mous consent that the other articles which appear in that law review be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SYMPOSIUM: CONGRESSIONAL LIMITS ON FEDERAL COURT JURISDICTION

(Editor's Preface)

Numerous bills are presently pending in Congress which would, in one form or another, limit the jurisdiction of the federal courts. Some of these proposals would divest only lower federal court jurisdiction, others would divest both lower federal court and Supreme Court jurisdiction and others would divest only the Supreme Court of jurisdiction. These proposals were not born of a desire to remedy procedural deficiencies, such as a crowded federal docket. Instead, these jurisdiction limiting bills are reactions by a hostile or frustrated Congress to perceived over-reaching by the judiciary in such politically controversial areas as public school prayer, racial discrimination and abortion.

Attempts to limit the jurisdiction of federal courts are not unique to the present Congress. In the past, the lower federal courts have been divested of jurisdiction over certain classes of cases. Legislation divesting the Supreme Court of jurisdiction to hear particular cases was enacted once, in 1867. However, the constitutionality of such legislation is far from certain.

In an effort to examine this important issue of the *Villanova Law Review* dedicated its 1982 Symposium to an exposition of the topic. The Symposium panel consisted of four constitutional and federal court scholars, Paul M. Bator, Charles E. Rice, Martin H. Redish and Leonard G. Ratner, and the Chief Counsel, Dr. James McClellan and Minority Counsel, Kenneth R. Kay of the United States Senate Separation of Powers Subcommittee. The Symposium participants represented the full continuum of legal and political views on the topic.

In a Symposium last March at the Villanova Law School, each panelist presented the article which appears in this issue. Following these presentations, the Honorable Dolores K. Sloviter of the United States Court of Appeals for the Third Circuit moderated a discussion between the panelists. An audience question and answer period followed. The six articles focus primarily on the Supreme Court's jurisdiction, although Professor Bator does examine issues of lower court jurisdiction in some detail. The far reaching and spirited proceedings, however, deal extensively with issues of lower court jurisdiction.

The role and power of the federal courts, especially that of the Supreme Court have been debated throughout our history. However, the present jurisdiction limiting bills have spawned a more extensive and intensive debate than ever before. Whatever the outcome of the Congress' attempt to divest the federal courts of jurisdiction, the intensity of the current effort will have caused a reevaluation of the fundamental role played by the federal courts in the American system of government.

The Symposium edition of the *Villanova Law Review* endeavors to provide a forum for the detailed scholarly analysis of the major issues involved in federal court limiting legislation within the confines of a single issue of a law review. On behalf of the *Law Review*, I want to again thank the participants in this year's Symposium and those who attended the oral presentation. I also want to thank Dean O'Brien and the faculty of the Villanova Law School for their advice, and willing help with all aspects of the Symposium. Additionally, I want to thank the Staff of the *Law Review* for the many hours of work they did in making this Symposium possible.

THOMAS G. LONG.
Research/Projects Editor.

INTRODUCTION: LEGISLATIVE PROPOSALS TO RESTRICT THE JURISDICTION OF THE FEDERAL COURTS: ARE THEY WISE? ARE THEY CONSTITUTIONAL?

The subject which this Symposium addresses is among the most controversial and yet significant issues of our decade. There are currently pending in Congress some twenty bills which would restrict the jurisdiction of the federal courts. Some of these are addressed to restricting the jurisdiction of the lower federal courts, particularly in regard to specific remedies, while others are addressed to restricting the appellate jurisdiction of the United States Supreme Court in certain specific types of cases or controversies.

The Board of Editors of the *Villanova Law Review* invited a distinguished panel of legal scholars, representing the continuum of thought on the subject, to present papers and discuss the issue in a panel discussion. In this introduction to the publication of that Symposium, I will endeavor to call attention to some of the major questions raised by jurisdiction restricting legislation and present the constitutional background for discussion of the issue.

In considering the six articles and the Symposium Proceedings which follow, it is necessary to keep in mind the scheme which the United States Constitution provides for the exercise of the judicial power. Article III, section I provides that "[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." In contrast, Article III, section 2 provides:

"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admirality and maritime Jurisdiction;—to Controversies to which the United States shall be a Party; to Controversies between two or more States;—between a State and Citizens of another State;—between citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

In the dispute over the current pending legislation, some very fundamental propositions may be overlooked, possibly because they are obvious. It may nonetheless be useful to begin the discussion with some black letter propositions.

I do not think that anyone questions or debates the proposition that article III, section 1 gives Congress the power to impose fundamental revisions on the jurisdiction of the inferior federal courts. If tomorrow Congress chose to enact a statute that withdrew from the lower federal courts jurisdiction over diversity cases, there might be some scholarly debate over the wisdom of such action, but not over congressional power. Similarly, if Congress chose by legislation to expand diversity jurisdiction of the federal courts by legislatively overriding the rule of "complete diversity" enunciated in *Stawbridge v. Curtiss* and sought instead to define diversity as embracing minimal diversity, there would be no question that Congress had acted within its constitutional grant of power. Congress has periodically decreased the diversity jurisdiction of the inferior federal courts by adjustment of the amount in controversy without evoking either dismay or alarm. The power to establish inferior federal courts encompasses as well the power to define their jurisdiction once they have been established.

Congressional power with respect to jurisdiction of the inferior federal courts also patently includes power to distribute or redistribute business among the various federal districts or circuits. For example, the current pending bills which would enable a shift of venue in cases in which the United States is a party, and in appeals of regulatory agency decisions, which appear to be aimed primarily toward restricting the scope of decisions of the United States Court of Appeals for the District of Columbia, have not been challenged on the ground that such legislation would exceed Congress' power. Plainly it would not.

On the other hand, what is at issue in the pending legislation is the legislative attempt to restrict jurisdiction of both the inferior federal courts and the appellate jurisdiction of the Supreme Court in constitutional matters. In large part, the dispute is generated because it is apparent that congressional efforts to restrict jurisdiction are not neutral efforts, as is the restriction of diversity jurisdiction, but instead are efforts designed to manipulate the substantive outcome of controversial issues. Numerous practical, as well as constitutional, questions are raised by the type of legislation now pending in Congress. From a practical standpoint, the restriction of jurisdiction of the lower federal courts in certain categories of cases would necessarily result in such cases being decided, in the first instance, by the various state courts. Because there is a high probability of diverse interpretations of issues of federal constitutional significance by state supreme courts, the United States Supreme Court, with the sole opportunity and responsibility for definitive resolution, would undoubtedly be greatly overburdened. It was this concern which led Congress in 1875 to vest jurisdiction over federal questions in the lower federal courts. The opposite problem would be presented if the appellate jurisdiction of the Supreme Court were restricted. Then the problem would not be one of overburden, but rather the nonreconcilable nonuniformity of constitutional interpretation which would inevitably result when fifty state supreme courts were given the opportunity to make diverse decisions on the same provisions of the federal Constitution. Imagine the plight of federal officers, such as the Attorney General of the United States, who may be subject to inconsistent obligations. Because neither of these scenarios are politically palatable, it may be that ultimately, as with many issues in a democratic society, practical considerations,

rather than those of principle, will lead to a resolution and avoid a constitutional crisis.

This Symposium, however, addresses power, not politics. Obviously, if the precedent were conclusive on the power of Congress to enact legislation restricting the appellate jurisdiction of the Supreme Court, this Symposium would have been convened on another topic. As the various participants suggest, the precedent is inconclusive and is cited as support by those with opposing viewpoints. Although the number of pending bills to restrict the Supreme Court's jurisdiction, and the apparent support which they have engendered, may appear to be unique, in fact there have been prior efforts to affect outcome determinations by manipulation of jurisdiction, and not all have failed. Perhaps the leading example of such an instance is the provision restricting the jurisdiction of the federal courts to issue injunctions "in any case involving or growing out of a labor dispute" except under certain defined circumstances. The Court had little difficulty in sustaining "the power of Congress . . . to define and limit the jurisdiction of the inferior courts of the United States," although it would indeed be myopic to believe that the impetus behind the restriction of jurisdiction was a neutral effort to regulate the business of the courts. However, the principal distinction between provisions such as the anti-injunction section of the Norris LaGuardia Act and the pending bills is that the Norris LaGuardia Act merely restricted use of an injunctive remedy in a situation where no constitutional right was implicated.

In addition to the effect of the current bills on the ability of the federal courts to vindicate constitutional rights, another serious concern is that Congress is attempting to use its article III power to define the jurisdiction of the federal courts in order to make changes in substantive constitutional law which the constitution envisions as the function of the amendment process. Thus, the question is whether a simple legislative majority can override the purposefully time-consuming and cumbersome amendment procedure which article V mandates. Indeed, in August 1981 the American Bar Association's House of Delegates, voted almost unanimously to oppose congressional efforts to bypass the amendment process by simple legislation.

I hope to have performed the simple function of an appetizer at a great feast—to whet your appetite for the delights which follow.

Congressional Power To Regulate Supreme Court Appellate Jurisdiction Under the Exceptions Clause: An Internal and External Examination

(Martin H. Redish)

I. INTRODUCTION

In a political sense, at least, it seems to be a somewhat strange time for a wave of proposed legislation designed to curb the jurisdiction of the Supreme Court. Historically, such moves have occurred primarily when there existed a danger that the Court would overturn a congressional scheme of vital national import, thereby triggering a national crisis, or when an increasingly activist and libertarian Supreme Court threatened to collide with a Congress concerned with preserving national security. By contrast, today's Court is dominated by individuals appointed by Presidents concerned with reducing judicial activism, and while those appointees have perhaps not always lived up to original expectations, there is every reason to suppose that over the next three years the Court is likely to take on an even less activist appearance. Actually, all the talk in Congress and among academics about the need to curb a federal judiciary run wild makes me nostalgic for my days as a college and law student in the 1960's, when the Warren Court was realistically giving opponents of judicial activism something to worry about. To a believer in a judiciary which should be relatively active in the pursuit of individual liberty, the current Supreme Court pales by comparison.

Whatever the political motivation for such jurisdiction-curbing legislation, however, no one can doubt either the reality of the current moves to curb federal jurisdiction or the significant constitutional issues their enactment would rise. In previous writting, I have considered possible constitutional limitations on Congress' power to regulate the jurisdiction of the lower federal courts. Here I wish to discuss the very different—though equally significant—constitutional issues surrounding congressional authority to regulate the appellate jurisdiction of the Supreme Court.

Unlike the lower federal courts, the Supreme Court's existence is mandated by article III of the Constitution. However, it is only the Court's relatively limited original jurisdiction that is unequivocally insulated from congressional regulation. The Court's appellate jurisdiction—by far its greater source of authority—is given, "with such Exceptions, and under such Regulations as the Congress shall make." A common sense interpretation of the constitutional language would seem to lead to the conclusion that Congress possesses fairly broad authority to curb Supreme Court appellate jurisdiction. Of course, a linguistic argument might be fashioned that the term "exceptions" implies that *some* jurisdiction is retained, so Congress could not abrogate totally the Court's appellate jurisdiction. A more complex linguistic argument might even be fashioned that the term "exceptions" implies that Congress may not remove the major portion of the Court's appellate jurisdiction, since an "exception" must by definition be less expansive than the "rule" to which it is an exception. This argument, however, faces the difficulty that its acceptance would require deciding at exactly what point the "exception" has become so large that it has effectively superseded the "rule." In any event, it is clear that even if all the currently proposed jurisdiction-curbing legislation—dealing primarily with cases involving abortions, school prayer and busing to achieve racial integration—were enacted, that tipping point would not have been reached.

Nevertheless, scholars have proposed various limitations on the scope of Congress' constitutional power under the exceptions clause. Some of these limitations are said to derive from within the clause itself—limitations which may be deemed "internal." Others, which may be characterized as "external" constraints, are said to flow from other constitutional provisions. I intend here to consider the arguments proposed in support of these asserted limitations, both internal and external. Ultimately, I conclude that there exist no real internal limitations on Congress' power under the exceptions clause. The external limitations, on the other hand, present more complex issues of constitutional law, and it is conceivable (though by no means clear) that, at least in certain situations, they will exercise a restraint on Congress' power. Even if such limits are found to exist, however, there will remain substantial opportunity for Congress to curb Supreme Court appellate jurisdiction.

But while Congress' power in this area ultimately proves to be broad, it is important to understand the impact that the exercise of this power to curb jurisdiction would have. Not all those to have considered the issue have done so. It has been suggested, for example, that jurisdictional limitation may be viewed as a preferable alternative to the amendment process as a means of circumventing a Supreme Court consititutional decision. Such thinking dangerously misconceives both the effect of a jurisdictional limitation and the role of the Supreme Court within the constitutional scheme. Thus, whatever the outer reaches of Congress' power under the exceptions clause, if the true impact of such legislation were universally understood, it is quite possible that no curbs on the substantive exercise of Supreme Court jurisdiction would ever be enacted.

H. THE CASE LAW BACKGROUND

The natural starting point for a consideration of Congress' power under the exceptions clause is a discussion of the relevant case law concerning past congressional efforts to curb Supreme Court jurisdiction. Unfortunately, such an examination proves to be far from definitive, and ultimately aids the inquiry very little. In part for this reason and in part because others have already done an excellent job analyzing the case law background, I will confine my discussion of the case law to the bare essentials.

The case to which every court or commentator must first turn is the Supreme Court's decision in *Ex Parte McCardle.* There the Court refused to decide an appeal from a lower court's denial of a writ of habeas corpus challenging the constitutionality of the congressional program of post-Civil War Reconstruction. Following argument of the case before the Court, Congress repealed the statute, which had been enacted one year earlier and authorized the Court to give appellate review to habeas decisions from the lower federal courts. The Court dismissed the case for lack of jurisdiction, and in so doing made statements endorsing a virtually unlimited scope for the exceptions clause. Thus, read for "all it might be worth," Mc Cardle may be taken to stand as precedent for broad congressional power to curb Supreme Court appellate jurisdiction.

But it is now commonplace to note that Congress' repeal of jurisdiction had no effect on an alternative method of obtaining Supreme Court review of habeas corpus denials provided by the Judiciary Act of 1789. This point did not go unnoticed by the *McCardle* Court itself and was made more forcefully by the Court later that year in *Ex parte Yerger.* Hence, despite its fairly sweeping dictum, *McCardle* cannot really be taken to stand as a dispositive precedent on the question of congressional power to excise from the Court's appellate jurisdiction an area of substantive review. While at various times the Court has made similarly sweeping comments about the breadth of congressional power, all of those comments came as dicta. Therefore, if the issue is ever to be reconsidered by the courts, precedent will prove to be of relatively limited value in deciphering the meaning of the exceptions clause. More fruitful, perhaps, would be an analysis of the theories of leading commen-

tators about the clause's meaning, and it is to such an analysis that I now turn.

III. AN INTERNAL EXAMINATION: THE MEANING OF THE EXCEPTIONS CLAUSE

A. The "Essential Functions" Thesis

Several respected commentators have urged that while Congress possesses some power under the exceptions clause, "the exceptions must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." When Professor Henry Hart made that statement in 1953, he provided absolutely no indication of exactly what Supreme Court functions were to be deemed "essential," how anyone was to answer that question, or on what basis he found such a limitation in the Constitution. In light of this, Professor Hart's comment could at best be characterized as conclusory and at worst as simply off-hand. But picking up where Professor Hart left off, Professor Leonard Ratner some seven years later elaborated upon the "essential functions" thesis. The first task Professor Ratner attempted was to define the meaning of the term, "essential functions." Such functions, he said, were "(1) to provide a tribunal for the ultimate resolution of inconsistent or conflicting interpretations of federal law by state and federal courts, and (2) to provide a tribunal for maintaining the supremacy of federal law when it conflicts with state law or is challenged by state authority."

Few would deny that the functions mentioned by Professor Ratner are among the most significant functions performed by the Supreme Court. But that, of course, is not the point. Both Professors Hart and Ratner have read into seemingly unambiguous constitutional language a principle that undeniably does not appear anywhere on the face of the document. A strong argument could be fashioned that such tinkering with explicit constitutional language is impermissible, regardless of whatever policy considerations or historical evidence can be marshalled in support. As to the relevance of policy considerations, it could be argued that while broadly phrased constitutional provisions may be adapted to meet changing values and social conditions, the rational limits imposed by the constitutional language must be observed, lest we effectively discard the carefully structured constitutional scheme. For as I once stated in a slightly different context:

"[I]f recognized, such a power [to disregard the outer limits of constitutional language] knows no logical bounds: if the Court's constitutional pronouncements are not required to have at least an arguable basis in the document's language, the Court's decisions inescapably become mere fiat, insulated from reasoned debate other than in the purely legislative sense of debating the normative wisdom of whatever "constitutional" rule the Court is considering devising."

Thus, while I might well agree, as a policy matter, that Congress should not possess the power to tamper with performance of the Supreme Court's role, if I can find no constitutional basis for erecting such a limitation, I am powerless to alter the situation. To quote Professor Hart, who perhaps should have better heeded his own implied warning, "whose Constitution are you talking about—Utopia's or ours?"

As to the relevance of historical evidence concerning the intent of the Framers, a strong argument could be fashioned that such evidence is irrelevant in interpreting a relatively unambiguous constitutional provision, such as the exceptions clause. For it was the constitutional language, not the background debate, that was enacted into law. While such evidence might well be relevant to interpretation of language whose meaning is unclear, it is arguably not useful in the admittedly rare case where no ambiguity can be found, and there can be no doubt that the exceptions clause contains no reference to "essential functions."

In any event, if historical evidence is ever to be allowed to alter our interpretation of unambiguous constitutional language, it must be considerably more overwhelming than the history to which Professor Ratner points in support of his "essential functions" thesis. At best, his evidence is speculative and at worst, it is simply useless.

After sifting through Professor Ratner's extensive historical arguments, I can find two basic factors upon which he relies to demonstrate the Framers' belief in the "essential functions" thesis. First, he notes that:

"Proposals that the Supreme Court, acting with the Executive, be given power to veto congressional legislation and that Congress be given power to veto state legislation, though vigorously urged, were ultimately defeated in large part by the force of the argument that Supreme Court review of cases involving the constitutionality of either state or federal statutes would constitute a sufficient check upon the legislative power."

Ratner further notes "the Convention's purpose to make the Supreme Court the principal instrumentality for implementing the supremacy clause." But of course, none of this relates directly to the Framers' understanding of the exceptions clause itself. If Professor Ratner intends to establish that the Framers intended the explicit language of that clause to be modified by a non-existent qualifier, surely he must provide more than general evidence concerning the Framers' vision of the Supreme Court's role. Every bit of debate to which he refers must be modified by recognition of the express wording ultimately chosen by the Framers. In any event, vis a vis the states, at least, Professor Ratner's evidence establishes only that the Framers deemed it necessary for Congress to have the *authority* to employ the Supreme Court as a check on state decisions affecting federal law. Nothing that was said, either directly or impliedly, deems Congress *obligated* to use the Court in this manner. For if the policy-making branches of the federal government—Congress and the Executive—conclude that whatever interpretations of federal law given by the state courts are acceptable, there will be no need for Supreme Court policing of the state courts to assure compliance with federal supremacy; by definition, whatever the state courts hold will be consistent with federal policy. As in the case of federal preemption of state law, the fact that Congress *may* choose to preempt an area does not mean that it cannot instead decide to authorize state legislation. What is important for purposes of federalism is that Congress have the *power* to check the states, not that such a check be *required* of Congress.

Furthermore, Professor Ratner's contention that the Framers assumed the availability of Supreme Court review to invalidate congressional legislation, even if accurate, is irrelevant to the essential functions which Ratner posits—policing of the states and providing federal uniformity. But more importantly, the specific quotations to which Ratner refers speak only of the authority of the judicial branch or of "the Judges" to review congressional legislation. There is nothing in these statements which implies that the power must necessarily be exercised by the Supreme Court.

Professor Ratner's second piece of supporting historical evidence concerns a rejected change in wording of the exceptions clause. He acknowledges that [t]he Committee on Detail [which prepared the language of the clause] kept no record of its proceedings, and there is no evidence apart from the draft itself as to how the language originated." However, he notes that following the Committee's report to the Convention an amendment was proposed to change the language of the exceptions clause to read: "In all the other cases before mentioned the judicial power shall be exercised in such manner as the legislature shall direct." The amendment was defeated, leading Ratner to conclude that [h]ad the Convention desired to give Congress [plenary control over Supreme Court appellate jurisdiction], the reasonable course would have been to adopt the unequivocal language of the amendment in place of the more ambiguous phrasing of the Committee's draft. The defeat of the amendment thus may reasonably be construed as a rejection by the Convention of plenary congressional control over the appellate jurisdiction of the Court and as indicating that the purpose of the clause was to authorize exceptions and regulations by Congress not incompatible with the essential constitutional functions of the Court.

The leaps of logic and faith in this reasoning boggle the mind. First, by his own admission Ratner has no historical material to work with other than the bare fact of the proposed amendment's existence and its defeat. Thus, if he is properly to draw any irrebuttable conclusions from the amendment's rejection they must be ones that inherently flow from the ultimate decision to reject. Yet there are numerous possible interpretations that might be given to explain this act, other than the one Ratner suggests. Most probably is that the Framers chose to leave the "inertia" of jurisdiction with the Supreme Court, requiring Congress to take affirmative steps (i.e. make exceptions) to limit it, rather than require Congress to set out the Court's jurisdiction in the first place and thus making exceptions merely by a failure to delineate, which would have been the result of the amendment. Ironically, the Supreme Court itself has all but accomplished the apparent goal of the rejected amendment by holding that Congress' failure to grant appellate jurisdiction to the Court constitutes the making of an exception. But for the moment that is beside the point. The immediate issue is the meaning to be attributed to the rejection of the proposed amendment, and whether or not the Supreme Court has correctly interpreted the Framers' intent in the matter, it appears that this explanation is at least as probable as any other, including Professor Ratner's, for the amendment's rejection. Indeed, for all we know, the amendment may have been rejected because the Framers simply preferred the style of the Committee on Detail, or because they believed there was no need to adopt the amendment since the Committee's proposal effectively did the same thing.

But let us assume for the moment that we can somehow be sure that in rejecting the proposed amendment the Framers intended to make Congress' power to regulate Supreme Court appelate jurisdiction more lim-

ited than would have been the case if the amendment had been adopted. How in Heaven's name do we get from that conclusion—itself one in no way logically supportable—to the conclusion that the Framers therefore intended to adopt the "essential functions" thesis as a limitation on Congress' power? If they had intended to do that, why did they not simply say so?

I do not mean by this analysis to question the thoroughness of Professsor Ratner's historical research. Quite the contrary; his research was obvioulsy done painstakingly and with great sophistication. But that, I am afraid, is exactly the point. Even the most careful historical research by an eminent scholar could not produce anything approaching hard evidence to support the "essential functions" thesis. This demonstrates all too clearly, therefore that the "essential functions" thesis is little more than constitutional wishful thinking, and it is thus not surprising that leading commentators have long rejected it.

A final point should be made about the "essential functions" thesis. Professor Ratner's version of the thesis, it should be recalled, does not posit that one of those essential functions is to serve as a constitutional check on the majoritarian branches of the federal government. It has been suggested, however, that reading the exceptions clause to mean what it says is somehow inconsistent with the spirit of our constitutional scheme in general and with the concept of judicial review in particular. Professor Berger, for example, has argued that "the Founders were deeply concerned with, and in no little part designed judicial review as a restraint on, *Congressional* excesses. If the Court was intended to curb Congressional excesses in appropriately presented 'cases or controversies,' and if an attempt to exercise that power might be blocked by Congress as a judicial 'excess,' then the Convention was aimlessly going in circles."

But even if it is assumed that the Framers contemplated judicial review as a central part of the constitutional scheme—a fact which is by no means certain, especially in light of their failure to mention the concept in the document itself—it is incorrect to confuse *judicial* review with *Supreme Court* review. Certainly the lower federal courts, if their jurisdiction is left intact, may review the constitutionality of congressional action. And even if Congress exercises its widely accepted power to limit the jurisdiction of those courts, the state courts—obligated under the supremacy clause to uphold the Constitution—remain open to review legislative constitutionality. Vis a vis Congress, at least, state courts remain as independent as article III federal judges, because Congress has no power to regulate either their salary or tenure. As Professor Hart told us a number of years ago, "[i]n the scheme of the Constitution, [the state courts] are the primary guarantors of constitutional rights, and in many cases they may be the ultimate ones." Thus, there is no reason to believe that the exercise of congressional power under the exceptions clause would necessarily violate the precept that the judicial branch may invalidate congressional legislation on grounds of unconstitutionality.

B. The Limitation-As-to-Fact Theory

There exists an alternative internal method of confining Congress' power over Supreme Court appellate jurisdiction which at least has the advantage of purporting to interpret the actual language of the exceptions clause. The argument, developed over the years by commentators, focuses on the phrase immediately preceding the exceptions clause. The complete constitutional language reads as follows: "In all other cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." It has been suggested that the words of the exceptions clause do not modify the words, "appellate Jurisdiction," but rather modify only the word "Fact". So read, the constitutional language authorizes Congress to make exceptions only to the Supreme Court's power to review factual determinations. If accepted, of course, the theory would effectively preclude Congress from limiting the Court's jurisdiction in the manner proposed by the currently pending legislation. But while evidence does exist to support the contention that the Framers were concerned with Supreme Court review of findings of fact in the lower courts, the theory is faced with insurmountable linguistic and historical obstacles.

The linguistic obstacle comes down to not much more than the location of a comma, but that difference in location appears to make a significant difference in terms of meaning. The language of article III, it should be recalled, is that "the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions and under such Regulations as the Congress shall make." Note that there are commas both before and after the phrase, "both as to Law and Fact." So structured, it is undeniable that the phrase beginning with, "with such Exceptions" modifies the words, "appellate Jurisdiction," rather than the word, "Fact." If the Framers had placed the comma after the word "Law," the meaning could conceivably have been different, since the "Exceptions" phrase would arguably then be confined to the word "Fact." Even if this change had been made, however, use of the word "both" would still have clouded the Framers' meaning. For it is unlikely they would have used the "both" preceding "as to Law and Fact" if they had chosen to place a comma after "Law." Linguistically, therefore, there exists no rational basis for construing the wording of article III to mean that Congress' authority under the exceptions clause was limited to Supreme Court review of factual determinations.

Perhaps more important is the fact that limits imposed upon Supreme Court appellate jurisdiction by the Judiciary Act of 1789—limits that apparently went unchallenged—imposed restrictions which went far beyond matters of factual review. Thus, this relatively contemporaneous evidence tends to establish that the Framers intended no such limitation. Finally, while Supreme Court precedent, such as *McCardle*, may not be dispositive as to the validity of the "essential functions" thesis, it clearly disposes of the review-as-to-fact theory, since the limitation on the Court's appellate jurisdiction upheld there was in no way confined to review of factual determinations.

There is, then, no internal method of construing the exceptions clause to mean anything other than what it says. If a way is to be found to narrow Congress' broad power, it must be from a constitutional source external to the exceptions clause itself.

IV. AN EXTERNAL EXAMINATION: DUE PROCESS, EQUAL PROTECTION, AND SEPARATION-OF-POWERS CONSIDERATIONS

A. Due Process

Any provision of the Constitution, of course, may be modified by means of the amendment process. Thus, if an existing amendment is found to be inconsistent with a provision within the body of the Constitution, the former must logically take precedence. No more helpful than the internal methods in the attempt to confine the reach of the exceptions clause, however, is the fifth amendment's due process clause. While I firmly believe that that clause requires an independent judicial forum for the ultimate adjudication of claims of constitutional right, as already noted, that requirement may be met by either the lower federal or state courts, and therefore does not require the assertion of Supreme Court jurisdiction. Since the Supreme Court itself has unequivocally held that due process does not require the provision of *any* level of appellate review, there can be no doubt that mere removal of the Supreme Court's appellate jurisdiction would fail to present any due process problems. A greater hope for an effective external restraint on Congress' power to remove cases from the Supreme Court's appellate jurisdiction, then, is equal protection.

B. Equal Protection

While the fifth amendment by its terms imposes no requirement of equal protection on the federal government, the Supreme Court has construed that amendment's due process clause to impose such an obligation. Thus, if Congress attempted to employ its authority under the exceptions clause to deny blacks or aliens a right of Supreme Court appellate review, such legislation would unquestionably be unconstitutional. The issue remaining for consideration, however, is whether the equal protection requirement can be used to strike down any other (and more likely) exercises of power under the exceptions clause.

A number of years ago, Professor Van Alstyne suggested that equal protection may in fact serve as a significant limitation on Congress' authority. He reasoned in the following manner: "Where the class of excluded cases involves the exercise of 'fundamental rights,' the appropriate standard of judicial review is the more taxing one which denies any presumption of constitutionality and requires that the government justify the exceptional treatment of the class by demonstrating an imperative connection between the basis for singling out that class and a highly compelling, as well as limited governmental interest."

Van Alstyne therefore concluded that "[t]he use by Congress of the exceptions power to single out a class of cases involving fundamental rights, withdrawn from the Supreme Court's appellate jurisdiction only from dissatisfaction with the Court's exercise of its power of substantive constitutional review in respect to such cases, may, ironically, today be subject to fifth amendment challenge."

Van Alstyne is not certain how the "compelling interest" requirement, imposed to measure the validity of classifications of so-called "discrete and insular minorities" or in the use of fundamental rights, would apply to the exercise of congressional authority under the exceptions clause. That question however, must be faced only after one has first concluded that the highly demanding "compelling interest" standard of equal pro-

tection review—or indeed, any equal protection review at all—is revevant. I have serious doubts that the equal protection limitation extends as far as Professor Van Alstyne suggests. The reason for these doubts is that, to borrow a phrase from the National Rifle Association, rights don't have rights; *people* have rights. In other words, if all Congress has done is to remove a class of cases involving assertion of a particular right from the Supreme Court's appellate jurisdiction, and has done so for everyone, there would not even appear to exist a prima facie equal protection problem, assuming no clear, disproportionate impact and no demonstration of an ultimate legislative purpose to single out a particular group for negative treatment. True, in such an event Congress would be classifying on the basis of rights, and possibly fundamental rights. But a first amendment right of free speech, for example, has no abstract complaint because it is singled out for exclusion from appellate jurisdiction while cases asserting the fourth amendment right against unreasonable search and seizure still can be heard by the Supreme Court. The right itself, as I have already noted, has no right to equal treatment vis a vis other rights.

Of course, there always exists the possibility that limitation of jurisdiction only as to some rights will have a greater impact on some individuals than others. But as long as the jurisdictional exclusion is framed in general terms (for example if it provides that no free speech cases may be heard by the Court, rather than that no free speech claims by Communists may be heard), the differing impact is likely to be so diffuse that it cannot be thought to affect disproportionately a particular, well-defined group. And even if it did, under the principle of *Washington* v. *Davis*, an equal protection challenge to such an exclusion would have to demonstrate a motive to reach that group.

More serious equal protection problems may develop, however, where Congress has removed from the Court's appellate jurisdiction cases involving assertion of a right that can only be made—either as a matter of law or of practicality—by a well-defined group. If that grouping is one that traditionally triggers a high standard of equal protection review—such as blacks or aliens—then it is conceivable that such congressional action would present serious equal protection difficulties.

Confusion in the analysis exists, however, because, if artfully drafted, legislation pursuant to the exceptions clause need not on its face refer to the affected minority. Thus, while an act explicitly removing Supreme Court jurisdiction over assertions of equal protection violation by blacks would undoubtedly trigger the so-called "strict scrutiny" traditionally associated with racial classifications, an act which merely took away the Court's jurisdiction to hear complaints of racial segregation could arguably be characterized as facially "neutral." The same could perhaps be said of the currently proposed legislation to curb the Court's jurisdiction to use busing to end school segregation. Of course, when facially neutral legislation has a clear disparate racial impact—as both the hypothetical and the actually proposed legislation would have—the Court under *Washington v. Davis* would both permit and require a showing of legislative motivation to reach the affected minority before an equal protection violation could be established. While demonstration of actual legislative motivation involves substantial difficulties, it is highly likely that such a showing could be made with relative ease for jurisdiction-curbing legislation as to both racial segregation cases in general and busing cases in particular.

A strong argument could be fashioned, however, that a showing of motivation under *Washington* is not required for legislation which unambiguously impacts more heavily on blacks, even though perhaps in a technical sense facially neutral. I believe, for example, that legislation removing medicaid benefits for the treatment of sickle-cell anemia or prohibiting the wearing of afro hairdos calls for use of strict scrutiny, even though such laws are technically neutral. In *Washington*, neither the disparate impact nor the racially-based motivation of the challenged practice—use of certain tests to choose police officers—was nearly so clear as in either these hypotheticals or the previously-discussed proposed jurisdiction-curbing legislation. All the Court established in that decision was, in the Court's words, that "[d]isproportionate impact is not irrelevant, but it is not the sole touchstone of an invidious racial discrimination. . . ."

Thus, it appears likely that a law removing from Supreme Court appellate jurisdiction cases involving assertion of a right asserted almost exclusively by blacks, even though the law did not on its face refer to blacks, should trigger the "strict scrutiny" approach used by the Court for racial discrimination. Whether Congress could establish the requisite "compelling interest" to justify such a discrimination, however, is uncertain. Traditionally, use of strict scrutiny has all but automatically meant invalidation of the classification, despite the implication of the test's language that establishment of a justification was at least conceivable. However, the use of Congress' power under the exceptions clause in such a situation is unprecedented and in many ways unique. It therefore cannot be firmly predicted that, even under a "strict scrutiny" standard, such legislation will be held unconstitutional. For the exercise of Congress' express power to curb the Supreme Court's substantive appellate jurisdiction may itself be found to be a "compelling interest." On the other hand, the simple exercise of an express power would not normally in itself be considered a "compelling interest," since Congress cannot act unless ultimately justified by one of its powers. The fifth amendment, of course, is designed to serve as a limitation on the exercise of those powers. The most likely conclusion, then, is that legislation excluding from the Supreme Court's appellate jurisdiction the power to review cases asserting a right totally or predominantly asserted by blacks or aliens would violate equal protection, despite the exceptions clause and despite the absence of a constitutional right to Supreme Court appellate review in the abstract.

More confusing are the protection implications for legislation curbing the Court's appellate jurisdiction to hear abortion cases. It might appear, upon initial examination, that the analysis should be similar to the one employed for legislation affecting rights asserted by blacks. After all, while an act curbing the opportunity to enforce a right to an abortion may not on its face discriminate against women, it is a law of nature that such legislation can affect only women. Although sexually-based classifications have never received the strict scrutiny given to racial and alienage classifications, the Court has generally provided a standard of review far tougher than "mere rationality" to sex-based discrimination. Yet for some reason not entirely clear to me, the Court has consistently refused to consider regulations affecting the right to an abortion—or virtually any facially neutral law having an inescapable and negative impact on women—as sexual discrimination.

A classic illustration is *Geduldig v. Aiello.* There the Court upheld against an equal protection attack a California disability insurance system for private employees disabled by an injury or illness not covered by workmen's compensation, even though the plan did not provide benefits for normal pregnancies. The Court treated the classification as a simple resource allocation decision. At no point did the Court acknowledge that a discrimination against pregnancy benefits invariably impacted only upon women.

The same has been true in the abortion area. In *Harris v. McRae,* the Court upheld congressional legislation limiting the use of federal funds to reimburse the cost of abortions, even those deemed medically necessary, under the medicaid program. After initially concluding that the constitutional right to an abortion was in no way undermined by the government's refusal to provide funding, the Court rejected an equal protection challenge. The Court found no suspect classification present, relying on its earlier decision in *Maher v. Roe,* where it had stated: "An indigent woman desiring an abortion does not come within the limited category of disadvantaged classes so recognized by our cases. Nor does the fact that the impact of the regulation falls upon those who cannot pay lead to a different conclusion. In a sense, every denial of welfare to an indigent creates a wealth classification as compared to nonindigents who are able to pay for the desired goods or services. But this Court has never held that finanical need alone identifies a suspect class for purposes of equal protection analysis."

In both *Maher* and *Harris,* then, the Court viewed the classification as one based on indigency, which does not receive strict scrutiny. While *Harris* has been severely criticized on a number of grounds, one obvious basis of criticism is that the decision fails to recognize that the classification was inescapably one based on sex, as well as indigency. Whether correct or not, however, the Court's unwavering approach to facially neutral classifications having an inescapable and negative impact on women makes fairly clear that legislation curbing Supreme Court appellate jurisdiction to review cases in which a right to an abortion is asserted would not be invalidated on equal protection grounds.

Even more certain is that the presently proposed legislation to restrict the Court's jurisdiction over the use of prayer in public schools would not face a strong equal protection challenge. For here, unlike the previously discussed situations, the affected right is not always or primarily asserted by a discrete group whose presence traditionally triggers a high standard of equal protection review. The same could probably be said of most conceivable attempts to curb the Court's appellate jurisdiction. Thus, while the possible impact of the equal protection guarantee on Congress' power under the exceptions clause should not be overlooked, it appears that at most that impact would be limited primarily to removal of jurisdiction in cases asserting rights of racial equality.

C. Separation of Powers

A final external constitutional limitation on Congress' power is the implicit doctrine of separation of powers. Although Congress may possess authority to remove completely from the Supreme Court's appellate jurisdiction substantive areas of law, it may not instead provide the Court with jurisdiction but direct it to act in an unconstitutional manner or require that the Court interpret the Constitution in a particular way. As Professor Hart stated, "if Congress directs an article III court to decide a case, I can easily read into article III a limitation on the power of Congress to tell the court *how* to decide it." The Court itself adopted such a position in its well-known decision in *United States v. Klein.*

When applied to currently proposed jurisdiction-curbing legislation, the separation-of-powers limitation appears arguably relevant only to the proposed limitation on the Court's power to order busing to achieve racial integration in schools. Legislation removing the Court's appellate jurisdiction concerning school prayer and abortion does not present any of the problems just described, since in each the Court's jurisdiction is presumably excised cleanly. However, legislation allowing the Supreme Court to continue to adjudicate cases alleging unconstitutional school segregation but removing from the Court power to employ the one remedy which the Court deems the most appropriate means of vindicating the fourteenth amendment right could be considered a direction to the Court as to how to decide a constitutional case.

This conclusion is far from clear, however. Though the doctrine of *United States v. Klein* is well accepted, seemingly equally accepted is Congress' power to regulate the remedies which the federal judiciary may employ. The busing limitation might well be viewed simply as an exercise of Congress' traditional power over remedies, while the Court's authority to determine the presence of a violation of the equal protection clause in a case of alleged school segregation is left intact. I believe, however, that the drawing of a distinction between the Court's authority to decide the substantive issue and its power to devise a remedy to rectify a constitutional violation is an artificial one. If judicial integrity is deemed to require that the Court be free from congressional influence over the decision of the merits of the substantive constitutional claim, the same logic requires that the Court be free to fashion the remedy it deems most appropriate. But whatever the logic, it is likely that, given the strong tradition of congressional power to regulate judicial remedies, such legislation would be upheld.

In any event, if Congress were truly bent on taking away the Court's power to order busing, it could accomplish its goal, even if a direct limitation on the busing remedy were found to violate separation of powers. For all Congress need do is to excise from the Court's appellate jurisdiction all cases alleging racial segregation in schools. If this were done Congress would not be leaving the Court's jurisdiction intact with strings attached. Congress would simply be removing the Court's jurisdiction in toto.

IV. THE IMPACT OF A WITHDRAWAL OF JURISDICTION

While Congress' power to restrict Supreme Court appellate jurisdiction is indeed broad, the limited impact of such a withdrawal should not be overlooked. Both proponents and opponents of the currently proposed legislation have overstated the consequences of such jurisdiction-curbing legislation.

Removal of Supreme Court appellate jurisdiction over an area of substantive law has no legal effect whatsoever on the validity of pre-existing Supreme Court decisions. Congress cannot, for example, overrule either *Roe v. Wade* or *Engel v. Vitale* by limiting the Court's appellate jurisdiction. Ironically, such congressional action would have the effect of locking in those decisions, for the only court that has power to modify, limit or overrule those decisions is the Supreme Court itself. Congress' power under the exceptions clause is unequivocally limited to curbing the Court's jurisdiction; neither that clause nor any other constitutional provision authorizes Congress to overturn Supreme Court decisions. The exercise of such an authority would represent a blatant violation of the concept of separation of powers. In *United States v. Klein*, the Supreme Court made clear that Congress' power under the exceptions clause does not extend to the ability to direct the Court to act in a manner which the Court deems to be unconstitutional. Surely, then, that power does not extend to expressly rejecting constitutional holdings already issued by that Court.

Recently, however, it has on occasion been suggested that while Congress itself may not have authority to overturn Supreme Court decisions, once Congress removes the Court's appellate jurisdiction over a particular substantive area of law the state courts are somehow freed from any obligation to enforce the Court's previous holdings concerning that subject matter. I fail to understand the logic behind this assertion. As already noted, an exercise of congressional power under the exceptions clause does not legally affect previous Supreme Court holdings. Under the long-established principle of *Marbury v. Madison*, the judicial branch in general, and the Supreme Court in particular, have final say as to the meaning of the Constitution. Under the supremacy clause, state courts are explicitly bound to enforce the Constitution. A combination of those two well-accepted principles demonstrates that, as long as Congress cannot overrule a Supreme Court decision, limitation of the Court's appellate jurisdiction in no way frees state courts from their unwavering obligation to enforce pre-existing constitutional holdings of the Supreme Court.

Of course, this discussion has been conducted on a purely theoretical level. As a practical matter, it is certainly conceivable that at least some state courts, freed from all federal policing, will practice what amounts to civil disobedience by blatantly ignoring their explicit obligation under the supremacy clause. As Professor Sager has suggested, in limiting Supreme Court jurisdiction Congress may be "aiming a lewd wink in the state courts' direction." Unfortunately, the long-accepted role of the state courts as enforcers of federal law within our constitutional scheme, as contemplated by the Framers and the modern-day Supreme Court, effectively prevents consideration of this possibility—and that is, after all, all that it is—in deciding upon the constitutionality of congressional limitations on the Supreme Court's appellate jurisdiction. But I nevertheless believe it is unconscionable for academics to endorse or Congress to enact jurisdiction-curbing legislation on the assumption that the state courts, either furtively or openly, will thumb their noses at the now powerless Supreme Court. Such action could significantly undermine the principles of federalism and, more importantly, of the rule of law itself. For how could the judiciary rightfully demand from society compliance with the law, if the courts themselves are guilty of blatant violation of the law?

V. CONCLUSION

It is, in a certain sense, a hopeful sign that the limits—if any—on Congress' power to curb Supreme Court appellate jurisdiction remain unresolved. For this means the Congress has never risked a national crisis by imposing significant substantive limitations on the Court's authority. It will only be if and when we do face such a crisis that the judiciary will ultimately be called upon to answer the difficult constitutional questions that have been raised.

When the dust settles, it appears likely that Congress' power will prove to be very broad. As I have attempted to demonstrate, no significant internal limitation on Congress' authority can be found, and the reach of any external constitutional restraint is, at best, uncertain. While the equal protection requirement may provide some constraint, it is likely that at most, this limitation will affect Congress' power to restrict the Court's jurisdiction in regard to claims of racial equality.

It is important however, not to confuse issues of constitutionality with questions of propriety and wisdom. None of us can be certain exactly why the Framers inserted the terse wording of the exceptions clause into article III of the Constitution. But regardless of what they may have had in mind, it is now time for Congress to recognize that exercise of such a power, at least in anything more than the most innocuous housekeeping fashion, poses a serious threat to the modern carefully structured—if perhaps not entirely constitutionally-derived—balance of authority within the federal government.

The fear of an "imperial" Supreme Court, exercising its will to stifle widely-shared societal values, has ultimately never proven true. Either by means of the appointment process or simply through Supreme Court reflection, decisions which might be so characterized have, throughout our history, generally been modified or overruled. Usually, the Court has managed to make such modifications without significantly undermining its role as the primary independent protector of individual liberty against majoritarian pressures. Hence, without anyone entirely understanding all of the mechanics involved, the Supreme Court has been able to function as an effective and valuable partner in the governing process. I cannot believe that anything justifies congressional tampering with the delicate performance of this function.

MAJORITARIAN CONSTRAINTS ON JUDICIAL REVIEW: CONGRESSIONAL CONTROL OF SUPREME COURT JURISDICTION

(By Leonard G. Ratner)

MAJORITARIANISM AND JUDICIAL REVIEW

Does the Constitution permit Congress to so constrict the appellate jurisdiction of the United States Supreme Court as to impair the federal judicial power to declare state and national regulation unconstitutional? The answer turns on the scope of constitutional checks on that power. It is too late in the day to challenge the constitutionality of the power itself. Marbury v. Madison, has been accepted for 179 years because it is sound.

Of course, given the inevitable uncertainty of communication, alternative interpretations can be constructed for the constitutional provisions that most strongly support the judicial power to invalidate federal as well as state regulation—article III extending the judicial power of the United States to all cases "arising under this Constitution" and article VI declaring that "[T]his Constitution and the laws of the United States . . . made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby any thing in the Constitution or laws of any State to the Contrary notwithstanding."

But the Marbury interpretation is confirmed by the context of a constitution, and promptly adopted amendments, designed to protect minorities, including individuals, from oppressive majority action (and of numerous Convention statements recognizing Supreme Court authority to constitutionally invalidate state and federal legislation). Judicial review effectuates the minority-protection function. Minorities are scarcely shielded from excessive majoritarian legislation by a constitution that appoints as their guardians the elected representatives of the majority. If all governmental action should be subject to constitutional constraints and the majoritarian branches ought not define the constraints on their own power, that function must be performed by the judiciary, "the least dangerous branch."

The minority protections and their enforcement by a nonmajoritarian institution are not, however, inconsistent with majoritarian democracy. The majority has imposed these limitations on its own short-term authority, and appointed a nonmajoritarian institution to enforce them, for its own long-term benefit. Such limitations ameliorate (1) the discontent, disruption, breakdown of communication, and the consequent inefficiency in public and private ordering, that result from excessive inhibition of minority action, and (2) the trauma of a shift from majority to minority status: because majorities are but shifting coalitions, a majority today may be a minority tomorrow.

But the power becomes countermajoritarian if transformed into the power to substitute judicial for legislative short term social-policy preferences. To inhibit that transformation, exercise of the power is constrained by checks and balances, formal and informal. As a consequence, judical constitutional interpretations cannot long survive without majoritarian acceptance or acquiescence.

AVAILABLE CHECKS ON JUDICIAL REVIEW

The Supreme Court has the power of neither purse, sword, nor administrative control; its membership reflects executive choice; its size is subject to legislative variation, and enforcement of its orders may require executive action. It lacks a political constituency, and it is subject to social pressures from the community of which it is a part.

To circumvent a decision of the Court, legislatures may persist with new enactments that more effectively articulate and implement the regulatory purpose. Professional and media criticism may intensify. Congress may adopt a resolution of disapproval or censure and even resort to impeachment. Normal attrition or an increase in size may bring new members less committed to old doctrine. The Constitution may be amended not only by a national super-majority but by a uniformly-distributed minimal majority: approval by two-thirds of both houses, or by a convention requested by two-thirds of the states, and ratification by three-fourths of the states all can be achieved through the electoral action of a bare majority in the requisite number of congressional districts and states. Ultimately, a majoritarian convention, though unauthorized by the existing constitution, may adopt and implement a new constitution, as when, in the "second American revolution", the Constitutional Convention replaced the Articles of Confederation with the Constitution.

These constraints are not ineffective. The infrequency of their use confirms the strength rather than the weakness of the system. Four Supreme Court decisions have been negated by constitutional amendments. An 1870 resignation and an increase in the size of the Court produced a prompt overruling of *Hepburn v. Griswold* in the *Legal Tender Cases*. The economic policy decisions of the Court in the thirties yielded to widespread criticism culminating in a presidential proposal to add more Justices. Though Congress rejected that proposal, the threat remained. Ensuing retirements and replacements solidified the new interpretations.

The viability of Supreme Court decisions depends on persuasiveness and respect. The Court's essentially educational function is to persuade the majority that its own interests are better served by subordinating short-term legislative goals to long-term constitutional goals. Traditional deference to the written Constitution, and to the Supreme Court as its interpreter, may induce at least tentative acquiescence for a critical period of discussion, testing, and further litigation. That process has ratified the one person-one vote standard for legislative apportionment and the invalidation of de jure segregation. It has induced a retreat from invalidation of capital punishment. De facto segregation, abortion, and voluntary school prayers are still in the crucible.

THE JURISDICTIONAL CHECK: EXCEPTIONS AND REGULATIONS V. ESSENTIAL FUNCTIONS

A profound check on the Supreme Court's power of judicial review is derived by some from the second sentence of article III, section 2, which provides: "In all the other cases before mentioned [i.e. in all cases within the judicial power of the United States] the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make." That clause, it is asserted, authorizes Congress to withhold from the Court appellate jurisdiction to decide constitutional cases, and from time to time congressional legislation has been introduced, though not passed, that would eliminate Supreme Court jurisdiction over appeals originating in state courts or involving particular subjects with constitutional significance.

The language, though not the holdings, of some earlier Supreme Court cases suggests that the exceptions and regulations clause gives Congress unlimited control over the appellate jurisdiction of the Court. But such an interpretation is not consistent with the constitutional plan of judicial review, and modern judicial approval is doubtful. Checks inhibit but do not stultify constitutional authority, and plenary congressional control over the Court's appellate jurisdiction could negate the Court's crucial constitutional role.

With plenary control over the appellate jurisdiction of the Supreme Court and over the jurisdiction of lower federal courts, derived from the power to create them, Congress may constitutionally do the following:

(1) Eliminate the appellate jurisdiction of the Supreme Court and abolish the lower federal courts, thereby reducing the judiciary of the United States to one court exercising original jurisdiction when a state or a ranking foreign diplomat is a party.

(2) Deprive the Supreme Court of appellate jurisdiction and other federal courts of all jurisdiction over cases involving the constitutionality of state statutes or the conduct of state officials, thus leaving final determination to the highest court of each state.

(3) Deprive the Supreme Court of appellate jurisdiction over cases arising under the Constitution, laws, or treaties of the United States, thereby designating the federal courts of appeals and the highest state courts as the final interpreters of federal law.

Such legislation would distort the nature of the federal union by permitting each state to decide for itself the scope of its authority under the Constitution. It would reduce the supreme law of the land to a hodgepodge of sometimes inconsistent decisions by fifty state supreme courts and/or twelve federal courts of appeals. It would thereby fragment and vitiate constitutional protections.

A critical aspect of the federal union is disclosed by the declaration in article VI that the federal Constitution, laws, and treaties shall be the supreme law of the land, binding on the judges in every state notwithstanding contrary provisions of state law. This constitutional mandate requires *one* federal law throughout the land and the subordination of state to federal law in the event of a conflict. The purposes of judicial review cannot be effectively implemented without uniformity as well as supremacy of federal law.

Standing alone, however, the supremacy clause is only an exhortation. A tribunal with nationwide authority is needed to interpret and apply the supreme federal law. That tribunal is created by article III, which vests the judicial power of the United States in one Supreme Court and such inferior courts as Congress may establish.

That Court alone is expressly given appellate jurisdiction over cases involving the supreme law of the land whether those cases are initiated in state or federal courts. It is thus the constitutional instrument for implementing the supremacy clause. As such, its essential functions under the Constitution are: 1) ultimately to resolve inconsistent or conflicting interpretations of federal law, and particularly of the Constitution, by state and federal courts; 2) to maintain the supremacy of federal law, and particularly the Constitution, when it conflicts with state law or is challenged by state authority. Interpreted in this context, the exceptions and regulation clause means, as Henry Hart first suggested: with such exceptions and under such regulations as Congress may make, not inconsistent with the essential functions of the Supreme Court under this Constitution.

These functions are necessarily flexible. A Supreme Court decision is not required in every case that presents a constitutional question. Some inconsistency is inevitable, and immediate correction is not always imperative. But an avenue must remain open to permit ultimate resolution by the Supreme Court of persistent conflicts between the Constitution and state law or in the interpretation of federal law by lower courts.

For this purpose discretionary review through certiorari can be as effective as mandatory review by writ of error or appeal.

Although these essential functions would not ordinarily be disrupted by a procedural limitation restricting the availability of Supreme Court review in some but not all cases involving a particular subject, legislation denying the Court jurisdiction to review any case involving that subject would effectively obstruct those functions in the proscribed area, thereby altering the constitutional relationship of nation and state and seriously undermining the effectiveness of judicial review.

JURISDICTIONAL RESTRAINTS AND PRIOR DECISIONS

The precedential effect of pre-existing Supreme Court decisions would scarcely ameliorate the divisive impact of such jurisdiction-obstructing legislation. Stare decisis is not constitutionally compelled, and the deference accorded higher courts by lower courts is primarily a consequence of appellate jurisdiction. Congress may not overrule Supreme Court decisions, but a plenary exceptions and regulations check permits Congress to give other judges the last word. Those judges, bound by oath to support the Constitution and subject to no higher review, would, like Supreme Court Justices, be constrained only by conscience and majoritarian checks.

Even in the presence of higher appellate jurisdiction, the obligation of a lower court to follow a prior appellate decision may depend on the lower court's perception of the higher court's continued commitment to that decision. Confronted with a United States Supreme Court case of dubious cogency, Justice (later Chief Justice) Roger Traynor of the California Supreme Court stated: "[W]e are not required to forecast the overruling of the [Supreme Court] case and to act on that basis. . . . [T]his case is . . . distinguishable. . . ." In the absence of Supreme Court appellate jurisdiction (and particularly after a change in the Court's personnel), the no-longer-lower courts of last resort could justifiably perceive their constitutional role as an independent one, with prior Supreme Court decisions being perhaps persuasive or worthy of stare decisis respect but not per se controlling.

The proposition that Supreme Court decisions are somehow frozen into the Constitution by removal of the Court's appellate jurisdiction attempts to preserve the essential functions of the Court despite plenary exceptions and regulations control, but only appellate jurisdiction preserves those functions.

THE FUNCTION OF THE EXCEPTIONS AND REGULATIONS CASE

A nonplenary interpretation does not nullify the exceptions and regulations clause nor destroy its function to check, but not checkmate, the judicial review power of the Supreme Court.

Contrasting with its original jurisdiction, the Court's appellate jurisdiction is an extensive one, arising not only from the presence of federal questions but also from the status of citizenship of the parties, encompassing issues of both law and fact, and extending to cases which originate in state as well as federal courts. The clause authorizes Congress to provide orderly procedures for invoking that jurisdiction and to adjust, without stultifying, it from time to time in response to social needs and political attitudes.

Detailed procedures may be specified. Review of diversity cases may be eliminated. Review of factual issues may be narrowly circumscribed. Review of less consequential cases may be eliminated by a minimum limit on the amount in controversy, provided the same federal issues can arise in cases that exceed the limit. Perhaps "expert" appellate courts may be established with final authority to interpret federal legislation in a specialized area such as taxation or patents.

Decisions on critical constitutional issues may be expedited, or postponed to a politically more propitious time. In 1802 the Anti-federalist Congress, by eliminating the current term of the Supreme Court, delayed a constitutional attack on a newly enacted statute repealing a prior increase in the number of federal judges. In 1868 Congress delayed a constitutional attack on the Reconstruction Acts by removing Supreme Court jurisdiction to hear habeas corpus "appeals," thereby nullifying a pending appeal and requiring the appellant to petition the Court anew for an original writ.

Nor is a nonplenary exceptions and regulations clause inconsistent with congressional power to increase the number of Justices. That check on judicial review does not impair the Court's essential functions. Congress may legislate an increase, but the President must appoint, though not without Senate approval. The appointees may be attuned to the medley of current majoritarian views, but their constitutional decisions are scarcely predictable. The Court's ability to maintain the supremacy and uniformity of the Constitution is unaffected.

"PLAIN MEANING" V. CONSTITUTIONAL PURPOSE

It is said that the plain meaning of the exceptions and regulations clause allows Congress to impair the Court's essential functions. In fact, a narrower interpretation is supported by dictionaries and treatises in use at the time of the Convention. They indicate that in a legal context neither an exception nor a regulation can destroy the essential characteristics of the subject to which it applies.

Language, particularly constitutional language, however, is inherently ambiguous, and constitutional issues cannot be effectively resolved by mechanically defining the ambiguous words of those who may not have anticipated the later problem. The exceptions and regulations clause has no plain meaning. It must be interpreted in the context of the overriding constitutional plan. Thus interpreted, it does not confer upon Congress unlimited control over the Court's appellate jurisdiction.

Others admonish that the exercise of such plenary congressional power, while valid, would violate the "spirit of the Constitution," i.e., would be "anticonstitutional but nonetheless constitutional." But the spirit of the Constitution, i.e., the plan and goals of the Constitution, is the essence of the Constitution and sustains the less expansive interpretation. The reasons for anti-constitutionality support unconstitutionality.

NONUNIFORM CONSTITUTIONAL INTERPRETATION

It has been suggested that not all constitutional provisions require a uniform national interpretation—that in some areas the federal system can operate effectively with state interpreted federal constitutional controls. The constitutional system of federalism permits the states to experiment with common law and enacted policy: to choose local solutions, observe the results, and make desired changes. It does not authorize state variations in the "supreme law of the land".

The Constitution makes us one nation. It is the symbol of our shared purposes. If interpretation of that overriding document, which manifests our agreement on long term associational values, varies from state to state, respect for and confidence in the document is undermined. The nature of our governmental structure and its implications for all citizens becomes indistinct. Uncertainty and discontent proliferate.

Particularly indistinct are the attributes of the constitutional limitations that do not require a uniform national interpretation. Do those limitations include due process, equal protection, and the first amendment? Are constitutional purposes implemented if each state decides for itself the constitutionality of public school prayers, public school segregation, sanctions for inaccurate criticism of state officials, disproportionate legislative districts, and anti-abortion laws? Answers are likely to be parochial, i.e., to turn on whether existing Supreme Court resolutions are consistent with local attitudes.

As final deciders of "nonuniform" constitutional issues, state supreme courts also require checks and balances. Presumably state legislatures, as well as Congress, may express disapproval of unpopular decisions. May the legislatures also withdraw jurisdiction, leaving the ultimate decision to lower state courts? Can a state constitutional amendment change a state court interpretation of the national constitution? Or is a national constitutional amendment required? What is the effect of state judicial elections on federal minority protection? Transfer of ultimate constitutional authority to state supreme courts fragments the judicial review function and remedies neither overreaching nor underreaching exercise of judicial review power.

AN ESSENTIAL-FUNCTIONS VARIATION

The essential-functions interpretation of the exception and regulations clause has received extensive support from commentators—most recently from Professor Lawrence Sager, whose *Harvard Law Review* article favors a narrowed version of that interpretation. The Supreme Court must remain available, he suggests, to review state court, though not federal court, constitutional decisions, unless Congress "has made other adequate provisions for . . . federal judicial review of these state court decisions". Ultimate resolution by a federal appellate court, he emphasizes, will 1) protect the Constitution from debilitating and varying state court interpretations, and 2) reduce the constitutional tension that results from constitutional decisions by state judges who, unlike federal judges, are not insulated from political pressures by the tenure and compensation provisions of article III.

Ignored, however, is the lack of uniformity that would result from diverse and inconsistent final constitutional decisions by lower federal courts. Twelve courts of appeal can provide substantial disparity in constitutional interpretation, and a Congress dissatisfied with Supreme Court doctrine might opt for the uncertainty of conflicting lower federal court resolutions. The confusion, discontent, and lack of respect for the Constitution engendered by such uncertainty would vitiate judicial review and undermine the federal system.

The appellate jurisdiction of the Supreme Court alone preserves both the supremacy and uniformity of the Constitution, while supporting initial constitutional adjudication by state judges who lack the tenure and compensation protections of article III.

LEGISLATIVE HISTORY

A. Numerous statements at the Constitutional Convention recognized the Supreme Court's appellate jurisdiction as constitutionally essential to maintain the uniformity and supremacy of the federal constitution and laws.

(1) In discussing proposals to give the Supreme Court a veto over congressional legislation and Congress a veto over state legislation, proponents and opponents alike agreed that the Court would have ultimate authority to decide the constitutionality of state and federal legislation.

(2) In successfully opposing the constitutional establishment of inferior federal courts, Rutledge of South Carolina, a strong states-rights advocate, urged that "the state tribunals might and ought to be left in all cases to decide in the first instance; the right of appeal to the supreme national tribunal being sufficient to secure the national rights and uniformity of judgments."

(3) Madison, replying to the question of what redress would be available if a state imposed prohibited export duties, stated: "There will be the same security as in other cases—the jurisdiction of the Supreme Court must be the source of redress. So far only had provision been made by the plan against injurious acts of the States."

B. After designating the Constitution, laws, and treaties of the United States as the supreme law of the land, the Convention specifically extended the jurisdiction of the Supreme Court to cases arising under the federal Constitution and treaties, as well as under federal laws, to conform that jurisdiction with the language of the supremacy clause. The Convention thereby manifested the purpose of utilizing the Court's jurisdiction to implement that clause.

C. The Convention rejected an explicit statement of plenary congressional power over the Court's appellate jurisdiction by defeating a motion to replace the grant of appellate jurisdiction subject to congressional exceptions and regulations with language stating: "In all the other cases before mentioned the judicial power shall be exercised in such manner as the legislature shall direct." Plenary power over the lower federal courts having previously been given to Congress, the apparent purpose of this amendment was to replace the ambiguous exceptions and regulations clause with a firm declaration of unrestricted congressional control over the Supreme Court's appellate jurisdiction.

The defeat of the amendment can hardly be explained as reflecting a desire "to leave the 'inertia' of jurisdiction with the Supreme Court, requiring Congress to take affirmative steps (i.e., make exceptions) to limit it, rather than require Congress to set out the Court's jurisdiction in the first place and thus make exceptions merely by a failure to delineate". The difference between making plenary exceptions to existing jurisdiction and setting out the jurisdiction in the first place is ephemeral. Both are affirmative acts that accomplish the same thing. Thus, the First Congress, which included many of the Framers, made exceptions to the Court's appellate jurisdiction by affirmatively delineating the authorized jurisdiction. In *Durousseau* v. *United States* Chief Justice Marshall confirmed that "this affirmative description has been understood to imply a negative on the exercise of such appellate power as is not comprehended within it."

Leaving "the 'inertia' of jurisdiction with the Supreme Court" seems to suggest the amendment was defeated because the Framers were reluctant to delay exercise of the Court's appellate jurisdiction pending congressional action. But the Court could in no event exercise jurisdiction until Congress by legislation fixed the number of Justices, as was done in the First Judiciary Act. And a clear statement of plenary congressional control, if preferred, need not have been sacrificed to a dubious concern with "inertia" or possible congressional delay.

Any such concern could have been assuaged by integrating the proposed amendment with the adopted text and by adding a clause that preserved the constitutional jurisdiction pending congressional action, as follows: In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, which shall be exercised as the Congress shall direct, and in the absence of such direction in accordance with this Constitution. Ascribing rejection of the amendment to acceptance of the view that the adopted wording of the clause—"with such exceptions and under such regulations as the legislature shall make"—clearly meant "as the legislature shall direct" attributes to most of the Framers an obtuseness not shared by the proponents of the amendment.

It has also been suggested that the proposed amendment "might have [been] understood . . . to allow Congress to increase the original jurisdiction of the Supreme Court . . . and repudiated on this ground", even though the immediately preceding sentence in the Constitution specified the cases in which "the Supreme Court shall have original jurisdiction." But the grant of original jurisdiction plus the exceptions and regulations clause contained the same ambiguity. Consequently, it was not avoided by defeat of the amendment. Marshall laid the uncertainty to rest in *Marbury* v. *Madison* by holding that Congress had power, under article III, neither to increase nor decrease the Court's original jurisdiction. And a concern with original jurisdiction could also have been alleviated by combining, as suggested above, the amendment with the adopted text.

Of course, the actual motivations for defeat of the amendment cannot be authoritatively ascertained; nor can that defeat alone determine the purpose and meaning of the exceptions and regulations clause. But the amendment suggests the ambiguity of the clause, and its defeat helps to resolve the ambiguity, particularly in the context of the tensions between plenary congressional control and the Court's function to maintain the supremacy and uniformity of federal law.

D. The writings of Madison and Hamilton in *The Federalist* reiterate the essential uniformity-supremacy functions of the Court.

"If there is in each state a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. . . . To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence, and authorized to settle and declare in the last resort a uniform rule of civil justice."

* * * * *

"It is true that in controversies relating to the boundary between the two jurisdictions [nation and state], the tribunal which is ultimately to decide is to be established under the general government. . . . Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact."

* * * * *

"The mere necessity of uniformity in the interpretation of the national laws decides the question [of federal judicial power]. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government, from which nothing but contradiction and confusion can proceed."

* * * * *

"That there ought to be one court of supreme and final jurisdiction, is a proposition which is not likely to be contested."

* * * * *

"[T]he national and state systems are to be regarded as *one whole*. The courts of the latter will of course be natural auxiliaries to the execution of the laws of the Union and an appeal from them will as naturally lie to that tribunal [the Supreme Court of the United States] which is destined to unite and assimilate the principles of national justice and the rules of national decision."

JUDICIAL INTERPRETATION

From an early date the Supreme Court itself has explicitly recognized that its indispensable functions under the Constitution are to resolve conflicting interpretations of federal law and to maintain the supremacy of that law when it conflicts with state law or is challenged by state authority. These functions were delineated in three notable decisions which confirmed the Court's statutory jurisdiction to review cases originating in state courts.

In *Martin v. Hunter's Lessee* Story, holding that the Supreme Court could constitutionally review state court decisions involving federal questions as provided by section 25 of the Judiciary Act, emphasized "the importance, and even necessity of *uniformity* of decisions throughout the whole United States, upon all subjects within the purview of the constitution." Without a reversing authority to harmonize discordant judgments, he declared:

"The laws, the treaties and the constitution of the United States would be different in different states. . . . The public mischiefs that would attend such a state of things would be truly deplorable and it cannot be believed, that they could have escaped the enlightened convention which formed the Constitution. . . . [T]he appellate jurisdiction must continue to be the only adequate remedy for such evils."

Marshall's early position, as indicated in *Ex parte Bollman, United States v. More,* and *Durousseau v. United States,* was that: 1) Congress has broad discretion in legislating exceptions to the Court's appellate jurisdiction; 2) if Congress does not exercise that discretion the Court retains its full constitutional jurisdiction; 3) if Congress exercises the discretion by specifying cases to which the jurisdiction extends, those cases not designated are impliedly excepted. Marshall did not state that the discretion is unlimited nor undertake to determine its constitutional limits. But eleven years later in *Cohens v. Virginia,* which upheld Supreme Court review of a state criminal conviction involving the interpretation of a federal statute, he declared:

"[T]he necessity of uniformity, as well as correctness in expounding the constitution and laws of the United States, would itself suggest the propriety of vesting in some single tribunal the power of deciding, in the

last resort, all cases in which they are involved. . . . [The framers of the Constitution] declare, that in such cases, the supreme court shall exercise appellate jurisdiction. Nothing seems to be given which would justify the withdrawal of a judgment rendered in a state court, on the constitution, laws, or treaties of the United States, from this appellate jurisdiction."

And in *Ableman v. Booth*, Taney, holding that state courts lacked habeas corpus jurisdiction over persons in federal custody and that the Supreme Court could review issuance of the writ by state courts in such cases, stated:

"But the supremacy thus conferred on this Government [by the supremacy clause] could not peacefully be maintained, unless it was clothed with judicial power equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitution and laws and treaties of the United States, and the powers granted to the Federal Govenment, would soon receive different interpretations in different States, and the Government of the United States would soon become one thing in one State and another thing in another. It was essential, therefore, to its very existence as a Government, that . . . a tribunal should be established in which all cases which might arise under the Constitution and laws and treaties of the United States, whether in a State court or a court of the United States, should be finally and conclusively decided. . . . And it is mainfest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it; [and] to make the Constitution and laws of the United States uniform, and the same in every State. . . ."

The foregoing cases upheld the Court's jurisdiction to review state court decisions under section 25 of the Judiciary Act not only because that jurisdiction was authorized by the Constitution, but also because it was required by the Constitution. The implication of these decisions is that Congress could not constitutionally deny such jurisdiction to the Court.

Ex parte McCardle is the case most frequently said to authoritatively uphold plenary congressional power, but it does not. In 1867 Congress had authorized an appeal to the Supreme Court from circuit court decisions denying habeas corpus. Previously the Court could review such decisions only by issuing an original writ of habeas corpus under the authority granted by section 14 of the Judiciary Act of 1789. McCardle, a civilian convicted by a military commission of obstructing Reconstruction, asserted the unconstitutionality of the Reconstruction Acts and took an appeal to the Supreme Court, as authorized by the Act of 1867, from the denial of habeas corpus by a circuit court. After a government motion to dismiss the appeal had been denied, but before decision on the merits, Congress, apprehensive that the Court was about to invalidate the Reconstruction Acts, repealed the portion of the Act of 1867 authorizing such appeals. The Court upheld the validity of the repealing statute and dismissed the appeal, stating that "it is hardly possible to imagine a plainer instance of positive exception. . . . Without jurisdiction the court cannot proceed at all in any case." But the Court carefully pointed out that the repeal did not affect its jurisdiction to issue writs of habeas corpus under section 14 of the earlier Judiciary Act of 1789:

"Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of *habeas corpus*, is denied. But this is an error. The [repealing] act of 1868 does not except from jurisdiction any cases but appeals from the Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously exercised."

Clearly the language of *Ex parte McCardle* does not sanction congressional impairment of the essential constitutional functions of the Supreme Court. Rather, it pointedly precludes the exception from affecting those functions. The repealing statute did not deprive the Court of jurisdiction to decide McCardle's case. McCardle could still petition the Supreme Court for a writ of habeas corpus to test the constitutionality of his confinement. The legislation did no more than eliminate one procedure for Supreme Court review of decisions denying habeas corpus while leaving another efficacious, but slower, one available.

A few months later in Ex parte Yerger, the Court affirmed its jurisdiction to review on direct petition for habeas corpus the constitutionality of a circuit court decision denying the writ, despite the congressional withdrawal of habeas corpus appeals, and strongly intimated that Congress lacked the power to impair the essential appellate function of the court by depriving it of all habeas corpus jurisdiction, stating:

"We agree that [the jurisdiction] . . . is given subject to exception and regulation by Congress; but it is too plain for argument that the denial to this court of appellate jurisdiction in this class of cases must . . . seriously hinder the establishment of that uniformity . . . which can only be attained through appellate jurisdiction. . . . These considerations forbid any construction giving to doubtful words [in the statute] the effect of withholding or abridging this jurisdiction. They would strongly persuade against the denial of jurisdiction even where the reasons for affirming it less cogent than they are."

There is broad language in some of the cases referring to unlimited congressional control over the Court's appellate jurisdiction, but the statements are generalized dicta. No case holds that Congress has the power to impair the Court's essential uniformity-supremacy functions. Ex parte Yerger emphatically rejected such an impairment.

SCOPE OF THE JURISDICTIONAL STATUTES

In fact, all of the jurisdictional statutes enacted by Congress have allowed the Court to perform its essential constitutional functions with reasonable effectiveness.

Although federal criminal cases (tried in two-judge circuit courts) could not be appealed to the Supreme Court before 1891, avenues for Supreme Court review remained available in such cases to resolve conflicting federal-court interpretations of the federal constitution and laws: 1) where the circuit judges were divided, they were required to certify the disputed question to the Supreme Court; 2) a habeas corpus petition could be filed in the Supreme Court to test (a) constitutionality after conviction, (b) probable cause for pre-trial commitment, which encompassed statutory, as well as constitutional, interpretation, and 3) according to later cases, habeas corpus could be utilized in "exceptional circumstances."

Early statutes authorizing Supreme Court review of state court decisions that upheld the constitutionality of a state law, denied the constitutionality of a federal law, or rejected a claim under federal law, were initially interpreted to preclude Supreme Court review of state court decisions that denied the constitutionality of a state law or upheld the constitutionality of a federal law. Such decisions, however, did not challenge the supremacy of federal law. Later cases, recognizing the implications of the third clause, sustained the Court's authority to review state court decisions upholding the constitutionality of federal laws.

Those statutes also precluded Supreme Court review of federal circuit court cases involving no more than $2000. But the limitation did not apply to habeas corpus petitions nor to certification of questions upon a circuit court division. In addition, inconsistent decisions could be resolved by Supreme Court review of a subsequent case that involved the required amount or originated in a state court.

THE SIGNIFICANCE OF OTHER CONSTITUTIONAL LIMITATIONS

Although a plenary congressional check on the Supreme Court's judicial-review jurisdiction reduces the effectiveness of constitutional limitations on majoritarian regulation, the existence of such a check turns primarily on interpretation of the exceptions and regulations clause. Diminished effectiveness of the limitations is relevant to the interpretation but is not a ground for attacking the check, once recognized.

If authorized by the clause, a shift of ultimate judicial-review authority from the Supreme Court to state or lower federal courts, some with congressionally preferred constitutional views, is not per se contrary to separation-of-powers constraints or otherwise constitutionally suspect. The clause, itself, allocates authority between the two branches, and the congressional intrusion on judicial decisionmaking would then be justified by the purpose of the constitutional check.

Of course, such congressional power, like all congressional power, is subject to Bill of Rights limitations, including the equal protection constraint implicit in the fifth amendment due process clause. A congressional enactment depriving the Supreme Court of appellate jurisdiction when review is requested by blacks or atheists would not survive equal protection scrutiny, because the apparent purpose for such a distinction is the invidious, constitutionally impermissible one of denying a Supreme Court remedy to those minorities.

The transfer to other courts of jurisdiction over certain constitutional issues that are identified with the minorities, such as school segregation or school prayers, when prior Supreme Court solutions are congressionally disapproved, is more effectively and less invidiously achieved by specifying the issues without resort to the invidious racial or religious classification. For that purpose, the invidious classification is both underinclusive and overinclusive. It precludes Supreme Court jurisdiction when review of *any* issue is requested by a member of either minority and preserves Supreme Court jurisdiction to reject or apply the disapproved solutions at the request of others.

But removal of school desegregation or school prayer cases from the Supreme Court's appellate jurisdiction, *if otherwise authorized by the exceptions and regulations clause*, would not violate equal protection, because the purpose, not achievable by a less intrusive alternative, would then be

the constitutionally approved and necessarily "compelling" one of checking congressionally disapproved Supreme Court doctrine. Ensuing decisions by the newly-designated courts of last resort would provide constitutionally authoritative interpretations, whatever their "impact" on minorities.

Congressional power to establish lower federal courts implies plenary control over their jurisdiction, and congressional withdrawal of their judicial-review authority does not stultify the judicial-review function as long as the Supreme Court retains appellate jurisdiction over state court decisions in such cases. The function is stultified, however, if the courts of a state also lack the necessary jurisdiction. The combined withholding of federal and state jurisdiction eliminates the judicial forum required to challenge the constitutionality of state or federal law. And preclusion of the plaintiff's claim with no opportunity to be heard denies due process of law. Consequently, in the absence of a federal forum the denial of a state forum could be contravened by the Supreme Court on appellate review.

SECTION FIVE OF THE FOURTEENTH AMENDMENT AS A CHECK ON JUDICIAL REVIEW

Section five of the fourteenth amendment does not imply congressional power to reverse Supreme Court decisions. That section gives Congress "power to enforce" the provisions of the amendment by appropriate legislation. Such power to enforce permits Congress to invalidate unconstitutional state policy, i.e., to supersede state policies that are inconsistent with the amendment. When Congress invalidates before judicial action, Congressional resolution of disputable constitutional facts and congressional choice of remedies are entitled to judicial deference in subsequent constitutional litigation. But Congress is not authorized to validate state regulation held unconstitutional by the Court. As stated in *Katzenbach v. Morgan:*

"Correctly viewed, section 5 is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment. . . . Contrary to the suggestions of the dissent, section 5 does not grant Congress power to exercise discretion to enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.' "

Ever since *Marbury v. Madison* the Supreme Court, as the constitutional enforcer of constraints on the majority, has had the ultimate power, subject to nonstultifying majoritarian checks, to interpret the Constitution. Section five does not authorize Congress to nullify judicial review by overturning such interpretation.

SUMMARY

Judicial power to declare state and national regulation unconstitutional implements the constitutional plan of subjecting state authority to federal constraints and of protecting individuals and minorities from oppressive majoritarian action. The effective exercise of that power requires a single federal tribunal of last resort to provide a uniform authoritative interpretation of the Constitution and to subordinate contrary state policy to that interpretation.

The supremacy clause of article VI mandates one supreme federal law throughout the land, and article III establishes the Supreme Court as the constitutional instrument for implementing that clause by conferring on the Court jurisdiction to maintain the supremacy and uniformity of federal law. That jurisdiction is the linchpin of the federal system. Without it the Constitution is fragmented by inconsistent final decisions of state and/or lower federal courts and may be subordinated to state authority. Uncertainty and discontent then proliferate; respect for and confidence in the Constitution are undermined, and Bill of Rights protections become less effective.

Nevertheless, early Supreme Court dicta has indicated, and members of Congress have urged, that article III, section 2, which subjects the Court's appellate jurisdiction to "such exceptions and . . . regulations as the Congress shall make" authorizes Congress to abolish all or any part of that jurisdiction. Some commentators justify such plenary congressional power as a constitutionally authorized majoritarian check on the overreaching exercise of judicial power to declare legislation unconstitutional. No jurisdictional statute enacted by Congress, however, has prevented the Court from performing its essential constitutional functions with reasonable effectiveness.

A narrower interpretation of "exceptions and regulations" is supported by usage, which indicates that in a legal context neither an exception nor a regulation can destroy the essential characteristics of the subject to which it applies. But language and usage are ambiguous. Meaning depends on purpose and context. Emphatic declarations at the Constitutional Convention, rejection there of a motion to give the Court such appellate jurisdiction "as the legislature shall direct", statements in the Federalist Papers, and several notable Supreme Court decisions all recognize 1) the essential constitutional functions of the Court to maintain the supremacy and uniformity of federal law, and 2) that a plenary exceptions-and-regulations power is not consistent with the constitutional plan. Interpreted in the context of that plan, the clause authorizes jurisdictional exceptions and regulations by Congress that are not inconsistent with the Court's essential constitutional functions.

The power of judicial review is subject to other effective majoritarian checks, including intense political, professional, and media criticism; legislative reenactments; Congressional censure; impeachment; attrition and new appointments; executive reluctance to enforce; legislative increase in the Court's size; and constitutional amendment. The exceptions and regulations clause permits Congress to check the Court by specifying procedures, expediting or retarding the flow of cases, eliminating review of diverse-citizenship cases, limiting review of less consequential cases, and inhibiting review of factual issues.

Not every constitutional case must be reviewed by the Court. The Court's essential functions are not impaired as long as some avenue remains open for ultimate resolution of persistent conflicts betwen the Constitution and state law or in constitutional interpretation by lower courts. Retention by the Court of this jurisdiction confirms the traditional power of Congress to restrict the jurisdiction of lower federal courts.

The exercise of plenary congressional control over the Court's appellate jurisdiction would not be vitiated by other constitutional limitations nor by the precedential effect on lower courts of preexisting Supreme Court decisions. The cost of such majoritarian control is a weakening of American constitutional democracy. The Constitution does not authorize that cost.

CONGRESS AND THE SUPREME COURT'S JURISDICTION

(By Charles E. Rice)

I. INTRODUCTION

When a ruling of the Supreme Court meets with Congressional disfavor there are several remedies available to Congress. If the decision is not on a constitutional level, a later statutory enactment will suffice to reverse or modify the ruling. If, however, the Court's decision is an interpretation of a constitutional mandate, such as the requirement of the fourteenth amendment that legislative districts be apportioned according to population, then a statute could not reverse the decision because the statute itself would be subject to that constitutional mandate as defined by the Court.

The obvious method of reversing a Supreme Court interpretation of the Constitution is by constitutional amendment. But amending the Constitution is a long and problematic process. Futhermore, the Constitution should be as compact a document as possible. If constitutional amendments became the common response to objectionable rulings by the Supreme Court, the Constitution would soon resemble a code of legislation in its length and complexity.

The disadvantages of the amendment process, however, may be avoided by the exercise of Congress' power to withdraw particular subjects from the appellate jurisdiction of the Supreme Court and from the original as well as appellate jurisdiction of the lower federal courts. This technique, which has been sparingly used and is not widely understood, offers a chance to restrain excesses of judicial power on the part of the Supreme Court without altering the basic charter of our government.

Congress' power to control lower federal court jurisdiction stems from article III of the United States Constitution, which provides: "The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

Congress, power to make exceptions to Supreme Court jurisdiction also comes from article III, which in pertinent part states: "[T]he Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

II. JURISDICTION OF THE LOWER FEDERAL COURTS

There is no question but that Congress has the power to define or even entirely eliminate the jurisdiction of the lower federal courts. Indeed, as Chief Justice Harlan F. Stone stated:

"All federal courts, other than the Supreme Court, derive their jurisdiction wholly from the exercise of the authority to 'ordain and establish' inferior courts, conferred on Congress by Article III, § 1, of the Constitution. Article III left Congress free to establish inferior courts or not as it thought appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by state courts, with such appellate review by this Court as Congress might prescribe. The Congressional power to ordain and establish inferior courts includes the power of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in exact degrees and character which to Congress may seem proper for the public good."

The Supreme Court has often acquiesced in Congress' use of its power to withdraw particular subjects from the jurisdiction of the lower federal courts. For example, in *Lauf v. E. G. Shinner & Co.* the Court affirmed the congressional divestiture of lower federal court jurisdiction to issue injunctions in labor disputes. In *Lockerty v. Phillips* the court allowed the lower federal courts to be divested of jurisdiction to hear civil actions arising under the Emergency Price Control Act of 1942.

It must be emphasized that the withdrawal of lower federal court jurisdiction does not deprive a litigant of the right to bring his federal claim. State courts are available and adequate forums for vindication of rights created by federal law in the event of a divestiture of lower federal court jurisdiction. State courts are bound to apply federal law by the supremacy clause, and thus there is no danger that federal rights will be diluted. Indeed, for almost the first century of the Republic, the only courts with general jurisdiction over all actions arising under state or federal law were the state courts. Even with the creation by Congress of federal question jurisdiction in 1875, the lower federal courts had concurrent jurisdiction with the state courts. Such is the situation today.

III. APPELLATE JURISDICTION OF THE SUPREME COURT

Beyond a doubt, therefore, Congress may withdraw particular subjects from the jurisdiction of the lower federal courts. The more interesting issue, however, is the power of Congress to make exceptions to the appellate jurisdiction of the Supreme Court. This remedy has been urged from time to time with respect to various issues, such as legislative apportionment, obscenity and others. Currently, there is before Congress legislation which would remove the Court's appellate jurisdiction in cases involving prayer in public schools and abortion. However, none of these attempts at removing Supreme Court jurisdiction from any of these controversial issues has become law. Whatever the merits of the existing Supreme Court rulings in any of these areas, this discussion is concerned only with the existence and extent of Congress' power to withdraw the Court's appellate jurisdiction over particular subjects.

A. *The Intent of the Exceptions Clause*

The exceptions clause of article III, section 2, provides that "the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." The clause was intended, according to Alexander Hamilton, to give "the national legislature . . . ample authority to make such *exceptions*, and to prescribe such regulations as will be calculated to obviate or remove" the "inconveniences" which might arise from the powers given in the Constitution to the federal judiciary. Much of the debate surrounding the adoption of the clause centered upon the Framers' concern that a supreme court would exercise appellate powers to reverse jury verdicts on issues of fact. Although this possibility was the most troubling to the Framers, the congressional power conferred by the clause is clearly much broader. This is evident in the language of article III, section 2, which gives the Supreme Court "appellate jurisdiction, both as to Law and Fact." As Hamilton observed:

"The amount of the observations hitherto made on the authority of the judicial department is this: that it has been carefully restricted to those causes which are manifestly proper for the cognizance of the national judicature; that in the partition of this authority a very small portion of original jurisdiction has been preserved to the Supreme Court, and the rest consigned to the subordinate tribunals; that the Supreme Court will possess an appellate jurisdiction, both as to law and fact, in all cases referred to them, but subject to any exceptions and regulations which may be thought advisable; that this appellate jurisdiction does, in no case, abolish the trial by jury; and that an ordinary degree of prudence and integrity in the national councils will insure us solid advantages from the establishment of the proposed judiciary, without exposing us to any of the inconveniences which have been predicted from that source."

Thus, in purposefully restricting the original jurisdiction of the Court to very narrow issues, and providing for congressional exceptions to the Court's appellate jurisdiction, the Framers intended Congress to have a broad check over potential "inconveniences" caused by an abuse of the Court's power.

B. *The "Negative Pregnant" Doctrine: The Supreme Court Will Exercise Only Appellate Jurisdiction Explicitly "Granted" by Congress*

The power of Congress contained in article III, section 2, was broadly interpreted by the Supreme Court, so that a specific grant of appellate jurisdiction by Congress was construed to imply that such jurisdiction was excluded in all other cases. This "negative pregnant" doctrine was enunciated by Chief Justice Marshall in *United States v. More*, where the court held that it had no criminal appellate jurisdiction because none had been expressly granted by Congress. The claimant in *More* sought review by the Supreme Court of his criminal conviction, noting that article III granted the court appellate jurisdiction over law and equity. Reasoning that because Supreme Court appellate jurisdiction over criminal cases was neither specifically excluded by the Constitution nor specifically regulated by Congress, More argued that the Court had jurisdiction over his case. The Court, however, rejected this argument, concluding that the Constitution was not totally controlling in matters of Supreme Court jurisdiction. Although the Court's appellate jurisdiction may have been prescribed in the Constitution, the Court held that Congress' power to regulate jurisdiction must be understood to prohibit the exercise of jurisdiction unless Congress had explicitly granted it to the Court. Speaking for the *More* Court, Chief Justice Marshall stated that "as the jurisdiction of the Court has been described [in the Constitution], it has been regulated by Congress and an affirmative description of its powers must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described."

Marshall further explained that the exceptions clause did not merely give Congress the power to make exceptions to the Supreme Court's jurisdiction, but is also implicitly mandated that the Supreme Court possessed only that jurisdiction specifically granted by Congress. Marshall stated:

"When the Constitution has given Congress power to limit the exercise of our jurisdiction, and to make regulations respecting its exercise; and Congress, under that power, has proceeded to erect inferior courts, and has said in what cases a writ of error or appeal shall lie, and exception of all other cases is implied. And this court is as much bound by an implied as an express exception."

It is interesting to note that criminal cases were not appealable to the Supreme Court until 1891. This was simply because until then Congress had not specified that they could be so appealed. With regard to its power to review criminal cases, the Supreme Court noted: "The appellate jurisdiction of this court rests wholly on the acts of Congress."

This broad interpretation of Congressional control over Supreme Court jurisdiction was first advanced in 1796 by Chief Justice Ellsworth, who had been a member of the Constitutional Convention's Committee on Detail which drafted the exceptions clause. In *Wiscart v. D'Auchy*, Ellsworth said:

"The consitution, distributing the judicial power of the U.S., vests in the Supreme Court, an original as well as appellate jurisdiction. . . . Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise our appellate jurisdiction; and if the rule is provided, we cannot depart from it. The question, therefore, on the constitutional point of appellate jurisdiction, is simply, whether Congress has established any rules for regulating its exercise."

In 1810, in *Durousseau v. United States*, Chief Justice Marshall again emphasized that the Court is bound by implied exceptions to its appellate jurisdiction, so that, in effect, it can exercise jurisdiction only where expressly granted by Congress:

"The appellate powers of this Court are not given by the judicial act. They are given by the constitution. But they are limited and regulated by the judicial act, and by such other acts as have been passed on the subject. When the first legislature of the Union proceeded to carry the third article of the constitution into effect, they must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court. They have not, indeed, made these exceptions in express terms. They have not declared, that the appellate power of the Court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affirmative description has been understood to imply a negative on the exercise of such appellate power as is not comprehended within it.

"The spirit as well as the letter of a statute must be respected, and where the whole context of the law demonstrates a particular intent in the legislature to effect a certain object, some degree of implication may be called in to aid that intent. It is upon this principle, that the court implies a legislative exception from its constitutional appellate power, in the legislative affirmative description of those powers."

Similarly, when Chief Justice Taney spoke to the issue in *Barry v. Mercein*. he said: "By the constitution of the United States, the Supreme Court possesses no appellate power in any case, unless conferred upon it by act of Congress; nor can it when conferred be exercised in any other form, or by any other mode of proceeding than that which the law prescribes."

C. *The McCardle Case*

Prior to *Ex Parte McCardle* in 1868, the Supreme Court was never called upon to decide the validity of an act of Congress which made a specific exception to its appel-

late jurisdiction. McCardle, a Mississippi editor, was imprisoned by the federal reconstruction authorities on account of seditious statements he had made. Seeking a writ of habeas corpus, McCardle asked the federal circuit court to rule that his detention was invalid. When his petition was denied he appealed to the Supreme Court under a statute which specifically permitted such appeals. After the Supreme Court heard argument on the case and while the Court was deliberating, Congress, fearing an unfavorable decision, enacted a statute repealing that part of the prior statute which had given the Supreme Court jurisdiction to hear such appeals from the circuit court. The Court, in confronting for the first time the issue of a positive congressional exception to its appellate jurisdiction, dismissed the appeal for want of jurisdiction, even though the case had already been argued and was before the Court.

The Court first discussed and reaffirmed Marshall's "negative pregnant" doctrine. The Court noted, however, that the exceptions clause provides not only for implicit divestiture of Supreme Court appellate jurisdiction, but also for the more specific and direct explicit exceptions to jurisdiction. The Court stated:

"The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of *habeas corpus* is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words. . . . Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case. And this is not less clear upon authority than upon principle."

It is true that the statute upheld in *McCardle* did not bar the Supreme Court from reviewing all habeas corpus cases. Rather, it only barred review sought under the 1867 statute which had provided one avenue of review of such cases from the circuit court. The Supreme Court retained the habeas corpus review power which had been given it by the Judiciary Act of 1789 and which congress had chosen not to withdraw. Chief Justice Chase observed for the Court in *McCardle:*

"It is quite clear, therefore, that this court cannot proceed to pronounce judgment in this case, for it has no longer jurisdiction of the appeal; and judicial duty is not less fitly performed by declining ungranted jurisdiction than in exercising firmly that which the constitution and the laws confer.

Counsel seems to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of *habeas corpus,* is denied. But this is an error. The act of 1868 does not affect the jurisdiction which was previously exercised."

Later in that same year, the Court made this distinction in *Ex parte Yerger.* On facts very similar to *McCardle,* Yerger requested the Supreme Court to issue its own writ of habeas corpus to the circuit court, as authorized by the Judiciary Act of 1789. The Supreme Court, in an opinion written by Chief Justice Chase, the author of the *McCardle* opinion, held that the 1868 statute had left untouched the Supreme Court's power to issue a writ of habeas corpus to a lower court as provided in the Judiciary Act of 1789. However, there was no indication in *Yerger* that the Court would not have upheld an act withdrawing appellate jurisdiction in all habeas corpus cases from the Court. Although the Court in *Yerger* indicated that such a result would not lightly be presumed and that such a statute would be narrowly construed, the Court acknowledged that it was within Congress' power. When discussing the power of Congress to limit jurisdiction, as evidenced by the Repealer Act of 1868, the *Yerger* Court noted:

"The effect of the act was to oust the court of its jurisdiction of the particular case then before it on appeal, and it is not to be doubted that such was the effect intended. Nor will it be questioned that legislation of this character is unusual and hardly to be justified except upon some imperious public exigency.

"It was, doubtless, within the constitutional discretion of Congress to determine whether such an exigency existed; but it is not to be presumed that an act, passed under such circumstances, was intended to have any further effect than that plainly apparent from its terms."

D. *The Klein Case*

Four years later, in *United States V. Klein,* the Court had occasion to spell out an important limitation to Congress' power under the exceptions clause. *Klein* is the only Supreme Court decision ever to strike down a statute enacted under the exceptions clause. The claimant in *Klein,* who had been a Confederate, sued in the Court of Claims to recover the proceeds from the sale of his property seized and sold by the Union forces. Because he had received a full presidential pardon for his Confederate activities, the Court of Claims ruled in his favor. If he had not received a pardon, the governing statute would have prevented his recovery. While the appeal of his case was pending before the Supreme Court, Congress enacted a statute which provided that whenever it appeared that a judgment of the Court of Claims had been founded on a presidential pardon, without other proof of loyalty, the Supreme Court should have no further jurisdiction of the case. The statute further declared that every pardon granted to a suitor in the Court of Claims which recited that he has been guilty of any act of rebellion or disloyalty, shall, if accepted by him in writing without disclaimer of those recitals, be taken as conclusive evidence of such act of rebellion or disloyalty and his suit shall be dismissed. While declaring the statute unconstitutional, the Supreme Court expressly reiterated that Congress does have the power to deny appellate jurisdiction "in a particular class of cases":

"Undoubtedly the legislature has complete control over the organization and existence of that [Supreme] court and may confer or withhold the right of appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. *If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make 'such exceptions from the appellate jurisdiction' as should seem to it expedient.*

"But the language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end. Its great and controlling purpose is to deny to pardons granted by the President the effect which this court had adjudged them to have. The proviso declares that pardons shall not be considered by this court on appeal. We have already decided that it was our duty to consider them and give them effect, in cases like the present, as equivalent to proof of loyalty. It provides that whenever it shall appear that any judgment of the Court of Claims shall have been founded on such pardons, without other proof of loyalty, the Supreme Court shall have no further jurisdiction of the case and shall dismiss the same for want of jurisdiction. The proviso further declares that every pardon granted to any suitor in the Court of Claims and reciting that the person pardoned has been guilty of any act of rebellion or disloyalty, shall, if accepted in writing without disclaimer of the fact recited, be taken as conclusive evidence in that court and on appeal, of the act recited; and on proof of pardon or acceptance, summarily made on motion or otherwise, the jurisdiction of the court shall cease and the suit shall be forthwith dismissed.

"It is evident from this statement that the denial of jurisdiction to this court, as well as to the Court of Claims, is founded solely on the application of a rule of decision, in causes pending, prescribed by Congress. The court has jurisdiction of the cause to a given point; but when it ascertains that a certain state of things exists, its jurisdiction is to cease and it is required to dismiss the cause for want of jurisdiction.

"It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power.

"The court is required to ascertain the existence of certain facts and thereupon to declare that its jurisdiction on appeal has ceased, by dismissing the bill. *What is this but to prescribe a rule for the decision of a cause in a particular way?"*

The statute in *Klein* attempted to dictate the outcome of a particular class of cases, under the guise of limiting the Court's jurisdiction. The Court lost jurisdiction only when the Court of Claims judgment was founded on a particular type of evidence, that is, a pardon. The statute further prescribed that the effect of the pardon would be such that the recitals in the pardon of acts of rebellion and disloyalty would be conclusive proof of those acts. This was an intrusion upon the judicial process and an effort to dictate the rules to be used in deciding cases. Moreover, the statute in *Klein* intruded upon the President's pardoning power by attempting "to deny to pardons granted by the President the effect which this court had adjudged them to have." In these major respects the statute involved in *Klein* was wholly different from a statute simply withdrawing appellate jurisdiction over a certain class of cases. As the Court said in the *Klein* case itself: "There could be no doubt that a denial of the right of appeal in a particular class of cases" would be within Congress' power under the exceptions clause.

E. *Supreme Court Statements Since 1872*

Since *Klein,* the Supreme Court has not had occasion to further define the limits of the exceptions clause. In *The Francis Wright* case, the Court upheld a statute under which the appellate jurisdiction of the Supreme Court in admiralty cases was limited to determination of questions of law

rather than of issues of fact. Chief Justice Waite in his opinion for the Court said that:

"What the 'appellate powers' of the Supreme Court 'shall be,' and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes of cases be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to re-examination and review, while others are not. To our minds it is no more unconstitutional to provide that issues of fact shall not be retried in any case, than that neither issues or law nor fact shall be retried in cases where the value of the matter in dispute is less than $5,000. The general power to regulate implies power to regulate in all things. The whole of a civil law appeal may be given, or a part. The constitutional requirements are all satisfied if one opportunity is had for the trial of all parts of a case. Everything beyond that is matter of legislative discretion, not of constitutional right."

In his opinion Chief Justice Waite referred to "the rule, which has always been acted on since, that while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, *actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe.*" Statements of several individual justices in the intervening years reinforce this conclusion. Justice Frankfurter, in his dissenting opinion in *National Insurance Co. v. Tidewater Co.*, noted that: "Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *sub judice.*"

In *Glidden v. Zdanok*, while discussing the power of Congress over Supreme Court appellate jurisdiction, Justice Harlan stated: "Congress has on occasion withdrawn jurisdiction from the Court of Claims to proceed with the disposition of cases pending therein, and has been upheld in so doing by this Court. . . . But that is not incompatible with the possession of Article III judicial power by the tribunal affected. Congress has consistently with that article withdrawn the jurisdiction of this Court to proceed with a case then *sub judice, Ex parte McCardle* . . .; its power can be no less when dealing with an inferior federal court. . . . For as Hamilton assured those of his contemporaries who were concerned about the reach of power that might be vested in a federal judiciary, "it ought to be recollected that the national legislature will have ample authority to make such exceptions, and to prescribe such regulations as will be calculated to obviate or remove [any] . . . inconveniences."

Justice William O. Douglas, in his dissent in *Glidden*, expressed some doubt about the continuing vitality of *Ex parte McCardle.* Referring to Justice Harlan's opinion in *Glidden*, Justice Douglas said:

First, that opinion cites with approval *Ex parte McCardle*, . . . in which Congress withdrew jurisdiction of this Court to review a *habeas corpus* case that was *sub judice*, and then apparently draws a distinction between that case and *United States* v. *Klein*, . . . where such withdrawal was not permitted in a property claim. There is a serious question whether the *McCardle* case could command a majority view today. Certainly the distinction between liberty and property (which emanates from this portion of my Brother Harlan's opinion) has no vitality even in terms of the Due Process Clause.

In his concurring opinion in *Flast v. Cohen*, in 1968, however, Justice Douglas appeared to have resolved his doubts in favor of the continued vitality of *McCardle*: "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of Section 2, Article III."

F. The Meaning of the Exceptions Clause

In summary, the exceptions clause is clear, unambiguous, and unqualified. The decisions of the Supreme Court and the statements of its justices have expressly recognized the plain meaning of the clause as conferring upon Congress' broad powers to limit the Court's jurisdiction. Indeed, this power has been so expansively interpreted by the Court that an exception will be implied in cases where Congress has not specifically "granted" appellate jurisdiction to the Court.

III. OBJECTIONS TO THE EXERCISE OF POWER UNDER THE EXCEPTIONS CLAUSE: THE "ESSENTIAL ROLE" ARGUMENT

The text of article III, section 2, explicitly and unmistakably gives to Congress the power to withdraw certain subjects from the Supreme Court's appellate jurisdiction. The obvious reading of the entire text of article III is that this power was given to Congress, not capriciously, but as an integral part of a system of checks and balances. Through the exceptions clause, Congress was given the power, in Hamilton's words "to obviate or remove" the "inconveniences" arising from the judicial power. It has been argued, however, that the power of Congress under the exceptions clause is limited by the very nature of the constitutional system and of the judicial power. It has been urged by Professor Henry Hart that the exceptions "must not be such as to destroy the essential role of the Supreme Court in the constitutional plan."

Professor Hart's test creates the difficulty of determining what is the Supreme Court's "essential role." In addition, that test would make the Court itself the final arbiter of the extent of its powers. Despite the clear grant of power to Congress in the exceptions clause, no statute could deprive the Court of its "essential role"; but that role would be whatever the Court said it was. It is hardly in keeping with the spirit of checks and balances, however, to imply such virtually unlimited power into the Constitution. If the Framers intended to permit the Supreme Court to define its own jurisdiction even against the will of Congress, it is fair to say that they would have made that intention explicit.

Furthermore, the "essential role" test was advanced by Professor Hart in response to the suggestion that Congress could satisfy the exceptions clause by removing all but a "residuum of jurisdiction," for example, by withdrawing appellate jurisdiction in "everything but patent cases." Whatever the cogency of Professor Hart's "essential role" test would be to a wholesale withdrawal of jurisdiction, if it were ever attempted by Congress, his test cannot properly be applied to narrowly drawn withdrawals of jurisdiction over particular types of cases.

If Congress were to make such wholesale "exceptions" to the Court's appellate jurisdiction, so that there was little or nothing left of that jurisdiction, it could be plausibly argued that such a wholesale withdrawal of jurisdiction was not the making of "exceptions" at all and therefore was not authorized under the exceptions clause. The decision in such a case would have to be made by the Supreme Court, and a constitutional crisis could result if the Court and Congress were to persist in opposed positions on this point. Significantly, however, the persistent support by the Supreme Court for John Marshall's "negative pregnant" theory indicates that even such a wholesale withdrawal of appellate jurisdiction could be constitutional since that theory led to the Court's acceptance of the idea that the Court should exercise appellate jurisdiction only in those cases in which Congress has specifically granted it.

Even if a wholesale withdrawal of appellate jurisdiction from the Supreme Court were to be unconstitutional as an interference with the Court's "essential role," the same could hardly be said of a pin-pointed withdrawal of appellate jurisdiction over a narrowly defined class of cases, such as those involving school prayer or abortion. It could hardly be argued that the "essential role" of the Supreme Court depends on its exercising appellate jurisdiction in every type of case involving constitutional rights. Such a contention would be contrary to the clear language of the exceptions clause and to the consistent indications given by the Supreme Court itself.

A. The Need for Uniformity and Supremacy of Federal Law Arguments

Professor Hart's theory that the jurisdiction of the Supreme Court could not be limited beyond its "essential role" was later expanded and given definition by Professor Ratner. The essential role of the Court was defined by Ratner as providing for uniformity of federal statutory and constitutional law and the supremacy of federal law over state law. Under the supremacy clause of the Constitution, the Constitution and the laws of the United States "made in Pursuance thereof" are "the supreme Law of the Land." Ratner argued that if the Constitution and federal laws are not uniformly interpreted by one ultimate arbiter—the Supreme Court—the supremacy principle will be reduced to a nullity because the Constitution and the federal law will be at the mercy of local courts. Constitutional rights will mean one thing in one state and something else in another. The result, it is claimed, would be a fragmentation of the Union. As Justice Oliver Wendell Holmes put it: "I do not think the United States would come to an end if we [the Supreme Court] lost our power to declare an act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several states."

Alexander Hamilton expressed a similar concern:

"If there are such things as political axioms, the propriety of the judicial power of a government being coextensive with its legislative, may be ranked among the number. The mere necessity of uniformity in the interpretation of the national laws, decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government from which nothing but contradiction and confusion can proceed."

It should be remembered, however, that it was Hamilton who argued in the same number of The Federalist that Congress'

power under the exceptions clause was a salutary means "to obviate and remove" the inconveniences "resulting from the exercise of the federal judicial power."

The argument that fundamental rights should not be allowed to vary from state to state begs the question of whether there is a fundamental right to uniformity of interpretation by the Supreme Court on every issue involving fundamental rights. The supremacy clause provides that the Constitution and the laws of the United States are the supreme law of the land. The purpose of the clause is to bind the states and their courts to follow the Constitution and federal law. But there is no basis for reading the supremacy clause to require uniformity of interpretation among the states on every issue involving constitutional rights. The exceptions clause is itself part of the supreme law of the land. Judging from what the Supreme Court has said about it over the years, the Court accepts the plain meaning of the exceptions clause. The Court evidently regards the clause not only as an important element of the system of checks and balances but also as granting wide discretion to Congress in exercising power under it. There is, in short, a constitutional right to have the system of checks and balances maintained in working order. Without that system, the more dramatic personal rights, such as speech, privacy and free exercise of religion, could quickly be reduced to nullities. This right to a preservation of the system of checks and balances is itself one of the most important constitutional rights.

If it be contended that the exceptions clause cannot be used to deprive the Supreme Court of appellate jurisdiction in cases involving fundamental constitutional rights, it must be replied that such a limitation can be found neither in the language of the clause nor in its explications by the Supreme Court. Indeed, the Supreme Court's conclusion, prior to 1891, that there was no general right of appeal to the Court in criminal cases, surely involved the denial of the right to appeal in cases involving fundamental constitutional rights. For what constitutional right is more fundamental than the fifth amendment right not to be deprived of life or liberty without due process of law?

When it is argued that Congress cannot take away the Court's jurisdiction to hear appeals involving fundamental rights, it must be remembered that the various rights protected by the Bill of Rights against federal encroachment have been made fully applicable against the state and local governments only through fairly recent constructions by the Supreme Court itself. Until the adoption of the fourteenth amendment in 1868, it was clear that the protections of the Bill of Rights bound only the federal government.

For nearly a century, the Supreme Court correctly interpreted the fourteenth amendment so as to restrict the states only to a limited extent. As Justice John Marshall Harlan described this rule:

"[O]ur function in reviewing state judgments under the Fourteenth Amendment is a narrow one. We do not decide whether the policy of the State is wise, or whether it is based on assumptions scientifically substantiated. We can inquire only whether the state action so subverts the fundamental liberties implicit in the Due Process Clause that it cannot be sustained as a rational exercise of power. The States' power to make printed words criminal is, of course, confined by the Fourteenth Amendment, but only insofar as such power is inconsistent with our concepts of 'ordered liberty.'"

Only in fairly recent years has the Supreme Court held that the states are uniformly bound by all the protections of the Bill of Rights as those protections are interpreted by the Supreme Court. In the process, the Court has implied and defined new constitutional rights in various areas, such as abortion and school prayer. These rights are innovative creations of the Supreme Court itself.

The argument that the Supreme Court cannot be deprived of jurisdiction to hear appeals when they involve rights which the Court has itself created, is an exercise in bootstrap jurisprudence. It would make the Supreme Court not only supreme, but also absolutist in some of the most sensitive areas of our lives. Clearly, the exceptions clause was designed to empower Congress to prevent such a result.

There are those who believe that it would be unwise for Congress to exercise its exceptions clause power even with respect to a single, narrowly drawn class of cases. But doubts as to the wisdom of the exercise of a power cannot be translated into a denial of the existence of the power. The members of Congress are entitled to form their own judgments as to the wisdom of exercising the exceptions clause power in specific instances. The views of those who doubt the wisdom of that exercise are to be seriously considered. However, Congress' power to limit Supreme Court jurisdiction is clearly affirmed in the Constitution itself. Those who are convinced that it is prudent and necessary to withdraw appellate jurisdiction from the Supreme Court in specified matters ought not to be intimidated by those who wrongly contend that Congress does not even possess that power.

It should be noted, however, that Congress, in its exercise of the exceptions clause power, is not liberated from other constitutional prohibitions which restrict all its actions. It would seem clear that Congress could not withdraw from the lower federal courts or from the appellate jurisdiction of the Supreme Court, jurisdiction, for example, "in any case where a Baptist shall be" a plaintiff or an appellant. This would be unconstitutional, not because the exceptions clause power is limited in itself, but because of a specific prohibition, elsewhere in the Constitution, which restricts the exceptions power, the commerce power and every other power of Congress. The religion of the appellant has nothing to do with the nature of the case. Congress is forbidden by the first amendment to prohibit appeals by Baptists or Jews—or to prohibit their engaging in interstate commerce, or to in any other way infringe the free exercise of religion. This does not mean, however, that there is any restriction on Congress' power to exclude classes of cases, as determined by the nature of the case, from the jurisdiction of the lower federal courts and the appellate jurisdiction of the Supreme Court.

It might be argued that the withdrawal of lower federal court and Supreme Court appellate jurisdiction in, for example, abortion cases would be an unconstitutional denial of a remedy for violations of the right of reproductive privacy which the Supreme Court has declared to be a fundamental right in relation to abortion. But this argument is without merit because the withdrawal of jurisdiction would leave untouched the right of recourse to the state courts. These courts are no less obligated to enforce constitutional rights than are the federal courts.

Nor could it be soundly argued that the withdrawal of jurisdiction in abortion cases would amount to a denial to a class—pregnant women who desire to have abortions—of the equal protection of the laws which is implicitly guaranteed by the fifth amendment. The equal protection guarantee, whether the explicit one in the fourteenth amendment or the implicit one in the fifth, forbids only "purposeful discrimination." Such purposeful discrimination could only readily be found in a withdrawal of jurisdiction in cases where discrete and well-defined groups were precluded from access to the Court. For instance, a statute which withdrew jurisdiction only in those cases where "Baptists or blacks" were parties could be found to be purposefully discriminatory. It is true, however, that proof of purposeful discrimination can be shown by evidence of the disproportionate impact of the law on the suspect class in question. The withdrawal of lower federal court and Supreme Court appellate jurisdiction would diminish—but not abolish—the legal remedies available to pregnant women who seek abortions. It could hardly be contended, however, that discrimination against that class of women would be the purpose of such a withdrawal in the way that discrimination against Baptists would be the purpose of a withdrawal of jurisdiction in cases brought by Baptists. The withdrawal of jurisdiction in abortion cases would be prompted instead by other purposes: First, to restore legal remedies to unborn children who have been decreed to be non-persons by the Supreme Court and, second, to curtail the Supreme Court's continual excursion beyond its proper role in abortion cases. The purposes of such legislation then, would be to vindicate the rights of a minority who are wholly deprived of rights by their definition as non-persons, and to vindicate the separation of powers and the system of checks and balances.

Those who would deny to Congress the power to make exceptions to the appellate jurisdiction of the Supreme Court would be well advised to follow the course of Justice Owen J. Roberts. In 1949, as a retired Supreme Court Justice, he proposed a constitutional amendment to protect the Court against Congressional tampering with its appellate jurisdiction. His position was straightforward. He did not pretend that the power so clearly conferred by the exceptions clause was somehow not there. Rather, he proposed to remove that power by constitutional amendment. His analysis and reasons are instructive:

"Why did they [the Framers] then leave it to Congress to regulate the appellate jurisdiction of the Court? I think they did not envisage any such large federal judiciary as we have today. The federal judiciary was rather in the background—that is, the lower judiciary. The theory was that constitutional questions would arise in state courts and then an appeal would come to the Supreme Court from a decision of a state court on a constitutional question.

"There came into play state pride, the states' rights feeling, and another feeling that since Anglo-Saxons prize the jury system, giving the Supreme Court appellate jurisdiction as to matters of law and fact would give it the opportunity to overturn jury verdicts, [and] jury decisions. . . . The best compromise that could be made in the situation was to leave to Congress the right to define the appellate jurisdiction of the Supreme Court.

"You know what the result of that has been. The appellate jurisdiction of the Su-

preme Court depends upon the judiciary acts—the original Judiciary Act passed in the first session of Congress and the amendments that have been adopted to it since—and Congress has set forth in what cases the Supreme Court can entertain an appeal.

"Very early the Court was faced with the question whether it has a general appellate jurisdiction, modified by what Congress had said on the subject. Chief Justice Marshall, in two decisions, said that was not the way to read the Constitution. He said that the Congress and the judiciary acts, having set forth in which cases the Supreme Court might have jurisdiction on appeal, impliedly provided that it should not take jurisdiction in any other class of cases.

"That is the settled law and I think it is right. It remains, therefore, so far as we can see, that Congress could affect the Court's powers, just as President Roosevelt could have in his way, unless there was a popular uprising that would frighten them out of doing what they threatened to do."

IV. EFFECT OF A WITHDRAWAL OF SUPREME COURT APPELLATE JURISDICTION

Unlike a constitutional amendment, withdrawal of the Supreme Court's appellate jurisdiction over a particular matter would not actually reverse the Court's rulings on the subject. If Congress were to withdraw the Supreme Court's appellate jurisdiction in school prayer cases, for example, that action would leave undisturbed the existing Supreme Court cases in that area. Lower federal courts—if Congress has not removed their jurisdiction over the issue as well—and state courts could regard themselves as bound by those decisions as the last authoritative expression of the meaning of the first amendment, even though the Supreme Court could no longer rule on the subject. The withdrawal of jurisdiction would thus be a limited reponse to an erroneous Supreme Court decision, and would have no permanent impact on the Constitution. If experience showed the withdrawal to be unwise, it could be readily repealed by a statute. Furthermore, an exercise of the exceptions clause power is forseeable only in matters in which the Supreme Court's interpretations are so at variance with the sense of Congress and the nation as to be regarded as usurpations. The school prayer decisions, whatever else one may think of them, are a classic example of judge-made law through which the Supreme Court, by its own decree, has virtually amended the Constitution.

"Most proposals to withdraw Supreme Court jurisdiction in school prayer and abortion cases would also withdraw those cases from the jurisdiction of lower federal courts. If, for a time, state courts were allowed to make their own decisions in cases involving school prayer, no great hardship would result. Presumably, at least some of those courts would hold themselves bound by the Supreme Court's decisions even though that Court could no longer rule on the subject. Even so, there would at least be no opportunity for the Court to further extend its errors. For example, in cases where supporters of the school prayer decisions sought to extend them to outlaw evangelization efforts by individual students outside of class time, those state courts would be apt to show a greater measure of prudence than the Supreme Court has sometimes shown on the subject.

Finally, it may be expected that some state courts would openly disregard the Supreme Court precedents and would decide in favor of allowing school prayer once the prospect of reversal by the Supreme Court had been removed. That result would not be such a terrible thing. It must be remembered that we are talking about Supreme Court decisions which, in the judgment of the elected representatives of the people and the President—or of two-thirds of the Congress overriding his veto—are gravely erroneous and urgently in need of correction. One healthy method of correcting those decisions would be for the people to trust in the state courts for a time and thereby be protected against further excesses in that area on the part of the Supreme Court. In the process, the Court might learn a salutary lesson so that future excursions beyond the Court's proper bounds could be avoided. Finally, because the correction is statutory, rather than by constitutional amendment, the Court's jurisdiction could readily be restored should the need for it become apparent.

The withdrawal of jurisdiction on school prayer has been used as an example in this discussion to illustrate the effects of a withdrawal of jurisdiction. Similar conclusions are appropriate with respect to the withdrawal of jurisdiction in the school busing and abortion cases. In the abortion area, urgency is lent to the issue by the fact that at least 1,500,000 lives are taken by legalized abortion each year in this country. This is equivalent to more than the combined populations of Kansas City, Minneapolis and Miami. While school prayer is a largely symbolic issue, abortion is a life-and-death issue of enormous proportions. In view of its involving of the very right to live, it is a more important issue than school prayer or "busing."

Roe v. *Wade* held that, whether or not the unborn child is a human being, he is not a "person" for purposes of the fourteenth amendment. The holding is thus the same, in effect, as a pronouncement that an acknowledged human being is a non-person. The case is thus a reincarnation, in a different context, of the principle enunciated in the *Dred Scott* case. One would expect the legal profession to be favorably disposed toward any attempt, of at least arguable validity, to remedy such a ruling and the consequences of it. *Roe* v. *Wade*, however, has been accepted with equanimity by the organized bar. In addition, the general reaction of the organized bar to the proposals to curb the Supreme Court's appellate jurisdiction over abortion cases as well as on other issues has been strongly negative. However, notwithstanding the bar's general disfavor toward legislation limiting jurisdiction, the life and death urgency of the abortion issue mandates the use of whatever means available to focus attention on, and perhaps bring changes to, the current law on abortion.

V. CONCLUSION

In the eyes of some critics, the proposed Congressional exercise of power expressly given to Congress by the Constitution is viewed as a threat to the Constitution itself. Whatever its outcome, however, the jurisdiction controversy will serve a useful purpose if it illuminates several uncritical assumptions which appear to underly the claim that the jurisdiction limiting proposals are unconstitutional. The most important of the arguments against the use of the exceptions clause power is based on an assumption of judicial exclusivity and supremacy in the interpretation of the Constitution. Implicit in this assumption is a belief that Supreme Court holdings and opinions on constitutional issues have a status equivalent to the language of the Constitution itself and that they can be corrected only by a constitutional amendment. What seems to be overlooked is the fact that the Supreme Court can render an unconstitutional decision. In *Erie Railroad Co.* v. *Tompkins*, for example, Justice Brandeis described *Swift* v. *Tyson* as "an unconstitutional assumption of powers by courts of the United States which no lapse of time or respectable array of opinion would make us hesitate to correct." It would be most extraordinary if the Supreme Court, alone among the three branches of government, were incapable of acting unconstitutionally. If the Supreme Court has rendered an unconstitutional decision, why should it be necessary to change the Constitution to rectify the error? In his first inaugural address, Abraham Lincoln stated: "[i]f the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, . . . the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that eminent tribunal." Fortunately, the exceptions clause was intended to provide, among other things, a remedy for this problem.

THE COURT STRIPPING BILLS: THEIR IMPACT ON THE CONSTITUTION, THE COURTS, AND CONGRESS

(By Max Baucus and Kenneth R. Kay)

I. INTRODUCTION

There is no doubt that in 1982 many Americans are concerned about the federal judiciary. The courts today are perceived as exceeding their traditional authority in numerous instances. The public is skeptical of federal judges who appear to be assuming the administration of some state functions. They are angered by what they view as sweeping judicial orders that effectively prevent individuals from exercising control over significant aspects of their daily lives. They are also disturbed by decisions which they regard as preventing state and local governments from exercising traditional powers.

Apart from these general misgivings, significant constituencies within our society have been alienated by specific Supreme Court decisions. The Court's decision in *Roe v. Wade*, which prevented states from denying abortions, was the catalyst that transformed the pro-life movement into a significant American constituency. The Supreme Court's decisions in *Engel v. Vitale*, and *Abington School District v. Schempp*, which prevented states from requiring prayer in public schools, have been targets of fundamentalist religious groups like the "Moral Majority." Finally, the Court's decisions in *Swann v. Charlotte-Mecklenberg Board of Education* and the other cases which affirmed the power of the lower federal courts to issue mandatory busing orders have resulted in the creation of many grassroots organizations opposed to "forced" busing.

The so called "social issues" of abortion, school prayer and busing are the areas where the courts are viewed as most flagrantly overstepping their authority. There is a belief that an "imperial judiciary" is usurping functions that should be performed by Congress or state legislatures. Not only do some members of Congress have this perception, but certain constituent groups have aggressively pursued legislation designed to address this perceived abuse of authority by the courts. Therefore, the debate in Congress today is not focused

on whether there exists an "imperial judiciary," but rather on what, if anything, Congress can do about it.

Until recently, the constituencies opposed to socially controversial Supreme Court decisions have sought the adoption of constitutional amendments to overturn them. This alternative, set out in article V of the Constitution, requires a resolution adopted by a two-thirds majority of Congress or a simple majority of two-thirds of the state legislatures followed in either case by ratification of three-fourths of the states. However, in the face of these rigorous requirements, these constituencies have failed to mobilize sufficient support for enacting constitutional amendments. Therefore, their focus has shifted to a set of bills which, although requiring only a majority of Congress and a presidential signature, may conceivably accomplish the same end as a constitutional amendment. Specifically, they seek the enactment of legislation which would remove federal court jurisdiction over particular controversial issues. If these bills are enacted, the federal courts will no longer be able to hear cases or enforce previous decisions in subject areas where a majority of Congress believed the courts should be precluded from functioning.

Several powerful constituencies are using these jurisdiction bills as legislative centerpieces in aggressive lobbying campaigns. Federal court jurisdiction has become the battlefield on which the most controversial "social issues" are being fought. It is critical that every American citizen undertake a thoughtful and thorough examination of the jurisdictional issues now pending before Congress. This opportunity to explore these issues as part of the *Villanova Law Review* Symposium is therefore extremely timely and valuable.

This article explores whether the jurisidction bills are consistent with the constitutional plan or represent wise public policy. After briefly examining previous Congressional consideration of similar proposals and their current status in the 97th Congress, the following questions will be addressed: (1) Do the jurisdiction bills represent an effective check on the judicial branch which is consistent with the constitutional plan designed by the Framers of our Constitution?; (2) Are the bills likely to have a beneficial impact on our judicial system?; (3) Is Congress likely to limit the exercise of its power over court jurisdiction to only the most flagrant cases of judicial excess?; (4) If the bills do not represent wise or responsible legislation, what can the Congress do to address perceived abuses by the judicial branch? Exploration of these questions leads to the conclusion that the jurisdiction bills represent a serious threat to our constitutional system. That is, these court stripping bills seek to remedy judicial abuses in a manner that is profoundly more damaging than the abuses themeselves.

II. THE BACKDROP OF COURT STRIPPING

A. Previous Attempts at Court Stripping

Congressional attempts to remove the jurisdiction of the federal courts over controversial issues are not unique to the 97th Congress. In the last twenty-five years, several attempts to remove the Supreme Court's jurisdiction over specific subjects have failed.

In 1957, Senator William E. Jenner introduced a bill that would have disallowed Supreme Court review of Congressional action against a witness charged with contempt of Congress or a violation of a state law or regulation designed to combat subversive activities. The bill came as a response to a series of Supreme Court decisions in these areas. It was reported to the full Senate but a formal vote never occurred.

In 1964, Congressman Tuck introduced a bill designed to remove Supreme Court and lower federal court jurisdiction over cases involving the apportionment of representation in state legislative bodies. This legislation was in response to the Court's rulings in *Baker v. Carr* and *Reynolds v. Simms.* The bill passed the House but was not considered by the Senate.

Another effort to remove the Court's jurisdiction occurred in 1968 with an amendment to the Omnibus Crime Control and Safe Streets Act. The amendment would have restricted the Supreme Court from review of state criminal proceedings involving *Miranda* issues. However, these provisions were dropped before final passage of the measure.

More recently in 1979, Senator Jesse Helms offered a floor amendment to remove Supreme Court and lower federal court jurisdiction over the issue of voluntary prayer in public schools. This amendment passed the then Democratically controlled Senate by a vote of fifty-one to forty. The House never took formal action although hearings on the Helms proposal were held by the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice.

Many other bills limiting the appellate jurisdiction of the Supreme Court have been introduced over the years. However, the amendment and bills described above represent the only examples of such legislation that received substantial congressional consideration. It is difficult to speculate as to the precise reasons that each effort failed to pass both Houses of Congress. In the case of the Helms school prayer amendment, there was substantial bi-partisan opposition to the proposal within the House Judiciary Committee. The opposition appears to have been based on serious concerns over the constitutionality and wisdom of efforts to address controversial Supreme Court decisions by withdrawing the Court's appellate jurisdiction over the specific subject matter.

B. Court Stripping in the 97th Congress

In contrast to the sporadic introduction of court jurisdiction stripping bills in previous Congresses, the introduction and consideration of similar bills in the 97th Congress has been dramatic. There are currently more than thirty separate bills that have been introduced in this Congress which would remove the jurisdiction of the courts in one realm or another.

Subcommittees of both the Senate and House Judiciary Committees have held hearings on the overall issue of congressional attempts to limit the jurisdiction of the federal courts. More specifically, Senate subcommittee hearings were held on Senate 158, a bill restricting lower federal court jurisdiction in certain abortion cases. The passage of Senate 158 was recommended by the Senate Separation of Powers Subcommittee, and the bill is currently pending before the full Senate Judiciary Committee. An identical bill is pending on the Senate Calendar.

Two Senate subcommittees have conducted hearings on legislation which would restrict lower federal court jurisdiction to issue busing orders. A bill from each subcommittee, S. 1647 and S. 1760, are currently pending before the full Senate Judiciary Committee. A bill identical to S. 1647 is pending on the Senate Calendar for floor consideration.

During the first session of the 97th Congress, the Senate approved the Department of Justice Authorization bill, which included an amendment limiting instances in which a federal court could issue busing orders. The amended bill was adopted by the Senate by a vote of fifty-eight to thirty-eight.

At the beginning of the 97th Congress, Senator Helms introduced S. 481 which would remove Supreme Court and lower federal court jurisdiction over school prayer in public schools. The bill is currently pending before the Senate Judiciary Subcommittee on Separation of Powers. Identical legislation is also pending on the Senate Calendar. The language of these bills is similar to the language of the amendment offered by Senator Helms which passed the Senate in 1979. The senate is currently engaged in a lengthy filibuster involving an identical provision offered by Senator Helms as an amendment to legislation providing for a temporary increase in the public debt limit.

House action in the 97th Congress has included subcommittee hearings on the overall subject of Congressional attempts to limit the federal courts and the introduction of more than twenty bills. The same House Judiciary subcommittee has held additional hearings on House Resolution 2047 and the Johnston-Helms Amendment to Senate 951, both designed to limit court-ordered busing.

III. THE IMPACT OF THE COURT STRIPPING BILLS

A. Impact on the Constitution

The debate over the jurisdiction removal bills would not have progressed this far if there were not some credible arguments suggesting that Congress could engage in court stripping. Proponents of these bills have been able to rely both on specific provisions in the Constitution and on language in Supreme Court decisions.

With regard to Supreme Court jurisdiction, proponents of the jurisdictional bills cite article III, section 2 (the exceptions clause) which gives the Supreme Court appellate jurisdiction "with such exceptions and under such regulations as the Congress shall make." It is argued that the exceptions clause gives Congress power to withdraw specific categories of cases from the Court's review. Furthermore, the argument is buttressed by the Supreme Court's holding in *Ex Parte McCardle* which recognized that the exceptions clause gives Congress some meaningful power to control the Supreme Court's jurisdiction. In *McCardle,* the Court upheld the constitutionality of a Congressional statute which withdrew the Supreme Court's jurisdiction to hear cases arising under an 1867 habeas corpus statute.

Congressional power to remove the jurisdiction of lower federal courts presents less complications. Article III, section 2 gave Congress the power to create the lower federal courts. Arguably, this power to create these courts carries with it the lesser power to reduce or eliminate lower court jurisdiction.

Opponents of the court stripping bills argue that these bills represent legislative encroachment on the judicial function and therefore violate the doctrine of separation of powers and the principle of judicial independence as articulated in *Marbury v. Madison.* Additionally, opponents have argued that the Court's holding in *McCardle* is limited by its holding the *United States v. Klein.* In *Klein,* the Court overturned a federal statute stating that Congressional authority to control jurisdiction did not include the power to tell the court how to determine cases within its jurisdiction.

But reliance on Supreme Court precedence is not satisfactory because the cases are over one hundred years old and none of them directly address the legal issues presented by the legislation pending in the 97th Congress. Although *McCardle* and *Klein* have some relevance, they are clearly not dispositive. The general arguments concerning judicial independence and the doctrine of separation of powers have not been effective because these arguments are two sided. Proponents of the jurisdiction bills argue that the courts have been violating the separation of powers doctrine and these bills are simply a vehicle for redressing the imbalance that currently exists between the three branches. Thus far, arguments put forth in the debate do not appear to hve dissuaded either side.

Most recently the controversty surrounding Congress' use of the exceptions clause has shifted its focus. Attention is now centered on two fundamental questions: 1) did the Framers of the Constitution intend the exceptions clause to be used by the legislature as a majoritarian check on the perceived excess of the judicial branch? and 2) Does the design of the exceptions clause provide an effective majoritarian check on the judicial branch?

A focus on the circumstances surrounding inclusion of the exceptions clause in the Constitution and an analysis of the limitations of the clause as a check on the judicial branch provides a useful perspective on the court jurisdiction bills.

Article VI, clause 2 of the Constitution, the supremacy clause, established the Constitution and federal law as the "supreme Law of the Land." However the supremacy clause standing alone would have little, if any, meaning if there were no enforcement mechanism for its provisions. The Articles of Conferderation also contained a supremacy clause similar to the one contained in the Constitution. However, the Articles provided no enforcement mechanism. Recognizing this deficiency of the Articles, the Framers of the Constitution intended that the Supreme Court enforce the supremacy clause.

Alexander Hamilton wrote in the Federalist Papers:

"A circumstance which shows the defects of the confederation remains to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. . . . If there is in each state a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. . . . To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicature, all nations have found it necessary to establish one tribunal paramount to the rest, possessing a general superintendence, and authorized to settle and declare in the last resort a uniform rule of civil justice."

The proceedings of the constitutional convention give additional support to the premise that the Framers intended to design a judicial branch with one Supreme Court capable of enforcing the supremacy clause. Professor Lawrence Sager has recently written an important article on Congress' power to restrict federal court jurisdiction which includes an analysis of the convention's proceedings. Professor Sager notes that the convention adopted the supremacy clause in close to its final form on August 23, 1787. Then on August 27th, the convention spent the day addressing article III. In discussing the purpose of the clause, Professor Sager writes:

"The exceptions and regulations language was also approved on August 27th, under circumstances that favor a limited view of its scope. . . . It was adopted by the convention on August 27th without a ripple of recorded debate, concern or explication. In light of this quiesance, it is hard to imagine that the Framers were consciously adopting a provision that could completely unravel one of the most basic aspects of the constitutional scheme to which they had committed themselves.

"Thus, as the delegates to the Constitutional Convention made their peace on issue after issue, the Supreme Court's superintendence of state compliance with national law emerged as the fulcrum of the nation's government."

In a recent letter to Strom Thurmond, Chairman of the Senate Judiciary Committee, Attorney General William French Smith expanded on Professor Sager's analysis of the historical purpose of the exceptions clause. Like Sager, the Attorney General finds the absence of debate surrounding the constitutional convention's adoption of the clause proof that the Framers did not intend for the clause to give Congress the power to interfere with core functions of the Court. The Attorney General presents three arguments for this interpretation of the exceptions clause: (1) The Framers agreed without dissent on the necessity of a Supreme Court to secure national rights and national uniformity of judgments. Yet, there was no debate whatsoever concerning the meaning of the exceptions clause. Mr. Smith argues that if the Framers intended Congress to have plenary power under the clause, the obvious inconsistency between the presumed inviolate functions of the Supreme Court and plenary congressional power to control the Court, would have aroused debate. (2) The creation and function of the lower federal courts were vigorously debated at the convention. Ultimately, it was resolved that lower federal courts would not be created by the Constitution but that Congress would have the power to create such courts, should Congress deem them necessary. Given the intensity of the debate regarding the lower federal courts, and the unanimity of the convention with regard to the role of the Supreme Court, it is unlikely that the convention would have adopted without comment the exceptions clause, which for practical purposes, would place the Supreme Court and the lower federal courts in the same position vis-a-vis Congress. (3) The Framers were extremely concerned with the concentration of power in one branch of the government. One of the basic principles of the Constitution was that each branch of government must be given the means of defense against encroachments by the other branches of government. Plenary congressional power under the exceptions clause would render the Supreme Court virtually defenseless. In view of the carefully structured doctrine of separation of powers, Mr. Smith argues that it is inconceivable that the Framers would have contemplated an expansive interpretation of the clause.

In addition to historical analysis of the purpose of the exceptions clause, one must consider how Congress' power under the exceptions clause serves as a check on the judicial branch. The opponents of the jurisdiction stripping bills argue that the Framer's intent was not that the legislative branch would have a direct means of responding to court decisions. Had it been so, in view of the obvious and fundamental effect of such a design, the Framers would have included such a provision in the Constitution. Instead, the Framers authorized the appellate jurisdiction of the Supreme Court "with such Exceptions, and under such Regulations as the Congress shall make." Alexander Hamilton explained in The Federalist Papers that the language was intended "to obviate and remove" the "inconveniences" likely to arise within the judicial system. A clause designed to address "inconveniences" is a far cry from a clause intended to keep the Court from engaging in "unconstitutional" conduct.

More importantly the exceptions clause does not provide Congress with a direct check on the judicial branch. A direct check would permit Congress to directly veto or directly amend the substantive result of the Court's decision. By withdrawing the jurisdiction of the Supreme Court over particular issues through Congressional legislation, the issue remains unaddressed by Congress. The result of the divestiture of federal court jurisdiction is that fifty state supreme courts are free to decide the issue without ultimate resolution by the Supreme Court. However, it is important to note that Congress would be powerless to affect the outcome of the issue in the state courts.

Thus, the exceptions clause would be an odd creation—a legislative check on the judicial branch that does not return power to Congress. Rather it would be a check on the federal judiciary that would merely give power to another set of courts. In addition, because state courts would become the ultimate decision makers, there could not be a monolithic response to fundamental constitutional questions and there are many such questions which rquire a monolithic response. The Framers would not have designed a check on the judicial branch which would be difficult for Congress to control and inappropriate in many critical situations.

These points were recently made most cogently by now Circuit Judge Robert Bork of the District of Columbia Court of Appeals. Mr. Bork, a distinguished conservative constitutional scholar, commented on the aspects of the jurisdiction bills at his confirmation hearings before the United States Senate Judiciary Committee. Part of the dialogue went as follows:

"Senator BAUCUS. Could you also indicate to this committee why in your view it would be unconstitutional for Congress to pass a statute that would limit Supreme Court jurisdiction, say, in a Federal constitutional question?

"Mr. BORK. Well, the attempt to eliminate Supreme Court jurisdiction as opposed to lower court jurisdiction would have to rest upon the exceptions clause of Article III of the Constitution, which allows Congress to make such exceptions and regulations of the Supreme Court's appellate jurisdiction as it desires. Literally, that language would seem to allow this result. However, I think it does not allow this result because it was not intended as a means of blocking a Supreme Court that had, in Congress' view, done things it should not. The reason I think it was not intended is that clearly in the most serious kinds of cases, where the Supreme Court might do something that the Congress regarded as quite improper, the exceptions clause would provide no remedy.

"For example, if the Supreme Court should undertake to rule upon the constitutionality or the unconstitutionality of a war, and the Congress was quite upset, thinking that is not the Supreme Court's business as

indeed I agree it is not, to use the exceptions clause to remove Supreme Court jurisdiction would have the result not of returning power to the Congress but of turning the question over to each of the State court systems. We could not tolerate a situation in which fifty states were deciding through their own judges the constitutionality of a war.

"Senator BAUCUS. Well, as I hear you, I hear you address the question more on a policy ground. Apart from the policy ground—

"Mr. BORK. No, I do not think that is a policy ground, Senator. I think that is a constitutional argument. One of the ways of construing the Constitution, as Chief Justice Marshall showed us so well in *McCulloch v. Maryland*, is to argue from its structure: What is the necessity of government? Would the framers have done something that led to results like this?

"I think the answer is that the framers would not have devised a check upon the judiciary which does not return power to the Congress but returns power to the state judiciary systems, from which it probably cannot be removed. When one perceives that that is the result, then I think one has to say the framers did not intend this as that kind of a check upon the Court. I do not know any way to apply the Constitution that I regard as legitimate other than in terms of the intent of the framer, as best as that can be determined."

This perspective on the exceptions clause is most instructive. The glaring deficiencies of the clause are an effective retort to the argument that it was intended to be used as a significant check on the judicial branch.

In the final analysis the deficiencies of the exceptions clause as a check on the judicial branch are much less troubling than its potential to undo the protections of the Constitution. While the Framers of the Constitution designed a judicial branch which could protect the supremacy of the federal government, they also designed the judiciary to assure that individual liberties would not be abridged. Alexander Hamilton stated in the seventy-eighth Federalist that the courts have a duty "to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing."

If Congress' authority to remove subject matter jurisdiction over abortion or achool prayer were upheld as constitutional, there is no "right" or "privilege" in the Constitution that could not be removed from Supreme Court review. Proponents of the jurisdiction removal bills have argued that this is an alarmist view. The exceptions clause would still be subject to other constraints contained in the Constitution. Yet, under the analysis offered by the proponents of these bills, Congress' authority under the exceptions clause is virtually without limits. Theoretically, Congress could dismantle any constitutional provision it wished, and paralyze the courts from reviewing such an act. It is this theoretical opening which makes the premise underlying the court stripping bills most distressing. Under this analysis, the Supreme Court is only free to enforce a constitutional guarantee if fifty-one percent of Congress does not preclude it from doing so.

B. Impact on the Courts

Notwithstanding these legitimate and seemingly overwhelming constitutional concerns, the court stripping bills are still being actively considered in the legislative process. This is in large part because some members of Congress believe the federal courts are continuing to engage in blantantly unconstitutional conduct and that something drastic must be done to rein in an "activist Court." They view Congress as constitutionally bound to address a constitutional crisis that has been brought about by federal judges who have been prone to expand constitutional rights beyond their historic parameters and prone to create new rights out of "whole cloth."

This view of the judicial branch leads to two concrete Congressional objectives. The first objective is to overturn or minimize the effect of previous activist decisions. The second objective is to encourage the judicial branch to engage in more traditional decision-making that relies on the language of the Constitution and on greater adherence to precedent. The proponents of the jurisdiction bills cite both objectives as motives for their efforts. However, court stripping bills do not accomplish either one.

With regard to the first objective, it is clear that the jurisdiction bills do not have the effect of overturning previous court decision. In fact, these bills could have precisely the opposite effect they are intended to have. Withdrawing court jurisdiction over abortion would not outlaw abortion. Withdrawing court jurisdiction over school prayer would not return prayer to the schools. Instead of prohibiting abortion or promoting school prayer, these bills could elevate the last Supreme Court decision on the subject to a "permanent" status of the law. There could be no future cases decided on an issue over which the court no longer had jurisdiction. *Roe v. Wade* would still be the controlling Supreme Court decision on abortion policy. *Engel v. Vitale* and *Abington School District v. Schempp* would still be the controlling Supreme Court decisions on the school prayer issue.

Some of the proponents of the bills openly concede the deficiencies of the bills in providing a consistent Constitutional interpretation. Senator John East of North Carolina has observed:

"If Congress were to remove jurisdiction over abortion cases from the federal courts, such litigation would be conducted in the state courts. Some state courts might read the Constitution as all courts read it for two centuries prior to *Roe* v. *Wade*, and uphold state anti-abortion laws as constitutional. But many other state courts would probably regard the United States Supreme Court decision as a binding precedent. In these states, *Roe* would continue to be the effective law, and since the Supreme Court would never have occasion to hear another case involving abortion, it would be impossible ever to restore a uniform and correct interpretation of the Constitution."

Any assessment of whether the bills would minimize the effect of previous decisions would amount to speculation. No one really knows precisely what impact they would have on a specific body of law.

This brings us back to the second objective. While the proponents claim that they want to restore more traditional and stable judicial decision making, it is difficult to imagine any set of proposals more inconsistent with the goals of certainty or stability than the court stripping bills. The simple fact is that the court stripping proposals remove federal court jurisdiction while offering state court judges no real indication of what judicial standard they should follow. It is ironic that those who are complaining about judicial usurpation of the legislative function are promoting legislative solutions devoid of any substantive direction and inviting further and potentially more disparate pronouncements. Such a vacuum of substantive standards is an open invitation to judicial activism in its purest form. The more helpful solutions would be ones that actually set a new substantive standard for the courts to follow.

Not only do the court stripping bills fail to provide a substantive legal standard, but they preclude the Supreme Court from enforcing its previous decisions. The sponsors of these bills realize that they cannot directly reverse a constitutional decision of the Supreme Court. Instead, the sponsors are actually promoting an open invitation to state court judges to alter or reverse the controlling Supreme Court decisions.

They want to withdraw the Supreme Court's jurisdiction and give the state courts a knowing wink and say, "go ahead—they can't touch you now." This Congressional wink is not responsible legislation. It is an open invitation to the state courts to overrule decisions of the Supreme Court. Likewise it is an open invitation for the general disrespect of the rule of law.

In fact, the jurisdiction bills are more than an invitation to such disrespect—their success depends on it. The court stripping bills would have no substantive impact unless state court judges were willing to seize advantage of this opportunity. This aspect of the court stripping bills was recently criticized by the conference of state court chief justices. By a resolution adopted at their midyear meeting in Williamsburg, Virginia, the chief justices raised serious concerns about the impact of these bills on state courts. Their resolution observed in part: "These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents."

It is difficult to see how such proposals restore more traditional and stable decision making to our judicial system. A court stripping bill would throw a given body of law into total disarray. In the name of restoring "constitutional" decision making to the courts, the proposals in fact leave open the possibility of fifty unconstitutional decisions being pronounced by the state courts.

Not only do the jurisdiction bills fail to restore traditional "constitutional" judicial conduct, they also fail to provide any logical or consistent conception of how constitutional rights should be addressed by the courts. Today a citizen can vindicate a constitutional right in either state or federal court and in either instance has the right to appeal to the United States Supreme Court. But if Congress engages in court stripping, the current judicial system would fragment leaving four alternative and independent judicial systems for vindicating constitutional rights. Depending on which constitutional right was in question, the judicial process would be: (1) In state *or* lower federal court with a right of appeal to the Supreme Court (The current jurisdictional scheme); (2) In state *or* lower federal court with *no* right of appeal to the Supreme Court; (3) Only in a state court with a right of appeal to the Supreme Court; or (4) Only in a state court with no right of appeal to the Supreme Court.

The burden should be on the proponents of the court stripping bills to explain why one of these alternative jurisdictional schemes is an appropriate approach for vin-

dicating a specific constitutional right. Even the various bills conflict as to which of the three new alternatives is appropriate for a specific subject matter. There are bills pending on the issue of school prayer that advocate process (2) and process (4). There are bills pending on abortion that advocate process (3) and some that propose process (4). Similarly, there are bills pending on school desegregation that advocate process (3) and some that propose process (4).

Should Congress engage in continued court stripping, we would be left with a crazy quilt of rights and recourses. In the real world of litigation, it is also likely that an individual will not be pursuing a single constitutional issue at a time. Conceivably, a different part of a litigant's case could fall under each of the four options. Would it make sense to tell a citizen that the "due process" portion of his case can be brought in federal court but the "equal protection" part can only be brought in state court? Further, would it make sense to tell that same individual that the "due process" portion of the case can be appealed to the United States Supreme Court, but the "equal protection" portion cannot?

These bills are being offered without sufficient consideration of the ultimate impact on our judicial system. In light of the deleterious effects of court stripping bills, their proponents have failed to adequately explain why we should abandon the current constitutional scheme for vindicating rights. It is a burden which they must be forced to assume before moving any further toward dismantling a carefully constructed judicial system.

C. Impact on Congress

The impact of these jurisdiction limiting bills on the judicial system has been underestimated. The same is true of the impact of these bills on the Congress itself. If Congress decided to enter this arena, the pressure to respond to a wider range of constitutional issues will increase. Every constituency that feels victimized by an adverse constitutional ruling will come running to Congress for a jurisdiction removal bill. Proponents of the bills suggest that fears of Congressional abuse of the jurisdiction removal power are exaggerated. They argue that the jurisdiction bills each represent a narrow "surgical" removal of a limited area of jurisdiction. However, a review of the proposals being considered by the 97th Congress is illuminating as to how the Congress might actually utilize this power to remove court jurisdiction.

One bill underscores the unlikelihood of a narrow and "surgical" approach. It reads as follows:

"No court of the United States that is established by Act of Congress under Article III of the Constitution of the United States shall have any jurisdiction to modify, directly or indirectly, any order of a court of a State if such order is, will be, or was, subject to review by the highest court of such State."

This bill hardly represents a carefully circumscribed removal of federal jurisdiction. It would preclude any lower federal court challenge to any state court decision. For example, it would totally preclude federal court review of *any* habeas corpus case.

Another bill, the "Women's Draft Exemption Act," is equally instructive. It would remove Supreme Court and lower federal court jurisdiction over: "any case arising out of any statute, ordinance, rule, regulation, concerning—(1) establishing different standards on the basis of sex for the composition of the armed services or assignment to duty therein; or (2) establishing different treatment for males and females concerning induction, of individuals for training and service in the Armed Forces.

This bill is troubling for two reasons. First and foremost, it is an excellent example of why the court stripping approach is inappropriate in many instances. The sponsor was attempting to maintain an all-male draft. However, the solution being offered is to leave the decision as to the composition of the armed services up to fifty separate state courts. The result is that women from Pennsylvania might be constitutionally required to be drafted while women from Arizona might be immune from induction. In fact, if the proposed statute had been enacted, the all-male draft would have been in more disarray and more discriminatory than if the Supreme Court had determined that an all-male draft violated the equal protection clause.

The second troubling aspect of this bill is its timing. This bill was introduced on March 24, 1981. At that time, the question of the constitutionality of the all-male draft was pending before the Supreme Court. The Court announced its decision in the case on June 25, 1981. Although the proponents of court stripping argue that Congress will only use its power to correct flagrant cases of judicial "excesses," in the case of H.R. 2791, the jurisdiction removal was being proposed before the Supreme Court had rendered its decision. It is difficult to see what constitutional authority the Court had abused.

The author of H.R. 2791 feared the Court's ruling on an all-male draft and the bill was written in anticipation of an adverse decision. His worst fears were not realized as the Court upheld the constitutionality of the all-male draft. One assumes that after June 25, 1981, the bill became moot and that the subject matter suddenly became appropriate for ongoing Supreme Court review. Thus, once the Court made the "correct" decision on the issue (i.e., what one Congressman saw as "correct"), there was no need to remove the subject from the court's jurisdiction.

This highly questionable use of the power to remove court jurisdiction is only one step removed from the most cynical use of that power. After reviewing all the bills introduced in this Congress, the prediction that jurisdictional removal language will become a boiler-plate provision of much legislation is not wholly implausible. Any time a member of Congress is unsure whether the Supreme Court would uphold legislation, he or she could tack on a section denying the Court jurisdiction over that issue. This could apply to taxation and personal property as well as to social issues.

Jurisdiction limiting legislation is a politically two-edged sword. Although associated with the "New Right" in the 97th Congress, such legislation could very well be used in ways which would be anathema to the values of the "New Right."

If Congress can remove Supreme Court jurisdiction over an all-male draft before the Court has ruled in the case, why can't it pass stringent gun-control legislation and include a provision to prevent Supreme Court review of any case involving the "right to bear arms?" Why couldn't Congress impose onerous and discriminatory taxes and include a provision to prevent Supreme Court review of the constitutionality of all federal taxation cases? Why couldn't Congress attempt to totally preempt the States from engaging in conduct traditionally within their power and remove Supreme Court jurisdiction over cases arising under the tenth amendment?

These hypotheticals are the reasonable extension of the strategy being put forward in the court stripping bills, not fanciful ruminations. If one supports removal of Supreme Court jurisdiction over abortion or school prayer, one necessarily supports the possibility of Congress precluding review of any legislation that might run afoul of any constitutional principle, including those held most dear by current proponents of jurisdiction removal.

Furthermore, it is unlikely that Congress will use restraint and limit itself to neutral prospective removal of subject matter jurisdiction. A current example of more far reaching legislation is the proposed "human life statute." The statute in part states that:

"No inferior Federal court ordained and established by Congress under Article III of the Constitution of the United States shall have jurisdiction to issue any restraining order, temporary or permanent, injunction, or declaratory judgment in any case involving or arising from any State law or municipal ordinance that (1) protects the rights of human persons between conception and birth, or (2) prohibits, limits or regulates (a) the performance of abortions or (b) the provision at public expense of funds, facilities, personnel, or other assistance for the performance of abortions."

This provision effectively keeps out litigants on one side of the issue and allows in litigants from the other. Challenges to statutes that restrict or prohibit abortions would not be permitted to be brought in the lower federal courts. Attempts to enjoin abortions from occurring, or challenges to statutes that fund abortions, could be brought in the lower federal courts. Professor Charles Alan Wright of the University of Texas Law School has observed:

"I think Congress has very sweeping power over the jurisdiction of the inferior courts. . . . At the same time, I feel certain that Congress must exercise its power over federal jurisdiction as it must its other powers, in a fashion consistent with constitutional limitations. . . . Under such cases as *Hunter v. Erickson*, and *United States v. Klein*, I do not think Congress has authority to close the federal court door in suits arising under laws that prohibit, limit, or regulate abortions, while allowing access to federal court for challenges to statutes that permit, facilitate, or aid in the financing of abortions.

Another court stripping bill pending before the Judiciary Committee goes far beyond a neutral, prospective removal of subject matter jurisdiction. Senate Bill 1647, as reported by the Separation of Powers Subcommittee, requires a court to dissolve a pending busing order upon the filing of a petition by an affected school board. Other provisions in S. 1647 attempt to utilize congressional power over federal court jurisdiction to influence closed and pending cases, and to prohibit courts from utilizing the contempt power to enforce busing orders.

After reviewing the jurisdictional proposals pending in the 97th Congress, the potential for abuse is apparent. While the simple introduction of a bill is not evidence of what fifty-one percent of the Congress would agree upon, it is instructive as to the possibilities should Congress continue in its attempt to respond to individual Supreme Court decisions by utilizing the jurisdictional removal device.

IV. ALTERNATIVES TO COURT STRIPPING: AN AGENDA FOR CONGRESS

It has been shown there are serious questions about the impact of these jurisdiction limiting bills on the Constitution, the judicial system and Congress itself. However, merely enumerating the dangers of these bills does not address the motivation behind them. Thus, one additional question must be asked: If the Congress cannot or should not use the exceptions clause or its power over lower federal court jurisdiction to respond to individual decisions of the Supreme Court, then what alternatives does it have?

Here is the fundamental issue that the country and Congress should be addressing. Rather than responding to narrow constituencies in a highly charged political atmosphere, Congress should begin a more thoughtful review of its relationship with the courts. This should include consideration of whether the Constitution should be amended to provide any additional checks on the courts as well as a review of how Congress is exercising its current powers.

The Congress now has constitutional authority to respond to "unconstitutional," "unpopular" or "wrong-headed" decisions of the Supreme Court. Under article V, Congress can initiate the constitutional amendment process.

Several of the amendments to our Constitution have been direct responses to Supreme Court decisions. The eleventh amendment was a response to the Court's decision in *Chisholm v. Georgia* which subjected the states to law suits in federal courts. The fourteenth amendment was in response to the Court's decision in *Dred Scott v. Sanford* that the constitutional term "citizen" did not include Black Americans. The sixteenth amendment overturned the Court's interpretation of the constitutional term "direct taxes" in *Pollack v. Farmer's Loan and Trust Company.* And the twenty-sixth amendment was a response to the Court's holding in *Oregon v. Mitchell* that the Congress could not lower the voting age in state elections to 18 years of age. Since the *Chisholm* case was decided in 1793, this country has had a long and consistent history of responding to constitutional decisions of the Supreme Court.

Today, however, critics of the Court argue that article V is too unwieldy and too cumbersome a tool to effectively respond to the Court. This position is based on the argument that the Court can usurp legislative power by a simple five to four decision while it takes a two-thirds consensus in Congress and a ratification by three-fourths of the states simply to get this power back via the amendment process. Thus, the courts arguably have an unfair advantage when permitted to judicially usurp legislative functions without a meaningful check on such conduct.

But this argument requires careful scrutiny. If the premise is accepted, then two major alternatives would appear to be available to Congress without invoking the constitutionally suspect and imperfect powers of the exceptions clause. One would be to make less burdensome the requirements of article V. The other would be to create a new legislative check on the judicial branch.

However, before an effort is made to ease the requirements of article V, the Congress should also examine the strengths of the current provision. The cumbersome requirements of the amendment process do have salutory effects. Provisions of the Constitution now have some permanence. The basic underpinnings of our government are thereby relatively fixed. Those parts of government that are designed to address short term problems can be designed and undone by the less cumbersome statutory process.

In addition, the cumbersome requirements make it less likely that the country can have violent and rapid swings on controversial issues. It would seem that the nation is well served by a process that permits a controversial decision to take hold and gives it a chance to operate before it is too rapidly undone. If the society as a whole determines that a Supreme Court decision is simply unacceptable, then a broad consensus can be put together quickly to reverse the Court's decision. For these reasons it may well be that changes in the amendment process is not the appropriate place to consider an additional legislative check on the judiciary.

Other proposals have been made to amend article III to provide in the Constitution a direct legislative check on the judiciary. One such proposal would provide for a two-thirds congressional override of Supreme Court decisions. Other proposals would provide for a direct check on the judiciary by eliminating life tenure and providing for popular elections of judges.

The purpose of raising these proposals here is not to advocate such changes, but to suggest the kinds of reforms the nation and the Congress should be debating. Congressional hearings on these and related proposals would help funnel the current anger over perceived abuses by the federal courts into an avenue of action that directly address the real problem and could possibly lead to a solution that is more consistent with the spirit and design of our Constitution.

While many may fear the outcome of a national dialogue on these issues, it would at least be clear to all that what is really being proposed are fundamental changes in how our judicial branch functions. The country can then make a conscious decision about the degree to which it desires to reduce or eliminate the current independence of the courts. The problem with the court stripping bills is that they effectively remove judicial independence without a public discussion of the merits or the drawbacks of such action.

In addition to these proposals, Congress ought to carefully review the other powers that it has over the judiciary and determine whether they are being used efficiently and properly. Congress' power to advise and consent to the judicial nominations of the President and its power to impeach judges are not considered meaningful today. Perhaps if these responsibilities were taken more seriously they could serve as more significant checks on the judicial branch. Congressional review and possible utilization of these two powers would be timely and appropriate.

The Congress should also carefully examine its responsibilities in the area of fashioning constitutional remedies. Much of the current frustration with the courts is not with their jurisdiction, but with the imposition of what may be considered extraordinary remedies. Although Congress must be careful not to interfere with the vindication of constitutional rights, it is not precluded from structuring a hierarchy of remedies which avoids the hasty imposition of a burdensome solution. Congress can also require the federal courts to consider specific criteria before imposing a remedy. For example, in busing cases Congress might well want to require a court to consider the impact of a busing order on the health and safety of the school children involved. Congress could even require the court to include individuals potentially affected by the order, such as school children or their parents, in the court's proceedings.

Additionally, Congress should take partial responsibility for judicial imposition of unpopular remedies. In many instances the courts have been forced to resort to such remedies after Congress and state legislatures have failed to act in a given area. Congress should engage in the exploration of constructive alternative remedies rather than attempting to prevent the courts from utilizing remedies Congress does not like.

The Congress should also realize that it often has within its power the ability to find partial remedies to troubling Supreme Court decisions. By utilizing its controls over the federal budget, Congress may effectively control government conduct even if the courts precluded governmental interference with private conduct. For example, many of those in Congress who opposed the Court's ruling in *Roe* v. *Wade* exercised their constitutional power to eliminate federal funding of most abortions.

Finally, the Congress must keep in mind that Supreme Court review of its own decisions has served as a significant self-correcting mechanism. In many instances during its history, the Supreme Court has overturned its previous decisions, and this ongoing review process is perhaps the most effective and reliable mechanism for "correcting" decisions. Thus, it is ironic that the court stripping bills not only preclude the overturning of previous decisions, but prevent the Court from rendering additional decisions which would serve to significantly limit their original decisions. The Court's own capacity to correct its "mistakes" should not be ignored when assessing the need for Congressional interference with judicial decision-making.

The role of the Supreme Court and its interaction with the other two branches of government is a topic many find too removed from the immediate problems of the day. However, from time to time, such an institutional analysis of problems is necessary. In the late 1960's, the Senate Separation of Powers Subcommittee, then chaired by Senator Sam Ervin, engaged in a lengthy review of the role of the Supreme Court. Today, in 1982, the Senate and House Judiciary Committees should again undertake a comprehensive and thoughtful review of the relationship between Congress and the federal courts.

V. CONCLUSION

There is a critical need to address the institutional problems of the judicial branch outside the context of the court stripping bills. The jurisdiction removal proposals present such immediate and overwhelming constitutional concerns that we should be looking toward other solutions to address perceived problems with our federal courts. The impact of the court stripping bills on our judicial system and on the Congress itself has also been grossly underestimated. Congress would be far better off confronting the institutional problems of the federal courts directly, rather than pursuing court stripping bills that effectively destroy judicial independence without a public discussion of its merits or drawbacks.

When the full Senate voted on the Helms Amendment in April of 1979, the vote was perceived as a vote on school prayer. There was little awareness of the implications of

the removal of Supreme Court jurisdiction over a constitutional issue. The votes on the issue took place without serious discussion and consideration of the role of the federal courts in the American system of government. The offering of the amendment came as a surprise to most members of the Senate and took place without committee hearings, without any committee consideration and without any input from constitutional scholars, the legal community, or interested organizations.

In the ensuing three years, public awareness and interest in the court stripping bills has increased. In August of 1981, the House of Delegates of the American Bar Association overwhelmingly approved a resolution opposing "the legislative curtailment of the jurisdiction of the Supreme Court of the United States or the inferior federal courts for the purpose of effecting changes in constitutional law." Since then the leadership of the organized bar has repeatedly spoken out and testified against the jurisdiction removal proposals. The President of the ABA has described the court stripping bills as posing "a possible constitutional crisis that could prove the most serious since the Civil War."

The American College of Trial Lawyers has gone on record in opposition to the jurisdiction bills and observed:

"The doors of the federal courts must remain open to litigants whose claims arise out of the federal Constitution. This issue should not divide conservatives and liberals or Democrats and Republicans. Nor should it divide those who support or disagree with one or another constitutional decision of the Supreme Court."

In fact, opposition to the court stripping bills has been bipartisan and has crossed ideological lines. Senator Barry Goldwater of Arizona has recently spoken out eloquently against the jurisdiction removal bills. He observed:

I am strongly opposed to the breakup of neighborhood schools. I think the unborn baby is entitled to some legal protection. And I believe schoolchildren should be allowed a few moments of voluntary prayer.

In my view, the Supreme Court has erred. But we should not meet judicial excesses with legislative excesses. . . . What particularly troubles me about trying to override constitutional decisions of the Supreme Court by a simple bill is that I see no limit to the practice. There is no clear and coherent standard to define why we shall control the Court in one area but not another. The only criteria seems to be that whenever a momentary majority can be brought together in disagreement with a judicial action, it is fitting to control the federal courts. . . .

Whether or not Congress possesses the power of curbing judicial authority, we should not invoke it. As sure as the sun will rise over the Arizona desert, the precedent will return to oppress those who would weaken the courts. If there is no independent tribunal to check legislative or executive action, all the written guarantees of rights in the world would amount to nothing.

Unfortunately, the momentary majorities that Senator Goldwater speaks of are continuing to exert enormous pressure on Congress. Certain constituencies are continuing to pursue their legislative "end-runs" of the Constitution. These constituencies are convinced that such short cuts are politically acceptable. It is not yet clear whether the concerns that have been raised about court stripping will take hold or whether more and more single-issue constituencies will find such legislative approaches a sound way of pursuing their substantive goals.

In the meantime, those who are deeply concerned about the profound implications of court stripping must continue to try to focus national attention on the fundamental governmental principles that are at stake. Our only alternative is to try to address the broader issues in the hope that we can reach a consensus that the court strippng proposals are dangerous and do not effectively address the problems they are designed to cure.

While the current proponents of court stripping represent a formidable political force, the nation has previously faced and withstood similar challenges to the independence of the federal judiciary. One such challenge occurred in 1937 when President Roosevelt proposed to increase the size of the Supreme Court. He felt that a series of Supreme Court decisions threatened the success of his national recovery program. By proposing to alter the Court's composition, he hoped to force the Court to uphold the constitutionality of his economic plan. The people and Congress resoundingly defeated the Roosevelt plan. The "Court packing" plan was seen for what it was—a significant threat to the independence of the judicial branch. As we now consider the court stripping bills before us in the 97th Congress, we should keep in mind the wise words of those who successfully defended the Supreme Court in 1937. Senator Burton K. Wheeler of Montana delivered this warning which applies with equal force today:

"So I say it is normally wrong to do by indirection what cannot be done by direction. It is morally wrong to change the Constitution by coercive interpretation. . . . Of course, Mr. President, there have been abuses in the Court. I have been one who has disagreed with them, and I expect to disagree with them again, but I am unwilling on the basis of some specious argument or of some subterfuge that defies the spirit of the Constitution to participate in setting one of the most dangerous precedents that has ever been conceived by this Congress or any other."

Congressional Power Over the Jurisdiction of the Federal Courts

(By Paul M. Bator)

I. Congress' power over the jurisdiction of the inferior federal court

The Constitution contains many provisions that are not at all clear. It does, however, contain a few that are clear. One of the clearest is the power of Congress to regulate the jurisdiction of federal "[t]ribunals inferior to the Supreme Court."

Article III of the Constitution provides that the "judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." As we know from the records of the Constitutional Convention, this text was the product of a compromise between those who thought that the Constitution itself should establish a full set of federal courts, and those who thought that the Constitution should authorize no federal courts inferior to the Supreme Court whatever. The purpose of the compromise was to leave it to *legislative* judgment, to be made from time to time, whether and to what extent lower federal courts are needed to assure the effectiveness and supremacy of federal law.

The Constitutional text itself makes clear that Congress is free to decide that there should be no lower federal courts at all. This would leave all questions of federal law (including the enforcement of federal rights) wholly to the state courts in the first instance, subject to review in the United States Supreme Court. However, the purpose of the compromise imbedded in Article III goes further than giving the Congress the all-or-nothing power to decide whether lower federal courts should exist. It leaves it to Congress to decide, having created lower federal courts, what their jurisdiction should be—that is, to decide *which* of the cases to which the federal judicial power extends should be litigated in the lower federal courts.

The position that Congress has this additional power to "pick and choose," to create lower federal courts and give them less than the entire federal judicial power, is not based primarily on the mechanical argument that the greater power (not to create such courts at all) must include the lesser (to create them but limit their jurisdiction). It is based on the fact that this reading is the only one consistent with the understanding which animated the compromise adopted by the Framers. The essence of that compromise was an agreement that the question whether access to the lower federal courts was necessary to assure the effectiveness of federal law should not be answered as a matter of constitutional principle, but rather, should be left a matter of political and legislative judgment, to be made from time to time in the light of particular circumstances. It would make nonsense of that notion to hold that the only power to be exercised is the all-or-nothing power to decide whether *none* or *all* of the cases to which the federal judicial power extends need the haven of a lower federal court. The central premise of the compromise was the insight that the question whether a given "federal" case should initiate in a state court (subject to Supreme Court review), or in lower federal court, is not an appropriate question for a decision at the constitutional level. Rather, Congress is the body best suited to make this institutional judgment on the basis of changing circumstances.

The position that the Constitution obligates Congress to create lower federal courts, or (having created them) to vest them with some or all of the jurisdiction authorized by article III, has been repudiated by an unbroken line of authoritative judicial and legislative precedent. From the very first, Congress has acted on the premise that it is for it to decide which if any of the cases and controversies to which the federal judicial power extends should be litigated in the first instance in lower federal courts. The First Judiciary Act, passed by Congress whose membership included many of the Framers, created lower federal courts but gave them only a small portion of the federal judicial power. Cases arising under federal law could not generally be brought in the lower federal courts until 1875; and even thereafter, a jurisdictional amount limit put many such cases in the exclusive original jurisdiction of the state courts. Further—and most significantly—to this day litigants who assert federal rights by way of defense do not generally have any access to the inferior federal courts.

Nor has this exercise of Congressional power been a one-way ratchet. Congress has consistently felt free to restrict lower court jurisdiction even after it has been given. Thus, it has on numerous occasions raised the jurisdictional amount. It has both expanded and restricted the diversity and removal jurisdictions. It has excluded from

the jurisdiction of the lower federal courts special categories of cases—most significantly in measures such as the Norris-LaGuardia Act, the Johnson Act of 1934, and the Tax Injunction Act of 1937.

Further, and notwithstanding contrary dicta by Justice Story in *Martin v. Hunter's Lessee*, the Supreme Court has upheld Congress' exercise of this power in an unbroken line of authoritative precedent. Indeed, the dramatic fact is that not a single Supreme Court case can be cited casting the slightest doubt on the validity of the hundreds of statutes premised on the notion that it is for Congress to decide which, if any, of the cases to which the federal judicial power extends should be litigated in the first instance in the lower federal courts.

The most recent authoritative statement of the meaning of the Constitution in this respect is the opinion of the Supreme Court in *Palmore v. United States*. Here is the relevant passage:

"Article III describes the judicial power as extending to all cases, among others, arising under the laws of the United States; but, aside from this Court, the power is vested 'in such inferior Courts as the Congress may from time to time ordain and establish.' The decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create inferior Art. III courts to hear and decide cases within the judicial power of the United States, including those criminal cases arising under the laws of the United States. Nor, if inferior federal courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Art. III. '[T]he judicial power of the United States ... is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) ... and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good.'

* * * * *

"Congress plainly understood this, for until 1875 Congress refrained from providing the lower federal courts with general federal-question jurisdiction. Until that time, the state courts provided the only forum for vindicating many important federal claims. Even then, with exceptions, the state courts remained the sole forum for the trial of federal cases not involving the required jurisdictional amount, and for the most part retained concurrent jurisdiction of federal claims properly within the jurisdiction of the lower federal courts."

In light of this clear—and consistent—line of authority in the Supreme Court, occasional lower-court dicta which espouse the opposite view do not have authoritative weight.

It should be noted that it is not my argument that Congress has plenary power to determine what if any rights shall be enforceable in court. The Constitution does guarantee that, under certain circumstances, there shall be access to courts; due process does in some cases mean judicial process. Consequently, Congress is *not* free to control the jurisdiction of the state courts so as to foreclose the vindication of the constitutional right to judicial review. But the Constitution is indifferent whether that access is to a federal or a state court. If the Congress decides that a certain category of case arising under federal law should be litigated in a state court, subject to Supreme Court review, *neither the letter nor the spirit of the Constitution has been violated.* What has happened is that Congress has taken up one of the precise options which the Constitutional Framers specifically envisaged. From the viewpoint of the Constitution, nothing has gone awry.

It is commonplace to say that Congress' power to regulate the jurisdiction of the lower federal courts cannot be exercised in a manner that violates some other Constitutional rule. In that sense—and in that sense only—it can be said that Congress' power is not plenary. Thus, if Congress provides that only Catholics may bring suits in the lower federal courts, this would be invalid, not because non-Catholics have a constitutional right of access to lower federal courts, but because the Constitution prohibits any Congressional action discriminating among religious denominations. Similarly, a statute which said that whites only may resort to the district courts would be invalid. The reason, again, is that, in the absence of some compelling and valid justification, Congress is not free to make distinctions based on race.

Furthermore, a Congressional statute regulating the lower courts' jurisdiction in a wholly arbitrary manner ("only plaintiffs who are more than six feet tall may sue in the district courts") would obviously violate the due process clause.

It is, however, a fundamental and egregious mistake to broaden this argument into an assertion that Congress is not free to differentiate among different subject matters, and to specify categories of cases arising under federal law which may or may not be brought in the lower federal courts. Unlike legislation which makes distinctions on the basis of race or religion, there is no independent constitutional rule which says, absolutely or presumptively, that various categories of federal question litigation must be treated jurisdictionally alike. There is no independent constitutional value which says that it is absolutely or presumptively illegitimate, or undesirable, or suspect to decide that one category of federal right shall be enforced originally and exclusively in the state courts, whereas another may be litigated in the lower federal courts. From the perspective of the Constitution, the obligation to litigate a given category of federal question cases in the state courts is not a "burdening" of that right. Indeed, it was the very purpose of the article III compromise to give Congress the power to make precisely these decisions.

It is therefore my submission that a statute providing that cases challenging the validity of state legislative apportionments, or cases challenging the validity of state statutes regulating abortions, may not be brought in the lower federal courts, would (if correctly drafted technically) be invulnerable to constitutional challenge. (It is important to note that there are difficult technical problems in drafting such statutes. Congress is free to decide that a lower federal court may not hear a given category of case or controversy at all. But it cannot allow a federal court to take jurisdiction and then command it to decide the case in an unconstitutional manner. Intricate problems of draftsmanship, therefore, arise when statutes seek to remove federal court jurisdiction over certain types of *questions*.) Such a statute would, if correctly drafted, be valid because it would exemplify the very power that the Framers sought to give Congress: the power to decide that federal interests are best maintained by requiring certain cases to which the federal judicial power extends to be initiated in the state—rather than the lower federal—courts.

Various arguments contrary to this position have been offered, but none of them seem to me to be impressive.

The argument advanced by Justice Story, that article III requires the Congress to vest the entire quantum of federal judicial power in federal courts, has been rejected by an unbroken line of Congressional and Supreme Court precedents, running from the time of the first Congress to the present. It no longer deserves to be taken seriously.

It is sometimes argued that, notwithstanding the clearly expressed plan of the Framers, changing circumstances show that lower federal courts *are* an absolute necessity and that we should therefore override the original understanding and restrict Congress' power. The argument seems to me to be wholly illegitimate and without authority. Indeed, the argument refutes itself: the fact that circumstances are, today, different than they were in 1789 with respect to the need for and role of lower federal courts, supports the wisdom of the Framers' compromise rather than furnishing an excuse for its abandonment.

It is sometimes asserted that Congress does not have the authority to carve out special categories of cases arising under federal law and remit those to the exclusive original jurisdiction of the state courts. It is unclear just why this is asserted to be so. Neither the equal protection clause nor any other clause of the Constitution requires equal jurisdictional treatment for different subject-matters of litigation. If it is asserted that this "discriminates" against a certain category of federal right, the answer must be that such discriminations—that is, the power to pick and choose among different categories and subject matters of federal cases—is precisely the power that article III sought to grant. Ultimately the assertion must rest on the notion that there is a constitutional right as such to litigate certain categories of cases in the lower federal courts—a notion which seems to me to be plainly erroneous.

A somewhat narrower argument is that if it is shown that Congress' motive in requiring a certain category of case to be brought in the exclusive original jurisdiction of the state courts is "hostility" to the substantive constitutional right in question, it can be struck down. I do not understand how such a rule could be administered. What would be an adequate indication of hostility? The New Deal Congress, in 1934 and again in 1937, moved by serious reservations about the constitutional doctrines restricting the states' regulatory and taxing authority under the due process clause, provided that constitutional suits to restrain the enforcement of state tax statutes and public utility rate orders must ordinarily be brought in the state courts. Are these statutes invalid? No court or commentator has so suggested in the past forty years. Why is a statute, divesting the lower federal courts of jurisdiction to hear suits challenging state statutes regulating abortions different?

Indeed, the notion that it is illegitimate for Congress to express concerns about substantive constitutional matters through the technique of jurisdictional regulation is itself erroneous. As just stated, that is pre-

cisely what Congress did in the Johnson Act of 1934 and the Tax Injunction Act of 1937, and it acted in an analogous manner in the Norris-LaGuardia Act. Such jurisdictional statutes rest on a rational and legitimate notion: that our federalism may benefit if the further elaboration of certain types of constitutional issues are subjected to the insights of the state, rather than the lower federal courts before they reach the United States Supreme Court. The state courts, equally with the federal, are charged with the task of enforcing and protecting federal constitutional rights. To give them the task of doing so—subject to Supreme court review—may manifest concern with or even disagreement with existing constitutional doctrine, but does not subvert it. Such a decision by the Congress may quite legitimately rest on two allied notions: that in interpreting the constitutional provisions which restrict state power, it may be wise in the first instance to have access to the insights of the tribunals which are closest to the problem at hand; and, second, that it may be politically healthy to give the state courts the opportunity in the first instance to enforce federal constitutional restrictions on state power.

I conclude that a correctly drafted statute that does nothing more than provide that a given category of case or controversy arising under the Federal Constitution or laws shall revert to the exclusive original jurisdiction of the state courts is valid, so long as it does not create discriminations which the Constitution independently prohibits and is not wholly irrational and arbitrary.

It must be stressed that the fact that Congress has the *power* to do something is not an argument that it should exercise that power. Nothing in this paper should be taken to be an endorsement of any particular proposal with regard to the jurisdiction of the lower federal courts. Indeed, Congress should be most cautious in creating special jurisdictional rules for special categories of constitutional litigation. Such statutes are dangerous because they seem to be premised on the very argument which animates those who assert that Congress lacks this power—the argument that state courts may be expected to give federal constitutional rights less vigorous enforcement than the lower federal courts.

On the other hand, this kind of jurisdictional regulation is quite legitimate if it is the conscientious judgment of Congress that a given category of federal constitutional litigation may benefit from the special insights state courts can provide into matters that touch closely upon the regulatory and political authority of the states. And I stress again my initial point. The Constitution has relatively few things in it which are clear; the power to allocate cases arising under federal law between the lower federal and the state courts must be counted as one of them. There are many legitimate reasons for not favoring legislation that restricts the power of the lower federal courts to adjudicate abortion cases, or apportionment cases, or some other category of cases. However, doubts about Congress' power to enact these statutes is not one of them.

II. CONGRESS' POWER OVER THE APPELLATE JURISDICTION OF THE SUPREME COURT

Congress' power to control the appellate jurisdiction of the Supreme Court raises questions that are much more difficult. The difficulty is created by the following circumstance. The text of the Constitution provides that the appellate jurisdiction of the Supreme Court shall be subject to "such Exceptions, and under such Regulations as the Congress shall make." This language plainly seems to indicate that if Congress wishes to exclude a certain category of federal constitutional (or other) litigation from the appellate jurisdiction, it has the authority to do so. If the Constitution means what it says, it means that Congress can make the state courts—or, indeed, the lower federal courts—the ultimate authority for the decision of any category of case to which the federal judicial power extends.

What is so troubling about that position, however, is that such a jurisdictional withdrawal would create a system inconsistent with the structure that the Framers assumed to be appropriate. The "state's rights" argument at the Constitutional Convention was that there was no need for lower federal courts precisely because the appellate jurisdiction of the Supreme Court would provide sufficient assurance of the supremacy and uniformity of federal law in cases decided by the state courts. It was the premise of this argument that the Supreme Court *would* have the power to review cases originating in the state courts concerning issues of federal law. It was plainly not contemplated that the system could work effectively with the state courts as courts of *last* resort on issues of federal law. Even on the assumption that the state courts would comply with the supremacy clause and conscientiously enforce the Federal Constitution and laws, the insuperable problem would be that there would be no way to make the commands of federal law uniform as well as supreme.

I stated before that a statute providing that an important category of constitutional litigation is to be within the exclusive original jurisdiction of the state courts would not violate the letter or the spirit of the Constitution. A statute depriving the Supreme Court of appellate jurisdiction over the same category of constitutional litigation *would*, however, violate the spirit of the Constitution, even if it would not violate its letter. It violates the spirit because the structure contemplated by the instrument makes sense—and was thought to make sense—only on the premise that there would be a federal Supreme Court with the power to pronounce uniform and authoritative rules of federal law.

Does it make sense to say that there may be things that do not formally violate the Constitution—that comply with its letter, and therefore are not "invalid"—that nevertheless violate its spirit? The answer is clearly "yes." Congress has undoubted power to pack the Supreme Court by making it a court of fifteen, twenty, or even fifty Justices. A statute so doing could not be held invalid. But there is no doubt that such a statute would violate the Constitution's spirit—that it would run against the purpose of the Framers to create an independent judiciary.

We should therefore not be embarrassed to take the position that Congress may have the authority to carve out subject matters and withdraw them from the Supreme Court's appellate jurisdiction, but *should* not do so, not only because they represent bad policy but because they violate the structure and spirit of the instrument.

Should one go further and adopt the position that Congress does not have the *power* to carve out areas of federal-question or constitutional litigation from the appellate jurisdiction of the Supreme Court?

Various arguments have been advanced which would limit the powers of Congress to create exceptions to the appellate jurisdiction of the Supreme Court in a variety of ways. Some of the arguments are historical—they assert that the power to make exceptions was intended by the Framers to be restricted to questions of fact. Other arguments depend on the assertion that to allow Congress such a power would subvert the fundamental Constitutional plan.

There are major weaknesses and flaws in all of these arguments. The historical evidence is far from conclusive, but the evidence to support the proposition that the exceptions clause was to be reserved exclusively to issues of fact is weak. Arguments deriving from "structural" notions are also weak, primarily because they are so vague, particularly in the face of a text that is not at all vague. True, there is ample evidence that the Framers *generally* contemplated Supreme Court review of state court judgments. But they also contemplated Congressional regulation of this jurisdiction, and nothing in the "structure of the document" argument serves in any powerful way to distinguish between regulations that are valid and those that are invalid.

In this connection, it must be remembered that Congress has in fact made major exceptions in the appellate jurisdiction of the Supreme Court. For a century, federal criminal cases were not generally reviewable in the Supreme Court; if the critical feature of the "structural argument" is the need for uniformity, this gap would plainly be invalid. Indeed, for some 100 years, state court decisions on issues of federal law were themselves reviewable only on a limited basis, depending on how the state court decided the federal question. Congress also, on one occasion, made an exception to the appellate jurisdiction of the Supreme Court on an ad hoc "retaliatory" basis; and this statute was upheld in the celebrated *McCardle* case. It is fashionable today to stress that *McCardle* is special and distinguishable; nevertheless, the language of the Court in *McCardle* plainly proceeded on the assumption that Congress' power is plenary; and this is the only Supreme Court opinion squarely on point.

My own opinion is that the arguments that would place serious limits on the power of Congress to make exceptions to the appellate jurisdiction of the Supreme Court are not, in the end, persuasive. Indeed, a powerful case can be made that such a plenary power may be essential to making the institution of judicial review tolerable in a democratic society.

Nevertheless, it is clear that the contours of the exceptions clause remain shrouded in considerable doubt. Congress may have the power to make the state courts the courts of last resort in important categories of constitutional litigation; but its power to do so is not at all free from ambiguity. Furthermore, even if one believes—as I do—that Congress has the raw power to do this, the argument that it would violate the spirit of the instrument to do so seems extremely powerful. I note, too, the powerful policy arguments against such a retaliatory use of the power granted to Congress by the exceptions clause: it could not long be tolerated to have the Federal Constitution be subject to different interpretations in different states on any issue of significance. Nor would it be tolerable to have the law "frozen" permanently into the shape given it by the last Supreme Court precedents rendered before the enactment of the statute withdrawing jurisdiction—precedents that would continue to be binding authority

in the state courts (and that ironically, are likely to be the very precedents leading to the Congressional dissatisfaction manifested in the new jurisdictional statute).

I conclude, therefore, that resort to the power to make exceptions to the appellate jurisdiction of the United States Supreme Court by making the state courts the courts of last resort in one or more important categories of constitutional litigation is a dubious expedient. The validity of such a measure would be surrounded by serious doubts. Such a measure would in any event be criticized as flying in the face of the spirit of the Constitution; its legitimacy would therefore be extremely vulnerable, as was the proposal of President Roosevelt to "pack" the Supreme Court. And, finally, such a measure would create a host of serious and perhaps intolerable problems in the fair and rational administration of the laws.

Mr. DIXON. Mr. President, I appreciate this opportunity to express my opposition to amendment No. 2031 to the public debt limit extension, as it relates to school prayer.

According to my friend and colleague, Senator HELMS, this amendment is intended "to restore the right of voluntary prayer in public schools and to promote the separation of powers." I believe that the amendment does much more than that. I believe it would impede on the independence of the Federal judiciary.

I support voluntary prayer in the schools. In fact, I would favor allowing periods of prayer or meditation in our schools if they could be provided without violating our country's strong tradition of separation of church and state.

Since 1969, in my own State of Illinois, classroom teachers and students have been authorized by law to observe a brief period of silence each day. According to the State prayer law, the period "shall be an opportunity for silent prayer or silent reflection." The Illinois statute, therefore, avoids the thicket of problems we face if our public schools have to choose among creeds.

Mr. President, I realize the difficulties involved in setting public policy with regard to a matter as deeply involved as religious belief. However, I believe that provisions of this amendment are unconstitutional. In addition, I believe that this is not the approach the Congress should take on this very serious moral issue.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2:30 p.m. having arrived, the clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steve Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard Baker.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2031, as modified, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—53

Abdnor	Garn	Nickles
Armstrong	Grassley	Nunn
Baker	Hatch	Pell
Bentsen	Hawkins	Pressler
Boren	Heflin	Proxmire
Byrd, Harry F., Jr.	Helms	Quayle
	Huddleston	Randolph
Cannon	Humphrey	Roth
Chiles	Jepsen	Sasser
Cochran	Johnston	Schmitt
D'Amato	Kassebaum	Simpson
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Murkowski	Zorinsky

NAYS—47

Andrews	Eagleton	Melcher
Baucus	Glenn	Metzenbaum
Biden	Goldwater	Mitchell
Boschwitz	Gorton	Moynihan
Bradley	Hart	Packwood
Brady	Hatfield	Percy
Bumpers	Hayakawa	Pryor
Burdick	Heinz	Riegle
Byrd, Robert C.	Hollings	Rudman
Chafee	Inouye	Sarbanes
Cohen	Jackson	Specter
Cranston	Kennedy	Stafford
Danforth	Leahy	Stennis
Dixon	Levin	Tsongas
Dodd	Mathias	Weicker
Durenberger	Matsunaga	

The PRESIDING OFFICER. On this vote there are 53 yeas and 47 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the cloture motion is rejected.

Mr. MOYNIHAN. Mr. President, the Constitution is secure still. It has prevailed once more.

I see the majority leader wishes the floor. I am happy to yield to him.

Mr. BAKER. I cannot speak half so eloquently, Mr. President.

Mr. President, all I was going to say may sound anticlimatic. That is that there will be another vote tomorrow at noon.

Mr. CHAFEE. Mr. President, may we have order, please?

The PRESIDING OFFICER. Let us have order in the Senate so the majority leader may be heard.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I also want to say that I have consulted with the Senator from Utah (Mr. HATCH), the chairman of the committee, and the Senator from Massachusetts (Mr. KENNEDY), the ranking minority member. Based on that conversation, I advise Members that we should expect to have the railroad measure before us this afternoon about 5:30 or 6 p.m. It will be the leadership's intention to ask the Senate to proceed as soon as that is available. In any event, it is our intention to try to deal with that measure tonight whether the House has acted or not. I thank the Chair.

VISIT TO THE SENATE BY MEMBERS OF THE SPECIAL COMMITTEE ON NUCLEAR WEAPONS IN EUROPE OF THE NORTH ATLANTIC ASSEMBLY

Mr. BIDEN. Mr. President, with the permission of the leadership, I should like, without asking us to recess afterward, to introduce members of the North Atlantic Assembly, all members of the various parliamentary bodies here representing the Assembly on the matter of nuclear weapons in Europe.

Those present are: Klaas de Vries, Netherlands, vice chairman; John Cartwright, United Kingdom, Rapporteur; Jacques Chaumont, France; Julien Critchley, United Kingdom, Rapporteur; Massimo De Carolis, Italy; Jacques Huyghues des Etages, France; and Marcel Remacle, Belgium.

I invite my colleagues to say hello to my friends, who are standing over against the wall.

(Applause, Senators rising.)

Mr. BIDEN. I thank the Chair.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution.

Mr. BAKER. Mr. President, earlier there had been a request by the distinguished Senator from Montana (Mr. BAUCUS) that he be next recognized after the recess. Does the Senator wish to be recognized at this point to continue his debate?

Mr. BAUCUS. I do, yes, Mr. President.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Montana may now be recognized to continue his debate and it not appear as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I ask unanimous consent that the Senator from Montana may be permitted to yield for a

question by me of the majority leader without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order so that the Senate may hear a question by the Senator from Arkansas of the majority leader.

Mr. BUMPERS. Mr. President, as I understand, first, we are going to have another cloture vote tomorrow on the Helms amendment. Could the majority leader tell us what his plans are after that?

Mr. BAKER. Mr. President, the outcome of that vote tomorrow will largely determine what we do next. If cloture is invoked, of course, we shall stay on the amendment. If cloture is not invoked, then I shall confer with the managers and we shall decide how to proceed next.

But I would reiterate what I have said to Members now for some 2 weeks. At some point we have to pass this bill; that is, the debt limit bill, and I hope to do that this week.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield 3 minutes to the Senator from Virginia without losing my right to the floor and also violating the 2-speech rule, rule XIX.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I thank my friend from Montana.

May we have order first, Mr. President?

The PRESIDING OFFICER. May we have order in the Senate. The Senator from Virginia has been recognized.

May we have order in the Senate. Will Senators carry on their conversations elsewhere. May we have order in the Senate.

Will Senators carry on their conversations elsewhere. Let us have order in the Senate.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the time getting the Senate in order not be charged against the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN TROOPS IN LEBANON

Mr. HARRY F. BYRD, JR. Mr. President, I am outraged by the recent bloodshed in Lebanon. The sending of American combat troops to Lebanon is, at best, only a temporary remedy and, indeed, is highly dangerous with that country in total chaos. The mission of the American forces has not been made clear. The United States has enunciated no real objective, nor is there a reliable and stable authority with which to deal.

In brief, I have grave reservations about committing American troops.

Statements today by Secretary of State Shultz and Secretary of Defense Caspar Weinberger raise even more questions.

As for the mission of the troops, Secretary of State Shultz said that the U.S. mission is:

First, to stop the bloodshed in Lebanon.

How is that to be accomplished?

Second, to get a stable central government in Lebanon.

How is that to be accomplished?

Then, "promptly and strongly and urgently to clear Lebanon of foreign forces so the country can be governed by its own government."

How is that to be accomplished by 800 marines?

Secretary of Defense Weinberger said the administration does not "contemplate any conflict" while the marines are in Lebanon. But if they encounter combat, they should be withdrawn, he is quoted as saying.

Mr. President, these statements are not reassuring to the Senator from Virginia. So I end by saying again that I have grave reservations about committing American troops in that area.

Mr. President, I thank my distinguished friend from Montana for yielding.

Mr. BAUCUS. I thank the Senator from Virginia.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

The Senate continued with the consideration of House Joint Resolution 520.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I may yield to the Senator from Connecticut, without losing my right to the floor; that upon being rerecognized, the continuation of my speech not be counted as a second speech under rule XIX; and that I be allowed to leave the Chamber while I have so yielded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I commend my distinguished colleague from Montana for continuing his very effective fight in the matters before the U.S. Senate at this time. It is testimony to his ability and his eloquence and the perception he brings to the subject that we are no further along on this matter—and we should not be any further along—than we were several weeks back. I think he has done an outstanding job, and the Nation has a great deal for which to thank Senator BAUCUS insofar as preserving the Constitution of the United States is concerned.

Once again, I should like to utilize the Memorial and Remonstrance Against Religious Assessments, written by James Madison in 1785, as being probably the most defective argument as to the substance of what is proposed in the amendment before this Chamber.

I realize that the Senator from Montana has emphasized that aspect of the debate which is court stripping, and quite properly so. This, indeed, is the issue that has been presented to us, along with the substance of other issues—the substance of abortion, the substance of busing, the substance now of prayer in school.

There are twin arguments being presented before this Chamber, both of which are opposed to the procedure and the substance being employed within the amendment offered by the Senator from North Carolina.

The Senator from Montana has emphasized in this debate court stripping, as this Senator did during the debate on busing. The Senator from Oregon (Mr. PACKWOOD), in his very articulate and effective presentation on the abortion matter, also referred to the court-stripping aspects of the amendment on the floor at that time.

The Senator from Montana has indicated, during the past days and weeks, the danger that is presented to the Republic and to the Constitution of the United States if the legislative branch is permitted to strip the court of its jurisdiction whenever it deems fit. I should like to get into the substance of what the Senator from North Carolina and many of his colleagues seek to achieve here.

There is no reason why one should be faint of heart to stand up and defend the first amendment to the Constitution of the United States. My good friend from New York, Senator MOYNIHAN, stood up just a moment ago and said that the constitutional principles are safer for now. I hope the same might be said by the time we get through with the cloture vote tomorrow.

Let me start again, as I have each time I have taken the floor, to recite the first amendment to the Constitution of the United States:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

What is on the floor of the Senate at this time? This is not an amendment that deals with mass transportation. This is not an amendment that deals with agricultural subsidies. This is not an amendment that deals with public service jobs. This is not an amendment that deals with 8-A housing or 503 Small Business Administration programs. This is an amendment that deals with prayer. If this amendment is adopted by the U.S. Senate, and if it

is subsequently adopted by the House of Representatives, and if it is signed by the President of the United States, it then becomes law—law.

So, without even getting into the substance—and I intend to do that right away—what does the first amendment say? "Congress shall make no law respecting the establishment of religion." So it is unconstitutional on its face. It is exactly what some are attempting to do here today—to make a law.

I also point out that there are those who say that these men on the floor—Senator BAUCUS, Senator WEICKER, Senator MOYNIHAN, Senator KENNEDY—those of us who have stood up and have spoken on this issue, are irreligious men or maybe they are atheists. Let me assure everyone, both within and without this Chamber, that it is because of our belief in religion, because of our commitment to total freedom to worship as one chooses in this country, that we stand here, hour after hour after hour, to assure that there will be as much freedom tomorrow as there has been for over 200 years—or, more particularly, probably over the past decade, since those Court decisions that made it no longer embarrassing to be a Jew or no longer embarrassing to be a Catholic or a Mormon or of some minority faith.

I do not particularly care to go back to those days when discrimination was practiced, albeit maybe not in the form of cross-burning and crucifixion and burning at the stake but, nevertheless, practiced with just as devastating effect and creating just as much in the way of scars, except this time on the children of this Nation.

I do not want any more—what was the book by Laura Hobson, "Gentleman's Agreement." This legislation brings us back to the days of a gentleman's agreement, nothing overt, covert; nothing written, a gentleman's agreement to discriminate against those who do not belong to a majority state.

Every religious leader in this Nation should be standing up in his or her place of worship and exhorting their congregation to back this effort on the floor.

Let not anybody be swayed that because in their particular community their religion is of the majority stripe that they are safe.

Once the guarantee for freedom goes, it goes for all, and one is no longer safe in his community or his State as long as this is the United States of America. When freedom falls for one no matter where located it falls for all.

The object of these proceedings and of this debate is to assure two things: Even if you are only one, you shall be able to worship as you see fit. You will be just as important and just as free as the 1,000.

But then if the Constitution is valid it goes beyond anything that exists at this time. It goes into the future, and what we argue for here this afternoon is the fact that maybe some faith yet to be proclaimed will have a chance for expression in this Nation and a chance to grow and maybe indeed that which has yet to be proclaimed very well might be the one true faith. I do not know. I am not a competent judge of that.

You see, the Constitution, unlike the changes of Congress, Presidents, parties, and philosophies, was meant to last through all time and all parties and all philosophies and all majorities in the legislative branch. It was the rock upon which all of us could base our hopes and our dreams.

In 1785 a bill was proposed before the Virginia Legislature establishing a provision for teachers of the Christian religion. James Madison, one of the authors of the Constitution and one of the leaders of this Nation, wrote to the legislature urging them not to pass that law. I would like to read that letter to this Chamber and all those outside the Chamber this afternoon.

I might add what it also points up, aside from the fact of the greatness of ideas in the Constitution of the United States, is no matter how much we have progressed in terms of our technological achievements in the 200-some odd years since the founding of this Nation, we have gone down hill in our use of the English language; that indeed language was an art and a tool and its excellence and magnificence way beyond anything we know today. So think twice before you feel that all time that passes is progress.

I think when you hear what follows you will understand that might not necessarily be the case when it comes to the English language:

"A Memorial and Remonstrance Against Religious Assessments" addressed to the Honorable General Assembly of the Commonwealth of Virginia.

We, the subscribers, citizens of the said Commonwealth, having taken into serious consideration a Bill printed by order of the last Session of General Assembly, entitled "A Bill establishing a provision for Teachers of the Christian Religion," and conceiving that the same, if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State, to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill,

1. Because we hold it for a fundamental and undeniable truth, "that Religion or the duty which we owe to our Creator and the Manner of discharging it, can be directed only by reason and conviction, not by force or violence." The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable; because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men: It is unalienable also; because what is here a right towards men, is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent both in order of time and degree of obligation, to the claims of Civil Society.

This right here, in other words.

Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe: And if a member of Civil Society, who enters into any subordinate Association, must always do it with a reservation of his duty to the general authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign. We maintain therefore that in matters of Religion, no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance. True it is, that no other rule exists, by which any question which may divide a Society, can be ultimately determined, but the will of the majority; but it is also true, that the majority may trespass on the rights of the minority.

2. Because of religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited: it is limited with regard to the co-ordinate departments, more necessarily is it limited with regard to the constituents. The Rulers who are guilty of such an encroachment, exceed the commission from which they derive their authority, and are Tyrants

The people who submit to it are governed by laws made neither by themselves, nor by any authority derived from them, and are slaves.

The importance of three is now to see how close in time these words came to the American Revolution and the actual experience of those that settled this Nation to the experience of having to fight for it and the experience of having created something now out of those ashes.

3. Because, it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of [the] noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents.

They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much, soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish with the same ease any particular sect of Christians, in exclusion of all other Sects. That the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever.

4. Because, the bill violates that equality which ought to be the basis of every law, and which is more indispensable, in proportion as the validity of expediency of any law is more liable to be impeached. If "all men

are by nature equally free and independent," all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights. Above all are they to be considered as retaining an *"equal* title to the free exercise of Religion according to the dictates of conscience." Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man. To God, therefore, not to men, must an account of it be rendered.

As the Bill violates equality by subjecting some to peculiar burdens; so it violates the same principle, by granting to others peculiar exemptions.

Now, here we get to the point where, obviously, there were those that were exempted from the legislation and Madison addressed himself to that subject. And so it might be said today that anybody that thinks that the principle involved here is not going to affect them, they might well listen to the lines that follow:

Are the Quakers and Menonists the only sects who think a compulsive support of their religions unnecessary and unwarrantable?

In other words, they had obviously been set outside the legislation contemplated by the Virginia General Assembly. They made an exemption to the Quakers and Mennonites.

Are the Quakers and Menonists the only sects who think a compulsive support of their religions unnecessary and unwarrantable? Can their piety alone be intrusted with the care of public worship? Ought their Religions to be endowed above all others, with extraordinary privileges, by which proselytes may be enticed from all others? We think too favorably of the justice and good sense of these denominations, to believe that they either covet pre-eminencies over their fellow citizens, or that they will be seduced by them, from the common opposition to the measure.

5. Because the bill implies either that the Civil Magistrate is a competent Judge of Religious truth;

Again, that is here. In other words, we oppose this bill because they are saying we oppose the bill for the fifth reason that:

The bill implies either that the Civil Magistrate is a competent Judge of Religious truth; or that he may employ Religion as an engine of Civil policy.

The first is an arrogant pretension falsified by the contradictory opinions of Rules in all ages, and throughout the world.

In other words, what he is saying here very clearly is if you take history and you take it in the civil sense, the secular sense, the facts of history totally dispute the wisdom of allowing the civil rules to determine what is religious truth.

And I would say that was a very fair observation in 1785 and I think it is just as fair an observation in 1982.

I do not think anyone need be reminded at this particular time, with the terrible tragedies that still exist all over the world—not just the Mideast, which is the most recent, but Northern Ireland—And all those great tragedies that occur all over the world in the name of those who dare, who dare to proclaim what is religious truth and then proceed to go ahead and create mayhem and death and violence in the name of that religious truth. That is the history of the world. That was the reason why this Nation was founded.

Now, that is what we have forgotten. Even Madison had to contend with it just some 20 years or 30 years after the Declaration of Independence and the signing of the Constitution. He had to contend with it. And our problem right now is, we are over 200 years away from the Revolution so we have completely lost an understanding as to why that document was written and how it was written and for what reason.

As I recall, the Archbishop of Canterbury was not on the *Mayflower.* And for very good reason: Because those on the *Mayflower* were fleeing from the Archbishop of Canterbury and the merger of the civil and ecclesiastical power which he and the King of England represented.

Madison goes on:

6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself; for every page of it disavows a dependence on the powers of this world: it is a contradiction of fact; for it is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them;

Now, there is a man of tremendous faith. There is somebody that believes in his faith and is saying so. What is there out there today among the various religious faiths of this Nation that they think they need the support of the U.S. Government?

My dear friends, if you really stop to think about this matter, there is a crisis of confidence in the Government of the United States. Do not come to us, in other words, to go ahead and bolster up something which needs, of itself, to go ahead and repair itself. Twenty-nine percent was a majority to elect the last President of the United States. And, I might add, the same figure held true for Mr. Carter before that and maybe a little tough higher, maybe 1 percent higher, for Mr. Nixon before that. So I am not talking about Ronald Reagan. I am talking about this free society of ours where only 29 percent is becoming the majority to elect the highest office in the land, 25 percent to elect a Senator of the United States is now a majority, and 20 percent to elect a Congressman.

That is the reason there is a crisis of confidence as to whether or not the Government is representative of the people, because it is not. But my job is to go ahead and get some people believing in what it is I represent. And it is the job of those that are entrusted with the safekeeping and the nurturing and the growth of our religious faith; it is up to them to strengthen their system, not each one to lean on the other like that—else we both fall on our faces.

It is a contradiction of fact; for is is known that this Religion both existed and flourished, not only without the support of human laws, but in spite of every opposition from them; period of miraculous aid, but long after and not only during the period of miraculous aid, but long after it had been left to its own evidence, and the ordinary care of Providence: Nay, it is a contradiction in terms; for a Religion not invented by human policy, must have pre-existed and been supported, before it was established by human policy. It is moreover to weaken in those who profess this Religion a pious confidence in its innate excellence, and the patronage of its Author; and to foster in those who still reject it, a suspicion that its friends are too conscious of its fallacies, to trust it to its own merits.

Madison goes on to Reason No. 7:

7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation.

I think one has to take this with a slight smile. I am subjected daily to those who ask citizens about politicians. I think there is too much in this country, but it is one of the facts of life that I have delivered. Now you are going to hear the expressions of a politican who has some cynical doubts about persons of the cloth.

Madison goes on saying:

During almost fifteen centuries, has the legal establishment of Christianity been on trial. What have been its fruits? More or less in all places, pride and indolence in the Clergy; ignorance and servility in the laity; in both superstition, bigotry, and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every sect, point to the ages prior to its incorporation with Civil policy. Propose a restoration of this primitive state in which its Teachers depended on the voluntary rewards of their flocks; many of them predict its downfall. On which side ought their testimony to have greatest weight, when for or when against their interest?

8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If Religion be not within [the] cognizance of Civil Government, how can its legal establishment be said to be necessary to civil Government? What influence in fact have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of Civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people.

Rulers who wished to subvert the public liberty, may have found an established clergy convenient auxiliaries. A just government, instituted to secure & perpetuate it, needs them not. Such a government will be best supported by protecting every citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property: by neither invading the equal rights of any Sect, nor suffering any Sect to invade those of another.

In No. 9, which I think is the greatest paragraph of Madison's letter, Madison warns against what I call small beginnings and their rather large consequences which nobody contemplates. I have always said on the floor of the Senate in the course of some of our civil rights debates that I have no doubt that every one of my fellow Americans, if they saw a cross being burned on somebody's lawn, would rush to the assistance of their neighbor. They would douse the flames and they would certainly help those who are their neighbors. I have no doubt about that. But more often than not, that is the last and grandest act.

How many, sitting in a barroom when somebody passed an aspersion relative to a person's ethnic background or their racial background, would stand up and call that person to account because that is where the cross-burning begins? This, in essence, is what Madison says in No. 9:

9. Because the proposed establishment is a departure from that generous policy, which, offering asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy? Instead of holding forth an asylum to the persecuted, it is itself a signal of persecution.

It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be, in its present form from the Inquisition it differs from it only in degree.

The one is the first step, the other the last in the career of intolerance.

What a great piece of wording.

One is the first step, the other the last, in the career of intolerance.

Saying, in other words, this piece of legislation providing for the payment of teachers of Christian religion at the beginning, the inquisition at the end. Where does this business end? Whose prayer? Whose prayer?

This is the first step, right here, for the establishment of State religion. What an irony for a Nation founded on the basis of total religious freedom. Indeed, Madison refers to it in here.

One of the great concerns, do not forget, in the founding of this Nation was whether we were going to have enough people here. That was a big concern of that time.

Nowadays, we do not think of that. We figure we have 250 million people and a lot of people say that is too many. All you have to do is take a look at how we try to restrict our immigration laws and you will find that is too many. But at that time, the feeling was we did not have enough. We needed people to settle the United States of America.

One of the enticements was that you could worship as you saw fit. You say, "Well, that is not much of an enticement."

Well, it was in that day and age because there was no other country in the world which was free of a state religion, no other country. Only the United States of America.

That is why people came here. They did not come here because of Disneyland. They did not come here because of our Betamax sets, automobiles, or any of the other great technological or material achievements we have.

They came because they needed to satisfy a spiritual need, that they could worship as they saw fit.

And this generation in 1982 is going to go back on that freedom? That is the issue out here.

This is not the ranting and raving of a few atheistic Senators, or some leftist leaning. It is to assure that we reestablish that total freedom that was as responsible as anything in the successful founding of this Nation, now No. 1 in the world.

The one is the first step, the other the last in the career of intolerance. The magnanimous sufferer under this cruel scourge in foreign Religions must view the Bill as a Beacon on our Coast—

So, all of a sudden, you say, what does this mean, a beacon on our coast? Now Madison lays into it.

The magnanimous suffered under this cruel scourge in foreign Regions, must view the bill as a Beacon on our Coast, warning him to seek some other haven where liberty and philanthrophy in their due extent may offer a more certain repose from his troubles.

10. Because, it will have a like tendency to banish our citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration, by revoking the liberty which they now enjoy, would be the same species of folly which has dishonoured and depopulated flourishing kingdoms.

Mr. President, can you believe it? This Nation, which had yet to build the Statue of Liberty, this Nation which opened its arms to the suffering all over the world. That was yet to come. People were leaving the United States—leaving it. This is 1785. In the 1800's and the early 1900's were the great immigrations that had yet to come to pass.

11. Because, it will destroy that moderation and harmony which the forbearance of our laws to intermediate with Religion, has produced amongst its several sects. Torrents of blood have been split in the old world, by vain attempts of the secular arm to extinguish Religious discord, by proscribing all difference in Religious opinions. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American Theatre has exhibited proofs, that equal and complete liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If with the salutary effects of this system under our own eyes, we begin to contract the bonds of Religious freedom, we know no name that will too severely reproach our folly. At least let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed that "Christian forbearance, love and charity," which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded should this enemy to the public quiet be armed with the force of a law?

Then he has good advice as to the faiths themselves.

He says:

12. Because, the policy of the bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift, ought to be that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions; and how small is the former!

He is saying, in other words, there is a tremendous growth opportunity out there for Christianity.

Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of [revelation] from coming into the Region of it; and countenances, by example the nations who continue in darkness, in shutting out those who might convey it to them. Instead of levelling as far as possible, every obstacle to the victorious progress of truth, the Bill with an ignoble and unchristian timidity would circumscribe it, with a wall of defense against the encroachments of error.

13. Because attempts to enforce by legal sanctions, acts obnoxious to so great a proportion of Citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? and what may be the effect of so striking an example of impotency in the Government, on its general authority.

Now, Madison is winding up. He has two more paragraphs left. The great conclusion is in his 15th reason. In order to make this complete, I shall read the 14th.

14. Because a measure of such singular magnitude and delicacy ought not to be imposed, without the clearest evidence that it is called for by a majority of citzens; and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective counties are indeed requested to signify their opinion respecting the adoption of the Bill to the next Session of Assembly." But the representation must be made equal, before the voice either of the Representatives or of the Counties, will be that of the people. Our hope is that neither of the former will, after due consideration espouse the dangerous principle of the Bill. Should the event disap-

point us, it will still leave us in full confidence that a fair appeal to the latter will reverse the sentence against our liberties.

Now he concludes.

On this, I wish more of my friends in the press gallery were here, because I think it calls to mind the fact that what Madison was arguing here was not just religious liberty. It was the entire first amendment. If, indeed, he was saying that you cannot emphasize Christianity as against all other sects, and if indeed he was saying that neither can you emphasize one sect within Christianity to the exclusion of all other sects, he is now going to point out that, if one of our liberties falls, what is to prevent going after all the rest of them?

Remember what is included in the first amendment to the Constitution:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of people peaceably to assemble, and to petition the Government for a redress of grievances.

There is a lot in one amendment.

15. Because, finally, "the equal right of every citizen to the free exercise of his Religion according to the dictates of conscience, is held by the same tenure with all our other rights. If we recurred to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the Declaration of those rights which pertain to the good people of Virginia, as the "basis and foundation of government," it is enumerated with equal solemnity, or rather studied emphasis.

Either then, we must say, that the will of the Legislature is the only measure of their authority; and that in the plenitude of this authority, they may sweep away all our fundamental rights; or, that they are bound to leave this particular right untouched and sacred: Either we must say, that they may control the freedom of the press, may abolish the trial by jury, may swallow up the Executive and Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary assembly: or we must say, that they have no authority to enact into law the Bill under consideration. We the subscribers say that the General Assembly of the Commonwealth have no such authority. And that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it, this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may on the one hand, turn their councils from every act which would affront his holy prerogative, or violate the trust committed to them: and on the other, guide them into every measure which may be worthy of his [blessing, may re]bound to their own praise, and may establish more firmly the liberties, the prosperity, and the Happiness of the Commonwealth.

Mr. President, that is as valid in 1982 as in 1785.

Mr. President, this past Sunday I had the privilege of speaking before the congregation of the United Church on the Green in New Haven, Conn. Rev. John Hay, its pastor, had requested many months ago, if I had a few minutes, that I come by and speak to his flock, so it was a great honor both to be in that historical church, No. 1; No. 2, to be with a man who probably has by deed done more to live the word of the Christian faith, that being the Reverend Hay and, lastly, to bring me back to the situs of my alma mater, Yale University.

It was on that occasion that I commented upon the subject on the floor of the Senate. It was not planned that way. It just so happend we got into this. The invitation had been made many months ago. But it was just at that time that we found ourselves in the middle of this debate.

I should like to, if I may, read the remarks that I made on this past Sunday.

For my good friends who every day, on the floor of the Senate, assist us in transcribing the accuracy of our comments for posterity, some good, some bad, some indifferent, if they would like to sit down, I will be glad to go ahead and give them the entirety of my remakrs in written form.

It is a great honor for me to join you in worship this morning. Reverend Hay has reminded me that it is an old Congregational tradition for government leaders to speak from the pulpit. Forgive me if today I avail myself of this tradition to speak out against what used to be another old Congregational practice: theocracy, the fusion of church and state into one authority.

The great thing about getting into this debate is you really learn your history. This next fact is something I never knew until it was found by my staff that assisted me in the writing of this speech.

I went on to say:

Until its disestablishment in 1818, nearly two hundred years after the pilgrims came in search of religious liberty, Congregationalism was Connecticut's official creed.

So we had a State religion in Connecticut. Indeed, most of the States did. Indeed, de facto, Protestantism was the official religion of this Nation up until a short while back.

I don't mean to cast stones but simply to cite facts. On this issue, my ancestral past is equally checkered. A great-uncle of mine was Archbishop of Canterbury. Nevertheless, I have come to believe with Mark Twain—

I also want to remind my friends in the Chamber and those without that Missouri is the one that likes to lay a claim to that great American author.

However, almost all of his works were written in the State of Connecticut, which is where he lived out most of his life.

Nevertheless, I have come to believe with Mark Twain that established religion "means death to human liberty and paralysis to human thought." No greater mischief can be created than to combine the power of religion with the power of government. History has shown us that time and time again. The union of the two is as bad for religion as it is for government. It gives rise to tyrants and inquisitions. It is what drove many of our ancestors to these shores. That is why clergy, lay people and public officeholders alike must fight radical rewrites of the First Amendment which are masquerading as good old-fashioned morality.

I want to speak in particular today about prayer in our public schools. The idea is very appealing on its surface. Indeed, it summons up reassuring images of freckle-faced Norman Rockwell children with their heads bowed and hands clasped in prayer. But as inspiring as it sounds, prayer in school has the potential for doing real damage—to children and their families, to the cause of true religion, and to the ideal of separation of church and state our founders embraced.

Today's Gospel lesson goes to the heart of the issue, which is that prayer is—or should be—a personal act of devotion, not an official function. I would like to reread a part of that passage from the Sermon on the Mount, this time from the Phillips translation: "And when you pray don't be like the play actors. They love to stand and pray in the synagogues and street corners so that people may see them at it. Believe me, they have had all the reward they are going to get. But when you pray, go into your room, shut the door and pray to your Father privately. Your Father who sees all private things will reward you."

It seems to me that the kind of prayer Jesus is recommending here is not the sort the school prayer supporters have in mind. He advocates a one-on-one personal dialogue with God, not some kind of officially-sanctioned formula blared through a public address system. Now, to be sure, people are concerned about falling church attendance and the fewer and fewer applicants to seminaries and well they might be. But making prayer a government program won't help matters. Government itself is still in the midst of a crisis of confidence. Look at how few people exercise their right to vote and participate in government. I have never seen a merger between two weak companies that ever worked, and that is what is being attempted here. In this country, government and religion, each must stand on its own two feet. If they cannot, then we must shake them up. We must not yoke them together. When the blind lead the blind, they both fall in the ditch.

If getting the American people closer to God is their goal, why make government the go-between? It reminds me of the Old Testament story of the Tower of Babel. There you had civil leaders commissioning a public works project to bring people closer to God. In the end, of course, the tower not only failed at that but it so insulted God that he made sure such a thing could not happen again by causing the people to speak different languages and scattering them to the winds.

Do I encourage my fellow citizens to pray? Certainly. And I hope that when they do, they will keep those of us in the U.S. Senate in mind. But I do not believe it is up to a Representative or a Senator or even the President to espouse or encourage any one religion or even religion in general. It is not my job to do the convincing, to take up on Monday on the floor of the Senate where the rabbi left off on Saturday or the priest or minister left off on Sunday.

My job is simply this: to make certain that every individual is free to practice the arti-

cles of this or her faith, whatever they may be, without fear of reprisal.

That is the oath of office I took, in that well, to the Constitution of the United States. I did not bring my Nicene Creed onto this floor. That is my religious belief, and it has nothing to do with my obligations to see to it that regardless of a person's creed—indeed, if they have any creed at all—they are in complete freedom as to their soul and their spirit and their beliefs.

Similarly, I believe that our public schools are meant to educate our children, teaching them a healthy respect for people of differing beliefs and disbeliefs. They were never intended to indoctrinate them or inculcate a certain set of beliefs. That is the work of parents and Sunday School teachers and Hebrew teachers.

I remember so well that great song—it was not musically the greatest song in the show. But how many remember, in "South Pacific," the little song, "You've Got To Be Taught How To Hate"? That is what our schools have been doing for many years. Never mind telling somebody else that they ought to believe religiously. They were not even educating us as to how we treat each other as human beings in the secular aspects of our lives. They could not even do that. We were taught to hate.

There is an old Spanish proverb which says "an ounce of mother is worth a pound of clergy." I would add that both are worth a ton of politicians where prayer is concerned. These days we talk a lot about strengthening families. But we will not do so by imposing some doctrine from without, particularly if that doctrine is alien to the family's own beliefs or traditions.

President Kennedy's comment on the 1962 Supreme Court decision barring prayer in the New York Public School system was right on the button. "We have in this case a very easy remedy," he said. "And that is to pray ourselves. And I think it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good deal more fidelity, and we make the true meaning of prayer more important in the lives of all our children."

That is right on the mark. That is not what we have on the floor of the Senate today.

Mr. HART. Mr. President, will the Senator yield? I wonder what the parliamentary circumstances are to permit him to yield.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Colorado, my good friend, Senator HART, for the purpose of debate only, without losing my right to the floor, without this being considered the end of a speech for the purpose of the two-speech rule, that he may be able to yield under the same conditions, and that I be allowed to leave the Chamber while I have so yielded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Is there objection? The Chair hears none, and it is so ordered.

Mr. HART. I thank the Chair, and I thank the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, in the course of the 3 or 4 weeks in which this matter has been under consideration in the Senate, it has been repeated quite often that the fundamental issue before the U.S. Senate is not whether we should have school prayer but whether we should change and alter the constitutional structure of Government which has prevailed in this country for 200 years.

Regardless of how one feels about the issue of official school prayer in schools, it is in fact the underlying constitutional issue which dominates this debate, which has caused those of us who oppose the pending amendment to argue as strenuously and as long as we have against this unwise approach.

One might suppose that if the proponents of the school prayer proposal were able to come up with some other constitutional remedy for achieving their objective, one large element of the opposition to this approach would fall away. That may or may not be the case; but at least at that point, we would have correct deliberation and consideration, if not debate, on the question of whether or not we should have officially Government-sanctioned prayers in our public schools. But that is not the case before the Senate today, nor yesterday, nor for the past 3 or 4 weeks that this matter has been pending.

The issue before the Senate is whether we should change or alter in a fundamental way the nature of our Govermnent, the structure of our Government, the authority of our judicial branch of Government. That is the issue before the Senate.

It is unfortunate, perhaps, for those who want to see governmentally sanctioned prayers in our public schools that they are not able to fashion—or apparently have not been able to fashion—a way by which they can avoid this constitutionally troublesome structural question that plagues this issue. But it does more than plague this issue. It dominates and overwhelms this issue.

The issue before the U.S. Senate is whether 51 Senators should be able to alter or structure our form of government. Lest there be any question about that, this Senator from Colorado is very much opposed to that step, not just for the purpose of permitting officially sanctioned, governmentally sponsored prayers in our schools, but for any purpose.

It would be very difficult to imagine a situation in which this Senator would support a measure to take away the jurisdiction or the authority or the constitutional power of one branch of government, least of all, for the purpose of permitting the Government to impose prayers upon our children in our public schools.

It has been said before, and I think it is worth noting again, that it is unfortunate that at a time when the economy of the United States is in such difficult and troublesome times, we are spending the time of the U.S. Senate—a body which is supposed to be deliberative, concerned with long-range policy for this country, and particularly a body upon which rests much responsibility for helping correct our economic ills—that we have spent these hours, days, weeks, and very soon it will be months, on the issue of whether we should alter our form of government for the purpose of permitting Government-sponsored prayer.

Nevertheless, there it is. If the American people want to know why that is, they might well ask, as I think, the responsibility for this distraction rests upon those who persist, even after two cloture votes, in pushing a case which is, at best, collateral to the real, fundamental problems of this country.

I can say to those who are listening to this discussion today and, hopefully, those beyond this Chamber and beyond this city, that as long as the Senate is tied up in this filibuster, if you will, we are not solving the economic problems of this country.

One would hope the leadership of this Senate very soon would see the failure of wisdom and the lack of propriety in permitting 10 million American people to be out of work, permitting the highest rate of bankruptcies and business failures in 50 years, permitting the worst economic conditions to prevail in this country, to prevail in this Senator's lifetime; and yet here we are locked in this meaningless struggle over an issue that we should take up later, if at all, and certainly should not take up in the context of altering the structure of our Government.

Some time ago, when this issue was before us in the same context, the Senator from Colorado asked the question which, to my knowledge, has not yet been answered: If we were to adopt a Government-sponsored or officially-sanctioned prayer for our schools, who might be appointed to write that prayer? Others have commented on the fact that the leadership of the so-called Moral Majority, an organization in our society which proclaims to be concerned about our spiritual welfare, has said it cannot open its meetings with prayer because there are such diverse elements in the Moral Majority that they could not agree on a prayer. Well, it cannot be said better than that.

So the question remains, if the pending measure were to be adopted, how

do we go about selecting the prayer-writing committee or the prayer-writing authority for the U.S. Government and for all the public schools of our country?

Well, surely, the response, if there were a response—which there is not—would be that we would leave that to the local school boards. That is an interesting idea right there. I forget how many school boards there are in this country, thousands if not tens of thousands. What will those school boards do?

Well, I can consider several options. The boards themselves, elected or appointed officials at the local level, mostly elected, could designate themselves as the committee to write the prayer for that school. That should be interesting. Hopefully, those school boards, if they are a cross-section of the people of the United States, will be one or more of several races, perhaps, in many areas of our country; certainly, hopefully, would be of several religions. That might be an interesting exercise, whether the Christian belief in the trinity would be recognized in the prayer or whether the Judaic belief in a single entity of the deity would prevail over the Christian trinity.

We leave aside for the moment all the other religious beliefs that predominate in our society.

What Thomas Jefferson, one of the Founding Fathers, talked about, what he believed in, was multiplicity. What he wanted was for every American citizen to be able to decide what his or her religious beliefs were without those beliefs being tampered with or imposed upon in any way by the Government of the United States or any government. Immigrants to our Nation came out of many traditions where governments stuck their noses into people's beliefs.

In one way or another, they stuck more than their noses; they dictated what the official religion would be. In other cases, they persecuted directly, overtly, and convertly, those who did not particularly agree with the majority beliefs. Our Founding Fathers wanted none of that, and that is why they wrote the first amendment. That is why they said, "Congress shall make no law having to do with the free exercise of religion," and surely if Congress wrote a law saying there will be official prayers in our schools, that, if it is anything, is a governmental, official exercise of authority having to do with religious belief in this country and that is why the Supreme Court ruled as it did 20 or more years ago, and that is why we are here today to block efforts to tell the Supreme Court it cannot do what it was created to do in the first place, and that is, rule on constitutional questions, especially constitutional questions which have to do with whether the Government of the United States or any other branch of government in this country can dictate what prayers children in public schools are to say.

Thomas Jefferson would roll over in his grave—he probably has several times—just over this debate alone.

It is so clear cut, Congress shall make no law. The law we are contemplating here today is the very kind of law Thomas Jefferson says you shall not do and the Supreme Court said that Jefferson was right, that the Constitution prohibits it.

So here we are. Our way around both Jefferson and the Supreme Court is to say, "The Court cannot hear this case." That violates so many principles and traditions and constitutional values of this country that I cannot even begin to contemplate it.

We can talk about the slippery slope that this amendment represents. Well, surely if 51 Senators can say on an issue, on a case brought that has anything to do with official prayers in schools, the Federal courts of the United States cannot hear that case, then 51 Senators can say that the courts cannot hear cases having to do with habeas corpus, cannot hear cases having to do with fifth amendment rights or any other thing in the Constitution; 51 Senators can alter the form of government of this country.

People ask why is there a filibuster? Why does the Senator from Colorado stand by himself on the floor of the Senate, the Senator from Connecticut, the Senator from Montana, the Senator from Oregon, and others? In this case it almost has nothing to do with the issue of school prayer. It has everything to do with the structure of the Government of the United States of America and the constitutional principles upon which it rests. That is the issue.

Who writes the prayers? Let us presume the pending amendment passes. Who writes the prayers? We have talked about the possibility that the school boards could. That should be fun. Thousands, if not tens of thousands, of school boards across the country writing prayers; tens of thousands of quarrels going on, leaving aside the issue of constitutionality, legality, or any of the rest of it; the authority of various branches of Government; enormous conflict over that horizon, with those school boards writing the prayers.

Let us say half of them decided they were not qualified to write the prayers. That would probably be the wisest judgment any of them could make.

How about a committee of clergy? Let us have a committee composed of one Protestant minister, one Catholic priest, one Buddhist, how many others? Surely the committee must grow. What about the city of New York, the city of Chicago, the city of Los Angeles, the city of Miami?

To protect everybody's interest I can see the prayer-writing committee composed of distinguished members of the clergy of the various religious faiths growing into the dozens, probably the hundreds. It would take a big hall to convene the prayer-writing committee for the public schools of the city of New York; say, 983 people on the committee.

Well, I suspect those 983 people could draft a prayer for public schools of New York in about 5 years meeting daily. It would be similar to one of the medieval councils of the church, which more often than not eventuated in warfare.

The prayer-writing committee for the public schools of the city of New York, 983 people on that committee, to make sure we have covered every possible denomination, sect, religious belief, and tradition. You cannot leave anyone out. What if you leave one out, where do you stop? At the major religions of the world? What about those children from households who believe in minor religions in the world? We could cut them off. We could, since this amendment contemplates we are going to tread all over the constitutional rights anyway by denying them and their parents, who are concerned citizens, access to the Federal courts to challenge the constitutionality of this action; we have already denied their constitutional rights in the first place, so let us deny them again.

Let us say that, because they belong to a minor religion, their representative cannot be on the prayer-writing committee. That will keep it down in the dozens; certainly keep it out of the high hundreds. Well, too bad if that prayer says something in it that violates their religious beliefs. They are just going to have to sit there in class while the prayer is recited.

On the other hand, the 6 or 7 year old can decide to leave the classroom every morning if the prayer contains in it some language which is offensive to the religious beliefs of that family and that individual.

Kids will not scoff. Kids do not scoff about things like that. If the odd child in the back of the room has to leave for 10 minutes every morning while a prayer is being said, the kids will not tease the other child, the lone child who leaves. Not much. No; that child will not be under any pressure to conform. That child will be free to leave the classroom. There will not be any pressure, no peer pressure among 6-, 7-, 8-, or 9-year-olds for the odd child who has to leave because the prayer offends that child and that child's family's traditional beliefs and religion.

Well, we have gone through the school board, the problems there with writing the prayers. We have gone through the difficulties in major

urban areas of constituting a board of experts, that is to say clergy and religious leaders, because think of the hundreds of people that would be involved in making that decision.

How about just appoint an individual? There is an idea. We could hold a contest for the most religious person in the community. Nominations could be submitted. It would be like some sort of religious Miss America contest—well-rounded, most religious individual in the society. There would have to be, of course, a committee to review the credentials of all those names submitted. Who appoints that committee? That is an interesting problem right there. Who decides who is the most religious individual in the community who is qualified to write the prayer? A collateral issue, I suppose.

Once again, let us suppose some authority existed which could decide that Mr. Jones or Miss Smith is the most overwhelmingly respected religious individual in Denver, Colo. That individual then gets to write the prayer for the school system of Denver, Colo. That individual better be smarter than Solomon, about 10 times or 1,000 times, because that individual is going to have all the problems that the 983-member committee for writing the official prayer of the schools of New York is going to have.

Denver has gotten to be a pretty cosmopolitan community. We have South Vietnamese there, representing a multiple of various kinds of Asian religions. Certainly we have Christians and Jews, and all sorts of other people. Look at the Christian Church today. We have I do not know how many Protestant denominations. Lutheran groups got together the other day and I believe there was a proposed merger of three major Lutheran churches. But, since the Reformation, we have have hundreds, I suppose, of Protestant denominations, if not thousands. Certainly the moral majority contains some of them. Those churches have not been able to get themselves together for nigh on 400, 450 years; dozens, hundreds of Protestant denominations.

Now there are some very strongly held convictions that distinguish and differentiate those Protestant denominations. We have almost all of those denominations in the city of Denver. Miss Solomon, the official prayer writer for the city schools for the city of Denver, has got to accommodate all those Protestant denominations, the Catholic Church, the Greek Othodox Church, the Asian religions, and all the rest. A great task. A great task.

One wonders, when one thinks about it, how many people would actually apply for that job that had an ounce of sanity. I can think of a lot of people in my own hometown that do not have an ounce of sanity that would love to have the job for the notoriety, if nothing else.

Well, what other options are there, since very few of us would believe that Miss or Mr. Solomon exists in Denver, Colo., or anywhere for that matter? We considered the school boards writing the prayer. We have considered a committee representing all religious beliefs, composed, in the case of the city of New York, of 983 people. We have considered the possibility of the most religious person by consensus in any given community in this country writing the prayer. What else is there?

How about the mayor? We could have the mayor of Denver or the mayor of the city of New York. I wonder if Mayor Koch would like the job of writing the prayer for the public schools of the city of New York?

Mayor Koch is a colorful individual. He is a very capable individual. He may even turn out to be the next Governor of the State of New York. Who knows? But, having become acquainted with the mayor of New York, something tells me Mayor Koch is so smart that the last job on Earth he would want is the job of writing the prayer for the schools of the city of New York.

Besides, what if he took it? What if the mayor of the city of New York wrote the prayer for the schools of New York? Is that not an exercise of Government intervention in people's private lives and religious beliefs? Are there very many more elements of our lives that are not more sacred to us than our own individual religious beliefs? And do we want the mayor of our city, the school board of our city, the most righteous individual in our community, a collection of all the clergy, of all the religions of our communities, do we want anyone else in any kind of official capacity intruding into that most private and sacred area of our lives? Is that what we really want? Because that is what this amendment is all about.

It is highly ironic—and you should not be in politics if you do not appreciate irony—it is highly ironic that those who say that they want the Government out of their lives, are here in the U.S. Senate trying to get the Government into everybody's lives. Not only in on our lives, but into the lives of our children. The Government is going to write the prayers.

If the Government itself does not do it, the President of the United States, the President's Cabinet, Congress, the Governors of the States, the mayors of the cities, the school boards of the cities do not write the prayers, they will pick the people that do. That is Government intervening in our lives.

I cannot believe it. I cannot believe the distinguished Senator from North Carolina, who has been so outspoken over the years about getting the Government out of our lives, wants the Government to intervene in the lives of every child in this country, in a public school, in writing a prayer to be said in that child's classroom.

I do not buy the argument that the child can leave. I have already commented on that. I think it is so fundamentally unfair to say to a 6-year-old, "If you don't like this prayer you can leave the classroom and there will be no problems as a result of your departure." That is so fundamentally unfair to that 6-year-old, I cannot believe it.

But that is essentially what we are saying.

The way out of this mess of officially sponsored, Government written, official prayers in the public schools is to tell the 6-year-olds they do not have to stay there and there is no penalty for leaving. Every day, 5 days a week, every week the school is in session, from 9 a.m., 8:30, or whenever the prayer is, "You are free to get up and leave."

Do you think that 6-year-old is free to leave? Nonsense. Anyone with an ounce of commonsense, or who knows anything about human psychology will tell you that is a terrible burden to place on a 6 year old. It is a terrible burden to place on a 15 year old or an 18 year old. But it is a terrible burden to place on a 6-year-old and that is the remedy.

If you do not like the Government-sponsored official prayer in your school every morning or every afternoon, you are free to get up and walk out.

Nonsense.

It is going to get the Government into the people's lives. It will get the Government into an area of the people's lives that would have sent the Founding Fathers right up the wall, and we are going to do it in the most blatant manner possible.

Can anyone in this Chamber or outside this Chamber argue with any ounce of respectability that Thomas Jefferson, Madison, or any of the others would have sat still for a minute for an amendment that violated the Constitution in two ways, that says the Government is going to sponsor official prayers, and, if any body objects, they cannot take a case to complain about that violation of their constitutional rights to the Federal courts of this country?

That is so offensive in both respects it is hard for this Senator to contemplate. That is what we are here to discuss. That is what we are here tying up the Senate of the United States for, while the economy of this country goes to ruin.

Mr. President, at this point I ask unanimous consent that I might yield to the Senator from Rhode Island without losing my right to the floor; that, upon being rerecognized, the continuation of my speech will not be

counted as a second speech under rule XIV, and that I be allowed to leave the Chamber while I have so yielded.

I also ask unanimous consent that the Senator from Rhode Island be permitted to yield the floor under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. CHAFEE. First, I would like to thank the distinguished Senator from Colorado for yielding the floor to me on this very important subject.

Mr. President, I rise in opposition to the Helms amendment which would restrict the Supreme Court and the lower Federal courts from hearing cases involving voluntary school prayer.

It is dangerously easy, Mr. President, as the supporters of the Helms amendment have done, to mistake this debate for a debate over the merits of school prayer. School prayer may be the specific topic of this amendment, but what is at issue is something larger, something more fundamental than school prayer. The real question, Mr. President, is: Can and should Congress limit the independence of the Federal Judiciary in providing a remedy to the violation of an individual's constitutional rights?

That is what this is all about. This is not a debate over school prayer. It is a debate over the limitation of the powers of the Federal courts, including the Supreme Court.

Mr. President, the Supreme Court was established by the Constitution as the final interpreter and arbiter of constitutional rights. The lower Federal courts that were established shortly thereafter are an important part of the system.

Article III, section 1 of the Constitution provides that the "Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish."

Section 2 defines judicial power to include, "in part, all cases in law and equity, arising under the Constitution."

Mr. President, in the Federalist No. 81, Alexander Hamilton wrote as follows:

> If there are such things as political axioms, the propriety of the judicial power of government being coextensive with its legislative may be ranked among the number.

It was Chief Justice John Marshall who, in Marbury against Madison in 1803, declared the basic principle that the Federal Judiciary is supreme in the exposition of the law of the Constitution.

Since that ruling, this principle has been respected by the courts and the country as a permanent and indispensable part of our constitutional system.

Mr. President, I do not think anybody in this Chamber, those in the galleries or those on the floor, would question that it is the Supreme Court that is the expositor of the law of the Constitution. How else could we run our country in any other fashion than that?

In order for the court to be supreme, it must first be independent. The provisions of the Constitution provide for life tenure for judges and a prohibition on the reduction of their pay while on the bench.

I think it is very important, Mr. President, to grasp these efforts that were made, not just the efforts as they are in the Constitution. It is an injunction that there be life tenure for judges. In that way you have no political interference with the judge and there is no reduction in the pay of the judge while he is serving.

The purpose of that is so that you cannot, through the legislative process, get at the judges on the Supreme Court or the inferior Federal courts and cut their pay and thus have them dance to the tune of the legislature.

These were designed to insure that the Federal judiciary remains an independent and coequal branch of Government.

In the Federalist No. 78, Hamilton wrote, "The complete independence of the courts of justice is peculiarly essential."

By peculiarly he meant it is absolutely essential.

"This independence of the judges is equally requisite to guard the Constitution, the individual, and the rights of the institution." We are talking in the final analysis about the rights of individual Americans, that they be protected. The court is what they can turn to. How else can they be protected under the Constitution if it is not through the courts? Who is to interpret the Constitution? Is it to be this legislative body or the House? Of course not.

This independence which the Founding Fathers sought, and no one can rank more as a Founding Father than Alexander Hamilton, was carefully crafted, and it would be jeopardized if Congress could remove court jurisdiction depending upon whether the Congress approved of a decision.

What kind of protection would it be to have the Supreme Court interpreting the law except in those cases when this body says otherwise?

This body does not have the right to review decisions before they become effective. This body does not have the right to require that the Court decide a case in a specific way.

Mr. President, two questions are involved in this legislation which we are talking about here today:

One, does Congress have the authority to restrict Federal court jurisdiction?

Two, if it does have this authority, is this good policy?

From my perspective, the answer to both questions is a resounding no, n-o, no. Former Attorneys General such as Benjamin Civiletti, Elliot Richardson, Ramsey Clark, and former Solicitor Generals such as Wade McCree, and Archibald Cox have written to Congress expressing their strong opposition to the court-stripping efforts we are now fighting.

While some limitations on Federal court jurisdiction have been enacted in the past, none has come close to doing what is prescribed by the Helms amendment.

In addition, no legislative enactment upheld by the courts has ever completely removed the authority either of the lower Federal courts or the Supreme Court, to hear and decide matters of constitutional dimension or to grant the relief necessary for violation of constitutional rights.

This is a new area we are trading in. We are not going down some well beaten path on the amendment that is being considered here today. This is entirely branching out into a new, untried, and, in my judgment, unwise area.

The statute most often referred to as proof that Congress does have the power to withdraw particular subjects from the Federal courts is the Norris-LaGuardia Act of 1932. Section 7 of this act, which has been upheld by the Supreme Court, bars any Federal court from issuing an injunction in any case involving a labor dispute, unless a hearing is held and certain findings are made. Neither that limitation nor the limitations contained in other sections of the act attempt to withdraw the authority of Federal courts to enforce existing constitutional reforms.

You will note, Mr. President, that in that Norris-LaGuardia Act of 1932, which has been upheld by the Court, the Federal court is barred from issuing an injunction unless a hearing is held and certain findings are made. In other words, preliminary steps must be taken. But that does not limit the Court's final jurisdiction under the act.

Likewise, two other decisions cited by supporters of the Helms amendment do not apply to legislation as broad as this. The Tax Injunction Act (1867), which was upheld by the Supreme Court, while prohibiting the Court's ability to hear suits involving tax collections, did not deprive the Court of its authority to enforce constitutional rights. Courts were free to hear any constitutional challenge involved in a suit to recover the amount of tax after collection. Ex Parte McCardle (1869), another case cited by supporters of this amendment, merely removed from Supreme Court jurisdic-

tion a narrow class of habeas corpus cases over which they had been given jurisdiction only a year earlier.

In a variety of instances, Congress has attempted to restrict the powers of the Federal courts. In 1958, legislation introduced by Senator Jenner of Indiana sought to withdraw Supreme Court appellate jurisdiction of any question pertaining to State bar admissions.

In 1964, the so-called Tuck amendment sought to prohibit the Supreme Court from deciding cases involving reapportionment of any State legislature.

In debating the Omnibus Crime Control Act of 1968, the Senate defeated a number of provisions restricting Supreme Court jurisdiction over a variety of criminal matters. More recently, in 1972, the Senate defeated an amendment to the Higher Education Act, very similar to what is before us now. None of these efforts was successful.

Approval of the amendment before us today would severely hamper the ability of the Supreme Court to act as the sole interpreter of our Constitution. By restricting the ability of Federal courts to review State and lower court decisions on an issue, there will be a varying interpretation of the same Constitution, with no opportunity for resolution. Constitutional rights will vary from State to State. As Alexander Hamilton stated in the Federalist, No. 81, "Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government from which nothing but contradiction and confusion can proceed."

Mr. President, I must say Alexander Hamilton certainly had a wonderful way of expressing concisely and with potency the dangers that would arise under amendments such as that we are considering now.

It should be clear that the Helms approach opens the door for similar legislation to restrict other areas from the Federal court jurisdiction. In fact, over 50 pieces of legislation have been introduced in this Congress alone to restrict Federal court jurisdiction over issues ranging from busing and abortion to school prayer and sex discrimination.

It does not take much imagination to foresee a time when this approach is applied to rights that now are taken for granted. Today, it is school prayer or abortion that the courts cannot decide. Tomorrow, it could be voting rights for 18-year-olds, invasion of privacy, or protection of property rights.

Mr. President, there are also substantive reasons for rejecting this amendment. First and foremost, it would be a violation of the fundamental principle of church-state separation and the establishment clause of the Constitution which guarantees the right of every citizen to be free from governmental entanglement with religion, such as prayer in public schools. In two decisions in the early 1960's, Engel against Vitale and Abington School District against Schempp, the U.S. Supreme Court held that a State may not prescribe a form of prayer for recitation in schools and local or State governments may not require mandatory recitation of the Bible or Lord's prayer without comment in public. These holdings have been extended by the courts to holding State laws which require local school districts to adopt a before-class prayer period as unconstitutional. The Helms amendment would overturn these decisions by allowing the States to become involved once again in requiring schools to have some form for school prayer.

Aside from the amendment's unconstitutionality and the undesirable precedent it would establish, it is unnecessary if its true aim is to allow students to exercise their right to pray voluntarily. Religious freedom and true voluntary prayer have never been outlawed by the Supreme Court. Furthermore, under current law, schools are free to provide voluntary religious courses; religious books and source materials; opportunities for religious groups to rent their facilities during off-hours; and opportunities for students to be dismissed for sectarian instruction off campus. Any attempts to go further than the current law allows would be to jeopardize the proper neutral role of the Government in religious issues and would seriously damage the independence of the judicial branch.

I therefore urge my colleagues to oppose this amendment.

Mr. President, I wish now to read into the RECORD a statement by Prof. Laurence H. Tribe of the Harvard Law School, author of the treatise, "American Constitutional Law," which was published by the Foundation Press in 1978. This was a statement that Professor Tribe, who is a noted constitutional scholar, gave on June 3, 1981, before the House Judiciary Committee:

Mr. Chairman and Members of the Subcommittee: I am honored to appear at the Subcommittee's invitation to testify concerning the constitutional limits on Congress' authority to curtail the jurisdiction of federal courts to enforce constitutional rights. In this statement, I will set forth the general framework of principles governing the constitutionality of such measures, and will attempt to apply that framework to the sixteen bills which are pending before the Subcommittee and which illustrate quite well the range of issues presented.

INTRODUCTION

Grave misgivings are inevitably stirred when the opponents of specific constitutional rulings suggest that such rulings be changed not by constitutional amendment—with the participation of state legislatures, and subject to requirements of concurrence by extraordinary majorities—three-fifths—but by ordinary statutes limiting court jurisdiction and enacted by a mere majority of the House and Senate.

Mr. President, here is the point. If somebody wants to come before this body and the House and change the interpretation of the Constitution as it now pertains to school prayer, go to it; go to it with a constitutional amendment. That is the way one changes the Constitution, and it is passed by two-thirds of both bodies. It is approved by three-fifths of the State legislatures. Then the Constitution is changed. Those who want school prayer changed in some fashion have a route of recourse. They can do it. It is not an impossibility. The Constitution has a system set up to take care of changing interpretations of the Constitution by the Supreme Court. That has been done on numerous instances.

But what is sought here, Mr. President, is to circumvent that, because that route is too difficult. A short cut is sought. People do not want to follow the route of the Constitution. They do not want to go through the laborious procedure of convincing two-thirds of the Members of this body and two-thirds of the Members of the other body, and then go on and have it approved by three-fifths of the States.

Some of these misgivings come into focus only when we recall that the practice of elaborating and enforcing constitutional provisions through an independent judiciary—a practice inaugurated for the United States in *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803)—is one that few nations in the world follow. The 1961 Constitution of South Africa, for example, expressly provides in Section 59(2) that, with only the most limited exceptions, "[n]o court of law shall be competent to enquire into or to pronounce upon the validity of any Act passed by Parliament...." A noted student of South African law and politics observes:

As a result of the new Constitution's firm adherence to legislative supremacy, and the restriction of the courts' testing rights to [a few limited] matters.... Parliament has been able to ride roughshod over individual liberty without fear of judicial obstruction." J. Dugard, "Human Rights and the South African Legal Order," 35 (Princeton Press, 1978).

Mr. President, I do not think we want to model ourselves after South Africa.

Thus the technique of circumventing constitutional safeguards through carefully crafted jurisdictional withdrawals approved by mere legislative majorities has, to say the least, disturbing antecedents.

In this country, of course, the continuing availability of state courts as forums for the enforcement of federal constitutional rights, and the tradition of at least some voluntary compliance with the norms entailed by such rights, render jurisdictional withdrawals a good deal less threatening than they might otherwise be. Yet the transparent expectation of those who propose such withdrawals is precisely that state courts will in fact prove less receptive than their federal counterparts have been to assertions of those rights that the proposed statutes deliberately single out for removal

from the protective reach of the federal bench.

What is said here by Professor Tribe is that, yes, it is recognized that the State courts really are less protective of the Federal constitutional rights than the Federal courts have been, and we have been fortunate in this Nation in that our Federal courts have, nearly without exception, been of extremely high caliber. The appointment of the judiciary in the Federal courts is undertaken carefully, with a good deal of review, review by the Judiciary Committee and review by this body.

Moreover, if our history is one in which federal rights have at times been taken quite seriously indeed even without federal compulsion, it is also a history in which federal rights have at other times depended upon such compulsion for their very survival. For these among other reasons, the inquiry into what limits, if any, are imposed by the United States Constitution upon Congress' restriction of federal court jurisdiction assumes more than merely theoretical interest.

This is serious business. We are not talking about some theoretical proposal that has never come before the Nation.

Despite wide differences of view as to just what limits the Constitution does in fact impose on Congress' power, virtually all students of the subject begin from a shared premise: any federal court in which a purported jurisdictional restriction is asserted at least has jurisdiction to decide whether or not the purported restriction is itself constitutional.[1] In the exercise of this threshold jurisdiction—this power, and indeed duty, to review the constitutional validity of any statutory creation of gaps or fissures in a federal court's subject-matter or remedial jurisdiction—a court will encounter both *internal* and *external* constitutional constraints, the first set stemming from the nature and sources of the affirmative authority Congress must invoke in legislating controls over federal courts; the second, deriving from independent limits and prohibitions imposed by the Constitution upon all federal legislation.

Within each of these two categories of constitutional constraints, the internal and the external, some of the most significant limits will, of course, be implicit rather than explicit in the constitutional text. This should come as no surprise, for "[t]he tacit postulates" of the constitutional plan "are as much engrained in the fabric of the document as its express provisions." *Nevada* v. *Hall*, 440 U.S. 410, 433 (1979) (Rehnquist, J., joined by Burger, C.J., dissenting). The remaining task is to describe the constraints themselves and to illustrate their operation by examining the bills now before the Subcommittee.

INTERNAL LIMITS

1. Congress' jurisdiction-defining powers with respect to the Supreme Court in particular are internally limited by the substantive role that the Constitution assigns to the Court. The reach of the Supreme Court's original jurisdiction ("all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party") is, of course, fixed by Article III (as limited in turn by the Eleventh Amendment), and can be neither expanded nor contracted by an Act of Congress. That was, indeed, the precise holding of *Marbury* v. *Madison*.

As to the Supreme Court's reviewing authority, there is general agreement that Congress' power under Article III to regulate, and make exceptions to, such appellate jurisdiction, while undoubtedly very broad, "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." [2] Whatever the reach of that necessarily vague principle, it is difficult to believe that the principal would not at least bar, for example, the abolition of Supreme Court jurisdiction to review any state court order that is, will be, or was, subject to review by the highest court of the state. Striping the Supreme Court of its power under the Supremacy Clause to enforce constitutional rules directly against recalcitrant state courts—a power firmly established in *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheat.) 304 (1816)—would generate a clash of sovereigns so irreconcilable as to imperil the Union,[3] by gutting the Supreme Court's capacity to preserve the unity and supremacy of federal law.[4] The seminal cases of *Ex parte McCardle*, 74 U.S. (7 Wall.) 506 (1868), and *Ex parte Yerger*, 75 U.S. (8 Wall.) 85 (1868), are certainly not to the contrary, since they together establish only that Congress may extinguish *one avenue* to the Supreme Court for appellate review of a constitutional claim when other avenues for bringing that claim to the Court for review remain open.

2. Congress jurisdiction-defining powers with respect to all Article III courts are also internally limited by Article III's implicit concept of the "judicial power," and by basic principles governing the separation of powers among the three branches of the National Government.

The judicial power described by Article III, Chief Justice Marshall declared in *Marbury* v. *Madison*, is the power to "decide . . . [cases] conformably to the law, [including] the constitution. This is of the very essence of judicial duty." This duty is, in turn, inherently incompatible with congressional authority to direct an Article III court to arrive at the outcome desired by Congress whether or not regarded by such a court as consistent with the Constitution and laws of the United States; the Supreme Court so held in *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872), ruling that Congress may not dictate the rule of decision for a particular case, even in the guise of a jurisdictional regulation.

The nub of the matter is that courts sworn to uphold the Constitution in their discharge of adjudicative responsibility cannot be required, in deciding a case otherwise properly before them, to ignore any question they regard as crucial to a correct decision under law, and certainly cannot be forced to "close their eyes on the constitution, and see only [Congress'] law." *Marbury* v. *Madison*, 5 U.S. at 178.

As Senators can see, what is attempted here is something that has been ruled on by the courts going back to 1803.

Yet just such a requirement would be imposed, for example, by H.R. 2365 and H.R. 2791—

Those were matters before the House Judiciary Committee—

both of which purport to strip the Supreme Court and the lower federal courts of jurisdiction over all questions going to the constitutional validity of statutes that treat males and females differently in military registration, induction, training, or service. Whenever an Article III court endowed with subject matter jurisdiction over a controversy deems any such military-personnel statute relevant to the correct outcome, these proposals would in effect instruct that court automatically to proceed as though the statute's constitutional validity made no difference—to "close [its] eyes on the constitution, and see only the law." Such an instruction violates both Article III and Article VI.

Mr. President, I ask unanimous consent that I may yield to the senior Senator from Connecticut; that upon being rerecognized, the continuation of my speech not be counted as a second speech under rule XIX. I also ask unanimous consent that the Senator from Connecticut be permitted to yield the floor under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, first, I commend the distinguished Senator from Rhode Island for his articulate and eloquent exposition of the Constitution of the United States and its particular application in the instant case. Everything he says is right on the mark.

It should be pointed out that the Senator is not here in some atheistic exercise but, rather, is attempting to assure every American that the three separate but equal branches of Government should continue to exist when this exercise is over, and that we will not have merged them into either two branches or one branch.

That is the essence of his argument, and I commend him for it, because all our basic liberties and freedoms are at stake in this issue. Indeed, it should be pointed out that, more often than not, the basic freedoms and liberties have been protected by the courts of this Nation rather than in the various legislative branches by the politicians.

So I thank the Senator from Rhode Island for a job well done. Every time these constitutional issues have come to the floor, he has been in the forefront of assuring that tomorrow the Constitution will be the same as it is today. The same thing cannot be said of all those in this Chamber.

Mr. President, earlier this afternoon, after concluding my reading of James Madison's remarks on the substance of

[1] See, e.g., Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 Harv. L. Rev. 1362, 1387 (1953).

[2] Hart, 66 H.L. Rev. at 1365.

[3] See O. Holmes, "Collected Legal Papers," 295 (1920).

[4] See A. Hamilton, "The Federalist," Nos. 22, 81; J. Madison, "The Federalist," No. 39; *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 416-18 (1821); Ratner, "Congressional Power Over the Appellate Jurisdiction of the Supreme Court," 169 U. Pa. L. Rev. 157, 160-167 (1960).

what is being attempted—not the procedure, as was addressed by the Senator from Rhode Island, but the substance—at the conclusion of my reading his remarks which were made in 1785, I commenced to read an address consisting of my remarks before the congregation of the United Church on the Green, in New Haven, Conn. this past Sunday. As I indicated, I received the invitation to speak there many months ago. It was a coincidence that the prayer issue was on the floor of the Senate on the particular day I was scheduled to deliver a sermon or a speech before that group.

The Reverend John Hay is the pastor of that congregation. He is a man who, through his deeds and actions, epitomizes the tenets of my faith, the Christian faith. He has always had an outreach to everyone in the community. Those who turn to John Hay turn to him not because they are directed to do so but, rather, by the example of the man.

Following now are my comments before that group:

It is a great honor for me to join you in worship this morning. Reverend Hay has reminded me that it is an old Congregational tradition for government leaders to speak from the pulpit. Forgive me if today I avail myself of this tradition to speak out against what used to be another old Congregational practice: theocracy, the fusion of church and state into one authority. Until its disestablishment in 1818, nearly two hundred years after the pilgrims came in search of religious liberty, Congregationalism was Connecticut's official creed.

I do not mean to cast stones but simply to cite facts. On this issue, my ancestral past is equally checkered. A great-uncle of mine was Archbishop of Canterbury. Nevertheless, I have come to believe with Mark Twain that established religion "means death to human liberty and paralysis to human thought." No greater mischief can be created than to combine the power of religion with the power of government. History has shown us that time and time again. The union of the two is as bad for religion as it is for government. It gives rise to tyrants and inquisitions. It is what drove many of our ancestors to these shores. That is why clergy, lay people and public officeholders alike must fight radical rewrites of the First Amendment which are masquerading as good old-fashioned morality.

I want to speak in particular today about prayer in our public schools. The idea is very appealing on its surface. Indeed, it summons up reassuring images of freckle-faced Norman Rockwell children with their heads bowed and hands clasped in prayer. But as inspiring as it sounds, prayer in school has the potential for doing real damage—to children and their families, to the cause of true religion, and to the ideal of separation of church and state our founders embraced.

Today's Gospel lesson goes to the heart of the issue, which is that prayer is—or should be—a personal act of devotion, not an official function. I would like to reread a part of that passage from the Sermon on the Mount, this time from the Phillips translation: "And when you pray don't be like the play actors. They love to stand and pray in the synagogues and street corners so that people may see them at it. Believe me, they have had all the reward they are going to get. But when you pray, go into your room, shut the door and pray to your Father privately. Your Father who sees all private things will reward you."

It seems to me that the kind of prayer Jesus is recommending here is not the sort the school prayer supporters have in mind. He advocates a one-on-one personal dialogue with God, not some kind of officially-sanctioned formula blared through a public address system. Now, to be sure, people are concerned about falling church attendance and the fewer and fewer applicants to seminaries and well they might be. But making prayer a government program won't help matters. Government itself is still in the midst of a crisis of confidence.

The statistics tell us that. It is not a matter of my personal opinion.

A majority to elect a President of the United States has now become 29 percent. Those are the statistics from the last election. I imagine the majority to elect a Senator of the United States is now 25 percent and Member of the House of Representatives probably somewhere around 20 percent.

So indeed if there is falling attendance in the churches, and falling attendance in the seminaries, there is falling attendance at the voting booth.

Look at how few people exercise their right to vote and participate in government. I have never seen a merger between two weak companies that ever worked, and that is what is being attempted here. In this country, government and religion, each must stand on its own two feet. If they cannot, then we must shake them up.

In this Nation religion is a personal thing, not an official one.

We must not yoke them together. When the blind lead the blind, they both fall in the ditch.

If getting the American people closer to God is their goal, why make government the go-between? It reminds me of the Old Testament story of the Tower of Babel. There you had civil leaders commissioning a public works project to bring people closer to God. In the end, of course, the tower not only failed at that but it so insulted God that he made sure such a thing could not happen again by causing the people to speak different languages and scattering them to the winds.

Do I encourage my fellow citizens to pray? Certainly. And I hope that when they do, they will keep those of us in the U.S. Senate in mind. But I do not believe it is up to a Representative or a Senator or even the President to espouse or encourage any one religion or even religion in general. It is not my job to do the convincing, to take up on Monday on the floor of the Senate where the rabbi left off on Saturday or the priest or minister left off on Sunday.

When I walked into that well to take an oath of office to the Constitution of the United States, it was just that, an oath of office to the Constitution of the United States, not to the Nicene Creed which happens to be my religious belief, but to the Constitution and the obligation that placed on me in a religious sense was only that all people of all beliefs and indeed those beliefs not yet devised would have the chance to profess them in total freedom. It was not to go ahead and make a mish-mash of all the religions present in this country today but rather to guarantee religious liberty, probably the cornerstone reason for the founding of the United States in the first place.

I might add that when I say that to make sure that every individual is free to pray the articles of his or her faith, whatever they may be, without fear of reprisal, it is not up to a Senate to come rushing out here in the midst of a fiat accompli—when we have a State religion which is what we see the beginnings of here—not to come rushing out then and stay the hand that wants to light the fagots or to stay the hand that piles in the nails. A job of a Senator is to see that we never get to that point.

Mr. President, you may say that is the extreme, that these things do not happen, they do not happen in this day and age. They do not? Do you see what happens in Northern Ireland in the name of the true faith? Do you see what happens in Lebanon in the name of true faith? They do not? They certainly do—right before our eyes, maybe not yet here in the United States, although that happened also and in short order after we came over here seeking religious freedom. Ask the Mormon. As the Mormon how easily they established their religion in this country. There are a few dead bodies along the way, more than a few. Ask the Jew—yes, in this country in our early days—how easy it was to be Jewish, maybe not in terms of lost life. Ask the Catholic how easy it was to be in politics in the United States.

No, no. We have enough lessons that are quite available to us to encourage us to resist this kind of little temptation which can only lead to the most dire consequences in terms of loss of liberty and life, and I might add being perpetrated not against the adult population. That is what is so smooth about this whole operation. If I came up to all those of voting age and older and said, "You are going to go ahead and recite a prayer," believe me we would have a revolution. We are not doing that. No, no, no. We are picking the 5-, the 6-, and the 7-year-olds to perpetrate this unconstitutionality on.

Talk about picking on someone your own size. That certainly is not the name of this game.

Just out of curiosity, if this is so what is being advocated here by those in the Senate and the executive branch of Government, then why is it not good for all of us?

Why is it not? I will tell you why it is not, because nobody would stand 2 minutes for it. You know it as well as I do. But the 5- and 6-year-old do not vote, and neither do they have the capacity of standing up there and

saying, "I am standing on my constitutional rights."

So it is in their behalf but, more importantly, on behalf of all of us, that I speak for religious freedom, not for religious freedom for the adult population of the United States but religious freedom for everyone. I believe our public schools are meant to educate our children, teaching them healthy respect for people of differing beliefs and nonbeliefs and never intended to indoctrinate and/or inculcate a certain set of beliefs.

How well I remember that song from South Pacific, "You have Got to Be Taught How to Hate." That is what was going on in the schools of this country.

You see, if we say a little prayer that wipes the slate clean and then we can get on to the other business. What the schools ought to be teaching our young people to believe is a respect for all beliefs, for differing beliefs, for minorities, for this one kid in the classroom who stands up and he says some thing different, he looks different.

My son, I have a 4-year-old retarded son. He enjoys the advantage of being mainsteam. He has been going to school, Resurrection School, here in northern Virginia for the last 2 years. This is his second year, and it is a great experience for him in the sense that the school is a school of "normal" children, except they take 10 to 15 percent of the retarded and disabled. So it has just been a wonderful experience. He is a Down's child, Down's syndrome child, a retarded child. He is way down the road toward the prospect of being able to lead a normal life because his interchange is with children who both physically and mentally are far his superior, so it gives him a lesson that normally he would not get if he were just in the midst of those who were at his same level of physical and mental ability.

But having said that—and this is an experimental program—he is also doing something for those children who are normal because when they are only 3 and 4 years old they are seeing somebody who is different; they are seeing somebody who, being different, they may not see until they are adults and would not know how to deal with it or live with it. But they are young and they have in their midst a fellow classmate who looks a little bit different as a Down's child, who speaks a little bit differently, who moves a little bit differently, and they have learned right now what they are going to learn throughout the rest of their lives that to meet something different is not a reason to be afraid.

Now, these are the things that schools ought to be teaching. I have a feeling they usually complement the basis of most great religions in this world, so in that sense there is a connection, but it is not an official one.

Like everything else in this world, for whatever great good comes to Sonny, maybe his passing by has created a little bit of good for someone else. I am sure it has.

There is an old Spanish proverb which says, "An ounce of mother is worth a pound of clergy."

I would add that both are worth a ton of politicians where prayer is concerned.

These days we talk a lot about strengthening families. But we will not do so by imposing some doctrine from without particularly if that doctrine is alien to the family's own beliefs or traditions.

President Kennedy's comments on the 1962 Supreme Court decision barring prayer in the New York public school system was right on the button:

> We have in this case a very easy remedy and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we could pray a good deal more at home. We can attend our churches with a good deal more fidelity, and we can make the true meaning of prayer more important in the lives of all our children.

There is a President who, I think, had an understanding of the importance of religious freedom in this Nation. Having survived, he and all those of his faith having survived, the limitations on freedom imposed by the civil authority, having been through that test, he wanted to assure that it would not be applied to future generations of Americans.

School prayer supporters contend the prayer they want could be voluntary and vaguely enough worded to embrace all beliefs. But there is nothing voluntary about school attendance. That is compulsory. The President in his comments on Saturday alluded to the fact that we open the session here with prayer. We do. But there is a big difference between this Senator and my 99 colleagues and a child in school. I do not have to be here when the prayer is recited. That child does. I can walk out of that prayer in the middle of it or any portion thereof. That child cannot.

So when we talk about voluntary school prayer there is nothing voluntary for a child of this Nation about attending school. That is mandatory. Again, in essence, what is perpetrated here is being perpetrated on a capitive audience. Just as I indicated earlier, this compulsory prayer is not directed to the adults of the United States but rather to children. So we now have a captive audience in terms of age and a capitive audience in terms of locale, and the reason why it is perpetrated on a captive audience is because that is the only way it can be perpetrated, and that only testifies as to the weakness, the instability, the insufficiencey of what is being proposed.

E. B. White wrote to Senator Margaret Chase Smith when this issue came up in 1966. He said:

> In an atmosphere of voluntary prayer, pupils coming from homes where other faiths prevail will feel an embarrassment by their nonparticipation. In the eyes of their schoolmates they will be queer or different or irreligious. Such a stigma for a child can be emotionally disturbing, and although we no longer hang or burn our infidels and our witches, a schoolchild who is left out in the cold during a prayer session suffers scars that are very real.

The Reverend Jerry Falwell, founder of the Moral Majority, recently made a telling remark when he told reporters why the Moral Majority did not open their meetings with a prayer, because the Moral Majority—and I now quote the Reverend Falwell—"If they ever opened a Moral Majority meeting with a prayer, silent or otherwise, they would disintegrate."

I would then ask the Reverend Falwell just what does he expect to happen to many of our school systems, many of which are pluralistic in makeup, what sort of prayer do they plan to recite? Protestant? Catholic? Jewish? Buddhist? Mormon? What is it going to be? Is it going to be addressed to God, to Jehovah, to Buddha or the Virgin Mary or is it going to be a mishmash of every religion known to man?

William Howard, former president of the Council of Churches, put it very well when he said, "Religious people do not want a lowest common denominator prayer addressed 'to whom it may concern.'"

(Mr. COCHRAN assumed the chair.)

Mr. WEICKER. And that is part of the reason why 60 major religious leaders have come out against school prayer.

Nothing was more heartening to me than, after the cloture vote yesterday, when the leaders of all religious faiths in this country gathered here in the Senate to hold a press conference. They were not atheists, any more than the men who espoused this particular cause are on the Senate floor. The fact is, they are as religious as we are. But it is the very beliefs in our religions that drive us to defend a total freedom for all religions in this country.

These leaders are also motivated by a strong sense of our history and our destiny as a free people. In his book, "The Making of the President 1960," Theodore White wrote.

> America as a civilization began with religion. The first and earliest migrants from Europe, who shaped America's culture, law, tradition and ethics, were those who came from England—and they came when English civilization was in torment over the manner in which Englishmen might worship Christ. . . . It was with remembered bitterness that the English migrants began the building of a new society in a new world; and out of this bitterness they distilled, though not without struggle, that first

great landmark in America's unique civilization, that first of the creative American compromises that was to set America apart from the old world: freedom of worship.

Do you realize at the time that that was established in the United States that this was the only Nation in the history of the world that had total freedom of worship, of religion? The only one, and today one of a few. And that distinction is going to be obliterated here on the floor of the U.S. Senate.

If you go to Plymouth, Massachusetts, today, you will find it teeming with tourists. They crowd around the rock with cameras. They clamber on board the Mayflower Two. They patiently file through the first Pilgrim house. How many of them, I wonder, relate what happened at Plymouth to their lives today? On the hill overlooking the sea, there is a monument bearing the names of those 102 English Calvinists who were persecuted because they denied the ecclesiastical authority of the King. There is also this dedication: "to the forefathers in recognition of their labors, sacrifices and sufferings for the cause of civil and religious liberty."

Religious liberty. If you ask me, that was the real rock upon which our country was built.

That was 1620. Unfortunately, not even a century passed before the persecuted became the persecutors. In 1692, for instance, entrenched Puritan hostility to freedom of thought and speech helped cause the deaths of 19 men and women during the Salem witch trials.

In 1802, Thomas Jefferson wrote to the Danbury, Connecticut Baptist Association: "Believing with you that religion is a matter which lies solely between Man and his God . . . I contemplate with sovereign reverence that act of the whole Amrican people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' thus building a wall of separation between Church and State."

Historians have since discovered that this letter was no casual piece of correspondence. Jefferson had the then Attorney General Levi Lincoln study it before mailing it. Why, twenty years after the adoption of the Constitution and the Bill of Rights, did Jefferson feel compelled to address the establishment issue? Because in many parts of the country people were not taking the First Amendment seriously. As I noted earlier, the Congregationalists had official backing in Connecticut, much to the annoyance of the Danbury Baptists no doubt.

And I do not think anybody is taking the first amendment very seriously on the floor of the U.S. Senate or, indeed, throughout the width and breadth of this Nation when 65 or 70 percent say, "Sure, voluntary prayer in schools is all right." There is no such thing as a little voluntary prayer in school. That is the beginning of the establishment of State religion. That is a contraction of the religious liberty which I now enjoy at this very moment standing on the floor of the Senate, and which I am shared in by 250 million other Americans.

If this legislation passes, it is not the same country, it is not the same liberty. Maybe it is only a millimeter less. But that is how it all starts. That is why we are not going to have any of this funny business.

Now, I realize that this is a touchy political subject. This is the unpleasant part of the duty of being a U.S. Senator, along with all the good and all the glory and all the pomp and all the education, to stand in there when the polls indicate that it is a risky business. But maybe it is that fate has decreed that we once again renew our acquaintance as a Nation with the Constitution of the United States. I mean, after all, if people had forgotten in 1802, and that was only 20 years or so, and they had forgotten when Madison wrote his remonstrance to the Virginia General Assembly, and that was in 1785 so that was only a few years after the Revolution, if those people had forgotten, you cannot fault an entire Nation for totally forgetting the origins of this great Nation some 200 years later.

And so maybe it is that fate in whatever personage or circumstance has given to us the opportunity to once again in loud, clear terms to proclaim our allegiance to these great principles which gave a uniqueness and a power to this country unheard of, experienced by no other set of people in the history of the world.

So, the current disregard for the First Amendment and the penchant for religious segregation is nothing new. After the last state religion was disestablished, Protestantism came to be the unofficial national religion—to the detriment of all other faiths.

My faith—I am a Protestant—was the unofficial, de facto, unofficial religion of the United States, to the detriment of all other faiths.

It was a touchy matter to be a Jew or Mormon. And, up until the election of John Kennedy to the Presidency, it was widely believed that Roman Catholics should not hold high public office. And everybody knows, those of my age, that the whispered rumor was because they would owe their allegiance to the Pope in Rome. That was it, was it not? And it was that same man, when he was elected President of the United States, who stood up at the time the Supreme Court made its decision and said those words:

We have in this case a very easy remedy, and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we could pray a good deal more at home, we can attend our churches with a good deal more fidelity and we can make the routine of prayer more important in the lives of all of our children.

He did not go ahead and move for a school prayer amendment. His allegiance was to the American people under the Constitution of the United States.

Then the prejudices, they still persist. As recently as within my lifetime. I attended a private school where not only prayer but worship was mandatory. And my Jewish friends and my Catholic friends were excused, which was a polite word. We looked upon them as something different. I am sure they looked upon us likewise.

What kind of a basis is that for any human relationship, on a matter that should be revered and respected as between human beings, not as the reason for holding someone off at arm's length either physically or mentally?

My children, there are eight of them, some go to public schools, some to private schools. They have not had quite that same experience. And I am glad they have not, because I think they have a more profound understanding of the world around them, a greater life and greater duty to their lives. When I see them giving their time, freedom, for example, in working with the disabled or retarded or the elderly, the very elderly, I cannot help suspect that that really is a form of worship far more exhilarating, far more meaningful, than just sitting in a chair in a classroom with hands folded repeating that which is told to them.

It is certainly different, far different, from what I did. But according to the matters in which I believe, I think maybe they are closer to Heaven than I am.

The Apostle Paul wrote that "faith without works is dead." And in the Old Testament text read this morning, Isaiah seems to be saying that prayer without actions to match is not heard. It has always struck me how many Biblical passages the Moral Majority chooses to ignore when it sets its legislative priorities. This first chapter of Isaiah is one such passage. As I read it, the people's piousness and prayers are an abomination to God until they first act on His social agenda. Isaiah writes: "Cease to do evil. Learn to do good. Seek justice, reprove the ruthless; defend the orphan, plead for the widow." And later in chapter 59: "Is not this the fast that I have chosen? to loose the bands of wickedness, to undo the heavy burdens, to let the oppressed go free? Is it not to deal Thy bread to the hungry, and that thou bring the poor that are cast out to Thy house?"

Now, there is a social agenda. There are some social issues for you. That is the business of the U.S. Senate, not the matter of how I believe or anybody else believes in terms of our religion.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished majority leader, the Senator from Tennessee, for the purpose of whatever he chooses to discuss, without losing my right to the floor, without this being considered as the end of the speech for the purpose of the two-speech rule, and that I be recognized at the conclusion of the remarks of the distinguished Senator from Tennessee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Tennessee.

Mr. BAKER. Mr. President, I feel a little like the young man whose father lets him use the car but will only let him drive it 15 feet. After those re-

strictions it is really anticlimactic to do what I am about to do.

CLOTURE MOTION

Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steven D. Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard H. Baker, Jr.

Mr. BAKER. Mr. President, this is the fourth cloture motion. In the event cloture is not invoked against further debate on the Helms amendment dealing with the school prayer or prayer in public institutions tomorrow, I will attempt to negotiate with the principals involved and with the minority leader to arrange a time on Thursday mutually convenient, I hope, for that vote to occur.

Mr. President, I express my appreciation to the Senator from Connecticut for permitting me to interrupt his speech.

Mr. WEICKER. Mr. President, I would hope, before I pour out my heart and soul into an introduction of the majority leader the next time, he might let me know the nature of his business. [Laughter.]

Mr. BAKER. Mr. President, I was afraid the Senator would not yield to me.

Mr. WEICKER. Mr. President, I will always yield to him, but there is no reason to wax ecstatic about a cloture motion.

ORDER OF PROCEDURE

Mr. BAKER. I might also say, Mr. President, that the report from the front lines is that the Labor and Human Resources Committee is still in session, and it will probably be 6:30 or 7 p.m. before they finish. I intend to ask the Senate to remain in session so that we can still act on that bill tonight. Senators should be on notice that we will run well past the 6 o'clock hour this evening and we will be in session as long as it may reasonably take to try to deal with that piece of legislation this evening. I would expect past the dinner hour.

Mr. President, once again I thank the distinguished Senator for yielding.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Pennsylvania (Mr. SPECTER) for the purpose of debate only, without losing my right to the floor, without this being considered as the end of a speech for the purpose of the two-speech rule, and that I be recognized at the conclusion of Senator SPECTER's remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my judgment, it is unfortunate that the so-called social issues have tended to divide the U.S. Senate into opposing groups where more attention may be paid to victories signified by the series of cloture votes than on the underlying issues.

I believe it is also unfortunate that the substantive issue on school prayer has been joined with a move to limit the jurisdiction of the Federal courts to decide constitutional issues relating to school prayer. The Judiciary Committee has held two hearings on President Reagan's proposed constitutional amendment on school prayer. During the course of those hearings, which I have attended, there have been a number of ideas advanced which could result in an accommodation of the opposing views on school prayer. Through carefully crafted procedures, it may be possible to have a time for voluntary prayer in the schools without imposing any coercive or inappropriate prayer on those who choose not to be so involved.

For example, it may be that a period of silence would accommodate the interests of all involved so that those who wished to pray could do so, those who wished to meditate could do so and those who preferred to do nothing could do so. Or it may be that there could be a period before classes begin or after classes ended where there could be prayer in the school with similar time and space made available for extracurricular or nonacademic activities.

It is my sense that the Congress should explore all possible alternatives to try to make accommodations to the strongly held views on the subject of school prayer. I believe that this consideration can be given in the context of the hearings now pending in the Senate Judiciary Committee which will result in action on the President's proposed constitutional amendment or possibly on some alternative approach.

As to the subject of the cloture vote, which we have had and which there will be more of, there is a very different issue involved. I have voted against cloture because I believe that prolonged debate is necessary to inform the American people on the dangers posed by limiting the jurisdiction of the Supreme Court of the United States.

This important debate and the crucial issue involved have received relatively little attention in the national news media.

If the Congress exercises power to take away the jurisdiction of the Supreme Court of the United States on school prayer because it is unpopular with the majority, then the precedent is established that whenever the majority disfavors an individual's legal rights, court jurisdiction to enforce such basic rights as freedom of speech, press, religion, equal protection, due process, and the entire Constitution itself may be removed.

Whatever one's opinions on the many controversial public issues, we may all be in the minority on some occasion. Do we want a society when those in the minority, even of 49 percent, have no legal rights? Rights that cannot be enforced because resort to the courts has been blocked are really not rights at all.

Those of us who have joined in speaking out at length on the Senate floor have done so in the belief that when the American people understand the real result of this legislation, there will be a loud public outcry and the measure will be defeated. I firmly believe the American people are much more concerned about the sanctity of constitutional government than any single issue.

But, to be concerned, the American people must first be informed and that requires extensive publicity through the national news media which may be generated by extensive discussion on the Senate floor.

For this reason, I have voted against closing off debate even though I do believe, for the reasons, set forth above, that it may be possible—and I emphasize "may" because it is an involved subject—there can be an appropriate accommodation for those who seek an opportunity to have prayer in the schools.

Earlier this year, Mr. President, the issue of limiting the jurisdiction of the Supreme Court of the United States arose in the context of the busing issue. Even though I was opposed, as some are, to busing, which I think most Americans would agree has been a collosal failure, it was my conclusion that it was most unwise to limit the jurisdiction of the Supreme Court of the United States on the busing issue. Nonetheless, this body, by a vote of 57 to 37, did limit the jurisdiction of the Supreme Court of the United States on that issue.

Fortunately, that matter has not passed the U.S. House of Representatives. So it has not become the law of the land with the passage through both Houses and the prospective signature by the President of the United States.

It was my view earlier this year that if there had been substantial public attention on the issue of limiting the ju-

risdiction of the Supreme Court of the United States, there would have been a substantial public outcry. Toward the end of generating some such publicity, I wrote to the managing editors of major media outlets, including newspapers and television. This is illustrated by a letter written to the New York Times dated March 2, 1982, which was printed in the edition of the New York Times of March 6, 1982, under the caption "Letters," with the headline provided by the Times editors, "Don't Hobble the Supreme Court."

The text of the letter reads as follows:

TO THE EDITOR:

I suggest the national news media are not carrying out their duty to alert the American people to the clear and present danger to constitutional government presented by current efforts in Congress to limit the jurisdiction of the Supreme Court of the United States. After several months of debate, including a filibuster effort, the Senate voted March 2 to limit the Supreme Court's jurisdiction over busing cases.

That important debate and that crucial issue have received relatively little attention in the media—

Then the editors inserted in parentheses "(See February 8 editorial, "The Court Strippers')."

Continuing the letter:

While it is obvious that busing has been a failure and the American people are generally opposed to busing, the emotional reaction of taking away the jurisdiction of the Court is unnecessary, unwise and unconstitutional.

If the Congress exercises power to take away from the Supreme Court jurisdiction in matters involving busing because it is unpopular with the majority, then the precedent is established that whenever the majority disfavors an individual's legal rights, court jurisdiction to enforce such basic rights as freedom of speech, of the press and of religion as well as equal protection, due process and the entire Constitution itself may be removed.

Whatever one's opinions on the many controversial public issues, we may all be in the minority on some occasion. Do we want a society where those in the minority, even if they add up to 49 percent, have no legal right? Rights that cannot be enforced because resort to the courts has been blocked are really not rights at all.

Those of us who joined in the filibuster did so believing that had the American people understood the real result of this legislation, there would have been a public outcry and it would have been defeated. I firmly believe the people are much more concerned about the sanctity of constitutional government then any single issue. But, to be concerned, they must first be informed, and that requires extensive publicity through the national news media.

It is not yet too late, but significant a phase of the battle to preserve the power of the Supreme Court to protect legal rights and enforce the Constitution has been lost in the United States Senate.

ARLEN SPECTER,
U.S. Senator from Pennsylvania.

WASHINGTON, *March 2, 1982.*

That is the end of the letter to the editor.

The current proceedings in the U.S. Senate, as these extensive speeches have proceeded, have drawn relatively little media attention—virtually the same kind of attention as it has drawn from the representation of Senators on the floor of the Senate as the clock shows 5:58 this afternoon. Aside from the distinguished Senator from Mississippi (Mr. COCHRAN), who presides over the Senate, and the speaker—Senator WALLOP has just walked in.

That is not an uncommon situation because of the press of business on some other fronts. The Senate Foreign Relations Committee is in session receiving a briefing on Lebanon, a meeting that I would have liked to attend. The Judiciary Committee has just finished an afternoon session. But as typified by the presence of the absence of U.S. Senators, so, too, there is an absence of public focus on the issue of taking jurisdiction from the Federal courts.

That is not surprising, because few people understand the importance of the U.S. Constitution. The reason that few people understand the importance of the U.S. Constitution is the very existence to the U.S. Constitution. If we were to live in a society where the Constitution were not present, with its protection of freedom of speech, freedom of religion, freedom of the press, habeas corpus, and equal protection and due process of the law, then there would be an immediate public understanding of the importance of the Constitution.

When I had occasion recently to travel to the Soviet Union, I was struck with the fact that I was on territory where there was no American Constitution: where, if taken into custody by police officials, there was no right of habeas corpus, there was no effective right to assistance of counsel.

There were no procedures which would guarantee a speedy hearing or a speedy trial. Instead, anyone taken into custody would languish in jail without any opportunity to establish his innocence or to compel the State to prove his guilt beyond a reasonable doubt.

(Mr. WALLOP assumed the chair.)

Mr. SPECTER. Similarly, in the Soviet Union, there is no freedom of religion. There are massive limitations on the rights of people to congregate and to pray, discrimination which extends not only to Soviet Jewry but to the Protestant religions as well. So, too, there is the absence of freedom of press or freedom of expression, rights which have long been enjoyed in the United States and which very few people focus on.

The reason that these rights exist in substantial measure is because there is a Federal court system to enforce these rights and, where there is disagreement, to interpret the Constitution of the United States.

There have been many decisions of the Supreme Court with which I have vehemently disagreed. When I was district attorney of Philadelphia from 1966 to 1974, we had a series of decisions which sharply limited the rights of law enforcement, tied the hands of police officers to acquire evidence, tied the hands of prosecuting attorneys to convict the guilty. One such decision was the case of Miranda against Arizona where the Supreme Court of the United States, on June 13, 1966, imposed a whole new standard of rights for criminal defendants unheard of before that date.

The Supreme Court in the Miranda case required that there be a series of warnings and waivers before a statement of someone held in custodial interrogation could be introduced into evidence.

It was necessary that the law enforcement officer advise the suspect that he had a right to remain silent; that he had a right to counsel; that anything he said could and would be used against him; that if he did not have counsel, counsel would be provided to him before questioning proceeded; and that if he wished to stop his statement at any time during the course of the statement, he was free to do so.

Beyond those specific warnings, the Miranda decision required that the law enforcement officer obtain from the defendant a series of express waivers that he understood the rights which had been read to him and that he was willing to give up those rights.

The most difficult aspect of the decision in Arizona against Miranda was the ruling of the Supreme Court of the United States that no confession could be introduced into evidence, no admission could be introduced into evidence if the Miranda warnings were not given to any defendant whose trial started on or after June 13 of 1966, the date of the Miranda case.

That posed enormous problems for police and prosecutors because, up to June 13, 1966, police and prosecutors had not been giving the Miranda warnings. They had instead up to that date been giving other warnings as required by a 1964 decision of the Supreme Court in the famed Escobedo case.

Take hypothetically a suspect taken into custody on June 12, 1966, Sunday, the day before the Miranda decision. No law enforcement official could be clairvoyant and anticipate that the Supreme Court of the United States on the following day, Monday, June 13, 1966, would come down with a whole new range of warnings and waivers which would be indispensable prerequisites to introducing into evidence the admission of that suspect.

Notwithstanding the problems of the Miranda decision, it was my atti-

tude as district attorney of Philadelphia that we should not seek a constitutional amendment because the Supreme Court has historically been such a valuable institution in the life of our Nation, and that instead where we disagreed with the Supreme Court we should go back to the Court and seek to have the Miranda decision reversed or limited, and that effort in fact was done by my office in the case of Commonwealth against Ware. The defendant Ware posed a situation where a man was accused of a series of burglaries in 1963, was committed to a mental institution because he was not competent to stand trial and was not released until 1968 when he was competent to stand trial.

The confessions and admissions given by the defendant Ware in 1963 were given without the advantage of the Miranda warnings in advance.

Obviously, the Miranda warnings could not be given to defendant Ware in 1965 when they were not promulgated by the Supreme Court of the United States until 1966. Without Ware's statements, there was an insufficient case introduced against him at trial, and under that circumstance the charges had to be dismissed and Ware would have had to have been a free man.

The Philadelphia district attorney's office took an appeal to the State supreme court, which ruled that Ware's statements could not be introduced under the doctrine and legal precedent of the Supreme Court of the United States decision in Miranda.

Our office then took a petition for certiorari to the Supreme Court of the United States, which agreed to hear the Ware case. Unfortunately, before the case could be heard by the Supreme Court of the United States, the supreme court of Pennsylvania entered a supplemental opinion holding Ware's confessions inadmissible on grounds of the Pennsylvania State constitution, which in legal parlance rendered the matter pending before the Supreme Court of the United States moot, since no matter what the Supreme Court of the United States would have said about the Ware case, the supreme court of Pennsylvania decision would stand and Ware's confessions could not be introduced into evidence.

During the same period of time in 1967, the Supreme Court of the United States decided to expand the rights of juveniles in the famed decision known as In Re Gault, where the Supreme Court decided that juveniles should have the broad range of rights accorded to adults, although that case did not take up the specific issue of right to jury trial.

As the prosecuting attorney, I was most concerned that there would be an enormous rein on the Court's resources and the backlog would be substantially expanded if juveniles were given the constitutional right to jury trial.

In order to avoid that particular problem, we formulated a test case which came to the Supreme Court of the United States. We were successful in persuading the Supreme Court that the right to jury trial should not be extended to juveniles, and a rational distinction was made by the Court on that very important principle.

Just as I believe that we should take these issues to the Supreme Court of the United States, so, too, do I believe that where it comes to the issue of prayer the matter is one which ultimately must be decided by our Federal courts and, in the last analysis, by the Supreme Court of the United States, this is the reason I am so strongly opposed to the matter which is currently pending, which would limit the jurisdiction of the Federal courts and the Supreme Court of the United States.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Connecticut (Mr. WEICKER) for the purpose of debate only, without this being considered as the end of the speech for the purpose of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I support the amendment offered by Senator HELMS. The proposed legislation would return to parents, teachers, and local school boards the right to decide for their children what policy on prayer is most appropriate in public schools.

The first amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *." Contrary to popular opinion, this cornerstone to our Constitution was meant only to bar partiality by the Federal Government toward one religious sect over another. It was not intended to bar partiality by the Federal Government toward a general acknowledgement of God. The call was intended to require a separation of church and state, not God and state.

There are a number of historical writings and facts which evidence this understanding of the first amendment. The early Americans had left England because of the country's attempts to establish a national religion. While they did seek to prevent a reoccurrence of this nationalistic religion, it is clear that the colonists did not mean to bar any government encouragement of faith. At the time that the first amendment was passed, there were six States which had a State-sanctioned or "official" religion. Later, when an attempt was made in Congress to extend the first amendment's prohibition against establishing a religion to the States, it was defeated by Congress.

Justice Joseph Story, one of the first Supreme Court Justices, wrote:

> The whole power over the subject of religion is left (by the Amendment) exclusively to the State goverments to be acted upon according to their own sense of Justice and State constitutions.

Clearly, Congress and the States intended that the first amendment only bar the establishment of a national church and/or compulsory attendance of such church by the Federal Government. There is little doubt that if the States had thought that the amendment would effectively prohibit them from freely making their own determinations about State involvement in religion, they would have never ratified the amendment.

In 1962, when the Supreme Court ruled on Engel versus Vitale, this understanding of the first amendment was perverted. Instead of protecting the States from Federal interference in their practice of religion, the Court ruled that States could not allow prayer in public schools. Thirteen States had, at the time of the decision, authorized the recitation of the Lord's Prayer, and 26 States permitted Bible reading in public schools. The religious traditions of over a century were struck down with a single stroke. Thus we find the contradictions of today the Senate, the House of Representatives, and the Supreme Court all open their sessions with prayer but children are prohibited from the same. Children recite a Pledge of Allegiance which calls us "One Nation, Under God," and yet for 5 to 7 hours a day, they are required to ignore that God. Coins carried in our pockets state what has become our national motto, "In God We Trust," and yet such trust is now being pushed behind closed doors and limited severely in its expression.

It is time for Congress to take whatever action necessary to return the law and the Federal Government to its proper place and return to our children their religious heritage. I hope that my colleagues will support this measure for that end.

Mr. WEICKER. Mr. President, I anticipate the arrival momentarily of the distinguished majority leader. It is my understanding that at this juncture, it could well be that the Senate might go into recess for a short period of time.

I ask unanimous consent that I may suggest the absence of a quorum, without this being considered as the end of the speech for the purpose of the two-speech rule, and that I be recognized at such time as the quorum call is concluded, whether by unanimous-consent request or by actual vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Chair informs the majority leader that there is a consent order that the Senator from Connecticut be recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that I may now be recognized and that the Senator from Connecticut will be recognized immediately after I yield the floor on the same terms and conditions as requested previously and at the resumption of the session of the Senate after the recess, which I am about to propose.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have been advised by the Labor and Human Resources Committee that they are on their last panel of witnesses, I believe, in connection with the railroad legislation, that they are not yet through. It is clear that the Senate will not be called on to act on that measure prior to the hour of 8 p.m., perhaps not that soon. I believe that no good purpose would be served by asking the Senate to remain in session in the meantime.

RECESS UNTIL 8 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 8 p.m. this evening.

There being no objection, the Senate, at 6:20 p.m., recessed until 8 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. RUDMAN).

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, it is in order, I think, that the Senator from Connecticut be recognized.

Mr. President, I ask unanimous consent that the Senator from Connecticut may yield to me without losing his right to the floor and without it counting as the end of his speech for the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield to me on that basis?

Mr. WEICKER. I yield to the distinguished majority leader. I would hope, as he resolves the evening, it might be concluded that at the appropriate time tomorrow I can be recognized.

Mr. BAKER. Let me make an additional request, Mr. President. I ask unanimous consent that after we return to the consideration of the unfinished business, which I assume will be after we deal with another matter—I am speaking about the railway strike legislation—that the Senator from Connecticut be first recognized to continue his speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am advised that the Labor and Human Resources Committee has reported a resolution for the consideration of the Senate, Senate Joint Resolution 250.

In a moment, I am going to ask that the Senate proceed to the consideration of that matter, but I have not yet been able to contact the minority leader to advise him that the matter is here and may be dealt with at this time.

Until we can reach the minority leader, I would like to ask the principals who are here on the floor to forebear while I suggest the absence of a quorum and attempt to make that contact.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAILWAY LABOR-MANAGEMENT DISPUTE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate Joint Resolution 250 reported from the Labor and Human Resources Committee.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 250) to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and without objection, the joint resolution will be considered to have been read the second time at length.

Mr. BAKER. Mr. President, first let me take this opportunity to commend the distinguished chairman of the committee (Mr. HATCH) and the distinguished senior Democrat on the committee (Mr. KENNEDY), for a most extraordinary job in working their way through a panel of witnesses, an extensive hearing today, and bringing to the Senate this urgent and important piece of legislation at this time.

I also wish to pay my respects to all the members of the committee. I see Senator RANDOLPH of West Virginia on the floor who I believe was in attendance during the entire day today; Senator METZENBAUM of Ohio, who has a very keen interest in these matters and a great knowledge of the subjects involved, who I am sure will wish to speak on this subject; the Senator from Nevada and others who are here and who may be within the hearing of my voice.

I believe the entire Senate, indeed the entire country, will be grateful that the Senate has acted promptly, with dispatch and responsibly, in an effort to resolve a very, very important matter facing the country at this time in terms of the railroad strike.

Mr. President, I hope that we will proceed at this late hour to consider this matter and to dispose of it promptly—in any event, before this evening is out. I even hope that that can be done by voice vote.

Mr. President, I wish to take this opportunity to commend my colleagues on both sides of the aisle, in the House, and members of the administration, labor organizations and the rail industry for responding, in an expeditious manner, to a difficult and deleterious situation which is threatening the national interest.

Let no one be deluded, Mr. President, into thinking that this issue can be put off. While the Wall Street Journal reported this morning that railroads "* * * were moving as much as 70 percent of their normal traffic * * *" that statistic does not apply nationwide and will deteriorate significantly with each passing hour. GM's St. Louis plant has already closed as a consequence of the strike—by week's end, 50,000 to 60,000 autoworkers will be idled. Union Pacific Railroad is apparently accepting no new traffic, and many carriers are unable to handle short-haul orders.

If we fail to take this opportunity to end the strike—and I have every expectation that we will end the strike—as many as 500,000 layoffs—in addition the 400,000 affected rail workers—may take place by the end of next week. That number will swell to 1 million by mid-October and the snowball will continue. Every day of the strike, Mr. President, affects some 150,000 commuters and 20,000 Amtrak passengers.

Some of my colleagues have stated that the trucking industry and other forms of transportation can take up the slack, at least temporarily. While I am sure that the truckers and others will do all that they can, there simply is not the means to replace the vital rail links in our basic industries. For example, it would take 90 trucks per hour, 24 hours per day, to replace the rail freight capabilities needed at the St. Louis plant I mentioned earlier. We need the railroads.

Enough of this litany of woe, Mr. President, because I do not expect any of these dire consequences to take place. The spirit of cooperation and accommodation that everyone has shown thus far will allow us to end the strike and reach a fair and equitable settlement for all involved. My hat is off to all those who have worked so hard thus far—we now must finish the task.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. President, for the benefit of Members who may be listening to me in their offices and those on the floor, I announce that as soon as this bill is completed, it is my intention to have a brief period for the transaction of routine morning business.

Mr. President, at this time I ask unanimous consent that following the disposition of Senate Joint Resolution 250, there be a period for the transaction of routine morning business, of not more than 15 minutes in length, in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I believe the two managers of the resolution wish to speak, and I yield the floor so that they may seek recognition.

Mr. HATCH. I thank the majority leader.

Mr. President, I do not intend to talk very long about this measure. We think it is quite an important measure, but it is one we want to pass with a great deal of sadness in our hearts.

Mr. President, America finds itself in the midst of a crisis that poses a grave threat to its economic well-being and to the welfare of its men, women, and children. The threat stems from a paralyzing strike which the Brotherhood of Locomotive Engineers has lawfully—and I emhasize lawfully—instituted against the Nation's railroads. It is no understatement that the railroads, and the working men and women who are employed by the railroads, helped to build this country. And they have sustained it. It is the railroads that literally have created the channels of commerce, from coast to coast and from border to border, by which our Nation has realized unparalleled economic growth over the last century and a half. Today we face the challenge of rebuilding and revitalizing our national economy, and the railroads are indispensable to that recovery. We can ill afford to see the progress we have made to date imperiled by a protracted disruption of rail service. We can ill afford to see unemployment exacerbated, to see taxable revenues lost, to see inflationary pressures refueled.

The crisis we are discussing today thundered home last night to the families of 5,000 workers at General Motors and Amtrak laid off due to the strike. It has already reached West Virginia, where 1,400 coal miners went home when Armco could not ship its coal, and Illinois, where another 500 mine employees have no work to do. And in my home State of Utah the picket lines thrown up by 280 workers have blocked over 3,000 others from going to work. And on the eve of the redeployment of American troops on a peacekeeping mission in Lebanon, we face the very real prospect that this railroad disruption will adversely affect our national defense.

The strike involves a walkout by some 26,000 members of the Brotherhood of Locomotive Engineers, and it has affected six of the Nation's seven largest railroads. More than 300,000 railworkers have honored the engineer's picket lines. Estimates are that nearly half a million workers will be out of work should this strike continue for only 7 days, and that almost a million Americans will be out of work within 2 weeks.

Economists at the Department of Transportation estimate the strike costs at between $50 million and $80 million per day.

But we are not talking about simple statistics. We are talking about Americans out of work, and American industry on the ropes. One of the industries most immediately affected was the beleaguered automobile industry. General Motors, in idling 2,350 hourly employees at its St. Louis plant yesterday, indicated other plants could be closed as early as midweek—in other words, tomorrow.

American coal producers are in the middle of an experiment, trying to convince foreign purchasers that delivery of American coal can be cost-effective. How this shutdown will affect those efforts to improve our export-import picture is unclear, but it certainly cannot help. American farmers, already hurt by low prices in a bumper crop year, heard from Texas grain handlers yesterday that the strike could delay putting this year's crop into storage, again hurting exports.

And commuters in many large American cities who rely on rail service have been forced to use automobiles to get to work, clogging highways with monumental traffic jams, creating major parking problems, and causing huge amounts of lost worktime. Scientists have not even begun to calculate the resultant increase in air pollution from the increased automobile use, nor has anyone begun to assess the effects upon petroleum usage and supply.

Those are some of the more visible effects. Let me assure you the damage runs deep as well as broad. Let me posit the following examples just from the work of one committee, the Committee on Labor and Human Resources. In the year-and-one-half that I have been chairman of this committee we have moved decisively to rescue the railroad retirement system from virtual bankruptcy. The continued success of the reforms we enacted in 1981 is dependent upon keeping railroad employment high and undisrupted. A significant work stoppage, such as the current one threatens to be, can drastically reduce contributions to the pension fund. The lifeblood of any pension plan is the contributions made by employers and currently employed workers. Curtail these contributions, and the result may well be lower benefits in the future. These contributions, clearly, are endangered by this work disruption.

Another major achievement of the Human Resources Committee last year was the reform of the Black Lung Benefits Act. The legislation, which I sponsored and worked to get through the Congress. Enabled the black lung trust fund to continue paying benefits to coal miners who are disabled with pneumoconiosis, and to their dependents. A major portion of those benefits is funded by contributions made by the coal industry based on coal production; that production, as I have already indicated, is put at serious risk by this strike.

We do not exaggerate when we say that virtually every American citizen stands to lose and lose big if this situation is not resolved with speed.

Understanding the magnitude of the problem, the administration has submitted a proposal for resolving the strike and has asked us to act promptly. The action sought by the President was not developed in a vacuum, but grew out of the negotiations of the interested parties and the recommendations of the emergency board appointed by the President to review the bargaining impasse. The proposal entails a cessation of the strike and ordering the parties to return to the bargaining table to resolve a single, but important issue. In the meantime, railway industry and labor would continue implementing the provisions of contracts satisfactorily negotiated with 12 of the 13 rail unions.

It is of course a fundamental principle of Federal labor law that the Government should not dictate upon unwilling parties the substantive terms of their working arrangements. No doubt there are some few who view the administration proposal as contrary to that fundamental principle.

Realizing the gravity of the situation, I convened a hearing of the Labor and Human Resources Committee this morning. Testifying before the committee were all the interested parties: Secretary of Transportation Drew Lewis presented the administration's legislative proposal to end the strike. Mr. Robert Harris, who chairs the National Mediation Board, outlined the history of the negotiations leading up to the current crisis. The relative perspectives of the railroad industry and of the Brotherhood of Locomotive Engineers were reviewed by Mr. Charles Hopkins and by Mr. John Sytsma, respectively. Finally, Mr. Fred Hardin, who chairs the Railway Labor Executives Association, comprising the leadership of organized labor in the rail industry, reviewed the implications of the legislation on the employees who belong to unions other than the BLE. Although they are not directly involved in the locomotive engineers dispute. They, of course, are directly affected by the strike.

From these witnesses the committee sought evidence and information on the nature of the strike and issues over which the locomotive engineers are striking. We verified the extent of the work stoppage and its impact upon the national economy. We examined in detail what the administration proposed to end the strike, seeking to determine whether it is in the best interests of the country. We determined that there is precedent for the President's proposal and that other alternatives are not feasible in the particular circumstances here. In the committee's judgment, the potential for disruption and damage to our country and the need to avoid that damage outweighed the concern of whether the President's proposal undercut the fundamental principle of not imposing substantive terms of a collective bargaining contract on an unwilling party. In addition, the committee determined that Congress must act today.

Accordingly, immediately following the hearing—which incidentally continued, with only brief recesses, for 8 hours—the committee met in executive session. The settlement proposal was considered and by unanimous voice vote was ordered reported to the Senate.

At this point, I would like to comment briefly on one aspect of the joint resolution. The resolution makes binding on the parties specified therein the "Report and Recommendations of the Presidential Emergency Board No. 194, for the period from April 1, 1981, through June 30, 1984." It is not the intent that following June 30, 1984, the parties are free to ignore the restrictions imposed by the Railway Labor Act. The emergency board's recommendations would have the same effect as an agreement, and they would continue in effect until changed by subsequent agreement or until the procedures of the Railway Labor Act have been exhausted on proposals served under section 6 of that act for a new agreement.

Mr. President, I wish to pay personal tribute to the ranking minority member and the other members of this committee, in particular, those who patiently sat through these proceedings throughout Monday. I specifically would like to thank Senator RANDOLPH, who is worried about his home State of West Virginia and the impact that this strike is having on his State.

I think it is important that we listen to all of the principal parties in this matter, not just the Secretary of Transportation who spoke on behalf of the Department and the administration on this measure, but also the chief negotiator for the management of the railway system in this country, Mr. Hopkins; the president of United Transportation Union, Mr. Hardin; and the president of the Brotherhood of Locomotive Engineers, Mr. Sytsma. They all have been forthright and candid in working with the committee, and they have understood the necessity for quickly resolving this dispute.

Obviously, there is a reluctance on the part of everyone to have this issue resolved in this manner, but I believe that this Senate resolution is the only practical and expedient method for resolving the dispute.

I also would like to point out that, under the law, a Study Commission has been appointed which will issue its recommendations in December 1983. We will be very interested in the final recommendations of this Study Commission.

Our committee hearings demonstrated that this dispute cannot be settled unless this resolution is approved by Congress. Nonetheless, I will be most interested in the findings of the Study Commission. We probably will hold hearings when the recommendations are issued to review the findings and ascertain exactly what steps management is willing to take to resolve the serious problem between these two unions in general and, specifically, between management and the Brotherhood of Locomotive Engineers.

Finally, I wish to pay tribute to these great union leaders—to Fred Hardin and John Sytsma—for the work they have done and for their recognition of some of the difficulties we have as Members of the U.S. Senate.

Mr. President, I do not want to take any more time of the Senate this evening, because I am interested in seeing that everybody has an opportunity to speak.

I ask unanimous consent that the names of the following Senators be added as cosponsors of this measure: Mr. KENNEDY, Mr. BAKER, Mr. PERCY, Mr. GARN, and Mr. RANDOLPH.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. KENNEDY. Mr. President, today is the third day of the national railroad strike. The implications for our economy if the strike continues are really profound, particularly in the steel and auto industries, and in agriculture which are so dependent on rail transport. These sectors of our economy are already in serious trouble. Over 10 million men and women are unemployed nationwide, and there is little sign of improvement in the foreseeable future.

It is against that background that we have considered this legislation. The failure of Congress to quickly resolve this dispute, I believe, would have a dramatic and adverse impact on our national economy, and it would bring great harm to millions of Americans.

During the course of the hearings today, we had the opportunity to hear from management and from the various unions that will be affected directly by this legislation. We considered a number of alternatives to the proposal that was put forward by the President of the United States. During our discussions there was always one overriding interest that I—and I believe the other members of the committee—kept in mind, and that was how we were going to get the trains rolling as soon as possible. I believe that with the action we take tonight, we go a long way toward reaching that goal.

For over 21 months, 13 rail unions have been negotiating with management on hundreds of wage and benefit issues. Twelve unions have completely resolved all issues. The B.L.E. has accepted every proposal save one. That one issue has now resulted in a nationwide strike which has brought, and will increasingly result in, devastating effects on our already troubled economy.

It is important to recognize that the pay differential issue which has caused the walkout has been submitted to a Study Commission by the other interested union—the United Transporation Union—in lieu of a strike.

The emergency board which heard this issue recommended the same solution for the B.L.E.—and that is what the President's proposal calls for. Namely, that the right to strike over the pay differential issue be submitted to the Study Commission which will

report in December of 1983 in time for consideration at the next round of negotiations.

Mr. President, this strike is a legal strike. The parties acted honorably over a 21-month period to resolve hundreds of issues. They succeeded on every issue—save one. We are all reluctant to intervene in a situation like this but the state of our economy today is so delicate, and the impact of this strike is so severe on key sectors which are already deeply distressed, that I think we must act expeditiously.

The Congress has had to act before when faced with crippling railroad strikes. We do not like to do it. We would certainly never consider doing so in sectors for which there is neither the historic precedent or the overriding need, and we certainly do not take this step lightly. But I believe the public interest demands that we act now.

So, Mr. President, I do not believe that we have any real alternative but to take the action that we are taking this evening and to support this legislation which has been submitted to us.

I finally wish to acknowledge the work that was done by the chairman of the committee, the Senator from Utah, Senator HATCH, who chaired these hearings during the course of the day.

These issues are complicated. They are matters of enormous importance and consequence to the vital interests of this Nation, and I commend him for the way in which he has conducted the hearing and for which the rest of our colleagues participated in the consideration. My colleagues on this side of the aisle, were active and involved and looking out after what they perceived the national interest to be.

I thank the Senator.

Mr. METZENBAUM. Mr. President, I do not think there are any of us who are not aware of the impact that a railroad strike has on our country and the implications for the entire economy. If the railroads do not move, the economy slows down, and the longer the railroads do not move, the worse it is for the economy.

So it is that over a period of years Congress has seen fit to enact legislation to provide a means of resolving labor disputes in the railroad industry, by providing a cooling off period, by providing a special mediation board, a factfinding body, and in something like six separate instances Congress has been called upon to reexamine the subject after the mediation board had come in with its conclusions and those conclusions have been unacceptable to the labor union involved.

In each of those previous instances there has been no actual imposition of the decision of the board on the parties to the dispute. In some it was arguable as to whether or not Congress was indeed imposing its will on the negotiations but in no single instance was there anything similar to the situation which we have before us today.

It was under those circumstances that the President saw fit to recommend to Congress the joint resolution which we have before us this evening.

When I first examined into that legislation I felt very strongly and, as a matter of fact, my feelings are no less strong at the moment, that in no instance should Congress impose an agreement upon the parties to a labor dispute, that we should not tell them what is right nor what is wrong, that we should provide the mechanism for resolving that dispute but in the last analysis it should be resolved on a voluntary basis between the parties.

And that part of the resolution which provides that the report and recommendations of the Presidential emergency board shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties to this Senator was objectionable and was not a proper way of bringing this matter to a conclusion.

That is not to say that I did not recognize the responsibility of this body to act in order to bring about a cessation of the strike but there are ways to bring about a cessation of the strike other than imposing the will of this body or Congress or the President on the agreement itself.

So throughout the day as these hearings were conducted, I attempted to prevail upon the parties, the carriers, represented by Mr. Charles Hopkins, Mr. Fred Hardin of the UTU, the president, Mr. John Sytsma, president of the BLE, to see whether or not a voluntary resolution of the issues could not be had, hopefully by means of voluntary arbitration arrived at by the parties themselves.

I finally concluded that that was an impossibility, and it then occurred to me that possibly we could come to another conclusion, and that is that we could turn the clock back a bit and do something similar to that which Congress had done on previous occasions and that is to suggest binding arbitration or to instruct binding arbitration, and that too was found to be objectionable by some.

Then we came to a conclusion that perhaps the one way the matter could be resolved or rather I arrived at the conclusion—some others joined me in that thinking—to the effect that there would be a new board appointed, that that new board would reexamine the issue and that that new board would examine the issues for approximately 8 days and then indicate its recommendations with respect to the single pending issue that is outstanding over a period of the next 7 days.

That would not be a binding arbitration but it would be a new look at he issue and perhaps help to bring about a resolution of the issue by the parties themselves.

I found that two of the parties indicated that they would be willing to bring the matter to a conclusion on that basis, but the third was not and, therefore, it was impossible to arrive at that kind of a solution. That left the committee with no other alternative but to consider the matter pending before it.

The committee, by voice vote, has sent this bill to the floor. My understanding is the Senate will, by voice vote, pass this legislation very shortly.

It would appear to me to be unnecessary and I certainly do not intend to call for a rollcall vote. I do intend to vote no.

I do believe that there is never an instance in which Congress should impose its own solution on a labor dispute between the parties. I see no alternative but for the Senate to pass this measure at the moment. But I for one intend to vote no, assuming there will be no rollcall vote.

Mr. CANNON. Mr. President, I am not unmindful of what my colleagues have said, and I commend them for the fine job that they have done in trying to reach an agreement today in this very difficult matter.

Mr. President, I offer an amendment to this legislation dealing with another critical transportation issue that needs immediate attention. Last December the Commerce Committee passed S. 1402, the Uniform Motor Vehicle Standards Act, by an overwhelming vote. This is proposed legislation that would provide immediate relief to shippers and motor carriers suffering under extremely adverse regulations concerning truck dimensions allowed on the interstate highways.

Since the Commerce Committee passed this legislation, the railroad industry has been fighting its consideration by the full Senate. The only argument made in opposition to the proposal is that it would make motor carriers more productive, save fuel, and thereby potentially take business from the rail industry. I find this to be an unpersuasive argument. I do not think we should favor one industry over another. To foresake savings in dollars and fuel just to benefit the railroad industry seems to me to be unwise.

I can understand the motivation for the legislation currently under consideration. But it seems to me that if Congress is prepared to bail out the rail industry from a crippling strike, the rail industry should be prepared to accept a certain degree of responsibility as well. The rest of the transportation sector desperately needs the regulatory relief proposed in S. 1402. The economic crisis facing truckers and shippers is no less real than that facing the railroads. Let us be fair in

helping out the entire transportation industry now that we have a chance.

Accordingly, I offer an amendment which is in essence the text of S. 1402 as passed by the Commerce Committee with only a few modifications. The only modification of substance is that the provision of the legislation dealing with truck widths would be returned to a uniform 102-inch standard, rather than a permissive standard as currently in the legislation. This was a change that was inadvisedly made in committee and which we would change back to the original after some deliberation. Other than that, the bill is as passed by the committee except for a few technical amendments.

I note that this legislative proposal is supported by the American Trucking Association, the Teamsters Union, the National Industrial Traffic League, the National Association of Manufacturers, and every other organization of truckers and shippers in the country—without exception. The only organized opposition comes from the rail industry which is seeking relief from its own problems today.

UP AMENDMENT NO. 1264

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 1264.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

This Act may be cited as the "Uniform Motor Vehicle Standards Act of 1981".

FINDINGS AND PURPOSE

SEC. 2. Congress finds and declares that—

(1) All communities in the United States depend directly or indirectly upon commercial motor vehicles for freight transportation services, and at least 39,000 of these communities receive freight service for no other mode of transportation.

(2) The width and length of equipment used in commercial motor vehicle freight transportation is subject to regulation by the several States, and such regulation is inconsistent and without needed uniformity among the several States.

(3) Nonuniformity of State regulation of commercial motor vehicle width and length has caused, and continues to cause, excessive and unnecessary fuel consumption, time-consuming litigation, safety concerns for those who operate these vehicles, increased consumer costs, lost productivity in freight transportation, and difficulties in vehicle design and operation.

(4) The continued State regulation of commercial motor vehicle width and length, in the absence of national standards for such regulation, constitutes an undue burden on interstate commerce.

(5) The purpose of this Act is to establish uniform minimum national standards for the continued regulation, by the several States, of commercial motor vehicle width and length on interstate highways.

COMMERCIAL MOTOR VEHICLE LENGTH LIMITATION

SEC. 3. (a) No State shall establish, maintain, or enforce any regulation of commerce which imposes a vehicle length limitation of less than 48 feet on the length of the semitrailer unit operating in a truck tractor-semitrailer combination, and of less than 28 feet on the length of any semitrailer or trailer operation in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways or any other qualifying Federal-aid highway as designated by the Secretary of Transportation.

(b) Length limitations established, maintained, or enforced by the States under subsection (a) of this section shall apply solely to the semitrailer or trailer(s) and not to a truck tractor. No State shall establish, maintain, or enforce any regulation of commerce which imposes an overall length limitation on commercial motor vehicles operating in truck-tractor semitrailer or truck tractor semitrailer, trailer combinations. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of trailers or semitrailers of such dimensions as those that were in actual and lawful use in such State on December 1, 1981. No State shall establish, maintain, or enforce any regulation of commerce which has the effect of prohibiting the use of existing trailers or semitrailers, of up to 28½ feet in length, in a truck tractor-semitrailer-trailer combination if those trailers or semitrailers were actually and lawfully operating on December 1, 1981, within a 65-foot overall length limit in any State.

(c) No State shall prohibit commercial motor vehicle combinations consisting of a truck tractor and two trailing units on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highway as designated by the Secretary of Transportation.

(d) The Secretary of Transportation is authorized to establish, consistent with the findings of this Act, rules to implement the provisions of this section, and to make such determinations as are necessary to accommodate specialized equipment (including, but not limited to, automobile transporters) subject to subsections (a) and (b) of this section.

(e) For purposes of this section, "truck tractor" shall be defined as the noncargo carrying power unit that operates in combination with a semitrailer or trailer(s): *Provided* That, a truck tractor and semitrailer enaged in the transporation of automobiles may transport motor vehiches on part of the power unit.

(f) The provisions of this section shall take effect 180 days after the date of enactment of this Act.

COMMERCIAL MOTOR VEHICLE WIDTH REGULATION

SEC. 4. Section 127 of title 23, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any limitation relating to vehicle widths contained in this title, a State shall permit trucks or combinations thereof having a width of not more than 102 inches to operate over interstate highways, National Defense Highways, or any other qualifying Federal-aid highway as designated by the Secretary of Transportation, with traffic lanes designed to be a width of 12 feet or more.".

SAFETY-RELATED DEVICES

SEC. 5. The length and width limitations described in sections 3 and 4 of this Act shall be exclusive of safety-related appendages, such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, energy conservation devices or designs, refrigeration units or air compressors, which the Secretary of Transportation may interpret as necessary for safe and efficient operation of commercial motor vehicles.

ACCESS TO THE INTERSTATE SYSTEM

SEC. 6. No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this Act from the Interstate Highway System, Defense Highways, and any other qualifying Federal-aid highway as designated by the Secretary of Transportation to the Federal-aid primary system and terminals and facilities for food, fuel, repairs, and rest.

ENFORCEMENT

SEC. 7. The Secretary of Transportation, or, on the request of the Secretary, the Attorney General of the United States, is authorized and directed to institute any civil action for injunctive relief as may be appropriate to assure compliance with the provisions of this Act. Such action may be instituted in any district court of the United States in any State where such relief is required to assure compliance with the terms of this Act. In any action under this section, the court shall, upon a proper showing, issue a temporary restraining order or preliminary or permanent injunction. In any such action, the court may also issue a mandatory injunction commanding any State or person to comply with any applicable provision of this Act or any rule issued under authority of this Act.

SPLASH AND SPRAY SUPPRESSANT DEVICES

SEC. 8. To improve safety on the Interstate Highway System, the Secretary of Transportation shall, within 2 years after the date of enactment of this Act, require all tractors, semitrailers, and trailers subject to section 3 of this Act to be equipped with such splash and spray suppressant devices as are approved for use by the Secretary.

REPORT REGARDING LONGER COMBINATION COMMERCIAL MOTOR VEHICLES

SEC. 9. (a) Within 1 year after the date of enactment of this Act, the Secretary of Transportation, after consultation with the transportation officials and Governors of the several States and after an opportunity for public comment, shall submit to Congress a detailed report on the potential benefits and costs if any, to shippers, receivers, operators of commercial motor vehicles, and the general public, that reasonably may be anticipated from the establishment of a National intercity truck route network for the operation of a special class of longer combination commercial motor vehicles.

(b) For the purposes of this section—

(1) the term "longer combination commercial motor vehicles" means multiple-trailer combinations consisting of (A) truck tractor-semitrailer-full trailer, and (B) truck tractor-semitrailer-full trailer-full trailer combinations with an overall length not in excess of 110 feet; and

(2) the term "National intercity truck route network" means a network consisting of a number of controlled-access interconnecting segments of the National System of Interstate and Defense Highways and other highways of comparable design and traffic capacity including, but not limited to, all such highways where the operation of longer combination commercial motor vehicles is authorized on the date of enactment of this section.

(c) The detailed report mandated by this section shall include, but need not be limited to, the following—

(1) a specific plan for the establishment of a National intercity truck route network, including the designation of those specific highway segments which would be required to connect the major distribution centers and markets for long-haul intercity freight service: *Provided, however,* That the Secretary of Transportation shall not include in the plan any highway segment which, because of design limitations or other factors, cannot accommodate the safe operation of longer combination commercial motor vehicles;

(2) an analysis of the intercity motor freight volume that reasonably can be anticipated to be transported by longer combination commercial motor vehicles over the National intercity truck route network if such network is established by Congress;

(3) an analysis of the fuel savings that reasonably can be anticipated in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(4) an analysis of the productivity gains that reasonably can be anticipated to be achieved in the transportation of freight by commercial motor vehicle if such network is established by Congress;

(5) an analysis of the fuel conservation and productivity gains historically achieved by operators of longer combination commercial motor vehicles; and

(6) an analysis of the safety record of longer combination commercial motor vehicle operations that have been conducted prior to the date of enactment of this section.

(d) In making the findings and determinations required by subsection (c) of this section, and in making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that the longer combination commercial motor vehicles operating on the National intercity truck route network, if and when established by Congress, would be subject to the single- and tandem-axle weight limits imposed by section 127 of title 23, United States Code. The Secretary of Transportation shall further assume that the overall gross weight of such vehicles on a group of two or more consecutive axles shall be limited by the formula set forth in such section, and only by such formula.

(e) In making the detailed report to Congress required by this section, the Secretary of Transportation shall assume that longer combination commercial motor vehicles operating on the National intercity truck route network will have reasonable access to terminals, combination breakup areas, and food and fuel facilities consistent with safe operations of such vehicles.

Mr. CANNON. I have already explained the effect of the amendment and, Mr. President, I yield the floor.

Mr. HATCH. Mr. President, this amendment, though perhaps good, could very much cloud what has been a very complex and difficult labor law issue. It could seriously impede the prompt enactment of this joint resolution. I hope the distinguished Senator from Nevada, although sincere in purpose in proposing this amendment, will not insist on its consideration now. The agreement which has been reached on the railroad legislation did not come easy.

We spent all day long with everybody in the Labor and Human Resources Committee working on it, plus all of the interested parties, and we finally arrived at a resolution, and I am hopeful the good Senator will consider that it could create some jeopardy to what really needs to be passed here this evening. That is all I have to say about it and, Mr. President, I yield the floor.

Mr. CANNON. Mr. President, I was in hopes that the majority leader would be here because I wanted to see if he would give me some asssurance that he would try to give us some assistance on getting this matter up for consideration because I think it is extremely important, and I have discussed it with the majority leader. He may not be in a position to give me a commitment, but at least I would like to have him respond to the proposal I have made.

I see him here now so I am sure he will respond to that.

I was just saying, Senator BAKER, that I hoped the Senator could respond to the proposal I have made and give me his thoughts on the matter so that I might consider that in determining whether to accede to the request of the Senator from Utah.

Mr. BAKER. Mr. President, I thank the Senator. I apologize for not being on the floor when he made his inquiry of the distinguished chairman of the committee.

I talked to the distinguished Senator from Nevada and I am fully aware of his concerns in this field. Indeed, he had a special interest in this field and a special expertise that goes back over a period of years.

I indicated to the Senator that I appreciated the depth of his interest and that I would do anything within reason that I could to help him find a way to address this issue. I have to stop short of an absolute commitment as to when it will be called up, but I would be perfectly happy to assure the Senator that I will aid him and assist him in trying to find a time and/or try to find an appropriate vehicle if he wishes to do it by amendment either during the lame-duck session or at some other point as soon as reasonably possible.

I cannot make an absolute commitment, as I am sure the Senator understands. But I offer to him my good offices in trying to do that.

Mr. CANNON. Mr. President, I thank the distinguished majority leader. I, of course, would prefer that I had an absolute commitment for calling it up, but I am willing to rely on the representations of the majority leader that he will assist me in whatever way he can in trying to get consideration of this matter, because the railroad issue is obviously the No. 1 issue right now. Both of these issues are extremely important. What we need to do is to keep productivity up and improve it wherever we can in this country today not only for the rail industry but for transportation in general, and that is my objective.

Based on the representations of the distinguished majority leader that he will assist us in every way that he can in trying to get this matter up for consideration I am willing to rely on that representation, Mr. President, and unless someone else desires to speak on it I am willing to withdraw my amendment.

Mr. BAKER. Mr. President, I thank the Senator. I will confer with him from time to time.

The PRESIDING OFFICER. The amendment is withdrawn.

Are there further amendments?

Mr. HATCH. I want to also thank the Senator.

● Mr. SPECTER. Mr. President, the legislation pending before us this evening causes me grave concern. I am concerned not only because of the important right to strike that it forces the Brotherhood of Locomotive Engineers to surrender, but because of the harried, zero-hour setting in which we are forced to decide so difficult an issue. With these reservations, I support this legislation because of the overriding public interest apparently at stake in this economic emergency. And I do so firmly in the belief that this vote cannot serve as a precedent for usurping the right to strike.

Public confidence in the U.S. Senate as a thoughtful, deliberative body is ill-served by tonight's proceedings. Hearings have only just been completed by the Committee on Labor and Human Resources. There is no time to study the testimony and documents offered by the witnesses. While I respect the great effort made by Senator Hatch and his committee, hearings must do more than edify the members of a single committee. Today's hearing record does not.

At no time should Congress be faced with a last-minute decision of whether virtually to shut down our national economy or preserve the right to strike.

In our history, the right to strike has furthered the goal of economic justice. There have been and continue to be abuses, but it has insured some reasonable balance of power between labor and management. To casually remove the right to strike is to jeop-

ardize an economic order that has served us well.

We do, however, now face an extraordinary emergency. Nearly half a million workers will lose their jobs if the strike lasts a week, a million if it lasts 2 weeks. Pennsylvania depends more heavily on its railroads than any other State. Without a smoothly operating rail system, our coal, steel, and textile industries will eventually strangle. While my State endures an unemployment rate of over 10 percent, we cannot afford more economic catastrophes.

But the very extremity of the emergency should render our vote ineffective as a precedent to cancel the right to strike. Every opportunity to avoid such heavy-handed Federal intervention in labor negotiations should be taken. Tonight's vote is an unfortunate necessity in circumstances that I hope will not be repeated.●

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and to be read a third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution (S.J. Res. 250) was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 250) together with its preamble is as follows:

S.J. RES. 250

Whereas the labor dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers threatens essential transportation services of the Nation;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas all the procedures for resolving such dispute provided for in the Railway Labor Act have been exhausted and the parties have resorted to self help;

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carriers;

Whereas all of the other negotiations for a national agreement by the rail carriers and the representatives of other railroad employees have been successfully completed, including the negotiations of the carriers and the United Transportation Union that were resolved through the Report and Recommendations of Presidential Emergency Board Numbered 195; and

Whereas the recommendations of Presidential Emergency Board Numbered 194 for settlement of this dispute have led to agreement of the parties on all but a single issue, and the recommendation on that issue would preserve the employees' collective bargaining rights within the peaceful procedures of the Railway Labor Act: Now, therefore, in order to preserve the national interest in essential transportation services, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, consistent with the purposes of the Railway Labor Act to avoid any labor dispute that threatens substantially to interrupt interstrate commerce to a degree such as to deprive any section of the country of essential transportation service—

(1) the parties to the dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers shall take all necessary steps to restore service, and the status quo of the parties shall return to that which was in effect prior to 12:01 antemeridian of September 19, 1982, which status shall remain in effect through June 30, 1984, and which status shall be subject to the provisions of paragraph (2) of this Joint Resolution; and

(2) the Report and Recommendations of the Presidential Emergency Board Numbered 194, dated August 19, 1982 (including the recommendations regarding Moratorium issues), shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151, et seq.), and shall be effective for the period from April 1, 1981, through June 30, 1984: *Provided,* That nothing in this Joint Resolution shall prevent any mutual agreement by the parties to implement the terms and conditions established by this Joint Resolution.

SEC. 2. This resolution shall take effect immediately upon enactment.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank all Senators for their cooperation.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, is there an order for a period for the transaction of routine morning business?

The PRESIDING OFFICER. There is a period for the transaction of routine morning business of 15 minutes.

LABOR DEPARTMENT, CENTRAL STATES PENSION FUND AGREE ON CONSENT DECREE

Mr. NUNN. Mr. President, the Department of Labor and the Teamsters Central States pension fund have reached agreement on a consent decree with regard to asset management of the fund. Announcement of the agreement was made today by Raymond J. Donovan, the Secretary of Labor, and George W. Lehr, the executive director of the pension fund.

While I have not had time to study the agreement in great detail, the consent decree seems to be a satisfactory resolution of the question of how the assets of the $3.5 billion pension fund are to be managed. The use of the consent decree mechanism itself is an important step forward in the Labor Department's enforcement of ERISA. For the first time, the Department can turn to a Federal court to insure that the fund lives up to its agreements. The use of this type of written and enforceable agreement was, in fact, one of the major recommendations made by the Permanent Subcommittee on Investigations as a result of its extensive inquiry on the Labor Department's examination of the fund.

According to Secretary Donovan's briefing today, these are the key provisions of the consent decree:

First, requires management of Teamsters' pension fund assets by a topnotch, independent, professional asset manager and prohibits trustees and others at the pension fund from authorizing or even recommending any future acquisitions, investments, or dispositions of pension fund assets on a direct or indirect basis;

Second, places strict controls on moneys used by the pension fund to pay benefits and administrative expenses;

Third, establishes an independent special counsel who will have complete access to pension fund files and meetings, oversee compliance with the consent decree, and issue regular reports to the supervising Federal district court;

Fourth, requires removal of Teamsters' pension fund trustees and employees if they are convicted of certain crimes;

Fifth, obligates the pension fund to cooperate with the Department of Labor in its continuing investigations;

Sixth, requires the pension fund to comply with ERISA and with conditions imposed by the Internal Revenue Service in letters determining the pension fund's eligibility for tax-exempt status; and

Seventh, subjects the Teamsters' pension fund to the jurisdiction of the Federal district court in Chicago for 10 to 15 years or more and gives the court supervisory power over the administration of the fund.

As the former chairman of the Permanent Subcommittee on Investigations and now its ranking minority member, I have followed closely the Government's 7-year effort to reform the pension fund under authority of ERISA.

In 1975, the Permanent Subcommittee on Investigations began monitoring the Labor Department's examination of the Central States pension fund. Despite many assurances that the inquiry would go forward on a sound basis, the subcommittee found several serious shortcomings in the Government's investigation. As docu-

mented in detail in both the subcommittee's interim report of May 20, 1981, and its comprehensive August 3, 1981, report, major problems included:

First, lack of coordination and cooperation between IRS, the Labor Department, and the Justice Department;

Second, failure of the Labor Department to focus adequate resources on allegations of criminal wrongdoings, as opposed to civil violations of ERISA;

Third, failure of the Labor Department to pursue a written and enforceable consent decree with the fund that would have required the fund to carry out promised reforms.

The positive development during this period was that the outside asset managers—the Equitable Life Assurance Society of the United States and the Victor Palmieri Co.—did achieve their objective of improving the fund's financial position. Under the outside asset managers, the fund's return on investments improved considerably. However, as noted recently by the General Accounting Office, the fund's actuarial position is still not as sound as professional actuaries would prefer.

The contract with the outside managers expires next month. That is why this consent decree is so critical. It means that for a period of 10 or 15 years, and longer if needed, the fund's assets will be under the supervision of a Federal court. Of particular importance is the decree's specific provision that it "in no way affects the liability of the individual defendants" in the civil suits now pending.

Secretary Donovan and Mr. Lehr both assumed office determined to break the logjam that had developed with respect to the Government investigation. Secretary Donovan assured the investigations subcommittee last October that if mistakes had been made in the past he wanted to correct them. Mr. Lehr, at the same hearings, testified that a new team was in charge of the pension fund and that he was going to make every effort to cooperate with the Government.

I am pleased to report that, after my initial review of the consent decree, I am impressed with the agreement and I am encouraged with the progress that Secretary Donovan and Mr. Lehr and their respective staffs have made. I want to commend them for what seems to be a sound consent decree and a highly promising achievement.

Timothy Ryan, the Solicitor of Labor, said today that the consent decree will be used as a model for future negotiations the Government will enter under ERISA. That means ERISA itself, and the Government's ability to enforce it, will both have been strengthened by this agreement. That certainly would be welcome news.

Mr. President, I ask unanimous consent that the consent decree be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the Northern District of Illinois, Eastern Division—Civil Action No. 78 C 342]

RAYMOND J. DONOVAN, SECRETARY OF LABOR, PLAINTIFF, *v.* FRANK FITZSIMMONS, ET AL., DEFENDANTS

CONSENT DECREE

Plaintiff Raymond J. Donovan, Secretary of Labor ("the Secretary") has filed a complaint in this matter against the named individual defendants, former trustees of the Central States, Southeast and Southwest Areas Pension Fund ("the individual defendants"), pursuant to the Employee Retirement Income Security Act of 1974 as amended ("ERISA"), alleging, *inter alia*, that the individual defendants violated section 404(a)(1) of ERISA, 29 U.S.C. § 1104(a)(1) (1976), and section 405 of ERISA, 29 U.S.C. § 1105 (1976). The Secretary moved this Court for leave to amend the complaint, *inter alia*, to include the Central States, Southeast and Southwest Areas Pension Fund ("the Pension Fund") as a party to the litigation and has filed with this Court an amended complaint. This motion was previously denied by the court insofar as it sought to join the Pension Fund and is presently under advisement with the Court pursuant to the Secretary's motion for reconsideration.

The Pension Fund consents to the filing of the amended complaint insofar as it seeks to join the Pension Fund as a party defendant, acknowledges service of the amended complaint, and admits the jurisdiction of this Court.

The Pension Fund expressly waives Findings of Fact and Conclusions of Law and consents to the entry of this Consent Decree as a full and complete resolution of the issues raised in the amended complaint with respect to the Pension Fund.

Neither the Secretary nor the Pension Fund waives any claims against the individual defendants, and this Consent Decree in no way affects the liability of the individual defendants with respect to the allegations set forth in the complaint and the amended complaint. Nothing in this Consent Decree shall constitute or be deemed an admission of any fact alleged in the complaint or the amended complaint in this case.

The Court has jurisdiction over the Pension Fund and the subject matter of this action, and the Court is empowered to provide the equitable and remedial relief following.

It is, therefore, ordered, adjudged, and decreed that the Secretary's motion for leave to file an amended complaint, insofar as it relates to the Pension Fund, is hereby granted and further that the Pension Fund shall perform the following undertakings:

I. COMPLIANCE

The Pension Fund shall operate in full compliance with ERISA and with any conditions contained in determination letters issued by the Internal Revenue Service as to the qualification of the Pension Fund under section 401 of the Internal Revenue Code and as to the exemption of the trust to which the Pension Fund relates under section 501 of the Internal Revenue Code ("the determination letters").

The Pension Fund shall require that its administrators, fiduciaries, officers, trustees, custodians, counsel, agents, employees, advisers, providers of goods or services, consultants, representatives in any capacity, and all persons who serve in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assets of the Pension Fund, as a condition of maintaining their respective relationships with the Pension Fund, discharge their duties to the Pension Fund in full compliance with ERISA and not take any action in the discharge of such duties that is inconsistent with the Pension Fund's full compliance with ERISA or with the conditions of the determination letters or with the Pension Fund's performance of the undertakings in this Consent Decree.

The Pension Fund shall provide a copy of this Consent Decree to the individuals and entities described above within 30 days after its entry and to all such new individuals and entities at the beginning of their respective relationships with the Pension Fund, whichever is later.

II. ASSET MANAGEMENT

A. Appointment of a named fiduciary

The Court understands that The Equitable Life Assurance Society of the United States ("Equitable") is the named fiduciary of the Pension Fund under contractual arrangements which expire on October 3, 1982 ("the Equitable Contract"). At the expiration or termination of the Equitable Contract, all assets of the Pension Fund, except for those liquid assets held in reserve for payment of benefits and administrative expenses, which liquid assets shall be defined and managed in accordance with section III of this Consent Decree, shall continue to be managed for the duration of this Consent Decree by a named fiduciary, as defined in section 402(a)(2) of ERISA, 29 U.S.C. § 1102(a)(2) (1976), in accordance with section II of this Consent Decree. At least 60 days before the expiration of any named fiduciary's appointment, the Pension Fund shall request the Court's approval of a successor named fiduciary and give the Secretary notice of the request for approval. The Secretary shall present any objection to the appointment of the successor named fiduciary within 30 days of the filing of the Pension Fund's request for approval. The successor named fiduciary's appointment shall not become effective until the Court expressly approves the appointment of the successor named fiduciary. To be eligible for appointment, a successor named fiduciary must meet the qualifications for the named fiduciary set forth in section II.C. of this Consent Decree.

B. Authority of the named fiduciary

1. Authority over fund assets

The named fiduciary shall have exclusive responsibility and authority to control and manage all assets of the Pension Fund identified in section II.A. of this Consent Decree.

2. Authority Over Appointment of Investment Managers

The named fiduciary shall have exclusive authority to appoint, replace, and remove such investment managers and real estate investment managers as it shall in its sole discretion determine are necessary to manage the assets of the Pension Fund. These appointments, replacements, and removals need not be approved by the Court.

3. Authority and Responsibility Over Investment Managers

The named fiduciary shall have exclusive responsibility and authority to allocate available investment assets of the Pension Fund among different types of investments and different investment managers and to allocate available real estate investment assets among different types of real estate investments and different real estate investment managers. The named fiduciary shall also have responsibility and authority to monitor the performance of all investment managers and real estate investment managers. This monitoring function of the named fiduciary shall not diminish the obligation of the board of trustees of the Pension Fund under ERISA to monitor such performance or relieve any trustee of any liability. under part 4 of title I of ERISA for any act of such trustee.

4. Authority To Set Investment Objectives and Policies

The short-term and long-term investment objectives and policies of the Pension Fund shall be developed by the named fiduciary, after consultation with the board of trustees of the Pension Fund, with appropriate regard for the actuarial requirements of the Pension Fund. Attached hereto as an Exhibit is the investment policy statement setting forth the current short-term and long-term investment objectives and policies of the Pension Fund, including objectives and policies governing the acquisition of new securities-related assets and new real estate-related assets. The board of trustees of the Pension Fund and Equitable have represented that this investment policy statement has been developed with appropriate regard for the actuarial requirements of the Pension Fund. The attached investment policy may only be changed by the named fiduciary, after consultation with the board of trustees of the Pension Fund, and such change shall be reported immediately to the Independent Special Counsel established by section V of this Consent Decree and to the Secretary. Any such change shall not remain in effect more than 90 days except with leave of Court for good cause shown after 60 days' notice to the Independent Special Counsel and to the Secretary. Neither the board of trustees of the Pension Fund nor any administrator, officer, trustee, agent, or employee of the Pension Fund shall authorize or recommend any future acquisitions, investments, or dispositions of Pension Fund assets on a direct or indirect basis. All present and future investments of Pension Fund assets shall be managed solely by the named fiduciary or such other independent investment managers or real estate investment managers as defined in section II.C. of this Consent Decree as the named fiduciary shall appoint.

C. Qualifications of named fiduciary and appointed investment managers and real estate investment managers

1. Named Fiduciary

The named fiduciary must qualify as an investment manager under ERISA section 3(38), 29 U.S.C. § 1102(38) (1976), and accept appointment as such in writing. If the named fiduciary is a bank, it shall be a bank as defined in section 202(a)(2) of the Investment Advisors Act of 1940, 15 U.S.C. § 80a-2 (1976), and shall rank, on the basis of its equity capital on the last day of its most recent fiscal year, among the twenty-five largest banks in the United States. If the named fiduciary is an insurance company, it shall be qualified to do business in and be subject to regulation in at least six states and shall rank, on the basis of assets on the last day of its most recent fiscal year, among the twenty-five largest insurance companies in the United States. If the named fiduciary is an investment adviser registered under section 202(a)(2) of the Investment Advisers Act of 1940, 15 U.S.C. § 80a-2 (1976), it shall rank on the basis of total client assets under its management and control at the close of its most recent fiscal year, among the twenty-five largest investment advisers in the United States that have either (1) shareholders' or partners' equity in excess of $50,000,000 or (2) all of their obligations and liabilities assumed or guaranteed by a bank or insurance company having the characteristics described above, or by a broker or dealer registered under section 15(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 780(a) (1976), that has a net worth in excess of $50,000,000 as of the last day of its most recent fiscal year. In addition, the named fiduciary must meet the qualifications set forth below for appointed investment managers and real estate investment managers.

2. Investment Managers

To be eligible for appointment as an investment manager by the named fiduciary under section II.B.2 of this Consent Decree, an investment manager must:

a. Have at least 10 years of experience in operations as an investment management organization managing portfolios of, or providing investment advice with respect to, stock or other securities, and have demonstrated results of performance which are audited and a matter of public record;

b. Excluding any Pension Fund assets, have at least $500 million of assets under management, with the Pension Fund's assets allocated to the investment manager constituting not more than 25% of the total of all assets under management;

c. Have previously served or be serving as an investment manager to employee benefit plans or other tax-exempt trusts with assets exceeding $100 million subject to its control or advice;

d. Charge a fee that shall be no more than is reasonable and shall not exceed the fees charged by the manager for comparable services to comparable clients;

e. Not be affiliated with any administrator, officer, trustee, agent, or employee of the Pension Fund; and

f. Review and agree to abide by the investment policy statement set forth in the Exhibit to this Consent Decree or such modification of it as may occur as provided in section II.B.4. of this Consent Decree.

3. Real estate investment managers

To be eligible for appointment as a real estate investment manager by the named fiduciary under section II.B.2. of this Consent Decree, a real estate investment manager must:

a. Have at least 10 years of experience in operations as a real estate investment management organization;

b. Excluding any Pension Fund assets, have at least $100 million of real estate assets under management, with the Pension Fund's assets allocated to the real estate investment manager constituting not more than 25% of the total of all assets under management; and

c. Meet all the qualifications set forth in sections II.C.2.d., e., & f. of this Consent Decree.

4. Current investment managers and real estate investment manager

The qualifications set forth in sections II.C.2. and II.C.3. need not be met by any investment manager or real estate investment manager serving under the Equitable Contract.

D. Termination of the named fiduciary

A named fiduciary appointed pursuant to this Consent Decree shall be subject to removal without cause shown on six months' written notice from the Pension Fund, a copy of which shall immediately be provided to the Secretary, and at any time by the Court for good cause shown after 60 days' notice to the named fiduciary and the Secretary. Before the removal of a named fiduciary, there shall be appointed a successor named fiduciary under the procedure provided in section II.A. of this Consent Decree, which appointment shall become effective immediately upon the removal of the then current named fiduciary.

III. ASSETS HELD FOR BENEFITS AND ADMINISTRATIVE EXPENSES AND MAINTENANCE OF QUALIFIED INTERNAL AUDIT STAFF

A. All assets received by the Pension Fund shall be transferred to the named fiduciary in accordance with section II of this Consent Decree, except as provided in sections III.B. through III.E. below.

B. The Pension Fund may retain assets that it has determined are reasonably necessary for the payment of benefits and administrative expenses in a particular month. The Pension Fund's determination shall take into account sums that could be made available to the Pension Fund by the named fiduciary and the investment managers and may include a reserve for benefits or administrative expenses that might become payable during the month. Assets retained for the payment of benefits and administrative expenses must be used exclusively for those purposes. The Pension Fund's determination for each month shall be made during the last 10 days of the preceding month and shall include a report setting forth the reasons for the determinations with supporting computations. Copies of the report shall be made available to the Independent Special Counsel and on request to the Secretary and the Court.

C. Notwithstanding the preceding section III.B., for each month the average daily balance of all assets retained by the Pension Fund, including assets held pending transfer to the named fiduciary (determined as of the close of business each day) shall not exceed 2½ times the sum of the benefits and administrative expenses paid in the preceding month. In no event will the disbursements for administrative expenses for any month exceed 2½ times the administrative expenses in the previous month.

D. Funds held for benefits and administrative expenses shall be managed and invested in accordance with the advice of a qualified independent investment adviser having the characteristics of the named fiduciary described in section II.C.1. of this Consent Decree, which investment adviser's appointment shall be subject to the approval of the Court after notice to the Secretary.

E. The Pension Fund shall maintain a qualified Internal Audit Staff to monitor its affairs. Responsibilities of the staff shall include the review of benefit administration, administrative expenditures, and the allocation of Pension Fund receipts as to investments and administration. The Internal Audit Staff, in cooperation with the Execu-

tive Director of the Pension Fund, shall prepare monthly reports setting forth its findings and recommendations, copies of which shall be made available to the Independent Special Counsel and on request to the Secretary and the Court.

IV. REMOVAL OF CONVICTED PERSONS

Within 30 days after the entry of this Consent Decree, the trust agreement and other appropriate instruments under which the Pension Fund is maintained shall be amended to provide that:

A. No person shall serve, or be permitted to serve, as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, adviser, provider of goods or services, consultant, representative in any capacity, or in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assets of the Pension Fund if such person has been convicted of: "robbery, bribery, extortion, embezzlement, fraud, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 802(6) of title 21, murder, rape, kidnaping, perjury, assault with intent to kill, any crime described in section 80a-9(a)(1) of title 15, a violation of any provision of ERISA, a violation of section 186 of title 29, a violation of chapter 63 of title 18, a violation of sections 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, a violation of the Labor-Management Reporting and Disclosure Act of 1959, or any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment; or conspiracy to commit any such crimes; or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element; or a misdemeanor involving a breach of fiduciary responsibility."

B. Upon conviction for any of the crimes set forth in section IV.A. of this Consent Decree, such person shall immediately be removed from and disqualified from serving in any capacity set forth in section IV.A. of this Consent Decree, provided that upon final reversal of such conviction, such person, unless otherwise ineligible, shall thereafter be eligible to serve; and provided further that this disqualification shall cease to be operative ten years after such conviction or after the end of imprisonment on such conviction, whichever is the later, unless prior to the end of such ten-year period, in the case of a person so convicted or imprisoned, (a) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (b) the United States Parole Commission, pursuant to application law, determines that such person's service would not be contrary to the best interests of the Pension Fund.

V. INDEPENDENT SPECIAL COUNSEL

Due to the scope and complexity of this Consent Decree, the parties agree that the Court should appoint an Independent Special Counsel to further the objectives of this Consent Decreee. The parties believe that the appointment of an Independent Special Counsel will serve the Court by assisting in identifying and resolving any problems or issues that may arise in connection with the Pension Fund's performance of the undertakings in this Consent Decree.

The parties anticipate that the Independent Special Counsel will give special attention in the conduct of his office to compliance with the fiduciary responsibility provisions in part 4 of title I of ERISA and with conditions contained in determination letters issued by the Internal Revenue Service. The parties further anticipate that the Independent Special Counsel ordinarily will not find it necessary or appropriate to examine, oversee, or report on matters relating to the establishment of contribution rates or benefit levels or to benefit determinations with respect to individual participants and beneficiaries of the Pension Fund, although the parties recognize that occasions may arise in which the Independent Special Counsel, in his discretion, will find it necessary or appropriate to exercise such powers, duties, and responsibilities.

Accordingly, within 30 days after the entry of this Consent Decree, the Court shall appoint an Independent Special Counsel from a list of three individuals recommended by the Pension Fund and agreeable to the Secretary. Such Independent Special Counsel, in the conduct of his office as generally described above, shall have the following powers, duties, and responsibilities.

A. The Independent Special Counsel shall have full authority to examine the future activities of the Pension Fund and to oversee and report on performance of the undertakings in this Consent Decree, giving special attention to compliance with the fiduciary responsibility provisions in part 4 of title I of ERISA and with conditions contained in determination letters issued by the Internal Revenue Service.

B. The Independent Special Counsel may, with leave of Court for good cause shown, employ attorneys, accountants, investigators, and others reasonably necessary and appropriate to aid him in the exercise of his powers, duties, and responsibilities.

C. The Independent Special Counsel shall have full access to all documents, books, records, personnel, files, and information of whatever type or description in the possession, custody, or control of the Pension Fund. In addition, the administrators, fiduciaries, officers, trustees, custodians, counsel, agents, employees, advisers, providers of goods or services, consultants, representatives in any capacity, and all persons who serve in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assets of the Pension Fund shall be required, as a condition of maintaining their respective relationships with the Pension Fund, to cooperate fully with the Independent Special Counsel in the performance of his duties and responsibilities. The Independent Special Counsel may attend meetings of the board of trustees of the Pension Fund, of any committees thereof (including closed or executive sessions), and any meetings of any attorneys' or review committees. He shall receive notice in advance of and agenda of such meetings in the same manner and to the same extent as the other participants in the meetings. In addition, the Independent Special Counsel may attend any other meetings of any type whatsoever at which Pension Fund related matters are discussed or considered including conferences with counsel to the Pension Fund and meetings attended by administrators, fiduciaries, officers, trustees, employees, custodians, counsel, agents, advisers, providers of goods or services, consultants, representatives in any capacity, and all persons who serve in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assests of the Pension Fund.

D. The Independent Special Counsel shall be free to consult with the Department of Labor, the Internal Revenue Service, and other federal, state, and local governmental agencies concerning any activities which he performs.

E. The Independent Special Counsel shall provide access to the Department of Labor upon its request to any documents, books, interview notes, or records of any type reviewed, compiled, or prepared by the Independent Special Counsel in the exercise of his powers, duties, and responsibilities.

F. After not less than 10 days notice to the board of trustees of the Pension Fund, to the affected individual or entity, and to the Secretary, the Independent Special Counsel may petition the Court for appropriate orders to compel cooperation by the Pension Fund and any administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, adviser, provider of goods or services, consultant, representative in any capacity, or person who serves in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assets of the Pension Fund.

G. The Independent Special Counsel shall file quarterly reports with the Court, with copies to the Secretary and the Pension Fund, and any other reports he deems necessary or appropriate.

H. The Independent Special Counsel shall have such other powers, duties, and responsibilities as the Court may subsequent determine are appropriate.

The Independent Special Counsel shall not be discharged or terminated during the duration of this Consent Decree except by leave of Court. Upon the termination, discharge, death, incapacity, or resignation of an Independent Special Counsel during the term of this Consent Decree, the Court shall appoint a successor Independent Special Counsel from a list of three individuals recommended by the Pension Fund and agreeable to the Secretary. Recommendations for a successor Independent Special Counsel shall be made within such periods as the Court, by further order, may provide.

No attorney-client or other privilege shall be applicable to any communication between the Independent Special Counsel and the Pension Fund, or its administrators, fiduciaries, officers, trustees, custodians, counsel, agents, employees, advisers, providers of goods or services, consultants, representatives in any capacity, or persons who serve in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assets of the Pension Fund.

On a monthly basis, the Pension Fund shall pay the Independent Special Counsel reasonable fees and expenses reasonably and actually incurred by the Independent Special Counsel in the exercise of his powers, duties, and responsibilities.

Nothing herein shall be construed (1) to limit the powers and responsibilities of any officer or employee or the United States under ERISA or any other law, (2) to relieve the Pension Fund or any of its administrators, fiduciaries, officers, trustees, custodians, counsel, agents, employees, advisers, providers of goods or services, consultants, representatives in any capacity, or persons who serve in any capacity that involves decisionmaking authority or custody or control of the moneys, funds, or assets of the Pension Fund of any duty or responsibility under ERISA or any other law, or (3) to confer on the Independent Special Counsel any fiduciary responsibility under part 4 of title I of ERISA or otherwise.

VI. COOPERATION WITH THE SECRETARY

In recognition of the terms and rationale of the Court's order herein on June 8, 1981, which determined that the attorney-client and work product privileges are not available with respect to certain Pension Fund documents, the Pension Fund shall cooperate fully with the Secretary, both in the prosecution of this action and in the exercise of his other enforcement responsibilities under ERISA, by promptly providing such documents, information, and persons under its control as the Secretary from time to time may request. Nothing herein shall be construed to limit the rights the Secretary otherwise enjoys of access to documents, information, or persons; to preclude the Pension Fund from seeking appropriate orders from this Court protecting against the Secretary's unauthorized dissemination of documents or information; or to waive or restrict the exercise by any individual of his or her constitutional rights.

VII. RETENTION OF JURISDICTION

This Court shall retain jurisdiction over the parties and subject matter of this action for the purpose of enforcing the terms of this Consent Decree. After a period of 10 years from the entry hereof, the Pension Fund, after notice to the Secretary, may petition the Court to dissolve the Consent Decree for good cause shown. After a period of 15 years from the entry hereof, the Pension Fund, after notice to the Secretary, may petition the Court to dissolve the Consent Decree and, absent good cause shown by the Secretary establishing a need for continuing this Consent Decree, the Consent Decree shall be dissolved.

VIII. NOTICE

Provisions of this Consent Decree requiring notice to the board of trustees of the Pension Fund shall be satisfied by delivering it in writing to the Pension Fund in care of: Executive Director, Central States, Southeast and Southwest Areas Pension Fund, 8550 W. Bryn Mawr Avenue, Chicago, Ill. 60631.

Provisions of this Consent Decree requiring notice to the Secretary shall be satisfied by delivering it in writing to: The Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4516, Washington, D.C. 20210; with a duplicate delivered to: The Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-2002, Washington, D.C. 20210.

Provisions of this Consent Decree requiring notice to the Independent Special Counsel shall be satisfied by delivering it in writing to him at such address as he designates with the Court.

The parties to this Consent Decree and the Independent Special Counsel may, as they deem necessary, change from time to time the designation of persons to receive notice on their behalf by filing with the Court notification of such change and serving a copy thereof on the other party or parties to this Consent Decree and on the Independent Special Counsel, as the case may be.

IX. ENTRY OF JUDGMENT

There being no just reason for delay, the Clerk of the court is hereby expressly directed to enter this Consent Decree forthwith in accordance with the provisions of Rule 54(b) of the Federal Rules of Civil Procedure.

JAMES B. MORAN,
U.S. District Judge.

The undersigned consent to the entry of the foregoing decree:

Raymond J. Donovan, Secretary of Labor, Plaintiff; T. Timothy Ryan, Jr., Solicitor of Labor; David H. Feldman, Associate Solicitor for Special Litigation, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C., Attorneys for Plaintiff.

Central States, Southeast and Southwest Areas Pension Fund, Defendant.

Loran W. Robbins; Marion M. Winstead; Harold J. Yates; Earl L. Jennings, Jr., Employee Trustees; Howard McDougall; Robert J. Baker; R. V. Pulliam, Sr., Employer Trustees; George W. Lehr, Executive Director; James G. Walsh, Jr., Chicago, Ill., Attorney for Defendant, Central States, Southeast and Southwest Areas Pension Fund.

TRIBUTE TO FOUR ILLINOIS CONGRESSMEN

Mr. DIXON. Mr. President, as Secretary-Treasurer of the Illinois Congressional delegation, I rise today to pay tribute to four Illinois Congressmen who are completing their service in this body: EDWARD DERWINSKI of Flossmoor, ROBERT MCCLORY of Lake Bluff, THOMAS RAILSBACK of Moline, and JOHN FARY of Chicago.

These gentlemen have served in the U.S. House of Representatives with distinction and have admirably represented the constituents of their respective districts.

Having served with EDWARD DERWINSKI in the Illinois House, I know him to be a man of strong convictions and keen legislative skills. During the course of more than two decades since he came to Congress in 1958, Congressman DERWINSKI has become a central figure on the House Foreign Affairs Committee. As a member of the Post Office and Civil Service Committee, he played a major role in the passage of the 1970 bill creating the U.S. Postal Service as a semiprivate corporation.

I served with ROBERT MCCLORY in both the Illinois House and the Illinois Senate. He is a man renowned for his bipartisan approach to civil rights issues, and one who has a deep respect for the spirit of the law. As a member of the Judiciary Committee, he is noted for his independence and his insistence on deliberating every issue for himself.

I also served with JOHN FARY in the Illinois House. He is a man staunchly dedicated to the interest of his constituents, and a man of strong moral convictions. Elected to Congress in 1975, he has worked on the Public Works Committee and has argued for measures which would help to revive Midway Airport, a very important matter to his district and to the citizens of Chicago.

Before he was elected to Congress in 1966, I also served with TOM RAILSBACK in the Illinois Legislature. He has distinguished himself as a skilled negotiator, with the ability to moderate various interests to win a workable consensus. As a member of the House Judiciary Committee, he was able to build coalitions on such controversial issues as gun control and open housing.

During my first 2 years in the U.S. Senate, I have had the pleasure of working closely with these gentlemen on matters of mutual concern affecting our State.

On behalf of the membership of the Illinois congressional delegation, I would like to express our deep regret at the departure of these fine legislators, and extend our profound thanks for the service these men have rendered Illinois and the Nation.

ADDRESS BY SENATOR MOYNIHAN ON THE PREVENTION OF NUCLEAR WAR

Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to an eloquent and important speech delivered by my good friend and distinguished colleague, the senior Senator from New York, DANIEL PATRICK MOYNIHAN. On September 15, 1982, Senator MOYNIHAN addressed the students and faculty of the American University at the Kennedy Political Union on the most important issue of our time, the prevention of nuclear war. Indeed, as Senator MOYNIHAN put it, "* * * there is a case to be made that we are moving even closer to a war that will undo what all the other sciences—and the arts and letters, as well, have done over the last few thousand years."

In this very thoughtful speech Senator MOYNIHAN examines the intellectual basis of arms control and analyzes the debate on SALT and the nuclear freeze. He laments the lack of greater public participation in the past in the issue of nuclear arms control. Referring to the impact that the new nationwide grassroots movement for a nuclear weapons freeze is having, he states: "Nothing so powerful and potentially important has occurred in our experience of this issue."

Mr. President, I ask unanimous consent that the full text of Senator MOYNIHAN's speech be printed in the CONGRESSIONAL RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FROM TREATY TO EXECUTIVE AGREEMENT: A PATH TO PEACE THROUGH SALT II

(Address by Senator DANIEL PATRICK MOYNIHAN)

For some thirty years now, in and out of governments and universities, and never so much as during the five years I've been in the Senate, I have been engaged professionally in what I might call efforts to solve social problems. Some relatively small problems (finding funding for the Center for Inter-Cultural Studies at Harvard, trying to

persuade successive Presidents that Social Security Cards should be printed on counterfeit-proof paper to reduce the incidence of fraud), and some very big problems indeed (drafting legislation to provide federal aid to local education during the Johnson administration; working on welfare reform in the Nixon administration; keeping diplomatic peace between India and the U.S. while in New Delhi).

All the while, I labored under the assumption that my formal training—and occasional employment—as a social scientist gave me a certain expertise in solving social problems. After all, in 1971 I was Vice President for the Social Sciences of the American Association for the Advancement of Science. I'd written books, taught at universities . . . given speeches—about how to solve social problems, or at least about how to identify them.

A few weeks ago, however, a disconcerting little essay came across my desk that has left me wondering. It asked a question that you, social or natural scientists as you each may be planning to be, might do well to ask yourselves: "Are Social Problems Problems that Social Science Can Solve?"

It was written by Herbert A. Simon, of Carnegie-Mellon University, recipient of the Nobel Memorial Prize in Economic Science, a man also distinguished in the fields of psychology, administrative sciences, and artificial intelligence.

Simon addresses himself to the "three Big Problems mentioned in Revelations: War, Famine, and Pestilence," to which he refers by the less flamboyant contemporary appellations of War, Poverty and Disease. Disease, it appears, modern man has at one level largely licked, although other social problems, such as overpopulation, arise in consequence. Poverty we've done a bit less well with (to some degree precisely because of our success in the elimination of disease in this country and around the world), but progress can be demonstrated.

War? Well, as Simon puts it:

"War is generally (though not universally or unequivocally) regarded as a state to be avoided. Some would avoid it at any cost; others would accept it, reluctantly, if the costs of the alternatives were too high. (Yet) Almost no one thinks the probability of its occurring—even in the form of nuclear war—is very low."

Indeed, despite diligent effort by increasingly sophisticated scholarship in this field, there is a case to be made for the argument that we are moving ever closer to a war that will undo what all the other sciences—and the arts and the letters, as well, have done over the last few thousand years.

So not only the aspiring political scientists among you, but the others as well, might well want to wonder whether War is a social problem susceptible to solution by social science. For, regardless of the wisdom of it, we certainly seem to be relying by and large on social science to forestall the holocaust.

Indeed, in the history of the race, there cannot ever have been a subject of such importance that has been for so long the domain of such a tiny band of intellectuals. Most of them university-based, yet moving in and out of government, they devised the strategic doctrines which guided the development of our nuclear forces during the long post-Hiroshima generation. Interestingly, historians of the subject frequently turn to theological analogies when discussing these men and their work. Thus John Newhouse writes in Cold Dawn:

"As in the case of the early Church, contending schools form around antagonistic strategic concepts. The most relevant of these are known as assured destruction and damage limitation, and each can claim broad support and intellectual respectability. Debates between the two schools recall those between the Thomists and the essentially Franciscan followers of Duns Scotus."

The public was not involved, nor did it feel involved. I offer an example. In the course of 1979, the year the SALT II Treaty was submitted to the Senate, I became persuaded that the SALT "process" either had become or was becoming its own nemesis. The Strategic Arms Limitation Talks had been launched in the mid-1960's in hopes that the growth in nuclear arsenals could be capped, then one day reversed. Yet the SALT ta'ks were producing outcomes exactly opposite to those they nominally sought. The process was hardly limiting, and not at all reducing, nuclear arsenals. Somewhere along the way, or so it seemed to me, there has been a leakage of reality on the part of those charged with arms control. They had commenced to monitor the arms buildup, even at times to point it in particular directions, rather than to end or reverse it.

Now this kind of systematic disorder is not unknown to social science. A reasonable response is to try to shock the system into self-awareness by proposing a wholly new approach to the problem in question. So I decided to try to focus attention on some very important fine print in the SALT II Treaty that had largely been overlooked.

One of the concluding articles of SALT II (Article XIV) provided that the next treaty would ordain ". . . further measures for the limitation and reduction of strategic arms. . . ." A joint statement accompanying the treaty spoke of "significant and substantial reductions."

On August 1, 1979, I proposed an amendment to the Treaty requiring that these reductions be agreed to by a date certain, else the Treaty would expire. (Specifically December 31, 1981, the end of what was to have been the first phase of the five-year agreement.) I set about testifying, speaking, writing, all to this one plain point.

And the response? During 1979 I received more letters from New Yorkers on the Alaskan timberwolf than on SALT II. The people, simply, were not involved.

Now they are. People, as Michael Polanyi used to say with disarming simplicity, change their minds. The subject is now of the widest interest and most passionate concern.

And it is an issue that will not go away; government will hereafter have to respond to the people. Just yesterday, the People of Wisconsin went to the polls in record numbers to vote YES overwhelmingly to a referendum question asking whether it is the desire of the people of Wisconsin to have the government of the United States work vigorously to negotiate a mutual nuclear weapons moratorium and reduction, with appropriate verification, with the Soviet Union and other nations?

The question was do they want a Freeze, and 3 to 1 they said "yes."

The Senate has responded. The President has responded. The Soviets, for that matter, have responded. Nothing so powerful and potentially important has occurred in our experience of this issue.

Nor, to some, anything so disconcerting. The fear exists, and it should be acknowledged, that a mass movement calling for nuclear arms reductions must inevitably have greater influence on the democratic party to the negotiations than on the totalitarian party.

Such concerns are not to be dismissed. Persons demanding an end to the arms race could usefully be reminded that, in this life, good will is not always rewarded. Those of retentive memory will recall events which occurred during the Holy Year 1500. Cesare Borgia, at the head of the forces of Pope Alexander VI (who happened also to be his parent), had set out to lay siege to Camerino in an outlying region of the Papal States. His march took him in the direction of the prosperious city of Urbino, whose Duke happened to possess the finest artillery in Italy at the time. Borgia asked to borrow this new weapon system. The Duke, by all accounts a pious and learned man, agreed. Whereupon Borgia laid siege to Urbino instead, and forced the Duke to flee into exile.

There is a responsibility, then, to speak to the present movement, as well as for it. It is a responsibility that requires the closest attention to diplomatic history and political science. Inexact and incomplete as both may be, they are all we have.

Three propositions come to mind.

The first is that the Soviet Union is now entering yet another transition crisis. General Secretary Brezhnev, having reigned almost two decades, is old and in ill health. In the West, and for that matter in the East, the process by which a successor emerges is poorly understood, but we do know the process is under way. There has been a suicide. A charge of corruption involving a circus performer who happens also to be a friend of Brezhnev's daughter. A satirical article critical of old men who try to hold on to power too long has appeared in a Leningrad literary journal. Names appear—that of Andropov, recently promoted from head of the KGB, is increasingly prominent among them. To emphasize the mystery of the matter, this last development might be a positive outcome for purposes of arms control, in that such a person might be able to consolidate power more quickly than has been the Soviet pattern. Even so, a period of relative weakness at the center is now inevitable.

Meantime, the United States has proposed that the Soviet Union give up a formidable number of weapons they now possess, essentially on the understanding that we will neither develop nor deploy their counterparts. To them, in Leslie Gleb's nice phrase, it is 'a proposal to trade the present for the future.' More specifically, of course, it is a proposal to trade their military present for our military future.

In the most democratic of nations this is a decision in which the military must be involved. But in a totalitarian state such as the Soviet Union it is a judgment which in normal circumstances actually must originate with them. Thus it can be argued that the SALT process to date has moved at the pace—and in the direction—the Soviet military has desired. To propose to reverse that direction would involve a huge risk by any General Secretary of the Communist Party—almost surely an unacceptable or an unsuccessful one for a leader caught up in the four to five year period of consolidating power that Soviet transition seems to require.

I make this argument even to the point of admitting that it casts doubt on the viability of the amendment I proposed in 1979. By now Mr. Brezhnev and an American President might already have agreed to the "significant and substantial" reductions in nuclear weapons the amendment would have required. It is doubtful Mr. Brezhnev still

has that power, and more doubtful still that anyone will attain to it for some years to come.

So we must tell the American people that arms reduction will be a test of our patience as well as our will. And to the degree that our will is strengthened by a heightened sense of the danger, it will be a test of our nerve also, for the most hopeful outcome would be to see some results—real results—by the end of the decade.

A second proposition is that in some form the United States must declare its acceptance of SALT II. It is not enough more of less to abide by it, as both we and the Soviets more or less are doing. The Soviet leadership negotiated the Treaty with three Presidents. President Carter clearly accepted it for the United States, but then the Senate demurred. Now if we find Soviet ways mysterious, so surely must they find ours. How are they not to suspect a change in United States policy, even perhaps an elaborate, if as yet undeciphered, deception?

The Senate is not discharged of its responsibilities with respect to SALT II. As a body we have never presented, even to our own nation, an account of what we did or, more accurately, did not do. We have never, as a body, even debated the Treaty, much less have we voted on it.

The sequence of the Soviet invasion of Afghanistan during Christmas week of 1979 and President Carter's request that we set the treaty aside continues to obscure the fact that the treaty as such had already failed. I was a member of a small group of Senators favorably inclined toward SALT who would meet during 1979 to discuss its progress. Each of us had his own "count" of the probable outcome of a vote. I can tell you that mine never passed 20 votes for ratification, and none that I know of ever passed much above 40. The resolution of ratification, of course, would have required the votes of two-thirds of the Senators present and voting—67 were all to participate. The Afghanistan invasion in a sense saved SALT II, for it was never rejected, as it might well have been, and the parties act to a significant extent as if it had been ratified.

Is not a more positive response possible? Recall that, from the time Adlai Stevenson raised the issue in the 1956 Presidential campaign, or for that matter from the time President Truman offered, with certain conditions, to turn the atom bomb over to the United Nations, the United States has been the primary source of ideas and action with respect to nuclear arms control.

President Reagan at Eureka college has made the boldest proposal ever, though this comes in the aftermath of an extended break in our traditional forthcoming position. Andrei Sakharov, the distinguished recipient of the Nobel Peace Prize, (there is no nobler spirit in the world today) seemed to address himself to this very point a few weeks ago when he said, in a letter to the Pugwash Conference on Science and World Affairs:

"(T)he principle of resolving conflicts peacefully and by compromise . . . remains the only alternative to global destruction. The problems of peace, international security and disarmament have absolute priority over other problems, including some which are extremely important. Disarmament negotiations must be held constantly and persistently despite all the difficulties entailed."

I should point out, to do justice to Dr. Sakharov's extraordinary letter, that he also insisted that these constant and persistent arms control negotiations "should be supplemented by a number of other elements," including most prominently a restoration of "strategic parity in the field of conventional weapons"—a point with which it would not be possible to disagree. Negotiations toward arms reductions must remain our object. Unless we do something to recover our previous momentum, the unratified SALT II will haunt the coming negotiations.

Last May, in an address at Marquette University entitled "From Here to There: SALT to START," former Secretary of State Muskie suggested that Congress pass and the President sign a Joint Resolution declaring that we will abide by the Treaty so long as the Soviets do. I suggest that we might go further, that it is possible for the Senate to indicate its willingness to have the substance of the treaty entered into as an interim executive agreement, to be effective during negotiation of a START treaty.

Some difficulties might arise if the administration goes forward with the "dense pack" proposal for deployment of the MX missile that seems to be preferred currently. But these surely can be overcome through further negotiations—the same negotiations as would probably be necessary to persuade the Soviets to come into compliance with the SALT II Treaty. Although it has not frequently been noted, if the Soviets were actually abiding by the treaty they'd have dismantled by now more than 250 strategic delivery systems that in fact remain in place.

I would, moreover, propose that Congress express its commitment to arms reductions at an early date—and provide an incentive—by adding to this joint resolution language substantially that of the amendment I proposed in 1979. Such an amendment would provide that the executive agreements on SALT II would expire by a date certain, say in two years, if a START treaty containing "significant and substantial" reductions had not been negotiated.

Would this diminish the authority of the Constitutionally prescribed ratification process? Yes. Is that a risk worth taking if the future of nuclear arms control is at stake? Again, yes.

It is not a step without precedent. SALT I was entered into by the United States in 1972 in the form of an interim executive agreement that was endorsed by both houses of Congress. (In September 1972, a Joint Resolution "authorizing the President's approval of the five year U.S.-Soviet agreement limiting offensive nuclear weapons" passed the Senate 88 to 2 and the House of Representatives 308 to 4.) If the President were to propose a similar route today I feel certain the Congress would support him.

So then to a third and concluding observation: It is absolutely necessary that this issue be raised above party politics. It it ever divides the parties and hence the people, we shall surely fail. The consequences will be dreadful and the responsibility will be ours.

Such a process of politicization began in the course of the Senate Committee deliberations on SALT II. Whereas SALT I had been approved almost unanimously, party dispositions for and against the second treaty were unmistakable. In the Senate Committee on Foreign Relations (on November 9, 1979), the Democrats voted 7 to 2 to recommmend ratification of the Treaty; Republicans voted 4 to 2 against. In the Senate Committee on Armed Services, on a motion to submit to the full Senate a report on the "Military Implications" of SALT II that was largely critical of the Treaty, Republicans voted 7 to 0 to submit the report, only 3 of 10 Democrats voted to do so (December 4, 1979).

As the 1980 campaign commenced, this division became more pronounced. The Democratic platform supported this treaty. The Republican platform declared it to be a form of "unilateral disarmament." I responded in the "defense speech," to the Democratic Convention by asking whether a "party that careless with words could be trusted with power." It was amidst charges by some that arms control would thereafter be abandoned altogether.

Fortunately, following elections a certain perspective reasserts itself. We have now much increased our defense budget—but don't forget that before the 1980 election we were already increasing it. In that sense there is a future which we can offer to trade the Soviets for whatever advantages they may have in the present.

Mr. Brezhnev professes to see in President's Reagan's Eureka College speech little more than a device "enabling Washington to continue its efforts to achieve military superiority over the Soviet Union." However these defense efforts are to be described, they are the work of both parties and successive administrations. Similarly, we are abiding by SALT II. That is the work of both parties. And leaders of both parties, and of course the President, have declared that our genuine and pressing goal is that of nuclear arms reductions.

The temptation is powerful to distinguish one arms reduction proposal from another, to invent a domestic "linkage" which favors one measure over another by dint of association with quite irrelevant matters. Opponents of school busing will be for one "freeze" resolution; friends of the Alaskan timberwolf for another. This threatens to trivialize a transcendent issue. It is a tendency that can be resisted, and ought to be.

For so much is at stake. The world is at stake. Any much will be tested, not least our political institutions. Not long ago we observed the bicentenary of the battle of Yorktown, at which American independence was finally ensured. We would do well to remember the scale of even epic battles in the age our political institutions were formed. Thirty-eight Americans died at Yorktown; 156 Britons. We thereupon adopted a form of government designed to deal with events of such scale. Time has taken us so far beyond that age as to have brought about a kind of transition crisis of our own. More than good will, something like courage is going to be required if we are to lead the world through this situation.

You can help. You have the vote, and you are finding your voice. Use both; use them well; use them without fail.

THE (ERISA) SINGLE EMPLOYER TITLE IV SITUATION

Mr. NICKLES. Mr. President, the current Fortune issue contains a fine article outlining the actual problems facing the Pension Benefit Guaranty Corporation. Since Mr. Edwin Jones assumed command at the PBGC in May, the Labor Subcommittee, the PBGC, the administration, the business community, and organized labor have been discussing proposed changes to the title IV, ERISA, guarantee pro-

gram designed to close the loopholes discussed in the article. I believe we are close to arriving at a fair and equitable solution—a solution that will not give rise to future problems like we have encountered with the 1980 Multiemployer Pension Plan Amendments Act.

I ask unanimous consent that the Fortune article be printed in its entirety for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW SICK COMPANIES ARE ENDANGERING THE PENSION SYSTEM

(By Geoffrey Colvin)

On August 20, three months after its celebrated bankruptcy, lawyers for Braniff International showed up in a Forth Worth federal court with more bad news. Four of Braniff's pension funds, it seems, needed at least $164 million to pay the employees all the future retirement benefits they had been promised. Unfortunately, the funds had assets worth only about $106 million. If the news caused any employees to reel with visions of living out their golden years in boxcars, they were surely relieved to learn that their pensions are safe—insured by the Pension Benefit Guaranty Corporation, which Congress created in 1974 for just such cases.

But while the future looks secure for Braniff pensioners, the PBGC's future is not. Assuming the court declares the pension funds in default, the PBGC will be hit with one of the biggest unfunded pension liabilities it has had to catch. The biggest so far is the $56 million it inherited following the failure of White Motor. Just two weeks ago another large plan went over with a heavy thud when Rath Packing, a long-troubled Iowa meat processor, told the PBGC it intends to fold its plan, which has an unfunded liability of $41 million. Smaller plans are also raining down on the PBGC in growing numbers—130 in the last 11 months—the result of business failures that have lately reached Depression-era levels. Up to now the PBGC has caught all the fallen plans, and there's no immediate danger of it collapsing under the strain. But the recent spate of defunct plans, plus the scarifying and hardly unthinkable prospect of a monster liability like Chrysler's coming in, have highlighted flaws in the pension insurance system. They have been there all along and could eventually threaten the PBGC's ability to do its job.

FIXES ARE IN THE WORKS

Several proposed solutions are now circulating in Washington, some of them in a bill before Senate and House committees. Regardless of which fixes are adopted, and some probably will be, it looks as if the private pension system is in for fundamental changes that will affect all companies with pension plans—and not just companies in trouble.

Congress begat the current worrisome situation when it passed the Employee Retirement Income Security Act in 1974. It meant well. Before ERISA, employees of a failed company like Braniff were usually left out in the cold. Further, it wasn't even necessary for a company to go bankrupt to strand employees without pensions they had been promised; the company could end its pension plan whenever it liked. The most notorious example occurred in 1963 when Studebaker closed its South Bend car factory and stopped payments to the seriously underfunded plan that covered the workers. Only those already retired or on the verge of retirement got the pension benefits they had been counting on. Others got only a fraction—or nothing.

Spurred by the Studebaker case and a tendency of some corporate managements to make bighearted pension promises their successors would have to fulfill, Congress decided to insure the type of private pension plan most workers rely on for retirement income. This is called a defined-benefit plan because the company promises the employee a specific pension, usually based on pay and years of service. Such plans now cover 36 million workers.

The PBGC's job is to act as an insurance company, collecting annual premiums from defined-benefit plans. A company can still walk away from an underfunded plan, but it must then hand over up to 30 percent of its net worth to repair the deficit. The PBGC fully guarantees only benefit promises that have been in effect for at least five years and guarantees them only up to certain limits. The insured amount is usually about 85 percent of the total benefits promised under a plan. Still, as retirees, most workers end up getting nearly all of what's promised to them. For a notable exception, see the box on the next page.

The system has worked fine so far, but it contains a couple of time bombs that could go off sometime soon. One is the premium setup, which has never made sense. From the beginning the annual premium per participant has been the same for all plans, ignoring the fact that some plans—such as those that have big unfunded liabilities and sick corporate parents—pose far greater risks to the system than others.

The PBGC should ask Congress for authority to make the system fair by imposing a risk-related premium. The agency has been reluctant to take on the job of assessing such risks, which is particularly tough but not undoable. The PBGC also argues that a truly fair premium for companies like International Harvester and Chrysler might lead them to terminate their plans. But the premium change could be phased in gradually, and over time would encourage all companies to put their plans on a sound footing.

In addition, the premium has never been high enough. It started out at $1 a year for each worker covered and has since risen to $2.60 but still doesn't come close to generating the funds the PBCG might need. The agency estimates that by yearend its deficit—in essence, its own unfunded liability—will total $236 million. If any of those large plans in the table on the next page should fold, the PBGC's deficit could mushroom overnight.

BAILING OUT ON THE CHEAP

The second ticking bomb is the rule covering companies that end their plans. Having to turn over 30% of net worth sounds like quite a deterrent, but in some cases that provision encourages sick companies to end ailing plans. If a company has a plan with an unfunded liability of $50 million, for example, and its net worth is $30 million, it could end the plan, give $9 million (30% of $30 million) to the PBGC and be rid of a $50-million liability plus the annual contributions.

The only company that appears to have made it through the loophole so far is AlloyTek, a small producer of jet engine components in Grand Rapids, Michigan. In late 1979 AlloyTek ended its underfunded defined-benefit plan out of "economic necessity," according to President Ray Fountain, 44. "We were in very precarious financial straits," he says. "We had a big problem in borrowing because of our unfunded pension liability."

The plan was $4.5 million under water, and since the company said it had no net worth—30% of which obviously equals nothing—the PBGC, stood to inherit the whole liability. But when AlloyTek started a new plan, the PBGC refused to accept the liability of the old one, arguing that AlloyTek hadn't really dropped its retirement plan at all—just its liability. The PBGC settled some issues out of court last year on terms that seemed favorable to AlloyTek. The company agreed to drop its new plan but soon replaced it by contributing to Individual Retirement Accounts, which are free of PBGC regulations. The PBGC may still dispute AlloyTek's claim of no net worth, but whatever the outcome, the bulk of that $4.5-million liability now belongs to the PBGC. AlloyTek says chucking the liability saved its life.

TEMPTATIONS TO PASS THE PENSION BUCK

[In millions of dollars]

Company	Unfunded pension liability [1]	Cost to company if it abandons plan	Potential PBGC liability
Chrysler	1,658.2	211.1	575.1
Uniroyal	434.8	70.7	219.1
Wheeling-Pittsburgh Steel	292.0	21.2	175.5
International Harvester	560.4	48.5	86.4

[1] Estimated by Hewitt Associates.

Note.—Under present law, which urgently needs revision, many companies with underfunded retirement plans can come out strikingly ahead by unloading them on the government's Pension Benefit Guaranty Corporation. They have to cough up 30% of net worth, but for the companies shown here it might be a good deal.

INTERNATIONAL HARVESTER'S SHADOW

While AlloyTek's situation may have been unusually desperate, the looming possibility is that some of the biggest troubled companies might now follow the legal trail it has blazed. That possibility grew considerably more credible with Rath Packing's recent action, which was precisely along these lines. Its unfunded liability of $41 million compares with a net worth of about $1 million.

The move is still far from an easy out. A strong union might be able to cite a contract provision to block use of the loophole, and the action would hardly enhance a company's reputation as a keeper of its word. But for some it could still be worth it. According to Dallas L. Salisbury, 33, director of a Washington think tank called the Employee Benefit Research Institute, the main reason for the current concern about the PBGC is "the fear of the Harvesters of the world voluntarily terminating their pension plans when they know that 30% of net worth may be a very good deal."

As the table shows, that could throw some painfully heavy liabilities onto the PBGC. There wouldn't be any immediate threat to the PBGC's ability to pay out benefits because those liabilities are spread over 40 or 50 years. The PBGC's present assets plus those it would take on would enable it to continue paying benefits for five years or more. But to avoid a cash crunch down the road, it would have to raise its premium now—and the increases could be dramatic. The PBGC has already asked Congress for an increase to $6 per covered worker. De-

pending on which plans were folded and when, it could have to ask for $10, $20, or more.

Those are still small sums compared with total pension costs, but companies with healthy plans could become indignant about subsidizing losers. Sound companies might move in increasing numbers to so-called defined-contribution plans, which have grown more alluring since ERISA was passed. Under them, an employer promises only to pay a certain amount into the fund every year, and the fund's assets are invested. How much a worker gets at retirement depends on how the investments are doing. Such plans are less regulated than defined-benefit plans and aren't insured by the PBGC.

With the strongest plans leaving the insurance system, the weak plans would be left to support each other, which obviously wouldn't work for long. Carried to its most chilling extreme, this scenario has the pension insurance system in ruins and Congress stepping in to guarantee pensions out of general tax revenues—in return, perhaps, for more regulatory power.

The PBGC's plight could get even worse unless the earning power of the pension funds remains at recent high levels. Interest rates have a powerful effect on the value of a pension plan's liabilities. Pension plan administrators must figure out how much they need today to cover liabilities that extend decades into the future—an amount called the present value of the benefits. When interest rates are extremely high, as they have been until recently, the present value of the benefits is relatively low because it takes a smaller portfolio of securities to yield enough income to meet the pension obligations. But when rates fall, the present value of benefits can skyrocket. The PBGC now assumes an 11% rate—the highest in its history, though it should eventually fall, as other rates have. Fortune has assumed a 10% rate in the table on page 74.

The precise relationship varies with each plan, but a drop in intrerest rates from 10% to 7%, for example, would in most cases raise the present value of the benefits by at least 50%. Of course, a drop in rates should also cause the pension fund's assets to increase in value—witness the recent stock market boom when rates tumbled—but in practice they don't increase as much as the liabilities. So while those potential PBGC liabilities in the table may look frighteningly large, they could easily get a lot larger.

Before they balloon would be the best time to fix the system with a few changes in the law. A risk-related premium is one needed reform, and another is to close that giant loophole through which companies can walk away from their plans. Congress could do that by requiring the PBGC to rescue a plan only when a company was truly defunct and in liquidation. If a company terminated its underfunded plan but stayed in business, it would have to make up the underfunding—completely—over a period of years. Even filing for bankruptcy wouldn't dump the liability on the PBGC, since a company could conceivably file, reorganize, return to health, and eventually get its pension plan back up to strength.

That proposal is part of a bill introduced in the Senate by Don Nickles, an Oklahoma Republican, and in the House by John Erlenborn, a Republican from Illinois. The proposal has the support of the Reagan Administration and the ERISA Industry Committee, a lobbying group of 115 major corporations with healthy pension plans that want to keep their premiums down. It is also backed by the U.S. Chamber of Commerce and the National Association of Manufacturers.

The bill includes other changes that aren't so strongly supported. It would in some cases give the PBGC the status of a general creditor when a company goes bust, an idea the PBGC is pushing but one that gives many executives the willies. It could make the unfunded pension liability of even a stalwart company a major factor in the company's ability to get credit.

The bill would also make it nearly impossible for a big company to sell or spin off a subsidiary with a weak plan and avoid all liability if the unit ends the plan or goes under. It's not clear that a company can expect to get away with this now, but a few have. The bill would make the parent liable for up to 15 years.

Though the bill probably won't go far this year, action next year seems likely to many pension lobbyists. But those less popular provisions would probably have to be watered down. As Dallas Salisbury notes, "They're controversial enough that they could readily keep you from getting a loophole closed—the main loophole."

MARRIAGE FOR KEEPS

If Congress manages to close the loophole it will deeply alter the relation between a company and its plan by completing a change that began with the passage of ERISA. Previously a company could set up a plan and then simply cast it aside if it became burdensome. ERISA still lets a company divorce its plan, but at a cost—forfeiting that 30% of net worth. The final step is to treat the pension promise like any other company promise to pay. Company and plan would be bonded, in effect, till death us do part.

The mere prospect of that is already causing companies to weigh their pension vows more seriously. Some now consider the plan an important element of finance rather than part of the "human resources" department. Other companies, shifting to defined-contribution plans, have decided not to make such vows at all.

While that trend worries the PBGC, there's a way to prevent the shift away from defined-benefit plans from growing into a stampede. That's to make the premium adequate and risk-related, and to put a stopper in the big loophole. The result would be a stronger and more equitable insurance system that would leave the PBGC—and most of those who pay its premiums—better off.

BARBARA DAYTON LEWIS

Mr. MATHIAS. Mr. President, I was saddened to learn of the death of Barbara Dayton Lewis, a valuable staff member of the Congressional Publications Office of the Joint Committee on Printing. She died suddenly at the age of 43 of a heart attack on September 18, 1982. To her mother, Nina Dayton, her brother, Dick, her daughter, Christine Good, and other family members, I extend my sincere sympathy.

Barbara joined the staff of the Joint Committee on Printing in 1972 after also having worked for the Committee on House Administration and the Federal Trade Commission. She was a mainstay in the compilation of many of the publications of the Joint Committee on Printing, including the "Congressional Directory" and the "Biographical Directory of the American Congress."

Barbara will be remembered by staffers on Capitol Hill for her two great loves: Porsche sports cars and the State of West Virginia. She was fortunate to combine her two passions almost every weekend as she hurried home to the mountains of Moorefield, W. Va., behind the wheel of her classic sports car. She was always proud to confess that she had never really left the country although she had lived in the Washington metropolitan area for over 20 years.

For her ready smile and enduring patience in dealing with the myriad organizations and individuals listed in the "Congressional Directory," for her professional commitment to the historical mission of her duties in assembling a biographical history of the Congress, and for her abiding faith in her religion and fellow man, Barbara will be greatly missed.

THE SUN, BALTIMORE, MD., EDITORIALLY ENDORSES A U.S. PEACE ACADEMY

Mr. RANDOLPH. The establishment of a U.S. Peace Academy is a subject which has been carefully considered and thoroughly discussed, especially in recent weeks in the Congress itself.

I commend the Sun, Baltimore, Md., in a well-reasoned editorial in its Sunday, September 19, issue which places in perspective a judgment which I believe is shared increasingly by concerned citizens throughout the United States.

The editorial is a constructive contribution to the discussion of the need for such an academy.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD in its entirety.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

"A NATIONAL PEACE ACADEMY"

This is a year that has produced a failure and a success in American efforts at mediating foreign wars. The failure came during the Falklands conflict, when former Secretary of State Alexander Haig tossed away his chances for a constructive role by siding openly with Britain against Argentina. The success came when the President's special envoy, Phillip Habib, doggedly probed for an end to the seige of Beirut by establishing his bona fides with all belligerent parties.

The importance of conflict resolution techniques in both these struggles is a powerful argument for congressional approval of a National Peace Academy to foster the art of coming to agreement—without resort to war.

Members of Congress who favor establishment of a National Peace Academy believe some of their forward movement this year is due to the very large and visible U.S. medi-

ating role in the Falklands and Beirut struggles. Despite administration resistance, 56 Members of the Senate have cosponsored a bill providing $31 million in startup money for a 2-year period. The Senate Labor and Human Resources Committee has approved the measure and it may—or may not—be brought to the floor before adjournment October 8.

On the House side, the proposal has attracted 135 sponsors. Even though the House is waiting for the Senate to act which means it is waiting until next year, the momentum is definitely with those backing a peace academy. Support comes not just from traditional peace groups, but from business organizations, military figures, and politicians right, left and middle.

A National Peace Academy obviously will not bring peace in a world plagued by incessant conflict. What it will do is provide a focus for increasingly sophisticated studies in conflict resolution. Congress should move to final passage next year.

Javier Perez de Cuellar, Secretary General of the United Nations said the other day that "we are perilously close to a new international anarchy." Propaganda debates in the General Assembly only cause more acrimony, he suggested. The better course would be informal discussions before crises erupt, he added, plus "a more careful study of the psychological and political aspects of problems." That sounds like a plea for more conflict resolution specialists from a beleagured Secretary General who should know.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on September 18, 1982, he had approved and signed the following joint resolution:

S.J. Res. 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution.

MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1628. An act to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052).

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4374. An act to improve the international ocean commerce transportation system of the United States; and

H.J. Res. 562. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

ENROLLED BILL SIGNED

At 1:10 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3517. An act to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS SIGNED

At 7:56 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 1628. An act to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052); and

H.R. 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

HOUSE JOINT RESOLUTION READ THE FIRST TIME

The following joint resolution was read the first time:

H.J. Res. 562. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4374. An act to improve the international ocean commerce transportation system of the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources:

Special Report on Allocation of Budget Totals by the Committee on Energy and Natural Resources (Rept. No. 97-563).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 4566. A bill to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes (Rept. No. 97-564).

By Mr. JEPSEN, from the Committee on Armed Services, without amendment:

S. 2936. An original bill to provide a 4-percent increase in the pay and allowances of members of the uniformed services, to make changes in certain elements of military compensation and in certain personnel programs, and for other purposes (Rept. 97-565).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 453. A resolution designating the week of October 3 through October 9, 1982 as "National Productivity Improvement Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 473. An original resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 675; referred to the Committee on the Budget.

S. Res. 474. An original resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 241; referred to the Committee on the Budget.

S. Res. 475. An original resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4476; referred to the Committee on the Budget.

By Mr. JEPSEN, from the Committee on Armed Services, without amendment:

S. Res. 476. An original resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2936; referred to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and an amendment to the title and with a preamble:

S.J. Res. 178. Joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 225: Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment and with a preamble:

S.J. Res. 250. An original joint resolution to provide for the resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes; considered and agreed to.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Fernando E. Rondon, of Virginia, a career member of the Senior Foreign Service, Class of Counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar

year of the nomination and ending on the date of the nomination.

Nominee: Fernando E. Rondon.

Post: Comoros.

CONTRIBUTIONS, AMOUNT, DATE, DONEE

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Henry Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Henry Allen Holmes.

Post: Ambassador to Portugal.

Contributions amount, date, donee.

1. Self, none.
2. Spouse, none.
3. Children and spouse none.
4. Parents names, deceased.
5. Grandparents names, deceased.

Brothers and spouses names, Mr. and Mrs. Richard P. Holmes, $50.00, 1982, J.C. Helms, Republican for Congress from Houston.

7. Sisters and spouses names, none.

Rozanne L. Ridgway, of the District of Columbia, a career member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Rozanne L. Ridgway. Post: Ambassador to the German Democratic Republic.

Contributions, Amount, Date, Donee.

1. Self, none.
2. Spouse, N/A.
3. Children and Spouses Names, N/A.
4. Parent Names, Mrs. H. Clay Ridgway, None, 818 Fry Street, St. Paul, Minn. 55104.
5. Grandparents Names, All deceased.
6. Brother and Spouses Names, Robert E. Ridgway, 111 E. Kellogg, Apt. 3212, St. Paul, Minn. 55101, None.
7. Sisters and Spouses Names, N/A.

W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs;

Kenneth W. Dam, of Illinois, to be Deputy Secretary of State;

The following to be Members of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency:

William Robert Graham, of California;
Colin Spencer Grey, of New York;
Roland F. Herbst, of California;
Francis P. Hoeber, of Virginia;
Charles Burton Marshall, of Virginia;
Jaime Oaxaca, of California;
Shirley N. Pettis, of California;
John P. Roche, of Massachusetts;
Donald Rumsfeld, of Illinois;
Harriet Fast Scott, of Virginia;
Laurence Hirsch Silberman, of California;
Elmo Russell Zumalt, Jr., of Virginia;
Eli S. Jacobs, of California; and
Robert B. Hotz, of Maryland.

Edwin J. Feulner, Jr., of Virginia, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985;

W. Scott Thompson, of Massachusetts, to be an Associate Director of the U.S. Information Agency.

The following-named persons to be representatives and alternate representatives of the United States of America to the Thirty-seventh Session of the General Assembly of the United Nations:

Representatives:

Kenneth L. Adelman, of Virginia.

J. Bennett Johnston, United States Senator from the State of Louisiana.

Robert W. Kasten, Jr., United States Senator from the State of Wisconsin.

Jeane J. Kirkpatrick, of Maryland.

John Davis Lodge, of Connecticut.

Alternate Representatives:

Charles M. Lichenstein, of the District of Columbia.

Gordon C. Luce, of California.

Hernan Padilla, of Puerto Rico.

William Courtney Sherman, of Virginia.

Jose S. Sorzano, of Virginia.

The following-named persons to be the representative and alternate representatives of the United States of America to the Twenty-sixth Session of the General Conference of the International Atomic Energy Agency:

Representative:

W. Kenneth Davis, of California.

Alternate Representatives:

Richard T. Kennedy, of the District of Columbia.

Roger Kirk, of the District of Columbia.

Thomas Morgan Roberts, of the District of Columbia.

Mr. PERCY. Mr. President, for the Committee on Foreign Relations, I also report favorably three nomination lists in the Foreign Service which were previously printed in full in the CONGRESSIONAL RECORDS of September 8, 13 and 17, 1982, and, to save the expense of reprinting them on the Executive Calendar ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary,

Edward Rafeedie, of California, to be U.S. district judge for the central district of California;

David D. Dowd, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio; and

Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EAST:

S. 2934. A bill to prohibit the growing of marihuana on Federal land; to the Committee on the judiciary.

By Mr. SASSER:

S. 2935. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against tax with respect to the employment of certain unemployed individuals; to the Committee on Finance.

By Mr. JEPSEN from the Committee on Armed Services:

S. 2936. An original bill to provide a 4 percent increase in the pay and allowances of members of the uniformed services, to make changes in certain elements of military compensation and in certain personnel programs, and for other purposes; placed on the calendar.

By Mr. HATCH from the Committee on Labor and Human Resources:

S.J. Res. 250. An original joint resolution to provide for the resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself and Mr. KENNEDY):

S. Res. 472. A resolution to preserve and protect Medicare benefits; to the Committee on Finance.

By Mr. THURMOND from the Committee on the Judiciary:

S. Res. 473. An original resolution waiving section 402 (c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 675; to the Committee on the Budget.

S. Res. 474. An original resolution waiving section 402 (c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2411; to the Committee on the Budget.

S. Res. 475. An original resolution waiving section 402 (c) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4476; to the Committee on the Budget.

By Mr. JEPSEN from the Committee on Armed Service:

S. Res. 476. An original resolution waiving section 402 (c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2936; to the Committee on the Budget.

By Mr. HART:

S. Con. Res. 123. A concurrent resolution expressing the sense of the Congress with respect to a means test for the Medicare program; to the Committee on Finance.

By Mr. SASSER:

S. Con. Res. 124. A concurrent resolution concerning the Administration's study of hydroelectric power; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAST:

S. 2934. A bill to prohibit the growing of marihuana on Federal land; to the Committee on the Judiciary.

LEGISLATION PROHIBITING GROWING OF MARIHUANA ON FEDERAL LAND

● Mr. EAST. Mr. President, the growing of marihuana on Federal land is a problem that has been increasing rapidly in recent years. In one recent incident in the Ozark National Forest, law enforcement agents found marihuana plants worth an estimated $20 million being cultivated on 100 plots of remote land within the park.

While there are currently provisions in title II of the Controlled Substances Act that are arguably applicable to the cultivation of marihuana on Federal land, the problem is developing so rapidly that clearer legislative prohibitions on this activity are needed to enable effective prosecutions and convictions of lawbreakers engaging in this activity. I am therefore introducing a bill to prohibit the growing of marihuana on Federal land and to establish penalties for the offense.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2934

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That this Act may be cited as the "Marihuana Cultivation on Federal Lands Crime Act of 1982".

SEC. 2. Title 18 of the United States Code is amended by adding the following section:

"SEC. . (a) It shall be unlawful for any person knowingly of intentionally to plant, grow or cultivate marihuana on federal land unless authorized by a provision of federal law. Any person who violates this section shall be sentenced to a term of imprisonment of not less than one year and not more than fifteen years, and a fine of not less than $10,000 and not more than $15,000,000. Any person who, having previously been convicted of a violation of this section, again violates this section shall be sentenced to a term of imprisonment of not less than ten years and not more than thirty years and a fine of not less than $100,000 or not more than $30,000,000."

(b) The section analysis of chapter of title 18 of the United States Code is amended by inserting at the appropriate place the following item:

" . Prohibition against growing marihuana on federal lands; penalties."●

By Mr. SASSER:

S. 2935. A bill to amend the Internal Revenue Code of 1954 to provide for a credit against tax with respect to the employment of certain unemployed individuals; to the Committee on Finance.

TARGETED JOBS TAX CREDIT ACT AMENDMENTS OF 1982

● Mr. SASSER. Mr. President, last week the Labor Department reported that initial claims for unemployment benefits rose to 658,000 in the first week of September. This figure was the sixth consecutive increase in initial claims and represents the highest such figure since the start of this recession well over a year ago.

This gloomy news from the Labor Department makes it highly probable that the unemployment rate will exceed 10 percent in September. This would be the first time since the Great Depression that unemployment has reached such agonizing levels. This figure translates into more than 10 million Americans out of work and clearly indicates that we are not recovering from the recession as many in the administration would have us believe.

In reporting these figures last week, the Washington Post cited a study done by Data Resources, Inc. which indicates that businesses will probably face even more layoffs in the near future.

In response to the increasing unemployment created by the administration's economic program I am offering today a bill, S. 2935, which will provide some immediate and direct relief from our current unemployment problems.

S. 2935 proposes the creation of another target group under the targeted jobs tax credit section in the Internal Revenue Code. This bill would allow a targeted job tax credit for employers who hire individuals who have been unemployed since January 1, 1982 or who have exhausted all of the available unemployment benefits.

S. 2935 would also increase the tax credit to 65 percent for those labor market areas where the unemployment rate has averaged in excess of the national unemployment rate for 3 consecutive months. In Tennessee, the preliminary unemployment figures for July showed that 85 out of 95 counties had an unemployment rate above the national average.

This bill also seeks to aid those businesses hardest hit by the current recession, the small business community. If the employer who takes advantage of this provision is a small business as defined by 15 U.S.C. 632, the tax credit will be 75 percent.

As the first Member of Congress to introduce legislation for small business direct expensing and as a leading advocate of the prompt payment concept, I am well aware of the impact we can have on small business through progressive fiscal legislation. S. 2935 is another vehicle by which we can show our continued commitment to the interests of small business.

This bill also has the effect of rolling back some of the adverse impact that recent legislation and administration policy has had on the small business community. In particular S. 2935 helps negate the potentially devastating impact of the increase in unemployment tax contained in H.R. 4961.

I feel this small business provision is further warranted when one considers the insignificant tax cuts and incentives currently given to small businesses. A recent Congressional Research Service study indicated that estimated tax benefits to small business in 1981 were only 18 percent of the total in tax cuts. This figure is projected to shrink to 12.7 percent this year and sink further to 9.2 percent by 1986.

The reduction in production costs created by S. 2935 will help stem the tide of business failures we are currently experiencing. Last year we had over 17,000 business failures. By the end of this month we will have already surpassed that figure for 1982. Hopefully, the targeted job tax credit for the unemployed will allow small businesses and other concerns to hire back some of the employees they have had to let go. In the future as the economy begins to recover, this bill will help reduce the rate of unemployment more rapidly.

In conclusion S. 2935 reaches out to several segments of our society at a time when relief is urgently needed. While others have turned their backs or offered no more than rhetoric or pleas to be patient, I am taking a constructive step towards economic rehabilitation for small businesses and our Nation's unemployed. I strongly urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the text of S. 2935 be printed in full at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Targeted Jobs Tax Credit Amendments Act of 1982".

SEC. 2. TAX CREDIT FOR HIRING OF CERTAIN UNEMPLOYED INDIVIDUALS.

(a) QUALIFIED UNEMPLOYED INDIVIDUAL.—Paragraph (1) of section 51(d) of the Internal Revenue Code of 1954 (defining members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof ", or"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) a qualified unemployed individual.".

(b) DEFINITION AND SPECIAL RULES.—Subsection (d) of section 51 of such Code is amended—

(1) by redesignating paragraphs (13), (14), (15), and (16) as paragraphs (14), (15), (16), and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) QUALIFIED UNEMPLOYED INDIVIDUAL.—

"(A) IN GENERAL.—The term 'qualified unemployed individual' means an individual who is certified by the designated local agency as—

"(i) unemployed since January 1, 1982 or,

"(ii) having exhausted all rights to regular unemployment compensation under a State law approved by the Secretary pursuant to section 3304, and

"(iii) having no rights—

"(I) to unemployment compensation (including both regular compensation and extended compensation) under such law or any other State unemployment law, or

"(II) to compensate under any other Federal law (including the Federal Supplemental Compensation Act of 1982),

with respect to the week immediately preceding the date on which such individual was first employed by the taxpayer (and as not being paid or entitled to be paid any additional compensation under such State or Federal law with respect to such week).

"(B) EXHAUSTION OF BENEFITS DEFINED.—For purposes of subparagraph (A)(ii), an individual shall be deemed to have exhausted his right to regular compensation under a State law when—

"(i) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

"(ii) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

"(C) AMOUNT OF CREDIT INCREASED IN CERTAIN CASES.—For purposes of applying this subpart—

"(i) in the case of a taxpayer which—

"(I) is located in a labor market area determined by the Secretary of Labor to have a rate of unemployment in excess of the average national rate of unemployment for each of the three months immediately preceding the date of enactment of this paragraph, and

"(II) employs a qualified unemployed individual who resided in such area prior to the date on which such individual was hired by such taxpayer,

subsection (a)(1) shall be applied by substituting '65 percent' for '50 percent'; and

"(ii) in the case of a taxpayer that is a small business concern (within the meaning of section 3(a) of the Small Business Act (15 U.S.C. 632(a)), subsection (a)(1) shall be applied by substituting '75 percent' for '50 percent'.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Clause (ii) of section 51(d)(12)(A) of such Code (relating to qualified summer youth employee) is amended by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

(b) Subparagraph (C) of section 51(d)(12) of such Code is amended by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

SEC. 4. EFFECTIVE DATES.

The amendments made by this Act shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years beginning after such date and before the close of the first calendar year after such date in which the national unemployment rate equals 6.5 percent or less as determined by the Department of Labor.●

ADDITIONAL COSPONSORS

S. 894

At the request of Mr. CANNON, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 894, a bill to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976.

S. 2061

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2572

At the request of Mr. THURMOND, the names of the Senator from Colorado (Mr. ARMSTRONG) and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

S. 2624

At the request of Mr. DECONCINI, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2624, a bill to amend section 1407(h) of title 28, United States Code, to permit the consolidation of civil antitrust actions for trial.

S. 2784

At the request of Mr. DECONCINI, the names of the Senator from Georgia (Mr. NUNN) and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2902

At the request of Mr. THURMOND, the name of the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

SENATE JOINT RESOLUION 178

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 235

At the request of Mr. HELMS, the names of the Senator from Alabama (Mr. DENTON), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of Senate Joint Resolution 235, a joint resolution to proclaim March 21, 1983, as "National Agriculture Day."

SENATE JOINT RESOLUTION 240

At the request of Mr. BOREN, the names of the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. PRYOR), the Senator from Mississippi (Mr. STENNIS), the Senator from Nebraska (Mr. EXON), the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. MATTINGLY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Indiana (Mr. LUGAR), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Idaho (Mr. SYMMS), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of Senate Joint Resolution 240, a joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

SENATE JOINT RESOLUTION 245

At the request of Mr. KENNEDY, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Mr. SARBANES), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 245, a joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

SENATE CONCURRENT RESOLUTION 122

At the request of Mr. BURDICK, the names of the Senator from Rhode Island (Mr. PELL), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Concurrent Resolution 122, a concurrent resolution relating to the processed product share of U.S. agricultural exports.

SENATE CONCURRENT RESOLUTION 123—CONCURRENT RESOLUTION RELATING TO THE MEDICARE PROGRAM

Mr. HART submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 123

Whereas the health insurance program for the aged and disabled under title XVIII of the Social Security Act, popularly known as the Medicare program, was created to provide basic health care coverage for elderly and disabled Americans;

Whereas 25.9 million elderly Americans and 3 million disabled Americans are protected by the Medicare program;

Whereas last year's budget cuts resulted in a substantial reduction in Medicare benefits and an increase of 27 percent in the amount of out-of-pocket expenditures of elderly Americans for health care;

Whereas Medicare cuts enacted this year totalled $2.7 billion for fiscal year 1983 and $12.1 billion fiscal years 1983, 1984, and 1985;

Whereas many other Government benefits for older Americans, providing for the basic essentials of life, including nutrition, housing, and low-income energy assistance program, have already been drastically reduced;

Whereas the Medicare program is not a welfare program, but is principally funded from the share of the Social Security payroll taxes which go into the Hospital Insurance Trust Fund;

Whereas workers who contribute to the Hospital Insurance Trust Fund are relying on the Government to fulfill its commitment to provide health care coverage when they retire or become disabled;

Whereas health care costs are increasing much faster than the inflation rate, with the elderly and disabled Americans especial-

ly burdened by inflation in health and hospital care;

Whereas the institution of a means test for the Medicare program would significantly alter the philosophical underpinnings of the Medicare program from an insurance program to a welfare program;

Whereas the institution of a means test as a condition for receiving Medicare benefits would be tantamount to a cut in Social Security benefits, be contrary to the best interests of millions of elderly and disabled Americans, and seriously jeopardize the availability of health care for them; and

Whereas the prospect of a means test for Medicare benefits has alarmed many older Americans and may have undermined their confidence in the Medicare program; Now, therefore be it:

Resolved by the Senate (and the House of Representatives concurring), That it is the sense of the Congress that the establishment of a means test for receiving Medicare benefits would be a breach of faith with the American public and that the Medicare program should remain free from a means test.

Mr. HART. Mr. President, today I am submitting a sense of the Congress resolution designed to send the administration a clear signal that a means test should not be incorporated into the medicare system.

The Reagan administration's record on elderly issues has been one long series of ill-conceived and inadequately considered efforts to retreat from some of our Government's most solemn commitments. The situation we face today—reports that OMB is considering the imposition of a means test for medicare benefits—is particularly offensive. Even if this proposal dies a well-deserved death on the vine, as I suspect it will, it has further eroded the confidence our Nation's senior citizens have in their Government. Much of the damage has already been done.

Is this the proper way to treat our elderly? Is this our Government's way of saying thanks to the millions of Americans who made this Nation what it is—worked in our factories, plowed our fields, and fought our world wars? Is this what the President meant when he said: "We want the elderly to know they have a government and a citizenry that cares about them and protects them?"

The establishment of the medicare system in 1965 stands as a remarkably decent and honorable way of recognizing both the contributions our elderly have made to society and the fact that their medical needs greatly exceed those of the population as a whole. It is a straightforward insurance program, and it has worked well.

Yet, because the administration has been unable to address effectively the issue of accelerating medical care and hospital costs, the Office of Management and Budget now proposes that medicare recipients should bear the brunt of further spending cuts. Once again, OMB wants to ask the most vulnerable segment of our society to pay a disproportionate share of the cost of our inability to reform an entire system that is not working efficiently. And further, OMB has once again taken it upon itself to perpetuate a major public policy change—without consulting anyone concerned or involved, including the agency administering medicare.

A means test for medicare is not fair; it is not right; and it is not equitable. Our senior citizens should not have to pay for a failed economic policy. Medicare is one of our Government's most important insurance programs, and it cannot become a welfare program.

I ask my colleagues to join me in sending a clear message to the administration that a means test for medicare is unacceptable.

SENATE CONCURRENT RESOLUTION 124—CONCURRENT RESOLUTION CONCERNING STUDY OF HYDROELECTRIC POWER

Mr. SASSER submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works;

S. CON. RES. 124

Whereas, the Public Power authorities of this country, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, the Western Power Administration, the Alaska Power Administration, the Tennessee Valley Authority, and the Corps of Engineers, recognize their obligation to provide hydroelectric power to their consumers at cost;

Whereas, the Tennessee Valley Authority, by its charter, is required to market power to its consumers at the lowest possible cost;

Whereas, the Tennessee Valley Authority is presently repaying its federal investment at current rates of interest;

Whereas, any changes in the pricing practices of the public power authorities of this country which increase the cost of public power for the consumers would adversely affect the economic well-being of the regions served;

Whereas, any changes in the Tennessee Valley Authority which affect power pricing practices would alter the public power tradition of the Tennessee Valley Authority; Now, therefore, be it

Resolved, That it is the sense of the Congress that—

(1) the consumers of public power in this country, and especially those in the Tennessee Valley, are well served by the existing public power authorities' pricing traditions;

(2) any changes in the public power pricing would adversely affect the ability of public power authorities to provide hydroelectric power to their consumers at cost;

(3) any changes in the public power pricing practices is a matter that should be the subject of extensive Congressional deliberation by the Congressional Committees having jurisdiction; and

(4) the current Administration study of the hydroelectric power policies of the Tennessee Valley Authority, other public power authorities, and federal agencies, shall cease and desist, until such time as Congress has duly considered this subject.

● Mr. SASSER. Mr. President, I rise today to submit Senate Concurrent Resolution 124 which expresses the sense of the Congress that the administration should cease and desist in its backdoor study of the hydroelectric pricing policies of the Tennessee Valley Authority and other public power marketing authorities, and Federal agencies throughout the country.

The administration is now engaging in a rather clandestine effort to lay the groundwork for revising the power pricing policies of the TVA and other power authorities and agencies.

Currently by law, the Tennessee Valley Authority, the five public power marketing authorities, and the Corps of Engineers market their hydroelectric power at cost to consumers within their jurisdiction. This reflects the public power philosophy of the TVA and these other agencies. It has long been determined that this pricing policy is in accord with the principle that public power belongs to all the people, and that it is not desirable for such power to be sold at a profit. Rather the power should be sold at cost with the marketing agency recouping the public investment in the production of power and no more.

Rising power rates are a problem for all areas of the country. And the Tennessee Valley is no exception to this trend.

Indeed, it is estimated that if the hydroelectric power marketed by the TVA were sold not at cost but on some other basis which incorporates other pricing considerations, then power rates in the TVA would increase by some $400 million a year or an average annual increase of some 25 percent. This is a power rate increase that would be devastating to the businesses and consumers served by the Tennessee Valley Authority. And I would imagine similar rate increases would occur in the other public power marketing authorities throughout the country.

Mr. President, I am deeply distressed that according to various reports that I have received, the administration is embarking on this study in an effort to raise additional power revenues as a means of reducing the bulging Federal deficit which is estimated to reach around $155 billion this current fiscal year.

The administration has not sought to consult with the Congress on this matter. They have apparently misunderstood the deep commitment to public power held by many, many Members of the Congress. Therefore, it appears that the administration is going to continue onward with their hydroelectic power pricing studies with little thought being given to the economic impact of changing these prices for the families and businesses that now consume hydroelectric power produced from Federal facilities and

marketed by the TVA and the five public power authorities.

So, Mr. President, I am offering this concurrent resolution today which expresses the Congress basic commitment to the traditions of public power and which calls for the administration to cease and desist with its current study of hydroelectric power pricing until the duly authorized committees of the Congress have had the opportunity to study this issue in all its ramifications.

The tradition of public power should not be undone by a backdoor economic study conducted by the administration, and I welcome my colleagues' cosponsorship of Senate Concurrent Resolution 124 so that we may send a message to the administration to cease this study and more properly make their concerns in this matter known to the duly authorized committees of Congress.

For the record, Mr. President, I am also today submitting an amendment to the 1983 Treasury, Postal appropriations bill for fiscal year 1983 which is designed to prevent any further funding for this study which is being conducted under the aegis of the Council of Economic Advisers.

If any of my colleagues wish further information on this matter, I would urge that their staff call Ms. Nanette Gandy of my staff at extension 49547.●

SENATE RESOLUTION 472—RESOLUTION RELATING TO MEDICARE BENEFITS

Mr. MOYNIHAN (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 472

Whereas the United States Congress established the social security system in 1935 to provide for the general welfare by establishing a system of Federal old-age benefits; and

Whereas medicare was made part of the social security system by Act of Congress in 1965 to provide for the general welfare through a system of health benefits for all aged and disabled; and

Whereas proposals to limit eligibility for medicare to lower-income persons would profoundly alter the character of health insurance for the aged, blind and disabled by for the first time limiting those benefits to a group of persons rather than all persons,

Resolved, That it is the Sense of the Senate that the Congress should reject any proposal to impose a 'means test' on eligibility for the medicare program, or benefits provided by the medicare program.

(The remarks of Mr. MOYNIHAN on this resolution appear earlier in today's RECORD.)

Mr. KENNEDY. Mr. President, I was deeply disturbed this weekend to learn that the administration is considering proposals to means-test medicare. These proposals are completely contrary to the basic premise of medicare, to protect all of the elderly and the disabled from the high costs of health care. It is a betrayal of the Government's commitment to the senior citizens of America, who have contributed so much to this country.

I am pleased to join in cosponsoring, with Senator MOYNIHAN, a sense of the Congress resolution that would place the Congress squarely on record as opposing any effort to impose a means test in the medicare program; and I urge my colleagues to join us in expressing their opposition to this proposal. I call on the administration to abandon its efforts to destroy the integrity of medicare under the guise of means-testing.

The proposal to means-testing medicare is nothing more than a transparent attempt to shift more and more of the costs of medicare onto the backs of the elderly. Just a few months ago, the Congress approved changes in medicare which will cost the elderly and millions of working Americans billions more for health care. Now the administration is contemplating billions of dollars in new medicare cuts, much of which will translate into higher and higher out-of-pocket costs for the consumers of health care.

The elderly already pay a substantial percentage of their limited resources for health care costs. Currently, medicare pays only about 45 percent of the cost of health care for the average elderly American. Our senior citizens pay an average of over $1,400 per year for health care costs not covered by medicare—nearly 20 percent of their income. There is simply no justification for shifting even more of the costs to the elderly. We will never contain the skyrocketing costs of medicare and health care until Congress attacks the problem directly—by reforming our outmoded system of reimbursement, which provides incentives to increase, not limit costs. We should not ask the elderly to pay the price of our failure.

When medicare was enacted in 1965, it was based on insurance principles. Workers and their employers pay into medicare during their working years in order to guarantee that their basic health care costs will be met when they reach age 65 or become disabled. Means-testing medicare is a betrayal of this basic trust, and an affront to the 28 million elderly and disabled Americans who rely on medicare.

Social security and medicare are the twin pillars of our national commitment to assure the quality of life for the millions of senior citizens who have worked and sacrificed to make our Nation strong. The administration has repeatedly attacked the foundations of this system, first through its unwarranted proposals to dismantle the protection of social security and now through its unconscionable attempts to destroy medicare.

I urge my colleagues to join with us in supporting this resolution.

SENATE RESOLUTION 473—BUDGET WAIVER

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 473

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 675. Such waiver is necessary because S. 675, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This waiver of section 402(a) is necessary to permit Senate consideration of S. 675, a bill establishing a 16-member "Federal Courts Study Commission" to study, analyze, and recommend solutions to present and future problems confronting the Federal Judiciary. S. 675 in its present form represents a compromise between S. 675, as introduced by Senator Thurmond, and S. 1530, introduced by Senator Heflin. A hearing was held on these two predecessor bills on May 12 of this year. Following this hearing, an amendment in the nature of a substitute for S. 675 was drafted and approved by the Committee on the Judiciary on September 14. S. 675, as amended, was reported to the Senate on September 15.

S. 675 authorizes appropriations for the life of the ten-year study commission. It authorizes very modest amounts—$700,000 for fiscal years 1983 and 1984 and $800,000 for fiscal years 1985 through 1992. These amounts are based on figures provided to the Committee by the Congressional Budget Office.

Consideration of S. 675 would not interfere with or delay the appropriations process since the fiscal year 1983 appropriations bill in which this would appear has not yet been addressed by the Senate.

SENATE RESOLUTION 474—BUDGET WAIVER

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 474

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 2411. Such waiver is necessary because S. 2411, as reported, authorizes the enactment of new budget authority beginning in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This waiver of section 402(a) is necessary to permit Senate consideration of S. 2411, a bill to reauthorize the Omnibus Crime Control and Safe Streets Act of 1968 to eliminate the existing office of the Office of Jus-

tice Assistance, Research and Statistics (OJARS) and the Law Enforcement Assistance Administration (LEAA). In its place is created the Office of Justice Assistance, which would administer a discretionary grant program. Also included is an emergency assistance program for law enforcement purposes.

A companion bill, H.R. 4481, was passed by the House in February 1982, and has been pending before the Senate Judiciary Committee since that time. The bill, H.R. 4481, although not identical to S. 2411, seeks to amend the Omnibus Crime Control and Safe Streets Act of 1968 to create new authority for funding of national criminal justice programs.

S. 2411 authorizes $125 million annually for the programs provided for under the bill. Some of these funds, approximately $45 million, have been included in the President's fiscal year 1983 budget request. Thus, part of the fiscal 1983 budget contains funds authorized under S. 2411. The balance would have to be appropriated by the Senate prior to the end of this fiscal year. Because no appropriation bill has been passed, the Committee does not believe this measure will interfere with or delay either the budgetary or appropriation process of the Senate.

SENATE RESOLUTION 475—BUDGET WAIVER

Mr. THURMOND, from the Comittee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 475

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of H.R. 4476. Such waiver is necessary because H.R. 4476, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

This Budget waiver is necessary to allow Senate consideration of H.R. 4476, a bill which authorizes appropriations for the Administrative Conference of the United States (ACUS). H.R. 4476 was approved by the House of Representatives on June 14 of this year. It was approved unanimously by the Senate Committee on the Judiciary, and on September 9 was reported to the full Senate.

The Administrative Conference was established in 1964 by the Administrative Conference Act. ACUS consists of between 75 and 91 members, who, with the exception of the Chairman, serve without pay. Members are appointed from Federal departments and agencies and from outside the Government. The Conference works with governmental agencies on a continuing basis to improve this regulatory, enforcement, and adjudicatory functions. Recommendations and reports on administrative procedure are issued when adopted by the Conference at its biannual Plenary Sessions.

H.R. 4476 authorizes $2,300,000 for the fiscal year ending September 30, 1982, and for each fiscal year thereafter through the fiscal year ending September 30, 1986. This essentially maintains the current authorization level for ACUS.

Congressional consideration of this authorization bill will in no way interfere with or delay the appropriations process since the 1983 appropriations process is not yet complete. Moreover, the Committee on Appropriations has included funding for the Administrative Conference in both the fiscal year 1982 appropriations bill for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year 1983 appropriations bill. The 1982 appropriations level was $1,103,000 and the 1983 level, recently approved by the Appropriations Committee in H.R. 4476, is $1,100,000. This amount approximates actual outlays by the Conference since 1979.

SENATE RESOLUTION 476—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. JEPSEN, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 476

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2936, a bill to provide a 4 percent increase in the pay and allowances of members of the uniformed services, to make changes in certain elements of military compensation and in certain personnel programs, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2936 as reported by the Committee on Armed Services.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENT NOS. 3578 THROUGH 3584

(Ordered to be printed and to lie on the table.)

Mr. DENTON submitted seven amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NOS. 3585 THROUGH 3612

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 28 amendments intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

TREASURY, POSTAL SERVICE, AND INDEPENDENT AGENCIES APPROPRIATIONS

AMENDMENT NO. 3613

(Ordered to be printed and to lie on the table.)

Mr. SASSER submitted an amendment intended to be proposed by him to the bill (S. 2916) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1983, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold a hearing on Budget Act reform on Thursday, September 23, 1982, beginning at 9:30 a.m. in room 6202, Dirksen Senate Office Building. Senators ROTH, HATFIELD, DOLE, PERCY, FORD, QUAYLE, HART, BIDEN, BUMPERS, and CHILES will testify.

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, on September 29, 1982, the Subcommittee on Federal Expenditures, Research, and Rules of the Committee on Governmental Affairs will hold an oversight hearing to ascertain the effect of a legal opinion prepared by the Department of Justice on implementation of the Paperwork Reduction Act of 1980 and to review a proposed rulemaking by the Office of Management and Budget under the act. The hearing will be held in room 5110 of the Dirksen Senate Office Building, commencing at 10:30 a.m.

Witnesses expected to testify are Christopher DeMuth, Administrator for Information and Regulatory Affairs, Office of Management and Budget; Assistant Attorney General Theodore B. Olson, Department of Justice; the General Accounting Office; and the National Federation of Independent Business.

Interested persons should contact Reid Detchon, staff director, or Patricia Otto, chief clerk, at 224-0211. Anyone wishing to submit statements for the record should address them to the subcommittee at room 44, Capitol Hill Annex, 128 C Street NE., Washington, D.C. 20510.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BAKER. Mr. President, the minority leader is not on the floor, but I have had these three requests on my desk for some time today and they bear a notation that they are approved by him. I am going to ask them now since the events of the day are overtaking these requests.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, September 21, to consider the President's proposal to end the railway strike.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 21, at 5 p.m., to receive a secret briefing from the State Department on Beirut.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 21, in order to consider and act on pending committee business per the attached agenda.

AGENDA

(1) BUDGET WAIVERS

H.R. 4476. To amend the Administrative Conference Act.

S. 675. Federal Jurisdiction Review and Revision Commission Act.

(2) BILLS

S. ——. Omnibus Judgeship Bill (Subcommittee on Courts).

S. 1688. Career Criminal Life Sentence Act of 1981 (Subcommittee on Juvenile Justice).

S. 1698. To amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States Armed Forces personnel.

(3) NOMINATIONS

U.S. DISTRICT JUDGES

Judge Edward Rafeedie, of California, to be United States District Judge for the Central District of California.

Judge David D. Dowd, Jr., of Ohio, to be United States District Judge for the Northern District of Ohio.

OTHER

Mr. Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal (Reappointment).

Prof. Robert A. Destro, of Wisconsin, to be a member of the Commission on Civil Rights.

Dr. Guadalupe Quintanilla, of Texas, to be a member of the Commission on Civil Rights.

Rev. Constantine N. Dombalis, of Virginia, to be a member of the Commission on Civil Rights.

(4) COMMEMORATIVES

S.J. Res. 178. To authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week." (Introduced by Senator Hatch.)

S.J. Res. 225. To provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week." (Introduced by Senator Eagleton.)

S.J. Res. 453. To designate the week of October 3 through October 9, 1982, as "National Productivity Improvement Week." (Introduced by Senator Nunn.)

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 22, at 10 a.m., to consider the nominations of William Alexander Hewitt to be Ambassador to Jamaica, and Everett E. Briggs to be Ambassador to Panama.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, September 22, at 2 p.m., to hold a hearing to consider S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes; and H.R. 4861, a bill to establish the American Conservation Corps, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 22, at 10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 23, at 10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs, of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, September 22, at 3 p.m., to hold an oversight hearing on United States-Soviet research studies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGENCY ADMINISTRATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agency Administration of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 23, at 10 a.m., to consider S. 2863, a bill dealing with juror compensation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

S. 1844—THE COAL DISTRIBUTION AND UTILIZATION ACT OF 1982

● Mr. LAXALT. Mr. President, the Senate Energy and Natural Resources Committee recently reported S. 1844, the Coal Distribution and Utilization Act of 1982. One of the concerns I have always had with coal pipeline legislation centers on water: Will the States be able to make the determination of when and under which circumstances interstate coal pipelines may use water for the transportation of coal?

Fortunately, Mr. President, the legislation that has been reported to the Senate has been the subject of close scrutiny by my good friends Senator WALLOP and Senator MCCLURE, the chairman of the committee. During committee consideration of this legislation, Senator WALLOP and the chairman assured that the version of S. 1844 that was reported to the Senate contains the strongest possible State water law protections. These provisions assure that the States will have the sole authority to allocate water to interstate coal pipelines and to enforce terms and conditions on the use of such water even after the water moves in interstate commerce. The water law provisions in S. 1844 will protect every State, regardless of its geographic location or the sufficiency of its water supply. These water law protections are particularly important in light of the recent Supreme Court decision in Sporhase versus Nebraska, which limited the actions States could take to protect water resources in the absence of Federal legislation such as Senator WALLOP's amendments to S. 1844.

Senator WALLOP's good work has not gone unnoticed, as a recent editorial in the Denver Post indicates. The water law protections in S. 1844 will be of particular importance to my State, Nevada, and will serve as a precedent for the State water law protections that should apply to other interstate activities that could result in water leaving one State for use in another State.

Mr. President, I want to take this opportunity to thank my good friends and colleagues, Senator WALLOP and Senator MCCLURE, for their important service to the Nation on this difficult and politically sensitive issue. I request that the Denver Post editorial entitled "Pipeline Loophole," appear in the RECORD.

The editorial follows:

PIPELINE LOOPHOLE

Coal slurry pipeline legislation pending in Congress presents a serious threat to state water rights.

As approved by the House Public Works Committee, the pipeline bill retains a legal loophole—one made even wider by a recent U.S. Supreme Court decision. If it becomes law in its present form, Western water pumped interstate in slurry pipelines conceivably could be used in almost unlimited amounts to deliver coal to energy-hungry states of the South and Midwest.

The coal slurry pipeline legislation has been debated for some 20 years in the Congress. It is invariably seen as a battle between two industrial giants—coal pipeline operators and the railroads. The railroads enjoy a near monopoly over interstate coal shipments. Slurry pipeline operators want a piece of that profitable action.

The basic bill would give slurry pipeline contractors the power of eminent domain, similar to that now enjoyed by government jurisdictions and some utilities. During the long pipeline debate the concerns that the measure threatened state water laws as well as water supplies have been relegated to the back burner.

In late June, however, the Supreme Court decided a case involving irrigation water piped from Nebraska to Colorado. It ruled that such water transfers fell under the interstate commerce clause of the Constitution. The ruling excluded such deliveries from state water laws and restrictions.

The interstate commerce clause loophole that many water lawyers believed was already there was, in effect, made emphatic by the court.

Fortunately, a remedy is available, one that was urged several weeks ago by Frank J. Trelease, a Western water law expert and a former professor at the University of Wyoming law school.

Trelease advised the Senate Energy and Natural Resources Committee that the slurry pipeline bill must be amended. What is necessary, Trelease said, is "something that says the states may impose terms and conditions on coal pipeline water rights notwithstanding the fact that the water is to move across a state line, something that will 'constitutionalize' these laws and allow states to control the use of all their waters."

Both Sen. Malcolm Wallop, R-Wyo., and Rep. Ray Kogovsek, D-Colo., have been working to accomplish just what Trelease recommended. Wallop has successfully added strong language in the bill still pending in the Senate. Kogovsek, after being blocked in the House Public Works Committee, has served notice he intends to amend the bill on the House floor.

So far, so good.

But Western water interests, expecially in recent years, have been diminished in Washington and lower basin states have already registered complaints at the protective amendments advocated by Wallop and Kogovsek.

With a new momentum building to pass the coal slurry pipeline legislation in the current session of Congress, it is imperative that Western lawmakers give the highest priority to protection of the water laws in their states.●

WOLF TRAP FARM PARK ACT OF 1982

● Mr. McCLURE. Mr. President, the Committee on Energy and Natural Resources ordered S. 1999, the Wolf Trap Farm Park Act of 1982, favorably reported on August 18, 1982. The Senate Report No. 97-542 was filed on September 10, 1982. The Senate report did not include the Congressional Budget Office report as it was not received at the time of filing.

I ask that the Congressional Budget Office letter and report be printed in the RECORD following this statement for the advice of the Senate. The CBO report accompanies Calendar No. 782, S. 1999, The Wolf Trap Farm Park Act of 1982, Senate Report No. 97-542.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 16, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1999, a bill to authorize the Secretary of the Interior to provide a $9 million grant and a $9 million loan, to the Wolf Trap Foundation for reconstruction of the Filene Center in the Wolf Trap Farm Park.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill Number: S. 1999.

2. Bill Title: Wolf Trap Farm Park Act of 1982.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, August 18, 1982.

4. Bill purpose: The bill authorizes the Secretary of the Interior to provide a $9 million grant and a $9 million loan, to be repaid within 5 years of loan negotiation, to the Wolf Trap Foundation for reconstruction of the Filene Center in the Wolf Trap Farm Park. Plans and designs for the reconstruction must be approved by the Secretary of the Interior.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Authorization level	18.0				
Less: Amount already appropriated	2.0				
Net additional authorization	16.0				
Estimated net outlays	9.0	4.9	−3.0	−3.0	−3.0

The costs of this bill fall within budget function 300.

6. Basis of estimate: The authorization level reflects the net effect of the $9 million loan authorization plus the $9 million grant authorization, less the 1982 supplemental appropriation of $2 million. For purposes of this estimate, it was assumed that this bill will be enacted in calendar year 1982, and that appropriation of the amount authorized will occur early in fiscal year 1983. It was further assumed, based on information from the National Park Service (NPS), that the loan will be made at a 13 percent interest rate. The five-year maximum term specified by the bill was the assumed loan term, and the first payment was assumed due in fiscal year 1984. Administrative costs of the loan are expected to be negligible, and the above estimate assumes no default on loan payments. Based on information from the Wolf Trap Foundation and from the NPS, it is expected that the Filene Center will be rebuilt over a two year period, with outlays occurring in fiscal years 1983 and 1984.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Anne E. Hoffman (226-2860).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Greg Pallas, of the staff of Senator EXON, to participate in a seminar on "Alliance Security and National Decision-Making Processes," jointly sponsored by the Center for Strategic and International Studies of Georgetown University and the Konrad Adenauer Foundation, and to be held in Bonn and West Berlin, Federal Republic of Germany, from September 26 to October 2, 1982.

The committee has determined that participation by Mr. Pallas in the seminar, partially at the expense of the Konrad Adenauer Foundation, which receives funds from the West German Government, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Jeff Bingham, on the staff of Senator GARN, to participate in a program cosponsored by a foreign educational organization, the Konrad Adenauer Foundation in Federal Republic of Germany from September 26 to October 3, 1982.

The committee has determined that participation by Mr. Bingham in the program, "Alliance Security and National Decision-Making Processes," is in the interests of the Senate and the United States.●

U.S. TROOPS IN LEBANON

● Mr. GRASSLEY. Mr. President, the tragic news regarding the murders in the refugee camps of Lebanon during recent days left me horrified and

shocked. That nation, which has suffered so much in the last decade, appears to be on the verge of another extended period of tragic violence. It is in light of such an emergency situation that President Reagan has decided to honor the request of the Lebanese Government for a U.S. troop presence in that wartorn nation. I support this very difficult decision with some reservation.

Stabilization of Lebanon as an independent, sovereign state is certainly a goal which, when attained, will benefit the Lebanese, the Israelis, the Arab States and the world as a whole. I believe that a truly multinational force of United Nations troops would now help to create a lower tension level during this delicate stage of Lebanon's reorganization. Thus, while I support the President's decision regarding a limited Marine contingent, I believe such U.S. military involvement must be strictly conceived and implemented. I would strongly urge replacement of our troops by U.N. forces, some of which are now in southern Lebanon, with the United States continuing efforts to create a diplomatic settlement of the problems. Those diplomatic efforts of the President must continue to stress the removal of all foreign troops from within the historic borders of Lebanon in order to create an internal solution.●

HUMAN RIGHTS VIOLATIONS IN THE PHILIPPINES

● Mr. KENNEDY. Mr. President, on September 16 I inserted in the RECORD the summary report of Amnesty International's comprehensive investigation of human rights abuses in the Philippines. Amnesty International has now published its complete 127-page report of the findings of its delegation, which visited the Philippines from November 11 to 28, 1981.

In a press conference on September 21, the leader of the Amnesty International delegation, Mr. A. Whitney Ellsworth, stressed its conclusion that:

Despite the lifting of martial law, government forces in the Philippines continue to engage in illegal detention, torture, disappearances and arbitrary killings on a wide scale.

These sobering findings from first-hand investigation in the Philippines strongly support Mr. Ellsworth's call "to stop denying the obvious and take serious measures to halt the indefensible."

Mr. President, I commend to the attention of my colleagues the complete text of this exhaustive Amnesty International study and ask that Mr. Whitney's September 21 statement be published in full at this point in the RECORD.

STATEMENT BY A. WHITNEY ELLSWORTH

In the past few days, while in Washington, President Ferdinand E. Marcos has been asked to comment on Amnesty International's concerns about human rights violations in The Philippines. Each time, he has responded that Amnesty International cannot accurately judge the situation because it has never visited The Philippines and relies on hearsay and rumor.

Today Amnesty International releases a report based on the findings of a delegation which visited The Philippines from November 11, to November 28, 1981. The delegation, of which I was a member, received first-hand testimony on some 70 cases, fifty of which are cited in this report, each involving anywhere from one of 45 people. These cases, which represent only a small portion of the total number submitted to us, were drawn from all but two of the country's 14 military regions and subregions. Almost all of them had taken place since the lifting of martial law.

The delegation also met with senior church officials, top jurists and others who were able to help assessing the human rights situation. Although the Ministry of Foreign Affairs informed the delegation it had been unable to arrange meetings with the Solicitor General and the Ministry of Justice, we were able to have full discussions with the Deputy Minister of Defense and Chief of the Office of Detainees Affairs, Carmelo Z. Barbero, as well as a longer meeting with four senior officers in his department.

It is on the basis of this first-hand investigation, supplemented by numerous reports received before and after the mission, that Amnesty International has reached the following conclusion: despite the lifting of martial law, government forces in The Philippines continue to engage in illegal detention, torture, disappearances and arbitrary killings on a wide scale.

This is not the first time Amnesty International has sent a mission to The Philippines. A delegation sent in November 1975 was able to interview detainees held under martial law and found that of 107 prisoners interviewed, 71 reported being tortured. Last year's mission found that the use of torture continues. Detainees are still being denied access to relatives and lawyers, held in unauthorized places of detention within the military system or incommunicado in secret safe houses for several days or weeks. Especially during what is called tactical interrogation, the victims are often subjected to torture, which may include beatings, death threats and electric shock.

And while the number of people believed to be detained for political reasons has fallen from about 6,000 in 1975 to around 1,000, this does not include those Filipinos picked up for political reasons and held in short-term custody in unauthorized places of detention outside the ODA reporting system. Also, the number of people who have "disappeared" and been killed appears to be on the increase. The United Nations Working Group on "Disappearances" has presented The Philippine government with more than 200 cases of "disappearances."

Political killings by security forces also appear to have increased in recent years, particularly in remote parts of the country. In a high proportion of the cases, there is evidence that the killing occurred after interrogation often involving torture, or after the victim has been taken into some form of custody. The mission found no evidence in any of the cases investigated that the victims were killed in encounters with military or police as the authorities have sometimes alleged.

Amnesty International is aware that the government of The Philippines faces armed insurgencies and has invoked emergency powers to combat them. However, international standards governing situations of armed conflict and emergency explicity prohibit practices such as torture or political killings in all circumstances. In addition, it should be stressed that in many cases victims of military abuses alleged to be subversives were selected arbitrarily or because they were engaged in non-violent activities considered subversive by the government.

In recent days, President Marcos has stressed that any abuses are investigated and those responsible punished. The Amnesty International mission, however, found that government agents acting in violation of established procedures and laws are rarely held accountable for their actions, even where prima facie evidence of such violations is overwhelmingly strong. A few investigations of the military for such abuses have lead to dismissal, demotion or transfer but most have not even gone that far.

Finally, President Marcos has recently stated that Amnesty International never confronts government officials with its concerns. In fact, the mission sought a meeting with the Minister of National Defense while in The Philippines. When that was not possible, it wrote raising a number of specific questions and concerns, growing out of the mission's findings. No reply was received. Amnesty International sent a second letter on March 30, 1982, after receiving reports of the incommunicado detention and torture of 23 people arrested in February. No reply was received. Amnesty International has sent a copy of its report to the Philippine government and has undertaken to make public any response received, as it did with its 1975 report.

It is our sincere hope that the government of The Philippines will study the report carefully, respond to its concerns and adopt its recommendations, among them to restore the full privilege of habeas corpus, to form impartial investigative bodies to look into the cases raised in this report, to make the security forces accountable for their actions, to take steps to strengthen the independence of the Judiciary, to disband the irregular paramilitary groups such as the "Lost Command."

It is long past time to stop denying the obvious and take serious measures to halt the indefensible.●

MOTHER OF THE YEAR

● Mr. SYMMS. Mr. President, America's 1982 "Mother of the Year," I am very proud to say, is from Idaho. Helen Burnstad Thompson is a remarkable woman. Widowed when her youngest child was only 2, she raised and supported her family alone, with the help of God and her neighbors and friends in Sandpoint. All seven of her children have graduated from college, and the youngest is now in law school.

After her husband's death in 1960, Mrs. Thompson went to work for the U.S. Forest Service. She retired early this year. Shortly after her retirement she was chosen as Idaho's "Mother of the Year."

An article published by the Sandpoint Daily Bee several months ago

sheds light on the special qualities of Mrs. Thompson which led to her selection not only as Idaho's—but America's—No. 1 Mom. I ask that the article be printed in the RECORD.

The article follows:

MOM OF YEAR

America's 1982 Mother of the Year, Helen Burnstad Thompson of Sandpoint, will appear Friday on TV's "Good Morning America," she said Wednesday.

Thompson and three of her seven children—Mike Thompson and Beth Bruce of Sandpoint and Sigrid Brannan of Mead, Washington—flew to New York City Thursday morning. They will be among guests on the popular ABC talk show which airs locally at 7 a.m. on channel 4.

Thompson, widowed when her youngest child was 2, was named Mother of the Year Saturday in a presentation at Salt Lake City, Utah. She was there attending the national conference of American Mothers, Inc., the group that sponsored the selection.

"Isn't that something? I can't believe it," Thompson said of the honor bestowed on her. Chosen this winter to be Idaho's 1982 Mother of the Year, Thompson was among representatives from each state attending the conference.

"I had several picked out whom I thought had done many more things than I have," she said. She called the experience "humbling."

Judging was based largely on a portfolio compiled by the group which nominated Thompson for the state award, the United Presbyterian Women of Sandpoint's First Presbyterian Church. But judges also mingled incognito among national conference delegates, said Thompson and Evelyn Snedden of the UPW.

"I was not aware there were even judges around," Thompson said.

In selecting the Mother of the Year, "the emphasis is on your children, presumably, and how you influenced them to become what they are," she said.

All of Thompson's children were notified Friday evening of their mother's selection and flew to Salt Lake City for the presentation.

"I knew that she was going to go (to the conference) and have fun, but I never suspected she was going to win," Sigrid Brannan, Thompson's daughter, said in a telephone interview from her Mead home. "Beth (Bruce) did, though. She knew all along."

Brannon said she feels "that God has just sent a blessing to our life at this point."

Thompson, 65, came to the Sandpoint area in 1957 with her husband, Jim, and family. Her husband was principal of Sagle School and Priest River High School. He died of a heart attack in 1960. The eldest of the couple's seven children was 17, the youngest, 2.

The widowed mother went to work for the U.S. Forest Service in 1961. She was a purchasing agent for the Sandpoint Ranger District at the time of her retirement last month.

Despite their father's death while the children were young, all the Thompson offspring graduated from college. The youngest, now in her mid-20's, is in law school in Portland, Ore.

Thompson felt it imperative that her daughters, as well as her sons, go on to college, she said.

"Women should be able to support themselves. They should be educated and independent in their own right," she said. She held that opinion long before her husband's death left her as family provider, she said.

She received her bachelor's degree in English with minors in mathematics and commerce in 1940 from the University of Wyoming.

Still, she feels mothers with small children should remain at home "if there's any way possible, especially until those children are in school," she said.

"I was very fortunate that if I had to raise them alone, that I could raise them in a community like Sandpoint. People were very supportive," Thompson said. She made special note of support from her family and her church. Her brother, Leo Burnstad, and sister, Iva Burnstad, live in the Sandpoint area.

Thompson children remaining in Sandpoint include Mike Thompson, a real estate broker, and Beth Bruce, a leader in organizing Sandpoint's prospective Sweet Adelines chapter. All the children live in the Northwest, except for one in California, and have careers and families.

Thompson operates a 90-acre horse ranch on the Wrenco Loop Road. Active in the Presbyterian Church, she is an elder and clerk of the session. She is chairwoman of the Sandpoint-East Bonner County Library Board and the Sandpoint Chapter of Business and Professional Women.●

VOLCKER RESPONDS TO TREASURY STUDY

● Mr. GRASSLEY. Mr. President, on July 28 Federal Reserve Board Chairman Paul Volcker testified before the Senate Budget Committee on the updated economic outlook. After Mr. Volcker's testimony, I submitted a followup question to him which he later answered in writing.

The question I submitted asked the Chairman to respond to a then-recent Treasury study which showed that the Fed's money growth variability had added 2 or 3 percentage points to the general level of interest rates.

Mr. President, I submit for the RECORD my written question to Chairman Volcker, his response to that question, and the full text of the Treasury study to which I referred.

The material follows:

BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM,
Washington, D.C., August 24, 1982.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN DOMENICI: Thank you for your letter of August 13 forwarding a question from Senator Grassley as a follow up to my testimony before your Committee on July 28. As you requested, enclosed is my response to Senator Grassley's question for inclusion in the record of the hearing.

Sincerely,

PAUL A. VOLCKER,
Chairman.

QUESTIONS AND ANSWERS

(Chairman Volcker subsequently submitted the following response to a written question received from Senator Grassley in connection with the hearing before the Senate Budget Committee on July 28, 1982.)

Question. I'd like to follow up on an exchange I had with you during your appearance before the Senate Budget Committee July 28, 1982:

A recent study done by the Treasury Department shows that the increase in money variability has added anywhere from 200 to 300 points to the general level of interest rates. This is contrary to your stated view that money variability is not a significant factor in keeping interest rates high.

Even when taking the lower estimate of 200 points, there is still a significant increase in the rate of interest due to variability. It is especially significant when borrowers view long-term rates.

Would you please comment on why your views and those of the Treasury should be at odds?

I understand that the Treasury study has been shown to the Federal Reserve, so you should be familiar with it.

Answer. The notion that variability in the growth of money has an important relationship to the level of interest rates has recently been advanced by a few economists of the monetarist school. The hypothesis is apparently that expectations of market participants about the long-run course of inflation (and therefore interest rates) are confused and upset by short-term variability of the money supply, leading to a substantial "risk premium" on interest rates.

While I do believe uncertainty and skepticism about future inflation, as I have repeatedly testified, can be an important influence on interest rates, and particularly long-term rates, I find it inherently implausible to attach so much weight to short-term variability in the money supply to the shaping of either inflationary or interest rate expectations over a considerable period of time ahead. Among other things, one would have to ask why there is not a similar phenomenon abroad, where money supply tends to be even more variable.

Plausible or not, the hypothesis presumably can be subjected to the test of evidence and its consistency examined. In this regard, we have looked at, and examined the Treasury study referred to in your question. Our analysis indicates the study does not make the case. Its approach—in terms of its analytical framework and its choice of sample periods—suggests a bias toward a particular and, I feel, wrong conclusion. The Treasury study, in effect, assumes a simple model of the way investors' expectations are shaped and does not exclude or examine other hypotheses.

I don't believe that the market draws the inferences from short-term movements in the money supply that the study indicates, and it would be my opinion that a meaningful behavioral model of the credit markets and interest rates would have to be much fuller and richer than the framework used by the Treasury for its statistical exercise. In the end, the Treasury's results amount to a case of observing a correlation in the movements of two variables and, I suspect fallaciously, deducing from that correlation a direct casual link. For instance, a similar (indeed stronger) correlation can be observed with fluctuations in short-term interest rates (rather than the money supply).

While this alternative explanation cannot be unequivocally validated by the techniques employed any more than can the explanation with money supply volatility, relating risk premia in market rates to actual fluctuations in market rates has more inherent plausibility. In that regard, I would point out that if less short-term variability in the money supply is accompanied by more volatility in short-term interest rates,

as the great majority of economists believe, the net result could be higher "risk" premia in market rates.

THE EFFECT OF VOLATILE MONEY GROWTH ON INTEREST RATES AND ECONOMIC ACTIVITY

(Charts not reproduced in RECORD.)

Four types of policy action are capable, in principle, of reducing market interest rates, to some degree. The four are changes in debt management, reductions in spending or tax changes that reduce future budget deficits, direct controls, and improvements in the conduct of monetary policy. The focus of this study is on the effects of variable monetary growth. The analysis is conducted, however, within a general model of the economy, which incorporates the influence of other factors and the interplay of various factors through the markets for assets, goods, and money. The results presented here were generated from a condensed version of this model. The complete results will be presented in the full technical report.

The principal conclusions of the study, to date, are:

(1) Sustained high variability of money growth has increased uncertainty about the expected return from holding bonds. The study suggests that the market charges a risk premium on long-term bonds of 4 to 6 percent to compensate for the risk of loss of capital values arising solely as a result of the variability of money growth.

(2) Variability of M1 growth cannot be reduced to zero. If variability is reduced to the level of 1977-79, however, interest rates on long-term bonds would fall 2 to 3 percent.

(3) Short-term interest rates would be reduced also.

(4) Lower monetary variability should not be accompanied by faster money growth. Faster money growth would certainly raise interest rates. One reason is that market participants would not believe that the curent reduction in inflation will persist if money growth is reaccelerated. A second reason is that temporary changes in money growth—up and down—are a main cause of variability in economic activity, in addition to contributing to risk premiums in interest rates.

(5) Reducing the variability of money growth would reduce the variability of GNP growth. A main finding of the study, replicated for different periods and using different measures of money, is that, on average, Federal Reserve actions have added more variability to the economy than they have removed. The estimates suggest that improvements in the implementation of monetary policy can reduce the magnitude of fluctuations in GNP growth by one-fourth to one-half of their present values.

(6) Much of the increase in variability of money growth since late 1979 comes from two sources. One is the imposition and removal of credit controls in 1980. The other is the monetary control method of the Federal Reserve. The following comparison of money growth, using quarterly average growth (at annual rates) for the period before and after October 1979, shows how much money growth has been reduced, and variability increased, in the recent period.

[In percent]

	11 quarters ending September 1979 (1st quarter 1977–3d quarter 1979)	11 quarters beginning October 1979 (4st quarter 1979–2d quarter 1982)
Average growth of M_1	8.3	6.3
Standard deviation	1.5	5.2
Range for M_1 growth	5.2–10.3	−3.1–+14.8
Average growth of monetary base	8.6	7.1
Standard deviation	1.0	2.7
Range for base growth	7.1–10.5	1.9–10.3
	1980 IV–1982 II	
Average growth of M_1 and range	5.8	0.3–10.9
Standard deviation	3.9	
Average growth of base and range	6.1	1.9–10.3
Standard deviation	3.3	

INTEREST RATES, INFLATION AND MONETARY VARIABILITY

To estimate the effect of monetary variability on interest rates, the sources of change in quarterly values of money and monetary velocity were separated into "predictable" and unpredictable components. The "predictable" components of money growth and velocity are the parts that can be forecast from knowledge of seasonal factors and the past history of each series. The unpredictable, or random, component includes everything else.

The anticipated rate of inflation is estimated in a similar way.* Anticipated inflation for next quarter is the rate at which prices are expected to rise on the basis of the momentum in the price series and knowledge of seasonal and other factors. The momentum of inflation reflects the maintained rate of money growth, but factors such as sustained shifts in the demand for money can also affect the series. Random and transitory price changes are removed from the measure of anticipated inflation by the procedure which is used.

The rate of interest has four components.

(1) A real rate representing an estimate of the productivity of capital. In the results presented here, the expected return on capital is embodied in the intercept term of the regression.

(2) The effect of anticipated inflation. If there are no effects of taxes and inflation on real rates, anticipated inflation raises market interest rates point for point. Recent estimates for the United States suggest that taxes and other factors reduce the effect of anticipated inflation on interest rates by about one-half. In the results presented here, anticipated inflation refers to the expected rate of price change in the next quarter only.

(3) A risk factor representing the variability of the unpredictable component of money growth.

(4) A risk factor representing the variability of the unpredictable component of monetary velocity. All unpredictable changes in GNP growth, other than those resulting from unpredictable money growth, influence interest rates through this component.

This study indicates that item (3)—the risk premium which is generated by variable money growth—is a principal reason the current "real" rates are considered to be high. The empirical results, using the ten-year U.S. Government bond rate are presented in the following table:

Interest rate equation: Long-term interest rate.

Quarterly: 1969Q4-1982Q2—51 observations.

Dependent variable: 10-year Government bond at constant maturity.

Independent variable	Coefficient	Standard error	t-Statistic
Constant	3.19347	1.015	3.146
Expected Inflation [1]	.30238	.1198	6.780
Velocity Volatility [2]	.19315	.0903	2.140
M1 Volatility [3]	.73328	.1081	6.780
Rho	.6222	.1271	4.897

[1] Expected inflation is the next period's inflation forecast. The forecast is derived from a time-series model estimated over 1953Q3–1980Q1, ARIMA (0,1,1), on the quarterly logarithmic first-difference of the GNP deflator. Values to 1980Q1 are in-sample estimates, while subsequent values are one-step-ahead forecasts using the ARIMA model.

[2] Velocity volatility is the square-root of the average of the sum of squares of velocity innovations over four periods with a one period delay. The innovations are from an ARIMA (0,1,2) model estimated over 1953Q3–1980Q1, with subsequent values being obtained from one-step-ahead forecasts to 1982Q1.

[3] M1 volatility is the square-root of the average of the sum of squares of M1 innovations over four periods with a one period delay. The innovations are from an ARIMA (1,1,0) model estimate over 1953Q3–1980Q1, with subsequent values being obtained from one-step-ahead forecasts to 1982Q1.

Note.—Summary statistics: R-Squared: 0.9111; Adjusted R-Squared: 0.9033; F-statistic (4,46): 117.8; Durbin-Watson statistic: 2.1042; Sum of squared residuals: 27.81; Standard error of regression: 0.7775; Q(8 degrees of freedom): 9.355.

A series of charts show the effects of components (2), (3) and (4) on the ten-year U.S. Government bond rate from 1969 IV through the second quarter of 1981. Each component is multiplied by its estimated effect on interest rates to obtain the contribution of that factor to the interest rate. The solid line in each chart shows the forecast of interest rates based on all four of the factors and the dotted line is the actual interest rate. The broken line in the lower portion of the chart shows the contribution of a particular factor.

Chart 1 shows the contribution of the velocity effect. The variability of unpredictable changes in velocity contributes between 0.3% and 1.3% during the period. There is a slightly rising trend in recent years. Federal Reserve statements place heavy emphasis on the effects of these changes, but this study suggests that this influence has been relatively small. The most that can be expected from reductions in the variability of the demand for money (or velocity), based on the findings of this study is about ½% reduction in long-term rates.

Chart 2 shows the effect of variations in the unpredictable component of money growth—called M1 volatility on the chart. The effect of M1 volatility on the interest rate can be seen clearly in the peaks reached in 1971, 1975, and 1981 and in the troughs reached in 1972 and 1978. The chart indicates that a return to the lower monetary variability of pre-1979 should be accompanied by a decline of 3% to 4% in the ten-year bond rate.

A common problem with estimates of this kind, however, is that the very large increase in variability and large increase in interest rates after 1979 might tend to cause an overestimate of the importance of monetary volatility. Therefore, the response was reestimated for the period 1969 IV-79 III. A similar, but lower estimate of the effect of variability, is obtained. Using both estimates, a 2% to 3% reduction in interest rates on long-term bonds is a reasonable es-

* The rate of price change is an endogenous variable in the model which is used in this study. Thus, the expected rate of price change should be consistent with the structure of the model, including information about the probable pattern of the exogenous variables. Time series analysis alone is not sufficient to guarantee this result. This shortcoming has been corrected, with no appreciable effect on the results which are presented here. The complete results will be presented in the full technical report of the study.

timate of the repsonse to more stable monetary growth.

Chart 3 shows the effect of expected inflation. The surge in interest rates from 1972 to 1974 and the decline to 1976 reflects the strong influence of changing expectations of inflation following the removal of price controls, the Soviet wheat purchases, the oil shock and the aftermath of these events.

THE EFFECTS OF LESS VARIABLE MONEY GROWTH ON GNP GROWTH

The Federal Reserve tries to reduce fluctuations in the economy by varying interest rates, reserves and money growth. Their ability to reduce fluctuations is limited, however, by two difficulties. One is the difficulty of producing accurate forecasts, a difficulty shared by all forecasters. The other is the difficulty of knowing whether observed changes in economic behavior are temporary or persistent. Mistaken forecasts and misinterpretations of observed changes would cause the Federal Reserve (and everyone else) to misperceive and misinterpret what is happening. Persistent changes could be treated as temporary or transient; transient changes could be misperceived as permanent. As a result of these, and perhaps other errors arising from efforts to smooth the money market, or from the use of lagged reserve accounting, a complex structure of reserve requirements or inaccurate seasonal adjustment, the Federal Reserve can, in principle, add more variability to the growth of GNP than it removes. Consequently, the Federal Reserve can make "business cycles" worse.

To estimate the amount of variability introduced and the amount removed, the study computes: (1) the variability of the predicted component of GNP growth; (2) the maximum variability in the predicted component that would occur if money growth remained constant; (3) the sum of the predicted and random components—variability of actual GNP; and (4) the maximum variability of (actual) GNP if money growth remains constant. These calculations are shown in Table 1, columns (1) and (2).

TABLE 1.—VARIABILITY OF QUARTERLY GNP GROWTH WITH CURRENT MONETARY POLICY AND WITH CONSTANT MONEY GROWTH

[Annual rates in percent]

Period	Actual policy	Constant M1 growth	Constant base growth
	(1)	(2)	(3)
1953–80:			
Predicted component	0.9	0.7	0.6
Total GNP growth	1.9	1.9	1.8
1953–69:			
Predicted component	.7	.6	.5
Total GNP growth	1.7	1.6	1.6
1969–80:			
Predicted component	3.8	1.8	.9
Total GNP growth	5.9	3.9	2.1

Column (3) shows similar calculations with growth of the monetary base constant. Again, these are estimates of the maximum variability. Actual variability would be lower, since reducing uncertainty about monetary growth would reduce the variability of interest rates and the demand for money.

These results indicate that, on average, constant money growth (or constant base growth) would have probably reduced the variability of GNP and, at least, would not have increased it. For the period 1969–80, in which the oil shock and the Government's reaction to the situation had a large negative influence on GNP growth, the reduction in variability of GNP growth is greater than 50 percent.

These findings suggest that the Federal Reserve operations have increased the variability of economic activity. Less variable money growth, on average, should produce steadier growth in GNP.

ACTUAL AND POTENTIAL CONTROL OF MONEY

Last year, the Federal Reserve released a study of monetary control in 1980. According to their estimates, 95% of the time the error in controlling the quarterly (or annual) growth of M1 could be held within ±1%.

Actual control in 1980—and in most other years for which the Federal Reserve announced targets—was much less precise. The actual performance shows an average deviation from target in the range of −2.0 to +2.5%.

A principal reason for the poor performance is that the Federal Reserve attempts to forecast either interest rates, or the demand for money and credit. Their forecasts are relatively inaccurate, so they introduce large errors into the control procedure. In addition, use of lagged reserve accounting, seasonal adjustment, borrowing arrangements and other procedures also increase variability.

Significant reductions in interest rates and in the variability of GNP can be achieved, if the volatility of money growth is reduced. The size of further reductions in interest rates that can be achieved are approximately:

(a) One-half % by reducing the variability of monetary velocity;

(b) 3% to 4% by reducing the anticipated rate of inflation.

The latter cannot be achieved entirely in the near term. This study suggests that some reduction in anticipated inflation has occurred, and further reductions are likely this year if money growth is held within the announced target. A reduction in expected inflation to 6% from present levels reduces long-term interest rates by about 1%.●

TRIBUTE TO AN AVIATION GIANT

● Mr. CANNON. Mr. President, it was with great shock that I learned of the recent violent deaths of retired Lockheed Chairman Courtlandt S. Gross, his wife, Alexandra, and their housekeeper Catherine Vander Veur, who were found slain in their home near Philadelphia.

Courtlandt Gross was a leading figure in advancing the Nation's commercial and military aviation. During his long association with the company, he worked to make Lockheed a pioneering and prosperous giant of the aerospace industry.

Courtlandt Gross retired in 1967 as board chairman of Lockheed after devoting more than 30 years of his career to developing the company. After his retirement he retained an active role in Lockheed's affairs as a member of its board of directors until he left that post in 1977.

Gross served as president of Lockheed for 5 years before his election to the board chairmanship in 1961. In both positions he succeeded his brother, the late Robert E. Gross, who was the principal founder of the reorganized company in 1932.

Courtlandt Gross' tenure as president and later chairman saw some of Lockheed's greatest expansion—from sales of $750 million in 1956 to more than $2 billion in 1966, and from an employment level of 62,000 in 1956 to more than 90,000 at the end of 1966.

In February 1966, Courtlandt Gross was a cover subject of Time magazine, which noted:

> In a notoriously nervous industry, where a decision made in panic can cost many millions, Gross is known for his imperturbability.

Gross was born November 21, 1904, in Boston. He attended and was graduated from St. George's School, Newport, R.I., and was then graduated from Harvard College in 1927. His field of specialization was English literature, and he had 7 years of Latin.

Courtlandt joined his brother Robert in the management of the Viking Flying Boat Co. in New Haven, Conn., in 1929, and from that time forward gave all of his time and effort to the aviation industry. He became active in the Lockheed organization soon after the present company was established. Named manager of the New York office in 1933, he spent 7 years negotiating aircraft sales with airlines and governments throughout the world. In 1938, with Europe close to war, Gross headed a sales team that journeyed to London and obtained a British Air Ministry contract for 200 Hudson patrol bomber versions of the Model 14 commercial transport—plus as many more as could be delivered by December 1939 up to a maximum of 250. The $25 million award was the largest single contract received by a U.S. aircraft manufacturer up to that time, and it put Lockheed in the big league.

In 1940 Gross was elected president of the Vega Airplane Co., a wholly owned Lockheed subsidiary in Burbank, Calif. Vega built thousands of B–17 Flying Fortresses during World War II in a highly acclaimed production program. Lockheed absorbed the Vega company late in 1943 and Gross was made a vice president and general manager of the corporation.

He became Lockheed's executive vice president in 1952 after the corporation expanded into Georgia to reactivate one of the largest airplane plants in the world, and as the corporation launched significant diversification moves.

When Gross was elected president in 1956, the company was diversifying swiftly—with new airplanes, new companies, and new markets such as missiles and space. From a company of three divisions and four subsidiaries, it had grown to six divisions and nine

foreign and domestic subsidiaries by the time he retired in 1967.

Lockheed people who knew and worked with Courtlandt Gross over the years were especially inspired by his leadership and touched by his personal qualities. Here were some of their recollections:

C. L. (Kelly) Johnson, who came to Lockheed in 1933 as an engineer and retired as a corporate senior vice president in 1975 and as a member of the board of directors in 1980, has a number of fond memories.

I can think of many occasions when Courtlandt Gross demonstrated his exceptional character and dedication to Lockheed and its people. One was in 1938 when Courtlandt led a group of us to sell the Hudson bomber to Britain. It was a very difficult task because we had to redesign the Hudson proposal right on the spot. When I did this, the British Air Ministry was very concerned that I was doing all the airplane systems and design work with no one to check my results. Courtlandt was called by the British Air Ministry and asked many questions as to whether or not one individual, particularly one as young as I was (I was 29 then), could be entrusted to produce reliable performance and design characteristics. Courtlandt swallowed very hard and then said, "Yes, we have the utmost confidence in Mr. Johnson to do what he has shown in the report." They accepted Courtlandt at his word and he obtained the very large initial contract.

Dan Haughton, retired Lockheed Corp. president and board chairman, who now resides in the Marietta, Ga., area, knew Courtlandt Gross for more than 40 years. They worked closely together until Gross retired from Lockheed.

Courtlandt Gross was a man of strong integrity who stuck to his principles. He was a religious man. He certainly was a kind man. He always praised people when they deserved it, and he always gave us support. He was modest about his accomplishments. I well remember when he was asked to head the United Way campaign in the Los Angeles area. Court said he didn't know why he was selected for this important task. But, under Courtlandt Gross, United Way had its best year in history to that time. Court and Alix had an ideal marriage for their full 43 years.

Willis Hawkins, who hired on at Lockheed in 1937 in engineering, went on to become a top engineering executive at Lockheed Missiles & Space Co. and later president of Lockheed-California Co. He retired as a corporate senior vice president and member of the board of directors in 1980.

Courtlandt Gross was a quiet man, but articulate and decisive. He saw to it that all the pieces were kept in place. For example, he sorted out the complexities of Lockheed Missiles & Space Co. and started it out on the right foot. He was a major force in the early reorganization of the management of LMSC in 1955. He held the team together.

Hall Hibbard, an engineer who was one of the handful of initial employees of the reorganized Lockheed in 1932, ended a 45-year career with Lockheed in 1977—after serving as chief engineer, senior vice president, corporate senior adviser, member of the board of directors, and honorary member of the board.

It is very hard to separate Robert and Courtlandt Gross. Aviation history will show the great importance and influence of these two men. I like to think Courtlandt and Bob brought sophistication and class to the aviation industry . . . Robert was an idea man. Courtlandt, who was also an idea man, saw to it they were executed. Courtlandt, a leader like Bob, was very well liked and a fine person to be with. His loss is deeply felt.

Roy A. Anderson, chairman of the board and chief executive officer, in a memorial to Mr. Gross:

The violent deaths of Courtlandt and Alexandra Gross a few days ago sent a shock wave of grief throughout our entire corporation. Courtlandt was one of the great names of Lockheed; his wife Alexandra was a remarkable and gracious lady. We remember them both with affection. Their death is a tragedy that is hard to accept.

Courtlandt Gross was a man broadly trained in the humanities. He knew well the transitory nature of human life and the enduring nature of virtues like courage and kindness with which good men and women confront it. He was a man who combined these virtues into a rare blend that constituted his own self-assured yet unassuming style, a style that impressed his associates from the lowest to the highest and that left a lasting imprint upon Lockheed and its people. If we have our own distinct Lockheed style today—and I believe we do—some very precious elements of it are the legacy of Courtlandt Gross.

What was the Courtlandt Gross style? Many have commented on it. They commonly remarked on his personal modesty, his genuine concern for others, his breadth of knowledge, and his strong sense of integrity.

These are qualities he himself valued as attributes of leadership. In 1963, 2 years after he became board chairman, he talked about leadership style. "I do have the strong conviction," he said, "that the best kind of leadership today, for ourselves and for our company, springs out of a wide knowledge of the world in which we live and a good acquaintance with the best that has gone before . . . I also believe there is something else—a deep core of character upon which leadership is founded, a sort of bedrock of moral and spiritual values."

As his brother Robert was a man of vision, so Courtlandt was a man of faith. He epitomized in his own person the moral and spiritual values which he held so high, and he transmitted many of these values to the company he served so well. Because his aspirations were higher, ours are. Because his humanity was deeper, ours is. Because his principles were firmer, ours are. We owe him much.

We all grieve at the passsing of Mr. and Mrs. Gross, but they themselves would counsel against excessive grieving. The best tribute we at Lockheed can pay them is to keep bright and shining the values that Courtlandt exemplified during his lifetime of service to the company. These values helped him to become an exceptional man. If we hold to them, they can help us remain an exceptional company.

Even though his accomplishments were many, humility—an important quality of Courtlandt Gross' personality—was always at the forefront as this story Mr. Gross once told about himself shows:

I am far from being one of the aviation industry's pioneers, but . . . when I was a small boy in Boston, I lived a few hundred yards from the house of Harry Atwood, who was, in fact, one of the pioneers. My impression of his airplane was that it looked like a box kite, and my impression of an aviator—gained from him—was that it was a man wearing a Norfolk jacket, a pair of goggles, and a cap on backwards.

When I tried to be an aviator myself and put my brother's cap on backwards, it fell down over my eyes and I rode my tricycle off the sidewalk into the gutter and almost broke a tooth. I can therefore, claim only the distinction that I was one of the first to try to fly under the hood.●

REV. GIBSON'S DEATH—A LOSS FOR US ALL

● Mr. CHILES. Mr. President, I have just today been informed of the death of the Reverend Theodore Roosevelt Gibson of Miami. Rev. Gibson was 67 years old and for many of those 67 years, he had been an articulate spokesman for human justice not just in Miami, but throughout America. He served for almost 10 years as a city commissioner in Miami, but he served in many nonelective positions a lot longer than that. He was rector of Christ Episcopal Church in Coconut Grove for 36 years.

Rev. Gibson led the fight to integrate the public school system in Dade County. In 1959, he filed a suit on behalf of his late son, Theodore Gibson II, which led to the integration of Dade Public Schools. Later that same year, a committee of the Florida legislature demanded the list of NAACP members. Rev. Gibson refused and in a struggle that ended before the U.S. Supreme Court, Rev. Gibson won. He was to win again as city commissioner and for almost a decade his voice was to be a moderating one for the most controversial issues Miami had to face. He was instrumental in opening up the city's civil service system to blacks and Hispanics.

Although Rev. Gibson left the city commission a year ago, he never left the problems that Miami faced. He went back to face the voters by actively campaigning for two of his many friends in the past primary elections. They both won.

The entire Miami community as well as the State of Florida will miss his wise counsel.●

ORDERS FOR WEDNESDAY

Mr. BAKER. Mr. President, there is already an order for the Senate to convene tomorrow at 10 a.m., is there not?

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR THE RECOGNITION OF SENATORS NUNN AND BUMPERS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the Senators from Georgia (Mr. NUNN) and Arkansas (Mr. BUMPERS) be recognized on special orders for not to exceed 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, Members are reminded that a cloture vote will occur at 12 noon tomorrow. The Senate will come in at 10 a.m. and resume consideration of the unfinished business, I would guess, at 11 a.m. or a little before. But I would remind all Senators that further action is contemplated on the amendment.

Mr. President, I have no further business to ask the Senate to conduct at this moment. I yield the floor.

URGENT SUPPLEMENTAL APPROPRIATION FOR THE DEPARTMENT OF LABOR FOR FISCAL YEAR ENDING SEPTEMBER 30, 1982

Mr. ROBERT C. BYRD. Mr. President, is there a message from the House on House Joint Resolution 562 at the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 562.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 562 be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 562 be read twice.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, with the most deferential respect to my friend the minority leader, as he knows, and perhaps others do not know, we are going through the ritual of placing the bill on the calendar under rule XIV. With that preamble, once again, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask for first reading of House Joint Resolution 562.

The PRESIDING OFFICER. The Senator has that right. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 562) making an urgent supplemental appropriation for the Department of Labor for fiscal year ending September 30, 1982.

Mr. ROBERT C. BYRD. Mr. President, I ask for second reading.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. Objection having been heard to the second reading of the resolution, the reading will occur on the next legislative day.

Mr. BAKER. I thank the Chair.

EXPRESSION OF APPRECIATION

Mr. BAKER. Mr. President, once again, I thank all Senators for the very responsible, prompt, and efficient way in which a very difficult matter was handled in the Senate today. I especially express my appreciation to the minority leader for his cooperation, to the Senator from Utah (Mr. HATCH), and the Senator from Massachusetts (Mr. KENNEDY), without whose cooperation it would not have been possible.

RECESS UNTIL 10 A.M., TOMORROW

Mr. BAKER. Mr. President, I have no further business to transact. I see no other Senator now seeking recognition. I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 10 a.m., tomorrow.

The motion was agreed to; and at 9:02 p.m., the Senate recessed until Wednesday, September 22, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1982:

DEPARTMENT OF STATE

Sharon Erdkamp Ahmad, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

John Blane, of Illinois, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert T. Herres, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, U.S. Code, section 601:

To be lieutenant general

Maj. Gen. William J. Campbell, [redacted] FR, U.S. Air Force.

EXTENSIONS OF REMARKS

TO KEEP THE PEACE . . . ARMS CONTROL AND THE NUCLEAR FREEZE

HON. HENRY J. HYDE
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. HYDE. Mr. Speaker, an issue receiving a lot of media attention is the so-called nuclear freeze. I have written an article on this subject which I would like to share with my colleagues.

The article follows:

TO KEEP THE PEACE . . . ARMS CONTROL AND THE NUCLEAR FREEZE

No one in their right mind wants nuclear war. Most people understand the horror such a war would unleash, and so it is not surprising that the proposal for a mutual, verifiable freeze on the production, testing and deployment of such weapons by the Soviets and ourselves is receiving so much attention.

The majority (but certainly not all) of its proponents are well intentioned patriotic citizens, but some of their tactics blur the real issues in a frenzy of emotionalism. They seek to give the impression that they are the only protectors of peace and those who oppose their views are recklessly willing to risk war.

It is unwise to judge the merits of such a proposal on the basis of its proponents' good intentions. We must do much more—we must ask whether such a freeze is attainable and if so, what it would accomplish.

If such a truly mutual verifiable freeze could be implemented, neither side could produce, test or deploy any additional nuclear weapons. What would this mean for us? We would be forbidden to produce the MX missile (which is our, as yet undeveloped, answer to the Soviet's present capacity to knock out all our land based Intercontinental Ballistic Missiles), no more Trident submarines (designed to upgrade our soon to be retired Polaris submarines), no B-1 or Stealth bombers (leaving us with the ancient 1962 vintage B-52s as our sole long range bombers), no cruise missiles and no nuclear-armed anti-ballistic missiles.

Would this reduce the risk or the severity of nuclear war? Not necessarily, but it would confirm and ratify the drastic change in the strategic balance between us and the Soviets that has occurred over the past ten years.

Military analysts can debate whether that balance has shifted in favor of the Soviets or not, and this argument gets very complicated. But as the U.S. News and World Report of April 19th reported, ". . . while the U.S. leads in numbers of warheads, Russia's arsenal contains more launchers that can throw vastly more explosive power."

This leads us to one of the most frequently used arguments by those who favor a freeze now (prior to any negotiated reductions)—namely that both sides have enough nuclear weapons to exterminate the other, so why build more? This statement misses the point: The question should be, how many nuclear weapons will we have left and deliverable after a Soviet first strike?

The simplicity of the "overkill" argument, is both attractive and misleading. Our nuclear arsenal exists to deter potential aggressors and thus preserve both peace and freedom. Deterrence is not based simply on numbers or claims of sufficiency. Deterrence depends on the capability of prevailing in conflict at any level while preserving the flexibility to escalate the conflict to another level and prevail there too. Only by convincing a potential enemy that, by starting a war, they have nothing to gain and a lot to lose, can we hope to deter aggression.

So here we face a basic disagreement with the "freeze now" advocates: One strategy is based on strength and deterrence, and the other on good will and faith. History continues to repeat itself—to trust the Soviets is dangerous and even deadly folly. Santayana has said that those who fail to read history are condemned to re-live it. The history of Soviet aggression is there for all but the willfully blind to read.

No competent military analyst disputes the fact that by every measure—number of warheads, accuracy, total delivery vehicles and megatonnage—the ratio of Soviet to United States capabilities has dramatically shifted. Remember, deterrence has worked for (37) years, especially while the U.S. maintained strategic superiority. It is not at all clear that our deterrent capability would remain credible under a freeze which provides Soviet parity or, as the Administration believes, Soviet superiority.

A "freeze now" would prevent the long overdue modernization of our aging nuclear weapons, deferred under the sedative of detente. Our B-52 bombers are now so ancient that if one was an automobile appearing in a show, it would qualify for an antique license plate. The present trend towards replacing large, inaccurate warheads with smaller, more accurate warheads, would be stopped. This means, of course, that in any nuclear exchange under present conditions, far more widespread collateral damage would result.

Some will argue that all this is worth the risk if the freeze really works. This is a big and dangerous "if". What sound reasons exist to believe that a mutual, verifiable freeze could be achieved? To argue that the Soviets would honor this treaty is to ignore history, and to overlook a long and tragic list of Soviet treaty violations. For example:

Conducting underground nuclear tests larger than permitted by the 1974 Threshold Test Ban Treaty;

Numerous violations of the SALT I treaty, including replacement of the SS-11 ICBM with the heavy SS-19, camouflage of submarine missile construction, and encryption of missile test telemetry;

Similar violations of SALT II, including the stockpiling of SS-16 missiles and extensive encryption of missile telemetry signals; and, most blatant of all,

Violation of the 1925 Geneva Protocol on chemical weapons and the 1972 Biological Weapons Convention by use of "yellow rain" in Afghanistan and Laos; and

The Treaty of Helsinki which pledged free emigration has been repeatedly and tragically ignored by the USSR and her satellites.

But there are those who insist that any Soviet cheating would be detected because, by its terms, the freeze must be verifiable. Of course our reconnaissance satellites and other signals intelligence can do a great deal. But "on-site" verification is the only way production and testing can be monitored. This fact was conceded by the House sponsors of the Kennedy Freeze Resolution when, during floor debate they accepted, without argument, an amendment by Congressman Norman Lent (R., N.Y.) requiring "on site inspection." (This Resolution is named after the Massachusetts Senator who is its chief advocate and, having abandoned National Health Insurance as his vehicle to the White House, has chosen the Nuclear Freeze as his new crusade).

Of this, two things must be said. No matter what Soviet Propaganda asserts, on-site inspection would mean a fundamental change in Soviet society—from a closed to an open society and I just don't believe they are ready to do that. Secondly, even if granted, how do you inspect every nook and cranny of such an enormous (8,649,538 sq. miles) country? The production and testing of these weapons can be done underground in remote areas that will escape detection. Our defense industries have many legal safety factors imposed on them and their workers. There is no Occupational Safety and Health Agency in Russia. They will work underground. The secret production and stockpiling of these weapons would predictably occur, and meanwhile our hopes would get the better of us (as they always do) and we would be complying with our part of the bargain—easily enforced by our free press—while the Soviets would continue their relentless military build-up.

A question of surpassing importance receives little or no attention from "freeze now" proponents: How, we must ask, does such a freeze position lead to U.S.-U.S.S.R. negotiations that can result in actual reduction of nuclear weapons and delivery systems? The answer is, unfortunately, it doesn't.

The Soviets never, never negotiate anything unless they get some decided advantage out of it. We Americans make the fundamental mistake of assuming the Russians look at the world through much the same eyes as we do. Former Ambassador to the Soviet Union Foy D. Kohler, who has vast experience with the Russians has written a monograph entitled SALT II: How Not To Negotiate With The Russians (Advanced International Studies Institute—Univ. of Miami) which ought to be read carefully by every "freeze now" advocate. He writes:

"The norms of diplomatic intercourse seldom hold good. And whatever the nature of the matter being negotiated, the Russians invariably approach the issues in terms of an adversary relationship with the aim not of a mutually acceptable agreement based on compromise and two-way concessions, but of gaining unilateral advantage." He also states:

"It is also not that the Soviets have attempted to hide or disguise their attitudes. Actually, they have set them forth with

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

startling frankness and completeness. The problem is that we are unwilling to accept as reality what we see and have every reason to accept at face value. We tend, instead, to recast the Russians in our own image, to assign to them our own values, priorities, goals and processes of reasoning. What they tell us about themselves that does not conform to our ideas of rationality we tend to refuse to believe, dismissing it as propaganda or ideological window dressing."

If the U.S. agrees to a freeze that would perpetuate Soviet avantages, there would be absolutely no incentive for them to negotiate real reductions. They repeatedly refused to negotiate any limitations on ballistic missile defenses until the U.S. introduced its own ABM (Anti Ballistic Missile) system. The Soviets also refused to limit intermediate-range nuclear forces in Europe until NATO announced its own modernization program. Experience demonstrates that the Soviets will not make significant reductions in their forces after their position of advantage is ratified. Thus, a freeze that would end any prospects for the real reductions that President Reagan seeks in his START (Strategic Arms Reduction Talks) and "Zero-Option" (a cut of one-third in strategic nuclear weapons and reduction of missile throw weights to equal and verifiable levels) proposals.

Edward L. Rowney, our Chief Arms Control negotiator described the differences in attitudes on strategic arms reductions by stating that the Soviets move with the caution of chess players while "we in the West like to play Pac-Man—we like to put quarters in and see instant results from electronic machines."

It cannot logically be denied that over the past (37) years our possession of nuclear weapons has produced certain benefits. The extended deterrence they have provided has preserved the NATO countries from attack by the Soviets, and has allowed the U.S. to preserve its own security without having to match the 15% Gross National Product the Soviets spend on their military machine, nor have we had to impose universal military service as they have. Our nuclear weapons have redressed an enormous imbalance in conventional forces as well as the 4 to 1 advantage they have in firepower.

The sad facts are, that during the Carter Administration we swallowed "detente" hook, line and sinker. Pres. Carter in April 1977 at Notre Dame University proclaimed that America was over its "inordinate fear of Communism" and then two years later was to confess in a television interview with Frank Reynolds of ABC, that the Soviet invasion of Afghanistan had taught him more about communism in a few days than he had ever known. But in the interim while we slept, the Soviets were massively rearming. Now that they have rearmed to destabilizing levels, they want to freeze in place, this imbalance. Let us concede that the present level of nuclear weapons in the world is too high—so why freeze at a level that is admittedly destabilizing? What incentives have the Soviets to reduce to a level of stability? By freezing now, they can stop us from producing the MX missile, the B-1 bomber, the cruise missile, the Stealth bomber and more Trident submarines. No wonder they want a "freeze now".

Doesn't it strike you as curious that this campaign for a nuclear "freeze now" gained full momentum when it suited Soviet strategic interests? One can only suspect that the fears and good intentions of a lot of well meaning people are being exploited by others who know exactly what they are doing. No protest was raised when Soviet SS-20 missiles and Backfire bombers were being deployed, but now that Pershing II missiles and Cruise missiles are to be deployed in Western Europe next year to counter this Soviet threat, there is a cry for a weapons freeze. When a nuclear Soviet submarine ran aground off the coast of neutral Sweden last year, the reaction was embarrassment but no protest. Where are the massive protests to free Poland?—to expel the invaders from Afghanistan?

Most people don't realize that serious arms control negotiations are going on now on three important fronts: In Geneva, Ambassador Rowney is negotiating START (Strategic Arms Reduction Talks), and also in Geneva, Paul Nitze is negotiating intermediate or theatre nuclear weapons reductions and in Vienna Ambassador Staar is negotiating conventional force reductions with the Soviets. Why undercut these vital and difficult talks? Why pull the rug out from beneath our negotiating teams? It must warm the cold hearts of the communist negotiators to see the confusion and disarray such movements portray.

To summarize: There are at least four strong reasons why a nuclear "freeze now" is a dangerous mistake and a negotiated reduction of nuclear weapons to a more stable level and then freeze is the surest way to preserve the peace:

(1) A "freeze now" would be a distraction and diversion from the main event, i.e. mutual and verifiable reductions and then a freeze. It would take years of negotiating with the Russians just to establish definitions—meanwhile, no freeze, no reductions and instability remains;

(2) A "freeze now" would be a complete disincentive for the Soviets to reduce the present destabilizing level of nuclear weapons;

(3) Verification must be "on site" and as a practical matter will never be accomplished unless Russia changes the nature of its society; and

(4) We would have to massively increase our conventional forces to fill the void created by neutralizing the nuclear equalizer.

If you are hesitant to accept the analysis of the Defense and State Dept. under President Reagan, than take the word of President Carter's Sec. of Defense, Harold Brown, who has both written and testified that a "freeze now" would be a serious mistake without substantial reductions first.

Can we trust the Soviets? An Associated Press dispatch from Moscow, dated Aug. 8, 1982 tells us "a co-founder of Moscow's only independent disarmament group is being administered depressant drugs against his will in the psychiatric hospital where he is being held, his wife said today."

British Air Marshall Sir John Slesssor has written: "It is customary in the democratic countries to deplore expenditures on armaments as conflicting with the requirements of social services. There is a tendency to forget that the most important social service a government can do for its people is to keep them alive and free."

Yes, I'm for a freeze of nuclear weapons—but only after significant, mutual and verifiable reductions first:

The Preamble to our Constitution—which we in Congress are sworn to uphold—not only sets out the goal of providing for the Common Defense but also "to secure the Blessings of Liberty to Ourselves and our Posterity".

If we are weak—if we are disarmed—in the face of a hostile aggressive force, with the avowed mission not only of "burying us", as Khrushchev promised, but of imposing its system of organized barbarism on all the world—we will be Accessories in that enslavement of humanity.

Patience, a sense of History and military and moral strength will preserve the peace—will preserve our freedom and our children's freedom.●

H.R. 6046

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. EDGAR. Mr. Speaker, several weeks ago I voiced some concerns regarding House Resolution 6046, a bill on extradition. The bill is due for a vote soon and I am still concerned.

There are few problems more serious than international terrorism; and any bill which facilitates the return of terrorists to the country where they committed their crimes ought to have the full support of this House. At the same time, however, there are few rights which deserve to be protected more zealously than the rights to liberty and due process under law. America has long been a refuge for the political opponents of authoritarian regimes. For over 200 years it has been a leading champion of freedom and human rights. House Resolution 6046 threatens these basic democratic principles in several ways.

First, it permits anyone living in the United States, whether a U.S. citizen or a foreigner, to be held without bail on the mere allegation by a foreign government that an extraditable crime has been committed. In some cases, evidence need not be presented for up to 60 days.

Second, the list of crimes that must be considered extraditable has been expanded to such an extent that it even includes people whom American extradition law has always protected in the past. Critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported would not even be considered possible political offenders under the bill—except in "extraordinary circumstances," not one of which is mentioned.

A final threat comes from a provision preventing the courts from investigating whether an extradition request is, after all, merely an attempt by a foreign state to persecute its political opponents. To quote the bill itself:

> Any issue as to whether the foreign state is seeking extradition of a person for the purpose of prosecuting or punishing the person because of such person's political opinions, race, religion, or nationality * * * [and] any issue as to whether the extradition of a person to a foreign state would be

incompatible with humanitarian considerations shall be determined by the Secretary of State.

Thus, critical judgments are left in the hands of a policy maker—a person who is under enormous pressure from allies to extradite political opponents of the regime and to ignore evidence that the extradited people will not receive a fair trial.

Taken together, these provisions of the bill amount to a serious challenge to civil liberties and due process. They deserve a thorough debate in the House, and if there is no time for such a debate the vote on the bill ought to be postponed until a better opportunity arises.●

IDA NUDEL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GOODLING. Mr. Speaker, I am pleased to say that the House Foreign Affairs Committee today agreed to House Concurrent Resolution 302, urging the Soviet Union to allow Ida Nudel to emigrate to Israel. For some time now, I have been in contact with Ida's sister in Israel and have been trying through letters to various Soviet officials to help out. Unfortunately, Miss Nudel's position seems to be worsening: The refusal of a residence permit leaves her literally with no place to stay and has adversely affected her already fragile health. A few weeks ago I received a transcript of a telephone conversation Ida had with her sister in Israel: It is very disheartening. Equally alarming is the fact that her sister has since been unable to locate her. I am submitting the transcript for the RECORD in the hope that many of my fellow Members will join me in cosponsoring Mrs. KENNELLY's bill, House Concurrent Resolution 302 and help to get Ida Nudel out of the Soviet Union.

The transcript follows:

TRANSCRIPT OF PHONE CONVERSATION BETWEEN ELENA FRIDMAN (HOLON, ISRAEL) AND HER SISTER, IDA NUDEL (MOSCOW, U.S.S.R.) ON JULY 13, 1982 (TRANSLATED FROM RUSSIAN)

Ida: I spoke to Ivanov for the first time on the 17th of June. It was our first conversation and I asked him about my residence permit and about my emigration. He spoke to me in a very quiet manner and told me: "I cannot answer you now, I am not prepared enough to provide the answers to both the first and the second question. You should write a statement and then call me."

On the 18th, I brought my statement to his office and asked that it should be given to him with the incoming mail, as we agreed. Then I could not find him for a few days, but on the . . . (date unclear—Tr.) I spoke to him again on the internal phone (he does not accept calls from outside). This conversation left a bad impression on me as he simply said: "Ah, you want to leave?" and then came such a terrible kind of laughter that I understood that nothing good would come of it. He gave me the telephone number of Vladimir Grigorievich Borisenko, the Deputy Director of the Ministry of the Interior main office, the man who deals with emigration matters. On the 23rd I found him in his office and he told me that he knew about my case and that I would be able to meet with Kuznetsov today. I went to the All-Union OVIR and waited for Kuznetsov. His appointment hours start at 3 o'clock and he saw me at about 4 o'clock (I was the first to meet him that day). The conversation was a short one:

K.: "What can I do for you?

I.: I spoke to Ivanov and he sent me to you, saying that you will be able to solve my problems.

K.: Which ones?

I.: The question of the residence permit (for Moscow—Tr.) and the question of my emigration.

K.: Questions regarding the residence permit are attended to at the local police office.

I.: I have already applied to the police office and they refused my request. I applied to the Municipality and they refused it too. I then applied to Ivanov and he sent me to Borisenko, Borisenko sent me to you. . .

K.: You should apply to the police about questions concerning the residence permit.

I.: I already . . . (I did not yet finish the sentence when he said:)

K.: You should apply to the police . . .

I.: I've already told you twice and I'm telling you the third time: I've been to the police office. Why are you tormenting me? We are both speaking Russian and I'm telling you that I've been there and they refused . . . (He looked straight into my eyes and said again:)

K.: "About questions concerning the residence permit you should apply to the local police office."

I.: I sat there and thought: he'll go on repeating that phrase and I'll go on repeating my story but in the end I will have to give in. And I said to him: "Why do you keep tormenting me? Do you want to bring me to such a state. . . .(telephone conversation disrupted—Tr.) You probably want to bring me back to the state I was in before."

Then Anichkina said: "You were told to go to the local police office. Go there."

I thought that perhaps I'm being obstinate, that perhaps they decided to correct the mistake. After all, you know, one always wants to believe that things will turn out well. I went to the police office, but I went home first as I'd been running around the whole day and I wanted to take the dog out. When I came to the police office and the director of the office saw me he said; "Ah, you are here? I'm going to punish you." "Fine," I said, "punish me, but let me take the dog home first." "Take the dog back and then you must definitely come back here," he said.

I took the dog back and decided that they'll charge me with hooliganism and keep me under arrest for one day. So, I took a couple of sweaters with me and everything I needed, and I called Lyova on the way. I told him that if I won't come back it means that they put me under arrest for a day, and that I'll call him as soon as I'm released.

The director of the police office saw that I was all excited and said: "I'm giving you a permit (to remain in town) for 72 hours." "Fine", I told him, "let me have that permit." He gave me the permit for 72 hours, dated the 23rd of June. Then I asked him what my rights were, To that he said: "I'm giving you one permit for 72 hours, and if you still won't leave, I'll give you another one for 72 hours, and if you still won't leave, I'll arrest you and you'll get a year in corrective labor camps." "All right", I said, "now I know what my rights are."

On the 23rd I started "evacuating" my flat. I threw out all sorts of things because that's what I had decided to do. I did all sorts of other things around the house. The 72 hours' limit expired on Saturday and they didn't touch me. They probably didn't work on Sunday either as nothing happened then too. In any case, the validity of the first permit ended, but by that time I got somewhat used to the thought and on the 28th of June I made a round of all the Prosecutor's Offices. I went to the regional Prosecutor's office and submitted a complaint about the actions of the police. I found myself speaking to the same Prosecutor to whom I had appealed in June 1978, V.P. Antonov. I met him by chance, it just so happened that I came during his office hours. When I came into his office he said: "I know you, you are Nudel." I told him the whole story and I mentioned that no restrictions on issuing residence permits apply to my case as there existed a special provision for (persons residing in) cooperative apartments. I told him that I would like to know what my rights are. He told me that he could not give me an answer as he did not know who had issued the orders for the police actions. I told him that this did not matter: "I do have rights, don't I?"

When I went to the Mossovet (Moscow Soviet), the man I had given my documents to said: "Don't count on getting a quick reply as the commission does not meet too often, but we'll probably give you an answer in a month's time." This commission, as he explained to me, mainly deals with cases like mine, cases of persons who had been convicted before or . . . (text unclear—Tr.) . . .

Elena: Are you waiting for the commission's reply?

Ida: I'm not waiting for anything. I came last night (back to Moscow, Tr.) and will leave again. I can't appear anywhere.

Elena: Can you sell your apartment?

Ida: Come on, this is not the question. So, they'll give me back the money and then what? Nothing, I have no rights anyway. All this belongs to the state and I could get back only some of my money.

Elena: And you could not change apartments?

Ida: No, I have no right to do that. I would have done it if I could, but I cannot do it as I don't have a residence permit.

Elena: And what about getting the residence permit in some area near Moscow, in the district (oblast)?

Ida: In what district? And what difference would it make? It does not matter whether I apply or don't. If they'll want to let me go they'll do it anyway. If they want to let somebody out, they take him out of prison and just let him go. They just don't want to let me go.

Elena: G-d knows why they are keeping you.

Ida: You don't know, but I do, I do. You left a long time ago and you did not know what this kind of life was all about, so how could you understand. I do. If they would have wanted me to leave I would not have had to go through all that suffering. They don't want to let me go, so what do I care

where I stay. I'm not going anywhere, let them do what they want.

Elena: What do you mean?

Ida: That's exactly what I mean.

Elena: I don't think you are right.

Ida: You don't think so, do you? You remember, you told me that they wouldn't dare do anything? You just don't understand anything.

Elena: They are simply thinking that they can get a bigger price. They don't know that no-one is offering anything.

Ida: This is my tragedy: the fact that they don't want (to do it). I understand very well what is happening and that's why I must tell you to stop dealing with many affairs. It's all useless and you are contradicting yourself in what you've been telling me. I know that everybody loves me. So what! What does it matter?

Elena: What could I tell you from so far away? You must be reasonable.

Ida: They would have taken me out of here long ago if they would have really wanted to.

Elena: You have to be reasonable and to behave (the best way possible) no matter what happens.

Ida: Yes.

Elena: Do you have any ideas about that?

Ida: About what?

Elena: About what should be done.

Ida: Ha! I have plenty of ideas but they are all about other things. What is there to talk about, you just don't understand the situation. My tragedy is that nobody wants to . . . (text unclear—Tr.), nobody wants to do it. But, after all, I'm only a human being and there is a limit to my strength too. And everybody is interested in seeing that limit being reached sooner.

Elena: But you don't want this to happen, so you have to conserve your strength.

Ida: I do everything I want to do, but I have taken upon myself a load that not too many others would take upon themselves.

Elena: You did and now is the time to stop.

Ida: What do you mean "stop"? What do you mean by that? I want to leave. It is you all who don't want me to leave, but I do. I really don't know which words to use, but I do have a limit. Why, then, are you all so much against me?

Elena: This is not so. Everybody wants you to come.

Ida: There is a big difference between the words and the deeds. The words sound nice but there is no action and that means that the words just don't bring forth any action. I am not a fool, I understand exactly what's happening; I'm so familiar with this "kitchen". You don't understand but I understand very well everything that stands behind these words.

Elena: What would you like me to do?

Ida: I'm telling you just one thing: leave all these affairs, take care of your home . . . (text unclear—Tr.) I'll do whatever I think is right.

Elena: I would like you to come here too.

Ida: But you are not in a position to do anything, we are both not in a position to do anything. So, just leave it alone, it will be better for me that way.

Elena: And who can do something?

Ida: No one can, unless he really wants to do it. When a man who really wants to do it will appear—he'll do it. And until people willing to want that are found, nothing will happen. Don't you understand how it works? This is why I've been telling you for years: leave it all (text unclear—Tr.) . . . and just leave me alone. Don't go anywhere, don't do anything and it would even make things easier for me from the moral point of view. I'll do whatever I think is necessary, I just want you to stop dealing with these matters. There is no sense in us both wearing ourselves out.

Elena: Do you think that I'm a hindrance to you?

Ida: No, but I do think that you should leave it all and just live your own life. There is no sense in wearing yourself out, in paying such a price. What I'm doing is quite enough.

Elena: What are you going to do now?

Ida: Why should I supply information against myself?

. . . Neiman took the dog.

. . . L.M. is going away on vacation in September.

Did they give you my present?

Elena: No.

Ida: Scoundrels. It always happens . . .

Elena: Who was to have given it to me?

Ida: I sent you a stole I made of dog's fur, a really terrific thing.

Elena: But who was to have given it to me?

Ida: How do I know? I didn't give it to them myself. I've never seen these people myself. It's a pity you did not get it. It really looked great. No matter what I send, it gets lost.

Elena: Can I ask you something under the circumstances?

Ida: Of course you can.

Elena: I would like you to get a firm grip on yourself.

Ida: You better think what you are saying to me. Who can stand this sort of situation.

Elena: You have to do it, there is just no choice. You've already been in a complicated situation and showed you could do it.

Ida: . . . I have been ill: I had the flu and a terrible cough. I really did not get over it yet.

Elena: Did they examine your heart?

Ida: I've been examined by a very good doctor, one of the best cardiologists in Moscow (Neiman arranged this for me), and he finally found out what was wrong with me. He gave me some medicine, told me that I would have to take it all my life and this medicine has been keeping me going. I don't know what I would have done without it. These two crazy weeks, when I kept moving from town to town and sometimes even had to spend the night at the railway station, the medicine saved me. The most important thing is that finally it became clear that the other doctors just did not know what they were talking about and therefore prescribed the wrong medication. . . .

Elena: I'm speaking from my neighbor's flat, the Levins from Minsk. My phone is out of order.

Ida: I don't know them. Some 260 thousand people left. How could I know all of them?

Levin: Ida, I stopped at your apartment exactly 10 years ago.

Ida: Thank you for everything, but I really don't remember. So many people passed through my apartment.

Levin: Let's say there are some ideas and let's assume that Lena (Elena) can't do anything. Who, in your opinion, should be dealing with this?

Ida: Anyone who isn't important could not be of help in this matter. Don't you understand on what level things are done? I can't decide who is the right person to deal with this, how could I?

Levin: Maybe you have some ideas?

Ida: I know about the way things are done here, but I'm not so sure about the way they are done at your end.

Elena: What, in your opinion, should be done?

Ida: As long as I don't know what is going on at your end, I can't give you my decision. You yourselves must find the solution.

Levin: There are a lot of possibilities but not so many ideas.

Ida: As I see it, there are no buyers. The goods are there, the publicity is there too, but there are no buyers. That's obvious.

Levin: Let's say that this is a temporary crisis. . .

Ida: During the last 11 years I've been moving from one crisis to another. The effect was great, but the general cause profited from it more than I did. I've already told Lena that you should live your own lives, this would be better. You don't decide anything and all these troubles only wear you out and it all leads to nothing. So, leave everything as it is.

Levin: You'll do what you think is right and we'll do what we think is right. And we'll do it together.

Ida: Just leave it alone, it's a lost cause. . . . My regards to everyone.●

ENTERPRISE ZONE PLANS ANALYZED

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. NOWAK. Mr. Speaker, the concept of establishing enterprise zones in targeted high unemployment areas is one that has provoked a great deal of discussion.

As part of this process, the Congressional Black Caucus last week conducted a workshop, chaired by our colleague from Illinois, Representative GUS SAVAGE. The caucus is to be commended for his leadership in focusing attention and generating debate on this important idea.

While my schedule unfortunately prevented my participation in the caucus' workshop, I have submitted the following statement, for the record, of its proceedings and would like to insert it in the RECORD at this time.

FREE ENTERPRISE ZONE WORKSHOP

I appreciate the opportunity to offer my views on providing economic incentives to the distressed areas of this nation, and would like to thank the Congressional Black Caucus for inviting me to join this symposium.

The current economy, marked by restrictive interest rates, increased business failures, declining productivity and record level unemployment, makes the outlook for economic recovery extremely pessimistic. In the midst of this general economic downturn the Nation's urban centers for some time have been experiencing an increasing movement toward economic deterioration.

In response to this problem, Congress has been debating the viability of the so-called "enterprise zone" concept, while the Administration has adopted an "enterprise zone" proposal as the basis of its urban policy objective.

While it is crucial for the Administration to recognize the need to provide economic

stimulation for the country's distressed areas, especially in view of the recent reduction in Federal aid to state and local governments, the Administration's "enterprise zone" plan, with its provisions for tax incentives and regulatory relief, is far too narrow in focus to effectively remedy our urban ills.

The basic shortcoming of the Administration's proposal, in its present form, is a failure to provide a well-balanced strategy for local economic development. In addition, this measure does not realistically address the need for a workable job creation initiative and the important role that small business must play in the implementation of a viable urban revitalization scheme.

The need to effectuate a solution to the current jobless rate is painfully obvious with an unemployment rate approximating nearly ten percent. Further, since small business has traditionally been credited with creating the vast majority of new jobs, it stands to reason that any program designed to encourage business development and curtail unemployment must focus on the needs of the small business community.

As Chairman of the Small Business Subcommittee on Tax, Access to Equity Capital and Business Opportunities, I have been actively involved in the debate over economic incentives to distressed areas for the past several years. I have introduced several bills, held numerous hearings and released a report on this subject entitled "Job Creation and the Revitalization of Small Business" (Report No. 97-434).

My proposals are designed to broaden the scope of the plan to revitalize the Nation's distressed areas, concentrating primarily on the need to create and retain jobs utilizing the private sector, especially small business, to implement this program. Therefore, in conjunction with tax and regulatory relief, a viable urban revitalization plan must include provisions to address the capital formation needs of the business community; maintain and improve the local infrastructure base; continue to utilize past-proven economic development tools; and train individuals to meet the explicit employment needs of the business community.

I would like to point out that in my capacity as Chairman of the Small Business Subcommittee, I have long been a proponent of using Federal tax policy as a means to enhance the capital formation position of small business and was instrumental in inclusion of several small business tax relief provisions in the 1981 tax bill. However, in the broad context of providing economic stimulation to the Nation's distressed areas, I do not view tax incentives as a panacea. A business will derive no benefit from credits and deductions if it is experiencing little or no profitability. For example, a start-up business, which as a general rule is hard pressed to realize even a modest profit in its early stages of development, would be unable to take advantage of the tax incentives currently proposed and thus would be forced to rely on outside sources for seed and working capital.

Because high and volatile interest rates have rendered conventional financing unaffordable to most small business, any successful urban revitalization plan must provide alternative sources of financing such as viable loan and venture capital programs for small business.

My enterprise development plan incorporates various provisions to meet these capital formation needs including a strengthening and improving of the cost-effective Small Business Investment Company program of the Small Business Administration. In addition, my proposal provides for the maintenance of the successful components of existing sources of small business financing such as Title IX of the Economic Development Administration. For example, the "National Development Investment Act" (H.R. 6100), which was recently passed by both the House and the Senate and is awaiting conference agreement, is designed to insure the ability of EDA to stimulate private-sector investment in distressed areas. Among other things, this measure provides funding for loans and technical assistance to small firms in distressed areas. This is a prime example of the type of economic development program which would be continued in order to provide a source of capital for firms locating in declining urban areas.

A further source of business investment capital from an existing economic development program is the tax-exempt Industrial Development Bond program. Although there has been much criticism concerning the IDB program and the recent tax bill contains some restrictions, I believe that a responsibly monitored IDB program can and will be an effective economic development tool which directly responds to the critical economic problems of declining productivity, lack of capital investment, unemployment and the deterioration of our urban centers.

Another problem area which must be addressed in formulating a meaningful urban development policy is the rapidly deteriorating infrastructure base in many areas of the country. The failure to maintain and improve a proper infrastructure has created a crisis, especially in the older cities of the Northeast, which can no longer be ignored.

The dilapidated conditions of sewers, bridges and water facilities threaten not only the safety of the citizens but also the economic vitality of numerous communities. In order to encourage businessmen to locate and remain in any area, we must provide a healthy commercial environment which necessitates a sound infrastructure base.

Broadening the perspective on incentives to distressed areas could insure that the critical problem of a failing infrastructure is effectively remedied. For example, the "National Development Investment Act" also provides funds in distressed areas for the construction, repair, rehabilitation and improvement of public facilities.

Finally, and probably the most critical consideration in formulation of an urban revitalization plan, is the need to stress the role of human capital development in the economic development and job creation process. It is essential that we emphasize the importance of providing basic training opportunities for both skilled and unskilled workers.

The severe skilled labor shortage in this country has not only contributed to declining productivity but also may undermine our competitive position in world trade and may threaten our defense capabilities. To address the problem of the skilled labor shortage, specifically, the Congress should enact a specialized skills training tax credit which would be available to the vital industries presently facing an acute shortage of skilled workers. This type of credit would be especially beneficial to small business persons, who need skilled personnel to remain competitive, but who cannot afford the high cost of training such employees. As part of my enterprise development package, I introduced the "Job Creation Tax Act" (H.R. 3726) to provide tax credits to employers who employ both skilled and unskilled laborers in distressed areas.

Furthermore, pursuant to my belief that all Federal assistance programs are not inherently undesirable and that we should maintain those which have effectively accomplished their objectives, I previously recommended that the basis structure of Private Industry Councils (PIC's) of the CETA program be continued. PIC's were designed to increase the participation of the business community in employment and training activities, with the goal of expanding private sector employment for the economically disadvantaged.

It should be noted that the "Job Training Partnership Act" (H.R. 5320), which would replace the expiring CETA program, gives the PIC's an equal voice with the local governments in determining how Federal job training programs are to be implemented. In addition, the bill requires that a majority of the members in the PIC's be representatives of business and industry with one-half of these representatives from the small business community.

While this plan maintains provisions for the training of youths, displaced workers, skilled and unskilled workers, the unique feature is a substantial increase in the input of the business community in the design and implementation of all employment and training programs, to insure that individuals are equipped with skills actually in demand.

A recent Congressional initiative, the Urgent Supplemental Appropriations for the Department of Labor (H.J. Res. 562), demonstrates the Federal government's ability to respond to both the infrastructure and unemployment dilemmas. The measure provides temporary jobs for the unemployed, provided that the activities funded are utilized to maintain and restore public properties. The concept behind this resolution could provide impetus for developing job creation and infrastructure components of a distressed area revitalization plan.

In conclusion, in order to formulate a viable program to revitalize the Nation's distressed areas, I believe that it is necessary to implement a well-balanced mixture of various incentives. This comprehensive plan should include targeted tax relief, provisions for seed capital to spur business expansion, maintenance and improvement of our infrastructure base, and a strategy to meet the human capital needs of our business community through job training programs and targeted job tax credits. In addition, it should recognize the value of existing successful economic development tools by incorporating them in the overall urban revitalization schematic.●

DEFENSE BURDEN SHARING WITH OUR ALLIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. HAMILTON. Mr. Speaker, I wish to bring to the Members' attention an article published in the New York Times September 4, 1982, by a fellow member of the House Foreign Affairs Committee, Representative DENNIS E. ECKART. In discussing the issue of burden sharing with our NATO and Japanese allies, Represent-

ative ECKART has thoughtfully examined problems which we must address in the coming months.

Representative ECKART points to two problems which are causing tension with our allies. First, it is obvious that leaders in Japan and Western Europe do not share the administration's assumptions about the Soviet Union. From this difference emerges the second problem, the lack of firm commitment to honor a pledge on burden sharing that our NATO allies agreed to in 1977. Because of this, the United States has assumed a disproportionate share of the cost of defending our mutual security.

Some may not agree with all of Representative ECKART's conclusions, but I think we all could agree that more burden sharing by our allies is essential. Congressman ECKART's statement serves as a useful starting point for discussion on this critical foreign policy and national defense issue.

The article follows:

OUR ALLIES MUST SHARE IN THE DEFENSE BURDEN

(By Dennis E. Eckart)

WASHINGTON.—The United States bears too heavy a burden for the defense of its North Atlantic Treaty Organization allies and Japan.

The United States is wounding its economy by footing 53 percent of the total allied spending on defense. This spending loots the economy of capital that could and should be invested more wisely and humanely to put Americans back to work. It allows NATO and especially Japan to allocate larger shares of their resources to more efficient, productive uses and, in effect bomb America's economy. All of this is happening while some allies and Japan rig the rules of free and fair trade and export unemployment to the United States.

Unfortunately, the Administration suffers from tunnel vision. It advocates spending on an elephantine military buildup when there is lacking a consensus on what constitutes effective strategy militarily and diplomatically to deter Moscow.

What is disturbing is the failure of the Reagan Administration to understand the attitudes of the leaders of the alliance.

Leaders in Western Europe are clearly less conservative and less fearful of the Soviet Union than is President Reagan. There is a shared mutual interest in deterring Moscow's adventurism but the leaders in Western Europe also prefer a strategy that combines political, economic and social relations with the Soviet Union. Thus in the absence of a cohesive American foreign policy the allies have little incentive—at least yet—to agree to share defense spending more equitably. The unfortunate result is nothing but lip service to meeting the 1977 commitment to do so.

The allies also remain essentially divided because of conflicting political, economic and social circumstances, all of which the Administration fails to address fully in its foreign policy.

It is foolhardy to try to argue that there is some magic mathematical formula for determining each nation's fair share of defense spending. Equity, however, was the overriding principle agreed to when the United States and the allies signed the North Atlantic Treaty in 1950. To achieve the common goal of building sufficient military strength to deter aggression against any member of the alliance, the allies were supposed to agree to distribute the burden "equitably among all the North Atlantic Treaty countries on a basis agreed to multilaterally by them."

All the statistics favor sending the allies and Japan a clear signal: Uncle Sam is tired of being ill-used. Consider that the United States spends 5.6 percent of its gross national product on defense while collectively the NATO allies average about 3.5 percent and Japan only 1 percent. Per capita the United States invests $607 on defense. Compare that to NATO's collective average of $434 and Japan's meager $84, according to the latest figures available from the Defense Department.

The dilemma of fairly sharing defense costs is not entirely new. The Nixon and Ford Administrations attempted to negotiate an allied commitment for more equitable sharing in the costs of NATO's defense umbrella. Finally, in 1977, the Carter Administration won a pledge from the allies to increase their defense spending by at least 3 percent annually in real terms.

A recent Pentagon report suggests that the allies are doing a reasonably good job of meeting the 3 percent commitment. Other Pentagon evidence, however, suggests otherwise. Only half have ever achieved the 3 percent commitment in any single year, and collectively the allies this year are likely to increase their real defense spending by 2.1 percent.

Clearly, it is time to hold the allies' feet to the fire. It's also time to hold the Reagan Administration accountable for failing to exercise coherent and steadfast leadership, which coincidentally is precisely what Secretary of Defense Caspar W. Weinberger says is critical to keeping the alliance an effective deterrent against the Soviet Union.

America's commitment to Western Europe after World War II was important to restore the allies' economies. They were too weak militarily and economically to guarantee their own security. But by the time President Dwight D. Eisenhower left the White House, he believed a reduction of United States strength in Western Europe should be initiated "as soon as the European economies were restored." That has happened.

The allies and Japan are capable of paying their fair share for defense. It is now the economy of the United States that is in ruins and is in need of a helping hand. The time has arrived for the allies and Japan to assume an equitable share of defense spending. America's taxpayers favor a secure and effective alliance, but at a farer price. We can no longer be the sugar daddy.

(Dennis E. Eckart, Democrat of Ohio, is a member of the House Foreign Affairs Committee.)●

REPUBLICAN FISCAL IRRESPONSIBILITY: PART II

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

●Mrs. SCHROEDER. Mr. Speaker, one of my colleagues yesterday took exception to my pointing out, among other things, the fascinating relationship between Republican Presidencies and high Federal deficits.

Among the facts I cited was that Democratic Congresses normally appropriate less than Republican Presidents ask for. In response, my colleague recalled President Ford's "veto after veto."

Well, let us look at the facts. Set out below is a comparison of congressional appropriations to Presidential budget requests:

COMPARISON OF CONGRESSIONAL APPROPRIATIONS TO PRESIDENTIAL BUDGET REQUESTS

[Dollars in billions]

Calendar year	Amount requested by President	Amount appropriated by Congress	Congressional action over (+)/under (−) President's request	
			Amount	Percent
1947	$33.4	$30.1	−$3.3	−9.9
1948	35.4	32.7	−2.7	−7.6
1949	39.5	37.8	−1.7	−4.3
1950	54.3	52.4	−1.9	−3.5
1951	96.3	91.1	−5.2	−5.4
1952	84.0	75.4	−8.6	−10.2
1953	66.6	54.5	−12.1	−18.2
1954	50.3	47.6	−2.7	−5.4
1955	55.0	53.1	−1.9	−3.5
1956	60.9	60.6	−0.3	−0.5
1957	64.6	59.6	−5.0	−7.7
1958	73.3	72.7	−0.6	−0.8
1959	74.9	73.0	−1.9	−2.5
1960	73.8	73.6	−0.2	−0.3
1961	91.6	86.6	−5.0	−5.5
1962	96.8	92.3	−4.5	−4.6
1963	98.9	92.4	−6.5	−6.6
1964	98.3	94.2	−4.1	−4.2
1965	109.4	107.0	−2.4	−2.2
1966	131.2	130.3	−0.9	−0.6
1967	147.8	141.9	−5.9	−4.0
1968	147.9	133.3	−14.6	−9.9
1969	142.7	134.4	−8.3	−5.8
1970	147.8	144.3	−3.5	−2.4
1971	167.9	165.2	−2.7	−1.6
1972	185.4	179.0	−6.4	−3.5
1973	178.0	174.9	−3.1	−1.7
1974	213.7	204.0	−9.7	−4.5
1975	267.2	259.9	−7.3	−2.7
1976	282.1	282.5	+0.4	+0.1
1977	364.9	354.0	−10.9	−3.0
1978	348.5	337.9	−10.6	−3.0
1979	397.7	386.8	−10.9	−2.7
1980	340.3	333.7	−6.6	−1.9
1981	339.0	340.0	+1.0	+0.3
Total	5,159.4	4,988.8	−170.6	−3.3

Note: These figures are compiled on a calendar-year basis, and compare the total amounts requested by the President during each session of Congress with the total amounts appropriated by Congress during that session. The totals include all appropriations—regular annual, supplemental, and deficiency.

Between calendar year 1947 and 1981, Congress appropriated more than the President requested only twice, in 1976, 0.1 percent more, and in 1981, 0.3 percent more.

One party is not necessarily more fiscally responsible than the other. Assuming, however, that a Federal deficit is the litmus test for fiscal responsibliity, Republican administrations fail, and they fail in a big way.

(NOTE.—The H7191 insert September 20, 1982, neglected to cite Republican control of the House, 1953-55.)●

TO REBUILD AMERICA—$2.5 TRILLION JOB

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. EDGAR. Mr. Speaker, the problems of our decaying public infrastructure have increasingly forced themselves into our consciousness. Several major national publications have recently devoted space to this creeping crisis. In its September 27, 1982, issue U.S. News & World Report featured an analysis entitled "To Rebuild America—$2.5 Trillion Job." This article is an important contribution to the growing national debate on infrastucture and a Federal Capitol budget. The article follows:

TO REBUILD AMERICA—$2.5 TRILLION JOB

At a time of lingering recession, another cloud now looms, over the U.S. economy: A creeping crisis in the nation's long-neglected and decaying public works that can only be solved by trillions of dollars in new spending.

Crumbling highways, rusting bridges, backed-up sewers, leaking water mains, bursting dams, broken-down buses and subway cars—these and many other basic problems have been building up for a decade and a half, while the country occupied itself with other concerns. Now the troubles of public works, which economists call the infrastructure, have accumulated to the point where they pose a growing obstacle to a sustained national recovery.

"Much of America's infrastructure is on the verge of collapse," warns Pat Choate, senior policy analyst for the conglomerate TRW, Inc., and a congressional adviser. "Yet American business and farming depend absolutely on the smooth functioning of public works. If producers cannot get their products to market on time, prices increase and competitiveness declines. If basic services such as water supply or sewage are limited, then firms are hampered in their ability to expand and provide more jobs and income."

Suddenly, policymakers in Washington, state capitals and city halls are starting to give urgent attention to the erosion of America's basic underpinnings. The consensus of experts: It will take a staggering amount of money over many years to stem the spreading decay and reconstruct America's time-ravaged economic base.

Choate estimates that local, state and federal governments would have to spend from 2.5 to 3 trillion dollars this decade—slightly more than all planned defense outlays in the same period—just to maintain today's level of service on public facilities. At present spending levels, he says, less than a third of that renovation can be done.

The most costly items on a list Choate presented to a congressional group:

Highways and bridges outside urban areas, 1 trillion dollars.

City streets, 600 billion.

Municipal water systems, 125 billion.

Ports and inland waterways, 40 billion.

Constructing and renovating up to 3,000 prisons and jails, 15 billion.

Water-pollution controls to meet current standards, 100 billion.

"Rebuilding the nation's public infrastructure," concludes Choate, "promises to be the single most expensive government challenge of the 1980s and 1990s."

To speed efforts to cope with the developing crisis, a bipartisan coalition in Congress is pushing for creation of a "national capital budget." This would require the administration, as a beginning, to take a first-ever inventory of public works throughout the country, with a view to assigning priorities for refurbishment and new construction.

In state and city governments, which in recent years have been contributing an average of 75 percent annually on spending for public works, officials are wrestling with the unsolved problem of how to increase the funds available to rebuild the aging infrastructure. Total spending in this field, measured in constant 1972 dollars, has declined 19 percent since 1965, while the nation's gross national product has risen 62 percent.

Finding the additional money now has been made more difficult by a flight from cities to suburbs, which has reduced municipal revenues. Adding to the pinch are stiffening local tax resistance during the business slump and an escalation of interest rates on new bond issues.

Yet strong doubts exist that President Reagan can be persuaded to make any significant increase in federal funds for public works. In fact, the White House is pressing for cutbacks in subsidies to mass-transit systems and reduced federal spending in other fields, while urging state and municipal authorities to take on more of the burden with help from private enterprise.

DAILY HAZARDS, BREAKDOWNS

For many Americans, the consequences of a decaying infractructure are becoming more apparent almost daily:

In Jersey City, N.J., the water supply ran out in midsummer for the city's 223,000 residents with a rupture in a main of the 82-year-old water system. It took five days to restore drinkable water, as National Guardsmen ladled out supplies from tank trucks.

In Colorado during the same month, 80-year-old Lawn Lake Dam gave way, sending 250 million gallons of water cascading through the Rocky Mountain resort town of Estes Park. Four people were killed, and property damage from the flood ran to 21 million dollars.

Many communities now live under the daily threat of a failure of one vital public facility or another. In Cleveland, that danger is the 43-year-old Main Avenue Bridge, the main traffic artery to downtown from western Cuyahoga County. The bridge has recently shown such signs of decay that authorities closed it six nights for temporary repairs. Such repairs have cost 1.7 million dollars in the last three years, and contracts worth $600,000 more are to be let soon.

"It's a crime spending this money, because we're just putting bandages on the bridge," says Cuyahoga County Engineer Thomas J. Neff. "But closing it would be catastrophic in traffic terms, and we simply can't find the 30 million dollars it would take to rebuild."

In Phoenix, the big worry is the sudden appearance of cracks in the earth, as long as 400 feet in one residential neighborhood. A road sign outside the city depicts a car plunging into a crevice and warns drivers they are entering a "subsidence area." The fissures are a direct consequence of large-scale pumping from aquifers to meet increasing water demands in the fast-growing Arizona city.

These are but a few of the problems caused by an infrastructure that has long served the country well but now shows the effects of years of heavy usage and neglect. As John Wiedeman, president-elect of the American Society of Civil Engineers, puts it: "Virtually every part of the country has its own horror story." The full extent of the challenge of decaying public works is emerging from recent studies by government officials and private experts.

A CATALOG OF TRANSPORTATION WOES

Some 8,000 miles of the nearly completed 42,944-mile interstate-highway system—begun in the 1950s—are crumbling and must be resurfaced, says a new official survey. Pavements erode in 15 years or less, mainly because of trucks and heavy traffic. At the current rate, 2,000 miles more of the interstate-highway system is wearing out every year. A new congressional study puts the cost of completing and renovating the highways at 54.8 billion dollars.

Even more serious decay is attacking 3.9 million miles of roads totally supported by states, counties and cities. A recent study by the Road Information Program, a Washington research group, showed that almost two thirds of the major roads need resurfacing or rebuilding. Nearly 45 percent of the nation's 557,516 bridges are classified in a recent official report as "either structurally deficient or obsolete." These include 26 percent of the bridges on the federally aided road system that carries most of the nation's traffic.

Of the total of officially "deficient bridges," 126,655 of those are so unsafe as to be restricted by federal law to light vehicles—no buses, trucks, truck trailers, vans or fire engines—or closed to traffic altogether pending rehabilitation. At least 3,416 bridges have been closed for repairs or for good. The Transportation Department places the cost of replacing or rehabilitating all bridges at 47.6 billion dollars. To help state and local governments foot that bill—they finance about 60 percent of bridge costs—the Highway Users Federation has urged Congress to triple the present rate of federal funding through the federal Highway Trust Fund. The fund takes in about 6.6 billion dollars a year in fuel taxes and highway-user charges—but is already so heavily committed to various projects that it is running a deficit.

The nation's bus and subway systems also are hard pressed for money to fight spreading obsolescence. So critical is the deterioration in urban-transportation fleets that transit officials in a quarter of the 300 cities with such services say they might have to cease operations by 1985 if a threatened cut in federal support goes through. Their target: A Reagan administration proposal to cut out all federal operating subsidies, which at 1.1 billion dollars annually now cover 15 percent of transit costs.

Even at current federal-support levels and with recent fare increases in some places to as high as 90 cents, transit budgets fall far short of meeting rising labor and equipment costs. The resulting limits on maintenance and repair are causing buses and subway cars to break down with increasing frequency. San Francisco recently had to shut down its 100-year-old cable-car system, a major tourist attraction, for 20 months for a "total renewal."

A survey by the American Public Transit Association concludes that within this decade 72 percent of all transit buses and 28 percent of all subway cars must be replaced. Transportation Secretary Drew Lewis places a price tag of 40 billion dollars to maintain

the operational level of transit systems through the 1980s. To help urban authorities raise the money, he favors increasing gasoline taxes for automobiles by 4 cents a gallon and for heavy trucks by 1 cent a gallon. Neither the White House nor Congress seems ready to embrace that proposal.

Ports and inland waterways are suffering the consequences of a five-year lapse in federal authorizations for needed improvements. Commercial users seek more channel dredging to reduce harbor congestion and cut the rate of accidents. Especially sought is a renovation of old locks. "Unless critically deficient, aging, undersized locks are replaced or improved," warns Charles T. Jones, president of Amherst Industries, a Charleston, W. Va., coal shipper, "the safe and efficient movement of coal and other bulk commodities on the inland waterways will be in danger."

Jones points out that while three nations ranking as leading U.S. competitors in the world coal market have channels deep enough to accept larger coal vessels, the only one in this country is far from coal sources, in Long Beach, Calif.

DISAPPEARING WATER, BACKED-UP SEWAGE

Leakage from aging pipes is costing New York, Boston, Buffalo and other cities as much as a third of their water supplies between reservoirs and faucets. Of the nation's 43,500 dams, 9,000 are reported in need of safety improvements. Water problems are so widespread, according to one official report, that 756 urban areas face a bill of 63 billion dollars to repair or replace existing facilities. Meanwhile, the leakage is cutting into revenues from usage that might pay for new piping. Many cities warn that they will experience funding shortfalls even if water rates are doubled.

In the sun belt, a number of fast-growing cities and rural areas find themselves unable to keep pace with expanding water needs. One study for a congressional group warns that the old dust-bowl region of the central plains, which accounts for 23 percent of the nation's irrigated farmland and produces more than 40 percent of its processed beef, is in danger of depleting its water sources.

Regional officials complain that they haven't had an authorization for fresh federal aid for water projects since 1972. They warn that new water sources must be developed by the end of the decade to avoid declining yields of important export crops.

The nation's sewage-treatment systems are high on the list of decaying public works. Responding to a National League of Cities survey, 48 percent of local officials reported their sewage and drainage facilities in need of major rehabilitation or replacement. The Environmental Protection Agency estimates that by the year 2,000, 38 billion dollars will be required for replacement of sewers and 17.7 billion more for replacement of treatment plants.

Problems of sewage backups

At present, federal grants cannot be used to help meet the soaring costs of maintenance and repairs. Pressures are mounting for a change in that policy as residents of Chicago, Albuquerque and other cities experience sewage backups into their basements during heavy rains. Orlando, hard pressed to cope with one of the country's highest rates of growth, has no place but a local stream to empty its sewage after treatment.

Prisons head a long list of public buildings suffering serious deterioration. Of a total of 3,500 prisons in the country, 3,000 are so old and structurally inadequate as to need major renovation or expansion. The problem has been compounded by a sharp rise in the number of prisoners—a 12.1 percent jump in 1981 alone—caused by a nationwide trend toward tougher sentencing and a hold-down on paroles.

Estimates of what it would take to build or renew prisons to keep up with needs range from 10 to 14 billion dollars. With the necessary funds lacking in many cities and states, officials have had to require doubling up in small cells, the transfer of some prisoners to makeshift quarters—and, in Florida and Maryland, even the early release of prisoners serving short terms to make room for new convicts.

In Albuquerque, some of the 400 inmates now crowded into a jail that was built for 325 will soon share temporary quarters in a nearby mental institution, pending a prison-expansion program.

A HIDDEN AGENDA OF NEGLECT

Why have local, state and federal authorities allowed this steady deterioration of the nation's vital infrastructure? George Peterson, director for the Public Finance Center of the Urban Institute, holds the view that "in too many areas of government, public works constitute a hidden agenda of neglect."

Agreeing, one former local official observes: "For many years, the ruling philosophy has been, 'We'll take care of that later.' The tendency has been to take public works for granted, as though these never wear out."

Another obstacle is seen as Washington's traditional pork-barrel approach to public-works funding. Too often, experts charge, congressional appropriations for local improvements or construction are promoted by politicians for patronage benefits and political clout at the expense of projects that technical studies deem more necessary.

"Every politician likes to cut a ribbon," notes Representative William Clinger, Jr. (D-Pa), a leading proponent of infrastructure reform, "whether it's to open a new bridge or dam or highway or public building. Few have been as interested in the less visible work of keeping up the sewers or replacing the water pipes or the subway cars."

For this neglect, analysts say, the ordinary citizen bears at least part of the blame. Opinion polls show a majority of Americans support the trend toward tougher prison sentences, for example, yet bond issues to build more prisons have been voted down in New York and some other states. Dallas voters, seeking a modern mass-transit system, rejected local financing to speed the project. Nationally, local voters approved nearly 80 percent of proposed bond issues in the 1950s, but in the 1970s they backed barely more than 50 percent.

Even on approved projects, long delays caused by bureaucratic red tape escalate costs through inflation. The Tennessee Valley Authority currently is experiencing an average eight-year delay in constructing seven new power plants—trebling production costs and hiking the total cost by 11 billion dollars. All told, the nation has a backlog of more than 100 billion dollars in uncompleted projects, increasing the tab for taxpayers by an estimated 16 billion a year.

Costs of public works are nudged still higher by widespread fraud, corruption, inefficiency and waste. In Massachusetts, a blue-ribbon panel investigating bribery and corruption reported that more than 6.4 billion dollars' worth of state and county building construction was defective, requiring 2.1 billion in changes. Among the defects: A college auditorium stage that cannot be seen from balcony seats; a jail in which cell doors won't lock; an old-age home without stairway railings, and a 9-million-dollar power plant rendered unusable by a steam generating system installed backwards.

The biggest white elephant found by state investigators was a 28-story library—billed as the world's tallest—that dominates the campus of the University of Massachusetts at Amherst. Completed in 1974 at a cost of 17 million dollars, it has never officially opened or been able to receive a book because parts of bricks have been falling from its facade.

Oklahoma has had some of the country's worst corruption in public works. There, 195 county commissioners out of 231 have been convicted or have pleaded guilty to pocketing county funds for nonexistent transactions or from kickbacks on purchases of materials and equipment. In one case, investigators found a gunnysack stuffed with more than a million dollars in fictitious invoices.

Illegal practices among highway contractors led to the largest antitrust investigation in the Justice Department's history, generating 170 criminal presecutions since 1979 for bid rigging in which construction firms manipulate the competitive-bidding process for illegal gains. These cases—involving 154 corporations in Southern and Midwestern states—have resulted in 130 guilty pleas and 10 convictions, with maximum penalties of 1 million dollars for a corporation, $100,000 for each individual plus three years in prison. Federal investigators say the 14 states covered so far are only a starter.

MEETING THE CHALLENGE

Apart from eliminating waste and fraud, what will it take to rebuild the country's widely decaying public works?

Some authorities see no alternative but another huge spending program, perhaps rivaling President Franklin D. Roosevelt's Works Progress Administration and the Public Works Administration, during the Depression. John E. Jacob, president of the National Urban League, called on Reagan in early August to loosen his economic policy with a 100-billion-dollar public-works scheme. Jacob saw three major benefits from his plan: Renovating the infrastructure to set the stage for long-term growth, providing jobs for the nation's mounting unemployed and revitalizing sluggish industry.

In another throwback to the 1930s, Felix Rohatyn, a New York investment banker, urges revival of the Reconstruction Finance Corporation to provide federally backed loans to cities for public works. "The RFC of the 1930s," he recalls, "saved banks some cities and many businesses, thus preventing much larger dislocations. What's more, it made money for the taxpayer. If we do not take some such step to break out of our present economic straitjacket, then our infrastructure and much of our banking and industry could face much deeper trouble.

Congress is coming up with other proposals to meet the mounting public-works crisis. Most important: A plan advanced by bills in both houses to create the national capital budget. Aimed at treating the infrastructure separately from other programs to guarantee regular attention and support, the proposal is seen by many infrastructure experts as "bringing coherence to a field in disarray."

Says Representative Bob W. Edgar (D-Pa.), cosponsor of the House bill: "The

nation can no longer afford to rely on pork-barrel methods of deciding where to spend on public works. The time has come to introduce more order into the whole process, so as to spend where it can do the most good." Other sponsors range a political spectrum from liberal House Speaker Thomas P. "Tip" O'Neill (D-Mass.) to Representative Jack Kemp (R-N.Y.), a leading fiscal conservative. Support is also found is business circles David Mahoney, chairman and chief executive officer of the conglomerate Norton Simon, Inc., recently told a business group: "Without such planning, we may create a bottleneck that would limit growth and economic expansion in the future."

Such proposals for dramatic action by Washington have their critics, both in and out of government. They are called "inappropriate for what must be a long-term effort" by David A. Grossman, former New York City budget director and a public-works consultant. Others label them as inflationary and conflicting with the prevailing Reagan policy of reducing federal involvement and transferring more responsibility to the states.

Moreover, many economists say such a budget would further complicate overall policymaking, among other things, by adding another bureaucratic layer to the process. David Rusk, former Albuquerque mayor, says: "Federal lawmakers cannot match state and local ones at knowing the problems of public works in the field. Wherever possible, more taxing authority should be transferred to local governments—along with such incentives to voters as tax credits to ease the job of local financing."

Some American communities are making headway with new initiatives. Baltimore, Pittsburgh and Dallas are pursuing renovation programs with broadened local support, including that of private enterprise. Many experts look at a Cleveland experiment of involving county and regional authorities—along with local banks and private companies—as a possible model for other cities. In the East and Midwest, many of these cities are suffering a decline in tax revenues because of the flight to the suburbs, yet are deprived of suburban-annexation rights enjoyed by sun-belt cities.

Galveston has embarked on a 10-year plan to deepen and widen its port, to be paid for with municipal revenue bonds. Cincinnati, to assure better upkeep of its infrastructure, now requires that every new project include financial arrangements for maintenance during its engineered lifetime. By close planning and budgeting, the New York Port Authority's well maintained bridges, tunnels and other facilities contrast sharply with New York City's many run-down works.

Still, funding problems for public works loom so large everywhere—along with technical and political obstacles—that many experts now agree on a need for far-reaching changes in the whole approach if America is to overcome this developing crisis. As one consultant puts it: "All we are really arguing about at this point are means, not ends."

One trend already under way is to reduce the existing infrastructure. Just as the airlines have cut out some routes as uneconomical, recently some federal, state and local authorities have called off a few projects as nonessential. Awaiting a decision is a set of options for curtailing the final stages of building the interstate-highway system, now 95 percent completed after 25 years. The bill for finishing the project is set at 38.8 billion dollars. To one analyst, such economy moves are simply a case of "lowering our sights and learning to live within our means."

Accordingly, some doubt the wisdom of pumping more money into water projects to make the barren Western plains bloom, which some critics say will only produce a further tax burden for subsidizing the increasing food surplus.

The trouble is, as many experts warn, vital hardware such as water, sewage and transportation systems cannot be cut back easily in a vigorous nation dedicated to long-term growth. America's competitiveness and economic well-being depend on an effective infrastructure.

After a decade and a half of neglect of public works, the U.S. thus appears to have no other course but a new and immensely expensive commitment over many years to rebuild its crumbling economic foundations—and then to see that these are kept in better shape as a prime policy concern.●

DEAR MRS. THATCHER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GOODLING. Mr. Speaker, I would like to bring to my colleagues' attention, the following article by Ben Wattenberg which appeared in the Washington Post last Sunday. Mr. Wattenberg demonstrates very clearly how the United States provided the necessary support to the British during their Falkland crisis, yet, when the United States asked for help against the Soviets, Mrs. Thatcher reacted quite differently.

Too often, we do not respond to criticism of our foreign policy, indicating an acceptance of sorts, or a rather passive indifference to rejection by our allies to our requests for support.

DEAR MRS. THATCHER: I've been following your position on the pipeline issue. I gather you are not happy because you think England is being pushed around by America. I particularly recall what you had to say about it on our telly a little while back. And I really appreciated the part with the big wink. So I thought I'd write you this little note.

There you were in Glasgow. On the docks, an English firm was loading American technology onto a Soviet freighter so that the Soviets could complete their natural gas pipeline on time. These shipments, I understand, are to go to the Soviets at the express direction of you and your government.

You said to the assembled television cameras that you felt "particularly deeply wounded" by America, because it was good old America that was trying to punish the British firm for selling American-licensed parts to the Soviets. You said that, of course, Britain must remain a "staunch friend" of the United States and then, with that big wink of yours, you said that because we're such good friends "we must be pretty frank" about our disagreements.

Well, Mrs. Thatcher, we sure do applaud your frankness. We applauded it during the time of the Falklands when you asked for American military help and an American embargo against Argentina. You said then that it was important to set an example for aggressors all around the world. After all, you said, just think of what the lesson would be if the democratic free nations would stand idly by while aggressors aggressed.

We went along with you, although I must say a few of us winked a bit, Mrs. Thatcher. Argentina was an aggressor, it's true, but it didn't seem to be the world's most notable aggressor. Nor did the Falklands exactly seem like the strategic spot where the destiny of the free world would be determined.

Moreover, our winking went into overdrive when we recalled that when the United States had, in 1979, asked for sanctions against the Soviet Union over the invasion of Afghanistan, your government had cowered under the table along with the rest of the Europeans. (That, of course, was when American imposed a grain embargo on the Soviets under the leadership of a truly tough president—Jimmy Carter.)

When, earlier this year, we asked for an economic response to the Polish-Russian crackdown on Solidarity, you were again to be found under the table, still in a cower mode. And all this despite the fact that you were called the Iron Lady.

But, upon reflection, we thought it's better late than never about standing up to aggressors. It's better to take stands in small places than in no places at all. So we signed on as key supporters in the Falklands adventure.

And now, with Poles being shot in the street because they want a labor union, you've decided to help their Soviet masters build a pipeline using the labor of political prisoners in the arctic cold of Siberia. At the same time, you tell us how deeply wounded you are at our behavior. Well, Mrs. Thatcher, I must tell you, you're not the only one deeply wounded.

Some of us wonder what your attitude might be if the Falklands had come along just a few months later—today for example. I wonder what you would do if President Reagan was "pretty frank" with you and said that even Iron Ladies have to play by the rules: If you wanted us to oppose aggression in Argentina, we expect you to oppose aggression in Poland, even if it cost a few pounds or a few jobs to do so.

Well, of course, that's not the way it worked out. But just to be pretty frank about it, Mrs. Thatcher, I don't think it would be so politically wise to come looking for help over here if something else should arise. Oh, we'll still be staunch allies and all that, but maybe not on little things, like the Falklands.

Maybe the Soviets will give you a hand next time. I can see the headlines now: "Iron Curtain Bails Out Iron Lady." That would be ironic.●

COMPLICITY IN SHAME

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. McDONALD. Mr. Speaker, certain events do illuminate others with grim clarity. We live in an era in which some of the directors of the Vietnam war are jointly awarded the Nobel Peace Prize when one of them, in effect, turns over his ally to the tender mercies of a mutual foe. We

live in an era when one nominee for this year's Nobel Peace Prize is to be rewarded for cleaning up after the panzer blitzkrieg of a previous year's Nobel Laureate. Whatever the merits of the blitzkrieg, it was a panzer blitzkrieg.

And yet we have the spectacle, in 1982, of the U.S. Government collaborating with the Soviets in imposing a 41st year of imprisonment—and a 16th year of solitary confinement—upon an 88-year-old man convicted, at the end of World War II, of doing what thousands of officials, then and since, have done as a routine matter.

I speak, of course, of Rudolf Hess, the only human being ever convicted of "crimes against the peace." He was not found guilty of any war crimes, as is so often alleged. His crimes consisted, for example, of signing the German draft law in the 1930's.

Rudolf Hess is, in fact, at least as deserving of the Noble Peace Prize as many a recent recipient. He sacrificed himself in order to fly, alone, to Britain in 1941, hoping to deliver a peace plan to the British Government.

He has been imprisoned ever since.

He has never been allowed to tell what the plan was. All records of his interrogation by the British have been sealed until well into the 21st century. To this day, he has not been allowed an instant of privacy with any but his captors.

Hess is permitted 1 hour per month of contact with one of three members of his family. Representatives of the United States, the Soviet Union, Britain, and France must be present and able to hear every word. Many subjects cannot be discussed, and his family is forbidden, under severe penalties, from speaking to anyone about their visits.

Further, Rudolf Hess is forbidden to read anything about the period between 1933 and 1945. Even a book written about events in 1915 was forbbiden to him—by the British. The book was "The Lusitania," by Colin Simpson. It describes the manner in which the British First Lord of the Admiralty, Winston Churchill, and the American Secretary of the Navy, Franklin D. Roosevelt, conspired to load a passenger ship with ammunition and set it up to be torpedoed, hoping to provide an outrage sufficient to overcome the reluctance of the American people to enter World War I. This type of fruitful collaboration was repeated, with even better results, in 1941.

There are many possible reasons for this protected atrocity being committed against Hess. All of them reflect poorly upon the alleged "great powers." It is standard procedure for the three Western governments to blame it all on Soviet intransigence, but the fact is that the Western powers have been militarily in charge of Hess for three-quarters of the time he has spent in Spandau Prison, and it is evidence of cowardice or worse that he has not been unilaterally released.

The undoubted complexities of the Berlin situation are cited as a kind of fallback line of defense, when questions are raised as to America's shameful complicity. But, when Hess dies, these same complications arise, and since that event is inevitable, we can be sure that its effects have been discounted in advance.

What we are left to comtemplate is an incredibly protracted act of vengeance. It is possible to imagine that Hess is considered a stand-in for Adolf Hitler, and since Hitler is not available for this type of treatment, Hess will have to do.

No excuse can be offered for what will go down in history as one of the more grotesque atrocities of an atrocious age. Must we conclude that four allegedly great powers still fear what this lone 88-year-old man might have to say about them?

The Washington Times deserves credit for its very accurate article on Hess in its September 17 edition. The usual press coverage of the Hess situation is filled with falsehoods, misinformation, and standard prejudices.

The article follows:

AILING HESS ALLOWED VISIT FROM HIS SISTER

WEST BERLIN (REUTERS).—Former Nazi leader Rudolf Hess, seriously ill with pleurisy, was allowed a half-hour meeting with his sister yesterday after four-and-a-half hours of haggling between the Western allies and the Soviet Union.

Hess, 88, once Hitler's deputy and a prisoner now for 41 years, was moved to the British military hospital in West Berlin Wednesday after developing pleurisy of the right side, British military authorities said.

His son, Wolf-Ruediger, an architect from Stuttgart in West Germany, said he flew in yesterday after being informed by the prison secretary that his aunt's planned visit to her brother would not be allowed to take place.

But after negotiations involving the Soviet, British, French and U.S. authorities, who are jointly responsible for Spandau Prison where Hess has been the only inmate since 1966, a half-hour visit was allowed.

Attempts by the Hess family to have him freed on humanitarian grounds because of his age and frailty have foundered on the refusal of the Soviet Union, which maintains he must serve his full sentence and die in captivity.

A statement by the British authorities said Hess was responding to treatment, but his sister, Gerda Rauch, looked pale and shocked after the visit, which she was not allowed to discuss publicly.

Pleurisy is a painful inflammation of the tissue between the ribs and the lungs which constricts breathing.

Lawyer Alfred Seidl, who defended Hess at the 1946 war crimes trial in Nuremburg when he was jailed for life, and who has represented him since then, said Mrs. Rauch's visit to her brother was routine and should not have been hindered.

Hess' son, sister and wife are allowed one hour-long visit a month in the sprawling, drab red brick Spandau Prison, where he is guarded in four-month periods alternately be each of the four powers.

At the moment he is being guarded by British troops of the Irish Rangers regiment.

During a visit, representatives of each of the four powers have to be present. Hess' son said his repeated request to be allowed to speak to his father alone had been turned down.●

NATIONAL SURVEYORS WEEK

HON. WILLIAM G. WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. WHITEHURST. Mr. Speaker, on September 9 I introduced House Joint Resolution 591, to authorize the President to issue a proclamation designating March 13-19, 1983, as "National Surveyors Week."

This resolution recognizes the important contribution surveyors have made throughout the history of our Nation, and it focuses attention on the vital role the surveying profession plays in natural resources management and the protection of private property rights.

Surveying in America has its roots in Virginia. The first society of surveyors was formed in Jamestown during the 1600's, and the College of William and Mary was officially the Surveyor-General of the Colony of Virginia. The faculty were entrusted with the duty of examining and licensing surveyors, and among those who were licensd as county surveyors were George Washington (1749) and Thomas Jefferson (1773). On the basis of Jefferson's knowldge of land surveying as well as law, he was appointed chairman of a committee formed under the Articles of Confederation in 1784 to devise a means for disposing of the western lands. The rectangular survey system developed by Jefferson and his committee was implemented and today remains the basis of the public land survey system administered by the Bureau of Land Management of the Department of the Interior. It was during President Jefferson's administration that much of the West was explored, surveyed, and mapped, and it was Jefferson who established the U.S. Coast and Geodetic Survey Department which is now the National Ocean Survey of the Department of Commerce.

Presidents Lincoln and Fillmore were also surveyors prior to their elections as chief executive.

Today's surveyor has special education, training, experience, and knowledge of the principles of mathematics, the related physical and applied sciences, and requirements of law for adequate evidence. Professional surveyors provide vital services that are

critical to many aspects of the issues Congress addresses. Land surveying is utilized in land development and planning, natural resource management, and protection of property rights. Marine or hydrographic surveying is important to dredging and navigation, coastal barrier protection, and water resources. Engineering surveys are used to study and select sites for construction, utilities, and mining operations. Geodetic surveying, the precise positioning of points on the surface of the Earth and the determination of the exact size and shape of the Earth, is used by several Federal agencies for launching and landing long-range aircraft, missiles, and satellites.

The modern surveyor is a true professional whose judgment and expertise are needed by governments at all levels and many fields in the private sector. I am pleased to have been able to offer this resolution on behalf of the National Society of Professional Surveyors, a member organization of the American Congress on Surveying and Mapping. I invite my colleagues to join me in sponsoring House Joint Resolution 591, and I urge prompt action by the Congress.

Thank you, Mr. Speaker.●

NIMMO POORLY SERVES VETERANS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. FLORIO. Mr. Speaker, the performance of Robert Nimmo as Administrator of the Veterans' Administration has been woefully inadequate since his confirmation. His policies have shown a remarkable insensitivity to our Nation's commitment to honor and assist those who served this country in times of need. The following article summarizes some of the most discouraging aspects of Mr. Nimmo's performance as VA Administrator. Mr. Speaker, I urge my colleagues to review this informative article.

[From the Philadelphia Inquirer, Aug. 24, 1982]

TOP REAGAN AIDES DEFEND CHIEF OF VA

(By Carl M. Cannon)

WASHINGTON.—For the second time this summer, Robert P. Nimmo, the embattled administrator of the Veterans Administration, is the object of a rescue attempt by his powerful California friends in the White House.

Administration sources reported that White House counselor Edwin Meese 3d was asking others in the administration to help him save Nimmo's job. Meese's intervention comes at a time when others in the administration want President Reagan to fire Nimmo because they believe he is insensitive to veterans, incapable of running an agency and an embarrassement to the President.

Although Reagan declined to replace Nimmo when the subject was broached in early summer by chief of staff James A. Baker 3d, many administration officials still are not satisfied by Nimmo's private pledge to the White House that he will try harder.

"It's a pity we had to cancel the President's speech at the Veterans of Foreign Wars convention [in Los Angeles last week]," said one White House official. "The President would have learned first-hand just how much Nimmo has hurt us."

REALISTIC, AT FIRST

R. Jack Powell, executive director of Paralyzed Veterans of America, amplified on this point.

"Most veterans organizations were really optimistic about the Reagan administration. But all the talk is about building up defense. They are spending all this money on fancy, sophisticated technology. . . . What about those who served in the past? Is the administration as interested in fulfilling its commitment to them? I think future generations will wonder whether the government will take care of them if they are wounded or disabled."

Like others in the veterans community, Powell believes it is a reflection of the Reagan commitment that Nimmo, a man with no VA expertise and no administrative experience, was chosen by the White House to lead the highly politicized agency with 220,000 employees, a budget of $24 billion and the noncommunist world's largest hospital system.

In his year in Washington, Nimmo has consistently offended people with his offhand remarks, his style and his policies, and he has gone from one controversy to another.

He ignored a presidential directive and spent $54,183 to redecorate and refurbish his office complex at a time he was going around proposing cuts in veterans' medical benefits.

Nimmo also ignored the advice of the VA counsel-general's office and illegally hired a chauffeur out of government funds to drive him to and from work. Later he was forced to reimburse the government $6,441. The car he leased at government expense was a $708-a-month oversized Buick Electra, another violation of government regulations, which had opted for smaller models.

To critics, he explained that he needed a large car to transport disabled veterans who use wheelchairs. The explanation infuriated the disabled veterans, mainly because they said it wasn't true—that they rarely rode anywhere with Nimmo.

He has also proved difficult to work with—he's now on his third deputy administrator and has removed eight or more other top-ranking people.

Several top people he has fired were disabled or wounded in Vietnam. Often they were replaced, Nimmo's critics say, by persons with no combat experience and whose chief qualification was personal loyalty to Nimmo.

GOES HOME EARLY

Nimmo also has annoyed career VA employees by leaving early at the end of the day, by scheduling out-of-town speaking engagements around golf dates and by such actions as posting a guard at the entrance to his office and closing off an elevator to all but the top VA brass.

Some of his former aides believe he has shown a special hostility toward Vietnam veterans, once by comparing the effects of the defoliant Agent Orange to teenage acne.

Later he refused VA employees in Washington to take time off to attend the groundbreaking ceremony for the first Vietnam veterans memorial. Nimmo himself didn't attend because he was playing golf.

But the area in which he has seemed most insensitive involves disabled veterans.

They were angered that the Reagan administration budget for 1983 called for cutting the dependents' allowance for those with less than 50 percent service-connected disabilities.

The White House explained, and Nimmo concurred, that this covered "minor" service-connected disabilities such as flat feet, laryngitis and ulcers.

No one bothered to explain what the veterans immediately realized—that it also included such battle injuries as having a leg blown off below the knee and the loss of an eye.

The disabled veterans said the crowning insult was the Nimmo's huge car often blocked the handicapped parking spaces in front of VA headquarters. A Feb. 1 internal VA memorandum, from veterans groups liaison Dean Phillips to Deputy Administrator Charles T. Hagel, observed:

"Jim Mayer of PVA [Paralyzed Veterans of America] is really P.O.'d at the administration. He complained bitterly to me that Mr. Nimmo's car has been blocking the handicapped parking spots in front of the VA every time Jim has driven to the VA to attend meetings the PVA has been invited to. We need to act now to solve this problem."

When questioned about the parking controversy, Nimmo responded: "There was one occasion when a guy who drove for me got my car out of the garage and parked it in front of the building. I don't know that it was parked in a handicapped parking space; maybe it was. . . . I know the implication was that I habitually parked in the handicapped space. But if it was ever there at all, it was only once, and I didn't park it there."

In any event, the practice stopped after Hagel received the memo from Phillips. But the next month, Phillips was gone, replaced by Nimmo reportedly because the administrator was miffed when the veterans of Foreign Wars tentatively called for Nimmo's resignation.

"I just didn't think he was doing the best possible job in that assignment," Nimmo said of Phillips.

Phillips, an Army paratrooper in Vietnam who was wounded and awarded the Silver Star for valor, replied: "Some of the things Mr. Nimmo said to the veterans organizations in my presence made the job I had to do much more difficult."

One such occasion occurred Jan. 12 when Nimmo said in a speech that military service was "a mere inconvenience," a comment that struck many listeners as highly inappropriate inasmuch as the audience included Tut Vale of the Blinded Veterans Association, Norman Hartnett of the Disabled American veterans and Jack Powell of the PVA.

STUPID THING TO SAY

"These men hardly needed to be reminded by Nimmo of the price of citizenship," said one administration official. "It was a stupid thing to say."

The latest barrage came when Hagel left. Hagel, a twice-wounded Vietnam veteran, replaced Allan Clark Jr., a Republican activist, West Point graduate and Green Beret captain who lost both legs in Vietnam.

Clark resigned after two weeks of working with Nimmo and before his nomination was confirmed by the Senate.

Clark remained silent at the time, but has since written a letter to Reagan critical of Nimmo. Hagel worked with Nimmo for 10 months and is credited by the veterans' groups and by Nimmo himself with getting the VA to study the effects of Agent Orange, with bolstering the flagging Reagan administration commitment to the Vietnam veterans' counseling centers, and with beginning an overdue reorganization of computerized medical data within the VA.

But in late May Hagel, saying that he could no longer work with Nimmo, went to the White House and offered his resignation, which was accepted.

Nimmo also visited the White House, administration sources said, talking to old friends Meese and national security adviser William P. Clark Jr., letting them know that he believed Hagel was more loyal to the veterans groups than to Nimmo or to the President.

Meese and Clark, according to White House officials, went to bat then for Nimmo, just as they reportedly are doing now.

Although Nimmo's relationship with Meese and William Clark—and not any expertise or even interest in the VA—led to his appointment as a compromise candidate when the White House was desperate to name a VA head, there is no doubt that Nimmo had served his country well as a soldier.

In 1943, he left college to become a pilot in the Army Air Corps. From bases in England, he flew B-24s on bombing missions over Germany and on his ninth flight was shot down over Poland. He was delivered to neutral Sweden, where he was interned for three months. In the Korean War, Nimmo was commander of an ordnance company.

When summoned out of retirement by the White House last year, Nimmo came to Washington with high expectations, and he concedes now that he had no idea what was waiting for him.

The VA, by many accounts, is one of the most demanding and thankless jobs in Washington. Every VA administrator in the last 15 years has been bitterly criticized by the veterans groups, and despite all the headaches, the job is not of cabinet status.

"I didn't know the extent to which so many people wanted to help manage [the VA]. Nor did I realize how sensitive some people are to the agency and what it does," Nimmo says.●

MR. REAGAN'S REPUDIATION OF HIS SUPPLY-SIDE MISTAKE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. LaFALCE. Mr. Speaker, Herbert Stein has once again sounded a voice of reason on the issue of Reaganomics. Republicans and Democrats in this body would do well to consider his counsel.

A former Chairman of the Council of Economic Advisers under Presidents Nixon and Ford, a Senior Fellow at the American Enterprise Institute, and the A. Willis Robertson Professor of Economics at the University of Virginia, Herbert Stein has consistently cut through the euphemistic rhetoric surrounding the President's economic program to deliver accurate, pointed analyses of what will—and what will not—work.

In the wake of the President's victory on the tax increase legislation, Mr. Stein has once again done a superb job. In an August 27 essay in the Wall Street Journal, Mr. Stein takes on the "Vestal Virgins of the Radical Right," as he describes them, and outlines why the President had to abandon the supply-side program that has failed to deliver the promised economic prosperity.

What Mr. Stein drives home is a simple point: Mr. Reagan woke up to the ill-conceived ideas of the rightwing supply-siders. As Stein notes in the essay:

What has been abandoned is not principle. What has been abandoned is a set of flaky propositions cooked up to help Mr. Reagan get elected and to get the authors of those propositions into positions of prominence and power. Those authors and promoters knew what they were doing. They were tired of being right, responsible and out of office. They were tired of saying life is real, life is earnest, and there is no free lunch. They wanted to promise everything, like all the other girls.

Mr. Stein knew that these ideas were fated to fail. Many months ago, he called this program "punk supply-side" because it was ersatz economics—plenty of glitter and plenty of nonsense. He also knew how this grand new scheme was sold. Consider this commentary from Mr. Stein:

A few economists and assorted other intellectuals were found to legitimize these propositions. And if you didn't believe, you were a dirty old Keynesian, a bleeding-heart egalitarian, or a throwback to Herbert Hoover, or possibly all of those things.

But these propositions were false, as was bound to be discovered when the candidate became the President. And since these propositions were false, the President couldn't deliver on all the campaign promises he had made which were predicated on those propositions.

And what were those propositions to which Mr. Stein refers? They are the same themes we have heard daily in this Chamber, Mr. Speaker, themes that ring hollow today. As described by Mr. Stein, those propositions were:

1. Cutting tax rates increases the revenue.
2. Inflation can be reduced without a transitional rise of unemployment.
3. Government expenditures can be greatly reduced without sacrifice of anything by anyone except bureaucrats and welfare queens. In fact, the welfare recipients will be the chief beneficiaries of the reduction of Government expenditures, because when the public purse is closed to them they will acquire steady jobs and stable families.

Today, this rhetoric continues from a few of the most hardened rightwing true believers. The White House, prone to these flights of fancy, has toned down some of its rhetoric. And it finally realized that the "punk" program it sold the Nation was not working. That, according to Mr. Stein, is why we had a tax increase 1 year after the 1981 tax giveaway.

I urge my colleagues to take the time to read Mr. Stein's commentary. Members from both sides of the aisle ought to take heed to what this distinguished economist and former economic leader under two GOP Presidents thinks about the tax increase and the President's economic program.

The article follows:

[From the Wall Street Journal, Aug. 27, 1982]

MR. REAGAN IS A TAX HIKE HERO

(By Herbert Stein)

The Vestal Virgins of the Radical Right are tearing their hair and rending their garments. Their hero has abandoned their dearest principles by supporting a tax increase.

Nonsense! What has been abandoned is not principle. What has been abandoned is a set of flaky propositions cooked up to help Mr. Reagan get elected and to get the authors of those propositions into positions of prominence and power. The authors and promoters of these propositions knew what they were doing. They were tired of being right, responsible and out of office. They were tired of saying life is real, life is earnest and there is no free lunch. They wanted to promise everything, like all the other girls. But they did not want to shock the maiden aunts of the Republican Party, who still believed in things like balancing the budget and getting inflation down. So they invented the following propositions:

1. Cutting tax rates increases the revenue.
2. Inflation can be reduced without a transitional rise of unemployment.
3. Government expenditures can be greatly reduced without sacrifice of anything by anyone except bureaucrats and welfare queens. In fact, the welfare recipients will be the chief beneficiaries of the reduction of government expenditures, because when the public purse is closed to them they will all acquire steady jobs and stable families.

A few economists and assorted other intellectuals were found to legitimize these propositions. And if you didn't believe, you were a dirty old Keynesian, a bleeding-heart egalitarian, or a throwback to Herbert Hoover, or possibly all of those things.

But these propositions were false, as was bound to be discovered when the candidate became the president. And since these propositions were false, the president couldn't deliver on all the campaign promises he had made which were predicated on those propositions.

That is the common situation. All candidates promise more than they can deliver. I suppose that almost all voters know that. The test of a president isn't the realism of the promises he made when he was a candidate but how, once in office, he chooses which promises to meet and which not.

A NUMBER OF COMMITMENTS

Ronald Reagan came into office with a number of commitments. He was committed to a large tax reduction, to large expenditure reduction without tears, specifically to protecting Social Security benefits, to balancing the budget soon, to a large increase of defense expenditures, to reducing inflation, to reducing, or at least not increasing,

unemployment, and to increasing the trend rate of growth of output and productivity. These things could not all be done fully and immediately. Saying that is not an expression of ideology or partisanship. It is simply a matter of arithmetic and the nature of the economic system.

The problem for Mr. Reagan was which of these commitments to honor now and which to subordinate or defer. He has correctly made the two most important decisions. First, he has steadfastly supported the defense buildup, even though it has greatly complicated the budget problem. Second, he has stood my the Federal Reserve in its disinflationary policy, even though he might temporarily have relieved himself of responsibility for unemployment by trying to push the Fed onto a more expansionary course. If the Reagan administration does nothing else in this term but rearm America and put us durably on a more stable price path it will have been one of the great successes of this century.

Although these may have been the most important decisions the president has made, they may not have been the most difficult. Standing by the defense program kept him in line with his own partisans as well as with popular sentiment. Supporting the Fed didn't require him to get out in front as much as to avoid public nagging.

The most difficult decision, it seems to an outsider, was the decision to support the 1982 tax increase. He could have stood firm on the position that he was not elected to raise taxes. He could have entered into a name-calling contest with the Democrats about who was responsible for the deficits and for the condition of the economy. He might even have won such a contest. He would surely have retained the devotion of this taxophobic friends.

That would have been the easy way. But it would have been wrong. It would have been wrong for the country. And it would have been inconsistent with his campaign position. As the president pointed out in his Aug. 16 speech, even after the 1982 tax increase the ratio of revenue to GNP will be lower than candidate Reagan promised during the campaign. That is partly because Congress made some tax cuts in 1981 that the president didn't ask for. It is also partly because the decline in the inflation rate has made the real value of the tax cuts larger than expected. The tax cuts promised in 1980 and enacted in 1981 were intended to offset more bracket creep than has occurred.

There is, however, a more fundamental point about consistency with Mr. Reagan's commitments. The reason for the promised tax cut was to increase the national income. The underlying objective was to speed up real economic growth. The tax cut envisaged in 1980 was a tax cut accompanied by a decline in the federal deficit. But a tax cut that raises the deficit is most unlikely to speed up growth because it would absorb private saving in financing the deficit rather than in financing private investment.

A true supply-side policy—that is, a policy to promote growth in the supply of output—has to be a deficit-reducing policy, as was promised during the 1980 campaign.

FISCAL DISCIPINE AGAIN

The conventional taxophobic answer to that is to cut expenditures more. People who say that are not sitting with a copy of the budget in their hands. The president has practically stopped the growth of real payments to individuals, including Social Security, despite the continuing rise of the population and especially of the aged population. These expenditures had doubled between 1971 and 1981. He has cut other nondefense expenditures, excluding interest, in real terms by more than half, back to the level of Eisenhower. Other cuts are possible and desirable, but not on a sufficient scale by themselves, and probably not fair or achievable if taxpayers and tax avoiders are ruled out of bounds.

So the president gave up the rhetoric of his campaign and stuck to the reality of it, which was to promote economic growth. In the process he has done two other things. First, he has restored the possibility that we will have some principles of fiscal policy again, some budget rules by which we are willing to be disciplined. That rule doesn't have to be a budget-balancing rule. But if there is no standard of a proper relation between expenditures and revenues for which policy-makers are willing to restrain themselves, the federal budget will be wildly out of control. Until Aug. 16 we seemed to be in or fast approaching that condition.

Second, by making his sacrifice of what was his obvious preference President Reagan has laid the groundwork for what we desperately need, which is a bipartisan economic policy. The country is in economic difficulty from which it won't emerge without costs and pains. There will have to be unemployment, expenditure cuts many people will dislike and tax increases many will detest. If each party and faction is ready to exploit this situation by blaming the others for what must be done, it will not be done.

By fighting for the tax increase President Reagan has made it possible for the Democratic leadership to cooperate. There will be other things for it to cooperate on—such as Social Security reform and disinflationary monetary policy. That cooperation hasn't been assured, but at least the possibility has been created.●

H.R. 7048

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. KASTENMEIER. Mr. Speaker, once again, a new academic year is upon us. And once again, students at the University of Wisconsin-Madison are without their promised student financial money they need to pay fall tuition and fees. Delays in processing Pell grant and guaranteed student loan applications have prevented the UW financial aid office from disbursing the sought-after funds. Wallace Douma, director of the office of financial aids, as quoted in the September 1 edition of the campus newspaper, the Daily Cardinal, "Federal procrastination in establishing eligibility guidelines and other rules governing distribution of Federal aid has held up the processing of financial aid applications. . . ."

Mr. Speaker, I offer my support for H.R. 7048, which would establish a statutory Pell grant family contribution schedule. It is this schedule that financial aid offices use to determine student eligibility and award amounts. Without the schedule, financial aid offices are prevented from processing Pell grant applications. As Mr. Douma indicated in his statement, the Department of Education has consistently delayed the publication of this schedule. This year, the schedule was published 4 months after the deadline for submission of a proposed rule.

The consistent failure of the Department of Education to adhere to the statutory timetable has resulted in unnecessary aggravation for families trying to plan financing for higher education. H.R. 7048 would fix the terms of the family contribution schedule in order to assure the timely publication of this essential schedule for the 1983–84 school year, and if the Secretary of Education once again fails to publish the family contribution schedule on time, for the 1984–85 school year. Mr. Speaker, I urge passage of this bill.●

LEBANON'S TRAGEDY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GOODLING. Mr. Speaker, history will record what happened in West Beirut last week as the modern massacre of the innocents. There is and there can be absolutely no justification for the wholesale slaughter of unarmed and unsuspecting women and children. The despicable actions which have been perpetrated on the women and children of West Beirut serve only to continue the cycle of violence, making the chances for peace even more remote than before. The murder of all these innocents will not bring back Bashir Gemayel or any of his deputies; it will, however, more deeply ingrain hatred and the desire for revenge in a people already overflowing with such feelings.

I do not believe that the Israeli Army was directly involved with the massacre, but I find it difficult to believe that it was unaware of what was going on or of the movements and intents of the so-called Christian militia as it conducted one of the most cravenly shameful acts of our time. If as Israel's Government claims, it was one horrible mistake, then as is the case in a parliamentary state, the minister or ministers responsible should resign. At the very least, Israel's Minister of War Sharon should tender his resignation.

We in America should make it clear that we will not tolerate such actions by any group. We must make this clear to Prime Minister Begin and the Lebanese Christian leaders alike. If the Christian leaders want the help and cooperation of the United States in establishing a stable government in Lebanon, they must themselves

behave in a stable manner. Now more than ever, hatred must be put aside, tolerance must be learned and put into practice. Only then will Lebanon be able to reconstruct itself. A good first step would be for the new President-elect Amin Gemayel, brother to the assassinated President-elect Bashir Gemayel, to denounce and condemn in no uncertain terms last week's massacre and to disassociate himself from any persons supporting such infamous actions as last week's massacre. To fail to do so would show him to be of less than Presidential material, and the United States should make this clear to him.●

DAVE SCHAEFER—EXEMPLARY HOUSE PAGE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. McCLORY. Mr. Speaker, one of the officials of the U.S. House of Representatives who brings prestige, honor, and excellent service to the Members of this body is the Senior House Page, David Schaefer.

I have known Dave Schaefer for longer than the period of his House service and am personally familiar with his excellent reputation as a young citizen of Highland Park, which is near my hometown of Lake Bluff, Ill.

Dave Schaefer has completed 3 years at Highland Park High School, where he excelled as a student and where he took an active part in student government. Dave's intense interest in public affairs has led naturally to his role in the House as a page appointed by my distinguished Illinois colleague, FRANK ANNUNZIO, of Chicago.

Mr. Speaker, Dave Schaefer and his family are personal friends with whom we enjoy a valued relationship.

In the course of recent weeks, when this body and the institution of House pages have been under attack, Dave Schaefer has represented the cross-section of House pages in several interviews with the print and television media. In so doing, he has brought credit to himself, to the other pages of the House, and to our House Members.

Mr. Speaker, I am proud to attest to the excellence of Dave Schaefer's character, his outstanding talents of young leadership, and to his superior service to all House Members whom he has served as Senior House Page.●

H.R. 6046, THE EXTRADITION REFORM ACT OF 1982

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. WOLPE. Mr. Speaker, I rise to urge my colleagues to think twice before lending their support to the passage, unamended, of H.R. 6046, the Extradition Reform Act of 1982. As the gentleman from California (Mr. EDWARDS) has correctly observed, the language of this bill is so broad and vague that it risks compromising important constitutional principles and threatens our country's ability to respond appropriately to the needs of political refugees who have come to America in search of a haven from oppression. Mr. Speaker, I am sure all of us in the House support the underlying purpose of this legislation—facilitation of the return of terrorists. Moreover, it is clear that our extradition system is sorely in need of reform and modernization. However, if we pass this legislation in its current form, we risk undermining the fundamental purposes of extradition. This legislation increases the power of the executive branch to determine who should be extradited to a foreign government. It prohibits courts from inquiring into allegations that a foreign government is seeking extradition in order to prosecute a person for his religious or political opinions. This has been the traditional role of our independent judiciary and I believe it should continue. This legislation will allow a court to hold an individual for at least 10 days based upon a mere request of a foreign government with no supporting evidence. In the interests of "efficiency and uniformity," this legislation will permit the abridgment of the human rights of not only our own citizens but of those of political refugees from oppressive regimes abroad.

Mr. Speaker, my distinguished colleague from Michigan (Mr. CROCKETT) intends to introduce a series of amendments to this resolution which will provide the necessary specificity the current bill lacks. Those amendments will restore the important role the courts currently play in our extradition process and allow a clear differentiation between terrorism and political refugees. The amendments will avoid the situation in which the extradition process could inadvertently assist oppressive regimes in their persecution of political dissidents. They will assure that accused persons are treated justly and that trial abroad of an extradited person will be only for the extraditable offense.

Mr. Speaker, I believe all of us in the Congress should give this legislation the careful consideration it deserves. We should accept the amendments put forward by my colleague from Michigan in the interests of preserving our tradition of due process and respect for civil liberties. It would be a tragedy if this ill-worded legislation were to lead to extraditions of genuine political refugees and thereby implicate the United States in their victimization. American interests would hardly be well served by such an eventuality.●

LET US GET DRUNK AND DRUGGED DRIVERS OFF THE ROADS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. MAZZOLI. Mr. Speaker, for most people, holidays like Labor Day, Thanksgiving, and Christmas are joyous times—times for rest, relaxation, traveling, spending time with family and friends.

Not so for a segment of our population. For many the coming of holidays—any holiday—means fear, grief, and bad memories. Memories of loved ones killed or crippled in auto accidents involving drunk drivers. For without fail, every holiday the incidence of this national tragedy—this national disgrace—increases.

This is why I have added my name as a cosponsor to legislation designating the week of December 12 as "National Drunk and Drugged Driving Awareness Week." I urge any of my colleagues who have not yet expressed their support for this worthwhile legislation to do so as soon as possible. It seeks to call public attention to this thoughtless slaughter on our highways right before the peak season—Christmas and New Year's. Maybe it will save some lives. Maybe yours or your family's.

Soon the House will be considering H.R. 6211, the Surface Transportation Act. This legislation contains a provision which seeks to reward States which take effective steps to combat drunk driving with grants for highway construction. The Senate passed a similar measure on May 11. I hope my colleagues will join me in supporting this important measure, also.

Earlier this month—over the Labor Day weekend—the Louisville Courier-Journal magazine and its staff writer, Elinor Brecher, did a powerful feature on drunk driving. I would like to share with my colleagues some of the heart-wrenching cases documented in Kentucky alone. All this week I will be inserting excerpts into the RECORD. Hopefully my colleagues will read and heed.

[From the Courier-Journal Magazine, Sept. 5, 1982]

DRUNKEN DRIVERS

(By Elinor J. Brecher)

One out of 10 cars on the road this Labor Day weekend will be driven by someone who is drunk. Scores of innocent people will cross their path. For them, the penalty for being in the wrong place at the wrong time could be death or serious injury. If past experience is an indication, many of the drunks won't pay any penalty.

Her name was Sarah. The snapshots show a beguiling, big-eyed moppet with platinum-blond curls. Here she is in a Halloween costume, here in play clothes, here in diapers. She was the Kentrups' only child, 2 years, one month old when she died.

The Kentrups, of Covington, had been on a short trip to Cincinnati last Dec. 14. Sarah was strapped in her infant car seat. Her parents, who had never left her with a baby sitter or allowed her to eat "junk food," had placed her in the front seat, safer than the back because it had a more secure harness belt.

At 7:38 p.m., a car traveling west in the eastbound lanes of Interstate 275 near Highland Heights, Ky., slammed into the Kentrups' year-old compact. The car, which had been pursued by a Cincinnati police officer flashing his blue lights, had already sideswiped another vehicle. The Kentrups, both 30 at the time, were seriously injured—concussions, broken ribs, fractured arms, wrists and ankles, hip and facial injuries. They weren't allowed painkillers because of the blows to the head, but none of that comes close to the agony that wracks them when they speak of the little girl who used to pad around in her daddy's slippers. The tears come as the young parents tell how the Christmas gifts they'd already bought for Sarah were taken to a charity for needy children on Christmas Eve.

"I wish I had to worry about where to get money for her college education," Ed Kentrup said, his eyes welling up. "I'd give anything in the world to have those kinds of worries."

"Just one more time. If I could hear her yell, 'Mommy' just one more time," his wife said, sobbing softly.

Officer Ernest G. Pretot of the Southgate, Ky., police department witnessed the aftermath of the crash and later wrote that it "has gotten to me I think more than anything in my 20 years of police work.

"What do you tell a mother who is trapped in the wreckage and who keeps asking you over and over, 'Where is my baby? Is my baby all right?' The patrolman answers, 'Yes ma'am, your baby is going to be OK,' but deep down you have a gut feeling that it is not going to be all right."

Joseph Elwood Fritz, 56, who had at least three prior drunken-driving convictions, was charged with murder, driving under the influence, assault and reckless driving. Police found a vial of clear liquid between the man's legs that contained 37 percent ethyl alcohol. His blood alcohol level was recorded at .23, more than twice the legal limit of .10.

Fritz's attorney, Joseph Condit, repeatedly told a Campbell County jury that because of Fritz's nearly 30 years of alcoholism, he could not be considered a murderer. The jury apparently agreed and on July 12 found Fritz guilty only of reckless homicide and driving under the influence. He was sentenced to five years in prison and fined $500. His conviction in Kentucky has no bearing on his Ohio driver's license.

"I can't believe that this society is so twisted and warped," Mrs. Kentrup, now a Northern Kentucky leader of Mothers Against Drunk Drivers, said the next day. "Now he knows he can get away with murder. He's dancing around the law, and this will only encourage drunks to sidestep the law. . . . If you want to be an alcoholic, that's your business, but the minute you get behind the wheel of a car, that's my business. I am vulnerable to what you may do.

"If the world is supposed to feel pity for the drunken driver, I guess we should all become drunks. We all agree that alcoholism is a disease, but that it's not an excuse. Everyone is responsible for his own actions. . . . He'll be paroled in a year or less—less time than it took us to bring him to trial. The jury never considered parole. They just thought, 'Oh, the poor alcoholic.' "

The couples' attorney, Kurt Phillips, said he is exploring the possibility of suing the bar in Georgetown, Ohio, where Fritz had been drinking, under an Ohio law that imposes civil liability on the person who serves liquor to someone who causes a drunken-driver crash.

Through a civil suit, the Kentrups collected on Fritz's insurance, according to Phillips, who added that all the rest of the Fritzs' property is in his wife's name.

"Most drunks are judgment-proof," Phillips said. "They have nothing."

Mrs. Kentrup said she isn't sure how to deal with what's happened.

"What kept me going was that justice would be rendered and he'd be put behind bars. . . . The bitterness scares me. I'm afraid I'll be blinded by it."●

MICHIGAN'S SUPERINTENDENT: AN OUTSTANDING LEADER

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. FORD of Michigan. Mr. Speaker, I call to my colleagues' attention an excellent article on Dr. Phillip E. Runkel, Michigan's superintendent of public instruction, in the September 8, 1982, edition of Education Week. Since he was first appointed by the State board of education in 1980, Dr. Runkel has proven time and time again what a truly committed educator can accomplish. In a very concise manner, this article accurately portrays a very sensitive advocate who is not afraid to speak out strongly on behalf of our State's school children

I am truly honored to count Dr. Runkel not only among my friends, but also among those with whom I share a sincere interest in the future of our Nation's education system.

PHIL RUNKEL'S ONE-MAN CRUSADE TO SALVAGE MICHIGAN'S SCHOOLS

(By Glen Macnow)

DETROIT.—The threats against Phillip E. Runkel began a few days before he visited the financially distressed Alpena school district last fall.

Residents of the Northern Michigan fishing community had twice rejected tax proposals needed to keep their schools open. Some resented a state bureaucrat's coming to town to campaign for higher taxes. A few warned the 54-year-old Mr. Runkel, the state's superintendent of public instruction, that he might get hurt in Alpena.

When Mr. Runkel rose to speak at a packed meeting of the local school board, he was greeted with boos. "I hear someone wants to fight me," he said, rolling up his sleeves. "Who plans to be first?"

The crowd was silenced. When Mr. Runkel finished speaking 15 minutes later, most had been won over to his side. Voters approved a tax hike that week. Runkel has been winning people to his side since being appointed in 1980 to head the nation's most economically troubled state system of public education. The hyperkinetic educator has galvanized a department previously regarded as ineffectual, and in the process he has become one of Michigan's most-talked-about public figures.

Spurred by the ongoing fiscal crisis in the state's schools, Mr. Runkel has changed the Michigan Department of Education from a conduit for federal funds to an activist force. Unlike his predecessors, he has been aggressively vocal in pushing what he regards as the interests of the state's 1.8 million students.

"I can't sit in my Lansing office shuffling papers while schools in this state are going bankrupt," Mr. Runkel says.

"It's against my nature not to get get down in the gutter where the fighting is taking place."

HAS LOBBYING ROLE

Education spending in Michigan is controlled by the state legislature and local school boards, so Mr. Runkel's role is largely that of lobbyist. And lobby he has:

Last year, Mr. Runkel made what many considered a politically unwise move by opposing a tax-cut plan sponsored by Gov. William G. Milliken. When the Governor's aids made their displeasure known, Mr. Runkel took the lead in organizing opposition to the plan. It was rejected by voters.

The superintendent has learned to persuade, cajole, and occasionally bully state legislators on school-funding issues. He was a central figure in behind-the-scenes lobbying last Wednesday when state lawmakers rejected the Governor's plan to cut $150-million in aid to elementary, secondary, and higher education. (The Govenor plans to try again.)

"He's a tremendously effective spokesman for his field," says Jack Faxon, a Democrat from surburban Detroit who chairs the state senate's education committee. "He knows the facts and figures, but more than that he knows how to persuade people."

Mr. Runkel has thrown himself into the thick of do-or-die tax battles in a half-dozen local districts that were short of funds to keep schools open. Realizing that many voters have lost faith in local officials, he has ordered unprecedented audits of the districts' operations, made cost-cutting suggestions and opened state-staffed "information centers" to deal with angry citizens and to push tax referendums. The results so far: four victories in four campaigns.

Mr. Runkel's newest idea is "Project Outreach," a program designed to get citizens involved before schools and financial crisis. Over lunches of hamburgers and French fries, Runkel meets with high-school students to ask their opinions of their education. He travels extensively throughout the state to speak to parents' groups, bingo-night crowds, and senior citizens' organizations.

"My goal is to convince people that a good public education system is a major factor in our quality of life," he says. "As the population grows older and school enrollment declines, it becomes increasingly important to convince people that everyone has a stake in the public school system."

Michigan's school system is indeed losing enrollment—about 20 percent over the past decade.

State and federal aid cuts have cost the state's school districts an estimated $500 million in the past two years. More cuts are expected as long as Michigan's auto-based economy remains stagnant.

"I can't lie and predict anything but a gloom-and-doom year for schools," Mr. Runkel says. "But we've got to try to come out of this depression with as much as we can save. We've got to keep people caring."

Mr. Runkel has been caring about schools for more than 30 years. He has been a teacher, basketball coach, junior-high-school principal, and superintendent in two Michigan districts. He was head of the American School in Athens, Greece, when the state board of education appointed him to the superintendency in January 1980.

Mr. Runkel likes to boast that he never lost a school-tax election while running the districts of Utica and Grand Rapids. In Utica, he persuaded voters to approve what was then the largest school bond issue in the history of the state.

KNOWS HOW TO DEAL WITH MEDIA

His public-relations aide, Tom Farrell, says much of his boss's success stems from a keen knowledge of how to deal with the media.

"He gets his point across even in the bad-news stories," Mr. Farrell says. "And he makes the reporter feel that he or she can be part of the solution."

Mr. Runkel's method of dealing with people is usually on the run, always between drags on an omnipresent cigarette. When not working his usual 12-hour day, Mr. Runkel is often found relaxing in front of his television watching a basketball game or at the theater.

Mr. Runkel now faces a new fight, perhaps his toughest—a campaign to consolidate Michigan's 529 school districts to fewer than 200.

"With enrollment declines, it's becoming impossible for most of the districts to offer viable programs in areas like vocational education and gifted and talented education," he says. "We could save money and improve education if we could get some of these districts to merge."

Last year, a group of school leaders from Western Michigan talked of a campaign to run Mr. Runkel for governor. The campaign never got off the ground, but it was taken seriously. That alone demonstrated how highly regarded Phil Runkel is in Michigan.●

A TRIBUTE TO RUSSELL ANGLIN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. MINETA. Mr. Speaker, I am saddened yet proud to rise today in honor of a constituent in my district who recently passed away. Mr. Russell Anglin died on August 14 but the legacy he left his fellow citizens will continue to bring benefits to us all for years to come, for he was a member of that shrinking fraternity of individuals who are called inventors.

Russell Anglin was born on a farm in Kentucky in 1916 and went to work in the Appalachian coal mines at an early age. His mind was not content to toil in the mines and, being intrigued with the development of the radio and the infant known as television, he began a program of self-education to learn how these devices worked. He soon found himself fixing radios for his neighbors and decided to open his own repair shop.

Russell Anglin was successful in this enterprise, but did not stop at simply fixing other people's sets. As he came to understand the technology, he began to perceive that improvements could be made, and so he undertook small efforts at invention. He developed several items which were particularly helpful in making television both better and safer. Unfortunately, the daily demands of work made it impossible for him to devote a great deal of time to invention. First as a self-employed repairman, and later, as a technician for the FMC Corp., he continued to develop ideas in his spare time, but was never able to dedicate to them the effort they deserved.

That situation changed in 1974, though it was not at first clear that the change was for the better. Russell Anglin suffered a series of heart attacks and in 1974, the condition of his health required him to retire, though his mind was still as active as ever. Wondering what to do with his suddenly bestowed spare time, Russell Anglin realized that he could now pursue his passion for inventing, and that is exactly what he did in the last years of his life.

When he retired, he was living in San Jose, where FMC had transferred him in 1965. He was soon spending many hours each day in the workshop he had set up in his garage. In short order, he was turning out the inventions which had been simmering in the back of his mind for so many years.

At his death, Russell Anglin left a prodigious list of useful items which have made their way into popular use. Among his creations are:

A device to maintain color quality in television;

A lightning arrester to dissipate the effects of lightning when it strikes an outdoor television antenna;

A device for starting cars with dead batteries, which connects to the cigarette lighter in an automobile; and

An electronic tool for testing the ripeness of watermelons.

Russell Anglin's life left little doubt about the ability of individuals to contribute to the betterment of our world. As an entrepreneur, inventor, or employee of others, he demonstrated the spirit of creativity which has made our Nation great. Similarly, as a husband to his wife of 46 years, Pauline; as a father to four children; as a member of the board of directors of the California Inventors Council, and as a member of the American Inventors Council, Russell Anglin was a source of strength and enlightenment to others.

Mr. Speaker, I ask you and all the Members of this House to join me in paying tribute to Russell Anglin. He is a man whose talents will be missed and from whose life we should take a measure of inspiration. Thank you.●

PRESIDENT CHUN'S PLAN FOR PACIFIC SUMMITS

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. PRITCHARD. Mr. Speaker, on July 31, 1982, President Chun Doo Hwan of the Republic of Korea proposed that the leaders of the nations of the Pacific Community meet annually to discuss matters of mutual concern to those nations lying within the Pacific Ocean basin and to consult on ways and means for mutual cooperation among the Pacific basin nations.

This is a farsighted and statesmanlike proposal. We are all aware of the fact that the nations of the Pacific basin are advancing rapidly as an economic center of the world. In 1979, American trade with those nations lying within the Pacific basin exceeded, for the first time in history, total American trade with the nations of Western Europe. The total exports of manufactured goods by the newly industrialized countries of Asia—South Korea, Taiwan, Hong Kong, and Singapore—are now one-third greater than those of the remaining newly industrialized countries of the world; namely, Mexico, Brazil, Spain, Portugal, Greece, and Yugoslavia. It appears inevitable that by the year 2000, the combined industrial power of Japan, South Korea, Taiwan, Hong Kong, Singapore, and Malaysia will be far greater than that of the United States or Western Europe.

It is imperative, therefore, that the United States become an active and vigorous partner of its neighbors in the Pacific region. We must, I believe, heed President Chun Doo Hwan's proposal for the establishment of a regular and systematic consultative apparatus to plan for the future of the Pacific basin.

I, therefore, enclose for inclusion in the RECORD, President Chun Doo Hwan's farsighted proposal. The text of his proposal follows:

PRESIDENT CHUN'S PLAN FOR PACIFIC SUMMITS

The following is the text of the portion of the President's news conference on July 31 in which he described his plan for annual Pacific summit meetings:

First, I believe the shortest way to overcoming various restrictions, obstacles and challenges lying in the way of the realization of the Pacific age is the introduction of a systematic consultative apparatus under which top leaders of Pacific-rim countries can meet periodically to discuss matters of mutual concern and consult on ways and means of mutual cooperation.

Needless to say, summit diplomacy is the most effective way to solve most difficult and urgent nation-to-nation problems.

Second, it is my hope that this consultative organ will, in principle, open its door to all the countries in the region.

Third, I think that respect of sovereignty and independence, reciprocity, equality and noninterference in the internal matters of other countries should be the basis of relations among the countries in the region. I also think that hegemony by any country should not be accepted and the organization should not be politically tainted or become a bloc.

Fourth, I feel that the question of exploring the endless potential which the regional countries have for multilateral development and expansion of trade, reinforcement of economic and technological cooperation manpower development, expansion of communications networks and increasing educational and cultural exchanges could be the key concerns of the consultative organ.

Fifth, I believe firmly that cooperation between advanced countries and developing nations and an increase in the cooperation among developing countries in the region will, if deepened, be able to set an example for solving the so-called South-North question.

The successful materialization of a Pacific summit conference will require consent by the countries in the region.

LEGAL ASSISTANCE TO SMALL BUSINESS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DELLUMS. Mr. Speaker, I would like to bring to the attention of my colleagues an exceptional individual, Timothy H. Fine, and a new and noteworthy organization that he has founded. I believe that its creation will be of interest to the many small businesses throughout this country that need someone to fight for their rights.

I would like to insert this article from the July 1982 issue of INC. into the CONGRESSIONAL RECORD.

NEW DEFENDER FOR SMALL BUSINESS

Small business deserves its day in court. So thinks San Francisco lawyer Timothy H. Fine, founder of the Small Business Legal Defense Committee, a new organization set up to defend the rights of small companies.

The group's mission, explains Fine, is to make sure the government follows the Small Business Economic Policy Act of 1980. That law says all federal agencies must "foster the economic interests of small businesses . . . assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small business." Granted that's a tall order—but it's the law.

Fine, who has spent his career representing small firms, says he founded his committee to defend small businesses before legislative, judicial, and executive bodies and also keep the 1980 act in the federal limelight. Fine expects to sign up 5,000 members over the next two years, at membership fees ranging from $100 to $300.

For now, Fine's attention is focused on the Justice Department. "Attorney General William French Smith and William F. Baxter, assistant attorney general in charge of the Antitrust Division, have declared open war upon the small businesspersons of the United States," Fine says. "They have brought down the curtain on antitrust enforcement and indicated that monopoly is a virtue."

In its first legal action, the committee filed an *amicus curiae* ("friend of the court") brief in the antitrust case of *United States of America* v. *Mercedes-Benz of North America Inc.* In 1979 the Justice Department had filed suit against the company for forcing auto dealers who carry Mercedes cars to also buy Mercedes-Benz replacement parts. But last March, Baxter decided to drop the case, arguing that the tie-in arrangement did not harm competition, because it did not give Mercedes any additional market power.

In opposing Baxter's action, the Small Business Legal Defense Committee told the court: "The specific harm to the small businesses precluded from competing with Mercedes-Benz . . . is obviously of no concern to Mr. Baxter's department. . . . There is no indication here that Mr. Baxter's division has paid the slightest attention to [the Small Business Economic Policy Act]."●

REBUILDING AMERICA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. CLINGER. Mr. Speaker, I would like to bring to the attention of all my colleagues an incisive and compelling article by David B. Richardson which appeared in the U.S. News & World Report of September 27, 1982.

Mr. Speaker, I submit to you that the crumbling condition of our bridges, highways, and water and sewer systems is an issue of critical importance. A Congress concerned about economic development and jobs cannot afford to overlook this issue. I urge my colleagues, as we undertake a review of the budget process, to consider a national capital budget as a mechanism for improving the decisions we make regarding our public facilities.

I commend this article to the House of Representatives, and I request that it appear in the RECORD.

[From the U.S. News & World Report, Sept. 27, 1982]

TO REBUILD AMERICA—$2.5 TRILLION JOB

Bridges, ports, roads, sewage disposal—these and other underpinnings of U.S. life and economy are eroding from long neglect. Repairs will be costly, but, say experts, more delays could be disastrous.

At a time of lingering recession, another cloud now looms over the U.S. economy. A creeping crisis in the nation's long-neglected and decaying public works that can only be solved by trillions of dollars in new spending.

Crumbling highways, rusting bridges, backed-up sewers, leaking water mains, bursting dams, broken-down buses and subway cars—these and many other basic problems have been building up for a decade and a half, while the country occupied itself with other concerns. Now the troubles of public works, which economists call the infrastructure, have accumulated to the point where they pose a growing obstacle to a sustained national recovery.

"Much of America's infrastructure is on the verge of collapse," warns Pat Choate, senior policy analyst for the conglomerate TRW, Inc., and a congressional adviser. "Yet American business and farming depend absolutely on the smooth functioning of public works. If producers cannot get their products to market on time, prices increase and competitiveness declines. If basic services such as water supply or sewage are limited, then firms are hampered in their ability to expand and provide more jobs and income."

Suddenly, policymakers in Washington, state capitals and city halls are starting to give urgent attention to the erosion of America's basic underpinnings. The consensus of experts: It will take a staggering amount of money over many years to stem the spreading decay and reconstruct America's time-ravaged economic base.

Choate estimates that local, state and federal governments would have to spend from 2.5 to 3 trillion dollars this decade—slightly more than all planned defense outlays in the same period—just to maintain today's level of service on public facilities. At present spending levels, he says, less than a third of that renovation can be done.

The most costly items on a list Choate presented to a congressional group:

Highways and bridges outside urban areas, 1 trillion dollars.

City streets, 600 billion.

Municipal water systems, 125 billion.

Ports and inland waterways, 40 billion.

Constructing and renovating up to 3,000 prisons and jails, 15 billion.

Water-pollution controls to meet current standards, 100 billion.

"Rebuilding the nation's public infrastructure," concludes Choate, "promises to be the single most expensive government challenge of the 1980s and 1990s."

To speed efforts to cope with the developing crisis, a bipartisan coalition in Congress is pushing for creation of a "national capital budget." This would require the administration, as a beginning, to take a first-ever inventory of public works throughout the country, with a view to assigning priorities for refurbishment and new construction.

In state and city governments, which in recent years have been contributing an average of 75 percent annually on spending for public works, officials are wrestling with the unsolved problem of how to increase the funds available to rebuild the aging infra-

structure. Total spending in this field, measured in constant 1972 dollars, has declined 19 percent since 1965, while the nation's gross national product has risen 62 percent.

Finding the additional money now has been made more difficult by a flight from cities to suburbs, which has reduced municipal revenues. Adding to the pinch are stiffening local tax resistance during the business slump and an escalation of interest rates on new bond issues.

Yet strong doubts exist that President Reagan can be persuaded to make any significant increase in federal funds for public works. In fact, the White House is pressing for cutbacks in subsidies to mass-transit systems and reduced federal spending in other fields, while urging state and municipal authorities to take on more of the burden with help from private enterpise.

DAILY HAZARDS, BREAKDOWNS

For many Americans, the consequences of a decaying infrastructure are becoming more apparent almost daily:

In Jersey City, N.J., the water supply ran out in midsummer for the city's 223,000 residents with a rupture in a main of the 82-year-old water system. It took five days to restore drinkable water, as National Guardsmen ladled out supplies from tank trucks.

In Colorado during the same month, 80-year-old Lawn Lake Dam gave way, sending 250 million gallons of water cascading through the Rocky Mountain resort town of Estes Park. Four people were killed, and property damage from the flood ran to 21 million dollars.

Many communities now live under the daily threat of a failure of one vital public facility or another. In Cleveland, that danger is the 43-year-old Main Avenue Bridge, the main traffic artery to downtown from western Cuyahoga County. The bridge has recently shown such signs of decay that authorities closed it six nights for temporary repairs. Such repairs have cost 1.7 million dollars in the last three years, and contracts worth $600,000 more are to be let soon.

"It's a crime spending this money, because we're just putting bandages on the bridge," says Cuyahoga County Engineer Thomas J. Neff. "But closing it would be catastrophic in traffic terms, and we simply can't find the 30 million dollars it would take to rebuild."

In Phoenix, the big worry is the sudden appearance of cracks in the earth, as long as 400 feet in one residential neighborhood. A road sign outside the city depicts a car plunging into a crevice and warns drivers they are entering a "subsidence area." The fissures are a direct consequence of large-scale pumping from aquifers to meet increasing water demands in the fast-growing Arizona city.

These are but a few of the problems caused by an infrastructure that has long served the country well but now shows the effects of years of heavy usage and neglect. As John Wiedeman, president-elect of the American Society of Civil Engineers, puts it: "Virtually every part of the country has its own horror story." The full extent of the challenge of decaying public works is emerging from recent studies by government officials and private experts.

A CATALOG OF TRANSPORTATION WOES

Some 8,000 miles of the nearly completed 42,944-mile interstate-highway system—begun in the 1950s—are crumbling and must be resurfaced, says a new official survey. Pavements erode in 15 years or less, mainly because of trucks and heavy traffic. At the current rate, 2,000 miles more of the interstate-highway system is wearing out every year. A new congressional study puts the cost of completing and renovating the highways at 54.8 billion dollars.

Even more serious decay is attacking 3.9 million miles of roads totally supported by states, counties and cities. A recent study by the Road Information Program, a Washington research group, showed that almost two thirds of the major roads need resurfacing or rebuilding. Nearly 45 percent of the nation's 557,516 bridges are classified in a recent official report as "either structurally deficient or obsolete." These include 26 percent of the bridges on the federally aided road system that carries most of the nation's traffic.

Of the total of officially "deficient bridges," 126,655 of those are so unsafe as to be restricted by federal law to light vehicles—no buses, trucks, truck trailers, vans or fire engines—or closed to traffic altogether pending rehabilitation. At least 3,416 bridges have been closed for repairs or for good. The Transportation Department places the cost of replacing or rehabilitating all bridges at 47.6 billion dollars. To help state and local governments foot that bill—they finance about 60 percent of bridges costs—the Highway Users Federation has urged Congress to triple the present rate of federal funding through the federal Highway Trust Fund. The fund takes in about 6.6 billion dollars a year in fuel taxes and highway-user charges—but is already so heavily committed to various projects that it is running a deficit.

The nation's bus and subway systems also are hard pressed for money to fight spreading obsolescence. So critical is the deterioration in urban-transportation fleets that transit officials in a quarter of the 300 cities with such services say they might have to cease operations by 1985 if a threatened cut in federal support goes through. Their target: A Reagan administration proposal to cut out all federal operating subsidies, which at 1.1 billion dollars annually now cover 15 percent of transit costs.

Even at current federal-support levels and with recent fare increases in some places to as high as 90 cents, transit budgets fall far short of meeting rising labor and equipment costs. The resulting limits on maintenance and repair are causing buses and subway cars to break down with increasing frequency. San Francisco recently had to shut down its 100-year-old cable-car system, a major tourist attraction, for 20 months for a "total renewal."

A survey by the American Public Transit Association concludes that within this decade 72 percent of all transit buses and 28 percent of all subway cars must be replaced. Transportation Secretary Drew Lewis places a price tag of 40 billion dollars to maintain the operational level of transit systems through the 1980s. To help urban authorities raise the money, he favors increasing gasoline taxes for automobiles by 4 cents a gallon and for heavy trucks by 1 cent a gallon. Neither the White House nor Congress seems ready to embrace that proposal.

Ports and inland waterways are suffering the consequences of a five-year lapse in federal authorizations for needed improvements. Commercial users seek more channel dredging to reduce harbor congestion and cut the rate of accidents. Especially sought is a renovation of old locks. "Unless critically deficient, aging, undersized locks are replaced or improved," warns Charles T. Jones, president of Amherst Industries, a Charleston, W.Va., coal shipper, "the safe and efficient movement of coal and other bulk commodities on the inland waterways will be in danger."

Jones points out that while three nations ranking as leading U.S. competitors in the world coal market have channels deep enough to accept larger coal vessels, the only one in this country is far from coal sources, in Long Beach, Calif.

DISAPPEARING WATER, BACKED-UP SEWAGE

Leakage from aging pipes is costing New York, Boston, Buffalo and other cities as much as a third of their water supplies between reservoirs and faucets. Of the nation's 43,500 dams, 9,000 are reported in need of safety improvements. Water problems are so widespread, according to one official report, that 756 urban areas face a bill of 63 billion dollars to repair or replace existing facilities. Meanwhile, the leakage is cutting into revenues from usage that might pay for new piping. Many cities warn that they will experience funding shortfalls even if water rates are doubled.

In the sun belt, a number of fast-growing cities and rural areas find themselves unable to keep pace with expanding water needs. One study for a congressional group warns that the old dust-bowl region of the central plains, which accounts for 23 percent of the nation's irrigated farmland and produces more than 40 percent of its processed beef, is in danger of depleting its water sources.

Regional officials complain that they haven't had an authorization for fresh federal aid for water projects since 1972. They warn that new water sources must be developed by the end of the decade to avoid declining yields of important export crops.

The nation's sewage-treatment systems are high on the list of decaying public works. Responding to a National League of Cities survey, 48 percent of local officials reported their sewage and drainage facilities in need of major rehabilitation or replacement. The Environmental Protection agency estimates that by the year 2,000, 38 billion dollars will be required for replacement of sewers and 17.7 billion more for replacement of treatment plants.

Problems of sewage backups. At present, federal grants cannot be used to help meet the soaring costs of maintenance and repairs. Pressures are mounting for a change in that policy as residents of Chicago, Albuquerque and other cities experience sewage backups into their basements during heavy rains. Orlando, hard pressed to cope with one of the country's highest rates of growth, has no place but a local stream to empty its-sewage after treatment.

Prisons head a long list of public buildings suffering serious deterioration. Of a total of 3,500 prisons in the country, 3,000 are so old and structurally inadequate as to need major renovation or expansion.The problem has been compounded by a sharp rise in the number of prisoners—a 12.1 percent jump in 1981 alone—caused by a nationwide trend toward tougher sentencing and a hold-down on paroles.

Estimates of what it would take to build or renew prisons to keep up with needs range from 10 to 14 billion dollars. With the necessary funds lacking in many cities and states, officials have had to require doubling up in small cells, the transfer of some prisoners to makeshift quarters—and, in Florida and Maryland, even the early release of

prisoners serving short terms to make room for new convicts.

In Albuquerque, some of the 400 inmates now crowded into a jail that was built for 325 will soon share temporary quarters in a nearby mental institution, pending a prison-expansion program.

A HIDDEN AGENDA OF NEGLECT

Why have local, state and federal authorities allowed this steady deterioration of the nation's vital infrastructure? George Peterson, director for the Public Finance Center of the Urban Institute, holds the view that "in too many areas of government, public works constitute a hidden agenda of neglect."

Agreeing, one former local official observes: "For many years, the ruling philosophy has been, 'We'll take care of that later.' The tendency has been to take public works for granted, as though these never wear our."

Another obstacle is seen as Washington's traditional pork-barrel approach to public-works funding. Too often, experts charge, congressional appropriations for local improvements or construction are promoted by politicians for patronage benefits and political clout at the expense of projects that technical studies deem more necessary.

"Every politician likes to cut a ribbon," notes Representative William Clinger, Jr. (D-Pa.), a leading proponent of infrastructure reform, "whether it's to open a new bridge or dam or highway or public building. Few have been as interested in the less visible work of keeping up the sewers or replacing the water pipes or the subway cars."

For this neglect, analysts say, the ordinary citizen bears at least part of the blame. Opinion polls show a majority of Americans support the trend toward tougher prison sentences, for example, yet bond issues to build more prisons have been voted down in New York and some other states. Dallas voters, seeking a modern mass-transit system, rejected local financing to speed the project. Nationally, local voters approved nearly 80 percent of proposed bond issues in the 1950s, but in the 1970s they backed barely more than 50 percent.

Even on approved projects, long delays caused by bureaucratic red tape escalate costs though inflation. The Tennessee Valley authority currently is experiencing an average eight-year delay in constructing seven new power plants—trebling production costs and hiking the total cost by 11 billion dollars. All told, the nation has a backlog of more than 100 billion dollars in uncompleted projects, increasing the tab for taxpayers by an estimated 16 billion a year.

Costs of public works are nudged still higher by widespread fraud, corruption, inefficiency and waste. In Massachusetts, a blue-ribbon panel investigating bribery and corruption reported that more than 6.4 billion dollars' worth of state and county building construction was defective, requiring 2.1 billion in changes. Among the defects: A college auditorium stage that cannot be seen from balcony seats; a jail in which cell doors won't lock; an old-age home without stairway railings and a 9-million-dollar power plant rendered unusable by a steam generating system installed backwards.

The biggest white elephant found by state investigators was a 28-story library—billed as the world's tallest—that dominates the campus of the University of Massachusetts at Amherst. Completed in 1974 at a cost of 17 million dollars, it has never officially opened or been able to receive a book because parts of bricks have been falling from its facade.

Oklahoma has had some of the country's worst corruption in public works. There, 195 county commissioners out of 231 have been convicted or have pleaded guilty to pocketing county funds for nonexistent transactions or from kickbacks on purchases of materials and equipment. In one case, investigators found a gunnysack stuffed with more than a million dollars in fictitious invoices.

Illegal practices among highway contractors led to the largest antitrust investigation in the Justice Department's history, generating 170 criminal prosecutions since 1979 for bid rigging in which construction firms manipulate the competitive-bidding process for illegal gains. These cases—involving 154 corporations in Southern and Midwestern states—have resulted in 130 guilty pleas and 10 convictions, with maximum penalties of 1 million dollars for a corporation, $100,000 for each individual plus three years in prison. Federal investigators say the 14 states covered so far are only a starter.

MEETING THE CHALLENGE

Apart from eliminating waste and fraud, what will it take to rebuild the country's widely decaying public works?

Some authorities see no alternative but another huge spending program, perhaps rivaling President Franklin D. Roosevelt's Works Progress Administration and the Public Works Administration, during the Depression. John E. Jacob, president of the National Urban League, called on Reagan in early August to loosen his economic policy with a 100-billion-dollar public-works scheme. Jacob saw three major benefits from his plan: Renovating the infrastructure to set the stage for long-term growth, providing jobs for the nation's mounting unemployed and revitalizing sluggish industry.

In another throwback to the 1930s, Felix Rohatyn, a New York investment banker, urges revival of the Reconstruction Finance Corporation to provide federally backed loans to cities for public works. "The RFC of the 1930s," he recalls, "saved banks, some cities and many businesses, thus preventing much larger dislocations. What's more, it made money for the taxpayer. If we do not take some such step to break out of our present economic straitjacket, then our infrastructure and much of our banking and industry could face much deeper trouble."

Congress is coming up with other proposals to meet the mounting public-works crisis. Most important: A plan advanced by bills in both houses to create the national capital budget. Aimed at treating the infrastructure separately from other programs to guarantee regular attention and support, the proposal is seen by many infrastructure experts as "bringing coherence to a field in disarray."

Says Representative Bob W. Edgar (D-Pa.), cosponsor of the House bill: "The nation can no longer afford to rely on pork-barrel methods of deciding where to spend on public works. The time has come to introduce more order into the whole process, so as to spend where it can do the most good." Other sponsors range a political spectrum from liberal House Speaker Thomas P."Tip" O'Neill (D-Mass.) to Representative Jack Kemp (R-N.Y.), a leading fiscal conservative. Support is also found in business circles. David Mahoney, chairman and chief executive officer of the conglomerate Norton Simon, Inc., recently told a business group: "Without such planning, we may create a bottle neck that would limit growth and economic expansion in the future."

Such proposals for dramatic action by Washington have their critics, both in and out of government. They are called "inappropriate for what must be a long-term effort" by David A. Grossman, former New York City budget director and a public-works consultant. Others label them as inflationary and conflicting with the prevailing Reagan policy of reducing federal involvement and transferring more responsibility to the states.

Moreover, many economists say such a budget would further complicate overall policymaking, among other things, by adding another bureaucratic layer to the process. David Rusk, former Albuquerque mayor says: "Federal lawmakers cannot match state and local ones at knowing the problems of public works in the field. Wherever possible, more taxing authority should be transferred to local governments—along with such incentives to voters as tax credits to ease the job of local financing."

Some American communities are making headway with new initiatives. Baltimore, Pittsburgh and Dallas are pursuing renovation programs with broadened local support, including that of private enterprise. Many experts look at a Cleveland experiment of involving county and regional authorities—along with local banks and private companies—as a possible model for other cities. In the East and Midwest, many of these cities are suffering a decline in tax revenues because of the flight to the suburbs, yet are deprived of suburban-annexation rights enjoyed by sun-belt cities.

Galveston has embarked on a 10-year plan to deepen and widen its port, to be paid for with municipal revenue bonds. Cincinnati, to assure better upkeep of its infrastructure, now requires that every new project include financial arrangements for maintenance during its engineered lifetime. By close planning and budgeting, the New York Port Authority's well maintained bridges, tunnels and other facilities contrast sharply with New York City's many run-down works.

Still, funding problems for public works loom so large everywhere—along with technical and political obstacles—that many experts now agree on a need for far-reaching changes in the whole approach if America is to overcome this developing crisis. As one consultant puts it: "All we are really arguing about at this point are means, not ends."

One trend already under way is to reduce the existing infrastructure. Just as the airlines have cut out some routes as uneconomical, recently some federal, state and local authorities have called off a few projects as nonessential. Awaiting a decision is a set of options for curtailing the final stages of building the interstate-highway system, now 95 percent completed after 25 years. The bill for finishing the project is set at 38.8 billion dollars. To one analyst, such economy moves are simply a case of "lowering our sights and learning to live within our means."

Accordingly, some doubt the wisdom of pumping more money into water projects to make the barren Western plains bloom, which some critics say will only produce a further tax burden for subsidizing the increasing food surplus.

The trouble is, as many experts warn, vital hardware such as water, sewage and transportation systems cannot be cut back easily in a vigorous nation dedicated to long-term growth. America's competitiveness and economic well-being depend on an effective infrastructure.

After a decade and a half of neglect of public works, the U.S. thus appears to have no other course but a new and immensely expensive commitment over many years to rebuild its crumbling economic foundations—and then to see that these are kept in better shape as a prime policy concern.●

TRIBUTE TO PHILIP M. ZANNELLA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Ms. OAKAR. Mr. Speaker, I would like to take this opportunity to pay tribute to Mr. Philip M. Zannella, president of the International Association of Machinists and Aerospace Workers, District 54.

For almost 40 years Mr. Zannella has been an outstanding example of service to his fellow human beings.

Mr. Zannella began his distinguished labor career in 1946 when he joined the International Association of Machinists and Aerospace Workers Local Lodge 1363 as an auto mechanic in one of the Cleveland area's Ford dealerships. He was elected financial secretary and business representative of his local in 1949.

Mr. Zannella's dedication to improving the quality of life of working people and strengthening the labor movement brought him into positions of leadership. Along with serving as President of IAM&AW, District 54, Mr. Zannella is chairman of the Grand Lodge Law Committee, secretary-treasurer of the Ohio State Council of Machinists and vice president of the Ohio AFL-CIO and the Cleveland Federation of Labor.

Mr. Zannella has actively served the people of Cleveland, the Nation, and the people across the globe in Israel.

Mr. Zannella will be honored with a testimonial dinner on Saturday, September 25. The proceeds will go to the completion of a most noteworthy project. This project is the Carmiel Youth Center located in the Carmel Mountain Range, in Galilee, the northern part of Israel. The Carmiel Youth Center was established 3 years ago by the Cleveland Trade Union Council for Histadrut. The center serves the entire area consisting of Jewish, Arab, and Druze youngsters. It will contain three clubrooms, a multipurpose room, outdoor basketball court, and a shelter.

I congratulate Mr. Zannella on a lifetime of dedicated service, and ask the Members of the 97th Congress to join me in offering our heartfelt wishes for many years of continued success.

On a personal level, I want Phil Zannella to know how much I have appreciated his support and his eminent fairness to me. As the only female member of the Ohio delegation and a prolabor supporter, I have always valued his advice and assistance. Thousands of workers will always be grateful for his dedicated, tireless service to the labor movement.●

CARMAN PRAISES STAFF

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. CARMAN. Mr. Speaker, I rise on this occasion in praise of my Washington and district office staff. In my time here, I have come to know a number of congressional staff persons. I have found them all to be competent, dedicated, talented, hard-working individuals. Yet, I know of no Congressman as fortunate as I am when it comes to the first rate group of men and women who serve on my staff.

I have come to know each individual, both professionally and personally. Each has shown exemplary dedication both to the House of Representatives and to me. They have worked long, hard hours in support of my public and legislative activities, and I have come to value highly their depth of knowledge and useful counsel. They deserve a great deal of credit for the work I have been able to do well in this Chamber. I rise today to extend public recognition and my own deep personal gratitude to these individuals.

I have developed a deep respect for my Washington staff. Kate Caldwell, Jeff Craven, Lee Ann Frank, Steve Heminger, Jonathan Hill, Len Johnson, Andre LeTendre, Gene Meyer, Lois McKenna, John Palafoutas, and Felice Pelosi have accomplished every task I have given them with admirable diligence and dedication. They have displayed a true professionalism in their dealings with the offices of this House, with the interests and problems of my constituents, and the numerous governmental agencies both in and out of Washington with which I have worked.

Joan Camisa, Ethel Contogine, Larry Cregan, Anthony Fabrizio, Robert Mazze, Barbara Sposato, and Nancy Wohlsen on my district office staff have served ably and well. During the past 2 years, they have developed an excellent relationship with my constituents in the Third District of New York. As I am sure every Congressman ideally desires, my district office staff has served as a highly effective liaison between me, in my congressional work in Washington, and the good people of Long Island whom I represent.

I also have learned to respect and appreciate the contributions made by the interns in my office. Ginna Calcagnini, Paul Fishbin, Lori Harmon, Maria Humeres, Lois Mary McKenna, Patricia Roberts, and Robert Shea have performed consistently well in their service to the Congress and to my staff.

When I leave this Congress, my deepest and most lasting memories will be those of my staff. We have worked hard together; we have accomplished a great deal together; we have enjoyed the thrills and shared the sorrows of public life together; we are professional associates and dear friends.

As you and I have heard sung often, "It has been good to know you," and "May the good Lord bless and keep you until we meet again."●

LUDEN'S, INC.

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. YATRON. Mr. Speaker, I rise today to recognize the outstanding achievements of a vital company in my congressional district, Luden's, Inc. On September 30, 1982, an active street will disappear in Reading, Pa. In place of the street will be an avenue, 5th Street is being honorarily renamed to 5th Avenue to recognize Luden's, Inc. for their over 100 years of community service to the city of Reading, Pa. Luden's is the maker of the "crunchy" 5th Avenue candy bar.

The city of Reading can be very proud to be the home of this important company which also makes Luden's cough drops. It is indeed fitting that Luden's accomplishments are recognized in the U.S. Congress. I know that my colleagues will join me in saluting this company's noteworthy contributions to their community.●

ARTHUR CLARKE DISCUSSES WAR AND PEACE IN SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. BROWN of California. Mr. Speaker, last month I was honored to represent this Congress at the United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace 1982). Also held last month was a meeting of the United Nations Committee on Disarmament. At both of these meetings, Arthur C. Clarke, the noted British science fiction writer who is presently a leading citizen in Sri Lanka, made major addresses concerning the relationship between mankind's move into space and war on Earth. I found the contribution of

Arthur Clarke to be most refreshing and insightful.

Mr. Speaker, much has been said about extending the arms race into space, and much more can be said. It is my fervent hope that we do more than talk, and instead move to curtail our headlong race to militarize space. There are peace initiatives which can be taken, some of which are described by Arthur Clarke in the following address.

I urge my colleagues to give serious consideration to the constructive suggestions which follow:

WAR AND PEACE IN THE SPACE AGE

ADDRESS TO THE UNITED NATIONS COMMITTEE ON DISARMAMENT, GENEVA, AUGUST 31, 1982

(By Arthur C. Clarke, Chancellor, University of Moratuwa, Sri Lanka; Member, Sri Lanka Delegation)

Mr. Chairman, Distinguished Delegates: It is both an honour and a responsibility to appear before you today, to discuss military activities in the last and greatest arena of human affairs.

Although this meeting is concerned with the prevention of an arms race in outer space, prevention is only one aspect of the problem. As the mathematicians would say, it is necessary but not sufficient. I shall also discuss the positive uses of space technologies for strengthening international security.

Before doing so, may I very briefly give my qualifications for addressing you. I became a member of the British Interplanetary Society in 1934, and was later its Chairman. In 1951 I presided over the first London meeting of the International Astronautical Association, and I have known most of the leading figures in the field. Only two months ago, I had the privilege of being hosted at "Star Village" by my friend Cosmonaut Alexei Leonov and his colleagues. I have written more than thirty books on space, and this month spoke at Unispace '82 as a member of the Sri Lanka Delegation.

Back in 1945, as a Royal Force Officer, I wrote the paper that outlined the principles of satellite communications and the use of the geostationary orbit. A few months later, my essay 'The Rocket and the Future of Warfare' won first prize in a competition set by the Royal Air Force Quarterly. It has been a strange experience reading that paper again after almost 40 years, and I would like to quote the lines of Shelley with which the essay began:—

Cease! Drain not to its dregs the urn
Of bitter prophecy.
The world is weary of the past,
Oh, might it die or rest at last!

Nevertheless, "bitter prophecy" is indeed what we are concerned with today. So first, I must request you—if you have not already done so—to read Jonathan Schell's book, "The Fate of the Earth," which is the most convincing account yet given of the realities of nuclear warfare. It should be required reading for every statesman.

Any yet Carl Sagan has summed up the implications of this entire book in a single chilling sentence:—"World War Two once a minute, for the length of a lazy summer afternoon."

One other reference:—I hope that you can arrange to see the BBC's recent Horizon science programme, "The Race to Ruin", which showed the first test of laser weapons on airborne targets and interviewed both American and Russian scientists on the possibilities of war in space.

This month, at Unispace '82, there was some confusion as to precisely what is meant by the "militarisation of space". There are very few of men's artefacts which cannot be equally well used for peaceful or warlike purposes; what matters is the intention. It is impossible to define a class of devices and say that "These must not be developed, because they can be employed offensively."

Let me give an example: few things would seem more remote from military affairs than the Goedetic Satellite used to detect minute irregularities in the earth's gravitational field. At first sight, this would seem to be of interest only to scientists; nevertheless, these subtle variations are of vital concern to the designers of intercontinental missiles, because unless the earth's gravitational field is accurately mapped, it is impossible to target a missile with precision. Thus purely scientific satellites, by greatly increasing the accuracy of warheads, can have a major impact on strategy. Yet does anyone suggest that they be prohibited?

Even meteorological satellites, one of the most benign of all applications of space technology, because they have already saved thousands of lives, are of obvious military importance.

Similarly, communications satellites would play an absolutely vital role in military operations. Yet neither represents a direct threat to peace.

Just as military helicopters can be used for disaster relief work, so some military space systems can be positively benign. Indeed, we might not be alive today without the stabilising influence of the reconnaissance satellites operated by both the U.S. and the U.S.S.R.

Let me remind you of a piece of recent history: in the early 1960s, there was a vigorous campaign in the United States claiming that the U.S.S.R. was far in advance in the development of intercontinental ballistic missiles. The so-called "missile gap" was a major theme in the Kennedy-Nixon campaign, and millions of words were written urging that the United States start a crash program to overcome the Soviet Union's enormous lead.

That missile gap was a total illusion—destroyed when American reconnaissance satellites revealed the true extent of Soviet rocket deployment. President Johnson later remarked that reconnaissance satellites had saved the United States many times the cost of the space program, by making it unnecessary to build the counter-force originally intended.

By a fantastic coincidence, just yesterday—in fact, on my flight here!—I discovered President Johnson's actual words, and I quote:—

"We were doing things we didn't need to do, we were building things we didn't need to build; *we were harbouring fears we didn't need to harbour.*" (My italics)

However, in a sense, that information may have come too late. One can picture the feelings of the Soviet military planners when contemplating this American debate. They knew they did not have the weapons the United States claimed, so what was the purpose of the exercise? Were the Americans deliberately creating an excuse to rearm? That might have seemed the most plausible assumption—but in fact, ignorance rather than malice was the explanation. In any event, the Soviet Union decided it must produce the missiles which, at that time, existed only in the imagination of the Americans. So the seeds of a space arms race were planted, a quarter of a century ago.

It is possible to play a numbers game with payloads and launchings to prove almost anything. Statistics indicate that the Soviet Union has now launched about twice as many "military" payloads as the United States—by 1981, roughly 860 against 420. Does this mean that the Soviet Union is twice as agressive as the United States? Not at all, because the Soviet Union's reconnaissance satellites are planned to operate for only a few weeks whereas the much bigger American satellites remain in orbit for many months. So the quantity of American reconnaissance information is probably much greater than that of the Soviet Union, a point to which we will return later.

However, photographic or TV reconnaissance is limited by cloud conditions; only radar can give all-weather coverage. And only the U.S.S.R. has used radar satellites, powered by nuclear reactors to reconnoitre the movements of ships at sea, as was revealed when Kosmos 954 crashed in Canada in 1978.

Another area of confusion and controversy is that of Landsats or earth resources satellites, which give superb views of our planet, of enormous value to farmers, industrialists, city-planners, fishermen—in fact, anyone concerned with the use and abuse of Mother Earth. The United States has made its Landsat photographs, which have a ground resolution of roughly 80 metres, available to all nations. Not surprisingly, there has been some concern about the military information that these photographs inevitably contain. That concern will be increased now that Landsat D has started operations with a resolution of 30 metres; I was stunned by the beauty and definition of the first photographs when they were shown to us at Unispace a few weeks ago. The French SPOT satellite will have even better resolution (10-20 metres) and this is rapidly approaching the area of military importance, although it is nowhere near (perhaps by a factor of one hundred) the definition of the best reconnaissance satellites under favourable conditions.

There is a continuous spectrum between the abilities of the earth resources satellites and the reconnaissance satellites, and it is impossible to say that one is military and the other is not. What matters is, again, intention.

One may sum up the situation by saying that although these satellites may be annoying to some nations, they are not aggressive: and that is the essential factor.

More confusion has now been created by the American Space Shuttle, which has been heavily criticised in the Soviet Union. It is perfectly true that many of the Shuttle's missions will be military, yet it is as potentially neutral as any other vehicle.

The one new factor the Shuttle does introduce is that, for the first time, it gives a space-faring power the ability to examine, and perhaps to retrieve, satellites belonging to somebody else, thus opening up prospects of 'space piracy'—as the Soviet Union has put it. However, one cannot help thinking that fears on this score have been greatly exaggerated. If you do not want anyone to capture your satellite, it is absurdly simple to boobytrap it and thus destroy, with very little trouble, an extremely expensive rival space system.

From past experience, I would venture a prediction in this area. When only the United States possessed reconnaissance sat-

ellites, there was a great outcry in the Soviet Union about these 'illegal spy devices'. When the Soviet Union also possessed them, this cry was suddenly stilled. In the same way, when the Soviet Shuttle is launched, perhaps we will hear no more talk of space piracy.

The essential point is that all these systems—communications, meteorological, geodetic, reconnaissance, and the Shuttle itself—though they represent some degree of militarisation of space are still, for the moment, defensive or even benign. Some countries may be upset by certain applications, but they can all live with them, accepting their benefits as well as their disadvantages. The new factor which has now entered the discussion is that of deliberately destructive space systems, i.e. weapons.

It seems to have been forgotten that the first weapons were introduced into space almost twenty years ago by the United States, which exploded several nuclear warheads above the atmosphere in tests of a possible anti-satellite system. This approach was abandoned when it led to the discovery—only recently rediscovered, to the consternation of military planners—that a few nuclear blasts in space could knock out all satellites, simply by the intensity of the radiation pulse.

This fact hovers ominously over all discussions of space weapons systems. A desperate country could blind and cripple all its enemy's satellites—as well as everyone else's—by a few large nuclear explosions above the atmosphere.

Such lack of discrimination had led to a search for precision weapons. Since as far back as 1968, the Soviet Union has made more than 20 tests of a non-nuclear anti-satellite destroyer, or ASAT, which hovers near its victim and explodes in a shower of fragments. In June 1982, it tested this satellite system for the first time in conjunction with large scale ballistic missile launches from silos and submarines.

The interesting question arises—why are the Russians so concerned with developing an ASAT system, with its obvious destabilising implications? One can only assume that the Soviet Union, which is able to obtain a great amount of information about the U.S. military establishment by old-fashioned techniques (such as buying trade magazines on the news-stands) realizes that reconnaissance satellites are much more vital to the Americans than to itself.

Predictably, the United States has not been indifferent to this Russian lead. President Reagan has now announced the development of an ASAT system much more advanced than the Soviet satellite-killers; indeed, it introduces a new dimension into space warfare.

The American weapon is launched not from the ground, but from high-flying aircraft, thus jumping up out of the atmosphere to home on a satellite as it passes overhead. This makes it very flexible and extremely difficult to intercept, as it could be launched from any point on the earth at very short notice.

Doubtless, scientists in the Soviet Union are attempting to find a counter to this system and so the insane escalation of weapons will continue—unless something can be done to check it.

Neither the U.S. nor U.S.S.R. ASAT systems will be operational for some years, so perhaps there is a last chance to prevent the introduction of offensive (as opposed to defensive) systems into space. The importance of halting this arms race before it gets truly under way will be emphasized when one realises that these planned ASATs are only the primitive precursors of systems now being contemplated. For a horrifying description of the next phase of space warfare I refer you to the recently published "High Frontier" study directed by General Daniel O. Graham. This envisages building scores of orbital fortresses to intercept oncoming ICBMs before they could reach their targets. Such a system would cost not billions, but hundreds of billions of dollars and of course would only be a stepping stone to something even more expensive.

Which leads inevitably to the subject of laser and particle beam weapons. Now that the long-imagined 'death-ray' is technically possible, it has been seized upon as a solution to the problem of defense against nuclear missiles. A vigorous debate is in progress over the practicability of such systems and the consensus appears to be that although they are theoretically possible, it will be decades rather than years before they can become operational, except for relatively close-range purposes.

However, I am always suspicious of negative judgments, because I remember vividly the debate in the United States over the possibilities of long-range rockets in the late '40s. Let me quote again the notorious pronouncement made by the chief American defense scientist Dr. Vannevar Bush in 1945:

"There has been a great deal said about a 3,000 mile high-angle rocket. . . . I don't think anyone in the world knows how to do such a thing, and I feel confident that it will not be done for a long period time to come . . . I think we can leave that out of our thinking. I wish the American public would leave that out of their thinking."

The American public did; but the Russians didn't.

If a thing is theoretically possible, and someone needs it badly enough, it will be achieved eventually, whatever the cost. And when one side develops a new system, the other will try to outdo it. The two superpowers are both led by intelligent and responsible men, yet they sometimes appear like small boys standing in a pool of gasoline—each trying to acquire more matches than the other, when a single one is more than sufficient.

It is no longer true that wars begin in the minds of men; they can now start in the circuits of computers. Yet the technologies which could destroy us can also be used for our salvation. From their very nature, space systems are uniquely adapted to provide global facilities, equally beneficial to all nations.

As you are well aware, in 1978 the French Government proposed the establishment of an International Satellite Monitoring Agency to help enforce peace treaties and to monitor military activities. This has been the subject of a detailed study by a United Nations Committee (Ref. UN Document A/AC 206/14, 16.8.81) conducted by Dr. Hubert G. Bortzmeyer. The conclusion is that such a system could well play a major role in the preservation of peace.

The operational and political difficulties are obviously very great, yet they are trivial when compared with the possible advantages. The expense—one or two billion dollars—is also hardly a valid objection. It has been estimated that its reconnaissance satellites saved the United States the best part of a trillion dollars. A global system might be an even better investment; and who can set a cash value on the price of peace?

However, the United States and the Soviet Union, anxious to preserve their joint monopoly of reconnaissance satellites, are strongly opposed to such a scheme. The British government is also lukewarm, to say the least.

Nevertheless, we have seen that in matters of great, though lesser importance, such as international communications, it is possible to have extremely effective co-operation between a hundred or more countries, even with violently opposing ideologies. Intelsat is a prime example, as on a smaller scale is Intersputnik; and in the near future Arabsat will establish its regional space system.

I like the name Peacesat, and although that has already been pre-empted by the Pacific Radio Network using ATS 1, I will use the term, with due acknowledgement, for the remainder of this talk.

Reactions at Unispace 82 and elsewhere suggest that the Peacesat is an idea whose time has come. Those who are sceptical about its practicability should realize that most of its elements are present, at least in rudimentary form, in existing or planned systems. The French SPOT satellite, with a ground resolution of 10–20 metres, has already been mentioned. Whether the superpowers wish it or not, the facilities of an embryo Peacesat system will soon be available to all countries in the near future.

May I remind my Russian and American friends that it is wise to cooperate with the inevitable; and wiser still to exploit the inevitable.

Peacesats could develop in a non-controversial manner out of what Howard Kurtz, their long-time advocate, has called the Global Information Co-operative.

This could be a consortium of agencies for weather, mapping, search and rescue, resources and pollution monitoring, disaster watch, information retrieval and, of course, communications. No one denies the need for these facilities. If they were provided globally, they would inevitably do much of the work of a Peacesat system. The only extra element required would be the evaluation and intelligence teams needed to analyse the information obtained.

The organization, financing and operation of a Peacesat system has been discussed in the UN report, to which I refer you for details. It is not a magic solution to all the problems of peace: there is no such thing. But at least it is worthy of serious consideration, as one way of escape from our present predicament—all of us standing in that pool of gasoline, making our Mutual Assured Destruction ever more assured. To quote from General Graham of the High Frontier Project: "We should abandon this immoral and militarily bankrupt theory . . . and move from Mutual Assured Destruction to Assured Survival. . . . Should the Soviet Union wish to join in this endeavour . . . we would, of course not object. . . ."

I would like to end as I began, with the conclusion of my 1946 essay, "The Rocket and the Future of Warfare."

"The only defense against the weapons of the future is to prevent them ever being used. In other words, the problem is political and not military at all. A country's armed forces can no longer defend it; the most they can promise is the destruction of the attacker. . . .

"Upon us, the heirs to all the past and the trustees of a future which our folly can slay before its birth, lies a responsibility no other age has ever known. If we fail in our generation, those who come after us may be too few to rebuild the world, when the dust

of the cities has descended, and the radiation of the rocks has died away."●

REPRESENTATIVES RODINO AND FISH TO INTRODUCE COMPREHENSIVE VICTIM AND WITNESS PROTECTION AND ASSISTANCE ACT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. RODINO. Mr. Speaker, later this week my distinguished colleague from New York, HAMILTON FISH, will joint me in introducing legislation to provide additional protections and assistance to victims and witnesses in Federal criminal cases. This is much-needed legislation.

For too many years the criminal justice system has tended to neglect the needs of crime victims and witnesses. As Bertram Gross observed in an article in the Nation:

[A] crime victim often suffers triple jeopardy. The victim suffers at the hands of the burglar, mugger . . . or arson profiteer, he suffers when he loses wages (or even his job) because of the time he must spend in court, and he suffers a third time if his cooperation with the authorities brings retaliation by the accused.

The legislation that Representative FISH and I will introduce addresses the concerns of victims and witnesses in three areas: personal safety, fair treatment, and restitution.

PERSONAL SAFETY

The bill clarifies and strengthens present Federal offenses that prohibit the use of force or threats of force in order to intimidate or retaliate against victims and witnesses. The bill also deals with harassing conduct that does not involve the use of force or threats by authorizing Federal courts to issue, upon motion of the Federal prosecutor, a civil injunction preventing victim or witness harassment. Finally, the bill requires that there be an explicit condition of every release on bail that the person released not commit a victim or witness intimidation or retaliation offense.

FAIR TREATMENT

The bill contains two provisions intended to insure that victims and witnesses receive better treatment by the Federal criminal justice system. First, the bill requires that a Federal judge receive, before sentencing a convicted defendant, information about the impact of the crime upon the victim. The bill also directs the Attorney General, within 9 months, to formulate and implement guidelines insuring that victims and witnesses will be fairly treated at all stages of the Federal criminal justice process. These guidelines are to encompass such matters as seeing to it that victims and witnesses receive prompt notification of the scheduling of hearings and trials and that property held for evidentiary purposes is returned as promptly as possible.

RESTITUTION

The purpose of restitution in the criminal justice system is to restore the victim to the victim's financial status quo before the offense—to make the victim financially whole. The bill deals with restitution in two ways. First, and most importantly, the bill encourages greater use of restitution as a criminal penalty by making restitution a criminal penalty for all offenses defined in title 18 of the United States Code. Procedures are spelled out for determining in a particular case whether restitution is an appropriate penalty and, if so, what the amount of the restitution should be. In addition, the bill directs the Attorney General to report to Congress within a year on the need for legislation to assure that a Federal felon will not derive profit from books, articles, movies and the like about the offense.

Our bill was developed in consultation with victim advocacy groups—the National Organization for Victim Assistance, the American Bar Association, and the National Coalition Against Sexual Assault—the American Civil Liberties Union, and the Justice Department. We are unaware of any opposition to its provisions, which are similar to the provisions in the bill recently passed by the Senate. The Judiciary Committee will give expeditious consideration to the legislation, and we are hopeful that it can be enacted into law before the end of the 97th Congress.

Members who are interested in cosponsoring the legislation, or who would like additional information about it, are invited to contact Tom Hutchison (ext. 6-2406) or Deborah Owen (ext. 5-7087).●

THE REVEREND THEODORE GIBSON

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. FASCELL. Mr. Speaker, the country and south Florida have lost one of the shining lights of the civil rights movement and one of the community's outstanding civic leaders. The Reverend Theodore Gibson passed away yesterday after a long and painful illness. A spiritual leader of great respect, he served his church and followers with strong faith and unfailing dedication. He rose to become a canon of the Episcopal Church.

Father Gibson served for 9½ years on the Miami City Commission and was a strong and forceful leader in all matters of city government. However, he will be remembered primarily for his untiring convictions and efforts in behalf of improving conditions for minorities and in promoting brotherhood among all races and religions.

Today's Miami Herald notes that in his days as president of the Miami chapter of the NAACP, he broke the color bar at a local beach, leading a group of blacks on a swim-in in November 1959. The suit he filed in behalf of his son led to the integration of Dade County's public schools. He campaigned to open up jobs for blacks.

He was also a leading force on the Community Relations Board and the National Conference of Christians and Jews and did much to keep Miami calm during the very difficult days of the 1960's, when other cities were torn by racial strife.

Father Gibson was my friend and counselor throughout all the years I have been in public office, so I feel a special sorrow and loss.

He was beloved by south Floridians—black and white alike. He was their conscience and their teacher, as well as a dedicated spiritual leader. His wisdom and caring will be missed by us all. I join Father Gibson's legion of friends in extending condolences to his wife and family.●

TRIBUTE TO CALVIN SIMMONS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DELLUMS. Mr. Speaker, it is with deep sorrow that I take this opportunity to share with my colleagues the passing of a talented and distinguished man, Calvin Simmons, the young conductor of the Oakland Symphony. His untimely death has been a tragic loss, not only to the music world, but to our entire community.

As an accomplished conductor, he brought his music to thousands but he was always a humanitarian, a man who cared deeply about the careers of young musicians and brought the arts within reach of many people. He spent much of his time and energy to enhance the lives of others. At this time I wish to express my heartfelt sympathy to his family and to his many friends and admirers.

I would like to insert this article from the August 23, 1982, edition of the San Francisco Examiner into the RECORD.

[From the San Francisco Examiner, Aug. 23, 1982]

SIMMONS: STORY ENDED TOO QUICKLY

THE OAKLAND SYMPHONY CONDUCTOR MADE A CAREER OF SURPASSING EXPECTATIONS

(By Allan Ulrich)

OAKLAND.—Oakland Symphony conductor Calvin Simmons' apparent death Saturday evening at the age of 32 wrote the final chapter to an agonizingly abbreviated American success story.

Given the ready supply of young conductors waiting in the wings for their chance at the big time, and the voracious need for their services, the musical world at large will doubtless absorb Simmons' loss soon enough.

But it will take much longer for anybody in the Bay Area to forget. For audiences who heard Simmons conduct on one of his great nights, it will take years. For anyone lucky enough to succumb to his personal magnetism, it will probably take a lifetime.

Calvin Simmons was the local boy who made good and made history, too. He was the devastatingly precocious black kid who was on a first-name basis with seemingly half the population of Northern California. He was the gangly youngster who came up through the ranks, who touched virtually every corner of the musical community and enriched all of them. The smart, sassy presence who untimely fooled even the skeptics with the one irresistible fact:

Talent is the only excuse.

Yet it was a talent still evolving, still finding new avenues, new ways and new heroes. You couldn't fix it. You couldn't categorize it. And almost every step Simmons took, every little triumph, etched in one more detail on a portrait that now will remain tragically incomplete.

It was a career of surpassing expectations and Simmons was a master at it.

When he was 10, he wanted to get into the San Francisco Boys Chorus so badly that he played the piano for his own audition. Former chorus director Madi Bacon thought he sang abominably, but he played the piano so well and was so engaging she just had to keep him. A couple of years later, after his voice changed, Bacon kept altering his title—anything to keep him on as coach and assistant conductor.

He was hooked on music as a career. He finished Balboa High School, went east to the Cincinnati College Conservatory and to Philadelphia's Curtis Institute, where he studied conducting under Max Rudolf and piano with Rudolf Serkin.

He turned his back on the glory and came home to the San Francisco Opera, to a coaching job for the Merola Training Program, to a conducting post for Western Opera Theater and to the man whom he often called "his adopted father," the Opera's former general director Kurt Herbert Adler. Simmons won the prestigious award that carries his mentor's name in 1972.

Edward Corn, current director of the Wolf Trap Foundation for the Arts in Virginia, administered Western Opera in the early '70s and spotted Simmons' gift even then:

"Underneath all that charm, all that game-playing, was an artist who was curious about everything, one who wanted to put life into whatever he touched," he said.

Simmons' career moved quickly. He was engaged as Zubin Mehta's assistant conductor at the Los Angeles Philharmonic but enthused most about his concurrent post, running the Young Musicians Foundation Orchestra.

Conductor John Pritchard, then the music director of England's tony Glyndeboune Festival, heard Simmons at the Opera House and hired him for the music staff. Simmons spent the next four summers amid the verdant hills of Sussex, moving up to the podium in 1976, the first American conductor so honored.

The engagements piled up. The Met, the New York Philharmonic, Mostly Mozart, back to the S.F. Opera for a couple of late season "Bohemes" in 1978, and a guest shot with the Oakland Symphony. When music director Harold Farberman announced his resignation at the end of the following season, the field was quickly narrowed to Simmons and five other hot prospects. It was no contest.

Simmons would have begun his fourth season and second three-year contract with the Oakland Symphony next month. He was given a demoralized organization with a diminishing audience, and he infused the playing with a vitality and a passion that frequently gave rival orchestras a run for their classical music dollar.

Certainly, Simmons appealed to the considerable black population of Oakland. But that novelty, according to the symphony's long-time concertmaster, Nathan Rubin, quickly passed. The community judged him on his musicianship alone and so did the players. He was not found wanting.

"Calvin handled the orchestra with an understanding of mastery and how to achieve it," recalls Rubin. "In rehearsal he always sensed how to increase tension and how to relax it."

(The Oakland Symphony's administrators are meeting today to discuss the orchestra's future. Insiders say that assistant conductor Kent Nagano will most likely start the season.)

Some observers, however, thought the opera pit was where Simmons really belonged. In September 1981, he returned to the War Memorial for the American premiere of Dimitri Shostakovich's long suppressed "Lady Macbeth of Mtsensk." The evening was an unqualified triumph, musical theater at its blazing best. It led Michael Walsh of Time magazine to call Simmons one of the five best young conductors in the country.

The assessment may well have been correct. Over the years, Simmons had slowly learned to associate himself with opera productions that bore a sense of allure and prestige. The San Diego Opera's world premiere of Gian Carlo Menotti's "La Loca" with Beverly Sills in 1979 may have been a failure. But this summer's "Cosi Fan Tutte," in St. Louis, which united Simmons with director Jonathan Miller and translator Andrew Porter, was a smashing success. Simmons was to have conducted Porter's new version of "The Magic Flute" at the New York City Opera in a few weeks.

So, too, did his attitude toward the orchestral repetoire change. Mozart remained his first love, but that composer scarcely predominated in his seasons at the Oakland Symphony. He was starting to explore.

There were the Brahms and Beethoven symphonies, of course, the staples of any subscription season. But the 1982-83 programs would have found him exploring new terrain, the symphonies of Bruckner and the operas of Wagner, Mahler never appealed to him.

So many others did. It is wrenching to think about the possibilities.

On the evidence of his torrential performance of the last season, Simmons might have been the conductor to give us a Shostakovich cycle at last. After a deeply moving performance of "Jephtha" last December, he contemplated an extended Handel oratorio series.

And 20th Century British music remained ever close to his soul. Sir Michael Tippett was both a household god and an intimate friend, and when Simmons gave the West Coast premiere of that noble composer's craggy fourth symphony two years ago, he covered himself with glory.

Style as much as taste separated Simmons from the herd. No other conductor ever evinced more passionate interest in the fledgling musician. No other conductor ever visited the schools in his town so frequently or cared so acutely about the fate of music education in an age of cutbacks. No other conductor ever brought the orchestra so vigorously into the community, or welcomed the minority musician so fervently into the orchestra.

Not every performance Simmons gave was unforgettable, as he, himself, would admit. But in all of them lay the possibility of greatness. Keys turning and doors opening.

Now they are locked forever, and the music world is a smaller, duller place to visit.●

"ROLL OUT THE STONEY'S" ECHOES AFTER 75 YEARS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GAYDOS. Mr. Speaker, on Saturday, October 9, a musical jingle that has echoed off and on for 75 years through the rolling green hills of southwest Pennsylvania, will be heard again. If you are in the neighborhood of Smithton, Pa., with a taste for the hops, you are apt to hear:

"Roll out the Stoney's,
Fetch me my beer.
Roll out the Stoney's,
That's why I'm here!"

It is the lyrical logo of the Jones Brewing Co., and it has been brewed in Smithton, Pa., for three quarters of a century by the "House of Jones," the family of William B. "Stoney" Jones.

Founded by "Stoney" in 1907 with 10 employees, the company turned out approximately 5,000 barrels of beer a year. It has grown steadily without succumbing to the lure of fad or gadget beers. Today, still adhering to the traditions of personal contact, local areas concentration and the family concept, Jones Brewing Co. employees nearly 75 people and rolls out 150,000 barrels annually.

Initially, the company brewed "Eureka Gold Crown." The name was changed in a move indicative of "Stoney" Jones' feel for people. Immigrants in the area had trouble pronouncing the brand name in English and, instead, would ask for "one of Stoney's beers." The name stuck and today is the designation of the brewery's most popular product.

The founder of "The House of Jones" was a man far ahead of his time in using community involvement in service and ethnic groups as a tool for business. Among his many interests was the sponsorship of a company baseball team that posted wins over one of the greatest teams of the era, the Homestead Grays, champions of the National Negro Baseball League.

"Stoney" Jones later turned his business over to his four sons: William Jr., Paul (the father of Shirley Jones, the famed singer and actress), Hugh and David. In turn, they passed on the reins to William B. Jones III, who heads the company today.

The Jones Brewing Co., however, is more than just family-owned. It is family oriented! Many of its employees are following in the steps of fathers and grandfathers at the plant. The October 9 observance will be a sort of "open house" for the employees and their families.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I extend our congratulations to the owners and employees of the Jones Brewing Co., on the 75th anniversary of the firm. They exemplify the spirit and the strength of small businesses throughout our Nation.

I sincerely hope the people of southwest Pennsylvania continue to sing "Roll out the Stoney's" for another three generations to come.●

UKRAINIAN AMERICAN VETERANS RESOLUTIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GILMAN. Mr. Speaker, I want to take this opportunity to inform my colleagues of a report I have recently received from Edward Zetick, national commander of the Ukrainian American Veterans. In it, Commander Zetick echoes the sentiments held by many of us, among them, "the need to protect our democratic system . . . our obligation not only to preserve but to promote the inviolate rights and ideals guaranteed in our constitution," and "the attainment of human rights for Ukraine and all other countries."

These words are his preface to the resolutions adopted by the Ukrainian American Veterans at their annual convention this past June. I believe, Mr. Speaker, that these resolutions, which I am inserting at this point in the RECORD, quite accurately and forcefully express the sentiments of Ukrainian Americans and the many other Captive Nation peoples residing in our land:

RESOLUTIONS ADOPTED AT THE ANNUAL CONVENTION OF THE UKRAINIAN AMERICAN VETERANS HELD ON JUNE 25, 26, 27, 1982 IN NEW BRITAIN, CONN.

With the escalation of the arms race by the USSR on the one hand and unverifiable hollow proposals of reduction on the other, we favor a strong military peace-through-strength posture to counter the expensive and aggressive stance propagated by the Soviet Union.

We recognize that the Soviet Union and its satellite countries respect strength as bargaining position. We therefore recommend that the United States continue to strengthen its military capabilities, both at home and abroad, to regain its prime military position in the world.

We support the position of the government of the United States to limit the sale of high technology to the USSR, and we further urge extreme caution in other trade agreements that could be used by the Soviet Union and its satellites to strengthen its position against the free world.

Having performed actively in the service of our country and experienced the horrors of wartime, we, as veterans, see the desirability for attaining a lasting peace. However, we are opposed to a nuclear freeze which would place the U.S. in a compromising position, thus leaving the free world vulnerable to nuclear blackmail by the USSR.

We support H. Con. Resolution 205, which was recently passed by both houses of the U.S. Congress, calling upon the President of the United States to proclaim November 9, 1982 as a day honoring the Ukrainian Helsinki Monitoring Group and to use all diplomatic means at his disposal to influence the Soviet government to release the incarcerated members of that group.

We support the efforts of the U.S. Congress in their defense of Ukrainian political prisoners in the USSR such as Yuriy Shukhevych (H. Con. Res. 111), Ivan Svitlychny (letter to Brezhnev signed by 106 legislators), and other political prisoners who, at great personal risk cite violations of civil rights against Soviet citizens.

We encourage continued cooperation with AHRU (Americans for Human Rights in Ukraine) and other organizations who are actively engaged in promoting national and human rights in Ukraine and to the enhancement of the image of Ukainians through the World Congress of Free Ukrainians.

We will continue to promote aspirations for the freedom of Ukraine and other captive nations of the world, and urge participation in the various Captive Nations Week programs that are being observed during the third week of July.

To commemorate the 50th anniversary of the artificial famine created by the Soviet government in 1932-33, we encourage everyone to take part in organized programs that will be held in 1983 to remember the 6 to 10 million Ukrainians who were forcibly starved to death and to inform the general public of this Ukrainian tragedy.●

THE FAIRCHILD REPUBLIC CO.: HELPING DEFEND AMERICA

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. LENT. Mr. Speaker, earlier this week I addressed my colleagues concerning the tremendous aerospace and electronics production of the many industries located on Long Island, N.Y. As a Representative of part of this important section of our Nation, I feel it is necessary that my colleagues become better informed as to the vital role these industries play in helping build the defenses of our country.

One of the largest aerospace industries on Long Island is the Fairchild Republic Co. of Farmingdale, N.Y., which has, since before World War II, produced some of the best aircraft in the world, particularly those used in close air support. Currently, Fairchild Republic is building the A-10 close air support aircraft (CAS) for the U.S. Air Force. The A-10 is recognized worldwide for its effectiveness in knocking out armored vehicles. Its nickname, "the tank killer" is well earned, and deserved.

Fairchild Republic has recently won an Air Force contract to build a new jet trainer for the Air Force (NGT), which will replace the aging jet trainer now in use. This contract is another indication of the high regard our Nation's defense planners have for the outstanding scientific, engineering, management and production teams available on Long Island. Fairchild Republic and its versatile and accomplished subcontractors have long demonstrated their ability to help our country meet its defense requirements.

Mr. Speaker, on August 11, 1982, the Heritage Foundation issued a study entitled "Close Air Support and the Soviet Threat" prepared by Dr. Jeffrey Barlow. It makes clear the need for additional purchases of Fairchild Republic's A-10 tank killer because "NATO does not have enough of these close air support fighter aircraft to blunt a Warsaw Pact invasion." This report by Dr. Barlow merits the close study of every one of my colleagues concerned with our Nation's defense. Dr. Barlow concludes that the A-10 is the best close air support aircraft in NATO's inventory, and can play a major role in event of a Soviet invasion of Europe during the next decade. In light of recent Air Force ambivalence about continuing purchases of the A-10, I encourage my colleagues to give close study to Dr. Barlow's report. I ask that highlights of the report be included in my remarks at this point.

CLOSE AIR SUPPORT AND THE SOVIET THREAT
DR. JEFF BARLOW, HERITAGE FOUNDATION

In sum, the A-10 is an extremely capable close air support (CAS) aircraft, well-suited to the vital role of engaging and killing Soviet first and second echelon armored vehicles. The problem is that there are not nearly enough aircraft available to NATO, which, like the A-10, are dedicated to the close air support and battlefield air interdiction missions and can be used in the early stages of a possible Warsaw Pact offensive to blunt the armored onslaught.

The planned size of the force currently envisioned by the Air Force will see peacetime attrition decrease before 1987 the available aircraft below the service's reduced Required Force Level. Once that point is reached, such attrition will begin eating away at the aircraft in the operational inventory at a gradual rate. The planned procurement level of 825 aircraft called for in the Carter FY 1981 Five Year Defense Program would have kept the A-10 force above the Required Force Level until 1993, given the continuance of the present attrition rate.

The Air Force's response to this situation recalls its earlier, pre-Vietnam views of the value of the CAS mission. Having decided that it has enough A-10 aircraft (given the tight budget situation), commanders have begun looking to the possibility of converting models of the more complex and much faster F-16 and F-15 into true multi-role aircraft, by equipping them for the long-range interdiction mission. The lure of F-15E Strike Eagles and F-16Es or XLs seems hard for senior Air Force generals to resist.

Although such aircraft would undoubtedly be capable of handling a variety of air superiority and interdiction missions, they could not handle the close air support mission nearly so well as could the A-10. For example, lethality studies conducted during the Carter Administration, comparing the A-10 with such aircraft as the A-7 and F-16, showed that the A-10 achieved almost three times the armored vehicle kill rate of the A-7 and F-16. And, it should be noted, neither the F-15 nor the F-16 has the level of armor protection in the A-10. Of equal import, the CAS and BAI missions will have a more significant impact in the early stages of a short-war-structured, Soviet combined-arms offensive.

CONCLUSION

In the short term, the Air Force should increase procurement of A-10s to the 825 level called for in 1980, even at the expense of additional fighter assets. This increase at least would provide a stable A-10 force until the mid-1990s. Fulfilling requirements for additional close air support squadrons or for bringing National Guard and Reserve squadrons up to full strength would necessitate increases above this minimum benchmark. Over the longer term, however, it is clear that a new CAS aircraft will be needed.

Precisely because such a new development project will be very prolonged, if past history is any judge, the Air Force should immediately begin increasing its procurement of A-10s to ensure an adequate close air support force until the mid-1990s. The A-10A is still the best CAS aircraft in the inventory and one that can have a major role in the event of a Soviet invasion of Europe during the next decade.

From the early days of its existence as a component element of the Army to times as recent as a decade ago, the U.S. Air Force has almost continually ignored the value of the close air support mission as a decisive factor in the land battle. Preferring to concentrate its efforts on loftier missions, such as strategic bombardment and deep interdiction, which promise an early end to wars, Air Force leaders have slighted those aspects of tactical aviation that hearken back to their Service's earlier subservience to the Army.

The changed Air Force thinking of the 1970s, which owed its rationale to the lessons of Vietnam and the emerging reality of the dangers facing NATO's Central Front and produced service support for the A-10, seems now to be reverting to traditional channels of thought. At a time when the gap between NATO's and the Warsaw Pact's deployed military power is growing larger, it is vital to maintain sufficient close air support assets to help reduce the disparities in the military capability now favoring the Soviets. This can be done only if the leadership of the Air Force reaffirms the essential nature of this long disparaged mission.

THE COMPREHENSIVE VICTIM AND WITNESS PROTECTION AND ASSISTANCE ACT OF 1982

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. FISH. Mr. Speaker, this week, the chairman of the Judiciary Committee, PETER RODINO, and I will introduce the Comprehensive Victim and Witness Protection and Assistance Act of 1982.

The bill seeks to improve the treatment accorded crime victims and witnesses by the Federal criminal justice system. It was developed in consultation with victim advocacy groups—such as the National Organization for Victim Assistance, the American Bar Association, and the National Coalition Against Sexual Assault, the American Civil Liberties Union, and the Justice Department. The provisions of the bill are similar to those in the bill recently passed by the Senate.

The legislation addresses the concerns of crime victims and witnesses in three areas; personal safety, fair treatment, and restitution.

In the area of personal safety, the bill clarifies and strengthens present Federal offenses that prohibit the use of force or threats of force in order to intimidate or retaliate against victims and witnesses. It also deals with harassing conduct that does not involve the use of force or threats. Federal courts are authorized to issue, upon motion of the Federal prosecutor, a civil injunction preventing victim or witness harassment. Finally, the bill requires that there be an explicit condition of every release on bail that the person released not commit a victim or witness intimidation or retaliation offense.

The bill contains two provisions intended to insure that victims and witnesses receive fair treatment by the Federal criminal justice system. First, it requires that a Federal judge receive, before sentencing a convicted defendant, information about the impact of the crime upon the victim. The bill also directs the Attorney General, within 9 months, to formulate and implement guidelines insuring that victims and witnesses will be fairly treated at all stages of the Federal criminal justice process. These guidelines are to encompass such matters as seeing to it that victims and witnesses receive prompt notification of the scheduling of hearings and trials and that property held for evidentiary purposes is returned as promptly as possible. Victims would also be informed upon request of the defendant's release from custody.

The purpose of restitution in the criminal justice system is to restore the victim to the victim's financial status quo before the offense—to make the victim financially whole. The bill deals with restitution in two ways. First, and most importantly, the bill encourges greater use of restitution as a criminal penalty by making restitution a criminal penalty for all offenses defined in title 18 of the United States Code. Procedures are spelled out for determining in a particular case whether restitution is an appropriate penalty and, if so, what the amount of the restitution should be. In addition, the bill directs the Attorney General to report to Congress within a year on the need for legislation to assure that a Federal felon will not derive profit from books, articles, movies, and the like about the offense.

Mr. Speaker, I am confident that this legislation adequately addresses the deficiencies of the criminal justice system with respect to the victim.●

DANGERS TO THE NATO ALLIANCE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DELLUMS. Mr. Speaker, on August 11, 1982, Ms. Regene H. Silver, of the Women's International League for Peace and Freedom, testified before the House Defense Appropriations Subcommittee.

In discussing the efforts to delete 1983 funding for the Pershing II and cruise missiles, Ms. Silver makes many very important remarks which I would like to commend to the attention of my distinguished colleagues.

The remarks of Ms. Silver follow:

TESTIMONY OF REGENE H. SILVER, WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM

Mr. Chairman and members of the committee: The Women's International League for Peace and Freedom was founded in 1915.

The League has sections in 25 countries and 130 branches in the United States. It works primarily through education and citizen action to achieve peace, freedom and justice by non-violent means. It has consultative status B at the United Nations. We are grateful to the House Appropriations Subcommittee on Defense for giving us this opportunity to express our point of view.

We are urging the deletion of fiscal year '83 funds for the Pershing II and Cruise missiles, scheduled to be deployed throughout Europe beginning in December of 1983. We believe it is critical that these weapons are not deployed for the following reasons:

First, the deployment of the Pershing II and Cruise missiles in Europe represents a major escalation in the arms race. These missiles are part of a new generation of nuclear weapons whose accuracy and speed increase the risk of nuclear war.

Second, there is a growing mass movement within both the United States and Europe to halt the arms race, and specifically the deployment of the Pershing II and Cruise missiles.

Third, there have been a myriad of problems reported in the production of the Pershing II and Cruise missiles. On July 22, during its first test run, the Pershing II exploded 17 seconds into its flight. In the last year, the General Accounting Office has issued several reports delineating problems with the Cruise missile, especially in regard to its TERCOM guidance system, the key to the Cruise's alleged precision. It appears unuse to continue funds for missiles which are reported to not work.

At this time, I would like to expand on these three points.

The Women's International League believes that the deployment of the Pershing II and Cruise missiles in Europe brings us precariously close to nuclear war. With the deployment of these two new missiles systems it appears that the United States is attempting to gain strategic superiority over the Soviet Union, and to use this superiority to frighten the Soviets into arms reductions. If it were possible to do this, the arms race would have ended 20 years ago when the United States did possess a nuclear arsenal superior to that of the Soviets. However, since the 1950s, the Soviet Union has emulated the United States in our escalation of the nuclear arms race, and promised to continue to keep up with us weapon by weapon.

In September of 1981, Soviet President Brezhnev said that the Reagan administration efforts to gain strategic superiority are doomed to failure, and that the Soviet Union would produce "a proper counterbalance" to any new weapons system developed by the United States. President Brezhnev stated: "I shall say with all responsibility that we shall not remain indifferent to the appearance of such weapons in the arsenals of the United States and other NATO members." As of December 1983, if the deployment of the Pershing II and Cruise missiles proceeds as scheduled, the Soviet Union will be faced with counterbalancing two new weapons systems which will dramatically alter the global balance of nuclear weaponry.

The Carter and Reagan Administrations have justified the deployment of the Pershing II and Cruise missiles as a means of countering Soviet SS 20 intermediate-range missiles. However, NATO already has thousands of nuclear weapons in Europe, both tactical and intermediate-range, which are designed to deter possible conventional or nuclear attack by the Soviet Union.

Once the Pershing II missiles are stationed in the Federal Republic of Germany, they will be able to reach and destroy Soviet cities and military installations within four to six minutes. The Soviets have said that they will retaliate in kind, placing missiles close enough to out shores to reach our cities and military installations within the same exceedingly brief flying time. Does this imply that we will be faced with another Cuban missile crisis? Can we survive another such missile Crisis? If not on land, the Soviets could station missiles on submarines as close to our shores as possible—an equally terrifying thought.

The Cruise missiles, scheduled to be deployed in Great Britain, the Federal Republic of Germany, Italy, Belgium and the Netherlands, do not have the speed of the Pershing II, but are equally provocative. The Cruise hugs the ground as it flies, so low that it cannot be detected by radar. It is less than 20 feet long, so small that it cannot be verified. It is also difficult to tell whether a Cruise missile is carring a nuclear or conventional warhead. It will make nuclear arms control impossible.

Because of the Pershing II's speed and proximity to the Soviet Union, and the Cruise's nondetectability, they are missiles that would eliminate the ability of the Soviet Union to retaliate effectively after an attack by the United States and NATO. Therefore, it is likely that the Soviets will adopt a launch on warning policy. In July of this year, Soviet Defense Minister Dimitri Ustinov wrote that "given the modern state of the detection systems and the combat readiness of the strategic nuclear means of the Soviet Union, the USA will not be able to deal a crippling blow against the Socialist countries." Experts are interpreting Ustinov's statement to mean that at the earliest signs of a United States first strike, the Soviets might proceed with a nuclear attack of their own. In today's world of constant international tension, crises and local wars, it seems suicidal for the United States to deploy new weapon systems that will cause an adversary to adopt a launch-on-warning policy.

Our second argument against funding the Cruise and Pershing II missiles is that the people—your constituents—are speaking out against the arms race in ever-increasing numbers. Never before in the history of the United States or Europe has there existed such a large public outcry to freeze the arms race. You yourselves have no doubt seen the media's accounting of millions of individuals demonstrating against nuclear armament, both in the United States and in Europe. On June 12, over a million and a half people congregated in New York, San Francisco, and cities throughout this country, to demand that you, our legislators, cut off funds for nuclear arms and instead fund human needs such as education, housing and better health care. Across the United States, local towns and cities are voting themselves nuclear free and passing referendums calling for a halt to the arms race. Labor unions, major church organizations, businessmen, physicians and educators have now joined with the peace movement in our efforts toward nuclear disarmament.

In Europe, over the past year, millions of people have demonstrated in every major city on the continent. They are demonstrating specifically against the Pershing II and Cruise, for they fear that these missiles signal the possibility of a limited nuclear war fought in Europe between the United States and the USSR, in which they will be the guinea pigs. For the last ten months, men, women and children in Great Britain and Sicily have camped out at the proposed Cruise missile sites, hoping that their protest will make a difference in stopping the deployment. To this day, the governments of the Netherlands and Belgium have not agreed to accept the missiles and Helmut Schmidt's government is in crisis over the deployment of the Cruise and Pershing II on FRG soil. It should also be noted that the Joint Chiefs of Staff and the CIA report that installations in western Europe used for storing American nuclear warheads are poorly protected, and vulnerable to attacks by terrorists and anti-nuclear demonstrators.

We urge you, as elected representatives of the People of the United States, to listen to your home towns and respond to your constituents. Find out how they feel about massive budget expenditures on new nuclear weapons that are only designed to destroy human life.

Finally, we are arguing against funding for the Pershing II and Cruise missiles because they appear, from your own Congressional reports, to not be the weapons they are cracked up to be by the companies who are manufacturing them.

The initial test of the Pershing II was postponed 3 times, and when it was finally tested last month, in blew up. The Pershing II's estimated total systems cost soared by over one billion dollars in three months time toward the end of last year. Neither the Army nor Martin-Marietta (the manufacturer of the Pershing II) have offered a full accounting for this huge cost jump. Problems have also been reported in the Pershing's guidance system and in changing the missile into one which can fly one thousand miles as opposed to its predecessor (the Pershing IA, already stationed in the FRG) which can only fly one hundred to four hundred miles. The problems with the Cruise as reported by the General Accounting Office include: "Engine problems, it may not be able to survive Soviet defenses, it cannot effectively attack certain kinds of targets, and it lacks the guidance system to attack most potential targets in certain geographical areas."

In closing, it seems clear that the deployment of the Pershing II and Cruise missiles in Europe will not offer us or the Europeans greater security. Rather, the deployment of these new weapon systems will bring us precipitously close to nuclear war. Their deployment will not close the supposed "window of vulnerability", nor deter the Soviets from producing new nuclear weapons systems of their own. Instead, the deployment will create greater edginess and distrust on the part of the Soviet leaders, which could lead them to adopt a launch-on-warning policy. The Women's International League suggests that the scheduled '83 deployment will escalate the arms race to an uncontrollable and possibly suicidal level.

This is why your constituents in the United States, and their allies in Europe, are calling for a freeze on the production and deployment of nuclear weapons. We urge you to listen to them. We urge you to fully scrutinize the Pershing II and Cruise missile programs, and to delete funds immediately for these new weapon systems. Thank you.●

CHESTER KOCH—GREAT AMERICAN PATRIOT

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. MOTTL. Mr. Speaker, World War I veteran Chester Koch has spent over 40 years rallying Americans to embrace their patriotic ideals and obligations. At age 90, his body flamed by a heart full of devotion to his country, Koch continues his march in service to the Nation.

I read a report on my friend Chester in the Cleveland Plain Dealer which gives some insight to the driving spirit of the man. Following are some excerpts:

"If you love a parade, you"ll get into any parade you can," said Koch, Cleveland's coordinator of patriotic affairs since 1941. When a kidney operation forced him to miss Cleveland's 1954 Memorial Day parade—his first absence from that event since World War I—he directed it by phone from his hospital bed.

Koch began his "mission in life" one dreary winter day early in 1941 when, on his lunch break from his clerking job in the city's water department, he saw a group of dispirited men walking toward the train terminal.

"The thought struck me that they were going away to fight for their country and there was nothing set up to show our (Cleveland's) appreciation," he said. "Without patriotism and a respect for the men in the service, they are lost."

The alarmed Koch contacted high school bands, the Boy Scouts and veterans' groups to organize daily going-away ceremonies for the men. Koch, who had been a mess sergeant in the Army during World War I, missed lunches to appear at the ceremonies, and managed to shake hands and say a few words to every recruit.

Mayor Edward C. Blythin approved of his efforts. In April 1941, Koch was appointed to his present position. Since then, Koch has shaken the hands of an estimated 475,000 departing recruits.

During World War II, he delayed trains until each recruit had a place to sit and a berth in which to sleep. When one train started moving as he was shaking hands, he decided to jump off—and hit his head against a steel pole, which knocked him unconscious.

"I saw the stars and stripes forever," he told reporters.

He said he wishes a parade could have been thrown for returning Vietnam veterans, "but the military sneaked them home in small groups." Although Koch disapproved of the Vietnam war, he said it was his duty to support the men who fought it.

These excerpts from the Plain Dealer article show how the visionary man of 90 with such a strong sense of purpose realized the importance of answering the Nation's call to arms, no matter how much dissent and adversity is faced. Doctors have verified what Koch knew all along—lack of reinforcement from society for Vietnam veterans made readjustment to civilian life more difficult.

We should all share in the vision possessed by Koch and other true patriots and show the proper respect for the fighting men who put their lives on the line for all of us.

For Koch, every day is Veterans' Day. I wish to offer my own personal thanks and the appreciation of the 23rd District to this great man who helps us keep our priorities in order.

Without persons like him, we are lost.●

EDDIE DAVIS, MID-ATLANTIC COACH OF THE YEAR

HON. JOHN CONYERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. CONYERS. Mr. Speaker, I have known Eddie Davis for over 10 years and watched his progression toward becoming the Middle Atlantic Coach of the Year. This award was recently bestowed upon him by the U.S. Professional Tennis Association, a national organization of tennis teachers. In the process, Eddie has assisted many of our young men develop into fine athletes, able to compete against the best of teams. He has accomplished this despite Howard University's lack of tennis facilities and other impediments which would have discouraged all but the most determined.

With the dim prospects awaiting our youth, especially minorities, it is crucial that they develop the skills through which they may channel their energies into productive outlets, thereby promoting an ability and strength to cope with the competition and trials they will face throughout their lives. As an excellent coach, Eddie Davis has helped to produce that kind of strength and determination in the young men at Howard. I would like to include an article from the Washington Post, August 23, 1982, which recognizes his fine achievements.

[From the Washington Post, Aug. 25, 1982]

HOWARD'S TENNIS COACH BEATS ODDS TO WIN

When Howard University tennis coach Eddie Davis and his 12-man squad geared up for their bi-conference season two years ago, the odds were stacked against them. Davis had been losing about half his team to academic ineligibility each year, he had no travel funds to help woo better players and, to top it off, the team didn't even have its own court.

So Davis hauled his players across Georgia Avenue to the Banneker Recreation Center every day where they tried to hone their backhands within the 45-minute practicing limit set by the D.C. Department of Recreation. As the Howard players practiced, area residents would stand anxiously on the sidelines, itching for their turn on the community courts.

"By the time we have to get off, we haven't even broken a sweat," said Davis, whose team, which ideally should practice three hours daily, still has to use public courts. "We might get one today and three tomorrow, but we make the best of what time we get."

Those previous few hours of practice, plus running four miles daily, lifting weights and "hitting a million tennis balls," added up to winning seasons and post-season championships in the Capital Collegiate and Mideastern Athletic conferences for the Howard team during the past two years. For Davis, it meant a Middle Atlantic regional coach-of-the-year award this year, bestowed by the U.S. Professional Tennis Association, a national organization of tennis teachers.

It was an unlikely laurel for someone who used to think of tennis as a "sissy sport."

That was back in the mid-1960s, when Davis was a high school football player at Cardinal Cushing Academy in Newburyport, Mass. "Tennis used to draw guys who couldn't make it in another sport," said Davis, whose muscular frame proves he was no athletic reject. "But I picked it up as something new, hacked around with it until I started getting really good at it."

Davis graduated from the academy in 1967, attended Morgan State College in Baltimore and graduated from Federal City College in 1973. He later taught science at Hart Junior High School in Southeast. All the while, with a steadily improving backhand, Davis was teaching tennis during the summer and, in 1976, landed a job as Howard's part-time tennis coach.

Only 27 at the time, Davis was often mistaken for one of his players. Even now, at age 33, he retains his youthful appearance and sometimes has difficulty convincing people he is the coach.

Just last year, the team traveled to the University of Miami but arrived late. A security guard at a gate peering into the bus and checking his watch, said, "All right, fellas, does your coach know you're out this late?"

"I *am* the coach," Davis answered.

"Sure you are, kid," sighed the security guard. "Let me see your I.D."

Davis reached for his wallet and soon afterward the bus rolled past the front gate.

If only his other tasks were as simple.

Between his full-time teaching job at Hart and his part-time coaching job at Howard, Davis works 14-hour days during peak season, which leave little time to spend with his wife and two children in their Forestville home.

Because he has no travel or recruiting budget, Davis said, "I've had to do a lot of extra dancing," referring to letter-writing and word-of-mouth efforts to lure better players. Some players come to the school with academic problems. "In the early years, I was losing three a semester and had to start two-hour study sessions," he said.

The most severe handicap, however, has been the lack of a university tennis court, which forces the team to jockey for the few available spots at Banneker Recreation Center.

"I know that people in the community think of us as a pain," he said. "We need to use the courts the same time they do—after work, after school. When our 45 minutes are up, we do some hitting on the side. There's talk of the university building its own courts, but the emphasis is not on tennis here. There's no big money changing hands at every match."

Davis said his is the only college tennis team in the area without its own courts. "Even George Mason and UDC—everybody we play has a court of their own," he said. "We may be the only team in the Eastern region without our own courts."

Davis maintains, however, that having to overcome these obstacles has made his team stronger and helped make him coach of the year. "We just try to work with the system and keep plugging," he said. "We play by the rules, and we *always* play to win."

But when he and his squad face national powerhouses such as Clemson and Villanova, which have five or six courts and can practice twice as long as Howard, he thinks back to his first day on the job and the words of wisdom from the outgoing tennis coach: "If you rub steel on rocks, it gets *stronger.*"●

LAWYERS ON THE DOLE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DANNEMEYER. Mr. Speaker, being a lawyer myself, I regret that it is necessary to bring up a matter that does not reflect particularly well on either the Congress or the legal community. However, in the interests of fairness to the taxpayer and to the judges that are going to have to handle ever-increasing court backlogs, the question of Federal compensation for attorney's fees simply cannot be swept under the rug. The longer we continue to reimburse unsuccessful defendents for attorney's fees in cases involving the Federal Government, the more litigation we will encourage and the greater the burden we will place on the already overburdened American taxpayer.

Mr. Speaker, right now, at least 124 Federal laws provide for the award of attorney's fees. Fourteen major environmental laws, for example, allow the courts to award such attorney's fees "whenever the court determines that such award is appropriate." Some Federal courts have construed this overly broad language as permitting the award of attorney's fees even if the attorney's in question were not on the prevailing side of the case. And the fees awarded have often been generous, frequently in excess of $100 per hour.

There is a rationale, and a good one I might add, for awarding attorney's fees where the Government has brought an action against a party and has lost the case; fairness to the successful defendent suggests he should not have to suffer the attorney's fees as the price of innocence. And a case can be made, albeit not as strong a one, for compensating those who successfully sue the Government for their attorney's fee; sometimes filing suit is the only way to obtain redress. But to reimburse parties who have lost a Federal case, especially if they initiated the action, has just the opposite effect than compensating those who were sued by the Government and won. It encourages rather than discourages further litigation and it costs rather than saves the Federal Government money. Because the risk in filing suit is substantially reduced, parties have a far greater incentive to sue the Government. Indeed, public interest law firms, as well as independent attorneys, can keep themselves in business by suing. Why not, when they are effectively guaranteed payment of fees, win or lose.

This awarding of attorney's fees at taxpayers expense has been termed a "gravy train for lawyers" by the Wall Street Journal. So that my colleagues can have the benefit of reading how the Journal came to that conclusion, I ask unanimous consent that the Journal's September 8, 1982 editorial "Lawyers on the Dole" be inserted in the RECORD at this time.

[From the Wall Street Journal, Sept. 8, 1982]

LAWYERS ON THE DOLE

The Sierra Club last February lost a lawsuit it brought against the Environmental Protection Agency to tighten pollution controls on coal-fired power plants. Nonetheless, the court ordered the government to pay the club about $90,000 in attorneys' fees because it had "substantially contributed to the goals of the Clean Air Act." The case is only one of dozens every year in which the government pays for legal costs even when the plaintiffs lose.

"Public interest" groups and civil rights lawyers have built an industry out of suing the federal government and collecting as much as $20 million a year from the taxpayers. (The practice is so common that government accountants aren't sure of the exact amount.) What started out in the 1960s as a way of subsidizing civil rights cases has expanded to include the environment and "consumer protection." Moreover, the federal government isn't the only one that has to pay; under some federal legislation, state and local governments are also liable to pick up the legal tabs of plaintiffs, which can run into the millions of dollars.

The program has turned into quite a gravy train for lawyers. The Carter administration seemed particularly pleased to pay its favorite "public interest" groups especially high legal fees. Early last year, a host of groups organized the Alliance for Justice to help devise better ways of getting the taxpayers to underwrite their operations. One Washington firm, headed by two former Justice Department attorneys, has advertised its particular expertise in winning large awards from the government; in one case, it got a $90,000 award for the Environmental Defense Fund, amounting to $109 per hour.

The Reagan administration wants to cut off this dole. It has proposed legislation to limit awards to only those parties that "clearly and substantially prevail." In other words, if a "public interest" group loses a case, the taxpayers don't owe it a dime. If it wins, payments would be limited to fees paid government attorneys of around $50 an hour instead of some current awards of over $150 an hour.

The changes still would permit fee awards for individuals and businesses attempting to obtain relief from regulation and other burdens. An excellent case could be made for eliminating all awards in the interest of fair play and returning to the days when aggrieved parties hired their own lawyers and brought their own suits. But at least the legislation may reduce the number of suits designed to harass government or industry as part of campaigns that often are partly political in nature. People who hate nuclear power plants or superhighways should certainly be entitled to fight them in the legislatures and the courts, but it is hard to see why the taxpayers should finance their campaigns.

As readers may have noticed, we've always felt that "public interest" law is little more than a clever disguise for political activism. It's never easy to wean vocal and politically active groups away from the public trough but we're happy to see that the political process may have its own ways of dealing with this form of taxpayer-subsidized partisanship.●

1982 CALIFORNIA ENERGY CONFERENCE

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. LOWERY of California. Mr. Speaker, it was my privilege to chair and moderate the 1982 California Energy Conference in San Diego, Calif., on June 28, 1982. The conference featured a distinguished group of speakers who provided current information on the global, national, and regional energy outlook and a diversity of perspectives on the options available to meet future energy needs.

The conference was coordinated by the Washington-based Columbia Institute for Political Research and attracted a large audience that included State and local government officials, representatives from labor and industry, community leaders, educators, and students.

A principal focus of the conference was on California and steps that must be taken to assure adequate—and affordable—energy supplies in the future. This need is particularly compelling in California where energy costs are among the highest in the Nation. At the present time, 64 percent of the electricity in the State is generated by expensive gas and oil. Future planning must include the development of lower costs alternatives that are less susceptible to a supply disruption.

Among the principal conference speakers was the Honorable Guy W.

Fiske, who has recently been confirmed as Deputy Secretary of the U.S. Department of Commerce. Mr. Fiske presented a clear and timely description of the underlying principles and goals of the Reagan energy policy and a summary of the accomplishments of the past 18 months. In order to share this information with my colleagues, I include, as a part of my remarks, the text of Mr. Fiske's address:

ADDRESS OF THE HONORABLE GUY W. FISKE

Good Morning. It is a pleasure to be here with you today. I have been asked to speak on the Reagan Administration's Energy Policy. As you know, I recently left the Department of Energy to become the Deputy Secretary of Commerce. I like it so much at Commerce that I've invited the rest of my former colleagues at Energy to come over and join me!

That refers, of course, to the Administration's proposal to merge the essential functions of the Department of Energy into the Department of Commerce. In essence, that proposal is symbolic of everything the Administration believes about energy policy.

I'd like to begin this morning by considering energy policy against the developments immediately preceeding this Administration.

By the time President Reagan took office, energy policy had evolved into a complex system of incentives and regulatory constraints. Their purpose was for the Federal Government to manage most aspects of our National system of energy production, delivery and use.

The government sought to create whole new energy industries, to control the old ones, and to direct the manner of energy conservation.

What did we learn from this experience?

First, energy cannot be viewed as a special case divorced from overall economic policy. Rather, the long-term solutions we seek for meeting energy needs must be developed in tandem with efforts to respond to broad economic trends and international trade patterns.

Second, the marketplace will give us the most efficient mix of energy production and consumption. This is so, even during occasional periods of energy supply imbalance. We learned that prudent planning will be discouraged if the public is led to believe that the government will always guarantee low-priced energy.

Third, we've learned that the best way the Federal government can achieve an orderly market environment is by removing regulatory obstacles, whenever this would not endanger public health and safety. We learned that controlled prices at a time of energy shortage, increase the demand for oil. This, in turn, leads to more shortages, to a bureaucratic gaggle of entitlements, to government decisionmaking on priorities, to distorted patterns of disruption, and to reduced incentives for the private sector to develop new energy forms and technologies.

Fourth, we learned that the system of conservation grants and regulations adopted was largely irrelevant. Studies show that only 5 percent of the conservation achieved since the 1973 Arab oil embargo is due to government conservation efforts.

It's against this background President Reagan proposed a national energy approach that relies on the dynamics of the marketplace.

The first step taken by President Reagan was to remove price and allocation controls on oil.

You may recall the warnings issued by the proponents of regulation when the President took that decontrol action. The price of oil would go sky-high, they said and production would not increase. The consumer would pay too much, and the oil companies would enjoy excessive profits.

Well, production has been up, prices have been down, and competition in the oil industry has been intense.

The decontrol of oil was merely the opening action in a cohesive energy approach.

A second action has been the proposed improvements to the government's management of its energy functions. The key rationale of this reorganization is to integrate energy policy with overall economic policy.

How better to achieve this than by shifting certain Department of Energy functions to the Commerce Department?

The Department of Commerce will assume responsibility for:

First, longer-term energy research for which private sector incentives are insufficient assure needed investment;

Second, the nuclear weapons program including weapons research, development, testing, production and surveillance, and the production of special nuclear materials;

Third, energy emergency preparedness including analysis and review of energy policy issues related to long-term global supply, emergency and contingency planning for supply disruptions, and responsibility for strategic and naval petroleum reserves;

Fourth, international energy responsibilities including U.S. representation in international programs, negotiations of bilateral agreements, and DOE's nuclear nonproliferation responsibilities; and

Fifth, the development of energy policy and the collection, analysis and dissemination of energy data to assist public and private decisionmakers.

Now, one might ask, "Why the Commerce Department?"

First, the basic premise of this reorganization is a reliance on the dynamics of the market place. This means that the agency responsible for energy must have a thorough understanding of how different sectors of the marketplace interact with each other.

Sound energy emergency planning, for example, requires a detailed understanding of the economy's resilience when faced with supply disruptions. This means an understanding of the economy as a whole, and assessment of the various industries within it.

Commerce has this knowledge.

Second, energy-related industries are rapid growth industries, and there is vast potential for increasing our exports of energy-related equipment and products. That, of course, means trade . . . the heart of the Commerce Department.

Third, the transfer reflects the President's view that the department which represents the business sector should play a greater role in shaping national and international economic policy.

In past years, Commerce's main role was to provide statistical and technical information. Today, we are doing that and much more. We have assumed new trade responsibilities. We are the Executive Branch focal point for industry policy. We are represented on every important Cabinet council . . . Secretary Baldrige is Chariman of the Cabinet Council on Commerce and Trade. Commerce today is the focal point of business in the Federal Government.

So the Department of Commerce is suited for these new energy responsibilities.

Three other elements to the Administration's energy policy should be mentioned.

First, nuclear energy.

President Reagan's nuclear policy underscores his commitment to the restoration of nuclear power as an energy option for this country.

The President asked the Department of Energy to work with the Nuclear Regulatory Commission to recommend improvements in the regulatory and licensing process. These recommendations are near completion;

The Administration wants to speed up construction of the Clinch River Breeder Reactor. After four years of delay we need to regain the world position the United States once had in breeder reactor technology;

President Reagan asked DOE to study ways of encouraging private sector reprocessing. It was discouraged by the last administration, and the utilities need this capability; and

We are working closely with industry and the states to develop safe disposal of high-level nuclear waste. We also expect a nuclear waste bill to be enacted by Congress.

The second area I would mention is natural gas.

Our natural gas market studies show that the real economic and social danger lies in prolonging controls. If we do not repair the Natural Gas Policy Act in the near future, the price of the 50-60 percent natural gas that will be decontrolled on January 1, 1985, will rise quickly from the equivalent of $16 per barrel to a much higher level.

The market will experience distortions. Those customers who retain access to natural gas that remains under the price controls will have an unfair advantage over those dependent on high-priced gas. Nor will continued subsidy of natural gas users through extension of price controls help matters. These subsidies are a disincentive to exploration. Oil well completions, for example, are up 40 percent since decontrol. Gas well completions are up only 6 percent as gas remains under controls.

The President wants government out of regulating the price of natural gas. Next year he will ask Congress for gas decontrol. His decontrol schedule will provide a smooth transition to the free market.

The third Administration energy action I want to mention, is the current study of the electric power industry. The Cabinet Council on Energy and Natural Gas is looking at the major issues confronting this industry.

Our chief concerns are: supply sufficiency and economic efficiency.

This task force has both a program to analyze the needs and problems and an outreach program to work with the states. We have no desire to preempt state responsibilities, so the states are fully included in this review.

The task force report, which is due in November, will provide a comprehensive look at the needs . . . and it will make recommendations as to what the Federal Government's role should or should not be.

One energy initiative I'm vitally interested in is the Heber Project. This is a large scale test of the potential of a geo-thermal binary 50 megawatt electric power plant.

Some of you here today are involved with this project.

The Administration is supporting completion of this project, and we look forward to its completion within the next few years.

The Heber Project will verify the possibility of producing economically competitive electricity from geo-thermal sources. After that, the electric power industry will be able to choose whether geo-thermal is a practical source.

Let me sum up a few of the energy-related highlights of the past 17 months; they are:

Oil has been decontrolled;

We saw the results of conservation take hold, with oil imports reaching an eleven-year low;

The share of non-OPEC oil has increased;

Domestic drilling and seismic activity have been substantially increased;

We saw an accelerated opening of the outer continental shelf and of public lands;

336,000 barrels of oil a day have been added to the strategic petroleum reserve. There are now some 265 million barrels of oil in the reserve;

1.1 million manhours of paperwork requirements and over 200 energy-related regulations have been eliminated;

Federal spending on energy is nearly eight billion dollars under the previous Administration's budget proposals;

Responsibility for energy commercialization projects has been shifted to the private sector. Government has restricted its R&D efforts to long-term, high-risk research; and

The President proposed and Congress passed a new tax law which should help industry and also make more capital available for energy development, and the President proposed improvements in Federal energy management.

All of what we've been discussing will be influenced by the Administration's basic program of restoring the economy to non-inflationary growth.

Whatever problems remain, consider the progress that has been made.

Remember 1980 and 18 percent inflation? The first four months of 1982 inflation ran at 1½ percent. I expect it to be around 6 percent for the year.

Due to the 1981 tax program business cash flow in 1982 will increase $10 billion! That's $10 billion the credit markets won't have to supply.

Growth in government regulation has been chopped 25 percent. That saves business $2 billion in operating costs, and nearly $5 billion in initial capital costs!!

The rate of government spending has fallen from 15 to 7 percent—a 50 percent drop in less than two years.

These are significant developments with long-term implications.

All of us in the Administration are extremely sensitive to the pain that has accompanied these gains. Unemployment, idle capacity, bankruptcies. These concern anyone who wants to see the full potential of our Nation used.

But the economic indicators are beginning to bear out what we've been saying all along . . . that the second half of the year will see the recession end and a gradual upturn take place. Purchasing power is up, real wages are rising, both personal income and retail sales rose in May, and preliminary data show that real GNP will be up slightly in the current quarter.

The encouraging fact is that the recovery we'll see in the coming months will be a real recovery based on sound market forces . . . not a bogus one force-fed by government spending and speeded by inflation.

In closing, I'd say we're at a critical turning point in America, with both the economy and energy.

The cost of energy has been put on a more realistic basis. The economy is being put on sound footing.

There are tough times ahead to make the structural changes America needs. But our chances for success have vastly improved in the last 17 months.

We're on a new road to the future, and I think there are some exciting times ahead.

Thank you.●

FISCAL YEAR 1983 TRANSPORTATION APPROPRIATIONS—EXPLANATION OF VOTES

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DAVIS. Mr. Speaker, because of a doctor's appointment earlier today, I was forced to miss three recorded votes on the fiscal year 1983 Transportation Appropriations bill, H.R. 7019. Had I been present, I would have voted for final passage of the bill and against the Coughlin and Obey amendments which proposed cuts in transportation funding. As a strong supporter of our Coast Guard, rural transportation programs, and the section 406 airline subsidy program, I believe the funding levels proposed by the Appropriations Committee represent a balanced, reasonable approach to providing for our transportation needs while maintaining fiscal restraint. I commend the committee for the attention and support it has provided these vital programs.●

CONGRESSIONAL ARTS CAUCUS' NEW CHAIRMAN

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. JEFFORDS. Mr. Chairman, as vice chairman of the Congressional Arts Caucus I am pleased to announce the election of Mr. TOM DOWNEY of New York as our new chairman. Mr. DOWNEY will fill the vacancy caused by the resignation of Mr. Fred Richmond from the House of Representatives.

Mr. Richmond was the founding member of the Congressional Arts Caucus. Back in December of 1980, he saw that there was a need to educate Members of Congress and the public on legislation and issues affecting the arts. As a result, he started in his personal office what is now known as the Congressional Arts Caucus.

At this point in time, the Arts Caucus has 164 members. Due largely to Mr. Richmond's tremendous enthusiasm and energy within the organization, the caucus has sponsored lunch meetings with celebrities such as Charlton Heston and Jean Stapleton, a home video recording debate between Jack Valenti and Charlie Ferris, and a national high school arts competition with the winning pieces of art displayed in the Cannon tunnel. All of us will be reminded each day we travel through this art gallery tunnel in days of inclement weather of Mr. Richmond's tremendous contribution in inspiring talented high school students. Perhaps this will help him through his stormy present. The caucus owes much of its success to the fine efforts of Mr. Richmond.

The torch has now been passed on to a new chairman. Mr. DOWNEY has expressed his desire to carry on the work of Mr. Richmond, and has ideas of his own that he will implement.

As one of the younger Members of the House of Representatives, I know that he will bring boundless energy and enthusiasm to the chairmanship. Mr. DOWNEY has a close relationship with many leaders in the arts world, and brings a thorough knowledge of current arts legislation and issues to the position.

It is with great pleasure that I look forward to working with Mr. DOWNEY, and on behalf of the membership of the Congressional Arts Caucus, I congratulate him and wish him the best of luck.●

FEDERAL GOVERNMENT AND EDUCATION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. LIVINGSTON. Mr. Speaker, since I became a representative of Louisiana and the First Congressional District of this great State, a chief concern of mine has been to assure the proper role of the Federal Government in the education of our citizens young and old alike. As a member of the House Appropriations Subcommittee on Labor, Health and Human Services and Education, I have been fortunate to work closely on many important education issues and programs. In addition, I have been able to draw upon the expertise of many education professionals and administrators on all levels throughout the State and the First District. One of these professionals, Dr. Rawlein B. Soberano, is director of continuing education at Our Lady of Holy Cross College in New Orleans. Recently Dr. Soberano was elected by his colleagues as chairman of the National Advisory Council on Adult Education. I have had the pleasure to read a position paper Dr. Soberano used as his platform. At a time when we face tough decisions on all fronts to cut the budget and reduce the deficit, I believe Dr. Soberano's message is very important for every

Member who is concerned about the Federal Government's role in education.

THE GOVERNMENT'S ROLE TOWARD ADULT BASIC EDUCATION

Illiteracy is a social cancer that should have no place in the United States. Our main concern, as members of NACAE, is how to combat or lessen the crippling consequences of illiteracy in this complex society, to enhance not only functionality, but also to promote productivity and self-respect as well as to remove humiliating dependence on Government handouts.

Literacy has been one of the major concerns of this country in the last 100 years. This concern was first manifested when, in the census of 1870, it was made clear that some people interviewed were unable to show reading and/or writing skills. This problem was made apparent during World War II when 600,000 were rejected from military service because of their inability to read or write. The Korean conflict saw 300,000 rejected for the same reason. This is a national problem that plagues the whole Nation with a low of 1.9 percent of its population in Iowa to a high of 13.1 percent in Louisiana.

This problem is a threat to our stability as a nation because it erodes productivity and endangers technological growth. As such, illiteracy is both a serious problem to the Nation and a debilitating handicap to the individual. This problem is further aggravated by the level of scientific advancement which makes illiteracy more severe when compared to a decade or two ago. One of the reasons for today's high unemployment can be traced to many adults' inability to complete job applications, learn new skills from written materials, or read employment want ads in the newspaper. It is a well-known fact that businesses are reluctant to hire individuals who are functionally illiterate, even for unskilled jobs.

It would seem reasonable to assume that society should provide enough jobs so that able-bodied people would be able to receive employment. This is a critical problem in the United States. The question is whether the Government should turn its back from these illiterates, leave them to a hopeless future and see unemployment rise further, or make adult literacy one of its national priorities by doing everything realistically possible and feasible to accomplish this goal. Commonsense tells us that in the long run, unemployment is the more expensive of the two options. The involuntary idleness of 10 million Americans requires taxpayers' subsidy of over $40 billion a year in unemployment compensation, welfare payments, food stamps, subsidized housing, and other benefits. Moreover, the economy loses about $16 billion a year for every million out of work, not to mention tax revenues lost through reduced payrolls in semiskilled and unskilled jobs. These statistics do not even delve into the correlation between crime and illiteracy.

In everyday living, illiteracy brings with it many other related headaches and heartaches. Modern medicine, food, and equipment that can prevent many diseases are not used by many Americans because of their inability to read. Persons who cannot read newspapers, magazines, or books are completely cut off from written communication in society. An illiterate wife and mother has a very difficult time because she cannot read price signs, can labels, cookbooks, or baby formula directions. Adults who lack the ability to use basic communication skills cannot participate in our system of government.

The current political mood in the United States is toward limiting the role of government at all levels. However, this is one area of social concern the Government cannot afford to leave to the States. The illiterates/functional illiterates, many of whom come from the ranks of the poor, minorities, and culturally disadvantaged, have no one to lobby for their interests. Their interests, because of their growing number, are closely tied to the general welfare of this country. If they are denied this opportunity of basic education by their own Government, they will be displaced in their own Nation. These economic considerations, while important, are not as crucial as humanitarian concerns. A nation that calls itself civilized must do everything it can to eliminate human misery which is the result of poverty, which in turn is a necessary byproduct of functional illiteracy.

Uprooting illiteracy is not a question of more money, but of better use of the money already allocated. With an approved budget of $770 billion for 1983, it includes approximately $325 billion in direct social aid payments to individuals. If 20 percent of our citizens are truly needy, either because they are illiterate, functionally illiterate, culturally disadvantaged, linguistically handicapped or marginally employed, this shows that the Government can send each of them, by eliminating the nonneedy, a check for $7,175—$28,700 for a family of four. An amount of $325 billion is more than adequate to meet the minimum needs of our needy people, but priorities have to be set on the national level. Bloated Federal welfare bureaucracies that have grown to such size under Reagan's predecessors—that they absorb most of the money that should go to the truly needy—have to be trimmed. In the end, a literate America is a strong America.●

A THOUGHT-PROVOKING PROPOSAL

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DREIER. Mr. Speaker, one of the major concerns of the people of my district has been, and continues to be, high interest rates. While we have seen a steady decline in these rates for the past several months, it is clear that interest rates will have to come down several more points before our economy can once again thrive.

Of course, many proposals have been offered in an attempt to lower these outrageous rates. The consensus in my district is that we have simply got to cut down on Government spending. For too many years now, the Federal Government has been crowding out the private borrower in the capital market. Until we reduce the deficit, this will continue to occur and interest rates will remain high.

One thought-provoking proposal for dealing with these high rates was outlined in an August editorial in Newsweek magazine by Chrysler Chairman Lee Iacocca. I must say that this article generated scores of letters from constituents who believe that America's economic health is far too important to be held hostage to partisan politics. For the benefit of those who have not had the opportunity to read this editorial, I am taking this opportunity to have it reprinted in the RECORD.

[From Newsweek, Aug. 16, 1982]

HOW TO CUT INTEREST RATES

(By Lee A. Iacocca)

We are fast approaching the third anniversary of that day of infamy—Oct. 6, 1979—when Paul Volcker and the Federal Reserve Board let the prime rate float. The tidal wave of economic destruction set off by that decision has been awesome.

First it hit Detroit, setting off the longest car-sales depression in 50 years. Then it hit the housing industry, collapsing that market. Now it's swamping everybody. And almost everybody has begun to see that the Fed has to be tamed and the deficit cut. Where have they all been? The economy has been sputtering like a wet fuse since 1979.

Before then the United States had seen prime interest rates as high as 12 percent only once—during the Civil War. In 1979 the rate shot up over 20 percent and since then has not been as "low" as 15 percent until last week.

But not only are the interest rates too high, they are too volatile. Since the Fed decided to let the rate float, the prime rate has changed 80 times! That's once every 14 days! Like a yo-yo on a short string, the prime has been jerked around so many times that no one can plan for the future.

Twelve thousand businesses have gone belly up this year—the worst rate of failure since 1933. In June we had a business failure every 20 minutes around the clock. There

have been 140,000 homes foreclosed in the first quarter of 1982, the highest number since they began keeping records. The steel industry is operating at 43 percent of capacity.

The worst of this interest-rate madness is the human pain it is causing. Officially, 10.8 million people—9.8 percent of the work force—are now unemployed. That's the largest number since 1938 and the highest rate since 1941!

FRUSTRATED

But the official government numbers don't include the 1.5 million people who have stopped looking for jobs, nor the 6 million who are employed in part-time work. That's 18 million people who are angry, desperate and frustrated. And they are scaring another 18 million who think they'll be fired next. People that insecure don't make purchases that create jobs.

Part of the problem is the premium we are paying for uncertainty—that's the difference between the prime rate and the inflation rate. It used to be that the prime rate was 2 to 4 points higher than the inflation rate. Now it's 8 to 12 points higher.

As a result, a lot of people are diverting a lot of money into short-term securities. On top of that, the federal government will use up 56 percent of all the credit available to finance its deficit.

But guess what! Those guys who have diverted all that credit upstream have not created one additional job! They're all making money on money. And those of us who *do* create jobs, who *do* make investments in productivity and who want to expand and pay taxes, end up downstream waiting for a few measly drops of credit to get through so we can put a few people back to work.

Well, back in the Old West when somebody upstream diverted all the water away, the guys downstream got together and formed a posse. They rode upstream and had a little showdown with the people who were taking all the water. I'm not advocating violence. But something has got to give!

You can't have a supply-side fiscal policy and a demand-side monetary policy at the same time. It just won't work. Part of the problem is that the Fed, which decides our monetary policy, is accountable to nobody. Paul Volcker has become a central banker who is usurping the power of the commander in chief. That's got to change. Everybody—the administration, the Federal Reserve and the Congress—has got to get on one team and carry out one game plan.

The administration says that all of these problems are the result of 40 years of profligate spending by the Democrats. But for 17 of those 40 years, the Republicans ran the executive branch and all its agencies. So let's admit that it was a bipartisan screw-up. Let's forget about finding scapegoats and develop a bipartisan plan to save America.

What needs to be done is simple. We have to bring down interest rates—and fast. And there is one good way to do that: cut the federal deficit in half and get the government out of the money market. That will show the money brokers that our government is serious about fiscal reform.

But how do you cut the deficit in half? You take 5 percent out of the defense budget and 5 percent out of social programs. That saves $15 billion out of the hide of the administration and a matching $15 billion out of the hide of the Democrats.

At the same time, let's recommit ourselves to energy independence. Raise $15 billion with a surtax on imported oil that equals the difference between the OPEC price and the world spot price for crude oil. Add another 15 cents to the tax on gas at the pump and you get another $15 billion.

Add all these measures together and you get $60 billion. You cut the federal deficit to half. The prime rate comes down by 4 points overnight. You begin to sell cars, houses, steel and lumber—the things that keep this country going and people working.

TRAGEDIES

Let's stop the talk that we're hearing from Washington that maybe a couple of big bankruptcies would be good for the country. Big bankruptcies lead to big tragedies for little people. Instead let's hear Washington talk about jobs for people and a working economy for the nation. That's where America's strength is.

In June, at budget-writing time, the Congress and the administration had the chance to cut the deficit and send a clear signal to the money markets of America that they were serious about lowering interest rates. They failed.

In September, at appropriations time, they will have one last chance to send that signal. Time is running out. The economy has two wheels over the cliff. I hope all Americans will write their president, their senators and their representatives to tell them to stop this economic nonsense and get interest rates down to where consenting adults can engage in commerce again.

Americans can get their leaders to make the system work again. We have done it in every crisis America has ever faced. And we can do it now.●

IN THE PUBLIC BENEFIT

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mrs. HECKLER. Mr. Speaker, today I introduced the Public Benefits Eligibility Verification Act of 1982. This measure mandates that all States conduct crossmatches of applicant and recipient social security numbers against records of wages, deposits, and accounts in financial institutions, and other public records, in connection with any public benefit or subsidy program administered by any State using Federal funds. This legislation also authorizes—at State option—interstate crossmatching of such records.

Prompt enactment of this bill is needed because ineligible individuals and families are collecting a variety of public assistance benefits in various States, and States with crossmatching systems have demonstrated that such systems are effective in discovering fraud. Extending such crossmatching to an interstate basis would significantly add to such discovery, thereby saving State and Federal dollars that can be directed to truly deserving recipients.

In Massachusetts alone, a limited sampling has turned up 3,345 cases of public assistance recipients who have assets in excess of the allowable limits. It is estimated that the total amount of such undisclosed assets is $25 million. Of this amount, $8.9 million may be collected from determinations of fraud, and $1.5 million may be saved from a reduction in caseload.

I have urged disclosure of assets for several years, beginning in 1977, when—as a member of the Agriculture Committee—I offered an amendment providing for disclosure of financial resources held singly or in joint ownership by food stamp recipients. This legislation represents a comprehensive approach to that initial concept, in that it requires crossmatches in connection with a full range of public benefits. I urge its speedy consideration and passage by this Chamber.●

THE 10TH ANNIVERSARY OF THE KAISER-GEORGETOWN COMMUNITY HEALTH PLAN

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. BARNES. Mr. Speaker, this year marks the 10th anniversary of the Kaiser-Georgetown Community Health Plan, a noteworthy occasion for thousands of residents of Maryland, Virginia, and the District of Columbia.

The Kaiser-Georgetown Community Health Plan, in association with the Capital Area Permanente Medical Group, provides and arranges health care services to approximately 75,000 people. Kaiser-Georgetown is a region of the Kaiser-Permanente medical care program, the Nation's largest nongovernmental prepaid group practice health care delivery system. Kaiser-Permanente provides and arranges health care services for 4 million people nationwide.

In August 1980, the Kaiser-Permanente medical care program acquired the Georgetown University Community Health Plan, which had been in operation since 1972. The health plan was renamed the Kaiser-Georgetown Community Health Plan, and since acquisition has grown to 75,000 from a membership of 52,000. Members are served at locations in Gaithersburg and Kensington, Md.; Reston and Springfield, Va.; and Northeast District of Columbia. A new medical facility will open this fall in Landover, Md.

Kaiser-Georgetown Community Health Plan's anniversary marks the maturity of a health care delivery program founded as a cost-effective and efficient alternative to traditional delivery modes. Here in the Nation's Capital, the Kaiser-Georgetown Community Health Plan is a successful example of prepaid group practice, also referred to as a type of health maintenance organization (HMO). The prepaid group practice concept has long been recognized by medical economists

and health policy experts for its ability to control costs, while providing quality health care. The concept was given formal endorsement with the passage of the Health Maintenance Organization Act of 1973 by the Congress.

Mr. Speaker, on this significant occasion I urge you and all of my colleagues to join me in commending the Kaiser-Georgetown Community Health Plan for a decade of community service providing quality health care to the citizens of Maryland, Virginia, and the District of Columbia.●

STATE PER CAPITA RECEIPT OF FEDERAL BUDGET OUTLAYS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. PETRI. Mr. Speaker, I would like to insert in the RECORD a table compiled by the Tax Foundation showing the per capita receipt of Federal budget outlays by State. The table shows that my own State of Wisconsin ranks dead last among the 50 States and the District of Columbia.

MAJOR FEDERAL BUDGET OUTLAYS BY STATE,[1] FISCAL YEAR 1980

State	Total distributed			Per capita	
	Amount (millions)	Percent of total	State rank	Amount	State rank
Total	$528,687	100.0		$2,334	
Alabama	8,829	1.7	21	2,270	25
Alaska	2,124	.4	42	5,304	2
Arizona	6,217	1.2	29	2,287	22
Arkansas	4,506	.9	34	1,971	42
California	61,464	11.6	1	2,597	11
Colorado	6,950	1.3	26	2,408	14
Connecticut	8,906	1.7	20	2,866	8
Delaware	1,319	.2	49	2,217	26
Florida	22,822	4.3	6	2,343	16
Georgia	11,089	2.1	17	2,029	35
Hawaii	3,151	.6	38	3,266	3
Idaho	1,995	.4	43	2,113	33
Illinois	23,033	4.4	5	2,017	36
Indiana	9,260	1.8	19	1,687	50
Iowa	5,214	1.0	33	1,790	47
Kansas	5,419	1.0	31	2,293	19
Kentucky	7,210	1.4	25	1,969	43
Louisiana	7,799	1.5	23	1,855	45
Maine	2,577	.5	40	2,292	20
Maryland	13,419	2.5	13	3,183	6
Massachusetts	15,119	2.9	11	2,635	10
Michigan	16,108	3.0	9	1,740	48
Minnesota	8,089	1.5	22	1,984	40
Mississippi	5,456	1.0	30	2,165	29
Missouri	13,271	2.5	14	2,699	9
Montana	1,802	.3	46	2,291	21
Nebraska	3,568	.7	37	2,273	24
Nevada	1,857	.4	45	2,324	17
New Hampshire	1,973	.4	44	2,143	30
New Jersey	14,253	2.7	12	1,936	44
New Mexico	4,231	.8	35	3,255	4
New York	40,742	7.7	2	2,321	18
North Carolina	10,173	1.9	18	1,732	49
North Dakota	1,667	.3	47	2,554	12
Ohio	19,756	3.7	7	1,830	46
Oklahoma	6,560	1.2	27	2,168	28
Oregon	5,218	1.0	32	1,982	41
Pennsylvania	25,174	4.8	4	2,121	31
Rhode Island	2,164	.4	41	2,285	23
South Carolina	6,226	1.2	28	1,996	39
South Dakota	1,627	.3	48	2,357	15
Tennessee	11,571	2.2	16	2,521	13
Texas	29,331	5.5	3	2,061	34
Utah	3,096	.6	39	2,119	32
Vermont	1,021	.2	51	1,997	38
Virginia	17,128	3.2	8	3,204	5
Washington	12,013	2.3	15	2,908	7
West Virginia	3,896	.7	36	1,998	37
Wisconsin	7,557	1.4	24	1,606	51
Wyoming	1,026	.2	50	2,179	27
District of Columbia	16,073	3.0	10	25,207	1

[1] Excludes outlays for indirect Federal support, including interest on the public debt, which do not necessarily have an impact in the State receiving the funds initially.

Source: Community Services Administration

Source: "Facts and Figures on Government Finance," Tax Foundation, Inc., 1981.●

CONSUMER ADVOCATE FOR NRC

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GILMAN. Mr. Speaker, On Thursday, September 16, 1982, I introduced on behalf of myself and my distinguished colleague, Mr. FISH, House Resolution 589, calling for the creation of an Office of the Consumer Advocate in the Nuclear Regulatory Commission. Citizens in my district live near the Indian Point nuclear facility in Buchannan, N.Y. Hearings had been underway for a number of weeks on the safety of the Indian Point facility until recently when the Nuclear Regulatory commission modified its order limiting the scope of testimony allowed in the hearings. After this order was issued, the Chairman of the Atomic Safety and Licensing Board panel presiding over the hearings, Judge Louis Carter, resigned. The hearings have now been temporarily suspended. As a result of my involvement in these hearings and with the concerned citizens participating in them and the events leading up to the hearings, I have concluded that a consumer advocate is needed in the Nuclear Regulatory Commission (NRC).

In the kind of investigation like the one at Indian Point and in other dealings citizens have with the NRC, an adversary relationship tends to develop where a cooperative effort between parties would result in the most beneficial outcome. The private citizen must spend his or her own time and resources in delving into the complex, technical issues involved in nuclear power administration; it is only natural that these citizens believe they are at a considerable disadvantage in trying to tackle an issue with the NRC and with industry representatives who have extensive expertise and resources. A consumer advocate could help bridge this gap created by the disparity of knowledge and information access by assisting citizens in understanding NRC decisions and in preparing materials to allow their valuable input in any factfinding endeavor involving the Nuclear Regulatory Commission.

Since the incident at Three Mile Island, much of the public, and especially those living near nuclear power facilities, has become apprehensive about the safe use of nuclear power. An Office of the Consumer Advocate would contribute greatly to the perception of our citizens that their safety is of concern to the Federal Government and to the Nuclear Regulatory Commission. This should be the first consideration in the operation of any nuclear power facility.

Accordingly, I urge my colleagues to become cosponsors of House Resolution 589, and ask that the full text of the resolution be printed in the RECORD at this point.

H. RES. 589

Resolution expressing the sense of the House of Representatives that an Office of the Consumer Advocate be established within the Nuclear Regulatory Commission

Whereas the Nuclear Regulatory Commission is responsible for the licensing and regulation of nuclear power facilities in the United States and is responsible for promulgating rules and regulations and making decisions which vitally affect the public health and safety;

Whereas private citizens have a vested interest in assuring that nonmilitary nuclear power is utilized in the most efficient and safe way possible;

Whereas this goal should be one shared both by the Nuclear Regulatory Commission and the public, and there is a need for a cooperative effort between the Commission and the public for a maximum sharing of information and assistance in the understanding of nonmilitary nuclear power;

Whereas information involved in an investigation or study of the nuclear power industry or of a nonmilitary nuclear power facility is both highly complex and technical;

Whereas private citizens, due to time and monetary constraints, have limited access to the information necessary for a full understanding of the ramifications and problems involved in the operations and effects of nuclear power facilities;

Whereas Nuclear Regulatory Commission and nuclear power industry officials have greater knowledge and expertise in the field of nonmilitary nuclear energy than the public;

Whereas the public is lacking in both the expertise and the financial resources necessary to a thorough understanding of nuclear power issues, and the public needs expert assistance in preparing questions and responses required in investigations of the nonmilitary nuclear industry and in understanding Commission decisions; and

Whereas a consumer advocate within the Nuclear Regulatory Commission could promote the sharing of knowledge and a better understanding of the issues involved in nonmilitary applications of nuclear energy, which will lead to the best solutions to problems and disputes involving the nuclear power industry and the consumers it serves and will also assure the public that the Commission is committed to protecting the

public safety and health in the utilization of nuclear energy: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that an Office of the Consumer Advocate should be established within the Nuclear Regulatory Commission.●

NEW YORK STATE ASSEMBLY REAFFIRMS SUPPORT FOR SECTION 504

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. BIAGGI. Mr. Speaker, I was pleased to learn that the Assembly of my home State of New York has gone on record in strong support of section 504 of the Rehabilitation Act, which assures civil rights protections for our disabled citizens.

This resolution, Assembly Resolution 765, calls upon President Reagan to continue to our Federal commitment to equal rights for the handicapped and that any changes that are contemplated for regulations governing this program, be done so in a fashion that will not alter the original intent of the law.

Mr. Speaker, as one of the original authors of this legislation, I am in full agreement with the position advanced by the New York Assembly. We cannot allow nearly a decade of progress that has been made on behalf of the handicapped to be wiped out with a single stroke of a pen. I will actively fight any attempts to alter section 504 of the Rehabilitation Act which could result in the abrogation of our commitment to the disabled. For the benefit of my colleagues, I wish to include the text of Assembly Resolution 765 for the RECORD:

STATE OF NEW YORK LEGISLATIVE RESOLUTION

Legislative resolution memorializing the President of the United States and the United States Congress to maintain the current statutory and regulation priorities regarding Section five hundred four of the Rehabilitation Act nineteen hundred seventy-three

Whereas, Members of the racial and ethnic minorities, women and disabled persons have been struggling for decades to establish the right to equal protection in the work place, in school and in society; and

Whereas, The impact of Section 504 of the Rehabilitation Act of 1973 and the corresponding regulations guaranteed uniformity in Section 504 enforcement by all Federal agencies, ensuring civil rights protections for all disabled people; and

Whereas, Since an intent of the Congress in passing Section 504 was to provide employment rights to qualified handicapped persons, job opportunities have begun to become a reality; and

Whereas, The federal government is now in the process of rewriting portions of the regulations under Section 504 which represents an attempt on the part of the administration to strip disabled persons of their long overdue civil rights; and

Whereas, These suggested regulatory changes would have the effect of creating two classes of disabled peoples in addition to interjecting the concept of "substantially equal opportunity" resulting in less than the equal protection granted other minorities and women; and

Whereas, The proposed changes represent a most serious threat to the civil rights of persons with disabilities; now, therefore, be it

Resolved, That this Legislative Body pause in its deliberations to memorialize the Honorable Ronald W. Reagan and the United States Congress to maintain the current statutory and regulation priorities regarding Section 504 of the Rehabilitation Act 1973, and be it further

Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the Honorable Ronald W. Reagan, President of the United States, the President Pro-Tem of the United States Senate, the Speaker of the House of Representatives of the United States, to each member of Congress from the State of New York and to the Attorney General of the United States.●

HONORING U.S. DISTRICT JUDGE MOREY L. SEAR

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. LIVINGSTON. Mr. Speaker, I know my colleagues join me in rising to pay tribute to a distinguished jurist who has served his country well, both as a Federal judge in the U.S. District Court for the Eastern District of Louisiana and as a judge and Ambassador at Large in the Panama Canal Zone.

On March 31 of this year, the U.S. District Court for the District of the Canal Zone terminated its jurisdiction after 60 years of service. From May 1977 until its closing, 28 district judges and two circuit judges served in that district court, but only one judge, Morey L. Sear, was chosen by the U.S. Court of Appeals for the Fifth Circuit to administer the sensitive and difficult transition of zone jurisdiction to the Panamanian courts.

With his characteristic dedication and enthusiasm, Judge Sear brought a structure and direction to the court in its final years of authority that should be a model for judges everywhere. Over the course of the 30-month transition period, he completed a docket of some 800 cases, thereby allowing the United States to fully meet its international obligations.

Equally important, Mr. Speaker, Judge Sear was an outstanding representative of the United States during a rather difficult period. His deep and sincere interest in the affairs of the Canal Zone and his ability to interact harmoniously with Panamanian officials were important factors in maintaining smooth relations with our neighbors to the south.

I thank him for all of these contributions, and I am glad that the country continues to benefit from his service on the Federal bench in Louisiana.●

TRIBUTE TO DAVID HYATT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GREEN. Mr. Speaker, today I would like to pay tribute to a man who for the past 30 years has fought to improve human relations through the elimination of prejudice and discrimination. The leadership and guidance Dr. David Hyatt provided the National Conference of Christians and Jews (NCCJ) for 28 years, the last 9 of which he was president, will indeed be missed when he retires today.

Dr. David Hyatt began his career with the National Conference of Christians and Jews in 1954 when he assumed the position of national director of public relations. In 1958, he was promoted to vice president of public information. Dr. David Hyatt became the fourth president of the NCCJ on January 1, 1973. In response to his excellent work for the organization, he was elected president of the International Council of Christians and Jews in 1978. Throughout his career with the NCCJ, Dr. Hyatt has worked to build better relationships among persons of all religions, races, and nationalities.

Dr. David Hyatt will always be remembered for his impassioned stance against violence, terrorism, poverty, and discrimination. He has constantly spoken out on problems of racial and religious prejudice to civil, business, and social groups all over the country. Dr. Hyatt has worked to solve these problems through both the NCCJ and other organizations he has been associated with.

Today, Dr. David Hyatt should also be praised for his commitment to the improvement of human relations worldwide. He is a founder-sponsor of the Inter-Religious Task Force on Soviet Jewry and a member of the executive board of the American-Israel Friendship League. In addition, he is a member of the board of directors of the United Nations Association. Truly, Dr. Hyatt has dedicated his entire career to the betterment of mankind.

Today, I take pride in paying tribute to someone who has worked so hard in his efforts to sensitize the American community to the destructiveness of prejudice. I wish Dr. Hyatt well in his future endeavors, which undoubtedly will continue to involve the improvement of human relations worldwide.●

89-059 O-86-24 (Pt. 18)

OPTION TO PURCHASE SURPLUS FEDERAL LAND ON GUAM SHOULD BE OFFERED TO ORIGINAL OWNERS

HON. ANTONIO BORJA WON PAT

FROM THE TERRITORY OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. WON PAT. Mr. Speaker, as you know, my district is a small island, 35 miles long and 8 miles wide, with much of its 225 square miles uninhabitable because of steep mountains and dense jungle in deep ravines. Habitable land is a premium to say the least.

On July 21, 1944, U.S. Forces began the invasion of Guam which culminated a few weeks later in the liberation of our people from the occupying forces of Japan. Since the war was not over, the Department of Defense authorized the acquisition, through condemnation, of much of our flat usable land to begin the buildup of airstrips, port facilities, warehouses, and other support services. This was done to launch an all-out air and sea attack on the Japanese homeland. Many of you will remember that many of the B-29's that bombed Japanese factories and transportation centers took off from Guam.

Guamanians were paid a mere pittance for their land at the time, but we considered the loss of our land a small price to pay for our liberation. After the war, much of this land was incorporated into what is now an extensive naval air and sea base and a major Air Force, SAC base. Negotiations are now underway to determine if these people whose land was condemned and now is part of the military complex were paid a just amount back in the post World War II period.

But now a sizable amount of land has been declared surplus to the the needs of the military. Some of this land has been donated to the Government of Guam for facilities such as parks and schools. But the administration is clamping down on such donations and is determined to sell its surplus land all over the Nation in order to bring additional revenue into the Treasury. I think this program has some merit in instances where it does not work a hardship on local governments.

However, because of the scarcity of habitable land on Guam, this decision of the administration to increase its sales of surplus Federal land does in fact work an extreme hardship on many of those people whose land was literally grabbed in the name of defense 38 years ago. Many of these landowners have been unable to purchase replacement land because it was and still is scarce. Given the Guamanian custom of raising large families, many now find themselves unable to carry out the tradition of partitioning their land to give to children as they grow into adulthood.

Some surplus Federal land is located in areas ideally situated for commercial development, but when this comes up for sale, the original owner may not be able to afford the price of the highest bid. To him this would be his last chance to recoup some of the loss he suffered 38 years ago when his land was purchased for a paltry sum.

It strikes me as being only fair to these people that when their land turns up surplus and is about to be offered for sale to the highest bidder, that they be given the right to purchase this land for the same price as they were paid by the U.S. Government back when it was obtained through condemnation. If the original owner is now deceased, this land should be offered to his heirs or successors.

Today, I am introducing such legislation to rectify a situation that I feel has been unfair to these former landowners. To give them first crack at what was once forcefully purchased from them is the least we can do for those who contributed in no small way to America's victory in the Pacific in World War II. I ask your early consideration of this legislation.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the head of any department or agency having jurisdiction over land in Guam that was acquired by the United States after July 21, 1944, and that is declared to be surplus to the needs of the Government shall, before making any other disposition of the land, make such land available for purchase by the person from whom the United States acquired the land. The price for which such land is made available shall be the amount of compensation paid by the United States for the land. If the person from whom the United States acquired the land is deceased or otherwise not available, the land shall be made available to the heir or other successor in interest of that person.●

IN SUPPORT OF H.R. 7048, PROVIDING PELL GRANT ELIGIBILITY GUIDELINES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 7408, which sets the family contribution schedule for the Pell grant program in place for the 1983-84 academic year and provides a fail-safe mechanism for the 1984-85 academic year if the Secretary of Education fails to publish the schedule for 1984-85 as mandated by the timetable set up in the Higher Education Act of 1965. The education and the peace of mind of millions of Americans is dependent on the orderly promulgation of the family contribution schedule by the Department of Education.

It is absolutely essential that these regulations be issued in sufficient time, not only for students and educational institutions to make their plans, but also for Congress to review the adequacy of the regulations in terms of budgetary constraints and other congressional restrictions. As a result of the hardship caused by the increasing delays by the Department of Education in issuing these regulations, the House Subcommittee on Postsecondary Education and its distinguished chairman, Mr. Simon, should be commended on their swift and thorough work to assure that the low- to middle-income students of this Nation are assured timely information on what rules will govern their eligibility for loans and under what terms. A delay in the publication of the rules governing the family contribution schedule at the Federal level delays the whole process of awarding moneys at the State and local level and of informing students and their families of eligibility standards in sufficient time before the academic year begins.

H.R. 7408 also contains an important provison affecting veterans, which I strongly support. In the 1982-83 family contribution schedule, veterans student benefits are considered as student assistance. This means that the majority of veterans are ineligible for Pell grant awards. H.R. 7408 would treat veterans' benefits as they had been treated in previous years, by counting one-half of the benefit as income and excluding the remaining benefits for 1983-84. For 1982-83 the bill instructs the Secretary of Education to use Pell grant funds appropriated in the supplemental to restore awards to veterans denied Pell grant moneys because of the 1982-83 family contribution schedule language. I congratulate the subcommittee for attempting to remedy a terrible hardship for veterans across the Nation. Hundreds of veterans discovered at the last minute this year that they were not entitled to educational assistance and thus were denied the hoped-for opportunity to pursue the education, which this country surely has a responsibility to assist them in getting, as they have served us so well in protecting this Nation. I urge my colleagues to support this important bill.●

BIG BROTHERS, BIG SISTERS

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. CAMPBELL. Mr. Speaker, the Citizens Stamp Advisory Committee is

presently considering recommending a commemorative postage stamp in honor of the Big Brothers/Big Sisters movement. I rise today in strong support of this proposal.

The Big Brothers/Big Sisters program has been filling a void in the lives of many children across the country. The volunteers in this movement have provided guidance and friendship to children from one-parent homes for nearly 80 years. Although the program currently serves approximately 100,000 children nationwide, there are nearly the same number of children on the waiting lists, due to a lack of volunteers. In my congressional district, the city of Greenville has 98 volunteers serving as Big Brothers or Big Sisters. However, there are also 88 children waiting to be assigned a volunteer.

During a time when the President is seeking an increase in volunteerism and private initiatives, I believe we must assist organizations such as the Big Brothers/Big Sisters in any way possible. Issuing a commemorative stamp would not only focus national attention on this organization and assist in the recruiting effort, it would also honor the thousands of present volunteers for their outstanding work and high ideals.

Mr. Speaker, it is my hope that the Citizens Stamp Advisory Committee will incorporate the Big Brothers/Big Sisters movement among those distinguished social service organizations that have received this recognition and distinction in the past. Issuing a commemorative stamp is the least we can do in honoring the dedicated Big Brothers and Big Sisters of America.●

THE 90TH ANNIVERSARY OF ABERDEEN'S INCORPORATION

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. DYSON. Mr. Speaker, on Saturday, September 18, 1982, the city of Aberdeen, Md., hosted a day-long celebration of the 90th anniversary of the town's incorporation. The last 90 years in the history of Aberdeen have shown substantial development and progress to which well-deserved tribute should be paid.

The history of this thriving community began at the intersection of two major but primitive roads, the Philadelphia Post Road and Bush Neck Road, in the 1670's. Originally known as Hall's Cross Roads, the settlement of Aberdeen became firmly established with the construction of the Philadelphia, Baltimore, and Wilmington Railroad in 1835. During this construction, a Mr. Winston from Aberdeen, Scotland, built his home near the railroad right-of-way and later conducted all railroad business from his house in his capacity as first station agent. Through his influence, the station, and later the town, was named after his home in Scotland.

After the Civil War, Aberdeen grew into a sizable community of 600 people due to the foundation of a canned goods industry there and the extension of the Baltimore and Ohio Railroad through Aberdeen. The railroad greatly facilitated the transportation of the canned goods into the marketplaces of Baltimore, Washington, and Philadelphia. Later during World War I, the excellent railway and waterway facilities and the accessibility to Washington, D.C., made Aberdeen an ideal location for the Army's proposed testing site for large caliber guns, and thus Aberdeen Proving Grounds was established outside of the town. Aberdeen Proving Grounds was expanded during World War II to accommodate more testing facilities and was established as a training center for ordnance troops.

The town of Aberdeen has seen its most substantial growth since the turn of the century. As the railway and highway systems were improved, many industries found Aberdeen to be an excellent location for their facilities, with the benefit of low taxes and expenses and with easy access to several major cities. The number of small businesses grew to accommodate the influx of people attributed to industry and the proving grounds, and as Aberdeen Proving Grounds expanded to be a major testing base for the Army, the prosperity of the housing construction industry soared because of low building costs in the area.

The area has been benefited by two weekly newspapers, the Aberdeen Enterprise, which was first published in 1881, and the Harford Democrat, which has been published since 1868. These papers were later purchased and consolidated by J. Wilmer Cronin, a leading citizen of the community who has recently left the newspaper and his contributions to the community as his legacy.

As the citizens of Aberdeen celebrate the 90th anniversary of the town's incorporation, they pay tribute not only to progress and the development of a strong, viable community, but also to a history rich in tradition. One of the unique characteristics of Aberdeen is its ability to retain its small-town atmosphere in the midst of such great expansion. Not far from the industrialization that provides a strong economic base and the testing facilities of Aberdeen Proving Grounds that provide security to our national defense base, extensive farming and waterfowl hunting preside in the rural environment that still exists in the community.

It is with great pleasure that I join the citizens of Aberdeen in honoring this unique town. Despite its blossoming development, these citizens have perpetuated a close-knit community with the help of an effective town government and the sincere concerns of its residents. I am proud to represent this town as part of my district and to play a small part in its rich history.●

BRUTAL SUPPRESSION AND SERIOUS ABUSE OF HUMAN RIGHTS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. GEJDENSON. Mr. Speaker, as a member of the House Foreign Affairs Committee, I have heard too many tragic stories of brutal suppression and serious abuse of human rights in countries of authoritarian, repressive rule. Some of the witnesses appearing before the committee escaped torture in South Africa, others indefinite detention in the Philippines, and still others fled certain death in El Salvador. The "crimes" they committed were those of political opposition to the regimes now in power. In fear for their lives these people fled to the United States, the traditional nation of refuge, to escape reprisal at the hands of their governments.

These witnesses, representative of many thousands, chose the United States for good reason. Since the 1600's when the Puritans settled at Plymouth, Mass., in their flight from religious persecution in England, to the Jews escaping Nazi Germany and today the Salvadorans, America's history is replete with stories of those who have found asylum here. Former freedom fighters from Afghanistan, critics of Chile, and even former officials of governments once supported by the United States such as Iran, find they must turn to the United States to escape the long arms of their nation's security forces.

In response, the United States has developed a noble tradition of sheltering the persecuted which has been written into U.S. extradition law, stating that foreign nationals cannot be extradited for "an offense of political character". Now, I fear, that noble tradition is to be tarnished by the introduction of new extradition legislation, S. 1940 offered by Senator THURMOND and its companion bill, H.R. 6046, in the House. These bills would allow up to 60 days detention without bail on the merest allegation of wrongdoing by a foreign government. Shockingly enough, suspension of the right of bail before a showing of probably cause is an integral part of this proposal to revise extradition law. As the Ameri-

can Civil Liberties Union (ACLU) recently noted, these provisions "erode the constitutional presumption of innocence", as men and women can be arrested without any proof that they are guilty of a crime.

What these changes in the law mean to those accused should be readily apparent; cases of authoritarian governments charging their political opponents with criminal law violations as a shadowy pretext for arbitrary detention are too numerous to mention here. Under current law, a U.S. court conducts an independent judicial review of the charges to assess whether they are genuinely criminal violations. If H.R. 6046 were to pass however, the courts would, in effect, be forbidden to examine whether a request for extradition by a foreign government is really a subterfuge for persecution. As Christopher H. Pyle, professor of constitutional law and civil liberties at Mount Holyoke College, noted recently in the New York Times, the courts would not "be allowed to hear evidence that the charges against the accused resulted from torture or to deny extradition on the grounds that the requesting regime is notorious for brutal interrogations, unjust trials or cruel punishment". In short, a country's "capacity for justice" would not have to be considered in extradition deliberations.

Who, then, would be charged with the responsibility of deciding proper grounds for extradition? A second provision of H.R. 6046 answers this by stipulating that extradition be taken out of the courts and put into the hands of the Secretary of State to be his exclusive domain, thus giving complete control of an essentially judicial question to the executive branch of our Government. This, I fear, would put the fate of foreign nationals, questionably accused by their governments, under the purview of the State Department, a bureau bound by foreign policy and diplomatic concerns that do not similarly constrain the judicial branch of Government. We have seen, for example, how the State Department has handled the question of political asylum for the Salvadorans. Political motives rather than objective consideration of the merits of the case govern State Department policy to deny refuge to the Salvadorans.

We cannot let the current wave of court-stripping and politicization of essentially judicial matters now color U.S. extradition law. The lives of many thousands are at stake in the maintenance of due process. I urge my colleagues today to reject the proposed changes in our extradition law as embodied in H.R. 6046.

NATIONAL NEWSPAPER CARRIER APPRECIATION DAY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. WOLF. Mr. Speaker, I would like to bring to the attention of my colleagues a resolution which I am introducing today that will proclaim October 16, 1982, as "National Newspaper Carrier Appreciation Day."

It is important that we show our appreciation to the more than 1 million newspaper carriers in the United States. Too many times the efforts of newspaper carriers go unappreciated and unrecognized, with many people taking newspaper delivery for granted. Now is the time to recognize the devoted efforts of the many individuals who deliver the news of the world to our doorsteps and to let them know that we support their hard work and dedication.

Each day, more than 107 million Americans read one or more of the 9,396 daily, weekly, or other newspapers published in the United States and of that total, 83 percent are delivered to the homes of the readers. I believe it is also significant to point out that of the approximately 1 million newspaper carriers in the United States, 90 percent are 18 years of age or under.

Not only does newspaper delivery provide part-time employment for over 1 million people, it also provides the opportunity for young people to gain experience and confidence in what is many times their first job. It is an excellent way for them to learn how to earn and appreciate the value of money and to learn a sense of responsibility in knowing that others are depending on them daily. In short, for young people, a job as a news carrier builds character.

I hope my colleagues will join me in cosponsoring and supporting this resolution.●

JEWISH LEADERS HORRIFIED

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. CONYERS. Mr. Speaker, I commend the increasing number of American Jewish leaders who in good conscience cannot remain silent any longer. The Washington Post carried this report by Caryle Murphy:

The article follows:

U.S. JEWISH LEADERS EXPRESS HORROR AT KILLINGS IN WEST BEIRUT

(By Caryle Murphy)

American Jewish leaders yesterday generally welcomed the idea of returning U.S. troops to Lebanon and called for the speedy withdrawal of all foreign forces from the country. Some said Israel should withdraw immediately from Beirut as requested by President Reagan.

The Jewish leaders unanimously expressed horror and revulsion at what one group termed the "cold-blooded murder" of Palestinians in refugee camps in West Beirut over the weekend, and several said Israel bears some responsibility for the killings by failing to enforce law and order after occupying West Beirut.

Most Jewish spokesmen contacted expressed support for an investigation by the Israeli government into how the massacre took place and agreed that "those responsible be brought swiftly to justice," as the Union of American Hebrew Congregations put it in a statement.

Henry Siegman, national executive director of the 50,000 member American Jewish Congress, also demanded that Israel "sever all of its ties with the murderous Christian militias responsible for this outrage.

"If Israel's abhorrence of the Palestine Liberation Organization (PLO) is to continue to have moral credibility then it must treat those responsible for this atrocity with the same abhorrence," Siegman said.

Siegman was backed in this view by Alexander M. Schindler, president of the Union of American Hebrew Congregations, who said Israel must "sever relations with any Lebanese force found guilty of this foul deed."

Up to now Israel has seen the Christian militias as allies in its struggle to impose a stable, pro-Israel government in its northern neighbor.

Siegman, in the most critical remarks, said in an interview that he supported the return of U.S. troops to Beirut, and the withdrawal of Israel from that city because "Israel has no business playing the role of restorer of Lebanon's stability; they should not be the policemen of the Middle East."

While the Jewish community both in Washington and around the country appears divided over Israel's responsibility for the massacre of the Palestinian civilians, a number of spokesmen said yesterday that Israel could not avoid bearing part of the blame even if only by omission.

"All nations—Lebanese Christians, Lebanese Muslims, Palestinian terrorists, Syrians and Israelis, now embroiled in the conflict share a certain amount of guilt" for the massacre, said Rabbi Joshua O. Haberman, president of the Washington Board of Rabbis, which represents about 80 area Jewish rabbis.

"Because Israel assumed responsibility by moving into Beirut, therefore it owes an answer as to why it exercised such bad judgment in allowing Christian militias to enter the Palestinian camps," Siegman said. "It is important to distinguish between guilt and responsibility. I do not believe Israel shares in the guilt; however they do share in some responsibility."

Rabbi Arthur Hertzberg, a former president of the American Jewish Congress and long-time critic of the government of Prime Minister Menachem Begin, said, "It was at worst, carelessness or misunderstanding of the real nature of the situation." He called on Begin and Defense Minister Ariel Sharon to resign, adding: "They accepted the responsibility as policemen and they failed in responsibility. In any decent democratic society, if you fail in your responsibility, you resign."

Some Jewish leaders, however, denied that Israel bears any responsibility for the massacre.

Rabbi Joseph B. Glaser, the New York-based executive vice president of the Central Conference of American Rabbis, said, "It is a cruel, horrible and ironic thing that Israel should be weighed down with any kind of responsibility for this . . . I don't think that you can say that because Israel failed to close all the gaps and keep these people out, that they can be held responsible."

Glaser and Julius Berman, chairman of the Conference of Presidents of Major American Jewish Organizations, said the massacre was a result of the "epidemic nature of terrorism" and criticized Pope John Paul for receiving PLO chairman Yasser Arafat.

One leader of the Washington Jewish community who asked for anonymity said he believed the weekend killings will further contribute to the privately voiced sentiment among a section of Jewish leadership that "Menachem Begin may have one great service to perform for the Jewish people—to resign." However, he stressed that this sentiment is not widespread enough that spokesmen feel compelled to express it publicly.

B'nai B'rith's international president Jack Spitzer said his organization supports the "elimination of private militias and the withdrawal, as soon as possible, of all non-Lebanese forces" from Lebanon. Spitzer would not lay any blame on Israel for the massacre anymore than he would "blame a [city] police force for murder."

The American Jewish Committee said it was "shocked at the atrocities committed in Palestinian camps in Beirut over the weekend and we grieve for the victims." In a statement, it called upon the U.S. to speed the departure of all foreign armies and to work towards the restoration of civil order in Lebanon.

Hyman Bookbinder, the committee's Washington representative, added, "That would include the judicious use of American forces again."

Only a few Jewish leaders yesterday questioned the value of an investigation into how those who committed the slaughter were able to get past Israeli forces surrounding the camps. Haberman said his board feels "it is pointless to quibble about the exact proportion of responsibility" among all the feuding groups. And B'nai B'rith's Spitzer raised the issue of whether results of the investigation would be accepted.

"Would you accept as impartial and factual an investigation by the Israeli government?" he asked.

I ask my colleagues to join me to implement the following recommendations:

First. A cutoff of all military aid to all countries in the Middle East.

Second. A withdrawal of all troops save those sent under United Nations auspices.

Third. Increased supplies of medical assistance and food to both Lebanese and Palestinians in Lebanon.

Fourth. Withdrawal of our U.S. Ambassador from Israel.●

BUDGET COMMITTEE SCOREKEEPING ON AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATION BILL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 21, 1982

● Mr. ASPIN. Mr. Speaker, I am inserting in the RECORD a cost analysis of the Agriculture appropriations bill, prepared by the staff of the House Budget Committee using data supplied by the Congressional Budget Office. The analysis shows that the Agriculture Subcommittee at this point is billions of dollars under its targets—the subcommittee as a whole is $2,845 million in budget authority and $1,785 million in outlays under the subcommittee targets set by the Appropriations Committee pursuant to sec. 302(b) of the act.

However, it should be noted that the subcommittee identifies a variety of supplemental appropriations that will be necessary next spring—and these should be taken into account in assessing where the subcommittee stands. Specifically, the committee report states that the funding for WIC—the women, infants, and children feeding program—is intended to be sufficient only through May 15, 1983; that food stamps funding is sufficient only through July 15; and that child nutrition funding is sufficient only through August 15. If amounts were added for these programs to fund them for the full year at levels assumed in the budget resolution, the subcommittee would still be under target in budget authority but over target in outlays.

EARLY WARNING SUMMARY, H.R. 97-7072, AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATION, FISCAL YEAR 1983

Floor action: Tentatively scheduled for Tuesday, September 21, 1982.

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports its subdivisions back to the House in a 302(b) report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. In scoring a spending bill, the Budget Committee pays particular attention to programs over which a committee has funding discretion. For example, the Appropriations Committee is bound by existing law and generally cannot effectively reduce amounts required for the funding of mandatory programs. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the discretionary budget authority exceeds its target.

(1) Discretionary programs in bill: The bill is under the subcommittee's total. This bill would not be subject to the deferred enrollment provisions of the Budget Resolution.

(2) Mandatory programs in bill: The bill is under the subcommittee's total.

(3) Overall bill total: The bill is under the subcommittee's total.

(4) Credit targets: The bill is under the subcommittee's totals for direct loans and primary guarantee commitments.

(5) Supplemental amounts which may be required: Future anticipated funding requirements also in this Subcommittee's jurisdiction if added to this bill should not breach this subcommittee's 302(b) budget authority target, but it would breach its outlay target by $234 million.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL, HOUSE BUDGET COMMITTEE

Bill: H.R. 7072, agriculture, rural development and related agencies appropriation, fiscal year 1983

STAFF ANALYSIS

Committee: Appropriations.

Subcommittee: Agriculture, Rural Development and Related Agencies.

Chairman: Mr. WHITTEN (Mississippi).

Ranking minority member: Mrs. SMITH (Nebraska).

Scheduled: Presently not scheduled.

I. Description of bill

This bill provides funds for the Department of Agriculture and related agencies for fiscal year 1983.

II. Comparison with target for discretionary appropriations action

Pursuant to the Budget Act and HBC scorekeeping, the subcommittee has two targets: one for discretionary programs and one for mandatory programs. Since the Appropriations Committee is bound by existing entitlement law, it generally cannot effectively change the amounts required for the funding of mandatory programs. The Subcommittee's target for discretionary programs is therefore the main focus for this Early Warning report. That target is specified in the report of the Appropriations Committee made pursuant to Sec. 302(b) of the Budget Act, in which the Appropriations Committee subdivided to subcommittees the amounts allocated to it in the First Budget Resolution for Fiscal Year 1983.

Further, if the conference report on this appropriation bill, combined with any other fiscal year 1983 appropriations that the subcommittee may have enacted this session, causes the target for discretionary budget authority to be breached, then the bill will be subject to the "deferred enrollment" provision of Section 4 of the Fiscal Year 1983 First Budget Resolution.

The summary table below shows that the subcommittee's possible full-year total is under its discretionary budget authority target and over its discretionary outlay target. Therefore, this bill is not subject to deferred enrollment. The numbers in the summary table would change only with floor amendments, Senate action, or conference action on this bill. Possible future supplements are discussed in Section IV below.

III. Summary table

[In millions of dollars]

	Budget authority	Outlays
The amounts shown below are only for discretionary 1983 spending by this subcommittee:		
1. Discretionary amounts in bill	22,500	16,103
2. Prior action		
3. Total action to date	22,500	16,103
4. 302(b) target	24,940	17,810
5. Over(+)/under(−)	−2,440	−1,707
6. Amounts assumed but not yet considered	1,956	1,901
7. Over(+)/under(−)	−484	+194
The amounts shown below are only for mandatory programs that are funded by this subcommittee:		
8. Mandatory amounts in bill	572	570
9. Prior action	2,645	3,723
10. Total	3,217	4,293
11. 302(b) target	3,622	4,370
12. Over(+)/under(−)	−405	−77
13. Supplemental amounts needed	430	118
14. Over(+)/under(−)	+25	+41
The amounts shown below include both discretionary and mandatory amounts:		
15. Total amounts in bill	23,072	16,672
16. Prior action	2,645	3,723
17. Total	25,717	20,395
18. 302(b) total target	28,562	22,180
19. Over(+)/under(−)	−2,845	−1,785
20. Supplemental amounts	2,386	2,019
21. Over(+)/under(−)	−459	+234

Note.—Detail may not add due to rounding.

IV. Explanation of over/under

Since the assumptions behind a committee's 302(b) subdivision are not required to be provided to the House, the House Budget Committee is unable to give a definitive answer to the question of where a particular bill is over or under a committee's 302(b) subdivision. The Budget Committee can only compare the items in the bill to the assumptions contained in the budget resolution. It is important to note that the line item assumptions in the budget resolution are not binding on a committee. A list of the major areas where there bill differs from the budget resolution follows:

Food stamps funding is $1,587 million in budget authority and $1,629 million in outlays below the resolution due to the bill assuming funding only through July 15, 1983.

Child nutrition funding is $428 million in budget authority and $115 million in outlays below the resolution due to the bill assuming funding only through August 15, 1983.

WIC funding is $312 million in budget authority and $216 milion in outlays below the resolution due to the bill assuming funding only through May 15, 1983.

CCC short term export credit is required to be funded by the administration at not less than $500 million in direct loans resulting in the bill being zero in budget authority and $413 million in outlays above the resolution.

V. Credit

The First Budget Resolution contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit activities, and subdivides those amounts among subcommittees. For comparative purposes, the table below shows the bill and the credit subdivisions.

[In millions of dollars]

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. Credit program limits in the bill	7,684	6,381	
2. Limits assumed in the budget resolution not acted upon in the bill and other amounts not subject to limit	14,091	−5,239	
3. Total in bill	21,775	1,142	
4. Credit subdivisions	23,250	1,500	
5. Over (+)/under (−)	−1,475	−358	

The Budget Committee can only compare the items in the bill to the assumptions contained in the budget resolution. It is important to note that the line item assumptions in the budget resolution are not binding on a committee.

The 302(b) allocation is $1,167 million in direct loans above the resolution and $92 million in primary loan guarnatees below the resolution. A list of the major areas where this bill differs form the budget resolution follows:

Direct Loans

The bill does not provide for moderate income housing loans; whereas, the resolution provided for $430 million.

The bill provides $1,460 million for farm operating, irrigation and drainage, grazing, and recreation loans, which is $120 million above the resolution.

Primary Guaranteed Loans

The bill provides REA with $5,950 million which is $450 million below the resolution.

VIII. Definitions of terms in summary table, section III

Line 1. Discretionary amounts in bill: discretionary fiscal year 1983 appropriations in H.R. 7072.

Line 2. Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills this session.

Line 3. Total action to date: line 1 plus line 2.

Line 4. 302(b) target: the target for discretionary appropriations set by the Appropriations Committee pursuant to the Budget Act.

Line 5. Over (+)/Under (−): line 3 minus line 4.

Line 6. Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which funding has been deferred by the Appropriations Committee, probably until next Spring's supplemental appropriations bill.

Line 7. Over (+)/Under (−): line 5 plus line 6.

Line 8. Mandatory amount in bill: funding for mandatory programs (entitlements).

Line 9. Prior action: outlays from budget authority enacted for years prior to fiscal year 1983, plus permanents and advance appropriations assigned to the Appropriations Committee.

Line 10. Total: line 8 plus line 9.

Line 11. 302(b) target: the target for mandatory amounts set by the Appropriations Committee. The target set by the Appropriations Committee includes the effect of assumed authorizing legislation that would change the level of mandatory programs.

Line 12. Over (+)/Under (−): line 10 minus line 11.

Line 13. Supplemental amounts needed: amounts for any new entitlement legislation assumed in the budget resolution and to fund mandatory items in the bill at the level estimated in the budget resolution.

Line 14. Over (+)/Under (−): line 12 plus line 13.

Lines 15 through 21. These lines equal the sums of lines 1 and 8, lines 2 and 9, etc., respectively.●

SENATE—*Wednesday, September 22, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Loving Father in Heaven, we thank Thee that Thou hast given a remedy for anxiety * * * "Have no anxiety about anything, but in everything by prayer and supplication with thanksgiving let your requests be made known unto God. And the peace of God, which passes all understanding, will keep your hearts and your minds in Christ Jesus." (Philippians 4: 6–7)

Patient Father, no one who does not work here can possibly comprehend the unforgiving pressure under which the Senate operates: pressures from constituents, from lobbyists, from diverse self-interest groups; corrupting, seductive, destructive pressures of power, position, and prestige; the pressure of having to live in two cities with the travel demands. The awesome pressure of decisions involving nation and world and affecting millions. The relentless pressure of responsibility that will not go away and from which there is never an escape; financial pressure, family pressure, peer pressure.

Teach Thy servants, dear Lord, that they have recourse to Thy love and grace and peace. Cause them to turn to Thee in times of frustration, finding in Thee rest and refreshing. In the name of Him Who said, "Come unto Me all ye who labor and are heavy laden, and I will give you rest." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE PACE OF LEGISLATIVE ACTIVITY

Mr. BAKER. Mr. President, I believe the phrase goes something like—"Yesterday all my troubles seemed so far away, now it looks as though they're here to stay."

Just 1 month ago, I was announcing to my colleagues the possibility of the Senate recessing no later than October 2 and returning in January. At home, my wife and I were making plans for after Thanksgiving. For once, my schedule did not read like a horror story.

But I should have known better than to plan ahead. Things changed for the worse faster than they had gone for the better. First, it became obvious that the Senate's pace of legislative activity was moving at a rate similar to that of the Shirley Highway during rush hour. Then, it became clear to the Speaker of the House and myself, after, I might add, it became clear to the President, that Congress would have to return after the November election to complete the appropriations process.

Now, Mr. President, I know what you are thinking. You are thinking, by gosh how could things get any worse, what more could go wrong? Well, it was not easy, but they did. For now, it appears that not only will we have to be in session for a good portion of the rest of the year, but we will not even be able to escape into the throes of a NFL game. We might as well stay in session on Sundays; we might as well throw out the TV's in the cloakrooms; we might as well give up trying to understand Howard Cosell; and we might as well just give up on the notion of being happy.

But, there may be some hope in sight.

SENATE AGENDA

PROSPECTIVE ELECTION RECESS—OCTOBER 1, 1982

Mr. BAKER. Mr. President, I am pleased to report this morning that in conference with the minority leader yesterday, it appears that our friend, the Speaker of the House of Representatives, may not be quite so adamant concerning the October 8 recess date as I had thought earlier and announced earlier. I am sure every Member of the Senate joins with me in expressing our appreciation to the minority leader, to the assistant minority leader, and the chairman of the Democratic conference (Mr. INOUYE), who I believe discussed this matter with the Speaker. I freely acknowledge they had a lot more success than I did.

In any event, I fully share the thought that October 1 is a good time for us to try to recess for the October period preceding the election. I would like to do that.

THE DEBT LIMIT BILL

Let me outline the items that I feel we must do in order to accomplish that recess time.

First of all, the pending business, the unfinished business, the debt limit, must be disposed of. There is a cloture vote today. A motion has been filed for a cloture vote tomorrow. There are a number of other amendments that I believe Senators may offer to this bill. I have represented on the floor a number of times that Senators be given an opportunity to offer other amendments, including nongermane amendments, to the debt limit bill.

Members should be reminded that I have also indicated that, we must pass this bill and we must do so in a timely way. What that means is that we have to do it this week, in my judgment. That may entail, if we cannot finish the bill otherwise, a motion to recommit the bill with instructions to report back forthwith a clean bill as passed by the House of Representatives so we can transmit that measure to the White House for the President's consideration and signature.

Mr. President, no one should be taken by surprise. I have said a number of times that at some point, if necessary, I would be willing to file a motion to recommit with instructions. I hope such a motion would pass and that the resolution would pass. But I once again state that we have to do the country's work and that is one of the urgent items that must be dealt with if we are to go out of here the 1st of October.

Mr. President, it is possible, and I have not yet discussed this with the Senator from North Carolina or others, that the time between noon today and sometime tomorrow, if cloture is not invoked today, might be a good time to take up those other amendments. It would, of course, require unanimous consent to do so. That is, unanimous consent to temporarily lay aside the pending amendment, which is the Baucus amendment, and permit other Senators to offer amendments. I will consult with, first, the minority leader and other Senators to see if there is a willingness to do that.

Once again, what I am suggesting is the possibility that if cloture is not invoked today against further debate on

the Helms amendment, we might create an opportunity, between, say, about 12:30 p.m. today, whenever the cloture vote is over, and sometime tomorrow, perhaps around noon tomorrow, for Members to offer other amendments to the debt limit bill.

Let me hasten to say that I am not encouraging other amendment. Indeed, I hope that Members will forbear to offer other amendments because we need to pass this debt limit bill. That request is not now made, Mr. President, but I wish to put Senators on notice of that possibility.

I have consulted with the minority leader, who has not agreed to that request, but I would like to consult with him further to see if we can expedite such a procedure or a similar procedure.

HUD, MILITARY CONSTRUCTION, TRANSPORTATION, AND AGRICULTURE APPROPRIATIONS

Mr. President, in addition to the debt limit, it is clear that we have to do as much of the appropriations process as possible. We have now from the other body the HUD and military construction appropriations bills.

I have asked the chairman of the Appropriations Committee to give me an estimate of how long these measures should take and to begin shopping for unanimous-consent agreements to limit the time for debate on those measures. I urge Senators to consider that if we are going to get out on October 1 we will have to have very short time limitations on the available appropriations bill. I am hopeful those two might not take very long.

In addition to those appropriations bills, Mr. President, we expect to receive from the House of Representatives the transportation and agriculture appropriations bills before this week is out. If that indeed materializes, then we will begin to shop for unanimous-consent agreements on them as well. I will consult with both the minority leader and the chairman of the Appropriations Committee in that respect.

There are a number of other appropriations bills that have been reported by the Senate Appropriations Committee. We have not yet come to terms on how we would deal with them. That is, bills which have not yet been received from the House. I will consult with the chairman, the ranking member and the minority leader on them as well.

At the moment, it seems to me that we need to be prepared to do the HUD and military construction appropriations bills as well as transportation and agriculture. There may be others, but those four, it seems, are most likely to mature for our consideration before we can go out on October 1.

CONTINUING RESOLUTION

It is apparent, Mr. President, that in addition to those four bills we will have to make arrangements for the operation of the Government from October 1 until after we return, which I now perceive to be November 29. Some Members are urging an earlier return than that. We have not yet fixed a date for return. But in any event, if we pass only four appropriations bills, it is obvious to every Senator that we will have to pass a continuing resolution for the balance of the process for those bills on which we have not completed action.

So the CR, the continuing resolution, must be added to that list of absolute must items.

By passing the continuing resolution, I do not mean just passing the measure in the Senate; I mean going through the entire legislative process and obtaining the signature of approval of the President of the United States or, in the alternative, passing such a measure over his objections.

So, Mr. President, to recap, we need to do the available appropriations bills—that appear to be four at the moment: HUD, military construction, transportation, and agriculture; do a continuing resolution for the balance; and do the debt limit.

I consulted with the distinguished President pro tempore (Mr. THURMOND) by telephone earlier today and I apologize to him for calling him out of an important meeting. Once again, I want to remark, in all sincerity, if I could be assured of the cooperation and the professionalism from every other Senator that the Senator from South Carolina, the President pro tempore, shows on every important issue and every major request that I make to him, it would be a delight to deal with the Senate in trying to establish schedules. The President pro tempore, the distinguished present occupant of the chair, has never failed to be understanding of the urgencies and pressures of scheduling and subordinate, in many cases, his own preference so the greater good of the Senate can be accomplished.

S. 995—CLAYTON ACT AMENDMENTS

In our conversation this morning, I put to him a question that I told him I knew he would not like. That is, in view of the possibility that we might now go out on October 1, would he relieve me of the promise I had made to him privately and on the floor publicly that after we finished the debt limit, we would take up S. 995, the Clayton Act amendments, in exchange for my commitment to take it up as soon as we return in November in the lame duck session. In the most characteristic way, the President pro tem did agree to that. I express now my deep appreciation to him and my apology to those who have a great interest in this measure, as I have a great interest in this measure. The pressure of doing the appropriations bills and the debt limit, to my mind, ranks ahead of the desirability of doing S. 995 until we return. S. 995, I believe, can wait without serious jeopardy. The appropriations bills cannot. I express my deep appreciation, and I think I am sure I speak for every Member of the Senate when I express their deep appreciation to the President pro tem for his unfailing cooperation that he continues to exhibit in this case.

AGENDA SUMMARY

Once again, Mr. President, let me try to summarize all this rambling presentation in one statement: It is my hope we can go out on October 1 instead of October 8, and I believe we have a chance to do that. In order to do so, we must finish the debt limit, the available appropriations bills, and a continuing resolution. There may be other bills we can do before we go out, on a catch-as-catch-can basis, if we can arrange it. Otherwise, they will have to wait until the lame duck session, which appears to be inevitable, when we shall also have to consider S. 995, and other matters which Senators have urged me to take up on the schedule before the end of the session.

Mr. President, I expect that, later today, there may be a unanimous-consent request to take up other amendments while we await a fourth cloture vote, if cloture is not invoked today against the Helms amendment, and the time between noon today approximately and noon tomorrow approximately will be available for other Members to offer amendments to the debt limit bill. Members should be aware that it appears likely that a motion to recommit with instructions to take all amendments of the bill and send a clean bill to the President is in prospect.

Mr. President, I hope my thoughts this morning are profitable so Members may take account of it from their own scheduling standpoint in terms of their own priority effort. I shall reiterate only two points: We are not now establishing October 1 as the date to go out. I am saying that it appears now that the Speaker is agreeable to that and that if we can do the things I have spoken of, it will occur. I hope it will.

THE CRIME PACKAGE

There is one item that has been brought to my attention that I omitted. We have a time agreement on the crime package. I add that to the list of items that should be done before we go out. I also hope that the time agreement on that bill, which runs to more than a full printed page, could be abbreviated, because it will take us hours and hours to dispose of this matter if we do all of the items listed.

All I can do at this point is to say, it is my intention to take up and dispose of the crime package before we go out October 1, if, in fact, we can make that date. I hope we can, I think we can.

I also hope Members will reconsider their request for time on the time

agreement which was entered into on July 1 and which is printed on pages 2 and 3 of today's Calendar of Business.

Now, Mr. President, I hope I have not overwhelmed Members with information. I felt an obligation to report at this point and I am prepared to yield to the minority leader or to yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. ABDNOR). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader has stated very accurately the situation insofar as it pertains to the efforts on the part of the minority, which includes myself and Mr. CRANSTON, and Mr. INOUYE, and our visit with the Speaker and the majority leader of the House and the majority whip there, the chairman of the Committee on Appropriations, and others in the leadership on the House side. The majority leader has also accurately stated the necessities insofar as the legislation that must be passed. I am not saying I shall support it, but it must be passed. I may or may not support it, but there must be a debt limit extension acted upon. There must be a continuing resolution acted upon, and we need to act on as many appropriations bills as possible before October 1.

I hope that the President will not veto any of those bills, and I shall be discussing this with the majority leader in the hope that, if we go out to come back on November 29, we get some assurances from the White House that there will be no vetoes of those appropriations bills or continuing resolutions, or that we go out on a pro forma basis so that we can call ourselves back if there is a Presidential veto and, if the House should override the veto, there is a necessity for the Senate to act.

The distinguished majority leader and I also discussed yesterday the crime bill. It is our desire on this side of the aisle, as I expressed to the distinguished majority leader, that we proceed with the consideration of the crime bill, on which there is a time limitation. I am glad that he has included that in his remarks this morning as being a part of his schedule insofar as he can personally see to it that that schedule is followed. I share with him the hope that the time on the agreement which, as he has indicated, covers more than a page in the Calendar of Business, can be abbreviated. Perhaps it can be. As most often is the case, the time required is not quite as long as that which is potentially available under a very complex and lengthy time agreement.

I share with him the interest in having some action on S. 995, at least during the lameduck session.

Mr. President, I shall be working with the majority leader in an effort to arrange time agreements, if at all possible, on the appropriations bills and on the other matters that have to be taken up and disposed of before the Senate goes out for the election.

I share with him in closing the warm affections that have been expressed for the distinguished President pro tempore, Mr. THURMOND. I have always found Mr. THURMOND to be a courageous fighter for a cause in which he believes. He is also a gentleman who treats his colleagues with courtesy and understanding, and I personally feel grateful to him for the cooperation that he has extended to me not only during the time that I been minority leader but also during the time that I was majority leader.

PENDING AMENDMENTS

As to the cloture motion, Mr. President, I make a parliamentary inquiry, that being: How many amendments are there at the desk which would be called up in the event cloture is invoked?

The PRESIDING OFFICER. One thousand four hundred fifteen.

Mr. ROBERT C. BYRD. One thousand four hundred fifteen. Has the Chair been able to ascertain how many of the 1,415 amendments at the desk would be automatically ruled out of order on their face by the Chair?

The PRESIDING OFFICER. Seventeen of the amendments would be ruled out of order automatically as nongermane and six would be ruled out of order because they are dilatory.

Mr. ROBERT C. BYRD. Seventeen and six. Twenty-three. Mr. President, I have voted against cloture because I have had the experience of dealing with postcloture filibusters which make the precloture filibuster look like nursery school. One has to keep in mind that the author of an amendment does not necessarily have to call up his amendment; any Senator can call up any other Senator's amendment, so I have voted against cloture for that reason, to avoid a postcloture filibuster, which is the real filibuster, as we saw in 1977 when the Natural Gas Deregulation Act was before the Senate, when we saw one or two Senators tie up the Senate for 13 days and 1 night and we saw the majority leader, ROBERT C. BYRD, having to take very strong actions in conjunction with the support of the then-minority leader, Mr. BAKER, and the Chair, the Vice President, in order to break that filibuster.

So having had that experience and the lashes that were laid on my back at that time still smarting from time to time, I have not voted for cloture in this event. If cloture were invoked, I would vote for the Helms amendment, so I make that statement for the record to be clear. I voted against cloture on the abortion amendment recently for the same reason, to avoid a postcloture filibuster, which could keep us here until after Christmas. I voted to table that amendment; in that case I was against the amendment. In this case I am for the amendment, but in both cases I am voting against cloture because I want to avoid a postcloture filibuster.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. But any other Senator, of course, has his own reasons, and I respect them. But those are my reasons, and I want to make them clear in the record.

Yes; I yield.

Mr. BAKER. Mr. President, I am aware of the minority leader's concerns about both the filibuster and the substance. Indeed, he and I have discussed that matter before. I am also aware of the enormous political implications involved in votes of this sort. But I want to say for the record that I admire the minority leader and respect him for having done what was best for the Senate. Even though it might lend itself to a different interpretation, I can vouch for the fact that what he has said here on the floor publicly is what he has said to me privately.

The only other thing I would add to it is, I think the Senate has to address itself to the fundamental question of the postcloture filibuster. We are not going to do that today. I am not going to do it independently, but if I am majority leader in January I will consult with the minority leader on how we might adjust that rule to provide a realistic way for the Senate to resolve postcloture filibusters. If I am minority leader, I hope that the majority leader, Mr. ROBERT C. BYRD, would do the same. But at this time I wish to say publicly that I believe the time has come when we must address that issue because I think now we have made rule XXII a nullity.

Mr. ROBERT C. BYRD. Mr. President, I am glad to hear the majority leader make that statement. He would certainly have my support if he is majority leader, and if, as it is not inconceivable, I may be majority leader again, I would have his support in working together to deal with this postcloture filibuster. It is an abomination to the Senate and to the legislative process.

CLOTURE VOTES

Mr. President, let me tell you this. Senator's votes against cloture are sometimes used against them by their opposition. Opponents either do not understand the Rules of the Senate or they deliberately and maliciously attempt to mislead the people in a State as to the meaning of that or some other procedural vote. If I may just take a moment, I will give an example.

When Jimmy Carter was in his campaign, he promised to pardon Vietnam draft evaders. After he was elected and

prior to his inauguration, I talked with Mr. Carter and urged him not to carry out his campaign promise to pardon Vietnam draft evaders.

The Senate convened in early January, and the late Senator Jim Allen introduced a sense-of-the-Senate resolution which expressed opposition to a Presidential pardon of Vietnam draft evaders.

The sense-of-the-Senate resolution, of course, as all Senators know, has no legal or binding effect on anything or anybody.

A filibuster developed on that sense-of-the-Senate resolution. Mr. Carter was inaugurated on January 20, and on January 21 he carried out his campaign promise to pardon Vietnam draft evaders. On January 24 there was a vote to invoke cloture on that filibuster. I voted against that motion to invoke cloture because I knew that if there were ever a technician in the Senate who knew, who had perfected, and who had originated the postcloture filibuster, it was the late Senator Jim Allen, for whom I had a tremendous amount of respect. So I voted against invoking cloture. The next day I moved to table the resolution, saying at the time that I was 100 percent against the Presidential pardon and had so stated to the President but that the matter was moot because the President had taken his actions, and even if he had not taken his actions there was not a thing under God's great panoply of Heaven that the Senate could do about the constitutional power of pardon that flows only to the President of the United States.

I did not like it when President Ford pardoned Mr. Nixon, but there was not a thing I could do about it. There was not a thing the Senate could do about it. There was not a thing the Senate and the House could do about it. That is a constitutional power that flows only to the President of the United States.

I must make this point to say that one's votes against the invoking of cloture will be intentionally used against him in many instances in an election, and they are being used against me.

However, I am voting against cloture, and I am stating for the record why. It was on that occasion that I was concerned about a postcloture filibuster. We had a natural gas emergency facing this country, which threatened to close down industries and put West Virginians out of work. We had to confirm the nomination of Mr. Marshall, for Secretary of Labor. We had business to do, so I did what I thought I had to do as majority leader. The sense-of-the-Senate resolution was a futile gesture under the circumstances I have described.

We had six procedural votes. We had a motion to table the motion to proceed to take up the resolution and that failed. Then we had another motion to table the motion to proceed, by another Senator, and that failed. We had a motion to table a motion to send the measure to the Judiciary Committee. I supported referral to the Judiciary Committee for the reason that the resolution was futile under the circumstances.

A vote also occurred on the Allen motion to bring up the resolution, and I voted against the motion for the reasons I have stated.

On January 25, I successfully moved to table the Allen resolution so that the Senate could get on with other pressing business.

I will vote against cloture today. I voted against cloture yesterday. Votes for or against cloture and other procedural motions must always be viewed in the light of the accompanying circumstances at a given time.

I find no quarrel with any Senators who vote for cloture or who support or oppose the underlying amendment which is being clotured. But I simply state for the record that we often will have our votes misunderstood, misconstrued, misinterpreted, and, in many instances, deliberately falsified, as my vote on that occasion was, the falsification being, in the campaign back in West Virginia, that I "voted for" the Presidential pardon of Vietnam draft evaders.

The majority leader is wearing a heavy crown. He has responsibilities, and sometimes he has to take actions to get this process moving and keep it moving. I sympathize with him.

I have tried to show the kind of cooperation with him that I feel the minority leader should show. It is not my business always to cooperate. It is not my business always to support him. It is my function at times to oppose him. But, barring those situations, I feel it my duty to work with the majority leader, to cooperate with him. He carries a very heavy load, a very heavy burden.

I have a great deal of respect for the majority leader. He has been most considerate toward Members on this side in every way he can. He also has to consider the Members on his own side, and I am sure at times he will catch the dickens—for want of a better word—from his own side by accommodating the Members on this side.

So I will say for the record that I appreciate the way he has laid out the program, the way he is attempting to close down the Senate by the first, and that was what he and I assured the Senate several days ago we hoped to get done.

So I hope my visit to the Speaker yesterday was helpful and that we will be able to accomplish this. And I hope, indeed, that when we come back next year, the distinguished Senator from Tennessee will be the minority leader and that he will cooperate with me in working on rule XXII. [Laughter.]

Mr. BAKER. Mr. President, I say to my friend the minority leader, who has been unfailingly cooperative and who has been absolutely responsible in seeing that the Senate functions as a responsible constitutional body, that he was going pretty well until he got to that last remark. [Laughter.]

Mr. President, I am keenly aware of the frequent difference between a vote, the meaning of a vote on cloture versus a vote on the merits of the issue. That is so with every Senator, I suspect. It certainly was so with me before I became a part of the leadership, but it is particularly so since I have been privileged to serve first as minority leader and now as majority leader. Both the minority leader and majority leader have an historic, uninterrupted record from the beginning days of the Republic of assuming a special responsibility, and that is the responsibility of seeing that the Senate does not bog down and that it does the work of the country.

So, when one assumes that position as majority leader or minority leader or other positions in the leadership, there is a special danger that votes cast in order to move the Senate along and for the greater benefit of the Senate and of the country will be misconstrued. Procedural votes particularly lend themselves to that.

I am sympathetic to the statements made by the minority leader. I know how he feels. I recall that incident, and as I said earlier I know of the disparity that exists between his position on occasion and the procedural necessities of the leadership.

I offer this gratuitously to reinforce what he has said about that situation and to let him know that I too feel the lash and sting of criticism sometimes when I cast votes that are necessary in order to discharge my responsibility as majority leader.

Mr. NUNN. Mr. President, will the majority leader yield for a question?

Mr. BAKER. I yield.

THE CRIME PACKAGE—S. 2572

Mr. NUNN. I arrived in the Chamber after an announcement was made about the crime package, S. 2572, the so-called Thurmond-Biden crime package, which many of us have been talking about for a long time. Is my understanding correct that the majority leader has said that will be an item we will deal with before we recess?

Mr. BAKER. Yes, the Senator is correct. I also said that we have a page and a half of time agreements on it, and it will be virtually impossible to take all that time and finish it. So I hope that Senators who are favored with special orders on that measure will reconsider.

Mr. NUNN. There was an intention by the Senator from Florida and the Senator from Georgia to bring that up as an amendment to the debt ceiling

bill, since everything else was being brought up as an amendment to that bill. But, as I understand it, the majority leader said that will be brought up as a separate bill.

Mr. BAKER. As a separate, freestanding bill.

Mr. NUNN. The time agreement entered into before the August recess will still be applicable to that bill when it is the pending business?

Mr. BAKER. Yes; it was entered into in July. It is, of course, still applicable. But, as I said earlier, while I have not totaled the amount of time, it is a monumental order, and I hope it will be reduced so that we can deal with it in a much shorter time.

Mr. NUNN. Will the majority leader be opposed to having that brought up as an amendment to the debt ceiling bill?

Mr. BAKER. I guess I would prefer that it not be done, since we are going to schedule it separately. I do not object to it being done. But the Senator from Georgia should know, as I said before, that if we cannot pass this debt limit any other way, I plan, at some point, to make a motion to recommit, with instructions to report back forthwith, which would take all amendments off the bill, including the crime package, if it were adopted.

So it seems to me that the better opportunity might be to do it as a freestanding piece of legislation, instead of as an amendment to the debt limit bill.

Mr. NUNN. My frustration at this stage—and I am sure the majority leader has his frustrations—is that we have spent approximately 2 weeks on items that are very important to a large number of people. Yet, I think everyone knows, without any doubt, that none of these items has a chance of becoming law this year, no matter what we do in the Senate. The crime package legislation has the almost unanimous approval of the Senate Democratic Caucus, since back in the spring. I believe it has almost unanimous approval of the Republican Caucus, and it has been endorsed by the President of the United States. All the polls in the country show this to be one of the major issues of concern to the American people.

The Senator from South Carolina (Mr. THURMOND) has taken a real lead in this regard, and the Senator from Delaware has taken a real lead in this regard. We have a unanimous-consent request. Yet, we are going to be dealing with it so late that any opportunity for the House to pass it is considerably diminished.

That creates frustration with the legislative process in the scheduling, because we are not dealing with the crime problem when we have a reasonable opportunity to pass the bill. We are now in a debate on problems whose importance I acknowledge, but I think everyone will acknowledge that there is no possibility of their becoming law this year, no matter what the Senate does.

Mr. BAKER. Mr. President, I understand that, I say to the distinguished Senator from Georgia, and I am sympathetic to it. As he acknowledged, he understands my problems to a degree as well and for 1½ years I promised at some point during this session we were going to have a debate on the social issues, that is, on abortion and prayer, and perhaps others, and through a series of developments over a period of months in both years, 1981 and 1982, the principals involved chose this time for their debate and chose this vehicle, that is the debt limit, to carry it.

I am redeeming a pledge I made in a most solemn form to Senators in exchange for them relenting in their efforts to add abortion and prayer and other amendments to every other thing that came along, and I think it worked well. I think it materially expedited the work of the Senate.

I feel a heavy obligation to redeem the commitment I made to do that. We have done it. At this point we are coming down the homestretch. If cloture is invoked today, we will pursue it until it is finished. If it is not, at some point this week we have to pass the debt limit. Therefore, I will take measures to see that it is completed one way or the other to the extent that is possible.

I am perfectly happy to represent to the Senator from Georgia who has done an extraordinary job in keeping the Senate sensitive and aware of this issue, as I have previously made that representation to the Senator from South Carolina, that we will take up the crime package as a freestanding bill before we go out for the October break.

Mr. NUNN. I am grateful to the majority leader for his statement on that, and I also understand completely his position. But I do believe the American people in looking at the overall legislative process must ask the question at some point when we have a crime package that there is tremendous agreement on from the White House, the Democratic side, the Republican side. Why is it we cannot get it passed in time to become law? I think that is a legitimate question that the American people will pose to all of us in the Senate and in the House of Representatives.

I thank the majority leader for yielding.

Mr. THURMOND. Mr. President, will the majority leader yield?

Mr. BAKER. I am afraid I am out of time.

Mr. President, I ask unanimous consent that the time we are now utilizing as in leader time not be charged against the special orders previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able majority leader and the able minority leader both for their kind remarks about my work in the Senate.

I realize the tremendous responsibility that is upon these two leaders and especially the majority leader in scheduling things, and when he said that he wanted to adjourn by October 1, I realized it would be impossible to properly consider S. 995, and I was very pleased to cooperate with him.

I am always glad to help him whenever I can because he does have an outstanding, tremendous responsibility to run this body.

I wish to say that I do appreciate his willingness to take up this crime package before we adjourn, and it is my opinion we can finish that in a day and a half or maybe a day. Some of the amendments will be accepted and others the staff has gotten together and I think we can shorten the time, if there is any way we can get that up as quickly as possible so it can be considered by the House of Representatives. I was told by the ranking member of the Judiciary Committee, the Senator from Delaware (Mr. BIDEN) that if we got it to the House of Representatives in a reasonable time they would act on it this year. He had talked to some of the people over there, and we had taken out the really controversial issues, such as insanity, the death penalty, the exclusion rule, habeas corpus, matters of that kind. But this crime package is important.

I am just wondering if the two leaders, either one of them, have any further suggestions on anything we could do to help to get this out as quickly as possible and to the House of Representatives.

Mr. BAKER. Mr. President, my suggestion would be that we try to abbreviate the time for debate on this issue and urge Senators not to offer amendments. I think that will expedite the passage of the bill and maybe improve the prospect for its consideration in the House of Representatives.

I will talk to Congressman MICHEL, the minority leader, and I will urge him to consider it before October 1, or in any event during the lameduck session.

We still have time to pass this bill. Clearly, we have time since we are coming back after the election anyway.

So I will pledge to the President pro tempore that I will do everything in my power to urge the leadership of the House of Representatives to take this matter up either before the 1st of October or when we return after the election.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from South Carolina also addressed part of his question to me I believe. I wish to respond.

I do so by saying that I will do what I can in conjunction with Mr. CHILES' efforts, Mr. NUNN's efforts, and others on this side to abbreviate the agreement as much as we can, if we can, and in addition, I will call on the Speaker and others in the leadership, the majority on that side, and see if they cannot assist us in getting this legislation acted upon in the House of Representatives promptly as well as its passage in the Senate.

I will work with the majority leader in that respect.

Mr. BAKER. I thank the Senator.

Mr. THURMOND. I wish to thank the able minority leader for that position.

Mr. President, with regard to S. 995, I do wish to say that this bill involves hundreds of millions of dollars. It is a very important bill, and I appreciate the statement by the majority leader that it would be taken up and we would have time to consider it carefully because that is the bill that really should pass also. If it does not pass this year, I am going to press again next year. I hope we can get it passed this year.

I wish to thank the majority leader.

Mr. BAKER. I thank the President pro tempore.

ORDER OF PROCEDURE

Mr. NUNN. Mr. President, is there a special order in the name of the Senator from Georgia?

The PRESIDING OFFICER. The Senator is correct.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

Mr. NUNN. Mr. President, I thank the Chair.

THE CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, as I rise today to address my colleagues about the critical need for habeas corpus reform, I note that the season of fall is about to appear in its many-colored splendor. Beginning last spring and continuing throughout the summer, Senator CHILES and I have daily recounted the horrors of the present habeas corpus system. That system continues to inundate our courts with needless and time consuming petitions, making a mockery of what was once considered the "great writ of liberty" at common law.

Now in the waning days of this session of Congress, I remind you again of the need for reform in the habeas corpus petition. It is imperative that we act promptly on the crime fighting bills now on the Senate Calendar.

I am delighted the majority leader is going to call up S. 2572. I also hope this session or early next session or in the special session we are going to have after the elections, we will have a chance to deal with ending the rampant misuse of the habeus corpus petition by career criminals.

The abuses that Senator CHILES and I have discussed for the last 4 months are exemplified in the case of Joseph C. Frady, whose guilt was recently reconfirmed by the U.S. Supreme Court. On March 13, 1963, Frady and an accomplice brutally murdered Thomas Bennett in the front room of his Washington, D.C. home. As the Supreme Court noted, the evidence from his 1963 trial showed that the victim's head had been caved in by several blows from a blunt instrument. It was developed during the trial that Frady had battered the victim to death. In performing his bloody deed, Frady used both a broken piece of a table top and the metal heel plates of his leather boots.

Hearing the victim's screams for help during the struggle, which lasted for at least 10 minutes, a neighbor called the police. Covered with blood, Frady and his codefendant were captured as they left the scene of the killing. Subsequent investigation revealed that Frady had driven past the victim's house twice earlier on the day of the murder. When arrested, Frady was heard to exclaim "they've got us."

At trial, the defense was a complete denial of responsibility, suggesting through his attorney that another man had done the killing. Consistent with this theory. Frady did not raise any justification, excuse or mitigation. Moreover, Frady did not object to any of the lengthy and detailed instructions of law given by the trial judge. A jury convicted Frady and his accomplice of first-degree murder and robbery, and sentenced them to death by electrocution.

On direct appeal, the Court of Appeals for the District of Columbia Circuit upheld Frady's first-degree murder conviction by a vote of 8 to 1. They did, however, set aside his death sentence. Frady was then resentenced to a life term. Almost immediately, Frady began a long series of collateral attacks on his sentence. He filed four motions to vacate or reduce his sentence in 1965, and one each in 1974, 1975, 1976, and 1978.

Finally in 1979, 16 years after his bloody deed, Frady filed another habeas action complaining he was convicted by a jury erroneously instructed on the meaning of "malice." At his trial, however, Frady did not object to the instructions, nor did he raise the issue on direct appeal or in any of his prior eight petitions. The district court properly denied his attempt to pervert justice. Yet, the court of appeals reversed and overturned the 1963 conviction even though, as Justice O'Conner of the Supreme Court noted, the evidence that Frady and his accomplice beat his victim to death was "overwhelming."

Fortunately, the Supreme Court on April 5, 1982, reversed the erroneous court of appeals decision and reconfirmed Frady's guilt. I ask you, Mr. President, has justice been done? Can we say that justice is served when calculating criminals can tie up the court system with needless and repetitive attempts to subvert their guilty verdicts by the endless filing of habeas corpus petitions?

Indeed, the evidence in this case was overwhelming. As Justice O'Conner noted in her majority opinion:

> • • • the evidence of malice was strong enough that the 10 judges closest to the case—the trial judge and the nine judges who 17 years ago decided Frady's appeal en banc—were at the time unanimous in finding the record at least sufficient to sustain a conviction for second-degree murder—a killing with malice.

Nevertheless, Mr. President, Frady filed nine motions to overturn his 1963 verdict. These nine separate attempts had to be reviewed by an overworked judiciary. These nine separate attempts had to be reviewed and answered by the limited resources of the Government prosecutors.

Mr. President, all of this had happened because of the problems existing in the present habeas corpus law. All of this will happen again until we reform the current status of habeas corpus. I am certain we will hear from Mr. Frady and the people of his ilk again. To paraphrase the old adage, if they do not succeed the first or even the ninth time with their habeas, they will just file, file, file again.

Mr. President, the time has come for this Congress to decide that criminal cases cannot and should not be allowed to go on forever. I again call for the prompt consideration and adoption of the habeas corpus provisions which Senator CHILES and I have offered in S. 2543, the Crime Control Act of 1982.

Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Georgia, and I shall be very brief.

REBUILDING THE ROAD TO OPPORTUNITY

Mr. HOLLINGS. Mr. President, everyone knows that our country faces serious economic problems. But what we need to understand is just how fun-

damental these problems are. Even if we somehow managed to achieve a balanced budget and bring interest rates down to more viable levels, the country's future would still be far from guaranteed. Right to the point, we are not competing at the level necessary to sustain; nor are we producing enough real wealth to see America through. A nation built to greatness on smokestack industries like steel and automobiles today sees most of its workers producing services rather than basic goods. A nation built to greatness on sound and shrewd trading practices today see its competitive edge gone. And, saddest of all, a nation built to greatness on the combined work of labor, business, and Government sits stymied because of lack of leadership and coordination.

Some of us have been discussing these problems at length and making specific suggestions for meeting the many challenges confronting America. Over the weekend, a signal contribution was made to the national discussion of these issues by the special task force on long-term economic policy. Thanks to the leadership of Hon. GILLIS W. LONG, chairman of the House Democratic Caucus, and Hon. TIMOTHY E. WIRTH, chairman of the Long-Term Economic Task Force, and Hon. RICHARD GEPHARDT we now have the benefit of a most perceptive analysis of America's problems and some specific suggestions for meeting them and overcoming.

"Rebuilding the Road to Opportunity" focuses the Nation's attention on some of the most basic of these problems. And it posits solutions of the kind meriting the attention of us all. While the colleagues may have some different emphases to make, and perhaps might even include some areas not included in the study, I think we should express our thanks to the authors of this work for helping us focus on the real problems facing us. Here we have spent weeks addressing some of the so-called social issues, and while I would be the last to deny their importance, I think nevertheless that we do the country a disservice in not turning our attention to these fundamental problems which have just about stopped the economy dead in its tracks and threaten our very survival. Unless we get this country of ours building real wealth again—unless we become competitive in the international arena—and unless we get Government leading the effort for coordination and cooperation, instead of indulging in cheap rhetoric about getting rid of Government—then we are not going to be able to rescue our people from some of the most serious challenges which have ever confronted us.

So we are grateful to everyone who had a hand in preparing this fine study. And, in order to open up the widest possible audience for it, I ask unanimous consent that the text of the report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HOLLINGS. In closing, let me just add a quotation from the great Adlai Stevenson of Illinois. Asked once whether he was conservative or liberal, Governor Stevenson replied that was not the issue. The question, he said, is "Am I headed in the right direction?"

Mr. President, this report helps head us in the right direction, and that is not only a welcome—but a necessary—change.

Every Member may not agree with every facet. I regret, for example, that the report did not fully address how to get us onto a glide path toward Government in the black or how to satisfy our deficit problem. With that in mind I would hesitate to adopt some of the recommendations relative to, let us say, a gasoline tax, until the revenue hemorrhages can be arrested. But on balance the report, I think, is outstanding. It heads us in the right direction.

EXHIBIT 1

REBUILDING THE ROAD TO OPPORTUNITY: TURNING POINT FOR AMERICA'S ECONOMY

DEMOCRATIC CAUCUS,
U.S. HOUSE OF REPRESENTATIVES,
September 20, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: We are pleased to forward to you the report of our Special Task Force on Long-Term Economics as approved by the Democratic Caucus Committee on Party Effectiveness.

Incorporated in the paper entitled, "Rebuilding the Road to Opportunity: Turning Point for America's Economy," are long-term Democratic alternatives for the nation's economic policy. The policies of the present Administration have caused hardship, self-doubt and fear among our citizens, and have precipitated a serious national economic crisis which must be stemmed.

We feel the recommendations set forth in our paper offer constructive, imaginative and workable alternatives and will serve as a foundation for legislative initiatives which will lead to sustained economic growth and opportunity for all Americans.

When the Task Force was chartered, it was specifically instructed to look beyond the problems of today. We, therefore, concentrated on charting a path which would lead this nation, over time, out of its economic slump and into a period of steady, non-inflationary growth—not with slogans and oversimplified quick fix remedies, but with a long-term vision which will insure that this nation's economy will never again falter so badly.

In developing the paper, the two of us and Representative Richard Gephardt of Missouri met with leaders of business, industry and labor. We consulted with economic experts and solicited recommendations from governors, legislators and mayors from across the nation. The breadth of the mission, the complexity of the issues, and the diversity of comments from those to whom we turned for advice necessitated more than a dozen drafts before the Party Effectiveness Committee began reviewing the paper. During the entire process, responses were positive and enthusiastic, indicating a shared concern to answer the question we are so often asked: what do the Democrats propose?

The Committee on Party Effectiveness, made up of more than 30 House Members representing a cross section of the institution, met many times over a period of months in fashioning the final product, and we thank them for their patience, dedication and contributions.

Implementing the recommendations will take time. But we believe that a comprehensive effort must be undertaken. We cannot afford to simply look at one segment of our economy; rather, we must recognize the interdependence and diversity of our geography, regional economies, history and increasingly international economy and begin to assemble an alternative program.

In a party as broadly based as ours, arriving at policy agreements is, of course, extremely difficult. However, after lengthy discussions, agreements were reached, and the document is much more than a conventional "platform." It is a recognition of the changing nature of our economy and the need to forge a strong partnership among all sectors of the economy. It is an acknowledgement that the economic success of our nation in the future depends on the investments we make today. And it is a commitment to promote those investments for the national good.

If we, as a country, can agree on future goals, then the public policy decisions we face today can be made in a more rational manner. The difficult decisions on defense spending, entitlements and revenues should be made within a broader, long-term context, and not be dictated by the political atmospheres of day-to-day crisis.

Fundamentally, investments in our future are wise, necessary and cannot be neglected if we are to fully regain our economic strength. Some are expensive, and all must be considered within the constraints of the federal budget. We feel they are the key to sustained, long-term economic recovery and deserve the highest priority.

We look forward to comment, discussion and input from citizens across the country.

Sincerely yours,

GILLIS W. LONG,
Chairman, House Democratic Caucus.
TIMOTHY E. WIRTH,
Chairman, Long-Term Economic Task Force.

1. REBUILDING THE ROAD TO OPPORTUNITY

Turning point for America's future

Ask Americans about their hopes for the future, and they will tell you largely what their parents said a generation ago.

A solid education, a fair chance to make good, a secure job, a decent home, a growing ability to provide comfort for one's family, an untroubled retirement: these hopes, born with post-World War II prosperity, have moved Americans to work and dream boldly.

Today, for too many Americans, these hopes are fading beyond reach:

For the nearly 11 million Americans who cannot find jobs.

For the countless families who cannot afford to buy homes or cars because interest rates are too high.

For the thousands of small businessmen and small farmers who face an imminent threat of bankruptcy.

For the untold numbers of students who can no longer afford the colleges of their choice.

For the working people who are told by their government they are better off going on welfare.

Reaganomic must—and will—be repealed. No nation can survive an economic policy that had produced such damaging results.

The long term

But after that damage is undone the job of renewing Americans' hopes for their future must begin.

This paper is a Democratic analysis of the underlying problems of our economy—and a plan to address them.

The Democratic Party believes that the American dream of work, fairness, betterment, and security can be renewed and expanded. We believe all Americans can continue to expect new economic opportunities and a rising standard of living. With planned recessions removed from the list of policy options, with a program that invests in the future, we can give our children—as our parents gave us—a life richer and more just than our own.

II. GROWTH AND FAIRNESS

Cornerstones of the Democratic vision

Renewing the American dream will require a steadily expanding economy that provides all Americans with the chance to improve their economic lot.

Those two elements—growth and fairness—are the cornerstones of the Democratic party's vision of an economically secure American future.

Achievement of growth and fairness lies at the very heart of our party. Our party has sparked economic progress that has brought unprecedented prosperity and opportunity to the American people. We have seized the future, kept alive the pioneer spirit—the willingness to invest and to take risks—in America.

In order to restore that economic progress, to put us back on the course toward even greater prosperity and opportunity in the 1980s, our party must once again promote bold approaches to gain control of our economic future. The Republicans have proven once again they are not up to the task. Once more they have chosen to pursue the discredited policies of "trickle down" economics. So, it is up to our party to rekindle the entrepreneurial spirit in American, to encourage the investment and the risk taking—in private industry and in the public sector—that is essential if we are to maintain leadership in the world economy.

The policies we will outline in this paper are vital to that task. They will spur sustained growth needed to create new jobs and raise our living standard. And they will be fair, providing all Americans with the opportunity to share in the prosperity they bring.

III. A GENERATION OF FUNDAMENTAL CHANGE

In three key ways, economic conditions today are different than just a generation ago; no strategy for future growth can succeed unless it takes into account these fundamental shifts.

Change No. 1: The internationalization of our economy

A generation ago, our country faced little economic competition. We were largely self-sufficient—the undisputed economic leader of the world. American money was spent on American goods manufactured from American resources using American energy. And strong American markets absorbed these American goods.

But that has changed during the last decade. Today we must operate in an international economy in which we are no longer the single dominant power. All around the globe are new, technologically advanced, aggressive centers of economic power and resources.

In the last decade, West Germany led the world in exports of manufactured goods; Japan's share of exports of manufactured goods to the less developed countries increased in the 1970s while the U.S. share decreased.

And today, we send $80 billion a year to foreign governments for oil; our economic strength is dependent on a vulnerable oil lifeline which begins virtually on the borders of the Soviet Union and threads its way through the most volatile region on the globe.

America today is still the strongest, most productive economic power in the world. But our preeminent position is no longer assured. And with further internationalization of the economy, we will continually confront new challenges to our economic leadership.

Change No. 2: The shifting nature of our economy

A century ago the industrial revolution transformed America from an agricultural to a manufacturing economy. Today, a technological revolution is again changing the nature of the American economy.

From hand-held calculators to telephone answering machines, from electronic bank tellers to man-made bacteria that can eat oil spills, from econometric modeling to national real estate data banks, from satellite-transmitted newspapers to laser-read videodiscs, our lives are being transformed by new technologies.

A generation ago, a relatively short list of traditional industries—steel, autos, textiles, machinery, mining, construction, and agriculture—alone accounted for more than half our nation's exports, a quarter of its output and a quarter of its jobs.

In the last generation, however, nine out of every ten jobs created have been in the service and information sectors. More than two-thirds of the rise in real GNP over that period was contributed by these new economic forces.

The worldwide demand for knowledge, and the advanced high technology which conveys it, has created burgeoning new markets in industries such as computers, communications, electronic components, aerospace, pharmaceuticals, materials science, energy, bioengineering, photosynthesis, fiber optics, international finance, and data management.

The success of these new industries—and the services to support them (production facilities, advertising agencies, consulting firms, accountants, construction workers, lab technicians, and clerical help)—has already created impressive new growth and job opportunities across the nation from the San Francisco Bay area through Denver and Dallas and the Research Triangle to Boston's Route 128. In the computer field alone, the number of jobs is expected to double in the next decade; similar opportunities will abound throughout the information sector.

Change No. 3: The rapidity of change

As significant as the change itself is the rapidity with which it is occurring in today's world economy.

Less than two decades ago we enjoyed the most advanced machinery and the greatest manufacturing potential of any nation on earth. Today, by world standards, our industrial facilities are, in large part, obsolete, and cannot compete with the state-of-the-art factories of our competitors.

Today state-of-the-art manufacturing processes are constantly changing and may become technologically obsolete before they become physically obsolete. New technologies are replaced regularly by newer technologies.

Even a generation ago, change, though considerable, came at a manageable pace. Today, change in our world economy comes at such a rapid-fire pace that it is no easy task to keep abreast of it.

IV. THE CHALLENGES WE FACE

If we adapt to rapidly changing economic circumstances, if we meet the challenges they pose, we can achieve the real economic growth necessary to secure America's economic future, to employ our people, and to improve our standard of living. There are four complex challenges that we must confront in the 1980s.

Challenge No. 1: Increasing investment in our economy

Increased investment in our economy is essential for sustained economic growth in the decades ahead.

We need increased investment both to retool our basic industries and to expand growing industries in the high technology and information sectors.

We must increase investment throughout our economy: create an economic environment for investment in plant and equipment; developing new technologies, educating and training our workforce, and rebuilding the public infrastructure.

Economic environment for investment

During the 1970s, the share of GNP we invested in plant and equipment put us last among all major industrial nations, and our productivity growth in manufacturing was less than half that of Japan or West Germany.

In the 1980s, we must reverse that trend. We must re-ignite the spirit of American enterprise—the willingness to take risks to invest for future payoffs.

To create a favorable climate for investment we need, in the 1980s, to control federal spending, to revise our tax laws and amend the regulations governing financial institutions.

Investing in the development of new technologies

In the 1980s, the ability of our economy to grow, create jobs, and compete will depend, in large part, on our continuing to discover and develop new technologies. Investing in new technologies is essential both to make our basic industries competitive and to expand opportunities in growth industries.

Discovering and fostering new technologies will require a considerable national investment, in basic and applied research and in developing brainpower—the scientists, engineers, and technicians—needed to generate technological innovation.

Investing in our people

Economic growth requires investment not just in bricks and machinery, but in our workforce as well. The failure to invest in people, our human capital, would be an obstacle to economic growth as formidable as a failure to invest in new plant and equipment or a failure to seek out and develop new technologies.

In the 1980s, assuring the workforce necessary for an expanding economy will require developing, in our colleges, the brainpower which is a pre-condition for innovation; providing new workers with a quality education and the technical skills for a sophisticated economy; providing the hard to employ with the basic skills and work habits to enter the job market; and enriching the quality of the workplace.

Investing in public infrastructure

A growing economy needs the highways and bridges and railroads and waterways and tunnels to move raw materials and goods, the ports to receive and ship them, the subways and water and sewer lines to serve our citizens.

Today, America's infrastructure is ailing. More than two out of five bridges need replacing. More than half the nation's roads are in disrepair. The need for water and sewer treatment facilities has exceeded localities' ability to finance them.

The United States has the potential to become the world's unchallenged leader in coal exports. In achieving this potential, we could create hundreds of thousands of jobs and get billions of American dollars back from overseas. Today, however, the rolling stock and railbeds to move coal are in shambles, and we lack even a single major port which can handle a 100,000-ton ship.

Rebuilding our infrastructure is essential to sustained economic growth.

Challenge No. 2: Managing the transition

In the past decade, the American economy has changed dramatically. In the next decade, it will change even more rapidly.

The application of new technologies will provide a means for our basic manufacturing industries to become competitive again in world markets. At the same time, restructured basic industries will provide markets for the new technologies, such as "smart" robots. As a result, the technological revolution will bring about substantial restructuring within basic manufacturing industries as well as enormous opportunities for expansion into new industries.

This transition in our economy will cause far-reaching changes in the workforce. Inevitably, there will be fewer workers in manufacturing industries, such as autos and steel, even as they are restructured. Simultaneously, there will be increasing demands for workers in expanding industries, with a particular need for specialists in fields such as engineering and computer technology.

The challenge, then, is to manage that workforce transition in such a fashion that workers who have gained experience in older industries can be placed in new, challenging jobs in prospering, competitive industries with a minimum of dislocation and disruption to family and community life.

Meeting that challenge will require a heavy emphasis on education, training and retraining for new jobs in restructured manufacturing industries or in new, high technology sectors. Meeting that challenge will also require incentives for new industries to locate where old factories are closing, such as along Rte. 128 in Massachusetts and in other areas around the country.

America has undergone such transitions before. They have led to a better life for our people and to more Americans being able to share our country's enormous wealth. Less than a century ago most Americans still worked on farms. Today, American agriculture is a highly productive, high technology industry, but fewer than one in 20 working Americans is a farmer. The farmers of the 19th century became the factory and office workers, the providers of services, the professionals, and the business people of the 1980s.

By investing in our people, we can assure that the assembly line workers of the 20th century will move on to better and more challenging jobs in a different, more prosperous economy—just as farm workers did a century before. Meeting that challenge will mean that more and more of our people can share in the Democratic vision of an economically secure America.

Challenge No. 3: Decreasing our dependence on foreign energy

No single factor had more impact on the American economy during the past decade than our dependence on imported energy.

OPEC's petrodollars and domination of world energy supplies have contributed as much to the rising cost of living and layoffs as have deficits and interest rates.

Since the first OPEC shock in 1973, the high cost of energy has drained billions of dollars away from desperately needed economic modernization.

With our economic security and national security at stake, we simply cannot allow that situation to continue. While the world oil glut and economic recession in many parts of the world have temporarily reduced OPEC's power and brought down energy prices, we cannot allow such a temporary respite to lessen our national resolve to decrease and ultimately to eliminate our dependence on imported energy.

Challenge No. 4: Developing a game plan to meet the foreign competition

For the rest of this century, we will confront rapidly changing economic circumstances and new economic challenges.

To meet current challenges in the most efficient way and to cope with new economic challenges, we need a national economic strategy that sets out our national economic goals clearly and allows us to adjust to changed economic circumstances. That is particularly important in an international economy.

Already, we have witnessed the devastating impact of international competitive challenges to our production industries such as steel, automobiles, shipbuilding, and consumer electronics. We can expect similar efforts in the high technology sectors from such nations as Japan and France.

These competitive challenges are not haphazard occurrences. They are calculated, planned, national efforts by our competitors to identify and capture specific markets from American industries. In virtually every case, our competitors have undertaken a national effort to formulate an economic strategy and marshal public and private resources to carry out its goals.

If we are to remain competitive in the international economy, we must respond in kind. We must develop, within the framework of our free enterprise system, an economic strategy of our own to identify opportunities for growth and to formulate the means of realizing those opportunities. We will need to monitor the vitality and changing nature of our domestic economy and the economic strategies of our major competitors.

In short, we have passed the point where we can compete internationally without proper economic intelligence or a general consensus as to where our economic opportunities lies and what will be necessary to take advantage of those opportunities.

V. THE MEASURE OF REPUBLICAN POLICY

To judge the Republican policy, we must assess how it has met the tests of growth and fairness.

The facts speak for themselves.

Recession, not growth

The Republican program promised growth but it has brought recession, with more people out of work than at any time since the Great Depression. Since it was enacted, more than two and one-half million workers have lost their jobs, bringing the number of unemployed to nearly 11 million.

The growth of this nation's GNP has been sluggish or in decline for most of the past year and gives little indication of the economic turnaround which the Administration predicted. Indeed, many industries—agriculture, steel, autos, housing—are in the midst of a depression. More than 17,000 businesses failed last year—a rate nearly as high as during the Great Depression.

A bonanza for the rich

The Republican program promised fairness, but it has brought a bonanza for the rich, and increased the burden on middle income Americans.

As a consequence of the Reagan tax policy, the wealthiest American households gained the lion's share of the benefits. High interest rates have excluded all but the well-established from home ownership. The programs designed to help workers who have been laid-off in the recession have been cut back or eliminated.

The reason the Republican policy has failed is that it neither comprehends nor addresses the most important economic problems our country faces.

Investment declines

The Republican program contains no formula for increased broad-based investment that will produce economic growth. Indeed, the Reagan program has resulted in a decline in investment in new plant and equipment. It advocates substantial decreases in the public investment necessary to develop new technologies, to educate and train a productive workforce, and to rebuild our industrial infrastructure.

It contains no strategy for managing a smooth transition of workers from old industries to new and no program for reducing our dependence on foreign energy; indeed, only a deep recession has cut energy demand.

And while our competitors have carefully crafted strategies for increasing their share of world markets, the Republicans have offered no strategy for reestablishing our competitive advantage against foreign competition, nor have they acted to stop unfair trade practices of our competitors.

VI. THE DEMOCRATIC WAY

Meeting the challenges of the 1980's

Despite the rapid erosion of our economic structure brought about by Reaganomics, we Democrats, believe that through a concerted and positive national effort, we can lead America to our goal of economic security with sustained economic growth. All Americans can again believe that they can share in renewed prosperity, can find a job and the opportunity for advancement, and can expect stable prices and lower interest rates.

In short, by meeting the challenges we have laid out, the American dream can be reborn in this decade. But before we can reach our goals, certain preconditions are necessary.

Precondition No. 1:

A PARTNERSHIP FOR GROWTH

Achieving economic growth will require a partnership among labor, small business, big corporations, universities, and government. Just as they have learned fom us, we should learn from other Western democracies which have proved that there are economic gains for everyone when everyone pulls together.

This need for partnership will require a lessening of the adversarial relationship between business and labor. Cooperation has always benefitted our country, from the building of the railroads to the success of the space program and is always more productive than confrontation.

Later in this paper we recommend the establishment of an Economic Cooperation Council to assist in bringing together the disparate institutions necessary to compete in a rapidly changing international economy.

On a more specific scale, recent cooperative experiments in workplace co-management and co-ownership have demonstrated that productivity improves when workers are given an opportunity to participate more directly in decisions affecting their work. In many of these cases, the earnings, job satisfaction and job security of workers have increased, as have the profit and competitive position of their firms. Accordingly, government should strive to encourage greater employee participation in management and ownership, particularly where management and labor are receptive to this goal.

Precondition No. 2:

AN IMPORTANT ROLE FOR GOVERNMENT

Government must play one of the leadership roles in this partnership.

Free-market capitalism is the basis of our economy, and remains the first and best hope for long-term growth and jobs.

But just as it has done throughout our history—in building the canals, in creating the land grant colleges, and in encouraging research in agriculture and in space—government must be a vital partner.

These two pre-conditions—a partnership for growth and a creative role for government—must be the starting point for meeting the economic challenges of today.

1. A BROAD-BASED INVESTMENT PROGRAM

A broad-based investment program is essential to meeting the first major economic challenge of the 1980s.

Investment is the key to future economic growth and to expanding economic opportunity throughout our society. For business, investment leads to greater competitiveness, more expansion, and higher profits. For workers, it leads to more, better and safer jobs.

Investment is also essential to help those who cannot work, particularly the disabled, the sick, and the elderly. As Democrats, we understand that a society cannot remain healthy and self-respecting while ignoring those who, through no fault of their own, need help. But we also understand that our ability to provide the resources necessary to help the helpless depends, in the long run, on a steadily growing economy. Without investment—both private and public—we cannot count on steady growth in our economic future.

The goals of our investment program are twofold—to retool our basic manufacturing industries and expand our high technology, growth industries in order to meet rapidly developing foreign competition. To achieve those goals, we call for:

Creating an economic environment conducive to investment.

A national research and development effort directed at discovering, developing and promoting new technologies.

A national effort to educate and train a productive workforce for a complex and rapidly changing economy.

A national commitment to rebuild the public infrastructure needed to move people, goods and services in a prospering economy.

Revitalizing basic industries

Nowhere is such a broad-based investment program more essential than in our national mission to restructure and revitalize our basic manufacturing industries.

During the decade of the 1970s, the American steel and auto industries came under severe pressure. Spirited foreign competition, lagging investment, inability to adust to changing markets caused by increasing oil prices, increased regulation, rising production costs, and slowed productivity growth all added to the economic problems of these major American industries. The problems of these industries have rippled throughout the entire economy.

We cannot turn our back on our basic industries. They are essential to our national security. They provide great econimic opportunity for millions of Americans and form the economic backbone of thousands of communities. They are important markets for a wide range of munufactured items and have been the proving grounds for a number of high technology products.

We must make our basic industries competitive again. That will require broad-based investment.

Expanding growth industries

A broad-based national investment program is equally important to expanding our high technology industries, growth industries critical to our economic security in the future.

Expanding manufacturing industries provided new jobs for Americn workers earlier in this century; expanding high technology industries willl provide new jobs for American workers in the years ahead.

The United States excels in high technology areas. But our competitors all over the globe have not allowed that leadership to go unchallenged. To assure that these new industries do not fall victim to the same forces that under-cut our basic industries in the past decade will require the broad-based investment program that we propose.

An environment for investment

Government must create an economic environment where constructive private investment is encouraged.

Controlling inflation is essential to creating an economic environment to encourage investment. Inflation has been our most persistent economic problem of the past 15 years. It has crippled economic expansion, undercut investment plans, and robbed consumers of purchasing power. There are no simple, overnight cures for inflation in an economy as complex as ours. The best long-term answer to inflation is a productive, steadily growing economy—exactly what the policies outlined in this paper are intended to bring about.

Even a highly productive economy cannot absorb unanticipated shocks such as oil or food shortages without some short-term increases in inflation. But the more productive our economy is, the smaller is the likelihood that outside shocks will result in permanent increases in prices.

Providing an economic atmosphere to encourage investment will require a successful balance of fiscal and monetary policy. The Republican program which combines loose fiscal policy and high deficits with tight monetary policy has caused high interest rates and discouraged investment in our economy. In short, the Republican policy is consuming the seed corn of our economic future.

We reject any economic program that projects annual federal budget deficits of $100 billion or more well into the foreseeable future. Such deficits will keep interest rates high, choke off investment and, over time, prove inflationary.

We believe that with the proper fiscal policy, the Federal Reserve Board can pursue a monetary policy that conserves those seeds, that spurs investment necessary to reduce inflation and bring about steady economic growth in the future.

Fiscal policy should be developed in accordance with the following principles:

Decisions must be made on our spending priorities. While it may have once appeared that the federal government could have been all things to all people, that time has passed. We must be willing to say no to particular interests in order to bring overall spending under control.

Achieving a balanced budget is very important to our economic future. We do not believe that the federal government should continue to spend an ever-increasing percentage of the nation's wealth. We need to limit spending and to set tax rates in order to generate a balanced budget during periods of sustained economic growth. To achieve the goal of a balanced budget, while limiting taxes, we must strengthen our Congressional budget process and we must constantly review existing government spending and tax programs, with an eye toward "sunsetting" those which are wasteful or have outlived their usefulness.

In making budget choices, we must give a high priority to programs which makes an investment in our economic future, such as research and development, education and training, and rebuilding our industrial infrastructure. In order to understand better how much of the federal budget is devoted to investment in the future, we should divide total federal spending into investment and operating expenditures. Our purpose in recommending such an investment budget is not to relieve pressure to reduce overall spending, but rather to allow Congress to determine how much spending it wants to devote to long-term investments which spur economic growth.

The seed for all capital formation—the determinant of industry's ability to build new plants and to buy equipment—is savings. The more people save, the more money becomes available for businesses to start or expand, or buy computers, or replace obsolete machinery.

We need to revamp our tax laws to encourage that saving and to do it in a way that apportions fairly the tax burden among our people. To that end, we propose the following actions:

An overhaul of our income tax laws to make them fairer and simpler, and to encourage savings rather than consumption. One approach, for example, could include lowering the rates for all taxpayers and eliminating many of the current special tax preferences—the write-offs, exemptions and deductions that favor the rich and encour-

age the use of unproductive tax shelters. Another approach is the so-called progressive consumption tax that would reward those who save. One approach that is not acceptable is to tax all taxpayers, no matter what their income, at the same rate. Such a tax would place too heavy a tax burden on middle and lower income taxpayers and too light a tax burden on the wealthy. Our taxable base must be broadened and the burden on middle income taxpayers must be lessened and spread fairly and progessively among all taxpayers.

We must revise our business tax laws to assure that profitable corporations cannot escape paying their fair share of taxes, to encourage productive investment, and to renew the entrepreneurial spirit in our economy. Recent revisions have taken a step toward simplifying business taxes and moved to offset the impact of inflation on business investment. More can and should be done. We should consider changing the business depreciation provisions in the current tax laws to allow businesses to recoup the cost of their investments in the year they are made. It is particularly important that revised tax laws take into account the special needs of small entrepreneurs who have produced so much innovation in our economy.

It is not enough simply to focus on raising captial, we must also examine how it is dispensed. Our financial institutions—the dispensers and investors of capital—operate under laws and regulations written in the shadow of the Great Depression. Changes in financial markets have outpaced the regulatory structure governing them.

We recommend that Congress create a Commission on Capital Formation, whose members will represent all appropriate interests and which will report to the appropriate committees of the Congress. Its agenda: to ask where the internationalization of capital markets, the development of new financial instruments, the creation of "nearly" financial institutions, and the new computer and communications technologies are taking us. Its task: to determine where we want to go, and to chart our course for getting there.

Investment in new technologies

New and applied technologies do not just happen. They are the product of basic research and development activities by business, enterprising people at our great universities, and in government. And they are the products of fertile minds, nurtured in our colleges and universities.

Unfortunately, the recent record of research and development leaves much to be desired. Between 1967 and 1978 the share of GNP we invested in research and development fell by 20 percent.

To reverse that trend and spawn the research and development necessary to keep our competitive edge in new technologies, we propose to:

Establish the national goal of a three percent annual commitment of GNP to research and development, with special emphasis on the federal government's need to invest in long-term basic research;

Restore the mission-directed R & D effort that was so successful in our space research and consider giving NASA a new high technology mission—such as renewable energy technology or bioengineering—which holds the promise of broad economic return;

Provide incentives to entrepreneurs who engage in high yield but risky research and development projects;

Help our great universities and federally-supported research and development centers improve and modernize their laboratories and instrumentation; and

Restore to the President's Science Advisor the stature and influence on White House policies he enjoyed before the Reagan Administration.

In addition, the government must help disseminate the benefits of new technologies just as it has helped spread the benefits of agricultural research in the course of the last century. For one example, a robot leasing program might be undertaken. With such a program, American industries could benefit from the newest and most productive technologies without having to incur the cost of purchase and run the risk of their becoming obsolete.

Investment in our people

In the future, a well-educated, well-trained workforce will be essential to sustained economic growth. The clearest feature of the emerging world economy is that the future will be won with brainpower.

The research we must undertake to produce new technologies requires talent—yet we are not graduating sufficient numbers of scientists, engineers, and technicians.

To reverse that trend and generate the brainpower needed to keep our economy competitive, we must:

Reaffirm our national commitment that no qualified student be barred from attending college for lack of ability to pay. We must develop the proper mix of loans, grants, and work-study programs to meet that national goal. As in the case of the GI Bill a generation ago, we must find a way to reward those who serve our country—in or out of the military—with the opportunity for advanced education;

Increase the supply of junior faculty in computer science and electrical, mechanical, and chemical engineering through a new public-private effort to make faculty salaries in these and other shortage areas competitive; and

Extend into higher education the new emphasis on broad computer literacy and language/area studies.

To improve the quality of elementary and secondary education and to endow workers entering the workforce with skills necessary to contribute productively in a rapidly changing economy, we must:

Provide every school with access to a computer within five years and make every student "technically literate" in computer-era basic skills by the end of this decade. To achieve this, we should resurrect the education division of the National Science Foundation, which so successfully developed science and math curricula in the post-Sputnik period and which has been crippled by Reagan budget cuts;

Make quality and excellence the only acceptable standards in our schools and target federal programs which support elementary and secondary education at mastery of language, mathematics, and science;

Establish incentive programs to attract to our school systems talented teachers in areas of special need such as science, mathematics, foreign languages and area studies and increase public appreciation for the profession of teaching through national awards and incentives for talented teachers, perhaps drawing on the successes of the current Teacher Center and Teacher of the Year efforts; and

Increase our investment in programs which help local schools to identify and encourage gifted and talented students from all economic backgrounds.

Investing in public infrastructure

Adequate public facilities are a necessary pre-condition for private sector investment and economic growth.

And the sad truth is that the economies of as many as three-fourths of our communities may not be able to grow simply because of the condition of their infrastructure.

There is overwhelming evidence that the nation's public capital facilities are wearing out considerably faster than they are being replaced; that our roads, bridges, ports, water and sewer systems in urban, suburban and rural areas show alarming deterioration.

The past decade and a half has been a period of massive underinvestment in public facilities. Since 1965, the percentage of the U.S. gross national product devoted to investment in public works has dropped from 3.6 percent to 1.7 percent, a 54 percent decline. The results are most visible in the older cities of the Northeast and Midwest, and the old Southern river towns such as New Orleans, but there is ample evidence of neglect throughout the nation.

The nation's 40,500-mile Interstate Highway System, with a quarter of it worn out, is deteriorating at a rate requiring reconstruction of 2,000 miles per year and the system has yet to reach completion.

Secondary roads off the interstates are often in much worse shape. In eastern Kentucky, where pockmarked roads are steadily pounded by overloaded coal trucks, drivers complain that their tires blow out before they wear out. Truckers traveling from Baton Rouge to Shreveport, Louisiana, drive 130 miles out of their way rather than take chances on the main road between these cities.

More than 100,000 bridges are officially listed as dangerous, and in need of replacement. Forty-five percent of the nation's bridges—248,500—are either obsolete or structurally deficient. In Ohio, 605 bridges have been blocked off, but 4,000 others are still in use despite severe deterioration. More than half of Louisiana's 14,800 bridges do not meet Federal and State standards.

Our ports need maintenance and deepening; our dams need replacement and repair; and our rivers are silting up and need constant attention. A limited number of ports should be dredged to 55 feet to accommodate the world's new-found interest in American coal.

Water systems in older cities throughout the Northeast and Midwest experience significantly higher levels of leakage then cities in other regions. Ten of 28 cities recently surveyed in this part of the nation were found to lose more than 10 percent of their treated water because of deteriorated pipes. And two cities with the biggest problems—Boston and New York—were not included in the survey.

Sewer systems are in equally serious states of disrepair.

Major cities have had to drastically curtail maintenance efforts on their full range of public capital, due to constrained budgets and competition for scarce funds.

The task of rebuilding America's public infrastructure is probably the most expensive challenge that the United States faces in the decade of the 1980s.

The glaring truth is that the need will greatly strain the nation's ability to pay. Yet we must begin, now, to accept the chal-

lenge, or face even greater bills in the future.

The nation clearly needs, and sorely lacks, an Infrastructure Investment Program to:

Inventory needs in every region and at all levels of government—Federal, State and local—now and in the future;

Set priorities to channel scarce resources into growth investments, and to assure that goals match resource realities;

Determine which level of government, or combination of governments or private initiatives are best suited to address the problems.

The current dominance of the Federal government in this area cannot be corrected by an abrupt abdication of responsibility. The Democratic Party is committed to fulfilling its obligations to the nation's citizens and State and local governments. However, states, local governments, and the private sector as well, must be partners in the rebuilding of America.

Restoring our nation's public capital and sustained economic growth must go hand in hand. Without adequate public infrastructure, we cannot have sustained economic growth. And the very economic growth that infrastructure investment will allow will, in itself, generate new resources to pay part of the cost of the rebuilding effort and provide needed jobs for America's workers.

Our infrastructure needs are great. Any number of infrastructure problems must be addressed. For example: our lack of capacity to export coal today costs us billions in potential exports; the market demand exceeds our supply. Instead of closing down major sections of our rail network, we should be upgrading and improving the lines serving domestic markets or terminating at export facilities. We should also be expediting coal port development—speeding up projects for dredging, entering into government-industry partnership where necessary to get the job done.

Additionally, as events of the past few summers have demonstrated, we are hovering at the brink of a water supply crisis in all regions of the country. Some of our major groundwater aquifers are depleting rapidly, and others are threatened with contamination. According to a recent study, almost two-thirds of our rural citizens drink water that could be unsafe. Potable water is our most precious and threatened natural resource. We must act now to begin implementing the long-range solutions to this problem.

Water development—in the broadest sense of the term—must be a national priority. We understand that cost-effective water development projects—for local flood protection, water supply, navigation or hydroelectric power—have national impacts, and are not just regional or local in scope. And we are ready to meet the water challenge of the 1980s and 1990s—the development of additional supplies of fresh, potable water—at the Federal, State and local levels.

Clearly, no single entity or level of government can finance such enormous undertakings as these and our other infrastructure needs. But the total cost must not deter us from undertaking the restoration of the nation's multibillion dollar public investment. The question of how best to finance these programs will have to be resolved in the future. For the moment, we propose this first step: an Infrastructure Investment Program to meet a necessary precondition for sustained economic growth.

2. STRENGTHENING AGRICULTURE

A rational economic policy must provide an environment in which family farmers have a reasonable chance of making a profit and of maintaining the strength of American agriculture. If the present severe cost-price squeeze on the farmer and in agriculture-related business is to be overcome and long-term prosperity and stability on the farm made possible, our policies must contain at least the following elements:

We must recognize that prices received by farmers must cover cost of production and allow a reasonable return on equity.

Our policies must encourage farmers to become better marketers, and to use rational and measured supply management techniques under the best principles of the free enterprise system, to enable them to survive economically.

The conservation of our soil and water resources must be a priority.

The commitment of government to agricultural research, one of the keys to our tremendous agricultural productivity and efficiency, must be strengthened.

Agriculture is an indispensable foundation for a strong America. One out of every five civilian workers is employed in some phase of our food and agricultural industry. American agriculture provides 20 percent of our total exports, accounts for 50 percent of the world's food and feed grain trade, and is so efficient that a single American farmer can feed 77 of the nation's people. A healthy, independent farm economy is therefore in the interest not only of farmers, but of all Americans.

3. MANAGING THE TRANSITION

As our economy undergoes transition, there will be fewer jobs in industries such as auto and steel. This will leave experienced workers in those industries stranded, while firms will be bidding aggressively for specialists in fields such as engineering and computer technology where there are manpower shortages.

Demographic factors will aggravate these imbalances. During the 1980s, the labor force generally will be growing more slowly than during the 1970s. As they reach maturity, the smaller generations which followed the post-war baby boom will contribute fewer new entrants to the job market.

However, the numbers of working age people in some categories will not be declining. There is likely to be an increase in unskilled workers who have typically been concentrated in the areas of the country experiencing the least job growth.

Well-designed policies to promote investment in people—their education, training, and even their health—must accompany the push to modernize and stimulate investment in plant and equipment. We cannot simply depend on general economic improvement to accomplish this upgrading of our human capital: we need a combination of measures that develop workers' skills and promote the movement of labor from constricting to growing industries. And we must call on the private sector—business and labor—to work with government in this effort.

To ease the transition of workers from old industries to new, we propose these policies:

Financial incentives to private employers and labor unions should be provided to help pay the costs of training or retraining, and to match training to actual skill requirements and employment needs. One approach worth careful exploration is a tax credit system for workers who lose their jobs because of technological advances or foreign competition in the industries in which they were employed. Such a tax credit would compensate a firm hiring such workers by paying a portion of their salary in their new jobs for a specified period—presumably long enough to cover retraining and to allow the workers to become productive employees in their new jobs.

Business-labor cooperative efforts, with government assistance, if necessary, should be expanded to relocate workers in new jobs. One such effort is being pioneered by the United Auto Workers and Rockwell International. The government must be a catalyst to get projects of this type off the ground.

Adjustment assistance—not just income maintenance—should be provided to workers to acquire new skills or to take other steps to improve their job prospects. Such a requirement could be added to unemployment insurance and other income support programs without undercutting their safety net features. Alternatively, a portion of employer payroll taxes might be channeled to a special account which would enable experienced workers to acquire education or training during major interruptions in their employment.

Clearly, improving the quality of basic education is a critical step toward improving job opportunities for unskilled workers. In addition, however, we propose three specific steps:

Information about existing training programs and experiments should be collected and disseminated to local communities, so that the most effective approaches can be duplicated elsewhere. Measures of success should include not only job placements but long-term gains in earnings, stability of employment, and reduced dependence on welfare.

Joint business, labor, and government efforts should be undertaken to train hard to employ youths. We should, for example, explore the value of encouraging coalitions of companies in a geographical area to operate training programs in the public schools. Teaching personnel could be supplied by the participating companies, and training equipment should be state-of-the-art.

Financial incentives should be used to expand opportunities for the hard-to-employ in private industry. The current Targeted Jobs Tax Credit program might be revised to facilitate the participation of greater numbers of employers, particularly small businesses. But whatever the precise structure of the incentive, the aim should be to open entry-level jobs to workers who would not ordinarily get them, without disrupting employers' normal procedures for hiring and training.

4. REDUCING OUR VULNERABILITY TO FOREIGN ENERGY SUPPLIERS

The energy crisis has not gone away, and we cannot relent in our effort to reduce our vulnerability caused by our excessive dependence on foreign energy.

Republican policy—best called the "last drop" philosophy—pretends that higher prices have solved everything, that government has no role, that the market will deal fairly with all Americans. This philosophy advocates no government involvement until the "last drop" of oil is taken from the ground, and promotes the belief that a free market operates even when no choices are available. This policy is a danger to our economy, a threat to our national security, and an economic disaster for our citizens.

Contrary to the Republican approach, the federal government must have a coherent, vigorous energy policy—a policy that builds on the strong advantages we enjoy today:

Coal—an abundant energy source awaiting the commitment to mine it in an environmentally sound way, the infrastructure to haul it, and the technology to burn it cleanly. We must make the commitment to all three.

Conservation—a proven success, from fuel-efficient cars and appliances, to insulated homes and offices, to factories where new technology has cut way back on consumption. We must not retreat from our efforts to conserve.

Alternative and renewable energy sources barely tapped—the solar, photovoltaic, geothermal, low-head hydro, tar sands, Devonian shale, biomass and other natural resources we possess so abundantly—must be opened to the new technologies which will permit these resources to be tapped in order to help us solve our long-term energy problem.

A resilient marketplace—a proven partner to government's efforts to exploit our advantages.

At the same time, national energy policy must confront our two undeniable liabilities:

Dependence on imported oil which will remain a reality until our transition to domestic and renewable energy has been accomplished.

Regional imbalances have created a disparity between states which underlines the need for an equitable and genuinely national energy policy.

An energy policy that builds on our energy advantages and compensates for our energy liabilities will also alleviate the impact that actions taken by other nations have on our domestic inflation rate. So long as we are dependent on foreign oil as a major source of energy, our economy will remain vulnerable to inflationary surges resulting from price hikes or supply cutoffs by energy producing nations.

These advantages and liabilities must be paramount considerations in our energy policy choices. We must continue to encourage conservation, to revitalize our coal industry, to promote solar and other renewable energy sources and redress regional and social inequities.

The United States should become a new energy exporter by the year 1990 by:

Creating a greatly expanding coal exporting industry;

Modernizing the nation's entire transportation system and infrastucture, from mines to railroads to sea lanes;

Inventing coal technology processes and pollution-control equipment to increase our productivity, protect our environment, and open new markets for international trade;

Building on our present international lead in solar technologies and conventional and unconventional drilling techniques;

Objectives, such as creating a vastly expanded coal exporting industry or retooling our automobile industry to produce more fuel-efficient cars, will be costly. It is possible, however, to raise revenues for these efforts and to promote our national conservation goals through a variety of energy revenue measures, such as oil import fee or gasoline pump tax, which should include provisions to equalize the special regional burdens they would cause.

5. AN ECONOMIC COOPERATION COUNCIL TO MAP LONG-TERM STRATEGY

The prescriptions we have just offered are, in our view, essential to meeting today's major economic challenges. But that alone will not be enough to insure our economic security. It will take time to solve the problems facing our nation. In the meantime, new challenges will have appeared. The one thing which is certain in today's international economy is change—change of a rapid order.

So as we work on putting those prescriptions into effect to rebuild our economy, we need the capacity to look ahead, to focus attention on emerging as well as present problems. We need the capability to develop a long-term economic strategy for attaining sustained economic growth—a strategy that anticipates economic trends and identifies potential problems and opportunities.

We propose an Economic Cooperation Council. The Economic Cooperation Council we propose is not the monolithic national planning agency found in many of our competitor's nations. Rather, it is a tool to help us bring together the disparate resources necessary to compete in an international economy. Our Economic Cooperation Council will have to address two very critical, but different tasks.

First, we need a national vantage point from which to measure the present and assess the future. We need a center of American expertise that will monitor carefully the changing nature of America's domestic economy and its capability to respond to international competition. We need an institution which will serve as an early warning system to detect flaws or weaknesses in our domestic enterprises before those weaknesses become debilitating or even fatal. And we need an institution which can evaluate global economic trends, identify markets and assess the strengths of our competitors in the international arena. We need the capability to forecast where we should be in three or six or ten years.

Second, America needs a national arena for clarifying complex economic choices and building broad support for public initiatives. The combined experience of the Great Depression and World War II helped build a broad political consensus that laid the basis for economic reconstruction abroad and economic prosperity at home.

The Economic Cooperation Council would combine the ability to assess future economic trends with a membership that would help build a partnership around solutions to major economic problems. That membership must be representative, distinguished, respected and influential. It must have top quality staff with the specialized talents that combine analytic skills with an understanding of the American political process.

Gathering the facts

The cutting edge of international competition is sharpened on the whetstone of intelligence. Our competitors understand this. The Council will give priority to gathering pertinent data, using existing sources of information within the government wherever possible. Where data does not exist, the Council will have to establish the machinery to develop them. A central part of the Council's task will be presenting the President, the Congress, and the country with a clear idea of where the United States economy is headed and where we stand in relationship to our competitors.

Linking domestic and international policy

A striking economic change in the 1970s was the internationalization of the United States economy. Today, two acres in five are planted for export and one industrial job in eight now depends on international trade. Accordingly, it is no longer wise, or in many cases possible, to divide U.S. policy arbitrarily into domestic and international categories. The Council will have to concentrate on the international consequences of U.S. policy and detail the implications of policies adopted in Europe, Japan, and the developing world, on our own economy.

Despite the growth in American exports, the United States remains an unaggressive exporter. The result of this is that thousands of small and medium sized businesses cannot penetrate the export market or simply don't try. For the most part, America does not make policy with international trade in mind. Neither overall economic policy nor individual trade regulations reflect the importance of making America competitive in international markets.

In forging a trade policy for the 1980's, the Economic Cooperation Council will have to look at a multitude of factors. A new trade policy should maintain and expand our existing markets and build on our unexploited strengths in high technology and small business. We must also realize that market demand in many areas of the world reflects needs for basic health, agriculture and education assistance, which are also fields of U.S. expertise.

Our trade negotiating strategy will have to be targeted on areas of potential gain for the United States, and policies will have to be developed to offset a variety of foreign export subsidies. We would expect that our foreign policy would spell out in the clearest of language our adherence to the spirit and the letter of our trade agreements. At the same time it must be made clear we will not tolerate any violations of these agreements from abroad. The respect which was associated with Yankee Traders in the last century should again be reflected in our foreign policy.

Anticipating problems

The Economic Cooperation Council will be in a position to direct national attention to emerging national problems. The shifting balance in international oil production had been developing for many years. Had we taken appropriate action in 1970, the whole course of economic history may well have been different. By acting in a timely fashion we could have avoided much of the economic distress that crippled the automobile and steel industries. The Economic Cooperation Council would serve as an early warning device to avert such disasters.

To be effective, the Economic Cooperation Council must have the confidence of a broad range of private sector groups and also reflect the geographic diversity of the country. It must be bi-partisan, enjoying the full confidence of the Congress. Above all it must have the unstinting support of the one person in the country who speaks on behalf of the entire nation: the President.

We do not need another commission whose statements and reports last no longer than a fleeting headline. The purpose of the Economic Cooperation Council is to establish our national economic goals, to map out a strategy, and to marshal our resources for meeting them.

* * * * *

As times have changed, so has our economy. The United States has built the most productive society the world has ever known through hard work and creativity. Despite our present economic problems, we have good reason to face the future with confidence, for the American genius for invention and innovation is stronger now than ever. But to meet economic challenges of the future, we must invest today.

Some are hesitant to acknowledge that changing times require new solutions. And

some will always be wary of those who propose change. To those among us who question new ideas, we say that we carry the same compass which guided our forefathers. And we journey toward the same goal—human dignity and opportunity for all Americans.

However, when new obstacles appear, we are not afraid to strike out onto new paths to reach our common goal.

Mr. NUNN. Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized for not to exceed 15 minutes.

NATIONAL PEACE DAY

Mr. BUMPERS. Mr. President, I will not take 15 minutes.

Today I am introducing a joint resolution that is cosponsored by the following Senators: Senators TSONGAS, BRADLEY, GORTON, DECONCINI, SPECTER, GLENN, PRESSLER, SASSER, HATFIELD, INOUYE, STAFFORD, NUNN, CHAFEE, RIEGLE, WEICKER, PRYOR, DANFORTH, CRANSTON, MOYNIHAN, DODD, HUDDLESTON, HART, DIXON, EXON, BURDICK, BAUCUS, FORD, HOLLINGS, and JACKSON.

Mr. President, this is a simple joint resolution that calls on the President to proclaim October 10, 1982, as a National Day of Peace.

I simply want to say that none of us has that part of the human personality of fully appreciating the things we enjoy until we lose them.

When the air-conditioner goes out we have a much keener appreciation of the value of electrical power, or when the dishwasher does not work we realize what a labor-saving device it is, and we reflect back on how our mothers and our grandmothers used to handle that.

We never really appreciate our good health. Many people, for example, will continue to abuse their health to demonstrate their indifference and insensitivity to good health until they lose it. I have heard I do not know how many people say they never realized how easy it would be to give up smoking until they got cancer.

And so it is with peace, Mr. President. Nobody ever really appreciates the incalculable benefits and values that we all derive from being at peace.

There is a world at war. Iraq and Iran; war all over Central America, especially El Salvador. The Middle East is literally aflame with unbelievable grief and trauma being experienced by the people of Lebanon. We have just finished the Falklands war, in which almost a thousand people gave their lives with a much larger number being injured and wounded.

And here in the United States we have enjoyed peace and our men and women have not been engaged in war since the end of the Vietnam conflict. But we constantly wonder, with all the hot spots of the world, will it spread and if it does spread will it bring the superpowers into confrontation with each other?

So, Mr. President, we have all waved the flag as we have sent our men off to war. I believe it is appropriate also to wave the flag on a day of peace and to set 1 day aside every year for the people of the United States to engage in such ceremonies and activities as they may choose simply as a reflective time to appreciate the value and the benefits to ourselves and future generations to remain at peace. Everybody is constantly conscious, and I believe now as never before, that with all the nuclear weapons that abound in the world, particularly in the hands of the United States and the Soviet Union, increasing numbers of people feel that the survival of man is threatened almost by the minute.

So I believe it is only appropriate that on Sunday, October 10—there is not anything sacred about that particular day, but it is a good fall day in most sections of the country—that the President proclaim that as a day for Government entities, organizations, interest groups, and all people to engage in ceremonies and activities and festivities and commemorate the tremendous benefits we enjoy by being at peace. And, while my resolution does not call for it, it would be appropriate for the President to also call on all nations and all people of the world to also do likewise.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

S.J. RES. 251

Whereas, wars are raging in several parts of the world inflicting incalculable loss of human lives, and property, with unbearable human suffering and grief; and

Whereas, the presence of huge nuclear arsenals in the world present an ever present threat to the survival of mankind; and

Whereas, though war in a very troubled and divisive world is an ever present possibility and threat, the United States has been at peace since the end of the Vietnam conflict; and

Whereas, the benefits of peace and the value of life should be ever present in the thoughts of all people; and

Whereas, a day should be set aside for the American people to reflect on the values of peace and the horrors of war; and

Whereas, the President should proclaim a day of peace and call on the people of the country to commemorate it with such ceremonies and activities as are appropriate and in keeping with an expression of gratitude for living in a great, free nation at peace; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 10, 1982, be designated as "National Peace Day" and that the President of the United States is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups, organizations, and the people of the United States, to observe that day by engaging in appropriate activities and programs, thereby showing their commitment to peace.

TEMPORARY INCREASE IN THE PUBLIC DEBT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will report.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 520), to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, in somewhat less than an hour, the Senate will once again vote on the matter of cloture relative to the amendment before us by the distinguished Senator from North Carolina. And I would hope that, as in two times past, the Senate would reject cloture on this issue.

Now, the history of debate on the floor has been such that my very able and good friend from Montana, Senator BAUCUS, has led the fight in terms of the argument, constitutional argument, of three separate but equal branches of government or, to put it in its popular term, court stripping. I have tried to emphasize that aspect of the argument that relates to the first amendment of the Constitution of the United States, more specifically that which states the Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Now, I think it is important to review not just the history of this particular piece of legislation but all other attempts to bring about some very basic changes in our constitutional structure.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from Arkansas for the purpose of debate without losing my right to the floor and without this being consid-

ered as the end of a speech for the purposes of the two-speech rule. I ask unanimous consent that I might do that and that I might be recognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I just want to make two or three comments which the Senator from Connecticut has made time and time again here but which still has not really been picked up by the national press and the electronic media and, therefore, the people of the country are still confused about why this debate is going on on this issue.

I wish to say, first of all, I do not know of anything that I have resented as much as the constant reference to the liberals who are opposed to this amendment. I cannot help but think about Sam Ervin, the distinguished constitutional scholar who was so recently a Member of this body and one of the most conservative Members of it. I promise you if Senator Ervin were in the body today he would be leading the fight against this.

The American Bar Association president, I do not know him personally but I know the American Bar Association certainly is no citadel of flaming liberalism, has called this approach to dealing with this issue the most serious threat to the Constitution since the beginning of the Republic.

Now you pit the emotionalism of a very significant majority of people in this country who want prayer in the school against an issue that is very difficult for laymen to understand, and that is this amendment effectively repeals the first amendment to the Constitution of the United States and would do so by a simple majority vote in the Congress.

When the Founding Fathers set up the methods for repealing or amending any part of the Constitution, they made it very difficult. The procedures are tedious, laborious, and they are long. But Thomas Jefferson and James Madison and the other brilliant men of that age knew exactly what they were doing, because they knew there would be these incessant attempts by people who had no keen appreciation for the fact that freedom can only be maintained under a sacred organic law which, in our country, is the U.S. Constitution.

This amendment says that the Supreme Court and none of the lower courts of the Federal judiciary may not consider, even entertain, an objection to any voluntary prayer in school that is mandated by any State or local subdivision, including school boards.

I do not care whether you are Protestant, Catholic, Jewish, whatever. But let us assume the school board hands a schoolteacher a prayer and says, "You and all of your students will repeat this prayer every morning at the beginning of class."

She looks the prayer over and she says, "That violates everything I believe in, everything I have been taught in my church since I was a little girl, and I refuse to do that."

They say, "You are fired."

There is a serious question as to whether or not she could even sue under the Civil Rights Act, if this amendment became law.

The proponents say, "Well, the State courts can handle this. Let us eliminate the Supreme Court, the circuit courts of appeal, and the district courts. Let the State courts handle it."

What does that lead us to? Chaos. Freedom of religion means one thing in Arkansas and something else in Connecticut, one thing in California, and something else in Florida. And if you can do it on freedom of religion you can do it on the invasion of privacy. You can eliminate the search and seizure laws by a simple majority of the Congress. You can eliminate freedom of the press. As a matter of fact, you can take the Constitution and make it a dartboard for all the effectiveness it will have if you start down this road.

So, Mr. President, I have not engaged in the filibuster, but I have admired those who have. I have certainly voted against cloture and will do so again today because I agree with the American Bar Association president. It is the most serious threat to constitutional government.

Maybe this is not the gravest crisis that has ever come before the Senate, but it is one of the gravest and the least understood. So I will continue to vote against cloture, and I will do everything I can to defeat this amendment and any other amendment that tries to repeal the Constitution of the United States by a simple majority vote, almost by whim and caprice.

I thank the Senator from Connecticut for yielding.

Mr. WEICKER. I thank my distinguished friend from Arkansas. I only wish that he would join in the extensive remarks which are being made out here. Indeed, his remarks this morning were very eloquent.

Mr. President, we have gone through this exercise not just once, but this now marks the third time we have tried to approach amending the Constitution by a simple legislative majority. It had no place on this floor when the subject matter was discrimination against the black schoolchildren and the remedies applied thereto by the courts in this country. It has no place on this floor when the subject matter is abortion, and more particularly the law of the land as set down by the Supreme Court in Roe against Wade.

Now we encounter it in terms of abridging the first amendment rights, specifically freedom of religion.

I first want to say this: The substance of what was attempted is, in this Senator's opinion, wrong. I have no qualms in debating any of these matters if indeed a constitutional amendment is to be proposed. I do not want to give the impression as the one who started the first fight on the busing issue, on the court-stripping aspects of the proposals. But I do not want to give the impression that I ducked behind court stripping as a way of being unwilling to challenge the substance of what is being proposed.

There are in every one of these cases before the Senate two constitutional arguments: Court stripping, doing an end around the Supreme Court of the United States, and then the actual substance of what is being proposed. In none of the two previous debates have I felt that the issue is so clearly set forth and determined by what is already in the Constitution and that if indeed we make this change then we take the first step toward a state religion and a state prayer. That is not the religious freedom that this Nation presently enjoys.

I will continue to leave the court-stripping arguments to my friends because they are valid and I join them 100 percent. Indeed, it was the essence of my arguments for many, many months. But I think it is terribly important that this Nation appreciate the full import both of what is in the first amendment to the Constitution of the United States now and what is being proposed in terms of changing that amendment.

This is not just some little harmful exercise which people are going to perform in the early hours of a school day. The principle being espoused applies to all of us. It in effect says the Government of the United States may dictate to its citizens a form of religious worship.

We do not make laws in this country for a portion of the populous. There is no such thing as a Constitution with an interpretation for those who are below age and those who are in their majority. The matter of religious freedom applies to all 250 million people in the country.

If the Senate of the United States can legislate what it is that a youngster is going to say in terms of prayer, then it may do so also with any of those who are beyond school age.

Right now in the United States there is total religious freedom. Right this minute, total religious freedom. No matter what your belief, you may practice it to the fullest extent. Indeed, I as one Senator urge everybody to do so. There is nothing outside of your faith by law, in terms of those

laws passed here on the Senate floor or by those laws that reside in the Constitution of the United States, that in any way restrict the practice of the faith of any American. Nothing.

What is being proposed is the first small step toward contracting that total freedom that we now enjoy.

But the ultimate argument also has to be made, as one who speaks for the Constitution.

That is that, assuming that a prayer may be devised that encompasses all beliefs in the Nation today—all beliefs in the Nation today—assuming that that can be accomplished, which I think everyone would agree is a practical impossibility, but assuming that, it has not made provision for the faith that is yet to be. So it becomes flawed, because the Constitution, unlike the laws which we write daily on the floor of the Senate, has to last from generation through generation.

It does not change with the Congress. It does not change with the new occupant of the White House. It does not change with the elections. It does not change with who might be in the majority, Republican or Democrat, in the House or the Senate. It lasts for all generations.

So, how is it possible to write a prayer today which does not foreclose that faith which has yet to be proclaimed in the future? You cannot do it. The Constitution is there so that, whatever happens in religion in this country, it will be heard. It will be heard. If nowhere else in the world, it will be heard in the United States of America.

The men who argue on this side of the issue are not atheists. We do not ascribe to some alien philosophy or political ideology. We are as committed to religion and religious freedom as those who try to impose this mandated piece of faith on some Americans.

Religious freedom, not a state religion. The minute the school board, the Senate, the President, the House of Representatives, the Governor—this is all civil authority—the minute it steps onto the field, no matter for how small a period of time, even if it is one word or two words, we have started the merger between religion and government. That is what has distinguished the United States of America, that that merger has never come to pass. Because of it, religions have thrived here where they had no place to grow anywhere else in the world.

People came to the United States of America specifically so they could worship—worship. It is hard to believe in this day and age. Everybody says people came to the United States because they wanted to make an easy buck, because they wanted to enjoy a better life. No; people came to the United States—and they still do—because they wanted to be able to worship.

When we define religion—and this certainly includes myself—I am inclined to define it as being either Protestant or Catholic or Jewish. That only scratches the surface. There are thousands of religions, thousands—almost all of which are here in the United States of America.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. WEICKER. I shall yield in a few minutes to my good friend from Vermont. I promised 15 minutes to the distinguished Senator from North Carolina (Mr. EAST).

I say that, just in my lifetime, as an example of what grows in the United States, as I said before, Protestantism was de facto, probably, the official religion of this country. Catholics and Jews were very much put upon. Not so today.

Look at the growth of the Catholic Church in America. Look at the growth of Judaism in America. That should continue to be for some faith that may only have 100 followers. Instead, we are going to take, this generation is going to impose some form of prayer according to the tenets and beliefs of this generation.

As I read the Constitution, very simply, there was more wisdom 200 years back than there is in this generation. If a job were going to be done, I probably would prefer that they did it. If they did not do it, I want to make damned sure we are not going to go ahead and do it.

Mr. President, I yield the floor to the distinguished Senator from Vermont for the purpose of debate without losing my right to the floor and without this being considered as the end of a speech for the purpose of the two-speech rule.

I also ask unanimous consent, in addition to that, that I be recognized at the conclusion of the remarks of the Senator from Vermont. I would appreciate it, since I have indicated to my good friend from North Carolina that, at 11:30, he might speak for 15 minutes, if the Senator would yield me back the floor in about 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. I thank my good friend from Connecticut. I applaud him for the work he has done on the floor on this issue.

Mr. President, I have spoken once on this before; in fact, a couple of times. I was not going to speak again on it, but I was troubled, riding into work this morning, when I started thinking about two things.

One was my own State of Vermont, a small State, a cautious State, a conservative State in the best sense of the word. Certainly, it is the most Republican State in the Union but, fortunately for me, with at least a latent streak of bipartisanship.

The other thing I thought about was when I was a law student here, at Georgetown. I used to spend the little free time one has as a law student in the galleries of the U.S. Senate. I would come here thinking what an honor it would be to serve in the Senate, because this was the body that was the conscience of a nation. This was the place with 100 people representing all the United States, who could stand up and say, whoa, to momentary passions, whoa to a passing fad.

This is the place where people would not be swayed, day by day, by pollsters, direct-mail appeals, or whatever, because this, by history, was where the conscience of our Nation spoke, and this is where people would stand up and speak to the long-term interests of the United States.

In Vermont, if you were to take a poll today, the vast majority of the people, if you simply asked the question, "Do you think school children should be allowed to pray?" would say, "Yes, of course." But if you asked Vermonters, "Shall we strip the courts, the third independent branch of Government, of its ability to protect your rights," there would be a resounding call from the Green Mountains of Vermont: No, no, no.

Mr. President, that is precisely what we have here today. Every single person in this country knows that at some time in their life, it is conceivable that their rights may be violated by somebody in Government, whether it be a sheriff or a mayor, a legislator or a Governor—whomever. Every time, they know that if that happens, they have one recourse left: They can go to the courts and ask to have their constitutional rights protected.

Are we going to say here today that we are going to start closing that door, inch by inch, foot by foot, yard by yard, against any one of us wanting to go back to our constituents and say, "We closed the door on your rights?"

This is in the matter of religion, Mr. President. My children have prayed in school because they went to parochial schools. I paid the tuition for them to go there. They went to the schools where they said the same prayers that we say at home. The Leahy family is a deeply religious family.

We pray at home and we pray at Mass on Sunday. But they said the prayers in the schools that we sent them to because we paid the tuition for that private parochial school. They are now down here with me in a public school system. I do not want the governing body of that public school system to tell my children what prayers they are going to say, no matter how they may differ from the prayers that we say at home. I do not

want the Government telling my children what their religious practices will be. I feel responsible as a parent to tell my children, to teach my children, and to bring my children up into the religion that my parents passed on to me and their parents on to them. That is where it should be, within the home, not the Government telling them.

I realize there are people on both sides of this issue who feel it very strongly, but I am also concerned when I hear people say, "Well, what is going to be the political fallout on this? What political group will gain advantage depending upon what these votes are?"

That is almost as though we Members of the Senate should act as though we own a seat in the Senate and we should be always looking over our shoulder making our decision based solely on whether it gets us reelected or not. That is why in the past few years the Senate has drifted further and further away from its role as the conscience of the Nation.

It is time for us to come back to being that and look at what is in the best interests of our Constitution, of our Nation, of the rights of our people and stop thinking simply of our own elections or reelections. This more than any other is that time.

I conclude only with this thought: Let us not start on that slippery slope of closing the doors to the one last place where the constitutional rights of our people can be protected without any fear or favor.

I yield back to my good friend from Connecticut, again applauding him for the work he has done in helping lead this fight.

Mr. WEICKER. I thank the distinguished Senator from Vermont for his very eloquent and articulate exposition of the issue before us.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from North Carolina (Mr. EAST) for the purposes of debate without losing my right to the floor, without this being considered as the end of the speech for the purposes of the two-speech rule; that I be re-recognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. WEICKER. I ask my distinguished friend from North Carolina, in that there are a few other Senators who care to speak, if I could yield for 15 minutes.

Mr. EAST. May I ask a point of clarification from the Senator. As I understand it, as a part of that unanimous-consent agreement, I would be allowed subsequent time to possibly speak on this measure; that is, the two-speech rule would not be held against me?

Mr. WEICKER. I have no difficulty with that.

Mr. EAST. I ask unanimous consent, Mr. President, that the two-speech rule not be held against me and, if the opportunity be appropriate, that I could later speak on this subject.

The PRESIDING OFFICER. Is there objection?

The Chair hears none and it is so ordered.

Mr. EAST. I wish to thank the distinguished Senator from Connecticut for his very generous cooperation in allowing me in the last part of this debate this morning to be given 15 minutes to make some remarks.

First, Mr. President, I do this hoping that I will be fully understood; one, I suppose, always is reluctant to praise publicly his own colleague lest it sound a bit self-serving, but I would like to thank the distinguished senior Senator from North Carolina, Senator JESSE HELMS, for getting out on the point on this issue and standing firm. I think he is right. I think he is right on the moral question. I think he is correct on the constitutional question. There is no question but what the majority of the people in this country support him on it. Every poll shows that. Interestingly, every vote that we have taken on the filbuster matter so far shows that a majority of the Senators agree with him.

What the filibusterers fear, with all due respect to them, is that this issue might get to a vote of the Senate and ultimately the House of Representatives and the measure would pass.

What we have witnessed over the last several days is an admitted obstruction of majority sentiment in the country and in the Senate, in a country founded and predicated upon the idea of representative government, democratic government. I think it violates a fundamental tenet of democratic political theory.

Mr. President, I should like to comment on two aspects of this problem. First, I should like to comment briefly upon the first amendment, and then I should like to comment briefly upon the jurisdictional question which goes at the heart of the Helms proposal.

The first amendment as envisioned by the framers of our Constitution was to do fundamentally two things: First, to prevent the establishment of a national religion. That was the purpose of the establishment clause. I do not know of anybody in this Chamber or probably well nigh in the country that would question but what that was a sound premise. We would not make any church the national religion. Congress shall make no law, it said. It left the issue of religion, state church, to the States, and you had great variety in the States back in that period. It was to leave the States as the deciders of this issue, a fundamental premise of federalism, a sound one. And that is all the Helms proposal would do, allow State and local government to decide if voluntary prayer is allowed in the schools of this country.

Does that offend your sensibilities? Do you think that would offend the sensibilities of the vast majority of the American people? No.

There is too much elitism in Washington today. The theory is you cannot trust the American people or the local school board to make any intelligent decision. Either we do it through the bureaucracy in Washington or we do it through the Federal courts, but heaven forbid that we should trust the American people at the local level to make any intelligent decision.

Too bad that that is the current theory. It looks very patronizingly at the good judgment and the commonsense of the American people. I would trust their judgment on this. If they wanted to have prayer, let them have it. If they did not, then do not have it. But I would not want to dictate to the cities in Connecticut or to the cities in Arkansas what they might do, or the State or local government. Let them decide. That is what James Madison, the father of the Constitution, had in mind. What Senator HELMS is talking about is as reasonable as anything can be. Turn it back to the State and local level and let the Supreme Court leave it alone.

That is what the framers had in mind in the first amendment. The main thing they were opposed to was the establishment of a national religion, and that is exactly what is occurring now, because every time any vestige of traditional religious belief is manifested in the public schools of this country it is struck down.

What is the national religion today? Secular humanism. And that violates everything they were talking about—no national religion. Now there is a national religion. You can do everything in the public schools today except show some genuine religious activity. You cannot read the Bible; you cannot pray because there is a chilling effect cast over it because of Supreme Court decisions, but apparently you can do everything else under God's sun from violence, drugs, and so forth. It is only when people begin to introduce a little religious value that all of a sudden the hue and cry goes up that, "Oh, my goodness, they are subverting the schools."

The American people in their commonsense know nonsense when they see it, and that is what this is. Strip it down to the bare bones and Senator HELMS is saying let State and local government decide. No wonder the filibusterers do not want this to get out to a majority vote on the Senate floor or the country at large.

On the jurisdictional question, there is no question but what we have the power to do that. The only matter is

would it be prudent to exercise it. I understand that, and I wish we could get on to a debate about it.

Article III clearly gives us the power to withdraw the appellate jurisdiction of the Supreme Court, to set its parameters. It gives us the power to create and to totally abolish the lower Federal courts. It states it. It is clear. It is explicit. The question is, Is it prudent to exercise it in a particular case? That is fair game and I am willing to debate it.

They talk about stripping the courts. They all voted for the Voting Rights Act. It stripped away the jurisdiction of the lower Federal courts in the South to hear voting rights cases.

The Senate is already on record as indicating taking away jurisdiction of Federal courts with regard to busing. There is a long history where Congress, under its power under article III, adjusted the jurisdiction of the Federal courts. There is nothing new or novel about it. We have that power. Again, the question is, in a particular context, Is it prudent to exercise it?

Mr. President, I should like to get down to what I think is a fundamental question in this country: Who ought to be making, as a matter of federalism and separation of power, the fundamental policy questions?

As the framers envisioned it under federalism and separation of powers, in this particular matter it would be of State and local concern. That is exactly what Senator HELMS is asking that we return to, and I support it, and I ask my colleagues to support him.

Senator HELMS is really raising the broader question which every American senses in his political bones, that somehow or other we no longer make policy decisions in this country. We do not do it on abortion. We do not do it on busing. We do not do it on prayer. We do not do it on a whole host of things. Do you know who does it? The elite in the Supreme Court, the Federal judiciary, with lifetime appointments, no accountability, moving ever and ever into the policymaking role.

It concerned the framers. That is why they gave us checks and balances—dealing with the jurisdiction of the courts, appointment to the courts, creation of the courts, the amending process. They gave us a whole range of processes.

They said to the legislative body, the principal policymaker, "Here are some tools you can use to maintain your prerogatives and powers as the principal policymakers."

The curious thing is that as the courts continue to encroach upon our power, the hue and cry goes up in the Senate, by this minority group, "Let them do it. There is nothing we can do about it."

I ask you the wholly platonic question: Who guards the guardians? The guardians are who in this case? Apparently, the Supreme Court. They know better than State and local government in these matters. But what if they overstep their bounds? What options do we have? None, we are told. I hate to use the word, but ultimately, I guess, we just pray, pray that they do it right—but do not pray in school for it, because that violates the Constitution, according to the elitists.

I think the American people know nonsense when they see it. That is one great and comforting thing in this country. If you let it get back to the American people and let them deliberate about it and use their commonsense, they would come up with a better answer than this.

That is the whole underlying theoretical premise of the U.S. Constitution—representative government. That is our great contribution to the political institutions of the world, in our time. That is why we are the envy of the world, because we have representative government. We are willing to trust the deliberative process to set fundamental policy course and direction in this country. We do not want elitists doing it—self-appointed, self-annointed, lifetime appointees. They have their role, but this does not happen to be one of them.

Mr. President, I know that my time is running out. I have said my piece, and I should like to conclude on this note, to remind my colleagues as they come up to vote in a few minutes on the matter of cloture: My distinguished colleague from North Carolina has been taking a lot of public abuse of late because of his willingness to stand firm. Certain provincial newspapers contend that he has lost his clout as he gets a majority vote in the Senate. But, more important, out in the land the people are with him. Those are the people who are with him, and in this artificial atmosphere of the Nation's Capital, sometimes it is hard to perceive that.

Senator HELMS is correct on the moral question. He is correct on the constitutional question. He has the support of the majority of the U.S. Senate on this issue, if it could ever get to a vote. I know down deep in my political bones that he has the support of the American people throughout the land.

It is a simple, elementary question: Do you trust State and local government to decide whether there ought to be voluntary prayer in the classrooms of this country? I opt for the latter, and happily and proudly so, and I salute my distinguished colleague from North Carolina for showing the leadership on this very important matter.

I thank the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I should like to make one comment to my distinguished friend from North Carolina. I agree that he articulates the other side of the issue from this Senator very well, but he makes a statement about leaving this matter to State and local governments.

Just so that I not be accused of finger pointing on the Senate floor, I will use my own State of Connecticut as an example. When it was left to local and State governments, even after the Constitution had been written, we had a fusion of church and state.

For example, in Connecticut, Congregationalism was the official religion of the State of Connecticut, and it was disestablished in 1818. Indeed, it was Thomas Jefferson who wrote to a congregation of Baptists in Danbury, Conn., in 1802, and he said at that time:

LETTER BY THOMAS JEFFERSON TO A COMMITTEE OF THE DANBURY BAPTIST ASSOCIATION, JANUARY 1, 1802

The affectionate sentiments of esteem and approbation which you are so good as to express towards me, on behalf of the Danbury Baptist Association, give me the highest satisfaction. My duties dictate a faithful and zealous pursuit of the interests of my constituents, and in proportion as they are persuaded of my fidelity to those duties, the discharge of them becomes more and more pleasing.

Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the nation on behalf of the rights of conscience, I shall see with sincere satisfaction the process of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties.

I reciprocate your kind prayers for the protection and blessing of the common Father and Creator of man, and tender you for yourselves and your religious association, assurances of my high respect and esteem.

THOMAS JEFFERSON.

I do not think that it was contemplated by the Founding Fathers, that every State and locale should do its own thing; but, rather, that religious freedom was something which belonged to the whole Nation. It was a whole nation that opened its arms to the people of this world, as the only nation in the history of civilization to say there is no State religion. That means no national religion, no State religion, no municipal religion, no official religion period, no merging of the civil authority with the religious authority. That was what was intended.

so that religion in this Nation would always be a personal and not an official act.

Mr. EAST. Mr. President, will the Senator yield for a point I should like to make?

Mr. WEICKER. Without losing my right to the floor.

Mr. EAST. My answer to that is that at the time of the founding of this country and the first amendment, the purpose of the first amendment was to forbid the establishment of a national religion. But I remind the Senator that at the time of the founding of this country, we had a great variety or relationships between church and state, depending upon the particular colony.

In Massachusetts, for example, there was a very close fusion of church and state. In Rhode Island there was none at all. You had no officially established church.

In North Carolina and Virginia, for example, you had an official church that was Anglican, but other churches were allowed or formed.

So they had great diversity which reflects the great strength of the Federal system, and that is what Madison was defending.

The Senator from Connecticut was saying that he did not think the Connecticut solution was good, and ultimately the good people of Connecticut decided it was not, and so it is gone, and that is true in North Carolina.

But it evolved over time through decisions at the State and local level. That is what the framers intended by the first amendment, and all Senator HELMS is trying to do is shore that up again.

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senator from North Carolina and I not be considered as violating the two-speech rule and that I do not lose my right to the floor, so we may debate this for 1 minute here.

The Senator then is saying that an official religion proclaimed by one of the States of the Union is all right; is that correct?

Mr. EAST. I think it would be very imprudent for them to do it, and I would not support it. Fortunately not 1 of the 50 States has done it.

So the distinguished Senator from Connecticut conjures up a chamber of horrors that simply does not exist.

Mr. WEICKER. But we both agree it did exist and the Senator is arguing for State and local government being able to establish their religion.

Mr. EAST. I am saying that is what was intended by the first amendment by the framers of the U.S. Constitution. If they had not meant that they would never have gotten it ratified because the State of Virginia, for example, would no more let this new Constitution dictate to them the relationship between church and state. All they were saying is we do not want any national church but we in Virginia will decide that relationship and North Carolina, Massachusetts, and Connecticut will also.

That is the fundamental point that has been completely lost in all of this discussion.

Mr. WEICKER. Is that the position of the Senator from North Carolina?

Mr. EAST. Pardon?

Mr. WEICKER. If the Senator will yield, is that the position of the Senator from North Carolina?

Mr. EAST. What position?

Mr. WEICKER. Is the position that the Senator just enunciated his interpretation of the position of the Founding Fathers and the Constitution?

Mr. EAST. Many of the individual statesmen have been opposed to a close relationship of church and state. Madison would be one. But Madison was willing to let the good people of Connecticut decide that, or Pennsylvania, or North Carolina. What he did not want is a national Congress dictating.

Now we have the irony of the Supreme Court dictating the national religion of secularism. They have turned Madison on his head.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. WEICKER. I just wish to once again ask my good friend from North Carolina whether or not he believes this is a matter best left to the States and local governments.

Mr. EAST. Yes; that is what the framers intended and it has evolved over a period of time, and I am willing to do it today. I am willing to trust the people at the State and local level to decide if they want voluntary prayer in their schools. I am willing to trust their good judgment.

I might reserve the right to personally disagree with them, but I am willing to trust their good judgment. I have confidence in American grassroots democracy. I am very Jeffersonian, I guess, and I do not think I need to publicly apologize for it. But I am willing to defend the premise.

Mr. WEICKER. As I used the term "State religion," I mean by that any official fusion between the civil authority and religious authority. If a State chooses to do so by the Senator's words they should be permitted to do so.

Mr. EAST. The framers would be making the point at the State level. But the point is to have established an official church is one thing. I think there is universal opposition to that in America.

But to stamp out every vestige of traditional belief in the public institutions of America can virtually end in a national religion of secular humanism, and that goes contrary to everything the first amendment stood for.

Mr. WEICKER. I will conclude with these remarks. I am here arguing the first amendment.

I wish to make something clear. I think that is a slightly different case from the one the Senator cites in his last remark.

I am standing here for that first amendment which says not only that Congress shall make no law respecting the establishment of a religion—and this gets to the point the Senator must make—or prohibiting the free exercise thereof.

So let us make no mistake about what we are defending here. I am defending the first amendment freedoms in terms of religion. "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

But what is really very illuminating to this Senator is the remarks of the distinguished Senator from North Carolina which would permit the interpretation, and I will use the kindest words, insofar as State and local governments are concerned that in the strictest legal sense it is the position of the Senator from North Carolina that yes, indeed, they could establish a particular faith as being the official faith of that governmental entity.

I am sorry that I intruded on the good Senator from Massachusetts.

I yield the floor to the distingushed Senator from Massachusetts for the purpose of debate without losing my right to the floor and without this being considered as the end of the speech for the purposes of the two-speech rule, and I ask unanimous consent that I regain the floor 1 minute before the time for the cloture vote to take place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, as an increasingly disinterested observer of the last colloquy, I must say that the likelihood that the Senator from Connecticut is going to convince the Senator from North Carolina is equal to the likelihood that the Senator from North Carolina is going to convince the Senator from Connecticut.

I also point out, before I begin, that indeed if Thomas Jefferson had the sentiment and political position as ascribed to him by the Senator from Connecticut and if he were in the Senate today the Senator from North Carolina, Senator HELMS, would be raising money to defeat him.

So the Founding Fathers had a certain advantage of being alive when they were alive and not around today.

Can one imagine Thomas Jefferson, John Adams, and the great Founding Fathers engaged in the conversations we have had on this floor for the last 3

weeks? They would have gone back to their farms.

Mr. President, the issue before this body today, is not school prayer. This is not a school prayer debate. Rather, the real issue, the only isue, is whether, as a matter of policy and constitutional law, this "most deliberate body"—the U.S. Senate—is going to adopt a device whereby each time a decision of the Supreme Court and lower Federal courts offends a majority of both Houses of Congress the jurisdiction of the Federal courts to hear that issue will be stripped away by the Congress. I do not believe that is a system the framers intended nor one that we should strive to institute.

Supreme Court decisions interpreting the Constitution establish binding precedents which are subject to change by the people through the process of constitutional amendment. The framers provided in article V a means of changing the Constitution and deliberately made it difficult to achieve. Article V provides:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States or by Conventions in three-fourths therefore, as the one or the other Mode of Ratification may be proposed by the Congress * * *

It is central to our system of government that ordinary legislation can be changed through ordinary legislation, and the Constitution only through amendment.

Throughout our history there have been legislative attacks upon the power of the Supreme Court to protect constitutional rights. The Jeffersonian Democrats proposed to use impeachment as a vehicle for removing justices whose constitutional views were distasteful to the dominant party in Congress. In the 1920's, the proponents of State sovereignty sought to take away the power of the Supreme Court to review decisions by State courts on constitutional questions.

In 1937, President Franklin Roosevelt proposed legislation to pack the Supreme Court with new justices who agreed with his constitutional philosophy. The Court packing plan was defeated. The McCarthyites of the 1950's unsuccessfully sought to persuade Congress to limit Supreme Court jurisdiction over unconstitutional Federal and State programs aimed at alleged subversives. In 1964, some Senators and Congressmen attempted to eliminate Federal court jurisdiction over reapportionment.

In the past, despite the discontent with particular Supreme Court decisions, the Congress has wisely rejected these attempts to overturn constitutional decisions of the Supreme Court through legislative fiat.

If Congress had adopted these proposals, it would have radically altered our constitutional system of government. Thus, whenever a momentary majority in Congress disagreed with a Supreme Court decision, it could change that decision by simple statute. The Supreme Court would be the final arbiter of the Constitution, as the Founding Fathers contemplated, if and only if their decisions satisfied a momentary majority in Congress. If they did not, Congress would strip them of their authority to decide these issues.

The Helms amendment would strip the jurisdiction of the Supreme Court and lower Federal courts in school prayer cases. What is next? Tomorrow why not preclude the Supreme Court from deciding freedom of speech cases, or maybe freedom of the press, or the right of the people to peaceful assembly? Why not forbid the Supreme Court from hearing any claim asserted under the Bill of Rights or under any other provision of the Constitution? As you can see under this scheme, Congress could have unlimited authority to turn the Supreme Court and the Constitution upside down and inside out. It would represent an unparalled and unprincipled attack upon our Federal judicial system. There would be no boundaries or limits to Congress powers. This is not what the framers had in mind when they constituted our tripartite system of government.

Alexander Hamilton, in the Federalist Papers, declared that the Constitution is not only fundamental law, it is the will of the people, and the courts are its guardians. He said that the Constitution is the highest manmade law; any legislative act contrary to it must be held void by the courts, since "the interpretation of the laws is the proper and peculiar province of the courts." Hamilton denies that this makes the courts superior to the legislature. In fact it "only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former."

We must not allow the passions of today to sweep under the rug the constitutional safeguards embodied in our Constitution. As the Supreme Court stated nearly 40 years ago in West Virginia State Board of Education against Barnette:

> The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote: they depend on the outcome of no elections.

The function of judicial review is allocated to an independent judiciary in order to prevent the accumulation of power in one department of the Government. As Hamilton wrote in the Federalist Papers, it could not be expected "that men who had infringed the Constitution in the character of legislators would be disposed to repair the breach in the character of judges." Thus, a constitutional system that imposes limitations on the authority of the legislative branch also requires an independent branch to determine whether legislation comports with the constitutional limitations; otherwise, the legislature would have the power both to enact and to judge the law, and there would be no check on its proper exercise of its powers.

This is exactly what the Helms amendment does. It allows the Senate to enact and judge its own laws—in this case, school prayer—without ever having to answer to Federal judicial review. This is exactly the opposite of what the Founding Fathers intended.

Further, without the ability of the Supreme Court to review the decisions of State and lower Federal courts there would be varying interpretations of the same Constitution, with no opportunity for resolution.

If Members of this legislative body and the people of the United States want prayer in public schools, the avenue for change is a constitutional amendment, not a change by statute.

Imagine, if you will, a wrecking ball slowly chipping away at a building. This is exactly what we would be doing to the foundations of the Federal judiciary by passing this ill-conceived legislative proposal. I remind my colleagues that those freedoms you cherish today could be canceled tomorrow if we allow constitutional decisions of the Supreme Court to be changed by simple statute rather than by constitutional amendment.

Mr. President, I would like to read into the RECORD letters and statements I have received from both religious and secular organizations opposing the school prayer amendment.

B'NAI B'RITH WOMEN,
Washington, D.C., September 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: As president of an organization of 120,000 women from all parts of the country, I am writing to express our opposition to the voluntary school prayer amendment to the debt ceiling bill.

Our members hold strong views on the subject of school prayer, views that for the most part were forged during their school years when such prayers were routinely said. They realize full well the pressures to conform to saying prayers that are not really reflective of their religious beliefs and they know from first hand experience the toll exacted from being perceived as "differ-

ent." We firmly believe that the place for prayer is not in the public schools. We have churches, synagogues, mosques and homes for prayer; we resist the notion that prayer belongs in public schools. As American women who belong to one of the largest non-Christian denominations in the country, we urge you to work toward defeat of the prayer amendment.

Sincerely,

DOROTHY BINSTOCK,
International President.

UNITED CHURCH OF CHRIST,
OFFICE FOR CHURCH IN SOCIETY,
Washington, D.C., August 16, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: The Office for Church in Society of the United Church of Christ is opposed to the passage of school prayer legislation that will come up during senate consideration of temporary debt limit increase.

We are opposed to legislation permitting prayer as part of regular classroom procedure in public schools because such activity would blur the distinction between church and state functions and, it would overturn by statute the Supreme Court rulings on prayer. Further, the various proposed school prayer bills remove constitutional protections afforded to our citizens through the lower federal courts and Supreme Court.

We urge that you not attempt to pass legislation promoting prayer as part of regular classroom activity in public schools because such activity would violate the rights of those whose religious beliefs or non-beliefs are in the minority, and would promote state control over a function that rightfully belongs to religious groups and the family.

Sincerely,

CONSTANCE STREET,
Policy Advocate.

WASHINGTON, D.C.,
September 20, 1982.

To: Senator TSONGAS.
From: National Council of the Churches of Christ.
Subject: Opposition to Helms' prayer bill.

The National Council of Churches opposes the Helms amendment to the debt ceiling bill that would deny federal courts jurisdiction to hear cases involving school prayer.

The N.C.C. has testified that prayers in public school would force children of minority religions to choose between acceding to prayers of the majority that are in conflict with their own religious upbringing, and branding themselves as nonconformists by asking to be excused from such prayers.

Authorizing states and localities to institute school prayers would be unwise because it would tend toward fifty or more different meanings of the Religion Clauses of the First Amendment from one state to another.

Such authorization is unnecessary because children can pray in school now, anytime, anywhere. What they cannot do is to preempt a public institution for oral, collective prayers at the expense of children of minority or no religion.

Bar associations and legal scholars have denounced Senator Helms' efforts to make an "end run" around the proper process for amending the Constitution and for trying to "whittle away" the co-equal powers of the federal judiciary. Please do what you can to oppose such efforts.

Sincerely,

DEAN M. KELLEY,
Director,
Religious and Civil Liberty.

RESOLUTION ON PRAYER IN PUBLIC SCHOOLS

Whereas in a Policy Statement entitled "The Churches and the Public Schools," adopted June 7, 1963, the Governing Board of the National Council of the Churches of Christ in the U.S.A. said: "Neither the church nor the state should use the public school to compel acceptance of any creed or conformity to any specific religious practice . . .";

Whereas the same Policy Statement also stated: "The Supreme Court of the United States in the Regents' Prayer Case has rules that 'In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government.' We recognize the wisdom as well as the authority of this ruling . . .";

Whereas the same Policy Statement continued: "We express the conviction that the First Amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens . . .";

Whereas the President of the United States has recently announced his intention to propose to Congress a constitutional amendment which could lead to the reinstatement of group prayer in public schools;

Whereas the recitation of prescribed nondenominational prayer demeans true religion by denying the traditions of faith groups while imposing on some children religious practices which are offensive to them; and

Whereas there is a danger that the rights of members of minority religions would not be adequately protected: Therefore, be it

Resolved, That the Governing Board of the National Council of the Churches of Christ in the U.S.A.:

Reaffirms its belief, as set forth in the Policy Statement on "The Churches and the Public Schools" that "Christian nurture and the development and practice of Christian worship are unescapable obligations of the congregation and the family"; and

Reaffirms its support of the Supreme Court language describing the First Amendment as providing no role for government in prescribing or providing for prayer in public schools.

Policy Base: The Church and the Public Schools, adopted by the General Board, June 7, 1963.

UNITARIAN UNIVERSALIST ASSOCIATION,
Washington, D.C., September 21, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the Unitarian Universalist Association of Churches, I am writing to ask that you oppose the Helms School Prayer Amendment to the debt ceiling legislation now pending in the Senate, H.J. Res. 520.

Our denomination considers participation in religious expression, or the choice not to engage in religious expression, a very private and personal matter. We do not believe that the public schools have any proper role to play in this area. At the 21st Annual General Assembly of our Association in June of this year, a Resolution was passed entitled, "Public Education, Religious Liberty and the Separation of Church and State." In pertinent sections, the Resolution voices support to:

"Uphold religious neutrality in public education, oppose all government mandated or sponsored prayers, devotional observances, and religious indoctrination in public schools; . . ."

"Uphold the principle of judicial review, and oppose all efforts to deny the federal courts jurisdiction over school prayer. . ."

"Uphold the principle enunciated by the United States Supreme Court that all levels of government must remain respectfully neutral with regard to all religions;"

We appreciate your consideration of our views on this matter.

Sincerely,

ROBERT Z. ALPERN,
Director.

AMERICAN BAPTIST CHURCHES, USA,
Washington, D.C., September 21, 1982.

DEAR SENATOR: American Baptists have a long-held historical belief in the right of individuals to freely practice their religion and to be free from state-imposed conformity of practice. We see that freedom challenged in Senator Helms' school prayer amendment to the debt limit bill. We urge you to defeat this amendment.

As Baptists, we believe that prayer is a vital part of the encounter between God and Man. But we believe that it is a personal encounter that is only trivialized when made part of a ritualistic group recitation.

Further, we believe that prayer is a subject to be taught in our homes and in our churches. We reject the view that a state, or any of its employees, by virtue of their status alone, are qualified to compose or lead a prayer acceptable to all faiths.

Finally, the separation of church and state mandated by the First Amendment prohibits the prescription of a religious practice by law. The rights protected by the Free Exercise clause are threatened when school children are expected to participate in a group prayer. The pressure to conform cannot be removed by a label of "voluntary" hung on a group prayer law.

We urge you to support religious liberty and oppose the Helms' school prayer amendment.

Sincerely,

BARRY SAWTELLE,
American Baptist Churches, USA, Office of Governmental Relations.

AMERICAN BAPTIST RESOLUTION IN SUPPORT OF HISTORIC BAPTIST PRINCIPLES AGAINST STATE MANDATED PRAYER

Baptists, both historically and presently, believe that religious faith must involve a vital encounter between persons and God, and no religious form should be substituted for this encounter. Thus, Baptists have long opposed any compulsion to conformity or coercion of conscience in religious belief or practice. While Baptists gather together in fellowship with other believers to pray and worship, we also affirm prayer to be a constant part of our individual lives which does not need a prescribed form, or official sanction to be real and vital.

Therefore the General Board of the American Baptist Churches, U.S.A.:

Reaffirms our historic Baptist belief that religion should not be mandated and that prayers and religious practices should not

be established or prescribed by law or by public policy or officials;

Supports the Supreme Court decision on prayer in the public schools and recognizes that it does not prohibit the free exercise of religion while sustaining the liberty of a free conscience;

Opposes any attempt through legislation or other means to circumvent the decision of the Supreme Court on mandated prayer in the public schools.

POLICY BASE

American Baptist Policy Statement on Human Rights, Adopted December, 1976.

"As American Baptists we declare the following rights to be basic human rights, and we will support programs and measures to assure these rights:

1. "The right of every person to choose a religion freely, to maintain religious belief or unbelief without coercion; the right for communities of faith to meet together to engage in public worship, to witness publicly to others, to speak prophetically from religious conviction to government and society, to live out religious beliefs, and to be free from governmental intrusion, coercion and control in the free exercise of conscience and religion;"

American Baptist Convention Resolution on Separation of Church and State, Adopted 1964:

"And we reaffirm our historic Baptist belief that religion should not be a matter of compulsion and that prayer and religious practices should not be prescribed by law or by a teacher or public school official."

Adopted by the General Board of the American Baptist Churches—June, 1980; 117 for, 2 against, 1 abstention.

BAPTIST JOINT COMMITTEE ON PUBLIC AFFAIRS: PRAYER IN PUBLIC SCHOOLS

Whereas the proper place of religion in public schools continues to be the subject of confusion among U.S. citizens, including our own Baptist people;

Whereas Congress continues to be pressured to act favorably on a proposed constitutional amendment calling for prayer in public schools;

Whereas Congress is likewise under severe pressure to pass bills seeking to remove challenges to state laws or local regulations returning prayer to public schools from the jurisdiction of federal courts;

Whereas the Baptist Joint Committee on Public Affairs has consistently supported the U.S. Supreme Court's historic 1962 and 1963 decisions striking down state-mandated prayer and Bible reading in public schools: Therefore be it

Resolved that the Baptist Joint Committee reaffirm its support of the Supreme Court's decisions; be it further

Resolved that the Baptist Joint Committee reassert its opposition to any and all proposed constitutional amendments which, under the guise of fostering "voluntary" prayer in public schools, would in fact undermine those decisions; be it further

Resolved that the Baptist Joint Committee oppose unalterably any and all legislative efforts to remove from federal court jurisdiction laws dealing with prayer in public schools; be it further

Resolved that we recommit the Baptist Joint Committee to exercise a leadership role in the effort to defeat constitutional amendments and jurisdictional bills dealing with prayer in public schools in Congress while at the same time asking Baptist leaders across the country to join us in seeking the defeat of such measures by communicating their opposition to members of the U.S. Senate and House of Representatives; be it further

Resolved that we call upon our denominational leaders to undertake a renewed effort to provide information to our Baptist people about the constitutionally appropriate place of religion in public schools and to educate our people about the dangers of any form of coerced religious exercises in said schools; and be it further

Resolved that we seek the widest possible distribution of the newly reprinted pamphlet, "Religion in the Public School Classroom" as one means of attaining the above-stated objective.

LUTHERAN COUNCIL IN THE USA,
Washington, D.C.

STATEMENT ON PRAYER IN THE PUBLIC SCHOOLS, SEPTEMBER 21, 1982

On behalf of the Lutheran Church in America, the American Lutheran Church and the Association of Evangelical Lutheran Churches, I would like to express our strong opposition to the Helms amendment, which would restrict the jurisdiction of the federal courts to hear cases involving "voluntary prayer" in public schools. These churches have consistently supported the position articulated by the Supreme Court in 1962 and 1963 prohibiting state-mandated prayer and Bible readings in public school classrooms. The churches' positions on school prayer has been determined in their national conventions at which congregational representatives gather, and subsequent implementation of this policy position has taken place according to the churches' constitutions and by laws.

The rationale for the churches' position is clearly articulated in the following excerpts of two church body statements:

"Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as an essential part of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life."—Adopted in 1964 by the American Lutheran Church gathered in convention. This position was most recently reaffirmed by the Church Council of the American Lutheran Church in 1981.

"Parents, churches and school authorities would be better advised to direct their efforts to programs for study of religion and the Bible in the public schools and to the formulation of types of programs which coordinate the secular educational programs of the public schools with programs of a strictly religious nature conducted by the churches themselves, rather than to seek constitutional sanctions for devotional exercises in public schools that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential source of conflict in the community.—Adopted in 1964 by the Lutheran Church in America in convention; this position on school prayer was reaffirmed at the 1980 convention of the LCA.

Originally, these church bodies opposed proposed constitutional amendments on the school prayer issue. However, in recent years, these church bodies, which together count approximately six million members, have expressed their opposition to legislation which would strip the federal courts of jurisdiction in areas relating to "voluntary" prayer in public schools. In 1980, the Lutheran Council, acting on behalf of the ALC, LCA and AELC testified in the House opposing such a jurisdiction-limiting proposal. Such legislation could, in effect, set aside a nation-wide standard for religious freedom guaranteed by the Constitution and interpreted by the Supreme Court. We strongly maintain that the standard for determining which laws provide for truly "voluntary prayer" in public schools and which actually violate the First Amendment should be uniform throughout the United States. The proposal to limit court jurisdiction would result in individual states making final determinations on the school prayer issue—a situation which could lead to a "patchwork quilt" of interpretations as to what the First Amendment of the Constitution means in practice. Thus, we maintain that hearing cases involving voluntary prayers in public schools is not just a state or a local issue, but is properly within the jurisdiction of the Supreme Court.

The precedent this legislation could set makes it transcend the public policy implications of permitting prayer in public schools; it touches upon the proper relationship between Congress and the Supreme Court and also between the states and the federal government. Some have described the Helms proposal as a "backdoor" way of amending the Constitution, one which would bypass accepted procedures in an attempt to sanction certain practices likely to be ruled unconstitutional if reviewed by the Supreme Court.

We would maintain that the Helms amendment is an inappropriate and perhaps unconstitutional method for Congress to use to address the question of prayer in public schools. If implemented, this legislation could create new problems of interpretation and could lead to unsuspected results in areas vitally touching on religious liberty. Besides opening the door to divisiveness in the community, it could prove to be the forerunner of other attempts to circumvent the decisions of the Supreme Court on key issues. It would be possible for Congress to follow the precedent set by this bill and remove from the jurisdiction of the Court other practices which could more fundamentally threaten religious liberty and infringe upon constitutional rights.

In an election year, it may seem politically desirable to approve what may be popularly perceived as a "vote for morality and prayer." However, we perceive the Helms amendment to be unnecessary from a religious point of view and unwise from a public policy perspective; we urge the Senate to reject this proposal.

CHARLES V. BERGSTROM,
Executive Director, Office for Governmental Affairs, Lutheran Council in the U.S.A.

AMERICAN BAR ASSOCIATION,
Washington, D.C., August 18, 1982.

DEAR SENATOR: As the newly installed president of the American Bar Association, I write at this critical time to repeat, and reinforce strongly, the position of the ABA expressed by my predecessor, David Brink, opposing the many pending proposals to limit the ability of federal courts to act in abortion, school prayer and busing cases. I urge the Senate to reject any and all such

proposals offered as amendments to the debt limitation bill, H.J. Res. 520, currently under consideration.

These proposals have been perceived by many as involving only positions for or against prayer, abortion or busing. But the truth is that they are unabashedly court-stripping bills, and that is the reason that thoughtful Senators on both sides of the underlying controversial social issues should recognize these proposed amendments for what they really are and join in defeating them.

The present proposed amendments are offensive to our American governmental framework and processes on two grounds. First, the means by which these proposals attempt to change constitutional law derogate the Constitution, the separation of powers and the restraint that traditionally and uniformly has been observed among the three branches of government. Second, the amendment procedure being used circumvents the normal legislative process by coupling two unrelated measures of great importance that deserve separate consideration, by forcing uncritical consideration of both as a unit and by avoiding customary and appropriate advance study.

As you well know, the ABA takes no position on the issues of school prayer, abortion or busing, but is concerned that the pendency of another highly emotionally-charged debate over prayer or abortion will obscure the fundamental flaw in all these proposals. We emphasize again that the issue is not prayer, abortion or busing; the real issue is the integrity of our tripartite system of government. The ABA has long opposed any legislative attempt to alter constitutional law through means other than constitutional amendment. We believe that the enactment of any of these measures would constitute an unprecedented attack on the Constitution and the independence of the federal judiciary and establish unwise policy. Such proposals, if enacted, could be used in the future as precedents for effecting constitutional changes that would impair other rights of all Americans, including proponents of the present amendments. All such proposals should be vigorously resisted.

We also reiterate that the serious constitutional questions involved in these court limitation proposals deserve full consideration in committee. Avoiding the healthy public debate currently underway in the Judiciary Committee and injecting the unrelated court jurisdiction issue into the debate over the debt ceiling would do a grave disservice to both issues.

We strongly urge that the Senate permit the normal legislative process to continue uninterrupted and to oppose any court-stripping proposals. Consequently, we endorse adoption of the pending Weicker and Baucus amendments.

Sincerely,

MORRIS HARRELL.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 17, 1982.

LEGISLATIVE ALERT!

DEAR SENATOR: The Helms amendment (No. 2031), now pending to H.J. Res. 520, the public debt ceiling legislation, threatens to destroy the integrity of our system of checks and balances. The Helms amendment attempts to deny the federal judiciary its appointed role in interpreting the Constitution. It seeks to do indirectly what its sponsor and supporters cannot do directly: to overrule Supreme Court Constitutional decisions by a simple majority vote of Congress.

Thus the Helms amendment is a blatant attempt to avoid the amendment process specified in the Constitution for changing settled constitutional rules; that is, approval by a two-thirds vote in each House of Congress and ratification by three-fourths of the States. The unprecedented assertion of a Congressional power unilaterally to restrict constitutional guarantees through a statute poses profound risks to our most fundamental liberties.

Given the dangerous implications of the Helms amendment, the AFL-CIO urges your opposition.

Sincerely,

RAY DENISON,
Director,
Department of Legislation.

COMMON CAUSE,
Washington, D.C., September 17, 1982.

DEAR SENATOR: On Monday, September 20, the Senate will continue its consideration of Senator Helms' school prayer amendment to the debt ceiling bill. We urge your strong opposition to this amendment and to all attempts to limit the debate.

By removing lower and Supreme Court jurisdiction over cases of prayer in public schools, the Helms amendment attempts to alter and circumvent the Constitution and the fundamental precepts contained in the Bill of Rights.

Senator Helms' school prayer proposal would subvert and compromise the principle that there are fundamental human rights beyond the reach of any government—not just beyond any elected executive, but beyond any government, including majorities in a representative Congress or legislature. It compromises the principle because it presupposes a power in simple congressional majorities to nullify or partially frustrate constitutional rights recognized by the judiciary.

If Congress can deny those seeking to be free from "an establishment of religion" the usual right of access of the lower federal courts or to the Supreme Court on appeal from the highest State court, then majorities in the Senate and House can deny that access in cases seeking protection for all other constitutional rights, for example, freedom of the press.

In a May 6, 1982 letter to Senator Strom Thurmond, Chairman of the Senate Judiciary Committee, concerning this bill, Attorney General William French Smith stated that Congress may not "intrude upon the core functions of the Supreme Court." He further stated that on these First Amendment constitutional issues, Congress does not have "unlimited power over Supreme Court jurisdiction." The Conference of Chief Justices of the state Supreme Courts also passed a resolution opposing legislation to restrict the jurisdiction of the federal courts.

Common Cause has joined with numerous other national groups in publicly protesting these efforts. We ask your active support in rejecting the Helms school prayer amendment and all other legislation which threatens the independence and integrity of the courts.

Sincerely,

ARCHIBALD COX,
Chairman.

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION,
Washington, D.C., September 21, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: I am writing on behalf of the National Legal Aid and Defender Association (NLADA) to urge your continued strong opposition to the court-stripping school prayer amendment now pending to the debt-ceiling legislation, H.J. Res. 520. NLADA strongly opposes all legislation which would deprive the federal courts of jurisdiction over constitutional questions. While we take no position on the substantive question of school prayer, we believe that the pending amendment is both unconstitutional and extremely unwise as a matter of policy.

This amendment blatantly attempts to remove all federal court jurisdiction over the constitutional question of school prayer. This strategem represents a legislative attempt to statutorily amend the Constitution. It stands as an unconstitutional encroachment on the federal judiciary's power to make final determinations on the meaning of the Constitution. If enacted, it would enable a simple majority in Congress to change constitutional law whenever it wished to overturn an unpopular court decision. Thus, the most basic guarantees of the Constitution would become subject to the vicissitudes of prevailing political sentiment.

Most tellingly even the states, to whom final jurisdiction would be given, oppose this measure. The Conference of State Chief Justices condemned the courtstripping approach in a January 30, 1982 resolution as "a hazardous experiment with the vulnerable fabric of the nation's judicial systems." The Conference warned that, absent Supreme Court authority over constitutional questions, ". . . there will inevitably be divergence in state court decisions, and thus the United States Constitution could mean something different in each of the fifty states.

In an adversarial system of law there will always be parties dissatisfied with court decisions. But for those wishing to change the federal courts' constitutional interpretations, the Constitution already provides a remedy. It is the constitutional amendment process. While we express no opinion whatsoever on a possible school prayer constitutional amendment, we urge proponents of school prayer to pursue that route and to withdraw their misconceived challenge to the federal court system.

Thank you for your consideration of our views.

Sincerely,

ELLEN JOSEPHSON.

EQUAL JUSTICE FOUNDATION,
Washington, D.C., September 20, 1982.

Senator PAUL TSONGAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TSONGAS: On behalf of the Equal Justice Foundation, I write to express opposition to the school prayer court-stripping amendment offered by Senator Helms.

The Equal Justice Foundation is a national organization of lawyers who commit one percent of their salaries to promote equal access to justice. The Foundation has no position on the substantive issue addressed by the proposed amendment. It is, however, opposed to any attempts to limit or deny access to the federal courts and Supreme

Court to hear any case arising out of a state school prayer law.

Congressional attempts to alter federal court procedure to attain substantive goals violate constitutional separation of powers principle and undermine the independence of the federal judiciary.

Attorney General William French Smith, four former attorneys general, former Supreme Court Justice Arthur Goldberg, and numerous constitutional law experts have expressed strong concerns over tampering with federal court jurisdiction through legislation. We share their concerns and urge you to oppose the proposed amendment.

Sincerely,

SUSAN KELLOCK,
Executive Director.

NATIONAL EDUCATION ASSOCIATION
LEGISLATIVE STATEMENT

SCHOOL PRAYER

NEA position

The National Education Association supports the 1962 Supreme Court decision in *Engel* v. *Vitale* on prayer in the public schools. In that decision and others since then, the Supreme Court ruled that the schools may not sponsor prayer, even that which attempts to be denominationally neutral in order to preserve the principle of separation of church and state. The Association believes the classroom is an inappropriate forum for religious instruction or the promotion of prayer which is better left to parents or the nation's churches, synagogues, mosques, and temples.

Discussion

The First Amendment to the Constitution states, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ." The Supreme Court and lower federal courts on numerous occasions since 1962 have ruled that required Bible reading or recitation of the Lord's Prayer or posting of the Ten Commandments in the public schools are unconstitutional. Despite rhetoric and myths, these decisions *do not mean* that a student is prohibited from saying a personal prayer in a public school building during schools hours or that a student is prevented from reading the Bible while on school grounds. School-sponsored religious exercises have been held to violate the Constitution as have requirements that students participate in religous activities.

In an effort to circumvent federal court jurisdiction over the issue of school prayer, proponents are advocating enactment of legislation to remove the issue from the jurisdiction of the Supreme Court and lower federal courts. The intent of such legislation is to undermine the Supreme Court rulings which prohibit school-sponsored prayer. Enactment of such legislation would run counter to American tradition and religious liberties.

Since no provision under current law regarding school prayer prohibits students from freely exercising their right, and since religious freedom and true voluntary prayer have never been outlawed in the public schools, legislation now pending in Congress is not only unconstitutional, but unnecessary.

Under current law the following activities are permissible.

Schools may use the Bible or other religious books as source books in religion classes.

Schools may offer a course in the Bible as literature and history.

Schools may offer instruction in comparative religion.

School facilities may be rented during off-hours to religious groups if there is a general policy of renting to non-school organizations.

Students may study the history of religion and its role in the story of civilization.

Students may be allowed to leave school premises to receive religious instruction.

References to faith in God in connection with patriotic or ceremonial occasions are permissible.

The Administration has proposed a Constitutional Amendment which states, "Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any state to participate in prayer." Such an amendment would permit group prayer and we ask, "Whose prayer?"

Conclusion

The National Education Association believes the public schools should remain neutral in the area of religious activities. The principle of neutrality simply means the public schools are neither religious nor nonreligious. Neutrality as used by the Supreme Court is a bit broader, meaning showing neither favoritism nor hostility toward religion. The Association is, therefore, opposed to attempts to thwart the Supreme Court rulings whether those attempts emanate from the Legislative Branch or the Executive Branch of government.

Mr. KENNEDY. Mr. President, I oppose the Helms amendment as an unconstitutional and unwarranted attack on the Supreme Court of the United States. The fundamental question we are facing in the Senate has nothing to do with the issue of school prayer. The sole question is whether the proper way for Congress to address the issue of school prayer is to enact legislation stripping the Supreme Court of jurisdiction to hear and decide cases on this issue. That is the wrong way to deal with the issue of school prayer, and I hope that the Senate will have the wisdom to reject this extremist attempt to deny the Supreme Court an important part of its constitutional jurisdiction.

In 1961, in his first formal address as Attorney General of the United States, Robert Kennedy emphasized America's historic debt to law as the source of freedom:

"Law is the link [to] freedom," he said. "We know that it is law which creates order out of chaos. And we know that law is the glue which holds civilization together."

The amendment now before us is an attempt to break that bond. It is an attack on our basic freedoms. It is an insult to the Supreme Court and an affront to the Constitution. What is at stake is the preservation of the rule of law, the foundation on which all our other liberties rest.

Despite suggestions to the contrary, there is no sound precedent for this scheme to abolish Supreme Court review of sensitive constitutional questions.

In the frequently cited case of ex parte McCardle in 1868, the Supreme Court acquiesced in congressional action removing one avenue of review in habeas corpus cases. But this legislation merely repealed a specific 1867 statute authorizing certain habeas corpus claims of unconstitutional imprisonment arising out of the Civil War to be appealed to the Supreme Court. As the Court made clear in its subsequent decision in ex parte Yerger in 1869, Congress had left intact the broad authority of the Supreme Court under the Judiciary Act of 1789 to review lower decisions on habeas corpus.

In a number of other circumstances, Congress has specified the particular methods by which judicial review can be sought. But Congress has never withdrawn the jurisdiction of the Supreme Court to decide constitutional issues.

The power of Congress to regulate the jurisdiction of the Supreme Court is thus extremely limited. It can be exercised only in a manner consistent with the other basic guarantees of the Constitution. For example, the Bill of Rights prohibits Congress from passing laws which violate freedom of the press and other fundamental civil liberties.

Surely, Congress could not pass a law permitting the Supreme Court to hear appeals brought only by white persons, or by Protestants, or by men. Such legislation would clearly violate the guarantees of equal protection or freedom of religion. Even Senator HELMS, I suspect, would agree that such laws would be unconstitutional and could not stand. How then can Congress constitutionally enact legislation preventing the American people from enforcing their religious freedoms under the first amendment in the highest court of the land?

As Oliver Wendell Holmes once wrote, the Supreme Court is a quiet place, but it is the quiet at the center of the storm.

Throughout our history, there have been repeated efforts by Congress to overturn unpopular decisions of the Supreme Court by removing its jurisdiction in certain types of cases or by other means of undermining the Court's integrity and independence. Each of these schemes has failed—in large measure because Congress and the American people saw the true danger in such schemes and rejected them—as we must do today.

As Members of the U.S. Senate, each of us took the following oath of office:

I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the

office on which I am about to enter, so help me God.

Today, we are called upon to live up to that oath and to defend the Constitution.

In "A Man for all Seasons," Sir Thomas More was urged by a well-meaning friend to bend the law to serve another end. Refusing, he asked:

What would you do? Cut a great road through the law to get after the Devil?

And his friend replied:

I'd cut down every law to do that.

And Sir Thomas More answered:

When the last law was down, and the Devil turned round on you—where would you hide, the laws all being flat? This country's planted thick with laws from coast to coast, and if you cut them down do you really think you could stand upright in the winds that would blow then?"

The same principle is at stake today. If we strike at the Supreme Court, we strike at the heart of the Constitution and the rule of law in America. That is why the Helms' court-stripping amendment must be defeated.

Mr. KASTEN. Mr. President, today I wish to take a few minutes to reflect on how far the Senate has come over the past 3 weeks in dealing with the school prayer issue.

Up to now, we have had 3 weeks of debate and two cloture votes. It is time to move forward on this issue.

America wants Congress to restore the right of individuals to participate in voluntary, nondenominational prayer in schools and other public facilities.

The Helms amendment currently being debated merely seeks to restore self-rule to the States with respect to school prayer—an autonomy reserved to the States from the very founding of our Nation.

In the two decades since the Supreme Court ruled that prayer in public schools is not constitutional, the Court has been denying students the opportunity of beginning each classroom day with a prayer. It is ironic to note that we here, in both the House and the Senate, start each day's work by asking God's blessing on our efforts. The past 3 weeks of debate have centered on the question of whether or not Congress will grant to school children the very same privilege we enjoy daily.

Since the beginning of the 97th Congress, we have made great strides in our effort to restore decisionmaking powers to the State and local level. This amendment would simply return the jurisdiction of school prayer decisions to the State courts where religious freedoms were protected for nearly two centuries. In keeping with our goal to restore local autonomy, let us not stop short of upholding this fundamental right of voluntary prayer in our public schools.

Mr. President, I stress that this is upholding the right to voluntary, not mandatory, prayer. This amendment does not require the States or local governmental agencies to author or require students to participate in prayers. I believe that this wording sufficiently addresses the concerns that have been raised in past congressional debate on the school prayer issue. Now, just as my colleagues who have made great efforts to protect the liberties of those who choose not to pray, we must protect the rights of those who choose to participate in prayer, and uphold the religious freedoms afforded under the Constitution.

Mr. President, in April 1979 this body twice passed legislation similar to that which we are considering today. Let us once again act according to the will of the American people by passing the Helms amendment and at last, resolving this issue.

The PRESIDING OFFICER. The hour of 12 noon——

Mr. WEICKER. Mr. President, I just ask for recognition from the Chair, reserving the right——

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I now yield the floor, but I ask unanimous consent that upon conclusion of the cloture vote that I be recognized.

Mr. BAKER. Mr. President, I wonder if the Senator will withhold that request? I have no problem with his seeking recognition.

Mr. WEICKER. I withhold.

Mr. BAKER. I thank the Senator.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12 noon having arrived, the clerk, under the previous order, will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steve Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard Baker.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2031, as modified, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—54

Abdnor	Grassley	Pell
Armstrong	Hatch	Pressler
Baker	Hawkins	Proxmire
Bentsen	Heflin	Quayle
Boren	Helms	Randolph
Byrd, Harry F., Jr.	Huddleston	Roth
Cannon	Humphrey	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
D'Amato	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Murkowski	Zorinsky
Garn	Nickles	
	Nunn	

NAYS—46

Andrews	Eagleton	Melcher
Baucus	Glenn	Metzenbaum
Biden	Goldwater	Mitchell
Boschwitz	Gorton	Moynihan
Bradley	Hart	Packwood
Brady	Hatfield	Percy
Bumpers	Hayakawa	Pryor
Burdick	Heinz	Riegle
Byrd, Robert C.	Hollings	Rudman
Chafee	Inouye	Sarbanes
Cohen	Jackson	Specter
Cranston	Kennedy	Stafford
Danforth	Leahy	Tsongas
Dixon	Levin	Weicker
Dodd	Mathias	
Durenberger	Matsunaga	

The PRESIDING OFFICER (Mr. DURENBERGER). On this vote, the yeas are 54 and the nays are 46. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, this was a final rejection of the radical right in this Chamber. May we now go forward with the business of the Nation, the Constitution intact and our purposes clear? Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, if I could have the attention of the Senate, I will try to make arrangements for the remainder of this day.

The PRESIDING OFFICER. The majority leader has been recognized. Senators desiring to conduct business may do so in the cloakrooms.

The majority leader.

Mr. BAKER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The majority leader is correct. The Senate is not in order. Will Senators desiring to conduct business retire to the cloakrooms to conduct their business so the majority leader may be heard? Can the Chair be heard?

Mr. BUMPERS. Mr. President, the Senate is still not in order. The majority leader is trying to tell us how we are going to proceed. Everybody wants to know. Let us have order.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. I thank the Chair and I thank the Senator from Arkansas. If I may have the attention of the Senate I want to restate the situation and make a proposal.

Mr. President, a cloture motion has been filed which will produce a vote tomorrow. I will consult with the minority leader and other principals involved in the debate to try to set a time. I am thinking of another 12 o'clock vote tomorrow. But I have a proposal to make in the meantime.

As I indicated earlier, I have represented on the floor of the Senate from time to time that not only would the debt limit serve as a vehicle for Members to offer amendments on abortion and prayer but other amendments as well. A number of Senators have indicated they wish to offer other amendments to this measure. We are coming down the home stretch. We have to finish this bill in some way, and I think we have to do it this week.

I would like to make the proposal, Mr. President, that we temporarily lay aside the pending question, which is the Baucus second-degree amendment, and that until we have the next cloture vote on the Helms amendment that other Senators may come to the floor and offer their amendments as they may wish on other subjects.

In order to facilitate that, Mr. President, I now ask unanimous consent that the pending question, the Baucus second-degree amendment, be temporarily laid aside. I ask unanimous consent that at 12 noon tomorrow, without the requirement for a mandatory quorum under the provisions of rule XXII, that the Senate proceed to vote on the cloture motion against further debate on the Helms amendment.

Mr. President, I also ask unanimous consent that during that period, from the time this order is granted, if it is granted, until the cloture vote tomorrow on the Helms amendment, that no amendment dealing with abortion or prayer will be in order.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I wonder if my friend from Louisiana can give me some indication whether or not all of my request, which I had hoped was persuasively presented, is objectionable to him or if only some is objectionable.

Mr. LONG. Mr. President, only some of the request is objectionable. Not all of it. Some of it would be very pleasing.

Mr. BAKER. It is with great fear and trepedation that I put the next question: Will the Senator from Louisiana share with me that part he finds objectionable?

Mr. LONG. The Senator from Louisiana has no objection whatsoever to someone offering an amendment that this Senator agrees with. [Laughter.] But he would be inclined to object to someone offering an amendment displacing an amendment that the Senator has voted for, such as on the prayer amendment. He objects to displacing this noble effort on the subject of school prayer with an amendment which the Senator from Louisiana disagrees with.

Mr. BAKER. Mr. President, as the Senator knows, I, too, voted for cloture. But the minority leader and I had a colloquy this morning discussing that at some point the Senate reaches that crossroad where it has to move ahead. I am determined, to the extent it is possible for me to do so, to redeem the commitment I have made that Senators will have a chance to offer other amendments. After we dispose of this issue there is still time, but, frankly, if we wait until we have disposed of the prayer amendment before other Senators have a chance to offer amendments on other subjects, we are going to run this Senate over the weekend, next week, and do great damage to the prospects of getting out of here on October 1.

Mr. JOHNSTON. Will the Senator yield?

Mr. LONG. Will the Senator yield?

Mr. BAKER. I yield first to the senior Senator from Louisiana.

Mr. LONG. The Senator from Idaho (Mr. SYMMS) just made a proposal in the Finance Committee, a very good suggestion. He has a revenue measure and an amendment he would like to offer. He is looking for a horse on which to put the rider. The Senator from Louisiana would be delighted to give consent that the Senator's amendment could be offered on the bill.

It all depends on what the amendment is. I would like to know what it is that I am going to agree to. If the Senator from Texas is placing before us an amendment that he supports, or if there was one he did not support——

Mr. BAKER. I wonder how the Senator would feel if I would tell him, as I have before, that when everyone has had their day in court it is my intention to move to recommit the bill with instructions to report back forthwith. Would that change the view of the Senator from Louisiana?

Mr. LONG. I would like to think about it.

Mr. BAKER. Mr. President, I really hope the Senator from Louisiana will think about it and that we can arrange it on this basis because we do need to commit the time of the Senate to the consideration of other amendments.

Mr. JOHNSTON. Will the Senator yield?

Mr. BAKER. I yield.

Mr. JOHNSTON. Is the Senator saying that at some point he is going to move to recommit the debt limit bill to come back with a clean bill?

Mr. BAKER. Yes; that is my present intention.

Mr. JOHNSTON. What are we doing all these amendments for if it is going to come back clean anyway?

Mr. BAKER. Mr. President, there are some questions I can answer and some questions I should not answer. [Laughter.]

Mr. JOHNSTON. If the Senator will further yield, does he mean to say we are going to stay here late into the night, maybe over the weekend, just to deal with a lot of amendments that are never going to see the light of day anyway?

Mr. BAKER. It depends on whether I get my way or not. [Laughter.]

As the Senator from Louisiana says, I have a great affection for those things that go my way.

A motion to recommit with instructions might not pass or indeed the bill might not pass clean. So I have two big hurdles to get over. But for weeks now I have indicated, so that nobody thought I was taking them by surprise, that at some point if we do not get this bill resolved we are going to have to pass a simple debt limit extension and it would be my intention to do that. I am reiterating now that it is my intention to do that if we do not deal with the question on its merits.

Mr. JOHNSTON. If the Senator will permit one further comment, as somebody who has voted for Senator HELMS on his prayer and abortion, and all of that, is it not really time that we do that now and save us all a lot of trouble and get on with the business of the Nation? Why not do it right now, this minute?

Mr. BAKER. I was engaged in a conversation with another Senator. I missed the first few priceless words.

Mr. JOHNSTON. I am saying as someone who has supported this prayer amendment and all of that, is it not really time to face up to the fact that it is not going anywhere? It has been a brave fight.

But it has been a losing battle and the battle is over with. Can we not now bring this matter to a close?

Mr. MATHIAS. Right on.

Mr. FORD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield to the Senator from Kentucky.

Mr. FORD. Mr. President, I support the distinguished Senator from Louisiana. There are several amendments I could not tolerate. I would have to object. If the Senator wants to move on unanimous consent, I hope there may be some amendments that come up that we could debate. But there are several amendments I would have to object to. I now put the Senate on warning and I hope I can be here

when the unanimous-consent request is proposed.

Mr. BAKER. Mr. President, you can see where this leaves the majority leader. I regret it exceedingly. I do not criticize any Senator or even disagree with their point of view. I understand that there is here a device to prevent amendments from being added. There is jeopardy in temporarily laying this aside. That is an acceptable and honorable tradition. Where it leaves me is that it is becoming increasingly difficult, maybe even impossible, to fulfill the commitments I made that other Senators could offer amendments.

I recall discussing this with the junior Senator from Louisiana on the coal slurry amendment, I believe it was. I remember discussing with the distinguished senior Senator from Louisiana and the junior Senator from Indiana a sugar amendment. The list could go on and on. I told them we were going to make this a vehicle on which they could add these things.

If there is objection to this request, I may say it may not be possible to do that.

Now, Mr. President, I withdraw my request.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, let me first yield to the distinguished Senator from Montana (Mr. BAUCUS), then the Senator from Louisiana and then the Senator from Arizona.

Mr. President, the Senator from Arizona was seeking recognition first. Would the Senator from Montana allow me to yield to him?

Mr. BAUCUS. Yes, Mr. President.

Mr. BAKER. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I wonder if it is parliamentarily possible to suggest that we table the Helms amendment at this point?

Mr. BAKER. In answer to the Senator's question, it is possible to do that, as indeed, it was done.

Mr. GOLDWATER. I move to lay the Helms amendment on the table.

Mr. MATHIAS. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Tennessee has the floor. Does he yield for that purpose?

Mr. BAKER. I yield.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—47

Baucus	Glenn	Melcher
Biden	Goldwater	Metzenbaum
Boschwitz	Gorton	Mitchell
Bradley	Hart	Moynihan
Brady	Hatfield	Packwood
Bumpers	Hayakawa	Pell
Burdick	Heinz	Percy
Chafee	Hollings	Pryor
Chiles	Inouye	Riegle
Cohen	Jackson	Rudman
Cranston	Kassebaum	Sarbanes
Danforth	Kennedy	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Tsongas
Durenberger	Mathias	Weicker
Eagleton	Matsunaga	

NAYS—53

Abdnor	Ford	Nickles
Andrews	Garn	Nunn
Armstrong	Grassley	Pressler
Baker	Hatch	Proxmire
Bentsen	Hawkins	Quayle
Boren	Heflin	Randolph
Byrd, Harry F., Jr.	Helms	Roth
	Huddleston	Sasser
Byrd, Robert C.	Humphrey	Schmitt
Cannon	Jepsen	Simpson
Cochran	Johnston	Stennis
D'Amato	Kasten	Stevens
DeConcini	Laxalt	Symms
Denton	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mattingly	Wallop
East	McClure	Warner
Exon	Murkowski	Zorinsky

So the motion to lay the amendment (No. 2031, as modified) on the table was rejected.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. WEICKER. I yield to the distinguished majority leader for the purpose of debate, without losing my right to the floor, without this being considered as the end of a speech for the purpose of the two-speech rule, and that I be rerecognized at the conclusion of the Senator's remarks.

Mr. RANDOLPH. Mr. President, I suggest order. I cannot see the majority leader. I enjoy both seeing him and hearing him.

The PRESIDING OFFICER. The Senate will be in order.

The Chair recognizes the majority leader.

Mr. BAKER. I thank the Senator from Connecticut for giving me this opportunity.

Mr. President, it is clear that we have a problem. The amendment was not tabled. We did not get cloture. There is another cloture vote set for tomorrow.

I regret that we were not able to temporarily lay aside this amendment and proceed, but I understand, and I will abide by that judgment, I have no alternative.

I remind Senators that we will be on this now for the remainder of the day and tomorrow, until 12 o'clock, if we can get that agreement.

CLOTURE VOTE AT 12 NOON TOMORROW

At this time, I ask unanimous consent that the vote on cloture tomorrow be at 12 noon, without the live quorum required by the rule.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. President, if cloture is invoked tomorrow, we will continue to debate the amendment as the rule requires. If cloture is not invoked tomorrow, we will take another look at what we do next.

I remind Senators that we have to finish this bill, and I urge that we consider doing that this week.

Mr. President, will the Senator give me consent to yield to the Senator from North Carolina briefly, under the same terms and conditions?

Mr. ROBERT C. BYRD. Mr. President, after the Senator yields to the Senator from North Carolina, will he yield to me?

Mr. BAKER. May I yield to the minority leader first?

Mr. HELMS. Yes.

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, there are at least two amendments I should like to call up to this debt limit bill. One is the job training bill. The other is the unemployment compensation amendment.

I would be willing, after cloture tomorrow, to forgo calling up those amendments on this measure, if we could have an understanding—they are both on the calendar—that they would be called up; and I would work hard to get an agreement on my side, say, for an hour on each of those measures. Just call them up and have an hour of debate and vote.

I would hope I could work out other agreements similarly. Maybe we could or could not. Maybe we could not do that on those two. Following cloture tomorrow, if we could get some understanding such as that, I would be glad to support the majority leader's motion to recommit the bill and clear it of all amendments and get it back and have a vote on the passage of the debt limit bill, and dispose of it.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. I offer that as food for thought for the majority leader, if he wishes.

Mr. BAKER. As the old saying goes, I thank the Senator—I think. [Laughter.]

I think the Senator knows that I cannot agree to that. There certainly would be an objection to it on our side.

Mr. President, I still hope that the minority leader and I could cooperate on getting this bill resolved; because, notwithstanding that possibly every Senator has something to offer, almost every Member of the Senate has something they do not want.

It may be that what we have done, unintentionally, is created a legislative

gridlock so that nothing can happen; and if that is so, that is just so. But at some point we will have to dispose of legislation on the debt limit, and we will have to address the questions as we proceed.

Mr. President, I understand that the Senator from North Carolina does not now seek recognition, so, under the order previously entered, I yield the floor; and I believe the Senator from Connecticut will be recognized again.

Mr. BUMPERS. Mr. President, will the Senator yield to me 1 minute under the same conditions?

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Arkansas for a query——

Mr. BUMPERS. For an inquiry of the majority leader.

Mr. WEICKER. Without losing my right to the floor, without this being considered as the end of a second speech for the purpose of the two-speech rule, and that I be rerecognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I really intended to direct this question to the Senator from North Carolina, but I will direct it to the majority leader.

I want you to know that I sympathize with your plight. I think I understand the reason why you cannot answer some questions being asked you.

My question to the Senator from North Carolina is simply this: He has all the Senators on record with three cloture votes and a motion to table. I understand that his presses are running, his letters are going out, and he is going to mention the names of all those in the Senate who he thinks are against prayer in the schools. We are not, by the way. But how many more times do we have to vote on this?

My question is simply this: What political advantage can there possibly be to getting everybody on record 10 times instead of 9 times? The die is cast on this, I believe. We have a lot of work to do. We have people on both sides of the aisle who want to get back to their States and campaign.

We have a very serious bill here, in the form of a debt ceiling bill. We have a continuing resolution that, in my opinion, will take us a minimum of a week, going late at night, to pass. So why would the Senator from North Carolina not let the majority leader do what he knows he will have to do, and that is to recommit this bill right now, bring it back, and let us pass it and let us get on with the things we have to do?

I really am pleading with the Senator from North Carolina.

Mr. HELMS. If the Senator will forbear, I will answer his question. He is not asking a question; he is making a speech.

Mr. BUMPERS. The question is there, Senator. Answer it.

Mr. HELMS. I think the majority leader will tell you that I have cooperated with him every step of the way. He is not dealing with just one Senator.

I understand that the Senator is against prayer in schools. That is your and Senator MOYNIHAN'S right. But when a majority of Senators vote in favor of school prayer, Senator MOYNIHAN nevertheless gets up and shouts, "The radical right has been defeated." Well, the Senator from North Carolina did not get up and shout, "The radical left has been defeated."

The Senator can play politics if he wishes with this issue, but the fact remains that the American people want prayer restored to their schools.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I hope Senators——

Mr. BUMPERS. That is all right; leave him alone. I am still on my feet. I will be happy to engage in this debate.

Mr. HELMS. Mr. Minority Leader, I have sat silent in the face of all sorts of abuse directed to the people who are trying to restore prayer in the schools. Certainly, you are on record. But would you, as the minority leader, back up on something to which you are dedicated?

Mr. ROBERT C. BYRD. Mr. President, I do not know why the Senator is pointing his finger at me. [Laughter.]

I was simply going to suggest that Senators on both sides be careful with their statements.

Mr. HELMS. I am glad that point has finally been made, because throughout this debate——

Mr. ROBERT C. BYRD. If the Senator wants to point his finger at me, I will be glad to debate him, if he wishes to engage in some debate. But I have no intention of pointing my finger at him or any other individual in the Senate.

Mr. HELMS. I was in the same position some years ago when Senator Mansfield pointed his finger at me during a tense moment. I took no offense.

What is the Senator's question?

Mr. BUMPERS. The Senator's question is this: We have voted three times on cloture on this amendment. We have now voted on a tabling motion. All of us who opposed to this unconstitutional court-stripping measure are on record. Now, without disparaging the Senator from South Carolina, he has a right to do what he wants to do, but it is my subjective feeling——

Mr. HELMS. Now the Senator moved me across the line.

Mr. BUMPERS. I am sorry—North Carolina.

My point is this: We are on record. It is my belief that this is all political and has been since the first cloture vote. But whether it is or not, I am not attempting to substitute my judgment for yours. Surely, the Senator has everybody on record enough. Why will he not let the majority leader ask for unanimous consent right now or just say that he acquiesces in the majority leader's moving to recommit this bill?

Mr. HELMS. The majority leader does not take his instructions from me, and I will say that if the majority leader wishes to proceed, that is a judgment uniquely his to make.

Mr. BUMPERS. If he moves to recommit this bill right now and it comes out without amendment, are you saying that the Senator from North Carolina has no objection?

Mr. HELMS. I have no objection to any decision that the majority leader wishes to make. I may not like it, or agree with it, but he after all is the majority leader. The Senator from Arkansas is not the majority leader, nor is the Senator from North Carolina.

I have not attempted at any step of the way to dictate to the majority leader. That would be presumptuous.

Mr. BUMPERS. Was not a deal cut that all these social issues would be put on this bill?

Mr. HELMS. What is the Senator talking about when he says "a deal cut"?

Mr. BUMPERS. Did not the majority leader suggest at the very beginning of this session that these issues should be put on the back burner until the eocnomy and other matters the Senate had to consider were in fact considered? Was that not a concession the majority leader made to the Senator from North Carolina?

Mr. HELMS. The majority leader, to my knowledge, never said "put them on the back burner." Those are the Senator's words.

Mr. BUMPERS. I am just characterizing that.

Mr. HELMS. That was the Senator's characterization.

Mr. BUMPERS. I am not saying the majority leader used the precise words.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. My inquiry is whether or not the Senator from Connecticut has the floor. I yielded for the purpose of a query of the Senator from Arkansas. I was wondering whether or not I still have the floor.

The PRESIDING OFFICER. The Senator from Connecticut is correct. He does have the floor.

Mr. WEICKER. Mr. President, I do not mean to cut off the Senators. I am

only trying possibly to get into the time. I might be helpful in the situation. I do not wish to cut off my good friend from Arkansas or my good friend from North Carolina.

So I will be glad to yield to both if they care to go ahead. I thought it was at an end. That is all. If he wishes to go ahead I will yield further.

Mr. BUMPERS. It is at an end. I do not care to pursue it any further.

Mr. HELMS. That may be the best judgment the Senator will make all day.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Rhode Island (Mr. CHAFEE) for the purpose of debate without losing my right to the floor and without this being considered as the end of a speech for the purpose of the two-speech rule, that I might be rerecognized at the conclusion of the Senator's remarks, and that I be allowed to leave the Chamber while I have so yielded.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from Connecticut for the excellent job he has done in explaining this legislation and the effect that it has.

Mr. President, I wish to continue discussing and quoting from the very apt and able testimony given by Prof. Lawrence H. Tribe, of the Harvard Law School, before the House Judiciary Committee in June 1981.

In that testimony, which was directed against court-stripping efforts of several pieces of legislation that were before the House subcommittee, Professor Tribe had discussed Marbury against Madison, of course, the landmark 1903 decision of the U.S. Supreme Court, where he quoted frequently the statements wherein the Court said:

• • • and certainly cannot be forced to "close their eyes on the constitution, and see only [Congress'] law."

He then went on to state:

That Congress may control the timing and the context for federal judicial review of its own statutes does not imply that Congress may place its favorite laws behind a shield wholly impenetrable by federal judicial review. For Congress to do so would impermissibly condemn those federal judges before whom such enactments become relevant in pending cases to serve as instruments of constitutional disregard and defiance. Authorized to decide a case, an Article III court must decide it constitutionally—or not at all.

This came up in United States against Nixon in 1974:

Beyond this internal requirement of adjudication according to a court's best effort to address all questions necessary to decision, to do so in accord with law, and to regard the Constitution as the "supreme law of the land"—beyond this, both the Supreme Court and all inferior courts created pursuant to Article III are charged to resolve only *actual cases or controversies*, and are concomitantly barred from merely offering "opinions in the nature of [legal] advice."

In other words, you cannot go to a Federal court and seek advice as you can in some State courts.

This came up particularly in *Muskrat* v. *United States*, 219 U.S. 346, 362 (1911). *See also* Correspondence of the Justices, Letter from Chief Justice John Jay and the Associate Justices to President George Washington, August 8, 1793.

What is a proper controversy? It is stated:

To "constitute a proper 'controversy,'" an "asserti [on] [of] a right [must be] susceptible of judicial enforcement." *Maryland* v. *Louisiana*, 49 U.S.L. Week 4562, 4565 (U.S. Supreme Court, May 26, 1981).

It follows that Congress may not so truncate—so cut off the jurisdiction of an article III court.

Mr. President, mind you, an article III court we are referring to those courts in the Constitution set up by article III including the Supreme Court and such lower courts as Congress shall establish.

It follows that Congress may not so truncate the jurisdiction of an Artile III court as to empower it to "decide" a legal controversy while denying it any means to effectuate its decision—or even, as in the ordinary declaratory judgment, at least to alter the concrete situation of the parties or the range of options open to them.

Obviously, it is ridiculous to say that the court can decide a legal controversy but has no means to effectuate its decision.

Congress' broad authority to regulate the panoply of available remedies, in others words, stops short of the power to reduce an Article III court to a disarmed, disembodied oracle of the law lacking all capacity to give concrete meaning to its decision that one party won and the other lost.

You can do this. This much at least is implicit even in article III's bar to adjudication at the behest of the party lacking any concrete standing in the outcome of the proceeding.

This much, at least, is implicit even in Article III's bar to adjudication at the behest of a party lacking any concrete stake in the outcome of the proceeding. For a party advancing a legal argument in a court that has been rendered impotent in any meaningful degree to remedy the wrong complained of lacks, by definition, any stake beyond a citizen's purely theoretical curiosity about how the case turns out.

What Professor Tribe is saying here is that the courts are not set up for people to come before them and say how would this come out? There is a theoretical curiosity about how this case might be decided. That is not what the courts are for. The courts are for to render a decision in which one party wins and another party loses and then to execute that judgment in some fashion to remedy the wrong that is complained of and after that the courts are impotent and are useless.

Professor Tribe then goes on and discusses two pieces of legislation that stripped the courts of their power that were being considered by the House Judiciary Committee.

In those pieces of legislation, both of which would unconditionally deprive the inferior article III courts, that is the district and the circuit courts, of authority to issue—they would not have the authority to issue any restraining order or temporary or permanent injunctions or in the case of one of the pieces of legislation any authority to issue any declaratory judgment as well in any case arising out of a law restricting abortions. To do that was inconsistent with article III.

Now, in that particular instance he was not discussing the prayer amendment, but they are all the same. The thrust is absolutely the same. There is no difference. One dealt with abortion, and the one before us today deals with prayer.

For an Article III tribunal thus defanged, but nonetheless seized of jurisdiction to "decide" a pregnant woman's anticipatory challenge to the validity of an abortion ban under which she is threatened with a criminal fine if she exercises her rights as defined by *Roe* v. *Wade*, 410 U.S. 113 (1973), is reduced to whistling in the wind: if it rules the ban invalid and the threat unconstitutional, as it should, it might as well send the woman its regrets. For the tribunal is forbidden to come to her aid in an anticipatory way—while there is still time—even without any showing that the state courts would, or even might, provide timely relief in proceedings of their own. On the contrary, the expectation quite clearly is that the states will not do so—even though the pending statutes, H.R. 73 and H.R. 900, would at least leave open the possibility of the Supreme Court's appellate review of such state court refusals. The point, it should be emphasized, is not that H.R. 900 and H.R. 73 guarantee that the pregnant woman's rights will be rejected in every court to which she goes for preventive relief; the point is that these restrictions would leave Article III tribunals with no way to compel the timely vindication even of the rights such tribunals find to be unconstitutionally jeopardized; and they in no way link this power vacuum to grounds for suppossing that state courts will vindicate the rights on their own or will be forced to do so by the Supreme Court before it is too late. A federal court placed in such a predicament has been emptied of the essential attributes of judicial power contemplated by Article III: "[For] Congress . . . to confer the jurisdiction and at the same time nullify entirely the effects of its exercise are not matters heretofore thought, when squarely faced, within its authority."[7]

Then Professor Tribe goes on to discuss the effect of those proposed laws that were being considered by the House Judiciary Committee. He says:

Similarly, H.R. 869, H.R. 1079, and H.R. 1180 would purport to strip all Article III

[7] *Schneiderman* v. *United States*, 320 U.S. 118, 168-69 (1943) (Rutledge, J., concurring). Cf. *Sterling* v. *Constantin*, 287 U.S. 378, 403 (1932) (Hughes, C.J.)

courts of jurisdiction to "require the attendance at a particular school of any student because of race, color, creed, or sex," and H.R. 761 would extend this ban to an ouster of jurisdiction "to make any decision, or issue any order, which would have the effect of requiring any individual to attend any particular school"—evidently for any reason.

Now, obviously, the proposed legislation that was being considered dealt with school busing and the integration of the schools.

This latter provision, insofar as it tells federal courts what "decision[s]" they may and may not make regardless of their view of the applicable law and facts, plainly contravenes *United States* v. *Klein, supra.* And all four provisons, insofar as they purport to rule out various pupil-assignment remedies regardless of whether any other decree could give effect to the court's constitutional determination,[8] appear to violate the requirement that decisions made by Article III tribunals not be doomed to futility from the start.

Mr. President, what he is talking about here is not what specifically is sought in the law, the proposed law, dealing with attendance in schools, with school busing or abortion or whatever it might be—in this case it is prayer—but what he is talking about is the ability to reduce the article III courts of this country to a nullity, that they are doomed to futility from the start. There is no point in their wasting any time on a case because they cannot do anything about it. Thus we are engaged in this theoretical business of deciding cases with no results.

The same may be said with respect to H.R. 114, which attempts to strip all inferior federal courts of jurisdiction, directly or indirectly, to "modify" the effect of any state court order so long as that order is or was reviewable by the state's highest judicial body. If a federal court concludes that such an order was entered in violation of the Constitution; that opportunities to challenge and modify it within the state's judicial system were and remain constitutionally inadequate; and that the individual whose rights the order violated, now a party properly before the federal court, will continue to be unconstitutionally prejudiced by the order unless it is promptly modified by that federal court, then following the mandate of H.R. 114 would render the court powerless to give its conclusion any effect whatever.

The view has at times been expressed that Congress is beyond not only to equip whatever federal courts it creates with subject matter and remedial jurisdiction sufficient to satisfy the implicit demands of Article III but also to create such lower federal courts in the first instance (how many? where?) and to vest them with all the jurisdiction that Article III allows, *see Martin* v. *Hunter's Lessee,* 14 U.S. at 330-31, at least to the degree that the effective protection of constitutional rights under modern conditions so requires.[9] The consistent rejection of this position—a position perhaps rendered more plausible by the Civil War Amendments than it was when Justice Story announced it in *Hunter's Lessee*—might be thought to preclude its adoption now. But such rejection of the Story view should not be permitted to obscure the underlying principle—one never rejected by any court—that no Article III tribunal that Congress elects to create, whether under constitutional compulsion or otherwise, may be crippled from birth with a defect of design fatal to the tribunal's capacity to fulfill a function indispensable to the "judicial power of the United States."

I must say Professor Tribe is not a master of clarity. However, his points are well taken. Basically what he is saying, as I have said before, is that we did not set up these article III courts to cripple them from birth with a defective design fatal to the court's capacity to fulfill a function indispensable to the judicial power of the United States.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. Yes; I would for a question.

Mr. MOYNIHAN. This seems to me to be with respect to the central historical and constitutional question that we deal with, to wit, did the exceptions clause extend to the vital functions of these tribunals which Justice Marshall said that "The province of the court is to declare what the law is?"

Do I take it to be the judgment of the distinguished Senator from Rhode Island that courts in order to be courts had to have that function, and no group of American lawyers, who were in the main at Philadelphia, would have conceived of the court in any other role?

Mr. CHAFEE. I think the Senator is absolutely right in his question. I mean this is ridiculous. What were the courts for? Why are we setting them up? Why are we paying them? Why do we have a system of review when a court is merely to declare the law, announce it, and that is it? It cannot do anything about it; no injunctive powers, no powers of review, nothing. It is an absurdity, and that, of course, as the distinguished senior Senator from New York has mentioned, is way beyond—it was never in—the dreams of those distinguished citizens present in Philadelphia in 1788 and 1789.

Of course, we have quoted extensively here from the Federalist Papers of Alexander Hamilton and he makes that very, very clear.

I noticed, and the distinguished Senator was here earlier, perhaps, when somebody charged someone as being against school prayer. Wonderful. What a charge. Send the person away in shame, he is against prayer.

Well, that is not the subject in this matter at all. And the Senator from New York has mentioned that many times. The subject has nothing to do with prayer. It has to do with the powers of the courts.

If we were to have a discussion on prayer, if we want to bring forward a constitutional amendment that would permit prayer in schools under the Constitution, then that would be a discussion on school prayer. Are you for it or against it? Compulsory prayer or some substitute or some alternative. That is where you get to discussing the gist of prayer or nonprayer, but not under that measure that is before us today and that has been bedeviling us for these past 2 weeks.

So the Senator is absolutely right in his suggestion that it deals with the capacity of a court to fulfill a function indispensable to the judicial power of the United States.

Mr. MOYNIHAN. Will the Senator allow me to address him just this point? In other words, the issue, as he sees it, is it cannot be confined to prayer because if the principle applies to any aspect of the Constitution it must apply to all of them. So the freedom of the press may be at issue and habeus corpus may be at issue and the right to bear arms may be at issue.

Mr. CHAFEE. The Senator has struck a telling blow there.

Mr. MOYNIHAN. The right to bear arms.

Mr. CHAFEE. The right to bear arms. Imagine this Congress, this body saying that the courts will have no authority to enforce the constitutional provision that says a citizen's right to bear arms shall not be abridged. I wonder how that would go over with some of the proponents of this legislation if we extended it. Maybe we ought to have a substitute and substitute the right to bear arms for prayer. Maybe the sides would be reversed.

Mr. MOYNIHAN. May I just intervene to say that the Senator from Rhode Island will stand by his principles whatever the policy is.

Mr. CHAFEE. I was going to say that there is no question that that was said facetiously. And I know I speak for the Senator from New York and the Senator from Connecticut that regardless of what it is, it is wrong to proceed in this way and that is why we are carrying this on. That is why we are going into extended debate. That is why we have been through three cloture votes and presumably there is one set up, as I understand it, for 12 o'clock tomorrow.

I wish to thank the Senator from New York for his contributions.

Mr. MOYNIHAN. I thank the Senator.

Mr. CHAFEE. Mr. President, continuing quoting Mr. Tribe's testimony:

[8] Cf. *North Carolina* v. *Swann,* 402 U.S. 43 (1971) (invalidating state statute that rules out busing remedy even where needed to correct *de jure* segregation).

[9] *See* Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 Yale L.J. 493 (1973).

EXTERNAL LIMITS

That Congress' jurisdiction-defining powers—in common with all other powers entrusted by the Constitution to the National Legislature—are limited externally as well as internally may at times be forgotten, or obscured by sweeping dicta about plenary authority, but is undeniable all the same.

"[T]he Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas; these granted powers are *always* subject to the limitation that they may not be exercised in a way that violates other specific provisions of the Constitution."[10]

Thus, whatever its "power to give, withhold, and restrict the jurisdiction of [federal] courts . . ., [Congress] must not so exercise that power as to deprive any person of life, liberty or property without due process of law or to take private property without just compensation," *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (2d Cir. 1948), cert. den., 335 U.S. 887 (1948) (footnote omitted), or to contravene any other provision in the Bill of Rights, or in the Bill of Attainder Clause or the Ex Post Facto Clause of Article I, Section 9, or in any other independent limitation or constraint imposed by the Constitution or its amendments upon affirmatively authorized federal legislation. Were the law otherwise, Congress could freely deny access to federal courts to all but white Anglo-Saxon Protestants, or to all who voted in the latest election for a losing candidate.[11] If such consequences are to be prevented, it must be the case that Acts of Congress are accorded no special immunity from independent constitutional limits on national legislation simply because such Acts are cast in jurisdiction-defining terms; the power to define and control the jurisdiction of federal courts is no talisman, somehow dissolving otherwise fatal constitutional limit on what Congress has chosen to do.

As with the internal limit upon the power of Congress to control jurisdiction, these external limits may derive from the interstices and implications of the text, structure, and history of the Constitution as well as from its explicit terms. Ex parte Garland shows as much,[12] and nothing in the logic of the situation counsels a more restrictive canon of constitutional interpretation here than in the identification of internal limits.

Among the external constraints the Constitution imposes upon all federal legislation, including legislation that regulates judicial authority, is the principle that no law may unjustifiably deter or disadvantage the exercise of a constitutional right. The Supreme Court recognized decades ago that constitutional rights could be jeopardized and ultimately destroyed not only by laws directly forbidding or penalizing their exercise but also by laws making their exercise the occasion for withholding or withdrawing benefits or privileges that would otherwise be available.[13] "It is inconceivable that guaranties embedded in the Constitution of the United States may . . . be manipulated out of existence," [14] by using the invocation of such guarantees as a trigger for suspending access to a valued service that government would otherwise have extended. The fact that the service is one government could have chosen to abolish altogether is immaterial; it is the choice to withdraw something selectively when particular constitutional rights are exercised that marks a law as an indirect burden upon such exercise. And whenever a law has this character, it automatically becomes constitutionally suspect. Such a law is per se void to the extent it is intended to prevent or penalize the exercise of a constitutional right.[15] And, to the extent the law's tendency to deter or disadvantage such a right is but an unintended and incidental consequence of the measure, the law is valid only if demonstrably necessary to the attainment of a compelling governmental purpose—a purpose with respect to which the law is neither underinclusive nor overinclusive.[16]

One particularly pernicious device through which a law might deter or disadvantage the exercise of a right is the technique of making the right's exercise ineligible for a generally available form of governmental protection.

The kind and degree of protection to provide—the combination of executive and judicial enforcement authority to confer—is left, in the first instance, to the judgment of the legislature. But so fundamental is "the right of every individual to claim the protection of the laws, whenever he receives an injury." [17] that such protection cannot be suspended or reduced so as to abandon the enjoyment of selected rights to a jeopardy from which others are shielded. Government even bears responsibility for the private intimidation or harassment of citizens that it invites, whether directly [18] or indirectly [19]—including the abuse that it encourages by suspending or withholding ordinarily available devices of law enforcement.[20]

And then Professor Tribe cites some examples that we are talking about here, where he is saying that Government even bears responsibility for the private intimidation or harassment of citizens that it invites, whether directly or indirectly, including the abuse it encourages by suspending or withholding the ordinarily available devices for enforcement. It gives as an example the law that compels the disclosure of membership lists.

This is an example where Government could be responsible, indeed the Government was responsible, for predictable private abuse that would result. You compel the NAACP in Alabama, going back to the early days of civil rights, to disclose its membership lists. The law says all membership lists have to be disclosed.

That is an invasion of privacy because the State government knew that predictable private abuse would result.

Even more plainly, the Federal Government is accountable for the *public* harassment or persecution of citizens that predictably results when it declares open season on them by placing the rights they seek to exercise in a "free-fire" zone, one that is expressly ineligible for the usual panoply of executive and judicial mechanisms for enforcing such rights through making state and local officials civilly and criminally liable for their abridgment. At least when surrounding rights are fully protected through such mechanisms, "denying the equal protection of the laws includes the omission to protect, as well as the omission to pass laws for protection." *United States* v. *Hall*, 26 Fed. Cas. 79 (C.C.S.D.Ala. 1871).

Congress' sweeping authority to define federal torts and crimes, for example,[21] would confront an insuperable constitutional obstacle were that authority to be deployed in such a way as to protect from hostile state and local governmental activity only such constitutional rights as might meet political favor with the electorate at any given time. Thus, 42 U.S.C. § 1983 currently subjects to civil liability in federal court all who, under color of state law, deprive individuals of their constitutional rights; and 18 U.S.C. § 241 now makes criminal the willful deprivation of such rights by state and local officers, among others, who "threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution . . ., or because or his having exercised the same."

Such harassment is not immunized from federal prosecution by the theoretical existence of state remedies against it.[22] Nor is such harassment immunized by the fact that it takes the form of arrests, searches, seizures, or interrogations under a patently void statute—one that could not possibly lead to a valid conviction; indeed, precisely such harassment is currently subject to preventive relief by federal injunction. See *Younger* v. *Harris*, 401 U.S. 37, 47-49 (1971).

Now imagine what would happen if Congress were to amend 18 U.S.C. § 241 to make it inapplicable, or to limit its punishment to nominal fines, whenever the "right or privilege" that had been subjected to threat or

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[10] *Williams* v. *Rhodes*, 393 U.S. 23, 29 (1968) (emphasis added).

[11] But see Ex parte *Garland*, 71 U.S. (4 Wall.) 333 (1867) (former Confederate sympathizers cannot be denied access as advocates in cases before federal courts).

[12] Id.

[13] See, e.g., *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. 581, 593-94 (1926).

[14] Id. quoted with approval in *Western and Southern Life Insurance Company* v. *State Board of Equalization of California*, 49 U.S.L. Week 4542, 4546 (U.S. Supreme Court, May 26, 1981).

[15] See *United States* v. *Jackson*, 390 U.S. 570, 581 (1968); *Shapiro* v. *Thompson*, 394 U.S. 618, 631 (1968); *Frost & Frost Trucking Co.* v. *Railroad Commission*, 271 U.S. at 593-94.

[16] See *Shapiro* v. *Thompson*, 394 U.S. at 634; *Memorial Hospital* v. *Maricopa County*, 415 U.S. 250, 258 (1974); *Sherbert* v. *Verner*, 374 U.S. 398, 404-07 (1963). See also *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 101 S.Ct. 1425, 1431 (1981).

[17] *Boddie* v. *Connecticut*, 401 U.S. 371, 374 (1971); *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

[18] *See Lombard* v. *Louisiana*, 373 U.S. 267 (1963) (property owners invited to invoke facially neutral trespass laws against blacks during sit-ins at restaurants).

[19] *NAACP* v. *Alabama*, 357 U.S. 449, 462 (1958) (compelled disclosure of membership lists made government responsible for predictable private abuse that would result).

[20] See *Gregory* v. *Chicago*, 394 U.S. 111 (1969); *Feiner* v. *New York*, 340 U.S. 315, 326-27 (1951) (Black, J., dissenting); Z. Chafee, "Free Speech in the United States" 245 (1948).

[21] See, e.g., *United States* v. *Hudson & Goodwin*, 11 U.S. (7 Cranch) 32 (1812) (federal courts have no authority to punish conduct without congressional enactment specifically defining the conduct as criminal).

[22] See *Screws* v. *United States*, 325 U.S. 91 (1945) (state police who beat black suspect to death may be federally prosecuted under 18 U.S.C. § 242 for willful deprivation of suspect's constitutional rights under color of law notwithstanding possible state prosecution for murder).

intimidation was the right to an abortion, or the right not to have even "voluntary" prayers conducted in one's public school, or any other of a short list of rights of which a majority in Congress happened to disapprove. It is unthinkable that such a law would, and unimaginable that it should, be upheld—not because Congress' reach in enacting it would have exceeded its grasp (Congress' power to define federal crimes and to regulate their punishment is at least as "plenary" as many of its other powers and is, if anything, broader than its power to control federal judicial jurisdiction) but because in its reach Congress would have collided with the rights that it had selectively sought to disadvantage.[23]

The same would follow if Congress were to withdraw from the reach of 42 U.S.C. § 1983 the right to bring up one's children without undue public intrusion, or the right to end a pregnancy, or indeed any other specific right, thus subjecting to federal civil remedies at law and equity all actions under color of state law depriving citizens of their constitutional rights—except for the rights thereby left by Congress to fend for themselves. The fact that Congress' exclusion of selected rights might involve a limit on the judicial branch rather than, or in addition to, the executive branch, obviously makes no constitutional difference so far as the external constraints on Congress' powers are concerned.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Connecticut without this being considered as the end of a speech for the purpose of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I thank the distinguished Senator from Rhode Island, both for his yielding and for the excellence of his comments. I believe efforts such as his have indeed reacquainted a Nation with the Constitution of the United States, and efforts such as his that have preserved some very basic freedoms that have been under attack here on the floor.

Now, Mr. President, I would like to read a commentary which ran in the Sunday Express-News in San Antonio, Tex., on May 16, 1982. The column is entitled "State Approved Religion Just Will Not Work." It is written by a gentleman by the name of Maury Maverick.

It starts off quoting the first amendment of the U.S. Constitution, that "Congress shall make no law respecting the establishment of religion * * *"

You Presbyterians, Lutherans, Quakers, Methodists and Baptists deserve a pat on the back. It was your religious predecessors who saved our country one time long ago from having a state religion. Now the living must again save the country, but this time from the crazies of the Moral Majority who would have a football coach tell your kid how to pray.

Presbyterians, Lutherans, Quakers, Methodists and Baptists flocked behind the banner of Thomas Jefferson and James Madison and were responsible for the enactment of the famous "Virginia Bill for Religious Liberty." From that great document came the First Amendment of the Bill of Rights. In the face of the current threat against religious liberty, Jews with the vision of Leo Pfeffer of the American Jewish Congress, and Catholics with the courage of Father Robert Drinan will join in the fight for the continuation of separation of church and state. So will blacks. These three minorities will be the first to suffer.

The idea of having a government-sponsored period for prayer finds its roots in the Book of Common Prayer of the Anglican church. That religious body persuaded Parliament to pass acts in 1548 and 1549 making the Anglican way of prayer the official and proper way to pray. Because of this, England was disrupted, and it became worse and worse as each new king or queen struggled to impress his or her viewpoint upon the government on how to pray.

Minorities in England, outraged by the Anglicans, came to these shores and, becoming the majority in certain areas began periods of religious tyranny of their own.

Justice Hugo Black, in the landmark case of Engel vs. Vitale, the decision Reagan and the other people of limited vision are now trying to overturn, caught the spirit of religious liberty by writing:

"By the time of the adoption of the Constitution, our history shows that there was a widespread awareness among many Americans of the dangers of a union of Church and State. These people knew, some of them from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer. . . . They knew the anguish, the hardship and bitter strife when zealous religious groups struggled with one another to obtain the Government's stamp of approval from each King, Queen or Protector. . . ."

"But, Maverick," I can hear the innocents say who do not know their history, "all we want is a neutral prayer."

A neutral prayer? Man alive, we already tried that and it didn't work!

In Engel vs. Vitale and the State of New York caused the following "neutral prayer" to be read aloud: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

To this state-devised "neutral prayer" the Supreme Court declared, ". . . it is no part of the business of government to compose official prayers for any group of Americans to recite as a part of a religious program carried on by government." In other cases of the Supreme Court in situations where children ostensibly could refuse to participate, the result was to demean and intimidate those refusing.

Whenever in this world there is state-approved, regimented and official religion, there is trouble, be it in Iran, Israel—where a reform rabbi is a lesser person than an orthodox rabbi—France, Spain or Roman Catholic South Ireland sitting next to Anglican North Ireland. In our own century it has been the Jewish students who have, generation after generation, suffered at schools by being forced to participate in the Christian exercise of religion. How would you like a Jewish principal of a public school telling your Christian kid to pray a Jewish prayer?

Priests, preachers, rabbis and mullahs can be tyrants just like anyone else. When our Texas ancestors signed the Declaration of Independence of the Republic of Texas, they understood how abusive clergymen can be and specifically described them in that great document as the ". . . eternal enemies of civil liberty, the ever ready minions of power, and the usual instruments of tyrants." There ain't nothing mushmouth about that language.

But our brave forefathers didn't stop with the Declaration. They wrote into the Constitution of the Republic of Texas, "Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions: therefore no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of the Executive of the Republic, nor to a seat to either branch of the Congress of the same."

Our present Texas Constitution reads, "No money shall be appropriated or drawn from the treasury for the benefit of any sect or religious society; nor shall property belonging to the State be appropriated for any such purpose." The latter phrase means you don't turn a government funded public school over to the pope or a football coach for the purpose of student praying.

Writing to John Adams, my hero Thomas Jefferson stated, "I never told my religion, nor scrutinized that of another. I never attempted to make a convert, nor wished to change another's creed. I have ever judged of others' religion by their lives . . . for it is from our lives and not from our words, that religion must be read."

Don't you see the danger in the proposed constitutional amendment urged by the lunatics and as now adopted by President Reagan? What the goofy crowd wants to do is to take away the right of the federal judiciary to protect you or me if the state does violate religious liberty.

Years ago I wrote to a famous jurist and asked him to inscribe on the flyleaf of a book those words about liberty which he had written and which he considered his best comment on the subject.

The judge was a deeply religious man, but he knew the state ought to keep its nose out of prayer and the courts should be available to prevent state abuse of religion. From a chamber of the Supreme Court, the jurist took pen in hand and wrote these words back to me, words that can make your spine tingle, and even weep.

"Under our constitutional system, courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are non-conforming victims of prejudice and public excitement."

Then he concluded with a personal note, "In love of freedom and country. Washington, D.C. 1962. Sincerely, Hugo Black."

Mr. President, there you have in very succinct form one of the aspects of the argument being made here, on the Senate floor. My good friend, the Senator from Montana (Mr. BAUCUS), will surely be here to argue the three separate but equal branches of Government in opposition to this amendment, that is, we should not strip the courts of their function to protect us

[23] Whatever such a law's other aims, it would fit too poorly (to pass muster under strict scrutiny) any objective other than the forbidden one of deterring or penalizing the rights excluded.

should the legislative and executive branches fail to do so. I prefer to come at this head-on in substance as being a violation of the first amendment of the Constitution. I do not want anybody's nose in the religious affairs of my family—not my children, not me, not my wife; nobody. It is nobody's business. It is a matter between me and the Creator.

I ask those of adult age, if this is such a good idea, why not impose it on all 232 million Americans? That would include all those of voting age. Why shuffle this off to be practiced upon the children? How about all 232 million having to stand up and recite a state prayer?

I think we know what would happen. Whoever made that suggestion would not last very long on the local school board. They would not last very long if they were a Governor. They would not last very long if they were a Senator. Kids cannot vote. We are going to tell them what is best for them. Why not teach them the Constitution of the United States because, indeed, the whole country has forgotten that. That is what the trouble is.

I remember, around the time of Watergate, several enterprising young reporters that worked for one of the networks going into a supermarket in Miami, Fla. I remember this as if it were yesterday. They had the Bill of Rights on a clipboard, not one word changed, as if it were a petition. They would ask people coming in if they would sign this petition, the Bill of Rights of the Constitution of the United States. Do you realize that over 75 percent would not sign it? And when they were asked why they would not sign it, over 50 percent said it was a Communist document.

Now, that is how far we have come in understanding the origins of our own Government and in failing to understand our greatness.

The United States is not No. 1 because of the number of its citizens. If that were the case, China, Russia, India, many other nations, would be preeminent in the world.

We are No. 1 because of what emanates from the mind. The reason why this Nation is No. 1 is that, we do have total freedom to think. Religious freedom is not a partial matter; it is a total freedom.

That is what is at issue here.

This is one of the moments in American history when American people are becoming reacquainted with their Constitution and what it stands for. Do not forget the men and women who wrote that document came off some very harsh experiences.

Even with the proximity in time of their having been exiled or their having left persecution and death, they were bound to forget very quickly. Certainly we can be forgiven as a generation when earlier generations of Amercians, much closer to the time period of the Revolution, killed those who believed in the Mormon faith as they trecked West. Certainly we can be forgiven for not understanding what that document said when residents of Salem, Mass., put to death 19 of their own in the name of religion. And they were only a few years away from their own persecution.

But because we have that excuse does not permit us to forget that great law of the land which is the Constitution and which is just that, the law of the land.

And so we become reacquainted with the first amendment and we become reacquainted with the reasons for its passage:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Suppose, for instance, my faith prohibits me from hearing any words except those that are proscribed by my faith. What if that is a basic tenet of my religious faith? What is my child supposed to do? What is my child supposed to do when this voluntary prayer routine is being gone into? Leave? Protest? Get into a constitutional court case?

It seems to me that that is prohibiting the free exercise thereof. There is not a list of exceptions in the first amendment. There is not a footnote to the Constitution listing exceptions. It means just that, "shall make no law respecting an establishment of religion." That is everything. "Or prohibiting the free exercise thereof." No exceptions.

Madison, Jefferson, all of these men who wrote the Constitution, came off an experience of tyranny and of state religion. I think it is great that we have this rich religious heritage in this country. I am proud of the fact that my great uncle was the Archbishop of Canterbury, Randel Davidson. I am proud of that fact. But I also have to point out, as an American who knows his history, that the Archbishop of Canterbury back in the 1600's was not on the Mayflower and for very good reason: Because the people on that ship were fleeing from the Archbishop of Canterbury and his partner, the King of England, because they had successfully merged the civil and the religious authority of that nation.

The greatest mischief throughout history has been conceived by the merged authorities, civil and religious.

Now, before I yield to my good friend from Montana, people will say:

> Well, that can't happen here. We are not talking about people being burned at the stake or martyred, exiled or thrown into prison.

Well, then, you better read your history to find out how the intolerance and persecution did start. Somebody did not just get up in the morning, grab his neighbor and tie him to a stake.

These matters of intolerance and of visiting death on one's neighbor in the name of the Almighty start with little works and little deeds that are innocuous, that are neutral—like a little neutral prayer.

If you really believe in your particular faith, you should not accept anything that is neutral.

I do not accept these little neutral acts. These little neutral acts have a way of building up. All you have to do is tell how testy people get in the Senate when the business of religion comes up.

Mind you, we have some pretty well established rules as to how we treat each other, and even those become strained. What do you think happens out there in the streets? When we go to people's homes, we are not in the habit of getting into religious debates, for good reason.

This Constitution is a piece of genius, and it is something that has been left to us intact. If anything, I would say that the words written in there have expanded our liberties; but never, as far as I know, have they been contracted.

Take a look at all these amendments. Tell me which amendments—with the exception of prohibition, when others were trying to moralize in another day and age—tell me what in here contracts our liberties. Nothing.

This is going to be the first generation to do that? We have spent everything else around here. We have burned up the air; we have contaminated the water; we have just about laid waste to every other heritage, every other piece of capital given to us. Now this goes? Oh, no. Not as long as this Senator and other Senators can stand and defend it.

If anybody thinks the future of the United States is in a weapons system or is in the gross national product or is in our personal income statistics or anything else, it is not. It is right here in the Constitution. In this resides our greatest strength, but only if it is left alone.

Mr. President, I yield the floor to the distinguished Senator from Montana (Mr. BAUCUS) for the purpose of debate, without losing my right to the floor, without this being considered as the end of a speech for the purpose of the two-speech rule; and I ask unanimous consent, also, that at the end of the Senator's remarks, or remarks of Senators to whom he yields, I be recognized, and that I be allowed to leave the Chamber while so yielding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, first, I thank the Senator from Connecticut and give him my appreciation and respect. The Senator once again, as he

has done many times before on the floor of the Senate—and in other locations, in public forums—has eloquently and courageously defended the Constitution. I thank the Senator for his efforts here today in defense of the Constitution.

Mr. President, I support the pending amendment. For those who have forgotten in this debate what the pending amendment is, let me explain.

The pending amendment to the bill very simply states that Federal courts must remain open to those citizens who wish to litigate their constitutional rights. That is the pending amendment. One might ask, "Why is that the pending amendment?" And I answer that it is the pending amendment because court shipping is the issue before us.

The debate today and yesterday and for the last month has been over the Helms amendment. The Helms amendment, too, is pending. That is the first-degree amendment to the committee substitute.

The Helms amendment has been characterized as a school prayer amendment, but it is not a school prayer amendment. It is not a voluntary prayer amendment. It is not even an amendment which deals with religion. It is a court stripping amendment. That is why the pending amendment, the amendment which declares that Federal courts must remain open to those citizens who wish to litigate their constitutional rights, is before us today.

The real issue before us is whether or not the Senate is willing to set the vicious and pernicious precedent of removing the Supreme Court's power and right to enforce the Constitution. That is the issue before us. The Helms amendment is a court-stripping amendment. That is what it is all about. It is a court-stripping amendment that the Weicker amendment addresses; and the amendment offered by the Senator from Montana is now pending because we are dealing here with the proposed court stripping in the Helms amendment. The ongoing debate is about court stripping.

Today's procedural vote was about court stripping, and I am here because I am concerned about court stripping.

The American Bar Association opposes the pending amendment—that is, the Helms amendment—because it is court stripping. The Attorney General of the United States has not endorsed the Helms amendment because it is court stripping. The President of the United States has not endorsed the Helms amendment because it is court stripping. The President favors the right process, the correct process, to resolve this issue—the constitutional amendment process. The Senator from Montana favors that process. I would be pleased if the Senate would call up the constitutional amendment so that we could fully debate it. That is the process set forth in our Constitution for resolving constitutional issues.

That is why the President submitted the constitutional amendment, and that is why the President of the United States has not endorsed the Helms amendment. He has not endorsed the Helms amendment because the Helms amendment is a court-stripping amendment.

What is involved in this ongoing dialog is an attempt to explain to the American people and to the press that we are not talking about school prayer. We are not talking about religion in our schools. We are talking about court stripping.

When I say court stripping, Mr. President, I mean prohibiting the U.S. Supreme Court from hearing virtually any issue regarding prayer in the public schools.

Someone may well say: "Fine, the issue is court stripping. What difference does that make? Why does this issue deserve any more discussion than, say, a tax bill or an appropriations bill or, for that matter, any other bill before the Senate?"

My response is quite simple. What is being proposed on the Senate floor by the Senator from North Carolina is a totally radical departure from the way we have protected constitutional rights for nearly 200 years in our country's history.

It may seem on its face like a simple, substantive vote on an issue that concerns some constituents—maybe some more than others. But, in effect, if the principle before us is enacted and withstands court challenges, from that moment on, the Supreme Court will be able to protect only those constitutional rights that Congress permits it to protect.

Mr. President, I hope my fellow Senators fully appreciate what that means. I hope the press covering this debate fully appreciate what that means.

What this bill would mean to Americans, to citizens of the United States of America, to all residents of the United States of America, whether citizens or not, is that if this bill passes and is upheld by the courts, Congress would then be free to deny citizens any constitutional right by a simple majority vote.

Congress would be free to take away personal property from individuals without due process of law. Think of that. Think of what a radical departure that is from our form of government—Congress taking personal property away from individual citizens without due process of law.

Congress would be free to authorize searches of individual homes without a search warrant.

Mr. President, unreasonable searches and seizures are prohibited by the fourth amendment, part of the Bill of Rights, one of the reasons our Founding Fathers left continental Europe to come to our country to form a new country, and a new government. They wanted to set up a government where they could be free from unwarranted searches and seizures and to establish a system by which a search warrant would be necessary before the Government could intrude and search one's home.

Congress, would also be free to close down the Nation's press rooms. Think of that. Congress could eliminate the first amendment, one of the most vital and important portions of the Bill of Rights.

And Congress would be free to establish a national religion.

These were the very abuses of Government from which those who founded our country were seeking refuge. These were the abuses they were trying to prevent when they came to our country and framed our Constitution. They established a judicial branch and a Supreme Court to assure that the constitutional protections that they placed in the Constitution would be honored by the other branches of Government.

Mr. President, that is a very, very fundamental point. The framers of the Constitution knew that if citizens of the United States of America are going to enjoy those constitutional protections, that is if they are going to keep those constitutional protections and withstand the whimsical majority that sometimes flames the passions of legislators in the U.S. Congress, they had to set up a judicial branch of government and Supreme Court and other Federal courts to insure that those constitutional rights would be guaranteed to individual citizens.

I am convinced that if the average American knew that the pending amendment before us was a court-stripping amendment, an amendment prohibiting Supreme Court review of a Federal constitutional issue, in this instance school prayer, that American would agree with me that this is not the way to go about responding to an unpopular or inappropriate decision of the U.S. Supreme Court.

If this Helms provision is passed by Congress and upheld as constitutional, each of our constitutional rights would be hanging on the very slenderest of threads.

If freedom of the press in no longer the order of the day, let us pass a statute and get the President to sign it. That is all it would take—and the Supreme Court could no longer enforce the constitutitonal guarantee of freedom of the press.

If freedom of religion is no longer the order of the day, let us pass a statute as the Helms amendment purports to provide, and get the President to

sign it. That is all it would take—and the Supreme Court could no longer enforce the constitutional guarantee of freedom of religion.

If the Government decides that citizens can now have the privacy of their homes invaded by Government officials operating without a warrant, let us pass a statute and get the President to sign it. That is all it would take—and the Supreme Court could no longer enforce the constitutional protection against unwarranted search and seizure.

The pattern is clear. What is being proposed here is a fundamental change in the rules by which constitutional protections are guaranteed. And what is more--this can happen here on the floor of the Senate by simple majority vote. That is all it takes—a majority, 51 percent of those present and voting to undermine, to prohibit, to eliminate a Federal constitutional guarantee.

If the proponents of these measures want us to begin to dismantle the Constitution by simple majority vote, then let them put together a national consensus of two-thirds of the Congress and three-quarters of the States to permanently alter the rules by which constitutional protections are guaranteed.

That is, let them propose a constitutional amendment in the same way that our framers intended for our country to address constitutional changes.

But let us not let them make the kind of fundamental change in our form of government they are seeking by simple majority as this school prayer amendment by the Senator from North Carolina contemplates.

We should keep in mind that this administration has been unwilling to endorse the pending Helms amendment. The President wants to restore voluntary prayer to the schools. You bet he does. He said so in his radio address to the Nation just last Saturday. But he is not advocating that we strip the Supreme Court of its jurisdiction to hear school prayer cases.

Mr. President, I have been addressing the question of the administration position on this pending court-stripping amendment, and, as I indicated earlier, the President himself is not in favor of the pending Helms amendment. In fact, in a radio address to the Nation Saturday he said he favors the constitutional amendment to address the question, but he sidestepped very definitely any support for the pending amendment, that is the Helms amendment.

He wants us to vote on his proposed constitutional amendment, not only because he supports it but because he knows that it is the constitutional amendment process that is the correct way for us to address constitutional decisions of the U.S. Supreme Court.

I challenge the President to speak out and help get the Senate off the track that it is now headed down. I will join with him to have us address the school prayer issue in the context of the constitutional amendment, but I urge him to join me in rejecting the course of attempting to strip the Supreme Court of its jurisdiction over school prayer cases.

While some may disagree with the substance of the President's proposed constitutional amendment, all of us can agree that it is the proper way for addressing the school prayer issue.

As stated today, and as stated yesterday, and I have stated on previous occasions, I believe the amendment process is the proper process in which the Senate can address the question of school prayer. But I am not in favor of prohibiting Supreme Court review over school prayer as proposed by the Senator from North Carolina.

Mr. President, I would also like to make one additional point about the manner in which this amendment is being raised. I do not think this proposal should be before us in the context of a debt limit bill. No issue of such great magnitude as a school prayer issue should be considered as a rider to a money bill of this nature. It should be processed and called up as a freestanding piece of legislation.

Let me make this point clear. We are now considering a debt limit bill, a bill which has to be passed if the Nation is to pay its bills, and here we are today being asked to pass an amendment as a rider to the underlying debt limit bill, stripping the U.S. Supreme Court of jurisidiction over school prayer.

Mr. President, that to me is not the proper way to conduct our business here. Rather we should debate school prayer either in the context of a constitutional amendment or in some other context so that we should air the issue fully and not just bring up the school prayer amendment to the debt limit bill.

Let me point out one other thing. There has not been one single witness to testify on the underlying Helms legislation in the Senate in this Congress or any other Congress. The original Helms proposal is S. 481 and is pending before the Separation of Powers Subcommittee, of which I am a member. That is an important point. Not one single witness has appeared on the underlying Helms legislation that is causing this delay; not one single witness has ever testified before a Senate committee in this Congress or any prior Congress on the Helms amendment.

The chairman of the appropriate subcommittee, the other Senator from North Carolina, Senator EAST, who is a supporter of this proposal, has not had the opportunity of 1 day of hearings on S. 481. I might add S. 481 is essentially the Helms amendment. The subcommittee has not been asked to vote on this amendment and the subcommittee and the full committee have not been asked to have hearings on it as of this date. Rather the entire subcommittee and the committee process has been totally end run. This Helms amendment is here without any serious Senate consideration.

I should also note the other body has had extensive hearings on this proposal in the last Congress. In fact, Mr. President, there is a full volume of hearings before the House Judiciary Committee here on my desk, and I believe it is no small coincidence that the House of Representatives has not favorably responded to court-stripping proposals simply because the House has studied them. The House has held hearings, the House has extensively debated the issue and, in my judgment, that is the reason why the House has not responded favorably to court-stripping proposals.

We in this body have not had any hearings; not one witness has testifed. I believe, Mr. President, perhaps presumptuously, that if the Senate of the United States were to have hearings, if witnesses were called to testify on the underlying Helms amendment, the result would be the same in this body. And the Senate, too, would understand the full import of the court-stripping bills and would not report them favorably.

I might further add that the House opposition to court stripping is bipartisan. Both parties are opposed to court stripping. The House opposition crosses ideological lines, and I believe the depth of sentiment in the Senate against court stripping would be just as bipartisan, would be similar, if the Senate were willing to study the proposal and would permit it to come up through the traditional committee process.

I ask each of my colleagues to assess what is at stake. We can address the school prayer issue, but let us do it in the manner prescribed in our Constitution, through the amendment process. Let us not forsake our Constitution in an effort to cast politically popular votes. To do that is to ignore our obligation to our oath of office to uphold the Constitution. We should not lose sight of that, Mr. President.

Each of us here, each of us in the Senate, took an oath of office to uphold the Constitution of the United States. What is more fundamental in our Constitution than the separation of powers, three branches of Government, coequal branches of Government; checks and balances so that one branch does not have the power to usurp or swallow up the other?

The underlying Helms amendment, which prohibits the Supreme Court from hearing any case involving school prayer, is the first step down the road

to prohibiting Supreme Court jurisdiction over any Federal constitutional issue, any Federal constitutional claim, and that violates the fundamental doctrine of separation of powers, coequal branches of Government, and checks and balances, all of which are written into our Constitution.

If we are to uphold the Constitution of the United States, an oath which we swore, then I think, Mr. President, we should resoundingly reject the Helms amendment because to support the Helms amendment is to obliterate one of the three coequal branches of Government.

I do not think that is what the framers had in mind, and I also do not think that is what the American people would want us to do if they understood the issue before us.

Mr. President, I would now like to read an article which appeared in the Washington Post of May 17 of this year. It is a column that I authored, in which I commend the administration for selecting the route of a constitutional amendment to address the school prayer issue. Let me read that column. As I say, Mr. President, in this column I commend the President. The reason I commend the President is he realizes that the proper way to meet and address the question of school prayer is by amending the Constitution and not by prohibiting the Supreme Court from reviewing issues arising from school prayer claims.

As I said, this article appeared on the op-ed page of the Washington Post on May 17 of this year. The title of the article is "The President Strikes a Blow for the Courts":

[From the Washington Post, May 17, 1982]

THE PRESIDENT STRIKES A BLOW FOR THE COURTS

(By MAX BAUCUS)

President Reagan's recent endorsement of a constitutional amendment that would allow voluntary school prayer has been characterized mainly as a gesture to restless conservatives.

But viewing the president's announcement only as a political story misses much of its significance.

Buried in many reports of the president's statement was the fact that the administration also refused to endorse "New Right" legislation that would strip the federal courts of jurisdiction over school prayer.

By choosing a constitutional amendment, the administration is acknowledging that fundamental constitutional principles must not be sacrificed on the altar of political appeasement.

For three years, some proponents of school prayer have advocated legislation that would strip the Supreme Court and lower federal courts of their jurisdiction to hear school prayer cases.

This bill was seen as a way to address the Supreme Court's 1962-63 school prayer decisions. Such a statute, if passed by a majority of Congress and signed by the president, would free state courts to overturn (or leave alone) previous court rulings on school prayer.

Such legislation presents a radical threat to the Constitution. Since 1803, when the Supreme Court ruled in *Marbury v. Madison*, the court has determined what is constitutional. Unpopular decisions can be overturned if two-thirds of Congress and three-fourths of the states agree to a constitutional amendment, according to Article V of the Constitution.

The court-stripping legislation before Congress would made an end run around this process.

In his analysis of the court-stripping approach, Attorney General William French Smith stated:

"Congress may not . . . consistent with the Constitution, make 'exceptions' to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers . . . The integrity of our system of federal law depends upon a single court of last resort having a final say on the resolution of federal questions."

I applaud President Reagan and Attorney General Smith for rejecting the court-stripping approach and endorsing a constitutional amendment.

The administration's position is clear: fundamental constitutional values must take precedence over the interests of single-issue groups, whether from the right or left of the political spectrum.

The Senate soon may be asked to vote on the "Human Life Statute," legislation that would overturn the *Roe v. Wade* abortion decision.

The Reagan administration's analysis of the school prayer issue should be a message to those who support the Human Life Statute. Those in the "New Right" who support the proposed statute should be seeking a constitutional amendment.

There will never be complete agreement on social issues such as abortion, school prayer and busing. But we should agree that Article V of the Constitution provides the framework for us to resolve these public policy disputes.

Mr. President, I would like now to speak more generally on this issue facing us, court stripping.

Mr. President, the issue before us is profound, and I do not use that word lightly. Efforts in the Helms bill are an assault on the independence of one of our three branches of our Federal Government—the Federal judiciary. Recent developments have convinced me that the judicial branch is facing an attack of major proportions:

In April of 1979, the then democratically controlled Senate voted 51 to 40 in favor of an amendment, offered by Senator JESSE HELMS of North Carolina, to a Supreme Court jurisdiction bill. The amendment would have eliminated Supreme Court and lower Federal court jurisdiction over the issue of school prayer. Identical legislation is currently pending on the Senate calendar, that is the bill before us, which is no longer on the calendar but which is one of the pending issues.

Last year, subcommittees of both House and Senate Judiciary Committees held hearings on the overall issue of congressional attempts to limit the Federal courts.

On July 10 of last year, the Separation of Powers Subcommittee of the Senate Judiciary Committee favorably reported legislation that would eliminate lower Federal court jurisdiction in certain abortion cases. Identical legislation is pending on the Senate Calendar.

Last fall, the Separation of Powers and the Constitution Subcommittees reported legislation designed to prevent lower Federal courts from issuing any busing orders. Those bills have been disposed of one way or the other at this point but they are still before us if not in letter, certainly in spirit.

The entire Senate recently completed a prolonged debate on an amendment to the Department of Justice authorization bill which would severely limit those instances in which a Federal court could issue a busing order.

At last count, there are approximately 30 separate pieces of legislation pending in the House and the Senate that would limit the jurisdiction of the Federal courts.

Clearly, the issue of congressional control over the Federal courts is not merely an academic exercise. Rather, the issue may be the single most important item on our Nation's noneconomic agenda in the 1980's. In my view, the outcome of this debate will fundamentally and profoundly determine the status of individual rights and liberties in this country for decades to come.

I might add, Mr. President, that I think the country would rather that we address economic issues than the noneconomic issues—that is, get on with the debt limit bill, do what we can here in the Congress to lower interest rates, lower deficits, lower unemployment, pass legislation that would effectively allow Americans to compete with overseas countries and companies, find some ways to restore some stability to our international monetary system and address the questions that have been facing Americans in the most direct and fundamental areas, the pocketbook issues—jobs, income, inflation, interest rates—rather than devote time on the issue before us which, as we all know, is one that the Congress should not pass because it so adversely alters our form of government.

The framers of our Constitution, I think, 200 years ago designed a judicial branch intentionally to protect the integrity of the Constitution. For example, Mr. President, Alexander Hamilton stated in Federalist Paper No. 78 that it is the duty of the courts "to declare all acts contrary to the manifest tenor of the Constitution void. Without this," he observed, "all reservations of particular rights or privileges would amount to nothing."

Let us dwell on that for a moment. Alexander Hamilton, in Federalist Paper No. 78, stated that it is the duty of the courts—he is then referring to

the Federal courts—"to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing."

What did he say? He said it was the duty of the Federal courts to examine assaults on the Federal Constitution, the U.S. Constitution, and to declare void all acts which are contrary to the manifest tenor of the Constitution, the essential core of the Constitution, the essential meaning of the Constitution. Without this, all reservations of particular rights or privileges would amount to nothing.

This concept of the judicial branch was reaffirmed and expanded in one of the most celebrated U.S. Supreme Court cases Marbury against Madison. Until recently, the role of the Supreme Court as the final arbiter over the terms of the Constitution has not been seriously challenged, except by the traditional constitutional amendment process.

During the past 200 years on four different occasions, our Nation has responded to controversial Supreme Court decisions by the constitutional amendment process.

Even in the wake of the infamous Dred Scott decision, which held black Americans were not citizens, it was recognized that the proper way to alter that decision was not to have Congress pass a statute prohibiting Supreme Court review. Rather, the proper way was by the constitutional amendment process. And that is just what happened. A constitutional amendment was proposed and passed, adopted.

But today several single issue constituencies have failed to mobilize sufficient support to pass constitutional amendments to overturn constitutional decisions with which they disagree. Instead, they have begun to advocate a series of proposals that would permit Congress, by a mere majority, by a simple statute to overturn Supreme Court decisions. These constituencies would have Congress respond to a court decision it disagreed with by stripping the courts of the power to hear that category of cases.

The proponents of these bills argue that the "exceptions clause" in article III, section 2 of the Constitution provides Congress with the authority to enact these bills.

However, if the framers—that is, our Founding Fathers—were trying to provide a significant legislative check on the judicial branch, it is most unlikely that they would have designed a check like the "exceptions clause." Robert Bork, President Reagan's nominee to the District of Columbia Court of Appeals has commented on this. This is Robert Bork, the person nominated to the Court of Appeals for the District of Columbia by the President of the United States. Here is what he says about the exceptions clause and the meaning of it:

> Literally, that language of the "Exceptions Clause" would seem to allow this result.
>
> That is, allow the Congress by simple statute to except the Supreme Court from certain categories of cases.
>
> I think it does not allow this result because it was not intended as a means of blocking a Supreme Court that had, in Congress' view, done things it should. * * * The reason I think it was not intended is that clearly in the most serious kinds of cases, where the Supreme Court might do something that the Congress regarded as quite improper, the "exceptions clause" would provide no remedy.
>
> For example, if the Supreme Court should undertake to rule upon the constitutionality or the unconstitutionality of a war, and the Congress was quite upset, thinking that is not the Supreme Court's business, as indeed I agree it is not, to use the "exceptions clause" to remove Supreme Court jurisdiction would have the result not of returning power to the Congress but of turning the question over to each of the State court systems. We could not tolerate a situation in which 50 States were deciding through their own judges the constitutionality of a war. * * *
>
> I think the answer is that the Framers would not have devised a check upon the judiciary which does not return power to the Congress but returns power to the State judiciary systems, from which it probably cannot be removed. When one perceives that it is the result, then I think one has to say the Framers did not intend this as that kind of a check upon the Court.
>
> This perspective on the exceptions clause is most instructive. The glaring deficiencies of the clause are an effective retort to the argument that was intended to be used as a significant check on the judicial branch.

Let me just restate what Robert Bork has said. Robert Bork is pointing out very clearly that if the Helms amendment passes, and if Congress does have the authority, by a simple majority, to prohibit Supreme Court review over Federal constitutional issues, the result is this: First of all, individual Americans would no longer have the right to go to Federal courts to protect their constitutional rights.

Second, individual State courts, the highest State courts in each of the various States, would then be left to interpret Federal constitutional rights. That would mean 50 different, 50 separate, 50 overlapping, 50 inconsistent, 50 duplicative decisions respecting a single Federal constitutional right. That certainly, Mr. President, is not what the framers of our Constitution had in mind. They did not intend, as Judge Bork, points out, for each of the 50 States to declare whether or not an act of Congress to declare war is constitutional or not. They did not intend for each of the 50 States, with inconsistent decisions, overlapping decisions, contradictory decisions, to decide whether or not a certain effort violates freedom of speech, freedom of religion, freedom of assembly, the right to bear arms. Our Founding Fathers wrote one Constitution.

It seems to me, Mr. President, that it is clear our Founding Fathers wanted one supreme judiciary, and also wrote into the Constitution a check against that supreme judiciary. That check is the constitutional amendment process where the Congress and the States, by two-thirds and three-fourths majorities, can overturn Supreme Court decisions or alter the Constitution.

Another point is a check on the President. The President has, as the Chief Executive, the right to appoint people he wants to the Supreme Court when vacancies occur. That, too, is a check on the Federal judiciary. There are many others, too. But certainly the Founding Fathers did not want a check so great such as allowing the Congress by a simple majority or a simple statute to overturn the Supreme Court, a check so great that it would swallow up, it would usurp, it would overwhelm one of the three coequal branches of Government.

As we all know, as we learned in civics classes, as we learned in our earliest years when we began to study our form of government, our framers intended a system of checks and balances. Each of the three branches of government would be coequal.

Mr. President, it is clear, so eminently clear, it is so clear I do not know why we are addressing this issue. If the Helms amendment passes, the precedent is set not only for undermining the Supreme Court but also for undermining the Constitution itself and obliterating it so we have only two branches of government left. At that point, the American people will be subject to the whims and majorities our Founding Fathers tried to protect.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from New York for the purpose of debate only without losing my right to the floor and without this being considered as an end of a speech for the purpose of the two-speech rule, and that I be re-recognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, before I yield, I want to commend the Senator from New York for his efforts in this regard. He is a stalwart defender of the U.S. Constitution, and I might say, Mr. President, that means a lot to this Senator, as I know it does to each and every American citizen who understands what this matter is all about and how profoundly this underlying amendment will upset individual constitutional rights if adopted.

Mr. MOYNIHAN. If the Senator from Montana could linger here for just a moment before attending to

other matters which will take him away, it is important for all of us in this Chamber who understand the gravity of the matter before us to thank the Senator from Montana and to express our confidence that history will record what possibly the press does not—although I think we have no objection at least to the way in which the press has reported the substance of our argument, which has nothing to do with school prayer but everything to do with protecting the Constitution.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. A number of distinguished Senators have asked that their comments not be subsumed under the two-speech rule of the Senate when in cloture. It is my understanding that we are not now in cloture and there would be no such applicable limit. Am I wrong in that?

The PRESIDING OFFICER. The two-speech rule, which is to be found in paragraph 1a of rule XIX, applies regardless of whether the Senate is operating in cloture.

Mr. MOYNIHAN. But as long as one subject is under debate. It could be reasonably true if it were a single subject.

The PRESIDING OFFICER. The two-speech rule applies to the pending question.

Mr. MOYNIHAN. In that case, Mr. President, I ask unanimous consent that my remarks not be held subject to that ruling.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I would like to speak at this point in our debate to the subject of the McCardle decision, ex parte McCardle, to be precise, which was handed down in 1868, and which is frequently and properly cited as the one occasion on which the Court seems to have a knowledge of the possibility that the exceptions clause of article III could be directed at core functions of the Court, the term "core functions" being the term Attorney General Smith used in his statement to us several months ago saying that the exceptions clause could not.

Here I rely extensively and properly on the Committee on Federal Legislation of the Association of the Bar of the City of New York in a study it has made entitled "Jurisdiction-Stripping Proposals in Congress: the Threat to Traditional Constitutional Review."

The committee notes that those who urge that the exceptions clause gives Congress plenary power to divest the Supreme Court of appellate jurisdiction most often cite ex parte McCardle as the leading authority for this view.

I think I would like to be precise in this matter and note that this is done, for example, in Van Alstyne's "General Review of the Appeal at Question," which is the basic text.

The circumstances of the case are ironic in the extreme, if you will accept that term.

In 1867, Mr. William H. McCardle, who was a newspaper editor in Mississippi, had been arrested by the Army pursuant to the Military Reconstruction Act, which had been passed in that same year, 1867, that subjected the South to Federal military command.

Based upon antireconstructionist editorials that McCardle had published, he was charged with libel, with disturbing the peace, with inciting insurrection, and impeding Reconstruction. He petitioned the Federal circuit court for a writ of habeus corpus, challenging the constitutionality of the Military Reconstruction Act under a Habeus Corpus Act passed by the same Reconstruction Congress in 1867.

To repeat and to cite the committee's report, there is some irony. The 1867 Habeus Corpus Act was passed for the purpose of advancing Reconstruction by expanding the Federal courts to release former slaves and others who were being unlawfully held prisoner by the Southern States. But the terms of the statute were not confined to prisoners in State custody. McCardle, as an antireconstructionist, was using it as a device to challenge the very reconstruction that the act was intended to promote.

The circuit court denied McCardle's petition. He appealed to the Supreme Court under a provision of the 1867 act.

Now, the Government moved to dismiss the appeal and the Supreme Court denied the motion. The Government then faced the prospect that the Supreme Court, on reaching the merits, might declare one of the cornerstones of Reconstruction policy to be unconstitutional—to wit, the Military Reconstruction Act. To avert this threat while McCardle's appeal was still pending, Congress—Congress in this Chamber—repealed the provision of the 1867 Habeas Corpus Act that allowed a direct appeal to the Supreme Court.

In light of that repeal, the Supreme Court dismissed McCardle's appeal in a terse opinion, which, as the committee of the New York Bar Association notes, proponents of the current bills rely upon. When you read the opinion, you will see, in fact, how tenuous the proponents' argument really is. The Court says:

> The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of habeas corpus is expressly repealed. It is hardly possible to imagine a plainer instance of a positive exception.
>
> We are not at liberty—
>
> Said the Court—
>
> to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.
>
> What, then, is the effect of the repealing act upon the case before us? We cannot be in doubt as to the answer. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction gives power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

Mr. President, in reading ex parte McCardle, it must be borne in mind that the opinion was written under the most intense pressure imaginable at the peak of radical reconstruction. As one commentary has noted—and recall that the Justices were meeting just down the hall and one floor below us, in that intense atmosphere of radical reconstruction—

> With troops in the streets of the Capitol and the President of the United States on trial before the Senate, a less ideal setting for dispassionate judicial inquiry could hardly be imagined.

Indeed, as Mr. Justice Douglas once observed, "There is a serious question whether the McCardle question could command a majority today."

We do note at the end of that case the statement:

> Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of habeus corpus, is denied. But this is an error—

Said the very Court sitting not 100 yards away with respect to this Chamber in which a President was being impeached:

> This is an error. The Act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the Act of 1867. It does not affect the jurisdiction which was previously exercised.

Now, what can that mean, Mr. President? It can mean only that the right of the Court to hear habeus corpus appeals, as it had existed prior to 1867, continued unabated during the period that the act of 1867 was in effect.

I repeat, "The Act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the Act of 1867."

Mr. President, in other words, the Court said you cannot deny the Supreme Court jurisdiction over a whole class of constitutional issues. You cannot do it. The Court said that in 1868, even as it acknowledged the validity—or so it seemed—of a particular act with respect to a particular case and in the context of the most unusual and troubled constitutional crisis of our history.

(Mrs. KASSEBAUM assumed the chair.)

Mr. MOYNIHAN. Madam President, I am happy to see my distinguished and learned friend from Hawaii on the floor. I know he shares many of my views in this matter—our views in this

matter. I share his, he being the senior member of our friendship.

Mr. MATSUNAGA. Madam President, if the Senator from New York will yield——

Mr. MOYNIHAN. I am happy to yield.

Mr. MATSUNAGA. I congratulate him for the most illuminating statement he has been making on the floor. I think by sitting here, or listening to him over the monitor system in the office, one can really learn history. An important thing is that he places such great stress upon the importance of protecting the basic law of this land, the Constitution of the United States.

It is because the Helms prayer amendment would completely violate the basic precepts on which the founders of our country based and wrote the Constitution that I am with the Senator from New York 100 percent. I thank the Senator for yielding.

Mr. MOYNIHAN. Madam President, it is I who wish to be with the Senator from Hawaii in this matter because, as he says, we are not discussing school prayer. Were a Senator to come to this floor propose that the Senate approve an amendment to allow school prayer, send it to the House, and then refer it to the States as provided by the Constitution, I am certain that the Senator from Hawaii would not for a moment object to the procedure—not one bit. He might vote yes. I might vote no, but he would not think the lesser of any Member who voted the other way. We would be following a procedure that George Washington commended to us in his farewell address in our Chamber down the hall.

But this is stripping the Constitution of fundamental elements. It denies the equal and separate power of the Supreme Court as a branch of our Government.

We have been, through all our history, a government of mixed principles as the founders said. They established a principle of majority rule, and it is embodied in the Congress. And then they established the principle of minority rights, and they are embodied in the Supreme Court—equal justice under law, not to the majority but to the last person in this Nation, who may disagree with every other of the 232 million Americans but has the right to do so and can go to the Court and have that right affirmed.

That is what America is about. That is what McCardle was about. The whole effort of Reconstruction was to give rights to people, not to take them away. The Court in the McCardle decision in its very last words—I wish I could have them reproduced in the RECORD to get the feeling of the type face and the paper and the page size—says of the 1868 act, "It does not affect the jurisdiction which was previously exercised."

Whatever power of habeas corpus the Court had previously exercised, it continued to exercise.

Madam President, I observe that the distinguished Senator from Illinois has come to the floor in a matter of urgent business, and I would respectfully request that I may be allowed to yield to him such time as he requires without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Madam President, I thank my distinguished colleague for yielding at this time, without losing his right to the floor.

Mr. MOYNIHAN. Madam President, I amend my request; and without violating the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

URGENT NEED TO END RAIL STRIKE

Mr. PERCY. Madam President, I strongly supported the legislation passed by the Senate last night to end the current rail strike, and urge the House of Representatives to act on the emergency legislation today.

Illinois has been hard hit by the strike. At the crossroads of the Nation, Chicago remains—as it has since the beginning of the industrial age—as the hub of the Nation's rail network. In Metropolitan Chicago alone there are 30,000 railroad workers. Many thousand additional workers are employed elsewhere in the State.

According to the last Census of Transportation, railroads in the Chicago area accounted for the shipment of 25 million tons of manufactured goods; more than any other area of the Nation.

Downstate, railroads move both coal and agricultural commodities. We are fast approaching the harvest, and any lengthy delay in restoring rail service would severly injure Illinois farmers and processors, already weakened by historically low farm prices.

Bulk commodities destined for export through the Port of New Orleans or Great Lakes ports should not be delayed.

With predictions of a cold winter, it is important for utilities to begin stocking up on Illinois-basin coal in the event adverse winter weather slows deliveries.

The commerce of Chicago is dependent on good commuter rail service, now disrupted by this strike. Over 100,000 commuters have been forced to experience lengthy delays by seeking alternative modes of transportation.

Commuters have been forced aboard overcrowded Chicago Transit Authority trains and buses. Certain expressways have become clogged with additional automobiles.

Unlike most cities, retailers in Chicago depend on many of their customers arriving by public transportation. Millions of dollars in sales may be lost, as consumers postpone travel to retail shopping areas downtown and in outlying areas.

Amtrak service west of Chicago has been halted, inconveniencing thousands of travelers who have discovered the comfort of new ultra-modern bilevel coaches and sleeping cars. The Chicago Tribune editoralized yesterday that:

> The general harm the strike inflicts is all out of proportion to what the engineers themselves suffer. To the hundreds of thousands of people across the country who had to face an adventure in commuting Monday, the issue that the union walked out over must seem absurd.

Madam President, the unions only have a right to bargain for whatever benefits they can achieve. That bargaining process has been going on for a long time. But when the engineers, making an average salary of $38,000, try to enrich that after 12 unions have agreed in the rail strike, and there is only one union that remains, if they take into account the price that people pay who are out of work or who will be put out of work, they should think twice about it. I certainly commend them for the testimony that they gave that if the House and the Senate do act—and the Senate did promptly act last night—they will go back to work.

A General Motors plant has been closed in St. Louis as a result of the strike. It is estimated that $80 million are lost per day, and we will increase those losses unless we resolve this problem immediately.

I know that members of the Brotherhood of Locomotive Engineers would disagree with the editorial. But with unemployment in my own State at over 11 percent, with many factory workers and miners working shortened weeks, and others anxious about holding on to their jobs, the continuation of this strike is intolerable.

With the average annual wage for engineers at $38,000, as I have said, these serious economic times demand some sacrifice—particularly by those still fortunate enough to hold well-paying jobs.

I am certainly a strong believer in the principle that the best service Government can render to labor-management relations is to stay out of the collective bargaining process, to the greatest extent possible. In this instance, however, the public interest in maintaining a functioning rail system both for the civilian economy and defense purposes is clearly overriding and there is no alternative but for the Government to act swiftly to bring this strike to an immediate end.

The Senate Labor and Human Resources Committee hearing brought out numerous examples of worker lay-

offs. In my own State of Illinois, more than 500 miners near Sesser were furloughed because of a shortage of rail cars at Old Ben coal mine No. 21.

Illinois has been one of the hardest hit by the recession and unemployment—4 of 10 cities in the country with the highest unemployment rates are in my State—and every effort must be made without further delay to assure that no additional injury be done to the State's economy and work force.

I supported the recommendations of the Labor Committee and was pleased to see that my colleagues agreed.

I ask unanimous consent to have printed in the RECORD an editorial from yesterday's Chicago Tribune calling for swift congressional action to end this unjustified strike.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, September 21, 1982]

A STRIKE THAT CHOKES THE ECONOMY

If you are fortunate enough to have a job, you probably had trouble getting to it Monday. The railroad engineers have gone on strike during a recession that has put unemployment rates higher than at any time since the Great Depression. The strike threatens to hurt an economy that is making the first steps toward recovery, and that may be the very thing that emboldened the engineers to walk out. The general harm the strike inflicts is all out of proportion to what the engineers themselves suffer.

To the hundreds of thousands of people across the country who had to face an adventure in commuting Monday the issue that the union walked out over must seem absurd. The engineers want to retain the current difference in wages between themselves and all other rail workers. And they are striking now to retain the right to strike later if the railroads offer other workers a pay increase without providing them one that is proportional.

This is the issue on which the engineers are willing to stagger the economy and hassle commuters in order to prevail. But the railroad unions have made themselves a reputation for behaving badly over trifles and antiquities in their contracts. The engineer's timing might be bad, but they are acting completely in character.

Because the engineers truculence threatens to cause such a great problem for the economy and because the rail unions have such a chokehold on the country, the Reagan administration has taken an active role in the negotiations. Because of the negotiating impasse, it has been forced to go to Congress for legislation empowering it to order the engineers back to work.

Congress may very well be in the mood to take strong action against the striking engineers. At a time when unions in most other industries—with the exception, perhaps, of some public employee unions—have been willing to settle for much less than anyone would have expected just a year or so ago, for the engineers to walk out over such a minor point is simply outrageous.

The engineers are betting on the suffering they can cause to the country by their strike, but his may boomerang, just as another strike did when the air controllers defied President Reagan and walked out of the towers. Public sentiment in these hard times is not with those who are willing to imperil everybody just to squeeze a little more money from their employer.

Mr. PERCY. Madam President, I thank my distinguished colleague for yielding to me. I realize that he was engaged in a project of which I have been supportive, and I wish him Godspeed in this effort. I trust that he shall prevail.

Mr. MOYNIHAN. Madam President, I thank my friend from Illinois for his generous remarks.

ORDER FOR REFERRAL OF H.R. 7019 AND H.R. 7072 TO THE COMMITTEE ON APPROPRIATIONS

Mr. BAKER. Mr. President, the request I am about to make has been cleared with the minority leader, I am told, and I now ask unanimous consent that once the Senate receives from the House of Representatives H.R. 7019, the Transportation appropriations bill, and H.R. 7072, the Agriculture appropriations bill, that they be referred to the Committee on Appropriations.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY INCREASE IN THE PUBLIC DEBT

The Senate continued with the consideration of the joint resolution.

Mr. MOYNIHAN. This is an important issue. The one and only instance in which the court has expressed an opinion on this issue occurred in 1868, not the most settled moment in the history of this Republic. This if nothing else suggests the singularity of the issue before us now.

These decisions were made while, on the floor of the Senate, a President was being impeached for having done no wrong but, rather, for merely having had a view different from that of a majority. A true constitutional crisis.

It is with some measure of gravity that the president of the American Bar Association last year, addressing himself to the chairmen of the two committees of the Judiciary, said that the issue we debate on this floor today was the most grave constitutional crisis since the Civil War. I will read his comment in order that the record should be precise. The president of the American Bar Association, on behalf of the Bar Association, wrote the Judiciary Committees of Congress to state, "We confront at this very moment the greatest constitutional crisis since the Civil War."

We confront it in an atmosphere different from, but reminiscent of, the extraordinary emotions that swept across this very Chamber in 1868, when a President was on trial, being impeached not for any scintilla of wrongdoing as such but merely for having held wrongful opinions, in the minds of the majority. That great issue of majority rule but minority rights was then settled by one vote in this Chamber—one vote by a man who returned to his home, I think in Kansas, although I do not remember exactly, and never saw a moment of public life again. He saved the Constitution and destroyed his own career.

Madam President, I see my friend, perhaps the most learned of the many distinguished attorneys in this Chamber, the former attorney general of the State of Missouri, who has come to the floor. I am happy to yield to him such time as he may require.

Madam President, with the Senator from Missouri present, I will now desist in my comments on ex parte McCardle, save to note that later in the same year, 1868, the Supreme Court made the distinction even plainer—the distinction it made between the restrictions placed upon it by the act of 1868 and by its previous and plenipotentiary powers.

It said in ex parte Yerger that the Court considered another appeal by another anti-reconstructionist newspaper editor held in military custody under the Military Reconstruction Act. Like McCardle, Yerger was charged with impeding reconstruction. Like McCardle, he petitioned a circuit court for a writ of habeas corpus under the Habeas Corpus Act of 1867. The circuit court denied Yerger's petition, and Yerger sought review by the Supreme Court. But unlike McCardle, Yerger invoked the Supreme Court's appellate jurisdiction under the procedures provided by the Judiciary Act of 1789, not the repealed provision for direct appeals of the Habeas Corpus Act of 1867. The Supreme Court held, over objection by the Government, that it had appellate jurisdiction under the prior law.

That seems to be the compelling conclusion to those unhappy events of 1867.

Madam President, I ask unanimous consent to yield to the distinguished and learned Senator from Missouri, the former attorney general of that great State, without violating the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Madam President, I thank the Senator from New York for yielding to me and for his effusive comments about me.

Mr. MOYNIHAN. My chaste characterization.

Mr. DANFORTH. Madam President, the issue before the Senate is the separation of church and state. That is an issue with a very long history in America. Thomas Jefferson, the author of our Declaration of Independence and of Virginia's Statute of

Religious Freedom, advocated a "wall of separation" between church and state when writing to a Baptist association in rural Connecticut. Now it is argued by some that this wall of separation should be breached.

While there have been repeated efforts to chip away at the wall of separation, it has stood the test of time. Indeed, it has served as a strong foundation of American liberty. Liberty must include the right to worship freely, and worship freely we do. Thousands of churches and scores of denominations across our land testify to that.

The framers of our Constitution were well aware of Europe's long history of intolerance which resulted from the close association of Government and religion. Indeed, it would be little exaggeration to say that the entire history of the Europe our forefathers fled was one of religious persecution and war. This history, with its torrents of blood, was one we Americans were determined not to repeat. The genius of our form of government was to take the energy out of the struggle between church and state by concentrating on the goals of liberty, prosperity, and peace—goals on which all people can agree. Religious sects were neither to be obstructed nor aided by the Federal Government. This is the meaning of the first amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The benefits of this separation of government and religion are manifest and manifold. One only has to ponder the religious aspects of the continuing violence in Ireland or the Middle East to realize what a blessing we have inherited.

From our own experience in the Senate we know that the Founding Fathers were right in their concern over divisiveness. Religion, which in doctrine is a reconciling factor, so often acts as a wedge when politicized. Surely this was obvious when school prayer was debated on the floor of the Senate last fall. At least two things were interesting about that debate. The first was that for reasons I do not understand, Senators who took part felt compelled to identify for the Senate their own religious affiliations. It was, to say the least, an unusual spectacle. In the course of that debate, one Senator after another was constrained to tell the Senate that he was a Baptist, or a Lutheran, or a Presbyterian. And the interesting thing was that no one ever asked.

Madam President, this strange phenomenon does not occur when we debate tax bills or defense bills or energy bills. But when Senators debate the question of prayer, suddenly they are no longer Senators from the several States. They are Baptists or Episcopalians or Catholics or Mormons.

The second point of interest about that debate will receive only a brief reference, because I am concerned about opening old wounds. It was the remarkable colloquy then held between the junior Senators from South Carolina and Ohio. Suffice it to say that it was the ugliest exchange I have heard since I have been in the Senate, and ironically, the subject of the exchange was prayer.

The point is surely this. The subject of so-called voluntary prayer has been extremely divisive when debated by mature people in the restrained setting of the U.S. Senate. It would be even more divisive among 10-year-old children in the schoolroom.

It is argued that what is at issue is only voluntary prayer and that there is nothing threatening or devisive about allowing a child to pray on a voluntary basis. I would agree with this conclusion if school prayer were truly voluntary. Indeed, that is the whole point of an amendment I will offer to the Helms amendment if the Senate proceeds that far. Of course a child may pray by volition. Indeed, any child who so desires can today find numerous daily opportunities to offer prayer to God. There is no constitutional or practical way to prevent such prayer. What is at issue today is not voluntary prayer, but rather organized prayer—prayer which would be held at times and places determined by school officials, prayer of a content and form to be determined by school teachers and administrators.

In summary, Madam President, the Helms amendment concerns Government sponsored and supervised prayer for schoolchildren. There is nothing voluntary about it. In the first place, school attendance is compulsory. It is required of all children by statute. A child who wishes not to participate in school sponsored prayer would be compelled to be present at the school by force of law. Second, a child in elementary school feels tremendous pressure not to make a spectacle, but rather to conform. When prayers are being said, few youngsters would have the strength to excuse themselves and to endure the inevitable abuse from other children. Third, I do not think it is possible to devise a prayer which would be voluntarily accepted by all and rejected by none. Prayer that is so general and so diluted as not to offend those of most faiths is not prayer at all. True prayer is robust prayer. It is bold prayer. It is almost by definition sectarian prayer. Yet such geniune prayer would offend children of other faiths.

In considering the issue of school prayer, it is important to examine the first amendment to the Constitution and the deliberations at the time it was adopted. The debates over the first amendment show that the participants largely shared a fundamental assumption: namely, that the freedom of individual conscience and the free exercise of religion should be insisted upon. In fact, the only mention of religion in the U.S. Constitution apart from the first amendment occurs in article VI: "No religious test shall ever be required as a qualification to any officer or public trust under the United States." Contrast this with the Massachusetts constitution of 1780, which declared it to be the duty of the "towns, parishes, precincts and other bodies politic" to support and provide funds for "public worship of God."

Religion, a source of civil war and sectarian strife, of qualifications for enjoying basic civil rights, of revolutions and oppression, was to be kept apart in a separate sphere. The laws of the land were to apply to all citizens, regardless of their religious views. James Madison, who, as a Member of the House of Representatives, was so influential in the shaping of the first amendment, forcefully spoke of the danger religion and Government posed to each other. The Constitution would put away the danger, as he explained it in Federalist No. 10. There, Madison argued that factions pose the most serious danger to liberty. Based on history, Madison believed that religious sects would be sources of factionalism, endangering the liberty of the citizenry as a whole. The religious factions were to be rendered harmless by tolerating a multiplicity of religious sects, thereby dividing their power; this would protect both the sects themselves and liberty as a whole.

Just as it is not the intention of opponents of state-sponsored prayer to downgrade the role of religion, so that was not the intention of Madison. It was James Madison who spoke so persuasively of the positive good done on behalf of religion by the enforced separation of church and state. I refer, of course, to his 1785 "Memorial and Remonstrance" to the General Assembly of the State of Virginia. The Remonstrance is among the fundamental American texts setting out the importance of religious liberty. The Supreme Court has turned to it again and again for guidance about the meaning of the establishment clause. In 1785, Madison found it necessary to oppose the eloquent Patrick Henry, who had introduced a bill in the Virginia General Assembly to establish public support for teachers of religion. In the Remonstrance Madison argued strenuously against the bill, and he ultimately prevailed. But his line of argument against that legislation is unusually instructive in the present debate over school prayer.

Because religious duties have such a high priority in the lives of men, said Madison, religion in our country is left

without secular direction or governmental interference. Therefore even the smallest breach of religious liberty is to be resisted. The public support of religion would enable public officials to use religion politically, thus contaminating the purity of religion. Pious men in Europe struggled for centuries to protect religion from oppression by civil governments. Official support for religion inevitably would mean preferring one sect over another and, thus, would engender violent animosity among the sects. Finally, Madison concluded, because "the equal right of every citizen to the free exercise of his religion according to the dictates of conscience" is a fundamental right, legislatures have no right to abridge it.

The advocates of the Helms amendment point out that several of the States at the time of the adoption of the bill of rights had established churches. That is certainly undeniable. They go on to say that the first amendment prohibits only the establishment of a national church. But that is the utmost oversimplification. The Constitution is the living charter of our Government. It cannot be interpreted only by looking at the circumstances of the time at which particular constitutional language was adopted. Because established state churches existed in 1789 does not mean that the principles embodied in the first amendment were meant forever to support established state churches. This is a point that must be returned to later.

The same dangers Madison feared, animosity among religious sects and the infringement of free conscience, are being promoted by the advocates of state-sponsored prayer in the public schools. Even if we should restrict ourselves to the Judeo-Christian tradition, upon which Bible should prayers be based? The Hebrew Bible? Not for Christians. Even Protestants and Catholics recognize different versions of the Bible.

When Madison was waging the struggle for religious freedom, he enjoyed the strong support of Virginia Baptists. For the Baptists allied with Madison, state interference with religion was "repugnant to the Spirit of the Gospel." I note that over 200 years later Baptists, together with other denominations, have strongly opposed the present attempt to tamper with the separation of church and state.

The "Resolution on Voluntary Prayer in Public Schools" adopted by the Southern Baptist Convention in June 1980 put the issue well.

Whereas, the Supreme Court has not held that it is illegal for any individual to pray or read his or her Bible in public schools,

Be it resolved, That this convention records its opposition to attempts, either by law or other means to circumvent the Supreme Court's decision forbidding government authorized or sponsored religious exercises in public schools, and

Be it further resolved, That we hereby affirm our belief in the right to have voluntary prayer in the public schools.

The Southern Baptist Convention recognized the critical facts that, first, the Supreme Court has not proscribed genuinely voluntary prayer in the schools, and second, circumventing the jurisdiction of the Supreme Court will bring about religious exercises authored or sponsored by Government.

I would be remiss not to point out that the Southern Baptists, in their 1982 convention, altered their previously clear position somewhat. They endorsed the President's proposed constitutional amendment on school prayer. In so doing they stated that the "proposed amendment does not constitute a call for Government-written or Government-mandated prayer."

Unfortunately, I cannot believe that that is the case. As sent to the Congress, the proposed constitutional amendment opens the door to prayers composed by State and local school officials. The separation of church and state as presently understood would be endangered by reestablishing such a practice.

In May of this year, I received a letter from Mr. James Dunn, the executive director of the Baptist Joint Committee on Public Affairs. His letter puts it well. He writes:

All prayer is free and voluntary or it's not prayer. Because the Supreme Court rulings did not ban truly voluntary prayer in schools, the current debate is about what Mr. Justice Stevens calls "compelled ritual."

We hope that you'll not be caught up in an election year tidal wave of cheap political demagoguery. Prayer is too sacred, too intimate, too personal, to be prostituted by government involvement.

After the 1982 Southern Baptist Convention, Mr. Dunn, in a June 24 letter to the editor of the New York Times, wrote the following:

The Baptist Joint Committee on Public Affairs, which has fought constitutional amendments on prayer in schools for nearly 20 years will continue to do battle with those who would turn 200 years of constitutional history on its head. And at the same time it will seek to re-educate its Southern Baptist constituency that government can neither grant nor refuse the right of anyone to prayer.

This agency will also remind lawmakers and Baptists alike that, in the words of the late former president of the Southern Baptist Convention, Dr. George W. Truett of Dallas, "Christ's religion needs no prop of any kind from any worldly source, and to the degree that it is thus supported is a millstone hanged about its neck."

In November 1981, the North Carolina Baptist Convention was explicit in reaffirming its judgment that the current efforts to deny the Federal courts jurisdiction over school prayer cases violate the separation of church and state. The North Carolina Baptist resolution states:

Whereas, there are pending proposed amendments to the Constitution of the United States whose effect would be to authorize state and local governments once again to provide for religious services, to require "voluntary" and/or "nondenominational" prayers, and to determine the content of prayers, the time the prayers are said, and the place where they are said, and

Whereas, there are also bills pending in Congress which would deny to the federal courts jurisdiction over cases involving government sponsored religious exercises in the public schools, and

Whereas, prayer is a personal communication between an individual and God and does not depend on either the permission or sponsorship of government or its agents, and

Whereas, the Supreme Court did not rule out purely voluntary individual prayers in the public schools, and

Whereas, Baptists of America have long struggled for a strict separation of church and state,

Be it therefore resolved, that the North Carolina Baptist State Convention . . . reemphasizes its support of the principles of religious liberty and of the separation of church and state.

Also, earlier this year, I received a letter from Mr. Grady C. Cothen, the president of the Sunday School board of the Southern Baptist Convention, headquartered in Nashville. He enclosed an article he authored in 1980 entitled "The Confusion Concerning Prayer in Public Schools." Commenting on the 1979 Helms amendment that sought to strip jurisdiction over prayer cases from the Federal courts, Mr. Cothen points out the problems that led him to oppose the amendment. If the Federal courts were forbidden to hear such cases, he suggests, control of the entire matter would devolve upon the State legislatures and courts. Statehouses and State courts almost invariably are connected with the majority religions of those States, so that those in a religious minority would have a difficult time seeking relief from the majority religious practices that would be reestablished in the public schools. As he points out, this religious influence might please Baptists in Mississippi or Georgia but frustrate them in Utah, where the dominant influence would be Mormon, or in New Orleans, where it might be Catholic. In short, local governments would be needlessly entangled with religion, making the violation of the rights of minorities all too easy. The surest route to preserve religious liberty, he concludes, is to leave the Federal courts alone. I believe we should heed Mr. Cothen's advice.

In a similar vein, an editorial from the December 3, 1981, Baptist Messenger, the newspaper of Oklahoma Baptists, points out that "the church always has been the primary channel for biblical instruction." The editor puts it well when he argues that:

Christian prayers and readings from the New Testament are offensive to Jews, Mus-

lims and other non-Christians, Nondenominational or interfaith prayers would sound empty and strange to most evangelical Christians. Certain versions of the Bible are offensive to Catholics and others are offensive to fundamentalist Christians. Who is to choose?

The editor believes that voluntary prayer means prayer "free from interference from any other person, especially one who could be considered an authority figure." He continues:

I am uncomfortable at the prospect of any school official or teacher setting a time for Bible reading and prayer, or choosing a passage for Bible reading. As a parent, I don't want someone whose religious beliefs I don't know teaching my children the Bible. That's why I exercise care in choosing a church to attend. I would rather teach the Bible at home and at Church than risk the confusion that can result from some of the cults and strange doctrines being pushed on the pliable minds of children and youth today.

The Messenger editorial worries, as we in the Senate should, about the impressionability of elementary and secondary students. The editor observes:

If adult behavior is determined so much by peer pressure, how much more are children and young people programmed by their peers to think, act, and dress alike. How can we expect him or her to act differently from the majority when he must choose whether to participate in Bible study or prayer.

The Baptists, while often the first of American churches to recognize and oppose dangers to church-state separation, are far from alone. Listen to the formal statements by these other churches:

The Lutheran Church, Missouri Synod:

The Board of Parish Education of the Lutheran Church—Missouri Synod, feels that the . . . (prayer) Amendment fails to recognize fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Savior and Lord. We believe that non-Christians should neither be expected to participate in Christian prayer nor should they expect Christians to join them in prayer that deny Christ.

The concept of voluntary participation in prayer provides either a coercive force or an embarrassing situation for both Christians and non-Christians. Under these circumstances we believe that it is best for the public school not to engage in prayer or other religious worship exercises.—The Board of Parish Education, July 29, 1966.

The Presbyterian Church in the United States:

We hold that the state should not impose religion in any of its expressions upon its citizens. The recent Court decisions overruling state laws requiring Bible reading and the Lord's Prayer are therefore in our judgment theologically sound.—General Assembly, 1964.

The Seventh-day Adventist:

Under the Helms Amendment, which would prohibit the Supreme Court from ruling on the issue or prayer in schools—the very body, it should be noted, that our forefathers determined should survey fidelity to the First Amendment—a Baptist child might be asked to recite a Buddhist prayer in Hawaii, and a Buddhist child might be asked to recite a Christian prayer in Mississippi. Such ought not to be. To call such a prayer "voluntary" is to play not only with words but with the spiritual sensitivities of our children. It would be a travesty of our First Amendment indeed should each state be free to determine what constitutes religious freedom.—June 1980.

The Episcopal Church:

Resolved, That this Executive Council encourages the use of prayer in connection with all aspects of daily life while at the same time strongly opposing all attempts by the state to establish when or how people shall pray, and thus opposing all government legislation which would prescribe means or methods of prayer in public schools or which is designed to encourage local authorities to prescribe such means or methods of prayer.—The Executive Council of the Episcopal Church, 1981.

Many churches, then, are united in their opposition to legislative proposals which would undermine the 1962 and 1963 decisions of the U.S. Supreme Court prohibiting State-sponsored prayer in public school classrooms. Let us turn to these famous decisions. What has the Supreme Court held?

Appreciation of the Supreme Court opinions treating prayer in the schools must begin, of course, with a recognition of why the Federal Government finds itself concerned with actions of local school boards and State legislatures. After all, the first amendment says that "Congress shall make no law respecting an establishment of religion." But after the ratification of the 14th amendment in 1868, the Court found itself compelled to protect the rights guaranteed in the first amendment against State action as well. This application followed from section 1 of the 14th amendment, which reads:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

Thus we find the three branches of the Federal Government worrying over what transpires in every school building in every school district of the country. To complain that this task is too burdensome or too instructive on our part does not excuse us from our duty.

In 1962 the Court handed down Engel against Vitale. The case centered on the brief prayer composed by the N.Y. Board of Regents and recommended by them to local school boards for use in morning exercises. The prayer read: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country." The use of the prayer was challenged as a violation of the first amendment by Mr. and Mrs. Steven Engel, parents of children in the New Hyde Park, N.Y., public schools. The case began in the State court, with New York's highest court upholding the power of State schools to use the prayer so long as it was voluntary—that is to say, so long as pupils were not compelled to join in the prayer when parents objected. Students who so wished could remain silent or be excused from the room.

The U.S. Supreme Court agreed to hear the case on appeal from the New York courts and in a 6 to 1 decision overruled the previous rulings. In Engel the Court said:

. . . the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.

Furthermore, that the Regent's Prayer was considered voluntary by its proponents did not make any difference. In the words of the Court:

. . . The . . . argument . . . that the program . . . does not require all pupils to recite the prayer but permits those who wish to do so to remain silent or be excused from the room, ignores the essential nature of the program's constitutional defects . . . . The Establishment Clause does not depend upon any showing of direct governmental compulsion . . . . When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain.

The Court made clear in its opinion that its interpretation of the first amendment operates to the benefit of religion. Commenting on the foremost purpose of the first amendment, the Court observed:

It has been argued that to apply the Constitution in such a way as to prohibit State laws respecting an establishment of religious services in public schools is to indicate a hostility toward religion or prayer. Nothing, of course, could be more wrong. The history of man is inseparable from the history of religion. And perhaps it is not too much to say that since the beginning of that history many people have devoutly believed that "more things are wrought by prayer than this world dreams of." It was doubtless largely due to men who believed that there grew up a sentiment that caused men to leave the crosscurrents of officially established state religions and religious persecution in Europe and come to this country filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose.

This last quoted passage from Engel against Vitale is especially significant to today's debate. It would seem at first blush that a vote against the Helms amendment is a vote against religion, and no Senator would want to

be in a position of voting against religion. In fact, however, it is not a vote against religion at all. If it were, Baptists, Lutherans, an other denominations would not oppose the Helms position. On the contrary, opposition to the Helms Amendment, at least in its present form, is opposition to the trivializing of religion and to the coercion of children who take their own religious traditions seriously.

The 1963 decision of the Supreme Court, Abington School District against Schempp, focused on the required reading of verses from the Bible and the recitation of the Lord's Prayer following the reading. Again, the State statute allowed students not to participate or to excuse themselves from the schoolroom. Here the Court, by a vote of 8 to 1, found that the Pennsylvania statute required religious exercises directly in violation of the establishment clause of the first amendment. Citing the previous opinion in Engel, the Court said:

> Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the establishment clause.

Again, the Court's careful scrutiny of the Pennsylvania prayer requirement reveals that such a regimen is anything but voluntary. The recitation of the Lord's Prayer was required by school officials at the beginning of the day; the observance was a part of the curricular activities of students required to attend school, held in school buildings under the supervision of teachers. Rather than being the setting for voluntary prayer, the Pennsylvania statute was a veritable recipe for compulsion.

To repeat, the main focus of the Court in both Engel and Abington was the prohibition of State sponsorship of religion or religious exercises. In Abington the Court found the establishment clause forbids State actions which either advance or inhibit religion:

> . . . to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. 374 U.S. 203, 222 (1963)

In a concurring opinon in Abington, Justice Brennan addressed the changes in the United States since 1789. The opinion is important for the argument over the meaning of the words of the first amendment. At the time the Bill of Rights was ratified, established State churches were in existence. This leads some supporters of the Helms amendment to say that the first amendment was meant only to forbid the establishment of a national church. In answer to this argument, Justice Brennan in Abington replies:

> A too literal quest for the advice of the Founding Fathers upon the issues of these cases seems to me futile and misdirected. . .

I do not denigrate the need to try to recover the original meaning of the words of the first amendment. But I do believe that life in our democratic land is in constant flux. The great genius of our Constitution is that it can encompass these changes. Consider the fact that the United States of 1789 was a land of 13 States, almost exclusively agrarian, with a population of only 3 million.

Justice Brennan sets out four reasons why the first amendment needs to be seen in a larger context than the one urged on us by advocates of the Helms amendment. First, the debate in the first Congress on the establishment clause is ambiguous at best. That debate gives guidance but not definitive guidance. Madison himself preferred an absolute separation of church and state, as demonstrated by his struggles in Virginia and by his "Memorial and Remonstrance," which I already mentioned. As Brennan says:

> If the framers of the Amendment meant to prohibit Congress merely from the establishment of a "church" one may properly wonder why they didn't so state. That the words church and religion were regarded as synonymous seems highly improbable.

Second, at the time of the founding, public schools were practically nonexistent. Education for the most part was confined to private, sectarian schools. Therefore, the authors of the first amendment obviously do not speak to the practice of prayer in the public schools. A later Supreme Court had to face the question. Third, our country is much more religiously diverse today than in 1789. No exception can be taken to this fact. Primarily Protestant in character in the late 18th century, the United States is more and more an amalgam of faiths. The fourth of Justice Brennan's reasons is that the development of free public education was spurred by that religious diversity. In his words:

> It is implicit in the history and character of American public education that the public schools serve a uniquely public function: the training of American citizens in an atmosphere free of parochial, divisive, or separatist influence of any sort—an atmosphere in which children may assimilate a heritage common to all American groups and religions.

The absence of religion from the public school classroom is therefore a protection both for the common heritage that every schoolchild shares and for the numerous religious beliefs held by our children.

Now let me return to the Supreme Court's decisions subsequent to Abington. Following the Court's landmark decision in the early sixties, lower Federal courts and State courts began applying the principles laid down to a number of different situations. The Supreme Court itself has not comprehensively addressed the question of prayer in elementary and secondary public schools since that time. Nevertheless, on several occasions the Court has denied certiorari or declined to review the lower court's decisions. We are then left to conclude that the lower court decisions have correctly interpreted the mandate of Engel and Abington.

While I think it unnecessary to go through each of these cases, I do wish to remark on their general character. Arising out of the States of Florida, New Jersey, Massachusetts, Illinois, New York, and Texas, each decision turned finally on the question of State sponsorship. In each case, the State's purported effort to achieve voluntariness was not sufficient to pass the tests required by the establishment clause. In several of these cases, required Bible reading and unison prayers were involved. In several, school officials were directed to organize devotional periods on school property. In one of the most recent instances, school officials in Guilderland, N.Y., would have been required to supervise student-initiated devotional activities on school property.

In emphasizing what is constitutionally prohibited, let us not overlook what the first amendment does allow. Thirty years ago the Supreme Court ruled that the wall of separation was not breached by public schools permitting children so desiring to leave the school premises during the day for religious instruction or worship. Such arrangements continue to operate across the country. Also, a period for silent meditation is a practice that has been recognized repeatedly. Although the Supreme Court has never expressly addressed silent meditation, Justice Brennan's concurring opinion in Abington indicates his belief that "reverent silence" could not jeopardize "either the religious liberties of any members of the community or the proper degree of separation between the sphere of religion and government."

Now, let us pause and consider again what the Senate's advocates of prayer in the public schools would actually bring about.

Earlier in this debate I asked the Senator from North Carolina whether he would object to a public schoolteacher, who happens to be a devout Roman Catholic, putting up the text of the Hail Mary on the blackboard and announcing to her students that they would now voluntarily recite the prayer. He replied, in effect, that it would not bother him in the least if his grandchildren were in that class. Yet I suspect that many people would have difficulty sharing the Senator's enthusiasm for this situation.

Or consider the Jewish child from an orthodox household in an elementary school classroom where the Lord's Prayer is recited daily. Even if the child may remain silent or be ex-

cused from the room, imagine what a spectacle is made and what potential there is for abuse from the other children. The Jewish children in such a setting are immediately divided from their fellow students, and to what end? The Lord's Prayer is not voluntary to them. And, in the truest sense, it is not a voluntary prayer at all. It is not a prayer literally arising from the will of the individual student. It is, instead, a prescribed form of prayer, to be delivered at a time and place specified by Government officials.

What about the public high school student from a devout Christian family who finds himself in a class where a strictly nondenominational prayer is recited at the beginning of the day, a prayer that makes no mention of Jesus Christ? If the student believes that prayer is to be offered through the mediation of Christ, then such an exercise, repeated every day of the school year, would not be true prayer to that student. To him it would be a mockery of prayer.

What of the devout Roman Catholic student in a public junior high? Here is a student whose religious training has taught him to believe in the hierarchy of bishops and priest headed by the Pope in Rome, whose authority descends from the apostle Peter. To such a student a highly individualistic prayer suggested by a Protestant teacher and removed from the body of Catholic doctrine would be foreign to the child's religious tradition.

By these examples I am trying to illustrate the plain truth that prayer, by its very nature, must recognize theological difference. Prayer must, in the words of a priest, "respect the Jewish reverence for God the Father, it must recognize the Christian belief in the Trinity, and it must see the need for Christian Catholics to include the Trinity, Mary and the saints." No single prayer can achieve these ends without offending many devout people. No lowest common denominator of prayer can achieve these ends without offending all devout people.

(Mr. ABDNOR assumed the chair.)

Mr. DANFORTH. The Statistical Abstract lists about 90 religious bodies in this country with more than 50,000 members each. One of those is the Buddhists. Imagine a recently arrived Vietnamese child who is a Buddhist, a fourth grader, in a classroom of students who were raised in the Judeo-Christian tradition. That child is guaranteed his religious rights under the Constitution as much as any child. A refusal to join prayers led or, at any rate, supervised by school officials would surely result in embarrassment for this child, and I cannot conceive that such embarrassment would serve the purpose of either religion or America.

There are other examples along this line. The Muslim population of the United States is increasing. For Muslim, a follower of Islam, prayer involves a detailed ritual of turning to Mecca and prostrating oneself. The prayer itself is a simple adoration of Allah, and does not involve requests or any asking of a blessing, as most Christian prayers by contrast do.

As these hypothetical situations illustrate—and it would not be difficult to multiply them—the United States is more and more a religiously diverse Nation. The free exercise of religion is a guarantee to all citizens of all faiths. The suggestion that a period for voluntary prayer would bring religion into public schools raises the question: What is sufficient to pass for religion? For those within a religious tradition, it simply is not true that one prayer is as good as any other. Prayer arises from the content of the faith, and it is the job of the churches, not the Government, to describe what that content is. Any thought that the form of prayer is of no matter to the various denominations should be put to rest by considering the enormous controversies triggered by recent liturgical reform in the Roman Catholic and Episcopal Churches.

In addition to the wording of prayer, the time and place of public worship is of great concern to religious denominations. The time of worship; for example, the Sabbath, the Day of Resurrection, and days of obligation. And the place—its religious art and architecture—both point to the content of the underlying faith. No denomination would be willing to delegate the organization of public worship to a school board, and it is unlikely that any worship organized by a school board would bear any relationship to religion.

In a time of weakened public values, it is not surprising that many Americans are hoping that religion will save the day. This is perfectly appropriate and understandable. But the real question is whether the sort of prayer contemplated for public schools is authentic religion, rooted in tradition and practiced in all its richness, or whether it only bears the label of religion affixed to it by well-meaning politicians.

The point I am stressing is not lost on some of the key supporters of the Helms prayer amendment. Jerry Falwell, the founder of the Moral Majority, knows the difficulty of asking men and women of diverse faiths to join in prayer. In a meeting with the Religious Newswriters Association in New Orleans, Mr. Falwell is quoted as observing that:

> If we ever opened a Moral Majority meeting with prayer, silent or otherwise, we would disintegrate.

Pressed for an explanation of this remark, Mr. Cal Thomas, director of communications for the Moral Majority said, according to the New York Times, that meetings of the organization were not opened with prayer because it is a political organization that includes Jews, Catholics, Mormons, Protestants, and even "nonreligious" members. Mr. Thomas put it well when he asked: "What kind of prayer would we use?"

Now I ask the Senate: If Mr. Falwell and Mr. Thomas understand the divisiveness of questions over prayer in the context of Moral Majority meetings, how could they possibly miss the same point when the question over prayer in public school classrooms arises? Mr. Thomas says that prayers are not said at meetings of the Moral Majority because it is a "political organization" rather than a religious one. Then what would Mr. Falwell and Mr. Thomas consider a room full of public school children to be? The children of the various religious faiths in this Nation's public schools would feel the same unease and disquiet over prayer that adult members of the Moral Majority would were prayer to open their meetings. Perhaps Mr. Falwell thinks that young children do not have the same sensibilities that adults do on questions of religion. To some extent a difference in sensibility is obvious. But it is just as obvious that children are even less understanding of differences between them than are adults. As I observed earlier, even in the restrained setting of the U.S. Senate, Senators cannot refrain from referring, in offensive terms, to the religious faith of other Senators. Imagine the scenes we can expect in public school classrooms.

The advocates of State-sponsored school prayer betray, it seems to me, a view that the churches, the church schools, and the homes of our land, can no longer do the important work of promoting religious faith, can no longer bring to the content and conduct of our children's lives the moral framework of religion. It is as though we are told that religion is too important to be left to the church and the home, and that here too, there must be a role for Government. I do not share this lack of confidence in church and home, nor do I share the view that urges Government to enter every aspect of American life. The home and the church and the private church school are precisely the places where attentive, reverent, and humble prayer can be practiced, where religion can be embraced in its fullness.

During the course of last autumn's debate on this bill, the senior Senator from North Carolina asked me if I could think of any circumstance when prayer could do a student any harm. At the time of that question, I was not sufficiently quick to come up with an example. Soon thereafter, however, examples came readily to mind. Now, I would like the Senate to consider one of my concerns before voting on the Helms amendment.

In recent years, a phenomenon has developed in America. A number of cults, purporting to be religious, have sprung up throughout the country. These cults have included the Scientologists, and Hare Krishnas, and the group known as the Moonies. Much of the work of these cults has been aimed at winning converts from the ranks of younger people, luring them away from the influence of their families and from the religious traditions in which they were raised. It is reported that the methods used by the cults in the conversion of young people are carefully developed and involve a highly sophisticated use of psychology. The young people are said to be brainwashed, or by some descriptions, turned into zombies.

Cultists have made concerted efforts to pursue their causes. Visitors to many airports can attest to the cultists' determination and to their commitment to follow the course laid out for them. Suppose that the strategy of the cultists involved not peddling in airports but teaching in schools. A cult might easily reason that teachers have a profound influence on the way children think, and that, through the insertion of religion in the classroom, a child could be converted to the cult.

In the event that cultists otherwise are qualified to teach in public schools, they could not, under the Constitution, be excluded by reason of their religious affiliation. Therefore, if a concerted effort were made by, say, Scientologists, to train their members for teaching and to place them in public schools, school boards could not exclude them on the basis of religion. They would have the same right to employment in public schools as Protestants, Catholics, and Jews.

The sole protection that now exists against the use of the schools by the cults is that whatever religious affiliation teachers may have, they may not now use the classroom as a place to practice religion. If Scientologists were to gain employment in our public schools, they would be compelled to maintain strict separation between religious and classroom activities.

Mr. President, let us suppose that the Helms amendment were adopted in its present form. The cultist teacher could then invite the class to observe a voluntary period of prayer. If the teacher is trained in sophisticated psychological methods of indoctrinating children, one wonders how long voluntary prayer would remain voluntary. In any event, the practices of the teacher could be easily fashioned to escape the reach of the courts.

We think of the practice of religion as benign, and it usually is. But one need only review history from the crusades and the inquisition through the burning of witches at Salem, from the pogroms to Jonestown, to discover that there are many perverse exceptions to the rule. The Constitution was written with the exceptional circumstances in mind. My concern is simply this: If Congress were to restrict the courts in school prayer cases, the classroom could be used by malevolent forces as a place to alter the minds of children, and the courts would not interfere.

The amendment to the debt limit bill before us would strip jurisdiction over prayer cases from the Federal courts. There is a wide divergence of opinion over the constitutionality of the Helms amendment. But I will leave that argument to others. I want to emphasize that it would be unwise to do so even if Congress has the power. Religious belief and its protection by the Constitution is not something with which to tamper lightly. The Federal courts have been a bulwark against the corruption of religion by politics, and against the domination of one religion over others. The effort of the Helms amendment to weaken that bulwark should be resisted.

In light of that fact, if the Senate proceeds to vote on the Helm amendment, I shall offer an amendment to define voluntary prayer. It is straightforward:

The term "voluntary prayer" shall not include any prayer composed, prescribed, directed, supervised, or organized by an official or employee of a State or local government agency, including public school principals and teachers.

The purpose of my amendment would be to assure that any prayers allowed in the public schools are truly voluntary, free of coercion, overt or subtle, from school teachers or school officials. The purpose of this amendment, in other words, would be to make clear that the Senate takes religious freedom seriously, that the Senate does not accept the concept of State-sponsored school prayer. My amendment should be supported by those Senators who want to go on the record for voluntary prayer. I believe my amendment would be compatible with the interpretation of the first amendment and its establishment clause put forward by the Supreme Court. By adopting my amendment, the Senate would resist the efforts of those who wish to authorize State-sponsored school prayer.

I urge the Senate, in the name of religious liberty and constitutional principle, to resist a blatant attempt to violate the great principle of separation of church and state. We must uphold the time-honored tradition that promotes the free exercise of religion and that keeps that hand of Government from abusing the freedom of conscience. Our Nation needs to hold steady to the course of religious toleration, to the principles of government established by our forefathers, and perpetuated and extended to the present hour. Let us turn away from the divisiveness and ugliness of spirit sure to befall us should our resistance fail.

In voting on this question, it falls to our part, I believe, to affirm the wisdom of centuries as against the passions of a season. It is our obligation to affirm the scope of religious liberty marked out by the Constitution. It is our obligation to the children of every faith to preserve the guarantee of religious liberty extended by the first amendment.

Mr. President, the floor was yielded to me by the Senator from New York, who asked unanimous consent that the yielding of the floor not be considered to violate the two-speech rule. I in turn yield the floor with the same unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AN APPEAL FOR PEACE

Mr. CRANSTON. Mr. President, earlier today my office delivered the following letter to Israeli Prime Minister Menachem Begin to the Israeli Embassy in Washington:

DEAR MR. PRIME MINISTER: For almost two generations, my country has joined with yours to build an Israel which can provide its people with increasing opportunities for human fulfillment within peaceful borders, and to work for a peace and a stability in the Middle East that will benefit your people, our people, all people.

This history does not permit Americans to direct Israel's actions. However, our share in the chronicle of your country does entitle us to be known as your friend. And the truest mark of friendship is not flattery or unquestioning support, but honest counsel. Indeed, it would be a betrayal of friendship to conceal criticism of actions we think likely to defeat the goals we have shared for so long.

As you well know, the State of Israel has no stronger supporter in the U.S. Congress than I.

Repeatedly through the years, during both Democratic and Republican Administrations, I have helped lead battles in the U.S. Senate to defend the mutual interests of our two countries, to augment Israel's strength and security, and to oppose the enhancement of the military power of Arab nations hostile to Israel.

I do not doubt that the root cause of all the violence in the Middle East lies in the Arab holy war against Israel, lies in the refusal of so many Arab nations to recognize the right of Israel to exist and in their refusal to make peace with her, and lies in PLO terrorism.

I do not believe that the United States would sit idly by if Cuban forces defied one of our neighbors and massed thousands of armed guerrillas on one of our borders, commenced transforming them into military units replete with increasing supplies of Soviet equipment, including tanks, rockets, and artillery, and proceeded to wound and kill Americans in terrorist attacks launched across our border upon our communities and our citizens.

After all, we sent U.S. trained forces into hostile action at the Bay of Pigs, and we risked a nuclear confrontation because of our concern over military developments in

Cuba—an island 90 miles off our shore—that we considered a threat to our national security.

Even now, every Soviet infant, child, woman, and man is targeted by American nuclear missiles. They are held hostage, threatened with instant death if those who rule the Soviet Union attack us or our allies. And every American, in turn, is targeted and held hostage by Soviet nuclear weapons. Indeed, every human on God's earth is held in thrall by this threat of the holocaust of all holocausts, one that would consume Jew and Gentile alike, one that would not discriminate between faiths and races. There is no longer any exodus to a place which cannot be reached by the missiles of man. Until the United States moves with more resolution, determination and creativity than we are now displaying to terminate this threat to each and all of us, our own hands are not clean.

Isreal is not alone in its use of military force to defend its perceived interests. There is a terrible global drift toward war. Violence is endemic in the world.

The U.S. has itself resorted to force to advance its perceived interests. In Vietnam, we too suffered the harsh consequences of overestimating the utility of force. We learned in Vietnam that violence begets violence; that expanding force has an impulse of its own, beyond the control of those who sit in government offices; that the unleashed beast of brutality cannot separate the innocent and the helpless from the armored enemy.

I did not condemn Israel's initial move into Lebanon for the avowed purpose of protecting Israeli citizens against repeated PLO attacks launched from that country.

And I refrained, despite deep misgivings, from commenting publicly on your siege of Beirut and your entry into its western section. I am reluctant to criticize a treasured friend and ally—especially when that friend and ally is in the midst of a military struggle.

But the massacre of hundreds of men, women and children is another matter. It will be some time before we accurately know who was to blame for the massacre. We may never know.

The question of responsibility is easier to answer. By moving Israeli forces into West Beirut for your declared purpose of restoring stability and preventing bloodshed, your government took on certain responsibilities.

You assumed responsibility for preserving order and protecting human life in Beirut—in this you failed.

Mr. Prime Minister, the recent behavior of your military forces in Beirut is causing deep concern and expressions of outrage among many of Israel's friends. This concern threatens to erode support for Israel in the United States and among the American people. As a matter of conscience, I, too, must now speak out.

I am troubled by the methods you are employing for the apparent purpose of controlling the destiny of Lebanon. To critics and friends of Israel alike, it increasingly appears that you and General Sharon have substituted naked military force for a balanced foreign policy which should reflect a decent respect for the opinion of mankind.

Moreover, however justified your original goals, the horror of Lebanon is now harming the security of Israel. It is repelling your friends and strengthening your enemies. In Biblical times, a handful of the righteous could stand against the world. In our more secular times, however, no country can stand alone, or with but a handful of allies. How can Israel think to increase its safety through self-inflicted isolation?

The people of Israel have always been known for their deeply ingrained reverence for human life and for the dignity of the individual, a reverence born of the great historical suffering of the Jewish people. Lesser nations have allowed war to harden them, and have permitted prolonged war to erode their reverence for justice, no matter how virtuous their cause may have been.

But Israel was born out of centuries of hope and struggle and an eternity of faith. It is my hope and my prayer that this faith and reverence can now manifest itself in courageous initiatives to help bring peace to Lebanon and then to provide an enduring solution for the West Bank and Gaza.

I believe that Israel should take the following initiatives:

1. I urge your government to withdraw Israeli forces from Beirut immediately upon arrival of the multinational forces who are to assist the Lebanese Army in assuming security responsibilities.

2. I urge your government to cooperate in achieving the swift withdrawal of all foreign forces from Lebanon—Syrian, PLO, and Israeli. And I urge that your government exercise the utmost restraint in the use of your superior military strength against Syrian and PLO forces still in Lebanon until such an agreement is reached.

3. I urge your government to return to Israel's traditional concern over only immediate threats to its own borders and that your government abandon its reliance on military force for the solution of essentially diplomatic problems.

4. Finally, though I myself have reservations about elements of President Reagan's proposed peace plan, I urge your government to reconsider promptly its outright, precipitous rejection of his entire proposal.

Perhaps the most somber consequence of the current strife in Lebanon is the dimming of the inspiring moral beacon which has shone so brightly from beleaguered Israel.

Some day the turmoil and the killing in Lebanon must end. Israel will still be surrounded by hostile neighbors. Will you then be more secure if you have dissipated the moral strength which armed your people and enlisted your friends?

A bold vision of peace and reconciliation is essential in the days ahead if we are to leave a safer world for our children.

Yours in peace,

ALAN CRANSTON.

Mr. BAKER. Mr. President, if the Senator will yield to me without losing his right to the floor, I would like to make one announcement.

Mr. DANFORTH. Yes, Mr. President.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is anticipated that shortly after 10:30 a.m., tomorrow after the recognition of the two leaders under the standing order and any special orders, we shall resume the consideration of the unfinished business. A cloture vote is scheduled for noon tomorrow under the provisions of rule XXII.

Mr. WEICKER. Will the Senator yield for a question?

Mr. BAKER. Yes.

Mr. WEICKER. Will the Senator include in that request a recognition of this Senator upon resumption of House Joint Resolution 520?

Mr. BAKER. I am inclined to think there will be an objection to that, Mr. President.

Mr. HELMS. Will the Senator yield to me with his right to the floor protected?

Mr. WEICKER. Yes.

Mr. HELMS. Mr. President, I have not objected for days on end to the repeated request that various Senators be accorded the right to the floor undisputed. This has served to discourage some of us who might want to speak on the other side of this issue. I hope that my friend from Connecticut will understand the friendliness with which I say I think we ought to put the recognition up for grabs, so to speak. Or, if he wishes recognition, he may have it provided he accords me, say, no more than 15 minutes, including in the request that he will regain the right, or something like that. I hate to be foreclosed.

Mr. WEICKER. To my good friend from North Carolina, let me say that is exactly what I did this morning with his colleague from North Carolina (Mr. EAST). I would be happy to give him 15 minutes or whatever time. The point is not to foreclose the Senator from North Carolina from being able to expose his point of view. I would be happy to concede whatever time the Senator from North Carolina wants for himself or whatever Senator wishes to speak to his point of view.

Mr. HELMS. Just so it is recognized that the Senator from North Carolina or Alabama or whoever may wish to speak has that right.

Mr. WEICKER. I think the Senator should know that this morning, in order to do exactly what the Senator intends, I had a schedule laid out for those who wanted to speak on my side of the issue. I dumped it the moment the Senator from North Carolina (Mr. EAST) came to the floor.

Mr. HELMS. The Senator is always graciously kind, and I appreciate his doing that this morning.

I will ask the distinguished majority leader, under those conditions, if I may be recognized for no more than 15 minutes tomorrow morning.

Mr. WEICKER. Whatever the Senator desires.

Mr. HELMS. Very well.

Mr. BAKER. I am not sure that is left to me, Mr. President. I believe I understand now that there will be no objection to a unanimous-consent request that when we resume consider-

ation of the unfinished business the Senator from Connecticut will be recognized, but at his request sometime during the morning the Senator from North Carolina would be recognized.

Mr. WEICKER. Any time for whatever period of time.

Mr. BAKER. Mr. President, I think the best way is to have no agreement at all if the parties are in agreement themselves.

Mr. HELMS. Mr. President, if the Senator will yield, the relationship of Senators is such that we do not really need to lock this in because the word of the Senator from Connecticut is certainly good enough for me. Having that understanding with him, informal as it is, I will certainly agree to his recognition.

Mr. BAKER. I thank the Senator.

Ali right, Mr. President, as I say, I am prepared to do the wrapup as soon as we put the Senate in morning business, but I express my gratitude to the Senator for permitting me to make this announcement at this time. I believe consent has already been granted that no interruption will appear in his presentation, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, I yield.

Mr. WEICKER. Mr. President. I commend the distinguished Senator from Missouri, who is certainly one of the great Members of this Chamber in terms of his contributions to it and to the Nation. Also, if this is not known by all who have heard his words, I believe he is an ordained minister in the Episcopal faith, my faith.

I know that the words he has spoken here this afternoon will go down in the annals of this Nation as being astute and feeling and courageous. He has brought a sense of history, a sense of love, and a sense of duty to the argument against the amendment before this body.

I want to tell him that I was very moved by his words, and I am sure that many other people over the ages will be reading these comments.

Mr. President, it is my understanding that the majority leader cares to bring matters to a close for the day. I am more than glad to continue to address the subject before this body.

I ask unanimous consent that I be permitted to put in a call for a quorum, without losing my right to the floor, and that I be rerecognized at the conclusion of said quorum call or at the time that the order for the quorum call is rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR CHILES ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow after the recognition of the two leaders under the standing order the Senator from Florida (Mr. CHILES) be recognized on special order of not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. today in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER HOLDING H.R. 7065 AT THE DESK

Mr. BAKER. Mr. President, there is at the desk I believe a bill from the House of Representatives H.R. 7065 a bill to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that that measure be held at the desk until the close of business on Thursday, September 23.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTION TO SENATE LEGAL COUNSEL

Mr. BAKER. Mr. President, there is another matter that I believe has been cleared on the other side, a resolution dealing with direction of the Senate legal counsel. I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 477) to direct the Senate Legal Counsel to represent Senate parties in *W. Henson Moore, et al.* v. *The United States House of Representatives, et al.* and in *Ron Paul* v. *The United States of America, et al.*, Civil Action Nos. 82-2318 and 82-2353, respectively.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, on August 19, of this year, the Senate and the House passed H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. The President signed the bill into law on September 3, as Public Law 97-248. Two lawsuits have been brought by Members of the House of Representatives in the U.S. District Court for the District of Columbia seeking a declaratory judgment that passage of H.R. 4961 by the Houses was in controvention of article I, section 7, clause 1 of the Constitution and that the Tax Equity and Fiscal Responsibility Act of 1982 is null and void.

The complaints name the U.S. Senate, the President of the Senate, and the Secretary of the Senate as defendants.

The following resolution would direct the Senate legal counsel to defend the Senate parties in these cases.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 477) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 477

Whereas, in the cases of *W. Henson Moore et al.* v. *The United States House of Representatives, et al.* and *Ron Paul* v. *The United States of America*, Civil Action Nos. 82-2318 and 82-2352, respectively, pending in the United States District Court for the District of Columbia, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of Article I, Section 7, Clause 1 of the United States Constitution;

Whereas, the complaints in these actions name the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. IV 1980), the Senate may direct its counsel to defend the Senate, its members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the cases of *W. Henson Moore, et al.* v. *The House of Representatives, et al.* v. *Ron Paul* v. *The United States of America, et al.*

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PENALTIES FOR CRIMES AGAINST CABINET OFFICERS, SUPREME COURT JUSTICES, AND PRESIDENTIAL STAFF MEMBERS

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 907.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 907) entitled "An Act to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert: That (a) subsection (a) of section 351 of title 18 of the United States Code is amended to read as follows:

"(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.".

(b) Section 351 of title 18 of the United States Code is amended by adding at the end the following:

"(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(i) There is extraterritorial jurisdiction over the conduct prohibited by this section.".

SEC. 2. (a) The section heading of section 351 of title 18 of the United States Code is amended to read as follows:

"§ 351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties".

(b) In the table of sections at the beginning of chapter 18 of title 18 of the United States Code, the item relating to section 351 is amended to read as follows:

"351. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault; penalties.".

(c) The chapter heading of chapter 18 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 18—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPING, AND ASSAULT".

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 18 reads as follows:

"18. Congressional, Cabinet, and Supreme Court assassination, kidnaping, and assault ..... 351".

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(violations with respect to congressional" and all that follows through "assault)" and inserting in lieu thereof the following: "(violations with respect to congressional, Cabinet, or Supreme Court assassinations, kidnaping, and assault)".

SEC. 3. (a) Subsection (a) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(a) Whoever kills (1) any individual who is the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States, or (2) any person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President, shall be punished as provided by sections 1111 and 1112 of this title.".

(b) Subsection (e) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(e) Whoever assaults any person designated in subsection (a)(1) shall be fined not more than $10,000, or imprisoned not more than ten years, or both. Whoever assaults any person designated in subsection (a)(2) shall be fined not more than $5,000, or imprisoned not more than one year, or both; and if personal injury results, shall be fined not more than $10,000, or imprisoned not more than ten years, or both.".

(c) Subsection (g) of section 1751 of title 18 of the United States Code is amended by striking out "this section" and inserting in lieu thereof "subsection (a)(1)".

(d) Section 1751 of title 18 of the United States Code is amended by adding at the end the following:

"(j) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an official protected by this section.

"(k) There is extraterritorial jurisdiction over the conduct prohibited by this section."

SEC. 4. (a) The section heading of section 1751 of title 18 of the United States Code is amended to read as follows:

"§ 1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties".

(b) In the table of sections at the beginning of chapter 84 of title 18 of the United States Code the item relating to section 1751 is amended to read as follows:

"1751. Presidential and Presidential staff assassination, kidnaping, and assault; penalties.".

(c) The heading of chapter 84 of title 18 of the United States Code is amended to read as follows:

"CHAPTER 84—PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION, KIDNAPING, AND ASSAULT".

(d) The table of chapters at the beginning of part I of title 18 of the United States Code is amended so that the item relating to chapter 84 reads as follows:

"84. Presidential and Presidential staff assassination, kidnaping, and assault ..... 1751".

(e) Subsection (c) of section 2516 of title 18 of the United States Code is amended by striking out "(Presidential assassinations, kidnaping, and assault)" inserting in lieu thereof "(Presidential assassinations, kidnapping, and assault)" and inserting in lieu thereof "(Presidential and Presidential staff assassination, kidnapping, and assault)".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I am prepared on this side to proceed to the consideration of two measures by unanimous consent.

DESIGNATION OF MARY McLEOD BETHUNE COUNCIL HOUSE AS A NATIONAL HISTORIC SITE

Mr. BAKER. Mr. President, with respect to Calendar Order No. 772, S. 2436, if there is no disagreement on the part of the acting minority leader, I ask the Chair to lay that before the Senate at this time.

Mr. HEFLIN. There is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 2436.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2436) to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 4, strike line 9, through and including "that" on line 14, and insert the following:

The Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

On page 5, after line 17, insert the following:

SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated $100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women for purposes of this Act an additional $100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or

services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.

So as to make the bill read:

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL FINDINGS AND PURPOSE

SECTION 1. (a) FINDINGS.—The Congress finds and declares that—

(1) the Mary McLeod Bethune Council House was the residence in Washington, District of Columbia, of Mary McLeod Bethune, renowned educator, national political leader, and founder of the National Council of Negro Women;

(2) it was at this location that Mary McLeod Bethune directed activities that brought her national and international recognition;

(3) this site was significant as a center for the development of strategies and programs which advanced the interests of black women and the black community;

(4) it was at this location that Mary McLeod Bethune as the president of the National Council of Negro Women received heads of state, government officials, and leaders from across the world;

(5) the Mary McLeod Bethune Council House was the first national headquarters of the National Council of Negro Women, and is the site of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History;

(6) the archives, which houses the largest extant manuscript collection of materials pertaining to black women and their organizations, contains extensive correspondence, photographs, and memorabilia relating to Mary McLeod Bethune; and

(7) the museum and archives actively collect artifacts, clothing, artwork, and other materials which document the history of black women and the black community.

(b) PURPOSE.—It is the purpose of this Act—

(1) to assure the preservation, maintenance, and interpretation of this house and site because of the historic meaning and prominence of the life and achievements of Mary McLeod Bethune, an outstanding leader in the areas of housing, employment, civil rights, and women's rights; and

(2) to assure the continuation of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History at this site, the preservation of which is necessary for the continued interpretation of the history of black women in America.

ESTABLISHMENT OF HISTORIC SITE

SEC. 2. In order to further the purpose of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Mary McLeod Bethune Council House at 1318 Vermont Avenue Northwest, in the city of Washington, District of Columbia, is hereby designated as a national historic site (hereinafter in this Act referred to as the "historic site").

COOPERATIVE AGREEMENT

SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the National Council of Negro Women. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

No limitation or control of any kind over the use of such properties customarily used for the purposes of the National Council of Negro Women shall be imposed by any such agreement.

ANNUAL REPORT

SEC. 4. The National Council of Negro Women shall, as a condition of the receipt of any assistance under this Act, provide to the Secretary of the Interior and to the Congress of the United States an annual report documenting the activities and expenditures for which any such assistance was used during the preceding fiscal year.

SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated $100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women for purposes of this Act an additional $100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.

Mr. THURMOND. Mr. President, I rise today in support of S. 2436, a bill designating the Mary McLeod Bethune Council House in Washington, D.C., as a national historic site, which I cosponsored.

Ms. Bethune was born near Mayesville, S.C., 1 of 17 children of Sam and Patsy McLeod. She attended elementary school in Mayesville, residing with her parents until the age of 13, when she left for boarding school in North Carolina.

As an adult, Ms. Bethune founded and was first president of both Bethune-Cookman College and the National Council of Negro Women. While in Washington, she resided in the Council House, from which she directed her many activities on behalf of black women.

Mr. President, I take pride in cosponoring this bill in honor of a distinguished South Carolinian. I call on my colleagues in both Houses of Congress to insure its swift passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time the question is, Shall it pass?

So the bill (S. 2436) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ANTI-ARSON ACT OF 1982

Mr. BAKER. I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6454.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6454) to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Without objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1265

Mr. HEFLIN. Mr. President, on behalf of Senator ROBERT C. BYRD, I propose an amendment which Senator GLENN has requested him to propose at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) on behalf of Mr. GLENN proposes an unprinted amendment numbered 1265.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. 3. The Director of the Federal Bureau of Investigation is authorized and directed to classify the offense of arson as a Part I crime in its Uniform Crime Reports. In addition, the Director of the Federal Bureau of Investigations is authorized and directed to develop and prepare a special statistical report in cooperation with the National Fire Data Center for the crime of arson, and shall make public the results of that report.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (UP No. 1265) was agreed to.

● Mr. GLENN. Mr. President, I am pleased that the Senate has begun

consideration of H.R. 6454. Although there is still a very long way to go in our fight against arson, consideration of this antiarson legislation today is an indication that Congress is finally starting to become serious about this deadly, billion dollar crime.

Each year arson kills 1,000 people; injures in excess of 3,000 people; causes direct property losses of at least $1.7 billion; and results in indirect losses estimated at up to $15 billion.

The result has been that the United States has the highest rate of arson in the world; arson is this Nation's fastest growing crime, quadrupling during the last decade and increasing tenfold in dollar losses; and that arson represents 25 percent of all fires and also 25 percent of our fire insurance premiums.

H.R. 6454 is virtually identical to S. 2438 which I introduced in April of this year to clarify that arson involving property used in or affecting interstate or foreign commerce is a violation of the Federal law. Like S. 2438, H.R. 6454 would accomplish this objective by adding the words "or fire" to the Federal Explosive Statute, title 18, United States Code, section 844.

This legislation would enhance the effectiveness of Federal investigations and prosecutions of arson by eliminating the necessity of proving that substances, such as gasoline, were in an "explosive state" at the time an arson was committed. (See my remarks on S. 2438 which were reprinted in the April 27, 1982 CONGRESSIONAL RECORD.) Under current law, satisfying this element of proof is quite often an onerous task requiring considerable investigative time and effort. Moreover, an estimated 30 percent of the arson investigations of the Bureau of Alcohol, Tobacco, and Firearms are dropped because of insufficient evidence that a fire has been caused by means of an explosive. Eliminating this requirement of proof will also avoid prolonged trial-delaying testimony concerning the nature of incendiary material used to commit arson.

This legislation will also close a loophole in the law which allows arsonists in certain jurisdictions to escape Federal prosecutions and convictions. Recent court decisions in the ninth circuit and elsewhere have held that the Federal Explosive Statute was not intended to apply to arson cases. For example, based on this interpretation of the statute, the U.S. Court of Appeals, in *United States* v. *Gere*, 622 F 2d. 1291 (9th Cir., 1981), reversed the conviction for arson under 18 U.S.C. 844(i) in a case in which a Los Angeles firefighter lost his life, 24 others were injured and property damage totalled approximately $1.5 million. (Also see *United States* v. *Cornett* (W.D.N.C., Aug. 19, 1982)). By clarifying that arsons affecting interstate commerce are covered by this statute, the legislation will preclude further unfortunate decisions based on this interpretation of the statute.

During the consideration of H.R. 6454 on the House floor, it was stated that:

> Criminals who callously pose a risk of death to others while committing the crime of arson and who profit by the destruction of property must not be allowed to escape the punishment which justice requires through a loophole in the Federal law.

The legislation that we are considering today will also include the Anti-Arson Act of 1982—S. 294—as recently passed by the Senate Committee on Governmental Affairs by a unanimous vote. I introduced S. 294 on January 27, 1981; its provisions will be offered as an amendment to H.R. 6454. My amendment would permanently elevate arson to "Part I" or major crime status for purposes of the Federal Bureau of Investigation's (FBI) Uniform Crime Reports (UCR). It would also require the FBI to study the crime of arson and prepare a special statistical report and make public the results of that report.

In the past, according to the U.S. Fire Administration, it has been "impossible to accurately measure the arson problem and its various components." This has contributed to a wide variation of statistics on arson. To overcome this problem, I introduced legislation to make arson a "Part I" crime. Since 1978, the FBI has been required to classify arson as a "Part I" offense. However, this is only a temporary requirement and has been continued each year only by virtue of being included as part of annual Department of Justice authorization bills.

The purpose of the FBI's uniform crime reporting program is to generate reliable criminal statistics for use in law enforcement administration, operation, management, and research. In order to provide nationwide uniformity in the reporting of data, the system utilizes standardized definitions to overcome the variances in definitions of criminal offenses in different sections of the country. When implemented in 1930, seven offenses were selected to serve as an index for evaluating fluctuations in the volume of crime. These "crime index offenses" or "Part I" crimes are murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. As previously mentioned, arson was added to the index in 1978.

The permanent classification of arson as a "Part I" offense will provide the accurate reliable statistics that are necessary to combat the crime of arson for several reasons.

First, it will require local police departments to become more directly involved with the crime of arson. This in turn would require them to work more closely with fire departments in order to obtain the necessary information. Cooperation between police and fire departments is crucial if we are to obtain accurate, reliable statistics on arson. Testifying before the Senate Judiciary's Subcommittee on Crime in 1980, Mr. Paul Zolbe of the FBI stated:

> . . . With the full cooperation of the fire services and law enforcement throughout the Nation, information on the crime of arson will enjoy the same level of credibility as that of other crimes which have historically comprised the Crime Index.

Second, it will encourage local law enforcement agencies to comply with the arson reporting requirement. Fearing that the requirement would not become permanent, many of the more than 15,000 agencies voluntarily participating in the UCR program have been reluctant to assume the added responsibility and cost of complying with the requirement. In 1979, only 8,528 fully or partially complied with the requirement, 11,500 in 1980, and 11,048 in 1981. Without substantial compliance, we will not be able to obtain complete, reliable data.

Third, it will add stability to the collection of information on arson by guaranteeing that no disruption will occur in the arson data collection effort. The FBI, for example, estimates that it will take 5 years of uninterrupted arson data collection before we begin to obtain accurate, reliable data.

Further, the permanent classification of arson as a "Part I" crime will reflect the very serious nature of this crime. In addition to the arson death toll, arson is America's costliest crime. In 1981, the average loss per incident for arson was $9,399. This amount is nearly double the combined average loss per incident for the remaining "Part I" offenses. In 1981, the average loss for auto theft was $3,173, for burglary $924, for robbery $665, and for larceny $340. Accordingly, it would be anomalous to classify arson as a minor offense. For example, prior to 1978, if a person torched the World Trade Center in New York City and killed 1,000 people in the process, it would be considered a minor crime along with such crimes as drunkenness and loitering. However, if the same person stole a car in front of the trade center and went joyriding across the river into New Jersey, it would be considered a "Part I" offense or a major crime.

Viewing arson as a serious crime will help focus public attention on this burgeoning problem. Increased public awareness will in turn put pressure on legislators, officials, the insurance industry and others to develop effective solutions to the arson epidemic that plagues our Nation.

Finally, the permanent classification of arson as a "Part I" crime will result in more useful statistics. Under this classification, information on volume,

trend, rate, clearances, persons arrested and the nature of the offense will be gathered. Only arrest information is gathered for "Part II" offenses. The more in-depth information is needed to better understand and assess the scope of the arson problem, shape antiarson programs and direct an adequate flow of dollars to our antiarson efforts.

My amendment would also require the FBI to conduct a study on the crime of arson and prepare a special statistical report. The study would determine the nature, extent, and seriousness of arson. Similar studies have been conducted by the FBI in the past where problems in the criminal statistics area could not be efficiently addressed by the basic UCR program. The study and report are necessary because reliable arson statistics will not be available for several years, notwithstanding the permanent classification of arson as a "Part I" crime.

In addition to the statistical aspects of the report, the study could examine: Arson in housing supported by programs of or owned by the Department of Housing and Urban Development; the reasons for noncompliance with the arson reporting requirements by many local law enforcement agencies; the scope of the problem between local police and fire departments concerning the crime of arson; and whether or not there is an adequate level of Federal antiarson assistance to States and localities.

S. 2438 and H.R. 6454 are supported by the firefighting community and the insurance industry. Resolutions in support of this legislation have been recently adopted by the International Association of Arson Investigators, Inc., and the National Association of Attorneys General. I ask that the resolutions be included in the RECORD at the conclusion of my remarks. The measures follow the recommendation of the Attorney General's Task Force on Crime, and the aim of the legislation is supported by the administration.

S. 294, as originally introduced, has 23 Senate cosponsors and has enjoyed wide support from the firefighting community, the insurance industry, the American Bar Association, and others. Resolutions in support of S. 294 were adopted by numerous groups, including the ABA, the Virginia General Assembly and the National Association of Attorneys General.

Mr. President, the passage of the antiarson legislation today is a significant first step in our battle against arson. I pledge to continue the battle, and I hope my colleagues will join me.

The resolutions follow:

RESOLUTION

Whereas, the International Association of Arson Investigators, Inc., is a not for profit association composed of more then 6000 members from the fire service, law enforcement and the private sector engaged in the control of arson, and

Whereas, arson is recognized as the fastest growing crime in the United States, causing loss of life, injury and destruction of property in the billions of dollars yearly, and

Whereas, the IAAI encourages the task force concept of arson investigation and

Whereas, the IAAI encourages the application of Federal explosives statutes to address an element of arson-related criminal activity that warrants federal attention, and

Whereas, because some Federal courts are reluctant to support the prosecution of certain arson crimes that fall within the "Explosives" definition as contained in Title 18, United States Code, Section 844 (j): Therefore, be it

Resolved, That the Officers and Board of Directors of the IAAI support legislation introduced by Senator John Glenn in S. 2438 that would amend certain subsections of 18 U.S.C. 844 to include the phrase "or fire".

RESOLUTION OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL—EXPANSION OF FEDERAL ARSON STATUTE

Whereas, federal jurisdiction over arson is limited to cases involving explosions that are not defined to include fires started by gasoline; and

Whereas, arson cases often include organized criminal elements that travel quickly between state lines making state enforcement of some arson cases exceedingly difficult; and

Whereas, some federal enforcement of arson cases, whether started by fire or otherwise, is necessary in order to reduce the incidence of arson; and

Whereas, legislation is pending in the Congress, H.R. 6454 and S. 2438, which would expand federal jurisdiction over arson to include fires started by gasoline: Now, therefore, be it

Resolved, That the National Association of Attorneys General supports H.R. 6454 and S. 2438, that would expand federal jurisdiction over arson to include fires started by gasoline; and be it further

Resolved, That the General Counsel of this Association is authorized to transmit these views to the Congress, the Administration, and other appropriate individuals.●

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill (H.R. 6454) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRICT OF COLUMBIA GOVERNMENT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2457.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2457) entitled "An Act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of $336,600,000" and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of $336,600,000; and for the fiscal year ending September 30, 198-, and for each fiscal year ending after September 30, 1983, the sum of $361,000,000." Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than $14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendment, that the Senate request a conference with the House of Representatives, and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MATHIAS, Mr. RUDMAN, and Mr. EAGLETON conferees on the part of the Senate.

NASA AUTHORIZATIONS, 1983

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5890.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 5890) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BAKER. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Senators PACKWOOD, SCHMITT, GOLDWATER, CANNON, and RIEGLE conferees on the part of the Senate.

H.R. 6872 HELD AT THE DESK UNTIL CLOSE OF BUSINESS ON SEPTEMBER 23, 1982

Mr. BAKER. Mr. President, I believe this request has been cleared as well. I now ask unanimous consent that H.R. 6872 be held at the desk until the close of business on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 5154 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. BAKER. Mr. President, I ask unanimous consent that the bill H.R. 5154 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT OF S. 2907

Mr. BAKER. Mr. President, I ask unanimous consent that S. 2907 introduced by the distinguished Senator from California (Mr. HAYAKAWA) be star-printed to reflect the proper spelling of the beneficiary, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, on today's Executive Calendar I am prepared to proceed to the consideration of those items listed under Department of State, on page 5, through U.S. Arms Control and Disarmament Agency, all of the nominations on page 6, on page 7, on page 8, on page 9, and on page 10 are nominations placed on the Secretary's desk in the Foreign Service.

I will inquire of the acting minority leader if he is in position to consider all or part of the nominations just identified?

Mr. HEFLIN. Those nominations have been cleared on this side of the aisle and I am in position to so agree.

Mr. BAKER. I thank the acting minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, in view of that, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations previously identified by the majority leader are considered and confirmed en bloc.

Mr. BAKER. Mr. President, I thank the Chair.

The nominations considered and confirmed en bloc follow:

DEPARTMENT OF STATE

Fernando E. Rondon, of Virginia, a career member of the Senior Foreign Service, class of counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Kenneth W. Dam, of Illinois, to be Deputy Secretary of State, vice Walter J. Stoessel, Jr.

Henry Allen Holmes, of the District of Columbia, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Rozanne L. Ridgway, of the District of Columbia, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs, vice Myer Rashish, resigned.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

William Robert Graham, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice McGeorge Bundy, resigned.

Colin Spencer Grey, of New York, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Bert Thomas Combs, resigned.

Roland F. Herbst, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Lawrence Owen Cooper, Sr., resigned.

Francis P. Hoeber, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Paul Mead Doty, resigned.

Charles Burton Marshall, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Harry Arthur Huge, resigned.

Jaime Oaxaca, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Joseph Lane Kirkland, resigned.

Shirley N. Pettis, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Arthur B. Krim, resigned.

John P. Roche, of Massachusetts, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Wolfgang Kurt Hermann Panofsky, resigned.

Donald Rumsfeld, of Illinois, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Harold Melvin Agnew, resigned.

Harriet Fast Scott, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Jane Cahill Pfeiffer, resigned.

Laurence Hirsch Silberman, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Brent Scowcroft, resigned.

Elmo Russell Zumwalt, Jr., of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice George M. Seignious II, resigned.

Eli S. Jacobs, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Thomas John Watson, Jr., resigned.

Robert B. Hotz, of Maryland, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Margaret Bush Wilson, resigned.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Edwin J. Feulner, Jr., of Virginia, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985, vice Jean McKee.

U.S. INFORMATION AGENCY

W. Scott Thompson, of Massachusetts, to be an Associate Director of the International Communication Agency, vice Robert John Hughes.

UNITED NATIONS

The following-named persons to be representatives and alternate representatives of the United States of America to the 37th Session of the General Assembly of the United Nations:

Representatives: Kenneth L. Adelman, of Virginia; J. Bennett Johnston, U.S. Senator from the State of Louisiana; Robert W. Kasten, Jr., U.S. Senator from the State of Wisconsin; Jeane J. Kirkpatrick, of Maryland; John Davis Lodge, of Connecticut.

Alternate Representatives: Charles M. Lichenstein, of the District of Columbia; Gordon C. Luce, of California; Hernan Padilla, of Puerto Rico; William Courtney Sherman, of Virginia; Jose S. Sorzano, of Virginia.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the representative and alternate representatives of the United States of America to the 26th Session of the General Conference of the International Atomic Energy Agency:

Representative: W. Kenneth Davis, of California.

Alternate Representatives: Richard T. Kennedy, of the District of Columbia; Roger Kirk, of the District of Columbia; Thomas Morgan Roberts, of the District of Columbia.

THE JUDICIARY

Edward Rafeedie, of California, to be U.S. district judge for the Central District of California vice David W. Williams, retired.

David D. Dowd, Jr., of Ohio, to be U.S. district judge for the Northern District of Ohio vice Leroy J. Contie, elevated.

COPYRIGHT ROYALTY TRIBUNAL

Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982. (Reappointment.)

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Herbert A. Cochran, and ending Michael J. Mercurio, which nominations were received by the Senate on August 31, 1982, and appeared in the CONGRESSIONAL RECORD of September 8, 1982.

Foreign Service nominations beginning Michael Hayden Armacost, and ending E. William Tatge, which nominations were received by the Senate and appeared in the

CONGRESSIONAL RECORD of September 13, 1982.

Foreign Service nominations beginning Robert L. Barry, and ending Emmett N. Wilson, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed en bloc.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC LOSING LANDS TO OUTLAWS

Mr. HAYAKAWA. Mr. President, Marihuana is grown in every State of these United States. And nowhere is it a greater threat to the public than in our national forests and parks. Our public lands are becoming treacherous as marihuana growers protect their high-valued crops (which are worth up to $6,000 per plant) from thieves, law enforcement officers, and innocent members of the public, including loggers, cattlemen, and recreationalists. The U.S. Forest Service reports that 80 percent of the growers are armed during the growing season and virtually all are armed at harvest time. Crimes against visitors in the national forests have tripled and assaults have increased by 400 percent since 1969. Much of this violence is linked directly to the cultivation of marihuana. In addition, arson of Forest Service buildings, sabotage of Forest Service vehicles, poisoning of livestock, civil disobedience, and campaigns to prevent the application of herbicides, booby-traps designed to maim or kill visitors, and threats against Forest Service employees and their families are all becoming commonplace in marihuana cultivation areas.

In order to bring this matter to the attention of the public and Congress, I will be holding a hearing in the Forestry, Water Resources and Environment Subcommittee of the Senate Agriculture Committee on September 30. I hope to accomplish several things with the hearing: First, to gain a clear understanding of the current situation; second, to learn the extent of related criminal activities on public lands; and third, to gain a better understanding of the lines of responsibility between Federal, State, local, and community law enforcement officials in dealing with the problem. In addition, by drawing attention to this matter, I hope to place it on the agenda of the next Congress.

Until now, Congress has taken little notice of this pervasive illegal activity, and I feel strongly that we must begin to understand and deal with the matter. In the past we have viewed marihuana as an international problem, but the Drug Enforcement Agency has been so effective in curbing imports of marihuana that the profits from domestic cultivation have increased. Today it is a major commerical crop in numerous States and ranks just behind corn, soybeans, and wheat in cash value. Without a doubt, if left unchecked, the increased cultivation of marihuana on public lands will create a wholly unacceptable threat to the public safety of our citizenry. Our efforts to eliminate overseas production of dangerous drugs must not be hampered just because some believe we can't even clean up our own backyard.

I request unanimous consent that the five-part series of articles which appeared in the Sacramento Bee, be printed in the record. Titled "The New Lawless," this series paints a frightening picture. I commend the article to my colleagues, and trust that they, too, will share my deep concern on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Sacramento, Calif., June 20, 1982]

PUBLIC LOSING LANDS TO OUTLAWS

(By Jim McClung)

Well-armed modern outlaws have taken from the public the use of thousands of square miles of California's foothills, mountain valleys and national forests.

Through terror, intimidation and murder they have created back-country enclaves where there is no law but their own.

Vast areas, particularly in Northern California, are no longer safe for loggers, forest rangers, recreation-seeking city dwellers and residents of rural hamlets. With rare exception, local law enforcement and the state Department of Justice have simply given up trying to police them.

Law officers say the sites range from the Mexican border into Oregon and beyond. A four-month investigation by The Bee found scores of these areas under the control of a dangerous breed of rural gangsters, The New Lawless.

Who are they? Some, but by no means all, are high-stakes marijuana growers whose financial interests are large enough to ensure that their illegal enterprise is surrounded by violence.

Some are superannuated flower children of the '60s who gave up weaving god's eyes on the Telegraph Avenue sidewalks in favor of poaching and living off welfare in another kind of jungle in the remote ridges of Humboldt or Nevada counties.

Some are back-to-nature psuedo-pioneers who masquerade as gold miners to legitimize squatting on U.S. public lands.

Some are survivalists, commandos of catastrophe in camouflage uniforms who enforce their claim to what used to be the public's land with submachineguns and semiautomatic rifles while preparing for the nuclear Armageddon.

One thing they have in common is contempt for the law. They pay no income taxes, acknowledge no hunting restrictions, observe no penal code but their own, have no building standards and recognize no right to use the land but theirs.

They are also exceedingly well-armed, able to mount more firepower than the thin ranks of rural lawmen who attempt to keep them in check. The Colt Frontiers and the Winchester lever-actions that legend has won the West have been replaced by Israeli-made Uzis, Soviet AK47 assault rifles, American AR-15 semiautomatic rifles, TNT and plastique explosives.

For example, just last month Trinity County miner Brian Hill and two companions were ambushed on State Route 96 between Willow Creek and Orleans in Humboldt County. Highwaymen armed with a Uzi and a .30-caliber machine gun blasted out the windshield and windows of the sedan and took several hundred dollars from the occupants. They overlooked $14,000 in cash in the trunk.

They practice their own brand of civil and criminal justice. One "defendant was James Leroy Jamison, 33," who was forced to his knees on State Route 32 six miles northeast of Chico last October for one violation or another and was killed by nine bullets fired into his head and face.

His was one of a dozen murder cases in Butte County in the last few years suspected of being connected to drug traffic.

Sources told The Bee that survivalist John Satkofsky of the Berry Creek region of Butte County took direct action to close down a methamphetamine laboratory bordering his ranch last summer: He opened fire on the makeshift building with a .243 caliber rifle. It sent the illegal chemists scurrying out, fearful of an explosion.

Satkofsky feared the refuse from the lab would poison his well. When the lab operators learned of his grievance, they brought in a "mediator" who represented the Laguna Beach investors in the project. The problem was resolved as tidily as any Superior Court judge might have done—the operators moved the lab site and paid Satkofsky $5,000 for any potential damage to the well.

Where do The New Lawless reign? In Northern California The Bee identified lawless enclaves scattered throughout the coastal mountain ranges from Monterey north, in the Sierra Nevada. Salmon-Trinity Alps and the Siskiyous. There is a well-established marijuana-growing belt that rings the Sacramento Valley from El Dorado County in the east to Lake County in the west.

Marijuana is grown commercially in 43 of California's 58 counties and in all of the 17 national forests within the State. The focus in this series will be on Northern California.

In most cases, sheriffs officers, forest rangers and Forest Service firefighters prudently stay out of the danger areas. The lawmen who do go in first send in special weapons teams to protect narcotics officers who move in to clean out the cannabis weed.

The Bee investigation concluded that marijuana cultivation—and the violence

that accompanies those who deal in the profitable trade—flourishes largely unchecked in Northern California.

Moreover, the combined state, federal and local marijuana eradication effort called "Operation Sinsemilla" has not been effective. (Sinsemilla—"without seeds" in Spanish—is the top-of-the-line product, made from the unfertilized female flowers of the plant, high in potency and with a sweet and mild smoke.)

The U.S. Drug Enforcement Agency initially provided $140,000 in financial aid, advice and aircraft, and the California Bureau of Narcotics Enforcement provided $200,000 and supervisory officers to help county sheriffs' narcotics officers.

Instead of being eradicated, the illicit $1 billion-a-year crop has become "a significant contributor to the financial health of the counties," said U.S. Attorney Joseph P. Russoniello of San Francisco.

To protect their illegal crops, armed and unruly growers intimidate legal residents, threatening to burn homes, shoot their cattle or destroy their businesses on the slightest provocation.

"The hippies don't want a shooting war with me, and vice versa," one rancher said "None of the ranchers snitch on growers because it would lead to a war that the rancher would lose."

Another rancher, who owns property in the Sierra foothills, told The Bee he has simply given up using part of his range because it is too dangerous.

Intimidation also comes in secreted explosive devices, bear traps and camouflaged Vietnam-style pits with needle-sharp bamboo punji-sticks on pathways. Vicious dogs and gunshots also warn strangers away.

With one showy but ineffective exception, the state Justice Department has done little to hinder the pot growers. County sheriffs departments are often too restricted by low budgets to amount a serious deterrent program.

For instance, the Butte County Board of Supervisors rejected federal grants for eradication last year. Hilda Wheeler, board chairman, said the supervisors thought Sheriff Larry Gillick had enough money in his own budget to do that.

Now, because of 1982-83 budget cuts, the Butte sheriff is being forced to lay off 31 officers from the 52-person department as of July 1. He lost six jobs the year before.

The exception, as far as state interest goes, was in 1979 when Attorney General George Deukmejian donned flak jacket and cap to accompany officers on a Mendocino County marijuana raid.

That was the same year that Deukmejian's Department of Justice in a confidential narcotics bulletin to law enforcement agencies reported that the marijuana crop in Humboldt, Mendocino, Lake and Del Norte counties was replacing the Mexican product as the major source for California users.

The war on pot was short-lived. It was the last such raid Deukmejian ventured out on. Recently Regina McGuiness, speaking for the attorney general's office, said that marijuana is now grown on small plots on hillsides, adding, "If we knew where it was, we'd get a warrant and go in and burn it."

Last year a confidential state narcotics report addressed the enforcement failures: "In some counties as much as 50 percent of the crops were not seized for a variety of reasons. The most common is the lack of manpower devoted to narcotics enforcement."

Deukmejian's press secretary, Tony Cimarusti, defended the state's inaction.

"What about the local sheriffs?" Cimarusti asked. "They have the jurisdiction. The state doesn't have the budget or the jurisdiction—unless they let the state know they have a problem they can't handle."

The attorney general was not available for comment.

Said one federal official in discussing the lack of performance by state and federal officers, "I think a lot of people took the ostrich approach—stuck their heads in the sand and hoped it would go away next year."

In the war against authority, aircraft are frequent targets because aerial surveillance is the primary tool to discover marijuana gardens. The U.S. Forest Service has discovered "The Fishline Alliance," a shadowy organization thought to be comprised of growers from San Diego to Canada. It exists primarily to combat the Forest Service herbicide spraying program, officials said.

The Alliance has circulated a crude two-page flier entitled "Helicopter Trap," which describes a method of building a trap to down helicopters. Using dynamite, TNT, plastique or other explosives, it is designed to detonate from the force of the downdraft from helicopter rotor blades as the aircraft hovers for spraying.

Many state and federal firefighters are so fearful of provoking the marijuana growers that they often will not man firelines until growers have been routed by lawmen.

Some of the foresters refused to talk to reporters. "When I'm in the woods. I don't see anything, hear anything or find anything." said one. "I just do my job and ignore everything else. To talk about those things would be placing myself in jeopardy."

Glenn Bradley, deputy Forest Service supervisor in the Shasta-Trinity National Forest, dates the problem back to the unrest on college campuses in the early 1960s.

"The thinking was that these are some of the flower kids from the city who are going to come up here and find the winters are pretty cold and miserable and they are probably going to go back to the city the next spring." Bradley said.

"So, there was not a whole lot of concern until it became apparent that these folks were here to stay.

"Then we started having friction between them and the other national forest users. In 1974-75 it became apparent it was a problem that either had to be dealt with or it would result in a takeover of a portion of the national forest."

The takeover has occurred in some areas of the 17 national forests in California. Nowhere has it been so complete and violent as in the Denny area on New River in the Big Bar District of the Shasta-Trinity National Forest.

There, a group of people who describe themselves as miners—but who are described by law enforcement officers as marijuana growers and squatters—live in tents, old cabins and houses.

Big Bar District Ranger Dave Wright says that portions of the national forest around Denny are going unmanaged because the Denny residents would endanger the lives of his rangers if he sent them into the area.

On the other side of the Northern Sacramento Valley, near Oroville in Butte County, Sheriff Larry Gillick ordered his deputies into a marijuana eradication program last summer. The effort has resulted in exchanges of gunfire between marijuana growers and deputies, arson to a sheriff's vehicle and persuasion applied to a local television station by growers seeking air time to tell their side of the story.

In nearby Nevada County, sheriff's deputies report numerous complaints by residents and visitors about savage-appearing people brandishing weapons at them and complaints of public roads being blocked with makeshift barricades. Marijuana growers are the offenders, deputies say.

Last year, when summoned to investigate, an apparent murder on San Juan Ridge, Nevada County deputies discovered a 100-plant marijuana garden near the body of "Levi" Larry.

Zachari Harmony, accused of the killing, won a self-defense verdict.

In another incident last year, a female clerk in the Brass Rail saloon was seriously wounded by a shot fired by a grower who drove through the town of North San Juan shooting a pistol into buildings.

The shooter was Leroy H. Yeoman, 32, who attempted to defend his conduct by saying he was stoned on marijuana. He was sentenced to one year in jail and five years on probation.

In El Dorado County, where the top marijuana-producing areas are near Swansboro, Georgetown and Somerset, reports of harassment and violence are beginning to surface. Sheriff Richard F. Pacileo employs an attack force of heavily armed deputies along with his narcotics squad when raiding a marijuana patch.

The U.S. General Accounting Office took notice of the problems in a report published last March for Agriculture Secretary John Block and Interior Secretary James Watt.

"During our review in California and Oregon of the federal role in providing outdoor recreation, we noted that field officials at selected locations of the Bureau of Land Management, Department of the Interior and the Forest Service, Department of Agriculture, were not always effectively enforcing laws relating to illegal and unauthorized activities on public lands," the report said.

To correct those deficiencies, the U.S. Department of Justice has launched a new attack on growers, using tried and proven methods—confiscation of property and the income tax laws.

Joseph P. Russoniello, U.S. attorney for the Northern District of California, is spearheading the effort in California.

Russoniello said his is a two-pronged attack: eradication of marijuana through confiscation of the land upon which it is grown, and identifying growers and landowners who are evading payment of taxes to the Internal Revenue Service.

The law provides for confiscation of personal property when the property is "instrumental" to the commission of a crime. The law is applicable to real estate just as it is to boats and aircraft used in smuggling, Russoniello said.

Some growers agree. They told The Bee the two things they fear most are the FBI's assuming control of the Drug Enforcement Agency and the new interest in them from the IRS.

TRIGGER-HAPPY GROWERS MAKE THEIR OWN LAWS

(By Jim McClung)

CHICO.—On Oct. 29, 1981, James Leroy Jamison, 33, was forced to his knees on State Route 32 six miles northeast of Chico and, for some violation of the outlaw's code, exe-

cuted with nine shots into his head and face.

Jamison, homicide investigators said, was one of a dozen suspected drug-related murder victims in rural Butte County since 1978.

All were involved in or somehow associated with the booming marijuana cultivation and drug manufacturing industry that is turning the foothills of the Sierra Nevada into an inhospitable shooting gallery.

Utility company employees are fearful for their safety as they tend gas and telephone lines. U.S. Forest Service employees fear for their lives when they stumble onto marijuana gardens guarded by hostile caretakers.

And local law enforcement is turning to military-like tactics and weapons in efforts to enforce the much-violated drug laws.

Ron Chaplin, a Butte County sheriff's sergeant working to eradicate marijuana, told The Bee, "The main problems (with the growers) are the violence and hostile attitudes directed toward recreation seekers. This is our biggest concern."

Chaplin said that 90 percent of the reports about pot growers come in anonymous calls from victims of harassment.

In El Dorado County, Sheriff Richard F. Pacileo sends in a special weapons team to capture suspected growers before allowing his narcotics officers to harvest, then destroy, targeted marijuana crops.

Undersheriff Don McDonald told The Bee that before making a raid his department performs a background investigation on each suspect to gauge the level of violence the arresting officers may expect. So far, no one has been hurt.

A narcotics officer for the Nevada County sheriff's office described the approximately 100 marijuana cultivators and drug lab operators arrested by his agency in the 1980-81 seasons as ranging from "outlaw biker types to Ph.D.s and everything in between." Ninety percent of those arrested were carrying weapons for the protection of their crops.

The officer said there are about 500 marijuana growers in Nevada County who are primary responsible for the numerous complaints about people brandishing weapons, public roads being closed off, and destruction of road markers. Roads are closed and markers obliterated in an effort to keep people from finding marijuana fields.

"These people are totally violating the rights of citizens to travel the roads in this county," the deputy said.

In Yuba County, a sheriff's deputy describes the growers as "really desperados—on welfare and public assistance who take more out of the community than they put into it. They take their grass money and run."

Placer County Sheriff Donald J. Nunes told The Bee that outlaw motorcycle gangs in the Iowa Hill and Foresthill areas, gold snipers in illegal homesteads on the Middle and North Forks of the American River, and foothills marijuana growers comprise the outlaw element in his county.

Nunes said a woman whose body was found near Iowa Hill two years ago probably was murdered by motorcycle gang members. Her killing and the double murder of an Ophir couple at about the same time were both narcotics-related, the sheriff said.

"What I want to do is monetarily break their backs here in this county," Nunes said. "I don't want Placer County to turn into another Mendocino or Siskiyou County. I'm going to break their damn backs and I want them to know it."

Nunes said growers even use geese as watchdogs to guard their crops. Growers also have used fishhooks hung from trees at eye level to ward off thieves or lawmen, Nunes reported.

Most of the shootings on public lands in Placer County occur near the forks of the American River where visitors may stumble across illegal homesteads maintained by gold snipers who dredge the river for nuggets. The sheriff and the U.S. Bureau of Land Management are evicting squatters through court proceedings.

Nunes said legitimate farmers in the foothills are a major source of information on marijuana growers. Fourteen marijuana gardens were harvested by Placer deputies last fall.

The sheriff views the cultivation of marijuana as a serious social problem because it represents "big money." "Because of the monetary value of the crops," said Nunes, "the growers will kill for it."

Ray Johnson, La Porte District ranger for the Plumas National Forest in Plumas County, told The Bee it costs some $5,000 a year just to replace road signs removed or destroyed in his district.

"Every year it is the same areas and the same signs," said Johnson. "We know who does it. It is done to make it harder for visitors to find out-of-the-way places.

"More than half of the problems we have in the forest are generated by these people . . . who have total disregard for laws, game regulations or anything.

"We are talking about a low-life individual that has no respect for law enforcement."

Johnson points to Strawberry Valley as one community on the 10-mile-long North San Juan Ridge which is home to marijuana growers.

Chaplin of Butte County says Berry Creek, Concow Lake, Lake Madrone, Feather Falls, Challenne and Forest Ranch are the communities which generate the most marijuana and violence in the marijuana belt which runs through his county.

About 10 persons who generally described themselves as survivalists lived in the Berry Creek area until last fall. They wore camouflage clothing, carried AR-15 semi-automatic rifles, lived off the land and grew marijuana.

Chaplin, accompanied by a Special Weapons and Tactics (SWAT) team, raided a survivalist from New York last summer and took his marijuana plants without firing a shot. "The guy taken down (raided) praised the SWAT team for their professional performance," said Chaplin.

Some of the survivalists have fled Butte County, but the The Bee found one remaining soldier of Armageddon who agreed to talk. He asked anonymity, expressing fear that his family might be hurt by other growers if he were identified.

The survivalist said a lot of violent people have moved into Berry Creek in the last few years, changing the character of the community. He said most growers are now armed to the teeth to combat marijuana thieves in the late summer and fall as the crops mature.

When he moved into Berry Creek in the 1970s violence was a rarity, the survivalist said.

He estimated there are about 100 growers in Berry Creek. Half of them grow enough to add $10,000 to the family coffers each year.

"About 25 percent of the growers are successful enough to make $40,000 to $50,000 a year," the source said. "They ski, do cocaine and Hawaii, and are broke and back on welfare by spring."

The source said the other 25 percent of the growers are backed by investors, mainly from the Laguna Beach area, who hire them as sharecroppers.

Most of the large marijuana sales in Butte County are to wholesaling syndicates from the Los Angeles area, he said. He added that only about 500 pounds of Berry Creek "kush" reached the market this year because of Chaplin's repeated raids.

"Only two patches got through," the source declared. "Berry Creek was totally wiped out by Chaplin in the 1981 season." Chaplin harvested 24 marijuana crops in Berry Creek last fall.

One of the wiped-out growers was a fellow survivalist, the source said. "Tom wanted one good crop so he could dig in and wait for Armageddon—when the Russians bomb Beale Air Force Base," said the source. "Chaplin got that crop. Tom is now in New York working for a television studio."

Last July when another Berry Creek survivalist, John Satkofsky, opened fire with a .243-caliber rifle on a laboratory next door to his 40-acre ranch off Raccoon Road and Rockefeller Drive, he brought to a halt the manufacture of methamphetamine by bikers from the Los Angeles area.

The cookers running the laboratory used a 100-kilowatt portable generator for power. They planned to operate from daylight to dark for 20 days to produce an estimated $1 million worth of speed.

The Bee's informant said Satkofsky feared that refuse from the lab would poison his well. His gunshots into the lab sent the cookers scurrying from the makeshift building for fear of an explosion of the methamphetamine ingredients.

When the cookers heard Satkofsky's grievance they set up a meeting with a "mediator" representing their Laguna Beach investors. The lab operators offered to move their operation and pay Satkofsky $5,000 for any potential damage to his well. Satkofsky accepted the proposal and the incident was closed.

The source said other landowners in Berry Creek were paid $20,000 to $30,000 to allow the operation to continue for the 20-day project. The entire incident occurred with little public notice, according to the source, and only rumors of the drug lab reached law enforcement officers.

LAWLESSNESS WORST IN DENNY AREA

(By Jim McClung)

DENNY.—In a California dotted with encampments where the New Lawless survivalists, marijuana growers and squatters reign through terror, the little community of Denny is in a class by itself.

Denny, on the New River in western Trinity County, is the most lawless rural community in the state.

Dave Wright, Big Bar District manager for the Shasta-Trinity National Forest, said candidly, "We do not have control over the management of the Denny area."

Small guerrilla bands of well-armed outlaws have claimed huge portions of the Shasta-Trinity and Klamath National Forests through violent confrontations with the U.S. Forest Service and state and local law enforcement officials.

Federal officials say they have lost control of some 100,000 acres of the Shasta-Trinity National Forest around Denny.

In addition, management of more than a million acres of public land is severely, restricted at the Forks of the Salmon River,

Orleans in Humboldt County, Seiad on the Klamath River and in Mad River country in southern Trinity County.

"It is a hell of a predicament that the Forest Service is in," said manager Wright. "More and more we are becoming a law enforcement agency whether we like it or not," he lamented, seeing the role of the Forest Service changing from the benign Smokey the Bear wilderness caretaker to that of a machine-gun-wielding police agency.

The Forest Service is in the forefront of the battle to prevent the outlaws from taking over. The outlaw population has intimidated the California Department of Fish and Game into abandoning enforcement responsibilities in many areas of Northern California during late summer and fall when the marijuana crop matures.

Said Trinity County Undersheriff Dave Laffranchini. "They basically are pot growers operating under the guise of gold miners.

"I've been through the back country and lower country there and I've seen a heck of a lot more Acapulco gold than mineral gold."

Brian Hill, a former New York City college teacher and "media coordinator" for the Denny area miners, contested that characterization.

The small miners here are as much of a melting pot as America is," Hill declared. "There are rightwingers, left-wingers. conservatives, radicals . . . and people fed up with the system.

"They are self-sufficient, rugged individuals with a great respect for nature and each other who want to be left alone."

Hill was himself a victim of violence last month. The miner and two men he describes as claim buyers from Concord were driving to a Klamath River claim when they were robbed by bandits on State Route 96 between Willow Creek and Orleans in Humboldt County.

The highwaymen, using an Uzi and a .30-caliber machine gun, blasted the windows out of the sedan the trio occupied. The robbers took several hundred dollars but overlooked $14,000 in the trunk when scared off by a motorist.

The Bee has learned the case is being investigated as a drug-related robbery. Investigators suspect the $14,000 was buy money for a marijuana transaction.

Hill said the $14,000 belonged to one of his companions who earned it on a deepwater diving job in Scotland.

Mike Ulberg, a resident of the Denny community, told the Bee, "We all live up here because we choose to live here. We're miners. This is our way of living."

Ulberg and the other self-described miners denied any involvement in marijuana farming, although they admit the illegal weed is grown along the New River.

They say the Forest Service is using the marijuana issue and the government code on illegal occupancy of public lands to put them out of business.

The miners contend they are guaranteed under the Constitution and the 1872 Mining Law the right to file a claim and live on that claim.

Forest Service officials say they have no quarrel with legitimate mining operators—but add that some of the small dredge operators like those in Denny use mining law as a guise to appropriate a piece of public land to live on while prospecting for gold in the river and drawing public assistance.

Confrontations over illegal occupancies in the Denny area go back for more than a decade. In 1971, resource officer Chuck McFadin was hit in the neck by a ricochet bullet fired near him while he conducted a mineral examination on a questionable mining claim. The wound was minor.

Documents obtained by The Bee chronicle assaults on federal officers over an 11-year period. They disclose a pattern of vocal and physical intimidation, threats against the lives of rangers and their families, shooting high-powered rifles into and over the Denny guard station, vandalism and burglary and theft of ranger station equipment.

Other acts include pistol-whipping a ranger and arson at two Denny area guard stations. The fires were in retaliation for Forest Service destruction of crude cabins that the court had found to be illegally on public land.

"When I came to the district in 1974, one of the primary tasks was to resolve the illegal occupancies," said Wright. He has been under gunfire 13 times.

"It was shots not fired directly at me, but over my head or beside me . . . the kind that make your knees knock," said Wright. Wright was given a "superior performance" award this year for his courage and perseverance in fighting illegal occupancies.

"The thing that bothers me the most is the blatant disregard for any regulation in any way, shape of form," said Wright. "The average citizen cannot use the Denny area because of it."

The outlaw lifestyle prompted the Trinity County Board of Supervisors to adopt an ordinance that allowed Weaverville welfare office workers to exclude from their office persons wearing guns and knives as they arrive to collect assistance checks.

One man with high visibility even in this community is Edward James "Zeke" Isaacs, 41, a one-time minister who is described as the unofficial mayor of Denny.

"That guy has been run through the mill," said-Denny miner Dory Rititavato, referring to Isaacs. "He has put out an effort to stop what is going on and they (the Forest Service) literally drove the man to drink."

Rititavato is no fan of the Forest Service. Federal officers burned down his cabin last Jan. 27 after successfully completing an illegal occupancy case against him.

Isaacs has survived numerous violent encounters with the Forest Service and local law enforcement.

Said the grizzled Isaacs: "The government establishes illegal occupancy by a phony validity test and the Forest Service has been screwing the small miner ever since I can remember. They cheat, lie, make phony tests and make promises they won't keep.

"And I don't think anybody has been as bad as (Dave) Wright."

As for weapons, Isaacs said, "Everybody up here packs a gun for hunting purposes and protection. If you are going into the back country, you would be foolish not to carry a gun. Guns are just part of living here."

Guns also are a big part of Isaacs' extensive problems with the law.

When two Humboldt County sheriff's deputies arrested Isaacs in Willow Creek in 1980 on a Trinity County warrant charging assault with a deadly weapon, Isaacs was less than cooperative.

Isaacs, leaving his 12-guage shotgun on his car seat, kicked one of the officers in the groin, hit the other in the head with his fist and attempted to take one deputy's revolver. After the deputies wrestled him into handcuffs and put Isaacs into the rear of their patrol car, Isaacs proceded to kick the back windows out.

On July 18, 1980, Isaacs was convicted of assaulting the deputies and sentenced to 90 days in jail, ordered to make restitution for the damaged patrol car and ordered not to possess a concealable firearm.

On Oct. 26, 1981, Isaacs again went to jail, charged with brandishing a shotgun at a sheriff's deputy in Trinity County.

Denny area violence was fatal Feb. 21, 1978. On that night, following an argument which began over the sale of a mining claim, according to lawmen, Edwin Lee Irvin, 49, of Denny and Dana Ray E. Humphrey, 19, of Eureka were shot to death in a gunbattle that left two other men wounded on a bluff above the New River.

Mayor Isaacs was a bystander in this shoot-out, deputies said, and acted as a medical corpsman in getting the wounded across the river in a crude tram.

Michael Edwin Smith, 44, a new resident of Denny, was convicted of the Irvin murder and is serving a term in Folsom Prison. Smith killed Irvin in Doug McGimsey's cabin with McGimsey's shotgun.

Two years earlier, McGimsey had pointed the same loaded shotgun at Forest Service Special Agent Jim Listoe while the officer was inspecting the McGimsey cabin for compliance with its "special use residence" permit.

As violent as the "miners" are, marijuana farmers currently represent a more widespread threat to the safety of citizens visiting the Klamath or Shasta-Trinity national forests, officers said.

Hikers on the Sierra Trail through the Marble Mountain Wilderness Area are threatened and run out by gun-toting marijuana growers, while deer hunters are reporting shots fired over their heads while hunting in the Salmon River country.

Marijuana farmers are placing shotgun shell booby traps around the perimeter of their gardens, the shells rigged to fire when trip wires are disturbed. They also place bear traps on paths leading to the fields. Some maintain roving guard dogs and employ armed guards to protect their crops from armed robbers.

In Siskiyou County near Happy Camp, growers are the victims of outlaw motorcycle gangs who demand extortionate protection payments, The Bee was told. Forest officials said the gangs are attempting to organize the growers so the bikers can control major marijuana cultivations in California and southern Oregon.

Growers are not the only victims of extortionists. A well established logger said that while he was logging in the Denny area, Chick Bryant, a "miner" now said to be in Idaho, approached him and offered to protect his equipment for a fee of $500 a week.

After a week of negotiation, the logger and Bryant agreed on $250 per week payments. The logger completed the job without vandalism to his equipment.

The previous logger on the same Denny area timber sale was not so lucky. He refused to pay protection money and suffered cut hydraulic lines, dirt poured in radiators and fuel tanks, slashed tires and other acts of vandalism which drove him from the job.

The Bee's logger source asked not to be identified by name or his crew could not last three days on any logging job in Northern California, he said.

"These people are terrorists in every sense of the word," said the logger.

OUTLAW POT GROWERS OUTGUN, OUTRUN LAWMEN

(By Jim McClung)

EUREKA.—Last spring, at the start of the 1982 marijuana growing season in Humboldt County, there was not one sheriff's deputy assigned to narcotics law enforcement.

Now, as the cannabis crop begins to develop, there is still no one assigned to that duty.

It is one more bit of evidence of the fact that outlaw marijuana growers and hoodlums in the $1 billion industry are in control of vast rural areas in the North Coast counties of Sonoma, Mendocino and Humboldt.

Through terror, intimidation and force of arms, The New Lawless are denying the public the right to use its own land, effectively sealing off thousands of acres of Northern California's most spectacular scenery from the law-abiding.

"We're not afraid of the cops," a marijuana grower told The Bee one evening in the Blue Circle tavern in Garberville. "Even if the cops see something when they come in here ('here' being the grower's turf between Garberville and Shelter Cove in Humboldt County) they don't report it. They're scared of us."

There is reason to be scared in the North Coast counties. Machine guns chatter in the heavily timbered canyons, tourists unearth murder victims on Pacific beaches, gunfights erupt and synthetic drug labs explode in fireballs.

So languid has been the federal and state law enforcement effort against growers that in southern Humboldt County, west of Garberville, they have not been molested since 1979. That territory, from Garberville west, is unequivocally the worst of the coastal outlaw havens.

The source at the Blue Circle described a chilling new use for illegal Mexican immigrants. He said growers hire them to perform many of the daily chores, including guard duty, for two reasons: they work cheap and at the end of the season they are "expendable."

"Who cares if a Mexican is killed and buried?" said the grower. "Nobody misses them. Nobody reports them missing and probably very few know where they are."

The grower knows that he and his industry are an economic boon to the depressed North Coast. "Everybody owes their living to marijuana," he said. "Without pot, Garberville would be a ghost town."

In Whitehorn, a community just above the Mendocino County line, The Bee found the toughest-looking marijuana growers encountered while seeking out The New Lawless.

They were dirty, tattooed, bearded and often accompanied by vicious-looking pit bulls. Guns and knives were commonplace.

Asked to talk about the violence surrounding the marijuana industry, one Whitehorn dweller said, "That's a touchy subject, man. No one wants to talk to you about that. You better get on down the road."

In Garberville, another grower said, "It's stupid for you to go out and try to talk to these hippies because they'll kill you if they decide that's what they should do."

A veteran police officer said of the reporter's visit to Whitehorn: "It's just like the Indians. They believe you can't kill an insane man because he's protected by the gods. I think they put you in the same light."

U.S. Attorney Joseph P. Russoniello of the Northern District told The Bee, "That's one of the side effects of fairly widespread avoidance of the law.

"You develop an atmosphere of lawlessness . . . such as bringing a bunch of Mexicans up and using them on the harvest and then murdering them. That's really insane, but when they have so little contact with law enforcement they can talk that way."

There is abundant irony in the fact that the U.S.-Mexican program to eradicate marijuana south of the border with the herbicide paraquat in 1976-77 led ultimately to Northern California's dope and violence problems. Mexico was the major producer for U.S. Markets until paraquat killed the weed and the market.

As quickly as the Mexican weed expired in the sun, the hippies of the 1960s who by then were ensconced in communes and crude dwellings on the northern coast recognized the marketability of their already reputable "California homegrown."

By 1979, the state Department of Justice recognized that Humboldt, Lake, Del Nort and Mendocino counties had replaced Mexico as the primary supplier to domestic users. And lawmen also realized that hoodlums were replacing hippies as cultivators of the commercial product.

As the California home-grown market expanded, so did crop size. As the price escalated, so did the level of violence which growers were willing to use to protect their crop.

Today, say law enforcement sources, the emerging commercial marijuana industry has expanded into 43 of the 58 California counties and into 19 Western and Southern states.

Intimidation of the U.S. Forest Service, California Division of Forestry, California Department of Fish and Game and of lawmen has made them abandon some of their responsibilities.

The intimidation is intense in Whitehorn, Honeydew, Alderpoint and Orleans in Humboldt County; from Willets north in Mendocino County; and in northwestern Sonoma county.

Humboldt County District Attorney Bernard C. DePaoli said, "It certainly has contaminated the northeastern part of the county, including the youngsters on the (Hoopa Indian) reservation, and it certainly has contaminated the southern part of the county—Garbervill, Blocksburg and Briceland."

DePaoli estimates commercial cultivation of marijuana has increased the level of violence by 200 percent in the last two years. He said the problems of violence have not been faced by the Legislature and county board of supervisors.

"I see Humboldt County becoming more of a battleground, more of a violent atmosphere," said the district attorney.

DePaoli pointed to a recent murder: "The case could have been solved in probably 36 hours. Instead no one even reported the guy dead for two months because it happened right in the middle of harvest.

"All the players in this action were non-Humboldt County people, including the deceased, and it was all over marijuana. In fact, the guy was killed by his own bodyguard."

Another example occurred last summer: "In three days we indicted something like 24 people . . . for violent acts over who's going to control marijuana traffic on the (Hoopa Indian) reservation.

"What we had was a bunch of doped up Native Americans . . . who were shooting at each other in downtown Hoopa, in the middle of the day . . . with the tourists driving by."

DePaoli predicted that outlaw violence is reaching such levels that, "I think you are going to find armed establishment reaction and resistance in the future—and I'm not an alarmist."

Election Day in Humboldt County indicated that marijuana carries political as well as economic clout. DePaoli said his hard-line stance on the issue cost him his job in the primary. Both DePaoli and Eureka Police Chief Ray Shipley, candidate for county sheriff, lost to candidates with a more liberal stance on the marijuana issue.

"I think what happened in both the race for sheriff and district attorney is that the public made a statement about its desire to allow marijuana a relatively healthy chance at physical and financial survival in our county," said the prosecutor.

"It seems as though in those areas where marijuana is more frequently grown, I received less than 10 percent of the vote—as did Shipley, who took a strong stand against marijuana. People out in the woods say that's what did it."

Humboldt County Sheriff Gene Cox said his department did not field a narcotics deputy because the Board of Supervisors stripped his budget of all narcotics enforcement funds and has repeatedly turned down sizable federal grants for marijuana eradication programs.

Cox said that areas like southwestern Humboldt have escaped raids because there is no money available to launch a respectable anti-marijuana effort.

A veteran narcotics officer told The Bee that there is only "selective enforcement" of narcotics laws in Humboldt. The officer pointed to an aerial surveillance flight last fall in which 80 marijuana gardens were spotted on a 4-mile-long stretch of hillside.

All but three of the 80 gardens were left to ripen and be harvested because the sheriff could not finance raids on them.

No one has more of a potential for conflict with marijuana growers than cattle ranchers. There is an uneasy standoff between the two.

"The hipples don't want a shooting war with me and vice versa," a rancher told The Bee. He added that identifying him as a source could lead to his ranch being burned, his cattle shot or his family assaulted.

"None of the ranchers snitch on growers because it would lead to a war that the rancher would lose."

He explained that ranchers have real estate investments, machinery, buildings and crops to protect, while the outlaw growers usually have nothing but old vehicles and promising gardens.

"Cows can't eat black grass," the rancher said, referring to a grower who during the 1981 season set more than 20 fires in the Alderpoint area.

The fires were in retaliation for a police raid on a pot patch. The grower believed someone in the forestry department had reported his marijuana crop.

In the nearby Mad River country in the 1980 season, growers set range fires in retaliation for each raid on their gardens. The fire-setting subsided, however, when the growers discovered that more patches were being found and reported by firefighters sent in to tend the blazes.

South of Humboldt County is Mendocino County, an estimated 1,700 commercial marijuana growers practice their trade. Arrest data and information gathered from growers reflect the grower lifestyle:

Of the 69 arrests on cultivation charges in Mendocino County between June 1 and Aug.

10, 1981, all but one suspect was drawing welfare payments or food stamps to live on while their valuable crops matured.

One narcotics agent told The Bee that in three years of marijuana eradication work in Mendocino county, he had arrested only one grower who was not on welfare, drawing food stamps or in the Medi-Cal program.

In Mendocino County the concern about violence is also increasing. Lt. Max Anglin of the Mendocino sheriff's office said, "Under normal circumstances I will not send a lone deputy into the northwest area of the county. There you are too far from help and the potential for violence against our deputies is definite."

As to visitors in the same area, Anglin said, "As long as travelers stay within 50 feet of the roadway they will be safe. the ones we worry about are the deer hunters and hikers—they are candidates for booby traps and shootings."

The officer said the No. 1 dope-growing community is Laytonville. Willets is second.

He pointed to the double murder of a Ukiah couple last October as one of the more brutal examples of increased violence linked to the narcotics trade.

In that case, Larry Cape, 39 and Venita Cape, 33, were killed with multiple gunshots to their heads and dumped on Cow Mountain. No charges have ever been filed.

Mendocino County District Attorney Joe Allen, sponsor of a ballot measure to legalize cultivation of marijuana for personal use, credits commercial cultivation for substantial increases in homicides, kidnapping, armed robbery and attempted murder.

Explaining his stance on cultivation for personal use vs. commercial use, Allen said, "It is like the difference in a bear cub and a full-grown grizzly. The one is not very dangerous and the other is."

Allen said this of The Lawless: "I think we have a pattern of outlaws of one kind or another taking to the hills. That was true in the Old West—the Hole in the Wall Gang, the Wild Bunch.

"What you did when you organized an outlaw gang was move off into some box canyon 40 miles from the county seat on the theory that you would be safer from law enforcement. . . . Today that is untrue . . . but the myth lives on."

In Sonoma County, also, cultivation of marijuana abounds, but the quality of the product has increased. Last fall, Sonoma County sheriff's officers flew with a San Francisco television crew to assist in spotting patches of marijuana.

The helicopter crew found a 300-plant marijuana garden on the 315-acre Wheeler Ranch, a highly publicized hippie commune from the early 1960s.

The find caused one lawman to observe that the only thing time had changed was the evolution of cheap hippie pot of the '60s into the high quality sinsemilla of today.

The residents, as did those of 20 years earlier, lived in shacks, lean-tos, tents and other non-code residences scattered about the property. However, unlike crops of the 1960s, that 1981 crop, had it been left unmolested to harvest, would have been worth in excess of $300,000.

FOLLOWING THE MARIJUANA CONNECTION

(By Jim McClung)

Connoisseurs of the fine marijuana in every major U.S. city will accent Christmas dinner this year with a joint of California homegrown, signaling a major marketing success for a highly illegal and in most cases inferior product.

The smoker may be in Houston, Dallas, Cleveland, Atlanta, Chicago, Boston and New York City. His marijuana may be from Humboldt, Trinity, Butte, Mendocino, Shasta, Placer and Monterey counties in California, and Josephine, Jackson and Douglas counties in Oregon.

The smoker and his weed will be together because the California wholesalers, middlemen and financiers trafficking in all lines of illegal narcotics have forged a public relations success that is to be envied.

"It's a fad Smokers in Cleveland can't get enough of California homegrown because it's the thing to do. Connoisseurs everywhere but California are smoking California homegrown," a wholesaler told The Bee.

"California smokers generally are more sophisticated and prefer Thai weed, Mexican red hair and a few lesser known exotics, all of which are better products than most of the California homegrown," the drug merchant told The Bee.

"The marijuana scene is like the wine scene in that the same standards apply. Not everybody can manufacture Dom Perignon just because they may be able to grow grapes. There are a lot of people growing cannabis indica in the state, but only a very few are producing stuff like premium 'Mad River Skunk,' " one source explained.

In the middle 1970s, the United States and Mexican governments launched a marijuana eradication effort that consisted of spraying paraquat, a herbicide, on the large Mexican plantations of marijuana that supplied the insatiable U.S. appetite. The foreign eradication effort spawned a California marijuana cultivation industry that first surfaced in counties from Monterey north and today produces a significant portion of the illegal weed marketed in the United States.

Commercial crops of cannabis indica sinsemilla are grown in 43 of California's 58 counties and in 19 Southern and Western states. Federal studies suggest that the California crop alone produces $1 billion in tax-free revenue for those in the trade.

To determine how homegrown finds its way from the fields in Northern California into the rosewood boxes of marijuana connoisseurs in the East, The Bee interviewed growers, dealers and wholesalers.

The Bee learned that there are thousands of persons, young and old, educated and not, violent and nonviolent, farming the illegal weed in Northern California and feeding their families from the profits.

There are thousands more who add to their annual income from legal jobs by growing a few plants of marijuana. And, there are those who operate plantation style with multiple gardens scattered over many acres.

A source in the California Bureau of Narcotics Enforcement told The Bee that "Operation Sinsemilla," an eradication effort using the combined forces of federal, state and local law enforcement agencies, had proven effective. He said that the size of the marijuana gardens in the state had been reduced from several thousand plants to a few hundred because the strike force uses aerial surveillance as its primary tool.

However, people in the trade say that the reduction in the size of the marijuana gardens is a result of growers learning that they can make as much money from 20 to 40 pounds of premium "skunk weed" as they can from 200 pounds of of marijuana of varying and lesser quality.

"The guys who grow weight get a cheaper price every year, while the small gardener who comes up with 20 pounds from 50 plants and takes his time to cure it properly will get top dollar. Dealers will seek him out for his crop, while the bulk farmers have to search for a buyer," a source told The Bee.

Much of the homegrown is produced on small ranches in the rural mountainous regions of Northern California. It is planted in March and April and requires about one full-time farmer for every 100 plants. It is harvested in the late fall and undergoes a curing process that may take several weeks.

The established farmer will have verbal contracts to place his weed in a marketing cooperative with other farmers or have previous arrangements with individual wholesalers. He will usually have to "front" his crop to the wholesaler and wait until the wholesaler gets paid before getting his money.

Many of the growers try to circumvent the middlemen by marketing their products through relatives and friends who generally sell to unsophisticated street dealers and users.

The homegrown leaves the rural drying houses in car trunks, pickup trucks, rental trucks and airplanes. It is repackaged by dealers, depending upon the quality and the ultimate target buyer.

"The secret to getting the top tag for premium dope is to get your product into 'the flow' that spreads across the country and supplies all kinds of narcotics to every major city," says a source.

Premium homegrown dope, getting into "the flow" as it fans out from San Francisco, will get the top dollar because "the people with the big bucks will stand in line to get it," a source told The Bee.

The top homegrown like "Mad River Kush," "Humboldt Skunk," and "Hoopa Kush," goes to the wealthy in cities like San Francisco, Los Angeles and Cleveland. Rock stars are the first targets of dealers with top-of-the-line produce.

California homegrown is one item in a whole line of produce that keeps the narcotics dealers jumping all year long.

Homegrown, going into "the flow" at premium prices of about $1,600 a pound, competes with Mexican red hair that enters the flow at $575 and Thai weed at $1,200 a pound.

Mexican red hair, grown in Mexico under the supervision of U.S. farmers, generally is of far greater quality than homegrown.

Thai weed, which is the most popular smoke in California, generally is also of higher quality than homegrown.

But by the time the homegrown hits East Coast users, the price may have swollen to $3,200 a pound or $250 an ounce. "East Coast smokers seek out and pay that high tab even for low quality California homegrown because it is the thing to smoke. You can sell that stuff in the trendy places where people can afford fads," said the source.

Sources told The Bee that reputable wholesalers and dealers operate in existing and well-established channels that protect them from law enforcement. These connections are the most important thing for any grower.

"A respectable dealer or middleman knows where to sell 'skunk weed' and just as easily knows where to unload 'shake,' (a lowgrade smoking material), a source said.

"The last thing a reputable dealer or middleman wants to do is sell a load as top quality when, in fact, it may be so poor that it will damage his reputation. In this business, like many others, if you burn somebody

with inferior product, it will come back to haunt you," a dealer said.

The Bee sources said there are families of dealers with access to "the flow" in every major California city. "It is like the Laguna Beach crowd, which consists of an old group of hash smugglers and big-time dealers who have such established connections that they can easily move the multi-ton loads.

"They answer to about six guys who call all the shots. They are dependable and everybody is screened off to ensure that nobody kicks some bad money up the street.

"A safe deal requires established guys operating inside the established flows. A lot of guys, like the Laguna Beach bunch, make a lot of money in the flow without ever seeing the product. They just 'middle' the deals, never touching anything but money."

The term "middling" refers to a person who arranges the transfer of money and marijuana between parties who never see one another.

The flow in and out of San Francisco is in the hands of a few financiers, some of whom are so competitive that they engage in a game of seeing who can put together the largest shipments from Thailand. Some of the shipments exceed 100,000 pounds of marijuana.

"These rich dudes snort China white heroin from the Golden Triangle just to prove they are at the top," said a source.

In contrast, a successful dealer who beefs up his line of imported dope with California homegrown may be hesitant to go into the farming business himself in spite of huge profits that may be made.

"A dealer may finance a homegrown operation or several of them in order to pick up an unusually large input of cash, but it is a very risky business because of the exposure it requires," sources told The Bee.

"Setting up a plantation requires land, land ownership, workers, buildings, irrigation systems and that the financier trust his freedom to a person who has expertise at growing and curing marijuana. It is a far riskier task than middling a load here and there," the source said.

In addition, the source said, to run a successful farming enterprise would require a dealer to mix and mingle with common criminals and people who live and think like animals.

"It all goes to the company you keep. If you run around with ex-convicts you soon will be one of them," a source said.

"If you just peddle prime stuff to executives, rock stars and judges, or people who do, you can bet they are taking care of you, to take care of themselves," the source said.

But, there are thousands of marijuana growers toiling in their gardens today, looking toward the end of the growing season and financial reward.

Many of them are on their own 40- to 120-acre ranchettes, while others tend gardens on federal lands.

One grower with 31 acres, paid for with the first-year profits, is building himself a ranch house in southern Humboldt County and looking toward a banner year.

He said he expects to net some $35,000 to $45,000 from 100 plants and lives pretty well off the tax-free income. His goal is maintaining his property and income for 10 to 15 years and going into early retirement.

The grower scoffed at a reporter's salary, asking, "After taxes, what do you have left?"

ACID RAIN

Mr. MITCHELL. Mr. President, the environmental phenomenon of acid rain has already resulted in significant environmental degradation of the water resources of the eastern United States. The Senate Committee on Environment and Public Works approved last month a comprehensive acid rain mitigation strategy to alleviate the damage to out lakes and streams that is now occurring.

I would like to call to the attention of my colleagues two recent occurrences outside of this country which relate to the acid rain issue. They illustrate the growing international consensus about the severity of the acid rain threat, and the extent to which the view of the Reagan administration has isolated the United States from the mainstream of scientific and political thought.

The first illustration occurred this summer, when an international conference attended by 27 countries and international organizations in Stockholm concluded that "further concrete action is urgently needed * * * to reduce air pollution" to combat acid rain. The official conference was preceded by a meeting of international experts who reported that enough is known in order to reduce damages caused by acid rain.

The official conference conclusions states that the "acidification problem is serious and even if deposition remains stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies are strengthened." The conference report found "the establishment and implementation of the concerted programs for the reduction of sulphur emissions to be a matter of urgency. Similar action should be taken as soon as possible for reducing emissions or nitrogen oxides."

The conference, sponsored by the Swedish Government, was held in Stockholm on the 10th anniversary of the 1972 U.N. Conference on the Human Environment at which Sweden first raised its concerns about acid rain. In contrast to that first conference, the meeting last month demonstrated a universal agreement among all countries that acid rain is a serious problem affecting both Europe and eastern North America. There was nearly unanimous agreement that action is needed now to reduce emissions. Only the United States and Britain argued that controls should be delayed until more research is completed. However, neither Britain nor the United States, represented by Kathleen Bennett of the U.S. Environmental Protection Agency, dissented from the conference conclusions that more controls are urgently needed.

The United States and British positions were contradicted by the report from the meeting of international acid rain experts which preceded the governmental conference. The experts found that sensitive lakes and streams in Europe and eastern North America are now receiving three to six times more acidic deposition than they can tolerate; that reductions in emissions will result in equivalent reductions in deposition over the industrialized regions where the damage is occurring; and that each reduction in deposition will result in an improvement in sensitive lakes and streams.

The experts also concluded that control techniques to reduce sulfur emissions were available and that possible future improvements in control techniques did not justify delaying emission reduction programs now.

The second illustration was a speech by the Honorable John Roberts, Canadian Minister of the Environment, on September 11, 1982. It is yet another reminder of the importance of the acid rain issue to our relationship with our most important ally.

The Canadian Government continues to express its concern that the United States has no intention of implementing its commitment in the Memorandum of Intent entered into with Canada on the issue of acid rain in 1980.

In his speech, Mr. Roberts expressed his frustration over the "disappointing lack of action toward resolving the acid rain problem." He cited language from the Memorandum of Intent, which indicates a high degree of commitment toward resolution of the problem:

> The Government of Canada and the Government of the United States of America:
>
> Share a concern about actual and potential damage resulting from transboundary air pollution, (which is the short and long range transport of air pollutants between their countries), including the already serious problem of acid rain; and
>
> Recognize this is an important and urgent bilateral problem as it involves the flow of air pollutants in both directions across the international boundary, especially the long range transport of air pollutants . . .

The memorandum also commits both countries to specific actions. It states that:

> To combat transboundary air pollution both Governments shall: develop domestic air pollution control policies and strategies, and as necessary and appropriate, seek legislative or other support to give effect to them; and promote vigorous enforcement of existing laws and regulations as they require limitation of emissions from new, substantially modified and existing facilities in a way which is responsive to the problems of transboundary air pollution; . . .

President Reagan has also made verbal commitments to deal with the problem of acid rain to Prime Minister Trudeau on two separate occasions.

But there has been little movement in the negotiations between Canada and the United States on a bilateral

air pollution treaty. Mr. Roberts described the situation as follows:

Over two years ago several scientific work groups were set up under the Memorandum of Intent to gather and interpret all of the available scientific information on acid rain and to prepare findings and conclusions to allow our two countries to map out precise strategies and plans of attack. Many of the best U.S. and Canadian scientists and experts were assigned to these work groups. We had anticipated that by now the work groups would have completed their tasks and we would be discussing and negotiating the actions our two countries needed to implement to achieve environmental needs and fulfill our international responsibilities. Instead, virtually every step of progress we thought we had made has been countered with a response that we return to first principles. We have only recently reached agreement on the final report on one work group. That is the first of five.

His conclusion is that:

Despite the very plain language of the Memorandum of Intent and all the fine statements that have been made since, very little has actually been accomplished. There seems to have been actual foot-dragging in some quarters.

The Canadian Government is now reappraising the usefulness of continuing the negotiations, as a result of the less than enthusiastic approach of the Reagan administration to the problem.

This country does not make casual commitments to another country, particularly our most important trading partner, in a negotiated Memorandum of Intent. Yet in the past 2 years, the Reagan administration has only obstructed useful dialog in the acid rain negotiations. For example, when Canada made an offer to reduce its sulfur emissions by 50 percent if the United States would do the same, our negotiators never even responded.

I understand and share the frustration that must be felt by the Canadians. As the scientific evidence of acid rain damage to water, crops and forests grows, and as the international community grows more united in the conviction that action must be taken now, the Reagan administration grows more adamant in its position that we just study the problem some more.

At the same time that the administration is demanding more study on acid rain, it has rejected a plan by the National Academy of Sciences for a joint review by the NAS and the Royal Society of Canada of scientific information that would form the basis of a United States-Canadian treaty to deal with acid rain on a bilateral level.

The administration not only rejected the NAS proposal, but has also cut off funds to this eminent scientific body for further research on acid rain, for the reason that the NAS lacks objectivity.

It is uncertain that the Reagan administration could be persuaded by any amount of scientific evidence that acid rain is a serious environmental problem. Notwithstanding the administration position, I call to the attention of my colleagues the recent findings by the international community, and the concerns expressed by Canada. I hope when the acid rain issue is debated by the Senate that this body will pay heed to the opinion of the American scientific community, the international scientific community, the Government of Canada, and the other 19 governments in attendance at the 1982 Stockholm conference.

The Committee on Environment and Public Works of this body has done so, by adopting a strong acid rain proposal which is a slightly modified version of the legislation I introduced a year ago. We examined the facts, and acted in the only responsible way possible—our strategy will reduce sulfur emissions in the United States by 8 million tons over the next 12 years. Enactment of this strategy would implement our commitment to the Canadians. They have taken the committee action as a heartening sign, notwithstanding contrary signals from the executive branch.

The United States has always been a leader in responding to environmental problems. Our 1970 Clean Air Act was a landmark law not only in this country but internationally as well. It has been the blueprint for the subsequent enactment of air pollution control laws throughout the industrialized world. Yet on the acid rain issue, we are becoming not just followers but obstructionists unwilling to acknowledge reality.

I hope we in the Senate will not abdicate our leadership role when this body has the opportunity to consider the issue of acid rain.

I ask unanimous consent that the conclusions and recommendations of the Stockholm 1982 Conference on Acidification of the Environment and the statement of the Honorable John Roberts be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 1982 STOCKHOLM CONFERENCE ON ACIDIFICATION OF THE ENVIRONMENT: CONCLUSIONS AND RECOMMENDATIONS

1. The Conference noted that 13 countries had ratified the Convention on Long-Range Transboundary Air Pollution and urgently appealed to the remaining signatories to expedite their ratification so that the Convention formally can enter into force in the course of 1982. The participating Ministers and Heads of delegation reconfirmed the commitment to the full implementation of, and active contribution to, the work within the Convention.

2. The Conference took note of the progress made under the provisional implementation of the Convention.

3. It was noted that in North America the governments of Canada and the United States are developing a bilateral agreement which will reflect and further the development of effective domestic control programmes and other measures to combat transboundary air pollution and are taking interim actions available under the current authority.

4. The Conference considered that the signing of the Convention and the adoption of the Resolution on Long-Range Transboundary Air Pollution, in November 1979, was a clear recognition that acid deposition from air pollution, including long-range transboundary air pollution, is one of the major environmental problems, requiring policies for further urgent action at the national level and concerted international efforts.

5. The Conference recognized the value of developing a continuing public dialogue and the role of non-governmental organisations in this regard in order that scientific information is made available in an appropriate form.

6. Estimates indicate that in recent decades acid deposition has increased significantly, due primarily to increases in emissions of SO_x and NO_x through the combustion of fossil fuels. During the 1970's emissions increased in some countries, while others kept emissions of SO_x at stable levels or even reduced them. This can largely be explained by energy conservation measures, by reduced economic activities and by effects of emission controls.

7. An assessment of trends over the next 20 years indicates a stabilization of emissions and possibly a reduction. There are signs, however, that emissions in some countries are not going to follow the downward trend exhibited by those in some other countries. In addition it was recognized that downward trends in SO_2 emissions might be reversed if countries failed to comply with the obligations contained in the Convention.

8. Through various monitoring programmes, especially the European Monitoring and Evaluation Programme (EMEP), it has been confirmed that in most ECE countries a large part of acid deposition is of foreign origin.

9. The acidification problem is serious and, even if deposition remains stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies are strengthened.

10. Based inter alia on the report from the preceding Expert Meetings, which is annexed to these conclusions and recommendations, the Conference agreed that further concrete action is urgently needed within the framework of the Convention to reduce air pollution, including long-range transboundary air pollution. Such action should include:

(a) Consultations within the framework of the Convention with the purpose of establishing concerted programmes for the reduction of sulphur emissions taking into account environmental needs, socioeconomic priorities and energy considerations. The Conference considered that the establishment and implementation of the concerted programmes for the reduction of sulphur emissions to be a matter of urgency. Similar actions should be taken as soon as possible for reducing emissions of nitrogen oxides;

(b) The use of best available technology which is economically feasible for the reduction of sulphur emissions. Flue gas desulphurization (FGD) has been proven as a main SO_x control strategy. Alternative technologies like the use of clean fuels, fuel cleaning and process modification are also

applied. In new and, where practicable, rebuilt installations, such as power stations, the above mentioned technologies should be introduced. Due to the consequences for transboundary pollution high stacks in place of emission control devices must today be considered an obsolete abatement mechanism for sulphur emissions. Best available technology which is economically feasible should also be applied to reduce NO_x emissions from both stationary and mobile sources;

(c) In applying these technologies account should be taken of the need to minimize waste products and polluting discharges to other environmental media;

(d) The support for research and development of advanced control technologies, appropriate for reducing emissions of SO_x and NO_x as well as the use and transfer of such technologies;

(e) The further development and implementation of energy conservation measures;

(f) The further development of the North American monitoring programmes as well as the European Monitoring and Evaluation Programme (EMEP), inter alia through better geographical coverage; improved emission data; standardization of sampling and measurement methods and improved modelling.

STATEMENT OF HON. JOHN ROBERTS, MINISTER OF THE ENVIRONMENT, CANADA

I'm honoured to be here today, and to have this chance to speak to the members of the Vermont Natural Resources Council. This must be a unique opportunity for you Vermonters too. Here it is an election year, you're being addressed by a federal politician, and he isn't asking you to vote for him.

While I'm not asking for your vote, I am asking for your support on an issue that is of great concern to me as a Canadian, and which should be of equal interest to you here in the Green Mountain State: the menace of acid rain.

I've seen back issues of your excellent newsletter, the "Vermont Environmental Report," so I know that you're all aware of what acid rain is, and that the threat that it poses to our lakes, streams and forests is all too genuine. It seems incredible to me that there are still people around today who are seriously advancing the argument that the case against acid rain is as yet unproven. Over 3,000 scientific studies have already been done on the subject. One recent Norwegian project alone is a compilation of over 100 papers describing the environmental impact of acid rain over an eight-year period.

In Canada we know that, of the 2,600 lakes sampled thus far in my home province of Ontario, 48 percent were identified as being very sensitive to acid rain. The United States National Academy of Sciences, the United States/Canada Research Consultation Group, the National Research Council of Canada—all argue that acid rain is a genuine threat, that it is caused by the long-range transport of sulphur dioxide and nitrogen oxides, and that emission controls are the best means of dealing with the problem.

I would like to emphasize that acid rain isn't something that threatens only Canadian resources. The evidence indicates that areas of the United States, especially here in new England, are also in jeopardy. A study, prepared for your Senator Stafford by the Office of Technology Assessment, found that one out of every four streams in the northeastern United States has already been damaged by acid rain. In the larger 27-state region covered by the study, one out of five streams has been harmed by acid rain.

The report indicated that in the northeast and upper midwest up to 80 percent of the lakes and streams are at risk. It held that there would be no hope of reversing possible damage to those bodies of water unless steps are taken to reduce the air pollution that causes acid rain.

I know that your reaction to these distressing findings will be like mine—one of shock, sadness and alarm. We have already lost many lakes to acid rain. They have been rendered fishless. A staggering tens of thousands of our lakes are in danger.

Frankly, I am discouraged that I have to go around from place to place reciting this grim litany in order to make the point that the case against acid rain has already been amply demonstrated. In fact, the validity of the arguments against acid rain has been accepted at the highest levels.

The United States and Canada signed a Memorandum of Intent on Transboundary Air Pollution on August 5, 1980. The preamble of that document stated:

"The government of the United States and government of Canada share a concern about actual and potential damage resulting from transboundary air pollution, including the already serious problem of acid rain."

The memorandum continues that both countries: ". . . reocognize that this is an important and urgent bilateral problem, as it involves the flow of air pollutants in both directions across the international boundary, especially the long-range transport of air pollutants."

President Reagan put it this way when he addressed our House of Commons on March 11, 1981: "We want to continue to work cooperatively to understand and control the air and water pollution that respects no borders."

Two months ago, at the June, 1982, Stockholm Conference on the Acidification of the Environment, a report was released that was endorsed and approved by all participating countries, including the United States. Paragraph eleven of the ministerial statement read:

"The acidification problem is serious and, even if depositions remain stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies strengthened."

Let me reiterate: these statements about the reality and pressing urgency of the acid rain problem were endoresed and approved by representatives of the United States at a ministerial conference just this past June.

However, I reluctantly have to concede that there has been a disappointing lack of action toward resolving the acid rain problem. Indeed, despite the very plain language of the memorandum of intent and all the fine statements that have been made since, very little has actually been accomplished. There seems to have been actual foot-dragging in some quarters.

For instance, over two years ago several scientific work groups were set up under the memorandum of intent to gather and interpret all of the available scientific information on acid rain and to prepare findings and conclusions to allow our two countries to map out precise strategies and plans of attack. Many of the best U.S. and Canadian scientists and experts were assigned to these work groups. We had anticipated that by now the work groups would have completed their tasks and we would be discussing and negotiating the actions our two countries needed to implement to achieve environmental need and fulfill our international responsibilities. Instead, virtually every step of progress we thought we had made has been countered with a response that we return to first principles. We have only recently reached agreement on the final report on one work group. That is the first of five.

It was the lack of progress in our negotiations of a transboundary air pollution agreement that led me to the decision earlier this year to undertake a reappraisal of the usefulness of continuing the negotiations. This reappraisal is still going on.

Canadians, and people from Vermont too, are not interested in lip service and fine statements. We want action, before it's too late.

At the same time that bilateral action on acid rain has been stalled, a disinformation campaign on the subject seems to have started, and what one of my Canadian colleagues has called an "information haze" has been created. I've heard that the acid rain debate is really a Canadian conspiracy to force controls on American power plants, and thus make Canadian power exports more attractive. The following statements have actually been seriously advanced:

"There are a host of natural as well as man-made sources of these compounds (sulphates and nitrates), including lightning, volcanoes, sea spray and the organic decay of vegetation."

Or:

"It is not surprising to find that tomatoes are acidic, but most people are surprised to learn that a delicious pear can be more acidic than a tomato, or that bananas and carrots are nearly as acidic. All these have pH values that are well within the range of the rain that is the subject of scare headlines in the media."

The latter of these two imaginative statements can be credited to the Consolidation Coal Company; the former to the Edison Electric Institute in a brochure foisted upon an unsuspecting public entitled "Update on Acid Rain."

This is the level of the so-called serious debate that purports to show the "other side" of the acid rain question. Actually, it is not at all uncommon to record rain that is as acidic as, or more acidic than vinegar. It makes no difference at all to what fruit we compare acid rain; if it is acidic enough to kill a lake, it will. Certainly SO_2 and NO_x can be present in the atmosphere from natural sources. But in North America, over 90 percent of the sulphur in the air comes from man-made sources.

The Wall Street Journal recently published an editorial saying that the acid rain question calls for more research, that as yet too many unproven variables enter the equation, and that controls might prove to be ineffective, costly and inflationary. By a very strange coincidence, the impetus of that editorial seems to have come from information produced by the National Coal Association.

However, listen to what a responsible industry spokesman has to say.

S. David Freeman is the director of an enormous public utility, the Tennessee Valley Authority. According to Mr. Freeman, in a speech given to the Georgia Conservancy on June 24, 1982, by the mid-70s, the TVA had become the largest single source of atmospheric sulphur pollution in the entire United States, spewing out over 2.4 million tons of sulphur dioxide a year.

He admitted that cheap electricity was being subsidized by unacceptable air pollution.

Three short years ago, only five of TVA's 63 coal-fired plants met the Environmental Protection Agency's sulphur dioxide standards. Today, 49 of those plants are in full compliance with emission standards, and the authority is well on its way to compliance at the other 14. Through the increased use of low sulphur coal and various pollution control devices, the TVA is advancing on a rapid timetable and will achieve total compliance within the next year. At that time, it will have cut its pollution in half.

I was trememdously incouraged by Mr. Freeman's statements. As he put it, the TVA was merely facing the ecological facts of life. He bluntly stated that cheaper power prices at the cost of dirty air was simply not a bargain for the people of the Tennessee Valley. If the Tennessee Valley Authority can do it, why not other utilities?

Or take the example of the greatest single Canadian source of SO_2 emissions, the International Nickel Company smelter at Sudbury, Ontario. By the end of this year, INCO will have reduced SO_2 emissions to about one-third of what they were the peak years of the sixties.

Canadians aren't asking Americans to do anything that we aren't willing to do ourselves, or, for that matter, that isn't already being done by the TVA. We have determined and agreed to an environmental objective, a target loading for sulphate deposition, that would protect moderately sensitive lakes and streams from acidification. We want you to agree to that environmental objective. We will each have to take different actions to achieve it, and the design of these actions is a legitimate domestic right and reponsibility of each of our two countries. We have committed ourselves to a 50 percent reduction on SO_2 emissions east of the Saskatchewan-Manitoba border by the year 1990 if you take a parallel course of action east of the Mississippi River.

We are not seeking from you the same levels of emission reduction from the same types of sources as we might act upon in Canada. We are seeking a course of action that, in concert with our proposal, would achieve the environmental objective, that would protect moderately sensitive lakes and streams in our two countries from transboundary acidification. These parallel courses of action might not solve the entire acid rain problems, but they would certainly alleviate it, and they would buy us some much needed time. The TVA is reducing its SO_2 loadings by half without too much trouble, why can't the rest of us do it too?

Now, I'm not so naive as to think that this can be done without spending money. In the U.S., emission controls to attain these ends might lead to an average increase in the utility rate to consumers of about two percent, though this might be reduced by improvements in technology. In Canada, given the population differential—we have about one-tenth the population you do—the burden on individual citizens would be three to four times as great as on Americans. We would gladly pay it, and I don't say this merely as a matter of rhetoric; poll after poll has indicated readiness for Canadian consumers to safeguard the environment, even though the cost will come out of their own pockets.

The question we must ask ourselves is can we afford not to pay for controls. Fishing, tourism, the lumber industry—literally billions of dollars are at stake here. If we do not act now to stop acid rain, we are risking the economic and environmental prosperity of our own future generations.

Yet if I speak out on the subject as I am doing today, I know that I will be accused of interfering in American internal affairs. Nonsense. The long-range transport of air pollutants is by definition a bilateral issue. Some of your pollution comes from Canada; some of our pollution comes from the United States. Neither country can solve this problem on its own.

When Canadian experts provided information on acid rain in Washington, they did so at the express invitation of your senators and representatives; I do not call this interference. When our House of Commons passed a resolution congratulating your Senate Environment and Public Works Committee for voting favourably on a bill to reduce U.S. SO_2 emissions by 10 milion tons within the next 10 years, as it recently did, I don't call this interference.

If Canada were to drop out of the race entirely, Vermont would still have an acid rain problem to face. Nutrients would still leach from your soil, the loss of which would still jeopardize your forests and possibly agriculture. Your lakes and streams would still be dying, your trout and other fish still be disappearing. You would still have to combat the campaign of disinformation which holds that we don't yet have enough scientific information to justify acting against acid rain.

I say we do have enough information to act; it's not a matter of science any longer, it's a matter of political will. We have reached the point where a decision to stall and drag our feet on the pretext that more research is needed is, in fact, a political decision to do nothing. How much more honest it would be if the naysayers would simply come out and say, "No, the lakes simply aren't worth saving." We then could at least publicly debate the issue in an honest and open manner.

Our two nations have a long and fruitful history of working together to solve our mutual problems. Look at the excellent job we have just done to clean up phosphorous pollution in the Great Lakes. You know we can work together; we must work together. It is within our power to overcome the menace of acid rain. I fervently hope we can do so before it is too late. If not, if we fail, Canadians will not be the only ones to suffer. The lakes of Vermont will be as dead as the lakes in Ontario.

This is why I have spoken to you today. I want to enlist your help to fight the acid rain battle, for I know what valuable allies you will be. I know that you love your beautiful state as much as I love Canada. Let us hope that on both sides of the border we will be able to pass on the full richness of our environmental heritage to our descendants.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:03 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, without amendment:

S. 215. An act for the relief of Lourie Ann Eder; and

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible"; and

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week"; and

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; and

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1524. An act to amend the Internal Revenue Code of 1954 to provide that certain procedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property; and

H.R. 4948. An act to amend the Internal Revenue Code of 1954 to provide for the application of cash or deferred arrangement rules to money purchase plans; and

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business; and

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians; and

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress; and

H.R. 6055. An act to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); and

H.R. 6458. An act to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and for other purposes; and

H.R. 6794. An act to amend title 38, United States Code, to improve job training and job placement programs and educational assistance programs for veterans; and

H.R. 6872. An act to provide greater discretion to the Supreme Court in selecting the cases it will review to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States, to establish the order of hearing for certain civil matters, and for other purposes; and

H.R. 6875. An act to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes; and

H.R. 6976. An act to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); and

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7065. An act to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for othr purposes; and

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virginia Islands source income; and

H.R. 7094. An act to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of existing determination letters relating to independent management of the assets of multiemployer plans; and

H.J. Res. 568. Joint resolution to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day"; and

H. Con. Res. 407. Concurrent resolution to express thanks to former First Lady Betty Ford.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1872. An act to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes.

The message further announced that the House has passed the following joint resolution, with an amendment, in which it requests the concurrence of the Senate:

S.J. Res. 101. Joint resolution designating "National High School Activities Week."

ENROLLED BILL SIGNED

At 2:51 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 4:14 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 215. An act for the relief of Lourie Ann Eder.

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982 as "National Cystic Fibrosis Week"; and

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month".

HOUSE BILLS REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1524. An act to amend the Internal Revenue Code of 1954 to provide that certain procedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property; referred to the Committee on Finance.

H.R. 4948. An act to amend the Internal Revenue Code of 1954 to provide for the application of cash or deferred arrangement rules to money purchase plans; referred to the Committee on Finance.

H.R. 5204. An act to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuan Band of Mission Indians; referred to Select Committee on Indian Affairs.

H.R. 6005. An act to discontinue or amend certain requirements for agency reports to Congress; referred to the Committee on Governmental Affairs.

H.R. 6055. An act to revise subchapter S of the Internal Revenue Code of 1954 (relating to small business corporations); referred to the Committee on Finance.

H.R. 6976. An act to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); referred to the Committee on the Judiciary.

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; referred to the Committee on Appropriations, by unanimous consent.

H.R. 7072. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes; referred to the Committee on Appropriations, by unanimous consent.

H.R. 7093. An act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income; referred to the Committee on Finance.

H.R. 7094. An act to amend the Internal Revenue Code of 1954 to impose a tax on failures to adhere to conditions of existing determination letters relating to independent management of the assets of multiemployer plans; referred to the Committee on Finance.

H.J. Res. 568. Joint resolution to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day"; referred to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was referred as indicated:

H. Con. Res. 407. Concurrent resolution to express thanks to former First Lady Betty Ford; referred to the Committee on the Judiciary.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6458. An act to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes; and

H.R. 6794. An act to amend title 38, United States Code, to improve job training and job placement programs, and educational assistance programs for veterans; and

H.R. 6875. An act to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes.

HOUSE BILLS HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business.

The following bills were ordered held at the desk until the close of business on Thursday, September 23, 1982, by unanimous consent:

H.R. 6872. An act to provide greater discretion to the Supreme Court in selecting the cases it will review to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States, to establish the order of hearing for certain civil matters, and for other purposes; and

H.R. 7065. An act to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, September 22, 1982, he signed the following enrolled bills, which had been previously signed by the Speaker of the House of Representatives:

S. 1628. an act to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052); and

H.R 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 22, 1982, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 215. An act for the relief of Lourie Ann Eder; and

S. 1628. An act to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052); and

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week"; and

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; and

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

EXECUTIVE COMMUNICATION

The following communication was laid before the Senate, Tuesday, September 21, 1982, together with accompanying papers, reports, and documents, and was referred as indicated:

EC-4245. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to provide for the resolution of the single outstanding issue in the current railway labor-management dispute; to the Committee on Labor and Human Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4246. A communication from the President of the National Railroad Passenger Corporation transmitting, pursuant to law, a report on progress in completing the Northeast Corridor Improvement Project; to the Committee on Commerce, Science, and Transportation.

EC-4247. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Runways at Small Airports are Deteriorating Because of Deferred Maintenance; Action Needed by FAA and the Congress"; to the Committee on Commerce, Science, and Transportation.

EC-4248. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Changes to the Motor Vehicle Recall Program Could Reduce Potential Safety Hazards"; to the Committee on Commerce, Science, and Transportation.

EC-4249. A communication from the Under Secretary of the Interior transmitting pursuant to law, a report on a decision made to change the holding of oil and gas lease sale No. 71 in the Diapir Field, Alaska to October 1982; to the Committee on Energy and Natural Resources.

EC-4250. A communication from the Director of Minerals Management Service of the Department of the Interior transmitting, pursuant to law, a report on a refund of an excess royalty payment to Shell Oil Company, Conoco Inc., and Cabot Corp.; to the Committee on Energy and Natural Resources.

EC-4251. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of September 1, 1982; to the Committees on Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; the Budget; Commerce, Science, and Transportation; Energy and Natural Resources, Environment and Public Works; Finance; Foreign Relations; Judiciary; Labor and Human Resources; Small Business; and Veterans Affairs.

EC-4252. A communication from the Secretary of State transmitting, pursuant to law, a report on payments made by the United States to private individuals or corporations in satisfaction of loan guarantees and assurances made with respect to credits extended to the Polish People's Republic in the absence of a default declaration by Poland; to the Committee on Appropriations.

EC-4253. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on contracts under sections 2304(a)11 and 2304(a)16 of title 10, United States Code October through March 1982; to the Committee on Armed Services.

EC-4254. A communication from the Chairman of the Interstate Commerce Commission transmitting, pursuant to law, a report on the effects on small communities of trucking regulatory reform; to the Committee on Commerce, Science, and Transportation.

EC-4255. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4256. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4257. A communication from the President of the United States transmitting a draft of proposed legislation to utilize the proceeds from the sale of Federal real property to retire the national debt; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, with amendments:

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-566).

By Mr. ANDREWS, from the Committee on Appropriations, with amendments:

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-567).

By Mr. McCLURE, from the Committee of Conference on the disagreeing votes of the two Houses thereon, on the amendment of the Senate to the amendment of the House to the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes (Rept. No. 97-568).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

H.R. 2035. An act to authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection (Rept. No. 97-569).

H.R. 3881. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission (Rept. No. 97-570).

H.R. 6422. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut (Rept. No. 97-571).

By Mr. LAXALT, from the Committee on Appropriations, with amendments:

H.R. 6968. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-572).

By Mr. MATTINGLY, from the Committee on Appropriations, with amendments:

S. 2939. An original bill making appropriations for the legislative branch for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-573).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DeCONCINI:

S. 2937. A bill to amend the Internal Revenue Code of 1954 to extend certain energy credits; to the Committee on Finance.

By Mr. BENTSEN:

S. 2938. A bill to amend the Internal Revenue Code of 1954 to treat as medical care the expenses of meals and lodging of a parent or guardian accompanying a child away from home for the purpose of receiving medical care, and the expenses of meals and lodging of a child away from home for the purpose of receiving medical care on an outpatient basis; to the Committee on Finance.

By Mr. MATTINGLY:

S. 2939. An original bill making appropriations for the legislative branch for the fiscal year ending September 30, 1983, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. BUMPERS (for himself, Mr. TSONGAS, Mr. BRADLEY, Mr. GORTON, Mr. DECONCINI, Mr. SPECTER, Mr. GLENN, Mr. PRESSLER, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STAFFORD, Mr. NUNN, Mr. CHAFEE, Mr. RIEGLE, Mr. WEICKER, Mr. PRYOR, Mr. DANFORTH, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. HART, Mr. DIXON, Mr. EXON, Mr. BURDICK, Mr. BAUCUS, Mr. FORD, Mr. HOLLINGS and Mr. JACKSON):

S.J. Res. 251. Joint resolution authorizing and requesting the President to designate October 10, 1982, as "National Peace Day"; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S.J. Res. 252. Joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for himself and Mr. ROBERT C. BYRD):

S. Res. 477. Resolution to direct the Senate legal counsel to represent Senate parties in *W. Henson Moore, et al.* v. *The United States House of Representatives, et al* and in *Ron Paul* v. *The United States of America, et al.*, Civil Action Nos. 82-2318 and 82-2353, respectively; considered and agreed to.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. TSONGAS, Mr. CHAFEE, Mr. HATFIELD, Mr. PACKWOOD, Mr. INOUYE, Mr. RANDOLPH, Mr. WEICKER, Mr. RIEGLE, Mr. BURDICK, and Mr. HOLLINGS):

S. Res. 478. A resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 2937. A bill to amend the Internal Revenue Code of 1954 to extend certain energy credits; to the Committee on Finance.

SOLAR ENERGY TAX CREDIT ACT OF 1982

Mr. DECONCINI. Mr. President, I am today introducing legislation which would extend the termination date of both the business and residential energy tax credits for solar, wind, geothermal, and ocean thermal energy systems—at least until December 31, 1995. These incentives were originally enacted as part of the Crude Oil Windfall Profit Tax Act of 1980, and are currently scheduled to expire at the end of 1985. Similar but not identical legislation has been introduced in the House of Representatives by Congressman FUQUA, of Florida, and Congressman FISH, of New York.

Mr. President, we are now in the depth of the most severe national recession since the Great Depression of five decades ago. Of course we hear a lot of hope expressed every day about "recovery" and "upturns," but economic recovery depends, to the greatest extent, on the willingness of the American people to invest in their own country. Investment decisions are not made frivolously. Any decision to order new equipment, to increase inventories, or to otherwise make a major commitment of capital must be a result of long range projections and careful planning.

The same is especially true of the manufacturers and potential customers of solar energy equipment. This industry is new, and the technology is new to the consumer. But we have come a long way in a short period of time. Up to this year sales within the solar industry grew an average of 25 percent annually.

Frankly, this has been accomplished only because there was a strong and determined national effort. Congress took the lead in solar policy formation in 1974 because the administration did not have a coherent energy policy, and, because this country stood at the edge of disaster in the face of the OPEC oil embargo. It has been this national effort which has created energy out of dreams and technologies out of mere concepts. But let us not forget that the energy crisis is not over. Petroleum imports still account for a quarter of our consumption and we, in turn, will export billions of our dollars to the OPEC nations again this year.

We have a national interest in energy independence and a national interest in the development of renewable energy technologies. And what is more, the money stays right here in this country.

The administration will argue that the solar tax credits constitute an unwarranted subsidy by the Federal Government. That simply is not so. In fact, it has been calculated the Treasury will achieve net revenue gains from the reduced number of deductions taken as business fuel cost write-offs. Companies that rely upon fossil fuels and electricity for their energy needs are allowed to deduct the costs of these fuels as a business expense. For every new solar installation, the Treasury receives income it would have lost if conventional fuels had been used.

Mr. President, I believe a great majority of my colleagues will agree with me that the solar energy tax credits should be extended beyond 1985. Earlier in this session Senate Resolution 232 was introduced to express the Senate's support for the energy tax credits and had at least 64 cosponsors. I offered the same resolution as an amendment to an appropriations measure and it was accepted and passed by both Houses of Congress.

So, I believe the only question about extending the credits might be: Why now? Why do we not wait until next year or until when the credits are due to expire? Well, Mr. President, as I have pointed out, this is a critical decisionmaking period for all businesses—but especially for the fledgling solar industry. It has been hit hard by the recession and by the abandonment of almost all support by this administration. Financial recovery has to be projected over an extended period of time. This act would give the industry and the financial community some confidence for at least 10 more years. It may very well be that we might want to increase or expand the tax credits in some way. That, of course, would probably require a good deal of consideration and that should be a priority for the next Congress.

We can now, however, extend the tax credits for 10 years and help assure the venture capital, or third-party financing, which is necessary for the planning of commercial projects.

If there is not sufficient time to properly consider this legislation, then it will at least serve notice that this matter will indeed be a priority early in the next Congress. And, that congressional attention is being brought to bear on this country's determination to develop its' solar energy potential.

I ask unaninous consent that the text of the bill be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Solar Energy Tax Credit Act of 1982".

SECTION 1. EXTENSION OF CERTAIN ENERGY CREDITS

(a) RESIDENTIAL ENERGY CREDIT.—

(1) IN GENERAL.—Subsection (f) of section 44C of the Internal Revenue Code of 1954 (relating to termination of residential energy credit) is amended by striking our "1985" and inserting in lieu thereof "1995".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 44C(b)(6) of such Code is amended by striking out "1987" in the text and capiton thereof and inserting in lieu thereof "1997".

(b) INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Clause (i) of section 46(a)(2)(C) of such Code (relating to the energy percentage) is amended by striking out "December 31, 1985" each place it appears and inserting in lieu thereof "December 31, 1995".

(2) CONFORMING AMENDMENT.—Clause (iv) of section 46(a)(2)(C) of such Code (relating to longer period for certain hydroelectric gen-

erating property) is amended by striking out "property, 'December 31, 1988,' shall be substituted for 'December 31, 1985" and inserting in lieu thereof "property, 'December 31, 1998,' shall be substituted for 'December 31, 1995".

SEC. 2. EFFECTIVE DATE

The amendments made by this act shall take effect on December 31, 1985.

By Mr. BENTSEN:

S. 2938. A bill to amend the Internal Revenue Code of 1954 to treat as medical care the expenses of meals and lodging of a parent or guardian accompanying a child away from home for the purpose of receiving medical care, and the expenses of meals and lodging of a child away from home for the purpose of receiving medical care on an outpatient basis; to the Committee on Finance.

CHILD CARE MEDICAL EXPENSE DEDUCTION ACT

● Mr. BENTSEN. Mr. President, today I am introducing legislation which expands the medical expense deduction to include costs incurred by a parent or guardian who must accompany a child away from home for the purpose of receiving outpatient medical care.

Expenses for health care in the United States increased by almost 20 percent last year—that is more than double the rate of this country's inflation during the same period. I know how difficult it is for many families to obtain the necessary health care when confronted by these costs. Yet, America prides itself on having the best medical facilities and most skillful doctors in the world. In the past, Congress has recognized the need to encourage adequate and effective health care for Americans by providing them a tax deduction for many expenses incurred in receiving health care. Under current law certain expenses related to physician care, medicine, and transportation are deductible. For example, if a parent must take a child to an area that specializes in the particular care that child needs, the transportation expenses incurred in going to that doctor, hospital, or clinic are tax deductible. The law does not apply to the cost of meals and lodging that a parent also must confront when a child is receiving outpatient care away from home.

The purpose of this legislation, Mr. President, is to expand the medical deduction provision to include those living expenses such as meals and lodging that parents must pay so that their children can receive needed medical treatment that is not obtainable in their hometown. This expansion would lift an economic burden from many families who need to concentrate their energies on a child who suffers from a serious illness.

In Texas, we are blessed with some of the finest medical facilities in the world. Many parents take their children to medical facilities in Houston to receive cancer treatment, including chemotherapy and radiation. Since the treatment often is handled on an out-patient basis, parents and children frequently are away from home for extended periods of time. A recent University of Texas System Cancer Center survey indicated that 43 percent of its patients over a 1-month period required housing accomodations. Of these visits, which generally included one parent and child, 79 percent were return visits and each visit averaged 5 days. It does not take long to realize that in this situation the housing expenses, the absence from home and job, and the uninsured portion of expensive medical treatment can create an astronomical financial burden on families.

There is no doubt that these parents need to be with their children during these difficult times to comfort them and assist with their healing. My bill amends the Internal Revenue Code to provide families with realistic help during this critical time when they are under intense psychological stress because of a seriously ill child. Mr. President, this legislation addresses those lodging and meal expenses that are necessary solely because of a child's medical needs. These expenses certainly meet the criteria for which the medical deduction tax provision was designed to assist.

In closing, I urge my Senate colleagues to approve this measure so that a parent or guardian can deduct reasonable living expenses incurred when accompanying an ill child to out-of-town medical treatment. I ask unanimous consent that a copy of the bill be printed in the RECORD at the closing of these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN MEALS AND CERTAIN LODGING EXPENSES OF A PARENT AND CHILD AS MEDICAL CARE IN THE CASE OF A CHILD AWAY FROM HOME FOR PURPOSE OF RECEIVING MEDICAL CARE.

(a) IN GENERAL.—Paragraph (1) of section 213(d) of the Internal Revenue Code of 1954 (defining medical care) is amended—

(1) by striking out "or" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(D) for the meals and lodging of—

"(i) one parent or guardian of a child when—

"(I) such child is away from home for the purpose of receiving medical care, and

"(II) such parent or guardian is away from home and accompanies such child, and

"(ii) a child when he is away from home for the purpose of receiving medical care as an outpatient.".

(b) CHILD DEFINED.—Subsection (d) of section 213 of such Code is amended by adding at the end thereof the following new paragraph:

"(7) The term 'child' means an individual who has not attained the age of 18 before the close of the taxable year.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to amounts paid in taxable years beginning after December 31, 1982.●

By Mr. BUMPERS (for himself, Mr. TSONGAS, Mr. BRADLEY, Mr. GORTON, Mr. DECONCINI, Mr. SPECTER, Mr. GLENN, Mr. PRESSLER, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STAFFORD, Mr. NUNN, Mr. CHAFEE, Mr. RIEGLE, Mr. WEICKER, Mr. PRYOR, Mr. DANFORTH, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. HART, Mr. DIXON, Mr. EXON, Mr. BURDICK, Mr. BAUCUS, Mr. FORD, Mr. HOLLINGS, and Mr. JACKSON):

S.J. Res. 251. Joint resolution authorizing and requesting the President to designate October 10, 1982, as "National Peace Day"; to the Committee on the Judiciary.

(The remarks of Mr. BUMPERS on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. DURENBERGER:

S.J. Res. 252. Joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982, through October 9, 1982, as "National Schoolbus Safety Week of 1982"; to the Committee on the Judiciary.

NATIONAL SCHOOLBUS SAFETY WEEK

● Mr. DURENBERGER. Mr. President, the safety of our Nation's students should be one of our highest priorities. In 1980, schoolbus transportation accidents killed about 180 persons, including 90 students, 5 busdrivers, and 85 other people. The National Safety Council reports that of the 90 students killed, 75 were pedestrians either approaching or leaving the bus. In addition, about 4,600 students were injured in schoolbus-related accidents.

It is imperative that we increase public awareness of this problem by establishing a "National Schoolbus Safety Week" from October 3, 1982 through October 9, 1982. This week will provide an opportunity for schools and communities to plan activities related to schoolbus safety and will increase the awareness among our Nation's drivers that there are 22 million students transported to and from school each day.

Summer is over and schools are back in session. Now is a particularly good time for us to be alert to the deaths and accidents that occur each year during the fall when traffic increases and students are using schoolbuses. I

hope all my Senate colleagues will join in cosponsoring this important and timely resolution.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. DOLE, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 27, a bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from $25,000 to $100,000.

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 2918

At the request of Mr. CHAFFEE, the names of the Senator from Montana (Mr. BAUCUS), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 2918, a bill to permit the investment of employee benefit plans in residential mortgages.

S. 2919

At the request of Mr. LUGAR, the names of the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2919, a bill to help insure the Nation's independent factual knowledge of Soviet bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 2930

At the request of Mr. ROBERT C. BYRD, his name was added as a cosponsor of S. 2930, a bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the names of the Senator from Wisconsin (Mr. KASTEN), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983, shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 234

At the request of Mr. GOLDWATER, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of Senate Joint Resolution 234, a joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Joint Resolution 241, a joint resolution to provide for the designation of the week of December 12, 1982 through December 18, 1982 as "National Drunk and Drugged Driving Awareness Week."

SENATE JOINT RESOLUTION 242

At the request of Mr. JEPSEN, the name of the Senator from Minnesota (Mr. DURENBERGER) was added as a cosponsor of Senate Joint Resolution 242, a joint resolution designating September 22, 1982, as "American Businesswomen's Day."

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. HART, the name of the Senator from Nevada (Mr. CANNON) was added as a cosponsor of Senate Concurrent Resolution 123, a concurrent resolution expressing the sense of the Congress with respect to a means test for the medicare program.

SENATE RESOLUTION 477—RELATING TO SENATE LEGAL COUNSEL REPRESENTATION

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 477

Whereas, in the cases of W. Henson Moore, et al. v. the United States House of Representatives, et al. and Ron Paul v. The United States of America, civil Action Nos. 82-2318 and 82-2352, respectively, pending in the United States District Court for the District of Columbia, the constitutionality of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, has been challenged as having been enacted in violation of Article I, Section 7, clause 1 of the United States Constitution;

Whereas, the complaints in these actions name the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, as parties defendants;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. IV 1980), the Senate may direct its counsel to defend the Senate, its members and officers, in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the United States Senate, the Honorable George Herbert Walker Bush, in his capacity as President of the Senate, and William F. Hildenbrand, Secretary of the Senate, in the cases of W. Henson Moore, et al. v. The House of Representatives, et al. and Ron Paul v. The United States of America, et al.

SENATE RESOLUTION 478—RELATING TO EQUAL RIGHTS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

Mr. DODD (for himself, Mr. KENNEDY, Mr. TSONGAS, Mr. CHAFEE, Mr. HATFIELD, Mr. PACKWOOD, Mr. INOUYE, Mr. RANDOLPH, Mr. WEICKER, Mr. RIEGLE, Mr. BURDICK, and Mr. HOLLINGS) submitted the following resolution, which was referred to the Committee on Labor and Human Resources:

S. RES. 478

Whereas education is the backbone of American democracy and shapes the minds and spirits of our future generations;

Whereas extensive inequities based on sex, such as discrimination in admissions, vocational education and counseling, continue to exist in education communities;

Whereas in a time when the average working woman earns only 59 cents for every dollar that her male counterpart receives, we cannot deny women equal access to education programs, and thus the opportunity for career advancement and economic equity;

Whereas title IX of the Education Amendments of 1972, which provides that "no person shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance", has proven to be effective in providing women with equal education opportunities; and

Whereas while many sectors of our society need relief from overly burdensome regulations, corrective action to reduce that burden must not be taken at the expense of women who are, as a result of established guidelines for protection, at long last realizing equal opportunities in education: Now, therefore, be it

Resolved, That it is the sense of the Senate that guidelines relating to title IX of the Education Amendments of 1972 should not be repealed or altered in a manner which will deny any person equal access to education.

Mr. DODD. Mr. President, I am submitting this resolution today for myself and Senators KENNEDY, TSONGAS, CHAFEE, HATFIELD, PACKWOOD, INOUYE, RANDOLPH, WEICKER, RIEGLE, BURDICK, and HOLLINGS.

This resolution expresses the sense of the Senate that it is essential to maintain guidelines insuring equal rights in educational opportunity.

Identical legislation, House Resolution 268, has been submitted in the House of Representatives by Congresswoman CLAUDINE SCHNEIDER, where it currently has 150 cosponsors.

Since title IX took effect, the record shows, female students have scored dramatic gains. The enrollment of women in vocational courses traditionally dominated by men has more than

doubled and the share of professional degrees earned by professional women has quadrupled.

In 1972, women were only 11 percent of the students in medical schools, 10 percent of law school students, and 2 percent of those in dental schools.

In 1980, the proportion of women in medical school and law school had tripled—up to 26 percent and 34 percent, respectively. Women constituted 17 percent of dental schools students that year, a 1,011-percent jump.

Graduate degrees earned by women in male-dominated fields have also risen dramatically. Women awarded doctorates increased from 16 percent in 1972 of the total to 30 percent in 1980.

One area in which women have made exceptionally large gains, thanks to title IX, is athletics, termed the "most visible and familiar" aspect of title IX by the National Advisory Council on Women's Educational Programs. Under title IX the number of females involved in interscholastic high school athletic programs has increased by 527 percent. By 1980, there were 36 female athletes for every 100 male athletes, compared with 1972 when there were only 18 female athletes for every 100 male athletes.

Before title IX was passed, virtually no college or university offered scholarships to talented women athletes—of every 100 such scholarships awarded in 1974, only 1 went to a woman. Today the ratio is 22 out of every 100.

In my State, the number of female athletes at the University of Connecticut has jumped from a total of 50 in 1974 to 250 in 1982. Likewise, there are now 11 full-time and 8 part-time coaches to train these athletes, while in 1974 there were only 4. And the number of athletic scholarships awarded to women at the University of Connecticut has climbed from 1 in 1975 to 74 in 1982.

Thus, title IX has wrought dramatic changes in my State. And what title IX has done in Connecticut, it has done in the other 49 States as well.

Close to one-third of the Nation's professional women work in the field of education, and title IX is designed to protect their rights too. Women still continue to trail men in salaries and tenure as well as in chances for career advancement, but it can be said the most impressive change in this particular area is in the number of women heading colleges and universities. Over the past 6 years, the number rose from 149 to 219.

Mr. President, it is obvious that, despite the gains that women have made since 1972, there is still a long road ahead with much catching up to do, and title IX is needed more than ever.

I have outlined for you today just a few examples of how title IX has been instrumental in effecting positive change in the education arena. Despite various attempts to weaken these much-needed regulations, the record makes it clear that they have a necessary and vital role to play in the education process.

Title IX is not an example of good intentions gone awry. It is instead an example of how equal treatment of the sexes in college admissions, athletic programs, and education employment can improve the skills and resources of American women to help serve the American future.

The changes which have already occured have been positive and substantial; with our support they can continue to provide equal educational opportunities, advancements, and improvements in the years ahead.

It is my hope today that my colleagues in the Senate will act promptly to approve this resolution and reaffirm our commitment to a policy of equality in providing educational opportunities to all Americans.

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in the Senate today in cosponsoring a resolution reaffirming the commitment of Congress to equal opportunity in education and urging that title IX of the 1972 educational amendments not be weakened.

In the decade since title IX was enacted, we have made tremendous progress in the elimination of sex discrimination in schools which receive Federal financial assistance. In 1979, for the first time since World War II, women college students outnumbered men students; 5.9 million of the 11.6 million undergraduates enrolled in this Nation's colleges and universities were women. Significant gains also have been made in the number of degrees awarded to women in customarily male fields such as agriculture, architecture, and business and management. And participation by female athletes in interscholastic high school sports increased by 527 percent in the last 10 years, as many athletic programs previously limited to male students were opened to students of both sexes.

As supporters of equal educational opportunities for women, we use these statistics with pride to mirror the years of progress we have made. We must prevent these figures from being misused as an excuse for weakening enforcement of title IX.

Despite the gains we have made, we still have miles to go to achieve truly equal educational opportunities for women. In 1980, of some 16,000 district school superintendents, only 154 were women. Women head only 6 percent of coeducational institutions of higher education, compared to 67 percent of women's colleges. And, despite gains by women in traditionally male fields, the proportion of women in some of these areas, such as engineering, remains very small.

The need for title IX is as strong now as it was in 1972. Only by continued implementation of title IX will we guarantee women their right to equal educational opportunity.

Mr. TSONGAS. Mr. President, since title IX was passed in 1972, this legislation has made a substantial difference in the quality and quantity of educational opportunities for women. I oppose any effort on the part of the administration, the Department of Education, and Members of Congress to weaken this vital legislation.

Any form of discrimination is unacceptable, and title IX must remain the viable tool it has been in combating sex discrimination in education.

Title IX of the Education Amendments of 1972 should not be repealed or altered in a manner which will deny any person equal access to education.

I join Senator DODD and my other colleagues in introducing this resolution today.

AMENDMENTS SUBMITTED FOR PRINTING

CAPITAL ASSISTANCE ACT OF 1982

AMENDMENTS NOS. 3614 THROUGH 3616

(Ordered to be printed and lie on the table.)

Mr. CHAFEE submitted three amendments intended to be proposed by him to the bill (S. 2879) to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, to protect depositors and creditors of such institutions, and for other purposes.

COMMITTEE MEETINGS

Mr. BAKER. Mr. President, I have a collection of unanimous-consent requests in respect to committees meeting tomorrow. I believe they have all been cleared by the minority or the acting minority leader.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, September 22, to hold a markup of subchapter S, technical corrections to past tax bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on

Thursday, Septemer 23, to meet to consider miscellaneous matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, September 22, at 9:30 to hold a hearing on S. 2847, the Indian Housing Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, September 23, at 9 a.m., to hold a hearing to consider S. 2801, the Wilderness Protection Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, September 23, at 11:30 a.m., to receive a secret CIA briefing on the world debt.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RECENT STUDIES ANALYZE LEFTIST VIEWS HELD BY MEDIA "ELITE"

● Mr. HELMS. Mr. President, for decades the American people have been subjected to a daily barrage of biased news coverage in our Nation's print and electronic media. Sometimes subtle, more often blatant, this constant flow of distorted information is undermining our cultural foundations as well as deforming our political process.

Recently, two studies have appeared which analyze the political and social views of the so-called media elite. Allan Brownfeld, a syndicated columnist, in an article appearing in the Washington Times of September 21, 1982, has focused attention on these two studies.

In a study by S. Robert Lichter and Stanley Rothman under the auspices of the Research Institute on International Change at Columbia University a number of significant facts relating to the values held by the media elite were uncovered. For example, only 8 percent of those polled attend church or synagogue weekly and 86 percent seldom or never attend religious services. The poll indicated further that 50 percent do not have any religious affiliation.

It is certainly in order to ask whether or not this ostensible secularist bias affects reporting on major national issues such as school prayer and abortion. According to the study, "Fifty-four percent place themselves to the left of center, compared to only 19 percent who choose the right side of the spectrum."

According to Brownfeld's review of the study:

On social issues their views are similarly liberal. Ninety percent of the media elite believe in freedom of choice with regard to abortions and only 25 percent think that homosexuality is wrong. Only 3 percent strongly agree that homosexuals should not teach in public schools and only 15 percent strongly agree that adultery is wrong.

Mr. President, not only has media bias affected coverage of family issues, but it has also affected coverage of matters related to our foreign policy and national defense. Who can forget the massive attack on our foreign policy during the Vietnam war years when our boys were fighting to defend freedom in Southeast Asia? Who can deny the bias of the establishment media elite regarding events in Central America today?

Brownfeld cites another study be Prof. Stanley Rothman of Smith College,. entitled, "The Mass Media in Post Industrial Society" which concludes that the media demonstrates a bias against patriotism and a strong defense policy. Rothman is quoted as concluding that the media demonstrates:

A generalized distrust of the American military, of people who are "overly patriotic," of the policy and of the working class and lower middle class Americans who do not share cosmopolitan lifestyles.

Mr. President, back in the sixties the media developed a slogan about a credibility gap between the Government and the American people. I submit that the American people can justly raise the question as to whether or not there is a credibility gap between what the establishment media elite has been feeding the public and reality. These two studies certainly provide food for thought on this important matter.

Mr. President, I ask that the article by Mr. Brownfeld be placed in the RECORD at this time.

The article follows:

[From the Washington Times, Sept. 21, 1982]

IS THE LIBERAL MEDIA BIAS REAL OR IMAGINED?

(By Allan Brownfeld)

In recent years there has been much discussion about the alleged liberal bias of the media—at least the "elite media," which reaches a national audience and sets the agenda for the American political discussion and debate. Included in this "elite media" are newspapers such as *The New York Times* and *The Washington Post*, news magazines such as *Time* and *Newsweek*, and the major television networks, NBC, CBS and ABC.

Some of the criticism of the media has been narrowly partisan. Republicans objected to news reports about Watergate, for example, largely because their party had been caught in an act of wrong-doing. The media, accordingly, dismissed most of the criticism aimed at it as simply self-serving. Former Vice President Spiro Agnew was vocal in his criticism of the media. His criticism was, in the eyes of many, largely discredited when Agnew himself admitted to serious violations of trust which led to his resignation.

Still, recognizing that it is easy to blame the messenger of bad news for the substance of his report, the charges of media bias turn out, upon careful examination, to be quite correct.

An interesting study was recently directed by S. Robert Lichter and Stanley Rothman under the auspices of the Research Institute on International Change at Columbia University. The media elite was polled about their political and social views and these views were then compared with a larger sample. By its own responses to questions the media elite paints a picture of itself as quite liberal.

The authors note that, "Substantial numbers of the media elite grew up at some distance from the social and cultural traditions of small town 'middle America.' Instead, they were drawn from big cities in the northeast and north central states. Their parents tended to be well off, highly educated members of the upper middle class, especially the educated professions . . . Only 8 percent go to church or synagogue weekly, and 86 percent seldom or never attend religious services. Exactly 50 percent eschew any religious affiliation . . . Ideologically, a majority of leading journalists describe themselves to the left of center, compared to only 19 percent who choose the right side of the spectrum."

Consider the voting patterns of the media elite. In 1964, 94 percent voted for Lyndon Johnson and only 6 percent for Barry Goldwater. In 1978, when Richard Nixon was carrying the country, 87 percent of the media elite voted for Hubert Humphrey and only 19 percent for Nixon. In the Nixon landslide of 1972—when George McGovern carried only one state, Massachusetts, and the District of Columbia, 81 percent of the media elite voted for McGovern and 19 percent for Nixon. In 1976, when the country was almost evenly dividing its vote between Gerald Ford and Jimmy Carter, the media elite voted 81 percent for Carter and 19 percent for Ford. By any standard, this is a one-sided political record.

Authors Lichter and Rothman point out that, "Over the entire 16 year period, less than one-fifth of the media elite supported any Republican presidential candidate. In an era when presidential elections are often settled by a swing vote of 5 to 10 percent, the Democratic margin among elite journalists has been 30 to 50 percent greater than among the entire electorate. These presidential choices are consistent with the media elite's liberal views on a wide range of social and political issues. They show a strong preference for assistance to the poor in the form of income redistribution and guaranteed employment . . ."

On the social issues their views are similarly liberal. Ninety percent of the media

elite believe in freedom of choice with regad to abortions and only 25 percent think that homosexuality is wrong. Only 3 percent strongly agree that homosexuals should not teach in public schools and only 15 percent strongly agree that adultery is wrong.

In fact, state the authors, the media elite has something of a Third World mentality: "In most instances, majorities of the media elite voice the same criticisms that are raised in the Third World. Fifty six percent agree that American economic exploitation has contributed to Third World poverty. About the same proportion 57 percent, also find America's heavy use of natural resources to be 'immoral.' By a three-to-one margin, leading journalists soundly reject the counter-argument that Third World nations would be even worse off without the assistance they've received from Western nations. Indeed, precisely half agree with the claim that the main goal of our foreign policy has been to protect American business interests . . ."

In another study, "The Mass Media In Post Industrial Society," Professor Stanley Rothman of Smith College, who co-authored the Columbia study, concludes that "pivotal members of the elite media share a 'paradigm,' which tells them what the world should be like and which leads them to deal with events in certain ways." This paradigm, for example, dictates that:

Groups calling for radical change are generally described as humanitarian. If their programs show few signs of success, patience is urged.

Groups calling for a conservative change generally are treated as if their only conceivable motivation is narrow self-interest or psychological malfunction.

Social problems are assumed soluble by a combination of good will and rational management. If injustice persists, then it is not because the solutions are lacking but because self-interested, powerful individuals and groups are blocking reasonable policies.

In addition, writes Rothman, the elite media evince "a generalized distrust of the American military, of people who are 'overly patriotic,' of the police and of the working class and lower middle class Americans who do not share cosmopolitan lifestyles."

Media bias, it is clear, is not a figment of the imagination of those who have been on the receiving end of press criticism. It is institutional, it is pervasive, and it has distorted our political discourse. Only by recognizing its reality will we be able to take the next step of taking action to blunt its effect and influence.●

UKRAINIAN INSURGENT ARMY DAY

● Mr. D'AMATO. Mr. President, on Friday, September 17, 1982, I introduced Senate Joint Resolution 248, a joint resolution to proclaim October 14, 1982, Ukrainian Insurgent Army Day. At this time I would ask unanimous consent that Senate Joint Resolution 248 be printed in the RECORD in its entirety.

The joint resolution follows:

S.J. RES. 248

Whereas on June 30, 1941, Ukraine, a nation of over fifty million people, proclaimed the reestablishment of its national independence and statehood, and

Whereas, after the Proclamation of Independence, the Ukrainian people launched a war of liberation without any external support on two fronts against Nazi Germany and Bolshevik Russia, two of the largest, totalitarian, imperialist military powers in history, in defense of the principle of national independence and basic human liberties, and

Whereas, on the initiative of the revolutionary Organization of Ukrainian Nationalists (OUN), Ukrainian self-defense and insurgent detachments were formed to fight the occupying German National-Socialist and Russian Communist forces in Ukraine, employing insurgent-guerrilla means of warfare, and

Whereas these units were later transformed into a Ukrainian Insurgent Army (UPA), founded forty years ago on October 14, 1942, and placed under the command of General Roman Shukhevych-Taras Chuprynka, and

Whereas the UPA organized an all-national uprising and fought for over a decade first against Nazi Germany and Bolshevik Stalinist Russia, and later against the tripartite pact of the U.S.S.R., CSR, and Communist Poland established in 1947, and

Whereas in November 1943, in the forests of central Ukraine, on the initiative of the UPA and OUN, a conference of subjugated nations was held, attended by the representatives of 13 subjugated nations, culminating in the establishment of a common front against Hitler's Nazi Germany and Stalin's Bolshevik Russia, known as the Antibolshevik Bloc of Nations (ABN), and

Whereas the valor and herosim of the freedom-fighters of the UPA and of the entire Ukrainian nation, which sacrifices innumerable lives in the struggle against both totalitarian systems and in defense of national independence and democracy for all nations and individuals, attest to the unconquerable spirit of a subjugated nation in its quest for freedom, and

Whereas in 1982, the Ukrainian nation and the Ukrainian community in the United States will be commemorating the fortieth anniversary of the founding of the Ukrainian Insurgent Army (UPA) and call upon the American people to join with them in honoring the memory of the UPA and the martyrs who laid down their lives in their sacred mission: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States of America by joint resolution proclaims October 14, 1982, Ukrainian Insurgent Army Day, authorizing and requesting the President of the United States to honor the memory of the valiant heroes of the Ukraine, the freedom-fighters of the UPA and its commander-in-chief General Roman Shukhevych-Taras Chuprynka, who fell in battle with Russian MVD forces on March 5, 1950, as well as the entire Ukrainian nation, which fought and continues to struggle for its national independence and statehood, and for freedom and justice for all the enslaved and oppressed peoples of the world, by issuing an appropriate Presidential proclamation in this regard.●

WHAT KIND OF JOURNALISM IS THIS?

● Mr. HELMS. Mr. President, I suppose by now all of us should be immune to the outrageous conduct of some of the so-called major media in this country who apparently have no shame in coloring and distorting the news. There is a growing apprehension that somewhere down the road, the American people may be so misled that they will tolerate an overthrow of our system of government.

That would be tragic, and I pray that it never happens. Everybody's freedom will go down the drain—and the first to go, if history teaches us anything, will be freedom of the press.

I was appalled this past Sunday, September 19, to note a quote attributed to Secretary of Agriculture John Block—a quote that was 180 degrees from what Jack Block actually had said.

The quote emerged from a September 13 address made by Secretary Block in Nebraska. What he said, and the record is clear, was: "European agriculture has been a pampered, spoiled child." I will discuss the basis for that remark in a moment, but first let us note what the Washington Post quoted Secretary Block as having said:

American agriculture has been a pampered, spoiled child.

Secretary Block said nothing of the sort in Nebraska, or anywhere else. And while the Washington Post now lamely "explains" that its mistake was sombody else's, the fact remains that any responsible reporter, particularly one who knows Jack Block, would surely have checked on the accuracy of such a quote attributed to a Secretary of Agriculture who has demonstrated his complete dedication to the American farmers.

But the Washington Post did not check the accuracy of the quote. And, what is even worse, the day after having published the false quote, the newspaper ran a few obscure lines on an inside page blaming somebody else for an error that was unmistakably that of the reporter who wrote the story.

Bear in mind, Mr. President, that the reporter had 6 days in which he could have checked his "facts." But he did not check. As a result, a canard was published not only in the Washington Post but presumably in many other newpapers which subscribe to the syndicated service of the Washington Post.

As I mentioned earlier, Mr. President, Secretary Block spoke in Nebraska, at Omaha, on Monday, September 13. His audience was the Agricultural Subcommittee of President Reagan's Export Council. He described the problems our Nation is encountering with excessive subsidization of agricultural exports by the European Community (EC).

The EC has subsidized its internal production to such a degree that the member nations have generated oversupplies of several commodities. While this is an internal matter for the EC, it also becomes a concern for the United States when these oversupplies

spill over into our markets. The EC disposes of its surpluses by subsidizing exports of these products.

Export subsidies by the EC are displacing American exports and depressing American farm prices. Such action should not be tolerated. The Reagan administration, including Secretary Block and Ambassador Brock, have taken a firm stance against these practices of the EC, and I commend them for it.

So, Mr. President, Secretary Block was describing and explaining this issue to the President's Export Council. To emphasize the point, he made the analogy that "European agriculture has been a pampered, spoiled child."

A reporter covering the event incorrectly reported the quote. Later that same day, United Press International ran a retraction. The Associated Press and UPI both ran stories later in the week correcting and explaining the quote.

Yet, 6 days after the fact, the Washington Post ran its article claiming that Secretary Block had said "American agriculture has been a pampered, spoiled child."

Not only was the false quote included in the Post article—it was prominently printed in large type in the center of the page. Then on September 20, the Post printed its small correction stating that they were "not aware" that UPI had run a retraction of the original quote.

However, further compounding the error the theme of the article was based on that incorrect quote, falsely implying that the administration is somehow deliberately punishing "spoiled" American farmers with low prices and distressed times.

The Post stated in its "correction" that they were "not aware" of the retraction. The fact is that at least four different stories were run on the news wires correcting the quote prior to the Post article. Did the Post reporter, and its editors just happen to miss all four corrections?

One final question: Would not a responsible newspaper have expressed its regrets in a manner that would have absolved Secretary Block?

Mr. President, Secretary Block has issued a public statement presenting the facts of this matter in a forthright and accurate way. But the Washington Post refused to print the Secretary's statement. So that Senators may have access to Secretary Block's perspective, I ask unanimous consent that his letter to me and the text of his statement be printed in the RECORD at the conclusion of my remarks.

The letter follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 20, 1982.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: American farmers and I have been dealt a major injustice by a misquotation.

In Omaha on September 13, I stated that the European Common Market is unfairly subsidizing its agricultural exports in competition with American farmers. This has been going on for a score of years and has pitted the treasuries of the Common Market against the American farmers. This is unfair, and I said in Omaha, "European agriculture has been a pampered, spoiled child."

This statement was misquoted to indicate that I said, "American agriculture." This news account was corrected, but the situation was compounded yesterday when the Washington Post used the incorrect quote in large bold type.

I wanted you to know the background, and I hope that you will join me in correcting this injustice to American farmers and to me.

Sincerely,

JOHN R. BLOCK,
Secretary.

Attachment.

STATEMENT BY SECRETARY OF AGRICULTURE JOHN R. BLOCK

Today's Sunday edition of The Washington Post either engaged in a deliberate, partisan, irresponsible act of journalism at my expense, or it demonstrated shamefully inept journalistic procedures at the Post.

In two columns of large, black, bold type, the Sunday Washington Post quoted me as saying, "American agriculture has been a pampered, spoiled child."

Six days earlier in Omaha, Neb., when I criticized the European Common Market for unfairly subsidizing its agricultural exports in competition with American farmers, I said: "European agriculture has been a pampered, spoiled child."

At that time, United Press International first wrote that I had said "American agriculture," but then printed a correction. Later in the week, the Associated Press ran an article about the UPI error. AP pointed out that the erroneous quote has shocked members of the Nebraska Wheat Board into calling for my resignation until they discovered the UPI error.

Still, The Washington Post on Sunday chose to run the erroneous quote, "American agriculture has been a pampered, spoiled child," as if I had said it. Further, the Post lifted the quote from the text, ran it in two columns of heavy type, and placed black lines around the quote in the center of the page so that it would catch any reader's eye who leafed through the newspaper.

The Post also used the erroneous quote as a theme in the article, suggesting that pampered, spoiled children must be disciplined and that the tough times that farmers are having in 1982 is the farmers' equivalent of being sent to their rooms in punishment.

That attitude and the quote are so completely at odds with my known position and my statements on American agriculture that a responsible newspaper that has covered my statements as thoroughly as the Post would have had such disbelief it would have checked with me to see if the quote could possibly be true. The Post did not check with me or with my office.

It is hard to believe that The Washington Post could have been so completely out of touch that it was not aware of the UPI correction, of the AP article about the error, and the fracas that the error caused.

Thus The Washington Post article today was either a deliberate, partisan, irresponsible attack, or it demonstrated a shabby, inept journalistic procedure for determining the truth.

On Monday, September 20, 1982, The Washington Post corrected its Sunday edition misquote, but the correction was presented in a much less conspicuous manner than the error which appeared the previous day. Also, the Post failed to run the above statement which was filed with it on Sunday, September 19.●

THE NATIONAL CONVENTION OF THE MILITARY ORDER OF THE WORLD WARS

● Mr. GOLDWATER. Mr. President, a short time ago, the National Convention of the Military Order of the World Wars was held in Portland, Oreg. As usual, this excellent organization came up with some suggestions in the form of resolutions which were designed to improve our Nation's status in the world and to provide some consistency in terms of foreign policy and national strategy.

Repeatedly, I have stated that we do not have a true national strategy. The Military Order of the World Wars has proposed in their first resolution that a new grand global strategy is needed. I concur completely. In their other resolutions, they address such important issues as prisoners of war, registration for selective service, Reserve officer training programs, chemical and biological warfare, and terrorism. All of these issues are vitally important to the future of our Nation. The Military Order of the World Wars and its members believe deeply in this Nation and they have clearly expressed their genuine dedication toward our Nation and its security.

Mr. President, I ask that the resolutions passed by the National Convention of the Military Order of the World Wars be printed in their entirety and I commend these thoughts to my colleagues for their careful study.

The resolutions referred to are as follows:

RESOLUTIONS PASSED AT NATIONAL CONVENTION

Excerpts from Resolutions passed at the National Convention follow.

Resolution No. 1 urges the members of Congress

(1) To accept the fact that the security of the United States, its people, and its allies, is in real and dire jeopardy;

(2) That a new grand global stategy is essential to assure our defense while maintaining a policy of helping our allies and other non-Communist countries to defend themselves against internal and external Communist takeover;

(3) That our government do all in its power to re-educate our people to the real truths before them, in the full knowledge

that an educated people will remain a free people;

(4) In furtherance of all the foregoing, that the Senate reject any unilateral disarmament or other scheme placing us in an inferior military position to the Warsaw Pact nations, and act with resolution to restore a balance of power with the Soviets and their vassal states; and

That we can accept arms reduction only in the framework of free visible scrutiny, and the prior redress of the current power imbalance.

Resolution No. 2 resolves that the national policy of the United States, morally and justly, should be never to abandon or fail to support any service man of our Nation, and to commit this country to unending and vigorous hostility toward any Nation which holds Americans prisoner for doing their duty and being loyal citizens.

Resolution No. 3 resolves that the Congress and Administration of this Nation do forthwith pass and enact all necessary laws denying to all who unlawfully fail to register for selective military service, or who thereafter unlawfully fail to serve if called upon, any and all federally-funded benefits to which they might otherwise be entitled, in addition to other penalties provided by law.

Resolution No. 4:

(1) Reaffirms our longstanding support for the ROTC programs of our Nation;

(2) Calls upon Congress to enact all necessary laws to assure the preservation of these programs, including the dignity of their instructor personnel by equalizing their status in all particulars with the other faculty members at the institutions where they serve; and

(3) Urges that this form a part and parcel of a program for enactment by the Congress of United States Universal National Service of some significant and practical form, including qualified military service in the Armed Forces of the United States for all of its young citizens.

Resolution No. 5 calls upon the Congress to immediately require the development by and for our Armed Forces and the production of full defenses, plans and countermeasures against chemical and biological weapons needed for the protection of our people and those of our allies.

Resolution No. 6 resolves that the Congress of the United States and the President be urged to re-establish, with sufficient operational support, adequate intelligence and combating antiterrorist forces, specializing in these areas and applicable to both domestic and international terrorism, which forces, when implemented, will defeat the purposes of those terrorists and render decent and law-abiding persons secure in their persons and properties and safe once again; and further that local law enforcement organizations be encouraged and assisted in the support of such national efforts; and

Further resolves that the President urge other governments to promulgate and publish like antiterrorist policies, and cause the United States to enter into agreements with other such countries for mutual operations and coordination of operations in the interests of world peace and safety.

Resolution No. 7 extends our thanks to the host Portland Chapter, and to the citizens of Oregon and particularly of the beautiful city of Portland and all of their officials for hosting a most successful convention.●

TRIBUTE TO JOHN M. OLIN

● Mr. GOLDWATER. Mr. President, I believe it is fitting that a tribute should be given in the Senate to the memory of one of this country's great industrialists and philanthropists, John M. Olin, who died several days ago at the age of 89.

John Olin was one of the most articulate spokesmen in the Nation for the free enterprise system during his long and fruitful life. He believed in this country and was responsible for the education and development of many of our economists in Government and industry today.

John gave of himself to insure that our free enterprise system would survive. To that end, he established the John M. Olin Foundation which is dedicated to the preservation of a free society.

He was a trustee for many years at his alma mater, Cornell University. He also served on the boards of John Hopkins in Baltimore and Washington University in St. Louis.

John was an inventor, philanthropist, industrialist, conservationist, and sportsman. His efforts to save the North Atlantic salmon will forever be appreciated by this country and Canada. His love of black Labrador retrievers was well known. His favorite dog, King Buck, won the National Field Trial Championship in 1952 and 1958.

John Olin was a friend of mine. He was one of that group of rugged individualists who always put principle and honesty above all else. He shall be missed.●

1982 SCHOLASTIC APTITUDE TESTS

● Mr. JEPSEN. Mr. President, USA Today, the new national newspaper, as well as other newspapers, ran articles today on the results of the 1982 scholastic aptitude test released by the college board.

For the first time since 1962, high school seniors showed improvement in their scores on mathematics and language college entrance tests. In all, approximately 1 million seniors took the tests on which the report is based.

It comes as no surprise, at least to this Senator, that Iowa ranked No. 1 in the Nation. That ranking again underscores the quality education for which Iowa is known.

Iowa students and their teachers deserve the highest praise. In Iowa, education is taken seriously.

I ask that the article from USA Today, headlined "Nation's Report Card; SAT Scores Up," be inserted in the RECORD. I also ask that an accompanying State-by-State tally be placed in the RECORD.

The information follows:

[From the USA TODAY, Sept. 22, 1982]

NATION'S REPORT CARD: SAT SCORES UP

(By Saundra Keyes)

For the first time in 19 years, American high school seniors this year improved their scores on math and language college entrance tests.

Results released by the College Board Tuesday revealed that about 1 million seniors who took the 1982 Scholastic Aptitude Test nudged the average score up two points on the verbal section and one point in the math category.

It was the first time since 1962 that both scores have increased.

But the new scores of 467 in math and 426 in verbal remain far behind the lofty 502-478 averages that prevailed in 1963 before the downward spiral began. Information was not available on the number of students who took the test that year.

The SAT is scored on a scale of 200 to 800.

The College Board, a non-profit organization that sponsors the exam, and educators have warned that results should not be considered the barometer of American education.

That admonition is generally ignored, and reported declines in SAT scores are widely bemoaned as signs of deterioration in American schools.

The steady decline was even mentioned in the 1980 Republican platform, which blamed federal intervention in the schools for eroding standards.

College Board executives issued the familiar warning Tuesday in announcing the new scores, but gave the figures a roseate glow anyway.

The 1 million seniors who took the SAT represent only a third of their class, but two-thirds of those go directly to college.

In any analysis of the state-by-state scores, cautioned testers, the greater the number of students taking the test in a state, the lower the score in that state.

Board officials found other evidence that students are hitting the books harder.

Scores on achievement tests in 15 specific subjects rose 5 points to 537, the highest level since 1976.

Scores improved on the Test of Standard Written English for the first time since the introduction of the test in 1975.

The tests are required of applicants at most colleges.

SAT SCORES: A STATE-BY-STATE TALLY

The College Board Tuesday released a state-by-state breakdown of student scores on the Scholastic Aptitude Test.

These are the state averages for 1982. They are followed by the percentage of SAT-takers among high school seniors in 1980, the latest year that figure was available.

The number in the last column refers to the percentage of students in each state taking the test. Where fewer students took the tests the scores tended to be higher state-wide.

State	Verbal	Rank	Math	Rank	Total	Rank	Percent
Alabama	463	23	501	28	964	26	6
Alaska	446	28	477	31	923	29	31
Arizona	470	18	511	20	981	20	11
Arkansas	480	12	519	11	999	12	4
California	425	39	474	32	899	33	36
Colorado	468	20	515	15	983	18	16
Connecticut	432	33	464	37	896	35	69
Delaware	432	33	465	35	897	34	42

State	Verbal	Rank	Math	Rank	Total	Rank	Percent
Florida	426	37	463	39	889	38	39
Georgia	394	48	429	49	823	49	51
Hawaii	392	49	465	35	857	47	47
Idaho	482	11	513	17	995	15	7
Illinois	462	24	515	15	977	21	14
Indiana	407	46	453	45	860	46	48
Iowa	516	2	572	1	1,088	1	3
Kansas	500	4	545	6	1,045	4	5
Kentucky	475	17	510	21	985	17	6
Louisiana	470	18	505	25	975	22	5
Maine	427	36	463	39	890	37	46
Maryland	425	39	464	37	889	38	50
Massachusetts	425	39	463	39	888	40	65
Michigan	459	26	514	17	973	24	10
Minnesota	485	8	543	7	1,028	7	7
Mississippi	479	15	509	23	988	16	3
Missouri	465	22	510	21	975	22	10
Montana	487	7	546	5	1,033	6	8
Nebraska	493	6	552	4	1,045	4	5
Nevada	436	30	481	30	917	30	18
N. Hampshire	443	29	482	29	925	28	56
New Jersey	416	44	453	45	869	44	64
New Mexico	480	12	517	14	997	14	8
New York	429	35	467	26	896	35	59
N. Carolina	396	47	431	48	827	48	47
North Dakoka	505	3	563	2	1,068	3	3
Ohio	456	27	502	26	958	27	16
Oklahoma	483	10	518	13	1,001	11	5
Oregon	435	31	473	33	908	31	40
Pennsylvania	424	42	461	43	885	42	50
Rhode Island	420	43	457	44	877	43	59
S. Carolina	378	50	412	50	790	50	48
South Dakota	522	1	553	3	1,075	2	2
Tennessee	480	12	519	11	999	12	9
Texas	415	45	453	45	868	45	32
Utah	494	5	528	10	1,022	8	4
Vermont	433	32	471	34	904	32	54
Virginia	426	37	462	42	888	40	52
Washington	468	20	514	17	982	19	19
West Virginia	462	24	506	24	968	25	7
Wisconsin	476	16	535	8	1,011	10	10
Wyoming	484	9	533	9	1,017	9	5

INVESTIGATION OF THE MASSACRE IN BEIRUT

● Mr. LEVIN. Mr. President, last week various individuals whose identities are still unknown, entered two Palestinian refugee camps in Beirut, Shatila, and Sabra. There, under circumstances which at best are unclear and at worst are unthinkable, they murdered an uncounted number of innocent men, women, and children. The full dimensions of the tragedy are not yet known; nor are all the factors which led up to it or all the circumstances which contributed to it.

It is that uncertainty which is so destructive. Without firm data, speculation has poisoned the environment and polluted our discussions of these tragic events. There is no evidence—no evidence—suggesting that Israeli troops participated directly in the slaughter. But there are questions—questions—about the extent of the foreknowledge which those troops may have had about the plans of the forces they permitted to enter the camps and there are questions about how promptly they responded once they became aware of what was taking place.

Mr. President, those questions need to be answered. They need to be answered clearly and decisively. I believe that our best hope of getting those answers would be for the Government of Israel to initiate a complete and independent investigation of the chain of events which led to the massacre. Such an investigation ought to examine the events which took place in the camps, as well as the rationale for the initial decision to enter West Beirut—including claims that armed PLO terrorists remained in the city in violation of the withdrawal agreement. The President of Israel has called for such an investigation but the Prime Minister—and now the Knesset—has declined to approve such a plan. They appear to prefer a proposal which would allow the Cabinet to conduct an inquiry. I do not believe that will be sufficient and I do not believe its conclusion will be as readily accepted. The events in those two camps have had immense human and international consequences. The people of the world, no less than the people of Lebanon and Israel, are entitled to a full and fair appraisal of what took place there. I do not believe they will settle for less.

Accordingly, I call on the Government of Israel to reconsider its decision and approve an open and independent investigation of these tragic events.●

AN ASSESSMENT OF REAGANOMICS

Mr. BAUCUS. Mr. President, all of us remember the joyful days of 1981 when President Reagan's economic program moved through Congress. The future was rosy. Reaganomics was going to get America moving again, rekindling our Nation's productivity and spurring a new era of prosperity.

But today, that hope has faded. Record unemployment together with persistently high interest rates has driven many parts of this Nation into the depths of a depression. For the victims of this plight, Reaganomics is another broken promise.

Recently, Bob Phillips, editor of the Western News in Libby, Mont., wrote a poignant and blunt assessment of Reaganomics—1 year later. This editorial captures the frustrations felt by the thousands who remain jobless in an economy that continues to sink lower and lower.

Unemployment in the Libby, Mont., and surrounding Lincoln County reached 36 percent earlier this year. This editorial, which I ask to have printed in the RECORD, reflects the lost hope felt by those who have to suffer day to day from the economic depression. I urge my colleagues to read and consider these views.

The editorial follows:

REAGANOMICS A FORMULA FOR GREED AND DISASTER

It has been evident to some people for a good while that, not only are Ronald Reagan and company's economic policies going to fail to restore economic prosperity to this country, they are quite likely to bring on the greatest disaster since the Great Depression.

Even worse, there are undoubtedly many within the administration who have realized this fact all along. Their silence on the matter can be attributed only to some deep, sinister motive among the wealthy and powerful of this country to use presidential power in order to increase their own wealth and power.

Paranoia! some will shout. But the facts speak for themselves. Reagan came into office with grandiloquence, speaking of the need to "make America great again." Then, inheriting a tax system that was already inherently unfair, one that overtaxed the middle class and granted privilege to wealthy individuals and corporations, the administration immediately moved to give even greater tax breaks to the rich.

At the same time—even in the midst of a deep and worsening recession—Reagan insisted on the largest peacetime military increase in history. Claiming that peace depended on military strength, be brought on some of the worst Soviet-American relations ever. Advocating an end to the nuclear arms race, he immediately increased funding for construction of those very weapons.

Reaganomics does not work. "Trickle down" economics does not work. Any theory that assumes that by giving the rich more money, it will help the middle and lower classes, is not only naive, it is downright corrupt.

Why is it that Americans can so easily be deceived by pompous and clever rhetoric? For more than two years now, we have been hearing about how high interest rates have finally succeeded in bringing down inflation, and how it is now necessary to lower interest rates to stimulate the economy.

All the while, the filthy rich of this country have been lending out money at insane interest, getting wealthier and wealthier while the average American has often been barely able to make a living. And still it goes on. And still many Americans are unaware of the tremendous, predatory greed that is at the heart of this nation's economic problems.

Perhaps all this is nothing new under the sun. Perhaps, as some will say, there has always been—and will always be—greed, government corruption, and a economic and military establishment that is unresponsive to public criticism. But surely the problem is worse today than ever before, because today the stakes are much higher than in the past.

The point is not that Ronald Reagan is a bumbler, or uninformed, or perhaps even somewhat dishonest. The point is that he is not really in charge of the government at all, but merely a figurehead mouthpiece for those behind the scenes. He is a tragic, sadly comical figure who finally realized his ambition of becoming president, only to preside over one of the most corrupt and destructive administrations in history.

And the American people put him in office because they thought he was going to clean up government. That is what is sad. The gullibility of the American people is what is sad.

And the question remains, amidst all the political accusations and election-year politicking, amidst a growing crisis that threatens the gravest of consequences—who really is in charge of America?

SEC GOVERNMENT-BUSINESS FORUM ON SMALL BUSINESS CAPITAL FORMATION

● Mr. NUNN. Mr. President, tomorrow in a Washington suburb, a not-very-well publicized, but nevertheless very

important conference is taking place. Beginning tomorrow, and for the next 3 days, approximately 200 individuals from around the Nation, representing business, government, and the professions will meet in the first annual Securities and Exchange Commission sponsored Government-Business Forum on Small Business Capital Formation.

This forum, which is being held pursuant to the requirements imposed by Congress through amendments to the securities laws in the "Small Business Investment Incentives Act of 1980," will focus on the current status of problems and programs relating to small business capital formation. The objective of the forum will be to identify securities, tax, credit, and other significant problems encountered by small business in their efforts to obtain, and retain, capital.

Mr. President, in January 1980, over 2,000 small business men and women came to Washington to participate in the first White House Conference on Small Business. That conference developed an agenda of 60 items that, in their opinion, would significantly improve the climate for the creation, growth, and development of the small business community. Among the concerns raised by the delegates was the extensive regulation and cost in attempting to raise capital through stock issues. In part in response to those concerns, and under the leadership of Senator NELSON, the former chairman of the Senate Small Business Committee, and the Senator from Maryland, Senator SARBANES, who was then the chairman of the Senate Banking Committee's Securities Subcommittee, the Senate expeditiously considered, and succeeded in enacting, the "Small Business Investment Incentives Act of 1980." Senator SARBANES remains active in the issues of small business, and in insuring that the legislation passed is fully implemented.

The centerpiece of the legislation contains amendments to the Investment Company Act of 1940 which recognizes the unique "business development company" functions of venture capital investment companies. The law puts these business development companies under different, and a more relaxed set of securities regulations more compatible with the nature of the venture capital industry. That law also directed the Securities and Exchange Commission to develop a uniform exemption from registration for small issuers, and where possible, to simplify the issuance of securities for smaller issuers.

While there have been some problems that will need to be clarified in the statute, the SEC has moved expeditiously to adopt "Regulation D" to implement the registration exemptions, and to promulgate the simplified reporting requirements for securities registration.

While Congress recognized that the amendments incorporated in this statute could be extremely useful to the entire small business community, a beneficial side bar to the development of the legislation was the close working relationship that developed between the SEC, the professions representing small businesses in need of capital, and the small business community. In an effort to capitalize on that relationship, Congress directed the SEC to conduct an annual forum between business and Government to continually assess the capital needs of the small business community. The forum which will be conducted over the next 3 days, under the leadership of SEC Commissioner Evans, and the SEC's Officer of Small Business Policy, will focus on four major issues:

First, access to investors, including reviewing incentives for institutional investors to invest in small businesses, and the impact of ERISA on investment opportunities;

Second, capital formation, including reducing cost associated with securities regulation and the desirability of a uniform Federal-State securities regulation;

Third, taxation, including changes in corporate tax rates, and the tax treatment of captial gains; and

Fourth, credit, including a review of the impact of Federal credit assistance program.

Mr. President, this is an important conference. Its recommendations could serve as a further agenda for action and should bolster the 1980 White House Conference on Small Business recommendations, and the recommendations made by the American Bar Association in its 1979 Small Business Securities Conference in Snowmass, Colo., and the 1980 Small Business Tax Conference in The Homestead, Va. As the ranking Democratic Member of the Senate Small Business Committee, I look forward to reviewing the results of this first SEC forum on the capital formation requirements on small business.●

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 10 a.m. After the recognition of the two leaders under the standing order, the distinguished Senator from Florida (Mr. CHILES) will be recognized on special order for not to exceed 15 minutes.

It is anticipated that on tomorrow provision will be made for the transaction of routine morning business after the execution of the special order.

Sometime prior to the hour of 12 noon, Mr. President, the Senate will resume consideration of the unfinished business, at which time the Baucus second-degree amendment will be the pending question.

A cloture motion has been filed pursuant to the provisions of rule XXII, and by unanimous-consent the vote on cloture will occur at 12 noon without the intervention of a mandatory quorum as required by the rule.

It is hoped by the leadership on this side that we can complete this bill tomorrow. I realize that I have expressed that hope previously, as long as a week ago. But this time, Mr. President, I must urge Members to consider that we have to dispose of this matter, and it may be necessary to use heroic measures to do so.

So no one should be surprised, Mr. President, if we proceed to try to dispatch the business of the country and of the Senate during the course of tomorrow and complete the enactment of the debt limit bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, if there is no other Senator seeking recognition, and I see none, I move, in accordance with the order just entered, that the Senate now stand in recess until the hour of 10 o'clock a.m. tomorrow morning.

The motion was agreed to; and at 4:44 p.m., the Senate recessed until Thursday, September 23, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 22, 1982:

THE JUDICIARY

George G. Fagg, of Iowa, to be U.S. circuit judge for the eighth circuit vice Roy L. Stephenson, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 22, 1982:

DEPARTMENT OF STATE

Fernando E. Rondon, of Virginia, a Career Member of the Senior Foreign Service, class of Counselor, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Kenneth W. Dam, of Illinois, to be Deputy Secretary of State.

Henry Allen Holmes, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Portugal.

Rozanne L. Ridgway, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the German Democratic Republic.

W. Allen Wallis, of New York, to be Under Secretary of State for Economic Affairs.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

William Robert Graham, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Colin Spencer Grey, of New York, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Roland F. Herbst, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Francis P. Hoeber, of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Charles Burton Marshall, of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Jaime Oaxaca, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Shirley N. Pettis, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

John P. Roche, of Massachusetts, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Donald Rumsfeld, of Illinois, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Harriet Fast Scott, of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Laurence Hirsch Silberman, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Elmo Russell Zumwalt, Jr., of Virginia, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Eli S. Jacobs, of California, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Robert B. Hotz, of Maryland, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Edwin J. Feulner, Jr., of Virginia, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1985.

U.S. INFORMATION AGENCY

W. Scott Thompson, of Massachusetts, to be an Associate Director of the U.S. Information Agency.

UNITED NATIONS

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the 37th Session of the General Assembly of the United Nations:

Representatives:

Kenneth L. Adelman, of Virginia.

J. Bennett Johnston, U.S. Senator from the State of Louisiana.

Robert W. Kasten, Jr., U.S. Senator from the State of Wisconsin.

Jeane J. Kirkpatrick, of Maryland.

John Davis Lodge, of Connecticut.

Alternate Representatives:

Charles M. Lichenstein, of the District of Columbia.

Gordon C. Luce, of California.

Hernan Padilla, of Puerto Rico.

William Courtney Sherman, of Virginia.

Jose S. Sorzano, of Virginia.

INTERNATIONAL ATOMIC ENERGY AGENCY

The following-named persons to be the Representative and Alternate Representatives of the United States of America to the 26th Session of the General Conference of the International Atomic Energy Agency:

Representative:

W. Kenneth Davis, of California.

Alternate Representatives:

Richard T. Kennedy, of the District of Columbia.

Roger Kirk, of the District of Columbia.

Thomas Morgan Roberts, of the District of Columbia.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Edward Rafeedie, of California, to be U.S. district judge for the central district of California.

David D. Dowd, Jr., of Ohio, to be U.S. district judge for the northern district of Ohio.

COPYRIGHT ROYALTY TRIBUNAL

Edward W. Ray, of California, to be a Commissioner of the Copyright Royalty Tribunal for a term of 7 years from September 27, 1982.

FOREIGN SERVICE

Foreign Service nominations beginning Herbert A. Cochran, and ending Michael J. Mercurio, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1982.

Foreign Service nominations beginning Michael Hayden Armacost, and ending E. William Tatge, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 13, 1982.

Foreign Service nominations beginning Robert L. Barry, and ending Emmett N. Wilson, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 17, 1982.

HOUSE OF REPRESENTATIVES—*Wednesday, September 22, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, we ask Your blessing upon this assembly and upon all who seek to use their abilities in service to others. Encourage men and women to see in their daily tasks opportunities to fulfill the divine commission of love. Forgive us when we fail to stand for truth, to do the deeds You would have us do, and to be the people You would have us be. Support and inspire people of good will everywhere that Your will may be done on Earth, even as it is in Heaven. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2405. An act to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, N. Mex.; and

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

ELECTION OF MEMBERS TO STANDING COMMITTEES

Mr. LONG of Louisiana. Mr. Speaker, as chairman of the Democratic Caucus and at the direction of that caucus, I send to the desk a privileged resolution (H. Res. 599) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 599

Resolved, That the following-named Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Appropriations Committee: William R. Ratchford, Connecticut.

Armed Services Committee: Marilyn Lloyd Bouquard, Tennessee.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, September 20, 1982, in the order in which that motion was considered.

Votes will be taken in the following order;

H.R. 3581, by the yeas and nays;
H.R. 4577, de novo;
H.R. 5573, de novo;
H.R. 6867, de novo;
H.R. 6317, de novo; and
H.R. 7048, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

TAX TREATMENT OF DIVIDENDS RECEIVED BY CERTAIN CONTROLLED FOREIGN CORPORATIONS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3581, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 3581, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 113, nays 274, answered "present" 1, not voting 44, as follows;

[Roll No. 350]

YEAS—113

Akaka	Donnelly	Heftel
Alexander	Dornan	Hightower
Annunzio	Downey	Hoyer
Anthony	Duncan	Hubbard
Archer	Dyson	Hunter
Bailey (PA)	Fary	Hyde
Barnes	Fazio	Jenkins
Benedict	Findley	Jones (NC)
Boggs	Flippo	Kemp
Boland	Foley	Kennelly
Brinkley	Ford (MI)	LaFalce
Brodhead	Ford (TN)	Lehman
Brooks	Fowler	Leland
Brown (CA)	Frank	Long (LA)
Butler	Frenzel	Madigan
Chappie	Frost	Martin (IL)
Cheney	Gaydos	Martinez
Coelho	Gephardt	Matsui
Conable	Gibbons	Mavroules
Coyne, William	Ginn	McClory
Crane, Daniel	Goodling	McCloskey
Crane, Philip	Hagedorn	McEwen
Davis	Hall (OH)	Miller (CA)
Dickinson	Hance	Mineta
Dingell	Hansen (ID)	Mitchell (MD)
Dixon	Hawkins	Moakley
Montgomery	Pursell	Simon
Moore	Quillen	Smith (PA)
Moorhead	Railsback	St Germain
Mottl	Ratchford	Stark
Murtha	Reuss	Stokes
Myers	Roberts (SD)	Udall
Nowak	Rousselot	Wampler
O'Brien	Russo	Waxman
Panetta	Sabo	White
Paul	Schulze	Wilson
Pease	Shamansky	Wright
Pickle	Shannon	

NAYS—274

Albosta	Evans (DE)	Lott
Anderson	Evans (IA)	Lowery (CA)
Andrews	Evans (IN)	Lowry (WA)
Applegate	Fascell	Lujan
Ashbrook	Fenwick	Luken
Aspin	Ferraro	Lundine
Atkinson	Fiedler	Lungren
Badham	Fields	Markey
Bailey (MO)	Fish	Marks
Barnard	Florio	Marlenee
Beard	Foglietta	Marriott
Bedell	Fountain	Martin (NC)
Beilenson	Fuqua	Martin (NY)
Bennett	Gejdenson	Mazzoli
Bereuter	Gilman	McCollum
Bethune	Gingrich	McCurdy
Bevill	Glickman	McDade
Biaggi	Gore	McDonald
Bingham	Gradison	McGrath
Bliley	Gramm	McHugh
Boner	Gray	McKinney
Bonior	Green	Mica
Bonker	Gregg	Michel
Bouquard	Gunderson	Miller (OH)
Broomfield	Hall, Ralph	Minish
Brown (CO)	Hall, Sam	Mitchell (NY)
Broyhill	Hamilton	Molinari
Burgener	Hammerschmidt	Mollohan
Byron	Hansen (UT)	Morrison
Campbell	Harkin	Murphy
Carman	Hartnett	Napier
Carney	Hatcher	Natcher
Clausen	Heckler	Neal
Clay	Hefner	Nelligan
Clinger	Hendon	Nelson
Coats	Hertel	Nichols
Coleman	Hiler	Oakar
Collins (IL)	Hillis	Oberstar
Conte	Holland	Obey
Corcoran	Hollenbeck	Ottinger
Coughlin	Holt	Oxley
Courter	Hopkins	Parris
Coyne, James	Horton	Pashayan
Craig	Howard	Patman
D'Amours	Huckaby	Patterson
Daniel, Dan	Hughes	Pepper
Daniel, R. W.	Hutto	Perkins
Dannemeyer	Ireland	Petri
Daub	Jacobs	Peyser
de la Garza	Jeffords	Porter
Deckard	Jeffries	Price
Dellums	Johnston	Pritchard
DeNardis	Jones (OK)	Rahall
Derrick	Jones (TN)	Rangel
Dicks	Kastenmeier	Regula
Dorgan	Kazen	Rhodes
Dreier	Kildee	Rinaldo
Dunn	Kindness	Ritter
Dwyer	Kogovsek	Roberts (KS)
Dymally	Kramer	Robinson
Early	Lagomarsino	Rodino
Eckart	Latta	Roe
Edgar	Leach	Roemer
Edwards (AL)	Leath	Rogers
Edwards (CA)	LeBoutillier	Rosenthal
Edwards (OK)	Lent	Roth
Emerson	Levitas	Roukema
Emery	Lewis	Roybal
English	Livingston	Rudd
Erdahl	Loeffler	Sawyer
Erlenborn	Long (MD)	Scheuer

Schneider	Solomon	Weber (OH)
Schroeder	Spence	Whitehurst
Schumer	Stangeland	Whitley
Seiberling	Stenholm	Whittaker
Sensenbrenner	Studds	Whitten
Sharp	Stump	Williams (MT)
Shaw	Swift	Williams (OH)
Shelby	Synar	Winn
Shumway	Tauke	Wolf
Shuster	Tauzin	Wolpe
Siljander	Taylor	Wortley
Skeen	Thomas	Wyden
Skelton	Traxler	Wylie
Smith (AL)	Trible	Yates
Smith (IA)	Vento	Yatron
Smith (NE)	Volkmer	Young (FL)
Smith (NJ)	Walgren	Young (MO)
Smith (OR)	Walker	Zablocki
Snowe	Watkins	Zeferetti
Snyder	Weaver	
Solarz	Weber (MN)	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—44

Addabbo	Daschle	Mikulski
AuCoin	Derwinski	Moffett
Bafalis	Dougherty	Rose
Blanchard	Dowdy	Rostenkowski
Bolling	Ertel	Santini
Bowen	Evans (GA)	Savage
Breaux	Fithian	Stanton
Brown (OH)	Forsythe	Staton
Burton, John	Garcia	Stratton
Burton, Phillip	Goldwater	Vander Jagt
Chappell	Grisham	Washington
Chisholm	Guarini	Weiss
Collins (TX)	Lantos	Wirth
Conyers	Lee	Young (AK)
Crockett	Mattox	

□ 10:15

Messrs. ZEFERETTI, BINGHAM, BONIOR of Michigan, SOLARZ, PASHAYAN, ASPIN, TRIBLE, ALBOSTA, HEFNER, GUNDERSON, GORE, GRAY, SWIFT, JONES of Tennessee, KAZEN, WOLPE, PRICE, and DUNN, Mrs. ROUKEMA, Messrs. STUDDS, CLAY, JONES of Oklahoma, DWYER, PATTERSON, HOLLENBECK, BROWN of Colorado, WALGREN, and DELLUMS, changed their votes from "yea" to "nay."

Messrs. O'BRIEN, MONTGOMERY, and GEPHARDT, Mrs. KENNELLY, Messrs. STOKES, ARCHER, HANSEN of Idaho, PHILIP M. CRANE, DANIEL B. CRANE, MADIGAN, and FINDLEY, Mrs. MARTIN of Illinois, and Mr. GOODLING, changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1030

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

APPLICATION OF SECTION 252 OF ECONOMIC RECOVERY TAX ACT OF 1981 TO CERTAIN TRANSFERS IN 1973

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4577, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4577, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide that the provisions of section 252 of the Economic Recovery Tax Act of 1981 (relating to transfers of property to employees subject to certain restrictions) shall apply to certain transfers occurring during 1973."

A motion to reconsider was laid on the table.

COMPUTER EQUIPMENT CONTRIBUTION ACT OF 1982

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5573, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 5573, as amended.

The question was taken.

Mr. CARNEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 323, nays 62, not voting 47, as follows:

[Roll No. 351]

YEAS—323

Akaka	Bouquard	Craig
Albosta	Brodhead	Crane, Daniel
Anderson	Broomfield	Crane, Philip
Andrews	Brown (CA)	D'Amours
Annunzio	Brown (CO)	Daniel, R. W.
Anthony	Broyhill	Dannemeyer
Applegate	Burgener	Daub
Archer	Butler	Davis
Aspin	Byron	Deckard
Atkinson	Campbell	Dellums
Bailey (MO)	Carman	DeNardis
Bailey (PA)	Chappie	Derrick
Barnard	Cheney	Dickinson
Barnes	Clausen	Dicks
Beard	Clay	Dingell
Benedict	Clinger	Dixon
Bennett	Coats	Donnelly
Bethune	Coelho	Dornan
Bevill	Coleman	Downey
Biaggi	Collins (IL)	Dreier
Bingham	Conte	Duncan
Boggs	Corcoran	Dunn
Boland	Coughlin	Dwyer
Bolling	Courter	Dymally
Boner	Coyne, James	Dyson
Bonker	Coyne, William	Early
Eckart	Kramer	Rangel
Edgar	LaFalce	Ratchford
Edwards (AL)	Lagomarsino	Rinaldo
Edwards (CA)	Latta	Ritter
Emerson	Leach	Roberts (KS)
Emery	LeBoutillier	Roberts (SD)
English	Lehman	Rodino
Erdahl	Leland	Roe
Evans (DE)	Lent	Roemer
Evans (IA)	Levitas	Rogers
Evans (IN)	Lewis	Rosenthal
Fary	Livingston	Roth
Fazio	Loeffler	Roukema
Fenwick	Long (LA)	Rousselot
Ferraro	Long (MD)	Roybal
Fiedler	Lowery (CA)	Russo
Fields	Lujan	Sawyer
Findley	Luken	Scheuer
Fish	Lundine	Schneider
Flippo	Lungren	Schroeder
Florio	Madigan	Schulze
Foglietta	Marlenee	Schumer
Foley	Marriott	Seiberling
Ford (MI)	Martin (IL)	Shamansky
Ford (TN)	Martin (NC)	Shannon
Frank	Martin (NY)	Sharp
Fuqua	Martinez	Shuster
Gaydos	Matsui	Siljander
Gejdenson	Mavroules	Simon
Gephardt	McCloskey	Skeen
Gibbons	McCollum	Skelton
Gilman	McCurdy	Smith (AL)
Gingrich	McDade	Smith (IA)
Ginn	McGrath	Smith (NE)
Glickman	McHugh	Smith (NJ)
Goodling	McKinney	Smith (OR)
Gore	Mica	Smith (PA)
Gray	Miller (CA)	Snowe
Gregg	Miller (OH)	Snyder
Guarini	Mineta	Solarz
Hagedorn	Minish	Solomon
Hall (OH)	Mitchell (MD)	Spence
Hamilton	Mitchell (NY)	St Germain
Hammerschmidt	Molinari	Stark
Hansen (ID)	Mollohan	Stokes
Hansen (UT)	Montgomery	Studds
Harkin	Moore	Swift
Hartnett	Moorhead	Synar
Hatcher	Morrison	Tauke
Hawkins	Mottl	Tauzin
Heckler	Murphy	Taylor
Hefner	Murtha	Thomas
Heftel	Myers	Traxler
Hendon	Napier	Trible
Hertel	Natcher	Vento
Hightower	Neal	Walgren
Hiler	Nelligan	Walker
Hillis	Nelson	Wampler
Holland	Nichols	Waxman
Hollenbeck	Nowak	Weber (MN)
Holt	O'Brien	Weber (OH)
Hopkins	Oakar	White
Howard	Oberstar	Whitehurst
Hoyer	Obey	Whitley
Hubbard	Ottinger	Whittaker
Huckaby	Oxley	Whitten
Hughes	Panetta	Williams (MT)
Hunter	Parris	Williams (OH)
Hutto	Pashayan	Wilson
Hyde	Patman	Winn
Ireland	Patterson	Wolf
Jacobs	Paul	Wolpe
Jeffords	Pepper	Wortley
Jenkins	Perkins	Wyden
Johnston	Peyser	Wylie
Jones (NC)	Pickle	Yates
Jones (TN)	Porter	Yatron
Kastenmeier	Price	Young (FL)
Kemp	Pritchard	Young (MO)
Kennelly	Pursell	Zablocki
Kildee	Rahall	Zeferetti
Kogovsek	Railsback	

NAYS—62

Alexander	Conable	Gradison
Ashbrook	Daniel, Dan	Gramm
Badham	de la Garza	Green
Bedell	Dorgan	Gunderson
Beilenson	Edwards (OK)	Hall, Ralph
Bereuter	Erlenborn	Hall, Sam
Bliley	Fascell	Hance
Bonior	Fountain	Jeffries
Brinkley	Fowler	Jones (OK)
Brooks	Frenzel	Kazen
Carney	Frost	Kindness

Leath	Quillen	Shumway
Lowry (WA)	Regula	Stangeland
Marks	Reuss	Stenholm
Mazzoli	Rhodes	Stump
McClory	Robinson	Udall
McDonald	Rudd	Volkmer
McEwen	Sabo	Watkins
Michel	Sensenbrenner	Weaver
Pease	Shaw	Wright
Petri	Shelby	

NOT VOTING—47

Addabbo	Dougherty	Mikulski
AuCoin	Dowdy	Moakley
Bafalis	Ertel	Moffett
Blanchard	Evans (GA)	Rose
Bowen	Fithian	Rostenkowski
Breaux	Forsythe	Santini
Brown (OH)	Garcia	Savage
Burton, John	Goldwater	Stanton
Burton, Phillip	Gonzalez	Staton
Chappell	Grisham	Stratton
Chisholm	Horton	Vander Jagt
Collins (TX)	Lantos	Washington
Conyers	Lee	Weiss
Crockett	Lott	Wirth
Daschle	Markey	Young (AK)
Derwinski	Mattox	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend the Internal Revenue Code of 1954 to encourage contributions of computer equipment to elementary and secondary schools."

A motion to reconsider was laid on the table.

(Mr. GIBBONS asked and was given permission to speak out of order for 1 minute.)

MISCELLANEOUS TARIFF AND CUSTOMS AMENDMENTS

Mr. GIBBONS. Mr. Speaker, I yield half of my time to the gentleman from Minnesota (Mr. FRENZEL), a member of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. Speaker, I hope the House will pass this bill because it is noncontroversial. We have had the debates on the floor last Monday—we have had it in the committee for about 6 months. We found no opposition to it when it was in committee. It has been requested by a great number of industries in this country and covers fish nets, Fourdrinier wire, toy figures, casein button blank products, items for NASA, cantaloupes, fur hats, needlecraft display models, disposable gowns, couplers and color intermediates, and a whole host of other material that is important to American industry.

One recent thing occurred about mink, when the mink people were before the subcommittee and they said they did not care about the mink as far as China was concerned, but they did worry about mink from Russia. This has nothing to do with the mink from Russia. If you wish further information I will be glad to respond.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, this bill does include an item on mink that apparently some Members object to. However, we do not reduce the tariff on mink. We simply eliminate an embargo which is illegal under our present arrangement with the People's Republic of China.

In my judgment, this will not change the mink business a bit. We still have a 15-percent tariff, which is 3 times as high as the average tariff in this country.

I think the bill should be supported.

MISCELLANEOUS TARIFF AMENDMENTS OF 1982

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6867, as amended.

The Clerk read the title of the bill.

(Mr. GUNDERSON asked and was given permission to speak out of order for 1 minute.)

NATIONAL FUR PRODUCERS OPPOSED TO TARIFF AMENDMENTS

Mr. GUNDERSON. Mr. Speaker, I will not take the full minute.

I do appreciate the opportunity to indicate to the House that there is a controversial section in this bill. It is not unanimous. There was testimony at the hearing before the Ways and Means Subcommittee by the National Fur Producers in this country. They are opposed to the bill. They are opposed to the particular section that lifts the embargo which allows the mink from China to come into this country.

Now, as the gentleman from Minnesota said, yes, the tariff is still there, but it is a significant change in public policy.

No one in this House should believe that this bill is not controversial, because it is.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield 15 seconds?

Mr. GUNDERSON. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

Mr. Speaker, when the gentleman's mink people appeared before the subcommitee they said they did not care about the bill as long as it did not include Russian mink.

□ 1045

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 6867, as amended.

The question was taken.

RECORDED VOTE

Mr. GUNDERSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 267, noes 125, answered "present" 1, not voting 39, as follows:

[Roll No. 352]

AYES—267

Akaka	Gephardt	Moore
Albosta	Gibbons	Moorhead
Alexander	Ginn	Morrison
Andrews	Glickman	Murtha
Annunzio	Goodling	Napier
Anthony	Gore	Neal
Archer	Gradison	Nelligan
AuCoin	Gramm	Nelson
Badham	Gray	Nichols
Bailey (MO)	Green	Nowak
Barnard	Gregg	O'Brien
Barnes	Guarini	Oxley
Bedell	Hall, Ralph	Panetta
Beilenson	Hall, Sam	Parris
Bereuter	Hammerschmidt	Patman
Bethune	Hance	Patterson
Biaggi	Harkin	Paul
Bingham	Hatcher	Pease
Bliley	Hawkins	Pepper
Boggs	Heckler	Pickle
Boland	Hefner	Porter
Bolling	Heftel	Price
Bonior	Hendon	Pritchard
Bonker	Hertel	Pursell
Bouquard	Hightower	Quillen
Brodhead	Hiler	Rahall
Brooks	Holland	Railsback
Brown (CA)	Hollenbeck	Rangel
Broyhill	Holt	Ratchford
Burgener	Horton	Reuss
Butler	Howard	Rhodes
Byron	Hoyer	Ritter
Campbell	Hubbard	Robinson
Cheney	Hutto	Roe
Clausen	Hyde	Rosenthal
Clinger	Ireland	Roybal
Coats	Jacobs	Rudd
Coelho	Jeffords	Russo
Coleman	Jenkins	Sabo
Collins (IL)	Johnston	Savage
Conable	Jones (NC)	Sawyer
Corcoran	Jones (OK)	Scheuer
Coughlin	Kazen	Schneider
Courter	Kemp	Schulze
Coyne, William	Kennelly	Seiberling
Daniel, Dan	LaFalce	Shamansky
Dannemeyer	Lagomarsino	Shannon
de la Garza	Leach	Shaw
Dellums	Leath	Shumway
DeNardis	LeBoutillier	Shuster
Derrick	Lehman	Siljander
Dickinson	Leland	Simon
Dicks	Lent	Smith (IA)
Dingell	Levitas	Snowe
Dixon	Lewis	Solarz
Donnelly	Livingston	Spence
Dornan	Loeffler	Stark
Downey	Long (LA)	Stenholm
Duncan	Long (MD)	Stokes
Dunn	Lott	Studds
Dymally	Lowery (CA)	Stump
Dyson	Lowry (WA)	Synar
Early	Lujan	Taylor
Edgar	Luken	Thomas
Edwards (AL)	Lundine	Traxler
Edwards (CA)	Lungren	Trible
Emery	Madigan	Udall
English	Markey	Vander Jagt
Erlenborn	Marks	Vento
Evans (DE)	Martin (IL)	Walgren
Evans (IN)	Martin (NC)	Walker
Fary	Martinez	Wampler
Fascell	Matsui	Waxman
Fazio	Mavroules	Weber (OH)
Fenwick	McCloskey	White
Ferraro	McCollum	Whitehurst
Fiedler	McCurdy	Whitley
Fields	McDade	Whittaker
Flippo	McGrath	Williams (MT)
Foley	McHugh	Wilson
Ford (MI)	McKinney	Winn
Ford (TN)	Mica	Wolf
Fountain	Michel	Wolpe
Fowler	Miller (CA)	Wright
Frank	Mineta	Wyden
Frenzel	Mitchell (NY)	Yates
Frost	Moakley	Young (FL)
Fuqua	Molinari	Young (MO)
Gejdenson	Montgomery	Zeferetti

NOES—125

Anderson	Gilman	Perkins
Applegate	Gingrich	Petri
Ashbrook	Gunderson	Peyser
Aspin	Hagedorn	Regula
Atkinson	Hall (OH)	Rinaldo
Bailey (PA)	Hamilton	Roberts (KS)
Beard	Hansen (ID)	Roberts (SD)
Benedict	Hansen (UT)	Rodino
Bennett	Hartnett	Roemer
Bevill	Hillis	Rogers
Boner	Hopkins	Roth
Brinkley	Huckaby	Roukema
Broomfield	Hughes	Schroeder
Brown (CO)	Hunter	Schumer
Carman	Jeffries	Sensenbrenner
Carney	Jones (TN)	Sharp
Chappie	Kastenmeier	Shelby
Clay	Kildee	Skeen
Conte	Kindness	Skelton
Conyers	Kogovsek	Smith (AL)
Coyne, James	Kramer	Smith (NE)
Craig	Latta	Smith (NJ)
Crane, Daniel	Marlenee	Smith (OR)
Crane, Philip	Marriott	Smith (PA)
D'Amours	Martin (NY)	Snyder
Daniel, R. W.	Mazzoli	Solomon
Daub	McClory	St Germain
Davis	McDonald	Stangeland
Deckard	McEwen	Swift
Dorgan	Miller (OH)	Tauke
Dreier	Minish	Tauzin
Dwyer	Mitchell (MD)	Volkmer
Eckart	Mollohan	Watkins
Edwards (OK)	Mottl	Weaver
Emerson	Murphy	Weber (MN)
Erdahl	Myers	Whitten
Evans (IA)	Natcher	Williams (OH)
Findley	Oakar	Wortley
Fish	Oberstar	Wylie
Florio	Obey	Yatron
Foglietta	Ottinger	Zablocki
Gaydos	Pashayan	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—39

Addabbo	Derwinski	Mikulski
Bafalis	Dougherty	Moffett
Blanchard	Dowdy	Rose
Bowen	Ertel	Rostenkowski
Breaux	Evans (GA)	Rousselot
Brown (OH)	Fithian	Santini
Burton, John	Forsythe	Stanton
Burton, Phillip	Garcia	Staton
Chappell	Goldwater	Stratton
Chisholm	Grisham	Washington
Collins (TX)	Lantos	Weiss
Crockett	Lee	Wirth
Daschle	Mattox	Young (AK)

Mr. WHITLEY changed his vote from "no" to "aye."

Mr. SCHUMER changed his vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNIFORMED SERVICES PAY ACT OF 1982

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6317, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 6317, as amended.

The question was taken.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 186, not voting 32, as follows:

[Roll No. 353]

AYES—214

Akaka	Gejdenson	Mollohan
Andrews	Gephardt	Montgomery
Annunzio	Gibbons	Murphy
Anthony	Gilman	Murtha
Ashbrook	Ginn	Natcher
Aspin	Gonzalez	Neal
Atkinson	Goodling	Nelligan
AuCoin	Gore	Nichols
Bailey (MO)	Guarini	Ottinger
Bailey (PA)	Gunderson	Panetta
Barnard	Hall (OH)	Parris
Beard	Hall, Ralph	Patman
Beilenson	Hall, Sam	Paul
Benedict	Hamilton	Pepper
Bennett	Hance	Perkins
Bevill	Hansen (ID)	Peyser
Biaggi	Hansen (UT)	Pickle
Bingham	Hartnett	Price
Blilley	Hatcher	Pritchard
Boggs	Heftel	Rahall
Boland	Hendon	Railsback
Boner	Hertel	Regula
Bonior	Hightower	Reuss
Bonker	Hillis	Rhodes
Bouquard	Holland	Roberts (SD)
Brinkley	Holt	Robinson
Brodhead	Horton	Rose
Brooks	Howard	Rosenthal
Brown (CA)	Hughes	Roybal
Butler	Hunter	Scheuer
Byron	Hutto	Schneider
Carman	Hyde	Schroeder
Carney	Jeffries	Seiberling
Coelho	Jenkins	Shamansky
Conte	Jones (NC)	Shannon
Coyne, James	Jones (TN)	Simon
Coyne, William	Kastenmeier	Skeen
Craig	Kazen	Skelton
Daniel, Dan	Kennelly	Smith (AL)
Daniel, R. W.	Kildee	Smith (NJ)
Daschle	Kogovsek	Smith (PA)
de la Garza	Kramer	Solarz
Deckard	Lagomarsino	Solomon
Dickinson	Lantos	Spence
Dicks	Leach	St Germain
Dingell	Leath	Stark
Dougherty	Lehman	Swift
Duncan	Loeffler	Synar
Dunn	Long (LA)	Trible
Dwyer	Long (MD)	Udall
Dyson	Lott	Vander Jagt
Eckart	Lowry (WA)	Wampler
Edwards (AL)	Markey	Watkins
Edwards (CA)	Marks	Waxman
Emerson	Marlenee	Weaver
Emery	Martin (NY)	White
Evans (IN)	Martinez	Whitehurst
Fary	Matsui	Whitley
Fascell	Mavroules	Whitten
Fazio	Mazzoli	Wilson
Fiedler	McCloskey	Winn
Fish	McCurdy	Wirth
Flippo	McDade	Wortley
Florio	McDonald	Wright
Foglietta	McEwen	Wyden
Foley	Mica	Yatron
Ford (TN)	Mikulski	Young (FL)
Fountain	Miller (OH)	Young (MO)
Frank	Mineta	Zablocki
Frost	Mitchell (NY)	Zeferetti
Fuqua	Moakley	
Gaydos	Molinari	

NOES—186

Albosta	Bethune	Clay
Alexander	Broomfield	Clinger
Anderson	Brown (CO)	Coats
Applegate	Broyhill	Coleman
Archer	Burgener	Collins (IL)
Badham	Campbell	Conable
Barnes	Chappie	Conyers
Bedell	Cheney	Corcoran
Bereuter	Clausen	Coughlin
Courter	Ireland	Rangel
Crane, Daniel	Jacobs	Ratchford
Crane, Philip	Jeffords	Rinaldo
Crockett	Johnston	Ritter
D'Amours	Jones (OK)	Roberts (KS)
Dannemeyer	Kemp	Rodino
Daub	Kindness	Roe
Davis	LaFalce	Roemer
Dellums	Latta	Rogers
DeNardis	LeBoutillier	Roth
Derrick	Leland	Roukema
Dixon	Lent	Rudd
Donnelly	Levitas	Russo
Dorgan	Lewis	Sabo
Dornan	Livingston	Savage
Downey	Lowery (CA)	Sawyer
Dreier	Lujan	Schulze
Dymally	Luken	Schumer
Early	Lundine	Sensenbrenner
Edgar	Lungren	Sharp
Edwards (OK)	Madigan	Shaw
English	Marriott	Shelby
Erdahl	Martin (IL)	Shumway
Erlenborn	Martin (NC)	Shuster
Evans (DE)	McClory	Siljander
Evans (IA)	McCollum	Smith (IA)
Fenwick	McGrath	Smith (NE)
Ferraro	McHugh	Smith (OR)
Fields	McKinney	Snowe
Findley	Michel	Snyder
Ford (MI)	Miller (CA)	Stangeland
Fowler	Minish	Stenholm
Frenzel	Mitchell (MD)	Stokes
Gingrich	Moore	Studds
Glickman	Moorhead	Stump
Goldwater	Morrison	Tauke
Gradison	Mottl	Tauzin
Gramm	Myers	Taylor
Gray	Napier	Thomas
Green	Nelson	Traxler
Gregg	Nowak	Vento
Hagedorn	O'Brien	Volkmer
Hammerschmidt	Oakar	Walgren
Harkin	Oberstar	Walker
Hawkins	Obey	Weber (MN)
Heckler	Oxley	Weber (OH)
Hefner	Pashayan	Whittaker
Hiler	Patterson	Williams (MT)
Hollenbeck	Pease	Williams (OH)
Hopkins	Petri	Wolf
Hoyer	Porter	Wolpe
Hubbard	Pursell	Wylie
Huckaby	Quillen	Yates

NOT VOTING—32

Addabbo	Collins (TX)	Moffett
Bafalis	Derwinski	Rostenkowski
Blanchard	Dowdy	Rousselot
Bolling	Ertel	Santini
Bowen	Evans (GA)	Stanton
Breaux	Fithian	Staton
Brown (OH)	Forsythe	Stratton
Burton, John	Garcia	Washington
Burton, Phillip	Grisham	Weiss
Chappell	Lee	Young (AK)
Chisholm	Mattox	

The Clerk announced the following pairs:

Mr. Stratton and Mr. Addabbo, for, with Mr. Washington against.

□ 1100

Messrs. SABO, EDGAR, HUCKABY, LaFALCE, DOWNEY, LUKEN, OBERSTAR, LUNGREN, VOLKMER, TRAXLER, and NEAL, Mrs. COLLINS of Illinois, Messrs. SAVAGE, CONYERS, CLAY, WALGREN, MARRIOTT, LEWIS, HAMMERSCHMIDT, SNYDER, DYMALLY, and SCHULZE, Mrs. SNOWE, Messrs. BARNES, HOYER, SHUSTER, LELAND, ANNUNZIO, SYNAR, and FINDLEY, Mrs. HECKLER, Messrs. ANDERSON, DeNARDIS, CLAUSEN, KEMP, MICHEL, McKINNEY, SHARP, APPLEGATE, BINGHAM, WOLF, EVANS of Delaware, BETHUNE, O'BRIEN, MINISH, GRAY,

COUGHLIN, HAGEDORN, RATCHFORD, DAVIS, GUARINI, RODINO, RINALDO, and FARY, Ms. OAKAR, and Messrs. GOLDWATER, QUILLEN, PORTER, MORRISON, COURTER, SAWYER, SHAW, GINGRICH, ROE, McCOLLUM, PHILIP M. CRANE, DANIEL B. CRANE, LENT, ALEXANDER, and PASHAYAN changed their votes from "aye" to "no."

Messrs. JENKINS, EMERSON, FOUNTAIN, ANNUNZIO, SYNAR, GUARINI, NEAL, McCURDY, BINGHAM, WATKINS, FARY, LONG of Maryland, and DINGELL changed their votes from "no" to "aye."

Mr. GONZALEZ changed his vote from "present" to "aye."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1115

PELL GRANT MODIFICATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 7048, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON) that the House suspend the rules and pass the bill, H.R. 7048, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 381, nays 19, not voting 32 as follows:

[Roll No. 354]

YEAS—381

Akaka	Brooks	Dellums
Albosta	Broomfield	DeNardis
Alexander	Brown (CA)	Derrick
Anderson	Brown (CO)	Dickinson
Andrews	Byron	Dicks
Annunzio	Campbell	Dingell
Anthony	Carman	Dixon
Applegate	Carney	Donnelly
Archer	Chappie	Dorgan
Aspin	Cheney	Dornan
Atkinson	Clausen	Dougherty
AuCoin	Clay	Downey
Badham	Clinger	Dreier
Bailey (MO)	Coats	Duncan
Bailey (PA)	Coelho	Dunn
Barnard	Coleman	Dwyer
Barnes	Collins (IL)	Dymally
Beard	Conable	Dyson
Bedell	Conte	Early
Beilenson	Conyers	Eckart
Benedict	Corcoran	Edgar
Bennett	Coughlin	Edwards (AL)
Bereuter	Courter	Edwards (CA)
Bethune	Coyne, James	Edwards (OK)
Bevill	Coyne, William	Emerson
Biaggi	Craig	Emery
Bingham	Crockett	English
Bliley	D'Amours	Erdahl
Boland	Daniel, Dan	Erlenborn
Boner	Daniel, R. W.	Evans (DE)
Bonior	Daschle	Evans (IA)
Bonker	Daub	Evans (IN)
Bouquard	Davis	Fary
Brinkley	de la Garza	Fascell
Brodhead	Deckard	Fazio
Fenwick	Lent	Roberts (SD)
Ferraro	Levitas	Robinson
Fiedler	Lewis	Rodino
Fields	Livingston	Roe
Findley	Loeffler	Roemer
Fish	Long (LA)	Rogers
Flippo	Long (MD)	Rose
Florio	Lott	Rosenthal
Foglietta	Lowery (CA)	Roth
Foley	Lowry (WA)	Roukema
Ford (MI)	Lujan	Roybal
Ford (TN)	Luken	Russo
Fountain	Lundine	Sabo
Fowler	Madigan	Santini
Frank	Markey	Savage
Frenzel	Marks	Sawyer
Frost	Marriott	Scheuer
Fuqua	Martin (IL)	Schneider
Gaydos	Martin (NC)	Schroeder
Gejdenson	Martin (NY)	Schulze
Gephardt	Martinez	Schumer
Gibbons	Matsui	Seiberling
Gilman	Mavroules	Sensenbrenner
Gingrich	Mazzoli	Shamansky
Ginn	McClory	Shannon
Glickman	McCloskey	Sharp
Goldwater	McCollum	Shaw
Gonzalez	McCurdy	Shelby
Goodling	McDade	Shuster
Gore	McEwen	Siljander
Gradison	McGrath	Simon
Gray	McHugh	Skeen
Green	McKinney	Skelton
Gregg	Mica	Smith (AL)
Guarini	Michel	Smith (IA)
Gunderson	Mikulski	Smith (NE)
Hagedorn	Miller (CA)	Smith (NJ)
Hall (OH)	Miller (OH)	Smith (PA)
Hall, Ralph	Mineta	Snowe
Hall, Sam	Minish	Snyder
Hamilton	Mitchell (MD)	Solarz
Hammerschmidt	Mitchell (NY)	Solomon
Hance	Moakley	Spence
Hansen (ID)	Molinari	St Germain
Harkin	Mollohan	Stangeland
Hatcher	Montgomery	Stark
Hawkins	Moore	Stenholm
Heckler	Moorhead	Stokes
Hefner	Morrison	Studds
Heftel	Mottl	Stump
Hendon	Murphy	Swift
Hertel	Murtha	Synar
Hightower	Myers	Tauke
Hiler	Napier	Tauzin
Hillis	Natcher	Taylor
Holland	Neal	Thomas
Hollenbeck	Nelligan	Traxler
Holt	Nelson	Trible
Hopkins	Nichols	Udall
Horton	Nowak	Vander Jagt
Howard	O'Brien	Vento
Hoyer	Oakar	Volkmer
Hubbard	Oberstar	Walgren
Huckaby	Obey	Walker
Hughes	Ottinger	Wampler
Hunter	Oxley	Watkins
Hutto	Panetta	Waxman
Hyde	Parris	Weaver
Ireland	Pashayan	Weber (MN)
Jacobs	Patman	Weber (OH)
Jeffords	Patterson	White
Jenkins	Pease	Whitehurst
Jones (NC)	Pepper	Whitley
Jones (OK)	Perkins	Whittaker
Jones (TN)	Petri	Whitten
Kastenmeier	Peyser	Williams (MT)
Kazen	Pickle	Williams (OH)
Kemp	Porter	Wilson
Kennelly	Price	Winn
Kildee	Pritchard	Wirth
Kindness	Pursell	Wolf
Kogovsek	Quillen	Wolpe
Kramer	Rahall	Wortley
LaFalce	Railsback	Wright
Lagomarsino	Rangel	Wyden
Lantos	Ratchford	Wylie
Latta	Regula	Yates
Leach	Reuss	Yatron
Leath	Rhodes	Young (FL)
LeBoutillier	Rinaldo	Young (MO)
Lehman	Ritter	Zablocki
Leland	Roberts (KS)	Zeferetti

NAYS—19

Ashbrook	Broyhill	Burgener
Butler	Hartnett	Paul
Crane, Daniel	Jeffries	Rudd
Crane, Philip	Johnston	Shumway
Dannemeyer	Lungren	Smith (OR)
Gramm	Marlenee	
Hansen (UT)	McDonald	

NOT VOTING—32

Addabbo	Chisholm	Mattox
Bafalis	Collins (TX)	Moffett
Blanchard	Derwinski	Rostenkowski
Boggs	Dowdy	Rousselot
Bolling	Ertel	Stanton
Bowen	Evans (GA)	Staton
Breaux	Fithian	Stratton
Brown (OH)	Forsythe	Washington
Burton, John	Garcia	Weiss
Burton, Phillip	Grisham	Young (AK)
Chappell	Lee	

Mr. LUNGREN changed his vote from "yea" to "nay."

Mr. FIELDS and Mr. HANSEN of Idaho changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. SIMON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983–84, and 1984–85, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sallie Mae Technical Amendments Act of 1982".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 2. The last sentence of section 439(l) of the Higher Education Act of 1965 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

MAXIMUM PELL GRANT

SEC. 3. Notwithstanding section 41(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983–1984 under such Act shall be $1,800 or 50 percent of the cost of attendance (as defined under section 7 of this Act for academic year 1982–1983) at the institution at which the student is in attendance.

DECOUPLING PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 4. The Secretary of Education shall establish or approve separate systems of need analysis for academic year 1983–1984 and for academic year 1984–1985 for the

programs authorized under subpart 2 of part A, and part C, and part E of title IV of the Higher Education Act of 1965.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1983-84

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such grants for the academic year 1983-1984.

(b) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for academic year 1982-1983 by 7.3 percent, and rounding the result to the nearest $100.d

(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be submitted not later than 15 days after the date of enactment of this Act.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1984-85

SEC. 6. (a)(1) The family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by March 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives not later than the time such schedule is so published.

(2) The proposed schedule shall be subject to public comment for 30 days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than April 15, 1983, for the academic year 1984-1985.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before June 1, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984-1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. It the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(c)(1) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1984-1985 shall be computed by increasing (or decreasing) the comparable schedule for academic year 1983-1984 (as set by section 5(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index is the change, expressed as a percent, between the arithmetic mean of the Consumer Price Index for April, May, and June of 1982 and the arithmetic mean of such Index for April, May, and June of 1983.

(d) If, under subsection (a) or (b), the family contribution schedule for academic year 1983-1984 is required to be the family contribution scehdule for academic year 1984-1985, the family contribution schedule for academic year 1983-1984 shall be modified by the Secertary of Education for use for academic year 1984-1985 to reflect the most recent and relevant data.

(e) The modified family contribution schedule under this section shall be published in the Federal Register not later than July 15, 1983.

COST OF ATTENDANCE

SEC. 7. Notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

INFORMATION CONCERNING FAMILY SIZE OFFSET

SEC. 8. The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of section 6(c) of this Act immediately after publication by the Secretary of Labor of the Consumer Price Index for June 1983.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983, THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c) the family contribution schedule for the period of instruction from July 1, 1983 through June 30, 1984 for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982 through June 30, 1983.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982 through June 30, 1983 shall be modified by the Secretary of Education for use for the period of instruction from July 1, 1983 through June 30, 1984 to reflect the most recent and relevant data.

(c) The modified family contribution schedule under this section shall be submitted not later than March 1, 1983, and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEAR 1983 AND 1984

SEC. 10. (a) Notwithstanding section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

(b) The Secretary shall allocate sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 to institutions in each State without regard to section 413(D)(b)(1)(B)(ii)(I) of that Act.

COLLEGE WORK-STUDY ALLOTMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 11. Notwithstanding section 442 of the Higher Education Act of 1965, the Secretary shall allot the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984, among the States so that each State's allotment bears the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bears to the total amount appropriated pursuant to section 441(b) for the fiscal year 1981.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 12. Notwithstanding section 462 of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984, among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

LOAN REPAYMENT DISCLOSURE

SEC. 13. (a)(1) Section 433A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

(b)(1) Section 463A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2)(A) The first sentence of such section is amended by striking out "section 463(a)(7)" and inserting in lieu thereof "section 463(a)(8)".

(B) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

CONSOLIDATION OF LOANS BY STATE GUARANTY AGENCIES

SEC. 14. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(j)(1) Each—

"(A) State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, and

"(B) eligible lender in a State described in section 435(g)(1) (D) or (F) of this Act,

or its designated agent may, upon the request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable by the State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b). The terms of loans made under this subsection shall be such terms as may be agreed upon by the borrower and the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g)(1) (D) or (F), and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

"(3)(A) Notwithstanding any other provision of this part, the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g)(1) (D) or (F), with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

"(4) The State agency and nonprofit private institution or organization, and eligible lender in a State described in section 435(g)(1) (D) or (F), shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.".

LINEAR REDUCTION OF PELL GRANTS

SEC. 15. Section 411(b)(3)(B) of the Higher Education Act of 1965 is amended to read as follows:

"(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

"(I) the full amount for any student whose expected family contribution is $200 or less, or

"(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.".

HIGHER EDUCATION SURVEY DATA

SEC. 16. The National Center for Education Statistics shall collect and publish for academic years (1982 through 1985, tuition and fees data, and room and board charges for institutions of higher education included in the Higher Education General Information Survey. The surveys required by this section shall be consistent with prior surveys of data described in this section.

MOTION OFFERED BY MR. SIMON

Mr. SIMON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIMON moves to strike out all after the enacting clause of the Senate bill (S. 2852) and to insert in lieu thereof the provisions of the bill, H.R. 7048, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to require a separate family contribution schedule for Pell Grants for academic years 1983–1984 and 1984–1985, to establish restrictions upon the contents of such schedule, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7048, was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 7048

Mr. SIMON. Mr. Speaker, I ask unanimous consent that the House insist on the provisions in the House bill and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and without objection, appoints the following conferees: Messrs. SIMON, ANDREWS, PEYSER, WEISS, GAYDOS, PERKINS, ECKART, COLEMAN, ERLENBORN, ERDAHL, DENARDIS, and BAILEY of Missouri.

There was no objection.

□ 1130

INTRODUCTION OF LEGISLATION DIRECTING THE PRESIDENT TO DECLASSIFY AND MAKE AVAILABLE INFORMATION ON SOVIET MILITARY BUILDUP

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, today I am introducing a resolution which, if passed by the Congress, would direct the President to declassify and make available to the American people information about the present and ever-growing threat to their freedom posed by the military buildup of the Soviet Union.

The perception 2 years ago by the American people that the United States had lost much of its standing in the eyes of the world and that the balance of power was shifting to the advantage of the Soviet Union led, in large part, to the election of Ronald Reagan.

Since then, with President Reagan's leadership, we have undertaken the task of reordering our national priorities so that America will be equal to the challenges of the 1980's and beyond.

However, this is a long, arduous task that requires consistency and steadfastness of purpose, and one that cannot be accomplished without the conscious backing of those whose liberty it is intended to insure.

That a public consensus on national security is essential was underscored recently by the fact that it was the theme of the annual conference of the International Institute for Strategic

Studies held this month at The Hague.

An article in the New York Times about the conference got right to the heart of the matter with the statement:

> The meaning of the institute's them (Defense and Consensus: The Domestic Aspects of Western Security) is that the experts acknowledge that democratic countries can't successfully plan for their security without broad public support and that such support can no longer be taken for granted.

Given what is at stake and that we simply cannot assume a public consensus exists in favor of a stronger defense posture, those of us elected to provide for the security of the Nation must do all we can to see that the people at home know what the Soviets are doing and how their actions endanger the security of the free world. Without sufficient knowledge of the threat, Americans cannot be expected to support policies to counter it. Thus, it is essential that a concerted effort be made to bring to the attention of the American people evidence of the peril to our country and our allies inherent in the ongoing escalation of Soviet military power.

The resolution I am introducing at this time would help accomplish this, and I ask my colleagues to join me in this attempt to make more information on the scope and nature of the Soviet threat available to the American public.

EXPRESSING THE SENSE OF CONGRESS THAT FEDERAL SUPPORT FOR CHILD NUTRITION PROGRAMS SHOULD BE MAINTAINED

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, I recently joined as a cosponsor of House Concurrent Resolution 384, which expresses the sense of the Congress that Federal involvement in and support for child nutrition programs should be maintained.

Food assistance programs play an integral part in feeding the needy people in this country and represent an investment in the well-being of the needy elderly, disabled, and children who rely on these programs. The food stamp program, as well as child nutrition programs such as the school lunch program and the WIC program, are examples of these programs. These programs were initiated to address the problems of hunger and poor nutrition that existed. While many of these problems have been reduced—the continuing need for these programs still exists.

This resolution expresses the sense of Congress that child nutrition programs should continue as they are now administered. I support that concept and until a better proposal is submitted to Congress I will continue my strong support for programs that contribute to improved nutrition among needy people in our country.

I might take this opportunity to mention another phase of this issue that goes hand in hand with food asistance programs. This is nutrition education. Food assistance programs, while an integral part of any nutrition policy, are not the entire solution to the problem of poor diets. Education programs are needed to help low income families acquire the knowledge and skills necessary to improve their diets.

I urge Members to support House Concurrent Resolution 384.

EMERGENCY RAILROAD STRIKE LEGISLATION

(Mr. WEBER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Ohio. Mr. Speaker, I want to commend the leadership on both sides of the aisle on bringing legislation to the floor of the House today, House Joint Resolution 600, that will bring an end to the railroad strike that threatens to cripple this Nation.

The estimates of the cost of this strike now reach $80 million a day. Without prompt action, this country will see another 450,000 workers on layoffs.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. WEBER of Ohio. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, it is my understanding that $80 million a day is just the cost to the railroads alone. The cost to the national economy is closer to half a billion dollars a day.

Mr. WEBER of Ohio. I thank the gentleman for adding to my statement.

Mr. Speaker, this legislation is vital so that the rail strike does not choke off the economic recovery that is beginning, and it is vital, therefore, for this body to act today. We have to demonstrate that the Congress of the United States can act quickly and responsibly, closing ranks in a bipartisan manner to do what is required to serve the best interests of this country.

A COURAGEOUS DECISION

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I rise today in support of our President and his most, most difficult but responsible decision to send U.S. Marines into the war-torn area of Beirut, Lebanon.

The Soviet Union is consistent. It always fulfills its evil responsibility to make sure that oppressed nations stay oppressed. The United States is the leading Nation of the free world. Are we going to shirk the moral responsibility to further democracy wherever or whenever we can? With leadership comes the difficult responsibilities of a great nation to help small nations that are trying to build democratic institutions. Lebanon is suffering greviously. We cannot turn our back.

Israel, a loyal ally for decades, is in a most difficult situation at the conclusion of their "Operation: Peace in Galilee." They have developed a dilemma similar to the one the United States found itself entraped by in Southeast Asia. While trying to end terrorism and support the formation of a democratic government, the United States was viciously criticized for every move we took without any regard for the alternative nightmare—the nightmare that exists in Vietnam today.

Israel wants to maintain peace and to see Lebanon turned again into a stable nation, but they are too close to the bloodshed and fighting, too entwined in the deep passions of the area. Israel needs our stabilizing influence, so, therefore, I think the President has made a courageous decision. I give him my wholehearted support with full knowledge that it is a dangerous decision, and that it does place our fine marines in jeopardy.

Those officers and men on their way back to Lebanon know the risks and fully expected, when they joined the corps, to occasionally be ordered to go in harm's way.

May God watch over them.

EMERGENCY RAILROAD STRIKE LEGISLATION

Mr. DINGELL. Mr. Speaker, pursuant to a previous order of the House, I call up the Senate joint resolution (S.J. Res. 250) to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 250

Whereas the labor dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers threatens essential transportation services of the Nation;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas all the procedures for resolving such dispute provided for in the Railway

Labor Act have been exhausted and the parties have resorted to self help;

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carriers;

Whereas all of the other negotiations for a national agreement by the rail carriers and the representatives of other railroad employees have been successfully completed, including the negotiations of the carriers and the United Transportation Union that were resolved through the Report and Recommendations of Presidential Emergency Board Numbered 195; and

Whereas the recommendations of Presidential Emergency Board Numbered 194 for settlement of this dispute have led to agreement of the parties on all but a single issue, and the recommendation on that issue would preserve the employees' collective bargaining rights within the peaceful procedures of the Railway Labor Act: Now, therefore, in order to preserve the national interest in essential transportation services, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, consistent with the purposes of the Railway Labor Act to avoid any labor dispute that threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service—

(1) the parties to the dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers shall take all necessary steps to restore service, and the status quo of the parties shall return to that which was in effect prior to 12:01 antemeridian of September 19, 1982, which status shall remain in effect through June 30, 1984, and which status shall be subject to the provisions of paragraph (2) of this joint resolution; and

(2) the Report and Recommendations of the Presidential Emergency Board Numbered 194, dated August 19, 1982 (including the recommendations regarding Moratorium issues), shall be binding on the parties and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), and shall be effective for the period from April 1, 1981, through June 30, 1984: *Provided,* That nothing in this joint resolution shall prevent any mutual agreement by the parties to implement the terms and conditions established by this joint resolution.

SEC. 2. This resolution shall take effect immediately upon enactment.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. DINGELL) is recognized for 1 hour.

Mr. DINGELL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this legislation passed the Senate by a voice vote. It had the support of such philosophically diverse Members of that body as the distinguished Senator from Massachusetts, Mr. KENNEDY, the ranking Democrat on the Labor Committee, and the chairman of that committee (Mr. HATCH).

I would observe to the Chair that the economic situation in this country is the worst since 1929. It is not pleasant for me to bring forward legislation that would inject the Congress into the dispute that has caused the rail strike, but the legislation before us is absolutely necessary in view of the magnitude of the economic crisis confronting the Nation and in view of the fact that no viable alternative to this legislation exists.

Today we have 9.8 percent of our people out of work. Today the deficits are at a record level. Today hardship, hunger and misfortune stalks the land, and this country simply cannot tolerate a railroad strike which would bring all of our major economic activity either to a total halt or to a state of substantial impairment.

The strike which has been in effect since early Sunday morning threatens to shut down every major railroad across the Nation, preventing transportation of products and materials essential to the continued operation of such rail-dependent industries as autos. A number of auto plants have already closed, causing massive layoffs. The rest will be closed by Thursday night. The entire steel industry will virtually be shut down by Friday, and coal and a number of other industries, including the electrical generating industry, will soon follow. Chemicals and timber are also in severe straits.

At harvest time this will bring to a virtual halt rail traffic in grains, perishable commodities and agricultural produce. The economic consequences to the Nation will be exacerbated by the loss of ridership of some 18,000 Amtrak passengers and over 140,000 rail commuters today and each and every other day.

Information received by the committee indicates that a number of railroads are now operating at less than 25 percent of normal capacity due to the strike. The economic consequences are that there will be a loss of hundred of millions of dollars a day to the economy. Better than $2 billion a month will be lost in economic activity in the country. And worse than this, within 30 days 1.4 million Americans will be out of work, stemming directly from the strike, and will be added to better than 10 million Americans who are now pounding the streets looking for jobs.

Mr. Speaker, the legislation simply legislates into place the recommendations of the Presidential Emergency Board with respect to the sole issue in the negotiations between the Brotherhood of Locomotive Engineers, the union which first struck and the National Railway Labor Conference, the negotiating arm of almost every major railroad. That issue is the sharing of productivity payments stemming from the elimination of one brakeman which was agreed in crew consist agreements with individual railroads by the other operating union, the United Transportation Union. The locomotive engineers would be able to negotiate this issue on a carrier-by-carrier basis under the peaceful procedures of the Railway Labor Act. All other rail unions, including the UTU, have agreed to similar moratorium provisions in their national agreements with the railroads.

I would observe that the United Transportation Union has solved its strike and has solved its differences with management and that the only remaining issue remains between the Brotherhood of Locomotive Engineers and rail management.

In passing this resolution, this body will be exercising its responsibility to pursue a reasonable and expeditious course of action to prevent further exacerbation of the national economic crisis now stalking the land.

I urge my colleagues to carry forward this responsible policy, to support the legislation to get the trains rolling again and do everything possible to see that the Nation's economy is not further impaired.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the distinguished gentleman for yielding.

I have a question to ask, and that is the only reason I rise. One of the first issues when I came to the Congress was that first congressional intervention in the collective bargaining process, in 1963, I believe, or 1962.

I understood that the President could have acted under the Taft-Hartley cooling off period; is that correct?

Mr. DINGELL. No.

Mr. GONZALEZ. Why are we asking for this legislation?

Mr. DINGELL. Railway labor matters are handled under the Railway Labor Act. Two 30-day cooling off periods are available to the President during which factfinding boards act. Those 30-day periods have expired. Recommendations of the boards have come in. One union has accepted them without going out on strike, the UTU. The other union, BLE, has not been able to resolve its differences over the last point, which is the sharing of productivity stemming from the lay-off of one brakeman, a member of the UTU, pursuant to agreements negotiated by that union with individual railroads. That difference is legislated away by the legislation before us.

Mr. GONZALEZ. I thank the gentleman.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes, for purposes of debate only, to my distinguished friend, the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, the chairman of the committee has explained the purposes of this resolution. I must emphasize the national

urgency of this situation. The national rail strike which has been called by one of the railway unions, one of the 13, is causing untold damage to the national economy. Each day that the strike is permitted to continue is at a cost of approximately $500 million to the economy. We are told that already some 300,000 people are out of work. By week's end that figure could be some three-quarters of a million and could be over a million by the end of 2 weeks. We are also getting by the minute news of impending plant closings. Farmers are quickly beginning to feel the impact of this strike as their products cannot be shipped to market.

The gentleman from Michigan has explained the basis for this strike. It is simply the desire of one union, the Brotherhood of Locomotive Engineers, to be able to retain a wage differential over the members of another union, and I would point out that we received testimony in the committee yesterday that the members of this union are presently averaging about $37,000 a year. Under terms of the agreement that were tentatively agreed to, the Emergency Board recommendations, they would be receiving $45,000 per annum on the average at the end of this contract. The UTU has tentatively agreed to continue negotiating productivity issues with the carriers in a peaceful way, that is, to have a moratorium on a strike for the remainder of the contract. The BLE, on the other hand, has refused to resolve the productivity issues in a peaceful way and would insist upon their right to strike during the life of the contract, and that is what the strike is all about, that very narrow issue.

If we do not adopt Senate Joint Resolution 250 without amendment this issue will not be resolved because it is an interunion issue, an attempt by one union to leapfrog another in addition, the adverse impact on the economy will continue.

There is ample precedent for the House to take this action. On several occasions between 1963 and 1971 this House has acted to resolve similar disputes in the rail industry.

The Senate acted on Senate Joint Resolution 250 last night by voice vote. We must adopt Senate Joint Resolution 250 without amendment so that we can have it sent to the President for his signature. I believe any delay is unwarranted. I urge my colleagues to defeat the Florio amendment, which is not the proper approach and to vote yes on the adoption of Senate Joint Resolution 250.

Finally, Mr. Speaker, I would like to clarify one technical matter with respect to the committee's intent with respect to the language in paragraph (1) of the joint resolution presently under consideration. It is my understanding, which I believe is shared by all the members of the Energy and Commerce Committee, that the effect of the first paragraph of the joint resolution would be to impose the status quo described herein, subject to paragraph (2) of the resolution, as if the parties had entered into an agreement under the Railway Labor Act.

Mr. DINGELL. Mr. Speaker, I yield 15 minutes for purposes of debate only to the gentleman from New Jersey (Mr. FLORIO), and I yield 21 minutes for the purposes of debate only to the gentleman from North Carolina (Mr. BROYHILL).

The SPEAKER pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I thank the gentleman for his generosity in yielding such time.

This is a very complex issue and, therefore, I think it is appropriate that we understand what it is that is involved in this debate. There is agreement on a number of points by proponents and opponents of the resolution that we have here.

□ 1145

There is agreement that there is need for immediate action to end the strike and to resolve this dispute. There is agreement that the strike is causing great disruption to an already depressed economy.

There is agreement, at least on my part, that the issue that has precipitated this strike is a minor issue of no great economic consequence; and in my opinion, the strike never should have taken place.

There is not agreement as to the desirability of this particular method of resolving the problem, because one idea that is embodied in this resolution is the rather radical new initiative of having the Government dictate the terms of a private, collective bargaining agreement between two private parties and then having it imposed by operation of law by this Congress. That is a very dramatic departure from the way we conduct business in this Nation.

As I have said earlier, I am convinced this is a matter that can be resolved by the parties if we put the focus of public attention on them very dramatically. The old question of wage differentials between two particular crafts, what the percentage should be, if any percentage, is almost a mathematical computation. Certainly that is the essence of what collective bargaining is supposed to be about.

As I say, I am convinced that that can be resolved. I have difficulty with this particular proposal coming from this administration, ironically a conservative administration that usually talks about keeping the Government out of the marketplace, which talks about keeping the Government off the back of business people. I have difficulty with this administration now advocating the imposition of a governmentally dictated agreement in the private sector.

Management and even parts of labor that may be the beneficiaries of this particular agreement may very well rue the day when we established this principle that Government can dictate the terms of these agreements because next year or the year after when the same principle is invoked to impose a different agreement, they may decide and learn that they are on the wrong side of the governmental wisdom—or lack thereof—in imposing these types of understandings.

If this approach is accepted as the normal course of business, I can conceive of a situation within a matter of weeks when we have the National Football League strike going on, and we are all incensed that we cannot watch football on Sunday, and the President may very well be called upon and may convene a special advisory commission—as he did in this case—and that commission comes back and says, "Well, we think the players are right, they are entitled to 55 percent of the gross revenues of the team; that is our recommendation; we want to see football." Someone then introduces legislation such as this. We then pass the resolution, and the Congress has set the terms of that collective bargaining agreement. It is not inconceivable.

I will, in light of my concerns—which I think are legitimate—in light of my awareness that this strike should be stopped, in light of the fact that I believe that the parties should resolve in the normal way this minor issue, as soon as we conclude the debate, I have the concurrence of the chairman to offer an amendment which will do the following:

Stop the strike; prohibit further work stoppages for a 140-day period; resume obviously rail service to the Nation, immediately; and then direct the parties to go back to the table and resolve this particular problem. We will then preserve the principle that private parties rather than the Government are to dictate, are to take part in determining the terms of the collective bargaining agreements.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

To what unions would the gentleman's amendment apply? Would it apply solely to the Brotherhood of Locomotive Engineers or would it apply also to the UTU?

Mr. FLORIO. This would apply to both of the brotherhoods that are currently in the process of negotiating agreements, neither of which has finalized their contract terms.

Mr. DINGELL. But the UTU has agreed and is in the process of ratification, so the gentleman's amendment would order the UTU which is not on strike and is in the process of ratifying the agreement to go back to work and would order also the BLE, which is on strike, to go back to work. So one union, which has agreed to its contract and is ratifying that contract now, would be ordered back to work and be compelled to work even though the ratification process might be jeopardized by the other agreement?

Mr. FLORIO. If the chairman would yield back the time so I could respond to the gentleman's—I am sure—inadvertent, incorrect statement that the ratification is going forward, the ratification specifically is not going forward pending the outcome of these deliberations between the various parties, namely the three parties, industry as well as the two Brotherhoods; so there will be no disruption. The implementation of my amendment will insure that there is no disruption, and that the whole process can be terminated and finalized at the end of the period.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I will be happy to yield for a brief period.

Mr. BROYHILL. I thank the gentleman for yielding.

Is it not a fact the Congress since 1963 has intervened, has passed legislation to settle railway labor disputes or to provide for the settlement on several different occasions?

Mr. FLORIO. The gentleman is correct, that Congress has intervened in the way that I am advocating intervention, to provide for an extended period of time beyond the statutory allowed cooling-off period to allow the parties to conclude their negotiations.

I must reclaim my time to yield 2 minutes to the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Speaker, I appreciate the gentleman from New Jersey allowing me the time to agree with him in terms of the action the gentleman is offering in this body. I feel it is only fair that indeed we have the opportunity to vote on a piece of legislation that would provide an alternative to the Congress intervening into the affairs between management and labor.

I think it sets a really bad precedent for us to engage in that kind of an intervention at this time in view of the economic circumstances that we are faced with. I am very reserved about my involvement in this debate in the first place against the proposal offered by the chairman of my committee, the gentleman from Michigan (Mr. DINGELL).

But I think that in the long term, we will be much better off and will find what it is that we are debating today will set the kind of precedent we will very definitely regret.

I would like to do as much as I can to help the gentleman from New Jersey pass his alternative. I think that is the only way we can realize the kind of justice and the kind of option that will give us the opportunity to work out some kind of reasonable—reasonable—means to solve this problem.

Mr. Speaker, I rise, after considerable thought and with some reservations, in opposition to this resolution. I believe that the House has before it a matter not only of considerable economic import but one involving an essential principle of the American workplace.

We are being asked here today to deny the Brotherhood of Locomotive Engineers the right to strike. The principle involved is that simple. Let no one tell you otherwise. The principle involved is clearly not whether we should allow—and "allow" is the key word—a strike with considerable economic impact to continue over the question of wage differential for engineers. The wage differential is the central concern of the BLE but it is not the central issue before this House.

The administration wants us to take from this union its lawful right to strike, to exercise the only real leverage it has to enforce its bargaining demands. The administration wants Congress to do what it has done before, and force a settlement, against which the BLE stands alone, on this small union. Secretary of Transportation Lewis is correct when he says there is "ample precedent" for such congressional action. But the question we face is one of "ample justification," not only for the action called for in this resolution, but for deepening the precedent to which the Secretary refers.

The justification the administration offers is substantial and ominous. The assessments of economic dislocation which have already occurred, and the dire predictions of what may yet lie ahead of us and the economy if the strike continues, are deeply disturbing to everyone in this Chamber. My concern takes form as a deep reservation about the course of action the engineers have chosen. Had the decision been mine to make, given the history and specifics of the negotiations over the last 18 months and the concessions made on all sides in this dispute, I do not believe I would have counseled the engineers to strike. But that was not my decision to make, and more importantly, it is not ours to make.

The administration says, and many of you agree, the economic disruption, the loss of jobs, the loss of productivity, justify our moving to end this strike. But there is a much larger question involved in assessing that economic impact, and though there may be few of you who join me in this regard, the question must be raised.

If as Secretary Lewis and the administration believe, no strike affects the economy and the country like a rail strike and that economic impact justifies our action to deny a rail union the right to strike, then the administration should, regardless of the out come of our debate here today, send to this Congress, and defend, legislation eliminating the right of railway unions to strike nationwide, or on any substantial scale. That is the concept which the economic impact directs us to. Instead, this administration joins other administrations past in asking Congress to abridge the right to strike on a piecemeal basis, but a permanent basis nonetheless. The assurance you have heard that all this legislation does is extend the cooling-off period for 21 months, after which time the BLE will have the right to strike to support its demands, is naive at best and clearly misleading. If the contention is valid that a strike with this impact calls for congressional action to bring it to an end, then the future, by concept and precedent, is one that takes from all rail unions the right to strike. If we approve this legislation and BLE or any other rail union feel strongly enough about any bargaining issue that they strike at some point in the life of the next contract period, we could very well be asked to repeat the action we consider here today. And I suspect there is not a single Member in this Chamber today who has any doubt about the future impact of this resolution.

The central point is this: To strike is to disrupt. If there were no economic impact, no disruption, no dislocation from a strike, there would be no strikes. It is their impact that makes them a tool of leverage in the collective bargaining process. If you disagree with that process, if you do not believe in the right to strike, this resolution will accommodate those points of view. If you believe in the collective-bargaining process and the right to strike, and I most emphatically do, this legislation is disturbing.

We will do further damage to the right to strike if we approve this legislation. We will further the environment, which this administration has sought to create, in which strikes are an iffy business indeed. We will send a clear message to working men and women across America that their fundamental right—to withhold their services to affect the nature and the conditions of the workplace—may not be fundamental at all. If a case can be mounted based on the economic impact of that strike, if a union can be isolated from its fellow unions, if a strike is unpopular enough, the Congress can be persuaded to abridge that right. If that is the message you want

to send to rank-and-file union members across this country, your choice is clear.

If you are concerned about protecting the right to strike, for the BLE and for all unions, your choice is a much more difficult one. You will be asked, if you oppose this resolution, to justify that opposition in the face of severe economic dislocation.

For my part, I do not believe we have exhausted our ability to resolve this dispute without resorting to congressional action to force a settlement and deny the BLE its lawful right to strike. I believe that if it were the decision of this House to disapprove this resolution, we would in fact put considerable pressure on the BLE to find an accommodation and end its strike and on the other rail unions to hold their positions and keep the agreement together. That may very well be an optimistic point of view, but it is an option that a belief in the collective bargaining process ought to push us to consider.

This is a matter that defies easy solutions. It is emotionally charged. The administration, which is in large measure responsible for the dark economic circumstances and unemployment to which this strike so direly adds, has been quick to seize the moment, to ask Congress to do its handiwork. As the concern in this country grows over recession and joblessness, the architects of this economic policy certainly do not want anyone to add more fuel to that fire; a fire which is already making them uncomfortably warm. I suspect history, and their future actions in such situations, will amplify and clarify their motives and the depth of their support for the collective bargaining process.

But I must say, Mr. Speaker, that many, or perhaps I should say most, of my colleagues will disagree and will support this resolution. The circumstances are very grave and the choice is difficult for those who believe in the perpetuation of unions and collective bargaining. I will respect their decisions, because they will be arduously reached. But I also believe that while the circumstances immediately before us are very serious, so are the future implications of what we are being asked to do.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I have listened very carefully to the debate at this point. There is no question of the concern of this country or the concern of the gentleman from Michigan (Mr. DINGELL) or the gentleman from New Jersey (Mr. FLORIO). It is very clear that the role of the Congress is to get the railroads back to work and get the people back to work. There is no question of that; it seems to me there is a severe question over whether Congress wants to dictate the final results of this labor dispute; for that reason, I believe the gentleman's amendment—the gentleman from New Jersey (Mr. FLORIO)—is one that should be seriously considered in order to get the railroads running again, but still letting the private sector and labor work out their problem.

It is my hope that one of these pieces of legislation should be acted on to get this country moving again without sacrificing a very basic principle of the opportunity of collective bargaining in this country.

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Speaker, I rise in support of this legislation and in opposition to the amendment to be offered by the gentleman from New Jersey (Mr. FLORIO).

We are faced with a most serious situation, the cessation of all rail service throughout the Nation affecting not only the shipment of freight but commuter and passenger operations; and this situation has resulted from the inability of the Brotherhood of Locomotive Engineers and the railroads, represented by the National Railway Labor Conference, to reach agreement after all peaceful means under the Railway Labor Act have been exhausted.

The continuation of this rail strike will have a devastating impact upon the economy. Witnesses who testified before the Energy and Commerce Committee yesterday confirmed that the strike is costing the American people approximately $80 million per day and, should the strike continue, will result in hundreds of thousands of nonrailroad employees becoming unemployed. Layoffs in the auto industry have already begun. The steel industry will follow soon.

Admittedly, this remedy is a drastic step. But this type of legislation is not unique. There is ample precedent for Congress to intervene where the public interest is at stake as it is here.

This nationwide rail strike was precipitated after failure of the parties, the Brotherhood of Locomotive Engineers and the National Railway Labor Conference, to settle their differences through the collective bargaining process, even after consideration of the recommendations of Presidential Emergency Board No. 194. Negotiations have gone on for 18 months on a labor contract. The parties are at an impasse. The one unresolved issue between the Brotherhood of Railway Engineers and the National Railway Labor Conference that resulted in the BLE action relates to the wage differential between the engineers represented by BLE and other train crew members represented by the United Transportation Union (UTU). As the Washington Post correctly pointed out in this morning's editorial, this is essentially a jurisdictional dispute. The UTU testified yesterday it was not opposed to this legislation.

I am concerned, as I believe all Members should be, with the impact that any resolution to the present strike will have upon the tentative agreement that was worked out between the NRLC and the UTU. Further delay could jeopardize that argeement according to the testimony yesterday by Fred Hardin, the president of the UTU.

I believe that Secretary Lewis quite appropriately indicated that the President, based upon a careful weighting of the countervailing considerations, made a judgment call to recommend the specific approach set forth in Senate Joint Resolution 250. I believe it is the proper judgment call.

Therefore, I urge my colleagues to support Senate Joint Resoultion 250 and oppose the amendment to be offered by the gentleman from New Jersey (Mr. FLORIO).

The Washington Post editorial follows:

LOCOMOTIVE ECONOMICS

The Brotherhood of Locomotive Engineers is providing the Reagan administration with a small but useful lesson in the realities of labor economics. The engineers' strike is not really against management, but against other unions whose members have won supplemental pay in a deal to reduce the size of train crews. The engineers' position is a simple one. They have always been the best-paid men on the train, by a certain differential hallowed by tradition. With clenched teeth and white knuckles, they declare that they want their differential, and they are prepared to keep their industry—and many others—shut down until they are assured of it.

When Mr. Reagan came to office, he made it clear that he intended to keep his administration out of labor negotiations. The general thought was that the free market was to operate unimpeded, in labor as in everything else. Some of the administration's economists felt that unions would see the tight restraint of the money supply, expressed in the weekly figures for M-1, and perceive that the day of the inflationary wage increase was over. Other economists thought that unions probably would not moderate wage demands until unemployment began to rise. But then, surely, wages would hold to the noninflationary trend.

As things are working out, it seems that the locomotive engineers have not been following M-1 as carefully as they were supposed to. Certainly they have not taken its austere message to heart. That will be a deep disappointment to the economists of the rational-expectations school. There seems to have been a collision between rational expectations and the engineers' expectations.

Nor has the thought of unemployment deterred the strike. The country is now in the 15th month of a severe recession, and the unemployment rate is nearly 10 percent. In railroading, the number of jobs has been falling for a generation. But the engineers want their differential.

Sometimes, in a situation like this, a union's leadership understands perfectly well that a large raise is out of the question. But the members, not all of whom follow economic policy closely, do not necessarily understand it. They pursue their traditions, and traditions are slow to bend. That's why, throughout the national economy as a whole, wages are still rising at an average rate of about 7 percent a year.

That's why President Reagan was right to rise above principle, as the late Sen. Everett Dirksen used to say, and intervene in the engineers' strike. And that's why Congress, rather than the free market, is probably going to have to produce a settlement.

Mr. BROYHILL. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. MARKS).

Mr. DINGELL. Mr. Speaker, I also yield 1 minute to the gentleman from Pennsylvania (Mr. MARKS).

Mr. FLORIO. Mr. Speaker, I likewise would yield 1 minute to the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Speaker, I thank all three gentlemen for yielding time to me.

Mr. Speaker, this is a rather historic day in spite of the fact that the floor is not what you would call crowded.

This is a day, Mr. Speaker, where this administration—a rightwing, conservative administration, a Republican administration, which supposedly believes in the free enterprise system and has suggested publicly that they believe in free collective bargaining—is coming before the Congress of the United States and saying to the Members, "The Congress must destroy what this country has known for many, many years as collective bargaining."

That is what we are asked to do by this administration. We are told that a union which legally is on strike for a very important issue—they consider it very important, it is an issue of wage—we are told that we should destroy their right to negotiate a settlement in the same fashion as we permit every other union in this country to negotiate with management.

There is another way that this strike could have been avoided. That is that management could have conceded the issue to the union or the Emergency Board could have come back and said, "No, we will not put the burden on the union, we will put the burden on management and say to management, 'You must concede to the union.' "

□ 1200

May I suggest to my colleagues today that to ask of us the destruction of the collective bargaining agreement or the collective bargaining process is wrong.

The gentleman from New Jersey has suggested that this matter can be—and by the way, yesterday while he and the chairman, the gentleman from Michigan (Mr. DINGELL) and I sat for 7½ hours listening to the testimony, the unions agreed and management agreed that they would sit down together. They said that openly, publicly, on the record.

If the amendment of the gentleman from New Jersey (Mr. FLORIO) is passed, the strike will end. The people will go back to work. The hardship now being caused across the country will no longer be caused and the collective bargaining system will go on.

I beg of you, all of you, to consider the issue. This is an issue far beyond this single case. It is an issue as to whether or not the laws of this land that provide for collective bargaining between management and labor may continue and that the Congress shall not be a dictator, shall not be a dictatorship, shall not demand of either the union or business that they concede one way or the other.

I beg of you again to consider before you vote today that it is needless to put us in that position—and by the way, you will note that our comrades in the other body were so cowardly that they did not even have a recorded vote on it last night.

I ask of you, please, to consider that the amendment of the gentleman from New Jersey (Mr. FLORIO) is the answer to this problem.

Mr. BROYHILL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I yield myself this 1 minute for the purpose of correcting a misstatement that the gentleman from Pennsylvania has made. The dispute is not over wages, because the Emergency Board's recommendations on wages have been accepted by both sides. One union has agreed for the rest of the life of the contract to continue negotiating on productivity issues with the carriers and that they would continue negotiating in a peaceful way, that is, they would not strike during the life of the contract.

The BLE insists that it must preserve the means to protect the traditional differential in pay between the engineers and other train crews and they cannot accept the moratorium. It is the moratorium issue that this is all about.

The BLE insists that they have the right to strike during the life of the contract and, of course, it is over this very narrow issue. It does not have anything to do with the wage part of the Board's recommendations.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes for the purposes of speaking against the amendment which will be offered by my dear friend and colleague, the gentleman from New Jersey (Mr. FLORIO).

Mr. Speaker, the amendment which will shortly be offered by our valued and esteemed colleague, the gentleman from New Jersey (Mr. FLORIO) is supposed to avoid substantive interference by the Government in the collective bargaining process by ordering a union which is now on strike back to work and by ordering a union which is not on strike back to work. If you object to governmental interference, then you should object twice to the amendment which will be offered by my dear friend, the gentleman from New Jersey (Mr. FLORIO), because his amendment would order not one union back to work, but two unions back to work, for 140 days, at which time the underlying problem in the BLE-railroad dispute would still not be solved. One union, the Brotherhood of Locomotive Engineers is now on strike, and the other the United Transportation Union is not now on strike and is in the process of convening its 250 general chairmen for purposes of ratifying its collective bargaining agreement which adopts the recommendations of the Presidential Emergency Board.

The bill before us will legislate into place only one of the Emergency Board's recommendations not agreed to by the parties and will, of course, end a strike, instead of possibly creating two strikes as the amendment of the gentleman from New Jersey would do. This would result because at the end of 140 days under the amendment offered by the gentleman from New Jersey (Mr. FLORIO), we will have seen the time during which the two unions, one on strike and one not on strike, will then be free to strike and at which time both unions will probably be on strike by reason of the fact that the gentleman will have effectively terminated the UTU ratification process which is soon to go forward. Mr. Fred Hardin, the president of the UTU presented clear and uncontroverted testimony yesterday before the Committee on Energy and Commerce on this very point.

I would point out, thus the Congress would legislatively require nonstriking railworkers who are shortly scheduled to vote on a peacefully negotiated collective bargaining agreement, executed by their leadership, to continue working in anticipation of a rejection of that agreement by the membership of that union.

I suggest that this is a precedent which is vastly more destructive than any which might be complained of here today by those who support the Florio amendment and is far more sweeping and far more radical than any precedent that has ever been set by any legislation dealing with rail labor matters during the 27 years that I have served in this body.

The amendment offered by my good friend, the gentleman from New Jersey (Mr. FLORIO) clearly illustrates the unique nature of the dilemma before us. His amendment would, as I have indicated, bring about a situation where we would have a potential at the end of 140 days, not for one strike, but for two, and would impose a statu-

tory period of settlement on not one union, but two, and would leave us with a set of circumstances where we would probably be back to discuss this same issue involving not one union, but two at the end of 140 days. I urge the Members to reject the Florio amendment.

Mr. Speaker, may I have a statement of the time remaining?

The SPEAKER pro tempore (Mr. ANNUNZIO). The gentleman from Michigan (Mr. DINGELL) has 13 minutes remaining.

Mr. DINGELL. And the time remaining for my colleagues, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. BROYHILL) has 16 minutes remaining, and the gentleman from New Jersey (Mr. FLORIO) has 4 minutes remaining.

Mr. BROYHILL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, as so often is the case in times of national emergencies, there is a careless sacrifice of individual freedom. Today we have before us a proposal to force men to work although they have chosen not to do so. It seems everyone agrees the procedure is "distasteful," but the "national interest" demands it. I believe our responsibility here in Congress is to support the Constitution and protect individual freedom. The phrase "national interest" is vague and means whatever anyone wants it to mean. Justifying actions on such an arbitrary objective is not acceptable.

One of the main reasons that expedient and admittedly distasteful solutions are tolerated and pushed through is that some short-term benefits are derived and these are traded off for the long-term tragic consequences.

Inflation is an evil and has driven our economy to its knees, yet it has been popular because it gives a false sense of prosperity even as the foundations of the capital markets are destroyed. The short-term "benefits" compel Congress to pursue deficits and money creation just as an alcoholic seeks out another wonderful evening with a fifth of liquor.

Compelling workers to work and legislating compulsory arbitration accepts the same fallacy. Rather than question the laws that grant monopoly powers to unions and eliminate the right of an employer to draw up a completely voluntary contract and fire employees at his discretion, we continue the process of Government intervention into the affairs of the private citizen in economic matters. The problems coming from previous Government intervention cannot be solved with more Government intervention. The problems will get worse on the long run, and freedom will be further diminished.

Compulsory arbitration mandated by legislation contradicts the entire notion of a free market and flagrantly violates the concept of individual liberty. The right of free people to organize, negotiate voluntary contracts, and to withhold its labor must be protected. This is the foundation on which our country was built and is the theme of the entire Constitution. This does not mean that naturally occurring events in a free market would ever have brought us to the labor crisis and the inflationary crisis we are facing today. Quite the contrary: A free market in labor and voluntary contracts would have prevented it and preserved freedom as well.

Unfortunately, though, in the past 40 to 50 years the only proposals that have ever come before the Congress are proposals on how Government force will be used to bring about some economic plan dreamed up in the heads of politicians and bureaucrats. The question is never raised of whether or not Government should be using force to give leverage to labor or business. Why must we feel compelled to use Government power to grant a privilege which otherwise would not have been achieved in the free market?

The tragedy that unions have not yet realized is that the powers granted by the labor legislation of the 1930's is the very reason they will now lose their right to strike. If governments can now compel union contracts to preclude the right of businessmen to hire and fire on an individual basis, they can compel men to work. The loss of freedom, whether it be the businessman's or the workingman's, is identical. If Government can compel a minimum wage and a prevailing wage, it gains the power to impose strict and unfair wage controls at the other end of the spectrum. But the beneficiaries of the Government legislation fail to look into the future when the loss of freedom for his adversary will then be applied to him as well. If unions accept Government power to get a closed union shop, they have sealed their fate in losing their right to withhold their labor when they desire. That is the tragedy of it all. And today we are only confirming this loss of freedom. It is time we decided to quit using Government for special interests and accept the notion that the proper role of Government is to protect liberty and guarantee the right of truly voluntary contracts. This is the only way freedom will survive, and fortunately the only way a thriving economy can be achieved—a goal we all seek. Legislation of this sort will only compound our problems, diminish our freedoms, and enlarge Government coercive powers.

The problem of compulsory unionism will never be solved by compulsory labor. Ultimately our economic problems will be solved by rejecting the concept of economic intervention. We must reduce taxes dramatically and eliminate abusive regulations. Compelling men to work against their will reinforces the philosophy of economic intervention in the worst way, and at great sacrifice of individual freedom. This form of central planning, although some will argue that great economic benefits to be achieved for a week or two are worth it, is just more of the same but only worse.

Also, to achieve true economic growth we must eventually face up to the issue of establishing sound money. The inflation caused by Congress and the Federal Reserve System will only be interrupted when we challenge the Federal Reserve System, its monopoly power over paper money, and establish a real 100-percent gold standard. Deficits need to be eliminated, monetization of the debt stopped, and trust restored with a 100-percent convertible dollar—a dollar defined as a precise weight of gold.

The free market in labor and wages must be established to prevent the tragedy we face today. Wages must be set in the marketplace, without the use of coercive labor practices, and without allowing closed union shops by legislation. This is the surest road to full employment. In a free market, closed shops are never made illegal but must only be permitted to come about voluntarily. No one should be forced to participate in a labor contract merely by a majority vote of other workers. Where did we ever get the idea that the rights of a minority in the labor market can be eliminated by a vote of the majority? This is hardly my understanding of liberty as fought for by our forefathers. The right to contract one's services at one's own discretion is not a negotiable right. Any labor law that prevents the individual from negotiating his own contract must be repealed if we expect to achieve full employment.

The battle of special interests must stop. Intervention always leads to the conflict of these special interests. The fight to use Government either for labor's benefit or for business' benefit becomes the only issue, rather than the issue of whether or not we should be using Government power to help either group.

Government should be used to protect rights and enforce contracts and should never be used by one group against another. The friction that results always leads to economic problems, as we are witnessing today, and political battles, as we are seeing with the political action committees, creating strong resentment and antagonism between the political factions. Only a free market with sound money and completely voluntary contracts in labor can solve our problems. Forcing

men to work against their will violates the concept of liberty in a most fundamental way and should not be used as a solution of expediency. This legislation should be rejected for economic, constitutional, and moral reasons.

Mr. BROYHILL. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. ROBERTS).

Mr. ROBERTS of Kansas. Mr. Speaker, I appreciate the gentleman yielding. I will not take the 3 minutes.

Mr. Speaker, this is not an issue of whether or not we are destroying the right of a union to settle or to bargain. The issue is time and the issue is effect. I must tell you that our Nation cannot afford a rail strike and agriculture cannot afford a rail strike at this time.

I say that because in our country throughout the Great Plains and throughout the Midwest, we have tremendous crop storage problems now. We have no room for our crops. I was recently in my district visiting 74 small communities. At the local elevators, they are full. We must export this grain. Two-thirds of our grain crop nationally must be exported. Without rail transportation, we are talking about an additional cost of 20 or 30 cents per bushel for my farmers and for farmers all across this country at a time when they cannot afford it.

The issue is not, I repeat again, any kind of loss of collective bargaining. The issue is time. We must settle this now and we must do it on an immediate basis.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS of Kansas. I will be happy to yield to my colleague, the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Speaker, I want to compliment the gentleman and share in the concern that my friend, the gentleman from Kansas, has about the urgency of this situation.

We had a grain millers' strike just 3 years ago that backed up our grain supplies from the port of Duluth-Superior all the way back to farms, that has led up partially to this crisis we face today.

Today we have a crop coming in that we do not even have a place to store and to see our railroads sitting idle for potentially days or even weeks to me is a shocking disregard for the public interest of this Nation's economy.

We can no longer afford to allow a few thousand or a few hundred people hold the productive goods that are produced by America's farmers and industry hostage for their own economic gain.

I strongly support the legislation that is going to be before us for final passage. I strongly reject the Florio amendment, and I thank the gentleman for yielding me the time.

Mr. ROBERTS of Kansas. Mr. Speaker, I appreciate my colleague's comments.

I yield to my colleague and good friend, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of House Joint Resolution 600, to provide a swift resolution of the current labor-management dispute in the rail industry.

While I find it unfortunate that such action is necessary, I believe the seriousness of the situation caused by the rail strike demands congressional action. If this dispute is not resolved quickly, the continuing effects on the economy and unemployment could be disastrous to our recovery efforts. The magnitude of the value of commodities normally hauled by the railroads, as well as the numbers of rail workers and workers in related and dependent industries that are being affected makes this matter one of vital national interest.

The effect of the rail strike is widespread, and the very nature of this industry makes it difficult to estimate its total effect on the Nation. A conservative estimate by Secretary Lewis noted that about $15 billion worth of freight would be halted per month by the strike. Other estimates predict that the strike could cost about $80 million per day including related costs. Employment affected by the strike is estimated at between 400,000 and 1 million persons, depending upon how quickly the strike is settled.

The remaining dispute which caused the rail strike is an interunion matter, and while it is unfortunate that Congress must intercede, the national interest demands that we bring an end to this dispute.

We must act today to forestall the disastrous effects this rail strike will have on our economy.

Mr. ROBERTS of Kansas. Mr. Speaker, I thank my colleague.

Mr. Speaker, this is not a time to talk. It is not a time to bargain. It is not a time to delay. It is a time to end the strike.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I rise in support of the amendment offered by the gentleman from New Jersey (Mr. FLORIO) and take this opportunity to thank him for upholding the most serious responsibility that bears on us as policymakers on a congressional level.

The Congress ought to remember, and sometimes it seems to lapse in forgetting this, that a working man has only one real power and that is all: That is the power to grant or withhold his labor, the right to strike. When a free nation, for whatever proper reason, defines the boundaries of that fundamental power, it has to be awfully careful, because in the absence of the Florio amendment being approved, what we will be doing in adopting the resolution already adopted by the Senate in the terms it has been couched, will be to risk placing our society on the basis of the closed societies, the authoritarian societies. We could create a situation no different from that facing Solidarity in Poland—that is, if we legislate a particular wage, we legislate away free bargaining. We must look beyond this dispute and consider what could happen if the pendulum swung the other way. We might soon find ourselves legislating prices, legislating work rules, and generally substituting the will of Government in place of the free play of economic forces. Certainly there is a crisis here, and certainly we are obliged to act in the national interest, but we should be reluctant, more than reluctant, to intrude so deeply into the historic right of free bargaining. That is what is really at stake here. We can, if we adopt the Florio amendment, serve the national interest, without trammeling the bargaining process.

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise in strong support of this bipartisan resolution which would put our Nation's railroads back to work.

I want to congratulate the leadership on our committee and the subcommittee for bringing this matter to the floor as expeditiously as they have.

The Nation is confronted with a work stoppage which is having the effect of bringing our Nation to its knees. Shipment on America's vital rail arteries has been virtually halted. All across the land commerce is stopped, causing agriculture, mining, manufacturing, steel, retail trade, and all other industries to come to a virtual halt, not to even mention the hundreds of thousands of commuters who are denied the use of our Nation's railroads.

□ 1215

I would like to speak briefly about the impact on America's coal industry, because I am privileged to represent one of the largest producing areas.

Despite the efforts of the railroads to continue service during this strike, the Louisville & Nashville Railroad is now loading fewer than one-third of their normal unit trains in my district. They are loading no individual cars. That means the smaller coal companies are being put under.

In Harlan County alone, the Coal Operators' Association estimated that yesterday only three trains moved.

That is one of the biggest coal-producing counties in the entire country. About 2,000 jobs alone in the mines in that one county are at stake here.

About two-thirds of the southeast Kentucky coal industry has come to a virtual standstill. Why? Because of a relatively insignificant dispute amongst the personnel of the train crews.

The recession compounds the impact even more.

Finally, regarding the amendment for a further cooling-off period, I believe it would be fruitless and even possibly damaging. Yesterday in committee, in response to my question to each party to, and the mediator of the dispute, all parties to the dispute said that there is no hope that further time would be useful or helpful in solving this dispute.

In fact, one of the unions which had reached an agreement, testified that if a further cooling-off period were passed, his agreement very well might unravel, subjecting us to not one, but two railroad strikes, with much more complex issues.

I urge that my colleagues join me in voting down the Florio amendment and passing this urgent resolution.

The SPEAKER pro tempore. The time of the gentleman from Kentucky (Mr. ROGERS) has expired.

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is a debate to some extent between pragmatism and purism. There are many of us on both sides of the aisle who are supporting this legislation and who are opposing the amendment not because we are opposed to collective bargaining—we strongly support collective bargaining. The problem is that 18 months have already been expended in bargaining in trying to reach an agreement plus 60 days of bargaining during a cooling-off period, without reaching an agreement and there is real consensus that an added 140 days will not bring the situation any closer to solution, indeed the opposite is expected.

One out of 13 unions involved has not agreed and so we have the amendment of the gentleman from New Jersey (Mr. FLORIO) to extend the cooling-off period another 140 days.

Fred Hardin, president of the UTU, 156,000 members stated flatly to the Energy and Commerce Committee that his agreement would no longer hold and he could not in good conscience go to his membership and ask for ratification of that agreement, if there was a 140-day extension, at which point a far greater chaos exists after the Florio amendment is passed, than exists today.

The unraveling of the UTU agreement, involving some 136,000 workers, arrived at to date is the most serious impact of the Florio amendment.

Previously, the gentleman from New Jersey called this resolution an unprecedented action. I would like to point out that in 1963, under the terms of Public Law 88-108, a seven-member board was established and did render an award binding on both the carriers and parties to the dispute. That was congressional action. Since 1963, a good half dozen other rail settlements also involved congressional action.

While it would be well to reduce the interference of Government in many areas, this is clearly a case where, after all else has failed, the Government must act.

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the Florio amendment for the very reason that my good friend, the gentleman from Pennsylvania (Mr. RITTER) just stated in opposition to the amendment. This is a question of purist and practical approaches.

The Florio amendment allows both. The practical approach is that it puts people back to work immediately; the purist approach is that it allows the parties involved to bargain collectively in good faith without the Government of these United States stepping in and dictating the circumstances of that settlement.

After consideration of the Florio amendment, I, like the vast majority of the House, will be forced to vote for the resolution to end the strike. The economic situation in our country demands a "yes" vote on the resolution. But it will be a practical "yes" not a proud one. The Florio amendment would combine the practical—the need for rail transportation to resume, with the philosophical—the forebearance because of the Federal Government in dictating labor settlements in the marketplace.

So I rise in strong support of the gentleman's amendment and I applaud him for giving the House a chance to combine a purist philosophy with a practical approach.

Mr. BROYHILL. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise because I am not a member of the committee and there is one particular point that I think is dispositive of this question that needs to be developed by the members of the committee who have worked closely on the issue.

All of us want to preserve the right of free collective bargaining. At the same time, we want to end the problem that we have with our national economy. I am listening carefully because I want to know whether or not the existing agreements between the other unions will be prejudiced if we follow the Florio approach. In other words, would we be getting out of the frying pan into the fire with the Florio approach?

Mr. FLORIO. Mr. Speaker, if the gentleman would yield to me, I would respond to his question.

Mr. BETHUNE. I yield to all Members who have knowledge of the issue and ask them to bring this point out because I think it is dispositive of the issue.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield to me?

Mr. BETHUNE. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, first I ask unanimous consent at this point to put into the RECORD recent congressional action affecting railway labor disputes, for the perusal of the Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The material follows:

RECENT CONGRESSIONAL ACTION AFFECTING RAILWAY LABOR DISPUTES

(Exhibits not included.)

Since the enactment of P.L. 88-108, on August 23, 1963, Congress has passed legislation to assist in the settlement of railway labor disputes or to provide for the settlement of such disputes, on four subsequent occasions.

P.L. 88-108 (Exhibit 1) was the Congressional response to the failure of the recommendations of the Presidential Railroad Commission and Emergency Board No. 154 to resolve certain manning issues between the carriers and the operating organizations. Under the terms of P.L. 88-108 a seven member board was established and did render an award "binding on both the carrier and organization parties to the dispute."

THE SHOP CRAFT DISPUTES

P.L. 90-10 was enacted on April 12, 1967, (attached hereto as Exhibit 2) in order to avoid a strike by the shop craft unions after the recommendations of Emergency Board No. 169 failed to resolve the dispute. The sole purpose of P.L. 90-10 was to extend the status quo provisions of the final paragraph of Section 10 of the Railway Labor Act for an additional 20 days in which the parties might be able to reach settlement. When no settlement was forthcoming, Congress enacted P.L. 90-13 (attached hereto as Exhibit 3), extending the negotiating period and the status quo provisions for an additional 47 days. When negotiations still failed to resolve the issues, and it appeared that a nationwide railroad strike was imminent, Congress enacted P.L. 90-54 on July 17, 1967 (attached hereto as Exhibit 4).

P.L. 90-54 provided for a "Special Board" of five members who were to "mediate" the dispute. If agreement could not be reached within 30 days, the board was to hold hearings concerning the proposal of a Special Mediation Panel previously appointed by the President which was designed to imple-

ment the recommendations of Emergency Board No. 169, to determine whether the proposal "(1) is in the public interest, (2) is a fair and equitable settlement within the limits of the collective bargaining and mediation efforts in this case, (3) protects the collective bargaining process, and (4) fulfills the purposes of the Railway Labor Act."

If the parties had not reached agreement within 60 days after the enactment of P.L. 90-54, the Special Board was to incorporate the proposals of the Special Mediation Panel, with such modification as it found necessary, and transmit a "determination" to the Congress and the President. If the parties had not reached agreement within 90 days after enactment, the determination of the Special Board would take effect and continue in effect for two years from January 1, 1967, unless the parties reached agreement sooner. Lastly, P.L. 90-54 extended the thirty day status quo period of the final paragraph of Section 10 of the Railway Labor Act for an additional 90 days after enactment of the law. Since the parties were unable to reach agreement, the Special Board was forced to issue an award which served to resolve the dispute.

THE 1970 SHOP CRAFT DISPUTE

Public Laws 91-203 and 91-226 evolved from the shop crafts dispute which arose as a result of the failure of the Sheet Metal Workers International Association to ratify the Memorandum of Understanding of December 4, 1969, between the carriers and the shop craft unions, even though it had been ratified by the other railroad shop craft unions which had jointly participated in collective bargaining negotiations.

P.L. 91-203, enacted on March 4, 1970 (attached hereto as Exhibit 5), provided for the extension of the status quo provisions of the final paragraph of Section 10 of the Railway Labor Act, for an additional 37 days. P.L. 91-226 was enacted on April 9, 1970 (attached hereto as Exhibit 6), when the extended time limits of P.L. 91-203 did not result in a settlement and the Congress was again faced with a nationwide railroad strike. P.L. 91-226 resolved the dispute by requiring the parties to accept the Memorandum of Understanding of December 4, 1969, and treat it as "though arrived at by agreement of the parties under the Railway Labor Act."

THE 1970-71 FOUR UNION DISPUTE

P.L. 91-541 was enacted on December 10, 1970 (attached hereto as Exhibit 7), after the recommendations of Emergency Board No. 178 did not result in a settlement between the carriers and the Brotherhood of Railway, Airline and Steamship Clerks; Brotherhood of Maintenance of Way Employes; Hotel and Restaurant Employees and Bartenders International Union and the United Transportation Union. P.L. 91-541 also provided increases in the rates of pay of affected employees by 5% as of January 1, 1970 and by 32 cents per hour effective as of November 1, 1970. These pay increases were the equivalent of the pay increases provided for in the pattern wage settlements of that round of negotiations covering the period of time up to the enactment of P.L. 91-541.

P.L. 91-541 extended the status quo provisions of the final paragraph of Section 10 of the Railway Labor Act for an additional 80 days. If no settlement had been reached within 65 days, the President was to have submitted a report to Congress regarding the progress of negotiations, together with recommendations for a proposed solution of the dispute. Settlements were reached with all but one organization during this time period. The dispute with that organization, the UTU became the subject of litigation and was not resolved until August 1971. No report was submitted by the President.

THE 1971 SIGNALMEN DISPUTE

P.L. 92-17 was enacted on May 18, 1971 (attached hereto as Exhibit 8), after Emergency Board No. 179 failed to secure a settlement between the carriers and the Brotherhood of Railroad Signalmen. P.L. 92-17 extended the status quo provisions of the final paragraph of Section 10 of the RLA for approximately 4½ months. The Secretary of Labor was directed to submit a report on the progress of negotiations and to make recommendations not later than September 20, 1971. The Secretaries of Labor, Transportation, and Defense were directed to submit reports on the impact of the dispute by July 31, 1971. Additionally, P.L. 92-17 provided for retroactive wage increases in accordance with the recommendations of Emergency Board No. 179. The parties were able to resolve the dispute without further Congressional assistance.

Since the passage of P.L. 92-17, there have been no further Congressional actions to assisting in or providing for the resolution of railway labor disputes.

Mr. BROYHILL. Mr. Speaker, there is ample precedent for it.

The SPEAKER pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

Mr. BROYHILL. Mr. Speaker, I yield 1 additional minute to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield further to me?

Mr. BETHUNE. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, the fact is, I hold in my hand the recommendations of the President's Emergency Board. The parties negotiated for some 18 months. The Emergency Board was created, made its report, and all of the various points and the various recommendations of this Board were agreed to, except one union would not agree to the very narrow point of a moratorium on strikes as they continued to negotiate on productivity gains during the life of the contract.

The other union agreed to that. If the Florio amendment is adopted, it means that all of these issues go back to the table, every issue unravels. So we are going to have this dispute right back before us within just a short while. I can guarantee it.

Mr. FLORIO. Mr. Speaker, if the gentleman would yield to me, I would respond.

Mr. BETHUNE. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Speaker, the gentleman's point is correct in all respects but one, which is a very important one: There is no agreement on the part of the two unions involved. The agreement has not even been submitted for ratification.

The SPEAKER pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has once again expired.

Mr. DINGELL. Mr. Speaker, I yield myself 1 minute for the purpose of responding to the question raised by the gentleman from Arkansas.

If Members like rail strikes, they will love the Florio amendment because at the end of the 140-day growing period we are going to have two rail strikes on our hands instead of one.

The reason is that the Florio amendment effectively terminates the ratification process which is about to start by the UTU, whose 250 general chairmen will shortly convene for purposes of ratifying the agreement which the leadership of the United Transportation Union has executed with the railroads and which agreement has adopted the recommendations of the Presidential Emergency Board.

That process will be stopped by the Florio amendment. Eloquent and uncontroverted testimony by the president of the UTU in the 7-hour emergency hearing before the Committee on Energy and Commerce yesterday leaves no doubt whatsoever on that point.

The Florio amendment will stop the strike by the Brotherhood of Locomotive Engineers; it will also anticipate a strike by the UTU due to termination of the ratification process and assure that all of the issues now settled by the UTU with management in its collective-bargaining agreement will be reopened.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. DINGELL. I yield myself 30 seconds in addition.

The consequences of this will be that in exactly 140 days, we will be back to deal not with one strike, but with two, and not with one issue in dispute between the engineers and the railroads, but potentially with every one of the issues which have now been resolved both with regard to UTU and with regard to the Brotherhood of Locomotive Engineers.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield to me?

Mr. DINGELL. I yield to the gentleman.

Mr. BETHUNE. Mr. Speaker, I thank the distinguished leaders on the committee for responding. I hope this will continue to be developed as the debate goes on. I do think it is the dispositive issue.

Mr. FLORIO. Mr. Speaker, I yield myself the balance of my time in order to conclude on this portion of the debate.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FLORIO) is recognized for 2 minutes.

Mr. FLORIO. Mr. Speaker, I would like to express my admiration for the very artful and creative interpretation of my amendment that has been offered by the distinguished chairman of the full committee. Unfortunately, it bears no relationship to the merits of the amendment.

The idea of two strikes being promoted is really obfuscating the basic issue. What we are talking about is a proposal that came from the administration's commission that both brotherhoods are in agreement on all points but one minor point with regard to wage differential.

Neither brotherhood has submitted the agreement or the parts of the agreement to their members.

What we are saying now is that we would not impose this agreement on the brotherhoods and management. What we are saying is that they should go back and try to resolve this one remaining portion of the total contract agreement.

For 140 days, there would be no strike by any of the parties. If, in fact, there were no agreement at the end of 140 days, we would be in no worse position than we are right now, there would be no strike, the Congress, if it wants to come forward with this rather radical approach of imposing collective-bargaining agreements on private parties, could do that.

I am convinced we will not be in that position because I am convinced that this minor point in this agreement can be resolved with no detriment to the other brotherhood, and I think we can go forward in that way.

I think that is much better policy, not only for this particular dispute but for the longtime economic health of this Nation. To go off into a direction where Government dictates the terms of private contracts is to go down a road where we do not know where we are going to end, and I suspect we will end at some place where none of us want to be.

So I would ask for the support of this body for the amendment that I will offer immediately after the conclusion of debate. I thank the body for its support.

The SPEAKER pro tempore. All time of the gentleman from New Jersey (Mr. FLORIO) has expired.

Mr. BROYHILL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the resolution, against the amendment. I also believe the gentleman from Michigan does not obfuscate; he clarifies. I ask unanimous consent to revise and extend my remarks.

Mr. BROYHILL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. Mr. Speaker, I would like to review what is at issue here and what the choices are.

We have a dispute under way here between two unions and a company. The dispute really boils down to one point, and that is wage differential.

The locomotive engineers are demanding a wage differential, not in average wages but in absolute terms. As I understand it from attending the hearings and from having read the statements, there is not a real dispute about the offer of $45,000 a year under the new contract for locomotive engineers. The dispute centers around the fact that as a result of "lonesome pay," a carryover from our effort to try to eliminate featherbedding, and because of differences in seniority, there may be other members of the crew that have long seniority and because we are eliminating a position on the train and paying "lonesome pay" as a price to get that featherbedding ended, there may be some relatively junior engineers who will make less than other members of the crew who may be quite senior.

This is not an uncommon practice. A senior noncommissioned officer will make more money than most captains, all first lieutenants, all second lieutenants, because of seniority; something the unions have fostered over the years.

The question we face is: Are we going to allow a dispute between unions about differentials in wages to cost the economy a million jobs in 2 weeks, to cost the economy $15 billion a month, to cost the Federal Treasury $3 billion a month in lost revenues, to take an economy that is stumbling into a recovery and force that economy back into a deep recession?

I say no. I say that is something that we cannot allow.

Do we prevent collective bargaining from continuing by passing the Broyhill-Dingell resolution? The answer is no. We simply ask that the parties go back to work and that this very small and narrow wage differential dispute be negotiated during the period that they are working.

I think that is a reasonable approach. I support the Dingell resolution and oppose the amendment.

□ 1230

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my good friend and colleague, the gentleman from Texas (Mr. DE LA GARZA), the chairman of the Agriculture Committee.

Mr. DE LA GARZA. Mr. Speaker, I thank my colleague, the chairman of the Committee on Energy and Commerce. My responsibility as chairman of the Committee on Agriculture is to advise the Members of the terrible impact that the stoppage of the railways would have on agriculture and on the consumers—the housewives, the homemakers, those who consume the produce and vegetables, the products of the farm.

It comes at a very difficult and devastating time for agriculture, to say the least, when income is at its lowest since the Great Depression. A large percentage of the fruit and vegetables that come out of Florida, to the West and Midwest, and from California east, and on a smaller percentage from Texas come by rail. The greater amount, most of the grains, come by rail and barge or rail and/or barge, and a stoppage would be very, very devastating and would cause untold suffering to all of those who work in all of those endeavors, beginning with the initial producer and eventually in having an increased cost to all consumers.

I feel that I should in a responsible way state that I would allow the technical aspects to the members of the committee and to the House to decide on the philosophical or technical aspects of the amendment and the resolution, but I had hoped that this problem would reach this stage that there would have been some accord reached. I think now, that our responsibility is to the security of the Nation. However the Members do it technically, I would leave that to the House and members of the committee who are most knowledgeable in this respect.

My intent here is to tell the Members and, in effect, to warn the Members of the possible tremendous dollar impact it can have on the American producers and the consumers.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I rise in support of the committee bill and in opposition to the amendment. In opposing this amendment, I do so with some serious personal reservations because the gentleman from New Jersey (Mr. FLORIO), is one of the most knowledgeable and able Members ever to sit on the Committee on Energy and Commerce. Because his reputation for ability and fairness is so well regarded on both sides of the House, I find myself in a strange position opposing any amendment he proposes.

However, I believe this is a situation where we are faced with a most pressing national emergency and that the amendment, merely puts off and would perhaps exacerbate a crisis which will only occur again if it is not addressed today.

We are dealing here today with a very small part of an otherwise collectively negotiated agreement. The overwhelming number of issues have been resolved between the union and the railroads. Only one issue remains in dispute and unfortunately there are no indications that agreement can be reached if more time is allowed.

Should the amendment prevail, the trains would be back on schedule for 4 months and then we would face another crisis, and perhaps one that would then involve the very large United Transportation Union as well as the Brotherhood of Railway Engineers.

The committee is to be commended for its judgment of how to avoid what otherwise will be a disastrous economic consequence. Should this strike continue, we can anticipate the possibility of our economy losing $80 million a day which could amount to over $2 billion in 30 days. It could mean that 1.5 million uninvolved workers would be unemployed.

The railway transportation system is so basic to the national needs of the country that it is an unusual circumstance where the Congress must intervene, but I think it must. I think the decision that has been made by the committee is wise. I think it meets with the ends of justice and stays with the tradition of collective bargaining. I think in this case the amendment is not wise and should be rejected; the bill should be adopted, by an overwhelming vote on both sides of the aisle that I believe will carry not only the conviction of this Congress, but will commend itself to all the parties and the country as a whole.

Mr. BROYHILL. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Speaker, I rise in support of House Joint Resolution 600. This resolution would end the unnecessary railway labor strike and remove the threat of shutdowns and layoffs for millions of American workers.

In my own area of Richmond, Va., and in many other places across the country, factory managers are already making plans for shutdowns if they continue to be unable to ship their products. Such economic idiocy would be inexcusable under any circumstances, but in the present conditions it is even more appalling than usual.

This strike is not a question of underpaid workers fighting management for fair wages and better working conditions. It amounts to an internecine squabble between two rail labor unions with the management, railroad customers and our national economy and defense held hostage. Working conditions and wage rates are not in dispute. The only outstanding issue is a demand by the railway engineers that they remain the highest paid members of a train crew, no matter what.

Even more importantly, the effect of a train strike, given the present state of the Nation's economy, would be particularly devastating. Unemployment is over 9 percent. Unnecessarily throwing millions of more Americans out of work would certainly lead to even greater economic problems, ending jobs and denying products to customers.

Mr. Speaker, no group should be allowed this kind of power over the economy. We must not allow this petty spat to ruin the lives and jobs of millions of Americans. I urge my colleagues to support this resolution.

Mr. BROYHILL. Mr. Speaker, I yield the balance of my time to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, first I want to congratulate the gentleman from Texas (Mr. GRAMM) for putting the argument so succinctly just a few moments ago as to why we ought to support the legislation reported from the committee; and also the gentleman who just preceded me, the gentleman from Washington (Mr. FOLEY), for setting forth the good reasons why we ought to reject the Florio amendment and stay with what the committee originally did.

Seldom in the deliberations of this body are the lines of controversy so clearly drawn. On the one side we are faced with a serious threat to the national economy and the national defense. On the other side is the unresolved issue of those pay differentials for the operating engineers. The legitimacy of the engineers' case is not at issue. The health of our national economy is the issue, and this legislation provides ample opportunity for the engineers to resolve their disagreements through negotiation.

The legislation simply requires that vital rail service is provided while those negotiations are in progress. We in this Congress, it seems to me, have an obligation to act in the best interests of the country as a whole and not put it off for some later date when it may or may not be more convenient. We have an obligation to insure the flow of the $15 billion worth of essential commodities each month, particularly now during this harvest season so important for the agricultural community. We have an obligation to maintain employment for the more than 1 million workers who ultimately will be laid off should the strike persist.

We also have an obligation as well to those untold thousands of people who depend on the rails for transportation or depend upon the rails for the delivery of vital goods and services.

This legislation, in my own mind, in no way jeopardizes or threatens the collective bargaining process, nor does it establish precedent on which other labor negotiations or strikes can be subjected to unwarranted interference by this Congress. The situation, no question about it, is unique. All these other major unions have reached agreement, and we do not find one union pitting itself against another in a situation like this when we really get down to the bottom line.

It has reached the point where we do have to intervene in this very unique situation and make that ultimate decision. All the other major issues between labor and management have been resolved. We have already exhausted all the means of resolving the dispute. What we have left before us is a really legitimate and dangerous threat to the Nation at a time, frankly, when every job counts, at a time when we must squeeze from our economy every single bit of productive energy we have. This is the time, and these are circumstances which demand decisive, responsible action from this Congress for the sake of the public good. It is a time to act, and so let us do it right here and now without any further delay.

Mr. DINGELL. Mr. Speaker, I yield 6 minutes to my distinguished friend, the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I rise in support of the bill. I think it is the clear responsibility of the Congress to act and to act decisively today.

This strike is costing the American economy about $80 million every day it continues. This means, if it were to continue a week, it would inflict a blow equivalent of about $560 million, more than half a billion dollars, on our ailing economy. If it went on for a month, the cost to all of us as Americans would be $2.5 billion.

One of the automobile plants already has been closed by reason of the strike, and I am advised that if it were to continue through Thursday of this week, the rest of them would be closed and idled because materials and equipment are unable to move into the plants and finished automobiles are unable to be moved out of the plants.

If this strike were to continue for 3 weeks, an additional 1,400,000 Americans would be thrown out of work. Most of these people are not parties to the strike, but they would join that enormous number, probably 12 million, already out of work, and become innocent victims of the Government's unwillingness or inability to act.

American agriculture, already reeling from the effects and the frustrations of the recession, would be dealt a devastating blow by continuation of this strike. Think. At this moment it is harvesttime in much of the country. In the next few weeks the harvest will be ripe in most of the country. A continuation of this strike would mean that at this particular moment the movement of perishable goods would be retarded and they doomed to rot by railroad sidings. Grain, at the time it is coming ripe, when hard-hit grain farmers of the Midwest have their only opportunity of the entire year to recoup a year of losses, would be unable to be moved from the farms to the grain elevators. That which had

reached the grain elevators could not be moved from the grain elevators to the markets of the country and abroad.

Coal would be stopped from movement, and still more coal miners would be thrown out of work. Exports of all kinds would fall precipitately, and our balance-of-payments position would suffer further. When that happens, all Americans suffer.

The movement of 30 to 40 percent of our vital defense commodities goes by rail. The continuation of the strike would stop the movement of that 30 to 40 percent of our defense commodities.

It is true that a free government composed of free institutions honors free choice and exhibits restraint. This Government certainly cannot be accused of doing otherwise in this instance. Government-sponsored mediation has been in process for 18 months, and I want to congratulate those, both of labor and of management, for their earnest attempts to solve this problem during those 18 months of peaceful negotiation.

The solution for the most part has been agreed to. The big issues have been resolved. All issues have been agreed to so far as most of the workers are concerned, and most of the management.

And so, while government in a free nation must exhibit restaint, it must not exhibit paralysis. For us to fail today to stop this strike and get America's rails moving again in the national interest would be for us as a nation to exhibit paralysis. It would be for the Congress to be guility of a dereliction to the American economy and the innocent Americans who would suffer further in this already severely damaged economy if we were to allow this strike to continue.

Therefore, in the interests of the country I think we have the opportunity and the responsibility today to demonstrate the will and the capacity to act decisively and immediately, and to put these Americans back to work before the damage that is inflicted becomes irreparable.

● Mr. MOFFETT. Mr. Speaker, I will support passage of this legislation which directs the Brotherhood of Locomotive Engineers to return to work, and which requires the union to do so under the terms dictated by the President's Emergency Board. I support the legislation, but do so reluctantly.

Clearly, this strike must not continue. The data show that the strike is costing us about $80 million a day. And, information submitted to the House Energy and Commerce Committee—my committee which produced this resolution—indicates that if the strike continued, we would see 1 million workers layed off. Thus, the issue before us is not whether we want to see the strike end. The real question involves whether this is the best way to proceed: Should Congress intervene by legislation in the collective bargaining process convened by management and labor?

Since 1960, Congress has acted in only six labor disputes where it was deemed that the national interest was at stake. But it is unprecedented for Congress to dictate to a union the terms under which it would return to work. The prior legislative efforts either mandated a cooling-off period within which the parties in dispute would negotiate; or, it required the parties to submit to binding arbitration. In these instances, the legislation provided that the decisions of the mediating boards were final.

This dispute is particularly knotty. Twelve of thirteen railroad crafts have agreed to a contract. One union, the Brotherhood of Locomotive Engineers, has not. Secretary Lewis told our committee, in hearings convened yesterday, that a further cooling off period might put the other crafts in the position of vetoing the agreements which their union representatives accepted. Because it would shake the economy to act in such a manner as to terminate all 13 agreements, our committee was advised to accept the administration's proposal and pass this legislation.

It is difficult to forecast whether this assessment is correct. It would be consistent with our experience during the prior work stoppages, addressed in the years since 1960, to mandate a cooling-off period. This would have the effect of returning the engineers to work and continuing the negotiations. Congress could pass such a resolution and we could revisit this issue next year if the negotiations are unsuccessful. However, the Senate has acted to order the engineers back to work under the terms dictated by the Emergency Board; our committee voted today in favor of an indentical resolution; and, it appears likely that we will approve the legislation without adding the cooling-off period. As I said earlier, given the dire state of our economy, this is a decision which I support.

Nevertheless, I find this process somewhat troubling. In the case of PATCO, and in the case here today, our Government has made the policy decision to deprive labor of its right of self-help. We have decided that the needs of the economy outweigh completely the rights which we, as a free society, have accorded to labor. Clearly, we have to draw the line somewhere. But it is not in the ultimate best interests of this country to make industrial policy, through Government intervention, only in crisis circumstances. Can we say with complete accuracy that a rail strike requires more Government attention than a string of corporate takeovers which tie-up billions of dollars in credit? Can we make the claim that Government intervention in a labor dispute is more appropriate than emergency planning to guard the economy against an oil shock? This is a decision which the Reagan administration has made. Can we justify doing nothing about the penetration of imported automobiles—as the administration asserts we must when a legislative solution is available—and act decisively in this instance to block a rail strike? How do we decide in each of these instances where to draw the line?

We have a free enterprise system which we all support. And all of us here today take this action with some reservations. We face a crisis; and, clearly Congress should act. But when our economy is suffering as it is, our industrial policy needs to be somewhat broader than merely passing bills which return labor unions to work.

There are alternatives.

For months, I have advocated an economic summit to be called at Camp David by the President. In such a setting, labor, management, expert economists, small businessmen, and business women, and Members of Congress could meet and agree on positive policies, arrived at on a nonpartisan basis. The Economic Policy Task Force of the Democratic Caucus has made a similar recommendation in terms of the establishment of a coordinating council. Recently, I was joined by our colleagues JOHN DINGELL and PETER RODINO in introducing legislation to establish a Select Committee on Reindustrialization. This would be an appropriate forum for the House to arrive at consensus policies for an economic alternative to the President's program. There is no shortage of alternatives, no shortage of energy, and certainly tremendous need for us to work cooperatively on solutions to our economic distress.

Regardless of whose proposal we adopt, I think it is clear—in light of the debate taking place here today—that we need more assertive leadership in the formulation of economic policy. Further, we need to avoid legislating in the midst of a crisis, particularly when the crisis calls for us to intervene in the collective bargaining process. We can, we must, do better.●

● Mrs. COLLINS of Illinois. Mr. Speaker, today I am supporting House Joint Resolution 600, the Emergency Railroad Strike Act, with guarded reservation. I am not now, nor have I ever been in favor of interfering with or infringing upon the basic legitimate right of unions to engage in collective bargaining activities. However, in today's depressed economy, a broader issue comes to the fore: That of how this strike will affect millions of persons across the Nation. Already as an immediate result of this strike, coal mines, and autoplants have begun to

shut down. Inasmuch as trains carry almost all grain and produce, as well as coal, steel, and other basic heavy industrial materials, a prolonged strike will have disastrous effects upon the Nation's economy and exacerbate the critical unemployment situation this country now faces.

In the Chicago area alone, 6 of the 7 rail commuter lines were shut down Monday and about 120,000 commuters were left looking for alternative means of transportation. According to Tuesday's Chicago Sun Times and Chicago Tribune, the situation was not much better the next day. If the strike were allowed to continue, the Department of Transportation estimates that unemployment for the State of Illinois will reach 20,000 in the first 2 weeks and will total a staggering 45,000 at the end of 4 weeks. The steel industry in Illinois is expected to layoff 1,600 within the first 2 weeks and an additional 3,600 during the first month.

In light of the precarious position facing the auto, steel, and construction industries, the least desirable event would be the continuation of a massive railroad strike which threatens to halt the flow of $15 billion worth of commodities and other goods shipped by rail each month and would take our faltering economy further downhill. In the interest of putting America back to work, and keeping Americans working, I am supporting the Emergency Board's recommendation to end the strike. However, it should be made clear that this extreme measure, sought solely because of the compelling circumstances and unique nature of the dispute, should not set a precedent for future intervention into the collective bargaining process by this or any other administration.●

● Mr. WIRTH. Mr. Speaker, in consideration of the Florio amendment, the House is considering legislation that puts most Members between the proverbial "rock and a hard place." I am personally sympathetic to the rights of workers to strike, and so I support the right of the engineers in taking the only recourse they feel is available to them. They did not take this action casually. It is a painful decision, but it is their right.

The strike, however, has serious implications for our already battered economy. The Reagan economic program has given us record deficits and brutal unemployment rates. A rail strike aggravates these problems—witnesses testified yesterday that the strike could cost our economy anywhere from $80 to $1 billion per day. As industrial plants close around the Nation unemployment would spread widely. A long strike could devastate our Nation.

Compounding the problem is the consensus of the parties involved that an additional cooling off period would accomplish little. Witnesses before the Energy and Commerce Committee seemed to agree that another 60 or 100 days of negotiation would not resolve the pay differential issue.

My reluctant decision is to support Senate Joint Resolution 250. In taking this course I fear the effect this might have in setting a precedent in future labor controversies. I fear the effect this action might have on management—if Congress is willing to intervene on their behalf in this instance, perhaps management will be more willing to play negotiations to the last dollar in other instances. Yet, the economic stakes are too high here, and despite my serious reservations I see no alternative but to support Senate Joint Resolution 250 and oppose the Florio amendment.●

Mr. DINGELL. Mr. Speaker, pursuant to the previous order of the House, I yield to the gentleman from New Jersey (Mr. FLORIO), whom I designate to offer the amendment which was set forth in the previous order of the House.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer an amendment in the nature of a substitute to end the strike and preserve the integrity of the collective bargaining system.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FLORIO: Strike out all after the resolving clause and insert in lieu thereof the following:

That, to provide additional time for the parties to resolve a labor dispute that threatens substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service—

(1) the parties to the dispute between the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference and certain of their employees represented by the Brotherhood of Locomotive Engineers shall take all necessary steps to restore service, and the status quo of the parties shall return to that which was in effect prior to 12:01 antemeridian of September 19, 1982, and the parties shall continue such status quo until at least 140 days after the effective date of this joint resolution; and

(2) any rail labor union which is operating under collective bargaining agreement with the carriers represented by the National Carriers' Conference Committee of the National Railway Labor Conference, and with respect to which the 30-day period described in the last sentence of section 10 of the Railway Labor Act has expired after September 1, 1982, shall take all necessary steps to maintain service as in operation prior to 12:01 antemeridian of September 19, 1982, and the parties to such agreement shall maintain, until at least 140 days after the effective date of this Joint Resolution, the status quo as in effect prior to 12:01 antemeridian of September 19, 1982.

SEC. 2. This resolution shall take effect immediately upon enactment.

1245

Mr. FLORIO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House of September 21, 1982, the previous question is considered as having been ordered.

The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey (Mr. FLORIO).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FLORIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 37, nays 361, not voting 34, as follows:

[Roll No. 355]

YEAS—37

Applegate	Kastenmeier	Schumer
Bethune	Leland	Seiberling
Brown (CO)	Marks	Simon
Dellums	Marlenee	Stangeland
Dowdy	Miller (CA)	Synar
Eckart	Mottl	Tauzin
Florio	Napier	Volkmer
Foglietta	Obey	Walgren
Gaydos	Paul	Waxman
Gephardt	Perkins	Williams (MT)
Gonzalez	Petri	Young (MO)
Gradison	Reuss	
Jeffords	Roemer	

NAYS—361

Akaka	Brodhead	Daniel, R. W.
Albosta	Brooks	Dannemeyer
Alexander	Broomfield	Daschle
Anderson	Brown (CA)	Daub
Andrews	Broyhill	Davis
Annunzio	Burgener	de la Garza
Anthony	Butler	Deckard
Archer	Byron	DeNardis
Ashbrook	Campbell	Dickinson
Aspin	Carman	Dicks
Atkinson	Carney	Dingell
AuCoin	Chappie	Dixon
Badham	Cheney	Donnelly
Bailey (MO)	Clausen	Dorgan
Bailey (PA)	Clay	Dornan
Barnard	Clinger	Dougherty
Barnes	Coats	Downey
Beard	Coelho	Dreier
Bedell	Coleman	Duncan
Bellenson	Collins (IL)	Dunn
Benedict	Conable	Dwyer
Bennett	Conte	Dymally
Bereuter	Conyers	Dyson
Bevill	Corcoran	Early
Biaggi	Coughlin	Edgar
Bingham	Courter	Edwards (AL)
Bliley	Coyne, James	Edwards (CA)
Boggs	Coyne, William	Edwards (OK)
Boland	Craig	Emerson
Boner	Crane, Daniel	Emery
Bonior	Crane, Philip	English
Bonker	Crockett	Erlenborn
Bouquard	D'Amours	Evans (DE)
Brinkley	Daniel, Dan	Evans (IA)

Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gejdenson
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schroeder
Schulze
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stark
Stenholm
Stokes
Studds
Stump
Swift
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Walker
Wampler
Watkins
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Zablocki
Zeferetti

NOT VOTING—34

Addabbo
Bafalis
Blanchard
Bolling
Bowen
Breaux
Brown (OH)
Burton, John
Burton, Phillip
Chappell
Chisholm
Collins (TX)
Derrick
Derwinski
Erdahl
Ertel
Evans (GA)
Fithian
Forsythe
Garcia
Grisham
Huckaby
Leach
Mattox
McCloskey
Moffett
Rousselot
Schneider
Stanton
Staton
Stratton
Washington
Weiss
Young (AK)

□ 1300

Mrs. FENWICK, Mr. TAUKE, and Mr. DREIER changed their votes from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. MARTIN of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 383, noes 17, not voting 32, as follows:

[Roll No. 356]

AYES—383

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOES—17

Ashbrook
Clay
Conyers
Crane, Daniel
Crane, Philip
Dellums
Dymally
Leland
Marks
Marlenee
McDonald
Mitchell (MD)
Paul
Rangel
Savage
Simon
Williams (MT)

NOT VOTING—32

Addabbo
Bafalis
Blanchard
Bolling
Bowen
Brown (OH)
Burton, John
Burton, Phillip
Chappell
Chisholm
Collins (TX)
Crockett
Derrick
Derwinski
Ertel
Evans (GA)
Fithian
Forsythe
Garcia
Grisham
Hansen (ID)

Mattox	Schneider	Washington
Moffett	Stanton	Weiss
Railsback	Staton	Young (AK)
Rousselot	Stratton	

□ 1315

Mr. DANIEL B. CRANE and Mrs. ASHBROOK changed their votes from "aye" to "no."

So the Senate joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERSONAL EXPLANATION

Mr. HANSEN of Idaho. Mr. Speaker, I was inadvertently detained on constituent business during rollcall No. 356 on Senate Joint Resolution 250. Had I been present, I would have voted "aye."

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit tomorrow during the 5-minute rule to mark up the bill, H.R. 6514.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONTINUING APPROPRIATIONS, 1983

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 596 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 596

Resolved, That upon the adoption of this resolution it shall be in order to consider the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes, in the House, and the previous question shall be considered as ordered on said joint resolution to final passage without intervening motion except (1) one amendment only to change the date on page 7, line 20, and on page 8, line 13, to another date certain, and said amendment shall not be subject to amendment or to a demand for a division of the question and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield 30 minutes, for purposes of debate only, to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 596 provides for the consideration of House Joint Resolution 599, making continuing appropriations for fiscal year 1983. As my colleagues are aware, none of the regular 13 appropriations bills have been sent to the President for his signature and the new fiscal year begins next Friday. As a consequence, the Congress again finds itself in the position of having to adopt a continuing appropriation in order to keep the Government functioning after the beginning of the new fiscal year.

Because it is imperative that some funding mechanism be in place by next Friday in order to prevent the chaos we experienced last year, the Committee on Rules has granted a rule that expedites the consideration of the continuing appropriation. Mr. Speaker, House Resolution 596 is a relatively straightforward rule. It provides for the consideration of the joint resolution in the House. The previous question is considered as ordered on the joint resolution to final passage without intervening motion except for the offering of one amendment to change the termination date of the continuing resolution and a motion to recommit. The Committee on Appropriations reported House Joint Resolution 599 with an expiration date of February 28, 1983; it is anticipated that the minority may offer an amendment to the continuing resolution that will continue it only until the 97th Congress adjourns sine die.

The procedure for consideration of the continuing appropriation, under the rule, will be as follows: The joint resolution will be considered in the House under the 1-hour rule. During that hour an amendment to change the termination date could be offered. At the conclusion of debate a motion to recommit could also be offered. At that time a vote on passage of the resolution would occur. There could, of course, be votes on both the amendment to change the termination date and the motion to recommit.

Mr. Speaker, House Joint Resolution 599 as reported, provides continuing funding authority through February 28, 1983, for the agencies and departments which will not have had their regular appropriations bills enacted into law by October 1. The resolution sets the funding levels for the programs funded under the appropriations act for Agriculture; Commerce-Justice-State; District of Columbia; energy and water development; HUD-independent agencies; Transportation; and Treasury as follows:

For House-passed appropriations bills, the level would be set at that in the House bill or the fiscal year 1982 level, whichever is lower;

For bills that have passed both Houses, the level would be set at the lower of the two bills;

For bills that have passed both Houses but only one House has funded a particular program, the level for that program would be that contained in the bill, or the fiscal year 1982 level, whichever is lower.

The resolution provides continuing authority for the programs funded by the Labor, Health and Human Services, and Education and Interior appropriations bills at the fiscal year 1982 level.

The resolution provides continuing appropriations for defense programs at the fiscal year 1982 level until the House Appropriations Committee reports the defense bill, at which time the level would be adusted to reflect the House-reported bill and subsequent House action.

For foreign aid, the funding would be the fiscal year 1982 level in the Foreign Assistance Appropriations Act (Public Law 97-121) or at the level requested by the administration, whichever is lower, except for assistance to Israel which would be the level set in Public Law 97-113.

In the area of military construction, the resolution provides funding at the level in H.R. 6968, as passed by the House. Finally, the resolution funds the legislative branch at the level contained in the bill, H.R. 7073, as reported from the House Appropriations Committee.

Mr. Speaker, a number of Members would have liked to have had the opportunity to amend the continuing resolution. However, the Committee on Appropriations requested this rule and it was the consensus of opinion in the Committee on Rules yesterday that allowing other amendments would not serve the purposes of the House at this time. In the interest of continuity of the Federal Government, the Committee on Rules has granted the request of the Appropriations Committee. I would urge my colleagues to adopt this rule so that the House can expeditously consider the continuing appropriation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, we all know that the Congress is going to recess in a few days until after Thanksgiving, or at least that is the word I have. And we all know that the various agencies and departments of Government must continue operating until we come back and finish the appropriation bills. Therefore, the continuing resolution is absolutely necessary, and I support it.

I support the rule and I ask for a favorable vote.

A number of opponents to certain provisions in the continuing resolution came before the Rules Committee and wanted a separate vote on this or that. I urge the Members to vote for the previous question, should a fight be made to defeat it. If the legislation should be opened up to amendment, we would be here until Christmas.

Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. CONTE), the distinguished ranking minority member of the Committee on Appropriations.

Mr. CONTE. Mr. Speaker, I do not support closed rules except in the most extraordinary circumstances. But continuing resolutions are, by definition, extraordinary.

The resolution that we will consider here today is an appropriation bill for virtually the entire Government. I cannot believe that this House will open the resolution up to amendment, tie itself up in knots for weeks with amendments on every controversial issue under the Sun while funding for nearly all of the Government stops dead. And that is what will happen, Mr. Speaker, make no mistake about it. The Government is going to stop dead.

Many Members have talked to me. All have amendments that are truly important to them. Many have amendments I would vote for. My good friend, BOB EDGAR, has one on the Tennessee Tombigbee. I join with him every time on that amendment. My friend, LARRY COUGHLIN, and others, have one on the Clinch River, and I support that one. The gentleman from Michigan has a housing amendment; the gentleman from California (Mr. MCCLOSKEY) has an amendment to the foreign aid section. I have had dozens of Members come up to say they have an amendment to the continuing resolution. It reminds me a little of the fellow in Italy, who lived in Sicily. He saved all of his money all of his life to go to Rome. He saved all of his money, bought a donkey, and started traveling through all the little towns on his way toward Rome. In every town he would pass through someone would stop him and ask, "Where are you going?" He would say, "I am going to Rome." They would say, "Will you take this little package to Rome, to my aunt and uncle, and give it to them when you get there?" He was a good-hearted guy, and he said, "Yes." And he put that gift on the donkey. That happened in every town. By the time he got to the outskirts of Rome, his donkey was so weighted down that it dropped dead. And the poor guy had to turn around and go home.

That is what is going to happen to this continuing resolution. If we permit all these possible amendments to be added here, it is going to sink by its own weight, and we will not have a measure completed in time to keep the Government running.

We could have had this rule yesterday, when the chairman, my good friend from Mississippi, asked for unanimous consent, but the gentleman from Pennsylvania (Mr. WALKER) saw fit to object to it. That is why we have this trouble today. And that is why we will be in big trouble if the previous question is knocked down. As worthwhile as these amendments may be, and I favor many of them, they are going to kill this continuing resolution, and we will find ourselves here at midnight on September 30 with another crisis on our hands.

These amendments have a place and a time, but not on this resolution.

The committee will do its best to bring the general appropriation bills to the floor, either before the election, or during the special session.

Amendments can and should be offered to those bills, not to this continuing resolution.

Some Members think the rate for defense is too high. Some Members—including this Member—think the funding for health and education is too low.

But if we open this resolution for amendment, as sure as I am standing here, there will be no funds for these programs on October 1.

There will be no funding for education programs, or health programs, or the Department of Defense, or for food stamps, or for the child nutrition programs. There will be no veterans benefits, and no social security, because the administrative costs and funds for mailing checks are provided by this continuing resolution.

Think about it.

It is an election year, and I know that many Members truly believe that an amendment to this resolution would help them politically.

But if this rule is defeated, and the resolution is open for amendment, on October 1 the people will not remember that little amendment when the Government closes, and the social security checks stop.

I know it is difficult for Members to look beyond the resolution before us, but I truly believe that in this case the right thing for the country is also the right thing politically. Support the rule.

□ 1330

I hope, I truly hope, the Members will see the wisdom of leaving this continuing resolution the way it is, not offering any amendments, and voting for the previous question.

There will be one amendment which I will offer as a motion to recommit. That will be to change the expiration date of the continuing resolution. The chairman has put the expiration date at February 28. I will move to change it to sine die, 97th Congress. That will give all the Members who have amendments an opportunity to do two things: First, to propose their amendments to the regular appropriations bills that will be becoming to the floor; and if those regular bills are not brought up, then there will be a second opportunity to propose those amendments on a further continuing resolution.

With respect to the Members who had wanted to offer amendments pertaining to the energy and water section of this resolution, I stand before them and I promise that if we have another continuing resolution and we do not have that energy and water bill out here before that, I will not support another continuing resolution unless the Members have the opportunity to offer amendments on Clinch River and Tennessee-Tombigbee.

I think this is a fair bargain.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. EDGAR) for purposes of debate only.

Mr. EDGAR. Mr. Speaker, I rise with a great deal of uncertainty about this rule and about the continuing resolution.

As I testified yesterday before the Committee on Rules, we are coming up to the pressure point in Congress where all of the appropriations bills are backed up; and there is some indication that some of those appropriations bills may never become law.

Those of use who are strong advocates of having an opportunity or a right to vote on individual amendments in some of those appropriations bills are attempting in some meager way to protect our rights.

Yesterday we tried to convince the Rules Committee that it was important to have certain amendments offered, particularly those that came within a few votes last year of either eliminating a project or reducing the funding for that project.

I wonder if the chairman of the Energy and Water Development Subcommittee of the Committee on Appropriations might answer a question relating to the uncertainty that we have about this rule and about the whole continuing appropriations process.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, I would be glad to point out that the energy and water development appropriations bill for 1983 has been reported from the full committee; and we would try to be ready when the leadership finds the time to bring it to the floor.

Mr. EDGAR. If the gentleman would comment further, does the gentleman have any indication that the leadership plans not to bring the

energy and water bill up prior to the 8th of October when the House is supposed to adjourn?

Mr. BEVILL. I have no information on that. As I say, this is a matter the leadership will control. I can say this: Our bill, every year, has been one of the first appropriations bills to reach the President's desk. That is without exception. It is one of the first.

Mr. EDGAR. The gentleman sees no reason why prior to the election of this year or prior to our lame duck session we could not complete action on the gentleman's bill?

Mr. BEVILL. Whenever the leadership finds time on the calendar, we will do our best to be ready to go.

Mr. EDGAR. I would ask the gentleman for one additional assurance so we could end some of the confusion on whether to support the rule and support the continuing resolution.

It is not the gentleman intention to ask the Rules Committee for a rule prohibiting an up or down vote on either the Tennessee Tombigbee Waterway or the Clinch River breeder reactor?

Mr. BEVILL. We have never asked that. As the gentleman knows, the gentleman has been attacking those projects for years. I do not think a few weeks are going to make much difference. The gentleman will have an opportunity; and we have never asked for a closed rule that would prohibit amendments on the energy and water development appropriation bill. Certainly we have no plans to do so.

Mr. EDGAR. I thank the gentleman for responding to my questions.

Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, as the members of the Rules Commitee know, some 102 Members of this body wrote to the chairman of the Rules Committee asking for a chance on the continuing resolution to have a vote on the Clinch River breeder reactor. That is not permitted by the rule that was put out by the Rules Committee, and I am not going to fight this rule based on the assurances that I have received from the distinguished chairman of the Energy and Water Subcommittee of the Appropriations Committee, the gentleman from Alabama (Mr. BEVILL), in his colloquy to the gentleman from Pennsylvania (Mr. EDGAR) and also to me that the bill is ready for consideration by this House.

I assume that is the case in connection with Clinch River. The bill is ready to be brought to the floor and the gentleman is prepared to ask the leadership to bring the bill to the floor before the election recess.

Do I understand that is correct?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Alabama.

Mr. BEVILL. As I have pointed out, we would not make any effort to deny the gentleman the opportunity to have a vote or to offer an amendment on any appropriation in the bill.

Certainly we stand ready. When the leadership decides they want this bill on the floor, we will be here ready to take it up. The bill was filed last night.

Mr. COUGHLIN. The bill is ready now to be brought to the floor for consideration?

Mr. BEVILL. That is right. We will, of course, have to proceed through the Rules Committee because as you know certain authorizing legislation has not yet been enacted this year.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

I want to associate myself with the gentleman's remarks.

I, too, welcome the assurances of the subcommittee's chairman, of the gentleman's willingness to take the bill to the floor prior to the recess, if that is the leadership's desire.

I think it is important to reinforce the importance of that timing, because the Clinch River breeder reactor project is a very large ticket item. We are talking about possible expenditures just between now and December 15 of about $50 million. So the earlier we can bring this issue to final resolution, the better.

I think it is the kind of issue that the public and Members of Congress alike have a reasonable expectation to be on record in advance of that election.

I thank the gentleman for raising this issue and again I thank the subcommittee chairman for his assurances in that regard.

Mr. COUGHLIN. I also discussed this question with the distinguished ranking minority member of the Energy and Water Subcommittee, the gentleman from Indiana (Mr. MYERS). I believe I am correct in saying that the gentleman also feels the bill is ready to be brought to the floor before we recess for the election period and would seek to do that, to bring it to the floor before the recess for the election period.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Speaker, I will be happy to respond to the gentleman's question.

First, it has been suggested here, remarks have been made to the chairman of our subcommittee, the gentleman from Alabama (Mr. BEVILL), and members of the committee, that we are dragging our feet. That is not the case and has not been the case of this committee in any instance in the 12 years I have on the subcommittee. Then there is the suggestion that we might ask for a closed rule. In the years I have been on the subcommittee we have never asked for a closed rule.

So I do think it has been an unkind, unnecessary, and unwarranted swing at our subcommittee to suggest we might drag our feet, because that is not the case.

I do not know how many times we have to tell the Members, "We love you."

We have told everyone here not once, not twice, but a dozen times there will be no effort by our subcommittee, nor to my knowledge by the full Appropriations Committee to make any attempt not to bring this bill to the floor as expeditiously as possible.

As the chairman has said, everything is ready except the rule. As far as I know, we will be requesting a rule very soon now and hopefully we can bring the bill to the floor.

As the gentleman knows, and everyone here knows, we on the committee do not dictate when that bill may come to the floor. But everyone has had many votes on these issues. The gentleman from Pennsylvania (Mr. EDGAR), how many votes has the gentleman had on Clinch River?

Not once, not twice, but as long as the gentleman has been in Congress, every year. I think it is unkind to suggest that we have tried to defeat those attempts or in any way be obstructionist.

Mr. COUGHLIN. There is certainly no intention to be unkind to the very distinguished subcommittee. That is not intended; the gentleman is very kind to give us the assurance that he will seek to bring the bill to the floor as expeditiously as possible. We hope that will be before the recess for elections.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PANETTA), for purposes of debate only.

Mr. PANETTA. Mr. Speaker, I appreciate the difficulty that faces the appropriations process. I think all of the Members recognize that these difficulties are due to a number of factors, both political and institutional. So we face the challenge then of having to adopt another continuing resolution in the process.

I know the chairman and members of the Appropriations Committee would prefer consideration and passage of separate bills, but I think we have to recognize the reality that we pass on a regular basis massive continuing resolutions; and whether we like it or not, these continuing resolutions set national priorities. They send

signals. They lock us into the future in one way or the other.

This continuing resolution, House Joint Resolution 599 before the House, sets what I think are two bad precedents. The first is that it treats defense spending and domestic spending in two very different ways. It states that with regard to defense the higher amount will be taken. If the House subcommittee reports a higher mark out, that that will be the figure that will be adopted as part of the continuing resolution.

On domestic spending, it says that the lower amount will be taken regardless of what the House mark is, regardless of what the House does on individual appropriations bills, that the 1982 level will be the level adopted.

It essentially, in my opinion, reverses the basic message that was contained in the veto override which is that we ought to balance these interests out of fairness and in the interests of considering both domestic and defense spending in the same manner.

The second problem I see with the continuing resolution is that it undermines the incentive to do any individual appropriations bills except defense. We know that defense needs more; we understand that; and there clearly will be a defense bill up on the House floor. That will set the number.

We also know that there are domestic areas that will need more spending and some less. That ought to be considered in the individual appropriations bills that are reported out of these committees.

But the point is that in those instances we are going to simply say take the 1982 spending figure, whatever that is, and we will disregard the work of that particular appropriations committee.

The point, is, it seems to me, if we care about an appropriations process in this House, if we respect it, then we ought to recognize the work of the individual subcommittees on the Appropriations Committee and the work of the House in adopting or revising those particular marks.

Unfortunately, what I see this process leading to is that there will be one defense appropriations bill that will be passed by the Congress and everything else will be put into a large continuing resolution.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I would like to say two things: First, I hope the gentleman joins me in my crusade to repeal the Budget Act. Then we would not have so many bills in this continuing resolution. We would have many of these bills passed, like in the good old days.

Second, I do not like this procedure. I fought it in the full committee and lost. I tried to put HHS in the same formula as defense; but let me say that the gentleman does not have much faith in his Democratic controlled committee. The Democrats control the Defense Subcommittee three to two. They control the full committee three to two. So they are the majority party. I hope that they have the wisdom to cut down on defense, which I am all for.

Mr. PANETTA. My point is at the very least I think we ought to treat all of the House marks in the same fashion. We passed a military construction bill, we passed Transportation, we passed Housing, we passed Agriculture. Those marks ought to be recognized as the number we ought to adopt as part of the bill.

I do not intend to oppose the rule because I do not believe we ought to open up this rule in terms of the number of amendments. But I do intend to vote against the continuing resolution because I think it recognizes the wrongs priorities, it undermines the appropriations process, and it does continuing damage to the Constitution and our responsibilities in implementing the Constitution.

□ 1345

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I would like to compliment the gentleman for his analysis of the unfairness and untargeted nature of the continuing resolution and I thank the gentleman for his comments.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I, too, want to associate myself with the gentleman's remarks.

There are those of us who tried to go along with the will of the House time and time again and cut social programs.

I think the gentleman is right. I will vote against the continuing resolution.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have noticed a certain amount of generosity in remarks of the chairman of the subcommittee and the ranking minority member by agreeing that whenever the appropriation bill is brought up, it will be under an open rule procedure with everybody having a chance to vote either for or against their pet projects. I would hope that we keep an open mind about Clinch River or Tombigbee or any other project. I think we should make up our minds when that bill is debated on the floor of the House, and hold the fight until then.

I urge adoption of the rule.

Mr. Speaker, I yield to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank the ranking Republican member of the Rules Committee.

I do not think the bill will come as an open rule. It will be a modified open rule is my understanding, because there are some provisions in here that will have to be protected because they are not provided by authorizations yet; but as far as trying to preclude these amendments, somebody maybe will come forth and say that back on such and such a day you said it would be an open rule and now you have a modified rule protecting points of order.

We will have to provide for those points of order, but certainly it will not be to preclude anyone from offering these selected amendments that you are talking about. That will not be the intent. There will have to be a modified rule, not an absolutely open rule, I am sure.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman. I appreciate that.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I would be happy to yield.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his comments.

I think that the chairman of the subcommittee and the ranking member on that subcommittee clarified it very clearly. The intention is, the bill is ready, it should be before the House before the 8th. We will have that opportunity.

The reason the gentleman is suggesting the need for a modified closed rule, as I understand, there may be as many as 14 new projects in the legislation, but we will deal with that when the bill comes up for consideration.

Mr. MYERS. Mr. Speaker, will the gentleman yield further?

Mr. QUILLEN. I yield.

Mr. MYERS. Mr. Speaker, there are not 14 new projects. As far as the Corps of Engineers projects that the administration recommended, they did have nine, and there are two others which are high in benefit-cost ratio. We have cited those in the report, but we do not provide funds for them. We have not authorized these constructions, because they do come under a different payment plan of costs and so forth; so the authorizing committee has asked the committee not to appropriate money for these or provide for starts, because they want to consider these new funding programs. For that reason they are not in this bill that we now have ready to come to the floor. I think that should be brought to our attention.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his comments.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I thank the gentleman from Tennessee very much for yielding me the time.

I rise in opposition to this closed rule. Let us make it very clear that this is a closed rule. We are making major economic decisions within the bill that we are going to consider under this rule, with no chance to offer amendments—oh, wait a minute, I should not say no chance to offer amendments. There was a chance to offer an amendment in here. The gentleman from Massachusetts, who rose in favor of this rule, indicates that he has a chance to offer an amendment. He gets to offer his amendment on something that he regards as important in the bill. What the others of us do not get a chance to do is offer the things that we think are important in the course of the consideration of this appropriation.

I think that is a pretty bad way for the people's body of government to work.

The gentleman from California (Mr. PANETTA) has pointed out that we have gotten ourselves into a place where the appropriations process has made major economic determinations for the fiscal year. That is the problem that we face. We are faced with a situation where we are making these decisions and now we are doing it under closed rules where we cannot offer amendments to correct things that we might believe are wrong; so we will not be able to work our will here. We are going to be asked to accept, lock, stock, and barrel, the will as expressed by a fairly small band of our colleagues.

I think that does not fit the best interests of the Nation. As a matter of fact, I think in many instances what we will have is the national interest ignored.

So if we adopt this rule, what we are going to do is go about ignoring a number of matters that many people across this country think are important and a lot of matters that Members of this House think are important.

I would hope that Members would vote against this closed rule procedure.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, a motion to recommit is given to the minority to offer the motion for the most important issue that is in contention between the majority and the minority.

My President says that he wants this continuing resolution to end sine die 97th Congress and the majority want it to end on February 28. That is the only bone of contention. I only have one President.

Furthermore, we would not be on this continuing resolution if people would not call for votes day in and day out, whether we should go into the Committee of the Whole House, costing the taxpayers thousands and thousands of dollars for these rollcalls.

Mr. FROST. Mr. Speaker, I yield 2 minutes, for purposes of debate, to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I am not as concerned about the pending rule as I am about the process that we are establishing by passing or probably passing yet another continuing resolution.

Over the years the use of the continuing resolution has become the general rule, rather than the exception. This is bad policy. It is an attack against the committee process. It weakens the Congress.

We are set up on an authorizing and an appropriation basis and when we fail to act during the year and then simply fall back on a continuing resolution, we are not facing our responsibility.

Last November, I introduced a bill, H.R. 5102, which would have said that it would require a two-thirds vote by both bodies before you could have had a continuing resolution. At least it would make it more difficult to come by and not give us the easy way out.

Now, during debate on the bill I am going to talk further on it. I am going to reintroduce this measure again the first of the next session. I ask Members to join me in cosponsorship.

The Congress must get away from the fact that we pass yet another continuing resolution, year after year—toward the close of the session. It is bad policy for us. It destroys the committee system and I hope that we will do something about this bad practice.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise in opposition to the rule. At the Rules Committee, the gentleman from Iowa (Mr. SMITH) and I sought a rule which would permit us to challenge on the floor of the House the discriminatory treatment between defense and the other parts of this bill.

I think it is wrong, for the reasons that have been very ably set forth by the gentleman from California (Mr. PANETTA), as a matter of national priorities and as a matter of procedure within this House, that the continuing resolution contains that discrimination and that this rule will prevent us from having such a fundamental policy decision dealt with by the amendment process on the floor of this House.

I wish to raise one further issue. I think there is a serious constitutional issue with respect to the continuing resolution. That issue is that, I think in violation of article I of the Constitution, which delegates legislative powers to the House and to the Senate, not to any committee, this bill is in essence providing for the delegation of legislative powers to the Appropriations Committee. The bill provides that if the defense appropriation bill is reported by the Appropriations Committee, even if that bill is not acted on by the full House, the increased spending level it surely will contain will become the level at which funds are appropriated during the time this continuing resolution is in effect.

Now, no one will know today when we vote on this continuing resolution at what level the Appropriations Committee will provide for defense spending in that appropriations bill before we recess for the election. So in essence this House is saying that we are going to delegate to the Appropriations Committee the right to set the level of defense spending without any action on our part in the Whole House and without any knowledge in advance as to what that level of spending will be. It seems to me that is certainly not what article I of the U.S. Constitution demands of the Congress of the United States and that the bill is, therefore, unconstitutional.

I therefore expect to vote against the rule, because it does not give us the opportunity to cure that defect by amendment, and against the bill itself, because of that defect.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER), after which I yield 2 minutes to the gentleman from Minnesota (Mr. WEBER). Following that, I have no further requests for time.

Mr. WALKER. Mr. Speaker, I realize that there are a number of Members around this floor who do not believe that one of the things the taxpayers pay for is to come to this floor and vote.

I happen to think that one of the main things the taxpayers do pay us to do is to be over here voting and recording our presence; but what I was really disappointed by was the fact that the gentleman evidently has not read the rule to which he refers, because what the rule says is that one amendment is going to be allowed to be offered. It had nothing to do with a motion to recommit, which is a separate part of this rule and it does specifically state that the gentleman can offer an amendment.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. The gentleman did not yield to me. I am trying to make a point.

Mr. CONTE. The gentleman did not ask me to yield. I would have yielded.

Mr. WALKER. Could we have order, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Pennsylvania has the floor.

Mr. WALKER. The point I am trying to make is that the rule as reported from the committee has in it one amendment and that one amendment could be offered by the gentleman from Massachusetts. That is what I was referring to in my speech.

I think it is entirely in order with the language of the rule and I think that this gentleman has a proper interpretation of the rules.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts to close this particular part of the debate.

Mr. CONTE. Well, Mr. Speaker, the rule says that one amendment is in order changing the date to another date certain. Changing the date certain to sine die 97th Congress would not be in order as an amendment under the rule. The only way you could do that is by putting in another day certain, and the gentleman has that right to offer that amendment. Under the rule, anybody has that right to offer that amendment.

I have a motion to recommit. In the motion to recommit I can put anything I want.

The only thing the administration opposes on this continuing resolution is that they want this termination date of sine die 97th Congress.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. Oh, I would be glad to yield.

Mr. WALKER. I thank the gentleman for yielding.

The point being that the rule expresses that one amendment to change the date is in order.

Mr. CONTE. That is right.

Mr. WALKER. That is exactly what the gentleman from Pennsylvania referred to. It was my understanding from our leadership that the gentleman from Massachusetts was going to offer that amendment.

Mr. CONTE. No.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. WEBER).

Mr. WEBER of Minnesota. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Pennsylvania (Mr. EDGAR) and the other gentleman from Pennsylvania (Mr. COUGHLIN) in rising to express my concern and opposition to this closed rule.

I listened carefully in the Rules Committee yesterday to the testimony of the distinguished chairman and ranking member of the Appropriations Committee and their arguments that a closed rule was necessary to protect the traditions and precedents of the House of Representatives, which dictate that we neither initiate nor terminate legislation on a continuing resolution.

□ 1400

While that may be a pertinent argument, I think it ignores another argument, another consideration which is the reputation of this entire body in this year in which we are making some very basic decisions about the country's economic policies.

Mr. Speaker, we have made basic decisions in this last year in terms of reducing spending on social programs and in terms of raising taxes on the American people in an effort to close this very large deficit.

I think our reputation as an institution would be ill served if the appearance is given to the American people that we are trying to put off votes on what are largely regarded as pork-barrel subsidies to vested interests in this energy and water appropriation bill, because of a technicality or because of tradition and precedent of the House.

So I rise in opposition to the closed rule. I am hopeful that the assurances we have been given will hold true and that we will be given a vote on the energy and water appropriations bill prior to adjournment on the 8th. In my judgment, the reputation of the Congress will be dealt yet another blow, if consideration of that bill is put off until after the election.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MCCLOSKEY).

Mr. McCLOSKEY. Mr. Speaker, responding to the gentleman from Indiana about the "combat zone" here, I would like to raise a matter on this rule and on the bill that follows it with reference to the combat zone in West Beirut into which our marines are going to be introduced the day after tomorrow.

If I could have the attention of the gentleman from Massachusetts, I would like to direct a question to him.

The gentleman from Massachusetts just stated that the administration has no opposition to anything in this continuing resolution except the one matter that the gentleman mentioned.

Am I not correct that in this continuing resolution we increase the forgiveness for military assistance to Israel by the sum of $50 million above what the administration wanted?

Mr. CONTE. Mr. Speaker, will the gentleman yield to me?

Mr. McCLOSKEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, the answer is yes, the administration would prefer a lower amount of forgiven foreign military sales credits.

Mr. McCLOSKEY. Then if we pass this rule and we pass this continuing resolution we do so at a time when our marines are going into West Beirut to defend the Palestinian refugee camps because it was a condition of getting the Palestinians to withdraw from West Beirut, that we would assure the safety of the civilians in those camps. We specifically assured the Palestinians that we would prevent the Israelis or the Christian Militia from going into West Beirut. The Israelis gave us assurances that they would not go into West Beirut. They did go into West Beirut.

We were told by the State Department yesterday that not only did they plan to go into West Beirut and take it over; they planned to invite and they did invite the Christian Militia into those camps. Everyone in Lebanon, whether Syrian, Lebanese, Palestinian, or Israeli, could have predicted the massacre that occurred if those militia were allowed into those camps. There had been three separate massacres between the PLO and the Christian Militia in years past.

For what the Israelis did, they are now being held accountable around the world and properly so for complicity in the massacre itself.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MCCLOSKEY) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. McCLOSKEY. I thank the gentleman for yielding.

Mr. Speaker, to the rest of the world, particularly the Arab world and particularly the people in Lebanon, the press in the past few days has said that the United States also shares a complicity in that massacre because we have continued to send arms to Israel and the Israelis are using those arms in violation of their agreement with us that they be used only in self-defense.

The end result, if we pass this continuing resolution, is that we are sending marines in to defend the camps, yet we are continuing to increase the military arms supply which, to the rest of the world, is deemed to make us partly responsible for the massacre that has occurred.

I think marines can die in Lebanon if Lebanese choose to exercise their anger against the continuing flow of American arms to Israel by taking action against the marines that are there. As a former marine, I think the Commander in Chief is right in sending the marines to Lebanon to seek to reestablish our credibility in our promise to protect the Palestinian refugees. However, I also believe that it would be deadly wrong for the Congress, immediately before the marines go in, to increase the free delivery of arms to Israel, as this bill does.

And my question to the gentleman: Does the administration agree?

The SPEAKER pro tempore. The time of the gentleman from California (Mr. MCCLOSKEY) has again expired.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. CONTE. Mr. Speaker, will the gentleman yield to me?

Mr. McCLOSKEY. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, I think we ought to set the record straight. What you say is partially right. Here is what happened:

The continuing resolution provides for $2.185 billion for economic support and foreign military credit sales to Israel. That is $300 million less than the President's request for fiscal 1983.

Of this total of $2.185 billion, $1.4 billion is for foreign military sales credits. The committee under the continuing resolution is forgiving $550 million of those credits, of which the administration agreed to $500 million.

Mr. McCLOSKEY. If I am correct, the gentleman from Maryland (Mr. LONG), in the Appropriations Committee, offered an amendment to increase the forgiveness of $50 million to Israel; am I not correct in that?

Mr. CONTE. It is $50 million more in forgiveness for Israel; yes, bringing the total amount forgiven to $550 million, the same as fiscal 1982. It is not an increase over the current rate.

Mr. McCLOSKEY. In that case, I think we owe the marines going into Lebanon on Friday a vote against this rule and against this bill, to return it to the Appropriations Committee, to reduce that forgiveness to Israel, lest it be taken as a signal of our support for what Israel did last Thursday in entering West Beirut and creating the circumstances which led directly to the massacre.

Young marines may well die if we do otherwise.

Mr. FROST. Mr. Speaker, we are now about to vote on the rule that is before us.

I appreciate the statements by the gentleman from California (Mr. PANETTA) and by others, also, on the minority side that even though they may have some reservations about the resolution itself, that they intend to support the rule.

Mr. Speaker, we have a clear choice before us, whether we are going to have an orderly process, whether we are going to be able to pass a continuing resolution or not.

I urge the adoption of this rule and move the previous question.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the resolution.

There was no objection.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 120, not voting 32, as follows:

[Roll No. 357]

YEAS—280

Akaka	Fazio	Martinez
Albosta	Fenwick	Matsui
Alexander	Ferraro	Mavroules
Anderson	Fiedler	Mazzoli
Andrews	Fields	McCurdy
Annunzio	Flippo	McDade
Anthony	Florio	McGrath
Applegate	Foglietta	McHugh
Aspin	Foley	McKinney
Atkinson	Ford (MI)	Mica
AuCoin	Ford (TN)	Michel
Bailey (PA)	Fountain	Mikulski
Barnard	Fowler	Miller (OH)
Barnes	Frost	Mineta
Beard	Fuqua	Minish
Beilenson	Gaydos	Mitchell (NY)
Bennett	Gejdenson	Moakley
Bevill	Gephardt	Mollohan
Biaggi	Gibbons	Montgomery
Bingham	Ginn	Morrison
Bliley	Glickman	Mottl
Boggs	Goldwater	Murphy
Boland	Gonzalez	Murtha
Boner	Gore	Myers
Bonior	Gray	Napier
Bonker	Guarini	Natcher
Bouquard	Hall (OH)	Neal
Breaux	Hall, Ralph	Nelligan
Brinkley	Hall, Sam	Nelson
Brodhead	Hance	Nichols
Brooks	Hansen (ID)	O'Brien
Brown (CA)	Hansen (UT)	Oakar
Broyhill	Hatcher	Oberstar
Burgener	Hawkins	Ottinger
Butler	Hefner	Oxley
Byron	Heftel	Panetta
Campbell	Hertel	Parris
Carman	Hightower	Patman
Carney	Hillis	Patterson
Chappie	Holland	Pease
Cheney	Hollenbeck	Pepper
Clay	Holt	Perkins
Clinger	Howard	Peyser
Coelho	Hoyer	Price
Coleman	Hubbard	Pursell
Collins (IL)	Huckaby	Quillen
Conable	Hughes	Rangel
Conte	Hutto	Ratchford
Courter	Ireland	Regula
Coyne, William	Jenkins	Reuss
Crockett	Jones (NC)	Rhodes
D'Amours	Jones (OK)	Rinaldo
Daniel, Dan	Jones (TN)	Ritter
Daniel, R. W.	Kastenmeier	Roberts (SD)
Daschle	Kazen	Robinson
Davis	Kemp	Rodino
de la Garza	Kennelly	Roe
Derrick	Kogovsek	Rogers
Dicks	Lantos	Rose
Dingell	Latta	Rosenthal
Dixon	Leach	Rostenkowski
Donnelly	Leath	Roukema
Dorgan	LeBoutillier	Roybal
Dornan	Lehman	Rudd
Dougherty	Leland	Russo
Dowdy	Lent	Sabo
Downey	Levitas	Santini
Duncan	Lewis	Scheuer
Dwyer	Livingston	Schumer
Dymally	Loeffler	Seiberling
Dyson	Long (LA)	Shamansky
Early	Long (MD)	Shannon
Edwards (AL)	Lott	Shaw
Edwards (CA)	Lujan	Shelby
English	Luken	Simon
Erlenborn	Marks	Skeen
Evans (IN)	Marlenee	Skelton
Fary	Marriott	Smith (AL)
Fascell	Martin (NC)	Smith (IA)
Smith (NE)	Trible	Williams (OH)
Smith (NJ)	Udall	Wilson
Smith (PA)	Vander Jagt	Winn
Snowe	Vento	Wirth
Solarz	Volkmer	Wolpe
Spence	Walgren	Wright
St Germain	Watkins	Wyden
Stangeland	Waxman	Yates
Stokes	Weaver	Yatron
Studds	Weber (OH)	Young (FL)
Swift	White	Young (MO)
Synar	Whitehurst	Zablocki
Tauzin	Whitley	Zeferetti
Thomas	Whittaker	
Traxler	Whitten	

NAYS—120

Archer	Goodling	Mitchell (MD)
Ashbrook	Gradison	Molinari
Badham	Gramm	Moore
Bailey (MO)	Green	Moorhead
Bedell	Gregg	Nowak
Bereuter	Gunderson	Obey
Bethune	Hagedorn	Pashayan
Broomfield	Hamilton	Paul
Brown (CO)	Hammerschmidt	Petri
Clausen	Harkin	Pickle
Coats	Hartnett	Porter
Conyers	Heckler	Pritchard
Corcoran	Hendon	Rahall
Coughlin	Hiler	Railsback
Coyne, James	Hopkins	Roberts (KS)
Craig	Hunter	Roemer
Crane, Daniel	Hyde	Roth
Crane, Philip	Jacobs	Savage
Dannemeyer	Jeffords	Sawyer
Daub	Jeffries	Schroeder
Deckard	Kildee	Schulze
Dellums	Kindness	Sensenbrenner
DeNardis	Kramer	Sharp
Dickinson	LaFalce	Shumway
Dreier	Lagomarsino	Shuster
Dunn	Lee	Siljander
Eckart	Lowery (CA)	Smith (OR)
Edgar	Lowry (WA)	Snyder
Edwards (OK)	Lundine	Solomon
Emerson	Lungren	Stark
Emery	Madigan	Stenholm
Erdahl	Markey	Stump
Evans (DE)	Martin (IL)	Tauke
Evans (IA)	Martin (NY)	Taylor
Findley	McClory	Walker
Fish	McCloskey	Wampler
Frank	McCollum	Weber (MN)
Frenzel	McDonald	Wolf
Gilman	McEwen	Wortley
Gingrich	Miller (CA)	Wylie

NOT VOTING—32

Addabbo	Collins (TX)	Moffett
Bafalis	Derwinski	Rousselot
Benedict	Ertel	Schneider
Blanchard	Evans (GA)	Stanton
Bolling	Fithian	Staton
Bowen	Forsythe	Stratton
Brown (OH)	Garcia	Washington
Burton, John	Grisham	Weiss
Burton, Phillip	Horton	Williams (MT)
Chappell	Johnston	Young (AK)
Chisholm	Mattox	

□ 1420

Mr. EVANS of Iowa and Mr. MOORE changed their votes from "yea" to "nay."

Ms. FERRARO and Mr. BUTLER changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the joint resolution, as follows:

H.J. RES. 599

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1982 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1983;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983;

District of Columbia Appropriation Act, 1983;

Energy and Water Development Appropriation Act, 1983;

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1983;

Department of Transportation and Related Agencies Appropriation Act, 1983; and

Treasury, Postal Service and General Government Appropriation Act, 1983.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed the House as of October 1, 1982, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1982, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1982, the pertinent project or activity shall be continued under the appropriation, fund or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982: *Provided further,* That for the purposes of this joint resolution, when an Act listed in this subsection has been reported to the House but not passed by the House as of October 1, 1982, it shall be deemed as having been passed by the House.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations of the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1982, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in the fiscal year 1982, under the current terms and conditions and at a rate to maintain current operating levels:

activities under the purview of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1982, as provided for in Public Law 97-92; and

activities for which provision was made in the Department of the Interior and Related Agencies Appropriation Act, 1982: *Provided,* That no programs or facilities funded therein may be terminated unless such termination is specifically approved in the appropriations process, including reprograming.

(c) Such amounts as may be necessary for continuing activities which were conducted in the fiscal year 1982, for which provision was made in the Department of Defense Appropriation Act, 1982, under the current terms and conditions and at a rate for operations not in excess of the current rate until such time that the Department of Defense Appropriation Act, 1983, is reported in or subsequently passed by the House of Representatives, whereupon such amounts as may be necessary shall become available at a rate for operations or activities and under the terms and conditions as provided for in such appropriation Act for the fiscal year 1983, as reported in or passed by the House of Representatives: *Provided,* That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 until such time that the Department of Defense Appropriation Act, 1983, is reported in or subsequently passed by the House of Representatives: *Provided further,* That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later except for the following programs and amounts: AN/ALQ-136 Radar Jamming Systems, $14,500,000; NATO Seasparrow Ordalt Kits, $33,000,000: *Provided further,* That none of the funds appropriated or made available pursuant to this paragraph shall be obligated or expended for a special classified program authorized in section 109 of the Department of Defense Authorization Act, 1983 (Public Law 97-252): *Provided further,* That none of the funds appropriated or made available pursuant to this paragraph for the pay of members of the uniformed services shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in effect on September 30, 1982, had been increased by 8 percent on October 1, 1982: *Provided further,* That none of the funds appropriated or made available pursuant to this paragraph shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions.

(d) Such amounts as may be necesssary for continuing the activities of the Foreign Assistance Appropriations Act of 1982, Public Law 97-121, under the terms and conditions, and at the rate, provided for in that Act or at the rate provided for in the budget estimates, whichever is lower, and under the more restrictive authority, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law: *Provided,* That amounts allocated to each country under this paragraph shall not exceed those provided in fiscal year 1982 unless submitted through the regular reprogramming procedures of the Committees on Appropriations: *Provided further,* That economic and military assistance shall be available to Israel at the rate provided by, and under the terms and conditions of, Public Law 97-113.

(e) Notwithstanding the provisions of section 102 of this joint resolution, such amount as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7073, entitled the Legislative Branch Appropriation Act, 1983, as reported September 9, 1982, and the provisions of H.R. 7073 shall be effective as if enacted into law; except that the provisions of section 307 (a), (b), and (d) of H.R. 7073 shall apply to any appropriation, fund or authority made available for the period October 1, 1982, through February 28, 1983, by this or any other Act. Notwithstanding any other provision of this joint resolution, for payment to Patricia Ann Benjamin, wife of Adam Benjamin, Junior, late a Representative from the State of Indiana, $60,663.

(f) Such amounts are available as may be necessary for projects or activities provided for in H.R. 6968, the Military Construction Appropriations Act, 1983, as passed the House on August 19, 1982, at a rate for operations and to the extent and in the manner provided for in such Act.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1982, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) February 28, 1983, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. Any appropriation for the fiscal year 1983 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available

appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 106. In accordance with Public Law 97-257 of September 10, 1982, not to exceed an annual rate of $13,500,000 from the fees collected and credited to the "Salaries and Expenses" appropriation of the Federal Bureau of Investigation to process fingerprint identification records for noncriminal employment and licensing services, shall be available for salaries and other expenses incurred in providing such services.

SEC. 107. Notwithstanding any other provision of this joint resolution except section 102, funding for Department of Energy, National Security Programs (formerly Operating Expenses and Plant and Capital Equipment, Atomic Energy Defense Activities), Bonneville Power Administration Fund (Borrowing Authority), Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries, shall be at the same levels and subject to the same conditions specified for these activities in the Energy and Water Development Appropriations bill for fiscal year 1983 and accompanying report, as reported to the House.

SEC. 108. Notwithstanding any other provision of this joint resolution, the New England Division of the United States Army Corps of Engineers shall be maintained as a Division with all of the duties and functions of a Division retained and shall not be redesignated a District or any other type office, other than Division.

SEC. 109. Of amounts appropriated for the Water Resources Council, Water Resources Planning, for preparation of assessments and plans, in Public Law 97-88, not more than $195,000 shall remain available until expended and shall be available to pay for work performed prior to fiscal year 1982 in support of the Columbia River Estuary Data Development Program, if such work is accepted by the Water Resources Council.

SEC. 110. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1983, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1982, until the next applicable wage survey adjustment becomes effective, the rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1982; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1983, a rate which exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1983.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of enactment of this Act.

(c) For the purposes of subsection (a) of this section, the rate payable to any employee who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1982, shall be determined under regulations prescribed by the President.

(d) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(e) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

SEC. 111. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: *Provided*, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982.

SEC. 112. Notwithstanding any other provision of this joint resolution, moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. (98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on or after October 1, 1982: *Provided*, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously appropriated, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.

SEC. 113. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-item projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1983, as reported to the House.

SEC. 114. Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3-171) shall be applied first toward ensuring voter education on the proposed constitution by (a) printing, by the Statehood Commission, of the proposed constitution together with objective statements both for and against its provisions as expressed by the Convention delegates taking such positions; (b) mailing of this information to the registered voters of the District of Columbia by October 15, 1982; and (c) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

SEC. 115. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be continued at the rates in effect on July 28, 1982 (step 13): *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1982 level.

SEC. 116. Funds appropriated in Public Law 97-257 to the United States Fish and Wildlife Service for "Construction and anadromous fish" and to the Office of Surface Mining Reclamation and Enforcement for "Abandoned Mine Reclamation Fund" shall remain available until expended.

SEC. 117. Notwithstanding section 101(a)(4) of this joint resolution, funds shall be available for the United States Court of Appeals for the Federal Circuit at an annual rate not to exceed $4,146,000.

SEC. 118. Notwithstanding any other provision of law or of this joint resolution, AID/afr-C-1414, Agency for International Development, shall be extended for an additional three years.

SEC. 119. Notwithstanding any other provision of this joint resolution, there is appropriated $36,500,000, to remain available until expended, for Smithsonian Institution "Construction" to carry out the provisions of Public Law 97-203 to construct a building for the Museum of African Art and a gallery for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building, including not to exceed $100,000 for services as authorized by 5 U.S.C. 3109.

SEC. 120. Notwithstanding any other provision of this joint resolution, there is appropriated $242,118,000, to remain available until expended, for Department of Energy "Strategic Petroleum Reserve" to carry out the provisions of Sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163).

SEC. 121. Notwithstanding section 101(a)(4) of this joint resolution, of the funds provided for the Salaries and Expenses appropriation of the Small Business Administration under this joint resolution, an annual rate of $14,000,000 shall be avail-

able only for grants for Small Business Development Centers as authorized by section 20(a) of the Small Business Act, as amended.

SEC. 122. Notwithstanding section 101(a)(4) of this joint resolution, none of the funds provided by this joint resolution for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of H.R. 3480, as passed the House of Representatives on June 18, 1981.

SEC. 123. No provision in any appropriation Act for the fiscal year 1983 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 124. Notwithstanding any other provision of this joint resolution, in the case of any employee of the Federal Government who is indebted to the United States, as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment. The amount deducted for any period may not exceed one-fourth of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the individual retires or resigns, or if his employment otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due to the individual from the United States Treasury.

SEC. 125. Of the $70,122,000 available at an annual rate under this joint resolution for the exchange programs of the United States Information Agency, $60,415,000 shall be available for the Fulbright and International Visitor Programs, $2,620,000 shall be available for the Humphrey Fellowship Program and $7,087,000 shall be available for the Private Sector Programs.

SEC. 126. None of the funds provided in this Joint Resolution shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas.

SEC. 127. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to any of the fiscal years 1977 through 1982 shall be made prior to the date on which this resolution expires on account of the provisions of section 403(h) of such Act.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 599, and that I may include tabular and extraneous matter.

The SPEAKER pro tempore (Mr. RUSSO). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, I yield 30 minutes to the gentleman from Massachusetts (Mr. CONTE), for purposes of debate only, pending which I yield myself such time as I may require.

Mr. Speaker, I do not believe anyone here regrets any more than I do the necessity for this continuing resolution, because it becomes necessary as a result of our Committee on Appropriations being delayed in handling the regular annual appropriation bills. We have experienced many delays and uncertainties, many more than we have in recent years. The first budget resolution was not even reported to the House until after the statutory deadline for its final adoption. The committee received its section 302 allocation under the resolution on June 22, just two days before the Fourth of July recess began.

Mr. Speaker, as cochairman of the study group which recommended the Budget Committee—I know the purpose of the committee was to gain control of the uncontrollable entitlements and back door spending. Instead of meeting that purpose, attention has largely been directed to controllable items—where our Appropriations Committee for 37 out of 39 years has been below the budget and those 2 years—of increased spending were due to additional military spending.

But the point of all this is that if we are going to restore order to the proceedings, we are going to have to let the Appropriations Committee go ahead with its bills. So I say to the Members that we are here through no fault of our own. We are doing the best we can.

We might ask why we have this rule and why we have it like it is. I am sure there are at least 100 Members who would like to offer amendments to the appropriations bills referenced in this resolution. A continuing resolution is a hybrid. It provides temporary appropriations and authorizations in certain areas, which means that in the absence of any restrictions anything germane would be in order, and we could be here still amending this resolution when the 1st of October comes around.

May I say that other folks do not like this, that, and the other things about the content of the resolution, and that is natural. But in an attempt to bring together 13 subcommittees and 54 Members with different interests and with different situations so far as this resolution is concerned, you have to do a whole lot and take a whole lot to come up with a composite or a unified front.

May I say to the Members that we should keep in mind that after adopting this resolution, anytime a regular annual appropriations bill is agreed upon and signed by the President, it disengages from the resolution. So what we have here is a continuing resolution to keep us in business until the regular bills get enacted into law.

The Members may be interested in what situation we are in now. The House Committee on Appropriations has reported 9 of the 13 1983 appropriation bills.

They are: HUD-independent agencies; Commerce-Justice-State-the Judiciary; military construction; Transportation and related agencies; Agriculture; Legislative; District of Columbia; energy and water development; and Treasury-Postal Service-General Government.

The Labor, Health and Human Services and Education bill has been marked up in subcommittee but not reported.

Three bills have not yet been marked up in subcommittee. They are: Interior, Defense, and foreign aid.

Four bills have passed the House. They are: Military construction; HUD-independent agencies; Transportation; and Agriculture.

It is hoped that additional bills will be considered by the House before the recess begins.

So we are working overtime, trying to handle the bills in the regular way, and this resolution is just so the Government will stay in business during the period.

For those of you who have amendments you want to offer—and many of you do—and those who have issues that they want to bring to a vote, when the regular bills are considered is the time to do it. This is a bill where we are just holding in line and doing the best we can.

□ 1430

I tell you there are two things you have to do. One of them is you have to get this bill through and then you have to get it signed.

In connection with the defense bill, it has been pointed out, that for a number of reasons, including awaiting the results of investigations, there has been no action here insofar as marking up defense is concerned. But it is also known that the President has requested substantial increases in defense in 1983. The committee made an exception for the defense bill. The continuing resolution calls for defense at the current rate until the defense appro-

priations bill is reported. Then the rate would go to the reported rate until the House passes the defense bill. Then the rate would be that specified in the House passed bill.

I will briefly explain the other major provisions of the resolution.

Section 101(a) provides for seven bills. Under this section if there is just a House bill by October 1—reported or passed—the rate is the lower of the House bill or the current rate.

If any of the House bills are passed by the Senate by October 1, the rate is the House bill or the Senate bill whichever is lower.

The seven bills under this section are: Agriculture; Commerce-Justice-State and the Judiciary; District of Columbia; energy and water development; HUD-independent agencies; Transportation; and Treasury-Postal Service-General Government.

Section 101(b) provides for two bills at the current rate. They are: Labor-HHS-Education; and Interior and related agencies.

Section 101(d) provides for foreign assistance at the rate of last year's bill or the budget estimate, whichever is lower.

The legislative bill is provided for in section 101(e) at the rate of the reported bill, in the same manner as was done last year.

Military construction is provided for in section 101(f) at the rate of the House passed bill.

But now, then, we have this continuing resolution. When we pass it, of course the other body in turn acts upon it and we get into conference. In the years that I have been here we on our committee have tried to protect the interests of the House. We have stayed up all night several times in order to stand up for the House position. We are prepared to do that again, if necessary.

It stands to reason that with the first of October facing us there is no way for us to be assured that we can get together with the other body on a conference and report on each of the regular annual bills, but we shall try.

I say to you the reason that we have to have this is so that they will not have our backs to the wall on October 1, the start of the new fiscal year, when we have no elbow room to work it out like we ought to.

The only way that we could bring this up and hope to get through, is with a limited rule. It is temporary. The regular bills will govern.

Again let me repeat, this being a hybrid, a continuing resolution being open to anything that is germane, then the sky is the limit as to how many amendments you would have here. In my judgment, the country would not be well served. There will be plenty of opportunities to address these matters. We have the responsibility to provide for the orderly continuation of governmental functions.

So that being the situation I recommended, and our committee recommended, that we have a rule where we could do what this is supposed to do, keep on track until we act on the regular bills. So that is what this is.

The regular bills will be substituted when we get those through and we are moving rapidly. I will tell you that we are going to go to conference with the other body as rapidly as possible and we are going to move as soon as we are allowed to. We can look after the House position 10 times better with room and latitude if this continuing resolution is agreed to.

So I hope you will vote with us on this continuing resolution. A continuing resolution means keeping the Government going. The other side of this is if this is turned down, with the time limit facing us, we face a closedown of the whole Government because all of the bills are covered in this. On October 1, under the opinion of the Attorney General, they will have to close down the Government and this risk should not be taken.

In other words, we bring you a resolution here that provides for orderly government, because it just holds things together until we can get the regular bills passed, and it gives us in conference an opportunity to stand up for your rights and not be afraid that we will be responsible for closing down the Government.

So again I leave it in your hands and I hope you will support us because we in turn are trying to support you.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) has consumed 8 minutes.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this joint resolution, and I urge my colleagues on both sides of the aisle to do likewise.

This resolution is virtually a general appropriation bill for the entire Government. Because of its scope, it affects every Member of the House.

Every Member of the House can find something good—or something bad.

Many Members have spoken to me about problems with this resolution—from the level of spending for defense and education, to the extension of the FTC, and many lesser problems with programs and projects that are none the less truly important to the individual Member.

I share many of these concerns.

In my opinion, the levels of spending for health and education are too low. The level for foreign assistance is too low. The administration regards the level for defense as inadequate, in my opinion the administration's position on defense is too high.

But we cannot all have everything we want.

This resolution is a delicately balanced compromise, which deserves the support of the House and of the administration.

However, if any Member is considering voting against the resolution, because of a problem with a particular program or project, I hope that Member will think very carefully.

The committee will do its best to bring the general appropriation bills to the floor, either before the election, or during the special session. Amendments can and should be offered to those bills to solve any individual problem a Member may have.

But if we defeat this resolution, as sure as I am standing here, there will be no funds for these programs on October 1. None.

There will be no funding for education programs, or health programs, or the Department of Defense, or for food stamps, or for the child nutrution programs. There will be no veterans benefits, and no social security, because the administrative costs and funds for mailing checks are provided by this continuing resolution.

Think about it.

It is an election year, and I know that many Members truly believe that a vote against this resolution would help them politically.

But if this resolution is defeated, on October 1 the people will remember that vote when the Government closes, and the social security checks stop.

I know it is difficult for Members to look beyond the resolution before us, but I truly believe that in this case the right thing for the country is also the right thing politically.

Support the resolution.

Seven of the 1983 bills are covered under section 101(a): Agriculture; Commerce; District of Columbia; Energy and Water Development; Housing and Urban Development; Transportation; and Treasury.

Appropriations are provided for projects and activities for which funds would be available in the 1983 bill, which were conducted in fiscal 1982, and which are not funded elsewhere in the resolution. The rates are based on the status of each bill as of October 1, 1982.

If the bill has been reported to or passed the House, the continung resolution rate is the current rate or the House rate, whichever is lower, under the authority and conditions in effect in fiscal 1982.

If the bill has been reported to or passed the House, and passed the Senate, the rate is the House or Senate rate, whichever is lower, under the more restrictive authority. If an item is included in only the House or Senate bill, the rate is as provided in that bill, under the terms and conditions in effect in 1982. No new general

provision shall take effect unless it is included in identical form in the House and Senate bills.

The language of the resolution which determines rates and conditions refers only to House bills, or House bills considered in the Senate, and does not refer, or in any way give standing to Senate bills.

Two of the 1983 bills, Interior and Labor-HHS, are covered under section 101(b). Appropriations are provided for activities in the 1983 bill, which were conducted in fiscal 1982, under the 1982 terms and conditions, and at a rate sufficient to maintain current operating levels.

Defense activities which were conducted in fiscal 1982, and for which provision was made in the fiscal 1982 defense bill, are continued under section 101(c) at the current rate and terms and conditions, or at the House rate and conditions if and when a bill is reported to or passed by the House.

Activities in the 1982 foreign assistance bill are continued at the 1982 rate, or the budget estimate, whichever is lower, and under the more restrictive authority.

Activities funded in the legislative bill for fiscal 1983 are funded at that rate and under those conditions for the full fiscal year, and the pay cap on upper-level Federal employees, including Members of Congress, is continued for the period covered by the resolution.

Activities funded in the military construction bill for fiscal 1983 as passed the House are funded at that level and under those conditions.

Under section 102, continuing appropriations are available for a project or activity until enactment into law of an appropriation for the project or activity or enactment by both Houses of the applicable appropriation act without any appropriation for the project or activity, or February 28, 1983, whichever first occurs.

Rates and conditions under section 101(a)(3) are derived only by reference to a bill listed in that section which has been reported to or passed the House, or a House bill that has passed the Senate.

Section 101(a)(3) is based on "an Act listed in this subsection as passed the House * * *", and "such Act" as passed the Senate.

A plain reading of section 101(a)(3) establishes beyond doubt that "such Act" refers directly and exclusively to "an Act listed in this subsection as passed the House * * *", that is, to a House bill.

We are often asked, "How much is in the continuing resolution?"

Because of the way continuing resolutions are and must be written, that question cannot be answered.

First, in nearly all instances, rates are based on the status of a bill as of October 1 of the new fiscal year. We do not know, and cannot responsibly predict, what that status will be.

Second, rates under any continuing resolution are and should be intended to provide OMB and the agencies with sufficient flexibility to allow for subsequent congressional action, in addition to the requirements for prudent management under the Antideficiency Act.

However, this flexibility is not to be used to reduce, defer, or eliminate programs based on policy disagreements with the Congress.

Third, many of the rates in the continuing resolution are for entitlement programs, where the actual rate of obligation and expenditure is determined under existing law by participation rates and other factors outside of the immediate control of Congress or the Executive.

Mr. Speaker, it is very important, in considering a continuing resolution, that the administration understand the intent of the House with regard to spending rates, apportionment, and the withholding of funds.

OMB and the individual agencies can and should exercise commonsense discretion in spending under the continuing resolution, so that agencies are not caught in a bind if the appropriation finally enacted is significantly above or below the continuing resolution level.

However, absent clear and compelling indications of congressional action, OMB and the agencies are expected to apportion and obligate at the continuing resolution rate.

The OMB and individual agencies should not withhold or otherwise delay the apportionment or obligationment of funds, below the continuing resolution rate, based on policy disagreements with the Congress, even in the guise of protecting congressional prerogatives.

Of course, unless specified to the contrary in the continuing resolution, the current rate includes supplementals, and continuing appropriations are subject to other procedures in existing law, such as the Antideficiency Act, and the Impoundment Control Act.

□ 1440

Mr. Speaker, I will not offer an amendment to the continuing resolution changing the date. However, I will offer a motion to recommit the bill with one amendment to terminate the continuing resolution with the sine die of the 97th Congress.

Now, I hope the Members who are here and the Members who are listening on television in their offices will realize the importance of that amendment, because the ones who are interested in amendments for Clinch River or Tennessee-Tombigbee or the FTC, or any other amendment that they may have to this bill.

They will have another opportunity when the public works bill or the Commerce bill is brought forth to the House.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Illinois (Mr. MICHEL), the distinguished minority leader.

Mr. MICHEL. I am sorry that I did not hear the gentleman's earlier presentation. Could the gentleman enlighten me as to whether or not the terms of this continuing resolution would allow for increased spending for the new fiscal year in the Defense area?

Mr. CONTE. In the Defense area, under section 101(c) of the bill, it will be the current rate, or if the subcommittee and the full Appropriations Committee reports the Defense bill to the House, that will be the mark that they will use.

Mr. MICHEL. And do I understand from what the gentleman has just said that the reference is made only to the House subcommittee or House full Committee on Appropriations, and no reference to what the other body might do, both subcommittee and full committeewise?

Mr. CONTE. In answer to the gentleman from Illinois, the gentleman is absolutely right; it is only the House.

Mr. MICHEL. Would the gentleman conjecture about whether or not the other body would amend our continuing resolution to include language suggesting providing for, pay, the lower of either the House committee or Senate committee-passed bill having to do with defense expenditures?

Mr. CONTE. That is possible. It is my hope—and I understand that now the Senate has TV over there and they watch these debates, and I hope they are watching this debate—that they do not load up this continuing resolution.

We try to do a good job. We are sending them a clean resolution. They have the horses over there and I hope they will keep this resolution clean.

Mr. MICHEL. I might make the observation to the gentleman, having talked to the Senate majority leader within the hour and having advised him that we were about to take up the continuing resolution, that we were hopeful to send it to him as clean as possible, with the hope, as the gentleman has expressed here, that that would signal to the other body that it also should pass a resolution as clean as possible rather than loading it down with many extraneous issues. The majority leader agreed with me, and that is one of the reasons why I wanted to inquire here and of the gentleman from Alabama, who is here on the floor and who is the ranking minority member on the Defense Appropriations Committee as to what prospects he sees for our House Subcommittee

on Defense Appropriations or the full committee acting in accordance with the dialog that has just taken place between the gentleman from Massachusetts and myself.

Mr. CONTE. I yield to my good friend, the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Speaker, it is the intention of the Subcommittee on Defense to start its markup on September 28. It would be our hope and our expectation that we would finish that markup the week of the 28th. It is the intention of the full committee to receive that report the following week, assuming we are in session until the 8th, and to report the bill then to the House, which then would fulfill the requirement that the gentleman from Massachusetts just spoke about and would then allow us to use that number for the Defense number.

Mr. MICHEL. If the gentleman will yield further, is there any likelihood of the House itself having the opportunity to vote or to consider the Defense appropriation bill before we recess for the election? Or would the gentleman from Massachusetts care to answer that.

Mr. CONTE. I doubt that very much. We have, I understand, scheduled for full committee Wednesday the HHS bill. As the gentleman knows, being a former member of that subcommittee, that is a gigantic bill. And if the House could digest that one, it would be really quite an accomplishment. So I do not see how we could ever get to that point. Does the gentleman from Alabama agree with me?

Mr. EDWARDS of Alabama. I agree with that 100 percent.

Mr. MICHEL. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. NATCHER).

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the distinguished gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Speaker, a number of health programs have received additional funding during the year through supplemental appropriations. I have in mind such programs as community health centers—which received supplemental money in Public Law 97-216—and the childhood immunization program—which was supplemented in Public Law 97-257.

Is it the committee's intent that these adjusted increased levels be considered the current rate for the purposes of continuation under this resolution?

Mr. NATCHER. Mr. Speaker, the gentleman is correct. We have had several supplementals in addition to the basic continuing resolution for 1982. All increases and all programs adopted in those supplementals become a part of the current rate for purposes of the 1983 resolutions which is before us. I know the gentleman from California is very much concerned about the increases that have taken place in the maternal and child health program, the childhood immunization program and venereal disease program.

These increases, Mr. Speaker, as you well know, were in one or more of the supplementals. They are now included in the current operating level for purposes of section 101(b) of House Joint Resolution 599.

Mr. WAXMAN. If the gentleman will yield further for one other clarification, some programs—such as the tuberculosis control and AIDS research programs—received their initial specific appropriations for 1982 under supplemental appropriations bills.

Is it the committee's intent that these programs be continued?

Mr. NATCHER. The gentleman is correct, Mr. Speaker, that they not only be continued, but at the rate set forth in the supplemental. The gentleman is correct.

Mr. WAXMAN. I want to thank the chairman for his efforts and for his support for these and other important health programs, and for yielding to me for this clarification.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the distinguished gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I would like to join with what the gentleman from Kentucky (Mr. NATCHER), my good friend, has said. This continuing resolution is meant to keep the Labor-HHS programs operating at the current levels, including supplementals, and to continue programs funded for the first time in supplementals at their current levels as well. I agree with his interpretation.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

Mr. NATCHER. I yield to the distinguished gentleman from California, a member of the committee.

Mr. ROYBAL. I thank the gentleman for yielding, and I seek this time to make inquiries with regard to refugee assistance.

Mr. Speaker, section 101(b) provides continuing authority under current terms and conditions and at a rate to maintain current operating levels for Labor, HHS and Education programs, including all of those related to refugee assistance.

With regard to cash and medical assistance provided to refugees, our committee has stated clearly that the Federal Government is responsible for 100-percent reimbursement of all eligible costs. Mr. Speaker, the State of California is faced with the possibility of a significant shortfall and is currently trying to resolve this matter with Social Security Administration officials.

If it is determined that a shortfall does in fact exist, am I correct in stating that the statutory language of the continuing resolution allows the administration to pay all legitimate costs incurred by California under the cash and medical assistance program?

Mr. NATCHER. Mr. Speaker, the gentleman's understanding is correct.

Mr. ROYBAL. I thank the gentleman. May I also make the following inquiry: Am I also correct in stating that the continuing resolution provides authority to extend currently funded employment and training assistance programs, including the farmworker housing program?

Mr. NATCHER. The gentleman is correct, Mr. Speaker.

Mr. ROYBAL. I thank the gentleman.

□ 1450

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, we are here today, as we are about this same time every, to pass a continuing resolution to fund the operation of our Government.

I do not intend to try to place blame. There is plenty to go around, I think, and we all share it. But I think we all agree that there is no excuse for this continuation. To fall back time and again on the inefficient, politically painless continuing resolution process—particularly when our Nation is in the midst of an economic crisis—is an abdication of our authority, and our responsibility.

Historically, traditionally, and philosophically, it is the right and responsibility of the Congress to govern the appropriations process. Ah—but the tail has come to wag the dog. We no longer rule the appropriations process, it rules us. Or at least we hide from it, frightened of the tough decisions and the controversial votes a thorough, thoughtful, comprehensive approach requires.

The continuing resolution is a pressurized quick-fix, and nothing more. It has no long-term value, and it is truly counterproductive making long-term solutions and long-term planning, and cogent Government administration all but impossible.

We all know that deep down. But it is so much easier when the end of the year rolls around to look over our shoulders and quickly pass a "continuing" than to admit that we have been able to deal with the budget that the years begin to run together, and we forget how really irresponsible we have become.

Do you know the last time we passed a budget and then followed it through? I am not talking about a "budget resolution," I am talking about working through the whole process.

Well the last time we did our work without falling back on a continuing resolution was in 1976—and we only accomplished that much because it was the first full year of the new budget process under the new fiscal year.

Mr. Speaker, we must stop this process. I do not blame the Appropriations Committee alone. that blame must be shared by the Budget and Tax Committees—and by the entire Congress. The budget debate this year took some 5 months of our time, and the Appropriations Committee could not act. I do not speak for any specific public works project, or a defense matter, or agriculture or education. I say that we must stop this easy continuing process.

Last year I introduced H.R. 5102 which will require a two-thirds majority vote in both bodies of Congress before the continuing appropriations process could be used to fund everyday operations of Government, with exceptions for national emergencies.

I shall reintroduce this resolution early next session and I ask my colleagues to join me in limiting the use of a continuing resolution. If we do not stop this indiscriminate use of the continuing resolution, we will destroy the appropriations process—and the committee system.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise to bring to the attention of my colleagues some language in the resolution that may be setting a dangerous precedent and which may be questionable on constitutional grounds.

The section I refer to deals with the defense appropriations and it states that the defense appropriations will continue at the 1982 levels until the 1983 Defense Appropriation Act "is reported in or subsequently passed by the House of Representatives * * *."

What this section does is delegate to a subunit of Congress—the Appropriations Committee—the authority to set an appropriations level without also establishing a standard or a level beyond which those funds may not be appropriated. In my mind, that raises two very important questions: First, is it appropriate for this House to delegate to a single committee the authority to set appropriations levels without standards or with standards to be set in the future?

The second question deals with the constitutionality of the delegation of legislative power. Can the Congress, which is given in the Constitution the power to make appropriations, legally delegate that authority to one of its committees?

The prevailing rule of law is that the courts will sustain a delegation of lawmaking power by the Congress so long as that delegation is accompanied by a limiting standard; and as we have seen, there is no limiting standard provided in this legislation.

Had we had a rule that permitted amendments I would have offered an amendment to change that provision. I am philosophically bothered by the concept of removing from 380 Members of the House the right to vote on this appropriation.

I understand the argument that when we pass this resolution the entire House is voting to give that power to the Appropriations Committee but as my colleagues can see there is nobody on the floor. There are very few Members who know this provision is in this bill, and that is why I rise to call it to the attention of the committee.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Mr. Speaker, I rise in support of the joint resolution.

Mr. Speaker, in section 101(e) this resolution incorporates the appropriations and provisions contained in H.R. 7073, the legislative branch appropriations bill for fiscal year 1983. I would like to explain that bill to the House.

Mr. Speaker, it is a privilege for me to present the legislative branch appropriation bill for fiscal year 1983 to the House. At the outset, I would like to express my thanks to the other members of the subcommittee for their help and support throughout the hearings and markup process. The members of the subcommittee have included Mr. MURTHA of Pennsylvania; Mr. TRAXLER of Michigan; the late Mr. Benjamin of Indiana; Mr. BURGENER of California, who has been very helpful in his position as ranking minority member; Mr. CONTE of Massachusetts, the ranking minority member of the full Appropriations Committee; Mr. LEWIS of California; Mr. CAMPBELL of South Carolina; and of course, Mr. WHITTEN of Mississippi, who, as chairman of the Committee on Appropriations, is an ex-officio member of the subcommittee.

I especially want to note the contributions and cooperation by my friend and colleague, CLAIR BURGENER. This will be his last term in Congress—he is retiring at the conclusion of this session—and he will be missed. CLAIR is a former member of the California Legislature—a pathway to the House identical to the one I took—and has distinguished himself and his constituents with his representation of the great city of San Diego both in Sacramento and here in the U.S. Congress. During the past several years, he and I have worked closely on legislative branch appropriations and on other matters of concern to Californians and the country. In all cases, his counsel has been invaluable and constructive. I will feel a deep personal loss at his departure, and wish him well for the future.

Mr. Speaker, I want to mention our recently deceased colleague, Adam Benjamin, Jr., of Indiana, who has been a member of our subcommittee since the beginning of the 95th Congress and was my predecessor as subcommittee chairman, a position he filled during the 96th Congress. Adam Benjamin was a highly effective Member of Congress, and a great friend. I have not heard of a Member who worked harder or longer hours for his constituents or on his committee assignments. He gave me much useful advice in connection with legislative branch appropriation matters and was always available when needed. Adam was taken from his family and all of us at a relatively young age—but he accomplished a great deal in those years he had and we are all better off as a result. He will be missed, Mr. Speaker, and remembered.

RECOMMENDATIONS FOR FISCAL YEAR 1983

Mr. Speaker, the bill we are considering today contains appropriations for fiscal year 1983 totaling $1,084,808,000, of which $621,951,000 is for congressional operations. These figures exclude appropriations for the operation of the Senate in accord with the long-term practice under which each body determines its own housekeeping requirements.

The budget requests considered by the committee totaled $1,138,717,000. The recommendation is $53,909,000 less than was requested. This is a reduction of almost 5 percent under the amounts presented in the President's budget.

The overall appropriations recommended are $37,280,325 under the amounts appropriated in fiscal year 1982, the current year level. That is a 3.3-percent decrease in annual appropriations to the legislative branch. Even if there were no inflation—and the current rate is about 7 percent—we have actually reduced the size of the legislative budget. In the face of constant inflation over the past several years, this budget is far below the amount necessary to keep up with the pace of increases in prices and wages.

In general, very few increases for workload expansion have been allowed, and then only when the work of the Congress has so required or where we are trying to protect the taxpayers' investment in legislative branch resources. It has been the general policy of the committee to provide the funds necessary for employee cost-of-living pay raises and other mandatory items and for a selected number

of the increases made necessary because of rising prices. These increases have been offset by reductions in staffing, equipment, alterations, repairs, and in the effects of legislation.

The bill requires almost a 1-percent reduction in the projected level of legislative branch employment. We have allowed only 23 of 178 new jobs requested, but other cuts in the employment base will enable us to end up with 24 fewer jobs in the legislative branch than we now have authorized. But I believe we have been careful to insure that the essential operations necessary to support the Congress have been preserved.

At a time when the Federal budget presented by the administration is up by 4.4 percent, and while the budget resolution calls for an increase in budget authority between fiscal year 1982 and fiscal year 1983 of 5.7 percent, we are bringing a legislative branch budget to the House that will result in a reduction in spending authority and a reduction in work force.

We are actually reducing the employment base in the legislative branch and we are recommending a decline in both actual and real dollar terms in the overall budget of the legislative branch.

And this is not just a 1-year phenomenon, Mr. Speaker. Since 1979 the legislative branch appropriation has grown at an annual rate of only 4.1 percent, while the executive budget has grown at a 10-percent rate—all this during a time when annual inflation has been over 9 percent. The Federal budget has been growing at a rate 2½ times greater than the legislative branch budget. In the meantime, our budget has declined in real growth terms.

Mr. Speaker, we can tell the taxpayers that the legislative branch is participating completely—as a matter of fact we are showing the way—in the process of reducing Federal expenditures. Every Member of this body can report to his constituents that fiscal responsibility begins at home—here in the Halls of Congress.

At this point in the RECORD under permission which I have already obtained, I will insert a tabulation detailing the committee recommendations in comparative form:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—LEGISLATIVE BILL (H.R. 7073) (AS REPORTED SEPTEMBER 9, 1982)

	Fiscal year—		Committee recommendation	Committee recommendation compared with—	
	1982 enacted	1983 estimates		Enacted	1983 estimates
TITLE I—CONGRESSIONAL OPERATIONS					
HOUSE OF REPRESENTATIVES					
Payments to widows and heirs of deceased Members of Congress: Gratuities, deceased Members	$121,325			−$121,325	
Compensation and mileage for the Members:					
Compensation of Members	29,382,000			−29,382,000	
Mileage of Members	210,000	$210,000	$210,000		
Total, compensation and mileage for the Members	29,592,000	210,000	210,00	−29,382,000	
House leadership offices:					
Office of the Speaker	673,000	676,000	676,000	+3,000	
Office of the Majority Floor Leader	551,000	555,000	555,000	+4,000	
Office of the Minority Floor Leader	610,000	617,000	617,000	+7,000	
Office of the Majority Whip	465,000	470,000	470,000	+5,000	
Office of the Minority Whip	406,000	408,000	408,000	+2,000	
Total, House leadership offices	2,705,000	2,726,000	2,726,000	+21,000	
Salaries, officers and employees:					
Office of the Clerk	11,543,000	11,787,000	11,787,000	+244,000	
Office of the Sergeant at Arms	16,028,000	16,284,000	16,284,000	+256,000	
Office of the Doorkeeper	5,937,000	5,938,000	5,938,000	+1,000	
Office of the Postmaster	1,622,000	1,769,000	1,769,000	+147,000	
Office of the Chaplain	58,000	59,000	59,000	+1,000	
Office of the Parliamentarian	495,000	495,000	495,000		
Office of the Parliamentarian	(305,000)	(305,000)	(305,000)		
Compilation of precedents of the House of Representatives	(190,000)	(190,000)	(190,000)		
Office of the Law Revision Counsel	554,000	716,000	716,000	+162,000	
Office of the Legislative Counsel	2,527,000	2,601,000	2,601,000	+74,000	
House Democratic Steering Committee and Caucus	508,000	511,000	511,000	+3,000	
House Democratic Steering Committee	(390,000)	(391,000)	(391,000)	(+1,000)	
House Democratic Caucus	(118,000)	(120,000)	(120,000)	(+2,000)	
House Republican Conference	508,000	511,000	511,000	+3,000	
Six minority employees	343,000	352,000	352,000	+9,000	
Other authorized employees	858,000	936,000	936,000	+78,000	
Technical assistant, Office of the Attending Physician	(40,000)	(40,000)	(40,000)		
L.B.J. interns and former Speakers' staff	(734,000)	(812,000)	(812,000)	(+78,000)	
Miscellaneous items	(84,000)	(84,000)	(84,000)		
Total, salaries, officers and employees	40,981,000	41,959,000	41,959,000	+978,000	
Committee employees: Professional and clerical employees (standing committees)	31,180,000	32,035,000	32,035,000	+855,000	
Committee on Appropriations (studies and investigations): Salaries and expenses	3,701,000	3,750,000	3,750,000	+49,000	
Committee on the Budget (studies): Salaries and expenses	218,000	276,000	276,000	+58,000	
Members' clerk hire: Clerk hire	143,715,000	143,953,000	143,953,000	+238,000	
Contingent expenses of the House:					
Allowances and expenses:					
Official expenses of Members	49,036,000	49,791,000	49,791,000	+755,000	
Supplies, materials, administrative costs and Federal tort claims	11,970,000	8,337,000	8,337,000	−3,633,000	
Furniture and furnishings	1,670,000	1,250,000	1,250,000	−420,000	
Reporting hearings	1,511,000	700,000	700,000	−811,000	
Reemployed annuitants reimbursement	2,300,000	2,300,000	2,300,000		
Government contributions	18,988,000	18,988,000	18,988,000		
Miscellaneous items	563,000	500,000	500,000	−63,000	
Total, allowances and expenses	86,038,000	81,866,000	81,866,000	−4,172,000	
Special and select committees: Salaries and expenses	42,135,000	43,600,000	42,000,000	−135,000	−$1,600,000
Total, contingent expenses of the House	128,173,000	125,466,000	123,866,000	−4,307,000	−1,600,000
Total, House of Representatives	380,386,325	350,375,000	348,775,000	−31,611,325	−1,600,000
JOINT ITEMS					
Contingent expenses of the Senate:					
Joint Economic Committee	2,305,000	2,375,000	2,375,000	+70,000	
Joint Committee on Printing	816,000	951,000	816,000		−135,000
Total, contingent expenses of the Senate	3,121,000	3,326,000	3,191,000	+70,000	−135,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—LEGISLATIVE BILL (H.R. 7073) (AS REPORTED SEPTEMBER 9, 1982)—Continued

	Fiscal year—		Committee recommendation	Committee recommendation compared with—	
	1982 enacted	1983 estimates		Enacted	1983 estimates
Contingent expenses of the House: Joint Committee on Taxation	3,136,000	3,405,000	3,405,000	+269,000	
Office of the Attending Physician: Medical supplies, equipment, expenses, and allowances	603,000	633,000	633,000	+30,000	
Capitol Police:					
General expenses	887,000	945,000	945,000	+58,000	
Capitol Police Board (reappropriation)	628,000			−628,000	
Total, Capitol Police	1,515,000	945,000	945,000	−570,000	
Education of pages: Education of congressional pages and pages of the Supreme Court	255,000	271,000	271,000	+16,000	
Official mail costs: Expenses	75,095,000	55,196,000	55,196,000	−19,899,000	
Capitol Guide Service: Salaries and expenses	734,000	734,000	734,000		
Statements of appropriations: Preparation	13,000	13,000	13,000		
Total, joint items	84,472,000	64,523,000	64,388,000	−20,084,000	−135,000
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	12,169,000	13,900,000	12,575,000	+406,000	−1,325,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	13,226,000	16,352,000	14,200,000	+974,000	−2,152,000
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol:					
Salaries	3,897,000	4,540,000	4,261,000	+364,000	−279,000
Contingent expenses	210,000	210,000	210,000		
Total, Office of the Architect of the Capitol	4,107,000	4,750,000	4,471,000	+364,000	−279,000
Capitol Buildings and Grounds:					
Capitol Buildings	10,330,000	11,814,000	9,056,000	−1,274,000	−2,758,000
Capitol Grounds	2,480,000	5,608,000	4,921,000	+2,441,000	−687,000
Acquisition of property as an addition to the Capitol Grounds		4,500,000	4,500,000	+4,500,000	
House office buildings	20,099,000	20,814,000	20,367,000	+268,000	−447,000
Capitol Power Plant (operation)	22,222,000	24,060,000	23,100,000	+878,000	−960,000
Total, Capitol Buildings and Grounds	55,131,000	66,796,000	61,944,000	+6,813,000	−4,852,000
Total, Architect of the Capitol (except items in title II)	59,238,000	71,546,000	66,415,000	+7,177,000	−5,131,000
LIBRARY OF CONGRESS					
Congressional Research Service: Salaries and expenses	31,605,000	37,109,000	33,851,000	+2,246,000	−3,258,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	84,843,000	90,247,000	81,747,000	−3,096,000	−8,500,000
Total, title I—Congressional operations	665,939,325	644,052,000	621,951,000	−43,988,325	−22,101,000
TITLE II—OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	2,351,000	1,827,000	1,827,000	−524,000	
LIBRARY OF CONGRESS					
Salaries and expenses	115,176,000	129,657,000	126,803,000	+11,627,000	−2,854,000
Authority to spend receipts			−6,500,000	−6,500,000	−6,500,000
Net, salaries and expenses	115,176,000	129,657,000	120,303,000	+5,127,000	−9,354,000
Copyright Office, salaries and expenses	9,627,000	15,515,000	15,477,000	+5,850,000	−38,000
Authority to spend receipts			−5,000,000	−5,000,000	−5,000,000
Net, Copyright Office, salaries and expenses	9,627,000	15,515,000	10,477,000	+850,000	−5,038,000
Books for the blind and physically handicapped, salaries and expenses	33,221,000	35,478,000	33,384,000	+163,000	−2,094,000
Collection and distribution of library materials (special foreign currency program):					
Payments in Treasury-owned foreign currencies	3,976,000	3,976,000	2,976,000		
U.S. dollars	429,000	462,000	462,000	+33,000	
Total, collection and distribution of library materials	4,405,000	4,438,000	4,438,000	+33,000	
Furniture and furnishings	1,089,000	1,563,000	1,226,000	+137,000	−337,000
Total, Library of Congress (except Congressional Research Service)	163,518,000	186,651,000	169,828,000	+6,310,000	−16,823,000
ARCHITECT OF THE CAPITOL					
Congressional cemetery			300,000	+300,000	+300,000
Library buildings and grounds: Structural and mechanical care	8,785,000	5,137,000	5,071,000	−3,714,000	−66,000
COPYRIGHT ROYALTY TRIBUNAL					
Salaries and expenses	487,000	606,000	606,000	+119,000	
Authority to spend receipts		−50,000	−157,000	−157,000	−107,000
Net, Salaries and expenses	487,000	556,000	449,000	−38,000	−107,000
GOVERNMENT PRINTING OFFICE					
Printing and binding	17,888,000	16,591,000	12,791,000	−5,097,000	−3,800,000
Office of Superintendent of Documents, salaries and expenses	27,120,000	28,889,000	27,291,000	+171,000	−1,598,000
Total, Government Printing Office (except congressional printing and binding)	45,008,000	45,480,000	40,082,000	−4,926,000	−5,398,000
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	236,000,000	255,014,000	245,300,000	+9,300,000	−9,714,000
Total, title II—Other agencies	456,149,000	494,665,000	462,857,000	+6,708,000	−31,808,000
Grand total, new budget (obligational) authority	1,122,088,325	1,138,717,000	1,084,808,000	−37,280,325	−53,909,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—LEGISLATIVE BILL (H.R. 7073) (AS REPORTED SEPTEMBER 9, 1982)—Continued

	Fiscal year—		Committee recommendation	Committee recommendation compared with—	
	1982 enacted	1983 estimates		Enacted	1983 estimates
RECAPITULATION					
Title I—Congressional Operations	665,939,325	644,052,000	621,951,000	−43,988,325	−22,101,000
Title II—Other Agencies	456,149,000	494,665,000	462,857,000	+6,708,000	−31,808,000
TITLE I—CONGRESSIONAL OPERATIONS					
House of Representatives	380,386,325	350,375,000	348,775,000	−31,611,315	−1,600,000
Joint items	84,472,000	64,523,000	64,388,000	−20,084,000	−135,000
Office of Technology Assessment	12,169,000	13,900,000	12,575,000	+406,000	−1,325,000
Congressional Budget Office	13,226,000	16,352,000	14,200,000	+974,000	−2,152,000
Architect of the Capitol (except Library buildings and grounds, and Congressional Cemetery)	59,238,000	71,546,000	66,415,000	+7,177,000	−5,131,000
Congressional Research Service, Library of Congress	31,605,000	37,109,000	33,851,000	+2,246,000	−3,258,000
Congressional printing and binding, Government Printing Office	84,843,000	90,247,000	81,747,000	−3,096,000	−8,500,000
Total, title I—Congressional operations	665,939,325	644,052,000	621,951,000	−43,988,325	−22,101,000
TITLE II—OTHER AGENCIES					
Botanic Garden	2,351,000	1,827,000	1,827,000	−524,000	
Library of Congress (except Congressional Research Service)	163,518,000	186,651,000	169,828,000	+6,310,000	−16,823,000
Architect of the Capitol (Library buildings and grounds, and Congressional Cemetery)	8,785,000	5,137,000	5,371,000	−3,414,000	+234,000
Copyright Royalty Tribunal	487,000	556,000	449,000	−38,000	−107,000
Government Printing Office (except congressional printing and binding)	45,008,000	45,480,000	40,082,000	−4,926,000	−5,398,000
General Accounting Office	236,000,000	255,014,000	245,300,000	+9,300,000	−9,714,000
Total, title II—Other agencies	456,149,000	494,665,000	462,857,000	+6,708,000	−31,808,000
Grand total, new budget (obligational) authority	1,122,088,325	1,138,717,000	1,084,808,000	−37,280,325	−53,909,000

REVENUE ACTIVITIES

The Members may be interested to know there are a number of revenue activities within the legislative branch which will return over $83 million before expenses to the Federal Government during fiscal year 1983. Included in this estimate is $2 million to the Capitol Power Plant in reimbursements for heating and air-conditioning, $11.5 million from copyright fees and the sale of catalog cards and publications by the Library of Congress, $6.9 million in gift and trust fund income, $52.6 million from the sale of Government documents through the Office of the Superintendent of Documents, and $10.7 million from various other reimbursable activities at the Library of Congress and Copyright Royalty Tribunal. Savings attributable to General Accounting Office activities total approximately $8.5 billion, which also have an offsetting effect on total Federal finances.

MAJOR ITEMS IN BILL

TITLE I—CONGRESSIONAL OPERATIONS

The bill provides a total of $621,951,000 for fiscal year 1983 for seven major areas of congressional or direct congressional support activity. These include the House of Representatives, joint items, the Office of Technology Assessment, the Congressional Budget Office, the Architect of the Capitol (except Senate and Library buildings and grounds), the Congressional Research Service, and congressional printing and binding.

HOUSE OF REPRESENTATIVES AND JOINT ITEMS

The allowance of $413,163,000 for the House and joint items for 1983 includes an amount of $348,775,000 for the operations of the House itself. The budget for the House is $31,611,325 less than the amount appropriated last year, primarily due to the transfer of the compensation of Members to a permanent appropriation, but also because of other reductions in contingent expenses and committee salaries and expenses. The combined total for the House and activities shared jointly with the Senate—so-called joint items—is $51,695,325, or 11 percent, less than the amount appropriated in fiscal year 1982.

RECOMMENDED REDUCTIONS

The total recommendation for congressional operations is $22,101,000 less than was requested. Included in this decrease is: A reduction of $1.6 million in funding requested for the special and select committees—due to actions already taken and approved by the House; a voluntary markdown of $135,000 in the Joint Committee on Printing budget; a reduction of $1,325,000 under the request of the Office of Technology Assessment; $2,152,000 less than requested by the Congressional Budget Office; the deferral of certain projects and other downward adjustments totaling $5,131,000 in the budget of the Architect; a reduction of $3,258,000 for the operation of the Congressional Research Service; and a reduction of $8,500,000 in congressional printing and binding.

TITLE II—OTHER AGENCIES

A total of $462,857,000 is recommended for the six agencies carried in title II of the bill. This allowance is an increase of $6,708,000—only 1.5 percent—over the current level of appropriations and $31,808,000 less than requested.

The agencies that are included in this title of the bill and the amounts recommended are as follows: First, Botanic Garden, $1,827,000; second, Library of Congress (except the Congressional Research Service), $169,828,000; third, Architect of the Capitol: For Library Building and Grounds, $5,071,000, and for Congressional Cemetery, $300,000; fourth, Copyright Royalty Tribunal, $449,000; fifth, Government Printing Office (except congressional printing and binding), $40,082,000; and sixth, General Accounting Office, $245,300,000.

Mr. Speaker, I will not attempt to discuss all of the recommendations made by the committee for the various agencies funded in this title of the bill, but I would like to mention a few. Our general policy has been to provide only the resources necessary to maintain activities at the current level or slightly below and to fund mandatory increases. Only 29 of the 178 additional staffing requested have been allowed. In addition, a reduction of 53 positions under current staffing has been made. Thus, we have reduced legislative branch employment by 24 positions under the level provided for last year and by 202 positions—almost 10 percent—under the level requested for fiscal year 1983.

We have provided $500,000 to begin a program to preserve Library of Congress collections using mass deacidification techniques and for special preservation treatment of the U.S. county atlas collection. The walkway approaches to the west front of the Capitol are in a deteriorating state and funds are provided for their replacement and related work. The bill also provides $300,000 for grants to be administered by the Architect of the Capitol to assist in the restoration and preservation of the historic portions of the Congressional Cemetery.

TITLE III—GENERAL PROVISIONS

Section 305 amends title 44 of the United States Code and is designed to make the funding of the international exchange program more equitable. This program, which has operated since the Treaty of Brussels in 1886, has been in serious jeopardy because of a decision by the Smithsonian Institution to withdraw financial support of the costs of distributing publications of the U.S. Government to those foreign countries who agree to exchange their own publications for ours. While funding was being withdrawn, several agencies including the State Department, U.S. Information Agency, Library of Congress, and others expressed a strong desire to continue the program because of the beneficial effects of information exchange. The change to title 44 will accomplish that objective and will provide that the publishing agency will be charged for the costs of printing, binding, and distribution of the publications that are eligible for the program. The change to title 44 also places tighter controls on the type and nature of publications of the U.S. Government that are subject to the international exchange agreement.

Section 307 provides that during fiscal year 1983, individuals in the legislative, executive, or judicial branches, or the District of Columbia government, may not receive a pay raise over their rate of pay on September 30, 1982, if their salary is set at a rate which is equal to or greater than level V of the Executive Schedule (currently frozen at $57,500 per annum), or to a percentage of such rate. There is also a limitation on bonuses paid to senior executive service personnel.

Section 307 provides for a pay freeze for high-level individuals in the legislative, executive, and judicial branches or in the government of the District of Columbia.

The first sentence of section 307 provides that the rate of pay will be frozen at the rate payable on September 30, 1982, which is the last day before the 1982 comparability adjustment is to take effect. It also defines in paragraphs (1) and (2) the individuals who are subject to the freeze. Under paragraph (1) any individual whose rate of pay is $57,500 or more—that is equal to or greater than level V of the Executive Schedule—is covered by the freeze. This paragraph covers those individuals whose rate of pay was directly affected by the 1977 quadrennial increase (such as judges, Members, Senators, heads and assistant heads of Cabinet departments), as well as individuals whose rate of pay is administratively set at rates above $57,500 (such as high-level positions in the Postal Service). This paragaph also covers those employees under the Administrative Office of the U.S. Courts whose rates of pay are tied specifically to the rates of pay of certain Federal judges.

Paragraph (2) covers those individuals whose rates of pay are at or will, as a result of this year's comparability adjustment, bump against a statutory—or other—salary ceiling on their rates of pay. For example, the statutory rate for a GS-18 is $61,300 but the payable rate is only $57,500 because of the statutory level V ceiling. Under this section the $57,500 ceiling is maintained. Section 307 also maintains existing ceilings on rates of pay for committee staffs, other officers and employees of the House and Senate, and for administrative assistants whose maximum rate of pay is limited by congressional resolution.

Paragraph (2) would also limit the rate of pay for some individuals who are currently paid less than the level V payable rate of $57,500. For example, a GS-16, step 2 employee presently makes $56,580. Under the amendment, he could not receive this October's entire comparability increase since his pay would be subject to the "frozen" $57,500 statutory ceiling. The parenthetical "(or a percentage of such maximum rate)" insures a freeze in rates of pay for those House committee staff employees whose rate is limited to 75 percent of level IV.

The amendment applies to individuals in all three branches, and thus includes individuals in the Senior Executive Service. The Office of Personnel Management has informally estimated that the freeze will apply to 24,833 individuals in the executive branch—as well as over 2,000 in the legislative and judicial branches—broken down as follows:

Executive branch:	
Currently at level V or above	18,503
Additional affected by frozen ceiling	6,330
Legislative branch and Judicial branch	2,000+

Under this section, the freeze is in effect for fiscal year 1983. If the freeze is to continue beyond fiscal year 1983, it will be necessary for Congress to enact a similar limitation of funds again next year.

Subsection (b) provides a special rule to cover positions which are created after September 30, 1982, and requires the appropriate officials in each branch to promulgate regulations to insure that the pay for such positions will be set at a rate equivalent to that for comparable positions which were in existence on September 30, 1982.

Subsection (c) continues the 20-percent limitation on the number of SES personnel or comparable personnel under other executive personnel systems who may be paid performance awards in fiscal year 1983.

Subsection (d) provides that the salary or pay actually paid to an employee, as a result of the application of the amendment, will serve as the basis for computing life insurance, retirement, and other benefits, rather than the higher statutory rate.

CONCLUSION

Mr. Speaker, these are the highlights of the fiscal year 1983 legislative branch appropriation bill. The committee report explains our actions in much more detail, and is available to all the Members of the House.

The committee has little discretion as far as the amounts for the House and the joint items of the Congress are concerned. Salaries, allowances, and expenses of the Members, special and select committee funding and other items have been approved by the House and are already in effect through the adoption of House resolutions from the Committee on House Administration. Where the committee has discretion, it has been exercised.

As I noted earlier in my remarks, the committee is recommending an overall reduction totaling $53,909,000 and only 23 of the 178 new positions requested have been allowed. Moreover, the level of legislative branch staffing will actually be less than the current level.

We are bringing a legislative branch budget to the House that is smaller in actual dollars than the current year by over $37 million.

We have trimmed the fat from the legislative branch and have made a conscious effort to stimulate increases in productivity.

We have no apologies to make in voting for this budget, Mr. Speaker.

This is a good bill and one I think all the Members can support and identify with during this period of extreme budget austerity

I recommend that it be approved.

Mr. Speaker, I would also like to engage in a brief colloquy with the gentleman from California (Mr. ROYBAL).

Mr. Speaker, section 110 of House Joint Resolution 599 provides for a cap on Federal Wage Board employees similar to that placed on the Government's Class Act employees.

However, provisions were made in Public Law 92-392, House Report No. 92-339 of the 92d Congress that periodic surveys were to be made in our private sector of the pay of supervisory wage employees to be used to adjust the pay of the Federal Government's Wage Board Supervisors.

The first survey has now been made and the Office of Personnel Management has stipulated in the Federal Register, volume 47, No. 99 of May 21, 1982, the details for implementing the results of the survey.

It is my understanding that the provisions of section 110 of House Joint Resolution 599 do not in any way prohibit the implementation of the Wage Board supervisory study as detailed in the Federal Register.

[From the Federal Register, May 21, 1982]

OFFICE OF PERSONNEL MANAGEMENT—5 CFR PART 532—PREVAILING RATE SYSTEMS

Agency: Office of Personnel Management.

Action: Proposed Rulemaking.

Summary: The Office of Personnel Management is proposing regulations to implement the results of a study which it conducted of blue collar supervisory pay practices in private industry. The study results would be implemented by making certain changes in the grades of wage supervisors, and in the current pay formula which is used to compensate employees in these positions.

Date: Comments must be received by July 20, 1982.

Address: Send or deliver written comments to Mr. Jerome D. Julius, Assistant Director for Pay Programs, Compensation Group, Room 3353, 1900 E Street, NW., Washington, D.C. 20415.

For further information contact: Mr. David Weisberg, (202) 632-5454.

Supplementary information: The current pay plan for supervisors of Federal trade, craft and labor occupations was established in December 1968, following a comprehensive study of supervisory practices in private industry. The formula which was adopted for setting Federal supervisors' pay closely followed the patterns of supervisory pay practices and pay differentials which were disclosed by the industry study.

The Federal wage system law (Pub. L. 92-392) requires that Government compensation practices be kept consistent with those which prevail in the private sector. A new supervisory study was therefore conducted in 1979 to determine whether the Government-wide system for supervisors was still reflective of industrial practices.

All industry data collected in the study were converted to equivalent grades under the Federal supervisory structure. The pay differentials of the industry positions were then compared with the differentials the positions would receive if they were paid from the average wage schedule in the Federal Government. The average Federal schedule was constructed in a manner which assured that the present restrictions on Federal pay which have been adopted as a matter of public policy would be applied to blue collar supervisors in the same fashion as they are applied to all other Federal employees. Differences between the Federal and industry pay differentials were weighted by the number of industry samples obtained at each grade. The comparison of these Federal and industry differentials is as follows:

COMPARISON OF SURVEY RESULTS WITH FEDERAL SUPERVISORY DIFFERENTIALS

[In percent]

	Survey results	Federal differentials	Adjustment indicated [1]
Grade:			
WS-1[2]	53	39	+14
WS-2[2]	37	44	−7
WS-3[2]	21	36	−15
WS-4[2]	34	40	−6
WS-5[2]	37	37	None
WS-6[2]	28	36	−8
WS-7[2]	39	38	+1
WS-8[2]	30	31	−1
WS-9[2]	32	33	−1
WS-10[2]	33	31	+2
WS-11[3]	47	40	+7
WS-12[3]	51	42	+9
WS-13[3]	39	37	+2
WS-14[3]	58	50	+8
WS-15[3]	74	51	+23
WS-16[3]	70	59	+11
WS-17[3]	79	63	+16

Differential results for positions in grades WS-1 through WS-10, and WS-11 through WS-17, respectively, were analyzed separately because both current Federal pay setting procedures and the survey results differ significantly for positions in grades WS-1 through WS-10, compared with those in grades WS-11 through WS-17. The preceding Table indicates that positions in the Federal Government in grades WS-1 through WS-10 receive pay differentials over their nonsupervisory subordinates which exceed private sector differentials by a little less than one percent. Positions in the Federal Government in grades WS-11 through WS-17, however, trail private industry differentials by approximately 7.6 percent. In the Federal Government most Foreman positions are in grades WS-1 through WS-10, and most General Foreman positions are in grades WS-11 through WS-17.

OPM Proposes to achieve overall comparability with private industry for the range of supervisory positions in grades WS-11 through WS-17 by raising all General Foreman positions one grade, and changing the linkage point for WS-19 and the current supervisory pay formula from GS-14/1 to GS-14/3. For economic reasons, this will be accomplished over a two-year period on a wage area-by-wage area basis. During the first year, the WS-19 linkage point will be changed from GS-14/1 to GS-14/2. In the second year of implementation, all General Foreman positions will receive a one grade increase concurrent with the completion of the WS-19 linkage adjustment from GS-14/2 to GS-14/3. The Staffing Services Group of OPM will raise the General Foreman grades by revising the wage supervisor job-grading standard; the linkage change will be accomplished by changing the reference to "minimum" rate in regulation 5 CFR 532.203(d)(2) to the "second" rate in the first year of implementation, and to the "third" rate to the second year of implementation. No changes are proposed for Foreman positions in grades WS-1 through WS-10 whose current pay differentials correspond closely to industry practice.

The General Foreman—GS-14/3 linkage adjustment which OPM is proposing will, when completed, eliminate the lag observed in the supervisory study for all positions in grades WS-11 through WS-17. The increases which would result from the OPM proposal are targeted primarily to the General Foreman positions in those grades. General Foremen in grades WS-11 through WS-17 currently receive pay differentials which are 15 percent less than private industry. The OPM proposal would reduce the pay differential lag for General Foreman positions in these grades to 2 percent.

OPM wishes comments on its proposal to change the current WS-19 linkage point in conjunction with increasing the grade of General Foreman positions. We will also consider any other suggestions for implementing the supervisory study results. These could take the form of a new or revised supervisory pay formula, or some different approach which would serve to carry out the survey findings. If this proposed regulation is ultimately issued as a final regulation, it will be revised after one year to complete the WS-19 linkage adjustment from GS-14/2 to GS-14/3.

Mr. ROYBAL. Mr. Speaker, will the gentleman yield?

[1] Adjustment to average Federal schedule to reflect survey results.
[2] Weighted average difference WS-1—WS-10: −8%
[3] Weighted average difference WS-11—WS-17: +7.6%

Mr. FAZIO. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Speaker, may I inform the gentleman since it is not the result of a general wage increase, the gentleman is correct, the implementation of the wage survey may take place.

Mr. FAZIO. I appreciate the comments of the gentleman.

□ 1500

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Speaker, the energy and water development appropriation bill is reflected in the continuing resolution at the House-reported level of funding or the current rate, whichever is lower.

Our approach is the same as that of the other subcommittees that have reported bills at this time, and that is to reflect the most current action in regard to funding levels and to maintain programs at their current levels pending final congressional action.

The subcommittee is recommending only two exceptions to this approach: First, in regard to the level of funding for Corps of Engineers—civil, operation, and maintenance, general, and the operation and maintenance activities funded in flood control, Mississippi River and tributaries, the funding in the resolution would be at the fiscal year 1983 recommended level. This is necessary to prevent closure of certain locks and dams and other actions that could be irreversible. The second exception is for the national security programs, which is about $1.1 billion above the current year level and $164 million below the request in the subcommittee-recommended bill. The additional funding is needed to continue production of seven weapons systems currently in production and one new system. Each of these systems has been approved for production by the President and reflects the planning of both the Carter and Reagan administrations. It also provides for additional nuclear materials production for future national security program requirements.

For the Federal Energy Regulatory Commission, it is the committee's intention that the program level is $89,100,000 for fiscal year 1983, the amount available before estimated revenues are deducted. For the Nuclear Regulatory Commission, the program level is $474,500,000 for fiscal year 1983, the amount available before estimated revenues are deducted.

The "Nuclear fuel cycle activities" appropriation account is new for fiscal year 1983. However, the committee's intention is that activities such as nuclear waste disposal efforts are continuing efforts and shall be funded at

the level provided in fiscal year 1982 under the energy supply, research, and development activities account.

The committee expects that all departments and agencies covered by the Energy and Water Development Appropriations Act, particularly the Department of Energy, will maintain staffing levels and program activities at least at the current level during the period of the continuing resolution so as to not prejudice any final congressional decisions on this Appropriation Act.

● Mrs. SCHROEDER. Mr. Speaker, section 124 writes new law on the subject of debt collection by the Federal Government against its own employees. As chairwoman of the Subcommittee on Civil Service, I can report that the subcommittee has been at work on coming up with a reasonable provision which meets the Government's legitimate interest in collecting debts owed by its own employees and which also addresses the serious concerns of Federal employees in safeguarding their due process rights. We were well along on this process when we found that the Appropriations Committee had usurped our jurisdiction and decided to write its own version in the law.

Quite apart from arguments based on the sanctity of jurisdictional assignments, this provision demonstrates why legislating should be left to the committees with jurisdiction over the subject matter. Section 124 might be considered a compromise since it neither meets the legitimate interests of the Government nor addresses the real concerns of employees. It is a poorly drafted provision which should be deleted.

Let me explain. Section 124 requires the Government to get a court order before it can withhold money from an employee's pay. The cost of going to court will frequently be greater than the amount of the debt. So, in essence, this provision is instructing the Government to write off small debts. Furthermore, the provision does nothing to overrule a line of Supreme Court cases holding that there can be no garnishment of employee's pay because such attachment would violate the doctrine of sovereign immunity. So, at best, this provision would allow the Government to collect a small portion of the debts owed to it by its employees; at worst, it would have no effect whatsoever.

From the employee's point of view, this provision provides no real protection. The cost of contesting in court would probably be high and the procedures arcane. It would be far better to have an administrative hearing mechanism. Further, this provision would allow for the deduction of 25 percent of pretax income, which could make it quite difficult for anyone to meet their mortgage payments. There is no right of the employee to try to negotiate a better payment schedule.

Additionally, this provision does nothing about the inability of private debtors to garnish from Federal employees. This is an issue which should be dealt with.

Unfortunately, the rule does not permit an amendment to this section. We cannot improve it and we cannot remove it. We have to rely on the other body to cure this bad provision. I hope they remove it.●

● Mr. SMITH of Iowa. Mr. Speaker, section 122 of this resolution prohibits the use of the funds provided under the resolution for any purpose contrary to the provisions of H.R. 3480, the Legal Services Corporation authorization measure passed by the House last year.

It is the intent of this committee that the Legal Services Corporation and its grantees spend these funds strictly in accordance with the terms of H.R. 3480 as if it were law, including section 4 which repeals the right to presumptive refunding hearings during the period that this resolution is in effect. One of the provisions of H.R. 3480 is that which repeals section 1011 of the present Legal Services Corporation Act and replaces it with a simple hearing requirement in the case of Corporation decisions that interrupt an ongoing grant. This committee intends that the Legal Services Corporation accord applicants for refunding constitutional due process, but no funds provided under this resolution are to be expended to insure any applicant any procedural rights that the applicant would not have if H.R. 3480 were enacted.●

● Mr. FRENZEL. Mr. Speaker, I know continuing resolutions are sometimes necessary and I vote for them when they are necessary.

However, a continuing resolution which contains nearly every appropriation we have is a little too much.

It is also too much that the Health and Human Services gets a special spending deal over all other departments.

Finally, it is much too much that this resolution is handled under a rule that reduces debate and prohibits amendments. The House ought to have more respect for its own processes, and more respect for the taxpayers' money.

The resolution ought to be defeated. We can do better.●

AMENDMENT OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITTEN: On page 7, line 20, strike "February 28, 1983" and insert in lieu thereof "December 15, 1982".

On page 8, line 13, strike "February 28, 1983" and insert in lieu thereof "December 15, 1982".

Mr. WHITTEN. Mr. Speaker, this amendment took form after consideration with the leadership of the House and others with regard to what might be the most convenient way to deal with the time limit. I repeat again that once a regular annual appropriations bill is agreed upon and signed into law, it comes out from under the continuing resolution, so that takes care of itself, or will in the future.

In discussing this with the several Members and with the leadership, it was thought that December 15 would not be in the way of any bill that we agree on. But it would provide some time to agree as to when it would be most convenient for the Members of the Congress to come back here to conclude our business.

Now, in the discussions which took place there was concern with the termination date in the reported resolution, and may I explain how that date was determined. Like my colleagues, I thought perhaps sine die adjournment would be a good date, because I was not trying to fix any specific date. I was just trying to get this show on the road. The time of adjournment is a matter which will have to be agreed on by the leadership on both sides of the Capitol. But after consultation with the House leadership and others, it was thought that if we put December 15, it would allow time. Everything has to be worked out, of course, between the House and the Senate, to allow time to determine what is the best time in order for us to come back and conclude our business. So for that reason I have offered this amendment and I hope you will go along with it. It does not drag out anything, but it just leaves it where the leadership can decide what is the best time to call us all back here; so on that basis, I hope you will go along with the amendment.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 596, the previous question is considered as having been ordered.

The question is on the amendment offered by the gentleman from Mississippi (Mr. WHITTEN).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. CONTE. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit House Joint Resolution 599 to the Committee on Appropriations, with instructions to that Committee to report the joint resolution back to the House forthwith, with the following amendments.

On page 19, after line 2, add a new section as follows:

SEC. 128. Notwithstanding section 102 of this joint resolution, and notwithstanding the termination date of section 307 (a), (b), and (d) specified in section 101(e) of this joint resolution, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1982, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) sine die adjournment of the second session of the Ninety-seventh Congress, which first occurs.

On page 9, in line 19, strike "102" and insert in lieu thereof "128".

On page 15, in line 2, strike "102" and insert in lieu thereof "128".

On page 17, in line 5, strike "102" and insert in lieu thereof "128".

On page 7, in line 11, after "102" insert "and section 128".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. Speaker, the issue before the House is as straight as an arrow, and for the majority leadership, it appears to be just about as painful.

Shall this Congress make very reasonable effort to complete the public's business?

The minority believes the answer is "yes," and that the date in this continuing resolution should be changed to sine die adjournment of this Congress.

The legislative record of this House is a disgrace.

Under the Constitution we originate appropriation bills.

Yet here it is, September 22, and the House has passed only four appropriation bills for fiscal 1983.

As of September 1, we had passed only one.

We will have a special session. We will consider and enact several more appropriation bills. The responsible thing to do is to extend this continuing resolution during the special session, making adjustments to rates and conditions at that time to reflect additional congressional action.

The majority has suddenly—and belatedly—recognized the wisdom of our position.

The resolution as initially drafted by the chairman terminated at sine die adjournment. Then, by direction of the majority leadership, and I am sure against his usual good judgment, the chairman changed the date to February 28.

Then the leadership, realizing they were giving the minority a legitimate opportunity to raise a legitimate issue, provided in the rule an amendment changing the date from February 28 to a date certain.

And the date has now been changed to December 15.

Frankly, this is almost as bad.

It does not make sense to run the continuing resolution to February 28. We will not have time between the start of the 98th Congress and February 28 to enact appropriation bills.

It does not make sense to run the continuing resolution to a date certain in 1982—say December 15.

What will happen if we are tied up on a controversial bill or issue on December 15? I understand the Judiciary Committee is bringing out the immigration bill. A lot of people want to see that bill acted upon. We could have many other bills up before us. We could have debate on the defense bill that will go days and days. Our health and human services bill may go for a long period of time.

We can finish our business. We can provide ourselves with some commonsense flexibility by going with a continuing resolution through sine die adjournment.

Legislative politics is difficult enough in this day and age. Let us not shoot ourselves in the foot again by ducking our responsibilities until February or binding ourselves to a fixed date in December.

I think the wise vote here is a vote for the motion to recommit, for a continuing resolution through sine die adjournment, and then let us get busy on the appropriations bills. There we will have a little flexibility. We can move forward or backward. If we want to get through here on the 8th, then we get everything done on the 8th. If we want to get through on the 20th of December, and believe me, of all the lameduck sessions that I have been in, the chairman, the gentleman from Mississippi, has been here a lot longer than I have, we will be here just before Christmas, maybe December 22 or December 23, battling away on some of these bills and you will have a little more time, a little more flexibility to handle that continuing resolution.

I hope the motion to recommit passes.

Mr. WHITTEN. Mr. Speaker, I rise in opposition to the motion.

May I say again that as chairman of the Appropriations Committee, I first put the date in there not with any desire to dictate to the House.

After conferring with the leadership and others and listening to various pros and cons, it was thought that if December 15 was agreed to, it would give more leeway to the Senate and the House leadership as to the remainder of the session.

There was opposition to putting it over until February and I have no strong desire to put it to that date, which would go into the next Congress.

I think it is much more sound to say December 15 and have a fixed date, which as I say, as others have said and I think is true, gives the leadership on both sides more leeway to determine when they wish us to come back for a limited time than it would if we did it the other way.

□ 1510

But if we did it the other way, the sine die way, it was thought it would create problems.

So why go through all that rigmarole? I think it is still better to follow the recommendations we received and make it December 15. Of course, this will have to be agreed to, in the final analysis, between the House and the Senate.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 188, nays 215, answered "present" 1, not voting 28, as follows:

[Roll No. 358]

YEAS—188

Anderson	Campbell	Craig
Ashbrook	Carman	Crane, Daniel
Atkinson	Carney	Crane, Philip
Badham	Chappie	Daniel, R. W.
Bailey (MO)	Cheney	Dannemeyer
Barnes	Clausen	Daub
Beard	Clinger	Deckard
Bethune	Coats	Derrick
Bliley	Coleman	Dickinson
Broomfield	Conte	Dornan
Brown (CO)	Corcoran	Dreier
Broyhill	Coughlin	Dunn
Burgener	Courter	Dyson
Butler	Coyne, James	Edgar

Edwards (AL)
Edwards (OK)
Emerson
Emery
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fish
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Green
Gregg
Gunderson
Hagedorn
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Heckler
Hendon
Hiler
Hillis
Holt
Hopkins
Horton
Hunter
Hyde
Jeffords
Jeffries
Johnston
Jones (NC)
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCloskey
McCollum
McDade
McDonald
McEwen
McGrath
McKinney
Michel
Miller (OH)
Mitchell (NY)
Molinari
Moore
Moorhead
Morrison
Myers
Napier
Nelligan
Nowak
O'Brien
Oakar
Ottinger
Oxley
Parris
Pashayan
Patterson
Paul
Petri
Pickle
Porter
Pritchard
Pursell
Quillen
Railsback
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Roukema
Rudd
Sawyer
Schneider
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stump
Taylor
Thomas
Trible
Vander Jagt
Walgren
Walker
Wampler
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Winn
Wolf
Wortley
Wylie
Young (FL)

NAYS—215

Akaka
Albosta
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Bailey (PA)
Barnard
Bedell
Beilenson
Bennett
Bereuter
Bevill
Biaggi
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Brown (CA)
Byron
Clay
Coelho
Collins (IL)
Conable
Conyers
Coyne, William
Crockett
D'Amours
Daniel, Dan
Daschle
Davis
de la Garza
Dellums
DeNardis
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Evans (IN)
Fary
Fascell
Fazio
Ferraro
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Gaydos
Gejdenson
Gephardt
Gibbons
Ginn
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Harkin
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Holland
Hollenbeck
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Lantos
Leath
Lehman
Leland
Levitas
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCurdy
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Montgomery
Mottl
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Oberstar
Obey
Panetta
Patman
Pease
Pepper
Perkins
Peyser
Price
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Savage
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Shamansky
Shannon
Shelby
Simon
Smith (AL)
Smith (IA)
Smith (OR)
Smith (PA)
Solarz
St Germain
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Vento
Volkmer
Watkins
Waxman
Weaver
White
Whitley
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolpe
Wright
Wyden
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Bingham

NOT VOTING—28

Addabbo
Bafalis
Benedict
Blanchard
Bowen
Brown (OH)
Burton, John
Burton, Phillip
Chappell
Chisholm
Collins (TX)
Derwinski
Ertel
Evans (GA)
Fithian
Forsythe
Garcia
Grisham
Ireland
Mattox
Moffett
Rousselot
Stanton
Staton
Stratton
Washington
Weiss
Young (AK)

□ 1530

Mr. PANETTA and Mr. WYDEN changed their votes from "yea" to "nay."

Mrs. HOLT and Messrs. SKELTON, LEACH of Iowa, and PATTERSON changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PHILIP M. CRANE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 242, noes 161, not voting 29, as follows:

[Roll No. 359]

AYES—242

Akaka
Albosta
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Bailey (PA)
Barnard
Barnes
Beard
Beilenson
Bennett
Bethune
Bevill
Biaggi
Bingham
Bliley
Boggs
Boland
Boner
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Brown (CA)
Broyhill
Burgener
Byron
Campbell
Carman
Carney
Cheney
Clay
Clinger
Coelho
Coleman
Collins (IL)
Conable
Corcoran
Courter
Coyne, William
D'Amours
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edwards (AL)
Erlenborn
Evans (DE)
Evans (IN)
Fary
Fazio
Ferraro
Fiedler
Flippo
Florio
Foglietta
Foley
Ford (MI)
Fowler
Frost
Fuqua
Gaydos
Gejdenson
Gibbons
Ginn
Gonzalez
Gore
Gradison
Guarini
Hall (OH)
Hammerschmidt
Hance
Hatcher
Hawkins
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Hopkins
Howard
Hoyer
Huckaby
Hutto
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kramer
LaFalce
Lantos
Leath
Lee
Lehman
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Luken
Lundine
Madigan
Marks
Marriott
Martin (NY)
Martinez
Mavroules
Mazzoli
McDade
McEwen
McHugh
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (NY)
Molinari
Mollohan
Montgomery
Moore
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oberstar
Ottinger
Parris
Patman
Patterson
Pepper
Perkins
Peyser
Price
Pursell
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Rogers
Rose
Rosenthal
Rostenkowski
Roukema
Roybal
Rudd
Santini
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Shaw
Shelby
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Solarz
Spence
St Germain
Stangeland
Stark
Stokes
Swift
Synar
Traxler
Trible
Udall
Vander Jagt
Wampler
Watkins
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wortley
Wright
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOES—161

Anderson
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Bedell
Bereuter
Bonior
Broomfield
Brown (CO)
Butler
Chappie
Clausen
Coats
Conte
Conyers
Coughlin
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel, Dan
Dannemeyer
Dellums
Dornan
Downey
Dreier
Eckart
Edgar
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Evans (IA)
Fascell
Fenwick
Fields
Findley
Fish
Ford (TN)
Fountain
Frank
Frenzel
Gephardt
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gramm
Gray
Green
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Heckler
Hendon
Hertel
Hiler
Horton

Hubbard	McCurdy	Schulze
Hughes	McDonald	Sensenbrenner
Hunter	McGrath	Shannon
Hyde	McKinney	Sharp
Jacobs	Miller (CA)	Shumway
Jeffords	Mitchell (MD)	Shuster
Jeffries	Moakley	Siljander
Johnston	Moorhead	Smith (OR)
Kastenmeier	Morrison	Snowe
Kildee	Mottl	Snyder
Kindness	Oakar	Solomon
Kogovsek	Obey	Stenholm
Lagomarsino	Oxley	Studds
Latta	Panetta	Stump
Leach	Pashayan	Tauke
LeBoutillier	Paul	Tauzin
Leland	Pease	Taylor
Lent	Petri	Thomas
Levitas	Pickle	Vento
Lewis	Porter	Volkmer
Lowry (WA)	Pritchard	Walgren
Lungren	Rahall	Walker
Markey	Rangel	Weaver
Marlenee	Rodino	Weber (MN)
Martin (IL)	Roemer	Weber (OH)
Martin (NC)	Roth	Williams (MT)
Matsui	Russo	Wolpe
McClory	Sabo	Wyden
McCloskey	Savage	Wylie
McCollum	Schroeder	

NOT VOTING—29

Addabbo	Chisholm	Mattox
Bafalis	Collins (TX)	Moffett
Benedict	Derwinski	Rousselot
Blanchard	Ertel	Stanton
Bolling	Evans (GA)	Staton
Bowen	Fithian	Stratton
Brown (OH)	Forsythe	Washington
Burton, John	Garcia	Weiss
Burton, Phillip	Grisham	Young (AK)
Chappell	Ireland	

Messrs. MARKEY, HERTEL, EVANS of Iowa, LEACH of Iowa, FISH, LENT, HORTON, RODINO, MATSUI, VOLKMER, and KOGOVSEK changed their votes from "aye" to "no."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1540

REPORT ON RESOLUTION PROVIDING FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN 2D SESSION, 97TH CONGRESS

Mr. ANNUNZIO, from the Committee on House Administration, submitted a privileged report (Rept. No. 97-852) on the resolution (H. Res. 568) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 97th Congress, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 533

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the name of the gentleman from North Carolina (Mr. ANDREWS) be removed from the list of cosponsors of House Joint Resolution 533.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2271) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendment as follows:

Page 2, lines 12 and 13, of the House engrossed amendment, strike out "(a)(1) not less than $1,000,000 shall be available for the "Office of Weights and Measures";" and insert "(a)(4) not less than $3,000,000 shall be available for "Metals Processing";".

Page 2, lines 22 and 23, of the House engrossed amendment, strike out "'Discrete Process Technology (Robotics)'." and insert "'Robotics Research and Development'.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF ADDITIONAL CONFEREE TO S. 2852, SALLIE MAE TECHNICAL AMENDMENTS ACT OF 1982

Mr. SIMON. Mr. Speaker, I ask unanimous consent that the Speaker may have authority to appoint one additional conferee to the Senate bill, S. 2852. One of the conferees was accidentally left off. I ask that one additional name be designated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. MARTIN of New York. Mr. Speaker, reserving the right to object, may I inquire of the gentleman as to whether or not the minority had been consulted with respect to this?

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of New York. I yield to the gentleman.

Mr. SIMON. Frankly, they were consulted about the names in advance. When the names were submitted to the Speaker, that one name was left off. It was inadvertent, an accident, just a clerical error.

Mr. MARTIN of New York. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois? The Chair hears none and, without objection, appoints the gentleman from Michigan (Mr. FORD) as an additional conferee to be listed after the gentleman from Illinois (Mr. SIMON).

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3722

Mr. ECKART. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 3722.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT TO FILE REPORT ON BILL MAKING APPROPRIATIONS FOR TREASURY DEPARTMENT, U.S. POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND CERTAIN INDEPENDENT AGENCIES, FISCAL YEAR 1983

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Treasury Department, U.S. Postal Service, Executive Office of the President and certain independent agencies for the fiscal year ending September 30, 1983, and for other purposes.

Mr. MILLER of Ohio reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 6173, HEALTH PLANNING BLOCK GRANT ACT OF 1982

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 594 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 594

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6173) to amend the Public Health Service Act to re-

place title XV of such Act with a block grant to States for health planning, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 7040 as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 594 is an open rule providing for the consideration of H.R. 6173, the Health Planning Block Grant Act of 1982.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule also provides for one motion to recommit with or without instructions.

It should be noted that the rule waives a point of order against the bill under section 402(a) of the Congressional Budget Act. Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15 preceding the beginning of such fiscal year.

By unanimous consent, the House extended the May 15 reporting deadline to May 17 for bills authorizing new budget authority for fiscal year 1983.

As introduced, H.R. 6173 would authorize the enactment of new budget authority for fiscal year 1983. Since it was not reported on or before May 17, 1982, it would be subject to a point of order under section 402(a) of the Budget Act. The Rules Committee has been advised that the House Budget Committee supports a waiver of section 402(a) so that H.R. 6173 can be considered by the House before adjournment in October.

The rule further makes in order an amendment in the nature of a substitute consisting of the text of H.R. 7040. The text of the bill H.R. 7040 is to be considered as an original bill for purposes of amendment, and each section of this substitute shall be considered as having been read. The text of H.R. 7040 shall be made in order in lieu of the amendment in the nature of a substitute recommended by the Energy and Commerce Committee and now printed in the bill.

Mr. Speaker, this rule facilitates the consideration of the compromise health planning legislation developed by bipartisan members of the Energy and Commerce Committee. Under the provisions of H.R. 7040, the project grant program of title XV of the Public Health Service Act is repealed and a new block grant is established under title XIX. However, the block grant still will fund State planning agencies and regional health planning agencies as the ultimate grantees, but through the States and at the discretion of the States themselves.

I am not aware of any opposition to the rule on H.R. 6173, and I would urge my colleagues to adopt it.

□ 1550

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this rule has been ably explained. It is time for action. I support the rule. We should get down to business and discuss the measure itself.

The administration opposes enactment of H.R. 6173, which will continue mandated certificate-of-need program requirements for the States. The opposition notwithstanding, I think that we should fully debate the measure.

I urge the adoption of the rule.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARTIN of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 7, not voting 45, as follows:

[Roll No. 360]

YEAS—380

Akaka	Dyson	Jones (OK)
Albosta	Early	Jones (TN)
Alexander	Eckart	Kastenmeier
Anderson	Edgar	Kazen
Andrews	Edwards (AL)	Kemp
Annunzio	Edwards (CA)	Kennelly
Anthony	Edwards (OK)	Kildee
Applegate	Emerson	Kindness
Archer	Emery	Kogovsek
Ashbrook	English	Kramer
Aspin	Erdahl	LaFalce
Atkinson	Evans (DE)	Lagomarsino
AuCoin	Evans (IA)	Lantos
Badham	Evans (IN)	Latta
Bailey (MO)	Fary	Leach
Bailey (PA)	Fascell	Leath
Barnard	Fazio	LeBoutillier
Barnes	Fenwick	Lehman
Beard	Ferraro	Leland
Bedell	Fiedler	Lent
Beilenson	Fields	Levitas
Bennett	Findley	Lewis
Bereuter	Fish	Loeffler
Bethune	Flippo	Long (LA)
Bevill	Florio	Long (MD)
Biaggi	Foglietta	Lott
Bingham	Foley	Lowery (CA)
Bliley	Ford (MI)	Lowry (WA)
Boggs	Ford (TN)	Lujan
Boland	Fountain	Luken
Boner	Fowler	Lundine
Bonior	Frank	Lungren
Bonker	Frost	Madigan
Bouquard	Fuqua	Markey
Breaux	Gaydos	Marlenee
Brinkley	Gejdenson	Marriott
Brodhead	Gephardt	Martin (IL)
Brooks	Gibbons	Martin (NY)
Broomfield	Gilman	Martinez
Brown (CA)	Gingrich	Matsui
Brown (CO)	Ginn	Mavroules
Broyhill	Glickman	Mazzoli
Burgener	Goldwater	McClory
Butler	Gonzalez	McCollum
Byron	Goodling	McCurdy
Campbell	Gore	McDade
Carman	Gradison	McEwen
Carney	Gramm	McGrath
Chappie	Gray	McKinney
Cheney	Green	Mica
Clausen	Gregg	Michel
Clinger	Guarini	Mikulski
Coats	Gunderson	Miller (OH)
Coelho	Hagedorn	Mineta
Coleman	Hall (OH)	Minish
Collins (IL)	Hall, Ralph	Mitchell (NY)
Conable	Hall, Sam	Moakley
Conte	Hamilton	Molinari
Conyers	Hammerschmidt	Mollohan
Corcoran	Hance	Montgomery
Coughlin	Hansen (ID)	Moore
Courter	Hansen (UT)	Moorhead
Coyne, James	Harkin	Morrison
Coyne, William	Hartnett	Mottl
Craig	Hatcher	Murphy
Crane, Daniel	Hawkins	Murtha
Crane, Philip	Heckler	Myers
Crockett	Hefner	Napier
D'Amours	Heftel	Natcher
Daniel, Dan	Hendon	Neal
Daniel, R. W.	Hertel	Nelligan
Daschle	Hightower	Nelson
Daub	Hiler	Nichols
Davis	Hillis	Nowak
de la Garza	Holland	O'Brien
Dellums	Hollenbeck	Oakar
DeNardis	Holt	Oberstar
Derrick	Hopkins	Obey
Dickinson	Horton	Ottinger
Dicks	Howard	Oxley
Dingell	Hoyer	Panetta
Dixon	Hubbard	Parris
Donnelly	Huckaby	Pashayan
Dorgan	Hughes	Patman
Dornan	Hunter	Patterson
Dougherty	Hutto	Paul
Dowdy	Hyde	Pease
Downey	Ireland	Pepper
Dreier	Jacobs	Perkins
Duncan	Jeffries	Petri
Dunn	Jenkins	Peyser
Dwyer	Johnston	Pickle
Dymally	Jones (NC)	Porter

Price	Schumer	Taylor
Pritchard	Sensenbrenner	Thomas
Quillen	Shamansky	Traxler
Rahall	Shannon	Trible
Railsback	Sharp	Vander Jagt
Rangel	Shaw	Vento
Ratchford	Shelby	Volkmer
Regula	Shumway	Walgren
Rhodes	Shuster	Wampler
Rinaldo	Siljander	Watkins
Ritter	Simon	Waxman
Roberts (KS)	Skeen	Weber (OH)
Roberts (SD)	Skelton	White
Robinson	Smith (AL)	Whitehurst
Rodino	Smith (IA)	Whitley
Roe	Smith (NE)	Whittaker
Roemer	Smith (NJ)	Whitten
Rogers	Smith (OR)	Williams (OH)
Rose	Snowe	Wilson
Rosenthal	Snyder	Winn
Rostenkowski	Solarz	Wirth
Roth	Solomon	Wolf
Roukema	Spence	Wolpe
Roybal	St Germain	Wortley
Rudd	Stangeland	Wright
Russo	Stark	Wyden
Sabo	Staton	Wylie
Santini	Stenholm	Yates
Savage	Stokes	Yatron
Sawyer	Studds	Young (FL)
Scheuer	Stump	Young (MO)
Schneider	Swift	Zablocki
Schroeder	Tauke	Zeferetti
Schulze	Tauzin	

NAYS—7

Clay	Livingston	Weber (MN)
Dannemeyer	McDonald	
Frenzel	Walker	

NOT VOTING—45

Addabbo	Ertel	Moffett
Bafalis	Evans (GA)	Pursell
Benedict	Fithian	Reuss
Blanchard	Forsythe	Rousselot
Bolling	Garcia	Seiberling
Bowen	Grisham	Smith (PA)
Brown (OH)	Jeffords	Stanton
Burton, John	Lee	Stratton
Burton, Phillip	Marks	Synar
Chappell	Martin (NC)	Udall
Chisholm	Mattox	Washington
Collins (TX)	McCloskey	Weaver
Deckard	McHugh	Weiss
Derwinski	Miller (CA)	Williams (MT)
Erlenborn	Mitchell (MD)	Young (AK)

□ 1600

Mr. JOHNSTON changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6457, HEALTH RESEARCH EXTENSION ACT OF 1982

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 595 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 595

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6457) to amend the Public Health Service Act to revise and extend the authorities under that Act relating to the National Institute of Health and the national research institutes, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be read for amendment under the five-minute rule, and each section of the bill shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill on the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

□ 1610

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 595 provides for the consideration of H.R. 6457, the Health Research Extension Act of 1982. The resolution provides for 1 hour of general debate. It is an open rule, allowing any germane amendment to be offered under the 5-minute rule.

In addition, the rule provides for a waiver of points of order under section 402(a) of the Budget Act—prohibiting consideration of authorizations not reported by May 15 preceding the beginning of the fiscal year for which they are effective—against the bill. This waiver was recommended in a letter to the chairman of the Rules Committee from the chairman of the Budget Committee in order to facilitate consideration of the bill before the end of the Congress.

Finally, Mr. Speaker, the rule provides a simple motion to recommit.

Mr. Speaker, no one in the Chamber needs to be reminded of the distinguished record of the National Institutes of Health, the foremost research unit of its type in the world. H.R. 6457 authorizes funding for the next 3 fiscal years for the two largest Institutes, the National Cancer Institute and the Heart, Lung, and Blood Institute, and makes needed revisions in the enabling legislation of the other nine Institutes. In addition, the bill provides for the establishment of a new Arthritis Institute. A separate arthritis unit will bring needed attention to this important and all too common disease.

Mr. Speaker, I urge my colleagues to adopt this rule and ask my colleagues to initiate its consideration by swift passage of the rule before us.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, we all know how important health research is. I have had a number of communications urging support for this measure, although there is opposition in some circles. That opposition can be expressed when the bill is debated on the floor of the House.

Mr. Speaker, it is a good rule and should be adopted. I urge its adoption and yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5543) to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the Fund.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. Two hundred and eighteen Members are present, a quorum.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5543, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. JONES) will be recognized for 30 minutes, and the gentleman from Washington (Mr. PRITCHARD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to support H.R. 5543, to establish an ocean and coastal resources block grant program. This bill would take a small portion of future increases from Outer Continental Shelf oil and gas revenues and share those funds with coastal States. Reasons to support the bill include:

First, it is fair. coastal States will finally have a small share of revenues attributable to extraction of oil and gas from Federal offshore lands; other States for years have shared, under the Mineral Leasing Act and other laws, huge sums from extraction of resources from Federal lands.

Second, it will help us accelerate Outer Continental Shelf oil and gas development by reducing conflicts between State and Federal Governments.

Third, it will help States maintain renewable natural resources that might otherwise be harmed by Outer Continental Shelf development.

Fourth, it is consistent with New Federalism.

Mr. Chairman, it is vital that we reduce the conflicts over Outer Continental Shelf development between the State and Federal Governments. If we do not, we not only lose energy development on the Outer Continental Shelf, but we cause expanded budget deficits.

This House should know that the administration's budgets estimate that from 1983 through 1986, its Outer Continental Shelf program will generate revenues $22 billion above the program of the prior administration. That $22 billion figures prominently in the President's budgetary projections and in his program for economic recovery. But let us not kid ourselves. These projections will never be reached, and the deficit will be swollen further as a result, so long as the States continue to oppose Secretary Watt's program for accelerated Outer Continental Shelf development.

How can we reduce this conflict and thereby accelerate Outer Continental Shelf production and hold down the deficit? We certainly will not reduce these conflicts by following the administration's desire to terminate the coastal zone management program, the coastal energy impact program, and the national sea grant college program. These programs help the States cope with Outer Continental Shelf development. Terminating them is totally inconsistent with the policy of increased offshore development.

In reviewing the many complex components involved in the question of Federal-State relations, offshore energy development, and the protection of renewable ocean and coastal resources, it became clear to the committee that a legislative remedy was necessary.

I am proud to bring before the House today that legislative remedy—H.R. 5543. It is a product of long and arduous consideration and it is based in the future growth of Outer Continental Shelf revenues—not on any moneys presently in the Treasury. The fund established by the legislation contains a ceiling of $300 million annually. In effect, it is based on less than 2 percent of anticipated 1983 Outer Continental Shelf revenues—less than 2 percent. This fund would serve two purposes: Continuation of the highly cost-effective national sea grant college program and the awarding of block grants to coastal States for coastal management, fisheries and national resource management purposes.

In sponsoring this legislation, the chairman of the Oceanography Subcommittee, Congressman D'AMOURS, and I have been joined by 54 of our colleagues. Additionally, the bill has the support of at least 20 individual Governors and the support of the New England Governors' Association, the Western Governors' Association, the Southern Governors' Association and the National Governors' Conference. There is broad grassroots support from local governments, private associations, and individuals.

Mr. Chairman, our Outer Continental Shelf program is critical for the further development of domestic sources of energy. The revenues accruing to the Federal Government are also essential to reduce the deficit. Neither of these results will occur unless and until we establish a strong and firm partnership with coastal States in the management of ocean resources. Our legislation will help accelerate the offshore program and reduce deficits by increasing revenues to the Federal Government and, at the same time, provide the necessary mechanisms for protection of important environmental resources along the coast. H.R. 5543 is a timely and thoroughly considered bill with solid and proven support from our coastal States and local Governors. I urge the support of my colleagues for final passage.

Mr. Chairman, the rules of the House prohibit Members from cosponsoring legislation after a bill has been reported by a committee. However, because of the growing interest in H.R. 5543, a number of Members have asked to be added to the bill since the committee reported it on May 20, 1982. Therefore, in fairness to those Members who wish to be associated with the ocean and coastal resources block grant legislation, I hereby submit the following list of 56 Members who have indicated their intention to cosponsor the legislation: Mr. JONES of North Carolina; Mr. D'AMOURS; Mr. EMERY; Mr. HUGHES; Mr. SUNIA; Mr. HEFTEL; Mr. GEJDENSON; Mrs. HOLT; Mr. BROOKS; Mr. CHAPPELL; Mrs. BOUQUARD; Mr. TRIBLE; Mr. LAFALCE; Mr. BARNARD; Mr. LUNDINE; Mr. FOGLIETTA; Mr. DYSON; Mr. OBERSTAR; Mr. DONNELLY; Mr. HUTTO; Mr. DENARDIS; Mr. BENNETT; Mr. BIAGGI; Mrs. SCHNEIDER; Mr. DAVIS; Mr. BONKER; Mr. STUDDS; Mr. MINETA; Mr. EDWARDS of California; Mr. WAXMAN; Mr. ANDERSON; Mr. GUARINI; Mr. MOFFETT; Mrs. KENNELLY; Mr. RATCHFORD; Mr. LANTOS; Mr. RODINO; Mr. HERTEL; Mr. WON PAT; Mr. MARKEY; Mr. DOWNEY; Mr. OTTINGER; Mr. JOHN BURTON; Mr. WYDEN; Mr. BEILENSON; Mr. MITCHELL of New York; Mr. FAZIO; Mr. CORRADA; Mrs. FENWICK; Mr. MINISH; Mr. PRITCHARD; Mr. DICKS; Mr. LEHMAN; Mr. ZEFERETTI; Mr. FRANK; and Mr. DERRICK.

□ 1620

Mr. Chairman, I yield such time as he may consume to the gentleman from New Hampshire (Mr. D'AMOURS), a cosponsor of the bill and chairman of the Subcommittee on Oceanography of the Committee on Merchant Marine and Fisheries.

Mr. D'AMOURS. I thank the chairman for yielding to me.

Mr. Chairman, I rise, of course, in strong support of H.R. 5543, which originated in the Subcommittee on Oceanography which I chair.

Mr. Chairman, as the chairman of the full committee, the gentleman from North Carolina (Mr. JONES) has just stated, one of the critically important issues in this matter is the issue of equity and fairness.

Since the 1920's, since we passed the Mineral Leasing Act, inland States have always been able to share a portion of the revenues the Federal Government obtained from leasing land for energy development on Federal lands adjacent to those States' borders. That percentage today is 50 percent.

Mr. Chairman, this bill seeks some equity by providing a share for coastal States of the leasing revenues developed by the granting of oil leases and licenses on Federal lands adjacent to the coasts of those States. That share is only 10 percent, not the 50 percent the inland States get, and the coastal States share has a cap of $300 million for any given year.

In fiscal year 1981, the inland States received direct payments as a result of mineral development on Federal lands of $781 million. In fiscal year 1982, those payments are estimated to top $1 billion.

Mr. Chairman, I think the time is long past when we can ask the coastal States to continue to act as partners with the Federal Government in the development of oil resources off their coasts and yet continue to erode the

base of information upon which they rely to meet that responsibility.

The coastal zone management program, the CEIP, the coastal energy improvement program, and the sea grant program, are all programs that are intended to help the States to meet the accelerated search for oil off our coasts. But those programs are being eliminated. This administration is attempting to eliminate those programs.

All we are seeking to do is to provide those States with the information resources necessary to meet the constantly accelerating pace of oil development off our coasts.

It is important, Mr. Chairman, that we understand that the States need to be partners in this process. If the States cannot act as partners in this process, they are going to act to obstruct the process through litigious means. They are going to file law suits to delay these leases until they can have the time to acquire the information necessary to understand what is happening and to meet the impacts of that development upon their coasts.

Now, if anybody doubts that, I would refer them to a study that was conducted by the Department of the Interior, a study that was unreleased but prepared earlier this year for the Cabinet Council on Natural Resources Working Group on OCS revenue sharing.

That study, a Department of the Interior-administration study, concluded, and I quote:

> The coastal States and localities will still have available a whole arsenal of litigious weapons which can be directed against the OCS program. While it is unlikely that these attacks can stop a substantial portion of the leasing effort, they are expected to continue to cause increasingly costly—

I repeat—"increasingly costly delay for the foreseeable future."

That same report goes on to say:

> The only apparent solution to reducing the cost of opposition to the OCS program is to provide States and localities with an incentive to support leasing which is perceived by the States and localities as sufficient to counterbalance their perception of the potential harm and risk to which they are subject.
>
> OCS revenue sharing is the best incentive available to achieve that counterbalance.

This is a Department of the Interior report which concludes that OCS revenue sharing is the best incentive available to achieve that counterbalance.

The cost to the Federal Treasury of the kinds of litigious delay that could be caused by the States has been estimated to be $1 billion. There is a cap on this bill of $300 million to be spread amongst the States in any given year. Nor does this bill drain the Federal Treasury. The only payments, as Chairman JONES has indicated, that are made in this bill are from revenues over and above the fiscal year 1982 levels.

So we do not go into fiscal year 1982 revenues, we do not go into fiscal year 1981 revenues or any other. It is just the increase in Federal revenues which we tag for a 10-percent revenue-sharing cost to bring some fairness and equity to the coastal States.

If the administration's intent to eliminate the programs that allow the coastal States to fully participate in studying this problem is carried through, that is, elimination of CZM, CEIP, the sea grant program, coastal States estimate they would lose 60 percent of their staffing abilities and their research ability to meet this need.

Mr. Chairman, there are many good reasons to pass this bill. I think equity perhaps is one of the strongest. Certainly the prudence of saving the billions of dollars that could be lost to the Federal Treasury by unnecessary delays is another.

We ought to be seeking to involve the coastal States as full partners in this accelerated development for the search for oil off our coasts.

Mr. Chairman, I yield back the balance of any time that I may have remaining.

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. Chairman, I now yield 5 minutes to the ranking member on the committee, the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. I thank the chairman of the full committee for yielding time to me.

Mr. Chairman, as a cosponsor of this legislation, I rise in strong support of H.R. 5543, as reported by the Committee on Merchant Marine and Fisheries. I especially commend the gentleman from New Hampshire (Mr. D'AMOURS) for his leadership in authoring this legislation of critical importance to coastal States such as New York.

In particular, I wish to thank the gentleman for his efforts in securing $3 million in fiscal year 1982 supplemental funds for New York State to initiate its coastal zone managment efforts following the recent approval of its State plan by the Secretary of Commerce. Roughly half of those moneys will be passed through to the city of New York to be expended for the purpose of urban waterfront redevelopment under the provisions of the New York State Waterfront Revitalization and Coastal Resources Act of 1981."

Mr. Chairman, my support for the concept of OCS revenue sharing is grounded in the principle of equity. Furthermore, it is in recognition of the need for continuation of the Federal/State partnership in the management of renewable ocean and coastal resources—and in the preservation of the knowledge base for enlightened resource management.

This bill would accomplish these twin purposes by returning to the States a portion of the revenue derived from Outer Continental Shelf oil and gas leasing activities. It will insure continued funding for valuable programs in resource management and education administered under the provisions of the Coastal Zone Management Act of 1972 and the National Seagrant College Program Act.

Under conditions of intensifying budgetary competition, these programs are slated for termination. This is not withstanding their considerable value in facilitating Federal-State cooperation—rather than confrontation—in resource development in the national interest. They provide States an economic stake in the conduct of Federal OCS leasing activity in frontier areas.

Under this legislation, these programs would continue with a secure source of Federal funding. This is accomplished through the establishment of a $300 million revenue-sharing trust fund as a permanent mechanism for financing the Federal share of administering these programs.

In my judgment, the equity argument is the crux of the issue underlying this legislation. Under the provisions of the Mineral Leasing Act of 1920, 23 States annually receive approximately $600 million in direct payments from the Federal Government. This compensates them for the revenue loss and related economic impacts associated with development of renewable resources, contained in Federal lands within the boundaries of those States.

This represents nearly one-half of the total Federal receipts collected under that act. Moreover, under the provisions of the Reclamation Act, virtually all the remaining Federal revenue attributable to these activities is ultimately returned to the States through indirect payments.

Other similar precedents reflecting Federal sharing of revenue derived from Federal activities within State boundaries in the form of Federal land payments to States are contained in: The Federal Power Act, Taylor Grazing Act, Farm Tenant Act, Refuge Revenue-Sharing Act, and other related acts authorizing sale of timber, grazing land, and mineral rights by the Federal Government to private interests.

In contrast, the Congressional Budget Office projects the Federal Government will collect approximately $10 billion in revenue receipts from OCS lease sales in the form of royalties, bonuses, and lease payments in fiscal year 1983.

Under current law, none of this revenue will flow—either directly to the States affected by OCS leasing activity—or indirectly through the support

of cooperative resource management and related education programs.

The legislation before us corrects this fundamental inequity by diverting $300 million—or approximately 3 percent of total OCS revenue—into an ocean and coastal resources management development fund. This represents partnership capital contribution by the Federal Government to the States as a demonstration of its commitment to New Federalism in cooperative resource development.

Thirty-four States, territories, and possessions will benefit directly from the expenditure of these funds. In the case of New York, this includes 240 coastal communities in their efforts to revitalize the State's 3,200 miles of waterfront.

Every State will benefit indirectly—through the preservation, conservation, and wise management of our national heritage that will inevitably result from the enactment of this farsighted legislation. H.R. 5543 is deserving of its widespread endorsement, and I commend it for positive consideration by my colleagues in the House.

● Mr. BROOKS. Mr. Chairman, I rise in strong support of this bill and I commend the gentleman from North Carolina and other members of the Merchant Marine and Fisheries Committee for bringing it before us.

The establishment of a working relationship between the Federal Government and the coastal States for the management of ocean resources has been a major concern of Congress for the past decade. We have passed a number of bills dealing with this subject and I have seen at first hand in my district how beneficial they have been.

But now, at the same time it is proposing to expand oil and gas drilling on the Outer Continental Shelf at an unprecedented rate, the administration wants to cut back or terminate several of these programs. I find that inconceivable and I welcome this opportunity to provide a block grant approach to financing them.

I think it is particularly appropriate that funding for these grants would come from the Federal revenues received from Outer Continental Shelf oil and gas exploration and development. The activities that generate these revenues have a strong impact on adjoining coastal communities and it is consistent with the cooperative nature of coastal zone management that a small portion of these funds should return to the affected areas.

Funding the block grants from OCS revenues also meets any objections that the bill will have an adverse affect on budget deficits. It will not, since the fund would be used on future growth in revenues from offshore oil and gas development.

Mr. Chairman, the resources of the Outer Continental Shelf—and the waters above it—are of inestimable value to the United States. The proper management of these resourdes calls for a strong and effective partnership between the Federal Government and the coastal States. H.R. 5543 provides the basis for such a partnership and I hope it will be strongly supported by the House.●

□ 1630

Mr. PRITCHARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to make a brief statement in support of the Ocean and Coastal Resources Management and Development Block Grant Act, H.R. 5543. The bill provides coastal States with a reliable source of funding for coastal zone management, the coastal energy impact program, living marine resource programs and, last but not least, the national sea grant college program.

Although the concept of revenue sharing is by no means new the logic of applying the concept in the situation of Outer Continental Shelf oil and gas revenues is increasingly apparent. Coastal States are facing the prospect of locating funding for many important programs from other than Federal sources. At the same time, the Department of the Interior is proceeding on a significantly accelerated 5-year oil and gas leasing program. The pressures on coastal communities, and the need for locating a source of funding that would not place additional burdens on either the Federal budget or on individual taxpayers, have never been greater.

I am pleased to be part of this bipartisan effort to insure continued funding for important ocean and coastal development activities, and to achieve equity for coastal States with inland States in terms of long-term, equitable compensation for the effects of federally generated resource exploration and development. The State of Washington, the first State with an approved coastal zone management program, has a deep and longstanding interest in the programs which would receive funding under this bill. The coastal zone management program, the sea grant program, and commercial fisheries research and development are all programs which significantly contribute to the quality of life and to the enhancement of the economy of Washington State.

I would strongly urge my colleagues to support this essential legislation.

Mr. Chairman, I would just add this: We have got to form a partnership between the States and the Federal Government, and in the area of leasing and offshore activities we know that we are headed for a lot of litigation and a lot of involved bickering and hassling between States and the Federal Government. This partnership program can cut through a lot of that bickering and make the States feel that the Federal Government wants to be a partner and wants to help them. I think, in the long run, this will produce more money and will be helpful to the Federal Government. I think it makes sense, and that is why I believe this should be a bipartisan program.

Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Chairman, I thank the distinguished gentleman from Washington for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 5543. This legislation will insure that funding for vitally important coastal resource management programs like the sea grant program and the coastal zone management program continues. The block grant established by H.R. 5543 will not be funded by appropriations from the already overextended Federal Treasury, it will be funded by the increase in revenues, using 1982 as a base year, from the sale of oil and gas leases on the Outer Continental Shelf. The programs funded by H.R. 5543 were established to deal with increasing threats to our ocean resources. Those threats remain, and I know that in my own State of Delaware the programs that H.R. 5543 will support have been remarkably successful.

At this point, I will address my remarks specifically to the sea grant college program. Sea grant has come under attack by some, and I want to set the record straight. Sea grant came into existence in 1966. The program was modeled after the century old and extremely successful land grant program. Its purpose was to accelerate research of the conservation, management and utilization of marine resources.

I believe that sea grant is precisely the type of program we should be supporting in view of the current Federal budget deficit. Quite simply, sea grant has brought in more tax dollars than we have appropriated for it. The program is cost effective, and contrary to some arguments, has faired well in the competitive budget process. The Appropriations Committee provided $25 million to sea grant in H.R. 6957, the fiscal year 1983 State, Justice, Commerce, and related appropriations bill. In fact, the Appropriations Committee report commented that the sea grant program is one of the most cost-effective Federal-private sector partnerships.

I know that in my home State of Delaware the sea grant program at the University of Delaware has benefited our entire State. Through this valuable program our State, and indeed all coastal States, will be able to better

utilize our marine resources in an environmentally responsible manner. This not only makes good environmental sense, it makes good economic sense as well. Coastal States like Delaware have extremely important fishing and tourism industries that create thousands of permanent job opportunities. These vital industries depend upon responsible policies to utilize—and protect—our valuable marine resources.

In view of the current efforts to accelerate offshore leasing, it would be penny wise, and dollar foolish to abandon the very programs that were designed to make certain that Federal, State, and private activities coexist with a minimum of friction. The impact of energy development on the Outer Continental Shelf must be carefully assessed. Continuing problems that affect our coastal areas must be addressed or we may jeopardize our irreplaceable ocean resources. As my colleagues from coastal States know well, thousands of jobs in the fishing and tourism industries depend on those resources. Programs designed to manage and conserve our ocean resources are essential to the economies of coastal States, and I urge my colleagues to support this worthy bill.

Mr. PRITCHARD. Mr. Chairman, I yield 6 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, the proponents of this bill have utilized very descriptive words that are very much in vogue today when they explained the reasons that they believe H.R. 5543, the Ocean and Coastal Resources Management Block Grant Act, should become law. But I would urge my colleagues to take a very close look at the rhetoric which is being bantered about by the proponents. They call this bill a block grant. They talk about developing a partnership with the States. They also characterize the legislation as revenue sharing and that it is important to facilitating the development of our Outer Continental Shelf energy resources. But if you look at what the bill actually does, you will see that there is a great slip between the cup and the lip. This bill is not one that creates a partnership. It is not one which gives the State a block grant. What it does is order that States fund three programs which this administation and the Carter administration have sought to either eliminate or reduce the funding for, and the Congress has agreed.

What exactly are the programs we are talking about? We are talking about the sea grant program. What does the sea grant program do? Currently, it pays for masters degrees for graduate students. That is, the taxpayer is footing 100 percent of the students educational cost. Under H.R. 5543, we will continue to pay for masters degrees out of the funds authorized by the legislation.

What else do we receive for our money under the sea grant program? Well, the Merchant Marine and Fisheries Committee gets free staff—we have approximately three so-called sea grant interns this year and four last year. Also, just in the last 2 years, the Government has paid for studies such as how to develop training programs for aquatic veterinarians; assessment of the recreational fishing potential for New York City; a study of the role of the American Indian in marine science; a study delineating how to culture flat-head minnows for bait in Ohio; and for all of you that are interested in such a subject, the vital statistics of the female crab.

Now I would wonder about the priorities of any Congress that would take up to $3 billion from the U.S. Treasury to put these turkeys ahead of other important programs, such as social security, to name one.

The proponents of the legislation, and I would especially direct the attention of my Democratic colleagues to this point because their whip notice brings it out—the proponents state that currently there is authorized $490 million for the programs to be carried out by H.R. 5543 and that only $300 million will be put aside from the general fund for these programs; thus inferring a cut of $190 million. In fact, however, the Congress and the President have requested zero in appropriations for fiscal year 1982 for sea grant and only $7.5 million for the two other programs, a difference of a mere $483 million. We are being treated to a legislative sleight of hand, mixing apples and oranges, which of course this bill does frequently when it calls itself a block grant.

I would point out to the Members that the proponents talk in terms of the cost of this legislation being $300 million. That is accurate for fiscal year 1984, but the bill goes on forever, and through fiscal year 1994 the price tag that goes with it for the next decade is estimated to be $1.5 to $3 billion—that is billion.

So remember, you are not voting today on taking $300 million for the general fund—from other programs—you are taking $3 billion, and that is real money, money which will no longer be available to fund other Government programs—unless we borrow the money or eliminate other programs.

The administration strongly opposes the enactment of this legislation. Many of you have received a copy of their correspondence on that, but I would like to reiterate their view that these programs are no longer necessary to meet their original purposes. That is, that the objectives have been accomplished and it is now up to those that feel it is so important to continue these programs, that they find a mechanism other than Federal dollars to do it.

Mr. Chairman, I had introduced a number of amendments, 28 in number, whose purpose was to demonstrate the shortcomings of this bill. In light of the schedule of the House, the fact that many truly important bills are waiting for this turkey bill to yield the floor, the fact that the Senate will not take up this legislation, and the fact that the administration has done nothing but write a letter on this bill, I will not waste my colleagues' time. We have too much else to do. Mr. GRAMM or Mr. FIELDS may offer amendments which improve the bill. If they do, I would hope that my colleagues will vote for his proposal, but, then, against the bill.

□ 1640

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take this time to reply to some of the statements of my good friend, the gentleman from Kentucky (Mr. SNYDER) who just finished speaking. His reference to the "turkey," I think, is absolutely in order since Thanksgiving is approaching and here we have a "turkey" that we can cut up equally among the many States.

Also I would like to point out the fact that, referring to the astronomical figures mentioned down the road in 1994, 1995, 1996, whatever it was, all of this money is subject to the appropriating processes and is not automatically disbursed.

Mr. SNYDER. Mr. Chairman, will the committee chairman yield just briefly on that point?

Mr. JONES of North Carolina. Certainly I yield to the gentleman from Kentucky, who sits next to me on the committee.

Mr. SNYDER. Of course, Mr. Chairman, the Appropriations Committee has not seen fit thus far to appropriate anything like what the gentleman suggests in this bill.

I was wondering, could the committee chairman give us any real insight into that study on the vital statistics of the female crab which is funded?

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from Washington for a response to that question.

Mr. PRITCHARD. Mr. Chairman, I would be happy to reply.

I did not mind the gentleman jumping on the graduate students and some of the other programs, but I did when he started kicking around the female crab. When one comes from Kentucky, maybe it does not mean very much, but as a matter of fact in this Nation we have a multimillion-dollar industry. The new crab vessels themselves cost

almost a million dollars. This industry is of vital importance to the west coast.

When the gentleman makes light of female crabs, I want him to know that this industry is one way to increase the protein supply that we have in this country. The oceans are out there, and it is a marvelous place for increasing protein. The crab industry is one of the ways we can achieve this increase in needed protein.

So, Mr. Chairman, I wish the gentleman from Kentucky would not kick around the female crab. I think that is just not called for.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I am happy to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, I really did not intend to kick around the female crab, but this has to do with their vital statistics, and the gentleman is correct, it is not an issue that is parochial in my part of the country. I just did not know that you evaluated crabs by their vital statistics, the same way you perhaps do other females.

Mr. PRITCHARD. I would only say to the gentleman that perhaps he does not understand crabs. He probably understands horses in Kentucky. But if he understood the crab and the need for the crab industry, he would not make light of this study of the female crab.

Mr. SNYDER. The gentleman feels that the Federal Government and we in Kentucky ought to be funding a study of the vital statistics of the female crab?

Mr. PRITCHARD. Absolutely.

If the gentleman ever looked at how much money we poured into the agricultural extension programs that go all through the farm areas of Kentucky, he would understand the role of the Federal Government in increasing and encouraging the crab industry, which has such a bright future.

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Chairman, I rise in support of H.R. 5543, a bill to establish the Ocean and Coastal Resources Management and Development Block Grant Act of 1982.

H.R. 5543 recognizes that Outer Continental Shelf oil development may have substantial impact not only upon coastal wildlife and natural resources, but upon coastal communities and coastal ports as well.

Mr. Chairman, I would like to tell you how my Ports of Los Angeles and Long Beach have benefited from the programs that will be continued under H.R. 5543. The importance of these programs to coastal ports cannot be overestimated. I have two letters, one from the excutive director of the Port of Los Angeles, Dr. Roy Perry; and one from the executive director of the Port of Long Beach, Mr. James McJunkin, which make clear the importance of H.R. 5543 to these two ports in my district in California. I would like to have these letters included with my remarks in the RECORD. Specifically, H.R. 5543 would benefit these ports in three ways:

First, H.R. 5543 would continue the coastal energy impact program. Through this program the Ports of Los Angeles and Long Beach have developed risk management plans for the location of oil and other hazardous cargo facilities. These plans minimize the potential for loss of life or property due to accidents involving these facilities. The accelerated offshore oil leasing program will add to the increasing pressures on our ports to develop additional energy commodity facilities. I believe that it is especially important for our ports to formulate safe and effective plans for energy facility development projects. These funds are critical to the accomplishment of those plans.

Second, additional onshore oil facilities also place pressures on those ports such as Long Beach which have insufficient land capacity for additional terminal development. Additional terminal capacity is largely achieved by dredging and filling. The harm dredging and filling does to the local wildlife and environment is required to be offset or mitigated through replacement or enhancement of marine habitat lost through land fills. This funding assists ports in fulfilling their "mitigation" requirements.

Third, H.R. 5543 would allow the sea grant college program to continue its applied research in marine policy and coastal resource management. In my district the University of Southern California has conducted research that is directly applicable to port development. For example, the ports of Los Angeles and Long Beach have benefited from sea grant studies such as the 15-volume study done in the seventies, which assessed the potential affects on San Pedro Bay's water quality and marine life from the dredging operations in the harbor, which are now nearing completion; and a sea grant study which looked at the consequences on the bay's water quality as a result of the tragic explosion and subsequent oil spill from the oil tanker *Sansinena.*

In conclusion, Mr. Chairman, I ask that my colleagues vote for H.R. 5543, and in so doing continue to support rational and effective port planning and development necessitated by accelerated Outer Continental Shelf oil development.

At this point in the RECORD I include the following letters:

PORT OF LOS ANGELES,
Los Angeles, Calif., June 10, 1982.

Congressman GLENN ANDERSON,
House Office Building,
Washington, D.C.

DEAR GLENN: I am writing to you to apprise you of the Port of Los Angeles' support for the Ocean and Coastal Resources Management and Development Block Grant Act, H.R. 5543.

The Coastal Energy Impact Program was, until recent budget cuts, an excellent source of funding to mitigate the impact of coastal energy projects upon communities, the coastline, and, especially, deep draft ports. The provisions of H.R. 5543, if enacted, will reinstitute the meaningful work that the Coastal Energy Impact Program initiated.

Projects of the Port of Los Angeles which could conceivably benefit from this Act include the proposed coal facility located on Terminal Island, the Intermodal Container Transfer Facility, and the 65-foot deep draft channel. Additionally, this Act could provide funding for environmental mitigations required to secure development permits for the foregoing projects.

By means of this letter I am requesting the assistance of the Chief Legislative Analyst of the City of Los Angeles to add H.R. 5533 to the city's legislative advocacy program.

Sincerely,

ERNEST L. PERRY,
Executive Director.

PORT OF LONG BEACH,
Long Beach, Calif., June 2, 1982.

Congressman GLENN ANDERSON,
Rayburn House Office Building,
Washington, D.C.

Subject: H.R. 5543.

DEAR GLENN: The Port of Long Beach supports the establishment of an Ocean and Coastal Resources Management and Development Fund as provided in H.R. 5543. Coastal states should be provided a mechanism for sharing in the revenue from OCS oil and gas development just as interior states share in federal receipts resulting from mineral extraction on federal lands within their borders. The fund, as established by this bill, will benefit the Port of Long Beach through block grant monies that will be destined for the Coastal Zone Management Act Policies (such as the CEIP Program) and enhancement and management of state resources.

We support the provisions of the bill that provide proportional block grants to the state based on OCS expansion activities, coastal population and shoreline mileage, as well as provisions granting the states ultimate authority for allocation of grants based on state-specific management priorities.

Specifically, the Port could benefit from the bill in several ways.

1. We have received CEIP funding in the past for the development of our Risk Management Plan, an element of the Port's Master Plan. The Port is in the process of developing an Energy Management Program which would be suitable for CEIP funding.

2. Block Grants for enhancement and management of natural resources may be useful in assisting the Port with fulfilling its "mitigation" requirements for enhancement or replacement of marine habitats which are impacted by Port development projects.

3. The Sea Grant College Program has support applied research in marine policy

and coastal resource management that is directly applicable to port development. We would like to see this program continued.

Accordingly, we offer our support to H.R. 5543.

JAMES H. MCJUNKIN,
Executive Director.

□ 1650

Mr. JONES of North Carolina. Mr. Chairman, I yield as much time as he might consume to the gentleman from Florida (Mr. BENNETT).

Mr. Chairman, I rise today to support H.R. 5543, which I have cosponsored, and which would establish an ocean and coastal resources management and development fund for the purpose of awarding block grants to States.

The fund would be composed of an amount equal to 10 percent of the growth in revenues from Outer Continental Shelf oil and gas revenues. The fund would be used to continue the national sea grant college program as well as to provide block grants to States for the maintenance of several programs earmarked by the Reagan administration for elimination of funding. These programs include the coastal zone management program, the coastal energy impact program, and the ocean fisheries and living marine resource programs. The elimination of these programs will seriously jeopardize the ability of coastal States to prepare for the effects which will be produced by the increased Outer Continental Shelf (OCS) development activity proposed by the administration.

Under current law, coastal States receive no direct share of OCS revenue and are not authorized to generate funds from Federal leases on the OCS. This legislation would permit the coastal States who dangerously face the impact of OCS development activity to continue the programs they need in order to prepare themselves for this development.

I have received expressions of support for this bill from the Southern Governors' Association, the Florida Governor, the National Governors' Conference, the Florida Audubon Society, the Sierra Club, and the Northeast Florida Regional Planning Council. I urge my fellow Members to approve it.

Mr. PRITCHARD. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, as a representative from a coastal State, the great State of California, I rise in support of H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act, and would like to share my views on this proposal with my colleagues.

I believe the concept behind this legislation to be basically sound in that it continues programs that have proven valuable in evaluating the impact of Outer Continental Shelf drilling and in particular the National Sea Grant College Program Act, which, in my judgment, has been a most constructive and successful program. Working with our own Humboldt State University, I have observed firsthand the many benefits derived from the national sea grant college program.

However, a thorough study of the legislation reveals some provisions that would prevent it from being as responsive as I think it should be or could be to the OCS-impacted communities. I am specifically concerned about the criteria used for allocating funding among the various States and desire to see the legislation amended in order to provide greater equity for the OCS revenue-producing States.

In addition, the legislation tightly restricts the use of the $300 million in offshore revenues the State could potentially receive—again, I believe greater provision must be made for assisting the coastal communities most heavily impacted by OCS drilling, and the State's hands need to be freed in terms of its ability to channel resources to the programs of greatest value to the people of the State.

In essence, I do not feel that the legislation as reported achieves the most essential objective of a revenue sharing measure, although it is a genuinely commendable step in the right direction.

I would prefer amending the measure to greatly reduce the degree of control of the State and local governments by the Federal Government.

I do believe that the block grant or revenue sharing concept is a very good way in which to help some of these coastal States that are impacted. So I support a stipulation that a clear portion of the OCS revenues be returned to the State and actually be earmarked for direct pass-through assistance to impacted coastal communities, the remainder being returned to the State for additional assistance and for coastal management programs of the type it deems most appropriate and valuable.

Should there be an agreement by the leadership to not accept amendments, I want to serve notice that I will pursue these objectives with the other body.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 5543, the proposed Ocean and Coastal Resources Management and Development Block Grant Act, and urge its timely passage.

The legislation establishes a special fund in the U.S. Treasury to be fed by future revenues from Federal offshore oil and gas activities. Coastal States would be eligible for a share of the fund in the form of block grants for use in ocean, coastal, and living marine and natural resource programs. In addition, the fund would support the national sea grant program, which has made significant contributions in New York State and nationwide in marine research, education, and advisory services.

Under the bill's formula, New York's share of the fund could exceed $15 million a year.

This legislation has important provisions for Long Islanders. With our precious coast lined with miles of beaches, fragile wetlands, inlets, and estuaries, proper management of these important resources is vital both to our economy and to maintain our unique environment.

With approval of New York State's coastal zone management plan expected within a matter of days, Long Islanders will be assured a participatory role in Federal OCS decisionmaking. This legislation will assure a source of funding for the Coastal Zone Management Act, coastal energy impact program activities, as well as other State efforts to manage and enhance living marine and natural resources.

By no measure is this a perfect piece of legislation. I would prefer more of a no strings approach in this revenue-sharing proposal to give State and local governments more flexibility in meeting their needs, and for the formula to be more responsive to actual oil and gas activities.

Yet, coastal States currently receive no revenues from the leasing of OCS tracts off their coasts. When it is estimated that future Federal OCS revenues could exceed $13 billion per year under the new leasing plan, it is only fair that a portion of the increase is shared with coastal States to help them mitigate offshore oil and gas activities, as provided under current law.

Mr. PRITCHARD. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. FIELDS).

Mr. FIELDS. Mr. Chairman, I rise in strong opposition to the passage of H.R. 5533, the so-called Ocean and Coastal Resources Management Act.

While I believe an argument can be made for the concept of OCS revenue sharing, unfortunately, the formula for allocating funds to the States as contained within this bill is tragically flawed.

While the proponents of this legislation, argue that the purpose of OCS revenue sharing is to compensate those communities who may be impacted by leasing off of their shores, this bill, in fact, ignores this basic premise and instead allocates funds based on some convoluted formula that penalizes those very States where OCS development has and will occur in the future.

Mr. Chairman, although I have the highest respect for the distinguished chairman of the Merchant Marine and Fisheries Committee, I believe this legislation is nothing more than a facade to disguise the true intentions of this bill. Quite simply, this is a blatant attempt to fund several coastal zone management programs which both the Carter and the Reagan administration have repeatedly chosen not to fund.

If the proponents of this bill really want to establish a workable and equitable OCS revenue-sharing plan, then they would reject this formula and instead adopt one based on the amount of actual leasing and production located within a State's territorial waters.

Mr. Chairman, it is well known, that now and historically the vast majority of OCS oil and gas production has come from the Gulf of Mexico and specifically off the coast of Texas and Louisiana. Our region contributes more than 96 percent of OCS oil and virtually all the OCS natural gas production.

As a result of this energy production, the Federal Government has received in excess of $34 billion in OCS revenues or nearly 80 percent of the total revenues collected to date.

In addition, it must be noted that even under the Department of the Interior's new 5-year OCS leasing plan, both Texas and Louisiana will continue to have the vast majority of production off their coasts and will thus continue to contribute to the Federal Government the overwhelming majority of OCS revenues.

Yet, under this legislation, the State of Texas is heavily and unfairly penalized for not yet having a federally approved coastal zone management plan.

Mr. Chairman, if we are to accept the basic premise, the very heart of this legislation which states that coastal communities should be compensated for having OCS development off their shores, then it should make absolutely no difference whether a State has or does not have a CZM plan.

If we allow this legislation to pass in its present form, we will be unfairly penalizing, through this punitive formula, dozens of communities all along the gulf coast and by so doing deny them the very compensation the authors of this bill have repeatedly indicated they deserve.

At the same time, despite the fact that Texas does not have a federally approved CZM, my State has, in fact, developed an excellent coastal management program which shows as much environmental concern if not more than if we had a federally approved CZM plan.

Mr. Chairman, I believe there is a need for a strong, equitable, and viable OCS revenue-sharing plan. Unfortunately, I find this legislation to be ill timed, poorly conceived, and tragically flawed and appeal to my colleagues to reject this legislation.

Mr. PRITCHARD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. D'AMOURS. Mr. Chairman, I just want to take a minute to refer to the colloquy that took place on the floor a little while ago between my very good friend from Kentucky and my very good friend from Washington. I do think we ought to state very clearly on the record that there is no money in the sea grant program for student tuition, absolutely none, not a penny.

□ 1700

The program does not operate that way. The program only funds projects and work. None of the money can go for tuition.

Second, I would like to note that the Conservative Heritage Foundation issued a report a year ago on sea grant, and the Heritage Foundation said that sea grant has an impressive record of success primarily because it is based largely on local priorities and needs, it operates in partnership with State and local governments, private industry, universities, organizations, and individuals concerned with or affected by ocean and coastal resources.

The Heritage Foundation concluded that sea grant funding should be increased by 10 percent per year in real terms for the next 5 years. This is the Heritage Foundation opinion of the sea grant program.

Finally, my good friend from Kentucky, in his usual good humor and levity, indicated something about studies that he thought were frivolous. I would remind this body that 3 years ago the gentleman from Wisconsin, in the other body, who is known for giving out Golden Fleece Awards, gave such a Golden Fleece Award 3 years ago to a group that was studying the behavior of fruit flies. Well, I do not think I have to remind anybody that the people of California, just within the past year, were very grateful for any information they could possibly develop on fruit flies. These studies are easily made fun of, but scientifically they are worthwhile. Sure, there are some that are silly, but some that even sound a little silly sometimes in fact are not.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in strong support of H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act, which provides for the use of revenues from the Outer Continental Shelf leasing program for the conservation and management of our marine resources.

I welcome this initiative, for I believe it is imperative that our country continue its work to protect and develop the ocean fisheries and living marine resources. The administration's proposal to terminate Federal support for the coastal zone management program, the coastal energy impact program, and the national sea grant program clearly places in a predicament our national effort to preserve marine resources.

Using OCS revenues as an alternative source of funding to rescue the marine resources protection and development activities is a sound idea and particularly fitting. The coastal States and territories receive most, if not all, of the environmental impact associated with the development of the Outer Continental Shelf. In addition, many of these States take substantial economic risks when they get involved in this initiative. It is only fair play that they receive some of the revenues raised from these activities to offset the impacts ancillary to the offshore development.

The continued funding of the ocean and coastal development activities is of great concern to the people and the Government of Puerto Rico because of Puerto Rico's condition as a tropical island. Puerto Rico over the years has taken a very active role in a broad range of ocean, fishery, and coastal programs, including the national sea grant program. The same can also be said of many if not all of the coastal States and territories.

The constant interaction between human activity and nature urgently require a continuing program of monitoring, evaluation, and protection, such as would be possible under the proposed program. The bill is envisioned and designed in the national interest for the proper development of the Nation's invaluable and irreplaceable marine resources.

I do have my reservations regarding the funding of this program, which is based on the increase of revenues in the OCS program between the base year and each succeeding year. This approach relies too much upon the success of the administration's plan for expanding the OCS program. I particularly prefer the one taken by Senator STEVENS in a similar bill—S. 2792—which he introduced in the Senate and has received bipartisan support. Under S. 2792 the fund would receive a modest 6 percent of the royalties and 4 percent of the bonuses derived from oil and gas production in the OCS activities disregarding if there was an increase or not in revenues. I believe this approach is more realistic and gives a greater possibility of a long, and well-funded life to this

highly important revenue-sharing program.

Nevertheless, given the short time we have available before the final adjournment and the crucial need there exists to create the fund, I urge my colleagues to vote for the passage of this legislation. Later, I believe and hope we can work out any disagreements with the Senate's final action taken on Senator STEVENS' bill or any other similar bill.

● Mrs. SCHNEIDER. Mr. Chairman, I rise today in support of H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act. This legislation will provide minimal financial assistance to States to manage and facilitate Federal energy developments.

The concept of OCS revenue sharing is not new. Ten years ago, the Congress declared that there is national interest in the effective management and development of the Nation's coastal zone. In the meantime, expanding demands for food, energy, minerals, recreation, and waste disposal have placed an increased stress on coastal areas. Recent surveys show that, without an alternative to current funding, there will be no implementation.

The OCS revenue-sharing proposal is a concept that coastal States strongly support. It is consistent with the new philosophy of shifting responsibilities for many public services from the Federal Government to the States, and supporting these programs with block grants. More importantly, revenue sharing for both inland and coastal States would be more equitable and would protect our coastal resources.

I urge my colleagues to support this legislation. Energy development is critical in the effort to lessen our dependence on foreign energy supplies, and this bill will move us in the right direction.●

● Mr. HUGHES. Mr. Chairman, I rise in support of H.R. 5543 and urge my colleagues to adopt this important legislation, which provides for the establishment of an Outer Continental Shelf revenue-sharing program.

As a member of the Merchant Marine and Fisheries Committee, which reported out this legislation, and as the Representative from New Jersey's largest coastal district, I am well aware of the important role that OCS leasing and development plays in America's energy future.

Outer Continental Shelf oil and gas development, however, is not risk-free, and development activities place subtle pressures on coastal areas.

Within the past decade, we have witnessed for the first time the development of a number of State and Federal programs which address the need for comprehensive planning for our Nation's coasts. Much of the impetus for State coastal planning activities was directly attributable to the Coastal Zone Management Act, which Congress enacted 10 years ago.

During the past several years, we have witnessed an attempt on the part of this adminstration to eliminate Federal assistance for State coastal planning activities while at the same time undertaking actions directed toward accelerating OCS leasing and development activities. Although there is little doubt that a workable OCS leasing program is in the public's best interest, we too often lose sight of the need to properly manage and protect our renewable resources—such as recreational and commercial fisheries—while we extract nonrenewable oil and gas from underneath our oceans.

This legislation addresses the critical need to provide coastal States with the financial resources which they need to properly plan for OCS leasing activities and to manage their coastal and ocean resources. Without such assistance for such coastal activities, many or the States would be unable to make the adjustments necessary for accelerated Outer Continental Shelf oil and gas development. States caught in such a situation might find their only recourse—to protect their offshore resources—would be litigation to block lease sales and development activities by the oil and gas industry.

State planning needs to be made an integral part of the OCS process. Coastal States which will have to live with the impacts resulting from accelerated oil and gas development off their shores should also receive the resources necessary to adequately cope with OCS development.

The pace of OCS leasing and development is rapidly increasing. The Secretary of the Interior has proposed to offer for lease close to 1 billion acres—nearly the entire Outer Continental Shelf—within the next 5 years. Revenues from increased leasing activities are expected to be more than $15 billion, according to administration estimates. Clearly, a small portion of that revenue can be set aside for coastal States to use in planning for OCS activities, managing and enhancing their fisheries and living resources, and mitigating possible harmful impacts.

I believe that enactment of this legislation is critical to insure the orderly development of our OCS resources. I urge you to support H.R. 5543.●

● Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act.

Let me make clear that my opposition is not to the philosophy of sharing OCS revenues with coastal State and local coastal communities. In fact, as the Members of this body know, I have worked with a number of our colleagues to produce a bill which fairly meets the needs of coastal areas. My opposition to the bill before us today stems from the particular provisions which I feel will increase Government regulation and further tie the hands of coastal States when those States attempt to meet their needs in coastal areas.

Let me point out some of the deficiencies in this legislation. First and foremost, all revenue received will go to State governments. While this is certainly preferrable to keeping all power in the hands of the Federal Government, it does not take into account the fact that State governments at times are not fully responsive to local communities. It is the local areas that will feel the most severe impacts. It is imperative that local communities receive a fair share of any revenues that are forthcoming. H.R. 7077, the alternative bill which I helped develop, would rectify this problem by mandating that coastal communities receive 50 percent of each State's share.

Second, I strongly object to the formula used to allocate revenue among the States. Admittedly, Alaska would fare well under this bill. However, a true OCS revenue-sharing plan should be based on the amount of OCS activity that is occurring in the OCS off each individual State. Coastline mileage and coastal population have no bearing on the number of acres leased, the amount of oil produced, and so forth. H.R. 7077 would solve this problem by instituting a distance test between the coastal area and the OCS development area. The closer you are, the greater the possible impacts, and therefore the greater the amount of money you would receive.

Third, I object to the increased control that the Federal Government would exercise over coastal State activities. This bill claims to provide block grants. Nonsense. The bill mandates that money spent for particular programs. Whether or not any Member of this body agrees with the philosophies of these programs is immaterial. If we are going to share revenues, then let individual States make the decision as to how best to spend them. If the Congress wants to fund programs, let us do so directly, rather than through some back-door approach. The Federal Government has no business telling the State of Alaska, or the State of California, or any other State that it has to spend 40 percent of its money on coastal zone management programs if those programs are not what the State feels it needs. The people of the United States have given a clear directive to this body: They want less, not more, Federal control of their lives. I, for one, do not intend to support increased Federal controls.

Mr. Chairman, H.R. 5543 started with a sound premise but has degenerated into nothing more than another attempt to increase Federal control

over our lives. I urge all Members to oppose it.●

● Mr. EMERY. Mr. Chairman, I appreciate this opportunity to speak in support of H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act.

H.R. 5543, sponsored by Congressmen JONES and D'AMOURS, and endorsed by the House Committee on Merchant Marine and Fisheries, establishes a fund to provide coastal States with a means to maintain ocean resources management and development. I am a cosponsor of this legislation, and as a Representative from Maine and a resident of a coastal area there, I believe the concept embodied in H.R. 5543 is a significant one.

The bill establishes a stable source of funding to insure the continuation of important coastal and marine resource programs that serve both national and State interests. As the need for management of our coastal and ocean resources increase, it is essential that we give the relevant agencies adequate financial support so that the goals of the coastal management laws enacted by Congress can be carried out. This proposed legislation gives the States and Federal Government the opportunity to continue the essential partnership which was established in the Coastal Zone Management Act of 1972 and which Congress has since recognized as an internal part of ocean resource management.

The partnership initiated in those laws has led to a balanced and coordinated decisionmaking process that sets up guidelines for a variety of activities occurring in the coastal zone, the fisheries conservation zone, and on the Outer Continental Shelf. H.R. 5543 includes provisions that insure the continued funding of the Coastal Zone Management Act and the national sea grant college program, which are the cornerstone of national ocean-related planning and research activities. These laws were enacted in response to rapidly increasing pressures on this Nation's coastal resources, which have not diminished in any way since then. In fact, in view of the recently approved Outer Continental Shelf accelerated 5-year leasing plan, I would submit that the pressures on our marine resources are greater than ever.

As multiple and competing uses take place in areas of national concern or under Federal jurisdiction, States' coastal and marine resource management agencies inevitably become deeply involved in addressing national concerns. Maintaining Federal support of programs such as coastal zone management and sea grant as proposed in H.R. 5543 is an entirely appropriate role for the Federal Government to play. The money allocated through the Ocean and Coastal Resources Management and Development Fund will be transferred to the States through an already well-established program that was set up to help the coastal States handle the pressures of a Federal activity, offshore drilling. That Federal activity now seems to be a top Federal priority, and we cannot ignore the impact this has on coastal communities.

The CZM program is a very diverse one, and each federally approved State program is designed to meet the needs of that particular State. To obtain Federal approval, the State plan must take into account the national interest and also coordinate activities with local governments and the public. This program therefore represents the necessary and important balance among Federal, State, and local concerns and presents the rare opportunity for communication so that as many of those interests as possible can be recognized. The resulting programs, now acquired by 27 States and territories, focus on the review and analysis of OCS exploration and development plans, assessment and analysis of the impacts of proposed uses of marine and coastal zone resources, expanded enforcement responsibility in all areas of environmental concern and resource management in the coastal zone, and expanded biological research activities.

Again, I do not think it is appropriate for the Federal Government to turn its back on these projects, especially at a time when accelerated offshore leasing is certain to generate additional State concerns. We cannot simply say that we are no longer concerned with offshore fisheries problems or the impact of energy development on the coastal zone, because in doing so we will damage the partnership we have so carefully crafted. H.R. 5543 establishes a fair and equitable method of providing a continuing Federal role in that partnership.

It must be recognized that our marine and coastal resources need to be conserved and managed, and that this must be considered as a policy of importance. The enactment of the 200-mile-limit law in 1976 represents the U.S. claim to jurisdiction over the resources out to 200 miles, and the appropriate conservation and management those resources impact heavily on coastal areas. The entire Nation benefits from the planning that occurs through existing laws.

H.R. 5543 recognizes, in its funding formula, the need for Congress to pay heed to existing pressures on coastal communities, as well as planning for future activities. I urge my colleagues to support H.R. 5543 so that we may in fact recognize and address the needs of coastal communities.●

Mr. JONES of North Carolina. Mr. Chairman, I have no further request for time, and I yield back the balance of my time.

The CHAIRMAN. Does the gentleman wish to make a motion at this point?

Mr. JONES of North Carolina. Yes, Mr. Chairman. I make a motion that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5543) to establish an ocean and coastal resources management and development fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund, had come to no resolution thereon.

PARLIAMENTARY INQUIRIES

Mr. JONES of North Carolina. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. JONES of North Carolina. Was not the bill supposed to have been read while we were sitting in the Committee of the Whole, read for amendments?

The SPEAKER pro tempore. Will the gentleman repeat his parliamentary inquiry?

Mr. JONES of North Carolina. Was it not proper that the bill should have been read for amendments while we were sitting at the Committee of the Whole?

The SPEAKER pro tempore. The Committee has risen now, and the Chair does not know of any way of automatically going back at this point to do that. If the Committee of the Whole had proceeded to consider the bill for amendment, it would have conflicted with a determination made by the leadership as to the legislative schedule, so the House should not resume consideration of the bill anyway at this point. In other words, the leadership had indicated that we would have general debate only today. So it would conflict with the understanding previously made that we would not get into the amendment process.

Mr. JONES of North Carolina. A further parliamentary inquiry, Mr. Speaker. Was that statement made here on the floor?

The SPEAKER pro tempore. The leadership decision was not announced on the floor, but it was a leadership decision.

Mr. JONES of North Carolina. Hopefully there are none, but should there be any amendments, at what point in time would a Member have the opportunity to present that amendment?

The SPEAKER pro tempore. When the bill is read. It will not cut off any procedure.

The Chair will take 1-minute speeches if any Member would like to make one.

Mr. JONES of North Carolina. A parliamentary inquiry, Mr. Speaker. We have not finished this bill.

The SPEAKER pro tempore. The gentleman is correct. But the leadership had determined the Committee would not go beyond general debate on the bill.

Mr. JONES of North Carolina. Mr. Speaker, another parliamentary inquiry, or statement. I was assured by the leadership that if there were no amendments, we would conclude the bill. I do not anticipate any amendments. The agreement was that if an amendment would be offered, then the Chairman would make a motion that the Committee do now rise, which I have not made.

The SPEAKER pro tempore. The Chair would observe that there are many amendments printed in the RECORD.

Mr. JONES of North Carolina. But, Mr. Speaker, they are not going to be offered. I am trying to avoid bringing this bill up again tomorrow.

Mr. SNYDER. Mr. Speaker, if the gentleman will yield, I said in my statement that I was not offering my 28 amendments. I understood we would finish the bill.

The SPEAKER pro tempore. The Committee of the Whole has risen. There is nothing in a parliamentary way the House could do to reserve consideration except to consider a motion to resolve into the Committee of the Whole for the further consideration of the bill.

Mr. JONES of North Carolina. A parliamentary inquiry, Mr. Speaker. Would I have the privilege as the Chairman of this committee to move that the House resolve itself into the Committee once again?

The SPEAKER pro tempore. The Chair's understanding is that the leadership does not want to entertain that motion, which would conflict with the legislative schedule.

Somebody has sent for the gentleman from California (Mr. WAXMAN), who will make a motion of equal privilege to arrive, and he is undoubtedly on his way. The Chair would be glad to respond to any further conversation that the gentleman would want to have on this subject which would be in order, until the gentleman arrives.

Mr. PRITCHARD. Mr. Speaker, I have a parliamentary inquiry.

Is it the ruling of the Chair that we cannot by unanimous consent go back into the Committee?

The SPEAKER pro tempore. The Chair is following the wishes of the leadership and, therefore, would not recognize any Member for the purpose of moving that the House resolve itself into the Committee of the Whole for further consideration of the bill at this time.

What the gentleman might do, he might contact the Speaker, perhaps after the next matter is taken care of. But it should not be done at this point without the consent of the Speaker.

The gentleman from California (Mr. WAXMAN) has now arrived, and he is recognized.

HEALTH PLANNING BLOCK GRANT ACT OF 1982

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6173) to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. SNYDER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 11, not voting 75, as follows:

[Roll No. 361]

YEAS—346

Akaka	Butler	Dreier
Albosta	Byron	Duncan
Alexander	Campbell	Dunn
Anderson	Carman	Dwyer
Andrews	Carney	Dymally
Annunzio	Chappie	Early
Anthony	Cheney	Eckart
Archer	Clausen	Edgar
Atkinson	Clinger	Edwards (AL)
AuCoin	Coats	Edwards (CA)
Badham	Coelho	Edwards (OK)
Bailey (MO)	Coleman	Emery
Bailey (PA)	Conable	English
Barnard	Conte	Erdahl
Barnes	Corcoran	Erlenborn
Beard	Coughlin	Evans (DE)
Bedell	Courter	Evans (IA)
Beilenson	Coyne, James	Evans (IN)
Bennett	Coyne, William	Fary
Bereuter	Crane, Daniel	Fazio
Bethune	Crane, Philip	Fenwick
Bevill	D'Amours	Ferraro
Biaggi	Daniel, R. W.	Fields
Bingham	Dannemeyer	Findley
Bliley	Daschle	Fish
Boggs	Daub	Flippo
Boland	Davis	Florio
Boner	de la Garza	Foglietta
Bonior	Dellums	Foley
Bonker	Derrick	Ford (TN)
Bouquard	Dickinson	Fountain
Breaux	Dixon	Fowler
Brinkley	Donnelly	Frank
Brooks	Dorgan	Frenzel
Broomfield	Dornan	Frost
Brown (CO)	Dougherty	Gaydos
Broyhill	Dowdy	Gejdenson
Gephardt	Lungren	Roth
Gilman	Marlenee	Roybal
Gingrich	Marriott	Rudd
Ginn	Martin (IL)	Russo
Glickman	Martin (NC)	Santini
Gonzalez	Martin (NY)	Sawyer
Goodling	Martinez	Scheuer
Gore	Matsui	Schneider
Gradison	Mazzoli	Schroeder
Gramm	McCollum	Schulze
Gray	McCurdy	Schumer
Green	McDade	Seiberling
Gregg	McEwen	Sensenbrenner
Guarini	McGrath	Shamansky
Gunderson	McHugh	Shannon
Hagedorn	McKinney	Sharp
Hall, Ralph	Mica	Shaw
Hall, Sam	Michel	Shelby
Hamilton	Mikulski	Shumway
Hammerschmidt	Miller (CA)	Shuster
Hance	Miller (OH)	Siljander
Hansen (ID)	Mineta	Simon
Hansen (UT)	Minish	Skeen
Harkin	Mitchell (MD)	Skelton
Hartnett	Mitchell (NY)	Smith (AL)
Hatcher	Moakley	Smith (IA)
Hawkins	Molinari	Smith (NE)
Heckler	Mollohan	Smith (NJ)
Hefner	Montgomery	Smith (OR)
Heftel	Moore	Smith (PA)
Hendon	Moorhead	Snowe
Hightower	Morrison	Snyder
Holland	Mottl	Solarz
Hollenbeck	Murphy	Solomon
Hopkins	Myers	Spence
Howard	Napier	St Germain
Hubbard	Natcher	Stark
Huckaby	Neal	Staton
Hughes	Nelligan	Stenholm
Hunter	Nelson	Stokes
Hutto	Nichols	Studds
Hyde	Nowak	Stump
Jacobs	O'Brien	Swift
Jeffords	Oakar	Tauke
Jenkins	Oberstar	Tauzin
Johnston	Obey	Taylor
Jones (NC)	Ottinger	Thomas
Jones (OK)	Oxley	Traxler
Jones (TN)	Panetta	Trible
Kastenmeier	Parris	Vander Jagt
Kazen	Pashayan	Vento
Kemp	Patman	Volkmer
Kennelly	Patterson	Walgren
Kildee	Paul	Walker
Kindness	Pease	Wampler
Kogovsek	Pepper	Watkins
Kramer	Perkins	Waxman
LaFalce	Petri	Weaver
Lagomarsino	Peyser	Weber (OH)
Lantos	Pickle	White
Latta	Porter	Whitehurst
Leach	Price	Whitley
Leath	Pritchard	Whittaker
LeBoutillier	Quillen	Whitten
Lehman	Railsback	Williams (OH)
Leland	Rangel	Wilson
Lent	Ratchford	Winn
Levitas	Regula	Wirth
Lewis	Reuss	Wolf
Livingston	Rinaldo	Wolpe
Loeffler	Ritter	Wortley
Long (LA)	Roberts (KS)	Wright
Long (MD)	Roberts (SD)	Wyden
Lott	Robinson	Wylie
Lowery (CA)	Rodino	Yatron
Lowry (WA)	Roe	Young (MO)
Lujan	Roemer	Zablocki
Luken	Rogers	
Lundine	Rostenkowski	

NAYS—11

Ashbrook	Hiler	McDonald
Clay	Holt	Stangeland
Emerson	Madigan	Weber (MN)
Fiedler	McClory	

NOT VOTING—75

Addabbo	Brodhead	Collins (IL)
Applegate	Brown (CA)	Collins (TX)
Aspin	Brown (OH)	Conyers
Bafalis	Burgener	Craig
Benedict	Burton, John	Crockett
Blanchard	Burton, Phillip	Daniel, Dan
Bolling	Chappell	Deckard
Bowen	Chisholm	DeNardis

Derwinski	Hertel	Rose
Dicks	Hillis	Rosenthal
Dingell	Horton	Roukema
Downey	Hoyer	Rousselot
Dyson	Ireland	Sabo
Ertel	Jeffries	Savage
Evans (GA)	Lee	Stanton
Fascell	Markey	Stratton
Fithian	Marks	Synar
Ford (MI)	Mattox	Udall
Forsythe	Mavroules	Washington
Fuqua	McCloskey	Weiss
Garcia	Moffett	Williams (MT)
Gibbons	Murtha	Yates
Goldwater	Pursell	Young (AK)
Grisham	Rahall	Young (FL)
Hall (OH)	Rhodes	Zeferetti

□ 1720

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6173, with Mr. D'AMOURS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the bill, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 6173, the Health Planning Block Grant Act of 1982.

The rule just agreed to for H.R. 6173, makes in order a motion to substitute the provisions of H.R. 7040 as the original text for the purpose of the consideration of amendments on the floor. This rule stems from an agreement among Mr. MADIGAN, Mr. SHELBY, Mr. BROYHILL, Mr. DINGELL, and myself to develop a consensus health planning bill. That consensus bill is H.R. 7040.

H.R. 7040 is the result of extensive work both by the committee members and by interested individuals and associations. The efforts of Mr. MADIGAN and Mr. SHELBY were especially important in shaping this legislation. Without their commitment and cooperation, the development of this bill would not have been possible.

As a result of the close cooperation of all those involved in its development, H.R. 7040 is supported by many health care associations. These include the Health Insurance Association of America, the Blue Cross and Blue Shield Association, the Washington Business Group on Health, the National Governors' Association, and the Catholic Health Association.

H.R. 7040 provides for limited Federal support for State-based certificate of need and health planning activities for fiscal years 1983 and 1984. Under this bill, health planning will be a more streamlined, focused program than that now described by title XV of the Public Health Service Act. Assistance to health systems agencies is, in particular, repealed.

The bill authorizes $64 million for fiscal year 1983 and $67 million for 1984. These authorizations reduce Federal spending for health planning by over 60 percent from the amount appropriated in 1980.

Under H.R. 7040, each State is allowed to decide whether it will have health planning agencies at the State level. There is no penalty for a State which elects not to participate in the program. Similarly, each State is to determine if there will be regional agencies within the State. Again, there is no penalty for a State which prefers not to have any regional agencies or which limits them to certain areas of the State.

In the case of States which choose to participate, H.R. 7040 provides Federal support for the direct operation of State agencies. Participating States must develop a State health plan and operate a certificate of need (CON) program. The primary focus of both the plan and the CON program are services provided by hospitals, nursing homes, and other health care facilities. The bill focuses CON review on major projects by requiring States to exempt all capital expenditures of less than $5 million, or $1 million under certain circumstances, from CON review.

Funds are also provided on an optional basis, through the States, to regional health planning agencies. These agencies are to assist the States in the development of health plans. They are not to conduct the first level CON review as HSA's do today. Where these agencies exist, a majority of their boards are to be drawn from elected public officials and other nonproviders.

To insure that the Nation's previous investment in health planning is not wasted, H.R. 7040 provides for a careful transition between the existing and the new health planning programs. Under this transition, funds are to be provided for agencies under the current authority until a State has decided whether or not it will participate in the new program. This transition is expected, under the terms of this bill, to take approximately 9 months.

Mr. Chairman, the Federal Government has supported State and regional health planning activities for more than 30 years. This support is justified by the concern that unlimited growth of individual hospitals and other health care facilities leads to increased health care costs.

Because the Federal Government, under medicare and medicaid, now pays over 35 percent of hospital costs, there is a substantial Federal interest in fostering an efficient hospital system. There is broad agreement that H.R. 7040 will provide a sound, streamlined health planning program to assist in the development of such an efficient system.

□ 1730

Mr. Chairman, I reserve the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. SHELBY).

Mr. SHELBY. Mr. Chairman, as sponsor of a bill to repeal health planning, I think it must be obvious that I have had serious reservations about this program. The substitute bill that we have before us attempts to resolve many of the problems that have plagued the program and provides a fair compromise between continuation of the program as it is now and outright repeal. It gives us time to consider competitive alternatives to the burdensome certificate of need mechanism for preventing overexpansion.

I am sure you are all familiar with the problems that have been identified with health planning. I would like to go through some of them and tell you how this amendment addresses them.

First, this program has been a very expensive one. Before Congress began to curb appropriations for health planning, the appropriations hit a high in 1980 of $157.7 million. This bill authorizes $64 million for 1983 and $67.2 million for 1984.

Not only was the program expensive, but studies show we did not buy much with those dollars. In fact, we probably increased the cost of health services through unnecessary and inefficient CON reviews. This bill provides for a more sharply focused, streamlined program. The old threshold for CON review was so low that it caught in its net too many projects of minor significance. Most of these projects were eventually approved, but only after lengthy delays, initial rejections, and so forth, that added to the cost of the project. By increasing the threshold for CON reviews, only truly major projects with significant implications for health care costs will be reviewed. It is estimated that even with the lowest thresholds permitted by the amendment, over 50 percent of the projects that would have required a CON in 1980 could be pursued without CON reviews.

Another limitation the amendment imposes on delays in CON review is the requirement that state agencies review projects for completeness within 20 business days and approve or disapprove within another 110 business days.

Complaints of agency overreaching in the CON process have been ad-

dressed. Only State agencies can conduct the CON review; regional agencies are precluded from this authority. The CON review is prohibited from extending into the physician's office. HMO's, inherently cost-saving forms of health delivery, are exempted from CON reviews. And approval of a CON cannot be conditioned on compliance with some non-plan-related goal of the reviewers.

The current health planning law is the ultimate attempt to force a dynamic, diverse and localized system of medical care into a single Federal mold. I believe the health planning system envisioned in this amendment takes us in a better direction. First, it is voluntary. It is not federally imposed. For those States which choose to participate, control of the Program, for the most part, rests with the State, not the Federal Government. It is left to the Governor to decide if a State will have regional health planning agencies. Likewise, the Governor designates the regional areas and agencies and specifies the functions of the regional agencies. And to assure that regional agencies have local support and involvement, they are required to match 15 percent of the Federal allocation.

I urge each of you who has doubts about health planning to look at this proposal carefully. I believe it goes a long way toward remedying the problems that have plagued health planning in the past.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to speak in favor of H.R. 6173, the health planning block grant of 1982.

I would like to briefly trace the development of this legislation for the Members.

As you all know, health care cost inflation has been a principal concern of the Federal Government for some time. In particular, rapid increases in hospital costs have contributed to significant increases in Federal outlays for health care programs. Over the past decade, in-patient hospital costs have risen at an average annual rate in excess of 15 percent. During the same period, Federal medicare and medicaid outlays for hospital services alone rose approximately 17 percent per year. Many economists believe that excessive investment in hospital construction and equipment is a major cause of the growth in hospital costs. In response to this concern, the Congress in the early 1970's enacted legislation which came to be known as the Health Planning and Resources Development Act of 1974, Public Law 93-641. The intent of this legislation was to prevent unnecessary and costly hospital investment and to improve the distribution of health care services.

This act created a system of State and local health planning agencies. It also mandated that the States enact certificate of need (CON) legislation requiring State agency approval for hospital investment and new facilities, equipment, and services. Such approval was to be in conformance with predetermined State and local planning agency goals.

This program, commonly referred to as health planning, came up for reauthorization this year. Early this year, the subcommittee on health and the environment commenced hearings on the act. We took testimony from a broad array of witnesses. During our first hearing in March, I was very impressed by the testimony given our subcommittee by witnesses from Aetna Insurance Co., Bell Telephone, the Health Insurance Association of America, and other major corporations and associations who do not generally support intrusive government regulation. Nevertheless, these individuals and groups forthrightly supported the concept of a continued health planning program.

I, too, support a continued health planning function, funded in part by the Federal Government. My reasons, however, may be somewhat different from those of others. As I have stated on many occasions, both in Congress and other settings, I am not generally a supporter of Federal regulatory activities. With regard to the regulatory review process involved in health planning, however, I am a cautious supporter.

As a matter of fact, I am on record in support of repeal of health planning, title XV of the PHS Act. But, I have stated in committee and other places my concern that repeal of health planning without creation of an interim review program would be a mistake as flurry of capital commitment could follow repeal. I believe it is reasonable to assume that such a surge of capital commitment would further escalate the growth pattern of health care cost inflation. As health care expenditures continue to lead overall cost inflation, I believe that such a surge would bring a renewed push to more directly regulate this industry. Such moves would be unfortunate.

As a consequence, last spring I introduced H.R. 6173, a bill to both repeal title 15 of the Public Health Service Act and to create a new part D of title 19 of the Public Health Service Act. This new part D would be a block grant-type mechanism providing an optional program for State certificate of need activity.

At the same time, the chairman of our subcommittee, the gentleman from California (Mr. WAXMAN), introduced his bill H.R. 6084, to reauthorize and extend authorities for the existing title 15. Taking the other end of the argument, another colleague from the subcommittee, the gentleman from Alabama (Mr. SHELBY), introduced a bill providing for simple repeal of title 15.

Starting from these three quite distinct approaches, the Committee on Energy and Commerce drafted a balanced piece of legislation which we sincerely believe best addresses the needs for a modest regulatory program.

During consideration of H.R. 6173, the bill was amended by a substitute sponsored by myself and the gentleman from Alabama. That is the text of the bill H.R. 6173 before the House today.

This bill does not, however, contemplate the full intent of the Committee on Energy and Commerce. Rather, it is the text of the bill H.R. 7040 which reflects our intent. This bill, which we will offer as a substitute to the pending bill, is the product of 3 months of negotiation by interested members on the Commerce Committee. The content of the provisions of this substitute are fully discussed in House Report No. 97-784.

Numerous lengthy drafting sessions were held in a successful effort to flesh out a series of policy decisions made by Mr. SHELBY, Mr. WAXMAN, Mr. DINGELL, Mr. BROYHILL, and me. The successful effort is seen in the concurrence of these Members in their sponsorship of H.R. 7040.

The gentleman from California and I will discuss the particulars of this substitute when we offer it to the House for consideration. In the meantime, however, I would like to briefly give you my perspective.

H.R. 7040 expands the concepts laid out in H.R. 6173, the bill authorizes grants to States for the operation of certificate of need programs. These CON programs are to be constructed that participating States will use so-called State health plans as the decisionmaking basis for CON review.

In a departure from H.R. 6173, the substitute provides for discretionary grants for local health planning agencies. States which choose to participate will be provided Federal funds to assist in the operation of these local health planning agencies.

Further, H.R. 7040 provides for the Secretary of Health and Human Services to designate a technical research and assistance agency. The bill also provides for a flexible transition period during which the activities under existing title 15 and the new activities under this bill will be meshed.

Finally, the bill includes a "sunset" provision, under which the act will be automatically repealed following the end of the third successive fiscal year following enactment.

Mr. Chairman, I trust that this brief summary will assist the Members in

their initial deliberations. I can assure you that we have given this matter serious and sustained attention. I am quite pleased with the result and I urge the adoption of H.R. 6173 as amended by the substitute we will offer at the appropriate time.

Thank you.

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6173, as amended to replace title XV of the Public Health Service Act with a block grant to States for health planning.

The purpose of this bill is to provide limited Federal support for State-based certificate of need and health planning programs and to create a more streamlined, targeted program than that now authorized by title XV of the Public Health Service Act. This bill provided Federal support for the direct operation of State agencies and, by the allocation of funds through the States, for regional health planning agencies.

I am pleased to know that Puerto Rico and other U.S. territories are included in this legislation. As the committee notes on page 87 of its report, by not providing a specific definition of a State, the bill incorporates the provision of section 2(F) of the Public Health Service Act. Under this section, the District of Columbia, Guam, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands are all eligible to participate in the program if they choose.

The Office of Planning and Evaluation has become a central tool to Puerto Rico. It provides the assessment, planning, evaluation, and monitoring function for all Federal programs in the health care and for the implementation of the block grants. Also, the continuing funding to the local health system agency is very important to insular areas who are still developing adequate medical facilities to serve their populations. These funds are the basis of their health system planning making sure that decent medical care is available to their citizens.

Health planning and development has become in Puerto Rico as well in the Nation a very important tool in halting the runaway increase in health care costs while assuring the accessibility of quality health care by carefully assessing the need for new or additional health facilities to provide services. It would not be wise to eliminate this important mechanism at a time in which health care costs have increased so drastically.

The need in Puerto Rico and other States for health planning development has become more necessary with the substantially increased role of the State government in assuming many of the responsibilities formerly carried out by the Federal Government. Faced with the need to optimize all available resources and to carefully evaluate all existing services and projects the increase for planning and evaluation is a must.

At a time when available resources have significantly decreased at the National and State level and that the health care needs of the people have increased the need for continuing health planning and development activities is imperative.

I urge my colleagues to vote for H.R. 6173 and thank them for their support.●

Mr. WAXMAN. Mr. Chairman, we have no requests for time, and I yield back the balance of our time.

Mr. MADIGAN. Mr. Chairman, I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. D'AMOURS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6173) to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning, had come to no resolution thereon.

CONFERENCE REPORT ON S. 1409, BUFFALO BILL DAM, RECLAMATION REFORM, AND PAPAGO INDIAN WATER RIGHTS

Mr. KAZEN submitted the following conference report and statement on the Senate bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-855)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I

CONSTRUCTION OF DAM MODIFICATIONS

SEC. 101. The Secretary of the Interior, acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservoir shall include raising the height of the existing Buffalo Bill Dam by twenty-five feet, enlarging the capacity of the existing Buffalo Bill Reservoir by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: Provided, That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

CONSERVATION AND FISH AND WILDLIFE

SEC. 102. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

COORDINATION WITH OTHER LAWS

SEC. 103. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 107 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

TRANSMISSION INTERCONNECTIONS

SEC. 104. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this title to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this title shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power

marketed under rate schedules in effect for such system.

INTEREST

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 106. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: Provided, That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 107 of this title.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this title, together with such sums as may be required for operation and maintenance of the works authorized by section 104(a).

CONTRACTS AUTHORITY

SEC. 107. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

TITLE II

SHORT TITLE

SEC. 201. This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as "Federal reclamation law". This title may be referred to as the "Reclamation Reform Act of 1982".

DEFINITIONS

SEC. 202. As used in this title:

(1) The term "contract" means any repayment or water service contract between the United States and a district providing for the payment of construction charges to the United States including normal operation, maintenance, and replacement costs pursuant to Federal reclamation law.

(2) The term "district" means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(3)(A) The term "full cost" means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal reclamation law or applicable contract provisions, with interest on both accruing from the date of enactment of this Act on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the date of enactment of this Act: Provided, That operation, maintenance, and replacement charges required under Federal reclamation law, including this title, shall be collected in addition to the full cost charge.

(B) The interest rate used for expenditures made on or before the date of enactment of this Act shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made, but shall not be less than seven and one-half per centum per annum.

(C) The interest rate used for expenditures made after the date of enactment of this Act shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(i) the rate as of the beginning of the fiscal year in which expenditures are made on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and

(ii) the weighted average yield on all interest-bearing, marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.

(4) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code of 1954 (26 U.S.C. 152).

(5) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(6) The term "landholding" means total irrigable acreage of one or more tracts of land situated in one or more districts owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that landholding.

(7) The term "limited recipient" means any legal entity established under State or Federal law benefiting more than twenty-five natural persons.

(8) The term "project" means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law, or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.

(9) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five natural persons or less.

(10) The term "recordable contract" means a contract between the Secretary and a landowner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the ownership limitations of Federal reclamation law including this title.

(11) The term "Secretary" means the Secretary of the Interior.

NEW OR AMENDED CONTRACTS

SEC. 203. (a) The provisions of this title shall be applicable to any district which—

(1) enters into a contract with the Secretary subsequent to the date of enactment of this Act;

(2) enters into any amendment of its contract with the Secretary subsequent to the date of enactment of this Act which enables the district to receive supplemental or additional benefits; or

(3) which amends its contract for the purpose of conforming to the provisions of this title.

(b) Any district which has an existing contract with the Secretary as of the date of enactment of this Act which does not enter into an amendment of such contract as specified in subsection (a) shall be subject to Federal reclamation law in effect immediately prior to the date of enactment of this Act, as that law is amended or supplemented by sections 209 through 230 of this title. Within a district that does not enter into an amendment of its contract with the Secretary within four and one-half years of the date of enactment of this Act, irrigation water may be delivered to lands leased in excess of a landholding of one hundred and sixty acres only if full cost, as defined in section 202(3)(A) of this title, is paid for such water as is assignable to those lands leased in excess of such landholding of one hundred and sixty acres: Provided, That the interest rate used in computing full cost under this subsection shall be the same as provided in section 205(a)(3).

(c) In the absence of an amendment to a contract, as specified in subsection (a), a qualified recipient or limited recipient may elect to be subject to the provisions of this title by executing an irrevocable election in a form approved by the Secretary to comply with this title. The district shall thereupon deliver irrigation water to and collect from such recipient, for the credit of the United States, the additional charges required by this title and assignable to the recipient making the election.

(d) Amendments to contracts which are not required by the provisions of this title shall not be made without the consent of the non-Federal party.

LIMITATION ON OWNERSHIP

SEC. 204. Except as provided in section 209 of this title, irrigation water may not be delivered to—

(1) a qualified recipient for use in the irrigation of lands owned by such qualified recipient in excess of nine hundred and sixty acres of class I lands or the equivalent thereof; or

(2) a limited recipient for the use in the irrigation of lands owned by such limited recipient in excess of six hundred and forty acres of class I lands or the equivalent thereof;

whether situated in one or more districts.

PRICING

SEC. 205. (a) Notwithstanding any other provision of law, any contract with a district entered into by the Secretary as specified in section 203, shall provide for the de-

livery of irrigation water at full cost as defined in section 202(3) to:

(1) a landholding in excess of nine hundred and sixty acres of class I lands or the equivalent thereof for a qualified recipient,

(2) a landholding in excess of three hundred and twenty acres of class I land or the equivalent thereof for a limited recipient receiving irrigation water on or before October 1, 1981; and

(3) the entire landholding of a limited recipient not receiving irrigation water on or before October 1, 1981: Provided, That the interest rate used in computing full cost under this paragraph shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(A) the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and

(B) the weighted average of market yields on all interest-bearing, marketable issues sold by the Treasury

during the fiscal year preceding the fiscal year in which the expenditures are made, or the date of enactment of this Act for expenditures made before such date of enactment.

(b) Any contract with a district entered into by the Secretary as specified in section 203, shall provide for the delivery of irrigation water to lands not in excess of the landholdings described in subsection (a) upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to the date of enactment of this Act, or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment. However, the portion of any price established under this subsection which relates to operation and maintenance charges shall be established pursuant to section 208 of this title.

(c) Notwithstanding any extension of time of any recordable contract as provided in section 209(e) of this title, lands under recordable contract shall be eligible to receive irrigation water at less than full cost for a period not to exceed ten years from the date such recordable contract was executed by the Secretary in the case of contracts existing prior to the date of enactment of this Act, or five years from the date such recordable contract was executed by the Secretary in the case of contracts entered into subsequent to the date of enactment, or the time specified in section 218 for lands described in that section: Provided, That in no case shall the right to receive water at less than full cost under this subsection terminate sooner than 18 months after the date on which the Secretary again commences the processing or the approval of the disposition of such lands.

CERTIFICATION

SEC. 206. As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in section 203, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this title including a statement of the number of acres leased, the term of any lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

EQUIVALENCY

SEC. 207. Upon the request of any district, the ownership and pricing limitations imposed by this title shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability.

OPERATION AND MAINTENANCE CHARGES

SEC. 208. (a) The price of irrigation water delivered by the Secretary pursuant to a contract or an amendment to a contract with a district, as specified in section 203, shall be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States.

(b) Whenever a district enters into a contract or requests that its contract be amended as specified in section 203, and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of irrigation water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.

(c) This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds.

DISPOSITION OF EXCESS LANDS

SEC. 209. (a) Irrigation water made available in the operation of reclamation project facilities may not be delivered for use in the irrigation of lands held in excess of the ownership limitations imposed by Federal reclamation law, including this title, unless and until the owners thereof shall have executed a recordable contract with the Secretary, in accordance with the terms and conditions required by Federal reclamation law, requiring the disposal of their interest in such excess lands within a reasonable time to be established by the Secretary. In the case of recordable contracts entered into prior to the date of enactment of this Act, such reasonable time shall not exceed ten years after the recordable contract is executed by the Secretary. In the case of recordable contracts entered into after the date of enactment of this Act, except as provided in section 218, such reasonable time shall not exceed five years after the recordable contract is executed by the Secretary.

(b) Lands held in excess of the ownership limitations imposed by Federal reclamation law, including this title, which, on the date of enactment of this Act, are, or are capable of, receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only—

(1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or

(2) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(c) Recordable contracts existing on the date of enactment of this Act shall be amended at the request of the landowner to conform with the ownership limitations contained in this title: Provided, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e).

(d) Any recordable contract covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the recordable contract. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as the Secretary may establish: Provided, That the Secretary shall recover for the owner the fair market value of the land unrelated to irrigation water deliveries plus the fair market value of improvements thereon.

(e) In the event that the owner of any lands in excess of the ownership limitations of Federal reclamation law has heretofore entered into a recordable contract with the Secretary for the disposition of such excess lands and has been prevented from disposing of them because the Secretary may have withheld the processing or approval of the disposition of the lands (whether he may have been compelled to do so by court order or for other reasons), the period of time for the disposal of such lands by the owner thereof pursuant to the contract shall be extended from the date on which the Secretary again commences the processing or the approval of the disposition of such lands for a period which shall be equal to the remaining period of time under the recordable contract for the disposal thereof by the owner at the time the decision of the Secretary to withhold the processing or approval of such disposition first became effective.

(f) Excess lands which have been or may be disposed of in compliance with Federal reclamation law, including this title, shall not be considered eligible to receive irrigation water unless—

(1) they are held by nonexcess owners; and

(2) in the case of disposals made after the date of enactment of this Act, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with Federal reclamation law, including this title, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e).

WATER CONSERVATION

SEC. 210. (a) The Secretary shall, pursuant to his authorities under otherwise existing Federal reclamation law, encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients.

(b) Each district that has entered into a repayment contract or water service contract pursuant to Federal reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390b), shall develop a water conservation plan which shall contain definite goals, appropriate water conservation meas-

ures, and a time schedule for meeting the water conservation objectives.

(c) The Secretary is authorized and directed to enter into memorandums of agreement with those Federal agencies having capability to assist in implementing water conservation measures to assure coordination of ongoing programs. Such memorandums should provide for involvement of non-Federal entities such as States, Indian tribes, and water user organizations to assure full public participation in water conservation efforts.

RESIDENCY NOT REQUIRED

SEC. 211. Notwithstanding any other provision of law, irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

CORPS OF ENGINEERS PROJECTS

SEC. 212. (a) Notwithstanding any other provision of law, neither the ownership or pricing limitation provisions nor the other provisions of Federal reclamation law, including this title, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provision of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

REPAYMENT OF CONSTRUCTION CHARGES

SEC. 213. (a) The ownership and full cost pricing limitations of this title and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district after the obligation of a district for the repayment of the construction costs of the project facilities used to make project water available for delivery to such lands shall have been discharged by a district (or by a person within the district pursuant to a contract existing on the date of enactment of this Act), by payment of periodic installments throughout a specified contract term, including individual or district accelerated payments where so provided in contracts existing on the date of enactment of this Act.

(b)(1) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the ownership or full cost pricing limitation of Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located.

(2) Any certificate issued by the Secretary prior to the date of enactment of this Act acknowledging that the landholding is free of the acreage limitation of Federal reclamation law is hereby ratified.

(c) Nothing in this title shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon the date of enactment of this Act and which provides for such lump sum or accelerated repayment by an individual or district.

TRUSTS

SEC. 214. The ownership and full cost pricing limitations of this title and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title.

TEMPORARY SUPPLIES OF WATER

SEC. 215. (a) Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which receive only a temporary, not to exceed one year, supply of water made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration.

(b) The Secretary shall have the authority to waive payments for a supply of water described in subsection (a).

INVOLUNTARY FORECLOSURE

SEC. 216. Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, or by devise: Provided, That such lands were eligible to receive irrigation water prior to such transfer of title or the mortgaged lands became ineligible to receive water after the mortgage is recorded but before it is acquired by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of mortgage: Provided further, That if, after acquisition, such lands are not qualified under Federal reclamation law, including this title, they shall be furnished temporarily with an irrigation water supply for a period not exceeding five years from the effective date of such an acquisition, delivery of irrigation water thereafter ceasing until the transfer thereof to a landowner qualified under such laws: Provided further, That the provisions of section 205 of this title shall be applicable separately to each acquisition under this section if the lands are otherwise subject to the provisions of section 205.

ISOLATED TRACTS

SEC. 217. Neither the ownership limitations of this title nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed such ownership limitations.

CENTRAL ARIZONA PROJECT

SEC. 218. Lands receiving irrigation water pursuant to a contract with the Secretary as authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521 et seq.) which are placed under recordable contract shall be eligible to receive irrigation water upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to the date of enactment of this Act, for a period of time not to exceed 10 years from the date such lands are capable of being served with irrigation water, as determined by the Secretary.

RELIGIOUS OR CHARITABLE ORGANIZATIONS

SEC. 219. An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended, and which owns, operates, or leases any lands within a district shall be treated as an individual under the provisions of this title regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

(1) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(2) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and

(3) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

CONTRACT REQUIRED

SEC. 220. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such irrigation water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such irrigation water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of Federal reclamation law.

WAIVER OF SOVEREIGN IMMUNITY

SEC. 221. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, and shall be subject to judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated.

EXCESS CROP RESTRICTIONS

SEC. 222. (a) Within one year of the date of enactment of this Act, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation water. The report shall include—

(1) data delineating the production of surplus crops on lands served by irrigation water;

(2) the percentage of participation of farms served by irrigation water in set-aside programs, by acreage, crop, and State;

(3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation water and the costs of such a requirement; and

(4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

(b) In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before the date of enactment of this Act, any restriction prohibiting the delivery of irrigation water for the production of excess basic agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project.

SMALL RECLAMATION PROJECTS ACT

SEC. 223. Section 5(c)(2) of the Act of August 6, 1956 (43 U.S.C. 422e), is amended by striking out "by any one owner in excess of one hundred and sixty irrigable acres;" and inserting in lieu thereof "by a qualified recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres;".

ADMINISTRATIVE PROVISIONS

SEC. 224. (a) The provisions of Federal reclamation law shall remain in full force and effect, except to the extent such law is amended by, or is inconsistent with, this title.

(b) Nothing in this title shall repeal or amend any existing statutory exemptions from the ownership or pricing limitation of Federal reclamation law.

(c) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this title and other provisions of Federal reclamation law.

(d) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(e) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise, may be sold at its fair market value without regard to any other provision of this title or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (43 U.S.C. 423e): Provided, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(f) The first proviso in the third paragraph of section 1 of the Act of April 4, 1910 (36 Stat. 269, 270), as amended by the Act of August 7, 1946 (60 Stat. 866, 867) is hereby repealed.

VALIDATION

SEC. 225. The provisions of any contract entered into prior to October 1, 1981, by the Secretary with a district, which define project or nonproject water, or describe the delivery of project water through nonproject facilities or nonproject water through project facilities to lands within the district, are hereby authorized and validated on the part of the United States.

PUBLIC PARTICIPATION

SEC. 226. Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by adding at the end the following new subsection:

"(f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year or less) the Secretary shall—

"(1) publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

"(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.".

LEASING REQUIREMENTS

SEC. 227. Notwithstanding any other provision of Federal reclamation law, including this title, lands which receive irrigation water may be leased only if the lease instrument is—

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: Provided, however, That leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years.

REPORTING

SEC. 228. Any contracting entity subject to the ownership or pricing limitation of Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this title and Federal reclamation law. On a date set by the Secretary following the date of enactment of this Act, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

COMMISSIONER OF RECLAMATION

SEC. 229. The Act of May 26, 1926 (44 Stat. 657) is amended by adding the words "by and with the advice and consent of the Senate" after the word "President".

SEVERABILITY

SEC. 230. If any provision of this title or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE III

CONGRESSIONAL FINDINGS

SEC. 301. The Congress finds that—

(1) water rights claims of the Papago Tribe with respect to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation are the subject of existing and prospective lawsuits against numerous parties in southern Arizona, including major mining companies, agricultural interests, and the city of Tucson;

(2) these lawsuits not only will prove expensive and time consuming for all participants, but also could have a profound adverse impact upon the health and development of the Indian and non-Indian economies of southern Arizona;

(3) the parties to the lawsuits and others interested in the settlement of the water rights claims of the Papago Indians within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area have diligently attempted to settle these claims and the Federal Government, by providing the assistance specified in this title, will make possible the execution and implementation of a permanent settlement agreement;

(4) it is in the long-term interest of the United States, the State of Arizona, its political subdivisions, the Papago Indian Tribe, and the non-Indian community of southern Arizona that the United States Government assist in the implementation of a fair and equitable settlement of the water rights claims of the Papago Indians respecting certain portions of the Papago Reservation; and

(5) the settlement contained in this title will—

(A) provide the necessary flexibility in the management of water resources and will encourage allocation of those resources to their highest and best uses; and

(B) insure conservation and management of water resources in a manner consistent with the goals and programs of the State of Arizona and the Papago Tribe.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) The term "acre-foot" means the amount of water necessary to cover one acre of land to a depth of one foot.

(2) The term "Central Arizona Project" means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521, et seq.).

(3) The term "Papago Tribe" means the Papago Tribe of Arizona organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "subjugate" means to prepare land for the growing of crops through irrigation.

(6) The term "Tucson Active Management Area" means the area of land corresponding to the area initially designated as the Tucson Active Management Area pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

(7) The term "December 11, 1980, agreement" means the Central Arizona Project water delivery contract between the United States and the Papago Tribe.

(8) The term "replacement costs" means the reasonable costs of acquiring and delivering water from sources within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area. Such costs shall include costs of necessary construction amortized in accordance with standard Bureau of Reclamation Procedures.

(9) The term "value" means the value attributed to the water based on the Tribe's anticipated or actual use of the water, or its fair market value, whichever is greater.

WATER DELIVERIES TO TRIBE FROM CAP; MANAGEMENT PLAN; REPORT ON WATER AVAILABILITY; CONTRACT WITH TRIBE

SEC. 303. (a) As soon as is possible but not later than ten years after the enactment of this title, if the Papago Tribe has agreed to the conditions set forth in section 306, the Secretary, acting through the Bureau of Reclamation, shall—

(1) in the case of the San Xavier Reservation—

(A) deliver annually from the main project works of the Central Arizona Project twenty-seven thousand acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 304(a); and

(B) improve and extend the existing irrigation system on the San Xavier Reservation and design and construct within the reservation such additional canals, laterals, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(2) in the case of the Schuk Toak District of the Sells Papago Reservation—

(A) deliver annually from the main project works of the Central Arizona Project ten thousand eight hundred acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 304(a); and

(B) design and construct an irrigation system in the Eastern Schuk Toak District of the Sells Papago Reservation, including such canals, laterals, farm ditches, and irrigation works, as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(3) establish a water management plan for the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as any management plan developed under Arizona law.

(4) There are authorized to be appropriated up to $3,500,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved for those features of the irrigation system described in paragraphs (1)(B) or (2)(B) of section 303(a) which are not authorized to be constructed under any other provision of law.

(b)(1) In order to encourage the Papago Tribe to develop sources of water on the Sells Papago Reservation, the Secretary shall, if so requested by the tribe, carry out a study to determine the availability and suitability of water resources within the Sells Papago Reservation but outside the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area.

(2) The Secretary shall, in cooperation with the Secretary of Energy, or, with the appropriate agency or officials, carry out a study to determine—

(A) the availability of energy and the energy requirements which result from the enactment of the provisions of this title, and

(B) the feasibility of constructing a solar power plant or other alternative energy producing facility to meet such requirements.

(c) The Papago Tribe shall have the right to withdraw ground water from beneath the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation subject to the limitations of section 306(a).

(d) Nothing contained in this title shall diminish or abrogate any obligations of the Secretary to the Papago Tribe under the December 11, 1980, agreement.

(e) Nothing contained in sections 303(c) and 306(c) shall be construed to establish whether or not the Federal reserved rights doctrine applies, or does not apply, to ground water.

DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES; OPERATION AND MAINTENANCE

SEC. 304. (a) The water delivered from the main project works of the Central Arizona Project to the San Xavier Reservation and to the Schuk Toak District of the Sells Papago Reservation as provided in section 303(a), shall be delivered in such amounts, and according to such terms and conditions, as are set forth in the December 11, 1980, agreement, except as otherwise provided under this section.

(b) Where the Secretary, pursuant to the terms and conditions of the agreement referred to in subsection (a), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the full amount of water specified in section 303(a)(1)(A) and section 303(a)(2)(A), the Secretary shall acquire and deliver an equivalent quantity of water from the following sources or any combination thereof:

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area in the State of Arizona:

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands or interests referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(c) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section or paragraphs (1)(A) and (2)(A) of section 303(a), he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where the delivery system is completed.

(d) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (b) without the consent of the owner thereof. No private lands may be acquired under subsection (b)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water right the use of which is recognized by State law. In acquiring any private lands under subsection (b)(3)(A), the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

(e)(1) To meet the obligation referred to in paragraphs (1)(A) and (2)(A) of section 303(a), the Secretary shall, acting through the Bureau of Reclamation, as part of the main project works of the Central Arizona Project—

(A) design, construct and, without cost to the Papago Tribe, operate, maintain, and replace such facilities as are appropriate including any aqueduct and appurtenant pumping facilities, powerplants, and electric power transmission facilities which may be necessary for such purposes; and

(B) deliver the water to the southern boundary of the San Xavier Reservation, and to the boundary of the Schuk Toak District of the Sells Papago Reservation, at points agreed to by the Secretary and the tribe which are suitable for delivery to the reservation distribution systems.

(2) There is hereby authorized to be appropriated by this title in addition to other sums authorized to be appropriated by this title, a sum equal to that portion of the total costs of phase B of the Tucson Aqueduct of the Central Arizona Project which the Secretary determines to be properly allocable to construction of facilities for the delivery of water to Indian lands as described in subparagraphs (A) and (B) of paragraph (1). Sums allocable to the construction of such facilities shall be reimbursable as provided by the Act of July 1, 1932 (Public Law 72-240; 25 U.S.C. 386(a)), as long as such water is used for irrigation of Indian lands.

(f) To facilitate the delivery of water to the San Xavier and the Schuk Toak District of the Sells Papago Reservation under this title, the Secretary is authorized—

(1) to enter into contracts or agreements for the exchange of water, or for the use of aqueducts, canals, conduits, and other facilities for water delivery, including pumping plants, with the State of Arizona or any of its subdivisions, with any irrigation district or project, or with any authority, corporation, partnership, individual, or other legal entity; and

(2) to use facilities constructed in whole or in part with Federal funds.

RECLAIMED WATER; ALTERNATIVE WATER SUPPLIES

SEC. 305. (a) As soon as possible, but not later than ten years after the date of enactment of this title, the Secretary shall acquire reclaimed water in accordance with the agreement described in section 307(a)(1) and deliver annually twenty-three thousand acre-feet of water suitable for agricultural use to the San Xavier Reservation and deliver annually five thousand two hundred acre-feet of water suitable for agricultural use to the Schuk Toak District of the Sells Papago Reservation.

(b)(1) The obligation of the Secretary referred to in subsection (a) to deliver water suitable for agricultural use may be fulfilled by voluntary exchange of that reclaimed water for any other water suitable for agricultural use or by other means. To make available and deliver such water, the Secretary acting through the Bureau of Reclamation shall design, construct, operate, maintain, and replace such facilities as are appropriate. The costs of design, construction, operation, maintenance, and replacement of

on-reservation systems for the distribution of the water referred to in subsection (a) are the responsibility of the Papago Tribe.

(2) The Secretary shall not construct a separate delivery system to deliver reclaimed water referred to in subsection (a) to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation.

(3) To facilitate the delivery of water under this title, the Secretary shall, to the extent possible, utilize unused capacity of the main project works of the Central Arizona Project without reallocation of costs.

(c) The Secretary may, as an alternative to, and in satisfaction of the obligation to deliver the quantities of water to be delivered under subsection (a), acquire and deliver pursuant to agreements authorized in section 307(b), an equivalent quantity of water from the following sources or any combination thereof—

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area in the State of Arizona and that part of the Upper Santa Cruz Basin not within that area—

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(d) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section, he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where a delivery system is completed.

(e) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (c) without the consent of the owner thereof. No private lands may be acquired under subsection (c)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water the right to the use of which is recognized by State law. In acquiring said private lands, the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

LIMITATION ON PUMPING FACILITIES FOR WATER DELIVERIES; DISPOSITION OF WATER

SEC. 306. (a) The Secretary shall be required to carry out his obligation under subsections (b), (c), and (e) of section 304 and under section 305 only if the Papago Tribe agrees to—

(1) limit pumping of ground water from beneath the San Xavier Reservation to not more than ten thousand acre-feet per year;

(2) limit the quantity of ground water pumped from beneath the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area to those quantities being withdrawn on January 1, 1981; and

(3) comply with the management plan established by the Secretary under section 303(a)(3).

Nothing contained in paragraph (1) shall restrict the tribe from drilling wells and withdrawing ground water therefrom on the San Xavier Reservation if such wells have a capacity of less than thirty-five gallons per minute and are used only for domestic and livestock purposes. Nothing contained in paragraph (2) shall restrict the tribe from drilling wells and withdrawing ground water therefrom in the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area if such wells have a capacity of less than thirty-five gallons per minute and which are used only for domestic and livestock purposes.

(b) The Secretary shall be required to carry out his obligations with respect to distribution systems under paragraphs (1)(B) and (2)(B) of section 303(a) only if the Papago Tribe agrees to—

(1) subjugate, at no cost to the United States, the land for which those distribution systems are to be planned, designed, and constructed by the Secretary; and

(2) assume responsibility, through the tribe or its members or an entity designated by the tribe, as appropriate, following completion of those distribution systems and upon delivery of water under this title, for the operation, maintenance, and replacement of those systems in accordance with the first section of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385).

(c)(1) The Papago Tribe shall have the right to devote all water supplies under this title, whether delivered by the Secretary or pumped by the tribe, to any use, including but not limited to agricultural, municipal, industrial, commercial, mining, or recreational use whether within or outside the Papago Reservation so long as such use is within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within such area.

(2) The Papago Tribe may sell, exchange, or temporarily dispose of water, but the tribe may not permanently alienate any water right. In the event the tribe sells, exchanges, or temporarily disposes of water, such sale, exchange, or temporary disposition shall be pursuant to a contract which has been accepted and ratified by a resolution of the Papago Tribal Council and approved and executed by the Secretary as agent and trustee for the tribe. Such contract shall specifically provide that an action may be maintained by the contracting party against the United States and the Secretary for the breach thereof. The net proceeds from any sale, exchange, or disposition of water by the Papago Tribe shall be used for social or economic programs or for tribal administrative purposes which benefit the Papago Tribe.

(d) Nothing in section 306(c) shall be construed to establish whether or not reserved water may be put to use, or sold for use, off of any reservation to which reserved water rights attach.

OBLIGATION OF THE SECRETARY; CONTRACT FOR RECLAIMED WATER; DISMISSAL AND WAIVER OR CLAIMS OF PAPAGO TRIBE AND ALLOTTEES

SEC. 307. (a) The Secretary shall be required to carry out his obligations under subsections (b), (c), and (e) of section 304 and under section 305 only if—

(1) within one year of the date of enactment of this title—

(A) the City of Tucson and the Secretary agree that the city will make immediately available, without payment to the city, such quantity of reclaimed water treated to secondary standards as is adequate, after evaporative losses, to deliver annually, as contemplated in section 305(a), twenty-eight thousand two hundred acre-feet of water for the Secretary to dispose of as he sees fit; such agreement may provide terms and conditions under which the Secretary may relinquish to the City of Tucson such quantities of water as are not needed to satisfy the Secretary's obligations under this title;

(B) the Secretary and the City of Tucson, the State of Arizona, the Anamax Mining Company, the Cyprus-Pima Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company agree that funds will be contributed, in accordance with the paragraphs (1)(B) and (2) of subsection (b) of section 313, to the Cooperative Fund established under subsection (a) of such section.

(C) the Papago Tribe agrees to file with the United States District Court for the District of Arizona a stipulation for voluntary dismissal with prejudice, in which the Attorney General is authorized and directed to join on behalf of the United States, and the allottee class representatives' petition for dismissal of the class action with prejudice in the United States, the Papago Indian Tribe, and others against the city of Tucson, and others, civil numbered 75-39 TUC (JAW); and

(D) the Papago Tribe executes a waiver and release in a manner satisfactory to the Secretary of—

(i) any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from time immemorial to the date of the execution by the tribe of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona; and

(ii) any and all future claims of water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from and after the date of execution of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, under the laws of the United States or the State of Arizona; and

(2) the suit referred to in paragraph (1)(C) is finally dismissed;

(b) After the conditions referred to in subsection (a) have been met the Secretary shall be authorized and required, if necessary or desirable, to enter into agreements with other individuals or entities to acquire and

deliver water from such sources set forth in section 305(c) if through such contracts as exercised in conjunction with the contract required in subsection (a)(1)(A) it is possible to deliver the quantities of water required in section 305(a).

(c) Nothing in this section shall be construed as a waiver or release by the Papago Tribe of any claim where such claim arises under this title.

(d) The waiver and release referred to in this section shall not take effect until such time as the trust fund referred to in section 309 is in existence, the conditions set forth in subsection (a) have been met, and the full amount authorized to be appropriated to the trust fund under section 309 has been appropriated by the Congress.

(e) The settlement provided in this title shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) of all individual members of the Papago Tribe that have a legal interest in lands of the San Xavier Reservation and the Schuk Toak District of the Sells Reservation located within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, as of the date the waiver and release referred to in this section take effect. Any entitlement to water of any individual member of the Papago Tribe shall be satisfied out of the water resources provided in this title.

STUDY OF LANDS WITHIN THE GILA BEND RESERVATION; EXCHANGE OF LANDS AND ADDITION OF LANDS TO THE RESERVATION; AUTHORIZED APPROPRIATIONS

SEC. 308. (a) The Secretary is hereby authorized and directed to carry out such studies and analysis as he deems necessary to determine which lands, if any, within the Gila Bend Reservation have been rendered unsuitable for agriculture by reason of the operation of the Painted Rock Dam. Such study and analysis shall be completed within one year after the date of the enactment of this title.

(b) If, on the basis of the study and analysis conducted under subsection (a), the Secretary determines that lands have been rendered unsuitable for agriculture for the reasons set forth in subsection (a), and if the Papago Tribe consents, the Secretary is authorized to exchange such lands for an equivalent acreage of land under his jurisdiction which are within the Federal public domain and which, but for their suitability for agriculture, are of like quality.

(c) The lands exchanged under this section shall be held in trust for the Papago Tribe and shall be part of the Gila Bend Reservation for all purposes. Such lands shall be deemed to have been reserved as of the date of the reservation of the lands for which they are exchanged.

(d) Lands exchanged under this section which, prior to the exchange, were part of the Gila Bend Reservation, shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(e) The Secretary may require the Papago Tribe to reimburse the United States for moneys paid, if any, by the Federal Government for flood easements on lands which the Secretary replaces by exchange under subsection (b).

ESTABLISHMENT OF TRUST FUND; EXPENDITURES FROM FUND

SEC. 309. (a) Pursuant to appropriations the Secretary of the Treasury shall pay to the authorized governing body of the Papago Tribe the sum of $15,000,000 to be held in trust for the benefit of such Tribe and invested in interest bearing deposits and securities including deposits and securities of the United States.

(b) The authorized governing body of the Papago Tribe, as trustee for such Tribe, may only spend each year the interest and dividends accruing on the sum held and invested pursuant to subsection (a). Such amount may only be used by the Papago Tribe for the subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related facilities on the Papago Reservation which are not the obligation of the United States under this or any other Act of Congress.

APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

SEC. 310. The functions of the Bureau of Reclamation under this title shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

EXTENSION OF STATUTE OF LIMITATIONS

SEC. 311. Except as otherwise provided in section 107 of this title, notwithstanding section 2415 of title 28, United States Code, any action relating to water rights of the Papago Indian Tribe or any member of such tribe brought by the United States for, or on behalf of, such tribe or member of such tribe, or by such tribe on its own behalf, shall not be barred if the complaint is filed prior to January 1, 1985.

ARID LAND RENEWABLE RESOURCE ASSISTANCE

SEC. 312. If a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects and to encourage and assure investment in the development of domestic sources of arid land renewable resources, such entity shall give first priority to the needs of the Papago Tribe in providing such assistance. Such entity shall make available to the Papago Tribe—

(1) price guarantees, loan guarantees, or purchase agreements,

(2) loans, and

(3) joint venture projects,

at a level to adequately cultivate a minimum number of acres as determined by such entity to be necessary to the economically successful cultivation of arid land crops and a level to contribute significantly to the economy of the Papago Tribe.

COOPERATIVE FUND

SEC. 313. (a) There is established in the Treasury of the United States a fund to be known as the "Cooperative Fund" for purposes of carrying out the obligations of the Secretary under sections 303, 304, and 305 of this title, including—

(A) operation, maintenance, and repair costs related to the delivery of water under sections 303, 304, 305.

(B) any costs of acquisition and delivery of water from alternative sources under section 304(b) and 305(c); and

(C) any damages payable by the Secretary under section 304(c) or 305(d) of this title.

(b)(1) The Cooperative Fund shall consist of—

(A) amounts appropriated to the Fund under paragraph (3) of this subsection;

(B) $5,250,000 to be contributed as follows:

(i) $2,750,000 (adjusted as provided in paragraph (2)) contributed by the State of Arizona;

(ii) $1,500,000 (adjusted as provided in paragraph (2)) contributed by the City of Tucson; and

(iii) $1,000,000 (adjusted as provided in paragraph (2)) contributed jointly by the Anamax Mining Company, the Cyprus-Pine Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company; and

(C) interest accruing to the Fund under subsection (a) which is not expended as provided in subsection (c).

(2) The amounts referred to in subparagraph (B) of paragraph (1) shall be contributed before the expiration of the 3-year period beginning on the date of the enactment of this title. To the extent that any portion of such amounts is contributed after the 1-year period beginning on the date of the enactment of this title, the contribution shall include an adjustment representing the additional interest which would have been earned by the Cooperative Fund if that portion had been contributed before the end of the 1-year period.

(3) There are hereby authorized to be appropriated to the Cooperative Fund the following:

(A) $5,250,000; and

(B) Such sums up to $16,000,000 (adjusted as provided in paragraph (2) which the Secretary determines, by notice to the Congress, are necessary to meet his obligations under this title; and

(C) Such additional sums as may be provided by Act of Congress.

(c)(1) Only interest accruing to the Cooperative Fund may be expended and no such interest may be expended prior to the earlier of—

(A) 10 years after the date of the enactment of this title; or

(B) the date of completion of the main project works of the Central Arizona Project.

(2) Interest accruing to the Fund during the 12-month period before the date determined under paragraph (1) and interest accruing to Fund thereafter shall, without further appropriation, be available for expenditure after the date determined under paragraph (1).

(d) The Secretary of the Treasury shall be the trustee of the Cooperative Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(e) If, before the date three years after the date of the enactment of this title—

(1) the waiver and release referred to in section 307 does not take effect by reason of section 307(d); or

(2) the suit referred to in Section 307(a)(1)(C) is not finally dismissed

the Cooperative Fund under this section shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of accrued interest) to the respective contributors. Upon such termination, the share contributed by the United States under subsection (b)(3) shall be deposited in the General Fund of the Treasury.

(f) Payments for damages arising under 304(c) and 305(d) shall not exceed in any

given year the amounts available for expenditure in any given year from the Cooperative Fund established under this section.

COMPLIANCE WITH BUDGET ACT

SEC. 314. No authority under this title to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

SHORT TITLE

SEC. 315. This title may be cited as the "Southern Arizona Water Rights Settlement Act of 1982".

And the Senate agree to the same.

MORRIS K. UDALL,
ABRAHAM KAZEN, Jr.,
JOHN F. SEIBERLING,
GEORGE MILLER,
TONY COELHO,
MANUEL LUJAN, Jr.,
DON H. CLAUSEN,
CHARLES PASHAYAN, Jr.,
Managers on the Part of the House.

JAMES A. MCCLURE,
MARK O. HATFIELD,
PETE V. DOMENICI,
MALCOLM WALLOP,
JOHN W. WARNER,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Bullalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment to the House amendment struck out all of the House amendment and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the Senate amendment, the House amendment, and the substitute agree to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreement reached by the conferees, and minor drafting and clarifying changes.

TITLE I

Except for conforming amendments, the text of Title I, to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri River Basin program, Wyoming, as passed by the House on August 17, 1982, is identical to the text of S. 1409 as passed by the Senate on June 22, 1982 (S. Rept. 97-420).

TITLE II

Title II, as approved by the House, incorporates the language of HR 5539, a bill to amend and supplement Federal reclamation law, which passed the House on May 6, 1982. The Senate amendment to Title II substitutes in its entirety the language of the amendment to HR 5539 which was approved by the Senate on July 16, 1982.

Existing law places a limit of 160 acres on the quantity of irrigable land in a single ownership to which Federal reclamation water may be supplied. (The law has been interpreted to permit the delivery of water to 320 acres for lands owned by a husband and wife.)

Irrigators who receive water from Federal reclamation projects are required to repay the construction costs of the project which are allocable to irrigation over a period of years without interest. In computing the repayment obligation of the irrigators, the Secretary also takes into consideration their ability to pay and may reduce the obligation accordingly. Not charging interest on the repayment obligation and the consideration of ability to pay in computing that obligation have come to be regarded as a subsidy to the irrigators.

Both the House and Senate versions of Title II provide for an increase in the basic ownership limitations and reduce the subsidy for larger farming operations.

The Senate amendment changed the acreage limitation provision of the basic law for all districts. The amendment approved by the House made the new limitation applicable only to new irrigation districts entering into contracts with the Secretary after the date of enactment, those which receive supplemental benefits after the date of enactment which were not previously authorized by law; to districts having existing contracts which agreed to amend those contracts to conform with certain provisions of the new law; and to individuals who desire to take advantage of the new law even though the contracting entity does not do so. Both versions provided for the application of an equivalency formula which permits an increase in the basic acreage limitation for those lands of less productive capability. However, as to districts having an existing contract, the application of equivalency was also made contingent upon the agreement of the district to an amendment to its contract in the amendment approved by the House.

The conferees agreed that the benefits of the new law, which include an ownership limitation of 960 acres and the application of equivalency, should be available to irrigators in districts having existing contracts only if the district agrees to amend its contract to provide for the reduction of the subsidy for larger farming operations in excess of 960 acres and to comply with certain other provisions of the new law. Individuals in the district may make such an election if the district does not do so. The 960 acre ownership limitation would apply to all districts entering into new contracts, and to those which amend their contracts to receive new or supplemental benefits not existing on the date of enactment, as would all of the requirements which the new law would impose upon the district.

The bill approved by the conference committee also reduces the subsidy for leased lands in those districts not amending their contracts. The conferees agreed that the larger farming operations in such districts which lease lands over and above the basic ownership limitation of 160 acres should not, in the future, receive the subsidy benefit for the additional leased lands. The provision is made effective four-and-one-half years from the date of enactment in order to give districts desiring to amend their contracts sufficient time to comply with the requirements of State law for effecting such amendments and to the Federal requirement that the contracts and amendments be confirmed by a court of competent jurisdiction.

The conferees intend to make it clear that the provisions of Sections 209 through Section 230 of the conference report are intended to be of general application and are, therefore, effective immediately upon enactment and are to be applied to any district or individual, whether or not the district amends its contract pursuant to the new law.

The major differences between the House amendment, the Senate amendment, and the resolution of those differences in the substitute agreed to in the conference are described below:

OWNERSHIP AND SUBSIDY LIMITATIONS

House: The House amendment establishes an ownership limitation of 960 acres for individuals and corporations benefiting 18 or fewer individual shareholders. These operators are subject to a 960-acre limitation on the amount of land owned or leased which can receive water at subsidized rates. Under the House amendment, the ownership limitation for corporations benefiting more than 18 shareholders is 960 acres. Those corporations benefiting more than 18 shareholders, which were receiving water on or before October 1, 1981, will pay full cost for water delivered to lands in excess of 160 acres. Corporations benefiting more than 18 shareholders not receiving water on or before that date will pay full cost for water delivered to all lands.

Senate: The Senate amendment establishes an ownership limitation, as well as a limitation on the amount of land which can receive subsidized water, or 1,280 acres for individuals and legal entities benefiting 25 or fewer individuals. The ownership limitation as well as the limitation on subsidized water for legal entities benefiting more than 25 individuals is 640 acres.

The conferees agreed upon an ownership and subsidy limitation of 960 acres for individuals and legal entities benefiting 25 or fewer individuals and ownership limitation of 640 acres and a subsidy limitation of 320 acres for legal entities benefiting more than 25 individuals. However, the subsidy for the first 320 acres receiving water would be available only to those larger legal entities which were receiving, or had received, project water on or before October 1, 1981. Such larger legal entities which had not received water from a Federal reclamation project on or before that date would pay full cost for irrigation water delivered to all lands.

INTEREST RATE

House: The House amendment establishes an interest rate formula to be applied in computing full cost. That formula is the weighted average rate of all Treasury obligations issued during the fiscal year in which expenditures were made for each project. The rate will vary from project to project, but in no event will the rate be less than 5 percent.

Senate: The Senate amendment establishes an interest rate formula to be applied in computing full cost which is the arithmetic average of: (1) the average interest rate on all outstanding Treasury obligations of

at least fifteen years' duration; and (2) the weighted average of all new Treasury obligations issued in the year preceding the year in which expenditures were made or the date of enactment, whichever is later. This formula currently results in an interest rate of approximately 11⅝ percent.

The conferees adopted a full cost formula which blends the formula in the House bill and the Senate amendment. The House formula would be applied to expenditures made prior to the date of enactment with a provision that the interest rate be not less than 7½ percent in any event. For expenditures made subsequent to the date of enactment, the formula contained in the Senate amendment would be applied. Legal entities having 25 or fewer individuals. However, larger legal entities which had not been receiving water from a project on or before October 1, 1981, would be charged full cost at the rate provided in the Senate amendment for all lands irrigated. Full cost will be calculated on a district by district basis.

CERTIFICATION

House: The House amendment provides that districts entering into new contracts or amending their contracts shall require each landowner and lessee within the district to furnish to the district a certificate that they are in compliance with the provisions of the Act. The Secretary may require submission to him of an executed copy of any lease for his examination.

Senate: The Senate amendment has no directly comparable provision. The Senate amendment does impose certain requirements on leasing.

The conferees agreed upon a provision which requires certification of compliance, including the number of acres leased, the term of the lease and that the rent reflects the reasonable value of the irrigation water. The conferees also agreed to a provision which requires that leases be written and for a term of not more than 25 years in the case of perennial crops and 10 years as to all others.

EQUIVALENCY

House: The House amendment provides for the application of an equivalency formula to lands of lesser productive potential within a district which enters into a new or amended contract.

Senate: The Senate amendment provides for a similar equivalency formula which would apply to all districts upon their request.

The conferees agreed that equivalency should be applied only as to those districts which agree to an amendment to their contracts as required to gain the benefit of the increased acreage limitations. The conferees noted that the Bureau of Reclamation has adopted a system of classification of lands within projects, but intends that the Bureau have flexibility to implement any new system of classification which it might develop. Furthermore, the conferees are aware of the fact that there exists statutory authorization for the application of an equivalency formula to a number of existing Federal reclamation projects. Enactment of this legislation is not intended to alter in any way either the application of equivalency to those projects, or the manner in which it has been applied.

PAYOUT

House: The House amendment provides that the acreage ownership limitation shall not apply to lands in a district after the repayment obligation of the district has been discharged by payment of periodic installments pursuant to the terms of the repayment contract. In addition, the acreage ownership limitation would not only apply to lands in a district after the repayment obligation of the district has been discharged through accelerated payments where so provided in a repayment contract existing on the date of enactment of this Act. Repayment by individuals would also be allowed where provided in a repayment contract existing on the date of enactment.

Senate: The Senate amendment is essentially identical to the House amendment except in two respects. First, the Senate amendment allows accelerated repayment after 95 percent of the repayment obligation has been paid and a pattern of family farming has been established, regardless of whether the repayment contract provides for accelerated repayment. Second, the Senate amendment provides that a district or individual receiving a Rehabilitation and Betterment loan may avoid application of the acreage ownership limitation by agreeing to repay the loan pursuant to the Small Reclamation Projects Act. The Small Reclamation Projects Act provides for an interest rate of approximately 9⅝ percent.

The provision approved by the conferees is essentially that contained in the House amendment. The conferees recognize that Rehabilitation and Betterment loans are considered as operation and maintenance costs. By adopting the House provision, the conferees do not intend to imply that either existing or future Rehabilitation and Betterment loans subject districts to the extension of the application of the acreage limitations after repayment of construction charges. The conferees also wish to make it clear that a district will not be relieved of liability for the payment of applicable operation and maintenance charges after its repayment obligation has been discharged.

WAIVER OF SOVEREIGN IMMUNITY

House: The House amendment gives the consent of the United States to be sued to determine the rights of any entity which is a party to a reclamation contract with the United States. The provision is a waiver of the sovereign immunity of the United States.

Senate: The Senate amendment provides an identical waiver of sovereign immunity. In addition, the Senate provision states that a court, if it determines it appropriate based on the evidence, including written representations concerning the application of the federal reclamation law, may reform the contract.

The conferees agreed to the House language. In taking this action, the conferees wish to make it clear that the actions of the conference committee should not be taken as prejudicial to any particular form of evidence or remedy under existing law, but rather the applicable rules of evidence and the applicable remedies should be employed by any court entertaining a suit brought to determine the rights of any party to a reclamation contract with the United States.

OPERATION AND MAINTENANCE CHARGES

House: The House amendment requires that all new and amended contracts provide that the price of project water shall be at least sufficient to recover all O & M charges which the district is obligated to pay to the United States. Each year the Secretary shall calculate such O & M charges and modify the price of project water accordingly. This provision does not apply to districts which operate and maintain project facilities without the benefit of Federal funds.

Senate: The Senate amendment has no comparable provision.

The conferees adopted a provision which would be applicable to all new contracts, contracts amended to receive additional or supplemental benefits after the date of enactment, and to districts electing to amend their contracts to take advantage of the benefits of the new law and to individuals electing to be subject to the new law.

APPLICATION OF FULL COST TO EXCESS LANDS

House: Under the House amendment, the subsidized rate is applicable to the first 960 acres of each farm operation whether or not the land is under recordable contract.

Senate: The Senate amendment allows the delivery of water at subsidized rates to excess lands under recordable contract.

The conferees agreed upon a provision which would permit delivery of water at subsidized rates for a period of ten years from the date the contract was executed as to recordable contracts entered into prior to the date of enactment and for a period of five years from the date of the execution as to recordable contracts executed subsequent to the date of enactment. Any extension of time for the disposal of lands under recordable contract is not to be considered as also extending the period of time in which subsidized water may be delivered to the lands under recordable contract since that water shall be delivered at the subsidized rate, for a period not less than 18 months from the date of enactment, or the date when the Secretary again commences approval of sales under recordable contract in those cases in which he has withheld approval. A special provision was adopted for lands to be placed under recordable contracts in the Central Arizona Project, as noted below.

APPLICABILITY/EXEMPTIONS

House: The House amendment provides for several exemptions from the ownership limitations, but would retain the limitations on subsidy if they were otherwise applicable.

Senate: The Senate amendment provides for similar exemptions from both the ownership and subsidy limitations. The Senate amendment also provides an exemption from ownership and subsidy limitations for lands which will receive a substitute water supply from a reclamation project and which will be required, by contract, to decrease groundwater pumping in an amount equal to the amount of water received from the federal project.

The conferees agreed upon a provision which blends the intent of the House and Senate amendments.j

The conferees also agreed upon a provision which would apply the ownership and pricing provisions applicable to recordable contracts executed for lands in the Central Arizona Project. The provisions limit the delivery of water to such lands at the subsidized rate for a period of ten years from the date the Secretary finds that the lands are capable of being served with irrigation water.

WATER CONSERVATION

House: The House amendment requires a water conservation program applicable to districts which enter into new or amended contracts. The program must contain definite goals and meet specific requirements. If a State agricultural or resources agency determines that a district is wasting irrigation water, the Secretary is authorized to impose a surcharge for water service. The House amendment also provides for coordination

of Federal water conservation programs among Federal agencies with involvement of non-Federal entities.

Senate: The Senate amendment directs the Secretary, pursuant to his existing authorities, to encourage prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water.

The conferees adopted a provision which incorporates the language of the Senate amendment and modified the provisions of the House amendment. The provision imposes an obligation upon the districts to adopt a water conservation program and a timetable for its implementation. The conservation program shall not be required to be a part of the district's repayment or water service contract. The provision also includes the language of the House amendment providing for coordination of Federal water conservation programs with the involvement of non-Federal entities.

PENALTIES

House: The House amendment contains civil penalty provisions including fines at twice the fair market value of delivered water, and $5,000 for each day of a violation. It also provides for enforcement of subpenas, and penalties for contempt of court.

Senate: The Senate amendment has no similar provision.

The conference report deletes the House penalty provision. The conference committee believes that, given the certification requirement of the conference report and the criminal penalties under law which apply, such as those as to an individual who makes a false certification, together with other remedies available to the Secretary, there is no need for such a penalty provision.

VALIDATION

House: The House amendment provides for validation of contract clauses dealing only with commingled water as described in contracts entered into prior to October 1, 1981.

Senate: The Senate amendment provides for validation of contract provisions related to the acreage limitations. It provides for a Secretarial examination of circumstances surrounding the execution of a contract and a Secretarial determination of a request to validate contract provisions. The Secretary's decision is final unless disapproved by Congress within 90 days.

The conferees agreed to the House provision and deleted the Senate provision. The Senate provision was deleted as unnecessary after the conference committee adopted the provision validating repayment provisions of existing contracts.

SURPLUS CROPS

House: The House amendment provides that no water shall be delivered from a project authorized after the date of enactment of this Act to lands producing surplus crops for a period of ten years from the date water is first made available. No water may be delivered from projects authorized prior to the date of enactment of this Act to lands producing surplus crops for a period no longer than ten years after the date of the initial authorization of the project.

Senate: The Senate amendment provides that within one year the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to Congress a report on the production of surplus crops on acreage served by irrigation waters. The report shall include recommendations on the coordination of reclamation policy with agricultural policy regarding surplus crops.

The conferees agreed to adopt the Senate amendment and that portion of the House amendment relating to the effective date of the prohibition upon the delivery of water to lands producing surplus crops, applicable to projects authorized prior to the date of enactment.

AUDIT COMPLIANCE

House: The House amendment directs the Inspector General of the Department of the Interior to review all audit reports of the Bureau of Reclamation projects prepared since 1977 and to transmit recommendations based on that review to the Secretary and Congress within 90 days of enactment of this Act. No later than 270 days after enactment the Secretary shall implement all recommendations made by the Inspector General or inform the appropriate committee of Congress in writing of his reasons for not implementing the recommendations.

Senate: The Senate amendment has no comparable provision.

The conferees agreed to delete the House provision. The conferees are concerned that such a provision may constitute a redefinition of the statutory functions of the Inspector General and are, therefore, beyond the scope of the legislation.

SMALL RECLAMATION PROJECTS

The conferees agreed to a provision which would make the pricing limitations of the Small Reclamation Projects Act of August 6, 1956, comport with those of Title II of this Act.

The conferees intended that these pricing amendments to the Act of August 6, 1956, only be applied prospectively to contracts entered into after the date of enactment of this Act. Despite the exclusively prospective application of this change, the conferees questioned whether the distinction between existing and future small reclamation project contracts is based upon sufficient rationale and further whether such distinction is equitable. The conferees expressed the hope that this distinction would be the subject of Congressional scrutiny and review in the near future.

CORPS OF ENGINEERS EXEMPTION

The conferees agreed that the changes made in the language relevant to the Corps exemption of the House and Senate amendments to that in the conference report are and were intended to be of a conforming or technical nature and do not signify a change in substance.

CONFIRMATION OF APPOINTMENT OF COMMISSIONER OR RECLAMATION

The conferees also agreed to the provision of the Senate amendment which would require that the Commissioner of Reclamation be appointed by the President with the advice and consent of the Senate.

TITLE III—PURPOSE

The purpose of this title is to provide a fair and reasonable settlement of the water rights claims of the San Xavier Papago Indian Reservation and the Schuk Toak District of Sells Papago Indian Reservation with a minimum of social and economic disruption to the Indian and non-Indian communities in Tucson and eastern Pima County.

Under the terms of this title, the Papago Tribe is guaranteed an annual supply of water from specified sources. To coordinate water resource planning and management with other water users in the area, the Secretary will establish a water management plan for the Papago Tribe that is consistent with State planning and management.

Acquisition and delivery of water to the Papago Tribe is contingent upon the Tribe's taking action to petition for dismissal of pending legal action, and releasing claims to water from the Tucson and eastern Pima County area other than water as provided in the Act. The settlement contained in this title will remove the cloud on title of non-Indian water users and enhance regional water resource planning and management.

The allocation of water resources to the Papago Tribe under this title is uniquely suited to the geographic, social and economic characteristics of the area and is not intended to be applied to any other Indian water rights claims in other areas, within or without the State of Arizona.

BACKGROUND AND NEED

The San Xavier Papago Reservation and the Schuk-Toak District of the Sells Papago Reservation are located in eastern Pima County, adjacent to the Tucson metropolitan area. The San Xavier Reservation lies primarily within the Upper Santa Cruz Basin, and the Schuk Toak District is located in the Avra/Altar Valley Basin.

The San Xavier Papago Reservation occupies approximately 70,000 acres immediately southwest of the Tucson metropolitan area. The reservation was established by Executive Order signed by Ulysses S. Grant on July 1, 1874.

The Schuk Toak District was originally established by Executive Order signed by Woodrow Wilson on January 14, 1916. A later Executive Order, dated February 1, 1917, re-established the Schuk Toak District as part of the Sells Papago Reservation.

The Tucson metropolitan area, population 531,000, is one of the largest communities in the world that is solely dependent upon groundwater for its municipal and industrial water supply. That water supply comes from several well fields located in the Santa Cruz and Avra/Altar Valley basins.

These two basins also supply water used by copper mines operated by the Anaconda Company, Amax Copper Mines, Inc., the Pima Mining Company, and the Duval Copper Corporation. Mines located adjacent to the San Xavier Reservation produced 293,098 metric tons of copper in 1980; 24.8 percent of the total production of the United States in that year.

Other significant water users in eastern Pima County include the Cortaro-Marana Irrigation District, the Avra Valley Irrigation District and the Farmers Investment Company.

Data assembled by the Water Resources Coordination Committee (WRCC) a voluntary association of the major water users in eastern Pima County, indicate that consumptive use of groundwater pumped from these basins totaled 317,186 acre feet [1] in 1980. Projected consumption will exceed 400,000 acre feet in the year 2000 and 500,000 acre feet in the year 2030.[1]

The data also indicate a serious imbalance between existing supply and demand in these basins. Current demand for water exceeds renewable supplies by a ratio of more than four to one. The estimated overdraft of groundwater in 1980 was 225,706 acre feet.[1]

[1] Statement of the Water Resources Coordination Committee to the Water and Power Resources Subcommittee of the U.S. House Committee on Interior and Insular Affairs, Mar. 13, 1981.

This imbalance has resulted in significant, long term declines in local groundwater levels. There is increasing concern that further decline in water levels will result in increased pumping costs, reduction in well capacity, diminished water quality and increased risk of land surface subsidence.

Recognition of the gravity of the groundwater overdraft problem has led water users in Tucson and eastern Pima County to implement significant conservation measures on a voluntary basis.

Agricultural users have greatly improved their irrigation efficiency by land leveling, ditch lining, and installation of pump-back systems. Further decrease in agricultural water used is anticipated through municipal and industrial development of currently irrigated land. According to data assembled by the WRCC, such development could reduce the amount of water consumption per acre by 75 percent.[1]

The mines have also realized considerable conservation through a variety of methods, such as recirculation of water, water recovery from tailings areas, use of settling methods prior to disposal of mine waste, reduction of water levels in flotation cells and utilization of natural seepage.

Municipal customers of the City of Tucson have, through voluntary conservation programs, reduced their average daily per capita demand from 205 gallons in 1974 to 140 gallons in 1979. The significance of this reduction is apparent by comparing this consumption rate with use in other major cities in the Southwest:

City:	*Per capita demand*
El Paso	173
Phoenix	220
Las Vegas	310
San Diego	179
Reno	189
Tucson	140

The Central Arizona Project, a Federal Reclamation Project that will bring Colorado River water from Parker Dam at Lake Havasu, to central and southern Arizona, will provide additional relief for the overdrawn groundwater basins in eastern Pima County. Delivery of water to Tucson and southern Arizona is expected in 1989 or 1990. Agricultural, mining and industrial water users who contract for CAP water will be required to reduce groundwater pumping on an acre foot for acre foot basis: for every acre foot of CAP water used, the subcontractors must reduce their groundwater pumping by an acre foot.

Strict management of groundwater resources is currently being implemented by the Arizona Department of Water Resources pursuant to a groundwater code enacted by the State legislature in 1980.[2]

The Code designates four geographic units as Active Management Areas (AMA). Within an AMA all present users of groundwater must file for a certificate of grandfathered pumping rights in order to perfect their right to pump groundwater. Only acreage irrigated any time during the 5 years prior to enactment of the Code may be irrigated. New uses will be allowed only pursuant to State permit. Moreover, the Code imposes limitations on the transportation of groundwater between sub-basins or away from any AMA.

The Tucson Active Management Area corresponds to the geographic boundaries of the Upper Santa Cruz Valley Basin and the Avra/Altar Valley Basin. The goal of the Tucson AMA is safe yield, that is, a balance between recharge and withdrawals, by January 1, 2025.

The Code also directs the Director of the Department of Water Resources to develop a series of management plans for agricultural, municipal and industrial water users in the AMA. The plans shall include provisions for a mandatory conservation program for all users, designed to achieve reductions in the levels of groundwater withdrawal. The management plans will be revised periodically to achieve the increasingly more rigid objectives set forth in the Code. The first plan for the Tucson AMA is scheduled to be issued in January 1984.

Conservation and planned management of groundwater resources and importation of water from the CAP are of paramount importance to the re-balancing of the groundwater basins in Pima County. Of equal importance is a final resolution of the water rights claims of the Papago Tribe to water from the Santa Cruz and Avra-Altar Valley Basins.

The dramatic decrease in local groundwater tables has affected the Papago Tribe as well as non-Indian water users in eastern Pima County.

In 1975 the United States, on behalf of the Papago Tribe, filed suit against several major water users in the area, including the City of Tucson and the major mining and farming interests to protect the water resources of the San Xavier Reservation. That suit was consolidated with a second suit by the Papago Tribe against the same defendants.

On June 23, 1980, the Court ordered that a consolidated Amended Complaint be filed, naming as parties defendant all users of the surface and groundwaters of the Upper Santa Cruz Basin. An Amended Complaint naming approximately 1,700 defendants was filed in *The United States and the Papago Indian Tribe* v. *City of Tucson*, consolidated cases, CIV 75-39 TUC (JAW) D. Ariz. Service of the Amended Complaint and interrogatories is in process, and numerous motions are presently pending before the Court.

In 1978, primarily in response to the Papago lawsuit, the Water Resources Coordination Committee (WRCC) of eastern Pima County was formed. Membership in the WRCC consists of representatives of the major water users in and around Tucson, including the City of Tucson, Pima County, the University of Arizona, and the Papago Tribe.

The purpose of the WRCC is to accumulate data on water supply and use, provide a forum for discussion of serious water related issues confronting the community, and develop a water resources plan to satisfy the present and future water needs of eastern Pima County without resort to litigation.

Since its inception, the WRCC has compiled data on present and projected future water supplies and demands, examined the quantity, quality and potential reuses of reclaimed water, developed a proposal for the study of water delivery to mines and farms that includes a mix of CAP water and reclaimed water, and assisted the Arizona Water Commission staff in developing a computer model designed to provide accurate evaluation of alternative water management plans.

Members of the WRCC have also taken an active part in analysis of aqueduct capacity, alignments, storage and termination point of the Tucson Aqueduct of the Central Arizona Project. The WRCC has participated in discussions and hearings regarding allocation of CAP water to Indian users and non-Indian users and has appeared as a witness at Congressional hearings on several occasions to discuss important water related issues.

Settlement of the Papago Tribe's suit against the water users in eastern Pima County is the most important issue facing water resources planners in the region. The WRCC has been an effective forum for the discussion of possible legislative solutions to the Papago Tribe's water rights claims. Although it was never the intent of the WRCC to become involved in negotiations surrounding this settlement, it has provided valuable data and counsel to the Tribe, the individual water users and to the appropriate Congressional committees.

The settlement contained in this title is the product of many years of discussion, deliberation and negotiation. Since 1975 many attempts have been made to resolve the water rights claims of the Papago Tribe legislatively. These legislative measures failed because they did not have the support of the community, the major water users or the Tribe.

After years of intense debate, and hearings in Washington, Tucson and Phoenix, the major water users in eastern Pima County and representatives of the Papago Tribe reached an agreement that all parties feel is a fair and reasonable settlement of the Tribe's claims to water in the Tucson Active Management Area and that part of the Santa Cruz Basin that is not within the AMA. The settlement effectively resolves the claims of the Tribe to waters from the Santa Cruz and Altar-Avra Valley Basin.

Sec. 301

Sec. 301 contains Congressional findings that:

The water rights claims of the Papago Tribe to waters of the basins surrounding Tucson and eastern Pima County are presently the subject of a lawsuit;

The pending and prospective suits may adversely affect the Indian and non-Indian economies in southern Arizona;

Parties to the suits, plaintiffs and defendants have diligently attempted to resolve the water rights claims of the Tribe by negotiation rather than by litigation;

It is in the best interests of the United States, the State of Arizona and its political subdivisions, and the Papago Tribe to resolve these claims by means of a legislaive settlement;

The settlement contained in this title will allow flexible management of water resources in southern Arizona, encourage allocation of those resources to the highest and best uses, and enable the Papago Tribe to participate in a basinwide management plan for conservation and management of their water resources.

Sec. 302

Sec. 302 contains definitions of terms used in the title.

The House and Senate bills contained identical definitions except in two instances. The Senate bill added the word "reasonable" to the definition of the term "replacement costs" and defined the term "value" to mean the value attributed to the water based on the Tribe's anticipated or actual use of the water or its fair market value, whichever is greater. The Conference committee adopted the Senate provisions for these two terms.

[2] Ariz. Rev. Stats., Ann. 45 § 400 (1980).

Sec. 303

Sec. 303 authorizes the Secretary of the Interior to deliver, as soon as possible, but not later than 10 years after the date of enactment, 27,000 acre-feet of water from the Central Arizona Project (CAP) to the San Xavier reservation and 10,800 acre-feet from the same source to the Schuk Toak District of the Sells reservation. This water shall be of a quality suitable for agricultural use.

This section also provides that the Secretary, acting through the Bureau of Reclamation, shall improve and extend the existing irrigation system on the San Xavier Reservation, including deepening, lining, replacement or relocation of existing wells, and shall design and construct such new or additional canals, laterals, farm ditches and irrigation works on the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation as are necessary for the efficient distribution of the quantities of water required to be delivered under this section.

P.L. 90-537, the Colorado River Basin Project Act, authorizes construction of delivery and main canals, laterals and turnouts to the 160 acre tract for the distribution of water to Indian lands. Sections 303(a)(1)(B) and (2)(B) of this title authorize construction of more complete irrigation systems, which include sub-laterals and farm ditches.

The Senate bill provided an authorization ceiling of $3.5 million, indexed for inflation, for construction of those additional sublaterals and farm ditches. The Conference Committee adopted the Senate ceiling provision as Section 303(a)(4).

Section 303(a)(3) directs the Secretary to establish a management plan for the San Xavier and Schuk Toak areas that will have the same effect as any management plan developed under State law, except as is necessary to be consistent with the provisions of this title.

It is the intent of this section that the management plan developed by the Secretary be able to require conservation measures for irrigation and non-irrigation uses, prevent waste, meter groundwater and require reasonable record keeping.

The goal of the Secretary's management plan shall be to ensure efficient, beneficial use of groundwater withdrawn by the Tribe. It is not intended that the authority to establish the management plan be construed to require any reduction in the amounts the Tribe is permitted to withdraw under this title.

Nothing in this title shall be construed to subject the Tribe's withdrawal of groundwater from the San Xavier Reservation and the Schuk Toak District of the Sells Reservation to any tax or fees levied or collected by the State of Arizona pursuant to State law.

Nothing in this title is intended to vest the State of Arizona with jurisdiction over water use by the Papago Tribe or within reservation areas.

Section 303(b)(1) provides that, if requested by the Tribe, the Secretary shall conduct a study to determine the availability and suitability of water resources within the Sells Papago Reservation, but outside the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within the Sells Reservation.

Section 303(b)(2) provides that the Secretary, in cooperation with the Secretary of Energy or other appropriate agencies or officials, shall conduct a study to determine the availability of energy and the energy requirements resulting from enactment of this title and the feasibility of constructing a solar power plant or other alternative energy producing facility to meet such requirements.

Section 303(c) provides that the Papago Tribe shall have the right to withdraw groundwater from beneath the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation subject to the limitations of Section 306(a).

Section 303(e) provides that nothing contained in section 303(c) or section 306(c) shall be construed to establish whether or not the Federal reserved rights doctrine applies or does not apply to groundwater.

Sec. 304

Section 304(a) provides that water shall be delivered from the main project works of CAP as provided in the agreement of December 11, 1980, except as otherwise provided in this Section.

Section 304(b) provides that whenever the Secretary is unable, during any year, to deliver from the main CAP project the quantity and quality of water specified, he is obligated to acquire and deliver an equivalent quantity of water from alternative sources described in this subsection. These alternatives include unused water from the CAP project or other waters within the Tucson Active Management Area (AMA) and that part of the Upper Santa Cruz Basin not within the AMA in the State of Arizona.

Section 304(c) provides that when the Secretary is unable to acquire and deliver quantities of water as required under Section 303(a), he shall pay damages to the Tribe. The measure of damages the Secretary is obligated to pay depends upon whether or not the delivery system has been completed. The Secretary's liability is either the replacement cost or the value of the undelivered water, as defined in this title.

Section 304(d) provides that the authority of the Secretary to acquire privately owned land or water rights is limited to consensual transactions only. It also provides that no private lands shall be acquired for purposes of acquiring water unless those lands have a recent history of receiving or being capable of receiving all of the water rights recognized by State law. A preference is established for acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition by the Secretary. The Secretary is prohibited from acquiring or disturbing water rights of any Indian tribe, band, group or community.

Section 304(e) provides that the Secretary, acting through the Bureau of Reclamation, shall design and construct such works or facilities as may be necessary to deliver water from the CAP project to the distribution systems within the two reservations.

Because delivery of CAP water, pursuant to this settlement, is a part of the final settlement of the named water rights claims of the Papago Tribe, the costs of operation and maintenance of the CAP facilities to Papago Reservations are made the obligation of the United States.

Construction of facilities to deliver CAP water to the water users in Tucson and Southern Arizona is authorized under Public Law 90-537. To contribute to the final resolution of the water rights claims of the Papago Tribe at San Xavier and the Schuk Toak District, a sum equal to that portion of the total cost of Phase B of the Tucson Aqueduct of the CAP which is allocable to the construction of facilities for the delivery of CAP water to Indian lands as described in Section 304(e)(1) is authorized to be appropriated under this title. The Secretary is required, under this subsection, to deliver water to the southern boundary of the San Xavier reservation and to the boundary of the Schuk Toak District at agreed upon points.

The sums authorized in Section 304(e)(2) shall not reduce, nor be treated as part of, funds authorized to be appropriated under other law, including the Colorado River Basin Project Act (Public Law 90-537).

Sec. 305

Section 305 establishes an obligation on the part of the Secretary to acquire quantities of reclaimed or treated water and deliver a specified quantity of water to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation. The water provided for under this section is in addition to the CAP or alternative waters provided for under Sections 303 and 304.

Section 305(a) provides that as soon as possible, but not later than ten (10) years from the date of enactment of this title, the Secretary shall acquire reclaimed or treated water from the City of Tucson in accordance with the agreement described in section 307(a)(1) and shall deliver annually 23,000 acre-feet of water suitable for agricultural use to the San Xavier Reservation and 5,200 acre-feet of water suitable for agricultural use to the Schuk Toak District of the Sells Papago Reservation.

As provided in section 307(a), the City of Tucson will enter into an agreement with the Secretary subsequent to enactment of this title, wherein the City will agree to make reclaimed water immediately available to the Secretary to dispose of as he sees fit. The Senate bill made clear that the Secretary shall acquire the reclaimed water without payment to the City and the Conference adopted that provision.

Subsection (b)(1) permits the Secretary to voluntarily exchange the reclaimed water for other sources of water, or to use any other means to obtain the water necessary to fulfill his obligations under Section 305. The House bill mentioned specific alternative methods of acquiring water to deliver to the Tribe. The Senate bill provided that the Secretary could use any other means to meet his obligations under this section, without specifying particular methods. The Conference Committee adopted the Senate provision.

In order to deliver such water, the Secretary, acting through the Bureau of Reclamation, is authorized to construct and operate such facilities as may be appropriate. However, Section 305(b)(2) expressly prohibits construction of a single purpose, separate pipeline to deliver reclaimed water to the Papago lands, and Section 305(b)(3) states that to the extent possible, the Secretary shall use available unused capacity in the main project works of the Central Arizona Project. The Senate bill stated that the Secretary may utilize unused capacity in the Central Arizona Project system without reallocation of costs. The Conference Committee adopted the Senate provision.

Pursuant to Section 305(c) the Secretary may fulfill his Section 305 obligations by acquiring and delivering an equivalent quantity of water from specified sources, including, unused water from the CAP project, or privately owned water rights in surface or groundwater or reclaimed water within the Tucson Active Management Area (AMA) and that part of the Upper Santa Cruz

Basin not within the area. Transportation of water within the AMA shall be governed by State law.

Section 305(d) provides that, if the Secretary is unable to acquire and deliver water as required under this section, he shall pay damages to the Tribe in an amount equal to the replacement costs of such quantities of water as are not delivered, where a delivery system has not been completed, or the value of such underlivered quantities of water, where a delivery system has been completed.

Sec. 306

Section 306 provides that the Secretary shall be required to carry out this obligations under Section 304(b), (c), and (e) and Section 305 only if the Papago Tribe agrees to limit pumping of groundwater under the San Xavier Reservation to not more than 10,000 acre-feet and under that portion of the eastern Schuk Toak District of the Sells Papago Reservation lying within the Tucson Active Management Area to those quantities being withdrawn on January 1, 1981, and the Tribe also agrees to comply with the management plan established by the Secretary.

The limitations imposed by this section do not apply to withdrawal from new or existing wells in either area which have a capacity of less than 35 gallons per minute and are used only for domestic and livestock purposes.

The conditional obligation of the Secretary under this subsection applies only to any obligation imposed by this title not otherwise assumed under the December 11, 1980 agreement. If the Tribe fails to agree to the limitations set forth in this subsection, the provisions of Section 304(b), (c), and (e) and Section 305 shall be without force or effect but the respective obligations of the parties under the December 11, 1980 agreement remain undiminished.

Section 306(b) provides that the obligations of the Secretary to constuct irrigation systems within the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation shall be conditioned on the Papago Tribe's agreeing to assume the costs of subjugation of the land which those irrigation systems are intended to benefit and to assume financial responsibility for the operation, maintenance, and replacement of such systems.

The responsibility of the Tribe for the operation, maintenance and replacement of the delivery systems shall be accomplished through the Tribe or its members or an sentity designated by the Tribe, and shall be governed by the terms of Section 1 of the Act of August 1, 1914 (38 Stat. 270, 272; 25 U.S.C. 385). Maintenance charges shall be paid in accordance with regulations promulgated by the Secretary, and to the extent such charges are reimbursable out of tribal funds, they shall be apportioned in accordance with the benefits received by each individual Indian.

In no event will operation and maintenance charges under this section be attributed to land in or funds of districts of the Papago Reservation not receiving benefits from the provisions of this title.

Section 306(c) provides that the Tribe may devote water supplies under this title to any use, including but not limited to agricultural, municipal, and industrial, commercial, mining, and recreational use, whether within or outside the reservation, so long as such use is within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within such area. The Tribe may sell, exchange, or temporarily dispose of water but it may not permanently alienate any water right established under this title. Sale of water to non-Indians would be subject to recovery of appropriate charges.

Section 306(d) provides that nothing in this title shall be construed to establish whether or not reserved water may be put to use or sold for use off any reservation to which reserved water rights attach.

Sec. 307

Section 307(a) conditions the water delivery obligations of the Secretary on an agreement being reached by the City of Tucson and the Secretary regarding acquisition of 28,200 acre-feet of reclaimed water. The City is to make such quantities of water, treated to secondary standards, immediately available to the Secretary.

It is not intended that the City should agree to make available any more than 28,200 acre-feet of reclaimed water plus additional quantities of such water equivalent to evaporative losses from the delivery system for such water, or if further treatment is supplied by the Secretary, losses from such treatment.

As a further condition to the Secretary's obligations, the Secretary and the City of Tucson, the State of Arizona, the Anamax Mining Company, the Cyprus-Pima Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company must agree to contribute to the Cooperative Fund authorized under Section 313 as provided by the terms of that section.

The obligations of the Secretary are contingent upon the agreement of Papago Tribe to file a stipulation for a voluntary dismissal with prejudice of the water suit filed by the United States on its behalf against the City of Tucson and other water users in the United States and the Papago Indian Tribe v. City of Tucson, consolidated cases, CIV 75-39 TUC (JAW) D. Ariz. In addition, paragraph (1)(c) of Section 307(a) requires that the Papago Tribe execute a waiver and release of any and all claims of water rights or injuries to water rights within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area; and that it execute a waiver and release of any and all future claims of water rights within these two areas.

Section 307(c) makes clear that nothing in Section 307 shall be construed as a waiver or release by the Papago tribe of any claim where such claim arises under this title.

Sec. 308

Section 308 directs the Secretary to carry out a study to determine which lands, if any, within the Gila Bend Reservation have been rendered unsuitable for agriculture by reason of the operation of the Painted Rock Dam. If on the basis of this study it is determined that lands have been rendered unsuitable for agriculture, then the Secretary is authorized to exchange such lands for an equivalent acreage of land within the public domain of a quality equal to those diminished by the operation of the Painted Rock Dam. Such exchanged lands shall be held in trust for the Papago Tribe and shall be a part of the Gila Bend Reservation.

Section 308(e) provides that the Secretary may require the Papago Tribe to reimburse the United States for monies paid, if any, for flood easements on lands which the Secretary replaces by exchange. It is intended that only payments previously made by the Government for acquisition of flood easements of land, rather than costs of relocation, be considered under this section. In the event any such payments were in fact made, it is the intent of this section that the Secretary shall have full latitude to establish reasonable terms for the repayment of such monies.

Sec. 309

Section 309 provides for the establishment of a $15 million trust fund for the benefit of the Papago Tribe. Appropriated funds are to be paid to the governing body of the Tribe to be held in trust for the Tribe and invested in interest bearing deposits and securities.

The corpus of this trust account is to be held intact. The income accruing on the account may only be used for subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related facilities on the Papago Reservation which are not the obligation of the United States under this title or any Act of Congress.

The income from this trust fund will enable the Tribe to subjugate lands for agricultural purposes anywhere within any district of the Papago Reservation, and expend monies related to on-reservation distribution systems anywhere within the Papago Reservation. This use of trust income is not restricted to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation or to development of water for agricultural purposes.

Appropriation of monies to establish the trust fund created under this section are a prerequisite to the effective waiver and release of claims the Tribe must execute pursuant to Section 307(a)(1)(D).

Sec. 310

Section 310 provides that the functions of the Bureau of Reclamation under this title shall be subject to the provisions of P.L. 93-638, the Indian Self-Determination and Education Assistance Act. It is the intent of this section that the provisions of P.L. 93-638 apply to any and all projects of the Bureau of Reclamation under this title which are not a part of the main project works of Phase II of the Tucson aqueduct but which involve improvement of existing systems or design and construction of distribution systems within the two reservation areas.

Sec. 311

Section 311 extends the period under the Federal statute of limitations (28 U.S.C. 2415) in which the United States, on behalf of the Papago Tribe, or the Tribe itself may bring a claim for damages to December 31, 1984. The one year time period for consummation of a contract with the City of Tucson and for execution of waivers by the Tribe extends beyond the present period of limitations provided in 28 U.S.C. 2415. In addition, the Papago Tribe is currently negotiating further settlement of water rights in water districts outside the area effected by this title. This extension will provide sufficient time to complete these negotiations or bring an appropriate suit.

Sec. 312

Section 312 provides that if a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects, the Papago Tribe should be given a priority in assistance for a portion of land adequate to contribute significantly to the Papago economy.

Sec. 313

Section 313 establishes a Fund, known as the Cooperative Fund, in the Treasury to provide the Secretary with a ready source of funds to pay the continuing costs related to his obligations to deliver wet water as required by sections 303, 304 and 305 of this title, to acquire and deliver alternative sources of water, or to make payments for damages as provided in Section 313(f) in the event he is unable to deliver the full amounts of water specified.

It is not intended that the Fund be used to pay for those features of this settlement, for example, design and construction of the distribution systems to receive water from the main project works of the Central Arizona Project authorized under Section 303(a); the water resources studies and energy studies authorized under Section 303(b); or the establishment of a water management plan which should be completed prior to the time water is delivered or 10 years has elapsed, as stated in Section 313(c).

It is intended that the Fund be created upon the date of enactment of this title and funded within 3 years of that date, with adjustments for interest which would have accrued after the first year. The corpus of the Fund is to be set aside for 10 years or such time as the main project works of the Central Arizona Project are completed and water is ready to be delivered to the Tribe. The level of authorizations contained in this section and the dormancy period are expected to create a Fund adequate to generate income sufficient to cover the anticipated costs of water delivery under this title.

Consultation with officials of the Department of the Interior resulted in a determination that a Fund of $10.5 million should generate sufficient monies to pay costs related to delivery of water for a period of several years under this title if the Central Arizona Project is completed to Tucson in 1990, as presently scheduled. Based on this assumption, an initial funding level is authorized in Section 313(b). $5.25 million is to be contributed by the major non-Indian water users, in amounts described in Section 313(b)(1)(B). A matching contribution is authorized to be appropriated by the Federal government in Section 313(b)(1)(A).

Additional appropriations to the Fund, to cover such contingencies as delay in completion of construction, additional operation and maintenance charges, or costs of acquisition and delivery of alternative sources of water are authorized to be appropriated by Congress in paragraphs 3(B) and 3(C) of Section 313(b).

Section 313(c) protects the corpus of the trust and provides for accumulation of income for a period of time equal to the earlier of 10 years from the date of enactment of this title or the time required to complete construction of the main project works of the CAP.

Section 313(d) provides for the termination of the Fund and the return of monies contributed in the event the waiver and release executed by the Tribe does not take effect, or the dismissal of the specified lawsuits is not accomplished within 3 years.

The settlement contained in this title is intended to provide an assured, annual supply of wet water to the Tribe to enable the Tribe to achieve economic self-sufficiency and stability. It is anticipated that the sources of water identified and specified in this title will be adequate, in most years, to provide a full supply of wet water to the Tribe and that such water will, in fact, be delivered.

There may, however, be occasional shortages of water and in some years the Secretary may be required to pay damages. In such years, some or all income generated by the Fund may not be needed to pay water delivery costs and will then be available to the Secretary to make payments for damages under Sections 304(c) and 305(d). Section 313(f) provides that, in any given year, the Secretary may not make payments which exceed the amounts available for expenditures from the Fund. In the event available income on the Fund is insufficient in any given year to pay damages under Sections 304(c) and 305(d), Congress in that year or any subsequent year may appropriate additional monies for the Fund for such purposes, or the Tribe may seek a determination of damages in excess of payments made in the Court of Claims under section 1505 of Title 28, U.S.C.

Sec. 314

The purpose of Section 314 is to provide for compliance with the Congressional Budget and Impoundment Control Act of 1974, which provides for a fiscal year only to the extent and in such amounts as provided in appropriations acts. The prohibition on "making payments" in advance of appropriations acts, for example, does not affect the creation of any liability against the United States under any provision of this title; it merely provides that in case of any such liability, payments made in satisfaction of the liability would be contingent upon appropriation of the necessary funds.

Sec. 315

Section 315 provides that this title may be cited as the "Southern Arizona Water Rights Settlement Act of 1982."

MORRIS K. UDALL,
ABRAHAM KAZEN, JR.,
JOHN F. SEIBERLING,
GEORGE MILLER,
TONY COELHO,
MANUEL LUJAN, JR.,
DON H. CLAUSEN,
CHARLES PASHAYAN, JR.,
Managers on the Part of the House.

JAMES A. MCCLURE,
MARK O. HATFIELD,
PETE V. DOMENICI,
MALCOLM WALLOP,
JOHN W. WARNER,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
Managers on the Part of the Senate.

HEALTH RESEARCH EXTENSION ACT OF 1982

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6457) to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the national research institutes, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6457, with Mr. D'AMOURS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. WAXMAN) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present H.R. 6457, the Health Research Extension Act of 1982.

I am especially pleased to speak in support of this bill because it represents a forceful statement of support for our Nation's excellent biomedical research programs. It was the result of extensive subcommittee and committee consideration; 4 days of public hearings and 4 additional days of markup sessions were devoted to its development.

The Subcommittee on Health and the Environment is committed to an effective national effort to prevent and cure cancer, heart disease, arthritis, diabetes, and the many other diseases that afflict the American people.

The National Institutes of Health are at the vanguard of our commitment to these goals. The NIH is the finest biomedical research institution of its kind in the world. At a time when so many of our Federal programs are under attack, NIH is unique in its excellence. It is well deserving of the congressional recognition embodied in this legislation.

The Health Research Extension Act of 1982 is, for the most part, a technical redraft of title IV of the Public Health Service Act. This redraft, the first since 1944, is long overdue and necessary to adequately define the responsibilities of the NIH and to streamline redundant or inconsistent authorities.

In addition, H.R. 6457 extends for 3 fiscal years the authorization of appropriations for expiring research authorities. These authorities include: First, the National Cancer Institute; second, the National Heart, Lung and Blood Institute; third, the National Library of Medicine; fourth, national research service awards; and fifth, various diabetes, arthritis, digestive, and kidney diseases activities. Authorization levels are not as high as I would like but do represent annual increases reflecting the CBO prediction for inflation and an additional 5 percent representing the need for continuing real growth in our research program. The administration has recommended

the levels be lower but the committee turned back amendments that would have reduced the authorizations.

The legislation also makes a number of important changes to promote the more effective and efficient management of the NIH. These changes include procedures for peer review of intramural research and contracts, as well as establishment of a system for reviewing reports of scientific misconduct. Within the NIH and each national research institute, increased emphasis was placed upon sponsorship of prevention-related research. The committee recognizes that research on the prevention of disease has been underemphasized by NIH in the past yet holds the greatest promise of one day reducing the incidence of a wide range of illnesses.

Mr. Chairman, one of the most important provisions of H.R. 6457 is the establishment of a new institute, the National Institute of Arthritis and Musculoskeletal Diseases. Creation of an arthritis institute has been a special interest of the distinguished chairman of the House Select Committee on Aging, Mr. PEPPER. Congressman PEPPER has over many years of public service carefully studied the progress of arthritis research in this country. At his urging and that of the gentleman from Oregon (Mr. WYDEN), the Energy and Commerce Committee voted to expand the Federal commitment to arthritis research through establishment of a separate National Research Institute.

Mr. Chairman, support of the committee reported bill is important to the conquest of cancer, arthritis, diabetes, and the other serious diseases facing the American people. An effective biomedical research program will lead to a healthier, more productive population. H.R. 6457 provides the foundation necessary to maintain a strong, accountable health research program.

I urge each Member's support for this important legislation.

Mr. Chairman, I reserve the balance of my time.

□ 1740

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 6457. I regret having to do that because it was a very pleasant experience for me, Mr. Chairman, to be able to work with the members of the majority party on the Health Subcommittee of the Committee on Energy and Commerce and also on the full committee itself on the bill we have just previously debated.

There are, however, several things wrong with the bill that the gentleman from California (Mr. WAXMAN) is bringing to the floor for the National Institutes of Health. One of the things that is wrong with it is that it should, in order to be a completely honest bill, rename the National Institutes of Health the Henry A. Waxman National Institutes of Health, because if this bill would become law, it would be the gentleman from California (Mr. WAXMAN) who would be running the National Institutes of Health and not the people who are presently being employed and compensated for doing that job.

The bill does substantially increase the funding for the National Institutes of Health by some 11 percent in fact in each category, I believe. It does, as the gentleman from California has said, also create a new Institute of Arthritis. But beyond that, Mr. Chairman, it also completely recodifies the existing National Institutes of Health language so that in the future the gentleman from California would be able to set time and hour limits, as well as dollar limits, for each activity in which the Institutes might choose to be engaged.

I am not saying that just because I believe that. I am quoting from what is called in medical circles "The Blue Sheet," a remark made by Mr. WAXMAN's staff person on this very issue, that this bill is the forerunner of the gentleman from California's being able to say to the National Institutes of Health how much time and how much money will be devoted to each of the things that they might choose to do.

That is fine, except that it is completely contrary to everything that we have ever done in this country with regard to health research, and it would probably put us in a position of effectively prohibiting the very type of freedom that is needed to determine when research is worthwhile and when it would not be worthwhile at all.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. MADIGAN. Yes, I am happy to yield.

Mr. WAXMAN. Mr. Chairman, I am a little taken aback by the gentleman's ad hominem attack. I certainly have no desire to do anything other than maintain and improve the operation of NIH.

Could the gentleman tell me specifically which of the redrafted provisions he objects to? I am surprised to hear that he objects to them since he supported them in the committee.

Mr. MADIGAN. Mr. Chairman, I am objecting to the recodification, and as the gentleman knows, I did not vote for this bill when it passed out of committee. At that point I was trying to reflect the administration's viewpoints on the bill, which were very confused then; they had been confused then and have been confused, in my judgment, right up to today.

Mr. WAXMAN. Mr. Chairman, could the gentleman tell us which parts of the recodification he objects to? Or the administration objects to? We would like to know what the particular problems are: I am surprised to hear about these problems. The description the gentleman has given them raises concerns on my part.

Mr. MADIGAN. Mr. Chairman, I do not object to just a part of it; I object to all of them. I object to all the recodifications.

I would be willing to work with the gentleman to try to work this bill out, as we have the others. I am willing to go so far as to substantially increase the dollar levels we had talked about before, and I am willing even to accept the separate Institute for Arthritis, if the gentleman wants to work something out.

But I am not willing in any way to have this recodification business that would allow the gentleman to have singular control of all the health research functions in the United States in the future. I find that very offensive.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further?

Mr. MADIGAN. I do not object to any part of it; I object to all of them.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further to me?

Mr. MADIGAN. Certainly I yield to the gentleman from California.

Mr. WAXMAN. I want to inform our colleagues that the recodification was the product of many hours of staff work involving the gentleman's staff as well as mine. I do not believe the gentleman is objecting to any specific provisions because I do not think there are specific issues included in the recodification that can be genuinely attacked.

I am happy to work with the gentleman and with all my colleagues on this issue, but I must say that I resent the ascription to me of personal motives for a recodification that is supported, or at least not opposed, by any group except the administration. It is supported by many in the biomedical research community.

Mr. Chairman, I thank the gentleman for yielding.

Mr. MADIGAN. Mr. Chairman, I am not surprised that the gentleman is offended. I offer no offense, and I meant no offense.

The gentleman overlooked the fact that I said I was not saying these things, that I was quoting his staff person as saying that this is the first step to having time and dollar limits imposed by the gentleman from California.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me on that point?

Mr. MADIGAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to clarify that insofar as that statement referenced in the Blue Sheet, that it was an absolute misstatement of my position and of my staff's position.

I wish that the gentleman had brought this issue up prior to the debate on the House floor. I could have clarified any misapprehension in the gentleman's mind about statements by my staff that may reflect on what I might intend to do on bills that I offer.

Mr. MADIGAN. Mr. Chairman, I am sure the gentleman is familiar with "The Blue Sheet," and let me just read from it, if I may:

The attempt to restrict NIH's power through report language is in line with subcommittee chairman Waxman's unsuccessful effort during work on the last reauthorization bill to limit NIH's leeway by imposing authorizations for all of the 11 institutes.

Here I insert the "Mr." It is not here, but out of respect for the gentleman, I insert the "Mr."

[Mr.] Waxman also sponsored the current bill. According to one of his aides, the committee views "this as a transition period," perhaps leading to the eventual elimination of title III authority altogether. "The language of title IV is very broad," the staffer said. "We don't think there is anything you can think of they do that is not directly or indirectly mentioned in it." But rather than drop this part of the law now, the aide continued, the committee opted to "just leave title III there for a while and see what comes up."

However, NIH is concerned that the elimination of the "fall back" provision could have negative impact on the institutes, an NIH official said. "For example," he noted, "if reauthorization does not occur, we now have title III to fall back on—it makes it unnecessary to have title IV."

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to point out to the gentleman that I have in my hand a letter which I would like to make part of the record from the Association of American Medical Colleges, in which they say they have no objection to the provisions of the bill if there is no intention of removing the authority under section 301(a) of the Public Health Service Act. Of course, we made no change in section 301(a).

What is being referred to is a fight that took place 2 years ago on the authorization of NIH when the gentleman from Illinois, along with his predecessor Dr. Tim Lee Carter, the ranking minority member on our subcommittee, and most of the House supported specific authorizations for all 11 of the Institutes at NIH. I think that policy has a lot to say for it in terms of the responsibility an authorizing committee has for an agency for which we authorize funds. But rather than get into that kind of heated debate this year, we agreed with the AAMC and others that we would not do what the gentleman indicates the "Blue Sheet" says we intended to do. We abandoned that approach in this bill. I want to make very clear to the gentleman that no matter what a blue, green, yellow, or red sheet may say, this bill does not in any way take away the authority granted to the Appropriations Committee to appropriate funds under section 301 of the law.

Mr. MADIGAN. Reclaiming my time, Mr. Chairman, I would just like to say that a substitute will be offered tomorrow by the gentleman from Texas (Mr. GRAMM) from the majority party and the gentleman from North Carolina (Mr. BROYHILL) from the minority party. The purpose of that substitute will be to substantially increase the funding levels for NIH activities from their current 1982 levels, to also allow the creation of a separate National Institute on Arthritis, to also provide for a study of using animals for laboratory experiments, and also to provide a further study with regard to the creation of possible new individual institutes within the National Institutes of Health.

What the substitute will not contain is the recodification provisions which I have been addressing in my earlier remarks. It will be coming a long way toward doing the kinds of things that the teaching hospitals, the American Association of Medical Colleges, the National Institutes of Health, and other people involved in health research have wanted in the way of legislation.

I will not go on record here as saying that the AAMC has been bought off from its objections to the recodification by the much higher thresholds in spending authorities that are contained in the bill offered by the gentleman from California. I will say that I met with them last week, and they raised to me as their principal objection—and I am talking about the American Association of Medical Colleges—the recodification contained in the Waxman bill. That was last week. That is the principal objection to the Waxman bill of the American Association of Medical Colleges, and it is the principal objection of the National Institutes of Health to the Waxman bill.

We will have tomorrow a substitute containing very liberal funding levels and a separate Institute on Arthritis, as well as other provisions for people who are interested in those kinds of things. But we will not have in the substitute a recodification that would transfer the future authority for health research and the allocation of funds for that to the Health Subcommittee of the Committee on Energy and Commerce.

Mr. Chairman, I reserve the balance of my time.

□ 1750

Mr. WAXMAN. Mr. Chairman, I yield myself 1 minute.

I would just point out that I have with me and will be making a part of the RECORD a letter from the Association of American Medical Colleges to me. I want to read it because it absolutely contradicts the statement that is being made by the gentleman from Illinois.

ASSOCIATION OF AMERICAN MEDICAL COLLEGES,
Washington, D.C., September 20, 1982.

Hon. HENRY A. WAXMAN,
Chairman, House Subcommittee on Health and the Environment, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: There appears to be some misunderstanding about the Association of American Medical Colleges' position on the Health Research Extension Act of 1982 (H.R. 6457).

Although the Association sees no need for the codification of the present institutes making up the National Institutes of Health, we have no objection to the provision of the bill if there is no intention of removing the authority under Section 301(A) of the Public Health Service Act.

We are grateful for the authorizations that you have provided for the National Cancer Institute and the National Heart, Lung, and Blood Institute in the House bill. Although we would have preferred higher levels, the House levels are much better than those in the Senate bill. We would not support any effort to reduce the authorizations in the present House bill.

We appreciate your continuing interest in strengthening biomedical research in the United States.

Sincerely,

JOHN A. D. COOPER, M.D.

I assert with absolute assuredness that this would put the AAMC in strong opposition to the amendment that will be offered by the gentleman from Illinois.

Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. SHELBY).

Mr. SHELBY. Mr. Chairman, I support this bill, particularly its focus on prevention. The bill establishes a network of centers for research and demonstration on health promotion and disease prevention that will complement the centers for disease and other Federal initiatives in health promotion and disease prevention.

I feel this legislation is an essential facet of a cost-effective health services system. It promotes a major expansion in research to focus on ways of promoting health and provides for improved methods of appraising health hazards and risk factors.

This action will work within the budgetary context we are now facing in Congress by serving as a cost containment measure. In that long run, concentrating on prevention as well as cure will save dollars in the consumer's pocketbook.

Public health and preventive medicine have had outstanding successes in

the past in sanitation, nutrition, immunization, and maternal and child health through the local and State health departments, but a new approach is required for societal and self-imposed risks of stress, and methods of coping.

A Federal network of centers has been the proven pattern of expanding research and demonstration projects in cancer research and control, cardiovascular disease, and other categorical conditions. The same approach is now needed to health promotion.

The provision requires the Director of the National Institutes of Health (NIH) to establish and maintain centers for research and demonstration of health promotion and disease prevention to undertake research and demonstration projects in health promotion, disease prevention, and improved methods of appraising health hazards and risk factors. These centers shall serve as demonstration sites for the use of new and innovative research in public health techniques to prevent chronic diseases.

Ten such centers shall be established in fiscal year 1983, 10 more in fiscal year 1984, and 5 more in fiscal year 1985. The level of Federal funding necessary to provide for adequate care faculty and administrative support for each center is $1 million, for a total over 3 years of $45 million.

I urge your support of this bill and particularly this provision.

As I understand the bill as it came out of our committee, the bill establishes, among other things, a network of centers for research and demonstration and health promotion and disease prevention that will complement the centers for disease and other Federal initiatives on health problems and disease prevention.

I wonder if the gentleman from California could tell me if that is his understanding of the part of the bill as far as health prevention centers are concerned.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. SHELBY. I yield to the chairman.

Mr. WAXMAN. I thank the gentleman for raising this issue. I want to commend the gentleman for the work he did on our subcommittee.

We did accept an amendment which the gentleman offered to authorize appropriations for centers for research and demonstration of health promotion and disease prevention.

I think it is a very important, constuctive amendment and I am pleased that it is a part of the bill.

Mr. SHELBY. I think in the long run a lot of us agreed or had the feeling that it would go a long way to curtail a lot of the health costs in the future.

Mr. WAXMAN. I share in the gentleman's hopes and I think, in fact, that when we direct some of our efforts in that way that we will be minimizing health care costs for the future.

Mr. SHELBY. I am going to support the bill and I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. Mr. Chairman, I rise today to take the opportunity to speak in support of the Health Research Extension Act. It is legislation supported by every single major health group in this country. It was carefully crafted by the chairman of our subcommittee. It is this legislation, not the substitute, that is going to be offered tomorrow, that is supported by the health groups of this country. Let me list a few:

The American Association of Cancer Institutes, the American Heart Association, the American Lung Association, the American Diabetes Association, the Arthritis Foundation, and many others are formally on record as supporting the Health Research Extension Act in the form that it is being offered, and not the substitute.

I think it is very important that our colleagues understand that, as we enter this debate.

Earlier this year, my colleagues on the Energy and Commerce Committee voted for an amendment which I offered to the Health Reseach Extension Act to create a separate National Institute for Arthritis. I think it is fair to say the credit for this legislation rightfully belongs with my distinguished colleague who chairs the Committee on Aging, the gentleman from Florida (Mr. PEPPER) who has done so much for the elderly and other vulnerable Americans.

The reasons for creating the Institute are really quite simple. The National Institute of Arthritis and Metabolic Diseases, established in 1950, gave major focus to arthritis research but that focus has been almost totally blurred by the addition of more and more diverse research programs to the Institute.

Today only 1 percent of the funding for the National Institutes of Health is for arthritis research. This is particularly distressing when one things 37 million Americans, or 1 out of 6 people, suffer from arthritis at an annual cost to society of $30 billion.

Twenty percent of medicare hospital costs are attributable to arthritis.

Social security disability, unemployment, and lost tax revenues shoulder a major part of this fiscal burden.

Arthritis is second only to circulatory diseases in economic costs to society. Yet despite this astronomical cost to society scientific research has been put on the back burner at the NIH while quack cures proliferate.

It is time this crippling disease of arthritis receives the national focus it deserves, a focus it would receive with the creation of this institute.

I want to urge my colleagues to support H.R. 6457. I want to particularly compliment the chairman, the gentleman from California, Mr. WAXMAN. He has done a careful job. His legislation is supported by every single major health group in the country.

I would like to point out to the ranking minority member that of the major health groups, not one of them is supporting the substitute that is being advocated by the ranking minority member.

I would also like to point out that while the gentleman's substitute retains a separate Institute on Arthritis that we worked for in the Energy and Commerce Committee, and the gentleman from Florida (Mr. PEPPER) has been working on for years, the substitute being advocated by the gentleman from Illinois reduces the authorization for health research funding dramatically.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I will be happy to yield.

Mr. MADIGAN. I would say to the gentleman I have no proposal. I have no substitute.

Mr. WYDEN. The gentleman said the substitute will be offered by the gentleman from Texas (Mr. GRAMM) tomorrow, and the ranking minority member said he supported it.

I just want our colleague to understand very clearly that the major health groups in the country are not supporting the substitute and the substitute contains very seriously reduced funding for health research.

Mr. MADIGAN. If the gentleman will continue to yield, I just wanted to correct one thing the gentleman said. Although it is not my substitute, I have some familiarity with what is in it. The money available for arthritis in the substitute is exactly the same amount as available in the bill being offered by the gentleman from California, which the gentleman is supporting.

I thank the gentleman for yielding.

Mr. WYDEN. If I might reclaim the time, if we reduce funding for NIH, all research efforts will be in jeopardy including arthritis. It is clear that the amount of money for arthritis research that we have in the committee's bill, which I must again point out is supported by all the major health groups, is going to be the authorization package that allows us to get the job done right. The substitute is clearly not going to make it possible for us to give health research the attention it deserves.

I yield back to the gentleman from California.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

I realize the hour is getting late and many of our colleagues have other things that they have to do this evening. I understand there is some sort of special recognition going on this evening for the gentleman from Florida (Mr. PEPPER) whose name has been brought up on several occasions in the debate.

I certainly do not want to keep any of my colleagues here and away from enjoying the company of our colleague from Florida (Mr. PEPPER) this evening. So I will be very brief in concluding my remarks and say that while it may be very important as to who is supporting what, perhaps the most important person in this whole debate with regard to his support is the President of the United States.

I have been authorized to assure my colleagues in the House of Representatives that if the bill being advanced here by the gentleman from California and being supported by the gentleman from Oregon would somehow happen to pass the House of Representatives and somehow happen to pass the Senate of the United States that the bill will never be signed into law by the President of the United States.

So I think when people get ready to vote on this, if they want to position themselves correctly with regard to either sustaining or overriding a veto, they would want to know that that veto would be forthcoming unless the substitute being offered, in a bipartisan sense by the gentleman from Texas (Mr. GRAMM) and the gentleman from North Carolina (Mr. BROYHILL) would happen to be adopted through the wisdom of a majority of our colleagues being present and voting for the substitute.

□ 1800

Let me just again say in conclusion that it may be true that all of these varied health groups are tonight supporting the bill being advocated by the gentleman from California and supported by the gentleman from Oregon, but last week they were not. Somebody put the hammer on them between last week and this week, and it was not anybody on this side of the aisle.

Mr. WAXMAN. Mr. Chairman, I would like to respond to the comments we just heard.

The administration has a position. Their position is to cut the funds for biomedical research and to do away with the ability of Congress to have clear oversight over what is going on at NIH, which is part of our responsibility. And I know that they do not support a separate Institute for arthritis.

Now, they may have a position, but let us understand that when a bill comes before the President of the United States, he is called upon at that time to make a final decision as to whether he will sign or veto the legislation.

I would like to see the President of the United States turn his back on biomedical research in this country. I would like to see the President of the United States and the Members of this House see if they feel in good conscience they could reject the recommendations of the people who deal in this kind of biomedical research activities both at NIH and at universities around our country.

The Association of American Cancer Institutes, the American Heart Association, the American Lung Association, the American Diabetes Association, the Arthritis Foundation, the American Academy of Orthopedic Surgeons, the American Academy of Pediatrics, the American College of Cardiology, the Association of Schools of Public Health, the Coalition of Digestive Disease Organizations, the American Academy of Dermatology, the American Gastroenterology Association, the Cooley's Anemia Foundation, the National Hemophelia Foundation, and the American College of Gastroenterology. These are just a few of the groups that have come out in support of the bill that has been sent to this House floor by the Energy and Commerce Committee.

I would think that these groups came out for this legislation because they know it is the best legislation that is before them. If we hear from them that they want this alternative that will reduce funding, I would be really amazed. And then I would be convinced that a hammer was used on these organizations to get them to change their position against their own interests.

It should not be surprising when our Nation's most prestigious health and scientific research groups come out for a bill that advances what they have devoted themselves to, the conquest of dreaded diseases.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. I just want to add to the gentleman's list of people supporting increases in funding in a separate Institute for Arthritis the name of the President of the United States, who is supporting an across-the-board 7-percent increase in funding for the National Institutes of Health and is supporting a separate Institute for Arthritis, but is not supporting the recodification being advocated by the gentleman from California.

Mr. WAXMAN. I thank my colleague. I would point out to my other colleagues who may be watching this debate, that when we had this bill before us, it was the position of the administration to oppose a separate Arthritis Institute. Now they are for it. I think when this bill gets to the President's desk he will glady sign it and probably take credit for it—and he will deserve the credit because if he signs this bill he will be supporting biomedical research through the most prestigious and world renowned institution of its kind, the NIH.

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Oregon.

Mr. WYDEN. I appreciate the chairman yielding.

I am just so pleased that the President has come around to supporting the National Institute on Arthritis. I know the gentleman from Florida (Mr. PEPPER) will be very pleased because he has been trying to get this body to take the problem of arthritis seriously for years. But the question is: Are we going to authorize enough money for health research to get the job done right? I think we have got to go beyond just saying, "All right, we have got the shell there." We have to have enough money to get the job done right.

The only legislation that makes it possible for us to continue an adequate health research effort is the committee bill. I should think the President, now that he has come around to supporting the National Institute on Arthritis, would want to make sure that we authorized enough funds for basic health research.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. MADIGAN. I again just want to repeat what I said earlier to the gentleman from Oregon, that the substitute being supported by the President and being offered by the gentleman from Texas and the gentleman from North Carolina includes the same amount of funding for arthritis as it does the bill being advocated by the gentleman from California.

So in that sense, or within the context, the remarks of the gentleman from Oregon are not well spoken.

Mr. WAXMAN. But the gentleman's statement is misleading because the substitute that will be offered will in fact call for lower funding leels where there are specific dollar amounts specified such as in cancer research or the work done at the National Heart, Lung and Blood Institute. The others are authorized for such sums as may be necessary. We know that the President is coming before the Appropriations Committee in his recommendations for less than what we would hope they would appropriate.

Mr. MADIGAN. If the gentleman will yield, the substitute will contain exact-dollar figures for each of the

outyears and for each of the activities, and will be a 7-percent increase over fiscal year 1982 outlays for those institutes which require reauthorization.

Mr. WAXMAN. Yes. And the institutes that require reauthorization have specific-dollar amounts. The work at the Arthritis Institute will not have a specific-dollar amount but is authorized for such sums as may be necessary. In that sense, there is no change from the provisions of the committee bill.

Mr. MADIGAN. If the gentleman will yield, the language is the same as your bill. And I apologize for continuing to ask the gentleman to yield, but I do that only to keep the record straight, that in that instance the language is exactly the same as the bill.

Mr. WAXMAN. In that specific instance, you are correct, the language is the same, because the authorization provides for the Appropriations Committee to make the decision as to the amount that will in fact be spent. But it is my understanding that the substitute that will be offered will have a lesser figure than what our committee has recommended for those Institutes for which we do make a specific authorization.

Does the gentleman disagree with that statement?

Mr. MADIGAN. The only thing where we are at odds is whether or not the National Institutes of Health will be managed at the National Institutes of Health or on the east side of the fourth floor of the Rayburn House Office Building. And the gentleman has one idea about what its future should be, and we have another.

Mr. WAXMAN. Our policy was one shared a very short time ago by my colleague from Illinois.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Mr. WAXMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. D'AMOURS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6457) to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the National Research Institutes, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mrs. SCHNEIDER. Mr. Speaker, unfortunately, due to a serious personal matter I was unable to return as planned to vote on rollcalls Nos. 355–357. Had I been present, I would have voted as follows: On rollcall No. 355, to provide for a cooling-off period rather than an imposed settlement in the rail strike, "aye"; on rollcall No. 356, final passage of the rail settlement, "aye"; and rollcall No. 357, the rule under which the continuing resolution would be considered, "no."

I request that the RECORD reflect my intention.

LET'S HELP END THE FOOTBALL STRIKE

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, as a senior member of the House Education and Labor Committee, I am introducing a resolution today calling for a prompt settlement of the National Football League Players Association strike.

The resolution in no way attempts to take sides with either the players or owners. Rather, it seeks to formally express the true sentiments of millions of frustrated football fans, as well as the many cities across the country that will suffer considerable financial hardship as a result of the strike.

The facts tell us that the National Football League Players Association voted to strike beginning on Tuesday, September 21. This is the first regular-season strike in the 63-year history of the National Football League. It is estimated that the National Football League will lose about $42 million a week during the strike and each canceled game will cost the 1,500 players approximately $500,000 in lost wages.

But the strike goes far beyond just the players and owners. It could mean the loss of livelihood for many stadium employees, and the loss of vital tax revenues not only to the 27 National Football League cities, but to other locations such as Las Vegas, which rely on football to generate substantial business. In addition, it will result in the loss of a cherished recreational enjoyment for millions of fans.

Mr. Speaker, we only have to look as far back as last year's major league baseball strike to know that the longer the players are out, the more difficult it will be to resolve this dispute. I am introducing my resolution today in the hope that a lengthy strike can and will be avoided.

My resolution notes that negotiations appear stalemated and urges "all parties involved in the dispute to resume negotiations in earnest and take whatever steps are necessary to accomplish a prompt settlement of the strike."

We must do everything possible to help obtain a prompt end to the strike. I believe my resolution will contribute to this worthy cause and I urge that it receive favorable and expeditious treatment.

At this time, Mr. Speaker, I wish to insert the text of my resolution, along with an article that appeared in today's Washington Post, entitled "Economic Losses Related to Strike Are Far-Reaching":

H. RES. —

A resolution to express the sense of the House of Representatives in support of a prompt settlement of the National Football League Players Association strike

Whereas the National Football League Players Association voted to strike beginning on Tuesday, September 21, 1982; and

Whereas this is the first regular-season strike in the 63-year history of the National Football League; and

Whereas it is estimated that the National Football League will lose about $42 million a week during the strike and each canceled game will cost the 1,500 players approximately $500,000 in lost wages; and

Whereas the strike goes far beyond players and management, and will cause the loss of vital tax revenues in the 27 National Football League cities as well as other cities indirectly affected by the strike; and

Whereas millions of Americans will be deprived of a cherished recreational enjoyment; and

Whereas a settlement will be harder to achieve with the passage of time; and

Whereas negotiations are presently stalemated; and

Whereas a regular season game is scheduled for Thursday, September 23, and a full schedule of games is planned for Sunday, September 26: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress urges all negotiating parties involved in the dispute to resume negotiations in earnest and take whatever other steps are necessary to accomplish a prompt settlement of the strike.

[From the Washington Post, September 22, 1982]

ECONOMIC LOSSES RELATED TO STRIKE ARE FAR-REACHING

(By David DuPree and Robert Fachet)

The big financial losers in the National Football League strike are the league, estimated at between $26 million and $31 million a week, and the players, with uncollected salaries of $9 million a week.

The economic impact of the players' walkout extends much further, however, to bookmakers, airlines and other transportation carriers, hotels, city halls and vendors.

Although most NFL and team officials declined to comment on the strike or related matters, league sources estimated that weekly receipts from television, gate receipt for 14 games and related income run to about $40 million.

The teams, of course, will not have to pay salaries, which amount to an average of $105,000 per player this year, according to the NFL Management Council. Each player receives one-sixteenth of his salary each week.

Neither side in the dispute has strike insurance. The owners have arranged to borrow $150 million from a consortium of banks in California should it become necessary. The players expect income from some planned all-star games.

Las Vegas gambling sources told the Associated Press that as much as $100 million is wagered on pro football each weekend, including legal bets in Nevada, illegal bookmaking and friendly wagers. About $275 million was bet legally last year on pro football with Nevada's 21 sports books. Sonny Reizner, director of the book at the Castaways, said the books show a gross profit of 4.54 percent.

The airlines figure to miss about $300,000 in revenue generated by the usual 14 weekly charter flights, although there can be a wide variance because of distances involved and method of chartering, by game or season. On the basis of last year's ridership of 20,000 per game, Metro will lose $26,000 every Sunday the Redskins are idle.

NFL teams usually stay at road hotels for two nights. The Crystal City Marriott, home away from home for Redskins opponents, estimated that each visit cost between $3,700 and $6,600, depending on number of functions and size of traveling party.

"It's bad news; I'm going to starve," said Debbie Cooksley, secretary to the director of catering.

The Armory Board will lose between $100,000 and $125,000 a game as its percentage of the gate, parking and concessions at RFK Stadium, according to Bob Sigholtz, general manager of the D.C. Armory/Starplex, which manages the stadium.

Most stadiums contacted said they figured to lose between $100,000 and $200,000 a game.

Sigholtz said that 10 months ago, the stadium operators tried unsuccessfully to get strike insurance. "We were going to consolidate and go for one insurance policy for everybody," said Sigholtz, "but the insurance companies said no."

Sigholtz said that left the stadiums to insure themselves, "but even those premiums were so ridiculous that I don't know of anybody who did it."

He said the premium was based on size of stadium, but about $600,000 was the premium amount on one of the smaller stadiums.

Also down the drain are gross concessions revenue of $100,000 to $140,000 per game and the $26,000 in salaries paid to 300 vendors and 200 concessions stand workers, according to figures supplied by B & B Caterers, which services RFK Stadium.

Sportservice, the Buffalo concessions firm that services stadiums in Milwaukee, Detroit and St. Louis, will lose about $500,000 if the strike wipes out the season, according to Sam Gifford, director of corporate communications.

A number of stadiums allow small groups to operate concession stands and some of those groups will be devastated by the strike. Texas Stadium, home of the Dallas Cowboys, for instance, is owned by the city of Irving, Tex., and many of its concessions stands are operated by small area towns.

"Most of them get 15 percent of the gross of what they take in," said Bert Rose, director of the Texas Stadium Corp., which operates the Stadium.

Most stadiums said they employ between 1,000 and 1,500 ushers, ticket takers, concession workers, parking attendants and other stadium personnel.

The Greater Washington Board of Trade declined to guess how much the strike would hurt hotels and restaurants here. However, Pittsburgh's Planning Commission estimated a loss of $235,000 for each unplayed Steelers home game. The Green Bay Visitors and Convention Bureau said that about $25 million a year was recorded by Wisconsin tourism industries because of the Packers' presence.

The Buffalo Area Chamber of Commerce estimates the indirect effect of the Bills home games on area economy is $21 million. The chamber said about 5,600 out-of-town fans attend each game and each spends about $80.

The Chicago Park District, which operates Soldier Field, home of the Bears, said it projects a loss of nearly $350,000 a game and the city of Chicago said it will lose about $86,000 in taxes.

Rep. Mario Biaggi (D-N.Y.) of the House Education and Labor Committee, citing "the drastic loss in tax revenues," introduced a resolution yesterday calling for a prompt settlement of the strike.

□ 1810

AT THE BRINK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 60 minutes.

Mr. PAUL. Mr. Speaker, the International Monetary Fund (IMF) recently finished its annual meeting in Toronto, Canada. The IMF was originally designed to smooth out the balance-of-payments problems among its members, but today it serves essentially as a social welfare agency lending to nations whose economies have been crippled by socialist and fascist central planning.

As should be expected, the United States contributes more funds than any other nation. In Toronto the international banking crisis could not be ignored, yet attempts to downplay it were made. The collapse of the Mexican peso and the threat of an Argentinian default dramatize the urgency of the situation and are omens of things to come. Mexico owes $81 billion and Argentina $39 billion, but this is only a small fraction of the total debt owed to Western governments and Western banks. Eastern bloc Communist nations and Third World nations owe over $850 billion, and reasonable people do not expect that this sum will be repaid.

The race going on now is to finance all this debt through governments—principally the United States—and bail out the international banking system. The default which many pretend can be avoided is inevitable; the only question that remains is who the victims are to be. The question is, shall it be the bankers or the innocent uninformed American citizens?

The elite attending the international conference minimized the crisis only by admitting that yes, indeed, a problem did exist, but it is manageable. We cannot manage nor ever pay our own debt let alone the world's debt, yet we continue to play the game and pretend a calamitous banking crisis does not really exist and that we will work our way out of it. That is impossible. The big default will come. Mexico has been insolvent for years but it was only recently that a panic occurred and the peso collapsed. It took a lot of years, a lot of borrowing, a lot of money creation by the Mexican central bank, to set the stage that allowed the crisis to occur.

Mexico's banking problems make the dollar look strong—compared to the peso—but compared to its former purchasing power the dollar is weak and hanging precariously on the brink of collapse. The dollar collapse which now stares us in the face brings shudders to those knowledgeable and honest about currency matters. The dollar is the most vital currency of the world, and its failure will wreak havoc on Western civilization. We can no longer ignore the threat.

It is estimated that the contingent liabilities of the U.S. Government are now over $11 trillion. Fulfilling this commitment is not possible. The social security system alone exists only by robbing young Peter to pay elderly Paul. It is insolvent and we ought to admit it. The national debt is now over $1.1 trillion, our annual interest payment on this debt is more than $115 billion, and both are growing rapidly even under an administration which has been declared the most fiscally conservative of the 20th century. The reason for this inconsistency—whether it is deception, inept management, or the impossibility of controlling the runaway system—is economically unimportant. The fact that the floodgates of spending, taxing, and inflating are open and that debt repudiation has begun must be accepted before plans can be laid for reforming our banking institutions and preserving a free society.

In the old days, an event such as a dollar devaluation made big news. A jump of gold prices from $35 to $38 required surprise weekend announcements that only the insiders knew about. Today the price of gold—the barometer of monetary distrust as it has been for 6,000 years—can increase by one-third in a few weeks with no specific announcement and with the authorities pretending that this has little to do with devaluation and lost trust in the dollar. Fear is building, debt repudiation is occurring daily through dollar depreciation, and nominal dollar debt is expanding rapidly. As all this occurs, inflation and patching the system together at the expense of the innocent proceed.

The mountain of debt can be repudiated by default; that is, declared bankruptcies and subsequent liquidation of debt, but every effort conceivable will be made to prevent this from occurring on a massive scale. If this did occur it would be an old-fashioned 1929 deflation and everyone knows the politicians and the bankers will not let this happen, which is understandable,

yet the alternative method of debt liquidation offers little benefit or reassurance.

The other method of defaulting of the debt is a 1923 style German inflation. Pay the debt with rapidly depreciating newly created dollars. When the dollar is worthless, or approaching worthlessness, real debt disappears and the holder of debt instruments have their assets liquidated even though someone may still owe them many dollars. As new money appears out of thin air, real assets of the savers and the debt denominated dollars evaporate into thin air. Both forms of debt liquidation are terribly dangero :s Economic law demands the debt be paid, the pyramiding of debt cannot last forever—the drinking binge always comes to en end. In the end the patient must sober up or face an alcoholic's death.

It is similar with an economy, and we must either give up depending on new money creation—inflation—in our efforts to achieve a false sense of well-being, or face the consequences. It appears to me that we are determined to follow the course of history, failing to learn from it, and commit the errors that have brought many nations to their knees. That error is the policy of currency destruction through the inflationary process. The task of limiting government size and its expenditures far outweighs the superficial expressions of sympathy for a balanced budget here in Washington. Many do not have courage for it. Those Americans who care and are still struggling to make some sense out of our political and economic system must give backbone to the public officials who have the authority to legislate wisely and constitutionally and stop the monetary catastrophe that is occurring.

In 1980, radical changes were made in the Federal Reserve Act—the Monetary Control Act of 1980—allowing a massive increase in the power of the Federal Reserve System. Among those powers was the authority of the Fed to use the debt of foreign nations as collateral for the printing of Federal Reserve notes. This is of the greatest significance in light of the $850 billion Third World and Communist nations' debt to the West. To begin with, the foreign bonds that the Fed purchases are purchased with paper money backed by our own debt—bonds and Treasury bills. Then we turn around and use the newly purchased foreign bonds as collateral to print up more Federal Reserve notes. This system of money creation is unbelievable to rational human beings. It cannot but lead to a disastrous end for the American dollar.

Under current law the recently purchased Mexican pesos could be used to back the printing of more Federal Reserve notes. The fact that the debt structure is so large and the banks holding the debt so influential causes me to predict that Government will do a lot more inflating to bail out the private holders of foreign debt through this mechanism. We sent money to Poland when they were unable to meet their interest payments to the large banks; we did it with Mexico; and there is no reason we should not expect it to be done for Brazil, Argentina, Zaire, or whomever. The banks will get their payments, the socialist dictators will get our dollars, and the American middle class will get the bill. The bill will not be paid by raising taxes further, for there is a limit to how high taxes can be pushed, but it will be paid through inflation and dollar depreciation.

As so often occurs with economic problems originating in mismanaged centrally planned economies built on paper money, the seeds of economic isolationism have been planted. The decade of the 1930's certainly was a period when isolationism, nationalism, and militarism followed on the heels of depression, inflation, deflation, and disruption to the normally smooth functioning of a market economy. Today, we hear strong demands daily to take away the American consumers' right to purchase foreign goods, claiming this will somehow miraculously rectify the ills created by Government intervention and inflation. Nothing could be further from the truth. It will only make the economy worse, international relationships tense, and all at the expense of the individual's right to negotiate unmolested in the purchase of a particular product. The scapegoat is not Japanese efficiency and competitiveness; they serve us economically in providing for our needs. The unfairness of course is the fact that American taxpayers are forced to subsidize our competitors. Not only do we subsidize countries who need a bailout and others who just want a grant through the international banking system—all causing more inflation since we create money to fund these international development banks—we help our rich allies like Germany and Japan by providing large sums for their defense. We literally supply all Japan's defense, allowing the Japanese to have lower taxes on their car and steel companies and other subsidies. Our free gifts to them should all be stopped. It is suicidal to continue the process. It is no longer 1945, it is 1982, and a new generation of Americans are now demanding a new relationship with our allies and our enemies.

We all want a strong defense, and we want to live in peace. Free trade with potential enemies when they pay for the goods they buy can not make war more certain then it would be otherwise. Trade barriers create ill will, new enemies, and arouse feelings of nationalism and militarism. Economic isolationism, a consequence of inflation and central planning, is to be feared and rejected as a viable policy for any freedom-loving nation.

The American people, whenever they have had the chance, have spoken out for peace and free trade, balanced budgets, and sound money. And they are today as well. Yet our policies do not reflect this. On August 16, the Chinese communique was signed with the Chinese Communist dictators and our administration. On August 30, an Export-Import Bank loan of $68.5 million was authorized by the President because it was "in our national interest" to help build a steel plant for them. What for? So they can sell cheap steel to the United States? Just what we need. American steel plants are closing down, unemployment is sky high, and we subsidize Communist steel plants. It is absurd. Instead of helping the steel industry by stopping inflation and lowing taxes, we make inflation worse by more credit creation to help our competition and in this case our political enemies. The wisdom of this policy I fail to see. I venture to guess most Americans fail to see the wisdom of self-sacrifice and economics suicide as well.

The current policies of inflation, taxation, central planning, protectionism, and economic isolationism are certainly bad in that Americans and the people of the world are going to suffer from the inevitable lowering of everyone's standard of living. But a much greater threat hangs over our head. The loss of personal liberty in an age of rampant inflation, money destruction, and economic turmoil is well known. Liberty, based on a belief that it is a gift of the Creator, requires our constant and utmost vigilance. This responsibility should motivate us in all that we do, and the threat of any loss of liberty must concern us all. The material benefits of a free society are obvious, and their loss that comes with a rise in statism cannot be ignored, but the concern for the rights of each citizen must become the principal motivating force in our political actions.

Closely paralleling the loss of liberty and the economic stagnation that is also a consequence of inflation and central planning is the great danger that attempts at compensating for all previous errors of Government intervention will be made with more inflation and more Government programs. If this continues and economic isolationism and international resentment develop, nations are driven to producing massive armaments—and not necessarily defensive armaments—out of fear and confusion as well as economic justifications. History shows that great danger of war rises out of the very conditions we are experiencing today.

How is it that the people cry out for less taxes and they get more? How is it that the people cry out for balanced budgets and they get greater deficits? How is it that the people cry out for sound money and they get more inflation and higher interest rates? They cry out for peace and they get war. This need not be; war and famine are not inevitable. Freedom and sound money bring peace and prosperity. But if freedom is lost and honest money relegated to the underground economy, war and famine will follow even for the United States. Although the United States has been exempt from famine for most of its history, if we pursue foolish policies based on the immoral use of Government force, we will reap the economic whirlwind of hunger and poverty and suffer the rattle of machineguns, the blast of bombs, and the cry of human suffering.

If we accept the notion that Government should not exert unjust force on any person, that no one should be made a slave to another, and that the fraud of paper money must be outlawed, this tragedy will be averted.

A bold step is required, for a timid response with more of the same, more inflation and more Government intervention, will prove disastrous. The opportunity for positive change is available to us in this decade, and if we fail to respond in a positive way, it could be years or decades before the damage can be undone and a free society restored. It is literally up to us.

□ 1820

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. BENNETT). Under a previous order of the House, the gentleman from New York (Mr. GILMAN) is recognized for 5 minutes.

● Mr. GILMAN. Mr. Speaker, on September 21, 1982, it was necessary for me to return to my congressional district, causing me to be absent during the following rollcalls:

On rollcall No. 344, on agreeing to the Obey amendment to H.R. 7019 the transportation appropriations bill to reduce appropriations by 30.8 percent in order to achieve a balanced budget in fiscal year 1983, which failed by a vote of 349 nays to 38 yeas, had I been present I would have voted "nay."

On rollcall No. 345, final passage of H.R. 7019, the Department of Transportation appropriation bill for fiscal year 1983, which passed by a vote of 268 yeas to 119 nays, had I been present I would have voted "yea."

On rollcall No. 347, on agreeing to the Walker amendment to H.R. 7072, to prohibit the expenditure of funds appropriated by the bill in violation of Public Law 95-435 provision requiring a balanced budget by 1981, which failed by a vote of 246 nays to 125 yeas, had I been present I would have voted "nay."

On rollcall No. 348, final passage of H.R. 7072, the agricultural, rural development and related agencies appropriations for fiscal year 1983, which passed by a vote of 264 to 105, had I been present I would have voted "yea."

On rollcall No. 349, requiring a two-thirds majority for agreeing to the motion to dispense with the Calendar Wednesday rule, which passed by a vote for 226 yeas to 79 nays, had I been present I would have voted "yea."●

CREDIT CARD FRAUD: A BILLION-DOLLAR BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, while most of America's industries are suffering from the ill effects of the worst recession in nearly half a century, one business is booming—credit card fraud.

The statistics are staggering. Every year an estimated 73 million credit cards are reported lost or stolen; of that number, approximately 10 percent are illegally used—a total of roughly 20,000 cards a day.

When most of us think of credit card fraud, the use of the stolen card by a petty crook comes to mind. Unfortunately, credit cards can be misused in a number of other ways that go far beyond conventional card theft. In recent years, the schemes have become more sophisticated, and much harder to trace since in many cases the legitimate cardholder never losses possession of the card.

For example, police have uncovered a number of ploys involving sales clerks who simply copy down names and account numbers during genuine sales transactions. The stolen names and numbers are frequently used to place phone mail and telephone orders as these types of purchases can be made over the telephone, thereby eliminating the need for actual charge plates or signatures.

In another variation, the clerks make duplicate charge slips, place them in the cash register and remove cash. In either case, the unwitting customer does not find out about the phony charges until the bill comes in.

A credit card thief can also obtain legitimate credit card numbers by using the telephone. He simply calls people and tells them that they have won an all-expenses-paid trip. The thief then asks the victim to repeat the card number for verification. After recording the number, he informs the cardholder that information about the trip will be arriving in the mail, and hangs up. Although the consumer will never hear about the trip again, the thief now has the credit card number which he can use in a variety of ways.

Using what is known as the "friendly fraud" scheme, relatives or acquaintances join forces in an effort to cheat the banks or card issuers. A cardholder gives his credit card to an accomplice who makes expensive purchases. Subsequently, the legitimate cardholder reports his card as stolen and shares the loot with his partner.

Some criminals counterfeit credit cards by obtaining genuine account numbers and imprinting them on blank cards—known in the industry as "white plastic." The crooks then either form phony companies or team-up with dishonest merchants. In any case, the fake cards are used to make legitimate-looking charge slips which are later taken to banks and exchanged for hard currency.

In 1980, a package containing 250 bogus credit card slips was found in the possession of two men at Chicago's O'Hare Airport. The phony slips were part of a "white plastic" scheme that reportedly cost Chicago-area banks $200,000. Security Pacific Bank lost the same amount in a similar scheme uncovered by Los Angeles police in 1981. And in New York, one criminal deposited 950 fake charge slips into an account at Chase Manhattan Bank before he was arrested; his scam, which involved two phony corporations, cost the bank $300,000.

Law enforcement officials are particularly concerned about these "white plastic" schemes as they seem to indicate the existence of large fraud networks and possibly the involvement of organized crime.

All in all, credit card fraud adds up to big money. Investigators believe that banks in New York, Chicago, and Florida lost $15 million last year due to "white plastic" schemes alone. And experts estimate that U.S. banks lost as much as $400 million from VISA and MasterCard fraud in 1980. Losses to the entire credit card industry, including retail, oil, and travel and entertainment card issuers, totaled approximately $1 billion last year—a 300-percent increase over the 1979 figure.

However, credit card issuers are hardly the only ones who suffer as a result of credit card fraud. In many instances, the issuers try to shift the losses to the merchants who were victimized by these schemes by "charging back" the fraudulent transactions. Loopholes in the merchant/bank agreement permit such chargebacks in a number of situations. For example, merchants are particularly vulnerable in cases when purchases have been made over the telephone; they can also be held liable in some circumstances even if prior authorization for the transactions had been obtained from the credit card issuer.

Although Federal law limits to $50 the liability to an individual cardholder who falls prey to one of these schemes, consumers as a whole are footing a large part of the credit card fraud bill since the issuers keep raising card fees and charging higher annual percentage rates. Until the credit card industry recognizes the terrible inadequacy of the current antifraud devices and develops new security measures, credit card fraud will remain a big business, and consumers will continue to suffer the consequences. Experts suggest that cardholders protect themselves by following these tips:

Do not sign slips without checking the amount.

To check for billing errors, save receipts and compare them to monthly bills.

If you find an error on your bill, immediately write a letter to the bank or company that issued the card.

Destroy old bills, receipts, carbons, and expired cards.

Never give your account number over the telephone unless you are making a purchase and want to have your account charged.

Ask store clerks or merchants to prepare all charge slips in your presence.●

LEGISLATION TO ALLOW ALL-SAVERS CERTIFICATES TO BE ROLLED OVER INTO IRA'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

● Mr. FRANK. Mr. Speaker, today I am introducing legislation which I believe to be of critical importance to financial institutions of this country. Last year the Congress authorized the creation of a new savings certificate, the all-savers certificate, which allowed financial institutions to issue 1-year tax-exempt certificates beginning in October 1981. In several days, these certificates will begin to mature and depositors will be free to take the proceeds and invest them wherever they choose.

Certainly no one would argue with the proposition that investors should be able to reinvest these proceeds in whatever manner they deem best. However, there is currently approximately $52 billion in all-savers deposits in financial institutions with over one half that amount in our thrift institutions. If that $52 billion, or even a substantial portion of those funds, were to be withdrawn and reinvested outside of those financial institutions, the outflow of funds could create a shortage of funds needed for housing. I believe it is incumbent on the Congress, which created the all-savers certificate, to find a solution which might avoid this problem.

This legislation would authorize a taxpayer holding an all-savers certificate to rollover the principal and interest from the certificate within 60 days of maturity into an individual retirement account. The present deduction limits for IRA's—$2,000, or $2,250 for a spousal IRA—would not be increased but the entire contributed amount would be part of the IRA and the interest earned while in the IRA would continue to be tax deferred until distribution at age 59½ or thereafter, as under present law. In other words, this legislation would authorize an individual to contribute more than the regular $2,000—or $2,250 for spousal IRA's—to an IRA provided that the funds were taken from the proceeds of a matured all-savers certificate, although the deduction limits would not be affected.

One other provision of the bill requires explanation. A taxpayer who has purchased an all-savers has bought it with after-tax dollars, meaning that he or she has already paid taxes on the principal amount of the all-saver. The interest earned on the principal is, of course, tax exempt. If that principal and interest were rolled over into an IRA, it would be taxable under normal circumstances when it was distributed at retirement. Therefore, the principal would be subject to what would amount to a double taxation and the interest of the all-saver would lose its tax-exempt status when removed from the IRA. In order to prevent this unfair result, the amount contributed from the all-saver would, at the election of the taxpayer, be treated as tax-exempt when distributed.

Mr. Speaker, the idea of rolling over proceeds from an all-savers into an IRA is strongly supported by the National Association of Mutual Savings Banks. I hope that the Congress will act expeditiously on this legislation before the session concludes.●

A BILL MAKING THE AUTOMATIC PENALTY FOR UNDERESTIMATING TAXES DISCRETIONARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, in filing my modest amendment to the tax code today I do not seek to change the whole course of tax policy in this country, but rather to make our system of taxation more equitable and fair to a number of taxpayers at a time when they are at their most vulnerable. The last thing law-abiding citizens need to encounter at a critical juncture in their lives is an administration of justice that is prevented by law from showing any understanding, let alone mercy.

I refer to the many taxpayers each year who, after years of hard work, retire and for the first time in their lives no longer have their taxes withheld, but must suddenly start estimating. As matters now stand, there is little publicity available about the responsibilities of estimating. Too many times in the course of making what is already a painful adjustment to a new way of life, our retirees find out too late they have, through no fault of their own, failed to comply with the estimating requirements. Under current law, the Internal Revenue Service has no alternative but to slap them with an automatic penalty for failure to estimate. The exceptions currently enumerated are so tightly drawn they just do not permit the service to take their predicament into consideration, whether they would like to or not.

Similarly, in the case of those who are confronted with a sudden death in the family and either miss a filing deadline or are unaware of their new responsibilities under the tax law. For that matter, the service has been unable to show sympathetic treatment to those suddenly incapacitated by one disability or another and are prevented from meeting a deadline. The last thing individuals in such an unfortunate situation need is to be slapped with any automatic tax penalties.

Obviously, none of these examples lend themselves to neat universal rules, but vary from situation to situation. Rather than try to attempt the impossible and end up accommodating wrong-doers as well as the innocent, again and again Congress has empowered the service to use its judgment on a case-by-case basis.

That is all I seek now in filing this bill permitting the IRS to waive the penalty imposed on underpayments of estimated tax where there was reasonable cause for underpayment. Experience in dealing with the service in connection with several hardship cases from my own district indicates to me that the service itself would not mind having this discretion. After all, they have no more desire than anyone else in our Government to end up on the 6 o'clock news looking foolish because of the strict letter of the law, rather than the spirit.●

INSTITUTE FOR INTERGOVERNMENTAL RESEARCH REPORTS ON REGIONAL MULTISTATE INTELLIGENCE PROJECTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. ENGLISH) is recognized for 5 minutes.

● Mr. ENGLISH. Mr. Speaker, as this Congress approaches the end of its second session, two things are plainly on the minds of the American people: making the most efficient use of tax dollars, and reducing crime, particularly violent crime. Happily, there ap-

pears to be a way to do both at once. I am speaking of the seven regional multistate criminal intelligence-sharing projects which were created under the auspices of the LEAA, and which proved so successful that they survived the demise of that program.

As chairman of the Government Operations Subcommittee on Government Information and Individual Rights, I convened 2 days of hearings on these projects in 1981. On October 20 of last year the Committee on Government Operations issued a report of our findings (H. Rept. No. 97-280). We found that the multistate projects were serving their law enforcement members and the public well, and that they were returning to the Federal Treasury in recoveries far more than they were costing. They were scrupulously observing privacy and security guidelines.

For those members unfamiliar with the projects, they operate on a regional basis to provide a mechanism through which member local law enforcement agencies can coordinate significant criminal investigations, share intelligence, pool resources, and communicate with each other. They operate under strict guidelines promulgated by the Department of Justice and receive funding through grants channeled through a duly constituted governmental entity, such as a State attorney general's office or other units of State or local government.

The concept for the projects was formally advanced in the 1976 National Advisory Committee on Criminal Justice Standards and Goals "Report on Organized Crime," which noted that some prototype networks were even then showing degrees of success.

In March 1980, my predecessor as chairman of the Government Information and Individual Rights Subcommittee, Richardson Preyer, requested GAO to review the projects. Their report, "The Multistate Regional Intelligence Projects—Who Will Oversee These Federally Funded Networks: GGD-81-36", spoke of the problems and potential of the projects to enhance the effectiveness of our State and local law enforcement agencies in their battle against mobile, sophisticated criminals.

At the hearings in May 1981, witnesses from the Department of Justice, while admitting that the projects were effective in providing coordinating services to member agencies, nevertheless called for a cessation of Federal funding for them. According to the witnesses, the Department of Justice could no longer afford the $5 to $7 million annual price tag for the projects. They told us that, since the inception of the projects, the Department of Justice had spent a total of just over $16 million, and received in return from one project alone over $50 million in referrals to the IRS on tax fraud cases. I am pleased to note that this figure today exceeds $100 million. The other six projects report over $750 million in recovered narcotics, stolen property and currency.

The Department's position was simply that it was a matter of priority for funding; they wished to have put those funds in other programs. I, for one, am glad they did not. I am joined in this feeling by a least 54 Members of this House, who cosponsored House Resolution 166 expressing our support and encouraging the Department of Justice to continue funding the projects.

In the Senate, 27 Members, including the entire Republican leadership, recently signed a letter to the Attorney General to urge his support for the projects. The response of the Department to that letter painted a rather gray picture of the projects, suggesting that they were not as valuable as we were being led to believe.

I am pleased, therefore, to be able today to share with my colleagues the findings of the Institute for Intergovernmental Research (IIR), a private research firm of impeccable reputation, with whom the Department of Justice's Office of Justice Assistance, Research, and Statistics (OJARS) had contracted for an independent evaluation of the effectiveness of the multistate projects. Their final report, issued earlier this summer, is a ringing endorsement of the performance of these innovative projects. IIR found that the most troublesome problem of the project managers has been to deal with the Department of Justice, not with the criminals whom they were organized to fight. It finds that the projects, in their individual operations, reflect the priorities of their respective regions, ranging from narcotics to organized crime to coal industry fraud. IIR agreed with the findings of our committee that the projects are cognizant of the DOJ/LEAA criminal intelligence systems operating policies, and that each had implemented formal policies restricting criminal information dissemination only to member agencies.

Importantly, IIR states:

> While all the projects exchange information with one another on an as-needed basis, there is no evidence or indication that the projects are developing or intend to develop a coordinated nationwide intelligence system.

In commenting on the continuing disagreement between the Congress and the Department of Justice over the value of the projects, IRR found:

> The Regional Information Sharing Systems (RISS) projects as a group and the Department of Justice have divergent views concerning the merits of Congressional appropriations to the Department of Justice to financially support the RISS projects. These divergent views have resulted in numerous difficulties in the routine administration of project funds and have served to detract from the effectiveness of OJARS' management of the program. However, the intent of the Congress that the Department provide funding in support of the multistate projects has in fact been fulfilled.

The first of many recommendations made by IIR is one which I endorse, and commend to the attention of Members of this House. It is that Federal funding be continued because of the importance of the contributions of the projects to State and local law enforcement.

The seven multistate regional intelligence projects, with member States and host agencies, are:

MULTISTATE REGIONAL INTELLIGENCE PROJECTS

Regional Organized Crime Information Center (ROCIC)—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia. Host Agency: Metropolitan Government of Nashville/Davidson County, Tennessee.

Rocky Mountain Information Network (RMIN)—Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming. Host Agency: Arizona Criminal Intelligence System Agency.

Western States Information Network (WSIN)—Alaska, California, Hawaii, Oregon, Washington. Host Agency: California Department of Justice.

New England State Police Administrators Conference (NESPAC)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont. Host Agency: Massachusetts State Police.

Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCLEN)—Delaware, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania. Host Agency: Pennsylvania Crime Commission.

Mid-States Organized Crime Information Center (MOCIC)—Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin. Host Agency: Missouri Attorney General's Office.

Leviticus—Alabama, Georgia, Indiana, Kentucky, New York, Pennsylvania, Virginia. Host Agencies: New York County District Attorney, and the Virginia Division of Justice and Crime Prevention.●

BANKRUPTCY COURT ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of California. Mr. Speaker, we face a crisis in the judicial system on October 4, 1982, unless the Congress enacts corrective legislation before that date to solve the constitutional problem in the Federal bankruptcy court system.

H.R. 6978, the Bankruptcy Court Act of 1982, which Mr. RODINO introduced on August 12, 1982, and which I have cosponsored along with Mr. MCCLORY and Mr. BUTLER, would remove all constitutional uncertainty surrounding the bankruptcy courts by providing for the appointment of U.S.

bankruptcy judges under article III of the Constitution. The bill was favorably passed by the Judiciary Committee on August 19.

The U.S. Supreme Court held on June 28, 1982, in the case of *Northern Pipeline Construction Company* v. *Marathon Pipe Line Co.*, ——— U.S. ———, 50 U.S.L.W. 4872, that the jurisdiction conferred on the bankruptcy courts by section 241(a) of Public Law 95-598 cannot be constitutionally exercised by those courts, because bankruptcy judges are not afforded the protections set forth in article III of the Constitution to insure judicial independence—tenure during good behavior and guarantee against salary diminution while in office. The Court invalidated section 241(a), but expressly stayed the entry of its order in the case until October 4, 1982, in order to give Congress time to correct the constitutional problem. Absent congressional action by October 4, the bankruptcy courts will lack authority to hear and decide any bankruptcy matter.

Failure to remedy the constitutional problem by October 4 threatens chaos in the judicial system and credit community and could jeopardize jobs. There are in excess of 500,000 cases presently pending in the bankruptcy courts involving billions of dollars in creditors' claims. Many major corporations, employing tens of thousands of employees and having billions of dollars of assets and liabilities, and many farmers are now operating under chapter 11 of the Bankruptcy Code. In just two chapter 11 cases alone—Wickes Corp. and Sambo's—50,000 jobs are involved.

Echoing the views of the Judicial Conference which has long opposed an article III bankruptcy court on the ground that it would somehow diminish the prestige of the Federal district court judges, my colleague, Mr. KASTENMEIER, stated in the September 16, 1982, CONGRESSIONAL RECORD that H.R. 6978 would create new courts of general jurisdiction, establish additional judgeships, and create more courthouses and supporting personnel. This is completely inaccurate.

H.R. 6978 does not create a new court, does not authorize additional judges or personnel, and does not alter the jurisdiction of the bankruptcy courts. The bill simply grants article III status to an existing court by providing that U.S. bankruptcy judges be appointed by the President for life rather than for 14-year terms as is the case under present law. The number of bankruptcy judges under the bill (227 judges) is essentially the same as the current number of bankruptcy judges (241 judges), and the present jurisdiction of the bankruptcy courts which extends to all bankruptcy and bankruptcy related cases remains completely unchanged.

In a report filed on September 10, 1982, the Judicial Conference appears to read the dissenting opinion of Chief Justice Burger in the Northern Pipeline case as if it were the ruling of the Court. As one constitutional scholar testified at the subcommittee hearings:

> I think the Chief Justice had his say 5 years ago. I think it would be fundamentally unwise to recommit this question to him again.
>
> * * * * *
>
> The Chief Justice's dissent is exactly that. It is a dissent. That is, it is a statement of position by a gentleman who refuses to agree with the people who disagree with him. And I think he is not even purporting to read Justice Brennan's opinion, I guess—so I can't say his misreads Justice Brennan's opinion.
>
> I think he reads Justice Rehnquist's opinion in a way that is simply unsupportable.

The Chief Justice's dissenting opinion forms the basis of the Judicial Conference's legislative proposal and the proposal which Mr. KASTENMEIER has introduced as H.R. 7132. Far from creating jurisdictional unity and clarity and providing constitutional certainty for the bankruptcy court system, the proposal would create ambiguity, confusion, and endless jurisdictional disputes. This proposal is, if anything, even more inefficient than the pre-1978 bifurcated summary plenary jurisdictional system. The Judicial Conference's proposed "remedy" is in effect a trifurcated system that would produce endless litigation over which forum should hear an issue, diluting the assets of the estate and reducing the present value of creditors' claims.

Bankruptcy experts Lawrence P. King of New York University School of Law, Vern Countryman of Harvard Law School, and Frank R. Kennedy of the University of Michigan Law School have commented:

> The Report is replete with phrases and labels having no content other than that poured into them by the authors of the Report: "ancillary issues" and "ancillary cases"; "substantive bankruptcy law questions"; "bankruptcy law cases"; and "subsidiary proceedings." The authors seem to have no appreciation of the vagueness and potential disagreements as to the meanings of such language. Yet the Report purports to make a statistical calculation as to the proportion of the bankruptcy-connected litigation that is or would be embraced by the term "ancillary cases." * * *
>
> It thus appears that a substantial part of the jurisdiction that shall be exercised by the bankruptcy court under [the Judicial Conference's] proposed § 1471(c) may be challenged as beyond the power that may be exercised by that court. On the other hand no disposition is made at all respecting a large part of the regular business of the bankruptcy court. Jurisdictional challenges and problems of interpretation would be rife for at least a generation under such a cryptic statute.
>
> The Report speaks of the need to clarify the jurisdictional grant made by the Bankruptcy Reform Act and to deal with the ambiguities in that grant. There is neither ambiguity nor a need for clarification of the grant of jurisdiction in [present] § 1471. The amendment proposed by the Judicial Conference would create ambiguity, confusion, and litigation-producing doubts about every exercise of jurisdiction by the bankruptcy court. The Report glosses over the many problems the flood of litigation it would loosen, and the delays and expense that would be entailed by superimposing on bankruptcy administration the obscure provisions of the proposed 28 U.S.C. § 1471.
>
> The legislation proffered by the Judicial Conference is totally unresponsive to current needs. It not only reintroduces a bifurcated Jurisdictional system; one might say it would establish a trifurcated system. Instead of permitting all disputes to be resolved in one forum it would give the bankruptcy courts jurisdiction over title 11 cases and subsidiary proceedings, which may, however, be recalled by the district judge and then referred to a magistrate. Related proceedings, another legislative term, would remain with the district court but supposedly could be referred to a bankruptcy judge as special master under proposed § 1471(f).
>
> Thus, we would have cases under title 11, subsidiary proceedings, and related proceedings. We would also have the district judge, the bankruptcy judge, and the magistrate. Perhaps the view of the Judicial Conference is to place the magistrate above the bankruptcy judge since the district judge could recall a case or related proceeding from the bankruptcy judge and refer it to a magistrate. In any event this trifurcated system, although it includes Article III district judges, apparently could not handle claims based on state law, which would have to go to the state court in the absence of diversity of citizenship.

The Judicial Conference's proposal is unsound and inefficient. It would dilute the resources of an overburdened district court. It would involve massive duplication of effort by bankruptcy and district judges and magistrates. It would generate excessive, costly, and wasteful litigation over jurisdiction, productive only of expense and delay. This proposed "remedy" would completely undermine the goals of successful rehabilitation of debtors in reorganization cases and prompt liquidation and distribution to creditors in asset liquidation cases.

The hearing records in both the House and Senate demonstrate that an article III bankruptcy court is the only clearly constitutional and efficient bankruptcy court system. The Congress has now examined this issue three times—in the 94th, 95th, and the 97th Congresses. In both the 94th and 95th Congresses, the House reviewed the constitutional issues surrounding the bankruptcy courts and concluded that an article III bankruptcy court was constitutionally required. The House passed an article III bankruptcy court bill in the 95th Congress. In a compromise with the Senate, a non-article III court was created however.

I think the testimony of one witness who testified before the subcommittee is apt:

The Congress must realize that if it wishes to resolve this matter fully and responsibly, it must stop concentrating its attention on interim, stop-gap measures and turn its energies to the long-run question. This means principally that Congress must stop losing sleep over the economic and social status of 220 bankruptcy judges and start to worry about the constitutional rights of 220 million American citizens. That . . . is the less of Marathon Pipe Line.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, this morning I had another joyous meeting with my dentist. To my despair, physically and politically, it went longer than expected, and I thus missed three votes on final passage under suspension of the rules. Had I been present, I would have cast affirmative votes for H.R. 3581, H.R. 5573, and H.R. 6867.●

UPDATE ON AIR TRAFFIC CONTROLLER SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 5 minutes.

● Mr. FORD of Michigan. Mr. Speaker, today I was advised by the chairman of the National Transportation Safety Board that the Board will initiate a followup special investigation of the air traffic control system. Members may recall that the initial NTSB investigation last year supported the staff findings of the Committee on Post Office and Civil Service that the Federal Aviation Administration's projections for restaffing the system were unrealistic, and that full recovery of the system would take longer than the administration claimed.

This is a propitious time for the Board to reexamine the state of the system. The full burden of the influx of hundreds of trainees is now falling on the small number of qualified controllers who are still employed. The arduous task of providing on-the-job training for these raw recruits, coupled with continued long hours and little time off, is without question straining the work force. Reports reaching the committee indicate that personnel management, which was found seriously lacking by a special task force appointed by the Secretary of Transportation, is getting worse, not better. The problems within control centers and towers which led to the unfortunate strike are reappearing. Morale is suffering. I have included at the end of my statement a thoughtful letter from a controller to the FAA Administrator which describes some of the problems "on the inside."

I am pleased the NTSB will focus specifically on the problems at the FAA training academy, including the "publicly debated issues about 'cheating' and grade fixing." Last December, a committee staff investigation found substantial evidence of grades being fixed to increase the number of students graduating. Although the FAA Administrator, in testimony before the committee, advised us that his investigation of the grade fixing allegations "positively concludes that there was no manipulation of scores and no intent to mainipulate those scores," the results of an inspector general investigation, requested by the committee, have been referred to the Department of Justice for a determination as to possible criminal activity.

Meanwhile, the academy continues to have trouble graduating students. After a brief improvement in the pass rate this summer, the rate has plummeted to earlier dismal levels. Only 52.4 percent of the August 24 class graduated. In an attempt to offset academy losses, the FAA has employed over 1,000 former military "direct hires" and sent them directly to facilities, skipping academy training altogether. This was never done before the strike. Only time will tell whether these individuals can develop the skills necessary to safely handle air traffic without the benefit of attending the FAA training academy.

A final problem at the academy, which I am sure the NTSB will examine, is the quality of instructors now being used. In the past, highly qualified active controllers, in essence the cream of the crop, were assigned to 2-year tours as instructors. Now, because of the shortage of qualified controllers in centers and towers, these active controllers are being phased out as instructors, and retired controllers are being hired under contract as instructors. Concern has been expressed that these retirees, however dedicated, may not be familiar with current procedures and equipment, and the quality of instruction may suffer. Again, only time will tell if future academy graduates will have the skills necessary to safely handle air traffic.

These are some of the problems NTSB will be examining. The Members know my position on how to rebuild the system. I am convinced that the only way to return the system to normal in an expeditious manner is to bring back some of the fired controllers. The committee has reported a bill which would permit, but not require, the rehiring of enough controllers to accomplish a speedy return to normal. The committee bill also addresses FAA management problems and contains provisions designed to improve morale.

The administration is currently opposed to the committee bill. I have, however, attempted to work out our differences with the Secretary of Transportation. On August 3, 1982, on the MacNeil/Lehrer Report, the Secretary stated:

And we'd much prefer, if we could have selectively, to bring some of these people (the fired controllers) back.

The committee bill would permit this. The Secretary has indicated to me that his staff believes some additional legal issues need to be addressed, and I hope we can resolve this matter before adjournment.

I want to caution Members, however, that there is always the possibility that the administration, as it did last year, will attempt to sneak its FAA pay raise bill through as a nongermane Senate amendment to the continuing resolution. This would be unfortunate. The administration's bill does not address any of the serious problems which have been identified. Instead, it simply throws money at the problems. A pay raise for those who have been working long and hard may improve morale in the short term, but it will do nothing to solve the long-term problems and prevent a recurrence of the employee-mangement problems which resulted in the current unfortunate situation. At this point in the RECORD I include the following letter:

SEPTEMBER 7, 1982.

J. LYNN HELMS,
FAA Administrator.

SIR: Unfortunately, this letter is long overdue in regard to being timely. I feel quite certain it will not break any virgin ground; but it is necessary, if not in order to initiate change, then only to re-enforce my own perseverance and retain some peace of mind. Hopefully, you will accept this in the spirit in which it is intended; not as the ravings of a malcontent, but as a totally subjective view by an employee. All opinion expressed is presented strictly as personal. Please keep in mind, however, that this same opinion has been formulated over a fourteen year career through action, and reaction, on a continuous daily basis with other controllers and with FAA management personnel.

At the time of the strike last August 3rd, I was a dues payer in PATCO working at Hartsfield Airport in Atlanta, Georgia. I had joined the union almost ten years prior and during that time had attended about three union meetings. For a number of reasons, the thought of going on strike never entered my mind. It appears that our decision to remain at work has been construed as a condonation of previous management practices. Let me assure you that is not the case. As you and Secretary Lewis stated, and the Jones Committee, as well as other studies verify, the union had some legitimate issues which need to be addressed. Thirteen months have passed and it is time to begin.

I am not speaking of cosmetic changes (assistant chief is now area manager, etc.). Nor am I speaking of committees (FATTAC is now FAB, and we're forming an HRC.). My concern, and I feel safe to say this view is held by the majority of those of us who are still working, is for visible, substantive change. So here in no particular order of importance are the things that in my opinion are waiting to be corrected. In some in-

stances, for obvious reasons, it becomes necessary to deal in generalities. I hope this will not dissuade you from the importance of the issue. Do with them what you will:

Needless to say the action taken to end the strike took most of us by surprise. Those of us who remained had envisioned a 48 to 72 hour walkout followed by some concession on both sides, the boys coming back, and a tedious return to status quo. All of a sudden that was not the case. The strikers had been fired and we became the saviors of the FAA, the darlings of the media, and the nucleus for the rebuilding program. The adulation and recognition was a cheap high and I dare say nurtured an attitude of invincibility. "We can make the system work and we don't need any of 'em back" was the order of the day. In conjunction with this, management became very attentive to our desires and, for a time, nothing was too good for us. We were supplemented by some very capable (and some not so capable) military personnel. Even we were amazed at the amount of traffic we could keep in the air. This went on for a few months; but ever so slowly the honeymoon has faded to an almost forgotten memory. The attitude of management has evolved to, and is occasionally verbalized, "if you don't like what's going on, you can hit the street with the rest of them." Quite a turn around for thirteen months.

In Atlanta we were left with approximately thirty percent of our workforce (about 30 controllers). As I stated before, we added fifteen military controllers and several administrative personnel became operational. For awhile conditions were satisfactory and we made it through the holidays with few problems. Now, however, more than half of the military are gone back to their bases. Six remain. The administrative persons have returned to their paperwork. And through retirement and various other reasons we have lost at least four (depending on who is counting—it can be more) fully qualified controllers. More losses in the form of losing our military help (January 1), retirements (some eligible now, others next year), and possible medical disqualifications loom on the near horizon. This gives us a net loss of fifteen or so from immediate post-strike levels and no end to the trend is imminent. Yet more aircraft enter the system daily. Logic dictates that this cannot continue unchecked.

During this same time frame, a number of selections for controller personnel have been made. To date only one (1) has been fully certified. Through no fault of their own the problem appears to be a definite lack of background on the part of those being selected. We are told that they are the best available people for the job, but they just do not have the experience necessary to handle the volume of traffic demanded in our situation. This in no way is intended to be an indictment of the safety of the system. I feel that under the circumstances, the system is as safe as pre-strike and the integrity has been maintained admirably. Let me hasten to add that to my knowledge, and to our local management's credit, at no time has any undue pressure been placed on anyone to certify someone that an instructor did not think was qualified for the job. This has not always been the case under conditions much less demanding than this, and I feel they are to be commended for this. The fact remains that, contrary, to what you may be told, rebuilding is not on schedule, and there is no relief in sight in the near (1 to 2 yrs is a conservative estimate) future. Please, sir, keep in mind that I am dealing with real time events and not philosophies or numbers on a sheet of paper. It is difficult to imagine merely surviving long enough to rebuild, much less trying to provide the service we are obligated to provide the flying public.

During a safety seminar held in Phoenix, Mr. Fenello said that as much as fifty percent of the present management unit might not be able to survive the "transition" to the new "people policies" in the FAA. Either Mr. Fenello under-estimated his people or the transition has not taken place. Undoubtedly, the latter is the case. To his defense I must admit he said he did not know how these problems would be dealt with. For thirteen months the theory appears to be "if we ignore them, maybe they will go away." Let me confirm what you may already suspect. The problems are not going away. We have been overwhelmed with this rhetoric for years and years. If you, sir, and Mr. Fenello, and Secretary Lewis, and countless other spokesmen are true to your word, then it is time to overhaul an inefficient agency. I am aware that it cannot be the case, but we in the field have seen no apparent change in practice or policy in the period since the strike. While I am aware that the bureaucratic process works at a restricted pace, it only took three days to fire over 11,000 people. It seems that there would be a certain immediacy to correct the motivation for such a drastic action taken by a debilitating majority of a workforce. No one is naive enough to believe the sole issue was financial. With each day that passes the credibility of the people with the ability to invoke change becomes more and more suspect.

It appears to me that one of the major obstacles in FAA procedure is one of lack of communication. This is not a reference solely to a lack of availability to express an upward flow of information. But also to the failure in most cases to provide any insight or background on why certain things are altered or initiated. This is not an attempt to establish a forum to include the bulk of the workers in all decision-making process. We all recognize and welcome the fact that someone else is hired to do that. It would be nice, however, to be afforded at least some rationale behind any new programs which, at face value, look like change for the sake of change. In addition, there is a need for a line of access from the field to the national administrative level. There is too just an adversary relationship between the average controller and his regional office for that unit to be an effective conduit for suggestions. Many times ideas, good ideas, are never even put to paper because of the prevailing "what's the use" attitude that is inherent in today's system.

Equipment is, and forever will be, a source of frustration for any controller. Nothing ever works efficiently enough, or quickly enough, or often enough for us. It seems that there is always an essential item going out exactly when it can do the most good. Realizing this is not true, here are a few things that can be verified. We have a radar beacon system in Atlanta that has never since its installation been adequate. Numerous complaints bring only the appeasement of a channel change, which constitutes going from one bad interrogator to the other bad interrogator. This has been documented countless times and no fix is in sight. Ever since the wattage on our radios was reduced, we have had intermittent radio problems. Our ASDE (airport surface detection equipment) works best when the weather is beautiful. And last, but by no means least, is the FDEP program and network. The equipment used for this system is close to twelve years old. It is extremely slow and plagued by constant breakdowns. And now we are handicapped by not being able to even submit, much less implement, any modifications over a prescribed number to the program, either nationally or locally. We are subject to the capabilities of a computer system that was, for practical purposes, obsolete years ago. This does not coincide with the FAA's responsibility and mission to provide the best possible service to the aviation industry and its users.

Finally, there is a feeling that the financial benefits which were part of a pre-strike bargaining agreement have been relegated to a low (or no) priority by both the FAA and Congress. Understandably the legislative process is slow; but we are talking about one bill which was, in essence, written before the strike, and another which is several months old. Charges and countercharges fly as to who is responsible for the delay. The FAA says Congressman Ford's bill would force the rehiring of all fired controllers, and that the people still on the job don't want that. Well let me tell you for a fact, that at no time in thirteen months has anyone connected with the FAA asked me if I do or do not want the fired controllers back. If this is going to be the FAA position, they should substantiate it with a legitimate survey of everyone still on the job. On the other hand, Congressman Ford has not rushed his bill to the floor, probably trying to gain support for it. It would be to the advantage of all concerned to provide some action, either positive or negative, on this matter and proceed from there with the business at hand. Too often as papers are being shuffled about, it is easy to lose the human aspect of the question.

These are the major problem areas that I see in the FAA right now. If every controller, past or present, read this I feel most would concur with this summary. There are many more personal gripes which could be added, but they pale compared to these. However, when you stop and think about it, if the issues stated here were addressed, there would not be as many individual complaints. This is the challenge you have undertaken, Mr. Helms. If there is a doubt in your mind whether this is a representative letter or not, find out. Not by asking Mr. Van Vuren, or a regional director, or a facility chief. Go to the source and ask a cross-section of the people that are on the job. That is the only way to determine how people perceive policy. I am positive that, in general, the management in the FAA is as dedicated to accomplishing the purpose assigned to this department of government as any other federal employee. But with each ascending step in management, there is a degree of removal from the everyday essentials required for providing the service the people have a right to expect. This includes the intangible necessities as well as the material. It is useless to remind you that there is no better time to establish principals which will be the basis for the FAA for the future. Now is the time to implement the course of action which must have been chosen by now. Speaking for myself and hopefully all air traffic controllers let me appeal for the tools we need. At the risk of echoing the remonstrations of PATCO, give us what we are lacking: adequate staffing, working conditions which will promote ours to become a survivable occupation, and state

of the art equipment enabling us to perform our trust safely, accurately, and efficiently.

Sincerely,

MICHAEL HAKLITCH.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARTIN of New York) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 60 minutes, today.

Mr. GILMAN, for 5 minutes, today.

(The following Members (at the request of Mr. WAXMAN) to revise and extend their remarks and include extraneous material:)

Mr. SCHUMER, for 30 minutes, today.

Mr. DYSON, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FRANK, for 5 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. EDWARDS of California, for 5 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HANSEN of Idaho, following the vote on Senate Joint Resolution 250, today.

(The following Members (at the request of Mr. MARTIN of New York) and to include extraneous matter:)

Mr. BADHAM.

Mr. COATS.

Mr. LEBOUTILLIER in two instances.

Mr. GRADISON.

Mr. NELLIGAN.

Mr. MCKINNEY.

Mr. CHAPPIE.

Mr. GOODLING.

Mr. ROUSSELOT in two instances.

Mr. RITTER.

Mr. WOLF.

Mr. WINN.

Mr. ERDAHL in two instances.

Mr. GILMAN.

Mr. MOLINARI.

Mr. LEE.

Mr. DREIER.

Mr. BROYHILL.

Mr. MCCLORY.

Mr. HOLLENBECK.

Mr. EVANS of Delaware.

Mr. CRAIG.

(The following Members (at the request of Mr. WAXMAN) and to include extraneous matter:)

Mr. MAZZOLI.

Mr. HALL of Ohio.

Mr. STOKES in two instances.

Mr. FORD of Michigan.

Mr. MONTGOMERY.

Mr. MINISH.

Mr. ADDABBO in two instances.

Mr. GORE.

Mr. AUCOIN in two instances.

Mr. SKELTON.

Mr. DOWNEY in two instances.

Mr. DE LUGO in two instances.

Mr. BOLAND in two instances.

Mr. JACOBS in two instances.

Mr. ZEFERETTI.

Mr. SHELBY.

Mr. MOFFETT.

Mr. MURTHA.

Mr. SIMON in two instances.

Mr. FITHIAN.

Mr. HAMILTON.

Mrs. SCHROEDER.

Mr. WILSON.

Mr. CONYERS.

Mr. MOTTL.

Mr. WON PAT.

Mr. DYSON.

Mr. PEYSER.

Mr. LEHMAN.

Mr. MCDONALD.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following title:

S. 215. An act for the relief of Lourie Ann Eder;

S.J. Res. 186. Joint resolution to authorize and request the President to designate the week of September 19 through 25, 1982, as "National Cystic Fibrosis Week";

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; and

S.J. Res. 250. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on September 21, 1982, present to the President, for his approval, a bill of the House of the following title:

H.R. 3517. An act to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Thursday, September 23, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4815. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting the Commission's fiscal year 1984 budget request, pursuant to section 27(k) of the Consumer Product Safety Act; jointly, to the Committees on Appropriations and Energy and Commerce.

4816. A communication from the President of the United States, transmitting a request for appropriation amendments and amended appropriation language for fiscal year 1983 (H. Doc. No. 97-239); to the Committee on Appropriations and ordered to be printed.

4817. A letter from the Deputy Assistant Secretary of Defense (Reserve Affairs), transmitting a report as of June 30, 1982, on selected Reserve recruiting and retention incentives, pursuant to 10 U.S.C. 2134, and 37 U.S.C. 308b and 308c; to the Committee on Armed Services.

4818. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of political contributions of Ambassador-designate David J. Fischer, and members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4819. A letter from the Comptroller General of the United States, transmitting a report on the progress of improving program and budget information for congressional use (GAO/PAD-82-47, September 1, 1982); to the Committee on Government Operations.

4820. A letter from the U.S. Trade Representative, transmitting notice that on September 21, 1982, the President suspended the moratorium for Canada which prohibits issuance of certificates or permits to motor carriers domiciled in, or owned or controlled by persons of, a contiguous foreign country, pursuant to section 6 of the Bus Regulatory Reform Act of 1982, Public Law 97-261; to the Committee on Public Works and Transportation.

4821. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report regarding studies for flood control in Brevard County, Fla., in response to a resolution by the Committee on Public Works and Transportation adopted December 9, 1975; to the Committee on Public Works and Transportation.

4822. A letter from the Comptroller General of the United States, transmitting a report on accurate air quality data for the Environmental Protection Agency in formulating a reliable monitoring system (GAO/CED-82-101, September 22, 1982); jointly to the Committees on Government Operations and Energy and Commerce.

4823. A communication from the President of the United States, transmitting a draft of proposed legislation to amend section 204 of the Federal Property and Administrative Services Act of 1949, as amended, to authorize the deposits of cash proceeds from the disposal of surplus real property into the general fund of the Treasury to be used to retire the national debt of the United States (H. Doc. No. 97-240); jointly, to the Committees on Government Operations and Interior and Insular Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-851). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANNUNZIO: Committee on House Administration. House Resolution 568. A resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 97th Congress (Rept. No. 97-852). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. House Joint Resolution 600. Joint resolution to provide for resolution of the single outstanding issue in the current railway labor-management dispute, and for other purposes (Rept. No. 97-853). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROYBAL: Committee on Appropriations. H.R. 7158. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-854). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of conference. Conference report on S. 1409 (Rept. No. 97-855). Ordered to be printed.

SUBSEQUENT ACTION ON REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following actions were taken by the Speaker:

The Committees on Banking, Finance and Urban Affairs and Public Works and Transportation discharged from the further consideration of H.R. 3252; H.R. 3252 referred to the Union Calendar.

The Committee on Armed Services discharged from the further consideration of H.R. 4281; H.R. 4281 referred to the Union Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of September 21, 1982]

By Mr. EDWARDS of California (for himself and Mr. MCCLORY):

H.R. 7154. A bill to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes; to the Committee on the Judiciary.

By Mr. FASCELL:

H.R. 7155. A bill to settle certain Indian land claims within the State of Florida, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SPENCE:

H.R. 7156. A bill to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 7157. A bill to provide a 2-year extension of the income tax deduction for expenditures to remove certain architectural and transportation barriers; to the Committee on Ways and Means.

By Mr. PEYSER:

H. Con. Res. 410. Concurrent resolution expressing the sense of the Congress with respect to a means test for the medicare program; jointly to the Committees on Ways and Means and Energy and Commerce.

[Introduced September 22, 1982]

By Mr. ROYBAL:

H.R. 7158. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. CLAUSEN (for himself, Mr. HOWARD, Mr. ROE, and Mr. HAMMERSCHMIDT):

H.R. 7159. A bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH; to the Committee on Public Works and Transportation.

By Mr. EDWARDS of California (for himself, Mr. ANDERSON, Mr. BEILENSON, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. COELHO, Mr. DELLUMS, Mr. DIXON, Mr. DYMALLY, Mr. FAZIO, Mr. HAWKINS, Mr. LANTOS, Mr. MARTINEZ, Mr. MATSUI, Mr. MILLER of California, Mr. MINETA, Mr. PANETTA, Mr. PATTERSON, Mr. ROYBAL, Mr. STARK, Mr. WAXMAN, and Mr. PHILLIP BURTON):

H.R. 7160. A bill to amend the Small Business Act to provide assistance to areas of economic dislocation in the United States that is the result of drastic fluctuation in the value of the currency in a country contiguous to the United States; to the Committee on Small Business.

By Mr. FRANK:

H.R. 7161. A bill to require States to match their public assistance rolls on a regular basis against all relevant State and Federal records, in order to verify the eligibility of recipients and otherwise eliminate or prevent fraud and abuse in the various federally assisted public assistance programs to which such rolls relate; to the Committee on Government Operations.

H.R. 7162. A bill to amend the Internal Revenue Code of 1954 to exempt amounts received from the redemption of all-savers certificates and contributed to individual retirement accounts from certain limitations on excess contributions, and for other purposes; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 7163. A bill to amend the Internal Revenue Code of 1954 to extend until December 31, 1987, the energy investment tax credit for recycling property; to the Committee on Ways and Means.

By Mr. JONES of Oklahoma:

H.R. 7164. A bill to amend the Internal Revenue Code of 1954 to permit the Internal Revenue Service to waive the penalty imposed on underpayments of estimated tax where there was reasonable cause for the underpayment; to the Committee on Ways and Means.

By Mr. NELLIGAN:

H.R. 7165. A bill to direct the Secretary of Defense to submit a report to Congress on the use of U.S. agricultural products at U.S. military bases overseas; to the Committee on Armed Services.

By Mr. NICHOLS:

H.R. 7166. A bill to provide a 4-percent increase in the pay and allowances of members of the uniformed services, to make various adjustments in military personnel and compensation programs, and for other purposes; to the Committee on Armed Services.

By Mr. PEYSER:

H.R. 7167. A bill to amend the Immigration and Nationality Act to clarify the status of individuals who have been granted asylum; to the Committee on the Judiciary.

By Mr. WIRTH (for himself, Mr. BROYHILL, Mrs. COLLINS of Illinois, Mr. LENT, Mr. LONG of Maryland, Mr. MARKEY, Ms. MIKULSKI, Mr. MOORHEAD, Mr. PEPPER, Mr. RINALDO, Mr. SCHEUER, Mr. SWIFT, Mr. TAUKE, Mr. WAXMAN, Mr. WHITTAKER, and Mr. WYDEN):

H.R. 7168. A bill to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities; to the Committee on Energy and Commerce.

By Mr. YATRON:

H.R. 7169. A bill to amend the Tax Equity and Fiscal Responsibility Act of 1982 to repeal the provisions requiring withholding on dividends and interest; to the Committee on Ways and Means.

By Mr. FITHIAN (for himself and Mr. HAGEDORN):

H.J. Res. 603. Joint resolution directing the President to take every possible action to encourage increasing the processed product share of U.S. agricultural exports; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. FOUNTAIN:

H.J. Res. 604. Joint resolution designating the month of November 1982, as "National Diabetes Month"; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ (for himself and Mr. ST GERMAIN):

H.J. Res. 605. Joint resolution to provide for the temporary extension of certain insurance programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VANDER JAGT:

H.J. Res. 606. Joint resolution designating the week beginning February 13, 1983, as "National Reye's Syndrome Week"; to the Committee on Post Office and Civil Service.

By Mr. BADHAM:

H. Con. Res. 411. Concurrent resolution urging the President to declassify certain intelligence information in order to bring to the attention of the American people the extent of the military capabilities of the Soviet Union; jointly, to the Committees on Armed Services and the Permanent Select Committee on Intelligence.

By Mr. NELLIGAN:

H. Res. 600. Resolution urging the Secretary of Defense to develop policies to make maximum use of U.S. agricultural products at U.S. military installations overseas; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3796: Mr. FOGLIETTA.

H.R. 3984: Mr. MADIGAN and Mr. DAUB.

H.R. 4070: Mr. SOLARZ, Mr. ANDREWS, and Mr. DONNELLY.

H.R. 5088: Mr. YATES.

H.R. 5242: Mr. EVANS of Iowa, Mr. TAUZIN, Mr. STENHOLM, Mr. CRAIG, and Mr. MARTIN of New York.

H.R. 5752: Mr. RALPH M. HALL, Mr. BENEDICT, Mr. WALGREN, and Mr. FOLEY.

H.R. 5760: Mr. MINETA.

H.R. 6089: Mr. LANTOS.

H.R. 6135: Mr. BOWEN, Mr. HUCKABY, Mr. DORGAN of North Dakota, Mr. MADIGAN, Mr. LATTA, Mr. WHITEHURST, Mr. JONES of Tennessee, and Mr. SPENCE.

H.R. 6527: Mr. WIRTH, Mr. WEISS, Mr. LEHMAN, Mr. PRITCHARD, Mr. EDWARDS of Oklahoma, and Mr. LONG of Louisiana.

H.R. 6752: Mr. ROBERTS of Kansas and Mr. EVANS of Iowa.

H.R. 6865: Mr. PANETTA.

H.R. 6899: Mr. D'AMOURS, Mr. VENTO, and Mr. MITCHELL of Maryland.

H.R. 6930: Mr. WON PAT, Mr. AKAKA, Mr. PEPPER, Mr. CORRADA, Mr. WALGREN, Mr. DORNAN of California, Mr. FRANK, Mr. ROE, Mr. MITCHELL of Maryland, and Mrs. SCHNEIDER.

H.R. 7060: Mr. ROBERTS of South Dakota, Mr. BEARD, and Mr. WILLIAMS of Ohio.

H.R. 7106: Mr. WYDEN, Mr. PORTER, Mr. BROYHILL, Mr. ANTHONY, Mr. MADIGAN, Ms. MIKULSKI, and Mr. SMITH of Alabama.

H.R. 7108: Mr. LUNDINE, Mr. LOWRY of Washington, Mr. NEAL, Mr. HUGHES, and Mr. SPENCE.

H.J. Res. 172: Mr. FOLEY.

H.J. Res. 274: Mr. FRENZEL.

H.J. Res. 467: Mr. BEILENSON, Mr. BONKER, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. DANIEL B. CRANE, Mr. DOWNEY, Mr. EDGAR, Mr. ERDAHL, Mr. GOODLING, Mrs. HECKLER, Mr. HORTON, Mr. JACOBS, Mr. KEMP, Mr. LEACH of Iowa, Mrs. MARTIN of Illinois, Mr. MITCHELL of Maryland, Mr. RATCHFORD, Mr. SHAMANSKY, and Mr. STOKES.

H.J. Res. 478: Mr. ROEMER, Mr. SMITH of Alabama, Mr. SPENCE, Mr. LOWRY of Washington, Mr. LIVINGSTON, Mr. WHITE, Mr. SHELBY, Mr. BLILEY, and Mr. WHITEHURST.

H.J. Res. 564: Mr. BAILEY of Pennsylvania, Mr. WINN, Mr. COELHO, Mr. ANDERSON, Mr. DERWINSKI, Mr. DUNCAN, Mr. WILSON, Mr. FRANK, Mr. ROSE, Mr. JAMES K. COYNE, Mrs. HOLT, Mr. PANETTA, Mr. YATRON, Mrs. SNOWE, Mr. MILLER of California, Mr. SIMON, Mr. ANTHONY, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. EVANS of Delaware, Mr. MINETA, Mr. MARTINEZ, Mr. BROWN of California, Mr. BURGENER, Mr. CHAPPELL, Mr. DYSON, Mrs. FENWICK, Mr. FITHIAN, Mr. HOLLENBECK, Mr. LENT, Ms. OAKAR, Mr. UDALL, Mr. WEISS, Mr. WHITEHURST, Mr. WOLPE, Mr. WON PAT, Mr. ATKINSON, Mr. RUSSO, Mr. CONTE, Mr. DORNAN of California, and Mr. DOUGHERTY.

H.J. Res. 585: Mr. DAUB, Mr. COURTER, Mr. GOLDWATER, and Mr. FORSYTHE.

H.J. Res. 586: Mr. AKAKA, Mr. ALEXANDER, Mr. ANDREWS, Mrs. ASHBROOK, Mr. ASPIN, Mr. BAFALIS, Mr. BAILEY of Pennsylvania, Mr. BARNES, Mr. BEARD, Mr. BIAGGI, Mr. BLANCHARD, Mrs. BOGGS, Mr. BONER of Tennessee, Mrs. BOUQUARD, Mr. BREAUX, Mr. BRODHEAD, Mr. BROOKS, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mrs. BYRON, Mr. CAMPBELL, Mr. CARNEY, Mr. CHAPPELL, Mr. CLAUSEN, Mr. CLINGER, Mr. COATS, Mr. COELHO, Mr. DANIEL B. CRANE, Mr. D'AMOURS, Mr. DAN DANIEL, Mr. DECKARD, Mr. DOWDY, Mr. DUNN, Mr. ENGLISH, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. FROST, Mr. GEJDENSON, Mr. GORE, Mr. RALPH M. HALL, Mr. SAM B. HALL, JR., Mr. HAMILTON, Mr. HAMMERSCHMIDT, Mr. HANCE, Mr. HARTNETT, Mr. HEFTEL, Mr. HIGHTOWER, Mr. HOLLAND, Mr. HOYER, Mr. HUNTER, Mr. HUTTO, Mr. JACOBS, Mr. KASTENMEIER, Mr. KEMP, Mr. KOGOVSEK, Mr. LEBOUTILLIER, Mr. LENT, Mr. LEWIS, Mr. LOEFFLER, Mr. LONG of Louisiana, Mr. MCDADE, Mr. MCHUGH, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mr. MAVROULES, Mr. MOAKLEY, Mr. MOORE, Mr. MOORHEAD, Mr. MURPHY, Mr. MURTHA, Mr. MYERS, Mr. NATCHER, Mr. NEAL, Mr. NELLIGAN, Mr. OXLEY, Mr. PERKINS, Mr. PETRI, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RAILSBACK, Mr. REUSS, Mr. RHODES, Mr. ROBINSON, Mr. RODINO, Mr. ROTH, Mr. SAWYER, Mr. SHUMWAY, Mr. SIMON, Mr. SMITH of New Jersey, Mr. SMITH of Pennsylvania, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, Mrs. SNOWE, Mr. SNYDER, Mr. SOLOMON, Mr. SPENCE, Mr. STARK, Mr. SUNIA, Mr. SYNAR, Mr. TAYLOR, Mr. TRIBLE, Mr. WALKER, Mr. WEBER of Ohio, Mr. WEBER of Minnesota, Mr. WHITE, Mr. WHITLEY, Mr. WHITTAKER, Mr. WHITTEN, Mr. WILLIAMS of Ohio, Mr. WON PAT, Mr. WRIGHT, and Mr. ZABLOCKI.

H. Con. Res. 275: Mr. SMITH of Alabama.

H. Con. Res. 410: Mr. MOFFETT, Mr. WYDEN, Mr. MOTTL, Mr. FRANK, Mr. SANTINI, Mrs. KENNELLY, Mr. VOLKMER, Mr. ZEFERETTI, Mr. RODINO, Mr. ROSENTHAL, Mrs. CHISHOLM, Ms. MIKULSKI, Mr. WILLIAM J. COYNE, Mr. YATES, Mr. WEISS, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. APPLEGATE, Mr. OTTINGER, and Mr. BIAGGI.

H. Res. 513: Mrs. HECKLER.

H. Res. 526: Mr. BEREUTER, Mr. DASCHLE, and Mr. DAUB.

H. Res. 544: Mr. WHITTAKER.

H. Res. 558: Mr. TAUKE, Mr. MCKINNEY, Mr. DE LUGO, Mr. BENEDICT, and Mr. DONNELLY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3722: Mr. ECKART.

H.J. Res. 533: Mr. ANDREWS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

602. By the SPEAKER: Petition of the City Council, Schenectady, N.Y., relative to the senior aide program; to the Committee on Education and Labor.

603. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to high-level nuclear waste management; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, and Science and Technology.

604. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to domestic oil and gas production incentives; jointly, to the Committees on Energy and Commerce and Ways and Means.

605. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to Outer Continental Shelf revenue sharing; jointly, to the Committees on Merchant Marine and Fisheries and Interior and Insular Affairs.

606. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to Federal preemption of State revenue sources; to the Committee on Ways and Means.

607. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to acid rain; to the Committee on Energy and Commerce.

608. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to ports and inland waterways; jointly; to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

609. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to textile imports; to the Committee on Ways and Means.

610. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to export trading companies; jointly; to the Committees on Banking, Finance and Urban Affairs, the Judiciary, and Foreign Affairs.

611. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to highway safety—drunk driving; to the Committee on Public Works and Transportation.

612. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to community crime prevention; to the Committee on the Judiciary.

613. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to insanity defense; to the Committee on the Judiciary.

614. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to Federal role in violent crime control; to the Committee on the Judiciary.

615. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to teacher certification and reciprocity; to the Committee on Education and Labor.

616. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to state management of jobs training programs; to the Committee on Education and Labor.

617. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to employment security system; to the Committee on Ways and Means.

618. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to clarification of social security disability benefit review process; to the Committee on Ways and Means.

619. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to state pesticide registration; to the Committee on Agriculture.

620. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to commending passage of the extension of the Voting Rights Act; to the Committee on the Judiciary.

621. Also, petition of the Southern Governors' Association, Atlanta, Ga., relative to the 1992 World's Fair; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3432

By Mr. HANCE:

(To the amendment in the nature of a substitute.)

—In section 304(a), strike out the period at the end thereof and insert in lieu thereof the following: ", unless the Governor of each State involved in the proposed transfer of water agrees that such plan is necessary."

H.R. 3809

By Mr. LOTT:

(An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or, any amendments thereto.)

—Strike section 112 in its entirety and insert in lieu thereof the following:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, of National Forest Lands. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any such site would be located (1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recent sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsection. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

(An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or any amendments thereto.)

—Strike section 112 in its entirety and insert in lieu thereof the following:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall provide that any site shall be disqualified from development as a repository if such site is, according to the most recent applicable report on population and population density prepared by the Bureau of the Census before the date such site is considered for site characterization or construction authorization, as the case may be, located in any metropolitan statistical area, county, or urbanized area, having (1) both a population density of not less than 1,000 individuals per square mile and a population of not less than 2,500 individuals; or (2) a population within 1 mile of such site of not less than 1,000 individuals. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recent sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsection. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or any amendments thereto.

—Strike section 112 in its entirety and insert in lieu thereof the following:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites

for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to populations, the effect upon the nights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System or National Forest Lands. Such guidelines shall provide that in the event that two or more potential sites are located within the same county on the date of enactment of this act, the Secretary shall select only that site within the county which is located in the area of lesser population density. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recent sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsection. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or any amendments thereto.

—Strike section 112 in its entirety and insert in lieu thereof the following:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall provide that any site shall be disqualified from development as a repository if the proposed location of the repository site in such

site is, according to the most recent applicable data collected by the Bureau of the Census before the date such site is considered for site characterization located in, or within 3 miles of, any standard metropolitan statistical area, county, urbanized area, or place, as delineated by the Bureau of the Census, having both a population of not less than 1,000 individuals and a population density of not less than 1,000 individuals per square mile. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recent sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsection. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization Plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department or Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

(Amendment to the amendment in the nature of a substitute offered by Mr. UDALL to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof.)

—Delete section 112(a) relating to guidelines and population restrictions wherever it appears in the amendment in the nature of a substitute, and insert in lieu thereof:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall provide that any site shall be disqualified from development as a repository if such site is, according to the most recent applicable report on population and population density prepared by the Bureau of the Census before the date such site is considered for site characterization or construction authorization, as the case may be, located in any metropolitan statistical area, county, or urbanized area, having a population within 1 mile of such

such site of not less than 1,000 individuals. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guildelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

H.R. 5447

By Mr. SMITH of Iowa:

—On page 40, between lines 13 and 14, insert the following:

Section 8 of the Commodity Exchange Act is amended by inserting a new section, section 8d, as follows:

"SEC. 8d(1). As used in this subsection 'insider' means any individual who has access to information, not generally available to the public, about present or anticipated cash or futures trading or present or anticipated cash or futures positions in any commodity of any person, where such trading or positions are in amounts at or above Commission designated reporting levels as specified pursuant to section 4i of this Act.

"(2) No insider shall own, control, have a beneficial interest in, or enter into any contract or contract for future delivery in any such commodity on any contract market."

—On page 36, between lines 3 and 4, insert the following:

The Commodity Exchange Act, as amended, is further amended by—

(1) inserting in section 5 after "to designate any board of trade" the following: "except as specified in section 5(h) of this Act";

(2) inserting in section 5 a new subsection (h) as follows:

"(h) Beginning with contracts which expire during or after February 1984, designation shall be hereby deemed withdrawn for all contract markets for cattle or beef parts or beef products until or unless designated as hereafter provided in this section. No board of trade shall be designated as a contract market for cattle or beef parts or beef products until or unless the Secretary of Agriculture determines that the designation of such board of trade as a contract market is approved or favored by at least a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for sale of the cattle specified in the futures contract for which such board of trade is seeking designation or in the production for sale of the cattle from which the beef parts or beef products are derived for which such board of trade is seeking designation.".

—On page 55, between lines 16 and 17, insert the following:

The Commodity Exchange Act, as amended (7 U.S.C. 1-20) is further amended by inserting after section 8c (7 U.S.C. 12c) the following:

"SEC. 8d. The Commission shall revoke the registration of any futures commission merchant, associate of any futures commission merchant, commodity pool operator or floor broker—

"(1) who accepts or places, either directly or indirectly, any order for the purchase or sale of any commodity for future delivery on any contract market from any person who has been found in violation of the provisions of section 20; or

"(2) who, himself, is a person who has been found in violation of the provisions of section 20.

Any such person whose registration is revoked in accordance with this section shall not be eligible to reapply for registration until twelve months after the date of revocation.".

SEC. 2. The Commodity Exchange Act, as amended, is further amended by adding at the end thereof the following new section.

"SEC. 20. Any person who, directly or indirectly, sells for export or agrees to sell for export the quantities determined pursuant to subsection (c) below of any wheat, corn, soybeans, and any component or commodity related to wheat, corn, or soybeans as the Commission may designate shall report the following information to the Commission: (1) the date of such sale or agreement, (2) the name and full identity of the commodity, (3) the quantity of the commodity, (4) the country or countries to which the commodity is to be shipped and the ultimate destination if known, and (5) such other information as the Commission may by regulation require. The report must be received by the Commission within forty-eight hours of the sale or agreement.

"(b) Notwithstanding the provisions of section 8 of this Act or any other provision of this Act, the Commission shall make available to the public each such report filed with the Commission pursuant to subsection (a) on the first working day following their receipt by the Commission. The Commission shall make these reports public in a manner that will (1) assure that all interested persons may obtain access to these reports at the same time and (2) protect against any person or firm obtaining premature disclosure of the information the reports contain. The Commission shall continue to make this information available to the public for a reasonable period of time.

"(c) Consistent with the interest of agricultural producers and others in the information contained in these reports, the purposes of this section, and the public interest, the Commission shall promulgate rules and regulations implementing the provisions of this section within ninety days of the effective date of this Act and may amend those rules and regulations from time to time thereafter. The Commission may by rule or regulation, among other things, limit the class of persons required to report pursuant to subsection (a). Unless or until changed by rule or regulation promulgated pursuant to this subsection, the class of persons required to report hereunder shall be limited to those persons whose total export sales and cancellations of wheat, corn, and soybeans exceed one hundred thousand metric tons daily or whose total export sales and cancellations of such commodities exceed two hundred thousand metric tons within seven calendar days.".

H.R. 5540

By Mr. BETHUNE:

—Page 27, after line 20, insert the following:

"(3) No assistance may be extended under this subsection unless the Secretary of Commerce, in consultation with the Secretary of the Treasury, determines that any assistance to an applicant will not enhance that applicant's procurement of credit for business ventures outside the territory of the United States."

By Mr. VENTO:

—Page, 50 after line 20, insert the following:

(2) The Secretary of Defense shall report to the Committee on Banking, Housing and Urban Affairs of the Senate and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives any memorandum or understanding or similar agreement which involves actual or planned offsets, in contracts involving the sale of defense articles or services, in excess of $5 million not later than 30 days after the Secretary of Defense signs such memorandum of understanding.

And redesignate the following sections accordingly.

H.R. 6457

By Mr. BROYHILL:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. (a) This Act may be cited as the "Biomedical Research and Library Extension Act of 1982".

NATIONAL CANCER INSTITUTE

SEC. 2. (a) Section 410(a) of the Public Health Service Act (42 U.S.C. 286e(a)) is amended by striking out "and" after "1981;", and by inserting before the period a semicolon and "$925,450,490 for the fiscal year ending September 30, 1983; $980,977,600 for the fiscal year ending September 30, 1984; and $1,030,026,400 for the fiscal year ending September 30, 1985".

(b) Section 410(b) of such Act is amended by striking out "and" after "1981;", and by inserting before the period a semicolon and "$59,195,600 for the fiscal year ending September 30, 1983; $62,747,350 for the fiscal year ending September 30, 1984; and $65,884,720 for the fiscal year ending September 30, 1985".

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 3. (a) Section 414(b) of the Public Health Service Act (42 U.S.C. 287c(b)) is amended by striking out "and" after "1981,", and by inserting before the period a comma and "$38,520,000 for the fiscal year ending September 30, 1983, $40,831,200 for the fiscal year ending September 30, 1984, and $42,872,760 for the fiscal year ending September 30, 1985".

(b) The first sentence of section 419B of such Act (42 U.S.C. 287i) is amended by striking out "and" after "1981,", and by inserting before the period a comma and "$530,573,410 for the fiscal year ending September 30, 1983, $562,407,810 for the fiscal year ending September 30, 1984, and $590,528,200 for the fiscal year ending September 30, 1985".

NATIONAL LIBRARY OF MEDICINE

SEC. 4. Section 390(c) of the Public Health Service Act (42 U.S.C. 280b(c)) is amended by striking out "and" after "1981, and", and by inserting before the period a comma and "$8,000,000 for the fiscal year ending September 30, 1983, $8,500,000 for the fiscal year ending September 30, 1984, and $9,000,000 for the fiscal year ending September 30, 1985".

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL DISEASES

SEC. 5. (a) Title IV of the Public Health Service Act is amended by adding at the end the following new part:

"PART J—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL DISEASES

"ESTABLISHMENT AND PURPOSE OF INSTITUTE

"SEC. 481. (a) There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal Diseases (hereinafter in this part referred to as the 'Institute'). The general purpose of the In-

stitute is the conduct and support of research, training, health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b) The Director of the Institute, with the advice of its advisory council, shall develop a plan for a national arthritis and musculoskeletal diseases program to expand, intensify, and coordinate the activities of the Institute respecting the diseases, and shall carry out the program in accordance with such plan. The program shall be coordinated with the other national research institutes of the National Institutes of Health to the extent that they have responsibilities respecting such diseases and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal diseases, including sports related disorders, primarily through support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of these diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, and prevention of arthritis and musculoskeletal diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) establish mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

The Director shall transmit to the Director of the National Institutes of Health the plan required by this section, together with such comments and recommendations as the Director of the Institute determines appropriate.

"(c) The Director of the Institute shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis, musculoskeletal diseases, and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 482. (a) The Director shall (1) establish the National Arthritis and Musculoskeletal Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing such diseases, and (2) establish the National Arthritis and Musculoskeletal Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of arthritis and musculoskeletal diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

"(b) For the data system and clearinghouse under subsection (a) there is authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1983, $1,000,000 for the fiscal year ending September 30, 1984, and $1,100,000 for the fiscal year ending September 30, 1985.

"INTERAGENCY COORDINATION COMMITTEES

"SEC. 483. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, skin diseases, and musculoskeletal diseases, including sports related disorders; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Director (or his designee) of the Institute and its divisions involved in research involving arthritis and musculoskeletal diseases or skin diseases, as may be appropriate, the chief medical director (or the director's designee) of the Veterans' Administration, and a medical officer designated by the Department of Defense, and shall include representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases or skin diseases, as may be appropriate, as determined by the Secretary. Each Committee shall be chaired by the Director of the National Institutes of Health (or his designee). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

"(c) Each Committee shall prepare an annual report for—

"(1) the Secretary, and

"(2) the Director of the National Institutes of Health,

detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the one hundred and twentieth day after the end of each fiscal year.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 484. (a) The Secretary may make grants to public and other nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis and musculoskeletal diseases screening and detection and for referral for treatment, and for dissemination of information on these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 485, and (3) the data system established under subsection (c).

"(b) Projects under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of such diseases.

"(c) For grants for arthritis and musculoskeletal diseases demonstration projects under subsection (a) there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1983, and for each of the next two fiscal years.

"(d) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 485, and other persons engaged in arthritis and musculoskeletal diseases programs.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 485. (a) The Director of the Institute shall, after consultation with the advisory council to the Institute and consistent with the arthritis plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term 'modernization' means the alteration, remodling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1) (A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention,

control, and treatment of arthritis and musculoskeletal diseases and complications resulting from such diseases, including research into implantable biomaterials and biomechanical and other orthopaedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases,

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

"(e) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(f) For multipurpose arthritis and musculoskeletal diseases centers there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1983, $15,000,000 for the fiscal year ending September 30, 1984, and $18,000,000 for the fiscal year ending September 30, 1985.

"REPORT

"SEC. 486. The Director of the Institute shall include in the annual report of the Institute a description of the Institute's activities under the current Arthritis Plan under the National Arthritis Act of 1974. The description submitted by the Director shall include an evaluation of the activities of the centers supported under section 485.".

(b)(1) Section 431(a) of the Public Health Service Act (42 U.S.C. 289a(a)) is amended by striking out "arthritis, rheumatism, and".

(2)(A) Subsection (a) of section 434 of such Act (42 U.S.C. 298c-1) is amended by striking out "Arthritis, Diabetes," each place it appears and inserting in lieu thereof "Diabetes".

(B) Subsection (b) of such section is amended (i) by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes", and (ii) by striking out "an Associate Director for Arthritis and Musculoskeletal and Skin Diseases,".

(C) Subsection (c) of such section is amended (i) by striking out "a subcommittee on arthritis and musculoskeletal and skin diseases,", and (ii) by striking out "arthritis, musculoskeletal and skin diseases,".

(D) Subsection (d) of such section is amended (i) by striking out "the Associate Director for Arthritis and Musculoskeletal and Skin Diseases,", and (ii) by striking out "arthritis, musculoskeletal and skin diseases,".

(E) Subsection (e) of such section is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(F) The heading for such section is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(3)(A) Subsection (a) of section 436 of such Act (42 U.S.C. 289c-3) is amended (i) by striking out "arthritis, diabetes mellitus," and inserting in lieu thereof "diabetes mellitus", and (ii) by striking out "an Arthritis Interagency Coordinating Committee,".

(B) Subsection (b) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(4)(A) Subsection (a) of section 437 of such Act (42 U.S.C. 289c-4) is amended by striking out "the National Arthritis Advisory Board,".

(B) Subsection (b)(2) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(C) Subsection (d) of such section is amended by striking out "and the National Arthritis Advisory Board, six of the members of each" and inserting in lieu thereof, ", six of the members of".

(D) Subsection (g) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(E) Subsection (h)(3) is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(F) The heading for such section is amended by striking out ", ARTHRITIS,".

(5) Sections 438 and 439 of such Act (42 U.S.C. 289c-5, 289c-6) are repealed.

(6) The heading for part D of such Act is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

STUDY OF NATIONAL RESEARCH INSTITUTES

SEC. 6. (a)(1) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with subsection (b) arrange for the conduct of a study of the effectiveness of the existing combinations of disease research programs within the individual national research institutes and of the standards which should be followed in establishing new or realigning existing national research institutes.

(2) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the results of the study. The report shall be submitted not later than 18 months after the date of the enactment of this Act.

(b)(1) The Secretary of Health and Human Services shall request the National Academy of Sciences, through the Institute of Medicine, to conduct the study required by subsection (a)(1) under an arrangement under which the actual expenses incurred by the academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by subsection (a)(2). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(c) No national research institute, other than the National Institute of Arthritis and Musculoskeletal Diseases, shall be established in addition to the institutes in existence on the date of the enactment of this Act before the expiration of 6 months after the submission of the report referred to in subsection (a)(2).

(d) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney diseases to determine if any of such programs could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within the sixty-day period beginning on the date of enactment of this Act.

ANIMALS IN RESEARCH

SEC. 7. (a) The Secretary of Health and Human Services shall review—

(1) the actions being taken by the Department of Health and Human Services to support research to develop research and testing methodologies which will decrease the number of live animals used in biomedical and behavioral research;

(2) the actions taken by the Department to improve oversight of the use of animals in such research by entities which receive financial support for such research through the Department; and

(3) the activities undertaken by the Department to ensure the humane care and treatment, and appropriate use, of live animals in such research conducted or supported by agencies of the Department.

(b) Not later than June 30, 1984, the Secretary of Health and Human Services shall transmit to the Committee on Labor and Human Resources of the Senate and Committees on Energy and Commerce and Science and Technology of the House of Representatives a report on the review conducted under subsection (a). The report shall also contain a detailed analysis of the impact on biomedical and behavioral research and the entities conducting such research of a requirement that the entities be accredited for the use of live animals in research.

EXTENSIONS OF REMARKS

SCHOOL PRAYER

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. COATS. Mr. Speaker, as a cosponsor of the President's school prayer amendment, I felt it was significant that one of the most influential religious periodicals in our Nation, Christianity Today, editorialized in its September 3, 1982, issue on the necessity of passing the prayer amendment. The importance of this endorsement, as well as its content, should not go unnoticed by Members of Congress and therefore, I am submitting the majority of the article for their consideration.

In earlier years, Christianity Today either opposed the idea or suggested that a moment of silence would be the best solution. Now, the editors of the magazine have come out squarely behind the proposed amendment. It should be of interest to note that they also endorsed as "even better form" the slightly revised version of the amendment suggested by Robert Dugan of the National Association of Evangelicals during recent Senate hearings.

The editorial follows:

DOES RELIGION BELONG IN SCHOOL?

(The Prayer amendment has major implications for how our Constitution is understood.)

"Astonishingly trivial!" So a liberal opponent decried the proposal for the School Prayer Amendment. The whole matter, he insists, is so inconsequential that no sensible person will waste his time arguing for or against it. The only justification for fighting it, he suggests cynically, is to "keep right-wingers pinned down on the Prayer Amendment battle for a number of years so they won't be able to cause trouble on more important fronts."

There is a piece of truth in what he says. The Prayer Amendment is certainly no panacea for the moral ills of our society. The evangelist who blamed the Supreme Court ban on school prayers for "crime, racial conflict, drug abuse, political assassination, the Vietnam war, sexual promiscuity, and the demise of American family life" is living in a dream world. Passing the Prayer Amendment will not result in an automatic upsurge of good laws for the relief of the poor, the downtrodden, and the disenfranchised. It will not roll back the materialism and secularism dominating higher echelons of our culture. And, above all, there are other great issues before our nation. Evangelicals must not allow themselves to be sidetracked by a concern for the School Prayer Amendment, making it into an issue out of all proportion to its true significance.

WHY THE PRAYER AMENDMENT IS IMPORTANT

Nontheless, our liberal friend labors under a very serious misconception. The issue over the Prayer Amendment is not trivial. It is a symbol of the fact that America for 200 years has labeled itself a nation under God. Secularists are struggling valiantly to try to pull our nation out from under its conscious submission to a supreme moral ruler. They are trying to make the United States into a pagan nation. While few, if any, defend their opposition to this amendment on the grounds that they wish to make America a pagan nation, that is nonetheless the heart of the issue.

We are not an obedient nation, nor are we a righteous nation. But in our national motto, in our Pledge of Allegiance, and in countless other ways, we have consciously chosen to be a nation that recognizes God as the Supreme Ruler and the Guarantor of our basic ethical values. The Prayer Amendment, for good or ill, has become the symbol of whether or not America still has the will to claim itself to be a nation under God.

Moreover, no one should ever think that evangelicals will remain satisfied with securing merely the symbol of our national recognition of God. If this amendment or some other action makes it possible for Americans to give public recognition to God, it will have far-reaching effects. It will prove to all that this nation has not drifted so far from its heritage as some have thought. The American people still want to commit this nation to God, however vague and hesitant that desire may be.

Therefore, God-fearing people everywhere will be encouraged. Evangelicals will gain a greater sense of their responsibility to act politically as Christians. They must not, and they will not, stop until they have reasserted their right to the full practice of their evangelical faith and its application in ways that are appropriate to a pluralistic society. They will certainly press for the right to provide meaningful instruction for their children in Christian doctrine and biblical ethics, however this can be justly safeguarded in our pluralistic society. No large segment of society has ever been willing to turn its children over to an educational process that undermines or neglects as irrelevant its basic values. On the current scene, this rests heavily as a major social problem and, as we shall see, is directly related to the issue of the Prayer Amendment.

This proposed amendment also has significant implications for the whole understanding of our American Constitution and how it works in practice. Over the last few decades, the Supreme Court has chosen to "interpret" our Constitution in ways that almost every student of the American system recognizes are really not interpretations in the usual sense of the word. They are instead adaptations of it to fit what the Supreme Court feels is good for the American people at the moment. In this process, most evangelicals are convinced that while the court has protected many basic human rights, it has also jeopardized other rights built into the original Bill of Rights. Passage of the Prayer Amendment would seek to reassert some of this precious heritage without endangering political and social freedoms the American people have gained in other areas.

RELIGIOUS FREEDOM IN PUBLIC SCHOOLS

The First Amendment prohibited Congress from establishing any particular religion as the law of the land, and it guaranteed the people their right to worship freely as they wished. The Fourteenth Amendment has been interpreted (many think wrongly) to mean that these same rules apply to each of the 50 states and local governments. Immediately after World War II, however, a series of Supreme Court decisions upset the balance between these two principles of (1) freedom from governmental prescription of religion, and (2) freedom from government interference in the free exercise of religion.

The famous *McCullum* case ruled out released time (for Bible classes).

In *Eagle* v. *Vitale*, the Supreme Court struck down a 22-word prayer prepared by the New York Board of Regents for voluntary use.

In *Murray* v. *Curlett*, Bible reading and the Lord's Prayer were forbidden in school exercises.

Although the Court decisions were not so clear-cut with respect to voluntary religious exercises as some have thought, the courts have made abundantly clear that: (1) any legislated practice must have a secular purpose, (2) its primary effect must not be to aid or inhibit religion, and (3) it must not significantly entangle the government in religion. Even more important than this set of tests has been the effect of the Court's decision upon the practice of our public schools. In order to avoid litigation and to "be on the safe side," school officials across our nation have pretty much eliminated voluntary prayer or Bible reading or religious exercises of any kind.

The cumulative effect of this upon our nation is disastrous. In the first place, it has deprived religious people of sharing with their children the basic structure of their own religious and moral commitments. Moreover, it has deprived our nation of communicating its religious heritage to its citizens. And finally, it has, in effect, established a religion of secularism.

As Supreme Court Justice Stewart noted in his 1964 minority report (*Abington* v. *Schempp*): "[A] compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artifical and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism."

The dilemma before the American people is simply this: How can we adequately protect the right of our people not to have an alien religion forced upon them by government but at the same time allow them the free exercise of their own religion in a way that will be appropriate with the nature of their deep religious commitment? In a pluralistic society like ours, how can these two basic freedoms be preserved in appropriate balance?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

IS THE PRAYER AMENDMENT A SOLUTION?

We believe that the amendment proposed by the Senate (S.J. Res. 199) and sponsored by President Reagan will go a long way towards the preservation of both of these freedoms and secure the desired balance. The resolution reads: "Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or in public institutions. No person shall be required by the United States or by any state to participate in prayer."

The slightly revised version also under consideration is, we think, an even better form, although we would support either. The revised form would read: "Nothing in this Constitution shall be construed to prohibit prayer *or other religious activity* in public schools or other public institutions. Neither the United States nor any state shall require any person to participate in prayer or other religious activity or *influence the form or content of any prayer or other religious activity.*" Either form of amendment would significantly extend the freedom to exercise religion in the public school. The second form has the added feature that it would not permit simply voluntary prayer, but also the voluntary exercise of religion in debates, private meditation, Bible study, moral instruction, Bible reading, or religious clubs as long as these did not infringe upon the freedom of the nonparticipant.

Both readings also protect the student's right not to have a religion he does not want crammed down his throat. The amended form again is stronger. It not only prohibits the government from requiring anyone to participate in prayer or any other religious activity, it also forbids the government from influencing the form or content of the prayer or religious activity. That is, the government would not be permitted to prescribe a particular form even for voluntary use. In this way it could not indirectly foster a particular religion by preparing sectarian prayers or forms of worship and making them readily available. More important by far to all evangelicals, it could not in the interests of peace and harmony prepare "harmless" prayers with all distinctively evangelical convictions safely removed from them.

WOULD THIS FOSTER ONE FREEDOM TO DESTROY ANOTHER?

In one sense, of course, by providing an environment in which those who wish to pray will be permitted to do so, some will be influenced toward religion and even a particular religion. Army chaplains, for example, sometimes influence a soldier toward a particular religion. But it is not the government's aim in providing the chaplain to influence a soldier in the direction of a particular religion. Just so, if the government creates an opportunity for prayer or Bible study, its aim is not to influence anyone toward a particular religion, though that may sometimes happen. Its aim is to provide freedom for those who wish to exercise their religion to do so while retaining safeguards against unduly embarrassing or pressuring any students to participate in an unwanted religious exercise.

Of course, some insist that merely creating opportunity for prayer is in itself a dangerous push in the direction of fostering religion. Yet, in a pluralistic society we must retain a balance of both principles—freedom to exercise and freedom against compulsion. Most Americans believe in God and hold that belief in a wise and just Supreme Ruler is important to the moral fiber of the nation. Therefore, it is appropriate for our government to provide a favorable environment for the fostering of religion so long as it adheres to the Golden Rule and safeguards to the best of its ability the feedom for irreligion (applying the Golden Rule to others).

This is precisely what we now do with our Pledge of Allegiance. We gladly acknowledge that we are a nation under God. But we do not force the atheist or Jehovah's Witness to repeat a religious commitment that runs against his conscience. Accordingly, teachers could pray if they wished, but they could not be forced to pray and they could not directly teach their students to pray. And if a teacher or student chose to pray, the government could not prescribe a prayer to shape their religious exercise.

WOULD IT DESTROY GENUINE RELIGION?

Some object that such holding of religious exercises would be divisive, setting the religious against the irreligious. Not at all! It would be far more likely to lead to a greater understanding by each student of the other person's religious values or of his lack of religious values. In most cases it would lead to a greater respect for religion. But it would also provide a marvelous laboratory in which children could learn mutual respect for diverse religious views and how those with very deep, but also very different, commitments can function effectively in a pluralistic society.

Again, Christians often object that the watered-down sort of religious exercise acceptable to the vast majority of American citizens could only be an impoverished civil religion offensive to any evangelical who bases his religion on the Bible. Evangelicals have no desire to "establish" a false deistic religion and promulgate it in our schools. But this is not what the amendment proposes or even allows for. The fact is, by the complete elimination of religion from the schools, we now have the establishment of a secular religion. We are not asking that this be replaced by an anemic, vaguely theistic, civil religion. Certainly we are not asking for a theology-free prayer or religious exercise. Rather, we desire freedom for each person to carry out his or her own religious convictions within the public school. The public schools of America are too determinative for our entire cultural heritage to allow them to become an irreligious preserve or to promulgate a religion of secularism. We are, in short, insisting—and the amendment as revised would certainly require this— that the religion students would be free to exercise should be their own.

Finally, we need to examine the often-repeated theme that religion is really a matter for the home and church. With this we certainly agree. By no means do we wish the school to replace the church and the home as the primary source of religious instruction to the young. But no one denies that the American public school plays a decisive role in transmitting culture in our society. It is to the degree a person thinks religion is important that he will be unwilling for this crucial influence upon the young of our nation to be totally divorced from religious influence.

Moreover, we dare not teach our youngsters that religion is a purely private affair that does not affect public life. Religion deals with one's ultimate commitments and, if genuine, affects every area of life. It is important, therefore, to see that the state is not the highest authority. Like every other aspect of human life, the state, too, is subject to a higher divine law of righteousness and justice.

Pluralism in America does not mean or require that our government must root out every vestige of religion from public life. In recent years, even religious people have at times defended singing "Silent Night" or repeating a prayer as really not religion at all so as to keep it within the bounds of what has been decreed permissible by our courts. But these are, and should be acknowledged as, religious practices. America claims to be a nation under God. Indirectly, it may foster religion and even a practice of a certain kind. But we are not defending permitting religious exercises in our public schools for that reason. We are defending them because of the inalienable freedoms that are ours as human beings—freedoms no government has a right to take from us. It is our aim to permit U.S. citizens to free exercise of their own religion. And we believe this can be done without foisting their religious convictions upon all or coercing our citizens to adopt a particular religion.●

BATTLE BETWEEN AMA AND FTC

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. BADHAM. Mr. Speaker, a 7-year fight between the American Medical Association and the Federal Trade Commission concerning the FTC's jurisdiction over the licensed professions is about to reach a climax. Final debate in this House on legislation to reauthorize the FTC will decide whether these professionals will be allowed to police themselves through reasonable self-regulation or be policed by an administrative agency whose congressional charter never included power over the professions or over State regulatory activity.

If the FTC is allowed to regulate the medical profession, local societies will have real difficulty setting standards by which medical care is measured. Nor will they be able to provide information to patients on what fees are reasonable or unreasonable, warn inquiring patients of physicians, clinics, or other medical services with poor performance records, and participate in voluntary coalitions to deal with cost containment.

The FTC now assumes subpena power over the records of State, county, and other medical societies, very often for fishing expeditions. One medical society in California spent an initial $1 million in costs in an FTC action, and then agreed to discontinue publication of a relative value scale of charges for certain procedures. The relative value scale study would have been useful to consumers. Indeed, the study will be the basis of reimbursement rates for the California medicaid and medicare program. The Department of Health and Human Services

will use the same value scale that was not allowed by the FTC.

We will have the opportunity, when the FTC reauthorization bill comes to the floor for a vote, to add an amendment that will take the FTC out of the business of regulating the professions. Clearly, the FTC does not have the expertise to deal with problems of the learned professions. The self-regulation system and the processes in place at the Federal level through the Department of Justice and at the State level through the States attorneys general offices and the courts has worked well for many years. There is no need for the FTC to become involved in regulating the practice of medicine.

The Luken-Lee amendment to the FTC authorization bill will put a moratorium on the activities of the FTC over the professions, until we, the Congress, decide the FTC should act in this area. It is a reasonable proposal. The FTC has never been specifically granted the power to govern the professions. Yet, the agency is taking the power through its investigations and orders. We can define where the authority for action by the FTC lies. We must support the Luken-Lee amendment.●

NATIONAL NEIGHBORHOOD DAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. MAZZOLI. Mr. Speaker, the U.S. Conference of Mayors, meeting in my hometown of Louisville, Ky., this summer, recognized the importance of neighborhoods in the development of the American character and spirit. They adopted a resolution pointing out that "* * * neighborhoods are the building blocks of America's cities, and contribute to the social, cultural, political, and economic life of urban centers * * * strong identification with neighborhoods by citizens can enhance city life and help sustain stable, family-centered living * * *".

But, more than this, neighborhoods represent the real "grassroots" America—the America that is fed up with nuclear proliferation, with drunk drivers, with crime. And it is from these communities that solutions to these problems and others will come. It is the leaders of the communities that know their people's needs best, and can help forge the public/private partnership that will get America rolling again.

Many communities across the Nation—including the Crescent Hill Community in Louisville—have adopted the first Saturday following Labor Day of each year as National Neighborhood Day. This year's celebration in Crescent Hill was once again at the historic Peterson-Dumesnil House.

An early order of business for next Congress should be the designation of "National Neighborhood Day." Congress should recognize the importance of neighborhoods, and encourage activities to preserve and revitalize them.●

BRIG. GEN. RICHARD D. DEAN APPOINTED DEPUTY DIRECTOR OF ARMY NATIONAL GUARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to congratulate Brig. Gen. Richard D. Dean, of Sedalia, Mo., for being appointed Deputy Director of the Army National Guard. He is the first Missourian to hold this position, which is the second highest position in the National Guard.

As the Deputy Director of the Army National Guard, Brigadier General Dean will be responsible for supervising efforts to meet manpower and equipment needs of the National Guard. He will also work with national budget matters for the Guard and will be testifying before Congress on related issues.

Brigadier General Dean has an impressive history with the National Guard. He served as executive officer in Battery C, 128th Field Artillery of the Missouri National Guard. He has also served as commander of the 135th Artillery Group and Engineer Brigade and was commander of the 35th Engineer Brigade, Missouri National Guard at the time of his new appointment. His service decorations include: the meritorious service medal, Army commendation medal, United Nations service medal, Korean service medal with battle star, and the Korean President unit citation.

Again, I congratulate Brigadier General Dean for his appointment as Deputy Director of the Army National Guard and I wish him the best of luck in his new endeavor.●

CANBY'S CROSS—THE CENTENNIAL OF ITS PLACING

HON. GENE CHAPPIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. CHAPPIE. Mr. Speaker, I include the following historical dedication in the RECORD:

CANBY'S CROSS—THE CENTENNIAL OF ITS PLACING

(Prepared by James O. Southern)

This September will mark the centennial of a noted northern California historical landmark. In September of 1882, Lt. John S. Parke, USA, erected a wooden cross on the spot near where General E. R. S. Canby was killed during a peace conference designed to end hostilites of the 1872-73 Modoc Indian War.

The story of the war and Canby's death is well known in the annuals of Western American history. Just below the Oregon border in California an army of about 1,000 soldiers was held at bay by under 170 Modoc Indians. U.S. casualties were high. In time the Indians ran out of supplies and surrendered.

Seven years after the conflict Lt. Parke visited these isolated, desolate lava beds. He viewed the area with awe and must have thought of Canby as a cadet and how those early commissioned years were slow in attaining rank. There were several Indian campaigns, then came the war with Mexico and the Civil War; the latter seeing Canby become a general officer. He was not the dashing officer like those we remember so well from this period of our national history. And few realize that Canby accepted the capitulation of CSA General Kirby Smith at New Orleans, thus ending final resistance of the Confederacy.

Canby then became an administrative officer with occasional periods of field duty. Parke must have thought about the press Canby received and remembered that Canby was an officer who was without enemies in his profession, and rarely criticized. He was a compassionate and just man, one whom a number of Indian tribes had come to look upon as a friend. Now, here on these lava beds Canby was murdered while trying to find an honorable peace to end a war brought on by nearly two decades of Indian and white conflict spawned by greed and mistrust.

Parke must have thought about Canby's past, and he was determined to mark the place where the peace council tent stood. In September of 1882 he did just that. With the aid of a civilian carpenter he erected a wooden cross with a lava rock base to the memory of the first general officer of the U.S. Army ever to be killed during an Indian war.

Today the original cross may be seen in the Visitor Center of the Lava Beds National Monument near Tulelake, California. The original site is still marked by its lava rock base and the 4th or 5th replacement of the wooden cross. It is a tribute to an American hero which is viewed by many modern day tourists.●

TRIBUTE TO A PENNSYLVANIA SCOUT

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. NELLIGAN. Mr. Speaker, I join my colleagues today in honoring an outstanding boy scout from the 11th District of Pennsylvania, which I am privileged to represent. This scout will

receive the highest scouting award, the coveted Eagle Scout Award.

Daniel J. Backo, 16, son of Joseph P. and Lorraine J. Backo of Exeter, Pa., conducted a free blood pressure clinic as his eagle award project. He is a junior and is active on the golf team at Wyoming Area High School.

I commend troop 311, its leaders and Scout Master William Daileda for spurring this young man to this outstanding achievement, and I join parents, friends, and members of the community in wishing Daniel equal success in his future endeavors.●

A TRIBUTE TO GUY BREWER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ADDABBO. Mr. Speaker, I am pleased and proud to announce that New York City has recently paid tribute to one of its finest native sons—Guy Brewer—by renaming a Queens street in his honor.

Guy, an articulate and capable legislator, as well as a good friend, was a five-term member of the New York State Assembly until his death in 1978. He was the first black member of any political party to serve as majority whip of that body. Guy also founded the United Democratic Club nearly 40 years ago, which helped to elect the first black officials in Queens County. Guy stood out as a champion of individual and minority rights, and it is most fitting that we give him his due recognition.

A parade and dediction ceremony were held in Queens on Saturday, September 11, as New York Boulevard officially became Guy R. Brewer Boulevard. The bill to change the name was introduced by Councilman Archie Spigner in May 1982, and signed by the mayor on June 1. The boulevard is the longest street in New York City named after a black citizen; stretching 3.7 miles from the Jamaica business district on the north to Kennedy Airport on the south.●

TRIBUTE TO JOHN HOVING

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. GRADISON. Mr. Speaker, I rise to congratulate John Hoving on 10 years of distinguished service to Federated Department Stores and to the entire Cincinnati community. John is now leaving Cincinnati and will be sorely missed.

The Cincinnati Enquirer on September 14 printed an editorial which I think succinctly sums up the way I and many others feel about John Hoving. I am submitting that editorial for the record and extending to John my personal thanks for his contributions to our community.

TRIBUTE TO JOHN HOVING

The impending departure of John Hoving, for a decade senior vice president for public affairs and public relations of Federated Department Stores Inc., will be a distinct loss for the Queen City.

Widely regarded as one of the most effective public-relations specialists in America, Mr. Hoving has stood at the fore of Federated's involvement in the social and economic life of Southwestern Ohio and contributed significantly to its advancement. His broad background in analyzing public issues and helping to shape public policy has made him something of a community conscience whose insights were welcomed by Cincinnatians of all persuasions.

He has left a positive mark on Cincinnati's civic life and a warm place in the memories of all those associated with him.●

PUBLIC SERVICES OF ALFRED A. REDA

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. MINISH. Mr. Speaker, it is a pleasure to call the attention of my colleagues to the public service performed by Mr. Alfred A. Reda of West Paterson, N.J., which will be celebrated this week. Mr. Reda personifies the kind of civic dedication which has done so much to enhance the quality of life in America.

Since January 1, 1957, Alfred Reda has served as the municipal clerk of West Paterson. His tenure has seen the office expand from a part-time operation, open just 2 hours a day, to the present efficient full-time administration. By January of 1957, Mr. Reda's conspicuous abilities and solid achievements in office led the mayor and council to select him as the borough's first administrator. Major municipal improvements characterized his tenure, including the construction of a new municipal building, a new public library, a million-gallon water tank, a public works garage, newly acquired and developed public parks, and—perhaps more significant that any building—the codification of municipal ordinances. His has been the particular responsibility of attracting desirable ratables among commercial and industrial firms.

These solid achievements testify not only to Alfred Reda's skill, knowledge, and energy, but most particularly to a true spirit of public service. His prime motivation has been a desire to enhance the community which has been his lifelong home.

Mr. Reda has been active in many professional organizations, which aided his efforts to work better for his community. His distinguished participation in the Passaic County Municipal Clerks Association and in the Municipal Clerks Association of New Jersey was recognized by his election as president of both groups, in 1961 and 1975 respectively. He has employed his memberships in these groups as valuable means of improving the capabilities of himself and his colleagues to serve their respective communities efficiently. He also served on the State advisory board and the education board, teaching classes at Rutgers University in the latter capacity.

Mr. Reda's diligent work to make his community a better place to live represents a very commendable form of patriotism. The people of West Paterson recognize how fortunate they have been to have such a friend working to meet their needs for a quarter of a century, so they will honor Mr. Reda at a testimonial dinner on September 26. Nobody could deserve this honor more.

America's towns and cities have great demands for services and facilities in the days ahead; I wish every one of them had an Alfred A. Reda to deal with them. West Paterson is fortunate to have a good man on the job in these challenging times.●

GET A PIECE OF WILDERNESS BEFORE IT IS TOO LATE

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. NEAL. Mr. Speaker, I am inserting into the CONGRESSIONAL RECORD today an excellent article assessing the policies of the Secretary of the Interior James G. Watt that recently appeared in the Winston-Salem Sentinel. The author of the article, Jim Dockery, contends that Secretary Watt has turned the Interior Department upside down, politicizing the historically nonpartisan agency and playing fast and loose with our national treasures. Mr. Dockery characterizes Mr. Watt's attempts to open wilderness areas and the entire eastern seaboard to mineral exploration as irresponsible. He also thinks it would be a foolish mistake for the Interior Secretary to auction off public land greater in size than the State of North Carolina.

Mr. Speaker, Secretary Watt would have us believe that his policies are part of a devine plan. In Mr. Dockery's view, however, the Secretary's policies are rooted in nothing greater than "self-interest, ignorance, shortsightedness, and greed."

Mr. Speaker, I would urge my colleagues to take the time to read this article. I believe they would find it worthwhile. Mr. Dockery is chairman of the North Carolina Chapter of the

Sierra Club and is quite knowledgeable in matters affecting the environment. The article follows:

WATT'S AMERICA: OIL RIGS, STRIP MINES

A billion acres offshore for lease and 35 million acres onshore for sale. Contact Interior Secretary James Watt, Washington, D.C.

P.S. Get a piece of wilderness before it's too late.

The Interior Secretary is responsible for all the nation's public lands, except the national forests over which he has jurisdiction for oil and mineral activities. He is also responsible for federal oil and mineral interests in the outer continental shelf. Some of these public lands and coastal areas are available for a variety of private uses—from cattle ranges to oil and mineral development. It is the responsibility of the Secretary to represent the public interest in the Interior Department's management of these lands.

The balanced approach of the Interior Department under many prior administrations, Republican and Democratic alike, has been radically reversed by Mr. Watt's pro-development policies. The fox is now guarding the hen house and trying to hand out the fat hens. Three proposals show Watt's hand.

Changing years of bipartisan department policy, Watt deliberately sought to open wilderness areas for mining and drilling. The oil companies leaped in with about 1,000 applications for over 3 million acres of these special places including Joyce Kilmer-Slickrock Wilderness Area and Linville Gorge in North Carolina. A storm of protest arose. To block Watt, the House of Representatives by an incredible 340-58 margin passed a bill closing wilderness areas to oil and mineral leasing (in the absence of a special presidential declaration of national need and with the consent of Congress. All North Carolina congressmen (expect Walter Jones, D-1st District, who did not vote) voted in favor of protecting our wilderness resources. The bill now moves to the Senate where it has 52 sponsors—a majority. Probably no single congressional action during this administration so strongly shows the extensive public support for wilderness and conservation policies in the face of Watt's pro-development policies. Opening the wilderness areas is unnecessary anyway. These areas are estimated to contain only 1 to 3 percent of our undiscovered oil and gas. If we become so desparate that we need to despoil our wilderness areas, wildlife refuges and other national treasures, let us at least wait and use them last. If any oil is there now, it will be there later.

Watt has proposed leasing nearly all of the nation's outer continental shelf over the next five years, about 1 billion acres. To understand the staggering scope of this proposal, the yearly acreage—200 million—is 10 times more acreage than has been leased in total since offshore leasing began in the 1950s. The plan is environmentally irresponsible. Such huge tracts would make the environmental assessment process unmanageable or render it superficial. Many coastal states, including North Carolina, are concerned as to the possible damage to their other coastal resources, including tourism and fishing. Also, Watt's scheme is financially irresponsible. The oil market is depressed and glutted. A recent sale of offshore tracts brought bids on less than 10 percent of the tracts offered and at the lowest yield per acre in 28 years of federal leasing. There is a practical limit to the amount of drilling the oil companies can handle each year considering manpower, drilling rigs and capital. If acreage vastly greater than the industry can explore and develop is thrown upon the market, our national resources will be squandered at cheap prices.

Over the next five years the government proposes to sell 35 million acres of "surplus" federal land. This acreage is greater than the entire state of North Carolina. Granting that some scattered sites are appropriate for disposition, cerainly there is no "surplus" equal to the combined states of Maine, New Hampshire, Vermont and Massachusetts. The public domain should be kept for the public use. The current administration is proposing to ape the foolish spendthrift who, not living within his income, commences disposing of his principle.

What are the motives for Mr. Watt's actions? As the kids today say, where is he coming from?

Mr. Watt has indicated the he believes he is following Divine sanctions. Watt said, "My responsibility is to follow the Scriptures, which call upon us to occupy the land until Jesus returns." This he implied may be quite soon. It is worth pondering whether the loving Heavenly Father which the Scriptures teach created the earth and all its inhabitants, wants his creation to be treated as an occupied land where the rich and powerful govern.

Watt's theology appears to ignore the great biblical themes that man is merely a tenant of God's creation with stewardship responsibility toward all of creation. The effect of Mr. Watt's use-it-now theology is a denial of concern or responsibility for the future; a denial that our children and grandchildren will inherit the fullness of the earth (Psalms 24).

I am inclined to the view that Watt's actions more likely arise from plain old-fashioned greed rather than pious concepts. The Sierra Club has said "Watt-ism may be new in its audacious scale and speed, but at the heart of this assault are old, old enemies the Sierra Club has been fighting for almost a century: self-interest, ignorance, short-sightedness and greed." It is perfectly legitimate for corporations to operate for profit and self-interest. In fact, some people, including economist Milton Friedman, argue that the sole and sufficient duty of corporate management is to maximize profits. But the public interest in the federal lands includes, among other things, watershed protection for safe and permanent water supplies, wildlife protection, a perpetual forest resource, soil conservation and recreation. The current administration has extolled supply-side economics with its "trickle down" theory whereby everyone is supposed to benefit from the invigorated activities of businesses aided by tax and regulatory reforms. It might work in economics but there is certainly no basis to believe that the public interest in the conservation of natural resources trickles down by turning over the public lands to private interests for maximum exploitation. In fact, the history of the 19th century shows just the opposite. What trickled down was denuded forests, eroded lands and abandoned strip mines. It was in the face of these abuses that Congress established the national forest system as well as wildlife refuges, national parks, national seashores, the national wild and scenic river system, wilderness areas and passed a wide spectrum of laws to protect these resources and our environment.

Watt is out of touch with the American mood with his meat-ax approach to the public lands and environmental protection. Poll after poll shows great bipartisan support for strong governmental actions to protect the environment. Watt is poorly serving his party and the American public. By ironic fate, however, the conservation organizations have benefited from Watt. Their memberships have grown dramatically as many more Americans are responding to the obvious threat posed by Watt and Company. This fallout, however, is a blessing the conservation organization would just as soon forgo, given the price.●

EARLY FIRE ALERTING SYSTEM FOR DISABLED

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ADDABBO. Mr. Speaker, I would like to take this opportunity to share some very important information with my colleagues.

The National Institutes of Health and other authorities estimate that over 1 million Americans suffer significant mobility impairment as a consequence of muscular dystrophy or other neuromuscular disorders. Until now these disabled citizens have been forced to rely constantly on other people for assistance in life-threatening situations, such as fire. Collectively, they suffer a disproportionate percentage of fatalities and severe injuries caused by fire each year in the United States, where we lead the world with over 9,000 fire deaths.

Gratefully, the International Association of Fire Fighters, in cooperation with the Musclar Dystrophy Association, has undertaken a new initiative to better safeguard our fellow citizens through the development of an early alerting system in the event of fire or medical emergency. This commendable effort undertaken by two disparate and cooperating organizations is being done without public funds. Placing complete reliance on voluntary efforts and private donations, the program promises a new life safety system that will substantially limit the needs and dependence of the disabled on others more fortunate. With expanded use, the system will afford an even greater degree of independence and confidence.

Such efforts are worthy of praise and encouragement by this Congress and I move to publicly commend both the International Association of Firefighters and the Muscular Dystrophy Association work.●

STATEMENT ON H.R. 6458, REAUTHORIZATION OF FEDERAL ALCOHOL AND DRUG ABUSE RESEARCH

HON. LEO C. ZEFERETTI
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ZEFERETTI. Mr. Speaker, on September 20, 1982, the House passed under suspension of the rules H.R. 6458 which extends for 3 years the authorization of appropriations for alcohol and drug abuse research by the Federal Government.

As chairman of the Select Committee on Narcotics Abuse and Control, I want to express my support for this legislation, particularly the provisions of H.R. 6458 that authorize funds for drug abuse research activities conducted by the National Institute on Drug Abuse (NIDA). The bill provides $47 million for these purposes in fiscal year 1983, $53 million for fiscal year 1984, and $59 million for fiscal year 1985.

Drug abuse continues to be one of the Nation's most pervasive and serious public health problems, particularly among our young people. In addition to controlling the supply of illicit narcotics and other dangerous drugs, the resources of our country—both public and private—must be directed toward efforts to reduce the demand for these substances. The consolidation of categorical drug abuse services programs into a new Alcohol, Drug Abuse and Mental Health Services (ADM) block grant has resulted in reduced Federal financial support for drug treatment, rehabilitation and prevention programs and has significantly decreased Federal involvement in the delivery of these vital services. Federal responsibility for providing national leadership in the area of demand reduction, however, has not and cannot be diminished. A continuing Federal commitment to demand reduction efforts is essential to stimulate non-Federal support for drug treatment, rehabilitation, and prevention programs and to carry out a number of critical functions that States and the private sector cannot reasonably or practically undertake on their own.

Drug abuse research is the heart of the Federal Government's responsibility for national leadership in reducing the demand for drugs. Acquiring new knowledge about how drugs of abuse work in the body and understanding the underlying causes of drug abuse are fundamental to developing more effective approaches to prevent and treat drug abuse. Moreover, assessing research priorities, providing financial support and direction for a national drug research program, and disseminating the findings of this research can only be done effectively at the Federal level.

As the lead Federal agency for drug abuse research, NIDA is responsible for providing the national leadership needed to expand our knowledge of the health and other factors involved in drug abuse and to translate this information into more effective drug treatment and prevention strategies. NIDA's other important functions include: Collecting and analyzing data on national drug abuse trends; disseminating information to increase public awareness of drug abuse problems; promoting new and more effective treatment and prevention techniques; providing technical assistance; and supporting research training.

Recent budget cuts have severely weakened NIDA's ability to fulfill its national leadership responsibilities for demand reduction. With respect to research activities, the 1982 research budget is nearly 25-percent less than the funds allocated for research in either fiscal year 1980 or 1981. This decrease is 30 to 40 percent if the effects of inflation are included. In fiscal year 1982, NIDA expects to award only nine new extramural research projects compared to an average annual level of 78 for all previous years.

Any further reductions in NIDA's research budget, or even freezing NIDA's budget at current levels, would irreparably harm our Nation's drug abuse research program. NIDA would be forced to phase down or out important parts of its research program, and its ability to fund research in new areas of emerging importance would be greatly limited. These developments would, in turn, restrict NIDA's ability to attract qualified new researchers into the drug abuse field and cause scientists already in the field to switch to other research areas that will be supported. Consequently, the pool of scientists doing drug abuse research would decline, and the quality of NIDA's research program would suffer. Rebuilding the program, once such cuts are made, would require a number of years. We cannot afford to neglect our drug abuse research program, the core of the Federal Govenment's demand reduction efforts.

The authorizations provided in H.R. 6458 for NIDA's research programs are sufficient to raise the Institute's research activities to nearly the levels prior to 1982. For fiscal year 1983, the $47 million authorized is approximately a 13-percent increase over 1982 funds. This amount will permit NIDA to support its ongoing research efforts and fund 63 new projects, and requested by the administration. The bill also will enable NIDA to increase research support in two of its highest priority areas, marihuana and cocaine. For fiscal years 1984 and 1985, H.R. 6458 will allow modest real growth in NIDA's research resources. Even with these increases, the annual authorizations for drug abuse research provided in this bill will not exceed the 1980 level of funds until 1985. The amounts in H.R. 6458 are a small price to pay when compared to the benefits of drug abuse research and the costs of providing anything less for NIDA's program.

This legislation involves a number of other issues I would like to address. First, I am pleased to note that the committee report on H.R. 6458 calls upon NIDA to allocate a higher priority during the next 3 fiscal years to expanding research activities in prevention, particularly with regard to stimulating innovative services demonstration projects involving young people. Moreover, to assure greater attention to such prevention research activities, the bill requires the NIDA Director to establish an office to administer and promote the Institute's prevention research programs. This increased emphasis on prevention research and demonstration is also reflected in the provision of the bill establishing an Assistant Administrator of the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) to be responsible for promoting and coordinating the prevention research programs of ADAMHA's constituent agencies, including NIDA.

Influencing young people away from drugs offers the greatest opportunity to reduce substantially the heavy toll that drug abuse extracts from individuals and society as a whole. By placing a higher priority on sponsoring projects to demonstrate new and promising prevention approaches, the Federal Government can make the most efficient use of its limited resources and at the same time provide strong national leadership in promoting prevention efforts at the State and local level. For these reasons, the select committee's comprehensive drug control program, included in our annual report for 1981, recommended extension and funding of the specific demonstration authority first enacted for NIDA in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, sec. 970). Recognizing that reauthorization of this separate program at this time may not be advisable given current economic and fiscal considerations, I commend the Energy and Commerce Committee for the efforts it has made in this legislation to enhance the priority accorded prevention demonstration research projects.

Second, the report of H.R. 6458 also states the committee's strong objections to the Department of Health and Human Services (HHS) proposal to transfer administrative responsibility for the ADM block grant from the ADAMHA Administrator to the Assistant Secretary for Health. I want to express my complete agreement with the committee's position and urge the

HHS Secretary to leave administration of the ADM block grant in the hands of the ADAMHA Administrator, who is best suited to oversee the transition to the new block grant.

Finally, H.R. 6458 replaces a number of separate reporting requirements concerning NIDA's activities with a new requirement for a single, comprehensive report from the HHS Secretary to Congress every 3 years. This report is to include information on the health consequences and extent of drug abuse in the United States, drug abuse research findings, and the Secretary's recommendations for legislative and administrative action. As a result of this change, the current requirement for a biennial marihuana and health report from the Secretary to Congress is repealed.

I want to emphasize that the elimination of this separate requirement for a report on marihuana and health should in no way be viewed as an expression of diminished congressional interest in the development and dissemination of accurate and current public information on the health consequences of marihuana use. We are just now beginning to recognize the serious harm that can result from marihuana use, particularly to our young people. The need for increased public awareness of the dangers of marihuana use is great, and the demand for information is strong, sparked by the burgeoning parents' movement across the Nation. Results of recent NIDA surveys of high school senior drug abuse offer the most encouraging evidence of the value of public information about marihuana and health. After years of unprecedented growth, marihuana use among this group of young people has declined for the past 2 years in a row. This drop has been particularly dramatic for daily use of marihuana. These changes are attributed in large part to the increased health concerns related to regular use of this drug expressed by a substantial and growing number of young people.

In light of the above, I would expect the new triennial report required by this bill to continue to devote substantial attention to the health consequences of marihuana use. I would also expect that NIDA and the HHS Secretary will continue to report significant new information about the effects of marihuana on health to Congress on a continuing basis and will use all means available to disseminate such information to the public in a timely manner.●

THE EXTRADITION ACT: H.R. 6046

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ERDAHL. Mr. Speaker, I rise to express my concern for H.R. 6046, the Extradition Act of 1982. Earlier in this session I expressed my reservations to this bill in a supplemental view to the Foreign Affairs Committee report. I hope my colleagues will take time to read these objections.

While I support efforts to reform extradition procedures, I believe there are flaws in this legislation. First, section 3194 of the bill strictly defines what does not constitute a political, that is extraditable, offense. Such limitations remove the significance of the exception. The "extraordinary circumstances" clause provided is not well defined and may not prove to be an adequate safety provision.

Second, the bill would give the Secretary of State judicial responsibilities in determining whether extradition is sought because of a person's "political opinion, race, religion, or nationality." Finally, it is possible that arrests and detentions could occur simply on the basis of accusations by foreign governments.

I appreciate the concern of my colleagues supporting reform in the current extradition law and their desire to pass H.R. 6046. I only hope the House will see fit to give the legislation the time and careful consideration it deserves.

Mr. Speaker, for over 200 years the United States has served as a haven for persons escaping tyranny and oppression in foreign countries. It is vital that, with any new extradition law, this country protect the rights of those individuals seeking shelter and maintain our Nation's peerless record of respecting human rights.●

SPECIAL MEMORIES FOR A SPECIAL LADY—MRS. GUSSIE JONES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. STOKES. Mr. Speaker, it is a signal honor and tremendous pleasure for me to join with the multitude of friends of Mrs. Gussie Jones in saluting her on her retirement from the Ohio Bell Telephone Co. My cherished friend, Gussie Jones, retired in August 1982 after 32 years of service. This testimonial and retirement dinner, entitled "Memories for Gussie," on September 24, 1982, in Cleveland is a token of thanks and admiration for the contributions of this dynamic human being.

Mr. Speaker, the persons participating in the retirement dinner for Mrs. Gussie Jones have a fountain of fond memories and feelings for her. She has been a source of strength in the community for many years. A native of Cleveland, Gussie Jones has worked each day of her life to pave the way for a better future for her neighbors and friends. With all due candor, I can think of few people in the Cleveland metropolitan area who have had the widespread impact on the lives of so many people as Mrs. Gussie Jones.

Mr. Speaker, she has been a respected employee and a role model on her job with the Ohio Bell Telephone Co. for the past 32 years. At the time of her retirement, Gussie Jones was an assistant manager in the general services department of the company. Within the company, she was a member of the Ohio Bell Speakers Bureau in which she gained a reputation for her outstanding speaking ability. As an orator, Mrs. Jones was the recipient of numerous awards from the Spellbinders Club which is also an Ohio Bell speakers group.

In addition to her distinction as a public speaker at the Ohio Bell Telephone Co. Gussie steadily climbed the corporate ladder and scored many "firsts" in the company. Mr. Speaker, that had been the legend and unique way of Mrs. Gussie Jones. She has always been at the forefront of things and is truly a lady of "firsts" and numerous achievements.

So, Mr. Speaker, I view the testimonial for Gussie Jones on September 24 as more than just another retirement dinner. It is, in my estimation, a celebration of her life and contributions.

It is also an acknowledgement of the valuable tools and inspiration she has given to those who have come into contact with her through the job, her church, her family, and community organizations.

In each of these facets, Gussie Jones has been a guiding light for those around her. Inspiration and involvement have been the trademarks of the life of Gussie Jones in the Cleveland metropolitan area. Memories for Gussie Jones on September 24 will be a voyage through her life with special attention being pointed to the many acts of kindness and love she has spread through her many friendships and associations.

Moreover, Mr. Speaker, the occasion will not only be a tribute to the kind of service she gave to the Ohio Bell Telephone Co. but also to the unceasing service she has rendered to our church, the St. Paul A.M.E. Zion Church in Cleveland. Every since I can remember, Mrs. Gussie Jones has been a powerful force and true servant of the Lord through this church. Her

reward for faithful service came in 1979 when she was named "Exhorter" for the African Methodist Episcopal Church. This is a position of honor and tremendous responsibility in the A.M.E. Zion Church. She was the first woman in modern day to obtain this title which is still another one of her "firsts."

Additionally, at St. Paul A.M.E. Zion Church, Gussie Jones is involved in many organizations including her position as the chairman of the Scholarship Fund Committee, chairman of the Memorial Committee and narrator of the Cleveland Mass Choir. It is obvious, Mr. Speaker, that Mrs. Gussie Jones is a dedicated church worker and soldier for the Lord.

Mr. Speaker, Gussie Jones, more than any person I know, radiates her own unique sense of charity, involvement and Christianity through all of her associations. Her character and deeds have earned her the respect of persons from all walks of life.

She has served the community through her membership in the 21st Congressional District Caucus and has served on many occasions as my special representative at many functions in Cleveland. She also serves as the chairman for the Speakers Bureau for my campaign committee. Additionally, Mr. Speaker, she is an active member of the League of Women Voters and the Iota Chapter of Tau Gamma Delta Sorority, Inc.

In conclusion, Mr. Speaker, it is abundantly clear that Gussie Jones is a lady of "firsts" in the Cleveland metropolitan area. It is a very special privilege for me to join with the hundreds of former work associates, church members and friends is saluting this very special lady. Everyone who knows Gussie Jones loves her. This is due to the fact that she has brought us all some very special memories. On September 24, we will come together to acknowledge that during the dinner entitled, "Memories for Gussie."

At this time, I ask my colleagues to join me in salute of my dear friend, Mrs. Gussie Jones.●

FALKLANDS FALLOUT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. GOODLING. Mr. Speaker, I would like to insert in the RECORD an analysis of the after effects of the Falklands crisis for the United States which appeared in the Council on Hemispheric Affairs' Washington Report on the Hemisphere. The analysis, I am proud to say, was written by a native of my constituency, Peter J. Swavely, formerly of Carlisle and now a Washingtonian employed by the COHA. The analysis is balanced and is, I believe, an accurate representation of how we are viewed by our fellow American nations in the aftermath of the Falklands crisis.

FALKLANDS FALLOUT

PART ONE

(By Peter J. Swavely)

Some two months after the cease-fire that ended the Falklands war, Uncle Sam treads lightly in South America, but the cathartic realignment of Latin American loyalties which was widely predicted at the height of the conflict has as yet failed to materialize. Many Latin American countries, realizing the importance of their economic ties to western Europe and the U.S., have been less outspoken in their condemnation of Washington since the crisis ended. Nevertheless, U.S. support for Britain in the war has caused "the scales to fall from the eyes of moderate and even conservative Latin American leaders," according to one observer. The problems faced by the U.S. in the hemisphere have been made more daunting, and moves toward Latin American independence of the U.S have been accelerated by the Falklands episode. It is widely believed that, for the near future, a more fundamental mistrust of the U.S. will be a feature of Latin American politics.

Latin America remains united in its insistence on Argentine sovereignty over the Falklands/Malvinas, and as the struggle shifts to the U.N.'s Decolonization Committee and General Assembly, Latin Americans will be watching the United States closely for signs of support. So far, however, the U.S. has maintained a cautious silence regarding the eventual status of the islands. Because Argentina has as yet refused to recognize anything other than a de facto cessation of hostilities, the problem has been complicated for those in the State Department who are eager to rebuild their hemispheric credentials by pressing the British for some moderation on the sovereignty question.

But the British remain adamant, maintaining that the Argentine aggression destroyed any prospects for early negotiations. In addition, Britain is taking steps to permanently garrison the islands with a "credible" force to prevent any future Argentine action. As long as the Argentines refuse to end hostilities officially, the British will continue their interdictory control of the islands' waters and airspace. But if the Argentines were to renounce the possibility of further military action, Britain would still not waiver from its policy of reestablishing firm control over the islands, at least as long as the Thatcher government holds office.

In the face of enthusiastic expressions of Latin American solidarity on the Malvinas issue the U.S. approach to mending relations with the region has been cautiously bilateral. Lake a number of European countries, the United States was quick to lift economic sanctions imposed against Argentina during the conflict, and has apparently had some success in soothing the tempers of the Argentine generals. President Reynaldo Bignone and army commander Christino Nicolaides are seen in Argentina as receptive to U.S. efforts to normalize relations. The Reagan administration, however, seems to appreciate the delicacy of the situation and is being careful not to identify itself with any one faction in Argentina, fearing that to do so would be "the kiss of death" for any favored group or policy bearing Washington's hallmark.

Peru, which along with Venezuela and ex-President Aristedes Royo's Panama was one of the most strident supporters of the Argentine cause, also seems to have muzzled its sentiments if not its rhetoric. Recent reports of a U.S. plane deal, although denied, are indicative of Peruvian President Belaunde's interest in maintaining good relations with the U.S. in the face of a severe economic crisis and growing difficulties with internal terrorism.

Indeed, the region-wide economic crisis probably has been one of the factors in the Latin Americans' failure to make any dramatic gestures of independence from the U.S. whose bilateral aid programs and domination of multilateral institutions, such as the IMF, are essential to the region's stability.

Colombia, whose moderate tone during the Falklands war reflected its close relationship with the U.S., will surely play a more significant role in U.S. policy in the region. Vice-President Bush's attendence at the August 7 inauguration of President Betancur signalled Washington's hopes for a new role for Colombia as Washington's democratic hand-maiden in Central America. This role was previously played by Venezuela, where President Herrera Campin's strong support for former Salvadoran Junta president Jose Napoleon Duarte and U.S. Central American policy in general had earned for it the image of Uncle Sam's diplomatic "gendarme" in the region.

Venezuela, unhappy over this image and disapponted by the Christian Democrats' loss of power in El Savador, is distancing itself from U.S. policy in the area and improving relations with both Cuba and Nicaragua, where the Venezuelan president was the sole foreign head of state to speak at the third anniversary of the Sandinista revolution.

Predictions of the demise of the OAS appear to have been unfounded, but the Latin American Economic System (SELA), long considered a paper tiger, has been strengthened by the Falklands/ Malvinas controversy. Based in Caracas. SELA has emerged as a leading forum for Latin American unity. In July, SELA's "action Committee for Aid to Argentina" met in Buenos Aires to discuss possible Latin American responses to the continuing economic embargo against Argentina, as well as regional assistance to Argentina's troubled economy. In this opening statement to the Buenos Aires meeting on July 26, SELA Secretary General Carlos Alzamora, a Peruvian, said "the Malvinas Islands crisis has taught all of us a major lesson, that is, that the Latin Americans can only rely on Latin Americans in the hour of truth."

Alzamora's remark expresses the prevailing mood in South America. The conflict has not only strengthened the growing sense of independence in the region, but has kindled a re-born sense of Latin American unity. Argentina itself—not noted for any strong feelings of solidarity with the rest of Latin America—has, since the crisis, gone out of its way to prate its gratitude for the support of its neighbors, and has generally become a promoter of Latin Americanism, including even Cuba in its generous embrace.—PJS

PART TWO

Chile, whose long-standing dispute with Argentina over the Beagle Channel led it to tacitly support Britain during the war, has

been one of the notable exceptions to the rhetorical backslapping and hypocritical displays of Latin American "solidarity" that have characterized the region since the conflict. Indeed, the Chilean ambassador in Buenos Aires has been busy since the cessation of hostilities denying numerous reports of clandestine cooperation with the British. This has not been lost on Washington, and there is growing speculation on Capitol Hill that the Reagan administration is now anxious for Chile to assume the role of "anti-communist bulwark" for which Mrs. Kirkpatrick and the State Department had been grooming Argentina. There have been rumors that the administration will soon move to renew military aid to Chile, suspended in 1977.

Apparently, the Reagan administration has not learned the real lesson of the Falklands War—that snuggling up to military dictatorships is a dangerous, as well as unprincipled, policy. Indeed, there has been no indication that the State Department has recognized its central role in inadvertently leading the Argentines to believe that they were too important to U.S. policy interests in the region to be sacrificed for the sake of a few tenuously held British islands. Thomas Enders, assistant secretary of state for inter-American affairs, has said that the reason the Argentines did not heed U.S. warnings was because "It is difficult to have credibility with a country unless one has strong links to it."

Aside from the noisy defection of Venezuela from the loyal flock, the Reagan administration has had considerably greater success in Central America and the Caribbean in minimizing the fallout of the Falklands War. Panama, whose independent foreign policy on El Salvador, Nicaragua and Cuba had become a source of growing concern to Washington, has undergone a "constitutional coup" in which President Aristedes Royo was ousted. The more conservative National Guard commander, General Ruben Dario Paredes, has emerged as the nation's strongman. Paredes has affirmed that no organization should be formed in this hemisphere without the participation of the United States, and is widely expected to more closely toe the Central American line drawn in Washington.

Close military ties with Honduras, which have turned that small country into Uncle Sam's point man in the Central American conflict, have been embellished by that country's participation, along with Costa Rica—now under the affable, if undistinguished leadership of Luis Alberto Monge—in the regional Central American Democratic Community (CDC). This curious body—called by former Panamanian President Royo "an arrow aimed at the heart of Nicaragua"—also includes El Salvador and Guatemala as its democratic devotees. Panama's membership under General Paredes would further strengthen the U.S. hand in the region.

Mexico, in dire economic straits, has been less active in regional politics than previously, prompting concern from those who admired its strong, independent line on Central America as expressed in the French-Mexican initiative of August 1981. Its stand during the Falklands War was subdued, condemning the use of armed force, but supporting in principle the Argentine claim to the islands.

President Reagan's push in Congress for passage of his highly-touted Caribbean Basin Initiative can also be seen, at least in part, as an attempt to reestablish U.S. credentials as a "good neighbor" in the wake of the war. An amendment to that measure by Sen. Steven Symms, R-Idaho, to use "any means necessary" to prevent Cuba's spread of revolution in the hemisphere, is indicative not only of continuing paranoia over Fidel's "adventurism," but also a reaction to the marked boost in Castro's stature in the hemisphere which was one result of Cuba's support of the Argentine cause.

Not only has Christian Democratic Venezuela, in its new role of anti-imperialist crusader, markedly improved its relations with Cuba, but Argentina herself has expressed its appreciation of Cuba's strong diplomatic support. In all the talk of newfound Latin American unity and solidarity, Castro's Cuba may be on the verge of casting off its pariah status among the moderate and even conservative governments of the region.

According to several observers, the fallout of the Falklands War will be most clearly apparent in the long-term attitudes of Latin American countries to U.S. initiatives in the region. In any event, Washington's cautious, bilateral approach has prevented any truly spectacualr degeneration of its relations with Latin America so far. But the U.S. can no longer count on automatic support in the OAS, for instance, and any future attempt to invoke the Rio Treaty (for collective hemispheric defense) against Cuba or any other leftist regime will not be taken seriously by its sister states in the OAS.

Before the Falklands, Argentina was regarded in Washington as a strong, secure, and reliable ally in the vigilant contest with hemispheric Marxism. Now, the country is a seething cauldron of economic crisis and political unrest.

Since assuming office on July 1, General Bignone has reversed the tight free market economic strategies of his predecessors and legalized political party activity. The economic situation continues to deteriorate, with the Argentine *peso* collapsing and the government scrambling to restore confidence by attempting to reschedule its massive foreign debt, now estimated at a staggering $39.1 billion.

The political future of Argentina remains mysterious. Racked by a wave of resignations—the most recent being that of navy Admiral Jorge Anaya—the military is also pestered by factionalism and low morale. The Peronist Party remains seriously divided, and any hope that a quick return to civilian rule would result in stability seems misplaced.

The U.S., still sucking its burned fingers, has so far maintained a low profile, but the Reagan administration has let it be known that it means to warm up its relations with Buenos Aires as soon as it is allowed to do so.—PJS●

GOVERNORS JOIN IN SUPPORT OF EXPORT-IMPORT BANK

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. BONKER. Mr. Speaker, I am pleased to announce today that a coalition of 18 Governors has joined the effort to convince the administration and the Congress that further proposed reductions of the Export-Import Bank are false economy, and will cripple America's export competitiveness.

Proposals currently before Congress call for cutting the Bank's direct loan authority from $4.4 billion to $3.83 billion for fiscal year 1983, down 13 percent from fiscal year 1982, and 30 percent from fiscal year 1981.

The Eximbank is America's limited means of resisting the competitive disadvantages inherent in a global marketplace dominated by huge foreign government financing subsidies.

Today, Governor of Washington, John Spellman, announced the names of those Governors who have joined the Coalition for Employment Through Exports (CEE)—those who recognize that every 1 billion dollars' worth of exports means 30,000 jobs.

As Chairman of the House Export Task Force, I have learned to what degree our companies are at a competitive disadvantage in the world market. In 1980, some 5.7 percent of "Made in U.S.A." exports were financed through official Government credits. This compares with 44.3 percent of Japanese exports, 39 percent of British exports, and 27.2 percent of French exports.

To reduce the funding for the Bank as the administration proposed to do, at a time when our negotiators are attempting to convince our trading partners to limit their credit subsidies, amounts to unilateral credit disarmament.

As Governor Spellman noted today, the outcome of the Eximbank debate will send a clear signal of what America's intentions are in the world marketplace, whether we intend to compete or not.

We should be talking about a major increase in Eximbank loan authorization levels as our best jobs-generating bet for a speedy and sustained economic recovery.

My colleague NORM DICKS and I have sponsored House Joint Resolution 456, which establishes the intent of Congress to fund the Bank at adequate levels to enable U.S. companies to compete with their subsidized competitors on an equal footing. In addition, I have sponsored H.R. 6562, to establish a $2 billion Eximbank "war chest"—this would let our trading partners know we are serious about competing in the world market.

I want to commend Governor Spellman for joining the debate. He was one of the original founders of CEE last February. The other Governors should also be encouraged to lend their voices to the debate over export financing. We will not experience true export recovery as a nation unless we realize our export potential.

Mr. Speaker, I would like to submit for the RECORD the names of those Governors who have lent their names to support of full Eximbank funding:

Governor John Spellman, Washington.
Governor Lee Sherman Dreyfus, Wisconsin.
Governor Bob Graham, Florida.
Governor Bruce Babbitt, Arizona.
Governor Frank D. White, Arkansas.
Governor William A. O'Neill, Connecticut.
Governor George Busbee, Georgia.
Governor George Ariyoshi, Hawaii.
Governor John V. Evans, Idaho.
Governor James R. Thompson, Illinois.
Governor John Carlin, Kansas.
Governor Harry Hughes, Maryland.
Governor Albert H. Quie, Minnesota.
Governor Hugh Gallen, New Hampshire.
Governor Hugh Carey, New York.
Governor James B. Hunt, Jr., North Carolina.
Governor Victor G. Atiyeh, Oregon.
Governor Dick Thornburgh, Pennsylvania.
Governor J. Joseph Garrahy, Rhode Island.●

PUBLIC AND PRIVATE: THE COMMON GROUND

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. FORD of Michigan. Mr. Speaker, in his address to summer graduates of the University of Michigan, Stanford University president, Donald Kennedy, made some observations about the cooperation between public and private universities and their common interests. He also addressed the importance of the Federal student aid programs in giving students the freedom to attend institutions best suited to their career goals. I commend Dr. Kennedy for his thoughtful remarks and urge my colleagues to review them.

PUBLIC AND PRIVATE: THE COMMON GROUND

(By Donald Kennedy)

President Shapiro, Regents, Guests, and Fellow Alumni-to-be, it is good to be back in Michigan. This morning someone asked me: "Why are you here?" It sometimes helps, in responding to a difficult inquiry, to answer only the stated part of the question while avoiding its real import. Thus the celebrated thief Willie Sutton, when asked why it was that he robbed banks, replied "Because that's where the money is."

So I could say that I am here because, being an ex-resident of Ann Arbor and the proud owner of 28 credit points from this university, I wanted to close a circle. And I am here also because of my admiration for your President, who asked me. Since every man is a prophet without honor in his own country, you may not know that Harold Shapiro owns a degree of national respect among his peers—those of us, that is, who practice the possibly masochistic craft of running universities—that is truly enviable.

Now, you will instantly recognize that as a Willie Sutton answer. I explained why I came, but what the questioner may have wanted to know is: "Why did they ask you?," or perhaps even "Why did they ask you?"

I honestly have no idea, but I will offer a confident speculation. I suspect Harold may have believed that the president of a major private university might have something useful to say to the graduates and friends of a major public university at this very critical time—something, perhaps, about the arrangements we have made in this society for the support of higher learning, about the current threats to the quality of our enterprise, and about the roles of the public and private sections in guaranteeing its future safety. I certainly hope such a thing like that was on his mind, because that's what I intend to talk about.

I want to begin with an account of the differences and similarities between this institution and the one I represent. The comparison could as well be between Harvard and the University of California as between Stanford and Michigan; it generalizes to the form "what is different, and what alike, about the private and public institutions of highest rank?" More specifically, what can be said about the congruence of purpose, style, execution, and quality between my distinguished middle-sized private California university and this distinguished public institution with three times the enrollment and twice the operating budget?

Much has been made of the public-private difference, usually by private educators. William Rainey Harper, first president of the then-embryonic University of Chicago, used to refer to its neighbors in the nascent Big Ten as "the great engines of public instruction." He pictured Chicago as a fragile object of great worth, in constant danger of geing trampled by heedless hordes. The tactic of portraying public institutions as less sensitive and somehow less dedicated to excellence has not, I suspect, entirely disappeared from the repertoire of private university presidents, expecially near the end of fund drives.

But in Harper's time there was little distinction between the social purposes of public and private educational institutions. The first president of Stanford, David Starr Jordan was President of the University of Indiana in 1890 when Senator Leland Stanford came to Bloomington for the purpose of wooing him to California.

The day Stanford arrived, the object of his search was out of town. Where was Jordan? In Urbana, giving a speech on the importance of the State university! In it he praised the growth of the State university as "an institution existing for all the people, and for no end except the purpose of public instruction." But he then pointed out the similarities between their fundamental aims and those of the existing, largely church-related private colleges: "In its early years the State university was, in aim and method, almost a duplicate of the denominational schools by which it was surrounded." True to those beliefs, he founded at Stanford a private university at which—to the amazement of every contemporary Stanford parent to whom I recite the story—there was no tuition. Indeed the Stanford of 1895 was different in few significant ways from the neighboring, somewhat older University of California across the Bay.

The private universities have, however, always contributed the values of independence and pluralism to higher education in America. In particular, I think they have a special role associated with their status as trusts—an obligation to hold, for the indefinite future, domains of knowledge, resources, or views that might be allowed—or made—to vanish if they were more publicly responsible. As a complement, the State institutions have their particular dedication to public service, to reaching out.

But the more striking attributes of Stanford and Michigan, I would argue, are ones that they share. Along with a handful of other universities, public and private, they have a deep commitment to the acquisition of new knowledge that accompanies their responsibility for disseminating the old. They are, accordingly, called "research universities." The two institutions we're talking about, along with perhaps ten others, are responsible for a large proportion of the innovation in this society. They consume most of the Federal funds for basic research, produce most of the original work and collect almost all the Nobel prizes, generate a substantial fraction of the applications that make U.S. agriculture and industry work, and are responsible for a good deal of cultural creativity as well. Such places are the center for quality graduate and professional education in the Nation, because we discovered nearly a century ago that training of that kind prospers best where original work is also conducted. The policy of brigading graduate training and research—establishing what Suny Bergstrom has called the "democracy of American science"—has made our research enterprise the most productive in the world.

The pursuit of that wise national policy has had a cumulative result that now virtually submerges one traditional distinction between private and public as it applied to places like Stanford and Michigan. So important and pervasive is support from the national government that it would not be unfair to call each of us Federal universities, especially with respect to the functions of research and graduate training.

A second area of similarity has to do, oddly enough, with how education is paid for. Most people think of private institutions as expensive, and as supported from private sources. But State revenues do not meet most of the costs even of in-state undergraduates in an institution like this one: board and room, some tuition and fees, and incidental expenses, must be met—largely, again, from private sources. And in a private university like Stanford, conversely, over half the undergraduates receive part or all of their expenses in the form of financial aid, mostly derived from private philanthropy, but some of it from public funds.

In short, private and public payers are sharing the load in both places. Michigan and Stanford undergraduates—especially those who happen to be members of minority groups, or who come from the less affluent part of American society—depend upon direct aid and tax policies that have emerged from a carefully-developed national policy designed to improve access to higher education. That policy, crafted by the Congress over several decades and embodied in the Higher Education Act of 1965, is based upon two main premises. The first is that human resources are critical to the Nation's future, and that it is against our interest to exclude groups of people from contributing to that future simply because race or economic circumstances have handicapped them.

The second premise is that diversity itself is an important adjunct of the educational process. I explained that premise from Stanford's viewpoint in this way, in a letter to the Michigan parent of one of our undergraduates: "(It is) our belief that students gain from one another a large fraction of what they take away from the college experience. If that is right, the composition of a student body—like the quality of the faculty and equipment in the laboratories—is an es-

sential part of the education we provide . . . (and) we invest (through financial aid) in its quality just as we invest in the quality of the faculty."

For both these reasons, a substantial national commitment has been made to guarantee access of our best young people to higher education—not only in private universities, but in the state institutions as well—where full financial aid may, despite the lower tuition, still amount to over half the bill in the expensive privates. Thus at Stanford and Michigan, at least in the seventies, Federal help was a substantial component of the financial aid mix for undergraduates. And for graduate students, of course, it loomed even larger.

But in the 1980's those Federal commitments are being unravelled. The direct campus-based student aid programs have been cut drastically, and the loan programs—in many ways the most important of all—have been made much less attractive. The more fortunate private universities have been able to fill in behind the Reagan retreat from educational opportunity by redeploying private funds; and as a result we are able to retain our commitment to meet the full demonstrated financial need of every student we admit to Stanford. But other private universities, even some that are considered relatively wealthy, have been unable to do so.

And paradoxically, the Administration's abandonment of past access policies has been even harder on the public institution—the ones nominally intended for all the people. As the New Federalism accomplishes its purpose to returning functions to the States—for the euphemism functions, read financial burdens—the public institutions face the double whammy of less direct Federal support for higher education, and harder-pressed State budgets. In economically troubled regions like yours, it is requiring heroic efforts just to keep afloat. Already minority enrollments in many of the public institutions has dropped alarmingly. It would not be surprising, though surely ironic, if the private universities turned out for a while to be society's most important academic reservoirs for ethnic and economic diversity.

Now, what is being offered by way of replacement help? More and more insistently, those who are dismantling the Federal higher education programs are recommending a new fix: it is tuition tax credits.

This program is designed to help parents pay for school or college by crediting the cost of tuition against their income tax; it is billed as "free choice," and purports to help the independent educational sector by offering tax incentives to private tuition-payers.

As one whose institution would theoretically stand to benefit, I want to leave no doubt about my distaste for the entire notion. It produces a thinly-spread immediate benefit that will not make the difference between anyone's attending and not attending a good school or college. And it sells out the whole notion of financial aid based upon need. What any responsible private college administrator ought to do with a tuition tax credit, if the Congress is foolish enough to pass one, is to recoup the funds through an extra tuition increase and reaward them as need-based financial aid. The purpose of Federal help with tuition is to make sure that the most capable Americans get to college, and tuition tax credits won't do that. They are thus not one bit better for Stanford than they are for Michigan, and I hope we can oppose them together.

Indeed, I would argue that we have much to join forces over. At the top of the list is the dismantling of the Federal support for access to higher education, about which I've just been talking. Next would be the cooperative defense of our service as research universities—centers of graduate training and of the production of new knowledge. Future productivity gains in this society will depend heavily upon the kind of intellectual capital our institutions are now providing.

To these I would add a third program, one on which you have, as a public institution, a rather better start than we. It is the need for the universities to support and encourage the quality of public education at all levels. In this area the great state universities have established a powerful tradition of benign influence. Few examples are more laudable than the extraordinary writing program run by Professor Daniel Fader in the College of Literature, Science and the Arts here, which extends into Michigan high schools. It has been widely copied, as it deserves to be.

Despite the existence of such programs in places like this, the general record of concern about public primary and secondary education in the great universities is disappointingly meager, and it promises to become worse as the schools of education continue to fall into neglect. We have decided to make a major commitment to a study of the schools at Stanford, an effort in which the Dean of Education and I are trying to involve a broad array of faculty members outside the School of Education in a project led from within it. Unless the significant institutions of higher education demonstrate an interest in this problem, we risk perpetuating a situation in which only the less able students contemplate teaching careers. Two years ago, those college students intending to serve in public education had test scores averaging more than 40 points below the mean for all students. We cannot tolerate that circumstance for very long.

Therefore I want to say to you, as I have said to our own new graduates, that teaching and other forms of public service deserve your serious attention. That is one of the three important convictions that I hope you have drawn from your time in this great university. It arises out of a sense of involvement in public purposes, a sense that is particularly alive in places like this one; and it arises also from an intellectual appreciation of the continuity between knowledge and its application for public benefit.

What are the other two? First I hope you have gained some personal experience with the extraordinary richness of a great university—for the complex and grand venture that is the search for knowledge. It is an opportunity available in only a few places. And second, I hope you will gain the strength of confidence in the abilities your own education has brought you. It is one thing to know, and quite another thing to be able to apply that knowledge to unique problems, over unfamiliar intellectual terrain. You are better able than you may know to do that.

So in conclusion, I wish you well in these three ways: I wish you the joy of discovering the extent of your capacities, the confidence to apply them broadly, and the will to employ them in the public interest.●

SOVIET-ETHIOPIAN AGGRESSION AT THE HORN

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, since the invasion of Angola in 1975 by Soviet-sponsored Cuban proxy forces, U.S. policy in Africa has tended to take a passive role. Nowhere has this been more the case than in the strategic Horn of Africa where, since 1977, Ethiopia and Somalia have been at war.

Beginning in July 1982, Ethiopia—a pillar of Soviet, Cuban, and East German adventurism—escalated its invasion of Somalia. Under the leadership of Col. Mengitus Haile, Ethiopia initiated a campaign designed to overthrow the regime of President Mohammed Siad Barre of Somalia and to establish Marxist control over the entire region.

In an article appearing in the Washington Times on August 17, 1982, Dr. Z. Michael Szaz, former associate professor of international law and relations at Seton Hall and Troy State University, and currently studies program director at the American Foreign Policy Institute, discusses this issue. He says that, without additional U.S. assistance, the poorly equipped Somali Army will be unable to withstand the increased level of aggression financed by the Soviet Union. Only with additional aid can the United States:

Secure the survival of an independent Somalia friendly to the West * * *, complete the containment of Ethiopia, and challenge the Soviet position on the Horn of Africa.

I commend Dr. Szaz' article to my colleagues as follows:

HORN OF AFRICA: AIDING SOMALIA, CONTAINING ETHIOPIA

(By Michael Szaz)

Ethiopia, the former ally of the United States, has become the pillar of Soviet, Cuban and East German adventurism in the strategic Horn of Africa area. The Soviets built air and naval bases at the Dahlak archipelago off the coast of Eritrea; 4,000 Russian "advisers" are attached to the Ethiopian military and government and 2,000 East Germans operate the secret police. 17,000 Cuban troops are deployed on the Ogaden to contain the guerrillas, and around Addis Ababa to prevent any anti-Soviet coup.

In August 1981, Col. Mengitus Haile Mariam's Marxist regime concluded a pact with Libya and South Yemen, the only Marxist Arab state, to receive development aid from Libya which the Soviets are unwilling to provide. The U.S.S.R. did deliver, however, more than $2 billion in military equipment since 1977. The pact with Col. Qaddafi, according to Jay Ross in the *Washington Post*, already netted $100 million for Ethiopia and brings Libyan terrorist know-how to the volatile Horn area and the Arabian peninsula.

Effective power in Ethiopia rests with Col. Mengitus and his six military aides. As there are no political transmission belts, the colonel is establishing a Communist party, still in embryonic stages. Its preparatory body, however, the Commission for Organizing the Party for the Working People of Ethiopia, held its third plenary session in November 1981, and Marxism-Leninism was declared state ideology three years ago.

Human rights are nonexistent. During the "Red Terror" of 1977-1978 ten thousand were assassinated or executed, and persecutions continue against the Ethiopian Evangelical Church (Menahe Yesus) and the Jewish community. In November 1981 its last church and property was confiscated by the government, leading to Swedish declarations that the $20 million aid for 1982 would be cut off unless the church and property are restored.

Stabilization of the outlying provinces by military force made progress, but the rebellions are far from over. Ethiopia, besides the U.S.S.R., constitutes the last remaining colonial empire. The minority Amhara tribe rules the majority Oromo tribe and also two ethnically unrelated nations: the Somalis of the Ogaden and the Eritreans. Eritrea was an Italian colony between 1860 and 1941. It was attached to Ethiopia in 1960 and has been in revolt ever since. In 1977-78 its two guerrilla groups controlled all the province except the capital and the major port. While they lost control of all but one town and some mountain redoubts, they still tie down Ethiopian forces as does the anti-Communist revolt in Tigray province.

A continuing problem remains Ethiopia's insistence upon controlling the Ogaden, a semi-arid province in the southeast inhabited by Somalis. To quote Anthony Hughes (May/June 1981 issue of *Africa Reports*): "The dominant ethnic group, the Amhara, exercises less authority in the region than in any other fief of their farflung empire. As late as World War II, the Ogaden was under military administration with British Somaliland, and today the Somalis of the Ogaden suffer under a rule from Addis Ababa even harsher than meted out to the rest of the country."

The results were large-scale revolt and ensuing war in 1977-78 and 2 million refugees entering Somalia from the Ogaden. Since the return of the Ethiopians in the wake of Cuban troops, guerrilla activity continues.

In July 1982 Ethiopia started an invasion aimed at overthrowing the regimed President Mohammed Siad Barre in Somalia. Col. Mengitus has harbored the "Somali National Salvation Front" in Addis Ababa since 1978 and claims future control of the Horn, including Somalia and Djbouti. The ultimate beneficiary would be the Soviet Union, by being able to deny access to the Bab el-Mandeb Straits by Western air and sea power. Mengitus unleashed some of his army and some Somali dissidents upon Galdogab and Balambele, opening a third front northwest of Balambele in early August. We are now airlifting some equipment to the Somali troops trying to defend their frontiers against Ethiopian aggression. In the meantime, President Daniel arap Moi of Kenya just survived an air force coup attempt which was certainly encouraged by Mengitus.

The situation endanges our national interests. While the loss of Ethiopia was probably preventable, there is no practical hope to remove the Soviets with or without Col. Mengitus' consent. The nostalgia of some government and congressional experts and members who hope for a return of Ethiopia to the Western fold is commendable, but illusory.

In view of the Ethiopian invasion of Somali territory, the second option to be taken up immediately is the containment of Soviet-Libyan influence in the Horn region. This would include accelerated arms deliveries to under-armed Somalia and an effective alliance between the Sudan and Somalia. While the Sudan is receiving increased economic and military deliveries, the case of Somalia necessitates quick and resolute action on our part, both by the administration and Congress.

It will be necessary for both of them to come to the same conclusion as in the case of the Sudan. We need to redouble our efforts to help Somalia economically and militarily. Besides accelerated arms deliveries of FMS already appropriated, the supplemental 1982 budget request of the administration should be agreed to by the House-Senate conference which, in the case of Somalia, includes an additional $10 million FMS and the Fiscal year 1983 foreign aid appropriations must include the higher level of FMS and economic aid (at least $30 million each). This way we would give a clear signal to the Soviet Union and Ethiopia that we would secure the survival of an independent Somalia friendly to the West. By doing so, we could complete the containment of Ethiopia and challenge the Soviet position on the Horn of Africa.●

LESSONS WE SHOULD LEARN FROM POLISH EXPERIENCE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. SIMON. Mr. Speaker, recently, I came across an article in the Notre Dame Alumni magazine, written by Georgie Anne Geyer, about "The Lessons of Poland."

It contains some commonsense, common not only for those who live in Warsaw, but for those of us who live in Washington.

Georgie Anne Geyer says, in my opinion correctly, that the West missed its opportunity to quietly but effectively take some actions to reinforce Polish independence. Instead, we made speeches.

In the article she says:

The West should also learn some lessons about its own economic wantonness. By the time the revolution came, Poland owed Western countries $26 billion. In one sense, this massive debt was an indictment of the country's Communist system; it was like the pregnant belly of an unmarried woman, obvious to all "decent" society. But in another sense, that debt was the illegitimate child of greedy Western bankers who throughout the 1970s lined up to lend Poland billions it knew it could never repay.

Still, once the revolution began, Poland's financial obligations could have been used in a variety of ways to tie the country closer to the West. However, during those 16 largely free-and-open months, the vocally anti-communist Reagan Administration could not arrive at any policy to accomplish that. Instead, every couple of months like clockwork, the administration's top people would issue dire predictions that the Soviets would soon invade. That is what passed for a policy.

A workable policy, of necessity, would have been of the long-term variety which the Reagan people have not shown themselves capable of developing. Such a policy would have included assurances to the Soviet Union that its security needs would not be challenged, coupled with subtle and deliberate efforts to tie Poland economically and culturally to the West. Instead of such a policy, we got a television extravaganza ("Let Poland Be Poland"). So Poland wound up tied ever more closely to the Soviet Union. The West, and particularly Washington, clearly lost the moment.

Georgie Anne Geyer gives us some sound advice, and I hope we start learning our lessons.

I urge my colleagues to read her article.

THE LESSONS OF POLAND

(By Georgia Anne Geyer)

During those last sullen weeks before martial law was imposed upon Poland last December 13, nearly everyone in Warsaw knew that the infectious hope of the Polish August of 1980 was lost. In the prevailing mood of restless futility, no one in the country could come up with the "formula" for ruling Poland that was necessary for that hope to survive.

I visited the country during the final autumn of Solidarity, when the predominant mood in Poland was paralysis. When I asked Marek Brunne, Lech Walesa's personal spokesman, a key question—"Who is in control of the country?—this exhausted, red-eyed young man almost shouted: "Noboty's in control! Nobody!"

Everywhere in that courageous country, those final weeks of a 16-month ear which will become the stuff of legends, I could see the valiant gamble of Solidarity being squandered. Now, six months later, as renewed turmoil erupts in Warsaw, it is time to ask from an appropriate distance: What went wrong in Poland? Who threw the final dice in the gallant game? Who spun the roulette wheel in its last ideological round? What, in short, are the lessons of those brief, incredible 16 months?

The search for lessons much begin with Solidarity itself, that extraordinary organization of 10 million Poles which, beginning in August 1980, grew from a band of shipyard strikers in Gdansk into a historic movement aimed at building checks and balances into a totalitarian system. Alas, when the moment of truth finally came in December 1981, this astonishing organization showed that it was better at organizing its members than at plotting its survival. Indeed, Solidarity's failures at that crucial moment were colossal.

In those final weeks, the movement virtually went mad. Its membership largely ignored Lech Walesa, their good and reasonable leader who for months had warned them constantly against going too far. Its intellectuals met clandestinely all over Poland in a doomed effort at reorganizing the old prewar political parties, and then called for a referendum on the country's government and even on its military ties with the Soviet Union—a move which every sober observer knew would prove fatal. For its efforts to build a "new Socialism" in Poland, Solidarity required control. In the end, control was sacrificed to passion.

The fact that the Communist military government last year was planning a military crackdown should have surprised no one. But when the military finally did take over, it became clear that Solidarity did not have a contingency plan for such an obvious eventuality. Solidarity depended for communications on the nation's workplants, so the government closed them. Solidarity needed telexes and telephones, so the government cut them. Some Solidarity members, filled with foolish grandiosity, had boasted that they were invincible because they had the people. They learned that, at least in the short run, the government was invincible because it had the guns.

The most grievous errors of judgment and of tactics were made by Solidarity's intellectuals. Their very presence in such a movement was a new development; in the Polish uprisings of the 1960s and '70s, the intellectuals and the workers had fought each other. This time, they worked together. But in the end, only the working men, like Walesa, saw the situation in its correct parameters and warned the movement against the extremes that finally devoured it.

The reasons for the movement's growing paralysis were described to me one dark November day by Janusz Onyszkiewicz, an attractive, blond young Pole who was Solidarity's national spokesman. "It was so much easier being in the opposition," he said thoughtfully. "There was only one thing then: to be against the government. Now that we are taking part in power, we have to choose one value against another. And we cannot do that." He shook his head sadly. "We could ask people to sacrifice if we had our structures and institutions in place," he went on. "We don't."

Solidarity might have benefitted in the crisis by imitating the leadership of the Catholic Church in Poland. Church leaders, and in particular Pope John Paul II, were actually responsible for "the Polish revolution," as the Poles themselves call it. Onyszkiewicz put it poetically when he spoke of John Paul's 1979 visit to his homeland, the visit which sparked Solidarity. "When the Pope came here and we were all in the square, we could see our Polish masses all around us," he told me. "Before, it was pretty clear who 'they' were. Now we saw who we were."

Once the movement started, the church assumed a role that was as well-balanced as Walesa's. Some criticized its position for being too moderate, but in reality it was cunning in the truest sense of the word. The church knew what too fast a movement would bring and, to no avail, warned against it.

No similar discernment could be found among the leaders of the West, and the lessons for them are myriad.

First of all, the West should learn to appreciate its own good intelligence. None of the Western embassies in Poland, including the American, ever predicted a Soviet invasion. It was clear to nearly everyone in Warsaw last year that, when "it" came, it would be an internal military takeover, not an invasion. All of the Western capitals, however, ignored this good reporting and operated blithely on the assumption that the Soviets would repeat their moves into Hungary in 1956 and Czechoslovakia in 1968. Accordingly, on December 13, the West found itself in a trap of its own making: it was forced to react to the wrong action, and thus was unable to react efficaciously.

In the first round of the Polish crisis, while the Western allies squabbled about what to do, the Soviet Union won. It's far more sophisticated action this time—in backing the Polish military in an effort to put down its own people—divided the allies and, in the eyes of much of the world, preserved the illusion of a Soviet posture of nonintervention.

What the West, and in particular the United States, missed in that dismal first round was a fact of crucial and sobering significance: The Soviets have developed a sophisticated new style of diplomacy. This newfound sophistication was demonstrated in Poland, and we are going to see more of it. Indeed, we can see it already: in the button-down style of the young Soviet diplomats who now rove the world looking like an Eastern bloc variation of our own State Department types; in the slick American English diction of the new announcers on Radio Moscow, and—most importantly—in the cunning use of peace talk and peace overtures to disguise Soviet military moves.

The West should also learn some lessons about its own economic wantonness. By the time the revolution came, Poland owed Western countries $26 billion. In one sense, this massive debt was an indictment of the country's Communist system; it was like the pregnant belly of an unmarried woman, obvious to all "decent" society. But in another sense, that debt was the illegitimate child of greedy Western bankers who throughout the 1970s lined up to lend Poland billions it knew it could never repay.

Still, once the revolution began, Poland's financial obligations could have been used in a variety of ways to tie the country closer to the West. However, during those 16 largely free-and-open months, the vocally anti-communist Reagan Administration could not arrived at any policy to accomplish that. Instead, every couple of months like clockwork, the administration's top people would issue dire predictions that the Soviets would soon invade. That is what passed for a policy.

A workable policy, of necessity, would have been of the long-term variety which the Reagan people have not shown themselves capable of developing. Such a policy would have included assurances to the Soviet Union that its security needs would not be challenged, coupled with subtle and deliberate efforts to tie Poland economically and culturally to the West. Instead of such a policy, we got a television extravaganza (Let Poland Be Poland). So Poland wound up tied ever more closely to the Soviet Union. The West, and particularly Washington, clearly lost the moment.

Even now, the Western allies—whose internal squabbling over Poland in effect allowed the Soviets to march stolidly ahead with their crackdown—have failed to devise any plan to deal with the indebtedness of other Communist countries. The Soviet Union and six of its Eastern European allies have borrowed $70 billion from the West, and at least four of those countries, at this moment, cannot repay their loans.

Clearly, these mistakes, these inabilities to grasp creatively the possibilities of the Polish revolution, have been painful for the West. But the hardest lessons of Poland by far are those that must be learned by the Soviets. For despite their initial "victory" last December, they are the ones who have fooled themselves the most.

The Soviets have no idea what really happened in Poland. They have demonstrated an abysmal paucity of imagination on how to deal with the real challenges the Polish revolution has presented to them. They have no conception of what "Poland," at heart, finally represented: the exhaustion of Communism in Eastern Europe.

Poland represents a total failure of the Communist ideology. "Poland" thus represents a most dangerous delegitimization of the entire Soviet system, with its lack of incentives and corrective devices.

Ironically, Poland could have represented a renaissance for socialism. As Zbigniew Brzezinski, the national security advisor in the Carter Administration, has so well expressed it, the issue in Poland was "between primitive socialism and participatory socialism. Primitive socialism is bureaucratic, dogmatic, brutal, even terroristic, and certainly old-fashioned. Participatory socialism is more mixed, provides greater opportunity for individual expression and technological innovation. What is at stake is the concept of a modern society."

It is indeed. But that "lesson," far from inspiring the Soviets to make the changes which alone can develop and modernize their society, instead reacted in rage, in paranoia and in fear. And all the sleek young Soviet diplomats cannot hide that fact.

Ironically, even many Polish Communists understood that what happened in their country was a potentially purifying and even saving event within the Socialist bloc. Indeed, one of the most extraordinary conversations I have had in 20 years as a journalist took place in Warsaw last year with Jerzy Urban, a short, chubby man with a shiny bald pate who was and is the spokesman for the military government.

When I asked Urban why Communism had failed in Poland, he not only answered my question, he answered it systematically and correctly. "The Polish economy in the '70s was based on very expensive imports from the Western economies," Urban began, "but we could never produce exports for hard currency. Polish society simply consumed too much of the credits."

"Also, power was exercised in a very arbitrary way and by very few people," he continued. "There was no control over [politicians], and they got rich at the cost of the people. They become divided from the people, arrogant.

"The problem, in one sentence, was that we didn't introduce reforms when we needed to."

Urban went on to explain why he thought the Soviet response to Poland was so different than what we had come to expect. The previous uprisings in Hungary and in Czechoslovakia, he explained, were led by small groups of intellectuals; the workers did not take part. In Poland, on the contrary, an almost tangible social struggle was forcing change. That struggle was not limited to small groups. Also, events in Poland occurred gradually; the country did not experience a sudden uprising endangering the balance of forces in Europe. And the Polish character was always different from that of the rest of the Eastern bloc. In Poland, private property was allowed, the Catholic Church was strong, and a facade of alternate political parties was maintained. The Soviets had grown accustomed to the "Polish difference."

But the Soviets, even today, still have no idea how to build within a system like the Poles'—or like their own—the kinds of self-corrective measures which democracies build in with electoral and free-market accountability.

The Soviets stopped Solidarity, but what has that got them? They now are checkmated—economically, politically and ideological-

ly—both in Poland and within their own borders. Martial law in Poland is not working, will not work, cannot work, for the simple reason that, while you can always send a few hundred or a few thousand intellectuals to jail, you cannot force millions of workers to produce at the tip of a bayonet.

The Eastern bloc needs personal initiative and widespread commitment to the work ethic if it is to rise above its economic and social stagnation. Ironically, those are precisely the things the Soviets in Poland moved to kill.

What happens next? The speculation is endlessly creative. Some specialists believe the Communist bloc will experience counterrevolution before the end of this century. Others see a potentially ominous development in the unprecedented Soviet use of a military man, rather than a party man, to do the dirty work in Poland. With General Jaruzelski in power in Warsaw, and with a rumored new balance of power between the party and the military developing in Moscow, these experts believe a new militarism could arise across the Eastern bloc. As Pavel Machala, a Czech who fled his country in 1968 and who now teaches at Amherst, wrote: "A message will be sent to the military in other Eastern European countries that the Communist Party is no longer the absolute authority and sole representative of the will of the people."

Poland has always been different. Poland has always been a kind of litmus test of the morality of East and West. It has been the crucified Christ of nations, constantly torn asunder by its rapacious neighbors. Now, once again, its role in the world is to provide a symbolic and crucial warning.

Looking back on Poland after six months of martial law, some lessons are indeed discernible. The lessons for the West will not permit it to admire its reflection in the mirror of history. But the lessons for the East are far more sobering.

The Soviet Communists are caught in a vise. They cannot prosper without granting some degree of freedom to their people, and they cannot bear to grant that freedom. So they are captured, tied by the knots of history's cruel contradictions. Poland warned them. They didn't listen. Poland will have its revenge.

THE NAVY'S PROGRESS AGAINST DRUG ABUSE

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ZEFERETTI. Mr. Speaker, the Navy recently conducted surprise urinalysis tests of enlisted personnel in San Diego and Norfolk and found much lower rates of marihuana use than were uncovered in similar tests in 1980, when use rates of 50 percent were reported. The marihuana use rate has been cut by nearly two-thirds in San Diego and by half in Norfolk, down to an overall average of 20 to 25 percent. This is still obviously much too high, and the antidrug campaign in the armed services must be pursued unrelentingly. But the indication of progress is gratifying to those of us who have pressed the military to take firmer action against drugs.

Our support in Congress is crucial for the ultimate success of the armed services' efforts to eliminate drug use as a threat to military effectiveness and to the health of our young men and women in uniform. Congressional funding is required, for instance, for the testing equipment that serves for both deterrence and detection of drug abuse, and for related programs to combat the problem.

As one who in the past has criticized the military's failure to give sufficient priority to meeting the drug issue, and who has surveyed the matter as chairman of the Select Committee on Narcotics Abuse and Control, I am particularly pleased to commend the Navy on these initial signs of progress. Accordingly, I have written as follows to the Chief of Naval Operations:

SELECT COMMITTEE ON
NARCOTICS ABUSE AND CONTROL,
Washington, D.C., September 22, 1982.

Adm. JAMES D. WATKINS, USN,
Chief of Naval Operations, Department of the Navy, Washington, D.C.

DEAR ADMIRAL WATKINS: I was heartened by the communication from Admiral Paul Mulloy forwarding the Navy's memorandum of September 14, giving the results of surprise drug tests conducted August 30 on enlisted personnel in San Diego and Norfolk. The dramatically improved marihuana findings, compared with the drug-use levels uncovered in the 1981 Survey by the Select Committee on Narcotics Abuse and Control and in the military's own earlier surveys, attest to the wisdom and practicality of the Navy's tougher approach to the problem.

I want to congratulate you, Rear Admiral Paul Mulloy and your predecessor as CNO, Admiral Tom Hayward, on these preliminary signs of success in the Navy's attack on drug abuse in the ranks. Admiral Hayward is to be commended for setting the strong and high priorities within the Navy that provided the resources and commitment so vitally needed. We all agree on the need for continuing progress in this area so important to the nation's defense capability and to the well-being of the young people who serve.

Of course, the overall average of 20 to 25 percent marihuana usage among the recently sampled personel, while reflecting substantial improvement, is still much too high. Continued scrutiny, and firm enforcement, are imperative. You and Navy Secretary John Lehman are wise to press on toward the Navy's goal of "zero tolerance" of drug abuse. I will keep working to help provide whatever Congressional support is required.

Sincerely,

LEO C. ZEFERETTI, *Chairman.*●

PERSONAL EXPLANATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. LEE. Mr. Speaker, due to official business, I was unable to be present on the House floor yesterday, September 21, 1982. Had I been here, however, I would have cast my vote in the following manner:

Rollcall No. 342: An amendment to the Department of Transporation and related agencies appropriations for fiscal 1983 that sought to reduce the appropriations for the Department of Transporation by $320 million, "aye."

Rollcall No. 344: An amendment to the Department of Transportation and related appropriations for fiscal 1983, that sought to reduce the appropriation for every account, activity, or project in the bill by 33.8 percent, "no."

Rollcall No. 345: Department of Transportation and related agencies appropriations for fiscal 1983, "no."

Rollcall No. 347: An amendment to the agriculture, rural development and related agencies appropriations for fiscal 1983, that sought to provide that the food stamp program appropriation be for all of fiscal 1983 rather than just the period from October 1, 1982, through July 15, 1983, "aye."

Rollcall No. 348: Agriculture, rural development, and related agencies appropriations for fiscal year 1983, "no."●

MAJOR BUDGET TRENDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 22, 1982, into the CONGRESSIONAL RECORD:

MAJOR BUDGET TRENDS

The best way to understand the direction of public policy is to observe and assess the longterm trends in federal spending. Major changes are now taking place in the way federal money is being spent, and federal dollars are beginning to flow in ways considerably different than those of a few years ago. Among the most significant facts and figures are these:

(1) PRINCIPAL TREND

The principal trend, measured over the period from 1980 to 1985, is that larger percentages of the federal budget are going to defense, interest on the national debt, and assistance to the elderly. Spending on everything else is declining, after adjustment for inflation.

(2) RESTRAINT ON GROWTH OF SPENDING

Some progress is being made in restraining the growth of federal spending. On the basis of current law, federal outlays will rise less than 2 percent a year, after adjustment for inflation, between 1980 and 1985. In the latter year, they will be equal to 22.7 percent of the Gross National Product, which is approximately the same percentage they represented in 1980.

(3) LARGEST INCREASES

The biggest increase in federal spending (in percentage terms) will be for interest on the national debt. It jumps by 58 percent over five years as the debt soars from $918 billion at the end of 1980 to $1.7 trillion at the end of 1985. The next biggest increase is in spending for national defense. It in-

creases by 48 percent above inflation, not including the rising costs of military pensions. Together, spending for national defense and for interest on the national debt will go up nearly 10 percent faster than inflation.

(4) PENSIONS

Federal payments for medicare and for pensions of all types (including social security, federal civilian and military, and railroad retirement) will rise by 21 percent. These expenses will rise about 4 percent faster than inflation. Thus, about half of all federal spending is now supporting pensions and the medical benefits attached to those pensions. Coupled with defense spending, these payments now amount to five-sixths of the federal budget.

(5) OTHER SPENDING

Federal spending in the other major categories of the budget will show a decline during this period, after adjustment for inflation. Food stamps and medicaid will fall by 10 percent over the five-year period from 1980 to 1985. Discretionary non-defense programs, such as those for highways, national parks, civilian salaries, and the Federal Bureau of Investigation, will decline by 31 percent. Programs of rehabilitation and child nutrition will drop by 54 percent.

(6) DEFICITS

The bottom line in all of this is not encouraging. After the tax and spending cuts of 1981 and the tax increase of 1982, the federal budget remains deeply in deficit. Most alarming is the fact that even asssuming a healthy economic recovery, the deficit would still be in the range of $40 billion to $50 billion per year. Additional efforts to cut spending are inevitable. The deficit is expected to grow by $500 billion during the four years of the Reagan Adminstration. For 1983, it will be about $155 billion, by far the largest in history and the largest as a percentage of the Gross National Product since World War II. The outlook is for continuing large deficits during the next several years. If the 1985 budget were to be balanced without further reductions in spending for defense pensions, other spending in the federal budget (except for interest on the national debt) would have to be cut by about one-half.

(7) REVENUES

On the revenue side of the federal budget, the most striking fact is the drop from 12.4 percent to 7.4 percent in the share of federal revenue derived from corporate taxes. The share of revenue raised by the personal income tax will remain about the same. It was 46.9 percent in 1980 and should be about 47.1 percent in 1983. Social insurance taxes, including taxes paid to support the social security system, will rise from 30.9 percent in 1981 to 34.3 percent in 1983.

(8) REGIONAL IMPACT

The President's program of large tax and domestic spending cuts and increased outlays for defense is shifting federal spending for northern and midwestern states to southern and western states. This shift occurs partly because military installations are concentrated in the South and the West and partly because domestic programs are of greater benefit to the Midwest and the North. The shift may eventually widen already serious fiscal and economic disparities among different regions of the country.

(9) IMPACT ON THE POOR

The net effect of the tax and spending cuts will be to penalize working families near the poverty line who receive some federal benefits. Major disincentives to work are being placed in the way of low-income wage earners. Such workers lose food stamps and welfare benefits as their modest earnings rise. The "working poor"—those disadvantaged people whose incomes are just above the poverty line—are being hurt as social programs are realigned to help the very poor. Most families earning $15,000 a year or less receive no benefit; those earning between $15,000 and $50,000 receive modest benefits; substantial advantages fall to those who earn more. For example, families earning $40,000 per year will get $2,400 in tax reductions in 1984; those earning $85,000 per year, however, will get approximately $20,000 in tax relief that year.

These facts and figures come from reports of the Congressional Budget Office, the non-partisan budgetary analyst of the Congress, and the Urban Institute, a respected private organization which analyzes major events and trends in the nation's life. They will form the backdrop for the leading debates on public policy in the Congress and among the public at large in the weeks and months to come.●

SOVIET NATURAL GAS PIPELINE—A CRUCIAL TEST OF WESTERN CONSCIENCE

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, the Soviet natural gas pipeline involves a denial of principles so fundamental to Western and American, political values that any willingness to participate in its construction can only be judged worthy of contempt.

American, unique among all nations of the world, was established with freedom as a fundamental right bequeathed to all men by their Creator. In the document which declared the independence of America from the tyrannical rule of the British King, it is stated:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness.

The very essence of the American Revolution was the founding of freedom and the establishment of lasting institutions to guarantee the rights of freedom and citizenship.

Moreover, freedom was not viewed as a right pertaining to Americans alone, a phenomenon relative to a country's specific culture or history. Rather, the Founding Fathers rightly judged freedom as a fundamental right visited upon all men by their Creator and, as such, rooted by that Creator in the very nature of man. It was, in short, an "inner measure" of man's ultimate purpose, and all cultures and histories were to be judged by the extent to which they would contribute to its realization.

America's role in the course of human history was determined by this vision of freedom. America was to be an exemplar of freedom to men and countries everywhere. As John Adams said in 1765 before independence, the settlement of America constitutes "the opening of a grand design in providence for illumination of the ignorant, and the emancipation of the slavish part of mankind all over the Earth."

The depth of commitment by the American people to freedom and those human rights and institutions supportive of its realization cannot be overemphasized. There are wrongs which transcend all times and circumstances, and the conscience of America requires they be judged unacceptable to all men whatever their differences. Dehumanizing forces cannot be condoned. They must be opposed with consistency and prudence.

It is because of my strong commitment to this tradition that I find the chorus of outcries against the President's decision to impose sanctions on the Soviet Union, and those foreign subsidiaries who willfully violate contractural agreements with their parent companies, particularly distasteful.

The Soviet Union is not simply a State. It is a "prison of peoples," dedicated to the final eradication of the Judeo-Christian way of life and the sacred values on which it rests. It is the enemy of all people and the captor of each who would be so unfortunate to come under its sway. It is, in short, the enemy of the eternal basis of the spirit—freedom.

It is no accident that this is the case. Radical dehumanization flows necessarily from the very nature of communism.

The meaning and significance of communism is very deceptive. It wraps itself in a messianic mantle of false justice, false economy, false fraternity, and false promises. It says it wants only better conditions for the working man, and the removal of the real abuses of the economic order. But it does not show its real face. It does not say it is a planned systematic deception of human beings designed for the purpose of gradually enslaving nations and the entire human race. It does not say that communism is a tree whose roots are atheism, materialism, naturalism, and class struggle, and whose fruits are the destruction of freedom, individuality, family, right of free speech, and right of worship. As His Holiness Pope Pius XI said in his encyclical "Divini Redemptoris": "Communism is intrinsically wrong, and no one who would save Christian civilization may collaborate with it in any undertaking whatsoever."

According to a report recently released by the International Society for Human Rights, the Soviet Union has set up seven forced labor camps on construction stretches along the 3,000 mile pipeline route and that political

and religious prisoners are being used for labor.

Thus, the question of the Soviet natural gas pipeline is not simply a question of economics or security. It is also a question of morality, and it reaches to the very depths of the meaning of America. Slave labor is not simply labor without pay. It is work under cruel and torturous conditions. Men will die. They will die of starvation, torture, and overwork.

To condone United States or European participation in the construction of the Soviet pipeline is to dismiss the very foundations of Western culture in general, and of America in particular.

Recently, Mr. David Atkinson, Member of the British Parliament from Bournemouth, East, expressed his misgivings about Western participation in this project. Commenting on the use of hundreds of thousands of slave laborers, he says:

Such inhumanity to man by man rivals that which occurred during the construction of the pyramids by the Pharaohs.

What is so appalling is that this pipeline is viewed by our allies, and those who would support them, simply as a means for advancing the living standards of people in Western Europe.

I commend Mr. Atkinson's statement to my colleagues as follows:

Mr. David Atkinson, Member of Parliament: Today the country stands with the rest of the European Community in opposing the American embargo on exports of equipment for the project. I question whether Britain would now be taking the same strong view if the engineering company of John Brown and Company was not involved. Either way, the whole unhappy affair represents yet another failure on the part of the alliance to produce a firm, effective and united approach towards our trading relations with the Soviet bloc.

I realise that the arguments about the pipeline may now be academic because it is to go ahead, but we should remind ourselves of the possible consequences, which seem to concern President Reagan far more than those nations involved in Western Europe. The fact that France, West Germany, Belgium and Italy are prepared to put themselves "in hock" with the Soviet Union on such a vital commodity is an indictment of the concept of the European Community and illustrates its failure to produce an adequate energy policy of its own. That West Germany, usually one of the Community's most enthusiastic partners and its prime banker, is prepared to rely on the Soviet Union for more than 30 percent of its gas and 5 percent of its total energy needs in the 1990s is especially surprising. The decision to go ahead with the pipeline also ignores the fact that north-western Europe is entirely capable of supplying the same amount of gas from its own proven and probable reserves.

One assumes, and hopes, that these countries have thought out the consequences to their domestic consumers and to their industries should the Soviet Union decide to cut off the flow of gas. The Soviets have done precisely that in the past to their own customers and for their own reasons. China, Yugoslavia and Albania are all closer, ideologically, to the Soviet Union than are any of its new capitalist customers. We must also presume that they have thought out how they will stand if and when the Soviets display the same aggression as they did in Afghanistan, the same suppression of self-determination as they did in Poland as well as the continuing suppression of freedom for their own people.

My fear is that every European country that is a party to the deal will make a small but serious move towards neutrality. The moment that the French, the German, Belgian and Italian homes and factories rely upon an uninterrupted supply of Soviet gas they will render themselves "Finlandised"—self-interested, hesitant, fearful, and muted in speaking out against or retaliating against any further Soviet aggression, intervention or suppression.

Moreover, I wonder whether such countries have thought who will build the pipeline. I am not talking of the supply of Western technology and equipment but of the hard labour. The pipeline is already being built. Reports from various locations in the Soviet Union suggest that more and more prisoners sentenced to hard labour or internal exile are being used. About 100,000 such people are estimated to be involved. About 10,000 of them were sentenced because of their political opposition to the Communist regime, because they were monitoring the Helsinki Final Act, because of their religious beliefs, or for attempting to form trade unions in the Soviet Union.

From the source of the huge Urngoy gas field in northern Siberia, labour camps line the pipeline westwards, housing prisoners, not in houses or barracks, but in camps or scanty wagons which offer little protection from winter temperatures, which sometimes reach below minus 40 degrees centigrade.

Workers in exile are similarly appallingly provided for in their colonies. The few shops are never well stocked. Workers rely on food from relations. Vitamin deficiencies cause disease. Little heavy construction equipment is used and they are forced to perform most of the heavy manual labour involved in constructing the pipeline. Injuries and accidents occur frequently. Women working with the asbestos and fibreglass used to line the pipeline suffer from severe blistering. Gloves are issued only twice a year. Eczema is widespread and there is a high rate of lung collapse.

Such inhumanity to man by man rivals that which occurred during the construction of the pyramids by the Pharaohs. Its purpose is to advance the living standards of people in Western Europe.

It is suggested that President Reagan is being less than honest in attempting to sabotage the European end of the deal while continuing to sell American grain to make up the shortfall in Soviet harvests. That is to misunderstand the facts and to fall for Soviet propaganda. American grain is paid for in cash. That leaves less for the Soviet war machine budget. Moreover, as we know from President Carter's grain embargo following the Afghanistan crisis, alternative suppliers from the West, notably from Argentina, are only too happy to step in. The pipeline will not only make Western Europe more dependent on the Soviet Union, it will increase Soviet hard currency earnings by as much as one-third, and our technology will substitute theirs.

The whole unhappy episode serves as yet another warning to the Western Alliance to decide with the utmost urgency on a united approach to East-West trade, to outlaw cheap credits, to control the sale of advanced technology and to agree an effective sanctions and embargo policy as a deterrent against a future Afghanistan or an event such as the imposition of martial law in Poland.

I look forward to hearing from my right hon. Friend the Leader of the House about a British initiative to resolve the issue. If we do not learn the lesson of the Siberian pipeline deal Lenin will be proved right in predicting that capitalism will manufacture the rope by which it will be hanged.●

WE SHOULD BE ADOPTING VILLAGES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. SIMON. Mr. Speaker, the former assistant to our esteemed colleague LEON PANETTA of California is Matthew Cossolotto who is now with the Peace Corps in Africa.

Recently, the Christian Science Monitor published an article by him, "How About Adopting a Village?". I commend it to my colleagues and to others who may be reading the CONGRESSIONAL RECORD.

[From the Christian Science Monitor, July 16, 1982]

(By Matthew Cossolotto)

Let's face it. America's foreign aid programs have not worked. They have not succeeded in channeling aid to meet the needs of the most needy. They have not been fine-tuned to foster self-help efforts in developing countries. They have not been able to avoid propping up widespread corruption in many countries receiving aid. Why not? Simply put, they have not been organized to do so.

Perhaps more importantly, however, US aid programs fail because they do not include opportunities for Americans to learn about the problems and the cultures of the people they are ostensibly helping.

The first principle in effective aid is public participation. Americans from all walks of life should have the chance to contribute directly to aid projects and to understand both the value of the projects and the people being supported. Moving toward greater citizen involvement would bring into sharper focus the humanitarian motivations behind aid and emphasize the role played by compassion and mutual respect and understanding in making foreign aid work.

While private contributions are to be encouraged, it is far better to coalesce private donations into community-to-community programs of resource and information exchanges. Through a community approach, both sides are reminded of the importance of community action in furthering general well-being. Americans would be able to view closely the impact of their assistance. Recipient communities would benefit from the direct aid and the knowledge that it comes from Americans who know and care about the specific projects.

In effect, I am suggesting a "Sister Village" program, involving the "adoption" by an American city or town of a village in a developing country. Using the term Sister Village is a reminder that, while the majori-

ty of the world's population are village-dwellers, there is still a common bond of humanity between developed town and undeveloped village.

This adoption should take place through the passage of an appropriate resolution by the American town or city council, thus making the relationship official and guaranteeing coverage in the local media. When residents learn that their town has "adopted" a Sister Village, they will undoubtedly become curious about the program and about the people in the adopted village. The idea derives, in part, from the Sister City program and blends in some aspects of a program run by the Peace Corps—called Peace Corps Partnership—in which US schools and developing country villages mutually benefit from an exchange of information and resources.

Under the Sister Village program, US communities would collect tax-deductible contributions from individuals and from civic-minded businesses and organizations. Funds collected would then be sent abroad to help finance the digging of wells, the construction of latrines, health centers, or schools, and the establishment of education programs in agriculture, sanitation, or adult literacy. The number of tasks crying out for support is awesome, but small contributions to small villages make a big difference in terms of human welfare and self-respect.

To make sure the contributions reach their intended destination, though, there needs to be someone on the scene to identify and channel aid to worthy projects and to serve as the eyes and ears in the village for the community back home. I propose, therefore, the imaginative use of Peace Corps Volunteers (PCVs) in this role.

Failure to utilize one of the greatest resources the US has in foreign aid—Peace Corps Volunteers—is both tragic and incomprehensible. Why should the American people miss the opportunity to ensure that worthy projects are begun and completed and that knowledge of the developing world is brought back to America? There are thousands of PCVs scattered in some 60 countries, but the two years they spend abroad resemble a form of banishment, when in fact US schools and communities could be linked with PCVs in productive networks of information and resource exchange.

Use of PCVs in the field should extend to research being conducted in US universities in a variety of fields, from tropical agriculture, to appropriate technology, to health care techniques at the village level. Bringing PCVs into ongoing educational programs, at all levels, in the US would serve to internationalize what has become a far too parochial and antiquated education system, given global realities in the 1980s. In fact, the Sister Village structure would accommodate a valuable student exchange program.

All legal and logistical arrangements for the student exchanges and the information and financial transfers being proposed should be made under the auspices of the Peace Corps and the State Department. Specific agreements with recipient countries will be needed. It should be kept in mind that there may be resistance to an aid program which bypasses the host country's framework of petty fraud and corruption. But that should not dissuade the US from insisting on the kind of aid program it wants to support.

Clearly the transition from traditional aid programs to the Sister Village concept must be a gradual one. Moreover, the new program is not designed to supplant all US aid programs. But in those countries where the Peace Corps has a large program and where the Sister Village program takes root, traditional aid programs could be scaled down or phased out, resulting in slackened pressure on the federal budget and reduction in the deficit over time. Complete recordkeeping on aid contributed to Sister Villages is a necessary feature of the program.

While budget-cutting is not the main selling point of this plan, it is fair to underline that, by definition, the new program could reduce federal expenditures by relying on private contributions. The Reagan administration surely has a mandate to move in this direction.●

HONORING SVERRE ULVESTAD

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. MOLINARI. Mr. Speaker, I would like to call to the attention of my distinguished colleagues that on September 30, 1982, an important landmark date will take place in the history of the Eger Lutheran Home on Staten Island, N.Y. On that date, Mr. Sverre Ulvestad, who has served as administrator of the Home for the past 18 years with determination and devotion, will retire.

Prior to coming to Eger, Mr. Ulvestad served the needs of people in many areas of the world. As a graduate of Det Norske Diakonhjem (a 5-year college for Health and Welfare Services) in Oslo, Norway, he served as an inspector of community health services for 3 years. In 1944, he was called to the Aker Community Hospital, Oslo, as an assistant supervisor of the First Aid Emergency and Receiving Department. In 1945, he accepted the position of health inspector of Community Health Services and was part-time assistant to the pastor of Frogner Parish in Oslo.

In 1947, he accepted a call in the Seamen's Mission and served 9 years as assistant to the mission in Philadelphia, New Orleans, and San Pedro. In 1954, he was appointed director of the new Seamen's Welfare Center in Kobe, Japan.

After leaving Japan, he served 2 years as administrator and reorganized a Psychiatric Instititute, Elmlawn, in Rockford, Ill.

In 1961, he received a special call to organize a new municipal nursing home for the city of Mabel, Minn. He served as administrator of the Green Lea Manor in Mabel until 1964, when he was called to Eger Lutheran Home by the American Lutheran Church to serve as administrator and to plan for its expansion.

In the past 18 years, Eger Home has grown from a home of 42 beds with an annual budget of $140,000, to a 378-bed home with a budget of $13 million in 1982.

In 1959, Mr. Ulvestad was awarded the St. Olay Medal by the King of Norway and, in 1967, received the Lutheran Brotherhood Distinguished Service Award.

In the announcement to staff and volunteers at Eger it was noted, "during the last 18 years, the trustees of the Eger Homes have relied on and been guided by Mr. Ulvestad's direction and stewardship."●

AGRICULTURAL EXPORTS

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. FITHIAN. Mr. Speaker, my colleague from Minnesota, Mr. HAGEDORN, and myself are introducing today a very timely resolution. This legislation will address the problems of a few of the most depressed sectors of our economy. An increasing number of American farmers, businessmen, labor leaders, and policymakers are expressing interest in increasing U.S. exports of processed agricultural products. There are sizable potential economic benefits which could be realized if a larger portion of our agricultural exports were processed at home.

America's agribusiness is the largest contributing factor to the U.S. balance of payments. This legislation not only helps to improve our balance of payments, it also creates a savings in the Federal budget by helping to keep commodity prices in the United States above the target price, decreasing the amount of deficiency payments being paid to farmers. Its economic benefits extend far beyond the farm into farm supply industries, food processing distribution, and many other agribusiness. The processing and service activities created by the flow of agricultural commodities from the farmer to the consumer directly raise employment and income in America. Agriculture and related industry account for 20 percent of the gross national product (GNP), 23 percent of all U.S. employment, and 19 percent of all U.S. export earnings.

According to a U.S. Department of Agriculture study, if 10 percent of current raw exports of wheat, corn, and soybeans were shipped as processed products, the GNP would increase by nearly $16 billion, personal income would rise by over $3 billion—personal income which would go to the farmer and agribusinessman who is already suffering from a depressed farm economy—and more than 300,000 new U.S. jobs would be created. Encouraging exports of processed or value-added commodities makes sound economic sense.

By "value-added", we simply mean improving the quality of the product as it moves from farm to market. Raw

corn and soybeans are processed into such valuable byproducts as high fructose corn sweeteners, ethanol, soybean mill and oil, starch, corn gluten feed, and distillers dried grains.

I might add that by encouraging exports of value-added agriculture commodities, we do not seek to decrease U.S. exports of raw materials; rather, the goal of this legislation is to increase value-added exports as an additional effort to enhance and expand U.S. export markets to insure that processed food products share in the future growth of food exports.

The organizations that are supporting this resolution include: National Association of State Departments of Agriculture; National Governors' Association; Poultry and Egg Institute of America; American Farm Bureau Federation; Wine Institute; American Association of Port Authorities; Potato Chip/Snack Food Association; National Cattlemen's Association; Protein Grain Products International; Western Great Lakes Maritime Association; North Dakota Agricultural Products Utilization Commission; National Broiler Council; Food Processing Machinery and Supplies Association; Rice Millers Federation; National Turkey Federation; National Farmers Organization; National Conference of State Legislatures; Independent Bankers Association; National Rural Electric Cooperative Association; National Sunflower Association; and American Meat Institute.

This legislation also addresses the increasing problem of unfair trade practices by foreign countries. A variety of tariff and nontariff barriers confront U.S. agricultural exports in almost all counties in the world. These tariff and nontariff barriers are normally the result of national agricultural policies; that is, agricultural trade policies in these foreign countries are usually determined by these domestic agricultural policies and therefore trade is, in part, determined politically in view of national production and related farm policies.

We must begin a well-organized program, utilizing all sectors of our economy, to export these and other products to potential buyers. There are a number of ways that the public and private sectors can work in harmony to accomplish this goal. There are markets for our agricultural products throughout the world, therefore, an immediate assistance to our ailing farmer and agribusinessman is at our fingertips, at no cost to the American Government. All that needs to be done is to seize the opportunity available to us.●

CONGRESSWOMAN SHIRLEY CHISHOLM ADDRESSES CONGRESSIONAL BLACK CAUCUS

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. FAUNTROY. Mr. Speaker, on Saturday evening, September 18, 1982, my distinguished colleague Congresswoman SHIRLEY CHISHOLM received the William L. Dawson Award at the Congressional Black Caucus Foundation Awards Dinner. Upon receiving the award, Congresswoman CHISHOLM made the following remarks which I believe constitute a forthright challenge to those of us in this body to redirect our efforts toward policies that are in the best traditions of our country. I urge my colleagues to give Congresswoman CHISHOLM's remarks the serious consideration they deserve:

My friends, my brothers and my sisters, my colleagues: Thank you. If all of you could have been my delegates at the Democratic Party Convention in 1972, we might have eaten some of our Congressional Black Caucus dinners over at the White House.

Someday, one of us will be the man, or the woman, sitting behind that desk in the Oval Office. If I am lucky, and if we are together and committed and strong, I will live to see that great day.

I have been lucky already, and I am forever grateful to my family, my friends, and all my supporters who have given me the constant encouragement over the years to be "unbought and unbossed," and to fight the "good fight."

I am honored tonight to receive the Dawson Award. I hope I have earned it. I hope I have been like Sojourner Truth who, when a white racist said "I don't care no more about what you say than a flea bite," calmly replied "maybe so, but the Lord willing, I'll keep you scratchin'."

I have tried to keep them scratching. Long ago, I learned that people can be divided into three groups: Those who make things happen; those who watch things happen; and those who wonder what happened. I have tried to make things happen and sometimes, to everyone's surprise, they did.

I found out, too, the truth of what Winston Churchill once said. He stated that "In war you can be killed only once, in politics many times." I have not always had good luck, and my major successes have not been frequent. But here I am tonight, happy and proud to bathe in the warmth of your feelings for me. Here I am tonight, ending one phase of my career, but as ready and as able as ever to proceed with the people's agenda.

In a way, my 14-year tenure in the Congress has been a circular path. You may remember that loud and angry Shirley Chisholm, that "pepperpot" who stormed into the House of Representatives in 1969. I challenged the stares and the cloakroom deals of all those "pale males." I had no hesitation to be the skunk at the family picnic.

In 1969 and into the early 1970's, I had plenty to raise a stink about. Thousands of our young men were being killed, crippled, and scarred in the jungles of Southeast Asia, while Lyndon Johnson's successor, Richard Nixon, talked endlessly about "peace with honor."

On hundreds of college campuses, and on the floor of the House of Representatives, I joined in the demands to end the war, to bring the boys home, to get the Nation's attention back to the unmet goals of the domestic war on poverty.

Finally, years too late, the Vietnam war did end; but its devastation was not confined to the countryside of that Asian nation nor to the bodies and minds of American servicemen. Among the war's other victims were the American people's trust in their government, and the American Government's commitment to driving ignorance, poverty and prejudice from our shores.

My job changed in those post-war years, and so did my temperament. As my focus moved to preserving the Great Society programs, to working more effectively with my congressional colleagues, and to speaking of the positive responsibilities of Government, some people began to worry about me.

People began to wonder if Shirely Chisholm's fire was fading. Because they did not see red flames of passion, they assumed that the steady blue flame of my inner commitment—the pilot light of my soul—was also flickering out. They could not have been more wrong.

New realities in those years demanded that I become effective and productive in the Congress. We live in a Republic, not in a revolution. People like me are needed within our institutions to learn the rules and to play the game under the guidance of firmly-held ideals.

I spent those years on the Education and Labor Committee, and then on the powerful House Rules Committee, shaping and testifying on legislation affecting the daily lives of millions of people. As Red Skelton once said of the Congress, I was helping them to play "bingo with billions."

I spent those years, too, helping to organize and motivate the political organizations of minorities and women who are needed to forcefully reassert the egalitarian promises of our Nation's Constitution. I was not lazy. I was not sleeping. I was working

Now, in the 1980's, I am still working. But also according to that curious cycle of my congressional career, I am angry and I am outspoken once again. Again, I have plenty to make noise about.

The tree of compassion, planted by President Franklin Roosevelt and nourished through the years by concerned national leaders, is now withering in the cruel, icy winds of conservative government. In a wasteland of greed and self-interest, the cries of the downtrodden are drowned out by the sirens of militarism.

Our national treasury is devoured by an insatiable war machine; our children expect their generation to be the last of the human race, destroyed by nuclear holocaust; and our people are promised brighter days by an administration committed to policies of doom and economic disaster.

Of course I am angry. Of course I am again publicly battling against the leeches of poverty, unemployment and hopelessness who are sucking the strength from America's bloodstream.

Our President and his right-wing cronies are looking at the world through a rose-colored rear-view mirror. Once again, as progressives did in the 1930's, we may have to be the ones to save capitalism from the Capitalists.

We know how Government can stimulate the economy. We know how Government can put people back to work. We know how Government can help to right the wrongs of

past exploitation and discrimination. We know, too, that this President is not interested in a government that does those things; he does not seem to believe in Government "for the people."

My friends, this is not my funeral, nor is it really a farewell. I am angry, and I am taking that anger out to the people of this great land.

I am leaving the Congress, but I am not leaving the country. I am giving up my House seat, but I am not abandoning the great dreams of Dr. King. I will no longer have a vote in the Congress, but I will continue to battle the conservatives for the hearts and minds of millions of American voters.

For 25 years, I have struggled in the political arena. It has been exciting, it has been challenging, and I have often found myself immersed in controversy. To you here tonight, and to the countless others of all ages, sexes, and races who have heard my voice, I can say from the depth of my heart that I have struggled for the good of us all, and I have given the best that is within me to give.

Thank you.●

MAJ. GEN. STANLEY C. BECK LEAVES GUAM FOR MARCH AIR FORCE BASE, CALIF.

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. WON PAT. Mr. Speaker, Maj. Gen. Stanley C. Beck, who commanded the Strategic Air Command's 3d Air Division at Andersen Air Force Base in Guam for the past 2 years has assumed his new post as vice commander of the 15th Air Force at March Air Force Base in Riverside, Calif.

As a member of the Armed Services Committee, I am extremely proud of the accomplishments that General Beck achieved during his tenure in Guam, but I am particularly pleased with his efforts in improving community relations, by making the Air Force a truly integral part of the culture and community to such a degree that Andersen Air Force Base was awarded the distinction of having the best community relations program in SAC for the year, 1980–81.

Through his personal initiative, key civic leaders of the territory and the Japanese island of Okinawa were afforded the opportunity to learn firsthand about critical military issues vital to the defense of the free world. This was done primarily through a series of extensive briefings held at SAC headquarters in Omaha, Nebr. and tailored specifically to the concerns of the people of the Western Pacific.

General Beck has been recognized for several accomplishments which have contributed significantly to the security of the citizens of the United States. He made the B–52 stratofortress weapon system an integral training tool in the self-defense development of our allied forces in the Pacific basin, Asian, Western Pacific and South Pacific nations. This training not only aided our allies in their defense postures, but helped our own theater tactical fighter and naval forces as well.

The opening of Darwin, Australia, as a base for projection of U.S. strategic air power in the Indian Ocean was another important effort by General Beck, achieved through his diplomatic negotiations in which he established a sincere and warm friendship with Royal Australian senior leaders.

He increased the role of the B–52 in the defense of Korea through its total integration with theater forces and an American/Republic of Korea Air Force exchange program. He then expanded this "team" effort by including officers of the Japanese Self-Defense Force and the Royal Australian Air Force.

Back on the local scene, General Beck displayed his managerial acumen by recognizing the severe weather conditions in typhoon-prone Guam and then ordering the hardening of all new and repair construction to withstand the many tropical storms and typhoons which plague this strategic area.

There are other accomplishments chalked up during General Beck's 2 years of command at Andersen Air Force Base, but I would just like to say in tribute, that Maj. Gen. Stanley C. Beck, throughout his tenure as commander of SAC's 3d Air Division, has displayed a sense of duty and leadership that has won the admiration and respect not only of the people of Guam but loyal American military personnel and many others connected with the armed services in foreign lands everywhere.●

COMPUTOR EQUIPMENT CONTRIBUTION ACT OF 1982

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. MOAKLEY. Mr. Speaker, earlier today, I was involved in preparing for Rules Committee hearings on nuclear waste legislation and missed the vote on the Computor Equipment Contribution Act of 1982 (H.R. 5573). Had I been present, I would have voted "aye."●

VETERANS USING GI BILL

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. MONTGOMERY. Mr. Speaker, this news release from the Veterans' Administration indicates that the Vietnam-era GI bill has been used by 7,895,000 veterans to further their educational training.

This participation points up the great importance of the program and I wanted to share these figures with my colleagues.

MORE VETERANS HAVE USED VIETNAM-ERA GI BILL

More veterans have received educational training under the Vietnam-era GI bill than previous editions of the popular education assistance legislation, the Veterans' Administration has announced.

The latest statistics show that more than 7,895,000 veterans and service personnel have trained under the third GI bill, compared to 7,800,000 World War II veterans who received educational benefits under the original legislation.

The current GI bill figures include 1,397,000 peacetime post-Korean veterans and 679,000 individuals who trained only as service personnel. The remaining 5,819,000 are veterans of the Vietnam era (August 5, 1964–May 7, 1975), who took advantage of their education and training entitlement after separation from active duty.

The Vietnam-era GI bill participation rate, based on both the 5,819,000 Vietnam-era veterans and the 679,000 active duty trainees is approximately 66 percent and is expected to stay at or near that level over the remaining 7 years that are left in the current GI bill.

By contrast, the 7.8 million veterans who trained under the World War II GI bill represented just over 50 percent of the eligible veteran population. The participation rate under the Korean conflict GI bill was even lower at 43 percent.

To date, the VA has spent about $53 billion to provide educational assistance to veterans and service personnel. From June 22, 1944, when the first measure was signed into law by President Roosevelt, through June 30, 1982, a total of 18.1 million have received assistance.

The bill, now in its 38th year, permits a veteran to use the educational benefits within 10 years following discharge from service, or by December 31, 1989, whichever is earlier.

Another educational assistance program, which requires financial participation by service personnel, is avail-

able to those who entered the military after December 31, 1976.

Veterans who want more information on GI bill eligibility should contact the nearest VA regional office.●

COURAGEOUS INDIVIDUAL HONORED

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. SHELBY. Mr. Speaker, I would like to recognize an outstanding individual and share her courageous story with my colleagues in the House of Representatives.

Dr. Gwenyth Vaughn, chief of the Audiology and Speech Pathology Service, Birmingham, Ala., VAMC, has been named a winner in the 1982 Outstanding Handicapped Federal Employees Awards program sponsored by the Office of Personnel Management. She will be among the 10 Federal employees to be recognized at a ceremony in Washington, D.C., on October 7.

During the early years of the award program, 10 finalists were selected from handicapped employees nominated by Federal departments and agencies, with one winner named at a special ceremony. Since 1974, the emphasis has been on the achievements of 10 outstanding employees, with each receiving equal recognition. VA has had a finalist or a winner every year since the program began.

Chosen as VA's candidate from among 87 other agency nominees, Dr. Vaughn has exhibited remarkable courage in coping with her own disability while helping others overcome their handicaps. Struck by crippling polio, she became a paraplegic at age 34. At that time, she was living in Mexico, raising a family, and working as a founder and director of the first schools for the handicapped in Mexico. Prior to the onset of polio, she had completed her master's degree in English and education and had served as dean of women, dean of personnel, and head of a university's department of speech.

She never quite recovered from the polio attack. But with the aid of a walker, she moved to Colorado to coordinate a program for the mentally retarded at Wheatridge Colorado State Home and Training School while completing her Ph. D. degree in communication methodology at the University of Denver. All this was achieved by pushing a laundry basket that carried her books while using a cane to help her walk.

Dr. Vaughn joined the VA in 1966 as a speech pathologist at Birmingham, first as a volunteer, then as a part-timer, and finally as chief of her service.

While at Birmingham she has received three exchange of medical information grants to expand hearing and speech therapy for veterans who live in remote areas or who are too infirm to travel for regular therapy. Over the years she has developed a series of innovative procedures that provide both hearing and speech supplementary treatment and evaluation by telephone. Her work has been cited as extremely cost effective and for giving patients the needed frequency of patient/clinician contact and appropriate followup. The American Speech-Language-Hearing Association has described Vaughn's projects as "the technology of the future and representing a clinical renaissance."

She has established a nationwide program called Remate Machine Assisted Training and Evaluation (REMATE) which incorporates the use of a computer to provide telephonic programs. REMATE talks, types, and writes through the telephone to veterans coast to coast. Its services are individually programed for veterans by their clinicians and are available 24 hours a day, 7 days a week. Dr. Vaughn thinks REMATE has "cracked a health delivery barrier."

"The marvelous thing," she says, "is that this system is so good for so many. It cuts down on hospitalization and arduous travel. It offers frequent contacts with clinicians, where patients feel at ease—at home or close to home."

Estimates have been made showing REMATE can save the VA $5,804,240 each year in inpatient and VA costs—travel and clinician time—per thousand patients annually.

Dr. Vaughn has also developed special listening devices that screen out background noises and are especially helpful to the hearing impaired and older adults.

Dr. Vaughn fell and fractured a hip during the past year, but she hardly paused in her service to other disabled persons. She moved her office and her telephone to her hospital room. With the help of a walker and a wheelchair, she continues her lectures to professional, community, and civic groups.

Her public service and professional activities have included appointments by the Governor of Alabama, formerly as a member of the State Board of Examiners for Speech Pathology and Audiology and currently as a representative of the President's Council on Employment of the Handicapped. Both assignments were for 5 years.

Dr. Vaughn is proud to be the grandmother of two boys and a girl, and she enjoys her hobbies: classical music, reading, crocheting, pedigreed cats, tropical fish and plants.●

FULL EMPLOYMENT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. DYSON. Mr. Speaker, last month this House passed one of the most important pieces of legislation that will come before the 97th Congress—the Job Training Partnership Act. This measure was not taken up as a cure all for the widespread and persistent unemployment which now cripples this Nation. It was but one step in what hopefuly will emerge as a comprehensive overall policy to put Americans back to work and meet our national objectives.

Putting Americans back to work must be the first priority of this Congress and the Nation. Not first after the test of time has been applied to the present administration's program of economic recovery, but now.

However, some seem to prefer short-changing millions of willing, productive workers by consigning them to welfare and unemployment compensation until the tides of recession change. By endorsing recession as the alternative to inflation, the current economic policies have resulted in reduced benefits and wages, lost jobs and lost opportunities for far too many people. While it is critically important to relieve real distress, extended unemployment compensation and other benefit programs address only the effects of severe joblessness. These programs and these solutions are essential, but we must do more. If not, what kind of a vision do we have for America's future?

The statistics we read today only tell half the story of unemployment. The other half, and the most important half, is the terrible havoc unemployment wreaks on the lives of those millions who are unemployed. We cannot calculate, we cannot sincerely contemplate the real magnitude of this problem, especially as it impacts upon the individual. But each of us has seen enough and heard enough to understand that the loss of one's job sometimes results in the loss of one's dignity and hope. What we need is a long-range comprehensive plan which emphasizes full employment and offers the hope and opportunity for everyone to earn a decent living.●

PHILIPS INDUSTRIES CELEBRATES 25TH ANNIVERSARY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. HALL of Ohio. Mr. Speaker, 25 years ago this October, a Dayton, Ohio man left his successful 18-year-old career in retail merchandising to buy a small company which manufactured just one product—aluminum windows for mobile homes. At the time, the enterprise had just one plant employing 20 people.

That man was Jesse Philips. Today the company which he founded a quarter century ago has grown into a giant in the building industry. And its chairman has become a leader of the Dayton community and a national business figure.

From just one product, Philips Industries expanded during the 1960's to manufacture components in the recreational vehicle and manufactured housing industry. By 1969, the company operated 21 plants and had become the leading supplier specializing in this field.

In the next decade, Philips Industries continued to expand, and it entered the conventional housing market by producing a range of home fixtures. The new segment grew rapidly during the 1970's.

The 1980's have already seen further expansion and diversification to include manufacturing in all segments of the building industry. Recently, the company entered markets outside its traditional base.

Today, Philips Industries operates 34 plants with almost 4,000 employees and worldwide sales. Its headquarters remains in Dayton.

Philips Industries stands as strong financially and organizationally as it has ever been. Despite the lingering recession, during the last fiscal year Philips Industries enjoyed the most profitable year in its history. The first quarter of the new year set a company record for sales and earnings.

Finally, I would like to say a word about the founder of Philips Industries, Jesse Philips. Jesse has been a tireless worker who has accepted a deep responsibility not only for his fellow Daytonians but the broader world community.

The record of Jesse's civic involvement is long and varied. It includes serving as director of the Dayton Area Chamber of Commerce, trustee of Oberlin College and the University of Dayton, and associate chairman of the Dayton Community Chest Drive. He has been a part of the Miami Valley Council of Boy Scouts of America, the Dayton Council of Salvation Army, and the Dayton Art Institute.

He has also served as chairman of the building committee of the Dayton Jewish Community Center, whose principal building is named for him.

Congratulations on this milestone, Jesse. Here is to many happy and productive years ahead for you and Philips Industries.●

HISTORIC PRESERVATION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. AuCOIN. Mr. Speaker, as a member of the Appropriations Subcommittee on the Interior, I have come to understand what historic preservation is all about. It is preserving our Nation's heritage by saving historic sites, publications, and artifacts from extinction.

Recently, Mr. Chet Orloff, development officer of the Oregon Historical Society in Portland, published an article in The Oregonian describing the importance of historic preservation. Mr. Orloff points out the value of preservation and the compelling reasons for Federal Government support. He also outlines the major role the National Trust for Historic Preservation has played in our Nation's preservation activities.

Mr. Orloff makes several excellent observations about preservation and I would like to share them with my colleagues.

HISTORIC PRESERVATION HAMSTRUNG

(By Chet Orloff)

Like a tree, a nation depends on its roots for sustenance, support and growth. A sense of roots is necessary to mental health and is especially crucial in an age of doubt and alienation. In the face of economic uncertainty and worldwide challenge, Americans as never before need the assurance of their roots, of a collective continuity.

Continuity has two sides, the future and the past. Knowing our history, we can establish goals and visions for a shared future. An objectively understood past, which includes race, religion and neighborhood, gives us the foundation for personal and communal confidence and growth.

Representing the largest American community, the federal government must preserve our nation's heritage with the active initiative, involvement and help of individuals and organizations in the private sector. Just as you cannot catch up with history, you cannot catch years of history that are lost forever due to neglect. But today, an administration that professes a strong belief in tradition is neglecting our nation's rich history.

In his budget cuts in the areas of historic preservation, publications and exhibitions, President Reagan may believe he is being frugal. Regrettably, his actions are negligent, wasteful and, because of the nature of historic materials and information, quite final. At his direction, our government is withdrawing its modest yet far-reaching investment in programs that have energetically and efficiently saved countless invaluable facts and observations, historic sites and cultural artifacts. Taken together, these ingredients of history add to and enrich our definition and reflection of ourselves as Americans.

One wonders what Reagan would have done had he been president during the Bicentennial. During the last year and a half, his administration has tried to reduce or eliminate virtually every federal program supporting historical endeavors and preservation. The National Endowment for the Humanities has absorbed severe cuts, sharply reducing the number of publications and exhibitions it can help local organizations nationwide provide to their communities. Reductions the administration has called for will prohibit or limit the geographic range of major traveling museum exhibitions that have inspired, educated and delighted tens of millions of Americans in the last decade.

The Oregon Historical Society's current exhibition, "Soft Gold," and many other regional events and exhibits are possible only with some federal participation.

In the latest proposed federal budget, the National Historical Publications and Records Commission receives no funding, thereby placing in jeoparty the publication of important and heavily used documents. These documents, including the works of prominent American statesmen, scholars, scientists and artists, are essential to the complete understanding of American history, an understanding now more necessary than ever if we are to resolve the complex, and historically related, problems that beset our nation.

"Let us preserve the records," wrote Thomas Jefferson, "not by vaults and locks . . . but by such a multiplication of copies as shall place them beyond the reach of accident." An architect, Jefferson surely would have been concerned with the preservation of America's cultural heritage. Along with other early national leaders, he had a keen sense of history and without doubt would have joined the majority of us in recognizing the importance of preserving nationally and regionally treasured sites and buildings.

For 33 years, the national Trust for Historic Preservation has led our nation in preserving structures and places inseparable from the people and events woven into our nation's origin and growth. In Oregon, the trust's presence can be seen in Portland's Old Town, the Pittock Mansion, Pioneer Courthouse, Timberline Lodge, the John Day fossil beds and the Jacksonville restoration. These and many other successful preservation efforts are the result of the strong partnership between the trust and dedicated individuals and organizations such as our state and local historical agencies. The trust's finest work has been in this highly successful promotion of joint ventures between the private and public sectors. Politically, it has long enjoyed and earned bipartisan support in Congress.

Today, the Reagan administration has called for the near total abandonment of the federal government's role in preservation, and it has unloaded federal responsibility on the hard-pressed states. But it is a fact that Mount Vernon, and Monticello, Fort Vancouver and the Alamo belong to the entire nation. Preservation of them transcends state lines.

The preservation of our nation's history is a national trust and a national responsibility. Through public and private partnerships, this preservation and the public presentation of our history can be accomplished

on a national level for less than $100 million a year, or .02 percent of this year's federal budget. Our question must be, what are the priorities of a conservative administration that will not dedicate even so tiny an amount to help conserve America's abundant past?

The identity we lose will be irretrievable, the reflection in our national mirror will continue to become more and more dim.●

ONE OF CLEVELAND'S BRIGHTEST STARS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. MOTTL. Mr. Speaker, one of Cleveland's leading civic boosters, a man who has held a series of responsible positions in the business world throughout his life, is Campbell Walter Elliot, a long-time friend of mine.

Cam Elliot is a native of St. Louis and came to Cleveland in 1956 as senior vice president of the Midland-Ross Corp., one of my hometown's largest employers. He was president and chief executive officer of American Ship Building Co. in the early 1970's. Since locating in Cleveland, Cam has been at the forefront of many civic and charitable endeavors.

As president and chief executive officer of the Greater Cleveland Growth Association from 1973 to 1977, he helped pave the way for Cleveland's rebound from the depths of despair. It was with Cam's guiding hand, that our downtown was able to experience an incredible rebirth.

When Cam retired from the Growth Association, some people assumed he would revert to his true loves, his wife Dorothy and children Mary Frances, George, and Michael, not to mention his golf game. But those of us who knew this energetic man better knew that normal retirement just would not do.

Cam heeded the call of his close friend, Laury Jones, chairman of the Van Dorn Co. of Cleveland, and joined Van Dorn as vice president of public affairs. He still puts in 60-hour weeks in that capacity.

Despite the workload on the job, Cam and his bride have had the opportunity for extensive world travel the past few years. He has been a goodwill ambassador for Cleveland and the United States to some of the most exciting spots on the globe.

As long as Cleveland, Ohio, has such favorite sons as Cam Elliot working in its behalf, Cleveland will continue to rebound higher and higher.●

SUBSTITUTE AMENDMENT TO H.R. 6457—HEALTH RESEARCH EXTENSION ACT OF 1982

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. BROYHILL. Mr. Speaker, I am concerned about many of the provisions of H.R. 6457, the Health Research Extension Act of 1982. Of principal concern are the excessively high authorization levels for the expiring authorities of the National Cancer Institute, the National Heart, Lung, and Blood Institute, and the Medical Library assistance programs of the National Institutes of Health (NIH). Another concern is the creation of new authorizations for specific program areas at NIH. This will yield additional costs. The bill would also reduce the amount of dollars available for biomedical research by diverting resources from research to numerous administrative requirements.

In addition, title IV of the PHS Act is recodified, making unnecessary and potentially disruptive changes in the management and operating procedures of the NIH and its component institutes. The bill also would create a detailed, inflexible administrative framework that may have an undesirable effect on the quality of research conducted and supported by the NIH.

To correct these problems, Congressman GRAMM and I will offer an amendment in the nature of a substitute to H.R. 6457 when it is considered on the House floor. Our amendment makes the following changes:

It provides lower authorization levels for the expiring NIH programs. This will permit continued support for important biomedical research projects at levels above the 1982 budget. These figures will be more in line with those contained in the companion bill in the Senate.

It provides for a simple extension of expiring authorities rather than a complete revision of NIH. This will be less disruptive to the agency's operation and would provide for only those changes which are essential. This will also eliminate troublesome provisions, such as the unwarranted transfer of other PHS components to NIH.

It includes a provision for a study of humane treatment of research animals. This will improve oversight of the use of those animals for research purposes and will promote alternatives to the use of live animals.

Our amendment also creates a new Arthritis Institute similar to the one contained in the Pepper and Goldwater bills. In addition, a study of the organizational structure of NIH is included in order to establish a framework for future decisions regarding the creation of new institutes.

In order that all of our colleagues have an opportunity to look over this substitute amendment, I have today inserted the amendment in the CONGRESSIONAL RECORD under the "Amendments" section.

I believe that our amendment addresses essential concerns such as the continuation of important research programs at adequate levels of funding without impeding efficient NIH management, and I urge my colleagues to vote "yes" on the Broyhill-Gramm substitute.●

H.R. 6514

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. PEYSER. Mr. Speaker, when H.R. 6514, the immigration bill reaches the House floor, I will offer an amendment to clarify the status of individuals who have been granted asylum. Specifically, the amendment would provide that a person who has been granted asylum may not be involuntarily removed from the United States notwithstanding the laws of any State or any judicial decree of any court of any State.

This amendment would clarify the status of Walter Polovchak, the 15-year-old Ukranian boy who is involved in an Illinios State court custody battle. As my colleagues know, Walter fled from his parents to avoid returning with them to the Soviet Union and was granted asylum by the Immigration and Naturalization Service. Pursuant to a State court proceeding he was placed in the custody of the State. However, an intermediate appellate court in Illinois reversed the lower court's decision and this decision is being appealed to the Supreme Court.

It is clear that a State court custody award of Walter to his parents who are living in the Soviet Union would conflict with the asylum status granted to Walter by the Immigration Service. This would clearly violate the supremacy clause. This amendment will insure that Walter's rights are protected.

Testimony was presented on July 28 before the House Foreign Affairs Subcommittee on Human Rights that Walter would face not only continued religious persecution but imprisonment if he returned to the Soviet Union.

Mr. Speaker, we cannot allow Walter Polovchak and others who have been granted asylum to be removed from the country against their will. The Federal grant of asylum by the Immigration Service pursuant to its authority under the Immigration and Nationality Act may not be interfered with by State court decree or law.

The exact language of the amendment follows:

AMENDMENT TO H.R. 6514

Page 32, line 22, strike out the close quotation mark and the period following "asylum" and add after that line the following:

"(e) Notwithstanding the laws of any State or any judicial decree of any court of any State but subject to section 241, no person who has been granted asylum under this section may be involuntarily removed from the United States.".

Page 32, line 20, strike out "subsection" and insert in lieu thereof "subsections".●

GRAIN MARKETS IN THE U.S.S.R.

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. WINN. Mr. Speaker, the Soviet Union has a traditional food problem—that is, it will be forced to the import grain market next year once again to make up for big grain shortfalls. Meanwhile, the United States also has a food problem. We produce surpluses every year, subsequently depressing grain prices and forcing Government payments up. But at least our people are fed without monumental food lines at the corner grocery store as is the case in Moscow, Leningrad, and Kiev. The Soviet situation is interesting. The International Wheat Council in London, representing the major exporting and importing countries around the world, recently compiled a report on the Soviet food situation through 1990.

The Soviets are in the midst of their 11th 5-year plan with the goal of more food as a chief concern. In the past, Moscow concerned itself with developing heavy industry for its enormous defense budget at the expense of basic needs for its population. Military spending is still the No. 1 budget priority but slowly and inefficiently the Soviets are realizing the weaknesses in their economy, especially in agriculture. The U.S. Department of Agriculture estimates that Soviet grain production in 1982 will be 170 billion metric tons, some 70 billion tons short of a previously stated goal for this year. Under the 12th 5-year plan conceived for 1986-90, the Soviets are hoping to produce over 250 billion tons of grain a year, but many experts concede this goal is unattainable.

While Moscow is scrambling to become agriculturally self-sufficient, the United States is in a position to establish a profitable foreign grain market on a long-term basis. The Soviets do not gain anything by buying American grain. Soviet grain sales create profits for our hard-working farmers and their trade can go a long way in revitalizing farm prices. When President Reagan reviews our current 1-year agreement with Moscow, he will hopefully approve a multiyear pact which will be more sensitive to the plight of the American farmer.●

THE SAFETY OF GOVERNMENT DEBT ISSUES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ROSENTHAL. Mr. Speaker, the investing public is understandably very concerned about the safety of their cash investments following the failure of the Penn Square Bank in Oklahoma City and of the two New York Government securities dealers, Drysdale and Lombard-Wall. The mutual fund industry has sought to capitalize on this concern for safety by creating a special class of money market mutual funds that invest exclusively in Government securities. These Government-only mutual funds have grown very rapidly within the past year.

Unfortunately the public is largely unaware of what kinds of investments these mutual funds actually make, under the label of "Government only." Some of these funds invest heavily in the securities of quasi-private entities, such as Federal National Mortgage Association, the Farm Credit System, and the Federal Home Loan Mortgage Corp., which have no direct Government guarantee or backing for their securities. Furthermore many of these funds invest heavily in repurchase agreements issued by dealers or brokers and having some kind of Government securities, standing behind them as collateral. While most of these securities and repurchase agreements are sound investments, they are not entirely free of risk, as the name "Government" might imply.

I would like to share with my colleagues an important and informative article on this subject by Michael Quint that appeared in the New York Times, Sunday, August 15. Mr. Quint points out the limitations and possible sources of risk in both repurchase agreements and so-called Government securities.

In my view, the reason the public does not understand these factors better is because the mutual fund industry does not inform the public properly through its advertising and promotional literature. As chairman of the Commerce, Consumer, and Monetary Affairs Subcommittee, I have therefore written to SEC Chairman John Shad to request SEC review of the adequacy of the advertising and promotional literature prepared by the mutual fund industry on Government securities.

Mr. Shad's initial response in April refused to acknowledge that there was any problem. Last week, however, in response to my subsequent request for further review in this important area, Mr. Shad reversed his previous position regarding the risks of repurchase agreements. He announced a thorough SEC staff review of whether new regulations or new standards for disclosure in mutual funds prospectuses may be needed regarding mutual fund investments in repurchase agreements.

Unfortunately, the staff review he announced still did not include any review of the advertising and promotional material employed by the mutual fund industry. For this reason I remain very concerned about whether the investing public will be assured of receiving adequate and fair information about the risks and investment policies of their mutual funds from the funds themselves.

The public needs to have this information about Government securities properly understood, and in light of the SEC's reluctance to take responsibility for policing the industry's advertising standards, I am pleased that the New York Times has contributed in this way to the needed public understanding.

The article follows:

[From the New York Times, Aug. 15, 1982]

THE SAFETY OF GOVERNMENT DEBT ISSUES

(By Michael Quint)

As the number of business bankruptcies rises, the safety of Government securities becomes increasingly attractive to investors.

With the popularity of Government issues there is some confusion about the distinctions between Treasury securities, securities issued by Government agencies and the short-term financial instruments backed by those two kinds of securities.

The $800 billion of publicly held bills, notes and bonds issued by the United States Treasury are the nation's largest, highest-quality, and most actively traded group of debt securities.

The Treasury securities are distinct, however, from $300 billion of securities known as Government agencies that come in several forms and maturities and offer slightly higher yields than Treasury bills, notes and bonds. The yield spread varies with market conditions, but ranges from as little as one-tenth of a percentage point for short-term issues to two percentage points or more for longer-term issues.

Although Federal agencies that issue securities were created by acts of Congress and operate with Government oversight, the extent of Government backing for their securities ranges from the full faith and credit of the United States to no backing at all. The assumption in the market place is that Congress would not allow one of its creations to default.

Agency issues have found a niche in the portfolios of investors—including money market mutual funds—who want to combine safety with a higher yield. Some funds use their holdings of agency securities to buttress ambiguous claims of "Uncle Sam safety," "United States Government" securities, or Government agency securities. A money fund explains what it means by "Government" or "agency" in the section of its prospectus called investment policy.

Besides direct purchases of agency issues, many money market mutual funds invest in repurchase agreements, in which the fund buys a security from a large commercial bank, for example, with the agreement that the bank will repurchase it at a fixed, slightly higher price at a specified date—usually a week or less in the future. By selling the security at a higher price than it paid, a money fund is compensated for the use of its money.

While the risk of default on the underlying securities themselves is nil, there is a risk that they might not be repurchased as agreed.

In that event, the money fund would hold the securities used as collateral for the repurchase agreement, but it could sustain a loss. For example, if the initial seller of the securities went bankrupt, it is conceivable that a bankruptcy judge might not allow the money fund to sell the security and get its cash back. Or, during bankruptcy litigation, the value of the security might decline to less than the fund had paid for it.

The bankruptcy scenario is not so farfetched, considering that some money market mutual funds have arranged repurchase agreements with savings and loan associations and savings banks, commercial banks and securities dealers. Last week's bankruptcy filing by Lombard-Wall Inc. was the most recent illustration that some of these firms are financially strained. Last May, Drysdale Government Securities Inc. failed to satisfy the terms of repurchase agreements in which it was a party.

Such funds can rightfully claim their repurchase agreements are of high quality, but the investor should realize that there is more risk than with direct ownership of securities. Most funds disclose the maturity and type of security of their repurchase agreements, but they do not identify the other party in the transaction.

The use of agency securities and repurchase agreement is so pervasive that the only genuine Treasury securities money market fund is Capital Preservation Fund I, based in Palo Alto, Calif.

"Partly because of Drysdale, we changed our investment policy in June to eliminate repurchase agreements," said James Benham, president of the management company for the Capital Preservation Funds.

The most active issuers of Government agency debt securities are these:

Federal National Mortgage Association, commonly known as Fannie Mae, its function is to support the housing industry by making a secondary market in home mortgages. It finances purchases of mortgages by selling discount notes due in 30 to 270 days and longer-terms debentures—neither of which is backed by the Federal Government. Mortgage participation certificates that it issues are secured by the mortgages it helps finance and by a Fannie Mae guarantee.

Federal Home Loan Mortgage Corporation, known as Freddie Mac, or the Mortgage Corporation, it also issues mortgage participation certificates which represent an interest in a pool of home mortgages whose monthly payments of principal and interest are passed through to the investor. Its mortgage participation certificates are backed by the agency's guarantee, but have no direct Government support.

Government National Mortgage Association, commonly know as Ginnie Mae, it is best known for its guarantee of G.N.M.A. pass-through securities backed by pools of home mortgages insured by either the Federal Housing Administration or the Veterans Administration. Furthermore, the pass-through securities are backed by the full faith and credit of the United States.

Federal Home Loan Banks System, to finance loans it extends to savings and loan associations, the Home Loan Bank System sells short-term discount notes plus longer-term securities due in several years. These securities are not guaranteed by the Government, though the Treasury has the authority to buy up to $4 billion fo the system's debt. The securities are backed by the assets of the 12 Federal Home Loan Banks.

Farm Credit System, it sells short-term notes and bonds to finance loans made to farmers and agricultural businesses by the Banks for Cooperatives, the Federal Land Banks, and the Federal Intermediate Credit Banks. The borrowings are collateralized by assets of the regional banks, but are not guaranteed by the United States Government.●

GREEK ORTHODOX CATHEDRAL OF NEW JERSEY DEDICATED IN ANCIENT RITES

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. HOLLENBECK. Mr. Speaker, the St. John the Theologian Greek Orthodox Cathedral of New Jersey will be dedicated this weekend in the ancient ceremony of consecration. These rites date back to the Old and New Testaments and the earliest years of Christianity.

The consecration of the cathedral is one of the most important events in the life of a Greek Orthodox Church. My thoughts and prayers are with the parishioners on this historic occasion, and I am delighted that I will be extending my congratulations personally at the consecration banquet.

The cathedral—and the activities and civic projects it supports—have brought to our communities a center for the positive expression of basic American traditions: faith and belief in God, family, and country. Obviously, in our fast paced, highly mobile society, such contributions to community, family and religious life are tremendously important.

Mr. Speaker, St. John the Theologian was formally founded on Palm Sunday, April 14, 1968, for Greek Orthodox families in communities of the Ninth Congressional District including Tenafly, Fort Lee, Bergenfield, and Englewood. On April 5, 1979, I was pleased to attend ceremonies where Bishop Silas was enthroned as the Greek Orthodox Bishop of the Diocese of New Jersey and the St. John the Theologian was designated a cathedral and became the Episcopal See of Bishop Silas.

The cathedral has grown to serve more than 800 families who are registered members and some additional 200 families and individuals. This growth in size and in community influence is the result of the efforts of many, many dedicated parishioners who are contributing of their time and talents. I am sure that my colleagues will wish to join me in recognizing the congregation of St. John the Theologian at this historic milestone.●

MISCELLANEOUS TARIFF AMENDMENTS OF 1982

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. CRAIG. Mr. Speaker, today, Congress is voting on H.R. 6867, the miscellaneous tariff amendments of 1982, which combines 30 separate and various tariff and trade bills, and amends the Tariff Schedules of the United States. I ask my colleagues to vote "no" on this bill.

Generally, I favor this legislation, but contained within these amendments is a provision which would remove the 30-year-old embargo on mink, fox, and other fur-pelt imports from the People's Republic of China. This action has the ability to increase imports up to 1 million additional fur pelts per year. The U.S. pelt industry would be devastated. The State of Idaho, which I represent, and 22 other States would feel the impact of H.R. 6867.

A large number of meat processing plants would also be adversely impacted by passage of this legislation. Many meat byproducts have no other value than being used as mink feed. With a declining domestic production of furs, the only result can be a less favorable income picture for the meat processing industry. The fur industry and the meat processing industry, as has much of the economy, have had difficult times. Passage of this bill would only exacerbate the situation.

Because this is a suspension vote and no amendments are in order, I am requesting a "no" vote on H.R. 6867.●

LAKELAND NEWSPAPERS ARE NO. 1—AGAIN

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. McCLORY. Mr. Speaker, in these days of large scale criticisms of the national press it is gratifying for me to report the honors being bestowed upon a group of newspapers in my congressional district of Illinois—the Lakeland Newspapers.

Recently, the Illinois Press Association in spirited competition among the community newspapers published in

Illinois gave six first place awards to the Lakeland Newspapers. This marks the third time in 6 years that the Lakeland Newspapers has been granted this top newspaper honor in Illinois.

In addition to receiving the coveted Verle V. Kramer Award recognizing overall journalistic excellence in its class, the newspaper group also won first place awards for its "Modern Family" section, for general excellence, for typography and graphics, for feature photography, and for its editorial page.

These achievements by Lakeland Newspapers are particularly meaningful to me. The paper's publisher, William H. Schroeder and the company's president, Harold R. Kirchhardt are long-time personal friends. They, in turn, are the successors of the founder of this outstanding and successful chain of community papers—Marshall Schroeder who continues to reside in my district and serves as a consultant to this great media enterprise.

Responsible journalism is a key element in our constitutional system. The first amendment to the Constitution assures press freedom—a privilege which the publishers of the Lakeland Newspapers have exercised responsibly for the public good.

Mr. Speaker, in calling attention of my colleagues in this body to the No. 1 hometown newspapers of Illinois, I am also expressing pride in Bill Schroeder, Harold Kirchhardt, and their devoted and capable colleagues who serve the Lakeland Newspaper chain.●

OPTIMISM IN THE SUNBELT STATES

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

OPTIMISM IN THE SUNBELT STATES

(By Robert L. Haught)

(The following report is based on observations made during an 18-day motor trip through 12 Sunbelt states, with stops in 10 major cities. Talks with local citizens, as well as business and political leaders, combined with reviews of area news coverage yielded this indicative, if not academic, analysis.)

A spirit of optimism prevails in the Sunbelt, in spite of unfavorable economic conditions. Migrants from Frostbelt states have made a noticeable impact in many areas of the region. There's little criticism of the current administration's broad domestic policies, while local concerns draw strong interest. Major cities are finding new ways to cope with problems, and overall, Sunbelt living is still very good.

These are personal impressions gained from a 4,200-mile tour of southeastern and southwestern states in late July and early August, a refreshing trip away from the nation's capital, where problems often loom larger than reality. The La Grange, Ga. Daily News provides a much different perspective than the Washington Post.

One of the first indications that Sunbelt citizens take things in stride came from Mike Harrison, a young tour guide at the Hermitage, Andrew Jackson's home in Tennessee. He often points out that President Jackson paid off a national debt of $2.5 billion. Does this comment trigger complaints about the current deficit? "Hardly ever," he said.

That isn't to say people aren't concerned about the economy in America's heartland. A survey by the Memphis Commercial Appeal revealed widespread layoffs and plant closings in several nearby states. Unemployment is above the national average in Alabama (13.9 percent), Mississippi (11.6 percent) and South Carolina (11.5 percent), although this is partially due to young people looking for summer jobs. With the U.S. jobless rate at 9.8 percent for June, Tennessee took a seasonal jump to 11.2 percent, despite an increase of 2,000 more people with jobs.

International Harvester is closing its Memphis plant, resulting in a loss of 2,400 jobs. In Birmingham, U.S. Steel Corp. has laid off 10,000 workers, including 3,400 when a plant closed in June. Cast Metals Co. closed its foundry in Shreveport, idling 350. Oklahoma City is still feeling the effects of a May layoff of 2,500 General Motors workers.

At Yazoo City, Miss., Amco Products, a manufacturer of farm tillage and crop bed equipment, has laid off 100 workers in the last 18 months, according to Emory Hodgson, vice president and general manager.

"The hell with this recession talk, this is a depression in the farm implement business," said Hodgson. "We're in a survival mode."

Even in oil-rich Texas, there are signs of economic distress. In the first half of 1982, 17 Dallas-area oil companies took bankruptcy, almost triple the number for the same period last year—a symptom of an industry downturn marked by cuts in capital spending budgets and layoffs of exploration and service company workers.

"Faltering Economy Delays Bond Issue for Water, Sewer" was the headline on a story about North Carolina Gov. James B. Hunt's decision against putting a $300 million proposal on the November ballot this year.

But for every gloomy headline, there's a cheerful note to be found. The Yazoo City plant has accumulated a few orders and is rehiring 15 of its workers. Gulfstream American Corp. recalled 825 business aircraft production workers laid off at its Bethany, Okla. plant in mid-May. A new $500 million Nissan truck plant being built near Nashville will employ 2,200 when production begins next year. In Little Rock, Ark., unemployment is lower than a year ago, due to new industry and expansion of service and distribution industries. Several Sunbelt states are below the national unemployment average, with Oklahoma running at 5.9 percent and Florida at 7.5 percent.

Comments by individuals reflect a generally upbeat feeling throughout the 12-state area from Virginia to Texas.

"A lot of people are out of work around here," said Larry Carnell, a West Memphis, Ark. Exxon dealer, "but my business is good."

Mike Kidd, Atlanta electrical products salesman, expressed similar views, adding that Georgia Pacific was helping employees being transferred to the area with home loans at below market interest rates.

Housing, a good economic barometer, figures in most discussions about the economy.

"Of course, everyone knows the housing industry is stagnant," Claude Ramsey, president of the Mississippi state AFL-CIO said.

In Dallas, expensive homes ($500,000 and up) are selling well, according to a spot check of realtors by the Dallas Times Herald. Rhonda Samuels, a Dallas-area title company manager, said real estate sales had been brisk. Housing sales in Nashville were up 39 percent in June.

Some innovative ideas are being tried in various parts of the Sunbelt to encourage home buying. Employees of Mississippi Power & Light Co. can get a five-year, interest-free $5,000 loan from the company to help buy or build an energy efficient electric home. A Houston homebuilder, Leo McConnell, gives away automobiles to home buyers.

Washington's preoccupation with President Reagan is not as intense west of the Potomac. There are critics, such as M. R. Goss of San Augustine, Tex., who complained in a letter to the Houston Post that Social Security checks were being cut because the government is rounding off to even dollars. The Pensacola (Fla.) Journal criticized a Commerce Department decision to allow killing nearly 1,000 porpoises for a scientific study. But for the most part, Sunbelt citizens seem to be tolerant of administration policies.

"I think people still want to give Reagan's economic program a chance," said Grace Boulton, Republican national committeewoman from Oklahoma.

Guthrie, Okla. printer Speedy Weems went even further, saying, "There's not any place in the country where Reagan has more friends than here."

As is often the case, local issues are of the greatest concern. San Antonio city officials, seeking to relieve consumer anguish over soaring utility bills, are working on a plan to reward those who conserve electricity and penalize those who don't. South Carolina peach growers welcomed EPA approval of a one-time application of the outlawed chemical DBCP to control the spread of ring nematodes. Interior Secretary James Watt's decision to make a billion acres of offshore areas available for oil and gas leasing aroused concern along the Gulf Coast.

One local problem that is being felt in most major cities of the south and southwest is that of immigration, primarily from northern states. It is especially apparent in Houston, now the nation's fourth largest city. Bill Dunnagan, who teaches in a Houston suburb, said the influx of northerners has had a definite impact on the schools. The heavy flow of jobseekers to Texas led the state to publish a pamphlet warning about stiff requirements for public assistance.

Oklahoma City Mayor Patience Latting said, "We're getting a lot of new residents—carpenters and other skilled workers. Some are finding jobs but others are not."

Joe Banks, resident of the Bella Vista, Ark. retirement community, said, "the Yankees are taking over, all right." But he added, smiling, "They bring a lot of money with them."

Many such migrants have given up and gone back north. But many more have remained, like Jeff Adamson of Shreveport, who said: "I couldn't even get a job pumping

gas in Baltimore. In this city there's no reason why you shouldn't be working."

Michigan native William E. Kell is retiring from the FBI after 4½ years in Little Rock. He says he and his wife have come to love Arkansas and will probably stay.

The Sunbelt continues to attract new industry. The Canadian-based Artesian Oil and Gas Co. recently announced it is moving its corporate headquarters to Oklahoma City this fall. San Antonio got a branch office of Charles Schwab & Co., the world's largest discount brokerage house. The San Antonio Light said Schwab credited "burgeoning Sunbelt business activity and wealth" with luring the business to San Antonio.

It would be incorrect to say that everything is rosy in the Sunbelt. The problems of crime, urban congestion, low farm prices, bad roads and all the symptoms of an ailing economy are being felt there as well as in the rest of the country. But in this region, the outlook is on the upswing and the view is toward the future. One cannot visit the Sunbelt without getting a renewed feeling of confidence in America and its people.●

CAMP GLYNDON

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. LONG of Maryland. Mr. Speaker, this evening I have the privilege of attending the annual benefit dinner for Camp Glyndon located in my district. Camp Glyndon, which is supported solely by private contributions, provides diabetic children 2 exciting weeks at summer camp while training them to cope and lead full lives with diabetes.

Camp Glyndon would not exist without the support and dedication of hundreds of people. Tonight we honor Mr. Leonard Levine, chairman of the board, and one of the camp's sturdiest advocates. During the past 10 years he has worked to develop programs to assist diabetic children, insure adequate financial support and provide friendship to other camp supporters, counselors, and staff. Because of his unselfish dedication, as well as the work of many others, thousands of youngsters have had an opportunity to attend the camp, regardless of their ability to pay.

I know my colleagues join me when I say: "May Camp Glyndon continue to serve the diabetic children of our Nation for many years to come."●

FAZLUR R. KHAN 1929-82

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. RITTER. Mr. Speaker, I would like to insert an article about the life of Fazlur R. Khan, an internationally renowned engineer who recently passed away. I encourage my colleagues to read this article which illustrates Fazlur Khan's numerous achievements as an engineer and scholar.

FAZLUR R. KHAN 1929-82

Fazlur R. Khan, prominent Partner and Chief Structural Engineer of Skidmore, Owings, and Merrill, Chicago, died March 27, 1982 during a business trip to Jeddah.

He was born April 3, 1929, in Dacca, Bangladesh. He received his Bachelor of Engineering Degree in 1950 from the University of Dacca. His education continued in the United States, where he received a Master of Science Degree in Structural Engineering in 1952, and both a Master of Science in Theoretical and Applied Mechanics and a Doctor of Philosophy in Structural Engineering three years later. All of his advanced degrees were from the University of Illinois at Urbana, Illinois.

After a short period in Karachi, he returned to the United States, and made his home in Chicago. He joined Skidmore, Owings, and Merrill in 1955, and remained with the firm until his death at age 52. He became Senior Designer with Skidmore, Owings, and Merrill his first year there, rising through Senior Project Engineer, Associate Partner, Head of Structural/Civil Division, and finally to Partner in 1970.

Dr. Khan had been responsible for the engineering design of many major architectural projects. He had developed a number of new structural systems for tall buildings, both for reinforced concrete and for structural steel. Among many of the significant tall structures designed by him, three special buildings that stand out are the 714 ft. tall One Shell Plaza building in Houston; the 100-story John Hancock Center in Chicago, the world's tallest multi-use building; and the 110-story Sears Tower in Chicago, the world's tallest building at 1,454 ft.

Dr. Khan also developed a new composite system for tall buildings, combining the advantage of both reinforced concrete and steel construction in one. The 52-story One Shell Square in New Orleans used this system.

In addition to his work with Skidmore, Owings, & Merrill, he was also an active member in many professional organizations, such as the National Academy of Engineering, the American Society of Civil Engineers of which he was a Fellow, the American Institute of Steel Construction, the American Concrete Institute, the American Welding Society, and the International Association for Bridge and Structural Engineering. He fulfilled these many responsibilities—in addition to being chairman of our Council.

He published more than 75 technical papers in engineering and architectural journals on topics relating to the analysis, design, and construction of complex structures.

At the Illinois Institute of Technology in Chicago, he was also an adjunct professor of architecture, where he taught since 1961.

All of Dr. Khan's remarkable efforts did not go unrewarded or unrecognized. The list of awards bestowed upon him for outstanding achievements is a long one, beginning even before he finished his education, with the Fulbright Scholar award in 1952. He was cited among the "Construction Men of the Year" in 1966, 1969, and 1971 and was voted "Construction's Man of the Year" in 1972, by Engineering News Record. He also received many medals, such as the Watson Medal for most meritorious paper from ACI in 1971, and the Lloyd Kimbrough Medal from AISC and the Oscar Farber Medal from the Institute of Structural Engineers in London, both in 1973.

He also received an honorary doctor of Science from Northwestern University in 1973, and an honorary doctor of Engineering from Lehigh University in 1980. Die Eidgenossiche Technische Hochscule (ETH), Zurich, Switzerland, also bestowed upon Dr. Khan an Honorary Doctor of Technical Sciences in 1980.

Other awards he received included: Chicagoan of the Year in Architecture and Engineering, AISC Special Award, Chicago Civil Engineer of the Year (ASCE), Alumni Honor Award (University of Illinois), Middlebrooks Award (ASCE), Alfred E. Lindau Award (ACI), National Academy of Engineering, State Service Award (Illinois Council of the AIA), Ernest E. Howard Award (ASCE), G. Brooks Earnest Award (ASCE Cleveland Section).

Dr. Khan left behind him a legacy few men can equal. A legacy of buildings that will stand the test of time. A legacy of knowledge, which he bestowed upon others. And a legacy of ideas, which will sow the seeds for more to grow.

He is survived by his wife, Liselotte and his daughter, Yasmin and stepson, Martin Reifschneider.●

TRIBUTE TO ALBERT ZAPANTA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ROUSSELOT. Mr. Speaker, I rise in recognition of Mr. Albert Zapanta and the latest honor that is to be awarded to him: The Golden Apple Award for Distinguished Service to Hispanic Students in Public Education.

Mr. Zapanta presently serves as director of external affairs for ARCO Solar Industries. He has held this position since 1980. Previous to this position, Al was special assistant to Lt. Gov. Mike Curb and before that he was a visiting professor at California State University. Al Zapanta has also done a stint in Washington, D.C., as a White House Fellow at the Department of Transportation and a member of President Reagan's transition team at the State Department.

For his contribution in the Army, Al was awarded the Silver Star, the Purple Heart, 5 Bronze Stars for valor, and 30 other awards and decorations.

Complementing this man's outstandingly successful career in both Government service and the private sector is his involvement with the American Society of Public Administration, the Society of Industrial Engineers, the American Red Cross, the National Board of the YMCA Armed Services Committee, and the advisory committee to the Olympic Organizing Committee of 1984. He also serves as a commissioner of the Los Angeles County Election Commission.

Albert Zapanta has enriched every group, organization or business he has been associated with—it is my pleasure to see his involvement duly noted by a dinner given in his honor by the Institute for Hispanic School Board Members and the Community and Human Resources Agency on October 1, 1982.●

JUVENILE DIABETES FOUNDATION BIKE 'N' HIKE DAY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. WOLF. Mr. Speaker, diabetes is a major health problem in the United States which directly affects 10 million Americans and indirectly as many as 50 million Americans. Of these, there are an estimated 2 million Americans who have insulin-dependent diabetes—juvenile diabetes—which means they are dependent on insulin injections to live. Also, diabetes is the third leading cause of death from disease and is the first leading cause of new cases of blindness. In addition, the complications of diabetes lead to many other serious health problems.

About a decade ago, a number of parents of diabetics banded together because they did not know there was enough known about diabetes; there was too little research into the causes, effects, and a possible cure for diabetes. The Juvenile Diabetes Foundation was formed as an organization of volunteers to find ways to fund research and to comfort and help newly diagnosed diabetics and their families. On Sunday, September 26, the northern Virginia and District of Columbia/Maryland chapters of the Juvenile Diabetes Foundation are sponsoring Bike 'n' Hike '82. All funds raised through this event will go toward research in diabetes. Participants will solicit money pledges from sponsors for each mile they ride or hike.

Promotional support for this event has been donated by WASH-FM radio and JDF is most grateful for their interest and enthusiasm for this cause. Special thanks go to the Optimist Club of Vienna, Giant Food, High's, and Britches who have been most generous in their support of this effort.

Also, the Jaycees and Jaycee Women have provided ongoing support not only for this effort but for all efforts on behalf of JDF. Both groups are tireless in their efforts to further the goal of finding a cure for diabetes.

The locations for the Bike 'n' Hike are Rock Creek Park, Burke Lake Park, and Mount Vernon Bike Trail.

With the commitment by volunteers in gaining funds for diabetes research, as illustrated by this effort, I am confident that someday this major disease will have a cure. Today, insulin helps diabetes victims lead apparently normal lives, with the exception that an insulin injection is necessary to live. Importantly, insulin is not a cure. Someday, there will be such a cure and we must work to that end.●

CONGRESSMAN DELLUMS ON DEFENSE SPENDING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. CONYERS. Mr. Speaker, I know of few Members of Congress who have grappled with the issue of military spending as intelligently, eloquently, and tenaciously as my esteemed colleague from California, RONALD V. DELLUMS.

He has served on the Armed Services Committee for many years as a voice of conscience and reason. He has challenged the orthodoxy of stepped up military spending in every area of the country. In March and April of this year he held a series of ad hoc hearings on the implications of the defense budget—its foreign policy, national security, economic, and moral consequences—and put together the most complete public record of opposition to defense policies that has ever been established.

Congressman DELLUMS' remarks before the National Newspaper Publishers Association on March 19, 1982, lays out in the most eloquent and reasoned terms the case against escalating military spending. I wish to insert in the RECORD at this point excerpts of his remarks.

CONGRESSMAN DELLUMS ON DEFENSE SPENDING

It is extremely difficult to be Black, to be in the left wing of the body politic, to be on the Armed Services Committee, and to be willing to take a global perspective. It is a very lonely road to travel in Washington, D.C. So, I come to this podium because you are the people that I wish to communicate with; because you are in communication with a major segment of the American population that desperately needs to become an inherent part of the struggle for peace in the world, for the eradication of the insanity of nuclear weapons, and to challenge the madness of a bloated, wasteful, unnecessary, dangerous and useless military budget. So, it is for that reason I choose to speak with you.

The policies that are being made at this very moment have such enormous implications and far-reaching consequences that we now have a moral imperative to act. The budget represents priorities and these priorities in turn represent values. Look at this budget, and specifically the military budget, for what it represents. I would suggest that this administration has proposed to the American people a rapid, substantial, sustained growth in America's military budget. Rapid, in that, over the past several years, many of my colleagues in various Congresses have argued that our military budget has never exceeded twenty-four or twenty-five percent of our total. Yet, the Reagan Administration has now projected a military budget that in the next few years will exceed thirty-seven percent of our total budget. As a matter of fact, the military budget proposal for fiscal year 1982 is roughly twenty-nine percent of the total budget and is growing rapidly.

A substantial growth in America's military budget occurred in the last year of the Carter Administration. Using budget authority figures, America spent $173 billion dollars on the military budget. The last act of the Carter Administration was to propose to the American people a budget for FY 1982, expenditures of $196 billion—a $23 billion dollar increase in one year.

This was not enough for the Reagan Administration. They proposed a military budget of $226 billion in FY 1982 and, for the most part, that budget passed; a $53 billion dollar increase in budget authority in one year at the same time we're cutting $48.5 billion from the nonmilitary side of the budget. Then, we attempted to tell the American people that in some way we were reducing the cost of government. Nothing can be further from the truth. What we were doing was decreasing revenues and certain aspects of expenditures as we were rapidly increasing defense spending.

Last year it was $226 billion. This year, the Reagan Administration is asking for $258 billion in budget authority. Alice Rivlin of the Congressional Budget Office has stated that even if you only talk about a seven percent real growth increase in America's military budget, by fiscal year 1987, America's military budget will exceed $422 billion per year. By the end of this decade we will be talking about over one half a trillion dollars on the military function alone. Now let me shock you with the absurdity of these figures in a different way. When I first came to Congress we were fighting and killing people in Vietnam. Our military budget was roughly $80 billion. Ten years later $173 billion. Next year $226 billion. The next year $258 billion.

A few years down the road, $422 billion. A couple of short years down the road, in excess of $500 billion per year. In the decade of the 1970's America spent one trillion dollars, one hundred billion, one trillion. An incredible amount of money. We will spend in excess of $1.6 trillion in the first five years of the 1980's. It is suggested that, given the Reagan Administration's projections for the decade of the eighties, that we will probably exceed four trillion dollars in the next ten years on the military function alone, which means that in a relatively short span of ten years we will have gone from a one trillion dollar decade military budget to perhaps in excess of four trillion dollars. Four times the amount of funds in one ten year period of time. Stated another way, in the next five years, we will spend, on an average, one billion dollars per day, seven days a week, three hundred and sixty five days a year for the next five years. That, to me, is an obscenity.

Now, it is within the context of this kind of expenditure that we need to see our responsibilities. Before we go to that, let's ask the question: how do you finance a rapid, substantial, sustained growth in America's military budget that goes from twenty-four percent to thirty-seven percent of the total budget, that goes from $173 billion to over half a trillion dollars; a budget that goes from one trillion dollars in one ten year

span to almost four trillion dollars in the next ten year span?

The problems of the world, on an increasing basis, are not military problems; they are social problems; they are political problems; they are economic problems and they have to be solved in their context. Building bombs cannot solve America's problems.

Now, what are the implications? What are the implications of this level of expenditure and this kind of foreign policy thrust? First of all, we stand on the threshold of nuclear disaster. This is a war-fighting budget. It is terribly important that we as Black people in this country, understand that clearly and unequivocally.

Ask yourself, what is the role of nuclear weapons in our lives? Is it to use them or is it for deterrence? Every intelligent mind that I've spoken with says the role of nuclear weapons in our lives has never been to use them—only to deter the other person from using them. Once you cross the threshold and use nuclear weapons, you have destroyed society as we know it. Lord Mountbatten, a brilliant British fighter, in 1979, just before he died, made that statement. And the tragedy, the danger or peril is that nuclear weapons are actually military weapons, and with that perception, someone will use them. And that's the danger. We should never talk about using nuclear weapons. Once you cross that threshold, we have destroyed life.

Maybe you and I, who are the communicators in Black America, must now educate our people, because the tragic reality is, that with all of the advancements that have been made, my confidence has to be in you. We sat here for three days, in those hearings, but all they could see was my black face, not the perception, not the values, not the principles, not the perspective, only the black face. CBS network ran me down for two straight weeks, called sometimes twice a day in order to get my view on minority recruitment in our ROTC, but could not deal with the six days of hearings where we looked at the enormous implication of the military budget. Now you tell me what do I conclude from that? That we can only be seen in very narrow and parochial terms. So my plea is with you. Martin Luther King died talking about a dream. And maybe the dream that he had is that dream that we now must champion, and that is the dream for world peace.

This Administration, has perhaps more singularly, more powerfully than any other Administration, crammed in our faces the implications of foreign policy and the military budget on our lives. Both because, as I said, the H bomb is an equal opportunity destroyer and we have to be concerned about the preservation of life, and because we have to be concerned about the priorities. I don't know if any of you watched this movie a few weeks ago, it was on network television, and it's called "World War Three." I don't particularly like network television, I think that it insults my intellect in many ways. But I think that because I am a representative of the people I must watch that tube quite often because I need to understand how my constituents are being propagandized. So, I watched "World War Three," the movie, because I wanted to see how they treated the end of the world. An interesting thing was that when it came to a decision to destroy the world, it was a handful of white males over fifty that made that judgment, alone. There were no women, although fifty-one percent of this country and the world are women. Three quarters of the people on the face of this earth are people of color and if you can sit in a room and talk about national security and only white males can—the arrogance of that is incredible. And so we need you.

The Black community needs you, America needs you and the world needs you. The world needs you because when Black people stand up and become an inherent part of the struggle for world peace, the challenge to the insanity of nuclear weapons, and to come fighting against the madness of this ever-increasing military budget, we can turn it around. And so in many ways it's our destiny. So, that's why I come to you. I come to you with that level of passion to say that we now must educate our people. This debate is not occurring in Black America.

Many of our politicians are not educating, our own politicians are not educating Black America with respect to these implications. In some way in our minds we keep this dichotomy between foreign policy and domestic policy. There is no such thing in the real world. How can you be a domestic racist and an international progressive? It doesn't work. How can you cut social programs that affect the ghettos and the barrios of America and then have an enlightened foreign policy with regards to the third world? How can you do it? How can you play divide and conquer in this country and not play divide and conquer in the third world? It cannot be done. How can you spend money in foreign policy and take it out of the hides of human beings in this country and then assume that there's no relationship?

White politicians come into Black America when they're campaigning and they talk about housing, jobs, education and affirmative action; then they get in their car, go across town and talk about a reactionary foreign policy, a multi-billion dollar military budget authority and they just gave away the money that they were going to spend, that they had talked in your community about using to solve the problems. And we have allowed them to do that.

If you as the publishers and the writers and the journalists of Black America begin to articulate these issues, in powerful terms, Black America will begin to ask these questions of all their representatives because we are also citizens of this planet and we must have the audacity and the arrogance and the dignity to understand our profound responsibility at this moment in American history and in this moment in the history of the world to save this planet, to save this nation, even from itself, and to save our people against the madness of global nuclear war.●

H.R. 6046

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. AuCOIN. Mr. Speaker, I want to state for the RECORD my opposition to H.R. 6046, the Extradition Act of 1982. This bill, which may be considered by the House before the end of the session, is fatally flawed.

H.R. 6046 narrows the scope of judicial review in extradition cases, handing this responsibility over to the State Department. Expanding the power of the executive branch at the expense of the judicial branch is an unnecessary abridgment of our system of checks and balances. This transfer of authority creates an open space for possible abuse of the civil rights of foreigners and U.S. citizens alike.

H.R. 6046 allows the United States to hold, without bail, Americans or foreigners who have been charged with a crime by a foreign government—without one scrap of corroborating evidence. The bill gamely calls for a promise that evidence will be produced sometime in the unspecified future.

Further, subsections of the bill would deny benefit of the political crimes defense to any person charged by a foreign government with committing a crime of bodily violence or a crime involving the use of a firearm, except in extraordinary circumstances.

For all the above reasons, and more, the Extradition Act of 1982 runs contrary to our proud history of respect for the individual—the cornerstone of our political system. I urge my colleagues to oppose this bill.●

ISAI GOLDSTEIN

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. McKINNEY. Mr. Speaker, with the celebration of the Jewish New Year, Rosh Hashanah, recently passed, and with the issue of international human rights very much a primary concern of this Nation, I feel compelled once again to draw attention to those persons suffering in the Soviet Union as a result of their desire for religious freedom. Isai Goldstein, an established physicist, formerly of the Tiblisi branch of the Mendelev Standards Institute, has been denied both employment in his field and exit visa status since his first request for emigration to Israel 11 years ago. Since that time, the Soviet Union has denied Isai's emigration visa on the grounds that he had "access to State secrets," despite the fact that his work was never classified.

Isai's application makes him one of the thousands of so-called "refuseniks" currently struggling in the Soviet Union. These refuseniks are mostly Soviet Jews who have sought visas for emigration and have been denied—all because they sought a basic human right, the right to religious freedom. The horrifying conditions and terrible treatment of the Jewish people in the Soviet Union leaves them no alternative but to seek an exit from their homeland and attempt a new life somewhere else in the world, where they can prosper in liberty and peace. However, the trend of the Soviet Union now seems to be to

lower the number of emigrants considerably, almost to a point where fewer than 3,000 will escape Soviet persecution this year, in contrast to the figure of 51,320 permitted to leave in 1979.

The Soviet Union's continued harsh oppression, institutional anti-Semitism, and concerted efforts to exterminate Jewish culture in Russia represent an appalling abuse of civil rights. As the number of freed Jews falls unproportionately each year, the conditions for refuseniks and other dissidents deteriorate in as unproportioned a manner. Hebrew school teachers and culture group leaders are arrested, and books and sacred artifacts are confiscated and destroyed. These cultural leaders and teachers then face lives of oblivion, convicted of imaginary crimes and sentenced to what is officially termed "internal exile" but what is really imprisonment in Siberian and Gulag labor camps, prisons, and mental institutions.

The United States has heard of the horrifying details of Soviet human rights abuse with the examples of mathematician Anatoly Shcharansky, who has been imprisoned and made to live in conditions like a prisoner from Auschwitz; Lev Mikhailovich, a radio engineer, made to live an existence of periodic jail terms; and Grigory Vasserman, a Hebrew teacher, who has been raided and beaten into semiconsciousness on several occasions by the KGB. The list could go on. Even in this case of Isai Goldstein, violence, terror, and abuse have been used. In 1973 Isai was imprisoned on charges of slandering the Soviet State. He was released some time later due to Western pressures, but was unable to rejoice, as his brother was deported to a Soviet labor prison camp near the Arctic Circle. In this instance, as in all the others, Congress should implore the Soviet Union to abide to some degree of human rights.

As our Constitution clearly states, each individual is entitled to some "certain unalienable rights," upon which no institution in the world can encroach. These undeniable rights to food, shelter, health care, education, and finally to civil and political liberty, are the instruments upon which the whole of civilized society has been founded upon for thousands of years. I believe that no nation has the right to supersede that sacred privilege of life.

Isai Goldstein is merely one of the thousands who have had these privileges violated, such guarantees that we so often take for granted. His suffering is not his alone. His family has been persecuted. His 6-year-old son, Avi, has been forced to register in a Soviet school where he will undoubtedly be subjected to abuse from school authorities and also from his fellow classmates. Isai himself has been accused of leading "a parasitic way of life," and has been threatened with even further "consequences" if he is unable to find work soon.

It is my hope that the Members of this body will take heed of the gross violation of human rights and will continue to draw national attention to the individual refuseniks languishing in the Soviet Union. Let us begin the New Year by bringing promise to those less fortunate than us. Let us hope that Isai Goldstein, his wife and his little son Avi, can be brought closer to the freedom that we all love and cherish.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. McDONALD. Mr. Speaker, earlier today I reluctantly cast a vote against H.R. 5573, the Computer Equipment Contribution Act of 1982. I did so, not because I do not support the training of our Nation's young people in the use of computers, but because the bill was too narrow and too specific. In effect, the bill was nothing short of special interest legislation to allow the producers of small personal computers a special deduction for gifts of a single type to a particular group. I am hesitant to give one industry a tax advantage not available to other industries especially when that advantage will enable the industry to promote the training of students across the country in the use of its particular products.

I would hope that computer and other companies would take an active interest in the education of young people and would make donations of materials and equipment under existing tax laws without having to resort to special interest tax breaks. Such tax breaks are discriminatory and, therefore, I felt compelled to vote against H.R. 5573.●

THE REVEREND CANON THEODORE ROOSEVELT GIBSON

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. LEHMAN. Mr. Speaker, south Florida has lost one of its giants. The Reverend Theodore Gibson is gone and we will not, I fear, see his likes again in our lifetime. He was bigger than life—a truly fearless man—yet a person who was tuned to the sensitive problems of the changes going on in our community.

Reverend Gibson made a tremendous difference in what really mattered in south Florida. He transcended bitterness and embraced the values that we reach for if we are to survive as civilized human beings.

As will his family and his loyal and faithful followers, I too will miss my good friend.

I would like to insert in the RECORD the following writeup from the Miami Herald on Rev. Theodore Roosevelt Gibson:

The article follows:

"A PRINCE HAS FALLEN"—REVEREND GIBSON DIES

"It's day now. And night is about to come. And I must work while it is day . . . ."—Theodore R. Gibson.

(By R. A. Zaldivar)

The Rev. Theodore Roosevelt Gibson, who in the late 1950's led Miami's blacks on their first tentative steps toward political power, died Monday at the age of 67.

"Today, a prince has fallen in our town," said Athalie Range, the first black to serve on the Miami City Commission.

Gibson, worn down by a nagging illness he described as "degenerative arthritis," retired last September after 9½ years as a Miami city commissioner.

He died at 11:20 a.m. at Cedars of Lebanon Hospital, a year and three days after his retirement. Hospital spokeswoman Debbie Zayas, who declined to disclose the cause of death, said Gibson had been admitted just over two weeks ago.

The Gibson family would not confirm or deny reports that he died of cancer, saying an autopsy would be conducted to determine the cause of death.

A canon of the Episcopal Church, Gibson earned a reputation as the peacemaker on the City Commission. He never tired of admonishing quarreling parties to settle their differences.

"It's a corny thing to say that a man was wise, but Gibson was," Mayor Maurice Ferre said. "He had a vision beyond the immediate. He had the courage of his convictions even when the community went against him."

Former Miami City Attorney George Knox recalled Gibson as "a voice of reason and moderation eminent on the City Commission."

It was a voice with a folksy twist that was all Gibson.

"I only went to law school for one day," Gibson was fond of reminding the many high-priced lawyers who appeared before the City Commission. "But you

WELL-REMEMBERED

"I always saw him as a man who gave everything—all that he had—for everybody else," said Donna Hildreth, his assistant first at Christ Episcopal Church, where Gibson was rector, and later at City Hall.

"If everybody can remember just one good thing out of the hundreds he did, he will be well-remembered," Hildreth added.

Gibson's private life was scarred by sorrow. His only son died of a heart attack in 1980 at the age of 36.

The elder Gibson found that coping with his illness was a daily personal challenge. It drew down his strength. Before his retirement, he would sit uncomfortably through marathon City Commission sessions, rising now and then to complain, in private, about stiffness and pain in his hips.

In an interview with The Herald shortly before his retirement, he described himself as a man "setting his house in order."

He had written his funeral service and chosen the hymns. His wife, Thelma, was to give the eulogy.

THE NIGHT COMETH

"It's day now," Gibson said at the time. "And night is about to come. And I must work while it is day, because night cometh and man cannot work in the night."

Gibson spent much of his year in retirement playing with his seven-year old grandson, Charles Anthony. He came out of retirement briefly to lend his support to the recent campaigns of County Judge Leah Simms and state Sen. Jack Gordon (D. Miami Beach), both of whom won.

Miami Commission J. L. Plummer, who visited Gibson in the hospital Friday, said he would miss his former colleague. "He was a gentleman," Plummer said.

A litany for the dead will be held Wednesday at 7 p.m. at Christ Episcopal Church, 3481 Hibiscus St., Coconut Grove, where Gibson was rector for 36 years.

A funeral mass of the Christian burial will be said Thursay at 10 a.m. at Christ Episcopal. Immediately followed by burial at Miami City Cemetery, where Gibson's father, Charles, is buried.

The family requests donations to the Theodore R. Gibson Institute of the Urban League, 1200 Biscayne Blvd., Miami 33132.

The Miami City Commission meeting scheduled for 9 a.m. Thursday has been rescheduled to 1 p.m.

The Gibson style was an embarrassing anchronism to some modern-day black leaders, but then Gibson made his mark in the days when whites and blacks still drank from separate water fountains and went to different schools.

In those days, as Miami NAACP president, the pastor was viewed as a radical.

Gibson broke the color bar at Crandon Park Beach, leading a group of blacks on a swim-in in November 1959. The suit he filed on behalf of his son, the late Theodore R. Gibson II, led to the integration of Dade's public schools. He campaigned to open up jobs for blacks.

His greatest public trial came in 1959 when he refused the demand of a Communist-hunting committee of the Florida Legislature that he turn over a list of NAACP members. Threatened with a six-month jail term, Gibson took his case all the way to the U.S. Supreme Court and won.

He would later quip that he didn't turn over the membership list out of embarrassment that the NAACP had so few members.

Appointed to the City Commission in 1972, Gibson cast pivotal votes in the selection of Knox and City Manager Howard Gary, both the first blacks to hold those jobs.

He was part of Ferre's three-vote coalition for opening up Miami's Civil Service to blacks and Hispanics.●

VOLUNTEER FIREFIGHTERS

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. EVANS of Delaware. Mr. Speaker, we all grew up hearing the bibilical saying that no man can have greater love for his fellow human being than to offer his life for his friend. This noble sentiment is nowhere more heroically carried on in our modern society than in the self-sacrifice of our Nation's volunteer firefighters. In many important respects these brave individuals remind us of the high principles that transcend money and privilege which our society sometimes loses sight of. I believe that the volunteer firefighters of America are the true heirs of the early Minutemen who also put their lives on the line at a moment's notice to protect other members of the community. That is why I want to remind Members of some of the more important measures we have before us that are of great interest to America's firefighters.

I have been actively working for House passage of S. 2625, legislation that will greatly facilitate the transfer of surplus Federal property to volunteer fire departments. This measure, introduced by my good friend and colleague from Delaware Senator BILL ROTH, will enable fire departments to better utilize excess Federal equipment in their efforts to protect our communities from the ravages of fire. This important measure has passed the Senate, and we are working for House passage as well.

Another important concern of firefighters is H.R. 1968, legislation that I have cosponsored that will extend a $50,000 death benefit to the survivors of volunteer firemen who die from heart attacks connected with their firefighting duties. I am encouraged to see that this important proposal is finally beginning to move in the House Judiciary Committee, and have urged my colleagues on that panel to approve H.R. 1968 so that the full Congress can consider it soon.

Finally, the House has approved, with my strong support, a measure that will enable Federal law enforcement officials to more effectively crack-down on arson. Through ambiguities in the Federal laws, many arsonists are able to escape prosecution in Federal arson cases. The bill the House has passed will close these loopholes and mean more arsonists end up where they belong: Off the streets and in jail.

Mr. Speaker, I want to point out that the many fine Delaware volunteer firefighters have numerous colleagues around the country who look to us to do our part, so that the noble tradition they represent may be passed on and inspire future generations of selfless, patriotic Americans.●

NINE-YEAR-OLD DIONNE MYERS AWARDED LIFESAVING AWARD

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. ROUSSELOT. Mr. Speaker, I would like to enlighten my colleagues to the competence, heroism, and leadership mustered by a 9-year-old Girl Scout, Dionne Myers, of Baldwin Park, to help save the life of her fourth-grade teacher. Miss Myers is without a doubt the ideal Juliette Low had in mind when she founded Girl Scouting in 1912.

In March 1982, teacher Joan Foerster, feeling ill, became unconscious upon leaving her classroom and hit her head on concrete steps. Joan Foerster was bleeding from the head and seemed to have stopped breathing when Dionne Myers, age 9, took charge instructing one classmate to get paper towels, another to inform the principal and contact the paramedics. Dionne, using the mouth-to-mouth resuscitation she learned as a Girl Scout, held the situation in check until the paramedics arrived.

To honor this courageous little lady's quick thinking and medical expertise, the Spanish Trails Girl Scout Council is awarding her its lifesaving award. This is the first time in 8 years that the award has been presented and Miss Myers is, as far as anyone can recollect, the youngest recipient.

We are all very proud of this young lady, now a Junior Scout, and the efforts and contributions of all Girl Scouts, which are numerous. The American Legion No. 241 of Baldwin Park, an organization that counts among its membership many heroes, has seen fit to sponsor a youth night with Dionne Myers as their guest. The two organizations, Girl Scouts and the American Legion, have been working together for years now and I wish them both success in their future endeavors.●

A SALUTE TO MARY GRAVES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. GILMAN. Mr. Speaker, it is a privilege to rise today to recognize the great contribution that Mary Graves, now the executive director of Love the Children Adoption Agency, has made and continues to make in bringing love and shelter to orphans throughout the world. On Saturday, October 9, 1982, a testimonial dinner will be held to honor this fine woman who has worked to place nearly 4,000 orphaned children throughout the world in adoptive homes in the United States. For those here and abroad without a permanent home, she spends exhausting hours searching for funds to improve medical facilities and other structures housing these children. She also raises money for their food, clothing, and medicine.

I urge my colleagues to join me today in saluting a remarkable human

being, who knew the agonies of being an orphan firsthand, and put this knowledge into action to change the lives of thousands of children here and all over the world. During her first years as a social worker in the United States, her love and concern for children in broken homes—those who do not know the joy and security of a loving family—increasingly involved her in adoption work. She became the director of an adoption agency called Welcome House, founded by Pearl Buck, where she worked for 17 years. As director of Welcome House, she concentrated her efforts on placing those American children who are most difficult to place—those with medical and physical conditions and difficult backgrounds. Between 1961 and 1970 she placed 733 of these children, which included those up to the ages of 16 and 17. While she was director of Welcome House, the need for placement of overseas children increased dramatically, and during this time she placed in homes over 3,200 children from Vietnam, Korea, Hong Kong, India, El Salvador, Peru, Colombia, and Pakistan.

In 1978 she began the "Love the Children" agency, which was first approved as an adoption agency in Pennsylvania and later in New Jersey and New York. There she has continued and expanded her amazing work with homeless children all over the world. Through spartan management techniques and volunteer efforts, she has been able to use practically all funds coming into the agency for projects rather than administrative expenses. In February 1979, a new association was established between Love the Children and Eastern Child Welfare Society in Seoul, South Korea. Mary Graves initiated this relationship with the idea that Love the Children would fill the need it had been filling so well in the United States to assist in the placement of those children most difficult to place.

In South Korea, as in all other countries where Mary Graves has concentrated her efforts, she began programs to improve the lives of the families and children permanently. The Eastern Child Welfare Society, with Mary Graves' help, now combines a number of programs to make a difference in the lives of the poor in South Korea. These include an incountry and intercountry adoption program placing children in Korean and American homes, a foster care program, a sponsorship progam assisting parents in paying for secondary education, and pregnancy counseling, and prenatal care.

Mary Graves has always been ready to tackle the most important need at hand; she is now heading up a drive to raise money to construct the Eastern Child Welfare Center in Seoul, South Korea, to provide sufficient space for the activities of the Eastern Child Welfare Society and to expand these programs to include a hospital clinic for obstetric and pediatric care.

Having followed the life and works of this great woman, gives us assurance that she will reach her goal and realize her dream for this clinic. Mary Graves has seen a desperate need in the eyes of the homeless and has put the power of her love, determination, and faith to work to substitute hope for despair. Accordingly, I urge my colleagues to join me in saluting this amazing human being, who, in a time when resources seem so scarce and the needs so great, brings us all new hope as she has brought it to thousands of young lives throughout our world.

Onward, Mary Graves. May the dream of the Child Welfare Center soon be a reality. We know its completion will only be a stepping stone for another of your remarkable leaps into the rough waters to build another bridge for peace.●

A THOUGHT-PROVOKING PROPOSAL

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. DREIER. Mr. Speaker, in yesterday's RECORD (page 24550) I brought to the attention of my colleagues a thought-provoking article on how to deal with the problem of outrageously high interest rates. This article was originally brought to my attention by Mr. Paul Manz of Walnut, Calif., and eloquently expresses the view that Americans are tired of partisan political bickering. Instead, our constituents want us to put economic recovery ahead of political gain and action ahead of rhetoric. Once again, I recommend this article to my colleagues.●

DREAMS COME TRUE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1982

● Mr. DE LUGO. Mr. Speaker, the dreams and hard work of many are about to bear fruit in the U.S. Virgin Islands. The dreams to which I refer are the completion and opening of the three health care facilities on St. Croix, St. Thomas, and St. John. The people I represent will now have access to medical care at the most modern facilities in the eastern Caribbean region.

There are many people who deserve recognition and words of appreciation. First of all, I would like to thank the 95th Congress of the United States, which in July of 1978 approved the original authorization that made these facilities possible. And, I would like to thank the Members of the 97th Congress, this Congress, which saw to it that there were sufficient funds to complete this project.

In particular, I would like to recognize several people without whose support and genuine concern for the well-being of the people of the U.S. Virgin Islands, this dream would never have become a reality. They include: Congressmen SIDNEY R. YATES, PHILLIP BURTON, DON H. CLAUSEN, and ROBERT J. LAGOMARSINO; Senators JAMES A. MCCLURE and J. BENNETT JOHNSTON; and, Governor Juan Luis of the U.S. Virgin Islands.

But, there is one person, Mr. Chairman, who as the champion of this enormous undertaking, who devoted countless hours and untold amounts of his seemingly boundless energies to making these new hospitals and clinics a reality. That person is Dr. Roy L. Schneider, the Commissioner of Health of the U.S. Virgin Islands.

Dr. Schneider is a truly remarkable man. From his earliest days at Dober School in St. Thomas, where he was born, he was an achiever in the best sense of the word. He was salutatorian of his graduating class at Charlotte Amalie High School and an outstanding student at Howard University and Howard University Medical School, where he was later chief resident in surgery, as well as an Oncology Surgery Fellow at the Memorial Sloan-Kettering Cancer Center in New York. He has served in several faculty positions, and was vice chairman of the Oncology Department at Howard University Hospital. He has participated in many lectures and societies and in the midst of all this, he also served in Vietnam and was awarded the Bronze Star.

His talents and service have been recognized by many, many institutions and societies, and he has been the recipient of many awards. We are both proud and grateful that this very talented and dedicated man chose to give his energies to the community of his birth, to the people of the Virgin Islands.

Throughout the years of hearings and debates in the Congress on funding for these new health facilities, Dr. Schneider demonstrated his effectiveness in yet another field—lobbying. On an instant's notice, Dr. Schneider would be available with all the facts and figures at his fingertips to explain in detail every item in these massive projects, as I am sure many of my colleagues on Interior and Appropriations Committees will recall.

He was the guiding light, the strict taskmaster, and the encouraging voice when construction was underway. And, now that these facilities are fin-

ished and about to be formally dedicated the first week in October, I sincerely hope that Dr. Schneider will take well-deserved pride in what has been accomplished. For the reason behind his drive and his dedication, Mr. Chairman, is that he truly cares for the people of the U.S. Virgin Islands, for their well-being, and for their future. There can be no finer quality in a doctor; no finer quality in any man.

I would also like to comment on the public record the Virgin Islands firms that worked on the actual construction of these medical facilities, and I would like to point out to my colleagues that these facilities were actually finished ahead of schedule. There is no small feat in this day and age, and it was due in no small part to the dedication and professionalism of the many men and women who worked on these projects.

These companies include: Americo, Rid-O-Pest, Controlled Concrete Product, Island Block, Jolander Well Drilling, MSI, Caribbean Steel, L. J. Schuler & Sons, McKenzie Construction, Parsons Enterprises, Floor Specialist, Inc., Morris Masonry, Hughes Plumbing, Majestic Construction, Rodgers Electric, National Corrosion Control Inc., Meridian Engineering, Schuster's Services, Ephraim Construction, Triumpho Electric, KABOB Construction Co., The Right Way Construction Co., Ray J. Plietchwait, Gerrits V.I., Inc., American Carpet Service, Floor Specialist, Roe-Win, Blue Mountain Nursery, and V.I. Hotel & Restaurant Supplies.

The construction of these facilities has been a joint effort. From the Congress of the United States, to the Governor of the Virgin Islands Juan Luis, to Health Commissioner Roy Schneider, to those involved in the actual construction, to the people of the Virgin Islands who watched with support and enthusiasm as this dream became a reality. It is an outstanding example of a community joining together for the common good, and I am privileged and proud to have been a part of this effort.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 23, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on airline labor protection relating to mergers, acquisitions, and intercarrier transactions.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Judiciary
Courts Subcommittee
To resume hearings on S. 1529 and S. 2035, bills establishing the National Court of Appeals, and to begin hearings on S. 1403 and S. 1874, bills to reform and improve the annuity program for survivors of Federal Justices and judges.
2228 Dirksen Building

SEPTEMBER 27

10:00 a.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings on certain constitutional and separation of powers issues involving the U.S.-China Joint Communique of August 17, 1982, and the Taiwan Relations Act (Public Law 96-8).
2228 Dirksen Building

2:00 p.m.
Finance
Savings, Pensions and Investment Policy Subcommittee
To hold hearings on S. 2860, eliminating the retroactive effective date of the withdrawal liability provisions of the Multiemployer Pension Plan Amendments Act (Public Law 96-364), and S. 2918, creating exemptions to permit investments by employee benefit plans in the residential mortgage market.
2221 Dirksen Building

SEPTEMBER 28

9:00 a.m.
Finance
To hold hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

9:30 a.m.
Armed Services
Closed briefing providing an update on the strategic arms reduction talks (START).
212 Russell Building

Budget
To resume hearings on proposals reforming the Congressional Budget Act of 1974, including S. 13, S. 59, S. 581, S. 582, S. 193, S. 265, S. 384, S. 938, S. 2629, S. 1683, S. 2008, S. 2069, and S. 2454.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on a proposal to guarantee full freedom of expression for the electronic media, focusing on technical and policy issues.
235 Russell Building

Small Business
Urban and Rural Economic Development Subcommittee
To hold oversight hearings on the implementation of the Small Business Administration's economic development programs, focusing on the certified development company program.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
Business meeting, to mark up proposed amendments to S. 2432, authorizing funds for fiscal years 1983 and 1984 for programs of the Solid Waste Disposal Act and Resource Conservation and Recovery Act (pending on Senate calendar).
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif.; Local 19, San Jose, Calif.; Local 86, Reno, Nev.; and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Select on Intelligence
To hold closed hearings on intelligence matters.
S-407, Capitol

2:00 p.m.
Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice
To resume hearings on alleged abuses relating to the ABSCAM investigation by the Department of Justice.
457 Russell Building

SEPTEMBER 29

9:00 a.m.
Rules and Administration
Business meeting to consider pending legislative and administrative business.
S-205, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1626, to reform and improve the regulation of oil pipelines.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rates.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
To resume hearings on S. 2784 and S. 2821, bills clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.
2228 Dirksen Building

Select on Intelligence
To hold hearings on Soviet succession.
6226 Dirksen Building

10:30 a.m.
Governmental Affairs
Federal Expenditure, Research and Rules Subcommittee
To resume oversight hearings on the implementation of the Paperwork Reduction Act (Public Law 96-511).
5110 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 30

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings on a proposal to guarantee full freedom of expression for the electronic media, focusing on technical and policy issues.
235 Russell Building

Judiciary
Juvenile Justice Subcommittee
To hold hearings on proposed assistance to State and local law enforcements to reduce criminal case backloads.
5110 Dirksen Building

10:00 a.m.
Finance
To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.
2221 Dirksen Building

Governmental Affairs
To hold oversight hearings on certain activities of the General Services Administration.
3110 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on local 28, Oakland, Calif., local 19, San Jose, Calif., local 86, Reno, Nev., and local 30, San Diego, Calif.
3302 Dirksen Building

Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of and contributions to Government contractors.
2228 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 2655, providing an alternative source of financial assistance for social security student benefit recipients.
4232 Dirksen Building

Joint Economic
International Trade, Finance, and Security Economics Subcommittee
To hold hearings on the role of the venture capital industry in the American economy.
2212 Rayburn Building

1:30 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on Presidential immigration emergency powers.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 23

1:00 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on refugee consultation.
2228 Dirksen Building

SEPTEMBER 28

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

SENATE—*Thursday, September 23, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our opening prayer will be delivered by the Reverend Patrick J. Gillooly, pastor of St. Vincent de Paul Church, Berkeley Springs, W. Va. He is sponsored by Senator JENNINGS RANDOLPH of West Virginia.

PRAYER

The Reverend Father Patrick J. Gillooly offered the following prayer:

Let us pray.

O God, You who are the source of all wisdom, whose statutes are good and gracious and whose law is just and true, guide and direct our Senators that they may, by just and prudent laws, promote the well-being of all our people.

Almighty God, Our Father, You have charged each of us with the task of building on this Earth a home where all the nations may dwell in unity, liberty, justice, and peace. We pray for strength and purpose to help these Senators, Your servants, in fulfilling their roles of service and responsibility. May they seek justice and protect the weak and lead us all in constructing institutions for our peace and mutual aid. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the recognition of the distinguished Senator from Florida (Mr. CHILES) on a special order of not to exceed 15 minutes, there be a brief period for the transaction of routine morning business to extend not past the hour of 10:45 a.m., in which Senators may speak for not more than 3 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

DEBT LIMIT BILL

Mr. BAKER. Mr. President, after the opening business is transacted, including morning business as just provided, House Joint Resolution 520 will become once more the pending business. I would remind Senators a cloture vote is to occur at 12 noon today without the prior live quorum as prescribed by rule XXII.

Mr. President, I expect that there may be a motion or motions today in respect to this bill. I fully anticipate there will be amendments offered to this bill. It is my intention, Mr. President, if it is humanly possible to do so, to finish this bill today because time is running out. We have spent more than 50 hours of debate on this measure. We began it on August 16. We have just about used all the time I think the Senate should commit to this measure. Therefore, Senators will understand, I am sure, when I say that notwithstanding agreement that we would have a debate on prayer and on abortion, and that Senators would have an opportunity to offer amendments to this bill otherwise, that that must be done to the extent that the calendar and the clock will permit that to be done today.

We will be in late, if necessary. I hope that is not the case, but Senators should be prepared to remain late, even very late. I will request the Secretary of the Senate to advise those who operate the Senate facilities to be on notice that we may be very late.

Mr. President, it is my hope that the matter will be dealt with promptly and smoothly, and that we can finish responsible action on the debt limit bill today and still honor the commitments that have been made to all Senators in respect to this bill as a vehicle for many purposes.

Mr. ROBERT C. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. When does the majority leader anticipate action on the continuing resolution?

Mr. BAKER. Mr. President, the continuing resolution is being marked up today, I understand, by the Committee on Appropriations. It has now been received from the House of Representatives. I am advised that they should have that bill to us and available on Tuesday, I believe, of next week. It is my intention to take it up as soon as possible.

Mr. ROBERT C. BYRD. I thank the majority leader.

HUD APPROPRIATIONS

Mr. BAKER. I may also say in that same vein, Mr. President, that the HUD appropriations bill is here. It is the first one of the House-passed appropriations bills to reach us and fully qualify under our rules. It would be my hope to go to that first appropriations bill, the first 1 of the 13, today, if not tomorrow.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. I thank the President pro tempore for permitting me to be relieved of my commitment to him and to the Senate to take up S. 995, because otherwise there was a commitment to do that after we finish the debt limit. But Senators should be on notice that we will go to the HUD appropriations bill.

Mr. President, I have no further need for my time under the standing order. I offer it to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. I thank the majority leader for the time. I accept it.

Mr. President, I yield such time as I may have remaining to the Senator from Mississippi.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Mississippi.

Mr. STENNIS. I thank the minority leader.

AMENDMENTS ON ABORTION AND SCHOOL PRAYER

Mr. STENNIS. Mr. President, my remarks will be brief. They will cover the matter of the Helms antiabortion amendment and the pending Helms amendment relative to school prayer. Let me first say I do not make any personal reference to the author of those amendments or any other Member of the Senate. I have known them a long time and have friendly and kindly feelings for them and about them. I am sympathetic with the problems they are trying to solve. My remarks do not relate to the leadership, either the mi-

nority leader or the majority leader. The Nation is blessed, absolutely blessed, to have these men in these positions at this time.

I want to clear up some of the confusion about the abortion issue—and I think it is confusing to the public. The fact is that the matter of abortion has been up here many times in many forms, and our Appropriations Committee has passed on it many times. I know we have spent dozens and dozens of days on it. I think one year we voted 24 times on the subject of abortion.

I am totally opposed to abortion on demand. I have supported what is called the Hyde amendment, which is rather strict and binding. It was not something I read in a book. I learned as a boy the idea of morality and the conception of right and wrong. That included the concept that elective abortions are wrong. That is what I believed then and what I believe now, regardless of any procedural vote that I have cast in the last few days.

On prayer in schools, Mr. President, I was very much concerned with the Supreme Court decision when it was handed down in 1962. I was the first Senator to offer a constitutional amendment to reverse the Court's ruling. I offered it the very next day after the Supreme Court's decision. The debate and the consideration of the school prayer constitutional amendment went on for a year or a year and a half and more. The proposed constitutional amendment that I introduced was Senate Joint Resolution 204 and it appears on page 11713 of the CONGRESSIONAL RECORD of June 26, 1962.

Mr. President, I ask unanimous consent that a copy of the resolution which I have referred to and the statement I made in support of it which also appears on page 11713 of the CONGRESSIONAL RECORD of June 26, 1962, be printed in the RECORD at this point.

I also ask unanimous consent that a statement which I made in introducing Senate Joint Resolution 206, which was identical to Senate Joint Resolution 204, be printed in the RECORD at this point. This statement appears on page 12217 of the CONGRESSIONAL RECORD of July 3, 1962.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the statement was ordered to be printed in the Record, as follows:

[From the CONGRESSIONAL RECORD, June 26, 1962, 11713]

JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PERMIT THE USE OF PRAYER IN PUBLIC SCHOOLS

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. No provision of this Constitution or any article of amendment thereto shall be construed to prohibit nondenominational religious observance through the invocation of the blessing of God or the recitation of prayer, as a part of the activities of any school or other educational institution supported in whole or in part from public revenues, if participation therein is not made compulsory.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. ROBERTSON. Mr. President, on behalf of the Senator from Mississippi (Mr. Stennis), I introduce the joint resolution which I send to the desk and ask to have appropriately referred.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 204) proposing an amendment to the Constitution of the United States to permit the use of prayer in public schools, introduced by Mr. Robertson (for Mr. Stennis), was received, read twice by its title, and referred to the Committee on the Judiciary.

STATEMENT BY SENATOR STENNIS

I have the conviction that people all over the country who rejoice in the spiritual heritage of this Nation were shocked, as I was, to learn that the Supreme Court has held that the permissive daily recital of a simple nondenominational prayer by public-school children breached the constitutional wall of separation of church and state. The prayer thus condemned by our highest Court did nothing more than acknowledge the pupils' dependence upon an Almighty God and ask His blessings upon them, their parents, their teachers, and their country. Only those who desired to do so joined in the recitation of this prayer; no compulsion was involved.

It is not my purpose or intent at this time to challenge point by point the rational of the majority opinion in this case. However, I could hardly believe my eyes when I read that the Court had held that the prayer, even though admittedly nondenominational, and even though participation in it was admittedly voluntary, violated the first amendment, which merely prohibits the Congress from passing a law "respecting an establishment of religion, or prohibiting the free exercise thereof."

With all respect, I think the Court has utterly misconceived a great constitutional principle. I, for one, cannot comprehend how a religion is established by permitting schoolchildren who wish to do so to say a simple prayer. It is my belief that by this decision the Court has twisted freedom of religion into a quarantine against religion.

I submit that it offends both reason and logic to contend that the now outlawed prayer in any manner resulted in the establishment of any religion. The prayer is nonsectarian and nondenominational. The opinion of the Court concedes that participation in it is without compulsion. Under these circumstances few will believe that any real question of the church dominating the state is involved, and I have always been of the opinion that this was the basis of the constitutional provisions upon the subject.

If there was any question of sectarianism involved, or any issue of favoring one religious group over another, the situation, of course would be entirely different. All we have here, however, was a conscientious effort to permit children who wished to do so to say that they believed in an Almighty God and to call forth His blessings. The Court has denied this right and the implications of its decision are enormous.

This, of course, is not the first time that the Court has departed so far from established constitutional concepts. There is a remedy, however, for the American people. It is by the process of a constitutional amendment, and I am today introducing an amendment designed to right the wrong which the Court has perpetrated. I realize, of course, that this is a delicate subject and one which needs and deserves careful study. However, I am convinced that, if necessary, my amendment can be perfected so that our constitutional guaranty of freedom of religion will be retained but will not in the future be allowed to become an instrument for the suppression of religion.

The voice of the people is already welling up in all of the corners of this Nation in protest against this decision, and I predict that the necessary amendment will be adopted by the Congress and ratified by the States quickly and decisively. The voice of those who believe in the spiritual heritage of this Nation and in the existence of a Supreme Being will be heard in an everswelling chorus.

Perhaps as never before in history we need today the comfort and support of moral and spiritual values. We here in the Senate do not deny ourselves the edifying effect of the eloquent prayers of our Chaplain. They give us faith and strength for our daily tasks. The children of our public schools, on a permissive basis, should not be denied the same privilege which we have established for ourselves. We should act promptly to fill the void in the spiritual life of our children which will exist by reason of the Court's decision.

[From the CONGRESSIONAL RECORD, July 3, 1962, 12217]

PROPOSED AMENDMENT OF CONSTITUTION TO PERMIT THE USE OF PRAYER IN PUBLIC SCHOOLS

Mr. STENNIS. Mr. President, on behalf of myself, and the Senator from Alabama (Mr. Sparkman), I introduce, for appropriate reference a joint resolution proposing an amendment to the Constitution of the United States to permit the use of prayer in public schools. I ask unanimous consent that the joint resolution may lie on the desk for 5 days so that any Senators who wish may join as cosponsors.

I state, for the information of the Senate, that this joint resolution is identical to the one introduced for the junior Senator from Mississippi on Tuesday last when he was absent. I reintroduce it for the purpose of making it possible for other Senators to join in the sponsorship of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will lie on the desk, as requested by the Senator from Mississippi.

The joint resolution (S.J. Res. 206) proposing an amendment to the Constitution of the United States to permit the use of

prayer in public schools, introduced by Mr. Stennis (for himself and Mr. Sparkman), was received, read twice by its title, and referred to the Committee on the Judiciary.

I was particularly teamed up with the late Senator Robertson of Virginia on this matter. We finally reached the point where we could not go any farther, due partly to differences of opinion as to how to proceed among the group supporting a school prayer constitutional amendment.

I am still greatly interested in and very much concerned about the subject, but there is a time for all things, Mr. President. I am firmly convinced that it is our clear-cut duty now to put these proposed amendments aside for the time being.

Amendments to what? A bill to set the debt ceiling of our great Republic, which has never been short 1 hour, I am told—not 1 hour—in paying a legal obligation on the due date. It is essential that we move along, move everything else out of the way and get down to the passage of the resolution.

Mr. President, that is not all. The people are beset by these problems of high, intolerable interest rates. They have eased somewhat but are still too high. Unemployment is at an all-time high and is still growing with all the problems that go with it. Uncertainty is growing by the day with reference to world affairs. More uncertainty than that is growing by the hour with reference to our foreign trade, the balance of payments, and the basic things that can keep our factories open. The trend is against and that is why we have these problems.

The people see us discussing these matters, important as they are, the circumstances being what they are, and they wonder what in the world it means. We charge up the hill on these matters we say we are concerned about that I have just mentioned; and then we march back down the hill, the way it looks to them—that is just about right—saying that we have gotten very little done.

I think we ought to take that warning, when we put in issue the Senate of the United States. That is what is in issue here now on these pending amendments, not the persons, not the individuals, but whether the institution of the U.S. Senate is capable of transacting its business and putting first things first.

Mr. President, I am going to vote and work from here on toward the end of voting down these amendments, tabling them, or whatever means we use to get down to the real issue and pass this debt limit resolution. We can then move on the very best way we can to the appropriations bills and other things that directly affect these real problems that I have tried to outline briefly.

I thank the Senator again for yielding to me. I emphasize that there is not one iota of personal reference in all that I have said, except the complimentary remarks I made to our two leaders.

With that, I thank the Senator from West Virginia for yielding me this time.

Mr. President, I yield the rest of my time back to the Senator from West Virginia and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. The Senator from Florida is recognized.

CRIME FIGHTING BILLS

Mr. CHILES. Mr. President, once again, I am coming to the floor of the Senate to speak out on crime, and on the need for the Senate to act promptly to pass one of the two anticrime bills now pending on the Senate calendar. The first bill, S. 2543, was introduced by Senator NUNN and myself back in the middle of May. It is sponsored by 18 Senators. The second bill, S. 2572, was introduced by Senator THURMOND and Senator BIDEN the chairman and the ranking member of the Senate Judiciary Committee, just before Memorial Day. Both Senator NUNN and I are cosponsors of that bill, and there are now 54 Senators who have signed on as sponsors of this bill. Both of these measures have been on the Senate calendar now since Memorial Day, and both bills could have been taken up at any time since then.

I have to confess that I have been growing increasingly concerned and frustrated as time passed by, and the end of the session has drawn closer and closer. Earlier this summer, when the Senate had actually entered into a time agreement for the consideration of one of the bills, S. 2572, I felt confident that we would see action this session. But as the days and the weeks slipped by without any action, I became more and more alarmed. This is the 55th separate day that the Senate has been in session since the crime fighting bills were placed on the Senate Calendar, but there has still been no action on the bills. With as few as 8 days remaining in this session, I was becoming convinced that the only way to get action would be to force a vote on the issue. For that reason, earlier this week, Senator NUNN and I joined together in introducing the provisions of S. 2572 as an amendment to the debt ceiling bill. We figured it might be our only chance to put the Senate on record on fighting crime.

Yesterday, however, there was good news for all of us who are concerned over the need for the Senate to act on crime fighting legislation. Senator NUNN tells me that yesterday, the majority leader and the minority leader indicated on the floor of the Senate, that the Senate leadership will bring the anticrime bill up before the Senate prior to the time we recess in October. I am delighted with this commitment, and of course, I will do whatever I can to work to secure prompt passage of this bill. I still believe that if we can move the proposal through the Senate quickly, then we can get the House to act promptly, and get these important reforms passed into law this year. I commend the Senate leadership for deciding to commit itself to moving forward with anticrime legislation.

Mr. President, it is difficult to overstate the need for crime fighting legislation. On Sunday, the Justice Department released statistics which emphasize once again the need making the fight against crime a national priority second to none. The Justice Department reported that almost 25 million American households were touched by crime last year. This means that out of every 10 households in the United States, 3 were directly affected by crime problems last year alone.

According to the Justice Department study, it turns out that an American household is more likely to be hit by crime than it is to have one of its members injured in a car accident, or stricken by cancer or heart disease. The report went on to show that 7 percent of all American homes, some 5.8 million households, were victimized by burglary. In addition, some 3.3 million households or 4 percent of all the homes in the United States, had members who were attacked in a rape, robbery, or aggravated assault.

Mr. President, these are absolutely horrifying statistics, and they underscore the importance of the need to do something about crime. For too long, we have put up with high crime rates, unsafe neighborhoods, and a court system that seems to bend over backwards to accommodate the criminal defendant at the expense of the victim and of society at large. We in the Senate cannot stop crime singlehandedly. But we certainly can and must do our part to let criminals and the American public know that the Senate is doing its part to try to make our towns and cities safe once again. The bills before the Senate contain important reforms in our criminal justice system—tougher sentencing laws, bail reform provisions, tougher penalties for drug traffickers, provisions to fight organized crime—that will make it

easier to track down criminals, and then bring them to justice. If we pass them, we help fight crime on the Federal level and we also establish a model for State and local governments to use.

Today, we stand close to success. With two bills on the calendar, with a time agreement reached on one of the bills, and with the leadership's commitment to act before we break in October, we have an opportunity to speak out here in the Senate. But we must not let this opportunity slip by, and we must make sure that we move ahead as soon as possible on these important proposals. The safety and well-being of our communities is too important to leave until next year. I commend the leadership once again for their decision to move ahead, and I look forward to passing working with them to pass these crime fighting bills.

Mr. BAKER. Will the Senator yield to me for a moment?

Mr. CHILES. I yield.

Mr. BAKER. Mr. President, I commend the Senator from Florida for his persistence and the intensity of his devotion to this issue and his recognition and concern involved. He and the Senator from Georgia, the junior Senator from Florida, and the President pro tempore have spoken to me repeatedly and with great emphasis on the importance of doing this matter. Indeed, the senior Senator from Florida has spoken virtually every day for many weeks on this subject. So I am pleased to say that we are able to announce, as he properly recites, that this bill will be called up before we go out, hopefully, October 1.

I recall a trip I made to Florida to look into this matter; it was in conjunction with another matter, but while I was there I met with city, county, and State officials. I will repeat now what I said then. I was absolutely appalled at the scope of the problem as it was described to me by those officials, and it was the first time I had truly understood the dimensions of the problem.

It really came home to me at that time, and I came back to Washington and asked my staff to get in touch with the staffs of other Members, particularly the Senator from Florida and the Justice Department, to add emphasis to the urgency of this matter. The chairman of the Judiciary Committee, the President pro tempore, thoroughly agreed with that. After great effort and much compromise, the chairman of the Judiciary Committee and the ranking member (Mr. BIDEN), were able to report a bill on which we have a detailed time limitation.

Frankly, one of the things that has kept us from scheduling that bill until now is that time agreement. It is a strange thing to say, because time agreements usually facilitate passage of a bill; but this agreement runs more than two pages on today's calendar of business. I have recently totaled the time that is provided for in that order, and it is indeed a great deal of time.

It is time now to tackle this time agreement. It is my hope that all Senators would consider either relinquishing the time provided for in this order or severely abbreviating the time for debate; otherwise, it will take a long time to finish. I hope the Senator from Florida and others who have a vital interest in this matter will join in the effort to try to reduce the time.

Mr. CHILES. I will be delighted to join in that effort.

I say to the distinguished majority leader, who does have an appreciation for the problems in crime, not only in Florida but throughout the country as well, that I think everybody was so concerned that they got what they wanted, or wanted to keep something from going in, that it took about 3 days to put that time agreement together, with the patience and help of the majority leader.

I think we should be able to shorten the time drastically, especially because we are in the closing days of this session. I feel that every Member of this body should want to go home in October with the knowledge that the Senate had passed a major piece of legislation. So it is something that works for the benefit of all of us if we can get this done, and I think we should get it done speedily.

I hope again that, as quickly as possible, we can get on this, because then I believe we can work to pare it down.

Mr. BAKER. I thank the Senator, and I appreciate his offer of assistance.

Mr. CHILES. I thank the majority leader for his kind remarks.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business which will not last past 10:45 a.m., during which Senators may speak for 3 minutes each.

BILL DUNLOP DAY

Mr. MITCHELL. Mr. President, Saturday, September 25, 1982, is "Bill Dunlop Day" in Mechanic Falls, Maine.

Bill Dunlop established a world record for a solo crossing of the Atlantic Ocean from Portland, Maine, to Falmouth, England, in the smallest seagoing vessel ever, *The Wind's Will*, just 9 feet and seven-eighths of an inch long. This remarkable man and his feat have captured the attention of the world.

Dunlop grew up in Auburn, Maine, and joined the U.S. Navy. While in the Navy, he had a motorcycle accident and was severely burned. He did not give up. He later worked as a truck driver hauling potatoes to Florida, then hauling fruit back to Maine. He is self-taught in navigating techniques.

In 1980, he soloed on *The Enchantress* across the Atlantic from Portland, Maine, to Falmouth, England, and back again. In 1981, he sailed alone in *The Enchantress* to the Bermuda Triangle to learn something more about the mysterious disappearance of ships in that area.

On the morning of June 13, 1982, Dunlop sailed out of Portland Harbor for Falmouth, England. Almost the entire journey was spent in damp and foggy weather. He endured without radio contact and without his sextant. Stormy seas and whales larger than his vessel threatened to end his voyage. He ran out of provisions a week before landing. Despite these hardships, Dunlop did not give up. He reached the shores of Falmouth, England, without assistance on the morning of August 29, 1982.

Most members of our Nation will never know the depth of courage and perseverance Bill Dunlop required to withstand the ocean's moods and dangers. Bill Dunlop is a brave and determined man. He plans to continue his trip in 1984 from Falmouth, England, around the world.

He deserves the special recognition that the world has bestowed upon him and the day that the town of Mechanic Falls has named after him.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will state.

The Secretary of the Senate read as follows:

A House joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Was it indeed a bona fide clerk of the Senate who read the joint resolution?

The PRESIDING OFFICER. The Senator is correct. He is bona fide.

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

Mr. WEICKER. Mr. President, today marks, I would hope, at least a drawing to the close of the debate on the issue that has been before the Senate now for at least the last several weeks, and no one should believe that because the debate has been extended that it has been trivial or that it has not touched upon a matter of enormous importance to this Nation.

As important as the subject of three separate but equal branches of Government is, it still has to take second place to the preservation of the first amendment and the unwillingness of many in this Chamber to see that amendment diluted even the slightest bit.

The Senator from Montana (Mr. BAUCUS) has very ably and very eloquently presented the case against court-stripping. Simply put in this Senator's mind, it is that every citizen of the United States is far better protected by three branches of Government than by any lesser number. As I speak before this Chamber this morning, every American has working on his behalf the executive branch, the legislative branch, and the judicial branch. Should the principle espoused in the legislation at hand be adopted, then that number three becomes merged into two.

That is a very large step. Unlike what in a minute I will attend to in terms of the matter of the first amendment and freedom of religion, which masquerades as a rather small initiative, the matter of court-stripping, the matter of three separate but equal branches of Government is a very large step insofar as the practical effect of the passage of this principle. So it would have been the case in the matter of abortion or so it would have been the case in the matter of court-ordered busing.

I wish that I could stand up and proclaim that the Senate of the United States has been in all cases the ultimate guardian of the rights of all Americans. Certainly it has its great moments in history, no question about it. But as a matter of routine, it has been the courts of the United States, staffed by Democrat and Republican alike, by liberal and conservative, that have proven to be the last haven, the last refuge, for all those rights that Americans attain either by virtue of law or by virtue of that law which is the Constitution of the United States.

If indeed the decision as to who has to go, should that be based on history, probably it would be in inverse order to what is taking place on this floor today; in other words, that the Senate or rather the legislative branch should be the first to go, and then the President, and then last the courts, in any event those who created this Government realized that in a pluralism of equal power should anything go wrong it could not last for long by virtue of having three separate but equal branches of Government.

I have been very heartened as I hear Senator after Senator stand up and speak on behalf of the courts of this Nation. Usually it is the most popular political sport to go ahead and throw darts at the Supreme Court, at the judiciary. Such has not been the case. One after another of my colleagues have taken to their feet and have described the importance of the judiciary, and have willingly risked their political careers to maintain the independence of the judiciary. Never mind its constitutional place in the scheme of political things here in the United States.

So it is Senator BAUCUS who has led that aspect of the debate. He has done so when both the polls and the head counts seemed to be against him. I want to express here my great admiration for his courage and my appreciation for his "stick-to-itiveness" and his eloquence.

Now we get to the matter of the substance, the matter of voluntary prayer in school. I would like to include in the RECORD at this point two opinions on this subject that appeared in the Washington Post, one as late as this morning and written by Richard Cohen, who, I might add, I think invariably writes some of the best material I have seen appear in any publication in this country.

Mr. Cohen's article is entitled "School Prayer":

Sometimes nothing so clarifies a debate as the muddled thinking of Ronald Reagan. This has happened in economics where suddenly no one is confused anymore about the efficacy of supply-side theory and this has happened, too, in foreign policy. A few words from the president and nothing looks as good as a nuclear weapons freeze. Now the president has given us his thoughts on school prayer. Let us pray he does not get his way.

In one of his Saturday radio addresses, the president came out for school prayer as a distinctly American tradition. He did not say if he was for the court-stripping bill of Sen. Jesse Helms, which would tell the court in no uncertain terms that only some parts of the Constitution are its responsibility—and prayer is not one. Instead, the president spoke in general terms about why school prayer would be a wonderful thing.

As he has before, he conscripted God in the service of patriotism. He said that George Washington prayed at Valley Forge but he did not say that the British commander probably did the same thing. He said that Abraham Lincoln cited prayer in his Gettysburg Address, but he did not point out that the men on the other side—notably Lee—prayed also, but given their strategic situation it was not enough.

But of course the president did not say that these were non sequiturs. What individuals do, even presidents, is their own business—in fact, their constitutionally protected prerogative. What school systems tell children to do is quite another matter. And it was here that the president, as he has done so many times before, put his finger on the nub of the problem. He did it by saying that the school prayer he advocates would be voluntary: "So everyone's rights—believers and nonbelievers alike—are protected by our voluntary prayer measure."

There you have it. The inevitable result of such a measure is to label people, in this case children, by their willingness to pray publicly. The president spoke of believers and nonbelievers, but these are not the terms children employ when taunting each other on the playground. The fact is, of course, that the children who do not choose to pray may not be nonbelievers at all, but believers in their constitutional right not to pray or believers in another prayer.

At any rate, they will be singled out, made to assert their nonconformity at an age—say 8 or 9—when nonconformity is painful, maybe doubly so because it is not their convictions at all they are asserting, but those of their parents. And their parents might have any number of reasons for insisting that their children abstain from a prayer ordained by the school board and led by a teacher who, incidentally, may not have any wish to serve as class pastor.

This is why school prayer has opposition. There is simply nothing voluntary about it. For a minority—precisely the group the Constitution is designed to protect—voluntary school prayer means that they have to assert their religious beliefs—or their lack of them. They have to declare, either by leaving the room or keeping their mouths shut, a religious or constitutional position. They have to line up one side or the other of the line the president has drawn in the ground—believer or nonbeliever.

The president used some hackneyed language in his speech. He asserted, as proponents of school prayer always do, that "God has been banished from the classroom." Surely, no school board can do that and no teacher can expunge God from a child's mind. And the president tried to link school prayer with the nation's religious traditions, but no one—not the most liberal member of the school board is telling anyone what they can or cannot do on their own time in their own home.

Children can pray before school and after school and even, if they want, at recess. They simply should not be told by the school when to pray and in what manner, and they should not be compelled by the government to declare, before their teachers and their classmates, whether they or their parents are, as the president said, "believers or nonbelievers." That is none of the government's business and if it becomes its business, then it is not God who will be banished from the classroom, but something else—respect for the rights of minorities.

The next article I would like to read was written by Father Timothy Healy, the president of Georgetown University.

This appeared in the Washington Post on April 11 of this year. The article is entitled "School Prayer? Unfortunately, No."

Mr. President, I notice my good friend, the distinguished Senator from

North Carolina, is in the Chamber. I just wanted to let him know that at any time of his own choosing he desires to speak, as I indicated last night, if he would let me know, he can certainly proceed. I would just like to make that point to him.

Father Healy writes:

That famous remark that those who ignore history are doomed to repeat it has curious relevance in the running debate about prayer in schools. Working out of the best religious motives, many Americans look not to repeat the history they have forgotten, but to reverse it. Their motives are good but their history has been scrambled.

From the earliest days of this republic, believing men and women cared deeply about what Archbishop John Carroll called "the virtuous instruction of youth." Founding Georgetown was part of his dream not only to make a learned clergy for the American Catholic Church, but to train students who would go home to teach.

In those days, all instruction was private, and it remained so until the beginning of the 19th century. The idea of tax-supported public schools first took hold under the leadership of the "Public School Society" in New York. This body of citizens fought strenuously for the public transportation of all the nation's youth and supported a bewildering variety of schools, even Roman Catholic ones, in the state and city of New York. The public schools they ran, however, took it coolly for granted that the instruction of youth should be Christian, and felt no qualm in equating "Christian" with "Protestant." The scriptures read, the prayers said, the riguals shared were all of Protestant cast and nature, and, to the fury of the immigrant parents, teachers felt little scruple about attacking the errors and evils of Romanism.

When Horace Mann became secretary of the Massachusetts Board of Education in 1830, he brought to his post his own understanding of religious tolerance, which stopped well short of what he called "that Vice Regent of Hell the Pope of Rome." Bishop John Hughes of New York struggled manfully, even to the extent of sponsoring several political candidacies, to get prayers and Bible reading out of the public schools in the city and state of New York. He wanted fully secular public schools, and only when he failed to get them did his attention and energy focus on the developing parochial school system. It is no little irony that so many who now share his faith agitate so strongly for the return of the prayers and the impossible choices they would impose.

Their motivation is of course clear and direct. So much can be said about the consciousness-raising of the heart and mind to God which we call prayer. To any believer, prayer is, as George Herbert says, "God's breath in man returning to His birth," and the now more than ever necessary "plummet sounding heav'n and earth." Indeed, for many of us, it is hard to see how one can labor at all for the "virtuous formation of youth," without allowing youth to experience "the soul in paraphrase, heart in pilgrimage" which is the act of prayer.

In the complex reality of a democracy, however, motive isn't always enough. We Americans glory in our diversity, our jumble of races and peoples, of languages and faiths, and find our respect for difference one of the master accomplishments of America. No such accomplishment comes without cost, and for all our yearning for it, prayer in the public schools may be just such a cost. The question is, "Whose prayer?" How do we find a formula acceptable to all, offensive to none, and not so general that it would merely echo the less inspired bits of Fourth of July oratory? Even George Herbert would have had trouble with that, and ultimately would have thrown up his hands in gentle sorrow and granted its impossibility.

America's enormous diversity, the multiplicity of faiths that cluster around the three classic ones in this nation, even our own adversarial approach to all schooling—all make sure that in this year of grace, 1982, the none choirs of angels could not design a prayer that would be acceptable to all our fellow citizens.

The sad imperative of our republic is that we must make our prayer private, or forfeit our civic peace; that we must hold "the Churches banquet" only in church and find the prayer Herbert calls "Softnesse, and peace, and joy, and love, and blisse" tied to the home and kept out of school. For all who understand prayer as "Churchbels beyond the starres heard . . . something understood," this is a needed but a sad conclusion.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Michigan (Mr. LEVIN) for the purposes of debate only, without losing my right to the floor, without this being considered as the end of a speech for the purposes of the two-speech rule, and that I be rerecognized at the conclusion of the Senator's remarks.

The PRESIDING OFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank my friend from Connecticut.

Mr. President, the issue before us is whether Congress should restrict the jurisdiction of the Federal courts to hear voluntary school prayer cases arising under the first amendment of the Constitution. But I join many of my colleagues who have made statements expressing strong opposition to any legislation—any legislation—regardless of the underlying issue, which would strip the Federal courts of jurisdiction to hear constitutional cases. And I emphasize the word "constitutional."

If we approve this amendment, we undermine the very integrity of the Constitution. Article V establishes a procedure for the Congress to propose and pass amendments to the Constitution when it reaches the conclusion that the Supreme Court's rulings on some constitutional issue should be overruled. Indeed, congressional disagreement with the Supreme Court provided the impetus for the introduction of several amendments to the Constitution. But we are circumventing that whole process of amending the Constitution by trying to strip the Federal courts of jurisdiction and, as a result, we will jeopardize and undermine the rights we have held sacred in this country for over 200 years.

Mr. President, when I spoke on the Senate floor in opposition to the Helms/Johnston busing amendment, I stressed that even though I generally dislike busing children away from their neighborhood schools, I could not support an amendment stripping the courts of jurisdiction to order busing as a remedy. I stated:

If the pending amendment is adopted by the Congress, I believe it will signal a new open hunting season on the Constitution. . . . There are nearly 30 bills pending in the Congress which would limit the jurisdiction of the Federal courts over constitutional claims. If we allow the Congress to curtail Federal court jurisdiction in any of these areas, we will set the stage for an extremely dangerous policy whereby anytime the Congress finds the Court protecting rights which we want to see abrogated, we will simply restrict their power in that particular area. . . . Equally damaging would be the erosion of the judicial branch as a check on the other branches of the Federal Government or the States. Today a majority of the Congress takes issue with the Federal Court's decisions regarding school desegregation. Tomorrow the Congress might differ with the Court on its decision upholding the Bill of Rights. The System of Checks and Balances is the cornerstone of our Government. Surely we do not want to erode it in this manner, regardless of our individual view on the effectiveness of busing.

The pending amendment goes even further than did the Helms/Johnston amendment by completely eliminating the jurisdiction of the Federal courts over voluntary school prayer cases. Only State courts could determine whether such statutes violate the first amendment. Once we embark on this course of circumventing the constitutional process for amending the Constitution by stripping the Federal courts of jurisdiction, we create a climate where the provisions contained in the Constitution are susceptible to attack any time a majority of the Congress disagrees with a decision of the Supreme Court interpreting the Constitution.

Proponents of court-stripping measures suggest that article III provides the Congress with broad discretion to establish those cases which shall be within the appellate jurisdiction of the Supreme Court and to eliminate the jurisdiction of the Federal courts over constitutional cases. Article III, section 1, states that "the judicial power of the United States, shall be vested in one Supreme Court and in such inferior Courts as the Congress may from time to time establish." Article III, section 2, grants the Congress authority to make exceptions and regulations to the appellate jurisdiction of the Supreme Court. But the Congress authority under article III is limited by other provisions contained in the Constitution. Congressional power to strip the Federal courts of jurisdiction over any case involving voluntary prayer in the public schools is limited by the supremacy clause, the first

amendment's establishment clause, and the 14th amendment's due process clause. In other words, the Helms amendment's complete elimination of Federal jurisdiction over voluntary prayer cases, when balanced against the Constitution as a whole, cannot pass constitutional muster.

First, with respect to article IV's supremacy clause, in *Ableman* v. *Booth*, 62 U.S. (21 Howard) 506 (1858), the Supreme Court made clear that without a single tribunal to determine constitutional rights and remedies, the Supremacy Clause would have no real meaning. Justice Taney stated:

> But the supremacy thus conferred on this Government (by the supremacy clause) could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitution and the laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States and the Government of the United States would soon become one thing in one State and another thing in another.

That is the issue which we are facing today with the amendment of my friend from North Carolina. Are we going to have 50 constitutions or are we going to have 1? Is there going to be one constitution interpreted by the courts of the land with the Supreme Court as the final interpreter, or every time the Congress does not like that interpretation are we going to remove that jurisdiction and leave it to the States?

In our Senate manual there is printed the Constitution of the United States. Are we going to have 50 Senate manuals for the 50 States, with 50 different constitutions, with the constitution meaning one thing in North Carolina and another thing in Michigan?

Are we going to rip this Constitution into 50 pieces? Or are we going to keep it intact?

That is the issue. It is not school prayer.

Many of those people voting against the pending amendment, many of our colleagues, favor voluntary school prayer, but they love the Constitution and want this Constitution to remain whole.

In other words, we are to have 1 Supreme Court, not 50. Linked with the supremacy and uniformity questions raised by this amendment is the 14th amendment's guarantees of due process and equal protection. According to a CRS report on the constitutionality of the Helms bill, S. 450, which was nearly identical to this amendment:

> If appellate review by the Supreme Court were denied in cases involving a constitutional right, and if as a consequence different interpretations of the law developed in various States or Federal judicial circuits, then the effect would be unequal treatment of persons similarly situated. That is, persons asserting the same right would be treated differently in different jursidictions. This result, it has been suggested, would be a "manifest abuse of due process, one of the bases of which is equal treatment before the law." Thus appellate review may be a necessary consequences of due process, "if such an appeal is necessary to secure uniform treatment before the law".

Clearly, Mr. President, without a supreme judicial tribunal to interpret the first amendment, disparity will occur in State courts and the people of this Nation will be subject to varying interpretations of the Constitution depending on the State where the suit is brought. This disparity is simply inconsistent with the 14th amendment, which promises Americans equal treatment under the laws. Even those constitutional scholars who have concluded that the Congress does have the power to exclude certain categories of Federal constitutional litigation from the appellate jurisdiction of the Supreme Court argue that such legislation would be unwise from a public policy perspective. For example, in his article "Congressional Power Over the Jurisdiction of the Federal Courts," Paul M. Bator, Harvard University professor of law, states:

> Even if one believes—as I do—that Congress has the raw power to do this, the argument that it would violate the spirit of the instrument to do so seems extremely powerful. I note, too, the powerful policy arguments against such a retaliatory use of the power granted to Congress by the exceptions clause: it could not long be tolerated to have the Federal Constitution be subject to different interpretations in different States on any issue of significance. Nor would it be tolerable to have the law "frozen" permanently into the shape given it by the last Supreme Court precedents rendered before the enactment of the statute withdrawing jurisdiction—precedents that would continue to be binding authority in the state courts (and that ironically, are likely to be the very precedents leading to the Congressional dissatisfaction manifested in the new jurisdictional statute).
>
> I conclude, therefore, that resort to the power to make exceptions to the appellate jurisdiction of the United States Supreme Court by making the state courts the courts of last resort in one or more important categories of constitutional litigation is a dubious expedient. The validity of such a measure would be surrounded by serious doubts.

The Doctrine of Separation of Powers would also be placed in jeopardy by the Helms amendment. Stripping the Federal courts and the Supreme Court of jurisdiction to hear certain cases where a simple majority of the Congress differs with the Court's rulings interpreting the Constitution undermines the role of the Federal judiciary as a separate but equal branch of Government and the Supreme Court as the final arbiter of the Constitution. Prof. Paul Gewirtz's March 27, 1981, remarks on proposed legislation restricting Federal court jurisdiction is noteworthy on this point. He stated:

> This is not an issue that should divide conservatives and liberals, or Democrats and Republicans. It should not divide those who support or disagree with one or another constitutional decision of the Supreme Court. This issue at stake is one of our basic constitutional structure and institutional arrangements—whether we really want to tamper so fundamentally with the basic allocation of powers in our political system. When the proposed legislation is understood in these terms, the opposition to it should grow.

Opposition to this type of legislation has grown considerably during the 97th Congress and even those who strongly disagree with the Supreme Court on specific issues have voiced foreceful objections to court-stripping bills. For example, on July 26, 1982, every Member of the Congress received a message from four former Attorneys General, four former Solicitors General, the presidents of the ABA, the National Bar Association, the Federal Bar Association, the American College of Trial Lawyers, and the American Judicature Society, along with Justice Arther J. Goldberg and Judge Shirley Hufstedler, all in agreement on the danger of bills pending before the Congress which limit the jurisdiction of the Federal courts. The letter stated:

> We hold varying views on the substantive policy issues which are subjects of these proposals, and as a group we take no position on them. But we are united in the belief that these proposals threaten our fundamental constitutional principles: the independence and supremacy in constitutional questions of the federal judiciary, the separation of powers, and the system of checks and balances. The enactment of any one of these proposals curbing the authority of the courts to hear cases or grant remedies for constitutional violations would establish an unworthy precedent.

Similarly, the report accompanying the ABA resolution opposing legislative curtailment of the jurisdiction of the Supreme Court or the inferior Federal courts stated:

> Because the policy considerations are so substantial and because the constitutional propriety of these bills is open to such serious reservations, we urge the House to adopt as the position of the Association a simple, forthright policy: to oppose the curtailment of the jurisdiction of the federal courts for the purpose of effecting constitutional change that is properly the province only of the amending process. Irrespective of the subject involved and regardless of our individual beliefs with respect to any of them, the overriding consideration is that we support the integrity and independence of the federal courts, whether we agree with particular decisions or not, and that we support the integrity and inviolability of the amending process.

Mr. President, the Conference of State Chief Justices has also strongly objected to court-stripping bills because they "give the appearance of proceeding from the premise that State court judges will not honor their oath to obey the U.S. Constitution,

nor their obligations to give full force to controlling Supreme Court precedents." Indeed, if the State court justices do give "full force" to controlling precedents, proponents of the Helms amendment will not achieve their stated purpose, which is to restore voluntary prayer in the public schools. Should this amendment become law, the Supreme Court's constitutional rulings in *Engel* v. *Vitale*, 370 U.S. 421 (1962), and in *Abingdon School District* v. *Schempp*, 374 U.S. 421 (1963), that the establishment and free exercise of religion clauses of the first amendment are violated by State-sponsored religious activities in the public schools, will stand as controlling precedent. Yet the clear implication of this amendment is that the constitutional holdings in these cases will not be followed.

We should not put 50 State courts in the position of having to determine whether State statutes permitting voluntary prayer in the schools violate the first amendment without a supreme tribunal to review their decisions. Without judicial review of State statutes the first amendment will mean something different in each of the 50 States. In the Federalist No. 22, Alexander Hamilton expressed the intent of the Framers to establish a single tribunal with the responsibility of determining what the law is when he said:

> To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last resort a uniform rule of civil justice.

And Justice Holmes expressed the view of the Court with respect to its role as the final arbiter of the meaning of the Constitution when he said:

> I do not think the United States would come to an end if we (the Supreme Court) lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that determination as to the laws of the several states.

Mr. President, I urge my colleagues to vote against the Helms amendment. Regardless of the individual views we hold with respect to prayer in the public schools, we share a common duty to uphold the Constitution. We should together defeat this amendment for the violence it does to our basic document.

Mr. President, I ask unanimous consent that I may yield the floor to the Senator from Connecticut without this being considered the end of the speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from North Carolina (Mr. HELMS) for the purpose of debate only, without losing my right to the floor, without this being considered as the end of a speech for the purposes of the two-speech rule, and that I be re-recognized at the conclusion of his remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I do have the floor in my own right, is that correct, for 15 minutes?

Mr. WEICKER. Mr. President, I relinquished the floor for the purpose of debate only.

The PRESIDING OFFICER. Does the Senator from Connecticut wish to yield to the Senator from North Carolina?

Mr. WEICKER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, with the understanding that when I finish my statement, the Senator from Connecticut (Mr. WEICKER) may again have recognition for the floor.

The PRESIDING OFFICER (Mr. JEPSEN). The Chair respectfully advises the Senator that he cannot make a qualified request for terminating quorum calls. He may only ask that the call be rescinded.

Mr. PACKWOOD. Will the Chair say that again?

The PRESIDING OFFICER. The Senator may not make a request to rescind a quorum call with a qualification. The Senator may only request that the call be lifted.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescined.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Connecticut is recognized.

Mr. PACKWOOD. Will the Senator from Connecticut yield to me?

Mr. WEICKER. I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I wish to read to my colleagues the following statement:

> The governmental structure, established by the Constitution, is one of separation of powers, a system which has survived the test of history. Since *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803), it has been recognized that "It is emphatically the province and duty of the judicial department to say what the law is."
>
> The power of the Supreme Court to say what the law is, is perhaps most important with respect to the Bill of Rights, Constitutional provisions which are especially cherished by minority communities. The right of those who at that moment find themselves to be in a minority would be fragile indeed were they subject to modification or elimination at the will of a disgruntled majority.
>
> We as a nation have, with good reason, adopted a compact to order our political affairs which limits the authority of political majorities in certain respects. The most important of these self-imposed limitations is the protection afforded individual rights—both personal rights and property rights—by the Constitution and the concomitant commitment to the Supreme Court of the power to interpret the Constitution.
>
> The legislative proposals now pending which would oust the Supreme Court of jurisdiction to hear particular classes of constitutional claims strike at the very heart of that system. A more radical restructuring of our constitutional plan is difficult to envision, and a more pernicious one, hard to imagine.
>
> That statement was signed by:
>
> Norman Redlick, Dean, New York University Law School; Albert J. Rosenthal, Dean, Columbia University School of Law; Terrence Sandalow, Dean, University of Michigan Law School; Jesse Choper, Dean, University of California at Berkeley; Gerhard Casper, Dean, University of Chicago Law School; Harry H. Whellington, Dean, Yale Law School; John Hart Ely, Dean, Stanford University Law School; and James Vorenberg, Dean, Harvard Law School.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask if the Senator from Connecticut is willing to yield to me for a few minutes?

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, I am endeavoring to find a means to be helpful to the leadership of the Senate in bringing this matter to a conclusion of some sort—the matter, of course, being the Helms prayer amendment. Let me say for the record that I have refrained from consuming the Senate's time during the several weeks that this measure has been before the Senate and in contemplation by the Senate.

Let me say also that I have the highest respect for and belief in rule XXII.

I do not want the so-called filibuster right to be watered down and I certainly do not want it to be eliminated. As has been demonstrated during the debate on the abortion issue and the school prayer issue, the filibuster cuts both ways. On one occasion I may be using it. On this occasion the distinguished Senator from Connecticut

(Mr. WEICKER), the distinguished Senator from New York (Mr. MOYNIHAN), the distinguished Senator from Oregon (Mr. PACKWOOD), and others have found it necessary to block the will of the majority of Senators.

I say to you, Mr. President, that that is a very precious right in terms of the traditions of the Senate, and I have no fault to find with it because next week I may be using it.

From time to time, I have been tempted to rise in a forensic challenge to some of my colleagues when they have said over and over again that this is a court-stripping bill.

It is no such thing. With all due respect to my dear colleagues, I believe they know that it is not a court-stripping bill. They know that it is a clear and fundamental right of Congress under article III, sections 1 and 2.

I have been tempted more than once to engage in oratory about the contradictions in the Senators' positions from one issue to another. I have alluded briefly a time or two to the so-called Voting Rights Act extension debate that occurred on this floor a few weeks ago in which every one of the Senators opposing my prayer amendment voted for cloture, demanded that the Senate be allowed to work its will, but they did something else, Mr. President. They engaged in a very clear act of court stripping.

Now, the distinguished and able Senator from Massachusetts arose the other day, with his voice lofted to the ceiling, and denied that this is the case, but I think he knows better than that.

I do not want to move the Senate into an atmosphere of hostility, but what that act did was, first, to reverse outright the Mobile case on the issue of intentional discrimination and, second, to strip all Federal district courts, except the District Court for the District of Columbia, of their jurisdiction to review section 5 voting rights cases. So if you want a good example of court stripping, it was the Voting Rights Act extension, which many of my friends on the other side supported enthusiastically. Now they come to prayer and they say, "Oh, you will bring down the pillars of justice. You must not do this," when there are distinguished constitutional scholars, authorities all around this country who are constantly calling me and writing to me, saying, "Senator HELMS, you are right."

I recognize that the New York Times does not agree with me, but the New York Times never does. The Washington Post does not agree with me, but the Washington Post never does. As a matter of fact, if those two newspapers start agreeing with me, I am going to check my position and see what is wrong with it.

As I said to some of the television people yesterday, who had urged me to come up and visit with them, "Sometimes I feel like there have been two sessions of the Senate, the one in which I participated and the one on which you reported."

Now, I do not ask any news media to be my chamber of commerce or to defend me. All I ask is that they be objective and be fair to the issue. What happens to JESSE HELMS is not important, but what happens to objectivity in journalism is important. I say that as a Senator who has spent most of his life in the news business.

So I hope that somewhere along the line the American people will understand that Senate consideration of economic issues has not been delayed by those of us who favor the restoration of voluntary school prayer. The consideration of economic issues has been delayed by opponents of school prayer.

But I say again that those Senators are properly exercising their rights under the rules of the Senate, and I do not fault them. But I do think that the point should be made that it is not those who favor school prayer who have held up the Senate. We have a majority of the votes clearly.

I said at the outset that I hoped to be able to help the leadership move this matter along. It is my purpose, when and if I can get the floor for the purpose of offering a motion to recommit the bill with instructions.

Mr. President, just so it will be in the RECORD, let me read the motion to recommit that I have drafted. The leadership is now considering if and how this should be done, but I want to emphasize that I am doing this so that we can hopefully reach some accommodation and some conclusion. The motion reads:

> Mr. President, I move that H.J. Res. 520 be committed to the Committee on Finance with instructions, to wit: that the Committee forthwith report the bill back to the Senate for consideration with a new Committee substitute which contains the pending Committee substitute, as already amended by the Senate, together with the pending Helms Amendment on School Prayer as an integral part thereof; provided, further, that said new substitute shall contain no other material except as specified herein.

Several things could happen to that motion. A motion to table could occur, the motion is amendable in two degrees, or it could be filibustered. But I want to show my good faith, Mr. President, in offering a motion to recommit, because I know that the leadership of the Senate has its difficulty with scheduling; and I simply want to move along the work of the Senate as best I can.

If the Chair will bear with me, perhaps I will be in a position to make the motion.

I yield to the able majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that I may be recognized now without disturbing the status quo, whatever the Chair determines that to be.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the distinguished Senator from North Carolina has advised the Senate and the principals involved in this debate of his intention to file a motion to recommit with instructions, as he just delineated that motion, when he gains recognition.

It would be my hope that at this point we could enter into a unanimous-consent agreement that would facilitate the purposes of the Senator from North Carolina and the purposes of those who oppose him, as follows:

Mr. President, I ask unanimous consent that the Senator from North Carolina may now be recognized for the purpose of offering a recommittal motion as he has described it and with the terms he has just described.

I observe that at 12 o'clock noon, a vote on cloture will occur, according to the previous order. I ask unanimous consent that after that vote, the majority leader or his designee will be recognized for the purpose of making a tabling motion against the motion to recommit which is to be offered by the Senator from North Carolina.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I ask, first, whether the request already has been agreed to that there be a vote at 12 noon.

Mr. BAKER. Yes; that has been agreed to.

Mr. ROBERT C. BYRD. If I understand the request, none of the request needs to be acceded to. The Senator has a right to move to recommit at any time.

Mr. HELMS. If I have the floor.

Mr. ROBERT C. BYRD. He had the floor when he yielded.

Mr. HELMS. That was by accommodation.

Mr. ROBERT C. BYRD. That is different. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think I know what will happen. But, in an effort to further expedite the procedures in the Senate, I see no point in another cloture vote.

The Senator from Arkansas was correct yesterday in that we had the remarkable occurrence of 2 or 3 consecutive rollcall votes with 100 Senators present. Clearly, the majority of Senators favor my amendment; but, clearly, we do not have enough votes to impose cloture. So, it is the gridlock that the leadership of the Senate is confront-

ing that prompted me to try to be accommodating.

Mr. President, I ask unanimous consent that the cloture vote scheduled for 12 o'clock be vitiated.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Mr. President, I will say that the vote will be irrelevant, in light of the motion which I send to the desk, and I ask that it be stated.

The PRESIDING OFFICER. The motion will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) moves that H.J. Res. 520 be committed to the Committee on Finance with instructions, to wit: that the Committee forthwith report the bill back to the Senate for consideration with a new Committee substitute which contains the pending Committee substitute, as already amended by the Senate, together with the pending Helms Amendment on School Prayer as an integral part thereof; provided, further, that said new substitute shall contain no other material except as specified herein.

Mr. HELMS. I thank the Chair, and I thank the clerk.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Under the circumstances, there is a sufficient second.

Mr. President, I thank my friend from Connecticut, Mr. WEICKER, and my friend from Montana, Mr. BAUCUS, and the distinguished leadership, Senator BAKER and Senator ROBERT C. BYRD, for their patience not only with me but also with other Senators. We will see how it comes out.

I thank the Senator for yielding to me.

Mr. WEICKER. Mr. President, I thank my distinguished colleague from North Carolina.

I want to say here that nobody fights harder than he for his point of view and I for mine. But I think the Senator from North Carolina knows—and I can speak for myself—that what the public does not see is that when we go through these doors here, that is when the fighting ends and our personal friendships take over.

We have been at it, on a variety of issues, close to 15 months now, and—I can speak for myself—there has not been one cross word between the Senator and me off this floor or on any other occasion, other than our fighting for our points of view. I very much respect him, and I suspect that there are going to be many fights in the future. But that is what makes it worth getting up in the morning, JESSE. Otherwise, you and I would have nothing to look forward to. It would be a very dull world.

Mr. HELMS. I thank the Senator.

Mr. WEICKER. Mr. President, I should like to yield the floor to the distinguished Senator from Montana (Mr. BAUCUS) for the purpose of debate, without losing my right to the floor and without this being considered the end of the speech for the purpose of the two-speech rule, and I ask that I be rerecognized at the conclusion of the Senator's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator from Connecticut for this noble and strong efforts to protect the Constitution of the United States.

I also thank the Senator from North Carolina for the many accommodating ways in which he has dealt with this debate. The Senator from North Carolina could have been much more strict and could have used the Senate rules to his advantage in many ways but chose not to do so. He has allowed this debate to go on in an orderly and decent way, and I thank the Senator from North Carolina for the gentlemanly way he has conducted this debate.

Mr. HELMS. I thank the Senator.

Mr. BAUCUS. Mr. President, at noon we will again consider a cloture vote. The issue there is the underlying court-stripping amendment offered by the Senator from North Carolina.

Over the last several weeks, many distinguished Members of this body have stood on the Senate floor and addressed the real issue before us. The Senator from Connecticut in particular has shown great courage in repeatedly focusing this body's attention on what is truly at stake.

However, I should like to bring special attention to the actions and comments of the senior Senator from Arizona who I believe has particularly distinguished himself by raising the most basic of constitutional concerns. Not yesterday, nor last week, nor the week before, but 6 months ago, the distinguished senior Senator from Arizona addressed the issue of court stripping as clearly and as persuasively as any Member of this body during the current debate. On March 17, 1982, Senator BARRY GOLDWATER spoke out against court stripping as follows:

I am strongly opposed to the breakup of neighborhood schools. I think the unborn baby is entitled to some legal protection. And I believe school children should be allowed a few moments of voluntary prayer. In my view, the Supreme Court has erred. But we should not meed judicial excesses with legislative excesses * * *.

What particularly troubles me about trying to override constitutional decisions of the Supreme Court by a simple bill is that I see no limit to the practice. There is no clear and coherent standard to define why we shall control the Court in one area but not another. The only criteria seems to be that whenever a momentary majority can be brought together in disagreement with a judicial action, it is fitting to control the federal courts * * *.

Whether or not Congress possesses the power of curbing judicial authority, we should not invoke it. As sure as the sun will rise over the Arizona desert, the precedent will return to oppress those who would weaken the courts. If there is no independent tribunal to check legislative or executive action, all the written guarantees of rights in the world would amount to nothing.

In fact, Mr. President, little more needs to be said. Unfortunately, the momentary majorities that Senator GOLDWATER speaks of have continued to push their particular social agenda in the context of court stripping. As a result, we have been tied up here in the Senate for weeks trying to explain to our fellow Senators, our fellow Americans, and the press that what is at stake is not that social agenda, but rather the Constitution and the independence of our judicial branch of government.

But, Mr. President, I am hopeful. I am hopeful because of the showing we have had here on the Senate floor. I am hopeful because of the number of Senators who have taken the courageous step of coming here and speaking out on the real issue before us. I am hopeful because of the courageous votes Senators have been willing to cast these last several weeks.

Finally, I am hopeful because this Nation has previously faced and withstood similar challenges to the independence of the Federal judiciary. One such challenge occurred in 1937 when President Roosevelt proposed to increase the size of the Supreme Court. He felt that a series of Supreme Court decisions threatened the success of his national recovery program. By proposing to alter the Court's composition, he hoped to force the Court to uphold the constitutionality of his economic plan. The people and Congress resoundingly defeated the Roosevelt plan. The Court packing plan was seen for what it was—a significant threat to the independence of the judicial branch.

As we decide whether or not to vote for cloture and decide how to vote on the pending motion to recommit, as well as the probable tabling motion on the motion to recommit, I think it is important to keep in mind the wise words of others who have successfully defended the Supreme Court, particularly in earlier years—namely, 1937.

At that time, Burton K. Wheeler, a Senator from Montana, delivered the warning to the U.S. Senate which is a warning that every Member of this body should continue to heed today. At that time, Senator Wheeler stated as follows:

So I say it is morally wrong to do by indirection what cannot be done by direction. It is morally wrong to change the Constitution by coercive interpretation. . . . Of course, Mr. President, there have been abuses in the court. I have been one who has disagreed with them, and I expect to disagree with them again, but I am unwilling on the

basis of some specious argument or some subterfuge that defies the spirit of the Constitution to participate in setting one of the most dangerous precedents that has ever been conceived by this Congress or any other.

Those are the words, Mr. President, of Senator Burton K. Wheeler when the President at that time tried to pack the Supreme Court. Senator Wheeler saw that for what it was, a way to end-run the Constitution of the United States, and Senator Wheeler pointed out it would be wrong, it would be morally wrong to undermine our form of Government, to so undermine the Constitution.

Mr. President, let us not give away the Constitution on the altar of political appeasement. Let us not cast politically popular votes that run counter to our duty and to our oaths of office to uphold the Constitution of the United States.

These court-stripping bills are wrong. The great majority of the Members of this body know they are wrong.

These court-stripping bills are more dangerous to our form of government than any of the abuses they are intended to address.

The lesson we hopefully have learned from this debate is that there is a proper and constitutional way to address decisions of the Supreme Court with which we disagree.

Let this debate be a signal to all, for decades to come, that they cannot end-run the Constitution. Let it be a signal that they cannot respond to the Supreme Court by trying to undo the Supreme Court. Let this debate be a signal to those who still believe that such shortcuts are politically acceptable—let them understand, if they continue to offer such proposals, that there will always be men and women of conviction who will stand up and fight them.

There is a need for the country to address controversial social issues, a definite need, a great need. Fortunately, the Founding Fathers constructed a constitutional-amendment process which has served this Nation well throughout its history to meet those needs. Let the social-issue debate take place in that context.

I reiterate my commitment to support the bringing of those constitutional amendments to the floor of this great body.

But, Mr. President, I will continue with all the strength that I can summon to fight attempts to remove from the Supreme Court its duty and its right to enforce the Constitution and to protect constitutional rights.

We who are fully appreciative of the threat that these bills represent have an obligation to keep fighting them with every tool that we have at our disposal, and we will continue to do so.

Mr. President, this debate has continued now for over a month. It really began on August 18. For over a month we have been ostensibly debating the debt limit bill, a bill that must pass. Our country must pay its bills if it is to meet its financial obligations. But pending to that debt limit bill has been two amendments. They have been cast as an abortion amendment and also a school prayer amendment.

Mr. President, those amendments are not as they are cast, not as they are phrased to be. Rather they are court-stripping amendments.

What do I mean? I mean that those are amendments, particularly the school prayer amendment which prohibits the U.S. Supreme Court from hearing any claim evolving around school prayer. That amendment is a court-stripping amendment because it strips the Supreme Court of the right to hear anyone in America, any citizen in America from claiming that his or her constitutional right under the first amendment is abridged. That is what it is. It is a court-stripping amendment.

So far, Mr. President, our country has not seen fit to adopt court-stripping amendments, and that is very simply because to adopt court-stripping amendments is to undermine, to obliterate one of our three coequal branches of Government, the Federal judiciary.

Our Founding Fathers were wise, they were very wise, in creating the Constitution with three coequal separate branches of Government, executive, legislative, and the judiciary.

Our Founding Fathers wrote in checks and balances, a lesson we all learned in our civics classes when we were in high school, checks and balances so that no one branch of Government, the executive, the legislative, or the judiciary, would be so powerful as to swallow up one or both of the other branches of Government. It is a checks and balances system.

Mr. President, to keep the judiciary as a coequal branch of Government we cannot in this body deprive the Supreme Court of hearing constitutional claims and issues for if we were to do so we would tell the country that we no longer want a Supreme Court to protect Americans' constitutional rights, first amendment rights, other rights that are written in the Constitution. I do not think that is what our American public wants this body to do.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Connecticut (Mr. WEICKER) for the purpose of debate only and without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield further to the distinguished Senator from North Carolina (Mr. EAST) for the purpose of debate and without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I wish to thank the Senator from Connecticut who has been, I wish to underscore, exceedingly gracious and accommodating throughout this debate for all points of view, including those that disagree with him. I think the record should reflect that.

The hour is drawing nigh. I did have an opportunity yesterday to speak at some length on the general substance of our concern here, and I will mercifully spare my colleagues repeating that.

There are two points that in the brief minute or two I have remaining I wish to underscore in keeping with points already made by my distinguished senior colleague from North Carolina, Senator HELMS.

There has been, I think he raises a legitimate point, a tendency for the keepers of the Nation's conscience to portray the idea that some way or other those supporting his position are the obstructionists. He has pointed out that what has held us up is the filibuster, and Senator WEICKER and the other Senators certainly have every right to exercise that privilege under the rules of the Senate.

I am simply suggesting, Mr. President, that if someone is to be charged with obstructionism it certainly is not the senior Senator from North Carolina. He has received a majority support on the vote on the prayer issue. If you must say someone is obstructing it is those who are filibustering who are doing the obstructing. And to the keepers of the Nation's conscience I would simply suggest that if the situation were reversed I can imagine the great wailing and gnashing of teeth about the obstructionist tendencies of the distinguished senior Senator from North Carolina.

I sense a lack of equity, balance, and fairness in that presentation to the public and the potential public perception thereof.

Finally, the word "stripping" of the Court's jurisdiction has been used here rather cavalierly. It is an emotion-laden term. But I reiterate what my distinguished senior colleague from North Carolina has pointed out: Every one of those on the other side of the debate in the Voting Rights Act did vote to take away the jurisdiction of every lower Federal court in the United States except the one in the District of Columbia to hear cases under section 5 of the Voting Rights Act. The point is that under article 3 of the Constitution we have that power to set the appellate jurisdiction

of the U.S. Supreme Court and the entire jurisdiction of the lower Federal courts.

Our distinguished colleagues in opposition did that in the Voting Rights Act, and it has been going on since the founding of the country. There is nothing novel about it.

So they are somewhat disingenuous when the implication is that Senator HELMS has come up with an extraordinary and revolutionary idea. It is simply not so.

The position he takes is consistent with the Constitution and it is consistent with past practices in the U.S. Congress.

So I would ask my distinguished colleagues to not be frightened off by the so-called stripping concept. It is a red herring issue.

Again, Mr. President, I have utilized my time and the hour grows upon us.

I wish to thank again the distinguished Senator from Connecticut for the opportunity to speak on this 2 days in a row, and to commend him again for the gracious way in which he has handled the entire matter.

I yield back to the Senator from Connecticut.

Mr. BRADY. Mr. President, I would like to clarify briefly my position on the issue of voluntary prayer in public schools. I support the idea of prayer in schools but I have some concerns with this particular amendment offered by the Senator from North Carolina. I believe we need legislation to encourage school prayer, but only prayer that is truly voluntary instituted without compromising the right of the Supreme Court to interpret the Constitution.

This amendment denies the Supreme Court and lower Federal courts jurisdiction over cases involving voluntary school prayer. By statutorily overturning the decisions of the courts and denying them their independent role in our Government, this legislation sets a dangerous precedent that could be applied to other issues. The question of prayer in public schools has a long history in constitutional law, one with which I do not claim to be intimately familiar. But I think this amendment threatens the separation of powers, and thereby jeopardizes our time-tested system of government.

While establishing the separation of powers, the Constitution also states specifically in the first amendment that, "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof." I am concerned that this legislation could restrict freedom of worship by religious minorities.

However, I am in favor of providing an opportunity for voluntary prayer in school, as long as it is truly voluntary. Particularly, I can find no reasonable objection to schools providing students with a moment of silence during their school day to pray, to meditate, or simply to sit quietly, if that is what they wish to do. I would strongly support any legislation to this effect.

A time for silent meditation would assure that public worship remain at the same time the voluntary and private matter that the Founding Fathers intended it to be.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12 noon having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steven D. Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard H. Baker, Jr.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2031, as modified, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Georgia (Mr. NUNN) are necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—53

Abdnor	Garn	Nickles
Armstrong	Grassley	Pell
Baker	Hatch	Pressler
Bentsen	Hawkins	Proxmire
Boren	Heflin	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Huddleston	Roth
Cannon	Humphrey	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
D'Amato	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Murkowski	Zorinsky

NAYS—45

Andrews	Brady	Cohen
Baucus	Bumpers	Cranston
Biden	Burdick	Danforth
Boschwitz	Byrd, Robert C.	Dixon
Bradley	Chafee	Durenberger
Eagleton	Jackson	Packwood
Glenn	Kennedy	Percy
Goldwater	Leahy	Pryor
Gorton	Levin	Riegle
Hart	Mathias	Rudman
Hatfield	Matsunaga	Sarbanes
Hayakawa	Melcher	Specter
Heinz	Metzenbaum	Stafford
Hollings	Mitchell	Tsongas
Inouye	Moynihan	Weicker

NOT VOTING—2

Dodd Nunn

The PRESIDING OFFICER. On this vote the yeas are 53 and the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, in a moment, under the previous order, I am going to designate the Senator from Arizona to make a motion. The motion that I anticipate will be made will be a motion to table the Helms motion to recommit with instructions.

Mr. President, I designate the Senator from Arizona.

The PRESIDING OFFICER. Pursuant to the previous order, the Chair recognizes the designee of the majority leader, the Senator from Arizona, for a motion.

Mr. GOLDWATER. Mr. President, I move to table Senator HELM's motion to recommit this bill.

Mr. BAKER. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WEICKER. Mr. President, parliamentary inquiry. What is the motion before the Senate?

The PRESIDING OFFICER. The motion is to recommit——

Mr. BAKER. Mr. President, the Senator moved to table the motion to recommit.

Mr. RANDOLPH. Mr. President, I insist, Mr. President, on order in the Senate. Members should certainly cooperate with the majority leader.

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Arizona has moved to table the motion to recommit.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the motion to table the motion to recommit.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I know what I am doing is not popular, but this Senate is not doing what it should do. That is to discipline itself. I

ask the Chair to rule so that the Senate will come to order.

The PRESIDING OFFICER. The Senate will be in order. Senators will return to their desks. Senators will please clear the well.

The assistant legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will please be in order. Will Senators please return to their desks or to the cloakrooms.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—51

Andrews	Glenn	Melcher
Baker	Goldwater	Metzenbaum
Baucus	Gorton	Mitchell
Biden	Hart	Moynihan
Boschwitz	Hatfield	Packwood
Bradley	Hayakawa	Pell
Brady	Heinz	Percy
Bumpers	Hollings	Pryor
Burdick	Humphrey	Quayle
Chafee	Inouye	Riegle
Chiles	Jackson	Rudman
Cohen	Kassebaum	Sarbanes
Cranston	Kennedy	Specter
Danforth	Leahy	Stafford
Dixon	Levin	Tower
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Weicker

NAYS—48

Abdnor	Garn	Nunn
Armstrong	Grassley	Pressler
Bentsen	Hatch	Proxmire
Boren	Hawkins	Randolph
Byrd, Harry F., Jr.	Heflin	Roth
	Helms	Sasser
Byrd, Robert C.	Huddleston	Schmitt
Cannon	Jepsen	Simpson
Cochran	Johnston	Stennis
D'Amato	Kasten	Stevens
DeConcini	Laxalt	Symms
Denton	Long	Thurmond
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
East	McClure	Zorinsky
Exon	Murkowski	
Ford	Nickles	

NOT VOTING—1

Dodd

So the motion to lay on the table the motion to recommit was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to, Mr. President.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, if I may have the Senate's attention, the Baucus amendment once again is the pending question. Senators should be on notice that there will be a motion to recommit sometime early this afternoon. I shall not make it for the time being. I believe there are a number of Senators who are committed to marking up sessions of committees and other important business, and we have pretty much disrupted their morning already.

At the moment, I am going to put us in morning business until 1:30 p.m. I also want to say that I voted to table this motion, notwithstanding that I support the Senator from North Carolina and his amendment, because, at some point, this has to end. This is that point.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 1:30 p.m., in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The galleries will please be quiet.

The Senator from Wisconsin.

THE GENOCIDE CONVENTION IN HISTORICAL PERSPECTIVE

Mr. PROXMIRE. Mr. President, so often we focus on the here and now in politics. But today I want to consider the Genocide Convention from a historical perspective.

Let us remember, Mr. President, that our country was founded by small groups of people who were persecuted for their religious beliefs. So they left their native country, sailed across an ocean, and settled in a new land. They formed a society which stressed respect for the individual in the group, and for the minority group within society. Tolerance for individual differences was built into the charters of our earliest colonies. Guarantees of human rights and freedoms were part of our earliest laws.

When these colonies became an independent nation, these guarantees of human freedoms—such as freedom of speech and religion—were immediately made part of our Constitution.

Over the next 150 years, Mr. President, this country expanded tremendously, in geographic, economic, and political terms. But, throughout this growth, America remained true to her original humanitarian ideals. These ideals were put into practice when this Nation welcomed thousands of immigrants to its shores. These immigrants were often victims of oppression or persecution in their home countries, and sought a land of freedom, tolerance, and opportunity. America became known for her bigness—not only of size, but of heart and spirit.

We truly became the leading political and economic power on Earth during the period when we fought the war against totalitarianism and the perpetrators of the worst genocide in human history. After a huge investment of human lives, labor, and misery, we were triumphant. After the war, following in our long tradition of tolerance for all groups of people and horrified by what we say in Europe, we helped draft a treaty making genocide a crime under international law. This treaty was a reaffirmation of everything this country stood for, and fought for: human rights, human dignity, and the right of different groups to live without fear of mass extermination.

In the postwar period, we made further advances in human rights, both at home and abroad. At home, we passed laws making racial segregation and discrimination illegal. Internationally, we became the acknowledged leader in human rights issues.

Given this long tradition of tolerance, Mr. President, it seems inconceivable that this country would hesitate—or refuse—to ratify the treaty making genocide a crime under international law. Nothing in our history or character or constitutional ideals suggests that we would balk at ratifying such a treaty.

I tell you, Mr. President, that we present day Americans have a responsibility to uphold the ideals our ancestors lived and died for. That we have not yet ratified the Genocide Convention is shameful, a riptide in the current of our history. I call upon the Senate to ratify the Genocide Convention.

SOVIET-AMERICAN JOINT CONSULTATION CENTER

Mr. PROXMIRE. Mr. President, on September 3, an article appeared in the Wall Street Journal. The author of this article is the senior Senator from Washington (Mr. JACKSON).

Senator JACKSON has constructed a convincing case for the Soviet-American Joint Consultation Center—an improvement on the now out-of-date "hotline" system. This center would enable our leaders to have fast and reliable communication with their counterparts in Moscow—a capability that is a prerequisite for peace.

As Senators, we are often faced with decisions about nuclear weapons and the gruesome possibility of their use in our lifetime. It is for this reason that I find Senator JACKSON's article so compelling. If the foundations of peace that we have established are to stand against the winds of war, we must never allow the line of communication with the Kremlin to be severed. We have nothing to lose and quite literally everything to gain from this system.

I fully endorse the Soviet-American Joint Consultation Center and encour-

age my fellow Senators to do so as well. If humanity must face Armageddon, let it be for principles, not communicational foulups, and let the door for further negotiation always stay open. There is too much at risk and too little required for war.

I ask unanimous consent that Senator JACKSON's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 3, 1982]

NUCLEAR WAR AND THE HOTLINE

(By HENRY M. JACKSON)

In spite of all the attention being focused on nuclear arms freezes and reductions, one critical problem is being neglected: how to create better political and institutional safeguards against the outbreak of a nuclear war that neither side wanted or planned. Major and mutual arms cuts, vitally needed though they are, won't by themselves assure peace. We require also new institutional mechanisms for preventing accidents and the kinds of misjudgments and blunders that could lead to a holocaust.

That is why I have been urging that our government put a high priority on establishing with the Soviets a permanent Soviet-American Joint Consultation Center—a new institution for facilitating immediate information exchanges and consultations between the two countries when events occur that could trigger a nuclear war not intended or desired by either side.

The two superpowers have thousands of nuclear-tipped missiles poised for launching. More and more other countries have or soon could have at least some nuclear-weapon capability. Terrorist groups are steadily increasing in sophistication and numbers. In this environment, there is a growing danger of incidents that could spark a nuclear conflict unless they are immediately and properly assessed, and quickly controlled. These could range from technological failings to miscalculations or misunderstandings reflecting human error.

HOTLINE HAS SHORTCOMINGS

The only instrument currently available for direct consultation between the top leaders of the superpowers is the 20-year-old Washington-Moscow hotline. Valuable as it is, this line has major shortcomings. It is only a teleprinter system—whose use requires composing, encrypting, transmitting, decrypting, translating and then digesting written messages. The president was correct when he recently proposed that consideration be given to upgrading the hotline to permit voice communication.

But there are many crises for which not even a modernized hotline would be adequate. An example is how to keep matters from getting out of hand if a nuclear war-threatening event occurs when the heads of state are out of quick and effective touch both with each other and with their key diplomatic and military advisers. An incident demanding immediate explanation and decision could easily take place when the president was in California, the secretary of state in Bangkok, and the secretary of defense in Brussels. At the same time, the chairman of the Politburo might be in Yalta while his foreign minister was in New Delhi and his minister of defense in Bucharest.

The jointly staffed and operated Soviet-American consultation center would be in operation every hour of every day.

Whenever incidents took place that could lead to nuclear war, the center would be alerted at the same time that the heads of state were moving to get in touch with each other through the hotline. After exchanges of information and consultations between the two center staffs, the American side would report to the White House its assessment, while its Soviet counterparts would be doing the same for the Kremlin.

Although the two staffs should certainly include technical advisers and appropriate military representatives, it would be a mistake to view the center's basic mission as either technical or military. The showdown questions of nuclear war or peace are and always will be political and diplomatic, and the center's staffing should reflect this fact. The American staff might well be headed by a senior diplomat with long and broad exposure to Soviet affairs. The stature of the heads of the two teams would need to be such that each had direct and immediate access to the highest levels of their respective governments.

The center would be at a mutually agreeable place. I envisage it as consisting of a jointly operated central building providing working space and conference rooms for both staffs, and adjacent nationally controlled buildings, one run by the Soviets and one by us. These would give the staffs of each side a chance to confer privately and enable them to be linked to their respective capitals by ultra-secure, unilaterally controlled communications.

Such a center would represent a major advance. When using the hot-line, the two sides must communicate across the 5,000 miles which separate our two capitals, and they consult only in times of emergency. At a joint center, our two countries' representatives would talk face-to-face. Furthermore, they would be working with each other on a daily basis in times of relative calm as well as crisis. Each side's staff members would be able to form judgments concerning the credibility of their opposite numbers and the two staffs would become known quantities to each other. This would make for vital gains in understanding in times of emergency.

Once the work of the center won the confidence of the two governments, it could be of great help in preventing crises as well as resolving them. The center, for example, could be used as a mechanism for conveying advance notice and explanations of changes in force deployments or readiness levels of large-scale exercises that could be misinterpreted as possible signs of an impending nuclear assault.

Certain dangers would have to be guarded against. For one, we would obviously have to protect the essential aspects of American defense and intelligence-gathering capabilities. The center should rely exclusively upon each side's input from its own data-accumulation systems and should have no information-collecting capability of its own. It would also be essential that the Soviets agree to refrain from using the center as a vehicle for propaganda or polemics and that we respond quickly and sternly to any transgressions on this score. To be effective, the center would have to work without publicity.

WOULD ASSIST ARMS TALKS

The early creation of such a center would give an assist to the current strategic arms reduction talks in Geneva. We are morally and politically obligated to negotiate with the Soviets in good faith, and to keep talking with them as long as they are willing to talk. But if the past is any guide, the time and effort that will almost certainly be needed to reach a peace-serving agreement will surely test our country's patience and perseverance.

Despite the big gap between existing Soviet and American positions on strategic arms cuts, there is at least one matter on which we should now be able to see eye-to-eye—the importance of doing everything possible to prevent a nuclear war by accident or misunderstanding.

An accord to go forward with the center would make a twin contribution to the cause of peace. The existence of the center could do much to make nuclear war by mistake less probable. And the negotiating success marked by the center's establishment could fortify our resolve to persevere in the Geneva talks as long as necessary to achieve arms reductions of the dimensions and nature needed for a world that yearns for peace.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

VOTING IN THE UNITED STATES

Mr. RANDOLPH. Mr. President, within the week the citizens of Sweden have been given the opportunity to vote in a national election in that country. Approximately 91 percent of those eligible to vote were at the polls.

We recognize, of course, that Sweden is rather compact, certainly a smaller entity as a nation than the United States of America, but throughout the world today we are seeing the citizens of country after country who have the right to vote going into the polling booths and casting their ballots for or against individuals and issues.

Mr. President, I have a reluctance but even with that reluctance I stand once more at my desk, as I have in the past on dozens and dozens of occasions, not to sound an alarm or even to express a warning but to speak upon the record and nothing else.

I have reminded the Senate—and I respect the judgment of my colleagues—of what is happening in this Republic.

In 1960, when John Kennedy was elected President, 63 out of every 100 eligible voters cast their ballots. Twenty years later, in 1980, when President Reagan was chosen by the people of this country, the vote was not 63 out of every 100, it was 53 out of every 100. Many, many States in this Republic were voting less than 50 percent of the men and women, including the young people who have failed to vote under the 26th amendment which gives 18- 19- and 20-year-olds not only the opportunity but the responsibility to use the ballot.

Now I come to recent weeks in this country. I have checked the primaries across America, important primaries, with rather close contests in Senate seats, House seats, and governorships, and we have been voting in these last few days and weeks in these crucial contests within the States approximately 25 percent of those who are eligible to vote in this Republic.

And so again I stand and say to my colleagues, if you contact your constituencies, please, say to the heads of families: "Talk over the responsibility of citizenship in your own home; that is, if you ever gather around the family table, talk to your children of voting age about their responsibility." I hope we can do something to stop this trend.

I only express my strong desire that in just a little over 5 or 6 weeks from now, when we shall have another election, one-third of the Members of this body standing for election, all the House Members, and throughout the States, the governorships and other offices, somehow or other we will not have what we have continued to have. That is a tragic situation from the standpoint of the framers of the Declaration of Independence, the framers of the Constitution of the United States; that somehow even at that late hour we come back to the words of the President of the United States, our first, George Washington, who said, "Citizens by birth or choice, that country has the right to concentrate your fullest commitment."

Mr. President, quietly but earnestly I say Washington was right.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

MARIHUANA CULTIVATION IN THE UNITED STATES

Mr. HAYAKAWA. Madam President, I would like to insert several articles into the RECORD which will provide my colleagues with an understanding of the realities of marihuana cultivation in the United States today.

The U.S. Forest Service is trying to take action against the illicit growth of marihuana on the lands under its management, however, the Congress has repeatedly affirmed that the authority for law enforcement in national forests rests with the local law enforcement agencies. That policy makes sense, but we must recognize that local opinions on the cultivation of marihuana vary radically from the law which makes such activity illegal. In fact, in parts of California, law enforcement officials are clearly working against public opinion when they attempt to eradicate the drug. In many cases, in order to get reelected, a county sheriff must soft-peddle the eradication of marihuana because of the importance of the cultivation industry to the local economy.

I ask unanimous consent that the following articles be printed in the RECORD: "Marihuana Cultivation in the National Forests," from a Forest Service publication; "USDA Declines to Forecast 1982 Marihuana Crop" from the Des Moines Register; "Armed Businessmen Grow Marihuana on Federal Land" which appeared in the Washington Times; and, "While U.S. Farms Go Bust, Some Growers Are Cashing In on the Profits of Pot," from People magazine.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MARIJUANA CULTIVATION ON THE NATIONAL FORESTS

Increasing threats to visitors, acts of violence, and intimidation of Forest Service employees led Regional Forester Zane Smith, Jr., to announce in June new interim directives for dealing with the problems associated with marijuana cultivation on the National Forests in Region 5.

The interim directives require close cooperation with federal, state, and local law enforcement agencies to prevent marijuana cultivation and protect visitors and employees.

BACKGROUND

Since 1978, use of National Forests and other Federal lands to cultivate marijuana has increased dramatically. Throughout the National Forest System, marijuana valued at more than $700 million was confiscated in 1981 by law enforcement agencies, of which $254 million came from Region 5. It is estimated that more than $2 billion of the total $8 billion worth of marijuana harvested in the United States that year came from National Forests.

Given the high stakes, growers may resort to violence to defend their crops. Some use trained attack dogs, automatic weapons, hand grenades, booby traps, and electronic surveillance to guard against "intruders". Shootings and murders connected with marijuana cultivation are increasing, and in 1981, the Forest Service received 800 reports of confrontations between growers and visitors to the National Forests. Forest Service employees have been warned to "mind their own business" or they and their homes and families will be attacked.

Most confrontations with visitors occur in August and September just before and during the harvest when marijuana has maximum value. Growers and their supporters in some areas are armed with automatic weapons and even law enforcement officers must travel in groups and arm themselves with similar weapons in order to enter and leave the areas safely.

LAW ENFORCEMENT

Marijuana cultivation on National Forests occurs mostly in rural counties where local population is low, economies are depressed, sheriff's departments are small, and the means to enforce laws against marijuana growers are limited. Public resistance to strict enforcement occurs in some areas where marijuana has become an important source of income.

States and counties have exclusive jurisdiction over enforcing the laws of the states and counties on the National Forests. The Forest Service does not have initiating investigatory jurisdiction over Federal laws relating to controlled substances. Federal law enforcement agencies like the FBI and the Drug Enforcement Administration which have such jurisdiction generally concentrate their efforts on traffic rather than the cultivation of marijuana. The State Attorney General, through the Bureau of Narcotics Enforcement and the County Sheriffs, has authority for enforcement of State narcotics laws.

FOREST SERVICE AUTHORITY

Federal statutes (Title 16 United States Code, Sections 551, 551a, 553, and 559, and Title 18 United States Code Section 4) provide authority for the Forest Service with respect to NFS lands to (1) regulate occupancy and use; (2) cooperate with states in the enforcement of State laws; (3) aid Federal bureaus and departments in the performance of their duties; (4) make arrests; and (5) report all felonies to proper authorities.

The Forest Service has jurisdiction in a Secretary's regulation prohibiting any kind of work without a permit. While this regulation clearly applies to the unauthorized cultivation of marijuana, the maximum criminal penalties it provides are 6 months in jail and a $500 fine. The Forest Service has authority to assist County, State, and other Federal law enforcement agencies on the National Forests. In some areas, very effective Forest Service cooperation with other agencies in removing marijuana from the National Forests exists.

REGIONAL POLICY

The new interim directive issued by the Regional Forester include the following main policy statements for developing and carrying out with other affected agencies a cooperative program to eradicate and prevent marijuana cultivation on National Forests in the Region:

1. Employees will report information concerning marijuana cultivation on NFS lands to proper authorities through their line officer.

2. The public and employees will be informed of the adverse impacts to resources and the public caused by marijuana cultivation on NFS lands.

3. Marijuana cultivation will be prevented through: (a) the use of a public reporting identification system; (b) media coverage of Forest Service actions demonstrating commitment; (c) use of non-confrontive early deterrent measures; and (d) initiation of prosecution against growers.

4. Marijuana growing locations will be detected and inventoried.

5. The Forest Service will support and cooperate with other law enforcement agencies in taking action against marijuana cultivation on NFS lands.

[From the Des Moines Register, Aug. 3, 1982]

USDA DECLINES TO FORECAST '82 U.S. MARIJUANA CROP

WASHINGTON, D.C.—The Agriculture Department is shying away from forecasting

this year's marijuana crop in the United States.

In fact, officials said Monday that it has been at least 10 years since the department has published a pamphlet showing how to identify and kill marijuana with chemical spraying.

Last week, the National Organization for the Reform of Marijuana Laws said in a federal court suit that the 1981 marijuana crop was "worth an estimated $8.2 billion nationally, making it the nation's fourth-largest cash crop."

The Agriculture Department's latest figures show that four crops ranked larger in terms of cash receipts collected by farmers last year: corn, $13.6 billion; soybeans, $12.4 billion; wheat, $10.5 billion; and vegetables, $8.4 billion.

COMPARISON

But department officials said the $8.2 billion worth of marijuana, if that was its street value, would be hard to compare with values of crops sold by farmers.

Donald Barrowman, chief of estimates operations for department's Statistical Research Service, said there is no way for his agency to make comparable estimates of production, yield and value for illegally grown marijuana.

He said other federal agencies, such as the Drug Enforcement Administration, have not asked for help in determining the size of the marijuana crop.

"We would be extremely reluctant to get into that, as far as I know the question hasn't even been raised," he said.

Some forty years ago, marijuana was a commercial crop called hemp, grown by farmers to replace the World War II shortage of Manila hemp.

In 1943, more than 146,000 acres of marijuana were grown, producing 140.6 million pounds. Although the effort was abandoned as a commercial crop after the war, so-called wild hemp persisted for years in areas where the crop had flourished.

DESTRUCTION

As recently as 1971, the Agriculture Department drew up plans to pay farmers for destroying wild marijuana. That plan was shelved after Congress barred crop subsidy payments for farmers who allowed wild marijuana to be harvested.

The Forest Service, which oversees 190 million acres of public land, says an increasing amount of marijuana is being grown in timber areas, where it is hard to detect and relatively easy to harvest illegally.

Ernest Andersen, director of law enforcement for the Forest Service, said that he knew of no precise value for U.S. marijuana production. However, Andersen said he personally believes the value could range between $5 billion and $10 billion a year.

"We don't know what the actual inventory is," he said. "If we knew it was there and had the resources to go deal with it, we'd have dealt with it. It's hard to estimate what you don't know."

Andersen said federal, state and local authorities last year confiscated more than $700 million worth of marijuana that was produced on Forest Service land. It is possible, he estimated, that more than $2 billion worth was successfully harvested by illegal growers.

[From the Washington Times]

ARMED BUSINESSMEN GROW MARIJUANA ON FEDERAL LAND

Fertile federal lands in the Southwest have become a dangerous new battleground between entrepreneurs cultivating potent marijuana strains and government agents trying to eradicate the weed.

Although forestry officials are concerned about the pot, they are more worried about homemade booby traps—including hand grenades, shotguns and snakes—that are used to protect the crop.

The problem has become a major one in many states because marijuana growers have discovered the penalty for cultivating pot on federal land is less than growing it on state land. It is only a violation of U.S. agricultural laws to grow it on federal land, but growing it on state land amounts to possession, which carries a harsher penalty.

Some marijuana has been found in all 155 national forests in 43 states, but law enforcement officials are even more concerned about the methods being used to protect the crops.

"There are elaborate plantations with irrigation systems and armed guards and surveillance," said Ernie Anderson, the Forest Services' law-enforcement coordinator. "They move into a very remote area and effectively close it off to use by the public."

The government's General Accounting Office recently quoted a Forest Service official as saying: "It is only a matter of time before a forest visitor or one of our employees is seriously injured or possibly killed because they stumbled onto an illegal marijuana plantation."

Arkansas' Ozarks are one of America's prime marijuana-growing locations and longtime residents say pot clearly has replaced moonshining as the area's major cottage industry.

In April, a forest ranger accidentally waded into a marijuana patch in the Ozark National Forest, but was stopped by a gunman who searched him, then ordered the ranger to "get off my mountain and never come back."

A group of 150 Forest Service employees, state policemen, FBI agents and county sheriffs returned, uprooting and burning more than 10,000 plants worth an estimated $20 million. Six people were arrested.

The marijuana plants, up to 12 feet tall, were being cultivated on 100 plots of remote land.

Forest Service officials say the yearly marijuana corp grown in the Ozark and Ouachita national forests in Arkansas approaches $200 million. If the estimate is correct, the total far exceeds the value of timber harvested on Arkansas federal lands, in a state where forestry accounts for a third of all income.

Bobby Hicks of the Arkansas State Police says marijuana growing on federal lands is big.

"It's so big we can't control it," he said.

Jim Crouch, forest supervisor of the Ozark-St. Francis National Forest, said some marijuana farmers use guard dogs, carry shotguns and patrol their prized plots clad in camouflage suits. The precautions are to protect the pot from other growers as well as from law-enforcement agents, Crouch said.

The Drug Enforcement Administration's chief of domestic marijuana eradication, Larry Carver, says Arkansas now is reputed to be the second largest marijuana-producing state in the nation, behind California.

Arkansas marijuana is reputed to be America's third-best in quality, behind the Hawaii and California crops.

One Arkansas resident, described as a marijuana entrepreneuer, told a reporter: "Arkansas has been so put down. We want to give Arkansas grass an international reputation. We call it Razorbud," in honor of the state university's football team, nicknamed the Razorbacks.

"The amount of marijuana being grown on federal property has increased drastically in the last two years," said Dale Smallwood in Rolla, Mo.

[From People, May 10, 1982]

WHILE U.S. FARMS GO BUST, SOME GROWERS ARE CASHING IN ON THE PROFITS OF POT

Two hundred miles north of San Francisco, nestled below snow-fringed, redwood-studded hills, lies a remote valley. Here, in the town of Garberville, the West is still wild and the sheriff is on the other side of the mountains. Every night outside the Branding Iron saloon, the curb is lined with four-wheel-drive pickups. Their owners, 1982-vintage cowboys, shoot pool inside beneath a Tiffany-style lamp, drink beer, and sway to reggae music. When they drink too much and begin to fight, Rita, the plump proprietress, tosses them out. Often they stumble into the Cellar discotheque nearby. "Half the people in here have been eighty-sixed from the Branding Iron," the Cellar's proprietor, Jerry Fernandez, wryly admits.

Garberville has the look and feel of an outlaw town, and so it is. But nowadays the outlaws aren't rustling cattle. They are taking part in a distinctly modern California gold boom. It is a phenomenal increase in the illegal cultivation of marijuana that has made pot the largest cash crop in California and the fourth largest in the country. Officials estimate that the nation's annual output is 5,000 tons, worth more than $8.2 billion. California alone produced an estimated $1.5 billion harvest last year, to which the people of Garberville and the surrounding area contributed some 50 tons of sinsemilla marijuana. Taking its name from the Spanish word for "seedless," sinsemilla is known to connoisseurs for its extreme potency—and, at up to $250 an ounce, its heady price. Garberville's economy has felt the effects. Once bustling with timber mills, the town was slowly dying until the dope industry arrived. Now prosperous new stores and restaurants have sprouted on the main street. The surrounding hills are dotted with picturesque redwood chalets and log cabins—many with expensive solar collectors on the roofs and new cars parked in the driveways. Says Joe Allen, the district attorney of nearby Mendocino County: "Garberville's prosperity is definitely founded on dope."

The fact that marijuana is illegal seems almost incidental to the locals. An unincorporated town, Garberville has no mayor, no city council and no local police. Gene Cox, the Humboldt County sheriff, 70 miles away in Eureka, is in charge of enforcing the law. But he has neither the time nor the manpower to vigorously prosecute growers. "Marijuana is illegal, and it is proven to be harmful to the body," says Cox. "But we can't eradicate all of it. We are short of help." The Humboldt County Board of Supervisors has not been able to erase the problem. Two and a half years ago they accepted a $15,000 grant from the federal Drug Enforcement Administration to fund their own local investigations but turned down a $20,000 grant, which would have brought in federal narcotics agents. As one businessman told Humboldt County's irate District Attorney Bernard De Paoli at a recent Rotary Club luncheon, "I owe a good part of my business to marijuana."

California's Acapulco gold rush began in 1978, when Mexico began spraying its pot fields with the herbicide paraquat and shipments to the U.S. were cut. Garberville quickly became a garden spot for the new industry. Many of the town's 600 residents are urban hippies who came seeking a pastoral utopia and took to pot farming with alacrity. "I'm here because I'm addicted to beauty," rhapsodizes one 33-year-old farmer named George, who insists on disguising his identity. "Pot growing was something I discovered after I got here." Adds Sam, the owner of a local gardening shop that sells 50-pound bags of "high tech" (very potent) marijuana fertilizer: "The worst insult you can hurl at someone in these parts is to say, 'Why, he can't even get it together to grow dope.'"

Most of Garberville's pot growers believe the "reefer madness" stereotype. The size of a marijuana garden may vary from a small patch with but a few plants to a two-and-a-half-acre field yielding some 4,000 sinsemilla plants. Many producers are like Ellen and Joe (not their real names), a married couple with four children, ages 5 months to 17 years. Ellen and Joe each have their own marijuana plants and their own gardens on opposite sides of their house. In the wintertime they even keep their plants in separate areas of their greenhouse. Sinsemilla, planted at the end of April, requires copious sun, water and care. Harvested in September and October, the plants are then cured, cleaned and manicured. Thanks largely to marijuana, the couple have a rustic redwood home, with another larger one going up nearby.

George is a somewhat less established dealer. A former student at the Fashion Institute of Technology in Manhattan, he tends bar nine months a year at an inn near Garberville and lives in a trailer in the hills. A self-described "guerrilla grower," he cultivates 30 plants on four separate patches of public land (all the better to escape detection by police, he says). On average, he makes $18,000 each year, half from pot farming, a trade he says is full of pitfalls. He once lost a package of dope when it was stolen from the mail—probably, he suspects, by a postal clerk who smelled the contents. He now uses airtight containers. Warns George: "If you're going to be an outlaw, you better be a good one."

Like most growers, Goorge took great pains to find a safe place to plant. To reach his "demonstration" patch (the only one George will show friends), a visitor must park on a secluded section of the road; then, when other cars have passed and the coast is clear. George leads the way on a one-hour trek through rugged woods where poison oak, brambles and thorny bushes grow in wild confusion. As you can see, this isn't the glamorous life of a cocaine dealer." says George. "This is really a farmer's life." His labor has brought him a Datson pickup and a new wardrobe. "This is Reaganomics at its best." he says, "It's capitalism in its purest form—supply and demand."

Garberville's capitalism is relentlessly hip. Young men and women, many with babies in their arms, spend languid hours at the Woodrose Cafe, eating tofu and omelets and reading the San Francisco Chronicle. A community center had no trouble auctioning off antiques at a "benefit boogie" to raise money for the local health center. The area's travel agencies do a brisk business selling plane tickets to Thailand, Bali and other exotic places, particulary after the annual fall harvest.

A few growers do admit to pangs of conscience. "I worry about who's buying this stuff," says Ellen. "Is it some junior high school boy in Chicago?" Although sinsemilla's price is probably too high for most youngsters, its attraction as a crop is irresistible to some: One teenager in Mendocino has reportedly earned $80,000 in three years from a plot.

Still, growing is far from child's play. Like most lucrative illegal enterprises, it breeds violence. The biggest threat to the crop is armed robbery; at harvest time many growers sleep in their patches with rifles or machine guns. "Everyone has guns," say George grimly. "After all, you can't call the sheriff if someone steals pot from you. You either have to shoot it out, go after them, or kiss it off." Some growers equip their gardens with electronic alarm systems, guard dogs and even Bengal tigers. Last year California's Bureau of Narcotic Enforcement found three full-grown Bengals (plus a leopard and a pack of Dobermans) roaming a pot farm in San Gregorio Beach, south of San Francisco, where agents confiscated 500 plants worth $1 million wholesale.

Tales of terror are legion: a thief buried in the middle of a dirt road with just his hand exposed as a warning to others; bodies dumped in the forest; growers surprised in their beds by bands of desperadoes. Last September in Briceland, 13 miles northwest of Garberville, a grower named Forrest Clammer was fatally shot in the head and back reportedly by his bodyguard, who then fled with most of Clammer's dope. The DA says authorities were not informed until November, after nearby properties had been harvested. This violence sometimes spawns paranoia. Says Dr. Ronald Siegel, a Los Angeles drug expert: "Some of these growers are bordering on the psychotic. I think it's because they can't live apart from their drug—just like Scrooge, who couldn't live very far from his money. Once, when I came on a patch, two guys came out of the hills and started throwing rocks at my car. One had a rifle and the veins in his forehead were pulsating as though they'd burst." Adds DA De Paoli: "During harvest season we get 15 to 20 calls a week from hikers, hunters and ranchers who happen on patches and find themselves staring down the barrel of a gun."

The mayhem would probably decrease if marijuana were legalized. Occasionally a representative from NORML (National Organization for the Reform of Marijuana Laws) travels to Garberville with petitions. But few growers will sign them. If pot were legalized, prices would plummet and the boom would go bust. "We really have a paradise here," says Ellen, surveying the view from the sundeck of her new home and stroking her 3-year-old's hair. "But we know it could all end tomorrow. The sheriff could come down from Eureka and arrest us all."

BILINGUAL EDUCATION

Mr. HAYAKAWA. Madam President, I rise to speak on an issue which I believe to be of paramount importance in the area of education—bilingual education. This is not a new drum I strike aloud but an enduring and constant pulse which I shall not let fade or die out.

Last April, I introduced S. 2412, the Bilingual Education Improvement Act, which will make federally funded bilingual education programs more responsive to the needs of local school districts. A month-and-a-half ago this distinguished body passed the Immigration Reform and Control Act of 1982, which legalizes the presence of most aliens now illegally in the United States. Attached to that bill is an amendment I introduced which states it is the sense of the Senate that English be the official language of the United States. Our immigration laws already require English for citizenship. How do we insure that those immigrants who are unable to speak English, grasp our language. It is the role of bilingual education to equip immigrants with the necessary English language skills to qualify them for the requirement of citizenship.

The problem is that all too often, bilingual education programs have strayed from their original intent of teaching English. A related issue is the full scale of interpretation for the term "bilingual education". Chances are that when one asks five people for a definition, five very different answers will be given. According to one interpretation, it simply means the teaching of English to non-English speakers. This is the method I prefer and is usually called English as a second language or ESL. On the opposite side of the scale bilingual education is a more or less permanent two track education system involving the maintenance of a second culture and an emphasis on ethnic heritage. This method is called transitional bilingual education and involves teaching academic subjects to immigrants in their own language coupled with English language instruction.

Madam President, I have had the privilege of reviewing a paper written by Robert E. Rossier, Ph. D. entitled "Bilingual Education: A Non-Conforming View." Dr. Rossier has had experience with the bilingual education programs in Los Angeles. He is currently affiliated with Wilson High School in Los Angeles. and its school district. I have found Dr. Rossier's paper to be a most provocative and very complete work which critiques bilingual education's problems and benefits. I strongly urge my colleagues to take time to read this paper which I am going to submit for the record in five parts during the remainder of this Congress. I ask unanimous consent that the first part of Dr. Robert Rossier's paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

BILINGUAL EDUCATION: A NON-CONFORMING VIEW

(Robert E. Rossier, Ph. D.)

PREFACE

I have long believed that the bilingual education movement was thoroughly political in nature rather than being the beneficient educational support movement it wanted the public to believe it to be. The problem has been that the average citizen has not seen through the bilingual hoax be-

cause he has not been able to read and hear the information that would lead him to understand that bilingual education is a bankrupt educational theory that has been used to benefit everyone but the children it is supposed to help.

When, after some years, I realized that there were few if any individuals with either the knowledge or desire to write a coherent, organized critique of bilingual education that would present arguments derived from reference to research and experience in immigrant education, I decided to attempt the job myself. This paper, good or bad, is the result.

The arguments and supporting information that I present are directed essentially at showing that the bilingual establishment, now very securely entrenched in the schools, got there in the first place by taking advantage of the public's ignorance about second language learning (part of this public has been the legislators who have voted in these programs) and in the more than a decade since the inception of this type of instruction has not been able to prove its case despite the thousands of program evaluations and research studies that have been carried out during this time, most of them by persons sympathetic to bilingual education.

The bilingual research and evaluation record has been bad and would have looked even worse if there had been critical research with which to compare it. Citations are presented in this paper of school district attempts to stifle critical research.

Finally, recent research is cited which supports the use of educational alternatives to bilingual education. From the standpoint of language learning efficiency, cost effectiveness, and compatibility with regular school organization, alternative programs appear to be far superior to bilingual education.

INTRODUCTION

Since the very beginning of this nation, immigrants from all parts of the world have been a major source of its great strength and vitality. They have come by the millions seeking freedom and opportunity and America has seldom disappointed them. Historically, one of the most important vehicles for providing immigrant children and adolescents with economic, social, and political access to the American dream has been the public school system. Besides offering these students the opportunity to carry their studies to a level not possible in most countries of the world, the American schools have given them possibly the most important opportunity of all—the chance to learn the language of the country by means of English language instruction reinforced by daily interaction with native speakers. But virtually unnoticed by the public, this critical avenue to success in an essentially English speaking nation is being progressively narrowed because of the betrayal of the modern immigrant wave by a confederation of power-seeking politicians, unprincipled educators, and, ultimately, by Americans as a whole whose naivete about second language learning has led them to accept unquestioningly the propaganda of those who have diverted immigrant education to meet their own ends.

While no single person or group is totally responsible for this betrayal, in my opinion much of the culpability, nevertheless, can be assigned to the leading personalities in the bilingual education movement; for this reason a critical and objective look behind the propaganda facade can reveal the harm being done to thousands of innocent young people who will some day play a part for better or worse in the destiny of our country. Although this criticism may seem harsh, it is not intended as a blanket indictment. There are many sincere persons involved in some manner or another with bilingual education—parents, teachers, administrators, legislators—who have never had to learn a second language in a foreign setting or who lack experience over time in working with immigrant students who are learning English. These people, however noble their intentions, will probably never understand that bilingual instruction can only retard, not advance, the learning of English for immigrant students. My criticism is directed, instead, at those who do have the background and experience to know how bilingual programs affect the learning of English and still defend the validity of the concept in theory despite their consistent failure to verify its efficacy in practice.

BILINGUAL EDUCATION—A MYTH

Above all, bilingual education in the United States has been built on a foundation of myth, misconception, and distorted fact about how one learns a new language in an immigrant setting. The key premise which inspires almost all justification for the establishment of bilingual programs—that because non-English-speaking students find it difficult at first to understand concepts in the new language, they should therefore receive subject matter instruction in the home language until they learn English—breaks down upon analysis and yet this premise is almost universally accepted by proponents and opponents alike. For this reason the national debate on bilingual education often resembles an argument about baroque art at a sign painter's convention.

THE COURTS

The judiciary, in particular, has fallen head over heels for the non sequitur that "instruction must be given in the home language to the non-English-speaking so that they do not fall behind in their studies while they are learning English." The question of when, where, and how they are to learn English if they are using another language most of the time is always left unanswered and, for that matter, is seldom if ever asked. Judge William Wayne Justice, a federal judge in Texas who, according to the Los Angeles Times, has been elevated to the ranks of liberal sainthood because of several landmark decisions he has made on integration and bilingual education, expressed this credo very simply in a recent decision that ordered that bilingual education be extended to all grades of the Texas schools—"Unless they receive instruction in a language they can understand pending a time they are able to make the transition to all English classrooms, hundreds of thousands of Mexican-American children will remain educationally crippled for life, denied the equal opportunity most Americans take for granted." Implicit in his statement was the assumption that these students would learn English somehow even though they were receiving instruction in the home language. Judge Justice does not know how a second language is learned; he just accepts the myth that it is learned by translation or osmosia or some magic that does not require thousands of hours of difficult and frustrating language interaction in real life situations with the speakers of the language.

This same uncritical acceptance of the bilingual movement's propaganda about how a language is learned was manifested recently by another star of the federal bench, Judge Paul Egly, who presided over the Los Angeles school desegregation case until he finally resigned in a pique. Complaining about California's "inhuman treatment of Hispanic students," Egly attributed this to the state's bilingual education law which he said had caused this type of education to be "ineffective in Los Angeles because of a lack of qualified (bilingual) teachers." Like his judicial colleague in Texas, Egly operated under the assumption that immigrant students learn English by means of translations provided by bilingual teachers.

THE PRESS

But this sublime credulity about bilingual education has not been restricted to the judiciary—it has thoroughly captured the liberal mind. The Los Angeles Times, for example, published an editorial on the subject last year that was a masterpiece of confused and contradictory thinking. In the opinion of the Times, while it is true in many cases "that children can be taught English by hearing English" nevertheless because they "are often immersed at home and in the street in Spanish only, the bilingual approach often works better." What the Times was saying, in simpler language, was that in order for these children to learn English, it is better for them to hear less English (bilingual education) than to hear more English (special English emphasis programs). If children in many cases are only able to hear English at school as the Times indicates, why then reduce the amount of English they hear, as is done in bilingual programs? The inconsistency of this belief is obvious and the Times people would find this out if they were ever interested enough to interview a fair sample of bilinguals who had been through the process.

In arguing against bilingual instruction, its critics have done no better than their liberal opponents in demonstrating that they have any comprehension at all of the principal elements of the debate. Bilingual critics often equate bilingual education with bilingualism, for example, and from this supposed equivalency stems their contention that bilingual education is bad because it promotes bilingualism which they believe to be socially divisive. This argument is interesting because social division may be an indirect consequence over time of the extensive use of bilingual instruction but not because this type of education contributes to any great degree to immigrant students becoming bilingual—because it does not. Instead bilingual programs all too often retard English language learning and thus inhibit the communication between these students and the general population which is so necessary to social understanding and harmony.

THE UNITED STATES AGAINST BENJAMIN SASWAY

Mr. HAYAKAWA. Madam President, I have recently read a very astute media accounting of the case of Benjamin Sasway of Vista, Calif. This young man's refusal to register with the Selective Service System has resulted in a felony conviction. I believe the verdict was just and feel that the integrity of our judicial system has been upheld.

However, what is most important to remember when considering this case, and future cases, is that current law

requires young men to register. And this is the issue. Registration is not optional—it is the law. When people willfully break the law, justice demands that they face the consequences. This is exactly what happened in the Sasway case. A lawbreaker has been convicted.

You may hear men refusing to register claim that "it is a matter of principle" or "I wish to keep my country from an immoral war." So, because of what a few men consider a matter of principle, they refuse to obey the law. No consequence appears to be given to the fact that the Government enacting these laws is based on principles of democracy and freedom. These men feel their principles are compromised; their idea of morality is jeopardized; and their rights are infringed upon. This self-oriented philosophy of right and wrong is no way to run a democracy where justice is mandated by the majority. What kind of society would we have if every individual could pick and choose which laws he or she likes and wishes to obey. The author of "The U.S. vs. Benjamin Sasway" is so right when he says:

The mere potentiality of an evil does not justify civil disobedience in a democracy. Our social contract as responsible members of a self-governing community has to be stronger than that.

As priviledged members of a democractic society, all of us have an obligation to accept the responsibilities which come along with the freedoms. We all must contribute to the protection of the Nation which makes these freedoms possible.

I ask unanimous consent that the article entitled "The U.S. vs. Sasway" which appeared in September 2, 1982, edition of the Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Tribune, Sept. 2, 1982]

THE U.S. VS. BENJAMIN SASWAY

Federal judge Gordon Thompson is being criticized for the way in which he presided over the trial here of Benjamin Harlan Sasway of Vista on the charge of refusal to register for the draft. It is said that Thompson should have allowed Sasway to tell the jury his reasons for refusing. And the judge is criticized for remanding the defendant to jail immediately upon the unanimous jury verdict of conviction, instead of allowing him to remain free pending appeal.

It is perhaps unfortunate that Sasway was not permitted to explain his motivation. Legally, Judge Thompson is undoubtedly correct. The reasons were not relevant and were not necessary to establish criminal intent. But it was a jury trial, and juries often take moral issues into consideration, aside from the narrow legal issues in a case. If they had considered Sasway's full defense, we believe they would and should have convicted him anyhow.

Civil disobedience is a powerful weapon. It is not one to be used lightly. The nature of the cause is essential to any justification of disobedience. For example, if a citizen claimed that his conscience directed him to drive his automobile on the lefthand side of the road, rather than the right, he would be ridiculed and his driver's license would be revoked without public controversy. The business of life cannot be carried on in any society without some basic contract between the members of the community in agreement on the ways of doing things in common and relating to each other.

Since its birth in revolution, this country has been peopled with rebels, many of whom have prided themselves on being what Robert Frost called "unamenable bastards." But it took the eccentric writer, Henry Thoreau, to devise the doctrine of civil disobedience. He objected to slavery and to the Mexican War, and he spent a night in jail for refusing to pay his taxes.

Mohandas Gandhi carried Thoreau's doctrine to an extreme, spending years in jail to protest the imperial British rule over India.

It was the trial of the Nazi war criminals at Nuremberg, however, that codified the principle that a man was fully responsible for his actions in carrying out government orders, even though it was his legal duty to do so. If the orders were morally criminal, he became a criminal for carrying them out. It was his moral duty to defy the law.

Now that is a principle which can be profoundly subversive of law and order. It is one that should be invoked only upon great causes, especially in a democracy such as ours, where the principle of majority rule is enshrined in a written constitution and individuals are protected against the tyranny of the majority by a Bill of Rights and an independent judiciary.

Sasway's reasons are not sufficient. He says he objects to the draft because it might lead to his participation in some immoral war. But, first, there is no draft. Volunteers are thronging to the military and enlistments have been closed for a time. There is no need for compulsory military service. And, second, the morality of international warfare is a dubious propositon at best, seldom clear until years after the fighting ends, at which time morality is usually proclaimed to rest with the victors. An immoral war is always possible. The mere potentiality of an evil does not justify civil disobedience in a democracy. Our social contract as responsible members of a self-governing community has to be stronger than that.

As for Judge Thompson's sending Sasway directly to jail, we fail to see any cause for criticism of the judge. After all, non-violent civil disobedience as practiced by Thoreau and Gandhi involves the willing acceptance of criminal penalties. Thompson has only given Sasway what he wanted and asked for.

SAN FRANCISCO CABLE CARS

Mr. HAYAKAWA. Madam President, at 4:55 yesterday morning, the noise and excitement of the San Francisco cable cars were temporarily stilled. The aged and tired cable machinery and cars will be undergoing extensive repair over the next 2 years. For the first time in a century, the Nation will be without cable cars.

San Francisco's first cable car was built in 1873 by Andrew S. Hallidie, a Scottish immigrant and ropemaker. The cable car system quickly became so popular that it was used as a prototype for many others. By 1890, cable systems were installed in 36 cities in the United States and abroad—all inspired by Hallidie's model.

Yet the popularity of the cable car was cut short by the introduction of the electric streetcar. By just 1902, all cable systems had been replaced by electric trolleys—with the exception of San Francisco's. The first had become the last. As San Francisco developed into one of the most beautiful cities of the Nation, cable cars became symbolic of that lovely city. People came from the four corners of the United States as well as the rest of the world to experience the joys and excitement of riding the cable cars over the San Francisco hills. Indeed, the cable cars had become a national treasure.

Even apart from their historical significance, the cable cars have played an important role in the economics of San Francisco. They have contributed greatly to the strength and growth of its tourist industry. Thousands of visitors come to San Francisco each year for the cable cars alone. It is estimated that San Francisco's tourist industry would lose $75 million annually if the cable car system fell into ruins.

Recently it has become apparent that the system must be renovated if it is to be saved. Recognizing the potential loss, a citizens' group in San Francisco was established—the Committee to Save the Cable Cars. The committee attained 80 percent of the estimated $58 million in renovation costs from the U.S. Department of Transportation. The people of San Francisco, through the committee, have raised $9 million of the remaining $10 million. Yesterday the renovation began and the cable cars will be shut down for less than 2 years. We all hope that on June 1, 1984, the people across the Nation may join the people of San Francisco in celebrating the return of the cable cars.

I also wish to salute the contribution of Friedel Klussmann, who showed how much a civic-minded person with a sense of history can accomplish when she initiated the first "Save the Cable Cars" campaign in 1947. Her story was recently retold in conjunction with a story on the cable car renovation project in the San Francisco Chronicle of September 17, 1982. I ask unanimous consent to include the two articles in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, Sept. 17, 1982]

THE LADY WHO RESCUED THE CABLE CARS

(By Carl Nolte)

Anyone who ever rides a cable car owes an immense debt to a very frail, very gracious elderly lady who lives in a wonderful house on Telegraph Hill. She is Friedel Klussmann, and 35 years ago, in the face of determined opposition from the city's establishment, she saved the cable cars from extinction.

She remembers it clearly. "I saw an item in Herb Caen's column in the morning Chronicle that said Mayor Roger Lapham had decided to get rid of the cable cars.

"I said to myself, 'Oh, no, they can't do that to San Francisco.' "

And, as it turned out, they couldn't.

"They already had the buses bought. You'd wake up some morning and the cable cars would be gone and the buses would be there. Once they took them away, we'd never see them again."

Almost by accident, Klussmann found herself at the head of a coalition—mostly women at first—that went to City Hall to fight for the cables. Arrayed against them were the mayor, the Chamber of Commerce, the Municipal Railway and every transit expert that money could buy. The cable cars, they said, were dangerous, expensive and old-fashioned.

"They didn't give us a moment's consideration. They thought we were just a bunch of dumb women."

Klussmann and her friends were tough and persistent. They had facts and figures, and the other side had what Klussmann bluntly calls "lies."

The coalition, by then a citizens' committee, also had a secret weapon. "I said, 'Let the people decide. They belong to the people, they are paying for them.' "

"It's amazing how little the politicians cared for what the people thought," she says.

She thinks her cable car campaign had hit on something else. The cable cars, she feels, are part of the spirit of the city. "It hasn't got a body," she says. "It's like an angel floating around out there that says 'Don't touch me.' "

Her group forced an election, and the people voted by more than 3 to 1 for a charter amendment to protect the cable cars.

"It was an incredible civic thing where a whole city turns over emotionally for something like a weird, funny cable car."

The cable car's friends did not win all their battles, which went on for years. When Klussmann started, in 1947, there were six cable car lines, but after a secret meeting of the Public Utilities Commission and a confusing and bitter 1954 election campaign, half the lines were amputated.

What's left is the system as it exists now. Every so often, though, the cable car's enemies try again. As recently as 1971, they wanted to cut back service on the California Street line, a move that Klussmann saw as an attempt to nibble away at the system.

That plan was also defeated at an election, but last year a charter amendment was passed to allow increasing the cable car fare to $1, substantially higher than the regular Muni fare. "I thought that very unwise," she said. "It's a last stab to do the cable cars dirt."

She learned over the years to mistrust City Hall, and when the city's political leadership proposed to rebuild the cable car system, "I was flabbergasted. They are doing what I said years and years ago should be done.

"I really think, now that we have plunged into it, that it will be something good." She and P. Q. Chin, the chief engineering consultant on the job, are good friends, and Klussmann has every confidence. "I think he's going to be very careful. If they change it, they'll spoil it," she says.

"You can do anything in San Francisco, but you can't touch the cable cars."

'84 CABLE CARS—NO MORE CLICKING

(By Carl Nolte)

When the cable cars go back in service in 1984 after $58.2 million worth of repairs, they will be a lot safer—and a lot less colorful.

It will be a bit like a patient who has had a heart transplant—everything's almost the same on the outside, but inside, where it counts, everything is different.

New welded rails will eliminate all the bouncing and jouncing and the familiar rattle of the cars. New machinery under the streets will replace much of the antique technology with "state of the art" pulleys, wheels and other mechanical devices to move the cable.

The cable car barn, which now resembles a Victorian curiosity shop, will be gutted. A whole new building, larger and more modern, will be put in its place. Only the old brick facade will be the same.

The crews will probably be different. All of the 230 men and two women who run and maintain the cable car system have been offered other Municipal Railway jobs. Many say they plan to come back to the cable cars, but several say privately it's time to move on.

"Wait until they find out how much easier it is to operate a car in the Metro system," said one. "You won't see them here again."

"I'm planning to come back," said another, "but who knows what I'll be doing two years from now. Do you know what you'll be doing in 1984?"

When work commences, even the thousands of rats that live under the streets are expected to move to new neighborhoods.

Rebuilding the cable car system will be painful. The optimists say that digging up 69 blocks of streets in the heart of the city will produce "major inconvenience." The pessimists speak of "chaos."

But if San Francisco wants to have cable cars, the work must be done. Without it, the cable car system would probably collapse in a matter of months.

Here's what the money will buy.

SEWERS AND STREETS

Utility engineers see the cable car project as a golden chance to fix up miles of sewers and gas mains under the streets. Most of the sewers under the cable car streets have not been repaired since the 1906 earthquake, and some of the sewers are said to be made of wood.

Construction manager Clay Baldwin doubts this—he says that the oldest sewers are made of brick—but nobody knows for sure. They won't find out until they open up the streets.

The street and sewer work will cost $10 million in addition to the $58 million price of the cable car work.

The first move is to rip up the tracks and cable conduit, a project that will be done in stages. It will produce a ditch 4½ feet deep and 22 feet wide on every cable car street except Washington and Jackson, where the ditch will be narrower. Parking in the downtown, Chinatown, Nob Hill, Russian Hill and North Beach areas, already difficult, will become next to impossible, and there will be a lot of dirt and noise.

CABLE CARS

The cars will look the same, but the Muni is thinking of making changes in the brake system. One plan being tested is to install hydraulic brakes in place of the mechanic brakes used for 109 years.

Some cable car crews think this is a good idea. "It will cut down on accidents," says gripman Al Davison, who has been injured several times at work.

Others are fiercely opposed. "If anybody should know how to operate these cars, it's us," says Wayne Buford, a gripman who circulated a petition denouncing the idea. "They should leave the cars alone. They are a class item," he said.

He got 115 signatures in only half a day from cable crews, only three men refused to sign.

THE CABLE

Impressed by the cables used on aerial trams in Switzerland, the Muni tested a Swiss-made cable on the Powell-Mason line last month. It started to unravel in only 17 days, compared to the 100-day life of the traditional American-made cable. Cable-splicing crews couldn't fix it, so it was thrown off the winding machinery, cut in 500-foot lengths and sold for scrap.

THE POWERHOUSE

At present, the cable is powered by the 650-horsepower electric motor, with another motor as a standby. Any failure causes the whole system to shut down. The single-motor system will be replaced with four motors, so if one segment of the system fails, the others can operate.

The machinery that drives the cables will also be replaced, including the huge drive wheels, called bull gear, and the big pulley wheels, called sheaves. A simpler and hopefully better system will be installed.

"Unless the old winding machinery can be placed in some museum," says Baldwin, "It will go for scrap."

THE CAR BARN

Now a funky old building that vibrates as the cable machinery moves, and cluttered with such things as odd pieces of cable cars, ancient hand-crank telephones and enough assorted Victorian junk to stock several antique stores, this building is going to get The Treatment.

At present, the superintendent's office contains the superintendent, Walter Ware, an ancient shotgun and an elderly billy club to fend off robbers. Sometimes, the system is managed by leaning out the window and yelling at passing cable cars.

When the barn is rebuilt, the cable car managers will have spiffy new offices in an all-new third story that will be added to the present building. They may even put carpet on the floor.

The new car barn will be bigger and roomier, and it won't fall down in an earthquake. Outside, it will look like 1887, inside it will look like 1984.

CABLE MACHINERY

Now the cables go from the powerhouse to the street by way of a dimly lit eerie tunnel under Washington and Mason streets that looks like something from the set of a horror movie.

The cables hiss like snakes; the wheels and pulleys that carry the cable rattle and the brick arch ceiling drips moisture. It's called the sheave room, or sometimes "the hole," and some say it is haunted, a story vigorously denied by cable machinery chief Bill Wearin.

All this will be changed, rebuilt and updated. The pulleys under the street will be the best and most modern available. The cable conduit will also be changed, and so will the yokes that support the track.

Because very few people have ever seen the gear under the street, tourists will never know the difference.

THE TRACKS

One thing people are sure to notice is that the cars will sound different. The bells will still be there, but the rails will be welded, like BART's rails. They will use the best technology available, and that means no more clickety-clack; instead the cable cars will rumble.

Some tracks will be realigned, and there will be many more switches to allow the double-ended California street cars to run on Powell Street, if desired.

The terminal at Hyde and Beach streets will be redone, and idle cable cars will no longer park on the hill in front of the Buena Vista cafe; instead, they'll be stored in Victorian Park between runs.

There will be spur tracks at Bay and Taylor streets, which will be made into a mall. A plan to do the same thing at Powell and Market streets ran into opposition from nearby merchants. Muni chief Richard Sklar also wants to make Powell Street into a mall between Geary and Market streets, but the business people are ready to fight that.

The cable tracks along Columbus Avenue will be realigned so the cars don't run down the middle of the street.

There will also be various changes in the track alignment on Powell and California streets, but the peculiar three-rail arrangement on portions of Washington and Jackson Streets will be retained. It was cooked up nearly 100 years ago by the old Ferries and Cliff House Railway, but modern engineers couldn't figure a way to do it any better.

OTHER IDEAS

A plan to extend the Powell-Mason line three blocks to Fisherman's Wharf was discussed briefly, then dropped, says Baldwin. "Our federal grant is for rebuilding the system, not extending it," he says.

So was a plan to run some of the California Street cars out Hyde Street, but the new system will be built so that such extension can be made at some later date, if desired.

The cable car system is a National Landmark, and historical standards will be strictly adhered to, says Baldwin. "Great care will be taken," he says.

But, he adds, "It is fair to say there will be some difference in the way it feels and sounds." Yet in an antique where feel and sound are part of the charm, any difference is important.

One major question remains: Will the job be done on time? San Francisco has never been a place where anything is done on schedule, but Chin and Hensolt, the engineers who planned the project, and O'Brien-Kreitzberg, the project managers, all swear it will be finished on budget and on time.

There are $2500-a-day penalties for delay for each of the seven major contractors. If everything works as planned, the first car in revenue service will roll out of the barn at 6 a.m., June 1, 1984, if the Good Lord is willing and the creeks don't rise.

HOW DEAD HORSES SPURRED CABLE CARS

(By Carl Nolte)

The cable car was invented in San Francisco in 1873 by Andrew Smith Hallidie, who wanted to find a way to transport passengers to the top of steep Nob Hill.

Though Hallidie is generally acknowledged as the father of the cable car, much of the technology was developed by William Epplesheimer and Henry Root.

Before cable cars, most public transit in the United States was powered by horses, but an epidemic in 1872 killed or crippled 2500 horses in Philadelphia and 18,000 in New York, forcing great changes in public transit.

Cable car systems displaced horsecars in 29 American cities.

The Chicago system, which ran for 25 years, was the largest. In 1892, it carried 237 million riders. By comparison, the Bay Area Rapid Transit system expects to carry 50 million passengers this year.

The invention of the electric streetcar soon caused the demise of cable transit. The cable car survived here mainly because our hills are too steep for streetcars.

A TRAIL OF NOTABLE SMASHUPS

(By Carl Nolte)

Cable cars are not always the safest form of public transportation.

The most spectacular cable car accident happened in Denver in the 1890s, when a car failed to let go of the cable and hit a railroad train, but the worst accident occurred in San Francisco in 1967, when a loaded cable car ran away on the Hyde Street hill and crashed into several automobiles. The wreckage then caught fire. Two people were killed and 43 injured.

Another bad one was in 1924, when a packed California Street cable car ran away on Nob Hill and smashed into a meat wagon.

Dazed and bleeding passengers got mixed up with pieces of sausage and raw meat, which they feared were dismembered victims. "Scores of women fainted," the newspapers reported. Women don't faint any more, but the cable cars still crash into things.

The strangest cable car story involves an accident that happened in 1964, also on Hyde Street, when a woman was injured on a runaway cable car.

She later claimed the accident had turned her into a nymphomaniac. She sued the city and collected $50,000.

MYRON LEE

Mr. HAYAKAWA. Madam President, I am pleased to come before my colleagues to commend the dedication and selflessness shown by Mr. Myron Lee during his tenure as a U.S. Forest Service firefighter.

Mr. Lee recently retired as the Fire Management Officer of the Cleveland National Forest in California. His career as a firefighter began in 1944 with the San Diego County Ranger Unit of the California Department of Forestry. He became a member of the U.S. Forest Service in 1946 and has seen continuous service with them, except for a military leave of absence in 1952, until his retirement in July.

Myron Lee has been the recipient of several awards during his career. In 1976, he was honored by the Chief of the Forest Service for outstanding leadership in the field of fire management. Recently he has been recognized for pioneering the cooperative programs involving Mexican and United States wildland firefighters and, in January 1982, he received the Federal Employees Distinguished Service Award.

I extend my personal thanks to Myron Lee for his contributions to the U.S. Forest Service throughout his career and offer my best wishes for his retirement.

Recently an article entitled "After 39 Years Fighting Blazes, He's Free of Calls" appeared in the San Diego Tribune regarding Mr. Lee's career. Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFTER 39 YEARS FIGHTING BLAZES, HE'S FREE OF CALLS

(By Michael Richmond)

After nearly four decades, Myron Lee is looking forward to a new experience "finding out what being free is like."

"I don't know what it will be like, for example, to be able to go to a shopping center without having to call someone first to tell them how to get hold of me," he said.

As fire-management officer for the 500,000-acre Cleveland National Forest, Lee has always been on call. But no more.

"I gave my pages to my assistant a little while ago," he said yesterday, as his last day on the job drew to an end.

Today he is beginning to enjoy his newfound freedom upon retiring from a long federal career highlighted by receipt this year of the prestigious federal employees' Distinguished Service Award.

"I'm pleased and satisfied that the things I've set out to do I've been able to accomplish," said Lee, who pioneered cooperative programs involving U.S. and Mexican fighters of wild-land fires.

He praised cooperation among his agency, the state and 70 local fire agencies.

For Lee, it all began in 1945 at the age of 15 when he worked on a fire-suppression crew in Ramona for the California Division (now Department) of Forestry. Upon turning 18, he switched to the U.S. Forest Service, fighting fires during the summers and working at odd jobs in the off-seasons. He signed on full-time with the Forest Service in San Diego in 1950.

"It's in your blood, just like the sea," he said as he recalled the early years of his career.

He rose from firefighter to district fire-control officer before assuming the top fire-management post in San Diego in 1968.

Fighting wildfires was a lot different 37 years ago.

"We didn't have much of a communication system at all," he said "There was no such thing as portable radios. We depended for the most part on the telephone system, and we had a lot of horses and a lot of mules to haul material to and from the fire lines.

"To find a hot spot we would have to feel the ground with our hands and find out where it was still hot," he said. "Now we have infra-red imagery portable equipment and a pretty sophisticated fleet of aircraft."

One thing that has not changed in 30 years is the need for well trained crews with hand tools get into the thick of the smoke and fire to grub out fire lines to halt the spread of flames.

As fire-management officer he trained and managed fire suppression personnel and served as the overall coordinator of strategies for fighting fires. He has served as fire boss on some of the state's largest confla-

grations, including the 175,000-acre Marble Cone fire in the Los Padres National Forest in 1977 and the disastrous Laguna Fire here in 1979.

For Lee, the Forest Service has been "like a family." It is a close-knit group with rangers often living and working together in isolated areas.

Lee will be saluted at a retirement party Friday in the Elks Lodge in El Cajon. He will have an opportunity to greet co-workers, relatives and former associates, some of whom are coming from as far away as Illinois.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that the time for routine morning business be extended under the same terms and conditions as heretofore ordered not past the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the Senator from Vermont (Mr. LEAHY) as a delegate to the North Atlantic Assembly meeting, to be held in London, United Kingdom, November 14-19, 1982.

Mr. EXON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

(Mr. NICKLES assumed the chair.)

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of House Joint Resolution 520.

Mr. BAKER. Mr. President, as I announced earlier, it is my intention to move to recommit this bill with instructions to report back forthwith.

I regret that in many ways, because I had three commitments outstanding, and I believe that in good faith I have been able to perform on only two of them.

The commitments were, first, that there would be a debate on the social issues, meaning particularly abortion and prayer. Surely, no one can claim we have not had that. We began that debate on August 16, over a month ago. The Senate has consumed more than 50 hours of debate. There were four cloture votes on the prayer amendment, which I support, and three cloture votes on the abortion amendment, as well as a variety of other measures, including tabling motions.

As I indicated earlier, I fully support the effort of the Senator from North Carolina with respect to prayer, and I support an abortion amendment that would roughly conform to the way the law is now—that is, the prohibition against the use of Federal funds for abortions except in those cases where the mother's life is at risk or perhaps in other cases, such as rape or incest, under certain circumstances. But this is not the place to argue that point.

The point is that we have reached the place, after a month, where I think the opportunity to debate those issues at this time has ended. The Senate has exhausted the possibilities of enacting reasonable legislation in that field, and it is time to move on, as indeed we are now doing.

The other commitments I made—and which I hope Senators will understand has been inevitably modified, at least, if not extinguished, by force of circumstances—was the opportunity for Senators to offer amendments to the debt limit bill. There are a number of Senators who wish to do that. I could think of a half dozen or dozen amendments that have been mentioned to me that Members would like to offer to the debt limit bill.

Mr. President, it was my firm and full intention to include those things in the debate at this time; but, as I said earlier, I think the circumstances have overtaken us. Indeed, in many ways they have overwhelmed us, and we have used up what I think is the reasonable time for debate on the debt limit bill on the few issues—that is, prayer and abortion—and there is powerful little time remaining for debate on other amendments.

As I say, I regret that. That is just a fact of life. We are coming down the home stretch, and my final word is that I hope Senators will forbear to offer those amendments to the debt limit bill and that we can get on with third reading and final passage. But before that can be done, it is necessary that we clean the bill of the amendments that already have been added to it.

I have consulted with the distinguished chairman of the Finance Committee, and I see the distinguished senior Democrat on the Finance Committee in the Chamber. They are aware of what I am going to do, as I believe every Senator must surely be aware.

Mr. President, I now move to recommit House Joint Resolution 520 to the Committee on Finance with instructions to report the joint resolution back forthwith.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 46 Leg.]

Andrews	Cohen	Murkowski
Baker	Garn	Nickles
Baucus	Gorton	Quayle
Brady	Hatfield	Schmitt
Burdick	Heflin	Warner
Byrd, Harry F., Jr.	Helms	Zorinsky
Byrd, Robert C.	Jackson	
	Long	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to require the attendance of absent Senators and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there Senators in the Chamber who have not voted who wish to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—93

Abdnor	DeConcini	Humphrey
Andrews	Denton	Inouye
Armstrong	Dixon	Jackson
Baker	Dole	Jepsen
Baucus	Domenici	Kassebaum
Bentsen	Durenberger	Kasten
Biden	Eagleton	Kennedy
Boren	East	Laxalt
Boschwitz	Exon	Leahy
Bradley	Ford	Levin
Brady	Garn	Long
Bumpers	Glenn	Lugar
Burdick	Gorton	Mathias
Byrd, Harry F., Jr.	Grassley	Matsunaga
Byrd, Robert C.	Hart	Mattingly
Cannon	Hatch	McClure
Chafee	Hatfield	Melcher
Chiles	Hawkins	Metzenbaum
Cochran	Hayakawa	Mitchell
Cohen	Heflin	Murkowski
Cranston	Heinz	Nickles
D'Amato	Helms	Nunn
Danforth	Hollings	Packwood
	Huddleston	Pell

Percy	Sasser	Thurmond
Pressler	Schmitt	Tower
Pryor	Simpson	Tsongas
Randolph	Specter	Wallop
Riegle	Stafford	Warner
Roth	Stennis	Zorinsky
Rudman	Stevens	
Sarbanes	Symms	

NAYS—4

Goldwater	Proxmire
Johnston	Quayle

NOT VOTING—3

Dodd	Moynihan	Weicker

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I understand now my motion to recommit House Joint Resolution 520 is the pending question before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I think it is important that we have a little time to discuss this matter and I do not ask the Chair to put that question. I see other Senators on the floor. I am going to leave the floor for a moment to consult with certain other Senators. So if someone has a question he wishes to put, I will be glad to try to answer it. Then I will yield so anyone else can gain recognition or I will suggest the absence of a quorum.

Mr. LONG. Will the Senator yield?

Mr. BAKER. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I want to ask the majority leader if it is not correct that the usual purpose of a motion to recommit and report back is to put the bill in such shape that it can be passed? While it is the right of any Senator to offer an amendment after the bill has been reported back, the tradition is that when such a motion is made and agreed to by the Senate, the Senate has more or less agreed that Senators will not vote for further amendments, and they intend to keep the bill in the fashion in which it was reported back.

Mr. BAKER. Yes, Mr. President, I think that clearly is the tradition of the Senate; that this device is used to clear a bill of amendments that have been offered and to bring it back so that the Senate can adopt the bill without further change. That is certainly not the rule. As the Senator properly points out, the bill would be subject to amendment after it returns stripped of the amendments that are presently on it. But the reason for making this motion is to clean up the bill and get it in shape so we can pass a simple debt limit in the form passed by the House of Representatives and send it to the President before the expiration of the present debt limit at midnight on September 30.

Mr. LONG. Mr. President, is it correct that when the majority leader makes this motion, can we rely upon the fact that he intends to resist any amendments to the bill after it is reported back?

Mr. BAKER. Mr. President, that is my intention. But there are certain other matters that I have to explore with the distinguished minority leader before I can make a categorical representation in that respect.

Mr. ARMSTRONG. Will the Senator yield?

Mr. BAKER. Let me first yield to the minority leader and then to the Senator from Colorado.

Mr. ROBERT C. BYRD. Mr. President, I recognize the position that the distinguished majority leader is in. This bill has been before the Senate since August 16, as he indicated earlier today, a period of 5 weeks. During that 5 weeks, the majority leader has carried out commitments which he has made as best he can. The 5 weeks have been absorbed, for the most part, however, in debate on amendments that came from the other side of the aisle. They dealt with abortion and they dealt with school prayer.

Now, there are some Senators on this side of the aisle who would like to have an opportunity at some point to debate—and I hope we could achieve a time agreement—to debate and act upon the jobs bill, and the unemployment compensation bill. I had earlier intended to mention the crime bill on which there is a time agreement, but the distinguished majority leader has already indicated that there will be an opportunity to take that bill up and that he will move to take that one up.

But the third measure I have in mind is a bill that was placed on the calendar to improve job training and job placement programs and educational assistance programs for veterans.

We feel, on this side of the aisle, out of fairness to those in the minority who strongly support these three measures, that there ought to be some opportunity to debate and vote on these three measures.

We would like to have an up-or-down vote, but even if it were not an up-or-down vote, we would like to have debate, brief debate, at least, and an opportunity to offer these amendments and get a vote on them—even though not necessarily on this bill.

When this measure is sent to the committee, if it is sent to the committee in accordance with the motion, it comes back clean. Amendments can be offered to the measure. The instructions can also be amended so as to get a vote on these measures that I have mentioned.

I would hope that we could work out some orderly procedure, however, whereby the majority leader could schedule these measures at his convenience before we go out before the election so that those on this side who have sat for 5 weeks listening to debates on amendments on abortion and on school prayer would have an opportunity to vote on measures which affect the economy of this country, and which affect the employment of people throughout the country.

In my State we have about 10,000 coal miners out of work. We have several thousand steelworkers out of work. We have several hundred persons who have lost their jobs at Kaiser Aluminum at Ravenswood. We have high unemployment all over the State. There are going to be other West Virginians who face the prospect of losing their jobs. We think it only fair that we have an opportunity at some point during the next week to briefly debate and have a vote on these measures.

I would like to support the majority leader's motion to send the measure back to the committee and strip it of its amendments. There is at least one amendment, and maybe two, however, that the majority leader and I joined in adding to the bill. One dealt with the Senate gymnasium. I have discussed this with the distinguished majority leader. It would be our plan, I hope, to do something about that proposition at some point. The majority leader will speak for himself. We are in agreement on the necessity for dealing with that matter at some point.

I would like to support the distinguished majority leader in moving to recommit the measure, clearing it of the amendments. While I might not vote for the bill as passed by the House, I think the decision of some Senators on this side of the aisle with respect to at least the final vote on the House bill may depend on whether or not we can get some assurance that there will be an opportunity for us to have a debate and vote on the jobs bill and on the unemployment compensation bill, and on the measure that pertains to assistance to veterans.

The majority leader is a man of his word, in whatever he says. If he can give some assurance that he will attempt to give us a vehicle or give us an opportunity or call the bills off the calendar—they are all on the calendar—and debate for a short time those bills, it would be appreciated even if a motion to table is made. We understand that is a Senator's right to so move.

We do feel, Mr. President, that in all fairness we are entitled to a vote on or in relation to these three matters before the Senate goes out. They are on the calendar and they can be called up, or at least a motion can be made to call them up, by any Senator. I would just hope that the majority leader could give us some assurance today, however, that he will do whatever is

within his power to see that we get this opportunity. I think this would help in getting the votes on this side of the aisle for the final passage of the House bill without amendments once it comes back from the committee. I am not urging that we call up these amendments to the bill after it is brought back before the Senate, though that is open to any Senator. I am not urging that we do that. I would like assurance, if the majority leader can give it, that we will have an opportunity to take up these issues at some point before the Senate goes out. We will not debate them for 5 weeks as these other matters have been debated. We can debate them for 1 hour, as far as I am concerned, and have a vote.

But if the majority leader, after listening to my request, can give that assurance, I think there are many on this side who will appreciate the opportunity to vote on these measures.

Mr. BAKER. Mr. President, most of us in the Senate Chamber have heard of waiting around for the other shoe to drop, and for a while I thought that the other shoe was the prayer amendment to follow abortion. But I must say I do not believe I ever saw an animal with five legs before that had five shoes to drop. Now we have done abortion and prayer and we are faced with the request—and it is a legitimate request—by the able and distinguished minority leader to take up three other controversial issues on this bill. He has a perfect right to do that. There is no doubt about it.

As I understand his request to me it is, "Will you give us an opportunity to take up these measures if we will not put them on the debt limit?"

I understand that and I respect that. That is an honored tradition in the Senate, one that I recognize and have even engaged in myself from time to time, more in the past than the present. But I understand that and I appreciate it.

But, Mr. President, we have the same problem here that we had to a degree with abortion and prayer. That is, at some point you have to get on with the country's work. Whether it is a sugar amendment or a coal slurry amendment or a railroad amendment or a holding period amendment or a veterans amendment or a jobs or unemployment compensation amendment, at some point you have to get on with the business at hand.

Mr. President, I hope that we could arrive at a time when we could get final passage of this debt limit clean, because we simply have to get this bill to the President. I am willing to think about other possibilities with the minority leader on other measures. It will take me a little while to do that. I will have to give it some thought. But I will state now I really would prefer not to do it on this bill because once we open this thing up there is no telling where it is going to end. Five weeks, it seems to me, is long enough. But I will think about that. I will take a few moments here and leave the floor and consult with my leadership and the others who are directly involved and we will see what we can do.

I would point out to the minority leader that we, too, have an interest in those same subjects, that indeed the conference committee completed its action yesterday or will complete it today on a jobs bill. It is not just in the House or Senate but this one is through Congress or just about through Congress. I will ask the Senator from Utah about that.

Mr. HATCH. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. HATCH. I think everybody is in agreement on the jobs bill.

Mr. BAKER. Mr. President, I point out to the distinguished Senator——

Mr. KENNEDY. Mr. President, may I have the majority leader's attention, since I am a cosponsor of this particular measure?

I think it is very important, since we have been talking about the issue of jobs, to understand that that is the Youth Training Act. It is in no way a jobs act. As the principal cosponsor of it, I think it is extremely important, when we are trying to understand where we are here today, to say that I have worked very closely with the chairman of the subcommittee (Mr. HATCH) and with Mr. QUAYLE, who has done an outstanding job.

That is a youth training program. It does not do anything for displaced workers. It is in no way a jobs program.

I also wanted to indicate to the majority leader my strong support for what the Senator from West Virginia has stated. We have debated for 5 weeks these two issues and all we are really asking now is to have 1 hour to debate an issue that can affect the lives of more than 250,000 men and women of this country.

The PRESIDING OFFICER. The majority leader has the floor. Does he yield the floor?

Mr. BAKER. Mr. President, I do not yield the floor, but I also do wish to interrupt the Senator from Massachusetts if he wishes to continue. I am in no way trying to argue a Kennedy bill as opposed to a Hatch bill. We have a "son of CETA" bill on one side and a jobs bill on the other, and this is not the time to argue it. This is not apples and oranges, but it is not oranges and oranges, either.

Mr. President, my point is that there is legislation in this field that has moved along not only in the House and the Senate but through Congress as well. I was about to say the Senator from Wyoming, the chairman of our Veterans' Committee (Mr. SIMPSON) has just completed action, I believe through the conference stage, on the most comprehensive veterans bill we have had in a long time.

Is that not true? Is not the conference report finished on that, I ask the Senator?

Mr. SIMPSON. Mr. President, we have a bill for veterans' benefits which is scheduled on the Consent Calendar today. We anticipate that the conference process will be completed by Monday, that the House will take up the final measure by Tuesday, and that by Tuesday or Wednesday the bill will be back in the Senate for final action, and then be on its way to the President.

This measure, S. 2913, includes a full spectrum of benefits—modifications and improvements to veterans' employment and education programs, the full 7.4 percent cost-of-living increase for service-connected disabled veterans, their dependents and survivors—all the issues with regard to veterans are there.

Mr. BAKER. Mr. President, I thank the Senator.

I think the minority leader is speaking of H.R. 6794, Calendar No. 834, is that correct?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. My calendar shows that S. 2913 is cleared for action by unanimous consent. I think we can really dispose of that which includes provisions of H.R. 6794 in it without any further trouble. I would like to check with the chairman of the Committee on Veterans' Affairs to make sure this calendar notation conforms with his understanding.

Mr. SIMPSON. Mr. President, that is exactly correct. The House bill we intend to amend today is H.R. 6782, which has been held at the desk. S. 2913 contains provisions from both H.R. 6782 and H.R. 6794.

Mr. BAKER. Mr. President, it always gives me pleasure to do this: I can tell the minority leader that I am pleased to proceed on that item.

If the minority leader will permit me, I would like to confer now with responsible Members on my side and see if we can find a measure and a time when we can get a vote on it in relation to the other two bills if we can get a time limitation on them. Do I understand the minority leader to indicate that possibility?

Mr. ROBERT C. BYRD. Yes, Mr. President. Let me state once again, if the majority leader will yield, the debt limit must be disposed of, as the majority leader has said. I have a feeling he will need some votes on this side of the aisle to pass that measure. I want to help him get some votes.

I heard a Senator laugh. I want to help the majority leader get some votes.

Mr. BAKER. If the minority leader will yield, I am sure the Senator was not laughing at the minority leader, but at my plight, instead, because he understands that to be absolutely true.

Mr. ROBERT C. BYRD. I thank the majority leader.

May I finish?

It would be more helpful to us and to me to assist in getting those votes if we could get some assurance that we will get a vote on S. 2904 one day in relation to that measure and a vote in relation to Senate Joint Resolution 245, which deals with the jobs training bill.

We are going to have some real problems concerning unemployment compensation before long in many of the States and the legislation that is on the calendar would rectify those problems. I certainly understand the distinguished majority leader's need to take this matter under consideration first with his colleagues and others, and that is satisfactory with me at this point.

Mr. BAKER. Mr. President, I promised the Senator from Colorado I would yield to him next and then to the Senator from Ohio.

Mr. ARMSTRONG. Mr. President, I am grateful to the majority leader for yielding. I want to express concerns that, in a sense, parallel those that have been expressed so eloquently by the minority leader.

I am concerned about the tradition which has been discussed, that if this bill comes back from the committee, having been recommitted with instructions, somehow, Senators would be violating an unwritten rule of the Senate if they offer amendments. I happen to be a Senator who intends to offer amendments. I have been patiently waiting for 5 weeks to do so.

In the case of one of the amendments, I have spoken to the majority leader much longer than 5 weeks ago. It is an amendment which is germane to the purpose and intent of the debt ceiling bill. If it is not offered here, it would have to be offered on some bill that is not as pertinent or germane. I am hopeful that we could have some understanding that, whatever the outcome of this motion to recommit may be, it would be within the understanding of Senators that amendments would be offered and considered.

For my part, there are two amendments on this bill in which I have an interest. I think neither is extraordinarily controversial. I would be personally willing to agree to a very short time agreement on either or both of them. My purpose is not in any sense to delay reaching a decision on this matter. I would even be willing to suggest a time agreement of a very short duration because I think they do not involve issues which require extensive debate.

Unless the majority leader cares to comment on that, I have one other concern which seems appropriate at this moment. That is the notion that, at some point, we must pass the bill as it came from the House. I hope Senators would not too readily agree to that idea. The Senate Committee on Finance has considered this measure and has recommended certain changes in it. But over and over again, on this measure and on appropriations bill, this body has been told that we must conform ultimately, after weeks of debate, after many speeches, after a lot of declarations, after a lot of smoke and gunfire, that ultimately, we have to do what the House has already done. The leadership of the House has very skillfully played upon this notion and has repeatedly sent us measures of very great import at the last minute, sometimes even sending them to us at the last minute and then going into adjournment or recess, putting us in a very difficult position.

In the case of the extension of the debt ceiling bill, they have not even voted on this matter as a separate issue. It was simply referred under that new process they adopted a couple of years ago, in which the clerk is instructed to send a bill automatically. For us to then get into the habit of simply approving what they send does not seem to me to be wise or responsible. We all know we have to reach a decision about this, but I do not think we ought to prejudge what the situation is.

I, for one, think some of the amendments proposed by the Finance Committee in its deliberation on this bill ought to be adopted. In any case, I do not think we ought to accept the idea that the House can just send us a bill and we have to go with it no matter what. I hope others might agree.

Mr. METZENBAUM. With the permission of the majority leader, Mr. President, I would like to inquire of the Senator what his amendments are?

Mr. ARMSTRONG. I am happy to respond, Mr. President. Both of them have been the subject of "Dear Colleague" letters. One amendment I have in mind, which I believe to be directly germane to the purpose of the bill, is an amendment which the Senator from Louisiana and I expect to offer having to do with the rescission powers of the President.

The other amendment is a sense-of-the-Senate resolution calling upon the Department of State to investigate and quantify the widespread reports of the use of slave labor by the Soviet Union in the construction of the Yamal Trans-Siberia Pipeline and other projects. If it is the majority leader's desire that I not offer a sense-of-the-Senate resolution on this bill, I could offer it on another. There is no requirement that it be offered in any particular place. I am just eager to bring that issue to a vote at some time, and I do not think that would occupy much of the time of the Senate for debate.

Mr. BAKER. Mr. President, I do not think the Senator from Louisiana meant, and certainly I did not mean to imply, that there is anything wrong with Senators offering amendments. I think what the Senator from Louisiana said, and I agree with him, is that it has been a recognized technique in the Senate for the leadership on both sides to use this exercise when it is necessary to get the bill in shape so we can move it along and pass it.

I think that is the tradition, but it is certainly not inappropriate, nor against the rules and precedent of the Senate, to offer amendments if the Senator wishes.

Mr. President, on the matter of whether they should be offered to this bill or not, that is a decision that really addresses itself to the Senator from Colorado. I do feel, that at some point, we have to get on with this bill. It is my strong preference that we pass it simple and unencumbered because I am advised by Members on our side in the House of Representatives that they would find it very difficult to deal with this measure standing alone. There is no secret about that; otherwise, I suspect they would not have adopted the rather unique procedure they have of dealing with the debt limit as part of the budget resolution, but that is another matter for another time.

Mr. ARMSTRONG. Will the Senator elaborate on the question of the position the Senate finds itself in when the other body sends us, as they have so often, measures very late and then takes the position that if we change them in any way, they simply will not pass? They have done that with the continuing resolution, they do it with appropriations, they do it routinely with the debt ceiling. It seems to me that the Senate runs the risk of becoming the junior partner in this process simply because we are less intransigent than the other body, and I am concerned about that.

Mr. BAKER. I would have a hard time proving to anybody that we were the less intransigent of the two bodies. Mr. President, I must say that while the House does that to us sometimes, they did not do it to us this time. We have had this bill here since we had the first budget resolution, which is a long time.

Mr. TSONGAS. Will the Senator yield?

Mr. BAKER. Let me yield first to the Senator from Ohio and then to the Senator from Massachusetts.

Mr. METZENBAUM. Mr. President, I say to the majority leader that I very strongly subscribe to the comments

made by the minority leader with reference to the emergency nature of the matter concerning unemployment benefits. In all fairness, the chairman of the Finance Committee made a real effort to resolve that problem, but the facts are that in excess of 30 States are going to trigger off their unemployment benefits probably during the period that we are in recess. I hope that we will be able to address ourselves to that issue and to correct what otherwise would be a great inequity.

With respect to another matter in connection with the subject of disability benefits, there is a crying need to solve that problem. I anticipated pressing to bring that up as an amendment to the debt ceiling bill, but in this instance the chairman of the Finance Committee has indicated his intention to attempt to move it. At least I understand that to be his intent on the subject. If so, there would be no need to do that. Absent that attempt, I certainly hope at least to put the subject on the agenda, and whether or not I could make any meaningful move is difficult to say at this time. But if the chairman of the Finance Committee would not see fit to move, then I would want to reserve my right on that point.

Mr. BAKER. Mr. President, I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I address my remarks to the Senator from Colorado.

There are a number of amendments that I have to this bill, and I recognize the need to get this matter dispensed with. I am inclined to let most of those go by the board. If we are going to entertain amendments on slave labor in the Soviet Union, I have a number of amendments more relevant than that. I say that if we cannot achieve some discipline around here, everyone else is going to be compelled to engage in the same kind of practice.

Mr. BAKER. Mr. President, I yield to the Senator from Colorado so that he can reply.

Mr. ARMSTRONG. I thank the majority leader.

Perhaps the Senator from Massachusetts did not hear my observation that if it was the desire of the majority leader, I would be happy to withhold the sense of the Senate resolution, which the Senator has just referred to, and offer it at another time. It is in order, it is my understanding, on any bill. I have been waiting for 5 weeks to find a parliamentary moment at which I could offer it. We have literally been in that kind of condition. I think it is a matter of some urgency, but I share the Senator's disposition that it may be the time to restrict this legislation to those items which are directly pertinent to the purpose of the debt ceiling bill.

My other amendment, I would point out to the Senator, is such an amendment. It is an amendment which has been under development specifically to be offered to the debt ceiling bill and really would not be very sensible or logical attached to some other bill, even though it might be feasible in a parliamentary sense to do it. But certainly if it is the desire of the leaders on both sides to minimize the number of amendments, I will be happy to withhold mine and offer at least the one at another time.

Mr. BAKER. Mr. President, I yield to the Senator from Illinois.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Illinois is recognized.

Mr. PERCY. I appreciate the majority leader's yielding for a question particularly while the distinguished chairman of the Finance Committee is on the floor.

Mr. BAKER. Mr. President, may I yield the floor so that the Senator from Kansas can seek the floor in his right since he is chairman of the committee and would be in a better position to answer the questions of the Senator from Illinois.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I yield to the Senator from Illinois.

Mr. PERCY. I say to the majority leader, may I put the quick question to him, because I do believe we ought to have this debt limit bill out of the way as fast as we possibly can.

There could be no bill more germane to reducing the public debt than debt collection. We have been waiting since July 17 when the debt collection bill was reported out of the Governmental Affairs Committee and reported out of the Finance Committee on December 3.

My question is simply this, particularly in view of the fact that the President said yesterday that he is going to "chart a 6-year campaign to make the bureaucracy run more like a private business," and Joe Wright, Deputy Director of OMB, said, "The Government is bogged down with a morass of systems that are frequently incompatible, redundant, or obsolete." We do not have to wait 6 years. We are losing millions of dollars every single day. If we can get a time limitation of 1 hour after the debt limit is cleared—and I certainly will not offer it as an amendment to this bill—can we get assurance that we can take care of that bill before we go out on recess?

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. If the Senator from Kansas will yield to me, let me say that it is a good bill that the Senator from Illinois speaks of and, yes, I do support it and will make every effort to schedule it, but I hope he will not offer it on the debt limit.

Mr. PERCY. I have said that I will not offer it on the debt limit bill.

Mr. BAKER. It may be that we have created a situation where we pass two bills every year, one of them is a reconciliation bill and the other is a debt limit bill and that everything goes on it. I do not think that is what the Senate intends to happen, but the whole legislative agenda is sort of being wrapped up in those two bills. If that is the way it is, that is the way it is. But all I can deal with at the moment is this measure.

I am going to yield the floor once again—and I thank the Senator from Kansas for permitting me to speak at this point—while I go see where we go next. As the old saying goes in Tennessee, "It may be that you can't get there from here," but I am going to try.

Mr. DOLE. Mr. President, I share the view expressed by the Senator from Illinois, and I would certainly be willing to help work out a time agreement. We can do it in 5 minutes. We do not need an hour, but we would like an hour if necessary.

Now, do I understand there are a number of amendments pending to the debt ceiling bill now?

The PRESIDING OFFICER. There is a motion to recommit and four underlying amendments.

Mr. DOLE. I assume that, but if that fails would there be amendments pending?

The PRESIDING OFFICER. If the motion to recommit fails, then those four amendments that the Chair spoke to are pending and will be dealt with.

Mr. DOLE. As I understand it, there are also 1,470 printed amendments pending?

The PRESIDING OFFICER. The Senator from Kansas is correct.

Mr. DOLE. Would it be appropriate to consider all of those en bloc?

The PRESIDING OFFICER. By unanimous consent only.

Mr. DOLE. I will not ask it now, but I might just indicate to my colleagues that that might be one way to get home by Christmas; we just bring them up en bloc and accept them en bloc, take all of them and then strip them all and pass the debt ceiling bill. We would get a lot more sleep that way, it seems to the Senator from Kansas, than arguing about all these amendments that are not going anywhere. Why not just get unanimous consent. If Senators want to look at them, they are on their desks. I cannot lift them myself. But there are a number of amendments that have a great deal of merit—there may be a number of amendments that have a great deal of merit. [Laughter.] So that nobody feels short-changed, why

not just accept all of them, put everything on the debt ceiling bill. It does come out of the Finance Committee, but I have not been on the floor for 5 weeks; it did not seem necessary. But now we are getting back to matters that may be germane, which is sometimes refreshing.

So, that might be a way out: To take all of them, accept them all, and then strip them all, and everybody can write home and say, "They have accepted my amendment, but because of some procedural thing, they took it off." [Laughter.] It would make great copy for a newsletter. They might even put a photograph in the bill itself. [Laughter.]

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. ARMSTRONG. I think the chairman makes a good point. But I believe he will also acknowledge that a distinction must be drawn between those amendments which are clearly nongermane and those which really do relate to the essence of the bill. I am sure that in critiquing the general procedure by which we are considering this bill, he did not intend to suggest that it was improper to offer amendments which do relate to the purpose of the bill.

Mr. DOLE. Oh, no.

Mr. ARMSTRONG. As to the question of the 5 weeks we have devoted to amendments which are not germane—both of which are amendments I supported and continue to support—I do not think that, even in the first instance, it was the desire of the movers of those amendments to put them on the debt limit bill. I may approach the majority leader another time—since he is not on the floor—but his concern that we are going to end up with a two-bill session, I think, has some validity. But that was not the choosing of even the movers of the amendments. That was the way it worked out. Perhaps it was a poor decision to make the debt limit the vehicle for these two issues.

It does not seem to me that that should prejudice the reasonable consideration of amendments which are germane. I am perfectly willing to agree to a very short time agreement on the amendments I wish to offer. I do not think I am going to vote for the debt ceiling bill, anyway. It will depend in part on whether or not some amendments which contain financial reform are contained in the bill.

I just wanted to clarify that more than one kind of amendment is pending.

Mr. DOLE. I do not quarrel with that. I have not had time to review all the amendments pending. Certainly, some clearly are germane, and some are offered because there was no other vehicle. I do not even quarrel with that. It is the dollar amount in the debt ceiling. It is the date of September 30. Maybe we can change the calendar, and we will not have to face up to the debt ceiling.

It seems to me, however, that we need to do something. We still have tomorrow and until next Thursday. I am just trying to help the majority leader and others expedite the consideration of this matter.

If we strip the debt ceiling bill now of whatever may be pending and then come back and load it up again and strip it again, it seems to me there may be one way to avoid some of that procedure, and maybe that can be resolved; and those who have legitimate amendments—I do not suggest that there are any which are illegitimate—could offer them.

I do not think we are under the gun as to what the House may do, but there are a lot of Members of the House who never vote for increasing the debt ceiling. They may vote for a lot of spending, but they never vote to increase the debt ceiling. They may vote for a lot of spending, but they never vote to increase the debt ceiling. That is why they adopted this budget procedure.

I have discussed this matter with the Speaker of the House, with the ranking Republican on the Ways and Means Committee, with the chairman of the Ways and Means Committee, and with the minority leader, Representative MICHEL, because I have an amendment on the debt ceiling. I think it is a good amendment. It would reduce the holding period from 12 months to 6 months. It should be on that bill. It was in the tax bill.

The Senator from Colorado and the Senator from Louisiana have a good amendment. They make the temporary ceiling permanent, and it should be in the law. But let us face it: There are some realities that are going to be cropping up in the next few days, and one is that they cannot pass a debt ceiling in the House of Representatives. Every Member of the House is running for reelection.

It seems to me that if the leadership—the Speaker and the ranking Republican and the chairman of the Ways and Means Committee and the ranking Republican—say there is no way we can pass the debt ceiling, maybe that should not deter the Senate, and I am willing to try to send it over there; but, knowing the realities in the House, at this point we should accept those realities.

In this instance, it is not that we have just received the bill. We have had it for months. I happened to be on the losing side of both issues that have been debated, but I should like to expedite consideration.

We still have a subchapter S bill in our committee which we would like to pass. We still have a technical corrections measure to report from the Finance Committee, and that is important to a lot of taxpayers.

In my view, if we can consider the debt collection bill discussed by Senator PERCY and some other bills that should be addressed in the Senate in the last 6 days of this session, we should try to accomplish that. The Senator from Kansas is willing to do almost anything.

Mr. President, unless someone else wants to be heard at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I had thought earlier, as I have said any number of times, that when we reach this point we will be prepared to clean up this joint resolution and pass it without further amendment.

I also indicated earlier that that is contrary to the representations I made earlier to a number of Senators that they could use this joint resolution as a vehicle to carry their amendments on other matters. They have that right. I made that commitment. It is clear to me now that they want to exercise that right. I am not going to try to do anything to stop them.

Therefore, I intend to go forward with the motion to recommit.

I will tell the Senator from West Virginia, as I have earlier, that he has every right to offer amendments that he suggested, and I wish to get a time agreement on them. We will just have to vote them up or down as the time comes, and I am sure he understands that the time agreement should be only in relation to those items. But I can assure him that I will not try to take this joint resolution down. We are going to just work our way through it as we originally planned. If he can give me time agreements that will be very helpful.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Let me make it perfectly clear for the record that I was not insisting that we offer these amendments to this joint resolution. I was only wanting to see if I could get assurances from the majority leader that we would have an opportunity before we go out hopefully on October 1 to deal with these two items which remain separately. I do not particularly wish to hold up this joint resolution, and I only wish to make it indubitably clear that was not my intent to attempt to hold up this

joint resolution. I was just seeking assurances that we have an opportunity, aside from this joint resolution, hopefully to press these issues and get a vote on them.

The distinguished majority leader has to do what he has to do. If he cannot give those assurances I will understand.

Mr. BAKER. Mr. President, I thank the Senator. I can assure the Senator that I will make no effort to prevent him from doing that as an amendment to some other measure. I cannot, as I think he knows, give him an agreement to bring these measures up as freestanding measures for the Senate. He and I discussed that at length. But he has a right to offer these amendments as amendments to some other bill that will qualify.

I understand that the jobs bill was a part of an urgent supplemental appropriations bill in the House of Representatives. So any of the appropriations measures I think could carry such an amendment.

On the unemployment I assume that that also was not an appropriation bill, but I am sure we can find some vehicle for the Senator to do this.

The Senator has that right. I do not have to do anything to create it, as he knows, and I can give him the assurance that I will do nothing to stop it because any Senator is entitled to offer any amendment that qualifies under the rules of the Senate, and I expect his would.

So with that I hope the Senator can support this motion to recommit.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. I will support this motion to recommit. The assurances the distinguished majority leader has given are not the assurances I hoped to get, but I can understand the majority leader's position. He has given assurances as far as he can give assurances, and I understand we will have opportunities to call up the amendments, and the effort will be made, and the majority leader understands that that will be made.

I cannot assure that some Senators may not wish to try to offer amendments on the clean bill when it comes back.

Mr. BAKER. I understand.

Mr. ROBERT C. BYRD. But while I am not totally satisfied I am happy with the distinguished majority leader's response. At least he has considered it, and after talking with his colleagues he has stated what the situation is, and I respect that.

Mr. BAKER. I thank the Senator.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to recommit House Joint Resolution 520 to the Committee on Finance with instructions to report the joint resolution back forthwith.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

On this vote, the Senator from New York (Mr. MOYNIHAN) is paired with the Senator from Tennessee (Mr. SASSER).

If present and voting, the Senator from New York would vote "yea" and the Senator from Tennessee would vote "nay".

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—79

Andrews	Goldwater	Mitchell
Baker	Gorton	Murkowski
Baucus	Hart	Nickles
Biden	Hatch	Nunn
Boren	Hatfield	Packwood
Boschwitz	Hawkins	Pell
Bradley	Hayakawa	Percy
Brady	Heinz	Proxmire
Bumpers	Hollings	Pryor
Burdick	Huddleston	Quayle
Byrd, Robert C.	Humphrey	Randolph
Chafee	Inouye	Riegle
Chiles	Jackson	Rudman
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Schmitt
Cranston	Kasten	Simpson
D'Amato	Kennedy	Specter
Danforth	Laxalt	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Wallop
Exon	Mattingly	Warner
Garn	McClure	
Glenn	Metzenbaum	

NAYS—16

Abdnor	Denton	Jepsen
Armstrong	East	Pressler
Bentsen	Ford	Roth
Byrd, Harry F., Jr.	Grassley	Symms
Cannon	Heflin	Zorinsky
	Helms	

NOT VOTING—5

Dodd	Moynihan	Weicker
Melcher	Sasser	

So the motion to recommit was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senate Finance Committee reports House Joint Resolution 520 to the Senate for its consideration.

The PRESIDING OFFICER. The joint resolution is before the Senate.

● Mr. GRASSLEY. Mr. President, the success of the majority leader's motion to recommit has brought to an end the Senate's lengthy consideration of the Helms proposals on school prayer and abortion. I am sad that a minority of this body has chosen to use the rules to prevent a direct vote on the passage of these proposals. But I raise not out of sorrow but appreciation, appreciation for the leadership that the Senator from North Carolina has shown on this issue.

The position of leadership is often a lonely place to be, and that was particularly true in this fight. Senator HELMS has shown exemplary courage in sticking to his principles and fighting for two issues that are very important to many millions of Americans.

His courage has earned him the distinction of being attacked by unnamed sources in numerous press accounts recently. He has been criticized as being ineffective in not having broken the filibuster against his amendments. While it is true that the cloture motions did not garner the necessary three-fifths vote, in the majority of the votes Senator HELMS gathered the support of a majority of his colleagues.

I cannot believe that anyone who knows the workings of Washington would call a Senator who repeatedly garners a majority of favorable votes on two emotional and controversial issues anything but effective.

The Senator from North Carolina certainly is one of the most effective Members of this body. If we were not effective, his enemies would not be wasting their breath on these anonymous attacks.

Although in the final analysis the filibusters were not broken and the proposals are not law, Senator HELMS deserves the thanks of all Americans concerned with the Court determinations on school prayer and abortion for his leadership and courage.●

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2016

(Purpose: To amend the Agricultural Act of 1949 to modify the price support program for the 1982 through 1985 crops of sugar)

Mr. QUAYLE. Mr. President, I call up printed amendment No. 2016.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE), for himself, Mr. TSONGAS, Mr. ROTH, Mr. PROXMIRE, Mr. CHAFEE, Mr. SPECTER, Mr. GORTON, Mr. PELL, Mr. HEINZ, Mr. STAFFORD, and Mr. MATTINGLY, purposes amendment numbered 2016.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . Paragraph (2) of section 201(h) of the Agriculture Act of 1949 (7 U.S.C. 1446(h)(2)) is amended to read as follows:

"(2) The Secretary shall support the 1982 crop of domestically grown sugarcane through nonrecourse loans at 14 cents per pound for raw sugarcane.

"(3)(A) Effective October 1, 1983, the Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate, but not less than 14 cents per pound for raw cane sugar.

"(B) Notwithstanding subparagraph (A), the Secretary shall support the price of domestically grown sugarcane at a level not less than 17.5 cents per pound for raw cane sugar for the 1983 crop, at not less than 17.75 cents per pound for the 1984 crop, and at not less than 18 cents per pound for the 1985 crop, if the Secretary finds that by the exercise of his full authority to impose duties and import fees such support level for such crop would not likely result in the acquisition of significant quantities of sugar by the Commodity Credit Corporation.

"(4) Effective October 1, 1982, the Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines to be fair and reasonable in relation to the level of loans for sugarcane.

"(5) The Secretary shall announce the loan rate to be applicable during any fiscal year as far in advance of the beginning of that fiscal year as practicable consistent with the purposes of this subsection. Loans during any such fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature before the end of that fiscal year.".

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Has the bill been reported back by the Finance Committee and is the Senator from Kansas offering an amendment?

Mr. DOLE. The Senator from Kansas did not offer an amendment.

Mr. BUMPERS. The Senator from Indiana. And we are on an amendment now to the debt ceiling bill?

Mr. DOLE. Yes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, as many in this Chamber know, it has been my desire and the desire of the Senator from Massachusetts (Mr. TSONGAS) to bring to the Senate a discussion on the sugar program for a considerable length of time. As a matter of fact, Mr. President—Mr. President, can we have some order? I have a great speech I want to give and I want everybody to hear it. Mr. President, can we have order? I am sure the Senators want to hear this speech.

The PRESIDING OFFICER. The Senator from Indiana is correct. The Senate will be in order.

The Senator from Indiana has the right to be heard. The Chair will request Members of the Senate to be in order.

The Senator from Indiana.

Mr. QUAYLE. Mr. President, we have attempted to bring before the Senate, Senator, TSONGAS, myself, and others who are cosponsoring this amendment, a discussion on the sugar program throughout this whole summer. As a matter of fact, I entered into a discussion on the floor publicly with the majority leader as early as the latter part of June. I have talked with him privately and throughout the whole duration of the debate on this debt limit bill, which has lasted for a long, long time. We have all been promised an opportunity to get these amendments before the Senate.

I know that one of the arguments that will be waged against this amendment will not be on substance, it will not be on the merits of whether we ought to moderately reform the sugar program by reducing its price support 3 cents, which will save the consumers of America millions of dollars, but it will be argued that this is not the right time or the right place to have this amendment.

Mr. President, I suppose that the right-time-right-place argument can be waged against this amendment and every other amendment. But I hope that this body will now move forward, since we are off the amendments which have hung us up for a period of about 5 weeks, and take a serious look at not only my amendment but other amendments that will be offered on this debt limit bill.

A lot of people have been very patient and cooperative throughout the debate on the debt limit. We have been told time and time and time again that this is going to be the vehicle to have amendments. So let us have at it. We will have a good discussion. I am willing to accommodate the majority leader and the minority leader. I am sure that the Senator from Massachusetts (Mr. TSONGAS) would likewise be willing to accommodate them in any kind of a time agreement that the Senator from Kansas might want to work out so that the Senate can vote on this measure after a discussion and then go on to other amendments so that other Senators can be heard.

Mr. President, today, as I said, the distinguished Senator from Massachusetts (Mr. TSONGAS), who has worked exceedingly hard with me on this amendment, and I are offering this amendment that reduces the level of the Federal price supports for domestic sugar. Joining us as cosponsors of this amendment are Senators ROTH, PROXMIRE, PELL, HEINZ, CHAFEE, SPECTER, GORTON, MATTINGLY, and STAFFORD.

The sugar program, in my opinion, is a program that has become an embarrassment to this administration and to this Congress. I do not believe that the President really wanted to impose quotas, which he did on May 5, 1982.

I would like to just take this time to read to the Senate part of the President's statement when he signed the proclamation imposing import quotas on sugar. I will quote the President:

I personally regret the necessity for signing these proclamations.

I will read that again:

I personally regret the necessity for signing these proclamations.

He goes on:

The sugar program, enacted by Congress to protect high cost domestic producers, will result in higher costs for all American sugar consumers.

That is the President's statement when he signed the proclamation imposing import quotas on sugar. That statement is characteristic of what this amendment is all about.

This amendment will reduce the 1982 price support program for sugar by 3 cents, from 17 cents to 14 cents, at a level which we think would be achievable to not have the imports that we presently have and the policy that the President of the United States said that he was reluctant and regretted to have to sign.

Mr. President, last fall, a number of us in this body said that the price support level for sugar was too high, that it was so high that the U.S. Government would be forced to buy sugar. Now we find out that we have not been forced to buy sugar. We have only avoided this by restricting imports of sugar, so much that the domestic prices for sugar have risen by 50 percent since the passage of the farm bill. So, like many of the actions that the Federal Government takes, there is a certain sleight of hand involved in this decision. Instead of having the Government use tax money to support the price of sugar, which we would have to do through forfeitures, we simply shifted the cost from taxpayers to consumers, who are also taxpayers, I might add. We did avoid widening the Federal debt, but American consumers have to pay the heavy price of the support program.

Support for sugar growers does not come cheaply. This year, the sugar program will cost consumers an average of $215,000 for each and every sugar grower. By contrast, the wheat and feed grain programs cost roughly $475 and $996 per grower. As a matter of fact, even the dairy price supports cost only $11,250 per farmer, which is less than 4 percent of the level for the sugar support.

Mr. President, what is the philosophical justification for this pro-

gram? Is it the policy of the U.S. Government to place a protective umbrella around each and every industry regardless of the cost? Do we have some competitive advantage over other nations in the growing of sugar? Is there a national security interest in trying to guarantee the viability of the domestic sugar industry?

(Mr. CHAFEE assumed the chair.)

Mr. QUAYLE. I submit that the answer to each of these questions is clearly in the negative. We cannot continue to try to protect all American interests against competition. In the case of sugar, we clearly have no comparative advantage over other sugar-growing nations. In fact, we are at a competitive disadvantage.

Finally, any talk of national security interests in the context of the sugar industry is certainly beyond the comprehension of this Senator. In fact, if we cannot find enough sugar in the Nation covered by the Monroe Doctrine to gratify our collective sweet tooth, we are in trouble. It is time that we end this age-old practice of coddling the sugar industry.

The program is out of line in terms of benefits it confers to only 13,000 sugar growers. It is entirely misguided as a precedent of our economic policy, and it has only negative impact on our foreign policy.

Let me briefly outline the cost consumers are paying for this program. For the 1981-82 crop year, Congress requires sugar to be supported at 16.75 cents per pound. To avoid direct cost to the Government, the USDA and the President are attempting to keep domestic prices above 20 cents per pound. Import duties and fees now in effect add about 4 cents per pound to world prices, and import quotas drive up prices another 10 cents, so the current world price, around 6 cents, is raised by about 14 cents per pound. The total sugar tax imposed on consumers amounts to about $4.2 billion on an annual basis, since each additional penny in sugar prices adds $300 million to the Nation's sugar bill.

Viewed from another angle, the sugar program is currently costing each man, woman, and child in this country about $15.50 per year. These additional costs may not seem overly burdensome, especially to those of us in Congress who sometimes hardly blink at dollar figures below billions. Nonetheless, I think we should reflect on the aggregate cost of this program to the U.S. economy. I imagine we could find better ways to spend the $4.2 billion.

The problem is, Mr. President, the fact that we have highly restrictive import quotas needed to protect sugar prices is causing some problems for the domestic sugar users. Over 40 percent of U.S. sugar is imported. Last year, we imported over 5 million tons of sugar. Quotas are expected to reduce this figure to 3 million tons this year and 2.8 in 1983. We have already seen some spot shortages of sugar that have caused refineries to shut down.

Additionally, since foreign refines of sugar may not be assured of supplies, they may be faced with the prospect of not making contracted deliveries to major users such as confectioners, bakers, soft drink bottlers, and food processors. Unreliable trading partners, as we have seen all too painfully in the aftermath of our grain and soybean export embargoes, tend to have great difficulties in regaining the markets or sources of supply. How often, Mr. President, have we heard a discussion about unreliable trading partners? We are becoming the unreliable trading partners. One day, we have quotas, the next day we do not. One day, we have embargoes, the next day we do not. Is our word going to be good?

For this program to protect 13,000 sugar growers at a cost to the consumer of about $4.2 billion is simply a bad program, make no mistake about it. Even the President, as he signed the proclamation to impose these quotas, said that he was reluctant and regretted doing so.

Mr. President, I do not need to point out to this Chamber all of the problems and the nuances that go to outright protectionism by this country for a small, sophisticated group of a few thousand producers and growers in this country. What this amendment is designed to do is make a temporary adjustment in the price support program during the current period of abnormally low sugar prices, to establish a loan rate of 14 cents a pound for the 1982-83 crop year only. This will enable the Secretary to administer the program without significant risk of budget outlays. The Secretary would be able to support the price through the use of import duties and fees and hopefully without import quotas. We estimate that a world price of only 9 cents per pound would be sufficient to allow the Secretary to achieve the market stabilization price of around 17 cents with duties and fees alone.

Mr. President, I know that this issue is not new to this Chamber. It is not new to the individual Senators who are interested in this matter. We have discussed the program before. Last year there were a couple of votes, one on the amendment offered by myself and the Senator from Massachusetts to eliminate the program entirely, to go to where we were in the late 1970's when we did not have a sugar program, and there was another amendment offered by the Senator from New Hampshire (Mr. HUMPHREY) that would have restored the 16.5 cents loan level.

Both of those amendments, unfortunately, were defeated. There was concern then that we would have forfeitures, but instead of forfeitures we have import quotas, which is obviously doing a significant amount of damage to the credibility of our own country.

Look at the Caribbean Basin Initiative. We are talking to those countries about the free enterprise system; that free markets and free trade are the ways to pull yourself up by your bootstraps. Then we turn right around to those countries on a commodity that they seem to have the advantage of producing on a competitive basis and say that we are only going to take a certain amount; we changed our mind once again.

We complain about subsidies; we complain about dumping; we say that they are illegal. We should be complaining about those issues loudly and clearly. I will not take a backseat to anybody who says that dumping is not illegal and we ought to respond and retaliate, whether it be through imposing countervailing duties, entering into voluntary arrangements, pursuing GATT, whatever the retaliation would be. There is no doubt that we should do that.

However, it is too much to impose, for the convenience of a few people in this country, a protective program that will cost the consumers billions and have severe damage on our foreign policy and our implementation of a new approach to friendships in our own hemisphere. I think it is time that we make a moderate change.

This is a moderate reform of the sugar program. After the 1982 crop, the Secretary for the 1983 crop shall, if he finds that he does not have to impose quotas, go back to the price support system adopted in the farm bill of 17.5 cents per pound in 1983-84 and 18 cents in 1985.

I am extremely concerned about the possible consequences of a rising spiral of trade restrictions on U.S. farmers. We stand to lose much more than we can hope to gain by engaging in a trade war in agricultural commodities. There are some who argue that the only way to convince our trading partners to remove barriers to trade with the United States is to get tough by shutting off our own markets. If this is true then our farmers are going to have to pay once again for our misdirected policies. One might look to the sugar program, which is supposed to help farmers, as a catalyst which triggered protectionist forces which will do irreparable harm to the U.S. farm economy. Mr. President, I hope we can avoid a trade war. I believe we should pursue all possible diplomatic avenues—including the established GATT adjudication procedures—to try to work out our trading differences before they escalate any further. But I caution that any attempt to negotiate these differences will be seriously im-

paired if we continue these import quotas on sugar.

Mr. President, those in the Congress who sponsored an even more generous sugar program than the one now in effect will tell us that the only reason for the program is the need to counteract "dumping" of sugar by the European Economic Community. They argue that the EEC price support program and the export subsidies which go along with it are solely responsible for the low sugar prices we have seen since last year. They will also evoke the tough-sounding and heady argument that we have to teach the Europeans a lesson and not let them get away with unfair trading practices. That is why, they argue, we need our own support program along with import quotas.

I would like to remind my colleagues that even if the EEC did not subsidize sugar to the extent it does, the world sugar program would sooner or later face the same difficult policy choices we are now confronting. The Europeans did not start producing exportable quantities of sugar until the late 1970's. Even a cursory glance at the history of sugar prices shows the basic cyclical nature of this phenomenon going back until early in the 20th century. In 1972 the average world price of sugar was 7.43 cents. By 1974 it was up to 29.9 cents, and then went back to 7.8 cents in 1977. In 1981 alone the price fluctuated between 11 and 28 cents per pound. Unfortunately, Mr. President, sugar prices are at the mercy of Mother Nature. Much as we might try to place the blame on some outside source, sugar prices depend on supply and demand. Blaming the Europeans alone will not rid us of the dangers of the sugar price support system. We have at our disposal import fees, countervailing duties, and other ways to combat unfair trade.

A much more responsible and less dangerous way to counter alleged unfair trading practices by the Europeans is to follow the well-established mechanisms of GATT to resolve our disputes. I admit that this method is laborious and sometimes frustrating, but I believe it is clearly in our interests to preserve the international trading order symbolized by GATT. It is in this context that we must exert pressure. If we take unilateral action and circumvent GATT, we will just invite the Europeans and others to do the same. I must again insist that opening up a trade war can only hurt the United States and everyone else involved.

Mr. President, it is time that we stop talking about the problems caused by our sugar program. It is time to mitigate the worst consequences of our unwise decision to set unnecessarily high sugar price supports. We simply cannot continue to protect industries which have no comparative economic advantage and little strategic importance.

In May Senator TSONGAS and I, along with 20 cosponsors, introduced a bill which would eliminate the sugar program altogether. I still believe this should be the long-term goal of our actions in Congress. However, I believe the process of reform should begin immediately. So Senator TSONGAS and I today are offering a plan to reduce the sugar price supports as a means of giving some relief to American consumers and exporters and to allow the possibility of improving our ties with our trading partners.

Our amendment is designed as a temporary and limited adjustment in the price-support program during the current period of abnormally low sugar prices. It would establish a loan rate of 14 cents per pound for the 1982–83 crop year only. This will enable the Secretary to administer the program without significant risk of budget outlays. The Secretary would be able to support the price through the use of import duties and fees and without import quotas.

We estimate that a world price of only 9 cents per pound would be sufficient to allow the Secretary to achieve the market stabilization price of around 17 cents with duties and fees alone. Let me insist that this is a realistic price assumption for world sugar. USDA has estimated that world prices will hover between 10 and 12 cents later this year and in 1983. We should also remember that world demand has been severely restricted by U.S. import quotas. Before the administration began to consider quotas, the world price was 9 to 10 cents. Reducing U.S. demand by 2 million or more tons per year has caused prices to drop by almost 25 percent. Our estimates indicate that restoration of U.S. demand, which takes about one-third or more of the sugar traded in international markets, would boost sugar prices back above 9 cents. Only another record sugar crop, which would require perfect growing weather in the four corners of the Earth, could reduce prices again to their present levels.

This reduction in the support level would reduce total consumer outlays for sweeteners by about $1 billion in the next fiscal year. Savings of the same magnitude would occur in each of the next 3 years if low world prices lead the Secretary to maintain the lower price support level allowed in the amendment.

For the 1983 through 1985–86 crop years, the Secretary would be required to set price supports at the levels mandated in the 1981 farm bill; he could avoid Government sugar purchases through the use of duties and fees. In the event that the market stabilization price cannot be obtained through duties and fees, the Secretary would have the option of reducing the price-support level, but not lower than 14 cents per pound. I fully expect the Secretary to utilize this authority to avoid the necessity of declaring restrictive import quotas on sugar.

Mr. President, I believe this amendment will allow us to avoid sugar import quotas in future years. This will get us out of the embarrassing and somewhat duplicitous position of asking our trading partners and allies to support open world trade while we close off our own markets. We will then be in a much stronger position to insist on the removal of restrictive trade barriers in Japan, Europe, and elsewhere which are doing such damage to American agriculture. Additionally, ending these counterproductive import quotas will allow us to move more aggressively to repair our ties with Latin America and work with our Latin American friends to promote economic stability in the region.

Mr. President, the amendment I am offering today would be a small step in these directions. Let us admit that we are at a critical juncture in world trading relations. Let us admit that we were too generous in supporting the domestic sugar industry. Let us admit that we can correct our mistakes and move toward a more reasonable program. I urge all of my colleagues to support this emergency amendment and to work with me in the future to avoid the types of problems we have experienced because of our generosity to the sugar industry.

Mr. TSONGAS. Will the Senator yield?

Mr. STAFFORD addressed the Chair.

Mr. QUAYLE. Mr. President, I yield to my distinguished cosponsor of this amendment, the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, this is not a new issue. We have all been down this road before, and having been through 3 weeks of debate ad nauseam on other issues, I hope that brevity would be the hallmark of the discussion on this one.

We have voted on this before, and it seems to me we need not go through it again.

Mr. President, I continue to submit that this Nation does not need a costly price-support program for sugar. I believe that the Senate does not need to indulge in special-interest politics and support a windfall program that benefits just 22 sugar processors and that could cost the Treasury $412 million.

Almost 1 year ago, when this body debated the Agriculture and Food Act of 1981, we argued that this Nation did not need a price-support program for sugar. The majority of our colleagues did not agree with us and, unfortunately, many of the concerns we ex-

pressed at the time were indeed well founded.

Being a realist, I know that we cannot hope to eliminate the existing program at this time. For that reason, Senator QUAYLE and I are offering this amendment to address some of the most immediate problems caused by the price-support program. Those problems include consumer price increases, inflation, restrictive import quotas, and deteriorating relations with the sugar-producing and sugar-exporting nations of the world.

This amendment is very simple, and it only temporary in effect. I consider it to be a fair and practical revision of an unreasonable support program. Effective October 1, 1982, through September 30, 1983, the loan rate for sugar would be 14 cents a pound. A processor could borrow against his sugar crop at that rate under a no-risk, nonrecourse program. He would be guaranteed a price that is twice the current world price per pound of sugar.

On October 1, 1983, the loan rate would return to the levels established by the Agriculture and Food Act of 1981. If it became apparent that the administration would again be forced to use import quotas to protect the domestic market, then the Secretary of Agriculture would have the discretion to reduce the loan rate to not less than 14 cents a pound. These provisions would be in effect through the 1985 crop year.

Since the establishment of the loan program, it has been virtually guaranteed that the American consumer would pay the price for this unnecessary subsidy. In July, the price of U.S. raw sugar averaged 22.15 cents per pound at coastal refineries. Last September the price was 14.48 cents. For every 1 cent sugar prices rise, consumers pay an additional $300 million in sweetner costs and about $190 million just for sugar.

It has been suggested that there is no difference in a bottle of Coke and a bottle of sugar-free Tab and that reducing the loan rate will not have an impact on the price of products containing sugar. I do not agree with this assertion. But in my case, millions of Americans do not purchase Coke or Tab. They buy Kool-Aid and a bag of sugar. Families that cannot afford the high price of cookies in the supermarket bake sugar cookies at home.

Indeed, Mr. President, we may not find all the products that contain sugar in every American home, but there are few homes that do not have a plain bag of sugar. Historically, the price of sugar in the supermarket has fluctuated with the price of raw sugar. Estimates indicate that our amendment will reduce the price of a 5-pound bag of sugar by 15 cents. Furthermore, even if the price of products containing sugar did not decline with the passage of this amendment, we can at least slow down inflationary increase in the cost. The reduction in the support rate will save consumers approximately $1 billion per year and, at 14 cents a pound, sugar producers are still guaranteed a price that is twice the world price of sugar. Furthermore, duties and fees could be used to maintain the market stabilization price without import quotas.

The world price of sugar was declining when we began our initial debate on this issue, and it has continued to decline. Adjustments were made in import fees in March and April of 1982 in an attempt to protect the Government from huge sugar purchases. But in May 1982, when the world price of sugar reached its lowest level in 4 years, it appeared that the Government might have to acquire 1 million tons of sugar. At that time the President signed a proclamation imposing quotas on sugar.

The administration established a country-by-country system of quotas. This has further disrupted and depressed the world sugar market. Not surprisingly, our trading partners have expressed concern regarding this protectionist action. In May, exporting members of the International Sugar Agreement issued a proclamation stating the U.S. import quotas and the sugar title provisions of the U.S. Agriculture and Food Act of 1981 are "inconsistent with objectives of the International Sugar Agreement." Many of our trading partners have noted the irony in the contradiction between our sugar policy and the free trade philosophy articulated by the United States.

Trade Representative Bill Brock warned that sugar import quotas would make it difficult to argue against trade barriers in Japan and in the European Economic Community. Japanese Foreign Minister Sakarauchi advised the United States that Japan has virtually ruled out any immediate removal of import quotas on agricultural products, and noted that Japan would be quick to "point out Washington's recent imposition of sugar import quotas to counter any pressure by the United States."

We have been criticized for failure to respect the Internatinal Sugar Agreement, and we have hurt nations that we wanted to help through the Caribbean Basin Initiative. The Dominican Republic, Brazil, Panama, and Jamaica are only a few of the nations that have been adversely affected by this policy. The Secretary General of the Organization of American States corresponded with President Reagan and predicted a profoundly negative impact on the smaller countries in the Caribbean Basin because of the U.S. imposition of quotas on sugar.

The United States has a $42 billion agricultural export trade. Imposition of sugar quotas is an affront to all who participate in this trade. It is even more offensive when you look at who the beneficiaries of the sugar program are. The domestic sugar industry is dominated by big companies such as Gulf & Western, the Hunt brothers' Great Western Sugar Co., and C. G. Smith, Ltd., part of a South African conglomerate. The cost of this $3 billion program for the benefit of fewer than 14,000 producers amounts to an incredible $215,000 per producer.

Mr. President, as I stated at the outset of this debate, I do not believe that we need price supports for the sugar industry, but since the majority of my colleagues did not agree with me last year, we have returned with a reasonable compromise. I would hope that the opponents to the original Quayle-Tsongas amendment would meet me halfway. If this amendment is not passed, consumers will continue to be saddled with excessively high prices for sweeteners. The import quotas will remain and our trade relations will continue to deteriorate. I urge my colleagues to support this amendment and eliminate the quotas that elevate the cost of sugar and sugar-containing products to the American consumer.

As the Senator from Indiana pointed out, this is a compromise amendment. Last year we tried to eliminate the program, and we were unsuccessful. There was all this talk about we did not know what we were talking about; that no money has ever been paid out; that there was no crisis, and so forth.

That, as we all know, turned out not to be the case, and there is such a crisis today in sugar that the administration felt compelled to introduce import quotas. We all know what the effect of that has been.

What we have done is not to seek to eliminate the program, although perhaps some of us may find that attractive. What we have tried to do is to find a middle ground between no program and a program that is excessive, and 14 cents a pound is where we have ended up.

From a consumer point of view, it could be well argued that 14 is too high, given the fact it is twice the current world price per pound of sugar. But we are trying to accommodate legitimate interests on the other side. I hope that in a spirit of compromise those who opposed us last time will see fit to join hands with us this time.

The next argument is simply that I think the time has come to again plead for some philosophical consistency.

I daresay the vast majority of the Members of this body have gone around their States arguing for less Government, get Government off our backs, let the marketplace prevail. Well, here is a chance, and we would like to give Senators an opportunity to

go back to their States and say, "I have matched my votes and my rhetoric."

Second, with respect to philosophical consistency, the Senate passed, as we all know, the balanced budget amendment. This bill is an attempt to suggest that a philosophical conservative should not only be supportive but should be enthusiastic about the approach that we have taken. It is rather inconsistent on one hand to vote for a balanced budget amendment and on the other hand vote to continue what I think is acknowledged to be an excessive support program. You cannot have it both ways.

I urge the 70 or so Members who voted for the balanced budget amendment to embrace this move in a very worthwhile direction.

The third point of the philosophical consistency is the issue of protectionism. There are many Members who represent States that have been hurt by unfair protectionism imposed by a number of countries, Japan being just one example.

Our Trade Representative has traveled around the world trying to get countries to reduce their nontariff barriers and their other methods of protectionism, and right in the middle of that journey the President turned around, because of the sugar situation, and imposed sugar import quotas.

How do you expect Bill Brock to travel to Europe and Japan to make the argument for less protectionism when we impose sugar import quotas? You cannot get there from here.

If one is serious, as I think we should be, about really cracking down on the Japanese for their abuses in the area of nontariff barriers and to work out with the Europeans reasonable approaches to these issues to deal with countries like Brazil that are very protectionist by instinct, it is simply unworkable to engage in this kind of a practice on our own with the particular impact coming from those countries which, as the Senator pointed out, the administration is trying to help with the Caribbean Basin Initiative.

The arguments in favor of this amendment are obvious. The arguments against the amendment basically stem from constituents, and I can understand and respect why Senators fight hard to protect them. I would do the same thing. Their activity to defeat this amendment is understandable and does represent the job of supporting one's constituents, but I hope that beyond that group there would be a rather unanimous feeling that it is time to be consistent with the desire to get Government off our backs, to lower the costs of Government, to try to achieve a balanced budget, and to suggest that protectionism is not the policy of this Nation. In those three areas I urge my colleagues to support the amendment.

I thank the Senator from Indiana for the time.

Mr. ANDREWS. Mr. President, I rise in opposition to this amendment.

When we considered and voted for the 4-year omnibus farm bill last year, we approved a price-support program for domestic sugar producers. We had extensive hearings on this provision. Numerous witnesses called attention to the fact that a preliminary report on the cost of production survey of the USDA shows the cost to be an average of some 25 cents a pound to produce sugar in the United States during the 1981-82 crop year, excluding land costs, of course. That would fall in line with what my colleagues said a moment ago about the fact that we should let the most efficient producers produce. After all, that is what free trade calls for. I am certainly in favor of free trade. But there is more to the story.

According to the same group of figures from the USDA and the best information we have at hand, the cost of production of sugar in other areas of the world is higher than it is in the United States. In fact, coming from an agricultural State, I am getting darn sick and tired of listening to a bunch of "hoorah" that comes out and says that our farmers somehow are not efficient, our farmers somehow are high-cost producers. That is the darnest bunch of gobbledygook anybody can ever engage in.

The farmers of this country, whether they are cane producers or beet producers, are the most proficient producers in the world, and they can compete with anybody in the world, and do. They have a tough time competing with other governments, but that is not a fair shake.

I think you have to take a look around the world, and the only place where the cost of production might be less for sugar than in the United States is in a couple of Caribbean countries.

I recall reading a story in the Washington Post not too long ago that explains why that is so. It is a cane country. We pay our cane cutters—and I assume that my good friend and colleague from Hawaii will point that out—$75 to $85 a day for the labor they do in the field. The article in the Washington Post pointed out that the sugar cane cutters in places like Haiti are paid $1.50 a day, and they are given the great luxury of being able to sleep free in the fields where they are cutting that cane.

Mr. President, I do not think those of us in the U.S. Senate want to subject the consumers of this country to this so-called slave-labor-produced cheap sugar. That is a bunch of garbage, and it does not make sense at all.

Let me point out what the facts are. In the case of the European producer of sugar, that sugar is now being dumped because they overproduced by 10 to 15 percent in the world market. Little, if any, comes into this country, because we get it from other areas. But that distress sugar establishes the price of the world sugar.

● Mr. WALLOP. Mr. President, today I rise in opposition to the amendment offered by Senators QUAYLE and TSONGAS to reduce the sugar price support levels from the agreed upon 17 cents-per-pound level for the 1982 crop year, to what would be a devastating price of 14 cents on October 1, 1982. Their amendment aims to reduce price supports for the 1982 crop year only, and would give the Secretary limited discretion to set levels during the 1983 and succeeding crop years.

I thought the Senators from Indiana and Massachusetts would have heard and accepted the unmistakable death knell when two attempts to decrease sugar support levels were soundly defeated during consideration of the 1981 farm bill last September. I voted against those moves then, and will again join my other colleagues from sugarcane and sugar beet producing States to hammer home the final stake into the heart of this resurrected attempt today.

My State, Wyoming, ranks eighth in American sugar beet production, and back home, there are about 560 sugar beet growers who are depending on that 17 cents support level to make ends meet in 1982—to feed their families, pay their mortgages, and maybe, just maybe, put a little away.

These sugar beet farmers work hard and provide a sizable contribution to my State's economy and well-being. About $40 million of Wyoming's $650 million in agricultural cash receipts during 1980 came from sugar beets. There is another thing about Wyoming sugar beet farmers I am very proud of. Although Wyoming ranks second from the bottom out of 14 sugar beet producing States in total number of acres harvested, we have the third highest yield per acre at about 21 tons. I cannot, and will not, stand to see the livelihoods of Wyoming's sugar beet farmers damaged, along with the fiscal soundness of my State's agricultural economy, as a result of this amendment.

My constituents are depending on 17 cents per pound because this congress set that level when it finally passed the farm bill conference report in December 1981. Even so, I have read some reports estimating that 17 cents only covers about 63 to 68 percent of the cost of production. It is grotesque that this amendment comes up now when 1982 sugar beet crops are well on the way to harvest. Would the Senator from Indiana do that to his farmers?

Mind you, I am no rabid supporter of price supports, but it is unconscionable, given the struggles of all American agriculture, to single out and lower the income of sugar beet farmers after their crops have been planted.

Senators QUAYLE and TSONGAS have argued that by reducing sugar price support levels we will improve our status with our foreign trading partners as well as save American consumers more money while indulging their sweet tooths. Those consumers have been seduced before by political promises expediently given, only to find themselves dependent on unreliable foreign sources of supply. Today is no exception.

Moreover, quotas on imported sugar appear to be beneficial to both exporting countries and American farmers. And, quotas for sugar are not unique since quotas already exist on cotton, peanuts, some dairy products, and beef. Other products have import limits such as steel, chemicals, textiles, and automobiles. Government representatives from countries which will benefit from the administration's Caribbean Basin Initiative, such as the Dominican Republic, have publicly testified in favor of recommended sugar quotas.

Now let us look at America's sugar habit and see how much benefit the consumer reaps from lower sugar prices. While March 1982 sugar prices averaged 17.13 cents—down 43 percent from the high of 30.11 cents in 1980—the price of 17 major sugar-containing foods and beverages rose 15.4 percent during the same period. It is difficult to substantiate, from these figures, that declining sugar prices benefit consumers, but it is not hard to see how profits flow to corporate accounts at the expense of sugar beet and sugarcane growers.

If Senators QUAYLE and TSONGAS are successful today, which American farmers will suffer next from a fickle Congress? Wheat, corn, or peanut farmers perhaps? For the sake of American sugar beet producers, sugar consumers, and the state of American agriculture, I urge my colleagues to roll this amendment back as we have in the past and remain, for once, faithful to the farmers who can only stay home and plant on the basis of what they think we have promised. Let them at least in hard times reap a harvest of trust.●

Mr. SIMPSON. Mr. President, I appreciate this opportunity to succinctly record my opposition to the Quayle-Tsongas amendment (No. 2016) to reduce the support price under the domestic sugar stabilization program. I believe the current sugar program is not only in the best interest of sugar producers, but it is in the Nation's best interest.

This country has an extraordinary sweet tooth—we consume more than we produce. We are then compelled to import the remainder of our Nation's needs from the so-called world market. But that market is relatively small—currently about 18 percent of world supply—and the overproduction of sugar-producing nations is then dumped at whatever price it can bring. This world market is not, by any stretch of the imagination, a stable market. During the years that this country was without a domestic sugar program, consumers were subjected to sharp price fluctuations. The world price went from 9.3 cents per pound in 1973 to 64.5 cents in 1974, then down to 14.2 cents in 1975, back up to 44.2 cents in 1980, and then plummeted to less than 8 cents this summer.

The true dividend for the American consumer comes in those years of short world supply. During those periods, if there were no sugar industry in the United States, Americans would pay substantially higher prices, if there were any supplies available at all. Indeed, some have estimated there would be no world surplus (and thus cheap prices) this year if there had been no U.S. production.

The simple fact is that U.S. production cannot exist without a nearby processing mill. And, since 1975, some 30 sugar mills and refineries have closed down and an additional 4 are scheduled for closing this fall. When a mill closes, the area producers must then switch to other crops. It is not likely that the plant will ever reopen or that those producers will ever have the option of returning to sugar as a cash crop. Without our current domestic program, the potential demise of the U.S. sugar industry could cost American consumers a dearly high price indeed.

I supported the adoption of the current sugar program in last year's farm bill since I felt it to be a carefully designed program that struck a fair balance between the interests of producers and consumers of this commodity which is in such high demand among us Americans. For the interests of taxpayers, the program is designed to be administered in such a way so there is no cost to the taxpayer and, in fact, the import fees that have been attacked by some are actually increased revenue for our severely strained Treasury.

The current program is certainly no bargain for U.S. producers—USDA estimates that the loan rate for the 1982 crop of sugar will cover only about 70 percent of the average cost of production. I am convinced that we should maintain the domestic stabilization program for sugar at its present modest levels and I will therefore oppose any and all amendments intended to weaken it.

Mr. CHAFEE. Mr. President, I support the Quayle/Tsongas amendment to cut sugar price supports.

Last year, the vigorous congressional debate over the farm bill's price support provisions, and their budgetary effects, indicated a growing belief that the Federal Government can no longer afford to support farm programs to the extent that it has done in the past.

The costs of support guarantees to the Federal Government and the U.S. consumer are an outrage—particularly in light of the cuts being made in social programs.

For example, world sugar prices are 7 cents a pound and the domestic price is about 20 cents a pound. This creates a situation in which consumers are forced to pay 13 cents over and above the world price, at an annual costs of $3.7 billion to the American consumer. This is a consumer tax for which we in Congress are responsible because we continue to vote for sugar price supports.

The sugar price support program has required the administration to impose import quotas on sugar. Without quotas the demand for domestic sugar would drop significantly, and the Commodity Credit Corporation (CCC) would have to purchase the excess. And unlike other crop programs, U.S. sugar producers can produce all they want. This is not reflected in lower prices for the consumer—but in greater Government purchases. Thus, the justification for import quotas.

The Mid-Atlantic and Northeastern States have been dependent upon imported sugar. Simply stated, the consumer is paying more for his sugar consumption than he would if quotas and price guarantees were not in effect.

The Quayle/Tsongas amendment would lower the loan level from 17 cents per pound to 14 cents per pound; this is still two times the world sugar price. Were the amendment adopted, it would save the consumer an estimated $1 billion per year.

Those opposing the amendment may say that Congress had promised American sugar producers a particular price support level, and that it is unfair to reduce the price once the crop has been planted. This argument can be refuted by asking whether or not there ever is a right time to lower price supports.

Clearly, the savings propounded by this amendment far outweigh the costs of the current price supports and the ramifications that I have outlined. I, therefore, will vote against tabling the amendment.

Mr. BAUCUS. Mr. President, I rise in opposition to the Quayle amendment. This amendment would reduce the sugar support level from $0.17 to $0.14 per pound. The $0.17 level we

now have in the sugar loan program is a compromise figure decided on during debate last year on the farm bill. I do not believe this is the time or the proper vehicle to consider a major change in farm policly.

Mr. President, I ask unanimous consent that an editorial from the San Francisco Chronicle appear at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, Sept. 19, 1982]

WAR OVER SUGAR

If we were teaching bright young college students about American politics, we would tell them that they might learn more about the nuts and bolts of the system by studying the recent focus of Congress on sugar than by studying any other facet. Sugar politics, it seems to us, has it all: economics, sociology, international relations, idealism, feudalism, greed, and, as they say, much, much more.

Sugar is a lot more complex than, say, gold because there is far more of it, more varied sources of it and more, far more, lobbying and wheeling-dealing involved in it. We consume, on the average, more than 90 pounds of the stuff annually. If you are reading this while wearing something of nylon, you are wearing it. If sipping coffee from a hardened plastic mug, you are both holding it and probably eating it. Mostly, of course, it is eaten and eaten in such monstrous quantities that it would be unusual indeed if its pricing and marketing were not political. Nations have, in fact, gone near bankruptcy when the world prices slipped. Closer to home, prosperity or poverty for several Hawaiian outer islands is linked to the outcome of the congressional action. A difference of a few cents can have repercussions right across the globe.

Congress has had its attention focused on sugar through an amendment to the debt ceiling bill put forward by Senators Dan Qualye, R-Indiana, and Paul Tsongas, D-Massachusetts, which would reduce the government sugar loan rate, a form of subsidy to growers, from the currrent 17 cents to 14 cents a pound. They say that this apparently simple proposal would "have the effect of reducing consumer sweetener costs by $1 billion annually." And that seems a splendid idea indeed.

And this is the point at which we would ask our students to start plowing new ground in the fields of cane.

Consumers, of course, rally to the Quayle-Tsongas proposal and lobbying begins in earnest. Consumers such as the members of the American Association of Retired Persons and the Consumers Federation of America, give thanks. Some unions get in line, like the Bakery, Confectionary and Tobacco Workers International, AFL-CIO, the members of which cook with sugar, want to see lower prices and say the idea is great. The National Soft Drink Association, members of which buy sugar by the tank car, think the idea is great. And thus we have an alliance of average folk consumers, big labor and corporate conglomerates all lined up. It is an apparently unbeatable political alliance which cuts right across the political spectrum.

But wait. There has to be some skepticism that bringing sugar prices down a few pennies will mean that Cokes are going back to a nickel at the office machine or that good supermarket cookies will not cost $1.50. And there are some big conglomerates who want that subsidy, saying that otherwise they will go out of raising beet or cane sugar. And there is a union, the International Longshoremen's and Warehousemen's Union, which declares that 8 percent of Hawaii's economy is about to wiped out with a cut in the subsidy and that some 8000 workers, a dominant part of the working force on Maui, Kauai and Hawaii, are about to be rendered destitute. The ILWU makes an argument that current low sugar prices have not been reflected on grocery shelves; although sugar prices went down, the union says, prices of foodstuffs containing sugar went up. And the union fears that Caribbean and other sugar-producing tropical lands will form an OPEC-like cartel to control production and price which will be much more detrimental to American consumers than a few pennies of price support.

We would point our students in the direction of sugar, as we noted, because it is something of a classic in the American tug-of-war. Huge corporations are masquerading as consumer advocates, pushing a noble cause because it will benefit them. Unions are pitted one against another in an effort to protect jobs, worker security and turf. If American sugar is not grown, American jobs are, in effect, exported to lands in which working conditions resemble slavery, and that is only one of the complexities of the problem.

A senator who wants a cut in price supports may very well have a major soft drink industry constituency. The senior citizens pushing for a cut in sugar prices do not really want to hurt fellow Americans out in those endless fields of cane on Kauai.

We make no moral or economic judgment. We do know that the problem is fascinating. And we know that, even if sugar is given away free, we're not going to see a nickel Coke again.

Mr. BAUCUS. Mr. President, I believe this editorial addresses the central questions involved under this amendment. Sponsors of the amendment argue that it is a moderate amendment and that it will reduce consumer sweetner costs by $1 billion annually. I challenge these assumptions.

For anyone who thinks that they will see a reduction in the retail price of products containing sugar, let me point out that a couple of years ago the price of sugar skyrocketed to over $0.45 per pound. The price of soft drinks and other sugar products increased. However, now that sugar prices have fallen to less than half of the level they were at 3 years ago, there has been no commensurate decrease in retail prices of sugar products.

This amendment would not save U.S. consumers any money. It would lead to the demise of our domestic sugar industry. Most consumers are probably not aware of the decline in the U.S. sugar beet industry. Since 1974 there have been 23 sugar beet plants closed in 12 States. This is a drop from 59 to 36 plants operating in the United States. The total number of cane mills now stands at 41, down from 59 in 1974. Louisiana alone experienced 16 mill closings.

Many Montana farmers have already been forced out of growing sugar beets because there is nowhere to ship their product to make the production worthwhile. This amendment would significantly reduce the 50-percent share of sugar consumption that is contributed by our domestic industry. It would also cost several hundred jobs and force beet producers to move to the production of alternate crops. A beet producer has a substantial investment in specialized equipment to allow him to produce. This equipment would sit idle and the land would be shifted into the production of other farm commodities.

I am sure that my colleague from Indiana is well aware of the surplus of wheat and corn that is holding farm prices down to dismal levels. This amendment may appear reasonable and moderate, but it would have a profound effect on the number of acres committed to individual farm commodities.

Mr. President, in the interest of time I will not go into the free market arguments that have been brought up as they affect the international sugar trade. However, I would like to associate my comments with those of my colleagues from Louisiana, North Dakota, Minnesota, and Hawaii.

In closing, I would like to mention that the American Farm Bureau Federation, the National Corn Growers Association, and the Oil, Chemical & Atomic Workers International Union oppose the Quayle/Tsongas amendment. I urge my colleagues to defeat the amendment.

Mr. JOHNSTON. Mr. President, will the Senate yield?

Mr. ANDREWS. I yield.

Mr. JOHNSTON. Mr. President, the Senator from North Dakota is making an excellent point, and I hate to interrupt him. But I think I have an amendment here that can improve this amendment so much that even the Senator from North Dakota could vote for it. I wonder if he will yield to me long enough to call up this amendment.

Mr. ANDREWS. Mr. President, from the smile on the face of the Senator from Louisiana, I think I know what the amendment may be. I will be more than happy to have him offer the amendment, without yielding my right to the floor, because I have a couple of other things I want to say that I am sure speak to his amendment and to the amendment offered by the Senator from Indiana and the Senator from Massachusetts.

UP AMENDMENT NO 1266

(Purpose: To limit the power of courts to order busing)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1266 to amendment No. 2016.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be added by amendment by Mr. QUAYLE, insert the following:

"(a) This amendment may be cited as the "Neighborhood School Act of 1982".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance.

(c) The Congress is hereby exercising its power under article III and under section 5 of the fourteenth amendment.

Limitation of Injunctive Relief

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school or specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imblance in the public school system than was inexistence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student.".

Definition

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

Suits by the Attorney General

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.".

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. ANDREWS. I yield.

Mr. JOHNSTON. Mr. President, I am pleased that the Senate is open to consider amendments of very high priority, because what this amendment does is strike the Quayle amendment, which I think is a matter that can and should be put off until later. It substitutes in place of the Quayle amendment the Neighborhood School Act, which has been passed by the Senate over three cloture votes. Three times this year, the Senate has gone on record in favor of the Neighborhood School Act. We wish to put it in as part of this legislation because this is "must pass" legislation, and the House has the Neighborhood School Act bottled up, and they apparently will not get it out of committee.

So what this does is to take a very low priority matter dealing with the Sugar Act, on which we have acted contrary to what the Senator proposes to do by his first-degree amendment—Senator QUAYLE—and converts it into a very high priority amendment—that is, the Neighborhood School Act. The Senate having gone on record on more than three occasions, by more than 60 votes, I know Senators will be anxious to vote for it.

I yield back the floor to the Senator.

Mr. ANDREWS. Mr. President, I appreciate my colleague from Louisiana substituting a high-quality amendment for one of lesser quality. I could detect what would be coming when I saw the smile on his face.

Let me, in a few moments, answer some of the points that have been brought up on the initial amendment that sparked the substitution of the second amendment, before the Senate moves to dispose of both amendments.

There was some talk about free trade. The sugar price support is actually the only way we can have a powerful statement in favor of free trade. A moment ago, I pointed out that American farmers, whether they are cane or beet producers, can compete with any farmers in the world.

In the European Economic Community today, they are producing a slight surplus of 10 to 15 percent. Those sugar producers in Europe are being paid from 25 to 30 cents a pound for that production. Because they are slightly overproduced, they are dumping that sugar at whatever it will bring on the world market. That establishes the so-called world price. But the world price for sugar, which we just heard referred to, is not a world price for sugar. It is a phony price for distress sugar that has no home.

Eighty-five percent of the sugar that moves in world trade to consumers moves at prices in excess of 26 or 27 cents a pound.

Mr. President, I resent the fact that not only do we get whammied by the other governments subsidizing the dumping of their temporary surpluses into our markets, but also, as a consumer, I resent the fact that 2 years

ago when they did not have a surplus, that so-called world price was at 45 or 46 cents, and Coca-Cola and the other bottlers of pop in this country raised the price of a can of pop. Now, when the price is down, have they lowered it? No way. Have the consumers been protected? No way. It does not make any sense.

As a wheat farmer and a grain producer, when I ship my wheat to Rotterdam and it is offloaded from a boat to provide grain for the people in Western Europe, they add a nice little $5 a bushel import duty to that grain, because they support their price of wheat at $9.70 a bushel and they use that income from that $5 import fee which amounts to billions of dollars to turn around and subsidize exports of whatever they might have in surplus. That is a capricious type of pricing schedule for the consumers of the United States, and I do not think it is fair, and it certainly is not free trade.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ANDREWS. I am glad to yield to the senior Senator from Louisiana.

Mr. LONG. Mr. President, the able sponsor of the amendment, the Senator from Indiana, stated on television that the United States does not import sugar from Europe or has not recently imported it. So far as I know that is correct. But let me ask the Senator from North Dakota whether that is not irrelevant as far as the so-called world market problem is concerned because the fact is that sugar is available for sale in Europe at a ridiculous price, which means that without the provisions of the farm bill of 1981, an American who wanted to sell his sugar could not get any more remuneration for it than the price for all those tons of sugar in Europe, plus the shipping cost, insurance, and duties to import it into the United States. That is all anyone would pay an American producer for sugar. In other words, if there is a large quantity of sugar somewhere in the world, and it is being dumped on the world market for anything it would bring, then Americans would be forced to compete with that price, regardless of whether the foreign sugar is actually shipped to the United States.

So unless we have a law—as do almost all other countries that have sugar industries—to defend our American producers, because otherwise they would be destroyed by the unfair and unlawful price charged by other people throughout the world.

Furthermore, I wish to ask the Senator, is the problem of trying to maintain a price adequate to permit an American farmer to stay on the farm and survive, if he works hard and gives value received, unique to the sugar producers or do we do the same thing for farmers generally in other lines of farming?

Mr. ANDREWS. No. Mr. President, my colleague from Louisiana has pointed out it is not unique. As a matter of fact, we only produce domestically 50 percent of the sugar that we consume in this country, and unless we keep a healthy domestic sugar industry, the consumers have no way of being protected from the vagaries of this dump price.

I think also someone should point out that while the European Economic Community is exporting their temporary surplus at a dump price, they are still importing under long-term sugar agreements sugar from other countries at that 27- to 28-cent price. As a matter of fact, the loan rate that we have established for sugar at 17 cents a pound is 70.87 percent of the USDA 1981 estimated cost of production for raw sugar and less than the loan rate for any other crop covered by the 1981 farm bill.

Mr. President, I think it should be pointed out that soybeans, corn, and the crops produced in the great State of Indiana have a price support as a percentage of parity considerably higher than the very modest 17-cent price support that is in the bill for sugar and the price support for sugar because of the unique intricacies of the international market is not so much a price support provision as it is an antidumping provision. It also occurs to this Senator that Senators from the States that are questioning the sugar section of the Farm Act are among the first to take action on antidumping legislation when the steel industry, the shoe industry, and other industries are under attack by low price subsidized exports from foreign countries invading our market at below their cost of production and below the cost they sell to retail consumers in their country.

Mr. President, the major point I wish to make is the fact that this is not a subsidy for American sugar producers. The price of 17 cents is 40 percent below the price that most consumers pay in the Western World for sugar. It is a very modest price designed to keep the American sugar production industry going.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. ANDREWS. I am glad to yield to my colleague from Louisiana.

Mr. LONG. Mr. President, is the Senator aware of the fact that one of the reasons we are not importing European sugar is that there is a countervailing duty in effect, which was reconfirmed this spring 1982; in other words, the United States law relating to foreign, illegal subsidies requires countervailing duties in the case of sugar?

Mr. ANDREWS. That is right.

Mr. LONG. So that the United States under its law recognizes that this is a matter of subsidization, which is an unfair trade practice that tends to destroy its victim. Therefore, we are not buying sugar from Europe because Europe is engaging in an unfair trade practice by selling its sugar on the world market for a mere fraction of what it costs Europe to produce it.

Perhaps the Senator from Indiana might want to change that U.S. law also and just let Europe and other countries dump their products in the United States, thus destroying American industries. But I ask the question, Does the Senator really think that any Senator would be willing to see any significant portion of the industry of his State, be it farming or be it manufacturing, destroyed by foreign dumping at a mere fraction of the cost of production or by subsidization?

Mr. ANDREWS. Not at all. Not only that but at a mere fraction of the cost to the consumers in the country from which that commodity comes. As a Senator from a sugar producing State we can compete with sugar producers in Europe, we can compete with sugar producers in Latin America, but we cannot compete with a country that markets 90 percent of its sugar for 27 or 28 cents a pound and then when it has an oversupply of 8, 9, or 10 percent they give that away. That is what we are talking about in a world price. That is no bargain for the American consumers. It is no bargain for any stability in trade, and it is a tough deal for us given the state of our economy and the imbalance of payments and what that does to our economy.

As the senior Senator from Louisiana, who is an expert on tax and financial matters, knows so well, this is one of the problems we have gotten into over the last decade because as we have had to pay more and more billions of dollars to import oil our exports have not kept up with our imports and if we kill off the domestic sugar industry that just exacerbates the problems that we have in an imbalance of payments that affects every consumer in this country, every wage earner, every investor, and every retired person.

This is a poor way to try to amend on another piece of legislation a key part, an equitable part, of the overall farm price support program in this country.

Mr. President, I point out one final thing: To the best of my knowledge in the 18 to 20 years I have served in Congress I have never seen an attempt promoted to change the price support program for any agricultural commodity midyear, midcrop. The only time we have ever had amendments to raise or lower or do away with any price support loan agreement has always been at the conclusion of the current year.

The Senate is under enough suspect from people out in the hinterlands not

to become involved now in breaking faith with an agreement that we made with the producers of this country that when they planted that crop they were going to get a certain price support for it at harvest.

It has never been done in the past, Mr. President. I would point out this is another glaring deficiency in this particular amendment.

Mr. BOSCHWITZ. Mr. President, I rise also to oppose the Quayle-Tsongas amendment with respect to sugar, and I want to second the statements that my friend, the senior Senator from Louisiana, has made, as well as my friend from North Dakota.

I would like to talk about the international market for sugar for just a moment and the impact that reducing the loan level would have on the international market for sugar.

I also underline the final statement that the Senator from North Dakota made and that is to the best of my knowledge this is the first time in the history of our country that a bill would be passed that would change a support level or loan level for a crop that is in the ground for farmers who have planted and who have relied on a promise made by the Government.

Mr. President, the total production of sugar is approximately 96 million tons in the course of a year. Most of that sugar is utilized or used or consumed in the countries in which it is produced.

About 19 million tons come on to the free market, on to the world market; another 7 million tons are under special agreement, the largest special agreement being an agreement between Cuba and Russia, so that 19 million tons are on the world market.

The European community that Senator LONG has spoken about contributes about one-third of that 19 million tons and, as a matter of fact, they have grown enormously over the years in their contribution to the world sugar market.

It really is important if that sugar comes to the United States or goes elsewhere; it is subsidized at approximately 12.6 cents a pound, and that subsidy is taken out of the hides of the Europeans who, it is interesting to note, pay a total bill of somewhere between $36 billion and $40 billion a year in subsidies to their farmers.

The result of those enormous subsidies on the average is about 10 times the amount that this Congress passes to subsidize our farmers. The result of those enormous subsidies is the high prices the Senator from North Dakota has referred to; that their production has gone up just extraordinarily in the last 15 or 20 years. European sugar production has tripled. During that same period of time since 1957 sugar production in this country has gone down by about 20 or 25 percent.

Europeans have come to dominate that field of international agricultural trade as they have come to dominate many such areas of trade.

If you look at the price spiraling up and down in the past year, you will see quite clearly that when this country comes onto the market with another million tons the price goes up enormously. The price went up as high as 57 cents here a few years ago. So the basic assumption of of this amendment that if you lower the support level to 14 cents that the result will be that the consumer will somehow benefit is probably wrong.

If you look at the production in the United States, and if it continues on its downward trend, and if we rely more and more on the world marketplace to fill our sweetener needs, if the price goes down low enough, and the corn sweetener market also becomes infiltrated by sugar from other countries, without question the demand on the international markets will be such that the price will escalate and we will begin this rollercoaster up and down again, with the result that the consumers will not profit at all.

The proposed Quayle-Tsongas amendment would lower the present sugar support level from 17 to 14 cents per pound.

If passed, it would be the first time in our country's history that a price support level has been lowered after a crop has been planted. It is important to note at the outset that there is expected to be no budget outlay for the sugar programs. Any outlays in the past have always been offset by receipts.

I. WORLD SUGAR PRODUCTION

Sugar is grown in more than 100 countries. Chart 1 and table 1 show that production has increased from 41 million metric tons in 1957 to about 87 million metric tons in 1981. Although production bumps up and down from one season to the next, the trend is definitely upward—a record harvest of 96 million metric tons is projected this year.

Table 2 lists the 10 leading countries in sugar output. It is interesting to note that while the only Western European countries among the top 10 are France and Germany, the European Community (EC) as a whole is the largest sugar producing entity in the world—over 15 million metric tons.

In contrast to much of the rest of the world, sugar production in the United States in 1976 at 6.5 million metric tons and has declined 17 percent to 5.4 million metric tons in 1981—table 3. A breakdown of U.S. cane and beet sugar production by States is provided in table 4. There are four cane States and 15 beet States, with Texas producing some of both. Before their last plants closed in 1979, both Utah and Washington also produced sugar beets.

A glance at chart 2 explains much of what has plagued our domestic industry. Although the chart only shows world raw sugar prices from 1957 onward, the entire 40-year period from 1930 to the early 1970's was characterized by relatively stable sugar prices. In 1974, the world price soared to almost 30 cents per pound—it actually peaked at 57.17 cents per pound in November—and it has been boom or bust ever since. Sugar growers have reacted predictably to this price instability with cautious and conservative business practice. The future is too uncertain. No new sugar plants are being built. In fact the last new refinery was a beet plant built in my State. Construction started in 1973 and the plant came on stream in 1975. All the planning was done before the market went wild.

The decline of the U.S. sugar beet industry is chronicled in table 5. Since 1974 there have been 23 sugar beet plants closed in 12 States. This drop from 59 to 36 plants represents a decrease of 39 percent. The situation is hardly better in sugarcane where 30 percent of the mills have closed. In cane, the losses have been concentrated in Louisiana with 16 closings. Florida and Hawaii have each lost 1. The total number of cane mills now stands at 41, down from 59 in 1974.

The 17 cent support price established in the 1981 farm bill has resulted in a current domestic market price for raw cane sugar of about 21.4 cents per pound. This is still well below USDA's estimates of 24 cents per pound for producing and processing raw cane sugar and 25.3 cents per pound for refined beet sugar. These cost estimates do not include land costs. So, we will surely continue to lose sugar production capability even under existing law. Fourteen cents will hasten that trend.

Who will benefit by undermining American sugar production?

First. The farmer? Obviously the answer is "No." Quite aside from possibly lower prices and even greater market instability, sugar beet production involves much specialized planting, thinning and harvesting equipment that would be sold—probably for a fraction of its cost—and sugar beet production—once lost—is hard and expensive to regain.

Two. The consumer? It is highly unlikely that the consumer will benefit if American sugar production goes down by, let us say, 1 million tons. If we go onto the world market for that amount of sugar, prices will surely soar. This is dealt with more fully in the next section on world sugar trade, but the impact of demand on prices can be seen by looking at the charts.

Three. The Government? Will we save budget dollars? Highly unlikely. Land now in sugar will go to corn and

wheat and increase surpluses there and substantially increase the Government's exposure to price support loan and deficiency payments. Furthermore, the developing corn fructose industry would be jeopardized by the uncertainties involved and the enormous capital investments needed to produce fructose will surely lessen. If there is a single bright spot in the corn market, it is the increasing demand for corn for fructose—and other products of wet milling. Removing a portion of the growth in that demand will only cause greater havoc in the country's most basic farm commodity—corn.

II. WORLD SUGAR TRADE

Of the roughly 90 million metric tons of sugar grown each year, only about 26 million metric tons moves into world trade. The rest is consumed in the country that grows it. Table 6 gives a breakdown of major world exporters. The amount in international trade can be divided into two categories:

First, 7 million metric tons is tied up in long-term contracts and is not available on the "free market." This consists of: 4.5 million metric tons of Cuban sugar which is committed to other Communist countries; 1.5 million metric tons imported into the European Community under special arrangements and very high prices from former colonies and possessions; and an additional 1 million metric tons made up of numerous smaller pacts.

Second, 19 million metric tons enters the world market as uncommitted sugar.

The United States is the world's largest sugar importer, depending on the market for about half its needs. Typically, we import somewhat over 4 million metric tons, but last year it was 4.8 million metric tons. Toward the end of 1981 more sugar than usual was imported due to uncertainty over what, if any, sugar provisions might be in the 1981 farm bill, and the possibility of our imposing quotas. That meant we started 1982 with relatively large stocks on hand and no need to import aggressively. This undoubtedly contributed to the weak sugar prices early this year.

A key issue is the effect on world prices if the United States had to buy even more sugar overseas than it does now. Currently we take about 20 to 25 percent of the uncommitted sugar in world trade. If we reduce domestic production, that figure would rise and without doubt cause the world price to soar, hurting consumers and very adversely affecting our balance of payments.

An explanation of the current world market would be incomplete without examining the role of the European Community (EC). The EC's farm policy is markedly different than ours. It has encouraged excessive production of many agricultural products and has disrupted the world market by dumping them at prices well below the cost of production. The members of the EC strive to increase production by supporting prices well above the world price, sometimes twice as high. Since the EC was formed in 1957, its sugar production increased from 5.4 million metric tons to 15.5 million metric tons, almost a tripling—our production today is where theirs was in 1957. The dramatic increase in production boosted the EC from its position as a net importer of sugar to the largest net exporter.

When the EC began to export sugar it faced a crucial problem. Why would anyone buy its sugar when the price was so far above the world market price? It decided to subsidize the price by paying exporters a "restitution." Today that restitution is 12.6 cents per pound and the EC is an exporter of 6.5 million metric ton of sugar. It is the dominant factor in world trade accounting for 30 percent of the volume, having gained that share by paying an export subsidy equal to nearly twice the present world price. The world sugar market is hardly a "free" one.

Anybody could win the export game by playing under those rules. It helps us understand why the EC countries will spend between $37 to $40 billion on agricultural subsidies this year. The normal cost level of our price support system is about $5 billion—though admittedly nearly twice as high this year due to the disastrously low farm prices.

In that environment, it is no wonder that the world price for sugar is low. If there was 30 percent less corn on the world market—or if the U.S. corn crop dropped by 10 percent—think of how the corn price would shoot up. Clearly, if we allow our own sugar producers to go out of business by subjecting them to the artificially low world price—or the 14 cents per pound Quayle-Tsongas price—we will simply be rewarding the EC for its unfair practices. The Europeans, and others, would make a killing, and after first destroying our industry by selling their surplus at low prices, the world market would surely soar.

III. QUOTAS

Some say that our sugar import quotas are unfair and work to the detriment of our traditional suppliers of sugar, because they limit the amount of sugar that can be brought in. This is not entirely true. We have every right under the General Agreement on Tariffs and Trade (GATT) to impose quotas when our domestic price support operation is threatened by imports. The EC, on the other hand, likely is violating GATT when it captures more than its historic share of the world market through subsidies. In fact, other sugar producing countries are bringing that case against the Europeans to the GATT, but it has not yet been resolved.

The impact of the quotas on our traditional sugar suppliers caught even me by surprise. The quotas actually increase their total income from sugar sales. I had to look at it a second time to understand how it works. The quotas are allocated based on imports from each country over the past 7 years. Right now Caribbean countries are able to sell us sugar at 15.65 cents per pound—raw sugar, duties and fees paid, New York—more than twice the world price of 7 cents. So, their total sugar income is greater with the quotas than without them.

That explains why those countries are not lobbying actively to get the quotas removed. They may argue that the base period should be longer or shorter which would benefit some and hurt others. But they know they are better off with quotas than without them.

IV. CONCLUSION

The well intentioned Quayle-Tsongas amendment is not a useful attempt to deal with a complex issue.

Consumers will be better served by a dependable support of sugar at a reasonable price than by wildly fluctuating prices. The U.S. sugar industry will be better served by a program that allows it to exist in some certainty rather than being subject to the recent vagaries of a world market that is not a free market. Our country and our Federal budget will be better served if acres now in sugar are not converted to producing corn and wheat—already in surplus and at dismally low prices.

The interests of all will be better served if the Quayle-Tsongas amendment is defeated. I urge you to join me in that effort and to support the Symms resolution which highlights the problems caused by the EC.

Mr. President, I ask unanimous consent that various tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1

	World raw sugar production (thousand metric tons)	World raw sugar annual average price (cents per pound)
1957	41,449	5.16
1958	44,535	3.50
1959	48,887	2.97
1960	49,084	3.14
1961	54,404	2.91
1962	51,319	2.98
1963	50,378	8.50
1964	54,852	5.87
1965	64,518	2.12
1966	62,112	1.86
1967	64,918	1.99
1968	66,482	1.98
1969	67,144	3.37
1970	71,217	3.75
1971	70,676	4.52
1972	71,425	7.43
1973	75,079	9.61

TABLE 1—Continued

	World raw sugar production (thousand metric tons)	World raw sugar annual average price (cents per pound)
1974	79,999	29.99
1975	78,523	20.49
1976	81,679	11.58
1977	86,305	8.11
1978	92,544	7.82
1979	91,189	9.66
1980	84,237	29.02
1981	86,832	16.93

TABLE 2.—MAJOR SUGAR PRODUCING COUNTRIES

	Million metric tons [1]
1. India	8.5
2. Brazil	8.5
3. Cuba	7.0
4. U.S.S.R.	6.0
5. United States	5.5
6. France	5.5
7. West Germany	3.7
8. Australia	3.6
9. People's Republic of China	3.4
10. Mexico	2.6
Total largest 10 countries	54.3
European Community (EC–9)	15.5

[1] Production from September 1981 to August 1982.

Note: EC–9 includes: Belgium, Luxemburg, Denmark, France, West Germany, Ireland, Italy, Netherlands, and United Kingdom.

TABLE 3.—U.S. SUGAR STATISTICS, 1957–81

[In thousands of metric tons]

	Production	Imports	Exports	Total domestic use
1957	4,188	3,779	9	8,200
1958	4,018	4,315	11	8,341
1959	4,401	4,147	6	8,571
1960	4,460	4,279	5	8,671
1961	4,805	3,834	6	8,868
1962	4,899	4,192	3	9,106
1963	5,042	4,070	4	9,256
1964	5,854	3,562	5	9,194
1965	5,985	3,498	3	9,253
1966	5,483	3,846	3	9,589
1967	5,518	4,252	1	9,535
1968	5,466	4,526	1	9,535
1969	5,792	4,324	1	9,716
1970	5,592	4,766	1	10,043
1971	5,605	4,821		10,579
1972	5,564	4,973		10,900
1973	6,046	5,099		11,179
1974	5,378	5,346		10,826
1975	5,254	3,887	189	8,997
1976	6,535	3,664	80	9,800
1977	6,234	4,482	40	10,019
1978	5,436	4,414	14	9,872
1979	5,557	4,416	12	9,751
1980	5,187	4,822	336	9,519
1981	5,448	3,977	720	9,117

Note: Production plus imports minus exports equals total domestic use due to change in stocks.

TABLE 4.—U.S. SUGAR PRODUCTION BY STATES, 1981

	1981 (1,000 short tons)	1981 (metric tons)
Cane sugar:		
Florida	969.6	879.6
Hawaii	953.5	865.0
Louisiana	666.9	605.0
Texas	114.6	104.0
Total	2,704.6	2,453.6
Beet sugar:		
Arizona	30.0	27.2
California	702.0	636.8
Colorado	173.3	157.2
Idaho	374.1	339.4
Kansas	28.4	25.8
Michigan	203.0	84.2
Minnesota	442.0	401.0
Montana	92.6	84.0

TABLE 4.—U.S. SUGAR PRODUCTION BY STATES, 1981—Continued

	1981 (1,000 short tons)	1981 (metric tons)
Nebraska	188.7	171.2
New Mexico	4.3	3.9
North Dakota	265.2	240.6
Ohio	27.4	24.8
Oregon	30.8	27.9
Texas	57.5	52.2
Wyoming	107.8	97.8
Total	2,727.1	2,374.0
Total cane and beet	5,431.7	4,927.5

TABLE 5.—SUGAR BEET PLANT CLOSINGS, 1974–82

State and city	Daily slicing capacity short tons (2,000 lb)	Date closed
Arizona: Chandler	4,200	1982
California:		
Spreckels	6,500	1982
Santa Ana	1,800	1979
Colorado:		
Ovid	2,650	1982
Eaton	2,200	1976
Longmont	3,200	1977
Brighton	2,200	1977
Delta	1,700	1977
Rocky Ford	3,400	1979
Idaho: Idaho Falls	4,200	1979
Iowa: Mason City	2,400	1975
Maine: Easton	4,000	1976
Minnesota: Chaska	2,100	1974
Montana: Hardin	1,900	1974
Nebraska: Bayard	2,200	1982
Ohio:		
Ottawa	1,600	1979
Findley	1,600	1979
Fremont	3,200	1981
Utah:		
Lewiston	1,950	1974
West Jordan	1,700	1974
Garland	2,500	1979
Washington:		
Moses Lake	10,500	1979
Toppenish	4,500	1979

TABLE 6

	Thousand metric tons
World sugar exports by geographic area:	
North America	8,153
European Community	5,623
South America	3,674
Asia	3,032
Oceania	3,030
Africa	2,577
Eastern Europe	512
Rest of Western Europe (non-EC)	306
U.S.S.R.	125
Other	208
Total	27,240
15 largest exporters:	
European Community [1]	5,623
Cuba	5,500
Australia	2,655
Brazil	2,400
Philippines	1,582
Dominican Republic	824
Thailand	762
United States	720
South Africa	627
Argentina	633
Mauritius	495
Fiji	375
Swaziland	340
China (Taiwan)	335
Guyana	276
Total	23,147

[1] Because the EC operates as a single unit through its common agricultural policy, the member countries (Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, and United Kingdom) are listed as 1 exporter.

Mr. SYMMS. Mr. President, will the Senator yield for a moment? I want to compliment the Senator from Minnesota for his remarks, as well as my friend from North Dakota and the two Senators for Louisiana.

If the proposition that our good friend from Indiana makes is true, why is it that a can of Tab costs as much as a can of Coca-Cola, that is if the price support has such a big impact?

I recall very well when the price went up to nearly 60 cents a pound, there was a sugar scarcity of 5 percent, the world price had skyrocketed, but the price was not reflected in the cost of soda pop in this country. The fact is that when this little section of the world's sugar supply sells on the free market, only some 20 percent of all sugar produced, a little oversupply will cause the price of sugar to plummet. Even then we really do not see any perceptible reflection in the prices of products that use sugar.

It is interesting to note, and my good friend from Indiana will be interested to know, that during the years when we had no sugar program there was a differential of 3 to 5 cents between the price paid by the people in New England and the price paid by those who lived on the west coast. This was because of the transportation, handling and packaging costs to import the sugar—costs which were not borne by consumers in sugar producing regions. So this is one commodity in the world that really does not reflect a free market price. There is only one little segment that is traded in the free market.

Mr. BOSCHWITZ. What happened to a can of pop, Senator, after the price came down?

Mr. SYMMS. I think it stayed up.

Mr. BOSCHWITZ. Still up where it was when the price of sugar was 60 cents.

Mr. SYMMS. That is correct.

Mr. BOSCHWITZ. You bet.

Mr. SYMMS. It has not come down because the sugar costs are a small portion of the costs of a can of soda.

This fact is well illustrated by an editorial entitled "War Over Sugar," which recently appeared in the San Francisco Chronicle regarding this very amendment, and I ask unanimous consent that the article be printed in the RECORD.

In addition, Mr. President, the Wall Street Journal featured an article entitled "Falling Sugar Costs Generally Fail to Bring Down Retail Food Prices." Both of these articles address the fallacy of the consumer arguments that have been raised on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, Sept. 19, 1982]

WAR OVER SUGAR

If we were teaching bright young college students about American politics, we would tell them that they might learn more about

the nuts and bolts of the system by studying the recent focus of Congress on sugar than by studying any other facet. Sugar politics, it seems to us, has it all: economics, sociology, international relations, idealism, feudalism, greed, and, as they say, much, much more.

Sugar is a lot more complex than, say, gold because there is far more of it, more varied sources of it and more, far more, lobbying and wheeling-dealing involved in it. We consume, on the average, more than 90 pounds of the stuff annually. If you are reading this while wearing something of nylon, you are wearing it. If sipping coffeee from a hardened plastic mug, you are both holding it and probably eating it. Mostly, of course, it is eaten and eaten in such monstrous quantities that it would be unusual indeed if its pricing and marketing were not political. Nations have, in fact, gone near bankruptcy when the world prices slipped. Closer to home, prosperity or poverty for several Hawaiian outer islands is linked to the outcome of the Congressional action. A difference of a few cents can have repercussions right across the globe.

Congress has had its attention focused on sugar through an amendment to the debt ceiling bill put forward by Senators Dan Quayle, R-Indiana, and Paul Tsongas, D-Massachusetts, which would reduce the government sugar loan rate, a form of subsidy to growers, from the current 17 cents to 14 cents a pound. They say that this apparently simple proposal would "have the effect of reducing consumer sweetener costs by $1 billion annually." And that seems a splendid idea indeed.

And this is the point at which we would ask our students to start plowing new ground in the fields of cane.

Consumers, of course, rally to the Quayle-Tsongas proposal and lobbying begins in earnest. Consumers such as the members of the American Association of Retired Persons and the Consumers Federation of America, give thanks. Some unions get in line, like the Bakery, Confectionary and Tobacco Workers International, AFL–CIO, the members of which cook with sugar, want to see lower prices and say the idea is great. The National Soft Drink Association, members of which buy sugar by the tank car, think the idea is great. And thus we have an alliance of average folk consumers, big labor and corporate conglomerates all lined up. It is an apparently unbeatable political alliance which cuts right across the political spectrum.

But wait. There has to be some skepticism that bringing sugar prices down a few pennies will mean that Cokes are going back to a nickel at the office machine or that good supermarket cookies will not cost $1.50. And there are some big conglomerates who want that subsidy, saying that otherwise they will go out of raising beet or cane sugar. And there is a union, the International Longshoremen's and Warehousemen's Union, which declares that 8 percent of Hawaii's economy is about to wiped out with a cut in the subsidy and that some 8,000 workers, a dominant part of the working force on Maui, Kauai and Hawaii, are about to be rendered destitute. The ILWU makes an argument that current low sugar prices have not been reflected on grocery shelves; although sugar prices went down, the union says, prices of foodstuffs containing sugar went up. And the union fears that Caribbean and other sugar-producing tropical lands will form an OPEC-like cartel to control production and price which will be much more detrimental to American consumers than a few pennies of price support.

We would point our students in the direction of sugar, as we noted, because it is something of a classic in the American tug-of-war. Huge corporations are masquerading as consumer advocates, pushing a noble cause because it will benefit them. Unions are pitted one against another in an effort to protect jobs, worker security and turf. If American sugar is not grown, American jobs are, in effect, exported to lands in which working conditions resemble slavery, and that is only one of the complexities of the problem.

A senator who wants a cut in price supports may very well have a major soft drink industry constituency. The senior citizens pushing for a cut in sugar prices do not really want to hurt fellow Americans out in those endless fields of cane on Kauai.

We make no moral or economic judgment. We do know that the problem is fascinating. And we know that, even if sugar is given away free, we're not going to see a nickel Coke again.

[From the Wall Street Journal, Dec. 23, 1981]

FALLING SUGAR COSTS GENERALLY FAIL TO BRING DOWN RETAIL FOOD PRICES

(By G. Christian Hill)

Sugar is one of the largest costs at Bierman's Bakery in Los Angeles, and the price of refined sugar has dropped by about half in the past year. But the little shop on Wilshire Boulevard recently raised the price on its sugar-laden almond croissants by five cents each.

That's Gray's Law of Sugar at work. Its propounder, Agriculture Department economist Frederick Gray, puts it this way: "Whether sugar increases or decreases in price, prices of products containing sugar always increase."

With exceptions, the law generally applies to processed foods. When the cost of their main ingredients rises sharply in the futures or cash markets, food processors are quick to raise prices and blame the increase on costs. When commodity prices fall, the processors often raise their prices, too, or at least leave prices unchanged, but neglect to mention declining costs.

Sugar offers as sweet an example as any. From October 1980 to October 1981, an oversupply of "world," or nonsubsidized sugar, forced the price down by about 70 percent. But according to an Agriculture Department survey, the cost of 14 sugar-heavy products ranging from candy bars to soft drinks rose 8.4 percent over the same period.

There are reasons why falling sugar costs fail to bring retail prices down. For one thing, although the cost of sugar is an important one for candy makers, soft-drink bottlers and others, there are other costs, too, and they may be rising while sugar prices are falling.

For another, it's convenient for processors to justify increases when sugar prices have risen, even though other cost increases might have encouraged rises anyway. The cost of sugar accounts for about 15 percent to 20 percent of the price of a bottle of pop. Packaging costs, including the costs of plant and labor, account for about a third, analysts figure, and distribution costs, 11 percent.

Yet the discrepancy between sugar costs and retail prices seems wider than usual over the past year. Consider that most sugary of all retail products, sugar itself. Since October 1980, its wholesale list price in the Northeast has fallen by 53 percent. The retail price, however, has declined by only 33 percent. In the last big sugar slump, in 1975, the retail price fell 55 percent against a decline in the wholesale price of 61 percent.

One reason why sugar savings aren't getting passed along, sugar brokers and other specialists believe, is that food processors, wholesalers and retailers are keeping more of the savings for themselves. That's in an attempt to repair profit margins eroded by years of inflation or market competition. While some companies may be keeping prices firm despite falling sugar costs, others may be increasing their profits even more by raising prices.

"This is what happens in an inflationary spiral," an officer of a big sugar cooperative says. "A drop in sugar prices is like a drop in the price of tires to auto makers. They use that margin to make up losses from cost increases they can't control."

Or so, apparently, Hershey Foods Corp., Hershey, Pa., is doing. Hershey hasn't raised the price on its Hershey bars since April 1980. But it endured big sugar-cost increases that year. This year, with sugar depressed, Hershey is believed to be using its savings to compensate for what happened in 1980.

"If a manufacturer goes through a period of rising commodity costs, he'll try to raise prices as quickly as possible, but typically can't recover all the costs because of consumer resistance," says Lee Tawes, a sugar-industry analyst. "When prices come down, he won't cut prices unless forced by competition. He'll typically take a bigger margin."

Hershey is hardly encouraged to cut prices. One of its big competitors, M&M/Mars, Inc., Hackettstown, N.J., has dealt with the sugar market in a different way and actually raised its prices by 3.4 cents a bar in September. The company cited higher costs. It also suggested that because Mars bars are bigger than Hershey's and other rivals, it could hold onto its market share. "Even at our new prices, our bars will still be the best value in the chocolate-bar market," said Jay Langdon, director of marketing, when Mars raised prices.

PRICING PRESSURE

Mars' competitors insinuated profiteering. After all, they observed, not only sugar costs but also cocoa costs were depressed. Hershey even took out advertisements saying it didn't consider a price increase justified. Curiously enough, however, Hershey remains under some pressure to raise its prices, too, even though it may genuinely prefer not to. The reason is that wholesalers and retailers prefer to price like products alike, so that a price increase by an aggressive marketer often leads to price increases by its competitors.

In early 1980, for instance, chewing-gum makers increased their wholesale price to raise the pack of gum at retail by five cents. Wrigley, a big gum maker, at first didn't go along. Even so, retailers raised the price of Wrigley's gum by five cents a pack. They told Wrigley that a standard price on chewing gum made it easier for cashiers. In the case of Wrigley's gum, of course, raising the retail price with no increase in wholesale cost made Wrigley's much more profitable for the retailers.

"The retailers were enjoying higher than normal margins, and we were paying for it," says Bill Piet, an assistant vice president at Wrigley. "Our margins were going down"—because of other costs—"and the consumer

wasn't benefitting." Finally Wrigley, too, raised its prices.

WHOLESALE PRICE SNAG

Similarly, wholesale and retail prices of sugarless drinks, such as Tab, rose right along with sugar-filled drinks last year. Neither bottlers nor retailers like to charge distinctly different prices on such beverages. Indeed, beverage bottlers, perhaps even more than other sugar users, have benefitted from sugar's declining cost. They're getting more money for nonsugar concoctions and paying less for sugar. Coke bottlers, at the end of October, for instance, were being charged by Coca-Cola Co. only $2.64 a gallon for Coke syrup, down from $3.73 in October 1980, according to a bottler.

But Coke bottlers themselves don't keep all the savings. Most of Coca-Cola's 550 contract bottlers pay for the sugar in their syrup at a price based on sugar's average publicly listed wholesale price each quarter. But sugar brokers say that Coca-Cola gets much of its sugar directly from producers and pays refiners a "tolling fee" to process it. Wholesale prices have fallen less than producers' prices. Even when Coca-Cola buys at wholesale from refiners, the brokers say, its costs are at least $3 to $4 a hundredweight less than the wholesale price, and it gets high-fructose corn syrup, a sugar substitute, for about $1 below wholesale.

Coca-Cola is the biggest sugar consumer in the U.S. It buys, industry estimates have it, about a million tons of sugar and fructose a year. A broker estimates that the difference between the prices at which Coca-Cola can buy at wholesale and the wholesale list price amounts to more than $25 million a year. Coca-Cola won't discuss its sugar cost and price. But others in the business think that much of the cash generated by its spread between cost and price goes to finance Coca-Cola's marketing battle with Pepsi-Cola.

PRICE "UMBRELLA"

To the extent that it means discounting Coke prices in certain competitive markets, the consumer benefits. But overall, sugar brokers say, Coca-Cola's pricing policy maintains an "umbrella" over prices, under which other soft drink companies can keep their own prices higher than they might otherwise be able to.

Yet another factor influences sugar-product prices in the U.S.—the government. Since 1977, it has supported the price paid for U.S. produced raw sugar at 11-cents to 16 cents a pound by imposing duties and fees on imported sugar that accounts for half of U.S. consumption.

Under a pending farm bill, the support level would rise to 18 cents a pound by 1984. The aim is to protect U.S. sugar growers against foreign competition.

Sugar specialists estimate that sugar consumers in the U.S. pay $300 million a year in higher prices for each cent that the U.S. support price exceeds the world market price on sugar. It means that at the current support level, the additional yearly cost is running close to $1 billion.

That, complains the Ohio Soft Drink Association, "contributes to inflation, constitutes unfair taxation, benefits a select nonvital industry at the expense of American consumers and makes a mockery of the free-enterprise system."

Mr. INOUYE. Mr. President, I rise today to urge my colleagues to defeat the Quayle-Tsongas amendment. The sponsors of this amendment have suggested, in the name of the American consumer and free trade, that we must cut the sugar program from 17 cents to 14 cents a pound. In so doing, they ignore the extensive debate that we had on this very same issue last fall. At that time, the Senate voted overwhelmingly in favor of an 18-cent sugar price-support level. The conference committee lowered the level to 17 cents a pound, and both Houses ratified that decision.

Mr. President, we knew what we were doing last year when we approved the current sugar program, as did the President of the United States when he signed the measure into law. Yet now we are being asked to retrace our steps and debate the very same issues all over again. In so doing, we are being asked to set a dangerous precedent that has the farmers of America very concerned—I trust that everyone in this body has read their letters from the National Corn Growers Association and the American Farm Bureau Federation opposing the Quayle-Tsongas amendment. It is a mystery to me why we should now go back and reverse the decisions we made only 11 months ago.

Mr. President, the Quayle-Tsongas amendment is a bad idea at a bad time which will seriously undermine the confidence of America's farmers in our price-support systems. Cutting the sugar program at this stage will severely damage the American sugar industry, hurt our balance of trade, and cost the American consumer dearly in the long run. It is a poorly conceived idea that serves the purposes of only a few large corporations which want to take advantage of what is, for the time being, a severely depressed price on the so-called world sugar market. As we all know, the "world market" accounts for less than one-fifth of the world's sugar production and is where exporting countries dump their surpluses, often at a great loss. The current price of 6¼ cents a pound is well below the cost of producing sugar anywhere in the world, yet it represents a great potential windfall for companies that use sugar in making their goods.

Mr. President, the existing sugar program is a commonsense approach to stabilizing the price of a very volatile commodity on an unpredictable market. It is similar to the other programs we have for wheat, corn, soybeans, cotton, sorghum, and rice, yet the support price is the lowest of any commodity when measured as a percent of last year's cost of production, minus land. The sugar program puts a floor under the price of sugar, which has in recent years gone from 65 cents a pound in 1974 to between 7 and 10 cents in 1976-78, then to 42 cents in late 1980, and finally down to 6¼ cents in September of this year. In so doing, the program guarantees American sugar producers a minimum price for their efforts. It does not, however, guarantee them profits. Indeed, the Hawaiian sugar industry—the most efficient in this country and the one with the highest yields in the world—lost $83 million in 1981 and expects to lose $27 million more this year. What the sugar program does is to offer domestic producers some hope of riding out bad days in the boom-or-bust market in the hope of better days ahead.

The major difference between sugar and the other commodities with price support programs is that we import 45 percent of our sugar. Here is where most of the questions and misconceptions about the Quayle-Tsongas amendment come into play. Mr. President, the distinguished Senators from Indiana and Massachusetts have argued that their amendment is a timely measure which will save consumers money and help our foreign trade. Nothing could be further from the truth, and I ask my colleagues' indulgence while I review their arguments and demonstrate just how wrong they are.

THE TIMING ARGUMENT

Mr. President, the first argument raised by the gentlemen from Indiana and Massachusetts is that the time is right for their amendment. Now is when we should reduce the price support for sugar since the end of the fiscal year is near, as is the date for the announcement of the USDA's new quotas on sugar imports.

Mr. President, now is the worst time possible for cutting this or any other price-support program. First of all, we are in the middle of the sugar crop cycle, which varies by region and the type of sugar grown. Never before has Congress promised farmers one price and then reduced that price before the harvest is in. I suggest that this is not the time to start this practice.

Mr. President, some people may try to argue with me by pointing to recent Senate votes on the milk and tobacco programs. However, these actions involved capping payments to farmers who were producing too much. The emphasis was on curbing supplies and reducing the cost to the Government. In the case of sugar, domestic producers are losing money and decreasing the amount of land and the number of mills in production. Furthermore, the sugar program, unlike the dairy and tobacco programs, is earning the Government money. The amendment before us would be, in fact, the first time that we reduced a support program before the harvest is in. My fellow Senators, what sort of precedent would this establish? Do we really want to open commodity programs to a free-for-all every time some interest group singles out a program for reduction? We all recall the long and painful process involved in putting

the farm bill together last year. How many times do we have to go back to the well?

A second point about the timing of this amendment is that it could not come at a worst time for farmers. The Nation is in the grips of a recession, and farmers are amongst those hardest hit. The Quayle-Tsongas amendment would spell the demise of our domestic sugar industry and send a shudder through the rest of our farming community. Producers of all commodities will wonder—are we next? Is there any future for us, or should we get out of agriculture before Congress reneges on yet another promise? Mr. President, the proposal to cut the sugar program from 17 cents to 14 cents a pound is grossly mistimed and will establish a dangerous precedent. On these grounds alone, the Senate should defeat this attack on the farmers of America. On this issue, we must send a clear signal that we intend to keep our word and our faith with the hard-working farmers of America.

THE CONSUMER COST ARGUMENT

Mr. President, if the Quayle-Tsongas amendment does not serve the American farmer, just who does it help? This brings me to the second argument being raised in favor of the amendment—that it will save consumers billions of dollars each year.

Mr. President, nothing could be further from the truth. Rather than help consumers save money, it will enable certain east coast corporations to earn large profits during periods of depressed sugar prices. The key fallacy in the argument made by the Senator from Indiana is the claim that consumers will pay an extra $2 to $4 billion this year because of the sugar support program. It is equally erroneous for the Senator to argue that consumers will save $300 million for every 1-cent decrease in the price of sugar.

Let me illustrate. Americans consume only 20 pounds, or about one-fourth of their sugar, as the refined product that you find on the coffee table. The other 60 pounds, or three-quarters, is consumed as a sweetener in soft drinks, candy bars, and other processed foods. It is absolutely wrong for the gentleman from Indiana to argue that savings are passed on to the consumer for the sugar used in these processed foods. The fact of the matter is that while food processors are happy to raise the price of their goods when the cost of sugar goes up, we rarely see those same prices decline when the price of sugar goes down. As the vice president of Supermarkets General Corp. stated in Business Week on April 19: "They have used increases in sugar prices as an excuse to raise their prices, but decreases in sugar prices never seem to get translated down." Indeed, while the price of raw sugar in New York fell 70 percent from October 1980 to October 1981, the price of 14 major sugar-containing products increased by an average of 8.4 percent.

Similarly, if one accepted the Senator from Indiana's own argument that a penny's change in the price of raw sugar makes a $300 million difference in the cost to the consumer—which is not true—the American consumer should have saved $3.129 billion on sugar and sugar-containing products last year as a result of the drop in sugar prices.

This did not happen. Instead, the National Soft Drink Association's survey of sales in the soft drink industry, as reported in the Food Institute Weekly Digest of July 31, stated that the wholesale value of soft drinks rose some 13.2 percent in 1981, on a volume increase of only 3.8 percent. Were the savings of lower sugar prices passed on to the consumer? No; they were kept by the companies as profits.

Mr. President, corporate users of imported sugar cannot have it both ways. Some argue that savings are passed on to the consumer in the form of slower price rises. My reaction to that is: Thanks for nothing. If in fact bottlers and processors use increased sugar costs to raise their prices, then they must use the same rationale to lower their prices when the cost of sugar declines. However, this has not happened. I must, therefore, conclude that the Quayle-Tsongas amendment is primarily a Coca-Cola bill, not a consumer interest bill.

Mr. President, I urge my colleagues to examine the issue of consumer costs and corporate profits closely. In so doing, I trust that they will join with the USDA in concluding as follows:

> If the loan rate for 1982-crop raw cane sugar is set at the legal minimum of 17 cents a pound . . ., growers and processors are provided with the assurance required to sustain domestic production, while increases in consumer costs are minimized.

This option, spelled out on page 12 of the USDA's report entitled "The Price Support Loan Program for 1982—Crop Sugar Beets and Sugar Cane," is the one being implemented for the 1982 crop year.

THE TRADE ISSUE

The third excuse used by the Senators from Indiana and Massachusetts to cut the sugar program is the trade issue. They suggest that the sugar program is hurting the President's Caribbean Basin Initiative and that it is harming our agricultural exports. They have further warned that the imposition of sugar quotas might lead to protectionism and retaliation by our trading partners.

Mr. President, the supporters of this amendment have put the cart before the horse. There are already numerous trade barriers abroad which our sugar program will do nothing to change. Why should sugar be any different than textiles, steel, chemicals, beef, and grain, where we protect American jobs and American industry against unfair foreign competition?

Do the proponents of this amendment seriously expect us to offer up sugar as a sacrificial lamb in the name of free trade when almost every other sugar producing country has import restrictions, quotas, price supports, or artificially high, long-term sale contracts? Do they expect us to listen to naive lectures about free trade when President Reagan himself has done more than anyone else to outrage our European allies by barring the sale of pipeline technology to the Soviets? The ultimate irony is that one of the Senators supporting the Quayle-Tsongas amendment is offering his own amendment suggesting that we protect the American steel industry against dumping from abroad—and he cites sugar as an example of an American industry being hurt by such unfair competition.

Mr. President, the gentleman from Indiana has berated the imposition of sugar quotas this past May as being contradictory to established U.S. trade policy. My colleagues know that quotas are a temporary measure necessitated by massive dumping of sugar on the so-called world market. What the Senator overlooks is that in imposing these quotas, the administration acted within both the law and our agreements under GATT, the General Agreement on Tariffs and Trade. For example, the U.S. Cane Sugar Refiners Association recently brought suit in the U.S. Court of International Trade in New York in an effort to halt the use of quotas to defend our sugar program. However, Judge Newman ruled in favor of the Government.

The association then appealed the case to the Court of Patent and Customs Appeals in Washington, and again the court found that the President had acted within his authority and consistently with established trade practices.

I would also point out that quotas are an accepted part of the international sugar agreement's price stabilization mechanism. The United States is a member of this group, but unfortunately the European Economic Community is not. As a result, the international sugar agreement has been ineffective in stabilizing the international price of sugar, yet the Senator from Indiana is worried about offending the European Economic Community by using quotas to defend our domestic sugar industry. This argument just does not make sense.

There is another aspect of the trade argument which puzzles me; namely, the claim that the quota program is hurting our friends and allies who supply us with sugar. This too is false.

Let me illustrate by pointing out that sugar exporting countries, especially those in the Caribbean, received a 9.88 cent premium in August for selling their sugar in the United States under the current price-support program. I derive this number by taking the price of raw sugar in New York on August 10, which was 22.61 cents a pound, and subtracting freight and insurance costs of 1.5 cents, import fees of 1.42 cents, duties of 2.81 cents, and the price of raw sugar on the world market, which was 7 cents. This yields a premium of 9.88 cents per pound under the current price-support system, which is increasing because of the continued drop in world sugar prices.

Foreign producers now receive prices in New York that are more than double the price abroad. For example, the Dominican Republic, which has 17.6 percent of the import quota established by the USDA, will earn almost $200 per ton in the United States next year. Using today's figures, that will mean $115 million in additional income for this Caribbean ally, thanks to the quota program. The same calculus that applies ot the Dominican Republic also applies to the other Caribbean countries about which the Senator from Indiana has expressed so much concern.

Finally, one fact which the proponents of this amendment have overlooked in arguing the trade issue is that for every pound of sugar we produce in the United States, our money stays at home, thus benefiting our overall economy.

By contrast, purchases of foreign sugar exacerbate our country's balance of payments deficit. This deficit for sugar imports totaled approximately $2 billion in 1980. Had we depended completely on imports, our balance of payments deficit for sugar would have been at least $4.7 billion, and quite possibly more. Yet sponsors of this amendment seem content to let our American sugar industry go bankrupt for the sake of short-term profits by a few large companies.

SUGAR: IN THE NATIONAL INTEREST

The balance of payments problem brings me to the final issue raised by the Quayle-Tsongas amendment: Is our domestic industry worth saving? Are price supports for American sugar growers in the national interest?

Mr. President, the gentleman from Indiana has suggested in a recent floor statement that "there is no justifiable economic rationale for protecting sugar growers in this country" and that "sugar is obviously not related to our national defense." Nothing could be further from the truth.

Mr. President, the U.S. sugar industry is vital to the general welfare of the Nation and makes substantial economic contributions to the many States that grow sugar.

Sugarcane and sugar beets are a major agricultural product in this country. Sugar ranks as one of the top 10 commodities in terms of acreage and dollars earned. Nearly 15,000 Americans grow sugar, and more than 100,000 depend on the domestic sugar industry for their livelihood. In many rural areas and small towns, there are no alternatives to sugar, which is the mainstay of the local economy.

Mr. President, the American sugar farmer is the same kind of farmer as any other American commodity grower. He is the world's most productive agriculturalist, certainly as measured in terms of output per man hour. In Hawaii, we produce more sugar per acre per year than any other place in the world.

We also produce as much sugar with 8,500 workers as they do in the Dominican Republic with 85,000 workers. Similarly we produce sugar at a cost below that of such countries as Barbados, and Haiti. Yet in Hawaii, we pay our workers between $6 and $8.50 an hour. This is more than Haitian workers earn in 5 days. To put it another way, we pay Hawaiian workers more per day than Haitian workers receive per month, yet we produce sugar, which is labor intensive, at a lower cost than they do.

Mr. President, I am not asking that one dime be spent to protect an inefficient industry that is unable to compete on the world market. What I am asking is that the American sugar producer be given the same kind of protection that is given to producers in other countries—protection from dumping at ruinous prices during periods of excess production.

Although we do not produce all of our own sugar, it would be a serious mistake to assume that we do not need to produce any at all. The world market is an unpredictable source of sugar, and there is no guarantee that we could obtain all of our needs abroad. Yet by reducing the price-support level of sugar from 17 to 14 cents a pound, we would wipe out our domestic industry and force us to increase our purchases from foreign countries. We would thus aggravate our negative trade balance. Furthermore, without a domestic industry, the USDA warned in testimony before the House Ways and Means Subcommittee on Trade 3 years ago that consumers face price increases of several hundred percent.

Mr. President, I call thousands of American jobs a good reason for maintaining the sugar price support at 17 cents.

I call an improved balance of trade a good reason to maintain the present price-support system.

I call the long-term interests of the American consumer a good reason to protect the domestic sugar industry.

Mr. President, the American sugar industry is indeed in our country's best interests. I urge my colleagues to join me in voting down the Senator from Indiana's ill-timed, ill-conceived, and illogical amendment. Both American consumers and American producers need the protection afforded by the 17 cent price-support system which we approved last fall. Let us not establish the dangerous precedent for commodity programs being suggested by the Quayle-Tsongas amendment. Should we fail to uphold our vital sugar program, it will mean another domestic industry down the drain, with all of its attendant misery and costs

(Mr. HAYAKAWA assumed the chair.)

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. MATSUNAGA. Mr. President, I rise in strong opposition to the Quayle amendment and in support of the motion to table it, which motion I understand will be offered by the distinguished chairman of the committee, Mr. DOLE. In doing so, I wish to serve notice, now and clearly, that if the motion to table the Quayle amendment fails, I am prepared to speak against the amendment at some length, perhaps even for the next 10 days, along with my senior colleague and colleagues from the sugar-producing States.

Let me assure my colleagues that the avoidance of a lengthy debate need not be the reason for supporting the tabling motion. There are ample meritorious reasons for defeating the Quayle amendment. Permit me to state just a few:

Mr. President, the sugar support provisions of the agriculture and food act of 1981 were incorporated in that act after and as a result of extensive hearings on the merits of those provisions by the Senate Committee on Agriculture and Forestry. This body deliberated extensively on the bill and passed it after defeating amendments which would have deleted the sugar program from the farm bill. The price supports approved by the Congress were lower than those originally contemplated when the committee was considering the bill.

Any suggestion that the sugar price supports as they presently exist would in any way defeat the hopes for a balanced budget as expressed here today is without any basis in fact. The sugar support program is a loan program and does not take subsidy money from the Treasury at the expense of the taxpayer. Moreover, the sugar loan rate is the lowest of any farm commodity as a percent of cost of produc-

tion. The average for wheat, corn, cotton, rice, and soybeans is 92.04 percent of the 1981 cost of production, excluding land cost.

The 17-cent per pound sugar loan is 70.87 percent of such 1981 costs.

Mr. President, it should be pointed out that the allegations that the sugar quota jeopardizes our friendly relations with our neighbor countries to the south and is a consumer ripoff are absolutely not true: The Dominican Republic, in fact, recently testified in support of quotas before the International Trade Commission. Many of those nations which export sugar to the United States may have a smaller quota, but enjoy a higher price than they could obtain on the depressed world market and have hopes of stability in the industry. More importantly, the American consumer is buying sugar at a lower price today than a year ago—more than 20 cents on a 5-pound bag in New York City, according to the Office of Consumer Affairs.

Mr. President, we cannot overlook the significant facts that more than two-thirds of the sugar consumed in the United States is in manufactured products such as soft drinks, candy, bakery products, and canned fruits, and that the price of those products does not go down even when the price of sugar falls to a point below the cost of production and the sugar producers in this country are struggling to survive.

Mr. President, the further allegation that domestic sugar producers have no comparative advantage over foreign producers is not based on comparative facts. Every foreign sugar producer enjoys some form of subsidy from its Government and our producers, although the most efficient in the world, cannot compete with sugar which is dumped in the United States and sold at prices far below its cost of production.

Opponents of the sugar support program talk about the need for an open market and leaving prices to the free market. Where sugar is concerned, there is no free market. The American producer is competing against dump sugar, that is, foreign produced surplus sugar. We have no surplus of domestic sugar, for in fact sugar is an import commodity. About half of all sugar consumed in the United States is imported from foreign countries, while virtually all other farm commodities grown in the United States are produced in excess of domestic needs and are exported, and we are desperately trying to develop export markets for those commodities.

With the efforts needed to maintain our economy and reduce unemployment, we can ill afford to further jeopardize our domestic sugar industry. If it fails 100,000 now employed will be added to the unemployed list. A vote in favor of the Quayle-Tsongas amendment No. 2016 would do just that.

Mr. President I urge support of the motion to table the amendment.

Mr. President, if the distinguished chairman will yield further, I would like to read into the record an excerpt from an article in the Wall Street Journal of December 23, 1981, entitled "Falling Sugar Costs Generally Fail To Bring Down Retail Food Prices." The article, I believe, raises great doubts about the allegations made by antisugar advocates, such as the Senator from Indiana, that the sugar program raises prices to consumers. The article reads in part as follows:

FALLING SUGAR COSTS GENERALLY FAIL TO BRING DOWN RETAIL FOOD PRICES

(By G. Christian Hill)

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That's Gray's Law of Sugar at work. Its propounder, Agriculture Department economist Frederick Gray, puts it this way: "Whether sugar increases or decreases in price, prices of products containing sugar always increase."

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Sugar offers as sweet an example as any. From October 1980 to October 1981, an oversupply of "world," or nonsubsidized sugar, forced the price down by about 70%. But according to an Agriculture Department survey, the cost of 14 sugar-heavy products ranging from candy bars to soft drinks rose 8.4% over the same period.

There are reasons why falling sugar costs fail to bring retail prices down. For one thing, although the cost of sugar is an important one for candy makers, soft-drink bottlers and others, there are other costs, too, and they may be rising while sugar prices are falling.

For another, it's convenient for processors to justify increases when sugar prices have risen, even though other cost increases might have encouraged rises anyway. The cost of sugar accounts for about 15 percent to 20 percent of the price of a bottle of pop. Packaging costs, including the costs of plant and labor, account for about a third, analysts figure, and distribution costs, 11 percent.

Yet the discrepancy between sugar costs and retail prices seems wider than usual over the past year. Consider that most sugary of all retail products, sugar itself. Since October 1980, its wholesale list price in the Northeast has fallen by 53 percent. The retail price, however, has declined by only 33 percent. In the last big sugar slump, in 1975, the retail price fell 55 percent against a decline in the wholesale price of 61 percent.

One reason why sugar savings aren't getting passed along, sugar brokers and other specialists believe, is that food processors, wholesalers and retailers are keeping more of the savings for themselves. That's in an attempt to repair profit margins eroded by years of inflation or market competition. While some companies may be keeping prices firm despite falling sugar costs, others may be increasing their profits even more by raising prices.

Mr. President, in light of the reasons stated, I am confident my colleagues will join me in tabling the Quayle amendment.

Mr. DOLE. Mr. President, I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I am concerned that this amendment will change the sugar provisions of the 1981 farm bill before we have had time to evaluate their effectiveness. I am also concerned that the American public is being led to believe that food costs can be reduced by undercutting the minimal levels of support provided to farmers in existing legislation.

Mr. President, the sugar program was established under the 1981 farm bill to encourage stability in the domestic sugar market, to the benefit of both producers and consumers.

I do not believe that now is the time to make a legislative change in the program that could be detrimental to any American farmer. The sugar program should be given a reasonable period of time to achieve its goal—to sustain and increase domestic sugar consumption so as to insure adequate supplies from domestic sources.

This amendment will cut the minimal support level for domestically produced sugar and lead to disastrously low prices for American sugar producers. In this regard, I note that the current sugar price-support level of 17 cents is significantly below the average U.S. cost of production. American sugar producers will not stay in business without the prospect of a fair return for their product. We should not adopt an amendment that threatens to bankrupt American farmers and put workers out of jobs.

If the number of domestic producers declines, the adverse economic effects will spread to many parts of the national economy and the United States will become increasingly reliant upon the uncertain and frequently expensive world supplies.

We should not increase American reliance on world sugar markets. The so-called world free market for sugar is, in fact, tightly controlled: 80 percent of the world's sugar production is sold in protected markets. The remaining 20 percent is dumped on the world market at whatever price it can bring. The United States imports about 30 percent of that residual supply.

The recurring expansion and contraction of residual supplies can cause

great hardship to producers without benefit to consumers. In November 1974, the world raw sugar prices averaged 57 cents per pound, later fell precipitously to 7.8 cents per pound in 1978, rose to 42 cents per pound in 1980, and collapsed to 7 cents per pound in June of this year. Planning for U.S. sugar production each year cannot take place with such enormous variation in prices.

Opponents of the sugar program claim that lowering the existing support level from the scheduled 17 cents per pound rate that will be effective in October will result in savings to the consumer. There is no historical evidence to suggest that, with the absence of a sugar program, the American consumer will pay consistently lower prices for sugar. As with nearly all agricultural products, the price at the farm gate bears little relation to the grocery store price.

The American family farmer consistently produces an abundance of food products at a low cost to the consumer. I think that the American public is aware that they have a bargain in food prices. American consumers spend less of their take-home pay for food than the consumers in any other nation in the world. Consumer food prices have increased less than the overall rate of inflation every year for the past 3 years and 6 out of the past 7 years.

Mr. President, there is a strong relationship between the state of the agricultural economy and a healthy national economy. Agriculture is America's biggest industry, provides more jobs for our workers, and earns more foreign exchange, than any other industry. We should not make any changes in our farm programs that would increase unemployment and adversely affect our balance of payments.

I urge my colleagues to join me in opposing the pending amendment.

Mr. QUAYLE. Mr. President, as Dave Stockman said in the 1978 debate, when the sugar growers start projecting themselves as the consumer protectors, we all better watch out.

The history of the sugar program shows that prices have fluctuated wildly, with or without a program—for instance, in 1963 prices shot up 200 percent; in 1974 they went up 213 percent, and in 1965 they went down 65 percent. All of these fluctuations happened while the supposed "price stabilization programs" were in effect.

The second response to this argument is that EEC "dumping" is the only reason for low world sugar prices—this too is nonsense and blatantly ignores the facts: Facts show that EEC exports have grown constantly since 1975, but that sugar prices continue to go up and down wildly:

Year	EEC exports (million tons)	World price of sugar (cents)
1975	0	20.37
1976	1.2	11.51
1977	2.3	8.10
1978	3.3	7.81
1979	3.5	9.65
1980	3.7	28.66
1981	4.3	16.80

I might add that the U.S. price-support program and import quotas have reduced American imports from 5 million tons/year to 2.8 million tons. This reduction of 2.2 million tons, about 15 percent of the world market, must do almost as much as the EEC exports to depress the world price.

The history of U.S. sugar prices going back to the 1930's shows that U.S. sugar programs have constantly kept U.S. price well above world price.

In summary, the only thing stable about the U.S. sugar program is that it forces U.S. consumers to pay prices way above the world average for their sugar.

I ask unanimous consent to have printed in the RECORD certain tables detailing the history of U.S. sugar prices.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

WORLD SUGAR PRODUCTION, PRICE, STOCKS AND CONSUMPTION

	World production (million metric tons)	Annual change (percent)	World price (cents per pound)	Annual change (percent)	End stocks (million metric tons)	Annual change (percent)	World consumption (million metric tons)	Annual change (percent)
1951	33.4		5.67		[1]	[1]	33.0	
1952	36.2	8.4	4.17	−26.8	[1]	[1]	33.5	1.5
1953	38.4	6.1	3.41	−18.2	[1]	[1]	36.4	8.7
1954	37.5	−2.3	3.26	−4.4	[1]	[1]	37.8	3.8
1955	39.0	4.0	3.24	−.6	[1]	[1]	38.7	2.4
1956	40.3	3.3	3.47	7.1	[1]	[1]	41.8	8.0
1957	44.0	9.2	5.16	48.7	[1]	[1]	42.5	1.7
1958	47.0	6.8	3.50	−32.2	[1]	[1]	45.0	5.9
1959	49.6	5.5	2.97	−15.1	[1]	[1]	46.4	3.1
1960	52.1	5.0	3.14	5.7	[1]	[1]	48.8	5.2
1961	54.8	5.2	2.70	−14.0	[1]	[1]	53.2	9.0
1962	51.6	−5.8	2.78	3.0	[1]	[1]	53.6	.8
1963	52.6	1.9	8.34	200.0	[1]	[1]	53.3	−.6
1964	60.1	14.3	5.77	−30.8	[1]	[1]	55.8	4.7
1965	65.0	8.2	2.02	−65.0	[1]	[1]	60.2	7.9
1966	64.1	−1.4	1.81	−10.4	[1]	[1]	61.1	1.5
1967	66.4	3.6	1.92	6.1	[1]	[1]	63.1	3.3
1968	66.8	.6	1.90	−1.0	[1]	[1]	66.3	5.1
1969	69.6	4.2	3.20	68.4	33.0		68.4	3.2
1970	72.9	4.7	3.68	15.0	32.5	−1.5	72.1	5.4
1971	74.0	1.5	4.50	22.3	37.6	15.7	74.4	3.2
1972	75.7	2.3	7.27	61.6	30.7	−18.4	76.0	2.2
1973	75.8	.1	9.45	30.0	30.0	−2.2	76.3	.4
1974	76.4	.8	29.66	213.9	28.3	−5.7	77.3	1.3
1975	78.9	3.3	20.37	−31.3	32.4	14.5	74.5	−3.6
1976	82.5	4.6	11.51	−43.5	36.7	13.3	79.3	6.4
1977	90.4	9.6	8.10	−29.6	43.6	18.8	82.6	4.2
1978	90.6	.2	7.81	−3.6	44.8	2.8	86.2	4.4
1979	89.2	−1.5	9.65	23.6	43.2	−3.6	89.9	4.3
1980	84.4	−5.4	28.66	197.0	39.7	−8.1	87.5	−2.7
1981 (forecast)	92.0	9.0	16.80	−41.4	39.7	0	92.0	5.1

[1] Not available.

Source: ISO Yearbook data as reported by F. O. Licht.

PAST U.S. SUGAR PROGRAMS HAVE KEPT U.S. PRICE WELL ABOVE WORLD PRICE—COMPARISON, AVERAGE YEARLY UNITED STATES VERSUS WORLD RAW SUGAR PRICES, 1933–74

	Average yearly U.S. raw sugar price[1]	Average yearly world raw sugar price (cents per pound)	U.S. price over world price
Calendar year:			
1974	27.4868	29.5976	−2.1108
1973	8.9089	9.5930	−.6841
1972	7.9803	7.4053	.5750
1971	7.3912	4.5219	2.8693
1970	6.9404	3.7542	3.1862
1969	6.7492	3.3708	3.3784
1968	6.5394	1.9790	4.5604
1967	6.3179	1.9920	4.3259
1966	6.0297	1.8579	4.1718
1965	5.7951	2.1177	3.6774
1964	5.9780	5.8631	.1149
1963	7.2818	8.4815	−1.1997
1962	5.5630	2.9671	2.5959
1961	5.3556	2.9129	2.4427
1960	5.3502	3.1407	2.2095
1959	5.3485	2.9671	2.3814
1958	5.4131	3.4980	1.9151
1957	5.3062	5.1589	.1473
1956	5.0945	3.4666	1.6279
1955	4.9963	3.2384	1.7579
1954	5.2072	3.2602	1.9470
1953	5.4237	3.4098	2.0139
1952	5.3532	4.1658	1.1874
1951	5.0699	5.6733	−.6034
1950	5.0878	4.9751	.1127
1949	5.3072	4.1574	1.1498
1948	5.04507	4.220675	.824395
1947	5.44766	5.03	.41766
1946	4.2219	4.24	−.018
1945	3.4225	3.14	.2825
1944	2.99	2.99	0
1943	2.99	2.99	0
1942	2.99	2.99	0
1941	2.4777	1.8491	.6286
1940	1.8859	1.326	.5599
1939	1.9049	1.5894	.3155
1938	2.0356	1.1403	.8953
1937	2.5426	1.3193	1.2233
1936	2.6945	1.0147	1.6798
1935	2.3358	.9991	1.3317
1934	1.4990	1.0402	.4593
1933	1.2195	.9671	.2524

[1] C.I.F. basis New York, excluding duty.

Mr. QUAYLE. The Quayle-Tsongas amendment does nothing to harm our ability to counter any unfair trading practices—we still have the normal recourse to GATT and to countervailing duties that any other product has—in fact, we already have countervailing duties in effect against EEC sugar. We do not import EEC sugar anyway.

Many other U.S. products would certainly enjoy outright price-support guaranties to protect them from foreign competition, but they have to rely on GATT and other foreign trade methods of recourse.

The EEC program is only one of many causes of low world sugar prices: Consider that first, U.S. import quotas themselves have cut U.S. imports by 2 million tons, which is over 10 percent of the "free market in world sugar" as defined by the sugar supporters; since quotas went into effect, the price of world sugar has declined by over 30 percent. Second, good harvests throughout the world have led to oversupply and low prices; third, decline in demand for sugar because of increased competition from corn sweeteners has helped to reduce prices. In the United States alone, corn sweetener usage has caused demand for sugar to fall by about 3 million tons per year, almost 15 percent of the free market in sugar.

In short, the EEC program is only the latest excuse for the domestic sugar industry to demand protection. I know of no other product that demands a price guaranty 300 percent higher than the prevailing free-market price. Sugar industry has been protected since the 1890's.

Such protectionism is likely to hurt other U.S. industries, especially agriculture, which export to sugar-producing areas. The United States exports over $9 billion per year to the EEC in agricultural products, and over $2.5 billion in feed grains alone to the 10 leading sugar exporting nations outside the EEC. Both the EEC and the members of the International Sugar Agreement (ISA) have lodged bitter complaints with the United States over its sugar program.

I ask unanimous consent to put in the RECORD a resolution adopted by sugar-exporting nations of the ISA, and articles relating to the foreign response to U.S. sugar import quotas.

There being no objection, the stories were ordered to be printed in the RECORD, as follows:

FOURTEENTH SESSION OF THE COUNCIL—MAY 21, 1982

DECLARATION BY THE EXPORTING MEMBERS

1. The exporting members of the International Sugar Organization make the following declaration regarding the Proclamation of May 5, 1982 by the President of the United States of America in respect of the "Modification of Quotas on Certain Sugars, Syrups and Molasses".

2. It is the opinion of the exporting members that the limitations being created jointly by this Proclamation, by means of fixing import quotas, and the Sugar Title Provisions of the U.S. Agriculture and Food Act 1981 are inconsistent with objectives of the International Sugar Agreement, 1977, among which the following can be mentioned: To raise the level of international trade in sugar, particularly in order to increase the export earnings of developing exporting countries (Article 1(a)); and to provide for adequate participation in, and growing access to, the markets of the developed countries for sugar from the developing countries (Articles 1(g)).

3. It is also the opinion of the exporting members that the above mentioned limitations by means of fixing import quotas may breach both the provisions contained in Chapter XIII of the Agreement regarding Additional Obligations and Undertakings of Members, and the Provisions of the Agreement regarding measures to encougage consumption. Amongst these provisions can be mentioned specifically those contained in Article 56(1), Article 58, and Article 65(1).

4. More generally, exporting members are concerned inter alia about the negation of cooperation among member countries in order to attain the objectives of the Agreement; the limitation of access by sugar exporting members to the U.S. market; and the additional obstacle to increased sugar consumption.

5. For these reasons exporting member countries express their profound regret that the United States has found it necessary to introduce import quotas for sugar.

6. In addition, they express their strong concern that fees continue to be imposed on sugar imports into the United States.

7. These matters are of exceptional importance for the exporting members and consequently they have decided to bring them to the Council so that subsequent discussions may be held between the exporting members and the United States of America.

8. To this effect the exporting members request that the Executive Director convenes as a matter of urgency a meeting of the interested parties to examine this issue.

EEC CONSIDERS GATT COMPLAINT ON U.S. SUGAR QUOTA

(By Philip Stephens)

LUXEMBOURG, June 15.—The EEC is considering lodging a complaint with the General Agreement on Tariffs and Trade (GATT) over the recent U.S. decision to impose sugar import quotas, diplomatic sources said.

No final decision has been taken, but trade experts from the EEC Commission and member states have already discussed the possibility of a move which the diplomats said would mark an escalation in the transatlantic row over farm trade.

The issue was debated in the EEC's "113" Committee of Trade experts last Friday, when it was agreed that further studies should be made, the sources said.

The Commission and some of the EEC's 10 member governments were inclined to favor the lodging of a complaint, they added.

A spokesman for the EEC Commission confirmed that some experts believed U.S. sugar legislation was not in conformity with GATT rules. In particular, the combination of import duties and quotas was apparently open to legal challenge, he said.

President Reagan introduced sugar import quotas in May after complaints that imports were undermining the U.S. sugar support price program.

The diplomats said EEC sugar was not affected by the quotas, since the community does not traditionally sell to the United States.

A GATT complaint would thus be more of a political gesture of annoyance with Washington, which is strongly critical of the EEC's farm policies. The United States is pursuing several complaints in GATT over EEC farm subsidies, including export refunds for sugar.

The diplomats could not predict when a final decision on whether to lodge a complaint would be taken and said there was as yet no final definition of which articles of GATT were applicable.

Talks between Washington and Brussels on the U.S. complaint against EEC sugar export subsidies are still going on and the United states was deferred until September a decision on whether to call a GATT panel to examine the case, they said.

One possible solution to the two disputes would be for both sides to agree to a truce and decide not to pursue the issues, the diplomats said.

DOMINICAN REPUBLIC CHIEF HITS U.S. OVER SUGAR

SANTO DOMINGO, August 2.—Dominican Republic President Jacobo Majutla criticized the United States and the European Community for depressing the world market for sugar, the Republic's main export.

He said that recently-imposed U.S. sugar import quotas, combined with "subsidized dumping of common market sugar," will result in a multimillion-dollar reduction of foreign exchange income for Dominican Republic.

Majutla told delegates at a political party meeting here that the U.S. quotas, imposed last may, were counter in spirit to the Regan administration's stated policy of cooperating with Caribbean countries.

Mr. QUAYLE. Mr. President, the interest of time, and I hope we can adjust—if the Senator from Kansas wants to table the Quayle-Tsongas amendment, that is perfectly fine. I do hope my good friend from Louisiana, Senator JOHNSTON, will be willing to take down his amendment because I am willing to move forward to get a vote on the sugar amendment, whether it is this way or another way. I do not care.

In the interest of time, Mr. President, I want to move this along accordingly, with the understanding that the motion to table will just be on the Quayle amendment, and if the Senator from Kansas wants to offer that, perhaps we could move it along.

Mr. DOLE. If I might suggest the absence of a quorum, I understand what the Senator from Indiana has in mind. He does not mind the tabling motion so long as it is just on the sugar amendment. But if, in fact, it is on the sugar amendment with the busing amendment, then the Senator intends to offer another sugar amendment.

Mr. QUAYLE. We will be back. We will vote on a tabling amendment, but before we go home, we are going to vote on the sugar matter. I do not care what shape it takes; I am committed to having that vote. I would think in all decency and fairness that we ought to be allowed to vote on it. There has been a lot of discussion on the sugar bill, a lot of lobbying on both sides of this issue. Senators are well informed on the issue, and to just sort of play games and be a little silly right now, I just do not think does anybody any good. I hope we can work out a quorum call, and I am willing to cooperate. I have cooperated with the majority leader since the latter part of June on this issue.

The distinguished chairman of the Finance Committee knows that we have been working for 2 months to get this up. I think this is not being fair to the Senator from Indiana.

Mr. DOLE. Mr. President, if the Senator will yield, I want to confirm what the Senator just indicated. He has been very patient. We have been talking about this amendment for some time, and I think there is no question about it but that Members are familiar with the amendment—they are familiar with the issue. There are literally, I guess, two dozen Senators who would like to speak at length in opposition to the Quayle amendment. Certainly that is their right.

I guess it would be fair to say that if, in fact, the motion to table is not agreed to we could just assume we are going to be discussing sugar until September 30 at midnight until the debt ceiling passes. A week is not too long to spend on sugar.

But it may be that the distinguished Senator from Louisiana, Senator JOHNSTON, might withdraw the busing amendment to give us a clear vote on the tabling of the sugar amendment. Would that be possible?

Mr. JOHNSTON. Mr. President, I was most anxious to bring up the busing amendment and I thought as a substitute to the Quayle amendment would be a good way to do it. But it can be done later.

I say, not really with tongue in cheek, that if anything passes as part of this debt limit increase, the Senate will get a chance to vote on busing. Frankly, as much as I would like for busing to be voted on again and attached to this, everybody knows that we are not going to be able to get any other amendments attached. That is what this exercise was about that we just went through; that is, sending it back to the committee and reporting it back.

So while I am anxious to get a vote, I understand that nothing is going to be able to be attached.

Mr. LONG. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. LONG. May I suggest to the Senator that if the Quayle amendment should be agreed to, I would urge my colleague strongly to insist on his busing amendment. It is all right with me if he wants to permit it to be withdrawn at this time, but I hope he will do that without prejudice and he can bring it up later on.

Mr. JOHNSTON. Of course, it would be absolutely without prejudice.

Mr. SYMMS. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes.

Mr. SYMMS. Mr. President, I say to my friend from Louisiana that I would note that if he does withdraw his busing amendment and if for some reason, which I hope does not happen, we are not successful in tabling the Quayle-Tsongas amendment, the Senator from Idaho has a substitute amendment that is germane to this sugar debate. My subtitute amendment addresses the real problem which is European subsidies and the dumping of surplus sugar on the markets of the world, it is these factors that depress the American sugar producers' ability to compete on equal terms with heavily subsidized international producers. It would be pertinent to the Quayle amendment and he would not feel his effort is being jeopardized by nongermane amendments.

Mr. JOHNSTON. Mr. President, I do not mean to make light of a serious subject. We regard sugar very seriously in Louisiana, so seriously we do not intend to have that pass before this debt limit is passed. I think that is perfectly plain to everybody. So, in that spirit, Mr. President, I move to withdraw the pending Johnston amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Louisiana. I think that accommodates the request of the distinguished Senator from Indiana, Senator QUAYLE.

Mr. QUAYLE. Yes. it does. I thank my spirited companion for withdrawing his amendment. I have put my statement in the RECORD responding to a couple of these issues to accommodate the majority leader and the chairman of the committee. I yield to the chairman.

Mr. DOLE. I thank the Senator from Indiana for his patience over the last several weeks and several months.

Again, I would only say that if this amendment is not tabled I just assume we will be discussing sugar now until September 30. Because I have been approached by a number of my colleagues wanting to discuss this at length, some who are for the amendment and some who are opposed to the amendment.

So, in the spirit of trying to accommodate the Federal Government, I move to table the Quayle amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas (Mr. DOLE) to table the amendment of the Senator from Indiana (Mr. QUAYLE). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Wyoming (Mr. WALLOP). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. RUDMAN), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the

Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The results were announced—yeas 60, nays 31, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—60

Abdnor	Durenberger	Laxalt
Andrews	East	Levin
Armstrong	Exon	Long
Baker	Ford	Mathias
Baucus	Glenn	Matsunaga
Bentsen	Gorton	McClure
Biden	Grassley	Metzenbaum
Boren	Hart	Murkowski
Boschwitz	Hatfield	Packwood
Burdick	Hawkins	Pressler
Byrd, Robert C.	Hayakawa	Riegle
Cannon	Helms	Sarbanes
Chiles	Hollings	Simpson
Cochran	Huddleston	Stennis
Cranston	Inouye	Stevens
Danforth	Jackson	Symms
DeConcini	Jepsen	Thurmond
Dixon	Johnston	Tower
Dole	Kassebaum	Warner
Domenici	Kennedy	Zorinsky

NAYS—31

Bradley	Hatch	Percy
Brady	Heinz	Proxmire
Bumpers	Humphrey	Pryor
Byrd, Harry F., Jr.	Kasten	Quayle
Chafee	Leahy	Randolph
Cohen	Lugar	Roth
D'Amato	Mattingly	Schmitt
Denton	Mitchell	Specter
Eagleton	Nickles	Stafford
Garn	Nunn	Tsongas
	Pell	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Goldwater, against.

NOT VOTING—8

Dodd	Moynihan	Wallop
Heflin	Rudman	Weicker
Melcher	Sasser	

So the motion to lay on the table amendment No. 2016 was agreed to.

Mr. BAKER. Mr. President, are there further amendments?

Mr. DOLE. Mr. President, we are checking with the distinguished Senator from Colorado. I know he has indicated to Senator JACKSON that he did not intend to offer his amendment, and we should know that in about 1 minute.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, just from a point of interest, I should like to ask the leader if there is any chance that any amendment is going to get through? In other words, are we not going to table everything that comes up?

Mr. BAKER. Mr. President, if the Senator will yield to me, that is our intention.

I am advised now that the Senator from Colorado will not offer an amendment. I know of no other amendment, and I ask the Chair to inquire if there are further amendments.

The PRESIDING OFFICER. Are there further amendments?

Mr. DOLE. Third reading.

The PRESIDING OFFICER. If not, the bill will be read the third time.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GOLDWATER. Will the Senator suspend on that for one moment?

I did not get an answer to my question. If we are going to do nothing but table amendments, I do not see that anything is gained by hanging around here.

Mr. BAKER. Mr. President, I think there is only one other base that needs to be touched. I think there is a 99 percent possibility that we are right on the brink of getting a final passage vote.

As soon as I get word from the other side, as soon as we have completed that inquiry, I believe we will be able to go.

Mr. DOLE. If we pass the debt ceiling.

Mr. BAKER. Mr. President, it is going to take just a minute or so to check this, but I urge Senators to believe that there is a good possibility we can finish this thing right away.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I indicated at an earlier point today that I felt it important that we deal with the subject of disability benefits.

I also indicated at that time that it was my understanding and hope that the chairman of the Finance Committee intended to move with respect to this subject, maybe not move as far as the Senator from Ohio thinks that he should, but he does intend to deal with the subject as soon as he possibly can in the Finance Committee.

I wonder if the Finance Committee chairman would be good enough to respond as to his intentions on this subject.

Mr. DOLE. Mr. President, if the Senator will yield, there was a bill introduced today by the distinguished Senator from Maine (Mr. COHEN), the distinguished Senator from Michigan (Mr. LEVIN), I think Senator METZENBAUM, Senator ARMSTRONG, myself, and others, that will address some of the concerns expressed by a number of Senators. It is my hope that we can meet in the Senate Finance Committee tomorrow on other matters and consider this legislation, bring it to the floor and, under some unanimous-consent arrangement or a time agreement, pass it.

Now, it does not go as far as the distinguished Senator from Ohio would like. I understand an amendment may be offered in the committee tomorrow by Senator HEINZ. We are now looking at that amendment, and so the Senator is correct.

Mr. METZENBAUM. I thank the Senator from Kansas.

The Senator from Kansas has been fair and considerate in what he has attempted to do in the past. Under the circumstances, I think it only might confuse the issue if the Senator from Ohio offered an amendment at this point. I am hopeful the Senator from Kansas will go as far as he can in that legislation.

I thank the Senator.

The PRESIDING OFFICER. Are there other amendments?

The Senator from Tennessee, the majority leader, is recognized.

Mr. BAKER. Mr. President, I understand that the distinguished Senator from Colorado has brief remarks that he wishes to make. It is also my understanding he does not intend to offer an amendment. But he is on his way to the floor at this time. If any other Senator is seeking recognition, I will yield for that purpose; otherwise, I will suggest the absence of a quorum.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am advised now that the clearing process is complete on the other side of the aisle. I am prepared to say I know of no other amendments.

I ask the Chair to inquire if there are further amendments.

The PRESIDING OFFICER. If there are no further amendments, the joint resolution will be read the third time.

Mr. ROBERT C. BYRD. Mr. President, I am responding to the distinguished majority leader. The clearance process has been completed on this side and, to his delight, there are no further amendments.

Mr. BAKER. It is a delight indeed, and I thank the minority leader.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading and was read the third time.

● Mr. DANFORTH. Mr. President, I regret being in a position where I had to vote to table the Quayle-Tsongas amendment. Last year, during Senate consideration of the farm bill, I voted against the creation of a new price-support program for sugar. At a time when other support programs for agricultural commodities are being cut, it seems irresponsible that we should be erecting new programs at the expense of the consumer or taxpayer.

However sympathetic I am to this amendment—and I am highly sympathetic—it seems clear to all of us that it will never be allowed to see the light of day in this Congress.

For the past 4 weeks we have been debating amendments not germane to the business at hand, namely, the passage of the debt ceiling bill that we all know must be passed and must be passed without amendment by the end of the week.

Therefore, I felt that the only responsible course of action was to join those voting to table this amendment.●

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, it is clearly the desire of the Senate to dispose of this matter and move on to other and perhaps more interesting tasks, and I will only detain my colleagues a moment.

I regret the way this has worked out. The effect of it is that we really have not had a fair shot at anything. We did not get a vote on the prayer amendment. We did not get a vote on the abortion amendment. Senator QUAYLE did not get a vote on the sugar amendment. The 300 other amendments that were pending did not get voted on. And so we end really this whole debate with everybody, I guess, a bit unsatisfied.

The Senate Finance Committee met to consider the substance of this bill—I mean the real substance of it, not the other amendments that could be added on to it as ornaments—and, after making that consideration, proposed some amendments for consideration of the Senate. Those have also been stripped out, and we are left really with just the bare proposition of whether or not we want to increase the amount of the public debt by $150 billion.

In my judgment, there is not a single thing about this bill that commends itself to passage at this point. It is just $150 billion more borrowing.

I have not kept track exactly, but I believe this is about the 20th time I have voted on this issue.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Colorado will please proceed.

Mr. ARMSTRONG. On every occasion that I can recall when this matter has come before the Senate for consideration, the issue has finally come down to this, that somebody stands up and yells, "Look, we have got to do this. The House has passed it. The deadline is near. We may not like it but we have no choice."

My friends, we do have a choice. Even now, after all that has happened, we do have a choice, and the choice is to vote this bill down. It is a bad bill. I do not believe there is any Senator who can stand up before us today and say that, if we pass this, the country is going to be better off; that our economy is going to be stronger; that the taxpayers will be well served; that the consumer will be better off, or that in any way our country's economy is going to be improved by the passage of this bill. So if we defeat it, we would then set the stage for one of two things to happen, in my judgment: the passage of a more moderate bill, a lower total bill, a bill which would have a shorter expiration time or preferably, in my view, a bill which would incorporate the necessary increase in the debt limit and to that some reforms.

When are we going to put in the reforms so that a year from now we are not back raising the debt limit again?

One comment about that: Presumably, what we have here is a 1-year extension. The amount purports to be a 1-year extension, but we will never get through anything like a year because we have not enacted the reforms necessary to curtail spending, so we will be back a lot sooner than a year to again raise this debt limit.

Mr. President, I mentioned earlier the possibility of my proposing one or two amendments. On one of those amendments, which contains the kind of discipline and reform which I believe are urgently needed, I am not the chief sponsor but the cosponsor, and the chief sponsor deems it not wise to offer it at this time, and I defer to his judgment.

On the second amendment, which is a sense-of-the-Senate resolution, it is equally timely to be offered to another bill; so whatever bill we have up tomorrow, I will offer it again and accommodate myself to the obvious desire of the Senate to bring this matter to a conclusion.

With that word of explanation, I suggest that any Senator who feels as I do, that this is a bad deal, should vote "no."

Mr. GOLDWATER. Amen.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL (when his name was called). Mr. President, on this vote I have a live pair with the junior Senator from Tennessee (Mr. SASSER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. RUDMAN), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Tennessee (Mr. SASSER), are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER), would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—50

Abdnor	Durenberger	Lugar
Andrews	Eagleton	Mathias
Baker	Garn	Matsunaga
Bentsen	Gorton	Murkowski
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Percy
Brady	Hayakawa	Quayle
Burdick	Heinz	Roth
Chafee	Inouye	Schmitt
Cochran	Jackson	Specter
Cohen	Johnston	Stafford
Cranston	Kassebaum	Stennis
D'Amato	Kasten	Stevens
Danforth	Kennedy	Thurmond
Denton	Laxalt	Tower
Dole	Levin	Tsongas
Domenici	Long	

NAYS—41

Armstrong	Glenn	Metzenbaum
Baucus	Goldwater	Mitchell
Biden	Grassley	Nickles
Boren	Hart	Nunn
Bumpers	Hawkins	Pressler
Byrd, Harry F., Jr.	Heflin	Proxmire
	Helms	Pryor
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Riegle
Chiles	Humphrey	Sarbanes
DeConcini	Jepsen	Simpson
East	Leahy	Symms
Exon	Mattingly	Warner
Ford	McClure	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, for.

NOT VOTING—8

Dixon	Moynihan	Wallop
Dodd	Rudman	Weicker
Melcher	Sasser	

So the joint resolution (H.J. Res. 520) was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, there will be no more rollcall votes tonight.

ORDER OF PROCEDURE ON TOMORROW

Mr. BAKER. Mr. President, if I can have the attention of the Senate, I would like to have a colloquy with the minority leader about the schedule for tomorrow.

I am advised that the first of 13 regular appropriation bills is now on the calendar and qualifies for Senate action. It will be my intention then to ask the Senate to proceed to the consideration of that item tomorrow. I ask the minority leader if there is any objection on his side to that procedure?

Mr. ROBERT C. BYRD. Let me have a moment to clear it.

Mr. BAKER. All right.

Mr. President, I understand a time agreement may be possible on that measure. I would also inquire if the minority leader would be willing to explore that possibility as well.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Senator.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, the conference report on the reclamation bill is ready for consideration. I hope we will be able to move that on tomorrow as well.

Mr. BAKER. I thank the Senator. I have discussed this previously with the Senator from Idaho and also with the Senator from Ohio and the Senator from Washington. It is my understanding that we came perilously close to getting a time agreement on that, as well. It fell through. The conference report, of course, is a privileged matter and it would be my intention to ask the Senate to turn to that some time after we do the HUD appropriation bill tomorrow if it is available and if the parties are generally agreeable to proceeding.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. BAKER. Yes, but let me yield next to the minority leader.

Mr. ROBERT C. BYRD. The HUD appropriation bill is available.

Mr. BAKER. Mr. President, I understand the Senator to say that the HUD appropriation bill is now available from his point of view.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it convene at 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order four Senators be recognized on special orders of not to exceed 15 minutes each: Senators GRASSLEY, NUNN, EAGLETON, and BRADLEY, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent after the execution of the special orders that there be a time for the transaction of routine morning business of not to exceed 5 minutes in length in which Senators may speak for not more than 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 6956 ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at the close of morning business the Senate turn to the consideration of Calendar Order 804, H.R. 6956, the HUD appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I would say for the advice of Senators that after we finish the HUD appropriations bill it will be my hope we could go to the reclamation conference report. That will not take too long. I will now yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. The Senator has indicated to the majority leader that he has no objection to going to the reclamation conference report nor considering it under a time limit. I would hope, however, as a matter of consideration that if the HUD bill goes beyond, say, 2 p.m. that it would not be the intention of the majority leader to bring it up at that time. I would be perfectly willing to enter into a time agreement for early in the morning or before 2 p.m.

Mr. BAKER. Mr. President, I understand the Senator and I understand fully what he means and I appreciate his point of view. In view of that I will not ask to sequence the conference report at this time but merely announce that it will be may hope that we can proceed to it after the HUD appropriations bill.

Mr. METZENBAUM. The Senator from Ohio will see how long the HUD bill takes, at which time he will make a determination as to how to proceed. I have no desire to delay consideration of the matter.

Mr. BAKER. I understand. I thank the Senator.

Mr. EXON. Mr. President, reserving the right to object, may I inquire of the majority leader, since it appears that the reclamation bill could be disposed of in rather short order with a time agreement, could we not enter into an agreement here now and have that the first order of business ahead of the other matter?

Mr. PROXMIRE. Mr. President, I object to any time agreement. I expect to speak, not at great length, but at some length on it. I will not agree to a time limit until I have finished and then I might possibly agree. But it will not be until after we have some debate on the reclamation bill. I am very strongly opposed to it and I am going to make my position as clear as I can.

Mr. BAKER. Mr. President, if I may say so, I think it is time to drop this subject and move on to something else. I say to my friend from Nebraska, let me work on that and see how we get along.

Mr. EXON. I thank the majority leader.

Mr. BAKER. Mr. President, I also wish to announce that it is my hope that we will have the banking bill available to do tomorrow. Now, this sounds like a lot. It is a lot. It will be a major accomplishment if we can do all three of these things, but I believe it is possible based on the preliminary inquiries. I think that there is a strong possibility that some of these bills can be disposed of without a great length of time and before very late tomorrow afternoon.

I yield now to the Senator from North Carolina.

Mr. HELMS. Mr. President, I wish to ask the majority leader a question. The debt limit bill, which just pased the Senate, was stripped of the amendment involving or relating to the Senate gymnasium. I wonder if the Senator has some plan in that regard.

Mr. BAKER. Yes, Mr. President, I do. The minority leader mentioned that earlier and made a statement with which I fully agree. The amendment on the Senate gymnasium to prevent its completion as a gymnasium was offered, as you know, by the two leaders. It is with great regret that it went down the tube along with the rest of the amendments. But the minority leader suggested, and I agree, that he and I will join in a letter to the Architect instructing the Architect not to go forward with that construction.

I am willing, and I am sure the minority leader is also, to offer the identical amendment to another bill as that becomes available and before we go out for the October break.

Mr. HELMS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I join the majority leader in what he has just said.

Mr. BOSCHWITZ. Mr. President, does the majority leader expect there will be a time agreement on the banking bill?

Mr. BAKER. Yes, I hope so. As I indicated earlier, I hope to do the banking bill tomorrow. I understand that negotiations are now underway and that there is a hopeful outlook that we might be able to get a time agreement on the banking bill. I hope to do that in the morning, to get the time agreement.

Mr. ARMSTRONG. Mr. President, is the majority leader seeking a time agreement on the HUD appropriations bill?

Mr. BAKER. Yes. I have one. We have not yet completed a clearance, but there is a good possibility we will get an hour on the bill and 30 minutes on first-degree amendments and 30 minutes on second-degree amendments and also that the agreement will be in the usual form and perhaps there would not be any measure dealing with the Clean Air Act or regulations in respect thereto offered to it.

Mr. ARMSTRONG. I would like to be consulted about that.

Mr. BAKER. Mr. President, as long as we are talking about the schedule, I might say that the list I have given is, by no means exclusive. Once again, the must items are the debt limit, which we now passed, and the appropriation process. I expect to get the continuing resolution here and ask the Senate to turn to its consideration either on Tuesday or Wednesday, depending on circumstances. There will be other appropriation bills that will be available and we will do them as we can.

In addition to that, to name a few, but they are only ones that come to mind, there is the shipping bill, there is the crime bill, there is the bankruptcy extension renewal, there is the coastal barrier islands bill, and the Alaska railroad bill. I prefer not to go on because of the depressing effect it has on my psyche.

Mr. President, I would say once again that tomorrow will be a busy day. I hope that tomorrow we can finish the HUD appropriations bill, the conference report on the reclamation bill, and the banking bill.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, the time agreement on the appropriation bill is cleared.

Mr. BAKER. Mr. President, at the request of a Senator, and it is a legitimate request, I will not now put a request on the HUD appropriations bill, but I do intend to try to do that tomorrow if we can work it out. I thank the minority leader for his statement and we will try very diligently to get it cleared on our side.

Mr. President, I know of no further business to transact by the Senate today.

Mr. CHAFEE. Mr. President, I am ready to go with the coastal barrier bill.

Mr. BAKER. Mr. President, there is one bill that is cleared for action by, I believe, unanimous consent, the coastal barrier bill. If the minority leader has no objection to that, I will yield the floor so the Senator may manage that measure.

Mr. ROBERT C. BYRD. No objection.

COASTAL BARRIER RESOURCES ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1018, Calendar Order No. 601, the Coastal Barrier Resources Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1018) to protect and conserve fish and wildlife resources, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill (S. 1018), which had been reported from the Committee on Environment and Public Works with amendments, as follows:

On page 4, strike line 1, through and including line 6, and insert the following:

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistnce other than—

(A) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(B) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(C) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law.

On page 5, line 9, strike ", consecutively", through and including line 10, and insert "and dated April 28, 1982";

On page 6, line 9, strike "Within", through and including line 19, and insert the following:

(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may, in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), and the public, make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units. The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications, submit written notice of such modification to each of the committees.

(2) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) of this section and make such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

On page 7, line 14, after "Act", insert "and section 341 of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35)";

On page 7, line 24, after the semicolon, insert "and";

On page 8, line 4, strike "and property on lands and waters,", and insert "land and property";

On page 8, line 5, strike "and";

On page 8, strike line 6, through and including line 10;

On page 8, line 24, strike "after consultation with the Secretary", and insert "after providing written notification to the Secretary";

On page 9, strike "development, production,", and insert "extraction,";

On page 9, line 10, strike "spoils", and insert "material";

On page 9, strike line 23, through and including line 25, and insert the following:

(iii) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects related to these habitats, and recreational projects.

On page 10, line 18, after "(4103)", insert "and are limited to actions that are necessary to alleviate the immediate emergency.";

On page 10, after line 25, insert the following:

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

On page 11, after line 9, insert the following:

(c) The notificaiton to the Secretary referred to in subsection (a) of this section shall describe the purposes and amount of the expenditure or assistance.

On page 11, line 22, strike "STATE";

On page 11, line 24, strike "occupy", through and including "of" on line 25, and insert "chamge and existing relationship of other Federal laws to";

On page 12, beginning on line 2, strike "on the same subject matter";

On page 12, after line 9, insert the following:

This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

On page 12, line 19, strike "REPORTS", and insert "REPORT";

On page 12, line 20, strike "(1)"

On page 12, line 23, strike "not less than one-third";

On page 12, strike line 24, through and including page 13, line 6;

On page 13, line 7, strike "REPORTS", and insert "REPORT";

On page 13, line 8 strike "reports", and insert "report";

On page 13, line 12, strike "Each", and insert "The";

On page 13, line 13, strike "each", and insert "the";

On page 13, strike line 15, through and including line 18;

On page 13, strike "(2)", and insert "(1)";

On page 13, line 20, strike "unit", and insert "system";

On page 14, strike line 4, through and including line 22;

On page 14, line 23, strike "(1)", and insert "(2)";

On page 15, line 3, strike "(2)", and insert "(3)";

On page 15, line 9, strike "each", through the end of the bill, and insert "the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out section 10".

So as to make the bill read:

S. 1018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Resources Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) habitats which are essential spawning, nursery, nesting, and feeding areas for migratory birds, aquatic organisms, and other wildlife are provided within the coastal barriers along the Atlantic and gulf coasts of the United States and the adjacent wetlands, marshes, estuaries, inlets, and near shore waters;

(2) these fish and wildlife resources and their habitats are being irretrievably damaged and lost due to development on, among, and adjacent to, such coastal barriers;

(3) certain actions and programs of the Federal Government have subsidized and encouraged such development; and

(4) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of fish and wildlife resources and habitats within the coastal barriers.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to minimize the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and gulf coasts by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing a Coastal Barrier Resources System, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "coastal barrier" means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and near shore waters.

(2) The term "committees" refers to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(B) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(C) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "System unit" means any coastal barrier, or combination of closely related coastal barriers, included within the Coastal Barrier Resources System established by section 4 of this Act.

SEC. 4. THE COASTAL BARRIER RESOURCES SYSTEM.

(a) ESTABLISHMENT.—(1) There is established the Coastal Barrier Resources System which shall consist of those undeveloped coastal barriers located on the Atlantic and gulf coasts of the United States that are identified and generally depicted on the maps that are entitled "Coastal Barrier Resources System" and dated April 28, 1982.

(2) A costal barrier was treated as an undeveloped coastal barrier for purposes of paragraph (1) only if there were few manmade structures on the barrier and these structures, and man's activities on the barrier, did not significantly impede geomorphic and ecological processes.

(3) A coastal barrier which was included within the boundaries of an area established under Federal, State, or local law or held by a qualified organization (as defined in paragraph (3) of section 170(h) of the Internal Revenue Code of 1954), primarily for wildlife refuge, sanctuary, or natural resource conservation purposes was not included within the Coastal Barrier Resources System.

(b) AVAILABILITY OF MAPS.—(1) The maps referred to in paragraph (1) of subsection (a) shall be available for public inspection at the offices of the United States Fish and Wildlife Service in the District of Columbia and in other appropriate offices of the Service.

(2) Within sixty days after the date of the enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to the chief executive officer of (A) each State and political subdivision in which a System unit is located, and (B) each affected Federal agency.

(c) BOUNDARY MODIFICATIONS.—(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may, in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), and the public, make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units. The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications, submit written notice of such modification to each of the committees.

(2) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) of this section and make such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

SEC. 5. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.

(a) Except as provided in section 6 of this Act and section 341 of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35), no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Coastal Barrier Resources System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet or shoreline, except in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for the purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

SEC. 6. EXCEPTIONS.

(a) Notwithstanding section 5 of this Act, the appropriate Federal officer may, after providing written notification to the Secretary, make Federal expenditures or financial assistance available for the following purposes within the Coastal Barrier Resources System:

(1) The exploration, extraction, or transportation of energy resources which can only be carried out on, in, or adjacent to coastal water areas.

(2) The maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements.

(3) Military activities essential to national security.

(4) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(i) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(ii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8).

(iii) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabiliza-

tion projects related to these habitats, and recreational projects.

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives or the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the immediate emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities.

(vii) Nonstructural projects for shorelines stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of paragraph (2) of subsection (a), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure were appropriated before the date of the enactment of the Act.

(c) The notification of the Secretary referred to in subsection (a) of this section shall describe the purposes and amount of the expenditure or assistance.

SEC. 7. CERTIFICATION OF COMPLIANCE.

The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

SEC. 8. PRIORITY OF LAWS.

Nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State or local law unless there is a direct and positive conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, perserve, and restore lands within its established boundary.

SEC. 9. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 10. REPORT TO CONGRESS.

(a) IN GENERAL.—Before the close of the three-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the committees a report regarding the System.

(b) CONSULTATION IN PREPARING REPORT.—The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) REPORT CONTENT.—The report required under subsection (a) shall contain, with respect to the System unit covered in the report—

(1) recommendations for the conservation of the fish, wildlife and other natural resources of the system based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System) and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units; and

(3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the System units covered in the report.

SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Interior $1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out section 10.

Mr. CHAFEE. Mr. President, I yield to the distinguished chairman of the Environment and Public Works Committee for a statement.

Mr. STAFFORD. I thank the Senator. I wish to compliment the distinguished Senator from Rhode Island for his outstanding work on the Coastal Barrier Resources Act.

Mr. President, S. 1018, the Coastal Barrier Resources Act represents an environmental initiative designed to respond to a unique national situation. Its passage will truly mark one of the major environmental achievements of this session of the Congress.

The undeveloped barrier beaches and islands along the Atlantic and gulf coasts are natural treasures that are both priceless and fragile. Yet, despite the fact that these areas are among the most unstable on Earth and are vulnerable to storms and hurricanes, they are being developed at an alarming rate—with subsidies from the Federal Government.

This legislation would end those subsidies by prohibiting most Federal expenditures and forms of financial assistance for development purposes on hazardous coastal barriers. I might note that existing coastal communities would not be affected.

This legislation recognizes that taxpayers should not be required to shoulder the recurring costs and high risks of private development on coastal barriers. But, it does not restrict private property rights.

Private property owners may continue to use and to develop their land as they see fit—but at their own cost and at their own risk.

This is imaginative legislation and full credit for its development and progress should go to my friend and colleague, the Senator from Rhode Island (Mr. CHAFEE), who is chairman of the Environmental Pollution Subcommittee, and to members of that subcommittee, in particular, and to members of the Senate Committee on Environment and Public Works, in general.

I urge my colleagues in the Senate to support passage of S. 1018. It is legislation that will help to solve real environmental problems and also legislation that recognizes our current economic situation.

Mr. CHAFEE. Mr. President, I wish to thank the distinguished chairman of the full committee, who has done a marvelous job, as always, in support of this very, very important piece of environmental legislation.

Mr. President, today we are considering what will be the only new environmental protection legislation of major importance to be enacted in the 97th Congress—the Coastal Barrier Resources Act.

This simple, straightforward proposal is aimed at preserving fragile undeveloped coastal barrier beaches and islands by prohibiting Federal financial assistance for new development. At the same time, this legislation will save the taxpayers billions of dollars over the course of future years.

Millions of Americans have discovered the unique natural treasures that constitute barrier beaches and islands along the Atlantic and gulf coasts. Sadly, these areas are being developed at an alarming rate. While this bill will not prohibit development, it makes clear that the Federal Government will no longer subsidize construction in those selected areas identified as undeveloped. Such action will go far toward protecting these regions for the benefit of future generations.

Congress should act, I believe, for several reasons:

First, these areas provide essential protection to coastal areas during times of severe storms. Barrier beaches and islands are nature's natural buffer for adjacent coastal areas from the damage of wind and wave.

Second, the fragile marshlands these areas encompass provide essential habitat for fish and wildlife. They are the crucible for the chain of life itself.

Third, it makes no economic sense for the Federal Government to subsidize development in these areas. Time and nature are constantly conspiring, through storm, wind and rain, to tear down what man has erected. The outlay of Federal dollars to support development—and to then rebuild what nature has destroyed—is foolish. Efforts to stabilize these formations to

protect roads, bridges, and buildings are not only hopeless, but a waste of money.

Mr. President, I would like now to explore these arguments in further detail.

BARRIERS ARE HIGHLY HAZARDOUS

Coastal barriers are so named because they create a barrier that buffers the mainland and associated wildlife-rich aquatic systems—such as lagoons, marshes, and estuaries—from the direct attack of ocean waves, storms, and hurricanes.

These areas are among the most unstable of landforms. Beaches, dunes, and entire islands erode and migrate as ocean currents, wind and waves undermine and move them. Storms can overwash and wipe out whole sections of beach and just as easily close the inlets as sediments are redeposited. Beach sands continually move and are redistributed. Because the sea level is rising, barrier islands are generally migrating landward. The combination of erosion and migration, as well as the effects of flooding from hurricanes and other storms, make these areas exceptionally hazardous places for permanent man-made structures and human habitation.

Mr. President, we have only to look at the massive Federal effort to save the historic lighthouse on Cape Hatteras, N.C., from the forces of the sea and sand to realize the futility of trying to tame nature in these areas. Since 1966, the Federal Government has spent almost $3 million to prevent the lighthouse from falling into the sea. But today, beach erosion has brought waves to within 50 feet of the building. It could cost up to $66 million to save the lighthouse and even after these funds are expended, there will be no guarantee that the structure will be protected from beach erosion.

BARRIERS PROVIDE ESSENTIAL HABITAT

Federal, State, local governments, and private organizations have recognized the importance of these areas for their fish and wildlife resources. The U.S. Fish and Wildlife Service has established over 35 refuges on coastal barriers and their associated waters and marshes. These areas provide key habitat for a wide variety of wildlife—especially waterfowl and other migrating birds. The Department of Interior estimates that over 40 percent of the Atlantic flyway black duck population depends on the marshes created by mainland coastal barriers.

Coastal barriers create and maintain wetlands and estuaries which nurture vital fish stocks. It has been estimated by the National Marine Fisheries Service (NMFS) that more than 80 percent of the shellfish and finfish caught by sport fishermen on the Atlantic and gulf coasts are dependent upon these estuaries during some stage of their life cycles. Moreover, NMFS estimates that over 90 percent of the U.S. commercial catch in the Gulf of Mexico and more than 80 percent of the commercial harvest on the Atlantic coast is comprised of species dependent on coastal barrier habitats. In 1980, these percentages of the commercial harvest translated into a dockside value in excess of $1 billion.

More than 20 endangered or threatened species find habitat on coastal barriers. These include raptors such as the bald eagle and peregrine falcon, as well as the whooping crane, Eastern brown pelican, and sea turtles.

Yet, despite the rich wildlife values of these areas, despite their highly unstable nature, and despite their vulnerability to storms and hurricanes, coastal barriers are being developed at an estimated rate of 5,000 to 6,000 acres per year—almost always with the aid of Federal tax dollars.

WASTE OF TAX DOLLARS

It is evident that Federal tax dollars encourage development of presently undeveloped areas and then perpetuate that development by providing extensive disaster relief and rebuilding assistance in the aftermath of erosion, hurricanes, and other storms.

Let us look at the situation in Dauphin Island, Ala., as an example of this senseless development/redevelopment cycle.

In 1979, the eye of Hurricane Frederick passed over Dauphin Island, destroying many homes and knocking out the island's bridge to the mainland. Since that disaster Federal expenditures to redevelop the island have reportedly mounted to at least $50,000 per residence. The biggest expenditure was a $38 million nonmatching Federal grant to replace the bridge to the mainland. Millions more Federal dollars have been spent for additional reconstruction. The rebuilding goes on, despite the fact that Dauphin Island still is in a hurricane track.

The Department of Interior (DOI) has estimated that over the past 6 years, the Federal Government has spent about $800 million to aid development and redevelopment on barrier islands in the form of direct and indirect expenditures. Further, the Department estimates that over the next 20 years the Federal Government would spend between $5.5 billion and $11 billion to aid development of presently undeveloped coastal barriers.

A glaring example of the Federal Govenment's archaic policy toward subsidizing construction on barrier areas is the national flood insurance program. Although there are no precise estimates on the cost of providing flood insurance in all coastal areas, subsidized insurance policies in the so-called V-zones—the areas of highest hazard—cost the U.S. taxpayers millions of dollars each year. For every dollar collected in premiums, the Government pays out $1.61.

Last year we enacted legislation to discontinue, starting October 1, 1983, Federal flood insurance for new construction on undeveloped coastal barriers.

Even though steps are being taken to make the program more actuarily sound to eliminate the subsidy, it still nowhere near covers the actual losses.

The bottom line, Mr. President, is that the Federal Government is subsidizing not only insurance but construction of homes and other structures in highly volatile areas—areas that will eventually be hit by hurricane or other storms. When that day comes and homes are destroyed, the Federal Government will step in and rebuild them, only to have a storm destroy them again and again. And what is Uncle Sam doing about this? Writing out check after check to cover the cost of reconstruction.

Mr. MITCHELL. Mr. President, I am a cosponsor of S. 1018, the Coastal Barrier Resources Act, and I am pleased to urge its adoption by the Senate. The bill, by restricting Federal support for the development of coastal barriers, is an important initiative both for protecting our fragile coastal resources and saving increasingly scarce Federal dollars.

I have the good fortune to represent a State that is noted for its magnificent coast. Maine's coastal wetlands and estuaries provide important wildlife habitat. Its picturesque rocky beaches and bays draw many visitors each year for sailing, fishing, camping, and other recreational activities. And Maine's fishing industry is an important part of our State's heritage and economy.

All of these pursuits are in large part dependent on coastal barrier structures. They buffer the mainland and protect the bays from our famous northeasters. Also, it is estimated that up to 90 percent of all fish caught on the coast are dependent on estuaries created and maintained by barrier structures. It is clearly in Maine's interest, and in the national interest as well, to protect these fragile areas.

S. 1018, as amended, would protect seven coastal barriers in Maine. Jasper, Cape Elizabeth, Scarborough Beach, Crescent Surf, and Seapoint were included in the legislation as approved by the Environment Committee. Also, the bill is being amended today to include two new areas in Maine, Lubec and Seven Hundred Acre Island. These seven areas were also selected by the Secretary of the Interior for restrictions of Federal flood insurance under the Omnibus Budget Reconciliation Act. Three additional areas which were selected by the Secretary do not need the protection provided by S. 1018. Sprague Neck Bar is owned by the U.S. Navy, Grassey Point is owned by the U.S. Fish and Wildlife Service,

and Roque Bluff Beach is a State park. These areas are therefore already protected.

The Federal Government loses in two ways when it encourages development on coastal barriers. First, it loses the important natural resources these areas nurture. It also loses hundreds of millions of Federal dollars spent for sewers, roads, beach stablization, and flood insurance in flood and disaster prone areas. The expenditures of Federal funding to encourage development in coastal barriers is certainly an unwise investment. Storms and other natural processes inevitably undermine attempts to stablize and develop these areas. Federal investments are lost and, under current practice, replaced with new Federal investment in a continuing cycle of wasted Federal moneys. S. 1018, by preventing this waste, just makes good sense.

Mr. CHAFEE. Mr. President, I wish to take this opportunity to express to Senator MITCHELL, the ranking member of the committee, our deep appreciation for the excellent work that he has done in connection with this very, very important piece of legislation.

Mr. President, I would like to briefly outline the major provisions of S. 1018. A more detailed explanation may be found in the committee report.

At the outset, I want to make several things clear to my colleagues.

First, this legislation affects only undeveloped areas where there are few if any structures (generally no more than one structure per 5 acres) and man's activities have not impeded the geomorphic or ecological processes. Areas such as Miami Beach or Ocean City, Md., are not affected by this bill because they are developed.

There are presently about 1.4 million acres of coastal barriers with about 2,500 miles of shoreline. About 40 percent of this area is developed or in the process of being developed; about 47 percent is undeveloped and protected; and the remaining portion, about 13 percent, is presently undeveloped and unprotected. This legislation would affect that remaining 13 percent.

Second, this legislation only prohibits new Federal expenditures. For instance, if a road going through an undeveloped area is damaged or washed away, it can be rebuilt with Federal dollars because, obviously, it is not new. However, Federal dollars would not be available for construction of a new road in an undeveloped area.

Third, this legislation does not authorize the acquisition of any lands by the Federal Government.

With those thoughts in mind, I would like to proceed with a general explanation of the Coastal Barrier Resources Act.

This legislation would establish the coastal barrier resources system and deny new Federal expenditures on those undeveloped areas for almost every purpose. For example, Federal funds would not be available for the new construction of sewers and roads, new loans for home construction and economic development and new shoreline erosion projects—except in cases where emergency assistance is required.

It is important to note however that the bill does not prohibit banks, savings and loans, or other commercial financial institutions (including those insured by the Federal Government) from making loans for homes or for other construction within the system. Nor does this legislation prohibit private financial transactions or the construction of structures or facilities that are funded with private funds or funds provided by State and local governments. Funds for the processing of Federal permits will also continue to be made available.

The bill does not tell private landowners what they can or cannot do within the undeveloped areas of the proposed barrier system. Those who own property on undeveloped barriers have the option to build and develop as they wish—but at their own financial risk, not at the risk of the U.S. taxpayers.

I would like to point out, however, that there are exceptions to these funding prohibitions. Federal funds for the exploration and extraction of energy resources are permitted as well as the maintenance of existing channel improvements, and dredge and fill activities. Federal funds would also be available for air and water navigation aids, fish and wildlife protection and enhancement programs, and national security activities.

The bill also requires the Secretary of Interior to prepare a report with recommendations for the conservation of the fish, wildlife, and other natural resources of the system. The report shall evaluate and compare management alternatives including the acquisition of units for administration under the national wildlife refuge system. The Secretary shall also report on recommendations for additions to or deletions from the system units as well as modifications to the boundaries of the various system units.

The report shall be submitted 3 years after enactment. It is important to note that the Secretary must prepare the report in consultation with the Governors of the affected States and the localities, and the general public will have the opportunity to comment.

Mr. President, this legislation has received broad support from many quarters. In testimony before the Environmental Pollution Subcommittee Secretary Watt stated the bill was

Precisely the sort of imaginative environmental legislation we need—legislation which can solve real problems in the stewardship of our national resources while at the same time responsibly addressing America's equally serious economic problems.

In addition to Secretary Watt's support, the Coastal Barrier Resources Act has received the support of all of the major environmental organizations, the American Red Cross, the National Taxpayers Union, the National Association of Floodplain Managers and many coastal groups including the Coastal States Organization. S. 1018 has 56 cosponsors. In short, Mr. President, this legislation has the support of conservatives and liberals, and Democrats and Republicans alike.

By aiding development of coastal barriers, the Federal Government is presently diminishing the productivity of estuaries and wetlands in terms of fish and wildlife resources; increasing risks to life and property, reducing the capacity of such areas to protect the mainland from storms, and reducing public access to valuable beach recreation areas.

Storms and other natural processes inevitably undermine the attempt to stablize and develop these areas. Federal investments are lost and, under current practice, replaced with new Federal investment in a continuing cycle of wasted Federal funds.

By enacting this legislation we will be signalling a change in Federal spending policy where the conservation of important natural resources come into play. This is because the legislation recognizes that Federal expenditures which subsidize and thereby encourage development on coastal barriers constitute a concise Federal investment from both a natural resource and economic standpoint.

This bill is an intelligent approach to conserving our remaining undeveloped coastal barriers. I urge my colleagues to give it their full support.

RELATIONSHIP OF S. 1018 TO FLOOD INSURANCE PROHIBITION CONTAINED IN PUBLIC LAW 97-35

Mr. President I would like to duscuss the Coastal Barrier Resources Act in the context of the provision contained in the Omnibus Budget and Reconciliation Act of 1981 (OBRA) (Public Law 97-34) which prohibits Federal flood insurance for new structures on undeveloped coastal barriers.

As I mentioned earlier, Congress recognized the folly of providing subsidized Federal insurance on undeveloped coastal barriers and last year enacted legislation to discontinue the practice. Under section 341 of Public Law 97-35, Federal flood insurance for new, or substantially improved structures will no longer be available on undeveloped coastal barriers after October 1, 1983. The Secretary of Interior is required to designate the undeveloped areas according to a definition that was enacted into the law. That

definition of an undeveloped coastal barrier is the same one which is contained in S. 1018.

As a result of the flood insurance prohibition, the designation of undeveloped coastal barriers has been on a two-track process—one being done administratively in the Interior Department, the other being done legislatively in Congress.

The first track began when I introduced S. 1018 in April 1981. The bill referenced a set of maps which delineated undeveloped coastal barriers. These maps were based on years of study by the Department of Interior. When these maps were first introduced with the bill, I realized that they were not perfected and in some cases had to be revised. To achieve that objective, I requested the Interior Department to ask for public comment on the maps. Comments were received although no changes were made until after the second track was underway.

The second track began with the enactment of Public Law 97-35 in August 1981. As I mentioned that law contained a prohibition of Federal flood insurance for new or substantially improved structures on undeveloped coastal barriers after October 1, 1983. The provision requires the Secretary of Interior to designate these undeveloped areas according to definition which is identical to a definition of an undeveloped coastal barrier in S. 1018.

In January 1982 the Interior Department released for public comment its first set of draft maps of undeveloped coastal barriers. Those maps contained many of the areas which were found in the maps first referenced in S. 1018, but there were differences.

In March 1982 the comment period on the Interior Department maps closed. DOI then began to review the comments for further revision of their maps.

During DOI's administrative rulemaking process, the Subcommittee on Environmental Pollution was moving forward with S. 1018. Hearings were held and a subcommittee markup was scheduled for April 28, 1982.

During that markup it was important that the maps reported by the subcommittee were as accurate as possible.

Since the Interior Department was making the comments it received on its draft January maps available to the public, we were able to examine that material and use it to update the S. 1018 maps which were going to be considered in subcommittee markup. The comments which were compiled by DOI pursuant to my earlier request when S. 1018 was first introduced were also taken into account.

Consequently the subcommittee and full committee adopted a set of maps which reflected all the information received by the Interior Department at the time.

Now lets go back to the ongoing administrative rulemaking process at Interior Department for a moment. The public comment period on their draft January maps closed in March 1982. Between March 1982 and the first of July they reviewed the comments received. On July 1, 1982, they released a set of interim maps which contained some changes that were based on the comments they received.

Between July 1, 1982 and July 14, 1982, DOI had another public comment period. After the end of that comment period they began to revise their maps to make their final proposed delineations.

The final proposed delineations were made public on August 16, 1982.

Now what we have here are two sets of maps, based on the same definition, which delineate undeveloped coastal barriers along the Atlantic and gulf coasts.

One set has been proposed by the Committee on Environment and Public Works, the other by the Department of Interior.

The areas delineated on the Interior Department maps would be ineligible for flood insurance policies for new or substantially improved structures. The areas delineated on the committee maps, if enacted, would be ineligible for other forms of Federal assistance.

Needless to say this is a rather confusing situation, so I would like to offer several amendments which I believe will solve the problem.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

Mr. CHAFEE. Mr. President, I move adoption of the committee amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, have the committee amendments been agreed to?

The PRESIDING OFFICER. Not yet.

The question is on agreeing to the committee amendments.

Without objection, the committee amendments are agreed to en bloc.

Mr. CHAFEE. Mr. President, I will call up my first amendment, a new set of maps dated September 10, 1982. As I have outlined, the Interior Department has spent an enormous amount of time sifting through vast amounts of information to develop the maps they released on August 16. Because these maps are more up to date and more inclusive than the committee's maps, I am using them as the basis for the amendments I am proposing. That is, Mr. President, I am using the Interior Department maps as the basis for the amendments I am now proposing.

The maps reported by the Committee on Environment and Public Works contain 146 system units with a beach length of approximately 600 miles, while the Interior maps contain 188 units with an approximate beach length of 747 miles.

Thus, the net result of this amendment is that many areas will be added into the Coastal Barrier Resource System, although a few necessary changes in some areas will also be made.

At this point, Mr. President, I submit for the RECORD a detailed list of the changes from the committee maps contained in the amendment. I ask unanimous consent that this be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

The new set of maps I am offering by amendment are entitled "Coastal Barrier Resource System" and dated September 10, 1982. They contain the following changes from the maps reported by the Environment and Public Works Committee dated April 28, 1982:

MAINE

New Areas: Lubec Barriers and 700 Acre Island.

Boundary Change: Jasper, Cape Elizabeth, Scarborough Beach, and Cresent Surf.

MASSACHUSETTS

New Areas: Clark Pond, Good Harbor Beach, Brace Cove, Boat Meadow, Falmouth Ponds, Buzzards Bay, James Island, Mink Meadows, West Sconticut Neck, and Harbor View.

Boundary Change: Plymouth Bay, Center Hill Complex, Scorton Shores, Sandy Neck, Squaw Island, Black Beach, Esther Island Complex, South beach, Elizabeth Islands, and Horseneck Beach.

RHODE ISLAND

New Areas: Prudence Island Complex, West Narragansett Bay Complex.

Boundary Change: Little Compton Ponds.

CONNECTICUT

New Areas: Ram Island, Niantic Bay, Lynde Point, Fayerweather Island, and Norwalk Islands.

Boundary Change: Goshen Cove and Menunketesuck Island.

NEW YORK

New Areas: Sammys Beach, Acabonack Harbor, and Tiana Beach.

Boundary Change: Fishers Island Barriers, Crane Neck, and Mecox.

NEW JERSEY

New Areas: Stone Harbor Point and Cape May Complex.

Boundary Change: None.

DELAWARE

New Areas: Broadkill Beach Complex.

Boundary Change: None.

VIRGINIA

New Areas: None.
Boundary Change: None.

NORTH CAROLINA

New Areas: Shackleford Banks and Onslow Beach Complex.
Boundary Change: Currituck Banks, Hatteras Island, and Wrightsville Beach. Bodie Island deleted from Coastal Barrier Resource System. Also Bogue Banks deleted.

SOUTH CAROLINA

New Areas: Pawleys Inlet.
Boundary Change: Litchfield Beach, Daufuskie Island, St. Helena (renamed Otter I.), Captain Sams Inlet, and Edisto Complex.

GEORGIA

New Areas: Wassaw Island, Little Cumberland Island, and Cumberland Island.
Boundary Change: None.

FLORIDA

New Areas: Guana River, Usinas Beach, Matanzas River, Coconut Point, Bodwitch Point, Mandalay Point, Ochlockonee Complex, and Four Mile Village.
Boundary Change: Talbot Islands Complex, Conch Island, Ormond-by-the-Sea, Ponce Inlet, Vero Beach, Hutchinson Island, North Beach, Lover Key Complex, Sanibel Island Complex, Bocilla Island Complex, Manasota Key, Long Boat Key, The Reefs, Cape San Blas, Shell I. now called St. Andrew Complex, and Moreno Point. Amelia Island, Jupiter Island and St. George units deleted from Coastal Barrier Resource System.

ALABAMA

New Areas: Pelican I.
Boundary Change: Mobile Point.

MISSISSIPPI

New Areas: Belle Fontaine Point.
Boundary Change: None.

LOUISIANA

New Areas: None.
Boundary Change: Sagine and Point AuFer.

TEXAS

New Areas: None.
Boundary Change: South Padre Island and Brazos River Complex.

Mr. CHAFEE. Mr. President, as I have stated, this amendment will greatly increase the number of areas that will be included in the Coastal Barrier Resource System. I have consulted with the Members of the affected States in developing this amendment, and I believe there are no objections to its adoption.

Mr. President, I move adoption of my amendment.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

Mr. CHAFEE. The amendment is at the desk.

UP AMENDMENT NO. 1267

(Purpose: To amend committee print entitled Coastal Barrier Resource System Dated April 20, 1982)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 1267.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 5 delete line 10 and insert in lieu thereof the following: "and dated September 10, 1982."

Mr. CHAFEE. Mr. President, I move adoption of the amendment.

The amendment (UP No. 1267) was agreed to.

Mr. CHAFEE. Mr. President, my second, third, fourth, and fifth amendments, which are at the desk, are also extremely important. As I stated earlier, the Interior Department, under section 341 of the Omnibus Budget and Reconciliation Act of 1981, is moving forward with prohibiting Federal flood insurance in areas on its maps.

S. 1018 originally contained a provision prohibiting Federal fund insurance for new or substantially improved structures. But because we were able to get the Federal flood insurance cutoff provision in the Omnibus Budget and Reconciliation Act of 1981, we deleted flood insurance from the other prohibitions found in S. 1018.

These amendments reinstate the flood insurance prohibition in S. 1018 and repeal the authority of the Secretary of the Interior to designate undeveloped coastal barriers. The amendments insure consistency and clarity by making the flood insurance prohibition and the other prohibitions of Federal assistance found in S. 1018 applicable to one set of congressionally approved maps.

The PRESIDING OFFICER. May the Chair ask the Senator if he wants these amendments considered en bloc?

Mr. CHAFEE. En bloc.

Again, we have worked closely on these amendments with the Members who have been deeply involved in this legislation, and I believe they are acceptable to Members on both sides of the aisle.

UP AMENDMENT NO. 1268

(Purpose: To amend section 1321(a) of the National Flood Insurance Act)

UP AMENDMENT NO. 1269

(Purpose: To repeal section 1321(b) of the National Flood Insurance Act)

UP AMENDMENT NO. 1270

(Purpose: To repeal section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (P.L. 97-35))

UP AMENDMENT NO. 1271

(Purpose: Technical amendment to S. 1018)

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes unprinted amendments numbered 1268 through and including 1271, en bloc.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

UP AMENDMENT NO. 1268

Section 4 of S. 1018 is amended by inserting at the end thereof the following new subsection:

(d) Section 1321(a) of the National Flood Insurance Act of 1968, as amended, is amended by striking out "undeveloped coastal barriers which shall be designated by the Secretary of the Interior" and by inserting in lieu thereof "those undeveloped coastal barriers which are included in the Coastal Barrier Resources System established under section 4(a)(1) of the Coastal Barrier Resources Act".

UP AMENDMENT NO. 1269

Section 4 of S. 1018 is amended by inserting at the end thereof the following new subsection:

(e) Section 1321(b) of the National Flood Insurance Act of 1968, as amended, is repealed.

UP AMENDMENT NO. 1270

Section 4 of S. 1018 is amended by inserting at the end thereof the following new subsection:

(f) Section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35) is repealed.

UP AMENDMENT NO. 1271

On page 7, line 18, insert "as amended," immediately after "(Public Law 97-35),".

The PRESIDING OFFICER. Without objection, the amendments (UP No. 1268, UP No. 1269, UP No. 1270, and UP No. 1271) as agreed to en bloc.

Mr. CHAFEE. Mr. President, I understand that Senators THURMOND and HOLLINGS have an amendment to offer to the bill.

UP AMENDMENT NO 1272

(Purpose: To permit landowners not otherwise included in the Coastal Barrier Resource System to elect to enter such system)

Mr. THURMOND. Mr. President, I send an amendment to the desk on behalf of Senator HOLLINGS and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Mr. HOLLINGS, proposes an unprinted amendment numbered 1272.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 5, amend section 4(a) by inserting the following new paragraph at the end thereof:

(4) Any person or persons or other entity owning or controlling land on a coastal bar-

rier, associated landform or any portion thereof not within the Coastal Barrier Resources System established under paragraph (1) may, within one year after the date of enactment of this Act, elect to have such land included within the Coastal Barrier Resources System. This election shall be made in compliance with regulations established for this purpose by the Secretary not later than 180 days after the date of enactment of this Act: and, once made and filed in accordance with the laws regulating the sale or other transfer of land or other real property of the State in which such land is located, shall have the same force and effect as if such land had originally been included within the Coastal Barrier Resources System.

Mr. THURMOND. Mr. President, this amendment provides a procedure on which coastal property not included in the maps accompanying this measure may be included in the coastal barrier resource system at the option of the owner. I have discussed this amendment with the distinguished manager of the bill (Mr. CHAFEE). He has indicated it is acceptable to him.

Mr. President, this amendment would permit landowners on coastal barriers or associated landforms which have not been included in the coastal barrier resources system to put their land in the system within 1 year of the date of enactment of this bill. Once exercised, this option would not be revocable by the landowner or his successors in title, and the prohibition against Federal assistance contained in the bill and section 341(d) of the Omnibus Budget Reconciliation Act of 1981 would apply as if the land had been included in the system from the outset.

Mr. President, this amendment had its genesis in the particular situation posed by Daufuskie Island in South Carolina. Up until the Department of the Interior issued their final proposed delineations of undeveloped coastal barriers, many people felt that Daufuskie Island met the criteria established under section 341(d) of the Omnibus Budget Reconciliation Act for designation as an undeveloped coastal barrier. The island encompasses over 5,000 acres of fastlands (highlands), but has only 100 or so structures of any substance.

Moreover, although it has been inhabited continuously for over 4,000 years, and cultivated intensively during the 18th and 19th centuries, it had all but returned to its primordial state during the latter part of this century. This led many people to believe that the island had been spared the impact of man's activities, when in fact this was not the case.

When all the facts as to the physical characteristics of the island and the impedance of man's historic activities on its geomorphic and ecological processes were revealed, the Department of the Interior determined, and rightfully so in my opinion, that it was not a true coastal barrier, but stood only as the second line of defense against the impact of the ocean's energies. Accordingly, the Department recommended that the island be removed from the list of undeveloped coastal barriers in its entirety.

Mr. President, it had been my longstanding position that the Government should not in any way assist development of the low-lying portion of the island directly fronting the ocean. I did not believe, however, that landowners on the highly elevated back portion of the island should be denied Federal assistance generally available to much more hazardous and environmentally sensitive areas. In accordance with this belief, I proposed to the distinguished Senator from Rhode Island that a line be drawn along the 10-foot contour running the length of the island, and he graciously agreed. This proposal has now been incorporated into the coastal barrier resources system by amendment approved earlier today.

The incorporation of this line, while posing a barrier to the development of the low-lying portion of the island, does not assuage all of the fears expressed by some of its current residents. These people fear that development of any part of the island will lead to increased property taxes and inexorable pressures to sell their land for further development.

In response to the first of these fears, the Beaufort County Joint Planning Commission has recommended that the Beaufort County Council take some action to protect present residents from unwarranted property tax increases as a result of the development of any part of the island. Such action would not, however, relieve the pressure these residents may come under to sell their land for further development. This is one area where the amendment we propose would come into play.

Under this amendment, those landowners who do not want to develop or sell their property for development can opt to have their property placed in the coastal barrier resources system. Once in the system, this property could no longer receive the benefit of Federal flood insurance or any of the other forms of Federal assistance prohibited under the provisions of this act. Since institutional lenders have indicated their unwillingness to make loans secured by property in coastal zones for which Federal flood insurance is not available, this property would not be as attractive to potential developers, and pressures to sell for further development would be substantially reduced, if not entirely eliminated.

Mr. President, although this amendment had its genesis in the particular situation posed by Daufuskie Island, it would not be so limited in its application. Rather, it would permit landowners on coastal barriers or associated landforms up and down the east and gulf coasts to bring their property into the system, with the concomitant savings in Federal revenues.

In this way, Mr. President, the amendment allows for expansion of the coastal barrier resources system while respecting the rights of those most directly affected by such expansion, since only landowners or those with a colorable claim to title would be able to bring additional property into the system. Such property would thereafter be barred from receiving Federal flood insurance or any of the other forms of Federal assistance prohibited to elements of the system, thus substantially advancing the laudable fiscal and environmental goals embodied in the act.

Mr. President, I am confident that, upon carefully examining the merits of this amendment, our Senate colleagues will find it to be a positive addition to this measure.

Mr. CHAFEE. Will the Senator yield for questions?

Mr. THURMOND. I will be happy to yield to my distinguished colleague from Rhode Island.

Mr. CHAFEE. I have some questions about the language of the proposed amendment, as well as how it would operate and what would be its effect. But first, I would like the distinguished Senator from South Carolina to illustrate how the amendment might apply to areas other than Daufuskie Island.

Mr. THURMOND. I will be happy to.

Using the State of Rhode Island as an example, if the owner of the excluded portion of Block Island between Sandy Point and Beach Plum Hill wanted to have that portion included in the system, this amendment would permit its inclusion. The only limitation intended on the application of this amendment is that the property sought to be brought into the system be located on a coastal barrier or associated landform within reasonable proximity of and physically comparable to an established unit of the system.

Mr. CHAFEE. Could the Senator from South Carolina explain what is meant by this limitation?

Mr. THURMOND. It is not our intention that this amendment be used to bring land far removed from an established unit of the coastal barrier resources system or property which would be physically incompatible with this legislation into the system. The land sought to be included under this amendment would have to be close enough to an established unit of the system to bear most, if not all, of its physical characteristics, and should not be separated from that unit by

rivers or cliffs or other natural barriers. In other words, areas far removed from or bearing little or no resemblance to the type of landforms sought to be protected by this legislation, whether by reason of their natural features or the impedence of man's activities on their geomorphic or ecological processes, could not be added to the system by way of this amendment.

Mr. CHAFEE. If I understand the Senator from South Carolina correctly, this amendment would not permit the addition of land located some 4 to 5 miles from an established unit of the system or of property located in a highly developed area adjacent to an established unit of the system?

Mr. THURMOND. That is correct. Property which is neither geographically nor physically compatable with an established unit of the system would not be allowed into the system under this amendment.

Mr. CHAFEE. I thank the Senator for his response. Will the Senator now yield for questions on the language of the amendment?

Mr. THURMOND. I will be happy to.

Mr. CHAFEE. The amendment speaks in terms of a person, persons or other entity owning or controlling land. Could the Senator explain what is meant by this expression?

Mr. THURMOND. Mr. President, much of the land on Daufuskie Island and in other coastal areas of the South has been passed from generation to generation without deeds or valid testamentary dispositions. Title to such property, commonly known as heir's property, has become so divided over time that in many cases it is virtually impossible to determine the identity, much less the whereabouts, of all of the heirs with an interest in the property.

The heir or heirs in possession of such property commonly treat this property as their own, even though they do not have clear title. The term "controlling" was included in the language of the amendment to clarify that an heir in possession of heir's property has the power to bring that property into the system, without the consent or concurrence of all of the other heirs.

Another situation where the term "controlling" comes into play is where the affected property is in a perpetual trust. Although the trustee or trustees do not have equitable title to the property, they generally control its use and disposition, and would be the proper persons to bring the property into the system.

Mr. CHAFEE. Would the term "controlling" also apply to a tenant or local governing body?

Mr. THURMOND. No; it would not. The interest required by this term must be the functional equivalent of fee simple title. Since the option, once exercised, is irrevocable, it would be unfair to the landowner to permit a tenant to exercise the option without his knowledge or consent.

As for a local governing body, Mr. President, the object of the amendment is to allow for expansion of the system without overriding the rights of affected landowners. If all of the landowners in a given community chose to exercise the option in accordance with the regulations prescribed by the Secretary of the Interior, the entire community could be included within the system. If any landowner refused to enter the system, the balance of the community could nonetheless enter, and only that landowner who chose not to enter the system would be eligible to receive Federal flood insurance or any of the other forms of Federal assistance prohibited by this act. Personally, however, I see little probability of either of these scenarios occuring within the option period under the amendment.

Mr. CHAFEE. Will the Senator yield for a question on another matter?

Mr. THURMOND. I will be happy to yield.

Mr. CHAFEE. Mr. President, I would like to inquire into the impact the prohibition against certain forms of Federal assistance for property within the coastal barrier resource system would have on otherwise legitimate, federally assisted projects which may benefit property opted into the system under this amendment. For example, could this procedure be used to block a road or sewer line to be constructed with Federal assistance?

Mr. THURMOND. Mr. President, that clearly is not the intent of this amendment.

The mere fact that property has been included in the coastal barrier resources system by way of this amendment would have no effect on a federally assisted project which only incidentally benefits that property. For example, there would be no prohibition against the use of Federal funds to acquire a sewer or road easement across land which has been brought into the system, or to build the sewer or road across the property once the easement had been acquired. What would be prohibited is the use of Federal funds for any of the purposes specified in the act which would particularly benefit that property. In other words, while the easement could be acquired and the sewer or road built with Federal assistance, no Federal funds could be used to assist the landowner to tap on to the sewerline or to provide access from the affected property to the road. This general principle would also be applied to other forms of Federal assistance prohibited under the act.

Mr. CHAFEE. I am satisfied by the response from the distinguished Senator from South Carolina. Will the Senator yield for another question?

Mr. THURMOND. I will be happy to yield for another question.

Mr. CHAFEE. Mr. President, recently enacted legislation provides tax breaks for the donation of private property to the Government for public purposes, and there have been indications that the Secretary of the Interior will recommend that the owners of land included within the coastal barrier resources system be offered certain tax concessions. Could a landowner take advantage of these breaks or concessions simply by placing his property in the sytem by way of this amendment?

Mr. THURMOND. Mr. President, it is not the intent of this amendent to bestow any more favorable Federal tax treatment on any landowner than that otherwise available to other similarly situated taxpayers simply because he voluntarily brings his property within the system. If the recently enacted tax breaks the Senator from Rhode Island has mentioned are available to landowners whose property is included in the coastal barrier resources system under the delineations approved by Congress, then they should be available to a landowner who brings his property into the system under this amendment. If they are not so available, then he should get no special benefit.

As for the recommendation of the Secretary of the Interior, the same principle should apply. If concessions are given to those landowners whose property has been included under the maps, then they should be given to landowners who enter the system voluntarily. In other words, whether property is included in the system by act of Congress or by act of the landowner should make no difference for the purposes of Federal taxation.

By this, it is not meant that States or local governing bodies should be discouraged from offering tax concessions to landowners who voluntarily bring their property within the system. This is a matter which should be left entirely to the discretion of the particular State or local taxing authority.

Mr. CHAFEE. Will the Senator from South Carolina yield for one more question?

Mr. THURMOND. I will be happy to yield.

Mr. CHAFEE. Mr. President, the amendment provides that the contemplated option must be filed in accordance with the laws regulating the sale or other transfer of interests in land or other real property of the State in which the land to be included is located. Would the Senator explain the purpose and effect of this provision?

Mr. THURMOND. I will be happy to.

The purpose of this provision is twofold. First, the provision is designed to insure that the voluntary inclusion of lands not designated on the maps will appear in the chain of title to the property. This, I believe, is the most reasonable means of notifying potential purchasers and the public generally that certain lands not designated by Congress have been included in the coastal barrier resources system.

Second, this requirement will make it unnecessary for the Department of the Interior to keep detailed records of those properties which have been opted into the system, and it will be unnecessary for people interested in the status of certain property to come to Washington to find out that information. While I do not doubt that the Department of the Interior will maintain records of those properities included in the system, and will require notification of such inclusion in their regulations, this will relieve them of any requirement of maintaining detailed information such as legal descriptions and subsequent transfers.

As to the mechanics of filing, the Secretary of the Interior could approve a standard form as part of the regulations. This form could then be filed in the chain of title to the property in the same manner as a mortgage, lien, or lis pendens, depending on the particular State practice.

Mr. CHAFEE. I thank the Senator from South Carolina for his patience in responding to my questions. Based upon his answers, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (UP No. 1272) was agreed to.

Mr. THURMOND. Mr. President, I want to take this opportunity to commend the able Senator from Rhode Island for the tremendous job he has done on this barrier island. It has been a Herculean task. In fact, when he started out, I did not see how any Senator would be able to accomplish what he has done. He has coordinated these matters with the various Senators. Every Senator did not get what he wanted. We did not get what we wanted. But he has been most considerate in working out these matters in great detail.

Mr. President, I just want the record to show that his leadership in this matter is probably the only way we ever would have gotten this through.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from South Carolina for those very kind comments. I would just like to say, Mr. President, that in working through this matter, we were very, very grateful and appreciative for the splendid support and understanding of the objectives of the legislation that the senior Senator from South Carolina demonstrated.

He is a proconservationist. He was for this bill, he worked with us carefully to achieve the objectives, and I think the citizens of South Carolina and, indeed, the citizens of the Nation owe him a deep debt of gratitude for his very, very helpful work as we proceeded through this intricate piece of legislation. I personally am very grateful to him.

Mr. THURMOND. Mr. President, I thank the able Senator for his kind remarks. I also commend Mr. McKnight of my staff, who worked so closely with Mr. Hurley of Senator CHAFEE's staff. Both of these staff members, I think, showed a great deal of expertise. They showed a great deal of consideration to the various Senators' staffs who were working on these matters and I commend them, too.

Mr. CHAFEE. Mr. President, I join in the commendation of Mr. McKnight and, of course, Mr. Hurley, whom I shall touch on later.

Mr. McKnight was extremely helpful, again concentrating on the objectives. I like to deal with people who want to move forward and who do not see a problem as an insurmountable obstacle but prepare to tackle and get on with it. Senator THURMOND is that kind of man and Mr. McKnight certainly displayed those qualities as well.

Mr. HOLLINGS. Mr. President, I support and am a cosponsor of the Coastal Barrier Resource Act, S. 1018.

I want to thank the distinguished Senator from Rhode Island (Mr. CHAFEE) for his cooperation over the last several months as we worked out amendments to S. 1018. The first of these amendments would require that State coastal zone management agencies be fully consulted by the Secretary of the Interior for the technical information required under section 4 of the bill for making minor boundary modifications. It has long been my experience that these agencies, which are in almost all our coastal States, and which are involved in the day-to-day management of our coastal areas pursuant to the Coastal Zone Management Act of 1972, as amended, have both the experience and the knowledge to contribute to this process, and help control some of the technical errors which have emerged on the Department of the Interior draft maps from time to time. In addition, the second amendment to section 10, lets the State coastal zone management agencies comment directly on the report, which the Secretary of Interior is directed to produce, providing for additions or deletions to the coastal barrier system established under S. 1018.

I am delighted that Senator CHAFEE is amenable to these two amendments, for it is my belief that they will strengthen his bill.

In addition, I join the senior Senator from South Carolina (Senator THURMOND) in sponsoring a third amendment to the bill, brought about by circumstances surrounding Daufuskie Island on the coast of South Carolina.

Previously, my position on the inclusion of Daufuskie Island in the coastal barrier system had been that the back portion of the island, where the old community exists, shoud be excluded. This island has a long history of settlement, and many residents of the island have been there for generations, often having little more than the land which they have inherited down through the years. I did not find it equitable to force a flood insurance prohibition affecting property values on these residents, since the only "savings account" many have is their land. However, the island residents held a public meeting in June and voted to keep the island in the barrier island system. The reason for this action was to discourage development on the island, for the majority of the residents did not want to encourage development, with its attendant rise in property taxes and pressure to sell. I respected the wishes of the residents, and began to work to maintain the island in the system.

The Department of the Interior, however, suddenly deleted the island in its entirety from its barrier island maps on August 16, 1982. And this is the last set of maps out for comment before the Interior finalizes these maps under provisions of the Omnibus Budget Reconciliation Act passed last year. Coastal geologists may quibble over whether Daufuskie Island constitutes a coastal barrier structure or not, but the Department of the Interior suddenly made an about face on the matter for reasons I can only conclude are due to political pressure. That is why it is now doubly important that the amendment that Senator THURMOND and I are sponsoring be made part of this bill and that this bill pass. We have returned a portion of the island, running along the 10-foot contour, to the coastal barrier system. In addition, we propose a "freedom of choice" amendment that would permit the landowners who do not want either to develop or sell their land for development to choose to have their property placed in the coastal barrier system. Once in the system, this property could no longer receive either flood insurance or any Federal funding for infrastructure such as roads, water, or sewer lines, or the like, that is prohibited under the Coastal Barrier Resources Act. This should substantially reduce the pressure in these areas to develop.

Although this amendment was born of the particular circumstances on

Daufuskie Island, it would apply to the entire east and gulf coasts, permitting landowners on coastal barriers or associated landforms to choose to place their property in the coastal barrier system. This will both encourage additional areas to be set aside from some of the pressures of development, and provide some additional savings in Federal revenues.

I am deeply appreciative that the distinguished Senator from Rhode Island (Mr. CHAFEE) has accepted these amendments, and thank him for his patience in providing us sufficient time to work out all the details.

I salute Senator CHAFEE for his work on this legislation. It is one which will help to maintain the wildlife values in the unspoiled barrier areas along the east and gulf coasts. Man, in the very root of his being, has always been, and will remain, attracted to the water and the coasts. And while tourism provides an important economic base in all our coastal States, many of the values people actually seek at the coast will be maintained more easily with the passage of this legislation.

Balance is always sought after, but hard to come by, between development and preservation. We spoke directly to that in the passage of the Coastal Zone Management Act in 1972. In that legislation we set up a voluntary system through which coastal States could balance conflicting uses in our coastal reaches and make room for both the water-dependent development that needs to occur and preservation of our more fragile and productive areas. These estuaries and marshes subject to tidal flow not only provide a diversity of fish and wildlife that people who live on the coast or visit there cherish and seek out to enrich the quality of their lives, but also spawning areas for the fish stocks that support our critical commercial and recreational fishing industries. And the coastal zone program has been very successful, with only three States on the east and gulf coasts still without a program—and one of these, the State of Virginia, has once again taken up its effort under Gov. Chuck Robb, and is making good progress toward approval of its program.

While coastal zone management has achieved remarkable success in forcing a balance in decisionmaking, there is room for a legislative effort which cuts off Federal funds that have supported development in some of the more hazardous areas. Having been through hurricanes along our South Carolina coast, I can speak to the destructive force which these storms unleash, and the devastation and destruction that is left in their wake. Man will forever live along the water, and so he should. But in those areas which receive the full brunt of these storms and provide protection for the mainland areas behind them, I believe it is fair that those individuals who choose to live there bear the risk of this exposure, rather than the Federal Government.

The days are behind us when we can provide Federal subsidies for every one of our economic sectors, without weighing carefully the true cost to the American taxpayer. This cost has now become translated into a raging budget deficit yielding high interest rates that stifle the housing market, business growth, and economic expansion. Congress will have to continue to examine and reduce many of these subsidies. The largest deficit in the history of the country has been brought about by some strange and exotic economic theory which the White House masquerades as "economic recovery policy." Extraordinary measures are now assuredly called for to get the deficit back under control. While the subsidies eliminated by this legislation make a modest contribution to this huge undertaking, it is a valuable contribution nonetheless, and a necessary one.

I want to thank the environmental community for their cooperation in this effort, particularly Sharon Newsome of the National Wildlife Federation, who worked closely with us. This is an important environmental bill, as well as one which will yield some savings for the beleaguered Federal budget. In that sense it is conservationist in the true sense of the word. There are many others who have helped us on this, including many South Carolina realtors and resort owners, who understood that this legislation was important enough to warrant their attention and their efforts at compromise. All the interests have, in the end, worked together to see that this legislation passes, and in that sense it represents some of the best we find in the democratic process.

I salute Senator CHAFEE for his work on this legislation, and am pleased to join him in cosponsoring S. 1018.

UP AMENDMENT NO. 1273

(Purpose: to give consultative to state coastal zone management agencies for boundary changes and report for coastal barrier resource system)

UP AMENDMENT NO. 1274

(Purpose: to give consultative role for state coastal zone management agencies in coastal barrier resource system)

UP AMENDMENT NO. 1275

(Purpose: to give consultative role for state coastal zone management agencies in coastal barrier resource system)

UP AMENDMENT NO. 1276

(Purpose: to give consultative role for state coastal zone management agencies in coastal barrier resource system)

Mr. CHAFEE. Mr. President, I send to the desk four amendments by Senator HOLLINGS. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments will be considered en bloc. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) for Mr. HOLLINGS, proposes unprinted amendments numbered 1273 through 1276, en bloc.

UP AMENDMENT NO. 1273

At pages 6 and 7, amend Section 4(c) to read as follows:

"(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units: except that, for system units within States which have, on the date of enactment, a coastal zone management plan approved pursuant to Section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)—

"(A) each appropriate State coastal zone management agency may, within one hundred and eighty days after the date of enactment of this Act, submit to the Secretary proposals for such minor and technical modifications; and

"(B) the Secretary may, within three hundred days after the date of enactment of this Act, make such minor and technical modifications to the boundaries of such system units.

"(2) The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications made under the authority of paragraph (1), submit written notice of such modification to (A) each of the Committees and (B) each of the appropriate officers referred to in paragraph (2) of subsection (b).

"(3) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) and make in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

"(4) If, in the case of any minor and technical modifications to the boundaries of system units made under the authority of this subsection, and appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1)(A), the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals".

UP AMENDMENT NO. 1274

At page 6, amend Section 4(b)(2) to read as follows:

"(2) Within sixty days after the date of enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to each of the Committees and to the chief executive

officer of (A) each State and county or equivalent jurisdiction in which a system unit is located, (B) each State coastal zone management agency in those States which have a coastal zone management plan approved pursuant to Section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et. seq.) in which a system unit is located and (C) each affected Federal agency.".

UP AMENDMENT NO. 1275

At page 13, line 10, amend section 10(b) by inserting immediately after "States" the following:
"and with the coastal zone management agencies of the States".

UP AMENDMENT NO. 1276

At page 15, line 4, amend section 10(c)(3) by inserting immediately after "the States," the following:
"State coastal zone management agencies,".

Mr. HOLLINGS. Mr. President, questions of jurisdiction may be raised about future Senate action on the Coastal Barrier Resources Act, since there is a limited role in the process established through my amendments to S. 1018 for State coastal zone management agencies. I would like to state my objective clearly on this matter, and make certain that Senator CHAFEE and I are in agreement on this.

Mr. CHAFEE. I appreciate the Senator's concerns on the jurisdictional issue, since I share those concerns from the perspective of our committee. The Environment and Public Works Committee has sole jurisdiction over this legislation presently. I understand that he is neither requesting nor intending that the limited role for State coastal zone management agencies under your amendments be used to establish jurisdiction for the Commerce Committee concerning future amendments, which may include, but not be limited to, further additions to or deletions from the Coastal Barrier Resources System established under S. 1018. Is that correct?

Mr. HOLLINGS. That is essentially correct, with one limited exception, which I shall describe as exactly as possible. The Committee on Commerce, Science, and Transportation has exclusive jurisdiction over coastal zone management under the Senate rules. The role established for State coastal zone management agencies under my amendments is, from a jurisdictional perspective, a procedural one—that is to say that coastal zone management agencies are fully consulted prior to the Secretary of Interior making minor boundary modifications under section 4, and in developing recommendations for the report to the Congress on any additions to or deletions from the Coastal Barrier Resources System under section 10. Thus, our jurisdiction would extend to any changes in the procedural role established under my amendments to S. 1018 for these coastal zone management agencies.

What I am not proposing here is that we would ask for jurisdiction to review the substantive recommendations contained in the report to the Congress, for example. The only basis on which I would anticipate requesting referral would be if the Environment and Public Works Committee took some legislative action to change the role of the State coastal zone management agencies established under my amendments to S. 1018, since that would be a matter appropriately within our committee's jurisdiction. If, however, the Secretary of Interior does not respond to the State coastal zone management agencies as required by this legislation, I believe it would be appropriate for our committee to hear from the Secretary why this is so.

Mr. CHAFEE. The jurisdictional interest of the Commerce Committee is limited then to any changes in the role of the State coastal zone management agencies as established by your amendments, or to a circumstance where the Secretary refused to respond to these amendments, is that correct?

Mr. HOLLINGS. That is correct. Our ranking Democratic member (Mr. CANNON) has no objections to this statement of jurisdictional interest, since it maintains the jurisdiction our committee presently has under the Senate rules.

Mr. CHAFEE. If our committee were to report legislation to make additions or deletions to the Coastal Barrier Resources Systems, for example, you would not seek jurisdiction over that legislation?

Mr. HOLLINGS. That is correct. I support the process that is inferred in S. 1018 to permit the Congress as a whole to act on any additions or deletions to the Coastal Barrier Resources System under our normal legislative procedures in the Senate and the House, and recognize the jurisdiction of the Senator's committee over such legislation.

My intent in my amendments is based on my belief that our State coastal zone management programs can make a positive contribution to the objectives of S. 1018, since they have the detailed technical knowledge and the day-to-day management experience in our coastal areas. I believe this knowledge and experience should be tapped, since many of the policy objectives of the Coastal Zone Management Act are similar to what the Senator from Rhode Island is seeking to achieve through this legislative effort.

Mr. CHAFEE. I appreciate the support of Senator HOLLINGS, and given that the jurisdictional interest of the Commerce Committee is limited solely to that specified in the Senate rules, I have no objection to his statement of jurisdictional interest and am in agreement with it. In addition, our committee has no interest in extending jurisdiction to those issues covered by the Coastal Zone Management Act of 1972, as amended, over which his committee has exclusive jurisdiction pursuant to the Senate rules. I have no objection to the amendments being offered by the Senator from South Carolina (Mr. HOLLINGS).

Mr. President, I move adoption of the Hollings amendments.

THE PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (UP Nos. 1273-1276) were agreed to.

Mr. CHAFEE. Mr. President, I believe that the Senator from Alabama has some matters he wishes to discuss.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

UP AMENDMENT NO. 1277

(Purpose: To except the Usinas Beach Unit (P04-A) located in St. John's County, Florida, from the Coastal Barrier Resources System)

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1277.

Mr. HEFLIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 10, strike out the period and insert in lieu thereof the following: ", except for the Usinas Beach Unit (P04-A) located in St. John's County, Florida and depicted on the map compiled by U.S.F.W.S. and others within the United States Department of the Interior in response to section 1321 of the National Flood Insurance Act of 1968 as added by section 341(d)(1) of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) dated January, 1982.".

Mr. HEFLIN. Mr. President, as a supporter of the Chafee-Evans Coastal Barrier Resources System bill, S. 1018, I am in favor of preserving our undeveloped coastal barriers while reducing Federal expenditures. At the same time, I am concerned that the law not unnecessarily destroy the rights of property owners to continue to develop lands which are currently under development. It appears that the Senate version of this bill includes a rather glaring misapplication of the guidelines developed by the Department of the Interior in determining what is an undeveloped coastal barrier.

The original bill provided at section 4(a) that those lands which are undeveloped coastal barriers are those "generally depicted on the maps that are entitled 'Coastal Barrier Resources System' consecutively numbered 001 through 125, and dated April, 1981." The 1981 maps were developed by the Bureau of Fisheries and Wildlife. The

Senate version of H.R. 3252 instead refers to maps which are developed by the Department of the Interior and are still in development and public comment stages. Both maps were developed from the same definitional criteria as to what constitutes and undeveloped coastal barrier.

The areas north and south of Usinas Beach, St. Johns County, Fla, are included in DOI Map P04A as an undeveloped coastal barrier. The 1981 maps did not designate these lands as undeveloped coastal barriers. I am led to question the reliability of the DOI's implementation of the regulatory criteria when it finds lands to be undeveloped which are found to be developed 1 year earlier.

A constituent of mine owns a substantial tract in the northern part of P04A. This entire tract has been developed at substantial expense to comply with all the necessary criteria to show that sufficient infrastructure exists to prove the land as developed. My staff has reviewed the evidence which was submitted to the DOI task force. Included in the infrastructure are:

First, water lines and a complete water system which have been placed into the lands for the sole purpose of serving the lots along Highway A1A and meeting DOI's threshold criteria.

Second, electricity which has been made available to all lots on the property

Third, telephone service available on both sides of A1A. It is underground on the west side and aerial on the east, having been placed there to serve this property throughout.

Fourth, all the subject property is zoned RS2, RS3—single family dwellings—or RRG2B—triplexes—by the St. Johns County Commission Zoning Board.

Fifth, septic tanks are approved for use in the area because the property has a municipal-type water system, including fire protection and fire hydrants.

Sixth, roadways have been cut and graded preparatory to paving.

Seventh, while the 100-year flood level is approximately 4.5 feet—some 90 percent of the property is 17 to 27 feet above sea level and no development is planned below the 100-year flood line.

Despite the submission of voluminous engineering reports, surveyor's reports, land use expert reports and aerial photographs which clearly show a full complement of infrastructure, the DOI task force found these lands to be undeveloped in its August 4, 1982 report to the Secretary of Interior. My staff has reviewed the task force's report as well as copies of the materials submitted to the task force by my constituent. The task force's finding that it has no evidence that the site will support a septic system is clearly erroneous. Indeed, uncontradicted evidence that the lands will support a septic system was submitted. In addition, the task force finds no evidence of structures on the southern two-thirds of the tract based on its aerial photos. The reason for this is the task force used infrared photography in its aerial photos which did not pick up the extensive network of PCV pipe infrastructure—fiberglass plastic pipe throughout the property—the landowner has installed at considerable expense.

Indeed, the findings of the DOI task force and the manner in which it has implemented its own definitional guidelines leave much to be desired.

The landowner has consistently submitted all materials and evidence to the DOI task force which was requested to show the lands as developed. To date approximately $500,000 have been spent in development which is now temporarily suspended pending resolution of this matter.

In my opinion, having fully reviewed all the evidence, the inclusion of the lands north of Usinas Beach, Fla., in map P04A as undeveloped is a miscarriage of justice in the application of the definitional criteria contained in the bill.

Mr. President, I urge my colleagues to join me and support this amendment to delete these lands from inclusion in the coastal barrier resources system.

Mr. CHAFEE. Mr. President, I know how intensely the Senator feels about this proposal. He and I have discussed it in some detail. I would mention, as he did, that this area is in Florida and not in Alabama, and so that involves a whole series of additional problems.

The experts of the Interior Department said that the area was undeveloped, after hearing all sides of the story during the comment period, and I would quote from the Interior Department material dealing with this Usinas Beach in which it says:

> The task force finds that a full complement of infrastructure, including road access at each lot and building site, does not exist within any of the existing ownerships and that the entire tract is suitable for inclusion as an undeveloped coastal barrier. . . .

Mr. President, I myself examined the aerial photographs. Maybe there possibly could be some infrastructure, but the public road, of course, has long been there. That was not built by the private people. That is a public road. Possibly there is an electric line, but it does not show that each lot is receiving service in the area. These are the very photos that were submitted to us by the developer.

Mr. President, I promise to the distinguished Senator from Alabama as follows: We have to go to conference on this measure. I promise him that we will take a good look at it. As I understand it, in the House maps they have deleted this section. If so, we will consider it along with other sections in Florida, realizing that this is a very carefully structured legislation that we are working with and we just cannot delete one piece without being subject to incredible pressures to delete others, but I would make that promise to my distinguished colleague.

Mr. HEFLIN. Mr. President, I appreciate the effort of the distinguished Senator from Rhode Island to review this. He raises some point about whether it is in Florida or Alabama. The issue is definitional criteria. If it is undeveloped, whether it be in Florida or whether it be in Alabama, it is still undeveloped. If it is developed under the definitional criteria, it is developed regardless of the location and the State.

I have pointed out in my statement various things about this, and I think to say a road exists does not keep it from being developed. Regardless of the age of the road, it is in a development stage.

However, I appreciate the courtesy of the distinguished Senator from Rhode Island, and I am willing to let this rest on its merits. I am convinced the merits are on the side of my constituents, and therefore, if it will have a meritorious review, I think that this could be determined at conference and because of that I withdraw my amendment.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Alabama for his generous action in this instance, and I will go through with the commitment that I have made to him.

Mr. HEFLIN. Mr. President, might I thank the distinguished Senator from Rhode Island and tell him that my staff tells me that his staff person, Bob Hurley, has done a great job and has been most courteous and kind. I thank him for the courteous service that he has rendered to my staff. I appreciate the courtesies of the Senator from Rhode Island and the Senator from Maine in these matters. I appreciate the good, hard work that they have done in moving toward the passage of this very important legislation.

Mr. CHAFEE. Mr. President, I want to extend my thanks to the Senator from Alabama and to Mr. Gordon Martin who works with him, because he was most helpful in trying to achieve the objectives and stated forcefully his position which we considered. I am grateful we have come to this conclusion.

Mr. President, following final passage of this bill, the maps referred to in section 4 of this act, as amended, will be printed as an official committee print and, pursuant to section 4(b), the maps shall be available for public inspection at the offices of the U.S.

Fish and Wildlife Service following enactment of this legislation.

Mr. President, before we move to final consideration of S. 1018 I would like to take this opportunity to recognize the very important role Secretary of Interior James Watt has played in the formulation of this legislation. He and the members of the Department's Coastal Barriers Task Force have worked intensively over the past year to precisely delineate undeveloped coastal barriers along the Atlantic and gulf coasts under section 341 of the Omnibus Budget and Reconciliation Act of 1981. The information compiled by the task force has been invaluable to us in this effort. The Secretary strongly committed his personal resources and those of the DOI in this project and provided every possible opportunity for official and public review. All of us owe him thanks for a job well done.

I think it is important to point out the Department's year long study, summarized in Secretary Watt's report to Congress of August 16, 1982, found that the definition of an undeveloped coastal barrier contained in both S. 1018 and the Omnibus Budget and Reconciliation Act of 1981 "includes the essence of the many complicated factors and forces which comprise, shape, and sustain a coastal barrier system." Further, the Secretary stated that these statutory guidelines were "appropriate and effective in achieving the intent of Congress." His detailed study can give us confidence that our consideration of S. 1018 today is not only well-founded, but that it will also result in limiting Federal subsidies in these vulnerable coastal areas in a logical and rational manner.

The Secretary did make one recommendation in his report to Congress. He recommended that all undeveloped coastal barriers be designated, regardless of their protected status. The Omnibus Budget and Reconciliation Act of 1981, like S. 1018, precludes undeveloped coastal barriers from being designated if they are within the boundaries of an area established under Federal, State, or local law, or held by a qualified private organization, for the purpose of natural resource conservation.

The Secretary suggested that Federal subsidies for development would be available in coastal barrier areas that logically use such progams. Although we do not know what the impact of the recommendation would be at this time, I believe this concept should be given serious consideration in the future. Section 10 of S. 1018 directs the Secretary of Interior to prepare a report within 3 years of enactment of this bill, including recommendations for additions to the system. However, this certainly does not mean that the Secretary has to wait until 1985 when the entire report is finished to begin making recommendations. It is my hope that as soon as these additional areas recommended by the Secretary are identified, he will report back to us so we can further consider this thoughtful proposal.

Finally Mr. President, I would like to thank all those who have worked so hard on this legislation—the ranking member of the Subcommittee on Environmental Pollution, Senator MITCHELL, our full committee and ranking members Senator STAFFORD and Senator RANDOLPH, and all of the other members and their staff who were so actively involved in getting this bill passed.

Mr. President, I want to make one point about the cooperation we have received from Secretary Watt.

Secretary Watt and his Department have been superb in working on this matter. The Secretary set up a Coastal Barrier Task Force consisting of Mr. Ric Davidge, Ms. Diane Hoobler, Mr. Robert Peoples, Mr. Hardy Pearce, Mr. Bill Greg, Ms. Deborah Lanzone, and Mr. Pete Raynor and the other members of the task force.

Also, in conclusion, I certainly want to thank Bob Hurley of my staff who worked so hard on this. To get all these Senators to agree to all kinds of pressures and to have this go through by a voice vote is extraordinary. I do want to pay this tribute to Mr. Hurley and to Mr. Shimberg who helped him on it.

Mr. ROTH. Mr. President, I am pleased today to speak in support of the coastal barrier resources bill and proud to be a cosponsor of this important legislation. Delawareans have long had a keen appreciation for the great value and beauty of the beaches, dunes, and wetlands along our bay and ocean coast. But while development has occurred in such a manner that millions of American's enjoy these resources every summer, we have also become increasingly aware of the fragile and sensitive nature of these areas and the important role that they play in both sustaining life and protecting inland resources. Our commitment to their preservation is demonstrated by the fact that nearly half of our ocean front is owned and maintained by the State of Delaware and will remain undeveloped.

This legislation which we consider today is important for several reasons. It recognizes the unique and incredible beauty of these places as well as their value in the form of habitat where nesting can occur, life can begin and life can flourish. It protects them from development for the pleasure of man and the sustenance of wildlife and man.

At the same time by prohibiting the expenditure of Federal dollars to support development it acknowledges the fact that there is no justification for the taxpayer to risk billions in locations so subject to natural disaster.

This is not a bill that deprives property owners of the right to develop their land. Those who wish to develop may proceed. They must do it, however, without the American taxpayer assuming the risks of property loss for them.

It has been estimated that this legislation will preclude Government expenditures of up to eleven billion dollars over the next 20 years. In a time when we face budget reductions in many programs affecting many Americans, it only makes plain sense that we discontinue the practice of placing our limited fiscal resources on the beach to be washed to sea with precious natural resources.

I urge my colleagues to vote with me in support of this important measure.

Mr. PROXMIRE. Mr. President, I am one of the original supporters of the provision adopted in the Omnibus Budget Reconciliation Act to end subsidized Federal flood insurance to undeveloped barrier islands and beaches. I support S. 1018 because it would establish a consistent policy of eliminating all Federal subsidies to these unstable, storm prone areas and could save taxpayer $5 to $10 billion over the next 20 years.

In regard to the flood insurance prohibition and Secretary Watt's inventory of undeveloped coastal barriers, I must take exception to any attempt to confirm a loophole created by Secretary Watt which would allow some 20,000 pristine acres of barrier islands to continue to be eligible for Federal flood insurance simply because the acreage was planned for development sometime in the future. The legislation before us today appropriately incorporates some of the work already done by the Department of the Interior, but before any judgment is made on Watt's "phased development" proposal I would want an opportunity, as a member of the Banking Committee, to review it. The flood insurance prohibition alone will save the Treasury $65 million a year.

In addition, I urge my colleagues to support S. 1018.

Mr. LUGAR. Mr. President, I rise in support of the Coastal Barrier Resources Act because it represents both prudent fiscal policy as well as wise protection of the Nation's rapidly diminishing coastal barrier resources. As chairman of the Housing and Urban Affairs Subcommittee with jurisdiction over the National Flood Insurance Act, I participated in the conference last year on the Omnibus Budget Reconciliation Act when we accepted a House provision to eliminate new flood insurance to undeveloped barrier islands and beaches. The compromise was reached to delay implementation until October 1, 1983, during which

time the Department of the Interior would identify and inventory the undeveloped coastal barriers. The legislation before us today builds on the work accomplished by the Department over the last year. In the report to Congress Secretary Watt indicated this provision could save $650 million of taxpayers' money over the next 10 years.

I want to make it clear that neither the Senate Banking Committee nor the House-Senate conference has examined a proposal by the Department of the Interior to exempt so-called phased development projects from the flood insurance prohibition. Under this proposal, areas that are planned for future development would remain eligible for flood insurance after the 1983 deadline. The legislative history, including the report, refers only to structures and infrastructure in deciding development status. If it becomes necessary to clarify the intention of the Congress about areas planned for future development, then it should be done by the usual practice of review and decision by the appropriate committee. In this case, it would remain the prerogative of the Banking Committee and my Subcommittee on Housing and Urban Affairs.

In closing I want to thank Senator CHAFEE for bringing this important issue to the attention of the Senate.

Mr. TOWER. Mr. President, Federal intrusion into the affairs of private citizens has never been an activity I have encouraged. The strength of our country lies in the vast individual potential of its citizenry, their imagination, their energy, their willingness to work hard. It has been my observation that when the Federal Government intrudes in this creative process, productivity is stymied, imagination stifled. During my tenure as a U.S. Senator, it has been one of my objectives to seek a balance between such intrusiveness and the public well-being achieved through the legislative process. This has not always been easy, nor has the outcome been entirely satisfactory.

The issue of designating areas along the eastern and gulf coasts as undeveloped coastal barriers so that they will no longer qualify to receive Federal funds for flood insurance and improvement projects is a classic case of attempting to balance Federal intrusion and the public good. On one hand there exists a series of pristine beaches that represent a valuable environmental resource. Preservation of these beaches is important. On the other hand there are many, many individuals and families who, in good faith, have invested their funds in oceanfront property only to discover that developing it may be too risky, since Federal flood insurance will no longer be available, or too expensive, since Federal funds to help build improvements such as roads and sewer systems may not be available.

The balance to be struck rests in the final decision on what lands are truly undeveloped and what lands already boast sufficient infrastructure to be classified as developed and, therefore, exempted from the new legislation. The maps that were drawn up by the Senate Environment and Public Works Committee represent the best balance that those of us in the Senate working on this legislation were able to strike.

A vast portion of the Texas shoreline that was considered for the undeveloped designation will be included in these maps and will no longer qualify for Federal funds. The areas that were excluded from the coverage of this bill, specifically a very small 7½-mile segment of South Padre Island just north of the northern boundary of Andie Bowie State Park, which ends at the end of State Highway 100, and all of Mustang Island, already contain developed infrastructure. There are other areas that were difficult to rule on. One such area is land in Boca Chica. Despite my concerted efforts to see the Boca Chica Beach excluded from the maps, there did not exist sufficient infrastructure, despite the existence of a road and a powerline, to convince my colleagues that Boca Chica is, actually, already developed.

Another such area of particular concern to me is that portion of South Padre Island north of the end of State Highway 100, to the Mansfield Cut. A portion of this land had been previously under study by the Congress during consideration of the creation of the Padre Island National Seashore in 1969. In 1969, however, it was determined by both the Department of the Interior and Congress that this land should not be precluded from development and should not become a part of the protected lands. In fact, although some parcels had been included in the original condemnation for the seashore, the DOI, with the consent of Congress, revested ownership to those landowners. That this land, once before having been found suitable for development, should now be effectively precluded, disturbs me greatly.

It is my sincere hope that the thorough assessment of these lands was accurate. In making these decisions, the Environment and Public Works Committee depended on experts at the Department of the Interior as well as on comments of the landowners, who are naturally quite familiar with the areas.

Arguments on both sides of this controversial issue, which is of concern to so many coastal regions, in Texas and elsewhere, have considerable merit. While I recognize the importance of preserving coastal areas, I nonetheless recognize the absolute imperative of observing the significant investment and effort that many Americans have devoted to balancing developmental and environmental interests.

In analyzing the merits of this legislation, it was my conclusion that the most workable compromise for Texas was reached in these maps and the language of this bill.

Mr. MOYNIHAN. Mr. President, I rise today to express my support for the Coastal Barrier Resources Act (S. 1018). This legislation, of which I am a cosponsor, is most important to the protection of fragile barrier beaches along the Atlantic and gulf coasts from overdevelopment.

Barrier beaches and islands, which are among the most unstable land forms, are so named because they create a barrier protecting the mainland and various acquatic ecosystems from direct attack by ocean waves, hurricanes, and storms. Yet, despite their high susceptibility to natural hazards, these areas are being developed at an alarming rate. In fact, the Department of the Interior has estimated that between fiscal years 1976 and 1978, the Federal Government has spent about a half billion dollars to subsidize development of these areas.

S. 1018 would prohibit the Federal Government from providing financial assistance to develop these undeveloped barriers. Specified activities, however, not inconsistent with the provisions and aims of this act would still be eligible for Federal assistance. Such activities include the maintenance of existing channel improvements and publicly owned or operated roads, the establishment, operation and maintenance of air and navigation aids, and actions essential to saving lives and protecting property.

In New York, significant areas of dunes, marshes, wetlands, upland meadows and estuaries are covered under the provisions of S. 1018. These areas serve as essential fish and wildlife habitats for a myriad of migrating and endangered species. Nationwide, S. 1018 covers some 200,000 acres of important coastal islands and beaches.

The 97th Congress has yet to pass any new environmental legislation. We now have before us a rare opportunity to at once protect the environment and save millions of dollars a year in Federal expenditures.

Mr. President, for these reasons, I urge the passage of the Coastal Barrier Resources Act (S. 1018).

Mr. RANDOLPH. Mr. President, I am a cosponsor of S. 1018, the Coastal Barrier Resources Act. The measure received my full support during its consideration by the Committee on Environment and Public Works and I hope that my colleagues will now give it their favorable attention.

Coastal barriers are fragile land structures which stretch along the coasts of the United States. These areas, because of their unstable nature

and vulnerability to hurricanes and other fierce storms that often batter our coasts, are unsuitable for development. At the same time they are among the most important habitats and nurturing areas for our Nation's fish and wildlife. S. 1018, by preventing the use of Federal funds to develop coastal barriers, would save both increasingly scarce coastal resources and increasingly scarce tax dollars.

There are now approximately 1.4 million acres of coastal barrier structures, such as islands or spits of land, along the Atlantic and gulf coasts of the United States. These areas are being developed at an estimated rate of 5,000 to 6,000 acres per year and nearly 40 percent of the total area is now developed. The Department of the Interior has estimated that during the last 6 years the Federal Government has spent approximately $800 million to develop and redevelop coastal barriers. With passage of this bill the Government could save, according to DOI, from $5.5 to $11 billion in additional development funding.

Passage of this measure would also help assure the conservation of important natural resources. Over 20 endangered or threatened species depend on coastal barriers for their habitat. Moreover, according to National Marine Fisheries Service estimates, over 90 percent of the U.S. commercial catch in the Gulf of Mexico and 80 percent of the commercial harvest on the Atlantic coast depend on the wetlands and estuaries of coastal barriers.

S. 1018 is not a Federal land use measure—it would not dictate to State, local, or private landowners how they should use their land. It does, however, recognize that it is not in the Federal interest to continue to waste Federal revenues on developing what are among our most fragile, unstable, and vital natural resources. I again urge my colleagues to support this measure.

Mr. BUMPERS. Mr. President, I appreciate this opportunity to state my support for S. 1018, the Coastal Barrier Resources Act. As the Senate is probably aware, I have long advocated the enactment of legislation to protect the barrier islands and to eliminate Federal subsidy of wasteful and unwise development on the islands. The bill that I introduced last year was reported out unanimously by the Energy and Natural Resources Committee and the Environment and Public Works Committee, but unfortunately, the Senate was unable to act on the bill before adjournment. I also introduced legislation in this Congress, and I was pleased to join as a cosponsor of S. 1018.

More than 300 barrier islands, barrier spits, and bay barriers are located off the Atlantic and gulf coasts. These barriers are critically important for a number of reasons. They provide protection for the mainland from storms and fluctuations in sea level, and the marshes and wetlands associated with the coastal barriers are important wildlife habitats and sources of nutrients for fish populations. In many cases, the esthetic, cultural, and natural resources of the barriers are unique and extensive. The rate of development on coastal barriers—four times the national average since 1960—is one indicator of the attractiveness of these areas.

Unfortunately, however, the coastal barriers are sensitive and unstable landforms. Most consist of unconsolidated sand, which, as a result of wave action and rising sea levels, migrate toward the shoreline. Consequently, the barriers are easily and permanently damaged by development activities which interfere with natural processes. For example, bulldozing sites to allow oceanfront development greatly reduces the stability of sand dunes; diking and filling wetlands and marshes often destroys important wildlife habitats and disrupts nutrient flows; jetties, groins, and other structures designed to enhance one beach will inevitably cause the erosion of another beach, as they restrict the normal flow of sand.

The cumulative negative effect of development on the coastal barriers is tremendous. Federal resources are wasted on unsound construction and flood insurance payments, lives are jeopardized, and the unique natural and cultural values of the islands are diminished.

It is estimated that more than 500 million Federal dollars have been spent over the past 3 years on barrier islands through some 30 different programs administered by 20 different Federal agencies. Much of this money encouraged and subsidized the kind of unwise development I mentioned earlier. Clearly it is a tremendous waste of Federal funds to encourage new development by providing beach stabilization, bridge construction, wastewater treatment facilities, and flood insurance in the first place, and especially so when the Government then pays for reconstruction of these same facilities, often in the same place, following a major storm.

The second point to emphasize with regard to development of the barrier islands is the increased risk to human life that results from federally subsidized development. Structures on these islands are extremely vulnerable to the violent storms and hurricanes which frequently strike the coastal barriers with the full brunt of their force. Access to these islands is usually by ferry or two lane roads which are often inadequate means of evacuating people quickly and safely in cases of impending hurricanes or other disasters.

Mr. President, for fiscal, environmental, and safety reasons, the Federal subsidy of development on the currently undeveloped coastal barriers must be limited. One positive step has already been taken: In the 1981 Budget Reconciliation Act, the Congress prohibited the issuance of Federal flood insurance on undeveloped barrier islands after October 1, 1983. This action will create a strong disincentive for future development, but additional prohibitions are needed. Without a limitation on Federal financial assistance for development, the Federal expenditure for coastal barrier projects could reach $11 billion over the next 20 years. The bill the Senate will pass today will prohibit the expenditure of Federal funds for construction or purchase of structures, roads, bridges, beach stabilization projects, or other facilities.

S. 1018 will accomplish three important objectives: It will help reduce the wasteful expenditure of Federal funds for unwise development on the coastal barriers, it will reduce the safety hazard associated with hurricanes and other storms, and it will protect the barrier islands themselves, preserving their important natural and cultural resources.

Mr. President, I commend the Senator from Rhode Island, Mr. CHAFEE, for his efforts to protect the coastal barrier resources and to reduce wasteful Federal spending, and I hope that the House can consider this legislation as quickly as possible.

Mr. CHAFEE. Mr. President, I move passage of the bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CHAFEE. Mr. President, I want to thank the very patient majority leader, because he has participated tonight in a magnificent piece of environmental legislation and I know he is proud, and I am certainly grateful to him for all his assistance.

Mr. BAKER. President, I thank the Senator for tremendous accomplishment. This is probably the major piece of environmental legislation in this session of Congress. It is a major bill, and the fact that it was passed on voice vote should not detract from its importance.

Mr. President, I commend him and I commend all those who have been involved in this matter for their careful attention and for the good result that they have brought to the Senate, to the Congress, and I hope to the country.

Mr. CHAFEE. Mr. President, at this time I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a number of items that I am prepared to take up for action by unanimous consent if the distinguished minority leader is prepared to consider them.

Mr. ROBERT C. BYRD. Yes, Mr. President, I am ready to proceed.

Mr. BAKER. Mr. President, first is Senate Resolution 452, which is the budget waiver to accompany S. 2329. If the minority leader is prepared to proceed on this sequence, I am prepared to go forward.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to proceed.

Mr. BAKER. I thank the Senator.

BUDGET WAIVER

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, Senate Resolution 452, the budget waiver to accompany Calendar Order No. 733.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 452) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 452) was agreed to.

The resolution reads as follows:

S. RES. 452

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2329. Such waiver is necessary because S. 2329 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of statutory authority for an efficiency advisory roundtable to assist the Advisory Commission on Intergovernmental Relations in its consideration of proposals to rebalance the federal system.

S. 2329 authorizes such sums as are necessary to complete the work of the roundtable mandated by the bill. The Congressional Budget Office has estimated that appropriations of $300,000 over two fiscal years will be necessary for this purpose. The Committee on Governmental Affairs noted that the Advisory Commission on Intergovernmental Relations is authorized to accept gifts and enter into contracts to finance programs similar to those mandated by the bill and made authorization for the roundtable conditional on an appropriation or other financing in advance of appointing the roundtable members. Thus, the authorization included in S. 2329 is only triggered when funds for the mandate purposes become available, and not expressly for fiscal year 1983.

The Appropriations Committees of the Senate and House have not yet considered legislation which would include appropriations for the Advisory Commission on Intergovernmental Relations and the roundtable in fiscal year 1983 and will therefore have adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere or delay the appropriations process.

EFFICIENCY IN GOVERNMENT ROUNDTABLE

Mr. BAKER. Now, Mr. President, I ask that the Chair lay before the Senate S. 2329, the underlying measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2329) to establish an Efficiency Advisory Roundtable to assist the Advisory Commission on Intergovernmental Relations in its activities concerning the New Federalism.

Without objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1278

(Purpose: To reduce the number of hearings)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Georgia (Mr. MATTINGLY).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. MATTINGLY, proposes an unprinted amendment numbered 1278:

On page 3, line 9, strike "ten" and insert in lieu thereof "five".

Mr. MATTINGLY. Mr. President, the measure before us now will create a bipartisan "Efficiency Advisory Roundtable" to the Advisory Commission on Intergovernmental Relations. This Roundtable would solicit advice from program specialists on any New Federalism initiatives that come before the full ACIR.

The new Roundtable would be of great help to us in considering any and all New Federalism proposals by providing direct input from experts who are very familiar with the programs that will be affected. These are the people who have to sort out all the mistakes that come to them from Washington. It is hoped that by bringing them into the process now, we can avoid some of these mistakes in our future actions.

This legislation calls for hearings to be held on the New Federalism concept in 10 regional areas. To reduce the cost of these hearings, I would like to offer a technical amendment to the bill to reduce the number of hearings to five around the country. This will provide a broad-based, bi-partisan sampling of expert advice without being a cost burden. Various House and Senate committees that will have jurisdiction over the legislation can hold additional hearings that will complement the reduced number of ACIR field hearings.

This does not create new salaried positions. The members of the Roundtable will be volunteers and will not receive any salary. They will be eligible to apply only for travel expenses. In addition, private donors may fund this project.

I ask that my colleagues join me in support of this bill. Only by direct input from the people may Congress hope to be fully informed on issues. We need the opinions of school board officials, health program directors, transportation experts, and a host of other specialized workers on the local level. The success or failure of any change in the relationship between Federal, State, and other local governments will depend on those men and women who have direct control of the affected programs.

I would like to thank Senator DURENBERGER, who has worked so hard in this area, for his cooperation.

We have the opportunity to make fundamental changes in the relationships between the levels of government. There definitely needs to be reform in this area. But to work out the fine print, the bottom line, is going to take someone with Solomon's knowledge, ability, and disposition. I know of no one better suited to face this momentous challenge than my distinguished friend from Minnesota. I stand ready to help him in any way I can.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (UP No. 1278) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 2329) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EFFICIENCY IN GOVERNMENT ADVISORY ROUNDTABLE

SECTION 1. (a) There is established an Efficiency in Government Advisory Roundtable of the Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Roundtable"). The Roundtable shall provide assistance and make recommenda-

tions to the Commission in any activities, studies, or investigations conducted by the Commission with respect to the proposals described by the President in the state of the Union address delivered to the Congress on January 26, 1982, concerning the exchange between the Federal Government and State and local governments of responsibilities for certain programs (commonly referred to as the "New Federalism").

(b) The Roundtable shall consist of not more than twenty members, who shall be nominated by the Commission and appointed by the President. The Commission shall solicit nominations for the Roundtable from State and local governments and from the public, and may also nominate individuals suggested by members of the Commission. Members of the Roundtable shall be appointed from among forty individuals who (1) have extensive experience in the administration of the programs referred to in subsection (a), (2) are elected or appointed public officials with the emphasis on State and local officials, and (3) are private citizens. The President shall appoint no more than twenty members to the Roundtable who, collectively, will be a broadly representative group of different geographical areas of the United States, of expertise in different programs referred to in subsection (a), and experience in different levels of government, and not more than one-half will be of the same political party.

(c) The Roundtable shall meet at such times as the members determine appropriate. The members of Roundtable shall elect a Chairman and a Vice Chairman from among its members. Any vacancy on the Roundtable shall not affect its ability to function, and be filled by the same process.

(d) The Chairman and the Vice Chairman of the Roundtable shall meet with the members of the Commission at the regular meetings of the Commission, but shall not have a vote on the Commission.

(e) The Roundtable shall hold five hearings on the New Federalism in different geographic regions of the United States.

(f) The Roundtable shall terminate two years after the date on which all members have been appointed to the Roundtable. The Roundtable shall submit a report simultaneously to the Congress, President, and Advisory Commission on Intergovernmental Relations concerning its activities within thirty days prior to the date on which it will terminate.

(g) There are authorized to be appropriated such sums as may be necessary to carry out this section.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET WAIVER

Mr. BAKER. Mr. President, I inquire of the minority leader if he is in a position to consider the budget waiver, Senate Resolution 464, and the underlying measure, S. 1701.

Mr. ROBERT C. BYRD. Yes. Mr. President, this side is ready to proceed.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 464.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 464) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1701.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1701. Such waiver is necessary because S. 1701 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of S. 1701, the Missing Children Act. This legislation would create a national clearinghouse of information on missing children and a clearinghouse of information on unidentified dead bodies.

S. 1701 was introduced on October 6, 1981. Hearings were held on the subject of missing children on October 5, 1981, by the Subcommittee on Investigations and General Oversight of the Labor and Human Resources Committee. The Subcommittee on Junvenile Justice of the Committee on the Judiciary held hearings on April 1, 1982, on the subject of missing and exploited children. The legislation was reported by the Subcommittee on Juvenile Justice on June 30, 1982. It was reported by the Committee on the Judiciary on July 30, 1982.

If S. 1701 is not considered, it will mean a significant delay in establishing both clearinghouses of information on missing children and the unidentified dead.

The impact on the appropriations process will not be significant. The committee anticipates that the Department of Justice will submit an amendment for additional budget authority for fiscal year 1983 in which the funding for this program can be accommodated.

MISSING CHILDREN ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1701, Calendar No. 728.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1701) to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee and the Judiciary with amendments, as follows:

On page 2, line 15, strike "within", through and including "individual" on line 16, and insert "after the discovery of such deceased individual";

On page 2, line 20, after "institutions,", insert "and acquire, collect, and classify any information";

On page 2, line 22, strike "or";

On page 3, line 1, strike "who", and insert "including but not limited to any missing person who-"; and

On page 3, line 12, strike "; and';", and insert the following: "and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter; and"; and

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information from authorized officials of the Federal Government, the States, cities, and penal and other institutions, and acquire, collect, and classify any information from a parent, legal guardian, or next of kin of an unemanicipated person, as defined by the laws of the State of residence of such person, which would assist in the location of any missing person including but not limited to any missing person who—

"(A) is under proven physical or mental disability making the person a danger to himself or others;

"(B) is in the company of another person under circumstances indicating that his physical safety is in danger;

"(C) is missing under circumstances indicating that the disappearance was not voluntary; or

"(D) is unemancipated as defined by the laws of his State of residence and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter; and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records or information".

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§ 534. Aquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534

and inserting in lieu thereof the following new item:

"534. Aquisition, preservation, and exchange of indentification records and information; appointment of officials.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENT NO. 1279

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Alabama (Mr. DENTON).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. DENTON, proposes an unprinted amendment numbered 1279.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3 between lines 4 and 5 add the following:

Provided, the failure of any parent, legal guardian or next of kin of any unemancipated person to provide accurate information to the United States Government or any agency or employee thereof, or the failure of any parent, legal guardian or next of kin of any unemancipated person to remove such information in a timely manner shall not give rise to any cause of action against the United States Government or any agency or employee thereof.

Mr. DENTON. Mr. President, I rise in strong support of my distinguished friend and colleague from Florida, Senator HAWKINS. Her concern for missing children is unlimited and her efforts with the Missing Children's Act during this Congress are a testimony to her determination to address a distressing problem. I joined her as an original cosponsor of the bill in the effort to reverse the alarming increase in the number of missing children.

During the past several months, Senator HAWKINS has worked closely with the administration and the staff of the Subcommittee on Juvenile Justice to refine the language of the bill to insure that the missing persons' file maintained by the FBI will be used to its full capacity by parents, kin, interested parties, and State and local law enforcement agencies. The resulting changes did much to improve the bill and to satisfy the concerns of the individuals and agencies that will ultimately be affected.

I see only one minor change that would be useful. My amendment would limit the FBI's liability for information that is acquired and retained about a missing person.

This amendment will protect the FBI against a suit brought as a result of its maintenance of an information system. The possibility of such action could severely limit the FBI's willingness or enthusiasm to use the system to its fullest extent. I believe that by granting the Bureau protection, we will make it possible to operate with full cooperation from, and to the benefit of all interested parties.

I urge my colleagues to accept this amendment and to adopt the missing children's bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1279) was agreed to.

Mrs. HAWKINS. Mr. President, the Senate today considers S. 1701, the Missing Children Act. I wish to thank the distinguished chairman of the Judiciary Committee, Senator THURMOND, for supporting the bill and insuring its prompt consideration and timely report to the Senate. Without the able assistance of Senator THURMOND, we would not be here today to consider this vital legislation.

I also wish to thank the distinguished Senator from Pennsylvania (Mr. SPECTER), the chairman of the Subcommittee on Juvenile Justice. Because of his cooperation and support of this legislation, the bill was reported out of his subcommittee with unanimous approval on June 30, 1982. In addition, I wish to extend my personal appreciation to 76 of my colleagues who have joined me in cosponsoring the Missing Children Act. The concern for and support of this legislation by my colleagues here in the Senate has been overwhelming. We can all be proud of the fact that the Senate has assumed active leadership in the efforts to resolve the tragedy of America's missing children.

Our efforts began in June 1981, when it became increasingly clear that the missing children problem had become a national tragedy. The Subcommittee on Investigations and General Oversight of the Labor Committee began a year-long investigation to research and document the true and terrible plight of missing children. What we found was startling and shocking.

I remember our subcommittee hearings in October of last year during which we examined the distressing family tragedies of three dedicated and concerned parents. John and Revé Walsh of Hollywood, Fla., whose young son, Adam, was kidnaped and murdered in the summer of 1981, alerted us to the critical need for a clearinghouse of information on missing children and unidentified dead. John Walsh stated:

A country that can launch a space shuttle, that can return to Earth and take off again, a country that can allocate millions of dollars to save a small fish, the snail darter, but does not have a centralized reporting system or nationwide search system for missing children, certainly needs to reaffirm the very principles the country was founded on; namely, personal freedom.

I distinctly remember Mrs. Julie Patz of New York City, whose 6-year-old son, Etan, disappeared on his way to school more than 3 years ago. He has never been found. Mrs. Patz helped us to realize the far-reaching effects that missing children have on family members. She told us that the day her son disappeared marked the end of life as they had known it.

Mrs. Camille Bell of Atlanta, Ga., told us of her courageous efforts to alert her city at the very beginning to the insidious Atlanta child murders. Her 9-year-old son, Yusef, was one of the first victims of that tragedy.

Since those early days of our investigation, we have come to know hundreds of families throughout this country who have suffered this tragedy. Countless children disappear from home each year; many never return. Unfortunately, John Walsh was right. The realization that it is easier to trace a missing car than it is to trace a missing child is almost unbelievable, but it is true.

Even after a year and a half of investigation, the subcommittee is unable to accurately access the number of missing children is this country. The Youth Development Section of HHS estimates that a total of 1.5 million children disappear from their homes each year. We still have no clear idea as to how many of these children are runaways, how many are the victims of parental kidnapings, and how many are abducted by strangers and are the victims of crime. During the course of our investigation we surveyed 40 of the 50 most populous cities in order to gain more accurate figures. We found that there were more than 103,000 missing children in 40 cities during the year 1981. Perhaps most significant is the fact that, at the end of 1981, at least 8,300 of those cases remained unsolved. This is a tragedy of unkown proportions.

While it is true that most missing children return home to safety, it is equally true that far too many meet a different fate—physical abuse, exploitation, or death. Too often the outcome is never known—the child is never found. I believe that any child who has lost his home is in serious danger. Unfortunately, distraught parents who have sought help in finding their children have discovered that there is no one source to turn to for aid—and no one to hear their pleas.

Our current means of finding lost children are haphazard and ineffective at best. The proper aim of Federal legislation is to provide a clearinghouse of information on missing children and the unidentified dead. The Missing Children Act establishes a national clearinghouse for missing children, using the FBI's existing computer

system. This will give parents and police one place to turn to for assistance and one comprehensive pool of information. I have come to the conclusion that any clearinghouse of information must include missing children of all types. Kidnaping is perhaps the most dramatic example, but the problem goes far beyond abductions by strangers. Runaways represent a large part of the missing children problem. They are an especially vulnerable group—unhappy and misguided—and are the frequent victims of street crime or exploitation. They are fair game for molestation, prostitution, or other forms of abuse. Many runaways are found dead.

Parental kidnaping is another dangerous and vicious situation. Frequently, when a parent kidnaps his or her own child, the parent is acting out of revenge, not love. Child Find, a private New York-based search organization, reports that 60 percent of abducting parents have criminal records.

We know now that all missing children face potential danger and should be included in a national clearinghouse. The Missing Children Act makes provision to include runaways, as well as victims of parental kidnapings. I have insisted that there be no waiting period before these children are entered into the system because law enforcement officials have stressed to me that the first 24 hours are the most vital and important in a police investigation. The Missing Children Act would benefit not only children under age, but also mentally and physically handicapped adults and other especially vulnerable victims of kidnapings.

At present only an estimated 10 percent to 14 percent of the missing children are listed in the FBI missing persons file. This figure will certainly increase when parents are able to list their children in the National Crime Information System, as my bill provides.

The other major aspect of this legislation involves establishing an unidentified dead file. Contact with law enforcement agencies and medical examiners around the country indicated to me that between 2,000 and 5,000 unidentified bodies are buried each year in John or Jane Doe graves. Most experts estimate that approximately one-half of these unidentified dead are young people. Data on these unidentified bodies should be placed in a national file. Missing children and adults do not always survive their shocking ordeals, yet often their families never know their fate.

The Missing Children Act, as reported out of the Committee on the Judiciary, contains four amendments. These amendments were all added during the course of our investigation, as we came to discover from law enforcement officials the particular and desperate need for a national clearinghouse system of available information. The Department of Justice believes that codifying the existing classifications of missing persons may interfere with their management perogatives to expand the system. Therefore, we included an amendment that makes it clear that these categories are not exclusive and can be expanded. The Department was also concerned that if the NCIC was required to "preserve" information received from parents.

They would be unable to update their files and delete information about children who have returned home or have been located. Therefore, I proposed an amendment that would remove the word preserve and would allow the FBI to delete information received from parents who have recovered their children.

We also eliminated the 15-day delay in entering information concerning the unidentified dead. Law enforcement officials indicated to us that that might be too restrictive and that there were situations in which data concerning an unidentified dead body should immediately be entered in the clearinghouse. Finally, the Department of Justice and the Federal Bureau of Investigation indicated that language allowing parents to apply directly to the system might encourage them to bypass local law enforcement agencies. Accordingly, I amended the bill to include a requirement that parents must report their child as missing to the local law enforcement authorities before they have access to the NCIC system.

Mr. President, I am pleased to report that this bill has received not only widespread support among my colleagues but also among concerned citizens, organizations, and law enforcement agencies throughout the country. Those organizations include the Amercian Bar Association; the National District Attorney's Association; the National Association of Counties; Child Find, Inc.; the Adam Walsh Child Resource Center; the Dee Scofield Awareness Program; the National Youth Work Alliance; the National Association of Chiefs of Police; Child Welfare League of America; International Union of Police Chiefs, AFL-CIO; National Association of Criminal Justice Planners; National Association of Social Workers; National Council of Juvenile and Family Court Judges; and the Center for Community Change.

Mr. President, I learned early on that the cause of missing children had been advanced for years by many unknown and unrecognized individuals from around this country. These were sometimes the parents of a missing child, sometimes friends, sometimes law enforcement agents who took more than a professional interest in their duty; these are the individuals who must be recognized and appreciated for their service to the cause of missing children.

I also discovered that there was a network of truly outstanding human beings from all parts of this country who involved themselves in the cause of missing children and the passage of this legislation. Mr. President, I can assure you that this group of fervent and dedicated individuals is responsible for the passage of this legislation. To all of the parents, relatives, and friends of missing children, as well as the concerned citizens who contacted us, I can assure you that your calls and letters have truly been heard in the halls of Congress. I wish to express our deep appreciation to you on behalf of missing children everywhere.

We received vital support for the Missing Children Act from Gloria Yerkovich and Kristin Cole Brown of Child Find, Inc.; Mrs. Julie Patz of New York City; Mr. Ernie Allen, the executive director of the Louisville-Jefferson County Kentucky Crime Commission; and Mr. Jack Yelverton, the executive director of the National District Attorney's Association. I would also like to thank Jan Frohman of the National Association of Counties; Karen DiGia of Gallery 345 in New York; Louise Becker of the Congressional Research Service; and Robbie Calloway of the National Youth Work Alliance. Bruce Cohen and Mary Louise Westmoreland of the staff of the Juvenile Justice Subcommittee have provided critical assistance to the passage of this legislation. Howard Davidson, the director of the American Bar Association's Resource Center for Child Advocacy and Protection, deserves our special appreciation for his efforts in guiding and protecting this legislation.

Finally, Mr. President, I wish to extend my deep appreciation to the individuals who took as their own personal mission and cause, the passage of the Missing Children Act. These are John and Revé Walsh and Sgt. Richard Ruffino. Without their dedication and relentless advocacy on behalf of this legislation, we would not be here today. John and Revé Walsh of Hollywood, Fla., took on the cause of missing children in this country because of the personal tragedy that they experienced. It is difficult for us to conceive of the grief and horror they must have felt when their 6-year-old son was kidnaped and murdered. John Walsh has not only faced this tragedy, but he has turned his own experience into a true and heartfelt commitment to the safety and well-being of children everywhere. He has crisscrossed this country on behalf of the Missing Children Act and dedicated himself to the safety and protection of all children.

Sgt. Dick Ruffino of the Bergen County, N.J., Police Department is

perhaps the top law enforcement agent in this country on the issue of missing persons. Sergeant Ruffino is an excellent example of an outstanding law enforcement agent. His dedication to the cause of missing persons deserves all our thanks and appreciation.

Mr. President, I am proud to have worked together with these individuals in the past year to raise the consciousness of this country with regard to the national tragedy of missing children. This legislation is urgently needed to address the almost unbelievable situation that a missing car is easier to find than a missing child. Children like Yusef Bell or Adam Walsh have become a tragic statistic; but children like Etan Patz may still be alive somewhere. This legislation will establish a clearinghouse of information that will aid in the identification and location of America's missing children. We have the technology. Now we have the legislation. All we need is the commitment to make it work.

Mr. THURMOND. Mr. President, I am very pleased that the Senate is giving consideration to S. 1701, the Missing Children Act, introduced by Senator HAWKINS. I am pround to have been an original cosponsor of this measure, and my pride is enhanced by the fact that this proposal was reported favorably by the Committee on the Judiciary.

This bill addresses a tragic and long-overlooked fact of American life, that thousands of our youngsters disappear every year, never to be reunited with their families and loved ones. These children disappear on their way to school, in playgrounds, in shopping centers, and even from their own backyard.

Oftentimes these children wind up walking the streets of our big cities, engaging in prostitution and pornography just to stay alive. Other children become the victims of vicious, brutal, sexual assaults. Morgues across the country hold young children whose bodies have been so mutilated that it is impossible for authorities to identify them.

Mr. President, families throughout this Nation have been victimized by this epidemic. The parents of missing children need the support of Federal law enforcement officials because it is becoming increasingly common for abducted children to be taken across State lines.

The bill now under consideration would allow the families of kidnaped children access to the Federal Bureau of Investigation NCIC computer so that they can supply pertinent information regarding their child's identity to law enforcement officials nationwide. Further, the bill would maintain an unidentified dead file to aid in the location and identification of dead persons of all ages.

Mr. President, this is unfortunately a gruesome subject. I admire and commend Senator HAWKINS for addressing this issue and for her persistent efforts toward promoting this bill. I share the strong commitment of Senator HAWKINS, and of all those families whose children have inexplicably disappeared, that this is a matter of national importance which deserves immediate Federal attention.

I hope and trust that my colleagues in the Senate will recognize that our youth is this country's greatest asset which we must all treasure and protect. I urge my fellow Senators to vote favorably on this measure and to unanimously pass this bill.

Mr. CHILES. Mr. President, it is with much enthusiasm that I support and cosponsor S. 1701—The Missing Children's Act. This piece of legislation is long overdue.

Mr. President, as I am speaking now, approximately 50,000 American children are separated from their parents. A few of these children are found with in a few days, many, many others are never found. They may have been kidnaped, abused, or murdered. Unfortunately, there is little today that parents can do beyond contacting their local police force. Children who cross State lines may simply be beyond reach. When parents run out of personal funds to locate their son or daughter, they turn to the Federal Government yet we have no programs to help them.

S. 1701 will establish a national computer information network which will house the names of missing and unidentified children for use by police and FBI members—because the computer system already houses lists of stolen cars, firearms, criminal records, as well as numerous other items. Unfortunately, less than three-tenths of 1 percent of all missing persons ever get registered on the nationwide computer. S. 1701 will allow for all missing persons, including children, to be listed on the computer. This will allow for all law enforcement officers to locate information about children all over the United States, and help parents to locate their loved ones.

Let us help to ease the financial and emotional strains placed on the parents of missing children. This is our opportunity to help reunite families. Please join me and support S. 1701.

Senator HAWKINS deserves a great deal of credit from bringing this legislation to our attention, and I commend her for her efforts. I hope that the House will follow our lead and pass this important measure.

Mr. QUAYLE. Mr. President, whether abducted by friend or foe, parent or stranger, missing children need our help. I strongly support the Missing Children's Act because I believe we need to do more to help the 50,000 children who disappear in this country every year.

Efforts to assist these children and their families are hindered by policies and attitudes at all levels of law enforcement. If a child is reported missing, there is a pervasive belief among law enforcement agencies that the child is most likely a runaway. As a result, most police departments are prohibited from becoming involved in a missing child case until 24 hours has elapsed.

While the runaway presumption holds true for many of these children, it ignores the 50,000 who have been abducted, and gives the kidnaper a 24-hour headstart. I would rather we err on the side of the abducted child than on the case of a runaway. If it means we have to enter a search for a child, only to have it suspended a few hours later if a child returns to the home, it will be worth it to know that the search was underway if it needed to be.

Attempts by families to get the absent child listed on the FBI missing persons list are unsuccessful unless the child was last seen in the company of a person in a life-threatening situation when they disappear. Since most childrens' abductions are not seen, they cannot be listed with the FBI.

When the parent turns to the statewide registration system, they discover that they are underutilized because of the reluctance on the part of the police to enter information about missing children that may be runaways.

Rather than throwing obstacles before these families, we need to be doing all that we can to assist them. I believe this bill will accomplish that end. By establishing a national clearinghouse containing information about missing children, we will increase the liklihood that kidnaped children will be returned to their homes.

Mr. NICKLES. Mr. President, S. 1701, which assists in the identification of unidentified deceased individuals and the location of missing persons, including children, is a bill worthy of our consideration. It is time that we take what action we can to insure that missing children are reunited with their families. By adopting this legislation, we can require that a nationwide system be maintained and utilized in order to locate the whereabouts of missing persons.

S. 1701 also includes a process of cross-checking information in order to determine whether or not a person who has been declared "missing" is someone who is deceased, previously lacking the correct information to determine their identity. This will end the anguish of the many families who suffer from not knowing whether or not their loved one is still alive.

I strongly support this bill, and I trust that my colleagues will see the value that it holds for many families in this country.

Mr. HATCH. Mr. President, I am pleased to cosponsor S. 1701, the Missing Children's Act, and I urge my fellow colleagues to support an issue that is vital to American families. I wish to recognize the tremendous efforts of Senator PAULA HAWKINS, the distinguished Senator from Florida, who originated this legislation and has worked very hard to bring the problem to national attention.

On October 20, 1981, 4-year-old Danny Davis was shopping with his grandfather in a supermarket in Salt Lake City, Utah. Minutes later he was gone. Police are still looking for Danny and his abductors.

Elements of this tragic crime are repeated time and again across the Nation. The children face unknown fates ranging from forced separation from their loved ones to violence. Their parents face heartbreak and uncertainty, and the police, all too often, face cases without clues.

Each year, approximately 150,000 children are reported missing, and the Department of Youth Development in Health and Human Services estimates that as many as 1.8 million actually disappear. The parents of these children may experience weeks, months, or even years of uncertainty, of sleepless nights, of waiting and wondering. In addition to the mental agony, the parents encounter great difficulty in trying to locate their children.

If I had a car disappear right now, that disappearance would immediately go on the Federal records. If I had a child disappear right now, there would be no commensurate action. Only 10 percent of the children missing for an appreciable period of time are ever entered into a national missing persons file. The FBI collects information for that file on a voluntary, not an obligatory, basis from State law agencies. And most tragically, each year almost 2,000 cases involving the unidentified dead are closed, leaving 2,000 families a lifetime of uncertainty.

These bleak prospects for the resolution of cases involving missing children, and the terrible grief of the cases themselves, underline the tremendous need for a national registry. Under the Missing Children's Act, missing children would be linked nationally by a computer just as missing cars and refrigerators are currently linked. The bill would also make parental child snatching across State borders a crime and tie the names of 5,000 unclaimed bodies of children buried annually into the national computer.

The parents of Danny Davis are still waiting. So, too, are the parents of thousands of other missing children. I believe that we must use the resources and technology available today to aid the search for those children. It would be a tragedy of the first order if America were to abandon its lost children.

Once again, I urge my fellow Senators, the House of Representatives, and the President to make S. 1701 a law, so that some of our missing children can begin to be found.

Mr. SPECTER. Mr. President, as an original cosponsor of the Missing Children Act, S. 1701, I urge the favorable consideration of this important piece of legislation. The Missing Children Act was referred last fall to the Subcommittee on Juvenile Justice, which I chair. Since that time, the subcommittee continued the hearings begun by the Subcommittee on Investigations and Oversight of the Committee on Labor and Human Resources, and subcommittee staff met with representatives of the Department of Justice and the Federal Bureau of Investigation. At each step, the subcommittee has attempted to assure that parents of missing children be given every opportunity to locate their children, and at the same time to meet the legitimate and well-founded concerns of the law enforcement community that the system authorized by this legislation be effective and efficient. I believe that the bill as amended by the subcommittee and reported out of the Committee on the Judiciary does both.

The Missing Children's Act assures that any parent of a missing child may have data identifying his son or daughter entered into the FBI's National Crime Information Center (NCIC). At the same time, the bill encourages local law enforcement to utilize the resource offered by the NCIC system. Rather than altering investigative jurisdiction, the Missing Children's Act allows State, local, and Federal agencies to maximize access to critical data.

Because S. 1701 is not intended to expand the jurisdiction or the liability of the FBI, the FBI has requested that the bill be amended to insure that it not impart liability to the FBI for data entered by parents. In response to a commitment made by subcommittee staff, Senator DENTON has prepared an amendment for that purpose.

More than 50,000 children are abducted by strangers each year. Tens of thousands more are the victims of parental kidnapings or are young runaways. Surveys estimate that from 10 to 80 percent of these children are never entered on the NCIC system. The Missing Children Act will not guarantee that a single one of these children will be located by anxious parents. It will, however, guarantee that any parent may insure that his son or daughter's name is part of this centralized computer network. If this results in only one mother or father reunited with a lost son or daughter, the Missing Children Act will be a success.

I wish to commend the bill's principal sponsor, Senator HAWKINS, and her chief counsel, Jay Howell, for their unwavering commitment to securing the enactment of the Missing Children Act and for their willingness to work with the administration to address the concerns of the FBI. As a result, I believe that we have the opportunity to now enact legislation to assist thousands of families each year.

Mr. HUDDLESTON. Mr. President, today the Senate is considering a vitally important piece of legislation. S. 1701, the Missing Children Act, was introduced to provide some means for addressing the difficult problem of identifying children who have disappeared from their families. Hearings which have been held on this bill have dramatically shown the need for some system to help locate missing children. This legislation would establish a national clearinghouse for information on missing children and the unidentified dead.

Currently, the National Crime Information Center within the FBI maintains a national missing persons file. Yet, even while this system exists, information for only 10 percent of all missing children is now entered into the system. There are many reasons for the low utilization including lack of knowledge regarding the existence of such a file, limited resources and manpower to provide information to the system, and reluctance by local officals to use a nationwide system for a local problem. S. 1701 would amend present law to permit parents, legal guardians, and next of kin to list their missing children with the NCIC. This would help increase the utilization of the national clearinghouse and hopefully lead to the identification of many more missing children.

S. 1701 will also establish for the first time a national center for information about the unidentified dead. Each year, 2,000 dead persons are found and no information about their identity is available. Because of this, many families live for years holding out hope that their missing relatives will be found alive. By providing a place where information about these persons can be filed, we will help provide an end to needless suffering by many families across the country. Detailed information about the undentified dead would have to be entered into this national system 15 days after discovery to help provide positive identification and to help solve many cases that were previously impossible to solve.

By approving S. 1701, we will be showing our concern for families who have known the anguish that comes when a child is missing. We also will be providing a means of preventing

needless tragedy for many families in the future. I am pleased to be a cosponsor of this legislation and urge its passage by the Senate.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information from authorized officials of the Federal Government, the States, cities, and penal and other institutions, and acquire, collect, and classify any information from a parent, legal guardian, or next of kin of an unemancipated person, as defined by the laws of the State of residence of such person, which would assist in the location of any missing person including but not limited to any missing person who—

"(A) is under proven physical or mental disability making the person a danger to himself or others;

"(B) is in the company of another person under circumstances indicating that his physical safety is in danger;

"(C) is missing under circumstances indicating that the disappearance was not voluntary; or

"(D) is unemancipated as defined by the laws of his State of residence and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter: *Provided,* That the failure of any parent, legal guardian or next of kin of any unemancipated person to provide accurate information to the United States Government or any agency or employee thereof, or the failure of any parent, legal guardian or next of kin of any unemancipated person to remove such information in a timely manner shall not give rise to any cause of action against the United States Government or any agency or employee thereof; and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records or information".

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§534. Acquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

"534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL COURT REFORM ACT OF 1982, H.R. 6872, TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I have a request that I believe has been cleared, and I will state it now for the consideration of the minority leader and other Senators.

I ask unanimous consent that H.R. 6872, the Federal Court Reform Act of 1982, be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Mr. BAKER. Mr. President, I have discussed this matter with the minority leader, and it has been cleared on this side.

I ask unanimous consent, at the request of both Senators from Virginia, that the action taken yesterday by the Senate on the confirmation of Elmo Russell Zumwalt, Jr., to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, be vitiated, and that the nomination be replaced on the Executive Calendar, if and when the President returns the notification of confirmation to the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

HIGHER EDUCATION ACT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2852.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 2852) entitled "An Act to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments, that the Senate request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. STAFFORD, Mr. EAST, Mr. QUAYLE, Mr. WEICKER, Mr. DENTON, Mr. HATCH, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, and Mr. EAGLETON conferees on the part of the Senate.

ORDER TO HOLD H.R. 7065 AT THE DESK

Mr. BAKER. Finally, Mr. President, I believe this has been cleared as well. I ask unanimous consent that H.R. 7065, a bill to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes be held at the desk until the close of business on September 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

LETTER RE SCHOOL PRAYER AMENDMENT

Mr. TSONGAS. Mr. President, yesterday I had printed in the RECORD a number of letters from various organizations opposing the school prayer amendment. I now wish to print another letter I received from the National Council of Jewish Women.

I ask unanimous consent that it be printed in the RECORD at the appropriate place at which debate occurred on the school prayer amendment.

There being no objection, the letter is ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF JEWISH WOMEN,
New York, N.Y., September 23, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TSONGAS: The Executive Committee of the National Council of Jewish Women, has expressed its alarm at the threat to the independence of the federal judiciary. Such legislation would deny to the Supreme Court and to the federal courts the jurisdiction to determine the constitutionality of laws adopted by Congress and state legislatures.

The checks and balances provided in the U.S. Constitution are essential to the protection of individual rights. The NCJW believes that inherent in individual rights is the responsibility to protect them.

It is in the area of civil liberties and civil rights that the challenges to an independent judiciary are being posed. The constitutional principle of separation of church and state is threatened by Senator Jesse Helms' school prayer amendment which is completely unrelated to the Debt Ceiling Bill (H.J. Res. 520). It would deny both the Supreme Court and lower federal courts juris-

diction over the question of whether prayer in the schools can be authorized by local and state authorities.

Under the theory of this legislation any special interest group which disagrees with an interpretation of the Constitution by the Supreme Court will need only to find a simple majority in Congress willing to pass legislation curtailing federal court jurisdiction in that area. State courts then could hear cases involving constitutional issues removed by Congress from the federal courts. Instead of "one law of the land" there would be 50 different interpretations of what the national constitution requires. It would also prevent the Supreme Court from considering future school prayer cases, thereby threatening the Courts' ability and right to interpret the Constitution. Should the legislative branch pass an amendment over judicial objections, our constitutional triad of checks and balances will have been weakened and with it the foundation of the laws of our society. Congress is the barometer of current public opinion, but public opinion is transient and should not be used to bypass the protections afforded us by the framers of the Constitution.

We urge Congress to reject this amendment which would circumvent the Constitution of the United States with its guarantees of liberties under the Bill of Rights.

Sincerely,

SHIRLEY I. LEVITON,
National President.

REBUILDING THE ROAD TO OPPORTUNITY

Mr. HOLLINGS. Mr. President, yesterday I was privileged to introduce into the RECORD the first of the very valuable studies being produced by the Caucus Committee on Party Effectiveness of the Democratic Caucus of the House of Representatives. The chairman of this caucus, the Honorable GILLIS LONG, has overseen the preparation of these studies and in doing so has made a signal contribution to the quality of our national debate over the future direction of America.

Today the additional reports making up this study have become available. These cover Housing, Small Business, Women's Economic Issues, the Environment, Crime, and National Security.

Together these subjects cover most of the agenda of problems confronting our Nation today. Each of these papers deserves the widest possible audience, and for that reason I am asking that they be printed in today's edition of the CONGRESSIONAL RECORD. Because the first of these appeared yesterday the piece entitled "Rebuilding the Road to Opportunity," I ask unanimous consent that section No. II on "Long-Term Economic Policy" be omitted from the reprinting, as it is available on page S11943 of the CONGRESSIONAL RECORD of September 22, 1982.

I commend these studies to the serious attention of each of my colleagues, and I congratulate everyone involved in their preparation for helping focus the Nation's attention on the real problems confronting America today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REBUILDING THE ROAD TO OPPORTUNITY: DECENT, AFFORDABLE HOUSING FOR OUR PEOPLE

(Introduction by Rep. HENRY B. GONZALEZ, Chairman, Rep. BARNEY FRANK, Vice Chairman)

Ever since 1948, when President Truman pledged this nation to the goal of decent housing for all Americans, the Democratic Party has been the steady friend of those who wanted a home of their own and those who wanted to keep their homes. The most successful programs to promote housing have been Democratic programs: FHA, Farmer's Home Administration, and VA are all products of Democratic inspiration and our determination to put a firm roof over American families. The result of this is that in 1982, there are 52 million owner-occupied homes in America. Our expectation that future generations would enjoy the same blessing has been challenged by the policies of the Reagan Administration.

Since the day Ronald Reagan took office new construction expenditures have fallen by 20 percent.

In the 18 months since a Republican occupied the White House housing starts have decreased by 47 percent.

In the period since January 1981, sales of new homes have declined by 34 percent.

The excessive cost of mortgages has caused many families to over-extend themselves or to take gambles that conditions will improve by deferring costs which will later come due. As for the home construction industry, the effects have been devastating—a 48 percent rise in unemployment since January 1981 and a record number of construction firms declaring bankruptcy.

Democrats resolve that fifty years of housing progress will not be sacrificed on the altar of Reaganomics. We pledge to rescue and then to revitalize housing in America.

Both immediate, short-term solutions and more long-term remedies are necessary in order to revitalize housing. To avert a collapse of the industry, Democrats advocate several steps to cushion the pain to homeowners victimized by the Reagan recession. For the long-term, we support a number of programs which have proven to be keystones to our housing success to date, while recognizing the importance of developing new sources of capital, new financing mechanisms, and programs which continually improve upon the delivery of affordable housing for moderate and lower income Americans.

Democrats are determined to protect the national goals of revitalization and economic development to achieve suitable living conditions and a sense of community for all Americans.

Over the past half century our country maintained a commitment to decent, affordable housing for every American family. We reaffirm that commitment.

The Republican Administration's declared war against Federal housing programs abandons this commitment, breaking faith with middle income Americans, the poor and the elderly, whether they live in our great cities, our towns, or rural communities.

The Republican Administration's housing policy has decimated the housing industry and the financial institutions upon which that industry depends. The Administration's restrictive monetary policy has left private mortgage markets in disarray.

The Republican Administration's abandonment of five decades of bipartisan progress in Federal housing programs is both wrong and fiscally irresponsible.

The nation is paying a heavy price in both dollars and human misery for the Republican Administration's outright hostility toward our housing needs.

The cost of neglect is reflected in soaring unemployment: over 19 percent are unemployed in the construction industry and 17.7 percent in related industries such as lumber and wood products. Millions wait for a housing policy that will return them to productive jobs.

The cost of neglect is certain to dash the life-time hopes of millions of Americans who desire decent shelter. Neglect will damage the fabric of neighborhoods and communities, whose revitalization needs government help.

An economy of maximum employment, production and purchasing power, is dependent upon a strong and vital housing industry. A decent housing policy—where credit is available, construction steady and strong, and private industry allowed to flourish through government incentives—is a prerequisite to recovery. Failure to deal with the depression in housing delays and even threatens national economic recovery.

The Democratic Party will not permit fifty years of housing progress to unravel nor economic recovery to flounder. We propose immediate steps to revitalize the housing industry. (see page 41 on this draft) For the long-term health of the industry, we support:

A housing credit policy that enables the middle class—especially first-time homebuyers—to overcome barriers to homeownership.

Policies that assure the production of an adequate supply of housing, particularly rental housing.

Adequate funding of programs which meet the special needs of elderly and low income families.

Assistance to preserve and revitalize public and assisted housing, to maintain the infrastructure of the nation's rural and urban areas, and to promote community and economic development.

BACKGROUND

Government policies have been vital to our progress. Credit programs enabled millions of Americans to purchase homes which they could not otherwise finance. Stimulation of housing construction created millions of jobs and a flourishing private sector. Assistance for elderly and low income people lifted millions out of substandard shelter.

America's housing policy has been so successful that it is easy to forget the critical role government has played. As the Administration embarks on a plan to abandon federal housing programs, it is important to look back and recognize the importance of government in housing.

During the Great Depression, before federal involvement, many Americans were poorly housed. Homeownership was not widely available, and many of those fortunate enough to own homes lost them through foreclosure. Renters—then a majority of Americans—were largely confined to crowded, blighted tenements or to rural housing lacking adequate plumbing, elec-

tricity, and other amenities which we now take for granted.

The dramatic progress of the last half century was not the product of an unfettered, laissez-faire economic system. Creative national legislation established an environment conducive to private home construction. Sheltered housing credit; the long-term, fixed-rate mortgage; rental housing assistance; and the roads, water supply and sewers necessasry to connect homes to a community; each received initial stimulus from federal legislation.

Federal policies sponsored the financial institutions that have become the lifeblood of affordable housing. The Federal Housing Administration (FHA) and the Veteran's Administration (VA) for years have played pivotal roles in meeting mortgage credit needs. These programs enabled families—especially first-time homebuyers—to enter the housing market by offering insurance for low down-payment mortgages. In rural areas where housing needs have been particularly acute, the housing credit programs of the Farmers Home Administration (FmHA) have made an enormous difference. More recently, the Federal National Mortgage Association (FNMA) and the Government National Mortgage Association (GNMA) have offered a critical service in providing a new, steady source of more affordable mortgage money. By 1981, this "secondary market" accounted for 60 percent of all mortgage money.

Our government has been committed not only to suitable housing for the middle class, but to remedying the deplorable condition of lower income housing. Housing assistance to lower income Americans, and aid to the poorest segment of society through public housing, have meant greater opportunity for decent shelter for millions of families. Rehabilitation and neighborhood preservation programs have helped our cities and rural areas attract the industry and jobs needed for a stable economic base.

The national commitment of resources to housing over the past fifty years has been substantial; and so have the gains. Over 52 million American families own their own homes. We went from a country one-third ill housed to a country with fewer than 10 percent living in substandard housing. The housing industry provides more than three million jobs and accounts for five percent of the GNP. Housing has played a vital role in our economic and social progress, generating considerable productive economic activity.

All this has been accomplished with broad, bipartisan support from Democratic and Republican Administrations. This progress is now threatened. The current Republican Administration's radical and unprecedented departure from accepted housing policy would have us back-slide into the dark past.

REAGAN DISMANTLING

The Administration has adopted policies on housing that, rather than alleviating the impact of the recession, have plunged housing into a depression. The vital signs of the industry read more like a page out of a period of our history we would like to forget:

Housing production has reached a 35 year low. In 1981, annualized starts were the lowest since 1946. Worse yet, for the first six months of 1982 starts were running about 25 percent behind the very low 1981 pace. Overall, there are about ½ million fewer housing starts per year during this Administration than there were in the last Administration.

Mortgage interest rates were at record levels during 1981, choking off activity in home sales. One year after President Reagan took office, the seasonally adjusted rate for existing home sales was at its lowest level in 11 years. New home sales for 1981 were the lowest since 1963, when the census bureau first began to separate out this data. For the first six months of 1982, new sales ran 24 percent behind the already low 1981 pace.

Business failure for building contractors and subcontractors for the first eight months of 1981 was up 41 percent from the same period in 1980.

The long-term fixed rate mortgage—the mainstay of housing progress—is threatened with extinction.

Thrift institutions are caught in an earnings squeeze that has, in effect, penalized them for their commitment to housing, and pushed them toward failure.

For the first time since the Depression, the number of homeless people is rising.

Today 88 percent of American families are effectively priced out of the mortgage market. Thousands of American families have been forced to allocate increasing percentages of their take-home pay for shelter, short-changing other essential needs, and raising the specter of skyrocketing personal bankruptcies.

These aggregate numbers speak loudly, but do not begin to explain to the nation the severe hardships, the pain, the suffering, the dashed hopes, that flow from the failure of the Reagan Administration policies on housing. We reject these anti-housing policies.

THE DEMOCRATIC RESPONSE

Stark reversals of long-standing housing policy may fall lightly from the Republican pen, but the Democratic Party maintains its deep-seated commitment to decent, affordable housing and suitable living environments for all Americans.

Democrats are supportive of this country's housing programs because they have worked, not because we are unable or unwilling to change course. Policies require constant evaluation; we will modify or replace where more effective alternatives are found. Fiscal scrutiny, in particular, is important, especially during times of economic stress. We will not "throw" money at our housing problems; we will spend wisely and insist on the maximum benefit from each public dollar spent. This philosophy will be a guide as we provide answers to today's housing problems.

Democrats strongly endorse

I. Immediate measures to revitalize the housing industry:

The housing industry has been in a seriously depressed condition for months. This Administration's clear disregard for the plight of the industry, and its deliberate high interest rate policy, have brought the industry to its knees. Any effective and sustained recovery of the housing industry requires an acknowledgement that high interest rates are the prime culprit. To reduce high interest rates, we must reduce the federal budget deficit and monetary policy should be modifed. In particular, we must take steps to eliminate the enormous deficits the President has proposed for 1984, 1985 and beyond. Only when we are clearly on a course that leads to a balanced federal budget can we expect long-term interest rates to decline.

While a decline in long-term interest rates is essential to a sustained recovery of the housing industry, the current condition of the industry is so critical, the danger of collapse so great, that we cannot wait until the financial markets becomes satisfied with federal budget policy to begin treatment.

To avert a collapse of the housing industry and to cushion the pain to homeowners victimized by the Reagan recession, we recommend the following immediate actions:

Emergency Mortgage Protection: To prevent default and foreclosures by homeowners thrown out of work by the Reagan recession. Those who have had the great misfortune of losing their jobs should not also have to lose their homes.

Homeownership Assistance: Mortgage interest assistance to moderate income buyers, especially "baby boom" generation first-time homebuyers, adjusting unprecedented interest rates to more affordable levels.

Thrift Institutions: Programs to strengthen the financial stability of home mortgage lending institutions and to ensure the availability of home mortgage loans at reasonable levels.

To prevent further erosion of the housing market we reject efforts by the Reagan Administration to cut additional housing programs that are working. Within reasonable budgetary limits, we must maintain our commitment to expanded rental construction, vital rental assistance and homeownership loans for rural communities, quality in public housing, and to the government sponsored credit institutions which have been the keystone of our housing policy.

II. A housing credit policy that enables the middle class—especially first-time homebuyers—to overcome barriers to homeownership. Our goals are:

To increase homeownership opportunities, particularly for first-time homebuyers. New methods of credit support should be explored to enable these families to overcome barriers of affordability. The low downpayment, long-term, fixed-rate mortgage should not be abandoned. At the same time, we recognize the necessity of removing impediments—provided there are adequate consumer safeguards—to the use of alternative mortgage instruments such as adjustable rate, shared appreciation and graduated payment mortgages.

To respond to the needs of rural Americans, whose access to financial resources for homeownership has long been inadequate.

To support federal credit agencies and secondary markets which assure the availability of mortgage money. These include the credit programs of the FHA, FmHA, VA, GNMA, FNMA and FHLMC. Reform of these programs must be consistent with our goal of guaranteeing adequate access to mortgage credit.

To develop new sources of capital to finance housing. In particular, we would remove unreasonable statutory and regulatory barriers to private pension fund investment in primary and secondary mortgage instruments, and would provide attractive incentives for such investments, in a manner consistent with sound fiduciary policy.

III. Policies that assure the production of an adequate supply of housing, particularly rental housing. Our goals are:

To stimulate rental housing production by assuring that capital will be available at affordable rates.

To support federal assistance for direct production programs in areas of housing shortage or otherwise inadequately served

by the private market, including inner cities, rural areas, and Indian and migrant farm worker locations.

To clarify the issues surrounding tax-exempt financing for housing, especially Mortgage Revenue Bonds. This source of low-cost capital should be available to the extent intended by Congress. We recognize the particular usefulness of this type of financing for single family and multi-family dwellings in the absence of adequate levels of direct federal spending for housing assistance.

IV. Adequate funding of programs which meet the special needs of elderly and low income families. Our goals are:

To assure low income familites of access to adequate, affordable rental housing and to homeownership as well, where feasible. Design standards should be responsive to the needs of the elderly and the handicapped.

To guarantee consumer assistance payments in rural and urban areas to low income families, senior citizens, and handicapped and Indian and migrant farm workers. Assistance should minimize the displacement of elderly and poor citizens whose apartments and neighborhoods are threatened.

V. Assistance to preserve and revitalize public and assisted housing, to maintain the infrastructure of the nation's rural and urban areas, and to promote community and economic development. Our goals are:

To preserve and revitalize existing housing. The federal government should provide adequate levels of support for low income and public housing. We will examine appropriate incentives for rehabilitation.

To revitalize urban centers and economically depressed rural communities, through government economic and community development assistance in a close and cooperative partnership with the private sector.

To improve and upgrade aging roads, transportation, water and sewage systems. Without essential maintenance, communities will deteriorate and investments made over the years will prove in vain.

Through preservation, revitalization and economic development programs, we can achieve suitable living conditions in order to promote a sense of community and cultural well-being.

Finally, we pledge to continue to battle all forms of discrimination in housing. Housing opportunities must not be denied to any person on the basis of race, religion, color, national origin, sex, or marital status.

CONCLUSION

In 1949 Congress declared, and in 1968 reaffirmed:

. . . That the general welfare and security of the Nation . . . require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of sub-standard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American.

In 1982, we reaffirm our commitment to these basic housing goals for urban and rural America. We reject efforts to destroy the progress that has been made, decimate the foundations of federal housing programs, and undermine a cherished aspect of our way of life—decent, safe and affordable housing for our people.

REBUILDING THE ROAD TO OPPORTUNITY: RENEWING THE ENTREPRENEURIAL SPIRIT IN AMERICA

(Introduction by Parren J. Mitchell, Chairman)

To renew and expand America's dream of work, fairness, betterment and security, the Democratic Party believes that special emphasis must be given to protecting and nourishing one vital sector of the economy—our nation's independent, small businesses. The Reagan economic policy of favoring the wealthy and the powerful not only is unfair; it also is bound to fail because it damages the independent entrepreneur, the family farmer, the small town banker, the home builder, the inventor, the minority business firm, and all those whose initiative and vision are the seed bed of this Nation's economic structure. The Democratic Party recognizes that no economic policy will succeed unless it creates an economic climate where small businesses flourish and prosper.

America's small businesses are especially vulnerable to the ravages of the current, misguided economic policies. The failure of Reaganomics nowhere is more evident than in its disastrous impact on America's independent entrepreneurs. Rather than ignore the suffering of America's small businesses, the Democratic Party believes that we must rely on the unique strengths of such businesses to lead us on the road to economic recovery.

The plight of the Nation's independent businesses is not simply the result of an economic policy that subjects all businesses to a trial-by-fire in which only the large and well connected are likely to survive. Certainly any economic policy that produces astronomically high interest rates and widespread unemployment will hurt small businesses more than larger businesses. The Reagan Administration, however, has adopted policies that provide an additional advantage to large corporations and conglomerates at the expense of the independent entrepreneur.

The Democratic Party has a balanced program to promote long-term economic growth with fairness. To ensure that small businesses receive their fair share of benefits under this long term policy, the policy must be supplemented with special programs targeted to the unique strengths and needs of small business. Small businesses want only an open opportunity to compete in the market place but this requires an elimination of the artificial preferences given to large businesses by the Republicans. The Democratic Party believes in an even-handed policy that permits the market place to determine whether a business, small or large, will prosper or wither. We propose a number of measures which will aid small business and thus the health of the country's economy, including: tax reform, adequate funding for research and development, open and vigorous competition, fair procurement opportunities, reduction of bureaucratic regulations, and credit assistance.

The Democratic Party wants to build an economic recovery on the strength and vitality of America's small business. This economic strategy is both the fairest and the most effective. When small business suffers, most Americans suffer and when small business prospers, most Americans prosper. To maximize the potential of small business, the Democratic party is committed to government policies that free small business to compete fairly and fully in every sector of the economy, with vigorous government action to protect small businesses from discriminatory and unfair competitive practices, and with government incentives and assistance where small business need and request it.

REBUILDING THE ROAD TO OPPORTUNITY: RENEWING THE ENTREPRENEURIAL SPIRIT IN AMERICA

To breathe life into the American values of work, fairness, betterment and security, the Democratic Party believes that special emphasis must be given to protecting and nourishing our nation's independent, small businesses. The Reagan economic policy of favoring the wealthy and the powerful is not only unfair; it also is bound to fail because it damages the independent entrepreneur, the family farmer, the small town banker, the home builder, the inventor, the minority business firm, and all those whose initiative and vision are the seed bed of this Nation's economic growth. The Democratic party recognizes that no economic policy will succeed unless it creates an economic climate where small businesses flourish and prosper.

THE PROBLEMS AND POTENTIAL OF SMALL BUSINESS

America's small businesses are especially vulnerable to the ravages of the current, misguided economic policies. The failure of Reaganomics is nowhere more evident than in its disastrous impact on America's independent entrepreneurs.

In 1982 small businesses are failing in record numbers and at record rates, the highest numbers and rates in nearly fifty years. Business failures are running at twice the 1980 rate and three times the 1979 rate. At current rates, 24,000 businesses will fail in 1982. More than 17,000 failed in 1981. An estimated fifteen percent of America's small businesses are at risk of failing. A chain reaction of failures is occurring, starting with retailers and spreading to wholesalers and manufacturers.

Small business debt is at its highest level since World War II. Due to increased competition for capital, from the government and large corporations, loans to cover this debt are not available for many small businesses at any cost. When loans are available small businesses face crushing interest rate payments, now running near historic post-war highs at more than twice the average interest rate in real terms that small businesses are accustomed to paying.

Profits for small corporations have declined by at least 30 percent in just the last year.

In real terms farm income is at the lowest level since the Great Depression.

The impact of record interest rates on the value of the dollar has weakened the competitiveness of the U.S. exports and increased domestic competition from imports.

Rather than ignore the suffering of America's small businesses, the Democratic Party believes that we must rely on the unique strengths of such businesses to lead us on the road to economic recovery. Small businesses are less able to protect themselves when capital is scarce and markets are declining, but, when the deck is not stacked against them, small businesses can compete at the cutting edge of economic progress. America can and must rely on its small business sector to contribute to a reversal of the Republican-produced recession and to promote long term growth.

Small businesses are prolific sources of new jobs in our economy. It is estimated

that more than 80 percent of new jobs are provided by businesses with fewer than 100 employees and most of these jobs are with firms that are less than five years old. More than half of our labor force currently is employed by small businesses.

Through its inventive talents, flexibility, and willingness to take substantial risks, small businesses generate more innovations per research dollar—one estimate is twenty four times as many—than medium or large businesses. Small companies and individual entrepreneurs produced half of the most significant new industrial products and processes since World War II, generating these innovations from a scant three percent of total U.S. funds spent for research and development in those years.

Small businesses provide women, Blacks, Hispanics, and other minorities, as well as Vietnam veterans, with greater access to the nation's economic mainstream.

Even more important than its economic strengths is what small, independent businesses represent—the ideals of resourcefulness and hard work, a personal commitment to employees and suppliers and customers, and the resistance to stifling bureaucracy. The free enterprise system and our democratic process itself are intimately connected with the ability of independent businesses to follow their economic star. America works best—and democracy works best—when businesses are masters of their own fate—their own bosses. That is the essence of freedom in America, both economic and political.

REPUBLICAN NEGLECT AND FAVORITISM

The plight of the nation's independent businesses is not simply the result of an economic policy that subjects all businesses to a trial-by-fire in which only the powerful and well connected are likely to survive. Certainly any economic policy that produces sustained, record high interest rates and widespread unemployment will hurt small businesses more than larger businesses. The Administration however, has adopted policies that provide an additional advantage to large corporations and conglomerates at the expense of the independent entrepreneur.

While small businesses produce roughly half of all the goods and services in this country, the heralded business tax cuts of the Reagan Administration principally cut taxes for big businesses, not for the struggling small businesses most in need of a break. Several studies found that small corporations received less than 10 percent of all the business tax reductions under the tax bill.

In 1982, a time when many small businesses are literally in a race for survival, the Administration cut six government programs which have provided financial assistance to small businesses by more than one-third. In 1983, it proposes to cut this assistance an additional 30 percent and to completely eliminate all direct loans to small businesses including all loans to businesses owned by or employing handicapped persons and those to minority-owned businesses. Loans to help small businesses recover from natural disasters have been severely curtailed and many small businesses have been declared ineligible. Assistance the government used to provide to small businesses to overcome economic injury which the government itself caused is no longer available. Acting by bureaucratic fiat the Reagan Administration has terminated all financial assistance to help small businesses comply with government pollution regulation and has eliminated the only government program directed at assisting women start and manage small businesses.

Despite the devastating impact of high interest rates on small businesses, the Administration continues to support the tight money policy of the Federal Reserve Board and accepts record high government deficits for which the government must borrow over half of all available capital.

The Republican Administration has given the largest corporations the green light to take over the most successful small entrepreneurs, increasing the concentration of economic power in the hands of a few mammoth corporations. This reduces competition and local ownership, drains scarce capital away from more productive uses, and ensnarls the acquired companies in layers of conglomerate bureaucracy and redtape. The Administration also refuses to protect small businesses from unlawful price discrimination by monopoly concerns and has proposed repeal of the Robinson-Patman Act.

When the survival of many minority small businesses is in doubt, the Reagan Administration has not taken action to provide over $75 million in loans that Congress has directed that the Small Business Administration make available to minority small businesses. After trebling its share of government procurement contracts in only five years, minority small businesses now are threatened by the Reagan Administration with arbitrary actions that bar $250 million in contract support for twenty-three minority firms, resulting in layoffs of most of their 7,500 workers, many of whom are minority group members.

This Republican program of neglect and favoritism for the powerful protects the entrenched interests of yesterday, not the needs of tomorrow. Unfortunately, the failure of this policy victimizes small businesses in every state and city in the country.

AN EVEN-HANDED DEMOCRATIC POLICY FOR SMALL BUSINESS

The Democratic Party has a balanced program to promote long term economic growth with fairness. To ensure that small businesses receive their fair share of benefits under this long term policy, the policy must be supplemented with special programs directed at the unique strengths and needs of small business. Small businesses want to be given only an opportunity to compete in the market place but this requires an elimination of the artificial preferences given to large businesses by the Republicans. The Democratic Party believes in an even-handed policy that permits the market place to determine whether a business, small or large, will prosper or wither.

The Democratic Party has already demonstrated intensified interest in the promotion of small business goals. A Small Business Council has been established, already with over 40 small business entrepreneuers from across the country participating, to forge closer links between small business and the party. Apart from serving in a liaison capacity, the Council will develop policy positions in the following areas: Regulation and Antitrust, Financial Assistance and Capital Formation, Urban and Rural Development, Tax Policy and International Trade. Democrats in Congress have already begun to formulate specific recommendations in these and other areas.

Tax reform

Fair and equitable tax policy for small businesses must be approached on two fronts. For the short term, we must remove provisions in the current tax code which favor large corporations at the expense of small businesses. We must also develop innovative techniques to provide small businesses equal access to capital markets. Steps that should be carefuly considered include the following:

Allowing small businesses to transfer a portion of the interest payment on start up loans to the lender, this modified form of safe harbor leasing would stimulate the formulation of new firms at relatively little cost to the Treasury.

Allowing new firms a tax credit for start up investments.

Deferring capital gains liability on the sale of a small business when the proceeds are reinvested in the equity of another qualified small business, or an individual, partnership or corporation investing directly in a qualified small business could receive a special tax credit.

Designing a new type of negotiable debt instrument, the Small Business Participating Debenture. Interest payments, like dividends, would reflect the company's profit. Small companies would not have to surrender equity to the lender, but the lender could participate in the earnings growth of the company and treat the interest payments as capital gains income.

Eliminating current tax incentives for large firms to acquire successful small businesses.

For the longer term, we must begin an effort to reduce marginal tax rates, broaden the tax base and simplify the maze of tax code provisions and regulations which choke small business and stymie investment incentives.

These tax proposals would go far to provide the extra measure of capital that can be so crucially important to small business.

Research and development funding

Small businesses are primary sources of innovation in our society. This reality, however, has no apparent effect on government policy when it comes to distributing government research and development funds. Despite their contributions to the vigor of the economy, small businesses are consistently overlooked and neglected by federal government research and development agencies. In these times of tight money when business capital is virtually nonexistent or available only at exorbitant interest rates, the federal dollar directed for the improvement of this nation's productivity should clearly be spent where it will do the most good. In order to maximize the great potential of small technological and scientific firms, Democrats authored legislation this year requiring that small business be given its fair share of federal research and development contracts. This legislation must be implemented without delay.

Promotion of competition

Reagan Administration Assistant Attorney General William Baxter stated just last year: "There is nothing written in the sky that says the world would not be a perfectly satisfactory place if there were only 100 companies . . ." With the Administration so predisposed against open competition, small business will gain precious little from the Reagan Administration. The Democratic Party strongly repudiates the Reagan anti-competitive, anti-small business frame of mind.

To prevent unfair competition from conglomerates and other large corporations, the Democratic Party supports vigorous enforcement of the anti-trust laws, especially

the Robinson-Patman Act prohibitions against unfair price discrimination. Where communities suffer because absentee owners abandon local businesses, the government should encourage and aid local groups and employees in buying back the firm or in making investments to avoid closing of the facilities. Procedures and requirements for bringing class action antitrust suits by individual small businesses should be modernized. Most important, there should be continuous scrutiny of the local economic and social impact of conglomerate mergers, leading to strengthening of the antitrust laws to prevent anti-competitive mergers and acquisitions.

Federal procurement opportunities

Small business receives less than one-quarter of all Federal procurement dollars. When large firms win contracts, small businesses are not given adequate opportunities to compete for subcontracts. The Democratic Party believes that small businesses should receive assistance in preparing bids and specifications for Federal contracts and adequate time to prepare their bids. Wherever possible, contracts should be let on the basis of competitive bidding, not awarded through private negotiations in which small businesses may not participate. Agencies should not discriminate against small businesses through onerous pre-qualification requirements. Democrats are taking the lead to require the government promptly to pay its contractors or pay interest during any delay. Correcting these abuses in procurement policy will encourage more small businesses to participate in Federal procurement actions, benefiting the entire economy.

Elimination of red-tape

Small businesses do not have the accountants and lawyers to cope with the voluminous maze of Federal paperwork requirements. While the government must ensure that businesses and individuals meet their tax obligations, the tax paperwork that the government has imposed on small businesses reduces the profitability of these businesses, thus reducing the taxes that ultimately are paid. Many other paperwork and regulatory obligations actually reduce the degree to which small businesses can meet the legitimate regulatory goals set by the government. The Democratic Party recognizes this irony and believes that the government must eliminate those paperwork and regulatory obligations that are counterproductive and unnecessarily restrictive. But, unlike the Republican practice of conducting secret negotiations where only the privileged can participate, the Democratic Party believes this review and revision of government rules must be undertaken in the open, using such procedures as are promoted in the Regulatory Flexibility Act, a law sponsored by Democrats in the last Congress.

Small businesses must be given ample notice of government consideration of regulatory policies so they can give fair warning to the appropriate agency before it adopts an unwise, overly burdensome regulation. Small businesses must be consulted about how to reduce existing regulatory burdens, as they were in the White House Conference on Small Business held by the Carter Administration. The Equal Access to Justice Act, a Democratic proposal enacted into law in the last Congress, must be fully implemented so that the government will carefully consider taking enforcement actions against small businesses or reimburse small businesses for their costs and attorneys fees when the government brings frivolous enforcement actions against law-abiding businesses.

Development of international markets

There are vast new markets to be tapped for small businesses through internatioal trade. Traditionally, small businesses have been unable to compete effectively in the export market. Less than 10 percent of U.S. firms account for 80 percent of our total exports. Yet with assistance thousands of small firms have the capacity to increase U.S. exports. Establishment of export trading companies, as Democrats in Congress are proposing, would encourage small businesses to enter world markets. Such companies could provide financing, risk insurance, and market research to small businesses. This program would bring benefits to the entire economy.

Employment training and placement

The government should rely on small businesses to supply needed jobs to reduce unemployment. Given the proper incentives small businesses would hire the unskilled or displaced workers and train them as productive members of the labor force. A targeted jobs tax credit would be one approach. Yet, the jobs tax credit as currently structured is ineffective for small business since nearly half of the firms with capital assets under $5 million do not pay income taxes against which the credit would apply. Complex certification procedures further diminish the incentives of the jobs credit. With reforms this credit will open entry-level jobs to workers who would not ordinarily be hired, without disrupting employers normal procedures for hiring and training.

Credit assistance

Finally, small businesses, especially those owned by women and minorities, often are unable to obtain financial assistance from banks because of the absence of a "track record" for such firms and the lower profitability for the bank on smaller loans. Without such financial assistance, establishment of new firms and expansion of existing ones is discouraged. This prevents small businesses from serving as the nation's "job creator." The Federal government must take steps to ensure that viable small firms can obtain necessary financial assistance so that they can provide employment and opportunity to those without it under the Reagan economic policies.

The Democratic Party wants to build an economic recovery on the strength and vitality of America's small business. This economic strategy is both the fairest and the most effective. When small business suffers, most Americans suffer and when small business prospers, most Americans prosper. To maximize the potential of small business, the Democratic Party is committed to government policies that free small business to compete fairly and fully in every sector of the economy, with vigorous government action to protect small businesses from discriminatory and unfair competitive practices, and with government incentives and assistance where small business needs and requests it.

REBUILDING THE ROAD TO OPPORTUNITY: EXPANDING THE ROLE OF WOMEN IN OUR ECONOMY

(Introduction by GERALDINE A. FERRARO, Chairwoman)

American women have made great strides toward achieving economic equity in our society. Through a steady drum beat of initiatives, Democrats have led the way in helping women gain their political and economic rights.

At this juncture in our history, however, economic equity for women—today's central focus—is stalled. Although more women are working outside the home than ever before, they are earning wages which average just three-fifths of the pay earned by men. As a result, women lose out on Social Security and retirement benefits and are far more likely than men to live in poverty.

Effective education and training programs, coupled with vigorous enforcement of laws barring discrimination could free women from the double bind of low wages and meager retirement benefits.

What has been the Reagan Administration's response?

The Republican Administration has mounted a concerted attack on programs and policies which have improved educational equity for women. The Administration has curbed job training programs that could prepare women for better paying jobs now and in the future.

While depriving women of a viable economic future, the Reagan Administration has also deeply cut the programs women and children depend on. Women and their children are the vast majority of food stamp recipients, subsidized housing residents, Medicaid patients. So it is women and their children who have been disproportinately harmed by the sharp reductions made in these programs in the federal budget.

The Democratic Party has consistantly supported the Equal Rights Amendment, which the Republicans have spurned. The Democratic Party is committed to a Constitution, a society and an economy which treat women fairly.

REBUILDING THE ROAD TO OPPORTUNITY: EXPANDING THE ROLE OF WOMEN IN OUR ECONOMY

America leads the world in social and economic opportunity for women. Women are an integral part of American society, playing a vital role that is only a distant dream for most of the world's female population. Yet, women in our nation have had to fight every step of the way for their current status and true equity still eludes them. The achievement of equity for women has been gradual and piecemeal, which is to say, slow.

It took 133 years for women to win the right to vote. It took more than a century for women in many parts of America to gain the basic right to sign contracts and own property. Women are fighting today to have their equal rights as citizens recognized in an Equal Rights Amendment to our Constitution. The Democratic Party has been a staunch advocate of the ERA and the political equality of American women.

Today, political equality alone is not enough. In 1982, more than two centuries after the Declaration of Independence, women are still restrained by a system of laws and regulations that deny them equal access to economic opportunities. Democrats believe that, today, women's economic equity is the paramount issue not only for women but for the men and children whose lives are inextricably linked with theirs.

Democrats reaffirm their historic commitment to economic equity and apply it particularly to women, even as the Reagan Administration abandons the principles for which we have fought.

In this centenary year of the great Democrat Franklin D. Roosevelt, it is fitting to

recall his words: Democrats do not destroy ambition, nor seek to divide wealth into equal shares, but allow the individual to obtain a proper security, a reasonable leisure and a decent living throughout life.

Democratic Administrations and Congresses have promoted job equality, fought for educational opportunity, strongly and consistently supported the Equal Rights Amendment, established infant and child health programs, and defended Social Security benefits.

By contrast, the Reagan Administration has declared war on these fundamental programs, moving swiftly to weaken the laws which enforce fair employment, to diminish education and job opportunities, to axe programs for pregnant mothers and children, to disown the ERA and to eliminate the minimum Social Security benefit.

The need for economic equity for women is especially acute today. Most women work because of economic need. Millions are struggling to keep themselves and their families intact. There are 9.4 million American families headed by single women. Fully 34.6 percent of them live below the national poverty level, compared to 11.2 percent of all families living in proverty. Amazingly, nearly all of the programs particularly relevant to women's economic lives have been targeted by the Reagan Administration.

Today, two-thirds of the women in the work force are single, widowed, divorced or, though living with their husband, required to work to keep their families above the poverty level. Nevertheless, women earn on the average only 19 cents for each dollar earned by men. This is unjust and a national disgrace.

The Democratic Party believes our country can do better. Our party is proud of the key role we have played in pressing for equality for women. We are determined to expand the ideals of fairness to encompass economic equity. Specifically, we seek more progress in the following areas: retirement and pension benefits; education, job and business opportunities; the elimination of poverty, and adequate health care and nutrition.

BACKGROUND

Government policies have been vital to the progress we have made toward equality for women. Where government has affected issues crucial to women and family—whether the issue is war and peace, equal pay and equal credit policies, access to higher education, or concern for healthy children—the Democratic Party has shown the way.

Legislation, spearheaded by Democrats, has advanced the principle of equity for women in these four vital areas:

I. Fair Retirement Benefits:

Protection the minimum Social Security benefit.

Reformed pension laws which penalized widows who remarried after age 60.

Established women's claim to spousal retirement benefits upon divorce.

II. Equal Education, Job and Business Opportunities:

Made student loans widely available and discouraged sex discrimination at schools receiving federal aid.

Initiated and vigorously enforced equal pay for equal work laws and fair hiring and promotion practices.

Developed programs to train women in the skills needed to succeed in small business.

Brought equity to consumer credit laws.

III. Elimination of Poverty:

Focused job training programs on women in the greatest need, including those forced to reenter the work force by widowhood, divorce, abandonment or illness of their spouse.

IV. Affordable Health Care:

Promoted new systems of health care for middle-class families designed to hold down health costs.

Established the principle of neutrality and equity in disability pay and fringe benefits for pregnant women.

Improved rural health services and fostered urban health clinics focusing on preventive medicine.

Invested in healthy children through nutrition and immunization programs.

POLICY GUIDELINES

I. Fair retirement benefits

Elderly women deserve an untroubled retirement regardless of whether they have lived their lives as full-time homemakers, worked in the paid labor force or combined the two roles. They are also entitled to financial security regardless of changes in their marital status.

Democrats are committed to achieving this goal in all areas of old-age security—Social Security, other public pension plans and private pensions.

Older women tend to be poorer. In fact, in the age group 65 and over, 2½ times as many women as men live in poverty.

There are a number of reasons for this. Women, on the whole, live longer. They are likely to have worked outside the home for fewer years than men and at lower paying jobs. And they are less likely to have access to private pension benefits and so are more dependent on Social Security as their sole or major source of income.

Social Security

The Democratic Party firmly believes in the principles on which the Social Security system was founded in 1936: to provide a supplemental income to families in case of retirement, disability or death.

But we recognize how conditions have changed in 46 years. When Social Security was established, it was assumed that the husband would be the family breadwinner and the wife a full-time homemaker and that divorce would be rare.

Today, more women than ever before are combining homemaking and paid employment. Some 47 percent of married women now work outside the home. Soaring divorce rates have caused more women than ever to become the sole support for their families. And because women have longer life expectancy, they are likely to depend on Social Security for a longer period of their lives.

The Social Security system has not responded adequately to the changed conditions of women's lives.

Both women working outside the home and homemakers confront a no-win Social Security situation.

A working spouse is entitled to benefits based on his or her employment record or as the dependent of his or her spouse, but cannot receive both benefits. In practice, this poses a far greater problem for women than for men.

The work women do is often undervalued, with women's pay averaging three-fifths of men's. This means women retire from the work force with a much lower earnings record on which their Social Security benefits will be based. And women are more likely to move in and out of the work force, in order to bear and rear children, creating service gaps which can also reduce eventual Social Security benefits.

So, in practice, a woman would usually have to choose her husband's benefit level. In doing so, however, she relinquishes any claim to the contributions she herself made to the Social Security system during her working years.

But what of the homemaker? The benefits paid to one-earner couples—traditionally a working husband and stay-at-home wife—are lower than those for two-earner households. This is a clear indication of the lack of regard for the value of the work performed by homemakers.

The divorced woman also faces benefit problems. She is entitled to dependent benefits only if the marriage lasted ten years. The divorced mother is ineligible for dependent benefits during child-rearing years. Similarly, widows under age 50 are ineligible for survivor benefits and must wait to 65 to receive full benefits.

The system must not continue to penalize women, especially elderly women who are 72 percent of the elderly poor. This group depends on Social Security as its sole means of support, receiving benefits which average $240 a month.

Last year, Democrats fought to halt an Administration effort to eliminate minimum Social Security benefits, restoring benefits for those currently on the rolls. Of the 3 million recipients receiving this $122 minimum benefit, 2.3 million are women.

We are committed to the principle that Social Security must recognize marriage as an economic partnership. We believe that homemakers contribute to the economic well-being of the family. We feel working women should not be penalized for taking time out to engage in homemaking and child-rearing. And we affirm the right of widows, disabled women and elderly divorced women to live out their lives in decency and dignity.

We are deeply concerned about the solveny of the Social Security system and its ability to provide a safe retirement harbor for the Americans of future generations. But reductions in benefits which worsen financial inadequacies and intensify present unfair practices affecting women are not the way to achieve this worthy goal.

Public and Private Pensions

Other types of public and private retirement plans also fail to meet the legitimate needs of women.

Private plans which allow workers to vest only after 10 years of continuous service penalize women who leave the work force temporarily to raise children. Plans which require employees to be at least age 23 have the same effect. And plans available only to full-time workers overlook the fact that almost 30 percent of the women in the labor force work part-time.

Despite recent efforts to reform private pension plans, many homemakers are not aware that their husbands have opted against survivor benefits. So these widows may receive nothing at all should their husbands die before retirement age.

The government itself is unfair to the widows and divorced spouses of many government workers. Military pensions provide the most glaring example of unfairness. A recent Supreme Court decision held that a military wife has no right to share in her ex-husband's pension after a divorce. This may place these women and their dependent children in financial jeopardy. Many military wives work outside the home. But, with their constant transfers, most have had to settle for low-paying jobs offering little hope of advancement or pensions.

Democratic legislation has been introduced to rectify this situation.

II. Education, job and business opportunities

Young people are our future and education is their future. It is with great pride that Democrats have led the fight to give young men and women equal access to our educational institutions.

The U.S. Supreme Court this spring upheld a 10-year old federal law which requires our higher education institutions to afford full opportunity, both to their female students and their women employees, on penalty of losing federal funds.

The results of these Democratic efforts have been dramatic. Women are 52 percent of all current four-year college students. In 1981, they received half of all masters degrees and a quarter of all professional degrees, up from just six percent a few years ago. Female students are seeing women professors in their classrooms, entering nontraditional fields and taking part in athletic programs once reserved for men.

Another indication of the gains women have made is in the field of science. The National Science Foundation reported last January that the number of women scientists and engineers was up almost 32 percent between 1974 and 1978; but this is proportionally still very low. The Democratic Party supports funding and targeted education programs to enable women and minorities to fill a critical need in the areas of defense, telecommunications and computer science.

Republicans, in contrast, have mounted a concerted attack on student aid programs—programs which have made many of these advances possible.

Job Training

Job training is another form of education. With 10.8 million Americans unemployed, 42.8 percent or 4.63 million of them women, it has never been more important.

Yet the Reagan Administration has already made deep cuts in federal programs designed for job training and retraining and is proposing still more cuts. Women, especially those female household heads most vulnerable to shifts in the economy, are already finding themselves frozen out.

These Reagan policies are not only hurting women today, they show a total lack of understanding of the economy of the future. Economic policy experts are predicting that women, now almost half of the work force, will comprise 60 percent of the work force of 1990. Without women, as well as blacks and Hispanics, properly trained, there will simply not be enough people of working age available to make the economy work.

Today's record levels of unemployment have created an especially desperate situation for those four million homemakers who have been forced into the job market by divorce or the sudden death of their husbands. These displaced women have not chosen to work outside the home and many have never done so.

Homemakers whose lives have been severely disrupted often worked so many years ago that their skills have become rusty or obsolete. They find, on entering the job market, that their evident abilities in running a home or putting in hours of unpaid volunteer work count for nothing. They need counseling, training and job placement help. We believe that this support ought to be available, and that government should help remove impediments to the financial security these women seek.

Credit Policy

Consumer credit not only gives women purchasing power but marks them as responsible members of our economy. The Democratic Party led efforts, culminating in legislation in 1974, to end practices which denied credit to women.

Employment Opportunities

In the 1960's, Democrats made a commitment to ensure equal employment possibilities for women. We passed laws requiring equal pay for equal work and laws prohibiting discrimination based on sex and age. We invoked policies which required federal contractors to make concerted efforts to hire women.

A dramatic change in public attitudes toward women's work has been one result of vigorous Democratic enforcement of these laws and policies. Equal access to job opportunity is not yet a reality, however.

Pay Equity and Comparable Worth

Women suffer two ways in the job market.

First, despite the Equal Pay Act, the Civil Rights Act of 1964 and an executive order issued by a Democratic President, women still do not always receive equal pay for equal work.

Women holding the same jobs as men are paid less. In 1981, the median weekly pay for a woman computer operator was $355, for a man $488. A female elementary school teacher was paid $311, a man $379. A woman engineer earned $371, a male engineer $547.

Secondly, women are overwhelmingly concentrated in jobs where the services they perform are undervalued. Salaries in fields where women predominate are lower than the skills, responsibilities and working conditions demand. This second problem women face in the work force has become known as the issue of comparable worth.

Women holding jobs considered women's work are paid less than men holding men's jobs. In 1979, according to the U.S. Department of Labor, women were 80 percent of all clerical workers but only six percent of all craft workers. Women were 62 percent of service workers—cleaners, waitresses and similar jobs—but just 43 percent of professional and technical workers. They were 63 percent of sales clerks but 25 percent of managers and administrators.

As a result of unequal pay for equal work and unequal pay for comparable work, women continue to earn about 59 cents for each $1 earned by a man.

The Democratic Party reaffirms its commitment to eliminate discrimination by strongly supporting the concept of equal pay for equal work and equal pay for work of comparable value to society.

Enforcing the Law

Instead of redoubling efforts to enforce the laws, the current Administration has gutted them by reducing the budgets of the Federal agencies charged with enforcing them.

The Republican Administration has also retreated from the goal of equal employment. Where inequities emerge—and they do—a legitimate recourse is necessary. The Equal Employment Opportunity Commission (EEOC) is the primary civil rights enforcement agency. Yet, this Administration has rendered it ineffectual by leaving several of its highest positions vacant. The Labor and Justice Departments have also essentially renounced job opportunity policies, replacing class-action suits with tedious and costly case-by-case enforcement.

The Democratic Party reaffirms its commitment to eliminate job discrimination.

Obtaining a job is just the first step toward job fairness and satisfaction. Once employed, women have special concerns about working conditions, benefits and security.

Child Care

Thirty million children, more than half of all children under age 18, have mothers in the work force. We will work with business, labor and government in an effort to promote flexible family-oriented work policies which recognize motherhood—and fatherhood. Today's parents need work options, such as flex-time, job sharing and quality child care, which enable them to give their very best both to their employer and their family.

Organizing Women

At present, only 20 percent of working women belong to labor organizations. That 20 percent, according to recent statistics, earn almost a third more than their nonunionized counterparts. Non-union women are especially vulnerable to job loss recessionary periods and often lack adequate health and retirement benefits. Democrats support and encourage working women to organize and bargain collectively.

Federal Workers

Reductions in the federal work force, known as RIFS, are hitting women and minorities harder than other workers, largely because these groups have only so recently begun to get a fair share of jobs in government service.

Although women are just 33 percent of federal workers, they comprise 44.7 percent of the RIF'ed population. Minorities, who make up 23 percent of federal job rolls, are 34.7 percent of the RIFed. Democrats believe that the increased employment of women and minorities over a decade must not be undone in a matter of months by RIFs. Attrition would be a fairer and more economical way to reduce the size of the federal work force.

Women in Business

The world of business ownership is still a foreign land for most women. Lacking capital, and access to credit, women own just 4.8 percent of the nation's businesses, according to 1977 census data, and account for just one percent of business receipts.

Three years ago under Democratic leadership, a national policy was established to aid and stimulate women's entry into small business. It combined the abilities of the public and private sectors and was administered by a special office in the Small Business Administration. Today, as a result of Reagan funding cuts, this program exists in name only.

III. Eliminating poverty

Some people claim the war on poverty has been won. Democrats know this is a myth. Instead, poverty has become a women's issue.

Figures from the National Advisory Council on Economic Opportunity show that white, male-headed families have been the chief beneficiaries of the two decades of progress between 1960 and 1980 which saw the percentage of individual Americans living in poverty decline from 22.2 to 14 percent.

In 1981, the median income of female-headed families was $10,960, less than half of the median income for all families. According to the Council, if these trends con-

tinue, by the year 2000, all—100 percent—of the poverty population would live in female-headed households. That gives us less than 20 years to put into place policies and resources that could halt this frightening trend.

As a result of their poverty, women and their families must depend for survival on a broad array of social programs.

Women, and in many cases, women and their children, are: 75 percent of all people living in poverty; 69 percent of all food stamp recipients; 67 percent of all Legal Services clients; 66 percent of the residents of subsidized housing; and 61 percent of those depending on Medicaid.

When the Reagan Administration made its 1982 budget cuts it landed blow after blow on the very programs which poor women and their families depend on the most. Seventy percent of the $35 billion in cuts came from programs which affect the poor. This year, roughly 90 percent of the proposed cuts—$23 billion of $26 billion—come from the very same programs.

The "safety net" has unraveled for thousands of poor women and their families, with minority women the hardest hit. When the Administration guts a program like Legal Services it doesn't cut waste but chops off a helping hand of last resort. When the Administration changes the eligibility level for food stamps, it doesn't pare fraud but makes survival more difficult for those trying to feed their children.

Democrats believe the growing number of women facing poverty can and must be helped by effective, efficient social service programs. Fiscal austerity and the "new federalism" must not be used as subterfuges to dilute or eliminate vital services. National problems require national responsibility and Democrats will fight inappropriate attempts to return programs to the states.

IV. Affordable health care

Women are the majority of health care users. They are usually the ones who make sure other family members seek good health care. And, because women generally live longer, the health problems of the elderly are primarily the health problems of women

Women's health needs range from family planning services, which are often the only access to medical care for many poor women, to nutritional programs for pregnant women, to federal programs which finance medical care for needy families and the elderly.

Under Democratic Administrations, the government has responded to changing health needs and the need to control medical costs. Programs have been developed to deal with the new symptoms of female stress—heart disease, ulcers and alcoholism.

Democratic policies have fostered the creation of health maintenance organizations. This new approach provides packages of preventive medical care at lower cost for middle class families. And, along with public clinics in medically needy rural areas and inner cities, they serve women in low-paying jobs that provide negligible medical benefits.

Now all this is in jeopardy. The major federal family planning program suffered a 24 percent budget cut in 1982.

Child Health

Child nutrition programs have helped 2.2 million children and their mothers obtain the properly balanced diet they need to grow into healthy adults. A Harvard public health study has shown that each $1 spent to provide an expectant mother a proper diet saves $3 which would otherwise have been needed to hospitalize babies born with low birth weights. Yet the Administration is seeking to dissolve the child nutrition program into a block grant and reduce overall funding by 23 percent in 1983.

Child immunization can save millions of dollars in extra and avoidable health costs later on. Last year, the Administration cut immunization by 10 percent in real dollars. As a result, vaccine purchases declined by 32 percent, which means that 2 million fewer children were protected against polio, measles, and tetanus.

Medicaid

In 1980, 21.5 million people were covered by Medicaid. Two out of three of these recipients were women. Budget cuts proposed by this Administration, combined with those already in place, would force recipients to pay higher fees for health services and could deprive a million people of Medicaid benefits. The working poor could be forced onto the welfare rolls in order to retain health coverage.

CONCLUSION

As our society has matured, women's needs have changed, followed by their changed expectations. They have chosen new roles and society has adapted. A woman may start life as a homemaker only to find she must go to work to supplement her husband's income or to support herself and her children after widowhood, divorce or abandonment. She may dedicate herself to a career, only to choose motherhood at a later time. A woman in America should be able to expect that, no matter what difficulties life places in her chosen path, they are not compounded by artificial barriers of outworn law or custom.

The Democratic Party is committed to a Constitution, a society and an economy that treat men and women fairly. That is why the Democratic Party supports enactment of the Equal Rights Amendment. The ERA would in a single step, erase some 800 state and federal laws and statutes which have the effect of treating women as less than first-class citizens.

The Republicans once supported the ERA. In 1980, on the orders of their candidate, Ronald Reagan, the Republicans drummed this simple yet important concept out of their party platform.

It was that same Republican platform that contained the following pledge: "We oppose any move which would give the federal government more power over families."

So do we. And we go even further, and pledge not to impose a straitjacket definition on the word "family" for the men and women of our diverse society.

Americans, male and female, have new expectations of what the family means and the financial security it should be able to enjoy. Motherhood and careers outside the home are not mutually exclusive nor should men be required to give up the pleasures of fatherhood in order to support their families.

The Democratic Party has proven its concern not only by its unwavering support of the Equal Rights Amendment, but with a generation of pragmatic legislation and vigorous enforcement of the laws of the land. The Democratic Party will not stand by and watch these achievements destroyed by neglect or outright hostility to the goal of equity for women. Today and in the years ahead, women's concerns will remain in the forefront of the Democratic agenda. Together we have accomplished much; together we shall do what remains to be done.

COMMITMENT AND COMMON SENSE: A RATIONAL ROUTE TO ENVIRONMENTAL PROTECTION

(Introduction by MORRIS K. UDALL, Chairman, and ALBERT GORE, Jr., Vice-Chairman)

A clean, healthy environment is probably this nation's most valuable resource. In the past few decades we have made great strides in protecting, preserving, and restoring the health of our environment. We worked together to pass the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Alaska Lands bill and the Resource Conservation and Recovery Act. We have expanded our national forest and parks, reclaimed lands, cut pollution and enacted important safeguards for the public health. We have done much. Yet, we must do more to ensure a safe, clean world for future generations.

Now, however, we face an unprecedented attack on our environmental laws and policies. The Administration has proposed everything from opening our public lands to oil and gas leasing to cutting the Environmental Protection Agency's budget and staff so as to cripple the enforcement or our environmental laws and render the policies ineffective.

Fortunately, public and Congressional response has prevented the actual implementation of many of the Administration's proposals. There is no mandate from the people of this nation to short-change the environment. A recent Lou Harris poll indicates just the opposite—people want to protect their environment for themselves and for future generations. Yet, the Administration pursues it's ideological course in an open betrayal of the wishes of the American people. In direct contrast to our long history of strong bipartisan support for the environment, the Administration has moved environmental policies into the political arena.

This document presents the Democratic approach to the environment. It emphasizes a sensible approach to environmental policies—as opposed to the haphazard one advocated by the Reagan Administration.

The heart of our democracy rests on the responsiveness of the government to the people. Time and time again, the American people have spoken loudly that they recognize a responsibility to hold this nation's environment in trust for future generations. Even in these times of economic hardship, it is clear that protection of the environment is of critical importance to the people of this nation. Despite this broadly based support, an Administration doctrinaire in its conviction, radical in its policies, and impoverished in its vision has launched an unprecedented assault on the environment.

In fact, it is now clear from their actions that this is an Administration that has broken faith with the American people by abandoning this nation's long standing commitment to environmental protection. Much of this action has been rationalized under a banner of reduced governmental intervention and improved management, but the evidence to date does not support this excuse. The current Administration substitutes rhetoric for management and duplicity for real reform. This is intolerable. The Democratic Party believes that the environment is too important to permit such (in) action. We should move to re-establish the programs that will keep our air healthy to breathe, our water clean to drink, our parks and streams pollution free, and our lands bountiful. The Democratic Party can do no less than to once again take up the unfin-

ished tasks of our environmental agenda. We firmly believe that we can achieve our environmental goals with a strong commitment and considerable common sense. This document states our positions.

COMMITMENT AND COMMON SENSE: A RATIONAL ROUTE TO ENVIRONMENTAL PROTECTION

In the 1970s, the Democratic Congress responded to the challenge to improve the quality of our air and water. It recognized the serious hazards to human health with which we were confronted, and passed amendments to the Clean Air Act and to the Clean Water Act. As the potential danger of synthetic organic chemicals became more apparent, the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act were passed in 1976 establishing a structure protecting the public against hazardous wastes and toxic substances. At the end of the 1970s, the Democratically led Congress continued to grapple with emerging problems. The "Superfund" legislation was passed to clean up hazardous waste sites, and problems like soil erosion and acid rain (and their impact on agricultural productivity and natural resources) were first considered.

At the same time continuing attention was being paid to the traditional concerns of national park and forest development and conservation of our fish, wildlife and ocean resources. Democratically sponsored environmental programs of the 1970s doubled the number of acres in designated wilderness areas; they vastly increased the protection of wild and scenic rivers in the country; they expanded the national park system to ensure their preservation of parkland for posterity; and they brought sense to American forest policy by more adequately balancing the uses of our forest resources.

We are starting to see results. In many cases, not only has the deterioration of our environment been slowed, it has been turned around, and we are, in some instances, reaping economic benefits from our efforts.

The progress achieved

The amount of lead added to the environment from gasoline has dropped from 190,000 tons in 1976 to 90,000 tons in 1980 resulting in 36.7 percent lower lead levels in the blood of U.S. residents.

The economic benefits from air pollution control have been estimated to range from $4.6 billion to $51.2 billion. This includes economic benefits from improvements to human health, from reduced costs for households, and from reduced damage to vegetation, crops, and materials. Eighty percent of these benefits are in the vital area of human health improvement—fewer illnesses and premature deaths as a result of a 20 percent reduction in total suspended particulates and sulfur dioxide.

Other studies estimate the health benefits alone from air pollution control at $3 billion to $43 billion annually.

EPA has estimated that the current health benefits of stationary source control are at least twice as large as the costs.

Carbon tetrachloride (a toxic organic chemical and a known animal carcinogen) was discovered in Philadelphia's drinking water. EPA identified the source of the contamination and prevented further contamination not only in Philadelphia's drinking water, but in the drinking water of many other cities as well.

Technical assistance from EPA helped Boston discover the source of lead poisoning in its water and prevent further contamination.

The Willamette River, in Oregon, the nation's twelfth largest in water flow, has gone from what was characterized in 1967 as a "stinking slimy mess, a menace to public health, aesthetically offensive and a biological cesspool" to a river teeming with migratory salmon, native trout, and other game fish. Every "Unsafe For Swimming" sign has disappeared and the river is now used for every form of water recreation.

Salmon are now being caught in the Connecticut River. Even though fish ladders were installed in 1968 and the river stocked with over 200,000 young salmon, salmon did not return to the river. The 1972 amendments to the Clean Water Act finally allowed pollution controls to overcome the pollution in the river, and in 1977, the first salmon in over 100 years was caught in the river.

Treatment of industrial and residential sewage has improved dramatically. Whereas almost half of our population was served by wastewater systems that provided no treatment in 1970, by 1978 only a small fraction of the population was served by such systems.

The challenges remaining

An enormous amount remains to be done, however. Thousands of hazardous waste dumps exist in the country; many of whose location and danger are still unknown. Tens of thousands of synthetic organic chemicals are on the market; many of them extremely toxic and their effects scarcely studied. Approximately 600,000 acres of wetlands per year have been lost since the 1950s and barely one half of our wetlands remain. In the nation as a whole, we are losing over five tons per acre of our cultivated topsoil, with even more dramatic losses in the states of Tennessee, Kentucky, Louisiana, Michigan and Iowa. The quality and amount of our water for a variety of uses is threatened in many areas of our country, and air pollution continues to be a major problem.

PRESCRIPTION FOR THE 1980'S: PRINCIPLES OF PUBLIC PROTECTION

It is now possible to envision achievement of our environmental and public health goals. Realization of these goals requires a strong economy that furnishes money and human resources for public protection. While it costs money to protect the environment, the money spent is not "lost", it is invested. Our investment in clean air reduces respiratory diseases. Our investment in clean water promotes the recreation industries based on fishing and swimming. The environmental protection industry itself employs thousands. We believe that the dollar "payoff" from a clean environment more than equals the expenditures on protective measures.

We recognize that over-regulation can slow or even prevent economic growth. However we will not be misled by analyses that link economic problems with regulation and ignore other factors overwhelmingly more important. It is our goal to develop public mechanisms that do not hamper economic growth while still ensuring the achievement of our environmental goals. Our limited resources must be targeted on those problems that most affect the quality of our lives. In short, we must have public institutions that are committed both to maximizing public health and the quality of life, and to pragmatic means of reaching these ends.

Through most of the twentieth century, certain principles established by consensus stood the nation in good stead. We need to return to these principles and reject unpracticed ideology. A judicious mix of public and private action that can be tested, evaluated, and, if necessary, reformulated to achieve the goals of environmental protection which we all desire.

Principle No. 1.—We require correct goals clearly articulated:

We do not apologize for stating our statutory environmental goals in absolute terms; we do want our water to be clean, our air to be pure, and our food to be safe. While there may be some disagreement about the best way to achieve our goals, there is a consensus that our goals should be set with human health as the standard. There also is agreement that, in addition to human health considerations, aesthetics are important. Preservation of scenic vistas, recreation, fishing and boating, and protection of wildlife are a valuable part of our national heritage. Only by framing policies that reflect our true standards can we mobilize the resources to achieve our goals.

Principle No. 2.—Environmental protection and economic growth are partners:

As stated before, a strong economy provides the means to achieve our environmental goals. We believe that environmental protection can be synergistic with economic growth; that environmental protection does not necessarily restrain economic growth. We must be as careful to avoid ill-founded regulations that stifle eonomic growth as we are to avoid short term "live for the present" attitudes that can result in significant degradation to our environment. Once again a judicious sense of balance is needed.

Principle No. 3.—Environmental protection programs need adequate funding:

We cannot equate problem-solving with spending money; alternatively, we will never solve our problems unless we are willing to commit money to the public apparatus we have carefully structured to address them. We do not know just how much money should be available for environmental protection, or how it should compare to that spent for other programs of the Federal government. What we do know is that the principles of "cost-effectiveness" should be applied equally to all parts of our national budget. Not only do we disagree with the Administration's current level of commitment to the environment and to the public health, we believe that we have the ability to allocate substantially more to environmental protection and other domestic programs while still maintaining our national security capability.

Principle No. 4.—Regulations must be reasonable; enforcement must be strong:

We recognize that environmental legislation has produced some regulations which are not currently appropriate. These regulations were (and are) a valuable part of the learning process. However, there have been many challenges in the courts to the scope of these regulations. In an effort to avoid further court challenges, more and more detailed regulations were promulgated having an excessive inflexibility and complexity. We do not believe that such consequences need to persist. In fact, we state categorically our conviction that environmental regulations can be simplified considerably. The rules of the "game" have been clarified and we do not think that there is any doubt about the intent of the enabling legislation. Regulations based on common sense and acknowledging "good faith" efforts can be effective given a strong enforcement capability. Intentional breaking of the law must be punished. The Democratic Party espouses

the words of a famous environmentalist: "Speak softly and carry a big stick."

Proper enforcement of environmental regulations also depends upon regulatory personnel who are not hostile to environmental protection. All too often, the present Administration has chosen its nominees for environmental protection posts from among those whose previous activities and affiliations cast doubt upon their commitment to safeguard our resources and environment. We reject the practice of putting the regulatory and management functions of the EPA and the Department of the Interior in the hands of individuals not noted for their sympathy with the environment and the wise use of natural resources.

Principle No. 5.—Environmental pollution is an interstate problem:

We believe that the proper role of the Federal government is to ensure essential equity of treatment across state lines. We believe that competition among regions on the basis of environmental amenities should be limited. Gross inequities should not be allowed. The Federal government should review state programs only to ensure that *critical* features of those problems lending themselves to local control are accounted for. In most problems, however, industry is correct in calling for a single standard across state lines. Pollution, after all, is an interstate problem. The Federal government must also be willing to provide technical assistance to the states in order that they may tailor their programs to local conditions while following both the spirit and intent of Federal regulations.

Principle No. 6.—Constant reappraisal is essential:

The problems that face us in our environment are complex. Decisions about chlorofluorocarbons, acid rain, toxic wastes, drugs, food additives, and the like will undoubtedly be made without total certainty due to incomplete evidence. While that uncertainty should not cause paralysis; we should, however, continually pursue the best evidence we can muster and update our decisions as new evidence dictates. The willingness to reappraise constantly will keep us from focusing our resources on problems that either do not exist or do not yield to our intervention. Therefore we will expend our resources on the most important problems, and we will create an environment where a regulated industry may assume that the Government will act rationally.

Principle No. 7.—Decisions must be guided by common sense:

In the past ten years, laws have been enacted that require the use of particular analytic methods, such as cost/benefit analysis. We endorse such tools as valuable aids to good judgment when properly and carefully employed; highly useful in the often emotional environment in which environmental and health issues are decided. However, these methods are not universally or even overwhelmingly accepted and should not override good sense. The public supports policies to the degree that they understand their utility.

POSITIVE ACTION

It is important to translate the previously enumerated principles into positive policies. We believe that most of the right legislation is in place; what is required is fair and effective implementation. Thus, a prerequisite to any improvement is that EPA, the Interior Department, and other key Federal agencies responsible for protecting the environment be funded at levels that enable them to fulfill their responsibilities to the American people. We face the difficult task of restoring a capability to act, and a sense of integrity to these agencies. Substantial attrition and politically motivated moves have eroded the professional infrastructure that is necessary for effective programs. We need to begin the slow but necessary job of rebuilding agency effectiveness and with it the public faith in environmental protection.

We recognize that exclusive use of "command and control" regulation to achieve environmental goals is neither the most effective nor the least costly way to achieve these goals. We support development of more flexible regulatory instruments. Although we do not endorse each and every aspect of the recently announced program of emissions trading (that had its origins in the previous Administration), we do endorse the concept it embodies. Strategies like the "bubble policy", if developed with due regard for their impact on the environment, can produce more environmental benefits at less cost.

The previous Administration sponsored research examining markets in "emissions rights" to determine whether this appealing theoretical concept could be implemented. With the present Administration's budget cuts, the momentum behind this effort has all but ceased. This is false economy. Research to develop and implement more flexible regulatory techniques of all sorts should be vigorously pressed forward.

Research is also needed to determine how our environmental enforcement activities can be better targeted. The current campaign of calculated nonenforcement is not "regulatory reform"; it is lawbreaking, pure and simple. But business has a legitimate complaint that enforcement activities are often poorly designed and insufficiently flexible to suit particular circumstances. Environmental enforcement which generates little environmental improvement at the expense of great "hassle" does not, in the long term, protect the environment. Though it is vital to strike a balance between uniformity of enforcement on one hand and a tailoring of enforcement efforts to individual circumstances on the other, flexibility should not be an excuse for inaction or, even worse, contribute to corruption of enforcement officials. We urge that research be sponsored to explore effective enforcement policy.

We want to re-emphasize that while we cannot categorically define the "right" budget for the EPA and other agencies, we do know that the current budgets are unacceptably low. We acknowledge the competing national responsibilities that all responsible decision makers must consider in the budget process, but we unequivocally do not view the heart of the environmental and public health budgets as "discretionary" spending.

Beyond this general guidance, we believe that it is important to be more specific in the following areas:

Hazardous waste; toxic substances; nuclear waste; farmland conservation; national air quality; national water quality; national parks and wilderness areas; fish and wildlife; and global issues.

Hazardous wastes

When the environmentalists of the 1960s first raised the issue of pesticides, we had no idea of the amount and toxicity of the chemicals that had been dumped into thousands of sites around the country. Disasters like Love Canal, however, demonstrated the proportions of the problem so that it can no longer be ignored. In order to ensure that we make quick progress in dealing with these wastes, we support the following:

Vigorous Implementation of Superfund

The first step in the effective implementation of the Superfund legislation is to complete the inventory of hazardous waste sites in the United States. There are thousands of sites which we know are out there, but we do not know just where they are. While this inventory is being completed, we strongly support the prompt and vigorous initiation of clean-up efforts as envisioned by the Superfund legislation. Concurrently, EPA must pursue a vigorous enforcement policy to ensure that those who dumped the wastes are held accountable for reimbursement of the costs of the clean-up.

In spite of an EPA list of the 115 most dangerous hazardous waste sites in the nation, and in spite of an EPA sites inventory containing over 10,000 sites which need further investigation, the Administration asks for reduced Superfund expenditures and is refusing to allocate for clean-up those moneys already appropriated. Consequently, hundreds of millions of Superfund dollars have accumulated and sit idle at the Treasury. At the current pace, it is doubtful that even as few as two hundred sites will be "cleaned up" under the Superfund legislation. We believe that this is intolerable—no new legislation is needed, just effective implementation of existing legislation.

Comprehensive Policy on Disposal of Hazardous Wastes

In conjunction with implementation of Superfund, we need to establish a strong and comprehensive policy on the disposal of hazardous wastes. EPA has embarked on a concerted effort to weaken the hazardous waste regulatory system. It has reduced resources to the point where it will now take almost 10 years to issue permits for the existing 14,000 storage and disposal facilities. Additionally, the regulations themselves are being softened so that the risks to public health and the environment will be significantly increased. We disagree with these policies.

The availabilty of new disposal technologies can be accelerated with the correct incentive mechanisms. We wish to emphasize, however, that particularly in the case of liquid hazardous wastes, if we err in establishing policy, it must be on the conservative side as the potential costs of cleanup can be so large, and the dangers so great.

Emphasize Resource Recovery

We will support R&D in the area of resource recovery. We support state local, and industrial efforts to reduce the overall waste stream and to make more productive use of those wastes that are generated. Appropriate incentive mechanisms as well as a centralized information source should result in one industry's waste becoming another industry's raw material, to the benefit of both industry and society, and with a minimum of government involvement.

Effective Siting

The Federal Government should take the lead by establishing strong guidelines for siting of hazardous waste facilities. Prompt promulgation of good regulations and strong and effective enforcement are the best means to encourage public acceptance of waste facilities. The "not in my backyard" syndrome can, unless counteracted by federal leadership, promote illegal and unregulated dumping of hazardous wastes.

We also endorse a more equitable treatment of on-site versus off-site facilities.

While off-site facilities are more visible, on-site facilities compose the majority of sites; thus more attention needs to be directed toward the problems of on-site facilities.

Elimination of Oversights

The Reagan Administration has proposed that those industrial boilers whose primary purpose is to recover energy rather than incinerate hazardous wastes should be allowed to burn these wastes exempt from RCRA regulation, as these facilities are regulated under the Clean Air Act. The Clean Air Act, however, does not regulate pollutants which might result from incomplete oxidation of hazardous wastes. We endorse the spirit of the proposal but we also feel that the potential dangers have been inadequately controlled. Guidelines on such boilers have to be developed and strong penalties for abuse and "bad faith" actions instituted.

Increased Research and Development

In order to understand and control the problems that hazardous wastes present, we need to have a strong base of technical knowledge. This requires more emphasis on targeted R&D. Areas which require priority study are: the impact upon human health of hazardous wastes, the potential for migration of hazardous wastes from landfills into groundwater, and the hazards of various organic chemicals many of which are not now included on the RCRA hazardous waste list.

Toxic substances: Environmental and occupational health

In recent years, toxic substances in environment as causes of cancer, birth defects, and a wide variety of other health problems have caused intense governmental and public concern. Over 55,000 synthetic organic chemicals are now in commerical distribution, few of which have been adequately tested. To be prudent, our toxic substance policy should include:

Vigorous implementation of the Toxic Substances Control Act of 1976, ensuring that new chemicals are reviewed in the expeditious but thorough fashion by EPA: In addition, EPA must systematically review and test existing chemicals which might pose an unreasonable risk to human health and the environment. New technology and regulatory procedures for the disposal of toxic wastes must be developed.

Increased understanding of the use and limitations of animal testing and the development of alternative testing methods: The regulation of toxic sustances has encountered problems due to misconceptions about animal tests. We need to implement a research program to clear up misconceptions and to develop accurate short-terms tests that will quickly identify the risks of chemicals, thereby reducing our dependence upon long-term and costly animal bioassays.

Prudent management of toxic sustances in occupational settings: We believe that the burden of protecting workers from exposure to toxic substances in the workplace must be borne by industry. The voluntary nature of exposure in the workplace makes it necessary that employers assume responsibility to full monitor, study, and minimize worker exposure. If necessary, the federal government should provide technical support in this effort. It is also vital that workers be given free access to all safety and health data on chemicals to which they are exposed.

Policies that pretend to regulate only "unreasonable" risks of toxic substances in the work environment are intolerable. Our knowledge of the toxicological and epidemiological effects of industrial chemicals is simply not sufficiently refined to justify a lax attitude toward occupational exposure.

Nuclear wastes

In addition to toxic substances and hazardous wastes, we believe that nuclear wastes pose a serious environmental threat. Although there are fewer generators of nuclear wastes, the serious hazards and long lives of nuclear wastes militate strong controls. The Federal government, with the participation of the states involved, must provide safe facilities for the permanent disposal of high level nuclear wastes.

A national policy for permanent disposition of these materials must include a federal commitment (with Congressionally mandated deadlines) to developing permanent disposal facilities for both solidified high level waste from our military program and spent fuel from nuclear power plants. Continued reliance on interim solutions for storing these materials is unacceptable.

An effective institutional mechanism is needed to resolve conflict between states with potential repository disposal sites and the Federal government, since these issues affect the health and safety of the public and the quality of the environment. Ultimate decision-making authority for the siting of repositories must rest with the Federal Government through the executive branch and Congress.

The generators of high level nuclear wastes should provide the funds to pay for the construction and operation of permanent disposal facilities. They should also bear the management responsibility and the cost for the interim storage of spent fuel and high level wastes until a permanent disposal facility is ready to accept wastes. The Federal government should, however, facilitate private sector interim storage of nuclear materials by eliminating unnecessary regulatory obstacles to the timely licensing of storage facilities and by development and demonstration of innovative interim storage technologies.

Closely related to the question of disposal of nuclear wastes is the selection of modes and routes for transporting the wastes. While the Federal government has an important role to play in regulating these shipments, particularly with respect to setting standards to require the highest possible degree of safety, close cooperation with state and local governments should be maintained to take advantage of their expertise in selecting transportation modes and routes within their jurisdiction.

Farmland conservation

One of this nation's greatest natural and economic assets is the capacity to produce agricultural products. America, for good reason, has been called the breadbasket of the world. The total volume of agricultural production has risen steadily for decades. During the early 1970s, though, a rapid rate of increase in foreign demand for U.S. agricultural products, especially grain, led farmers to bring nearly all readily accessible land and water resources into production. In addition to expanding the acreage of cultivated cropland, American farmers expanded production by utilizing, per acre, more fertilizer, pesticides, herbicides, and other inputs than ever before. These shifts in the extent and intensiveness of U.S. agricultural production have brought into sharper focus the need for sound conservation policies. Productive agricultural land is being lost each year to erosion and salinization as well as to urban and suburban encroachment. In addition, the impact of agricultural resources degradation is rarely confined to just the farm or watershed where conservation needs are not met; sediment from eroding cropland and rangeland is causing streams and rivers to silt up, as well as destroying fish spawning beds and other wildlife habitat. Sediment entering waterways can also carry organic compounds, such as fertilizers and pesticides, which may cause serious environmental problems downstream.

Based on knowledge gained from a five-year study of the nation's soil and water resources, Congress authorized major conservation initiatives in the 1981 Farm Bill. This bill provides for additional assistance to the nation's most critically eroding areas, loans to farmers for major conservation expenses, and much greater local involvement through encouraging local government conservation activities and the use of conservation volunteers. Rather than ask for funds to implement these much needed new programs, the current Administration has advocated curtailments and elimination of existing programs. As demand for food fiber continues to grow and fresh water becomes an increasingly valuable resource, the Democrats believe that, instead of curtailments and elimination of existing programs, a heightened commitment and fresh ideas are needed to address the following agricultural resource management issues:

Soil Erosion

The problem of soil erosion continues to grow. In 1977, six counties had average erosion rates on cropland in excess of 100 tons/acre. However, erosion rates of 50 to 200 tons/acre are unfortunately common in many regions of the country, especially when unseasonably heavy spring rains come right after planting or when windstorms sweep the Great Plains during a period of drought. Near the bottom of hills, eroding soil cuts gullies which can become so wide and deep that costly engineering work must be undertaken before the field can be farmed again. Eroded soil tends to collect on flat bottom land, filling field and road drainage ditches and silting up ponds and reservoirs. The cumulative impact on agricultural productivity of such losses could devastate the farm economy in more than one region. When averaged across all cropland in America, the rate of sheet and rill erosion in 1977 was nearly 6 tons/acre. Over 6.4 billion tons of soil are lost through wind and water erosion each year.

There are some areas of the country which are experiencing enormous amounts of soil erosion on highly productive land. Areas with extremely high rates of soil loss include Aroostook County, Maine, the eastern bank of the mid Mississippi River, east central Georgia, the Green Hills area of Missouri, the Loess Hills of southwestern Iowa, the Washington-Idaho Palouse area, and the Wiregrass area of southeastern Alabama. The erosion experienced on cropland in these areas is of special concern because these lands are an integral part of each of these regions' agricultural economy. While excessive erosion can generally be halted on marginal, highly unstable lands by converting from row crops back into hay or pasture, such a strategy for highly productive land would impose an unbearably high economic cost. One problem faced by erosion control programs is that the immediate out-of-pocket cost of preventing erosion often outweighs the tangible benefits which accrue to the farmer, at least in the short term. We believe that an investment tax credit for

major conservation expenditures is an appropriate mechanism in order to alleviate this imbalance. In addition, we need to improve development and dissemination of free technical information which enumerates the true costs of erosion and presents effective ways of combatting the problem.

Research and Development

The current agricultural R&D program needs to be revitalized so that resource conservation technologies will be developed in a systematic and cost effective manner. The tremendous potential payoff from agricultural R&D will be realized only if the resulting technologies are useful in modern agricultural production systems. Instead of practices requiring extensive and costly engineering work, we believe a heightened emphasis needs to be placed on low cost conservation practices. When correctly selected and combined, such practices can be just as effective as conventional engineering practices in controlling erosion, but at a fraction of the cost. The importance of conservation research has been recognized by private firms engaged in the development, manufacture, and sale of agricultural inputs such as seeds, machinery, pesticides, and fertilizers. Indeed, many private firms have undertaken major lines of long run research solely designed to foster new conservation technologies. We need to encourage this effort as the federal establishment simply does not have all the right answers nor the sufficient depths of resources to accomplish everything.

Urbanization of Existing Farmland

Along with soil erosion and water conservation, the conversion of agricultural land to other uses continuously affects this nation's agricultural production capability. While past Administrations worked toward a coordinated federal policy to minimize loss of prime agricultural land due to Federal projects, the current Administration has adopted a "do-nothing" attitude. We need to, and will, revive the commitment of the Federal government to minimizing the impacts of its actions on agricultural lands through vigorous implementation of the Farmland Protection Policy Act contained in the Agriculture and Food Act of 1981. In addition, we will explore additional policy alternatives that may be needed in order to staunch the conversion of farmland. One immediate option is full support of state and local governments in their efforts to deal with the problem.

National air quality

The Congress must continue its efforts toward achieving national air quality to ensure the health of the American people. The Clean Air Act was passed to protect public health and the environment. The Act impacts many facets of our society: public health, the economy, energy usage, and employment concerns. Through implementation of the Act, the Nation has made significant progress toward its air quality goals.

The scientific and regulatory issues are extremely complex and different areas of the nation have radically different problems. Having assessed the principles embodied in the Clean Air Act against the lessons we have learned since its passage in 1970, we believe that the current Act has generally addressed the right problems but needs periodic review and reassessment to achieve its objectives and meet society's needs.

In order to ensure that the laws enacted by the Congress are carried out in the manner intended, we reiterate our belief that the EPA budget needs to be strengthened. We also believe the review process for the rejection, approval, or revision of State Implementation Plans (SIP's) should be expedited. In the same vein, we support administrative simplification of the permit system for controlling pollution.

Although scientific uncertainty continues to surround some aspects of the relationship between air quality and human health, we maintain our belief that we must act on the best available scientifically valid evidence because to do less would be to shirk our responsibility to public health. However, we also recommend:

Expanded cooperative efforts between government and industry in the identification and resolution of key scientific problems.

Maintenance of standards that reflect the best scientific evidence.

The continued reassignment of these standards and, if necessary, their revision as the evidence warrants.

Continued review to ensure air quality progress without requirements that might impair our goal of full employment and a strong national economy.

We believe that deadlines for meeting air quality standards are essential to motivate government and industry to seek progress towards air quality standards. However, we support extensions of deadlines in those areas where it is demonstrated that achieving the deadline would impose undue economic hardship *and* if the area can achieve compliance within a specific period.

More evidence is accumulating that suggests that the problem of acid precipitation is more serious than we believed a few years ago. However, legimate concerns exist as to exact causes that are at work and how we, as a country, can best affect them. It is imperative that research continue and that this research be placed on a "fact track". It is also apparent that the problem of acid precipitation is international and that a truly effective program must include other countries. We consequently believe that this research program should include these other countries. We also choose to support positive action toward alleviating the problem of acid precipitation if, in the interim, strong evidence is developed as to the causes and effects. We do not wish to be tied to taking action only after the research program is finished if it clear that preliminary action is warranted.

We support continued research into the toxicity of air pollutants and we believe that toxic air pollutants which pose an immediate threat to public health should be controlled without a delay.

In summary, we must maintain strict health-based standards. We believe that technology should be used to the maximum extent feasible to maintain air quality improvements. The effort to improve air quality must, of course, focus on stationary sources and mobile sources simultaneously. We believe that this policy maintains health and environmental protection as the primary goal of the Act, but permits some flexibility when carried out in the context of society's overall needs. Finally, we must ensure that the implementation of the Clean Air Act results in reasonable and effective regulations that meet society's overall environmental needs, that have an adequate scientific basis, and that are fairly and uniformly enforced.

Efforts to improve water quality over the past decade are beginning to show results; the quality of surface water is no longer declining and most point sources of pollution are gradually coming under control. On the negative side, however, substantial problems remain concerning groundwater, non-point sources of pollution, and industrial treatment of wastes. In order to ensure substantial additional progress, we advocate the following:

Increased attention to groundwater contamination: The problem of groundwater contamination is one of this nation's most serious environmental problems. Because clean-up may be next to impossible, we need to avoid contamination of our groundwater resources. Hazardous wastes and toxic substances pose a grave threat to this resource. We need to assess the human health implications of toxic chemicals now found in drinking water supplies. EPA, under authority of the Safe Drinking Water Act of 1974, should promulgate regulations establishing maximum contaminant levels for the most serious contaminants as quickly as possible.

Continued commitment to control all water pollutants with special emphasis on toxics: Toxic pollutants, whether discharged into streams or into municipal wastewater treatment systems, must be controlled to the maximum extent possible through national treatment standards where feasible. EPA must retain adequate staff to promulgate standards on a timely basis and to enforce the Clean Water Act. The agency must also continue its role in R&D to encourage development of less expensive, more effective technology to preserve and enhance the progress already made in clean-up of the nation's water.

Substantial additional attention must be paid to the operation and maintenance of wastewater treatment plants under EPA's construction grants program including: adequate training for those who design, operate and maintain treatment plants; adequate Federal personnel to investigate, monitor and audit plants and to pursue enforcement actions where necessary; adequate financial assistance to States as they shoulder more and more of the burden of this and other programs under the Federal Water Pollution Control Act.

Proposals put forth by the Administration seek to limit Federal participation, or Federal fiscal "exposure", in meeting municipal cleanup requirements. This shifts more of the cost of complying with Federal clean-up requirements to state and local governments and cuts back the amount of annual Federal aid, but makes no provision for adjustment of the compliance deadlines. Consequently, while the obligation to comply with these deadlines remains, the means evaporate.

Water conservation can significantly lessen the demands that localities must place on finite water resources: Excessive depletion of water supplies has resulted in saltwater intrusion and other serious degradations in water quality. A focus of actions to conserve water should be a strong effort to limit leakage in water distribution systems, particularly in older urban areas. Recent studies show appallingly high losses from leakage, running to millions of gallons a day in many major cities. Efficient use of our limited water supplies demands federal cooperation with state and local governments in bringing this waste under control.

The current administration has made clear its intentions to, at the least, significantly reduce the Coastal Zone Management program: We believe that this program is a valuable one, and we support it. The Coastal Zone Management program encourages states to develop rational plans for

dealing with the often conflicting pressures placed on their coastal areas by increasing industrial, commercial, and recreational demands. The program also provides the states with a means to participate in planning for OCS oil and gas development adjacent to their shores.

National parks and wilderness areas

The National Park System was conceived over 100 years ago and is governed by the National Park System Organic Act of 1916. The key objective of the Act is: "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations". This statement establishes that protection of natural and historic resources in a *national* responsibility and that recreational use is the intent. The history of that dual commitment since 1916 has been one of consistent bipartisan support.

The Reagan Administration proposes: to defer indefinitely the completion of National Park System units which were supported by the public and authorized by the Congress; to reduce the budget and personnel of the parks; to significantly increase visitor fees; to lower air quality standards around parks; and to increase oil, gas and mineral development in and adjacent to parks. We contend that this is a violation of public trust. We strongly support continued funding for the completion and protection of the National Park System and will work toward enactment of stronger protective measures to preserve natural and cultural resources within the parks.

The current Administration has a similarly misguided concept of management of the national wilderness system. The Administration is preparing environmental analyses for oil and gas leasing in wilderness areas while slashing funds needed to make the analyses meaningful. The Administration endorses legislation that would make it virtually impossible to create new wilderness; is opposing bipartisan efforts to designate areas in at least four states; and has advanced legislation to repeal the permanent protection of wilderness land from mineral development. Finally the Administration hopes to make the President, rather than Congress, the prime decision maker on wilderness policy.

Democrats adamantly oppose these efforts that would open this nation's pristine areas to despoilment and destruction. Even if there were a worldwide shortage of oil or minerals, these areas should be opened to development only as a last resort, and then only by a specific Act of Congress. We support orderly development, where appropriate, of mineral resources on Federal lands. If the Federal government revives its former commitment to conservation of energy, recycling of materials, and development of alternative energy sources, our resources will be sufficient for many years to come. The overwhelming majority of these resources are on the non-wilderness portions of the public lands. The Reagan Administration, ignoring this fact, has broken with the policies of the four previous Administrations by engaging in an open and concerted campaign to undermine the protection of America's wilderness areas.

Fish and wildlife

Wildlife conservation has enjoyed bipartisan support since Theodore Roosevelt. This bipartisan approach has resulted in establishment of the National Wildlife Refuge System through the Alaska Lands Act; development of the Federal Aid in Wildlife and the Aid in Sport Fish Restoration programs which support State fish and wildlife programs; and development of programs to protect wetlands and wetland resources. In contrast to this bipartisan approach which has protected part of this nation's heritage, the Reagan Administration has, in a number of instances, taken actions which will hinder the continued existence of various species in self-sustaining numbers.

The acquisition of new refuges has been virtually halted in spite of the increasing encroachment of developed areas upon wildlife habitat. The Administration has attempted to turn management decisions on the refuges over the agencies over than the U.S. Fish and Wildlife Service in direct opposition to Congressional intent. The listing of endangered species has been halted in spite of an increasing rate of extinctions. Finally, in an effort which could have devastating effects upon our fragile wetlands, the Administration is attempting to eliminate the Corps of Enginers public policy review of the discharge of dredged materials into wetlands. If these trends continue for any length of time, it will be impossible to reverse the conseqeuences.

The Democratic Party therefore strongly supports continued acquisition of wildlife refuge lands and professional management of these lands, with new acquisitions chosen to protect a broad diversity of species—both game and non-game wildlife. We also support and will revitalize programs that support state fish and wildlife conservation efforts and programs that promote cooperation between the federal government and the states, such as the Cooperative Fisheries and Wildlife Research Units. In direct and strong opposition to relaxing protection of this nation's wetlands, we will develop a workable program to acquire more wetlands, and will support integrated efforts by the states to protect existing wetlands.

The issue of habitat conservation does raise difficult questions about the value of species and the size of the population that should be preserved. These questions are not easily handled by cost-benefit analyses. However, Democrats will address these issues even though they are difficult and we will acknowledge their importance even though they cannot be quantified in dollars and cents.

Global issues

On an international level, the Democrats realize that—just as there are problems which states cannot adequately address by themselves—there are problems which our nation needs to address in conjunction with other nations. Many potentially serious problems such as acid rain and carbon dioxide buildup are international in scope since one nation by itself cannot prevent, solve, or escape the effects. Accordingly, an integrated multinational effort is imperative. By the time the symptoms of these problems are self-evident, it may be too late to deal with them effectively. Democrats support immediate strengthening and expending of global environmental monitoring systems such as the United Nations Environmental Program GEMS system. The specific problems to be addressed include carbon dioxide levels and the greenhouse effect, ozone depletion, sulfur and nitrogen oxide, acid precipitation, deforestation, desertification, soil erosion, the disappearance of plant and animal species, ocean pollution (especially from land-based sources), degradation of coastal habitat and international trade in toxic substances.

SECURING OUR STREETS: A DEMOCRATIC ANTI-CRIME PROGRAM

(Introduction by William J. Hughes, Chairman)

There is no problem that strikes more closely to home or is more directly or more intensely felt by the average American than crime. Democrats traditionally have shared the concern of the American people about personal safety and security. Our policy statement on crime develops three basic elements in the national offensive against crime.

First, there must be a comprehensive national strategy to fight crime, which the Reagan Administration has failed to formulate.

Second, there is a need to modify laws on the books to strengthen law enforcement and improve the operation of the Federal criminal justice system.

Third, and most important, there must be adequate levels of funding, equipment, and personnel for the law enforcement agencies of our states, counties, and cities to carry out their job of fighting crime.

The principal responsiblity for fighting crime has always rested on the states and localities. This authority derives from the police power reserved to the states under the U.S. Constitution. We do not propose to alter this responsibility, but we do see a major and positive role for the Federal government to coordinate and assist anti-crime activities by the states and localities. To this end, we have passed legislation to provide federal funds on a matching basis for state and local anti-crime programs that work, such as the prosecution of career criminals (including habitual juvenile offenders), "sting" operations, and arson programs.

Democrats call for adequate funding of all the Federal law enforcement agencies including the FBI, Drug Enforcement Agency, Customs Service, Coast Guard, Bureau of Alcohol, Tobacco and Firearms, the U.S. Marshals Service, and the U.S. Attorneys.

While a full-scale attack on the rising tide of lawlessness must be our highest priority, we cannot ignore the fact that at least some of this crime is the product of a foundering economy which forces people to steal in order to eat. There is crime in good times as well as bad, but whatever a nation's economic policy does, it should not create the conditions where ordinarily law-abiding people are compelled to choose between crime and survival.

Drug Abuse

Of particular concerns to Democrats is the epidemic of drug use of America. The sale, distribution, and use of dangerous and illegal drugs is a tragedy both for individuals and communities. Addicts destroy their own lives and disrupt the life of a community. Unable to hold regular jobs, they turn to crime to subsidize their addiction. In urban areas in particular, citizens live in mortal fear that drug dealers will set up shop in neighborhoods, corrupt the youth of the community, and wage battles over territory in which innocent bystanders are hurt or killed. The enormous profits on drugs garnered by drug traffickers undermine the economy and threatens the integrity of public officials. In many areas, drug-related offenses overwhelm the criminal justice system.

Here again, the Reagan Administration has not adequately used the authority of

the Federal government to coordinate state and local efforts to stop the flow of drugs and combat their use.

The Democrats propose the appointment of a White House coordinator who has the authority and experience to direct an effective Federal anti-drug effort in cooperation with local law enforcement agencies.

The need to cut drugs off at their foreign source has not been effectively addressed by the Reagan Adminstration. This should be an important element in our foreign policy; yet despite the statutory duty that the President is charged with, he has failed to apply the pressure on foreign governments that would cut off the supply of drugs at their source.

At a minimum, the public deserves more detailed reporting by the State Department on its efforts to curtail drug production overseas.

At our borders, we call for the participation of the Department of Defense, through the use of sophisticated military equipment and trained personnel, in the interception of drug shipments to this country.

We deplore the failure of the Reagan Administration to coordinate and improve communication among the many federal agencies with anti-drug responsibilities.

The treatment of drug addicts, which has proven to be an effective weapon against drug-related crime, has been treated by the Reagan Administration as just another discretionary social program. Addict treatment programs have been cut in the face of a national increase in violent crime and burglary.

Federal statutes dealing with drug trafficking and organized crime must be revised and the Federal criminal justice system must be reformed and modernized to provide authorities with the weapons to combat the drug menace and the crimes associated with it. We need new procedures to deny drug traffickers the fruits of their illicit enterprises—mechanisms for the foreiture and confiscation of the profits of drug smugglers and the means used to transport drugs.

Organized crime

Serious efforts to eliminate organized crime are long overdue. Witnesses and victims must be shielded from intimidation at an earlier stage in the investigation of offenses. New Federal laws to combat murder and arson for hire must be enacted.

Protecting law enforcement officials

The Federal government must confer its protection on all Federal officials with substantial responsibilities for fighting crime. This protection must also be extended to the families of these officials to protect them from criminal retribution.

Car theft

With the growth of such illegal enterprises as interstate sale of stolen auto parts, federal jurisdiction is needed to eliminate the practice of theft-on-consignment and the so-called "chop shops" that cannibalize stolen cars and drive up auto insurance rates.

Machineguns

The illegal use of firearms must be restricted by a mandatory penalty for the use of a firearm in the commission of a Federal felony. Laws prohibiting the manufacture and sale of machineguns and silencers which are used for mob assassinations are needed.

Sellers and manufacturers of handguns should be required to report the theft of such weapons to the police so that the guns may be traced when they are used in the commission of a crime. Needless paperwork in the sale or ammunition can be significantly reduced.

Law enforcement cooperation

We must develop a better, more creative working relationship among federal, state, and local law-enforcement agencies.

Criminal justice

Improved information-gathering and an assessment of the danger posed by a defendant to the community ought to precede pretrial release of criminal defendants. If a defendant on pre-trial release commits additional crime, consecutive sentences should be imposed.

Sentencing guidelines must be developed to replace the hit-or-miss system now used to impose and review sentences.

Criminal restitution programs ought to be expanded so that the criminal is forced to idemnify his victim as well as society.

Neither punishment nor rehabilitation can be achieved if prisons are overcrowded and stricter laws will be of no avail if we have no place to put offenders. We believe that immediate steps should be taken to deal with the inadequacy of our prison system. Above all we must do a better job of managing our scarce prison facilities.

Economic crime

Economic crimes exact a toll of $24 billion annually. Insurance and pension fraud cut deeply into family incomes and public revenues and enrich wrongdoers no less surely than street crime. The limitations on the ability of the Internal Revenue Service to share information with investigative agencies must be revised.

Democrats—indeed, no one—can promise an end to crime. What we do promise is a new toughness, a new willingness to foster cooperation among federal and state and local authorities, a new determination to invest in the modernization and improvement of the law enforcement, criminal justice, and penal systems and, above all, a new commitment to reduce to the absolute minimum the insecurity and loss suffered by our people when government neglects its job of protecting them.

SECURING OUR STREETS: A DEMOCRATIC ANTI-CRIME PROGRAM

Just a generation ago, homes in rural and small town America were rarely locked at night. In urban areas, crime encountered was more likely to be shoplifting or juvenile vandalism rather than violent or vicious crime. Polls told us that crime did not even rank in the top ten concerns of Americans.

Times have changed drastically. Rising crime is the number one concern of American city dwellers, and the crimes people fear most are violent crimes—robbery, rape, homicide. These violent crimes are being committed more and more by teenagers and even by sub-teens. Rural crime has become sufficiently commonplace to be separately treated in crime study agendas. Many anti-crime techniques have become necessary specifically to protect farm equipment, livestock, and produce.

According to the Department of Justice, violent crime increased 60 percent during the 1970s; murder increased 34 percent, reported forceble rape increased 100 percent, robbery increased 33 percent and aggravated assault increased 83 percent. FBI statistics show that even since 1980, there has been a 20 percent increase in robbery throughout the country; and since 1979, nearly a 10 percent incease in reported rape, aggravated assault and murder.

Most law enforcement is primarily a function of state and local governments. The crime that terrorizes neighborhoods and imprisons the elderly is clearly a community problem. But it is a problem shared nationwide. No locale is safe. Reported crime has gone up in cities of all sizes, in suburbs and in rural areas. In most cases the crime wave has stymied local efforts to contain it.

The Federal role in crime fighting

Democrats believe that the nature of the Federal government in the battle against crime is—and should be—limited. Our Constitution preserves important rights and responsibilities to the states and the nation's citizens. The Federal government should not attempt to supplant the role of the other partners under the Constitution. We agree, however, that Federal initiatives have to play an important role in the nation's war on crime.

The Federal government has a natural leadership role in developing legislation and programs which provide models for the states to consider following. This leadership can also be in the form of direct or indirect resource distribution to the states. The Federal criminal statues must be revised to address problems beyond the capability or resources of state and local governments. Areas that are distinctly Federal in character include drug trafficking violations, immigration offenses, and offenses intertwined with organized crime or interstate movement. Reform in these areas is proposed in the following pages.

The Federal criminal justice system is in need of important procedural changes. We must address the areas of bail reform, prison overcrowding, pretrial services, services to victims and witnesses, sentencing reform, increased fine levels, improved forfeiture laws, and clearer expressions of Federal prosecutorial policy.

The final area of criminal justice reform is the need for improved Federal law enforcement strategy. More resources must be devoted to our Federal law enforcement agencies. The current Administration's budget cuts in law enforcement will cripple enforcement efforts in investigation of organized crime, drug trafficking and fraud. The specific steps outlined in this statement must be implemented to improve the Federal law enforcement services.

Crime fighting is, in most instances, best left to the states and localities, but the Federal government has the important tasks of: (1) providing leadership, including financial assistance, training assistance, and better cooperation between Federal and state officials; (2) providing comprehensive criminal statutes; (3) improving the procedures of the Federal criminal justice system; (4) enhancing Federal law enforcement capabilities and (5) developing and communicating judicial, social, and scientific information to assist local enforcement authorities, criminologists, judges and communities.

Resources for law enforcement

Effective crime-fighting depends on adequate funding. Although states and localities bear the burden of dealing with more than 95 percent of crimes, no federal effort to help that fight can have much meaning unless it involves commitment of resources.

The Reagan Administration's response to our national crime epidemic has been a mixture of good news and bad news. The good news is that they say they are going to be tough on crime. The bad news is that their actions clearly show that they are going to be even tougher on crime-fighting agencies.

The Administration's reaction to the recommendations of the Attorney General's hand-picked Task Force on Violent Crime is a case in point. In every instance when the Task Force made recommendations which required additional federal resources—invariably the most potent of the anti-crime measures—the Reagan Administration turned a cold shoulder. Millions of Americans may be victimized because of these decisions.

The Democratic Leadership in Congress, in contrast, has fought to save the anti-crime programs that have worked. We support sufficient funding for, as well as increased efficiency and competency in, agencies at the cutting edge of our anti-crime efforts: the FBI, the Bureau of Alcohol, Tobacco and Firearms (BATF), the Drug Enforcement Administration (DEA), Customs Service, Border Patrol and the Coast Guard.

We want to escalate the war against crime. We believe we must expand—not shrink—the federal contribution to fighting crime.

The Reagan Administration proposes to cut social programs drastically and to increase expenditures for national defense. A fundamental flaw in its approach to crime is a failure to understand that protecting our citizens from crime is a matter of national defense, not an expendable social program. No American lives are being lost to foreign enemies, but they are being lost to criminals on the streets of our cities every day and night.

Money judiciously spent fighting crime, maintaining community safety, and improving the criminal justice system can have measureable effects. We are determined to attack the problem of crime with fresh vigor and renewed respect for the most effective use of the taxpayer's money.

Attacking the roots of crime

Beyond the specific focus on crime we cannot ignore the specter of a sickened economy. National unemployment that has hit nearly 11 million Americans is at epidemic proportions in many areas of our nation, creating panic and desperation.

Though the multiple causes of crime can never be satisfactorily understood, common sense tells us that the economic conditions we face now, and the growing polarization of our citizens between haves and have nots, clearly contribute to increased lawlessnesss. Indeed, as our nation's economic woes increase, so do our crime rates, and so does public concern. For example, we are already seeing that the incidence of arson parallels increases in bankruptcies.

The Democratic Party has always stood for economic hope and security for our people—vowing that the haunting events of the 1930s unemployment lines would never be repeated.

As Democrats—sensitive to the public's anxiety over the increase in the crime rate, and aware that this anxiety has grown in the wake of the Reagan budget cuts affecting law enforcement—we are prepared to meet the crime problem head-on.

The crime-fighting measures we propose are necessary. But they will not stand alone. To achieve maximum effectiveness, they will be accompanied by a program that restores material growth to our economy and renews hope and opportunity for our people. That is why we support a broad-based economic program including a major investment in education and in training workers.

ESCALATING THE WAR ON CRIME: ASSISTING THE STATES AND LOCALITIES

In the face of Administration opposition, the House of Representatives, on February 19, passed Democratic legislation (The Justice Assistance Act, H.R. 4481) authorizing funds ($170 million) to help state and local government fight the war on crime.

This Democratic effort will continue successful state and local anti-crime programs. It recognizes that the best use of federal financial resources in fighting crime and assuring effective justice is as a catalyst.

As a recent New York *Times* editorial observed:

"Not many police departments would have developed rape squads without leadership and encouragement from LEAA (Law Enforcement Assistance Administration). Few communities could have found the resources to set up programs for victims. The best Federal role is to help localities conduct and apply criminal justice research, with its powerful implications for management. LEAA may be dead, but the need for such help is greater than ever."

Fourteen categories of crime-fighting programs, chosen on the basis of proven success, would be supported on a fifty-fifty basis with Federal and state and local dollars.

These programs address such crime concerns as: serious juvenile crimes, white collar and organized crime counter-measures; sting operations against burglary and fencing; arson investigation; prosecutor and police information systems; career criminal identification and prosecution, extending to juveniles; victim, witness and juror assistance; and treatment for drug dependent offenders.

The Democratic program also provides emergency federal help for local crime disasters, such as the child murders in Atlanta and the quantum crime increase in South Florida's heavy drug traffic. The government has long assisted localities in coping with natural disasters and emergencies. This would be its counterpart in the area of crime.

We have successfully opposed the extreme budget cuts the Administration proposed for the FBI, DEA, the Coast Guard, and Customs Service and will continue to oppose efforts to weaken these law enforcement functions. We also work to preserve and strengthen the law enforcement efforts being carried out by the BATF. BATF not only performs valuable federal functions but it does an outstanding job in assisting and supporting state and local enforcement. Due to its ineptitude in budget planning, the Administration has left BATF with a shortage of funds which may require the agency to shut down for the last quarter of the year.

Finally, we support continuation of the Office of Juvenile and Delinquency Prevention, which help support community juvenile justice programs. The Administration would halt funding for that effort.

DRUGS

Drug use in this country has reached epidemic proportions. It is an item of peculiar federal concern, for it effects more than those directly involved. Today's level of substance abuse not only kills thousands of people, but steals from our economy, and feeds the commission of countless other crimes.

In 1980, an estimated 3.6 to 4.3 metric tons of heroin were purchased and consumed in the U.S. at a retail value of $8-$9.5 billion. Cocaine transactions rose in that same year to $27-$32 billion. Marijuana bought and sold amounted to $18-$27 billion. Other dangerous drugs consumed (LSD, amphetamines, barbiturates, etc.) took another $14-$20 billion from the economy. Florida alone has an illicit drug industry worth about $10 billion.

Total drug-related deaths in 1980 numbered 4,374. There were 852 heroin related deaths and nearly 13,000 heroin related hospital admissions.

A problem of these national proportions demands a response at the highest level of our government. To fill that need, we recommend the appointment of a Cabinet-level coordinator of federal anti-drug policy, with ready access to the President.

Although there is statutory authority to do so, no high-level coordinator or a national anti-drug strategy has been appointed by the Administration. This fact, coupled with the attempted rollbacks in DEA, the Coast Guard, and the Customs Service—agencies that are crucial to the fight against drugs—indicates that, contrary to Administration claims, this fight is not an Administration priority.

A national drug policy must be developed with one key fact in mind: all heroin, all cocaine and most marijuana, the major drugs of abuse in America, are imported. The goal of reducing the supply of these drugs must be a consideration in our foreign policy.

We must improve bilateral and multilateral negotiations with foreign nations on drug eradication.

Congress should receive annual reports from the State Department on anti-drug efforts of nations that receive foreign aid. If good faith efforts at drug eradication and interdiction are not made by these recipients of foreign aid, their aid should be reduced or terminated. The laws requiring such actions are already on the books. They should not be ignored.

International activities of the DEA must not be cut back as the Administration has requested. Through concerted action and expertise shared with other nations we can multiply the effectiveness of our efforts to achieve a global reduction in the supply of drugs.

The penalty structure of the Controlled Substances Act must be revised. At present, a major dealer selling millions of dollars of heroin is subject to the same maximum sentences as a junkie pushing a $25 bag on the street. The maximum fines of $15,000 to $25,000 are unrealistic in light of the multi-million dollar nature of many drug transactions.

The equipment and technology of our armed forces could be used to identify ships and aircraft suspected of moving drugs into the country. Thus, Democrats in both the House and the Senate initiated expansion of existing authority to use the military to assist civilian law enforcement officials in interdicting drug smugglers. We intend to insure that the military assistance called for in this new law is provided.

The Administration's effort to relegate drug treatment programs for heroin addicts to the catch-all, ill-funded, omnibus health block grant transferred to the states was penny-wise and pound-foolish. A federally financed university based study determined that, in an eleven year period, 237 heroin addicts were responsible for the commission of 500,000 crimes. Yet, when these addicts were not dependent on illicit drugs, but were treated instead, the number of crimes for which they were responsible dropped by 84 percent. We suggest the use of drug

treatment programs as an anti-crime weapon. The evidence is clear—the reduction of drug use and drug dependence reduces the commission of crime.

ARSON

Increasing numbers of news stories are emerging with similarities to the tragic one that appeared in late February of this year—a tenement fire of unknown origin took the lives of five small children in New Jersey.

Instances of arson have been growing phenomenally in recent years. Some arsonists are prompted by motives of revenge, but most fires are set to collect the proceeds from fire insurance policies. Billions of dollars (nearly $2 billion in 1980) and many innocent lives have been lost because of arson.

As a result, every homeowner and every business property owner in the U.S. must pay correspondingly higher insurance premiums.

At present, arson, which is a state crime, is typically investigated by local police and fire officials. But proof that a fire was not started accidentally requires highly specialized skills that local authorities may not have.

Federally-funded arsons task forces have demonstated that they can reduce incidences of arson and increase the arrest and conviction rate. The National Arson Response Teams is a BATF program which the Administration has opposed. We support this program which has achieved a solution rate of 69 percent, compared to the national average of 3 to 9 percent.

In Seattle, LEAA funded a task force that reduced the incidence of arson by 32 percent over a four year period. That arrest rate in Seattle increased 104 percent and the conviction rate increased by 45 percent. These are the kinds of programs that will continue under the Democratic Justice Assistance Act and with adequate funding for BATF.

Federal arson prosecutions are limited to cases involving Federal property or the property of Federally funded programs, or property involved in interstate or foreign commerce. Usually these prosecutions are targeted at cases in which there is organized crime involvement. Federal jurisdiction is, however, tied to the use of explosives to start the fire. We believe that where a significant reason for Federal jurisdiction exists, it should not make any difference now a particular arsonous fire was ignited. Federal arson offenses should be redrafted accordingly.

ORGANIZED CRIME

Tragically, every American pays a hidden "crime tax"—the increased cost of goods and services including insurance premiums, security services, added overhead due to theft and vandalism, increased taxes for everyone due to tax avoidance, taxes unpaid on the profits of criminal activities, and the costs of the criminal justice system. The yearly total, as calculated in 1976 by the Joint Economic Committee, amounts to more than $125 billion.

The transactions in illegal goods and services by organized crime account for nearly a third of this crime tax. Narcotics, loan sharking, prostitution, and gambling are all within organized crime's control.

The interstate aspects of many of these ventures place them under Federal responsibility. If anything, the sphere of federal authority in this area ought to be expanded. "Contract murder," or murder for hire, for example, is one heinous activity of racketeers which should be made a federal crime. It is growing in frequency. Drug dealers turn to hired assassins to control the illicit marketplace.

In addition to arson for hire and contract murder, we believe that the roster of federal offenses should be expanded to include:

Interstate fencing and transportation of stolen property, such as automobile parts. The commerce in stolen property has increasingly become interstate in nature and a legitimate concern for the Federal law enforcement community. The traffic in stolen precious metals, the dismantling and sale of stolen auto parts through so-called "chop shops", the sale of counterfeit copyrighted movies and records, as well as other types of stolen property are feeding huge illegal markets. These large, interstate operations produce substantial income for organized crime. Current Federal law does not allow for effective response. We must modify the appropriate statutes to criminalize this conduct.

Crimes against the person of all federal officials with substantial law enforcement responsibilities, and certain high-level government officials.

We also need strong and effective federal laws to provide protection—at an earlier stage in the criminal justice process—for victims of and witnesses to Federal crimes. We must not allow them to be targets of harrassment or intimidation by criminal defendants. The testimony of victims and witnesses is essential to the functioning of our criminal justice system. To continue to protect the rights of defendants while ignoring those of the victims and witnesses would make a mockery of that system. The Federal witness protection program must be so structured to assure that persons in the program do not pose a danger to their new community. We must also assure that persons with out any previous criminal involvement can participate in the program.

FIREARMS

The crime problem cannot be addressed fully and adequately without attention to the handgun. The Federal government shares responsibility with state and local governments for taking steps to reduce the criminal misuse of handguns. Positive steps can be taken which balance the rights of legitimate handgun owners with the legitimate fears of many citizens about the easy availability of handguns.

The widely varied local responses to handgun control, and the interstate commerce that fuels the criminal misuse of handguns, indicates that federal attention to the problem is necessary. Only through a well-defined federal response can the legitimate needs and interests of all parties be protected.

We should consider revising our federal gun crime laws in accordance with the following principles:

Providing mandatory penalties for the use of a firearm during the course of a federal felony.

Prohibiting the manufacture or sale of machine guns, silencers, and devastator bullets, except for the use of the military and law enforcement officials. Further study is required into the problems presented by special purpose munitions, such as armor-piercing bullets, which appear to have no legitimate usage, to determine if these munitions can be prohibited or restricted without affecting legitimate munitions which may possess similiar characteristics.

Requiring manufacturers and dealers in handguns to report to the police the theft or loss of weapons.

Simplifying procedures by eliminating most of the paperwork required under current law when ammunition is sold.

Limiting the use of civil sanctions, such as dealer license revocation and forfeiture of firearms, when criminal charges based on the same facts have resulted in acquittal.

THE SHARING OF LAW ENFORCEMENT INFORMATION

There is a need to develop better, more creative working relationships between Federal, state, and local law enforcement agencies to combat crime. In such an arrangement, the state and local agencies must be treated as full partners—not poor relatives or country cousins.

Central to these efforts should be clear and consistent policies regarding the exercise of jurisdiction of the 110 Federal agencies concerned with detection, investigation, or prosecution of Federal law violators. Wasteful overlaps should be eliminated, to avoid costly disputes over jurisdiction. A recent review of Federal declination policies in drug cases—which determine which cases will be prosecuted and which will be "declined" and turned over to the states—revealed tremendous variations in federal policy. Some Federal prosecutors were found to be prosecuting persons possessing one pound of marijuana, while others were turning down cases involving one thousand pounds. Less dramatic but similar variations exist in regard to bank robberies. Such inconsistencies and variations cannot be justified on the grounds of varying local needs.

Similarly, creation of coordinating councils and joint task force projects between national, state, and local officials would curtail battles over jurisdiction and speed the sharing of vital intelligence between agencies and regions. Such improvements must include mechanisms to insure accuracy and to prevent access by individuals without legitimate law enforcement functions.

The procedures by which this information is shared need to be improved. Such improvements must include mechanisms to insure accuracy and to pevent success by individuals without legitimate law enforcement functions.

An adequate criminal history system must be maintained by the FBI or state criminal justice agencies.

The FBI budget must be augmented to permit prompt replies to inquiries from state and local law enforcement officers. For example, a Federal fugitive, convicted of drug trafficking, was later released by the Miami police because they could not get a prompt fingerprint check from the FBI. The fugitive is believed to have murdered a half dozen people before he was killed in a shoot out with police. In addition, state and local agencies should have access to FBI criminal identification records, paying a user fee if necessary. Currently, dangerous ex-felons can freely obtain sensitive jobs because the FBI will not perform routine record checks for licensing agencies or potential employers.

Federal law enforcement agencies must take the lead in developing task force operations with state and local governments. The DEA and BATF have run successful drug and arson investigations like this, and the technique should be expanded to other areas.

Federal research into the causes and prevention of crime, and effective law enforcement responses to crime, must be adequately funded—and the results shared with state and local officials.

REFORMS IN THE FEDERAL CRIMINAL JUSTICE SYSTEM

In the newspapers and other media almost daily are news accounts that demonstrate the pressing need for reforms in the Federal criminal justice system.

These reports are often shocking examples of justice gone awry: sentencing that is too harsh or too lenient; crimes committed by a defendant out on bail, and similar tales that offend citizen's sensibilities.

Democrats maintain that the following procedural changes, in particular, are needed in the Federal criminal justice system:

Pre-trial release

Permitting judges to consider a defendant's danger to the community in setting the conditions of pre-trial release. In theory only risk of flight may now be considered as a factor in setting conditions for release under Federal law.

Requiring that crimes committed while on bail receive consecutive sentences, and that the statutory penalty for bail-jumping be in proportion to the seriousness of the initial offense.

Establishing a national program of pretrial services to provide accurate information and advice quickly to the federal courts in setting bail and pre-trial release conditions, to provide greater protection to the community and eliminate expensive pretrial detention of persons who pose no risk to society. Ten such cost-effective programs are now in place, and have demonstrated their utility.

Sentencing

Developing sentencing guidelines to eliminate the widely disparate sentencing that now prevails in the Federal system.

Drug treatment

Maintaining the programs that treat drug-dependent federal probationers and parolees and thus reduce drug related recidivism.

Restitution

Expanding restitution programs which require the offender to pay the victim for the harm done.

Forfeiture of criminal assets

Expanding the Federal forfeiture law to permit prosecutors to attack the profit structure of organized crime particularly. Restitution to society of the money taken from those victimized by drug dealers or the rackets of organized crime is only just. Changes in the law to consider the total financial picture of the defendant would be a step in this direction. In the case of a convicted narcotics dealers who can show no other source of income, property held should be presumed to have been obtained from the proceeds of crime and thus subject to forfeiture. Expanded forfeiture laws, however, must be carefully drafted to protect the property rights of those not convicted of a crime.

Enforcement aids

Modifying tax laws which unduly restrict Internal Revenue Service assistance to law enforcement agencies in their investigation of white collar crime, fraud, and organized crime. Certain provisions of the tax code have created excessive barriers between IRS and law enforcement agencies for legitimate investigation and prosecution, and these must be revised. These laws effectively prohibit sharing evidence of crimes that are confessed to or known to IRS. Even evidence obtained by IRS sources that are not tax returns which, due to their compulsory nature require a higher degree of privacy, is ensnared in the red tape required by these sections. Information which can be shared is subject to extraordinary delays and technical scrutiny. Modification of these tax provisions is a necessary component to other efforts to combat drug trafficking, organized crime and white collar crime.

Strengthening our ability to combat the laundering (in offshore banks) of proceeds from narcotics trafficking and organized crime by amending bank reporting laws relating to movements of large sums of cash and other monetary instruments.

Revising upwards the fine structure in federal criminal law, and improve collection procedures. Existing fine levels were for the most part established decades ago; their deterrent and punishment powers have been eroded by inflation.

Prison reform

We support a number of steps to bring immediate relief to prison overcrowding and substandard conditions in our nation's prisons. We need to make available surplus U.S. government facilities, including military installations, to state and local governments for use as incarceration facilities. This is to be preferred over costly Federal subsidies for prison construction for a number of reasons. First, there is the sheer cost of new prison construction. At $60,000 per cell and upward, even the $2 billion dollar program recommended by the Task Force on Violent Crime would not go far in relieving overcrowding. Second, surplus facilities can be ready for use in a few weeks or months, not several years. Third, the cost to state local governments for conversion of such facilities would be only a small fraction of new construction, even if half the construction cost were assumed by the Federal government.

There are other steps that the Federal government can and should take to help relieve the prison crisis that exists. These include research, technical assistance, and training programs in the most effective uses of costly prison space.

The simple fact is that prison space is a very expensive and therefore scarce commodity, and it must be treated as such. There are too many people locked up in these expensive facilities who do not need to be locked up, and there are too many roaming free and committing more crimes who should be incarcerated. For these reasons, one specific category of Federal assistance under the program we advocate is help to states in determining the best uses of prison space in order to relieve overcrowding.

Such efforts should focus, on the one hand, on identifying and incarcerating violent and dangerous offenders—those who, when on the street, commit crime, often several crimes, every single day. On the other hand, Federal assistance should extend to developing sanctions less expensive than full time incarceration for non-dangerous offenders, to insure availability of prison space for the truly dangerous offender.

ECONOMIC CRIMES

A few years ago, the U.S. Chamber of Commerce estimated that white collar crime—not including anti-trust violations—cost the American public $44 billion per year, compared to an estimated $4 billion per year for "street" crimes against property.

We must disagree with the simplistic statement of the Attorney General to the effect that people are only concerned about violent crime and not about fraud which adds "a few extra cents to the cost of a loaf of bread." Computer and insurance fraud, scams, pension fund rip-offs—all the forms of economic crime—rob citizens of their wages and savings more viciously than burglary, which can be insured against. White collar crime must not be excused or ignored in the name of increased concern for street crime.

Democrats support continued effective load and state-operated economic crime units.

EXTRADITION

Our extradition statutes have not been revised since they were created in the 19th century. These out-dated provisions have allowed some offenders to escape prosecution. They should be thoroughly reviewed and revised, to aid foreign policy and to improve the quality of international justice.

CONCLUSION

In the face of mounting public alarm over what is undeniably a crime wave, the Administration's retreat on crime control is completely contrary to the national interest.

Democrats have staunchly opposed efforts by the Administration to eliminate the weapons necessary to wage a war on crime. We have gathered the necessary bi-partisan forces to pass legislation which will overcome the Administration's weak positions.

We are prepared to fight for these new initiatives in the war on crime. Increased efforts call for all-out assaults on drug trafficking, organized crime, arson-for-hire, and handgun abuse.

This strengthened Federal role in crime-fighting, combined with long-needed reform in the Federal criminal justice system, sensible bail and incarceration policies, and increased cooperation with state and local law enforcement agencies, should go a long way toward making America safer and offering Americans some peace of mind.

BUILDING A STRONG DEFENSE: ASSURING AMERICA'S SECURITY IN THE 1980'S

(Introduction by Rep. W. G. (Bill) Hefner, Chairman)

No responsibility of our national government is more important than providing for the common defense. Without the shield of a strong defense our freedom and the domestic institutions of this country lie exposed to those who are hostile to us.

In the 1980s, we face new threats to our national security: the increased strategic nuclear capability of the Soviet Union; the enormous buildup of Soviet conventional forces; our dependence on imported oil; a shaky domestic economy; and, the existence throughout the world of international tension spots and conditions that breed Soviet expansion.

The Democratic Party is committed to meeting those threats head on. We believe that our country must strengthen its defenses and pursue a national security policy which meets, with resolve, the threats we will face in the 1980s.

We are concerned that the Republican response to the new threats to our national security is but one dimensional—an unprecedented, untargeted increase in military spending. We agree that defense spending needs to increase. But those increases must be carefully targeted to our needs so that we add muscle and not fat to our defenses.

For that reason, as a first order, we call for a top-to-bottom assessment of our national security needs. What parts of the

world are vital to our national interests? What structure of armed forces do we need to defend them? How many of those forces do we need? We need to know the answers to those questions and others to get the maximum yield from America's defense dollar. No such really comprehensive top-to-bottom assessment of our defense needs has been undertaken since the Kennedy Administration. But the world has changed since then and the threats we face today are different than those we faced in the early 1960s.

While that assessment is being undertaken, however, we must act to meet the threats that we know exist.

To reduce the threat of nuclear war, we believe the United States should pursue on an urgent basis, serious strategic arms control negotiations consistent with maintenance of overall parity with the Soviet Union.

To counter the buildup of conventional military forces, there is no question that we must strengthen our own defense capability and that targeted increases in defense spending are necessary, to achieve that goal. We need to strengthen our conventional forces with an emphasis on readiness; to improve their quality of life so we can retain trained personnel; to make sure equipment is maintained; and, to make sure we have the capability to move troops wherever they are needed.

To reduce the energy threat to our national security will require taking the military steps necessary including building our rapid deployment capacity, to deter Soviet movement into the Persian Gulf, and pursuing an energy policy, at home, to move us toward energy security.

To free up resources we need to invest at home to shore up our sagging economy. We must insist that our allies pay a proportionate share of the overall defense cost of the Western Alliance. Three decades after the establishment of that alliance—we still pay a greatly disproportionate share of the bill. Dollars our allies do not spend on defense are being used to out-do us in the free market which we are spending huge sums to defend. Every American dollar that is spent to defend our allies cannot be spent to promote economic growth here at home.

Finally, to reduce tension around the world and eradicate the conditions that breed Soviet adventure—we need a consistent, tough foreign policy that promotes American values around the world.

By taking all of those steps and others outlined in our paper, we believe we can meet the very real threats that now exist to our national security.

BUILDING A STRONG DEFENSE: ASSURING AMERICA'S SECURITY IN THE 1980'S

No activity of the national government is more important than providing for the common defense. Without the shield of a strong national defense the domestic institutions of this country lie exposed to those who are hostile to us.

We live in a world full of challenge and danger which is neither as simple nor as safe as it once was. Yet, it has now been more than two decades since our country undertook a really comprehensive top-to-bottom evaluation of our national security needs and defense capabilities. Ever since, our national defense structure—including that of the current Administration—has been based on that analysis of our defense needs in the early 1960s.

Since that analysis was made, the world has changed greatly and so have our national security needs. During those two decades, we have witnessed:

The Viet Nam War;

A dramatic shift in the relationship between the United States and the Peoples Republic of China and between the Peoples Republic of China and the Soviet Union;

Three wars in the Middle East and the conversion of Egypt from an ally of the Soviet Union to an ally of the United States;

The establishment and strengthening of the OPEC Cartel and the use of oil as a weapon by that Cartel and the emergence of the Persian Gulf as a critical and vulnerable region;

Growing instability in Central America;

The emergence of new economic powers in Asia, Western Europe and South America; and

The Soviet occupation of Czechoslovakia, the Soviet invasion of Afghanistan, and the imposition of martial law in Poland with Soviet backing.

All of these events—and many others of the past 20 years—bear directly on the national security needs of our country. Yet, the structure of our armed forces—16 armed divisions, three marine divisions, 24 tactical air wings, etc., has not been revamped during that period.

THE THREATS OF THE 1980'S

As we move into the 1980s, we face new threats to our national security. Because the world around us has changed—and because our adversaries and our allies have changed—the threats we face in this decade are different than those we faced in earlier decades. National security policy for the 1980s must respond to the most serious threats we face in the 1980s.

First, in the 1980s we are threatened by the strategic nuclear capability of the Soviet Union. We recall that 1982 marks the 20th Anniversary of the Cuban Missile Crisis when humanity came close to the edge of the nuclear precipice. We no longer enjoy the unassailable nuclear strength that prevailed in 1962. The Soviet Union now needs no advance base in the Western Hemisphere to threaten the American heartland; the day when we could strike the Soviet Union and suffer no long-range retaliation is gone. This fact alone counsels both strength and prudence in our dealings with the USSR.

Second, our national security—and that of our allies—is threatened by the buildups of Soviet conventional military forces. The Soviet Union is producing tanks, planes, artillery pieces and armored personnel carriers in impressive numbers, and the quality and sophistication of that equipment is also improving. The old limitations of geography and the elements which once constrained the Soviet Union have been negated by Soviet naval bases and ports of call from Aden to Camh Ranh Bay. The invasion of Afghanistan demonstrates the ability of Soviets to move masses of troops overland and have them fight and survive in a hostile and remote place. The Persian Gulf is now within their reach.

Third, our dependence on imported oil represents a direct threat to our national security. Twenty years ago, we were not dependent upon foreign sources of energy; today we are. Energy concerns were a minor part of national security two decades ago; today, they must occupy a prominent place in our strategic thinking—particularly because we are dependent upon a volatile part of the world for an important energy source.

Fourth, our nation's security is made more vulnerable by a shaky domestic economy. Two decades ago the United States dominated the world economically. Today that is no longer so. Domestic industries in autos, steel, and electronics, once impregnable have been inundated by foreign competition despite the fact that these are industries of great strategic significance. No national security policy can fail to acknowledge the reality of American industrial and technological vulnerability or neglect to take steps to deal with it. We have faced up to both of these responsibilities both in this paper and in our long-term economic policy statement.

Finally, in the 1980s, our national security is threatened as long as international tensions throughout the world and the conditions that breed Soviet expansion exist throughout the world. A foreign policy that fails to deal with such conditions does little to make our own nation more secure, and neither does a policy that fails to affirm American values abroad. Our concern for freedom and human dignity is essential to promote our national interests throughout the world. When we support repressive dictatorships, we play directly into the hands of the Soviets and their surrogates.

Awareness of these dangers and vulnerabilities does not paralyze us or make us passive. Knowing the problems posed by these changes of the past two decades strengthens our resolve to be the party that embraces the future along with its many challenges and perils. History has taught us some painful lessons but it is also a chronicle of American triumph. Our day is not past. Our moral and spiritual force is not spent. Our ability to influence the future is undiminished, and our party stands ready to be the pathfinder for a nation prepared to encounter and master the future.

THE REPUBLICAN RECORD

The test of the Republic national defense policy must be how it has responded to the varied threats to our national security in the 1980s.

Basically the Republican Administration has relied on an unprecedented increase in military spending. We agree that defense spending must be increased, but we believe those increases should be tied to a thorough analysis of our defense needs of the 1980s. Unfortunately, the Administration has decided to drown with hundreds of billions of federal dollars a defense structure designed to meet our national security requirements in the world of the 1960s. That is wasteful and unwise.

And a defense buildup alone will not meet the threats to our national security in this decade.

A DEMOCRATIC NATIONAL SECURITY FOR THE 1980'S

We Democrats believe that our country must strengthen its defenses and pursue a national security policy which meets head on the threats we will face in the 1980s.

The first step: Assessing our defense needs

During the Kennedy Administration, the Pentagon, under Secretary of Defense Robert McNamara, undertook a top-to-bottom review of our national security needs. That review served as the basis for a restructuring of our defense establishment.

In the two decades since our defenses were last analyzed thoroughly, the world has changed greatly—and so have our national security needs—but our defense structure has remained the same.

The result is that we are pouring money into a defense establishment structured to meet our defense needs of two decades ago. As a result, we are getting less defense—and less useful defense—than we are paying for.

For that reason, we believe that, as a first order, the United States should undertake a top to bottom assessment of our national security needs. What parts of the world are vital to our national security? What structure of forces do we need to defend them? How many of those forces do we need? This assessment must be as thorough as that undertaken during the Kennedy Administration in the early 1960s. We must determine where the real threats to our national security will come from in the 1980s and what we, as a nation, have to deal with them.

With such an examination completed, we can restructure our forces to deal with the military needs of this decade. That way defense expenditures increases can be put where they will do the most good.

While this assessment is being undertaken, however, we must begin immediately to deal with the real threats that we already know exist.

Reducing the threat of nuclear war

The Democratic Party believes that American security in an age of 50,000 nuclear weapons requires organizing every facet of our nation's policies to prevent nuclear war. This includes:

Strength so we can continue to deter any aggressor;

Improving conventional forces so that nuclear weapons remain our ultimate deterrent, not our first line of defense;

Reducing the vulnerability of nuclear retaliatory forces to a first strike;

Improving nuclear command and control so that nuclear weapons are never released in ignorance nor error;

Improving intelligence collection capabilities so that vital national defense decisions are based on knowledge not uncertainty; and,

Serious, sustained negotiations to limit nuclear arms.

We Democrats believe it is particularly important to control the spread of nuclear arms to reduce our vulnerability to nuclear attack and would put more emphasis on arms control than the Reagan Administration. We must never loss sight of the fact that our arms control policy must have just one purpose: to prevent the outbreak of nuclear war, from which there would emerge no winner.

The Republican Response

The Republican Administration came into office criticizing the Democrats for the so-called "window of vulnerability" which threatened our land based strategic missiles. The Carter Administration's plan for dealing with that "window of vulnerability" was the SALT II agreement coupled with the racetrack basing mode for the MX missile. As a candidate, President Reagan vigorously criticized both SALT II and the MX basing mode.

Now, 20 months later, we are no better off on either front. There has been little progress in arms control negotiations and, as a result, there are 300 more Soviet bombers and missiles targeted on the United States than there would have been had SALT II been ratified.

In deciding the basing mode for the MX, the Administration has shown itself confused and irresolute and, as yet, has come up with no proposal of it own. In short, the Reagan Administration first criticized and then stopped the Carter initiatives to deal with the "window of vulnerability" but has come up with no other alternatives.

In other ways, too, this Administration has acted in ways that have not decreased the prospect of nuclear war.

The Administration places a low priority on halting nuclear proliferation which poses the threat of fissionable materials finding their way into the most unstable and irrational hands in the world. Indeed, the Administration has given Pakistan a $3.2 billion aid package despite the fact that it is pressing ahead with the development of nuclear weapons.

A total ban on nuclear tests which every Administration—Democratic and Republican alike—has supported for the past thirty years has been rejected by this Administration.

The Democratic Way

We welcome and support a national movement to control nuclear weapons and prevent their use, including the national nuclear weapons freeze campaign, as a clear expression of the strong desire of the American people to prevent nuclear war and to halt and reverse the nuclear arms race. We believe that the United States should pursue, on an urgent basis, serious strategic arms control negotiations consistent with the maintenance of overall parity with the Soviet Union.

Direct discussion with the President of the United States and the Premier of the Soviet Union must begin as soon as possible to further comprehensive nuclear arms control negotiations which should include, to the fullest extent possible:

A major, mutual, balanced, and verifiable freeze on the testing, production, and deployment of nuclear warheads, missiles, and other delivery systems;

Special attention to the issue of destabilizing weapons: those weapons that are vulnerable to, or capable of a nuclear first-strike and whose possession by either side stimulates mutual fear, spurs the arms competition, endangers existing agreements, and heightens the risk of all-out nuclear war;

Strict adherence by both sides to all arms control agreements negotiated to date;

Measures to prevent the use of nuclear weapons by each superpower, such as expanding political and technical mechanisms to reduce the risk of war by accident or miscalculation, including hot lines among nuclear weapons states;

Systematic multilateral efforts—both political and technical—to restrain the reckless commerce in sensitive nuclear materials and technology, and to prevent the spread of nuclear weapons and explosive capabilities to third parties, including terrorists;

Conclusion of a verifiable Comprehensive Test Ban Treaty;

Serious negotiated efforts to increase stability and lessen the risk of war in Europe by reducing the conventional and nuclear imbalance in Europe and by initiatives such as mutual confidence-building measures to provide greater warning time; and,

Expansion of the participation of all nuclear weapons states in arms control negotiations.

Countering the Soviet conventional military threat

The Soviet conventional military buildup is real, and we must take steps to deal with it. But in countering it most effectively, we must exploit Soviet military weaknesses and take advantage of our military strengths.

The Republican Response

The Republican response to the Soviet buildup has been one dimensional: to pour hundreds of billions of new dollars into our existing defense establishment in an effort to match the Soviets weapon for weapon. While such a response lends itself to tough talk, it neither exploits Soviet vulnerabilities nor reinforces American strengths. As a result, we run the risks of adding fat rather than muscle to our national defenses and of wasting billions of tax dollars that could be invested to spur economic growth.

The Democratic Way

We believe there are a number of steps we can take to counter effectively the threat resulting from the Soviet buildup. They include:

Increasing defense spending

We believe that the United States must increase spending for defense. The question is how much and for what purpose.

President Carter increased defense spending during his term and his last budget provided for a five percent increase in real defense spending in each of fiscal 1981 and 1982.

The Reagan Administration has recommended an even higher buildup—a 12 percent growth in real defense spending in fiscal 1981, a 10 percent increase in fiscal 1982, and 13 percent increase in 1983. Overall, the Reagan Administration defense plan calls for a $1.6 trillion program over the next five years. It averages an increase each year of more than eight percent a year.

There is no question that America must strengthen its national defense capability and that increases in defense spending are necessary to achieve that goal. But we believe that we can continue our defense buildup in a more prudent manner that would allow us to add muscle and not fat to our national defense.

As a first order, we need to make sure our equipment is maintained, personnel shortages filled, and that we possess the ability to move troops wherever they are needed in combat. We are particularly concerned that the President's defense plan relies too much on new weapons systems and affords too little to readiness requirements.

Strengthening Conventional Forces

The necessary build-up in American's military forces cannot be defined exclusively in terms of military hardware. Readiness, air and sea lift capacities, training, and manpower quality must be emphasized. The reality is that the performance of an army depends, more than anything else, on the quality of its soldiers.

American armed forces must be prepared to respond to challenges across the military spectrum. Accordingly, our triad of land-based missiles, submarine-launched missiles, and manned bombers must be maintained and improved. But it is the quality of our non-nuclear forces that deserves special attention, for it is at this level that the most likely challenges will come. The stronger we are in conventional forces, the less likely it will be that we shall have to choose between capitulation.

We need to strengthen the readiness of our conventional forces.

Ammunition stocks must be increased to accommodate not only their potential use in combat but to provide adequate rounds for training.

Spare parts must be available in quantities sufficient to minimize the time equipment is out of service for repair.

Adequate fuel must be available for fleet maneuvers and training exercises and to maintain the proficiency of pilots and air crews.

Air-lift and sea-lift capacities should be expanded to augment our ability to deploy naval forces.

All of these steps will strengthen conventional forces.

Improving Unit Morale

Many military experts believe that a critical ingredient in an effective fighting machine is unit morale or *esprit de corps.*

Yet the rate of troop rotation in our armed services is now the highest of any modern army and creates demoralization, interferes with unit cohesion, and undermines the confidence among military personnel. Families of soldiers, sailors, and airmen suffer from rootlessness and all of the social pathologies associated with families who are forced to pull up stakes on a regular basis. The cost of moving a single military family runs from $60,000-$80,000. Frequent rotation is harmful to military morale and costly to the taxpayer.

We believe the armed services should abandon this counterproductive troop rotation policy and assign fighting men to a single unit for their terms of service. That way they can develop the unit pride and commitment necessary to be most effective on the battlefield.

Matching personnel and weapon

Sophisticated weapons cannot be operated by personnel who are unfamiliar with them or lack the technical background to operate them. Yet, more often than not, that is what we are asking. The problem must be attached from both directions: weapons must be made less complicated to operate and personnel must be better trained—in public schools and in the military—to deal with technologically advanced equipment.

Tactical warfare

We should explore innovative thinking in the development of warfare tactics that exploit the weaknesses of our adversaries. Reforms such as greater maneuverability, flexible field tactics, and decentralized command may take better advantage of our strengths.

Reviewing the manpower pool

In the future, demographic trends suggest that the national manpower pool will be challenged to meet our defense needs. The Democratic Party believes that we must review our manpower needs and resources, with attention paid to supply, equity, training, and recruitment.

Improving living conditions

The key to a strong military is a dedicated, professional force of men and women prepared to make the sacrifices necessary to defend our country. This is true at all levels of defense—from the rifle squad to the crews that man the missile installations. We invest a great deal in training our military personnel but often lose trained military specialists to civilian employment because of lack of incentives to re-enlist. That was particularly true until re-enlistments increased because of the recession, and it is a price we cannot afford to pay.

Military housing is inadequate. On many military bases in the continental U.S., service personnel are either assigned to mobile homes or are thrown onto an already-saturated local housing market.

Support service—career and personal counseling, medical care, and other forms of social support—are insufficient.

Military families must depend, increasingly, on two wage-earners in order to survive economically, yet such services as child care are often lacking on military bases.

Our forces abroad—particularly in Germany—are forced to compete for housing in markets in which housing stock is in poor supply yet where the cost of living puts American service personnel at a competitive disadvantage with an affluent local population.

Military medical care for dependents which was once the model for armies throughout the world no longer always compares favorably with that which is available to workers in the private sector.

We reject the popular but erroneous belief that American service personnel live in the lap of luxury and receive services which are available only at greater cost to civilians. We intend to redirect military spending priorities to insure that a military career will come once again be rewarding for those who are called upon to make sacrifices for their country.

Countering the energy threat to our national security

No threat in the decade ahead leaves our national security more vulnerable than our dependence on foreign energy. In the simplest and starkest terms: the most sophisticated and expensive bombers ever made are useless without fuel. The security of the Western Alliance is dependent on a vulnerable oil lifeline which begins virtually on the borders of the Soviet Union and threads its way through the most volatile region of the world.

The Republican Response

Despite the critical nature of the energy threat, this Administration has acted in ways that threaten the energy security of the United States and its major allies.

The burden of protecting the vital area of the Persian Gulf and its supplies of oil which are so important to all Western economies has fallen exclusively on the United States. A recent Defense Department report to Congress warned that, "The United States cannot do it alone. The United States Congress and the general public would not tolerate this. . . . The allies, as major beneficiaries of this effort, must do their fair share to carry the risks and burden of defending common security interests in Southwest Asia."

Programs of energy conservation which would have had the effect of making this country less dependent upon foreign oil from unstable regions of the world have been allowed to languish.

The Democratic Way

Reducing the energy threat to our national security will require our taking two distinct types of actions.

First, we must take the military steps necessary to deter Soviet movement into the Persian Gulf and to bring peace and stability to that region.

Second, we must take energy policy actions—as are contained more fully in our report on long-term economic policy—to move our country toward energy security.

Deterring Soviet movement into the Persian Gulf will require our being able to respond quickly to crises and to deploy troops rapidly.

Presently, our rapid deployment system is a bureaucratic solution to a military problem. For that reason, we are concerned that it could fail if put to the test. The rapid development headquarters in the United States—with a command structure that includes all the armed services—has no troop units assigned to it in peacetime. In wartime, units from the various services would be assigned to that command.

We are extremely concerned that this system is flawed for two reasons. First, it assumes that units operating under their regular command, can mesh immediately with a new command structure when put under the rapid deployment headquarters. We fear there will be a period of adjustment that could be critical in a crisis situation. Second, it assumes that units are designed to be interchangeable—that they can fight anywhere, under conditions different than those for which they were trained. We challenge that assumption.

The top-to-bottom assessment of our defense needs should take a particularly hard look at our rapid development force. In the meantime, we believe responsibility for rapid development should be turned over to a single service, the Marine Corps, the service most adaptable to that mission.

While protecting the Persian Gulf is not the only reason we need a rapid development capability, it is an important one.

We call in our long-term economic policy report, for a vigorous energy policy that builds on our advantages—abundant coal supplies, proven ability to conserve, the enormous potential of alternative and renewable energy sources, and a resilient market place—and confronts our liabilities—dependence on imported oil and required imbalances which underscore the need for an equitable national policy.

We believe the United States should become a net energy exporter by the year 1990 by:

Creating a greatly expanded coal exporting industry;

Modernizing the nation's entire transportation system and infrastructure, from mines to railroads to sea lanes;

Inventing coal-technology processes and pollution-control equipment to increase our productivity, protect our environment, and open new markets to us for international trade;

Encouraging domestic production of oil and natural gas;

Building on our present international lead in solar technologies and conventional and unconventional drilling techniques; and

Drawing other nations to us in friendship, as we help to lift the bruising debt they owe to OPEC.

The economic threat

A weak economy undermines our national security in many ways. In particular, our national security is weakened by the decline in our heavy manufacturing industries—like steel and autos—industries we need to supply our own weapons and equipment needs.

In our long-term economic report we have detailed the major challenges facing our economy, and outlined both the Republican failure to meet those challenges and the Democratic approach to meeting them.

Only one point needs expansion here. That is how critically important it is to our economic health to have our Allies pay a proportionate share of our common defense bill.

The Republican Response

The Carter Administration received the agreement from our NATO allies to increase defense spending by three percent a year. But the Republican Administration has not pressed our allies to keep that commitment. The result is an increase in the burden on

the American taxpayer and diverting billions of dollars that could be invested in our domestic economy.

The Democratic Way

Ever since the end of World War II, the United States has paid a disproportionate share of the defense bill for the Western Alliance. When the North Atlantic Treaty Organization was formed 30 years ago, such an arrangement was not inappropriate because our allies were still trying to get out from under the devastation of the war.

Today the situation is much different. Allies like Japan, Germany and France are our economic rivals with economies growing faster than ours. Yet, we still pay the bill for their defenses—with borrowed dollars. And the resulting increase in defense spending will make our share even greater.

We spend about 5.9 percent of our gross national product on defense and that figure will grow to more than seven percent by 1987; the Japanese, with the second largest economy in the world, spend less than one percent of theirs. Every dollar Japan does not spend on defense is being use to out-do us in the free market which we are spending immense sums to defend.

We simply cannot allow that to go on. American defense policies should be intertwined with those of our allies. We cannot and ought not to bear the burden alone. We must insist that our allies pay a proportionate share of the overall defense cost of the Western Alliance.

As our economic report points out, the key to our long-term economic health is a broad-based private and public investment program—in new plants and equipment, discovering and developing new technologies, educating and training workers, and rebuilding the transportation systems necessary for orderly commerce. But these critical investments for our economic health and our national security will cost billions of dollars. In a period of economic and budget restraint those investment dollars are hard to find. Every American dollar that is spent to defend our allies, cannot be invested in our economy here at home. To make matters worse, every dollar our allies don't spend on defense, they use to make their own domestic investment that undercut American industries.

Over the years we have shied away from criticizing our allies until such comments have come to appear unmannerly. But our allies are no longer poor cousins; they are not bearing their full share of the defense burden and that helps explain why their economies are thriving and ours is stumbling.

Statistics show that countries with a higher investment in defense have been growing at a slower pace. Japan, with by far the lowest outlays for defense, has enjoyed by far the most rapid growth of the major developed countries in the last decade. Britain and the United States, with the highest commitments to defense, have trailed in the growth sweepstakes while Germany and France are in the middle, in terms of both defense and growth.

Growth and economic well-being cannot be explained solely in terms of defense outlays. Obviously, other factors are involved, such as the proportion of skilled workers in the labor force, the amount of work time lost to strikes, the attitude of workers toward their jobs, among others. But clearly one of the most important elements is the amount of capital available for investment. And defense expenditures divert large quantities of investment capital.

If each of the major developed countries reallocated its defense spending to investment, the funds available for investment in Japan would grow 3 percent, in Germany 15 percent, France 18 percent, Britain 26 percent. In the United States funds for investment would grow a full 30 percent.

This shows dramatically how much more capital is consumed by defense in the United States than in our major allies and competitors. And it has a severe impact on our economy.

Besides reducing funds available for investment, carrying such a heavy defense burden affects our economic prosperity in a second and equally critical way. It diverts American technological genius from the civilian economy to the defense sector.

Our scientists and engineers are inventing better missiles and space vehicles while Japanese scientists and engineers are inventing better cameras and TV sets. We protect them with our defense and they beat us with their commercial products.

The issue is the size and share of the burden that the United States and the other Western democracies should bear. If we continue to escalate our share of the burden, our allies will have no reason to increase their share. We will see our competitive position continue to shrivel until we will be unable to bear the cost of defense, at which point Japan and Europe will have to carry the full load, not to mention launching a Marshall plan in reverse.

The message is obvious. Rather than proudly shouldering the Western defense burden, we must emphasize burden-sharing with our allies. It is in the allies' interest as well as our own that all our economies thrive. To share the blessings of a healthy Western economy, we must also share the burden of defending it.

Combating the threat of instability

We believe that a sound, consistent foreign policy which aims to reduce tensions around the world, to eradicate the conditions that breed Soviet adventure, and to promote American values around the world contributes greatly to our national security.

Dealing With the Soviets

We have discussed in great detail the steps we would take to lessen the chance of nuclear war and to counter the Soviet military buildup. In addition, we are committed to a vigorous diplomacy, drawing on the full measure of U.S. and allied resources, to alleviate the conditions of economic deprivation and repression in the developing world before they erupt into conflicts from which the Soviets can benefit.

Nor should we treat Eastern Europe as a monolith. We should seek an independent relationship with those countries which have shown independence from the Soviet Union. We must be responsive to the aspirations and hopes of the peoples of Eastern Europe and encourage, wherever possible, the forces of change and pluralism that are likely to shape events in those nations in the coming decades.

Finally, in our relations with the Soviet Union, the United States must never forget its strengths as the leader of the free world. Our devotion to American values, both at home and around the world, in past years, has drawn like a magnet the hopes of millions of people in other lands to the United States while placing the totalitarian regimes of the world on the defensive in the court of world opinion. To forgo that commitment is to disarm unilaterally our nation of a powerful weapon we can wield in our competition with Communist nations—America's unyielding commitment to human freedom and democracy.

A Secure Israel and Peace in the Middle East

We believe that the security of Israel and the construction of peace in the Middle East are fundamental priorities for our own national security. Israel remains more than a trust friend, a steady ally, and sister democracy. Israel represents a strategic asset to the United States, protecting and defending U.S. interests in an unstable region of the world against encroachment by the Soviet Union and against potential threats to Western nations' vital oil supplies.

We oppose this Administration's sales of highly advanced weaponry to avowed enemies of Israel. We must ensure Israel's qualitative military edge over any combination of Middle East confrontation states. We oppose negotiations with the PLO, unless the PLO abandons its terrorism, recognizes the state of Israel, and adheres to U.N. Resolutions 242 and 338.

We believe that the recent events in Lebanon have provided an opportunity to move toward peace in the Middle East. We believe that the Camp David framework offers the best hope. It is very important that Jordan, Saudi Arabia and other Arab states join the peace process. We re-emphasize the fundamental principle that the pre-requisite for a lasting peace in the Middle East remains an Israel with secure and defensible borders, beyond a strong shadow of a doubt.

A Sensible China Policy

We believe that our developing relations with the People's Republic of China offer an historic opportunity for American foreign policy—to bring more completely one-quarter of the world's population into a stable partnership with the world's community of nations, to provide a counterweight to Soviet expansionism, and to enhance economic relations that offer enormous potential for the advantage of both the United States and China.

A Peaceful Solution in Central America

We believe that expansion of Soviet influence in Central America endangers the security of the Western Hemisphere, but the single-minded pursuit of military solutions in Central America increases polarization and feeds radical alternatives. We believe that achieving the goal of an enduring peace in Central America requires that we press for a political settlement of the Civil war in El Salvador through negotiations leading to a cease-fire and a government that will pursue reforms and begin national reconstruction. The United States must oppose Soviet interference in the affairs of sovereign nations, and the best defense against Communist subversion in nations such a El Salvador will be a stable and just democratic society committed to its peoples' well-being and to the defense of their freedoms.

Curbing the Spread of Weapons.

We believe that security assistance can, in appropriate circumstances, help our friends meet legitimate defense needs. But distorting the focus of our international assistance to military sales, as has occurred over the past years, diverts developing country resources from economic and social problems. This ill-conceived policy ignites regional arms races and places sophisticated weapons in the hands of those who could one day turn them back upon us, our friends and our allies. We seek now, as in the past, effective,

international agreements to limit the transfer of conventional arms.

Promoting Economic Growth Throughout the World

We believe that there is no better way to deal with the problems of instability in developing nations than to assist in their economic growth and development, to train their peoples, and to increase our own investments whose potential dividends are building blocks in the structure of our own security. Just as Western Europe, after the success of the Marshall Plan, emerged as the single greatest market for American goods and services, so too do strong and thriving developing nations offer the single greatest market for American goods and services for economic growth here at home. This can be achieved only if we have the wisdom to pursue policies that assist these countries in their development. We should encourage the expanded development of indigenous energy resources—ranging from oil to renewable resources—both to assist their economic progress and to help diversify the world energy market, reducing the grip of OPEC and reducing competition for scarce oil.

Affirming American Values

We believe that America's ability to influence world affairs rests on what we stand for as a people. Our democratic institutions and our constant pursuit of justice, are indispensable to America's power abroad.

We are committed to insuring that America's traditional concern for freedom and human dignity will again be an integral part of our foreign policy not only because of moral and humanitarian concerns, but because of our conviction that the maintenance of a strong human rights position is essential to protect American national interests throughout the world. We need to understand that when America supports repressive dictatorships that violate the human rights of their citizenry, we play directly into the hands of the Soviets and their surrogates.

We, in effect, create our own self-fulfilling prophecy: in our effort to halt the spread of Communism, we throw our support to the very regimes that by their corruption and tyranny create the revolutionary opportunities that the Communists seek.

To insist that the affirmation of American values must be a central concern of American diplomacy is not to suggest that the United States should sever all relationships with oppressive or corrupt regimes, or that we believe in subordinating all other foreign policy objectives to carrying out a human rights crusade that ignores our own interests or political realities. It does mean that we should be far more consistent in the messages we send and the pressures we exert upon regimes that are violative of basic human rights. It does mean that we will be as critical of dictatorships of the right as of the left.

Policies which ignore basic human freedoms will continue to prove self-defeating. They make no contribution to our long-term security.

* * * * *

In the 1980s, we face new threats to our national security: the increased strategic nuclear capability of the Soviet Union; the enormous buildup of Soviet conventional forces; our dependence on imported oil; a shaky domestic economy; and, the existence throughout the world of international tension spots and conditions that breed Soviet expansion.

The Democratic Party is committed to meeting those threats head on. We believe that our country must strengthen its defenses and pursue a national security policy that meets, with resolve, every threat we will face in the 1980s.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

REPORT ON CERTAIN BUDGET DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 182

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of $6,500,000 for the Department of Commerce and a revision to an existing deferral increasing the amount deferred by $1,250,000 for the United States Information Agency (formerly the International Communication Agency).

The details of the deferrals are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *September 23, 1982.*

MESSAGES FROM THE HOUSE

At 3:16 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2405. An act to further amend the boundary of the Cibola National Forest to allow an exchange of lands within the city of Albuquerque, N. Mex.

The message also announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes; and

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service.

The message further announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 2271) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1468. An act to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony.

The message further announced that the House has passed the bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to the priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983–84, and 1984–85, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SIMON, Mr. FORD of Michigan, Mr. ANDREWS, Mr. PEYSER, Mr. WEISS, Mr. GAYDOS, Mr. PERKINS, Mr. ECKART, Mr. COLEMAN, Mr. ERLENBORN, Mr. ERDAHL, Mr. DENARDIS, and Mr. BAILEY of Missouri as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

S.J. Res. 113. Joint resolution to designate the week beginning November 8, 1981, as "National Home Health Care Week."

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness;

H.R. 5858. An act for the relief of Mocatta and Goldsmid, Ltd., Sharps Pixley & Co. Ltd., and Primary Metal and Mineral Corp.;

H.R. 6113. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972;

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week"; and

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible";

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:56 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2457) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, disagreed to by the Senate; and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DELLUMS, Mr. FAUNTROY, Mr. STARK, Mr. LELAND, Mr. GRAY, Mr. MCKINNEY, Mr. BLILEY, and Mr. PARRIS as managers of the conference on the part of the House.

The message also announced that pursuant to the provisions if 15 U.S.C. 1024(a), the Speaker appoints Mr. HAWKINS as a member of the Joint Economic Committee, vice Mr. Richmond, resigned.

The message further announced that pursuant to the provisions of section 3(a) of Public Law 86-380, the Speaker appoints Mr. FRANK as a member of the Advisory Commission on Intergovernmental Relations, vice Mr. RANGEL, resigned.

HOUSE BILLS REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness; to the Committee on Finance.

H.R. 5858. An act for the relief of Mocatta and Goldsmid, Limited, Sharps, Pixley & Co. Ltd., and Primary Metal and Mineral Corp.; to the Committee on the Judiciary.

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes; to the Committee on Appropriations.

HOUSE BILLS PLACED ON CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6113. An act to amend title I of the Marine Protection, Research, and Sanctuaries act of 1972; and

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 23, 1982, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible";

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2118. A bill to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes (with additional views) (Rept. No. 97-574).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1698. A bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 2552. A bill to protect the safety of intelligence personnel and certain other persons (Rept. No. 97-575).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1635. An act for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof (with additional and minority views) (Rept. No. 97-576).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

H.R. 861. An act to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes (Rept. No. 97-577).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 479. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 861; to the Committee on the Budget.

By Mr. DOLE, from the Committee on Finance, without amendment:

S. Res. 465. A resolution to express the sense of the Senate that the restoration of U.S. competitiveness in agricultural trade should be pursued through every legitimate means, and without reference to political or economic problems in nonagricultural areas (Rept. No. 97-578).

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Special Report of the Committee on Veterans' Affairs regarding Budget Allocations (Rept. No. 97-579).

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 2951. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-580).

By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes (Rept. No. 97-581).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Winifred Ann Pizzano, of Virginia, to be Federal Cochairman of the Appalachian Regional Commission; and

Jacqueline L. Phillips, of Maryland, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SCHMITT:

S. 2940. A bill to amend titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972; to the Committee on Commerce, Science, and Transportation.

S. 2941. A bill to authorize funds for the National Oceanic and Atmospheric Administration for fiscal year 1983 to carry out the provisions of the National Ocean Pollution Planning Act of 1978; to the Committee on Commerce, Science, and Transportation.

By Mr. COHEN (for himself, Mr. LEVIN, Mr. ARMSTRONG, Mr. DOLE, Mr. HEINZ, Mr. RIEGLE, Mr. DURENBERGER, Mr. BIDEN, Mr. BOREN, Mr. BURDICK, Mr. CANNON, Mr. DIXON, Mr. CHAFEE, Mr. COCHRAN, Mr. LEAHY, Mr. PELL, Mr. SASSER, Mr. CRANSTON, Mr. QUAYLE, Mr. THURMOND, and Mr. METZENBAUM):

S. 2942. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent determined to be appropriate; to the Committee on Finance.

By Mr. HART:

S. 2943. A bill to require the Director of the Federal Emergency Management

Agency to report to the Congress on the National Defense Stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. TSONGAS:

S. 2944. A bill to amend the Small Business Act to provide that, for purposes of the waiver of the $500,000 limitation on disaster loans, the owner of a building which contains the principal place of business of at least one-third of the private employers in a downtown business district shall be treated as a major source of employment; to the Committee on Small Business.

By Mr. MOYNIHAN:

S. 2945. A bill to amend the Federal Reserve Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ:

S. 2946. A bill to amend the Tariff Schedules of the United States with respect to corduroy and veleteen; to the Committee on Finance.

By Mr. BENTSEN:

S. 2947. A bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations; to the Committee on Finance.

By Mr. DOLE:

S. 2948. A bill to promote the development of nonanimal methods of research experimentation, and testing, and to insure humane care of animals used in scientific research, experimentation, and testing; to the Committee on Labor and Human Resources.

By Mr. KASTEN:

S. 2949. A bill for the relief of Tsun-lit Poon; to the Committee on the Judiciary.

By Mrs. HAWKINS:

S. 2950. A bill to require a study on the safety and effectiveness of the pertussis vaccine; to the committee on Labor and Human Resources.

By Mr. STEVENS, from the Committee on Appropriations:

S. 2951. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. THURMOND:

S. 2952. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process; to the Committee on Finance.

By Mr. PELL (for himself, Mr. STAFFORD and Mr. CRANSTON):

S. 2953. A bill to provide for a program of financial assistance to States in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. CRANSTON):

S. 2954. A bill to amend part E of the Higher Education Act of 1965 to provide cancellation of loans for certain teachers who enter the teaching profession in the field of mathematics, science, or computer education; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself, Mr. HATFIELD, Mr. STAFFORD, Mr. BAUCUS, Mr. COHEN, Mr. DANFORTH, Mr. GORTON, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. MATHIAS, Mr. MOYNIHAN, Mr. RANDOPH, Mr. RIEGLE, Mr. WEICKER, and Mrs. KASSEBAUM):

S.J. Res. 253. Joint resolution to assure that regulations governing the special supplemental food program for women, infants, and children (WIC) enhance the health status of participants in the program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JEPSEN (for himself, Mr. EAGLETON, Mr. DANFORTH, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. KENNEDY, and Mr. HOLLINGS):

S.J. Res. 254. Joint resolution designating September 22, 1983, as "American Business Women's Day."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCLURE from Committee on Energy and Natural Resources:

S. Res. 479. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 861; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART:

S. 2943. A bill to require the Director of the Federal Emergency Management Agency to report to the Congress on the national defense stockpile, and for other purposes; to the Committee on Armed Services.

STRATEGIC AND CRITICAL MINERALS INVENTORY ACT OF 1982

Mr. HART. Mr. President, although most Americans realize our Nation is dangerously vulnerable to a cutoff of imported oil, few are aware we are also quite vulnerable to a cutoff of the strategic and critical minerals demanded by our technologically advanced economy.

We are a have-not nation with respect to many critical and strategic minerals. We import over 90 percent of our needs in five key minerals—bauxite, magnesium, cobalt, chromium, and titanium. Over 50 percent of the tin, nickel, zinc, and tungsten we use comes from foreign sources. Moreover, many of these crucial ingredients in our industrial base come from evolving, unfriendly, or unstable nations. The Soviet Union, for example, is the world's largest producer of titanium sponge—an essential component of jets, missiles, and airframes. And many of these minerals come from potentially turbulent regimes in southern Africa.

Excessive dependence on other nations for critical and strategic minerals—as with excessive dependence on other nations for oil—is an invitation to more of the threats of recent times: Supply cutoffs, inflationary price increases, and the possibility of blackmail by foreign governments. Our economic health requires a secure, uninterrupted supply of these resources.

Since World War II, our Government has maintained a strategic stockpile of 93 key commodities—including the many minerals critical to our security. One year ago, the President directed the Federal Emergency Management Agency (FEMA) to begin purchasing critical and strategic minerals to meet stockpile goals. Although this is the first major effort to replenish the stockpile of critical and strategic materials since the 1960's—we are still critically deficient in a number of areas. This represents a dangerous breach in our national security.

We need a national strategic minerals policy. Such a policy would prepare us not only for supply interruptions in the present, but also for a future based on conservation, recycling, and the production of domestic substitutes. But first we need to know how dependent we really are. We need to know the consequences of supply interruptions for each mineral critical to our Nation. Currently, it is difficult to reach a precise estimate—for each mineral—of the degree of our vulnerability or of the adequacy of our stockpiles. And yet this information is essential if we are to have a strategic minerals policy that assures us an uninterrupted supply of these precious materials.

To acquire this information, I am today introducing legislation that would direct FEMA, in consultation with the Department of Defense, Energy, and Interior, to prepare a report on the Nation's strategic and critical minerals. This report would contain information on the location and quantity of our mineral resources; the adequacy of our stockpiles; and the degree of our vulnerability to supply interruptions—and the likely consequences—for each of these critical and strategic minerals. Such a comprehensive report is an important first step in what I hope will be an effective national critical and strategic minerals policy.

We have paid dearly as a nation for our excessive dependence on foreign oil. A product society would take action now to lessen its dependence on other resources just as important to our economic health and national security.

By Mr. BENTSEN:

S. 2947. A bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations; to the Committee on Finance.

CERTAIN BUSINESS TAXABLE INCOME OF NONPROFIT CHARITABLE ORGANIZATIONS

● Mr. BENTSEN. Mr. President, today I am pleased to introduce legislation that will insure that many of America's military veterans can continue to receive the benefits and services provided them by veteran service organizations. My bill amends the Internal Revenue Code to exempt from

taxation income received by nonprofit, charitable organizations through the exchange/rental or sale of names and addresses from donor or membership lists.

This revision in the tax code is essential to the continued operation of nonprofit organizations such as the Disabled American Veterans (DAV). Chartered by Congress in 1932, the DAV membership consists of veterans who incurred service-related wounds, injuries, or disease as a result of wartime military service. Over 700,000 veterans have joined the Disabled American Veterans, which provides many benefits and services to its membership and the veteran community at large. For example, the DAV represents veterans, their dependents and survivors before the Veterans' Administration in determining compensation, pension, hospitalization and other benefits that they are entitled to. These helpful services are paid for with contributions and funds raised by the DAV.

Mr. President, my legislation insures that the DAV and other nonprofit organizations can continue to solicit tax-deductible contributions from their donor lists. The DAV maintains a list of approximately 6 million names. Donor list attrition, as a result of factors such as death or change of address, translate to a loss of approximately 700,000 names a year from the mailing list. In order to replace these names, the DAV rents and exchanges its list with other group organizations, including both public, commercial, and private exempt organizations.

Under current law, income earned by an exempt organization from a trade or business that is carried on regularly and is not substantially related to the activities constituting the basis for the organization's tax exemption, is considered unrelated business income and is subject to Federal taxation. The Court of Claims and the Internal Revenue Service recently ruled that the DAV's income from donor list rental was unrelated business income and, therefore, subject to taxation. Since the DAV's sole revenue raising function is from the donor list, I believe that this activity is substantially related to the nonprofit charter and function of the DAV and should be tax-exempt. My bill amends section 513 of the Internal Revenue Code to state clearly that income derived from this activity will be tax-exempt for nonprofit organizations.

Our war veterans have paid a high price for the freedoms and opportunities that we enjoy in America. Organizations like the Disabled American Veterans provide important services for those persons who have made personal sacrifices and suffered personal losses in the defense of our country. My amendment assures that the DAV and other organizations maintain their strong link with the millions of citizens they serve. In addition, this legislation reflects the type of contribution that the Congress can make to the private sector, which is accepting more and more of the responsibility for providing our national needs.

Mr. President, I urge the Senate to act on this legislation quickly and favorably. And, I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 513 of the Internal Revenue Code of 1954 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) EXCHANGES, RENTALS, AND SALES OF NAMES FROM DONOR LISTS OR MEMBERSHIP LISTS.—The term 'unrelated trade or business' does not include, with respect to an organization subject to the tax imposed by section 511, any trade or business of such organization which consists of exchanging, renting, or selling names and addresses of donors to, or members of, such organizations."

(b) The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.●

By Mr. DOLE:

S. 2948. A bill to promote the development of nonanimal methods of research, experimentation, and testing, and to assure humane care of animals used in scientific research, experimentation, and testing; to the Committee on Labor and Human Resources.

HUMAN CARE AND DEVELOPMENT OF SUBSTITUTES FOR ANIMALS IN RESEARCH ACT

● Mr. DOLE. Mr. President, today I am introducing a bill to promote nonanimal or alternative methods of research and to insure the humane treatment of animals used in scientific research.

I would state at the outset that this legislation in no way affects animals used for food production. It is important to those of us who are concerned with food production that steps are taken to distinguish between the type of legislation addressing truly humane issues versus the types of legislation that more radical factions would propose which, however well intentioned, would ultimately cause the disruption of our production marketing system.

Interest in this subject has built over the past decade and several resolutions and bills have been introduced seeking to promote the development of methods of research that would not use animals or would use fewer animals and cause reduction of pain and suffering.

A similar bill, H.R. 6928, has been introduced on the House side after hearings in the Subcommittee on Science, Research and Technology. After continuing discussions and revisions of drafted proposals with members of the animal welfare and scientific communities, this legislation resulted.

Specifically, this bill places emphasis on the development of methods of research and testing that do not require live animals, or would reduce the number of animals used and reduce pain. The Secretary of Health and Human Services is authorized to make awards for such alternative methods. An advisory panel appointed by the Secretary will insure consideration is given to such alternative programs and advise him of his responsibilities in this area. I have specified in the Senate version of this legislation that the scientific advisory panel would, after 3 years, report to the Secretary of Health and Human Services on the impact of this act on industry costs, research, product prices and progress made in lab accreditation. It is intended this study will not require additional Federal outlays. The Secretary will direct the national toxicology program to significantly increase its resources for research and development on new methods and validation of nonanimal research testing.

This bill would insure humane treatment of lab animals by requiring federally funded research entities to be accredited by a private agency designated by the Secretary. Research entities will have 10 years to become fully accredited and in the interim they can receive provisional accreditation if they have demonstrated progress toward the 10-year goal. Each research entity would maintain an animal care committee including a veterinarian and a nonmember of the entity to review ongoing research programs and proposed programs. The committee would make semiannual inspections of the facilities and issue their report to the appropriate Federal agency.

The bill establishes certain procedures that peer reviewers must look for in research proposals involving the direct use of conscious animals. As I mentioned earlier, the legislation would exempt animals used for agriculture production and is not opposed by the National Cattlemen's Association or the National Pork Producer's Association. The legislation will sunset after 10 years unless reacted.

I believe this bill will achieve a balanced and fair compromise of a problem which has received increased attention over the last few years. It will provide no new budget authority or tax expenditures yet it will allow laboratory techniques to keep pace with advancing technology.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF HUMANE CARE AND DEVELOPMENT OF SUBSTITUTES IN RESEARCH ACT

TITLE I

The Secretary of Health and Human Services (HHS) is authorized to make awards to sponsor research into methods that 1) do not use live animals, 2) reduces the number of animals used or produces less pain.

An advisory panel will ensure every consideration will be given to such programs for funding and they will advise the Secretary of his responsibilities in this area. The panel will report to the Secretary after 3 years the impact of this legislation on industry costs, research, product prices and progress made in lab accreditation.

The Secretary will direct the National Toxicology Program to significantly increase its resources for R&D on new methods and validation of nonanimal research testing.

TITLE II

To receive federal funding, a research entity must be accredited by a private agency designated by the Secretary. 10 years will be allowed for full accreditation to allow for structural changes and updating facilities. Provisional accreditation will be given to entities demonstrating progress towards the 10 year goal.

Research entities must maintain an animal studies committee which includes a veterinarian and a non member of the entity. The committee will make semiannual inspections of the facilities to review research.

TITLE III

Establishes certain procedures that peer reviewers must look for in research proposals involving the direct use of conscious animals. For example: proper use of drugs; no animal will be used in more than one major operation.

TITLE IV

Exempts animals used for food production.

TITLE V

Sunsets after 10 years unless reenacted.●

By Mrs. HAWKINS:

S. 2950. A bill to require a study on the safety and effectiveness of the pertussus vaccine; to the Committee on Labor and Human Resources.

PERTUSSIS AND PERTUSSIS VACCINES STUDY ACT OF 1982

● Mrs. HAWKINS. Mr. President, this Nation's childhood immunization program is a proven safeguard against pain, suffering, and death. Thanks to strong Federal involvement in immunization programs, this country has seen a dramatic decline in severn preventable childhood diseases: Polio, measles, rubella, diphtheria, tetanus, pertussis, and mumps. Don't forget, though, that in 1952 a poliomyelitis outbreak struck 58,000 Americans, causing 14,000 deaths and leaving thousands of others confined to wheelchairs and in braces for life. Today, because of the antipolio vaccine, this crippling disease has been all but wiped out in the United States.

Earlier this year, when the immunization program was threatened by reduced funding, my Subcommittee on Investigations and General Oversight immediately took action. I became alarmed to hear that lower budget levels would result in 33 percent fewer children being immunized against the seven deadly diseases. It is unconscionable for us to endanger our children, and ourselves, to another explosive epidemic. Fortunately, because of the public attention that the subject received, the funding levels will be restored.

Unfortunately, I learned that aside from issues of funding and public disinterest, the childhood immunization program is threatened by a more potent enemy: fear. The public fears that immunization will prove an even greater threat to children than the disease. This is particularly true of the pertussis component of the diphtheria pertussis tetanus vaccine. DPT is sometimes accompanied by encephalopathy and subsequent permanent neurologic damage. Death has also followed pertussis vaccination. The problem is that no one seems to be able to anwer, definitively, how often adverse reactions occur or whether we are experiencing a true cause-effect situation.

It would indeed be tragic if effort to eliminate or control whooping cough in this country we are hampered because people acting out of fear and ignorance see fit to oppose the pertussis vaccine. For this reason, I am introducing legislation that would give the immunization program a shot in the arm. My legislation would reduce the risk of adverse reactions from the pertussis vaccine. It promotes the development and use of the safest, most effective pertussis vaccine possible. My legislation also promotes more careful monitoring, more thorough reporting, and better recordkeeping of adverse reactions. The legislation would require an in-depth study of problematic questions about the pertussis vaccine. Relevant Government agencies would study the issues and make recommendations for administration and legislative changes to Congress.

Let us do all we can to prevent the revival of a serious childhood epidemic. Public policy dictates that an effective and safe pertussis vaccine program be implemented—to save money, and our children's health.●

By Mr. THURMOND:

S. 2952. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process; to the Committee on Finance.

PAYMENT OF DISABILITY BENEFITS UNDER CERTAIN CIRCUMSTANCES

Mr. THURMOND. Mr. President, I am introducing legislation today to protect disabled social security recipients from having their benefits discontinued prematurely during periodic eligibility reviews by the Social Security Administration.

For the benefit of my colleagues who may not have had an opportunity to focus on this problem, let me briefly outline the background and need for this legislation. In response to the congressional directive contained in the 1980 social security amendments, the Social Security Administration has instituted a practice of reviewing each disability case at least once every 3 years. Implementation of these continuing disability reviews as required by Congress has led to a dramatic increase in the number of recipients whose payments are abruptly and erroneously terminated, only to eventually be reinstated on appeal when the cases come before an administrative law judge. This appeal process can take months, however, and in the meantime the disabled persons may be without any source of income, resulting in extreme hardships for the affected individuals and their families.

Mr. President, I want to make it clear that I have no quarrel with the concept of periodic disability case reviews. Indeed, I strongly support the need for such continuing reviews in order to prevent abuses of the social security disability system, to protect its solvency, and to ensure that only those truly deserving and qualified for disability payments continue to receive them. At the same time, however, the review procedure must be fair and just. It should be conducted very carefully and thoroughly, with compassion and understanding for the persons most directly impacted by the review process—the recipients of these disability payments and their dependent family members. Unfortunately, in too many instances that have come to my attention seeking my assistance, the elements of carefulness, fairness, and compassion seem to have been lacking.

Regardless of whether this is due to insufficient personnel to handle the workload, carelessness or insensitivity on the part of some agency employees, or flaws inherent in the operation of the disability program, the Social Security Administration and Congress have a responsibility to take every reasonable and appropriate action to correct these problems. My bill is an effort in that direction.

Mr. President, this legislation is not intended to cure all of the problems associated with the social security disability program, which is in need of comprehensive congressional review and reform. Rather, it is offered as a short-term measure to insure that program recipients are protected from unnecessary hardship pending a thorough examination of the entire disability program by Congress.

During my personal contacts and correspondence with the citizens of my State and others across the Nation, I have become greatly con-

cerned about the increased volume of social security disability cases that have come to my attention. Many, if not most, of these constitute previous recipients who have been subjected to the review process and who have been ruled ineligible for further disability payments. In many instances, these terminations appear to have occurred without any significant improvement in the conditions which qualified the individuals for disability benefits in the first place.

In the past week alone, Mr. President, I received 55 written requests for assistance from constitutents facing reevaluation and possible termination of their disability benefits. While experience indicates that a high percentage of those terminated will eventually get their disability benefits reinstated—most frequently, when they finally obtain a hearing before an administrative law judge—the financial hardships arising from months of waiting for their appeal to be processed are simply more than some families can stand.

Mr. President, I wish to cite just two examples from among the many cases in which I have been asked to render assistance. In one unfortunate situation, a former veteran has been unable to work for the last 3 years due to frequent hospitalization. He had been receiving social security disability benefits but was then abruptly terminated after a review of his file. The veteran has appealed the termination decision on the basis that his condition of total disability has not improved and he is still unable to work. After 7 months without benefits, he and his family are on the brink of financial disaster, and a final decision is still pending before an administrative law judge.

In another typical case, an individual was forced to sell his home in order to pay medical expenses and eventually declare bankruptcy before recent reinstatement of his disability benefits. This man and his family of five would not have had to endure these severe hardships if the legislation I am proposing had been in effect. These cases are indicative of the difficulties which many recipients are facing when their benefits come up for reevaluation. I am distressed by this situation, and I feel something must be done to ease the burden of our entitled disabled citizens.

Mr. President, the bill I am proposing would amend the current law under which payments are terminated 2 months following a determination by the State agency that a recipient is no longer disabled. In light of the statistics indicating that some two-thirds of those terminated are eventually reinstated on appeal by administrative law judges, I believe a more sensible and compassionate approach would be to continue paying benefits during the appeal process until there has been an opportunity for a hearing before an administrative law judge and the judge has concurred in the agency decision that benefits should be terminated.

There would, however, be certain exceptions and conditions associated with the requirement in my bill that benefits continue in order to prevent abuses. First, the disability recipient whose case is reviewed and who is initially ruled ineligible for further benefits would have to elect to receive payments during the appeal process with full knowledge and agreement that repayment will be required if the appeal is unsuccessful. Second, benefits could be sooner terminated if a recipient, without good cause, fails to appeal an adverse decision, fails to meet prescribed deadlines, or otherwise does not fully cooperate with the Social Security Administration in the reconsideration and appeal process. Third, the agency would not have to continue benefits in any case in which it finds that the recipient is not only able to work but is in fact performing gainful employment and receiving substantial earnings from work. Finally, the Social Security Administration would be able to discontinue benefits in any case which is deemed to be "patently nonmeritorious and without substantial evidence" to support the claim of continued disability.

Mr. President, other Senators have introduced somewhat similar legislation on this same subject, but I believe the above-described safeguards that I have built into my bill are unique and necessary. Indeed, there may well be further improvements that could be made in the legislation I am now submitting. I believe, however, that the concept I am offering is a good one and that Congress needs to address as soon as possible the problems and undue hardships experienced in the continuing reviews of social security disability cases. My bill is offered in that spirit, and I hope it receives most careful consideration by other Senators and the Finance Committee.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing with respect to the determination that he is not so entitled is made under section 221(d),

such individual may elect to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month for which (under such determination) such benefits are no longer otherwise payable and ending with the month preceding the month in which a decision is made after opportunity for such a hearing. If such decision, made after opportunity for such a hearing, provides that such individual is entitled to such benefits, and the Secretary provides for a further review of such decision by the Appeals Council or otherwise, the additional period described in the preceding sentence shall and with the month preceding the month in which a final determination by the Secretary is rendered. Such election shall be made in such manner and form and within such time as the Secretary shall by regulations prescribe, and shall include a signed acknowledgment by such individual that such benefits under this title may later be determined to be overpayments and subject to repayment, as provided in paragraph (2).

"(2) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1) pending a hearing, and the decision after opportunity for such hearing (or after further review provided for by the Secretary) affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title.

"(3) The provisions of paragraph (1) shall not apply in any case in which—

"(A) such individual fails to cooperate, without good cause, in furnishing information with respect to his disability or in otherwise complying with the procedures and requirements established under this title;

"(B) the termination of benefits is based on a finding made in accordance with subsection (d)(4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity; or

"(C) the Secretary determines that such individual's claim for continuation of such benefits is patently nonmeritorious and without substantial evidence to support such claims.".

(b) The amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this Act, or were made prior to such date but with respect to which a timely request for a hearing under section 221(d) of the Social Security Act was made on or prior to the date of the enactment of this Act and with respect to which such hearing was not held prior to such date.

By Mr. PELL (for himself, Mr. STAFFORD, and Mr. CRANSTON):

S. 2953. A bill to provide for a program of financial assistance to States

in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. CRANSTON):

S. 2954. A bill to amend part E of the Higher Education Act of 1965 to provide cancellation of loans for certain teachers who enter the teaching profession in the field of mathematics, science, or computer education; to the Committee on Labor and Human Resources.

EDUCATION FOR ECONOMIC SECURITY LEGISLATION

Mr. PELL. Mr. President, on behalf of myself and my two distinguished colleagues, Senator STAFFORD and Senator CRANSTON, I am today introducing the Education for Economic Security Act. This legislation deals with our Nation's capacity to meet and cope with the high technology changes that are occurring with ever-increasing rapidity in our economy. In addition, I am introducing a companion piece, the Teacher Training Assistance Act, to deal with the teacher shortage in math and science.

Within the present decade, it is estimated that our Nation will face a shortage of some 2½ million skilled workers. Many, if not most, of these jobs will occur in high technology industries. A worker in these industries must be well-prepared and have an excellent educational background and training in mathematics, science, and computer learning and instruction. "The Education for Economic Security Act" is designed specifically to meet this need by providing funds to the States to upgrade education in mathematics, science, computer learning and instruction, foreign languages, and employment-based vocational training.

To meet the immediate need for highly skilled workers, this bill provides funds at both the secondary and postsecondary education levels for employment-based vocational training. The States would have considerable latitude in the use of these funds for programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction. Community and junior colleges and vocational education facilities and schools would therefore be able to tailor their education and training programs to particular industries within the communities and the areas which they serve.

The problem of meeting the needs of a high technology society, however, go far beyond the present decade. We must be very concerned, therefore, with the kind of mathematics, science, and computer learning and instruction preparation that is being given in our Nation's elementary and secondary schools. In this regard, the present situation certainly does not bode well for the future.

Only one-third of our Nation's high schools offer more than 1 year of mathematics or science. At least one-half of all high school students in the United States have taken no more than 1 year of biology, no other science, and no mathematics beyond algebra. In the last decade, the shortage of science and equipment in the schools has cut, by more than half, the exposure to any form of laboratory experience of even those students who do take science courses.

Compared with the Soviet Union, we fare very badly indeed. The average American high school student takes 1 year of geometry compared to the Soviet student's 10-year geometry curriculum. Only 16 percent of U.S. high school students take 1 year of chemistry, including 1 year of organic chemistry.

To alleviate this situation, the legislation which Senator STAFFORD, Senator CRANSTON, and I are introducing today would provide funds to local education agencies for school programs in mathematics, science, and computer learning and instruction. Again, as in the case of the vocational education programs, local schools would have considerable latitude in fashioning educational programs that would meet the students' needs. The only requirement in the Federal legislation would be that the program implemented at the local level involve a substantial number of students and several grade levels. We believe this is important so that the programs developed will be comprehensive and so that they will reach into the elementary grades and start preparing children for careers that will require this kind of training but which the children may not enter for 10 to 15 years to come.

As we improve education and training for the needs of our domestic economy, we must also be concerned with our role in the world economy. In this regard, I am alarmed that enrollments in foreign language courses have decreased by nearly one-fifth in the past decade and that less than one-half of the high school graduates in our country will have had even 1 year of a foreign language. More students and adults are now learning English in China than there are English-speaking people in the United States. In an increasingly interdependent world economy in which the United States must play a large, competitive role, this situation is most disconcerting.

The Education for Economic Security Act provides funds to both local education agencies and institutions of higher education to upgrade programs of foreign language instruction. We do not specify the languages to be studied, and we do not attempt to require a particular kind of program. We believe this is best left to the individual institutions and agencies. We simply recognize the need for an intensified effort in foreign language instruction and we offer an incentive to provide such instruction through Federal funding assistance.

While we face a critical problem with respect to the number of students who take math and science courses, we face an equally severe problem with respect to teachers. U.S. News & World Report has said that alleviating the math teacher shortage is one of the most immediate and pressing tasks facing colleges and school systems. This shortage is, in part, the result of increased competition from private industry. For instance, schools are losing five times as many science and mathematics teachers every year to industry as to teacher retirement. If the present exodus of qualified math and science teachers from secondary schools continues, in 10 years, our Nation will have suffered a net loss of 35 percent.

Today, 48 percent of the teaching positions in math are either vacant or filled by uncertified teachers. Unfortunately, this situation does not show signs of reversal. A study by the National Science Teachers Association over the last decade reveals a 77-percent decline in the number of secondary school math teachers being trained and a 65-percent decline in science teachers.

The tragedy is that this shortage is occurring at the same time that we face a surplus of teachers in areas such as English and history. To remedy this serious situation, the legislation we are proposing would provide funds to institutions of higher education to accomplish three objectives: To train new teachers in math, science, and computer learning and instruction; to retrain teachers from other disciplines to teach mathematics, science, and computer technology; and to provide inservice training for current math, science, and computer technology so that those teachers might improve and upgrade their skills.

The way in which the program is developed, the kind of incentives provided, and the specifics of the program are left up to the State higher education agencies and the participating institutions of postsecondary education. There is wide latitude given with respect to how the Federal funds are used within the context of meeting the very pressing need for more mathematics and science teachers.

In addition, the companion bill, "The Teacher Training Assistance Act," can play an important role in helping end the math and science teacher shortage that we are now expecting. This legislation would apply

only to individuals entering the teaching profession in mathematics, science, and computer technology. The teacher would be able to cancel 15 percent of his or her NDSL obligation each year, for up to 5 years or 75 percent of the teacher loan obligation. In return, the teacher would be obligated to remain in the teaching profession for 5 consecutive years. We believe that enactment of this legislation will be of considerable help in encouraging young men and women to become math and science teachers.

Mr. President, today we face an immediate need for more highly skilled men and women to meet the needs of new and emerging technologies. We are confronted with the need for more elementary and secondary school students to receive education and training in mathematics, science, and computer learning and instruction. And we are beset by a severe shortage of math and science teachers.

Failure to address these problems will most certainly have an adverse impact upon our Nation and its position in the world community. The legislation we are introducing today can play a significant role in reversing the present situation, and in helping provide our Nation with the strong, vital and well-trained work force it must have in this decade and the one ahead.

I urge my colleagues to give this legislation their most careful consideration, and I ask that the full text of both bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for Economic Security Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to make financial assistance available to States to improve instruction and learning in mathematics, science, computer education, foreign languages, and vocational education and thereby contribute to strengthening the economic security of the United States.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Governor" means the chief executive of any State.

(2) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (i) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (A), (B), (D), and (E). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (A), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(3) The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, country, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term "Secretary" means the Secretary of Education.

(6) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of public higher education, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

PROGRAM AUTHORIZED

SEC. 4. (a) The Secretary is authorized to make grants to States, in accordance with the provisions of this Act, to pay the Federal share of the costs of strengthening instruction in mathematics, science, computer education, foreign languages, and vocational education.

(b) There are authorized to be appropriated $400,000,000 for each of the fiscal years 1984, 1985, and 1986 to carry out the provisions of this Act.

ALLOTMENTS TO STATES

SEC. 5. (a)(1) From the amount appropriated to carry out this Act for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amount so appropriated as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 percent of the amount appropriated under section 4(b) in any fiscal year.

(2) For the purpose of this subsection, the term "state" does not include Guam, American Samoa, or the Virgin Islands.

(3) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this Act which the Secretary determines will not be required for that fiscal year to carry out this Act shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

(c) There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of the amount appropriated for such year under this Act. The Secretary shall allot the amount appropriated pursuant to this subsection among Guam, American Samoa, and the Virgin Islands according to their respective needs for assistance under this Act. In addition for each fiscal year the Secretary shall allot from such amount to—

(1) the Secretary of the Interior the amounts necessary for programs authorized by this Act for children in elementary and secondary schools operated for Indian children by the Department of the Interior, and

(2) the Secretary of Defense the amounts necessary for programs authorized by this Act for children in overseas dependent schools of the Department of Defense.

The terms upon which payments for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined by such criteria as the Secretary determines will best carry out the purposes of this Act.

IN-STATE APPORTIONMENT

SEC. 6. (a) Sixty-five per centum of each State's allotment under section 5 of this Act shall be used for elementary and secondary and vocational education programs in accordance with section 7.

(b) Thirty-five per centum of each State's allotment under section 5 of this Act shall be used for higher education programs in accordance with section 8.

ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION PROGRAMS

SEC. 7. (a) The amount apportioned under section 6(a) from each State's allotment, shall be used by the State educational agency to strengthen elementary, secondary, and vocational education programs in accordance with the provisions of this section.

(b)(1) Forty per centum of the amount apportioned under this section shall be distributed to local educational agencies within the State to be used for mathematics and science instruction, foreign language instruction, and computer education programs, together with instructional materials related to such instruction and programs.

(2) The State educational agency shall distribute funds under this subsection to local educational agencies in the State based upon—

(A) the size of each local educational agency as determined by the number of children aged 5 to 17, inclusive, in the schools of such agency; and

(B) the size of the proposed program in terms of the number of students to be served and the number of grade levels involved in the program.

(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this Act so that a substantial number of students in the schools of such agency are served and several grade levels of instruction in such schools are involved in the program.

(c)(1) Fifteen percent of the amount apportioned under this section shall be used for foreign language instruction in the schools of local educational agencies in the State.

(2) The State educational agency shall distribute funds under this subsection in accordance with criteria described in paragraph (2) of subsection (b) of this section.

(d) Ten percent of the amount apportioned under this section shall be used by the State educational agency to assist exemplary programs in mathematics instruction, science instruction, foreign language instruction, and computer learning and instruction, together with instructional materials and necessary technical assistance, and the dissemination of information to all local educational agencies within the State relating to the exemplary programs assisted under this subsection.

(e)(1) Thirty-five percent of the amount apportioned under this section shall be used, by the State agency responsible for vocational education, for employment based programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction. Ten per centum of the 35 per centum available under this subsection shall be used for programs described in the preceding sentence conducted in correctional institutions.

(2) The remaining 15 percent of the amount available under this section shall be used for foreign language instruction.

(f) The amount available under this section shall be distributed among vocational education schools and area vocational schools in accordance with criteria established by the State agency responsible for vocational education.

HIGHER EDUCATION PROGRAMS

SEC. 8. (a) The amount apportioned under section (6)(b) from each State's allotment under this Act shall be used for higher education programs in accordance with this section.

(b) Fifty per centum of the amount available under this section shall be used for—

(1) elementary and secondary school teacher training programs for teachers who will specialize in teaching mathematics, science, and computer learning and instruction;

(2) retraining of elementary and secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, or computer education to specialize in the teaching of mathematics, science, or computer education; and

(3) in-service training for elementary and secondary school teachers of mathematics, science, and computer education designed to improve their skills.

(c)(1) Thirty-five per centum of the amount available under this section shall be used for employment-based progrmas, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction and basic engineering instruction.

(2) The amount available under this subsection shall be distributed among institutions of higher education, including community and junior colleges, in accordance with criteria established by the State agency for higher education.

(d) Fifteen per centum of the amount available under this section shall be used for foreign language instruction in institutions of higher education within the State.

(e) The State agency for higher education shall distribute funds available under this section among institutions of higher education in the State who apply for payments under this section.

STATE APPLICATION

SEC. 9. (a) Each State which desires to receive grants under this Act shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary reasonably requires. Each such application shall—

(1) designate the State educational agency for the purpose of programs described in section 7 (b), (c), and (d), the State agency for vocational education described in section 7(e), and the State agency for higher education for programs described in section 8, as the agency or agencies responsible for the administration and supervision of the programs described in sections 7 and 8, as the case may be;

(2) describe the programs for which assistance is sought under the application;

(3) describe assurances that payments will be distributed by the State in accordance with the provisions of sections 7 and 8, as the case may be;

(4) provide procedures for submitting applications—

(A) by local educational agencies, area vocational schools, and correctional institutions, for programs described in section 7; and

(B) by institutions of higher education for programs described in section 8, within the State for distribution of payments under this Act, and for approval by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

(5) provide assurances that Federal funds made available under this Act for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such funds, be available for the purposes described in sections 7 and 8, and in no case supplant such funds; and

(6) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this Act, and (B) to ensure the verification of the programs assisted under the application.

(b) The Secretary shall expeditiously approve any application that meets the requirements of this section.

PAYMENTS

SEC. 10. (a) From the amounts appropriated under section 4(b), the Secretary shall pay, in accordance with the provisions of this Act, the Federal share of the costs of the programs described in the application approved under section 10(b).

(b)(1) The Federal share for each fiscal year shall be 50 per centum.

(2) Payments under this Act shall be made as soon after approval of the application as practicable.

S. 2954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 465(a)(2) of the Higher Education Act of 1965 is amended—

(1) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "or", and

(2) by adding at the end thereof the following new clause:

"(E) as a full-time teacher in a public or other nonprofit elementary or secondary school system who teaches mathematics, science, or computer education if the teacher enters into an agreement with the Secretary to teach for a period of not less than 5 consecutive years.".

(b) Section 465(a)(3)(A) of such Act is amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word "and", and

(2) by adding at the end thereof the following:

"(iv) in the case of service described in clause (E) of paragraph (2) not to exceed a total of 75 per centum of such loan at a rate of 15 per centum for each year of qualifying service.".

Mr. CRANSTON. Mr. President, I am pleased to join as cosponsor—with my colleagues Senator PELL and Senator STAFFORD—of the Education for Economic Security Act. The bill provides a program of financial assistance

to States for the purpose of strengthening instruction in mathematics, science, computer education and learning, foreign language instruction, vocational education, and other areas pertinent to public education in an age of new and emerging technologies.

Education for an age of technology requires new thinking about schooling priorities. Right now, we have a curriculum so weak in science and technology that U.S. schools rank closer to those in the developing nations of the world than to schools in the industrial democracies which we consider our peers. Two-thirds of U.S. school districts allow graduation from high school with no more than one course in science or mathematics. About half of all high school graduates have had no mathematics or science beyond the 10th grade. Less than a third of our high schools teach calculus. Only about 1 in 10 high school graduates has studied physics.

Critical, sophisticated new growth industries—computers, robotics, and biotechnology—to name a few—demand workers skilled in technology and a populace conversant with the rudiments of science. Yet, we are graduating a generation of illiterates in science and technology. The implications for national productivity are staggering. Every evidence we have is that high-technology industries—the using of advanced math, science, and the techniques of physics created since World War II to produce a product—will maintain rapid job growth. In my own State of California alone, the California Department of Economic and Business Development has estimated the growth of high-technology jobs at 327,000 from 1980 to 1990, a growth of 51.4 percent over the decade.

Overseas, our competition inches ahead of us. Japan—with a population about half the size of ours—graduated about 24,000 more engineers last year than did the United States. Overall achievement scores in Japan in science and math are the highest in the non-Communist world, especially with respect to problem solving skills. The U.S.S.R. in 1974 had nearly twice the number of engineers as did the United States. The number of engineering graduates in the U.S.S.R. has risen to 300,000 in recent years, compared with 63,000 in the United States.

A strong high school background in math and science is especially critical to prepare professional workers in high-technology industries. But even workers not directly employed in high-technology industries also need a level of technological literacy, for a large number of jobs will be affected by expanding technologies. Pacific Gas & Electric Co. has estimated that 80 percent of its new employees need to be computer literate.

One of the key areas that needs to be addressed is qualified instructional personnel. What we know about the current availability of teachers of math and science is, at best, discouraging: There is a critical shortage of qualified teachers: 50 percent of high school science and mathematics teachers employed, nationwide, by high schools this year are unqualfied and teach only by emergency certificate. The number of secondary school mathematics teachers being trained has declined by 77 percent over the past 10 years. Science teacher training has dropped 65 percent. The results have serious implications for America's ability to compete in a technological world.

In California, 170 long-term emergency credentials were issued in math for 1980–81 because of the shortage of math teachers. A teacher does not necessarily need college credits or experience in the subject area in which an emergency credential is issued.

The shortage is getting worse, if the Los Angeles Unified School District, the hardest hit with the shortage in the State is any indication. In 1981–82, 333 long- and limited-term emergency credentials were issued compared with a total of 169 credentials of both types issued in 1980–81.

Recent national studies show math and physics to be the areas of greatest shortfall in teacher supply, with shortages that have grown progressively worse since 1976.

Another recent national survey shows over 50 percent of newly employed science teachers as being employed on an emergency basis. The figure is a whopping 84 percent for the Pacific States.

A 1981 survey showed that of a sample of almost 60,000 teachers who teach science 50 percent of the time or more, 18 percent were nonscience majors; 26 percent of these 18 percent were math majors, 24 percent were physical education majors, 11 percent were social studies majors and 7 percent were home economics majors.

The shortage of math and science teachers may become worse due to few students entering math and science teacher careers. A recent survey by the University of California-Berkeley's Department of Education showed only 92 students currently enrolled in math and science teaching majors in all the public universities in the State with the exception of San Jose State—a number that is expected not nearly to fill the gaps left by teachers retiring and leaving their jobs for industry, where salaries, status, and other benefits are larger than in the teaching profession. A national survey shows five times as many teachers leaving their jobs for industry as for retirement.

National surveys show declining numbers of science and math teachers being produced in teacher-training programs.

A related issue is the shortage of graduate engineering students choosing to remain in the academic world to teach. Graduate enrollments nationally have dropped significantly because of the high salaries paid by industry to undergraduates right out of school. The gap between a student graduating with an electrical engineering degree, in his first job, and the professor who teaches him is about $6,000—in favor of the student. In California, there are now openings for engineering faculty at all of California's public colleges and universities. In the fall of 1980 10 percent of the 16,200 engineering faculty positions in 244 engineering schools in the United States were vacant.

We have no national policy to address the problem. In fact, we have abandoned Federal leadership in practically every relevant area, from basic research to teaching resources. Facing these issues is not just a matter of national pride, it is a matter of national survival. We need programs, training, and equipment. Education funding crises face every State in the Union. Of 137 California school districts surveyed, 19 percent said they had reduced their science programs and over 12 percent had reduced their math program as a result of State budget cuts. If education cuts proposed by the Reagan administration are carried out in full, California would lose 41 percent of its Federal funding by school year 1983–84. Innovative programs—such as computer learning—are likely to be among the losers in the scramble for program funds.

I want to emphasize, Mr. President, that we wish to further the education of Americans as wise and compassionate participants in our democracy. Although the emphasis of this legislation is on needed educational changes in an age of emerging technologies, we do not choose science and technology over the arts and humanities. We need not make those kinds of choices. We remain committed to the totality of an educational process that has as its goal a citizenry fully functional in the arts as well as the sciences.

The Education for Economic Security Act is a comprehensive attempt to assist schools in meeting the specific needs of a technological age. It provides, on a matching funds basis, grants to the States to upgrade instruction in mathematics, science, computer learning and instruction, foreign languages, and vocational education. I ask unanimous consent that an analysis of the bill be printed at this point in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE EDUCATION FOR ECONOMIC SECURITY ACT

GENERAL PROVISIONS

The Act would provide funding to make grants to upgrade instruction in mathematics, science, computer learning and instruction, foreign language, and vocational education.

Rate of payment to states would be based on a formula expressing the ratio that the number of children aged 5 to 17, inclusive, in the state bears to the number of those children in all the states. There would also be a small state minimum of one-half of 1 percent.

The Federal share would be 50 percent, and the non-Federal share would be 50 percent including cash and in-kind.

ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION PROGRAMS

Sixty-five percent of the State's share of the funds provided under this Act shall go to the State education agency for programs in mathematics, science, computer learning and instruction, new and emerging technology training, and foreign language education.

Local programs in mathematics, science, computer learning and instruction

Forty percent of the funds provided to the State education agency would go in the form of grants to local education agencies. These grants would be for the purpose of instructional materials and comprehensive education programs in mathematics, science, and computer learning and instruction.

The size of a grant to a local education agency would be based on a combination of the following:

(1) the size of the local education agency as determined by the number of children aged 5 to 17, inclusive, in the schools of such agency;

(2) the size of the proposed programs in terms of the number of students and grade levels served.

Renewal of grants would be based upon the size of the local education agency and upon an assessment of whether or not the local education agency had implemented a comprehensive program of mathematics, science, and computer learning and instruction involving several grade levels and a substantial number of students. Implementation of a part of a comprehensive, multi-year program would be considered as meeting these requirements.

Local programs in foreign language instruction

Fifteen percent of the funds provided to the State education agency would go to local education agencies for programs in foreign language instruction. Initial grants and grant renewal would be based upon the same criteria as used for local programs in mathematics, science, and computer learning and instruction.

State programs

Ten percent of the funds provided to the State education agency would be used by that agency to fund exemplary programs in mathematics, science, foreign language education, and computer learning and instruction; for instructional materials; for technical assistance in these areas to local education agencies; and for dissemination of information to local education agency on exemplary programs and instructional materials.

Vocational education programs

Thirty-five percent of the funds provided to the State education agency would be used by the State agency for vocational education for employment-based programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction. These funds would go to vocational education facilities, comprehensive high schools, and area vocational schools in accordance with procedures established by the State agency for vocational education. Ten percent of the thirty-five percent would be reserved for use in correctional institutions in providing employment-based programs and instructional materials in new and emerging technologies, including computer learning and instruction.

HIGHER EDUCATION PROGRAMS

Thirty-five percent of the State's share of the funds provided under this Act would go to the State agency for higher education for programs of teacher training and re-training, foreign language instruction, and new and emerging technology training.

Teacher training and retraining programs

Fifty percent of the funds provided to the State agency for higher education would be used to make grants to institutions of higher education for programs involving:

(1) teacher training in mathematics, science, and computer learning and instruction;

(2) re-training of teachers from other disciplines to teach mathematics, science, and computer technology;

(3) inservice training for teachers of mathematics, science, and computer technology to upgrade and improve their skills.

These programs would be available only to individuals who would be teaching at the elementary and secondary level.

Employment-based programs

Thirty-five percent of the funds provided to the State agency for higher education would be used to make grants to institutions of higher education, including community and junior colleges, for employment-based programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction and basic engineering.

Foreign language instruction

Fifteen percent of the funds provided to the State agency for higher education would be used to make grants to institutions of higher education for foreign language instruction.

AUTHORIZATION

$400 million a year for Fiscal 1984, 1985, and 1986.

Legislation also carries requirement that Federal funds be used to supplement and not supplant state funds

LOAN ASSISTANCE TO INDIVIDUALS ENTERING THE TEACHING PROFESSION

A companion bill would provide for cancellation of a portion of a National Direct Student Loan for individuals entering the teaching profession in mathematics, science, or computer learning and instruction. Fifteen percent of the total loan could be cancelled each year, but for no more than five years or seventy-five percent of the total loan. In return, in order to be eligible for the loan cancellation provision, a teacher would have to remain in the teaching profession for at least five consecutive years.

By Mr. CHAFEE (for himself, Mr. HATFIELD, Mr. STAFFORD, Mr. BAUCUS, Mr. COHEN, Mr. DANFORTH, Mr. GORTON, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. MATHIAS, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. RIEGLE, Mr. WEICKER, and Mrs. KASSEBAUM):

S.J. Res. 253. Joint resolution to assure that regulations governing the special supplemental food program for women, infants, and children (WIC) enhance the health status of participants in the program; to the Committee on Agriculture, Nutrition, and Forestry.

HEALTH STATUS OF PARTICIPANTS IN THE WIC PROGRAM

Mr. CHAFEE. Mr. President, today I am introducing a joint resolution to protect one of the most effective Federal programs available. The women, infants, and children (WIC) nutrition program is a preventative health program that provides nutritional food to over 2.2 million people. In addition, WIC provides nutrition education for people who desperately need it. The program is federally funded and carried out according to provisions of the Child Nutrition Act passed by Congress in 1966 and amended in 1972 and 1978.

WIC was the child of nutrition researchers and pediatricians who felt strongly that the combination of prenatal medical care and nutritional help would make a difference in the health of both mothers and babies.

Many pregnant women, infants, and young children are in danger of suffering poor physical and mental health because they eat poorly and have inadequate health care. WIC is designed to help such persons by directly improving what they eat and the way in which they eat. The program provides supplemental foods including milk, eggs, juice, cheese, dried beans, and peas, cereal, and infant formula, and nutrition counseling to eligible participants who have certain income limitations and show evidence of special physical need. The program provides this extra help during critical times of growth and development in order to prevent the occurrence of health problems and improve eating habits.

Families of lower income persons are particularly vulnerable to a poor diet. In Rhode Island alone, an estimated 32,000 women, infants, and children meet Federal income guidelines for WIC. It has been demonstrated that an adequate diet can be correlated with a higher incidence of low birth weight, a higher rate of fetal and newborn mortality, and a higher rate of developmental disabilities.

For a number of years, the infant mortality rate in the United States has been a subject of some consternation; by this measure, which is frequently used to determine the level of civilization of a society, the United States has consistently ranked well below Western Europe and some of

the other industrialized countries. The problem is concentrated among the poor and among minorities, and babies of young mothers who are badly nourished are in special danger.

I ask unanimous consent that at this point the infant mortality rate table prepared by USDA's Food and Nutrition Service be printed into the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, AS FOLLOWS:

Infant Mortality Rates

Country:	[1] *Rate*
Iceland	8
Japan	9
Sweden	9
Denmark	10
Finland	10
Norway	10
Netherlands	11
Switzerland	11
Spain	11
Singapore	12
France	13
Canada	14
Hong Kong	14
Belgium	14
United Kingdom	14
Malta	14
German Democratic Republic	14
Australia	14
United States	15
Ireland	15

[1] Rate—Deaths under 12 months of age per 1,000 live births.

Source: World's Children Data Sheet of the Population Reference Bureau, Inc., 1979.

Mr. CHAFEE. Mr. President, participation in WIC has decreased infant mortality rates; the incidence of low birth weight and resultant deafness, blindness, and retardation; and the incidence of anemia. For this reason, WIC saves money. A Harvard University School of Public Health study shows that each $1 spent on the prenatal component of WIC saves $3 in future hospital costs for the treatment of low birth weight babies and babies with anemia.

Every effort must be made to insure WIC's continuing success. However, I fear the move to save Federal dollars and to give States greater flexibility in deciding what foods should be provided through the program may, in the eyes of some, offer justification for weakening the WIC program.

In July, the Department of Agriculture suggested that the WIC diet be altered to allow greater sugar content and less iron content; to permit flavored milk and to drop peanut butter and beans from the food list. These changes would be contrary to the program's objectives. This is a supplemental food package for low-income, pregnant and postpartum women, and for infants and children who face malnutrition. The Department's proposals conflict with the positive nutrition education practices of the program. Chocolate milk is more expensive than nonflavored milk. The cereals that would be allowed because of their sugar content are also more expensive per serving than those with lower sugar content. These changes would increase the cost of the program while jeopardizing the basic nutrition of the participants.

There has been no significant change in the scientific literature concerning good nutrition that would warrant tampering with the present food package—particularly for changes that would be detrimental to the beneficiaries of the WIC program.

Remembering the ketchup and relish fiasco of last year, Congress must act to insure that such proposals do not take effect. I believe that Congress must send a message to the administration, and that the Senate should put itself on record objecting to any changes in the WIC program that are not beneficial to the women, infants, and children who participate in it.

My joint resolution requires: One, that changes in WIC regulations must maintain or enhance the nutritional benefits of the program; two, that the Secretary of Agriculture must provide proof that any proposed alterations will benefit the recipients; and three, that Congress will be presented with those findings prior to regulation changes being proposed in the Federal Register.

I urge the Senate to act immediately on this joint resolution, thereby insuring the integrity of the WIC program.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD at this time.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 253

Whereas pregnant, postpartum, and breast-feeding women, infants, and young children from families with inadequate income face a special risk to their physical and mental health because of inadequate nutrition and health care;

Whereas the special supplemental food program for women, infants, and children (WIC) was established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) to prevent the occurrence of health problems in, and improve the health status of, such women, infants, and children;

Whereas numerous evaluations of the WIC program by the Department of Agriculture, the Center for Disease Control, State public health departments, and university schools of medicine and public health have demonstrated that participation in the WIC program has decreased infant mortality rates, the incidence of low birth-weight babies and resultant deafness, blindness, and retardation, and the incidence of anemia;

Whereas cost benefit analysis has shown that the WIC program is one of the most effective programs initiated by the Federal Government;

Whereas the Secretary of Agriculture promulgated regulations on November 12, 1980, relating to supplemental foods made available under the WIC program, which are consistent with the goals of such program, but has delayed the implementation of such regulations until December 31, 1982; and

Whereas the Secretary of Agriculture is considering modification of regulations of the Department of Agriculture governing the WIC program which would be detrimental to the health status of WIC participants: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may not promulgate any regulation governing the special supplemental food program (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) which would not maintain or enhance the nutritional integrity of the supplemental foods made available under such program.

SEC. 2. (a) The Secretary of Agriculture may not, after September 23, 1982, modify any regulation governing the special supplemental food program (WIC) referred to in the first section unless the Secretary makes a finding that the modification will be beneficial to the health status of participants in such program.

(b) A finding made pursuant to subsection (a), and any supporting documentation, shall be submitted to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least fourteen days prior to the publication in the Federal Register of the proposed modification.

SEC. 3. The Secretary of Agriculture shall implement the regulations promulgated on November 12, 1980, relating to supplemental foods made available under the special supplemental food program (WIC) referred to in the first section, no later than December 31, 1982.

● Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague from Rhode Island in introducing this joint resolution. The special supplemental food program for women, infants and children (WIC) provides food for 2.2. million women and children who are nutritionally at risk. The program furnishes a nutritional diet for pregnant, postpartum, and breast-feeding women, infants and young children whose health, because of an inadequately nutritious diet and inadequate income, is endangered. Several studies have been done on the WIC program and all have shown its remarkable effect. The studies indicated that pregnant women participating in WIC give birth to higher birthweight infants, improve their blood iron levels, and increase their consumption of most vitamins and minerals. Children in the program have shown increases in blood iron levels and improved growth rates. A study done at Harvard University showed that the decreased incidence of low birthweight infants due to participation in the WIC program by their mothers had a benefit to cost ratio of 3 to 1. This results from the decreased health care costs associated with disabilities or illnesses related to low birthweight. The WIC program has thus been shown to be extraordinarily beneficial. This resolution provides that the Department of Agriculture, which oversees the program, must

maintain the nutritional standards of the program.

In the Reagan administration's fiscal year 1983 budget proposal, the WIC program was to be folded into the maternal and child health block grant program with an overall reduction in funding of 25 percent. In July the Department considered altering the WIC prescribed diet, allowing the use of less nutritious and more expensive foods. Later in the summer the Department refused to reallocate unspent funds—as it is mandated by Congress to do periodically—in order to accommodate States that had larger than expected caseloads. This money was to be taken from States that had lower than expected caseloads and therefore a surplus of funds. The Department wanted to wait until after the end of the fiscal year. But this lethargy was threatening the well-being of thousands of women and children. In New York State alone up to 20,000 women and children were faced with an abrupt end to their benefits and a terrible endangerment to their health. The Department was finally sued by the Food Research and Action Center on behalf of several WIC recipients from New York and Georgia. Judge Charles R. Richey, in deciding the case against the Department of Agriculture, said that the delay of the distribution of funds until after the end of the fiscal year was unconscionable. "Meanwhile," he asked, "what's going to happen to these poor infants who are the beneficiaries of this program? What's going to happen to these poor innocent children—women, infants and children? * * * I don't think a Secretary of Agriculture ought to have any excuse. Let him wash the blood off his own hands and get it done." The Department has now reallocated the funds. With these events in mind, I strongly urge the passage of this joint resolution, as a step toward insuring the health and nutrition of women, infants, and children across the country.●

Mr. BAUCUS. Mr. President, I am pleased to cosponsor a joint resolution drafted by Senator CHAFEE to protect the special supplemental food program for women, infants, and children (WIC). This program is undoubtedly one of the most enlightened, effective, appropriate, and best designed Federal programs that exists. Following the guidelines and provisions of the Child Nutrition Act of 1966, amended in 1972 and 1978, WIC is a very successful and special program which deserves our focus and protection. WIC is a federally funded program that provides prescription food packages (including iron fortified infant formula, milk, eggs, cheese, cereal, and juice), essential nutrition education, and access to health care to over 2.2 million pregnant and nursing mothers, infants, and children who are low income and medically certified to be at nutritional risk.

Mr. President, the beneficiaries of this program are not just the low income and nutritionally at risk mothers and children who receive nutritional care from WIC. WIC also serves the taxpayers of this Nation. It is truly a cost-effective measure toward preventative health. A recent study at the Harvard School of Public Health indicates that each dollar spent on pregnant women in the WIC program results in an estimated $3 savings in hospitalization costs for low birth weight infants (LBW). WIC has always been a program with low administrative budgets compared to the amount of food, medical services, and nutritional education that is given to its deserving participants. It is a program void of waste and fraud. Moreover, WIC is a program that is preventative in nature and ultimately saves tax dollars by preventing future health care costs.

In a series of articles and studies presented to me by Minkie Medora, RD, of the Missoula Community Hospital in Missoula, Mont., I was able to glean some of the following information which I would like to share with my colleagues.

Quoting from the Heritage Foundation, they state that "There is evidence that the WIC program does in fact improve nutrition." I would like to cite some of the evidence which supports this understated contention. Citing a February 1981 study prepared by the Office of Policy, Planning and Evaluation Food and Nutrition Service of USDA, the "Executive Summary" says that "a substantial body of evidence is now accumulating to indicate that the WIC program is having a positive and significant impact on program participants in the United States."

Data from several large scale studies discussed in this same report indicates that participation in the WIC program is associated with a positive and significant increase in birth weight in infants. More importantly, Mr. President, this has resulted in a reduction in the incidence of low birth weight infants being born to women who participate in WIC.

Currently, low birth weight is the eighth leading cause of death in the United States. A low birth weight infant is 20 times more likely to die than a normal weight infant. A January 1981 study indicates that the WIC program results not only in fewer low birth weight infants but significantly decreases infant mortality.

Reports from several States will serve to inform the Senate of the vast effectiveness of the special supplemental food program for women, infants, and children:

Overall, WIC women had a predicted incidence of low birth weight of 3.4 percent, compared to 14.6 percent for non-WIC women.

In my home State of Montana, the infant mortality rate on seven Indian reservations declined from 31.5 per thousand in 1972 to 16.6 in 1975, following the introduction of the supplemental feeding program for pregnant women, infants, and children.

A Yale University Medical School study of WIC participants in Danbury, Conn., shows WIC significantly reducing the fetal death rate in the high risk, low-income population. The same study showed that WIC participants caught up with non-WIC participants in all measures of health.

Arizona WIC participants recorded an 81-percent reduction in anemia, an 82-percent reduction in underweight births, and a 62-percent improvement in stature. In Michigan 30 percent of the women were anemic before WIC, but only 6 percent after participation. Anemia in Oregon was reduced from 13 percent to 1 percent in participatory children.

In Tacoma, Wash., a study shows children who received WIC help are now being treated for fewer illnesses.

Finally, a study in Fresno, Calif., shows that the WIC program encourages pregnant women to increase prenatal health care visits.

In short, Mr. President, this timely and appropriate nutrition service is truly a cost-effective measure toward preventative health. Citing again the USDA study, titled "Evaluation of the Effectiveness of WIC," I quote:

> The WIC program is not only associated with fewer low birth weight babies and therefore less deaths, but the program also results in significant medical savings. By decreasing the number of low birth weight babies, the WIC program concurrently reduces hospital costs. In addition, low birth weight infants have a higher prevalance of developmental abnormalities such as blindness and deafness. The WIC program appears even more cost-effective if these longer term costs are considered.

The USDA executive summary goes on to say:

> Data from these studies all show trends in the same direction: neonatal outcome, hematological status and growth are improved as a result of participation in WIC. The WIC program appears to be making a substantial contribution to dealing with problems of inadequate nutritional status among "at risk" women and children—two especially vulnerable groups in the United States.

Mr. President, the Reagan administration's proposal to fold WIC into the maternal and child health block grant will spell disaster for WIC. The administration proposes to effectively terminate WIC by adding it to the maternal and child health block grant. The funding available for the target participants of WIC would be reduced by 30 percent. Literally hundreds of thousands of women, infants, and children would face the peril of nutritional deficiencies. WIC is already under

funded—it is presently unable to reach all who need it—tens of thousands are on waiting lists or are turned away because there are now insufficient funds available.

To block grant WIC will shortchange mothers and children. Less food and less health care for mothers and children will effectively reduce the chances low-income and already risky children have to grow up healthy. Mr. President, anything less than a full commitment to WIC is quite simply dangerously detrimental to mothers and children, especially high risk pregnant mothers.

Every effort must be made to insure WIC's continuing and growing success. We are far too enlightened in the areas of nutrition, and prenatal and post-partum health care to take a step backward. We simply cannot let such a progressive and far-reaching program such as this suffer the effects of budgetary slashing. We have come too far in the support of low-income and at risk mothers and children to turn our backs by reducing the great benefits and integrity of the WIC program.

I urge enlightened support of this resolution and this most valuable, most effective, and most necessary program for mothers, infants, and children.

By Mr. JEPSEN (for himself, Mr. EAGLETON, Mr. DANFORTH, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. KENNEDY, and Mr. HOLLINGS):

S.J. Res. 254. Joint resolution designating September 22, 1983, as "American Business Women's Day"; to the Committee on the Judiciary.

AMERICAN BUSINESS WOMEN'S DAY

Mr. JEPSEN. Mr. President, on September 10, I was joined by Senator EAGLETON in introducing a joint resolution designating September 22, 1982, as "American Business Women's Day." Because of the backlog of legislation pending on the Senate Calendar, we were unable to deal with this issue previously. Senator EAGLETON and I still believe that Congress should pay tribute to the important contributions women make in the business world: Therefore, we are reintroducing our resolution but making September 22, 1983, the effective date.

Although women have always been working and contributing to the family business or the family farm, and in many cases have been the mainstay of the operation, their work has often been taken for granted or overlooked altogether.

At the beginning of this century, approximately 1 out of every 5 women was in the labor force. By 1940, this ratio had increased to 1 in 4. But then, significant changes began to occur in the work force.

By the end of World War II, 35 percent of the working population of America was female. Many women, once in the work force, found that they enjoyed it and decided to stay. In many ways, the business world was unprepared for this change. During this period, there were a number of viable business organizations, but very few dedicated to preparing and promoting women for business. But, Mr. President, like so many things in this country, necessity became the mother of invention and new groups began to spring up. One group, the American Business Women's Association (ABWA) stands out in my mind.

The ABWA began as the dream of some businessmen and businesswomen working in the Kansas City area. Through the efforts of a small group of people, the American Business Women's Association took shape and became a reality. From its original 50 charter members, the association has grown to the point where it now boasts a membership of over 100,000 in its 2,000 chapters located in all 50 States, the District of Columbia, and Puerto Rico.

Through its scholarship program, business seminars, and member workshops, the ABWA has exhibited an unrelenting commitment to the future of American business and women. We in Congress should mirror that commitment.

Whether we are talking about millions of unsalaried homemakers or those women working 18-hour days on the farm, the many women who spend long hours behind a desk, or those who sit on the boards of major corporations, they are all making an important contribution to the betterment of this country. I would hope, Mr. President, that once this resolution is adopted, my colleagues will take the opportunity to thank the businesswomen in their States for the contributions they have made to the success of American business.

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1775

At the request of Mr. THURMOND, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1775, a bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, to provide a remedy against the United States with respect to constitutional torts, and for other purposes.

S. 2225

At the request of Mr. BAUCUS, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items.

S. 2357

At the request of Mr. LUGAR, the names of the Senator from Illinois (Mr. PERCY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 2357, a bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities.

S. 2784

At the request of Mr. DECONCINI, the name of the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2828

At the request of Mr. DODD, the name of the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2828, a bill to authorize a demonstration program to provide for housing for older Americans.

S. 2856

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr. QUAYLE) was added as a cosponsor of S. 2856, a bill to amend the Sexual Exploitation of Children Act of 1977.

S. 2901

At the request of Mr. DOLE, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Texas (Mr. BENTSEN), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2901, a bill to establish a National Commission on Neurofibromatosis.

S. 2902

At the request of Mr. THURMOND, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 2909

At the request of Mr. DODD, the names of the Senator from California (Mr. HAYAKAWA) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2909, a bill to authorize financial assistance for a continuing education program to secondary school science and mathematics teachers designed to increase their competency and to assist them to qualify for certification, and for other purposes.

S. 2919

At the request of Mr. LUGAR, the names of the Senator from Washington (Mr. JACKSON), the Senator from Michigan (Mr. LEVIN), the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 2919, a bill to help insure the Nation's independent factual knowledge of Soviet-bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 2926

At the request of Mr. MOYNIHAN, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2926, a bill to create a National Commission on the Rebuilding of America which will conduct an inventory of our Nation's water and sewer systems, bridges, highways, and roads; develop a 10-year investment plan to rebuild the public improvements essential to economic development; make recommendations concerning changes in Federal laws and regulations that influence the pattern of Federal expenditures for public improvements, and for other purposes.

SENATE JOINT RESOLUTION 199

At the request of Mr. THURMOND, the name of the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 199, a joint resolution proposing an amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Tennessee (Mr. BAKER) and the Senator from Colorado (Mr. HART) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. LEVIN, the names of the Senator from North Carolina (Mr. EAST), the Senator from Utah (Mr. HATCH), the Senator from Florida (Mrs. HAWKINS), the Senator from North Carolina (Mr. HELMS), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Senate Concurrent Resolution 46, a concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. HART, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Concurrent Resolution 123, a concurrent resolution expressing the sense of the Congress with respect to a means test for the medicare program.

SENATE RESOLUTION 472

At the request of Mr. MOYNIHAN, the names of the Senator from Nevada (Mr. CANNON), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Resolution 472, a resolution to preserve and protect medicare benefits.

SENATE RESOLUTION 478

At the request of Mr. DODD, the names of the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Resolution 478, a resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

SENATE RESOLUTION 479—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 479

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 861, a bill to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes. H.R. 861, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of H.R. 861. Such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The likelihood that the Congress would act on this legislative initiative was generally recognized with passage of the measure by the House of Representatives on May 11, 1982. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization; enactment of H.R. 861 is not expected to interfere with or delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

AMENDMENT NO. 3617

(Ordered to be printed and to lie on the table.)

Mr. BRADY submitted an amendment intended to be proposed by him to the bill (S. 2879) to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Supervisory Agencies to deal with financially distressed depository insitutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, to protect depositors and creditors of such institutions, and for other purposes.

WATER RESOURCE DEVELOPMENT

AMENDMENT NO. 3618

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill (S. 2443) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT UTILIZATION ACT

AMENDMENT NO. 3619

(Ordered to be printed and to lie on the table.)

Mr. NUNN (for himself and Mr. MATTINGLY) submitted an amendment intended to be proposed by them to the bill (S. 1657) entitled the "Uniform Science and Technology Research and Development Utilization Act.

● Mr. NUNN. Mr. President, for myself and Mr. MATTINGLY, I am introducing an amendment to S. 1657, the Uniform Science and Technology Research and Development Utilization Act. The purpose of this amendment is to provide statutory authority for NASA to require the reporting of innovations made in the course of, or under any contract of the administration.

For the past 16 years, the University of Georgia has been under contract to NASA to operate a computer library called Cosmic, the Computer Software Management and Information Center.

Cosmic maintains one of the Nation's largest software libraries of engineering analysis and general purpose computer programs. It provides, at reasonable cost, programs developed by or under contract with NASA and other agencies, that is, DOD and the Nuclear Regulatory Commission, that may have commercial application in the private sector. Cosmic serves as a clearinghouse where software can be transferred from Government agencies which fund or assist in its preparation to industrial or other nongovernmental users.

Under current law (section 305(b)) of the Space Act (42 U.S.C. 2457(b)) NASA is given specific authority to provide for the reporting of information "concerning any discovery, improvement, or innovation which may be made in the performance of any such work." NASA uses this authority to require, among other things, that computer software programs devel-

oped with NASA funds be reported to NASA and made available to the university's Cosmic library.

Under the legislation reported by the Senate Commerce Committee (S. 1657, the Uniform Science and Technology Research and Development Utilization Act) section 305(b) of the Space Act is repealed. See section 401 (6)(B) of S. 1657, as amended and reported. The committee's bill attempts to establish a uniform treatment of the ownership of title to innovations and inventions derived in part from Federal funds. Under current law, except where small businesses, universities, and certain nonprofit institutions are given the right of first refusal to title, the Federal Government generally retains that title.

Without authority for NASA to require some form of reporting of computer software—regardless of whether they are characterized as new technology—the very data sources from which the Cosmic library is derived would be eliminated. The result would be the lack of any systematic way to collect, analyze, and disseminate for commercial purposes the information gained from the initial computer software development.

The amendments which I am introducing today will provide NASA with the authority necessary for NASA to fully continue the Cosmic program, consistent with the Senate Commerce Committee's policy recommendations.

Mr. President, I appreciate Senator SCHMITT's cooperation in finding a legislative solution to this important matter.●

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a meeting on Wednesday, September 29, 1982, at 9 a.m., in room S-205, the Capitol, to consider pending legislative and administrative business, including proposals for suite configurations and the selection process for suites in the Senate office buildings.

For further information regarding this meeting, please call Don Carrington of the Rules Committee Staff on extension 40895.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Senate Agriculture Committee will hold hearings on the nominations of Fowler C. West to be a Commissioner of the Commodity Futures Trading Commission and Orville G. Bentley to be Assistant Secretary of Agriculture for Science and Education. The hearings are scheduled on Wednesday, September 29, at 10 a.m. in room 324, Russell Building.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff at 224-0014.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BAKER. Mr. President, these two requests have been cleared by the distinguished minority leader.

SUBCOMMITTEE ON AGENCY ADMINISTRATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agency Administration, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, September 23, at 11:15 to mark up S. 1775, the Federal Tort Claims Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, September 23, at 10 a.m., to hold an oversight hearing on the use of false identification to penetrate Federal programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITY AND TERRORISM

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Security and Terrorism of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 23, at 2 p.m., to hold a hearing on S. 2255, antiterrorism and foreign missionary act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GOVERNMENT AND THE ECONOMY

● Mr. GRASSLEY. Mr. President, this month the Senate Budget Committee is holding hearings on budget reform, and the Finance Committee hearings on tax reform. What transpires in these hearings is pivotal; it will help guide the future direction of budget policy, and influence the public's understanding of the nature of our budgetary problems.

Whatever emerges from these hearings, at the very least there should be a clearer understanding of the effects of Government policy on the economy, and of how economic factors interrelate. Do large deficits cause interest rates to rise? Will raising taxes help to lower interest rates? What is the correlation between output and deficits? How does monetary policy interplay with tax and budget policy?

Mr. President, I ask to have printed in the RECORD an article written by William Allen, president of the International Institute for Economic Research, which appeared in the September 3 issue of the Washington Times. This article puts into perspective many of those questions about Government and the economy. There is a lesson in this article for all of us in Congress, and I urge my colleagues to heed it.

The article follows:

[From the Washington Times, Sept. 3, 1982]

A LOOK AT THE HISTORY OF DEFICITS

(By William Allen)

The conventional federal budget is an accountant's nightmare—or joke. It does not include all government transactions; it does not distinguish current expenses from capital investments; it does not well indicate the thrust of fiscal policy and its impact. Yet, it is commonly presumed that it should be balanced.

In some circles, balance per se is now the critical objective, with little regard for either the level at which the budget is balanced or the manner (increased taxation or reduced expenditure) in which a deficit is eliminated. If deficits strike such terror and take precedence over all other policy considerations, it is appropriate to ask how they actually have been persistently generated and how they supposedly have been so pernicious.

The latest—if not last—federal surplus was in 1969. Let us examine the record of the succeeding dozen years.

The budgetary problem has not been starvation of government by a niggardly community. Receipts increased at an annual rate of over 10 percent—while the price level was rising at less than 7 percent—and were much more than three times as great in 1981 as in 1969. But we have seen that rapidly increasing receipts will not surely balance the budget or even reduce the deficit. In that period, government outlays went up even faster than receipts, at an annual rate over 11 percent.

This massive increase in the budget and its deficit stemmed, more specifically, from non-defense spending. Exploding at an annual rate of 14 percent, it was almost five times larger in 1981 than in 1969. Non-defense spending is now equal to 17 percent of gross national product; only nine years ago, it was 13 percent. Reducing the proportion back to just the 1973 level would reduce government spending by enough to balance the budget.

What is the damage done by deficits? It is alleged that they raise interest rates and reduce growth. But that has not in fact been the case.

The deficit and interest rates have tended strongly to move in opposite directions. From 1968 to '69 for example, the deficit fell $28 billion—but both long-term and short-term interest rates greatly increased. From 1974 to '76 the annual deficit soared by $62 billion—but long-term rates fell slightly, and short-term rates fell greatly. In only four of the last dozen years have the deficit and long-term rates moved in the same direction, and only once did the deficit and short-term rates move together.

Meanwhile, real output of the economy moved with the ratio of the deficit to GNP: as the deficit became bigger or smaller relative to GNP, production rose or fell. Both theory and experience inform us that it is not required that we have bigger deficits—

or more government spending or higher inflation—in order to hype the economy into producing more, but obviously increasing output is not precluded by big and growing deficits.

Interest rates are casually correlated, not with deficits, but with the price level; and the rate of inflation, in turn, is a function of the rate of money growth. From 1969 through 1981, the amount of money increased 115 percent, and the price level, in close step, went up 123 percent. The rate of money expansion has been erratically falling for nearly two years, the inflation rate has been greatly reduced, and interest rates are far below the peaks at the end of 1980. Those who are concerned with inflation and interest rates should direct their primary policy interest to the management of the money supply, not to the budget deficit.

But suppose budget deficits deserved all their bad press. The usual contention is that, since deficits require government to borrow, government will crowd-out private borrowers from credit markets. But the private sector can be crowded-out of investment and other expenditures by high taxes, which tend to reduce cash flow to cash trickle, as well as by high interest rates, which inhibit borrowing. Internal financing is at least as legitimate as external financing; private saving is at least as attractive as private debt. Reducing a government deficit by reducing government spending avoids increased crowding-out through the tax channel; increasing taxes to pay for continued government spending increases absorption of private cash and fails to alleviate government absorption of the community's real resources.

Some have panicked in the face of large prospective deficits. In frenetic attempts to reduce the deficits, they have ascribed absurd and exaggerated beneficial effects and curative powers to financing more of the bloated government spending by taxation. They are willing to sacrifice long-run economic programs of rationality for highly uncertain acquisition of thoroughly amorphous short-term benefits. It may be too much to ask politicians to get economic analysis straight. But surely they could get a lackey to look up the historical numbers. If they can't understand the world, they could at least observe some of its behavior.●

THREAT OF NUCLEAR WAR

● Mr. LEVIN. Mr. President, I recently received a copy of a letter sent to President Reagan by 41 college presidents and board chairmen. The letter was initiated by my friend, Charles Price, retired board chairman at my alma mater, Swarthmore, along with Father Theodore Hesburgh and Clark Kerr.

Their letter to the President speaks eloquently of the need to control nuclear arms and of the desirability of restoring a sense of faith in the future to the people of the world. These leading educators write realistically about the prospects for such a change in international orientation. They recognize it will not be easy or quick. But they believe it can happen. And I believe we here in the Congress of the United States can help make it happen.

Mr. President, I ask that the text of the letter appear in the RECORD.

The letter follows:

SEPTEMBER 15, 1982.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As individuals deeply involved in, and committed to, American colleges and universities, we, the undersigned, express our concern over the growing threat of nuclear war. Our concerns have been not only for the current operation of our institutions, but insofar as our institutions are custodians of the knowledge and wisdom on which civilizations are based, we feel a larger responsibility as well. As educators charged with conveying vision and values to our students and in our society, we are concerned not only with possible destruction of our institutions and those who comprise them, but with the catastrophe that major nuclear war would represent to the American people and to all civilizations.

We believe it is urgently important to begin now to seek seriously and vigorously for alternatives which would be more effective in protecting and promoting the interests, welfare and security of the American people. Many distinguished Americans have suggested ways to turn the world away from the nuclear threat. We do not propose a specific remedy but do believe one is possible and that a major investment in planning, negotiating and cooperating to establish civilized, effective and morally-acceptable alternatives to nuclear war as an arbiter of international disputes is urgently needed. We support your proposals to reduce nuclear arsenals as a useful step in this direction.

We suggest that clear objectives of the planning and negotiations that are needed should include:

Verifiable balanced reduction, toward ultimate elimination, of the nuclear weapons of mass destruction which now threaten all civilizations;

Ending the degradation of moral principles and of respect for human life resulting from massive nuclear armaments which are poised to kill hundreds of millions of people, and inescapably to poison the globe; and

Offering hope of a world of increasing cooperation, in which our energies could be devoted more constructively to justice, welfare, and realization of the human potential with which we are all endowed.

In urging such an effort, we do not propose innocent or unbalanced trust of the Soviet Union. An effective alternative to the threat of mutual assured destruction, with escalating probability of major nuclear war, will probably require new and/or strengthened international institutions and processes which the United States, the Soviet Union, and other governments and peoples will find more trustworthy than the hope that no nation with nuclear weapons will "pull the trigger."

American initiative, enterprise, ingenuity and energy have achieved many goals deemed impossible by others. Realistic and imaginative planning to prevent massive nuclear war is the most compelling goal of our times, requiring the most urgent commitment of energy and talent. We believe that spending a fraction of what we now spend on armaments to work toward that goal would be the wisest way of planning for the future. In the interest of the American people and of human civilizations we consider it imperative to establish now such major American policy alternatives and the determined leadership to achieve them.

Sincerely,

Derek C. Bok (Harvard), Amey A. DeFriez‡ (Radcliffe), Cleveland L. Dennard (Atlanta), James F. English (Trinity), Emmet B. Fields (Vanderbilt), Christopher C. Fordham III (North Carolina), Luther H. Foster* (Tuskegee), Theodore Friend (Swarthmore), Ellen V. Futter (Barnard), Robert C. Good (Denison), Paul E. Gray (Massachusetts Institute of Technology), F. Sheldon Hackney (Pennsylvania), Robert D. H. Harvey‡ (Johns Hopkins), Matina S. Horner (Radcliffe), Howard W. Johnson‡ (Massachusetts Institute of Technology), Kenneth H. Keller (Minnesota), John G. Kemeny* (Dartmouth), Elizabeth T. Kennan (Mount Holyoke), Nannerl O. Keohane (Wellesley), Richard W. Lyman* (Stanford), Jean Mayer (Tufts), David T. McLaughlin (Dartmouth), Mary Patterson McPherson (Bryn Mawr), Martin Meyerson* (Pennsylvania), Steven Muller (Johns Hopkins), James L. Powell (Oberlin), W. C. H. Prentice* (Wheaton), Jonathan E. Rhoads, M.D.‡* (Haverford), David S. Saxon (California), Robert B. Stevens (Haverford), Donald M. Stewart (Spelman), Howard R. Swearer (Brown), Barbara Auchincloss Thacher‡ (Bryn Mawr), John S. Toll (Maryland), Barbara S. Uehling (Missouri), Clifton R. Wharton, Jr. (State University of New York), Jerome B. Wiesner* (Massachusetts Institute of Technology), Harris Wofford* (Bryn Mawr), Rev. Theodore Hesburgh (Notre Dame), Clark Kerr* (California), Charles C. Price‡* (Swarthmore).

(Endorsements are personal; institutions are indicated for purposes of identification only. Others are presidents or the equivalent.)

*Presidents or chairmen who are retired.
‡Board chairmen.●

WHAT ITALY EXPECTS OF THE UNITED STATES

● Mr. DOLE. Mr. President, I ask to have printed in the RECORD the remarks by Ambassador Petrignani of Italy, in recognition of the work of the National Italian-American Foundation and in honor of the alliance and close friendship between the American people and the people of Italy.

The remarks follow:

REMARKS BY H. E. RINALDO PETRIGNANI

WHAT ITALY EXPECTS OF THE UNITED STATES

I would like to open my remarks by conveying the warmest greetings of the Italian Government to all the participants in the Annual Conference of the N.I.A.F. for 1982.

I am indeed particularly pleased to see so many prominent personalities participating in the different panels now underway. This distinguished membership is a clear demonstration of the N.I.A.F.'s ability to gain the attention of an ever-growing number of American citizens of Italian descent and to help the Italian American community to gain an increasing political and social importance among the forces actively involved in the progress of the United States.

The theme on which I have been invited to speak "What Italy Expects of the United

States" is undoubtedly a sensitive and challenging one. Indeed, the very fact that an issue of this nature was proposed by the organizers of this conference shows how much the relations between our two countries are a two-way relationship, which thrives on a mutual give and take in the creation of a solid partnership.

In fact, from whom could one be entitled to expect something if not from a friend?

And friendship is the first and foremost factor in the Italo-American relationship. I would say that friendship for the United States, as seen from our perspective, is something more than a matter of policy, although all democratic governments which have succeeded themselves in Italy in the last 35 years have constantly adhered to the American friendship as a fundamental tenent of our foreign policy; it is a spontaneous attitude, which is shared by the great majority of the political forces represented in the Italian Parliament; it is a genuine feeling, which has widespread, deep, strong roots in the great masses of the Italian people, irrespective of political affiliation and doctrine; perhaps even more than that, it is a general aspect of the life of contemporary Italy. Since 1946, when at the Peace Conference in Paris Secretary Byrnes—he and he alone—got up and shook De Gasperi's hand after our Prime Minister had pronounced his impassioned speech in defense of Italy in the cold silence of the audience, Italy has always found a friend, a helping hand, a partner in the United States of America. The Italians have not forgotten this, as they have not forgotten that twice in this century American boys have come to the rescue of liberty and democracy, which were threatened in Europe.

Political ideals, common interests, natural affinities—that kind of vitalism which permeates so characteristically both American and Italian life—bind us together. The Alliance binds us together. But I am convinced that there is also something else. There is another important factor—there is you. You Americans of Italian descent who constitute such a strong irresistible human bond between our two counties. Who amongst you does not have family, interest, connections, business in Italy? By the millions, these ties extend their ramifications in all walks of life in both countries and form a marvelous web of friendship which projects itself from the private into the public sector. As you, the Italian American Community, or more simply, Americans of Italian ancestry, become more and more an important and essential part of this splendid society and gain influence, weight and prestige, you bring deeper and deeper into the image of America something of your Italian heritage, of your Italian faces. Through you and thanks to you, there is a part of America which reminds us of Italy, not "Little Italy", just Italy, a part of American which is familiar to us, which looks like us.

What do we expect from the United States? To ask a foreign envoy such a question almost means to invite him to come up with a ready-made shopping list and read out from it. I will do nothing of the sort; I will rather confine myself to a few essential points.

First, we expect understanding for what contemporary Italy really is today. We would like to see a better, and we think, a truer image of Italy projected in this country. As all of you are aware, there is still the traditional remnant of an image of Italy made up of old cliches, which does not reflect the reality of today nor does justice to it. We need your help to have this image corrected.

In fact, a growing attention has been devoted in recent years to some flamboyant aspects of Italian life: creativity and excellence in the arts, in the world of fashion and design, the taste for beauty, the Italian way of life, which are all aspects linked to our individualism, to the history of our culture and of our cities. At the opposite end of the spectrum, attention has been focused on political factionalism, on the Mafia, on terrorism, on the earthquakes. But no comparable attention has been devoted to the progress achieved by Italy in the last 35 years as a modern nation and society. And this is precisely the aspect which we would like to see reflected, with your help, in the new image of Italy in the American press and public opinion.

Of course, we have our share of the problems which all the industrial democracies in the world today are afflicted by, plus some of our own, which in a certain way—but this is no excuse for not coming to grips with them and doing our best to solve them—are also the legacy of our history: a still recent unification process, an initially weak economic development, social fragmentation, long-lasting historic cleavages between North and South, between the cities and the countryside, to mention just a few.

But the awareness of our own difficulties should not hide the fact, neither in our own eyes nor in those of our friends, that within the consistent framework of her internal democratic system, Italy has undergone in the post-war period a tremendous process of modernization, as few other developed countries have undergone in such a short time.

From a predominantly agricultural society, which Italy still was at the beginning of the fifties, she has become today one of the great industrial democracies of the world: the sixth largest industrial democracy, the seventh largest economy. With a G.N.P. of 394 billion dollars, equivalent to 6.480 dollars per capita (according to the latest report of the World Bank), we are today not far behind the economy of Great Britain, in spite of an almost total lack of oil and raw materials and entirely dependent, as we are, on a "processing economy." Some of the Italian industries have gained a leading position in Europe and are responding with creativity and success to the tremendous challenges of the economic recession. We also have reached brilliant positions in several fields of advanced technology, as shown by our participation in joint ventures with American companies. The tertiary sector of the Italian economy is expanding fast, as that of other major countries entering into the post-industrial age, which is another sign of progress.

I can only limit myself to a very summary sketch. But let me stress that the economic transformation has entailed some dramatic changes in many aspects of our society. Millions of people moved from the South to the North and from countryside to the cities; the crust of old traditions was broken; the patterns of social behavior have changed, as also the role of the Church in Italian society. The Middle class has expanded. A new Italian society has emerged, more affluent, more open, more free.

The modernization of the economy has made the way of life of the Italians much closer to the standards of any other major industrialized democracy. And this, of course, has had its profound bearing also on the political life of the country. In spite of the frequent government crises, which unfortunately weaken the authority of the Executive and spread the impression of political instability (an impression which proves itself wrong if you look at the behavior of the Italian electorate), I would say that a much broader national consensus has developed in Italy over the last years. Because of a change of attitudes of the political parties and in particular the progressive modernization and democratization of the Italian Left, I think that a new cohesion, heretofore unknown, has strengthened the fabric of Italian society. The distances between social classes have diminished, the disputes between political parties have become less ideological and more pragmatic. Democracy has spread. Also the successful, although not yet concluded struggle against terrorism, carried out in full respect of the principles of democracy and individual freedom, even at the cost of more sacrifices, has helped, in a way, to unify the Italians.

I repeat, many serious problems remain unsolved, I may add that the progresses of the last thirty years have been uneven and that by themselves they have contributed to highlighting many inadequacies of the public structures. The very rapidity of the transformation has contributed to generating new social tensions, which also help to explain the phenomenon of terrorism. But on the whole, the changes have been enormously positive.

In essence, we have made a new Italy. The diversity, the pluralism, the richness of the cities which are still the center of Italian life, the humanity of the individual, the quest for the classical sense of beauty and harmony, all represent the continuity of a tradition of centuries. But the country has grown, has renewed itself profoundly.

We would like to see all of this reflected in the American perception of Italian reality. Italy, also because of its unique combination of old and new, is a complicated scene. But we think it deserves more attention, also beneath the superficial appearances.

With your help, we will be able to make her real face more familiar and more understandable to the American public. The effort is worthwhile, because it concerns an industrial democracy of 56 million people, which is your friend, your partner, your ally.

There still is something else that Italy expects besides understanding—and that is to be always acknowledged and treated by you—the American people, the American Government—as a major ally: one of the four major European partners of the United States. Let me briefly amplify this point.

The awareness of the contribution given by Italy to Western civilization, the meaning of Italian national unification in political, economic and demographic terms, the key strategic position of Italy in Europe and in the Mediterranean, the perception we have of our national identity; all these factors bring the Italians to consider their own country, despite some historic weaknesses not yet entirely overcome, to be one of the great nationalities in Europe, belonging to the same category as that of Great Britain, France, the Federal Republic of Germany, even if we don't have the same nuclear weapons status that Great Britain and France have or the same economic potential that Germany has. Such a perception of our national identity is at the very heart of the Italian determination to play a role in international affairs.

I may be allowed to point out in this connection that for more than thirty years Italian foreign policy has remained firmly com-

mitted to the pro-western choices made after the war. Allegiance to the Western World is the expression in the field of international relations of those same forces and traditions which brought about our deep commitment to freedom and democracy in the domestic field, means for us European unity, Atlantic solidarity and friendship for the United States. In more recent years, as Italy has grown and has become more solid internally, her interest and determination to assume larger responsibility in the Western Alliance with a view toward contributing to international stability and peace, have also increased. Let me mention, as an example, the rapid and substantial growth of Italian aid to developing nations (4.5 billion dollars allocated for the period 1981/1983). Let me point out, above all, the determination and the steadfastness with which Italy took her own share of burdens for the restoration of a military balance in Europe: her decisive contribution to the double track NATO decision of 1979 for the modernization of theatre nuclear forces in Europe, the beginning of construction work on the cruise missile base at Comiso, the active role played by Italy within the Alliance to maintain unity and solidarity in the post-Poland phase, her participation in the Multinational Force for the Sinai and now in the Multinational Force for Lebanon.

As I said, the political and psychological foundation on which this attitude is based is our perception of the Italian national identity as a nation having the capability and the responsibility to play an important role in international affairs. We can help in Europe and in the world for the preservation of security and the promotion of peace and economic development. We can act together with you as your friend and your partner in the Alliance and strive together for the attainment of our common goals. But we ask from our friends a compatible attitude.

The exclusion of Italy from any restricted groups which might be formed in one way or the other within the West for the discussion of matters of common concern would be neither understood nor accepted by us. Any such discrimination would be taken in Italy as a rejection by our friends of our own identity as a nation and would set in motion centrifugal forces which would kill the spirit of Italian participation in the Alliance. We count therefore on our friends to see that this will never happen, as President Reagan promised to President Pertini when they met at the White House last March.

We expect to see our position as one of your major European partners fully recognized; to see our relationship enriched and strengthened by regular consultations and by frequent contacts and exchange of visits, even at the highest level, so that an even closer personal and direct rapport may be established between our political leaders to our mutual advantage.

Furthermore, we expect to see our trade relations not only resist the temporary difficulties of the adverse economic situation but also grow much above their present level. We want to buy more from you—coal is just an example of how much our imports from the United States can grow. But in order to do that, we have to be able to sell more. And to this effect I am convinced that the Italo-American community could do a precious work to make more and more widely known in this country the quality of Italian products.

We expect to see also our cultural relations grow much above their present level. The influence of American culture in Italy, as in most other European countries, is immense. I don't pretend that the Italian culture should have an equal impact in America, but certainly it could have a greater impact than it now has. There is today a greater demand on your part of Italian culture, which could grow even larger. You must tell us in which direction we have to move in order to satisfy this demand. The diffusion of the knowledge of the Italian language would seem to me to be a precious channel.

We expect to see this spendid community of Americans of Italian descent become always more prosperous and numerous and to see other relatives, families join it from Italy. In this connection, may I be allowed to mention briefly a heartfelt hope of ours that some restrictive provisions of legislation presently under consideration should be modified by Congress, so as to safeguard that principle of family reunion which stems from our heritage.

I realize that I have spoken much too long. But you will grant that your question "What Italy expects of the United States" is one that an Italian envoy seldom has the opportunity to answer.

In concluding, I would like to summarize my thoughts by saying that what we would like to see is something like a "privileged relationship" growing between the United States and Italy. Maybe my aspiration is ambitious, but I firmly believe that the ties and common interests between us are so strong that we can aim high. This kind of relationship would play a helfpul role also in the context of the relations between the European Ten and the United States which presently are going through a phase of considerable difficulties. The Italian Government has always maintained that the bond between Europe and the United States must be an irrevocable one. We believe, therefore, that whatever the differences and the difficulties may be they must be equitably resolved through consultations in our common interest, in the interest of the preservation of Western unity which is in turn an essential condition for the preservation of the equilibrium between East and West, and therefore of stability and peace in Europe and in the World. In this spirit, Italy remains firmly committed to European unification, Atlantic solidarity and friendship with the United States: that friendship which was symbolized by the kiss given by President Pertini to the American Flag at the White House last March.●

DISCRIMINATION THROUGH THE TAX CODE

● Mr. HART. Mr. President, on January 8 of this year, the Acting Solicitor General of the U.S. Department of Justice filed a memorandum informing the Supreme Court that the Department of the Treasury intended to reverse a decade-long policy of denying tax breaks to private schools that practice racial segregation.

This IRS policy on tax exemptions, opposed by the Reagan administration, is not only justified by basic national policies condemning racial discrimination in education—public and private, but also by a series of Supreme Court decisions unequivocally concluding that Government support of segregated schools is unconstitutional. It is most unfortunate that the Reagan Justice Department abandoned this just and sensible policy—and, instead, proposed to sanction discrimination through the Tax Code.

Since the Government withdrew from cases currently before the Supreme Court on this issue, the Court invited Mr. William Coleman, prominent lawyer, distinguished former public official, and long time advocate for civil rights, to argue the case as an amicus curiae.

The brief Mr. Coleman put forth on behalf of the argument that tax exempt status not be given schools that discriminate on the basis of race, is a persuasive, enlightening document. In the brief, he points out why giving tax breaks to schools that discriminate is clearly unconstitutional. Given the administration's efforts at obfuscating the issue, I hope my colleagues will read the brief to better understand the underlying facts in this controversy.

In the summary of his argument, Mr. Coleman writes:

The Government states that it fully subscribes to the "strong national policy in this country against racial discrimination in any and all forms." But this is an empty assurance if schools that admittedly discriminate on the basis of race are nonetheless afforded significant tax benefits. Surely, the constitutional and congressional command to eradicate the badges and incidents of slavery demands more.

Mr. President, I ask that the preliminary statement and summary of argument from Mr. Coleman's brief be inserted in the RECORD.

The material follows:

[In the Supreme Court of the United States, October Term, 1982]

(Nos. 81-1 and 81-3)

GOLDSBORO CHRISTIAN SCHOOLS, INC., PETITIONER *v.* UNITED STATES OF AMERICA, RESPONDENT

BOB JONES UNIVERSITY, PETITIONER *v.* UNITED STATES OF AMERICA, RESPONDENT

On Writs of *Certiorari* to the United States Court of Appeals for the Fourth Circuit:

Brief of *Amicus Curiae* in support of the judgments below:

PRELIMINARY STATEMENT OF AMICUS CURIAE

The Internal Revenue Service has ruled that §§ 501(c)(3) and 170 of the Internal Revenue Code do not authorize recognition of tax benefits for racially discriminatory private schools. Rev. Rul. 71-447, 1971-2 C.B. 230; Rev. Rul. 75-231, 1975-1 C.B. 158. The Government has defended this well-established position successfully in the Court of Appeals and previously before this Court, but the present Administration, without any change in the Code, now contends that the IRS position is unauthorized. This Court therefore appointed an *amicus curiae* to defend the judgments below. A summary of the pertinent facts leading to that development is appropriate to explain the interest that *amicus curiae* has thereby come to represent.

These cases stem from the denial of tax-exempt status under § 501(c)(3) of the Inter-

nal Revenue Code of 1954 (the "Code"), 26 U.S.C. § 501(c)(3), to petitioners Goldsboro Christian Schools, Inc. ("Goldsboro") and Bob Jones University ("Bob Jones") on the basis of their racially discriminatory practices. Goldsboro denies admission to all black applicants. J.A. 9. Bob Jones denied admission to all blacks prior to 1971 and to all unmarried blacks until 1975, the last tax year in question. J.A. A32-33. It continues to deny admission to persons who marry or date outside their race and to enforce other racially discriminatory rules. J.A. A197, A208.

Petitioners instituted separate tax refund actions.[1] The district court in *Goldsboro* ruled for the Government and entered judgment against Goldsboro in the amount of $116,190.99 for federal social security ("FICA") and unemployment ("FUTA") taxes due. J.A. 115; 436 F. Supp. 1314 (E.D.N.C. 1977). The district court in *Bob Jones* held that the school was entitled to an exemption, relieving Bob Jones of the Government's FICA and FUTA claims totalling approximately $490,000 for the years 1970 through 1975. 468 F. Supp. 890 (D.S.C. 1978).[2] The district court concluded that Bob Jones' "primary purpose is religious," but also found that it "serves educational purposes." 468 F. Supp. at 895. Bob Jones' present assertion that it is exclusively a religious organization, B.J. Br. at i, is not supported by the record, which shows that the school provides accredited, secular instruction at all grade levels, offering courses in mathematics, science, fine arts, history, education, literature, business administration and other subjects. See, *e.g.*, J.A. A63, A127-28, A227; U.S. Br. at 2-3. Goldsboro concedes that it is an educational organization. G. Br. at i, 8.

On appeal, the United States Court of Appeals for the Fourth Circuit held in both cases that § 501(c)(3) does not authorize the granting of tax-exempt status to racially discriminatory schools, regardless of the religious basis for their practices, and that denial of this tax benefit does not infringe upon First Amendment religious freedoms. *Bob Jones*, 639 F.2d 147 (4th Cir. 1980); *Goldsboro*, No. 80-1473 (4th Cir. Feb. 24, 1981) (per curiam) (Pet. App. 1a-3a).

Petitioners sought review here. In response, the Government argued that the Fourth Circuit decisions were correct but urged the Court to grant the petitions for *certiorari* in order to "dispel the uncertainty surrounding the propriety of the Service's ruling position and foster greater compliance on the part of the affected institutions." U.S. Br., Sept. 9, 1981, at 17. The petitions were granted on October 13, 1981.

Just before its brief on the merits was due, however, the Administration reversed its position.[3] On January 8, 1982, the Acting Solicitor General filed a memorandum informing the Court that the Department of the Treasury intended to initiate the steps necessary to revoke Rev. Rul. 71.447 and other pertinent rulings and to recognize § 501(c)(3) exemptions for petitioners, suggeting that these cases therefore were moot. But legal constraints made implementation of the Administration's changed position impossible. In an action against the Government in 1971, a three-judge court had rendered a declaratory judgment that racially discriminatory private schools are ineligible for tax-exempt status under § 501(c)(3) and as donees of deductible charitable contributions under § 170. *Green v. Connally*, 330 F. Supp. 1150, 1179 (D.D.C. 1971). Upon appeal by intervening white parents and school children, this Court unanimously affirmed without opinion. *Coit v. Green*, 404 U.S. 997 (1971). This declaratory judgment remains in effect and is binding on the Government.[4] Moreover, in a case involving similar issues, the Court of Appeals for the District of Columbia Circuit, on February 18, 1982, enjoined the Government from granting § 501(c)(3) tax-exempt status to any school that discriminates on the basis of race. *Wright v. Regan*, No. 80-1124, Order (per curiam).

Because of the injunction in *Wright* the United States informed the Court that it would not revoke the revenue rulings and would not grant petitioners tax-exempt status. It therefore withdrew its request that these cases be dismissed as moot and instead suggested appointment of an *amicus curiae* to support the judgments below in favor of the United States.[5] The United States filed its brief on the merits on March 3, 1982, urging reversal of the Fourth Circuit's decisions. The Court, by its order of April 19, 1982, invited William T. Coleman, Jr. "to brief and argue these cases, as *amicus curiae*, in support of the judgments below." 50 U.S.L.W. 3837. Accordingly, *amicus curiae* files this brief in support of the position heretofore taken in these and other proceedings by the United States.

SUMMARY OF ARGUMENT

Since *Brown v. Board of Education*, 347 U.S. 483 (1954), the actions of Congress and the decisions of this Court have expressed a fundamental national policy, derived from the Fifth, Thirteenth and Fourteenth Amendments, condemning racial discrimination in education—public and private. This Court has consistently and unequivocally ruled that government support of segregated schools "through any arrangement, management, funds, or property" is unconstitutional. *Cooper v. Aaron*, 358 U.S. 1, 19 (1958); see *Norwood v. Harrison*, 413 U.S. 455 (1973). In *Runyon v. McCrary*, 427 U.S. 160 (1976), the Court squarely held that Section 1 of Civil Rights Act of 1866, 42 U.S.C. § 1981, prohibits racially discriminatory practices in private schools.

Recognizing the development of this fundamental national policy, the IRS, in light of the statutory requirements governing charitable organizations, decided in 1970 that private schools practicing racial discrimination are not entitled to tax-exempt status under § 501(c)(3) of the Code or eligible for deductible charitable contributions under § 170. See J.S. A235-239; Rev. Rul. 71-447, 1971-2 C.B. 230. Contrary to the Government's suggestion, this decision was not a reversal of previous IRS practice. Rather, given the evolution of constitutional and statutory law after *Brown*, this ruling followed inevitably from the long-standing position of the IRS that §§ 501(c)(3) and 170 provide tax benefits only for organizations charitable in the common law sense. A three-judge court upheld the denial of tax-exempt status to racially discriminatory private schools in *Green v. Connally*, 330 F. Supp. 1150 (D.D.C. 1971). This Court's affirmance of the three-judge court ruling, *Coit v. Green*, 404 U.S. 997 (1971), was a correct decision on the merits, and nothing has occurred since which suggests any basis for overruling it. On the contrary, congressional actions since 1970 have expressly ratified the IRS ruling upheld in *Green*.

The Commissioner's obligation under the Code to deny tax-exempt status to private schools that discriminate on the basis of race is supported by several distinct but mutually reinforcing statutory grounds:

1. As the IRS ruled, § 501(c)(3) was intended to provide tax-exempt status only for charitable organizations in the common law sense. It is a basic precept of the common law that the special privileges afforded to charitable organizations are based upon their contribution to the general welfare, and thus that an organization is not entitled to charitable status if its purposes are inconsistent with law or fundamental public policy. *Ould v. Washington Hospital for Foundlings*, 95 U.S. 303, 311 (1877); *Perin v. Carey*, 24 How. 465, 501 (1861). The language and legislative history of § 501(c)(3) reflect congressional intent to adopt this principle. The courts and the IRS have been

[1] If successful, petitioners would pay no federal income, social security or unemployment taxes, would be eligible to receive charitable contributions deductible from the donor's gross income or estate, and would be included in the IRS publication of organizations having advance assurance of eligibility for charitable contributions.

[2] In a separate action filed following the district court's decision, Bob Jones obtained preliminary injunctive relief compelling the IRS to restore its tax-exempt status under § 501(c)(3) and to provide advance assurance of the deductibility of contributions under § 170 by including Bob Jones in the Cumulative List of Organizations published by the IRS. J.A. A3; Pet. App. A72-86. This order was stayed by the Fourth Circuit pending appeal. J.A. A17; Pet. App. A97-99. The appeal was later consolidated with the Government's appeal from the district court's original decision. J.A. A8, and is before this Court on Bob Jones' petition for *certiorari*.

[3] For the circumstances surrounding the change in position, see *Administration's Change in Federal Policy Regarding the Tax Status of Racially Discriminatory Private Schools: Hearing Before the House Comm. on Ways and Means*, 97th Cong., 2d Sess. (1982) *("1982 Hearing")*.

[4] 28 U.S.C. § 2201 ("declaration shall have the force and effect of a final judgment"); see *Roe v. Wade*, 410 U.S. 113, 166 (1973); Restatement (Second) of Judgments § 33 (1982).

[5] The Government and petitioners are correct in concluding that these cases are not moot. The Government has not granted exemptions under § 501(c)(3) to petitioners, nor refunded the taxes paid, nor revoked the revenue rulings which deny such exemptions. The Administration's changed view, therefore, does not moot the litigation. *North Haven Bd. of Educ. v. Bell*, 102 S. Ct. 1912, 1918 n.12 (1982). Even if the Government were to implement its changed position the case would be moot. See *United States v. W.T. Grant Co.*, 345 U.S. 629, 632-33 (1953); *Green v. Connally*, 330 F. Supp. at 1170.

The cases come to this Court on records developed through the adversary process. They are still adversarial in the operative sense because the Administration has not granted the relief petitioners seek, and cannot do so while the declaratory judgment in *Green* and the injunction in *Wright* are in effect. There remains, therefore, a justiciable controversy. *Kentucky v. Indiana*, 281 U.S. 163, 173 (1930); see *GTE Sylvania, Inc. v. Consumers Union*, 445 U.S. 375, 382-83 (1980); cf. *United States v. Lovett*, 328 U.S. 303, 306 (1946). The Court has properly invited an *amicus curiae* to present the opposing view which had been successfully argued by the Government in the Court below. *Cheng Fan Kwok v. INS*, 392 U.S. 206, 210 n.9 (1968); see also *Granville-Smith v. Granville-Smith*, 349 U.S. 1 (1955); *Brown v. Hartlage*, 102 S. Ct. 1523, 1526 n.1 (1982). Finally, the Court could not accept the present Administration position, vacate the judgments below and order refund of the FICA and FUTA taxes paid by petitioners without conducting an independent review of the merits. See *Rosengart v. Laird*, 405 U.S. 908 (1972); *Richmond Television Corp. v. United States*, 382 U.S. (1965); *Weber v. United States*, 119 F.2d 932 (9th Cir. 1941), *aff'd per curiam by an equally divided Court*, 315 U.S. 787 (1942); *id.* at 935 (dissenting opinion); see also *Bruton v. United States*, 391 U.S. 123, 125-26 (1968); *Young v. United States*, 315 U.S. 257, 258-59 (1942).

guided accordingly and have long relied upon common law concepts of charity to determine the applicability of § 501(c)(3) to "educational" organizations. This long-standing construction of § 501(c)(3) was adopted by Congress when it re-enacted the Code in 1954 and again in enacting the Tax Reform Act of 1969.

In this light, there is no merit to the argument of the Government and petitioners that the term "educational" in § 501(c)(3) must be construed as entirely independent of the law of charity solely because the terms of the statutory expression "religious, charitable . . . or educational purposes" are separated by the disjunctive. This argument tears the term "educational" from its statuory context and historic origins in the common law, ignores the statute's legislative history, and disregards its long-standing judicial and administrative construction. Even in strictly grammatical terms, the more reasonable interpretation of the statute is that its specific terms provide descriptive examples of organizations that are charitable in the generic sense. See 26 U.S.C. § 170 (c)(2) (defining "charitable contributions" as contributions to "religious, charitable, . . . or educational" organizations). In interpreting other Code provisions listing terms sharing a common denominator but separated by the word "or," the Court has often held that a single word in the list—here "educational"—"does not stand alone, but gathers meaning from the words around it." *Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307 (1961); see *National Muffler Dealers Association v. United States*, 440 U.S. 472 (1979).

2. Recognition of tax-exempt status for racially discriminatory private schools, moreover, would contravene the established judicial presumption against congressional intent to allow tax benefits where they would frustrate a sharply defined governmental policy. *Tank Truck Rentals, Inc. v. Commissioner*, 356 U.S. 30, 33-35 (1958). Here, recognition of tax exemption would be utterly inconsistent with federal law and fundamental national policy condemning racial discrimination in public and private education, severely undermining the Court's mandate to desegregate the public schools as well as the constitutionally-based policy against government support for segregated private schools.

3. Congress has been fully aware of the IRS decision on this issue since the day if was made, and has repeatedly refused to alter the IRS ruling, even while amending § 501(c)(3) in other respects. Furthermore, in enacting § 501(i) in 1976, Congress expressly adopted the IRS's decision as "national policy." S. Rep. No. 1318, 94th Cong., 2d Sess. 8 (1976). Congress recognized that the court in *Green* had held that the existing language of § 501(c)(3) barred tax-exempt status for racially discriminatory schools and thus saw no need to adopt additional language to this effect. Instead, Congress extended this policy to private social clubs practicing racial discrimination, a positive legislative action plainly signaling approval of the IRS ruling on discriminatory schools. It is inconceivable that the Congress which mandated denial of tax-exempt status for discriminatory social clubs, including school fraternities, could have intended to permit discriminatory practices by the tax-exempt schools themselves. Congress reaffirmed its support for the IRS ruling in 1979 when it enacted the Dornan and Ashbrook Amendments to bar implementation of proposed new "affirmative action" requirements for private schools. A fair reading of these developments since 1970 can leave no reasonable doubt that Congress has ratified and approved the IRS policy in Rev. Ruls. 71-447 and 75-231. *Haig v. Agee*, 453 U.S. 280, 300-01 (1981); *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 381-82 (1969).

Indeed, if § 501(c)(3) were construed to permit tax exemptions for racially discriminatory schools, the provision would be unconstitutional under the Fifth Amendment. The Government has an affirmative constitutional duty to steer clear of providing significant aid to such schools, even in the absence of any purpose to further the schools' racially discriminatory practices. *Norwood v. Harrison*, 413 U.S. 455, 465 (1973).

For all these reasons, the IRS properly concluded that racially discriminatory private schools are not entitled to exempt status under § 501(c)(3). There is no question that both petitioners engage in racially discriminatory practices. While Bob Jones argues that it is entitled to exempt status under § 501(C)(3) as a "religious" organization, the record demonstrates that it is not a church or seminary engaged exclusively in religious activities, but rather a school providing accredited secular education at all levels.

Ultimately, petitioners argue that the First Amendment's protection of religious freedom requires that they be excepted from the rulings barring tax-exempt status for all other racially discriminatory private schools. But the right to free exercise of religion does not guarantee entitlement to tax-exempt status. Rev. Ruls. 71-447 and 75-231 do not restrict petitioners' right to hold or teach their religious beliefs, nor do these rulings prevent them from continuing their discriminatory practices without the benefit of government subsidy. If there is any burden on petitioners' free exercise here, it is far outweighed by the compelling governmental interest in eliminating all forms of official support for racial discrimination in education. *Norwood v. Harrison, supra.* If the Establishment Clause has any bearing here, it is to prohibit special tax preferences for religiously-motivated racial discrimination. To give favored tax treatment to racially discriminatory sectarian schools while denying tax benefits to private schools that claim no religious basis for their racially discriminatory practices would impermissibly entangle government with religion.

Since the United States does not support petitioners on their First Amendment claims, the principal issue here, as framed by the Government, is whether the Court should overrule *Coit v. Green* and the Commissioner's firmly established practice, ratified by Congress, of denying tax-exempt status to racially discriminatory schools. The Government states that it fully subscribes to "the strong national policy in this country against racial discrimination in any and all forms." U.S. Br. at 11. But this is an empty assurance if schools that admittedly discriminate on the basis of race are nonetheless afforded significant tax benefits. Surely the constitutional and congressional command to eradicate the badges and incidents of slavery demands more.●

SUPPLY-SIDE ECONOMICS AT WORK

● Mr. GRASSLEY. Mr. President, throughout the spring months of 1982, much was said about how economic recovery would be led by consumer spending and that the supply-side formula of recovery through increased savings was merely a myth.

Well, Mr. President, for the benefit of those who doubted, the marginal tax-rate reduction has had a very positive effect on the Nation's savings pool. Many had thought that the consumer would lead us out of the recession in the short run by simply spending most or all of the extra money received from the latest round of tax reduction and from the recent social security increase. But at least half of that money was saved, and a large amount went to paying off installment debt, a form of savings.

The savings rate for the month of July rose to 8.1 percent, which is 2.3 percent higher than the 1980 rate. The August rate is still above the 7-percent level. Each percentage point increase in the savings rate accounts for approximately $22 billion of new funds in the Nation's savings pool.

The pattern of rising personal savings is due to a fundamental change in the economy. The simple fact that inflation has subsided has changed the savings climate for the better. More people are saving because interest returns are high and because there is no pressure to consume in anticipation of higher prices.

If the rate of savings continues to stay high, we must regard the increase as a positive development in an otherwise bleak economy. We must also, then, expect that economic recovery will be slow.

Yet there is much good to be said, in this sense, for a slow recovery. A slow but steady recovery marked by a continued rise in savings is a more fundamentally sound recovery than one based on consumption. A savings-led recovery would naturally be a slow one, but it is based on increased productivity rather than on increased demand.

An informative article on the Nation's savings picture appeared in a recent issue of Business Week magazine. I ask that the article be printed in the RECORD so that my colleagues might better understand the savings situation in this country.

The article follows:

WHY SAVINGS MAY STAY HIGH

Americans are beginning to stash away more of their income. In July the personal savings rate jumpted to 8.1%, the highest level since late 1975. This could well signal a higher level of savings that will carry throughout the decade, say some economists. If they are right, the increase in savings would help finance the enormous federal deficits looming over the next few years, dampen interest rates, and spur capital investment.

The savings rate, to be sure, almost always rises in a recession as consumers tighten their belts for fear that they may lose their jobs. And to some extent the increase in savings reflects that phenomenon. What has

made some economists optimistic about savings is that the rate has been increasing even as the recession dragged on and deepened. "Savings do rise early in a recession, but if it continues long enough, people eventually have to draw them down to maintain their standard of living," notes Elizabeth Allison, an economist at Data Resources Inc. "What is interesting is that savings have been so strong in the face of the worst postwar recession."

Economists believe that several factors are making for a fundamentally higher level of savings. These are:

LOWER INFLATION

When inflation accelerates sharply, as it did in the late 1970s, people tend to spend more and save less in order to buy goods before prices rise even further. From 1977 to 1980, as inflation rose, the savings rate declined steadily, to 5.8% from 6.9% in 1976. With inflation now down substantially and expected to stay well below 10% for the next several years, that process will reverse, and people will save more of what they earn.

NEW INCENTIVES

The combination of lower marginal tax rates and tax-deferred savings instruments such as Individual Retirement Accounts are encouraging people to save more. "The IRA's and the lower marginal rates are increasing the real net rate of return to savers and are attracting new money," says Michael J. Boskin of Stanford University.

HIGH REAL INTEREST RATES

Although market interest rates have dropped sharply in recent weeks, real interest rates—market rates adjusted for inflation—remain high by historical standards. A high real rate not only dampens consumer borrowing but also gives the saver a better return. Real rates are expected to remain lofty even if market rates continue to decline.

DEMOGRAPHIC CHANGES

Evidence shows that people save more as they grow older. Now that the baby boom generation has been absorbed into the population and the average age of Americans will be growing steadily higher, some economists believe that this will boost the savings rate.

The higher savings rate will benefit the economy in the long run even though economists agree that the recovery would be far more robust if consumers were now spending more and saving less. The 10% cut in personal taxes any the increase in Social Security benefits in July have been especially disappointing to those awaiting a consumer-led economic upturn. Rather than spend it, consumers saved about half of the extra dollars in their July checks, according to Edward E. Yardeni, chief economist for E. F. Hutton & Co. And consumers used much of the extra money to pay off installment debt.

Says Boskin: "In the very short run it would have been more of a plus if the tax cut had gone into spending rather than savings. But the prospect of higher savings in the future will help finance the big government deficit."

At current income levels, each percentage point rise in the savings rate adds about $22 billion to the pool of funds available to finance the government deficit and business capital spending. So if the savings rate stays in the 8% range, up two full percentage points from the average rate of the last half of the 1970s, about $44 billion annually would be added to the savings pool. And if personal disposable incomes rise at an annual rate of 9% (7% inflation and 2% real growth) over the next three years, the increase in personal savings will add about $52 billion to total savings in 1985. That is more than half of the $90 billion government deficit that is projected for that year.

AN UNDERSTATED RATE?

And the outlook for savings may be even rosier. The amount of money that Americans are saving could be a lot higher than the government numbers show. The Bureau of Economic analysis computes the savings rate by taking the difference between what people earn and what people spend. But there is a huge amount of income, estimated at about $400 billion a year, earned off the books that never get recorded in the official government numbers (BW—Apr. 5). However, the government does a far better job in reporting the amount of money people spend than it does what they earn. Therefore, because the government under-records earnings relative to spending, the rate at which people are saving tends to be understated.

In July the government implicitly acknowledged that its estimates of the savings rate were too low. It raised the rate for the years 1977 to 1981 by an average of 0.6%. And for 1981, rather than showing a 5.3% rate, the rate was increased to 6.4%. But those revisions, as well as the current rates, may still fall woefully short of the true savings rate. Flow of funds data, developed by the Federal Reserve Board to show the supply and demand for funds in both the private and public sectors, indicates that the personal savings rate last year may have been as high as 9.4%.

SOMETHING MORE FUNDAMENTAL

Some economists dismiss the recent runup in savings as simply reflecting the depressed sales of autos, houses, and other durables as well as the temporary effects of the tax cut and the increase in Social Security benefits, and they argue that the rate will soon come tumbling down. Others disagree. "The jump in the July savings rate did reflect the tax cut and the increase in Social Security benefits, and that usually lasts only a few months," notes University of Michigan economist F. Thomas Juster. "But since the rate has been rising now for some months, it indicates that something more fundamental is at work. And that something is that the economy is going through a transition from relatively cheap borrowing. When that occurs people tend to save more, and the recent runup in savings might last for years." In Juster's view, high interest rates both discourage consumer borrowing and increase the incentive to save.

To other economists, the big incentives to save are coming from IRA's and the tax cuts. Already, IRA's seem to be attracting a lot of money. Mutual funds alone, for example, opened 700,000 new IRA accounts in the first three months of this year. Savings and loan associations report that deposits in IRA's stood at $16 billion in March, compared with $11 billion a year earlier. Many analysts are predicting that IRA's will grow to $25 billion this year.

"We haven't seen the big surge in IRA's yet," says Boskin. "They will be coming on as we get closer to tax time in order to take advantage of tax breaks." He expects the savings rate to dip slightly and then rebound sharply again as "people try to get into tax-free vehicles."

Like Boskin, Beryl W. Sprinkel, Treasury Under Secretary for monetary affairs, expects the savings rate to back down some from July as people begin to spend their tax-cut dollars. But he believes that the savings incentives put in place by the Reagan Administration will lead to a sustainably high rate of 7% to 8%. "I would expect on average that it is going to stay up," he says.●

HUMAN CAPITAL

● Mr. TSONGAS. Mr. President, the National League of Cities newspaper Nation's Cities recently reprinted a speech by National Alliance of Business president, William H. Kolberg, which I highly recommend to my colleagues.

Mr. Kolberg's thesis is that investments in human capital by this Nation are both inexpensive and economically rewarding. Furthermore, this investment strategy must be pursued if we are to succeed in the transition from the industrial age to the information age without inflicting serious damage on our people and our communities.

The speech is an intriguing and compelling outline of the problems and challenges which we must be prepared to tackle in order to deal not only with the problems of unemployment, but the long-term quality of our work force and work product.

Mr. President, I submit for the RECORD Mr. Kolberg's speech.

The speech follows:

[From Nation's Cities Weekly, Sept. 13, 1982]

EXCERPTS: THE INFORMATION REVOLUTION BECKONS NEW INVESTMENT IN OUR HUMAN CAPITAL

(The following is excerpted from a speech by William H. Kolberg, president of the National Alliance of Business, a nonprofit business group interested in stimulating jobs and training in the private sector. He spoke in June to 50 representatives of business, government, academia and organized labor who attended a conference at Oakland University in Rochester, Mich., on the effects of economic dislocation.)

Peter Drucker has observed that we live in an age of discontinuity, sharply different from all those yesterdays that comprise human history.

Thus, the process of displacement continues, but with major differences. Strange dreams are transformed into new ideas, which are converted into new technologies, which give birth to new industries, seemingly overnight.

The breathing space once granted to the obsolescent industry or craft has collapsed. There is a germ of sardonic truth in the Pentagon joke that, "If it works, it's obsolete."

Perhaps the greatest discontinuity of all is that for the first time in history the future will belong not to those whose hands are cunning in the creation of things, but to those whose minds are trained in the manipulation of ideas and symbols.

We are, as Jeremy Main has put it, "launched on the voyage from the industrial age to the information age." That journey is what has brought us here today: millions of industry jobs have vanished. At the same time, the information revolution will

be creating millions of new jobs, many of them involving more interesting work, better pay and higher status.

The problem is how to get from here to there without inflicting grievous psychological and economic wounds on the workers and communities affected by these changes. That means that almost everyone is drawn into the journey. We are all fellow-travelers in this vast new trek. And that most certainly includes the structurally unemployed.

If the only solution to skilled displacement is for those affected by it to climb down the skill ladder, there will be little room on the lower rungs for the hard-to-employ. There can result from that the most corrosive of all effects for a democratic society: a permanent underclass. It is an evil we must prevent.

The economically dislocated worker has underlined for us that what we are really concerned with is "human capital."

The fundamantal fact is that it is not only the employed workforce we must consider, and it is not only the unemployed we must consider. We must also concern ourselves with the quality of the workforce, the kind of workforce that we will require today and also tomorrow and throughout this and the next decade. In addition, we must concern ourselves with the human capital that, under current policies, is destined to be unrealized human capital—the millions who do not have the kinds of skills, even rudimentary skills, needed by an evermore skill-hungry economy.

One of the least expensive and most economically rewarding investments a nation can make is in the quality of its human capital. Such a human capital investment strategy is based on the proposition that the future belongs to those who do not content themselves with where the jobs have been, or even where the jobs are now, but where the jobs will be in the future, and then offering workers ways to retrain for, and secure, those jobs.

We learned a few days ago that the nation's highest unemployment rate was right here in Michigan, in Flint with its 23.2 percent jobless rate. Even if, as we all hope, the automobile industry were to make a swift turnaround in the next few months, the prospects for many unemployed auto workers are dim. This is due to the growing tendency to move from blue collar to iron collar workers, from human to machine.

Surely it makes sense to train for the kinds of opportunities this trend represents—to retrain those who have been dislocated, and also those currently working in clearly declining industries. And to train the structurally unemployed, as well.

The fact that the skill capacity of our human capital is deteriorating has implications far beyond the meaning to particular individuals who possess only obsolete skills, or no skills at all.

First, based on current demographic trends, as we grow older as a people, an unskilled, low-paid workforce simply will not be able to support the growing proportion of our population that is nonproductive. Before World War II, the ratio of workers to nonworkers was 9 to 1. Last year it was 3 to 1. And in just eight more years it will be 2 to 1. Older Americans and others not in the workforce can be assured of continued benefits even with a 2 to 1 ratio—but *only* if those two workers are in highly skilled, highly productive, high-return jobs.

Second, demographic data also show that there will be a sharp drop in the number of 15 to 24 year olds, and a similar decline in the growth of the 25-35 year age cohort. This means that we have a choice. We can absorb this shrinking number of job entrants at the lower end of the spectrum, the unskilled jobs, and see shortages in skilled labor, with all that means in terms of missed opportunities—or we can seize this opportunity to upgrade the workforce so that each individual's contribution is magnified manyfold through possession of the kinds of skills the new technologies require.

Third, economic as well as humane considerations argue for a reassessment of the manner in which we view unemployment insurance. It can be seen as compensation for lost income, as it is now, or it can be applied in more creative and appropriate ways, as it is in some few places in the country, to serve for retraining, job search, even travel to more fertile job areas.

Finally, there is the "prepared mind" principle. In commenting on the seemingly incredible discoveries of Louis Pasteur, his biographer attributed much to chance—but nothing to accident. Accidents can happen to anyone, he recognized, but beneficial chance favors the mind that is prepared. Unless we link prepared minds with proper skills, whole potential areas of domestic economic growth will remain untilled and untenanted simply because of an insufficient supply of workers.

I'd like to close by citing a quote attributed to Mark Bendick, in a recent Fortune magazine article: "The problems of dislocated workers," he said, "are more appropriately addressed if dislocation is seen less as a characteristic of an identifiable population of individuals than as a recurrent temporary condition in the career of the majority of workers. This approach accepts the rapid and increasing pace of change in the economy as an ongoing and increasingly universal fact of life."

In short, we are not dealing here with a temporary phenomenon, nor one amenable to quick and seemingly plausible solutions like fostering relocation. Workers—displaced by plant closings, product obsolescence, or foreign competition—are particularly vulnerable in that the skills and community commitments that were once proud assets have been transferred, for reasons beyond their control, often beyond their comprehension, into what Fortune calls "the disabilities of affluence."

We must recognize that the impact of the information revolution will be felt throughout the workforce, not just by the skilled. And we must design an approach that does not content itself with picking up the pieces after dislocation; it must instead seek to prevent dislocation by enabling communities and industries to identify the new opportunities that lie ahead and then to train for such opportunities.●

FFG-7'S—FRUGAL, FAST AND FURIOUS

● Mr. COHEN. Mr. President, attention is often focused on military programs and weapons systems which are encouraging cost overruns, delays, and/or failures in performing their missions.

One program, however, has come to be identified with cost efficiency, timeliness, and mission effectiveness. The FFG guided missile frigate has been delivered on or ahead of time and at or under cost. The lead shipyard, Bath Iron Works, which is, I might add, located in Maine, deserves a lot of credit for that.

The FFG also plays an important role in enhancing our Navy's capability. In this month's issue of Sea Power magazine, Capt. Walter Thomas, USN (retired) tells of the important role which the guided missile frigate fulfills.

Captain Thomas, who served as the Navy's senior research fellow at the National Defense University, describes the FFG's as "frugal, fast, and furious. In short, frigates of the FFG-7 class have been well-designed to carry out the priority tasks of sea control and escort duty in a worldwide antisubmarine warfare environment."

The article, "Fast and Furious," discusses the superb record of the FFG-7 and the contribution it makes to our Naval force. I submit for the RECORD and commend the article to the attention of my colleagues.

The article follows:

FAST AND FURIOUS

(By Walter "R." Thomas)

In the 1970s world of double-digit inflation, complex contract claims, and crucial cost overruns, one class of ships hove over the horizon to brighten an otherwise gloomy shipbuilding decade—the "FIGs."

The advent of the first of this class of guided missile frigates, USS Oliver Hazard Perry, FFG-7 (FIG Seven), was greeted with some concern by dedicated power projection advocates when U.S. Navy logisticians reminded them that, in the 1960s, a Defense Department argument for *many small ships* had been used as an excuse for not building *any large ships.* Thus the fear remained that a significant impetus for smaller ships would be misinterpreted as a retreat on capital ship programs.

The inclination to build "three of these" at the same cost as "one of those" was an analytic trap that the U.S. Navy did not want to enter again.

Another concern was that the guided missile frigate would not be able to fulfill the many jobs required of a modern warship. Yet, in the discrete definition of a mission, there was little reason for the new FFG to do everything—as long as it did some things well. Until someone can design a battleship that can launch three aircraft wings and submerge when attacked, tasks must probably remain specific.

Nevertheless, designing ships that only need to be assigned certain combat roles on the basis of potential threats is still a difficult professional problem. In the case of the guided missile frigate, U.S. Navy leaders addressed their task admirably with the FFG program. There need be no further proof than that the Soviets strive to duplicate almost every type of warship that the U.S. Navy develops. However, by the end of the Vietnam War, the U.S. Navy was losing the shipbuilding race as Admiral of the Fleet of the Soviet Union Sergei Georgiyevich Gorshkov was dramatically increasing the number of Soviet warships and had intensified his fleet's sea operations.

More important, in the period from 1970 to 1978, because of the Vietnam War, the U.S. Navy was depleted to an almost skeleton force of modern ships that could be dedicated exclusively to anti-submarine warfare and convoy tasks. These limited roles,

in view of the Soviet submarine threat, would become priority efforts to protect convoys in the event of a land war in Europe. There also was an increasing number of ocean zones to be covered as the United States became heavily committed to freedom of the seas and safe transit in and around the Indian Ocean, as well as in the Caribbean area, where insurgencies threatened the stability of southern neighbors.

During this same time frame there also were strong advocates on two, and sometimes three, sides of the issue concerning a new "force mix Navy." As with most theoretical models, none seemed correct.

FORCE MIX

There have always been internecine arguments on strategic versus general-purpose forces, deterrent versus projection capabilities, or high versus low (or even high-low) weapon systems. Force mix discussions are cerebral popcorn. They ignore the basic element of decisionmaking, which is to define the task first and then develop the weapons to accomplish it, preferably in quantity and at reasonable cost. The FFG program, possibly more than any other recent shipbuilding project, met these criteria. It has been one of the U.S. Navy's least controversial efforts.

The decision to build these guided missile frigates becomes even more supportable when one considers that the FFGs are being delivered on (or ahead of) time, and at (or under) cost. Credit has to be broadly distributed among the U.S. Navy's own leadership, the directors of both Bath Iron Works (lead shipyard) and Todd Shipyards (second-source yard), and not least of all the Congress and the President—for supporting the program financially.

Although the FFG is not a capital warship, however that term is defined in sea power language, it enhances the credibility of decisionmakers who have been previously criticized for not preparing adequately for the vagaries of conventional war.

Is the FFG part of the force mix? Not really. It is part of the more pragmatic "task mix." The FFG is a sorely needed weapon that has been developed and produced to accomplish certain necessary missions, and because of its availability in numbers it can accomplish them more readily than can other types of ships.

In sum, guided missile frigates can relieve capital ships in certain environments so that cruisers and carriers can do the tasks that capital ships do better, such as anti-air warfare and shore bombardment. The FFG can operate independently of battle groups in its own combat roles, or support simultaneous operations in company with major units. It seems, if the FFG is any mix at all, to be a "proper mix" for all contingencies.

THE FFG PROGRAM

Although the Oliver Hazard Perry (FFG-7) was commissioned in 1977, only six of her sister ships had joined her in the active fleet by the end of 1980, with 16 more expected to be commissioned by the end of 1982. Todd Shipyards joined Bath Iron Works as a builder of FFGs in 1977. Altogether, about 50 ships have now been ordered or authorized, with an additional eight planned for future (1984-1987) fiscal year programs.

Although slightly lighter (3,600 tons) than the Soviet Krivak-class guided missile frigate (4,000 tons), the FFG, like the Krivak, is designed to be a formidable ASW platform. Both ships have hull-mounted sonars, gas turbine engines, torpedo tubes, 76mm guns (different models), missiles, and helicopter platforms.

The FFG's two LM 2500 gas turbine engines, produced by General Electric, are efficient and responsive. It is expected that when the new Rankine cycle energy recovery (RACER) system is fully developed—to include a waste heat boiler in the exhaust system—even greater fuel efficiency will result. (The RACER system generates power in the waste heat boiler to run a propulsion turbine.)

The FFG's new LAMPS (light airborne multi-purpose system) Mk III ASW helicopters, SQR-19 "TACTAS" towed hydrophone sonar array, and 20mm Vulcan/Phalanx rapid-fire gun system will add considerably to the ship's combat effectiveness as those systems become available to augment the FFG-7's current missiles, guns, and torpedoes.

WHY THE FFG?

As the 1970s ended, the U.S. Navy had about 400 ships in the active fleet—fewer than at any other time since World War II, only about half as many as in 1964, and only two-thirds of the 600 ships that Admiral Thomas H. Moorer, USN (Ret.), has said is the "absolute minimum" the Navy needs. As a former Chief of Naval Operations, and later Chairman of the Joint Chiefs of Staff, Moorer had pressed persistently for a major shipbuilding program that would reverse the negative trends of the 1960s and 1970s and give the U.S. Navy what it needs to defend the nation with a reasonable degree of confidence.

Despite the efforts of Moorer and other Navy leaders, the five-year shipbuilding program suffered, year after year, from "graphic creep." As each ship budget came up for authorization, too many ships were transferred to the "out years" of the ever-new five-year program. Stated another way, as each new budget cycle started, ships were transferred down the graph to the non-budget years. Whatever admnistration was in power was always planning to build more ships, but seldom funding them.

Despite these difficulties, and with the Navy well aware of the tight monetary policies, it was during the late 1960s and early 1970s that the FFG, as well as many other U.S. Navy programs, progressed from the design state through various levels of the Defense Department and into the legislative cycle. Without that effort the Navy would not now be projecting today's program of almost 50 guided missile frigates in the U.S. fleet by 1985.

Are the guided missile frigates needed? The Soviets already have over thirty Krivak-class guided missile frigates operational, plus eight of the Kotlin class, twenty of the Kashin class, and eight Kanin-class guided missile destroyers. All of these Soviet ship classes are generally similar in weight, size, and capability to the U.S. FFGs.

Additionally, the new Soviet Sovremenny class of guided missile destroyer is much heavier (7,500 tons) and more sophisticated than any of the other Soviet ships just mentioned.

So it is not just that the Navy needs the FFGs. It also needs, very much—and soon—a follow-on ship to counter the frenetic Soviet shipbuilding program.

FORWARD PROJECTION

Since the U.S. Navy's highest priority is to defend the United States itself, the first logical question to ask is: Where should the outer defense ramparts be mounted? Even with all the U.S. Navy's FFGs, present and projected, the USSR has an advantage in surface combatants. To confront these Soviet warships at sea and to prosecute effective anti-submarine warfare away from U.S. shores, the USN's guided missile frigates must be able to operate in large numbers in distant waters. The determining factor is not whether the Navy has the skill or the will to deter aggression or confront conflict, but whether it has adequate numbers of ships to make the U.S. position credible.

Soviet dissident Vladimir Bukovsky stated that "unless the West makes it [the Soviet threat] priority No. 1 it will lose." Lose what? Specifically, the United States will lose the opportunity to prevent the Soviets from imposing their will on others, anywhere, any time!

The Soviet "will" is sometimes imposed subliminally—by "showing the flag," particularly in the Third World countries which control so large a share of the world's natural resources.

To present a counterpoise to the Soviet Navy's presence in large numbers in the Third World, the United States needs the FFGs to represent it in all oceans and most port cities of the free world. Other U.S. Navy ships could do the job just as easily—if there were enough other ships. But there aren't.

The U.S. Navy's formidable battle groups, with their aircraft carriers, cruisers, and destroyers, are already heavily committed, perhaps over-committed, so the use of guided missile frigates on independent duty is one way of providing valuable assets to confirm the steadfast U.S. commitment to freedom and democracy—for several reasons:

First, the FFGs are new, sleek, efficient, and increasingly available for detached operations. Second, they are an excellent example of U.S. technological capacity. Third, they are ships which can be built at a relatively reasonable cost in today's inflationary world, and their presence in foreign harbors might encourage other nations to buy them. Spain and Australia now are adding FFGs to their fleets, and U.S. and Australian crews already have worked together in FFG exercises on the U.S. West Coast. In short, the FFG's "forward projection" capability demonstrates, as little else can, the sincere interest that the United States has for sharing its technology and training with other free world nations.

THE NAVY'S NEEDS

Although the U.S. Navy will soon have about 80 frigates, including ships older than the Oliver Hazard Perry class, in its active inventory, it needs at least 100 frigates to meet long-range commitments. One option is to progress rapidly with the planned "FFGX" program so that the shipyards now building the FFG-7s can move on to FFGX construction. If 50 ships of the FFGX class could be commissioned, at the rate of five per year, from 1986 through 1995 the future frigate program would have a sound base.

Congress has been ready in the past to fund well-documented programs and well-designed ships. The experience of the shipyards and the success of the FFG program should be an incentive, therefore, for the U.S. Navy to step briskly down the budgetary path with the FFGX.

As now planned, the FFGX will be a strapping offspring of the parent FFG program, though not in the numbers needed. At about 8,500 tons the FFGX also will be a

credible challenge to the best of the USSR's new counterpart ships. It is projected to get the RACER engine conversion, Phalanx gun system, Tomahawk and Standard missiles, a new SQS 53 sonar, and the TACTAS towed hydrophone array.

THE FFG/FFGX FUTURE

The need to move ahead with a program of 100 frigates (FFGs and FFGXs combined) that can be widely deployed results from the fact that all nations today are inextricably tied either in bonds of friendship or chains of enmity. When any country tugs at these connections, the United States is usually affected in one way or another.

Although the stabilizing effect of a U.S. Navy ship may seem remote, the ready availability of a frigate in a contentious areas does permit the United States to respond rapidly and selectively to a tug of crisis. Additionally, even the modest presence of a frigate demonstrates the firm U.S. intent to disavow the pressures of Soviet hegemony.

There always are intangibles in any program. Are frigates versatile enough? Would funding a lesser member of larger ships be a more prudent way to increase U.S. Navy strength? Is the relative vulnerability of the smaller frigate a detriment to the survivability of battle groups? Can the frigate operate effectively in an independent mode?

There are no absolute answers to such questions. No ship is invulnerable, particularly in an age of electronic wizardry and nuclear threat. However, as a deterrent, as an ASW platform, as an escort, as an overseas presence, and as a representative of the United States abroad, the U.S. Navy's frigates will prove themselves valuable fleet assets—assets that on a cost-benefit basis may never again be duplicated as well—if they are built in quantity.

The guided missile frigates have other advantages when compared to larger U.S. Navy ships: They can be more modestly manned, with about 185 officers and men, are easily maneuvered, and more efficiently maintained and repaired (thanks to modular-design construction).

In short, frigates of the FFG-7 class have been well-designed to carry out the priority tasks of sea control and escort duty in a worldwide anti-submarine warfare environment. As programmed, their combat systems, fully integrated through the Navy Tactical Data Systems (NTDS), will provide computerized, real-time solutions across the threat spectrum.

Today's guided missile frigates give the U.S. Navy ships that are frugal, fast, and furious. They deserve an increase in numbers if they are to be fully effective as an integral part of the U.S. Navy's sea power force.●

CARRIER COMMANDER CALLS FOR MORE, SMALLER CARRIERS

● Mr. HART. Mr. President, I would like to bring to the attention of the Senate one of the most cogent articles I have seen on the aircraft carrier issue. The article I refer to is, "CVNs Forever! Forever?", by a retired U.S. Navy carrier commander, Capt. Gerald O'Rourke. It was published in the July issue of the Naval Institute Proceedings.

Commenting on the Navy's request for two additional nuclear powered aircraft carrier—CVN's—in this year's budget, Captain O'Rourke says:

The real issue with the two-at-a-time CVN initiative arises from the almost certain knowledge that the ships will suck up the lion's share of all naval funding for the foreseeable future, leaving next-to-nothing for research and development of new forms of naval surface ships, aircraft, submarines, satellites, and missiles that may be required. When viewed in this light, the bid for two new CVNs may be considered as highly presumptive. It summarizes, in succinct terms, that the Navy's answer to future needs in "CVNs Forever!"

It is this writer's opinion that "The CVN Forever" syndrome is a bankrupt naval policy which inexorably saddles this nation with an unwise and onerous mortgage of our maritime defense future.

Mr. President, I commend this highly thoughtful article to my colleagues, and I ask that it be printed in the RECORD.

The article follows:

CVN's FOREVER! FOREVER?

(By Capt. Gerald O'Rourke, U.S. Navy, Retired)

The U.S. Navy has an active duty inventory of 14 large aircraft carriers of varying ages and capabilities. For two of these, the *Midway* (CV-41) and *Coral Sea* (CV-43), the sands of time are rapidly running out. Four others, the *Saratoga* (CV-60), *Forrestal* (CV-59), *Ranger* (CV-61), and *Independence* (CV-62), are stoutly resisting senility through massive overhauls. Five more, the *Kitty Hawk* (CV-63), *Constellation* (CV-64), *John F. Kennedy* (CV-67), *America* (CV-66), and *Enterprise* (CVN-65), are well into middle age. The youthful "prides of the fleet" are the *Nimitz* (CVN-68), *Dwight D. Eisenhower* (CVN-69), and *Carl Vinson* (CVN-70), with a fourth ship, the *Theodore Roosevelt* (CVN-71), abuilding at Newport News, Virginia.

Recently announced is a surprising Navy initiative for fiscal year 1983 funding to procure not one (as anticipated) but two additional *Nimitz*-class CVNs.

This request, regardless of its ultimate fate before an election-year Congress, has some very disturbing long-term implications for both the Navy and the nation.

Large aircraft carriers take upwards of seven years to build and fit out. Unless sunk in combat or scrapped in an economy wave, a CVN should be capable of steaming with the fleet for at least 30 years—possibly even for 40 to 50. Accordingly, the two fiscal year 1983 carriers should be active through the year 2020, possibly even to 2040. The costs involved in CVNs, as might be expected, are enormous by almost any yardstick. The 90,000-ton ships require a small fortune to build, another to operate, and many more to procure the three to four "suits" of aircraft they will operate over the years. The high level of the projected costs, however, is not at the heart of the issue. Any alternative to building the ships (short of unilateral disarmament) would likely cost as much or more in the long run.

The real issue with the two-at-a-time CVN initiative arises from the almost certain knowledge that the ships will suck up the lion's share of all naval funding for the foreseeable future, leaving next-to-nothing for research and development of new forms of naval surface ships, aircraft, submarines, satellites, and missiles that may be required. When viewed in this light, the bid for two new CVNs may be considered as highly presumptive. It sumarizes, in succinct terms, that the Navy's answer to future needs is "CVNs Forever!"

It is this writer's opinion that "The CVNs Forever" syndrome is a bankrupt naval policy which inexorably saddles this nation with an unwise and onerous mortgage of our maritime defense future.

The argument is not against the CVN per se, nor is it in any way against the crying need for much greater U.S. naval might. The core of America's strength is its economy. That economy rests largely upon almost unconstrained access to overseas resources and overseas marketplaces. Well over 90% of all overseas trade moves by ship, much of the rest through the airspace overlying the shipping lanes. We are a maritime nation. We must have a credible maritime defense force to preclude interruptions to our overseas trade. The contribution which CVNs can make to support future maritime defense needs is suspect. There may be better ways to spend our hard-earned naval dollars.

This is no casual matter, for the CVNs are truly awesome ships of war. They can cruise around the world at 30 or more knots without refueling. They can carry almost 100 warplanes, whose lethal combat reach can extend up to 1,000 miles from the ship. The 6,000-man crew and the multimillion dollar support equipment integral to the carrier can launch 200 or more sorties a day in war or provide a slumbering giant of a military presence force in peace at almost any point on the globe's oceans.

Nor is it possible to pay undue homage to the carriers of the past. They won the great war for us in the Pacific. They have helped keep the peace in the Mediterranean for more than three decades. They provided our only means for rapid intervention in both Korea and Vietnam, and they have been instrumental in quashing hundreds of international crises all over the world merely by virtue of their timely arrival on the scene.

And there is a lot of wisdom shown in the Navy's bid for two CVNs. Buying in bulk—and two giant aircraft carriers are a lot of that—makes good economic sense. Buying a proven product—the *Nimitz* is a fine ship—shows good procurement sense. And striking for funds while the defense rebuilding iron is hot demonstrates sharp political acumen.

But continuing to base our naval future on the large carrier weapon system reveals a troublesome lack of both tactical and strategic wisdom.

Unfortunately, this awesome ship-of-the-line is seriously flawed by some basic facts of life in tactical naval warfare. Carriers, like all displacement hull ships, float in water. When holed in sufficient manner, each will sink. Except in very unusual circumstances, all ships sink one at a time. None are militarily useful after sinking in mid-ocean. Large carriers represent a fantastic concentration of naval assets within a single displacement hull. They are the core of both the offensive and defensive fighting strength of our Navy and have been over most of the past 50 years. The loss of a single CVN, should that dreadful happenstance ever take place, would mark a grievous national wound, from which the recovery would be long and arduous. The Navy has studied the carrier vulnerability issue for decades, usually in terms of how many bombs or missiles with how much TNT and how much penetration would cause how much damage to which systems, etc. Little attention has been paid to the nuclear war-

head, probably because common opinion holds that a single hit of this type would prove fatal.

There are a number of other tactical shortcomings of large aircraft carriers. They require deep-water ports and a tremendous amount of highly specialized pier-side support for repairs. They have only one landing runway which can handle only one aircraft at a time. Their aircraft are essentially catapult-dependent. For almost all flight operations, the ship must steam into the wind, which makes for problems in confined waters or when attempting to transit long distances during a period of adverse winds.

But most pertinent of all is the basic nature of the large aircraft carrier and her conventional catapult/tailhook aircraft. This ship-air wing team is a very useful, extremely efficient, and relatively safe system for projecting military power from a sea sanctuary against targets and enemy forces ashore. This was the typical combat scenario for much of the Pacific in World War II, for Korea, and for all of Vietnam. But the large aircraft carrier is not very useful, efficient, or even safe at common sea control missions, where submarines, land-based aircraft, and long-range antiship missiles represent the major threats. For sea control, a large number of smaller ships is better, primarily because of the higher probability of having at least one warship in the corner of the ocean where and when she is needed. Using a CVN for sea control missions is tantamount to using a sledgehammer for swatting flies. And while projecting power ashore will never disappear as a naval mission, it should take a distinct backseat to the sea control challenge now being mounted so effectively by the Soviet Navy.

But the strongest professional military argument against the CVN forever syndrome takes root from the rapidly changing nature of the missions for seabased tactical air power. Naval aircraft were originally the scouts of the fleet, used to extend the visual horizon of the battleships and cruisers from an airborne perch. As aircraft technology improved, these scouts soon took over the weapons-delivery tasks of the naval guns. They could take a bomb farther and deliver it more accurately. As they did, the battleships passed into history and the cruisers and destroyers were converted into carrier escort ships, used primarily to provide close-in defense augmentation for the lumbering giant.

Nowadays, the missile (essentially an unmanned, nonreturnable flying weapon) promises to fly farther than the aircraft, deliver a payload with greater accuracy, and most importantly, to hazard only the unmanned projectile to the enemy defenses in the process. So the weapons-delivering naval aircraft will also be passing into history, slowly but inexorably. This does not imply the demise of sea-based tactical aircraft, however. They will remain as an essential part of naval strength throughout the foreseeable future. In fact, they will probably be needed in even greater numbers than today. But their role and their missions will change from being the "main battery" itself to supporting the new main battery of surface-launched, submarine-launched, and possibly even land- or air-launched long-range missiles. The tactical sea-based aircraft's primary duties will be to find and identify targets and to direct the missiles onto those targets. Ironically, this role is a modern version of the original scouting aircraft of yesterday.

This role-changing process has already been under way for some time. It can be measured by comparing the percentage of a 1970 carrier air wing devoted to offensive attack missions to that of today. In the past, an overwhelming majority of these assets were pure attack aircraft. Today's air wing, of necessity, includes air-defense specialized fighters, airborne early warning aircraft, electronic warfare aircraft, surveillance and reconnaissance aircraft, antisubmarine warfare fixed- and rotary-wing aircraft, and tankers. The numbers of purely offensive attack aircraft has gradually eroded. The upcoming replacement of A-7 light attack Corsairs by multi-purpose (fighter defense and attack) F/A-18 Hornets marks a further major step in this trend of changing roles. More and more, the sea-based aircraft are becoming sensor-carriers rather than weapons-delivery platforms, implying that their speeds, "g" tolerances, and maneuverability requirements will all be lowered. This, in turn, implies that their basing structure need not be highly centralized—in fact, a dispersed structure would be more effective. This, fortunately, coincides with the sea control needs of the future. Also implied is a much improved capability to operate more than low-performance helicopters from the decks of smaller ships. Ergo, the argument for vertical or short takeoff and landing (V/STOL) aircraft.

Large aircraft carriers have another rarely publicized, but important, characteristic. They do much much better in twos and threes than they do independently. In multiple operations, one ship can fly the night missions, another the day, thereby permitting the "off-ship" to rearm, refuel, work on aircraft, or just rest her hardworking crew. Or defensive and offensive duties can be divided to increase the efficiency of deck-handling operations. Or older ships can be added to the offensive operations in high-threat scenarios by keeping them under the defensive umbrella of the newer, more capable carriers. But with only a dozen carriers to choose from and a global threat to contend with, and with single carriers constantly deployed as "station ships" many thousands of miles apart from each other, is it realistic to even consider multiple carrier combat operations?

In a strategic sense, the predilection of Navy leaders for CVNs forever is even more disturbing. The new ships promise to provide relief for the most pressing present peacetime need—maintaining at least one carrier on a permanent "Camel Station" in the Arabian Sea off the Persian Gulf. The CVN design fits this peacetime mission requirement quite well. She is almost totally self-sufficient, rarely requires a port visit or repairs for maintenance, and includes every possible amenity in her capacious hull to relieve the tedium for the crew. But the moment a war starts, the Arabian Sea CVN could be in deep trouble. If the Soviets are the enemy, they are only 1,000 miles away. And, when the shooting started, the utility—even the survivability—of the CVN would be questionable. If the enemy is a local malcontent nation, we have an extremely valuable defense resource exposed to a two-bit threat, and could lose more than the fight was worth to a few lucky hits by a fast torpedo boat, a rudimentary aircraft, or a mobile shore-based missile battery.

Combat credibility, as perceived in the minds of the potential enemy, is the key to a successful presence mission. As technological progress has permitted dramatic improvements in ground-to-air defensive systems, as carriers grow larger, more valuable, and easier to locate, and, in the wake of America's unhappy experience in Vietnam, the combat credibility of the entire attack carrier system erodes. There are a number of areas of the world where large aircraft carriers do not steam. It is not that they cannot go there, but simply that it is too risky to expose them in such areas. More and more, the station ship carriers are becoming more the "presence pawns" of international politics than the "fighting ladies" we would like them to be.

The presence mission, long the forte of naval forces, is becoming suspect in today's nationalistic but communicative world. We no longer enjoy the luxury of being strong while all others are weak. We may still be strong, but they are not so weak these days. Steaming a magnificent warship into the grand canal of a capital city is more often the occasion for ugly demonstrations and mob scenes than official receptions and state dinners. Certainly the carrier operating hundreds of miles at sea today in the Indian Ocean means something to our local friends ashore. But will it mean anything at all within a few years? Or would a Rapid Deployment Force poised at stateside bases provide a more effective presence for several areas simultaneously?

Wartime capabilities are the keys to combat credibility, which in time provides the cornerstone to truly effective peacetime use. We should not overemphasize power projection forces to the detriment of sea control needs.

Sensible and sound alternatives to the CVNs forever policy do exist. None are easy. None are quick. None are cheap. And none should be expected to provide a single panacea for all our future naval problems.

The concept of operating a large number of smaller carriers, however, offers many potential advantages—e.g., more ships to choose from, better tailoring of forces for more precise application of power, alleviation of the crowded naval home-port metropolises of San Diego and Norfolk, better support of the trend toward sea control instead of power projection, less visibility to surveillance sensors, less risk of exposure in troubled political waters, better ability to mass or disperse forces as needed, easier and faster shipbuilding, etc.

Myriad issues and numerous trade-offs are implicit in any smaller carrier concept. The choice of aircraft types—conventional takeoff and landing (CTOL), short takeoff and landing (STOL), or V/STOL aircraft (or all of them)— represents a major question. Others are seakeeping qualities, ranges, speeds, endurance, magazine capacities, propulsion alternatives, vulnerabilities to combat damage, servicelife expectancies, potentials for "stealth ship" characteristics, and costs of all kinds. Operational changes include efficacies for independent employment, combined operations with larger carriers, command-and-control requirements, levels of integration with external resources, commonality and interoperability with allied navies, and even the roles for naval reservists.

The strategic wartime goals of the Soviet and U.S. navies are quite disparate. Ours is to maintain vital ocean links with our allies in Europe, Asia, the Persian Gulf, the Mediterranean, and the South Atlantic. The Soviets' goal is to sever as many of these links as possible, as soon as possible, and as permanently as possible, even if the entire Soviet Navy had to be sacrificed to the effort. With our oceanic ties broken, their land campaign could "mop up" Europe, the

Middle East, Southwest Asia, and a goodly chunk of Africa at their leisure. Would they hesitate to use nuclear weapons far at sea, against a handful of U.S. aircraft carriers at widely separated points? Their penchant for carrying atomic naval warheads in all sorts of warships seems to indicate that they have already passed that decision point. They carry them because they plan to use them. We carry them only in case we might have to use them.

When we concentrate our primary naval offensive and defensive strength into 12 to 15 carrier hulls, we are playing into their strategic hands. We cannot hope to cover a global threat with this number. Maybe we could with 50 to 60 CVN's, but never with 15! One ship can be in only one spot at any one given point in time.

Somewhat akin to the smaller carrier concepts is the idea of adding some multipurpose surface combatants which are neither carriers nor battleships, but a hybrid of the two. Such ships would integrate air, surface, and subsurface sensors and weapons to a much greater extent than is now common. The goal for such a design would be combat credibility, both offensively and defensively, for relatively independent operations. The Soviets' *Kirov* is perhaps the embryo of such a ship.

Another range of issues and trade-offs appears with this concept. Could the ship really survive an air or subsurface attack? Could she really support more than a handful of sensor-carrying aircraft? Would not she be overly dependent upon external resources? If she cannot prudently operate independently, what should she escort, or by what ships should she be escorted?

Another alternative concept with great promise is to significantly increase our naval reliance upon land-based air resources. As recently as the 1960s, reasonably conclusive arguments could be supported for a national tactical air structure which sharply separated individual service roles. It is hard today, and will be much harder in years ahead, to continue to support the arguments for this structure. Deep-seated organizational traditions and customs serve to obfuscate almost any suggestion in this area, but facts remain. Air Force airplanes do fly over water; Navy airplanes do fly over land. Both the Marine Corps and the Army fight land battles, and the Coast Guard guards our coast. Maritime defense has to be considered as the cornerstone to national survival in the future. The Navy will need all the help it can get, particularly maritime tactical air assets of all kinds, from helicopters to Mach 3 fighters. In an overall sense, the United States probably has all the tactical air power it needs. But when viewed in service terms, there will never be enough to meet all of the independently viewed challenges.

There are other potential maritime defense assets worthy of development. Our burgeoning commercial helicopter world represents one of these.

In wartime, many of these very capable aircraft, with naval reserve aircrews, could easily and rapidly be dispatched to sea atop almost any available merchantman containership to help with the antisubmarine warfare and command, control, and communication chores of a convoy. And it is now possible to modify some fairly large commercial air transports to operate from carrier decks or to provide a quick source of aerial tankers. And there is a real potential for mating high-speed surface skimmers and hydrofoils with V/STOL and rotary-winged aircraft. And as the oil rigs and the sea mining efforts move farther out into the oceans, these two become potential bases for getting more aircraft out to sea.

The entire philosophy of how we deploy our naval assets cries out for serious review. A great advantage of naval forces is mobility, which is irrevocably lost when ships' deployment commitments are made to "station" forces in any single area. Any veteran of a few of these long peacetime deployments must wonder from time to time about our penchant of "showing the flag" to seagulls and albatrosses in varied distant waters. In the first place, are such deployments really necessary? If so, do they have to supply continous coverage? Or do we have to maintain constant force levels?

We could vastly improve our naval readiness, and coincidentally retake the cold war naval initiative, by using a few small "flagships" as presence pawns and sending large-scale forces on intermittent, short-term deployments.

The argument will undoubtedly be raised that the new CVNs are merely a stopgap measure, designed to bolster our present forces until the new technologies of space, V/STOL, missilery, and laser guns can produce the "real" U.S. Navy of the future. However, the research and development budget allocations and other published actions and plans bely this argument. V/STOL has been cut back to next-to-nothing. The Marine Corps' promising new V/STOL Harrier is studiously ignored for potential "naval" uses. Most of the so-called new missiles are merely rehashes of older, relatively incapable ones. The recommissioned battleships are to retain their 16-inch gun batteries (Why?) and may be employed as numbered fleet flagships, a role closer to that of a communications center than a combat warship. Multipurpose ships are a Soviet idea—suffering from "not-invented-here?" The Arapaho containership program is widely considered a joke. Commercial helicopters are of no concern to the Navy. U.S. Air Force-U.S. Navy maritime cooperation attracts a lot of high-flown oratory but damn little real progress, and an active duty aviator who espouses anything even resembling a "small" aircraft carrier commits career suicide.

Notwithstanding all the other arguments, the primary case against the CVNs forever policy rests upon the diversion of naval dollars from research and development for the future into military hardware of the soon-to-be-past. If calculated risks must be taken on national security, the era of the 1980s seems to be an opportune moment to look ahead, not astern. No Americans are in combat overseas, only Third World conflicts are threatening, the Soviets are up to their elbows in buffer-state politics, agriculture disasters, and the mortality of their leadership, world concern is increasingly economic instead of militaristic, and the United States is the acknowledged world leader in science and technology. We need a bigger and a better Navy, but buying two CVNs at a time is simply *not* the way to do it.

It is naive to expect that the large carrier will remain the primary fighting ship-of-the-line much beyond the turn of the century, if even that. We are better advised to pay more homage to research for the new weapons we will need and to the new operating concepts for their use than to rely upon "CVNs forever" for our maritime defense future.

(A 1944 graduate of the Naval Academy, Captain O'Rourke served during World War II in the USS *Hancock* (CV-19), during the Korean conflict in the USS *Lake Champlain* (CV-39), and during the 1962 Cuban Missile Crisis in the USS *Enterprise* (CVAN-65). He commanded several all-weather fighter squadrons, an ammunition ship, and the USS *Independence* (CVA-62). Prior to retirement in 1974, he directed the Navy Fighter Study Group. A frequent contributor to the *Proceedings* and a former member of the Naval Institute's Board of Control, Captain O'Rourke is currently vice president of Maritime Associates, Inc., of Burke, Virginia.)●

CONFLICT BETWEEN JOINT COMMUNIQUE AND TAIWAN RELATIONS ACT

● Mr. GOLDWATER. Mr. President, last Friday the Senate Subcommittee on Separation of Powers held a very important hearing to review the practical effect and constitutional implications of the joint communique between the United States and Red China announced on August 17, 1982. Senator EAST, chairman of the subcommittee, deserves the applause of every Member of this body for his decision to promptly address the issues arising from the obvious contradictions in the communique and the Taiwan Relations Act. The principles at stake go to the heart of the separation of powers between the executive and legislative branches and involve our basic powers as the lawmaking branch of Government.

Now, I am aware that the President himself issued a separate statement to the press on the same day as the communique was issued. I have been informed about the six assurances which President Reagan gave to President Chiang of the Republic of China regarding the communique. And, I have seen the recent message presented by Mr. Powell Moore, Assistant Secretary of State for Congressional Relations, to Senator EAST declaring that the communique "is not an executive agreement and it creates no binding rights or obligations under international law."

The problem we are left with, however, is the fact that our Government—at least that part of Government represented by the executive branch—is talking out of both sides of its mouth. The communique says one thing and the public explanations say another.

One day the executive branch proclaims that the United States "does not seek to carry out a long-term policy of arms sales to Taiwan." The next day it declares that the Taiwan Relations Act will be fully implemented. Yet the act provides for a long-term commitment by the United States to sell arms to Taiwan indefinitely.

The United States tells Red China that our arms sales to Taiwan "will not exceed, either in qualitative or in

quantitative terms, the level of those supplied in recent years." Yet the Taiwan Relations Act has no limit of any kind on the quality or quantity of arms, other than the needs of Taiwan at any given time in history.

The United States has assured Red China "that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." Yet the Taiwan Relations Act says nothing about reducing arms sales to Taiwan, either gradually or otherwise. The act allows these sales to increase, or decrease, or remain at current levels, whatever is "necessary to enable Taiwan to maintain a sufficient self-defense capability."

Regardless of these direct contradictions, and other I have not mentioned, the President's statement of August 17 assures the American people that the communique "is fully consistent with the Taiwan Relations Act" and that arm sales "will continue in accordance with the act."

If that is so, how can the United States promise to gradually reduce sales? How can we pledge to make a "final resolution" of these sales? Let us remember that what the Communist Chinese have in mind as a "final resolution" is conquest and control over Taiwan, something the Communist regime has never held.

The latest tactic of the State Department is to say that it does not matter what the communique provides. It is not binding and is no more than a statement of the policy of the President.

The problem here is the relationship between policy and action. We are not talking about a snap response to a reporter's inquiry at a press conference. What we have is a formal, printed statement announcing the President's policies. In these circumstances other nations will ordinarily assume he means it and plans to live up to his words, especially if the wording of that statement has been deliberated on and negotiated with another government over a period of several months.

It would be highly irregular for any President to issue such a formal policy statement on a grave and sensitive issue of foreign policy knowing and intending that his words will have no substance and will not be used in any way to guide the actions of his country. If this is what the State Department is telling us, then it would make our country look foolish in the eyes of everyone, both our friends and adversaries.

Mr. President, I was unable to attend the hearing chaired by Senator EAST, but I did offer a prepared statement for the permanent record. The statement discusses the joint communique and the basic constitutional principles involved in this matter, and rather than repeat the same points today, I ask that the text of the statement may appear in the RECORD.

The statement follows:

STATEMENT OF SENATOR BARRY GOLDWATER

Mr. Chairman, I appreciate your invitation to appear before the Subcommittee, and I commend you for addressing the procedure for law making and termination. The fact that it is necessary to hold such a hearing is a shocking commentary on just how far the nation has moved away from the basic principles of the Constitution given to us by the original Framers.

CONSTITUTIONAL ROLE OF LEGISLATURE

We are discussing a principle that every school child was once taught: The Legislative Branch must participate in making, amending, or repealing a law. The only exception is that the Supreme Court may declare an invalid law to be unconstitutional.

Former President Carter broke this tradition in 1978, when he unilaterally abrogated the Mutual Defense Treaty with Taiwan. Now, we are confronted with a joint communique that, on its face, attempts to supersede a valid statute, the Taiwan Relations Act.

In both instances, I put the blame for violations of constitutional principle on the permanent bureaucracy at the State Department. The professional bureaucrats, who carry over from one Administration to the next, have in mind a single goal, and that is to absorb all power into their hands.

Their effort is made easier because Congress has too often remained silent in the fact of executive power-grabbing and failed to assert its proper constitutional role in making fundamental policy decisions that constitute the law of the land. Either for partisan political reasons or lack of attention, we have allowed executive power to increase at the expense of our rightful legislative functions.

The two Houses of Congress, and the Senate itself, were not given specified authorities by the Framers simply as a convenience or a whim. The Framers expected us to exercise these authorities in a responsible manner. Under the scheme of government they set up, it is our duty, and not merely our pleasure, to participate in making, amending, or repealing the law of the land.

SEPARATION OF POWERS

The Framers also intended that the Legislative Branch would be an integral part of their system for maintaining the separation of powers doctrine. Put simply, this means the President must not invade legislative functions, and Congress must not usurp executive powers.

The purpose was explained by James Madison, who wrote in The Federalist No. 47, that the "accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny."

In order to know when one branch is encroaching on the other, however, we must know what classes of power are "legislative" and which are "executive."

Charles Warren, one of the century's great scholars of the Constitution, concluded that the best example of what the Framers deemed executive power to consist of is that given by Thomas Jefferson in his Draft of a Fundamental Constitution for the Commonwealth of Virginia in 1783. C. Warren, The Making of the Constitution, 526 (1937).

In this draft, Jefferson repudiates the idea that executive powers in America meant the same thing as the king's powers in England. He writes that:

"By Executive powers, we mean no reference to those powers exercises under our former Government by the Crown as of its prerogative, nor that these shall be the standard of what may or may not be deemed the rightful powers of the (Executive). We give them these powers only, which are necessary to execute the laws (and administer the government), and which are not in their nature either legislative or judiciary." Reprinted in Warren, id., at 526.

The significance of Jefferson's concept is that America rejected the monarchical definition of executive power and substituted for it a new, republican distribution of powers, in which the executive is limited in the extent and duration of its power.[1]

THE FRAMERS ALLOTTED DIFFERENT FUNCTIONS ON THE SAME SUBJECT

This does not mean that the legislative and executive departments are totally separate and distinct from each other. Each department may exercise a different function over the same subject according to whether the Framers believed the matter called for legislative deliberation, executive action or judicial consideration.[2]

Madison explained the principle at the Constitutional Convention as follows:

"If a Constitutional discrimination of the departments on paper were a sufficient security to each against encroachments of the others, all further provisions would indeed be superfluous. But experience had taught us a distrust of that security; and that it is necessary to introduce such a balance of powers and interests as will guarantee the provisions on paper. Instead therefore of contenting ourselves with laying down the Theory in the Constitution that each department ought to be separate and distinct, it was proposed to add a defensive power to each which should maintain the Theory in practice. In so doing we did not blend the departments together. We erected effectual barriers for keeping them separate." 2 Records, supra, at 77.

Thus, law making and law termination are not single acts. They are a complex sequence of acts and there is a different allocation of functions under each sequence.

For example, the President may "propose" a law, but Congress "makes" the law. The Senate may give its "advice and consent" to ratification of a treaty, but the Executive communicates formal notice of ratification to foreign states.

Once we recognize that the Framers allotted powers on the same subject to different departments, we can understand the importance of the fact that the Constitution specifically confers a role in foreign affairs to the legislature. The President makes treaties and appoints ambassadors, but by and with the advice and consent of the Senate. The Congress regulates commerce with foreign nations, declares war and defines offenses against the law of nations. This means the President has no claim to abso-

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[1] Similarly, James Wilson declared at the Constitutional Convention that he "did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers." 1 The Records of the Federal Convention of 1787, at 65-66 (M. Farrand ed. 1937).

[2] James Wilson said in the Constitutional Convention: "The separation of the departments does not require that they should have separate objects but that they should act separately tho' on the same objects." 2 Records, id., at 78.

lute powers in the field of foreign affairs and cannot override a statute even if it conflicts with his foreign policy.

STATUTES AND TREATIES ARE BOTH LEGISLATIVE ACTS

It is also important to note that the Founding Fathers viewed both statutes and treaties as legislative acts. For example, Alexander Hamilton wrote in The Federalist No. 75 that the treaty power "will be found to partake more of the legislative than of the executive character." In the same paper, Hamilton wrote that the full treaty power had not been committed to the President because "it would be utterly unsafe and improper to intrust that power to an elective magistrate of four years duration." He added "that the joint possession of the power in question, by the President and Senate, would afford a greater prospect of security than the separate possession of it by either of them."

At the Pennsylvania ratifying convention, James Wilson, one of the leading Framers, said: "Neither the President nor the Senate solely can complete a treaty; they are checks upon each other, and are so balanced as to produce security to the people." 3 Records, supra, at 166.

One of the great constitutional scholars of all time, Supreme Court Justice Joseph Story, wrote in a similar vein. In his famous Commentaries on the Constitution, Story stated it "is too much to expect that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties." He explained that by making what is done by the President only "preliminary" and requiring "the assent of other independent minds to give the President's action a legal conclusiveness", the Framers had imposed a check "which awakens caution, and compels to deliberation." Commentaries, *id.*, at 359 (1833).

These discussions of the treaty power apply with equal or greater force to statutes. The Framers deliberately involved the Legislative Branch in the process of making, amending, and repealing both statutes and treaties because it would "add to the safety of the soceity." The general public would enjoy additional security by requiring the concurrence of the legislative body in developing the fundamental policy of the nation.

REPEAL OF A LAW

This brings us to one of the interesting features of the Constitution, its silence on the specific procedure for terminating statutes or treaties. This silence is not surprising because, in the words of historian Arthur Bestor, the principle concern of the Framers "was the proper allocation of the various positive powers of government." A. Bestor, Respective Roles of the Senate and President in the Making and Abrogating of Treaties, The Original Intent of the Framers of the Constitution Historically Examined, 55 Wash.L.Rev. 1,17 (1979).

In the absence of specific constitutional instruction about termination, reversal by those branches who participated in the adopting process is the logical procedure of repeal. Professor Bestor believes this principle was so firmly established in Englist law, that it was adopted in America without question. Bestor, *id.*, at p. 20.

For example, William Blackstone's famous Commentaries on the Laws of England, which was widely circulated in America at the time of our Constitutional Convention, emphasizes the maxim "that it required the same strength to dissolve as to create an obligation." W. Blackstone, 1 Commentaries, 160-161, 185-186 (4th ed., 1770).

The strength of the principle that statutes and treaties are binding on the President and cannot be amended or repealed without some form of legislative approval is also derived from Article II, section 3, of the Constitution, which provides that the President shall "take care that the laws be faithfully executed." Obviously, this provision requires President to uphold the laws, not to unilaterally abrogate or supersede them.

CONFLICT BETWEEN JOINT COMMUNIQUE AND TAIWAN RELATIONS ACT

Applying these principles to the specific subject before the Subcommittee, we see that the Executive Branch by itself lacks any power to amend or replace the Taiwan Relations Act. The President cannot make unilateral pronouncements that prevent implementation of the Act. The President cannot enter into an agreement with a foreign country substituting different commitments than are provided for in that Act. In any area where the joint communique may conflict with the Taiwan Relations Act, the Act prevails.

Now we reach the question as to whether there is any conflict between the Act and the joint communique. I think there is.

There is nothing in the Act that says arms sales to Taiwan shall be steadily reduced in quality or quantity until the sales disappear. Yet the communique states that the United States "intends to reduce gradually its sale or arms to Taiwan." It also declares that United States arms sales "will not exceed in qualitative or quantitative terms the level of those supplied in recent years."

This violates the provisions of section 3 of the Act, which provides that "the United States *will* make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." *Emphasis added.*

Moreover, section 3 provides that both the President and Congress together "shall determine the nature and quantity" of defense sales based solely upon "their" judgment of Taiwan's needs. In contrast, the communique indicates that the President alone shall make that judgment.

Also, I am concerned that the communique raises a question of sovereignty. The United States has never recognized political sovereignty by Communist China over the authorities and people on Taiwan.

In fact, the term "Taiwan" is defined by section 15 of the Taiwan Relations Act to include not just the people living on Taiwan, but specifically, "the governing authorities of Taiwan recognized by the United States as the Republic of China prior to January 1, 1979." In this provision, the Act clearly recognizes that political sovereignty over Taiwan is possessed by the governing authorities we had formerly recognized as the Republic of China.

From this, it is clear that any interpretation of the communique that may imply Chinese communist sovereignty of Taiwan is in conflict with the Act. Unfortunately, the communique is not clear on this point. For example, point 5 of the communique states that the United States "has no intention of infringing on Chinese sovereignty and territorial integrity, or inferfering in China's internal affairs . . ." In the immediately preceding point 4 of the communique, Red China "reiterates that the question of Taiwan is China's internal affair." The juxtaposition of the two points creates an impression the matter is within the sovereignty of the communist regime.

Also, we should look at point 1 of the communique in which the United States acknowledges "the Chinese position that there is but one China and Taiwan is part of China." In contrast, the Shanghai Communique of 1972 had acknowledged "that all Chinese on either side of the Taiwan Strait" maintain that position. The reference to "Chinese on either side of the Taiwan Strait" is missing from the recent communique, as it was in the 1978 communique of former President Carter. This indicates that the United States acknowledges only the position held by Red China and disregards the position of the authorities on Taiwan.

The communique of 1982 is filled with double talk and ambiguities of this kind, but we should make it clear at these hearings that nothing in the communique can or does supersede the position taken in the Taiwan Relations Act.

Communist China has never held any effective control over Taiwan. The only national government with sovereignty on Taiwan is the Republic of China, which continues to enjoy diplomatic recognition by 22 countries.

RECOMMENDED CONGRESSIONAL ACTION

Mr. Chairman, I introduced an amendment to the Debt Ceiling Increase bill that would reaffirm the basic constitutional principles discussed. My amendment, Number 2036, is a straightforward declaration by the Senate that "no statute or treaty shall be made, amended, or terminated without Senate approval." I believe that passage of that expression by the Senate as an amendment or a separate resolution, together with the hearings by your Subcommittee, will be the start of a long overdue decision by the Senate to reclaim its law making powers.

The joint communique is a symptom, not the problem. I hope your Subcommittee will address the long range, constitutional issue of maintaining the separation of powers, not only in the foreign affairs field, but the domestic area as well.[3]

NEED TO AMEND THE FOREIGN CORRUPT PRACTICES ACT

● Mr. CHAFEE. Mr. President, in an interview appearing in the Legal Times on Monday, September 20, 1982, Mr. Richard Shine, the Chief of the Justice Department's Multinational Fraud Branch, talked of the need to amend the Foreign Corrupt Practices Act. During that interview Mr. Shine

[3] When President Carter dumped the Mutual Defense Treaty with Taiwan, I challenged his action in the courts. After the lower courts split on the issue of the President's authority to abrogate a treaty without any legislative approval, the Supreme Court granted certiorari but dismissed the suit. The High Court ducked the Constitutional question. The Chief Justice and three Justices held the case presented a political question and found that the legislature has resources available to protect and assert its interests; one Justice said individual Senators lacked standing; one Justice concurred in the result without comment; two Justices wanted the case set for oral argument; and only one Justice supported the President's claim of power. *Goldwater* v. *Carter*, 444 U.S. 996 (1979); 617 F.2d 697 (D.C. Cir. 1979); 481 F. Supp. 949 (D.C.D.C. 1979). The failure of the Judicial Branch to reach the constitutional issue makes it obligatory on the part of Congress to act in defense of its powers or see our powers effectively lost by default.

also indicated his general support for the thrust of S. 708, my bill to amend the Foreign Corrupt Practices Act. I think it is very significant that S. 708 has not only received the support of the business community, the administration, and the Securities and Exchange Commission, but the bill has the support of the chief of the division of the Justice Department which has the responsibility for enforcement of the Foreign Corrupt Practices Act. Mr. President, I ask that a copy of the interview with Mr. Shine be inserted into the RECORD immediately following my statement.

The article follows:

FCPA MESSAGE HAS GOTTEN ACROSS, PROSECUTOR SAYS

(By Larry Lempert)

Most U.S. corporations that do business overseas seem to be going to "extraordinary lengths" to avoid violations of the Foreign Corrupt Practices Act, according to Richard S. Shine, the prosecutor who for the past several years led the government's effort to enforce this antibribery statute.

The message of the FCPA, which became effective in December 1977, has gotten across to "the vast majority of the U.S. corporate community," Shine said. In addition, he said, most private practitioners who counsel corporations about foreign payments seem to be erring on the side of caution—so much so that corporations may be passing up business opportunities unnecessarily.

Shine offered these observations in an interview during his last week as chief of the fraud section's multinational fraud branch in the Justice Department's Criminal Division. He left the department Sept. 17 to enter private practice as a litigator and legal counselor.

PRACTITIONERS ARE CAUTIOUS

Saying that he did not fault lawyers for being cautious, Shine noted that practitioners might be warning clients away from actions that never would concern Justice as a practical matter. Prosecutors would not read the act, for example, as forbidding goodwill gifts to foreign officials or gifts in return for hospitality, he said.

Shine is hopeful that pending legislation will help by codifying some of the moderate interpretations that have evolved. For example, S. 708, which was passed by the Senate late last year, states explicitly that goodwill gifts do not raise FCPA problems.

SUPPORTS AMENDMENT EFFORTS

The goal of S. 708 is to clarify ambiguities in the act without altering its basic purpose. Attention has focused on the FCPA's accounting provisions, its exemption for "facilitating payments," and the "reason to know" standard that determines when a corporation is liable for payments made by intermediaries. The Reagan administration supports the effort to amend the FCPA, although administration officials believe that some of S. 708's exemptions are stated too broadly.

This Congress is unlikely to act on S. 708. In the House, the bill has been lodged in an energy and commerce subcommittee whose chairman, Rep. Timothy E. Wirth (D-Colo.), is unsympathetic to changes in the existing statute. But proponents of amending the act are expected to try again next year.

Shine, who emphasized that he was expressing his personal views, said he supported the thrust of S. 708, although he said the bill had some flaws. As an example, he pointed to the bill's attempt to clarify the exemption for facilitating payments to officials whose duties are merely ministerial or clerical. S. 708 would exempt payments made to expedite "routine" governmental action by foreign officials. "In some ways, this is more ambiguous than the present statute," Shine said.

ENORMOUSLY HELPFUL

This and similar problems should be easily solvable, said Shine. If the ambiguities are ironed out, a statute along the lines of S. 708 will be "enormously helpful to the business community and not particularly harmful to law enforcement interests," he said.

According to Shine, Justice has received relatively few requests for statements of the department's enforcement intentions under the business review letter procedures instituted in the spring of 1980. Twelve such requests have been received; one is pending, and the department has issued releases explaining its views on the other 11. In 10 of these, Shine noted, the department said it intended to take no enforcement action. (In one, the department declined to review a proposed contract.)

While the department cannot claim that its review program has been a success in terms of the number of requests received, it has been successful in another respect, Shine said: "Although there have not been dozens of releases some have provided a significant amount of guidence." The release that outlined one company's precautionary measures, for example, went a long way in helping lawyers to interpret when a corporation has "reason to know" of improper payments, Shine said.

Shine said he supported a provision of S. 708 that would require Justice to issue guidelines explaining further the precautions that companies could take.

SMOOTH RELATIONSHIP

An important achievement during Shine's tenure as chief of the multinational fraud branch, he said, was the establishment of a "close working relationship" with the State Department. The branch now has policies that help avoid "unwarranted interference with foreign relations"—for example, the branch will not involve foreign government officials unless initial inquiries have established that there are substantial signs of wrongdoing.

About 35 investigations have been closed by his branch without prosecution, Shine estimated, adding that between 60 and 70 are pending. The branch has filed charges under the FCPA only twice, proceeding civilly in one instance and both civilly and criminally in the other. (The SEC has civil enforcement responsibility for the FCPA's antibribery provisions as they apply to publicly held companies. The commission has brought one such civil action; it has also brought civil actions for infractions of the FCPA's accounting provision.)

The number of enforcement actions by the branch has been low, Shine explained, because until now, significant resources have been tied up in the completion of pre-FCPA matters, because the gathering of evidence in overseas investigations is a complicated process, and because investigations often have to begin from scratch (rather than from corporate reports such as those submitted under the Securities and Exchange Commission's mid-1970s "voluntary disclosure" program, which led to many of the pre-FCPA cases).

Shine will practice on his own in Washington, D.C. He will be doing counseling and litigation on business-related criminal matters and civil enforcement proceedings, as well as multinational litigation.

Since 1971, Shine has served as a federal prosecutor. Before he was named to head the multinational fraud branch in 1978, he served as an assistant U.S. attorney and as a fraud section attorney.

Shine, 42, graduated from the Georgetown University Law Center in 1968. He then worked as a public defender on a fellowship at Georgetown. "I've been a prosecutor so long that a lot of people have forgotten I used to be a defense attorney. Prosecutors who dealt with me then, it's fair to say, found me to be a vigorous advocate," he said.

Shine's successor as chief of the multinational fraud branch is Joseph P. Covington, formerly an attorney in the branch.

ILLEGAL ALIEN AMNESTY

● Mr. EAST. Mr. President, an article pointing out the pitfalls of mass amnesty for illegal aliens appeared in the September 23, 1982, issue of the Washington Times. I ask that this article by Gary Imhoff be printed in the RECORD.

The article follows:

[From the Washington Times, Sept. 23, 1982]

IMMIGRATION AMNESTY COSTLY

(By Gary Imhoff)

The Simpson/Mazzoli Immigration Reform and Control Act, which may reach the House floor this month, contains a broad, general amnesty for illegal aliens. There has been a great deal of public opposition to amnesty, though not much congressional controversy over it. But many questions about amnesty have not been satisfactorily answered.

The main rationale for amnesty for illegal aliens is an anecdote, the story of John Doe, a fictitious, composite illegal alien. John Doe entered the United States several years ago. He has worked steadily, has been in no legal trouble, has married and settled down. Perhaps he has children who are American citizens; perhaps he owns his home; he may even have started a small business. He has learned English, has paid his taxes, has contributed to his community and this country. Deporting him would benefit no one, and would cause him and his family hardship. Other crimes have statutes of limitations, after which the criminal cannot be prosecuted. Why can't we legalize John Doe?

This anecdote makes a strong argument, and the fact is that almost no one opposes amnesty for John Doe. But the story of John Doe supports only a limited, restricted, case-by-case amnesty. John Doe II, an illegal alien who entered the United States two or three years ago and has since knocked about several cities doing odd jobs, working off the books, does not have a similar claim on our sympathy.

Requiring him to return to what is, after all, his home country is certainly not unreasonable. Yet a broad, mass amnesty, such as that contained in this bill, will encompass John Doe II as well as John Doe. Surely, advocates for a broad, mass amnesty must also have another rationale for it.

There are at least three strong arguments against providing a general amnesty to illegal aliens. First, and most importantly, it

will cause more illegal immigration. Potential illegal immigrants will come to the United States expecting either a future amnesty or to take advantage of this amnesty fraudulently.

Second, a general amnesty will be rife with fraud. Because the INS is overworked, underfinanced, and understaffed for its current work-load, the pending plan is for it to limit its role to reviewing amnesty paperwork and making final amnesty grants. The actual interviewing and processing of amnesty applicants will be done by the same voluntary agencies which now act as advocates for illegal immigrants.

I do not impute dishonesty to these voluntary agencies, but I do not expect them to view their clients' applications with a critical, skeptical eye. It is not unreasonable to anticipate fraud when the inmates are in charge of parole.

Third, there will be a public revulsion to a large-scale amnesty. Amnesty rewards those who have violated the law. We should expect strong public antipathy. The greatest opposition, of course, will come from legal immigrants who followed all the rules, waited patiently for their turn to come, and now are made to look foolish by those who benefit from scorning our laws, skipping ahead in line, and migrating here illegally.

In light of these three social disadvantages of a broad, general amnesty, the rationale for it would have to be strong indeed. This is that rationale: illegal immigrants in America are outside our legal system. Therefore, they are subject to exploitation. By keeping them illegal, we are creating an underclass and sustaining that system of exploitation.

At first glance, this is a powerful justification, but we should note the promise implicit in it: amnesty will solve this social problem by bringing the great majority of illegal immigrants within our legal system. For a broad, general amnesty to solve this problem, it must encompass most illegal immigrants.

But within recent years several other Western democracies—Canada, England, Australia, and France among them—have conducted amnesties for illegal immigrants, and in not one case has a significant portion of illegal immigrants registered. Even when the terms of amnesty are very lenient, the publicity widespread, and the good intentions of the government unquestioned, only a small portion of illegal immigrants are brought within the legal system.

There is no reason to believe that the U.S. will not follow this pattern. At the end of the year's registration period we may have registered perhaps a half million people. This is enough to encourage further illegal immigration, to have widespread fraud, and to create a public backlash. But it is only a small fraction of the millions of illegal immigrants in the United States. There will still be an underclass; there will still be exploitation. The social problem which amnesty is disigned to solve will be untouched.

I predict that, near the end of the registration year, Congress will be approached by the illegal immigrants' advocacy agencies. They will say that amnesty is not working because not enough people are signing up, and they will ask for some combination of three things: extension of the registration period; sweetening of the terms of amnesty, perhaps by giving welfare benefits to amnestied illegals; and suspension of the enforcement of immigration laws, as was done for the 1980 Census, "to encourage registration."

If Congress commits itself to amnesty for John Doe II as well as for John Doe, to general rather than selective amnesty, it will pay the price just one year from now.●

SCHOOL PRAYER

● Mrs. HAWKINS. Mr. President, I believe the Members of the 97th Congress have been granted a rare opportunity, the chance to restore voluntary school prayer to our public schools and other public institutions.

It amazes me that our own public school children have only slightly more religious freedom than public school children in the Soviet Union. As President Reagan said when he proposed a constitutional amendment allowing voluntary prayer:

> Public expressions of prayer should have more legitimacy in the United States than that which exists in an officially atheistic and totalitarian country.

Presently in the United States we have many restrictions of the proper expressions of one's religion. Children may not say a group prayer in the morning before they begin their school day; "Released Time" programs for religious instruction are allowed only if the instruction is conducted off school premises; children in kindergarten are forbidden to say a voluntary prayer before their noontime meal; one cannot post the Ten Commandments on school walls; the Government has banned student-initiated religious meetings held on school property during, before, or after school hours; and even voluntary student-initiated religious activities are prohibited.

The first amendment to the Constitution states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *" How did we blindly accept restrictions upon our religious freedom?

The current law governing the recitation of prayer in public schools and institutions is the result of the U.S. Supreme Court's interpretation of the establishment clause of the first amendment. The meaning of the establishment clause was not questioned until 1947. After the Everson against Board of Education decision States could no longer determine their own policy on religious matters.

The holding in the Everson case is in striking contrast to the intent of the Constitution. When the first amendment was ratified in 1791, the framers of the Constitution included the establishment clause for two reasons: One, to prevent the creation of a national religion; and two, to grant States freedom in state-church matters. The establishment clause was intended as a Federal prohibition against the establishment of a national religion; it was not an attempt to preempt all expression of State policy. In fact, the State constitution of South Carolina made the Protestant religion the established religion of the State. The Supreme Court decision in Everson overturned previous interpretations of the establishment clause. It set a precedent for subsequent court decisions inconsistent with the intent of the Constitution.

In the early 1960's the Supreme Court held that the establishment clause of the first amendment forbade voluntary recitation of prayers and reading the Bible in public schools. Since then there have been several attempts in both the U.S. Senate and House to overturn the Court's decisions.

The question we now face, Mr. President, is whether or not to reinstate voluntary school prayer. There are several reasons I believe we should permit voluntary recitation of prayer in our public schools. First, State and local authorities are clearly in the position to develop a school-prayer policy suited to the wishes of their own students, parents, teachers, and administrators. The Federal courts are not. Second, the elimination of school prayer has gone beyond protecting the nonpraying students' right to abstain; in effect, it denies the right of willing students to pray if they wish. Third, public-opinion polls indicate that 70 to 85 percent of Americans favor a return to voluntary school prayer. Finally, permitting State and local authorities to determine their own policy on voluntary school prayer would reflect the true meaning and spirit of the first amendment.

The Helms voluntary school prayer amendment would prohibit the Federal courts and the Supreme Court from hearing cases involving school prayer. Congress is authorized to limit the Courts' jurisdiction by article III, section 2, of the Constitution, which reads:

> The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

I support this amendment because it is time to turn this issue back to the States and localities so that each community across the country can formulate its own voluntary school prayer policy.●

CHIEF WARRANT OFFICER MARSHALL

● Mr. GRASSLEY. Mr. President, I congratulate CWO Ralph J. Marshall on his receipt of the Americanism Award for 1982 from the Nationale Forty and Eight. Iowa and the entire Nation can be proud of the contributions he has made during his long and distinquished military career. Chief Warrant Officer Marshall's commitment to serve his fellow man did not end with his retirement from the

armed services. As the present mayor of Miles, Iowa, he personifies the type of courageous individual we can all look to for demonstrated leadership abilities.

I call my colleagues' attention to the distinguished service Chief Warrant Officer Marshall has made to this Nation. I submit for the RECORD an article from the Forty and Eighter, September 1982.

The article follows:

AMERICANISM AWARD FOR 1982 TO BE PRESENTED TO IOWAN

Chief Warrant Officer Ralph J. Marshall, USA, retired, Mayor of the city of Miles, Iowa, is to receive the Americanism Award for 1982 during the Promenade Nationale in Niagara Falls.

Entering the Military in 1947, he was first sent to Germany where he flew the border between West Germany and Russia for the Intelligence Corps Allied Command Headquarters. In late 1951, he was reassigned direct from Germany to Korea because of a shortage of pilots. After flying 26 combat missions, he was shot down behind enemy lines. From 1955 until 1959 Marshall was stationed in Hawaii, flying the islands of the South Pacific for the Intelligence Corps, Pacific Command. In 1963 be was again sent to Korea for one year and was returned to fly for intelligence in the Santo Domingo Revolution.

In 1965, Marshall with his unit went to Vietnam by aircraft carrier. After flying 30 combat missions, he was again shot down and spent some time in the hospital at Clark AFB in the Phillipines. Returning to Vietnam he flew another 10 missions only to be shot down for the second time in that country. He was flown to Walter Reed Medical Center, Washington, D.C. After a long stay he was reassigned to the aviation center, Fort Rucker, Alabama, where he flew as a test pilot.

In Sept. 1968, as he was about to test fly an F-105, he suffered a stroke, leaving him paralyzed for 9 months and in the hospital for 14 months. He was then released from active duty with a medical discharge.

During his tour of 21 years of active duty, 14 of which were spent overseas, he received 27 decorations and awards. Some being the Silver Star, Bronze Star with Oak Leaf Cluster, the Flying Cross, Purple Heart, the Combat Infantry Badge, Paratroopers Badge and Master Aviator Wings.

Marshall is a past Second District Commander in the Department of Iowa and is presently a Department Vice Commander of Iowa. He is a member of Voiture 583, Jackson County, Iowa.

In addition to his other duties, he serves as Chairman of an Ad Hoc Committee investigating the POW/MIA in South East Asia.●

SCHOOL PRAYER AND THE IMPERIAL JUDICIARY

● Mr. EAST. Mr. President, there have been continuing expressions of interests in the issue of regulating the jurisdiction of the Federal courts. I have had occasion to articulate my views on this issue in an essay that appeared in the recently published book, "A Blueprint for Judicial Reform," which was edited by Messrs. Patrick B. McGuigan and Randall R. Rader. Published by the Free Congress Research and Education Foundation, this book contains many excellent essays on the topic of judicial reform.

Because the Helms school prayer amendment has generated so much interest in reform proposals involving regulation of court jurisdiction, I would especially like to share with my colleagues the essay which I authored entitled "The Case for Withdrawal of Jurisdiction."

Mr. President, I ask that the text of my essay be printed in the RECORD.

The essay follows:

THE CASE FOR WITHDRAWAL OF JURISDICTION

(By John P. East)

The genius of the United States Constitution is that it creates no power without providing a means by which that power can be restrained. Judicial review, by which the federal courts have the power to decide that legislative acts are unconstitutional, was an institution without precedent in the history of the world when our Constitution was adopted. Courts had not theretofore shared in the sovereignty of nations; rather, they had been creatures of sovereigns, first of absolute monarchs and later of legislatures whose acts were supreme law.

If absolute sovereignty was not to reside in the United States Congress—as it most certainly was not—then some other institution must have power to declare when Congress had transgressed the limits of its power. The difficulty, of course, was that in giving the federal courts the power to check congressional excesses, the Framers left open the possibility of judicial excesses. When a court exercises power not granted to it by the Constitution—whether the usurpation is at the expense of Congress or of the state governments—the result over time can be just as dangerous to life, liberty and property as a similar abuse of power by the legislature. Absolute power corrupts absolutely, and absolute judicial power is even harder than absolute legislative or executive power to reconcile with any theory of government by the consent of the governed.

Fortunately, the Constitution provides ways by which the American people, acting through the political process at the state and federal levels, can check any tendency of the federal courts to abuse the power of judicial review. Perhaps the most important safeguard is that federal judges are to be appointed by the President with the advice and consent of the Senate. The American electorate has shown a marked preference in recent years for presidential candidates who promise to appoint judges who will construe the words of the Constitution in good faith rather than twist those words to suit their own policy preferences. It is also possible to reverse erroneous judicial interpretations of the Constitution, in cases where these interpretations are overwhelmingly unpopular, by resort to the extraordinary and rather unwiedly method of amending the Constitution. Finally, the Constitution provides that Congress may define and regulate the jurisdiction of the federal courts. Perhaps precisely because it is the most potent weapon in the legislative arsenal, this last method has been the least often used as a response to specific abuses of the judicial power. It is, however, a constitutionally permissible response to such abuses; I believe that under certain circumstances it is also a just and a wise response.

Congressional control over the jurisdiction of the federal courts is authorized by three distinct constitutional provisions. The clearest such provision is in Article III, section 2, stating that the United States Supreme Court shall have appellate jurisdiction "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court itself has held that the congressional power to make exceptions and regulations to the Court's appellate jurisdiction is clear and absolute. In *Ex Parte McCardle* (1869),[1] a lower federal court had denied a newspaper editor's claim that he was being held in military custody in violation of the Constitution. The editor appealed to the Supreme Court, which held that it had jurisdiction to hear the appeal. Then Congress passed an act denying the Court jurisdiction of appeals such as McCardle's. The Court therefore dismissed the appeal for want of jurisdiction, rejecting arguments that Congress could not use its authority over Court jurisdiction to affect pending cases adjudicating constitutional rights:

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

"What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case.[2]

A second constitutional provision has been held to grant Congress the power to make exceptions to and regulations of the jurisdiction of federal courts other than the Supreme Court. Article III, section 1 provides that there shall be only "such inferior courts as the Congress may from time to time ordain and establish." Since Congress need not establish any lower federal courts at all, it has long been recognized that Congress need not vest all jurisdiction over constitutional cases in those federal courts that it does choose to create. Writing for the Supreme Court in Lockerty v. Phillips (1943),[3] Chief Justice Harlan Stone said congressional power over the lower federal courts includes the power "of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good." [4]

Finally, some congressional authority over the exercise of federal court jurisdiction has been said to flow from section 5 of the Fourteenth Amendment, providing that "Congress shall have power to enforce, by appropriate legislation, the provisions" of the Amendment.[5] Since a significant portion of the federal courts' caseload—and perhaps an even greater proportion of those cases in which the federal courts have extended their own power into areas traditionally regarded as legislative in nature—involve interpretations of the due process and equal protection clauses of the Fourteenth Amendment, and since the legislative history of the Amendment reveals that its framers distrusted the courts and regarded Congress as the principal guardian of the rights they were creating, this provision is poten-

References at end of article.

tially among the most powerful legislative tools for restricting the power of courts to enact judicial legislation in the guise of constitutional interpretation.

Despite the compelling textual and historical case for broad congressional control over federal court jurisdiction, and despite the Supreme Court's own consistent recognition of such congressional power, in the last three decades several theories have emerged according to which the power would be severely limited. These theories seem to have developed principally in response to specific suggestions for limitations on federal court jurisdiction in areas marked by particularly egregious judicial distortions of the Constitution.

The most interesting and the most solidly grounded of these limiting theories was advanced by Raoul Berger in his book "Congress v. the Supreme Court." Professor Berger, a careful student of the debates surrounding the proposal of the Constitution, noted that the Constitutional Convention debate on the "exceptions and regulations" clause focused on appellate review of jury fact-finding. He suggested that the clause therefore did not authorize exceptions and regulations of federal court jurisdiction over questions of constitutional law.[6] The Framers, however, had language at their disposal to limit the exceptions and regulations power to review of jury fact-finding; they chose not to use such language, but instead adopted the unlimited language of Article III, section 2. Professor Berger later revised his view of the exceptions and regulations power, in light of the Fourteenth Amendment and its grant of enforcement power to Congress over the areas in which judicial legislation has been most common and in which congressional limitations on federal court jurisdiction are therefore most likely.[7]

A second limiting theory holds that Congress has the power to enact exceptions and regulations of the federal courts' jurisdiction only where such limitations are "not inconsistent with the essential role of the courts."[8] This theory is designed to allow Congress to withhold jurisdiction, for instance, according to the amount of money in controversy or the parties' places of residence. Such limitations on the courts have been enacted frequently over the last two hundred years; indeed, from the passage of the Judiciary Act of 1789 until the present day the federal courts have never been granted all the jurisdiction they might possibly be granted under the Constitution. But under the "essential role" theory, only such "innocuous" limitations would be permitted. Congress would be constitutionally prohibited from limiting jurisdiction in such a way as to circumscribe the effect of judicial doctrines that Congress believed to be erroneous.

There are several problems with this theory. First, it would have a federal court conduct an overt or covert inquiry into the motive of Congress in granting or withholding jurisdiction. Since even "innocuous" limitations on jurisdiction will result in denying the federal courts the right to resolve some constitutional questions, it is primarily those limitations enacted by Congress *because* they result in the removal of controversial constitutional questions from the federal courts that would be held unconstitutional under the "essential role" theory. The courts are always reluctant to conduct inquiries into legislative motive,[9] and the Supreme Court in *McCardle* specifically rejected the suggestion that an impermissible motive could vitiate a congressional withdrawal of jurisdiction.[10]

An even more basic problem with the "essential role" theory is that it begs the question: What is the essential role of the federal courts? As articulated by Chief Justice John Marshall in *Marbury v. Madison* (1803),[11] judicial review was simply a corollary of the doctrine that our written Constitution is the supreme law of the land and as such is binding on the courts as well as on other branches of government. When a court has jurisdiction of a case, and when the issue is unavoidable, the court may sometimes have to choose the Constitution over a legislative act that seems to the court to conflict with the Constitution. To posit, however, that the federal courts have the duty or power to take jurisdiction where it has been denied, is to confuse judicial review with judicial supremacy. The superlegislative role assumed by the Warren Court and not yet wholly abrogated by the current Court is not essential to our republican form of government. Nothing in the Constitution requires that the federal courts have jurisdiction over every constitutional case, and the plain language of Article III gives Congress the power to deny such jurisdiction.

A closely related argument for limitations on congressional power over federal court jurisdiction starts with the observation that Congress itself is bound by the provisions of the Constitution, and particularly by the Bill of Rights. If Congress acts in such a way as to deprive anyone of free speech, freedom of religion, due process of law, or any other right guaranteed by the Constitution, then that act of Congress in unconstitutional. In theory, a law depriving the courts of jurisdiction on some selective basis could itself violate the Constitution. For instance, a law requiring that the courts dismiss for want of jurisdiction any suit brought by a Methodist would almost certainly be held to abridge the free exercise of religion. The law would be void, and the courts would retain jurisdiction over suits brought by Methodists. Some scholars have argued that a law denying jurisdiction in a whole class of cases—cases involving school prayer, for instance, or abortion—would similarly operate to deprive litigants of their constitutional rights.[12] Thus the jurisdictional limitations would be void, and the courts would retain jurisdiction over the questions in controversy.

Again, the scholars who propose this theory are reading their own view of what it means to have a constitutional right into the argument over jurisdiction. In their view, nobody has a constitutional right unless he can get that right enforced in a federal court. This assumes the whole ground in dispute, and reads the congressional exceptions and regulations power out of the Constitution. Not only the federal courts, but also Congress, the President and all executive officers, and all state officials have the duty to obey the Constitution. Just as the courts must sometimes interpret the Constitution in order to enforce it, these other state and federal officers must sometimes act on their own interpretations of the Constitution. Where a federal court has jurisdiction over a particular case, its reading of the Constitution is binding on the parties to the case. Where there is no such jurisdiction, some other body will be the final arbiter. This does not constitute a denial of constitutional rights unless it is assumed that only the federal courts are capable of reading the Constitution correctly.

As a practical matter, disputes not resolved in the federal courts will usually be resolved in the state courts, since Congress has no power to deny jurisdiction to these courts. State judges take the same oath as federal judges to uphold the Constitution of the United States. An act of Congress that effectively channels constitutional litigation into such courts does not violate the Constitution.

The existence of state courts as an alternative forum for litigation of constitutional questions bolsters the case for absolute congressional control of federal court jurisdiction, but is also suggests a problem with the jurisdiction-limiting technique as a means of counteracting erroneous interpretations of the Constitution. Few constitutional scholars argue, for instance, that the Supreme Court's holding in *Roe* v. *Wade* (1973),[13] striking down all fifty state antiabortion laws, represents a correct reading of the Constitution. Insofar as cases involving abortion continue to be resolved in the federal courts, in the practical political sense *Roe* will continue to be "the law of the land" until the Supreme Court reverses its unconstitutional 1973 holding. If Congress were to remove jurisdiction over abortion cases from the federal courts, such litigation would be conducted in the state courts. Some state courts might read the Constitution as all courts read it for two centuries prior to *Roe* v. *Wade*, and uphold state antiabortion laws as constitutional. But many other state courts would probably regard the United States Supreme Court decision as a binding precedent. In these states, *Roe* would continue to be the effective law, and since the Supreme Court would never have occasion to hear another case involving abortion, it would be impossible ever to restore a uniform and correct interpretation of the Constitution.

The exceptions and regulations clause is not a panacea. It cannot cure all the effects of the judicial activism of the last few decades. Moreover, many sincere people believe that to deprive the federal courts of jurisdiction even in one or two areas would set a dangerous precedent that could greatly reduce the value of the independent judiciary as a bulwark of those rights that genuinely derive from the Constitution and not just from the political ideals of a few judges. These concerns are not to be taken lightly; but they must be weighed against the harm that is being done by the current regime of judicial usurpation of legislative authority. I do not believe it would be such a bad thing to use the jurisdiction-limiting power to send the judges a message, so long as we are careful to send them the right message. We should be willing to tolerate unpopular judicial interpretations of the Constitution, and even interpretations with which some of us personally disagree, so long as they are sincere attempts at interpretation and not at law-making. And efforts to regulate jurisdiction should be carefully circumscribed so as to achieve the desired results without creating jurisprudential chaos or setting dangerous precedents.

One moderate approach to the regulation of federal court jurisdiction was suggested by the Norris-LaGuardia Act of 1932, which deprived the federal courts of jurisdiction to issue certain labor injunctions. Congress believed that the federal courts were abusing their power in this area, and so Congress restricted that power. Rather than to deprive the federal courts of all jurisdiction in labor disputes, Congress chose a more moderate approach by forbidding only a particular remedy. Since an injunction can affect the lives of the parties to a lawsuit even prior to

a final adjudication of their rights and duties, it is an extreme remedy. Prior to 1932, in the judgment of Congress, the federal courts were using the unjunction remedy too harshly and too frequently. In *Lauf v. E. G. Shinner & Co.* (1938).[14] the Supreme Court upheld the power of Congress to deny the court the rights to resort to this remedy.

A number of recent proposals for curbing abuses of the judicial power use the technique suggested by the Norris-LaGuardia precedent. For instance, the Subcommittee on Separation of Powers of the Senate Judiciary Committee, of which I serve as chairman, recently reported favorably to the full Judiciary Committee on the Human Life Bill, one section of which deprives the lower federal courts of jurisdiction to issue injunctions in cases involving abortion. There are other areas in which this approach is promising. Mandatory busing of schoolchildren to achieve racial balance, for instance, and court-ordered affirmative-action quotas, are examples of the harsh and excessive use of the injunctive power by federal courts. Legislation has been proposed in this Congress which would curtail or eliminate the federal courts' authority to engage in these particular abuses of their jurisdiction.[15] Passage of such legislation would set no precedent not already set by the Norris-LaGuardia Act, and would not impair the power of the federal courts to hear civil rights cases and to grant relief other than mandatory racial-balance busing or injunctions involving racial quotas.

Should Congress enact into law any of these proposals to limit federal court jurisdiction, we can expect dire predictions about the future of our independent judiciary, our constitutional rights and our very system of government. Part of the answer to these alarms is to ask how the Framers of the Constitution would have reacted to the judicial excesses to which these legislative proposals respond. These were the men whose response to a centralized, unresponsive and arbitrary power was made manifest at Lexington and Concord. In providing for a system of checks and balances over any possible future assumption of absolute power by any one institution, the Framers were providing a moderate, political solution to an evil whose recurrence they feared. To employ one of the solutions they gave us, where the circumstances seem to warrant its use, is not only our power but also our duty.

REFERENCES

[1] *Ex Parte McCardle*, 7 Wallace 506 (1869).
[2] *Id.* at p. 514.
[3] *Lockerty* v. *Phillips*, 319 U.S. 82 (1943).
[4] *Id.* at p. 187.
[5] *See* Raoul Berger, *Congressional Contraction of Federal Jurisdiction*, Wisconsin Law Review 801 (1980).
[6] Raoul Berger, *Congress* v. *The Supreme Court*, (Cambridge: Harvard University Press, 1969) pp. 285–96.
[7] Berger, *supra* n. 5.
[8] *See, e.g.*, Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise of Dialectic*, Harvard Law Review 1362, 1365 (1953); Ratner, *Congressional Power Over the Jurisdiction of the Supreme Court*, 109 University of Pennsylvania Law Review 157 (1960); Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction*, 83 Yale Law Journal 498 (1974).
[9] *See, United States* v. *O'Brien*, 391 U.S. 367 (1968); *Flemming* v. *Nestor*, 363 U.S. 603 (1960).
[10] *Ex Parte McCardle*, 7 Wallace at p. 514 (1869).
[11] *Marbury* v. *Madison*, 1 Cranch 137 (1803).
[12] *See* Hearings on S. 158 before the Subcommittee on Separation of Powers, Committee on the Judiciary, United States Senate, 97th Congress, 1st Session (1980) (statement of Norman Dorsen); *cf.* Laurence Tribe, *American Constitutional Law*, (Mineola, New York: Foundation Press, 1978) p. 39.
[13] *Roe* v. *Wade*, 410 U.S. 113 (1973).
[14] *Lauf* v. *Shinner & Co.*, 303 U.S. 323 (1938).
[15] *E.g.*, S. 528, S. 1005, S. 1147 (97th Congress 1st Session).●

ALPENA, MICH., BABE RUTHERS ARE WORLD CHAMPS

● Mr. LEVIN. Mr. President, as the symptoms of pennant fever become evident through the land and we enter the homestretch in yet another baseball season, I think it is appropriate to recognize the senior Babe Ruth all-star world champions from Alpena, Mich.

The "Cardiac Kids" captured the hearts of baseball—and non baseball fans—like no other team has in an area rich in baseball tradition.

Alpena's route from its State title last July to the world championship in Denham Springs, La., in late August captured the attention of folks throughout my home State and the country.

The group of Alpena all-stars was chosen by Manager George Stevens, Jr., from regular season players on five area teams to form a team of 17 who went on to win the world championship with an astonishing 12 wins and 1 loss during the tournament.

The road was not an easy one, but coached by Bob Rohn and Dave Ruth the ballclub defeated Colorado Springs, Colo., by 1 run, 6–5, giving Alpena its first world champions in any sport.

I would like to take this opportunity to congratulate team members Blaise Ilsley, Scott Ferguson, Tim LeTourneau, Delton Alexander, Greg Ferguson, Brett Anderson, Chuck Stevens, Jim Skiba, Derek Idalski, Mike Spleet, Mike Morris, Andrew Rohn, Jim Richey, Bob Morley, Rick Donajakowski, Brian Glennie, and John Skiba for an outstanding performance. They are truly world champs in the great American tradition.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I know of no other business to come before the Senate. I inquire of the minority leader if there is any other matter he wishes to address to the body.

Mr. ROBERT C. BYRD. Mr. President, I have nothing. I thank the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I move in accordance with the order previously entered that the Senate now stand in recess until the hour of 9 a.m. on tomorrow.

The motion was agreed to; and at 6:44 p.m., the Senate recessed until Friday, September 24, 1982, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 23, 1982:

DEPARTMENT OF JUSTICE

Charles H. Perenick, Sr., of Massachusetts, to be U.S. Marshal for the district of Massachusetts for the term of 4 years, vice James I. Hartigan, resigned.

Anthony Bertoni, of Michigan, to be U.S. Marshal for the eastern district of Michigan for the term of 4 years, reappointment.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. George E. R. Kinnear II, [redacted]/1310, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. John D. Johnson, Jr., [redacted]/1110, U.S. Navy.

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be lieutenant colonel

Crielly, William J., Jr., [redacted]
Hawley, Robert R., [redacted]
Hurt, John D., [redacted]
Lavine, Myer H., [redacted]
Paul, Rivers E., [redacted]
Rogerson, John N., [redacted]

MEDICAL CORPS

Acki, Armando, [redacted]
Ballista, Persio A., [redacted]
Bautista, Efigenio L., [redacted]
Chase, Lawrence J., [redacted]
Dodd, Lloyd E., Jr., [redacted]
Garramone, Stephen M., [redacted]
Gilstad, Dennis W., [redacted]
Hanna, Lotfy R., [redacted]
Holmes, Terry F., [redacted]
Jaceldo, Teodorico H., [redacted]
Nunes, Lyonio B., [redacted]
Perlas, Danilo S., [redacted]
Premsrirut, Somphool, [redacted]
Rajper, Mohammad A., [redacted]
Valencerina, Rodolfo R., [redacted]
Wood, William C., [redacted]

IN THE AIR FORCE

The following named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be colonel

Huff, Thomas L., [redacted]
Kleinstub, Paul H., [redacted]
Kuhar, James R., [redacted]
Milnarik, Ronald M., [redacted]
Monske, Lane A., [redacted]
Rossell, Jay M., [redacted]
Sandusky, William J., [redacted]
Schutt, Norman L., [redacted]
Sekavec, Jay G., [redacted]
Spray, John R., [redacted]
Summitt, James B., [redacted]

Vanasma, Kenneth L., xxx-xx-xxxx
Young, Stephen L., xxx-xx-xxxx

MEDICAL CORPS

Bates, Gaylon M., xxx-xx-xxxx
Broadwell, Russell M., xxx-xx-xxxx
Broome, Larry G., xxx-xx-xxxx
Burner, William L., III, xxx-xx-xxxx
Cabatbat, Inocencio B., xxx-xx-xxxx
Chase, Walter F., Jr., xxx-xx-xxxx
Chronis, Alex G., xxx-xx-xxxx
Chua Ernesto L., xxx-xx-xxxx
Cole, Lonnie A., xxx-xx-xxxx
Cramer, Frederick S., xxx-xx-xxxx
Crawford, Elwyn D., xxx-xx-xxxx
Creasy, James K., xxx-xx-xxxx
Donaldson, Miriam E., xxx-xx-xxxx
Erickson, Gerald I., xxx-xx-xxxx
Fan, Warner J., xxx-xx-xxxx
Fishburn, Frederick B., xxx-xx-xxxx
Garcia, Raymond L., xxx-xx-xxxx
Gauvin, Lloyd D., xxx-xx-xxxx
Greene, Jerry W., xxx-xx-xxxx
Hathaway, Ralph E., xxx-xx-xxxx
Herrera, Christian Y., xxx-xx-xxxx
Howard, Cleve W., xxx-xx-xxxx
Jacobs, Robert L., Jr., xxx-xx-xxxx
Kennedy, Denis T., xxx-xx-xxxx
Kippel, Eugene J., xxx-xx-xxxx
Klint, Kenneth, xxx-xx-xxxx
Koskinen, Kenneth R., xxx-xx-xxxx
Lamb, Johnny M., xxx-xx-xxxx
Lasher, John C., xxx-xx-xxxx
Legowik, John T., xxx-xx-xxxx
Malabanan, Francisco L., xxx-xx-xxxx
Martineztirado, Jose L., xxx-xx-xxxx
Mays, Garrett M., xxx-xx-xxxx
McDonald, Robert E., xxx-xx-xxxx
Merwin, Ronnie R., xxx-xx-xxxx
Nelson, Wilhma B., xxx-xx-xxxx
Nelson, Wilner N. J., Jr., xxx-xx-xxxx
Orille, Oscar P., xxx-xx-xxxx
Paxston, Donald K., xxx-xx-xxxx
Pettit, John W., Jr., xxx-xx-xxxx
Quinonesromeu, Edwin M., xxx-xx-xxxx
Richmond, David R., xxx-xx-xxxx
Roadman, Charles H., II, xxx-xx-xxxx
Russell, David A., xxx-xx-xxxx
Sanders, Lawrence T., xxx-xx-xxxx
Schmitz, George F., xxx-xx-xxxx
Schuknecht, Lowell A., Jr., xxx-xx-xxxx
Sigas, Ibis D., xxx-xx-xxxx
Suter, Darvin K., xxx-xx-xxxx
Walchner, Andreas M., xxx-xx-xxxx
Wang, George Y. M., xxx-xx-xxxx
Waring, William M., xxx-xx-xxxx
Wasserman, James M., xxx-xx-xxxx
Wheeler, Ralph A., xxx-xx-xxxx
Wright, Donald G., xxx-xx-xxxx

WITHDRAWAL

Executive nomination withdrawn from the Senate September 23, 1982:

James Harlan Stamper, of Missouri, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office, vice Irene Feagin Scott, which was sent to the Senate on July 12, 1982.

HOUSE OF REPRESENTATIVES—*Thursday, September 23, 1982*

The House met at 10 a.m.

Rev. John C. Fletcher, Ph. D., Assistant for Bioethics, Warren G. Magnuson Clinical Center, National Institutes of Health, Bethesda, Md., offered the following prayer:

Eternal God, Creator and Redeemer of all, we thank You for this new day and its possibilities. We appeal to You, O Lord, from this House of the people's chosen leaders. Your kingdom is not of this world, but Your truth and justice is the judgment seat before which we all stand today and forever. We confess that our confidence in truth is often shaken by a thousand half-truths uttered in the contexts of self-interest. We confess that our commitment to justice is often undone by the blatant pride and prejudice of those in and out of power who contend for special treatment and position, and by our own unruly ambitions that often overreach the limits of fairness. But teach us to love truth and not grow weary in the pursuit of those goals which best serve the people. Help us to love justice and not despair about the mission of this House to preserve and extend the liberties and responsibilities of our Nation to all its people and to be a shining example to those in other nations who desire such a destiny. Give us, we pray, on this new day, a new heart to do the people's work of truth and justice. Cleanse our hearts and renew a right spirit within us, we beseech Thee. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BLILEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. BLILEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 32, answered "present" 3, not voting 65, as follows:

[Roll No. 362]

YEAS—332

Akaka	Dyson	Kennelly
Albosta	Early	Kildee
Alexander	Eckart	Kindness
Anderson	Edwards (AL)	Kogovsek
Andrews	Edwards (CA)	Kramer
Annunzio	Emery	LaFalce
Anthony	English	Lagomarsino
Archer	Erdahl	Lantos
Ashbrook	Erlenborn	Latta
Aspin	Evans (DE)	Leach
Atkinson	Evans (IN)	Leath
AuCoin	Fary	LeBoutillier
Bailey (PA)	Fazio	Lehman
Barnard	Ferraro	Leland
Barnes	Findley	Lent
Bedell	Fish	Levitas
Beilenson	Flippo	Lewis
Benedict	Florio	Livingston
Bennett	Foglietta	Loeffler
Bereuter	Foley	Long (LA)
Bethune	Ford (TN)	Long (MD)
Bevill	Frank	Lott
Biaggi	Frenzel	Lowery (CA)
Blanchard	Frost	Lowry (WA)
Bliley	Fuqua	Lujan
Boggs	Gaydos	Lundine
Boland	Gephardt	Lungren
Boner	Gibbons	Madigan
Bonior	Gilman	Marlenee
Bonker	Ginn	Marriott
Bouquard	Glickman	Martin (IL)
Brinkley	Gonzalez	Martin (NC)
Brodhead	Gore	Martin (NY)
Brooks	Gradison	Martinez
Broomfield	Gramm	Matsui
Brown (CA)	Gray	Mavroules
Broyhill	Green	Mazzoli
Burgener	Gregg	McClory
Campbell	Grisham	McCollum
Carney	Guarini	McCurdy
Chappie	Gunderson	McDade
Clausen	Hagedorn	McDonald
Clinger	Hall (OH)	McEwen
Coelho	Hall, Ralph	McGrath
Coleman	Hall, Sam	McHugh
Collins (IL)	Hamilton	Mica
Conable	Hammerschmidt	Michel
Conte	Hance	Mikulski
Corcoran	Hansen (ID)	Miller (CA)
Courter	Hansen (UT)	Mineta
Coyne, James	Hatcher	Minish
Coyne, William	Hefner	Mitchell (NY)
Craig	Heftel	Moakley
Crane, Daniel	Hendon	Molinari
Crane, Philip	Hertel	Mollohan
D'Amours	Hightower	Montgomery
Daniel, Dan	Hillis	Moore
Daniel, R. W.	Hollenbeck	Moorhead
Dannemeyer	Holt	Morrison
Daschle	Hopkins	Motti
Daub	Horton	Murtha
Davis	Howard	Myers
de la Garza	Hoyer	Napier
Dellums	Hubbard	Natcher
DeNardis	Huckaby	Neal
Derrick	Hughes	Nelligan
Dicks	Hunter	Nelson
Dingell	Hutto	Nichols
Dorgan	Jeffords	Nowak
Dornan	Jeffries	O'Brien
Dowdy	Jenkins	Oakar
Downey	Jones (NC)	Oxley
Dreier	Jones (OK)	Panetta
Duncan	Jones (TN)	Parris
Dunn	Kastenmeier	Pashayan
Dwyer	Kazen	Patman
Dymally	Kemp	Patterson
Paul	Schulze	Tauzin
Pease	Schumer	Taylor
Pepper	Sensenbrenner	Thomas
Perkins	Shamansky	Traxler
Petri	Shannon	Udall
Peyser	Sharp	Vander Jagt
Pickle	Shaw	Vento
Porter	Shelby	Volkmer
Price	Shumway	Walgren
Pritchard	Shuster	Wampler
Pursell	Siljander	Watkins
Quillen	Simon	Waxman
Rahall	Skeen	Weaver
Railsback	Skelton	Weber (OH)
Rangel	Smith (AL)	White
Ratchford	Smith (IA)	Whitehurst
Regula	Smith (NE)	Whitley
Reuss	Smith (NJ)	Whittaker
Rinaldo	Smith (PA)	Whitten
Roberts (KS)	Snowe	Williams (OH)
Roberts (SD)	Snyder	Winn
Robinson	Solarz	Wirth
Rodino	Solomon	Wolf
Roe	Spence	Wolpe
Rogers	St Germain	Wright
Rostenkowski	Stangeland	Wyden
Roth	Staton	Wylie
Roukema	Stenholm	Yates
Roybal	Stokes	Yatron
Rudd	Studds	Young (AK)
Russo	Stump	Young (FL)
Santini	Swift	Young (MO)
Sawyer	Synar	Zablocki
Schneider	Tauke	

NAYS—32

Bailey (MO)	Fields	Miller (OH)
Brown (CO)	Gejdenson	Mitchell (MD)
Butler	Goodling	Murphy
Clay	Harkin	Roemer
Coats	Hartnett	Sabo
Coughlin	Hawkins	Schroeder
Derwinski	Hiler	Smith (OR)
Dickinson	Jacobs	Walker
Edwards (OK)	Johnston	Washington
Emerson	Luken	Weber (MN)
Evans (IA)	Markey	

ANSWERED "PRESENT"—3

Oberstar	Obey	Ottinger

NOT VOTING—65

Addabbo	Donnelly	Mattox
Applegate	Dougherty	McCloskey
Badham	Edgar	McKinney
Bafalis	Ertel	Moffett
Beard	Evans (GA)	Rhodes
Bingham	Fascell	Ritter
Bolling	Fenwick	Rose
Bowen	Fiedler	Rosenthal
Breaux	Fithian	Rousselot
Brown (OH)	Ford (MI)	Savage
Burton, John	Forsythe	Scheuer
Burton, Phillip	Fountain	Seiberling
Byron	Fowler	Stanton
Carman	Garcia	Stark
Chappell	Gingrich	Stratton
Cheney	Goldwater	Trible
Chisholm	Heckler	Weiss
Collins (TX)	Holland	Williams (MT)
Conyers	Hyde	Wilson
Crockett	Ireland	Wortley
Deckard	Lee	Zeferetti
Dixon	Marks	

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 907. An act to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2457) entitled "An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MATHIAS, Mr. RUDMAN, and Mr. EAGLETON to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5890) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. SCHMITT, Mr. GOLDWATER, Mr. CANNON, and Mr. RIEGLE to be the conferees on the part of the Senate.

THE PLIGHT OF REFUGEES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in 1980, women in Congress under the leadership of the gentlewoman from New York, Liz Holtzman, took the lead in focusing world attention on the plight of Southeast Asian refugees. We joined together with elected women around the world saying let us put politics aside and let us make sure the victims of politics, refugees, are no longer victimized. We worked hard to see refugees finally got supplies and medical needs they desperately needed.

Women in Congress have continued to put politics aside and focus on humanitarian needs of refugees all over the world because most refugees are women and children. Women and children were not political participants but often the easy victims of politics.

The situation of refugees in Southeast Asia, Africa, the Middle East, and Latin America has been taken up by Congresswomen at different times.

Today we are joining together and calling upon Lebanon to see if there is some international organization the Lebanese would agree to put in charge of the refugee camps to stabilize their situation. They need security and supplies. World opinion was shocked by the treatment of innocent refugees by we have been responding to the political, rather than the humanitarian situation. Today Congresswomen are again joining together, saying let us put politics aside and dwell on the immediate humanitarian needs of the refugees.

THE PLIGHT OF REFUGEES

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, we do not raise our voices in protest or in condemnation of any nation or any political faction of any nation, but instead, we raise them in concert with the whimper of a little child too ill and too hungry to cry and the anguished cry of its mother and the wail of its grandmother crying out for their plight and for their beloved dead.

We members of the Congressional Women's Caucus who had the opportunity of being sent on a mission by the Speaker and by this House to Cambodia and to Thailand and to other places in the Far East wish also to join our voices in concert with all the people throughout the world who really wish to relieve the refugee situation.

We know that in a very practical sense there is a network of help through the international agencies which have a pipeline of goods and supplies and of expert knowledge in sanitation, in health care, in nutrition, and in construction.

We hope that you will join your voices with ours to ask that this kind of help be given to the refugees of Lebanon.

THE PLIGHT OF THE REFUGEES

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I have visited the refugee camps in Cambodia and I have also seen the refugee camps in Lebanon after the initial devastation in July. The innocent people there were the elderly, women, and children. They were standing outside their former homes which were then rubble. They had nowhere to go, no medical supplies, little food and water. Today they have lost their babies, their parents, and their mothers.

I call upon the President to help the Congresswomen to relieve the despair of these innocent people. We request that a proper international agency assist these people. They are devastated. Let us help them. Let us assure their safety—let us assure that medical supplies, food and shelter, and so forth, assist them and indeed get through to reach them.

Mr. President, surely we can unite in these humanitarian efforts.

THE PLIGHT OF THE REFUGEES

(Ms. MIKULSKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MIKULSKI. Mr. Speaker, one of the most important functions of a government is to save lives. Throughout the world there is a particular population that deserves our consideration, refugees. Refugees are not hostages. Refugees are not people who are combatants. Refugees are people who seek protection from danger, for safety; they look for shelter and a sanctuary.

When refugees are not protected, the most grisly atrocities are perpetrated, whether that is in Cambodia, El Salvador, or now in Lebanon.

I join with the other Congresswomen to call for an international humanitarian refugee protection force to be there to supervise the refugees just as we have sent an international military peacekeeping force to protect the government; for while we are protecting the governments, it is more important that we then protect the people.

We have the international resources to do it and we need to do it, because we are talking about women, about children, and about old people, the most vulnerable, fragile populations in the world who are in danger.

THE PLIGHT OF THE REFUGEES

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, last week's massacre of Palestinian refugees by Christian Phalangists was the latest example of the vicious brutality which has compounded the miseries of the people of that troubled area in our times. It is important that we distinguish between armed conflict between opposing military forces, which is tragic enough, and the savage slaughter of unarmed civilians, including women, children, and the elderly, which is intolerable.

It will not be an easy task to bring stable peace to the Middle East, which has known constant war for more than three decades. We know it will be difficult, and we must not delude ourselves.

But while we strive for the solution that will send the armies home, we must provide for the security of civil-

ians, including those in the refugee camps.

The letter we are sending today to President Reagan seeks to have an international organization oversee and supervise the refugee camps to give the refugees new hope that they will be secure in the wake of the massacres at Shatila and Sabra. I am hopeful that this action will help prevent any recurrence of those horrors.

□ 1030

WE SHOULD NOT JUDGE TOO QUICKLY

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I rise today to express my concern over the recent events in Lebanon, which I feel we should not judge too quickly. The current tragic situation began with the occupation of Lebanon by a group which set up an international terrorist network headquartered in Beirut. This inhumane army of terrorists is the enemy of all countries in the free world, maintaining no respect for territorial sovereignty or human life.

With the support and financial assistance of the Soviet Union, these international gangsters have imposed a reign of terror upon innocent civilians in Lebanon and Israel. The list of atrocities perpetrated by this group is endless—in 1974, when they burst into an elementary school and murdered 20 Israeli schoolchildren; in 1978, on a coastal road when they ambushed and grenaded a civilian bus, killing 35. They have even callously violated the evacuation agreement, leaving behind weapons and followers to continue their worldwide terrorist operations.

Israel has singlehandedly attempted to break up this large force of terrorists, advancing the cause of freedom and human dignity. It has been Israel that has tried gallantly to maintain the peace and insure stability in a troubled Middle East. Israel's policy has been one of trying to live in harmony with its neighbors and to preserve human life.

Israel is the only democracy in the Middle East. Our belief in freedom and self-determination is too great to abandon our commitment to Israel's survival and integrity and our joint commitment to a free Lebanon. We should continue to stand up for Israel during these difficult times to make certain that the forces of civilization and order prevail over the forces of terrorism and anarchy.

LET US CONTINUE CYSTIC FIBROSIS RESEARCH

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIMON. Mr. Speaker, many of us have had our pictures taken with a cystic fibrosis child each year.

When I checked into cystic fibrosis research, I found we were spending $400,000 a year on it. That seemed to me a small amount, but I did not know that much about it.

I have now learned that because of cutbacks in NIH, NIH is closing cystic fibrosis research, not even spending the $400,000 that we are now spending. That is incredible.

I understand tough decisions have to be made when there are cutbacks, but for this wealthy Nation of 220 million people to say we are going to stop research on cystic fibrosis, I do not believe that is what this body wants and I do not believe that is what the American people want. I shall propose an amendment to the HHS appropriation when it comes up to make certain that this Nation continues cystic fibrosis research.

NEED FOR INTERNATIONAL INTERVENTION IN LEBANON CRISIS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, let me first congratulate the female Members of Congress today having taken several of these 1 minute speeches for the purpose of calling attention to the need for some type of an international intervention to protect the refugees created by the Lebanon crisis.

We want to be sure that the women, the children, the innocents who have been slaughtered indiscriminately, both in the original bombing of Beirut and now, in more recent times, in the terrible tragedy in the refugee camps, are protected and that such events not happen again.

I congratulate the gentlewomen who have brought this matter to the country's attention. As chairman of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary, I offer to them my total support. My signature is on that letter which will be sent to the President asking for an international force to protect the Lebanon refugees.

My subcommittee will be anxious to help here, but I think one thing ought to be brought to the attention of this body: We do not, by this activity, want to perpetuate refugee camps. Refugee camps stand as a symbol of the fact that the people who need a homeland have not been able to find a homeland to return to. We do not seek to say refugee living is the best. We simply want to protect human life, and I join with my colleagues in that noble endeavor.

BAN WEAPONS IN SPACE

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, it has been said that it is much easier to prevent something from happening than to correct the situation after the event. It is in this spirit, that I invite my colleagues to join me and some 15 other Members in cosponsoring a joint resolution, calling for the President to immediately engage in negotiations with the Soviet Union, directed toward a complete and verifiable ban of weapons of any kind, in space or based elsewhere, for use against space targets. The resolution also calls on the President to vigorously pursue multilateral talks aimed at banning all weapons from space—launched by any nation—through the appropriate organs of the United Nations, including, but not limited to, establishment of a working group within the U.N. Committee on Disarmament to provide a forum for discussion of this topic leading to a verifiable treaty.

As we all know the potentials of space are infinite, however, it is my feeling that the traditional, peaceful approach to space exploration will not be maintained in that the weaponization of space is indeed at our doorstep. It is true that there are existing treaties which limit space weapons activities, however, under these treaties an arms race of enormous proportions is still possible—indeed probable.

It is high time we realized that deployment of space weapons will jeopardize American security interests and increase the probability of nuclear war. Both the United States and the Soviet Union depend on satellites for early warning, communication, navigation, and treaty verification. Jeopardizing this central nervous system of strategic nuclear forces, by stationing antisatellite weapons or any other type of weapons in space, will greatly increase the chance of accidental nuclear war.

The greatest challenge before us is the salvation or the destruction of our civilization from nuclear death.

Let us not increase the likelihood of a nuclear holocaust by failing to take action now to prevent a dangerous and costly arms race in space.

END THE MISERY IN LEBANON

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, the political consequences of the atrocities in Lebanon are not yet known, but the human misery is known.

Today I want to join, as a cosigner of the letter calling upon the President

of the United States to take the leadership in calling for international relief agencies to help relieve this human misery.

We must do all we can as leaders of the free world to assure that the women and children and other innocents will not continue to suffer unnecessarily. They need medical supplies, they need food, they need shelter, they need the help of the United States and that of the President of the United States working through the acknowledged worldwide relief agencies.

WE MUST DEBATE THESE "SHIPWRECKED" ISSUES

(Mr. SMITH of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Alabama. Mr. Speaker, I rise this morning to urge my colleagues to consider the many issues which greatly concern the American people, but which this Congress has failed to address. If we are to be responsive to the American people, we must seriously consider the issues of crime, schoolbusing, abortion, balanced budget amendment, and school prayer.

Many Members are concerned for these issues and have introduced legislation. But have these bills been debated? No; they are bottled up in committee. It is unfair to the American people to allow these issues to be shipwrecked because of a powerful few. The list of bottled up legislation is like the graveyard off the Hatteras coast.

Bottled up legislation includes: H.R. 2047, by HENSON MOORE, restricting schoolbusing; House Joint Resolution 372, by the late John Ashbrook, regarding school prayer and abortion; H.R. 3541, by BOB LIVINGSTON concerning the death penalty; House Joint Resolution 350 introduced by BARBER CONABLE calling for a balanced budget amendment and H.R. 6718 by MARK SILJANDER to limit the use of the insanity plea.

How long will the American people accept the excuse that these issues will be addressed in the future? I urge my colleagues here to take our citizenry seriously and debate these issues.

□ 1040

WHO IS TO BLAME FOR APATHY OF AMERICAN CITIZENS?

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, I was reading in today's Washington Post, which had an amazing survey as to why the American people are so apathetic, one of the reasons given was that they did not know where their men in office or their women in office stood on the issues.

It is time in this Congress that we were honest with the American people and told them the reasons why they do not know the positions of their public servant. The reason is clear, the leadership of this Congress is fearful of bringing up the issues which would clarify many, many political points for the voters of this country. Yesterday, some of us held a news conference identifying many bills in this Congress, key issues, which are bottled up in committee.

The bills include the balanced budget, regulatory reform, prayer in schools, insanity pleas; major issues dealing with the housing industry and jobs, abortion, and busing—and so many others that this Congress has yet to address and yet to have one rollcall vote on.

I ask the people of this Congress one simple question: Where does the blame for apathy lie? Does it lie with the American people or does it lie here in this Congress because of our inaction and cowardice in bringing up these issues to a vote.

LEGISLATION INTRODUCED PROVIDING FOR INCREASED PURCHASES OF AMERICAN AGRICULTURAL PRODUCTS BY DEFENSE DEPARTMENT

(Mr. NELLIGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELLIGAN. Mr. Speaker, yesterday I introduced two pieces of legislation to promote the purchase of American agricultural products by the Department of Defense. I introduced House Resolution 600, which urges the Secretary of Defense to make maximum use of U.S. agricultural products at U.S. military installations overseas, and to devise new ways to use surplus agricultural commodities.

I also introduced H.R. 7165, which would require the Department of Defense to report to Congress concerning its utilization of U.S. agricultural products. Under H.R. 7165, the Department will be required to account for past, present, and future defense purchases, to specify all treaties, laws, executive orders which could require foreign purchases, and what steps could be taken to increase the purchase of domestic agricultural products.

Approval of these two measures would create a specific defense policy favoring the procurement of American agricultural products, and produce the data and information needed to construct a concrete plan to effectively implement this policy.

I invite my colleagues to cosponsor this legislation and join me in supporting the American farmer.

MR. BAXTER SHOULD ENFORCE THE LAW

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the law states and the Supreme Court has so interpreted that agreements between sellers and buyers to fix the price at which the buyer may resell a product is in violation of the Sherman Antitrust Act. Under the Constitution, the executive branch, of course, is required to enforce the laws of the land.

In at least one case, however, the executive branch is not doing so. Assistant Attorney General William Baxter, who heads Justice's Antitrust Division, has stated he does not intend to enforce the Nation's price-fixing laws with respect to manufacturer-dealer agreements. While a prosecutor in his discretion can decide not to prosecute a particular case, no one has authority not to carry out the laws the Congress has passed.

It is Mr. Baxter's constitutional responsibility to stop ignoring illegal resale price maintenance agreements and to begin prosecuting those firms which enter into such collusive price-fixing agreements which act to stifle free-market competition and increase prices to consumers.

DEFENSE INDUSTRIAL BASE REVITALIZATION ACT SHOULD BE DEFEATED

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, every Member here—in fact, every American—knows that Federal spending programs are out of control, and so much time has been spent here talking about that problem. But, what is little known throughout the country, even here in the Congress, is that Federal lending programs are growing faster than the Federal spending programs. Let me say that again: Federal lending programs are growing faster than the Federal spending programs.

That is a real problem. If you want to contribute to that problem, then be sure today to vote for the Defense Industrial Base Revitalization Act, which will add $6.75 billion in spending which will be used to leverage all sorts of loan guarantees, credit assistance programs, interest subsidies, for those hard-pressed defense-related industries who cannot seem to make it now in rebuilding our industrial base in the country on $176 billion that we have set aside for Defense spending in the next year.

I encourage Members to support those of us who will be fighting this

legislation as it comes to the floor today.

DEMOCRATIC LEADERSHIP RESPONSIBLE FOR LACK OF IMPORTANT LEGISLATIVE ACTION

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, back along about March of this year I began the process of pointing out that there were a number of major issues that had been before this Congress for many months, and had not yet not been acted upon. Among these were the balanced budget, school busing, school prayer, regulatory reform, and anitcrime proposals. At least two of those issues, the regulatory reform proposal and the balanced budget proposal, are key to the economic recovery of this Nation.

And yet today we come here and we still not have acted on those particular bills. The question becomes, why, when in March we were told, "Don't worry about it, we are going to act on them later."

The fact that we were doing nothing then did not seem to make any difference, we were going to wait unitl later. Now, when it is later, we are told, "Gee, we are just too busy now to act on such items."

I think some can make those kinds of excuses, but there is no doubt where the responsibility lies for the fact that schoolbusing, school prayer, balanced budget, and regulatory reform, have not been acted upon. The responsibility lies with the Democratic leadership of this Congress.

When the American people ask, "Why did Congress not pass a balanced budget amendment," the answer is, "The Democratic leadership would not let it."

When the American people ask, "Why did Congress not pass regulatory reform," the answer is, "The Democratic leadership would not let it."

When the American people ask, "Why did Congress not pass the school prayer amendment," the answer is, "The Democratic leadership would not let it."

DEMOCRATIC LEADERSHIP RESPONSIBLE FOR DELAY IN CONSIDERING IMPORTANT ISSUES

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, the American people are becoming somewhat disconcerted with the action of this Congress, and the reason is because this Congress has not been acting. In January and February and March and April, while we were passing such notable pieces of legislation as National Peach Month, the people were demanding that we take up issues like regulatory reform and the balanced budget.

Now, as we approach the end of this session, with adjournment possibly only a week or 2 weeks away, we will no longer have time to take up these issues. However, we may have a special session to come back after adjournment to take up those issues which we did not have time to do in January, February, March, and April.

Mr. Speaker, I hope that in the future, that if the Democratic leadership continues to control this House, that they decide to work in January and February and March, and not bring the Congress back after an election to take up those issues which they feel the American people would not like the way in which they voted.

JOBS FOR DISPLACED WORKERS

(Ms. FIEDLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FIEDLER. Mr. Speaker, if unemployment is a major problem in your congressional district, I know that you are concerned as I am about structural changes in our economy that may continue to put American workers out of jobs, even as we recover from the current recession.

Unfair foreign competition is causing this long-term economic dislocation in a number of traditional manufacturing industries. In 1983 alone this may account for 20 percent of the Nation's unemployed.

I have introduced two bills which directly address the cause and effect of economic dislocation. H.R. 7006 strengthens Congress power to act under the Trade Act of 1974. It would allow Congress, by passing a concurrent resolution, to directly request Presidential action under the Trade Act. It would also require the President to submit a report on each country with which the United States has a negative balance of trade, setting forth to what extent this is due to unfair trade practices.

My second bill, H.R. 7007, provides a targeted jobs tax credit to employers who hire long-term unemployed workers. Eligibility requirements would target the incentive to benefit those hardest hit by foreign competition in high-unemployment States.

I believe these two initiatives provide an approach to unemployment which will strengthen our economy in the years ahead.

DELAY IN HOUSE ACTION CAUSED BY REPUBLICANS

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, I did not intend to address the House this morning but I feel compelled to respond to the gentleman from Indiana, who has criticized this body for not taking a sufficient amount of legislative action earlier this year.

Let me take just a moment to refresh the gentleman's recollection as to just what was happening in the Congress during the months of January, February, March, and April.

As my friend may remember, the President submitted a budget to the Congress during that period of time; a budget based on assumption so unrealistic that pivotal Members of his own party could not accept it. As I recall, the President's February version of the fiscal year 1983 budget projected a deficit of some $93 billion, a figure that has proven to be more than a bit optimistic. As a result of the wide differences that existed between the President and the leaders of his own party, negotiations were undertaken. These talks consumed a great deal of time, and were often heated and contentious. I should point out that leading Republicans were active participants in these discussions, which were designed to encourage the President to prepare a more realistic Federal budget, a document that Members of his own party were willing to bring to the floor.

Inevitably, these negotiations prevented the Congress from taking up a great number of legislative matters, postponing action for a considerable period of time. I would urge the gentleman from Indiana to accept the facts associated with this situation. By doing this, my friend will eventually recognize that a Republican President bears a considerable share of the responsibility for the unfortunate delays in action that have forced us to deal with a great number of appropriations measures at this late date.

ISRAEL IS BETTER THAN BEGIN AND SHARON

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, almost a decade ago Americans justifiably resented efforts to blame the United States as a nation for the actions of a few at My Lai. Our mistakes in Vietnam did not make us an immoral nation, they simply made us a misguided one, and today we have a similar situation in Lebanon.

All of us have an obligation to remember that Israel as a nation is

something quite separate from the outrageous massacre in the Palestinian refugee camps. Israel is a vigorous and decent democracy which at this moment is engaged in vigorous self-criticism, much to their credit.

Having said that, however, let me also say, as one who admires the State of Israel, that Mr. Sharon and Mr. Begin have by their recklessness tragically crippled so much of Israel's good will around the world that it is my honest view that secure peace or anything resembling it may be almost impossible to obtain unless those two gentleman accept the necessity to moderate their reckless policies or else step aside in favor of others who will.

PROVIDING FOR FURTHER EXPENSES OF INVESTIGATIONS AND STUDIES BY COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN 2D SESSION, 97TH CONGRESS

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 568) providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 97th Congress, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. MINISH). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

Resolved, That (a) for further expenses of investigations and studies by the Committee on Standards of Official Conduct (hereinafter in this resolution referred to as the "committee"), including expenses for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946, there shall be paid out of the contingent fund of the House not more than $200,000.

(b) Not more than $200,000 of the amount specified in subsection (a) may be used for consultant services referred to in such subsection.

SEC. 2. Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved by the Committee on House Administration.

SEC. 3. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1982, and ending immediately before noon on January 3, 1983.

SEC. 4. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to allow the gentleman from Illinois (Mr. ANNUNZIO) to explain what we are doing here. I see no Member from the minority side here, and I want to make certain this has been cleared with the minority.

Mr. ANNUNZIO. Mr. Speaker, if the gentleman will yield, I was about to yield 30 minutes to the gentlewoman from Illinois (Mrs. MARTIN) for debate purposes only.

Mr. WALKER. Mr. Speaker, the gentleman asks unanimous consent to proceed, and I wanted to make certain it had been cleared with the minority. I now understand the minority member is here, and I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ANNUNZIO) is recognized for 1 hour.

Mr. ANNUNZIO. Mr. Speaker, I yield 30 minutes, for debate purposes only, to the distinguished gentlewoman from Illinois (Mrs. MARTIN) pending which I yield myself such time as I may consume.

Mr. Speaker, the purpose of House Resolution 568 is to provide funds for the special investigation authorized by House Resolution 518 which passed this Chamber on July 13, 1982, by a vote of 407 to 1.

House Resolution 568 was favorably reported by a unanimous voice vote of the Subcommittee on Accounts, September 15, 1982. The Committee on House Administration favorably reported the resolution by unanimous consent on September 22, 1982.

House Resolution 518, adopted in July, directs the Committee on Standards of Official Conduct to determine whether any Members or employees of the House have violated the Code of Official Conduct or any law, rule, or regulation with respect to any improper or illegal sex acts and/or any improper or illegal involvement in controlled narcotics. The committee is also directed to determine whether any preferential treatment has been offered by any Member or employee of the House in exchange for either of these two items. After the committee has investigated these matters, it is directed to report to the House its findings, conclusions, and any recommendations.

The Committee on Standards of Official Conduct has made a reasonable request for the financing of this special investigation. In its original budget for 1982, it asked for 55 percent less than its 1981 authorization in hopes of a good year with no problems. It went from a 1981 budget of $450,000 down to a 1982 budget of $200,000. With adoption of this resolution, the total budget for 1982 will be $400,000, which is less by $50,000 than its authorization for 1981.

The Committee on Standards of Official Conduct has been frugal in its budgeting and spending practices. Its chairman and ranking minority member assure us that this frugality will continue.

The committee's request is reasonable; it is timely; and it is necessary. It deserves the complete support of this House.

Mr. Speaker, I urge adoption of the resolution.

Mrs. MARTIN of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the subcommittee quite accurately states the feeling of the majority and the minority. This committee has been most responsible in its outlays, and we do support this paricular additional appropriation, not just for the committee but because it is something that is necessary for the honor of the House itself.

Mr. ANNUNZIO. Mr. Speaker, there being no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinios?

There was no objection.

TRANSFER OF CERTAIN LANDS TO WASHOE TRIBE OF NEVADA AND CALIFORNIA

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5081) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) subject to the provision of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the

Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half, north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32.

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres, more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter. Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

Mr. SANTINI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Nevada?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I take this time simply to ask the gentleman from Nevada (Mr. SANTINI) to explain the effects of the Senate amendment.

Mr. SANTINI. Mr. Speaker, if the gentleman will yield, the Senate amended the House bill with an amendment in the nature of a substitute containing the language of the Senate bill, S. 1858.

However, the language of the two bills are identical except that there was a minor error in one of the land descriptions of the house bill. The Senate language corrects that error.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Nevada?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING EXCHANGE OF CERTAIN LAND HELD BY THE NAVAJO TRIBE AND THE BUREAU OF LAND MANAGEMENT

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3589) to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

That (a) subject to the approval of the Secretary of the Interior and to the provisions of this Act, the Navajo Tribe is authorized to exchange any surface interests of such Tribe in the lands described in subsection (b) for surface interests of the United States in lands described in subsection (c) which are approximately equal in value to such tribal interests.

(b) Lands located within the following New Mexico principal meridian townships are described in this subsection:

Township 8 north, range 12 west
Township 8 north, range 11 west;
Township 7 north, range 12 west;
Township 7 north, range 11 west;
Township 6 north, range 12 west;
Township 7 north, range 5 west;
Township 6 north, range 5 west;
Township 6 north, range 4 west;
Township 6 north, range 3 west; and
Township 7 north, range 3 west.

(c) The lands described in this subsection are the lands withdrawn for exchange by Public Land Order 5721 (Federal Register, May 2, 1980, pages 29295-29297) other than the following lands:

Township 23 north, range 13 west, New Mexico principal meridian: section 3, southeast quarter; section 13, southeast quarter; and section 28, southest quarter;

Township 16 north, range 10 west, New Mexico principal meridian: section 6, southeast quarter; and section 18, northeast quarter; and

Township 22 north, range 10 west, New Mexico principal meridian: section 16, north half and southwest quarter.

SEC. 2. Any interests in lands acquired by the Navajo Tribe under section 1(a) shall be held by the Secretary of the Interior in trust for the benefit and use of the Navajo Tribe.

SEC. 3. (a) Lands received by the Navajo Tribe in an exchange under section 1(a) shall be subject to such easements or rights-of-way as the Secretary of the Interior may create in order to provide necessary access to lands adjacent to such lands. The Secretary of the Interior may create such an easement or right-of-way only after he has consulted the governing body of the Navajo Tribe with regard to the location, scope, and use of such easement or right-of-way.

(b) Nothing in this Act shall affect—

(1) the mineral interests of any person, or

(2) any easement or other rights of any person (other than the United States or the Navajo Tribe),

in lands exchanged under section 1(a) which existed prior to the enactment of this Act. The development of such interests and the exercise of such rights may only be controlled by the Navajo Tribe or the Secretary of the Interior to the same extent that such development or exercise could have been controlled by the Secretary of the Interior prior to the enactment of this Act.

SEC. 4. (a) No exchange shall be made under section 1(a) if, at the time such exchange is proposed, the value of the interests in lands described in section 1(b) which are proposed to be exchanged exceeds an amount equal to 125 percent of the value of interests in lands described in section 1(c) which are proposed to be exchanged.

(b)(1) If, at the time of an exchange under section 1(a), the value of the interests in lands described in section 1(b) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(c) which are exchanged under section 1(a), the Secretary of the Interior shall pay to the Navajo Tribe an amount equal to such excess value.

(2) If, at the time of any exchange under section 1(a), the value of the interests in lands described in section 1(c) which are exchanged under section 1(a) exceeds the value of the interests in lands described in section 1(b) which are exchanged under section 1(a), the Navajo Tribe shall pay to the United States an amount equal to such excess value.

SEC. 5. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of section 4(b)(1).

Mr. SANTINI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Nevada?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman from Nevada (Mr. SANTINI) to explain the effect of this Senate amendment.

Mr. SANTINI. Mr. Speaker, if the gentleman will yield, the Senate amended the bill H.R. 3589 with an amendment in the nature of a substitute. While there is considerable language difference, there is no substantial difference, with one small exception, between the provisions of the House-passed bill and the Senate substitute.

When we passed the House bill on July 19 of this year, there was pending before the House a similar Senate bill, S. 159. Normally, we would have vacated action on the House bill and passed the similar Senate bill.

However, the Senate managers requested us to pass the House bill and table the Senate bill to permit them to correct an oversight which was contained in the language of both bills.

Both bills authorized the Secretary of the Interior to retain easements across lands exchanged to the tribe to provide access to adjacent Federal lands. This implied that no such access was required for other adjacent lands.

The Senate substitute simply inserts the language of S. 159 as passed by the Senate and which would have been acceptable to us, but provides that the easements for access shall be for any lands, not just Federal lands.

All concerned parties find this acceptable.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Nevada?

There was no objection.

A motion to reconsider was laid on the table.

□ 1100

AMENDING BOUNDARY OF THE CIBOLA NATIONAL FOREST

Mr. SANTINI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2405) to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, N. Mex., and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so to have the gentleman explain this marvelous piece of legislation before us.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, because of the distinguished authorship of this legislation I rise on behalf of the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Arizona (Mr. UDALL) of the Committee on Interior and Insular Affairs in support of S. 2405.

This bill would clear the way for the Forest Service to complete acquisition of approximately 7,935.84 acres in the Elena Gallegos tract on the outskirts of Albuquerque, N. Mex., and add the bulk of the tract, 6,527 acres, to the existing Sandia Mountain Wilderness; 640 acres of the area will be maintained by the city of Albuquerque as a park.

Mr. LUJAN. Mr. Speaker, the purpose of S. 2405 is to expedite the aquisition of 7,986 acres of the Elena Gallegos land grant so that a portion may be added to the Sandia Mountain Wilderness in the Cibola National Forest of New Mexico.

This legislation corrects the acreage figure and the forest boundary as established in Public Law 95-614; and it directs the Secretary of Agriculture in cooperation with the Secretary of the Interior to exchange approximately 32,800 acres of Federal lands in New Mexico with the city of Albuquerque for the acreage that is to be added to our national forest.

This is to be accomplished within 90 days of the date of enactment of this bill.

Before going any further, let me say that I want to thank the Speaker and my two colleagues on the House Interior Committee, Mr. SEIBERLING and Mr. UDALL, for their cooperation in expediting consideration of this legislation.

The bill has the unanimous support of all parties involved in the transaction, including the Forest Service, the city of Albuquerque and the State of New Mexico which contributed money for the land acquisition. It also had the unanimous support of Committee on Energy and Natural Resources when the bill received committee passage in the Senate.

Efforts to acquire the Elena Gallegos grant began more than 10 years ago and have taken several directions before winding up in the form of this legislation which is before us today.

Elena Gallegos has been owned by a private school, the Albuquerque Academy, and is the last major private

holding affecting the Cibola National Forest—an important recreation resource in New Mexico.

The grant is 7,986 acres in area, and extends from the foothills to the crest of the Sandia Mountains. It cuts the existing Cibola National Forest in half.

By preserving the grant, and adding it to the Sandia Mountain Wilderness, we will have taken an important step in protecting this valuable resource and insuring the natural beauty of this wilderness area for many generations to come.

I should point out that the city of Albuquerque, with enthusiastic support from many community groups, as well as cooperation from Federal agencies and the Congress, has taken many actions to assure that this land acquisition take place.

The city's activities intensified in 1978, after Congress enacted Public Law 95-614, which incorporated 7,461 acres of the Elena Gallegos grant into the Cibola National Forest and authorized up to $12 million for the Forest Service to acquire the tract.

That law also required that the city of Albuquerque purchase the remaining 640-acre tract for open space or city park use before the Federal acquisition would be triggered.

In 1980 Congress amended the Endangered American Wilderness Act in order to increase the authorization for the Federal acquisition of Elena Gallegos from $12 million to $20 million and to acknowledge that the city of Albuquerque had met the requirement by Congress for local participation.

This had been done through an option agreement to purchase not only the 640 acres required, but also the entire 8,100 acres. This option agreement was necessary because the Albuquerque Academy, understandably, did not want to sell just the 640 acres.

Albuquerque's citizens first voted $2.3 million in local bonds for open space acquisition; and then earlier this year the city council voted to back a temporary one-fourth-cent sales tax to purchase the 7,986 acres.

The tax is expected to generate $19 million over its maximum life of 3 years, and will provide the city's cash share of the $24 million purchase price as well as money to maintain existing open space areas, and for acquiring some new lands.

A further indication of Albuquerque's support for this exchange was demonstrated by the fact that more than 13,000 citizens signed a petition supporting the sales tax proposal.

I should point out, Mr. Speaker, that the Federal Government will ultimately be reimbursing the city for much of this money through the exchange of more than 30,000 acres of unneeded forest land which will be swapped to the city for the Elena Gallegos grant.

However, the city has taken an innovative approach in providing the vehicle for initially acquiring this property and making it available for the addition to the Sandia Mountain Wilderness.

The overall transaction has been a cooperative effort on the part of the city of Albuquerque, the Forest Service, the State of New Mexico, other Federal agencies, and the Congress.

The city of Albuquerque, and its leaders, have been the catalyst for working out this agreement and I congratulate them on their efforts.

By our actions here today, the House of Representatives can put the finishing touches on a land exchange agreement that will ultimately be beneficial for all parties concerned.

Thank you, Mr. Speaker. I will be happy to answer any questions.

● Mr. SEIBERLING. Mr. Speaker, I rise in strong support of S. 2405. This bill would clear the way for the Forest Service to complete acquisition and the approximate 7,935.84-acre Elena Gallegos tract on the outskirts of Albuquerque, N. Mex., and add the bulk of the tract (6,527 acres) to the existing Sandia Mountain Wilderness; 640 acres of the area will be maintained by the city of Albuquerque as a park.

The Elena Gallegos tract is currently owned by the Albuquerque Academy and is surrounded on three sides by the existing Sandia Mountain Wilderness. The area is highly scenic throughout and can be viewed from most points in the wilderness as well as when riding the spectacular Sandia Mountain aerial tramway. The rugged terrain in the tract rises from the city limits to the crest of the Sandia Mountains, a dramatic elevation change of over 3,000 feet. I was fortunate to be able to view the area in the fall of 1980, and feel that it would be a tragedy if it is not acquired by the Government and is allowed to be subdivided and developed for housing. Not only would development seriously degrade the scenic and other natural values of the surrounding wilderness, but it would also deprive the public of the opportunity to enjoy a fully protected wilderness ecosystem that literally begins at the city's edge.

Mr. Speaker, we are bringing this bill up on unanimous consent because acquisition of the tract has twice been approved by the House and because it is in the public interest to have the acquisition completed as speedily as possible.

Public Law 95-614, enacted November 8, 1976, authorized the acquisition of the Elena Gallegos grant and its addition to the Cibola National Forest. Subsequently, Public Law 96-248 was enacted on May 23, 1980, to provide for designation of the bulk of the tract as wilderness, to increase authorized funding for the acquisition, and to provide for certain boundary adjustments. Unfortunately, due to fiscal constraints and the Reagan administration's general philosophy against land acquisition, funds have yet to be appropriated for the acquisition and the possibility has been raised that the lands could be sold for subdivision unless acquisition is completed in the near future.

In recognition of this threat to the area's integrity, our distinguished colleague, MANUEL LUJAN, the rest of the New Mexico congressional delegation, the city of Albuquerque, the Albuquerque Academy, the Forest Service, the Bureau of Land Management, and others sat down and negotiated a compromise whereby the Elena Gallegos lands would be acquired without cash outlay through a land exchange. This would be accomplished by exchanging up to 32,800 acres of Forest Service and BLM lands elsewhere in New Mexico for the Elena Gallegos tract. More precise details of the exchange proposal are outlined on pages 2-4 of the Senate committee report on S. 2405 (S. Rept. No. 97-539), so I will not repeat them in this statement. Suffice it to say that the proposal is supported by the entire New Mexico congressional delegation, the city of Albuquerque, the Albuquerque Academy, the Reagan administration, the Federal agencies involved, the environmental community, and numerous other individuals and organizations.

I should also note that the exchange approach to land or mineral interest acquisition by the Federal Government is one which holds forth considerable promise for furthering acquisition efforts in a time of fiscal austerity. This is because the exchange approach involves minimal or no cash outlays by the Government. The House has recognized this in numerous bills over the past several years, and has passed various forms of exchange packages.

In summary, Mr. Speaker, I believe S. 2405 represents a long-overdue solution to expediting the acquisition of esthetically and environmentally sensitive lands which the House has twice voted to acquire. There appears to be support for this bill from every single interested party, and I would therefore urge that we pass the bill forthwith and send it to the White House. In so doing, I would particularly commend my friend and colleague from New Mexico, MANUEL LUJAN. Without his persistent efforts on behalf of the Elena Gallegos acquisition we would not be where we are today in recommending this bill to the President for his signature.●

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to expedite the acquisition of land authorized by the Act of November 8, 1978 (92 Stat. 3095, as amended), that Act is hereby amended as follows:

(a) Delete all of section 1 and insert the following language in lieu thereof:

"All that portion of the Elena Gallegos Grant, lying east of a line depicted on a subdivision plat entitled 'Summary Plat of a Portion of the Elena Gallegos Grant' (the 'Summary Plat'), recorded in the office of the County Clerk of Bernalillo County, New Mexico, on June 29, 1982, in Volume C19, Folio 183, consisting of eight pages, said line being the western limits of the tract described herein being further described as follows: Beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, New Mexico principal meridian, on the south boundary of said grant; thence north 00 degrees 03 minutes 21 seconds east, 2,670.40 feet to a point; thence north 00 degrees 03 minutes 21 seconds east, 1,244.73 feet to the projected section corner common to sections 25, 26, 35, and 36; thence continuing along the projected section line common to said sections 25 and 26, north 00 degrees 17 minutes 37 seconds east, 1,346.11 feet to a point; thence leaving said section line and continuing south 84 degrees 40 minutes 00 seconds east, 178.00 feet to a point; thence south 53 degrees 20 minutes 00 seconds east, 218.00 feet to a point; thence north 52 degrees 50 minutes 00 seconds east, 364.00 feet to a point; thence east 225.00 feet to a point; thence north 66 degrees 00 minutes 00 seconds east, 1,244.14 feet to a point; thence north 06 degrees 12 minutes 25 seconds west, 1,765.08 feet to a point; thence north 07 degrees 27 minutes 00 seconds west, 2,008.00 feet to a point; thence south 80 degrees 38 minutes 00 seconds west, 984.00 feet to a point; thence south 64 degrees 45 minutes 00 seconds west, 621.00 feet to the projected section corner common to sections 23, 24, 25, and 26; thence north 00 degrees 44 minutes 22 seconds west, 1,382.97 feet to the southeast corner of Sandia Heights South, unit 14, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on February 12, 1975; thence continuing along the easterly boundary of said unit 14, north 00 degrees 04 minutes 20 seconds east, 1,951.64 feet to the northeast corner of said unit 14, said corner also being the southeast corner of Sandia Heights South, Unit 10, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on March 11, 1974; thence continuing along the easterly boundary of said Unit 10, north 00 degrees 02 minutes 31 seconds east, 1,493.53 feet to the northeast corner of said Unit 10, said corner also being the southeast corner of Sandia Heights South, Unit 3, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on August 3, 1971; thence continuing along the easterly boundary of said Unit 3, north 00 degrees 03 minutes 29 seconds east, 1,867.10 feet to the northeast corner of said Unit 3, said corner also being the southeast corner of Sandia Heights South, Unit 2, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on October 20, 1970; thence continuing along easterly boundary of said Unit 2, north 00 degrees 03 minutes 29 seconds east, 1,869.70 feet to the northeast corner of said Unit 2, said corner also being the southeast corner of Sandia Heights South, as the same is shown and designated on the plat filed in the office of the County Clerk of Bernalillo County, New Mexico, on June 20, 1966; thence continuing along the easterly boundary fo said Sandia Heights South, north 00 degrees 03 minutes 29 seconds east, 1,725.76 feet to the northwest corner of the tract herein described, said corner being a point on the northerly boundary of the Elena Gallegos Grant: *Provided, however,* That the tract of land described in this section not be included within the Cibola National Forest until the Secretary of Agriculture determines that the city of Albuquerque, New Mexico, has acquired a tract of land containing approximately six hundred and forty acres located in such tract for open space or city park use.".

(b) Add a new section 5 to read as follows:

"SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, is authorized and directed to acquire the lands described in section 1 in lieu of purchase as authorized by section 4 of this Act by exchanging with the City of Albuquerque so much of the Federal lands administered by the Forest Service and Bureau of Land Management in the State of New Mexico and consisting of approximately 32,800 acres, more or less, as the Secretary of Agriculture and the Secretary of the Interior determine are needed to equal the value of the land conveyed by the City of Albuquerque.

"(b) The lands to be conveyed are subject to valid existing rights.

"(c) Transactions necessary to effect the exchange authorized by this section shall be made pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and other applicable law except to the extent necessary to expeditiously carry out the provision of this section and shall be made within 90 days of enactment of this Act: *Provided,* That rights and responsibilities of the respective owners shall remain with such owners until such time as the conveyances are executed.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SANTINI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 2405.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 566 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 566

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. BONIOR) is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 566 provides for the consideration of H.R. 5447, a bill to extend the Commodity Exchange Act and for other purposes.

It provides an open rule with 1½ hours of general debate. One hour is to be divided equally between the chairman and ranking minority member of the House Committee on Agriculture and the remaining time is equally divided between the chairman and ranking minority member of the House Committee on Energy and Commerce.

The Agriculture Committee amendment in the nature of a substitute is made in order as original text for purposes of amendment so that second-degree amendments might be offered.

The bill will be read for amendment by titles and, as usual, Members will be able to demand separate votes in the House on amendments that are

successful in the Committee of the Whole.

One motion to recommit with or without instructions is in order. No waivers were requested and none were provided.

Mr. Speaker, there are numerous provisions in H.R. 5447 that deal with futures trading.

First, this bill reauthorizes funding for the Commodity Futures Trading Commission (CFTC) through September 30, 1986. No specific amount is authorized but the CBO has estimated the authorization level for fiscal year 1983 at $21 million.

Second, along with a related bill (H.R. 6156), it attempts to codify an agreement between the CFTC and the Securities and Exchange Commission regarding the overlapping jurisdiction of the two agencies.

Until recently, the jurisdiction of the two agencies was relatively clear. The SEC oversaw and regulated transactions on securities—investment stocks and bonds, certificates of deposits, and so forth. The CFTC was given regulatory responsibility over futures transactions, which were primarily in agricultural commodities and natural resources.

However, that jurisdictional distinction has been blurred in recent times by the proliferation of creative financial instruments called securities options that resemble futures transactions even though the underlying instruments are securities.

According to the agreement, the SEC would have jurisdiction over all direct trading in securities and options on securities and indices. The CFTC would have jurisdiction over commodity futures—such as agriculture, metal, and forest products—futures contracts on exempted securities, and futures on certain broad-based stock index futures.

Regarding stock index futures, the agreement and the Agriculture Committee bill required that the CFTC consult with the SEC before approving a contract application. If the SEC objected to the application, it was entitled to an oral hearing before the CFTC. If the application was approved anyway, the SEC could seek judicial review.

The House Energy and Commerce Committee, in sequential referral, amended this section to provide that the CFTC could not approve an application if the SEC objected within certain time limits.

This provision is a source of continuing disagreement between the two committees.

This bill also provides the CFTC with enhanced authority with regard to the regulation of the sale of foreign futures and the establishment of speculative limits on futures. It also provides for the enforcement of the Commission's actions and requires the performance of two studies: One dealing with the National Futures Association and transaction fees, the other, a comprehensive study of the futures industry.

Mr. Speaker, I would only reiterate that this is an open rule that provides the time requested by each committee and I would urge Members to support it.

I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the rule has been explained thoroughly.

I know of no objection to the rule although there will be some controversy when the measure is discussed on the floor of the House because of proposed user fees.

This is an important piece of legislation which extends the funding authorization for the Commodity Futures Trading Commission for 4 years. It should be passed.

Mr. Speaker, I support the rule and urge its adoption.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. I thank the gentleman for yielding.

I just wanted to thank the gentleman again for yielding yesterday where he found himself in the midst of some controversy here on the floor. I just wanted to assure the gentleman that this rule is so harmonious that one can almost hear the choir singing in the Chamber here today. I thank the gentleman for yielding.

Mr. QUILLEN. That is a wonderful tempo. I thank the gentleman.

Mr. Speaker, I yield back the balance of my time.

Mr. HOPKINS. Mr. Speaker, I am pleased to rise in support of the rule on H.R. 5447, a bill to amend the Commodity Exchange Act and to reauthorize the Commodity Futures Trading Commission for 4 years. The bill represents the product of the Agriculture Committee's substantial and continuous oversight over the CFTC. During the past 4 years the committee has conducted hearings and investigations on many aspects and events relating to the commodity futures markets. A significant portion of H.R. 5447 provides administrative improvements and efficiencies recommended by the committee. The committee made these recommendations to insure that the Commission and self-regulatory bodies that provide first-hand oversight of the futures markets are able to do their jobs with greater dispatch, uniformity, and thoroughness.

The bill amends the statement of congressional purposes for the Commodity Exchange Act to make explicit that regulation is required because excessive speculation may occur on the futures markets and related options markets which are manipulated, controlled, cornered, or squeezed. To accomplish the regulatory goal of preventing such activity, the committee bill authorizes a broad spectrum of Commission and self-regulatory actions.

The committee bill authorizes the Commission to conduct rulemaking proceedings to set speculative limits for futures and options transactions. The bill also provides that if the Commission has established speculative limits with respect to a particular future or option, then exchange established speculative limits may not be higher than those set by the Commission unless a higher exchange set limit is approved by the Commission. In addition, the committee bill provides that it will be a criminal violation to exceed knowingly the exchange set speculative limits.

The committee bill contains significant amendments in the area of contract market and futures association rules and rule changes. First, the committee bill provides that contract markets must enforce all rules that the Commission has by regulation required contract markets to enforce. This provision clarifies that contract markets are to be required to enforce rules that have never been formally approved by the CFTC but which the CFTC, in regulation 1.53, has attempted to require contract markets to enforce. Thus, the committee bill eliminates any future ambiguity concerning the contract market rule enforcement function.

The committee bill also creates a new procedure for expediting Commission approval of contract market and futures association rules. Under the committee bill, contract markets will be required to submit only those contract market rules that relate to contract terms and conditions to the CFTC for prior Commission approval. All other proposed contract market rules will be submitted to the CFTC but may be placed into effect and implemented 10 days after submission unless the Commission determines that the rule merits review or the contract market requests review. Furthermore, under the committee bill, margin rules of contract markets, as under existing law, are not required to be submitted to the Commission for review or approval. In addition, the Commission may specify additional contract market rules which are not to be subject to the 10-day waiting period before they are placed into effect. The committee bill also specifies that the Commission is authorized to disapprove, following notice and opportunity for hearing before the Commission, any rule that violates a specific section of the act or regulation of the Commission.

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Finally, this aspect of the committee bill makes certain that the Commission will act expeditiously on those rules it reviews. The bill specifies that a contract market may place into effect any rule that the Commission determines to review or for which the Commission institutes disapproval proceedings with the following requirements. The Commission must not have approved a proposed rule or instituted disapproval proceedings within 180 days following the filing of the proposed rule, or in the event disapproval proceedings are instituted, if those proceedings have not been completed within 1 year of the submission of the rule.

The committee bill contains parallel provisions for registered futures associations rules or rule changes to the extent that the bill permits these rules to be placed into effect 10 days after receipt by the Commission unless the Commission decides to review the rule or a futures association requests specific review and approval by the Commission of the rule. The latter provision is intended to permit the Commission and registered futures associations to cooperate fully in implementing self-regulatory rules submitted and approved by registered futures associations.

The committee bill also contains a significant provision to insure judicial review of Commission emergency actions. In the past, the Commission has declared market emergencies and taken emergency actions to close down markets and has argued subsequently that its actions are not subject to any form of judicial review. Some courts have adopted the Commission's construction of the law. The committee bill would amend section 8a(9) of the Commodity Exchange Act to make clear that U.S. courts of appeals may review the substance and merit of Commission emergency determinations and actions. This review would involve a determination by the courts on the issue whether the Commission's action was arbitrary, capricious, and an abuse of discretion or otherwise not in accordance with law. If a court concludes that this standard is satisfied, based upon the court's review of all of the information available to the Commission at the time the emergency determination was made, the court may enter an order to stay or otherwise set aside the Commission's emergency action.

In addition, the committee bill amends section 8a(9) to make clear that the Commission's emergency powers include the setting of temporary emergency levels of margin on any futures contract and the establishment of position limits that may apply to a position already acquired in good faith prior to the effective date of the Commission's action.

I believe the committee bill, as evidenced by these amendments, strikes a responsible balance between meaningful Government regulation and oversight and direct self-regulation of the futures markets. Self-regulation is, after all, the heart of the regulatory scheme embodied in the Commodity Exchange Act. The Commission does not have the resources and cannot be expected to have the capability of surveilling every nook and cranny of the futures market. This ever broadening sphere of economic activity has relied heavily and must continue to rely, on responsible and effective self-regulation. It is my view, that the committee amendments I have described will enhance that goal and will afford the Commission an opportunity to exercise appropriate review of the self-regulatory bodies that will directly monitor activities in the futures markets. The amendment providing for judicial review of emergency actions, in particular, will insure that the Commission is not tempted to overreach its authority and superimpose its judgment as to the integrity of a market over the judgments, based upon supply and demand factors, rendered by participants in the market. In the final analysis, the market provides the only standard that can safely and accurately be applied. Thank you.

□ 1110

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARTIN of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

[Roll No. 363]

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 45, as follows:

YEAS—387

Akaka	Bellenson	Brooks	Coleman	Hansen (UT)	Mollohan
Albosta	Benedict	Broomfield	Collins (IL)	Harkin	Montgomery
Alexander	Bennett	Brown (CA)	Conable	Hartnett	Moore
Anderson	Bereuter	Brown (CO)	Conte	Hatcher	Moorhead
Andrews	Bethune	Broyhill	Corcoran	Hawkins	Morrison
Annunzio	Bevill	Burgener	Coughlin	Heckler	Mottl
Anthony	Biaggi	Butler	Courter	Hefner	Murphy
Applegate	Bingham	Byron	Coyne, James	Heftel	Murtha
Archer	Blanchard	Campbell	Coyne, William	Hendon	Myers
Ashbrook	Bliley	Carman	Craig	Hertel	Napier
Aspin	Boggs	Carney	Crane, Daniel	Hightower	Natcher
Atkinson	Boland	Chappie	Crane, Philip	Hiler	Neal
AuCoin	Bonior	Cheney	Crockett	Hillis	Nelligan
Bailey (MO)	Bonker	Clausen	D'Amours	Holland	Nelson
Bailey (PA)	Bouquard	Clay	Daniel, Dan	Hollenbeck	Nichols
Barnard	Bowen	Clinger	Daniel, R. W.	Holt	Nowak
Barnes	Brinkley	Coats	Dannemeyer	Hopkins	O'Brien
Bedell	Brodhead	Coelho	Daschle	Horton	Oakar
			Daub	Howard	Oberstar
			Davis	Hoyer	Obey
			de la Garza	Hubbard	Ottinger
			Dellums	Huckaby	Oxley
			DeNardis	Hughes	Panetta
			Derrick	Hunter	Parris
			Derwinski	Hutto	Pashayan
			Dicks	Hyde	Patman
			Dingell	Jacobs	Patterson
			Dixon	Jeffords	Paul
			Donnelly	Jeffries	Pease
			Dorgan	Jenkins	Pepper
			Dornan	Johnston	Perkins
			Dougherty	Jones (NC)	Petri
			Dowdy	Jones (OK)	Peyser
			Downey	Jones (TN)	Pickle
			Dreier	Kastenmeier	Porter
			Duncan	Kazen	Price
			Dunn	Kemp	Pritchard
			Dwyer	Kennelly	Pursell
			Dymally	Kildee	Quillen
			Dyson	Kindness	Rahall
			Early	Kogovsek	Railsback
			Eckart	Kramer	Rangel
			Edwards (AL)	LaFalce	Ratchford
			Edwards (CA)	Lagomarsino	Regula
			Edwards (OK)	Lantos	Reuss
			Emerson	Latta	Rinaldo
			Emery	Leach	Ritter
			English	Leath	Roberts (KS)
			Erdahl	LeBoutillier	Roberts (SD)
			Erlenborn	Lehman	Robinson
			Evans (DE)	Leland	Rodino
			Evans (IA)	Lent	Roe
			Evans (IN)	Levitas	Roemer
			Fary	Lewis	Rogers
			Fazio	Livingston	Rosenthal
			Fenwick	Loeffler	Rostenkowski
			Ferraro	Long (LA)	Roth
			Fiedler	Long (MD)	Roukema
			Fields	Lott	Roybal
			Findley	Lowery (CA)	Rudd
			Fish	Lowry (WA)	Russo
			Flippo	Lujan	Sabo
			Florio	Luken	Santini
			Foglietta	Lundine	Sawyer
			Foley	Lungren	Schneider
			Ford (TN)	Madigan	Schroeder
			Fountain	Markey	Schulze
			Frank	Marlenee	Schumer
			Frenzel	Marriott	Seiberling
			Frost	Martin (IL)	Sensenbrenner
			Fuqua	Martin (NC)	Shamansky
			Gaydos	Martin (NY)	Shannon
			Gejdenson	Martinez	Sharp
			Gephardt	Matsui	Shaw
			Gibbons	Mavroules	Shelby
			Gilman	Mazzoli	Shumway
			Ginn	McClory	Shuster
			Glickman	McCloskey	Siljander
			Gonzalez	McCollum	Simon
			Goodling	McCurdy	Skeen
			Gradison	McDade	Skelton
			Gramm	McDonald	Smith (AL)
			Gray	McEwen	Smith (IA)
			Green	McGrath	Smith (NE)
			Gregg	McHugh	Smith (NJ)
			Grisham	McKinney	Smith (OR)
			Guarini	Mica	Smith (PA)
			Gunderson	Michel	Snowe
			Hagedorn	Mikulski	Snyder
			Hall (OH)	Miller (CA)	Solarz
			Hall, Ralph	Miller (OH)	Solomon
			Hall, Sam	Mineta	Spence
			Hamilton	Minish	St Germain
			Hammerschmidt	Mitchell (NY)	Stangeland
			Hance	Moakley	Stark
			Hansen (ID)	Molinari	Staton

Stenholm	Walgren	Williams (OH)
Stokes	Walker	Wilson
Studds	Wampler	Winn
Stump	Washington	Wirth
Swift	Watkins	Wolf
Synar	Waxman	Wolpe
Tauke	Weaver	Wright
Tauzin	Weber (MN)	Wyden
Taylor	Weber (OH)	Wylie
Thomas	White	Yates
Traxler	Whitehurst	Yatron
Udall	Whitley	Young (AK)
Vander Jagt	Whittaker	Young (FL)
Vento	Whitten	Young (MO)
Volkmer	Williams (MT)	Zablocki

NOT VOTING—45

Addabbo	Dickinson	Marks
Badham	Edgar	Mattox
Bafalis	Ertel	Mitchell (MD)
Beard	Evans (GA)	Moffett
Bolling	Fascell	Rhodes
Boner	Fithian	Rose
Breaux	Ford (MI)	Rousselot
Brown (OH)	Forsythe	Savage
Burton, John	Fowler	Scheuer
Burton, Phillip	Garcia	Stanton
Chappell	Gingrich	Stratton
Chisholm	Goldwater	Trible
Collins (TX)	Gore	Weiss
Conyers	Ireland	Wortley
Deckard	Lee	Zeferetti

□ 1120

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6156, CLARIFYING JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION AND DEFINITION OF SECURITY

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 565 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 565

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6156) to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instuctions.

□ 1130

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 565 is an open rule providing for the consideration of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission.

The rule provides for 1 hour of general debate, with 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

It should be noted that the rule makes in order the Energy and Commerce Committee amendment in the nature of a substitute as an original bill for purposes of amendment.

The rule further provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 6156 serves to implement part of a jurisdictional accord between the Securities and Exchange Commission and the Commodity Futures Trading Commission with respect to regulation of the securities options markets and other matters. Additional parts of the accord are contained in H.R. 5447, the Futures Trading Act of 1982.

Mr. Speaker, this rule permits the full and open discussion of the issues contained in H.R. 6156. I am not aware of any opposition to this open rule, and I would urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no objection to the rule, as far as I know. It merely clarifies the jurisdiction of the SEC and the definition of the term "security."

The rule should be adopted. We should get down to debate on the measure. It is a necessary piece of legislation.

Mr. Speaker, I have no request for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 45, as follows:

[Roll No. 364]

YEAS—387

Akaka	Daniel, Dan	Gramm
Albosta	Daniel, R. W.	Gray
Alexander	Dannemeyer	Green
Anderson	Daschle	Gregg
Andrews	Daub	Grisham
Annunzio	Davis	Guarini
Anthony	de la Garza	Gunderson
Applegate	Dellums	Hagedorn
Archer	Derrick	Hall (OH)
Ashbrook	Derwinski	Hall, Ralph
Aspin	Dickinson	Hall, Sam
Atkinson	Dicks	Hamilton
AuCoin	Dingell	Hammerschmidt
Bailey (MO)	Dixon	Hance
Bailey (PA)	Donnelly	Hansen (ID)
Barnard	Dorgan	Hansen (UT)
Barnes	Dornan	Harkin
Bedell	Dougherty	Hartnett
Beilenson	Dowdy	Hatcher
Benedict	Downey	Hawkins
Bennett	Dreier	Heckler
Bereuter	Duncan	Hefner
Bethune	Dunn	Heftel
Bevill	Dwyer	Hendon
Biaggi	Dymally	Hertel
Bingham	Dyson	Hightower
Blanchard	Early	Hiler
Bliley	Eckart	Hillis
Boggs	Edgar	Holland
Boland	Edwards (CA)	Hollenbeck
Bolling	Edwards (OK)	Holt
Bonior	Emerson	Hopkins
Bonker	English	Horton
Bouquard	Erdahl	Howard
Bowen	Erlenborn	Hoyer
Breaux	Evans (DE)	Hubbard
Brinkley	Evans (IA)	Huckaby
Brodhead	Evans (IN)	Hughes
Brooks	Fary	Hunter
Broomfield	Fazio	Hutto
Brown (CA)	Fenwick	Hyde
Brown (CO)	Ferraro	Jacobs
Broyhill	Fiedler	Jeffords
Burgener	Fields	Jeffries
Butler	Findley	Jenkins
Byron	Fish	Johnston
Campbell	Flippo	Jones (NC)
Carman	Florio	Jones (OK)
Carney	Foglietta	Jones (TN)
Chappie	Foley	Kastenmeier
Clausen	Ford (MI)	Kazen
Clay	Ford (TN)	Kemp
Clinger	Fountain	Kennelly
Coats	Frank	Kildee
Coelho	Frenzel	Kindness
Coleman	Frost	Kogovsek
Collins (IL)	Fuqua	Kramer
Conable	Gaydos	LaFalce
Conte	Gejdenson	Lagomarsino
Corcoran	Gephardt	Lantos
Coughlin	Gibbons	Latta
Courter	Gilman	Leach
Coyne, James	Ginn	Leath
Coyne, William	Glickman	LeBoutillier
Craig	Goldwater	Lehman
Crane, Daniel	Gonzalez	Leland
Crane, Philip	Goodling	Lent
Crockett	Gore	Levitas
D'Amours	Gradison	Lewis

Livingston	Oakar	Skelton
Loeffler	Oberstar	Smith (AL)
Long (LA)	Obey	Smith (IA)
Long (MD)	Ottinger	Smith (NE)
Lott	Oxley	Smith (NJ)
Lowery (CA)	Panetta	Smith (OR)
Lowry (WA)	Pashayan	Smith (PA)
Lujan	Patman	Snowe
Luken	Patterson	Snyder
Lundine	Paul	Solarz
Lungren	Pease	Solomon
Madigan	Pepper	Spence
Markey	Perkins	St Germain
Marlenee	Petri	Stangeland
Marriott	Peyser	Stark
Martin (IL)	Pickle	Staton
Martin (NC)	Porter	Stenholm
Martin (NY)	Price	Stokes
Martinez	Pritchard	Studds
Matsui	Quillen	Stump
Mavroules	Rahall	Swift
Mazzoli	Railsback	Synar
McClory	Rangel	Tauke
McCloskey	Ratchford	Tauzin
McCollum	Regula	Taylor
McCurdy	Reuss	Thomas
McDade	Rinaldo	Traxler
McDonald	Ritter	Udall
McEwen	Roberts (KS)	Vander Jagt
McGrath	Roberts (SD)	Vento
McHugh	Robinson	Volkmer
McKinney	Rodino	Walgren
Mica	Roe	Walker
Michel	Roemer	Wampler
Mikulski	Rogers	Washington
Miller (CA)	Rosenthal	Watkins
Miller (OH)	Rostenkowski	Waxman
Mineta	Roth	Weaver
Minish	Roukema	Weber (MN)
Mitchell (MD)	Roybal	Weber (OH)
Mitchell (NY)	Rudd	White
Moakley	Russo	Whitehurst
Molinari	Sabo	Whitley
Mollohan	Sawyer	Whittaker
Montgomery	Schneider	Whitten
Moore	Schroeder	Williams (MT)
Moorhead	Schulze	Williams (OH)
Morrison	Schumer	Wilson
Mottl	Seiberling	Winn
Murphy	Sensenbrenner	Wirth
Murtha	Shamansky	Wolf
Myers	Shannon	Wolpe
Napier	Sharp	Wyden
Natcher	Shaw	Wylie
Neal	Shelby	Yates
Nelligan	Shumway	Yatron
Nelson	Shuster	Young (AK)
Nichols	Siljander	Young (FL)
Nowak	Simon	Young (MO)
O'Brien	Skeen	Zablocki

NOT VOTING—45

Addabbo	Edwards (AL)	Parris
Badham	Emery	Pursell
Bafalis	Ertel	Rhodes
Beard	Evans (GA)	Rose
Boner	Fascell	Rousselot
Brown (OH)	Fithian	Santini
Burton, John	Forsythe	Savage
Burton, Phillip	Fowler	Scheuer
Chappell	Garcia	Stanton
Cheney	Gingrich	Stratton
Chisholm	Ireland	Trible
Collins (TX)	Lee	Weiss
Conyers	Marks	Wortley
Deckard	Mattox	Wright
DeNardis	Moffett	Zeferetti

□ 1140

Mr. FORD of Tennessee changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1150

APPOINTMENT OF CONFEREES ON S. 2457, INCREASING AUTHORIZATION FOR FEDERAL PAYMENT TO DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2457) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Messrs. DELLUMS, FAUNTROY, STARK, LELAND, GRAY, MCKINNEY, BLILEY, and PARRIS.

There was no objection.

APPOINTMENT AS MEMBER OF JOINT ECONOMIC COMMITTEE

The SPEAKER. Pursuant to the provisions of title 15, United States Code, section 1024(a), the Chair appoints as a member of the Joint Economic Committee the gentleman from California (Mr. HAWKINS) to fill the existing vacancy thereon.

APPOINTMENT AS MEMBER OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER. Pursuant to the provisions of section 3(a), Public Law 86-380, the Chair appoints the gentleman from Massachusetts (Mr. FRANK) as a member of the Advisory Commission on Intergovernmental Relations to fill the existing vacancy thereon.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE REPORTS ON H.R. 5949 AND S. 2355

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight tomorrow to file reports on the bills, H.R. 5949, Cable Copyright and Signal Carriage Act of 1982, and S. 2355, telephone service to persons with impaired hearing.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

CLARIFYING JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION AND DEFINITION OF SECURITY

Mr. WIRTH. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6156) to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Colorado (Mr. WIRTH).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6156, with Mrs. BOGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Colorado (Mr. WIRTH) will be recognized for 15 minutes; the gentleman from New Jersey (Mr. RINALDO) will be recognized for 15 minutes; the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 15 minutes; and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH).

GENERAL LEAVE

Mr. WIRTH. Madam Chairman, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Madam Chairman, I rise in support of the legislation and yield such time as he may consume to the distinguished chairman of the full Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, today the House is considering legislation with important effects on the continued viability of this Nation's securities markets. I enthusiastically support the bill, H.R. 6156.

The Securities and Exchange Commission was created in 1934, during the Great Depression. National unemployment was 24.9 percent and the Dow Jones Industrial Average, the volume of sales on the New York Stock Exchange and the dollar value of new corporate securities issues fell through the floor.

Confronted in 1934 with a moribund securities market and a disillusioned and demoralized investment community, the SEC's architects—Joseph P. Kennedy, James M. Landis, and William O. Douglas—set out to restore confidence in our markets.

Under the watchful eye, and strong enforcement arm, of the SEC, those markets have become the best in the world, with a strong reputation for fairness and efficiency.

Following enactment of the Securities Exchange Act in 1934, Congress has assigned to the SEC regulatory authority over securities and options on securities and has held the SEC accountable for the proper exercise of that jurisdiction. Options on individual stocks have been trading since 1973 and options trading has grown so enormously that it now takes place on four national securities exchanges in the underlying securities of over 300 issuers.

The securities and commodity exchanges have recently unleashed a number of proposals for new financial products. The consensus is that these products will eventually develop into tremendously successful—and lucrative—markets. In the fiscal year ending September 30, 1981, 11.9 million U.S. Treasury bond contracts alone were traded on the Chicago Board of Trade, each with a face value of $100,000.

The scramble to put new hedging products on the market has blurred distinctions that previously existed between the futures industry and the securities industry. It has also, unfortunately, brought out the worst in some of the competing interests. One of them, the Chicago Board of Trade, a futures exchange under the jurisdiction of the CFTC, filed a lawsuit to block competition from the Chicago Board Options Exchange in the developing GNMA options market.

On March 24, 1982, the U.S. Court of Appeals for the Seventh Circuit announced a 2 to 1 decision in Board of Trade of the City of Chicago against SEC and CBOE characterized as "bizarre" and "extreme" by the 42-page dissent. Its immediate effect was to halt the development of the markets in options on GNMA securities and Treasury securities to the detriment of institutions involved in homebuilding and mortgage banking who needed a regulated reliable hedging vehicle that would permit persons involved in housing construction and finance to hedge against changes in increasingly volatile interest rates.

Without H.R. 6156, the SEC and the Federal Reserve Board would lose jurisdiction over large areas for which they now exercise regulatory authority. If options are not securities, then the SEC would have no role with regard to public customer protection in those markets. Further, because the Federal Reserve Board has authority to impose margins only upon securities, under this decision, options would not be subject to Federal margin requirements. You will recall that it was the lack of margin requirements that facilitated the wild speculation which led to the 1929 crash.

State securities commissions also would lose their jurisdiction. Under the Securities Exchange Act of 1934, the States play a significant role in all aspects of securities regulation and play a vital role in protecting my constituents and yours from fraud and abuse. Under the Commodity Exchange Act, however, the grant of exclusive jurisdiction of the CFTC results in preemption of the basic police power of States to protect their citizens from fraudulent activity.

In like manner, investors would be deprived of the protections afforded by the Securities Investor Protection Corporation.

A decision so disruptive and so detrimental to the sound regulation of the Nation's capital markets, must receive prompt congressional attention. The court incorrectly resolved the questions before it. Options on securities are and always have been themselves separate securities. Furthermore, nothing in the commodities laws can be read to divest the SEC of its authority over options on securities. H.R. 6156 contains the necessary securities law amendments to reassert the balanced jurisdictional scheme originally mandated by Congress and carried out by the SEC in the public interest since 1934. H.R. 6156 will amend the definition of security in the statutes administered by the SEC (Securities Act of 1933, Securities Exchange Act of 1934, Investment Company Act of 1940 and Investment Advisers Act of 1940) to assure that options on securities, on certificates of deposit, and on foreign currencies come under SEC jurisdiction. An identical amendment is also being made to the Securities Investor Protection Act to assure the continuity of SIPC protections against financial loss to customers of broker dealers. Section 9 of the Securities Exchange Act of 1934 will also be amended to provide that notwithstanding any other provisions of law (including the Commodities Exchange Act) the SEC will have authority over options on securities and on certificates of deposit.

The stability, depth, liquidity, and continuity of the securities markets are protected by the SEC through stringent disclosure requirements and safeguards against manipulation. The current legal thicket inherently poses dangers to the competitive integrity of these vital markets and necessarily involves unfair competition. The situation also poses potential disadvantages to customers and disincentives to brokerage firms and money managers who have indicated a preference for the new options products once those markets are up and running.

The options markets are an important supplement to the capital formation process played out in our primary and secondary markets for securities. Options enable those holding stock positions to manage and offset the risk of investment. As such, Madam Chairman, the passage of H.R. 6156 would be entirely consistent with current efforts to strengthen and insure the future of our Nation's business community. I strongly urge my colleagues to approved H.R. 6156.

Mr. WIRTH. Madam Chairman, I yield myself such time as I may consume.

This bill amends the Federal securities laws to clarify the jurisdiction of the Securities and Exchange Commission over options.

The bill is similar to draft legislation proposed by the SEC and CFTC as part of their agreement on their respective jurisdictions over new and existing trading instruments. The bill also addresses a problem created by a decision of the Seventh Circuit Court of Appeals which cast uncertainty over the SEC's jurisdiction to regulate options. In the absence of legislation, there may be significant gaps in options regulation.

The bill was introduced with bipartisan sponsorship. It was passed unanimously by the Subcommittee on Telecommunications, Consumer Protection and Finance and by the Energy and Commerce Committee. It has the support of both the SEC and CFTC.

Since the enactment of the Securities Exchange Act of 1934, which created the SEC, the SEC has had regulatory authority over trading in securities and over broker dealers. Although options are not explicitly included in the definition of "security" under the various Federal securities statutes, the SEC generally exercises jurisdiction over options on securities through jurisdiction over securities in general. The court decision I referred to has placed that historical jurisdiction in question.

This bill clarifies the SEC's jurisdiction by doing two things. First, it amends four of the Federal securities statutes to include in the definition of "Security," the following language: "Any put, call, straddle, option, or privilege on any security, certificate of deposit or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency." Thus, the law will expressly provide that any option on a security is itself a "security" for purposes of the Federal securities laws.

Second, the bill provides that the SEC has jurisdiction over these instruments, "Notwithstanding any other provision of law."

The bill also contains a limited preemption of State gambling laws that might be construed to apply to options contracts, even though they are approved by the SEC. Those State laws were designed to prevent unregulated gambling activities and just are not appropriate in the context of exchange-traded options. We worked out the language of this provision carefully with the SEC and with State securities administrators. I understand a further clarifying amendment will be made here today.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. RINALDO) for 15 minutes.

Mr. RINALDO. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security. This bill contains that part of the jurisdictional accord between the SEC and the Commodity Futures Trading Commission which amends the securities laws. I am a sponsor of this bill, along with a number of other members of the Energy and Commerce Committee.

This legislation gives the SEC specific statutory authority to regulate trading in options on securities, including exempt securities and indexes of securities. The need for speedy passage of this bill is heightened by the decision in March of this year by the U.S. Court of Appeals for the Seventh Circuit, Chicago Board of Trade against SEC. The court held that the SEC lacks authority under present securities laws to regulate trading in options on Government National Mortgage Association (GNMA) debt certificates. The effect of the court's decision is to cast doubt upon the SEC's authority over all nonstock options and essentially to nullify that part of the accord which gives the SEC jurisdiction to regulate options on exempt securities and stock indexes.

Passage of this bill would remedy the detrimental effect of the court decision on the jurisdiction of the SEC and would restore longstanding congressional intent that the SEC should regulate options on all securities.

I urge the House to pass H.R. 6156.

□ 1200

The CHAIRMAN. The gentleman from Texas (Mr. DE LA GARZA) is recognized for 15 minutes.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first let me say that we have come to this point after long and careful and arduous deliberations and some degree of compromise both by the chairmen of the CFTC and the SEC and by the Committee on Energy and Commerce and the Committee on Agriculture and their respective staffs.

Madam Chairman, I rise in support of H.R. 6156, as amended by the Committee on Agriculture.

H.R. 6156 amends the Federal securities laws to provide for jurisdiction of the Securities and Exchange Commission to cover options on exempt securities, stock indexes, certificates of deposit and when traded on national securities exchanges, foreign currencies.

H.R. 6156 is a response to the joint recommendations of SEC and CFTC to resolve disputes that had arisen regarding the jurisdiction of the two agencies. Other proposals recommended by these agencies related to amendments to the Commodity Exchange Act regarding the jurisdiction of the CFTC which are contained in another bill; namely H.R. 5447. Under their joint proposal, the CFTC would regulate futures contracts on exempt securities (other than municipal securities), futures contracts on broad based groups or indices of any securities as well as options on any such futures contracts. No trading would be permitted, however, in futures (or options on futures) involving individual, corporate and municipal securities. Finally, the CFTC would also have jurisdiction to regulate trading of options in foreign currencies in the commodities market. These recommendations were adopted by the Committee on Agriculture in title I of H.R. 5447 which is being considered separately by the House.

Controversy regarding jurisdiction of the two regulatory agencies recently gave rise to litigation, and on March 24, 1982, the U.S. Court of Appeals for the Seventh Circuit in the case of Board of Trade of the City of Chicago against Securities and Exchange Commission and the Chicago Board Options Exchange held that the SEC had no jurisdiction of its own to permit trading in options in Government National Mortgage Association (GNMA) certificates. The court held that options on exempt securities such as GNMA certificates were commodities within the purview of the Commodity Exchange Act and under the jurisdiction of the Commodity Futures Trading Commission and that the securities laws did not extend to such instruments.

This conclusion is consistent with the policy expressed by Congress in the past in providing CFTC with regulatory authority over hedging and price discovery instruments and the SEC with the burden of protecting the efficiency and fairness of the capital formation market.

The options contracts covered by the jurisdictional accord are essentially new instruments which have not been traded yet on any markets. These instruments would provide market participants with a mechanism for risk reduction which is similar to that received by the grain industry for over a century and by the financial community since 1975. In the 1978 amendments to the Commodity Exchange Act, Congress recognized the importance of providing special protections to the public on options contracts and incorporated in the Commodity Exchange Act detailed requirements addressed to this end.

While the committee continues to believe that this functional breakdown serves important purposes, it recognizes the pragmatic consideration that the public will be best served by ending the jurisdictional dispute between the two agencies and supporting the enactment of law of the jurisdictional accord reached voluntarily by the CFTC and the SEC.

Madam Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Madam Chairman, this bill clarifies jurisdictions between the securities and commodities laws regarding the nature of certain instruments that are being offered in this country, investment related instruments, and it arises directly as a result of a circuit court decision indicating whether certain items are securities or are not.

To make the matter clear, this accord between the two agencies, the Commodity Futures Trading Commission and the Securities and Exchange Commission, is divided between two bills. The Securities and Exchange Commission part of the accord is in the bill that the gentleman from Colorado (Mr. WIRTH) has brought up. The Commodity Futures Trading Commission part of the accord is in the bill that the gentleman from Texas (Mr. DE LA GARZA) will bring up and which authorizes the complete agency. As I said before, I think this is a proper way to handle the measure. The part that relates to the securities industry is handled in their bill, and the part that relates to the commodities industry is handled in the CFTC bill.

But I would like to ask the gentleman from Colorado (Mr. WIRTH) the chairman of the subcommittee, this question: If the Senate should amend his bill, H.R. 6156, to add to that bill the provisions of the jurisdictional accord that relates to the Commodity Futures Trading Corporation, which is title I of H.R. 5447, the bill that we will take up after this bill, would it be the gentleman's intention to oppose that move in the conference committee?

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, let me say, first of all, that I want to recognize the cooperation of the Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA) and the gentleman from Kansas (Mr. GLICKMAN), and others in working out this ticklish jurisdictional issue, and I think I can speak for the minority of the Committee on Energy and Commerce in suggesting that as well.

We believe, first, that the reauthorization bills should be passed, and, second, that the jurisdictional accords should be established by the legislation. We will see what happens this afternoon as the CFTC bill comes up.

As the gentleman knows, the major issue there appears to be the question of user fees. How that issue is resolved will have a significant bearing on what might happen in the Senate. If we get into the situation that the gentleman from Kansas suggests—that one piece of legislation might be pushed and the other one would not—the gentleman from Kansas has my assurance that I will do everything I can to work with the gentleman from Texas and the gentleman from Kansas in the cooperative way that we have worked together in the past.

Mr. DINGELL. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the chairman of the committee.

Mr. DINGELL. Madam Chairman, I want to observe that the gentleman from Kansas (Mr. GLICKMAN) and his colleague and my friend on the Agriculture Committee, the distinguished chairman, the gentleman from Texas (Mr. DE LA GARZA), have been most helpful and cooperative and have shown great kindness to the Energy and Commerce Committee in working out the problems that existed with the legislation as introduced and with the subsequent legislation.

Madam Chairman, I would observe that we on the Committee on Energy and Commerce will try to work closely with our friends and colleagues on the Agriculture Committee on problems which arise in conference on those matters which Mr. GLICKMAN raises so that no mischief is done to our friends and colleagues on the Agriculture Committee or their legislation.

Mr. GLICKMAN. Madam Chairman, I appreciate that, and I would echo the compliments that were issued. The gentleman from Colorado and the chairman of the full committee have done a good job in working with us in trying to resolve difficult issues.

The key problem here is that the authorization of the base agency which has jurisdiction over the entire futures industry is jeopardized by the fact that it expires on October 1. This is one of the few agencies of the Government that is due to sunset. Maybe that is a good thing, maybe that is a bad thing. I happen to think that it is a good thing. But if in fact we remove a key portion of the CFTC bill which relates to its jurisdiction over the futures securities area and put it onto an SEC bill that is not in jeopardy, we may lose the basic CFTC bill, in which case we may have complete chaos in the industry and chaos in the country given the nature of the futures industry and agricultural commodities and the like.

Madam Chairman, I thank the gentlemen for answering my question as clearly as they can, although not as specifically as I would have liked, and I would repeat my hope that we can work this out so that if the Senate does amend H.R. 6156 to add title I of H.R. 5447 to their bill, the gentlemen would do their best to oppose that in conference.

Mr. DE LA GARZA. Madam Chairman, I thank the gentleman from Kansas (Mr. GLICKMAN) for his contribution, and I yield myself 2 minutes.

Madam Chairman, in accepting this joint proposal the committee hopes to put to rest the tension previously existing between the two agencies which hampered both the futures and the securities industries. It is the hope that the jurisdictional accord will turn the focus of debate from the issue of which agency has or should have jurisdiction to the merits of the proposals made to the agencies.

The committee amended H.R. 6156, as reported by the Committee on Energy and Commerce, to state explicitly that the SEC would have no jurisdiction over options on any contracts for future delivery. This reflects the recommendations of the CFTC and SEC, and has the support of all interested parties. It will assure that there can be no misunderstanding of this issue.

I urge the Members to join me in support of the bill with the amendment of the Committee on Agriculture.

□ 1210

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Vermont (Mr. JEFFORDS) is recognized for 15 minutes.

Mr. JEFFORDS. Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and urge its swift passage. This bill is a response to the joint recommendations of the Commodity Futures Trading Commission and the Securities and Exchange Commission. Its enactment, along with enactment of its companion legislation contained in title I of H.R. 5447, should serve the public interest in general and business, commerce, and investment interests in particular.

As we all know, Madam Chairman, strained relationships and disputed jurisdictions between the Commodity Futures Trading Commission and the Securities and Exchange Commission have in the past diverted resources from both agencies and slowed consideration of new investment proposals. However, this combative and confusing agency relationship appears to have been resolved by the negotiation of a widely supported jurisdictional agreement between the two agencies which apparently has brought an end to over 8 years of tension and conflict. As a result of this agreement, both agencies may now turn their resources from the question of who regulates what to the review of new investment proposals and the regulation of their respective industries.

H.R. 6156 is one part of the legislative package designed to codify this joint agency agreement on regulatory jurisdiction over various types of options, futures, and other trading instruments. The other half of the agreement is contained in title I of H.R. 5447, the CFTC reauthorization bill. That legislation has been acted on by both the full Agriculture Committee and the Energy and Commerce Committee, who received sequential referral on parts of H.R. 5447 after our initial consideration of that bill. In order for both House Committees to have the opportunity to consider the entire scope of the joint agency accord, the Agriculture Committee was granted referral of H.R. 6156 for a 30-day period, and acted favorably on this legislation without making major modifications.

As initially presented to Congress by the two agencies in H.R. 6156 and H.R. 5447, the joint agency agreement represents a negotiated compromise which establishes a clearly delineated regulatory scheme for the securities and futures markets. It was then and is now strongly supported by the affected industries and the administration. In light of these factors, I would urge my colleagues to support passage of the legislation now before us.

Madam Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security. This bill contains needed amendments to Federal securities laws which should help clarify the respective regulatory jurisdictions of the Commodities Futures Trading Commission and the Securities and Exchange Commission. I urge my colleagues to support passage of this legislation.

Madam Chairman, H.R. 6156 is the SEC portion of a SEC-CFTC agreement on each agency's regulatory jurisdiction. Those provisions amending the Commodity Exchange Act which make up the CFTC portion of the pact are contained in title I of H.R. 5447, a bill considered by both the House Agriculture and Energy and Commerce Committees earlier this year. In this regard, I am pleased that H.R. 6156 was sequentially referred to the Committee on Agriculture so that both House Committees could have an equal opportunity to review the complete joint agency jurisdictional accord contained in this bill and in title I of H.R. 5447.

Without reviewing the specifics of the joint agency accord, let me just say that both the CFTC and SEC worked long and hard to establish a clearly defined regulatory scheme designed to protect the public while not disrupting any trading currently taking place on the national securities exchanges or boards of trade. In resolving questions of jurisdiction over such instruments generally defined as "financial futures" or "financial options," the agreement ratifies the inherent differences between the futures industry and securities industry and endorses the concept of separate regulation. Basically, the CFTC will retain its traditional role of regulating markets and instruments that serve a hedging and price discovery function while the SEC will regulate markets and instruments with an underlying investment purpose.

Let me also point out, Madam Chairman, that the need for such a joint agency jurisdictional agreement was made plainly evident by the March 24 decision of the Seventh Circuit U.S. Court of Appeals, which ruled that the CFTC has exclusive jurisdiction over options directly on GNMA certificates. This decision contradicted the terms of the original CFTC-SEC accord, which removed from the CFTC the authority to approve and to regulate options directly on securities. In spite of this court ruling, both agencies remain committed to their joint agreement and its enacting legislation as the best solution to their past regulatory differences.

As originally contained in title I of H.R. 5447 and H.R. 6156, the jurisdictional accord has been unanimously approved by the House Committee on Agriculture and the appropriate committees of the other body. It has the support of the CFTC, the SEC, and the Department of the Treasury. I believe it also is supported by both the futures industry and the securities industry.

In view of this widespread support for the joint agency agreement as originally presented to Congress, I hope that we can act judiciously on this issue, and would urge my colleagues to support passage of H.R. 6156.

Mr. JEFFORDS. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Madam Chairman, I rise in support of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of "security." I want to commend both the Agriculture Committee and the Energy and Commerce Committee for their judicious work on this legislation, and urge my colleagues to vote for its passage.

Madam Chairman, the bill before us represents one of two bills which together comprise a negotiated jurisdictional agreement between the Commodity Futures Trading Commission and the Securities and Exchange Commission. As you know, the other part of the accord is contained in title I of H.R. 5447, a bill which amends the Commodity Exchange Act in regard to CFTC regulatory authority.

What H.R. 6156 basically does is expand the definition of "security" under four of the Federal securities statutes—the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act, and the Investment Advisors Act of 1940. These four laws are amended to include options on securities, options on certificates of deposit, options on securities indices or groups, and options on foreign currency when they are traded on a national securities exchange, in the definition of "security" under these statutes. In essence, H.R. 6156 codifies the jurisdictional accord in regard to SEC authority, whereas title I of H.R. 5447 amends the Commodity Exchange Act to codify the agreement under CFTC authority.

The need for establishing a jurisdictional agreement between the CFTC and the SEC was demonstrated by the March 24, 1982 decision of the Seventh Circuit of the U.S. Court of Appeals, which ruled that the CFTC has exclusive jurisdiction over options directly on Ginny Mae certificates, and that the Securities and Exchange Commission acted without statutory authority when it approved GNMA options trading at the Chicago Board Option Exchange last year. This decision was in direct contradiction to the terms of the original CFTC-SEC accord, which removed from the CFTC the authority to approve and to regulate options directly on securities. Other amendments to the Federal securities laws contained in H.R. 6156 designed to implement the SEC portion of the accord would make clear the authority of the SEC to approve and to regulate options on securities, but not options on futures.

Thus, if enacted, the legislation proposed by the two agencies would effectively overturn the court decision and effectuate the jurisdictional assignments negotiated between the two agencies.

Despite the ruling of the court of appeals, both the CETC and the SEC remain fully committed to their joint agreement and to the legislation which would enact it as the best possible resolution of their past jurisdictional conflicts.

Madam Chairman, both the CFTC and the SEC worked long and hard to forge a workable compromise which would establish a clearly delineated regulatory scheme that would not adversely affect the securities and futures markets. The resulting accord, as contained in this bill and in title I of H.R. 5447, put an end to over 8 years of tension and disagreement between the two agencies over regulatory responsibility. It has the support of both the futures industry and the securities industry. Furthermore, Phil Johnson, chairman of the CFTC, John Shad, chairman of the SEC, and Roger Mehle, Assistant Secretary of the Treasury, all have stated in correspondence to me that their respective agencies support the terms of the original accord and its enacting legislation.

In light of these circumstances, I urge my colleagues to support the passage of H.R. 6156.

Mr. JEFFORDS. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Madam Chairman, I commend the committee for their work on this legislation.

Enormous strides have been made and these strides have helped to reassure the American people of the importance and integrity of public markets.

I congratulate those who have brought this work forward.

Mr. JEFFORDS. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. RINALDO. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WIRTH. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 6156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privi-

lege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 2. Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) is amended by inserting after "for a security," the following: "any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 3. Section 9 of the Securites Exchange Act of 1934 (15 U.S.C. 78i) is amended—

(1) by striking out "this section" in subsection (f) and inserting in lieu thereof "subsection (a)"; and

(2) by inserting after subsection (f) the following new subsection:

"(g) Notwithstanding any other provision of law, the Commission shall have the authority to regulate the trading of any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency (but not, with respect to any of the foregoing, an option on a contract for future delivery).".

SEC. 4. Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended by adding at the end thereof the following new sentence: "No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of 'bucket shops' or other similar or related activities, shall invalidate any put, call, straddle, option, privilege, or other security, or apply (except for purposes of chapter 96 of title 18, United States Code) to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such instrument, if such instrument is traded pursuant to rules and regulations of a self-regulatory organization that are filed with the Commission pursuant to section 19(b) of this Act.".

SEC. 5. Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 6. Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security (including a certificate of deposit) or on any group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

Mr. WIRTH (during the reading). Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

AGRICULTURE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Agriculture Committee amendment.

The Clerk read as follows:

Committee amendment: on page 4, line 21, after the word "currency" insert the following: "(but not, with respect to any of the foregoing, an option on a contract for future delivery)".

Mr. WIRTH. Madam Chairman, I think this amendment should be accepted. We did not include the phrase that is included in the Agriculture Committee amendment in our bill when it was introduced because it was our view that it was not necessary.

However, members of the Agriculture Committee have been persuasive in communicating their feelings that it is necessary, and I would hope that the amendment would be accepted.

We have no objection to the inclusion of the amendment.

The CHAIRMAN. The question is on the Agriculture Committee amendment.

The Agriculture Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. WIRTH

Mr. WIRTH. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH: Add at the end of the bill the following new section:

SEC. 7. Section 16(14) of the Securities Investor Protection Act (15 U.S.C. 78111(14)) is amended—

(1) by inserting after "Securities Act of 1933)," the following: "any put, call, straddle, option, or privilege on any security, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,"; and

(2) by striking out "The" in the last sentence and inserting in lieu thereof "Except as specifically provided above, the".

Mr. WIRTH (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Madam Chairman, this amendment creates a new section 7 to the bill to amend the Securities Investor Protection Act to include additions to the definition of "security." H.R. 6156 amends the definition of "security" under four of the Federal securities laws but not under the Securities Investor Protection Act. SIPIC which insures the accounts of customers of securities broker dealers, recently made me aware of their concern that if the Securities Investor Protection Act is not amended with a similar definition, it might be construed to limit the insurance protection offered to options customers of broker dealers. This is a very real problem in light of the Seventh Circuit Court of Appeals decision that options may not be considered separate securities.

My amendment addresses that problem by including options in the definition of "security" under the SIPIC statute. I might add that this amendment was recommended by the SEC. We have also run it by the CFTC, which finds it in keeping with the jurisdictional accord.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RINALDO

Mr. RINALDO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RINALDO: Page 5, beginning on line 5, strike out "(except for purposes of chapter 96 of title 18, United States Code)".

Mr. RINALDO. Madam Chairman, I rise in support of my amendment to H.R. 6156,

This amendment is intended to carry out the original purpose of the provision which it amends.

Section 4 of H.R. 6156 is an addition to the original jurisdictional accord which was adopted unanimously by the Energy and Commerce Committee. It provides that State gambling and bucket shop laws will not apply to options which are settled in cash.

This provision is necessary because approximately 25 States have gambling and bucket shop laws which could potentially be used to prevent trading of options settled in cash, such as options on stock indexes, even though such options contracts have been approved by the Securities and Exchange Commission. Most such State laws predate Federal securities regulations and were enacted for other purposes.

As adopted by the committee, section 4 contains a parenthetical phrase which excepts it from applying to the racketeer-influenced and corrupt organizations (RICO) statute. Under the RICO statute, Federal action must be based on State laws. This provision thus creates a situation in which States would be preempted from enforcing their gambling and bucket-shop laws, but U.S. attorneys could bring actions through RICO based on State laws. The result is to undo the preemption of State gambling laws which is the purpose of section 4.

If this parenthetical phrase remains in the bill, it will result in uncertainty and confusion. The options-clearing corporation has indicated that, under the present language, it would not issue options contracts in those States in which gambling laws would apply to cash settlement contracts.

My amendment will strike this parenthetical phrase and restore the original purpose of section 4, which is to provide a Federal policy for instruments trading in interstate commerce. Options contracts approved by the SEC should not be prevented from trading by State laws which were historically designed to prevent unregulated gambling activities.

I want to stress that this section applies only to options traded on securities exchanges, and it does not preempt State securities (Blue Sky) laws. Without this section and without my amendment, it is doubtful that stock index options and other options settled in cash will ever be traded, and investors will be deprived of the opportunity to invest in these useful financial instruments.

I urge the adoption of my amendment.

□ 1220

Mr. WIRTH. Madam Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Colorado.

Mr. WIRTH. Madam Chairman, we have no objection to the amendment. I think it is a constructive amendment, and I hope our colleagues would agree to the amendment offered by the gentleman from New Jersey.

Mr. RINALDO. I thank the chairman of the subcommittee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. RINALDO).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mrs. BOGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6156) to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes, pursuant to House Resolution 565, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FUTURES TRADING ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Ohio (Mr. STOKES) as Chairman of the Committee of the Whole and requests the gentleman from Pennsylvania (Mr. MURTHA) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5447, with Mr. MURTHA, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN (Mr. STOKES). Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes; the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 30 minutes; the gentleman from Colorado (Mr. WIRTH) will be recognized for 15 minutes; and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 5447, the Futures Trading Act of 1982.

Mr. Chairman, let me remind the Members that what we do now is in sequence with the legislation that was just adopted by the House relating to the Securities and Exchange Commission.

H.R. 5447, the Futures Trading Act of 1982, extends the funding authorization for the Commodity Futures Trading Commission through September 30, 1986. It resolves jurisdictional disputes that have arisen since Congress made the last major amendments to the act in 1978 and updates the Commodity Exchange Act.

Just a brief history. The Commodity Futures Trading Commission was established in 1974 as an independent regulatory agency to oversee the trading of commodity futures contracts. At that time the trading of futures contracts on agricultural commodities was regulated by the Department of Agriculture's commodity exchange authority. Several nonagricultural commodity futures contracts were being traded but not regulated. Congress then realized a need for uniform regulation of all futures trading and that futures trading was a distinct and separate economic function. It acted to establish an independent agency with the resources and regulatory tools required to protect the public interest in view of the unique and the expanding role of futures trading in the national and international economy.

Futures trading has two primary economic functions:

Price discovery and risk shifting. I know that this is sometimes complicated to the Members. Let me just say briefly that price discovery is the process through which traders buying and selling futures contracts on the exchanges discover the competitive prices that best represent the consensus of what traders think commodity prices ought to be in the future based on information available today. Exchange generated prices assist in establishing cash prices for commodities in localized markets as well as in related services such as storage, transportation, and processing.

Let me interject that that is one of the reasons why this legislation is so vital and so important to American agriculture.

Risk shifting provides an opportunity for shifting the risks associated with commodity ownership from individuals and entities who are unwilling to bear such risks to those who are willing to carry these risks in return for a possible profit. This risk-shifting process is known as hedging. You probably have heard about hedging. So all that it does is that the holders of ownership, either individuals or entities, will hedge their investment by buying into the futures contracts and therefore shifting the responsibility or shifting the risks on that commodity.

The correctness of this 1974 congressional initiative has been borne out in phenomenol rate of growth in futures trading, coupled with the growth of public and commercial confidence in the integrity of the industry and the regulatory framework. In the past 5 years, futures trading volume has nearly tripled, from 37 million contracts to more than 100 million contracts annually. The term "commodity" has come to embrace a variety of financial instruments, precious metals, and natural resource items, such as petroleum, as well as domestic and international agricultural products. And here let me state that we in the Congress, as well as the Commission, have

tried to stay abreast, if I might state it in modern technology, in the modern art of financial investment in the United States. We have not stayed with the status quo but, rather, working through and with the industry, have tried to provide contracts and possibilities of investment commensurate with the modern world of 1982.

□ 1230

While many new commodity futures contracts are now actively traded, agricultural commodity futures still accounted for over half the total number of contracts in 1981. According to the GAO in a recent report, several factors underlie the increased volume and importance of futures trading. A prominent factor has been the economic uncertainty of recent years coupled with high inflation and high risk rates.

During several days of public hearings in February of this year, the consensus of the public testimony was that the Commission should be reauthorized and that the Commission's authority and structure should not be substantially altered. There are other provisos of the bill that will be discussed by the chairman of the subcommittee, the gentleman from Tennessee (Mr. JONES), who I might state has done a wonderful job, not only the gentleman and the ranking minority member, the gentleman from Vermont (Mr. JEFFORDS), but all the members of the subcommittee have worked hard and diligently in trying to arrive at a consensus commensurate with the needs of the industry, the protection of the public, and the authority needed by the CFTC to exercise its jurisdiction and its mandate from the Congress.

The CFTC is a creature of the Congress and of the Committee on Agriculture. Let me just state very briefly—much more discussion probably will be held on this issue later—but H.R. 5447 authorizes the CFTC to delegate certain regulatory functions to the industry-financed self-regulatory agency, the National Futures Association.

In addition, it imposes requirements regarding the conduct of this activity and requires the association to develop within 2 years a comprehensive program that fully implements the rules approved by the CFTC.

H.R. 5447 directs the CFTC further to conduct a 2-year study of the operations of the National Futures Association and to report to the Congress on whether, in fact, there are cost savings to the Federal Government resulting from the operations on the NFA.

I would further emphasize the fact that the NFA is, in fact, a creature of the Congress. We authorized the CFTC to delegate to this self-policing body within the industry authority to help the CFTC in imposing its regulations and in keeping the industry abreast of the needs of the public and protecting the interests at all times of the public for whose benefit the law was written. The NFA will assist the CFTC in guaranteeing to the public that they would have within their needs and desires available investment areas in futures as has been done for really more than 100 years in this country but regulated to this extent only since 1974.

Also, I might add that we have expanded the role of the States, recognizing the need for closer cooperation and coordination between the CFTC and State governments and provide new authorities which will be useful in preventing fraudulent activities.

With that, Mr. Chairman, I feel possibly I have covered sufficiently that which we will be working with and the chairman of the subcommittee will handle further the areas of responsibility for the subcommittee.

I would just like to reemphasize again that we on the Agriculture Committee, having in fact been the fathers of the legislation that began this institution, take our task very seriously, and the subcommittee and the committee have worked very diligently. We have visited the exchanges, we visited with the individuals that conduct transactions on the exchanges; we have visited with the CFTC; we have worked with the reorganization of the CFTC. We have intervened to the extent that it is within our jurisdiction to assist in implementing an agreement reached between the CFTC and the SEC; and I would like to give credit to both Chairman Johnson and Chairman Shad for their interest and diligence in trying to arrive at a compromise.

I would like to state to the Members very respectfully and I submit to you that the legislation we bring has a purpose for every item that is included within the legislation. I know there will be efforts to amend the legislation, and discussion of what should or should not be done. For example, in user fees, we have a definite reason commensurate with the history of this legislation since the beginning of the CFTC.

We have carefully conducted the necessary hearings. We have consulted with everyone involved; and if we oppose the imposition of user fees, it is not a whim or fancy or personal desire of any member of this committee. I personally was one of the most vocal to emphasize to the industry that they have to do something to see that there was diligence in their operations and that the public would be protected.

Unfortunately, because of fiscal matters—not having sufficient funding for the CFTC because of problems with the budget, especially in these hard and difficult days—we imposed upon the industry the responsibility of self-regulation. What we say in the legislation has been thought out very carefully, and we would like to give them the 2 years to see if what they and we invented will work. That is one of the reasons why we would oppose user fees, not that I personally or other members of the committee are opposed to the idea or the theory. Rather that it came too late, because we had already started the process of self-regulation within the industry.

We will have more to say later on that amendment.

Mr. Chairman, at this time, I would like to summarize some of the other major provisions of H.R. 5447 for the Members.

CFTC/SEC JURISDICTIONAL ACCORD

This bill, along with its counterpart, H.R. 6156, would clarify the respective regulatory responsibilities of the Commodity Futures Trading Commission and the Securities and Exchange Commission.

I want to congratulate Chairman Johnson and Chairman Shad for developing this accord.

The agreement will not affect any trading that is now taking place on the national securities exchanges or boards of trade. It basically resolves questions of jurisdiction over a host of instruments generally described as stock indexes and options on financial instruments. I know my colleagues share my hope that the agreement puts to rest the tension which has existed between the two agencies in recent years.

The existing provisions in section 2a(1) of the Commodity Exchange Act have been interpreted by the courts to grant the CFTC exclusive jurisdiction over the regulation of commodity futures contracts, options on commodity futures and options on physical commodities, regardless of whether these commodities may also be securities. The amendments in title I of H.R. 5447, which implement the CFTC–SEC accord, would alter this exclusive jurisdiction by removing from the CFTC's jurisdiction options on securities, options on foreign currency if graded on a national securities exchange, and futures contracts—as well as options on futures—on individual securities that are not exempted securities.

The legislation would continue the exclusive jurisdiction by CFTC over futures contracts, options on futures contracts and options on commodities. CFTC jurisdiction over options involving physical commodities that are not securities will not be affected in any way by the provisions of this bill.

While the CFTC would have exclusive jurisidiction over futures contracts and options on futures contracts on a group or index of securities, H.R. 5447 as reported by the Committee on Agriculture sets forth specific stand-

ards which must be met before the CFTC may approve trading in such contracts by a board of trade. In recognition of the SEC's unique responsibilities over trading markets in equity securities, H.R. 5447 as reported by the Agriculture Committee also provides for public comment and SEC consultation on applications for trading in stock index futures contracts, and gives the SEC the right to seek judicial review of decisions of the CFTC approving new contracts.

The Energy and Commerce Committee has reported an amendment which would give the SEC veto power over any action by the CFTC in approving new stock index futures contracts. This is a matter, which I will address later on the floor during discussion of this amendment under the 5 minute rule.

NATIONAL FUTURES ASSOCIATION FEES

H.R. 5447 authorizes the CFTC to delegate certain regulatory functions to the industry-financed self-regulatory agency—the National Futures Association. In addition, it imposes requirements regarding the conduct of these activities and requires the association to develop within 2 years a comprehensive program that fully implements the rules approved by the CFTC. H.R. 5447 directs the CFTC to conduct a 2-year study of the operations of the National Futures Association and to report to Congress on whether, in fact, there are cost savings to the Federal Government resulting from the operations of the NFA.

H.R. 5447 would prohibit any user fee or transaction fee involving futures contracts, options contracts, or leverage contracts to be implemented until after receipt of the NFA study from the Commission.

As originally proposed by the Commission and the administration, H.R. 5447 would have imposed a user fee on all exchange commodity transactions, dealer options, and leverage contracts. This user fee, in the opinion of the committee, would have greatly diminished the possibility of establishing a successful National Futures Association which is funded by the industry and is now being groomed to assume a great many self-regulatory functions.

The committee is convinced that the imposition of the proposed user fee would unfairly deprive the NFA of its funding base during its infancy.

Consequently, a compromise has been developed and included in H.R. 5447. It would delay the imposition of a user fee pending implementation during a 2-year period by the NFA of an industry self-regulatory program and the receipt by Congress of a CFTC study to determine the success of the NFA in achieving its goals, and the cost savings to the Government, if any, that results therefrom. The committee pledges a thorough review of the situation following the CFTC study.

This is a reasonable and equitable compromise for an interim period and the committee hopes the administration will accept this view.

EXPANDED ROLE FOR THE STATES

H.R. 5447 recognizes the need for closer cooperation and coordination between the CFTC and State governments and provides new authorities which will be useful in preventing fraudulent activities.

First, in the area of information sharing, H.R. 5447 expressly permits the Commission to share otherwise confidential information with the States. In addition, the bill authorizes the Commission to provide information on any registrant either voluntarily or at the request of any State. The availability of this information will aid States in preparing their own cases. It will also enable them to assess whether to join litigation being prepared by the Commission. And, by making information sharing a two-way street, the committee hopes for improved cooperation between the Commission and the States.

Second, H.R. 5447 would explicitly permit the application of any Federal or State law to be applied to activities of persons who are required to, but who do not obtain, registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure such as off-exchange futures or other commodity investments.

These initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds. Chairman Philip Johnson of the CFTC characterized the provision as an open season on such activities, and the committee concurs.

REMEDIES FOR VIOLATIONS OF THE ACT

Another area to which the committee addressed itself related to improving the machinery by which a commodity customer can obtain relief for violations of the act by industry professionals.

The bill would simplify the reparations procedure, make arbitration more attractive and effective as an alternative to reparations and provide specific authority for private rights of action for recovery of actual damages against violators of the act. The committee believes these changes will discourage fraudulent behavior and improve confidence in the marketplace.

Subsequent to the committee's action, the Supreme Court ruled that there is an implied right of action for damages under several sections of the act, but did not rule on the host of other issues the committee addressed. It indicated that the lower courts would have to answer these difficult questions "unless and until Congress acts".

The committee is of the view that the specific private right of action authorized in section 236 of H.R. 5447 should be adopted even though the court has answered one, but only one, of the several questions that have plagued the courts, plaintiffs, and defendants.

COMMISSION EMERGENCY POWERS

H.R. 5447 makes adjustments in the Commission's emergency powers designed to facilitate prompt action in emergency situations to protect the public interest and at the same time establish a mechanism that will assure that the Commission does not act in an arbitary and capricious manner.

It would make explicit that in emergency situations the CFTC could set temporary emergency margin levels on any futures contracts and fix position limits that may apply to a position acquired in good faith prior to the Commission's action.

Additionally the bill clarifies a limited judicial review of Commission actions. Such review would be by the appropriate U.S. court of appeals and would be based upon examination of information before the Commission at the time the determination is made.

The committee is of the view that this limited judicial review provision adequately protects the interest of all involved.

AGRICULTURAL OPTIONS

H.R. 5447 repeals the 1936 ban on the trading of options on agricultural commodities and gives the CFTC authority to approve trading of such options under a pilot program for a period of up to 3 years.

Options contracts differ from futures contracts in that the purchaser of an option secures the right to buy or sell a specified quantity of a commodity at a set price and date. On the other hand, the purchaser of a futures contract secures the right and obligation to deliver or take delivery of a specified quantity of a commodity at a set price and date.

The committee, following testimony from some farm groups, decided in favor of testing the utility of agricultural options as a more flexible, less complicated method of price protection for farmers than hedging with futures contracts. Options offer a way to simply purchase a degree of price protection from a falling market without giving up potential benefits from a favorable price movement.

H.R. 5447 authorizes a special pilot program of exchange traded agricultural options and provides the CFTC adequate time to assess in an orderly way farmer acceptance of these options contracts.

The final test in this pilot program should be the level of participation by

the agricultural industry in using options for commercial purposes.

REGULATORY POWERS AND ENFORCEMENT

The committee recognizes that in such a rapidly growing and changing industry, the regulatory and enforcement powers of the Commission must be systematically examined and updated. As a general rule the committee has found that the Commission has adequate regulatory and enforcement tools to carry out its assigned responsibilities under the act. To insure the continuing viability of the markets and the protection of the public, H.R. 5447 contains a number of amendments that should provide the Commission with the additional tools it needs to respond effectively to the changing environment.

H.R. 5447 would revamp the existing regulatory provisions to assure the responsibility of those commodity professionals who deal with the public, to expand the responsibilities of registrants for the conduct of principals and key employees, and to lay the foundation for a self-regulatory program with the Commission acting in an oversight role.

Specifically, the amendments in the bill would extend registration requirements to additional categories of commodity professionals, streamline the registration process, provide a framework for delegation of the registration process, provide a framework for delegation of the registration functions to a registered futures association—the industry self-regulatory agency—and revise enforcement and penalty provisions. These provisions should give the investing public greater confidence in the integrity of persons with whom they deal who represent different segments of the commodity industry.

SPECIAL STUDIES

H.R. 5447 calls for two studies to help understand and monitor the rapidly changing futures industry in a volatile and unpredictable economy.

First, the bill calls for the CFTC to organize and lead, with the assistance of the SEC, the Federal Reserve and the Treasury, a major study and investigation of the structure, participation, uses and effects of trading futures and options on the economy. A report would be required not later than September 30, 1984. This is a very important study.

It is contemplated that this study would seek out and utilize the best minds available, both theoretical and practical. A similar study was conducted in the 1960's regarding the security industry. That study provided the foundation for more knowledgeable public policy decisions. Such a solid foundation is now needed for policymakers in the area of futures trading.

The Energy and Commerce Committee has proposed an amendment that would transfer prime responsibility for the study from the CFTC to the Federal Reserve. The committee has no major objection to this amendment, except that if the Federal Reserve is to lead the study it should be expanded to include as well the new options contracts over which the SEC would have jurisdiction under the proposed legislation. These have basically the same economic purpose as the transactions which would be the subject of the study under the committee bill.

H.R. 5447 also provides for a separate CFTC study assessing the impact, if any, of stock index futures contracts on the markets in underlying securities and the effect, if any, on the contracts on the capital formation process.

This study would monitor a 2-year pilot program of stock index futures trading. A report to Congress is required within 4 months after the expiration of the pilot program. If the report concludes that the adverse effects resulting from stock index futures trading outweigh any benefits, the Commissions must include in the report plans for the orderly withdrawal of approval for all stock index futures contracts.

Stock index futures trading is a controversial development and one which merits close study and oversight which is provided for by H.R. 5447.

I have summarized the more important aspects of the bill. H.R. 5447 is a complex piece of legislation that is the result of many days of hearings and markup by the committee. The committee had the benefit of testimony from the CFTC, GAO, other Government agencies, leaders of the commodity industry, representatives of State securities commissions and members of the public at large. H.R. 5447 is a balanced bill that enhances the public interest. I urge the Members to join me in support of H.R. 5447.

Mr. Chairman, I am very happy now to yield 5 minutes to the distinguished gentleman from Tennessee (Mr. JONES), the chairman of the subcommittee.

Mr. JONES of Tennessee. Mr. Chairman, I rise today in support of H.R. 5447, the Futures Trading Act of 1982.

This bill extends the funding authorization for the Commodity Futures Trading Commission through September 30, 1986, and updates the Commodity Exchange Act to provide needed changes in the regulatory and enforcement authority of the Commission and resolve jurisdictional disputes that have arisen since Congress made the last major amendments to the act in 1978.

The Commodity Futures Trading Commission was established in 1974 as an independent regulatory agency to oversee the trading of commodity futures contracts and for other purposes. At that time the trading of futures contracts on agricultural commodities was regulated by the Department of Agriculture's Commodity Exchange Authority. Several nonagricultural commodity futures contracts were being traded but not regulated. Congress then realized the need for uniform regulation of all futures trading and that futures trading was a distinct and separate economic function. Due to the unique and expanding role of futures trading in the national and international economy, an independent agency with adequate resources and regulatory tools was deemed appropriate.

The correctness of this 1974 congressional initiative has been borne out in the phenomenal rate of growth in futures trading coupled with the growth of public and commercial confidence in the integrity of the industry and the regulatory framework. In the past 5 years futures trading volume has nearly tripled, from 37 million contracts to about 100 million contracts annually. The term "commodity" has come to embrace a variety of financial instruments, precious metals, and "natural resource" items, such as petroleum as well as domestic and international agricultural products. While many new commodity futures contracts are now actively traded, agricultural commodity futures still accounted for over half the total number of contracts traded in 1981.

Since 1978, the Agriculture Committee has conducted stringent oversight of the CFTC, examining both operational features and its handling the 1979-80 silver market and the 1979 March wheat episode. The committee has found no serious structural or organizational problems which require legislative solution. Additionally the committee has found a Commission which is growing in maturity, competence, and professionalism as befits the regulation of an industry which each year plays a more important role in the Nation's economy.

H.R. 5447 contains a 4-year reauthorization. Rapid developments in the industry argue for a reauthorization not exceeding a 4-year period. It provides the Congress an opportunity to conduct effective oversight of the Commission and review its charter in the light of the many changes that are occurring in the industry. A 4-year reauthorization strikes a proper balance between those who wish more frequent reviews and those who wish a longer term extension because of the time and expense that are incurred by the Commission and the industry.

I would now like to take just a few minutes to review some of the more important provisions contained in this bill.

CFTC/SEC JURISDICTIONAL ACCORD

H.R. 5447 contains amendments designed to enact a joint-agency jurisdictional accord and to clarify the respective regulatory responsibilities of the

Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) so both may concentrate on their respective responsibilities.

NATIONAL FUTURES ASSOCIATION/USER FEES

One of the major topics debated during the public hearings and markup sessions associated with H.R. 5447 was whether to impose user fees on the futures trading industry and what impact such fees would have on the industry's ability to successfully establish a new self-regulatory body called the National Futures Association (NFA).

The National Futures Association was designated by the Commission on September 22, 1981, as a "registered futures association" authorized under section 17 of the Commodity Exchange Act. NFA is intended to be a commodity industry self-regulatory organization patterned somewhat after the National Association of Securities Dealers. Some of the duties and functions it is expected to perform will be supplementary to those currently assigned to the Commission. With a successful and competent NFA it is possible that some Commission duties could be delegated to the NFA, subject to CFTC oversight.

The committee has encouraged and promoted the idea of such a self-regulatory organization since adoption of the 1974 CFTC Act. Important segments of the industry have been reluctant to support the idea due to the cost involved and for other reasons. Some progress has been made during the last 2 years which resulted in CFTC designation of NFA in 1981.

The issue of the committee's longstanding desire for the industry to form a self-regulatory organization became complicated further in 1982 when the Commission proposed statutory implementation of an industry user fee in its recommended legislation as contained in the original version of H.R. 5447. The Commission's proposal was determined to be not so much a user fee but a transaction tax, with all fees going directly to the U.S. Treasury.

During debate on these matters, the committee was convinced that the imposition of the proposed fee would unfairly deprive the NFA of its funding base during its infancy. Special consideration was given to this argument since both the committee and the Commission had been actively encouraging establishment of the NFA for several years. To impose an additional fee on the same individuals and corporations at this critical time would constitute action in bad faith, on the part of this Congress.

However, the Agriculture Committee was not unmindful of the need to reduce the Federal deficit either by reduction in spending or by adopting revenue-enhancing measures. Consequently, it adopted a compromise provision which would result in more efficient expenditures and perhaps outright cost savings.

H.R. 5447 would delay imposition of a user fee pending the successful implementation of the NFA and the receipt by Congress of a CFTC study to determine the success of the NFA in achieving its goals.

During the period of implementation of NFA and the CFTC study, H.R. 5447 would prohibit any user fee or transaction fee.

The CFTC may continue to charge fees for services currently rendered by the Commission in conjunction with registration, reparations, adjudication, or informational services and activities.

The committee believes this to be a reasonable and equitable compromise for an interim period. Additionally it pledges a thorough review of the situation following the CFTC study.

EXPANDED ROLE FOR THE STATES

The 1974 act which established the Commodity Futures Trading Commission bestowed on the CFTC exclusion jurisdiction to regulate futures trading and enforce the provisions of the act, thereby preempting any State regulatory laws. This was done in the desire to have knowledgeable and uniform enforcement of the act. The exclusive jurisdiction has been largely successful in regard to transactions conducted on duly constituted commodity exchanges.

By the 1978 reauthorization process, it became apparent that the CFTC's budget and resources were inadequate to control a variety of off-exchange commodities activities, some of which are fraudulent in nature. At that time Congress amend the act to provide that States may seek injunctions or civil damages in Federal court under the provisions of the Commodity Exchange Act. It also recognized that State officials could sue in local courts under their general civil or criminal antifraud laws.

In a further effort to encourage an expanded role of States, H.R. 5447 provides new authorities which will be useful in preventing fraudulent activities.

First, in the area of information sharing, H.R. 5447 expressly permits the Commission to share otherwise confidential information with the States. In addition, the bill authorizes the Commission to provide information on any registrant either voluntarily or at the request of any State.

Second, H.R. 5447 would explicitly permit the application of any Federal or State law to be applied to activities of persons who are required to, but who do not obtain, registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure such as off-exchange futures or other commodity investments.

These initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds.

The committee, however, continues to support the idea of a single unified program of regulation and exclusive CFTC jurisdiction over exchange-traded futures, authorized commodity options programs and regulated leverage contracts.

REGULATORY POWERS AND ENFORCEMENT

As a general rule the committee has found that the Commission has adequate regulatory and enforcement tools to carry out its assigned responsibilities under the act. To insure the continuing viability of the markets and the protection of the public, H.R. 5447 contains a number of amendments that should provide the Commission with the few additional tools it needs to respond effectively to the changing environment.

REMEDIES FOR VIOLATIONS OF THE ACT

Another area to which the committee addressed itself related to improving the machinery by which a commodity customer can obtain relief for violations of the act by industry professionals.

At the time the committee considered H.R. 5447, the Supreme Court had not yet resolved the issue of whether a private right of action could be implied under the act. The committee is of the view that the right of an aggrieved person to sue a violator of the act is critical to protecting the public and fundamental to maintaining the credibility of the futures market.

To that end the committee added a new section to the bill to provide specific authority for private rights of action for recovery of actual damages against violators of the act. In order to recover damages the violation must have arisen from a transaction on the futures market, a regulated option or leverage contract, or participation in a commodity pool.

COMMISSION EMERGENCY POWERS

The committee included in its amendments to the Commodity Exchange Act new provisions to assure that the Commission would have the tools it needs to act promptly in emergency situations to protect the public interest and at the same time establish a mechanism that will assure that the Commission does not act in an arbitrary or capricious manner.

H.R. 5447 would amend the act to make explicit that the emergency powers of the commission extend to the setting of temporary emergency margin levels on any futures contracts and the fixing of position limits that may apply to a position acquired in

good faith to the effective date of the Commission's action.

SPECIAL STUDIES

For six decades the Agriculture Committee has been responsibile for legislation involving futures trading. The major expansions in the industry over the last decade did not catch the committee by surprise.

The committee finds no evidence that the pace of change in the industry will abate in the near future. For this reason serious and thorough assessments of the impact of certain changes in the industry are called for in H.R. 5447.

H.R. 5447 calls for CFTC to organize and lead, with the assistance of the SEC, the Federal Reserve and the Treasury, a study and investigation of the structure, participation, uses and effects of trading futures and options on the economy.

A report on the study is to be submitted to Congress not later than September 30, 1984, including an assessment of the impact of these activities and recommendations for any legislative and regulatory changes.

H.R. 5447 also requires a separate CFTC study assessing the impact, if any, of stock index futures contracts on the markets in the underlying securities and the effect, if any, of the contracts on the capital formation process.

This study would monitor a 2-year pilot program of stock index futures trading and a report to Congress is required within 4 months after the expiration of the pilot program. If the report concludes that the adverse effects resulting from stock index futures trading outweigh any benefits, the Commission must include in the report plans for the orderly withdrawal of approval for all stock index futures contracts.

The committee recognizes the controversial nature of this untested market development. While not wanting at this time to deny CFTC's authority to approve trading in stock index futures, the committee mandates a cautious approach by requiring a pilot program review. Additionally, the committee will freely exercise its oversight responsibilities in the interim period if circumstances warrant.

Mr. Chairman, in closing let me say that I am proud of the way the Agriculture Committee has dealt with this very important and complex area. This is a good, solid bill which will result in a more competently regulated industry. I urge my colleagues to join me in approving H.R. 5447 today in order that we may move ahead in meeting the September 30 deadline for the reauthorization of the Commodity Futures Trading Commission.

□ 1240

Mr. JEFFORDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5447, a bill to amend and update the Commodity Exchange Act and reauthorize the Commodity Futures Trading Commission. I want to associate myself with the remarks of the distinguished chairman of the Subcommittee on Conservation, Credit, and Rural Development of the Committee on Agriculture, Mr. JONES of Tennessee, and the chairman of the full committee, Mr. DE LA GARZA of Texas, and urge that favorable consideration be given this legislation.

As you know, Mr. Chairman, futures trading plays an important role in the agricultural economy and in other industries. Futures markets provide forward pricing and hedging mechanisms that greatly facilitate the efficient marketing of farm products. The prices generated on futures markets are widely used as indicators of value and as guides for production and storage decisions by farmers and other businessmen. At the same time, the shifting of risk provided by active forward markets greatly aids the mobilization of capital in production and marketing.

Unfortunately, futures trading can be subject to various abuses. Experience has shown that effective regulation at the Federal level is needed to protect producers and other traders. The reauthorization of the CFTC is necessary to provide this protection. H.R. 5447 accomplishes that requirement.

The Subcommittee on Conservation, Credit, and Rural Development held extensive hearings on H.R. 5447 over a 3-day period last February. Members of the subcommittee had the benefit of hearing testimony from numerous witnesses from many different sectors on various issues regarding futures trading, CFTC regulatory operations and State concoms. The full Agriculture Committee also conducted an extensive review of the legislation during markup of the bill, and many of the recommendations from the earlier testimony were incorporated into H.R. 5447 during its consideration and passage by the full committee.

What H.R. 5447 basically would do is extend the life of the Commodity Futures Trading Commission for 4 years. In addition, the bill would make several changes to the Commodity Exchange Act which should improve the operations of the Commission while promoting the smooth and abuse-free operation of the futures markets. Major provisions include amendments which will expand effective industry self-regulation and broaden CFTC authority in setting speculative limits, and amendments establishing authority for a pilot program of trading in options on agricultural commodity futures, which has been banned by law for many years.

I am particularly pleased that H.R. 5447 gives States a substantially increased role in policing off-exchange activities in order to protect individual traders. In the past, State actions under the Commodity Exchange Act have been limited, even though the CFTC took the initiative to work with States in implementing these authorities. Under the provisions of H.R. 5447, the CFTC is permitted to share otherwise confidential information with the States. The bill also authorizes the CFTC to provide information on any registrant either voluntarily or at the request of any State. The availability of this information will aid States in preparing their own cases and should enable them to assess whether to join litigation being prepared by the Commission. H.R. 5447 also would explicitly permit the application of any Federal or State law to activities of persons who are required to, but who do not, obtain registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure, such as off-exchange futures or other commodity investments. I believe that these initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds.

I also would like to note, Mr. Chairman, that H.R. 5447 does not contain a trading fee proposal as originally requested by the administration. The Agriculture Committee reviewed this issue extensively during hearings and markup of the legislation. There was a general consensus among the members of the committee that a transaction fee might adversely affect the industry's efforts at self-regulation, since the new National Futures Association is being funded by industry dues. Therefore, the committee opted to give the National Futures Association a 2-year trial period in order to determine if industry self-regulation can be effective, and transfer costs from the taxpayer to the users of the CFTC. At the end of 2 years, the CFTC shall compose and submit to Congress a report on the effectiveness of the National Futures Association and the possible impacts of a Federal trading fee on futures trading.

Finally, I would like to note that H.R. 5447 writes into law part of the widely supported CFTC-SEC agreement on agency jurisdiction, which apparently has brought an end to over 8 years of tension and conflict between the two agencies. As a result of the agreement, both agencies may now channel their resources into effective

market regulation and approval of new contracts.

Mr. Chairman, we must provide the CFTC with the necessary tools to regulate effectively futures trading without adversely affecting the beneficial operations of the futures markets. I believe H.R. 5447 goes a long way toward accomplishing that goal.

I urge support of H.R. 5447.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I want to associate myself with the remarks of my colleagues from the Committee on Agriculture in support of the bill H.R. 5447, the Futures Trading Act of 1982. I believe this legislation is a fair, workable compromise which should help insure that we have freely functioning commodity markets with effective surveillance and protection against abuses.

Mr. Chairman, the Subcommittee on Conservation, Credit, and Rural Development and the full Committee on Agriculture extensively reviewed H.R. 5447 during hearings and markup sessions from February through April earlier this year. Testimony was heard from many interested parties on a wide range of issues concerning futures market operations and CFTC regulatory functions. As a result of this review, H.R. 5447, as unanimously passed by the Committee on Agriculture, takes account of the major proposals originally submitted by CFTC and also takes account of the interests of those parties who use the markets and the futures industry.

The major purpose of this legislation is to extend for 4 years the operating authority of the Commodity Futures Trading Commission. The bill also contains numerous amendments to the Commodity Exchange Act which should update and improve CFTC operations without hindering trading on the futures markets. These amendments include provisions to improve Federal, State, and private protection against fraud and market manipulation; establish a pilot program of trading in options on agricultural commodity futures; broaden CFTC authority in setting speculative limits; provide for limited judicial review of CFTC emergency powers; and provide for broadened power for individuals to request arbitration.

The bill also gives a new futures industry self-regulatory body, the National Futures Association, a chance to see whether it can operate effectively and handle some of the regulatory work now performed by the CFTC. H.R. 5447 also will require the National Futures Association to set standards for sales practices and industry employee training.

I also would like to note that title I of H.R. 5447 contains one part of a CFTC and Securities and Exchange Commission accord which is the result of an agreement reached between the two agencies during negotiations regarding their respective jurisdictions. I believe my colleagues have already explained the specifics of this joint agency accord in their statements, so I will not review it in detail at this time. However, let me just say that both the CFTC and SEC worked long and hard to establish a clearly defined regulatory agreement designed to protect the public while not disrupting any trading currently taking place on the national securities exchanges or boards of trade. In resolving questions of jurisdiction over such instruments generally defined as "financial futures" or "financial options," the agreement ratifies the inherent differences between the futures industry and securities industry and endorses the concept of separate regulations. Basically, the CETA will retain its traditional role of regulating markets and instruments that serve a hedging and price discovery function, while the SEC will regulate markets and instruments with an underlying investment purpose. As initially presented to Congress by the CETA and the SEC, the joint agency agreement represents a negotiated compromise which establishes a clearly delineated regulatory scheme for the securities and futures markets. It is strongly supported by the affected industries and the administration.

Mr. Chairman, I believe that H.R. 5447 will enable the rapidly growing futures industry to operate in a responsible and economically beneficial manner. I urge my colleagues to support passage of this legislation.

□ 1250

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, the bill H.R. 5447, the Futures Trading Act of 1982, should be approved by the House today.

The Committee on Agriculture has considered and debated fully its ramifications on all parties. The Committee on Energy and Commerce has scrutinized it.

The few who voiced doubts as to the CFTC's ability to regulate and enforce the Commodity Exchange Act during the lengthy hearings before the Agriculture Committee did so not because they believe the Commission lacked the ability or resolve to regulate this complex industry but because, perhaps the Commission simply lacked personnel, in their view.

The fact is that the Commission is doing a good job. Its Chairman, Philip Johnson, knows the industry and what Government should demand from it. He knows when the regulations under which it operates should be broad and or narrowed, and when sanctions should be imposed for violations of adequate and just regulations.

To a few, especially among those who do not sit on the authorizing committee, there may be an issue or two left undone. I regret they think so, because I believe the legislation serves the public. It allows the industry to go about its business in a reasonable manner. It authorizes the Government to fulfill its responsibility to the public.

Let me go over briefly those areas of contention: First, user fees; second, SEC veto authority; and third, States' regulatory authority.

Why is it user fees are an issue here that must be dealt with while user fees in the other public sectors may be dispensed with? Is there a difference in the public good of a commodity futures market because the market is made by a trader who makes a profit? After all, it is the speculator's willingness to risk his capital that makes the market. Those who want user fees would simply be applying nothing less than a tax on commodity trading. The more one trades, the greater would be the user tax.

SEC veto authority means little now that Chairmen Phil Johnson and John Shad have their agreement. But, it could be significant in the future. Chairman Johnson regulates the futures markets and a futures contract on a stock index is traded on a regulated commodity exchange, and it seems therefore that allowing a contract to be traded should be under the purview of the CFTC. This is another one of those times when the Congress establishes over-regulation for no good reason beyond a jealousy of legislative jurisdiction. Even the economists are not having a turf battle on this issue. Futures on stock indices have not destroyed any other market, much less the securities markets.

Finally, we come to another jurisdictional dispute, this time between State and Federal entities. The States contend they are hindered from prosecuting commodity scams under State laws because the CFTC has exclusive jurisdiction. It is obvious that the CFTC cannot run down every criminal who operates a bucket shop. That is why the CFTC has told the State securities commissioners and State attorneys general it will assist them in every way possible. The CFTC has started an open season on commodity scams.

But to give States authority to regulate exchanges and commodity markets seems to be a situation to be avoided in light of the recent good record established by the CFTC.

This bill, H.R. 5447, is good, responsible legislation, and I would urge the House to adopt it.

Mr. JEFFORDS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I regret the necessity of appearing as an intruder on the arrangement that appears to have been make in this bill.

I do believe that sometimes the public interest requires temerity and intrusion, and I certainly apologize to my friends who see me as "rocking the boat."

There is more area of disagreement here than is apparent from the discussion that has transpired so far. In fact, the administration itself feels that an amendment is necessary to this bill to make it acceptable. I realize we are not bound by what the administration wishes, but I do believe that the amendment which I will offer does deserve at least the consideration of the House and I therefore ask the patience of my colleagues.

□ 1300

The Commodity Futures Trading Commission polices an industry that has tripled in size over the past 5 years, an industry that deals in everything from farm products to international credit. Futures contracts are traded covering such diverse products as pork bellies, wheat, Government debt instruments, bank paper, foreign currencies, energy products, and even stock indexes. This industry has enjoyed enormous prosperity, rising in large part from this diversity.

The role of the CFTC is to assure that the the futures markets are a safe place to do business for the professionals and those who trade on these markets.

In contrast to the growth of the futures industry, the CFTC has relatively been shrinking. Its budget has risen about 4 percent a year, trailing inflation and resulting in a net reduction in true purchasing power for the agency.

The staff level remains about the same as it was about 5 years ago. As the industry has expanded and the CFTC staffing has remained level, the workload has multiplied. The workload includes day-to-day surveillance of every market; protecting market users against fraud and sharp sales practices; licensing tens of thousands of professionals, and scrutinizing every new futures contract; running a customer complaint system, enforcing the Commodity Exchange Act, all on a budget of about $20 million a year.

The amendment that I am proposing, Mr. Chairman, to H.R. 5447, which will place a very modest assessment on these transactions, and, in some small way, will help to relieve the burden on the average taxpayer, who rarely, if ever, uses these markets, is one which I hope will have the consideration of the House. My proposal has ample precedent. It is found in the Securities and Exchange Commission, the Comptroller of the Currency, the Federal Reserve System, and the Federal Home Loan Bank Board, all of which regularly collect substantial portions of their budget from their regulated industries.

My proposal would assess to each futures exchange an amount equal to 6 cents—that is right, 6 cents—for each contract traded by a member of that exchange or of a self-regulatory organization such as the National Futures Association; and 12 cents for each trade made by a person who is not a member of an exchange or a self-regulatory organization. Six cents and twelve cents are amounts so small, less than a postage stamp—a third of a postage stamp—or a candy bar, and are virtually meaningless when measured against the vast amounts of money involved in the commodity futures industry. And yet, a fee of this nature would raise approximately $15 million to $16 million per year, 60 to 75 percent of the budget of the CFTC.

Of course, the primary model for this of transaction-based fee is the securities industry, which has paid such a fee since 1934, and in fact has at the same time supported through similar fees the National Association of Securities Dealers.

The objection that I hear today is that the National Futures Association is to be given a couple of years to come up with some vehicle for self-regulation. Meantime, the taxpayers will pick up the cost of this exchange, and that we should not impose a fee at this time because it might result in duplication if the National Futures Association in fact gets its act off the ground.

Now, this amendment is supported by the Farm Bureau, the Cattlemen's Association, and the Grange, primarily on the basis that the farmers and producers favor a strong CFTC to oversee the operations of the markets and to insure that they remain price neutral.

If I may also anticipate another argument, I would point out that this fee will not in any way inhibit a person from trading in the commodities industry.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. JEFFORDS. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. CONABLE. In order to purchase a futures contract in corn, one must be prepared to deposit $600 margin with a broker. In order to purchase a contract for the future delivery of a 90-day Treasury bill, $2,000 margin is required, and in order to purchase a contract for future delivery of, let us say, 5,000 ounces of silver, a trader must be prepared to deposit margin in the amount of $4,500, unless that margin has been raised recently. Another cost involved would be the fees paid to the broker, which would amount to $25.

In a period of tremendous budget deficits, when we are looking to relieve the Government of financial burdens and taxpayers of financial burdens, it appears very appropriate to me that we should ask a booming, free-market organization to contribute to the public cost of maintaining its operations in a way that preserves public confidence and support. It is reasonable public policy that we should be willing to implement.

Mr. Chairman, I hope my amendment, when presented, will have the earnest consideration of the Members of this body. I acknowledge that the tremendous sums of money involved in the futures industry may be awesome to the Members, but I must say that when viewed in that context, 6 cents or 12 cents a transaction, does not seem like an undue burden for the industry to bear.

Mr. JEFFORDS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Chairman, I rise in support of H.R. 5447, a bill to reauthorize the Commodity Futures Trading Commission and update and improve the Commodity Exchange Act. I want to commend the chairman of the Agriculture Committee, Mr. DE LA GARZA, and the chairman of the Subcommittee on Conservation, Credit, and Rural Development, Mr. JONES of Tennessee, for their leadership in bringing this bill to the floor. As a former member of the Agriculture Committee, I have worked with these gentlemen and other committee members in both 1974 and 1978 on CFTC reauthorization legislation, and I must commend them for their diligent work in formulating a new CFTC legislative package this year.

I also want to commend the distinguished chairman of the Energy and Commerce Committee (Mr. DINGELL), and the distinguished gentleman from Colorado (Mr. WIRTH) for their thorough review and expeditious action on H.R. 5447 after receiving sequential referral of title I and section 237 of the bill for review before the Energy and Commerce Committee.

As we all know, Mr. Chairman, the Commodity Futures Trading Commission has not been without its problems in the past. Since its inception in 1974, the CFTC has faced budget and manpower constraints. Squabbling with the SEC also has diverted resources from the young agency, and major market disturbances have rocked the CFTC's credibility nearly every year of its existence.

In the past, uncertainty within the CFTC has been a major problem for the agency, the futures industry, and the public in general. However, all that appears to have changed under the current CFTC leadership, with several notable accomplishments being

made during the last 12 months. To begin with, the Commission has acted upon 28 new futures contracts. This is more than the total of the previous 5 years combined.

In spite of this pace in contract approval, the Commission has not neglected its duties in protecting the public. Over the last year, the Commission has assessed approximately $2,000,000 in civil penalties against contract markets, professionals, and traders for infractions under the Commodity Exchange Act. This 1-year civil penalty total exceeds the fines levied by the Commission in all of the previous years combined (1975-81). Improvements have been made in other aspects of the Commission's operations as well.

It is apparent that what has been needed at the CFTC is a Commission strong enough to control effectively unsavory activities and confident enough about futures trading to not unduly hamstring its involvement in economic and business activities which will better serve American industry. Despite the initial problems characteristic of a new agency, I believe that these goals are being accomplished at the CFTC under current leadership. H.R. 5447 should help to insure that the CFTC has the regulatory tools to continue to regulate effectively futures trading without restricting the free functioning of the markets.

What H.R. 5447 does is extend for 4 years the operating authority of the Commodity Futures Trading Commission. The bill also contains several amendments to the Commodity Exchange Act which are designed to update and improve CFTC operations without hindering trading on the futures markets.

I believe my colleagues have already explained most of these amendments, so I will not review them in detail at this time. However, I would like to discuss an amendment which will be offered to this legislation later today.

As you know, Mr. Chairman, H.R. 5447 was sequentially referred to the Energy and Commerce Committee for consideration of title I and section 237 after its passage by the House Agriculture Committee. Title I of H.R. 5447 deals with the Commodity Futures Trading Commission and Securities and Exchange Commission agreement on agency jurisdiction as it relates to the Commodity Exchange Act. The SEC portion of the joint agency agreement is contained in H.R. 6156, a bill which amends the Securities Exchange Act, while section 237 of H.R. 5447 is a provision to provide for a special study of the futures industry.

During consideration of H.R. 5447 by the Energy and Commerce Committee, an amendment was adopted which would alter the terms of the CFTC/SEC jurisdictional agreement. As passed by the committee, this amendment would give the Securities and Exchange Commission concurrent review and veto authority over any stock index futures contract considered by the CFTC. This provision will be offered as an amendment to H.R. 5447 today.

This amendment has been a matter of great controversy. It was my intention to oppose the adoption of this amendment today.

However, so as to avoid further differences between the Agriculture Committee and the Commerce Committee I have elected to not oppose the amendment. For doing so I am afraid, might result in the reauthorization bill not becoming law before the end of this session.

I understand that an agreement has been reached on this amendment between Messrs. DE LA GARZA and DINGELL. I hope that the committee will support that agreement so that we can move ahead with this important bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas (Mr. GLICKMAN).

□ 1310

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill.

This is a very important piece of economic legislation inasmuch as it regulates the area of futures. Historically, futures have related to agricultural commodities—wheat, corn, pork bellies, cattle—but since 1978, when this agency was last authorized, trading volume has increased dramatically to about 100 million contracts traded last year, and no longer do agricultural commodities dominate the futures market.

Now a person is more likely to trade a futures contract on Treasury bills, Ginnie Maes, or stock indices than on pork bellies, oats, or cotton.

In short, it is a new world in the futures business—a new world that has left many in the public confused about the meaning of these developments. They are not sure that all this makes sense.

Without improvements like those included in this bill, investors in the futures market will face potentially greater and greater uncertainty. Likewise, excessive and unreasonable speculative activity without adequate control will disrupt the orderly operation of the market, which will erode public confidence in the futures market.

Now, I am not going to address all the provisions of this bill, Mr. Chairman, but I would like to address a few that were adopted in the committee. To insure the continued viability of the markets and the agency responsible for regulating them, a number of amendments were offered to strenghten the CFTC's authorities.

No. 1, under present law the CFTC's speculative limit setting authority is limited to prospective action. Thus, if the Committee sees that an individual has a speculative limit which is over what they think it ought to be, it cannot reduce that retroactively. Under this bill, with the clarification of its emergency powers, the Commission could move in and remove unhealthy dominance in the market. That could have prevented the Hunts' silver bubble from ever forming before it burst.

No. 2, better consumer protection should be available to investors in the futures markets. With the advent of contracts like those on stock index futures, a different type of investor is likely to enter the market. Those who are used to playing the stock market, for example, might very well move into the futures market either to protect the value of their stocks or simply as a better way to play the market. As the participants diversify, the need for strong consumer protection grows. That is why the committee mandated the establishment of a National Futures Association and also mandated that it fulfill a broad assortment of tasks, far greater, I might add to my colleague, the gentleman from New York (Mr. CONABLE), than is required under the National Association of Securities Dealers, because this committee felt the responsibilities were necessary in order to properly regulate the market.

Another critical customer protection that should be available to commodities investors is the right to sue. Would you believe that under current law, as it was interpreted until the Supreme Court rendered its decision last year, there was really no right to sue anybody under the Commodity Exchange Act?

While the Supreme Court opened the door for private rights of action where the customer could sue his broker if he defrauded him, it made requirements so nonspecific and inarticulate that actually the courts will probably be in the midst of this for several years in deciding what are the limits or what are the rights on this whole issue of litigation under the act.

Therefore, the bill we have proposed will allow commodity investors who suffer actual damages the right to sue both brokers and the exchanges. An individual could sue the Chicago Board of Trade or the Chicago Mercantile Exchange if he suffered actual damages as a result of violations of the Commodity Exchange Act.

I will be offering an amendment to strengthen this provision, actually to clean it up and strengthen it. That amendment, I think, will be accepted.

Fourth, we desperately need to have a better base of information relating to the impact of this enormous new futures industry and the burgeoning nature of it on the economy in general. We do not really know what the

effect of the changing futures market is on capital formation. So we have authorized a special study of the futures industry modeled on the renowned study of the securities markets conducted by the SEC during the 1960's as a way to give us the basic information.

This is a good bill. It is a strong consumer protection bill that the Agriculture Committee provided in order to insure that farmers, ranchers, silver dealers, and anybody else in this country who has an interest in the price of commodities can have confidence in and know that their Government is in fact adequately regulating this industry.

Mr. Chairman, I urge my colleagues to support the bill.

● Mr. DINGELL. Mr. Chairman, on February 19, 1982, we wrote to the Speaker requesting sequential referral of those sections of H.R. 5447 which would amend the Commodity Exchange Act concerning the jurisdiction, rights, duties, and obligations of the Securities and Exchange Commission (SEC) as well as trading in securities (including options to buy and sell securities) on securities exchanges and in the over-the-counter market. That request was supported by the chairman of the Commerce, Consumer and Monetary Affairs Subcommittee of the Committee on Government Operations as a result of concerns highlighted in that subcommittee's oversight hearings on the operation of the CFTC and on the 1980 silver futures crisis.

Our committee's interest in H.R. 5447 was primarily limited to provisions relating to futures contracts on stock indexes and stock groups; that is, to futures on underlying instruments that clearly fall within the purview of this committee. Our committee's concerns regarding such futures contracts also relate to matters that have traditionally fallen within our legislative and oversight responsibilities. These concerns include: First the extent to which futures or stock indexes and stock groups may divert funds from the primary and secondary securities markets and the impact of any such diversion on the capital formation process; second the extent to which futures on stock indexes and stock groups may be utilized to manipulate the markets for the underlying securities; and third, the effect futures may have on the price volatility of equity securities and the costs of equity financing. Numerous other aspects of the SEC/CFTC jurisditional accord also are dealt with in H.R. 5447. This committee had no wish to review issues it felt were properly left the Agriculture Committee resolution.

Events of the past few years suggest that trading in financial futures is expanding far too rapidly. Since becoming an independent agency. The CFTC has approved over 50 new contracts, most of which are "interest rate" futures. Only a half dozen have been for agricultural products. In the past 12 months the CFTC has approved over 30 new futures contracts, more than the total of the previous 5 years combined. Now, the activity in nonagricultural futures is greater than that of the traditional agricultural contracts.

On July 13, 1982, the Senate Permanent Subcommittee on Investigations issued a report, entitled "Commodity Investment Fraud," which summarized an 8-month investigation of thousands of law enforcement and CFTC files, interviews of more than 200 commodity fraud victims, commodity sales operators, law enforcement officials at the Federal, State, and local levels and perpetrators of commodity fraud schemes. The conclusions of that report have been summarized:

SUMMARY

First. The subcommittee found, during the initial 8 months of its investigation, that thousands of persons nationwide have been victimized by fraudulent commodity sales operations.

Second. In the past 5 years these commodity schemes have defrauded the American public of over $1 billion. The operators of these scams are drawn to the business by large profits and the slight chance of criminal prosecution.

Third. Frequently the perpetrators are registered with the CFTC, acquiring a credibility with potential investors which they could not otherwise obtain. The registration unit of the CFTC is understaffed and is unable effectively to screen every person who is not suitable for trading. Similarly outgunned, the enforcement division has had considerable trouble just dealing with major crises.

Fourth. The CFTC has been unable to stem the recent tide of commodity frauds, yet it systematically authorizes new areas of trading which may be subject to ever-increasing fraud. Commodity options, banned in 1978 because of their susceptability to fraud, are being reintroduced into the markets. New and exotic contracts, such as stock index futures, have been approved for trade. Leverage contracts, still under the exclusive jurisdiction of the CFTC, remain free of regulation.

In its 352-page July 15, 1982, report, "Commodity Futures Regulation—Current Status and Unresolved Problems," the GAO noted a number of deficiencies in the CFTC's contract approval and review process, market surveillance, registration programs, rule enforcement review program and exchange self-regulation.

The CFTC recently approved several contracts under an option pilot program. A confidential memorandum from the director of the division of enforcement to the CFTC recommended that the options pilot program not go forward:

Any lifting of the options ban will most likely increase the activity of persons selling illegal options and thus the burden on the Commission's enforcement program. The Division anticipates that the options pilot program will serve as both a guise and an advertising ploy for unscrupulous operators who are in fact selling illegal options. Particularly in those areas of the country where off-exchange instrument sales have been so troublesome, unscrupulous operators will misrepresent the nature of the commission's program and seek to foist their unlawful instruments upon the unsuspecting public as "exchange-traded options". . . . Where, as here, self-regulatory controls are deficient, it is not unreasonable to expect that public customers and the integrity of the marketplace will suffer from the resulting abuses and, consequently, a large, and perhaps overwhelming, enforcement burden will fall upon this Commission.

Against this backdrop, the Committee on Energy and Commerce considered the bill, H.R. 5447, and adopted two amendments. I urge support for both amendments. One relates to the approval process for stock index futures; the other amplifies the special study of the futures market developed by the Committee on Agriculture. The amendments are discussed in our report on H.R. 5447, and in the statement by Congressman WIRTH, whose subcommittee developed the amendments.

AMENDMENT TO TITLE I SECTION 101

One change made by the Commerce Committee relates to the approval process for stock index futures. We have not given the SEC a veto over the CFTC nor have we changed jurisdiction over stock index futures. That jurisdiction remains with the CFTC, as provided in the accord between the agencies.

Sections 5, 5a, and 6 of the Commodity Exchange Act list certain conditions and requirements that must be met for an exchange to be initially designated as a contract market by the CFTC. under the original language of section 101 of H.R. 5447, where the contract designation is for future delivery of a group or index of securities, the CFTC must also expressly find that the application meets three minimum requirements set out in the bill:

First. Settlement of the contract will be in cash or by means other than transfer of a security.

Second. Trading in the contract will not be readily susceptible to manipulation of either the contract price or the price of any underlying security.

Third. The group or index of securities—

Is predominantly composed of unaffiliated issuers: and

Is a widely published measure of and indeed reflects the market for all publicly traded equity or debt securities or a substantial segment of the same.

If the SEC has evidence that a minimum requirement is not met, it may object in hearing held after the public comment period. If the CFTC approves the contract designation anyway, the SEC may sue the CFTC in Federal court.

Many Members were unhappy with the original provisions in the bill relating to stock index futures. It is bad public policy to provide for one Federal agency to sue another. It is also a direct incursion into the historical jurisdiction of the SEC to provide for the CFTC to make findings regarding the securities markets and manipulation in those markets. It is no secret that, for many of the reasons I have already discussed, I wanted to ban stock index futures entirely. Others believed that the SEC was probably the agency best suited to regulate any derivative instruments based on securities. After considerable discussion, it was decided that the study in title II of the bill would give us an opportunity to act on the basis of more information. We must, however, insure that the regulatory scheme we develop will protect the integrity of the markets in the meantime.

Therefore, while we did not change the jurisdictional scheme agreed to by the agencies, or the standards for approving stock index futures, we did make a change in the procedures for determining whether a stock index futures contract met the standards in the accord. The most important standard was a finding that trading in the futures contract would not have a manipulative impact on the underlying securities markets. We believe the SEC, which has been regulating the securities markets for almost 50 years, should make this determination and should not be forced to sue the CFTC in Federal court in the event of disagreement.

The amendment has been inaccurately described by the CFTC and the Agriculture Committee as the SEC veto amendment. The SEC might find that a contract meets the threshold requirements, and the CFTC might disapprove the contract. In that situation, one might characterize the CFTC's actions as a veto. I should stress that we view this provision for concurrent decisionmaking as critical, given the uncertainty surrounding these new instruments and the potential for abuses. Congress in other cases has entrusted Federal agencies and departments with concurrent decisionmaking authority in specialized, complex situations. We believe this situation merits that kind of careful review.

AMENDMENT TO TITLE II, SECTION 237

The amendment would place the Federal Reserve Board in the lead of the special study. When a special study was done of the securities options market in the midseventies, the SEC was permitted to conduct the study. Some have suggested that the CFTC should therefore be the appropriate agency to lead the study of the futures market. There are several important distinctions.

The options special study was not mandated by the Congress, but was ordered by the SEC itself, which imposed a moratorium on the approval of all new options contracts during the time the study was being conducted.

Further, the options study did not review the complex capital formation issues which are critical to the futures study. The Federal Reserve Board is better suited to look at these macroeconomic issues. Moreover, the study will look at related instruments, such as options, which are regulated by the SEC. It is important that the impact of all of these derivative instruments on capital formation be carefully reviewed, and it is important that an independent entity perform this task.

Margin and credit allocations issues are a part of this study. Clearly the Federal Reserve Board is the agency with a history of studying and regulating in this area.

The study will also look at issues of regulatory disparities and how the differing regulatory schemes of the SEC and CFTC over similar instruments may affect competition and the flow of investment funds. The Federal Reserve Board has indicated that it has already begun thinking about these issues. It certainly makes sense to have an independent body look at this issue, instead of either of the two agencies involved, in order to preserve the integrity of the conclusions and recommendations.

We would expect that the CFTC would gather the data in the area of futures trading activities, with the SEC providing information in the areas most within its expertise. The committee strongly believes that if the study is to be highly credible and constitute a basis for additional work by the Congress, its independence must be insured. I believe Members will agree, and I hope they will support the Commerce Committee amendments to this important and constructive study.●

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Energy and Commerce Committee's interests in this bill deal primarily with those portions dealing with securities and the jurisdiction of the SEC over the securities markets. I will discuss that in greater detail when we consider the Energy and Commerce Committee amendments to H.R. 5447, but I think it would be useful to explain the committee's interests generally at this point.

As you know, the Federal securities laws were passed in the wake of the stock market crash of 1929. It was generally believed that one of the reasons for the upheaval in the Nation's financial markets was highly leveraged speculation in the markets. The securities laws were aimed at protecting public investors, assuring market integrity and, most important, restoring investor confidence in order to attract needed funds back into the U.S. capital markets. These goals were, and remain, of paramount concern to the Commerce Committee and to the Congress. We created the Securities and Exchange Commission to oversee the securities markets and to carry out those goals. The SEC had been regulating the securities markets for almost 50 years.

When we reviewed the proposed jurisdictional amendments, we were very troubled by the proposal for futures contracts on securities to be traded on commodity exchanges under the jurisdiction of the CFTC. This unusual provision prompted a referral request from the Commerce Committee for H.R. 5447.

I should point out that the securities and options exchanges have no instrument, from a jurisdictional standpoint, that compares to stock index futures traded on commodity exchanges. An example of an instrument that might be comparable would be SEC-regulated options on pork bellies, sold on securities exchanges. To permit futures on stock indexes to be traded on commodities exchanges did not seem in keeping with the public policy requiring that the SEC oversee the securities markets as a whole, to assure that those markets fulfill their mission in the capital formation process and to see that they are fair and orderly and not susceptible to manipulation.

Therefore, a number of members of the Commerce Committee objected to the stock index futures provision in H.R. 5447. Some wanted to ban stock index futures entirely. Instead, we made a very minor change which we believed would preserve the SEC's historical interest in regulating the securities markets and yet make the least change to the jurisdictional accord worked out between the agencies.

In addition, we made minor amendments to the provision of the bill relating to the special study of the futures market. I believe the special study developed by Mr. GLICKMAN is extremely important. We have very little information about the futures markets at this point. I must say that the willingness of the Commerce Committee to go along with the provision permitting commodities exchanges to trade futures on securities indexes is in large part due to the fine work of the Committee on Agriculture, first, in creating the special study that we believe is so very important and, second, in creating the pilot program for stock index futures.

At this point, Mr. Chairman, I yield to the distinguished chairman of the full Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentleman's yielding.

In my original statement I have given my interpretation of the area of stock indexes contracts, and I would appreciate it very much if the distinguished chairman of the subcommittee, the gentleman from Colorado (Mr. WIRTH) would give us the benefit of his perusal of the situation and the committee's intent in order that we might coordinate that with our intent so that there be no question as to what the intention of the legislation is in regard to this area.

Mr. WIRTH. Mr. Chairman, I am happy to do so on behalf of the subcommittee and on behalf of the full committee and its chairman, the gentleman from Michigan (Mr. DINGELL).

This provision in H.R. 5447 was added by the Commerce Committee to deal with a very specialized situation.

It is not an absolute "veto" of CFTC-approved stock index futures, as some have characterized the provision.

The amendment only states that the SEC has equal authority with the CFTC to make a finding that futures contracts based on stock groups or indexes meet certain criteria.

Those criteria are set forth in the bill reported by the Committee on Agriculture, and the Commerce Committee did not change them:

First, the futures trading cannot manipulate the underlying securities and vice-versa.

Second, the securites index must be broad-based.

Third, the contract must be settled in cash, rather than by delivery of the underlying securities.

The SEC makes no determination of other factors traditionally within the purview of the CFTC.

I want to stress that we in no way intend to have the SEC involved in any way in the regulation of futures based on commodities or on any other nonstock instruments.

This is not intended to hamper the CFTC's independence nor is it intended to be a precedent for any intrusions by the SEC into the regulation of instruments traditionally regulated by the CFTC.

□ 1320

I hope that outline of our amendment is helpful. We accepted the basic criteria outlined by the Committee on Agriculture, with the understanding that any instrument based on a stock, whether it is an option or a future or whatever it might be, is and should be within the jurisdiction of the SEC. The Committee on Energy and Commerce is concerned with looking at the integrity of the securities market only.

I hope that again further clarifies the intent of the Committee on Energy and Commerce.

On behalf of the full committee I once again want to thank the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, and his colleagues and staff for their help in working out what could be a very uncertain situation. I think they have done that well.

Mr. DE LA GARZA. If the gentleman would yield on that, I thank the gentleman and we accept as the legislative history of this area of the legislation the account which the gentleman has given us as to his understanding of the intent of the legislation.

Mr. WIRTH. I thank the distinguished chairman.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I am happy to yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I thank the gentleman. During the consideration of this bill by the Energy and Commerce Committee it was brought to my attention that section 101 of the bill as reported by the Committee on Agriculture may inadvertently ban in the United States transactions in futures contracts on securities issued by foreign governments.

One contract that would apparently be barred by this provision is a contract known as the "long gilt", which is based upon long-term United Kingdom Government debt obligations. The debt securities on which this contract is based are the United Kingdom's equivalent of U.S. Treasury bonds. My understanding is that neither the CFTC nor the SEC intended to bar transactions in contracts for future delivery of these securities in the United States in reaching the Johnson-Shad accord, of which section 101 is a part.

I would like to ask my colleague whether my understanding is correct and whether he believes that an amendment is necessary to solve this problem.

Mr. WIRTH. The gentleman from Oklahoma is correct in his understanding of the impact of section 101 of the bill on contracts for future delivery of securities. The gentleman is also correct that, according to Chairman Shad of the SEC and Chairman Johnson of the CFTC, neither the SEC nor the CFTC intended to ban transactions in foreign futures contracts on the long gilt bond when the two agencies concluded their jurisdictional accord.

I do not believe that an amendment to section 101 of H.R. 5447 is necessary to remedy this problem. By its terms, section 101 exempts from the prohibition futures contracts based on securities that are "exempted securities" under the Securities Act of 1933 or the Securities Exchange Act of 1934. Thus, if the SEC were to deem the gilt-edged securities on which the long gilt contract is based exempted securities, for the purpose of transactions in foreign futures contracts based on the long gilt, such transactions would be permitted in the United States because they would be excepted from the ban on the sale of futures on securities in section 101. I understand from the SEC that it intends promptly to take the necessary administrative action to accomplish this result so long as actual trading of the underlying gilt-edged securities does not occur in this country. The SEC may also in the future wish to take administrative action for the purpose of permitting transactions in foreign futures contracts on other securities issued by foreign governments. This legislation leaves the SEC free to do so.

Mr. DASCHLE. I appreciate the efforts of the gentleman from Colorado to insure a prompt and fair solution of this problem.

The CHAIRMAN. The gentleman from Colorado (Mr. WIRTH) has consumed 8 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5447, the Futures Trading Act of 1982.

I am pleased that the Speaker of the House recognized the jurisdiction of the Energy and Commerce Committee over certain provisions of this bill, and I want to thank our chairman, the gentleman from Michigan, and the chairman of the subcommittee, the gentleman from Colorado (Mr. WIRTH), for their strong efforts to ensure that the committee's jurisdiction was recognized.

At the appropriate time, the amendments adopted by the Energy and Commerce Committee will be offered and I hope they will be accepted by the Agriculture Committee and by the House.

I would like to emphasize that the only interest of the Energy and Commerce Committee in this bill is in the provisions which affect the jurisdiction of the Securities and Exchange Commission and the orderly operation of the securities markets.

I urge the passage of H.R. 5447.

Mr. Chairman, I yield back the balance of my time.

Mr. WIRTH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now

printed in the reported bill will be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I.

Title I reads as follows:

H.R. 5447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Futures Trading Act of 1982".

TITLE I—JURISDICTION

OPTIONS; FUTURES CONTRACTS

SEC. 101. (a) Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2) is amended by—

(1) redesignating paragraph (1) as paragraph (1)(A);

(2) inserting in the third sentence of paragraph (1)(A), as so redesignated ", except to the extent otherwise provided in subparagraph (B) of this paragraph," after "exclusive jurisdiction";

(3) adding a new subparagraph (B) to read as follows:

"(B) Notwithstanding any other provision of law—

"(i) This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call, or other option on one or more securities (as defined in section 2(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982, including any group or index of such securities, or any interest therein or based on the value thereof.

"(ii) This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty') and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof): *Provided, however,* That no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:

"(a) Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security, as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982);

"(b) Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities; and

"(c) Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.

"(iii) Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in clause (ii) hereof, and shall consult with the Securities and Exchange Commission with respect to such designation. If, within fifteen days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of clause (ii) hereof is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than thirty nor more than forty-five days after the close of the public comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. In the event that such an oral hearing is held and the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of section 6(b) of this Act. In the event that, pursuant to section 6 of this Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.

"(iv) No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act of 1933 or section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in section 3(a)(29) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982); or except as provided in clause (ii) hereof, any group or index of such securities or any interest therein or based on the value thereof.".

OPTIONS ON FOREIGN CURRENCIES

SEC. 102. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by adding a new subsection (f) to read as follows:

"(f) Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.".

COMMODITY POOLS

SEC. 103. Section 4m of the Commodity Exchange Act (7 U.S.C. 6m) is amended by—

(1) designating the text of existing section 4m as subsection (1) of such section; and

(2) adding a new subsection (2) to read as follows:

"(2) Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase, or sale of securities of a commodity pool, or of persons engaged in transactions with respect to such securities, or reporting by a commodity pool.".

SHARING INFORMATION WITH CONTRACT MARKETS AND OTHER SELF-REGULATORY ORGANIZATIONS

SEC. 104. Section 8a(6) of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) inserting "registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934," before "notwithstanding"; and

(2) striking out "and consumers" and inserting in lieu thereof a comma and immediately thereafter "consumers or investors, or which is necessary or appropriate to effectuate the purposes of this Act: *Provided, however,* That any information furnished by the Commission under this subsection shall not be disclosed by such contract market, registered futures association, or self-regulatory organization except in any self-regulatory action or proceeding".

ENERGY AND COMMERCE COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: page 5, strike lines 15 through 25; page 6, strike lines 1 through 23 and insert in lieu thereof: hereof, and shall transmit a copy of such application to the Securities and Exchange Commission for review in accordance with clause (iv) hereof.

"(iv) The Commission shall not approve any application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery of a group or index of securities if the Securities and Exchange Commission determines that such contract (or option on such contract) fails to meet the minimum requirements set forth in clause (ii) hereof. Such determination shall be made by rule or order within 45 days after the close of the comment period under clause (iii) hereof unless the Securities and Exchange Commission, with the consent of the board of trade involved and on the basis of a published statement of the reasons therefore, extends such 45 days to not more than 90 days. A person aggrieved by any such rule or order of the Securities and Exchange Commission may obtain judicial review thereof in the same manner as is provided in section 25 of the Securities Exchange Act of 1934.

Mr. WIRTH (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. WIRTH. Mr. Chairman, I stand in support of the amendment of the Committee on Energy and Commerce to title I of H.R. 5447. This amendment would give the CFTC and the SEC concurrent jurisdiction over the approval of stock index futures contracts. Once stock index futures are approved for trading, the CFTC would regulate them in the manner it regulates all futures trading. I want to stress that it is a very minor change to the jurisdictional amendments proposed by the SEC and CFTC, but it is one that is very important to the Commerce Committee.

Provisions under title I of H.R. 5447, as reported by the Committee on Agriculture, permit the CFTC to approve stock index futures. The legislation recognized the SEC's critical role in the securities markets by providing that the CFTC must "consult" with the SEC before approving a contract. If the SEC objects to a contract, then the CFTC must afford the SEC a hearing. The CFTC could still approve the contract over the SEC's objection however, and the SEC's only recourse would be to sue the CFTC in Federal court. This procedure, in our view, was not appropriate.

The Energy and Commerce Committee amendment would provide the CFTC and the SEC with equal authority in making the determination that certain threshold requirements are met before a stock index futures contract begins trading. The legislation passed by the Committee on Agriculture sets out those threshold requirements, and I want to stress that our amendment did not alter those requirements. For example, a finding must be made that the futures trading would not be "susceptible to manipulating" the underlying securities. Surely the SEC is well equipped to make that determination.

Some have described the Commerce Committee amendment as the SEC "veto" amendment. This is incorrect. The SEC might find that a contract meets the threshold requirements, and the CFTC might disapprove the contract. In that situation, the CFTC's action would be a "veto."

Optional: As we noted on pages 19–20 of the committee's report on H.R. 5441, Congress in other cases has entrusted Federal agencies and departments with concurrent decisionmaking authority in a specialized complex situation. We believe this situation merits that kind of review, in view of the uncertainty surrounding these new instruments and the potential for abuses.

If the SEC is to carry out its statutory mandate to regulate the securities markets as a whole, it must be involved in the approval process for futures or any other instrument based on securities and which could potentially impact on trading in the securities markets as a whole.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Energy and Commerce Committee amendments to H.R. 5447, the Futures Trading Act of 1982.

Title I of this bill contains that part of the jurisdictional accord between the Securities and Exchange Commission and the Commodity Futures Trading Commission which amends the Commodity Exchange Act. It sets forth the CFTC's jurisdiction over all futures contracts, including exempt securities and stock indexes; options on futures contracts; and foreign currency traded on boards of trade.

The legislation establishes certain criteria for approval of contracts in stock index futures. First, settlement must be in cash. Second, the contract must not be readily susceptible to manipulation. Third, the stock group or index must be predominantly composed of securities of unaffiliated issuers and must be a widely published measure of the market.

The bill also provides a procedure for SEC participation in CFTC consideration and approval of contracts in stock index futures. As reported by the Agriculture Committee, the bill provides that the CFTC must consult with the SEC about the approval of contracts for stock index futures. If the SEC objects to approval of such a contract, the CFTC must provide an opportunity for an oral hearing. If the CFTC approves a contract over SEC objections, the SEC has the right of judicial review.

The Energy and Commerce Committee adopted an amendment revising this procedure to give the SEC an equal voice with the CFTC in the approval of stock index futures contracts. However, the SEC is required to act within 45 days after the close of the public comment period.

The Energy and Commerce Committee felt that the SEC should play a larger role in the approval of stock index futures than that provided in the Agriculture Committee bill. These instruments are securities derivatives which are more likely to be purchased by those investing in the securities markets than are other types of financial futures.

I urge the adoption of the Energy and Commerce Committee's amendment to title I of H.R. 5447.

Mr. JEFFORDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado (Mr. WIRTH). I understand the gentleman's concern, and must commend him for his hard work on this important issue. Nevertheless, I do not believe it would be prudent policy to adopt this amendment now before us.

Mr. Chairman, this amendment is identical in purpose to an amendment the gentleman offered during consideration of H.R. 5447 before the Subcommittee on Telecommunications, Consumer Protection, and Finance of the Energy and Commerce Committee. What it does is to alter the terms of the original Securities and Exchange Commission and Commodity Futures Trading Commission jurisdictional agreement which is contained in title I of H.R. 5447 as it pertains to agency jurisdiction over stock index futures contract proposals. Under the current terms of title I of H.R. 5447, and as originally agreed to by the SEC and the CFTC, the SEC would be consulted on any stock index futures contract considered by the CFTC. If the SEC objects to designation, H.R. 5447 provides for an SEC oral hearing before the CFTC, and upon CFTC designation over SEC objection, the SEC would have the right to seek judicial review. The amendment before us, which was approved by the full Energy and Commerce Committee, would give the SEC concurrent review and veto authority over any stock index futures contract considered by the CFTC.

I am opposed to the amendment offered by the gentleman from Colorado for several reasons. To begin with, the amendment would give one independent Federal agency veto power over the duties and functions of another independent Federal agency. This would serve to reestablish the competitive and conflicting jurisdictional relationship between the CFTC and the SEC which the original agreement between the two agencies attempted to resolve. Thus, adoption of this amendment could hinder the effective operations of the two agencies while constricting the futures and securities markets.

The amendment also would establish a dangerous precedent by undercutting CFTC authority as the Federal agency charged with the responsibility of regulating all futures trading. There is no greater rationale for giving the SEC veto authority over futures contracts on stock indexes than there is for giving the USDA veto authority over all agricultural futures, the Department of Interior veto authority over gold, silver, and other precious metals futures, or the Department of Energy veto authority over energy futures. I believe the CFTC has developed into a capable regulatory agency, and should not have its

authority to function effectively undercut by this amendment.

Mr. Chairman, I would like to point out that there is no evident need for this amendment at this time. Both agencies worked long and hard to negotiate a clearly delineated jurisdictional scheme which would provide effective regulatory overview without adversely affecting the securities and futures markets. During the course of the joint agency negotiations, a proposal similar to this amendment was considered and ultimately rejected by the CFTC and the SEC as an unnecessary and unworkable jurisdictional arrangement. Both agencies view as satisfactory the terms of the original SEC-CFTC agreement as contained in title I. The futures industry and securities industry also support the terms of the original accord, which has been reviewed and approved intact by the House Agriculture Committee and two committees of the other body. In fact, the only known support for this amendment has come from the Energy and Commerce Committee.

Mr. Chairman, the administration strongly supports the terms of the original SEC-CFTC agreement and opposes adoption of this amendment before us. Phil Johnson, Chairman of the CFTC, and John Shad, Chairman of the SEC, both have stated in correspondence that their respective agencies support the terms of the original accord and oppose adoption of this amendment. Robert Mehle, Assistant Secretary of Treasury, also has stated in correspondence to me that the original CFTC/SEC agreement has been discussed and approved at the Cabinet level, and that the administration supports the original agreement and opposes the Wirth amendment. Furthermore, as SEC Chairman Shad points out in his letter, any problems or questions concerning the respective regulatory roles of the SEC and the CFTC could be addressed in the "special study" of the futures industry and the 2-year pilot program on stock index futures contracts required by Section 237 of H.R. 5447.

Finally, Mr. Chairman, I also would like to note that it simply is not necessary to have the SEC concurrently review stock index futures contracts after CFTC action on such proposals. The CFTC has a rigorous approval process that all contract proposals must pass before being allowed to be traded on an exchange. Furthermore, the stock index futures proposals have received the most intense scrutiny and review of any proposed trading instrument ever considered by the Commission. The first such contract approved, the Kansas City Value Line Index, came before the CFTC in 1978, yet was not approved for trading until 1982.

In view of these circumstances, I urge my colleagues to vote against adoption of the amendment offered by the gentleman from Colorado.

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Mr. CONABLE. Mr. Chairman, I rise in opposition to the amendment. I do so only for the purpose of asking the distinguished gentleman from Vermont if the acceptance of this amendment gives additional jurisdiction to the Commerce Committee?

Mr. JEFFORDS. Yes, it does, in that sense. Certainly the SEC. But it also, by virtue of that, in my estimation, extends jurisdiction over, to a certain extent, to the CFTC.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Colorado.

Mr. WIRTH. That is a matter of interpretation, and the Commerce Committee would disagree.

The basis for what is being discussed here, the stock index future contracts, is that that is a stock, that is a security, and not a commodity. Going directly to the gentleman's question. "Is this additional jurisdiction?" The answer is "no," the SEC has always had jurisdiction over stocks, and that is what we are concerned about; whether that is a stock index future or whatever it may be, it is fundamentally a security, and that that should continue to fall under the jurisdiction of the Securities and Exchange Commission.

Mr. CONABLE. May I ask the gentleman, then, what may be a totally ingenuous question, I do not know. Does this have anything to do with the amendment that I am going to offer later?

Mr. WIRTH. No; it does not. It is not related to the gentleman's amendment whatsoever.

Mr. CONABLE. Therefore, the members of the Commerce Committee will be totally dispassionate about my amendment?

Mr. WIRTH. If the gentleman will yield, we were hoping to dispense with the two amendments offered by the Commerce Committee at very high speed, and then the members of the Commerce Committee could get off the stage and leave it to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for his great consideration, and I am certain this amendment has nothing to do with my amendment.

Mr. WIRTH. It has nothing to do with the gentleman's amendment.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I can assure the gentleman from New York that I have wrestled with the gentleman from Colorado (Mr. WIRTH) on this issue for several months now on this amendment. I am not particularly in favor of it, but I am not going to object to it now, because I think it leaves us some unanswered questions that need to be resolved perhaps in conference, but, for the most part, I think that the intent of the gentleman is to give that SEC jurisdiction over its issues and not take futures jurisdiction away from the Commodity Futures Trading Commission.

Mr. CONABLE. If I may reclaim my time, the gentleman assures me that his failure to oppose this in fact has nothing to do with the timing of the offering of my amendment, or anything else?

Mr. GLICKMAN. That is correct. Never.

Mr. WIRTH. Far be it for us to interfere or intervene in any way, shape, or form with the amendment being offered by the gentleman from New York.

Mr. CONABLE. I am grateful to the gentleman from Colorado, who exhibits his usual statesmanship.

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment.

The question was taken; and on a division (demanded by Mr. WIRTH) there were—ayes 7, noes 5.

So the Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the second Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 3, redesignate clause (iv) as clause (v).

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment.

The Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. Are there other amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—MISCELLANEOUS AMENDMENTS TO THE COMMODITY EXCHANGE ACT

DEFINITION OF COMMODITY TRADING ADVISOR; TECHNICAL AMENDMENT

SEC. 201. Section 2(a) of the Commodity Exchange Act is amended by—

(1) inserting in paragraph (1)(A) (7 U.S.C. 2), as redesignated, immediately after the sentence defining the term "futures commission merchant" a new sentence to read as follows: "The term 'introducing broker' shall mean any person, except any individual who elects to be and is registered as an associated person of a futures commission merchant, engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.";

(2) amending the definition of the term "commodity trading advisor" in paragraph (1)(A), as redesignated, to read as follows: "The term 'commodity trading advisor' shall mean any person who, for compensation or

profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract for future delivery of a commodity made or to be made on or subject to the rules of a contract market, any commodity option authorized under section 4c, or any leverage transaction authorized under section 19, of this Act, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the fiduciary of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, (vi) any contract market, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: *Provided further*, That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.";

(3)(A) redesignating paragraph (7)(A) (7 U.S.C. 4a(f)(1)) as paragraph (7); and

(B) striking out existing paragraphs (7)(B) (7 U.S.C. 4a(f)(2)).

LEGISLATIVE FINDINGS

SEC. 202. Section 3 of the Commodity Exchange Act (7 U.S.C. 5) is amended to read as follows:

"SEC. 3. Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as 'futures' or 'options' are affected with a national public interest. Such futures transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce. The prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce. Such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price. The transactions and prices of commodities on such boards of trade are susceptible to excessive speculation and can be manipulated, controlled, cornered or squeezed, to the detriment of the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, rendering regulation imperative for the protection of such commerce and the national public interest therein.".

UNLAWFUL FUTURES TRADING; FOREIGN FUTURES

SEC. 203. Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended to read as follows:

"SEC. 4. (a) It shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States or its territories or possessions for the purpose of soliciting or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange or market located outside the United States, its territories or possessions) unless: (1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity, (2) such contract is executed or consummated by or through a member of such contract market, and (3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: *Provided*, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commission or the United States Department of Justice.

"(b) The Commission may adopt rules and regulations proscribing fraud and requiring minimum financial standards, the disclosure of risk and reporting requirements, the keeping of books and records, the safeguarding of customer funds, and registration with the Commission by any person located in the United States, its territories, or possessions who engages in the offer and sale of any contract of sale of a commodity for future delivery which is made or to be made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions. Such rules and regulations may impose different requirements for such persons depending upon the particular foreign board of trade or market on which such contracts are made. No rule or regulation shall be adopted by the Commission under this subsection that (1) governs in any way any rule or contract term or action of any foreign board of trade, exchange, or market, or clearinghouse for such market; or (2) requires Commission approval of any contract, rule, regulation, or action of any such market or its clearinghouse.".

SPECULATIVE LIMITS

SEC. 204. Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by—

(1) adding in the fourth sentence of subsection (1) after "delivery months," the words "or for different number of days remaining until the last day of trading in a contract,";

(2) striking out in subsection (2) "order's promulgation" and inserting in lieu thereof "promulgation of the rule, regulation, or order";

(3) adding "rule, regulation, or" before "order" wherever it occurs in such section;

(4) amending subsection (3) to read as follows:

"(3) No rule, regulation, or order issued under subsection (1) of this section shall apply to transactions or positions which are shown to be bona fide hedging transactions or positions as such terms shall be defined by the Commission by rule, regulation, or order consistent with the purposes of this Act: *Provided*, That such terms shall permit producers, purchasers, sellers, middlemen, and users of a commodity or a product derived therefrom to hedge their legitimate anticipated business needs for that period of time into the future for which an appropriate futures contract is open and available on an exchange. For the purpose of determining the adequacy of this Act and the powers of the Commission acting thereunder to diminish, eliminate or prevent unwarranted price pressures by very large hedgers operating under this subsection, the Commission shall monitor the trading activities of large hedgers selected by the Commission and shall report its findings and recommendations to the Senate Agriculture, Nutrition, and Forestry Committee and the House Committee on Agriculture in its annual report for each of the four years following the date of enactment of the Futures Trading Act of 1982.";

(5) inserting in the first sentence of subsection (4) ", an introducing broker" after "futures commission merchant", and striking out "as" before "a floor broker"; and

(6) adding a new subsection (5) to read as follows:

"(5) Nothing in this section shall prohibit or impair the adoption by any contract market or by any other board of trade licensed or designated by the Commission, of any bylaw, rule, regulation, or resolution fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery traded on or subject to the rules of such contract market, or under options on such contracts or commodities, traded on or subject to the rules of such contract market or such board of trade: *Provided*, That if the Commission shall have fixed limits under this section for any contract or under section 4c of this Act for any commodity option, the bylaws, rules, regulations, and resolutions adopted by such contract market or such board of trade shall not be higher than the limits fixed by the Commission. It shall be a violation of this Act for any person to violate any bylaw, rule, regulation, or resolution of any contract market or other board of trade licensed or designated by the Commission fixing limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of any commodity for future delivery or under options on such contracts or commodities, if such bylaw, rule, regulation or resolution has been approved by the Commission: *Provided*, That the provisions of section 9(c) of this Act shall apply only to those who knowingly violate such limits.".

AGRICULTURAL OPTIONS

SEC. 205. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1)(A) inserting "or" at the end of clause (A) of subsection (a); and

(B) striking out clause (B) of subsection (a);

(2) redesignating clause (C) of subsection (a) as clause (B);

(3) amending subsection (b) to read as follows:

"(b) No person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade

as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty", contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for different markets.".

(4) in subsection (c), inserting immediately after the first sentence the following: "With respect to any commodity regulated under this Act and specifically set forth in section 2(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, authorize a pilot program for a period not to exceed three years to permit such commodity option transactions if such authorization does not apply to more than one such commodity at any contract market designated therefor by the Commission, and beginning three years following the authorization of such pilot program, the Commission may authorize transactions in such commodities at contract markets designated therefor without regard to the restrictions in the pilot program after the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry the documentation required under clause (1) of the first sentence of this subsection and the expiration of sixty calendar days of continuous session of Congress after the date of such transmittal.".

INTRODUCING BROKER-REGISTRATION REQUIREMENT—CUSTOMER FUNDS AND PROPERTY

SEC. 206. Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended by—

(a) inserting in the introductory clause "or introducing broker" after "futures commission merchant";

(b) inserting in paragraph (1) "or introducing broker" after "futures commission merchant"; and

(c) inserting in paragraph (2) "if a futures commission merchant," after "such person shall,".

REGISTRATION—TECHNICAL AMENDMENTS

SEC. 207. Section 4f of the Commodity Exchange Act (7 U.S.C. 6f) is amended by—

(1) amending subsection (1) to read as follows:

"(1) Any person desiring to register as a futures commission merchant, introducing broker or floor broker hereunder shall be registered upon application to the Commission, which application shall be made in form and manner to be prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the business in which the applicant is or will be engaged including, in the case of an application of a futures commission merchant and introducing broker, the names and addresses of the managers of all branch offices, and the names of such officers and partners, if a partnership, and of such officers, directors, and stockholders, if a corporation, as the Commission may direct. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission the above-mentioned information and such other information pertaining to such person's business as the Commission may require. Each registration shall expire on December 31 of the year for which issued or at such other time, not less than one year from the date of issuance, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked pursuant to the provisions of this Act."; and

(2) inserting in subsection (2) "or as introducing broker" after "futures commission merchant".

INTRODUCING BROKERS—REPORTS, BOOKS, AND RECORDS

SEC. 208. Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by—

(1) inserting in subsection (1) ", introducing broker" after "futures commission merchant"; and

(2) inserting in subsection (3) ", introducing brokers" after "Floor brokers".

MISREPRESENTATION—TECHNICAL AMENDMENTS

SEC. 209. Section 4h of the Commodity Exchange Act (7 U.S.C. 6h) is amended to read as follows:

"SEC. 4h. It shall be unlawful for any person falsely to represent such person to be a member of a contract market, or the representative or agent of such member, or to be a registrant under this Act, or the representative or agent of any registrant, in soliciting or handling any order or contract for the purchase or sale of any commodity in interstate commerce or for future delivery, or falsely to represent in connection with the handling of any such order or contract that the same is to be or has been executed on, or by or through any member of, any contract market.".

RECORDKEEPING CONFORMED TO CURRENT SYSTEM—LARGE TRADER REPORTS

SEC. 210. Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended to read as follows:

"SEC. 4i. It shall be unlawful for any person to make any contract for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market—

"(1) if such person shall directly or indirectly make such contracts with respect to any commodity, or any future of such commodity, during any one day in an amount equal to or in excess of such amount as shall be fixed from time to time by the Commission, and

"(2) if such person shall directly or indirectly have or obtain a long or short position in any commodity or any future of such commodity, equal to or in excess of such amount as shall be fixed from time to time by the Commission, unless, such person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions within the provisions of (1) and (2) hereof as the Commission may by rule or regulation require and unless, in accordance with rules and regulations of the Commission, such person shall keep books and records of all such transactions and positions and transactions and positions in any such commodity traded on or subject to the rules of any other board of trade, and of cash or spot transactions in, and inventories and purchase and sale commitments of, such commodity.

Such books and records shall show complete details concerning all such transactions, positions, inventories and commitments, including the names and addresses of all persons having any interest therein, and shall be open at all times to inspection by any representative of the Commission or the United States Department of Justice. For the purposes of this section, the futures and cash or spot transactions and positions of any person shall include such transactions and positions of any persons directly or indirectly controlled by such person.".

REGISTRATION, ASSOCIATED PERSON STATUS

SEC. 211. Section 4k of the Commodity Exchange Act (7 U.S.C. 6k) is amended to read as follows:

"SEC. 4k. (1) It shall be unlawful for any person to be associated with a futures commission merchant or with an introducing broker as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged, unless such person is registered with the Commission under this Act as an associated person of such futures commission merchant or of such introducing broker and such registration shall not have expired, been suspended (and the period of suspension has not expired), or been revoked, and it shall be unlawful for a futures commission merchant or introducing broker to permit such a person to become or remain associated with the futures commission merchant or introducing broker in any such capacity if such futures commission merchant or introducing broker knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided*, That any individual who is registered as a floor broker, futures commission merchant or introducing broker (and such registration is not suspended or revoked) need not also register under these provisions.

"(2) It shall be unlawful for any person to be associated with any commodity pool operator as a partner, officer, employee, consultant or agent (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation of funds, securities, or property for a participation in a commodity pool or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity pool operator, under this Act, with the Commission and such registration shall not have expired, been suspended (and the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity pool operator to permit such a person to become or remain associated with him in any such capacity if such commodity pool operator knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided*, That any individual who is registered as a floor broker, futures commission merchant, introducing broker commodity pool operator, or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: *Provided further*, That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.

"(3) It shall be unlawful for any person to be associated with any commodity trading advisor as a partner, officer, employee, consultant or agent (or any person occupying a

similar status or performing similar functions), in any capacity which involves (i) the solicitation of a client's or prospective client's discretionary account or (ii) the supervision of any person or persons so engaged, unless such person is registered as an associated person of such commodity trading advisor, under this Act, with the Commission and such registration shall not have expired, been suspended (and the period of suspension has not expired) or been revoked, and it shall be unlawful for any commodity trading advisor to permit such a person to become or remain associated with him in any such capacity if such commodity trading advisor knew or should have known that such person was not so registered or that such registration had expired, been suspended (and the period of suspension has not expired) or been revoked: *Provided,* That any individual who is registered as a floor broker, futures commission merchant, introducing broker, commodity trading advisor or as an associated person of another category of registrant under this section (and such registration is not suspended or revoked) need not also register under this provision: *Provided further,* That the Commission may exempt any person or class of persons from having to register under this provision by rule, regulation, or order.

"(4) Any person desiring to be registered as an associated person of a futures commission merchant, of an introducing broker, of a commodity pool operator, or of a commodity trading advisor shall make application to the Commission in the form and manner prescribed by the Commission, giving such information and facts as the Commission may deem necessary concerning the applicant. Such person, when registered hereunder, shall likewise continue to report and furnish to the Commission such information as the Commission may require. Such registration shall expire at such time as the Commission may by rule, regulation, or order prescribe.

"(5) It shall be unlawful for any registrant to permit a person to become or remain an associated person of such registrant, if the registrant knew or should have known of facts regarding such associated person that are set forth as statutory disqualifications in section 8a(2) of this Act, unless such registrant has notified the Commission of such facts and the Commission has determined that such person should be registered or temporarily licensed.".

CONFORMING AMENDMENT

SEC. 212. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by striking out subsections (5) and (6) in their entirety.

EXTENSION OF ANTIFRAUD PROVISION

SEC. 213. Section 4o of the Commodity Exchange Act (7 U.S.C. 6o) is amended to read as follows:

"Sec. 4o. (1) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(A) to employ any device, scheme, or artifice to defraud any client or participant or prospective client or participant; or

"(B) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or participant or prospective client or participant.

"(2) It shall be unlawful for any commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator registered under this Act to represent or imply in any manner whatsoever that such person has been sponsored, recommended, or approved, or that such person's abilities or qualifications have in any respect been passed upon, by the United States or any agency or officer thereof: *Provided,* That this section shall not be construed to prohibit a statement that a person is registered under this Act as a commodity trading advisor, associated person of a commodity trading advisor, commodity pool operator or associated person of a commodity pool operator, if such statement is true in fact and if the effect of such registration is not misrepresented.".

EXTENSION OF AUTHORITY REGARDING PROFICIENCY EXAMINATION

SEC. 214. Section 4p of the Commodity Exchange Act (7 U.S.C. 6p) is amended by—

(1) striking out in the first sentence "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers" and inserting in lieu thereof "persons registered with the Commission";

(2) striking out in the second and third sentences "as futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers"; and

(3) striking out in the last sentence "the customers of futures commission merchants and floor brokers" and inserting in lieu thereof "customers, clients, pool participants, or other members of the public with whom such persons deal".

REGISTRATION INFORMATION TO THE STATES

SEC. 215. The Commodity Exchange Act is amended by adding a new section 4q to read as follows:

"SEC. 4q. The Commission shall provide any registration information maintained by the Commission on any registrant upon reasonable request made by any department or agency of any State or any political subdivision thereof. Whenever the Commission determines that such information may be helpful to any department or agency of a State or political subdivision thereof, the Commission shall provide such information without request.".

DESIGNATION OF CONTRACT MARKETS

SEC. 216. Section 5(g) of the Commodity Exchange Act (7 U.S.C. 7(g)) is amended by adding at the end thereof the following: "In determining whether designation of such board of trade as a contract market for any commodity would be contrary to the public interest, the Commission shall consider, among other things, the extent to which trading in the commodity for which such designation is sought is likely to divert investment capital away from the capital formation process, to cause price manipulation, and to cause price destabilization in that commodity.".

CONTRACT MARKET RULES

SEC. 217. Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by—

(1) amending subsection 5a(8) to read as follows:

"(8) enforce all bylaws, rules, regulations, and resolutions, made or issued by it or by the governing board thereof or any committee, which (1) have been approved by the Commission pursuant to paragraph (12) of this section, (2) have become effective under such paragraph, or (3) must be enforced pursuant to any Commission rule, regulation or order; and revoke and not enforce any bylaw, rule, regulation, or resolution, made, issued, or proposed by it or by the governing board thereof or any committee, which has been disapproved by the Commission;";

(2) amending paragraph (12) to read as follows:

"(12) except as otherwise provided in this paragraph, submit to the Commission for its prior approval all bylaws, rules, regulations, and resolutions ('rules') made or issued by such contract market, or by the governing board thereof or any committee thereof, that relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market, as such terms and conditions are defined by the Commission by rule or regulation, except those rules relating to the setting of levels of margin. Each contract market shall submit to the Commission all other rules (except those relating to the setting of levels of margin and except those that the Commission may specify by regulation) and may place such rules into effect unless, within ten days of receipt by the Commission of such submission, the contract market requests review and approval thereof by the Commission or the Commission notifies such contract market in writing of its determination to review for approval such rules. The determination to review such rules for approval shall not be delegable to any employee of the Commission. At least thirty days before approving any rules of major economic significance, as determined by the Commission, the Commission shall publish in the Federal Register a notice of such rules. The Commission shall give interested persons an opportunity to participate in the approval process through the submission of written data, views, or arguments. The determination by the Commission whether any such rules are of major economic significance shall be final and not subject to judicial review. The Commission shall approve such rules if such rules are determined by the Commission not to be in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be in violation of the provisions of this Act or the regulations of the Commission. If the Commission institutes proceedings to determine whether a rule should be disapproved pursuant to this paragraph, it shall provide the contract market with written notice of the proposed grounds for disapproval, including the specific section or sections of this Act or the Commission's regulations which would be violated. At the conclusion of such proceedings, the Commission shall approve or disapprove such rule. Any disapproval shall specify the sections of this Act or the Commission's regulations which the Commission determines such rule has violated or, if effective, would violate. If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period as the contract market may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to, such rule may be placed into effect by the contract market until such time as the Commission disapproves such rule in accordance with this subsection. The Commission shall specify the terms and conditions under

which a contract market may, in an emergency as defined by the Commission, make effective a rule on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under this paragraph, or during any period of review by the Commission. In the event of such an emergency, as defined by the Commission, requiring immediate action, the contract market by a two-thirds vote of its governing board may place into effect immediately a temporary rule dealing with such emergency if it notifies the Commission of such action with a complete explanation of the emergency involved.".

ARBITRATION

SEC. 218. Section 5a(11) of the Commodity Exchange Act (7 U.S.C. 7a(11)) is amended to read as follows:

"(11) provide a fair and equitable procedure through arbitration or otherwise (such as by delegation to a registered futures association having rules providing for such procedures) for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary and (ii) the term 'customer' as used in this subsection shall not include another member of the contract market; and".

SEC. 219. Section 17(b)(10) of the Commodity Exchange Act (7 U.S.C. 21) is amended to read as follows:

"(10) the rules of the association provide a fair and equitable expeditious procedure through arbitration or otherwise for the settlement of customers' claims and grievances against any member or employee thereof: *Provided*, That (i) the use of such procedure by a customer shall be voluntary, and (ii) the term 'customer' as used in this subsection shall not include another member of the association.".

DESIGNATION PROCEDURES

SEC. 220. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by inserting immediately after the first sentence the following: "The Commission shall approve or deny an application for designation as a contract market within one year of the filing of the application. If the Commission notifies the board of trade that its application is materially incomplete and specifies the deficiencies in the application, the running of the one-year period shall be stayed from the time of such notification until the application is resubmitted in completed form: *Provided*, That the Commission shall have not less than sixty days to approve or deny the application from the time the application is resubmitted in completed form. If the Commission denies an application, it shall specify the grounds for the denial.".

APPEALS

SEC. 221. Section 6(b) of the Commodity Exchange Act (7 U.S.C. 9) is amended by—

(1) striking out in the first and ninth sentences "as futures commission merchant or any person associated therewith as described in section 4k of this Act, commodity trading advisor, commodity pool operator, or as floor broker hereunder" and inserting in lieu thereof "with the Commission in any capacity"; and

(2) inserting in the eleventh sentence after "doing business" the words ", or in the case of an order denying registration, the circuit in which the petitioner's principal place of business listed on petitioner's application for registration is located,".

RESTRAINING ORDERS

SEC. 222. Section 6c of the Commodity Exchange Act (7 U.S.C. 13a-1) is amended by adding in the proviso contained in the first sentence after "no restraining order" the following: "(other than a restraining order which prohibits any person from destroying, altering or disposing of, or refusing to permit authorized representatives of the Commission to inspect when and as requested, any books and records or other documents or which prohibits any person from withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property)".

CONFIDENTIALITY PROVISIONS—DISCLOSURE

SEC. 223. Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended by—

(1) adding at the end of subsection (a) the following:

"The Commission shall promulgate regulations, pursuant to notice and receipt of public comment, specifying procedures by which—

"(1) the Commission shall, when requested by a submitter at the time of submission of information to the Commission, notify the submitter, within five days of receipt of a request, that such a request for records containing such information has been made under the Freedom of Information Act;

"(2) a submitter or requester may submit to the Commission written argument regarding a request made for disclosure of records; and

"(3) the Commission is not required to notify a submitter of the receipt of a request under clause (1) of this subsection if—

"(A) the Commission determines, prior to giving such notice, that the request for disclosure should be denied;

"(B) the disclosure is pursuant to law or Commission rule which requires disclosure of specific records in such a manner as to leave no discretion on the issue; or

"(C) the information has been published or otherwise made available to the public.";

(2) amending subsection (b) by—

(A) striking out "or" before "in an administrative or judicial proceeding"; and

(B) inserting immediately before the period at the end thereof ", in any receivership proceeding involving a receiver appointed in a judicial proceeding brought under this Act, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code";

(3) amending subsection (e) by—

(A) striking out "of the Executive Branch"; and

(B) adding at the end thereof the following: "Upon the request of any department or agency of any State or any political subdivision thereof, acting within the scope of its jurisdiction or any department or agency of any foreign government or any political subdivision thereof, acting within the scope of its jurisdiction, the Commission may furnish to such department or agency any information in the possession of the Commission obtained in connection with the administration of this Act. Any information furnished to any department or agency of any State or political subdivision thereof shall not be disclosed by such department or agency except in connection with any adjudicatory action or proceeding brought under this Act or the laws of such State or political subdivision to which such State or political subdivision, or any department or agency thereof is a party. The Commission shall not furnish any information to a department or agency of a foreign government or political subdivision thereof unless the Commission is satisfied that the information will not be disclosed by such department or agency except in connection with any adjudicatory action or proceeding brought under the laws of such foreign government or political subdivision to which such foreign government or political subdivision or any department or agency thereof is a party."; and

(4) adding a new subsection (h) at the end thereof as follows:

"(h) The Commission shall disclose information in its possession pursuant to a subpena or summons only if—

"(1) a copy of the subpena or summons has been mailed to the last known home or business address of the person who submitted the information that is the subject of the subpena or summons, if the address is known to the Commission, and

"(2) fourteen days have expired from the date of mailing of the subpena or summons.".

REGISTRATION AUTHORITY; TEMPORARY LICENSE

SEC. 224. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended to read as follows:

"(1) to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers upon application in accordance with rules and regulations and in the form and manner to be prescribed by the Commission, which may require the applicant, and such persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing, and in connection therewith to fix and establish from time to time reasonable fees and charges for registration and renewals thereof: *Provided*, That notwithstanding any provision of this Act, the Commission may grant a temporary license to any applicant for registration with the Commission pursuant to such rules, regulations, or orders as the Commission may adopt: *Provided further*, That the term of any such temporary license shall not exceed six months from the date of its issuance;".

STATUTORY DISQUALIFICATION FROM REGISTRATION; DELEGATION OF REGISTRATION FUNCTIONS

SEC. 225. Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended by—

(1) amending paragraph (2) to read as follows:

"(2) upon notice, but without a hearing and pursuant to such rules, regulations, or orders as the Commission may adopt, to refuse to register, to register conditionally, to suspend, or to place restrictions upon the registration of, any person and with such a hearing as may be appropriate, to revoke the registration of any person—

"(A) if a prior registration of such person in any capacity has been suspended (and the period of such suspension has not expired) or has been revoked;

"(B) if registration of such person in any capacity has been refused under the provisions of paragraph (3) of this section within five years preceding the filing of the application for registration or at any time thereafter;

"(C) if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdic-

tion (except that registration may not be revoked solely on the basis of such temporary order, judgment, or decree), including an order entered pursuant to an agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, from (i) acting as a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company or affiliated person or employee of any of the foregoing or (ii) engaging in or continuing any activity involving any transaction in or advice concerning contracts of sale of a commodity for future delivery, or concerning activity subject to Commission regulation under section 4c or 19 of this Act or concerning securities;

"(D) if such person has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any felony which (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery, or any activity subject to Commission regulation under section 4c or 19 of this Act, or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343, or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(E) if such person, within ten years preceding the filing of the application or at any time thereafter, has been found by any court of competent jurisdiction, by the Commission or any Federal or State agency or other governmental body, or by agreement of settlement to which the Commission or any Federal or State agency or other governmental body is a party, (i) to have violated any provision of this Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board where such violation involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(F) if such person is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, denying, suspending, or revoking such person's membership in any contract market or registered futures association, or barring or suspending such person from being associated with a registrant under this Act or with a member of a contract market or with a member of a registered futures association;

"(G) if, as to any of the matters set forth in subparagraphs (A) through (F) of this paragraph, such person willfully made any material false or misleading statement or omitted to state any material fact in his application; or

"(H) if refusal, suspension, or revocation of the registration of any principal of such person would be warranted because of a statutory disqualification listed in this paragraph: *Provided*, That for the purposes of paragraphs (2) and (3) of this section, principal shall mean, if the person is a partnership, any general partner or, if the person is a corporation, any officer, director, or beneficial owner of at least 10 per centum of the voting shares of the corporation, and any other person that the Commission by rule, regulation, or order determines has the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of such person which are subject to regulation by the Commission: *Provided*, That such person may appeal from a decision to refuse registration, condition registration, suspend, revoke or to place restrictions upon registration made pursuant to the provisions of this paragraph in the manner provided in paragraph (b) of section 6 of this Act;";

(2) striking out existing paragraph (4) and redesignating existing paragraph (3) as paragraph (4);

(3) adding a new paragraph (3) to read as follows:

"(3) to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that—

"(A) such person has been found by the Commission or by any court of competent jurisdiction to have violated or has consented to findings of a violation of, any provision of this Act, or any rule, regulation, or order thereunder (other than a violation set forth in paragraph (2) of this section), or to have willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any such provision;

"(B) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule, regulation, or order under any such statutes, or the rules of the Municipal Securities Rulemaking Board; or (ii) to have willfully aided, abetted, counseled, commanded, induced, or procured such violation by any other person;

"(C) such person failed reasonably to supervise another person, who is subject to such person's supervision, with a view to preventing violations of this Act, or of any of the statutes set forth in subparagraph (B) of this paragraph, or of any of the rules, regulations, or orders thereunder, and the person subject to supervision committed such a violation: *Provided*, That no person shall be deemed to have failed reasonably to supervise another person, within the meaning of this paragraph if (i) there have been established procedures, and a system for applying such procedures which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and (ii) such person has reasonably discharged the duties and obligations incumbent upon that person, as supervisor, by reason of such procedures and system, without reasonable cause to believe that such procedures and system were not being complied with;

"(D) such person was convicted of a felony other than a felony of the type specified in section 8a(2)(D) of this Act within ten years preceding the filing of the application or at any time thereafter, or was convicted of a felony, including a felony of the type specified in paragraph (2)(D) of this section, more than ten years preceding the filing of the application;

"(E) such person was convicted within ten years preceding the filing of any application for registration or at any time thereafter of any misdemeanor which (i) involves any transactions or advice concerning any contract of sale of a commodity for future delivery or any activity subject to Commission regulation under section 4c or 19 of this Act or concerning a security; or (ii) arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under this Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (iii) involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (iv) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25, 47, 95, or 96 of title 18, United States Code;

"(F) such person was debarred by any agency of the United States from contracting with the United States;

"(G) such person willfully made any material false or misleading statement or willfully omitted to state any material fact in such person's. application or in any report required to be filed with the Commission by this Act or the regulations thereunder, or in any proceeding before the Commission;

"(H) such person has pleaded nolo contendere to criminal charges of felonious conduct, or has been convicted in a State court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction;

"(I) in the case of an applicant for registration in any capacity for which there are minimum financial requirements prescribed under this Act or under the rules or regulations of the Commission, such person has not established that he meets such minimum financial requirements;

"(J) such person is subject to an outstanding order denying, suspending, or expelling him from membership in a contract market, a registered futures association, or in any other self-regulatory organization, or barring or suspending him from being associated with any member or members of such

contract market, association, or self-regulatory organization;

"(K) such person has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, (i) to have violated any statute or any rule, regulation, or order thereunder which involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities, or property, forgery, counterfeiting, false pretenses, bribery, or gambling; or (ii) to have willfully aided, abetted, counseled, commanded, induced or procured such violation by any other person;

"(L) such person has associated with him any other person and knows, or in the exercise of reasonable care should know, of facts regarding such other person that are set forth as statutory disqualifications in paragraph (2) of this section, unless such person has notified the Commission of such facts and the Commission has determined that such other person should be registered or temporarily licensed;

"(M) there is other good cause; or

"(N) any principal, as defined in paragraph (2) of this section, of such person has been or could be refused registration:

Provided, That pending final determination under this paragraph (3), registration shall not be granted: *Provided further*, That such person may appeal from a decision to refuse registration or to condition registration made pursuant to the provisions of this paragraph in the manner provided in paragraph (b) of section 6 of this Act;";

(4) amending paragraph (4), as redesignated, to read as follows:

"(4) in accordance with the procedure provided for in paragraph (b) of section 6 of this Act, to suspend, revoke, or to place restrictions upon the registration of any person registered under this Act if cause exists under paragraph (3) of this section which would warrant a refusal of registration of such person, and to suspend or revoke the registration of any futures commission merchant or any introducing broker who shall knowingly accept any order for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market from any person if such person has been denied trading privileges on any contract market by order of the Commission under the provisions of paragraph (b) of section 6 of this Act and the period of denial specified in such order shall not have expired: *Provided*, That such person may appeal from a decision to suspend, revoke, or to place restrictions upon registration made pursuant to the provisions of this subsection in the manner provided in paragraph (b) of section 6 of this Act;";

(5) striking out "and" at the end of each of paragraphs (6), (7), and (8); and

(6) adding a new paragraph (10) to read as follows:

"(10) to authorize any person to perform any portion of the registration functions under this Act, in accordance with rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.".

EMERGENCY POWERS—JUDICIAL REVIEW

SEC. 226. Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended to read as follows:

"(9) to direct the contract market, whenever it has reason to believe that an emergency exists, to take such action as in the Commission's judgment is necessary to maintain or restore orderly trading in or liquidation of any futures contract, including the setting of temporary emergency margin levels on any futures contract, and the fixing of position limits that may apply to a position acquired in good faith prior to the effective date of the Commission's action. The term 'emergency' as used herein shall mean, in addition to threatened or actual market manipulations and corners, any act of the United States or a foreign government affecting a commodity or any other major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for such commodity. Any action taken by the Commission under this paragraph shall be subject to review only in the United States court of appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the court of appeals for the District of Columbia circuit. Such review shall be based upon an examination of all of the information before the Commission at the time the determination is made. The court reviewing the Commission's action shall not enter a stay or order of mandamus unless it has determined, after notice and hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Nothing herein shall be deemed to limit the meaning or interpretation given by a contract market to the terms 'market emergency', 'emergency', or equivalent language in its own bylaws, rules, regulations, or resolutions; and".

CERTAIN PROHIBITED TRANSACTIONS

SEC. 227. Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by—

(1) amending subsection (a) to read as follows:

"(a) It shall be a felony punishable by a fine of not more than $500,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to his own use or the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts, or which otherwise was received from any customer, client or pool participant in connection with the business of such person. Notwithstanding the foregoing, in the case of any violation described in the foregoing sentence by a person who is an individual, the fine shall not be more than $100,000, together with the costs of prosecution. The word 'value' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from registration under this Act and shall be denied reregistration for five years or such longer period as the Commission shall determine, unless the Commission determines that the imposition of such suspension or denial of reregistration is not required to protect the public interest.";

(2) amending subsection (b) by adding at the end thereof the following: "Other provisions of this subsection notwithstanding, a person convicted of a felony under this subsection shall be suspended from any registration under this Act, denied registration or reregistration for five years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for five years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest.";

(3) amending subsection (c) by adding at the end thereof the following: "Other provisions of this subsection notwithstanding, a person convicted under this subsection of knowingly violating the provisions of section 4a shall be suspended from any registration under this Act, denied registration or reregistration for a period to two years or such longer period as the Commission shall determine, and barred from using or participating in any manner in any market regulated by the Commission for two years or such longer period as the Commission shall determine on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension or denial of registration or reregistration is not required to protect the public interest.";

(4) amending subsection (d) to read as follows:

"(d) It shall be a felony punishable by a fine of not more than $100,000 or imprisonment for not more than five years, or both, together with the costs of prosecution, for any Commissioner of the Commission or any employee or agent thereof, to participate, directly or indirectly, in any transaction in commodity futures or any transaction of the character of or which is commonly known to the trade as an 'option,' 'privilege,' 'indemnity,' 'bid,' 'offer,' 'put,' 'call,' 'advance guaranty,' or 'decline guaranty,' or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract, or for any such person to participate, directly or indirectly, in any investment transaction in an actual commodity. Such prohibition against any investment transaction in an actual commodity shall not apply to (1) a transaction in which such person buys an agricultural commodity or livestock for use in such person's own farming or ranching operations or sells an agricultural commodity which such person has produced in connection with such person's own farming or ranching operations nor to any transaction in which such person sells livestock owned by such person for at least three months, (2) a transaction entered into by the trustee of a trust established by such person over which such person exercises no control if such transaction is entered into solely to hedge against adverse price changes in connection with such farming or ranching operations or is a transaction for the lease of oil or gas or other mineral rights or interests owned by such person, and (3) a transaction in which such person buys or sells, directly or indirectly (except by means of an instrument regulated by the Commission), a

United States Government security, a certificate of deposit or similar financial instrument if no nonpublic information is used by such person in such transaction. With respect to such excepted transactions, the Commission shall require any Commissioner of the Commission or any employee or agent thereof who participates in any such transaction to notify the Commission thereof in accordance with such regulations as the Commission shall prescribe and the Commission shall make such information available to the public."; and

(5) inserting after the words "'decline guaranty'," in each place they appear in section 9(e) the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

REAUTHORIZATION

SEC. 228. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by amending subsection (d) to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for each of the fiscal years beginning October 1, 1982 and ending September 30, 1986.".

OFF-EXCHANGE JURISDICTION—ROLE OF STATES

SEC. 229. Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding a new subsection (e) to read as follows:

"(e) Nothing in this Act shall supersede or preempt—

"(1) criminal prosecution under any Federal criminal statute;

"(2) any Federal or State statute, including any rule or regulation thereunder, that is applicable to any transaction in or involving any commodity, product, right, service, or interest (A) that is not conducted on or subject to the rules of a contract market, or (B) (except as otherwise specified by the Commission by rule or regulation) that is not conducted on or subject to the rules of any board of trade, exchange or market located outside the United States, its territories or possessions, or (C) that is not subject to regulation by the Commission under section 4c or 19 of this Act; or

"(3) the application of any Federal or State statute, including any rule or regulation thereunder, to any person required to be registered or designated under this Act who shall fail or refuse to obtain such registration or designation. The Commission is authorized to refer any transaction or matter subject to such other Federal or State statutes to any department or agency administering such statutes for such investigation, action or proceedings as the department or agency shall deem appropriate.".

AIDING AND ABETTING—CONTROLLING PERSON

SEC. 230. Section 13 of the Commodity Exchange Act (7 U.S.C. 13c) is amended by—

(1) striking out "in administrative proceedings under this Act" in subsection (a);

(2) redesignating existing subsection (b) as subsection (c); and

(3) adding a new subsection (b) to read as follows:

"(b) Any person who, directly or indirectly, controls any person who has violated any provision of this Act or any of the rules, regulations, or orders issued pursuant thereto may be held liable for such violation in any action brought by the Commission to the same extent as such controlled person: *Provided,* That the Commission has the burden of proving that the controlling person did not act in good faith or directly or indirectly induced the act or acts constituting the violation.".

REPARATIONS PROCEDURE

SEC. 231. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) amending subsection (a) to read as follows:

"(a) Any person complaining of any violation of any provision of this Act or any rule, regulation, or order thereunder by any person who is registered under this Act may, at any time within two years after the cause of action accrues, apply to the Commission for an order awarding actual damages proximately caused by such violation.";

(2) striking out existing subsections (b), (c), and (e);

(3) redesignating subsections (d), (f), (g), (h), and (i) as (c), (d), (e), (f), and (g), respectively;

(4) adding a new subsection (b) to read as follows:

"(b) The Commission may promulgate such rules, regulations and orders as it deems necessary or appropriate for the efficient and expeditious administration of this section. Notwithstanding any other provision of law, such rules, regulations, and orders may prescribe, or otherwise condition, without limitation, the form, filing and service of pleadings or orders, the nature and scope of discovery, counterclaims, motion practice (including the grounds for dismissal of any claim or counterclaim), hearings (including the waiver thereof, which may relate to the amount in controversy), rights of appeal, if any, and all other matters governing proceedings before the Commission under this section.";

(5) changing the reference in subsection (d), as so redesignated, from "(g)" to "(e)"; and

(6) amending subsection (f), as so redesignated, to read as follows:

"(f) Unless the party against whom a reparation order has been issued shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for compliance with such order that either an appeal as herein authorized has been taken or payment of the full amount of the order (or any agreed settlement thereof) has been made, such party shall be prohibited automatically from trading on all contract markets and, if the party is registered with the Commission, such registration shall be suspended automatically at the expiration of such fifteen-day period until such party shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: *Provided,* That if on appeal the appellee prevails or if the appeal is dismissed the automatic prohibition against trading and suspension of registration shall become effective at the expiration of thirty days from the date of judgment on the appeal, but if the judgment is stayed by a court of competent jurisdiction the suspension shall become effective ten days after the expiration of such stay, unless prior thereto the judgment of the court has been satisfied.".

TECHNICAL AMENDMENT

SEC. 232. Section 16 of the Commodity Exchange Act (7 U.S.C. 20) is amended by inserting "or market positions" after "transactions" in subsection (d).

REGISTERED FUTURES ASSOCIATIONS

SEC. 233. Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by—

(1) amending subsection (b)(4)(E) by inserting before the period at the end thereof the following: ", which may require the applicant to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General for identification and appropriate processing. Notwithstanding any other provision of law, such an association may receive from the Attorney General all the results of such identification and processing";

(2) changing the reference in subsection (h) from "(k)" to "(i)";

(3) striking out the last sentence in subsection (j) and inserting in lieu thereof the following: "A registered futures association shall submit to the Commission any change in or addition to its rules and may place such rules into effect unless, within ten days of receipt by the Commission of such submission, the registered futures association requests review and approval thereof by the Commission or the Commission notifies such registered futures association in writing of its determination to review for approval such rules. The Commission shall approve such rules, within thirty days of their receipt if Commission approval is requested hereunder or within thirty days after the Commission determines to review for approval any other rules, unless the Commission notifies the registered futures association of its inability to complete such approval or review within such period of time. The Commission shall approve such rules if such rules are determined by the Commission to be consistent with the requirements of this section and not otherwise in violation of this Act or the regulations of the Commission and the Commission shall disapprove, after appropriate notice and opportunity for hearing, any such rule which the Commission determines at any time to be inconsistent with the requirements of this section or in violation of the provisions of the Act or the regulations of the Commission.";

(4) adding new subsections (o), (p), and (q) at the end thereof to read as follows:

"(o) The Commission is authorized to require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with the rules approved by the Commission, and subject to the provisions of this Act applicable to registrations granted by the Commission.

"(p) Notwithstanding any other provision of this section, each futures association registered under this section on the date of enactment of the Futures Trading Act of 1982, shall adopt and submit for Commission approval not later than ninety days after such date of enactment, and each futures association that applies for registration after such date shall adopt and include with its application for registration, rules of the association that require the association to—

"(1) establish training standards and proficiency testing for personnel of members involved in the solicitation of transactions subject to the provisions of this Act, supervisory officials of such personnel, and all individuals for which it has registration re-

sponsibilities, and a program to audit and enforce compliance with such standards;

"(2) establish minimum capital, segregation, and other financial requirements applicable to its members for which such requirements are imposed by the Commission and implement a program to audit and enforce compliance with such requirements. Such requirements may not be less stringent than those imposed on such firms by this Act or by Commission regulation; and

"(3) establish minimum standards governing the sales practices of its members and persons associated therewith as to transactions subject to the provisions of this Act.

"(q) Each futures association registered under this section shall develop a comprehensive program that fully implements the rules approved by the Commission under this section as soon as practicable but not later than two years after the date of enactment of the Futures Trading Act of 1982, in the case of any futures association registered on such date, and not later than two years after the date of registration in the case of any other futures association registered under this section.".

LEVERAGE TRANSACTIONS

SEC. 234. Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Commission shall regulate any transactions under a standardized contract described in subsection (a) of this section involving commodities described in subsection (b) of this section or any other commodities (except those commodities described in subsection (a) of this section) under such terms and conditions as the Commission shall prescribe by January 31, 1983: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing; *Provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities."; and

(2) striking out subsection (d).

TECHNICAL AMENDMENT

SEC. 235. Section 19 of the Commodity Exchange Act (7 U.S.C. 24), as added by section 302 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2673), is redesignated as section 20.

PRIVATE RIGHTS OF ACTION

SEC. 236. The Commodity Exchange Act is amended by adding a new section 22 at the end thereof to read as follows:

"SEC. 22. (a)(1) Any person (other than a contract market, clearing organization of a contract market, licensed board of trade, or registered futures association) who violates this Act or who willfully aids, abets, counsels, induces, or procures the commission of a violation of this Act shall be liable for actual damages resulting from one or more of the transactions referred to in clauses (A) through (D) of this paragraph and caused by such violation to any other person:

"(A) who received trading advice from such person for a fee;

"(B) who made through such person any contract of sale of any commodity for future delivery (or option on such contract or any commodity) on or subject to the rules of any contract market or other board of trade; or who deposited with such person money, securities or property (or incurred debt in lieu thereof) in connection with any order to make such contract;

"(C) who purchased or sold or placed an order for the purchase or sale of:

"(i) an option subject to section 4c(d) of this Act;

"(ii) an option subject to section 4c(b) of this Act (other than an option purchased or sold on a contract market or other board of trade);

"(iii) a contract subject to section 19 of this Act;

"(iv) an interest or participation in a commodity pool; or

"(D) who purchased or sold a contract referred to in clause (B) hereof if the violation constitutes a manipulation of the price of any such contract or the price of the commodity underlying such contract.

"(2) The rights of action authorized by this subsection and by section 14 of this Act shall be the exclusive remedies under this Act available to any person that sustains loss as a result of any alleged violation of this Act. Nothing in this subsection shall limit or abridge the rights of the parties to agree in advance of a dispute upon the forum for resolving claims under this section, including arbitration.

"(b)(1)(A) A contract market or clearing organization of a contract market that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of the designation of such contract market under section 5 of this Act or any amendment to such bylaw, rule, regulation or resolution, (B) a licensed board of trade that fails to enforce any bylaw, rule, regulation or resolution that was made a condition of its license or any amendment to such bylaw, rule, regulation or resolution, or (C) any contract market, clearing organization of a contract market or licensed board of trade that in enforcing any such bylaw, rule, regulation or resolution violates this Act or any Commission rule, regulation or order, shall be liable for actual damages sustained by a person that engaged in transactions on or subject to the rules of such contract market or licensed board of trade to the extent of such person's actual losses that resulted from such transactions and were caused by such failure to enforce or enforcement of such bylaws, rules, regulations or resolutions.

"(2) A registered futures association that fails to enforce any bylaw or rule that is required under section 17 of this Act or in enforcing any such bylaw or rule violates this Act or any Commission rule, regulation or order shall be liable for actual damages sustained by a person that engaged in transactions specified in subsection (a) of this section to the extent of such person's actual losses resulting from such transactions caused by such failure to enforce or enforcement of such bylaw or rule.

"(3) Any individual who, in the capacity as an officer, director, governor, committee member or employee of a contract market, licensed board of trade, or a registered futures association willfully aids, abets, counsels, induces or procures any failure by such contract market, clearing organization, or registered futures association to enforce (or any violation of the Act in enforcing) any bylaw, rule, regulation or resolution referred to in paragraph (1) or (2) of this subsection, shall be liable for actual damages sustained by a person that engaged in transactions specified in subsection (a) of this section on, or subject to the rules of, such contract market, licensed board of trade or, in the case of an officer, director, governor, committee member or employee of a registered futures association, transactions specified in subsection (a) of this section, in either case to the extent of such person's actual losses resulting from such transactions caused by such failure or violation.

"(4) A person seeking to enforce liability under this section must establish that the contract market, licensed board of trade, clearing organization, registered futures association, officer, director, governor, committee member, or employee acted in bad faith in failing to take action or in taking such action as was taken, and that such failure or action caused the loss.

"(5) The rights of action authorized by this subsection shall be the exclusive remedy under this Act available to any person that sustains a loss as a result of (A) the alleged failure by a contract market, licensed board of trade, clearing organization, or registered futures association or by any officer, director, governor, committee member or employee to enforce any bylaw, rule, regulation or resolution referred to in paragraph (1) or (2) of this subsection, or (B) the taking of action that is alleged to have violated this Act, or any Commission rule, regulation or order.

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action must be brought within two years after the date the cause of action accrued.

"(d) The provisions of this section shall become effective with respect to causes of action accruing on or after the date of enactment of the Futures Trading Act of 1982: *Provided*, That the enactment of the Futures Trading Act of 1982 does not affect any right of any parties which may exist with respect to causes of action accruing prior to such date.".

SPECIAL STUDY OF THE COMMODITY FUTURES INDUSTRY

SEC. 237. The Commodity Exchange Act is amended by adding a new section 23 at the end thereof as follows:

"SEC. 23. (a) The Commission shall organize and lead, with the assistance of the Securities and Exchange Commission, the Federal Reserve, and the Department of the Treasury, a study and investigation of the structure, participation, uses and effects of trading of futures and related instruments, such as options, on the economy. Among those areas to be studied are (i) the number, types, and characteristics of futures market speculators, arbitrageurs, and hedgers, the purposes for which these participants utilize futures markets, and the financial resources devoted to each of these activities; (ii) the impact of futures market speculation on the accuracy, liquidity, and stability of cash and futures prices and the conditions under which speculation may have adverse effects on these objectives, particularly with respect to the increased volume of financial futures and other nontraditional futures; (iii) the consequences that present and anticipated volumes of trading in futures have, if any, on formation of real capital in the economy, particularly that of a long-term nature, the structure of liquidity in credit markets, interest rates and inflation; and (iv) the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any activity which is found likely to have a harmful effect on national economic goals. The report of this study shall be transmitted to Congress not later than September 30, 1984, and shall include an assessment of the impacts of these activities and recommendations for any legislative and regulatory changes. There are authorized to be appropriated such funds as may be necessary to carry out the study.

"(b) For the period beginning with the date of enactment of the Futures Trading Act of 1982 and ending September 30, 1984, all stock index futures contracts approved

by the Commission either prior or subsequent to the date of enactment of the Futures Trading Act of 1982 shall be subject to a pilot program for such contracts to be established by the Commission by rule, regulation or order. Such pilot program shall, at a minimum, include close monitoring by the Commission of the contracts, including the assessment of the impact if any of such contracts on the markets in the underlying securities and the effect if any of the contracts on the capital formation process. Not later than 120 days following the expiration of the pilot program, the Commission shall report to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the United States Senate its findings and conclusions with respect to the economic purposes being served by the contracts and any effect of such contracts on underlying markets in securities or capital formation. If such report concludes that the adverse effects on the underlying markets in securities or capital formation resulting from trading in the stock index futures contracts outweigh any benefits provided by the contracts' hedging or risk-management function, the Commission shall include in the report its plans for the orderly withdrawal of approval for all stock index futures contracts.".

NATIONAL FUTURES ASSOCIATION STUDY AND TRANSACTION FEES

SEC. 238. Section 26 of the Futures Trading Act of 1978 (92 Stat. 877) is amended by—

(1) redesignating the text of existing section 26 as subsection (a); and

(2) adding at the end thereof the following new subsections:

"(b) The Commodity Futures Trading Commission shall submit to Congress a report containing the results of a study of the regulatory experience of the National Futures Association during the period beginning January 1, 1983 and ending December 31, 1984. The report shall be submitted not later than March 1, 1985. The report shall include (but not be limited to) the following—

"(1) the extent to which the National Futures Association has fully implemented the program provided in the rules approved by the Commission under section 17 (p) and (q) of this Act and the effectiveness of the operation of such program;

"(2) the actual and projected cost savings to the Federal Government, if any, resulting from operations of the National Futures Association;

"(3) the actual and projected costs which the Commission and the public would have incurred if the Association had not undertaken self-regulatory responsibility for certain areas under the Commission's jurisdiction;

"(4) problem areas, if any, encountered by the Association;

"(5) the nature of the working relationship between the Association and the Commission;

"(6) an assessment of the actual and projected efficiences the Commission has achieved or expects to be achieved as a result of the continuing regulatory activities of the Association; and

"(7) the immediate and projected capabilities of the Commission at the time of submission of the study to turn its attention to more immediate problems of regulation, as a result of the activities of the Association.

"(c) Notwithstanding any provision of this Act or other law, no user fee, user tax, transaction tax or transaction fee on or involving a contract for the purchase or sale of a commodity for future delivery, commodity option traded on a contract market, other option pursuant to 4c(d) of this Act, or leverage contract pursuant to section 19 of this Act, shall be recommended pursuant to this section or implemented pursuant to any law until after the end of the session in which the Commission has submitted to Congress the study described in subsection (b) of this section. If the Commission should recommend at any time thereafter the imposition of a user fee, user tax, transaction fee, or transaction tax, such recommendation at a minimum shall be accompanied by data and studies measuring the relative benefit to commodity professionals as well as to the general public of the functions of the nation's commodity markets and of Federal commodity regulation, and the effect of the proposed fee or tax on United States contract market liquidity.

"(d) Nothing in this section shall limit the ability of the Commission to continue to charge appropriate fees for services currently rendered by the Commission in conjunction with its registration, reparations, adjudication, or informational services and activities.".

ENERGY AND COMMERCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: On page 73, strike out line 15 and all that follows through line 21 on page 75, and insert in lieu thereof the following new section:

STUDY OF THE COMMODITY FUTURES INDUSTRY

SEC. 237. The Commodity Exchange Act is amended by adding at the end thereof the following new section:

"SEC. 23. (a)(1) The Board of Governors of the Federal Reserve shall organize and conduct, with the assistance of the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Secretary of the Treasury, a study and investigation of the structure, participation, uses, and effects of trading in contracts of sale of commodities (including commodities which are rights and interests in evidences of indebtedness, foreign currency, securities, any group or index of securities, and other financial instruments) for future delivery and in related instruments, such as options, on the economy. Among those areas to be studied are—

"(A) the number, types, and characteristics of speculators, arbitrageurs, and hedgers engaged in such trading, the purposes for which such persons utilize such trading, and the financial resources devoted to each of these trading activities;

"(B) the impact of speculation in such trading on the accuracy, liquidity, and stability of cash and contract prices, and the conditions under which such speculation may have adverse effects on these objectives, particularly with respect to the increased volume of such trading;

"(C) the consequences that present and anticipated volumes of trading in such contracts and related instruments have, if any, on formation of real capital in the economy (particularly that of a long-term nature), the structure of liquidity in credit markets, interest rates, and inflation;

"(D) the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any such trading activity which is found likely to have a harmful effect on national economic goals;

"(E) the economic purposes, if any, served by such trading, including the extent to which such contracts and related instruments are utilized for hedging and risk aversion purposes or for speculation;

"(F) the adequacy of investor protections afforded to participants in designated markets for such trading;

"(G) the impact, if any, of such contracts and related instruments on the markets for evidences of indebtedness, foreign currency, and securities;

"(H) the extent to which such contracts and related instruments may be utilized to manipulate, or to profit from the manipulation of, the markets for evidences of indebtedness, foreign currency, and securities;

"(I) the nature and consequences, if any, of perceived disparities between the regulation of such contracts and related instruments traded in contract markets regulated by the Commission and the regulation of functionally equivalent instruments traded in markets regulated by the Securities and Exchange Commission; and

"(J) the operation of the pilot program established under subsection (b)(1).

"(2) Not later than March 31, 1984, the Board of Governors of the Federal Reserve shall submit to the Congress and transmit to the Commission a preliminary report describing the results of the part of such study relating to trading in contracts of sale of commodities which are rights and interests in any group or index of securities and related instruments, for future delivery. The Board of Governors shall include in such report—

"(A) findings with respect to the economic benefits, if any, that have resulted from such trading;

"(B) a description of any adverse effects on the underlying markets in securities, on the formation of real capital, and on investor protection, that may have resulted from such trading; and

"(C) recommendations as to whether such trading should be permitted to continue after the termination of the pilot program established under subsection (b)(1), and, if continuation of such trading is recommended, whether any legislation or regulatory action applicable to such trading is necessary to mitigate any adverse effects found to have resulted from such trading or is necessary to eliminate any perceived disparities between the regulation of such trading and the regulation of trading in other comparable instruments.

"(3) Not later than September 30, 1984, the Board of Governors of the Federal Reserve shall submit to the Congress a report describing the results of such study. The Board of Governors shall include in such report an assessment of the impacts of the activities studied and recommendations for any legislation and regulatory action.

"(b)(1) For the period beginning on the date of the enactment of the Futures Trading Act of 1982 and ending September 30, 1984, all boards of trade designated, before or after the date of the enactment of the Futures Trading Act of 1982, as contract markets for trading in contracts in rights or interests in a group or index of securities for future delivery shall be subject to a pilot program with respect to such trading, to be established by the Commission by rule, regulation, or order. Under such pilot program, the Commission shall closely monitor such trading and shall make an assessment of the impact, if any, of such trading on the mar-

kets in the underlying securities and on the process of forming real capital.

"(2) If the Board of Governors of the Federal Reserve recommends, in the preliminary report transmitted under subsection (a)(2), that trading in such contracts be terminated or that other regulatory or legislative action be taken, then the Commission shall submit a report to the Congress, not later than September 30, 1984, containing a plan to implement the recommendations of the Board of Governors or a statement of reasons in support of the Commission's opinion that such recommendations should not be implemented.".

Mr. WIRTH (during the reading). Mr. Chairman, I ask unanimous consent that the Energy and Commerce Committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. WIRTH) for 5 minutes.

Mr. WIRTH. I thank the Chairman.

Mr. Chairman, I stand in favor of the Energy and Commerce Committee amendment to title II, section 237 of H.R. 5447.

This amendment would place the Federal Reserve Board in the lead of a special study of the futures market. Our primary reason for urging that the Federal Reserve Board, instead of the CFTC, be the lead agency was that capital formation issues will be the focus of the study, as well as margin and credit allocation issues. The Federal Reserve Board certainly has expertise in these areas. The study will look both at instruments regulated by the SEC and instruments regulated by the CFTC. The study will also look at regulatory disparities between the SEC and CFTC, and it would be most useful if an independent agency lead the study.

There was some concern expressed at the Agriculture Committee markup that the study amendment did not clearly state an intent to review options on securities. We have worked with Mr. GLICKMAN to prepare an amendment to be offered to clarify that intent.

So I would hope that the Members would accept both the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) to this amendment and this amendment to title II.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Texas (Mr. DE LA GARZA), the distinguished chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of the gentleman's amendment and state that we have no objection to the amendment. In fact, we would welcome the Federal Reserve taking the lead in this proposed study.

I am happy to hear that the gentleman is in agreement with an amendment to be offered by our colleague, the gentleman from Kansas (Mr. GLICKMAN), that would enlarge, in part, the study and make no change whatsoever except to add other items.

With that, we would accept the amendment if amended also by an amendment of the gentleman from Kansas (Mr. GLICKMAN).

Mr. WIRTH. I thank the distinguished Chairman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I am happy to say that I support the amendment, and I also support the amendment of the gentleman from Kansas (Mr. GLICKMAN).

Mr. WIRTH. The faster we do it, the quicker we get off the stage for the gentleman from New York (Mr. CONABLE).

I thank the gentleman.

AMENDMENT OFFERED BY MR. GLICKMAN TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. GLICKMAN. Mr. Chairman, I offer an amendment to the Energy and Commerce Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN to the Energy and Commerce Committee amendment: Page 76, line 13, strike out "options," and insert in lieu thereof the following: "options (including options on commodities, options on contracts of sale of commodities for future delivery, and options on securities, including options on exempted securities or on any group or index of securities),".

Page 76, line 16, insert "investors," immediately before "speculators,".

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, this is the amendment that the gentleman from Colorado (Mr. WIRTH) referred to, which would clarify the intent of both the Commerce Committee and the Committee on Agriculture that the special study created in section 237 of the bill includes options on securities, as well as futures in options in commodities.

I do not think there is any objection to the base amendment.

I would like to add one additional thing: The amendment offered by the gentleman from Colorado (Mr. WIRTH) gives the Federal Reserve Board the chief responsibility for conducting this massive study. In recent days the Federal Reserve Board has indicated to our office that they have some problems being the lead agency. I am not sure it is for any substantive reason. It may be as much for money, or staff problems. I would like to reserve that this issue be worked out in conference so that we have an opportunity to perhaps talk again with all of the relevant agencies, to try to determine who in fact is the best agency to coordinate this responsibility.

Mr. WIRTH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

This amendment would clarify the intent of both the Commerce Committee and the Committee on Agriculture that the special study created in section 237 of the bill includes options on securities as well as futures and options on commodities.

The Commerce Committee, in reviewing H.R. 5447, was concerned about possible adverse effects in the securities markets that might result from trading in futures on securities in the commodities markets. Although the SEC regulates securities, the CFTC under H.R. 5447 as reported by the Committee on Agriculture would regulate futures contracts on securities groups or indexes. We were concerned that the CFTC might not adequately consider issues that have been of concern to the SEC in its regulation of the securities market for almost 50 years.

We also had a broader concern, however. Just as we were concerned about the impact of futures trading on capital formation, we also became concerned about the impact of securities options trading on capital formation.

Of course, much more is known about the securities options market than is known about the futures market. A special study of the securities options market completed in 1978 produced a great deal of information about trading practices and abuses in that market and ultimately resulted in vast improvements in securities options trading practices, supervision, and surveillance.

However, that study was unable to come to any conclusions about the impact of options trading on capital formation or on the markets in the underlying securities. The study did not fully address issues relating to credit (margin) requirements for purchasing options. The study did not compare the regulation of the SEC and CFTC over functionally comparable instruments in the futures and options market. That just was not an issue at the time of the study.

The special study originally created in H.R. 5447 and as amended by the Commerce Committee speaks in terms of futures and "related instruments, such as options * * *." Concerns were raised by members of the committee on Agriculture that the study lan-

guage might not clearly include options on securities, however. This amendment addresses those concerns.

Since the securities options market was studied in some detail only a few years ago, I would expect that the special study created in this bill would build on the information previously assembled in this area, except to the extent that the special study is charged with looking at areas that were not previously reviewed, or updating information that is no longer accurate in light of the dramatic changes taking place in our financial markets.

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I go at some length into this for the benefit of responding to the gentleman from Kansas (Mr. GLICKMAN) on the role and responsibilities of the Federal Reserve to point out that a great deal of work has been done on this issue which we have also brought to the attention of the Federal Reserve. I think that this will make easier the tasks that they must undertake. I would hope we would accept the amendment offered by the gentleman from Kansas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) to the Energy and Commerce Committee amendment.

The amendment to the Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment, as amended.

The Energy and Commerce Committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: On page 69, lines 22 and 23, strike out "who purchased or sold or placed an order for the purchase or sale of:" and insert in lieu thereof "who purchased from or sold to such person or placed through such person an order for the purchase or sale of:";

On page 70, line 13, strike out "section 14" and insert in lieu thereof "sections 5a(11), 14 and 17b(10)";

On page 70, line 17, strike out "the" and insert in lieu thereof "any";

On page 70, lines 21 through 23, strike out "that was made a condition of the designation of such contract market under section 5 of this Act or any amendment to such bylaw, rule, regulation or resolution," and insert in lieu thereof "that it is required to enforce by section 5a(8) and section 5a(9) of this Act,";

On page 70, line 25, and page 71, lines 1 and 2, strike out "that was made a condition of its license or any amendment to such bylaw, rule, regulation or resolution," and insert in lieu thereof "that it is required to enforce by the Commission,".

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, the proposed amendment (page 69, lines 22 and 23) to subsection (C) of new section 22(a)(1) of the act will permit persons who purchased or sold an option from a person who violated the act, and persons who placed orders through persons who violated the act to bring an action in the Federal District Court for damages that directly result from that violation. This will conform that provision to subsections (A) and (B) which permit persons to assert such claims with respect to transactions covered by those subsections.

The proposed amendment (page 70, lines 13 and 17) to subsection (a)(2) of new section 22 of the act merely clarifies that these new specific rights of action will not preclude a person from pursuing his claims in a CFTC reparation proceeding or through arbitration.

Proposed amendments to subsection (b)(1)(A) (pages 70 and 71) will clarify that a contract market that fails to enforce any of its rules that are required to be enforced by section 5(a)(8) of the act shall be liable for damages directly resulting from that failure to enforce those rules. Similarly, a board of trade that has not been technically designated as a contract market but has been licensed by the CFTC to trade options would be liable for damages resulting from its failure to enforce rules which the Commission requires it to enforce.

It is a consumer protection amendment. I think it is one that is technical in nature and will strengthen the existing language of the bill.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I would like to inform the gentleman that the consensus on the committee is that the gentleman makes a valuable contribution with the amendment and we would be very happy to accept it.

Mr. GLICKMAN. I thank the gentleman.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Chairman, I just rise to say that this side has no opposition to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAMPLER

Mr. WAMPLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAMPLER: Insert the following sentence at the end of section 233(3) on p. 66, line 9: "If the Commission does not approve or institute disapproval proceedings with respect to any rule within one hundred and eighty days after receipt or within such longer period of time as the registered futures association may agree to, or if the Commission does not conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the registered futures association may agree to, such rule may be placed into effect by the registered futures association until such time as the Commission disapproves such rule in accordance with this subsection.".

Mr. WAMPLER. Mr. Chairman, the purpose of this amendment is to provide important time limitations on CFTC review of futures association rules. These time limitations would be identical to those limits imposed for CFTC consideration of contract market rules, and should enable the futures industry's self-regulatory body, the National Futures Association, to begin to implement its new functions expeditiously.

Mr. Chairman, under the existing provisions of H.R. 5447, section 17(j) of the Commodity Exchange Act would be amended to provide authority to a registered futures association to place into effect its rules or rule changes 10 days following their receipt by the Commission, unless the association requests express CFTC approval or the CFTC determines on its own initiative to review the rule or rule change. However, H.R. 5447 does not put an explicit cap on the time available to the CFTC to complete its review.

The amendment I am proposing would correct this apparent oversight. Under the amendment, the CFTC would have 180 days from the date of receipt of any futures association rule or rule change to finish its review of the rule and one year, from receipt of the rule, to initiate and complete a disapproval proceeding.

Mr. Chairman, I believe this is an important and necessary amendment. In the past, contract market rules that have been submitted to the CFTC for approval have laungished for lengthy periods of time. Frequently, important self-regulatory measures have had to be deferred or have not ever been put into operation. The Commission has recognized this problem and recently has been somewhat sucessful in reducing the period of delay. Nevertheless, in recognition of the continuing and perhaps recuring problem in this area, H.R. 5447 imposes time limitations on CFTC review and disapproval actions of contract market rules. However, the

bill is silent on any parallel restrictions with respect to CFTC review of the rules of a registered futures association. Since the National Futures Association—the industry-wide self-regulatory body that has been registered by the CFTC—is about to begin operations, restrictions also are needed on the time the CFTC may have for its approval or disapproval actions on futures association rules. The proposed amendment satisfies this need by providing time limitations on CFTC review of futures association rules, in a manner identical to the provisions in H.R. 5447 pertaining to contract market rules.

In addition to insuring timely CFTC action on all self-regulatory rule submissions, the amendment may be essential if the NFA is to be given a fair chance to accomplish one aspect of its mandate as contained in H.R. 5447. The bill would amend the Commodity Exchange Act by adding two new subsections to section 17, which deals with futures associations. Under section 17(p), NFA will be called upon to have submitted to the CFTC, within 90 days of the date of enactment of the bill, rules providing: training standards for members, proficiency testing, auditing and compliance standards, minimum capital and segregation requirements, and minimum sales practice standards. Section 17(q) then will require the registered futures association to implement fully these rules as soon as practicable, but not later than 2 years after the date of enactment of the bill. In the case of NFA, its ability to implement fully these rules within the timeframe required under new section 17(q) might turn on whether the CFTC acts expeditiously to review and approve those rules of NFA which the CFTC determines, or is asked, to review.

New sections 17 (p) and (q) of the act were intended by the committee to provide a frame of reference for Congress to gage accurately the progress NFA will be making toward accomplishing its self-regulatory objectives. Congress, the futures industry, and the public have long awaited NFA's development and new sections 17 (p) and (q) therefore impose somewhat tight, yet reasonable, time limitations on NFA to commence fulfilling its statutory mandates. Similarly, the amendment imposes tight, yet reasonable, time restrictions on the CFTC—180 days for review of rules submissions and 1 year to complete a disapproval proceeding. These mandated periods for CFTC review and disapproval of futures association rules are identical to those provided in H.R. 5447 for contract market rules.

In all but the most unusual circumstances, CFTC review or disapproval of NFA rules should not take the full 180-day or 1-year period. In fact, the CFTC has stated that it will endeavor to expedite its consideration of NFA rules and believes that most NFA rules will be approved within at least 60 days. This expedited treatment is clearly necessary and appropriate. If the CFTC were to take a full year to complete disapproval proceedings for futures association rule submissions, more than half the time allotted by new section 17(q) to a futures association to accomplish the important task of implementing its regulatory program could be spent on costly administrative or judicial proceedings that would determine what rules the association is required to implement. By encouraging expedited CFTC review and disapproval proceedings of futures association rules, the amendment would serve the overall congressional objective to insure maximum CFTC cooperation and consultation with NFA. This will enable the NFA to begin its self-regulatory mission as soon as possible.

Mr. Chairman, this amendment is supported by the CFTC and the futures industry. I am not aware of any opposition to its adoption.

I urge my colleagues to support this amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to thank the gentleman for his contribution. We are informed that this amendment indeed simplifies and gives the needed authority to the CFTC to deal in the matter concerned, and we would be very happy to accept the amendment on this side.

Mr. WAMPLER. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WAMPLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAMPLER

Mr. WAMPLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAMPLER: delete the provisions of section 225(6) and section 233(4) (to the extent it would create a new subsection 17(o) of the Commodity Exchange Act), and insert in lieu thereof the following:

"(10) to authorize any person to perform any portion of the registrations functions under this Act, in accordance with rules, notwithstanding any other provisions of law, adopted by such person and submitted to the Commission for approval, and subject to the provisions of this Act applicable to registrations granted by the Commission."

"(o) The Commission is authorized to require any futures association registered pursuant to this section to perform any portion of the registration functions under this Act with respect to each member of the association other than a contract market and with respect to each associated person of such member, in accordance with rules, notwithstanding any other provision of law, adopted by such futures association and submitted to the Commission pursuant to Section 17(j) of this Act, and subject to the provisions of this Act applicable to registrations granted by the Commission.

"(1) In performing any Commission registration function authorized by the Commission under section 8a(10), this section or any other applicable provisions of this Act, a futures association may issue orders (A) to refuse to register, (B) to register conditionally, (C) to suspend the registration of, (D) to place restrictions on the registration of, or (E) to revoke the registration of, any person. Any person against whom such an order has been issued, which is the final decision of such futures association, may petition the Commission to review this decision. The Commission may on its own initiative or upon petition decline review or may grant review and affirm, set aside, or modify such an order of the futures association, and the findings of the futures association, as to the facts, if supported by the weight of the evidence, shall be conclusive. Unless the Commission grants review under this section of an order concerning registration issued by a futures association, the order of the futures association shall be considered to be an order issued by the Commission.

"(2) If a futures association grants a registration application in performing any Commission registration function authorized by the Commission under section 8a(10), this section, or any other applicable provisions of this Act, that registration shall be conditional until the expiration of fifteen days after notification of such registration is received by the Commission, unless the Commission, within that 15 day period, directs the futures association to vacate the grant of registration and to take further action on the application.

"(3) In the event that a person against whom a futures association has issued a registration order under subsection (1) petitions the Commission to review that order and the Commission declines to take review, such person may file a petition for review with a United States Court of Appeals, in accordance with the requirements of section 6(b) of this Act.".

Mr. WAMPLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. WAMPLER. Mr. Chairman, the amendment I am offering seeks to facilitate the assumption of certain CFTC registration functions by the National Futures Association. I believe this amendment is in the best interest of the futures industry and the Commodity Futures Trading Commission. I urge my colleagues to support this amendment.

Mr. Chairman, H.R. 5447 contains two new sections of the Commodity Exchange Act that are intended to facilitate the transfer of the CFTC's registration program to the industrywide registered futures association—the National Futures Association (NFA). The first provision is specifically targeted toward futures associations. New section 17(o) would authorize the CFTC

to require any registered futures association to perform any portion, or all, of the CFTC's registration functions under the act. The futures association would be required to perform this registration function for each member of the association and each associated person of such member. The second provision is more general. Under new section 8a(10), the Commission would be empowered to authorize any person to perform any portion of the Commission's registration functions under the act.

The NFA is eager to begin as soon as possible to assume at least a portion of the CFTC's registration functions. According to NFA's most recent schedule, it plans to be able to begin, on or about January 15, 1983, to conduct registration proceedings for all classes of CFTC registrants. NFA's intention to assume CFTC registration duties at such an early time bodes well for a complete assumption by NFA of that function, since every registered commodity professional, except floor brokers, must be a member of NFA in order to fulfill the 1978 congressional grant of authority to the CFTC to make membership in a registered futures association compulsory.

Nevertheless, despite the best intentions of the CFTC and NFA, problems could arise that might delay NFA's assumption of the registration function unless we take great care, at this time, to spell out with some degree of specificity the authority in this area of the CFTC and NFA. The amendment I am proposing would accomplish this goal without hampering in any meaningful way the broad discretion and authority vested in the CFTC under new sections 8a(10) and 17(o) of the act, as contained in H.R. 5447. In fact, under H.R. 5447's provision for new section 8a(10), as well as the provisions contained in this amendment, the Commission would be empowered to authorize a registered futures association to perform any portion of the CFTC registration program, even if the Commission were to require a futures association to register persons who are not members of the association.

In order to perfect these provisions, the amendment would make four basic changes or additions to new sections 8a(10) and 17(o). First, both section 8a(10) and section 17(o) would be amended to clarify that the exclusive procedures governing registration proceedings conducted by a registered futures association or any other person authorized by the Commission would be set forth in rules of the registered futures association or other authorized person submitted to the Commission for its approval. H.R. 5447's provisions in new sections 8a(10) and 17(o) refer to performing the registration function merely "in accordance with rules approved by the Commission." It is not absolutely clear under this language which rules govern these registration proceedings. The amendment contemplates that futures association rules submitted and approved by the Commission will be the exclusive procedures followed in conducting any aspect of the registration function. Thus, the amendment will clarify that a registration proceeding conducted by a registered futures association or any other person authorized by the CFTC, in accordance with the procedural rules submitted to the CFTC, may not be subject to legal challenge on the ground that procedures contained in the Administrative Procedure Act or any other statute or regulation were not followed.

The second aspect of the amendment expressly provides for CFTC review of final registration decisions rendered by a futures association. The amendment would also make explicit that a futures association may take the full range of registration actions available to the Commission under the act and Commission regulations. This is consistent with the provisions in both new section 8a(10) and new section 17(o) of H.R. 5447, which state that any registered futures association or other authorized person may perform a CFTC registration function "subject to the provisions of this act applicable to registrations granted by the Commission." In addition, the amendment provides a standard for CFTC review of futures association registration decisions that mirrors the standard for appellate review of CFTC registration decisions under the existing scheme. This will avoid petitions being filed with the Commission requesting that it conduct a laborious, costly, and duplicative de novo or other form of factfinding review of a futures association registration proceeding.

The third aspect of the amendment covers CFTC oversight of registration granted by a futures association. Under this provision, registration of an individual would be conditional until 15 days after notification of the CFTC by the registering futures association, unless the CFTC directs the association to revoke or reconsider the application during that 15-day period.

The fourth and final aspect of the amendment would comport with basic notions of due process of law by providing any person against whom a futures association has issued a final registration decision and the Commission has declined to review the merits of such decision, to petition an appropriate U.S. court of appeals for appellate review of the decision under the procedures in section 6(b) of the act that govern appellate review of CFTC registration decisions. This aspect of the amendment will therefore merely make explicit in the statute that the right to judicial review from registration decisions will not be affected by authorizing a futures association to perform these functions.

It should be noted that the last three aspects of the amendment I have explained would apply only to a registered futures association and, therefore, only to the National Futures Association at this time. This is because the context in which new section 17(o) appears in H.R. 5447 warrants that these perfecting amendments apply to registered futures associations authorized or required by the Commission to perform any portion or all of the CFTC's registration functions. The amendment will resolve any potential uncertainty concerning the appropriate interpretation of the relationship between new sections 8a(10) and 17(o) of the act in the event a registered futures association, like NFA, is called upon to assume the CFTC's registration function.

Mr. Chairman, I believe this amendment is needed in order to allow the National Futures Association to get its functions into operation. This amendment is supported by the futures industry, and the CFTC also is in agreement.

I urge my colleagues to support its passage.

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Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished committee chairman.

Mr. DE LA GARZA. Mr. Chairman, I just want to state to the gentleman that we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. WAMPLER).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to engage the chairman of our full committee, the gentleman from Texas (Mr. DE LA GARZA) in two separate colloquies.

The first colloquy, Mr. Chairman, concerns section 223(4).

Section 223(4) of H.R. 5447 amends section 8 of the Commodity Exchange Act to require that notice be given of any subpena served on the CFTC which requests records containing information submitted by a third party. My understanding of this new subsection 8(h) is that it is strictly a procedural requirement. It does not override or preempt any provision of the act relating to confidential or protected information. For example, records which are confidential under the act remain confidential regardless of how they are sought.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. DE LA GARZA. Mr. Chairman, I would like to state to the gentleman that he is correct. New subsection 8(h) is strictly a procedural provision. It does not authorize or require the disclosure of any information—confidential or otherwise. In fact, it is intended to help assure that confidential information is not inadvertently released by the CFTC, by requiring notice of a subpena to the person who submitted the information to the CFTC in the first place. That person can then take whatever steps are necessary to protect his or her rights under the act.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I have an additional set of questions that I would like to ask the chairman of the full committee.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, H.R. 5447 amends section 4k(5) of the Commodity Exchange Act to make it unlawful for any registrant to permit a person to become or remain an associated person of the registrant if the registrant knew or should have known of facts regarding the associated person that are set forth in the act as statutory disqualifications. The amendment makes an exception if the registrant notified the Commission of these facts and the Commission has determined that the person should be registered or temporarily licensed. Questions have been raised with me regarding the intent of this provision, and I would like to engage in a colloquy with the chairman of the committee as to how it is intended that this provision should be applied. The first question relates to what actions the registrant must take in order to satisfy the requirements as to whether he should have known of any facts that would disqualify the employee.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. DE LA GARZA. I thank the gentleman for the opportunity to expand on the intent as to the operation of this provision. In my view this section contemplates that the employer has an obligation to make a reasonable background check regarding the employee and if, as a result of such background check, no facts that would disqualify the employee have come to his attention then he cannot be charged with a violation of section 4k(5). It is not contemplated that a registered company has an obligation to check the employee with every Federal and State court system and regulatory authority.

Mr. GLICKMAN. I thank the chairman and I wish to ask a further question. As I mentioned, section 4k(5) allows the registrant to continue to hire the employee as an associated person if it has notified the Commission of any facts that are a statutory basis for disqualifying the employee from registration and the Commission has determined that the person should be registered or temporarily licensed. I would appreciate the chairman informing me as to how this provision would operate if there is an outstanding registration or temporary license for the employee at the time the facts regarding the statutory disqualification become known.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. DE LA GARZA. Mr. Chairman, I would like to state to the gentleman that in my view the registrant would not be in violation of this section if he should continue the employment of the associated person who has previously been registered or temporarily licensed as long as the Commission had not taken affirmative action to suspend or revoke the registration or license. If, however, the Commission should take action to suspend the registration or temporary license or should revoke it after the required hearing there would be an immediate obligation for the employer to terminate the employee as an associated person.

Mr. GLICKMAN. I thank the chairman.

AMENDMENT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONABLE: H.R. 5447 is amended by—

(1) striking the "and" on line 16, page 55 in section 226;

(2) inserting in section 225 between lines 5 and 6 on page 54 the following new paragraph (11) to section 8(a) of the Commodity Exchange Act to read as follows:

"(11) to establish and from time to time fix the amount of reasonable fees and charges for registrations under this Act and renewals thereof, for filing reports with the Commission, for processing reparations claims, and for other regulatory duties and services performed by the Commission in accordance with this Act or a rule, regulation, or order of the Commission."; and by

(3) deleting section 238 in its entirety and lines 7 and 8 on page 81, and inserting in lieu thereof the following:

TRANSACTION FEES

SEC. 238. (a) Section 26 of the Futures Trading Act of 1978 (7 U.S.C. 16a) is amended by striking out the existing language.

(b) The Commodity Exchange Act is amended by adding a new section 24 to read as follows:

"TRANSACTION FEES

"SEC. 24. (a) Each contract market, or other board of trade licensed by the Commission shall remit to the Treasury of the United States, with written verification thereof to the Commission, by February 1 of each year, a fee in the following amounts for each contract for the purchase or sale of a commodity for future delivery and for each commodity option subject to the provisions of section 4c of this Act entered on or subject to the rules of such contract market or board of trade during the preceding year ended September 30 ("fiscal year") or portion thereof following the effective date of this section:

"(1) 12 cents for each such contract or option which is made or executed for the account or benefit of a person who is not a member of such contract market or board of trade or of a registered futures association; and

"(2) 6 cents for each such contract or option which is made or executed for the proprietary account (as defined by the Commission) of a person who is a member of such contract market, board of trade or of a registered futures association.

"(b) Each person who grants a commodity option pursuant to section 4c(d) of this Act, or who is engaged in the business of offering and leverage transaction pursuant to section 19 of this Act, shall remit to the Treasury of the United States, with written verification thereof to the Commission, by February 1 of each year, a fee of $3 for each such option granted or leverage contract entered during the preceding fiscal year or portion thereof following the effective date of this section.

"(c) The fees assessed hereunder for any fiscal year are intended not to exceed the funds appropriated by the Congress for the Commission's activities for the following fiscal year. In the event that the total fees remitted to the Treasury of the United States pursuant to this section for any fiscal year or portion thereof exceeds the funds appropriated for the Commission for the following fiscal year, the Commission shall, by rule, regulation, or order, suspend the assessment of fees in the current fiscal year for such period as the Commission determines, to the extent practicable and based on current market volume, would otherwise generate an amount equal to excess fees remitted for the preceding fiscal year. No fees shall be required to be remitted for transactions effected during such period of suspension determined by the Commission; provided that at the conclusion of such period, the obligation to assess fees to be remitted under this section shall resume.

"(d) Notwithstanding any other provision of this section, the Commission, after notice and opportunity for hearing, may by rule, regulation, or order reduce, suspend, or waive the application to any person or class of persons, of the fees or any portion thereof upon finding that such action is necessary to prevent or correct any significant adverse effect upon any market or person occasioned by such fee.

"(e) The Commission shall create, prior to or after the effective date of this section, an advisory committee pursuant to the Federal Advisory Committee Act, comprised of persons materially affected by the operation of this section. Such advisory committee shall remain in existence until June 30, 1985. The advisory committee shall be empowered to advise the Commission with respect to the efficacy of the fee system created by this section, to consult with the Commission with respect to actions taken under subsection (d), hereof to prepare a report containing its assessment and recommendations with respect to the fee system, and to perform such other duties and functions as the Commission may prescribe. Such report, together with the views and recommendations of the Commission, shall be submitted to the Committee on Agriculture of the House

of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the United States Senate no later than June 30, 1985."

Mr. CONABLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PEYSER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings, under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1400

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from New York (Mr. CONABLE) is recognized for 5 minutes in support of his amendment.

Mr. CONABLE. Mr. Chairman, I thank my friend, the gentleman from New York (Mr. PEYSER) for calling the quorum call. It was lonely over here during the pendency of this amendment, and I will appreciate whatever consideration my colleagues can give to a proposal which astonishes me because of the depth of the opposition when the proposal imposes a 6-cents-a-transaction fee on futures commodity transactions. It is, in fact, a very modest fee, but because of the large number of transactions, it will raise almost the amount of the cost of running the Commodity Futures Trading Commission.

That cost is estimated now at about $20 million. Over the next couple of years, the number of transactions is expected to increase, and it will be ample to cover the entire cost, rather than have that money come out of the Treasury.

Now, I acknowledge that in the total complex of Federal expenditures this is not a large sum of money, this $15 million, but clearly it is an appropriate subject for a user fee because all people do not benefit from futures transactions. The people who will benefit the most, and I believe at least historically they are farmers, although I must acknowledge that futures transactions now involve all kinds of securities as well, the people who historically have benefited the most, the farm groups, do not object to this measure. They see it as a reasonable way of paying the cost of the regulatory commission.

Now, one objection that is made against this proposal is that an effort is being made to provide some self-policing. As we move ahead through the futures association, there is nothing inconsistent with having self-policing in addition to a user fee of this sort. In fact, many other types of markets have similar, parallel structures. One would hope that the futures association will be an effective agency and will develop rules that will facilitate the work of this exchange.

But in the meantime—and it doubtless will take at least a couple of years for the futures association to get its rules in place—why in the world should the taxpayers pay the cost of this particular regulation?

The money goes to the Treasury and it is roughly equivalent. It is not burdensome at 6 cents a transaction or 12 cents for nonmembers; only because of the staggering number of transactions does the amount of money raised constitute a significant enough sum to be an appropriate subject of amendment here today.

□ 1410

Mr. Chairman, I understand there is very strong opposition to this proposal. I regret that it was necessary to have a member not of the Commerce Committee or the Agriculture Committee, the two affected committees, present this amendment. I would not have presented it had it not appeared on its face, anyway, so totally reasonable. I will be happy to listen to the argument against it, but I hope somebody here will represent the taxpayers and not those who participate actively in the business of trading futures.

Mr. WAMPLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is no Member of this body for whom the gentleman from Virginia has a higher personal regard than he does the gentleman from New York (Mr. CONABLE). However, I must rise in opposition to the gentleman's amendment.

The Committee on Agriculture considered at great length the recommendation by the CFTC to authorize the imposition of user fees on commodity transactions subject to the Commission's jurisdiction. The purpose of the proposed fees, as I understand it, would be to recover a major proportion of the CFTC's operating budget. The committee agreed to defer the authorization of user fees and, instead, directed the CFTC to study the possible effect of such fees and report to the Congress with its findings by January 1, 1984.

I believe, Mr. Chairman, there are several significant reasons for this approach. I think all of us are mindful of the need to reduce the cost of the Federal Government. Nevertheless, the committee concluded that it did not have enough information to determine the potential effect of user fees on the commodity markets. The committee also recognized that the National Futures Association, an industry-funded, self-regulatory organization recently approved by the CFTC, is now being organized, and Government-imposed fees at this time, at least in the judgment of the gentleman from Virginia, could jeopardize the formation of the National Futures Association, which, when operating, will indeed relieve the CFTC of a number of its regulatory burdens.

The committee was aware that the commodities industry already bears a significant share of the burden of regulating these markets through fees paid to fund the self-regulatory programs carried out by the exchanges, and it would seem to me that before imposing additional fees on the industry, it would be better and more important to determine what portion of the CFTC's budget benefits the public, and therefore should be most appropriately borne by the taxpayer.

Therefore, a study and report by the CFTC will be forthcoming which will better enable the Congress to make an informed judgment on whether and to what extent user fees should be imposed on the commodities industry.

I might also point out, Mr. Chairman, that the participants in the futures markets already bear a significant share of the burden of regulating those markets. Like their counterparts in the securities industry, all Commission registrants pay registration fees which reimburse the Commission for the direct costs of regulating those market participants. Moreover, market participants pay exchange transaction fees which support the self-regulatory functions of the exchange. Annual membership dues are paid by exchange members, and these dues support those functions. A recent industry survey prepared for the reauthorization hearings showed that approximately $18 million is spent on self-regulatory activities by the exchanges now.

Mr. Chairman, it seems to me that this amendment is premature, that we should await the study mandated by the bill that will be made, and then we can make a better-informed judgment.

I might also point out, Mr. Chairman, there is great concern expressed over the impact of user fees, and this comes not from the futures industry, but from many farm groups which use the markets to hedge their crops or livestock. These groups, which include the American Farm Bureau, the Na-

tional Cattleman's Association, the National Grain and Feed Association, the National Farmers Union, and the National Grain Trade Council, are all concerned that these fees, which likely will be passed through to them, will only increase producers' costs. Various commercial hedgers, such as the American Cotton Shipper's Association, have also expressed concern before the Committee on Agriculture about the proposed user fees because of increased costs, and more importantly, about the potential adverse impact that such fees may have on market liquidity.

I therefore urge my colleagues to reject the amendment of the gentleman from New York.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am the author of the language in the bill, and I think there are a few points that need to be cleared up. One of the concerns that the Agriculture Committee has is the issue of protection of the public. The CFTC, ever since its formation, has been criticized because it is not strong enough to protect the public. Certainly, the commodities industry is a huge industry, a mammoth industry compared to any business in this country.

The CFTC from the standpoint of regulatory agencies is a very small one and a very new one, still in its infancy. In fact, the CFTC has only been in existence since 1975.

The administration urges the imposition of user fees, not to add to the funds that are already being provided to CFTC for the purpose of regulating the industry and preventing fraud and corruption, but in place of the funds that were already there.

Many within the industry have pointed out that Congress has requested a self-regulatory agency be set up to assist the CFTC with its regulation of the industry. They have stated that if a user fee is put into place it could damage and perhaps kill the National Futures Association concept.

My proposed compromise is this: The National Futures Association would be given the opportunity to prove itself, and the CFTC would be the judge. If at the end of a 2-year period the CFTC had found that the NFA was not contributing to the regulation, was not assisting in protecting the public, then a user fee would be assessed against the commodities industry. But, that money would not replace public money, but would instead be added to that money so that the public could receive greater protection.

The bottom line is this: $23 million worth of protection is provided within the authorization for funding for the CFTC. An additional $6 million has been assessed by the industry against itself for the NFA. The public will receive, in effect, $29 million worth of protection under the committee's bill.

□ 1420

If we follow the route that the gentleman from New York (Mr. CONABLE) has propsed, the very most the public can hope for is $23 million in protection. If we find that the administration of the NFA is not successful, if the industry does not police itself, does it not make good sense to simply apply that funding to the CFTC and to strengthen an agency that we all know is well underfunded and understrength? I think that if we pursue the course charted out by the committee, we will find that the public is better protected and better served.

I must say that I do find it rather ironic that this administration, one which has made such a point of the fact that we should have less Government regulation and that we should encourage the private sector to regulate itself, would now be throwing cold water on this very philosophy in the committee bill.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, the gentleman from Oklahoma (Mr. ENGLISH) assumes that the development of the National Futures Association is inconsistent with the charging of this fee.

Is there any reason why the National Futures Association cannot go forward also?

Many other exchanges have similar organizations. For instance, the National Association of Securities Dealers continues to perform although there is a much more burdensome fee charged on brokers in order to regulate the Securities and Exchange Commission.

Mr. ENGLISH. Mr. Chairman, I would have to say to the gentleman that I wish it were so. But I think we all recognize that with an infant agency such as CGTC and with an infant organization such as NFA, without question it presents a problem.

The CHAIRMAN. The time of the gentleman from Oklahoma (Mr. ENGLISH) has expired.

(On request of Mr. HAGEDORN, and by unanimous consent, Mr. ENGLISH was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Chairman, I want to compliment the gentleman in the well for describing this legislation so ably. I think that the committee has come up with reasonable language to give us some time and a study and to determine later on whether we should go to a self-financing by taxing transactions or whether we should continue and try to give new life to the National Futures Association and to let that take over much of the responsibilities as it is intended to.

I know that the NFA testified extensively before our committee and submitted substantial documentation of its plans and of its ability to assume the Commodity Futures Trading Commission functions in the areas of registration, financial auditing, sales practice standards, and customer arbitrations.

A rose is a rose is a rose, and a tax is a tax is a tax. That is what we have heard. It is another tax, and I believe the American people are, quite frankly, being taxed to death, and that this is an unneeded tax at this time.

We ought to allow for a study and further consideration and not move overly hastily.

Mr. Chairman, this is another example where in a number of areas this administration has moved in this direction, and it is one which I cannot support myself.

Mr. ENGLISH. Mr. Chairman, I simply urge that we seek greater protection for the public. I believe we will accomplish that by staying with this compromise language. If NFA does not perform as it has promised, then that money should be added to the CFTC budget, not taken away.

Mr. Chairman, I yield back the balance of my time.

Mr. JONES of Tennessee. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition of the amendment.

Mr. Chairman, this issue was considered very carefully by the committee, and it was decided to delay the imposition of any user fees for at least 2 years.

This delay was granted so that the industry could move ahead with implementing the National Futures Association, an industry self-regulatory organization which will assess the industry as much as $9 million annually.

The National Futures Association will provide regulatory standards for certain off-exchange sectors of the industry which receive little direct attention from the CFTC. The NFA is patterned after the National Association of Securities Dealers which has successfully dealt with many similar problems within the securities industry. The implementation of the National Futures Association has been under way for some months.

During debate on the user fee proposal, the committee was convinced that the imposition of the fee would unfairly deprive the NFA of its funding base during its infancy. Special consideration was given to this argument since both the committee and the Commission have been actively en-

couraging establishment of the NFA since 1974. To impose an additional fee on the same individuals and corporations at this critical time would constitute action in bad faith on the part of the committee and the Congress.

Additionally I want to point out that this industry operates generally under a self-regulation concept where the functions of the exchanges are paid for by the industry itself. According to one industry expert the six major commodity exchanges alone spent close to $18 million on self-regulatory functions in 1981.

Mr. Chairman, this means that the commodities industry will be spending around $27 million on self-regulatory functions next year when the NFA is fully operational. They are doing what we asked of them. For this reason I will oppose this user fee amendment and support the committee bill which provides for a 2-year delay in the imposition of such fees giving the NFA a fair chance to get started.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately, I must rise in opposition to this amendment. It is with great trepidation that I do so. I have no greater respect for any Member of the House than the gentleman from New York (Mr. CONABLE), the ranking Republican member of the Committee on Ways and Means.

But I think in this case this amendment needs to be before the Ways and Means Committee for consideration before we ask the Members of the House to vote on it.

Mr. Chairman, a tax by any other name is a tax. A user fee or a trading fee is in fact a tax. It is a forced levy by the Government upon citizens to be paid into the Treasury. That is a classic definition of a tax.

Taxes should come from the Ways and Means Committee after hearings to determine their need and their applicable level. While perhaps transactions before the CFTC should pay a fee or pay for part of the cost of running that agency, should they pay for all of it? This amendment will raise almost the full operating cost of the CFTC, a Federal agency.

Does the CFTC not serve the public to some degree? Is it there solely for the transactors who go before it? I do not believe that is the case, and that is usually not the case with any Federal agency.

Therefore, the General Treasury does have an obligation to pay for at least some part of the cost of the operation of one of its Federal agencies, certainly one that gives some benefit to the general public and at least in proportion to its benefit to the general public.

The Treasury pays almost all the cost of the running of the agency now, so the adoption of this amendment would be a change, and a drastic change.

I support reducing deficits and the concept of user fees at some fair level where applicable. We do not know whether it is applicable here or not. There have been no hearings. We do not know at what level it should be applied. We have had no hearings.

Therefore, the amendment should be defeated and considered subsequently by the Ways and Means Committee.

User fees are a tax, and a user fee by any other name is still a tax. If we are going to apply this tax to somebody that comes before this agency, it ought not be in excess of what the Congress judges that proportion of the benefits of that agency accrued to that particular transactor. If the agency benefits accrue one-half to the public, the Treasury ought to pay one-half and the transactors one-half. We do not know that in this case.

This amendment ought to be refused, and we ought to go into this question of user fees, as all taxes should be, before the Ways and Means Committee.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I certainly yield to the distinguished ranking minority member of the Ways and Means Committee.

Mr. CONABLE. Mr. Chairman, allow me to pay my respects to the gentleman also. I appreciate the gentleman's worrying about the sacred turf of the Ways and Means Committee. There may be others in the room who feel the same way.

However, this measure as it came before the body had no user fee in it, and thus there was no basis for us to assert jurisdiction over it.

I think we should not supinely accept what is a rather unfortunate result simply because we need to protect sacred turf.

I am sure the gentleman did not mean to imply that anybody but the taxpayers pays the cost of this Commission now. They are paying the cost through the income tax, however, and for him to assume that this is totally a public charge or even in part a public charge or to say that we ought to spend a good deal of time and worry about jurisdictional niceties for that reason when it involves such an eclectic operation as the purchase of futures is, I think, rather unusual.

Mr. MOORE. Mr. Chairman, may I say in answer to the distinguished ranking minority member that is not my concern. My concern is not one of jurisdiction. The Ways and Means Committee has jurisdiction for a reason to consider all tax bills. We do not write tax bills on the House floor. We want to be sure that when we impose a tax on someone, it is fair and needed, and that we have levied it in the right amount.

□ 1430

This is a tax and should be treated the same way.

The fact remains that right now the Treasury is paying all of the costs of the operation of this agency. I accede to the gentleman that maybe that is not entirely correct but nor is it correct to go to the other extreme as the gentleman would have us do and have the transactors before a Federal agency pay all of the costs of that agency.

The agency is there not just for the benefit of the transactors but for the benefit of the general public also and it is the job of the Ways and Means Committee to sit down and go through this matter, determine how much should be paid by the General Treasury, how much should be paid by a tax on those who in particular use that agency's services.

I think this is a real question that the administration should have brought to us in an entire package on user fees. They did bring this Congress a package on other user fees. With the exception of those on airplane ticket taxes and fuel that came through in the tax bill that passed last month, all of those user fees have been rejected by the Congress.

All of those should have come to the Ways and Means Committee and I believe were slated to do so, as would be properly the case.

Mr. CONABLE. I thank the gentleman. The gentleman knows something about the area of user fees and I know he has studied this a great deal. I happen to disagree with him in this case.

Mr. ROSTENKOWSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment clearly constitutes a revenue measure, and thus comes within the jurisdiction of the Committee on Ways and Means, whether characterized as a user fee or a tax. In fact, the fee proposed in this amendment may well be a tax. The Committee on Agriculture considered and rejected a similar proposal during its deliberations on this bill. The committee's report notes that the fee was "not so much a user fee but a transaction tax."

PROVISIONS OF THE AMENDMENT

Whether a user fee or a tax, the provisions of the amendment raise questions that clearly deserve the attention of this House.

First. What is the rationale for establishing a 2-to-1 discrepancy in the charge imposed on nonmembers as opposed to members of the exchanges or the futures association?

Why is the charge for a futures contract established at 12 cents or 6 cents, while that for options is $3?

Do the costs of regulation vary that significantly? If not, I would suggest that what we have here is not a fee based on the costs involved, but a tax based on some other criteria that should be carefully examined.

Second. Is it appropriate to permit a regulatory commission, rather than the Congress, to determine when these charges will be imposed and when they will be suspended or waived?

It is unprecedented to provide revenue powers to such a body, one that is independent of the executive branch and must be reauthorized by the Congress only periodically. If the Congress is willing to raise revenues by imposing charges on certain acitivities, it should also clearly establish the terms and conditions of such charges.

Instead, the amendment before us provides that the Commodity Futures Trading Commission (CFTC) may suspend the fees for a period of time if collections for the preceding fiscal year exceed the amount appropriated to the Commission. There are no details on the extent of this power or the conditions of its exercise. For example, must the Commission suspend the fees even if it projects that fees for the current fiscal year will be insufficient? How are requests for supplemental appropriations to be taken into account? What notice is to be provided? Can a suspension and reinstitution of fees take place at any time during the year?

Even more disturbing is the provision allowing the Commission to reduce, suspend or waive these fees as to any person upon a finding that the fees would cause an adverse effect on a person or market. Where else do we waive a fee or a tax on this basis? Is this an invitation to the special interests to lobby the CFTC for special treatment? What really is contemplated here? It seems to me that if there really is a possibility of harm to the extent that this provision is necessary, the fees proposed are not well conceived and should not be enacted until any potential problems are fully considered and appropriately resolved. The solution proposed in the amendment is just not acceptable.

Third, in conclusion, I would remind my colleagues that user fees, while justified in many circumstances, are not the ultimate answer to every funding problem. We should carefully consider, in the normal legislative process, when fees are appropriate and the extent to which these should be relied upon in funding Government services.

The economic benefits provided by the commodity markets are widely shared and do not accrue to market participants alone. Thus, it is appropriate to rely on general revenues for some portion of the Commission's funding in reflection of the public interest to be served by the careful and responsible regulation of these markets.

I strongly urge my colleagues to reject the Conable amendment.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I am pleased to yield to the gentleman from New York.

Mr. CONABLE. It is within the power of our committee always to have hearings on anything that is in fact a tax. If this is a tax I point out to the distinguished chairman of the Ways and Means Committee that a point of order would have lain against it. But in fact it is a fee.

I would like to say also that as a fee this is not a remarkable fee. It is less than one-third the cost of a postage stamp per transaction, and we are putting $50 million of burden to the general taxpayers if we do not adopt it.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I will be brief. The distinguished gentleman from New York is aware of my admiration and respect for him. Mr. CONABLE is as wise and able a legislator as there is in this House.

The question of user fees has been discussed at great length over recent months. A variety of user fees have been proposed which in the main, have not been enacted.

After careful consideration, however, the Committee on Agriculture determined it was wiser to encourage the industry to carry forward its plans to develop a protection system similar to those that exist in the securities industry. This system will require contributions by the industry.

Looking ahead to that, we should not impose on the industry the further burden of a user fee, transaction tax, or whatever one chooses to call it.

In addition, I note that the gentleman from New York's amendment provides that the user fee would be 12 cents for the nonmember and 6 cents for the member. For nonmembers such as farmers using future trading, it seems to me that perhaps 12 cents is a bit stiff, as they say.

Mr. CONABLE. Mr. Chairman will the gentleman yield on that point?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. CONABLE. I wish to point out that the farm groups, at least the Farm Bureau, the Grange, the National Cattlemen's Association all support this user fee. They apparently do not feel it is discriminatory or burdensome.

Mr. FOLEY. I thank the gentleman for that information. I certainly had no particular charge from them to make this complaint.

I simply noticed that nonmembers are changed 100 percent more in user fees than members are.

In any event, the entire question of whether there should be user fees or not has been addressed. In the case of a variety of other activities, and economic activities in particular, we have chosen not to expand user fees.

Additionally, because this industry particular is about to undertake an expensive, important, and highly useful program of self-regulation and indemnification to protect the customers of the various commodities markets, I think it has sufficient and justifiable reason to request that user fees not be imposed.

□ 1440

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. CONABLE. Obviously, the increment that is charged nonmembers will encourage participation in the association, something that should help self-regulation rather than discourage it.

The self-regulation is not in any way inconsistent with the imposition of a user fee to pay the cost of the commission.

Mr. FOLEY. Nonmembers by their very title would not be members of the association. The real point is, however, that the industry will be expected to undertake the responsibility of giving protection to customers. Under the circumstances, the Agriculture Committee felt that it would be better not to move forward on a user fee at this time; and I would hope that the House and the committee would follow its recommendation, of the committee, the amendment offered by the wise, generous, and competent gentleman from New York notwithstanding.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my colleague, the gentleman from New York, that would impose user fees, additional user fees, I might add, on the futures industry at this time. I do so with some mixed emotion, because as usual he makes a lot of sense in the argument that he makes. But I can also say the same of Chairman ROSTENKOWSKI and the gentleman from Washington (Mr. FOLEY), who just spoke. And I would like to reiterate, for just a moment, some of the main points that I think the committee needs to take into consideration as we act on this important amendment.

The Agriculture Committee has carefully considered the issue. That committee directed the CFTC to proceed in three important ways. First, the CFTC is to conduct a study concerning the effectiveness of the National Futures Association and submit that study to the Congress. Second, the CFTC is to conduct a study measuring the relative benefits of user fees to the general public. Third, the CFTC must also analyze the effect of any proposed fee or tax on the liquidity of the futures markets in the United States.

These three steps have not yet occurred. I urge my colleagues to accept the thoughtful threefold approach of the Agriculture Committee and to avoid any premature action now.

During the extensive hearings conducted by the Agriculture Committee, several witnesses testified that user fees would have serious adverse effects on the market. Witnesses stated that user fees would discourage trading and reduce the effectiveness of the risk shifting and price discovery functions of the markets. Other witnesses testified that the cost of user fees would be borne by the producers who cannot afford this additional burden. Others testified that since the general public benefits from the futures markets, the public should also share the cost of regulating them. I suspect that such testimony is well founded. I am at least willing to let a study go forward to find out.

I fear the impact of these so-called user fees will extend beyond the futures industry and fall most heavily on the farmers of America that use directly or indirectly the futures market to hedge their crops or their livestock feeding costs.

Therefore, I urge my colleagues to recognize that the economic impact of user fees on the direct users of the markets, and on those hundreds of thousands who depend on the futures markets to facilitate the marketing of their production, should be carefully examined, to see who benefits—the users or the general public—before the Congress should even consider such a fee or tax.

The point I want to reiterate is this: It is not that additional user fees in commodity trading are necessarily a bad idea. They may very well be a good idea, and the gentleman from New York may be totally correct. I strongly support the idea of those who use a Government service paying for at least a portion of its cost, if not all.

But we need to remember two major points: First, the industry is already paying significant user fees; in fact, almost twice what we are talking about in this amendment. The question, then, is not whether or not, but how much additional fees or taxes we should impose. Second, business does not pay taxes or fees. Business collects taxes for government. Consumers end up paying taxes or fees levied on business. Now, this is a user fee, rather than a tax; but the principle is the same: It is an added cost of doing business. And I cannot help thinking that sooner or later it will be reflected in the prices that in this case farmers will receive for their commodities. This is not the time to add an additional cost on our farmers.

Until the CFTC completes its study and the Congress carefully considers all aspects of this issue, including committee jurisdiction, we should not go forward and impose an additional fee at this time. I urge my colleagues to reject this amendment. We should oppose this user fee at this time until the proper studies can be completed.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate for the last 30, 35 minutes, and I find it very difficult, as I am sure the American public must, as to just what is happening here and where the argument is.

Now, unless I am mistaken, and I am sure my good friends who are on the floor here will correct me in that case, as I certainly want them to do, when a transaction takes place dealing with the commodity markets and trading in futures, a commission is paid, a commission is paid to the broker, somebody who is handling this transaction.

My understanding is that the average commission paid under these types of transactions, the average, is about $60 to $70.

Now, the gentleman from New York has offered an amendment saying that 6 cents should be paid to help pay the cost of regulating this whole operation. And somehow the inference has been given that nobody is really paying this now, that it is just sort of going on, and to impose this 6 cents to members, or 12 cents to nonmembers, is really not necessary.

One of my colleagues on the Republican side said that the American people really were being well served by this. I would love to have this issue put to a vote of the American people, and I tell you that it would not get 10 percent of the vote because the American taxpayer is paying about $15 million a year to help regulate and operate these exchanges, when it should be paid by those participating, as it is, I believe, in practically every other exchange.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Louisiana.

Mr. MOORE. I appreciate the gentleman yielding. I will be glad to ask for additional time for the gentleman should the gentleman not be able to complete his remarks.

What I was attempting to refer to—and I assume the gentleman was referring to me a moment ago when he identified an unknown Member from this side of the aisle—was the fact that this Federal agency exists for the purpose of the transactors, to be sure, to regulate them; but also to protect the general public. Otherwise there would be no sense in having a Federal agency do this.

The whole idea of a users fee or a tax is to try to apportion the fair rate that the transactor pays for that percent of the operations of the agency that accrue to him and him alone, and then what part the General Treasury ought to pay for that portion of the activities that accrue to the benefit of the general public.

All I am saying is, there maybe ought to be a user fee here. We do not know how much or to what degree until we delve into this question, as we have done with all user fees in the past. The one that came through here in the airport tax, for instance, will pay for about 60 percent of the operations of the FAA, it being the thinking of the Public Works Committee and the Ways and Means Committee, from studies done, that about 40 percent of the operations of the FAA attribute to the general benefit of the public and, therefore, ought to come from the General Treasury and not from users of airplanes or pilots or whatever.

That is the point I was trying to make, and I appreciate the gentleman yielding.

□ 1450

Mr. PEYSER. I thank the gentleman for his comment. As long as the issue of user fees has been brought up, I would like to say we have just passed a tax bill that had included in it a user's fee that tripled the telephone tax. This is to Mr. and Mrs. America out there, everybody who has a telephone.

I never saw nor did I ever hear of any study being conducted as to the impact of that tripling of a telephone tax for the average American public, what the impact was on them. Because there was no study.

I just feel that when we are talking now and saying let us wait and we will have a study, let us have the Conable amendment passed and then have a study. If it turns out 6 cents is too little, then we can raise it the next year to 8 cents or 10 cents, whatever it may be. We know it will not be too much because it is just covering what it now costs.

I think it is important that we somehow get a handle on what this $15 million means. In our work here on the floor, it is seldom we get down to argu-

ing about $15 million; $15 million is not worth the time of day around here.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(By unanimous consent, Mr. PEYSER was allowed to proceed for 5 additional minutes.)

Mr. PEYSER. The issue that we are talking about is $15 million, I said, normally we are dealing in hundreds of millions or billions of dollars; and many times we do not have as much discussion as we are having right now on $15 million. But I looked at some figures here. I figured out—and I hope my colleagues who are back in their office are going to give thought to this as they are watching—what does $15 million really mean in governmental waste?

I worked it out. I found out that 7,500 more students in this country could get guaranteed student loans if $15 million were given to that. I found out over 15,000 Pell grant students could get Pell grants if that $15 million were applied to them.

I found out one could open and keep running over 200 new senior citizen centers with that $15 million; over 15 million school lunches could be served, and so forth and so on. It is a real important item.

It is coming right out of our taxpayer's pockets.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I appreciate the gentleman yielding.

I think the gentleman certainly has made a couple of good points. I think there is one question we really have not focused on that much here today. I think it is one that is very important.

That is the question of whether or not the CFTC, the Commodity Futures Trading Commission's efforts have been sufficient. Certainly, if they have been sufficient, if they have done the job, if they have protected the public, if we are satisfied with that overall effort, then I would agree with the gentleman and the amendment offered by the gentleman from New York (Mr. CONABLE) would make a great deal of sense.

Every indication we have had from the formation of the CFTC in 1975 is that this is an infant agency that is playing catch-up. It is desperately trying to play catch-up. In fact, to give the gentleman some idea of just how far we have had to go, we have even given the States the authority to prosecute, under Federal law, in the Federal court, because the CFTC simply did not have the resources to go out and cover the jurisdiction that was expected of them.

What we have tried to do here in this bill is to recognize that. We understood that. This was the whole idea of the concept behind trying to provide incentive for the industry to do some self-regulation itself.

We finally came down and said, "Look, we are just starting up the NFA. We will give them 2 years. If they do not do the job at the end of that 2-year period, we will impose the user fees, but we will not put that money into the Commodity Futures Trading Commission in place of tax money; we are going to add it to the tax money."

So if the gentleman's concern is—and I think there has been sufficient publicity to advertise the problems in the commodities industry—if the gentleman's real interest and concern is protecting the public, there is no way one can go other than staying with the committee amendment.

Mr. PEYSER. I appreciate the gentleman's comments.

I must say I find the whole issue, including what the gentleman was just saying, hard to understand why we should not still say that 6 cents per transaction should be paid to offset what it is costing the American taxpayer. Sure, we want regulations; we want them to be done the correct way; but I do not see how there is an argument that can possibly be made that we should not charge the traders instead we should charge the American taxpayer.

I may be mistaken on this issue. Once again, I will be glad to be corrected. Do any of the other exchanges pay anything? Are there any other exchanges that have no charges?

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from New York.

Mr. CONABLE. As far as I know, there is ample precedent for this in the other exchanges. I do think it is important to stress, if the gentleman will yield to me further, that there is nothing inconsistent in this measure with the development of the National Futures Association as a self-policing body. In fact, it should encourage the National Futures Association's future development because of the fee schedule.

Mr. PEYSER. I would think so as well. I say to my friend that I think the amendment is a sound one. I think those of us who talk about being supporters of consumers ought to really look at this little amendment that is on the floor and ought to act for the consumers.

There is one thing that I have heard over the years, and that deals with the futures market. Years ago when I was in New York, I talked to a friend of mine who was a broker on the street about trying to invest in the futures market.

The CHAIRMAN. The time of the gentleman from New York (Mr. PEYSER) has expired.

(At the request of Mr. MOORE and by unanimous consent, Mr. PEYSER was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. I asked this broker about investing in the futures market, and he said to me, "Peter, if you like shooting crap, go into the futures market."

That is really what the futures market has been over the years. Fortunes have been made overnight and have been lost overnight; and for us to say we are not going to charge 6 cents for this kind of a transaction, I do not think makes sense.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

In answering the gentleman's question a moment ago we are ignoring the fact the other exchanges are private. They are not Federal exchanges. The stock exchanges, the commodity exchanges, they are not Federal exchanges. This is.

Second, we have an extreme situation in the law now where the Government—the Treasury—is paying for the sole cost of this. I think the amendment offered by the gentleman from New York (Mr. CONABLE) goes to the other extreme of having the transactors pay the sole cost of a Federal agency.

I again say the Ways and Means Committee ought to be charged with coming up with a user fee that somehow finds the true proportion the public ought to pay and the users ought to pay.

Mr. PEYSER. Once again I hope the Ways and Means Committee chooses to act on this as well. I think between now and when that time takes place, the American public has footed the bill long enough on the issue. We ought to certainly move out and pass this amendment and give the taxpayer a break even if it is only $15 million.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee considered at great length a recommendation by the CFTC to authorize the imposition of user fees on commodity transations subject to the Commission's jurisdiction. The purpose of the proposed fees would be to recover a major portion of the CFTC's operating budget. The committee agreed to defer the authorization of user fees and, instead, directed the CFTC to study the possible effect of such fees and report

to Congress with its findings by January 1, 1984. There are several significant reasons for this approach.

While mindful of the need to reduce the costs of the Federal Government, the committe nevertheless concluded that it did not have enough information to determine the potential effect of user fees on the commodities markets. Furthermore, the committee recognized that the national Futures Association, an industry-funded, self-regulatory organization recently approved by the CFTC, is now being organized. Government-imposed fees at this time could jeopardize the formation of the NFA, which, when operating, will relieve the CFTC of a number of its regulatory burdens.

Mr. Chairman, the committee was aware that the commodities industry already bears a significant share of the burden of regulating these markets through fees paid to fund the self-regulatory programs carried out by the exchanges. Before imposing additional fees on the industry, the committee believes it important to determine what portion of the CFTC's budget benefits the public and, therefore, should most appropriately be borne by the taxpayer.

The study and report by the CFTC will enable Congress to make an informed judgment on whether and to what extent user fees should be imposed on the commodities industry. I therefore urge my colleagues to vote against adoption of this amendment.

Mr. DASCHLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I will not use the full 5 minutes. I think we want to vote here. I think the point made by the gentleman from New York (Mr. PEYSER) was an erroneous one if we look only at that issue.

The issue is not how much money we tax the transactors or the users. The real issue is what percentage of that money will comprise the CFTC budget. That will not be decided until we get the results of the study. All this bill is asking is to give us that chance to find out, to give us that chance to find out how much the users ought to pay, how much the general public ought to pay.

In a rural area, we know the impact the CFTC has on our people, on our farmers, on our grain elevators, on just about every element of the the agricultural economy. So with that goes the responsibility to help pay for that regulation, and I think this bill addresses it very adequately.

Mr. Chairman, I rise in support of the provisions in the committee bill which prohibit, at this time, any transaction tax or fee to be imposed on commodity transactions. Conversely, I oppose any and all attempts by the CFTC and the Office of Management and Budget to obtain financing for the CFTC's operations through the imposition of a tax directly on participants in the futures markets.

Perhaps the primary issue facing Congress during this CFTC reauthorization process has been the question of transaction taxes which the CFTC and OMB have attempted to sell to Congress under the misnomer—user fees. The question whether to term this proposal as one for a transaction tax or a user fee is not merely an academic exercise in terminology. Instead, as was revealed during committee hearings and debates on this subject, the question whether this proposal involves a tax or user fee is central to understanding the erroneous assumptions underlying this proposal.

The CFTC employs the term "user fees" in an attempt to suggest that only those persons who use the futures markets benefit from regulation of those markets and therefore should pay a fee for that benefit. The fee proposed by the CFTC, however, would affect not only traders, but also all other segments of our economy including consumers, producers, processors, and other economic institutions who rely upon the futures markets and therefore use the markets, either directly or indirectly. For that reason, the term "transaction tax" more accurately describes the payment the CFTC proposes to exact from any participant in a futures transaction in order to cover the cost of the CFTC's operations.

The basis for the CFTC and OMB position is clear. They assert that futures regulation benefits only participants in the marketplace. That is, only individual and entities who actually trade futures contracts have something to gain from regulation of the markets. This premise is inconsistent with an express congressional finding embodied in the Commodity Exchange Act since 1922. Section 3 of the Commodity Exchange Act recognizes explicitly that the public interest that justifies Government regulation of the futures markets embraces not merely protecting participants in transactions executed on the various boards of trade. Rather, in addition to the other important economic functions performed by futures markets, section 3 of the act recognizes that "the prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof, and to facilitate the movements thereof in interstate commerce." Section 3 goes on to provide that since the potential for market manipulation of the price of these transactions could diminish public reliance on futures market prices, Government regulation is warranted. Under the act, therefore, futures regulation guards against a potential harm to nonparticipants in the markets. Thus, it is a historical fact that the Federal Government, recently the CFTC, has been called upon to regulate these markets principally because all consumers and businesses are, in a real sense, users of the markets.

The CFTC and OMB have not offered any evidence indicating that the 60-year-old congressional judgment is erroneous, inaccurate, or out of date. In the absence of any such evidence, the Commodity Exchange Act itself argues forcefully against the basic premise underlying the CFTC transaction tax proposal.

Congress is not the only institution that has recognized the fallacy of the theory underlying the CFTC proposal. The Supreme Court in the recently issued opinion in *Merrill Lynch, Pierce, Fenner and Smith* v. *Curran*, Docket No. 80-203, 80-757, 80-895 and 80-936 (May 3, 1982), reviewed the history and evolution of Federal regulation of the futures markets. The Court recognized, as all will concede, that the immediate beneficiaries of a healthy futures market are the producers and processors of commodities who can minimize the risk of loss from volatile price changes in the cash market by hedging in the futures market. But the Court acknowledged that producers, processors and, indeed, speculators who trade on the markets are not the only class affected by Federal regulation. Instead, the Court stated unequivocally "Federal regulation of futures trading benefits the entire economy; a sound futures market tends to reduce retail prices of the underlying commodities". (*Merrill Lynch* v. *Curran, supra*, slip op. at 36.) Thus, the Supreme Court also appreciates that the beneficiaries of sound and effective regulation of the futures markets include the public at large who consume or purchase commodities and products or byproducts of commodities traded on those markets.

In light of this statutory and case law authority, it seems clear to me that the fundamental premise underlying the CFTC transaction tax proposal is hopelessly flawed. Accordingly, I cannot and will not support any legislation that would tax participants in futures transactions in order to fund the CFTC.

□ 1500

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just wish to join the gentleman in his remarks as to the importance of the

CFTC to the Midwest, to the farmers, to agriculture, and also to the fact that with this transaction tax the impact it would have on the National Futures Association in its ability to continue to self-regulate.

I rise in opposition, as does the gentleman, to the amendment of the gentleman from New York.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment. I think we should conclude the debate on this issue.

I would like to state that I think the gentleman from Louisiana has made a very excellent point in relation to the basic issue of taxation.

What I would like to state, though, is that I find myself very much regretting that I must be contrary to my distinguished colleague, the gentleman from New York, after we fought so valiantly to eliminate the golden nematode in his area.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. CONABLE. Mr. Chairman, I would like to acknowledge publicly that the contribution the gentleman has made leads me to believe the gentleman is a hero to every potato farmer in western New York.

Mr. DE LA GARZA. I thank the gentleman.

Mr. Chairman, what I would like to make explicitly clear is that I do not know what prompted the gentleman from New York to offer the amendment or the other gentleman from New York to speak. I have no knowledge of what prompted them to do this.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Yes, I yield.

Mr. CONABLE. Mr. Chairman, I would like to say that when the amendment was suggested to me it sounded eminently fair and I did not think it needed a great deal of prompting.

Mr. DE LA GARZA. I take the gentleman's word for that.

Mr. CONABLE. I would like to say also, however, that the administration supports my amendment. For those of you who are committed to the administration, as I am sure the gentleman from Texas is, here is an opportunity once again to strike a blow for sound fiscal policy.

Mr. DE LA GARZA. I appreciate that. The gentleman has made, I think, explicitly clear the point that I would like to make. I would like my colleagues to kindly please remember this. Those of us who have worked with this issue since the inception of CFTC in 1975 have had under consideration continuous oversight and evaluation of the functioning of the commodity markets and the needs of those who are participants in the market in the buying and selling of futures contracts.

Therefore, we do not believe with all due respect, that because others may be subject to user fees that there should be user fees imposed on the commodity industry. Well, that is not the American system basically. The Communists may say that everybody will have a white house with three rooms, with a white picket fence, with a little Ford or whatever car in front and everyone will be equal and every agency will do the same. It does not operate the same way in a democracy, in our Government.

The Stock Exchange has a function and definite needs.

The Security and Exchange Commission has a function and definite needs.

The Commodity Futures Trading Commission has a function and definite needs, and they cannot all be the same. They cannot all be a copy or a clone of the other.

Now, as far as the taxpayers are concerned, we have concerns for the taxpayer. The Agriculture Committee is a committee that has reduced its expenditures, both for the committee and for the Department of Agriculture, more than any other committee in this House. We are the ones who have thought of the taxpayers and contributed our knowledge and expertise to reduce the impact of their budgets on the taxpayers. That is the reason that I perhaps was one of the most vocal in telling the industry that something had to be done.

Mr. Stockman, who called for a veto of this legislation, would not give the money, would not give the CFTC the money to do what they need to do, so we had to impose on the industry somewhat against their wishes and with this legislation, this compromise amendment that we have in the bill that Mr. CONABLE wishes to strike out. It should reduce the cost of the CFTC by basically one-half. The NFA will bring in some $12 million that will be used to reduce the impact on the taxpayers of the operations of the CFTC.

Therefore, we are contributing almost one-half their current budget. That will buy more school lunches. That will give more Pell grants.

This reduction of the necessity of expenditure for the CFTC by the work that the NFA will do will accrue to the benefit of the taxpayers. The money that they will bring from fees and charges imposed on their members to do work that is now being done by the CFTC will reduce, I tell you the need for funds by the CFTC. If the budget is $23 million now and the work that will be done, by the NFA is replacement for work formerly done by the CFTC is worth $12 million, then the CFTC is saved $12 million.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield very briefly.

Mr. CONABLE. Mr. Chairman, I take it from the earnestness of the gentleman's demeanor here on the floor that he feels that 6 cents a transaction will somehow suppress the economic life of this institution; is that right?

Mr. DE LA GARZA. No. The gentleman is entirely wrong. That is a good argument, 6 cents or 12 cents, that is not the argument.

Mr. CONABLE. Is that not what the fee would be?

Mr. DE LA GARZA. No. The argument is that this gentleman feels that he has a moral obligation to comply with an endeavor that he started long before the gentleman had ever become acquainted with the CFTC.

Mr. CONABLE. I applaud the gentleman for that endeavor.

Mr. DE LA GARZA. And that endeavor was to see that the CFTC perform its function we forced the industry, in effect, to impose upon themselves duties and fees to do the work of self-policing.

Now, the end result is that we again offered a compromise. We said we are not ready to make a decision on user fees now because the self-regulatory agency has just been set up we are saying that we are not going to make that decision; today. What we are seeking as a compromise for, those of us who have worked through the years with the program, those of us who have aspired to protect the investing public, let us have a study after two year as to the efficacy of the NFA then we will see where we are.

I think we ought to vote at this time, Mr. Chairman.

Mr. FINDLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am impressed always with my friend, the gentleman from New York, especially when he can use a word like eclectic to advance an amendment that he is proposing; but notwithstanding that, I am constrained to rise in opposition to the amendment.

The Committee on Agriculture gave careful consideration to the question of imposing user fees on the futures trading industry, and concluded that the decision should be left for later.

In considering this issue, I think it is important to keep in mind the purpose of the CFTC. It was created to protect the public interest, not to protect brokerage firms and commodity traders. In our discussions in 1974, we were

more concerned with protecting farmers, small investors, and the general public from market manipulation.

The administration would like to tax the people from whom we are, supposedly, protecting the public to pay for the cost of that protection. That may be like taxing one group or class of citizens to pay for the police protection that is provided to all.

These proposed fees have been compared to the fees charged by the Securities and Exchange Commission. A study conducted in 1980 by the SEC showed that transaction fees accounted for about 19 percent of the total fees collected by the agency, with 79 percent coming from registration statement fees and fees from other filings and reports. Thus, the bulk of SEC revenue comes from fees collected from individuals and corporations which participate in the securities markets. In contrast, it is estimated that 94 percent of the revenue to be collected by the CFTC would come from transaction fees, while only 6 percent would come from service-related fees.

Finally, I would like to point out that the CFTC approved formation of the National Futures Association, a self-regulatory body to be funded by user fees from the industry. I share the concern expressed by many in the industry that CFTC user fees might inhibit the development of the National Futures Association. We do not know how many of the functions of the CFTC the National Futures Association will be able to assume, nor do we know how quickly. Obviously, more study of this complex issue is in order.

Mr. Chairman, for these reasons and others, I oppose this amendment to the bill reported by the committee, and I urge my colleagues to do so, too.

In general, I favor user fees, but I feel it is premature to settle at this time the question of CFTC user fees.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in oppositon to the amendment offered by the gentleman from New York (Mr. CONABLE) the imposition of a transaction tax on commodity futures and options transactions. The proposal offered by the CFTC to impose a tax on market participants presents perhaps the most important question to be considered by Congress since the CFTC was created in 1974.

In my view, the issue is quite simple. If we want to insure the creation of an ever-expanding Federal Government regulatory presence over the futures markets, then we should vote for the transaction tax. If, instead, we want to promote and encourage meaningful and effective self-regulation by the futures industry at no cost to the taxpayers and, hopefully, thereby diminish the role of the Federal Government in regulation of futures trading, we should vote against user fees. Put in other terms, if Congress wants to insure the sustained development and growth of the National Futures Association, we should oppose and reject the proposal for a transaction tax.

At the heart of the transaction tax question, therefore, is the issue of the viability of the National Futures Association. During hearings before the Committee on Agriculture, substantial documentary evidence was produced demonstrating the harsh and adverse effects a transaction tax would have on the ability of the National Futures Association to begin to fulfill its self-regulatory promise. Congress, historically, has been a primary mover in support of the National Futures Association. The 1974 act authorized the creation of such an association. The 1978 act authorized the CFTC to require and make mandatory the membership of all commodity professionals in a futures association. Since that time, the CFTC has taken the significant step of registering the National Futures Association as a registered futures association. By applying for and obtaining registration, NFA now has agreed to perform many statutory responsibilities in order to assist the CFTC in regulating futures trading. In fact, NFA will perform a variety of functions now performed by the CFTC. The General Accounting Office, in its recent report on futures regulation, describes the functions which NFA will soon assume as the "three major customer protection programs." These programs include registration of all commodity professionals, auditing and financial surveillance of commodities firms, and the resolution of commodity customer claims. NFA's rules to facilitate its accomplishment of these tasks will take effect on October 1, 1982. Nevertheless, whether those rules will, in fact, be effective may well depend upon our vote on the CFTC's transaction tax proposal.

I believe it would be grossly unfair to require participants in futures transactions to pay twice for the same regulation. NFA is being funded by participants in the futures industry. It is not a nickel and dime operation. NFA has a substantial operating budget, commensurate with its substantial self-regulatory responsibilities. In fact, the futures industry's commitment of millions of dollars to the development of NFA is unambiguous evidence that the industry fully intends to police itself effectively and vigorously.

The CFTC's transaction tax proposal would provide that in addition to the cost of NFA, the futures industry would foot the bill for the CFTC. By adding a transaction tax for the CFTC on top of the NFA membership payments, the CFTC places participants in futures transaction in the unenviable position of paying twice for the same regulation. Not even their counterparts in the securities business pay twice for the same form and type of regulation. Thus, in my view, the CFTC transaction tax is both unwise and unprecedented—it should not be enacted into law.

Significantly, the committee bill contains provisions that fully reflect the relationship between the National Futures Association and transaction taxes. Under section 238 of the committee bill, the CFTC would be instructed to conduct a study of the regulatory experience of the National Futures Association during, essentially, its first 2 years of operation. This study would include documentation that would assist Congress in answering the ultimate question whether NFA will in fact reduce CFTC expenditures. The study will also analyze whether NFA will increase the efficiency and productivity of regulation of the futures markets.

Mrs. COLLINS of Illinois. Mr Chairman, I rise in opposition to the amendment of the gentleman from New York (Mr. CONABLE) which would impose so-called user fees on the futures industry.

I urge my colleagues to reject the fallacious comparison between these so-called user fees and those fees now imposed by the SEC. An SEC study conducted during 1980 concluded that its transaction fees accounted for an average of only 19 percent of the total fees collected by the SEC. The transaction fee of one-three hundredth of 1 percent the aggregate dollar sales volume of exchange-traded securities was described by the SEC as relatively small. Indeed, the transaction fees are only 22 percent of the entire SEC budget. By contrast, the fees at issue on the futures industry would fund 100 percent of the CFTC budget.

Again, using the SEC comparison, the 1980 study demonstrated that 52 percent of the total fees collected by the Securities and Exchange Commission were derived from registration statement fees, and fees from other filings and reports. These SEC fees are for services provided directly to the very large group of individuals and corporations that participate in the securities markets. By contrast, the relatively small number of participants in the futures markets limits the ability of the CFTC to collect significant amounts of revenue from service-related fees. To ask that the fees collected from the futures industry equal the fees collected in the securities industry is like asking the crowd at your local high school football game to pay for the cost of the Super Bowl. The attempt is prohibitively burdensome on a relatively small number of participants.

The user fee amendment at issue would impose a significant financial burden on individual traders in relation to the volume of trading by these individuals. This disproportionate burden on professional traders cannot be justified. Traders are the market makers, the ones that assume the risk in order to permit hedgers the necessary protections of the futures markets. A user fee could clearly cause a decline in the participation of these traders in the markets, which would only result in a decrease of market liquidity, which results in an adverse effect on the hedging and price discovery function of the futures markets.

I urge my colleagues to accept the recommendation of the Agriculture Committee. It makes sense to require the CFTC to carefully study the effect of user fees on market liquidity, and report its findings to the Congress. Until that study is completed, I must strongly oppose user fees and ask my colleagues to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONABLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 216, not voting 46, as follows:

[Roll No. 365]

AYES—170

Anderson	Early	Long (MD)
Ashbrook	Edgar	Lott
Atkinson	Edwards (AL)	Lowry (WA)
Barnes	Edwards (CA)	Lujan
Bedell	Erlenborn	Lundine
Beilenson	Evans (IA)	Lungren
Bennett	Fenwick	Markey
Bereuter	Fiedler	Marks
Bingham	Fields	Martin (NC)
Bliley	Florio	Martin (NY)
Boland	Foglietta	McClory
Bolling	Frank	McCloskey
Brodhead	Gejdenson	McCollum
Broomfield	Gibbons	McDade
Broyhill	Gilman	McEwen
Burgener	Gingrich	McKinney
Butler	Goldwater	Michel
Carman	Goodling	Mikulski
Carney	Gradison	Miller (CA)
Chappie	Gramm	Miller (OH)
Cheney	Green	Minish
Clausen	Grisham	Mitchell (NY)
Clay	Hall (OH)	Moakley
Clinger	Hamilton	Murphy
Coats	Hansen (UT)	Nelligan
Conable	Hartnett	Nowak
Conte	Hawkins	O'Brien
Coughlin	Heckler	Oberstar
Courter	Hiler	Obey
Coyne, James	Hollenbeck	Ottinger
Coyne, William	Holt	Oxley
Crockett	Horton	Patterson
D'Amours	Hughes	Pease
Dannemeyer	Johnston	Peyser
Daub	Kastenmeier	Porter
DeNardis	Kildee	Pritchard
Derwinski	Kindness	Pursell
Dickinson	Lagomarsino	Regula
Dixon	Latta	Rinaldo
Donnelly	Leach	Ritter
Dunn	Levitas	Rodino
Dwyer	Livingston	Roemer
Rogers	Smith (AL)	Taylor
Rosenthal	Smith (IA)	Thomas
Roth	Smith (NE)	Udall
Roukema	Smith (NJ)	Vento
Rudd	Smith (OR)	Walgren
Sabo	Snyder	Walker
Scheuer	Solarz	Waxman
Schneider	Solomon	Weaver
Schroeder	Spence	Weber (OH)
Schumer	St Germain	Whittaker
Seiberling	Stanton	Williams (OH)
Shamansky	Staton	Wirth
Sharp	Stokes	Wolpe
Shaw	Studds	Young (FL)
Shuster	Stump	

NOES—216

Akaka	Gephardt	Moorhead
Albosta	Ginn	Morrison
Alexander	Glickman	Mottl
Andrews	Gonzalez	Murtha
Annunzio	Gore	Myers
Anthony	Gray	Natcher
Applegate	Gregg	Neal
Archer	Guarini	Nelson
Aspin	Gunderson	Nichols
AuCoin	Hagedorn	Oakar
Bailey (MO)	Hall, Ralph	Panetta
Bailey (PA)	Hall, Sam	Parris
Benedict	Hammerschmidt	Pashayan
Bethune	Hansen (ID)	Patman
Bevill	Harkin	Paul
Biaggi	Hatcher	Pepper
Blanchard	Hefner	Perkins
Boggs	Heftel	Pickle
Bonior	Hendon	Price
Bonker	Hertel	Quillen
Bouquard	Hightower	Rahall
Bowen	Hillis	Railsback
Breaux	Holland	Rangel
Brinkley	Hopkins	Ratchford
Brooks	Howard	Reuss
Brown (CA)	Hoyer	Roberts (KS)
Brown (CO)	Hubbard	Roberts (SD)
Byron	Huckaby	Robinson
Campbell	Hunter	Roe
Coelho	Hutto	Rostenkowski
Coleman	Hyde	Roybal
Corcoran	Jacobs	Russo
Craig	Jeffords	Santini
Crane, Daniel	Jeffries	Sawyer
Crane, Philip	Jenkins	Schulze
Daniel, Dan	Jones (NC)	Sensenbrenner
Daniel, R. W.	Jones (OK)	Shannon
Daschle	Jones (TN)	Shelby
Davis	Kazen	Shumway
de la Garza	Kemp	Siljander
Dellums	Kennelly	Simon
Derrick	Kogovsek	Skeen
Dicks	Kramer	Snowe
Dorgan	Lantos	Stangeland
Dougherty	Leath	Stenholm
Dowdy	LeBoutillier	Swift
Downey	Leland	Synar
Dreier	Lent	Tauke
Duncan	Lewis	Tauzin
Dymally	Loeffler	Traxler
Dyson	Long (LA)	Trible
Eckart	Lowery (CA)	Vander Jagt
Edwards (OK)	Luken	Volkmer
Emerson	Madigan	Wampler
Emery	Marlenee	Washington
English	Marriott	Watkins
Erdahl	Martin (IL)	Weber (MN)
Evans (DE)	Martinez	White
Evans (IN)	Matsui	Whitehurst
Fary	Mavroules	Whitley
Fazio	Mazzoli	Whitten
Ferraro	McCurdy	Williams (MT)
Findley	McDonald	Wilson
Flippo	McGrath	Winn
Foley	McHugh	Wolf
Ford (TN)	Mica	Wright
Fountain	Mineta	Wyden
Fowler	Mitchell (MD)	Wylie
Frenzel	Molinari	Yatron
Frost	Mollohan	Young (AK)
Fuqua	Montgomery	Young (MO)
Gaydos	Moore	Zablocki

NOT VOTING—46

Addabbo	Beard	Burton, Phillip
Badham	Boner	Chappell
Bafalis	Brown (OH)	Chisholm
Barnard	Burton, John	Collins (IL)
Collins (TX)	Garcia	Rousselot
Conyers	Hance	Savage
Deckard	Ireland	Skelton
Dingell	LaFalce	Smith (PA)
Dornan	Lee	Stark
Ertel	Lehman	Stratton
Evans (GA)	Mattox	Weiss
Fascell	Moffett	Wortley
Fish	Napier	Yates
Fithian	Petri	Zeferetti
Ford (MI)	Rhodes	
Forsythe	Rose	

□ 1520

Mrs. KENNELLY changed her vote from "aye" to "no."

Messrs. GEJDENSON, HAWKINS, SILJANDER, D'AMOURS, SMITH of Alabama, and TAYLOR changed their votes from "no" to "aye."

Mr. SILJANDER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. FOLEY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1530

FUTURES TRADING ACT OF 1982

The CHAIRMAN. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 55, between lines 16 and 17, insert the following:

The Commodity Exchange Act, as amended (7 U.S.C. 1-20) is further amended by inserting after section 8c (7 U.S.C. 12c) the following:

"SEC. 8d The Commission shall revoke the registration of any futures commission merchant, associate of any futures commission merchant, commodity pool operator or floor broker—

"(1) who accepts or places, either directly or indirectly, any order for the purchases or sale of any commodity for future delivery on any contract market from any person who has been found in violation of the provisions of section 20; or

"(2) who, himself, is a person who has been found in violation of the provisions of section 20.

Any such person whose registration is revoked in accordance with this section shall

not be eligible to reapply for registration until twelve months after the date of revocation.".

SEC. 2. The Commodity Exchange Act, as amended, is further amended by adding at the end thereof the following new section:

"SEC. 20. Any person who, directly or indirectly, sells for export or agrees to sell for export the quantities determined pursuant to subsection (c) below of any wheat, corn, soybeans, and any component or commodity related to wheat, corn, or soybean as the Commissioin may designate shall report the following information to the Commission: (1) the date of such sale or agreement, (2) the name and full identity of the commodity, (3) the quantity of the commodity, (4) the country or countries to which the commodity is to be shipped and the ultimate destination if known, and (5) such other information as the Commission may by regulation require. The report must be received by the Commission within forty-eight hours of the sale or agreement.

"(b) Notwithstanding the provisions of section 8 of this Act or any other provision of this Act, the Commission shall make available to the public each such report filed with the Commission pursuant to subsection (a) on the first working day following their receipt by the Commission. The Commission shall make these reports public in a manner that will (1) assure that all interested persons may obtain access to these reports at the same time and (2) protect against any person or firm obtaining premature disclosure of the information the reports contain. The Commission shall continue to make this information available to the public for a reasonable period of time.

"(c) Consistent with the interest of agricultural producers and others in the information contained in these reports, the purposes of this section, and the public interest, the Commission shall promulgate rules and regulations implementing the provisions of this section within ninety days of the effective date of this Act and may amend those rules and regulations from time to time thereafter. The Commission may by rule or regulation, among other things, limit the class of persons required to report pursuant to subsection (a). Unless or until changed by rule or regulation promulgated pursuant to this subsection, the class of persons required to report hereunder shall be limited to those persons whose total export sales and cancellations of wheat, corn, and soybeans exceed one hundred thousand metric tons daily or whose total export sales and cancellations of such commodities exceed two hundred thousand metric tons within seven calendar days.".

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa.

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, this amendment has been before the House before, and it passed by a vote of 273 to 125. It is the same amendment. The principal change in the situation since that time is another example of why the amendment is needed.

The amendment provides that those big traders that deal with big foreign buyers that have big sales or big purchases must report these sales so that the people in this country know within 48 hours that a big sale was made.

Under the present reporting system, they are supposed to report to the Department of Agriculture after they find out that a sale is made, but they have overseas subsidiaries, and in one way or the other they avoid for as long as 18 days letting the people in this country know when a big sale is being made.

They can hedge on our Board of Trade, even though the grain covered in a fixed-price sale is of foriegn origin and our farmers lost money on the big Canadian wheat sale of 60 million bushels. They not only hedged the amount of wheat they sold at a fixed price but, in addition to that, bought more on the Board of Trade and then sold it back onto the market later at a big profit. The most recent example was the Argentine corn sale.

An embargo was issued on grain to Russia and as a result of the embargo there was a shift in the world market of these buyers, and they replaced corn that would have been U.S. origin with corn from Argentina and hedged it through their subsidiaries on our Board of Trade. It appeared for a while that there was an increase in exports instead of a decrease in exports. The market held up for a while, and then, when they started canceling those contracts when they delivered the corn, corn dropped badly. It hurt our farmers in the end. Our farmers paid for the hedging of that Argentine corn.

This amendment provides that those who sell huge quantities will report those big sales to the CFTC within 1 day and CFTC will then make it public within 48 hours.

Now, let me point out another thing. We have 17 people in the Department of Agriculture taking care of the so-called sales reports, and all they are is historical reports. By the time they get to them and put them out, it is history. USDA has 17 people doing that, and 3 people can do the same thing down at CFTC and just send the copies over to the Department of Agriculture and they will have better information than they have now.

I think the very least we can do for a free market system is to give them the information they need, and the only people who should oppose this are the foreign trading companies like the Russians and some big companies that trade with them. It will help protect U.S. farmers and businesses.

So, Mr. Chairman, I urge the adoption of this amendment again this year.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Iowa is correct, and I agree with what he is trying to do.

I have some reservation about this amendment, but the gentleman has worked so diligently and even though I personally do not feel comfortable with it, I would not oppose the amendment at this point and would reserve further discussion perhaps in conference. We would not oppose the amendment at this point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 36, between lines 3 and 4, insert the following:

The Commodity Exchange Act, as amended, is further amended by—

(1) inserting in section 5 after "to designate any board of trade" the following: "except as specified in section 5(h) of this Act";

(2) inserting in section 5 a new subsection (h) as follows:

"(h) Beginning with contracts which expire during or after February 1985, designation shall be hereby deemed withdrawn for all contract markets for cattle or beef parts or beef products until or unless designated as hereafter provided in this section. No board of trade shall be designated as a contract market for cattle or beef parts or beef products until or unless the Secretary of Agriculture determines that the designation of such board of trade as a contract market is approved or favored by at least a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for sale of the cattle specified in the futures contract for which such board of trade is seeking designation or in the production for sale of the cattle from which the beef parts of beef products are derived for which such board of trade is seeking designation.".

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, I want to thank the chairman of the committee for accepting the last amendment, and I want to lay this one out.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, may I inquire, which amendment is the gentleman discussing?

Mr. SMITH of Iowa. This is the futures on cattle.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

Mr. SMITH of Iowa. Mr. Chairman, I want to draw the attention of the Members to this. I think it is a good

amendment, I really do. All the amendment does really is to say that the cattle futures contract, which has been in considerable trouble and is still not performing the way it should be performing, would be suspended a year and a half from now if between now and that time they do not clean it up and secure an affirmative referendum from the cattle producers. Now, that is, in a nutshell, what it does. It gives them time to clean it up and to have a referendum.

We have had a number of referendums on checkoff. It only costs $60,000 to $70,000 for a referendum. We have had checkoffs on beef and on eggs and on a number of commodities. So that is the way the referendum would be conducted. I have no doubt in my mind at all that if they will clean up this contract and do what they ought to do, the cattle producers would support it. Right now there are a number of cattle organizations on record that want it canceled as of today, but at the same time they recognized that it is possible to have a cattle contract that would be good for the cattle producers of this country so that we can shift the risk. The main problem with the cattle contract is that there are too many shorts compared to longs, and as a result, about 96 percent of the people in the cattle contract are speculators. That is just too much speculation. The "Merc" has not seen fit to try to reduce the number of shorts who are not farmers or who are not cattle producers in any manner at all, and, therefore, we are going to continue to have too many shorts compared to longs and too heavy a percentage of speculation in these futures unless they do something about it.

So, Mr. Chairman, I would ask that this amendment be adopted. Again, what it does is to say that a year and a half from now, they cannot sell a February 1985 contract unless between now and then they have an affirmative referendum by the cattle producers of this country.

Mr. DE LA GARZA. I rise in opposition to the amendment.

Mr. Chairman, I appreciate the work and the diligence of our colleague, the gentleman from Iowa (Mr. SMITH). The fact is, though, Mr. Chairman, that this would be entirely disruptive of the CFTC jurisdiction and authorization. It would be unworkable due to the fact that not only do the cattle producers trade or engage in purchases of the commodity but there are other people engaged in purchases of the commodity such as processors and packers.

The fact is, as the gentleman from Iowa well knows, that for anyone interested in any new contracts submitted to the CFTC for approval, there are necessary timeframes within which producers or anyone interested can present their views and have an impact. The CFTC supervises this, and that is the agency to which we have given the authority.

To open it up and set a precedent that contracts or proposed contracts by exchanges, for example, would be put to a referendum separate and apart from comment periods in the Federal Register and hearings as necessary, I think the gentleman would agree with me, would present a problem.

I have no problem with the gentleman's intent. I would agree with the gentleman on that, and I would work with him in any way I can, but I think to open contracts to referendum by producers would have a devastating effect. What would we do then with wheat, with corn, or with petroleum?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

□ 1540

Mr. SMITH of Iowa. Let me point out clearly right now, wheat and corn contracts are working. I have no criticism about them other than delivery points.

But I think that where there is one contract that has a serious problem that they ought to clean up that one contract for the protection of the reputation of the entire industry.

I want to ask the gentleman this. The gentleman understands, I know, that there are a lot of problems in this cattle contract. He also knows they have not done anything to move to clean them up.

I want to find some way to keep pressure on them to improve this contract. If they do not do something to improve this contract, will the gentleman consider this kind of legislation seriously?

Mr. DE LA GARZA. I would tell the gentleman now that I join with him in telling the industry, the CFTC to take a look at this contract and to try and improve it if it needs improvement. If that does not meet with the requirements of the gentleman, then of course we would offer the gentleman hearings at the appropriate time.

But I join with the gentleman now.

Mr. SMITH of Iowa. The gentleman knows the cattle feeders are really in trouble. There is no doubt about that. If we do not pass this amendment today, would the gentleman next February or March, when we get back here have a hearing on this and consider going ahead if they have not cleaned up this contract at that time?

Mr. DE LA GARZA. I will tell the gentleman most assuredly. Our committee has a continuing committee on oversight and on the needs of our agriculture and our people. Any time that a need presents itself, it is our responsibility to have adequate hearings and to proceed accordingly after testimony is presented.

Again, I reluctantly oppose the amendment of the gentleman because of its technical aspects, not because of the intent and the diligence of the gentleman. I concur with that and will do everything that I can to assist the gentleman in that endeavor.

Mr. SMITH of Iowa. I understand the pressure you are under for time and I am not going to ask for a recorded vote based upon what the gentleman has said.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I would like also to echo my concern about the viability of the cattle market. But as the chairman of the full committee said, a lot of other people have interests in the price and the price discovery mechanisms other than the cattlemen or the cattle producers.

You have the Safeway stores and the middlemen who have an interest in this as well.

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. SMITH of Iowa. The record shows that very few of them use the futures.

Mr. GLICKMAN. I do not know about that.

Mr. SMITH of Iowa. Yes. We had a 16-month study, the only one done by computer, and they are just not a significant force in the contracts.

Mr. GLICKMAN. But the fact of the matter is that they are third-party beneficiaries to the actions that occur on the Mercantile Exchange. So I would hate to just automatically set up a situation where one group of people would be able to ban the whole trading of the situation.

But, on the other hand, I want to tell you that you have done more than anybody else to indicate to the Congress the continuing and consistent problems that occur in an industry, and I assure the gentleman of my own personal support also to do the necessary oversight in the committee next year.

Mr. SMITH of Iowa. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 40, between lines 13 and 14, insert the following:

Section 8 of the Commodity Exchange Act is amended by inserting a new section, section 8(d), as follows:

SEC. 8. (d)(1) As used in this subsection "insider" means any individual who has access to information, not generally available to the public, about present or anticipated cash or futures trading or present or anticipated cash or futures positions, to which such individual is not a party, in any commodity of any other person, where such trading or positions are in amounts at or above Commission designated reporting levels as specified pursuant to section 41 of this Act.

(2) No insider shall own, control, have a beneficial interest in, or enter into any contract or contract for future delivery in any such commodity on any contract market.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, first, before I proceed with the amendment, I want to thank the committee for the amount of work on this CFTC bill this year.

When I first had the idea of a CFTC some 8 years ago, there were only 17 people down in what was called the CEA in the Department of Agriculture. The industry was just about to explode.

The administration at that time did not think there was any need at all to get concerned. They did not see this explosion coming on. But, in fact, there has been an explosion even beyond what those of us who saw it coming had anticipated.

It has now become an important financial tool to the United States of America and this is a very important bill.

I thank the gentleman from Texas and the others on the committee for having proceeded diligently with this bill this year.

I hope that the gentleman will accept the amendment.

The amendment provides that an insider cannot trade futures on his own account.

The SEC does not permit insiders to do so but it is not a violation of commodities law.

An insider is defined in one paragraph and the other paragraph says those insiders cannot trade. It would prohibit the officers of corporations that have access to their company's future trading information from trading on their own account.

Some companies prohibit that. It is really a conflict of interest to do it. But some companies do not prohibit it.

It also prohibits those brokers that handle those kinds of trades from trading on their own.

We had a study in the Small Business Committee and found out that out of 1,027 big traders there were 80 insiders. The 80 insiders made $100 million of the $155 million that was on the profit side during a 16-month period.

When 80 out of 1,027 make two-thirds of the profits on the profit side during that period, it raises questions especially when they have information about big traders positions.

They have an advantage. Insiders just should not be in the market at all.

Some companies prohibit their officers from trading on their own in commodities the company is trading in. I think they all should.

So what the amendment would do here is just say that like with the SEC, insiders should not be trading in futures at all.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Colorado.

Mr. BROWN of Colorado. The profits that the gentleman reported from the new definition of insiders, were those net profits or were those trading profits?

Mr. SMITH of Iowa. Those were trading profits.

Mr. BROWN of Colorado. So it could well be those individuals had a net loss in their overall trading?

Mr. SMITH of Iowa. No, not in this case. The study went far enough to prove that this was not the case.

Obviously there are losses that offset profits somewhere in the marketplace. But the losses were not absorbed by these 80 that had these positions.

Mr. BROWN of Colorado. The individuals who were involved here, were they corporate employees in most cases?

Mr. SMITH of Iowa. In most cases.

Mr. BROWN of Colorado. Does not the definition for a corporate insider also deal with the question of using corporate information for gain?

Mr. SMITH of Iowa. Is the gentleman asking should the SEC do something about this?

Mr. BROWN of Colorado. I am saying the current statutes with regard to the SEC provide the use of insider information for a corporation cannot be used for personal profit in these circumstances.

Mr. SMITH of Iowa. They could not do it in the stock market but they can do it in commodities and, as a matter of fact, the head of one of the commodities organizations said that he did not think that he had the right to prohibit speculation by anybody.

Mr. BROWN of Colorado. It would seem to me, and I know that there are other Members who are more skilled in that portion of the SEC statutes than I, but I think you will find that it is very clear that there is an opportunity for a stockholder derivative suit if information is gained from corporate employees involving insiders' information and if they use that information for a profitable purpose.

I think, the situation is already covered.

Mr. SMITH of Iowa. I think the easy way to handle this is just to say that they cannot trade, period, and then you do not have to go through a lawsuit to try to get some money back.

Besides, how are you going to get the evidence?

Mr. BROWN of Colorado. The evidence, of course, in these transactions is easily obtained because when you are above the futures trading limit that requires a reporting. All of your trades are reported.

Mr. SMITH of Iowa. But only to the CFTC. The stockholder out there does not get that information.

Mr. BROWN of Colorado. But those are public records or ones that can be obtained by the public.

Mr. SMITH of Iowa. No, there is a provision in the bill that says they cannot be released. It has been in the law and I am for it in most cases.

I think you have to have some limitation on the amount of information that is distributed that comes from that source.

Mr. BROWN of Colorado. Do I understand you are saying that if someone alleges wrongdoing they cannot get access to that trading information?

Mr. SMITH of Iowa. That is right.

Mr. BROWN of Colorado. You are saying if there is an alleged wrongdoing, through court process you are not allowed to get access to the information?

Mr. SMITH of Iowa. Not under this statute.

□ 1550

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman has a valid concern that I agree with. His amendment, though, I am not satisfied is drafted technically to do exactly what he wants to do. Besides, I would like to inform the gentleman—he already knows, because he has read the legislation—in the study to be conducted and led by the Federal Reserve, we have provisions that take care of his concerns. The study requires information on the sufficiency of the public policy tools available to the Commission or other agencies to limit or curtail any such trading activity which is found likely to have a harmful effect on national economic goals. That is part of the study.

Second, the study calls for the adequacy of investor protection afforded to participants in designated markets for such trading; that is another part of the study.

Finally, the extent to which contracts and related instruments may be utilized to manipulate or to profit

from the manipulation of the markets for evidences of indebtedness, foreign currency and securities, is another part of the study.

It encompasses overall what the gentleman attempts to do.

I hope that that might satisfy the gentleman and that the Federal Reserve and the designated agencies would look into that situation.

My concern is that the amendment does not define "individual who has access to information," and this conceivably impose criminal sanctions upon a farmer, completely away from the market if he should perchance fall into any information. It does not say from what source. Now, an insider or somebody working solely in the Exchange or solely with a broker, that already has been addressed. But my concern is with the refinement of "individual" and the refinement of "information" I think would be necessary before we would accept this amendment. The thrust of the gentleman's amendment I have no problem with.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I might point out to the gentleman that we changed the wording a little bit since yesterday on the suggestion of, I think, one of your counsel, and I think it was a good change. I do not believe that problem is there now. It is only in the event that they have information not available to the public on the trading positions of one of these big traders, not from anybody else, just one of the big traders.

Mr. DE LA GARZA. Well, that still does not cure it. An individual can be a farmer trying to plan for his commodities, a cattle feeder or a poultry producer. They could not hedge their future needs for grains if they were on a plane and they heard someone from some company say, "Hey, look, I think that this might happen or that might happen."

Now, I do not know, again, how you would enforce this, how you would find out who, as an insider defined by the gentleman, had information. What is the enforcement procedure? How are we going to find out that someone who traded had insider information?

So we are left, then, to haphazard, by accident or by innuendo or by someone who does not like him. How would we address that issue?

Mr. SMITH of Iowa. If the gentleman will yield, to start with, they only need look at the big traders. They are making reportable trades. And then if these are officers of big traders, they would enforce it through the CFTC. The CFTC is going to do it.

Mr. DE LA GARZA. Well, the CFTC already has that jurisdiction.

Mr. SMITH of Iowa. But there is not a law that prohibits these insiders from trading.

Mr. DE LA GARZA. Yes, they have a law to enforce against anyone who in any way obstructs or goes against the regulations.

Mr. SMITH of Iowa. But there are no regulations that prohibit that.

Mr. DE LA GARZA. There are regulations against fraud. Maybe if the gentleman could work further with us, to try and draft legislation—

Mr. SMITH of Iowa. I would be glad to. But why does not gentleman take it to conference with him, and let us work out some language.

Mr. DE LA GARZA. Perhaps we owe the gentleman that, for the work that he has done; with no obligation on our part. Perhaps it could be refined, because we agree with his basic intent; we would accept his amendment, to take it to conference for possible refinement, to see if we can do what the gentleman would like to do.

Mr. SMITH of Iowa. I thank the gentleman. I know the gentleman from Kansas has had a longtime interest in this very subject, and I think between the three of us we can do something.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will agree with my chairman. I am not going to object to this amendment because I think it has an interesting concept. But the amendment as drafted is not clear in this respect: You use the language that an insider means any individual who has access to information not generally available to the public about present or anticipated cash or futures trading. But nowhere in the amendment is the word "materiality" used. So nowhere do you have in there that it is material information. It could be immaterial information about future trading transactions. You certainly would not want to penalize somebody for unimportant information, nor would we want somebody to be subject to a lawsuit. Those are the kinds of issues I think need to be refined.

Mr. SMITH of Iowa. If the gentleman will yield, I think that is a legitimate criticism of the amendment. I know the gentleman has been interested in this for a long time. But the gentleman does agree that we do need something in CFTC comparable to what they have in the SEC on that.

Mr. GLICKMAN. I think this language needs to be refined, however; but I am not going to object to the amendment.

Mr. SMITH of Iowa. And at the very least, then the boards themselves would exclude people who should not be trading. Now some do not think they can.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. SMITH).

The question was taken; and on a division (demanded by Mr. SMITH of Iowa) there were—ayes 18, noes 10.

So the amendment was agreed to.

The CHAIRMAN. Are there other amendments to title II? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having resumed the chair, Mr. STOKES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, pursuant to House Resolution 566, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1600

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARTIN of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 59, not voting 54, as follows:

[Roll No. 366]

YEAS—319

Akaka	Archer	Bennett
Albosta	Aspin	Bereuter
Alexander	AuCoin	Bethune
Anderson	Bailey (MO)	Bevill
Andrews	Bailey (PA)	Biaggi
Annunzio	Barnes	Bingham
Anthony	Bedell	Blanchard
Applegate	Beilenson	Billey

Boggs	Hamilton	Ottinger
Boland	Hammerschmidt	Oxley
Bolling	Harkin	Panetta
Bonior	Hatcher	Parris
Bonker	Hawkins	Pashayan
Bouquard	Heckler	Patman
Bowen	Hefner	Patterson
Breaux	Hendon	Pease
Brinkley	Hertel	Pepper
Brodhead	Hightower	Perkins
Brooks	Hillis	Pickle
Brown (CA)	Holland	Price
Broyhill	Hollenbeck	Pritchard
Byron	Holt	Pursell
Campbell	Hopkins	Quillen
Carney	Horton	Rahall
Clausen	Howard	Railsback
Clay	Hoyer	Rangel
Coleman	Huckaby	Regula
Corcoran	Hughes	Reuss
Coyne, William	Hunter	Rinaldo
Craig	Hutto	Roberts (KS)
Crane, Daniel	Hyde	Roberts (SD)
Crane, Philip	Jacobs	Robinson
Crockett	Jeffords	Rodino
D'Amours	Jenkins	Roe
Daniel, Dan	Jones (NC)	Rogers
Daniel, R. W.	Jones (OK)	Rosenthal
Daschle	Jones (TN)	Rostenkowski
Daub	Kastenmeier	Roth
Davis	Kazen	Roybal
de la Garza	Kemp	Russo
Deckard	Kennelly	Sabo
Dellums	Kildee	Santini
DeNardis	Kindness	Sawyer
Derrick	Kogovsek	Scheuer
Dicks	Lagomarsino	Schneider
Dingell	Lantos	Schulze
Dixon	Latta	Schumer
Donnelly	Leach	Seiberling
Dorgan	Leath	Sensenbrenner
Dougherty	LeBoutillier	Shamansky
Dowdy	Leland	Shannon
Downey	Lent	Sharp
Duncan	Levitas	Shelby
Dunn	Lewis	Shumway
Dwyer	Loeffler	Siljander
Dymally	Long (LA)	Simon
Dyson	Long (MD)	Skeen
Early	Lott	Smith (IA)
Eckart	Lowery (CA)	Smith (NE)
Edgar	Lowry (WA)	Smith (NJ)
Edwards (AL)	Lujan	Snowe
Edwards (CA)	Luken	Snyder
Edwards (OK)	Lundine	Spence
Emerson	Madigan	St Germain
Emery	Markey	Stangeland
English	Marks	Stanton
Erdahl	Marlenee	Stark
Erlenborn	Marriott	Stenholm
Evans (DE)	Martin (IL)	Stokes
Evans (IA)	Martin (NC)	Studds
Evans (IN)	Martinez	Synar
Fary	Matsui	Tauke
Fazio	Mavroules	Tauzin
Ferraro	Mazzoli	Taylor
Fiedler	McClory	Traxler
Findley	McDade	Trible
Fish	McEwen	Vander Jagt
Flippo	McGrath	Vento
Florio	McHugh	Volkmer
Foglietta	McKinney	Walgren
Foley	Mica	Wampler
Ford (MI)	Michel	Washington
Ford (TN)	Mikulski	Watkins
Fountain	Miller (CA)	Waxman
Fowler	Miller (OH)	Weaver
Frank	Mineta	Weber (MN)
Frost	Minish	Weber (OH)
Fuqua	Mitchell (MD)	White
Gaydos	Mitchell (NY)	Whitehurst
Gejdenson	Moakley	Whitley
Gephardt	Molinari	Whittaker
Gibbons	Mollohan	Whitten
Gingrich	Montgomery	Williams (MT)
Ginn	Moore	Williams (OH)
Glickman	Moorhead	Wilson
Goldwater	Morrison	Winn
Gonzalez	Murphy	Wirth
Goodling	Murtha	Wolf
Gore	Myers	Wolpe
Gradison	Natcher	Wright
Gregg	Neal	Wyden
Guarini	Nelson	Wylie
Gunderson	Nichols	Yatron
Hagedorn	Nowak	Young (AK)
Hall (OH)	Oakar	Zablocki
Hall, Ralph	Oberstar	
Hall, Sam	Obey	

NAYS—59

Ashbrook	Frenzel	Paul
Atkinson	Gilman	Peyser
Broomfield	Gramm	Porter
Brown (CO)	Green	Ritter
Butler	Hansen (ID)	Roemer
Carman	Hansen (UT)	Roukema
Chappie	Hartnett	Rudd
Cheney	Hiler	Schroeder
Clinger	Hubbard	Shaw
Coats	Jeffries	Shuster
Conable	Johnston	Smith (AL)
Conte	Kramer	Smith (OR)
Courter	Livingston	Solomon
Coyne, James	Lungren	Staton
Dannemeyer	Martin (NY)	Stump
Dickinson	McCloskey	Swift
Dornan	McCollum	Thomas
Dreier	McDonald	Walker
Fenwick	Motti	Young (FL)
Fields	Nelligan	

NOT VOTING—54

Addabbo	Derwinski	Napier
Badham	Ertel	O'Brien
Bafalis	Evans (GA)	Petri
Barnard	Fascell	Ratchford
Beard	Fithian	Rhodes
Benedict	Forsythe	Rose
Boner	Garcia	Rousselot
Brown (OH)	Gray	Savage
Burgener	Grisham	Skelton
Burton, John	Hance	Smith (PA)
Burton, Phillip	Heftel	Solarz
Chappell	Ireland	Stratton
Chisholm	LaFalce	Udall
Coelho	Lee	Weiss
Collins (IL)	Lehman	Wortley
Collins (TX)	Mattox	Yates
Conyers	McCurdy	Young (MO)
Coughlin	Moffett	Zeferetti

□ 1610

Messrs. BUTLER, STUMP, KRAMER, and ROEMER changed their votes from "yea" to "nay."

Mr. PHILIP M. CRANE and Mr. DANIEL B. CRANE changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENDING APPRECIATION OF THE CONGRESS TO U.S. DEPARTMENT OF AGRICULTURE GRADUATE SCHOOL ON ITS 60TH ANNIVERSARY

Mr. DE LA GARZA. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 412) extending to the Graduate School, United States Department of Agriculture, the appreciation of the Congress on the 60th anniversary of the founding of the school, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 412

Whereas, the Graduate School, United States Department of Agriculture, is an innovative and important provider of practical, relevant continuing education and training for government personnel and agencies, and the public; and

Whereas, the Graduate School is operated on a self-sustaining nonprofit basis and receives no appropriated funds from the Federal Government; and

Whereas, the public interest has been well served by the Graduate School, United States Department of Agriculture, since its founding in 1921: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress recognizes the school year 1981–1982 as the sixtieth anniversary of the founding of the Graduate School, United States Department of Agriculture, and hereby extends to that institution its appreciation for the flexible, effective, and efficient educational services rendered to all branches of government and to the public over the past sixty years.

Mr. DE LA GARZA. Mr. Speaker, for 60 years the Graduate School of the U.S. Department of Agriculture has been serving the Government and the public. I believe the Congress owes an expression of gratitude to this institution, and I want today to place on the public record my appreciation of its services.

The kind of education provided by this school is the type which grows out of one of our most basic traditions. It grows out of the desire of individuals to learn for the sake of self-improvement.

The Graduate School does not grant degrees. Its students do not wear academic gowns. It has no football team. Students who have attended the Graduate School since its founding in 1921 have done so for just one reason—they wanted to learn more about subjects ranging from shorthand to law and from personnel administration to economics and math, in order to improve their ability to work and make progress in their careers.

The school is open to adults of all ages. Its faculty, which works on a part-time basis, is recruited mainly from the ranks of Government experts and from educators in the Washington area. By working on this basis, the school has been able to attract and keep a highly skilled faculty in 20 subject areas.

This educational system has, of course, been valuable to the thousands of men and women who have passed through the doors of the Graduate School over the past 60 years. But, Mr. Speaker, I believe it has also been of

great value to the U.S. Goverment and to the people that Government serves. The Graduate School has given us Federal employees who are better equipped because of their voluntary studies to do their jobs in all branches of Government. The training provided by the Graduate School has given us more effective and more efficient public servants, and for that we all owe a debt of gratitude and praise to the school and its students.

I think the House should know that the service provided by the school goes beyond the classroom. Since 1922, a great many scholars, statesmen, scientists, and public officials have taken part in lecture series sponsored by the school. The Graduate School press has made many of these lectures available to even wider audiences by a series of books, and it has also produced a series of useful and effective publications in areas ranging from political science to studies in the operation of Government agencies.

The Graduate School grew out of a need which was felt by leaders in our Government as far back as 1898, when the Secretary of Agriculture of that time announced there was a special need for continuing education for young scientists. Finally, after World War I, a joint congressional committee recommended that Government departments give more attention to providing opportunities for the continuing eduction of Government employees. The result was the creation of the Graduate School in 1921 to serve Government employees—throughout the Government, not just in the Agriculture Department—and to serve other adults.

The Secretary who established the Graduate School in 1921 said:

I believe those who may be able to avail theselves of this opportunity will both enrich themselves and enhance the value of the service they render.

Mr. Speaker, that was an accurate prophecy. The school has served us well, and it should be congratulated. I have sponsored, with Mr. WAMPLER of Virginia, a resolution recognizing the 1981-82 school year as the 60th anniversary year of this institution which operates on a self-financing basis with no appropriated Federal funds.

Our resolution extends the appreciation of Congress for the flexible, effective and efficient service rendered by the school. It is appreciation which has been well earned.

● Mr. WAMPLER. Mr. Speaker, I rise to extend my congratulations to the Graduate School, U.S. Department of Agriculture on the 60th anniversary of its founding.

This school has become an integral part of what is one of the principal industries in the Nation's Capital—education.

The course offerings provided by the Graduate School extend from various gardening courses to higher mathematics, advanced accounting, and so forth. A number of personnel from the staffs of Members here in the House as well as those who are employed in the executive and judicial branches of Government utilize the courses offered by the school. It is a principal source of "continuing education" not only for Government personnel but the public generally in the Washington metropolitan area.

This school has performed well since its founding in 1921-22 and I extend my best wishes for its continued success.●

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING DEVELOPMENT OF WEB RURAL WATER DEVELOPMENT PROJECT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4347) to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That the WEB Rural Water Development Project, authorized by section 9 of the Rural Development Policy Act of 1980 (94 Stat. 1175), is reauthorized subject to the provisions of section 9 of that Act, as amended by section 2 of this Act. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to proceed with the development of the WEB Rural Water Development Project, consistent with the terms and conditions of section 9(e) of that Act, as amended by section 2 of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

SEC. 2. Section 9 of the Rural Development Policy Act of 1980 is amended by—

(a) striking out in subsection (b) all after "the types of construction involved herein" and inserting a period in lieu thereof;

(b) striking out the first sentence of subsection (d); and

(c) striking out the first sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of the Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section.".

SEC. 3. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct feasibility investigations of the following proposed water resource developments:

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri basin program, North Dakota; and

(3) a reformulated plan for the development of the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri basin program, South Dakota, including irrigation of alternative lands or reduced acreages.

(b) The Secretary shall report to Congress the findings of the studies authorized by this section along with his recommendations.

(c) The Secretary may contract with the State to carry out the studies authorized by this section.

SEC. 4. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe unit, initial Stage: *Provided*, That such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown irrigation districts: *Provided further*, That any repayment obligation existing at the time of cancellation of the master and participating and security contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri basin program: *Provided, however*, That such costs shall be assumed and repaid by the beneficiaries of any future project which utilizes the Oahe unit facilities. Such repayment obligation and manner of repayment shall be determined pursuant to the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East canals; Cresbard and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

SEC. 5. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Pick-Sloan Missouri basin program pumping power to the Crow Creek, Cheyenne River, Omaha and Standing Rock Indian Reservation irrigation developments, and the Grass Rope Unit, Pick-Sloan Missouri basin program. Such pumping power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by Act of Congress.

SEC. 6. There is hereby authorized to be appropriated beginning October 1, 1982, such funds as may be necessary to carry out the provisions of this Act.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. COLEMAN. Mr. Speaker, reserving the right to object, I reserve the right to object in order to enter into a colloquy with the two gentlemen from South Dakota regarding this bill, and if it is in order, I would like to propound questions to the gentlemen and receive assurances with their answers.

Mr. Speaker, I direct my questions to the gentleman from South Dakota (Mr. DASCHLE) and the gentleman from South Dakota (Mr. ROBERTS).

The first question is, what specific feasibility investigations are authorized by this legislation? In the section-by-section analysis of the bill as it was amended in the other body, section 3 is described as "self-explanatory."

□ 1620

I find that inadequate and ask that my two colleagues from South Dakota better explain section 3.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield to me?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, section 3 of the bill authorizes three separate studies:

First, a study to see if there is some manner in which already in-place features of the Oahe project such as the Pierre pumping plant and the Pierre Canal, can be used in an alternative irrigation project. Essentially, this would be what is known as the CENDAK project, an irrigation project designed to deliver water to the central portion of South Dakota, terminating in a return into the James River. There would be no interbasin transfer of water in this project.

Second, a study to determine how, and in what manner, water to be potentially delivered to the James River in South Dakota through possible future construction of the Garrison project might be used in the State. Without such a study, involving the possibility of dredging of the James River and the implementation of ring dikes and ox bows on the river, as well as timing of the return flows and quality of the same, the construction of the Garrison might result in periodic flooding and dewatering of the James River, and have a negative impact on water quality. The purposes of this study would be to see if there is some way to avoid these problems, and instead enhance the possibility of irrigation and municipal and domestic uses from the James River for South Dakota. No interbasin transfers of water will occur under this study.

Third, a study to determine if the presently authorized Pollock-Herreid irrigation project, which was proved too costly to area residents can be reduced in scale to prove more cost effective for potential users. Again, this study, and any resultant project, would result in no interbasin transfer of water.

Mr. COLEMAN. Mr. Speaker, at this point I yield to the gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. I thank the gentleman for yielding.

Mr. Speaker, H.R. 4347 authorizes three studies: The first is now identified by the Bureau of Reclamation as the Central South Dakota Water Supply System Concept.

The second is an extension of the currently underconstruction Garrison project, to see if there are any beneficial uses of the return flows of that project for South Dakota.

The third is for a reformulated plan of the authorized Pollock-Herreid unit. This plan proved infeasible at the 14,000-acre level. The study would analyze different soil areas, but all near the river, as in the original unit authorization.

All three studies are at the point of needing feasibility authorization to further the ongoing studies.

Mr. COLEMAN. Further reserving the right to object, Mr. Speaker, my second question is: If reauthorization of WEB means that the Oahe is deauthorized, and with the deletion of paragraph 3(b), is it correct to assume that a Federal commitment for irrigation development in South Dakota no longer exists? And if that is the case, then what water development projects are being studied?

Mr. DASCHLE. Mr. Speaker, will the gentleman yield to me?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, reauthorization of WEB does not mean that the Oahe project is deauthorized. However, the bill does deauthorize many of the project features, as well as set up a mechanism for the cancellation of master and participating contracts on the project. Effectively this completely prevents the original Oahe project from ever being constructed. The deletion of section 3(b) by the Senate is a discouraging one for South Dakota, since it removes from the legislation a legally stated commitment by the Federal Government for preferential treatment of South Dakota future projects in recognition of the over half million acres South Dakota lost to the construction of Missouri main stem dams. The South Dakota delegation still believes such a commitment should exist, but realizes that the realistic situation is that such a commitment will not be made in law at this time. The water development projects being studied are those listed in response to question 1.

Mr. COLEMAN. Further reserving the right to object, Mr. Speaker, I yield to the other gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. I thank my colleague for yielding.

Mr. Speaker, H.R. 4347 does not deauthorize Oahe. It prevents the construction of the main delivery area of the project. In conjuction with the Central South Dakota Water Supply System Study, it attempts to move forward with the Federal commitment to South Dakota in terms of today's reality. The Federal commitment to South Dakota is laid out in the 1944 Flood Control Act, but Congress is reluctant to fulfill this commitment in the form of Oahe. It is hoped that the Central South Dakota Water Supply System can utilize the existing Oahe facilities and deliver irrigation water to a different area, an area that wants water.

Mr. COLEMAN. Further reserving the right to object, Mr. Speaker, is it the intent of the gentlemen that these feasibility investigations study coal slurry pipeline development?

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, it is my intent that none of these feasibility studies shall investigate coal slurry pipelines.

Mr. COLEMAN. Further reserving the right to object, I yield to the gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. Mr. Speaker, there is no provision for studies of coal slurry pipelines in H.R. 4347, and it is my belief no study can be done under this bill, nor is it my intent.

Mr. COLEMAN. I thank the gentlemen.

Mr. Speaker, my last question that I would propound in this colloquy, further reserving the right to object, is: What energy or industrial developments will be included in these investigations?

Mr. DASCHLE. Mr. Speaker, will the gentleman yield further?

Mr. COLEMAN. I yield to the gentleman from South Dakota.

Mr. DASCHLE. I thank the gentleman for yielding.

Mr. Speaker, no energy or industrial developments will be included in these investigations whatsoever.

Mr. ROBERTS of South Dakota. Mr. Speaker, will the gentleman yield further to me?

Mr. COLEMAN. I yield to the gentleman from South Dakota, further reserving the right to object.

Mr. ROBERTS of South Dakota. I thank the gentleman for yielding.

Mr. Speaker, I know of no energy use plans foreseen for the studies, and any industrial use would be in conjunction with municipal water supplies, such as for meat processing plants. As the gentleman knows, there are no mineral deposits in the eastern part of South Dakota, and our industry is cattle and grains.

Mr. COLEMAN. Mr. Speaker, in view of the responses that I have received to my questions, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas (Mr. DE LA GARZA)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following titles:

H.R. 6454. An act to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.

REPORT ON DEFERRAL FOR DEPARTMENT OF COMMERCE AND REVISION TO EXISTING DEFERRAL FOR U.S. INFORMATION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-241)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, September 23, 1982.)

DEFENSE INDUSTRIAL BASE REVITALIZATION ACT

Mr. BLANCHARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. BLANCHARD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PHILIP M. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 51, answered "present" 1, not voting 82, as follows:

[Roll No. 367]

YEAS—298

Akaka	Dingell	Hagedorn
Albosta	Dixon	Hall (OH)
Alexander	Donnelly	Hall, Sam
Andrews	Dorgan	Hamilton
Annunzio	Dornan	Hammerschmidt
Anthony	Dougherty	Harkin
Aspin	Dowdy	Hatcher
Atkinson	Downey	Hawkins
AuCoin	Duncan	Heckler
Bailey (MO)	Dunn	Hefner
Bailey (PA)	Dwyer	Hendon
Barnes	Dymally	Hertel
Bedell	Dyson	Hightower
Bennett	Eckart	Holland
Bereuter	Edgar	Holt
Bevill	Edwards (AL)	Hopkins
Bingham	Edwards (CA)	Horton
Blanchard	Edwards (OK)	Howard
Bliley	Emerson	Hoyer
Boggs	English	Hubbard
Bonker	Erdahl	Hughes
Bouquard	Evans (DE)	Hunter
Bowen	Evans (IA)	Hutto
Breaux	Evans (IN)	Hyde
Brinkley	Fary	Jacobs
Brodhead	Fazio	Jeffords
Brooks	Fenwick	Jenkins
Broomfield	Ferraro	Jones (NC)
Brown (CA)	Fiedler	Jones (OK)
Broyhill	Fields	Jones (TN)
Butler	Findley	Kastenmeier
Byron	Fish	Kazen
Campbell	Flippo	Kennelly
Carman	Florio	Kildee
Carney	Foglietta	Kogovsek
Chappie	Foley	Kramer
Clausen	Ford (MI)	Lantos
Clay	Ford (TN)	Latta
Clinger	Fountain	Leach
Coats	Fowler	Leath
Coleman	Frenzel	Leland
Conte	Fuqua	Lent
Corcoran	Gaydos	Levitas
Coyne, William	Gejdenson	Lewis
Crane, Daniel	Gephardt	Livingston
D'Amours	Gilman	Loeffler
Daschle	Ginn	Long (LA)
Davis	Glickman	Long (MD)
de la Garza	Gonzalez	Lott
Deckard	Gore	Lowery (CA)
Dellums	Green	Lowry (WA)
Derrick	Guarini	Lundine
Dicks	Gunderson	Madigan
Markey	Patterson	Snowe
Marks	Pease	Solomon
Marlenee	Pepper	Spence
Marriott	Perkins	St Germain
Martin (IL)	Petri	Stangeland
Martin (NY)	Peyser	Staton
Martinez	Pickle	Stenholm
Matsui	Price	Stokes
Mavroules	Pritchard	Studds
Mazzoli	Pursell	Swift
McClory	Quillen	Synar
McDade	Rahall	Tauzin
McEwen	Railsback	Taylor
McHugh	Regula	Thomas
McKinney	Reuss	Traxler
Mica	Rinaldo	Tribie
Michel	Ritter	Udall
Mikulski	Roberts (KS)	Vander Jagt
Miller (CA)	Roberts (SD)	Vento
Miller (OH)	Rodino	Volkmer
Mineta	Roe	Walgren
Minish	Roemer	Wampler
Mitchell (MD)	Rogers	Washington
Mitchell (NY)	Rosenthal	Watkins
Moakley	Rostenkowski	Waxman
Molinari	Roth	Weaver
Mollohan	Roukema	Weber (MN)
Montgomery	Roybal	Weber (OH)
Moore	Russo	White
Moorhead	Sabo	Whitehurst
Morrison	Santini	Whitley
Mottl	Sawyer	Whittaker
Murtha	Scheuer	Whitten
Natcher	Schneider	Williams (OH)
Neal	Schroeder	Wilson
Nelligan	Schulze	Winn
Nelson	Schumer	Wirth
Nichols	Seiberling	Wolf
Nowak	Shamansky	Wolpe
Oakar	Sharp	Wright
Oberstar	Shelby	Wyden
Obey	Shuster	Wylie
Oxley	Simon	Yatron
Panetta	Skeen	Young (FL)
Parris	Smith (IA)	Zablocki
Pashayan	Smith (NE)	
Patman	Smith (NJ)	

NAYS—51

Archer	Gregg	McDonald
Ashbrook	Hall, Ralph	McGrath
Bethune	Hansen (ID)	Myers
Brown (CO)	Hansen (UT)	Paul
Conable	Hiler	Robinson
Courter	Hillis	Rudd
Craig	Hollenbeck	Sensenbrenner
Crane, Philip	Jeffries	Shaw
Daniel, R. W.	Johnston	Shumway
Daub	Kemp	Siljander
Dickinson	Kindness	Smith (AL)
Dreier	Lagomarsino	Smith (OR)
Erlenborn	LeBoutillier	Snyder
Gingrich	Lujan	Stump
Goodling	Lungren	Tauke
Gradison	Martin (NC)	Walker
Gramm	McCollum	Young (AK)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—82

Addabbo	Conyers	Heftel
Anderson	Coughlin	Huckaby
Applegate	Coyne, James	Ireland
Badham	Crockett	LaFalce
Bafalis	Daniel, Dan	Lee
Barnard	Dannemeyer	Lehman
Beard	DeNardis	Luken
Beilenson	Derwinski	Mattox
Benedict	Early	McCloskey
Biaggi	Emery	McCurdy
Boland	Ertel	Moffett
Bolling	Evans (GA)	Murphy
Boner	Fascell	Napier
Bonior	Fithian	O'Brien
Brown (OH)	Forsythe	Porter
Burgener	Frank	Rangel
Burton, John	Frost	Ratchford
Burton, Phillip	Garcia	Rhodes
Chappell	Gibbons	Rose
Cheney	Goldwater	Rousselot
Chisholm	Gray	Savage
Coelho	Grisham	Shannon
Collins (IL)	Hance	Skelton
Collins (TX)	Hartnett	Smith (PA)

Solarz	Weiss	Young (MO)
Stanton	Williams (MT)	Zeferetti
Stark	Wortley	
Stratton	Yates	

□ 1640

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5540, with Mr. FOWLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, August 18, 1982, section 2 was open to amendment at any point.

Are there any other amendments to section 2?

Mr. ST GERMAIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, H.R. 5540, the Defense Industrial Base Revitalization Act is aimed at the most critical segment of the American economy in need of help today. There are, at present, about 25,000 prime contractors engaged in defense-related production. These are the Rockwells, the Boeings, the United Technologies, and the TRW's. They rest their case for completion of their commitments to production very heavily on the nearly 50,000 second and third level suppliers that make up the support network so integral to that production.

Many of these smaller companies are in trouble.

Their machinery is antiquated in many instances, and a large number of their skilled operators are getting ready for retirement. The average age of a machine-tool operator today, in the United States, is 58, and he works on a machine that has been in place on the average 27 years. The system's ability to produce in quantity, in quality, and most important—in time—is a matter of debate and doubt.

That is what H.R. 5540 is all about.

It is an answer to the plaguing question: If the United States has to expand its capacities rapidly in order to accelerate national production buildup—can that system deliver, in quantity, in quality, and in time?

Mr. Chairman, next month we will observe the 25th anniversary of Sputnik.

The meaning of Sputnik's message passing overhead with its "beep, beep, beep" galvanized this country into undertaking a crash program to upgrade and expand our production of scientists and engineers. Our sense of apprehension resulting from Sputnik did not end until we had landed on the Moon, and reasserted our claim to be recognized as a nation with a first-rate industrial base.

Today, the health of that industrial base again is being questioned and challenged.

We will need 223,000 tool and diemakers by 1987.

Can we produce 360,000 electrical engineers, 60,000 metal molders, 547,000 computer specialists, and 1.8 million mechanics—all by 1987?

That is what H.R. 5540 is all about.

It is an important first step in the direction of targeting a nationwide effort to overcome the implications of these figures.

It confronts the need we have for highly trained, well-educated people to operate increasingly complicated production systems.

It offsets the problems of blue collar workers being displaced from their traditional jobs by offering them retraining opportunities.

It is a safety net, to be placed beneath those critical sectors of our industrial system that show every indication of eventual collapse due to a lack of adequately trained and skilled manpower, and modern equipment.

Passage of this legislation can lead to new national emphasis on matching what we know how to do with the work that must be done.

AMENDMENTS OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer four amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ERLENBORN: On page 34, strike lines 22-24 and insert in lieu thereof the following:

"(ii) Health and safety standards established under State or Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants."

On page 35, strike lines 1-3 and insert in lieu thereof the following:

"(iii) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient or subrecipient of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary of Labor."

On page 35, strike lines 22-25 and, on page 36, lines 1-5.

On page 36, strike lines 6-8 and insert in lieu thereof the following:

"(viii) Recipients of funds available under this Act have given assurances that such funds shall not be used to assist, promote, or deter union organizing."

Mr. ERLENBORN. Mr. Chairman, I offer en bloc four amendments to section 303A(h)(3)(J) relating to a State's certification of labor training standards in its plan for skills training required under section 303A(h)(2)(A).

The thrust of these amendments which were worked out by the minority and majority staffs of the Education and Labor Committee is to more closely conform language in H.R. 5540 to language relating to labor standards agreed upon in H.R. 5320, the Job Training Partnership Act, passed by the House August 4 and approved by the conference committee. I understand those amendments are also acceptable to the Banking committee.

Two of these amendments concerning safety and health standards and workers' compensation coverage relate to amendments which I offered before the Education and Labor Committee and which were adopted by the committee. The language I propose today tracks the health and safety language precisely and is a modification of the workers' compensation language.

The health and safety amendment provides that where Federal and State safety and health standards apply, they shall be applicable to working conditions of participants. The Banking Committee bill speaks of "appropriate" standards for health and safety and other standards but does not define them. This amendment makes clear that standards already law apply and that this bill is not preempting or expanding them in any way.

As I just mentioned, the health and safety amendment is that which was adopted by our committee, not that which was adopted in H.R. 5320. Let me explain why.

In H.R. 5320 there might be instances where participants could be State employees within a State which does not have a State plan under OSHA. In such a case, the amendment in H.R. 5320 provides that the Secretary of Labor shall prescribe health and safety standards as may be necessary to protect participants.

In H.R. 5540, however, all participants fall into the private sector; none will be State employees. Therefore, the additional protections afforded in the job training bill are not relevant here.

The first part of the workers' compensation amendment I propose today—that when State workers' compensation laws are applicable, they shall be available to participants if in accordance with such law—is identical to my committee-adopted amendment and to the first part of my amendment to the job training bill.

However, there might be participants—unlikely, but possible—in a State with a voluntary workers' compensation law—there are three—and whose employer does not subscribe to workers' compensation coverage. To assure coverage of participants in this narrow category, the second part of my workers' compensation amendment states that, where State workers' com-

pensation laws do not apply, the Secretary shall prescribe regulations requiring recipients or subrecipients of funds to secure insurance to cover injury to participants.

It is questionable whether Congress could constitutionally mandate State workers' compensation on recipients where State workers' compensation laws do not cover participants. To the extent those State laws cover recipients, the amendment recognizes those State laws. Where participants are not covered by State laws, the amendment offers protection through requiring insurance coverage, consequently, no interference with State workers' compensation laws.

The third amendment strikes subsection (J)(vii) involving union security which we agreed to strike in the job training bill. Union security should not be a concern of a training bill. Union security is already covered in labor law in the National Labor Relations Act administered by the NLRB. One agency and one law is sufficient to govern the issue and it should not be a training law. At very least, requiring a State to certify union security conditions is superfluous.

The fourth amendment provides that recipients of funds available under this act have given assurances to the State that such funds have not been used to assist, promote, or deter union organizing, an improper use of funds under this bill, or under current law.

Although the language in the Banking Committee's bill does not suffer the same defects as did the job training bill prior to my amendments, the language is still imprecise and does not comport with the amended language in the job training bill to which the majority and minority of my committee agreed.

The job training bill originally provided as a matter of law that no funds could be used for such purposes. This created a separate cause of action. Rather than create a separate Federal cause of action apart from the National Labor Relations Act's prohibitions and permissions, the Erlenborn amendment confined such prohibitions to contractual requirements and assurances. In this manner, the Secretary can determine contractual language, but no longer may conflict in his rulings with possible decisions of the NLRB.

The prohibitions in H.R. 5540 are similarly cast as contractual requirements and assurances, but the two bills differ as to who gives those assurances. In the job training bill recipients of funds provided those assurances, while in H.R. 5540, the State provides the assurances. My amendment would conform the bill to the job training bill. To require a State to give such assurances rather than a recipient, places an unnecessary and inappropriate burden on the State agency submitting the plan. The responsibility for giving any necessary assurances in a certification process should rest with the party to whom the prohibition is directed—in this instance, the recipient.

Mr. Chairman, I move the adoption of my amendment.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to state that the gentleman is correct; the minority side of the Committee on Banking, Finance and Urban Affairs accepts the gentleman's amendments and thinks they are a very good correction to the bill.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I want to thank the gentleman from Illinois (Mr. ERLENBORN) for his conscientious handling of this issue, and I support the labor standards amendments. I thank the gentleman.

□ 1650

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 37, after line 6, insert the following:

"(5) Each training program under the State plan shall include contributions and other types of active participation during the course of training from industry or labor organizations or both, except that the President, upon written request from a State, may exempt training programs in economically depressed communities from the contribution required in this paragraph."

Mr. Chairman, this is an amendment to attempt to make sure that the training programs in fact have local support and participation from industry and labor organizations. The amendment simply requires that the programs include a contribution or other types of active participation. It is envisioned that this amendment will require that local programs designed for training will include the contributions and the participations of those individuals for the purpose which the training is approved.

As we know from service on the Education and Labor Committee, from time to time that has not necessarily happened. But one of the reasons we have found that it has not happened in the past is because of the fact that very often these training programs are designed without the input or the contribution or the participation of these local entities, and they are the ones that eventually are going to be responsible for hiring the people who have been involved in the training. It involves no threshold. There is no minimal level. It is simply that the program as a component will require a contribution or active participation in terms of assistance or personnel to help do that.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I just want to make legislative history here, to see if I understand the gentleman completely.

In no way is the gentleman decreeing that they should have so much power. What the gentleman is saying is simply that they be consulted for contributions; in other words, that industry and/or labor groups be consulted, say, if the vocational training groups were running the program, that they simply consult to see what the needs are in that area. We are in no way saying that they have to be a part of the management of this program.

Mr. MILLER of California. No. And after consulting them, obviously, to the extent that we could, if possible, encourage their participation in that program by either lending or contributing resources and advice or help, technical help in that effort.

Mr. McKINNEY. If this is simply on a contribution/consultation basis, I would have no objection.

Mr. MILLER of California. I am not seeking to make them part of the management of these programs.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Will the gentleman again clarify what he means by "active participation"?

Mr. MILLER of California. "Active participation," I think is, hopefully, to get the people out of labor or out of the business community involved, in terms of giving advice, where they have expertise in program planning, implementation or evaluation, assistance in some cases in curricula development, assistance in finding jobs for graduates of these programs, so that there is a coordination between the local community, the business entities and the labor entities. What your bill attempts to do is provide a skilled pool of labor for that local community.

Mr. BLANCHARD. I am grateful for the clarification, and I want to commend the gentleman. I support his amendment.

Mr. MILLER of California. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO:

Page 41, line 24, strike out ", or the installation of equipment,".

Page 42, beginning on line 15, strike out ", or the installation of equipment,".

Mr. VENTO. Mr. Chairman, this is a very simple amendment. It deals with the provision in the bill with regards to the Davis-Bacon, and it limits the applicability. This amendment has the support, I believe, of the subcommittee and the committee members both the majority and the minority. It will eliminate any type of confusion that exists with regards to the concern that is in this DPA legislation, and specifically in the area of construction, that we were expanding the definition of Davis-Bacon.

As Members know, many of the provisions we have with regard to public construction contain Davis-Bacon requirement. It is not our intent to extend Davis-Bacon but to clarify it. But confusion prevailed with respect to that initial effort. So in order to avoid that confusion, this amendment will cause this Davis-Bacon language to conform exactly to the applicability of the Davis-Bacon language today.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. MILLER of California. I would like to know whether this amendment will exempt all installation of equipment from coverage by the Davis-Bacon provision in section 303A(m) of the bill?

Mr. VENTO. No. The Davis-Bacon Act applies to jobsite installation of equipment under a contract in an amount exceeding $2,000 for construction, repair, or alteration of a public building or public work of the United States. It does not, however, apply to all installation work. Delivery and incidental installation has always been considered an integral part of manufacturing and furnishing the equipment to the purchaser. Where manufacturing and furnishing equipment involves no more than a minimal amount of jobsite activity, the Davis-Bacon Act has not and should not be applied. On the other hand, where jobsite installation of equipment involves more than an incidental amount of erection or installation work it is subject to the Davis-Bacon Act. Examples of such work are those for manufacture or furnishing and installation of elevators or of generators requiring prepared foundations or housing. This amendment simply provides that section 303A(m) of the bill will be interpreted and administered in a manner consistent with the Davis-Bacon Act.

Mr. MILLER of California. So what you are saying is that if the House adopts this amendment the traditional historical coverage of the Davis-Bacon Act will be maintained.

Mr. VENTO. Yes.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman very much.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I want to support the gentleman's amendment. I think there has been a good deal of confusion over exactly what projects subsection (m) of H.R. 5540 would cover and a concern, I think, that the provision, as written, would expand Davis-Bacon into new areas of work. I think it is the committee's intent that Davis-Bacon prevailing wages should be paid for the same kind of work to which Davis-Bacon now applies in over 50 statutes, and I think the amendment of my colleague will make that clear.

Mr. VENTO. I thank the chairman for his support.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Connecticut, the ranking minority member on the committee.

Mr. McKINNEY. As I understand it, this is the amendment that the gentleman and I discussed which would remove the objections that many people in industry and in our colleges had of taking Davis-Bacon into areas where it has never been before. This amendment would thereby bring it back so that those objections are handled.

Mr. VENTO. It addresses that concern, yes.

Mr. McKINNEY. I would urge support for the amendment.

Mr. VENTO. I appreciate the gentleman's support.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Michigan.

□ 1700

Mr. BLANCHARD. Mr. Chairman, I thank the gentleman for yielding.

Davis-Bacon coverage will extend to those projects assisted by direct loans, loan guarantees, and grants. It will not—and I should repeat—not extend to projects assisted by purchase agreements and price guarantees.

I think this amendment should clear up any confusion which has previously surrounded this provision.

I would urge the Members to support it.

Mr. VENTO. I thank the gentlemen for their support.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. ERLENBORN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. VENTO

Mr. ERLENBORN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN as a substitute for the amendment offered by Mr. VENTO: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

POINT OF ORDER

Mr. VENTO. Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. ERLENBORN).

The CHAIRMAN. The gentleman will state his point of order.

Mr. VENTO. Mr. Chairman, the substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section of paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly.

The CHAIRMAN. Does the gentleman from Illinois (Mr. ERLENBORN) desire to be heard on the point of order raised by the gentleman from Minnesota?

Mr. ERLENBORN. I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois.

Mr. ERLENBORN. First of all, Mr. Chairman, let me say that I am caught by surprise by this point of order. I was not aware that it was going to be offered. Therefore, I cannot claim to have done any thorough research.

It does appear to me from what the gentleman has said in support of his point of order that he is claiming that my substitute would treat a different matter or in a different manner the same matter as the amendment offered by the gentleman.

The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Minnesota (Mr. VENTO) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

The CHAIRMAN (Mr. FOWLER). The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. VENTO) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

The Chair would say to the gentleman from Illinois (Mr. ERLENBORN) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

Mr. Chairman, the effect of the adoption of the Vento amendment is to remove part of the extension of Davis-Bacon as is was being applied to this act by the terminology of these sections that are being amended.

The Vento amendment removed the extension to the installation of equipment, so that its extension will not be as broad as originally contemplated by the bill.

It has been said in support of the amendment that this, therefore, means Davis-Bacon is not being extended. That is not true. Davis-Bacon in its application is being extended to areas that it has never historically covered, either under Davis-Bacon itself or other applications of Davis-Bacon contained in various pieces of legislation passed over the years.

Mr. Chairman, what more can be said about the Davis-Bacon Act? In recent years study after study had concluded that if grossly inflates construction wages, is impossible to administer, and should be repealed.

Here we have not only an extension of the act but an extension in scope of coverage, as my "Dear Colleague" letters in the past have pointed out.

My amendment would strike this extension of Davis-Bacon. If Congress will not seriously consider repealing or modifying the act this year—as I know we will not—at the very least we should not rush headlong into further expansion of this depression-era relic.

My amendment is not a cutback in Davis-Bacon coverage. It does not affect current Davis-Bacon application to the synthetic fuels program which is located in another part of title III of the Defense Production Act. Adoption of my amendment will simply preserve the status quo in current Davis-Bacon coverage.

After asking what more can be said about Davis-Bacon, I have a few general comments. The criticism of the act has escalated over the past few years. As respected studies have concluded, the act has outlived its usefulness or should at least undergo extensive revision.

The General Accounting Office in 1979 recommended that it be repealed. The Carter administration's confidential review of Federal contract wage laws concluded that adoption of administrative reforms lowering prevailing wage determinations by 10 percent would produce Davis-Bacon savings of $1 billion and reduce inflation by two-tenths of 1 percent.

Adoption of merely four changes was estimated by CBO to save $239 million in outlays in fiscal year 1983.

Against this backdrop, the House is asked to extend Davis-Bacon even further, to the strategic minerals mining industry. I believe it is past time Congress drew the line and said no further.

As my "Dear Colleague" letter pointed out, this provision would extend Davis-Bacon beyond traditionally covered activities. Not only would construction, alteration, or repair of projects be covered—which are traditional Davis-Bacon coverage—but before the adoption of the Vento amendment, installation of equipment would have been as well.

Moreover, coverage is not limited to laborers and mechanics whose employers are Federal contractors—again the traditional Davis-Bacon language—but extends to employees of grantees and loan or aid recipients, and this remains true in spite of the adoption of the Vento amendment.

Thus if a grantee or loan aid recipient decides to do his own construction using his own employees, Davis-Bacon would apply. No contractual relationship is necessary.

Not only would this cover employees of colleges and universities, for example, but as the GAO has suggested, the employees of State and local governments as well through grants to State boards of vocational education for purchase of equipment, facilities, personnel, or services provided under the new section 303A(h)(5).

Furthermore, because the language applies to employees on any project, not just to those employed directly at the site of the work, again traditional Davis-Bacon language might apply to activities conducted off site such as to other construction projects of the contractor which otherwise would not be covered by Davis-Bacon.

□ 1710

Mr. Chairman, this provision has been represented as simply boilerplate. It is nothing so innocuous; rather, it is a blatant attempt to saddle the Federal Government, academia and small- and medium-sized businesses who the proponents of this bill contend are so crucial to our defense industrial base with excessive construction costs and administrative headaches imposed by an outdated law, whose sole clearly remaining purpose appears to be protection of one special interest.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, I hope everyone here will seriously consider the astounding economic and budgetary impact imposed by Davis-Bacon and consider as well how much further the dollars for this new program could stretch without wage costs 30 percent higher than would otherwise apply.

If you honestly believe that H.R. 5540 will improve our defense industrial base, then such a law without the Davis-Bacon language would mean a program that would be even more responsive to those needs. If you do not believe that H.R. 5540 is the answer, then you cannot accept either the rationale given for including Davis-Bacon. Either way, Davis-Bacon coverage is inappropriate. The law remains an engine of inflation which swells the Federal deficit.

Now, Mr. Chairman, let me reiterate that the Vento amendment has reduced the scope of coverage of Davis-Bacon only in the area of the installation of equipment. That is a step forward and I certainly understand some of these large electronic manufacturing companies that install computers and so forth are probably very happy now that the Vento amendment has been adopted, some of the very firms who will profit the most from the application of this $6¾ billion being authorized under this act.

Mr. Chairman, the language remaining which I would strike extends Davis-Bacon into areas never covered before. If the amendment is adopted, Davis-Bacon will not be diminished one iota. Its application will not be restricted at all.

If my amendment is adopted, we will just stop this unwarranted expansion of the Davis-Bacon act.

I hope it will be adopted.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for yielding. I want to be associated with the gentleman's remarks and to thank him for his leadership in our efforts over the years to try to do something about Davis-Bacon.

With the difficulty we have had in the past in restraining it, here is an opportunity, it seems to me, to at least keep Davis-Bacon from being extended to another activity. I want to be associated with the gentleman's remarks and thank him for his leadership and urge our colleagues to vote with us.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to my colleague, the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would suggest the gentleman's remarks should be slightly reinterpreted. It certainly is not going to stop Davis-Bacon where it exists, but it is going to stop Davis-Bacon from being applied to this program.

Mr. ERLENBORN. It might be applied to this program under current law. This amendment will not expand the coverage of Davis-Bacon.

Mr. McKINNEY. Well, how would the gentleman suggest that the coverage of Davis-Bacon is going to be expanded?

Mr. ERLENBORN. Well, as I said in my statement, it will apply Davis-Bacon to grantees never covered before. It always has been a contractual situation where the grantee contracts. It is the employees of contractors and subcontractors who are traditionally covered by Davis-Bacon.

The language in the bill that I would strike will cover employees of grantees as well, which could be State or local governments or universities or others who have never been covered by it before, and there are other coverages, as I explained in my statement.

Mr. McKINNEY. I have difficulty in agreeing with the gentleman's interpretation of how far it would extend it, but I guess that is what this deliberative body is all about.

I would just simply suggest that, if in fact, in the Defense Production Act, Davis-Bacon is applicable and right for the synthetic fuels program, it should be right for this, so long as it does not go into categories such as the installation of computers and equipment where it never was.

Mr. ERLENBORN. Well, I would say one of the reasons that this bill was sequentially referred to the Committee on Education and Labor is that we have the expertise in some of the programs, like Davis-Bacon.

I would say to the gentleman that if it had been the purpose of the committee on which the gentleman serves to merely apply Davis-Bacon in the same fashion it had been applied in the past to other programs, more artful language could have been adopted.

This will be an expansion of Davis-Bacon beyond that which has been applied in the past.

I would just respectfully suggest that those on our committee who live with the program are better able to make that judgment.

Mr. FORD of Michigan. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am pained to observe to my dear friend, with whom I have served from our very first day here, "Oh, John, there you go again."

For years the gentleman has been picking on poor old President Hoover and probably the most outstanding bill that gets discussed in this Chamber for which his administration was responsible.

No one knows the history of the Davis-Bacon Act better than the gentleman from Illinois, but I am compelled to remind him that both Senator Davis and Representative Bacon were Republicans. The authors of the Davis-Bacon Act did not set out to inflate wages; they set out to prevent the Federal Government from depressing wages, and that is exactly what the act does.

Kansas passed a prevailing wage law in 1891, long before the Hoover administration pushed Davis-Bacon through in 1931. Idaho, Arizona, and Oklahoma—bastions of conservatism—were among a half dozen States to pass Davis-Bacon style laws before the Federal Government. Those States did not act to protect the special interests of labor unions. They acted to protect local construction companies and their workers from wage busting by companies with no tie to the community, wage busting which could seriously disrupt a local economy.

What would happen if the Government were required to take the lowest bid on a contract, as most governments are, if there were no prevailing wage protections? Contractors would no longer compete for bids on the basis of superior management, lower material costs, or the productivity of experienced workers. They would compete by cutting the easiest cost to manipulate—wages.

The Davis-Bacon Act is as necessary today as it was 50 years ago. And that is why the Congress has defeated every attempt to repeal or weaken the act and will continue to do so.

I wish sometime, JOHN, that you would take a good look at how you describe these Davis-Bacon provisions as they go through here, which have been repeatedly acted upon by the Congress, because if indeed they were as broad as the gentleman describes, they probably would be even too broad for me, and the gentleman knows that is really going a long way.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman.

Mr. ERLENBORN. Mr. Chairman, I will just ask the gentleman, is he aware of any other extension of Davis-Bacon to grantees, rather than merely to contractors and subcontractors?

Mr. FORD of Michigan. No. As a matter of fact, I was troubled by that and I have satisfied myself in an examination of the bill and also a legal opinion which the gentleman from Virginia (Mr. BUTLER) who has just joined the gentleman obtained from the Congressional Research Service that, indeed, that is not the proper interpretation of the language of the bill at all.

The authors of the bill have complied, it seems, almost verbatim with a case that has already been decided and I do not believe it is as broad as the gentleman describes it; hence my remark that once Davis-Bacon got as broad as the gentleman tends to describe it, it would, indeed, go too far.

I just really think that since President Reagan has indicated that he does not want Davis-Bacon repealed, we should not be doing it a piece at a time over here.

This is one time that I rise to my full diminutive height to defend our President in his support of the principle of Davis-Bacon.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman.

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for yielding.

I am very intrigued with the comments of the gentleman about repealing by piecemeal; but there does not seem to be any restriction to adding on by piecemeal.

This is piecemeal application, also, and the gentleman is attempting to extend it to a piece of legislation once again, now I think the 84th time, in which this will appear in our Federal Code.

I think it is an example again of special interests "Made in Congress" stamped all over it.

I think it is unfortunate. I am amazed that last week we passed a billion dollar bill out of this body to put people to work doing everything that is not allowed to be done under our highway laws and others, unless we pay Davis-Bacon wages and just last week this body went on strong record in voting to fill the potholes and to work on all the water projects and in the parks and in virtually every area that was mentioned that we were going to rehabilitate the infrastructure of this Nation was going to be hit, and yet here today we are trying to pass another costly piece of legislation mandating the highest wages at a time when we have the worst unemployment problems since the Great Depression and here we are taxing the hardworking people that are still lucky enough to have a job, to turn around and tax them to pay this.

The whole bill is a turkey. This thing makes it a gobbler. It is gobbling up the taxpayers, the American people, in which every significant newspaper in the Nation has editorialized, and every significant economist has been coming out for repeal or major reform and change.

It is so disheartening in the final hours of this Congress to see a piece of legislation like this up again, to stick it to the taxpayers and take care of your very special interest friends.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Illinois.

Since coming to Congress 8 years ago, I have found it very difficult to understand why this body continues to support the archaic Davis-Bacon Act despite the overwhelming evidence against this law.

I find it absolutely unbelievable that we are now considering an extension of Davis-Bacon into new Federal programs and areas not presently covered by the act.

I am also amazed that some of the very same arguments which we heard on the floor last month, in opposition to another Davis-Bacon amendment, now seem to be totally forgotten by the supporters of this depression-era relic. Perhaps I need to refresh my colleagues' memories.

To those who were so indignant about what they claimed was back door approach to repeal of Davis-Bacon, I can only ask why can we suddenly rationalize a back door effort to extend the scope of this law? Because that is exactly what we have here. The extension of Davis-Bacon in H.R. 5540, to include the installation of equipment and to workers not in a contractual relationship with the Federal Government, is a backhanded attempt, and it has "special interest" written all over it.

To those who argued that now is not the proper time to make a move on Davis-Bacon, with the administration's new regulations in limbo, I ask what happened since last month to make the time opportune for action on this law?

We heard some Members acknowledge that indeed, a thorough review of Davis-Bacon was probably needed in view of strong evidence that the act adds significantly and unnecessarily to the cost of Federal construction and that it is impossible to administer. How can we justify to the American taxpayers an extension of Davis-Bacon when these serious issues have not been resolved?

When opponents of Davis-Bacon try to remove Davis-Bacon coverage from particular authorization bills, they are hounded by shouts of "piecemeal repeal." But when its supporters try to include it in every new piece of legislation they possibly can, this is not considered piecemeal extension. When it comes to Davis-Bacon, apparently anything goes.

Just how much evidence do we need before we move to get rid of this costly and unnecessary law? Support for repeal of Davis-Bacon is broad and well documented. Our major economists oppose it; the GAO, the U.S. Chamber of Commerce, and the Council of Economic Advisors have called for its repeal; the Washington Post, the Christian Science Monitor and the New York Times, to name but a few, have all editorialized against Davis-Bacon. We have studies coming out our ears that point to the inflationary impact on construction costs and the administrative nightmares that result from Davis-Bacon. But nothing seems to be enough to convince the act's supporters that Davis-Bacon is not sacrosanct.

As Members of the House, we have to justify our right to serve in this body at the polls every 2 years. It is not enough to say that "we had good intentions when we started, so we deserve to stay here without question." I do not know of one Member who would suggest such a thing. Yet, a 50-year-old law never has to justify its existence. Is the fact that it was a good idea in 1931 enough reason to keep it on the books indefinitely?

Supporters of Davis-Bacon argue that the Government should not be in the business of using Federal funds to drive down wages. I agree, but neither should the Government use taxpayers' dollars to inflate wages, and this is exactly the effect that Davis-Bacon has, regardless of the original purpose of the law.

The Davis-Bacon Act does not protect American construction workers. It protects only big labor union workers. And it protects them at the expense of those who work for and own small, nonunion construction companies. It does not protect jobs. By forcing the Government to pay high wages, it reduces the amount of work, and therefore the number of jobs, that the Government can fund.

Davis-Bacon discriminates against rural construction companies to the advantage of big, urban union shops. Should the Federal Government be in the business of using taxpayers' dollars to favor one kind of business and worker over another? Certainly not.

In conclusion, I can only say that if the House allows this extension of Davis-Bacon to yet another Federal program and to areas where the law has never applied, it won't be just a shame, it will be a scandal and I think the American people will once again vote their opposition to the scandal of excessive spending this November.

I commend the gentleman from Illinois for taking action against the continued waste of taxpayers' money through extensions of Davis-Bacon and I urge my colleagues to support the Erlenborn amendment and to oppose all other Davis-Bacon amendments to this bill.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for his contribution and simply would like to close by observing that apropos of the gentleman's comments, this Congress has never knowingly passed legislation or adopted any position that I am aware of that encourages the use of any Federal agency, much less the Defense Department, to depress business operations or to depress wages in any part of the country. I do not think this is the place to start it.

With respect to the gentleman's eloquent discourse on the cost of the bill: This is coming out of the Defense budget. It does not represent any new spending authorization.

I am perfectly confident that the House will be more than willing to provide enough money in the Defense appropriations to take care of it.

Mr. BLANCHARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I simply indicate that the issue of Davis-Bacon, of course, is debated frequently on the floor of the House and in committee and in public debates. It is nothing new.

I rise in opposition to the amendment offered by the gentleman from Illinois. I think the prevailing wage standard is an important provision in this legislation. It is, as I said, not new. It is included in over 50 existing statutes, including the Energy Security Act.

I think the Members of this chamber have been called upon to vote on this issue many, many times.

I respect the gentleman's position on this, but I also would note that recently we did defeat a similar amendment deleting Davis-Bacon, or attempting to, from the National Development Investment Act.

□ 1720

The amendment was defeated by a vote of 240 to 137.

While I respect the gentleman's position, I hope that we will not dwell on this issue becasue we do so far too often and the central thrust of this bill, I think, is going to receive a lot more debate. I think it is an important piece of legislation, but I do anticipate very active debate and I would hate to see us get diverted on an issue on which we vote so frequently.

I urge my colleagues to oppose the amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Erlenborn amendment.

I want to point out that this is not an attempt to expand Davis-Bacon beyond the traditional sense in which it has been used. The language may not be model perfect, but the fact is, in essence we have not expanded it; that indeed, grants or projects for construction for solid waste disposal, as an example, are covered in the same manner. The same is true of the Synthetic Fuel Act, the National Endowment for the Arts, and so forth and so on.

The record is replete with consistency with regard to what we are doing.

I might just add that I think the unique posture of the National Government in terms of seeking bids on projects puts us as a unique risk of liability with regard to various wage rates and undercutting the quality of service that we might achieve. Indeed, in the private sector one can pick and choose the contractors that one chooses to work with, but the public sector does not have that particular benefit.

As such, I think there is a need for additional qualifications with respect to the contractors, the quality of work that we might receive. I think it is important to recognize, and I think we all recognize it as a dilemma, but we also, of course, fall down differently on basically how we should insure quality construction.

Many of us believe that these labor standards, prevailing wage rates are a significant factor in terms of achieving that quality.

One further fact I might add in passing this afternoon and that is the point the gentleman from Illinois raised with respect to not receiving notification with regard to a point of order that was going to be raised against this amendment, if it were offered, to my perfecting amendment. The gentleman knows full well he had the opportunity to offer his amendment at the conclusion of the perfection, so I did not feel it was necessary in this instance to alert the gentleman, since the basic thrust of what he is trying to do is represented on the floor here this afternoon.

Mr. ERLENBORN. Mr. Chairman, will the gentleman from Michigan yield to me?

Mr. BLANCHARD. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman from Minnesota for making that observation. I would certainly agree with him that I was in no way prejudiced.

Mr. VENTO. I thank the gentleman.

Mr. Chairman, when we are in the full House, I will make a request to put Mr. BUTLER's letter response from CRS in the RECORD with his concurrence so that will be part of our formal proceeding this afternoon.

I yield back the time to the gentleman from Michigan.

The CHAIRMAN. The Chair will state that the time belongs to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I yield back the balance of my time.

Mr. RUDD. Mr. Chairman, I support the gentleman's amendment to strike the Davis-Bacon provision from this bill. The Davis-Bacon law is over 50 years old and has far outlived its purpose if we turn down the amendment. We give it a new lease on life, and can be assured that the Government will pay a 5-percent higher price for each construction contract funded by this bill.

The purpose of the bill is supposedly to support and encourage businesses which make up our defense base, but by tacking on the Davis-Bacon provision, we are eliminating many contractors who will refuse to participate in projects because they know that real competition is stifled by the preset wage restrictions mandated by the Davis-Bacon law.

Some Members have said they support this bill because it means jobs. My district also is suffering from an inflated unemployment level. But the Davis-Bacon provision works against any job-creating aspects of this bill by keeping wages artifically high, and thus cutting down the efficiency of the dollars spent for projects.

The statistics on the inflationary affects of the Davis-Bacon law are astounding. Tens of billions are spent each year in higher labor costs. The evidence for repeal of the Davis-Bacon Act is compelling. I hope that this same evidence will compel us to vote to accept this amendment and prevent further entrenchment of this expensive and inflationary law.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Erlenborn amendment.

Mr. Chairman, I would associate myself with the remarks made by the gentleman from Illinois (Mr. ERLENBORN).

Then I would like to address my comments to the remark made by the gentleman from Michigan (Mr. FORD) when he said that this bill is not going to cost any additional money because it is going to come out of the defense budget.

The fact of the matter is, the defense authorization which was before us here at the request of the Armed Services Committee, some $176 billion, was debated for 7 days. There were over 100 amendments offered to the bill; only one succeeded. That happened to be the amendment that I offered to delete the provisions for nerve gas funding.

So the fact of the matter is, there is no room in the defense budget to fund this particular program. What we are going to see is that if this bill is passed and this authorization takes effect, then there are going to be $6.75 billion in new authorizations lying out there and we cannot find any room for it in the 050 function, which is the defense function.

So this is either new spending or we have to declare which part of the armed services bill is going to be stricken to make room for this spending. It is just not there. It is not in the budget.

So that is one of the myths that has been perpetuated about this bill as it has run its course here in the House. Members have been told that this is not new spending, that it is going to come out of defense. There is nothing to come out of defense. If there was something to come out of defense, we would have taken it out of defense when we had the defense bill here on the floor.

So this is new spending, $6.75 billion in new spending on the eve of an election to create some $30 billion to $50 billion of new credit assistance programs for those hard-pressed defense-related industries who are just not going to be able to make it on the $176

billion that we have already set aside for defense in this country.

Now, I call this corporate welfare. This money is going to find its way into the pockets of some of the richest corporations in America, and I am really surprised to find my colleagues on the other side of the aisle so desirous of advancing this type of legislation.

We just passed a tax bill, and in that tax bill were all kinds of provisions to encourage investment, to encourage businesses to expand, and we have heard speech after speech about how those provisions that we passed in the tax bill were to favor——

POINT OF ORDER

Mr. BLANCHARD. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BLANCHARD. I believe the gentleman from Arkansas is out of order, Mr. Chairman, in the fact that he is not speaking on the amendment or anything related to the amendment.

I respect his views and we will fully air those, but this amendment is the Davis-Bacon amendment; it is not related to the debate.

Mr. BETHUNE. Mr. Chairman, may I respond?

The CHAIRMAN. The gentleman may respond.

The Chair will say that the gentleman should address the amendment.

Mr. BETHUNE. The gentleman would be glad to address the amendment except that the subject that the gentleman is now treating was raised by the gentleman from Michigan (Mr. FORD), not the gentleman from Arkansas.

It seems to me only fair that I be permitted to take some of my time to rebut the statements made.

The CHAIRMAN. The Chair will simply observe that the debate should relate to the amendment. The gentleman will continue with his time.

PARLIAMENTARY INQUIRY

Mr. BETHUNE. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BETHUNE. Mr. Chairman, when a subject is raised by another Member and then a Member is subsequently recognized under the 5-minute rule, may the Member use whatever portion of his 5 minutes he desires to rebut the statements made in the course of the proceeding of the debate?

The CHAIRMAN. The Chair will state that if extraneous debate occurred at a previous time, then a point of order would lie to object to that at that time. Since the point of order was not raised, the gentleman from Arkansas is under obligation to confine his remarks to the amendment.

Mr. BETHUNE. How much time do I have remaining, Mr. Chairman?

The CHAIRMAN. The gentleman from Arkansas has 1 minute remaining.

Mr. BETHUNE. Mr. Chairman, I yield back my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 189, not voting 81, as follows:

[Roll No. 368]

AYES—162

Andrews	Gregg	Montgomery
Anthony	Gunderson	Moore
Archer	Hagedorn	Moorhead
Ashbrook	Hall, Ralph	Morrison
Bailey (MO)	Hall, Sam	Myers
Bereuter	Hammerschmidt	Nelson
Bethune	Hansen (ID)	Oxley
Bliley	Hansen (UT)	Parris
Bowen	Hartnett	Patman
Brinkley	Hatcher	Paul
Broomfield	Hefner	Petri
Brown (CO)	Hendon	Pritchard
Broyhill	Hightower	Railsback
Butler	Hiler	Roberts (KS)
Byron	Holt	Roberts (SD)
Campbell	Hopkins	Robinson
Carman	Huckaby	Roemer
Chappie	Hunter	Rogers
Coats	Hutto	Roth
Coleman	Hyde	Roukema
Conable	Jeffries	Rudd
Corcoran	Jenkins	Sensenbrenner
Coughlin	Johnston	Shaw
Crane, Daniel	Jones (NC)	Shumway
Crane, Philip	Kazen	Shuster
Daniel, Dan	Kindness	Siljander
Daniel, R. W.	Kramer	Skeen
Dannemeyer	Lagomarsino	Smith (AL)
Daub	Latta	Smith (NE)
Deckard	Leach	Smith (OR)
Derrick	Leath	Snowe
Dornan	Lewis	Snyder
Duncan	Livingston	Solomon
Dunn	Loeffler	Spence
Edwards (AL)	Long (MD)	Stangeland
Edwards (OK)	Lowery (CA)	Stenholm
Emerson	Lujan	Stump
English	Lungren	Tauke
Erdahl	Madigan	Thomas
Erlenborn	Marlenee	Trible
Evans (DE)	Marriott	Vander Jagt
Evans (IA)	Martin (IL)	Walker
Fenwick	Martin (NC)	Wampler
Fiedler	Martin (NY)	Watkins
Fields	McClory	Weber (MN)
Fountain	McCloskey	Weber (OH)
Frenzel	McCollum	White
Fuqua	McDonald	Whitehurst
Gibbons	McEwen	Whitley
Gingrich	Mica	Whittaker
Goldwater	Michel	Whitten
Goodling	Miller (OH)	Winn
Gradison	Mitchell (NY)	Wolf
Gramm	Molinari	Young (FL)

NOES—189

Akaka	Bevill	Conte
Albosta	Bingham	Courter
Alexander	Blanchard	Coyne, James
Anderson	Boggs	Coyne, William
Annunzio	Bonior	Crockett
Applegate	Bonker	D'Amours
Aspin	Bouquard	Daschle
Atkinson	Breaux	Davis
AuCoin	Brodhead	de la Garza
Bailey (PA)	Brooks	Dellums
Barnes	Clausen	DeNardis
Bedell	Clay	Dicks
Bennett	Clinger	Dingell
Donnelly	Jeffords	Pursell
Dorgan	Jones (OK)	Quillen
Dougherty	Jones (TN)	Rahall
Dowdy	Kastenmeier	Regula
Downey	Kennelly	Reuss
Dwyer	Kildee	Rinaldo
Dymally	Kogovsek	Ritter
Dyson	Lantos	Rodino
Eckart	LeBoutillier	Roe
Edgar	Leland	Rostenkowski
Edwards (CA)	Lent	Roybal
Evans (IN)	Levitas	Russo
Fary	Long (LA)	Sabo
Fazio	Lowry (WA)	Sawyer
Ferraro	Lundine	Scheuer
Findley	Martinez	Schneider
Fish	Matsui	Schroeder
Flippo	Mavroules	Schumer
Florio	Mazzoli	Seiberling
Foglietta	McDade	Shamansky
Foley	McGrath	Sharp
Ford (MI)	McHugh	Shelby
Ford (TN)	McKinney	Simon
Fowler	Mikulski	Smith (IA)
Frost	Miller (CA)	Smith (NJ)
Gaydos	Mineta	St Germain
Gejdenson	Minish	Stark
Gephardt	Mitchell (MD)	Staton
Gilman	Moakley	Stokes
Ginn	Mollohan	Studds
Glickman	Mottl	Swift
Gonzalez	Murphy	Tauzin
Gore	Murtha	Traxler
Green	Natcher	Udall
Guarini	Nelligan	Vento
Hall (OH)	Nichols	Volkmer
Hamilton	Nowak	Walgren
Harkin	Oakar	Washington
Hawkins	Oberstar	Waxman
Heckler	Obey	Weaver
Hertel	Ottinger	Williams (MT)
Hillis	Panetta	Williams (OH)
Holland	Pashayan	Wilson
Hollenbeck	Patterson	Wolpe
Horton	Pease	Wright
Howard	Pepper	Wyden
Hoyer	Perkins	Wylie
Hubbard	Peyser	Yatron
Hughes	Pickle	Young (AK)
Jacobs	Price	Zablocki

NOT VOTING—81

Addabbo	Dixon	Napier
Badham	Dreier	Neal
Bafalis	Early	O'Brien
Barnard	Emery	Porter
Beard	Ertel	Rangel
Beilenson	Evans (GA)	Ratchford
Benedict	Fascell	Rhodes
Biaggi	Fithian	Rose
Boland	Forsythe	Rosenthal
Bolling	Frank	Rousselot
Boner	Garcia	Santini
Brown (CA)	Gray	Savage
Brown (OH)	Grisham	Schulze
Burgener	Hance	Shannon
Burton, John	Heftel	Skelton
Burton, Phillip	Ireland	Smith (PA)
Carney	Kemp	Solarz
Chappell	LaFalce	Stanton
Cheney	Lee	Stratton
Chisholm	Lehman	Synar
Coelho	Lott	Taylor
Collins (IL)	Luken	Weiss
Collins (TX)	Markey	Wirth
Conyers	Marks	Wortley
Craig	Mattox	Yates
Derwinski	McCurdy	Young (MO)
Dickinson	Moffett	Zeferetti

□ 1740

The Clerk announced the following pairs:

On this vote:

Mr. Emery for, with Mr. Phillip Burton against.

Mr. Cheney for, with Mr. Addabbo against.

Mr. Beard for, with Mr. Zeferetti against.

Mr. Burgener for, with Mr. Forsythe against.

Messrs. HILLIS, ALBOSTA, and PURSELL changed their votes from "aye" to "no."

Messers. CARMAN, DORNAN of California, and NELSON changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1750

AMENDMENT OFFERED BY MR. WILLIAM J. COYNE

Mr. WILIAM J. COYNE. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM J. COYNE: On page 41, strike out line 13 and all that follows through line 21 and insert in lieu thereof the following:

"(1) In order to carry out the provisions of this section, the Office of Technology Assessment shall, subject to approval of the Technology Assessment Board and in a manner prescribed by 2 U.S.C. 472(d), undertake a study of the public facilities or infrastructure essential to the defense industrial base and provide Congress with appropriate recommendations for infrastructure measures designed to avoid serious impediments to the production and distribution of materiel.".

Mr. WILLIAM J. COYNE. Mr. Chairman, I offer a technical amendment to subsection (1) that calls for an infrastructure study by the Office of Technology Assessment (OTA).

Mr. UDALL and Mr. DINGELL, both of whom serve on OTA's governing body, the Technology Assessment Board, kindly advised me that our original language does not accord with OTA's usual way of initiating studies.

Our aim is certainly not to circumvent standard procedures. Rather, because OTA's expertise is so well suited to our purpose, we simply want to set in motion the machinery that can lead toward this important study.

Mr. UDALL, as Vice Chairman of the Technology Assessment Board, assures me in writing that the new language is now "consistent with the standard procedure * * *." He further assures us that the infrastructure study proposal will be well received by his Board. I will enter a copy of Mr. UDALL's letter in the RECORD.

In sum, I believe the technical amendment strengthens what we intended to achieve and I urge its adoption.

OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, D.C., September 23, 1982.

Hon. WILLIAM J. COYNE,
House of Representatives,
Washington, D.C.

DEAR BILL: I appreciate your interest in the possibility of the Office of Technology Assessment conducting a study of ". . . public facilities or infrastructure essential to the defense industrial base. . . ."

The technical amendment you are offering today to H.R. 5540, the Defense Industrial Base Revitalization Act, is consistent with the standard procedure set up by the Technology Assessment Act of 1972.

Understanding the urgency with which many view the infrastructure problem, I am sure the Technology Assessment Board would be pleased to receive this proposal through prescribed channels. I assure you that the study proposal will be judged fairly and on its merits.

With best wishes,

Sincerely,

MORRIS K. UDALL.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM J. COYNE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I have examined the gentleman's amendment, and the minority side is delighted to accept it.

Mr. WILLIAM J. COYNE. I thank the gentleman.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM J. COYNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I support the amendment offered by the gentleman from Pennsylvania, and I applaud his action here in working out this conforming amendment.

Mr. WILLIAM J. COYNE. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'DADE

Mr. McDADE. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The amendment reads as follows:

Amendment offered by Mr. McDADE: Page 26, after line 9, insert the following:

"(3) Such financial assistance under this subsection shall, to the greatest extent possible, be made available to small independently owned and operated businesses."

Mr. McDADE. Mr. Chairman, the amendment I am offering today is designed to channel the vital assistance created by this bill to small businesses whenever possible. It is a sound amendment. It recognizes the continuing crucial role small businesses play in our Nation's defense efforts.

This amendment has as its historical base the Small Defense Plants Corporation Act of 1942. Since that time, this Congress has recognized the importance of small business subcontractors and suppliers to our Nation's ability to respond to a crisis. Study after study has shown that without these small businesses, large prime contractors cannot function. During the Second World War, the Korean conflict and the Vietnam war, small businesses proved to be a linchpin of our industrial supply line.

The amendment will make the bill more sensitive to the needs of small businesses and improve their ability to react with a steady stream of critical defense production when called upon. As the ranking minority member of the Small Business Committee, I believe this amendment will help the small business community. I urge your support.

Small businesses, as differentiated from those businesses owned or controlled by big business, have an especially difficult time securing financial assistance. Businesses that are subsidiaries, or are controlled by large businesses, have not shown a similar need for assistance nearly as often, or in such degree, as the independent small business. The amendment reflects this fact by its wording, which is derived from the Small Business Act. This amendment is intended to direct assistance to small businesses and not to those businesses either large in size or those owned or controlled by other than small businesses.

Mr. Chairman, my amendment will further strengthen this vitally important legislation. In addition to the assistance for small and medium businesses, the bill contains important support for vocational education. In the past decade, little or no investment has been made to graduate our youth and adults with the technological skills required in our information-oriented society. Small businesses are having increasing difficulty finding employees with necessary skills. This bill presents a practical, workable way to expand the Nation's supply of workers with skills that are in such critically short supply. Because of the proven effectiveness of this bill's approach to skills training, I am cosponsoring this title of the bill in addition to offering my amendment. I urge the adoption of my amendment and the prompt enactment of H.R. 5540.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, the minority is delighted with the gentleman's amendment.

Mr. McDADE. I thank the gentleman.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. McDADE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I rise in support of the amendment. I want to commend the gentleman from Pennsylvania and the gentleman from New York (Mr. ADDABBO). This amendment gives priority edge in our legislation where it properly belongs and it is fully consistent with our intent. We would be happy to accept this amendment and fully support it.

Mr. McDADE. I thank my colleague.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have requested this time so that I may engage the gentleman in colloquy. The gentleman stated that the purpose of his amendment was to be certain that the small business community is folded into this process and into the benefits that will be bestowed by this bill. Having studied the bill very carefully, I notice that just about everybody else is folded into the bill, but particularly is folded into the bill those corporations who are involved in defense-related work, who are now going to get, as well as the tax benefits that we voted for them over the last year, cheap credit to go along with it. So I would ask the gentleman just exactly how is small business folded in and exactly what does the gentleman's amendment do?

Mr. McDADE. If the gentleman will yield, I am sure my friend, the gentleman from Arkansas, will recall that in every war in which this Nation has been engaged no contractor could function without the small business community of this Nation. No prime contractor can operate without being able to subcontract to the small businesses and the small independently owned organizations. In every single conflict it has been essential that small business be positioned to try to support the defense pace of the Nation. That, as my friend knows, is the historical precedent that exists in this Nation.

The amendment is available, and I will read it:

Page 26, after line 9, insert the following: "(3) such financial assistance under this subsection shall, to the greatest extent possible, be made available to small independently owned and operated businesses."

Now, what we are doing is attempting to say to the small business community, "We recognize your historic role. All of you out there who are small, independently owned, we know what you did during World War I and World War II, in the Korean war and in the Vietnam intervention, all of them, we want you to be, as part of this bill, prepared to continue your historic role, together with anyone else who is involved in supplying."

Mr. BETHUNE. What are the kinds of things that they are going to be doing, if the gentleman would state, that they are not already doing, and how is it that this expenditure of money is going to somehow revitalize the defense industrial base through small business?

Mr. McDADE. If the gentleman will yield, I am sure that my friend knows that the small business community accounts today for 60 percent of the GNP of this Nation. Is my friend aware of that?

Mr. BETHUNE. Sure.

Mr. McDADE. In the last 10 years 66 percent of all of the jobs created have come through the small business community. Now, if they are going to perform in a national emergency, they may need to be facilitized to do something. If an individual is a small, hard-hitting entrepreneur with a small machine shop, he may be able to bid on a Government contract, but he may need to be facilitized to do so. He may have to get some kind to a loan or guarantee, may I say to my friend, that would enable him to perform under a contract, otherwise he risks his entire business should he bid on a defense contract. We need to make sure that he is willing to bid and not risk pledging his entire assets and collateral and everything he has worked for his entire life to aid the country in its defense against a foreign aggressor.

Mr. BETHUNE. Under the gentleman's amendment, does it matter how much of his business is related to the defense industrial base?

Mr. McDADE. It, of course, has to be a part of the defense industrial base, or they would not be eligible.

Mr. BETHUNE. How much a part of the defense industrial base?

Mr. McDADE. Whatever fits in a national emergency. If you happen to be a very large corporation and you can say to a small, well-performing, profit-making organization, "We need your help, but we do not expect you, of course, to go out and remortgage your entire plant in order to perform under a contract where we might need a specific type of gear or a specific type of machining project," this lets him perform in a way, by getting access to credits, so that he would not have to go back and remortgage his investment.

And may I say to my colleague, otherwise he would not perform. Otherwise he would just say, "There is no reason I want to get involved in remortgaging my business. I will stay on the private side and I will not be involved in Government business."

Let me give my friend an example. I had a small business in my district, may I say to my colleague, that for years had been doing a great deal of work on the private side. They were asked by a large corporation to come in as a subcontractor. And they did so. And they did very, very well. As a matter of fact, success spoiled them and they got to be a very large Government contractor. When I say "large," I mean 400 people—I do not mean 1,000 people—but by their standards, a large growth in that area. They were in it for just a short period of time, until one of the giant corporations of this Nation saw them doing well, delivering a heck of a product at a super price, and they came in and bought out the contract and the man ended up in bankruptcy.

□ 1800

He said never again; never will I touch a Government contract. His whole business was forced into bankruptcy because one of the giants saw what he was doing and picked him off.

May I say to my colleague what we are trying to do is say if this bill becomes law, we want to recognize that 60 percent of the GNP comes from the small business community and their historic role in helping us meet an external threat and not require them to go through remortgaging of their entire business that someone may have spent their entire life building.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. Under this bill, if the gentleman would listen just a moment, as I understand this bill, if one is involved in some defense-related activity, then one could—assuming the bureaucrats saw fit to go along with it—qualify for a loan guarantee or some direct loan which would come from the money we are appropriating here and the authority granted herein.

So the point I am concerned about is how much would a small business have to be involved in defense-related matters before it would qualify for a loan guarantee and a lower rate of interest under the provisions of this bill, because I am worried about all those other small businesses out there who might not be involved in this kind of activity. They are going to get crowded out of the credit market. They are going to pay a higher rate of interest because they cannot go in and convince the bureaucrats who are in charge of this kind of program that they are entitled to a favored position in the credit market and that they are entitled to a lower interest rate.

That is what troubles me. That is what troubles me about the gentleman's amendment and about the whole bill.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

The bill rather specifically states these loan guarantees, purchase agreements, and/or loans will be given for an application that is asked for by the Defense Department to supply a major supplier; so, therefore, I would suggest that the question the gentleman asks would be answered that they would get as much as they need for that particular project which has been requested by the Defense Department because a prime contractor asked.

To give the gentleman an example, a prime contractor would say, "We cannot get titanium fan blades for the jet engine. We need them. Such and such a company is our only supplier." That company then says, "We are not

going to make them, we do not know how many you are going to need, we are not going to build up our plant and equipment to do it."

So the Defense Department would ask for a loan, a loan guarantee, or a purchase agreement which would then go just to set up the equipment on the part of that small business that would be making those fan blades which they presently do not make.

Mr. BETHUNE. If I could reclaim my time I would observe if that is the case, why is the NFIB so violently opposed to the bill?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. McDADE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 38, after line 24, insert the following:

"(12) The President shall insure that each individual receiving training in any program established under this subsection has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the President in carrying out this section."

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. SOLOMON. Mr. Chairman, I will not take but a minute. This is not a controversial amendment. It is the draft registration amendment I have offered to several pieces of legislation. It simply insures that anyone who is in violation of the Draft Registration Act shall not be eligible for any of the programs contained in this subsection, namely, job training.

I think it is particularly important that we have it on this piece of legislation, since it does deal with defense production.

I would ask the amendment be accepted.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

Mr. Chairman, we would like to accept this amendment offered by the gentleman from New York. I think the language of the amendment in assigning specific responsibilities to the President and to the Director of the Selective Service also makes it clear any compliance costs would not come from the funds authorized for the critical skills training program under this section but would indeed be carried out as the gentleman so mandates in the amendment.

Mr. SOLOMON. I thank the gentleman.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, the minority is delighted to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SOLOMON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry."

Redesignate the following subsections accordingly.

Mr. McCOLLUM. Mr. Chairman, this amendment would prohibit the extension of a federally assisted loan if that loan would tend to increase the overall interest rate level in this country. Federal demands on the credit markets are an important factor in explaining the high interest rates that we have in slowing our economy for the last many months.

In 1980 and 1981, over a third of all credit available in the domestic markets was absorbed by the Federal Government. In 1982, it has been estimated that the Federal Government will take over one-half of all of the available credit. In fact, one of the leading business magazines in our country recently estimated it would take over 70 percent of all available credit this year.

The problem is not just deficit spending. Most of the credit absorption comes from borrowing to support Federal and federally assisted loans, lending of the same sort that is found in this bill.

This bill would authorize that same type of lending that we are talking about. The problem of absorption of credit has several components. For example, in 1981 our deficit from overspending—although it is much larger projected for this year and next year—was $55 billion. At the same time, direct loans by the Federal Government, loan guarantees, and loans by Government-sponsored enterprises such as FNMA cost us $86 billion in total absorption from the entire credit market.

So as opposed to $55 billion in deficits in 1981, we had $86 billion more taken out of the credit marketplace by loans, loan guarantees, and loans by Government-sponsored businesses.

The interest rates we now experience will not fall to acceptable levels even though they have fallen to a great extent right now. They will not fall to an acceptable level and stay there until we get out of this enormous credit market crunch we are in at the present time on the availability of dollars in this country.

There is a great need not only for reductions in the deficit, the absorption of money in this fashion, but also for the stopping of any increases in the Federal Government getting into the loan and credit market through that method or through the method of loan guarantees which are found in this bill.

Now is not the time for an expansion of Federal credit. Reducing interest rates will do more for national security than a credit program like this could ever do.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, could the gentleman tell me how the Secretary of the Treasury will determine that such loan, loan guarantee, or commitment for loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry?

Mr. McCOLLUM. I think the gentleman from Rhode Island is aware, as I have just said in my statement, that commonsense says that any additional loans at this particular period of time or loan guarantees are going to adversely affect the interest rates. I suspect that the Secretary of the Treasury can see that just as well as I can.

Mr. ST GERMAIN. If the gentleman will yield further, the gentleman is stating that an estimate or determination of a specific loan or loan guarantee will have that effect. Frankly, I think that requires the wisdom of Job. I think it is impossible of administration, and it places on the Secretary of the Treasury—I do not know the religion of the gentleman, but the Holy Ghost could not come up with this one under my Catholic religion.

Mr. McCOLLUM. I would submit to the gentleman from Rhode Island there is no question that right now a further loan guarantee would not, in fact, increase the interest rates in this country; but at such point in the future time—which the Secretary of Treasury could easily determine that we are not in fact continuing this expansion of the deficit on the Federal ledger from our borrowing and at such period of time when we begin to see interest rates coming down—it is obvious we do not have such period at this point in time.

Mr. ST GERMAIN. If the gentleman will yield further, does the gentleman support and has the gentleman supported the administration's request in the area of defense spending?

Mr. McCOLLUM. I have certainly supported some of the administration's requests but certainly not all of them. In fact, recently I was on the other side of that question in this very body.

Mr. ST GERMAIN. Does the gentleman mean he voted to override?

Mr. McCOLLUM. I did.

Mr. ST GERMAIN. A lot of people have gotten religion since it is getting close to November 2. After November 2, if the gentleman is reelected, I wonder if the gentleman will continue to vote for a large defense budget as the gentleman did last year.

□ 1810

Mr. McCOLLUM. The gentleman from Rhode Island knows full well that our problem over the last 20 years has been the fact that we have cut defense spending in half as a portion of our Federal spending and doubled social welfare spending.

The great debate in this Congress is the gaining of a consensus on where to reduce the spending in order to reduce the deficit.

All the gentleman from Florida is suggesting is that we do not at this time in our history need to be extending credit further.

The CHAIRMAN pro tempore (Mr. ROEMER). The time of the gentleman from Florida has expired.

(At the request of Mr. McKINNEY, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 5 additional minutes.)

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I will be glad to yield to the gentleman.

Mr. McKINNEY. Mr. Chairman, as a member of the Banking Committee, no one is interested more than I am in lower interest rates and I am also, as is my friend, concerned with the forced credit market.

This bill clearly follows the precedent set in the Korean War Powers Act where most of the forms put out were purchase contracts which were, quite frankly, never in the ultimate end authorized or paid out because the market had caught up with the purchase contract guarantee.

Now, the gentleman can tell me the purchase contract is a forced credit, but this seems to be the only way that we had to get the aluminum business going and so on and so forth; but the real problem I have got with the gentleman's amendment is simply this. I do much like the President's right to veto something, but that is part of our basic Constitution. The gentleman's amendment, I would suggest, gives the Secretary of the Treasury a clear veto. In fact, it guts the basic bill by simply saying that the Secretary of the Treasury can make a determination. Can he make it on facts? Can he make it on anything that is concrete? No. He can make it on values. He can make it on assumptions and he can say, "I think it is going to tend to"—and I do not really want to have a Cabinet member have a veto over the desires and the actions of the Congress on the basis that something can tend to.

My God, we have not had a Secretary of the Treasury who could tell us whether it is morning or night through two administrations and if, in fact, the Secretary of the Treasury knew what interest rates were going to be or where they were going to go or how they were going to get there, he would do something about it.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding.

The problem with this bill is that we do not know how the money will be spent. We do not know whether we will have loan guarantees, purchase agreements, interest rate subsidies; we do not know. That will be left to the bureaucrats, not in the Treasury, but in Defense and Commerce. They get to make the judgment about where this money is going to go.

Now, if it is OK for Defense and Commerce to have a say where the money goes, then why should not the Treasury have a say as to whether or not it is going to foul up that careful balance that we have out there among our financial institutions?

Now, the thrift industry is on the ropes. One of the reasons it is on the ropes is that this Congress has screwed up the delicate balance that exists between the commercial banks and the thrift industry and the securities industry and everybody else that is trying to make a living out there in the free market.

Now, this kind of bill when you keep adding credit program on top of credit program and offering interest subsidies with no rhyme or reason, no scheme, no order to things, you tend to confound and compound the problem that we already have. That is why the gentleman, I think, has offered the amendment and it is a good one to offer.

Now, with respect to the question about whether defense spending will cause interest rates to go up, one thing about the gentleman's votes on defense spending is that they are consistent with the budget that we adopted.

One thing about this bill that is before us here is that it is not even contained in the budget. If we pass this bill here, $6.75 billion over the next 5 years, we are going to bust the budget by that much, because there is no room to take it out of defense, as some of the big spenders around would have us believe.

Then I wonder also about this allegation that during the Korean war this kind of program worked. During the Korean war, we did not have the credit problem that we have got in this country today. I am going to be talking in a moment from the charts that I have down in the well of the House. In 1950, when we had the Korean war, we did not have the Government involved in the credit market to the extent we do now. The charts in the well show that now we have over $600 billion in Federal credit assistance programs outstanding out there right now and the Federal credit assistance programs, Federal lending programs, are growing at a rate faster, believe it or not, than Federal spending programs.

Let me say that again. Federal lending is growing at a rate faster than Federal spending.

This Federal lending busts the credit budget that we have in the budget this year. It busts the spending budget that we have in the budget this year.

I will tell you, we do not know what we are doing in the area of Federal lending programs. We have added one after another after another to the point that we have crowded people out of the credit market. We are running interest rates up and I think we do need somebody with the right to have a veto in this instance, so that they can protect the people from us, because the people are wanting lower interest rates and the people are needing credit so that they can invest in their businesses and create real jobs. That is the problem in the country.

I am glad that the gentleman offered the amendment, because it is an important amendment and it is the first chance that we have had to discuss the runaway lending that would be generated by this bill.

I hope Members will focus attention on this bill, because they will see that it is required.

The CHAIRMAN pro tempore. The time of the gentleman from Florida has again expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, I would like to continue the comments of the gentleman from Arkansas and talk for just a moment about the enormous problem that we have in considering interest rates in this country. We have interest rates which are the price of money. The price of money, just like any other good or commodity, is determined by the laws of supply and demand. When you have a limited supply of money and you are not creating more of it, and right now fortunately the Federal Reserve Board is

not creating more, it is allowing for hopefully a moderate increase, but not a great increase in the supply of money. We have a limited supply of that money available.

Then the question is, who gets what portion of that pie? When the Federal Government is absorbing, taking out of the marketplace 50 percent or better of all the money available, and some estimates say as much as 70 percent, there comes the crunch, the real reason why we have high interest rates today.

We need to get out of the money business. We need to reduce that pressure. One of the ways, of course, is by getting some commonsense in reducing our deficits far more than we have today. A hundred billion dollar deficit, or whatever, regardless of whose deficit it is, is too great; but the other way and the really big way we are talking about is by at least not expanding, and hopefully reducing, the results of pulling in money through this credit system, through the loans, the loan commitments, and the loan guarantees. That is what the heart of this bill is about and that is what the heart of this amendment is about.

We do not need at this time to continue doing that in a time of high interest rates. There may be a time for these loans and loan guarantees and loan programs.

We are not asking in this amendment that we reduce anything that already exists. All we are asking is that the Secretary of the Treasury be given the power to consider the factors that I have just laid forth in his wisdom and determination, just as he does in many other discretionary roles over in his department in estimating this, that, or the other, in order that we do not have a further extension of credit, in order that we do not have a further taking away from the American people of the money that right now ought to be in the marketplace so the interest rates will come down.

Mr. WEBER of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the gentleman's amendment.

Mr. Chairman, I do not think the people of this country want this bill if it is going to drive up interest rates for the purchase of a home or the construction of a home.

I think we badly need this amendment to protect the people who are not the favored borrowers under this bill from being crowded out of the credit markets. I am talking about the homebuilder that depends on thrift institutions and local savings and loan institutions for his financing.

I am talking about the family that is trying to purchase a home or to sell their present home, that depend on a local bank or a thrift institution for financing.

I do not know whether it is possible for this bill to function without driving up interest rates. I am willing to defer that question to the Secretary of the Treasury, because I think that the people of this country want that assurance.

Let me just discuss some of the dangers that this bill presents and that this amendment addresses.

This bill contains up to $50 billion in Federal credit, which might be provided over 5 years. The increase in Federal credit demand would raise interest rates and crowd out the vast majority of businesses that the bill does not help.

This bill would set the Government up as a privileged competitor to private financial institutions.

The Government credit allocation through direct loans and loan guarantees would result in an unsound examination of the relative risks and the returns of projects and would lower the productivity of financial capital, as is bound to happen whenever capital is directed into markets that the market otherwise would not attract.

Funds that are not used for loan guarantees would be available for price guarantees. These guarantees could result in billions of dollars in unanticipated budget outlays, since many of the guarantee prices are likely to be considerably above what would prevail otherwise in the market.

Homebuilders and small businesses currently have a very serious credit problem. That problem is not one of credit availability; it is a problem of credit price. The price problem eventually creates an availability problem for some small businesses as a practical matter. Credit is available if the small owner is willing to pay for it.

□ 1820

This bill must not be allowed to exacerbate this problem and make credit even more expensive for some while providing subsidies for others.

Loan guarantees reduce the risk premiums charged by lenders. Presumably, guaranteed borrowers are marginal at best, or else the guarantees would not have been required to provide the loan in the first place. A guarantee as provided by this bill effectively moves the marginal borrower to the top and pushes an otherwise acceptable borrower out of the credit market.

Given the size of the defense outlays that we are now expending under the budget, billions of dollars, I fail to understand how any reasonably well-run firm cannot get capital to fulfill a defense contract in the private market.

Now, it may be, and I do not dispute the fact that our defense industrial base has weaknesses, but it does not suffer from weakness for the reasons that are addressed by this bill. Our defense industries do not suffer from lack of spending on defense. Our defense industries do not suffer from a defense budget that is too small.

It is hard for me to believe that our Defense Establishment suffers from not having enough job training or vocational schooling.

Our defense industry is going to be helped most by a healthy economy. That means controlling inflation; and Government spending certainly has been a factor in inflation. That means getting interest down; and Government borrowing, necessitated by Government spending, has certainly been a cause, a major factor, in today's high interest rates.

To help our defense industrial establishment means tax incentives, and as Government deficits go up, Congress comes under increasing pressure to repeal the tax incentives that were voted in last year and have already been modified by this Congress in the tax reform bill that was passed last August.

This bill spends $1.35 billion a year. It is going to come out of either the defense budget or new borrowing, one or the other; $6.75 billion in total authority over the next 5 years that could leverage $10 billion a year in new loan guarantees, $50 billion in 5 years.

The gentleman's amendment is needed to protect against what that might do to the ability to build a house or purchase a home.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. WEBER) has expired.

(On request of Mr. MCKINNEY and by unanimous consent, Mr. WEBER of Ohio was allowed to proceed for 2 additional minutes.)

Mr. MCKINNEY. Mr. Chairman, will the gentleman yield to me?

Mr. WEBER of Ohio. I would be happy to yield to the gentleman from Connecticut.

Mr. MCKINNEY. Mr. Chairman, I could not agree with the gentleman more on the subject of Government spending; $38 million an hour is what we are going to spend on defense. This bill, over the lifetime of our defense projections, will take seven-tenths of 1 percent of the defense budget.

Now, let us look at where we really are. Lag time, the time between order and production, has gone up threefold, for instance, on landing gears, to over 3 years because we do not have the proper amount of presses and the people running them.

From December to March of this 1 year defense spending through cost overruns has gone $114 billion higher, 33 percent higher. I do not see how anyone can say that taking seven-tenths of 1 percent of $38 million an hour to get the businesses going that can produce these items and bring down the lag time and bring down the cost overruns. I do not know how

anyone can really say that is not going to help the Government's expenditures and lower the Government's borrowing and lower this incursion into the credit markets.

To me, it is basically simple: We are paying far too much for our defense goods. Our cost overruns are an obscenity; they are an obscenity because of lag time for a product, and if we do not have lag time, guess what the second biggest obscenity is of that $38 million an hour? We buy it in Europe; we buy it in Japan. There is not a single aircraft being made in this country with an American fastener on it. Think about that, ladies and gentlemen.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WEBER) has again expired.

(By unanimous consent, Mr. WEBER of Ohio was allowed to proceed for 5 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield to me?

Mr. WEBER of Ohio. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would like to make the point that the gentleman from Connecticut was making for me, and that is, I think if, in fact, this bill does what he says, that is, it helps the economy, does not increase our interest rates, then the Secretary of the Treasury under this amendment undoubtedly would certify any loans that are to be made available to be perfectly legitimate and OK.

On the other hand, as I suspect the fact is, this bill will result in a tremendous pressure on interest rates, driving them much higher—that is my belief—then the Secretary of the Treasury under my amendment would simply say no to the expenditure and the loan guarantee.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. WEBER of Ohio. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, I just want to address once again this subject that keeps cropping up about the fact that we need not worry about the fact that this bill has $6.7 billion in spending, it is going to come out of the defense budget.

We spent a full week here on this very same floor discussing the defense budget. Over 100 amendments were offered to that bill, and none of them carried except the one that I mentioned about nerve gas, which took a little bit of money out of the defense budget.

The committee brought a carefully crafted bill to the Hill, and it held up to all of that debate.

Now, the idea that this bill be discussed here with little or no attention is going to have priority over all of that that we debated so carefully in the course of that long week on the armed services bill is just ludicrous. The fact of the matter is, this is new spending. We are either going to have to appropriate money to fund this bill or we are going to bust the budget, because there is no room in the budget for it and the Defense Committee will be here fighting tooth and toenail.

Now, if we want to take it out of defense, fine; let us take it out of the defense bill here on the floor and debate it and see if we want to take it out. But I think it is incumbent on us to say what we are going to take out of the defense bill if that is where we are going to get it. Nobody is willing to say that because we cannot, because we had the 7 days of debate.

This is new spending which busts the budget. It is that simple. Anybody who votes for this bill is voting for $6.7 billion in new spending which will leverage up to $50 billion in new loans and loan guarantees which, in turn, will run up interest rates and crowd people out of the market. It is a bad bill, and the gentleman's amendment brings it home to all of us, just exactly why the bill is fatally flawed, in my view.

Mr. WEBER of Ohio. I thank the gentleman from Arkansas.

Mr. Chairman, with all due respect to the gentleman from Connecticut, I fail to see how this bill guards against cost overruns in the Defense Establishment. I do not see that that is going to happen from this bill.

I seems to me that what we are going to have is less cost-effectiveness for the dollars that are being spent in the defense budget. We are going to be paying more for our defense goods under this bill, not less.

Mr. Chairman, I do not see anything that controls the cost overruns. We are going to be getting less quantity or less quality for the same amount of defense dollars. I do not see any other way that that can happen.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. WEBER of Ohio. I will be happy to yield to the gentleman from Connecticut to clarify that.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, I would suggest to the gentleman from Ohio, since I represent the second most defense-oriented State in the United States of America, Connecticut, per capita, I tried to question my people on why something that costs 33 percent more than they told us it was going to cost, and they say lag time, lag time; we cannot get this part, nobody is making it.

This bill is designed to have people make it, to have purchase guarantees so it is there. The lag time on landing gear is well over 3 years from startup to getting it delivered. That is holding the whole project up because the plane cannot fly without a landing gear. Why can it not fly without a landing gear? Because we only have four places in the United States of America where we can make a forging for landing gear out of titanium, and some of them are so utterly obsolete right now it is ridiculous. Will they update them? No, they are not going to update them because they are not going to crank up their money to do it unless they know they are going to be guaranteed x number of purchases and x number of landing gears over x period of time.

□ 1830

Mr. BLANCHARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is the first of a series of amendments designed with the best of intentions, but with the intentions of gutting the bill. It is no different than about 40 other of the so-called "killer" amendments which will be offered this evening or tomorrow. They are all virtually the same, and they have the same destructive theme, that is, giving someone in some agency veto power over making this bill work—by administrative decree, give someome the ability to kill the bill.

All these different amendments, including this one, would give someone in the executive branch the ability to thwart the will of Congress by a simple finding, a subjective, highly subjective finding, by endless feasibility studies, but in this case, simply a finding that somehow the credit markets, somehow the commitment for a loan or loan guarantee would not tend, as we heard earlier, tend to increase interest rates in the credit markets, or not adversely affect the credit industry.

The fact is, one could argue under any circumstances, including speeches by the President or Members of Congress, that that act tended to adversely affect the credit markets. I would suggest, quite frankly, that the size of the Federal deficit determined by the fiscal policy prevailing in the land right now has done far more to affect credit markets than anything this bill might possibly do. In fact, I think the legislation quite possibly will allow us to utilize our defense expenditures much more productively and efficiently not only by an increasing number of competing bidders for defense contracts, but by modernizing the process and machinery and skilled workers who work on defense items.

In not only think we get more efficient defense spending, but I think that we would tend to keep the increase in defense spending at a minimum, and without, a doubt result ultimately in lower deficits and lower interest rates.

This particular amendment, as so many we are going to hear, do nothing more or less than gut the bill by giving somebody, in this case the Secretary of the Treasury, veto power over the legislation. I think we are going to hear this as a redundant theme all night and probably tomorrow, and we will oppose every single amendment. We respect the right of the gentleman from Arkansas and others to oppose the bill on its merits, as some of them did in committee. Respecting that right, we still oppose the attempt to, through the back door, give someone veto power over our legislation.

I urge our colleagues—my colleagues—to soundly defeat this amendment and all of the 40 after it.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the chairman for his statement. This really, I think, begs the question. The President in this legislation is given the authority to move ahead with the programs over a period of 5 years, and indeed the authority is some $6 billion-plus, but I think it is essential. I think in fact we will save that and more if we build up the industrial base to the point where it can accept some of the demands that are being put on it by a very heavy procurement budget indeed which was begun last year and which persists this year.

I think we have to address the basic infrastructure. This measure does it, but to render that authority, after the President has made a decision to go forward with this program, to the Secretary of the Treasury I think is a contradiction, to say the very least, and I think not a useful addition to this bill.

Although we all share the concern of the gentleman when indeed we make appropriations or allocations or authorizations with regard to what the effect is on the marketplace, I think the decision here has to be made that this is a positive effect in terms of the type of programs, the demands to be put on the industrial base to indeed achieve the goals we have in terms of delivering with appropriate capability, in terms of the equipment, in terms of the skills, in terms of the other functions that are carried out by this bill.

Really, the gentleman is begging the question with it and I think, in fact, if the gentleman is serious about this particular type of provision, it ought to be added to almost all the appropriation and authorization bills put forward in this particular Congress. Really, we cannot delegate away that particular responsibility. It is one that we have to make here today or tomorrow in the final passage of this bill, but I think it does more harm than good. Obviously, it is the gentleman's prerogative to vote the bill down.

The CHAIRMAN pro tempore (Mr. ROEMER). The time of the gentleman from Michigan has expired.

(At the request of Mr. BETHUNE and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding. The gentleman has characterized this particular amendment as one which is very much like others which are yet to come, and that they are "killer" amendments. I wanted to address that question.

First, the bill under consideration is so vague, there are no criteria by which we can judge the discretion that will be exercised by the Secretary of Defense and the Secretary of Commerce as they dispense these favors under this bill. The language of this bill simply says that they shall make a determination based on the proposal that offers the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports. If we are going to give the Secretary of Defense and the Secretary of Commerce such carte blanche authority to make decisions, then I wonder if it is not a good idea to give the Secretary of Treasury some authority to veto their judgment, because we are creating a bureaucratic boondoggle here whereby the corporate welfare created under this bill is going to be dispensed by those Department heads who are really not responsive to this Congress when they have no standard in the bill.

So, I think it is important that we do have these types of amendments. They are important amendments that address these flaws.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I will be happy to yield my time to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I think the gentleman has stated twice that we are going to give this kind of power to the Secretary of Defense and Secretary of Commerce, but we will give them that kind of power only if the President of the United States says, "Use it." We are not giving them that power without the President of the United States telling them to do it.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(At the request of Mr. WEBER of Ohio and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, will the gentleman yield further?

Mr. BLANCHARD. I yield.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding. I think the gentleman from Arkansas repeatedly has raised this question of corporate welfare. That is really a red herring, I think, for him to drag out in this particular case considering the fact that measures have been put in place that are supposedly attempting to address the industrial base of this country in an area where there is really a testified deficiency in terms of our defense capability to meet the demands that really many in this Chamber have put on it in terms of the procurement budget.

The fact of the matter is, there are all sorts of initiatives that have been tried, to say the least. The tax measure passed last year, which I might characterize with similar adjectives with regard to its characteristics, but I think this is a far tighter, a far more clear basis on which to target the scarce resources we have available to achieve the goals than was that measure last year.

So, I hope we can look positively at this, and certainly I trust that the administration would utilize it for the goals and objectives that have been set up in this particular legislation. I am not offended. I think that we need, indeed, to accomplish that, and I think the rhetoric really which we are hearing here with regard to welfare is really inappropriate in this measure.

Mr. BLANCHARD. The gentleman's point is well taken. The fact is, if we were to throw around such terms, they are more applicable to the current situation where we have a dwindling number of defense contractors competing for jobs, but in this bill we are going to increase the number. This would economically be a corporate competition bill, although I hate slogans, but that is more accurate.

Mr. WEBER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Ohio.

Mr. WEBER of Ohio. Mr. Chairman, I thank the gentleman for yielding. I find this bill to be anticompetitive and not procompetitive for the reason that is contained in section (f)(2).

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has again expired.

(At the request of Mr. WEBER of Ohio and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. WEBER of Ohio. Financial assistance is denied to businesses "whose economic success is dependent upon divesting other persons and contracts theretofore customarily performed by them."

Now that language, to me, sets up a wall of protection against competition. I do not find that to be procompetitive at all.

□ 1840

To me that is anticompetitive in the extreme. It is protecting those businesses by its very language "that customarily have performed these contracts." That is not competition; that is anticompetition.

I welcome your explanation.

Mr. BLANCHARD. It would simply prevent a firm from using our Federal money which, as you know, is limited, to move a plant from Toledo to Hawaii, instead of providing an efficient, productive process to produce items necessary for defense, and again, expand our pool of small businesses which are the backbone of our defense production facilities.

Mr. WEBER of Ohio. If the gentleman will yield again, I have no objection to the provisions of the bill which prevent regionalism and regional dislocation.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. BLANCHARD) has again expired.

(At the request of Mr. WEBER of Ohio and by unanimous consent Mr. BLANCHARD was allowed to proceed for 1 additional minute.)

Mr. WEBER of Ohio. Will the gentleman continue to yield?

Mr. BLANCHARD. I am pleased to yield to the gentleman from Ohio.

Mr. WEBER of Ohio. I thank the gentleman for yielding.

I have no objection whatsoever to the prohibitions against regional relocation of businesses through financial assistance under this bill.

What I was citing is the language that denies financial aid to businesses "whose economic success is dependent upon divesting other persons of contracts theretofore customarily performed by them."

That does not speak to regionalism or dislocation. That speaks to preventing competition.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment.

It is obvious that a concerted effort is being made to try to delay the bill. We already have had an extended debate. I should like to say that we plan to be here tonight until final action is taken on the bill.

I do not want to characterize the amendment as mischievous or not serious because I think the gentleman from Arkansas is serious in his contention that the Government ought not to do anything to try to create a climate conducive to investment of private money in those things that are in the public interest.

I recognize the view that the gentleman from Arkansas has, let the free market do it, just like the free market has handled interest rates.

I do not think that is the way we want to do it. It isn't the way we ought to do it. I think we have some really serious problems. We should not ignore them.

Our military strength is not just a question of how sophisticated our weapons are or how many weapons we have or how many men we have under arms. We are not going to be first in military strength, nor the defense of our Nation secure, unless first of all we have trained and educated manpower and womanpower capable of designing those weapons and maintaining those weapons and operating those weapons. That is where we Americans have always been best.

We are not as strong in that measurement as we should be right now. At this present time we have some very critical shortages in job skills.

At the very moment when there are hundreds of thousands, perhaps millions of people in midcareer who have lost their jobs due to the recession and can find no employment because their skills are no longer needed in the marketplace, there are a lot of jobs for which these people could be trained. These jobs, essential to the defense of this United States, go begging. I am talking about all kinds of jobs from computer operators to tool and die makers, to structural engineers, to electrical engineers. All of those needed skills have shortages in the work force.

Unfortunately we just are not graduating nearly as many people trained in mathematical, scientific and engineering skills as some other countries are, and that is tragic. That is going to harm our defense capability any way you want to look at it.

Last year this Nation unfortunately graduated only about 54,000 people with degrees in the kinds of skills such as mathematics, engineering, and scientific studies that are very highly demanded by our defense industry. Japan, with a population only half ours, graduated 77,000. It is reported that the Soviet Union graduated some 300,000, or almost six times as many as we did. I do not know anything about the comparability of skills in the Soviet Union but it appalls me. It concerns me. It alarms me.

Now this bill is an attempt to do something about that. Here is an attempt to make it possible for private industry to provide skills, and for States to provide training and retraining programs that will take this educable, indeed already educated pool of manpower and womanpower, now unemployed for want of a market for the skills for which they were trained, and let them be trained to these new skills.

Can you think of anything more useful to the defense and to the economy of the United States than that?

The second problem this bill helps is that of critical minerals. We have become appallingly dependent upon foreign sources for some of the very critical minerals that are essential in the production of our most sophisticated defense commodities. Cobalt and titanium and many such minerals are very short in our stockpiles as against the goals that we officially establish.

Yet it is believed that there exists, in fact geologists tell us there exists in our United States, at places noted on this map, quantities of these minerals that need to be mined. We need to develop new techniques for mining them, for discovering them, and for developing them. This bill would help to do that.

It seems to me anything that would make us less dependent upon other countries for these critical minerals is just as important as making us less dependent on other countries for our oil and energy supplies.

So it strikes me that what we really need to do is to improve the productivity in our defense plants, and to broaden the base of our defense capabilities.

We have a relative few large prime contractors but there are about 4,000 subcontractors, first-tier subcontractors throughout the United States, who contribute to building our most sophisticated defense weapons systems. This bill would allow many of them to tool up, to get up to speed, to make themselves competitive in every sense.

It is not as though we are giving them the money.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 2 additional minutes.)

Mr. WRIGHT. The gentleman from Arkansas seems to find it very objectionable that we follow the historic pattern that has been so successful in this country in creating a nation of homeowners and has not cost us anything, has helped us in the development of our skills and of our industry in the past: Loan guarantees and guaranteed purchases for people who will expend the necessary time and effort and energy investing and making themselves more responsive to the needs of our Nation. It has not cost us in the past.

The objection was lodged a moment ago by the gentleman from Arkansas that what is wrong with this bill is that it somehow spends—I think it loans, it gets return for what it spends, it is not as though it is given away—but he says it spends about $5 billion and in so doing it leverages the private expenditure of another $50 billion.

I think that is the best argument you could make for the bill. By investing $5 billion in loan guarantees we can stimulate in the private sector the investment in those things that are in the public interest of some $50 billion, and in making us more competitive and improving and broadening the base of our defense-industrial complex, by training people, American

people, so that they can do these jobs, then it seems to me that would be the very best investment that we can make of a defense dollar or of any other kind of dollar.

So I ask you to vote "no" on the amendment and to vote for the bill.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

The gentleman mentioned my name.

Mr. WRIGHT. Surely I yield to my friend since I mentioned his name. I said the gentleman from Arkansas but that is close enough. He is the one I had reference to so I yield to him, our friend Mr. BETHUNE.

Mr. BETHUNE. The amendment is not an amendment offered by the gentleman from Arkansas. It is an amendment offered by the gentleman from Florida.

Mr. WRIGHT. Well, I am sorry if I left the wrong impression.

Mr. BETHUNE. Nevertheless I am in support of the gentleman from Florida's amendment.

□ 1850

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WRIGHT) has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 3 additional minutes.)

Mr. BETHUNE. But inasmuch as the majority leader has endeavored to characterize my position, I would want to correct the record in the gentleman's presence. That is, it is not my position, nor is it the position of most of the right-thinking people on this side of the aisle that we should have no credit assistance programs. Our position is and has been that we need to make sense out of what we have got before we start adding more to it. And we have not done that yet.

Just this year we have started developing the credit budget. It was begun under President Carter, to his great credit. He recognized the problem. It has been continued under President Reagan. We are trying to gain an understanding of what we are doing to our credit market with this panoply of credit programs which no one here truly understands.

So it is not my position or the position of others that we should not have credit assistance programs. We must understand and make sense out of what we do have before we add more.

Now, the problem with the bill that we have before us is that not only does it bust the spending budget by $6.75 billion over the next 5 years, but it busts the credit budget that the Budget Committee worked hard to develop, because there is no provision for this kind of credit activity in the credit budget. So it busts both budgets.

Mr. WRIGHT. I do not believe I yield further because the gentleman has fully expostulated his position. I think it is a legitimate position. But if I may have 1 additional minute in which to respond, I just want to say that his is the kind of logic that was used against almost every advance we have made in this country, that same kind of logic that says, "Oh, let us make sense out of what we have got before we try anything new." That same kind of logic would have inveighed against the very idea of an FHA, in the first place. It would have opposed student loans.

I do not think there is a single soul, except maybe David Stockman, who argues that we ought to curtail FHA loan guarantees. It does not cost us a penny, but what it has done is to create a market that has made this Nation a nation of homeowners. I cannot think of anything that has produced greater wealth or greater stability.

There were people, when it began, who said, in effect, "Well, let us make sense out of what we have got before we encourage any additional credit." But that credit has been good. I believe in the future of American industry, and I believe its credit will be good, too.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my friend, the gentleman from Michigan (Mr. BLANCHARD), the author of the bill.

Mr. BLANCHARD. The point is well taken. I think it should be clarified that this is the amendment of the gentleman from Florida, but it is similar to anywhere between 30 and 40 related amendments that the gentleman from Arkansas, as the leader of the loyal opposition here, is offering. So we really are talking about whether we are going to have this legislation or not, and I think the debate on this particular amendment is going to be similar to the debate on almost all of the succeeding amendments. I am delighted that our distinguished majority leader is opposing this amendment.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I know there is a desire here on the part of those who are advancing this bill to characterize my position and the amendments which I have filed in the record to this bill. But I think it is only fair, then, that I characterize my position, since I may be in a better position to do that.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. How many amendments did the gentleman file, for the record? I am not sure, myself.

Mr. BETHUNE. I really cannot say. Probably 25 or so. But I will say this to the gentleman: It should be noticed that we have debated this bill in general debate for some 2 hours and, under the 5-minute rule nearly a month ago, for another 3 hours, a total of 5 hours a month ago, and now we have been debating the bill since about 4 o'clock this afternoon. The gentleman from Arkansas has yet to offer a single amendment to the bill. I have not offered any amendments to the bill. Amendments have been offered by other members from the Education and Labor Committee, from the Banking Committee. So I think that before we rush to judgment that somehow the gentleman from Arkansas has a series of amendments which are holding this bill up, we should realize that I have not offered any, in the first place.

Second, I would say this: The amendments, obviously, have not been read by those who are proponents of this bill, because had you read the amendments carefully you would have noticed that there are some substantial differences in the amendments. And I think that will be shown as we begin to get into the debate. So I would hope that the chairman of the subcommittee and other Members would permit those of us who have strong feelings about this bill to make our case in a free and open debate. I mean after all, that is what we are here for, I understand. And when you consider that this bill might be the first step for something as grand as the Reconstruction Finance Corporation, or something of that nature, it seems to me that we ought to give attention to it.

I think also, when you look at the great amount of Federal lending that has taken place, we ought to ask ourselves whether or not we truly understand what we are doing in the area of Federal credit assistance programs. I have a chart with me which I would like to ask the Members to view. This shows the great increase in Federal lending programs over the last few years.

Now, it was made mention of by the majority leader here that the FHA program was a great program and it was a good thing that someone like myself did not stand up and say we ought to make sense out of everything we have got before we enact a program like FHA. Well, at the time we enacted FHA we did not have a problem in the area of Federal lending. We were not preempting those who were seeking credit in the credit market, as we are today. This problem that we are trying to focus on tonight just began in the last few years.

If the Members will look at this chart, in the year 1974 we only had $200 billion in Federal lending outstanding. Those are loans, loan guarantees, and other credit assistance programs of one description or another, whereby this Government stimulates activity and encourages people and

favors particular borrowers in the credit market.

Now, in the year 1982 we have $623 billion in Federal lending programs outstanding, and Federal lending programs are growing at a rate faster than Federal spending programs. Let me say that again: Federal lending programs are growing at a rate faster than Federal spending programs.

Only last year did we devise a means by which we could begin to sort out this mess and try to make sense out of it. It impacts our financial institutions. It confounds monetary policy. It does a number of things, like crowd people out of the credit market and run interest rates up. We have not the faintest idea what we are doing. But I can tell you this: We are knocking out $623 billion worth of credit that would have been distributed otherwise through the more efficient mechanism of the marketplace.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

Mr. BETHUNE. I think that, before we add $50 billion to that number, which is what you are going to do if you pass this bill, it is high time that we do make sense out of what we have around this place before we start passing additional legislation. I think that is the cause of the problem we have today, because people were not asking hard questions about the legislation that we had on the books before we enacted new spending and lending programs. Old remedies have been offered here. It is said that the Government can get involved in this and do a better job than the marketplace. That is what was said when we passed the synfuels legislation which, by the way, was an amendment to the very same act that is before you today. The Defense Production Act is the bill that is before you today. And it was 2 years ago that many Members were persuaded that the Government needed to get involved and develop a synfuels program. And so we did. And we created all kinds of loans and loan guarantees in that program. That was the same year, you will recall, that it was urged upon us in order to solve the gas problem that we had, where people were sitting in lines trying to get gas for their cars, that we put in the gas rationing program which would have cost $1½ or $2 billion.

□ 1900

Always we are urged to get Government into the business; it can do a better job than the marketplace. Fortunately, we had the good judgment, after some prodding by our constituents, to kill that kind of legislation.

Now we have gas prices coming down, we do not have gas lines, and we have OPEC on the ropes.

What I think we ought to do is I think we ought to defeat this bill, and I think we ought to extend the Defense Production Act—which will expire September 30—for a year or 2 years or 5 years, whatever is the pleasure of this body; and then we ought to ask the Defense Department to get involved in the shaping of any legislation of that nature.

We ought to let our defense committees, our Armed Services Committee get involved. They were bypassed completely in this. They never took a look at it at all.

I think, by the way, we ought to get to the point where the President and where the Secretary of the Department of Defense would support the legislation instead of opposing it, which they now do.

The Secretary of Defense is absolutely opposed to this legislation and so is the President, and they do not want it. It has been said here that this bill will not be triggered unless the President wants it. So we can pass it and not worry about it; but the language of the bill is mandatory.

Section (2)(c), page 26 of the bill, "The Secretary of Defense, in consultation with the Secretary of Commerce, shall—(2) determine the type and extent of financial assistance," and under page 27, subsection (d)(1), "The President shall extend assistance under section 301, 302, and 303,".

I ask where is the money coming from? It is not in the budget. It is not in the regular budget of spending. It is not in the credit budget. This is a budget buster on two counts, aside from the fact that it is a terrible bill.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Did I understand the gentleman to say that the Secretary of Defense is opposed to this legislation?

Mr. BETHUNE. Absolutely.

Mr. WALKER. In other words, after all these statistics have been propounded here today about the state of the defense industry, the Secretary of Defense—who is going to have all the authority under this bill—says that it is a bad bill?

Mr. BETHUNE. The Secretary of Defense wants a simple extension of the existing Defense Production Act. He says the authorities therein are quite satisfactory. That is the position of the Office of Management and Budget. I believe it to be the position of the President.

Mr. WALKER. If the gentleman will yield further, if that is the case, is this an instance where, much like the synthetic fuels program, the people who are supporting this bill are basically the Beltway Bandits that have been living off corporate welfare for a long time and one more hand in the trough? Is that where the main support from this thing is coming from?

Mr. BETHUNE. I think that is an eminently fair characterization of the legislation.

Mr. WALKER. I thank the gentleman.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

The gentleman in the well made a point, let us look at what we have and not duplicate programs. If I recall correctly, on August 4, we passed the Jobs Training Partnership Act. If I recall, there were many speeches about how this would provide the necessary training facilities, it would equip people with the skills needed to fit into the job market.

As I read the language in this bill, it seems to me that it is duplicating something that we have just recently done in this body and that is presently in conference.

I would like the gentleman's reaction to that observation.

Mr. BETHUNE. I am not an expert on education and labor matters, but members of that committee have made statements to that effect, that this is duplicative. We just went through the jobs training issue.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

Mr. REGULA. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas (Mr. BETHUNE) may be allowed to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WRIGHT. Reserving the right to object, Mr. Chairman, and I am not going to object, but this bill has been on the floor for hours. It was on the floor once before. The same arguments were debated then, a great many of them. I will not object to this request, but I will be constrained to object to any other requests for extending time because we intend to finish the bill tonight.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio (Mr. REGULA)?

There was no objection.

Mr. BETHUNE. The gentleman makes a good point. I think it has been addressed by the members from the Education and Labor Committees. I wish that this bill had been referred to the Armed Services Committee, because I really do not think we would be here tonight. I think the Armed

Services Committee would have pointed out that they do not believe that they can fit this into the budget that we debated here for 7 days on the floor. So they would have told us if the Members want to pass this bill, then we ought to have the Budget Committee increase the amount of spending and increase the deficit so as to accommodate the bill.

Mr. REGULA. If the gentleman would yield further, I find nothing in the bill that mandates that the cost of this bill must come out of the Defense budget. Is that the case? There is no requirement that necessarily funding come from the defense numbers, is there?

Mr. BETHUNE. No. There is nothing in the bill to that effect, although I think the chairman is in possession of a letter which would say that this would come out of the 050 function. That is a ruling from the chairman of the Budget Committee.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

That is the understanding. It would come out of the defense category. The Appropriations Committee will make that decision.

Mr. REGULA. If the gentleman will continue to yield, the gentleman says it is the understanding but it is not mandated that it necessarily be handled in that way.

Mr. BLANCHARD. In all honesty I think the regular procedures under the Budget Act would suggest that, as well as a clarifying amendment adopted in mid-August during the earlier floor consideration of the bill.

Mr. BETHUNE. But the gentleman puts his hand on a good point. There is no money in the budget for this bill. It is a budget buster, if we have ever seen one on the floor.

As I pointed out, it not only busts the spending budget $6.75 billion over the next 5 years, it busts the credit budget.

The Congress and this House have not decided that this is something we need to do. It does not fit into the macroeconomic scheme that we are directed to fashion each year in connection with the budget process.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

This amendment and all others are deliberately intended to gut the bill. So if one votes for this amendment, one is really not for a bill that says we want defense contracts to go to American contractors; as most people know—or maybe it is a well-kept secret—lots of our contracts go to foreign countries. Parts are manufactured in foreign countries that are used in our tanks and planes and so on.

What we are really trying to do very, very simply is give priority to the modernization of our own industrial base, to convert our own industrial base and revitalize our productivity in the areas of defense and to give our people—particularly people in small businesses like those in northern Ohio—that is why I am a little amazed that my friends from northern Ohio object to this bill—because we are the ones who do not get our fair share of defense contracts because our industries are somewhat older and we have to retool and innovate and convert, and we need some people to get a little more training.

In addition to that, I am amazed at some of these amendments that deal with credits. I have a report here that talks about outstanding long-term principal indebtedness of foreign countries to the U.S. Government in terms of credits.

Just to give the Members a small idea—and I understand there is some objection about the idea that this bill has $6.7 billion in terms of a budget for the bill which relates to credits—for Western Europe alone, we have credits extended of $7.1 billion; for the Middle East, we have $17.5 billion in credits, but no, we cannot give credits to our own small businesses.

As a matter of fact, within the last 3 years, we forgave $5.9 billion in debts for those countries that owed us money.

But, no, we cannot give credits to our own American businesses so that we can produce our own defense equipment in this country. Where is the money going to come from?

Well, we could have these credits transferred to our own people. Would that not be new and refreshing? Or we could take the 14 feet of cost overruns in the Defense Department—and here is the computerized list if anybody wants to see it—it is 14 feet long—this is only one list. It came out of a computer—in terms of the cost overruns.

The price of one helicopter in terms of a cost overrun is more than the expense of this bill. More than the expense of this bill.

This computerized list contains billions and billions and billions and billions of dollars in cost overruns for contracts we give out to certain corporations that sometimes are friends of God only knows whom.

So what we are talking about is a very, very meager bill that says we want our own defense produced in this country, not foreign countries. We want our people to be able to be trained properly for our own needs. We want our own industries to be revitalized. We believe in the American industrial base. We believe in the industrial base in Ohio.

□ 1910

We want some of those contracts for our people. That is what this bill is all about. It believes in the people of the United States. It believes in our own Government producing our own defense and it is a very creative approach.

Frankly, we are a little behind the times. We should have done this years ago.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I would be happy to yield.

Mr. VENTO. Mr. Chairman, I want to commend the gentlewoman for her statement. She makes the point very well.

On page 29 of the committee report, we have an inflation impact statement under rule IX, clause 2(1)(4).

The first line of that reads:

There should be no inflationary impact of this legislation from its direct effect on budget outlays and the deficit.

It goes on to say:

If the legislation is implemented according to the full extent of its congressional mandate, industrial modernization should strengthen the subcontractor and supplier base, encouraging a strong competition among domestic firms for defense business and, indeed, in many civilian markets. Increases in production and worker productivity should dampen costs.

Improved quality and the reduction in reject parts also should bring cost savings.

And it goes on. I think for those that have been here long and hard speaking about 6-year credit budgets, and I am not aware that we have a 6-year credit budget, I think it may be a little shorter duration than that; but I think they should at least read the committee report.

I thank the gentlewoman for yielding.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

It has been stated that this amendment may gut the bill. I think that is a pretty good idea. I am not sure the amendment will gut the bill completely, but it should do it completely. The bill should be defeated. We should not even waste the amount of time that we seem to be spending on it already, but it is an important bill in one sense. As I sit and listen, I just reflect on what we are doing here and when you think back to the last 30, 40, or 50 years, of all the Government planning and all the inflation and all the desperation that we express here about solving our problems, and then we come up with just the same old baloney. Really, it is the same old stuff over and over again.

It was mentioned about the wonderful program of the FHA. Well, I am one who happens to even challenge that because, yes, it is true, the FHA program was a wonderful thing, even for myself. I can remember receiving an FHA loan, $700 down, a low-interest loan, and yet that is the precise reason that my kids cannot get a house today, because we have blown it. We have ruined the currency. We have destroyed the value of the money. We now have these huge interest rates and all we have to offer, because we destroyed the industrial base, because we have destroyed our currency, we have nothing left but another Government program of $6½ billion, $50 billion of guaranteed loans, and what is that? That is guaranteed loan money, which means you have to create credit someplace.

More deficits, more monetization of debt, more inflation, more distortion of the market, more malinvestment, more tragedy, as far as I am concerned. It is nothing more than just the same thing that we have been living with for so long.

I think a bill like this does something in a very precise way. I think it demonstrates so clearly the difference between philosphies. If you happen to believe that a free market works, if you believe in a free system where people can make decisions, that individuals should be free from the burden of Government regulations, if you believe in this system and you believe that you ought to have sound money and the Government should not create money out of thin air; it is one thing but if you happen to believe and endorse the system of Government planning, central planning, and have this notion that bureaucrats and politicians know what is best for the economy, yes, you are going to come up with a bill like this. It is based on this precise notion that politicians somehow or another have some unique insight into what is good for the economy.

The plain truth is that we do not. The marketplace tells us this. There is such an ignorance that prevails around here that we know something more than the market knows, that we know how much money to create out of thin air, how many houses to build, how to create jobs, and yet for all this activity that we follow around here, what do we end up with? We end up with inflation, high interest rates, unemployment rates sky high, and what do we have to offer? The same old solution. Come back with a Government program to spend more money and tell business what to do, because we need to rebuild the industrial base. Certainly, we need to rebuild the industrial base, but first you have got to understand why it was destroyed. What happened to the industrial base?

□ 1920

How does an industrial base get destroyed? When was it built? It was built in the age of capitalism, when people could make profits, when they could retain their earnings and reinvest them and put them into capital goods, when a reasonably sound currency existed and capital formation was feasible.

What do we have today? We have capital destruction. We have destroyed the capital industrial base, but we have done it because we have overtaxed, we have overregulated, and we printed so much money we destroyed the value of the money and, therefore, we have high interest rates.

What have we done in the last 10 or 15 years? We have done nothing but consume capital. I think the process is going to continue as long as we come up with legislation like this. Until we really look at this in a more fundamental way and challenge the very system that says, "Do we have the authority, let alone the knowledge, to plan an economy?" That is what I challenge; I say we do not have the knowledge, we do not have the authority, and we have nothing but tragedy in our efforts in the past 50 years in trying to do that.

But as long as we do not face up to those questions and ask why we are in the situation, what is wrong with monetary policy that has allowed us to get to this point, I believe until then we will continue down the road of more inflation, more spending, more Government regulation, and never questioning the very fundamentals that we would officially have to question.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a number of points have been made with regard to this legislation, and also on the amendment which is turning into a vehicle for broader debate. Some of the points, I think, are extremely valuable and deserve emphasis.

First of all, of course, the bill itself is billed as one to help small- and medium-sized businesses throughout the country, particularly those that are intricately tied in with the defense industrial base. Also, there was an amendment that did pass that skewed the emphasis away from apparently medium sized—whatever the bill would define as "medium sized"—to small, but it is very curious to note, and I emphasize the fact, that the National Federation of Independent Businessmen are totally against this legislation.

They are against it for a reason. They know best the small businesses. They know that nothing is more harmful for small businesses in this country than an attempt by the elite, by the politicians, by the Members of Congress, to allocate credit.

Second, it has been mentioned that this bill is a budget buster. There is no doubt about the fact that the bill is busting the budget itself, and also credit guarantees.

Third, and I am not sure whether this point has been mentioned, is the fact that when it comes to the credit extension that flows out of the authorization of $6.75 billion, of approximately $11.5 billion, to $50 billion, it is important to note that the bill does not put any ceiling whatsoever on loan guarantees, price guarantees or direct loans. When you examine where loan guarantees have gone, where the credit extensions have gone and mushroomed, particularly during the last 8 years and mostly during the past 4 years, to write a bill just a few days before election time that has absolutely no ceiling whatsoever on the type of credit that is out there is totally preposterous.

It was also mentioned, I believe, by the gentleman from Arkansas that the Committee on Armed Services was bypassed entirely in this process. I do not know the history of that. I am not sure why. I particularly do not know why, when certainly the members of the Banking Committee and the other committees that had jurisdiction over this bill recognized the fact that the chairman of the Research and Development Subcommittee of the Committee on Armed Services just last term held extensive hearings on revitalization of the defense industrial base. We had piles of testimony and hearings and a substantial report by the staff of the Committee on Armed Services going back a number of months about how that particular committee feels is the proper method for revitalizing the defense industrial base.

I think it would be extremely important to have had and given the Committee on Armed Services a chance to have their significant input into a bill that is sold as one that revitalizes the defense industrial base, as it concerns the defense of this country.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield on that point to the sponsor, the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I merely indicate that this bill is based on that study, a very thick, comprehensive study on the dilapidated state of our military and defense industrial base.

So, among other things, that study was a take-off point for our legislation.

I should add that the Banking Committee does, in all fairness, have jurisdiction over the Defense Production Act, which is kind of like the economic war powers of the President.

But we believe this is very much consistent with what the Committee on Armed Services has done.

Mr. COURTER. Mr. Chairman, I appreciate the gentleman's input.

Mr. Chairman, I have read the report. I attended most of the hearings, and when the gentleman says that it was a take-off point, I may agree with the gentleman, but he really flew a long distance. He may have taken off from there, but he flew around the world three or four times before he landed.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

Mr. COURTER. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. CLAY. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mr. COATS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. Like probably most Members of this body, I was in my office signing mail and doing the things you normally do at 6:30 in the evening, trying to keep one ear on the television to understand what the amendment was about, and I must confess that although I was well aware of the amendment that was before us, I had not followed Mr. MCCOLLUM's amendment too closely.

Then my interest was sparked by a couple of things that were said, so I gathered my materials and came over, trying to find out what all the hubbub was about, what everybody was getting so worked up about. I listened to some of the arguments, and suddenly I decided it might be good to grab the amendment and read it word for word and see whether or not we were talking about substance or whether we were just talking about dilatory tactics.

So I read the amendment, and the amendment is very simple and very plain and very clear:

> No loan, loan guarantee, or commitment for a loan guarantee may be made unless the Secretary of the Treasury determines that such loan or guarantee or commitment will not increase interest rates in the credit markets or adversely affect the thrift industry.

Well, that is a substantive amendment. That is a substantive amendment because the American people are very well aware of the fact that high interest rates, borrowing by the Federal Government, have dried up the credit market to the standpoint that the industrial base of this country has not been able to borrow money at competitive rates to expand and develop.

So I think it is very important that we spend a considerable amount of time discussing what probably may be the most important amendment offered to this particular piece of legislation.

There is no question that interest rates, high interest rates, and drying up of capital has had serious negative impact on industrialization in this country. The formation of capital is critical to an industrial base; it is critical to a defense base. Any nation attempting to deal with the problems that the United States is facing, rebuilding its base, has to have credit.

□ 1930

Credit must be available through the private sector, and if it is not available through the private sector it will not be developed. The Government can pump in billions and billions of dollars as it has done, but we do not build the base we need. So, I think it is very, very critical to this particular bill that we look at this amendment, that we make a determination as to whether or not the impact of this bill will drive up interest rates, will drive up credit in our banking industry and our financial industry, and make that determination. If it does, then this is not the direction that we want to go. If it does not, then perhaps we can look at this bill as a means of stimulating some industrial development in this country and providing the base we want, but I think the answers have been clear in terms of the committee report itself, the CBO estimates, as to what will happen.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. COATS. I will be glad to yield.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding. There has been a lot of discussion about what the bill will cost, how much we are spending, how much we are lending. There is an important point that the Members should know. When we tried to put a cap on credit programs around here, we in the last few years moved into setting gross amounts of credit that could be issued by this Government. For instance, if we are going to use a dollar as interest subsidy, but that would leverage a loan of $10. Then, we will focus on the $10 amount, and so our credit budget is set up using gross amounts of credit.

So that in this case, we are advised that this bill might generate some $50 billion in gross credit. That would be the encroachment into the credit market. The fact of the matter is that in this bill they do not focus on gross credit. They talk about the net cost of the project, so that what they can do with the $6.75 billion is, they could leverage all kinds of new lending programs and it could go to a gross amount of $100 billion as far as that goes. The bill is faulty because it does not correspond with the policy that we have established in the Congress of setting gross amounts of credit.

Mr. GREGG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been reviewing this issue, the amendment that is before us presented by Mr. MCCOLLUM, and I have to ask, is this really a reindustrialization bill or a deindustrialization bill? The question which Mr. MCCOLLUM has put before us is, what effect is this bill going to have on interest rates in the marketplace?

Clearly, if we are talking about reindustrializing this country, we have to look at interest in the marketplace. Mr. MCCOLLUM has clearly focused that issue within this bill. I cannot imagine how anybody could object to the amendment language presented by Mr. MCCOLLUM for that very reason, because if the thrust of this bill is to generate a reindustrialization, especially of our small businessmen, then the small businessmen are going to have to look at private rates.

Even if you look at a subsidized loan on the Federal level, that is going to be controlled by what is happening in the long-term markets. We are all familiar with the fact that today we are finally seeing a drop in our short-term rates, and why have not seen a commensurate drop in our long-term rates, and why have we not seen a commensurate drop in our long-term rates? The essential reason we have not seen one is because our long-term lenders are anticipating that the Federal Government is going to get into the market in the outyears, absorb the money that is available, and keep rates up. They have to get a return on their money in the outyears, and they recognize that if they allow their long-term out at a lower level, and what can be anticipated as a result of Federal activity in the marketplace, they are going to end up in a situation of having a negative return on their capital investment, and therefore they have to anticipate long-term rates.

Mr. MCCOLLUM has made this point very clear in his amendment by saying essentially, "Listen, if the marketplace views this legislation as anticipating the driving up of long-term rates, then this borrowing which is proposed under this bill should not go forward."

What is wrong with that? Why should we penalize our small businessmen who are not necessarily into the defense industry, and even those who are and may not be able to take advantage of this corporate welfare proposal by giving them a bill which is going to create legislation which allows the Federal Government into the private sector and absorb the funds, and as a result of that causing an anticipation by the long-term lenders which forces up interest rates? It makes no sense to me.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. GREGG. Certainly I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to thank the gentleman from New Hampshire for the point he is making. It seems to me there is nothing wrong with this amendment. It is a good, solid amendment, one that probably will not correct the bill. The bill is basically flawed in the tremendous demands, additional demands it will put on the financing market. We already allocate credit to a very substantial extent in this country, and to start up on a new course of that sort is going to be most unfortunate.

I do think the amendment itself is perfectly acceptable. It adds a note of sanity to a bill which, in my view, is going to exacerbate the problem and not solve it.

Mr. GREGG. Mr. Chairman, I appreciate that comment because it comes from one of the most sane Members of the House, and as a result I think it should be taken seriously by all of us.

I would just point out on this chart here, if the Members are looking at this chart, which reflects the fact that the Federal Government is going to go into the marketplace for approximately $623 billion of loans in the year 1983, one just has to ask oneself, how can the marketplace take another $50 billion of loans in the years 1983, 1984, and 1985? It simply cannot.

Prior to coming to this august body I had the opportunity to represent a number of small, independent contractors who were involved in defense procurement. Those small contractors, some of them came and some of them went, but whether they came or went did not depend on whether or not they got support from the Federal Government. It depended on whether or not they were producing a good product that was competitive within the defense industry. For us to take the small competitor and put him at a disadvantage by making loans to a small competitor who may be in a weak position because he is unable to produce a marketable commodity, but yet prop up that competitor through subsidized loans, is totally out of whack and is inconsistent with our form of government.

Mr. MARTIN of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of this very good amendment to this very bad bill. This good amendment makes a bad bill somewhat better. The whole bill is a throwback to an administration and a policy that got us in this mess for 21.5 percent interest rates, and without the amendment, should this bad bill ever become law, it is an assurance that we are going to have increases rather than decreases in the interest rates in this country.

Mr. Chairman, along that line I yield to the gentleman from New Jersey (Mr. COURTER) so that he might continue with the train of thought that I think was well received by the membership.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding, and I probably will not use the balance of his time.

The point I was making at that time had to do with the fact that I am, obviously, a member of the Armed Services Committee. We not long ago here approved an appropriations bill for the 050 Department of Defense function that was quite sizable. As a matter of fact, it was sufficient, or more than sufficient, as far as I am concerned. It was plenty of money.

I just cannot imagine what we are doing now faced and interfaced with the fact that we appropriated $170 billion for the defense of this country, and we are saying to small business people, we are saying to the person who wants to go out and borrow a little money to buy a car or put an addition on his home or get a school loan or do something else, that the amount of credit that the Federal Government is using for defense is insufficient, we should really expand that by approximately $50 billion.

President Eisenhower when he left office gave a speech that I know is remembered by those people who were old enough to listen to it, and read certainly by the rest of us. He warned against a military-industrial complex and the power of that complex. What we are doing today is adding to that complex. What we are doing today is gathering an additional, between $11 and $50 billion of credit that the American people badly need, and putting it in a complex which is now large enough.

I cannot imagine that I will be able, if this passes, that I will be able to go home in the next 10 days from this body shortly before election and explain that the actual appropriations for the defense function were insufficient, and what we really had to do was reallocate an additional $50 billion of credit to those businesses involved in the defense-industrial complex. I think that is a point we should remember, and is worthwhile remembering.

I thank the gentleman for yielding.

□ 1940

Mr. MARTIN of New York. Reclaiming my time, if I can, I want to point out for the people who have not had an opportunity to read the amendment that we are not asking an awful lot here. The only thing we are asking is that we have no extension of credit assistance under the proposed new authorities created by this bill unless the Secretary of the Treasury determines that the extension of credit will not do two things. We want very much that they will not tend to increase the interest rates in the credit markets and, two, adversely affect the thrift industry.

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of New York. I am happy to yield to the gentleman from Indiana.

Mr. COATS. I do not see what the big problem is. The other side claims that this will not have an inflationary impact or not drive up interest rates. If that is the case they should have no problem supporting this amendment.

Mr. MARTIN of New York. That is exactly my feeling, I say to the gentleman from Indiana, and I would suggest the folks on the other side would sincerely embrace that if that is clearly their intention.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of New York. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I think in all fairness to my colleagues I have to suggest about 25 Members on this side also do not think it will be inflationary.

Mr. HILER. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. Chairman, I think this amendment does a number of things. This amendment helps to focus the lending activity of the Federal Government on what impact it has on the credit markets.

Earlier this evening several charts were brought before us, one showing that the United States, I believe the chart said, had the lowest average annual increase in productivity growth from the years 1960 to 1979.

I might add that in that same time period we had the lowest average annual increase in investment of any of our Western industrialized countries. We also had the lowest average increase in savings of any of our Western industrialized allies in that period from 1969 to 1979.

We had the second lowest average annual increase in gross national product in that time period.

But what I would say is the problem was not that we did not have enough government from 1960 to 1979 but that in fact we had too much government from 1960 to 1979.

That bill is a further incursion of the Federal Government into the private credit markets.

We already have phenomenal absorption rates on the part of the Federal Government in our credit markets. Through their loans and loan guarantees and through the tremendous Federal deficit we have that has been built up over a period of the last 20 years.

So I think this amendment just put some constraints and it puts some constraints on the Federal Government.

We have to determine by this bill that it will not increase the interest rates and, as has been said several times, if as the supporters of this bill believe that it will not increase interest rates then they should have no problem at all accepting it.

I tend to think, though, that any increase in the loan guarantees of almost $50 billion over a period of 5 years will have a significant impact on interest rates and that in fact we will find that the interest rates will not come down. They will continue to remain high or go higher as they did in the period of the last administration.

So I think that it is a good amendment and I applaud the gentleman from Florida for offering it and I intend to support it and encourage my colleagues to do as well.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. HILER. I yield to the gentleman from Florida.

Mr. McCOLLUM. I would just like to comment that I greatly appreciate what the gentleman has had to say and what a number of folks have said this evening about this amendment.

The purpose of the amendment is in no way to avoid the main purposes of this legislation, as some have suggested.

The purpose of this amendment is to let it function. If in fact interest rates are going to be driven up, as I suspect they would be, by the requirements of the loan guarantees in this bill then we should not have those loans at this time. Maybe sometime in the future we should.

But the problem is we have too long done what the gentleman suggests, we have allowed for credit absorption and for removal from the marketplace by the Federal Government of so much money that interest rates are high today and they are way too high.

People cannot have the homes, the businesses and so on they want to have and they cannot have the jobs and we cannot have the industrial base, not as strong as it may be.

So it is the very essence of this amendment to truly improve and have this bill have some hope of vitality.

I appreciate very much the gentleman coming forward because to vote for the McCollum amendment is a vote for commonsense. To vote against the McCollum amendment is a vote for higher interest.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I wonder if we can get some agreement as to time. We have been on this amendment now for almost 2 hours.

I wonder if we could get unanimous consent that all debate on the amendment would close at 8 o'clock.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Florida.

Mr. McCOLLUM. Not from my side at this time.

I would prefer to let this discussion go on. I do not think it is going to go on much longer.

As the gentleman from Texas, the distinguished majority leader, knows, we have spent a good deal of time in discussion of this, but I do not anticipate its going on much longer.

If such be the case, then I will be glad to revisit the question with the gentleman.

Mr. WRIGHT. I would say to the gentleman I can only see one gentleman who has not spoken who is seeking recognition.

Surely it could not be that the gentleman from Pennsylvania (Mr. WALKER) has not spoken.

Has the gentleman from Pennsylvania not spoken?

In that case, how about 5 minutes after 8? Would that be agreeable? Could we get unanimous consent that the debate on this amendment conclude at 5 minutes after 8?

Mr. McCOLLUM. There appear to be a number of gentlemen who still desire to speak. I know of at least two or three who have requested to speak.

Mr. WRIGHT. It is obvious the gentlemen are attempting to deliberately stall. I implore the gentleman, please, rather, can we not move this along and get a gentlemen's agreement.

Nobody who has not already spoken is standing over there on that side or this side.

Mr. GINGRICH. Mr. Chairman, I would reclaim my time if I may.

Mr. WRIGHT. Would the gentleman yield one more time?

Mr. GINGRICH. I would if the gentleman from Texas would then yield me such time as I might need to make up my 5 minutes.

Mr. WRIGHT. Mr. Chairman, I move that all debate on this amendment or any amendments thereto——

Mr. GINGRICH. Mr. Chairman, I do not yield for that purpose.

The CHAIRMAN. Does the gentleman from Georgia yield?

Mr. GINGRICH. I yielded only for the purposes of debate.

The CHAIRMAN. The gentleman from Georgia.

Mr. WRIGHT. That being the case, I will not impose on the gentleman's time.

Mr. GINGRICH. Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman has 3 minutes remaining.

Mr. GINGRICH. I am always delighted to speak with the distinguished majority leader who has assured us in introducing a recent bill that he cares passionately about interest rates. I assume, therefore, that we will see him vote on his side of the aisle in favor of the McCollum amendment because, in fact, anyone who cares about interest rates has an opportunity tonight to take this step, which is simply a commonsensical step which would simply allow the Treasury to focus on the interest rate implications of this bill.

I think anyone who is concerned about small business should vote for the McCollum amendment. Anyone who cares about farming should vote for the McCollum amendment. Anyone who wants to sell automobiles and put autoworkers back to work should vote for the McCollum amendment. Anyone who cares about housing should vote for the McCollum amendment.

Since interest is such a large part of the national debt or our national deficit, because, after all, we have to pay interest on this large national debt, I would think that anyone who cares about bringing down the deficit would also want to vote for the McCollum amendment.

I cannot imagine how any commonsense, reasonable spokesman for the people would vote against an amendment which simply says we should not raise interest rates.

I would hope that anybody who intended to vote against this amendment would recognize that in many parts of the country, by many groups, this would be considered a vote for higher interest rates.

Let me repeat that so it is clear. A vote against the McCollum amendment will almost certainly be considered by many people a vote in favor of higher interest rates.

I cannot imagine in late September of an election year that anyone would want to come into Congress and vote in favor of higher interest rates.

□ 1950

So I simply wanted to take a minute or two to say to my good friends on both sides of the aisle, all of whom I would like to see have a chance to be returned, I hope when they come in they decide how to vote on the McCollum amendment, that they will recognize that a vote for it is a vote for lower interest rates, but that a vote against it will be read in many parts of the country as a vote for raising interest rates. And I do not think there is a single Member in this Congress who wants to go home this weekend and explain to his constituents why he would vote to raise interest rates.

So on that note, having, hopefully, explained clearly the distinction between the low-interest-rate McCollum vote and the high-interest-rate anti-

McCollum vote, I would yield back my time.

Mr. WRIGHT. Mr. Chairman, I move that all debate on this amendment and all amendments thereto end at 8 o'clock.

The motion was agreed to.

The CHAIRMAN pro tempore. The time will be apportioned 4 minutes on each side, controlled by the gentleman from Florida (Mr. McCOLLUM) and the gentleman from Michigan (Mr. BLANCHARD).

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM).

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. First, I would like to say that it concerns me that this bill is so bad that we end up having to say that Members cannot have more than 5 minutes of time, that they cannot have their time extended; and second, that we have to limit debate on key amendments on it. It seems to me that that tells the American people just how bad this bill really is.

I just want to make one other point, and that is that the gentleman from Florida is doing nothing controversial here. All he is doing is saying that if the premise of the majority is correct that this bill in fact will help lower interest rates, his amendment will have no impact. However, if it would indeed raise interest rates and the Secretary of the Treasury certifies that, we would have some kind of way of stopping the raising of interest rates.

So I cannot imagine there is any controversy about this amendment. And yet there is. And the only thing I can say is that I would hope that Members who want to keep interest rates down and see the interest rates begin to fall, vote for the McCollum amendment.

Mr. GREGG. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New Hampshire.

Mr. GREGG. The gentleman from Pennsylvania began his speech with a point, and I wish the gentleman would follow up on it. How bad is this bill?

Mr. WALKER. I would say to the gentleman that we have had a pretty strong indication here earlier as to how bad this bill is. For example, this bill purports to spend $6 billion, nearly $7 billion, that we really do not have. That is deficit add-on. According to some statistics that have recently been developed, that means that over 600,000 Americans will lose their jobs because of the extra deficit.

So this is really a bill also which is going to cost 600,000 people who are presently working in this country those productive jobs because we have a deficit add-on with this kind of an approach.

Mr. BLANCHARD. Mr. Chairman, I think the debate here demonstrates that most of the advocates for this amendment have not read the bill, do not know the amendment, are distracting from the facts behind the bill, and are having a lot of fun with delaying and stalling tactics. I respect each and every one of their rights to oppose this legislation. But for anyone who has been following the debate, I think it is clear that the debate has had absolutely nothing to do with this amendment, which would gut the bill. And I might add that there are 20 or 30 others in line, stacked up, to do the same thing. For any of those who have arrived late, they should know that.

The arguments against this amendment were so clear and so clear and convincingly to reject the amendment several hours ago that we have seen fit not to waste our colleagues' time in responding to foolish claims and filibustering tactics.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

I think the impact of this amendment really is contradictory. The President has the power to implement this particular program. If he chooses not to implement it or chooses to implement it, it would hardly be appropriate for the Secretary of the Treasury to pull the rug out from under a President who was implementing a program to achieve what I think all of us would agree are the laudable goals of this particular legislation.

You may disagree with the attempt or the method to help support the small- and middle-size types of industries that are part of the industrial base. The point is, though, I think to pull the rug out from under the President in this particular case is indeed an interesting tactic by our friend from Florida, in terms of the Treasury's certification. I know of no other reason.

I was listening to some of the reasons for opposing this, and the economic viewpoints of our colleagues, and began to understand how we arrived at the problem in terms of the deficit this year and the years down the road. The fact is that the impact of this is $11.3 billion over the 5-year program, and it leverages money on the basis of about 9 to 1 in the direction that we all agree we ought to go. If we are willing to vote for big defense budgets, and apparently this Congress is, it only seems appropriate to put in place the infrastructure to achieve the goals that you want to achieve. That is what you are trying to undermine, and I think at your own expense, at the expense of cost overruns, at the expense of lack of skilled workers to do that job, at the expense of the lack of help for educational institutions to attain those particular objectives.

So I think you are really cutting away at one of the most effective tools that we might have in terms of targeting our resources where we have to go. The bill, according to the statement on page 29, has no inflationary impact. At least that is what the conclusion is.

I certainly want to thank the gentleman for yielding, and I think we ought to vote this amendment down.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentlewoman from Ohio.

Mrs. OAKAR. Mr. Chairman, we are owed $58 billion in guaranteed loans to foreign countries at the existing market interest rates through the Federal Financing Bank and carry the full backing and the full credit of the U.S. Government. We do not hear a peep about the loans that we give to foreign countries, but when it comes to assisting our own businesses so that we can have a strong defense, all of a sudden there are all kinds of caveats. Charity begins at home, my friends. Let us vote down this amendment.

The CHAIRMAN. All time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

The Chair recognizes the gentleman from Florida (Mr. McCOLLUM), who has 2 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. I thank the gentleman for yielding.

Mr. Chairman, it is interesting to note that for every one substantive argument on that side of the aisle or in support of the bill, we have three or four substantive agreements in opposition to the bill. And these are substantive arguments. But, for the most part, the rhetoric that I hear from that side is that they keep saying our amendments are no good; we have not read the bill; we need to limit time.

The fact of the matter is this bill is a precursor of something akin to the National Industrial Recovery Act or something akin to the Reconstruction Finance Corporation. It is a significant issue, and it cannot stand the light of day. It cannot stand debate. That is why they want to shut off debate. That is why they want to allege we have not read the bill. We have read the bill. The bill is bad. The bill cannot stand debate and the light of day. That is what is happening; that is the process that is going on right now.

I urge the Members to vote this bill down.

□ 2000

Mr. McCOLLUM. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, my amendment reads as follows, very simply, very short, de-

signed to improve, not to destroy this bill:

No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry.

Very simply put, my amendment, a vote for the McCollum amendment, is a vote for commonsense and lower interest rates; and a vote against the McCollum amendment is a vote for higher interest rates.

I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. MCCOLLUM).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 154, not voting 105, as follows:

[Roll No. 369]

AYES—173

Andrews	Goldwater	McGrath
Anthony	Goodling	McHugh
Applegate	Gradison	Mica
Archer	Gramm	Michel
Ashbrook	Gregg	Miller (OH)
Atkinson	Gunderson	Molinari
Bailey (MO)	Hagedorn	Montgomery
Bennett	Hall, Ralph	Moore
Bethune	Hall, Sam	Moorhead
Bliley	Hamilton	Morrison
Bouquard	Hammerschmidt	Myers
Brown (CO)	Hansen (ID)	Nelligan
Broyhill	Hansen (UT)	Oxley
Butler	Hartnett	Parris
Campbell	Heckler	Pashayan
Carman	Hefner	Paul
Carney	Hendon	Petri
Chappie	Hiler	Pritchard
Clausen	Hillis	Pursell
Coats	Hopkins	Quillen
Coleman	Hunter	Regula
Corcoran	Hutto	Ritter
Coughlin	Hyde	Roberts (KS)
Courter	Jacobs	Roberts (SD)
Coyne, James	Jeffries	Robinson
Crane, Daniel	Jenkins	Roemer
Crane, Philip	Jones (NC)	Rogers
Daniel, Dan	Kazen	Roth
Daniel, R. W.	Kemp	Rudd
Dannemeyer	Kindness	Sawyer
Daub	Kramer	Sensenbrenner
DeNardis	Lagomarsino	Sharp
Dornan	Latta	Shaw
Dowdy	Leach	Shelby
Duncan	Leath	Shumway
Dunn	LeBoutillier	Shuster
Edwards (AL)	Lent	Siljander
Edwards (OK)	Levitas	Skeen
Emerson	Lewis	Smith (AL)
English	Livingston	Smith (NE)
Erdahl	Loeffler	Smith (NJ)
Erlenborn	Lujan	Smith (OR)
Evans (DE)	Lungren	Snowe
Evans (IA)	Madigan	Snyder
Fenwick	Marlenee	Solomon
Fiedler	Marriott	Spence
Fields	Martin (IL)	Stangeland
Findley	Martin (NC)	Staton
Fountain	Martin (NY)	Stenholm
Frenzel	Mazzoli	Stump
Fuqua	McClory	Tauke
Gingrich	McCollum	Tauzin
Glickman	McDonald	Thomas
Vander Jagt	Weber (MN)	Winn
Volkmer	Weber (OH)	Wolf
Walker	White	Young (AK)
Wampler	Whitley	Young (FL)
Watkins	Whittaker	

NOES—154

Akaka	Foley	Nowak
Albosta	Ford (MI)	Oakar
Alexander	Ford (TN)	Oberstar
Anderson	Fowler	Obey
Annunzio	Frost	Ottinger
Aspin	Gaydos	Panetta
AuCoin	Gejdenson	Patman
Bailey (PA)	Gephardt	Patterson
Barnes	Gilman	Pease
Bedell	Ginn	Pepper
Bereuter	Gonzalez	Perkins
Bevill	Gore	Peyser
Bingham	Green	Pickle
Blanchard	Guarini	Price
Boggs	Hall (OH)	Rahall
Bonior	Harkin	Rinaldo
Bonker	Hatcher	Roe
Bowen	Hertel	Rostenkowski
Breaux	Hightower	Roukema
Brinkley	Howard	Roybal
Brodhead	Hubbard	Russo
Clay	Huckaby	Sabo
Clinger	Hughes	Santini
Conte	Jeffords	Scheuer
Coyne, William	Jones (TN)	Schneider
Crockett	Kastenmeier	Schumer
D'Amours	Kennelly	Seiberling
Daschle	Kildee	Shamansky
Davis	Kogovsek	Smith (IA)
de la Garza	Lantos	St Germain
Dellums	Leland	Stark
Derrick	Long (LA)	Stokes
Dicks	Long (MD)	Studds
Dingell	Lowry (WA)	Swift
Dixon	Martinez	Traxler
Donnelly	Matsui	Udall
Dorgan	Mavroules	Vento
Dougherty	McDade	Walgren
Downey	McKinney	Washington
Dwyer	Mikulski	Waxman
Dyson	Miller (CA)	Weaver
Eckart	Mineta	Williams (MT)
Edgar	Minish	Williams (OH)
Edwards (CA)	Mitchell (MD)	Wirth
Evans (IN)	Moakley	Wolpe
Fary	Mollohan	Wright
Fazio	Motti	Wyden
Ferraro	Murphy	Wylie
Fish	Murtha	Yatron
Flippo	Natcher	Zablocki
Florio	Nelson	
Foglietta	Nichols	

NOT VOTING—105

Addabbo	Ertel	Moffett
Badham	Evans (GA)	Napier
Bafalis	Fascell	Neal
Barnard	Fithian	O'Brien
Beard	Forsythe	Porter
Beilenson	Frank	Railsback
Benedict	Garcia	Rangel
Biaggi	Gibbons	Ratchford
Boland	Gray	Reuss
Bolling	Grisham	Rhodes
Boner	Hance	Rodino
Brooks	Hawkins	Rose
Broomfield	Heftel	Rosenthal
Brown (CA)	Holland	Rousselot
Brown (OH)	Hollenbeck	Savage
Burgener	Holt	Schroeder
Burton, John	Horton	Schulze
Burton, Phillip	Hoyer	Shannon
Byron	Ireland	Simon
Chappell	Johnston	Skelton
Cheney	Jones (OK)	Smith (PA)
Chisholm	LaFalce	Solarz
Coelho	Lee	Stanton
Collins (IL)	Lehman	Stratton
Collins (TX)	Lott	Synar
Conable	Lowery (CA)	Taylor
Conyers	Luken	Trible
Craig	Lundine	Weiss
Deckard	Markey	Whitehurst
Derwinski	Marks	Whitten
Dickinson	Mattox	Wilson
Dreier	McCloskey	Wortley
Dymally	McCurdy	Yates
Early	McEwen	Young (MO)
Emery	Mitchell (NY)	Zeferetti

□ 2010

Mr. APPLEGATE and Mrs. HECKLER changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. BLANCHARD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. MURTHA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, had come to no resolution thereon.

□ 2020

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5447, as passed by the House, the Clerk be authorized to make corrections in section numbers, cross-references and other technical changes to reflect the intent of the amendments adopted by the House.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL MIDNIGHT, SUNDAY, SEPTEMBER 26, 1982, TO FILE REPORTS ON VARIOUS BILLS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture may have until midnight, Sunday, September 26, to file reports on the following bills: H.R. 6142, H.R. 6679, H.R. 5455, H.R. 5456, H.R. 7005, and H.R. 6865.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 5930, AVIATION INSURANCE PROGRAM

Mr. MINETA submitted the following conference report and statement on the bill (H.R. 5930) to extend the aviation insurance program for 5 years:

CONFERENCE REPORT (H. REPT. No. 97-864)

The committee of conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the last sentence of section 303(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1902(b)(1)) is amended to read as follows: "At any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.". The amendment made by the preceding sentence shall not preclude the reappointment of any individual serving as a member of the Board on the date of enactment of this Act.

SEC. 2. Section 306 of the Independent Safety Board Act of 1974 (49 U.S.C. 1905) is amended in subsection (a) by striking out "pursuant to subsection (b)" and inserting in lieu thereof "pursuant to subsection (b) or (c)" and by adding at the end thereof the following new subsection:

"(c) COCKPIT VOICE RECORDER.—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board: *Provided,* That portions of a transcription of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: *And provided further,* That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations.".

SEC. 3. Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. 1542) is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 4. (a) Section 1601(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(a)) is amended by striking out paragraph (3) and by redesignating paragraph (4), and all cross references thereto, as paragraph (3).

(b) Section 1601(b)(1)(C) of the Federal Aviation Act of 1958 (49 U.S.C. 1551(b)(1)(C)) is amended by striking out "(relating to foreign air transportation)".

And the Senate agree to the same.

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
HOWARD W. CANNON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

WAR RISK INSURANCE

House bill

Reauthorizes War Risk Insurance Program through September 30, 1987.

Senate amendment

Same as House bill.

Conference substitute

Same as the House bill.

COCKPIT VOICE RECORDERS

House bill

No provision.

Senate amendment

Provides that, notwithstanding any other provision of the law, the National Transportation Safety Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions involving flight crew communications that are associated with accidents investigated by the Board. The Board is required to make available to the public those portions of the transcriptions of such communications that the Board deems relevant and pertinent to the accident, at the time of the Board's public hearing on the accident, and in any event no later than 60 days following the accident. In the event that the CVR is not recovered immediately after the accident, the conferees intend that the Board have 60 days after recovery of the CVR before release. The conferees emphasize that this amendment would not affect the Board's current practice of sharing CVR information with parties to the investigation.

Conference substitute

Same as Senate amendment.

QUALIFICATIONS OF MEMBERS OF THE NATIONAL TRANSPORTATION SAFETY BOARD

House bill

No provision.

Senate amendment

Requires the President to appoint individuals to be members of the National Transportation Safety Board upon the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

Conference substitute

Provides that at any given time no less than three members of the National Transportation Safety Board shall have technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation. Moreover, the conferees believe it would be desirable if future Chairmen of the NTSB possessed these qualifications.

This requirement is not intended to preclude the reappointment of any persons serving as a member of the Board upon the date of enactment.

AIRLINE EMPLOYEES PROTECTION

House bill

No provisions.

Senate amendment

Amends Section 1601 of the Federal Aviation Act which transfers to the Department of Justice on January 1, 1983, the authority of the Civil Aeronautics Board under Sections 408 and 409 of the Federal Aviation Act to approve specified mergers, acquisitions, and interlocking relationships relating to interstate and overseas air transportation. The Senate amendment eliminates this transfer of authority, leaving the authority with CAB. The amendment further provides that this authority will be transferred to the Department of Justice on January 1, 1985. In the floor debate on this amendment, the sponsor of the amendment stated that in administering its authority to approve transactions under 408 the Civil Aeronautics Board was requested to continue to impose standard labor protective provisions in a manner consistent with CAB's handling of Section 408 transactions prior to enactment of the Airline Deregulation Act of 1978.

Conference substitute

Same as the Senate amendment.

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
HOWARD W. CANNON,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL MIDNIGHT TO FILE REPORTS ON H.R. 7159, H.R. 6170, H.R. 2303, AND H.R. 5941

Mr. DYSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight, September 23, 1982, to file reports on the following bills:

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH;

H.R. 6170. An act to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs, as amended;

H.R. 2303. An act to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Foreign Mail Center"; and

H.R. 5941. An act to designate the building known as the Federal Building and United States Courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Buildings," as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time for the purpose of announcing to the Members the scheduled plan for tomorrow, Friday.

Mr. Speaker, it is planned that the House will meet at 10 o'clock tomorrow.

We will complete consideration of H.R. 6173, the Health Planning Block Grant Act.

Then we will take up and consider House Resolution 581, to establish the Office of House Historian.

Having completed those, it would be our purpose to adjourn until Tuesday, September 28.

That being the case, we would surely get out of here by 3 o'clock tomorrow.

Tuesday, we would convene at 12 o'clock, Monday being Yom Kippur.

We would convene at noon on Tuesday and consider suspensions. There are 17 bills on suspension. We would vote on them Tuesday, but not vote on any of them until we had debated all 17.

ECONOMIC BLUEPRINT FOR PORT DEVELOPMENT AND MARINE STRUCTURAL REFORM AND REVITALIZATION

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, I call the attention of my colleagues to a most extraordinary document released this week by the Special Task Force on Long-Term Economic Policy of the House Democratic Caucus. I wish to commend the caucus chairman, the gentleman from Louisiana (Mr. LONG), and the task force chairman, the gentleman from Colorado (Mr. WIRTH), for their uncommon insight and vision in articulating a coherent economic blueprint for economic revitalization and productivity improvement in the national economy. The document is entitled "Rebuilding the Road to Opportunity: Turning Point for America's Economy."

Several aspects of this document are especially deserving of mention. One is the explicity recognition of the need for a balanced economy comprised of revitalized basic industries, expanded public investment in physical infrastructure, and encouragement of private investment in growth industries such as high technology. From this perspective, the document isolates the central issue of capital formation common to all three elements of the proposed economic program.

Another important dimension of the report is the recognition of predominant underlying trends affecting the potential for economic recovery. These include the increasing interdependency of national economies and accelerated structural reform of the domestic economy. Analyzing these trends the report identifies the central opportunity and challenge confronting the United States in developing a consistent international trade posture. Inherent in this, is the potential for an export-lead economic recovery or contraction—depending on the course of future international economic policy charted.

In particular, as we approach the end of the 97th and look ahead to the 98th Congress, I wish to emphasize two themes expressed in the document that translate into key elements of a coordinated national strategy for economic growth. These are already the subject of active implementation by the Committee on Merchant Marine and Fisheries.

The first is the need to develop our Nation's ports in order to accommodate expanded coal exports. Last March, the committee unanimously reported legislation I authored—H.R. 4627, Port Development and Navigation Improvement Act.

The report provides new impetus to the efforts of the Committee on Public Works and Transportation in addressing this national issue of critical importance to our international balance of trade, global energy security, and domestic economic and transportation infrastructure revitalization in comprehensive fashion.

The second theme expressed in the document relates to the manifest need for necessary restructuring and revitalizing of our basic industries—such as the maritime industry, including the seagoing merchant marine and commercial shipbuilding industries.

The committee intends to actively pursue this effort in the 98th Congress, building upon the resounding mandate of the House last week in passage of H.R. 4374, maritime regulatory reform legislation, which I likewise authored.

In the interim, I am encouraged by the release of this important document—placing in broader perspective with a similar focus these twin initiatives for consideration in the 98th Congress.

NUCLEAR WASTE LEGISLATION—CONGRESS MUST ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 15 minutes.

● Mr. BROYHILL. Mr. Speaker, I commend the House leadership for moving ahead on vital nuclear waste legislation which is so important to the security of our electric utility industry and to the health of present and future generations of Americans.

The Senate passed similar legislation, S. 1662, nearly 6 months ago. Four major House committees—Energy and Commerce (H.R. 6598), Interior and Insular Affairs (H.R. 3809), Science and Technology (H.R. 5016), and Armed Services (H.R. 3809)—representing over 150 Members, have reported this legislation, with the last committee, Energy and Commerce, reporting its bill by voice vote August 4—over a month and a half ago. In addition, three other committees—Judiciary, Merchant Marine, and Budget—have been involved in reconciling this vital bill for consideration by the full House. Finally, the Committee on Rules itself has legislative jurisdiction, and I have appreciated the monumental efforts of Chairman BOLLING as well as the efforts of the subcommittee chairman, Mr. MOAKLEY, and the respective ranking minority members Mr. QUILLEN and Mr. TAYLOR and other members of that committee for their efforts to assure a consensus bill this Congress.

In short, Mr. Speaker, the efforts of the committees of jurisdiction have been nothing short of unprecedented.

I sometimes think there are so many footprints on this legislation I can no longer see the print on the title page. And yet, no bill in my memory over the last 20 years is a better example of the ability of the committee system and this great representative institution to work the will of our citizens on legislation of this magnitude, complexity, and critical need.

As my good friends JOHN DINGELL, MO UDALL, DON FUQUA, MEL PRICE, and DICK OTTINGER know, this is not a bill to write home about. This bill does not separate ourselves across the aisle. We do not seek to enact this bill for ourselves, we enact it because the American people need it.

For over 30 years, ranging from the landmark studies of the National Academy of Sciences in the 1950's to last month's Office of Technology Assessment report, the scientists have told us that the technology for the safe storage and disposal of nuclear waste is "here and now," and that all we lack is a comprehensive national blueprint to put it into action.

But, after 30 years of congressional inaction and executive branch policy

reversals, we are running out of time. The technology may still be "here and now" but for many older nuclear plants which will run out of space to store their spent fuel at their reactor sites before the Federal Government completes its first permanent waste repository, "here and now" may will be "here and gone."

Many of these older reactors are in my own southeast region of North Carolina, South Carolina, Virginia, and Florida. These reactors were built when it was assumed the Federal Government would take custody of spent fuel by the early 1970's and reprocess it for re-use. Then the Carter administration banned reprocessing in 1977, and these utilities were left holding the bag. The Carter administration promised them the Government would build a centralized storage facility, but Congress never acted. Then, the Reagan administration reversed course again, lifting the ban on reprocessing.

Twelve powerplants in the southeast region alone, according to NRC and DOE projections, will run out of spent fuel storage space by 1990—8 to 17 years before the Government projects the first repository will be available. A June 1982 NRC study projects as many as 40 plants in 19 States nationwide may run out of space by 1990.

For this reason, every Senate and House committee which has reported nuclear waste legislation has included an interim storage program to "help utilities help themselves" with a reactor site storage and limited "last resort" offsite storage.

All four House committees of jurisdiction, as well as the full Senate, have included at least four major elements in their consensus bill:

First, a firm schedule leading toward completion of a deep geologic repository for disposal of nuclear waste, with a full environmental review and NRC licensing.

Second, an interim spent fuel storage program providing licensing reforms to expedite onsite spent fuel storage and a limited, "last resort" offsite storage program at existing Federal facilities to bridge the gap before the first repository is available early next century and assure utilities they will not have to shut down useful powerplants for lack of spent fuel storage space.

Third, full State and local and public participation in the siting, construction and operation of nuclear waste facilities, through Federal-State "consultation and cooperation" to insure public confidence in the storage and disposal of waste throughout the program.

Fourth, up-front private financing of the entire program through user fees on nuclear utilities which will raise over $14 billion through the year 2000, but add an average of only 75 cents to the average family's electric bill.

As we all know, we came very close to enacting this bill last Congress. This Congress, we are equally close. However, if we fail this Congress, the need for this legislation will not go away, it will increase. And the compromises we include in this bill will not be easier, they will be more difficult. For example, last Congress, the House did not address the interim spent fuel storage problem. This Congress, all four House committees have decided to include an interim spent fuel storage program, but only in connection with a blueprint for permanent disposal. However, next Congress, we may only be able to get a consensus on interim spent fuel storage—and the congressional will and consensus to enact a permanent disposal program may be gone.

Poll after poll of American citizens has identified this legislation as a critical national need. President Reagan, in his April policy statement has made enactment a major goal of his administration. In all our negotiations over the last 2 years—JOHN DINGELL, MO UDALL, DON FUQUA, LARRY WINN, MEL PRICE, MANNY LUJAN, BILL DICKINSON, and myself—we all have agreed this bill is a "must" priority for this Congress.

Mr. Speaker, the full House may consider this critical legislation early next week. For the benefit of all Members who may be unfamiliar with every detail in the bills, I include the following informative material on the various bills for printing in the RECORD at this point:

NUCLEAR WASTE BILLS SIDE-BY-SIDE COMPARISON—INTERIOR COMMITTEE VERSUS ENERGY AND COMMERCE

Issues	Interior (H.R. 3809)	Energy and Commerce (H.R. 6598)	Sept. 21 preliminary staff discussion draft
1. State veto	State objection immediately effective unless overriden by two Houses of Congress in a joint resolution signed by the President. Expedited congressional procedures require consideration of the State objection in both Houses within 90 days.	State objection is effective only if sustained by one House of Congress. (Same as 1980 House-passed bill.) Same expedited congressional procedures are provided.	"One House sustain".
2. Environmental protections	Exemptions for preliminary decisionmaking activities. Environmental assessment required for shaft sinking. Provision for NRC adoption of DOE final EIS "where practicable".	Same, but with clarifying language. Environmental assessment strengthened by requiring certain matters to be addressed and by permitting judicial review for sufficiency. Express substantive duty to mitigate environmental impacts and impact on water rights.	Essentially the same as H.R. 6598, except environmental assessment must be completed before candidate site selection and site characterization and environmental alternatives must be considered during candidate site selection and characterization.
3. Public hearings	3 sets of public hearings to be held prior to: (1) candidate site recommendation, (2) shaft sinking during site characterization, (3) Presidential selection of repository site.	Same, except promulgation of procedures under act not subject to formal rulemaking.	Same as H.R. 3809.
4. State and Indian consultation and cooperation.	Impact assistance and Federal-State written agreement provided.	"Beefed up" Federal-State written agreement and impact assistance as recommended by National Governors Association and State of Texas; plus requirement that if Secretary fails to provide "timely information" to States, Federal Government must get out of State.	Same as H.R. 6598.
5. Expedited licensing of on-site spent fuel storage.	Exclusion of certain nongermane and frivolous issues from consideration.	Same, plus interim and hybrid licensing are provided	Hybrid, two-step licensing to "scope" issues, with certain frivolous issues excluded. No interim licensing.
6. Off-site spent fuel storage	Last resort program of 1,700 MTU, at existing Federal facilities, private powerplant sites, or licensed repository, available to utilities that DOE determines are eligible based on legislatively prescribed criteria. NRC public health and safety review required for storage at existing Federal facilities.	Last resort program of 2,800 MTU, available to utilities that NRC determines are eligible based on legislatively prescribed criteria which include the requirement for maintenance of a full core reserve capability. No NRC public health and safety review required.	Last resort program of 2,000 MTU, available to utilities that NRC determines are eligible based on legislatively prescribed criteria which insure continued orderly operation. Criteria shall take into account whether the maintenance of full core reserve capability is necessary. Transportation must be minimized. NRC public health and safety review required. Environmental impact statement and "one-House sustain" State veto provided for any facility over 300 MTU. Environmental assessment below 300 MTU.
7. Defense waste	Silent (implies inclusion)	Excluded. Incorporates Armed Services Committee amendments to H.R. 3809. State veto provision same as applicaibe to civilian repositories.	Excluded. Incorporates Armed Services Committee amendments to H.R. 3809 with a requirement for a study of the desirability of a unified repository system and a Presidential determination of whether separate civilian and defense waste repositories are desirable.
8. Site characterization and repository selection.	Secretary is required to recommend at least 3 sites in not less than 3 different geologic media within 1 yr. after enactment. Not later than February 1985, the Secretary must recommend at least 2 additional sites, 1 of which must be granite. Final repository selection by Mar. 30, 1987.	Secretary is required to recommend at least 3 sites in 2 geologic media within 14 mo. after enactment. Not later than February 1985, the Secretary must recommend at least 3 additional sites. Final repository selection by Mar. 30, 1987, with discretionary 1 yr. delay.	Secretary is required to recommend at least 5 sites in 2 different geologic media for selection of the first repository no later than July 1984. Not later than February 1985, the Secretary is required to recommend at leat 1 additional site of which not less than 1 shall be sites not previously recommended and not less than 1 site shall be in geologic medium other than a medium previously recommended. Final repository selection by Mar. 31, 1987, with discretionary 1 yr. delay.
9. Population density criteria	Sites are excluded that have both (1) a population of not less than 2,500 individuals and (2) a population density of not less than 1,000 individuals per square mile.	Sites are excluded that have either (1) a population of not less than 2,500 individuals or (2) a population within 1 square mile of such site of not less than 1,000 individuals.	Sites are disqualified if surface facilities located (1) in highly populated area, or (2) in area having population within 1 square mile of not less than 1,000 individuals.
10. Monitored retrievable storage (MRS).	Provision for MRS study is provided and is essentially identical to the provision in S. 1662.	Same, plus provisos prohibiting co-location at repository sites and requiring funding from the interim storage fund.	Same as H.R. 6598.
11. Test and evaluation facility (TEF).	No such provision	No such provision	Provision to be negotiated with the Science Committee.

PRESIDENT REAGAN'S STATEMENT ON NUCLEAR WASTE POLICY

THE WHITE HOUSE,
Washington, D.C., April 28, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The safe and efficient disposal of nuclear waste is an issue of profound concern to all Americans. I am pleased and encouraged by the reports of bipartisan Congressional activity regarding nuclear waste legislation.

I, and all my Administration, stand ready to work with you to proceed on a bipartisan and timely basis on this most important matter, so that the Federal Government can fulfill its responsibilities for safe and efficient disposal of nuclear waste.

I believe that we all agree that first and foremost in any consideration of this issue is the fundamental need to protect the health and safety of all our citizens. We must also mitigate possible harm to our environment. With these prerequisites in mind, I urge early legislative action so that we may clear the way for continued development of peaceful uses of nuclear energy.

On October 8, 1981, I announced several policy initiatives regarding nuclear energy. My Administration is currently working to implement these initiatives. Consistent with these initiatives, and in order to take advantage of the inherent efficiency in the private sector, (benefiting the electricity ratepayer in the long run), nuclear waste legislation should be adopted soon, containing the following elements:

(1) A system of user fees to fund the construction and operation of high-level nuclear waste disposal facilities.

(2) An appropriate and effective method for State governments to participate in resolving site selection issues involved in the licensing and deployment of waste disposal facilities.

(3) A temporary storage facility, financed from user revenues, to relieve the near-term problem of exhaustion of spent fuel storage capacity at some operating plants. This facility should be subject to appropriate limitations of quantity of fuel and time of residence, perhaps 5–7 years, to ensure that it cannot be a substitute for longer term and permanent facilities.

(4) A federally owned and operated permanent repository for disposal of high-level radioactive waste to be available at the earliest practicable date. A federally owned and operated monitored retrievable storage (MRS) facility should be considered strongly for long-term storage in the interim period prior to operation of a permanent repository.

(5) Application to civilian-generated waste only, since military nuclear waste will be addressed separately.

To ensure efficiency and safety nuclear waste legislation should require title transfer to the Federal Government, at a date certain, of vitrified high-level waste at the receiving facility. Alternatively, if vitrification facilities are not yet in operation, the Federal Government will take title to encapsulated spent fuel. This will fix responsibility and provide a firm basis for construction and operation of facilities for nuclear waste storage and disposal financed from user revenues.

The federal actions are consistent with our basic effort to encourage private sector reprocessing in order to provide access to significant remaining fuel value for future generations as well as significantly reduce the volume of high-level waste.

The American people desire the safe disposal of nuclear waste. The necessary technology is available and scientific and engineering expertise exists to accomplish this goal. Federal legislation is required to assure a safe, effective solution for the disposal of nuclear waste at the earliest practicable time. I urge early consideration by both Houses of Congress and prompt enactment of legislation that will allow us to move ahead and deal with this issue in a timely and responsible manner.

Sincerely,

RONALD REAGAN.●

INTERNATIONAL ORGANIZATION SHOULD BE NAMED TO PROVIDE PROTECTION FOR PALESTINIAN REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

● Mrs. HECKLER. Mr. Speaker, we are shocked by the senseless slaughter of Palestinian refugees in the Shatila and Sabra camps in Lebanon. As a result of this slaughter, the remaining refugees fear for their lives, despite the entry of a three-nation peacekeeping force into Lebanon.

Today the women Members of Congress have joined together in urging the President to request of the Lebanese Government that it name an international organization to oversee, supervise, and provide protection to the Palestinian refugees in the camps of Lebanon.

As we view with horror the mass killing of innocent people at these camps, we are appalled—once again—that women, children, and the elderly are disproportionately bearing the brutality of conflict.

In 1980, we took the lead in depicting the plight of refugees in Cambodia, with some of us going ourselves to bear witness to it. Today, out of the same respect for human life, we draw attention to Lebanon, and call for action in the assumption of responsibility and accountability for the refugee camps in that country.●

PEOPLE MAGAZINE GIVES HIGHEST AWARD FOR PIZZA TO CHICAGO'S GINO'S EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I am delighted to call to the attention of my colleagues an article which appeared in the September 13 edition of People magazine, lauding Gino's East, of my own home city of Chicago, as producer of the best pizza in its survey.

People's Jeff Jarvis visited 39 pizzerias in nine cities, and after sampling 76 pounds of pizza, concluded that, Gino's East Pizza was tops among all those sampled. As a matter of fact, he even concurred that it is the "world's finest pizza."

I congratulate Fred Bartoli and Sam T. Levine, who founded Gino's East in 1966, on this honor, and send them my best wishes for many more years of continued success.

Excerpts from the article entitled, "In Search of the Great American Pizza," follow:

IN SEARCH OF THE GREAT AMERICAN PIZZA

(By Jeff Jarvis)

Ever since Neapolitan Gennaro Lombardi opened the first American pizzeria in New York's Little Italy in 1905, the humble confection of dough, cheese, tomato sauce, spices and assorted toppings has inspired passionate regional debates. Indeed, the only thing that inflames Americans more than insulting their hometown is demeaning their favorite pizza joint. Robust Chicagoans swear by their succulent "deep dish" pizzas; busy New Yorkers eat it by the slice on the run; sophisticated San Franciscans dote on gourmet pizza. But, somewhere in the land, is there a perfect pizza? There are, of course, as many opinions as palates. That richness of choice is what makes the quest all the more appealing. To settle the Great Debate once and for all, People dispatched Associate Editor Jeff Jarvis. A self-confessed junkfood junkie, Jarvis braved indigestion, jet lag and countless bemused looks in pizzerias across the land. He traveled 6,776 miles, visited 39 of the most popular pizzerias in nine cities, and sampled some 76 pounds of pizza. Jarvis was rigorously scientific: He ordered a plain cheese pizza everywhere as a basis for city-by-city comparison; hungry friends ordered various toppings, everything from A (anchovies) to Z (zucchini). Each pizza was weighed on a portable diet scale, then held up and subjected to the five-second slither test (if the ingredients slide off the crust like slush off a windshield, it's too greasy). Each part of the pizza was tasted separately—the cheese for flavor and stringiness, the sauce for spicing and the crust for telltale traces of cardboard or third-degree burns. Eighteen days later and eight pounds heavier, Jarvis weighed in with his admittedly subjective findings. Each city's winning pizza was rated from five tomatoes (pizza de resistance!) to none (break out the antacid). Here, saving the best for last, are the results.

And now for the *pizza de resistance*. In the Windy City, pizza is more than a meal. It is a banquet, served on a lush, amber bed of dough (light and crunchy) with tomatoes and cheese slathered on thick as a mother's love. This is knife-and-fork pizza, and the best can be consumed at Gino's East, founded by cabbies Sam T. Levine and Fred Bartoli with a chef who, says Levine, "could take a pair of your old shoes and make them taste good." Their recipe for perfect pizza grosses them $3 million a year—and it's a secret. "I don't even tell my wife," Levine says. "She'd tell the neighbors." Kate Jackson and Bruce Springsteen have dined there; so do doctors from nearby Northwestern Memorial Hospital. "And in all our years," Levine jokes, "we've never had to pump anybody's stomach." Chicagoans argue pizza more passionately than politics,

and there are many proponents of the North Side's Pizzeria Uno, self-proclaimed home of the "deep-dish" pizza. But after sampling both, we must finally concur with the sign outside Gino's. It reads simply: "World's finest pizza."●

HONORARIA AND EQUITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 20 minutes.

● Mr. LAFALCE. Mr. Speaker, as a result of a 1981 Senate amendment to a continuing appropriations resolution, Members of the Senate may receive an unlimited amount of income from honoraria. Most are able to make at least $25,000 in honoraria. Members of the U.S. House of Representatives, however, are bound by a limitation on all outside earned income which prohibits earnings above 30 percent of their congressional salaries—a present limit of approximately $18,200 and, I might add, a limit which very few Members of the House could obtain or even approach in honoraria.

So long as this discrepancy between the two Houses exists, I do not foresee a resolution of the controversial issue of compensation for Members of Congress. Instead, I foresee continued confusion and increased inequities in compensation between the two Chambers. Most Members of the House will have to rely principally on their salaries, whereas Members of the Senate may anticipate large, if not unlimited, amounts of honoraria.

Last year, the Senate amended a continuing appropriations resolution (H.J. Res. 325) (Public Law 97-51) to remove the $25,000 cap on outside earnings from such honoraria as delivering speeches, writing articles, or making appearances. The old limit, embodied in the 1976 Federal Election Campaign Act (Public Law 94-233), had applied to a Senator's total honoraria which amounted to more than $100 from any single source. Charitable donations, expenses and agents' fees were to be removed prior to that total computation.

The 1981 change did not affect the House, which continued to operate under a House rule limiting all outside earnings, including honoraria, to 15 percent of Members' salaries. On December 15, 1981, the House doubled that limit to 30 percent. That increase, with respect to honoraria at least, will help only a select few. The House has attempted to impose the 30-percent limit on Senators twice this year; both efforts have failed.

The discrepancy in rules is exacerbated by the prestige of the Senate; its Members are traditionally in greater demand than Members of the House of Representatives.

I believe that this discrepancy ought to be corrected. Members of both Chambers ought to have limits on honoraria income, for this income is received due to their positions held as public servants. The former limit, of 15 percent, would not be inappropriate for honoraria. I recognize that outside income, other than from honoraria, is a much different issue, requiring a totally different analysis. I personally do not believe that a Member of Congress who is, for example, also a physician, ought to be restricted from his practice, so long as adequate and thorough disclosure laws are obeyed and enforced. Honoraria, given on the basis of the office held, is another matter altogether.

All Members of this body share my frustration with the prolonged and convoluted debate over compensation. So long as the Members of one Chamber are capable of virtually doubling their congressional salaries through honoraria, we will be unable to deal equitably with the problem.

The issue of honoraria is, itself, a controversial issue which often receives more attention than that given to the issue of compensation. While I will not now delve into the subject of compensation, I do wish to call to the attention of my colleagues in this Chamber—and those in the Senate—the latest compilation of figures for Senators' honoraria in 1981. They are evidence of the growing inequity that poses a barrier to resolution of the issue of fairly compensating Members of Congress for their work.

The figures, from the September 11, 1982, edition of Congressional Quarterly, follow:

SENATORS' HONORARIA TOTALS FOR 1981

	Total Honoraria	Total minus donations
Abdnor	$1,900.00	$1,900.00
Andrews	17,800.00	17,800.00
Armstrong	6,705.00	0.00
Baker	54,000.00	41,000.00
Baucus	18,900.00	18,900.00
Bentsen	0.00	0.00
Biden	24,960.00	24,960.00
Boren	25,250.00	25,250.00
Boschwitz	5,600.00	2,100.00
Brady	0.00	0.00
Bradley	18,735.00	15,735.00
Bumpers	9,600.00	9,600.00
Burdick	5,000.00	5,000.00
H. Byrd	0.00	0.00
R. Byrd	10,000.00	10,000.00
Cannon	19,750.00	15,000.00
Chafee	29,600.00	25,350.00
Chiles	1,000.00	0.00
Cochran	29,000.00	29,000.00
Cohen	24,150.00	24,150.00
Cranston	30,600.00	30,600.00
D'Amato	25,250.00	25,250.00
Danforth	13,500.00	13,500.00
DeConcini	0.00	0.00
Denton	17,638.93	17,638.93
Dixon	17,000.00	17,000.00
Dodd	28,015.00	25,015.00
Dole	66,850.00	36,350.00
Domenici	29,700.00	29,700.00
Durenberger	24,750.00	24,750.00
Eagleton	9,050.00	9,050.00
East	2,250.00	2,250.00
Exon	8,350.00	8,350.00
Ford	7,600.00	7,600.00
Garn	48,000.00	48,000.00
Glenn	0.00	0.00
Goldwater	12,000.00	12,000.00
Gorton	12,750.00	12,750.00
Grassley	21,580.00	21,580.00
Hart	23,250.00	23,250.00
Hatch	29,700.00	29,700.00

SENATORS' HONORARIA TOTALS FOR 1981—Continued

	Total Honoraria	Total minus donations
Hatfield	31,691.00	30,941.00
Hawkins	23,000.00	23,000.00
Hayakawa	9,200.00	9,200.00
Heflin	650.00	650.00
Heinz	100.00	100.00
Helms	16,500.00	16,500.00
Hollings	25,150.00	25,150.00
Huddleston	22,500.00	22,500.00
Humphrey	3,500.00	0.00
Inouye	23,750.00	23,750.00
Jackson	56,250.00	0.00
Jepsen	18,250.00	18,250.00
Johnston	25,700.00	25,700.00
Kassebaum	4,500.00	4,500.00
Kasten	27,000.00	27,000.00
Kennedy	150.00	150.00
Laxalt	33,500.00	33,500.00
Leahy	13,800.00	13,800.00
Levin	0.00	0.00
Long	0.00	0.00
Lugar	40,200.00	25,000.00
Mathias	38,950.00	37,850.00
Matsunaga	22,700.00	22,700.00
Mattingly	4,500.00	4,500.00
McClure	38,450.00	31,850.00
Melcher	9,250.00	9,250.00
Metzenbaum	10,650.00	3,410.00
Mitchell	4,000.00	4,000.00
Moynihan	22,600.00	22,600.00
Murkowski	5,300.00	5,300.00
Nickles	17,500.00	13,000.00
Nunn	19,600.00	19,600.00
Packwood	29,487.00	29,487.00
Pell	6,700.00	0.00
Percy	11,900.00	11,900.00
Pressler	26,150.00	26,150.00
Proxmire	19,813.00	19,813.00
Pryor	10,730.00	10,730.00
Quayle	26,000.00	26,000.00
Randolph	12,600.00	12,600.00
Riegle	15,800.00	15,800.00
Roth	27,373.27	27,373.27
Rudman	1,000.00	0.00
Sarbanes	5,500.00	5,500.00
Sasser	22,200.00	22,200.00
Schmitt	5,000.00	5,000.00
Simpson	6,800.00	6,800.00
Specter	12,500.00	12,500.00
Stafford	25,000.00	25,000.00
Stennis	0.00	0.00
Stevens	20,250.00	20,250.00
Symms	40,700.00	37,200.00
Thurmond	22,206.00	
Tower	26,450.00	26,450.00
Tsongas	20,300.00	20,300.00
Wallop	24,300.00	24,300.00
Warner	0.00	0.00
Weicker	32,150.00	32,150.00
Zorinsky	0.00	0.00

Source: Secretary of the Senate, Congressional Record. ●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, the week of September 13 I was granted official leave on account of leading the House delegation to the meeting of the Inter-Parliamentary Union. Unfortunately I was forced to miss recorded votes that week, thus I would like to make my position known on all such votes.

Rollcall 320—Approval of the House Journal of Tuesday September 14; "yea."

Rollcall 321—H.R. 4374, Shipping Act of 1982; "yea."

Rollcall 322—H.R. 6444, Patent Term Extension; "nay."

Rollcall 323—H.R. 6813, Boat Safety Act; "yea."

Rollcall 324—H.R. 6580, sailing school vessel regulation; "yea."

Rollcall 325—H.R. 6355, technical corrections in health laws; "yea."

Rollcall 326—S. 923, Pretrial Services Act of 1982, conference report; "yea."

Rollcall 327—H.R. 6956, Department of HUD appropriations, fiscal year 1983, House to resolve itself into the Committee of the Whole; "yea."

Rollcall 328—H.R. 6956, Department of HUD appropriations, amendment to increase EPA R&D funding; "yea."

Rollcall 329—H.R. 6956, Department of HUD appropriations, amendment to delete money for NASA rocket space transportation system; "nay."

Rollcall 330—H.R. 6956, Department of HUD appropriations, amendment to bar use of EPA funds for mandatory inspection programs for vehicle emissions; "nay."

Rollcall 331—H.R. 6956, Department of HUD appropriations, final passage; "yea."

Rollcall 332—Approval of the House Journal of Wednesday September 16; "yea."

Rollcall 333—House Joint Resolution 562, urgent supplemental fiscal 1982 jobs program, adoption of the rule (H. Res. 582); "yea."

Rollcall 334—House Joint Resolution 562, urgent supplemental, motion that the House resolve into the Committee of the Whole; "yea."

Rollcall 335—House Joint Resolution 562, urgent supplemental, amendment to substitute for the bill's $1 billion authorization and appropriation, a $1.5 billion program to be funded by transfer of budget authority from the Synthetic Fuels Corporation; "nay."

Rollcall 336—House Joint Resolution 562, urgent supplemental, motion that the House resolve into the Committee of the Whole House on the State of the Union; "yea."

Rollcall 338—House Joint Resolution 562, urgent supplemental, amendment to substitute for the bill's $1 billion authorization and appropriation, a $1.5 billion program to be funded by transfer authority from the Synthetic Fuels Corporation; "nay."

Rollcall 339—House Joint Resolution 562, urgent supplemental, fiscal 1982 jobs program, final passage; "yea."

Rollcall 340—H.R. 5543, Ocean and Coastal Resources Management and Development Block Grant Act, adoption of the rule (H. Res. 555); "yea."●

UNEMPLOYMENT DISTRESS IS WORSENING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, last month the unemployment rate was 9.8 percent, the same as in July. Some in the administration have suggested that this is good news, because, in their view, the employment situation was no worse in August than in July.

But in one important respect the employment situation did get worse in August. The economic, personal, and psychological hardships resulting from unemployment depend on the length of unemployment, as well as the fact of being unemployed. The depth of economic distress is appropriately measured by taking account of both the unemployment rate and the average duration of employment.

The Joint Economic Committee has developed a measure of labor market distress which combines the effects of a higher level and a longer duration of unemployment. This unemployment distress index is equal to the total number of weeks of unemployment, calculated by multiplying the number of unemployed by the average length of unemployment. Here is the index for the last decade.

Period	Percentage unemployment rate	Number unemployed (millions)	Average duration (weeks)	Unemployment distress index [1] (millions)
1970	4.9	4.093	8.6	35.2
1971	5.9	5.016	11.3	56.7
1972	5.6	4.882	12.0	58.6
1973	4.9	4.365	10.0	43.6
1974	5.6	5.156	9.8	50.5
1975	8.5	7.929	14.2	112.6
1976	7.7	7.406	15.8	117.0
1977	7.1	6.991	14.3	100.0
1978	6.1	6.202	11.9	73.8
1979	5.8	6.137	10.8	66.3
1980	7.1	7.637	11.9	90.9
1981	7.6	8.273	13.7	113.3
July 1981	7.2	7.824	14.1	110.3
First quarter 1982	8.8	9.576	13.8	132.1
Second quarter 1982	9.5	10.428	15.1	157.5
July 1982	9.8	10.790	15.6	168.3
August 1982	9.8	10.805	16.2	175.0

[1] Total weeks of unemployment.

In July 1981, the beginning of this recession, the average length of unemployment for the 7.8 million unemployed was 14.1 weeks. Thus the total number of weeks of unemployment was 110 million. Last month the number unemployed was 10.8 million, and the average duration of unemployment was 16.2 weeks, yielding a total of 175 million weeks of unemployment. Since July 1981, the total number of weeks of unemployment has risen by 59 percent, the combined effect of a 38-percent increase in the number of unemployed, and a 15-percent rise in the average length of unemployment.

The unemployment rate doubled between 1970 and August 1982, rising from 4.9 to 9.8 percent. But this greatly understates the rise in labor market distress. The total number of weeks of unemployment rose by 397 percent, the combined effect of a 164-percent rise in the number of unemployed, and an 88-percent increase in the average duration of unemployment.

The length of the workweek in private industry averaged only 34.9 hours in August. At this rate, these 175 million weeks of unemployment amounted to a loss of more than 6.1 billion hours of labor.●

ELSIE B. MARSHALL: NEW PRESIDENT OF THE PORTUGUESE PROTECTIVE UNION OF CALIFORNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I would like to bring to the attention of my colleagues the recent election of a constituent of mine, Ms. Elsie B. Marshall, as supreme president of the Portuguese Protective Union of the State of California (UPPEC). Ms. Marshall has long been active in this organization, having joined the Watsonville chapter in 1939 and served as president of that chapter for two terms.

Ms. Marshall will be installed as supreme president this week, and a testimonial dinner in her honor will be held in November.

Elsie Marshall has a long record of community service in Santa Cruz County, where she has lived since she was a young girl. She has been very active in the Santa Cruz Parlor of the Native Daughters of the Golden West. In fact, she has served two terms as president of that organization. She is also a member of, and is active in, a number of other groups, such as the St. Anthony Society, the CPDES, and the I.D.E.S. No. 39.

In addition, Ms. Marshall, until her retirement to devote full attention to her new role as supreme president of UPPEC, worked for some 30 years for Shaffer's Tropical Gardens, where she became expert in the breeding, raising, and selection of flowers and helped to create many varieties of orchid, one of which has been named the "Elizabeth Marshall" in her honor.

Mr. Speaker, across our Nation there are millions of citizens devoting their time and energy to the maintenance of the culture of the homelands from which their parents and grandparents came to this country. They make a priceless contribution to the rich cultural mix which makes us unique among the nations of the world. Elsie Marshall is one of those to whom we owe a debt of thanks; she is helping to keep alive in this country the wonderful Portuguese heritage that is shared by many of my own constituents and so many people throughout this land. I want to wish her the best of luck during her tenure as president of UPPEC, and I know my colleagues join me in that sentiment.●

GOVERNMENT COMPTROLLER FOR GUAM TO BE TRANSFERRED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. WON PAT) is recognized for 5 minutes.

● Mr. WON PAT. Mr. Speaker, I have been informally informed that Secretary Watt plans to transfer the Government Comptroller for Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands half-way around the world to fill the vacant position of Government Comptroller for the Virgin Islands.

I say informally informed because this House has not yet been informed in the manner required by law of the transfer and the reasons for it.

When we are, I hope that Secretary Watt will adequately address several serious questions about the transfer.

First, will Comptroller Fukutome be allowed to complete his investigation of whether or not temporary employment powers are being abused by the government of Guam?

Politically sensitive audits such as this should not be interfered with by political appointees. If they are, it may appear that a politically motivated coverup is taking place.

Unfortunately, a newspaper account says that Assistant Interior Secretary Sanjuan has ordered Comptroller Fukutome off this investigation because he had not approved of it.

I cannot believe this report, quoting Mr. Sanjuan's assistant, is accurate. The law clearly gives the Comptroller the authority and the responsiblity to probe suspected improper spending.

Second, is it appropriate to decide on the transfer now?

On September 9, this House passed my bill H.R. 5139. Among other things, it would transfer the audit authority and staff of the Comptroller out from under Assistant Secretary Sanjuan's direction to that of the Inspector General.

This proposal was passed in response to a GAO audit which said that the independence of the Comptroller was being impaired by directives from the Assistant Secretary's office.

Since Senate passage of my bill is likely soon, it would seem to be prudent to delay the assignment transfer decision until authority for the Comptroller is transferred to the Inspector General.

Hasty action now suggests some motivation other than the official explanation. It encourages speculation that the Secretary is responding to the desperate pleas of Guam politicians who have been embarrassed by the Comptroller's past investigations and are afraid of his future findings.

The official explanation itself, as it has been reported to me, is that Comptroller Fukutome is being shipped to the opposite side of the globe simply because there will shortly be a vacancy there.

This, of course, is not a plausible reason to order such a transfer. And this relates to my third concern: Would such a transfer be good policy and cost-effective?

I question whether it is good policy to send the experienced Federal auditor for the Western Pacific to be the Federal auditor for the Caribbean territory involved.

Is there not anyone in the Virgin Islands who could do the job so that Guam, the Northern Marianas, and the Micronesian governments do not have to be deprived of Mr. Fukutome's exceptional abilities and unmatchable knowledge? Is there not any Federal auditor in the Virgin Islands, Puerto Rico, or even the 50 States who could be assigned to St. Thomas?

I raise the issue of cost because cost of travel was the reason given by Mr. Sanjuan for denying permission for this most senior Federal Comptroller to testify at my subcommittee's hearing last month on the sweeping changes the House has now approved in the Comptrollers' operations.

If it cost too much to have Mr. Fukutome advise the Congress on our major overhaul of all Federal auditing in the insular areas, can we afford to spend perhaps 20 times as much to move him to the Virgin Islands? Further, how could Mr. Sanjuan's budget accommodate the cost of bringing Mr. Fukutome to Washington for a meeting on a single audit last week—as it has in the past—if it could not afford the cost of a requested appearance by Mr. Fukutome at a congressional hearing on the future of Mr. Fukutome's entire office?

I must also note on this point that the Committee on Interior and Insular Affairs has expressly recommended against funding such costly personnel rotations in this time of fiscal austerity.

My fourth question is whether Mr. Fukutome is being permitted proper time for this transfer of many thousands of miles and is amenable to it?

I do not believe the reports I have heard that the transfer is to take place next month. The law requires that the Congress be informed 60 days prior to the transfer and we still have not been informed about the transfer.

In addition, the Secretary should indicate to us that Mr. Fukutome agrees with the new assignment. Otherwise, suspicions may arise that he is being forced out of his present position for reasons other than the official explanation.

Finally, is the assignment of Mr. Fukutome acceptable to the Virgin Islands? Have the Delegate, Governor, and legislative leadership been consulted about it?

I know Ben Fukutome. I do not believe there is anyone familiar with my area that does not know of his professional competence and independence. I am sure that he would perform well in the Virgin Islands. But do the people of that territory find the assignment acceptable?

Mr. Speaker, as I indicated at the outset, I hope that these questions are fully answered in Secretary Watt's explanation to us of this proposed transfer of an important Federal official. Mr. Fukutome's record as an aggressive and impartial watchdog of spending of the people's money demands that we, as the people's representatives, get no less.●

TRADITION AND EXTRADITION: H.R. 6046

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, I must join with a number of my colleagues in expressing great concern over the disturbing provisions of the unamended Extradition Reform Act (H.R. 6046).

It is obvious that our extradition system needs revision. We certainly do not want to encourage streams of international terrorists to seek asylum in the United States. We must facilitate their prompt return to justice in the countries where they have committed their heinous crimes. In our haste to get tough with those individuals who thrive on violence and injustice, however, we cannot neglect our American tradition of protecting the legitimate victims of political tyranny.

In its present form, H.R. 6046 would actually inhibit the course of democratic justice, and allow for more arbitrary Federal interference with the civil liberties of U.S. residents. For example, the power to determine whether a foreign government's extradition request might really be just a pretense for continued persecution would, under this legislation, belong not to the independent judiciary but to the Secretary of State.

This bill would also extend the list of extraditable crimes. Exiled critics of authoritarian regimes, former officials of regimes which the United States once supported, and others once protected under American law would no longer be considered "political offenders," and thus subject to extradition. Political dissidents from El Salvador or the Philippines who have already found sanctuary in America could be detained here and then returned to the oppressive government which persecuted them in the first place, potentially on the basis of any utterly insubstantial evidence.

Mr. Speaker, in the most ardent interests of the constitutional rights to freedom and due process, we must thoroughly examine the full implications of H.R. 6046. We must carefully consider proposed amendments which would bring more clarity and compassion to the bill. We cannot risk deporting a 200-year history of firm, yet compassionate, American justice.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHAPPELL, for today, on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARTIN of New York) to revise and extend their remarks and include extraneous material:)

Mr. MCCLOSKEY, for 30 minutes, today.

Mr. BROYHILL, for 15 minutes, today.

Mrs. HECKLER, for 5 minutes, today.

(The following Members (at the request of Mr. DYSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LAFALCE, for 20 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. GORE, for 30 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. SCHUMER, for 10 minutes, today.

Mr. WON PAT, for 5 minutes, today.

Mr. WEAVER, for 5 minutes, today.

Mr. BAILEY of Pennsylvania, for 30 minutes each, on September 28, 29, 30, and October 1.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. COLLINS of Illinois, to revise and extend her remarks and to appear following offering of user fee amendment by Mr. CONABLE.

(The following Members (at the request of Mr. MARTIN of New York) and to include extraneous matter:)

Mr. YOUNG of Alaska.

Mr. SCHULZE.

Mr. FIELDS.

Mr. NELLIGAN.

Mr. DUNN.

Mr. LEE.

Mr. DANNEMEYER.

Mr. PORTER in four instances.

Mr. PETRI.

Mr. JAMES K. COYNE.

Mr. CLINGER.

Mr. BAILEY of Missouri.

Mrs. HECKLER.

(The following Members (at the request of Mr. DYSON) and to include extraneous matter:)

Mr. DERRICK.

Mrs. SCHROEDER.

Mr. ROE.

Mr. MCDONALD.

Mr. MAZZOLI.

Mr. PEASE.

Mr. MCHUGH.

Mr. MOFFETT in two instances.

Mr. DELLUMS in two instances.

Mr. EDWARDS of California in two instances.

Mr. SOLARZ in two instances.

Mr. BARNES.

Mr. FLORIO.

Mr. SIMON in two instances.

Mr. DONNELLY.

Mr. UDALL.

Ms. FERRARO.

Mr. FORD of Michigan.

Mr. AKAKA.

Mr. APPLEGATE.

Mr. MOTTL.

Mr. BIAGGI.

Mr. DYSON.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following title:

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible";

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on September 22, 1982 present to the President, for his approval a bill of the House of the following title:

H.R. 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

ADJOURNMENT

Mr. DYSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Friday, September 24, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

4824. Under clause 2 of rule XXIV, a letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting reports on political contributions by various ambassadorial nominees and by members of their families, pursuant to section 304(b)(2) of Public Law 96-465, was taken from the Speaker's table and referred to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 7115. A bill to authorize the transfer of nine naval vessels to certain foreign governments; with an amendment (Rept. No. 97-843, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on House Administration. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-856). Referred to the Committee of the Whole House on the State of the Union.

Mr. NICHOLS: Committee on Armed Services. H.R. 3278. A bill to amend title 10, United States Code, to provide additional standards for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes; with an amendment (Rept. No. 97-857). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4496. A bill to clarify the citizenship status of the members of the Texas Band of Kickapoo Indians; to provide for a reservation for the Texas Band of Kickapoo; to provide to members of the Texas Band of Kickapoo those services and benefits furnished to American Indian tribes and individuals, and for other purposes; with amendments (Rept. No. 97-858). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5121. A bill to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes; with an amendment (Rept. No. 97-859). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on Foreign Affairs. Senate Concurrent Resolution 18. A concurrent resolution relating to the restoration of the free exercise of religion in Ukraine (Rept. No. 97-860). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5906. A bill to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to clarify provisions relating to claims, financial responsibility, and civil penalties; with an amendment (Rept. No. 97-861). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6588. A bill to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsibility, and for other purposes. (Rept. No. 97-862). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4863. A bill to modify the maritime laws applicable to the recovery of damages by cer-

tain foreign seamen; with amendments (Rept. No. 97-863). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee of conference. Conference report on H.R. 5930 (Rept. No. 97-864). Ordered to be printed.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2303. A bill to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Foreign Mail Center" (Rept. No. 97-865). Referred to the House Calendar.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 5941. A bill to designate the building known as the Federal building and U.S. courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building"; with amendments (Rept. No. 97-866). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 6170. A bill to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs; with amendments (Rept. No. 97-867). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 7159. A bill to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH; (Rept. No. 97-868). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DASCHLE:

H.R. 7170. A bill to transfer from the Administrator of Veterans' Affairs to the Secretary of Health and Human Services the responsibility to conduct an epidemiological study of the long-term health effects in humans of exposure to phenoxy herbicides (including agent orange); to the Committee on Veterans' Affairs.

By Mr. DONNELLY:

H.R. 7171. A bill to amend title 5, United States Code, to provide that the annuity or retirement pay payable to a Federal retiree may not be increased by a cost-of-living adjustment beyond a certain percentage of the basic pay currently payable to those in active service; to the Committee on Post Office and Civil Service.

By Mr. FLORIO:

H.R. 7172. A bill to amend title 11, United States Code, to give priority to claims of governmental units for costs which are incurred to abate hazardous substances and for which the debtor is liable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, to certain claims under the Solid Waste Disposal Act, and to claims under similar State laws; to the Committee on the Judiciary.

By Mr. FOUNTAIN (for himself, Mr. BROOKS, Mr. HORTON, Mr. BROWN of Ohio, Mr. LEVITAS, Mr. NEAL, Mr. MCGRATH, Mr. FRANK, and Mr. DENARDIS):

H.R. 7173. A bill to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations; to the Committee on Government Operations.

By Mr. FRANK:

H.R. 7174. A bill to provide that section 402(a)(31) of the Social Security Act, which requires that certain income of a stepparent living with a dependent child be taken into account in determining such child's need under the AFDC program, shall not apply in any case where the stepparent was already living with the child at the time such section became effective; to the Committee on Ways and Means.

By Mr. HORTON:

H.R. 7175. A bill to amend the Internal Revenue Code of 1954 to allow the Secretary of Treasury to waive the interest penalty for failure to pay estimated income tax for elderly and retired persons, in certain situations; to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 7176. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall (if otherwise qualified) be entitled to a prorated benefit for the month of his death; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 7177. A bill to amend the Black Lung Benefits Act of 1969 to prohibit the reduction of disability benefits under the Social Security Act; to the Committee on Education and Labor.

By Mr. PETRI:

H.R. 7178. A bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes; to the Committee on Education and Labor.

By Mr. SCHEUER:

H.R. 7179. A bill to provide for the reorganization of the Environmental Protection Agency by the establishment of an independent regulatory commission, and for other purposes; to the Committee on Government Operations.

By Mr. SCHUMER:

H.R. 7180. A bill to reduce the incidence of arson in urban areas by prohibiting the payment of fire insurance proceeds with respect to certain properties for which property taxes are overdue; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SOLOMON:

H.R. 7181. A bill to amend the Internal Revenue Code of 1954 to reinstate the partial exclusion of dividends and interest, and for other purposes; to the Committee on Ways and Means.

H.R. 7182. A bill to repeal the withholding on interest and dividends enacted by the Tax Equity and Fiscal Responsibility Act of 1982; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 7183. A bill to authorize appropriations for the Navajo and Hopi Indian Relocation Commission; to the Committee on Interior and Insular Affairs.

By Mr. VANDER JAGT (for himself and Mr. BLILEY):

H.R. 7184. A bill to repeal the increase in the excise tax on cigarettes; to the Committee on Ways and Means.

By Mr. WEBER of Minnesota:

H.R. 7185. A bill to amend the Agricultural Act of 1970 to prohibit restrictions on the export of certain agricultural commodities; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. MOAKLEY (for himself, Mr. HOLLENBECK, Mr. BROWN of California, Mr. BEDELL, Mr. FRANK, Mr. MAVROULES, Mr. HORTON, Mr. DOWNEY, Mrs. SCHROEDER, Mrs. CHISHOLM, Mr. LEACH of Iowa, Mr. LAFALCE, Mr. WEISS, Mr. SEIBERLING, Mr. FORD of Tennessee, Mr. DENARDIS, Mr. LOWRY of Washington, Mr. WEAVER, Mr. WOLPE, Mr. DELLUMS, Mrs. HECKLER, Mr. BRODHEAD, Mr. EDGAR, Mr. LEHMAN, Mr. AUCOIN, Mr. CROCKETT, Mr. SCHEUER, Ms. MIKULSKI, Mr. FAUNTROY, and Mr. GREEN):

H.J. Res. 607. Joint resolution calling for immediate negotiations for a ban on weapons of any kind in space; to the Committee on Foreign Affairs.

By Mr. GOODLING:

H.J. Res. 608. Joint resolution to urge immediate reductions of strategic nuclear forces to equal and substantially reduced levels while awaiting a final outcome of the START negotiations; to the Committee on Foreign Affairs.

By Mr. DE LA GARZA (for himself and Mr. WAMPLER):

H. Con. Res. 412. Concurrent resolution extending to the Graduate School, U.S. Department of Agriculture, the appreciation of the Congress on the 60th anniversary of the founding of the school; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HUTTO introduced a bill (H.R. 7186) to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Tri Star* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, which was referred; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 580: Mr. EDGAR, Mr. WAXMAN, Mr. MADIGAN, Ms. MIKULSKI, Mr. MITCHELL of New York, Mr. DE LA GARZA, and Mr. SCHEUER.

H.R. 2007: Mr. GUARINI.

H.R. 3117: Mr. DENARDIS.

H.R. 5121: Mr. UDALL, Mr. MARRIOTT, Mr. LUJAN, Mr. CHENEY, Mr. MILLER of California, Mr. YOUNG of Alaska, Mrs. BYRON, Mr. BEREUTER, Mr. RAHALL, Mr. LAGOMARSINO, Mr. CLAUSEN, Mr. MARTIN of New York, Mr. HANSEN of Utah, Mr. HANSEN of Idaho, Mr. PASHAYAN, Mr. GEJDENSON, Mr. BEDELL, Mr. BEILENSON, Mr. BEVILL, Mr. BRODHEAD, Mr. JOHN L. BURTON, Mr. CORRADA, Mr. DICKS, Mr. DONNELLY, Mr. EDGAR, Mr. EDWARDS of California, Mr. EVANS of Georgia, Mr. FISH, Mr. FLORIO, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. GORE, Mr. JEFFORDS, Mr. MINISH, Mr. MITCHELL of Maryland, Mr. MOTTL, Mr. PEPPER, Mr. RATCHFORD, Mrs. SCHNEIDER, Mr. SKEEN, Mr. WOLPE, Mr. ECKART, and Mr. ALBOSTA.

H.R. 6142: Mr. SHARP.

H.R. 6348: Mr. BROOMFIELD, Mr. PARRIS, Mr. BINGHAM, Mr. FAZIO, Mr. DOUGHERTY, Mr. MARLENEE, Mr. TAYLOR, Mr. LELAND, Mr. PANETTA, and Mr. MATTOX.

H.R. 6373: Mr. BENNETT.

H.R. 6460: Mrs. HECKLER and Mr. SCHUMER.
H.R. 6463: Mr. WINN, Mr. GLICKMAN, and Mr. DICKINSON.
H.R. 6483: Mr. PEYSER.
H.R. 6606: Mr. FAZIO.
H.R. 6748: Mr. JEFFRIES.
H.R. 6842: Mr. WEBER of Ohio, Mr. KINDNESS, Mr. GINGRICH, and Mr. LEBOUTILLIER.
H.R. 6905: Mr. FORD of Michigan and Mr. ALBOSTA.
H.R. 6906: Mr. FORD of Michigan.
H.R. 7020: Mrs. ASHBROOK.
H.R. 7074: Mr. MATSUI.
H.R. 7075: Mr. MATSUI.
H.R. 7090: Mr. HUTTO.
H.R. 7117: Mr. DOUGHERTY.
H.R. 7128: Mr. DORNAN of California, Mr. DANNEMEYER, and Mr. ROBERTS of South Dakota.
H.J. Res. 264: Mr. JAMES K. COYNE.
H.J. Res 490: Mr. GRAMM.
H.J. Res. 493: Mr. LONG of Louisiana, Mr. HUTTO, Mr. TAUKE, and Mr. EDWARDS of Alabama.
H.J. Res. 504: Mr. MARRIOTT.
H.J. Res. 533: Mr. PETRI.
H.J. Res. 552: Mr. DIXON.
H.J. Res. 558: Mr. FORSYTHE, Mr. HOWARD, Mr. KEMP, Mr. FRENZEL, Mr. RATCHFORD, Mrs. SNOWE, Mr. EDGAR, Mr. BROOKS, Mr. MOLINARI, Mr. SABO, Mr. ROE, Mr. BROOMFIELD, Mr. ERDAHL, Mrs. FENWICK, Mr. SHAMANSKY, Mr. LOWRY of Washington, Mr. VENTO, Mr. WHITTAKER, Mr. DANNEMEYER, Mr. KASTENMEIER, Mr. FISH, and Mr. LONG of Louisiana.
H.J. Res. 563: Mrs. KENNELLY, Mr. LOTT, Mr. STANGELAND, Mr. STENHLOM, Mr. BRINKLEY, Mr. MITCHELL of New York, Mr. WALKER, Mr. EVANS of Iowa, Mr. RATCHFORD, Mr. KASTENMEIER, Mr. NATCHER, Mr. HEFNER, Mr. DYSON, Mr. BROOKS, Mr. DOWDY, Mr. BOWEN, Mr. KEMP, Mr. BENEDICT, Mr. JONES of North Carolina, Mr. YOUNG of Alaska, Mr. APPLEGATE, Mr. TAUKE, Mr. ROBERTS of South Dakota, Mr. LEACH of Iowa, Mr. BEREUTER, Mr. MCDADE, Mr. ST GERMAIN, Mr. ADDABBO, Mr. MCDONALD, Mr. MOLINARI, Mr. ROE, Mr. LANTOS, Mr. PEPPER, Mr. DANIEL B. CRANE, Mrs. HOLT, Mr. WINN, Mr. WYLIE, Mr. MARRIOTT, Mr. SCHEUER, Mr. FAZIO, Mr. WOLF, Mr. CHENEY, Mr. HATCHER, Mr. SHELBY, Mr. HANSEN of Idaho, Mr. LAGOMARSINO, Mr. BEDELL, Mr. SUNIA, Mr. BROWN of Colorado, Mr. DE LA GARZA, Mr. FLORIO, Mr. LOWERY of California, Mr. ANDREWS, Mr. SHARP, Mr. FAUNTROY, Mr. RAHALL, Mr. FRENZEL, Mr. BEVILL, Mr. HORTON, Mr. FROST, Mr. MINISH, Mr. WAXMAN, Mr. BEARD, Mr. HUGHES, Mr. SPENCE, Mr. FISH, Mr. DAUB, Mr. EDWARDS of Alabama, Mr. MADIGAN, Mr. COATS, Mr. ROSE, Mr. FORD of Michigan, Mr. GORE, Mr. SYNAR, Mr. GREGG, Mr. FOWLER, and Mr. MINETA.
H.J. Res. 570: Mr. DORGAN of North Dakota.
H.J. Res. 576: Mr. MOLINARI, Mr. RINALDO, Mr. RAHALL, Mr. WOLF, Mr. HORTON, Mr. LANTOS, Mr. LAGOMARSINO, Mr. BROOMFIELD, Mr. NATCHER, Mr. HYDE, Mr. FRENZEL, Mr. SUNIA, Mr. QUILLEN, Mr. FORSYTHE, Mr. ROE, and Mr. DAUB.
H.J. Res. 591: Mr. JOHN L. BURTON, Mr. CRAIG, Mr. ROBERT W. DANIEL, JR., Mr. KAZEN, Mr. LAGOMARSINO, and Mr. MITCHELL of New York.
H. Con. Res. 236: Mr. JOHN L. BURTON, Mr. RODINO, Mrs. HECKLER, Mr. ROSE, Mr. WOLF, Mr. HORTON, Mr. MAVROULES, Mr. EDGAR, Mr. LOWERY of California, Mr. FORD of Tennessee, Mrs. MARTIN of Illinois, Mr. WYDEN, Mr. DORNAN of California, and Mr. WAXMAN.
H. Con. Res. 336: Mr. OBERSTAR, Ms. FIEDLER, and Mr. RITTER.
H. Con. Res. 406: Mr. LAGOMARSINO, Mr. WINN, Mr. MARRIOTT, Mr. AUCOIN, Mr. EDGAR, Mr. ROE, Mr. LEACH of Iowa, Mr. CORRADA, and Mr. WHITEHURST.
H. Res. 532: Mr. WOLF, Mr. GUARINI, Mr. WIRTH, Mr. MARTIN of North Carolina, Mrs. HOLT, Mr. EDGAR, Mr. UDALL, Mr. BUTLER, Mr. DE LUGO, Mr. COELHO, Mr. MITCHELL of Maryland, Mr. MICHEL, Mr. FORD of Michigan, Mr. ANDERSON, Mr. ST GERMAIN, Mr. MAZZOLI, and Mr. CONABLE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

622. By the SPEAKER: Petition of Evangelical Covenant Church of America, Chicago, Ill., relative to defense spending; to the Committee on Armed Services.

623. Also, petition of Concepcion Marrero Santos, Bayamon, Puerto Rico, relative to taxes; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 rule XXIII, proposed amendments were submitted as follows:

H.R. 3809

By Mr. LOTT:

(An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or any amendments thereto.)

—Strike section 112 in its entirety and insert in lieu thereof the following:

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall provide that any site shall be disqualified from development as a repository if the proposed location of the repository site in such site is, according to the most recent applicable data collected by the Bureau of the Census before the date such site is considered for site characterization located in, or within 3 miles of, any standard metropolitan statistical area, county, urbanized area, or place, as delineated by the Bureau of the Census, having both a population of not less than 1,000 individuals and a population density of not less than 1,000 individuals per square mile. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recent sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendations under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsection. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as

the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

H.R. 5540

By Mr. BETHUNE:

—Page 43, after line 10 insert the following:

"(o) No assistance shall be extended under this section unless the Secretary of Defense determines that the purposes of this Act cannot be otherwise achieved."

—Page 43, after line 10, add the following:

"(o) Whenever the President determines that such action is necessary or appropriate to prevent or control high interest rates, or reduce unemployment in any sector of the economy, or to prevent or control inflation or recession, the President may authorize the Board of Governors of the Federal Reserve System or the Secretary of the Treasury to regulate or control any or all extensions of credit (loans, loan guarantees or commitments for loan guarantees) authorized under this Act."

—Page 43, after line 10 insert the following:

"(o) No assistance shall be extended under this section unless the Secretary of Commerce determines that the purposes of this Act cannot be otherwise achieved."

EXTENSIONS OF REMARKS

AMERICAN IS MY NAME

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. GONZALEZ. Mr. Speaker, As I am sure you are aware, the past week was proclaimed National Hispanic Heritage Week, 1982, by President Reagan.

According to the 1980 census, the Hispanic population numbers over 14 million—an increase of 61 percent over the 1970 figure. Of this increase, Mexican Americans number 8.7 million—an increase of 93 percent over the 1970 figure. It is clear from this data that Hispanics will continue to play an important role in the direction of this country.

For over 20 years I have represented San Antonio, a city of which 54 percent of its residents are of Mexican descent. With this in mind, I would like to submit for the RECORD, a statement written by one of my constituents, Ramon Hernandez, which expresses his throughts on being Hispanic.

AMERICAN IS MY NAME

(By Ramon Hernandez)

By Presidential Proclamation, the week of September 12, 1982 will be observed as National Hispanic Heritage Week.

When I was a young boy, I knew it was bad to be a Mexican therefore, I would tell people I was Spanish. Many years later this overt racism was replaced by the one word—Hispanic. Today racism is more subtle. It's like a transparent film on the water surface. It is hard to distinguish, but it's very real.

America is a multi-cultural country and we're part of this country. Yes, I am proud to be of Mexican descent, but I am even prouder to be an American.

Our forefathers were not forced into this country. They came here by choice. They were sensible enough to immigrate to this land where each individual was, and is granted the opportunity to work, and to achieve whatever heights, or goals he sets for himself. Many times our forefathers were oppressed and exploited, but they swallowed their pride so that we, their children and descendants could have a bright future in a better world.

We are lucky in the fact that we have enjoyed the best of two worlds. We have a duality of heritage and experience. We learned our parents' language and their culture, which we respect and take great personal pride in. At the same time we grew up in the American way of life. We ate tacos at homes and hamburgers at school. We spoke Spanish with our families and English with our friends and neighbors.

We are a proud people, but we are not unwilling to change to the American way. That is not to say that we will foresake our ancestry, folklore, art and culture. We will always respect and cherish the history our ancestors left behind. We are a new breed not afraid of adopting new traditions. As the first immigrants of all nationalities, we too promise to uphold the American heritage. All we ask is that we be treated as the Americans we are, and not as minorities.

Many Americans of Mexican descent do not like being called Chicano or Mexican-American, because they don't like to be differentiated from other Americans. Many have submerged their heritage in order to blend into the larger American society, yet no one of Latin descent can deny his heritage.

Anyone can take one look at a person of Mexican descent and tell by their straight black hair, brown eyes and olive skin, that he or she is a descendant of the once great Aztec civilization. We are proud of our heritage, but above all, we too were born and raised in this great country known as the United States of America.

Latin blood flows in my veins, and I carry it with the supreme dignity of a human being. Mankind did not begin yellow, white, red or black, but only as man.

Back home in Texas, we are called Tex-Mex. In other parts of the country we are called the Cockroach people, Mexican-Americans, Hispanos, Mestizos, Chicanos; not to mention "wet-backs, spiks, greasers, Frito Banditos and grease balls." Each one seems to have their own tag.

Maurico Molina once defined a Hispanic as someone who came, or whose ancestors came, from a region where Spanish is the only language spoken. But what is a Mexican American of Mestizo heritage? No one has expressed it more beautifully than Julian Nava, ex-U.S. Ambassador to Mexico, when he stated, "He is Indian in blood and soul, Spanish in language and civilization and American by birth. He is a citizen of the United States whose family originated in Mexico. Beyond that, it is a state of mind."

Although we are not religated to being a powerless nether class on the margin of society as much as in the past; there are still incidents of discrimination.

For example today, most forms and job applications contain a demographic breakdown according to ethnic or racial groupings. This allows for possible unconscious discrimination of an individual by a prospective employer. It also promotes the continuation and existence of prejudice.

Furthermore, people in professional and supervisory positions sometimes unknowingly emphasize the ethnic background of an individual on whom they are writing a report or evaluation. They either begin their remarks with, "This Hispanic youth," or "This Mexican man." Why can't they say, "This man, this individual or Mr. Hernandez?" Why must they always refer to the man's ethnic background? It is truely sad to say that we are still seen, only as members of a minority in the eyes of many superiors, co-workers and peers.

That is why Mexican Americans are a people in transition; concerned with the acceptance of their ancestral language and traditions in an America that has not always received them gladly. They are energetically surveying their distinctive contributions to the nation's life and embarking in a quest for self-definition.

There is no room for segregation and discrimination in this United States of America, let us remember the American heros—black, white, brown, yellow and red—who have contributed to our American heritage. Let's make this nation even better by working together for the unity of our country.

Remember, we too were born in this country. We attended the same schools and cheered for the same teams. Many of us dated, and married, under much opposition, so-called Anglo-American girls. We enlisted in the various U.S. Armed Forces, and we fought and died in Germany, Korea, the Middle East and Viet Nam to keep this country free. Those who survived continued to work a lifetime contributing their talents to help make this country even greater.

One day, we too will grow old and die making our final contribution to this great land. Our bodies, buried in this soil, will turn to dust and become a part of a place called Los Estados Unidos De America.

I have a deep sense of appreciation for what this country, and the Navy, have given me. Yes, I have many things to be thankful for, but before I die. I pray to God; that the day will come when I can be seen as just a man. To see the day when people will call me by what I am—an American. That my children be spared the agony, the frustration and the torture of being stereotyped as a minority.

So proud am I of my native land that the hair on the back of my neck stands on end when I hear the National Anthem played. On the other extreme, nothing hurts so much as hearing someone call out to me, "Hey Mex."

My last wish, though it may look strange or out of place on my tombstone; I want these words inscribed, "Born American, died American—Here lies another proud American, Ramon Hernandez."

My heritage will always be undeniably Mexican and I am proud of it, but I am not happy about being put in a showcase for one week a year. Why not put the focus on the other nationalities that make up what America is today? Don't they too deserve recognition? Better yet, let's desegregate together for an American Heritage Week to remind us that we are all Americans.●

INAUGURATION CEREMONY FOR NATIONAL SUPERCONDUCTING CYCLOTRON LABORATORY

HON. JIM DUNN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DUNN. Mr. Speaker, I would like to take this opportunity to congratulate Michigan State University, which will celebrate on September 27 the official inauguration of the world's first superconducting cyclotron to study high-energy physics. The National Superconducting Cyclotron Lab-

oratory has already proven to be a useful tool for scientific study and I want to extend my best wishes for a meaningful and joyous inauguration ceremony.

Under the direction of Dr. Henry G. Blosser, the cyclotron first attracted worldwide attention last November when a group of nine scientists conducted the first observation of nuclear reactions at the facility. Since then, scientists from throughout the world have visited MSU to observe the cyclotron, which accelerates heavy atoms to high energies to provide an opportunity to study the nucleus as never before. Though many of us do not understand the details of the scientific study which is taking place at the cyclotron, the benefits of such research are more easily comprehended.

While research being conducted at MSU could aid a variety of fields, I will cite just a couple to illustrate the importance of this study. Spinoff applications of the research could aid agriculture by allowing unprecedented study of how plants use fertilizer. And another example of its significance, which is of particular importance to my home State, is that it could help the auto industry by showing engine wear in detail that has previously been impossible.

Potential benefits from the cyclotron remain largely a mystery because research of this kind has not been possible before. The current cyclotron is scheduled to be coupled with an even larger one upon its completion in 1985. The tandem will have unique capabilities for research and it is speculated that this capability could lead to the creation of new elements that do not now exist on Earth. Scientists throughout the world are eager to conduct experiments with the cyclotron.

Mr. Speaker, thank you for allowing me this opportunity to draw attention to the cyclotron and its inauguration ceremony. With the potential benefits to be gained through research at this facility, the National Superconducting Cyclotron Laboratory should not only be a source of immense pride to MSU, East Lansing, and Michigan, but to all Americans.●

H.R. 5133, THE AUTO DOMESTIC CONTENT PROPOSAL

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DANNEMEYER. Mr. Speaker, earlier today I had the privilege of testifying before the Committee on Ways and Means, Subcommittee on Trade, on H.R. 5133, the Fair Practices in Automotive Products Act. This bill was recently reported by a narrow margin out of the Committee on Energy and Commerce on which I serve and is now pending before Ways and Means. In light of the fact that this bill may come to the floor before adjournment, I would like to insert my prepared statement at this point in the RECORD.

The statement follows:

STATEMENT OF HON. WILLIAM E. DANNEMEYER ON H.R. 5133

Mr. Chairman, and members of the Committee on Ways and Means, Subcommittee on Trade: I appreciate having this opportunity to share my thoughts with you on H.R. 5133, the Fair Practices In Automotive Products Act.

As you know, this bill was reported out of the Committee on Energy and Commerce, on which I am privileged to serve, by a vote of 25–16 on September 15, 1982. It has been sequentially referred to this Committee for a period not to exceed October 1, 1982. You are to be commended for holding prompt and thorough hearings on the legislation at hand.

At the outset, Mr. Chairman, I would like to discuss several procedural matters and questions related to the timing of the legislation. Then I would like to outline the policy-related problems that I have with the legislation. Finally, I would like to share with the subcommittee a series of technical problems which came to my attention as our work on the bill proceeded in the Energy and Commerce Committee.

Unfortunately, only one-half day of hearings with a total of nine witnesses was held by the Energy and Commerce Subcommittee on Commerce, Transportation and Tourism. The bill was reported out of the subcommittee with no amendments after a short mark-up session. When the bill was reported out of the Full Committee, fully twenty-six amendments were pending at the clerk's desk for consideration. And, now, as just noted, the referral time given to this committee has been made very brief indeed.

All of the above is troubling not only on its face, but in light of the fact that the legislation would not take effect until the model year that begins in the Fall of 1983. Under these circumstances, there is no legitimate reason to push this bill through the Energy and Commerce Committee, the Ways and Means Committee, and then through the full House, before the scheduled adjournment of the Congress in early October. This is a serious economic and trade proposal which merits more analysis and consideration than has been the case to date, and will be the case before a Floor vote given the terms of committee consideration of the bill. It is unfortunate that proponents of the bill are pushing it as a cure for the tragic unemployment in the auto industry. All responsible economic analyses question the jobs impact of the bill in the first place, but also predict that any jobs creation or jobs preservation effect will not come for several years. Again, there is no reason, from a policy or legislative standpoint, to prematurely take this bill to the Floor.

THE SMOOT-HAWLEY TARIFF ACT

The pending domestic content bill is not the first time that the Congress has considered the option of protectionist legislation in response to the economic problems of a domestic economic sector. A similar situation arose in the 1920's with agriculture. The response of the Congress was to raise tariff barriers on the importation of foreign agricultural products through the passage of the Smoot-Hawley Tariff Act of 1930.

The following quotations from The Way The World Works, by economics writer Jude Wanniski, ought to be thought provoking items we consider H.R. 5133:

The stock market Crash of 1929 and the Great Depression ensued because of the passage of the Smoot-Hawley Tarriff Act of 1930.

On May 5, 1930, 1,028 American economists petitioned Hoover not to sign the tariff bill if and when it was enacted:

"Our export trade, in general, would suffer. Countries cannot permanently buy from us unless they are permitted to sell to us and the more we restrict the importation of goods from them by means of even higher tariffs, the more we reduce the possibility of our exporting to them. . . .

"Many of our citizens have invested their money in foreign enterprises. The Department of Commerce has estimated that such investments, entirely aside from the war debts, amounted to between $12,555,000,000 and $14,555,000,000 on January 1, 1929. These investors, too, would suffer if restrictive duties were to be increased, since such action would make it still more difficult for their foreign debtors to pay them the interest due them."

Hoover signed the bill on June 16, 1930, but the stock market anticipated the act and crashed in the last days of October, 1929.

Other writers have commented that if the Smoot-Hawley Tariff Act did not cause the Depression, it at least prolonged the economic disaster of the 1930's. It is indeed sobering to note that editorials on H.R. 5133 have also commented on the parallel between the pending bill and the Smoot-Hawley Tariff Act. For example, I would like to bring to the attention of the Subcommittee an excellent editorial in the Christian Science Monitor of September 16, 1982. Under the heading of "Made-in-America madness", the editorial begins with this passage:

"Back in the early 1930's, when the world was in the grip of depression, nation after nation slammed shut its doors against overseas imports. Instead, political leaders sought to protect domestic industries, in part by encouraging citizens to 'buy American,' 'buy French,' 'buy German,' and so on. Such policies, of course, worked against the very upturn in world economic conditions sought by everyone concerned.

"In light of this historical experience, one cannot but be disturbed by the misguided and potentially dangerous trade legislation now working its way through the U.S. House of Representatives—and likely to be passed by that chamber. Called the Fair Practices in Automotive Products Act and sponsored by the United Automobile Workers union, the act is neither fair to consumers nor likely to encourage production of auto parts or stimulate world trade in general."

Those of us who are concerned about the pending domestic content bill are particularly fearful of foreign retaliation against American exports, a step which is sanctioned by the General Agreement on Tariffs and Trade (GATT). The post-enactment history of Smoot-Hawley should give us a reason to pause and reflect upon the seriousness of the domestic content undertaking and its potential ramifications. The League of Nations' World Economic Survey, 1932–33, contains the following passage:

"The Hawley-Smoot tariff in the United States was the signal for an outburst of tariff making activity in other countries, partly at least by way of reprisals. Extensive increases in duties were made almost immediately by Canada, Cuba, Mexico France, Italy, and Spain. During 1930, general tariff increases were announced by India, Peru, Argentina, Brazil, China, and Lithuania."

And, finally, I would point to information taken from "The Tariff Act of 1930: The Smoot-Hawley Tariff" by Raymond Ahearn, Analyst in International Trade and Finance, Economics Division, at the Congressional Research Service of the Library of Congress:

"Under the impact of higher tariffs and growing nontariff restrictions, world trade declined precipitously. Between 1929 and 1932 the value of world trade dropped from $66.6 billion to $26.3 billion, while total U.S. trade plunged from $9.5 billion to only $2.9 billion."

At a time when one in five U.S. jobs is export related, and the crops from one in three American farm acres are exported, can we afford to start a trade war? The answer is clearly in the negative, as the Smoot-Hawley experience makes clear.

IS DOMESTIC CONTENT LEGISLATION A SOURCE OF TRADE LEVERAGE?

During the debate on the bill in the Energy and Commerce Committee, many of my colleagues stated that their support for the legislation rested upon deep concerns over the existence of trade barriers to the entry of American products in Japan and other countries. Members expressed the desire to use this legislation as leverage in trade talks and to "hit them with a two-by-four", to borrow a phrase mentioned during committee debate. I am advised that some Members of this subcommittee share the same point of view as that shared by some of my colleagues on the Energy and Commerce Committee in this regard.

I share the feelings of my colleagues on the need for the United States to work towards the lowering of trades barriers around the world, and most certainly in countries such as Japan, which export large volumes of goods to our open marketplace. However, several areas of this matter must be examined before we take the action contained in H.R. 5133.

There is nothing in the legislation itself which gives our trade negotiators any leverage. If H.R. 5133 is enacted into law, the content requirements and associated provisions take effect in the first model year, the second model year, the third model year, and evey year thereafter unless repealed by Congress. There is *nothing* in the bill to give other nations an incentive to lower their trade barriers. In fact, quite the opposite is true if one stops to consider that the United States has been the leader of the free trade movement for the entire period of the post-World War II era. If we move in a protectionist direction with the passage of H.R. 5133, we cripple our negotiators by undercutting our negotiating position.

The Energy and Commerce Committee had an opportunity to make good on its rhetorical intentions via the consideration of an amendment by Mr. Gramm, which was a variation on an amendment I had also prepared for consideration. The amendment would have allowed the President to waive the content requirements if trade barriers were to be substantially reduced in countries affected by the legislation. The amendment was defeated in our committee by a single vote, 20-21. My amendment, which I was precluded from offering when the previous question on the substitute bill was moved, would have allowed the President to waive the content requirements for a manufacturer whose principal office is in a country which has come to an agreement or understanding with the United States on auto imports.

The inclusion of the Gramm amendment, or my own amendment, or a combination of the two, would then make the text of the legislation conform with the stated intent of the supporters of the bill. The U.S. Trade Representative, as an agent of the President, could then go to Tokyo and other world capitals and be able to state that the President would exercise his waiver power under the domestic content law if the Japanese or other countries would take steps to reduce their trade barriers and/or come to some understanding or agreement on auto imports. Without this provision, the legislation is nothing but an attempt by outside private interests to secure their own narrower objectives by tapping the sentiments of Members of Congress on the question of trade barriers.

Even if other countries have trade barriers or domestic content requirements for autos or other products, this does not mean that the U.S. should follow them over such an economic cliff. Domestic content requirements and trade policies of a protectionist nature did not save British Leyland and will not save our own domestic companies. Whether other countries have harmed their consumers and workers is immaterial; we should not so subject our consumers and our workers to the disadvantages of protectionist legislation.

THE DOMESTIC AUTOMOBILE INDUSTRY

In a sense, I do not blame the United Auto Workers (UAW) and their members from pushing for domestic content legislation in order to preserve a wage position via governmental action that would not otherwise hold up in the marketplace. According to a study on domestic content put out by the Heritage Foundation, the average autoworker's wage is 28 percent higher than that of the average manufacturing employee; $9.50 per hour versus $7.00 per hour. This matter was placed in additional perspective in an editorial by the Washington Post under the heading, "Wages at Chrysler." In relevant part, the editorial reads:

"Labor costs, including cash wages and all the fringes, now average $19.60 an hour among production workers at Chrysler, according to the company. They are $2.60 an hour higher at GM and Ford. Those wages are more than half again as high as the average for all American manufacturing workers. In the past, the United Auto Workers justified that tremendous wage differential by citing the high productivity in the automobile factories. But now their grip on the American market is being eroded by competitors whose wages are lower and whose productivity is higher.

"The American manufacturers use about 200 hours of labor to build a subcompact car, the CBO calculated, while the Japanese use 111 hours. The result is a price differential of about $2,000 in a subcompact car—two-thirds of it in the hourly cost of labor, and one-third in productivity."

The editorial ran in the newspaper's edition of September 14, 1982.

The answer to domestic auto troubles is to take internal and external steps to become competitive in world markets, not by attempting to legislate the competition away, thus penalizing other American workers and all American consumers. Congress can help through the pursuit of budgetary policies that will reduce deficits and government borrowing, which in turn will bring interest rates under control. Lower interest rates are a necessary condition, but by no means a sufficient one, for a recovery in the auto industry. The federal government can also be conscious of the state of the domestic auto industry in formulating tax, environmental, and regulatory policies.

In the final analysis, the solution lies in producing a cost competitive car that will sell in the marketplace, where the consumer is the sovereign. My real concern is that the bill as amended and reported by the Energy and Commerce Committee actually works against putting U.S. companies in a position to improve their competitive standing. The bill, as reported, applies different content requirements to U.S. and foreign manufacturers, which is contrary to the original bill. Under the reported bill, the domestic companies are not allowed to drop below 90 percent of their content ratios for model year 1983. This effectively freezes them at their present content percentage, which is in the range of 90 percent. The effect of this provision will be to preclude, or at least severely restrict, the ability of U.S. companies to secure parts and other components from the least cost source of supply in the world.

The world car is a reality in the automotive industry. Parts are manufactured all over the world. The substitute will deny U.S. companies the access to the world marketplace, where competition will keep prices down, but will not do the same to foreign manufacturers under the terms of the bill. As a result, foreign companies will continue to maintain a price advantage over U.S. companies, which will only work against a rebound in U.S. car sales by domestic companies. Such a provision is counter-productive in the long run, but preserves the UAW's interest in precluding the "outsourcing" of parts to other countries in the short run.

Labor and management bear the responsibility and face the challenge of auto industry recovery, with government as a willing partner where government action does not conflict with other public policy goals and does not harm non-auto economic interests.

This is being promoted as a jobs bill, and is such a measure. At a time when over 10 million Americans are out of work, and an election is on the horizon, a jobs bill is attractive. I strongly suggest to my colleagues, however, that this is a jobs transfer bill, not a jobs creation or preservation bill. I am advised that 168,000 American jobs alone depend on the importation of automobiles. That statistic includes longshoremen, service and repair personnel at import dealerships, accountants, secretaries, and others affiliated with import manufacturers. All of these people are American citizens, too. By what moral authority or legal right do we in Congress derive the power to take jobs away from some Americans and give them to others simply in response to the organized political pressure of a single group?

The approach embodied in H.R. 5133 is part of the "zero sum" game that plagues all too much of our policy making today. As we all know, the "zero sum" approach suggests that some must lose in order for others to gain. I reject that approach as cynical, simplistic, hopeless, and just plain wrong-headed. We do not need to declare a trade war, implicitly or explicitly, to accomplish our economic recovery objectives. Protectionist measures such as this one merely

export our misery and put it on someone else's doorstep. For the political and economic stability of the world, this is unacceptable. The Congress should step back, avoid a hasty decision, and reformulate an auto policy that is broader and sounder than the one contained in H.R. 5133.

TECHNICAL PROBLEMS WITH THE BILL

As already noted, the bill is ill-timed from a procedural point of view. As a trade policy and as an auto policy, it is clearly inadvisable. Putting these matters aside for a moment, however, raises the question of the technical and mechanical structure of the bill. My own experience in reviewing the legislation and in marking it up in the Energy and Commerce Committee suggests to me that it is also ill-conceived legislation. Please allow me to provide just a few examples.

In the first place, the bill grants the Secretary of Transportation eight new duties by my count, including an investigation into auto replacement parts practices. The Customs Service is given undefined, yet implicitly significant, new duties. Nonetheless, the bill authorizes no new appropriations to carry out the proposed Act. To my knowledge, there was no testimony at the hearing on the bill, or any subsequent communication shared with our committee, on whether the Department of Transportation agrees with this observation that they could administer the law using existing resources. The same holds true for the U.S. Customs Service.

One can also call the workability of the content ratios into questions. It is my understanding that the content ratios are to be based upon the number of motor vehicles sold in the United States "during such year." In other words, the domestic content requirement for a given year is based on the number of units sold in the same model year. Yet, as a manufacturer, I would not know the number of units sold for certain until the end of the model year in question. What with the inherent uncertainty of actual consumer demand for car sales, the need for lead time to build in the United States, and the strict content ratios themselves—how can the formula actually work in practice? We will, in short, be penalizing a manufacturer for not meeting a requirement which we do not permit him the time to meet.

The above technical flaw raises a key question, which is an unanswerable one, relating to the penalty section. Our colleague, Mr. Tauke, asked the counsel at the markup session what the term "percentage" meant in the penalty section. As you know, a violation of the penalty section results in a reduction in the allowed level of auto imports or auto part imports in the following year in an amount equal to the percentage by which the manufacturer falls short of the content requirement. The example was given of a content requirement of 30 percent where the manufactuer only reaches 20 percent. Is the penalty imposed on the manufacturer the percentage resulting from the difference of 30 minus 20, or a penalty of 10 percent? Or, alternatively, is it 30 minus 20, with the difference of 10 then divided by 30, to achieve a penalty of 33 and one-third percent? This is an important part of the bill if the foreign companies chose not to build in the United States to the extent necessary to maintain current levels of sales. The committee staff counsel answered that under the example the penalty would be 33 and one-third percent. Despite the fact that this ambiguity was raised, neither the reported bill nor the accompanying committee report, clarifies the penalty section.

CONCLUSION

Again, Mr. Chairman, I want to thank you and the members of the subcommittee for giving me this opportunity to share my obligations to H.R. 5133 with you. On procedural, policy, and technical grounds, this Congress ought to reject the proposed legislation.●

THE EXTRADITION ACT MUST BE RECONSIDERED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DELLUMS. Mr. Speaker, I wish to express my growing concern over H.R. 6046, the Extradition Act of 1982.

While I agree that the United States should do all in its power to discourage unjustifiable and wanton acts of terrorism worldwide, I feel just as strongly that this Nation should do everything necessary to protect the rights of individuals pursuing political freedom in this country. The right to express political viewpoints—be they complimentary or critical of those in power—without fear of persecution or repression is exemplary of the values upon which this Nation was founded.

H.R. 6046 fails to honor such values. Several provisions of this legislation detract from this Nation's tradition as a home for those who speak out against oppression and tyranny, wherever it may exist.

The political offense exception was designed to prevent foreign governments from using extradition as a tool to silence its critics residing in the United States. H.R. 6046 would severely limit the political offense exception by excluding, in almost all circumstances, acts of violence from this exception. Even if these acts of violence were used to escape violence and torture, the political offense exception would not apply in requests for a waiver of extradition.

The bill would also bar the courts from inquiring into allegations that an individual was being sought for extradition for the purposes of persecution and would not receive a fair trial in the requesting country. This inquiry, which should be done by a body far removed from the politics of state, is instead left to a branch entrenched in such politics—the State Department.

The bail provisions in H.R. 6046 set a dangerous precedent as well. Under this bill's provisions, the courts are required to hold a person—a foreign national or an American citizen—for at least 10 days on the mere request of a foreign government. Evidence supporting this request need only be promised; not presented. Further, contrary to the Constitution of the United States, it would be up to the person detained to demonstrate why he or she should not be held.

Such abridgements of personal liberty cannot be dealt with properly in the limited time remaining to this Congress. I urge my colleagues to delay consideration of this bill. If it does come to the floor, I feel it my obligation to speak out in favor of amendments that would remedy the injustices I see in this legislation.

This Nation's position on extradition policy stands as a clear example of our commitment to human rights and the freedom of political expression. I hope my colleagues will join me in protecting these rights and freedoms.●

PERSONAL EXPLANATION

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. LEE. Mr. Speaker, due to official business I was unable to be present for some votes on the floor of the House of Representatives yesterday, September 22, 1982. Had I been here, however, I would have cast votes on those measures in the following manner:

Rollcall No. 350: H.R. 3581, Foreign Commodity Income, "nay."

Rollcall No. 351: H.R. 5573, Computer Contributions to Schools, "yea."

Rollcall No. 352: H.R. 6867, miscellaneous tariffs, "aye."

Rollcall No. 353: H.R. 6317, Uniformed Services Pay, "nay."

Rollcall No. 354: H.R. 7048, Pell grants family contribution, "yea."

Rollcall No. 360: House Resolution 594, rule to provide for the consideration of H.R. 6457, Health Research Extension Act, "yea."●

H.R. 6046

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. PEASE. Mr. Speaker, it is my understanding that H.R. 6046, the Extradition Reform Act of 1982, is expected to be scheduled for floor action in the near future.

I would like to take this opportunity to express my interest in seeing further examination of the provisions of this legislation that are of concern to me and other Members with a history of commitment to civil liberties issues before H.R. 6046 comes to a vote. As the bill is now written, it would impose additional and dangerous limitations on the availability of the political offense exception to the extradition of persons, including American citizens, to foreign countries.

According to the August 11 New York Times article:

Under either of the extradition bills under consideration in the House or the Senate, persons charged with political crimes would be stripped of their legal defense and United States courts would be turned into the long arms of foreign persecution.

The purpose of the bills—to facilitate the return of terrorists—is manifestly worthwhile. However, both bills are so badly written that they would endanger the very persons that American law governing extradition has always shielded: critics of foreign regimes, former freedom fighters against authoritarian rule, former officials of regimes that the United States once supported.

According to the Times article:

Both bills provide for the arrest of an accused person without any proof that he is guilty of a crime. A mere allegation by a foreign dictatorship, coupled with a promise to produce evidence sometime in the future, would be sufficient to cause the United States Government to jail the accused for months. No United States prosecutor has this power of arbitrary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

I have been contacted by quite a few organizations with strong human rights commitments regarding their serious reservations about H.R. 6046 as it is presently written.

I urge my colleagues to delay final action on this legislation until we have had a chance to discuss correction of the bill's deficiencies.●

RAND STUDY OF SUBURBS PANNED

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. PORTER. Mr. Speaker, I would like to call to the attention of my colleagues an article and an editorial which recently appeared in the Chicago Tribune concerning the Rand study of our Nation's suburbs. In essence, the articles report that HUD commissioned the usually reliable Rand Corp. to conduct a study, which cost $200,000, of 1,191 of the Nation's suburbs. The study concluded that 84 suburbs nationwide, including Evanston, Ill., which is in my district, are troubled due to an increase in the percentage of black and elderly residents, a low per capital income, and the age of the housing stock, among other factors. All indications seem to show that this report is poorly done and does not fairly represent the conditions of the Nation's suburbs, as the following articles illustrate:

"TROUBLED SUBURBS" STUDY CALLED "RECKLESS"

(By John McCarron)

A Government-funded study which calls five Chicago suburbs "potentially troubled" badly misreads their true condition, suburban officials and local urbanologists said Tuesday.

The study released Monday by the Rand Corp., a California-based "think tank," included Berwyn, Cicero, Evanston, Harvey and Maywood among 84 suburbs nationwide said to be in that category.

"Their use of statistics seems irrelevant and totally irresponsible," said Mayor James C. Lytle of Evanston.

The report, titled "Troubled Suburbs," was conducted under a $200,000 grant from the U.S. Department of Housing and Urban Development [HUD].

The authors of the report analyzed socioeconomic data, most of it gleaned from Census Bureau reports, for 1,191 suburbs, with special emphasis on 408 suburbs with populations over 25,000.

These larger suburbs were ranked using 16 statistical categories, such as percentage of population which is elderly, percentage of blacks, per capita income, and age of housing stock.

Suburbs which ranked in the "bottom" 50 within any category were assessed one "negative indicator." Those with four or more such indicators were listed as "potentially troubled," and those with 8 or more as "disaster" areas.

No Chicago suburbs were among the 11 "disasters," but that category did include East St. Louis and Alton, both suburbs of St. Louis in Downstate Illinois.

The five Chicago suburbs assigned "troubled" status ranked low in these categories:

Berwyn—Lack of population growth; high percentage of elderly; low educational attainment among adults; and an old, nonexpanding housing stock.

Cicero—Lack of population growth; low average education level; and an old, nonexpanding housing stock.

Evanston—Lack of population growth; high percentage of elderly; and a large population of blacks that is growing as a percentage of overall population.

Harvey—High crime rate; large and growing black population; and a low, relatively static per capita income.

Maywood—High percentage of blacks; an older housing stock; and low, relatively static, per capita income.

"I take exception to what they've done," said Mayor Joseph Freelon of Maywood. "I don't think a population is less stable because it has a high percentage of blacks, or that older homes are any more deteriorated than newer ones."

Evanston's Mayor Lytle said "HUD is spending its money on throwaway reports, when it could be helping communities build housing."

"The older houses in Evanston and Oak park are the ones that sell at a premium," Lytle said of the Rand category that ranked suburbs by the percentage of houses built before 1950.

He said the percentage growth of Evanston blacks is due mostly to the shrinking size of the average white family, where there has been a steep increase in childless couples and two-income families with just one or two children.

"The most common complaint I get," Lytle said, "Is that we're forcing out the poor with high rents and home prices."

Pierre De Vise, a Chicago urban researcher, said Rand's methodology borders on the "reckless."

One problem, De Vise said, is that the most distressed Chicago suburbs—Robbins, Phoenix and East Chicago Heights—were left out because they are below the minimum population used by Rand for their rankings.

Furthermore, he said, "Racial change does not necessarily indicate community decline. Evanston, for example, by no means can be considered a declining community."

A spokesman for Rand said racial change was used because it is strongly associated with white flight and an erosion of the community's tax base.

Besides the two southern Illinois towns, "disaster" conditions were said to exist in Camden and Hoboken, N.J.; Chester and McKeesport, Pa.; Highland Park, Mich.; Covington, Ky.; and the California suburbs of Compton, Bell Gardens, Baldwin Park, Huntington Park, and National City.

THAT NONSENSICAL HUD-RAND STUDY

Seldom has the federal government commissioned a study as useless and misleading as the national suburban survey recently completed by the Rand Corp. for the Department of Housing and Urban Development.

HUD paid Rand to analyze 1,191 suburbs, concentrating on 408 that have populations of more than 25,000. The researchers examined data on per capita income, education levels, unemployment, crime, age of housing, racial change and other variable factors. Rand concluded that of the suburbs studied, 84 were "troubled." These included the Chicago suburbs of Evanston, Cicero, Berwyn, Maywood and Harvey.

The problem is that Rand's definition of "troubled" includes such things as an increase in black or elderly population and a decrease in total population. That is nonsense at best. Blacks and the elderly have every right to complain of bias, and the notion that population loss is automatically negative never had any validity. It hardly seems necessary to say that the five Chicago suburbs cited in the survey are not cesspools of squalor.

Rand has been hired to study everything from the Soviet army to alcoholism over the years and is supposed to be one of the best think tanks in the business. But it really blew this one, and it won't be able to alibi its way out of such irresponsible generalizations. We can thank HUD for finding still another way of wasting tax money—and insulting a lot of Americans to boot.

H.R. 7136, SOCIAL SECURITY DISABILITY BENEFITS EQUITY ACT OF 1982

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. PERKINS. Mr. Speaker, on September 16, I introduced a bill, H.R. 7136, to check as rapidly as possible the administration's current policy of throwing thousands of disabled persons off the social security disability rolls.

The situation we face today is the situation that I feared might take place if the social security disability program were modified as proposed in H.R. 3236, the social security disability amendments of 1980, considered by the House in 1980. I was fearful at that time that, if this bill became law, a dispassionate administration could well use it to deny benefits to deserving recipients. In testifying against this bill, I stated:

This achievement was followed by a great disappointment on my part because as a Representative of the area that I have described, I saw harsh and restrictive bureaucratic regulations impede the just benefits that were due many disabled persons who could engage in no gainful employment.

For this reason I have taken heart over the years in the liberalizing provisions of the disability provisions of the fiscal Security Act.

* * * * *

It has always been disturbing to me that the executive and bureaucratic portion of our Government could be less compassionate than the legislative branch, but I feel that this is so, and I hope that all Members of Congress will continue to be vigilant against the exercise of arbitrary administrative regulations in denying people benefits which their Government intends them to receive.

In spite of my strong opposition to this legislation, it was reported by the House Ways and Means Committee and passed the House on September 6, 1979, by a vote of 235 to 162. I, of course, voted against the bill. Although becoming law in 1980, we are just beginning to see evidence of its misuse. Hundreds of disabled people in the Seventh Congressional District of Kentucky, which I am privileged to represent, have contacted me about the cutoff of their benefits. In most of these instances, I know firsthand of the incapacity of the beneficiary and of the hardship that this is bringing about on many deserving people.

The legislation I introduced last Thursday would ban the capricious and arbitrary review of disability cases. It would institute an immediate moratorium on disability reviews going to the physical and mental impairment of the recipient. In other words, reviews of the continuing physically or mentally disabling conditions of recipients would be stopped. This is not a total ban on disability reviews. Where the Secretary finds that the party is engaged in substantial gainful activity or where there has been fraud against the United States, reviews would continue. Additionally, the provisions of this bill allow for disability reviews carried out according to the regular statutory schedule where the recipient has been notified of such a potential review at the time of an initial award. The bill also would allow recipients to continue receiving disability payments while they are appealing a finding of noneligibility. This would stop the distressing practice of this administration of leaving disabled persons without income while they challenge the Secretary's findings, a right they are provided by law. It should be noted that many of these challenges have been sustained by the courts and that much of the suffering occasioned by the loss of payments has been unnecessary and unwarranted.

Finally, the bill would also remove the cloud of potential repayment of benefits received which hangs over the recipient of payments during the appeals process by redefining the term overpayment.

I hope that the Congress can act rapidly on this or similar legislation. I would also hope that pending the enactment of this remedial or similar remedial legislation, the administration would discontinue its harsh bureaucratic handling of and review of social security disability claimants.●

IN MEMORY OF KEITH SEBELIUS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, on September 5, 1982, our colleague Keith Sebelius passed away. Not only did the House lose a distinguished former Member, also many of us lost a friend.

I served with Keith for many years on the Committee on Interior and Insular Affairs. During that time, his leadership and knowledge served to inspire all members of the committee, regardless of political affiliation. Keith worked hard to insure that our public lands and national parks were managed for the greatest good. He continually sought a balance between the conflicting desires of resource users. During the debate on the Alaska lands issue, he was of tremendous help in bringing a reasoned approach to bear on a hotly contested issue. When I succeeded him as ranking Republican on the Subcommittee on Public Lands and National Parks, I found countless examples of his work in establishing a sound public lands system.

Keith Sebelius never once forgot the people he represented in Kansas. On agricultural issues, I looked to him for guidance, knowing that the positions he took represented what was best for our Nation's farmers. When he retired from the House, many of us knew that a good man had left us.

While Keith can never be replaced, I hope that his family and friends will take some comfort in knowing that his career in the Congress was one of which we all can be proud.●

THE VALUE OF A FREEZE

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. McHUGH. Mr. Speaker, as one of those who strongly supports a mutual and verifiable freeze on the testing, production and further deployment of nuclear weapons, I have found the criticisms of this proposal put forward by members of the Reagan administration less than compelling.

At the same time, I recognize that many Americans do not feel they are qualified to assess the merits of those criticisms. In this connection, I would draw the attention of our colleagues to an article that appeared in the New York Times yesterday. That article, which discusses some of the major criticisms of the proposal for a freeze, was written by two distinguished scientists who are superbly qualified to deal with many of the technical arguments that have been made in the course of public debate of the freeze proposal.

As I am sure that our colleagues know, Hans Bethe won the Nobel Prize in physics in 1967 and is one of the world's most distinguished nuclear scientists. Franklin Long was Assistant Director of the Arms Control and Disarmament Agency in the 1960's, and has continued to closely follow the arms race as a professor at Cornell University.

As I said, Mr. Speaker, these gentlemen are qualified by training and experience to discuss the freeze proposal, and I strongly commend their well-written and easily understood reflections to our colleagues:

[From the New York Times, Sept. 22, 1982]

THE VALUE OF A FREEZE

(By Hans A. Bethe and Franklin A. Long)

ITHACA, N.Y.—The rapid increase in public support for a nuclear-freeze agreement—that is, a mutual freeze on the testing, production and further deployment of nuclear weapons—has been a remarkable political phenomenon. In less than a year, support has grown from a few volunteers collecting signatures on petitions to a Congressional vote in which supporters of a freeze very nearly prevailed. This fall, eight states and the District of Columbia will vote on freeze referendums. Already Wisconsin voters have overwhelmingly voted yes in such a referendum.

There are many reasons for this strong support for a freeze, including fear of nuclear war, resistance to high levels of military spending and opposition to particular military policies of the Reagan Administration. But to most supporters, the chief purpose of a freeze is simple: It is to help stop an immense, continuing, dangerous and incredibly costly arms race between the two superpowers.

The Administration opposes a prompt freeze. Its members offer a variety of argu-

ments why a freeze is a bad idea. Most of these arguments lack validity.

One argument that spokesmen offer is that a freeze would leave no incentives for the Soviet Union to stop the arms race. But strong incentives to stop it already exist in both countries. The Soviet Union shares with us an unbalanced economy caused by immense expenditures for military systems. A freeze that permitted large decreases in military spending would be of great help to the civilian economies of both countries.

Another argument is that America would be "behind" the Soviet Union if a freeze were agreed upon. This is highly debatable. American military leaders have argued that our nuclear forces are preferable to the Soviet Union's, and even our more pessimistic military leaders agree that there exists an approximate nuclear parity and a situation of strong mutual strategic deterrence.

The Administration complains that in the 1970's, the Russians built up their nuclear arsenal relentlessly while America stood still. In fact, the number of warheads in our strategic forces increased from about 4,000 in 1970 to 10,000 in 1980, while the Soviet Union's increased from about 1,800 to 6,000 in 1980 and 8,000 in 1982. The Soviet buildup followed ours by about five years. The best way to stop still further buildups is a freeze followed by negotiated, substantial arms reductions.

One Administration spokesman bases some of his arguments against a freeze on a proposition with which we agree—namely, nuclear weapons "are good if they promote stability and contribute to deterrence of war, and bad if they diminish stability and weaken deterrence." But then he argues in favor of all components of the Administration's nuclear arms buildup, whether they lead to stability or not.

Consider two new American delivery systems: the proposed intercontinental ballistic missile called the MX, and the planned deployment of highly accurate cruise missiles on submarines. Both weapons, if deployed, will be seriously destabilizing. All plausible arrangements for basing the MX will leave it vulnerable to Soviet attack; moreover, the threat to Soviet ICBM's from the high accuracy of the MX is an added reason for the Russians to launch a nuclear first strike with their own ICBM's. Our submarine-launched cruise missile will be destabilizing because of the serious difficulty, in reaching arms-control agreements, in verifying the numbers that are deployed.

It will take statesmanship and a mutual desire for peace to negotiate a freeze. Either country can obstruct the negotiations by unrealistic conditions or by demands for excessively intrusive verification procedures. But verification need not be a severe problem, since both countries have substantial national technical means for verification. Furthermore, it is clearly easier to verify zero activity—that is, no testing, no production, no deployment of new systems—than to verify quotas or restrictions.

The larger goal for Washington and Moscow is to obtain some measure of political reconciliation, based on a mutual understanding, that neither party benefits from the current costly and dangerous confrontation. Arms-control agreements will still be needed to reduce the world's arsenals of nuclear weapons. The Start negotiations and those on reductions in intermediate-range nuclear forces under way in Geneva should continue. Both sides still need other political agreements and confidence-building measures. Both must work to decrease greatly the threat of major war in Europe. But for all of these, a mutually agreed nuclear freeze would be an important first step, a clear signal for new directions.●

COMMEMORATION OF NICOLA PETKOV ANNIVERSARY

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. NELLIGAN. Mr. Speaker, today, I join my colleagues in paying tribute to Nicola Petkov, a great Bulgarian hero, who 35 years ago, on this day, showed outstanding courage in opposing the forces of Soviet oppression.

Nicola Petkov was among the first to recognize the threat of Communist dictatorship. In the summer of 1947, he stood in the Parliament Building in Bulgaria, surrounded by enemies. He refused to abandon his dedication to independence and insisted on exercising his right to speak freely. For that, he was arrested and imprisoned by the Soviets. On September 23, 1947, Soviet imperialism took the life of this leader.

I join Americans, and especially those of Bulgarian descent, in the 11th Congressional District of Pennsylvania, in recalling Petkov's courageous struggle against the forces of communism. Since his death, we have come to know even more starkly the tyranny against which he fought. And we appreciate more fully the rightness of his enduring purpose.●

MEDICARE SHOULD NOT BE MEAN TO THE ELDERLY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. BIAGGI. Mr. Speaker, as an original member of the House Select Committee on Aging, I was deeply disturbed to read about a proposal which would subject current recipients to an unprecedented first time "means test." I wish at this time to state my absolute opposition to any such proposition.

This idea comes forth at a time when the elderly under medicare are already reeling from the one-two punch of higher out-of-pocket expenses and cutbacks in basic services under medicare, all since this administration took office. Consider that last year, seniors paid $228 before medicare provided any assistance; today that figure is $256; by January 1, 1984, it will rise to $328 under the terms of last year's Budget Reconciliation Act. Medicare, for many elderly, is costing them more and helping them less.

The question is: What cruel mind could conceive of imposing a means test on needy elderly persons to receive medicare? Must our passion for economy come at the expense of providing compassion for those in need?

Further, if one assumes that the rationale for imposing a means test is to achieve savings in the program, one must ask: Would not the administrative costs associated with this means test actually add costs to the program, which at best would cancel out whatever savings are achieved? I contend that if our objective is to save money in medicare, let us work to reduce hospital costs and physician fees, which constantly drive up the cost associated with this program.

A snapshot of the typical elderly medicare recipient will clearly demonstrate the plain fact that the majority of our senior citizens depend on this program to provide basic—and essential—health insurance in return for the taxes they have paid into the system. Nearly 13 percent of the total U.S. population depended on medicare last year. Of those beneficiaries over 65, 95 percent were covered by both parts A—hospital insurance—and B—medical insurance—of the program. Of disabled beneficiaries, 91 percent were covered by both parts.

Of the $24 billion spent in hospital care, 96 percent of this care was provided for inpatient care. Overall, in the past year, the volume of medicare claims rose by nearly 13 percent. Clearly, the bulk of those who depend on this program, depend on it for essential health and hospital care that might easily be beyond their reach if a means test were imposed upon this program.

I am cognizant of the pressing need we face to cut the skyrocketing costs of providing health care to the elderly. However, instead of penalizing these citizens for needing medicare, we should be providing incentives for health care providers to reduce their own costs through prospective reimbursement and selective cost containment in higher-cost areas for those who can least afford high-cost services.

As an original member of the Select Committee on Aging, I will actively oppose any direct or indirect attempts to place income guidelines for the elderly in the medicare program. It never was good idea nor will it ever be and any attempts to do so should be rejected totally by this Congress.

I have joined as a cosponsor of legislation introduced by my colleague from New York, PETER PEYSER, which expresses the sense of the House that this ill-advised proposal be rejected. I urge my colleagues who believe in this program to express their support by joining onto this measure and expe-

dite rejection of a medicare means test.●

ANTITRUST ENFORCEMENT UNDER THE REAGAN ADMINISTRATION

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DELLUMS. Mr. Speaker, a constituent of mine, Timothy H. Fine, Esq., is the founder of the Small Business Legal Defense Committee. The defense committee is a new organization set up to defend the rights of small companies.

I am including for the RECORD a very interesting piece on antitrust enforcement under the Reagan administration.

ANTITRUST ENFORCEMENT UNDER THE REAGAN ADMINISTRATION

(By Timothy H. Fine,[1] Acting Chairman, Task Force on Antitrust and Regulation, Small Business Council of Democratic National Committee)

William French Smith, Attorney-General of the United States, and William F. Baxter, Assistant Attorney-General of the United States in charge of the Antitrust Division, have brought down the curtain on antitrust enforcement. Never has the Department of Justice of an American administration been so antagonistic to antitrust enforcement as the current one. It is difficult to understand this attitude of Messrs. Smith and Baxter because the Republican Party has traditionally supported laws protecting competition. Unfortunately, Smith and Baxter represent a reversal of this historic policy.

It was a Republican Senator, John Sherman of Ohio, who introduced in 1888, what eventually became the Sherman Antitrust Act. Senator Sherman was outraged at the great wrongs being committed by the trusts and combinations. In Senate Debate on March 21, 1890, Senator Sherman stated:

"These trusts and combinations are great wrongs to the people. They have invaded many of the most important branches of business. They operate with a double-edged sword. They increase beyond reason the cost of the necessaries of life and business, and they decrease the cost of the raw material, the farm products of the country. They regulate prices at their will, depress the price of what they buy and increase the price of what they sell. They aggregate to themselves great, enormous wealth by extortion which makes the people poor. Then, making this extorted wealth the means of further extortion from their unfortunate victims, the people of the United States, they pursue unmolested, unrestrained by law, their ceaseless round of peculation under the law, till they are fast producing that condition in our people in which the great mass of them are the servitors of those who have this aggregated wealth at their command."

On July 2, 1890, a Republican President, Benjamin Harrison, signed the Sherman Antitrust Act into law. President Harrison had sought the Presidency on a platform that urged legislation to curb the power of monopolies and trusts and endorsed this principle in both his letter accepting the nomination and his first annual message to the Congress in 1889.

Under the vigorous leadership of another Republican, President Theodore Roosevelt, the Sherman Antitrust torch was applied to the railroad trust (*Northern Securities Co.* v. *United States*), the beef trust (*Swift & Co.* v. *United States*) and the tobacco trust (*United States* v. *American Tobacco Co.*). William Howard Taft, another Republican President, continued the vigorous enforcement of the antitrust laws begun by trustbuster Teddy Roosevelt. It was during the administration of President Taft that the Supreme Court of the United States decided many of the cases initiated by Pesident Roosevelt. It was also during this period, in 1911, that the Supreme Court held that it was illegal for a manufacturer to require his distributors to maintain prescribed retail prices (*Dr. Miles Medical Co.* v. *John D. Park and Sons Company*).

Through the years and many administrations, Republican and Democratic, the antitrust laws have been vigorously enforced as a positive instrument of economic policy. Probably the best description of the purpose of the Sherman Antitrust Act is contained in the Supreme Court decision in the case of *Northern Pacific Railway Co.* v. *United States:*

"The Sherman Act was designed to be a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. It rests on the premise that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions. But even were that premise open to question, the policy unequivocally laid down by the Act is competition."

After 92 years, this comprehensive charter of economic liberty is being prostituted by Attorney-General Smith and Antitrust Chief Baxter. In place of enforcement of the antitrust laws, Smith and Baxter have brought down the curtain on antitrust enforcement and indicated that monopoly is a virtue and small business is an out-of-date concept because monopoly is more efficient than small business. Smith and Baxter align themselves with a particular, limited and quite narrow tradition in academic economics—the so-called "Chicago School." These theorists use static price theory to resolve the policy issues they address and also challenge the validity of all antitrust goals save efficiency.

These views of monopoly and small business were expressed in an *Amicus Curiae* brief filed by the United States of America in the United States Court of Appeals for the Eighth Circuit in November 1981 in the case of *Paschall* v. *The Kansas City Star Co.* This brief dealt with the issue of whether or not a monopolist manufacturer, who sold its products through approximately 258 small business concerns, ran afoul of the antitrust laws by extending its monopoly to the retail distribution level by refusing to sell its products to these 258 small business concerns. Had not the Federal Court in Kansas City issued a preliminary injunction before trial and a permanent injunction after the trial, these 258 small business persons would have been put out of business. Three Federal Judges in Kansas City dealt with this case at various stages in the proceedings. They did not let this monopolist manufacturer get away with this outrageous expansion of its monopoly. Naturally, the monopolist manufacturer has appealed the decision to the next highest court, the United States Court of Appeals for the Eighth Circuit. However, what is mind boggling is that the United States Department of Justice has entered the case on the side of the monopolistic manufacturer. The Department of Justice under the guidance of Smith and Baxter are urging the Court of Appeals to reverse the Judgment and let the monopolist put out of business 258 family owned small businesses. To convince the Court of Appeals to do such an outrage, Smith and Baxter have developed the Orwellian thesis[2] that monopoly is efficient, small business is not. On page nine of the Government's brief, this thesis is advanced as a "well-established economic proposition" that the extension of a monopoly from the production level to the retail level "will *not* increase the price or profit taken by the monopolist." So much for the antitrust laws of the United States.

Recently, Antitrust Chief Baxter told the House Monopolies Subcommittee that the Antitrust Division is on the verge of participating in private antitrust cases to convince the courts "to abandon the rule of per se illegality altogether in the vertical practices area." Baxter indicated that he wants to change court decisions making it illegal for a supplier to fix the resale prices of its distributors and retailers and that he wants to permit tying arrangements whereby a supplier can force a distributor or retailer to purchase an unwanted product as as condition of purchasing a desired product. Baxter also testified that he would be amenable to legislation altering potential treble damage liability for those who violate the antitrust laws if they come forward and confess to their wrongdoing. What this means to every small businessperson in the United States is that Baxter wants you to become, in the words of Senator Sherman, the servitor of those who have this aggregated wealth at their command.

In addition to trying to convince the Courts to adopt the Smith/Baxter theory of economics, Smith and Baxter have dismissed important antitrust lawsuits against IBM, Mercedes-Benz, and others. They have also settled antitrust lawsuits to the detriment of the small business person and consumer. The most egregious example of this is the AT&T case where the operating companies will be left with none of the profitable centers of AT&T (Western Electric, Bell Telephone Laboratories, long distance lines, Yellow Pages). Under the proposed terms of this settlement the operating companies will be forced to seek rate increases from the public utilities commissions as their only real means of survival. Within 3 years consumers and small businesspersons will be paying phone bills two and three times what they are now paying as the price of this unbelievable settlement. AT&T, with all of its profit centers intact, will now be able to regain its lost monopoly over long distance communications. Goodby Sprint; Goodby MCI.

[1] Elected delegate to the 1980 White House Conference on Small Business; Delegate to the 1981 and 1982 California State Conference on Small Business; Law Offices of Timothy H. Fine specializes in antitrust and small business representation.

[2] Orwell, "1984" (War in Peace; Freedom is Slavery; Ignorance is Strength).

Contrary to the views of Smith and Baxter, small business is not a 19th century anachronism but, rather, the only source of private employment growth [3] and the main source of innovations in the last quarter of the 20th century.[4] Even more important is the fact that an economy that has a large small business base and fosters and encourages the entrepreneural spirit provides a more stable political environment than an economy totally controlled by cartels. If small business is not going the way of the whip and buggy, the efforts of Smith and Baxter to cartelize America must be stopped through vigorous enforcement of the antitrust laws.●

CHRISTIANS IN SOLIDARITY WITH ISRAEL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. PORTER. Mr. Speaker, a great deal of publicity has been afforded recently to reports of a fundamental shift in American foreign policy away from the traditionally special and strong relationship between the United States and Israel. Such a reorientation would be strategically unwise and would not enjoy the support of the majority of the American people.

To illustrate the support which Israel continues to enjoy among the American people, I submit for the record the text of an advertisement placed in the New York Times on August 1, by the National Christian Leadership Conference for Israel and signed by a number of "Christians in Solidarity with Israel" as the ad was titled, including Mayor Albert J. Smith, the mayor of Skokie, Ill., from my district:

CHRISTIANS IN SOLIDARITY WITH ISRAEL

We speak as Christians who share a common concern for Israel notwithstanding many theological and political differences. Our solidarity with the Jewish people and the State of Israel is part of a commitment to peace and justice for all people in the Middle East.

We believe that it is the basic right and duty of every government to ensure the safety and security of its citizens. Hence we hold that the Israeli action against the heavily-armed PLO and Syrian forces in Lebanon was a justified response of a sovereign state to repeated provocations and attacks against Israel's civilian population in the Galilee.

DEFAMING THE JEWISH PEOPLE

We protest the widespread use of references to Hitler, genocide and the Holocaust in reports on the events in Lebanon. We believe that resort to such language has its source in a well-orchestrated campaign by those who not only oppose Israeli policies but seek to defame the Jewish people as a whole.

While we as Christians deeply lament all victims of this military action, and particularly the loss of life among civilians, we also note the growing number of independent reports from the scene confirming Israeli claims that the original casualty figures were highly exaggerated. We are deeply troubled that this technique of the "big lie" had such a strong impact on media coverage of the Lebanon situation.

AN OPPORTUNITY FOR LEBANON

We are encouraged by the voices coming from the Lebanese people themselves, telling the world about the true nature of the PLO and Syrian presence and about their own aspirations for a new Lebanon. We hope and pray that the Lebanese people will grasp the historic opportunity to reestablish a strong government with representation from all the people and serving the welfare of all the people.

We urge our own government to continue to work in close cooperation with Israel, our most dependable ally in the Middle East. Free of the PLO presence in Lebanon, our government can help explore the possibilities of reconstituting an independent and sovereign Lebanon as well as new opportunities that now exist for negotiations with Arab states and Palestinian Arabs for a durable peace in the Middle East.●

BLOCK'S ATTITUDE GOES AGAINST THE GRAIN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. McDONALD. Mr. Speaker, in the matter of selling grain to the U.S.S.R. it is difficult to learn just how much Secretary Block reflects the President's thinking, but Secretary Block is, evidently, a strong advocate of feeding the U.S.S.R. Much has been made in recent years of the so-called moral issues in our foreign policy as regards which nations we assist. Therefore, on what basis does the Soviet Union qualify for any help from the United States? none that I am aware of. John Lofton put the arguments in favor of not selling the U.S.S.R. grain very well in, "John Lofton's Journal," which appeared in the Washington Times of August 27, 1982. The column follows:

[From the Washington Times, Aug. 27, 1982]

BLOCK'S ATTITUDE GOES AGAINST THE GRAIN

(By John Lofton)

Although the Soviet Union is continuing its brutal aggression all around the globe, when it comes to feeding the Russians, Agriculture Secretary John Block is strictly a business-as-usual man. Within the administration's inner councils, Block pushed hard to sell the Soviets all the grain they want. But, President Reagan finally decided to accept only a one-year extension of the U.S. agreement to sell American wheat and corn to the Russians.

In an interview session here at the Washington Times earlier this week, when I asked him if there were any circumstances that would cause him to advocate using agriculture as a weapon against the Soviets, Block replied:

"Just exactly as the president said, it's not ever going to be used by this administration. And I support that unless or until they commit an act that's grievous enough and distasteful enough that, number one, this country is willing to use it as an overall embargo and, secondly, it has to be an act that is bad enough that our competing countries that sell grain are willing to go along with us also on the embargo 100 percent. And that means all the way. Then, you know, there are times when things like this happen. It could be war. I just don't know what they'd be."

Me: Obviously, whatever the Soviets have done up to now, in your opinion, is not sufficient to warrant a U.S. grain embargo?

Block: "No, it isn't. Because all we would have done had we imposed an embargo is we would have given this market to all our competitors because they would not have done anything and we're smarter than that. That's why we trade with the Soviet Union. It's not because we want to help them. It's because we want to help ourselves. It's in our own self-interest."

When I ask Block how the Soviets or anyone else can take seriously our condemnations of Russian aggression as long as we continue to feed the Red Army, he says: "The only point is that if we don't feed them someone else will."

Now, the first thing that boggles the mind about what Block says is that he wouldn't even consider an agriculture boycott against the Soviets "unless and until" they do something sufficiently "grievous" and "distasteful" enough to warrant such action. One wonders just exactly what else the Russians have to do to provoke Block's wrath. In just the last 2½ years, the Soviets have invaded Afghanistan—where they are murdering innocent men, women and children—they presently are using military force to blackmail the people of Poland, and the there is now convincing evidence that Soviet-made and Soviet-supplied toxic chemicals, so-called "yellow rain," are being used to slaugther Laotians, Cambodians and Afghans.

As described by The Committee To Stop Chemical Atrocities:

"Victims of yellow rain become 'walking hemorrhages.' Blood flows from all body orifices, including the eyes, ears and nose. Massive quantities of blood are vomited and coughed up by the victims. Convulsions begin—victims in Afghanistan were described by survivors as 'jerking like dogs with broken backs,' in Kampuchea 'jerking like fish when you take them out of the water.' Death follows convulsions, and the bodies soon turn black."

Secondly, what Block says sends a confusing signal and seems at odds with administration policy—that is to the extent that there is any policy. Not long ago, in a major foreign policy talk, President Reagan's national security adviser, William Clark, declared: "We must force our principal adversary, the Soviet Union, to bear the brunt of

[3] The small business sector of the economy creates more jobs than any other: Between 1969 and 1976, 14 million Americans joined the civilian labor force, and in that same period, 9 million jobs were created. During that time span, there was no increase in employment among the U.S.'s thousand largest corporations, which had approximately 16 million employees both in 1969 and at the end of 1976. Of the 9 million individuals in the new jobs, 3 million went to work for state governments, but the remaining 6 million went to work for small businesses.

[4] A National Science Foundation study for the period between 1953 and 1973 concluded that small firms produced about four times as many innovations per research and development dollar as medium-sized firms, and about 24 times as many as the largest firms.

its economic shortcomings." But, here's what a spokesman for the Agriculture Department told The Washington Times in mid-July: "The Russians are really hurting. They really need our grain, and we really want to sell it to them."

So, what is the administration's policy? Is it to make the Soviets pay the price for their own economic foulups? Or is the policy to bail them out of these foulups? These are not rhetorical questions. They deserve a consistent, clear answer.

The Nazi analogy is the one that separates the men from the boys. When I asked Block if we had not been at war with the Nazis, would he have favored selling them grain because if we didn't somebody else would, he replied: "I don't think that's a good analogy. I just think you're going back into history and trying to draw a parallel. And I just don't think we need to try to put up side-by-side—I don't pretend that the Soviet Union are the good guys. I mean they've got the black hat on and we know it. And they've done a lot of atrocious things. I'm just interested in the best interests of the United States and the whole economy, the agricultural economy. . ."

Well, of course, I was going back into history. And this is a good analogy. If anything, it's arguable that what the Soviets have done—in terms of inhumane acts toward their fellow humans—is much worse than anything Adolf Hitler did.

Agriculture Secretary John Block's views on agricultural trade with the Soviets are strictly one-dimensional. They deal only with the bottom line, the economic impact of such commerce. What the secretary completely ignores is the fact that this kind of trade also has a military and diplomatic angle. But these seem not to interest him at all.

Some final thoughts. It has been said—ad nauseum—that the Carter grain embargo against the Soviets really had no impact. But, this is not true. At least one former CIA official believes that this boycott put the Russians in a hell of a short-term bind causing them to expropriate sizable quantities of grain and beef from Poland and thus causing shortages and exacerbating the unrest in that country.

Furthermore, since the 1968 Soviet invasion of Czechoslovakia, the Soviets have added an estimated 800,000 people to their military. They were able to do this—to divert these people from agriculture—because the West has sold agricultural commodities to the Russians. Needless to say, it is *not* in America's interest to pursue a policy one result of which is to increase the size of the Red Army.

I have no desire to see the farmer singled out to bear any unnecessary economic hardship. But, there are bigger fish to fry. As just one American taxpayer, I'd rather pay higher taxes and see our government buy the grain from our farmers, and burn it on the ellipse, rather than see it end up as bread or beef in the bellies of the Red Army.

Perhaps, as Block predicts, someone else *will* feed the Red Army. But, my response is: So let 'em.●

DEFICIENCY IN THE BANKRUPTCY ACT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. FLORIO. Mr. Speaker, it has recently come to my attention through a published report that there is a deficiency in the Bankruptcy Act that is preventing units of government from recovering funds spent to clean up hazardous waste sites owned by businesses that declare bankruptcy. I am, therefore, today introducing legislation to correct this deficiency.

I insert in the RECORD the article which appeared in the Newark Star-Ledger which details the type of situation this Legislation is designed to address.

[From the Star-Ledger, July 25, 1982]

QUANTA CASE PITS ECOLOGY VS. CREDITORS

(By Scott Muldoon)

Last October, Quanta Resources Corp., an Edgewater-based recycler of waste oil products, filed for protection under Chapter 11 of the U.S. Bankruptcy Code and the resulting proceedings may present a test of whether environmental statutes can take precedence over the protection of creditors.

The company, whose former officers include Russell Mahler, sentenced to Pennsylvania prison last year for dumping millions of gallons of hazardous waste that ultimately seeped into the Susquehanna River, said in its petition that it had $4 million of assets and $3.5 million of debts, $1.125 million of those secured by the company's assets.

In its petition, however, Quanta said, "Midlantic National Bank, Elican Holding Co., Equitable Life Assurance Co. and miscellaneous banks have alleged liens on virtually all assets of the debtor. Debtor believes that it has no equity in its assets."

And there's the rub. Quanta's financial straits, coupled with its record of pollution, may well force a showdown between state environmental statutes and the federal bankruptcy law.

Both New York and New Jersey may want a crack at the proceeds of the sale of Quanta's assets to clean up hazardous wastes on Quanta's properties in New York and New Jersey, and both have filed proofs of claim.

New Jersey law provides that the state can obtain the assets of polluting companies to pay for cleaning up hazardous wastes, but the U.S. Bankruptcy Code contains nothing about environmental concerns. The code says secured creditors have first priority after employees. Midlantic, Quanta's biggest secured creditor, is owed $600,000, followed by Equitable Life with $100,000. Midlantic, if it comes to that, will argue the states should get nothing from Quanta's corpse.

Quanta was formed two years ago, and, through a series of corporate entities, it is a wholly owned subsidiary of the old-line investment banking firm of Warburg Paribas Becker Inc., which bought the 1,000 outstanding shares of Quanta's common stock from Mahler as an investment. Mahler continued as a senior vice president of sales, and, according to the court papers, was paid more than $100,000 from October 1980 to October 1981.

Quanta owns or leases three storage and recycling facilities—in Edgewater, Syracuse, N.Y., and Long Island City, Queens, N.Y. The two in Edgewater and Queens have been found to contain PCBs, or polychlorinated biphenyls, one of the most feared oil-based carcinogens and one of the most difficult to clean up.

New York, in a brief filed in the bankruptcy court in Newark, has estimated that a cleanup of at least 70,000 contaminated gallons in Queens would cost about $1 million. The extent of contaminants in about 400,000 other gallons on the Queens site is unknown, the state said.

In a deposition earlier this year, former Quanta chairman, Eugene I. Prashker, of Gladwyn, Pa., said a study of the tanks at the Edgewater site showed 400,000 gallons of oil feedstock were contaminated, and disposing of the oil would cost between $1.6 million and $2 million.

In fact, it was the pollution problems at Edgewater that forced Quanta to change from a Chapter 11 proceeding, under which the company would continue as a going concern, to Chapter 7, a liquidation proceeding.

The New Jersey Department of Environmental Protection (DEP) had licensed Edgewater as one of the state's 20 processors of hazardous wastes despite its past history, but in July of last year it ordered the site closed after news reports showed the Edgewater Terminal, a related company, was shipping highly toxic waste oil as heating oil to New York City.

The facility continued to operate, however, even after October, while the DEP and Quanta, represented by the late Francis X. Journik of the Middlesex law firm of Wilentz, Goldman & Spitzer, tried to negotiate a settlement that would implement a "remedial program." Under an agreement filed in October with the bankruptcy court, Quanta's parent company, Warburg Paribas, had said it would advance Quanta money for administrative purposes, such as paying employees and the bankruptcy trustee's expenses.

But several weeks later, when the settlement fell through and the Edgewater site was closed, the investment banker pulled out and Quanta was forced on Nov. 12, to file for Chapter 7.

One of the results of the changed status was that all of Quanta's property was placed in the hands of the trustee, Thomas O'Neill of the Newark firm of Nolan, Bell & Moore, whose duty it became to liquidate Quanta and sell its assets for the benefit of the more than 100 creditors, all of whom would be unlikely to get paid unless, like Midlantic, they held a security interest.

Meanwhile, the Queens site, which is adjacent to the Long Island Railroad and which contains 52 storage tanks, had already been closed and O'Neill was paying about $1,100 a week for 24-hour guards. In its brief, New York said the site was in disrepair, with leaking tanks, an inadequate fire prevention system and no fire box.●

STOP REPUBLICAN DEFICIT SPENDING

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mrs. SCHROEDER. Mr. Speaker, this is a continuation of my summaries of the Democratic Study Group report

"Reagan's Deficit Disaster." (See H7191, September 20, 1982 and E4292, September 21, 1982.)

Let us look at some more facts. Set out below are the Federal surpluses and deficits since World War II.

Note that deficit spending by administration offers some interesting statistics: Three of the four most deficit-ridden administrations are Republican: Reagan, Ford, and Nixon.

Moreover, the only post-World War II President to net out a surplus was the redoubtable Harry Truman. The record for deficits goes, of course, to the current occupant of the White House, Ronald Reagan.

FEDERAL SURPLUS AND DEFICITS SINCE WORLD WAR II

[Dollars in billions]

Fiscal year	Not adjusted for inflation	Adjusted for inflation[1]	As a percent of GNP
Truman average	+$1.6	+$6.3	+0.8
1947	+3.9	+15.1	+1.7
1948	+12.0	+43.8	+4.9
1949	+.6	+2.2	+.2
1950	−3.1	−11.2	−1.2
1951	+6.1	+20.6	+2.0
1952	−1.5	−5.1	−.4
1953	−6.5	−21.5	−1.8
Eisenhower average	−2.0	−5.7	−.4
1954	−1.2	−3.8	−.3
1955	−3.0	−9.7	−.8
1956	+4.1	+12.6	+1.0
1957	+3.2	+9.7	+.7
1958	−2.9	−8.6	−.7
1959	−12.9	−36.9	−2.7
1960	+.3	+.8	+.1
1961	−3.4	−9.5	−.7
Kennedy average	−5.9	−16.1	−1.0
1962	−7.1	−19.6	−1.3
1963	−4.8	−12.9	−.8
1964	−5.9	−15.8	−1.0
Johnson average	−7.2	−17.4	−.9
1965	−1.6	−4.2	−.2
1966	−3.8	−9.6	−.5
1967	−8.7	−21.3	−1.1
1968	−25.2	−59.0	−3.0
1969	+3.2	+7.2	+.4
Nixon average	−19.0	−33.8	−1.5
1970	−2.8	−6.0	−.3
1971	−23.0	−46.5	−2.2
1972	−23.4	−45.3	−2.1
1973	−14.8	−27.2	−1.2
1974	−4.7	−7.9	−.3
1975	−45.2	−69.7	−3.1
Ford average	−55.7	−79.9	−3.2
1976	−66.4	−97.4	−4.0
1977	−44.9	−62.3	−2.4
Carter average	−48.5	−54.8	−2.0
1978	−48.8	−63.0	−2.3
1979	−27.7	−33.0	−1.2
1980	−59.6	−65.1	−2.3
1981	−57.9	−57.9	−2.0
Reagan average[2]	−143.0	−122.0	−4.1
1982	−112.0	−105.0	−3.7
1983	−155.0	−137.0	−4.7
1984	−152.0	−126.0	−4.2
1985	−152.0	−120.0	−3.8

[1] All figures in this column are stated in terms of 1981 dollars.
[2] Estimates for the Reagan Administration are based on the latest CBO forecast.●

COMMEMORATION OF THE LANDING OF WILLIAM PENN

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. SCHULZE. Mr. Speaker, all during this year of 1982, citizens throughout the Commonwealth of Pennsylvania have been observing its tricentennial with a multitude of ceremonies. On October 30, the Delaware County Council will be hosting one such event—a commemoration of the landing of William Penn on America's shores. This occasion has prompted me to reflect upon the history of our great Commonwealth since the granting of the land to William Penn in 1681 by King Charles II of England.

William Penn was a far-sighted and fair-minded individual. It was his desire that all who lived within the borders of his territory live together peaceably. To this end, he set out to forge a friendly relationship between the settlers and the native Indians and, once established, this friendly coexistence endured until Penn's death. In addition to striving for ethnic tolerance, he wanted the settlers to have a role in the operation of their territory. By choosing a bicameral form of government, with the Governor being appointed by the governing council elected by the people, Penn insured that the voice of the common man would be heard.

The first government council, convened in July 1681, established Upland as the capital of the province. When Penn arrived in the new territory in 1682, he changed the name of Upland to Chester, which city retains that name 300 years later.

In 1683, Lord Baltimore of Maryland claimed land as far north as the city of Chester, starting a border dispute that lasted more than 80 years, and which was resolved when the southern boundary of Pennsylvania, as fixed by the Mason-Dixon Line, was ratified and Chester stayed within the domain of Pennsylvania.

William Penn's policy of welcoming all peoples from England and Europe led to its population by Germans, French, English, Swedes, Dutch, Scotch-Irish and Welsh, among others. All were accorded the same opportunities to contribute to the government and to the financial success of their province. Because of Penn's foresight and religious tolerance, Pennsylvania attracted many ambitious men and women from the old world. The combination of these varied traditions, religions and work ethics, in addition to the Commonwealth's advantageous geographical location, has seen Pennsylvania into the 20th century as one of America's leaders throughout our history, giving to it the appropriate nickname of the Keystone State of the Union.

Illustrative of this national leadership is, of course, its history as a religious haven. Moreover, Pennsylvania was one of the first of the Northeast colonies to establish itself as an industrial leader. Its rich coal deposits have long been mined for fueling the steel-producing mills, which have manufactured munitions for our Government in times of strife, and a wealth of building materials for the country during times of peace. Pennsylvania led the country in opposing slavery and, in fact, had been a political center even prior to the abolitionist era. Philadelphia, for example, was the host city for the First and Second Continental Congresses, for the signing of the Declaration of Independence and, for a short time, it was the seat of the first U.S. Government.

I am proud to be from Pennsylvania and a part of its time-honored past.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. FIELDS. Mr. Speaker, apparently the British Foreign Office suffers like the State Department from an infestation of some narrow, collectivist ideologues who will do anything to see the United Nations' Law of the Sea Treaty implemented. A recent article published in the Daily Mail newspaper in England laments that the Foreign Office is willing to go along with a "particularly gratuitous abandonment of certain British interests." These charges are not unlike those recently leveled at some State Department—and one particular NSC employee—employees.

Mr. Speaker, it is more than interesting that many Members of Parliament in Britain are apparently as uninformed about the LOS Treaty as their American counterparts in the Congress. Because of the serious violence this treaty does to American interests, I have sought to bring it to the attention of my colleagues in the Congress. The Daily Mail appropriately, in my opinion, terms the treaty a sea monster.

When a visiting MP was queried about the collectivist idea of "Common Heritage"—the philosophical foundation of the treaty—he responded that the idea cannot be ignored and must be taken seriously. I could not agree more with his explicit response. However, to take something seriously does not require that it be embraced. In Texas, we always take rattlesnakes seriously; we shoot them.

The article follows:

[From the Daily Mail, Aug. 23, 1982]

THE UNLEASHING OF A SEA MONSTER

(By Andrew Alexander)

Three stories concerning the Foreign Office.

First: During the Falklands Crisis, Chile was seriously considering an attack on Argentina. Immediate reaction of the Foreign Office was that this should be strongly discouraged.

Second: It was discovered recently by an indignant Government Minister that Britain, for some curious reason, pays the cost of Irish lighthouses. The Foreign Office, however, pleaded for no change in the arrangements because this might "upset" Dublin. And this at a time when Mrs. Thatcher wanted Britain's displeasure with Mr. Haughey to be known.

The third story is longer and more complex, though it again exemplifies, in passing, the Foreign Office's continuing desire to appease.

An apparently innocuous body called the United Nations Conference on the Law of the Sea has been at work for some years putting up a plan for a new, rich and potentially dangerous international organization which would be used against Western industralised nations' interests.

IMPUDENCE

The story begins in the 1960s when the United Nations passed a resolution declaring, fatuously, that the resources of the world's sea-bed were "the common heritage of mankind."

As the years passed it has become increasingly clear, thanks largely to the investment and expertise of various Western commercial concerns, that the sea-bed is rich—potentially hugely rich—in exploitable minerals. These include copper, cobalt and manganese.

So UNCLOS produced a formula to govern the recovery of such minerals. It was a formula of breathtaking impudence.

There would be an International Sea-bed Authority. It would set up a concern called Enterprise, with headquarters in Jamaica; it would license deep sea mining in international waters throughout the world.

Any company or consortium applying for a license to prospect and mine in a particular area would be required to hand over half the area to the ISA and to sell its deep sea mining technology to the ISA at a price to be determined by that body.

In the event of no agreement there could be arbitration on price. But that is a meaningless "safeguard" given that mining companies would be very reluctant to offend the ISA with its vast monopoly power over the sea-bed.

The ISA would get a big chunk of the revenue from the sale of the minerals. And it would agree to the sale subject to what it saw as world needs.

The ISA would consist of all the nations of the world operating on a one nation, one vote principle.

The powerful Executive Council would be made up of 36 nations. This group could, incredibly, exclude several of the handful of nations which actually did the mining while including a number of land-locked countries which could not mine anything.

The UNCLOS formula laid down, for example, that 18 of the 36 nations are to be chosen on a geographical basis covering Africa, Asia, Eastern (Socialist) Europe, Western Europe and Latin America?

Hang on, the sharp-eyed will say, what about North America?

BUSYBODY

Where is Australia? You may well ask.

The United States, expected, incidentally, to provide 25 percent of the initial funds to set up the ISA, would probably get in as one of the group of four to be chosen from the eight States with the largest investment in ocean mining. But it is not certain.

In any case the 36-man executive would certainly consist predominantly of non-Western and non-ocean mining nations. Several would of course be land-locked.

The distribution of profits is seen by UNCLOS as a tremendous opportunity for transferring wealth from the West to Governments of the Third World. What the formula will be is not certain, but it is unlikely to be one of which the Western Nations would approve.

In other words the U.S., Britain, France, Canada, and German, etc., would be involved in spending large sums to mine the ocean bed at times and places permitted by the ISA.

The profits would accrue to the ISA for distribution to those who have not lifted a finger in the entire enterprise. Or the funds could be used to make the ISA a rich and powerful international busybody.

HERITAGE

Why, you may ask, should Luxembourg or Paraguay or the Central African Republic or Hungary or Afghanistan be the beneficiaries? The reply is that, you see, it has been acknowledged that the resources of the sea-bed are the common heritage of mankind.

The only good news about UNCLOS and it's proposed convention is that in the spring the Reagan Administration changed its previous stand at the UN and decided to vote against the draft document. The Third World was outraged Britain—oh, how did you guess?—boldly abstained.

Amendment of the proposed convention is now being sought. The possibility of no convention at all is being suggested in some quarters. It is the best idea at the moment.

But the Foreign Office (and this is the nub of story No. 3) still shows itself willing to go along with a particularly gratuitous abandonment of certain British interests.

For it is one of the suggestions of the international plan that islands which are uninhabited or unable to sustain economic life on their own, would have no Continental Shelf rights around them. These rights, covering minerals, normally extend to 200 miles out to sea and sometimes beyond.

ENEMIES

For Britain that would mean the abandonment of rights around Rockall, perhaps South Georgia near the Falkland Islands, the South Sandwich Islands and other inhospitable places.

I rejoice to report that two Government departments have declined to go along with this and the Foreign Office has been told to think again.

But more than just the rules about Rockall need to be thought about again. The world is in danger of creating a new sea monster. Britain, with her experience and her maritime interests should be in the forefront of that monster's enemies.

MPs, sadly, seem to know next to nothing about UNCLOS and its plans. When Parliament returns in the autumn there should be a thorough debate to air this hitherto almost undiscussed matter.●

DIDC SHOULD GET ON WITH THE JOB

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. PORTER. Mr. Speaker, the Depository Institutions Deregulation Committee (DIDC) should expedite plans to permit the Nation's banks, savings and loans, and other regulated depository institutions to compete openly and equally with the unrestricted money market mutual funds.

Over the past 4 years, money market mutual funds (MMMF's) have accumulated over $190 billion in savings and funneled these newly acquired assets into 10 giant financial centers in 4 domestic money centers. Many times, big banks invest these moneys in foreign instruments or financing the Federal debt, not in the local communities from which they originated. This irretrievable drain of savings dollars from the localities often necessitates a tight credit and restrictive loan policy by area banks, leaving little, if any, money available for local borrowers.

The problem lies in the fact that financial institutions are bound by regulation Q, which mandates a 5¼- and 5½-percent interest ceiling on banks and savings and loans respectively. MMMF's, however, are unrestricted by Federal regulators and may pay whatever rate of interest the independent money markets will yield. This puts regulated financial institutions at a competitive disadvantage and traps consumers between protecting their savings from inflation by opening money market accounts, or leaving their money with the local banks at lower interest rates, which will ultimately benefit the local community.

In 1980, the Congress formed the DIDC as part of the Depository Institutions Deregulatory and Monetary Control Act in order to accomplish an orderly 6-year phaseout of the interest ceiling embodied in regulation Q. Although the DIDC has maintained its approval of a ceiling-free 18-month account for IRA/Keough customers since December 1, 1981, the committee has been subject to a great deal of criticism for proceeding toward deregulating interest rates too slowly.

Recently, the committee authorized a $20,000 minimum balance account with a maturity of 7 to 31 days and a ceiling rate indexed to the 91-day Treasury bill auction rate. Both the rate ceiling and a proposed 25-basis-point differential in favor of thrifts are to be eliminated on May 1, 1983, and suspended whenever the 91-day T-bill rate has been below 9 percent for 4 consecutive auctions.

The minimum balance requirement, the rate differential, and the interest rate ceiling, even though the latter two are temporary, makes this new investment instrument less attractive to local banks than the DIDC assumes, and effectively excludes those with moderate savings and from benefiting from the plan. This instrument will do little to increase the ability of the local depository institutions to compete with the MMMF's, which are consuming nearly $2 billion per week from the deposits of local banks.

The time has come for the DIDC to consult the Nation's banking community to devise a realistic and certain timetable to phase out regulation Q in order to allow financial institutions to compete for investments with the money market mutual funds. In the long run, expediting the deregulation of interest rates will yield a more competitive atmosphere between banks and the MMMF's which in turn will enhance our economic recovery by permitting funds invested in local banks to be reinvested in the community, not foreign countries or instruments.●

LESSONS ON U.S. RELATIONS WITH CUBA, VIETNAM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. SIMON. Mr. Speaker, the news that one of our high State Department officials has resigned because we have reacted to overtures from Cuba contrary to the best interests of the United States does not surprise me. We are "playing the Cuba card" in such a way that we help whoever is in power in the United States rather than try to establish ties of friendship.

No nation, any more than an individual, has too many friends. But you can have too few friends. It is not in the best interest of the United States for Cuba to be so solidly alined with the Soviet Union. But we are doing absolutely nothig to modify that relationship.

The same should be said for Vietnam.

After reading about the resignation of Wayne Smith I pulled out of my files the New York Times of December 28, 1981, which has a front page story about Vietnam's seeking "to move toward ties with the United States."

It clearly makes sense from the viewpoint of the United States for the developing Communist states not to be totally dependent on the Soviet Union. Greater ties between the United States and Vietnam clearly fall in that pattern.

Yet we are doing nothing.

The Carter administration did not do what it should, and it appears the Reagan administration is even worse.

I hope the day will come when we will start using a little more commonsense.●

PUBLIC EMPLOYEE PENSION REFORM

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DONNELLY. Mr. Speaker, today I have introduced legislation which will bring about needed reform in the public employee pension system if further reductions deem necessary. The Congress along with both the Reagan and Carter administrations have made many attempts to bring this skyrocketing expense into line. Unfortunately, the Congress constantly penalizes those receiving a basic subsistence allowance. Such proposals as elimination of twice a year COLA's and a cap on increases have a devastating effect on those whose pensions are less than $20,000, whereas, retirees in the upper income bracket continue to watch their pensions grow.

Legislation which I have filed today will penalize no one, but it will keep the larger pensions in line with the pay increases which have been granted to active Federal employees.

Raises for active employees are set by the Congress. Increases for retirees have been tied directly to the consumer price index, which many economist agree overstates the actual cost of living. My proposal would lock in pensions of more than $20,000 to the percentage of the retiree's highest general schedule rating. If, for example a GS–15 earning $45,000 annually retired on a pension of $22,500 his pension would remain at a constant of 50 percent of this comparable GS–15 level. No adjustment would be allowed until the individual fell below this percentage. Retiree's with pension of $20,000 or less will continue to receive full COLA's. I believe that this is the only way which we can guarantee adjustments to those who need the increases to pay their daily bills.

We all expect to see further reductions in domestic spending in order to reduce the massive deficit. I believe it would be most unfair to continue to penalize the retired Federal employees at the bottom of the pay scale. It has been estimated that my proposal can save the treasury $800 million over the next 3 years. If further reductions are necessary, I believe that this is by far the most equitable approach, affecting less than 3 percent of our current retirees.●

NEW FEDERALISM ON THE CHILDREN OF CONNECTICUT

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. MOFFETT. Mr. Speaker, I am honored to present today further testimony presented before the forum on the effects of the New Federalism on the children of Connecticut. The first statement was made by Mrs. Debby Brown, the mother of an exceptional child benefiting from the State and Federal special education program. Following Mrs. Brown's thoughtful remarks is an extraordinarily eloquent statement from Mr. Arthur Pepine, vice president of the Connecticut Coordinating Committee of the Handicapped and assistant to the dean of the Yale School of Drama.

STATEMENT OF MRS. DEBBY BROWN

Terryville, Conn., September 8, 1982.

Andrea, my oldest child is almost 7 years old. She is diagnosed as being hyperkinetic, speech impaired and neurologically imparied. At the present time she is functioning at an EMR level in the CREC (Capitol Region Education Commission) program in Plainville. I would like to explain her experience in special education to you.

Our first experience with special services, the town department which handles special ed. began when Andrea was 3 yrs. old, but functioning at a 2 yr. old level. She began receiving one-to-one instruction with a preschool handicapped teacher and a speech pathologist for 3 hrs. a week.

The following Sept. (1979) Andrea started attending the Pre-K program in Plymouth for a 3 day week. This represented a milestone for us because she was able to leave home for 2½ hours a day without her family. This was largely due to the trust she had slowly developed in her teacher the previous year.

During the year she received a neurological exam at Newington Children's Hospital. Andrea was diagnosed as extremely hyperkinetic and dexadrine was prescibed.

The hyper-kinesis was an explanation of her brief and at times non-existent attention span. A child who cannot pay attention cannot learn.

I would like to add that even though this exam was requested by special services, we had to pay the bill.

Special ed Pre-K was a fantastic program for my daughter. By January she was able to do a few activities by herself, although she could not stay at a task for more than a few minutes.

Andrea had a second full year in Pre-K in 1980–81. By this time her medication was increased and she began to participate in songs, discussions, and finger plays. Her fine and gross motor skills were far below those of her classmates, but there was an improvement.

In March of 1981 a psychological evaluation was completed on Andrea. At this time she was 5 yrs. 4 mos. old, but her overall mental age was tested to be 3 yrs., 4 mos. We know, however that there exists a potential for better things because her scoring on a pictorial vocabulary test was that of a 6 yr., 1 month old child.

At her spring review meeting it was decided by all involved that she had accomplished all she could in pre-K. The staff of special services recommended she attend a local elementary school. The program was to involve 2½ hrs. special ed. per day, with Andrea attending Kindergarten for about ½ hr. each day for socialization skills.

But, when school started in Sept. she was being sent to Kindergarten most of the day, and her special ed. class also consisted of children functioning on a much higher level. This program change was made without the knowledge or consent of her parents. What we did not know was how inappropriate the spec. ed. program at this school was. By October we were called in for a meeting. The behavior that was being described to us was what Andrea had overcome 2 years before!

When I tried to explain that the setting was wrong for a child of Andrea's handicaps, I was virtually ignored. Finally, I had to withdraw her from school and take my chances with any legal action which may have followed. She was, I felt, already harmed enough by being thrown into a setting over her head intellectually.

As a result of my actions, her former Pre-K teacher was sent to our home as a tutor until the right program could be found. Andrea, her teacher and I examined several schools, and decided on the CREC program.

Andrea has made tremendous progress since she started at this school last November. She has relearned what she lost last fall, and has learned much more.

Because of her current program she has gained confidence, and the feeling she can try to do many things. "I can't" is no longer a frequent part of her vocabulary.

We almost lost hope last year because our child was a victim of being forced into what was easiest and cheapest for our town to provide. Unfortunately, sometimes money is put first and the welfare of a child second. Money and budgets should not interfere when the life and future of a child is concerned. My daughter's class has already felt funding problems when they had to do without a speech teacher from January to June last year.

I hope that when you return to Washington, you will be able to carry back the message that a fitting and quality education can make all the difference in the world to Andrea and all the special children like her.

Thank you,

DEBRA A. BROWN.

REAGANISM, THE NEW FEDERALISM, AND CHILDREN WITH DISABILITIES

(By Arthur Pepine, Connecticut Coordinating Committee of the Handicapped, September 8, 1982)

As we attempt to measure the adverse effects which current federal policies are exacting on America's children, it is imperative that we understand the reasons these policies are enjoying such widespread support. Why is the long dormant, Spenserian philosophy, commonly called social Darwinism, experiencing a rebirth? After years of enlightened programs—like the New Deal, the New Frontier, and the Great Society—which fostered communality, why does our electorate harken back to precepts which pit people against one another; which inextricably link a person's worth to his or her material success in the marketplace; in which only those who prove to be the fittest to survive the jungle of a free market economy are allowed to escape extinction?

To understand how children with disabilities are faring in this dog-eat-dog atmosphere we need further to appreciate the long-standing devalued role which society has assigned children, as well as adults, who have a handicap.

A helpful insight comes from Kenneth Keniston's introduction to a seminal work on disability entitled "The Hidden Minority: Handicapped Children in America." It is a brilliant study which was produced by John Gliedman and William Roth as part of a series commissioned by the Carnegie Council and Children.

"Of all American children, those who are handicapped are the least identifiable as a distinct social group. They show no common physical, psychological, or cultural characteristics. The blind child, the child with cerebral palsy and the child with minimal brain damage are generally less like each other than each is like his or her able-bodied age mates. What distinguishes handicapped children is above all a social fact. They differ from the able-bodied norm, and for this reason they are assigned a stigmatized and deviant social role.

"What marks the handicapped "special" are the attitudes and reactions of others who are not handicapped; and the greatest harm to the handicapped child or adult stems from this socially engendered impairment of daily life, self-concept, and future—not from functional impairments themselves."

Central to the manner in which handicapped children are viewed—the stigmatized and deviant social role which Keniston contends we are compelled to play—is a wealth of misinformation about disability and a resulting prejudice which has been adrift in our culture for ages.

Through years of socialization and exposure to popular culture we each compile a storehouse of theories, presumptions, and myths to help us explain disability. Principal, and most unconscious, among them is the classic link we have been taught to make between evil and physical deformity. History is replete with examples in which malformed individuals were persecuted under the presumption that they must have done something terrible for God to have punished them so. And while a recent general heightening of awareness has softened its effect, authors of popular fiction can still successfully employ a devise in which a character's evil nature is telegraphed by hanging a disability onto him.

But the most damaging presumption made about children with disabilities is that they are chronically sick or diseased. A myth capable of provoking a strong and complex set of feelings; feelings like revulsion, guilt, anxiety, and pity. Fickle as it is, the healthy world will not long put up with a bad patient. If you break a leg skiing you are the object of some humor and deserving of cups of tea or soup, and some solicitude. But if you don't cooperate, if you refuse to get well . . . you simply will not be tolerated. Nobody loves a kvetch or a hypochondriac. And here, too, is the trouble with children who have a disability . . . they will not get well. It would suit society fine if they would simply stay out of sight, somewhere, until they got better.

Stigmatized as sick, helpless, and irremediable, children with disabilities are objects of pity but not of tolerance. By assigning a medical; explanation to handicap, nonhandicapped society easily disavows responsibility for involvement. After all, if someone is sick he or she needs professional care and is not yet ready to participate in our world.

The result is an unfair and tragic isolation. An isolation so profound that Gleidmand and Roth contend children with disabilities constitute a minority which is even more disadvantaged than are blacks, Hispanics, or women. Those minorities, at least, have the benefit of a common culture, a shared experience. Handicapped children are isolated . . . profoundly.

Even parents are not the best influence on children with disabilities. Often pessimistic over diminished future expectations, they early on transfer to their offspring a subtle but sure message that they are unfit for the world. Unfit for the world but prime for the enactment of self-fulfilling prophecies.

It is axiomatic: treat a person like a cripple and he or she will soon begin to act like a cripple. Negative attitudes toward children with disabilities are profound, pervasive, and contagious. The arbitrary and unfair obstacles society places in the way of their development are of far more importance than are the biological limits imposed by their impairments.

Look, for example, at the uncharacteristically unliberal and insensitive editorial recently published by the New York Times in which it endorsed a Supreme Court majority decision—denying a deaf elementary school pupil, Amy Rowley, the benefit of a sign language interpretor in class—by flippantly remarking, "the world is not perfect"; one lesson which the Rowley child did not need to be taught. They further defended the judgment by arguing its appropriateness, "considering the soaring costs of special education."

While it was plainly established that fully fifty per cent of the classroom instruction was presented in a form which was inaccessible to young Amy, the Court deemed that, as she was receiving passing marks and was progressing from grade to grade, the school was doing all that was required of it. They argued that *no* child has the right to have his or her educational "potential maximized." While that, regrettably, may be the case, it ought not be the case that a child should be satisfied with only half the materials which is presented to his or her classmates.

The Court and the Times failed to see that the questions here are ones of access and equal protection. They would not, I am sure, condone education for nondisabled children only half of which was comprehensible. Nor would they tolerate for them a school year which was only half as long as that prescribed by law. Yet Amy Rowley, because of disability, is told to settle for something very much like this.

The issues are really ones of money and how we measure people's worth. As long as we view handicap rights as privileges, we will wrongfully subject them to cost-benefit analyses. And despite vast experience to the contrary, we insist on seeing children with disabilities precariously perched somewhere between helplessness and death: investment in them is tantamount to pouring money down a sink hole.

It is this attitude which underlays the Administration's current proposals to "reform" regulations implementing PL 94-142 and Section 504, reforms which promise to gut them of their civil rights protection. This attitude is also shared by those persons in Bloomington, Indiana, who were responsible for recently denying an Infant Doe the medical care he needed to continue staying alive.

A clear case of starving a newborn because he had Down's syndrome, there is here a

symbol for every person with a disability. It gives us a frightening insight into society's uninhibited attitude toward people who don't "measure up."

Why was Infant Doe starved to death? His principal fault was that he came into the world with a stigma, a disability; he was simply born too distant from the norms which we call "baseline" to deserve the right to enjoy life. But that alone does not explain the impunity with which his parents, doctors, and the courts endorsed his death. The blatant discrimination from which he suffered, discrimination we don't tolerate in the rest of society, was allowed because he was also an infant.

Newly delivered from a legally ill-defined biological mass, he was denied the rights accorded older members of society, as though legal protection can grow with a person's age. We rightly condemn eugenics for adults but hypocritically sanction it for infants.

Infant Doe was starved to death because he promised to be a living reminder of our own mortality. Like messengers of old, he was an intolerable insult to our prideful eagerness to soar with the gods. And, like messengers of old he had to be killed to cease reminding us of how ungodlike we really are.

Prejudice toward disability, I put to you, is responsible for the undervalued role we are assigned in America's economic and political life. And here we share a common problem with other disadvantaged minorities: the problem of living in a society which is unwilling to act on behalf of its purported moral beliefs; a society which fails to see the hypocrisy of promising equal opportunity while withholding the means required to make good on that promise.

How often have we heard disability rights characterized as "worthwhile . . . humane . . . long overdue"? And how often have we heard the excuse, often in the same breath, that society cannot afford to grant them?

It is too expensive, we are told, to run buses which we can use; look at the damage done last summer by the U.S. Department of Transportation to its 504 regulations. It is too expensive, we are told, to give us access to post offices, court houses, and other public buildings; look at the way administration representatives on the Architectural and Transportation Barriers Compliance Board are working to undermine its effectiveness. It is too expensive, we are told, to guarantee us access to jobs which contribute to our independence; listen to the Department of Labor's stated intention to ignore congressionally mandated affirmative action requirements. It is too expensive, we are told, to grant us an appropriate education; hear Secretary Bell's complaint that too much is spent on special education which might better be spent on so-called normal children. And it is too expensive, we are told, most recently by our own state's Attorney General, to guarantee our institutionalized sons and daughters anything more than a vegetative existence, one which does not reek of cruel and unusual punishment, one which the law prohibits us inflicting on imprisoned criminals, most of whom can at least look forward to release on good behavior.

The eminent Supreme Court jurist Louis Brandeis once observed, "Our government is the potent, the omnipresent, teacher. For good or ill, it teaches the whole people by its example." With regard to disability rights, our governments, especially the present federal administration, have set us a shameful example. By implementing policies which reward high achievers at the expense of those less lucky, it loudly proclaim a message that a whole segment of society is dispensable. It drives a wedge between the salvageable and the unsalvageable. It practices a cruel triage in which the cream in our society is allowed to rise up, to enjoy the fruits of our economy, while the rest must sink into shadow . . . into a safety net . . . from which escape is impossible.

If trickle-down economics and the "new federalism" ever achieve their promised prosperity, which purports to benefit us all, it will never justify the deprivation poor, disabled children will have had to go through.

Billions would be spent on charity-like maintenance programs but only tokens for subsidies which increase their viability in the economic mainstream.

What about charity, especially of the not-for-profit type? Can it live up to President Reagan's promise to fill the void resulting from wholesale abandonment of federally funded social programs? If we are to believe the numerous corporate responsibility officers and directors of charity conglomerates, who ought to know, it cannot!

The viability of most persons with disabilities is directly linked to the fate of national programs. Programs from which children and adults with disabilities want and deserve only what is every American's by right: access and an investment in their futures.

"The only thing necessary for the triumph of evil," Edmund Burke once said, "is that good men do nothing." Indeed, as good men and good women we must act. It is time we rejected the conservative brain wash which is threatening a thorough backward revolution. It is time we stopped running from liberal policies which, despite having never been forcefully pursued, have in them the potential for making of our society one of the most humane and just in the world.

Democracy, unlike fascism, is not efficient; it costs money and time. But in neither case have we been willing to pay the necessary price. We have run shoddy social programs (which looked expensive only after we had experienced an Arab oil embargo and our economy had faltered badly) and we have lived with relatively low rates of political participation. (Some argue that President's Reagan's mandate came from only 27% of the electorate).

But, foremost, we must educate ourselves out of ignorance producing prejudice. We must renew our commitment to sharing and participation. We must work toward a societal revolution in which people programs, like special education, are the unquestionable recipients of tax dollars, and antipeople, military programs, are funded through televised, 24 hour, Jerry Lewis type telethons.●

CONGRESSIONAL SALUTE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. ROE. Mr. Speaker, on Friday, October 1, the residents of Clifton, my congressional district, and State of New Jersey will join together in testimony to one of our most distinguished citizens, outstanding community leader, and good friend, the Honorable William Holster of Clifton, N.J., whose standards of excellence throughout his lifetime and exemplary public service of four decades, and particularly this past quarter of a century at the helm of the administrative offices of the city of Clifton have truly enriched our community, State, and Nation.

Mr. Speaker, as Bill Holster retires as city engineer and city manager of the city of Clifton, I know that you and our colleagues here in the Congress will want to join with me in deep appreciation of all of his good works and share great pride in the success of his achievements with his wife Therese, daughter Neisje, son-in-law Richard Foster-Woodley, and granddaughters Adorie and Victoria.

City manager Holster has indeed earned the highest respect and esteem of all of us who have the good fortune to know him. There is so much that can be said of Bill Holster and his lifetime of dedication and devotion to the needs of people, an inkling of which may be discerned in the affectionate salutation he receives in many circles throughout our country, viz. "Mr. Clifton."

Mr. Speaker, Bill is one of the most personable and highly competent city administrators in our Nation. The quality of his leadership and sincerity of purpose have been warmly captured in the resolution of tribute adopted by the New Jersey State Senate and General Assembly and with your permission I would like to insert at this point in our historic journal of Congress this testimonial by our State legislators, which reads as follows:

RESOLUTION

Whereas, August 1st, 1982, marked the retirement of William Holster after a career of service to the City of Clifton which spanned more than thirty-six years, commencing with his designation as Acting City Engineer, and culminating in his appointment as City Manager, an office in which he served with distinction for twenty-six years; and

Whereas, his far sighted and innovative administration promoted and shaped Clifton's unprecedented growth and development throughout the postwar years; and created for those to follow an enviably sound and viable base on which to build for the City's future; and

Whereas, his record and achievements as City Manager and his significant contributions to County and State as well as local government earned him an outstanding reputation throughout the State and nation as an able and dedicated leader in the field of public administration;

Now, therefore, be it resolved, that we, the Members of the General Assembly of the State of New Jersey, in meeting assembled, do hereby, on the occasion of Bill Holster's retirement, formally convey to him our commendation for a job well done, and our best wishes for a long, happy and rewarding retirement; and

Be it further resolved, that this resolution be spread at large upon the minutes of this meeting and that a duly certified copy thereof be formally presented to Mr. Hol-

ster at the dinner to be tendered in his honor by his many friends and admirers throughout the State on Friday evening, October 1st, 1982.

Mr. Speaker, we are proud to boast that Bill Holster is a native-born citizen of Clifton, N.J. He is a graduate of the public schools of Clifton, where he excelled in football as an undergraduate in high school. He studied for 1 year—1933-34—at the University of Notre Dame, and transferred to the University of Kentucky, where he received his B.S. degree in civil engineering in 1938. Then followed a course in civil law at Delahanty Institute and graduate study in public administration at the Columbia University and Stevens Institute of Technology. In 1947, he began a series of additional graduate study courses starting with one in civil engineering at Columbia University. That was followed by a course in public administration at Stevens Institute, and more of the same at Columbia.

In 1938, upon his graduation from the University of Kentucky, Bill joined the then four-man engineering department at Clifton City Hall, applying his technical knowledge and training in surveying, road construction, and planning of public works projects before taking a job in private industry with George M. Brewster Co., where he applied his professional expertise in practical engineering and hydraulics and was resident engineer on the construction of the Lackawack Dam at Ellenville, N.Y.

In 1941 and during the war years, he was resident engineer for the eastern division of the Bethlehem Steel Corp. and worked as a construction engineer on bridges, ship and submarine slips at the company's busy shipyards in Groton, Conn.; Norfolk, Va.; Boston Mass.; and Baltimore, Md. He also worked on aircraft hangar construction in Macon and Marietta, Ga. Subsequently, he was assigned to Bethlehem Steel shipyards in Baltimore, then to the construction of highway and railroad bridges, including those over the Susquehanna River at its widest span.

On April 16, 1946, he rejoined the engineering department of the city of Clifton. In the course of his career pursuits with the city of Clifton he served as public works director, public safety director, director of public finance, civil defense director, and city engineer. In December 1956, he was appointed acting city manager and in March 1957 received the permanent status of city manager.

Mr. Speaker, the city of Clifton is located in Passaic County, northern New Jersey within the vast northeastern region of our country, only 14 miles from Times Square in New York City. It comprises 11¾ square miles, is one of the largest cities in area in the State of New Jersey, and has a population of over 82,000. One need only look at the dynamic progress of the city of Clifton and its development during Mr. Clifton's tenure as city manager and engineer to realize the magnificence of the contributions Bill Holster has made to the quality of life of the people of Clifton, our State, and Nation. His personal commitment to the economic, social, and cultural enhancement of the city of Clifton has been a way of life for him.

Bill has served as president of the New York-New Jersey Public Works Association and the New Jersey Municipal Engineers Society. He also held several offices in the New Jersey League of Municipalities and was appointed by the Governor to serve on the New Jersey State Planning Commission. He has been active in many civic organizations, including the Clifton Rotary Club, Passaic City Club, Notre Dame Alumni Association, City Managers Association, and American Water Works Association. He has extended the richness of his wisdom and expertise—always giving willingly and unselfishly of his time—in helping others. We are especially proud of his compassion, dedication, and untiring efforts on behalf of his fellow workers, the residents of Clifton, and all mankind.

Mr. Speaker, Bill Holster has truly inspired and enriched the lives of many of our people in his lifetime endeavors. I am pleased to join with the people of the city of Clifton in this testimony to all of his good works and seek this national recognition of his outstanding contribution of his outstanding contribution to the American way of life and the American dream. We do indeed salute a beloved city engineer and city manager, outstanding community leader, and great American—the Honorable William Holster, "Mr. Clifton" of New Jersey.●

SEGREGATION BY ECONOMICS IN NATION'S COLLEGES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. SIMON. Mr. Speaker, the Chronicle of Higher Education on September 1 had an article by Jack Magarrell titled "Number of Lower-Income Students Drops 39 Pct. at Private Colleges".

That headline tells the story of what is wrong with the present student assistance program emphasis.

Yes, this Nation is saving money by following some of the recommendations made by this administration. Fortunately, we are not following all of those recommendations.

But the net result is an increasingly economically segregated college community.

That is simply not good for America.

I am inserting the article in the RECORD, and I hope my colleagues will join me in taking steps during the coming years to change this so that all schools, public and private, will be open to young people of our country—and sometimes to older people—regardless of their personal financial status.

[From the Chronicle of Higher Education, Sept. 1, 1982]

NUMBER OF LOWER-INCOME STUDENTS DROPS 39 PCT. AT PRIVATE COLLEGES

(By Jack Magarrell)

With costs of higher education rising and federal aid to students declining, private colleges and universities are reporting a major loss of lower-income students.

A survey of students receiving financial aid at private institutions in 1979-80 and 1981-82 showed a drop of 39 percent in enrollment of students from families with incomes between $6,000 and $24,000.

Julianne Still Thrift, executive director of the National Institute of Independent Colleges and Universities, which made the survey, blamed the decline on "continuing increases in college costs that coincide with decreased dollars available from federal aid programs."

During the years 1979-80 through 1981-82, undergraduate enrollment at the private institutions rose by about 2 percent, Ms. Thrift says, but the proportion of undergraduates receiving financial aid dropped from 59 to 56 percent.

The number of students from higher-income families receiving financial aid rose dramatically during the survey period, she says. Among those with family incomes over $36,000, the increase was 156 percent.

The survey data were based on a national sample of 122 private colleges and universities with enrollment over 500.

During the two years, average student expenses—including tuition, room, and board—at private colleges and universities rose from $5,800 to $7,211, according to the survey.

To cover the increase, students have turned from federal grants to aid from their institutions, and are much more dependent on borrowing and their own earnings.

On the average, federal aid to students in the form of Pell Grants declined from $668 in 1979-80 to $494 in 1981-82, according to the survey. The average supplemental grant stayed about the same: $208 the first year and $207 two years later. The average state grant declined from $610 to $574.

Scholarship grants from the colleges' own funds increased from $564 to $777, the survey found.

The average amount of student loans more than doubled—from $703 in 1979-80 to $1,543 in 1981-82—and the amount from student earnings and savings rose from $1,099 to $1,437.

The survey report said that trends in student aid "clearly show an increased reliance on self-help."

When the 1980 amendments to the Higher Education Act were passed, it said, the national goal was for students to be responsible for paying 25 percent of the cost of their education with money from savings, work, and loans.

In 1980, the average share of the cost of education paid by a student at a private college was 31.1 percent, according to the report, but in 1982 that share had risen to 41.4 percent.●

TRIBUTE TO ORVILLE BECKORD: OUR LADY OF LOURDES HOSPITAL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. FLORIO. Mr. Speaker, I would like to take a moment of the House's time to recognize a constituent of mine on his retirement back home in the city of Camden. Mr. Orville Beckord has accomplished much in his 31 years of service to Our Lady of Lourdes Hospital and his retirement has drawn the attention and interest of his fellow workers.

It seems fitting that those working around him are exhibiting this enthusiasm for his retirement day since they regard him as one who brings and spreads enthusiasm every day at his job.

This enthusiasm coupled with unwaivering dedication to his position has won the respect and high esteem of those who have worked with him.

But it must be noted that two of his most recognized qualities are modesty and courteousness. I suspect that only an individual with a strong inner confidence can be so reliable, cooperative, and competent and still remain humble.

Having progressed from a volunteer 31 years ago to his present position of chemist in the clinical laboratories of the hospital, Mr. Beckord has accepted the responsibility of staying on top of the most current practices in his profession, and this has been reflected in his constant maintenance of a high degree of professionalism.

I congratulate Mr. Beckord on his retirement, but more importantly, I commend on his sense of human integrity he displayed throughout his career.●

RELIEVE VA OF AGENT ORANGE EPIDEMIOLOGY STUDY

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DASCHLE. Mr. Speaker, last Wednesday, September 15, the House Veterans' Affairs Subcommittee on Oversight and Investigations held a hearing on the progress of the Veterans Administration's agent orange epidemiology study. The subcommittee was stunned to learn that 3 years after Congress ordered this study, it has not yet begun. In an opening statement, I stated that unless the VA completed a preliminary segment of the study by September 22, and began a proposed pilot study by October 15, I would introduce legislation to relieve them of all responsibility relative to the study and turn the whole matter over to the Center for Disease Control. As I expected, I did not have to wait the full 30 days. The VA has still not finalized the changes they feel are necessary in the exposure index portion of the study. I am thus compelled to introduce legislation to relieve them of this effort. I plan to urge both the chairman of the Veterans' Affairs Committee and the ranking minority member to support my legislation and turn the project over to a governmental body who can do the job expeditiously and get started immediately. Following is the text of the legislation:

H.R. 7170

A bill to transfer from the Administrator of Veterans' Affairs to the Secretary of Health and Human Services the responsibility to conduct an epidemiological study of the long-term health effects in humans of exposure to phenoxy herbicides (including agent orange)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the study required to be conducted by the Administrator of Veterans' Affairs under section 307 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note) shall be conducted by the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control. Any records of the Administrator of Veterans' Affairs prepared in connection with that study before the date of the enactment of this Act shall be transferred to the Secretary of Health and Human Services.●

GOVERNANCE: IDEOLOGS AND PRAGMATISTS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. PORTER. Mr. Speaker, prior to the August 19 vote on the Tax Act, the bill was analyzed and studied from many different angles—its merits, its constitutionality, and its projected impact on the economy. But Mr. Roberts of the New York Times took a new tack and examined the political differences apparent among conservative Republicans. He correctly identified that conservative Republicans are split on many issues from abortion to foreign aid into two groups: ideologs versus pragmatists, purists versus compromisers. Since the Republican Party is perceived to be the governing party of this Nation, I thought this article would be of interest to my colleagues and ask that it be printed in the RECORD at this point.

The article follows:

PURISTS AND PRAGMATISTS SPLIT ON G.O.P.'S AGENDA

(By Steven V. Roberts)

WASHINGTON, Aug. 16.—The fight within the Republican Party over the plan now before Congress to raise taxes by $98.3 billion has illuminated a deeper and more enduring split that divides Republicans on many issues, from the economy to abortion to foreign aid.

How that split is resolved could seriously influence President Reagan's relationship with Capitol Hill during the rest of his stay in office.

In basic terms, the split really divides two kinds of Republican conservatives: ideologues versus pragmatists, purists versus compromisers, those who want the whole loaf versus those who will settle for a grilled cheese on toast.

Representative Barber B. Conable, Jr., a conservative Republican from upstate New York who fits clearly in the pragmatic camp, thinks that the key to the split lies in the basic aims of the two groups.

"Many ideologues are more interested in issues than in governing," he said. "They're trying to lead thought into the right channels. That's more important to them than the disorderly business of managing the Government. By its very nature, you get your hands dirty when you try to seek a consensus."

TAX BILL AN "ECONOMIC ASPIRIN"

The division was obscured during the first 18 months of the Reagan regime by the lingering euphoria produced by the victories of 1980 and the remarkable devotion to the President's program of the part of virtually all Republicans. But now it has been brought into focus by the slumping economy, which has created doubts about Mr. Reagan's economic approach, and caused some pragmatists to look for new answers.

A good example is Representative Henry J. Hyde, a conservative Republican from Illinois, who generally favors the new tax bill. "I'm still a devout supply-sider," he insisted, "but the time factor has now stretched out longer than any of us wanted. So what do you do? The tax bill is kind of an economic aspirin."

In addition, the sheer experience of running the Government, of getting their hands dirty, has affected the Reagan White House and the Republican leadership on the Hill.

"They're at this major crossroads right now," said Representative Tony Coelho of California, head of the Democratic Campaign Committee. "The Republicans have been minority party for years, and they were able to be true ideologues without governing. But you can't run a Government with ideologues."

The conflict between Republican conservatives has shown up in many areas in recent months, including these:

The proposed constitutional amendment to balance the budget: Right-wing ideologues, led by Senator William L. Armstrong of Colorado, pushed through a change in the Senate that would make it much harder for Congress to borrow money and raise the national debt. Supporters of the amendment in the House, led by Mr. Conable, were furious, feeling that such a provision might pass the Republican-controlled Senate but could sink the amendment in the Democratic House.

Social issues: Senator Jesse Helms, Republican of North Carolina, a hero to the right wing, is pushing Senate debate on such emotional topics as abortion and prayer in schools. Senator Howard H. Baker Jr. of Tennessee, the Republican leader, a consummate pragmatist, has tried to keep these issues buried, on the ground that Congress and the White House should focus on economic issues.

Debt ceiling and balanced budget: As a candidate, Mr. Reagan opposed budget deficits and higher debt ceilings; as President, he has been forced to endorse both. But his more conservative critics consider this shift a sellout.

Foreign aid: Here again, the pre-Presidential Reagan excoriated foreign aid as a liberal boondoggle. But when he had to maintain relations with governments around the world, he decided, much to the horror of his old friends, to ask for even higher foreign aid expenditures.

Extension of unemployment benefits: ideologues in the White House opposed any extension until practical politicians on Capitol Hill told them that supporting benefits was essential for survival this fall.

But no issue illustrates the division better than that of taxes, mainly because it is such a critical element of the conservative agenda. Some lawmakers embrace the gospel of supply-side economics, which considers lower taxes the key to greater investment and growth. And to a devout supply-sider, tax increases would be fatal to the economy.

Moreover, many conservatives strongly believe that their only chance of dismantling the social welfare state is to starve the government by cutting taxes. Raising taxes, they fear, would only fuel social spending and keep alive the programs they want to kill.

In describing this faction within his own party, Representative Robert Michel, the Republican leader, called them "ideologues who couldn't bend themselves around a corner at any time." But the degree of commitment to a set of ideas is not the only distinction between the warring factions.

"It's more an expression of experience than anything else," said Mr. Conable. "A lot come to Congress and feel a sense of mission, but they underestimate the complexity of Government. You'll find that most of the pragmatic people have been around for awhile."

The New York Republican also fears that some of the President's more acerbic critics have not understood their hero very well. "Ronald Reagan has always had a capacity to live his life in segments, the rhetorical segment and the real world," Mr. Conable said, referring to Mr. Reagan's decision to reverse course and go for the $98.3 billion tax increase. "I find that some groups are trapped by Ronald Reagan's rhetoric, and don't follow his actions."

Conservative lobbying groups outside Congress also play an important role, by whipping up ideological fury and pressing lawmakers to stick to their purebred precepts. Interestingly, the tax revolt of hard-line conservatives occurred at the same time that Conservative Digest, a major voice on the right, had a cover article proclaiming "the growing conservative disappointment with the President."

"Some of these outside groups can't survive unless they're in opposition to whoever is in power," said a member of the Republican leadership in the House. "They can't be viable organizations unless they're involved in a struggle, and in this case, the struggle is to preserve Ronald Reagan's purity."●

MORE ON DRUNK DRIVING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to commend to the attention of my colleagues the following excerpt from Elinor Brecher's piece on drunk driving from the September 5 Courier-Journal magazine.

Progress is being made throughout the Nation in stopping this senseless slaughter on our highways. Statistics show that traffic fatalities in Maryland declined at a record rate in the first 6 months of this year—down some 30 percent—credited to that State's new, tougher drunk-driving laws.

But, drunk and drugged driving is a nationwide epidemic—and deserves a national effort to stop it. I hope my colleagues will see fit to endorse the various legislative initiatives before the Congress which seek to curb—or even wipe out—alcohol or drug-related deaths on our roadways.

Drinking and drunken drivers. They cause about half of the 51,000 deaths on America's highways each year, claiming more lives than all other forms of violent crime combined. About the same number die every day in drunken-driver crashes as in the much-publicized Air Florida crash in Washington, D.C. on Jan. 13, which killed 78 people.

Drunken-driver crashes cost $24 billion last year in lost wages, property damage and insurance costs, and they left at least 650,000 people critically injured or crippled. Six out of 10 people who die in single-vehicle crashes are drunk. Drunken drivers are behind the wheel of one-tenth of the cars on the road on a normal weekend night, and 1.2 million of them are arrested each year.

Survivors are often tortured by guilt, wondering why they didn't figure out some way to avoid the drunk who jumped the median, crossed the line or barreled through an intersection with his lights off. Grief twists the minds of otherwise rational human beings, creating murderous, vengeful impulses. The bereaved tumble into pits of numbing despair, unable to grapple with the hopelessness and the needless loss.

Lois Windhorst thinks it's an outrage, and so does a fiercely committed and growing group of anti-drunken-driving activists who became familiar figures at the Kentucky General Assembly this year. They belong to MADD—Mothers Against Drunk Drivers. Mrs. Windhorst founded the Lousiville chapter. The group is monitoring court cases, pushing for tougher laws and tighter enforcement in Kentucky, Indiana and 27 other states.

Trying to stop the carnage caused by drunken drivers has recently become a national *cause célèbre*, largely because of MADD, AIM (Against Intoxicated Motorists), RID (Remove Intoxicated Drivers) and similar organizations. MADD, a non-profit group that doesn't oppose drinking, only drinking and driving, had chapters in only five states when Mrs. Windhorst got involved last fall. Now there are 79 chapters in 29 states, and by all accounts they are a force to be reckoned with.

In the past year, 22 states have enacted and many others have considered tougher drunken-driving laws—in some cases, coupled with raising the drinking age—largely because of the attention MADD has brought to the issue. The U.S. Senate passed a bill in May that would give incentive grants to states that enact laws requiring 48-hour jail sentences for repeat offenders and license suspensions—90 days for the first failure of a chemical sobriety test and a one-year suspension for repeat offenders. Those caught driving on a suspended license would face a 90-day impoundment of their vehicle. The House is considering the measure.

A special Federal commission has been created to increase public awareness and urge enforcement of existing laws. Congress is considering a Federal law establishing a national definition of intoxication and setting minimum penalties for drunken driving.

On a local level, the group's impact is undeniable. At a hearing in Jefferson Circuit Court this summer, a judge found himself facing a courtroom packed with about three dozen people—MADD representatives and friends of a victim of an alcohol-related crash—who wanted to register their concern for justice. It was an extraordinary sight that amazed courthouse regulars.

"It ought not to make any difference to a judge because he should be doing the right thing in the first place," said Jefferson District Judge John Carter, whom MADD considers an ally. "But from a practical standpoint, they will make a difference if judges value the support of the community. As long as MADD is active, they will have a definite influence on cases."

No one seems sure what will have significant influence with the public, however. Most people are likely to respond with a resounding "ho hum" to any information about the drunken-driver problem, Mrs. Windhorst has found. She is constantly amazed that people aren't familiar with the scope of the problem and when told seem so unconcerned.

"Everybody does it," says Mrs. Windhorst, whose in-laws, Ollie and Frances Windhorst, were killed by an unlicensed, uninsured drunken driver at noon on Father's Day 1980. "Judges, people who sit on juries, policemen. Alcohol is society's accepted drug, and drunken drivers are society's accepted murderers. People just don't think it can happen to them so they don't take it seriously."

The letters she receives, at least 10 a week, in addition to about 50 phone calls, reconfirm just how serious the matter is. Misery, frustration and anguish leap off the pages:

"I feel so lost and defeated. People really don't care about victims of drunk drivers. . . . There has to be some kind of justice. It makes you wonder what kind of world we are living in, and is there a God?"

"I had a dear aunt and her daughter, who happened to be my favorite cousin, killed in September of '80 by a 21-year-old drunk. A family was torn to pieces by this and still seems to be at a loss."

"I had a daughter killed in 1976 and two boys that were friends. They were all 17 years old and my 15-year-old daughter was badly injured. The woman was drunk. . . . She was sentenced to 3 to 9 years for manslaughter. . . . She served one year, and a

month and seven days after her release she was in another wreck (drinking)."

"A drunk driver drove out of the Moose Lodge parking lot, hit a car and killed an 18-month-old baby. . . . A jury found the bartender and the lodge guilty of contributing to his drunkenness. The judge set aside the ruling saying there wasn't evidence to prove the bartender knew the man was drunk. The man will serve six months at Rescue Inc., not even a real jail. Life surely is cheap here."

"My grandfather was killed by a drunk driver many years ago. The man was released after only a few days in jail. Things haven't changed much, have they?"

Sometimes the drunken drivers write Mrs. Windhorst:

"I had an accident in 1979 . . . I turned the car on the top. My 4-year-old son and I escaped injury. I was charged with driving under the influence of alcohol . . . four months later, late at night with two of my friends, I passed out at the wheel of my car and ran off an embankment. Again, no one was hurt. . . . I stopped drinking in April of this year. . . . I only thank God that He was with me and never let me hurt or kill someone."

The cause has become an obsession for Mrs. Windhorst, 28, who said she and her family felt confused and helpless after their tragedy. She recalls being appalled at a prosecutor's warning that the man who killed her in-laws would probably spend little or no time in prison (he is serving a nine-year sentence and was denied parole last year).

Now there's MADD to offer emotional support and—equally important—guidance about court proceedings. A nearly universal complaint among victims and survivors is that they feel lost in the criminal justice system. They believe that the system turns itself inside out to accommodate defendants, who seem to be given all the breaks.

At the root of the drunken-driver problem is something basic to our society, Mrs. Windhorst believes: Drinking is the great American pastime.

Mrs. Windhorst considers people who insist on driving when they've been drinking unspeakably selfish. She has little patience for the usual excuses: "I drive better when I'm drunk" and "I'm a social drinker; I could never hurt anyone."

"Bull," she says. "First-timers kill too. . . . You can get just as drink on beer and wine." She refuses to call alcohol-related crashes accidents. They may be random acts, but they aren't accidents, she says.

Debbie Kentrup puts it this way: "In our upbringing, the social atmosphere is, 'It's Miller time.' You don't see anyone having a good time anywhere without booze. You're not considered sociable if you don't drink. . . . People think [driving drunk] is funny. I used to think it was funny. Now I don't."

All of that contributes to an attitude that makes drunken-driver cases—even those involving death or serious injury—so difficult to get past judges and juries. In case after case, drunken drivers who kill and destroy are given suspended or extremely light sentences and early parole because "most people identify with the drinking driver rather than his victim," Mrs. Windhorst says. "They tend to think, 'There but for the grace of God go I, drunk behind the wheel.' . . . But the victims don't get any parole or suspended sentences."

Only once in Kentucky—where 40,699 people were arrested on drunken-driving charges last year and where about 400 are killed every year in alcohol-related crashes—has a drunken driver charged with murder been convicted of that charge.

It all tends to leave the segments of the public that care about the problem confused and mistrusting. Police find themselves attacked for failing to make arrests (although to arrest someone for DWI there must be a witness); prosecutors and judges are often criticized for failing to seek and impose stiffer sentences; defense lawyers are perceived as lacking in conscience for defending potential or actual killers.

But it's apparent that some headway is being made. Before MADD, "it was almost impossible to get a conviction from a jury," said Karl Victor, chief Jefferson County prosecutor for traffic cases. "Times are changing."

For example, the unofficial "standard fine for the first offenders in Jefferson District Court has risen from $100 to $200, and two county task forces composed of defense lawyers, judges, police officers, alcohol-treatment specialists, prosecutors, insurance executives and others are trying to focus on enforcement and screening—catching the drunken driver and determining just what sort of alcohol problem he or she has.

Sandra Miller, a member of AIM whose year-old daughter was killed by a drunken driver, said that in her monitoring of the Vanderburgh County, Ind., district courts in Evansville, she has noticed stiffer sentences being handed out. Last month she said she saw a first offender receive a $250 fine, five weekends in jail, a one-year license suspension of a year's probation and a second offender receive a $200 fine, 120 days in jail, a year's probation and a year's license suspension.

Of course, not everyone is thrilled with MADD or the idea of getting tough on drunken drivers. Even some who support MADD's goals have a problem with their tactics. Victor said that, at first, he "had a hard time convincing them [MADD members] that not everyone charged with DWI was guilty." And he said he became quite upset when returning from a vacation last fall he found a MADD member sitting on the bench at the elbow of a Jefferson District Court judge.

Mrs. Windhorst has encountered stiff resistance from some of her own relatives, and other MADD members have been less than warmly received by some prosecutors and lawyers. One attorney who disapproves of the organization is convinced that Mrs. Windhorst, who is expecting her fourth child in December, is simply bored and trying to fill up time. Another has often told her that MADD is just a fad that will "go away."

When Mrs. Windhorst appeared on a radio call-in show last year, one caller said she'd heard the Windhorsts were known drinkers and "got what they deserved."

Mrs. Miller said she gets obscene phone calls.

"People are ugly," Mrs. Windhorst said. "There's nothing harder than to look in the mirror and see yourself. . . . There are so many people who do it that they don't want to fight it." Others have suggested that her inlaws would not have wanted her to pursue her cause. Not so, she insists.

"I can see Ollie sitting there saying, 'Give 'em hell, Lois!' "

Mrs. Windhorst and MADD tried to "give 'em hell" during the General Assembly, by way of the so-called "Slammer Bill," sponsored by Gov. John Y. Brown Jr. The bill would have provided a mandatory two days in jail for first offenders, among other changes (Current Kentucky law calls for fines of $100 to $500 for each DWI offense and a six-month license suspension for the first offense; up to six months in jail for the second offense; up to a year for the third offense. All or parts of any penalty can be suspended by a judge.)

The bill died in the House Judiciary-Criminal Committee after Rep. Aubrey Williams, D-Louisville, refused to post it for a vote. Williams argued that existing laws, which don't allow judges the option of jailing first offenders, are sufficient. He also argued that jail is inappropriate for some people and that there isn't enough room in the jail to accommodate an influx of drunken drivers.

MADD and others disagree. They contend that the laws aren't strong enough and, in any case, aren't strictly enforced. They say far too many cases are amended down from driving while intoxicated to reckless driving or public intoxication and that fines are too low. Judges often don't have the information they need to properly sentence defendants because records are often incomplete.

And though the legal definition of intoxicated is .10 percent alcohol in the blood, it's virtually impossible to get a conviction unless a defendant's blood-alcohol level is .15.

Prosecutors argue that if they don't amend charges and recommend relatively low fines, everyone would want to go to trial, and the courts would become overloaded with cases the state could never win. Victor said if all DWI cases were tried, "we'd need 50 more prosecutors, 25 more judges and, with the Slammer Bill, 10 more jails. It would swamp the system."

The Slammer Bill's downfall isn't stymying MADD's efforts. The group is already preparing for the next session of the General Assembly and is lining up some interim goals, one of which is getting drunken-driver bookings videotaped for use as evidence. Other states that use the device have found that most people after seeing their "performance" on tape will plead guilty, eliminating any potential for swamping the courts.

Other suggestions about dealing with the problem abound: Confiscate license plates from convicted drunken drivers; paint broad stripes on their cars so everyone knows who is behind the wheel; install computerized starting devices in cars that couldn't be activated by someone with fuzzy perception and unsteady coordination.

Statistics compiled by RID say that if states took licenses away from drivers who failed or refused a breath test, broadened the grounds for giving the test and established random checkpoints for testing, the number of fatalities could be cut in half.

Some suggest the state should adopt the Dram Shop Act that makes tavern owners and others who sell liquor to people who cause drunken-driver crashes liable for civil prosecution. Others think drunken drivers should be made to attend the funerals of people they kill or visit the maimed in hospital and do community service.

Tom M., 54, who was arrested repeatedly for drunken driving for more than 20 years, advocates heavy fines and mandatory jail time.

Tom, who has been sober about six years, had his license revoked once for a year and once for six months. He drove anyway. "Once you get drunk, you think only of yourself," he said. "All your inhibitions are

turned loose. . . . I kept driving even when I had an idea in my mind it was wrong."

The courts, he said, have a tendency to be lenient with you. "Bigger crimes than that aren't punished, so maybe with the drinking driver, they lose interest. . . . If your lawyer is good enough, you can always have the charges amended to drunk in a public place, reckless driving, disorderly conduct. . . . If you have $100 for the fine and $100 for the lawyer, even if you hit a car and have no license, you can work your way out of it."

Pat, 50, is a former drunken driver who now works as a counselor at a treatment facility. The mother of four said she was often stopped by police while driving drunk and sent home. She believes jail would be a deterrent to some kinds of people, but only once they are sober. "If I'd had to stay there longer, it might have been more real to me. . . . If you go in and out drunk, it's not real."

She says she has mixed emotions about the problem. "I feel for the people who got killed and for the person who did it. I can identify with that person, who is sick, and I think, 'Thank God it's not me.'"

In therapy, she tries to make alcoholics see how irresponsible their lifestyles are. If they complain about the "inconvenience" of having their licenses suspended for drunken driving, "we tell them, 'You did this to yourself with your drinking; you'll just have to figure out ways to get places.'"

But with all the suggestions, even proponents of tougher laws admit that nothing short of incarceration can keep a person who wants to drive drunk from getting behind the wheel of a car. Repeat violators routinely drive on revoked or suspended licenses without insurance, even with the knowledge that they could face prison and fines if caught. But there's the hitch: Only one in 2,000 drunken drivers is caught.●

ST. FRANCIS PREP SCHOOL

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Ms. FERRARO. Mr. Speaker, I would like to take this opportunity to offer my congratulations on the 125th anniversary of St. Francis Preparatory School located in Fresh Meadows, Queens.

St. Francis is the oldest Catholic secondary school in the Diocese of Brooklyn. It was founded in 1858 as St. Francis Academy by two Franciscan brothers who came from Ireland at the invitation of Bishop Loughlin, then Bishop of Brooklyn. This school has grown to be the largest private Catholic high school in the Nation, with an enrollment of 2,900 students.

Education is the foundation upon which a society is built. Quality education is the foundation upon which a great society is built. For 125 years St. Francis Prep has been educating the young people of New York offering them the opportunity to excel in the academic, spiritual, and athletic areas.

Today, under the leadership of Brother Richard McCann, St. Francis students rank third in winning New York State regents scholarships. An impressive 99 percent of their students are accepted into college. As we all know, however, a well-rounded education includes more than just scholastic performance. Fortunately, for the students of St. Francis, their school has a long history of excelling in extracurricular programs. The students actively participate in all these programs which range from the arts to sports.

The administration, staff, and students both past and present of St. Francis Preparatory are to be commended for their dedication to those values in life which are often ignored, but are invaluable in our everyday lives: family, community, education, and devotion to God.●

TRIBUTE TO NAACP LEADER

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DYSON. Mr. Speaker, I would like to take this opportunity to share with you my great sadness on learning of the death of one of Maryland's great spokesmen for blacks, Stephen R. L. Young, who passed away on September 9, 1982.

Mr. Young was actively involved in numerous community affairs and organizations and will always be remembered for his hard work and dedication.

Mr. Young received the "Unsung Hero Award" at the Maryland NAACP conference in October 1976, becoming only the second man to receive this award.

He organized the St. Marys County branch of the Maryland NAACP and served as president for over 16 years. He also served as State vice president in addition to chairing a number of State convention committees for the NAACP.

Mr. Young's other accomplishments include his involvement in the founding of the Banneker School in Loveville, the first public school in St. Marys County to offer a high school diploma to blacks.

He also served as president of the Banneker PTA, president of the Carver Athletic Association, president of the St. Marys County Farmers and Homemakers Fair Association, vice president of the St. Aloysius Building Fund, president of the Holy Name Society, president of the self-help housing corporation that was responsible for the King-Kennedy Estates, board member of the Tri-County Community Action Agency and board member of the St. Marys County Federal Credit Union.

Such a long list of accomplishments would have been enough for most men, but not for Mr. Young.

He was also a trustee of the Baltimore and Washington Grand Commandery of the Knights of St. John, served as financial secretary for the Bushwood Commandery of the Knights of St. John and received a noble degree from the Knights of St. John.

In honoring this remarkable man, I wish to express my condolences to his family—his daughter, Constance Y. Brown of Glen Burnie, and his two brothers, Paul I. Young of Loveville and Joseph H. Young of Leonardtown.

Mr. Speaker, Mr. Young was unselfishly devoted to racial equality. He was a tireless worker and his many contributions to his community and to blacks throughout Maryland will never be forgotten. We all share the NAACP's pride in having benefited so much from the service of such a great leader.●

PARANOIA, REAGAN STYLE

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. MOFFETT. Mr. Speaker, the House may soon be taking up the fiscal year 1983 apropriations bill for the Department of State. I think this is an appropriate time to examine what is happening with the International Communication Agency's Fulbright program under the Reagan administration.

Prof. Richard Curry, who is currently teaching at the University of Connecticut, recently wrote of his experiences with this program. His essay, which appeared in the Journal of American Historians, reveals a frightening tendency by the administration to censor scholars who do not parrot the President's views on foreign policy.

We in Congress have an obligation to promote the free exchange of ideas. The Fulbright program was designed to promote such an exchange with other nations. I urge my colleagues to read Dr. Curry's essay, and to join me in fighting efforts to impose "Reaganthink" on U.S. scholars abroad.

PARANOIA—REAGAN STYLE

(By Richard O. Curry)

Between late May and early September 1981, I taught two courses on 19th century American history at the University of Waikato in Hamilton, New Zealand, and lectured at several other New Zealand universities on a Fulbright. I also spent ten days in Australia under ICA auspices lecturing primarily to college and university audiences in Canberra, Melbourne, Launceston and Hobart. My experiences as a Fulbrighter in New Zealand were, on the whole, pleasant and relaxed; but contacts with ICA officials in Canberra and elsewhere in Australia can only be described as Orwellian.

Politically I'm not aligned with the left and my areas of scholarly specialization

focus on 19th century American history which have no direct bearing on contemporary American politics or foreign policy. Therefore, I was not only angered but somewhat bewildered *at the time* on being subjected to blatant attempts at intimidation by ICA officials who were fearful that I might criticize President Reagan's foreign and domestic policies. Later on, I compared notes with two colleagues who had lectured for ICA in Scandanavia and Eastern Europe during the same summer of 1981. Since neither had experiences comparable to my own, I was somewhat inclined to dismiss my encounters with ICA in Australia as exceptional. However Fred Warner Neal's article, "Reaganizing Scholars" (New York Times, February 26, 1982), makes it clear that harrassment and intimidation are no longer the name of the game. It's far worse. Neal was denied funds by ICA to attend a scholarly conference in Belgrade, Yugoslavia because his views on Reagan's foreign policy appeared problematic. Neal's experience, combined with the argument by Charles Wick, head of ICA in Washington, that "scholarly" activities overseas ought to be an extension of President Reagan's foreign policy, clearly reflect a calculated effort to eliminate criticism abroad whenever and wherever the current Administration has the power to do so (New York Times, March 9, 1982). Recent attempts to cut back the Fulbright program on grounds of fiscal necessity can now reasonably be viewed as a major part of that policy. Such a policy is not merely short-sighted but patently stupid, counter-productive and self-defeating.

My first direct contact with the Australian branch of ICA began with a long distance call in New Zealand from the head of ICA in Canberra. "Dr. Curry," a voice rasped, "Let's clear the air." Somewhat startled, I responded by stating that I wasn't aware that any air needed to be cleared. Without the slightest hesitation, the voice continued: "I am under intense pressure by Australian Academics to bring you over. Precisely what is it that you do that fits into the Australian 'game plan' of ICA which is the 'propaganda agency' of the United States government?" My contact went on to say that ICA in Wellington had informed him that I didn't have any topics. "Topics?" I said, taken aback. "Topics? I have several invitations to lecture at Australian universities. . . ." "I know all that," he interrupted, "will you please listen?" The official proceeded to explain that ICA didn't often utilize the services of Fulbrighters. Ordinarily, ICA brought over its own "handpicked" speakers who spoke on topics related to its "game plan" which, in 1981, involved global defense strategies, energy questions and social and political processes. "Precisely where do you fit in?" he continued. Suppressing feelings of anger, I pointed out that my primary scholarly interests focused on 19th century American political and intellectual history—especially slavery, abolitionism, the Civil War and Reconstruction and the omnipresence of conspiracy fears and conspiracy rhetoric throughout American history. All of these "topics," I suggested, provided historical background for understanding contemporary "social and political processes." "Don't be so technical," he snapped. "What I want from you is a cable which not only lists your topics but includes the point of view you intend to express." At that point I mentioned the name of a high ranking ICA official who had offered to write a letter recommending me which I had declined because I didn't think it was necessary. In retrospect, mentioning his name seems to be a more critical factor in being invited to Australia than the "intense pressure" exerted by Australian academics and the relatively non-controversial nature of the topics (in contemporary geopolitical terms) which I proposed on 19th century political and intellectual history.

Arriving in Canberra, I noticed that my itinerary had been revised to include media interviews as well as lectures at various Australian university centers. Because of the hostile and suspicious nature of my original phone conversation, I couldn't resist the temptation to comment in private to a junior ICA official that one of my colleagues at the University of Connecticut had jokingly cautioned me against creating an international incident, but stated that if I did, to make it a "big one." Were I so inclined, I said, the media inteviews provided a great opportunity. "If you do," warned the amiable ICA official, "you'll never get another Fulbright!" Although I clearly intended to stir the coals, I hadn't anticipated touching such a raw nerve. I explained that while I had no intention of provoking controversy, I did expect to speak freely and constructively about American political, social and economic problems. After all, wasn't that what scholarly and cultural exchanges were supposed to be about? No society on God's earth was perfect. And besides, most of the Australian academics with whom I was acquainted either personally or by reputation were educated in the U.K. or the United States and were as sophisticated in their approaches to international politics in general and American society in particular as I was. Individuals who attempted to peddle a "party line" would not only forfeit their own personal credibility but would generate even more anti-American sentiment than already existed. The willingness and ability of American scholars to speak freely was, from my point of view, the best publicity that American society could get in academic circles. Privately, this particular official agreed with most of what I had to say; but still cautioned me to be discreet. Democratic Administrations, he advised, had rarely attempted to muzzle American intellectuals overseas; but Republican Presidents, especially Nixon and the incumbent, were extremely sensitive to any comment that could be construed as criticism of Administration policies.

New signals, evidenced by Mr. Wick's own admission, were obviously beginning to come out of Washington to overseas offices. But in my particular case, I think the fear and suspicion I encountered also stemmed from the fact that the title of a book I coedited, "Conspiracy: the Fear of Subversion in American History" (1972), had triggered an alarm bell at ICA headquarters in Australia. This I was told by a New Zealand historian who had been in Canberra earlier in the year and who was asked what he knew about my political opinions in general and the contents of this book in particular. In fact, I was also informed by one ICA official that before inviting me over they had received cables about me from "all over the world!" I was totally astonished by this comment. In the first place, I said, I didn't know people all over the world. My foreign travels have been confined primarily to the Philippines, Australia and New Zealand. In 1978, I said in a sarcastic vein, I had lectured under ICA auspices in the Philippines, and that so far as I knew no violent upheavals had taken place as a result.

Before leaving Canberra, my wife and I were asked to stop by ICA headquarters in Canberra where I was handed a two-inch sheaf of speeches on America foreign policy by President Reagan, Secretary Haig, former National Security Adviser Richard Allen and the American Ambassador to Australia. I found this material informative. What I resented was ICA's parting suggestion that I read the speeches before reaching Melbourne and that I pay particular attention to the points of view expressed. Allen's speech dealt with the concept of human rights—a fact that I found amusing in a grim sort of way since, in my view, mine were being violated by U.S. government officials.

The climate of opinion at the U.S. Consulate in Melbourne, in contrast to the Embassy in Canberra, was comparatively relaxed and friendly. In fact, I could hardly believe that we were dealing with officials of the same government on the same planet during the same century. But any fleeting doubts I may have entertained in Melbourne about the official policies of the Reagan Administration disappeared in Tasmania.

After lecturing at the College of Advanced Education in Launceston on the idea of mission in American history—a critical concept having enormous implications for understanding modern American foreign policy (a lecture scheduled or should I say permitted by ICA officials in Melbourne, not Canberra), a friendly and knowledgeable individual took me aside. "They tried to intimidate you in Canberra, didn't they?" "Yes," I said, "they did." "Well," he chuckled, "they didn't succeed, did they?" "No," I said, "they didn't." I was then informed that one ICA official in Melbourne, who had incurred the Ambassador's wrath for exercising "poor judgment," would not, in all probability, return to Australia after taking home leave. The "poor judgment," I was told, consisted of this particular individual's opposition to politicizing ICA.

In Hobart, Tasmania our contact person (who was not an ICA employee) struck me on first impression as being an exceedingly nervous, eccentric and lonely individual—an American expatriate in his 50s whose only visible means of support was some sort of tenuous connection as a "research fellow" in the Political Science Department at the University of Tasmania. I found it somewhat amusing but sad that this person was rumored to be the local CIA agent because of his habit of taking notes on anything and everything anyone said. As it turned out, this also included me.

On one occasion, when asked to present my views on President Reagan's economic policies to APEX, a local civic group, the ICA contact brought along a taperecorder. He wanted a tape for his own personal use, he said, but would send me a copy in New Zealand as a memento. He never did—despite my subsequent requests that he do so. At the time, I didn't take the rumor that this fellow could be a CIA agent seriously. He didn't measure up to any of the stereotypical notions I had formed by reading spy novels. But in retrospect he might well have been a stellar CIA operative guarding Hobart, the world's Southern-most deepwater port from "scholarly" subversion.

Surely, informed Americans willing to "paint the warts as well as the dimples" (as Dr. Johnson once instructed his portraitist) can do more to establish credibility overseas than all of the canned "party-line" media hype ICA (soon to be renamed USIA) can manufacture or orchestrate. But then, such a view not only requires common sense, but confidence in the republican principles on

which this nation was founded. It is well to keep in mind that Orwell did not have Russia in mind as a model when he wrote "1984."●

LORETTA GEORGE—OUTSTANDING CITIZEN

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mrs. HECKLER. Mr. Speaker, on Tuesday, September 28, at the 71st annual banquet of the Greater Fall River Area Chamber of Commerce, a lady in my district, Ms. Loretta George, has been singled out to receive the Roger Valcourt Outstanding Citizen of the Year Award presented by the chamber.

Because I will be on the floor of the House, I will not be able to be in Fall River to honor Loretta. I take this opportunity to do that by associating myself with the sentiments expressed by Otta A. Wahlrab, chamber president.

In announcing Loretta George's selection as this year's outstanding citizen, Mr. Wahlrab noted that the award was being presented "at the height of Loretta's community involvement. Her numerous activities have assisted many members of the community as she has worked for the betterment of Greater Fall River."

I join the chamber in their expressed hope that Loretta George will continue, in her marvelous way, to volunteer for and contribute to so many worthwhile causes.●

"SOLARZ SYSTEM"—CONGRESSIONAL "A" LEAGUE SOFTBALL CHAMPS!

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. BIAGGI. Mr. Speaker, as sponsor of the defending Congressional "B" League Softball Champions, I wish to congratulate my distinguished colleague from New York, STEPHEN SOLARZ, whose coed softball team made it a clean sweep for New York last week, winning the 1982 Congressional "A" League Softball Championship.

Proving that winning is still a Brooklyn tradition, the Solarz System posted a very impressive 16 win, 1 loss regular season record, and then eased their way into the championship game after three convincing playoff victories against some of the toughest opposition on Capitol Hill.

However, the sweetest victory was yet to come, because also winning their way to the championship game was The Clerk team which beat the Solarz System in last year's final. In what has become one of the fiercest rivalries since the New York Yankees-Brooklyn Dodgers games of years gone by, the Solarz System proved to be the better team this time around, winning by a score of 9 to 6. By the way, STEVE mentioned to me that if anyone is keeping track, the Solarz System have beaten The Clerk in four of their last seven meetings.

Worthy of special note is the retirement of Michael Lewan as coach of the Solarz System. After leading the team to a spectacular record over the last 4 years of 77 wins and only 10 losses, Mike has decided to end his softball coaching career on a championship note. Having gained quite a reputation for his inspiring pregame pep talks, as only a veteran administrative assistant can give, Mike's unique coaching style will surely be missed, certainly not forgotten.

Mr. Speaker, once again, I wish to express my congratulations to STEVE SOLARZ for his team's success. They have assured the beleaguered sports fans for New York at least one championship team in 1982.●

NOTICE TO THE HOUSE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. UDALL. Mr. Speaker, I wish to give notice to the House that the Committee on Interior and Insular Affairs, Energy and Commerce, and Science and Technology are requesting a modified closed rule on the bills H.R. 3809, H.R. 6598, and H.R. 5016—all measures relating to nuclear waste management which are pending before the Rules Committee.●

SOCIAL SECURITY DISABILITY BENEFITS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to draw to the attention of the Members of the House of Representatives a very serious situation which affects not only my constituents in the 18th Congressional District in Ohio, but the constituents of all of my colleagues as well. I am referring to the current policy of reevaluating literally thousands of claims of those individuals presently receiving social security disability benefits.

While I would be one of the first to admit that there are individuals, possibly in my own district, who are currently receiving disability benefits in error, internal audits cited by Social Security Commissioner John A. Svahn show that in fully 97 percent of the cases, those disabled workers and/or their family members who are drawing benefits under the social security and supplemental security income disability programs are seriously disabled and are thus simply unable to perform what is described in the regulations as "substantial gainful employment." I shudder to think of the number of manpower hours, not to mention the cost, required to reevaluate these claims. If we are truly attempting to address the matter of waste in Federal spending we must question the cost effectiveness of this effort to identify the inappropriate expenditure of Federal funds. For while it is clearly the case that with nearly 7 million Americans drawing $22.7 billion a year in tax-free benefits from these disability programs even a 3-percent waste would represent a staggering drain, one must question the wisdom of selecting for review the claims of individuals such as Mr. Samuel Agostini of Rayland, Ohio, who while only just approved for disability benefits in 1982 was required to provide the Ohio State agency in Columbus with evidence of the continuing nature of his disability not 3 months later. Unfortunately, Mr. Agostini died of yet another stroke before he could again prove his disability.

Important as the question of the cost-effective nature of this reevaluation effort is, particularly in the face of the administration's constant efforts to curb wasteful government spending, a matter of even greater concern to me is the financial and often accompanying emotional hardship which the review process represents for many deserving claimants. To terminate the provision of benefits to potentially deserving individuals for the duration of the claim review represents a grossly unfair and unduly harsh prejudgment that an individual who has already been judged eligible is indeed ineligible for disability benefits until reproven otherwise. Is this procedure consistent with the administration's expressed compassion and hope for the out of work, the aged, and the ill? Does this practice represent fair treatment of the truly disabled and deserving individuals who depend upon these Government funds not merely to help them cope with the economic ills facing society today but, in many cases, for survival itself?

It is my sincere opinion that we must reevaluate this reevaluation process; to reconsider our goals and the methods we have chosen to realize them. I urge my colleagues in the House to give serious attention to this matter.●

KEITH SEBELIUS

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 15, 1982

● Mr. AKAKA. Mr. Speaker, I rise to join my colleagues in honoring the memory of the late Keith Sebelius.

In a world sharply divided by thinkers and doers, Keith Sebelius was a doer. "Life is marching on," Keith would say, "[and] there are so many things you want to do." Fortunately for the people of the United States of America, Keith really did go out and accomplish these many things, and his impressive record of legislative successes is a testament to that fact.

I consider myself fortunate to have served with Keith on the Agriculture Committee. There, it was clearly evident that this senior member was extremely influential because he did more than talk: He got things done. Throughout many times of heated debate, Keith's was always the moderating voice of reason. A master at the art of compromise, Keith never allowed party ideology to stand in the way of forging the necessary programs for his "big first" district of Kansas, and for the continued best interests of our country.

Keith was more than a superlative Congressman: He was a great man. We all know how much hard work and dedication it takes to serve this great Nation. Yet Keith devoted his precious extra time to his community, serving the United Methodist Church as lay leader, president of the board of trustees, and Sunday school teacher.

We shall all miss not only the statesman, but the compassionate and dedicated human being who put his people and his causes before himself. He very well could have rested on the laurels of congressional office, yet he spent his last years quietly in law practice with his two sons.

Keith Sebelius was a role model for us all. And like all great men, his life was so full of monumental contributions that we have much to remember him by. In addition to his impressive legislative record, the Keith Sebelius Lake will preserve his name for posterity, and the Sebelius tradition will be perpetuated by his two fine sons, Gary and Doug.

The best way we can pay tribute to Keith is by continuing his spirit of generosity. If, by the end of our lives, we can say that we have shown as much of the "milk of human kindness" as Keith did, we will have served his memory well.●

THE ARCHITECT OF MODEL CITY, U.S.A.

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. MOTTL. Mr. Speaker, if we wanted to show a foreign dignitary a model of local government efficiency in America, we would be well advised to escort the person to the Greater Cleveland community of Brooklyn, Ohio.

Brooklyn, Ohio, is a blue-collar city of 12,300 just outside of Cleveland's corporate limits. The suburb is presided over by Mayor John M. Coyne, who has held that office since 1948. His tenure as mayor is the longest in Ohio and one of the longest in the country. As one journeys through this city, one is impressed with the neat homes and yards, the litter-free streets, the immaculate city buildings, and the separation of business and industry from residential areas.

Under Mayor Coyne's direction, Brooklyn has instituted a number of services which are not only unique in Ohio, but in the United States as well. The Coyne administration plows snow from streets and from sidewalks. Eligible senior citizens who enlist in the program can have their driveways cleared of snow courtesy of the city.

Those same seniors are eligible to have their lawns mowed in the summer.

The efficiency with which the city is operated is a tribute to my good friend of long standing, Mayor John M. Coyne.

Besides the housekeeping chores that leave the streets clean enough to eat off of, Mayor Coyne is well aware that the future of our country and our cities rests with the youths of today, our adults of tomorrow.

To cater to young people, Coyne had a $2.5 millon recreation center built in 1975. Brooklyn's skating rink is a model for other Greater Cleveland communities.

Despite all these fine amenities, Brooklyn is on extremely solid footing financially. That is not surprising in view of the fact that Coyne schooled himself on municipal finances when he served as village treasurer in 1939 and 1940.

Business and industry now provide about 75 percent of Brooklyn's tax base. The city's real estate tax rate and city income rate are among the lowest in Cuyahoga County.

When the people of Brooklyn turn out on election day, they repay the good mayor for his fine work. He regularly swamps his mayoral opponent at the polls, if he has any opposition.

Just recently John Coyne took on a large undertaking. He was elected as chairman of the Cuyahoga County Democratic Party. The strife-ridden party has outnumbered its Republican counterpart by about 3 to 1, but has lost control of Cleveland City Hall and the county administration building in the past decade.

Coyne's new calling will have him trying to bring together the divergent views of the Democratic Party and weld them into a workable majority. It is quite a challenge even for a person of Coyne's stature.

Here's one vote that says he will be successful in this endeavor, too.●

RULE 4 OF THE FEDERAL RULES OF CIVIL PROCEDURE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. EDWARDS of California. Mr. Speaker, rule 4 of the Federal Rules of Civil Procedure governs service of process in Federal civil actions. In April of this year, the Supreme Court promulgated certain changes in rule 4. Those changes were to have taken effect on August 1, 1982, but legislation that I introduced, together with my colleague from Illinois, Mr. McCLORY, was enacted into law and delayed the effective date of the changes until August 1, 1983 (Public Law 97-227).

The changes proposed by the Supreme Court were intended to relieve the marshals of the burden of serving summonses and complaints in private civil actions. Unfortunately, the proposals did not accomplish that goal; in addition, the Court created a flawed type of mail service and deleted a provision in current rule 4 that permits service of summonses and complaints on certain defendants pursuant to the law of the State in which the action is filed.

Since the passage of Public Law 97-227, consultations have been held with representatives of the Judicial Conference (whose advisory committee on civil rules did the actual drafting of changes promulgated by the Supreme Court), the Department of Justice and others who had raised objections to the changes proposed by the Supreme Court.

On September 21, I introduced, again with Mr. McCLORY, a bill that accomplishes the objective of reducing the role of marshals and establishes a mail system based on a method used successfully in California for more than 10 years (H.R. 7154).

Although the Court's proposed language ostensibly permitted marshals to serve summonses and complaints only in specific, limited situations, it created a loophole that would have swallowed the limitations. It required marshals to serve process where ex-

pressly authorized to do so by statute. One such statute, 28 U.S.C. 569(b), requires marshals to serve all process, effectively gutting the attempted limitation on the use of marshals.

H.R. 7154 reduces the role of marshals by eliminating the loophole and confining the use of marshals to serve summonses and complaints in private civil actions to three very limited situations. Like the Court's proposals, H.R. 7154 authorizes personal service by any nonparty adult (to replace the marshals). If H.R. 7154 becomes law, then its provisions will be inconsistent with 28 U.S.C. 569(b) and as the later statutory enactment, H.R. 7154 will effectively overrule the requirement that marshals serve all process.

The Supreme Court's proposal created a Federal mail service for serving summonses and complaints upon individuals and organizations, requiring that mail be sent certified, restricted delivery. The committee received a number of objections to that system. Opponents complained that certified mail created all kinds of notice problems, and even though delivery was to be restricted, that the wrong person could be easily served. That could result in default judgments without notice to defendants.

H.R. 7154 prescribes a mail system modeled upon a method effectively used in California for over 10 years. The plaintiff sends, via ordinary mail, the summons and a copy of the complaint together with a notice and acknowledgment form. The notice part of the form admonishes the defendant to complete the acknowledgment of receipt part of the form and return the form to the sender within 20 days. The notice explains that if the defendant receives the notice and fails to return the form, then he or she may be liable for the additional costs of service.

If the defendant returns the completed form to the sender within 20 days, the plaintiff files the form with the Court and service is complete. If the defendant does not receive the form or simply fails to return it to the sender, then personal service is required. A dilatory or evasive defendant may be held liable for the costs of such service; however, a defendant may not be held liable upon a showing of good cause for failing to return the completed form. In this way, H.R. 7154 prescribes a method of mail service best calculated to provide actual notice to defendants.

The Court's proposed changes had also deleted a provision in current rule 4 that permits service upon individuals and organizations in accordance with the law of the State in which the action lies. Many objected to deleting this provision which had served litigants effectively for years. H.R. 7154 restores this provision. Accordingly, for certain defendants (individuals and organizations), a plaintiff may choose to serve personally, by regular mail as spelled out in the rule, or in accordance with the law of the State in which the district court sits, including service by mail, if State law permits. H.R. 7154 also makes a few additional technical changes to rule 4.

Mr. Speaker, when the President signed Public Law 97-227, he asked Congress to act promptly to alleviate the burden on marshals to serve process in private civil actions. H.R. 7154 responds to that request by relieving marshals of the duty to serve the bulk of the civil process they are presently required to serve while at the same time providing for a system of service by mail that has a proven record of effectiveness. I am pleased to say that the Department of Justice supports the bill.

Accordingly, I urge my colleagues to support it.●

SIGMA PHI EPSILON FRATERNITY—CENTRAL MISSOURI STATE UNIVERSITY, WARRENSBURG, MO.

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, as we find ourselves faced with the necessity of cutting Government support of social programs and shifting the burden of aiding the needy to the private sector, it is truly heartwarming to see young people take this burden seriously and act.

I am speaking about the men of Sigma Phi Epsilon Fraternity at Central Missouri State University in Warrensburg. These young men have taken it upon themselves to raise $15,000 for the Easter Seal Society in 1982 with Spirit Roll VI. The Easter Seal Society has long been dedicated to improving the health and welfare of the handicapped, and all of their work would not be possible without the dedicated support of people like the men of Sigma Phi Epsilon. Our Government's burden would be much lighter if support such as this was given by all.

I join in the praise of Gov. Christopher Bond of the great State of Missouri and wholeheartedly congratulate the men of Sigma Phi Epsilon on a job well done.●

TRIBUTE TO ALLYN COX

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 20, 1982

● Mr. MICHEL. Mr. Speaker, it is a great pleasure for me to be among those who are praising one of America's great artists, Allyn Cox.

Mr. Cox, working through the U.S. Capitol Historical Society and with the leadership of the House and Senate, has been doing some truly remarkable and historically significant art work here in the Capitol.

Our House wing now displays on its ceilings some of the finest murals in the world, and I am sure that all Americans who will visit our Capitol in the years ahead will be as thrilled and engrossed as we are today.

His sketches, his water colors and, finally, his murals are now a part of the art of the Capitol of the greatest Nation to ever exist on this Earth.

Thus, I feel both proud and humble in being able to participate in this well-deserved tribute to Mr. Cox.●

THE U.S. CARD AND LETTER-WRITING WEEK

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. FORD of Michigan. Mr. Speaker, this week (September 19-25) marks National Card and Letterwriting Week which is cosponsored by the U.S. Postal Service, the National Council of Teachers of English, the National Association of Elementary School Principals, the National Association of Secondary School Principals, the National Association of Secondary School Principals, the National Art Education Association, the American Library Association, and the American Family Society.

Major objectives of this special week are to focus attention on the power of the written word to shape opinion and preserve memories, to stress the importance of mail in binding friends and families, and to highlight the theme that letters lift spirits.

In connection with this celebration, the National Council of Teachers of English, in cooperation with the U.S. Postal Service, is distributing an illustrated publication, "All About Letters." This booklet highlights the importance of letterwriting even in this age of electronic communications and the pleasures of writing and receiving letters. It contains a wide variety of useful information for letterwriters.

Other activities include a special student stamp design project—an invitation to students in kindergarten through high school to submit designs of postage stamps on any subject to their postmasters. One such design will be used eventually by the Postal Service for a postage stamp.

School activities are playing a major role in this observation through letterwriting exercises, studies relating to famous letters and letterwriters, and

displays in post office lobbies and other public buildings of art work and letters produced by students celebrating this occasion.

I commend the many fine groups involved in this celebration for promoting communication through the written word.●

THE ART CAUCUS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. DOWNEY. Mr. Speaker, the Arts Caucus has come a long way since its creation in December 1980. Its great size and diversity are the building blocks of a fine organization. Anyone who has worked with the caucus directly or participated in any of the many arts projects would certainly attest to the professionalism and effectiveness of this organization. Under former Chairman FRED RICHMOND, the caucus capably provided congressional offices with important information on all issues affecting the arts and, in the process, provided the representation in Congress that the arts so desperately need. The many caucus-sponsored activities have educated, as well as reinforced, the importance of art in American life.

The services and activities provided by the Congressional Arts Caucus are immense resources available to all offices. As the caucus chairman, I plan to expand on the great progress of the caucus. My past involvement has centered on the financing aspect of the arts based on my positions on the Ways and Means and Budget Committees. I plan to continue my involvement at this level while also branching out into the many other areas of caucus involvement. One of my preliminary plans is the creation of an advisory board on the arts, which would consist of leading arts figures, to closely link Congress and the arts community. More events will be staged to increase public awareness of the role of art in our Nation.

I plan to give this responsibility the high priority it deserves. The input of all Members is therefore of great importance to me. While I plan to speak with many Members in the coming weeks, I hope all Members will forward to me any suggestions they might have as to the future of the caucus.●

MICHAEL LEWAN AND THE SOLARZ SYSTEM: A WINNING COMBINATION

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. SOLARZ. Mr. Speaker, I would like to congratulate the Solarz System softball team—winners of the 1982 congressional softball "A" league championship.

The Solarz System emerged victorious at the end of a 2-day single elimination tournament pitting the 16 best Capitol Hill teams against each other. Over the course of 4 games, the Solarz System scored 30 runs while holding their opponents to only 13. The final game was a rematch or last year's contest—Solarz System versus the Clerk of the House—but this year the team representing Brooklyn came out on top.

While there is no doubt that the 20-and-1 record of the Solarz System is the result of a combined effort, I would like to take this opportunity to recognize a very special member of the team: Michael Lewan.

For many years Mike has been one of my most knowledgeable and trusted advisors, but I now know that his talents extend to the softball field.

As coach of the Solarz System, Mike has led the team to a 4-year record of 77 wins and 10 losses. His leadership, enthusiasm, and athletic ability have made key contributions to the team's success. Mike is one in a million and a true champion.

Finally, I would like to salute the other members of the Solarz System who have reenforced the belief that winning is a Brooklyn tradition: Dave Aho, Don Allison Joe Farragher, Craig Floyd, Glenn Goldberg, Alec Ramsay, Rich Rawson, Gene Sofer, Ron Tucker, Bill Ziegler, Penny Eastman, Veronica Floyd, Cathy Ramsay, Lois Rawson, and Sheryl Ann Tacy.●

SICKLE CELL POSTER CHILD

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. BROWN of California. Mr. Speaker, I wish to call attention to a beautiful little girl. Her name is Lanette Butler, and she has been selected as the National Sickle Cell Poster Child for the next year.

I was pleased to take part in Lanette's visit to Washington, D.C., early this week. Lanette was in to see me with her lovely mother, Shirley, and accompanied by the executive director of the Sickle Cell Organization of the Inland Counties, Ms. Marcia R. Sawyer. She is truly a brave and charming 6-year-old, and is quite naive to all the attention being bestowed upon her.

Lanette will represent both organizations at the local and national level at official functions during the next 12 months. The highlight of her trip, and the national honor, included a visit with President Reagan at the White House. She was given a large jar of jelly beans that she took pride in trying not to open and break before she arrived back home in Rubidoux, Calif.

There will be a sickle cell annual dinner at March Air Force Base Officers' Club, on Saturday, September 25, where Lanette and her parents, the Rev. and Mrs. DeWayne Butler will be special guests.

There is need for continuous support for research of sickle cell anemia. There is still no cure for this painful, crippling disease which, in the United States, affects predominantly black persons. Research efforts carried out in the United States could also eventually benefit millions of victims of this disease who live in Africa and elsewhere.●

H.R. 7178—INTEGRATION OF SEVERELY DISABLED INDIVIDUALS IN REHABILITATIVE FACILITIES

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, Sept. 23, 1982

● Mr. PETRI. Mr. Speaker, today I am introducing legislation which would amend section 14(c)(3) of the Fair Labor Standards Act of 1938 (FLSA). Section 14(c)(3) now prohibits the integration of the severely disabled with higher functioning handicapped persons in rehabilitative facilities. The amendment I propose would allow permissive integration; it would not otherwise affect the FLSA.

Success in placing the handicapped in competitive jobs and increasing deinstitutionalization has contributed to a rise in the absolute and relative number of severely disabled persons served by local workshop programs. Most of the recent growth has been in developmentally disabled participants, principally in the number of mentally retarded clients.

Current regulations (29 CFR 525) require physical separation and separate supervision of the severely disabled within "identifiable programs" "designed exclusively" for that group. The Department of Labor (DOL) does not believe that section 14(c) presently authorizes less restrictive regulatory provisions. Nevertheless, as early as 1979 DOL agreed that modification of section 14(c) along the lines of my pro-

posal would be "in the best interests of handicapped people." The National Association of Rehabilitation Facilities and others who represent the interests of handicapped persons wholeheartedly concur. Labor Secretary Donovan foresees "no adverse impact" of permissive integration on DOL's ability to afford the disabled the protection of the FLSA.

Separation of workshop programs impedes the efficiency of rehabilitation efforts. The administrative costs of segregation limit the funds available for direct client services and may impair the economic viability of some workshops. Moreover, segregated individuals forego a broad range of employment experience because they can only perform part of a job and cannot be moved among different work areas to acquire greater experience.

In short, segregation too often denies opportunity for both employment and social interaction. Where there has been actual experience with integration, facility administrators have observed increases in self-esteem, morale, and productivity.

Passage of this bill and its counterpart, S. 2634 introduced by Senator NICKLES, should increase the number of workshop participants, including persons who could be served for the first time by facilities not large enough to accommodate multiple workshop programs. In addition, workshops could expand the number, variety, and complexity of jobs available to the severely disabled.

I invite you to join as a cosponsor of this bill. This is significant legislation not only for the disabled persons who would benefit directly from its passage, but also for all of us who seek to remove artificial and unnecessary barriers to their level of achievement.

The full text of the bill follows:

H.R. 7178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(c)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)(3)) is amended—

(1) by striking out "clients" each place it appears in subparagraph (A) and inserting in lieu thereof "individuals";

(2) striking out "centers" each place it appears in subparagraph (A) and inserting in lieu thereof "programs"; and

(3) by amending subparagraph (B) to read as follows:

"(B) For purposes of this paragraph, the term 'work activities programs' means programs which provide therapeutic activities for individuals whose physical or mental impairment is so severe as to make their productive capacity inconsequential.".●

MOSCOW HAS A CHINA CARD, TOO

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. CLINGER. Mr. Speaker, Dr. Parris Chang, chairman of Asian studies at Pennsylvania State University, last summer visited the Soviet Union where he held extensive discussions with experts on Soviet foreign policy regarding Soviet-American and Soviet-Chinese relations.

Upon his return to the United States, Dr. Chang authored an article on Moscow-Peking détente which was published in the international edition of Newsweek (August 2). The article, entitled, "Moscow Has a China Card, Too," provides an important perspective on Sino-Soviet relations. Because the article was not carried in the American edition of Newsweek, I request that it be included in the RECORD.

The article follows:

[From Newsweek, Aug. 2, 1982]

MOSCOW HAS A CHINA CARD, TOO

(By Parris Chang)

The approaching end of the Brezhnev era gives his possibly less doctrinaire successors an attractive foreign-policy option: rapprochement with China. Such a move could help lessen global tensions by ending the twenty-year-old climate of belligerent hostility along the world's longest contested border. If successful, though, it could also free up to 500,000 Soviet troops now in the Far East for duty elsewhere—presumably in the Third World and Europe. That possibility is distinctly disquieting to many in the West.

The opportunity to play their own "China card" is clearly very much on the minds of the Kremlin's leaders. China watchers at the Soviet Foreign Ministry and academic experts at Moscow's leading foreign-policy think tanks, including the Institute of the Far East, are virtually unanimous in asserting that the Soviet Union is ready and willing to improve its relations with Peking. But where they do not agree is on how far a new Sino-Soviet détente might be expected to go, and on how Moscow might best attempt to achieve it. Very broadly, these disagreements can be separated into three diverging viewpoints.

SINOCENTRIC

"Pessimists" foresee no major improvements in Moscow-Peking ties for the near future. According to one top institute official, China's foreign policy has changed very little from Mao Tse-tung to Deng Xiaoping. "Sinocentric and hegmonistic ambitions," he says, "stil prevail in Peking today." The pessimists argue that despite Moscow's conciliatory attitude, China has been unwilling to improve relations; that Peking's preconditions for renewed friendship—withdrawal of Soviet troops from the border, from Outer Mongolia and from Afghanistan—are unacceptable; and that China will continue to use hostility toward the Soviet Union as a lever to gain increased Western economic aid. They conclude that prospects for Sino-Soviet rapprochement are dim. The pessimists' worst-case scenario is for China, Japan and the West to combine in an aggressive, global anti-Soviet alliance. This influential school stresses continued Soviet military preparedness in Asia.

"Optimists" see bright prospects for Sino-Soviet rapprochement, based on a belief that in time the Chinese will become disillusioned with the West and Japan. Having lifted the floodgate of capitalist forces inside China, says a Soviet diplomat, Peking may eventually have to "crush capitalism with tanks," and in doing so would turn to the Soviet Union for help. The optimists see a transitional period of great significance in the next five to seven years, as a new generation of leaders takes over in China. Many of them were students in the Soviet Union during the 1950s, and thus are believed to be sympathetic to Moscow. Such "health forces" would also presumably favor cooperation with the Soviet Union and other "socialist" countries. Like the pessimists, the optimists oppose any concessions to China's principal "preconditions"—but they also hope that progress on economic, scientific and cultural fronts will lead to a gradual warming in over-all relations.

An influential array of "opportunists" or "realists" stands between the two extreme views. As articulated by a ranking Foreign Ministry specialist on China, there is little hope for rapprochment. But recent developments in Chinese foreign policy—particularly Peking's split with Washington over U.S. arms sales to Taiwan—are clearly an opening ripe to be exploited.

The Kremlin's realists see little chance that U.S.-Chinese frictions will push Peking back into Moscow's camp. Nevertheless, they believe that a "nonaligned" China equidistant from both Washington and Moscow is possible, and even likely—and that it would be sufficient to avert the much-feared encirclement by a hostile China-Japan-NATO alliance. Toward that end the realists are encouraging continuation of current Soviet "olive branch" policies toward China, typified by Brezhnev's conciliatory speech in Tashkent last March. "We are ready when they are," says a top Foreign Ministry official, "to come to terms on any measure to improve relations."

NO MORE FRATERNITY

It seems to me that China's need for a peaceful international climate to permit economic development is likely to propel Peking's pragmatic current leadership toward a less hostile relationship with Moscow. But even with the added dimension of Peking's still-rising dispute with Washington over Taiwan, this will not automatically translate into warmer Soviet-Chinese ties—let alone a return to their former "fraternal" alliance, which seems virtually out of the question.

China and the Soviet Union have sharp conflicts—over Indochina and Afghanistan, and over territorial claims along their heavily militarized border—that may well be insurmountable. For its drive to economic modernization, Peking needs substantial assistance—capital, credits, technology, equipment and markets—that Moscow and its allies could not possibly supply. It is more than just an accident of diplomacy that 8,000 Chinese students and researchers are being trained in the United States and none in the Soviet Union.

Moscow does, however, have the power to at least influence that equation. Until now, the most difficult single obstacle to Sino-Soviet détente has been the Kremlin's un-

willingness to take the first step in breaking the deadlock. For years the Soviets have insisted that they are ready for rapprochement, and that the blame for continuing their conflict rests on the Chinese. But Moscow has yet to make even a symbolic pullback of a few of its troops from the border, or to propose a mutual reduction in forces by both sides as a gesture of good faith. With new leaders in charge, the Soviet Union may soon be willing to initiate such "confidence-building measures." But as the old saying goes, when two porcupines make love, they have to do it carefully. Likewise, it will be a long time before the world's two Communist superpowers achieve any true rapprochement.●

A REPLY TO CHAIRMAN GONZALEZ

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. JAMES K. COYNE. Mr. Speaker, I rise to commend the Secretary of the Department of Housing and Urban Development, Samuel Pierce, for the courage and dedication he displayed on Tuesday by appearing before the Committee on Banking, Finance, and Urban Affairs' Subcommittee on Housing. Many of the Members of this Chamber may not know that the Secretary was subjected to a vicious verbal attack by the chairman of the subcommittee on the previous Friday. In spite of this unwarranted and undignified attack, the Secretary chose to appear before the subcommittee, and the chairman, in order to answer questions from the subcommittee's members about the programs he administers.

I include in the RECORD two articles about this distasteful incident. One appeared in the Baltimore Sun on Saturday, September 18, 1982, and the other in the Washington Times on Wednesday, September 22, 1982. I believe these two articles fairly report the occurrences of Friday and Monday and I believe the Members of this body should be aware of those events.

The articles follow:

[From the Baltimore Sun, Sept. 18, 1982]

HUD CHIEF CALLED "STEPIN FETCHIT"

WASHINGTON.—Representative Henry B. Gonzalez (D, Texas) yesterday called Samuel R. Pierce, Jr., the Secretary of Housing and Urban Development, a "Stepin Fetchit" who has turned his back "not only on Hispanics but the black poor."

"If he were white, he would be considered a racist," Mr. Gonzalez said at a rally attended by several hundred federal employees at HUD. "If he were white, he would have had all these militant groups camping out in his office."

At a news conference of his own, Mr. Pierce replied with a Spanish phrase calling Mr. Gonzalez a fake.

Mr. Gonzalez's attack on Mr. Pierce was among his sharpest yet. The congressman, chairman of a House subcommittee that oversees HUD, has clashed sharply with Mr. Pierce in the past over Reagan administration plans to turn public housing over to private landlords.

"He has no convictions," Mr. Gonzalez said, accusing Mr. Pierce of carrying out Reagan programs that are intended to hurt the poor. He cited Mr. Pierce's effort to increase public housing rent ceilings from 25 percent to 30 percent of the tenant's income.

"He's not an Uncle Tom, he's a Stepin Fetchit," said Mr. Gonzalez, referring to the black movie actor of the 1920s and 1930s who typically was cast in subservient roles.

At his own news conference, Mr. Pierce said he did not want to respond to Mr. Gonzalez "on his level." He then added, "Es un charlatan," but he refused to translate the phrase and told reporters they should ask voters in Mr. Gonzalez's district what it meant.

In English, a charlatan is someone who pretends to be something he is not. While the word carries that meaning in Spanish also, the tone of Mr. Pierce's phrase indicated that it might better be translated as "He's a fake" or "He's a phony."

The rally, sponsored by the American Federation of Government Employees, was called to protest the planned layoff of 800 HUD employees. The union claims HUD is already under its congressionally imposed personnel ceilings.

Ernest Parker, president of the union local, quoted a HUD employee as saying the agency "has become an employment agency for unskilled Republicans."

Ira Lechner, a Democrat running for Congress in suburban Virginia, said any federal employee who votes Republican in November "is like a chicken voting for Colonel Sanders."

[From the Washington Times, Sept. 22, 1982]

STEPIN FETCHIT JIBE IRKS HUD SECRETARY

(By Glenn Emery)

For Samuel R. Pierce, Jr., the leading black Republican within the Reagan administration as Secretary of Housing and Urban Development, it had to have been one of the most difficult—some said, courageous—moments of his political career.

Before him, seated in the chairman's seat, was Rep. Henry Gonzalez, D-Tex., the man who told a gathering of HUD employees last Friday that Pierce was "not Uncle Tom; he's Stepin Fetchit."

Pierce was upset. Someone called it "righteous indignation."

"Mr. Chairman, I usually enjoy appearing before you and your subcommittee to discuss matters of mutual concern in the areas of housing and urban development. However, I have hesitated a long time before deciding to appear before your subcommittee today because it is most difficult for me to testify before a body whose chairman is so lacking in quality and dignity and is so unskilled in the use of the English language that he has to resort to the use of vile, abusive and racist language in order to attack me," Pierce said in his opening remarks at yesterday's hearing before the House subcommittee on housing and community development.

Almost everyone on the subcommittee disassociated themselves from Gonzalez' statement. Everyone except Gonzalez.

"I meant what I said, and I said what I meant," Gonzalez declared.

"Whether you accept the wisdom, the propriety of the appropriateness of the words used, I accept responsibility and do not now repudiate or apologize for them."

But others, like Rep. Parren Mitchell, D-Md., let their feelings be known.

"Under no circumstances would I have used those words to describe you or any other person holding public office seeking to do their job," he said to Pierce.

"I think the statement was most unkind, most unfair and most undeserving."

Similar statements were made by members on both sides of the aisle, but Gonzalez claimed that his remark was a calculated statement based on a year and a half of personal observation of the secretary's performance.

At one point, Gonzalez accused Pierce of refusing to send an invitation from the HUD employees to have Gonzalez be their official spokesman during National Hispanic Awareness Week.

"That's a lie! That's a damn lie! That's the only way I can put it, Mr. Chairman. I'm sick and tired of that talk. That's a lie," Pierce shouted back angrily.

The heated clash between the prominent black Republican and the liberal Hispanic from Texas came to a head last Friday when Gonzalez made the Stepin Fetchit remark before a gathering of some 500 HUD employees outside the agency. Pierce, who was inside meeting with about 40 black Republican leaders, immediately called a press conference when he heard of Gonzalez' remark.

"Es un charlatan," Pierce said of Gonzalez, meaning "he's a phony." T. M. Alexander, an executive with the E. F. Hutton Co. in Atlanta, was with Pierce at the time.

"Needless to say, I think all blacks should be alarmed by Mr. Gonzalez' statement, even more so for those of us who are prominent blacks within the Republican Party," Alexander said in a telephone interview.

"There's no justification for it, and it came as a great shock, but I think the secretary was very restrained in terms of his response. I have to give him a lot of credit for taking the high road as he did, but now we have to see that Mr. Gonzalez does not go unopposed."

Pierce appeared before the subcommittee to testify on the proposed reduction of some 250 positions at HUD, which he says will make the agency more efficient and effective. It was these proposed RIFs that prompted Gonzalez' remark.●

THE RESIDENTIAL MORTGAGE INVESTMENT ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. WYDEN. Mr. Speaker, on July 15, my colleagues DICK GEPHARDT and BARBER CONABLE and I introduced H.R. 6781, the Residential Mortgage Investment Act.

Since that time, this bill has attracted more than 260 cosponsors. A similar bill was introduced in the Senate last week, where hearings are scheduled early next week.

Because the 97th Congress is rapidly drawing to a close, we are actively exploring with the appropriate committee chairmen the possibility of placing

this bill on the House suspension calendar, perhaps as early as next week.

We have decided that, after further consideration and in the interest of time, it would be preferable to offer an amendment in the nature of a substitute to H.R. 6781 as originally introduced. Among other things, this will bring our bill into line with the Senate bill—S. 2918—and hopefully avoid the need for a conference committee somewhere down the line.

In order for all Members to have a chance to consider this amendment, I ask that it be printed in today's edition of the CONGRESSIONAL RECORD.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 6781

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Residential Mortgage Investment Act of 1982.".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) EMPLOYEE BENEFIT PLAN.—The term "employee benefit plan" means—

(A) For purposes of applying this Act with respect to section 406 of the Employee Retirement Income Security Act of 1974, an employee benefit plan within the meaning of section 3(3) of such Act (29 U.S.C. 1002(3)); and

(B) For purposes of applying this Act with respect to section 4975 of the Internal Revenue Code of 1954, as amended, a plan within the meaning of subsection (e)(1) of such section 4975 of the Internal Revenue Code of 1954, as amended.

(2) QUALIFIED MORTGAGE TRANSACTION.—The term "qualified mortgage transaction" means—

(A) The issuance of a commitment by one or more employee benefit plans or a pool to provide mortgage financing to purchasers of residential dwelling units, either by making or participating in residential mortgage loans directly to purchasers or by purchasing residential mortgage loans or participation interests in residential mortgage loans originated by a third party,

(B) The receipt of a fee in exchange for issuing such a commitment,

(C) The actual origination or purchase of a residential mortgage loan, or of a participation interest therein, pursuant to such a commitment,

(D) The direct origination or purchase, by one or more employee benefit plans or a pool, of a residential mortgage loan, or of a participation interest therein, in cases other than those in which such a commitment has been issued,

(E) The sale, exchange, or transfer of a residential mortgage loan, or of a participation interest therein, by an employee benefit plan or a pool, prior to maturity date of such loan, and

(F) The servicing of a residential mortgage loan (or a participation interest therein) by an employee benefit plan in accordance with this Act, including (but limited to) collecting mortgage payments, assuring that taxes and insurance premiums for the residential dwelling units are paid, and making decisions relating to, and handling, foreclosures, and

(G) The purchase or sale, or commitment to purchase or sell an interest in a pool consisting solely of residential mortgage loans, but only if conducted in accordance with the practices customary in the residential mortgage industry.

(H) The formation and operation by one or more employee benefit plans of a pool or pools of residential mortgage loans.

(I) The purchase or sale, or commitment to purchase or sell a mortgage-backed security.

(3) ARM'S-LENGTH.—The term "arm's-length" means in accordance with customary practices in the residential mortgage industry.

(4) POOL.—The term "pool" means an aggregation of funds or of residential mortgage loans aggregated for purposes of investment by one or more plans, pursuant to terms and conditions customary in the residential mortgage industry.

(5) RESIDENTIAL MORTGAGE LOAN.—The term "residential mortgage loan" means a mortgage on a residential dwelling unit, in fee simple, or leasehold (A) under a lease for not less than 99 years which is renewable or (B) under a lease having a period of not less than 50 years to run from the date the mortgage was executed.

(6) RESIDENTIAL DWELLING UNIT.—The term "residential dwelling unit" includes (but is not limited to)—

(A) A detached house, a townhouse, manufactured housing, a condominium unit, a unit in a housing cooperative, a unit in a multi-unit subdivision (planned unit development) restricted by recorded documents which limit the use of the unit to residential purposes and provide for maintenance and facilities, or

(B) A structure consisting of two or more residential dwelling units (as defined in paragraph (A) herein).

(7) COMMITMENT.—The term "commitment" means a contractual obligation of an employee benefit plan, or a pool, the terms and conditions of which are customary in the residential mortgage industry, to provide mortgage financing to purchasers of residential dwelling units.

(8) PARTICIPATION INTEREST.—The term "participation interest," in connection with a residential mortgage loan means an ownership interest in such mortgage loan ownership of which is held in common with one or more other persons.

(9) ORIGINATION.—The term "origination" means the process by which long-term financing is obtained for the purchasers of residential dwelling units under construction or then existing.

(10) MORTGAGE-BACKED SECURITY.—A certificate representing a fractional undivided interest in a mortgage pool, or a participation in a mortgage pool, which is held in trust and is secured by mortgages or deeds of trust on residential property, including undistributed cash and property which had secured such obligations and has been acquired by foreclosure.

(11) PARTICIPANT, BENEFICIARY, PERSON, STATE.—The terms "participant", "beneficiary", "person", and "State" shall have the meaning given such terms, respectively, in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 3. EXEMPTION.

(a) GENERAL RULE.—Section 406 (other than Section 406(b)) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1106) and section 4975 (other than section 4975 (c)(1)(E) and (F)) of the Internal Revenue Code of 1954, as amended, shall not apply with respect to any qualified mortgage transaction engaged in by an employee benefit plan, provided said transaction is at arm's length.

(b) PREEMPTION OF STATE LAW.—Subsection (a) shall supersede any and all State laws insofar as they may now or hereafter relate to qualified mortgage transactions to the extent engaged in by employee benefit plans.

SEC. 4. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act.●

BUDGET COMMITTEE SCOREKEEPING ON THE DISTRICT OF COLUMBIA APPROPRIATION BILL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 1982

● Mr. ASPIN. Mr. Speaker, I am introducing into the RECORD a cost analysis of the District of Columbia appropriations bill, prepared by the staff of the House Budget Committee using data supplied by the Congressional Budget Office. This analysis shows that the bill is under its spending targets established pursuant to the Budget Act. The administration apparently will be requesting a supplemental amount at some later date, which would bring the subcommittee up to its budget authority target. However, the budget resolution does not assume such a supplemental. Thus, even including supplemental amounts assumed in the budget resolution, this subcommittee would be under its targets.

EARLY WARNING SUMMARY

DISTRICT OF COLUMBIA APPROPRIATION BILL, FISCAL YEAR 1983

Floor action: Tentative, week of September 20, 1982.

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports its subdivisions back to the House in a 302(b) report. It is that 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. In scoring a spending bill, the Budget Committee pays particular attention to programs over which a committee has funding discretion. For example, the Appropriations Committee is bound by existing law and generally cannot effectively reduce amounts required for the funding of mandatory programs. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the discretionary budget authority exceeds its target.

(1) Discretionary programs in bill: The bill is under the subcommittee's total for budget authority by $24 million and thus would not be subject to the deferred enrollment provisions of the Budget Resolution. The bill is

under the allocation for outlays by $15 million.

(2) Mandatory programs in bill: The bill is equal to the subcommittee's totals for budget authority and outlays.

(3) Overall bill total: The bill is under the subcommittee's budget authority total by $24 million and is under the outlay total by $15 million.

(4) Credit targets: The bill is under the subcommittee's total for direct loan obligations.

(5) Supplemental amounts which may be required: Future anticipated funding requirements also in the Subcommittee's jurisdiction, if added to this bill, would not breach the subcommittee's allocations.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL: HOUSE BUDGET COMMITTEE

Bill: H.R. 7144, District of Columbia appropriation, fiscal year 1983.

Staff analysis

Committee: Appropriations.

Subcommittee: District of Columbia (D.C.).

Chairman: Mr. Dixon (California).

Ranking minority member: Mr. Coughlin (Pennsylvania).

Scheduled: Tentative, Friday, September 24, 1982.

I. Description of bill

This bill provides funds for the Federal payment, and Federal share for pensions, water and sewage services, and loan outlays for the District of Columbia for fiscal year 1983.

II. Comparison with target for discretionary appropriations action

Pursuant to the Budget Act and HBC scorekeeping, the subcommittee has two targets: one for discretionary programs and one for mandatory programs. Since the Appropriations Committee is bound by existing entitlement law, it generally cannot effectively change the amounts required for the funding of mandatory programs. The Subcommittee's target for discretionary programs is therefore the main focus for this Early Warning report. That target is specified in the report of the Appropriations Committee made pursuant to Sec. 302(b) of the Budget Act, in which the Appropriations Committee subdivided to subcommittees the amounts allocated to it in the First Budget Resolution for Fiscal Year 1983.

Further, if the conference report on this appropriation bill, combined with any other fiscal year 1983 appropriations that the subcommittee may have enacted this session, causes the target for discretionary budget authority to be breached, then the bill will be subject to the "deferred enrollment" provision of Section 4 of the Fiscal Year 1983 First Budget Resolution.

The summary table below shows that the subcommittee's possible full-year total is under its discretionary budget authority target and over its discretionary outlay target. Therefore, this bill is not subject to deferred enrollment. The numbers in the summary table would change only with floor amendments, Senate action, or conference action on this bill. Possible future supplementals are discussed in Section IV below.

III. SUMMARY TABLE

[In millions of dollars]

	Budget authority	Outlays
The amounts shown below are only for discretionary 1983 spending by this subcommittee:		
1. Discretionary amounts in bill	546	506
2. Prior action		
3. Total action to date	546	506
4. 302(b) target	570	520
5. Over(+)/under(−)	−24	−15
6. Amounts assumed but not yet considered		
7. Over(+)/under(−)	−24	−15
The amounts shown below are only for mandatory programs that are funded by this subcommittee:		
8. Mandatory amounts in bill		
9. Prior action		40
10. Total		40
11. 302(b) target		40
12. Over(+)/under(−)		
13. Supplemental amounts needed		
14. Over(+)/under(−)		
The amounts shown below include both discretionary and mandatory amounts:		
15. Total amounts in bill	546	506
16. Prior action		40
17. Total	546	546
18. 302(b) total target	570	561
19. Over(+)/under(−)	−24	−15
20. Supplemental amounts		
21. Over(+)/under(−)	−24	−15

Note.—Detail may not add due to rounding.

IV. Explanation of over/under

Since the assumptions behind a committee's 302(b) subdivision are not required to be provided to the House, the House Budget Committee is unable to give a definitive answer to the question of where a particular bill is over or under a committee's 302(b) subdivision. The Budget Committee can only compare the items in the bill to the assumptions contained in the budget resolution. It is important to note that the line item assumptions in the budget resolution are not binding on a committee. A list of the major areas where this bill differs from the budget resolution follows:

Federal payment to the District of Columbia is $336.6 million in budget authority and outlays and is equal to the Budget Resolution assumption due to the bill's providing funding at the 1982 level. However, the Committee has deferred consideration of an additional $24.4 million in budget authority and outlays provided for in the pending authorization which is in conference and which is recommended by the President.

Funding for D.C. capital investment is $145 million in budget authority, which is $10 million below the assumptions, a continuation of the 1982 program level.

Funding for the Federal share of pensions, $52 million in budget authority and outlays, is the same as assumed in the resolution and funding for the Federal share of water and sewage services is $11.8 million, $1.7 million less than the budget authority and outlay assumptions in the resolution.

V. Credit

The First Budget Resolution contains targets for credit program amounts. As with budget authority and outlays, the Appropriations Committee is allocated amounts for credit program levels, and subdivides those amounts among subcommittees. For comparative purposes, the table below shows the bill, plus items not yet acted on, and the credit subdivisions.

[In millions of dollars]

	Direct loan obligations	Primary guarantee commitments	Secondary guarantee commitments
1. Credit program limits in the bill	145		
2. Limits assumed in the budget resolution not acted upon in the bill and other amounts not subject to limit			
3. Possible total for subcommittee	145		
4. Credit subdivisions	150		
5. Over (+)/under (−)	−5		

VIII. Definitions of terms in summary table, section III

Line 1. Discretionary amounts in bill: discretionary fiscal year 1983 appropriations in H.R. 7144.

Line 2. Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills this session.

Line 3. Total action to date: line 1 plus line 2.

Line 4. 302(b) target: the target for discretionary appropriations set by the Appropriations Committee pursuant to the Budget Act.

Line 5. Over (+)/Under (−): line 3 minus line 4.

Line 6. Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which funding has been deferred by the Appropriations Committee, probably until next Spring's supplemental appropriations bill.

Line 7. Over (+)/Under (−): line 5 plus line 6.

Line 8. Mandatory amount in bill: funding for mandatory programs (entitlements).

Line 9. Prior action: outlays from budget authority enacted for years prior to fiscal year 1983, plus permanents and advance appropriations assigned to the Appropriations Committee.

Line 10. Total: line 8 plus line 9.

Line 11. 302(b) target: the target for mandatory amounts set by the Appropriations Committee. The target set by the Appropriations Committee includes the effect of assumed authorizing legislation that would change the level of mandatory programs.

Line 12. Over (+)/Under (−): line 10 minus line 11.

Line 13. Supplemental amounts needed: amounts for any new entitlement legislation assumed in the budget resolution and to fund mandatory items in the bill at the level estimated in the budget resolution.

Line 14. Over (+)/Under (−): line 12 plus 13.

Lines 15 through 21. These lines equal the sums of lines 1 and 8, lines 2 and 9, etc., respectively.●

HOUSE OF REPRESENTATIVES—*Friday, September 24, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We give thanks this day, O God, for people who take time to speak good words to others who are in need of encouragement. All have been blessed by the support of friends and colleagues who have been sensitive to needs and ready to keep with deeds of good will. Teach us, O God, to see our opportunities where we can inspire, reassure, forgive, and give cheer to those to whom we minister. May Your spirit lead us all our days. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2852) entitled "An act to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STAFFORD, Mr. EAST, Mr. QUAYLE, Mr. WEICKER, Mr. DENTON, Mr. HATCH, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, and Mr. EAGLETON to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1018. An act to protect and conserve fish and wildlife resources, and for other purposes;

S. 1701. An act to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals;

S. 2329. An act to establish an Efficiency Advisory Roundtable to assist the Advisory Commission on Intergovernmental Relations in its activities concerning the New Federalism; and

S. 2436. An act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. LEAHY as a delegate, on the part of the Senate, to the North Atlantic Assembly meeting, to be held in London, United Kingdom, November 14-19, 1982.

PERMISSION TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 27, 1982, TO FILE CONFERENCE REPORT ON S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Monday, September 27, 1982, to file a conference report on the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

SOCIAL SECURITY DISABILITY

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, I am here today with great sadness and anger.

The Los Angeles Times has just reported that 11 people who were cut off from or denied social security disability payments died within the last 4 months, usually of the same disability that sidelined them in the first place. I state before my colleagues today, with pain and bitterness, that I may soon have the 12th casualty of this inhumane policy in my district.

A 48-year-old woman, a constituent of mine, was on the disability rolls for several years. A couple of months ago she weighed 148 pounds—due to an advanced case of cancer she now weighs 97 pounds. Half of her stomach has been taken out; she has no bowel control; yesterday she was admitted into the hospital for the removal of her intestines; she is also being scheduled for back surgery. Yet last month the State evaluation agency determined that she was no longer disabled. She has not received a formal notification of her status so that she can file for a reconsideration, although I have requested it several times. Mr. Speaker, we must address this situation—we cannot allow the Social Security Administration to continue denying that individuals have disabilities which kill them soon after. There is blood on our hands.

John Trollinger, a deputy press secretary in the Social Security Administration, said, "We have made some mistakes, with some people taken off the rolls who should not have been." But "some mistakes" are not acceptable when a mistake means a person's life.

The goal of reviewing the disability status of individuals on the social security rolls is a sound and necessary principle. But when Congress mandated, in 1980, a 3-year review of individuals on the disability rolls, no one foresaw the high rates of termination we are witnessing today. The Social Security Administration has been terminating 45 percent of the beneficiaries it reviews. When Congress passed the disability amendments of 1980, the periodic disability reviews were not expected to produce any net savings during the first 3 years of operation, that is fiscal years 1982 through 1984. And, during the 4-year period fiscal year 1982 through fiscal year 1985, the periodic reviews were projected to save only $10 million. Yet, the President's fiscal year 1983 budget indicates that the program of periodic reviews will not save $3.25 billion in fiscal year 1982-84, or 325 times the original estimate. This is blood money, Mr. Speaker, and it is blood on the hands of this administration, and it is blood on us in Congress if we allow this cruel and crazy policy to continue.

We must work together to enact legislation at the earliest opportunity to redress this sorry situation.

PASSAGE OF THE FAIR TRADE IN STEEL ACT OF 1982 WOULD AID U.S. STEEL INDUSTRY

(Mr. KOGOVSEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOGOVSEK. Mr. Speaker, 2 days ago we forced the locomotive engineers back to work because of the adverse impact their strike was having on our already troubled economy. Sev-

eral Members mentioned the particular problem the strike was having on our steel industry, which is one reason I voted for the resolution. But Mr. Speaker, stopping the rail strike will only bring our steel industry back to the dismal point they were at before the strike. With unemployment within the steel industry running between 30 and 40 percent, and the rate of capability-utilization running at only 51 percent, it is time Congress got serious about addressing our steel problems.

A key place to start would be to put a stop to the dumping of foreign steel on our market. It has become obvious to me that our current trade laws are entirely inadequate in protecting our industry from subsidized foreign steel. The foreign producers claim we will start a trade war if we restrict imports. I contend that we are already in the midst of a trade war—and we are losing badly. It is time we start fighting back.

I urge immediate consideration of H.R. 6505, the Fair Trade in Steel Act of 1982 by the Committee on Ways and Means. We must begin action now. While I realize there is little time left for this Congress, I fear there is even less time left for many steel mills throughout the country.

DEATH PENALTY BILL BOTTLED UP IN JUDICIARY COMMITTEE

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, on May 12, 1981, I introduced H.R. 3541, a bill to reinstate a constitutional death penalty for certain Federal crimes. The bill was referred to the Committee on the Judiciary, which has taken no action to date. Capital punishment is apparently too controversial a subject to be brought to the floor of the House by the Judiciary Committee.

Whether or not the committee agrees with the vast majority of Americans who want the death penalty reinstated, surely it is wrong of the committee to stifle debate on this issue. It is wrong to say that the people's representatives in a democratic society must be deprived of the opportunity to act on any subject simply because that subject invites spirited exchanges of opinion or touches upon our most basic beliefs. If the Congress is not to tackle the tough issues, who is?

We must, Mr. Speaker, begin taking steps to combat senseless criminal brutality, and as representatives of the American people, we must enact measures which express their strong sense of moral outrage and heartfelt anger at the perpetrators of heinous, insidious acts like murder.

I urge my colleagues on the Judiciary Committee to unlock their doors and let us vote on this issue in the House.

THE U.S. ACADEMY OF FREEDOM ACT

(Mrs. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ASHBROOK. Mr. Speaker, I rise in support of H.R. 7020, the U.S. Academy of Freedom Act. This act will establish a "U.S. Academy of Freedom whose function shall be to develop and implement programs to promote the growth of democracy and free and open societies throughout the world."

We are faced with a formidable task today trying to advance the voice of freedom around the globe. The Soviet Union is continuing and will continue its voracious, relentless, and premeditated offensive to undermine democracy and create instability througout the world. But it seems many individuals are unaware of this threat. An invasion of Afghanistan was needed for a President of the United States to realize the duplicity of the Soviets. The Soviet Union has also duped the thousands of people parading around with signs calling for an immediate nuclear freeze. Passage of this bill will provide the mechanism to coordinate people and ideas to educate public leaders and private citizens on the geopolitical aspirations of communism.

Although I consider countering communism a major objective of the Academy of Freedom, the main goal is promoting democracy. Millions of people across the world live under oppressive governments. We must convey the message that a better, more productive life is available. No individual, regardless of circumstance, should be denied the right of self-determination to pursue the quality of life they desire and deserve. An open society, free from restrictions on the press, free from restrictions on the right of assembly, and free from restrictions on basic free speech is the hallmark of this country. I believe every citizen of every country on this Earth merits an opportunity to have the same. The U.S. Academy of Freedom is a necessary step in that direction. I strongly, and without reservation, urge my colleagues to join me as a cosponsor of this requisite bill.

□ 1010

SHOCKING COST ESTIMATE RELEASED BY GAO ON CLINCH RIVER BREEDER REACTOR

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, I rise today to express my shock over the GAO's recent $8.8 billion estimate of the total cost for the Clinch River breeder reactor. This GAO price tag is dramatically higher than the Department of Energy's $3.57 billion cost estimate and underscores the need for Congress to debate openly and fully the pros and cons of appropriating money for this controversial energy project.

The Clinch River breeder reactor has bred nothing but cost overruns and it promises to be the most expensive power project to be built. Can we really afford to spend $8.8 billion on a specific technology without convincing evidence that this investment is in our national interest? When we painfully make decisions to cut back on food stamps, education programs, school lunches, Government pensions, and aid to the cities, how can Congress justify spending billions of dollars on an energy technology that is obsolete and unneeded?

I ask you to examine carefully yesterday's GAO report and to join me in urging the House leadership to bring up the energy and water development bill next week so we can let our constituents know where we stand on the Clinch River project before the November election. By putting a halt to the Clinch River breeder reactor, Congress would not only further reduce Government spending but would help persuade the American public of the seriousness of our economic situation and Congress resolve to correct it.

MAKE DISASTER RELIEF A MEANINGFUL PROGRAM ONCE AGAIN

(Mr. GORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, last week I addressed the House and introduced legislation on the subject of disaster relief. Today I am introducing additional legislation to further improve the disaster relief programs; and I would like to again call my colleagues' attention to the inequities in the program as it has been redesigned.

On August 16, in middle Tennessee, several counties—including my own home county—suffered a devastating flood. Several lives were lost, and millions of dollars worth of damage occurred. This was the very first farm disaster in the Southeastern part of the United States since the law has been rewritten and since the regulations have been substantially tightened.

I want to tell my colleagues again today that the way the law is now operating, most of the people who suffer the effects of a disaster cannot get any relief to speak of at all. The law must be changed, and I respectfully ask for support from my colleagues on both

sides of the aisle for changing the laws to make them equitable and make disaster relief a meaningful program in the United States once again.

RAISE THE LEGAL DRINKING AGE TO 21

(Mr. NELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON. Mr. Speaker, next week I intend to offer an amendment to the Surface Transportation Act which would require the remaining States whose drinking age is less than age 21 to raise that drinking age to age 21.

Studies now show that there is a direct correlation between the minimum drinking age and alcohol-related accidents in the 18- to 21-year-old age group. According to the National Highway Transportation Safety Administration, eight States—and this is a dramatic statistic—eight States which have raised the legal drinking age to 21, reduced the fatalities in the age group of 18 to 21 by 28 percent.

Just this morning, on "Good Morning America," former Gov. John Volpe, the Chairman of the President's Commission on Drunk Driving said that that Commission will recommend that all the States raise their age limit on drinking to 21.

Next week we will have that opportunity in an amendment that will be offered to the Surface Transportation Act.

WHEN WILL WE BRING THE CLINCH RIVER FIASCO TO AN END?

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, when will we bring the Clinch River fiasco to an end? I urge my colleagues to take a very careful look at a recently released General Accounting Office report which indicates that the real cost of the Clinch River breeder reactor is far less likely to be the $3.6 billion estimated by the Department of Energy, but rather somewhere in the neighborhood of $8.8 billion.

I would emphasize that that is a preliminary estimate, an interim report, and the GAO has identified nine additional areas of cost which are either substantially underestimated or simply ignored within the new recomputation.

Mr. Speaker, the Clinch River breeder reactor represents waste, pure and simple. There is probably no greater example of waste in the entire Federal budget. To allow this project to go forward at a time when we are in the process of cutting programs such as job training and education and health care is simply unconscionable.

I appeal to the leadership on both sides of the aisle, Republican and Democratic, to take initiatives now to see that this body will have the opportunity to vote to terminate the Clinch River breeder reactor before the congressional recess.

WORST FEARS ABOUT CLINCH RIVER CONFIRMED

(Mr. WEBER of Minnesota asked and was given permission to revise and extend his remarks.)

Mr. WEBER of Minnesota. Mr. Speaker, I join with my colleagues, the gentleman from Pennsylvania (Mr. COUGHLIN) and the gentleman from Michigan (Mr. WOLPE) in bringing to the attention of the House the interim report of the GAO on revised cost estimates for the Clinch River breeder reactor. Although this may be a week in which the Nation's attention focused on the House's action in concluding the railroad strike, I think in the longer term this may be known as the week that the Congress really failed to face up to its obligations in a very basic area of economic policy.

Because it is during this week, in which the House leadership denied its membership the opportunity to vote on the Clinch River breeder reactor in the continuing resolution, that our worst fears about the cost of that breeder reactor were confirmed.

As the GAO indicated, the cost would not be the $3.5 billion its proponents have suggested, but rather will be at least $8.8 billion.

Mr. Speaker, in a year in which we have made reductions in social programs, and increased the tax burden on the American people in an effort to close a very large deficit, it would be unconscionable for us to not get a vote on this obvious example of pork barrel waste and corporate subsidy.

GRANT BY AGENCY FOR INTERNATIONAL DEVELOPMENT ADDS INSULT TO INJURY

(Mr. ROBERT W. DANIEL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT W. DANIEL, JR. Mr. Speaker, the Agency for International Development has recently awarded a grant for $9.85 million to encourage the production of peanuts in lesser developed countries.

At a time when American agriculture is devastated by high interest rates, depressed prices, and sluggish export markets, this grant adds insult to the injury already done to the American farmer.

The administration and certain of my colleagues tell American farmers that they must learn to survive in the "free" market, and to make up domestic deficits through increased exports. This position is undermined by the fact that the Federal Government uses ineffective agricultural embargoes in the place of legitimate foreign policy, by the fact that other nations subsidize their exports heavily, and by the fact that the weak world economy makes export growth unlikely for the next several crop years.

As American farmers fight to break even under these economic hardships, they are told that their Government lacks the resources to help maintain market stability for domestically produced commodities. What must they think when that same Government has the resources to squander almost $10 million to develop foreign competition for American exports?

I am glad to say that I voted against both the authorization and appropriations legislation under which this grant was made; and that I will continue to oppose legislation aimed at solving the problems of other nations so long as America's rural economy remains depressed, so long as America is inadequately defended, and so long as Government continues to run staggering yearly deficits.

In the future, I urge AID to consider the domestic consequences of its actions.

□ 1020

LEGISLATIVE PROGRAM

(Mr. MADIGAN asked and was given permission to address the House for 1 minute.)

Mr. MADIGAN. Mr. Speaker, I do this for the purpose of asking the distinguished majority whip, the gentleman from Washington (Mr. FOLEY) if he could acquaint us at this point with the program for next week's legislative schedule.

Mr. FOLEY. Mr. Speaker, will the acting minority leader yield to me?

Mr. MADIGAN. I would be happy to yield to my distinguished colleague.

Mr. FOLEY. Mr. Speaker, first of all, as to the program for today, the House will very shortly take up House Resolution 581, to establish the Office of House Historian, following which the bill, H.R. 6173, the Health Planning Block Grant Act, will be considered until conclusion. That will conclude the program for today.

Monday is the holiday of Yom Kippur and the House will not be in session.

On Tuesday, the House will meet at noon and consider 27 suspensions. I would assume that the gentleman from Illinois will not necessarily press me to read the titles and numbers. There are a considerable number, obviously.

We intend to postpone the actual recorded votes on those suspensions

until all suspensions have been considered, at approximately 5 o'clock in the afternoon and proceed with votes on those suspensions.

Also, we will consider H.R. 6457, the Health Research Extension Act, to complete consideration; and H.R. 5543, the Ocean and Coastal Resources Management Act, to complete consideration.

On Wednesday and the balance of the week, the House will meet at 10 a.m. We will ask shortly for unanimous consent for a special Consent Calendar on Wednesday morning.

In addition, we will consider H.R. 7144, the D.C. appropriations for fiscal year 1983.

House Resolution 421, to establish a Select Committee on Children, Youth, and Families.

H.R. 6598, Nuclear Waste Disposal Act, subject to a rule being granted.

S. 2177, the Colorado River Basin Project Act, with an open rule, 1 hour of debate.

H.R. 6211, Surface Transportation Act of 1982, subject to a rule being granted.

H.R. 746, the Regulatory Reform Act of 1982, subject to a rule being granted.

H.R. 6878, the Bankruptcy Court Act of 1982, subject to a rule being granted.

H.R. 6444, The Patent Law Restoration Act, subject to a rule being granted.

H.R. 6995, The Federal Trade Commission Authorization, with a modified rule, 2 hours of debate.

Adjournment times will be announced each day. Conference reports may be brought up at any time, and any further program will be announced later.

Members should be advised that it will be possible that other scheduling of appropriation bills may be particularly a matter of additional consideration by the House.

Mr. MADIGAN. Mr. Speaker, if the gentleman would allow me to continue for just a moment, I wonder if the gentleman has any idea at this time when the House will adjourn for the fall recess?

Mr. FOLEY. Subject to the conclusion of consideration by the other body of the continuing resolution, it is our intention to proceed toward a target recess on the 1st or perhaps the 2d of October.

Mr. MADIGAN. The 1st or the 2d of October?

Mr. FOLEY. Yes.

Mr. MADIGAN. Does the distinguished gentleman from Washington have any idea at this point what date the Members might expect to be asked to return in November?

Mr. FOLEY. I can only give the gentleman a range of possibilities. I would say it is unlikely that the House will be recalled before the 15th of November, that it is most unlikely that we will work during Thanksgiving week, and it almost certainly will be the intention to adjourn sine die somewhere between December 15 and 20.

There are two dates that are being discussed for possible return of the House. One would be on the 15th of November for 1 week's work, followed by a recess for the Thanksgiving holidays, followed by the return of the House on the 29th of November until the sine die adjournment, which, as I say, would be around the 15th of December, perhaps a few days later.

The other date that is possible is a return of the House and the Senate on the 29th of November. No decision has been made yet and the leadership on the gentleman's side and the other body will be consulted further.

Mr. MADIGAN. In view of the fact that the debt ceiling bill has been passed, is it likely that we are talking about leaving on Friday this next week?

Mr. FOLEY. Well, I think the more critical problem at this juncture would be the conclusion of the conference report or any other final resolution of the continuing resolution and the assumption or actual signature by the President, the assumption of his approval. That is the one piece of absolutely critical legislation and Friday is definitely a possibility.

Mr. MADIGAN. Mr. Speaker, I want to thank the gentleman for sharing that information with the Members of the House.

MAKING IN ORDER ON WEDNESDAY, SEPTEMBER 29, 1982, CONSIDERATION OF BUSINESS UNDER THE CONSENT CALENDAR RULE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that on Wednesday, September 29, 1982, it shall be in order to consider business under clause 4, rule XIII, the Consent Calendar rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

ESTABLISHING OFFICE OF HOUSE HISTORIAN

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 581, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 581

Resolved, That rule I of the Rules of the House of Representatives is amended by adding a new clause 10 as follows:

"10. (a) There is hereby established in the House of Representatives an office to be known as the Office of the Historian.

"(b) The management, supervision, and administration of the Office shall be vested in the Historian, under the direction of the Speaker of the House of Representatives. The Historian shall be appointed by the Speaker of the House of Representatives without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed shall serve at the pleasure of the Speaker.

"(c) The Historian shall have the responsibility of—

"(1) coordinating the planning of the commemoration of the two hundredth anniversary of the House of Representatives, and

"(2) developing programs for better preservation of the history of the House of Representatives.

"(d) All expenses of such office may be paid from the contingent fund of the House on vouchers solely approved and signed by the Speaker, until otherwise provided by law or resolution.".

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending that, myself such time as I may consume.

Mr. Speaker, I do not intend to speak at any great length on this, but I would like to tell the Members the origin. The origin, in effect, is that the Senate in 1975 provided an Office of the Historian and gave to the Historian a couple of duties. One purpose is to try to help preserve the history of the House of Representatives, which I think safely could be said is in sort of chaos, because it has not been recorded in a systematic way, and also, in effect, to deal with the problem of both the bicentennials that are in the offing.

The most historic days beyond that of the establishment of the Republic in our history are the adoption of the Constitution and the beginning of the function of the Congress. Those two bicentennials come in 1987 and 1989. The function of the House Historian is to deal with the problems of improving the preservation of the history of the House and to have a bicentennial celebration on the House.

Well, fairly clearly, we would hope in the end that we would have a bicentennial of the Congress, because there is no life of the one without the other,

and this will lead us to a more orderly and effective approach to that problem.

We proceeded in the beginning with the approval of the Speaker and the minority leader; the specific approval of the leadership in an informal fashion. We had a congressional working group which included 10 Members: Messrs. BOLLING, YATES, Mrs. BOGGS, Messrs. SHARP, SIMON, and MCCURDY on the Democratic side; Messrs. RHODES, CONABLE, GINGRICH, and CHENEY, on the Republican side.

□ 1030

At a certain point, we recommended to the Speaker that he invite 15 people to be on our advisory committee, a very distinguished group of historians and others, to help us deal with the problem of coming up with a candidate for Historian, a professional Historian.

The Speaker sent letters. All of the people, from the former Speaker of the House, Carl Albert, and a distinguished group of other people have accepted, indicating their willingness to serve.

An old friend of mine who was the congressional liaison for the Eisenhower administration, Bryce Harlow, is one of the members of that group. There are a number of academics. It is a balanced group. We are going to have them in here on the 29th, next week, to talk about what we need to do to plan for commemorating the bicentennial and to help us come to some conclusions on the recommendations for a Historian.

This is not going to be an expensive project. The records indicate that the Senate started their Office of the Historian in 1975 with a budget of $50,000 and, with considerable restraint for either body, they have kept it to $150,000 since then. Given all the inflation, that is a remarkable example of restraint.

I think the original plan here will be that there will be no more than two people on the staff.

Mr. Speaker, House Resolution 581 is a privileged resolution which amends the Rules of the House of Representatives to establish an Office of the Historian within the framework of the Office of the Speaker. So that my colleagues are clear as to the procedure involved with this resolution, let me explain. As a privileged resolution, we are now considering House Resolution 581 in the House under the hour rule. At the conclusion of the hour of general debate on this resolution, the previous question shall be moved to final passage.

Mr. Speaker, I recognize that in the closing days of this session, there is much important work for the House to finish and establishment of a House Historical Office may not seem particularly urgent. However, this House and the Congress plays an important role in the formulation of national policy and we need to assure that the record of these contributions is properly preserved.

Mr. Speaker, in the year 1989, the Congress will commemorate the 200th anniversary of its establishment under the U.S. Constitution. Since 1980, a Senate Bicentennial Study Group has been involved in developing an overall plan for celebrating the bicentennial of the Senate. However, there has been no action by this House to coordinate planning for this significant milestone in our history. I think it is appropriate and essential to promote the preservation of the traditions and record of this institution by establishing an Office of the Historian.

The Historian would have the responsibility of coordinating planning and implementation of bicentennial activities in the House and developing programs for better preservation of our history. The management, supervision, and administration of the office would be vested in the Historian under the direction of the Speaker.

The Historian would be appointed by the Speaker without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed would serve at the pleasure of the Speaker.

Since 1975, the Senate has operated an historical office which has served as an information clearinghouse for persons interested in the history of the Senate, and under the direction of the Senate Historian, that office has been involved in activities directed at promoting historical preservation. The Senate Historian has worked closely with the Senate Bicentennial Study Group.

Mr. Speaker, as many of the Members know, I have a keen interest in this institution, its legislative process and traditions. Last August at the direction of the Speaker, I organized an informal working group of Members of this House to begin the process of planning the House bicentennial. Upon the recommendation of this group, the Speaker has appointed an advisory panel of historians, political scientists, former Members of the House and others to assist in planning the bicentennial and developing proposals for preservation of the history of the House. It is hoped that this panel would make appropriate recommendations on suitable candidates for the position of Historian.

Mr. Speaker, to minimize the initial cost of operating this office, it is anticipated that only the Historian and a secretary research assistant would be employed. Additional support staff could be obtained through the congressional fellowship or intern programs. However, I would imagine that other staff would be hired as needed at a later time.

Mr. Speaker, the Senate, the Supreme Court, and several Federal agencies utilize historical offices. The House deserves and should expect nothing less. The creation of this office would be of benefit, I think, not only to historians, researchers, and the general public, but to the House itself. This action is long overdue.

This resolution came out of the Rules Committee after it had been urged upon JOHN RHODES and me that we do it formally rather than informally by a bipartisan group of people in the working group. It came out of the Rules Committee unanimously.

Up to this point, I know of absolutely no opposition. So unless Members have questions, I do not propose to talk any longer, and I reserve the balance of my time.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield to me?

Mr. BOLLING. I am glad to yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I would like to compliment Chairman BOLLING for introducing this resolution. It is in perfect harmony with his kind of service, his distinguished service to this House and to this Nation.

I am also pleased that the gentleman from Ohio (Mr. LATTA) and other members of the Rules Committee have seen fit to bring the resolution to the floor in such an expeditious manner so that we may, indeed, be able to have the office in place by the time we have a meeting of our advisory panel on the bicentennial of the Congress.

In a very practical matter, I would like to say to the House that as chairman of the Joint Senate-House Committee on the Bicentennial Arrangements in the 1976 year, I found that the Senate was at a great advantage in having a historian in place so that the history of the Senate was more readily available to us than the history of the House of Representatives. It was a great pleasure for me to be able to work with the Office of the Historian in the Senate, and also with the Office of the Historian of the Supreme Court and, of course, we have many people in that category within the Library of Congress with whom our committee worked.

So I am wholeheartedly in favor of the establishment of this office in a practical sense. In another sense, Mr. Speaker, I would like to say that from time to time, since the Senate has had a Historian, Senator BYRD and others have put excerpts from the history of the Senate into the CONGRESSIONAL RECORD, and we have had an ongoing history lesson, for many of the young people of this Nation because of it.

I would like for the same situation to benefit the House of Representatives.

We will be in good shape for the celebration of our bicentennial, the bicentennial of both the signing of the Constitution and of the establishment of the Congress if, indeed, we do have this Office of the Historian.

As Sidney Hyman, the Historian, has chided us, echoing some of the feelings of his great hero, Thomas Jefferson:

Nations sometimes suffer from amnesia; they cannot remember who they are because they have forgotten where they have been.

We should remember, as we go along, some of the successes as well as the failures, and some of the grace notes along the way.

I do think that the establishment of the Office of the Historian will do that for us. We will remember who we are, we will celebrate our successes, we will learn from our failures, and we will be able to record some of the grace notes along the way.

Mr. BOLLING. Mr. Speaker, I thank the gentlewoman from Louisiana for her statement. She is, as always, a grace note.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it grieves me deeply to have to announce that part of this legislation I do not agree with. I agree with half of it; the other half, I do not.

The first deals with coordinating the planning for the commemoration of the 200th anniversary of the House of Representatives. That part I agree with. That does not take place, however, until 1989.

On August 1, 1980, the Senate passed Senate Resolution 381 establising a study group on the Commemoration of the U.S. Bicentenary to prepare an overall plan for commemorating the Senate bicentennial through an appropriate program of publications, exhibits, symposia, and related activities.

The question in my mind is why we have to establish in this House a permanent—a permanent—Office of the Historian to help commemorate the bicentennial in 1989.

As a matter of fact, the Senate established this permanent Historian back in 1975, as the chairman of our committee has indicated. How in the world has this House existed since 1975 without a permanent Office of the Historian? Somehow or other we have struggled along, we have gotten through. We have probably used the Archives, the Library of Congress, or maybe we have even used the Architect of the Capitol. But we got the same type of information and we could assemble the same type of information if we need it to commemorate the bicentennial of the Congress.

So it just seems to me that here is an expenditure for a permanent—a permanent—office that we do not need to celebrate the bicentennial. As a matter of fact, what they always do around this place, once they establish one of these offices, they have got to have somebody to help the head person then they have to have somebody to help that somebody.

That is what has been happening over in the Senate. The Historian over there right now gets $46,655, and his associate—his associate, to help him study—gets $34,414. Then they have a Photohistorian. That Photohistorian gets $33,490—he or she, which ever it might be. We have a lot of photographers running around this place, and I am sure they are available—and maybe at less pay.

Then they have an Assistant Historian, $18,940; they have a secretary—they have a lot of secretaries that might be loaned over there—and that is at $18,016; a research assistant at $15,000, for a sum total, just for salaries, of $151,515.

Let me compliment the House for saving the taxpayers since 1975 a substantial amount of money every year. As a matter of fact, for fiscal year 1980, the Senate Historical Office spent $138,500 for salaries plus $4,000 for photo processing, books at $2,000, and stationery—they did not use very much—$400.

In 1981, they expended $146,000 for salaries; photo processing at $4,500; $2,000 for books and $500 for stationery.

In fiscal year 1982, they expended $151,515 for salaries; photo processing at $4,500; books at $2,000 and stationery at $500.

So this can go on and on, and I predict that it will. If we establish this office, we are going to give them all of these extra secretaries and assistants, and probably we will have to get them space someplace—and I am telling my colleagues space is at a premium around this Capitol Building and these House office buildings. Where are you going to house them once you establish the office?

So I say to my colleagues, if we want to do something to commemorate our bicentennial in 1989, let us do that and stop it there. Let us not go ahead and establish some office to assist not only during that period of time but ad infinitum into the future. I do not think we need a new office. We have got all of these other available resources to keep the history of this House of Representatives, and we do not need to establish the Office of the Historian, in my humble judgment.

● Mr. SIMON. Mr. Speaker, House Resolution 581 will establish in the House of Representatives an Office of Historian.

The Congress is quickly approaching its 200th year of service to this Nation. In this time, nearly 10,000 Members have served in this body, shaping the policies that have guided this country from its infancy to its position of world leadership. Yet, with rare exception, the individual contributions of the men and women who have served here have largely been forgotten.

The failure of the House to preserve in any systematic way the record of those who have been elected to this body over the past 200 years has fostered a lack of public understanding about this institution. By our omission, we have contributed in no small way to the decline in public regard for what we and our predecessors have done here, allowing public perception of the Congress to be shaped less by the deeds than by the misdeeds of its Members.

Creating an Office of Historian in the House of Representatives offers us a long-overdue opportunity to rectify our past shortsightedness. A brief look at the services provided by the Office of Historian in the Senate, which the other body established in 1975, suggests a broad range of services that a Historian might provide to preserve the history of the House and to heighten public awareness of its achievements. These include: Advising Members and committees on records management and assisting them in determining which records might be of long-term documentary value; helping Members to locate suitable repositories for their collections when they leave this body; compiling and disseminating information about historic events, dates, statistics, and precedents of the House for use by Members, the press, scholars, and the general public; and assisting the House in planning for the bicentennial of the Constitution in 1987 and the bicentennial of the House of Representatives in 1989.

Moreover, by helping the Members to distinguish between records that have lasting historic value and those that do not, a historian would assure that records retention and storage were handled cost effectively. Indeed, I have every expectation that the expenses of an Office of Historian would be much lower than the amounts the House would save through more efficient records management.

I commend the chairman of the Committee on Rules for his leadership in this effort.●

□ 1040

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum

is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 132, nays 180, not voting 120, as follows:

[Roll No. 370]

YEAS—132

Akaka	Fowler	Murtha
Alexander	Gejdenson	Natcher
Andrews	Gephardt	Nelson
Annunzio	Gingrich	Nichols
Atkinson	Ginn	Nowak
AuCoin	Gonzalez	Oakar
Bailey (PA)	Gore	Oberstar
Barnes	Green	Obey
Bevill	Hall (OH)	Panetta
Boggs	Hall, Sam	Patman
Bolling	Hamilton	Pepper
Bonior	Hawkins	Perkins
Bowen	Hightower	Peyser
Breaux	Holland	Price
Brinkley	Hollenbeck	Pritchard
Brooks	Holt	Quillen
Byron	Howard	Rahall
Clay	Hoyer	Reuss
Collins (IL)	Hughes	Roe
Daniel, Dan	Hutto	Rosenthal
Daschle	Hyde	Rostenkowski
de la Garza	Jones (NC)	Roybal
Dellums	Kastenmeier	Russo
Dicks	Kemp	Sabo
Dingell	Kennelly	Scheuer
Dixon	LaFalce	Schumer
Donnelly	Leath	Sharp
Downey	Levitas	Smith (NJ)
Duncan	Livingston	Solarz
Dwyer	Long (LA)	Spence
Dymally	Lowry (WA)	St Germain
Dyson	Lujan	Stark
Eckart	Lundine	Stokes
Edgar	Madigan	Studds
Edwards (AL)	Markey	Vento
Edwards (CA)	Matsui	Wampler
Evans (GA)	Mavroules	Waxman
Fary	McHugh	White
Fazio	McKinney	Whitley
Ferraro	Mikulski	Whitten
Flippo	Mineta	Williams (OH)
Foley	Moakley	Wilson
Ford (TN)	Montgomery	Yates
Fountain	Mottl	Zablocki

NAYS—180

Albosta	Derwinski	Hiler
Anderson	Dickinson	Hillis
Anthony	Dorgan	Horton
Applegate	Dunn	Hubbard
Archer	Edwards (OK)	Huckaby
Ashbrook	Emerson	Hunter
Bennett	English	Jacobs
Bereuter	Erdahl	Jeffords
Bethune	Evans (DE)	Jeffries
Bliley	Evans (IA)	Johnston
Bonker	Fenwick	Jones (OK)
Broomfield	Fiedler	Jones (TN)
Brown (CO)	Findley	Kazen
Broyhill	Fish	Kildee
Butler	Foglietta	Kindness
Carman	Frank	Kogovsek
Carney	Frenzel	Kramer
Chappie	Fuqua	Lagomarsino
Cheney	Gaydos	Latta
Clausen	Gibbons	Leach
Clinger	Gilman	LeBoutillier
Coats	Glickman	Lent
Coleman	Gradison	Lewis
Conte	Gramm	Loeffler
Corcoran	Gregg	Long (MD)
Coughlin	Guarini	Lowery (CA)
Courter	Gunderson	Luken
Coyne, James	Hagedorn	Marriott
Crane, Daniel	Hall, Ralph	Martin (IL)
Crane, Philip	Hammerschmidt	Martin (NC)
D'Amours	Hansen (ID)	Martin (NY)
Daniel, R. W.	Harkin	Martinez
Daub	Hartnett	Mazzoli
Davis	Heckler	McClory
Deckard	Hendon	McCloskey
McCollum	Rinaldo	Solomon
McDade	Ritter	Stangeland
McDonald	Robinson	Staton
McGrath	Roemer	Stenholm
Mica	Rogers	Stratton
Miller (OH)	Roth	Swift
Molinari	Rudd	Tauke
Mollohan	Sawyer	Tauzin
Moorhead	Schneider	Thomas
Morrison	Schroeder	Traxler
Murphy	Seiberling	Trible
Myers	Sensenbrenner	Vander Jagt
Neal	Shamansky	Volkmer
Nelligan	Shaw	Walgren
Ottinger	Shelby	Walker
Parris	Shumway	Weber (MN)
Pashayan	Shuster	Weber (OH)
Patterson	Siljander	Winn
Paul	Skeen	Wolf
Pease	Smith (AL)	Wolpe
Petri	Smith (IA)	Wortley
Pickle	Smith (NE)	Wylie
Porter	Smith (OR)	Yatron
Railsback	Snowe	Young (AK)
Regula	Snyder	Young (FL)

NOT VOTING—120

Addabbo	Emery	Mitchell (NY)
Aspin	Erlenborn	Moffett
Badham	Ertel	Moore
Bafalis	Evans (IN)	Napier
Bailey (MO)	Fascell	O'Brien
Barnard	Fields	Oxley
Beard	Fithian	Pursell
Bedell	Florio	Rangel
Bellenson	Ford (MI)	Ratchford
Benedict	Forsythe	Rhodes
Biaggi	Frost	Roberts (KS)
Bingham	Garcia	Roberts (SD)
Blanchard	Goldwater	Rodino
Boland	Goodling	Rose
Boner	Gray	Roukema
Bouquard	Grisham	Rousselot
Brodhead	Hance	Santini
Brown (CA)	Hansen (UT)	Savage
Brown (OH)	Hatcher	Schulze
Burgener	Hefner	Shannon
Burton, John	Heftel	Simon
Burton, Phillip	Hertel	Skelton
Campbell	Hopkins	Smith (PA)
Chappell	Ireland	Stanton
Chisholm	Jenkins	Stump
Coelho	Lantos	Synar
Collins (TX)	Lee	Taylor
Conable	Lehman	Udall
Conyers	Leland	Washington
Coyne, William	Lott	Watkins
Craig	Lungren	Weaver
Crockett	Marks	Weiss
Dannemeyer	Marlenee	Whitehurst
DeNardis	Mattox	Whittaker
Derrick	McCurdy	Williams (MT)
Dornan	McEwen	Wirth
Dougherty	Michel	Wright
Dowdy	Miller (CA)	Wyden
Dreier	Minish	Young (MO)
Early	Mitchell (MD)	Zeferetti

□ 1050

Messrs. SHAMANSKY, YATRON, LEBOUTILLIER, SILJANDER, WOLF, WEBER of Ohio, ENGLISH, SEIBERLING, ALBOSTA, SMITH of Iowa, HARKIN, VOLKMER, and TRAXLER changed their votes from "yea" to "nay."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1100

GENERAL LEAVE

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 581.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HEALTH PLANNING BLOCK GRANT ACT OF 1982

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6173) to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6173, with Mr. DAN DANIEL, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 22, 1982, all time for general debate on the bill had expired.

Pursuant to House Resolution 594, the text of H.R. 7040 is considered as an original bill for the purpose of amendment under the 5-minute rule and in lieu of the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the reported bill, and each section is considered as having been read.

The Clerk will designate section 1.

Section 1 of the bill reads as follows:

H.R. 7040

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Planning Block Grant Act of 1982".

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The remainder of the amendment in the nature of a substitute reads as follows:

REPEAL OF TITLE XV

SEC. 2. (a) Title XV of the Public Health Service Act is repealed in accordance with subsection (b).

(b)(1)(A) Upon the expiration of the thirty-day period beginning on the day the Secretary approves or disapproves the appli-

cation of a State for a payment under an allotment under subpart 1 of part D of title XIX of the Public Health Service Act, no funds will be provided under section 1525 of that Act to the State health planning and development agency in the State.

(B) Upon the expiration of the thirty-day period beginning on the day the Secretary approves or disapproves the application of a State for a grant under subpart 3 of part D of title XIX of the Public Health Service Act, no funds will be provided under section 1516 of that Act to any health systems agency in the State.

(2) Upon the expiration of thirty days after the Secretary has taken action to approve or disapprove all applications submitted in accordance with paragraphs (2) and (3) of subsection (c), title XV of the Public Health Service Act is repealed.

(c)(1) The Secretary of Health and Human Services shall, within the one hundred and five-day period beginning on the date of the enactment of this Act, promulgate and place into effect regulations to implement part D of title XIX of the Public Health Service Act. Such regulations shall be promulgated in accordance with subsections (b) through (e) of section 553 of title 5, United States Code, except that (A) the notice of proposed rulemaking issued by the Secretary for such regulations shall contain proposed regulations, and (B) the Secretary shall provide forty-five days for the submission of written data, views, and arguments on the proposed regulations.

(2)(A) Within the ninety-day period beginning on the date the regulations promulgated under paragraph (1) take effect each State which intends to apply for a payment under an allotment under subpart 1 of part D of title XIX the Public Health Service Act shall submit an application for the payment to the Secretary.

(B) No later than thirty days after the expiration of the ninety-day period prescribed by subparagraph (A), the Secretary shall approve or disapprove all applications submitted within such period.

(3)(A) Within the one hundred and fifty-day period beginning on the date the regulations promulgated under paragraph (1) take effect each State which intends to apply for a grant under subpart 3 of part D of title XIX the Public Health Service Act shall (i) designate areas for health planning which meet the requirements of section 1962 of the Public Health Service Act; (ii) designate for such areas regional health planning agencies which meet the requirements of sections 1963 and 1964 of such Act; and (iii) submit an application for a grant under section 1961.

(B) No later than thirty days after the expiration of the one hundred and fifty-day period prescribed by subparagraph (A), the Secretary shall approve or disapprove all applications submitted within such period.

(d)(1) From sums appropriated under section 1941 of the Public Health Service Act such sums as may be necessary shall be obligated to make grants under section 1525 of the Public Health Service Act in accordance with subsection (b).

(2) From sums appropriated under section 1961 of the Public Health Service Act such sums as may be necessary shall be obligated to make grants under section 1516 of the Public Health Service Act in accordance with subsection (b).

REVISION OF STATE CERTIFICATE OF NEED PROGRAMS

SEC. 3. (a) Except as provided in subsection (b)(1), no State may receive an allotment under subpart 1 of part D of title XIX of the Public Health Service Act unless the State has revised, in accordance with this subsection, its laws relating to certificate of need to conform to the requirements of subpart 2 of such part. Such revision shall take effect as follows:

(1) If the legislature of the State is in a regular session on the date regulations promulgated under section 2(c)(1) first take effect and will be in session for at least three months from such date, such revision shall take effect in such State not later than three months from such date.

(2) If the legislature of the State is in session on the date such regulations first take effect but three months do not remain in such session after such date or if the legislature of the State is not in session on such date, such revision shall take effect in such State not later than three months after the beginning of the first regular session of the legislature beginning after such date.

(3) If before the expiration of the period specified in paragraph (1) or (2) during which certificate of need laws are to be revised and which would apply but for this paragraph—

(A) the chief executive officer of a State certifies to the Secretary that the State intends to apply for a payment under an allotment under subpart 1 of part D of title XIX of the Public Health Service Act and that the legislature of the State is not able to make the necessary revisions in its law before the expiration of the applicable revision period, and

(B) the Secretary determines that additional time is necessary for the legislature to make such revision,

such revision shall take effect on such date as the Secretary shall designate but not later than six months after the expiration of the otherwise applicable revision period.

(b)(1) Until the applicable effective date prescribed by subsection (a) a State may use funds provided under an allotment under part D of title XIX of the Public Health Service Act for a certificate of need program which does not meet the requirements of subpart 2 of part D of title XIX of the Public Health Service Act.

(2) If, during the period a State is receiving funds under a grant under section 1525 of the Public Health Service Act, the State revises its laws relating to certificate of need to meet the requirements of subsection (a), a State may use such funds for its certificate of need program as so revised.

TRANSITION

SEC. 4. (a)(1)(A) Section 1521(d) of the Public Health Service Act (42 U.S.C. 300m(d)) is repealed.

(B) Section 1521(b)(2) of such Act is amended by striking out (B) and redesignating subparagraph (C) as subparagraph (B).

(C) Section 129(b) of the Health Planning and Resources Development Amendments of 1979 is amended by striking out "(1)" and paragraph (2).

(2)(A) Section 1512(b)(2)(A) of the Public Health Service Act (42 U.S.C. 3001-1(b)(2)(A)) is amended (i) by striking out "shall have a staff" and inserting in lieu thereof "shall, to the extent feasible, have a staff", and (ii) by striking out "at least".

(B) Section 1512(b)(2)(B) of such Act is amended (i) by striking out "than five" each place it occurs and inserting in lieu thereof "than three", (ii) by striking out "one hundred" each place it occurs and inserting in lieu thereof "three hundred", and (iii) by striking out "next highest" and inserting in lieu thereof "nearest".

(3) Notwithstanding title XV of the Public Health Service Act—

(A) if, during the period beginning on the date of the enactment of this Act and ending on the date such title is repealed under section 2 of this Act, a State health planning and development agency or a health systems agency applies for a renewal of its designation under such title and includes in the application a request that its designation be renewed as a conditional designation, the Secretary of Health and Human Services shall renew the designation of such agency as a conditionally designated agency if the agency received funds under such title XV for fiscal year 1982; and

(B) the Secretary of Health and Human Services shall, during the period beginning on the date of the enactment of this Act and ending on the date such title is repealed under section 2 of this Act, require conditionally designated State health planning and development agencies and health systems agencies—

(i) to meet only such requirements of sections 1512(b) and 1522(b) of the Public Health Service Act, and

(ii) to perform only such functions as are prescribed by sections 1513 and 1523 of the Public Health Service Act,

as are also prescribed by part D of title XIX of the Public Health Service Act as added by section 5 of this Act.

(b)(1) If a State is qualified to receive an allotment under part D of title XIX of the Public Health Service Act and if upon the termination of funds for the State health planning and development agency of the State under title XV of such Act the agency has funds which it received under such title and which it has not obligated or equipment which it acquired with funds provided under such title, such funds and equipment shall be transferred to the chief executive officer of the State for use by the agency of the State designated under section 1951 in carrying out its functions under such part D.

(2) If a State is qualified to receive a grant under subpart 3 of part D of title XIX of the Public Health Service Act and if upon the termination of funds for the health systems agencies in the State under title XV of such Act any such agency has funds which it received under such title and which it has not obligated or equipment which it acquired with funds provided under such title, such funds and equipment shall be transferred to the chief executive officer of the State for equitable distribution among the regional health planning agencies designated in the State for use in carrying out the functions of such agencies.

(3) No funds or equipment made available under paragraph (1) or (2) shall be taken into account in determining the amount paid to a State under subpart 1 of part D of title XIX of the Public Health Service Act or the amount distributed to a regional health planning agency under subpart 3 of such part.

BLOCK GRANTS FOR HEALTH PLANNING

SEC. 5. Title XIX of the Public Health Service Act is amended by adding at the end the following new part:

"PART D—HEALTH PLANNING BLOCK GRANTS

"Subpart 1—Grants to States

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1941. For payments under allotments under section 1942, there is authorized to be appropriated $32,000,000 for fiscal year 1983 and $33,600,000 for fiscal year 1984.

"ALLOTMENTS

"SEC. 1942. From the amounts appropriated under section 1941 for any fiscal year the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under section 1941 for such fiscal year as the population of the State in the preceding fiscal year bore to the total population of all the States in such fiscal year.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1943. (a)(1) The amount allotted to a State under section 1942 for each fiscal year shall be paid by the Secretary to the State, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), if the State has an approved application under section 1945.

"(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it received the payment for the next fiscal year.

"(3) Any funds appropriated under section 1941 for a fiscal year which are not paid under paragraph (1) or section 1971 shall be returned to the Treasury.

"(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a)(1) by—

"(1) the fair market value of any supplies or equipment furnished to the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1944. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF ALLOTMENTS

"SEC. 1944. Amounts paid to a State under section 1943 from its allotment under section 1942 shall be used—

"(1) to develop and administer a certificate of need program which meets the requirements of subpart 2, and

"(2) to develop a State health plan in accordance with section 1954.

"APPLICATION; REPORT ON INTENDED EXPENDITURES

"SEC. 1945. (a) No State may receive a payment under an allotment under section 1942 unless an application therefor has been submitted to and approved by the Secretary. Except as provided in section 2 of the Health Planning Block Grant Act of 1982, such an application shall be submitted before the beginning of the fiscal year for which the payment applied for will be made. Each such application shall be in such form and submitted by such date as the Secretary shall require. As part of an application the chief executive officer of a State shall certify that, except as authorized by section 3(b) of Health Planning Block Grant Act of 1982, the State agrees to use the payment applied for in accordance with the requirements of this subpart and subpart 2.

"(b) Prior to expenditures by a State of payments made to it under section 1943 for any fiscal year, the chief executive officer of the State shall prepare a report on the intended use of the payments the State is to receive under such section, including information on the types of activities to be supported. The report shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this subpart, and any revision shall be subject to the requirements of the previous sentence.

"REPORTS AND AUDITS

"SEC. 1946. (a) Each State shall prepare reports on its activities under this subpart. Reports shall be in such form, contain such information, and be of such frequency (not less often than every two years) as the State finds necessary to secure an accurate description of those activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were expended consistent with the reports required by section 1945. The State shall make copies of the reports required by this section available for public inspection within the State. Copies shall also be provided, upon request, to any interested person or public agency, and each such person or agency may provide its views on these reports to the Congress.

"(b) Each State shall, not less often than every two years, audit its expenditures under this subpart. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this subpart, and, in so far as is practical, in accordance with standards of the Comptroller General for auditing governmental organizations, programs, activities, and functions. Within thirty days following the completion of each audit, the chief executive officer of the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts found not to have been expended in accordance with this subpart or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subpart.

"(c) For other provisions requiring States to account for Federal grants, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"NONDISCRIMINATION

"SEC. 1947. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this subpart or subpart 3 are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subpart or subpart 3.

"(b) Whenever the Secretary finds that a State that has received a payment under this subpart, or any entity that has received a payment from a State under subpart 3, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"Subpart 2—Certificate of Need Program Requirements

"PROGRAM REQUIREMENTS

"SEC. 1951. (a) Except as provided in subsections (b) and (c), the certificate of need program for which funds may be used under section 1944 shall—

"(1) provide for review and determination of need for—

"(A) major medical equipment and institutional health services, and

"(B) capital expenditures,

and provide that such review and determination of need shall occur before the time such equipment is acquired, institutional health services are offered, substantial expenditures are undertaken in preparation for such offering, or capital expenditures are obligated;

"(2) permit the acquisition of only such major medical equipment, the offering of only such institutional health services, and the obligation of only such capital expenditures for which a certificate of need has been issued by the designated State agency in accordance with this subpart; and

"(3) be administered by an agency of the State designated for such purpose by the chief executive officer.

"(b)(1) Under the program the designated State agency shall not require a certificate of need for the offering of an inpatient institutional health service or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by—

"(A) a health maintenance organization or a combination of health maintenance organizations if (i) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to individuals enrolled in such organization or organizations, and (ii) at least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals

enrolled with such organization or organizations in the combination;

"(B) a health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to individuals enrolled in such organization or organizations, and (iv) at least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization or organizations in the combination, or

"(C) a health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations and on the date the application is submitted under paragraph (2) at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to individuals enrolled in such organization or organizations, and (iii) at least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such organization,

if, with respect to such offering, acquisition, or obligation, the designated State agency has, upon application under paragraph (2), granted an exemption from such requirement to the organization, combination of organizations, or facility.

"(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under paragraph (1) from obtaining a certificate of need before offering an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless—

"(A) it has submitted, at such time and in such form and manner as the designated State agency shall prescribe, an application for such exemption,

"(B) the application contains such information respecting the organization, combination, or facility and the proposed offering, acquisition, or obligation as the designated State agency may require to determine if the organization or combination meets the requirements of paragraph (1) or the facility meets or will meet such requirements, and

"(C) the designated State agency approves such application.

In the case of a proposed health care facility (or portion thereof) which has not begun to provide institutional health services on the date an application is submitted under this paragraph with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of paragraph (1) when the facility first provides such services. The designated State agency shall approve an application submitted under this paragraph if it determines that the applicable requirements of paragraph (1) are met.

"(3) A health care facility (or any part thereof) or major medical equipment with respect to which an exemption was granted under paragraph (1) may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired and a health care facility described in subparagraph (C) of paragraph (1) which was granted an exemption under paragraph (1) may not be used by any person other than the lessee described in such subparagraph unless—

"(A) the designated State agency issues a certificate of need approving the sale, lease, acquisition, or use, or

"(B) the designated State agency determines, upon application, that the entity to which the facility or equipment is proposed to be sold or leased, which intends to acquire the controlling interest in or use the facility is (i) a health maintenance organization or a combination of health maintenance organizations which meets the requirements of clause (i) of subparagraph (A) of paragraph (1) and with respect to such facility or equipment, the entity meets the requirements of clauses (ii) and (iii) of such subparagraph (A), or (ii) a health care facility which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (B) of paragraph (1) and with respect to its patients meets the requirements of clause (iv) of such subparagraph.

"(4) In the case of—

"(A) a health maintenance organization,

"(B) an ambulatory care facility which is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, or

"(C) a health care facility which is so controlled,

a designated State agency may under the program apply its certificate of need requirements only to the offering of inpatient institutional health services, the acquisition of major medical equipment, and the obligation of capital expenditures for the offering of inpatient institutional health services and then only to the extent that such offering, acquisition, or obligation is not exempt under paragraph (1).

"(5) If a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization applies for a certificate of need, such application shall be approved by the designated State agency if the designated State agency finds (in accordance with criteria prescribed by the Secretary by regulation) that—

"(A) approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll, and

"(B) the health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.

Except as provided in paragraph (1), a health care facility (or any part thereof) or major medical equipment with respect to which a certificate of need was issued in accordance with this paragraph may not be sold or leased and a controlling interest in such facility or equipment or in a lease of such facility or equipment may not be acquired unless the designated State agency issues a certificate of need approving the sale, acquisition, or lease.

"(c)(1) Except as provided in paragraph (2), subsection (a) does not require a designated State agency to require a certificate of need for the acquisition of major medical equipment which will not be owned by or located in a health care facility.

"(2)(A) Except as provided in subsection (b), under the program a certificate of need shall be required for the acquisition of major medical equipment which will not be owned by or located in a health care facility if—

"(i) the notice required by subparagraph (B) is not filed in accordance with that subparagraph with respect to such acquisition, or

"(ii) the designated State agency finds, within thirty days after the date it receives a notice in accordance with subparagraph (B) with respect to such acquisition, that the equipment will be used to provide services for inpatients of a hospital.

"(B) Before any person enters into a contractual arrangement to acquire major medical equipment which will not be owned by or located in a health care facility, such person shall notify the designated State agency of the State in which such equipment will be located of such person's intent to acquire such equipment and of the use that will be made of the equipment. Such notice shall be made in writing and shall be made at least thirty days before contractual arrangements are entered into to acquire the equipment with respect to which the notice is given.

"(3) For purposes of this subsection, donations and leases of major medical equipment shall be considered acquisitions of such equipment, and an acquisition of medical equipment through a transfer of it for less than fair market value shall be considered an acquisition of major medical equipment if its fair market value is at least the value in effect under section 1955(1)(C).

"(d) An application for a certificate of need for an institutional health service, major medical equipment, or a capital expenditure shall specify the time the applicant will require to make such service or equipment available or to obligate such expenditure and a timetable for making such service or equipment available or obligating such expenditure.

"(e) In issuing a certificate of need for a capital expenditure, the designated State agency shall specify the maximum amount which may be obligated under such certificate.

"(f) After the issuance of a certificate of need, the designated State agency shall—

"(1) periodically review the progress of the holder of the certificate of need in meeting the timetable requirements specified in the certificate under subsection (d), and

"(2) review the certificate of need if the expenditures expected to be obligated for the approved project exceed the maximum specified in the certificate of need under subsection (e).

The program shall provide that the designated State agency may withdraw a certificate of need if it determines, after the hearing conducted pursuant to section 1953, that the applicant has not made a good faith effort, or acted within a reasonable time, to take the actions for which the certificate of need was granted.

"(g) The program shall provide that the requirements of sections 1952 and 1953 shall apply to proceedings under the program.

"CRITERIA FOR REVIEW

"SEC. 1952. (a) The designated State agency of a State shall base its decision on an application for a certificate of need on the application's consistency with provisions of the State health plan in effect in the State under section 1954.

"(b) The issuance of a certificate of need may not be made subject to any criterion or condition which—

"(1) does not directly relate to the applicable provisions of the applicable State health plan; or

"(2) relates to actions not under the control of the applicant.

"(c) When the designated State agency approves or disapproves an application for a certificate of need, it shall state in writing the reasons for its action.

"(d)(1) The designated State agency shall issue regulations establishing requirements for a complete application for a certificate of need and a complete application for an exemption under section 1951(b). After receipt of such an application, the designated State agency shall determine on the basis of such regulations if such application is complete. Such determination shall be made not later than the expiration of twenty business days after the date of the receipt of the application. If such determination is not made before the expiration of such days, the application shall be deemed complete. If the designated State agency determines before the expiration of such days that an application is not complete, the designated State agency may make one request for the additional information needed (as determined under such regulations) to make the application complete.

"(2) If the designated State agency does not approve or disapprove an application for a certificate of need or an exemption under section 1951(b) before the expiration of one hundred and ten business days after the date the application is deemed or has been determined to be complete under paragraph (1), the application shall be deemed approved.

"PROCEDURAL REQUIREMENTS

"SEC. 1953. (a) The following procedural requirements apply with respect to proceedings under the certificate of need program prescribed by section 1951:

"(1) The provisions of the State's administrative procedure law shall apply to proceedings on applications for a certificate of need and applications for an exemption under section 1951(b). If not provided by such State law, the program shall provide the following:

"(A) Upon request, a hearing shall be held prior to the final determination by the designated State agency on an application for a certificate of need, an application for an exemption under section 1951(b), or a proposed withdrawal of a certificate of need. The request for such hearing may be made by any affected person (including the regional health planning agency designated under section 1963 for the area in which the project under the application is located). In the hearing, any such person shall have the right to be represented by counsel and to present arguments and evidence relevant to the matter which is the subject of the hearing and to conduct cross-examination. A record of the hearing shall be maintained;

"(B) Any decision of a designated State agency on a certificate of need or an application for an exemption under section 1951(b) shall be based solely on the record established in the administrative proceedings held with respect to the certificate or the exemption.

"(C) Any decision of a designated State agency on a certificate of need or an exemption under section 1951(b) shall, upon request of any person directly affected by such decision, be administratively reviewed by an agency which is independent of the designated State agency. A determination by the designated State agency that the certificate of need program applies to a project shall be administratively reviewable separately from any application which may be filed because of such determination.

"(2) Where State law does not provide for judicial review of administrative decisions, any person adversely affected by a decision by or for the designated State agency with respect to a certificate of need or an exemption under section 1951(b) may, within a reasonable period of time after such decision is made (and any administrative review of it completed), obtain judicial review of it in an appropriate State court. The decision of the designated State agency shall be affirmed upon judicial review if it is found to be in compliance with applicable law. A designated State agency may obtain judicial review of a decision made on behalf of the designated State agency on a certificate of need.

"(b) The designated State agency shall provide, upon request of a regional health planning agency, a copy of any application for a certificate of need submitted to the State agency for a project within the health planning area of the regional health planning agency.

"STATE HEALTH PLAN

"SEC. 1954. (a)(1) The State health plan of a State shall be prepared by the agency of the State designated under section 1951 and issued and revised biennially but not more often than annually by the chief executive officer of the State and shall, as provided in section 1952, be the basis for the review of certificate of need applications. It shall include—

"(A) a description of the services of health care facilities needed to provide quality health care to all persons within the State in a cost-effective manner; and

"(B) a description of how such services should be distributed within the State so that all persons within the State can obtain quality health care within a reasonable distance from their residence at a reasonable cost, considering the complexity and cost of the care involved.

A State health plan shall be based on the most recently available and appropriate data. To the extent feasible, such data shall relate to the two-year period immediately preceding the date of the issuance or the most recent revision of the plan.

"(2) In drawing up the descriptions prescribed by paragraph (1), the State shall consider—

"(A) the needs of health professional training programs in the State for training in health care facilities and how those needs can best be met; and

"(B) the availability of and need for such facilities both for osteopathic and allopathic physicians and their patients, and for institutional training programs for osteopathic and allopathic physicians in the State.

"(b) Prior to the issuance of the State health plan, the designated State agency shall hold a hearing, which shall include a reasonable opportunity for questioning of the principal officials (other than the chief executive officer) and other persons who supervised (1) the assembly and analysis of the data forming the basis of such Plan, or (2) the preparation of the plan. A record of such hearing shall be maintained.

"DEFINITIONS

"SEC. 1955. For purposes of this subpart and subpart 3—

"(1)(A) The term 'institutional health services' means health services provided by or through health care facilities if the annual operating costs of the services are at least $1,000,000 (or such lesser amount as authorized by subparagraph (D) or (E)) to the facility by or through which the services are provided.

"(B) The term 'capital expenditure' means an expenditure made by or on behalf of a health care facility—

"(i) which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance;

"(ii) which results in costs related to patient care; and

"(iii) which is in excess of $5,000,000 (or such lesser amount as authorized by subparagraph (D) or (E)).

Donations, transfers for less than fair market value (other than transfers effected by mergers in which no financial consideration is exchanged), and leases and comparable arrangements shall be considered to be expenditures in the amount of the fair market value of the property so transferred.

"(C) The term 'major medical equipment' means medical equipment which is used for the provision of medical and other health services and which costs in excess of $5,000,000 (or such lesser amount as authorized by subparagraph (D) or (E)), except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under title XVIII of the Social Security Act to meet the requirements of paragraphs (10) and (11) of section 1861(s) of such Act. In determining whether medical equipment has a value in excess of $5,000,000 (or the lesser designated amount) the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

"(D) A State may—

"(i) reduce the amount prescribed by subparagraph (A) to not less than $500,000,

"(ii) reduce the amount prescribed by clause (iii) of subparagraph (B) to not less than $1,000,000,

"(iii) reduce the amount prescribed by subparagraph (C) to not less than $1,000,000, or

"(iv) so reduce any combination of such amounts,

upon certification to the Secretary that the State has the personnel and financial resources to effectively administer a program with such reduced amounts.

"(E) A State may reduce the amount prescribed by subparagraph (A), (B), or (C) to the costs or expenditure amount in effect in the State on the date of the enactment of this section if the chief executive officer of the State certifies to the Secretary that such amount is necessary to carry out a program authorized by a statute of the State which program provides for an average reduction in the number of acute-care hospital beds per capita in the State of at least one percent annually during the period the program is to be in effect.

"(2) The term 'health maintenance organization' means a public or private organization, organized under the laws of any State, which—

"(A) is a qualified health maintenance organization under section 1310(d); or

"(B)(i) provides or otherwise makes available to enrolled participants health care

services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out of area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in clause (i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (I) directly through physicians who are either employees or partners of such organization, or (II) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(3) The term 'health care facility' means a hospital, nursing home, or other facility for the provision of health care which facility the Secretary has included in such term by regulation. Regulations of the Secretary under this paragraph may not include in the definition of a health care facility a physician's office which is not within a health care facility.

"Subpart 3—Grants for Regional Health Planning Agencies

"GRANTS

"SEC. 1961. (a) The Secretary shall make grants to States for the regional health planning agencies within the States which meet the requirements of this subpart. The amount of a grant to any State under this subsection shall be the sum of the amounts each regional health planning agency in the State is eligible for under subsections (c) and (d). Each State which receives a grant under this subsection shall distribute to each regional health planning agency within the State the amount determined for the agency under subsections (c) and (d). Any amount paid to a regional health planning agency for a fiscal year and remaining unobligated at the end of such year shall remain available to the agency for the purposes for which it received the payment for the next fiscal year.

"(b) No grant may be made to a State unless an application therefor is submitted to and approved by the Secretary. Each regional health planning agency designated in a State shall prepare an application for funds to be distributed from a grant made under subsection (a) and submit the application to the State. The State shall prepare its application after considering the applications submitted to it by the regional health planning agencies and shall include in the application a plan for the collection by each regional health planning agency in the State of non-Federal funds in accordance with subsection (c).

"(c) Except as provided in subsection (d), the amount to be distributed to a regional health planning agency from a grant under subsection (a) shall be determined by the Secretary as follows:

"(1) For any fiscal year, the amount to be distributed to an agency shall be an amount which bears the same ratio to the amount appropriated under subsection (e) for such fiscal year as the population of the health planning area of such agency bears to the population of all health planning areas which have regional health planning agencies eligible for distributions from grants under subsection (a) for such fiscal year, except that the amount of the distribution may not exceed the lesser of—

"(A) the product of $0.50 and the population of the health planning area for which the agency is designated, or

"(B) $3,000,000.

"(2) A grant to a State may not include funds for an agency in a fiscal year after fiscal year 1983, unless the agency collected in the immediately preceding fiscal year an amount of non-Federal funds which—

"(A) are not paid to the agency for the performance of particular services by it, and

"(B) are otherwise contributed to the agency without conditions as to their use other than the condition that the funds shall be used for the purposes for which a distribution from a grant under subsection (a) may be used, and

and which amount is at least equal to fifteen percent of the operating budget of the agency for fiscal year 1983.

"(e) For purposes of making payments pursuant to grants under subsection (a), there are authorized to be appropriated $32,000,000 for fiscal year 1983, and $33,600,000 for fiscal year 1984.

"DESIGNATION OF HEALTH PLANNING AREAS

"SEC. 1962. (a) No grant may be made to a State under section 1961(a) unless the chief executive officer of the State designates, in accordance with subsection (b), health planning areas within the State or, in cooperation with the chief executive officer of any contiguous State, within the State and such contiguous State. A chief executive officer of a State may designate health planning areas for the entire State or for any portion of the State and may, in accordance with subsection (b), redesignate health planning areas.

"(b)(1) Each health planning area shall be a geographic region appropriate for effective health planning and, except as provided in paragraph (2)—

"(A) shall have a population of not less than five hundred thousand or more than three million unless the requirement of subparagraph (B) requires the population to exceed three million,

"(B) shall not separate the area of a standard metropolitan statistical area (as determined by the Office of Management and Budget) within a single State, and

"(C) to the extent practicable, shall include at least one center for the provision of highly specialized health services.

"(2) The chief executive officer of a State may designate an area which does not meet the requirements of subparagraph (A), (B), or (C) of paragraph (1) or any combination of such requirements if the chief executive officer determines that such area is a more appropriate area for effective health planning.

"DESIGNATION AND ORGANIZATION OF REGIONAL HEALTH PLANNING AGENCIES

"SEC. 1963. (a) For each health planning area designated under section 1962 in a State, the chief executive officer of the State may designate a regional health planning agency. An entity may be designated as a regional health planning agency if—

"(1) the entity is (A) a nonprofit private corporation (or similar legal mechanism as a public benefit corporation) which is incorporated in a State in which the largest part of the population of the health planning area resides, or (B) a unit of general local government or a public regional planning body,

"(2) the entity has a staff sufficient, as determined by the chief executive officer of the State, to carry out the functions prescribed by section 1964, and

"(3) in the case of a nonprofit private corporation, the entity has a governing body which has a majority of members (but not more than sixty percent) who are not providers of health care and who are residents of the health planning area.

The chief executive officer of a State may redesignate regional health planning agencies.

"(b) No agency may accept any funds or contributions of services or facilities from any individual or private entity which has a financial, fiduciary, or other direct interest in the development, expansion, or support of health care facilities unless, in the case of an entity, it is an organization described in section 509(a) of the Internal Revenue Code of 1954 and is not directly engaged in the provision of health care in the health service area of the agency. For purposes of this subsection, an entity shall not be considered to have such an interest solely on the basis of (1) its providing (directly or indirectly) health care or health insurance for its employees, or (2) its being engaged in the business of issuing policies or contracts or individual or group health insurance or hospital or medical service benefits. This subsection does not apply to contributions of funds to an agency by any health care facility which is not in a standard metropolitan statistical area but which is in the health planning area of the agency and the contribution of which in any fiscal year when added to the contributions of all other such facilities in such fiscal year does not exceed one-half of the amount the agency is required by section 1961(d) to collect in such fiscal year.

"(c) For purposes of subsection (a), the term 'provider of health care' means an individual—

"(1) who is a direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including hospitals, nursing homes, and other health care facilities) in which such care is provided and, when required by State law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision of administration;

"(2) who holds a fiduciary position with any entity described in subparagraph (B) or (D) of paragraph (3) other than an entity described in such clause which is also an entity described in section 501(c)(3) of the Internal Revenue Code of 1954 and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals, or the production of drugs or articles described in subparagraph (C) of paragraph (3);

"(3) who receives (either directly or through the individual's spouse) more than one-fifth of his gross annual income from any one or combination of—

"(A) fees or other compensation for research into or instruction in the provision of health care,

"(B) entities engaged in the provision of health care or in research or instruction in the provision of health care,

"(C) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care, or

"(D) entities engaged in producing drugs or such other articles;

"(4) who is the member of the immediate family of an individual described in paragraph (1), (2), or (3); or

"(5) who is engaged in the business of issuing any policy or contract of individual or group health insurance or hospital or medical service benefits.

Notwithstanding paragraph (2), an individual shall not be considered a provider of health care solely because the individual is the member of the governing board of one or more entities described in subparagraph (B) or (D) of paragraph (3). For purposes of this subsection, an individual shall not be considered a provider of health care if the individual is an elected official of a unit of general purpose government.

"FUNCTIONS OF REGIONAL HEALTH PLANNING AGENCIES

"SEC. 1964. (a) Each regional health planning agency designated under section 1963 shall—

"(1) assist the designated State agency of the State in which it is located in the development of the State health plan prescribed by section 1954,

"(2) encourage individuals and public and private entities within its health planning area to carry out the parts of the State health plan which are applicable to the area, and

"(3) carry out a program of public information for residents of its health planning area to inform them of the provisions of the State health plan which relate to such area.

In carrying out paragraph (1), the agency shall propose, in such form and manner as the designated State agency may prescribe, a description of the services for its area provided by health care facilities which description meets the requirements of section 1954. When the State issues or revises the State health plan, the agency shall revise the description submitted to the designated State agency to make the description consistent with the State health plan and make the revised description available in its area.

"(b) No grant under section 1961(a) may include funds for a regional health planning agency if the State in which the agency is located—

"(1) delegates to the agency the authority (A) to conduct the hearing required by section 1953 for applications for certificates of need or applications for an exemption under section 1951(b), or (B) to approve or disapprove such applications; or

"(2) directly or indirectly requires applicants for a certificate of need or an exemption under section 1951(b) to have their applications (A) reviewed by the agency, or (B) receive a recommendation by the agency before the designated State agency makes a decision on the application.

"(c)(1) Except as provided in paragraph (2)—

"(A) a health planning agency designated under section 1963 shall not, by reason of the performance of any duty, function, or activity, required of, or authorized to be undertaken by, the agency under this subpart, be liable for the payment of damages under any law of the United States or any State (or political subdivision thereof) if the member of the governing body of the agency or employee of the agency who acted on behalf of the agency in the performance of such duty, function, or activity acted within the scope of his duty, function, or activity as such a member or employee, exercised due care, and acted without malice toward any person affected by it; and

"(B) no individual member of the governing body of a health planning agency designated under section 1963 or employee of such an agency shall, by reason of his performance on behalf of the agency of any duty, function, or activity required of, or authorized to be undertaken by, the agency under this subpart, be liable for the payment of damages under any law of the United States or any State (or political subdivision of a State) if he believed he was acting within the scope of his duty, function, or activity as such a member or employee, and, with respect to such performance, acted without gross negligence or malice toward any person affected by it.

"(2) Paragraph (1) does not apply with respect to civil actions for bodily injury to individuals or physical damages to property brought against a health planning agency designated under section 1962 or any member of the governing body of or employee of such an agency.

"Subpart 4—Technical Assistance Center for Health Planning

"SEC. 1971. (a) For the purposes of assisting the Secretary in carrying out this part and providing such technical and consulting assistance as States and regional health planning agencies may from time to time require, the Secretary shall by grants or contracts, or both, assist a public or private nonprofit entity in meeting the costs of operating a center for multidisciplinary health planning methods development and technical assistance.

"(b)(1) No grant or contract may be made under subsection (a) for the operation of a center unless the center meets such requirements and is able to provide such assistance and dissemination of information.

"(2) The requirements referred to in paragraph (1) are as follows:

"(A) There shall be a full-time director of the center who possesses a demonstrated capacity for substantial accomplishment and leadership in the field of health planning and resources development and there shall be such additional professional staff as may be appropriate.

"(B) The staff of the center shall represent a diversity of relevant disciplines.

"(C) Such additional requirements as the Secretary may by regulation prescribe.

"(c) A center assisted under this section (1) shall provide technical assistance to designated State agencies and regional health planning agencies as may be appropriate and necessary in assisting the agencies in performing their functions under this part, and (2) shall develop and disseminate to such agencies and States planning methods, approaches, and standards.

"(d) The Secretary may obligate for grants and contracts under subsection (a) such sums from amounts appropriated under sections 1941 and 1961 as the Secretary determines appropriate but not to exceed $1,500,000 in any fiscal year.".

TERMINATION OF AMENDMENT

SEC. 6. (a) Effective at the end of September 30 of the third complete successive fiscal year after the date of enactment of this Act, part D of title XIX of the Public Health Service Act (added by section 4) is repealed.

(b) The repeal specified in subsection (a) shall not affect any suit, action, or other proceeding lawfully commenced before the effective date of such repeal, and all such suits, actions, and proceedings shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if subsection (a) had not been enacted.

EFFECTIVE DATE

SEC. 7. The amendments made by sections 4(a)(1), 5, and 6(a) shall take effect on the date of enactment of this Act or October 1, 1982, whichever occurs later.

The CHAIRMAN pro tempore. Does the gentleman desire to strike out the last word? Does the gentleman have an amendment?

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

Mr. WAXMAN. Mr. Chairman, I am pleased to present H.R. 7040, the Health Planning Block Grant Act of 1982, on behalf of Mr. MADIGAN, Mr. SHELBY, Mr. DINGELL, Mr. BROYHILL, and myself.

The rule for H.R. 6173 makes in order a motion to substitute the text of H.R. 7040 for the provisions of H.R. 6173. This rule stems from an agreement by Commerce Committee members to present a consensus health planning bill.

H.R. 7040, the consensus bill, is the result of extensive work by committee members and interested individuals and organizations. I would like especially to recognize the efforts of Mr. MADIGAN and Mr. SHELBY in shaping this legislation. Without their cooperation, the development of this bill would not have been possible.

H.R. 7040 is supported by many health care organizations, including the Health Insurance Association of America, the Blue Cross and Blue Shield Association, the Washington Business Group on Health, the National Governors' Association and the Catholic Health Association.

H.R. 7040 establishes a program of limited support for State-based certificate of need and health planning activities.

Under H.R. 7040, each State will decide whether it will have health planning agencies at the State and regional levels. There is no penalty for a State which elects not to participate in the program or which prefers not to have regional agencies.

In States which choose to participate, the State must develop a State health plan and operate a certificate of need (CON) program. The primary focus of both the plan and the CON program is services provided by hospitals and nursing homes. CON review will cover only major projects.

Funds are also provided on an optional basis to States for regional health planning agencies. These regional agencies are to assist the States in the development of health plans. They are not to conduct the first level CON review as HSA's do today.

Mr. Chairman, H.R. 7040 is a consensus health planning bill. It has broad support among important health care groups. I urge all members to support

this bill and oppose any further amendments.

Mr. MADIGAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise to join the gentleman from California (Mr. WAXMAN) in supporting H.R. 7020, a committee amendment as a substitute for H.R. 6173, the bill that is on the floor before us.

H.R. 7020 is a bipartisan compromise which completely rewrites the present health planning law. Originally sponsored by the gentleman from Alabama (Mr. SHELBY) and myself, the bill is now sponsored by the gentleman from California (Mr. WAXMAN), the gentleman from Michigan (Mr. DINGELL), the gentleman from North Carolina (Mr. BROYHILL), the gentleman from Alabama (Mr. SHELBY), and myself.

This is a bill that completely repeals the current health planning law and substitutes in its place a health planning block grant law which would send back to the States block grant funds for them to operate a health planning program if they choose to do it. It is entirely voluntary on the part of the States. There is nothing mandatory about the program whatsoever except that if they choose to have a health planning program, with a certificate of need function, the levels, the threshold levels for that certificate of need function would be mandated by us at thresholds considerably higher than in the existing law.

For example, the current law requires a threshold of $600,000 on capital expenditures which we would change to $5 million.

On major medical equipment the current threshold for a certificate of need review is $400,000. We would raise that also to $5 million.

Under current law the threshold for certificate of need review for new institutional health services is $250,000 and we raise that to $1 million.

We do all of those things, Mr. Chairman, to eliminate the nuisance occurrences that have been happening with the present certificate of need function as administered by the local HSA's.

□ 1110

In addition, Mr. Chairman, we authorize for this block grant program considerably less Federal funds than have been authorized in the past. The current authorization is $102 million. Under our proposal for the block grant approach to health planning, the authorization would be $65.5 million, almost cut in half from what presently is the case. This would not have been possible without the bipartisan cooperation of the leaders of the Commerce Committee. But because they have been able to work together so effectively, I think we have a program which we can move ahead with, which we can hope to persuade the Senate to agree to and, ultimately, hope to persuade the White House to sign. It is a good approach to health planning, and I urge the support of the committee amendment.

Mr. SHELBY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise to support the bipartisan substitute. I want to associate myself with the remarks of the gentleman from California (Mr. WAXMAN) and the gentleman from Illinois (Mr. MADIGAN). I believe this is a fair substitute. I believe it is one that we can work out with the Senate, and I think it speaks to a lot of the problems that we worked out in the committee, and I urge the adoption of the amendment at the proper time.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this substitute. This is a consensus that has been reached by Members on both sides of the aisle. Personally, I have been a supporter of the idea of repealing title XV, but during the hearing process a number of witnesses whose judgment I trust came forward and said that there was a need for a continued planning process. What we have done here is to phase out the present law and to phase in a new revised planning process at a far, far less expenditure and far less of many of the bureaucratic delays and procedures that characterize the present program.

The substitute that is being offered here is a significant departure from the original text of the bill and is a compromise that has been reached, and we would urge all Members to support this compromise.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DAN DANIEL, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6173) to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning, pursuant to House Resolution 594, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appear to have it.

Mr. MADIGAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 302, nays 14, not voting 116, as follows:

[Roll No. 371]

YEAS—302

Akaka	Eckart	Jones (OK)
Albosta	Edgar	Jones (TN)
Anderson	Edwards (AL)	Kastenmeier
Andrews	Edwards (CA)	Kazen
Annunzio	Edwards (OK)	Kemp
Anthony	Emerson	Kennelly
Applegate	English	Kildee
Archer	Erdahl	Kindness
AuCoin	Evans (DE)	Kogovsek
Bailey (PA)	Evans (GA)	LaFalce
Barnes	Evans (IA)	Lagomarsino
Benedict	Fary	Latta
Bennett	Fazio	Leach
Bereuter	Fenwick	Leath
Bethune	Ferraro	LeBoutillier
Bevill	Fiedler	Lent
Bliley	Findley	Levitas
Boggs	Fish	Lewis
Bonior	Flippo	Loeffler
Bonker	Foglietta	Long (LA)
Bowen	Foley	Long (MD)
Brinkley	Ford (TN)	Lowery (CA)
Brooks	Fowler	Lowry (WA)
Broomfield	Frank	Lujan
Brown (CO)	Frenzel	Luken
Broyhill	Fuqua	Lundine
Butler	Gaydos	Lungren
Byron	Gejdenson	Madigan
Campbell	Gephardt	Markey
Carman	Gibbons	Marks
Carney	Gilman	Marlenee
Chappie	Gingrich	Marriott
Cheney	Ginn	Martin (IL)
Clausen	Glickman	Martin (NC)
Clay	Gonzalez	Martin (NY)
Clinger	Gore	Martinez
Coats	Green	Matsui
Coleman	Gregg	Mavroules
Collins (IL)	Guarini	Mazzoli
Conte	Gunderson	McCloskey
Corcoran	Hall (OH)	McCollum
Coughlin	Hall, Ralph	McDade
Courter	Hall, Sam	McGrath
Coyne, James	Hamilton	McHugh
Crockett	Hammerschmidt	McKinney
D'Amours	Hansen (ID)	Mica
Daniel, Dan	Harkin	Michel
Daniel, R. W.	Heckler	Mikulski
Daschle	Hightower	Miller (CA)
Daub	Hiler	Miller (OH)
Davis	Hillis	Mineta
de la Garza	Holland	Minish
Deckard	Hollenbeck	Mitchell (MD)
Dellums	Holt	Moakley
Derwinski	Horton	Molinari
Dickinson	Howard	Mollohan
Dicks	Hoyer	Montgomery
Dingell	Hubbard	Moorhead
Dixon	Huckaby	Morrison
Donnelly	Hughes	Mottl
Dorgan	Hunter	Murphy
Downey	Hutto	Murtha
Duncan	Hyde	Myers
Dunn	Jacobs	Natcher
Dwyer	Jeffords	Neal
Dymally	Jeffries	Nelligan
Dyson	Jones (NC)	Nelson

Nichols	Roth	Stenholm
Nowak	Roybal	Stokes
Oakar	Rudd	Stratton
Oberstar	Russo	Studds
Obey	Sabo	Swift
Ottinger	Sawyer	Tauke
Panetta	Scheuer	Tauzin
Parris	Schneider	Thomas
Pashayan	Schroeder	Traxler
Patman	Schumer	Trible
Patterson	Seiberling	Vander Jagt
Pease	Sensenbrenner	Vento
Pepper	Shamansky	Volkmer
Perkins	Sharp	Walker
Petri	Shaw	Wampler
Peyser	Shelby	Waxman
Pickle	Shumway	Weber (MN)
Porter	Shuster	Weber (OH)
Price	Siljander	White
Pritchard	Skeen	Whitley
Quillen	Smith (AL)	Whitten
Rahall	Smith (IA)	Williams (OH)
Railsback	Smith (NE)	Wilson
Regula	Smith (NJ)	Winn
Reuss	Smith (OR)	Wolf
Rinaldo	Snowe	Wolpe
Ritter	Snyder	Wortley
Robinson	Solarz	Wylie
Rodino	Solomon	Yates
Roe	Spence	Yatron
Roemer	St Germain	Young (AK)
Rogers	Stangeland	Young (FL)
Rosenthal	Stark	Zablocki
Rostenkowski	Staton	

NAYS—14

Ashbrook	Gramm	McClory
Crane, Daniel	Hagedorn	McDonald
Crane, Philip	Johnston	Paul
Dannemeyer	Kramer	Walgren
Gradison	Livingston	

NOT VOTING—116

Addabbo	Early	Moffett
Alexander	Emery	Moore
Aspin	Erlenborn	Napier
Atkinson	Ertel	O'Brien
Badham	Evans (IN)	Oxley
Bafalis	Fascell	Pursell
Bailey (MO)	Fields	Rangel
Barnard	Fithian	Ratchford
Beard	Florio	Rhodes
Bedell	Ford (MI)	Roberts (KS)
Beilenson	Forsythe	Roberts (SD)
Biaggi	Fountain	Rose
Bingham	Frost	Roukema
Blanchard	Garcia	Rousselot
Boland	Goldwater	Santini
Bolling	Goodling	Savage
Boner	Gray	Schulze
Bouquard	Grisham	Shannon
Breaux	Hance	Simon
Brodhead	Hansen (UT)	Skelton
Brown (CA)	Hartnett	Smith (PA)
Brown (OH)	Hatcher	Stanton
Burgener	Hawkins	Stump
Burton, John	Hefner	Synar
Burton, Phillip	Heftel	Taylor
Chappell	Hendon	Udall
Chisholm	Hertel	Washington
Coelho	Hopkins	Watkins
Collins (TX)	Ireland	Weaver
Conable	Jenkins	Weiss
Conyers	Lantos	Whitehurst
Coyne, William	Lee	Whittaker
Craig	Lehman	Williams (MT)
DeNardis	Leland	Wirth
Derrick	Lott	Wright
Dornan	Mattox	Wyden
Dougherty	McCurdy	Young (MO)
Dowdy	McEwen	Zeferetti
Dreier	Mitchell (NY)	

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Messrs. DANIEL B. CRANE, KRAMER, DANNEMEYER, and JOHNSTON changed their votes from "yea" to "nay."

Mr. PORTER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE AND COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL MIDNIGHT, MONDAY, SEPTEMBER 27, 1982, TO FILE CONFERENCE REPORT ON H.R. 2330, NUCLEAR REGULATORY COMMISSION AUTHORIZATION, 1982 AND 1983

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs may have until midnight, Monday, September 27, 1982, to file a conference report on the bill (H.R. 2330) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NAVY SUPPLY SYSTEM CORRECTIVE ACTIONS RESULT OF ARMED SERVICES READINESS SUBCOMMITTEE INVESTIGATIONS

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, while H.R. 6030, the Department of Defense Authorization Act for fiscal year 1983, was under consideration by the Committee on Rules, my colleague, Mr. TONY HALL, stated that there was no oversight subcommittee on the Armed Services Committee. My distinguished colleague went on to state that last year the naval supply center in Norfolk lost $174 million in inventory, including torpedoes and computers.

I would like to assure my colleague and other Members of this House that the Armed Services Committee does take seriously its oversight responsibility. The committee does have an Investigations Subcommittee which is chaired by our distinguished colleague from Texas, Mr. RICHARD WHITE.

In addition, each of the six authorization subcommittees exercises continual judicial oversight during the authorization process. The record is clear and speaks for itself. H.R. 6030, as reported by the committee, was $3.2 billion below the amount requested by the President. The Readiness Subcommittee, which I chair, authorizes the operations and maintenance (O&M) portion of the budget, which was $1.5 billion below the amount requested by the administration.

As far as the naval supply center matter is concerned, I would like to set the record straight. The investigation into inventory losses at naval supply centers was initiated by me in June 1981. Inadequate inventory controls and inaccurate financial records had resulted in inventory losses exceeding $300 million at the six naval supply centers during fiscal year 1981.

The investigation, conducted by the professional staff of the House Armed Services Committee, was completed in early February 1982. On February 19, 1982, the Readiness Subcommittee held a hearing in Norfolk, Va., to determine the reasons for inventory losses and adjustments at the Norfolk Naval Supply Center, the largest supply facility in the Navy. According to testimony received from witnesses, the principal reasons for the losses were staffing inadequacies, outmoded equipment, inadequate security, lack of accountability, no wall-to-wall inventories, and inattention to audit recommendations.

In response to the subcommittee's concern, in January 1982 the Secretary of the Navy initiated a series of special actions to improve the accuracy of inventory records at the Norfolk Naval Supply Center and all other naval supply centers and stock points. The Secretary directed that a plan identifying and correcting inventory system and management deficiencies be developed and that an inventory of the naval supply centers be taken.

The Navy completed its study in March 1982. It recommended 73 policy changes directed at correcting three major problem areas—management priorities and accountability, computer systems, and resources. Changes already implemented at Norfolk include improved security, additional staffing, increased training, and a clear disciplinary policy, including suspension and firing for failing to comply with standards of accountability.

The inventory effect at the Norfolk Naval Supply Center was completed in late August. Its purpose was to establish a one-time baseline of accurate inventory records and is to be complemented by management actions designed to correct the problems which lead to inaccurate inventory records. A wall-to-wall inventory survey of every Norfolk Naval Supply Center warehouse and storage site has been conducted. This effort amounted to a check of 837,000 storage locations to insure there is a stock record established for each item in the warehouse and that the storage locations shown on the inventory records are correct. Physical inventories—an actual count of the material, comparing the warehouse quantity with the quantity shown on the inventory record—were

conducted for 122,000 line items valued at approximately $1.6 billion. The overall result of these actions was that $116 million worth of goods and merchandise that were not on the records of the supply center were found. Conversely, $89 million worth of goods that were on the books of the supply center could not be located.

The Navy is undertaking a similar inventory effort at its other major stock points. At the other five naval supply centers the special inventory program began early in 1982 and is to be completed by the end of the calendar year. At the naval supply depots and naval air stations the program started in September 1982 and will be completed within 1 year. Thus far, the effort at the five other naval supply centers has resulted in locating $49 million in merchandise that was not recorded on their financial records and identifying $27 million in merchandise that was on the records but could not be located.

Correcting the books, of course, leads to increased readiness. This can best be seen in the improved warehouse refusal performance at the six supply centers. A warehouse refusal results when some Navy ship, aircraft squadron, or other activity orders needed material which the supply center's records say is available in the warehouse but which cannot be found when an attempt is made to issue it. Historically, the supply centers have had a warehouse refusal rate of about 1 percent. Since the commencement of the special inventory program and the Navy's increased emphasis on inventory accuracy, this rate has dropped steadily until it is now running at 0.7 percent. Given the volume of business at the supply centers, this improved warehouse refusal rate means that, on a monthly basis, the supply centers are now able to make approximately 2,200 more material issues per month. These are issues that in previous times would have been passed to other stock points in the supply system because the material could not be found locally, with the obvious delays to the ships and aircraft ordering the material. In peacetime, these delays are inconvenient; in wartime they could be critical to the national defense. Thus, the improvement achieved is very significant.

In summary, important corrective actions have been taken by the Navy and more are in process. It is a substantial effort which is being watched closely by the Readiness Subcommittee. Additionally, in May 1982 I asked the General Accounting Office to monitor the Navy's progress and to assess the condition of the inventory records of the other services and the Defense Logistics Agency.

I am convinced that the significant accomplishments which have been achieved in the Navy's supply centers thus far are directly attributed to efforts of the Readiness Subcommittee.

CONGRESSMAN RUDD URGES PERMANENT TABLING OF ANY IDEAS ABOUT LEGALIZING HEROIN

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, legislation has been introduced in the House during this Congess which would legalize the medicinal use of heroin in this country. While the intent of this legislation, providing relief to terminally ill cancer patients is a good one, the effects of the proposal would be devastating to those in the pharmaceutical industry. Every hospital and pharmacy in the country would at once be targeted by addicts and criminals involved in the black market drug traffic. In order to defend against criminal attacks, as one of my constituents put it recently, "We would have to build an impenetrable wall around every drug dispensery in the Nation." Even then, the pharmacists would be sitting duck guards of their fortresses. I urge that we permanently table any ideas about legalizing heroin, and instead give our attention to efforts to effectively treat and cure terminal as well as nonterminal diseases.

PERSONAL EXPLANATION

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I was unavoidably detained in my district yesterday and was not present for three rollcall votes.

Had I been present, I would have voted "aye" on each of rollcalls Nos. 367, 368, and 369.

SEC PUBLIC EXPOSURE RULE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. SCHUMER) is recognized for 5 minutes.

● Mr. SCHUMER. Mr. Speaker, the impact of the technological innovations of the last 20 years are currently working a revolutionary transformation on our society. Nowhere has the impact of these changes been felt more profoundly than in the financial industry, where the use of the computer has greatly enhanced the capacity of what is essentially a face-to-face business. Without a doubt, these innovations present tremendous opportunities for improving the efficiency of our economy, and for providing better services for consumers.

Congress recognized these opportunities in 1975, when it directed the Securities and Exchange Commission to "facilitate the establishment of a National Market System for Securities." The National Market System would link by computer various exchanges across the country. In theory, by bringing together buyers and sellers from the largest possible pool of each, the selling price of a security would be as close to its true market value as possible. Thus, expanding the scope of the market electronically would lead to more efficient capital markets and to absolute fairness to investors.

In order to realize these benefits, there must be institutionalized safeguards which insure that buy and sell orders receive the greatest possible exposure in the market, Without such safeguards, there is a danger that securities dealers will "internalize" the transaction, thereby shortcircuiting the market. Internalization runs contrary to Congress rationale for directing the establishment of the National Market System, and is inimical to both economic efficiency and consumer benefits. Despite the vital importance of maximum order exposure, the SEC's directive ordering linkage of the Nation's exchanges did not include a maximum exposure rule.

In response to this egregious omission, 30 of my New York colleagues have joined me in sending a letter to SEC Chairman John Shad urging him to amend to SEC directive so that it includes such a rule. I include the text of the letter for printing in the RECORD, and urge my colleagues who are interested in the efficiency of our capital markets to contact the SEC to express a similar concern.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1982.

Hon. JOHN S. R. SHAD,
Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: As Members of Congress from New York, we have a vital interest in the SEC's progress toward fulfilling the 1975 Congressional mandate that it "facilitate the establishment of a National Market System for securities."

Overall, we believe that the Commission's thrust and direction in carrying out this mandate has been consistent with what was intended by Congress. We believe, however, that one aspect of the SEC's May 6th action ordering a linkage of the Exchange's Intermarket Trading System and the NASD's Computer Assisted Execution System runs contrary to a clear and major objective of the 1975 Act. We are aware that the May 6th order is currently out for public comment, and are writing to urge that the Commission take immediate steps to conform to that Act.

Linking the Exchanges with upstairs markets for those issues which are suitable for auction trading is a logical and approopriate step towards the establishment of a National Market System. Our objection is that linkage has been put into effect, albeit in an experimental form, without the investor safeguards which Congress stressed as a vital component of such a system.

Specifically, we are referring to the fact that the May 6th action does not include a public order exposure rule that would ensure that maximum interaction of all buying and selling interests among investors. The absence of such a rule endangers the same investor benefits that are the primary justification for the establishment of a National Market System. Without it, the current SEC order does not adequately protect against securities dealers short circuiting—trading internally—orders before they have had an opportunity to be exposed to the linked, national market. The result is that the market becomes vulnerable to fragmentation, a quality antithetical to the National Market System. What is particularly disturbing about the order is that this omission displays either a misunderstanding or a disregard for what was probably the most strongly agreed upon aspect of the 1975 Act: the critical importance of interaction of all investor orders.

The legislative history of the 1975 Act is replete with langauge supporting, as the Conference Report states, "centralization of all buying and selling interests" as a paramount objective of the National Market System concept. The House Report expressed this concern in detail: "market fragmentation becomes an increasing concern in the absence of mechanisms designed to assure that public investors are able to obtain the best price for securities, regardless of the type or physical location of the market upon which his transaction may be executed. Investors must be assured that they are participants in a system which maximizes the opportunities for the most willing seller to meet the most willing buyer."

The Senate agreed with this basic principle. Its report clearly directs "that the National Market System has, as its fundamental goal, the elimination of fragmented markets for securities suitable for auction trading," and that the objective of a national linkage is "to reduce or eliminate market fragmentation." The report further expressed "a clear Congressional policy supporting the preservation and extension of the protections associated with auction type trading."

Our point is simple: to avoid being in conflict with the central objectives of the Congressionally-mandated National Market System, the SEC must issue an adequate rule guaranteeing that all investor orders are exposed to the public market and not withheld by dealers for execution in their offices.

Again, we commend the Commission for its overall role in the progress toward developing a National Market System, and strongly urge you to take this next step necessary to fulfilling the clear intent of Congress.

Sincerely,

Charles E. Schumer, Leo C. Zeferetti, Frederick W. Richmond, Robert Garcia, Raymond J. McGrath, Norman Lent, Bill Green, Stan Lundine, Gary Lee, Ted Weiss, John J. LaFalce, Geraldine A. Ferraro, Benjamin S. Rosenthal, Henry J. Nowak, James H. Scheuer, Guy V. Molinari, David O'B. Martin, Peter A. Peyser, Frank Horton, John LeBoutillier, Shirley Chisholm, Matthew F. McHugh, Jonathan B. Bingham, Joseph P. Addabbo, George C. Wortley, Mario Biaggi, Charles E. Rangel, Richard L. Ottinger, Gregory W. Carman, Benjamin A. Gilman, Thomas J. Downey, Members of Congress.●

LEAVE OF ABSENCE

Mrs. BOUQUARD (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ANTHONY) to revise and extend their remarks and include extraneous material:)

Mr. SCHUMER, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MARTIN of Illinois) and to include extraneous matter:)

Mr. MCDADE.
Mr. CLINGER.
Mr. COLLINS of Texas.
Mr. FINDLEY.

(The following Members (at the request of Mr. ANTHONY) and to include extraneous matter:)

Mr. MAZZOLI in five instances.
Mr. MATSUI.
Mr. BEDELL.
Mrs. BOUQUARD.
Mr. OTTINGER.
Mr. MINETA.
Mr. HUBBARD.
Mr. CROCKETT.
Mr. MOFFETT.
Mr. DERRICK.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2329. An act to establish an Efficiency Advisory Roundtable to assist the Advisory Commission on Intergovernmental Relations in its activities concerning the New Federalism; to the Committee on Government Operations.

ENROLLED JOINT RESOLUTION

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit.

ADJOURNMENT

Mr. ANTHONY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 40 minutes a.m.), under its previous order, the House adjourned until Tuesday, September 28, 1982, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Report of a House committee and a delegation traveling under an authorization from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the second quarter of calendar year 1982 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Luken, Thomas A	4/2	4/9	Belgium		630.00		597.00				1,227.00
Sims, Stephen F	4/4	4/9	Belgium		450.00		938.00				1,388.00
Smith, Martin	5/11	5/16	Africa						33.60		33.60
Committee total					1,080.00		1,535.00		33.60		2,648.60

[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. Note: This expense was late from State Department, this is a supplemental filing.

JOHN D. DINGELL, Chairman, Sept. 15, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE REPUBLIC OF IRELAND AND NORTHERN IRELAND, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 29 AND JUNE 2, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Representative Thomas S. Foley	5/29	5/31	Northern Ireland	46	83.00		1,306.00				1,389.00
	5/31	6/2	Northern Ireland	296.80	440.00						
Representative James Shannon	5/29	5/31	Northern Ireland	46	83.00		1,306.00				1,389.00
	5/31	6/2	Northern Ireland	296	440.00						440.00
Representative Charles Dougherty	5/29	5/31	Northern Ireland	46	83.00		1,306.00				1,389.00
	5/31	6/2	Northern Ireland	296	440.00						440.00
Mr. Kirk O'Donnell	5/29	5/31	Northern Ireland	46	83.00		1,306.00				1,389.00
	5/31	6/2	Northern Ireland	296	440.00				440.00		
Mr. Werner Brandt	5/29	5/31	Northern Ireland	46	83.00		1,306.00				1,389.00
	5/31	6/2	Northern Ireland	296	440.00						440.00
Committee total					2,615.00		6,530.00				9,145.00

[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WERNER W. BRANDT, Sept. 17, 1982.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4825. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period of October 15, 1982, to December 15, 1982, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

4826. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of $4.8 million in the Navy stock fund for war reserve stocks, pursuant to section 734 of Public Law 97-114; to the Committee on Appropriations.

4827. A letter from the Acting Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to repeal section 4351(b) of title 10, United States Code, relating to the reexamination and readmission of cadets of the U.S. Military Academy who failed to pass a required examination; to the Committee on Armed Services.

4828. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision by the Navy to study the conversion to contractor performance a variety of functions at various installations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4829. A letter from the Director, Department of Defense Office of Dependents Schools, transmitting notice of plans to study the conversions from in-house operations to contractor performance and automated management information system located in Alexandria, Va., and six overseas locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4830. A letter from the Secretary of Health and Human Services, transmitting the Department's position on legislation regarding title XV of the Public Health Service Act; to the Committee on Energy and Commerce.

4831. A letter from the Chairman, Securities and Exchange Commission, transmitting the 11th annual report of the Securities investor Protection Corporation (SIPC) for 1981, pursuant to section 11(c)(2) of the Securities Investor Protection Act of 1970; to the Committee on Energy and Commerce.

4832. A letter from the Vice President for Government Affairs National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of May 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4833. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification to provide fiscal year 1982 funds for Chad, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4834. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Jamaica, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4835. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Kenya, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4836. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Panama, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4837. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of the Joint Communique of the United States of America and the People's Republic of China, issued August 17, 1982; to the Committee on Foreign Affairs.

4838. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Peru, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4839. A letter from the Administrative Director, U.S. Arms Control and Disarmament Agency, transmitting a report on the Agency's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4840. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4841. A letter from the Division Engineer, Corps of Engineers, Department of the Army, transmitting a Corps of Engineers report on the Buttermilk Bay Channel, Bourne, Mass., pursuant to section 107 of the 1960 Rivers and Harbors Act as amended; to the Committee on Public Works and Transportation.

4842. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a Corps of Engineers report on Pensacola-Tallahassee and other urban areas, Fla., in response to resolutions adopted June 19, 1971, and March 23, 1973, by the U.S. Senate Committee on Public Works, and a similar resolution adopted June 14, 1972, by the Committee on Public Works and Transportation of the House of Representatives; to the Committee on Public Works and Transportation.

4843. A letter from the Chairman, Synthetic Fuels Corporation, transmitting the quarterly financial report of the Corporation for the period ending June 30, 1982, pursuant to section 177(c) of Public Law 96-294; jointly to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

4844. A letter from the Federal Inspector, Alaska Natural Gas Transportation System, transmitting notification that the eastern leg of the system has been certified as completed and commissioned; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5949. A bill to amend the

copyright law respecting the limitations on exclusive rights to secondary transmissions, and for other purposes; with amendments (Rept. No. 97-559, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7137. A bill to increase the authorization of appropriations for certain education programs, and for other purposes; with amendments (Rept. No. 97-869). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. House Concurrent Resolution 384. Concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes; with an amendment (Rept. No. 97-870, Pt. I). And ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 846. A bill to revise the boundary of Voyagers National Park in the State of Minnesota, and for other purposes; with an amendment (Rept. No. 97-871). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL (for himself, Mr. DINGELL, Mr. FUQUA, Mr. BROYHILL, Mr. OTTINGER, Mr. LUJAN, Mrs. BOUQUARD, Mrs. BYRON, Mr. HUCKABY, and Mr. MOORHEAD):

H.R. 7187. A bill to provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes; jointly, to the Committees on Energy and Commerce, Interior and Insular Affairs, Rules, and Science and Technology.

By Mr. HUNTER:

H.R. 7188. A bill to provide that benefits shall be paid to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act but for the amendments made by the Omnibus Budget Reconciliation Act of 1981; to the Committee on Armed Services.

By Mr. PRITCHARD:

H.R. 7189. A bill to require the Secretary of Housing and Urban Development to undertake a program to demonstrate the feasibility of assisting neighborhood development activities by providing Federal matching funds to certain private nonprofit neighborhood organizations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHELBY:

H.R. 7190. A bill to provide relief from honey imports by increasing the duty thereon; to the Committee on Ways and Means.

By Mr. GONZALEZ (for himself and Mr. ST GERMAIN):

H.J. Res. 609. Joint resolution to provide for the temporary extension of certain insurance programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7022: Mr. HUNTER.

H.R. 7079: Mr. PRICE.

H.J. Res. 583: Mr. HYDE, Mr. JEFFRIES, Mr. FRENZEL, Mr. ROUSSELOT, Mr. ROE, Mr. SKEEN, Mr. CORRADA, Mr. NICHOLS, Mr. HANSEN of Idaho, Mr. WHITTAKER, Mr. HAMILTON, Mr. CHAPPELL, Mr. DASCHLE, and Mr. HUTTO.

H.J. Res. 602: Mr. MCEWEN, Mr. REUSS, Mr. STUDDS, Mr. SANTINI, Ms. MIKULSKI, Mr. DECKARD, Mr. ROBERT W. DANIEL, JR., Mrs. MARTIN of Illinois, Mr. HILER, Mr. EMERSON, Mr. MCGRATH, Mr. SMITH of Oregon, Mr. FIELDS, Mr. HANSEN of Utah, Mr. MORRISON, Mr. HUNTER, Mrs. ROUKEMA, Mr. LOWERY of California, Mr. SKEEN, Mr. MONTGOMERY, Mr. ALBOSTA, Mr. YATRON, Mr. HUTTO, Mr. BROOKS, Mr. EDWARDS of California, and Mr. DOUGHERTY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions, and papers were laid on the Clerk's desk and referred as follows:

624. By the SPEAKER: Petition of the General Synod of the Reformed Church in America, New York, N.Y., relative to abortion; to the Committee on Energy and Commerce.

625. Also, petition of the City Council, New York, N.Y., relative to the issuance by the Soviet Government of an emigration visa to Yakov Mesh and his family; to the Committee on Foreign Affairs.

626. Also, petition of the Ukrainian American Veterans, New York, N.Y., relative to human rights in the Ukraine, and the nuclear arms race; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3809

By Mr. LOTT:

(An amendment to H.R. 3809 or any amendment in the nature of a substitute made in order in lieu thereof, or any amendments thereto.)

—In section 112, insert the following new subsection "(b)" and redesignate the following subsections accordingly:

"(b) STATE CHOICE AMONG QUALIFIED SITES.—In the event that two or more potentially qualified sites are located within the same State on the date of enactment of this Act, the Governor of the State shall have the right to designate to the Secretary which one of the two or more potentially qualified sites shall be selected for further monitoring, testing, or evaluation activities with respect to site characterization programs.".

H.R. 7145

By Mr. CONTE:

—Page 22, line 23, strike out "$670,491,000" and insert in lieu thereof "$666,491,000".

Page 23, line 19, strike out the period at the end thereof and insert in lieu thereof the following: "*Provided further*, That no part of the funds herein approved shall be available for construction of the Garrison Diversion Unit in North Dakota".

SENATE—*Friday, September 24, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133: 1

Sovereign Lord of the universe, Thou hast declared that Thy purpose for history is to unite all things. As Thou art in the uniting business, help us to see that dissension is contrary to Thy will. We accept the Democratic process which involves controversy, debate and compromise, but deliver us Lord from discord.

In our disagreement keep us from being disagreeable. Keep us humble when we are right, patient, and loving when we are wrong. As the pressure of a loaded agenda with limited time heats emotions, keep us cool in the knowledge that we have common goals however divergent the means we advocate.

Give us grace to love our adversaries, to honor their convictions and support them in their right to be different. Lead us to truth and justice and give us the will to abide by them. In the name of Him who suffered the indignities and cruelties of those for whom He laid down his life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, there are four special orders this morning. It would be my hope that at least some of them might be vitiated so that we could get on with the HUD appropriations bill earlier than we might otherwise. There is an order to proceed to the consideration of the HUD appropriations bill after the close of the time provided for the transaction of routine morning business.

Later today it is my hope that we can obtain unanimous consent to limit the time on the HUD appropriations bill. We were close to that last evening, but I did not put the request because certain Senators wished to examine the matter further and to give me a response this morning. I hope they will do so and I hope their response will be in the affirmative.

Mr. President, after we do the HUD appropriations bill we are going to go either to the reclamation conference report or to the banking bill. They are the conference report on the Buffalo Bill dam legislation, S. 1409, and the depository institutions bill, S. 2879, better known as the banking bill. We need to do those three items today, and we can do them.

It would be my hope that we would not have votes after about 4 p.m. The possibility of a Saturday session has been brought to my attention by the distinguished minority leader. He is absolutely correct in saying that there are matters that we must do that have not been included in my list this morning but were included in my list of last evening, and I urge Members to attempt to work out agreement on how this might be accomplished.

Mr. President, I ask the assistant majority leader if he has matters he wishes to discuss, and if he does I am prepared to yield him the remainder of my time.

Mr. STEVENS. Mr. President, I thank the distinguished majority leader and good friend, and I am pleased he has mentioned these other matters that are most pressing, bills that have come from the Commerce Committee, both the shipping bill and the railroad bill.

There is no question that a time agreement is necessary, and if it becomes necessary to proceed with those bills late in the evening and tomorrow, the Senator from Washington (Mr. GORTON) and I are prepared to make that request. We have been trying now for a period of weeks to get those bills cleared, and they are not cleared, and I intend to press for them to the best of my ability.

CRIME LEGISLATION

Mr. STEVENS. Mr. President, I have asked the majority leader for a portion of the leader's time this morning to comment on an issue which I hope Congress will not let slip by. I know the distinguished majority leader has in our planning sessions for the remainder of the session mentioned the crime package, the problem of reforming our Federal criminal code, particularly the insanity defense, which is a very pressing one, and it is one that must be taken care of this year.

We do have the appropriation bills and the continuing resolution which are most urgent, and I recognize that as a member of the Appropriations Committee. But I submit to the Senate that there are some matters which we must deal with before we recess, and I am delighted to see the distinguished chairman of the Judiciary Committee here because I know the Senate realizes he has been pressing us to get to this problem.

Crime is one of our basic problems in the country, and Congress has yet to pass a single piece of what I would call a major criminal justice reform act in this Congress. The country badly needs, and the people who are trying to enforce our criminal laws deserve, legislation which focuses on the worst of the problems that exist in this country, and that is crime in America.

We are scheduled, I hope, to take up Senator THURMOND's bill, which is S. 2572, the Violent Crime and Drug Enforcement Improvements Act of 1982, and I, for one, would be most happy if this piece of legislation could be passed quickly in both the Senate and the House.

Just this last Sunday, Mr. President, the Bureau of Justice Statistics announced that close to 25 million households, 30 percent of the Nation's total, were touched by a crime of violence or theft in 1981.

With that kind of statistic, most families can say that one of its members is more likely to be victimized by rape, robbery, or aggravated assault than to have its home touched by what we have previously thought as the dread of all perils—fire.

Last month the FBI released the "Uniform Crime Reports for the United States" in 1981. Forcible rape was up 29 percent from 1977 to 1981. Street robbery is up 67 percent from 1977 to 1981.

Crime is rising at a rapid pace, in my home State as well as here in the District of Columbia where we must work.

Recent polls suggest that this rapid increase in crime has not gone unnoticed by the public. Americans are becoming increasingly fearful of crime. Violent crime by strangers (or street

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

crime) and burglary are major sources of this public concern.

Here in the Nation's Capital street crime has become a great problem. A few months ago many of my colleagues heard me criticize the city because of the plight of citizens in this, our Nation's Capital. The right of a citizen to be safe is very much in jeopardy here in our Capital City.

Mr. President, my good friend Senator D'AMATO and I are working with the city of Washington's officials to assist them in their efforts to combat crime in the District of Columbia, and I am most pleased to report there has been a firm response from the officials of this city to the problem which they acknowledge.

Senator D'AMATO is doing a superb job in concentrating on improvements in the District's court system and police force. Senator WEICKER and his staff, working with mine and with the staff of Senator D'AMATO have been working with the Department of Justice on a study of crime victimization and crime patterns in the District of Columbia generally, and particularly in the Capitol Hill area.

This study should be of great value to Congress and the Mayor's Commission on Crime and Justice here in the District of Columbia.

I hope we will be able to take up the bill of the distinguished senior Senator from South Carolina, the chairman of the Judiciary Committee. It is worthy of the full attention of the Senate and speedy action. There are other Members of the Senate who I believe share my frustration at Congress inability to act upon reforms to our judicial system and our criminal justice system. The Judiciary Committee and particularly the Subcommittee on Criminal Law have done excellent work in this Congress and it should not be left on the desk when we adjourn.

The avoidance on the part of the Congress of this problem probably was one of the things that led the President to submit to us his Criminal Reform Act of 1982. In his transmittal message to Congress he quoted the Attorney General, Mr. William French Smith, as saying that:

> Through actions by the courts and inaction by Congress, an imbalance has arisen in the scales of justice * * * in favor of the rights of the criminal and against the rights of society.

Mr. President, nowhere is this problem more apparent than in the case of the habitual offender. Earlier this year the Senator from Pennsylvania (Mr. SPECTER) introduced the Career Criminal Life Sentence Act of 1981, S. 1688. It would make it a Federal offense for individuals to continue a career of robberies and burglaries if, in the last offense, the person used a gun. That would be the nexus of criminal jurisdiction through the Federal system. And it would provide for punishment through a mandatory sentence of life imprisonment for habitual offenders of this type.

Now, I am sure that that approach does not warm the hearts of some because it is the antithesis of the treatment and rehabilitation approach in the modern corrections theory. But something must be done, Mr. President. I am a former U.S. attorney, my wife is a former district attorney, and we feel that there are offenders for which treatment and rehabilitation is inappropriate and incarceration is the most appropriate response to protect the public through our criminal system.

My whole point, Mr. President, is that we have not yet had the time to consider some of these ideas—those of Senator THURMOND, Senator SPECTER, and others—because we have been too busy with other issues. I urge the Senate to give its close consideration to this bill, and, above all, I urge that Members of the Senate listen to us when we say we must have time agreements in order to get to the work that is at hand. And one of the things that is holding up some of these measures is the failure of some of our Members to agree to reasonable time agreements as we come to the end of this session.

I thank the Chair.

The PRESIDING OFFICER (Mr. COCHRAN). The time of the majority leader has expired.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may be recognized for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I wish to commend the able assistant majority leader, the senior Senator from Alaska, for the remarks he just made. I hope the Senate will heed his remarks. We have had these crime bills on the calendar since last year. It is hard to explain to the public why we do not take action.

So, again, I thank the distinguished Senator for what he has had to say.

Mr. STEVENS. I thank the Senator.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the acting Senate Democratic leader is recognized.

Mr. BRADLEY. Mr. President, I reserve the remainder of the leadership time and I am prepared now to move on to those who are to be recognized under special orders.

RECOGNITION OF SENATOR GRASSLEY

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa (Mr. GRASSLEY) is recognized for not to exceed 15 minutes.

THE GREAT TAX DEBATE REVISITED

Mr. GRASSLEY. Mr. President, on August 24, an editorial in the Washington Post entitled "The Next Tax Bill" called for further tax increases. This hardly came as a surprise to me or probably to many other Members of this body. The editorial reflects a general misunderstanding about the tax work that we on the Finance Committee did this year and about the direction future tax reform should take.

This year's tax legislation was an attempt to spread out the burden of tax payments so that a fair share would be paid by all. The combination of tax compliance and loophole closings accounted for over four-fifths of the tax bill.

In another sense, the $98 billion tax bill restored much of the tax base that was eroded following the 1981 "Christmas tree" type bill and also from the weakening of the economy that resulted from reduced and delayed incentive-oriented tax cuts in the 1981 tax bill. The eroded tax base, coupled with insufficient budget cuts, helped produce a trend of rising future deficits.

The next step to be taken with regard to fiscal policy is not to further increase taxes, as the Post would argue, but rather to determine the direction of tax reform and then proceed to reform the system.

Certainly, further loophole closings are justifiable. There are both economic and ethical reasons for such measures. But, in a strict economic sense, further reductions in these "tax expenditures" should be accompanied by a simultaneous reduction in personal tax rates. If Congress were to package another $98 billion tax bill next year in much the same manner of closing loopholes, taxing consumption and increasing reporting requirements, as in the 1982 bill, we could lower marginal tax rates across the board by another 10 percent, in addition to the 10 percent already scheduled for July 1983.

This year's revenue bill was a corrective measure taken to repair the damage done by the previous year's excesses. Last year's "Christmas tree" read like a gift list to Santa from every special interest group in the country. Baltimore Sun White House Correspondent Fred Barnes recently recounted the makings of that bill in an August 24 Sun article, adapted from the September Reader's Digest. The article kindles memories of how the bill evolved from a clean, simple rate-reduction measure to a basket of rich goodies. Once the goods were picked,

only a weakened tax base and a large deficit remained.

Already, voices like the Washington Post are calling for still higher taxes to further restore the tax base. The problem with this is that although the tax base is narrower than pre-1981, the tax burden is greater, thanks to bracket creep and increased social security taxes. If revenues are to increase further, as they must, they should be increased through economic growth.

It is time we restructured our Tax Code away from favoring consumption and debt and instead direct it toward establishing neutrality, which would have a positive impact on work incentive and savings. That would mean closing loopholes and eliminating credits and deductions on the one hand, and lowering marginal tax rates along with repealing the tax on earned interest and investment on the other. This alone, in conjunction with a sound money policy, will allow the economy to grow to the extent that revenues will increase without a tax increase. This is the most efficient way of broadening the tax base.

The key to this policy, though, is swift and timely action. We cannot waste time in shifting our economy toward a work-and-save environment. The last time we failed to act swiftly on fiscal reform, a recession resulted. We are presently trying to emerge from that recession.

The Reagan administration came to Washington with the intention of reversing recent economic policy from loose money and high taxes to sound money and lower taxes. Lower taxes would be needed to prevent a recession in the wake of tight money. The tax stimulus would prevent a fall off in demand by creating demand through additional productivity. The Federal Reserve, however, put on the monetary brakes long before tax reduction ever took place. Money was tightened immediately after the November 1980 elections, while meaningful tax reduction, in an aggregate sense, has still not occurred. This combination of tight money and high taxes choked off the economy and sent us into a recession that we are hopefully now coming out of.

The prevailing wisdom for correcting the economy is to loosen up on the money supply and balance the budget through further tax increases. Although guised in all kinds of nifty rhetoric, this could be a return to pre-Reagan policy, the policy of the inflation/stagnation-ridden 1970's. No matter what the rhetoric, artifically lower interest rates do not yield steady economic growth, but rather steadily growing inflation. And higher taxes to balance the budget do not yield fiscal responsibility, but rather economic contraction. A return to this tried-and-failed policy would certainly be a prescription for economic chaos.

Again, it must be understood that the economy needs to grow at once. If we follow a path of tight money to abate inflation, we must also follow a path of restoring work-and-save incentives to assist in economic expansion. Interest rates will come down if after-tax returns increase and inflation continues to subside. If tax reform tradeoffs are done swiftly and in proper fashion, then projected deficits should be only temporarily large.

The only alternative to this policy course, economically, is to systematically cut Federal spending until deficits are drastically lowered. Congress demonstrated aversion to cutting back further on spending has rendered this a less realistic basis for future fiscal policy. Spending reforms in the budget process are needed in order to get a handle on an uncontrolled budget. But the real problem is a structural relationship between the tax base and our spending goals.

If Congress is determined to provide for the security and social needs and desires of the public, then we must find ways to create appropriate and new resources. This can be done only through economic growth, through a prudent and sensible tax policy which will unleash productivity.

Mr. President, I ask unanimous consent that the two articles, one by Fred Barnes of the Baltimore Sun and the other the editorial from the Washington Post, be reprinted in the RECORD for the benefit of my colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 24, 1982]

THE NEXT TAX BILL

Congress and President Reagan made a substantial beginning, with the two bills passed last week, in the job of squeezing down the deficit. But there's still a long way to go. Further tax increases are going to be necessary, and it's worth considering the general shape that the future American tax system ought to take.

A few numbers are useful here, to suggest the magnitude of what's being done and what's still to do. The beginning point is an estimate of the federal deficit that would have occurred if last week's legislation had failed. For the fiscal year 1983, which begins on Oct. 1, it would have been in the neighborhood of $180 billion. That estimate has been moving upward all year because the recession has been more severe, and lasted longer, than most people, ourselves included, expected.

The new tax bill that Congress passed last Thursday will increase revenues about $18 billion in fiscal 1983. But it also contains spending cuts amounting to $3.6 billion that year. They are mostly in Medicare, incidentally, and fall primarily on doctors' fees rather than on the coverage of elderly patients. The bill further included about $1 billion in increased unemployment benefits. But last week, Congress also passed, separately, the legislation that reconciles some of the big benefit programs to its spending targets. The reconciliation bill will cut another $3.3 billion, most of it in agricultural programs and federal pensions. When you add all of it together, it comes to $24 billion in deficit reductions. Against the original estimate of $180 billion, it suggests that the legislation has brought the probable estimate for next year down to roughly $156 billion.

But there's more. Other things are happening, outside Congress, that will help. The recent drop in interest rates saves the government money. If the rates were to stay at their present levels through the coming year, that would lower the direct interest cost to the government by another $15 billion or more. Beyond that, the low rates would certainly encourage economic growth. The size of the deficit ultimately depends on all of the uncertainties of recession and growth. That's why you need to regard all of these numbers as illustrative, rather than precise forecasts.

But they make three points worth noting. Number one, a large part of the present deficit is the result of the recession; resumed growth will help bring the deficit down. But, number two, even with growth, further legislation will be necessary. Number three, while last week's two bills both raised taxes and cut spending, the tax increase was three times as great as all the spending cuts together. Both the White House and Congress are finding it harder and harder to locate tolerable cuts in spending. To keep closing the deficit, they are going to have to rely mainly on taxation.

What form should future tax bills take? Since Mr. Reagan took office, the income tax has become somewhat less progressive. The balance has been shifted slightly from income taxes to consumption taxes. The question, not only for tax specialists but for voters, is whether to pursue this trend farther—and how far.

[From the Baltimore Sun, Aug. 24, 1982]

THE MAKING OF A TAX BILL

(By Fred Barnes)

Fresh from his landslide election victory, President Reagan set out to produce a clean, incentive-oriented tax cut to restore competitive strength to the American economy. Then the single interest lobbying began. . .

For example:

Before the trucking industry was deregulated by the Motor Carrier Act of 1980, government-granted operating licenses to interstate trucking firms had been bought and sold for millions. But since deregulation, thousands of new licenses have been issued, making the old ones worthless as salable assets. The IRS and a federal court had balked at allowing firms to claim this loss of monopoly rights as a true tax-deductible business loss. So the industry now sought passage of a special tax break for established trucking companies.

In normal times, interest groups like the trucking industry have had little difficulty persuading Congress to decorate tax laws with special favors. Last year, however, such tax breaks faced a new powerful obstacle—President Reagan.

In the case of the truckers' assault on the tax legislation, J. D. Williams, a Democrat and one of the top lobbyists in Washington, was well aware of the administration's opposition. So he turned to Congress. Support for his plan blossomed quickly in the House, where vote-rich factions were easy to win over, and where Mr. William's friend, Representative Dan Rostenkowski (D., Ill.),

heads the tax-writing committee. But not so the Republican-controlled Senate. Senator Robert Dole (R., Kan.), as adamantly opposed to the truckers' tax benefit as is the president, is chairman of the Finance Committee.

Mr. Williams launched a campaign to recruit a majority on Senator Dole's committee. Gaining access was no problem. As a former Senate aide and a regional director in Hubert Humphrey's 1968 presidential campaign, Mr. Williams is well known to nearly every member and, like other lobbyists, contributes to election campaigns.

He and his client, the American Trucking Associations, Inc., summoned trucking executives to visit their senators. And Mr. Williams enlisted all the committee Democrats plus two Republicans. The result: In June, 1981, the committee voted 11 to 6 for the truckers' tax break.

Other groups also helped turn Mr. Reagan's incentive-oriented tax measure into something resembling previous special-interest "Christmas tree" tax bills. The oil industry got lavish concessions. Unprofitable companies were given a unique break. And even racehorse breeders improved their lot with retention of a tax write-off which cost an estimated $200 million in lost revenues by 1986.

After two humiliating House defeats on Reagan budget cuts in the spring and summer of 1981, the Democrats were shopping for a means to derail the administration's tax bill. And Dick Kline, Washington representative of an oil-producer's organization, the Domestic Wildcatters Association, had the tool.

Mr. Kline went to Representative Charles Wilson (D., Tex.), a favorite of the independent oil-producers lobby, with a scheme that would embellish the Democratic alternative tax bill with such hefty breaks to oil interests that it might attract enough Democrats from the oil-producing states to thwart the Reagan reforms. Mr. Wilson quickly forged a deal with House Ways and Means Chairman Rostenkowski. If Mr. Wilson could sign up 10 Democrats who had sided with Mr. Reagan on the budget votes, Mr. Rostenkowski would add tax relief for royalty owners and independent oil producers to the Democrat's bill. Mr. Wilson recruited the necessary congressmen, and Ways and Means approved a measure with over $9 billion in new write-offs for the oil industry. It seemed likely to triumph on the House floor.

Oil lobbyists now had the Reagan administration wallowing in apprehension over prospects for its tax bill. Meeting with administration officials, Representative Kent Hance (D., Tex.), co-sponsor of the Reagan bill, informed them that they were "a good 30 votes" short of a majority. He recommended outbidding the Democrats on oil breaks. Treasury Secretary Donald Regan huffily dismissed the idea, but Representative Jack Kemp (R., N.Y.), though strongly favoring a clean bill, urged Secretary Regan to mollify Mr. Hance. He quickly scribbled a note: "Without Hance and those other Texans, we are going to lose big." Administration officials didn't just mollify Mr. Hance. They actually assigned him to draft new oil provisions for the Reagan bill.

Eventually, $12 billion in oil tax reductions ended up in the tax law. Half went to royalty owners and involved tax concessions for established wells, which rank lowest in the stimulation of new oil production.

Another administration concession of dubious economic value permitted the sale of tax write-offs by floundering companies (which cannot use them because they don't have profits to be taxed) to wealthy companies that can. This tax provision—safe harbor tax leasing—could be extraordinarily costly to a deficit-ridden Treasury—perhaps costing as much as *$60 billion* over five years.

In its successful outbidding of Democratic tax writers, the administration wound up accepting *in toto* a number of provisions that lobbyists and Congressmen had forced into the Democratic bill. One costly scheme grants tax-free status to dividends reinvested in some public utilities. This will boost the federal deficit by $1.6 billion over the next five years.

Another plan lifted from the Democratic bill granted new tax write-offs to state legislators. Pressure was applied by the California Senate and Assembly, several of whose members were feuding with the IRS over certain deductions. The IRS insisted that legislators actually be away from home overnight to qualify for write-off of expenses. The legislators argued otherwise, and they had a powerful weapon: reapportionment of Congressional districts. There were veiled threats that this would go poorly for incumbents if the broadened tax break were not enacted.

Into the Reagan bill went a provision that established something of a precedent: Legislators need no longer be away from home overnight to claim deductible expenses. Congress then decided to adopt this benefit for its own members, voting in December to create a $75 deduction for each senator and representative for each day Congress is in session—a "gift" of about $19,000 a year. (When this embarrassing write-off caused a political furor, Congress voted last summer to repeal it.)

The squabbling that resulted as high-voltage lobbyists and congressmen grabbed for tax-break goodies reinforces the adage, most recently voiced by Christine Vaughn, a tax specialist for the Treasury Department: "Tax law is like sausage. You don't want to see it being made."

Budget Director David Stockman, who did see the Reagan tax legislation in the making, told Atlantic magazine writer William Greider, "The greed level, the level of opportunism, just got out of control."

The final irony is that in response to congressional concern over the projected size of the federal deficit the White House eventually agreed to reduce its supply-side tax cut for individuals from 10 percent to 5 percent and postponed its implementation. By 1986 the deficit savings from this fallback are supposed to amount to $100 billion.

Yet Congress's apparent concern over soaring deficits was quickly abandoned in the rush to appease special interests. The $100-billion savings from trimmed personal tax relief was more than gobbled up by special-interest breaks.

Who were the big losers from this scrambling for selfish advantage? The Treasury, the national economy and you.

Mr. GRASSLEY. Mr. President, I yield back the remainder of my time.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) and the Senator from Missouri (Mr. EAGLETON) were to be recognized on special orders. However, these Senators are not in the Chamber at this time.

RECOGNITION OF SENATOR BRADLEY

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey (Mr. BRADLEY) is recognized for not to exceed 15 minutes.

EASTERN EUROPEAN DEBT TO THE WEST

Mr. BRADLEY. Mr. President, today I am continuing my discussion of the risks to the international financial system with an examination of the debt of the Eastern European nonmarket countries to Western governments and banks. Since the nonmarket economies are closed, all debt estimates are rough, but the debt of the members of the Council for Mutual Economic Assistance, CMEA, plus Yugoslavia is on the order of $80 billion—the equivalent of another Brazil or Mexico.

These countries are Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, and the Soviet Union. Their debt to the West piled up rapidly during the 1970's, starting at about $9 billion, and reaching over $80 billion by 1980.

The repression in Poland called attention to the expanding role of Western institutions in financing nonmarket economies and the resulting exposure of our banks to their economic and social failures. The Polish experience raised a political question in the West—whether our interests are served or not served by fostering Eastern bloc economic development and interdependence with us.

Western nations will debate this political question for some time to come, and the debate will shape the level and pattern of western lending to the East in the future just as it will affect our global foreign policy strategy.

But today, my concern is a critical economic question surfaced by the Polish crisis—how should we in the West respond to the risks posed by the exposure of our banks to the functioning of European economies. The safety of loans to these countries is an important concern for Western nations, regardless of the political merits of encouraging economic ties to Soviet-bloc countries. I believe that a close look at the risks to Western economies which could grow out of the exposure of our banks to events in Eastern Europe strengthen the case for a contingency plan to safeguard our international financial system.

Poland's debt problem today is the most serious, but its features are not unique. From 1970 to 1980, Poland's net hard currency debt to the West

swelled from $1.1 billion to $22 billion. By 1979, Poland's gross debt was 3⅓ times the size of its earnings from exports to non-Communist countries. Its yearly debt service to the West—equal to 92 percent of its exports to the West—just about consumed each year's hard currency earnings. Measured another way, by 1979, 85 cents of every dollar Poland borrowed from us was needed just to service debt to us. In short, Poland borrowed primarily to repay its past loans. Under these circumstances, Poland's external balance with the West had become unmanageable long before Solidarity freedom strikes and martial law repression disrupted its domestic economy. On the contrary, Poland's current account constraints precipitated domestic economic policies which, to some degree, fired underlying political unrest.

How did Poland get into this economic predicament?

In 1971, Poland's new First Party Secretary, Gierek, launched a development strategy for modernization based on importing Western technology and credits, to build industries able to export to Western markets. Gierek's growth strategy seemed to work at first. But poor investment decisions, the inappropriate use of technology, and depressed sales in Western markets began to erode Poland's external account in the mid-1970's. Further, bad weather and Gierek's diversion of resources to industry weakened Poland's agricultural sector, forcing Poland's people to look for food to Western markets. As imports rose, and exports lagged, Poland's debt accumulated. Its debt service increasingly cut into its shrinking hard currency earnings.

By the end of the 1970's, these domestic policy errors combined with external factors such as the effects of oil shocks and slow growth of the West combined to mire Poland hopelessly in debt.

Despite signs that Poland was heading toward insolvency, the banks of the West kept their windows open, reassured by their faith in a Soviet "umbrella" covering Poland's obligations, and by the Western government guarantees that backed many of their loans. Moreover, banks make money by lending deposits, and the international banks had hefty OPEC petrodollar deposits that had to be lent to someone. The East looked attractive when the West was in recession, and East European countries steadily became a familiar customer. By 1976, most U.S. banks had leveled off their lending to Poland, but the banks of Western Europe increased their exposure.

As noted, by 1979, Poland's debt service was consuming most of its hard currency earnings. That year for the first time since World War II, its national income fell. The next year, Poland's leaders sought to curb spending and restrain costs by reducing meat subsidies and holding down wages. Strikes followed, leading to the rise of Solidarity and the fall of the Gierek government. Soon the new Kania government was asking for more credits. This time, Western banks refused. In March 1981, Poland announced it could not service its debt.

Poland's announcement forced Western banks and governments into debt negotiations. The banks waited for the governments to come to terms. They did in April 1981, accepting Poland's payment of the interest due on official debt in the last three-quarters of 1981 plus 10 percent of the principal, and its pledge to repay the rest over 4 years, beginning in 1985. The banks then persuaded Poland to agree to pay the full interest due on its commerical debt in 1981, and agreed to reschedule 95 percent of the principal. Negotiations on the estimated $3.5 billion due Western banks in 1982 now have been concluded.

The agreement is more liberal than the 1981 accord in that, according to the Wall Street Journal, it forces bankers to extend a short-term credit facility to Poland by recycling 50 percent of Poland's 1982 interest payments totaling $1.1 billion, into new trade credits with a maturity of 3 years.

Also, 95 percent of principal will now be repaid over 3½ years beginning in 1982.

Poland's leaders may be able to sign a rescheduling agreement, but will they be able to sign a repayment check? Even without martial law to paralyze its economy, and the spirit of Solidarity reforms to unsettle it, Poland's prospects for putting its financial house in order would be dim. Among the CMEA countries, Poland carries by far the heaviest net debt to the West, and has the highest ratio of debt to hard currency earnings. Its net per capita debt is second only to Hungary's.

Of course, Western sanctions are compounding Poland's economic ills. Poland's exports to the United States dropped to $74 million through May of this year, compared to $172 million during the comparable period last year, and their imports from us fell to $80 billion during this 5-month period from $412 million during this same period last year. Without increased imports from the West and the East to build its industries Poland's industrial decline will continue. Its production was off by 8.7 percent from the same period last year. Earlier this year, the Polish zloty was devalued and the retail prices of many food and consumer goods were raised by 100 to 300 percent. With rising import costs, rising deficit and rising debt, Poland will not be able to afford increased imports from anywhere.

Poland faces a bleak environment. But it is not dramatically worse than the one faced by some of the other Eastern European countries. One reason is that all these countries face the same prospect of shrinking export markets in the recessionary West and increased wariness among Western businessmen about creating economic stakes in the East. In short, the nonmarket economies cannot count on rising interdependence with market economies to help improve their economic efficiency and raise their living standards. At the same time, stringencies in the Soviet Union limit the ability of Eastern bloc countries to turn there for compensatory help which is of critical importance. A very ominous development was the recent default by Cuba on debt owed the Soviet Union. This fact could be a danger signal to those banks that had expected the Soviet Union would ultimately be backing up their loans to Poland.

During the 1970's, the prospect of increased Western goods and credit, combined with cheap Soviet oil and gas formed the basis for the modernization plans of many of the East European economies. Today, the ingredients of this growth formula appear more scarce. In the years ahead, the West will be less able and more reluctant to interact commercially with the East, and subsidized Soviet energy sales will likely be limited due to Soviet supply constraints and production needs, as well as the Soviet Union's need to earn hard currency through lucrative market-price sales.

This new world will complicate the economic and political choices of many of the Eastern European countries. Reduced access to the West could force even greater dependence on the Soviet Union, at the same time that the Soviet Union is unable to assume the greater burden. Austerity is a probable result, and is likely to be accompanied by a further closing off of Eastern European societies to Western influences, particularly if austerity stirs pressures for internal reform. How these developments would affect Western security interests would depend on the particular events within each country, as well as how we respond. But whether, on balance, austerity in Eastern Europe will serve or frustrate our broader strategic objectives is highly controversial.

For the people of nonmarket countries, the verdict is apparent—economic times will be harder and for those who have some independence from the Soviet Union, preserving it will be trickier. The signs of economic strains are surfacing. One important sign can be read into data recently released by the Bank for International Settlements. It shows an unprecedented decline of 29 percent in the deposits of East European countries in Western

banks during the first quarter of 1982. At the same time, the gross debt of these countries to Western banks dropped by 8.2 percent, or $3.7 billion. What this indicates is that the nonmarket countries are becoming trapped in a liquidity crunch and are drawing down their hard currency assets in order to service their debt. This trend is disturbing because it may lead to widespread liquidity shortages for these countries and liquidity shortages threaten Western banks with debt collection problems.

Poland's debt has been rescheduled for the second year in a row. Romania's debt is about to be rescheduled, and Hungary is searching for funds from virtually all possible sources.

Against this background, it is worth noting that, by some measures, Poland's debt problem is not the most serious. One 1981 study of the hard currency debt of CMEA countries found that Hungary's per capita net debt was higher than Poland's, and that Poland was near the bottom of the CMEA list in terms of its ratio of short-term liabilities to hard currency exports. Consequently other CMEA countries may have more difficulty paying what is coming due shortly. Leading this list is Bulgaria, followed by Hungary and then the German Democratic Republic. It has been assumed that the relatively high liquidity reserves of these countries would help take care of their short-term repayments in the absence of sufficient hard currency earnings. But as noted earlier, hard currency reserves held in Western banks are shrinking for the group as a whole. Moreover, the depletion is greatest for East Germany, followed by Hungary. If this trend continues, there will be no insulation of reserves to protect these countries against the strains of debt service.

The external positions of the Eastern European countries in the future will largely depend on first, their present debt burden; second, prevailing interest rates; and third, their ability to bring their trade with the West into balance. The 1981 study mentioned earlier concluded that under the most probable scenario, the U.S.S.R. would have no problem meeting its international obligations, even without increased gold or arms sales. Czechoslovakia, too would be in good shape, as long as it endures depressed economic growth, and continues to market its arms abroad.

Romania will run into trouble if it cannot pay more for its OPEC oil or exact more subsidized oil from the U.S.S.R. As Romania's domestic oil sources dried up, it placed its hopes for economic growth on agreements with Iran, Iraq, and other OPEC countries to supply energy for oil and gas intensive industries. These arrangements, and Romania's growth plans with them, were shattered by the Khomeini revolution and the war between Iran and Iraq. Last year, Romania's real investment was down by 7 percent. Romania today must increase its exports to OPEC countries, reduce its imports, and probably turn to the Soviet Union for more subsidized oil.

The 1981 study estimated that unless Romania can pay for increased OPEC purchases with bartered exports, they could add some $1 billion yearly to its debt bill. Total Western claims on Romania stood at $9 billion in 1980, and it now owes Western banks some $5 billion. Because of its debt service problems and cool reception in commercial financial markets, Romania recently accepted the reinstatement of an IMF stabilization program, but its credit rating in commercial markets is still clouded. One of Romania's goals is to reduce its current account deficit from last year's $818 million to $450 million by year end, and toward that end, Romania's foreign trade enterprises now are legally required to keep their trade in balance. Without hard currency earnings, Romania debt could well become unmanageable. Efforts to further curtail growth could precipitate domestic problems akin Poland's.

Despite Hungary's record of good performance under its new economic mechanism, which encourages flexibility and technical professionalism, its economic performance fell short of planned targets last year with industrial output growing at just over 2 percent and agriculture stagnating, Hungary's hard currency imports rose 1.6 percent in first quarter 1982, eclipsing its hard currency exports which fell by 0.6 percent over the same period. Poor markets for its export industries are complicating Hungary's management of its Western debt, which totaled $7 billion in 1980. More ominous is the deterioration of Hungary's hard currency deposits in Western banks, its primary repository of liquidity. Hungarian deposits fell more than 50 percent just in the first quarter of 1982, considerably reducing its liquidity cushion against debt service pressures in the future.

Surprisingly, the German Democratic Republic, despite its past caution about borrowing from the West, has borrowed more heavily in recent years and could become one of the most financially strapped nonmarket countries. The GDR's ambitious growth plans for 1981–85 could lead to new highs in Western import levels, raising its debt from about $10 billion today to perhaps $31 billion in 1985, according to one projection. The GDR's growth strategy is to raise labor productivity and increase economic efficiency largely through accelerated scientific and technological development, and the introduction of new industrial technology. No doubt, the GDR's projection of 5.5 percent annual growth over the 5-year period anticipated growing export credits and continuing technology transfer from the West, primarily from the Federal Republic of Germany.

Changes in Western attitudes could put a large dent in these plans, particularly if subsidized credits are not forthcoming. Banks, soured by rescheduling problems with Poland and Romania, are not eager to increase their East German exposure. A possible harbinger of East Germany's problems is its reported inability to repay fully its Western debts this year, unless banks extend the maturities on some of the expiring credits. Some 43 percent of its debt will come due by the end of this year. Since most of East Germany's hard currency earnings are in West German marks, the rise of the dollar has hurt East Germany's ability to repay its dollar denominated debt with exports and reserves. The GDR was forced during the first quarter of 1982 to drain $644M of its deposits in Western banks more in absolute terms than was drawn down by any other Soviet bloc country.

The banking community's brush with default in Poland, and the jittery state of Eastern European economies should dispel the illusion that all loans to the so-called command economies are sure bets. In the past, high credit rating for CMEA countries have been due in part to the misimpression that a command economy meant that the leaders simply have to command to enforce economic policy. High ratings also stemmed from the convictions of most bankers that in the end, the Soviet Union would offer its own wealth an "umbrella" to shield the CMEA countries—and therefore their creditors—from the punishment of defaults. Finally, the preferred rating of East Germany largely depended on unilateral transfers from its kin state, West Germany.

Today, bankers rightly are giving the CMEA countries the cold shoulder. As long as East-West political relations are strained, and Eastern countries struggle to straighten out their trade and financial balances, this cool attitude is likely to prevail, particularly given the recent Cuban/U.S.S.R. default.

Changes in the political mood and economic climate may elicit new commercial credits to the East in the future, but I expect that whatever comes forth will be wrapped in economic—and perhaps political—conditions. At minimum, bankers should insist on access to better information and stabilization programs to lay the basis for repayment. Western governments may also insist on conditions with a political character, particularly if future credits carry official guarantees.

But while our credit and trade relations with the East may be better managed in the future, today many banks in our international system remain exposed to events in the Eastern bloc. It is no comfort to the United States that our banks are the least exposed. The fates of U.S. banks are firmly bound to their European and Japanese counterparts through a network of interbank loans, and second, our security and prosperity as a nation is firmly bound to the safety and well-being of our allies abroad.

The implications of our economic and political interdependence with our friends are as striking in connection with Eastern bloc debt, as they are in so many other areas of policy. Unless we hang together, we hang separately. We can protect ourselves only by collectively weaving a safety net under our banking system. I urge the Reagan administration to create an allied contingency plan, including commitments concerning lender of last resort responsibilities, currency swaps, and interbank loans.

I have outlined such a plan in previous speeches before the Senate. We simply must create a pool of capital sufficiently large to stem runs on banks created from potential sovereign defaults and sufficiently diverse to assure the rapid movement of a variety of currencies. Without such a plan, we shall have abandoned a fundamental purpose of Government—to protect our citizens from the devastating possibility of economic collapse.

VITIATION OF SPECIAL ORDER OF SENATOR NUNN

Mr. BRADLEY. Mr. President, I ask unanimous consent that the special order of Senator NUNN be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR EAGLETON

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

Mr. EAGLETON. I thank the Chair.

TRAGEDY IN LEBANON

Mr. EAGLETON. Mr. President, events in Lebanon move with such a fast and tragic pace that any analysis of the situation is almost out of date by the time it is uttered. Recognizing, thus, the hazards of such a commentary, I shall nonetheless try to pull together my thoughts on a topic by topic basis.

THE WEST BEIRUT MASSACRE

The whole world shares in a sense of horror and disgust over the massacre in West Beirut. I agree with Israeli President Navon and Labor Party leader Peres that there is a necessity for a thorough and independent judicial commission inquiry into all of the facts and circumstances leading up to this tragedy. I emphasize that such a commission must have full excess to all facts and information and with full right of subpena and must be free to pursue the investigation wherever it might lead. If Prime Minister Begin persists in "stone-walling" this issue, then responsibility will inescapably be heavily assessed against his government for being derelict in the performance of the peace-keeping mission which his government unilaterally assumed when Israeli forces entered West Beirut. Prime Minister Begin is a student of history and must remember that when President Nixon "stonewalled" Watergate, it led to his undoing.

Senator HENRY (SCOOP) JACKSON put it very well in a television interview yesterday when he said, "Israel has the responsibility of initiating without delay a full inquiry by a special commission to determine what officials knew about this tragedy and when they knew it. The guilty individuals must be punished. This tragedy will not go away. The Congress of the United States is determined that this matter be resolved immediately."

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated September 22, 1982, from Senator ALAN CRANSTON on this subject. Israel has no better friend in the Senate than ALAN CRANSTON and, thus, his viewpoint takes on a heightened significance and heightened pathos.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

U.S. REACTION

Mr. EAGLETON. Mr. President, I am bound to say that our own policy with regard to events in Lebanon shows signs of hasty reaction rather than the kind of careful deliberation required. Following the assassination of President-elect Geymayal, Israeli forces moved into West Beirut ostensibly to prevent outbreaks of violence. The multi lateral force had already departed. President Reagan issued a stern demand that the Israelis withdraw. Had that demand been agreed to by the Israelis, a security vacuum would have resulted in West Beirut and one has to wonder what consequences would have followed. One has to wonder as well whether the decision to withdraw a multi-lateral force prior to the time when the Lebanon government was in a position to control events was a wise one. Indeed, that question arises in a new context with the reintroduction of the U.S.-French-Italian force. With that force in place, the United States becomes the responsible and accountable peace-keeper.

THE USE OF U.S. MARINES IN BEIRUT

I would have greatly preferred the use of U.N. peace-keeping force in West Beirut. I believe U.S. troops are particularly vulnerable targets for acts of violence in the emotionally charged atmosphere in Beirut. Having made the decision to send U.S. troops, the President should comply with the operative provisions of the War Powers Act which would, absent approval by Congress, limit their duty in Beirut to a total of 90 days.

On the question of the War Powers Act, Mr. President, I ask unanimous consent that a letter I sent to President Reagan be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

THE PALESTINIAN PROBLEM

Mr. EAGLETON. Some commentators view the events in Lebanon as an opportunity for a breakthrough toward peace in the Middle East. I fervently hope that out of the death and destruction, some good may come. I am convinced that no good will come if the Palestinian question is ignored. The destruction of the PLO military component and the substantial humiliation of the PLO political component will not resolve the Palestinian problem. That problem, if unattended, will generate continued conflict over the long term. Occupied areas can be held, the PLO enemy can be militarily vanquished, but the seething hatreds that have caused all the previous wars will only continue to build. The PLO may become a paper tiger but, in time, something else—perhaps with a totally different name and structure—will take its place. As Senator Jackson put it in his excellent "Face the Nation" interview of July 18, 1982, "Let's say the 6,000–7,000 PLO are moved out of Beirut. That will not solve the Palestinian problem. It simply won't go away. And I think the Israelis, many of them, understand that, and there's a division within the Israeli Government on that issue."

THE PLO

I think that the Palestinians have been badly misled by an organization hell-bent on the destruction of Israel and which organization has succeeded only in virtually destroying itself and the country of Lebanon along with it. Even those who vigorously opposed the war in Lebanon were fully aware of the PLO tactics of refusal through the years and that these tactics have led the Palestinians from one disaster to another. PLO tactics and activities in Jordan caused their expulsion therefrom in 1970. PLO tactics and activities caused their expulsion from Lebanon. The PLO's record is such that no nation was terribly eager to receive them. Logic would dictate that, after a record of unmitigated disaster,

the PLO would proceed on a new course of accommodation to reality. Sadly, however, logic does not always prevail in international relations, especially so in the Middle East.

PRESIDENT REAGAN'S PEACE INITIATIVE

I support President Reagan's Middle Eastern peace initiative. The substance of it is not totally original. Portions, bits, and pieces of it have been proposed by various world leaders and Middle Eastern foreign policy experts including United States Secretary of State William Rogers in 1969, Israeli Foreign Minister Yigal Allon in 1976, and Israeli Party Leader Shimon Peres in 1982 (and earlier). It comports with U.N. Resolution 242 in that it envisions the relinquishment of Israeli-occupied territories in return for an overall peace settlement. It does no violence to the ultimate objectives of the Camp David Accords, although it obviously seeks to compress the timetable of those Accords.

Although the substance of President Reagan's initiative is not totally original, the declaration of a broad, all-encompassing initiative by the President of the United States is original.

What President Reagan is in essence saying is that, for the West Bank, neither a PLO-run, independent Palestinian state nor an Israeli-annexed Judea and Samaria can ever be an acceptable solution. Neither a Pax Arafat nor a Pax Sharon can bring lasting peace to the Middle East.

A demilitarized West Bank, politically affiliated with Jordan and with territorial adjustments insuring Israel's right to exist within secure and defensible borders, attained through face-to-face negotiations between the parties, can bring peace to the Middle East.

It has been said that the history of the Middle East since 1948 is one of the "missed opportunities" by all sides. The war in Lebanon, in spite of the tragic loss of life by Arabs and Israelis, has created a new opportunity to pursue peace in the Mideast. President Reagan was wise, in my judgment, to take the initiative.

From the Israeli perspective, Prime Minister Begin's rejection of the Reagan Plan need not necessarily be the final word. The Israeli Labor Party, led by Shimon Peres, supports the thrust of the Reagan initiative. (So, too, former Foreign Minister Abba Eban.) A significant portion of Israeli public opinion has always recognized that exchanging "land for peace" is a necessity for an overall settlement. I believe that a real willingness to negotiate on the part of the moderate Arabs, particularly King Hussein of Jordan, would evoke an outpouring of similar sentiment from Israel. As one commentator recently wrote, no Israeli government could stay in power long if it left King Hussein waiting at the negotiating table.

For progress and peace to occur, the Arab world will have to be more forthcoming. The recent meeting at Fez was a disappointment. On the plus side, the Arab states, save Libya, seem to recognize that diplomacy, not force, is the only way to secure peace. However, they steadfastly adhere to the twin propositions of an independent Palestinian state and the PLO as the sole negotiator-representative of Palestinian rights. They also continue to refuse to recognize—in a clear and unequivocal way—the right of Israel to exist. Without this recognition, there can be no meaningful progress to peace.

I am hopeful that in the coming months, the moderate Arabs will seize the opportunity for peace which is at hand. Even after the Fez meeting, King Hussein stated that President Reagan's initiative was "a very constructive and a very positive move and I would certainly like to see it continue and evolve." In my judgment, it can only "evolve" with his ultimate participation in the peace process. Henry Kissinger's memoirs pay great tribute to King Hussein's statesmanship and courage in the extraordinarily difficult position where the turmoil of the Mideast has placed him. He can prove his statemanship and earn a richly-deserved place in history if he can lead the moderate Arabs down the path to peace with Israel.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., September 22, 1982.

His Excellency MENACHEM BEGIN,
(c/o Ambassador Moshe Arens),
Embassy of Israel, Washington, D.C.

DEAR MR. PRIME MINISTER: For almost two generations my country has joined with yours to build an Israel which can provide its people with increasing opportunities for human fulfillment within peaceful borders, and to work for a peace and a stability in the Middle East that will benefit your people, our people, all people.

This history does not permit Americans to direct Israel's actions. However, our share in the chronicle of your country does entitle us to be known as your friend. And the truest mark of friendship is not flattery or unquestioning support, but honest counsel. Indeed, it would be a betrayal of friendship to conceal criticism of actions we think likely to defeat the goals we have shared for so long.

As you well know, the State of Israel has no stronger supporter in the U.S. Congress than I.

Repeatedly through the years, during both Democratic and Republican Administrations, I have helped lead battles in the U.S. Senate to defend the mutual interests of our two countries, to augment Israel's strength and security, and to oppose the enhancement of the military power of Arab nations hostile to Israel.

I do not doubt that the root cause of all the violence in the Middle East lies in the Arab holy war against Israel, lies in the refusal of so many Arab nations to recognize the right of Israel to exist and in their refusal to make peace with her, and lies in P.L.O. terrorism.

I do not believe that the United States would sit idly by if Cuban forces defied one of our neighbors and massed thousands of armed guerillas on one of our borders, commenced transforming them into military units replete with increasing supplies of Soviet equipment including tanks, rockets and artillery, and proceeded to wound and kill Americans in terrorist attacks launched across our border upon our communities and our citizens.

After all, we sent U.S.-trained forces into hostile action at the Bay of Pigs, and we risked a nuclear confrontation because of our concern over military developments in Cuba—an island 90 miles off our shore—that we considered a threat to our national security.

Even now, every Soviet infant, child, woman and man is targeted by American nuclear missiles. They are held hostage, threatened with instant death if those who rule the Soviet Union attack us or our allies. And every American, in turn, is targeted and held hostage by Soviet nuclear weapons. Indeed, every human on God's earth is held in thrall by this threat of the holocaust of all holocausts, one that would consume Jew and Gentile alike, one that would not discriminate between faiths and races. There is no longer any exodus to a place which cannot be reached by the missiles of man. Until the United States moves with more resolution, determination and creativity than we are now displaying to terminate this threat to each and all of us, our own hands are not clean.

Israel is not alone in its use of military force to defend its perceived interests. There is a terrible global drift toward war. Violence is endemic in the world.

The U.S. has itself resorted to force to advance its perceived interests. In Vietnam, we too suffered the harsh consequences of over-estimating the utility of force. We learned in Vietnam that violence begets violence; that expanding force has an impulse of its own, beyond the control of those who sit in government offices; that the unleashed beast of brutality cannot separate the innocent and the helpless from the armored enemy.

I did not condemn Israel's initial move into Lebanon for the avowed purpose of protecting Israeli citizens against repeated P.L.O. attacks launched from that country.

And I refrained, despite deep misgivings, from commenting publicly on your seige of Beirut and your entry into its western section. I am reluctant to criticize a treasured friend and ally—especially when that friend and ally is in the midst of a military struggle.

But the massacre of hundreds of men, women and children is another matter. It will be some time before we accurately know who was to blame for the massacre. We may never know.

The question of responsibility is easier to answer. By moving Israeli forces into West Beirut for your declared purpose of restoring stability and preventing bloodshed, your government took on certain responsibilities.

You assumed responsibility for preserving order and protecting human life in Beirut—in this you failed.

Mr. Prime Minister, the recent behavior of your military forces in Beirut is causing deep concern and expressions of outrage among many of Israel's friends. This concern threatens to erode support for Israel in the U.S. Senate and among the American people. As a matter of conscience, I, too, must now speak out.

I am troubled by the methods you are employing for the apparent purpose of control-

ling the destiny of Lebanon. To critics and friends of Israel alike, it increasingly appears that you and General Sharon have substituted naked military force for a balanced foreign policy which should reflect a decent respect for the opinion of mankind.

Moreover, however, justified your original goals, the horror of Lebanon is now harming the security of Israel. It is repelling your friends and strengthening your enemies. In Biblical times, a handful of the righteous could stand against the world. In our more secular times, however, no country can stand alone, or with but a handful of allies. How can Israel think to increase its safety through self-inflicted isolation?

The people of Israel have always been known for their deeply ingrained reverence for human life and for the dignity of the individual, a reverence born of the great historical suffering of the Jewish people. Lesser nations have allowed war to harden them, and have permitted prolonged war to erode their reverence for justice, no matter how virtuous their cause may have been.

But Israel was born out of centuries of hope and struggle and an eternity of faith. It is my hope and my prayer that this faith and reverence can now manifest itself in courageous initiatives to help bring peace to Lebanon and then to provide an enduring solution for the West Bank and Gaza.

I believe that Israel should take the following initiatives:

1. I urge your government to withdraw Israeli forces from Beirut immediately upon arrival of the multinational forces who are to assist the Lebanese Army in assuming security responsibilities.

2. I urge your government to cooperate in achieving the swift withdrawal of all foreign forces from Labanon—Syrian, P.L.O. and Israeli. And I urge that your government exercise the utmost restraint in the use of your superior military strength against Syrian and P.L.O. forces still in Labanon until such an agreement is reached.

3. I urge your government to return to Israel's traditional concern over only immediate threats to its own borders and that your government abandon its reliance on military force for the solution of essentially dipolmatic problems.

4. Finally, through I myself have reservations about elements of President Reagan's proposed peace plan, I urge your government to reconsider promptly its outright, precipitious rejection of his entire proposal.

Perhaps the most somber consequence of the current strife in Lebanon is the dimming of the inspiring moral beacon which has shone so brightly from beleaguered Israel.

Some day the turnmoil and the killing in Lebanon must end. Israel will still be surrounded by hostile neighbors. Will you then be more secure if you have dissipated the moral stength which armed your people and enlisted your friends?

A bold vision of peace and reconciliation is essential in the days ahead if we are to leave a safer world for our children.

Yours in peace,

ALAN CRANSTON.

EXHIBIT 2

U.S. SENATE,
Washington, D.C., September 23, 1982.

Hon. RONALD REAGAN,
President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am constrained once again to write on the use of U.S. troops in Lebanon and, most specifically, the applicability of Sec. 4(a)(1) of the War Powers Act which reads in part as follows:

"In the absence of a declaration of war, in any case in which United States Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances."

The Act then goes on to require timely reporting to Congress.

I wrote to you on July 16, 1982 on this subject when it was being contemplated that U.S. troops (along with French and Italian troops) be sent to Lebanon to secure the evacuation of the P.L.O. guerillas. In response, I received a copy of your letter of August 24, 1982, to the President pro tempore of the Senate in which you asserted the deployment of troops was taken pursuant to your Constitutional authority as Commander-in-Chief and head of foreign policy. Nowhere did you specifically acknowledge the applicability of the War Powers Act.

Now, in light of the recent tragic and horrible events in West Beirut, U.S. troops are once again being dispatched. This time the mission, because of the violence which has transpired, is enormously more perilous than the earlier mission. Very clearly, to me, this is a situation "where imminent involvement in hostilities is clearly indicated by the circumstances."

Thus, as I read the War Powers Act (which I co-authored with Senators Javits and Stennis), Sec. 4(a)(1) of the Act applies and there is, thus, a 60 day time limit on this deployment (with an additional 30 days extension at your discretion).

If you conclude that Sec. 4(a)(1) does not come into play, may I ask this. If the U.S. troops are fired upon, thus making it crystal clear that hostilities have in fact begun, will you then trigger into effect Sec. 4(a)(1) with the consequent 60 day and 30 day periods as described above?

Yours very truly,

THOMAS F. EAGLETON,
U.S. Senator.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 5 minutes, with statements therein limited to 1 minute each.

S. 2918—THE RESIDENTIAL MORTGAGE INVESTMENT ACT

Mr. MITCHELL. Mr. President, I rise to express my support as an original cosponsor of S. 2918 the Residential Mortgage Investment Act of 1982, introduced by my colleague from Rhode Island, Senator CHAFEE.

The purpose of this legislation is to remove regulatory barriers that discourage private pension funds from investing in residential mortgages and mortgage-backed securities.

The need for this measure is evident when one contemplates the state of the housing industry. It has been devasted by a virtual depression for nearly 4 years. While annual housing starts were at the 2 million mark in 1978, the trend since then has been almost steadily downward, going below the 1 million mark in 1981 and much of this year. With the high interest rates that have been so pervasive during this time, homeownership has been beyond the reach of most Americans.

It is imperative that we look for new sources of mortgage credit to assist young home buyers and the homebuilding industry. The National Association of Home Builders estimates that some $1 trillion will be needed to spur a housing recovery through the 1980's. Finding that credit will indeed be difficult, particularly in light of the crowding in capital markets caused by large Federal deficits predicted through the middle of this decade and by the difficulties of the thrift institutions in competing for available savings.

The use of pension funds for this purpose holds promise. Public and private pension funds have assets exceeding $600 billion and, because of existing legislative and regulatory barriers, only 3 percent have been invested in residential and commercial mortgages.

This legislation would make home mortgages as attractive an investment as other types of investments currently made by pension funds. It would still require that prudent man investment standards be met.

It has the added attraction of not requiring any public expenditures. And, it would not subsidize one class of people, homeowners, at the expense of pensioners.

In sum, the bill I have cosponsored is an attempt to open a new source of long-term capital for mortgage loans. It does not require the managers of pension funds to invest in housing, it only permits them to do so without the hurdles they must now overcome.

THE 1983 FEED GRAIN PROGRAM

Mr. HUDDLESTON. Mr. President, the Secretary of Agriculture yesterday announced the provisions of the 1983 feed grain program.

To be eligible for loans and deficiency payments for the 1983 crop of corn, sorghum, barley, or oats, a farmer must reduce his planted acreage of the commodity by 20 percent. This reduction will consist of a 10-percent acreage reduction and a 10-percent paid land diversion.

The current law requires a 10-percent acreage reduction and a 5-percent paid land diversion for feed grains, but authorizes the Secretary to expand the acreage reduction program beyond this minimum. Three weeks ago, 11 of my colleagues and I wrote to the Secretary to urge him to establish a larger paid diversion program. I commend the Secretary for taking the action we recommended. I note that the Secretary has not revised his

wheat program announcement to include a larger paid diversion component. I am hopeful that the Secretary will review the 1983 wheat program provisions to see if wheat producers can be given treatment similar to that given feed grain producers.

According to the Department of Agriculture's estimates, as reflected in the announcement of the per bushel deficiency payment rate, market prices will be at or below the loan rate for most of the 1983 crops of those commodities. I am concerned that commodity prices in 1983 are projected to be so disastrously low. Such prices signal the depth of the depression in the farm economy. I am hopeful that Secretary Block will work with Congress to reverse the current deplorable price trends.

The Secretary also announced an increase in the funds allocated to the 1983 farm storage facility loan program. The Agriculture and Food Act of 1981 requires that the Secretary make storage facility loans in all areas in which there is a deficiency of storage space.

The Secretary had announced an initial funding level of $40 million for this important program. In our letter of September 2, we pointed out that the large grain crops in 1982 and the near-record carryover stocks of grain from previous years have produced a storage deficit in many areas and higher storage charges for farmers in others. We urged the Secretary to revise the farm storage facility loan program, and yesterday's announcement is certainly an improvement over the previous terms.

I again urge the Secretary to monitor carefully the status of storage availability and costs to farmers. Inadequate or expensive storage causes a disincentive for farmers to participate in the 1983 commodity programs. We must be certain that the farmer has every incentive to reduce carryover stocks that adversely affect farm prices.

Mr. President, I ask that the text of the September 2, 1982, letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C. September 2, 1982.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: We urge you to take immediate action, using the statutory authorities available to you, to revise the Nation's farm programs so as to make them more responsive to the needs of hard-pressed farmers.

Based on the Department of Agriculture's most recent estimates, record large crops of corn and soybeans will be harvested this year and the 1982 wheat crop will be close to last year's record. In addition, it appears that the volume of agricultural exports in 1982 will increase only marginally from last year, and agricultural export sales in 1982 will almost certainly be less than in 1981. The addition of the huge 1982 crops of grain to existing carryover surpluses, coupled with continuing weak markets for grains, will reduce low commodity prices even further.

We, therefore, believe it imperative that the Administration (1) implement effective land diversion programs for the 1983 crops of wheat, feed grains, and rice, (2) assist farmers in increasing the Nation's grain storage capacity, and (3) make renewed efforts to increase agricultural exports.

The omnibus Reconciliation Act of 1982 requires you to implement paid land diversion programs for the 1983 crops of wheat, feed grains, and rice under which, for farmers participating in the programs for those commodities, the farmer must divert from production 5 percent of the farm's wheat, feed grain, or rice acreage base. (In addition to the paid acreage diversion, farmers must divert from production under the acreage reduction program a specified percentage of the acreage base; i.e., 15 percent in the case of wheat and rice and 10 percent in the case of feed grains.)

However, as the conference report on the 1982 Act makes clear, a paid diversion of 5 percent is only a minimum. Under the Agriculture and Foods Act of 1981, you have authority to establish larger paid diversion programs for wheat, feed grains, and rice (and upland cotton if you determine that an acreage reduction program is needed for that commodity).

We believe that the 1983 paid diversion programs should be larger than 5 percent if they are to be effective in limiting production and bringing supplies more in line with demand. Therefore, we urge you to exercise your discretionary authority and expand the 1983 paid diversion programs to levels that will be effective in strengthening commodity prices.

The large grain crops now being harvested and the near-record carryover stocks of grain from previous years have also produced a storage deficit in many areas and higher storage charges for farmers in others. The farm storage facility loan program must be revised so as to ensure that, as required under the Agriculture and Food Act of 1981, storage facility loans are made available to farmers in all areas in which there is a deficiency of storage space.

Renewed efforts by the Department to expand agricultural exports must be undertaken to stabilize and increase commodity prices. In this connection, the vigorous use by you of the authority for expanded export market promotion in the Omnibus Reconciliation Act should be of great assistance.

The Nation's farm economy is disastrously weak and this weakness is contributing to the overall poor performance of the economy. We do not expect a major and sustained economic recovery without a reversal in the trend of declining farm prices and income.

Bold and vigorous use of the statutory authorities available to you is required to shore up declining farm prices and income and foster a recovery in the farm economy.

Sincerely,
David L. Boren, Howell Heflin, Tom Eagleton, Walter D. Huddleston, David Pryor, Edward Zorinsky, John Melcher, Alan Dixon, Jim Sasser, Gary Hart, John C. Stennis, Quentin Burdick.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. GRASSLEY). Without objection, it is so ordered.

Mr. BAKER. Is there an order, Mr. President, for the Senate to proceed to the consideration of the HUD appropriations bill?

The PRESIDING OFFICER. The majority leader is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is closed.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1983

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 6956, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. BAKER. Mr. President, I understand the minority leader has cleared a unanimous-consent agreement limiting time for debate on this measure.

I would inquire of the distinguished acting minority leader if he is prepared to proceed at this point.

Mr. HUDDLESTON. Mr. Majority Leader, I was advised that the minority leader, Senator ROBERT C. BYRD, has indicated he would like to be present when this unanimous-consent agreement is reached. I would ask his forbearance for a few minutes.

Mr. BAKER. Yes, I thank the acting minority leader, and I would be most happy to do that.

I understand the agreement is cleared on both sides, and as soon as the minority leader reaches the floor, I will put the request.

While we have a moment, Mr. President, I would point out that we have the HUD appropriations bill up now. I hope we can dispatch that promptly. I hope then we can go to the banking bill, and I hope we can get a time agreement on that. We also must do

today the reclamation conference report.

Mr. President, it would be my expectation that it will take most of the day to do those three things. I hope we can finish the session of the Senate by midafternoon and still do that agenda. I would urge Senators to bend every effort to accomplish that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. GARN. Mr. President, on August 18, the Appropriations Committee conducted its markup of the fiscal year 1983 bill. The changes to the administration's request and/or House action are described later in my detailed statement. In general, however, I would note that the Senate version of the bill is approximately $9.7 billion in budget authority below the fiscal year 1982 level and $9 billion below the subcommittee's 302(b) budget authority allocation. Mr. Stockman has testified that the allocation, rather than the request, will be the standard on which the administration will evaluate each bill.

In terms of outlays, CBO calculates that we are $1.7 billion below the allocation. However, I should note that OMB higher outlay estimates for the VA could reduce this by $1 billion and future requirements are estimated to reduce this amount by another $600 million.

Major highlights of the committee recommendation are:

The assisted housing provisions are $6.2 billion over the request, but $6.6 billion under the level assumed in the budget resolution.

16,000 units of elderly housing—6,000 more than the request and the House allowance.

3,000 units of Indian housing—none requested and not considered by the House.

$1 billion of modernization funds for public housing—no new funds requested and not considered by the House.

$440 million for UDAG—the same as the request level and $100 million more than the House allowance.

$3,456 billion for community development—the same as the request and $11 million more than the House allowance.

$3,699 billion for EPA—$64.2 million over the request and $12.6 million less than the House allowance.

$586.3 million for FEMA—$264 million less than the request and $143.5 million less than the House allowance.

$192.8 million in additional R&D programs for NASA—$16 million less than the House allowance.

$1.07 billion for NSF—same as the request and $36.6 million less than the House allowance.

$409.4 million for VA major construction—$10 million less than the request and $277.8 million less than the House allowance.

Mr. President, a detailed description of the committee's actions follows:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

Annual Contributions

The Committee recommended $3,799,920,000 in new budget authority and $179,940,000 in additional contract authority for the Department's assisted housing program within this account. These authorities, when combined with estimated budget authority carryovers of $2,183,246,727 deobligations of $4,000,000,000, and permanent authority of $24,800,000 would result in a fiscal year 1983 program level of $10,007,966,727.

The House deferred all consideration of this account pending the enactment of authorizing legislation. While the Committee was sympathetic with the House position, and would have much preferred to work within the context of a newly authorized assisted housing program, this option was not available. Neither the Senate nor the House authorizing bill has been approved by either body and the prospect for a new authorization bill during the remainder of this session of Congress is uncertain. Rather than defer consideration of all of the programs in this account, the Committee recommended the funding of certain items that were previously authorized in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) and that are common elements of S. 2607 and H.R. 6296. In addition, the Committee included language in the bill that would limit the Department's ability to make long-range commitments that might prejudice deliberations on the authorizing legislation. Specifically, the bill language directs that no contract or budget authority becoming available in fiscal year 1983 could be used for new construction (other than Section 202, Indian housing or substantial rehabilitation) or for housing assistance contracts for the Section 8 existing program that extend, or can be extended, beyond 5 years (other than property disposition, loan management and moderate rehabilitation).

Given the program structure proposed by the Committee, the recommended funding would result in the reservation of 94,000 housing units in fiscal year 1983. Under the Committee's recommendations, 16,000 units would be reserved for housing for the elderly or handicapped (Section 202), as opposed to the 10,000 requested by the Administration and the approximately 16,900 made available in fiscal year 1982; reservation of 3,000 units of Indian housing (the Administration did not request any Indian housing in fiscal year 1983), compared to approximately 2,400 units in fiscal year 1982; and 75,000 unit reservations in 1983 associated with conversions and property disposition.

The Committee also recommended $1,000,000,000 in new budget authority and $50,000,000 in new contract authority for public housing modernization. Although the Committee rejected the concept of funding the entire modernization program for fiscal year 1983 from recaptures, such recaptures would be used to augment the basic $1,000,000,000 in new authority. The Committee recognized that approximately 140,000 units of public housing within an associated $16,000,000,000 in budget authority are in the pipeline and currently not under construction. Many of these projects are unlikely to go to construction and, therefore, the funds should be recaptured and applied to other housing needs. Consequently, the Committee included bill language requiring the Department to apply 70 percent of the recaptured funds for additional modernization. The Committee expects the Department to: return a minimum of 50 percent of recaptures to those authorities turning in such funds (in additional to their portion of the $1,000,000,000); 20 percent should be used for modernization as determined by the Department; and 30 percent should be applied to other housing programs.

In addition, the Committee also included a provision requiring the use of $89,321,727 of budget authority in fiscal year 1983 for the modernization of 5,073 vacant uninhabitable public housing units. A similar provision appeared in two previous appropriation actions (Public Law 97-216 and H.R. 6863, and Senate Report 97-402).

Finally, the Committee has also included a legislative provision extending the construction deadline for FAF eligible housing units from October 1, 1982 to January 1, 1983. The Committee has noted that this is the last extension it expects to recommend on the construction date.

Rent Supplement

Rescission

The Committee recommended a rescission of $2,830,360,000 in budget authority and $105,160,000 in contract authority as proposed by the Administration. The House deferred consideration of this rescission pending the adoption of authorizing legislation. The Committee agreed with the basic thrust of the Administration's proposal to accelerate the conversion of units from the rent supplement program to Section 8. In Public Law 97-216, the Congress authorized the conversion of 60,000 units in fiscal year 1982. The Committee has recommended the same rate of conversion in fiscal year 1983.

Housing for the Elderly or Handicapped Fund

Limitation on Loans

The Committee recommended $724,800,000 as the loan limitation for the elderly and handicapped program. This would provide for a total of 16,000 units in fiscal year 1983, as opposed to the requested level of 10,000 units and $453,000,000 of loan limitation proposed by the Administration and recommended by the House. In addition, the Committee also retained House language limiting the program to qualified non-profit sponsors.

Congregate Services

The Committee agreed with the House and recommended $3,500,000 for the congregate services program in fiscal year 1983. The amount recommended will provide for the extension of 28 housing projects in this program for another 1½ to 2 years.

Payments for Operation of Low-Income Housing Projects

The Committee recommended a level of $1,288,000,000 for public housing operating subsidies. The amount recommended is based on the levels contained in the Senate authorization bill S. 2607. That bill authorizes $4,250,000,000 for a 3-year period, with the fiscal year 1983 level set at 30.3 percent of the total (or $1,288,000,000). The Committee further agreed with the concept embodied in S. 2607 that would require the Secretary to set aside a portion of this amount for troubled public housing authorities.

In order to assure an expeditious distribution of these funds, the Committee included bill language which would require the Department to obligate to each public housing authority its allocation 45 days before the beginning of the authority's fiscal year.

These allocations should reflect the agreement reached in the joint HUD/public housing authority/congressional staff meeting of July 26, 1982, as summarized in the July 28, 1982 memo from the Department. This agreement incorporates a 5 percent penalty for increased utility consumption. It is the Committee's intent that the amount available as a result of these penalties (estimated to be $20,000,000), shall be used for troubled public housing projects. The Committee does not expect that the delays in allocating funds that were so prevalent in fiscal year 1982 will occur in fiscal year 1983. In addition, the Committee expects the Department to use these penalty funds to provide assistance to troubled housing authorities in such areas as management improvements, deferred maintenance, rent collection, and energy improvements.

Troubled Projects Operating Subsidy

The budget did not propose an appropriation for this program in 1983. However, the Committee included language to make available funds from unobligated balances of excess rental charges and collections. In addition, the Committee included language making non-insured State projects eligible for subsidy in fiscal year 1983.

Housing Counseling Assistance

The Committee concurred with the House in providing $3,500,000 for the housing counseling assistance program. The Committee received testimony that this program has been a cost-effective means of avoiding foreclosures (and thus reducing outlays from the FHA fund), reducing delinquent payments and improving housing conditions. Under the funding level provided by the Committee 45,000 clients would receive counseling in over 140 HUD-supported counseling programs.

Federal Housing Administration Fund

The Committee approved the full budget request of $240,022,000. The budget also requested language limiting mortgage assistance payments to $45,000,000. The temporary mortgage assistance payments (TMAP) program was authorized to prevent further assignments of single family mortgages by helping those homeowners who have experienced temporary financial problems and cannot meet monthly mortgage payments. The Committee approved the use of funds for this purpose and has included bill language.

In addition, the budget proposed credit control language to limit commitments for mortgage insurance to $35,000,000,000. Testimony received by the Committee indicated that it is unlikely that the limitation would be reached. However, the Committee is concerned, as was the House, that the proposed limitation could have a negative effect on the already depressed housing industry. During the Committee's credit allocation under Section 302(b) of the Budget Act, the Committee elected to reduce the amount of new primary loan commitments assigned to the HUD-Independent Agencies Subcommittee from the $56,900,000,000 assumed under the Budget Resolution (S. Con. Res. 92) to $56,700,000,000. Consequently, this $200,000,000 reduction is reflected in the $39,800,000,000 level for FHA loan guarantees recommended by the Committee.

Low Rent Public Housing—Loans and Other Expenses

HUD's fiscal year 1983 budget proposed language transferring $1,400,000,000 of unobligated budget authority from the annual contributions for assisted housing loan fund account. The Committee did not approve the proposed transfer. The level of public housing commitments recommended by the Committee in 1982 and proposed in 1983 does not appear to put the Department in the position of exceeding the $20,000,000,000 limitation based on the statutory borrowing authority for the loan fund. Currently, the balance of the loan fund is $18,885,000,000 which is $1,115,000,000 below the $20,000,000,000 limitation.

Because the Congress denied the requested Federal Financing Bank (FFB) transfer of $1,400,000,000 during fiscal year 1982, the projected $1,026,000,000 of sales to FFB in fiscal year 1983, assumed in the First Budget Resolution (S. Con. Res. 92), will not occur. Since this action occurred in fiscal year 1982, the Committee does not believe there is a need to provide any 1983 credit control language limiting or reducing the amount of loan sales to the FFB in 1983.

Government National Mortgage Association

Payment of Participation Sales Insufficiencies

The Committee agreed with the House in providing the budget request of $2,726,000 to cover the insufficiencies that arise from participation sales of mortgages.

Guarantees of Mortgage-Backed Securities

Limitation on Guaranteed Loan

The Administration proposed a fiscal year 1983 level of $38,400,000,000 for GNMA mortgage-backed securities. The fiscal year 1982 level contained in Public Law 97-101 was $68,250,000,000 and the Budget Resolution (S. Con. Res. 92) contained this 1982 level as the fiscal year 1983 estimate. The Committee was concerned that the limitation contained in the budget could have a negative effect on the already depressed housing industry and has recommended a $68,250,000,000 limitation.

Solar Energy and Energy Conservation Bank

Assistance for Solar and Conservation Improvements

The Committee recommended $15,000,000 in additional funding for the Bank in fiscal year 1983. The history of the Bank has been a prime example of funding fits and starts. To date, the Bank has 3 full-time employees and none of the available funds have been obligated. The Department expects virtually all of the 1982 appropriation of $21,850,000 to be available in fiscal year 1983. With this program level, the Bank could support 4,000 solar improvements and 17,000 energy conservation improvements. The Committee has estimated that the addition of $15,000,000 could result in 15,000 additional energy improvements.

Community Planning and Development

Community Development Grants

The Committee recommended the full budget request for community development grants. This amount is $11,000,000 more than the House allowance.

The House directed that the entire $11,000,000 cut be applied to the Secretary's discretionary fund, thereby reducing the amount available from $56,500,000 to $45,500,000. The House further directed that not more than 5 percent of the $11,000,000 reduction should be taken from the $30,700,000 estimated for Indian assistance. The Committee has noted that the amounts available in the discretionary fund have decreased from $101,920,000 in fiscal year 1981 to the current request level of $56,500,000, which is the same as the 1982 level. The Committee is concerned that a reduction of the magnitude recommended by the House could seriously impact technical assistance to communities.

Urban Development Action Grants

The Committee recommended the requested level of $440,000,000 for the UDAG program. In its report, the House Committee noted that a carryover of approximately $100,000,000 will be generated from unused and unobligated funds currently earmarked for small cities' grants under the UDAG program. Apparently, the number of proposals received from small cities which are of fundable quality has not kept pace with the legislative requirement that 25 percent of UDAG moneys must be reserved for such cities. In view of this, the House recommended that this undersubscribed condition be corrected in fiscal year 1983 by reducing the 1983 appropriation for UDAG by $100,000,000. The House also included language which permits the allocation of 1983 funds notwithstanding the 75/25 large city/small city breakout currently carried in the basic authorization for this program.

The Committee believes that the UDAG program represents a highly successful Federal program. The Secretary's report of January 1982 supports this conclusion. The Committee also recommended striking the House language which overrides the 75/25 large/small city split established in the authorizing legislation.

Rehabilitation Loan Fund

The Department proposed to terminate the rehabilitation loan program at the end of fiscal year 1982. The Administration believed that the Section 312 program duplicated rehabilitation efforts funded by community development block grants. The Committee recommended continuation of the program on a reduced sale. An estimated $77,100,000 from repayments and other income sources will be available in 1983 for new loans and other expenses. It is estimated that at this level, the program could fund 880 loans which would rehabilitate 4,830 units. The Committee also retained House language in the bill which continues the program in 1983 with repayments.

Urban Homesteading

The Committee recommended the budget request level of $12,000,000 for the urban homesteading program. In making this recommendation, the Committee has recognized that the multifamily program is, in fact, a demonstration and the extent to which the conversion of the estimated 15 properties will actually be feasible is, indeed, unknown.

Policy Development and Research

Research and Technology

The Committee has provided $18,000,000 for the Department's research and technology program. The Committee continues to be concerned that the Department intends to spend such a large portion of its resources on the annual housing survey.

In addition, during the past several years, HUD has provided financial support to the Housing Assistance Council. The Council is a non-profit organization which attempts to improve housing, credit availability and sanitation facilities in rural areas. The Committee has directed HUD to apply $1,000,000 of the funds provided to support the activities of the Housing Assistance Council. The Committee has also directed the Department to set aside $192,000 for the urban

consortium. The consortium has been an effective mechanism for assisting the Department in the development of an R&D agenda that takes into consideration the priority problems common to the 28 major cities and 9 countries represented by the consortium.

While not earmarking a specific amount for the National Institute of Building Sciences, the Committee has noted that the Institute represents a valuable and unique resource and has urged the Department to utilize their services.

Fair Housing and Equal Opportunity

Fair Housing Assistance

The Committee recommended the budget estimate of $5,700,000 for fair housing assistance. This includes $3,700,000 in grants to support approximately 70 State and local fair housing agencies for capacity building, training and complaint processing and monitoring. In addition, $2,000,000 is provided to support community housing resource boards.

Management and Administration Salaries and Expenses

The Committee recommended an appropriation of $307,500,000. This is $13,501,000 less than the budget estimate and $1,001,000 less than the House allowance. The Committee has recommended a reduction of $13,501,000 from the budget request in lower priority areas. In making this reduction, the Committee has directed that the $4,242,000 contained in the budget estimates for training not be reduced.

In addition, the Committee has deleted House bill language specifying that no funds may be used to plan or implement a reorganization of the Department without the prior approval of the Committees on Appropriations. The Committee believes that such legislation is overly restrictive and will impair the Department's ability to institute management improvements and cost savings.

TITLE II—INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

Salaries and Expenses

The Committee has agreed with the House in providing the budget request of $10,669,000 to administer, operate and maintain the Commission's military cemeteries, monuments and memorials throughout the world. This funding level will support the 381 positions requested and an average employment of 387 in fiscal year 1983.

CONSUMER PRODUCT SAFETY COMMISSION

Salaries and Expenses

The Committee has agreed with the House in providing the budget request of $33,508,000 for the Commission during fiscal year 1983. At the Committee's March 16, 1982 hearing, the Commission was asked to develop a set of their highest priority areas. The Committee is pleased that the Commission has implemented the Committee's recommendations.

The fiscal year 1983 priority projects as determined by the Commission are: chain saws, smoldering ignition of furniture and bedding, children's exposure to carcinogens, heating equipment fires, smoke detectors, formaldehyde released from plywood and particle board, pharmacy/medical community awareness, indoor air problems from fuel-fired appliances, dual purpose closure analysis and school laboratory chemicals.

Finally, the Committee also approved the reprogrammings necessary to proceed with the 10 priorities at the levels indicated above. The Committee expects the Commission to submit a report by March 1, 1983 detailing the specific objectives and milestones associated with each of these priorities.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

Salaries and Expenses

The Committee recommended an appropriation of $6,682,000 for the cemeterial expenses of the Department of the Army. This is $7,000 less than the budget estimate and the House allowance. Of the amount proposed by the Committee, $6,019,000 would be used for the operation and maintenance of Arlington and Soldier's Home National Cemeteries, including support for 140 work-years and the procurement of necessary operating supplies and equipment. Construction projects at Arlington National Cemetery are estimated to cost $340,000 in 1983. The balance of $323,000 would be spent on administration. The $7,000 reduction from the budget request is intended to reduce the number of replacement vehicles which the agency had planned to purchase in fiscal year 1983 from three to two.

ENVIRONMENTAL PROTECTION AGENCY

Salaries and Expenses

The Committee recommended an appropriation of $548,613,200. This amount is $10,500,000 more than the budget estimate and $3,650,200 more than the House allowance.

Within the amount recommended, the Committee has included an additional $1,000,000 and 9 positions for the Great Lakes program, thus restoring the effort to $2,390,300 and 24 FTE and retained the laboratory at Grosse Ile, Michigan. These additional funds are needed to support the higher program level provided by the Committee in the R&D and abatement, control and compliance accounts. The Committee expects EPA to provide the management, focus and visibility to this program that it needs in order to effectively address the problems of the Great Lakes. The Committee expects EPA to report back with suggested changes to the program by March 1, 1983.

In addition, the Committee also recommended a reduction of $1,000,000 to be applied to the agency's support services. EPA's 1983 budget request contained $12,240,800 or a 12 percent increase for this activity. The Committee Report noted that the agency has taken a variety of management actions that have saved several millions of dollars. However, the Committee expects that these activities will continue during 1983 and result in additional savings.

Finally, the Committee has added an additional $10,500,000 to cover an expected shortfall in personnel and compensation benefits if EPA maintained its fiscal year 1982 end-of-year work force throughout fiscal year 1983, excluding losses through normal attrition. The Committee believes that EPA's work force should be stabilized and that further reduction, at this time, would be disruptive to the programs. Consequently, the Committee has included bill language prohibiting reductions in force that would result in the use of less work-years than specified in the bill during fiscal year 1983.

Research and Development

The Committee recommended an appropriation of $115,000,000 for EPA's research and development program in fiscal year 1983. This amount is $6,296,200 more than the budget estimate and $6,204,000 less than the House allowance. The increase above the budget request consists of an additional $1,500,000 for Great Lakes research. These funds would be used to continue toxic loading studies to determine the sources and distribution of toxic substances in the Great Lakes. The Committee also included an additional $270,000 for a study of phosphate processing.

In addition, the Committee also recommended an additional $4,526,200 to be applied on a priority basis at the agency's discretion. The Committee has noted that health effects and anticipatory research are two areas where these additional research funds could be productively used.

Abatement, Control and Compliance

The Committee has recommended an appropriation of $365,007,000 for abatement, control and compliance activities. This amount is $53,432,000 more than the budget estimate and $4,068,000 less than the House allowance. The Committee recommended funding above the budget request levels of $43,906,800 for the State grants programs as follows: air (section 105), +$17,780,200; water quality (section 106), +$10,354,000; public water systems program grant, +$5,890,000; underground injection control program, +$1,034,300; hazardous waste management, +$6,563,400; and pesticides and toxic enforcement grants, +$2,284,500. These increases restore all of these programs to their fiscal year 1982 levels. The Committee took this action in recognition of the additional responsibilities placed on the States as a result of the accelerated delegation process.

In addition, the Committee also recommended an additional $1,900,000 for the National Rural Water Association, State rural water training and technical assistance program. This will provide for a slight increase in the program over the 1982 level. The Committee received testimony indicating the value of providing additional training resources to support the huge Federal investment in wastewater treatment facilities. Consequently, the Committee added $2,625,200 to the budget for wastewater treatment manpower training, restoring the program to about the 1982 level. The Committee also concurred with the House in restoring academic training to the $1,000,000 level provided in fiscal year 1982. The Committee included an additional $1,000,000 for the Great Lakes program. This provides a level of $3,500,000 for the Great Lakes program in this account. Furthermore, the Committee also recommended $3,000,000 for the completion of existing projects in the Clean Lakes program.

Finally, the fiscal year 1982 Urgent Supplement Appropriations Act contained language to permit EPA to fund 3 biological treatment facilities where the mechanical plants have suffered structural failure outside the warranty period and where the existing EPA-planned systems have proven to be inoperable by the local municipalities. This year, the Committee included bill language requiring EPA to fund one additional community (Inverness, Mississippi) that already has incurred the cost of replacing such an inoperable system. It is estimated that the replacement costs for this facility are $45,000.

Buildings and Facilities

The Committee concurred with the House in recommending the budget request of $3,000,000 for this account. Repair and improvement projects exceeding $250,000 in estimated cost should not be undertaken

without the specific approval of the House and Senate Committees on Appropriations.

Payment to the Hazardous Substance Response Trust Fund

The Committee recommended $38,000,000 for the Federal payments into the trust fund. The reduction of $6,000,000 from the budget request and the House allowance represents a proportional decrease based on the Committee's recommended level for the hazardous substances response trust fund discussed in the following heading.

Hazardous Response Trust Fund

The Committee recommended a level of $200,000,000 for "superfund" activities. This is $30,000,000 less than the request, the House allowance, and $10,000,000 more than the fiscal year 1982 level. The Committee conducted extensive superfund oversight activities. As part of that oversight, the Committee conducted a 2-day workshop on site selection (March 19 and 20, 1982), held hearings on April 20, 1982 and sponsored a GAO study. In all of these instances, experts testified that the implementation problems associated with the program were not caused by the lack of appropriated funds. In fact, as of June 30, 1982, only $116,200,000 of the $264,700,000 appropriated has been obligated. Currently, the fund is being credited with receipts of $24,400,000 per month, with obligations around $11,700,000 per month.

Public Law 94-580 authorizes $20,000,000, under section 3012, for use by States to conduct State hazardous waste site surveys. Many States have already invested substantial sums on site inspection and evaluation. The Committee included bill language providing the $20,000,000 in order to accelerate the site discovery/assessment process.

In addition, section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act (Public Law 96-510) authorizes the use of funds from the trust fund for medical and research activities to be undertaken by the Department of Health and Human Services. In Public Law 97-216, the Congress earmarked $7,000,000 from the hazardous response trust fund for the Department to carry out its superfund activities during fiscal year 1982. For 1983, the Committee included bill language earmarking $10,000,000. Of this amount, $8,000,000 would be used for continuing staff support at the Department and $2,000,000 for discretionary activities such as health inspections at specific hazardous waste sites.

Construction Grants

The Committee recommended $2,430,000,000 or $30,000,000 above the budget request and the House allowance. The additional $30,000,000 is to be used as authorized in section 201(n)(2) of the Federal Water Pollution Control Act, as amended, for combined sewer overflow. Testimony before the Committee indicated that these funds, and more, could be effectively used during fiscal year 1983 to address serious problems caused by combined sewer overflows into marine bays and estuaries.

The Committee also included bill language to insure that the wastewater treatment plant in San Diego, California is eligible for funding as authorized under section 201(m)(3) of the Federal Water Pollution Control Act, as amended.

Administrative Provision

The Committee deleted a provision inserted by the House which would require EPA to take necessary action to cancel or deny the registration of any pesticide product containing toxaphene. While the Committee understood the concern raised by the House relative to this pesticide, it did not believe that general appropriation bills should be used to regulate the licensing or registration of specific chemical compounds.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

The Committee concurred with the House recommendation of providing the budget request of $926,000 for the activities of the Council.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

The Committee recommended the budget request of $1,839,000 for the Office. The Committee agreed with the House that the heavy reliance on non-reimbursable detailees seriously impairs this Committee's oversight of OSTP activities. While the Committee removed the House bill language prohibiting the use of nonreimbursable detailees after March 31, 1983, it does expect the Office to rely more heavily on outside experts. Consequently, the Committee restored the $261,000 in consultant fees cut by the House. These funds should be applied for both consultants and reimbursable detailees.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Funds Appropriated to the President

Disaster Relief

The Committee recommended an appropriation of $130,000,000 for disaster relief assistance in fiscal year 1983. This amount is $195,000,000 less than the budget estimate and $194,000,000 less than the House allowance.

In fiscal year 1981, obligations of the disaster relief program totaled $228,964,000. At the end of the third quarter of fiscal year 1982, FEMA had obligated only $88,019,000. Therefore, with the funds recommended by the Committee and an estimated carryover of $531,000,000 from previous years, there will be a total of $661,000,000 available for disaster relief assistance during fiscal year 1983.

In addition, the Committee agreed with the House that the natural hazards preparedness planning and hazard mitigation assistance programs should not be funded through the disaster relief fund. However, since both of these programs are designed to assist State and local governments to prepare for and respond to emergencies and disasters, the Committee has provided the requested funds ($1,000,000) for these two activities in the State and local assistance account.

Salaries and Expenses

The Committee recommended an appropriation of $114,616,000 for salaries and expenses in fiscal year 1983. This amount is $2,937,000 less than the budget estimate and $4,244,000 more than the House allowance. The changes from the budget request assume the following: −$5,000,000 general reduction in programs other than fire prevention and control; −$1,200,000 from civil defense; +$850,000 for the U.S. Fire Administration; and +$2,413,000 for the salaries and expenses of the national flood insurance program.

Finally, FEMA's fiscal year 1983 budget assumed no funds for the U.S. Fire Administration. The Committee believes that the activities at the Administration should be continued and recommended $850,000 for salaries and expenses. This level of funding should provide for 20 permanent full-time positions to staff the programs described under the emergency planning and assistance heading.

State and Local Assistance

The Committee recommended an appropriation of $167,731,000 for the State and local assistance activities of FEMA in fiscal year 1983. This amount is $52,000,000 less than the budget estimate and $27,955,000 more than the House allowance.

The changes from the budget request assume the following: −$53,000,000 from civil defense; +$750,000 for natural hazards preparedness planning (this offsets a corresponding decrease in the disaster relief account); and +$250,000 for hazard mitigation assistance (this offsets a corresponding decrease in the disaster relief account).

The Committee arrived at its fiscal year 1983 recommendation by funding only those activities within the civil defense program which have dual civilian/national emergency applications.

In addition, the Committee did not include House bill language limiting earthquake research to $2,000,000. The Committee continues to believe that this is an area where additional work is needed.

Emergency Planning and Assistance

The Committee recommended an appropriation of $173,928,000 for the emergency planning and assistance activities of FEMA in fiscal year 1983. This amount is $14,075,000 less than the budget estimate and $18,301,000 more than the House allowance. The changes from the budget request consist of the following: −$17,000,000 from civil defense programs; −$375,000 from the civil security program; and +$3,300,000 for program activities whithin the U.S. Fire Administration (USFA).

The Committee reduced civil defense in this account from the requested $63,802,000 to $46,802,000 for the same reasons as indicated in the State and local assistance account. In addition, FEMA's fiscal year 1983 budget assumed no funds for the USFA. The Committee believes that the activities at the Administration should be continued and recommended $3,300,000 for programs. The Committee believes the $3,300,000 should be allocated to the following programs: +$750,000 for arson prevention and control; +$1,000,000 for firefighter health and safety; +$1,150,000 for the national fire data system; and +$400,000 for fire rescue service management improvement.

Finally, the Committee has reduced the civil security program from the budget request of $875,000 to $500,000. The Committee believes that many of the activities proposed by FEMA for fiscal year 1983 in this program are already being conducted elsewhere in FEMA.

National Flood Insurance Fund

The Committee recommended $39,159,000 to repay funds borrowed from the Treasury by FEMA to carry out the national flood insurance program in fiscal year 1983. This amount is $2,413,000 less than the budget estimate and the same as the House allowance.

The Committee has noted that the Administration proposed to fund the administrative expenses of the flood insurance program from the national Flood Insurance Fund. The Committee denied this request and directed the Agency to continue funding administrative expenses from the salaries and expenses account. Accordingly, the salaries and expenses appropriation was increased $2,413,000.

Additionally, the Committee included bill language providing that insurance agent commissions and interest on Treasury borrowings are eligible for reimbursement through the fund.

Finally, the Committee continues to support FEMA's efforts to put the flood insurance fund on a more actuarially sound basis. In this respect, I expect FEMA to continue to increase insurance rates as necessary in order to cover a greater portion of claims from premium collections.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

The Committee recommended an appropriation of $1,351,000 for the Consumer Information Center. This is $52,000 more than the budget estimate and the House allowance.

In fiscal year 1982, the Congress provided an additional $30,000 for a study to examine the effects of imposing a charge on consumers ordering free publications through the Pueblo, Colorado distribution facility. The Center's report shows that a charge can be successfully applied to partially offset the costs of providing free publications. In fact, the revenues to the Government are estimated to be about $1,600,000 annually. The Committee, therefore, has directed the Center to charge $1.00 on orders for more than one free publication from the consumer information catalog. Implementation of this charge should begin with the Spring 1983 edition of the catalog and all revenues should be deposited under miscellaneous receipts of the U.S. Treasury.

The Committee, therefore, has provided an additional $52,000 to support public service advertising and other promotional activities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

The Committee concurred with the House in recommending $1,947,000 for the activities of the Office of Consumer Affairs in fiscal year 1983. This an increase of $187,000 above the 1982 appropriation and $40,000 below the budget request. The Committee denied $40,000 of the $151,000 increase requested for space rental costs and has suggested a reduction in space rented in proportion to the decrease in personnel.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Research and Development

The Committee recommended an appropriation of $5,117,800,000 in fiscal year 1983 for the research and development activities of the National Aeronautics and Space Administration. This amount is $216,200,000 less than the budget estimate and $425,000,000 less than the House allowance.

The Committee recommendation was based on the Agency's fiscal year 1983 budget justification with the following changes: $233,000,000 for centaur F upper stage development, procurement and integration and upper stages for the tracking data relay satellite system (+$100,000,000 above the request); $280,000,000 for aeronautical research and technology (+$48,000,000 above the request to be used at the discretion of the Agency)—in determing the use of this add-on, the Committee has suggested that NASA carefully review the findings of the recent report (July 1982) on aeronautics by the National Research Council; $9,000,000 for technology utilization (+$5,000,000 above the request); $664,300,000 for physics, astronomy and planetary exploration (+$38,000,000 above the request, of which not less than $5,000,000 shall be for physics and astronomy)—these additional funds should be used to support existing planetary missions, research and data analysis; $39,900,000 for space applications communications and information systems (+$20,000,000 above the request)—the additional funds are to be applied to the 30/20 gigahertz test and evaluation program; $1,800,000 for the operation of the infra-red telescope facility at Mauna Kea, Hawaii (+$1,800,000 above the request)—in the future, the Committee expects this facility to compete for funding in the National Science Foundation's budget; $1,005,100,000 for space transportation systems operation (−$409,000,000 below the request)—this reduction is consistent with the assumption in the Senate authorization bill (H.R. 5890)—this bill assumes that the reimbursement for launch services on Shuttle flights be increased by DOD in this amount; and −$20,000,000 as a general reduction to be applied at the discretion of the Agency to programs other than those augmented above. Within the amounts available for R&D, the Committee has indicated that it has no objection to NASA requesting a reprogramming to maintain the Centaur G option.

The House included bill language establishing limitations on 9 programs that cannot be exceeded without the approval of the committees. The Committee deleted these "caps" and substituted binding levels for upper stage development and aeronautics. The Committee also established a maximum level for the Space Shuttle (other than space flight operations) at $1,769,000,000.

The Committee endorsed the need for channeling Federal funds into small R&D firms. In order to provide a transition to this new policy, the Committee included language requiring NASA to make $1,570,000 available for the purpose of the Small Business Innovation Development Act. This funding level is based on an estimate of the total dollar value of new R&D contract funds.

Mr. President, in reference to this small business R&D issue. I intend, at a later point, to accept an amendment to strike the Senate proviso. In agreeing to this action, I would like to note that NASA is in a somewhat unique position for two reasons. First, much of the NASA appropriation is committed to programs begun in earlier years, including the Space Shuttle, which is operated as a national system for various users. Further, a considerable portion of the appropriations account labeled "research and development" for NASA is actually for work that is not of a research and development nature. For this reason, the bill language under the heading "research and development" refers to "operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space . . . activities." Although I realize that final implementation of rules and regulations are presently being developed by SBA, OMB and the effected agencies, including NASA, it is my view that the provisions of Public Law 97-219 were intended to apply only to the true research and development activities funded under this heading.

Finally, the Committee retained House language requiring that NASA seek approval of the Committees for a new procurement on the fifth Shuttle orbiter. While the Committee believes that the development of the fifth orbiter may be desirable, a new procurement of this magnitude should not be made without the careful review of the Appropriations Committees.

Construction of Facilities

The Committee recommended an appropriation of $100,000,000 for facilities programs in fiscal year 1983. This amount is the same as the budget estimate and $5,000,000 more than the House allowance. The Committee has noted that NASA's request to OMB was for $164,800,000 and the replacement value of the Agency's physical plant is estimated at $20,000,000,000. The Committee does not believe the reduction proposed by the House would be cost effective in the long run and has, therefore, restored the reduction.

Research and Program Management

The Committee has recommended an appropriation of $1,177,000,000 in fiscal year 1983 for research and program management. This amount is $1,900,000 less than the budget estimate and $8,100,000 more than the House allowance. The Committee expects that the $1,900,000 decrease from the request level will be absorbed in the area of management, operations, and headquarters travel. The requested $7,129,000 increase in the management and operations subcategory was to cover, among other things, anticipated increases in contract rates and the replacement of a small administrative aircraft. The Committee believes that savings can be achieved in these areas.

Finally, the Committee deleted a House provision limiting the number of SES positions to 505. This would be a reduction of 15 positions from the current level of 520. The Committee does not believe that such Congressional limitations are an effective way of controlling costs.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

The Committee concurred with the House in recommending a limitation of $600,000,000 in the amount that may be borrowed from the public or any other sources, except the Secretary of the Treasury, as proposed in the budget estimate. Neither the House nor the Senate bill included the $709,632,000 limitation on direct loans requested by the administration. The Committee believes that the existing borrowing authority limitation of $600,000,000 sufficiently controls the amount of lending to credit unions. The credit limitation would only serve to restrict the turnover rate of the loan portfolio since it is a cumulative limitation.

Finally, the Committee has recommended that the limitation on administrative expenses be reduced from the $1,749,000 requested to $1,368,000. This is the amount that the Facility indicated was required in fiscal year 1983.

NATIONAL SCIENCE FOUNDATION

Research and Related Activities

The Committee recommended an appropriation of $1,055,568,000 for research and related activities. This amount is the same as the budget estimate and $11,632,000 less than the House allowance.

The Committee's recommendation represents an increase of 8 percent over the fiscal year 1982 level. The Committee notes, that at this funding level, the Foundation will be able to support 10,567 grants in this account

as opposed to the 10,523 in fiscal year 1982. At the same time, the Committee notes, with some concern, that the operating costs for the national Antarctic program has increased from $57,500,000 in 1982 to a requested level of $77,400,000 in the 1983 budget. In order to control this growing part of the NSF budget, the Committee included language in this bill limiting NSF funds that can be applied to Antarctic operations to $62,100,000, which will allow for an 8 percent increase over the 1982 level. This action will free up an additional $15,300,000 for use in NSF's basic grant programs. The Committee expects the Foundation to apply the additional resources within the biological, behavioral, social sciences; and for industry/university cooperative projects, which will include research projects, research and institution scientific equipment, fellowships, scholarships, and such other programs as the NSF Director may determine are appropriate to promote academic research and education in the basic sciences and engineering.

In addition, the Committee does not believe that it would be wise to make a decision between the Glomar Explorer or the Glomar Challenger at this time. Although the cost estimates for refitting and operating the Explorer are still being reviewed, the costs are likely to be substantial. The Committee, therefore, included bill language that would require the approval of the Committees on Appropriation before the Foundation commits to outfitting the Explorer.

Finally, the Committee restored funds requested by the Foundation for program development and management in fiscal year 1983 to $63,081,000. The $1,000,000 cut proposed by the House would result in the Foundation reducing its staffing ceiling by an additional 20 average employment (FTE) resulting in a total fiscal year 1983 reduction from the 1982 level of 83 FTE. The Committee considers reduction of this magnitude too severe. Within the increased limitation, the Committee expects the Foundation to make sufficient resources available to implement the post performance evaluation recommendations made by the Committee and the National Academy of Sciences.

Science and Engineering Education Activities

The Committee recommended an appropriation of $15,000,000 for the Foundation's science education activities in fiscal year 1983. This amount is the same as the budget estimate and $25,000,000 less than the House allowance. The level of funding recommended by the Committee should result in a fellowship level of 1,390, of which 500 will be new fellowships. The Committee continues to be concerned with the state of science and engineering education in the United States. The Committee does not disagree with the House that a Federal role in this area is desirable. The Committee's major concern is that this role must be coordinated between various Federal agencies and must be based on a local commitment to improving educational instruction and curricula. In this regard, the Committee looks forward to the report of the Foundation's blue ribbon commission on education.

Special Foreign Currency Program (Scientific Activities Overseas)

The Committee agreed with the House in recommending the budget request of $2,200,000 for the special foreign currency program during fiscal year 1983.

NEIGHBORHOOD REINVESTMENT CORPORATION

The Committee agreed with the House in recommending the budget request of $15,512,000 for the Corporation in 1983. Other funding sources will increase the total available to the Corporation to approximately $18,406,000. The Committee also included bill language permitting other departments, agencies or instrumentalities of the Federal Government to provide funds, services and facilities to the Corporation. This proviso should help decrease the Corporation's dependence on the Federal Home Loan Banks.

SELECTIVE SERVICE SYSTEM

Salaries and Expenses

The Committee recommended an appropriation of $22,986,000 for the salaries and expenses of the Selective Service System. This is $400,000 less than the budget estimate and $600,000 more than the House allowance. The Committee's reduction of $400,000 from the budget request would be taken from the Agency's public information programs. Given that the current compliance rate is over 90 percent, the Committee does not believe that a public information program of the magnitude proposed is required.

DEPARTMENT OF THE TREASURY

Payments to State and Local Government Fiscal Assistance Trust Fund

The Committee agreed with the House in recommending the budget request of $4,566,700,000 for general revenue sharing payments for fiscal year 1983.

OFFICE OF REVENUE SHARING

Salaries and Expenses

The Committee agreed with the House in recommending $6,612,000 for salaries and expenses of the Office of Revenue Sharing.

NEW YORK CITY LOAN GUARANTEE PROGRAM

Administrative Expenses

The Committee agreed with the House in recommending the budget request of $310,000 for the administration of the New York City Loan Guarantee program for fiscal year 1983.

VETERANS ADMINISTRATION

Compensation and Pensions

The Committee recommended an appropriation of $13,430,800,000 for veterans compensation and pensions. This amount is the same as the budget estimate.

Although the Committee recommended the full 1983 budget request, it has recognized that because of a lower than anticipated compensation and pension caseload in fiscal year 1982, there should be an expected carryover of $393,000,000 into fiscal year 1983. However, supplemental requirements in 1983 are expected to use all of this carryover and require an additional $292,000,000 of new budget authority. Furthermore, both the Senate and the House rejected in H.R. 6863 the administration's request to transfer funds from compensation and pensions to the medical care account, because such transfer of entitlement funds should not be encouraged. For both of these reasons, the Committee struck the House provision contained in the construction major projects account, transferring $260,000,000 from compensation and pensions to fund the Minneapolis, Minnesota replacement hospital.

Readjustment Benefits

The Committee has agreed with the House in recommending the budget request of $1,665,800,000 readjustment benefits for fiscal year 1983.

In addition, the Committee deleted a House proviso which would prohibit the use of funds in this account for individuals enrolling in correspondence training after September 30, 1982. The Committee believes that correspondence training represents a cost-effective educational program for those veterans who cannot attend school on a full-time basis.

Veterans Insurance and Indemnities

The Committee has agreed with the House in recommending the budget request of $6,400,000 for this account in fiscal year 1983. This amount will cover the cost to various insurance funds for claims traceable to the extra hazards of service and death claims on policies under waiver of premiums while the insured is on active duty.

Medical Care

The Committee recommended an appropriation of $7,493,824,000 for VA medical care in fiscal year 1983. This amount is $2,055,000 less than the budget estimate and $18,837,000 less than the House allowance.

The decrease of $2,055,000 recommended by the Committee is based on a continuation of the policy established in H.R. 6863 relative to the Agent Orange research program. The funds associated with the research effort have been added to the VA's medical and prosthetic research account. At this level of funding, the average employment (FTEE) in medical care will be 187,546 or 1,259 FTEE above the 1982 level.

The Committee has reiterated its strong support of the VA's vet center program. Last year, the Committee restored the original January budget request of $31,400,000 and 552 staff years for this activity. The 1983 budget request includes $31,400,000 for operation outreach. The Committee included all of these funds for fiscal year 1983, and expects the VA to obligate the funds fully, effectively and efficiently for this activity.

Medical and Prosthetic Research

The Committee recommended an appropriation of $150,329,000 for medical and prosthetic research activities. This amount is $12,536,000 more than the budget estimate and $4,671,000 less than the House allowance.

The additional $12,536,000 recommended by the Committee is composed of the following: +$2,536,000 transferred from the medical care and medical administration and miscellaneous operating expense accounts for use on Agent Orange studies; and +$10,000,000 to be applied by the VA to restore the program back to the fiscal year 1981 level and to provide additional funding to VA's highest priority research. The Committee believes that additional research on patient care and geriatrics are particularly fruitful areas for additional funding.

Medical Administration and Miscellaneous Operating Expenses

The Committee recommended an appropriation of $55,807,000 for medical administration and miscellaneous operating expenses. This amount is the same as the budget estimate and $300,000 less than the House allowance.

The Committee consolidated the Agent Orange research in the medical and prosthetic research account, which will allow an estimated $481,000 in this account to be freed up for other use. Therefore, the Committee has instructed them to add an additional 13 staff years to administer the nurse scholarship program and to continue the Agent Orange project office.

General Operating Expenses

The Committee recommended an appropriation of $691,359,000 for general operating expenses in fiscal year 1983. This amount is $2,000,000 less than the budget estimate and $5,000,000 more than the House allowance.

For fiscal year 1983, the VA requested an increase of over $53,000,000 above the fiscal year 1982 level. The Committee believes that the VA can absorb the recommended $2,000,000 decrease.

Construction, Major Projects

The Committee recommended an appropriation of $409,392,000 for the construction of major projects in fiscal year 1983. This amount is $10,000,000 less than the budget estimate.

The Committee has taken exception to the inclusion by the House of $260,000,000 to fund the Minneapolis, Minnesota replacement hospital. Besides not being in the budget request, the VA has stated that construction on this facility could not begin before fiscal year 1984. The Committee has time and again insisted that the VA develop a priority process that reflects the national construction needs for the entire VA system. Efforts to develop such a process are underway and the action of the House only serves to undercut its development. For the same reasons, the Committee also deleted funding added by the House for the Cleveland clincial addition and the Los Angeles new outpatient clinic.

In addition, the Committee restored the House reduction of $5,000,000 from the advance planning fund. Based on a recent GAO study, the Committee believes that additional emphasis in this area is warranted.

In order not to slow down the process of providing for the new beds at Murfreesboro, Tennessee to support the new Meharry affiliation, the Committee took the highly unusual step, prior to submission of complete justification and authorizing committee action pursuant to section 5004 of title 38, of the United States Code of approving the $1,700,000 to initiate this important project. As this appropriations act proceeds through the Congress, the Committee plans to carefully review the findings and action of the Veterans' Affairs Committees.

Finally, the Committee concurred with the House in using $32,700,000 in funds from prior year appropriations from the construction of major projects in fiscal year 1983. Currently, the VA has approximately $88,700,000 in its major working reserve. This resulted from projects that were completed below their expected costs. In this regard, the Committee also proposed a general reduction of $11,700,000 and expects the VA to use funds from its major working reserve to make up this difference.

Construction, Minor Projects

The Committee concurred with the House in recommending $141,748,000 for the minor construction account. This is a reduction of $50,365,000 below the budget estimate and $39,738,000 above the fiscal year 1982 appropriation. The VA requested $159,248,000 for minor construction projects in 1983. The unobligated balance in the minor construction appropriation is now estimated to be $156,472,000 at the end of fiscal year 1983. Because of the large unobligated balance, the Committee recommended a $50,365,000 reduction in the $87,256,000 increase requested for minor construction projects in 1983. The Committee also changed the House limitation of $32,500,000 for the Office of Construction and recommended a limitation of $32,865,000. The Committee believes that the $365,000 reduction could adversely affect the VA's construction management.

Grants for Construction of State Extended Care Facilities

The Committee concurred with the House in recommending the budget request of $18,000,000 for grants for construction of State extended care facilities in fiscal year 1983. This is an increase of $2,160,000 above the fiscal year 1982 appropriation.

Grants for Construction of State Veterans Cemeteries

The Committee concurred with the House in recommending the budget request of $2,500,000 for grants for construction of State veterans cemeteries in fiscal year 1983.

Grants to the Republic of the Philippines

The Committee agreed with the House in recommending the budget estimate of $500,000 for grants to the Republic of the Philippines. This grant will assure the continued effective care and treatment of veterans at the medical center.

Administrative Provisions

The House added a new administrative provision to the bill establishing a $35,000,000 limitation on the amount of funds the VA may obligate for medical automated data processing services without the approval of the Committees on Appropriations. The Committee retained this provision. While the Committee is in agreement with the direction the Agency is pursuing regarding ADP activities, there are a number of unanswered questions concerning the best system, total cost and the implementation timetable that have not been fully answered.

TITLE III—CORPORATIONS

FEDERAL HOME LOAN BANK BOARD

Limitation on Administrative and Non-administrative Expenses

The Committee concurred with the House in providing a limitation of $24,360,000 on administrative expenses and a limitation of $40,680,000 in non-administrative expenses for the Federal Home Loan Bank Board, as requested by the administration. The Committee is cognizant that the next year will continue to be an extremely difficult period for the Nation's savings and loan institutions and mutual savings banks. The Committee recommended the entire budget request to allow the Bank Board maximum flexibility to develop a regulatory framework to address the industry's problems.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Limitation on Administrative Expenses

The Committee agreed with the House in recommending a limitation of $1,120,000 on the administrative expenses of the Federal Savings and Loan Insurance Corporation. This amount is the same as the budget request.

TITLE IV—GENERAL PROVISIONS

The Committee concurred with all of the general provisions that apply to the Department and agencies funded through this legislation that were contained in the fiscal year 1982 bill (P.L. 97-101). The Committee did, however, delete 2 new general provisions concerning EPA. The deletion of these provisions was done without prejudice in order to consider these provisions by the entire Senate.

At this point, Mr. President, may I very sincerely thank my colleagues from Kentucky, Senator HUDDLESTON, for the pleasure I have had during the last year-and-a-half of working with him on this subcommittee as the ranking minority member, and for the cooperation I have had with him in achieving the budget savings during the last 2 fiscal years. We have saved considerably more money than any other subcommittee of the Appropriations Committee. Without his cooperation and hard work and work of his staff and mine, this simply could not have been accomplished.

So I wish to again thank him very much for his work and efforts during the last year-and-a-half.

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, first of all I wish to thank the distinguished subcommittee chairman, the floor manager of the bill, the Senator from Utah, for those generous remarks. It has been a pleasure working with him on this particular appropriations bill.

The bill includes a total, as he has pointed out, of $47.5 billion in budget authority. And even in these times of enormous Federal expenditures, that still constitutes a substantial sum of money—$47.5 billion. The programs included stretch across a broad spetrum of the needs that exist in this country. And it has been no easy task to try to conform the expenditures for those various programs to the budget restraints that we are and should be—operating under.

So I wish to extend my commendation to the Senator from Utah for the manner in which he and his staff have approached this bill for the diligence that he has brought to it and for the very difficult situations that he has been able to overcome in order to move this legislation.

I am pleased to recommend to the Senate that it approve this fiscal 1983 appropriations bill for the Department of Housing and Urban Development and independent agencies. I think it is significant that this is the first of the 13 appropriations bills that must be passed in order have a budget for the Federal Government during the fiscal year which begins October 1. This, again, I think, indicated the diligent manner in which our subcommittee chairman has approached this particular legislation.

As reported from committee, the bill includes $47.5 billion in budget authority. This is $6.1 billion more than the request, $9.7 billion less than the fiscal 1982 appropriations and $8.9 billion under the subcommittee's section 302(b) allocation under the Congres-

sional Budget and Impoundment Control Act of 1974.

While the comparisons with last year's appropriations and with the subcommittee's allocation appear extremely favorable, it is important to note that, with certain exceptions, principally section 202 housing for the elderly and handicapped and Indian units, there is no funding in this bill for an assisted housing program. The administration has proposed replacing the section 8 program with a new subsidy mechanism, but there is at this time no clear indication of what type of final authorization may emerge. Thus, consideration of an assisted housing program has basically been deferred. Since the entire amount of budget authority for a housing program is shown in its first year, even though the program may extend over 15, 20 or 30 years, the cost of housing programs is great. In fiscal 1982, for example, the appropriation was $13.2 billion, including several rescissions; in fiscal 1981 it was $24 billion. Thus, even with the allocation remaining for the subcommittee only a moderate housing program can be accommodated.

Despite the deferral of funding for an assisted housing program, the committee has recommended funding for a large majority of the HUD programs, as well as for other programs funded by the bill.

The committee has recommended bill language extending the construction deadline for section 8 projects receiving a financing adjustment factor (FAF) from October 1, 1982, until January 1, 1983. Earlier this year, in the urgent supplemental appropriations bill, the FAF was raised to account for high interest rates and the committee provided not only for the use of $3.7 billion in recaptured funds but also $1.7 billion in additional appropriations to cover FAF-eligible projects. This was done to help clear the pipeline of previously approved section 8 projects which had not gone to construction. It is the committee's intent that as many of these previously approved projects as possible move to construction. The additional time is designed to allow this.

For the section 202 housing for the elderly and handicapped program, the committee recommends a loan limitation of $724.8 million, which will provide for 16,000 units. Bill language limits the program to qualified nonprofit sponsors.

The congregate services program is funded at $3.5 million, the same as the House amount.

For public housing operating subsidies, the committee recommendation is $1.288 billion. Based on prior experience, it is unlikely that this will be sufficient to cover formula requirements in fiscal 1983. Consequently, the committee report directs the Department to submit a revised estimate of fiscal 1983 requirements by May 2, 1983. Furthermore, the committee included bill language requiring the Department to obligate each public housing authority's allocation to the authority 45 days prior to the beginning of the authority's fiscal year. The contracts between HUD and the authorities currently include such a provision, but numerous delays in obligating fiscal 1982 funds imposed a severe financial strain upon some local authorities. The bill language is designed to prevent the recurrence of such a situation in fiscal 1983.

The recommendation for housing counseling assistance is $3.5 million, the same as the House amount. This should allow continuation of some 140 counseling programs.

The committee has recommended a limitation of $39.8 billion for the Federal Housing Administration's (FHA) loan guarantee program. This is only slightly below the fiscal 1982 level and reflects the committee's intention that ample mortgage insurance be available should the hoped-for revival in the housing industry occur. The committee report also directs the Department to notify the committee if it appears the limitation will be reached. The committee does not want the limitation to result in any restriction or moratorium on commitments.

For the Government National Mortgage Association's mortgage-backed securities program, the recommended loan limitation is $68.250 billion. As with the FHA program, the committee has included report language directing the Department to notify the committee promptly if it appears the limitation will be reached.

The Solar Energy and Energy Conservation Bank is funded at $15 million under the committee recommendations.

The recommendation for the community development block grant (CDBG) program is $3.456 billion, the same as the budget request. The committee restored the $11 million cut by the House committee from the Secretary's discretionary fund.

Under the committee proposals, the urban development action grant (UDAG) program, is funded at $440 million, the same as in fiscal 1982. The committee restored the reduction made by the House committee in the small cities portion of the program.

The committee has recommended continuing the section 312 rehabilitation loan program, using repayments and other income, rather than new appropriations. It is estimated that $77 million will be available in fiscal 1983 under this agreement.

For the urban homesteading program, the committee has included $12 million, the same as the budget request and House committee allowance.

The recommendation for policy development and research is $18 million. Within this amount, the committee has earmarked $1 million for the Housing Assistance Council (HAC). Over the years, HAC has provided a number of services to small towns, rural areas, and nonprofit housing development corporations which have generally been overlooked by HUD, and often by the Farmers' Home Administration. HAC operates a rural housing loan fund which provides predevelopment credit to enable projects in rural and isolated areas to prove feasibility, obtain financing, and begin construction. It provides technical assistance through training conferences, seminars, workshops, and onsite consultations. And, it conducts an important information program which includes a biweekly newsletter, technical manuals and guides, and analyses of rural housing issues, proposed changes in the operation of housing programs, and regulatory changes. All these activities constitute an invaluable resource for rural areas, such as eastern Kentucky.

For fair housing assistance, the recommendation is $5.7 million, the same as the budget request and the House allowance.

Although the committee deleted the House language prohibiting the use of funds to plan or implement a reorganization of the Department without the prior approval of the Committees on Appropriations, I continue to share a number of concerns which have been expressed, especially those regarding the possible arbitrary nature of proposed reductions in the field. The House Appropriations Committee's surveys and investigations staff has, however, reviewed this matter, and it will be a subject for conference action.

For the work of the Consumer Product Safety Commission, the committee has included $33.5 million, the amount of the budget request and the House committee allowance.

The committee recommendation for the Environmental Protection Agency is $33,699 billion. This includes a restoration of $43.9 million under the abatement, control, and compliance account for the State grants program. This addition brings the State grants program to their fiscal 1982 levels, a move which seems only reasonable in view of the increased responsibilities being assumed by the States. Under this account, the committee has also included $1.9 million for the National Rural Water Association's State and rural water training and technical assistance program. Under the research and development account, the committee added $270,000 for a study of phosphate processing as part of the study of waste streams generated during mining operations.

For the Federal payment to the hazardous substance response trust fund, the recommendation is $38 million, and for hazardous response trust fund or superfund activities, the recommendation is $200 million. The committee report expresses the committee's concern over the slow progress in superfund activity.

The committee included bill language providing that $20 million be used by the States for State hazardous waste site surveys.

The recommendation for the wastewater construction grant program is $2.430 billion, of which $30 million would be used for combined sewer overflows into marine bays and estuaries.

For the Federal Emergency Management Agency (FEMA), the recommendation is $586.2 million. In determining the amount to be provided for civil defense, the committee basically decided to fund those activities which have dual civilian/national emergency use but to defer those which relate solely to national emergency, such as crisis relocation. This results in $181 million for civil defense activities.

Under FEMA's State and local assistance account, the committee has deleted the House committee's limitation of $2 million on earthquake research. Much remains to be done in this area, including work on the New Madrid fault area.

For activities of the U.S. Fire Administration, the committee recommendation is $3.3 million for firefighting health and safety, arson prevention and control, the national fire data system, and fire rescue service management improvement.

The committee rejected the proposal that administrative expenses of the flood insurance program be funded from premiums and instead continued the present policy of funding these costs from the salaries and expenses account. The flood insurance program, while beneficial, has imposed a number of burdens upon flood-prone areas, such as eastern Kentucky. If we are to have such a program, then it must be fair and premiums must remain reasonable. Continuing present policy should help insure that.

For the research and development activities of the National Aeronautics and Space Administration (NASA), the recommendation is $5.1 billion. The committee has funded the Centaur F upper stage for the Space Shuttle. It has added $5 million to the $4 million requested for technology utilization so that the benefits of NASA research and development can be promptly shared with academic institutions, industry and small business and State and local governments. The joint NASA-University of Kentucky project is a prime example of the technology utilization program.

The committee recommendation also includes $39.9 million for space applications communications and information systems. The committee addition of $20 million is designed to support continued work on both the spacecraft and proof of concept for the advanced communications technology program (previously the 30/20 gigahertz program) so that a flight demonstration can be undertaken by the 1987–88 time period. A flight demonstration is necessary by that time if the United States is to remain competitive in the communications field.

The recommendation for NASA's construction of facilities account is $100 million, and for research and program mangement, $1.177 billion.

For the National Science Foundation (NSF), the committee figure is $1.072 billion. Of that amount, $1.055 billion is for research and related activities, $15 million for science and engineering education activities, and $2.2 million for scientific activities overseas.

The Neighborhood Reinvestment Corporation is funded at $15.5 million.

For the Selective Service System, the recommendation is $22.9 million. While the House report addresses the proposed alternative service program, the Senate committee report does not because Senate language was added to the supplemental appropriations bill directing that an appeals process be established within the alternative service program. Because of questions which have been raised, this is an area the committee will undoubtedly want to monitor.

Under the committee recommendations, the revenue-sharing program is funded at $4.566 billion, the same as the fiscal 1982 appropriation. This will provide assistance for more than 39,000 localities.

The compensation and pensions account of the Veterans' Administration (VA) is funded at $13.4 billion under the committee recommendations. For readjustment benefits, $1.665 billion is recommended. Correspondence training would continue to be funded under the Senate committee proposals.

For the medical care account, the committee has included $7.4 billion to treat an estimated 1.3 million patients in fiscal 1983 and to cover an estimated 18.3 million outpatient medical and dental appointments. The medical and prosthetic research efforts are funded at $150 million. This account will fund the agent orange studies. It is also the committee's hope that the VA will pursue additional research in the geriatrics area, including such diseases as Alzheimer's disease.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I am advised now that the minority leader is agreeable to going forward with the unanimous-consent request limiting time for debate on this measure. If it is agreeable to the acting minority leader and minority manager and the manager of the bill, the chairman of the committee, I will put the request at this time.

Mr. HUDDLESTON. Mr. President, this time agreement has been approved by the Democratic leader of the Senate and by the minority and we are prepared to enter into it at the present time.

Mr. BAKER. I thank the acting leader.

TIME LIMITATION AGREEMENT

Mr. President, I ask unanimous consent that on this measure, Calendar Order No. 804, H.R. 6956, the HUD appropriations bill, that it be considered under the following time agreement:

One hour on the bill to be equally divided between the Senator from Utah (Mr. GARN) and the Senator from Kentucky (Mr. HUDDLESTON); 30 minutes on first-degree amendments; 20 minutes on second-degree amendments; 10 minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate; and that the agreement be in the usual form with respect to division and control of time; provided further that no amendment dealing with enforcement or implementation of the Clean Air Act be in order to H.R. 6956; and a 30-minute time agreement on an amendment to be offered by Senators BAKER and BYRD or Senator PROXMIRE dealing with the Senate gymnasiums.

The PRESIDING OFFICER. Is there any objection? I hear none. It is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc except for the amendment dealing with the Veterans' Administration constructing major projects on page 36, lines 4 through 7; that the bill, as thus amended, be regarded for purposes of amendment as original text; and provided that no point of order shall be considered to have been waived by reason of agreement to this order.

The PRESIDING OFFICER. Is there any objection? I hear none. It is so ordered.

The committee amendments considered and agreed to en bloc are as follows:

On page 2, after line 6, insert the following:

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by $179,940,000: *Provided*, That the budget authority obligated under such contracts shall be increased above amounts heretofore provided in appropraiation Acts by $3,799,920,000:

Provided further, That of the budget authority provided herein, $1,000,000,000 shall be for the modernization of existing public housing projects (section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437l)), $703,920,000 shall be for the development or acquisition cost of public housing for Indian families, and $2,096,000,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q): *Provided further,* That if the budget authority deferred until October 1, 1982, for the modernization of 5,073 vacant uninhabitable public housing units is less than $89,321,727, an additional amount equal to the difference between $89,321,727 and the amount deferred, if any, shall be made available for that purpose from authority which was provided by prior Acts of Congress and is recaptured or deobligated during fiscal year 1983, before such authority is made available for any other purpose: *Provided further,* That of the budget authority obligated for the development of public housing, which was provided by prior Acts of Congress and is recaptured or deobligated during fiscal year 1983 and which is not needed for purposes of the preceding proviso, 70 per centum shall be made available for the modernization of existing public housing projects: *Provided further,* That any amount remaining on September 30, 1982, from the contract authority and budget authority made available for use as provided in the third proviso under the heading, "Annual Contributions for Assisted Housing (Rescission)", in the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216), shall remain available for obligation in accordance with the terms of such proviso, except that the Agreement to Enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to January 1, 1983: *Provided further,* That any balances of authorities remaining at the end of fiscal year 1982, together with any balances becoming available for obligation in fiscal year 1983, shall be added to and merged with the authority provided herein and made subject only to terms and conditions of law applicable to authorizations becoming available to fiscal year 1983: *Provided further,* That any balances of authorities initially made available prior to the enactment of this Act which are or become available for obligation in fiscal year 1983 shall not be subject to the requirements of section 5(c) (2) or (3) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and such balances, together with the authorities provided in this Act, shall not be subject to the requirements of the fourth sentence of section 5(c)(1) of such Act or section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further,* That with respect to newly constructed and substantially rehabilitated projects under section 8 of the United States Housing Act of 1937, as amended, during 1983, the Secretary shall not impose a percentage or other arbitrary limitation on the cost and rent increases resulting from increased construction cost in exercising the authority to approve cost and rent increases set forth in section 8(1) of such Act: *Provided further,* That no funds provided under this or any other Act shall be used to terminate a reservation of contract authority for any project under section 8 of the United States Housing Act of 1937, as amended, on account of the inability of the developer or owner of that project to obtain firm financing, unless such termination occurs no less than twenty-four months following the date of initial reservation of contract authority for such project: *Provided further,* That no authorities available for obligation in fiscal year 1983 may be used (A) to provide for the initial reservation for additional newly constructed units under (i) the section 8 housing assistance payments program (other than assistance used in connection with section 202 of the Housing Act of 1959), or (ii) the public housing program (other than assistance for Indian families); or (B) to execute annual contributions contracts for existing housing under 24 CFR 882, subparts A and B (other than for units converted from section 23 to section 8 under 24 CFR 881.123 and units converted to section 8 from section 101 of the Housing Urban Development Act of 1965 (12 U.S.C. 1701s)), for a term longer than sixty months.

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1983 by not more than $105,160,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

On page 6, line 13, strike "$453,000,000", and insert "$724,800,000";

On page 7, line 19, strike "$1,350,000,000", and insert the following: "$1,288,000,000: *Provided,* That the amount payable to each public housing agency shall be obligated at least forty-five days prior to the beginning of the public housing agency's fiscal year: Provided further, That payments made as a result of the amounts so obligated will begin during the first month of the public housing agency's fiscal year, and shall be made in a lump sum payment to public housing agencies receiving $15,000 or less, shall be made quarterly to public housing agencies receiving over $15,000 and less than $60,000, and shall be made monthly to public housing agencies receiving payments of $60,000 or over."

On page 9, line 20, strike "$40,000,000,000", and insert "$39,800,000,000";

On page 11, line 12, strike "$25,000,000", and insert "$15,000,000";

On page 11, line 21, strike "$3,445,000,000", and insert "$3,456,000,000";

On page 12, line 2, strike "Provided further", through and including the end of line 4;

On page 12, line 13, strike "$340,000,000", and insert "$440,000,000";

On page 12, line 14, strike "of which", through and including "Act," on line 15;

On page 12, line 22, strike "1981", and insert "1982";

On page 14, line 9, strike "$20,000,000", and insert "$18,000,000";

On page 14, line 24, strike "$576,224,000", and insert "$575,223,000";

On page 15, line 1, strike "Provided", through and including the end of line 5;

On page 17, line 1, strike "three", and insert "two";

On page 17, line 2, strike "$6,689,000", and insert "$6,682,000";

On page 17, line 19, strike "$544,963,000", and insert "$548,613,200";

On page 17, line 23, after "(42 U.S.C. 6913)", insert the following: *"Provided further,* That the funds provided by this appropriation shall be used to pay for the employment of at least 9,050 permanent, full-time equivalent workyears; *Provided further,* That the Agency shall not institute a reduction in force or any other measure which results in a level of workyears lower than 9,050 permanent, full-time equivalent workyears."

On page 18, line 6, strike "$121,204,000", and insert "$115,000,000";

On page 18, line 10, strike "$369,075,000", and insert "$365,007,000";

On page 18, line 18, after "4009", insert the following: *": Provided further,* That notwithstanding any other provision of law, Inverness, Mississippi shall be reimbursed for the costs incurred for the construction of a hydrological control release lagoon.

On page 19, line 7, strike "$44,000,000", and insert "$38,000,000";

On page 19, line 12, strike "$230,000,000", and insert "$200,000,000";

On page 19, line 18, after "96-510", insert the following:

Provided further, That of the funds appropriated under this head, $8,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the Trustee of the Fund, as outlined in section 223(b) of the Act: *Provided further,* That for purposes of carrying out section 3012 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6933), as added by Public Law 96-482, $20,000,000, from the funds provided under this head, to remain available until September 30, 1984.

On page 20, line 11, after "amended,", insert "including sections 201(n)(2), and 201(m)(3)";

On page 20, strike line 15, through and including line 24;

On page 21, line 20, strike "$1,578,000", and insert "$1,839,000";

On page 21, line 20, strike "Provided", through and including the end of line 24;

On page 22, line 7, strike "$324,000,000", and insert "$130,000,000";

On page 22, line 22, strike "$110,392,000", and insert "$114,616,000";

On page 23, line 3, after "amended", insert "the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.)";

On page 23, line 6, strike "$139,776,000", and insert "$167,731,000";

On page 23, line 6, strike "Provided", through and including the end of line 8;

On page 24, line 3, strike "$155,627,000", and insert "$173,928,000";

On page 24, line 20, strike "$1,299,000", and insert "$1,351,000";

On page 25, line 12, strike "$1,799,000,000", and insert "$1,769,000,000";

On page 25, line 12, strike "Shuttle,", and insert "Shuttle and";

On page 25, line 13, strike "$1,815,000,000", and insert "$1,369,000,000";

On page 25, line 14, strike "(3)", through and including "Augmentation" on line 20;

On page 25, line 21, strike "$5,542,800,000", and insert $5,117,800,000";

On page 25, line 23, after "1984:", insert the following: *"Provided,* That $280,000,000

shall be made available for aeronautical research and technology, that $174,000,000 shall be made available for design, development, procurement, and other related requirements of liquid hydrogen-liquid oxygen upper stages (Centaur F) for use in launching the Galileo and Solar Polar spacecraft in 1986, and that not more than $1,570,000 shall be made available for implementing Public Law 97-219:"

On page 26, line 15, strike "$95,000,000", and insert $100,000,000";

On page 27, line 18, strike "$1,168,900,000", and insert $1,117,000,000";

On page 28, line 1, strike ": Provided", through and including the end of line 3;

On page 28, line 25, strike "$62,081,000", and insert $63,081,000";

On page 29 line 5, strike "; $1,067,200,000", and insert "$1,055,568,000";

On page 29 line 15, after "proportionally", insert the following: *"Provided further,* That of the funds appropriated under this head, not more than $62,100,000 shall be available for all operational activities in the United States Antarctic Program: Provided further, That no appropriated funds contained herein shall be available for the Advanced Ocean Drilling Program without the approval of the Committees on Appropriations.

On page 30, line 3, strike "$40,000,000", and insert "$15,000,000";

On page 30, line 25, after "$15,512,000", insert the following:

Provided, That notwithstanding "any other provisions for this or any other Act, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan Banks, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration or any other department, agency or other instrumentality of the Federal Government may provide to the Neighborhood Reinvestment Corporation such funds, services, and facilities as they deem appropriate, with or without reimbursement, to achieve the objectives and to carry out the purposes of the Neighborhood Reinvestment Corporation Act."

On page 31, line 19, strike "$22,386,000", and insert "$22,986,000";

On page 33, line 7, strike "Provided", through and including line 16;

On page 34, line 16, strike "$7,512,661,000", and insert "$7,493,824,000";

On page 34, line 22, strike "$155,000,000", and insert "$150,329,000";

On page 35, line 6, strike "$56,107,000", and insert "$55,807,000";

On page 35, line 18, strike "$686,359,000", and insert "$691,359,000":

On page 35, strike line 20;

On page 36, line 24, strike "$32,500,000", and insert "$32,865,000";

On page 49, strike line 8, through and including line 2 on page 50.

(The following proceedings occurred earlier and are printed at this point by unanimous consent:)

Mr. BAKER. Mr. President, will the chairman of the committee grant me a convenience?

Mr. GARN. Yes.

Mr. BAKER. I hate to do this, but I have other matters that I have to attend to. I have announced, as has the minority leader, that we are going to put the gymnasium amendment on the first bill that came along, and this is it. I understand there are committee amendments and I would ordinarily wait and have to wait until the committee amendments are completed. But if the managers will permit me, I would like to put that request at this time.

UP AMENDMENT NO. 1280

Mr. President, I ask unanimous consent that it be in order at this time to offer an amendment relating to gymnasiums as provided for in the unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself and Mr. ROBERT C. BYRD proposes an unprinted amendment numbered 1280.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. .(a)(1)Notwithstanding the directive of the Senate Office Building Commission of March 19, 1982, and notwithstanding any other provision of law, the Architect of the Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building.

(2) The Architect of the Capitol is authorized to obligate and expend from the construction contingency funds for the Hart Senate Office Building amounts which are prohibited to be obligated, committed, or expended by the first paragraph of this subsection for such other necessary expenses relating to the completion of the Hart Senate Office Building as the Architect of the Capitol deems necessary.

(b) No funds may be expended for the operation of the physical fitness facility in the Dirksen Senate Office Building after the date of enactment of this Act.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, I yield myself such time as I may utilize, and I will not utilize very much.

Mr. President, yesterday when we stripped the debt limit it also stripped the gymnasium amendment which was adopted by the Senate. Both the minority leader and I indicated that we would restore that amendment, and that is what is being done here. The amendment is identical in language and effect to the amendment that was added to the debt limit. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee (Mr. BAKER).

The amendment (UP No. 1280) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the action on this measure appear following the adoption of the committee amendment in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the managers and I thank all Senators for permitting me this time.

Mr. President, I ask unanimous consent that the gymnasium amendment may remain open for cosponsors for the remainder of this calendar day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Additional cosponsors of UP amendment No. 1280 offered by Mr. BAKER and Mr. ROBERT C. BYRD are: Mr. PROXMIRE, Mr. SASSER, Mr. GARN, Mr. HUDDLESTON, Mr. WARNER, Mr. LEVIN, Mr. PERCY, and Mr. CHAFEE.

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, I yield myself such time as I may require.

UP AMENDMENT NO. 1281

Mr. HUDDLESTON. Mr. President, I would like to express my support for the technical amendment approved by the Appropriations Committee which allows any agency, department or instrumentality of the Federal Government to provide funds as well as services and facilities to the Neighborhood Reinvestment Corporation.

To further clarify the intent of the committee, I am offering an amendment that would specifically authorize financial contributions by the Board of Governors of the Federal Reserve System and the Federal Reserve banks to the Neighborhood Reinvestment Corporation. With this purpose in mind, I send to the desk the following amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1281.

On page 31, line 4, after the word "Banks," insert "the Board of Governors of the Federal Reserve System and the Federal Reserve Banks,".

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. Mr. President, I yield to the manager of the bill.

Mr. GARN. Mr. President, on behalf of the majority, I am happy to agree to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1281) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1282

(Purpose: Reduce funding for civil defense to authorization level)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1282.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, line 22 strike "$114,616,000" and insert "$112,616,000".

On page 23, line 6 strike "$167,731,000" and insert "$157,291,000".

On page 24, line 3 strike "$173,928,000" and insert "$157,550,000".

Mr. PROXMIRE. Mr. President, subsequent to the committee markup on the HUD appropriations bill, the conferees on the Defense Department authorization bill for 1982 (S. 2248), agreed to authorize $152,322,000 for the civil defense program. This amount is $100,000,000 below the agency's fiscal year 1983 budget request and $28,818,000 below the Senate Appropriations Committee's recommendation. My amendment would reduce the level of funding for civil defense to the authorization level. Specifically, the amendment assumes that FEMA would provide $92,900,000 for State and local assistance, $31,900,000 for emergency planning and assistance, and $27,522,000 for salaries and expenses.

Mr. GARN. Mr. President, as I understand it, this amendment will bring funding for civil defense to the authorized level. The $152,322,000 will provide funding for those activities within the civil defense program which have dual civilian/national emergency applications. Furthermore, within the funds provided in the salaries and expenses account and the agency's attrition rate of 10 percent over the last 2 years, FEMA will be able to provide 10 additional FTE for the civil defense program in fiscal year 1983. Therefore, I would be glad to accept this amendment on the part of the majority.

Mr. HUDDLESTON. Mr. President, I have no problem in accepting this amendment. As I noted in my opening statement, we sought to fund activities which have a dual civilian and national emergency application. I understand that the authorizing committee generally did the same, although at a slightly lower rate.

We are pleased to join with the floor manager in accepting this amendment, which simply conforms the appropriation to the final authorization.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1282) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. MATHIAS. The House has added $900,000 to the EPA appropriations bill to begin implementation of the $27-million Chesapeake Bay program. I urge my colleagues in the Senate to follow suit. The program, mandated by the EPA Appropriations Subcommittee 6 years ago, is due to be completed in January 1983. Therefore, these funds will not be used for further research, but to put to use the findings of the study in order to effectively manage the bay.

Continued Federal presence on the bay is imperative because of the interstate nature of the watershed. For the first time in recent memory, Maryland, Virginia, and Pennsylvania have worked together in amity and cooperation on the bay program. In fact, this has been an outstanding example of interstate cooperation. We have reason to believe, however, that without further Federal involvement, this relationship may dissolve. One of the recommendations of the program is to devise an institutional arrangement to continue the Federal-State partnership. The States have already pledged their support and commitment to share in the cost. This money would provide the Federal share.

Mr. SARBANES. I want to underscore the importance of the EPA Chesapeake Bay program to the Chesapeake Bay itself—our Nation's greatest estuarine system—and to the larger effort to understand better the effects of pollution and urbanization on all our estuaries. Under the EPA bay program, extensive research was carried out on the effects of excess nutrients and toxic chemicals on the bay's water quality and on the status of the bay's aquatic grasses—so important to finfish and shellfish resources.

The research was conducted on a State and Federal cooperative basis, and the knowledge gained is of national importance, both in terms of future management of the tremendous Chesapeake Bay ecosystem itself and in terms of our Nation's overall water quality improvement strategy. We cannot afford to squander the opportunity to establish sound management options utilizing the data gained from the EPA bay program.

Mr. GARN. I have followed the program closely and believe it has been a wise use of Government funds. For that reason, last year the subcommittee added $1 million to insure a thorough completion of the study. Having already expended $27 million, I believe it is incumbent upon us to insure that the results of the program are put to good use.

Mr. MATHIAS. We have identified a number of things that need to be done in 1983 to capitalize on the program including: Maintenance of the computer base; design and start up of a monitoring program; staffing of an EPA Chesapeake Bay liaison office in Annapolis; and a continuation of the resource user program. We must do everything we can to insure that the progress made to date is reinforced through continuation of the above activities. This should not be just another research program left on the shelf to collect dust.

The program has provided us with many answers to questions about the dynamics of the bay's water quality. The information developed has national relevance. The program may have raised other questions about this ecosystem which future science should address. If we are to reap the full benefit from our interest in this program, I urge the Senate accept the House addition of funds for this program at this critical transition period.

Mr. GARN. The Senate added $64.2 million above the President's request to the appropriations bill for HUD and independent agency programs. I feel at this point we cannot afford to add on funds to the bill. However, I reiterate my sincere interest in the program and intend to do all I can to find enough savings in the bill to accommodate these future activities on the bay during our conference committee meeting with the House.●

ASSISTED HOUSING FUNDING

● Mr. DODD. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman of the subcommittee concerning the level of funding for assisted housing programs in the pending bill. First, let me begin by recognizing the difficulty which the subcommittee faced in considering these programs in the absence of an

authorization bill. I am privileged to sit on the Committee on Banking, Housing, and Urban Affairs which is most ably chaired by the Senator from Utah. Our committee did consider and report a comprehensive authorization bill for the upcoming year with strong bipartisan support. I know the chairman has every intention of attempting to move this legislation to enactment. Difficulties in the other body, however, make it questionable whether such legislation will be enacted this year. This lack and future uncertainty as to enactment of an authorization bill and the effect of this situation on the appropriations for assisted housing programs is of great concern to me. As I understand the situation, while the budget resolution provides approximately $10.4 billion for these activities in fiscal year 1983, the House appropriations bill deferred all action on this account and the Senate bill provides only $3.8 billion due to the present lack of authorizing legislation. I have several questions about this situation which I would like to pose to the subcommittee chairman.

First, am I correct that the administration has stated that it will not oppose the subsequent appropriation for these programs so long as the amount conforms to the first budget resolution?

Mr. GARN. That is my understanding.

Mr. DODD. Assuming the enactment of an authorizing bill prior to adjournment of this session, which is certainly the course of action we all prefer, is it the chairman's intention that these funds be appropriate prior to adjournment? The chairman is well aware of the leadtime required in obligating housing funds and the fact that we may be authorizing new programs which of necessity will require the development of administrative regulations and procedures. For these reasons, I believe it is essential that the Department be provided with these resources as early as possible in the fiscal year.

Mr. GARN. If there is an agreement reached on the structure and scope of the new housing programs and the President indicates his intent to sign such legislation, I would expect that a housing supplemental would follow shortly thereafter.

Mr. DODD. Finally, if there is no authorization legislation, what are the prospects and timing of appropriating the additional funds provided in the budget resolution? Given the possibility that additional funds will not be provided for the section 8 new construction and rehabilitation programs, would it be possible to consider modest funding for certain new initiatives so as to mitigate such a glaring void in Federal housing policy?

Mr. GARN. Such a possibility always exists. However, I believe that we should wait until we have a housing package that has been approved by the Congress before we proceed in a piecemeal manner.

Mr. DODD. I thank the chairman for his cooperation and you can be assured of my support for resolving this situation by working for the enactment of authorizing legislation consistent with already established budget ceilings.●

Mr. CRANSTON. Mr. President, if the Senator would yield, I would like to raise two questions concerning the Appropriations Committee's recommendation that $30 million be appropriated, as authorized by section 201(n)(2) of the Federal Water Pollution Control Act, to address the problems caused by combined sewer overflows into marine bays and estuaries. My first question is about the list of eight communities which appears on the top of page 48 of the committee report. As the Senator is aware, the city and county of San Francisco currently has a substantial problem with overflows from its combined sewer system into San Francisco Bay. San Francisco's plans contain a cost estimate of $350 million to correct this problem. Indeed, the report last year by the Committee on Environment and Public Works which proposed an authorization of $200 million to deal with the combined sewer overflow problem specifically mentioned the overflows into San Francisco Bay as an example of the need for special funding. San Francisco, however, is not on the list of eight communities appearing in the Appropriations Committee's report. I want to be sure that this omission in no way prejudices San Francisco's 201(n)(2) grant application.

Mr. GARN. The distinguished Senator from California is quite correct. The list which appears in the Senate report is merely a preliminary list provided to the committee by EPA of communities which EPA expects will make application for 201(n)(2) funds. The presence of a community on that list is in no sense intended by the committee as an endorsement of those projects over others which do not happen to be on the list. Our purpose was to buttress the need for at least the $30 million appropriation contained in the bill. The committee contemplates that promptly upon enactment of this bill, EPA will publish in the Federal Register the policies which will govern its assessment of grant applications under section 201(n)(2). EPA will then set an appropriate deadline by which time applications must be filed by the States. The committee fully expects that EPA will act promptly on the grant applications so that work can commence on appropriate projects before the end of this fiscal year.

Mr. CRANSTON. I appreciate the remarks of the Senator from Utah. I am, however, concerned by the small amount being appropriated, given the $200 million authorization signed by the President less than 9 months ago and the extensive needs demonstrated in the committee report. I, therefore, want to ask whether an effort can be made to appropriate the full $200 million authorized beginning in fiscal year 1984.

Mr. GARN. As the Senator from California is aware, I am not in a position to commit to an increase in funds at this time. The subcommittee will be giving careful consideration to an appropriate funding level in fiscal year 1984 in connection with our consideration of EPA's fiscal year 1984 budget.

SOLAR BANK

Mr. HUDDLESTON. I would like to raise a question regarding the solar energy and conservation bank. The bank, I believe, was authorized by the Banking, Housing, and Urban Development Committee, of which the Senator from Utah is chairman.

Mr. GARN. My colleague from Kentucky is correct. The Senate Banking Committee adopted what is now title V of the Energy Security Act when it was proposed by Senator TSONGAS of Massachusetts. The committee was concerned that there be some balance in securing energy independence, particularly as escalating energy costs affected cities.

Mr. HUDDLESTON. As far as the Senator knows, has it ever been the intention of either the authorizing or appropriations committee to preclude cities from being directly eligible for the bank's programs?

Mr. GARN. No; the act specifically defines local governments which provide loans for housing, rehabilitation, energy conservation, or solar improvements as eligible. The committee, now chaired by a former mayor, specifically recognizes the experience and capacity of cities which operate section 312 rehabilitation programs, and community development block grant loan programs, to be designated as eligible financial institutions.

Mr. HUDDLESTON. I thank my colleague from Utah for the information. I do have one further question. Is it the intention of the committee that, in allocating the bank conservation subsidies, the Department create a new program or use existing programs?

Mr. GARN. In my view, these limited funds should be used with maximum efficiency, both by the administering agency and by the recipient. I believe there is adequate experience within HUD's Office of Community Planning and development to administer the program at the Federal level, so that there is no need to create any new bureaucracy. Likewise, State

housing finance agencies and local governments have considerable experience with rehabilitation loan programs. It only makes sense to take advantage of that capacity and experience rather than to encourage the creation of new offices or programs within the State.

ON EPA APPROPRIATIONS

Mr. METZENBAUM. I thank the distinguished Senator from Utah.

EPA has designated several locations in my State of Ohio as hazardous enough to warrant immediate cleanup under its Superfund program.

I wish to call attention to EPA activities at two of these sites, both of which happen to be located only 6 miles apart in Ashtabula County—the Poplar oil site in Jefferson and the Kraus-Webb site in Rock Creek.

EPA has already expended substantial sums of money and has devoted much time to the cleanup of these hazardous waste sites. Unfortunately, the actual removal of hazardous materials from these locations is far from complete. As a result, area residents in both communities are deeply alarmed, and rightfully so, about the potential health threats which these sites may be causing them.

It is up to EPA to once and for all put an end to the fear and uncertainty which surround these two sites. EPA must secure the sites so that the people who live near them are no longer in danger and it must determine whether the hazardous materials have caused or are causing health problems.

With respect to the Poplar oil site, EPA has already spent close to 85 percent of a designated $1 million in emergency Superfund money to remove, among other things, PCB-contaminated oil from the site. Yet, EPA officials are now telling local residents that they do not have enough money to finish the job.

In Rock Creek, EPA has spent several thousand dollars to conduct tests on the hazardous materials located at the site of a former fertilizer company. As EPA takes its time compiling these test results, more and more area residents are exhibiting similar health-related problems, such as nausea and dizziness. These problems are widespread enough—two weekends ago nine people went to the hospital with these very ailments—to warrant a prompt and thorough EPA investigation.

I hope, therefore, that the chairman can assure me that the committee expects the EPA to act expeditiously to complete the work already begun and to determine once and for all the true health consequences for area residents.

Mr. GARN. I thank the Senator from Ohio. I understand the severity of the situation as you described. I assure you that it is the committee's intent that EPA fully and promptly meet its statutory commitments to the residents of communities like those you described in Ashtabula County.

Mr. President, I ask unanimous consent that a status report for Ohio delegation on Laskin Poplar and Kraus-Webb sites be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATUS REPORT FOR OHIO DELEGATION ON LASKIN POPLAR AND KRAUS-WEBB SITES

Laskin/Poplar, Jefferson, Ohio, EPA has obligated $1.165 million for surface cleanup work at Laskin/Poplar.

Contractors began work at the Site on July 7, 1982.

To date, all contaminated oil (about 300,000 gallons) has been removed from the site and incinerated in El Dorado, Arkansas.

Other removal work underway involves removal solidification disposal of sludge from Ponds 18 and 20; transfer of contaminated soils from Pond 18 to tank 4, capping of Tank 4 and Pond 18; stabilization of north wall of Pond 20; and covering Tank 3. These actions will be taken as far as remaining finances allow. Any remaining work will be undertaken as part of remedial response. (The site is listed on the Expanded Eligibility List).

About 4 weeks of work remains in the current cleanup contract.

Kraus-Webb—EPA currently has initiated action at only one site in Rock Creek, Ohio, the Old Mill site. The site was once owned by a Mr. Webb. We are aware that another site owned by Mr. Kraus is of concern to local residents, but has not been designated for action under Superfund. The status of the Old Mill site is as follows:

EPA has obligated $50,000 for a removal action at Old Mill.

To date, approximately 500 of 1,200 drums have been removed by generators.

Remaining drums have been sampled and analyzed.

On September 21, 1982, the OSC required an additional $106,000 to complete the drum removal. This request is under consideration in EPA.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator state on whose time the quorum call will be charged?

Mr. GARN. Mr. President, I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1283

(Purpose: Expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1283.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

The Senate finds—

(1) the Soviet union is proceeding with its plan to build the trans-Siberian pipeline, known as the Yamal Pipeline;

(2) there is Senate testimony that massive use of forced labor may be used by the Soviet Union to complete its construction;

(3) there are first-hand dissident reports that there are four to seventeen million Soviet citizens now being held in some 2,000 work camps in the Soviet Union and that there are persistent published reports of agreements to deport forcibly up to a half-million laborers from Vietnam to Soviet Union concentration camps in direct violation of international agreements;

(4) the Vietnamese Government under the 1973 Paris Peace Agreements which were signed by former Secretary of State Rogers and North Vietnamese Foreign Minister Nguyen Duy Trinh guaranteed freedom of residence and freedom of work;

(5) there is concern that political prisoners from Poland and other Soviet satellite countries may also be forced to work on the Yamal Pipeline;

(6) there have been estimates by Soviet dissidents of enormous loss of lives of workers forced to do the heavy, dirty, dangerous work in Soviet labor camps under subhuman conditions;

(7) if allegations of forced labor prove to be true, the participation of the West in furnishing either technology or financing to make the construction of the pipeline possible is tantamount to unwitting collaboration by the West in one of the most massive abuses of human rights in history;

(8) the United States stands, as it has always stood, in the forefront of the struggle for freedom and dignity of every human being:

Now, therefore, it is the sense of the Senate that—

(1) the Secretary of State should—

(A) investigate the extent to which forced labor will be employed and human rights violated in the construction of the trans-Siberian pipeline and to cooperate with other Western nations which also seek to investigate such violations; and

(B) report back to the Congress within 30 days with his preliminary findings and with a final report by January 1, 1983;

(2) the heads of the appropriate Federal agencies should take the steps necessary to assure that the United States is abiding by existing treaties respecting the importation of goods produced with slave labor.

The PRESIDING OFFICER. Without objection, the amendment will be in order.

Mr. ARMSTRONG. Mr. President, the amendment which I have sent to the desk calls on the State Depart-

ment to investigate the extensive charges that forced laborers and many political prisoners are being kept in some 2,000 camps across the Soviet Union to work on the trans-Siberian Yamal gas pipeline, and other similar projects within the U.S.S.R.

My proposal also calls for an investigation of the charges that some 500,000 Vietnamese workers are being forced to relocate over the next 5 years to the Soviet Union.

This amendment and the profound questions which it raises are an appeal to the conscience of America and the world.

During the last year, there have been persistent reports in such publications as the London Economist, the Wall Street Journal, and others, that workers, living in subzero temperatures and under unclean and inhumane conditions, are expected to, in the future, provide much of the unskilled labor, land clearing, equipment moving, and so on, that is needed to build projects such as the 3,600-mile, $10 to $14 billion Siberia to West Germany pipeline.

Mr. President, any nation considering or willing to participate in such a Soviet venture should favor a thorough investigation of these charges. If true, they raise the question of whether or not agreement to participate in one way or another in the pipeline project makes such a nation an accomplice in a massive violation of human rights.

Mr. President, on June 18, the Senate Banking Subcommittee on International Finance held a special oversight hearing on the proposed trans-Siberian natural gas pipeline. The hearings were the first official response by any government body within the Western Alliance to the grave charges that the pipline is being built with what can only be accurately described as slave labor.

The subcommittee heard from four witnesses whose testimony I have briefly summarized and would like to insert into the RECORD at this point. This was the testimony of Mikhail Makarenko, who served more than 11 years in Soviet labor camps; of Le Thi Ahn of the Vietnamese Information Bureau, and Mr. Doan Van Toia, author of the book the Vietnamese Gulag, and of the former Polish Ambassador to Japan, Mr. Zdislaw Rurarz, who defected from his country at the time martial law was imposed under threat of the Soviet Union.

Mr. President, I ask unanimous consent to have printed in the RECORD a brief summary of the testimony which they presented.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

Mikhail Makarenko, who served more than 11 years in Soviet labor camps, mostly between 1970 and 1978, and who testified on conditions in the camps today. He presented oral, written and documentary film testimony that four to 17 million men, women and children—arrested mostly for political offenses—are now engaged in forced labor in the Soviet Union. Mr. Makarenko testified that between 500,000-600,000 prisoners die every year in projects like the Yamal pipeline from starvation, severe cold, disease and hazardous working conditions. Mr. Makarenko said the nutrition provided for these "hard labor" prisoners is often lower than half the amount received by prisoners in the Nazi death camps of Auschwitz and Buchenwald.

Ms. Le Thi Ahn of the Vietnamese Information Bureau and Mr. Doan Van Toai, author of the "Vietnamese Gulag," told the subcommittee that an estimated 500,000 Vietnamese are being sent from so-called "re-education camps" in Vietnam to do forced labor in the Soviet Union under agreements between the Soviet and Vietnamese regimes. Mr. Toai, a former official of the National Liberation Front, was imprisoned by the North Vietnamese when he refused to go along with their Stalinist policies after the fall of South Vietnam. Following his release from prison, he wrote his book outlining the result of an arrangement of sending forced labor to the Soviet Union in payment for Vietnam's war debt to the Soviets. Ms. Anh presented letters from relatives of Vietnamese now held in Soviet labor camps. She brings with her today an actual letter from one of the internees, which she obtained through Vietnamese sources in a third country. According to Ms. Ahn and Mr. Toai, many of these prisoners are political refugees—the tragic "boat people" of Vietnam who were picked up at sea by Soviet naval and merchant ships and routinely interned in the Soviet Union. We will have more to say on this subject later this morning.

Our last witness, was Mr. Zdislaw Rurarz, the former Polish ambassador to Japan. He is an internationally known economist—holder of a Ph. D. and two post doctoral degrees from the Central School for Planning and Statistics in Warsaw. Prior to assuming his ambassadorial post, he served as economic advisor to the Chief of the Polish Communist Party, as Poland's permanent representative to the general agreement on tariff and trade negotiations, and as the economic attaché to the Polish Embassy here in Washington.

Dr. Rurarz testified as an economist and as a former high Communist official that the Yamal pipeline must—like all major construction projects undertaken in the Soviet Union—necessarily be built with conscript labor. Dr. Rurarz cited economic evidence strongly suggesting that without the additional billions of dollars in hard currency which the Soviets expected to earn from the pipeline deal, the entire Soviet system—including its network of concentration camps—could be paralyzed.

Mr. ARMSTRONG. Mr. President, since the June 18 hearings, a number of significant developments have occured. Just a few hours after the Senate hearing, President Reagan announced imposition of his long-considered sanctions against the pipeline project. In the weeks following that announcement, a number of European leaders criticized the Reagan sanctions and announced their intention to go forward, notwithstanding, and to do so in part with financing of the pipeline at interest rates as low as 7.5 percent.

Following that, the International Sakharov Committee appealed to French and German leaders, according to a UPI wire report, to investigate the use of forced labor on the Yamal pipeline. The committee stated that a number of well-known Soviet dissidents have been arrested and sent to Siberia for forced labor on the pipeline.

I note with consternation the response of members of the European Common Market. It is ironic that the very countries so persecuted and enslaved in World Wars I and II look the other way from similar human rights abuse aspects of an otherwise lucrative business deal. Surely the atrocities of the 1930's and 1940's will not be forgotten in a moment of financial temptation.

It is to this mounting evidence of continuing and widespread disregard for the Helsinki human rights accords by the Soviet authorities that the amendment I have proposed addresses itself. I trust that, finally, overdue attention and support will come also from officials of Western European governments.

I have received, obtained partly through the assistance of the Vietnamese Information Bureau, from sources which I cannot fully disclose, a letter written by a Vietnamese prisoner now working in the Soviet Union. To protect the author of this account of a day in the life of modern Soviet political prisoners from certain reprisal or execution, the name of the individual and the exact location where he is presently working will be withheld.

I should like to have printed in the RECORD at this point a translation of his letter which was prepared by the Library of Congress. It gives what we believe to be an accurate and indeed a highly moving account of the working conditions and the condition of near-slavery in which he and many thousands of others find themselves. I do ask unanimous consent to have printed the text of that letter at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

. . . It is already two months since I last heard from my family in Vietnam—I do not know what the future has in store for me in this place. . . . Here I speak a "pidgin" Russian, because I learn it in the workplace, moreover, I am being tightly controlled, all around me are the bo dor, the North Vietnamese soldiers. The unit is composed mostly of northerners, there are not much contacts. Everything has to go through the cadres. That's the rule. . . . I am resigned to this fate for a few years (three to five years). . . . The pay is very low, and living conditions in this infamous area are very cruel, very harsh. I can summarize it in one sentence: my life here is several times poorer and harsher than in Vietnam. Add to this, homesickness, cut off from friends. . . . I take it for granted that my

life is finished. . . . The life of exiles like you and me, what does the future have in store for us, and for our country? The more I think about it, the more I see it clouded in uncertainty and difficulties. . . . I sure think about some way to get out of here . . . I have considered a lot of routes, running from one place to another. . . . I feel even more that our life is like that of wandering animals, drifting in sadness, despair and worries. . . . I am extremely disillusioned by the word socialism! . . . Can you spare some money? Can you send me a few clothes? I tell you truly, I have just two sets of clothes and two pairs of shoes and one woolen sweater and one nylon coat and one fur hat. Just that to get me through the winter. . . .

Mr. ARMSTRONG. Mr. President, I would not ask my colleagues to accept, on the basis of a single letter or single news account, the issue of human rights violation, nor would I propose the resolution which I have offered this morning if it were based on just a narrow spectrum of evidence. On the contrary, this issue has been raised over and over again during the past 12 months by publications in Asia, in Europe, and the United States, by Parade magazine and the Sunday supplements, by the London Economist, by the New York Times, the Wall Street Journal, by wire stories published here and overseas, in Asia and in Europe, as well as in this country.

Mr. President, I think for the United States to stand by idly and quietly when a human rights violation of this dimension appears to be occurring would be a great stain upon our honor. It is my hope and belief that the Department of State will respond quickly to the request of the Senate, which is embodied in my proposed amendment, and will give us a report in which the extent of this human rights violation is quantified and documented. It is also my hope that, upon receipt of the report which I expect the Department of State to file, other nations will begin also to reexamine their responsibilities, particularly those who, in one way or another, are cooperating in the construction of this pipeline project.

Mr. President, in the spring of 1944, two prisoners came out of Auschwitz and documented the horror of the experiences that they had in the death camp. The question they put to the conscience of Western nations was this: Where have you been all this time? Where have you been all these years while these camps were constructed, while millions of people were transported across Europe to these camps, while people were being put to death, day after day? Why have you looked the other way? Why have you done nothing about it? Why have you kept this a secret?

Mr. President, I believe we know more today about what is going on in the Soviet Union than was widely known even in the late 1930's and early 1940's about Hitler's activities in Auschwitz and the other camps, his intentions toward the people of Europe, especially Eastern Europe. We must not turn our back on this. The proposal which I have offered to the Senate this morning simply puts us on record that we are concerned about this matter. It does not propose any dispositive action. It says we are conscious of the press accounts, we are conscious of the charges. We hear the cries of those who are imprisoned and we are asking our Department of State to give us a definitive report so we may then consider the appropriate action to take.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. QUAYLE. Mr. President, the evidence of massive human rights violations by the Soviet Union in the construction of the Yamal natural gas pipeline is mounting with each new report from sources across the world. An investigation of the callous and inhuman actions of the Soviets is most timely. Thus, I am pleased to be a cosponsor of Senator ARMSTRONG's amendment to H.R. 6956, HUD appropriations for 1983. The Senator from Colorado is to be commended for his efforts to bring this tragic human rights violation to the attention of the Senate. It is a tragedy and a crime of such proportions that it must be brought to the attention of the international community as well.

The evidence which has accumulated is overwhelming. Even though much of it is circumstantial, the volume of the evidence is too massive to be ignored. The use of slave labor by the Soviet Union is appalling in its callous disregard of all standards of humanity and fundamental human rights.

Although estimates on the number of Soviet concentration camp inmates to be used varies from the tens of thousands to the hundreds of thousands, I hope that no one in this country or in the international community will allow a debate on the numbers to distract us from the horrible reality. I hope I never hear anyone talking about "only" 10,000 slaves. The evidence strongly indicates that 100,000 Soviet prisoners and up to 500,000 Vietnamese will be forced to work on the pipeline, along with unknown numbers from other countries.

The free world can not allow its incredulity at the possibility of monstrous crimes against humanity stand in the way of getting all available information before the community of nations. Those who heard the rumors of the death camps in Nazi Germany refused to believe that any nation was capable of such crimes. But we have only to look back to Stalin's concentration camps in Siberia in the 1930's and more recent Soviet actions in Hungary, Poland, and Afghanistan to know the inhumanity of that Communist dictatorship.

Thus, in strongly supporting this amendment, I urge the State Department to be dilegent and vigorous in its investigation of the human rights violations in the construction of the trans-Siberian pipeline.

While the human rights tragedy of the pipeline provides a strong reason for the free world to refuse to cooperate with the Soviet Union in its construction of the pipeline, there are other reasons which go to the fundamental issues of the basis for East-West trade.

During a visit I made in July to five European capitals, it was evident to me that there was great confusion in our own Government about why the President has imposed sanctions against foreign licensees who are manufacturing U.S. equipment to be sold to the Soviet Union for the construction of the pipeline. Since then, the administration has focused on Polish repression as the reason. While every freedom-loving person deplores the situation in Poland, our allies fail to see Poland as the reason for the pipeline sanctions.

Consider their thinking. Our European allies know that the initial decision in December 1981 to impose sanctions on U.S. companies was tied to the imposition of martial law in Poland. Yet they also know that nothing new had happened in Poland to trigger the added sanctions in June. Since they questioned our linking the sanctions to Poland from the beginning, the June decision served only to further erode their confidence in U.S. credibility and consistency.

During my trip I was asked several revealing questions: If Lech Walesa and the other Solidarity leaders were set free and permitted to resume their activities, would the President lift the sanctions and support the Soviets in the pipeline project? If the repression is later imposed, what then? These questions, of course, raise the more basic question of what the administration's policy on East-West trade really is.

I want to again make my position clear. I support the President's decision to impose the sanctions. But I believe the reasoning which has been put forward publicly is faulty and confusing. The case for the embargo should not have been built on the Polish issue. It should have been based on the premise that we are absolutely opposed to subsidized trade with the East.

Prior to and at the Versailles Summit, we tried to get our allies to agree to eliminate subsidized credits in East-West trade. Unfortunately, all we got was fuzzy language about exercis-

ing "commerical prudence" which was quickly repudiated by our French and German allies.

We should all understand the kind of subsidies I am describing—credits which make no sense at all. The typical loans involved in the pipeline deal and guaranteed by Western governments are at 7.8 percent interest. This is substantially below commercial lending rates and the very reasonable 12.5 percent rate proposed by President Reagan at the summit.

Credits at these rates are nothing less than those given in a foreign aid setting to developing Third World countries. And why should we or our allies be subsidizing a faltering Soviet economy so they can divert the resources they would otherwise require for the pipeline into their continuing military buildup.

As an advocate of free trade, I have no objection to "cash-on-the-barrelhead" deals, as is the case with our grain sales. Similarly I have no objection to deals involving unsubsidized credits at prevailing commercial rates. But I strongly object to the highly favorable credits which our European allies seem so willing to provide the Eastern bloc.

Although there has already been some amelioration of the very tough initial response to Dresser France when they shipped embargoed equipment to the Soviet Union, I believe we should insist that our European allies eliminate subsidization of credits on all future sales to the East. I also believe strongly that we must work with all our Western allies to insure strict adherence and enforcement of the CoCom restrictions on exports of high-technology goods to the East. Agreement on these two points would bring the Western alliance very close to a consensus on our trade policy with the East. It could also serve as a much needed salve to angry and bruised feelings across the Atlantic over the pipeline issue.

I encourage President Reagan to use his excellent leadership ability to take us off the collision course we are on with our allies and to set a course of East-West trade policy that will have allied support. I also encourage our State Department to get the facts and make them known to the world about the callous use of slave labor by the Soviets on the pipeline.

Mr. HOLLINGS. Mr. President, it would be easier to let it pass, but common sense and sobriety require my vote against the amendment. The United States is in deep economic trouble at home and has more than it can say grace over abroad. To have now the Secretary of State investigate forced labor in the Soviet union is nonsense.

We do not want to reflect upon and certainly not praise the Soviet system. But anyone, whether or not they have read "The Gulag Archipelago," should long since have known about Soviet concentration camps and labor practices.

If the Congress now wishes to inject itself on the pipeline question, it could do so on the economic question but certainly not on the Soviet system or labor practices. If it is fear of adulterating our technology or financing forced labor, then let us make sure that our food is pure and cut off grain sales—or all trade. That is ridiculous.

I disagree with the President's pipeline decision as being unattainable with our allies. We should leave this mistaken decision alone and allow the President to get out of it quietly.

I disagree with those who agree with the Reagan pipeline decision and now want to bolster it by investigating human rights in Russia. We should get to the pressing business before the Congress and do something about the economy and stop playing games with a Soviet system of which none of us approve.

To be specific, what does the Congress expect of the Secretary of State? I hope after his investigation that he is not stupied enough to come and report that there is no forced labor in Russia. And I hope he is not stupid enough to come and report that there is.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, the Senator from Colorado is asking for a rollcall vote so the Senate may make a judgment on this matter. I agree with the resolution and shall vote for it since it calls for an investigation and nothing else. Our colleagues should be aware of that. It is not an expenditure of money or setting up a new program. It simply requires the Secretary of State to conduct an investigation into a very critical problem.

Mr. HUDDLESTON. Mr. President, I am certainly against slave labor; I see no reason to oppose the amendment by the Senator from Colorado. For the reasons indicated by the Senator from Utah, we will also accept it.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. ARMSTRONG. Mr. President, I yield back my time.

Mr. GARN. We yield back our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. PRESSLER), the Senator from Delaware (Mr. ROTH), the Senator from Wyoming (Mr. SIMPSON), the Senator from Idaho (Mr. SYMMS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the the Senator from Idaho (Mr. SYMMS), and the Senator from Wyoming (Mr. SIMPSON) would each vote "yea".

Mr. CRANSTON, I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Nebraska (Mr. EXON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. MELCHER), the Senator from Tennessee (Mr. SASSER), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), and the Senator from Illinois (Mr. DIXON) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 80, nays 1, as follows:

[Rollcall Vote No. 355 Leg.]

YEAS—80

Abdnor	Ford	McClure
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Mitchell
Baker	Goldwater	Moynihan
Baucus	Gorton	Murkowski
Biden	Grassley	Nickles
Boren	Hart	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Brady	Hawkins	Percy
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd, Harry F., Jr.	Helms	Quayle
	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Riegle
Chafee	Inouye	Rudman
Chiles	Jackson	Sarbanes
Cochran	Jepsen	Schmitt
Cohen	Johnston	Specter
Cranston	Kassebaum	Stafford
D'Amato	Kasten	Stevens
Denton	Laxalt	Thurmond
Dole	Leahy	Tower
Domenici	Levin	Tsongas
Durenberger	Long	Warner
Eagleton	Lugar	Weicker
East	Mattingly	Zorinsky

NAYS—1

Hollings

NOT VOTING—19

Bentsen	Hayakawa	Sasser
Cannon	Kennedy	Simpson
Danforth	Mathias	Stennis
DeConcini	Matsunaga	Symms
Dixon	Melcher	Wallop
Dodd	Pressler	
Exon	Roth	

So the amendment (UP No. 1283) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the amendment just adopted: Senators SYMMS, SPECTER, HAWKINS, QUAYLE, GARN, JEPSEN, GRASSLEY, WARNER, RUDMAN, and ABDNOR.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT NO. 57

The PRESIDING OFFICER. The question recurs on committee amendment No. 57.

Mr. BOSCHWITZ. Mr. President, I rise to state my opposition to this amendment on the Veterans' Administration appropriations, in view of the fact that funding for the veterans hospital in Minnestoa has been eliminated from it.

I have been a strong supporter of constructing a replacement veterans hospital in Minneapolis since coming to the Senate in 1978. I have heard the Veterans' Administration call the Minneapolis replacement hospital their No. 1 priority, only to have the new Veterans Administrator Robert Nimmo question the need for a new facility.

I have observed Mr. Nimmo reverse his position after a study was done showing quite clearly the Minneapolis hospital does have to be replaced.

Mr. President, veterans in my State have waited patiently for many years. Veterans in Iowa and Wisconsin wait with them. Meanwhile, the current facility becomes more and more obsolete. Constructed in 1928, the hospital is older than most of the patients it serves. It is antiquated to the degree that it does not even comply with local fire and safety codes. Forty or more patients share a bathroom on some floors; standard hospital beds must be dismantled to fit through doorways. It remains in operation only because the replacement facility is being planned. It is a hospital that should be replaced.

Mr. President, we are all aware of how the veterans medical system works. We know patients are admitted to veterans hospitals in order of priority on a space-available basis: First, service-connected veterans; second, vets over age 65; third, former POW's; fourth, nonservice connected veterans. The Minneapolis hospital now has 55 percent of its patients over the age of 65, and with the World War II veterans aging, the over 65 population will jump 40 percent in the next decade. These veterans will need quality care and the older veterans will need quality nursing home care. The new hospital includes 120 nursing home beds, the current facility has none. We must also understand that the availability of beds in local hospitals is irrelevant, because veterans can only use their health care benefits at veterans hospitals. Unfortunately, most people do not understand this. They argue against new VA hospitals where local beds go unused. However, the veterans medical care system is separate and will remain that way. Therefore, it is essential that the new Minneapolis hospital be constructed soon.

In 1979 the new Minneapolis hospital headed the VA replacement list. In 1982 it still heads the list. The Minnesota delegation, with perhaps one exception, has fought hard for this hospital. It is important to our veterans and important to our medical community. When teamed up with the University of Minnesota hospitals and the Mayo Clinic, these three medical centers have set high patient care and research standards. A new facility could only improve these standards.

Mr. President, I thought Minnesota had the funding in 1981, but Mr. Nimmo decided to begin a revalidation process. Now in 1982 Albuquerque, N. Mex. has jumped ahead of Minneapolis and will receive 1983 construction funding.

Frankly, Mr. President, the veterans of Minnesota are worried. They are worried because they know how hard Senator DURENBERGER and I have fought for the hospital, and they know how hard most of the Congressman have fought. They are beginning to wonder if this hospital will ever be built. They read the newspapers, listen to local officials who tell them if they do not get the hospital in 1983, they probably never will. If I were a Minnesota veteran, I think I would wonder too.

The Senate has an opportunity today to calm these veterans' fears. I support the new hospital. Senator DURENBERGER supports the new hospital. We want the project funded as early as possible—but we also want assurance. I respect the views of my friends and colleagues Senators GARN and SIMPSON, who believe we should not fund this project until 1984. But they have not waited as long or worked as hard as I, and I must confess I have become impatient.

I think Minnesota veterans want, as I do, to know when this project will be funded and when construction can begin.

Mr. President, if I can have this question answered I may be persuaded to remove my objections to the committee's amendments.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. RUDMAN). The Senator from Utah is recognized.

Mr. GARN. Mr. President, I report to the distinguished Senator from Minnesota that the House of Representatives transferred $260 million to fund this hospital from the VA compensation and pension account. It has not been authorized on the Senate side.

I do believe that it is improper to fund this hospital out of the compensation and pension account.

It has been reported to me that the hospital will be included in the 1984 budget and it is a priority that could be funded at that time.

I am sympathetic with the problems of the Senator, but the procedure that has been used in the House of Representatives is unacceptable to me, and I report to him that I shall make every effort to see that the hospital is included in next year's budget.

Mr. BOSCHWITZ. Mr. President, if the Senator will yield, I thank the Senator from Utah for his statement and indeed I accept that.

I understand that the transfer of funds in the House of Representatives was enabled, by transferring it from another account, from the veterans' compensation account. Am I correct in that?

Mr. GARN. Yes, the funds were transferred from the compensation and pension account.

Mr. BOSCHWITZ. I see the veterans, disability account as well as compensation account?

Mr. GARN. Yes.

Mr. BOSCHWITZ. I agree with the Senator that this transfer of funds is inadvisable and is fooling the veteran.

This came somewhat as a surprise, to be quite honest, because the Congressman who achieved the funding shift had been a longtime opponent of the hospital and suddenly, through switching moneys in accounts, he accommodated the building of the hospital.

I understand that it is a top priority of the Veterans' Administration. Is that also the Senator's understanding?

Mr. GARN. It is a No. 1 priority.

Mr. BOSCHWITZ. It is their No. 1 priority, and my understanding is that we will be getting that hospital underway in October 1983 and that the funding will be in order in a timely manner at that time.

Mr. GARN. That is correct.

Mr. BOSCHWITZ. I suppose that in the event we switched a quarter of a billion dollars from veterans compensation to construction we would then be looking a supplemental funding bill in the face somewhat later in the year, would we not?

Mr. GARN. That is absolutely correct. We would have to find the money someplace else in order to make up the reduction in the compensation-pension fund.

Mr. BOSCHWITZ. And we could very likely jeopardize the pension and compensation of veterans disabled and retired. Is that correct?

Mr. GARN. The Senator is correct, unless we are able to get a supplemental to replace those funds.

Mr. BOSCHWITZ. I think that rather than jeopardize the pensions

and also the disabled veterans. I withdraw my opposition to committee amendment No. 57. And look forward to working with the Senator, and the Veterans' Administration in obtaining funding for this hospital so it can go forward in October 1983.

I thank the Senator.

Mr. GARN. I thank the distinguished Senator from Minnesota for his cooperation.

Mr. DURENBERGER. Mr. President since June of 1980, the Minneapolis Replacement Hospital has headed the list of VA construction projects. A year ago, this committee granted my request for $15 million in appropriations for site preparation, demolition, architectural drawings, and other initial work. While there has been some occasional disagreement over the optimal number of beds for the facility, every study taken has reaffirmed the pressing need to replace the current hospital facility. And when the VA resubmitted its construction priority list this summer, the Minneapolis VA Hospital again headed the list.

In 1980, Congress was initially informed that the Minnesota Replacement Hospital would be ready for construction early in 1983. But the VA has fallen behind in its schedule and we have now been informed that the timetable target date for ground breaking is October 1983, 1 month into the start of the 1984 fiscal year. I spoke personally this week with both John Merck at OMB and John Salmond, head of construction at the Veterans' Administration. Salmond, who controls the assessment of the construction priorities, reaffirmed his commitment to the new hospital, and confirmed the October 1983 date as the earliest possible date for commencing construction.

The dollars we have to spend on this year's budget are scarce, and there are veterans in immediate need of Federal assistance for health care, education, and pension funding. It is not my intention this afternoon to ask the committee to take funds away from these immediate needs simply to have those funds sit in a treasury account for the next 13 months, waiting for construction to begin. Nor will I ask the committee to take funding out of veteran's pensions to place it into the construction account, as they did in the House. Veterans need funding for their pensions and their hospitals. And I think we have an obligation to insure both.

My main concern, Mr. Chairman, is insuring that the funding to building this hospital will be there when the ground breaking date arises next October. I want to make certain that the Senate is committed to that project as we are in Minnesota.

Senator BOSCHWITZ and I are grateful to both Senator SIMPSON and Senator GARN for taking time from debate on this bill to engage in this discussion. I do have a few questions and I would appreciate your reply to them.

I also have several questions I should like to direct to the distinguished Senator from Utah, Senator GARN.

This summer VA submitted to Congress a 1983–87 plan for construction with the Minneapolis Replacement Hospital heading the list. Does the Senator disagree with this listing as it regards the Minnesota hospital?

Mr. GARN. It is true that in the preliminary list submitted to Congress this summer the Minneapolis replacement hospital does top the list. Since this hospital has been on the top of the list on several occasions I have no reason to disagree with the listing.

Mr. DURENBERGER. I understand both of you have established a more precise criteria for consideration of construction needs. It is my understanding you have already set the Minnesota hospital against your criteria, and the hospital passes your assessment. Is this correct?

Mr. GARN. The criteria that the VA uses has gone through several revisions over the last few Congresses. I am confident that the VA has thoroughly discussed different criteria and as this time believes the present system to be workable. As chairman of the subcommittee working with the VA, I find the justifications to be very helpful and useful in the committee's legislative responsibilities.

Mr. DURENBERGER. Given the VA criteria and the preliminary priority listing, Senator GARN, what do you believe the status of our VA hospital will be in the 1984 budget?

Mr. GARN. The Minneapolis replacement hospital is the largest planned VA hospital in the Nation. Both Senator SIMPSON and myself as well as our predecessors, Senator CRANSTON and Senator PROXMIRE have spent many hours listening to the VA propose and justify each construction option. We are familiar with this project. Historically, construction recommendations have been accepted by the committees and I pride myself on the close and cooperative working relationship my committee has with Mr. Nimmo, Mr. Salmond, Mr. Custis, etc. If history be our guide, the Minneapolis replacement hospital will receive a favorable review and at this time I would predict it to be in the 1984 budget.

Mr. DURENBERGER. The House bill attempted to put funding into the discretionary construction budget by taking dollars away from the account which funds veterans pensions compensation. I do not think this is a sound policy, and it would be my hope that the committee would recognize both construction and pension priorities by considering this as a request for construction funding, and not a request to transfer funds from one category to another. I would appreciate Senator GARN's comments on his view of that procedure.

Mr. GARN. Thank you Senator DURENBERGER for asking that question. I find it most disturbing when politicians maneuver money from one category of money to another in order to please constituents at home, when that transfer could threaten another program's solvency. The House agreed to a transfer of funds which takes money from the veterans programs that send monthly checks to veterans and their families. To deplete an entitlement fund, pensions and compensation, by $260 million is unforgivable. Putting the VA hospital in the budget might bring a lot of votes from home but if the veteran knew he could have a new hospital but now there was no money to pay his pension or his disability or the widow's pension, I think the veteran would say, "Keep your hospital." Especially in this case when the hospital will not be ready for ground breaking until October 1983. It is not right to play with veterans security like that and I can guarantee that my committee will not allow such maneuverings to become law.

(By request of Mr. GARN, the following statement was ordered to be printed in the RECORD.)

● Mr. DURENBERGER. In the 5-year medical facility construction plan for fiscal year 1983 through 1987 submitted to the Congress by the VA in June of this year, the Minneapolis replacement hospital again heads the list of medical centers currently judged most in need of construction, replacement, or major modernization. Is there any disagreement with this listing of the Minnesota hospital?

Mr. SIMPSON. Mr. President, as chairman of the Senate Veterans' Affairs Committee, I am aware of none. The VA first made the decision to replace this hospital in 1979, and in April of 1980, the staff of the Veterans' Affairs Committee conducted an intensive review of the proposed Minneapolis project. In each of the last three 5-year plans submitted by the VA—in June of 1980, June of 1981, and June of 1982—the Minneapolis project has been ranked No. 1 in the VA's priority listing of the 10 medical centers judged most in need of construction, replacement, or major modernization. I am aware of no basis for disputing this assessment of the need for the Minneapolis replacement hospital, and certainly I personally have no disagreement with it. The current 20-building complex at the Minneapolis Center was activated in 1927, and serious deficiencies have been pinpointed—both in terms of space and in terms of functional layout—in the ambulatory care and outpatient clinics, most nursing bed wards, surgical

suites, the supply processing and distribution area, and the dental, canteen, laboratory, pharmacist, and dietetics areas.

Mr. DURENBERGER. It is my understanding that Administrator Nimmo has undertaken this year a comprehensive review of the VA major construction program, that the Minneapolis project was subject to this revalidation process, and that the Minneapolis project has now been determined to be in compliance with the revalidation criteria established by the Administrator. Is this correct?

Mr. SIMPSON. The Senator is correct. The Administrator announced his program review plan on February 19, 1982, with respect to all VA construction projects estimated to cost $2 million or more scheduled for fiscal year 1984 and beyond. The Administrator's declared purpose was to develop a series of objective criteria to apply to all such projects, in order to insure that each project would be fully responsive to veteran health-care needs, appropriately sized, scoped and located, and based on valid workload data and accurate space and functional criteria—to make sure, in other words, that the dollars spent on VA construction would be spent wisely and on the best projects possible. Let me add, Mr. President, that I strongly support the Administrator in his efforts to reexamine and improve the VA major construction program.

The revalidation process has now been completed with respect to the Minneapolis hospital, and the Administrator has stated, in a letter of July 22, 1982, to the distinguished ranking minority member of the Veterans' Affairs Committee, Senator CRANSTON, that—

The unanimous conclusion resulting from the revalidation process was that the Minneapolis replacement project should proceed as currently planned.

The Administrator also stated that although he cannot be certain that the Minneapolis project will be included in the VA's fiscal year 1984 budget request, he anticipated that, to the extent that funds will be available for major hospital replacement, the Minneapolis project will be "a strong candidate for funding in fiscal year 1984."

Mr. DURENBERGER. I thank the Senator for that information. I have just one final question for the good Senator from Wyoming. It is my understanding that the Senate Veterans' Affairs Committee has not approved construction of the Minneapolis replacement hospital, and that such approval is required under section 5004(a) of title 38 of the United States Code, before the construction money can be appropriated. As you prepare the 98th Congress committee agenda, are you scheduling a committee markup session to consider VA construction proposals, and would this include the Minneapolis replacement hospital?

Mr. SIMPSON. The committee has not yet scheduled such a markup, but I can state with certainty that one will indeed be scheduled, although the exact date will not be determined until after we have received the VA's construction proposals for fiscal year 1984. At that markup, the committee will most certainly undertake consideraton of the Minneapolis project if, as now appears likely, the project is ready for the construction phase and is included in the VA's request. As both of the good Senators from Minnesota are aware, of course, Congress has already set aside $15 million for the Minneapolis project, to be used for purposes of design, demolition of existing buildings, and other site preparation work. This action was taken pursuant to the Veterans' Affairs Committee's approval of that $15 million for fiscal year 1981. But it is important to point out that the reason that the construction phase of the Minneapolis project has been postponed from fiscal year 1983 to fiscal year 1984 is that the design and site preparation phase is not yet completed. The site preparation work is just now getting under-way, with the recent award of a 2.8 million contract for the demolition of four existing buildings and the construction of a temporary clinic building. This award, covering only phases I and II of the project, was announced by the VA on August 18, 1982.

Thus, although the Minneapolis replacement project is, according to the VA, on schedule and eligible for construction funding consideration for fiscal year 1984, it now appears that even if we were to appropriate the construction money today for fiscal year 1983, the VA would not be prepared to actually spend that money until, at the earliest, the start of fiscal year 1984.

I do want to assure my fine colleagues from Minnesota that, in light of the Veterans' Affairs Committee's existing commitment to this project, through its prior approval of the sum of $15 million for preliminary work, I would regard it as highly unlikely that a VA request for fiscal year 1984 construction funding for this very important and well justified hospital would be met with any disapproval by the committee. I do very much appreciate the Senators' strong concern about this No. 1 priority VA construction project, and their concern for the very compelling health-care needs of the hundreds of thousands of veterans in Minnesota and the surrounding States served by the Minneapolis VA Medical Center.

Mr. DURENBERGER. I thank the very distinguished chairman of the Veterans' Affairs Committee for those assurances. I am indeed gratified to hear that the interests of the veterans of Minnesota are so well understood and represented by him, and that there are now no significant obstacles to the construction of the new Minneapolis hospital.●

Mr. GARN. I now move that the committee amendments previously deleted be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the two excepted committee amendments.

The excepted committee amendments were agreed to as follows:

On page 36, line 4, strike "$687,142,000", and insert "$409,392,000";

On page 36, line 5, strike "including", through and including "pensions" on line 6.

UP AMENDMENT NO. 1284

Mr. LEAHY. Mr. President, I ask the distinguished Senator from Utah whether this would be an appropriate time for me to send a noncontroversial, little old technical amendment to the desk.

Mr. GARN. Yes.

Mr. LEAHY. I send a little old technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes an unprinted amendment numbered 1284.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, delete all after the word "amended" through the end of line 4 and page 18 and insert the following in lieu thereof: "(42 U.S.C. 6913): *Provided further,* That the funds provided in this Act shall be used to maintain a permanent, full-time equivalent utilization rate of at least 9,050, including positions funded under the Hazardous Substance Response Trust Fund. *Provided further,* That the Agency shall not institute a reduction in force or any other measure which results in a permanent, full-time equivalent workyear utilization rate of lower than 9,050."

Mr. LEAHY. Mr. President, I can explain very quickly. It is a technical amendment. I believe it was cleared by the chairman and the ranking member. It simply insures that there are no RIF's at EPA next year. I think it is important not only for our environmental laws, the enforcement of our environmental laws, but I am sure it is important for the sake of morale down there.

I am ready to yield back all my time on the amendment and I ask for its passage, if that is all right with the chairman.

Mr. GARN. Mr. President, the funds provided in this act shall be used to maintain a permanent, full-time equivalent utilization rate of at least 9,050,

including positions funded under the hazardous substance response trust fund. The bill also provides that the agency shall not institute a reduction in force or any other measure which results in a permanent, full-time equivalent work-year utilization rate which is lower than 9,050. I am prepared to accept this amendment.

Mr. LEAHY. I move the adoption of the amendment and I yield back all my time.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (UP No. 1284) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1285

(Purpose: To delete language overriding the provisions of the Small Business Innovation Development Act (P.L. 97-219) as they pertain to NASA)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. RUDMAN) proposes an unprinted amendment numbered 1285.

Mr. RUDMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 3, strike all beginning with the "," through the number "97-219" on line 5.

Mr. RUDMAN. Mr. President, this is a very simple amendment, and I greatly appreciate the cooperation of the Senator from Utah and his staff.

Earlier this year, the Congress passed S. 881, the Small Business Innovation Development Act, which mandated a certain percentage of research dollars to be allocated under that program.

This amendment would remove a specific reference to a reduction in that amount in the NASA budget.

Although we will certainly agree and will introduce a colloquy in which I agree with the Senator from Utah that there could be some problems in the NASA budget in meeting the phasedin targets, certainly we have no intention of doing anything that would affect their program. They may take an additional year for the full phasein, and I believe this amendment is satisfactory to the Senator from Utah.

Mr. GARN. Mr. President, I have conferred with the Senator from New Hampshire on this and he is correct. We have been able to work out this matter, and I am willing to accept on behalf of the majority the amendment.

Mr. RUDMAN. In studying the bill and the accompanying report, I see that the committee paid special attention to the application of Public Law 97-219, the Small Business Innovation Development Act, to the NASA program. I am pleased to see that the committee gave this program consideration and realize that NASA has voiced reservations concerning the possible effect of the program on its present R&D activities. However, as the original sponsor of the Small Business Innovation Development Act in the Senate, I believe that the concerns that are motivating the committee can be met without the necessity of providing a specific limitation to the Appropriations Act and propose an amendment to that effect.

Mr. GARN. I appreciate the advice of the Senator from New Hampshire, who is an authority on this new small business act and on the needs of the small business community. Our concern is that NASA is in a somewhat unique position because much of the NASA appropriation is committed to programs begun in earlier years, including the Space Shuttle, which is operated as a national system for various users. The committee feared that a redirection of funds from these continuous programs without a sufficient transition period might have a deleterious affect on NASA's overall R&D mission. It is for this reason that the limitation was originally placed in the bill. NASA has been a continual and enthusiastic supporter of small business research firms its inception and simply wanted to be sure that this new act did not disrupt either these ongoing programs and activities or its commitment to small business.

Mr. RUDMAN. I know of NASA's support for the small business community and appreciate it. You may be interested to know that many predict that NASA's commitment to excellence and proven track record in the R&D field will insure a model small business innovation development program. During our consideration of the bill, we attempted to provide a reasonable transition period for all agencies, 4 years in NASA's case. This period, admittedly a generalization to apply to all agencies, with the exception of DOD, which was provided with a 5-year period, was Congress attempt to deal with the problem the committee has raised. I believe that the general provision should be given a chance to prove itself on an agencywide basis. However, to the extent that NASA has a problem unique unto itself for this upcoming fiscal year, I stand ready to work with the Senator from Utah and NASA to insure that there is no deleterious affect on the Agency's R&D activities caused by this first year of implementation of Public Law 97-219.

Mr. GARN. I thank the gentleman. With that understanding, the concern of the Appropriations Committee is satisfied. Although the exact amount to be applied to Public Law 97-219 in fiscal year 1983 will depend on final appropriation figures, the explanation provided by the sponsor of Public Law 97-219 renders the committee amendment unnecessary, and I gladly accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (UP No. 1285) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1286

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment on behalf of myself, and Senators HART, DODD, RIEGLE, BRADLEY, and DURENBERGER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and others proposes an unprinted amendment numbered 1286.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 7, strike out "$115,000,000" and insert in lieu thereof "$154,300,000".

On page 19, line 12, strike out "$200,000,000" and insert in lieu thereof "$230,000,000".

Mr. MOYNIHAN. Mr. President, I rise today to offer an amendment, along with my distinguished colleagues from Colorado (Mr. HART), Michigan (Mr. RIEGLE), New Jersey (Mr. BRADLEY), Minnesota (Mr. DURENBERGER), and Connecticut (Mr. DODD), to restore $39.3 million to the U.S. Environmental Protection Agency's research and development program and $30 million to the Superfund program for fiscal year 1983. I would simply say that the need to restore these funds is clear and the request a modest one. To be convinced of the latter, our amendment needs only to be viewed in the context of a total appropriations bill that is some $8.9 billion below its Budget Committee allowance. As to

the former point, let me review the facts.

Since fiscal year 1981 the U.S. EPA's research and development (R&D) program funds for research contracts, grants, and cooperative agreements have been cut by 50 percent. The bill (H.R. 6956) before the Senate today would provide only $115 million for the R&D program for fiscal year 1983. Our amendment would instead continue funding the R&D program at the fiscal year 1982 level of $154.3 million. Funding was $254 million in fiscal year 1981.

I have said this before but let me restate the proposition again. If it is your purpose not to address problems through government, you will put an end to attempts to measure them.

In a July 1982 memo, the Congressional Budget Office reviewed the effects of budget reductions on EPA's research and development program. The conclusion, "* * * research on environmental measurement projects in many areas will be dropped." This point can be illustrated by reviewing some specific examples, as cited by CBO, of items not found in the administration's budget request for the EPA R&D program for fiscal year 1983:

Work in environmental indicators, a program designed to develop inexpensive methods for monitoring long-term trends in environmental quality.

The National Air Pollutant Background Network, a program that models regional air pollutant transport.

Research on the long-term chronic toxicity of industrial effluents.

The consequences of such budget reductions were made clear in a recent report prepared by one of the country's oldest and most respected environmental conservation groups, the Conservation Foundation. In its "State of the Environment 1982," the Foundation concluded:

Because of the budget cuts, the information base for environmental policy, always weak, is likely to be even weaker in the future. We will be less able to sort out important problems from unimportant ones, less able to tell which environmental programs are working effectively and which are not. Perhaps most important, the perennial dilemma of whether available information is sufficient to justify action will become more pervasive and difficult.

Both the House and the Senate have already passed EPA research and development authorization bills (S. 2577 and H.R. 6323) that provide for fiscal year 1983 funding to be maintained at or above the fiscal year 1982 level for research contracts, grants, and cooperative agreements.

The Senate Committee on Environment and Public Works and the House Committee on Science and Technology have made detailed recommendations on the need for continued and expanded research in a number of priority areas. These priorities include accelerating risk assessment research on hazardous air pollutants, studies on the health effects of toxic pollutants, research on the effects of contaminants on underground drinking water supplies, environmental monitoring to gather the data necessary to support future standard setting, and ecological research on the effects of pollution on crops. The funds restored in our amendment would enable these and other priority research programs identified by the authorizing committees to continue.

Our amendment also provides for the President's fiscal year 1983 funding request of $230 million for the Superfund program. This is $20 million below the level recommended by the Senate Environmental and Public Works Committee, but $30 million above what is in the Senate Appropriations Committee bill.

The Superfund law (Comprehensive Environmental Response, Compensation, and Liability Act of 1980) created a $1.6 billion Federal trust fund to finance the cleanup of abandoned or uncontrolled hazardous waste sites and to respond to spills of hazardous substances. There are an estimated 10,000 abandoned or inactive hazardous waste dumpsites across the country.

The Superfund law provides that where responsible parties cannot be identified or where a response cannot await years of litigation, Federal assistance for an immediate cleanup of a hazardous waste site or spill can be made without delay. EPA currently has an interim priority list of 160 sites that are eligible for Superfund assistance and an additional list of 400 priority sites is being prepared. Furthermore, EPA estimates that up to 2,000 sites "could pose a major threat to the public health or environment and therefore require some cleanup and enforcement action."

The major source of funding (seven-eighths of the total) for the Superfund trust fund come from a dedicated tax on various chemicals and petroleum. The revenues collected from the tax, which began on April 1, 1981, are held in the trust fund until such time as they are used for cleanup activities or other eligible Superfund expenditures.

During fiscal year 1983 there will be $582 million available in the Superfund trust fund to be appropriated. If not appropriated the money remains in the trust fund. It will not be available to fund other programs.

Under the circumstances it is unjustified to limit Superfund budget authority to $200 million. There are many sites in need of attention and there are adequate revenues available in the trust fund. It would be most unwise and unfair to lower expenditures for Superfund cleanup activities simply to offset deficits elsewhere in the budget.

The priority that we assigned to cleaning up this Nation's hazardous waste sites when the Superfund law was enacted must not be forgotten. We have an obligation to those whose health and safety are threatened by the existence of abandoned or uncontrolled hazardous waste sites.

In conclusion, Mr. President, I would urge my colleagues to consider the case carefully. This amendment is most reasonable. It should not be beyond our means to absorb a $69.3 million increase in a bill that is $8.9 billion below its budget allowance, especially when such an increase is central to protecting human health and the environment.

My distinguished and senior colleague on the committee has risen, and I yield the floor to him.

First, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HART. Mr. President, I thank the Senator from New York, and I am pleased to join with him in this amendment which, I think, we both agree and hope our colleagues agree is an extremely important proposal.

One of the most serious environmental problems we face in the 1980's is contamination of our land and water by hazardous wastes.

There are many of us who believe this will be the environmental issue of the next decade.

A few years ago we finally established a national program to begin cleaning up the hundreds, if not thousands, of potential Love Canal-type disasters in this country, but unless we fund that program at something near an adequate level we will not be able to get underway the process of eliminating these real dangers to our society.

The environmental importance of the so-called Superfund program is obvious. EPA's environmental research programs might not be so obviously important, but they, too, are vital.

This administration is fond of saying that we have to base environmental regulations on what it terms as "good science." Whether we have that sound scientific base for regulatory decisions depends on EPA's research programs. There is a curious ambivalence, it seems to me, because while EPA is wanting more information, more data, more scientific research, at the same time it is reguesting cuts in the budget for this purpose.

Even with the amendment we are proposing, EPA's research budget still will be inadequate. Our modest proposed increase would simply restore the funding level to the current amount, $154.3 million. But this is $100 million below the fiscal 1981

level. In other words, even with this amendment, EPA's research program would be 40-percent less than 2 years ago, hardly marching into the future in any kind of aggressive way to address one of the most important issues of this decade.

If allowance is made for inflation, the cut is even greater, more than 50 percent. So, Mr. President, this amendment is modest, but it is important to keep the EPA research at the current level.

Let us consider the enormously important decisions which depend upon this research. First, there is the hazardous air pollutants problem.

In the 12 years since the enactment of the Clean Air Act, EPA has only determined to regulate seven hazardous air pollutants. For almost a full decade EPA has had under scientific review an additional 37 pollutants, but has not been able to determine whether or not they should be regulated as hazardous pollutants.

While we await the results of EPA's research, cancer rates continue to increase, and experts tell us environmental pollution is a major cause. In fact, an interagency. toxicology program has identified as carcinogenic many of the pollutants EPA is reviewing.

I am sure the chairman of the subcommittee will point out that the committee bill increases the research on hazardous pollutants above the amount requested by the administration. But the review of the EPA budget request by the Committee on Environment and Public Works showed the administration proposed to decrease research on hazardous air pollutants by 67 percent between 1982 and 1983. The committee's increase therefore restores some, but not all, of the administration's cuts.

NATIONAL AIR QUALITY STANDARDS

EPA already is 2 years behind the statutory deadline for reviewing and revising the national ambient air quality standards. Only one of the six standards—the ozone standard—has been revised.

Especially important is completion of the research program on the particulate standard, so it can be revised to regulate only the inhalable particles which cause health problems, and not the natural dust particles regulated under the current standard.

TOXIC POLLUTANT SCREENING

EPA is required to do hazard assessments of new chemicals before they are marketed. Without an adequate research program this fundamental requirement of the Toxic Substances Control Act will be meaningless.

SAFE DRINKING WATER

EPA needs to conduct much more research on pollutants which contaminate drinking water to determine whether, and how, to set standards under the Safe Drinking Water Act.

INDOOR AIR POLLUTION

Congress this year is directing EPA to undertake a new research program on indoor air pollution. The health effects of pollution within our homes and offices may be even greater than the health effects of the pollutants regulated under the Clean Air Act. After all, we spend 70 percent of our time indoors, and early studies show that indoor pollution levels are often as high or higher than outdoor pollution levels.

Mr. President, the list could go on. But the basic point is simple—if we are going to have sound environmental regulatory programs to protect our health and our environment, we first must have sound scientific research and knowledge. If we continue to cut the EPA research budget, as the committee bill would do, we will never get that scientific information.

Mr. President, I urge my colleagues to join the Senator from New York and the Senator from Colorado and others to support this modest increase in the EPA research budget.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to wholly endorse the remarks of my distinguished and learned friend and say one thing. Mr. President, where toxic and hazardous wastes are concerned, what you do not know can kill you. And that is what this amendment is about.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the bill as reported by the committee, provides $3.699 billion for EPA in fiscal year 1983. This is $64.2 million above the fiscal year 1983 request, and only $2.9 million below the fiscal year 1982 level. I point that out. Although the overall budget we present today for HUD—Independent Agencies is below the budget resolution, we funded EPA $64 million over the budget request.

The Senate added the following to the EPA fiscal year 1983 budget request: $30 million for construction grants; $20 million for Superfund State activities; $10.5 million for salaries and expenses for an additional 300 people; $3.5 million for the Great Lakes program; $6.3 million for EPA R&D; $3 million for the clean lakes program; $5.5 million for training grants and programs; $43.9 million for the State grants program; and $7 million for Superfund health studies.

Even at the request level, EPA testified on April 20 that 44 percent of their 323 program elements, or 142 programs, are above the fiscal year 1982 level.

All of the increases we have recommended in this bill have been offset with decreases elssewhere in the bill. For example, the proposed $191 million increase in NASA has been offset by a $195 million decrease in FEMA.

What has happened during the last 2 years since I have been chairman of this subcommittee is that most of the cuts have come out of housing. Every time we add something else to some other part of the bill, including EPA, it comes out of housing. It is a simple arithmetic fact of life.

If we accept this amendment as a result of our 302(b) allocation, this increase has to come from someplace else in the bill. In this case, it is housing. So a simple fact of life is a vote for this particular amendment is a vote to cut additional money out of housing.

The proposed amendment would result in EPA being $133.5 million over the budget request and $44.3 million over the assumptions of the budget resolution.

I would point out that those who think the only research and development that is done on the environment is done in EPA make a mistake because EPA does not do most of the basic research in this particular area.

In fiscal year 1982, the Federal Government spent $615 million for basic research in environmental sciences. Of this amount, the National Science Foundation, which is in this same bill, was responsible for $242 million and EPA spent only $2 million. Thus, these figures indicate that it is not EPA only that is looking at the problems of hazardous wastes in the environment. Almost all of the EPA R&D is applied rather than aimed at providing us with a fundamental understanding of the environmental process.

Looking at the comparison of R&D in fiscal years 1982 and 1983 HUD bills, the National Science Foundation's $996 million level increased to $1.056 billion. NASA's R&D is up considerably. EPA's is down. But the overall increase is over $800 million, or a 13.5-percent increase in R&D in this bill.

My colleagues are correct. EPA's budget was cut from last year in the area of R&D. But I did want to point out the National Science Foundation does most of the basic research on the environment.

I do intend to oppose this amendment and I intend to move to table. However, I would not do that if my colleagues wished to make any other comments.

Mr. LEAHY. Mr. President, the adequacy of funds for the Environmental Protection Agency have been a major concern of mine this year. As I made clear in my amendment to the first budget resolution, I believe EPA should be funded well above the 1982 level.

Unfortunately, faced with a Presidential veto, the committee reported a

bill below the 1982 levels for operating programs. I make this point because on several occasions during the last year Ms. Gorsuch has claimed that Congress had endorsed her cuts because we passed 1982 HUD appropriations bills including many of her cuts. I want her to understand that our passage of this bill does not endorse these levels of funding. It does not mean we think the funds in this bill are adequate to do the job. It only means that faced with a Presidential veto, we cannot fund the agency at a level we believe necessary and still get the bill signed by the President.

Mr. BRADLEY. Mr. President, I rise in support of this amendment that would add $39 million to the EPA research and development account and $30 million to the EPA Superfund account. The need for these funds is clear and strong, and the addition merely raises the appropriation to the fiscal year 1982 level.

Mr. President, the research budget at EPA has already been cut well below levels required to support that Agency's functions. The level of operations contained in the committee bill is 50 percent below what it was in fiscal year 1981. These cuts are in the face of critically important research needs in areas such as risk assessment research on hazardous air pollutants, studies on health effects of toxic pollutants, research on the effects of contaminants on underground drinking water supplies, environmental monitoring to gather the data necessary to support future standard setting, and ecological research on the effects of pollution on crops.

Research in general is underfunded by normal market pressures but research into environmental questions has very little appeal to private firms. Government support in this area is especially important.

In addition, this amendment funds the President's fiscal year 1983 request for Superfund. I need not remind my colleagues of the magnitude of the effort required to clean up abandoned or uncontrolled hazardous waste sites. There are about 10,000 abandoned or inactive hazardous waste dump sites across the country, many of these in my State; the fundamental role of government is to protect the health and safety of the people. Protecting Americans from a clear danger in our own country is every bit as important as protecting the public from threats from abroad.

The Superfund trust fund, seven-eighths of which comes from the firms producing hazardous substances, is an insurance policy against damaging the health-threatening spills. I fought very hard for its creation nearly 2 years ago.

Mr. President, the private sector will not provide adequate funds necessary to protect human health and safety from environmental threats. This is a legitimate and important role for the Government. We must provide these funds. I urge my colleagues to support this amendment.

● Mr. STAFFORD. Mr. President, I intend to vote for the Moynihan-Hart amendment and, if they do not object, would add my name as a cosponsor.

This amendment would restore $30 million for administration of the Superfund, money that was recommended by the Committee on Environment and Public Works and accepted as a proper level of spending by the Budget Committee. The amendment also provides additional funds for research and development by the Environmental Protection Agency.

In working out budgets for programs under the jurisdiction of the Environment and Public Works Committee, members, who include Senators HART and MOYNIHAN, have talked among ourselves, with members of the Budget Committee and with members of the Appropriations Committee.

This was done in an attempt to strike a balance that would protect vital interests and still garner the support of the entire Senate, the Congress, and the administration. When amendments were offered that would have upset this balance—and hence threaten the integrity and viability of all of the health and environmental programs—I voted against them.

That was my obligation not only as the chairman of a committee but as a Senator who cared about all of the health and environmental programs.

This amendment differs from those offered in the past. This amendment is, in the opinion of this Senator, consistent with the balance that was struck in the budget resolution and elsewhere. It is the bill which is at odds with the programs, not the amendment.

Mr. President, for that reason I support this amendment, will vote for it, and urge my colleagues to do the same.●

(By request of Mr. HART, the following statement was ordered to be printed in the RECORD.)

● Mr. DODD. Mr. President, I am pleased to cosponsor the Moynihan-Hart amendment to the HUD appropriations bill to restore $39 million to the Environmental Protection Agency's research and development budget and $30 million to the "Superfund" program.

In the 1983 budget, it is evident that we recognize the need for fiscal cutbacks. Every agency and its programs will feel the budget pinch. The Environmental Protection Agency is not—and should not be—an exception.

But since the first EPA 1983 budget was released, it has been obvious that this Agency's cutbacks were more grievous that that of any other Agency. Under the administration's proposed 1983 budget, EPA's budget would have been cut back by 39 percent since 1981. Even with the budget increases contained in this appropriations bill for the EPA budget, the Agency's operating budget will still be reduced by more than $54 million from last year.

It is shocking enough that cuts in the overall EPA budget are of such a size and magnitude so as to endanger Agency functions. But a closer look at how these cutbacks are distributed reveals that one of EPA's most important functions—the sponsorship of research and development—has been targeted for cuts of extreme proportion.

In fact, EPA's R&D program—the Agency's research contracts, grants, and cooperative agreements, has been cut more than any other agency function over the last 2 years. This program, funded at $254 million in 1981, was reduced by 39 percent to $154.3 million in 1982. The administration had requested an additional 30-percent cut in these funds, bringing the 1983 research and development budget to $108.8 million. Even the level contained in this appropriations bill—$115 million—represents over a 50-percent cut since 1981.

This drastic reduction in EPA's R&D budget threatens the very foundation—scientific research—upon which the Agency is founded. Without funding to support scientists and environmental experts in ongoing research, we cannot begin to understand the overwhelming environmental hazards which we face. And without a knowledge of these hazards, we cannot adequately design cleanup or enforcement strategies on either a congressional or an agency level. This cutback is not sensible budget planning—but false economy.

We would not be aware today of the long list of environmental dangers we face without research done in the past. It is thanks to the sound research undertaken by EPA-contracted scientists that we have been able to move swiftly in making sound environmental policy decisions on such threatening problems as hazardous waste, toxics, and acid rain. Without continuing research, our information base for developing such environmental policy will be threatened.

Research efforts have also played a role in designing and implementing such landmark legislation as the Clean Air Act, the Clean Water Act, and the Resource Conservation and Recovery Act. Without the backbone of scientific research, our job in implementing and enforcing these environmental laws will be a much more difficult one.

Cutbacks in EPA's R&D budget will have profound effects not only on human health and safety but also on industry and the economy. If we

cannot maintain research at our current level, we will not be able to keep pace with the environmental hazards we discover around us—in the home, in the office—every day. And for every moment that we waste in pinpointing new health hazards, the danger to individual lives increases. Similarly, without research to guide EPA in setting sound regulations, we may err in asking industry to spend money on pollution controls which may prove to be neither reasonable nor environmentally sound. Without sound data, the Agency cannot construct the uniform, timely regulations and permitting procedures desired by industry.

The cutback proposed in the HUD-independent agencies bill will make it impossible to carry out ongoing research efforts. Studies on health and environmental priorities such as toxic pollutants, hazardous air pollutants, and particulates might have to be gutted or abandoned. A number of studies on the problems and hazards of pesticides or ground water contaminants will have to be set aside. All areas of ongoing research—regardless of priority—will face major reductions.

It is unclear whether EPA itself thinks that the cutbacks recommended in its own budget justification make good scientific or budget policy. As our colleague from Vermont (Mr. LEAHY) has pointed out in hearings this spring, discrepancies exist between EPA's budget justification to Congress and their budget submission to the Office of Management and Budget. He cited numerous research program custs which were justified simultaneously to Congress as "reasonable cutbacks" and to OMB as a "reduction in effort." Research programs on oxidant air pollutants, water quality, and hazardous air pollutants are all due to be cut back under both EPA's original budget request and under the HUD appropriations bill. Yet these are all program areas that EPA said would be endangered if their budgets were lowered.

By restoring $39 million, this amendment will bring EPA's R&D level up to its 1982 level. This request is $8.9 million below the Budget Committee's allocation, and within the amount authorized by both the House and the Senate in EPA's authorization bill. Not accounting for inflation, one would hope that by returning the R&D budget to last year's level, much ongoing research could continue.

Similarly, by restoring $30 million to the Superfund program, we will aid EPA in carrying out its schedule of identifying, classifying and cleaning up hazardous waste sites. EPA has come far with its Superfund program: Almost 11,000 dangerous sites have been identified and a list of 400 priority sites is due out this October. If we return these funds to Superfund, we will allow this program to continue with its vital and pressing work. And if we add this $30 million to the Superfund program, we are bringing total Superfund appropriations only to $230 million—the level originally requested by President Reagan in his 1983 budget.

This amendment is no budget-busting measure. It is merely a restoration of the minimum amount of funds necessary to enable EPA to continue with its authorized tasks. It is the minimum amount necessary to maintain our standards of public health and safety; of regulatory reliability; of scientific quality. By restoring $39 million to the R&D budget, we will allow the priority research which has shaped EPA to continue; by restoring funds to the Superfund program we will allow this, one of our more urgently needed environmental programs, to continue.

To cut these funds from the EPA budget at this time shows little sensible planning, fiscal or otherwise. We have learned on countless occasions—the Valley of the Drums, Love Canal—that there can be no price on human health and safety. That is a lesson we cannot ignore. I would urge adoption of the Moynihan-Hart amendment.●

Mr. MOYNIHAN. Mr. President, we wish to thank the chairman for his courtesy in giving us the opportunity to say as much as we wish. I think we have outlined the issue.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time.

Mr. GARN. Mr. President, I yield back the remainder of my time.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah (Mr. GARN) to table the amendment of the Senator from New York (Mr. MOYNIHAN). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. MELCHER), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Arizona (Mr. DECONCINI), are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), and the Senator from Tennessee (Mr. SASSER), would vote nay.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 44, nays 40, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—44

Abdnor	Grassley	Murkowski
Andrews	Hatch	Nickles
Armstrong	Hatfield	Nunn
Baker	Heflin	Packwood
Boren	Helms	Percy
Byrd, Harry F., Jr.	Hollings	Pressler
Cochran	Huddleston	Proxmire
Denton	Humphrey	Quayle
Dixon	Jepsen	Stevens
Dole	Kassebaum	Symms
Domenici	Kasten	Thurmond
East	Laxalt	Tower
Garn	Lugar	Warner
Goldwater	Mattingly	Weicker
	McClure	Zorinsky

NAYS—40

Baucus	Exon	Mitchell
Boschwitz	Ford	Moynihan
Bradley	Glenn	Pell
Brady	Gorton	Pryor
Bumpers	Hart	Randolph
Burdick	Hawkins	Riegle
Byrd, Robert C.	Heinz	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Schmitt
Cohen	Johnston	Specter
Cranston	Leahy	Stafford
D'Amato	Levin	Tsongas
Durenberger	Long	
Eagleton	Metzenbaum	

NOT VOTING—16

Bentsen	Hayakawa	Sasser
Biden	Kennedy	Simpson
Cannon	Mathias	Stennis
Danforth	Matsunaga	Wallop
DeConcini	Melcher	
Dodd	Roth	

So the motion to lay on the table the amendment (UP No. 1286) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the distinguished Senator from Vermont (Mr. STAFFORD) be added as a cosponsor to the previous amendment (UP No. 1286).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

We must have order in the Chamber. Will Senators please conduct their conversations in the cloakroom so that the Senators who are addressing the Chair might be heard.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 1287

(Purpose: To provide additional funding for the Congregate Housing Services program for the elderly)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER) proposes an unprinted amendment numbered 1287.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 13, under title I for congregate services strike "$3,500,000" and insert "$4,750,000".

Mr. PRESSLER. Mr. President, this amendment is intended to add new money to the portion of the bill which provides for congregate housing demonstration programs. This funding is used to aid in providing supportive services in congregate housing for the elderly and handicapped. The money now included in the bill extends 28 existing projects; I would like to see these projects expanded to areas like my home State of South Dakota, where congregate housing services are sorely needed. My amendment adds $1.25 million for five additional demonstration programs, for a period of 3 years.

Over 2,200 elderly are now being served by the congregate housing services program. While this is a good start, this number is not even close to the number of elderly and handicapped who are potential users of this program. The demand for this type of housing can be expected to increase as the percentage of our population that is over 60 increases. The existing demonstration projects are based mostly in larger cities; I am here to defend the rights of rural areas, for their need for projects like this is every bit as great, if not greater, than the need of urban areas. Rural and small town older Americans live much closer to the poverty line than do their urban counterparts. Congregate housing services in small towns can prevent our people from being forced to live in substandard housing, as many of them do. I believe that providing for five additional demonstration programs is the least we can do to begin to deal with this problem now. We cannot afford to wait any longer.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I have conferred with the distinguished Senator from South Dakota. I am willing to accept this amendment, although I have told him that I certainly can make no promises about what would happen in conference with the House. However, on behalf of the majority I am willing to accept the amendment.

The amendment (UP No. 1287) was agreed to.

Mr. PRESSLER. Mr. President, I thank the majority and minority members and their staffs for their cooperation in consideration of my amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 1288

(Purpose: To pospone the effective date of tenant contribution regulations)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1288.

On page 5, line 16, before the period insert the following: ": *Provided further,* That no funds provided under this Act shall be used to enforce the regulations which took effect on August 1, 1982, increasing rents or rent contributions for the housing assistance programs under the United States Housing Act of 1937 prior to the expiration of 90 days after the date of enactment of this Act.".

Mr. MOYNIHAN. Mr. President, since 1937 it has been the policy of the U.S. Government to provide decent, safe, and sanitary dwellings for families of lower income. During this interval we have passed many bills and a declaration of a sense of the Senate by our distinguished former colleague (Mr. Brooke), of Massachusetts, that declared 25 percent of a person's income to be the presumed ratio of rent payments in federally assisted housing.

We now have an order from the Deputy Federal Housing Commissioner that would raise the tenant contribution to 27 percent of adjusted income for all current tenants and 30 percent for new tenants. The House hopes to hold back this 30-percent ratio. The Senate will surely want to consider the same proposition. Millions of families are involved.

I ask of the Senate to withhold action for 90 days until we can consider whether, in fact, it is the policy we desire.

Mr. GARN. Mr. President, I have discussed this matter with the distinguished Senator from New York. On the substance of the issue, I disagree with him. I have been one who in the past has promoted the increase to 30 percent. However, because of the limitations in his amendment, applying this only for 90 days, and in the interest of getting the HUD bill through, I am willing to accept the amendment.

The PRESIDING OFFICER. Without objection, the amendment (UP No. 1288) is agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank the distinguished chairman for his gracious and accommodating act. The Senate can now consider this matter in detail and decide what its will should be.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The time is under control. If the Senator has an amendment, the time limit would apply to that. Otherwise, the Senator would have to be granted time by someone controlling time.

Mr. LEVIN. Mr. President, will the manager of the bill yield me 3 minutes?

Mr. GARN. I am happy to yield to the distinguished Senator from Michigan.

Mr. LEVIN. I thank the Senator.

Mr. President, on December 29, 1980, the Department of Housing and Urban Development announced a set-aside of funds for the construction of 200 units of senior citizen housing in Melvindale, Mich. The letter stated that $1.2 million in contract authority had been allocated to region V for the limited purpose of building the Melvindale project.

I ask unanimous consent that the letter, dated January 9, 1981, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., January 9, 1981.

Hon. CARL LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: This is to advise you that the Chicago Regional Office has received an allocation of $1,200,000 of contract authority for the City of Melvindale for approximately 200 units of Section 8 housing.

In order to utilize this allocation, the City may choose to use either HUD's routine NOFA procedure or the pre-approved site procedure. It is my understanding that the

City's preliminary inclination is to use the pre-approved site procedure. If the City wishes to use the pre-approved site procedure, the following steps must occur:

1. The City must establish site control for the designated site.

2. The City must request Detroit Area Office review and approval of the designated site.

3. The Detroit Area Office must then conduct a NOFA process (competitive) for the designated site.

My office and the Detroit Area Office will be available to assist the City of Melvindale in carrying out the steps outlined above.

Sincerely,

RON GATTON,
Regional Administrator.

Mr. LEVIN. Mr. President, the people of Melvindale were obviously very pleased and gratified by this announcement and began the necessary preparations toward making the senior citizen project a reality. But they were in for a shock. For, on March 3, 1981, the Washington office of HUD issued a telegram to the region V office withdrawing that $1.2 million in contract authority, thereby reneging on a clearly stated and documented promise. They claim in that letter a lack of funding availability at that time.

I have fought since that date with the administrators of the section 8 program at HUD to find out just how and why such a rescission of funds was possible. I have met with little success. Certainly, the explanations I have received have been unsatisfactory.

It seems to me that when this Government makes a commitment as clear and unquestionable as the commitment that was made to the city of Melvindale, the Federal Government has a responsibility to keep that commitment.

I had originally intended to offer an amendment to this bill to make sure that Melvindale, and any other city in a situation similar to that of Melvindale, would get the promised funds. I have been convinced, however, that there are too many technical difficulties in pursuing such a course.

I am, therefore, asking Senator GARN, as chairman, and Senator HUDDLESTON, as ranking minority member of the HUD Appropriations Subcommittee, if they will be willing to assist me in getting HUD to reconsider its decision to rescind these funds for the Melvindale project.

Mr. HUDDLESTON. Mr. President, in response to the distinguished Senator from Michigan, I certainly appreciate the situation he finds himself in and the concerns he has. Certainly, a locality should be able to depend upon the correspondence it receives from HUD or from any other department or agency of the Federal Government.

As the Senator from Michigan is aware, the section 8 new construction program is being phased out. There are no funds in this bill for that particular program. A large portion of the fiscal 1982 funds were rescinded. In fact, we are having some difficulty in clearing the pipeline of previously appropriated projects which have not been canceled or fallen out.

In view of the December 29, 1980, letter to the mayor of Melvindale, however, I am willing to urge the Department of Housing and Urban Development to reconsider this project and to seek in every possible way to determine if they can accommodate it within the HUD programs. I will be glad to work with the Senator from Michigan in accomplishing that.

Mr. GARN. Mr. President, I am certainly willing to make the necessary inquiries of HUD and look into this problem to see what we can do to help. With that assurance, I hope the Senator from Michigan will be satisfied. Both Senator HUDDLESTON and I will look into this matter.

Mr. LEVIN. I am indeed satisfied. I am grateful to both my friends for their assistance, whatever they can do to help to correct this breach of faith with the people of my State.

UP AMENDMENT NO. 1289

(Purpose: To amend the Tariff Schedules of the United States to provide duty-free treatment for imported steam)

Mr. COHEN. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine (Mr. COHEN) proposes an unprinted amendment numbered 1289.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, insert the following:

SEC. . (a) Subpart J of part I of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 522.51 the following new item:

"522.53 Steam..... Free..... Free".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which is fifteen days after the date of enactment of this Act.

Mr. COHEN. Mr. President, I offer an amendment to H.R. 6956. My proposal would amend the Tariff Schedules of the United States to permit imported steam to enter the United States duty-free.

The need for this amendment has arisen from the experience that Fraser, Inc., a pulp and paper manufacturer in the far northern reaches of the State of Maine, has encountered in meeting the demands of the energy crisis.

A short time ago, this country was caught in the midst of a serious energy crisis which imposed enormous costs on the American people—in higher inflation, reduced economic growth, and higher unemployment. We have learned a great deal since the oil embargo of 1973, and the United States is now some 15 percent more energy efficient than it was 10 years ago.

Each industry has reopened to spiralling energy costs differently. Some have met the energy crisis most aggressively, by employing energy conservation tactics and tapping alternative energy sources to reduce costs. Others, however, have been reluctant to invest in energy conservation improvements and alternative energy sources, in part because of economic uncertainty associated with this past year's economic difficulties.

Fraser, Inc. has met the energy crisis head on and with great success. The firm operates a paper-producing plant in Madawaska, Maine, and a pulp-producing plant right across the St. John River in Edmundston, New Brunswick. Producing pulp and paper, as Senators know, requires enormous amounts of energy.

The increasing price of industrial fuel oil and the continued dependence on this energy source from a volatile part of the world has prompted Fraser to undertake a major oil reduction program. It has done so in an effort to cut production costs and increase the company's competitiveness in North American paper markets.

Fraser's ambitious and innovative oil reduction program has continued to bring real savings to the company as energy prices have continued to rise. As a result, last year Fraser generated approximately 25 percent of its total energy requirements through renewable resources, resulting in savings to the company of $13.8 million.

In the same year, Fraser reported using 32 percent less energy per unit of production than in 1972. This is one of the highest savings for the industry.

In addition, Fraser has undertaken a 2-year, $53 million program to reduce oil consumption by 400,000 barrels of oil annually. The residual steam from the pulp process in Edmundston will be tapped to supply electricity for the paper drying process at the Madawaska plant.

This fall, Fraser, Inc. will complete construction of a pipeline across the St. John River to transport the steam from the Edmundston plant to the Madawaska plant. A parallel pipeline will return the condensate to Edmundston to be reused in the steam-making process.

With steam production at capacity, Fraser expects to raise the Edmundston-Madawaska complex's self-sufficiency in thermal energy to 80 percent, up from the current 27 percent. This will result in a direct saving of approximately 400,000 barrels of industrial fuel oil annually.

Before proceeding with this project, Fraser received approval and construction permits from nine Canadian Federal and Provincial agencies and seven U.S. Federal and State agencies. Although this project is ahead of schedule and fuel savings are expected to be realized this fall, a recent development has cast doubt on the projected economic benefits for the company.

The U.S. Customs Service has notified Fraser that a duty of as much as $1 million per year could be levied on the steam. Although steam is not specifically provided for in the tariff schedules of the United States, customs has held that steam is classified under the tariff schedules as a mineral substance. The item number is 523.91, which has a duty rate of 6.5 percent ad valorem. A Federal duty of up to $1 million levied on the steam essentially removes the economic incentive for Fraser to proceed with its alternative energy scheme. At the same time, it sends an improper message to the industrial sector. The Federal Government should encourage, rather than discourage, private investment in alternative energy development.

The amendment I am offering today will change the tariff schedules of the United States to permit imported steam to enter the U.S. duty free. The Department of Commerce and the Office of the U.S. Trade Representative have agreed that imported steam should not be subject to a duty and support my amendment.

Companion legislation has been introduced in the House of Representatives by my colleague from Maine, Congresswoman OLYMPIA SNOWE. Her bill is now being considered by the House Ways and Means Committee. The U.S. Trade Representative has sent a letter to the House Ways and Means Committee expressing its support of this legislation.

The economy of Aroostook County, the largest county east of the Mississippi River, is wholly dependent on two base industries, potato farming and processing and forest products. In recent years, these two industries have suffered greatly from national economic conditions and increased foreign competition.

The unemployment rate in the county, as it is known by Maine residents, exceeds 15 percent. Yet, Fraser has continued to be a reliable employer and important contributor to the State's economy. In the Madawaska plant alone, 1,000 Maine residents are employed.

The substantial savings Fraser would realize by this amendment will encourage the company to make future investments on the U.S. side of the border. This savings will benefit the U.S. economy, as well; rather than sending U.S. money to Venezuela or the Middle East to pay for oil supplies, it can be used at home.

I see no purpose in depriving one of our Nation's pulp and paper producers of the savings it rightly deserves by levying a duty an an item that will cause no harm to another American firm. Nor, do I believe that we should penalize American firms for undertaking major alternative energy investments.

The Department of Commerce and the Office of U.S. Trade Representative have agreed that imported steam should not be subject to a duty, and they support this amendment.

Mr. GARN. Mr. President, this amendment does not pertain to the HUD bill. However, I am willing to accept it, but I caution my friend from Maine that the House, I am sure, will raise a germaneness issue in the conference.

Mr. COHEN. I understand that. I appreciate the Senator's willingness to accept it on this particular vehicle. Frankly, I had intended to offer it to the debt ceiling bill, and it was to be agreed to on that measure, but all amendments were stripped. I decided to try any vehicle I can in order to bring it to the attention of the House. I understand that the House will not object to it. They are looking for a vehicle, as well.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

(By request of Mr. GARN, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMPSON. Mr. President, as chairman of the Senate Veterans' Affairs Committee, I support the Veterans' Administration provisions of H.R. 6956, the HUD-independent agencies appropriations bill for fiscal year 1983, which is before us today. The provisions of this legislation are entirely consistent with the actions and intentions of the Veterans' Affairs Committee. I emphasize in particular that the bill provides medical care funding at the level of the President's request, a level which is some $500 million above the fiscal year 1982 level and which is sufficient to permit an increase of 1,259 in the average employment level within the VA's medical care system.

Mr. President, I make specific mention of two particular issues covered in this legislation. First, I call my colleagues' attention to the fact that the appropriation provided in this legislation for the VA's medical and prosthetic research account has been increased by a total of $12.5 million above the level of the administration's request. Ten million dollars of this increase has been strongly recommended by the Veterans' Affairs Committee, in order to help make up for the rather severe reduction that was made in VA research programs by the HUD-Independent Agencies Apporpriations Act for fiscal year 1983, in recognition of the great importance of the VA's research effort, both in terms of the provision of quality medical care at VA medical centers and of the VA's ability to attract and retain highly qualified health professionals to provide that health care to our Nation's veterans.

I note the language of the Appropriations Committee in its report, No. 97-549, accompanying this bill, to the effect that this $10 million increase is intended "to provide additional funding to VA's highest priority research," and would highlight that point by referring to the Veterans' Affairs Committee's budget views and estimates for fiscal year 1983 issued on March 8, 1982, where it was stated that the $10 million increase is intended to restore the three major research programs to the proportionate levels at which they were funded in fiscal year 1981—that is, $2 million for rehabilitative research, $0.5 million for health services research, and $7.5 million for medical research.

The other issue upon which I would like to comment specifically is the inclusion in this bill of a $1.7 million appropriation for construction of a clinical addition and alterations at the Murfreesboro, Tenn., VA Medical Center. Earlier this week, the Veterans' Affairs Committee approved, pursuant to its statutory duty under section 5004(a) of title 38, the design and site preparation phase of this project —the $1.7 million estimated cost of which is 10 percent of the $17 million total estimated cost of the project—in accordance with a proposal by President Reagan to strengthen the affiliation between the Murfreesboro facility and the Meharry Medical College located in Nashville, Tenn.

Although the committee did approve the design and site preparation phase of this project, it did so with significant misgivings. The committee noted in its statement of views attached to the resolution of approval that although justification has been offered with respect to Meharry's critical accreditation needs and its important function of training significant numbers of black physicians, many of whom have traditionally practiced in underserved areas, there remain to be answered significant questions concerning the precise scope of the project and its specific relation to the system of priorities that governs all VA major construction projects.

I believe that the Veterans' Affairs Committee has an obligation to consider this project not only in terms of the benefit to Meharry Medical College and civilian health care needs in general, but also in terms of the benefit to the Nation's veterans. They are, of course, our primary concern, and it is essential for the committee to have before it detailed information concerning the ways in which any particular project will enhance the quality of

health care for eligible veterans, before favorable action can be taken on any proposal submitted by the administration. The relative haste with which this project has been formulated by the administration and submitted by the VA, outside of the regular annual construction approval process, raises a most unusual and unprecedented situation and leaves a number of important issues unaddressed. I expect that the committee will be holding a hearing to explore all aspects of this project and its stated justifications prior to any further approval action by the committee of the construction phase of the project.

Mr. President, I strongly support portions of this bill which affect the Veterans' Administration, and I commend my good friend from Utah, the distinguished chairman of the HUD and Independent Agencies Appropriations Subcommittee, for his excellent work on this legislation and for his careful attention to the most pressing needs of our national veteran constituency.●

Mr. CRANSTON. Mr. President, as the ranking minority member of the Veterans' Affairs Committee, I should like to take this opportunity to express my thanks to the distinguished chairman of the Subcommittee on HUD-Independent Agencies, Senator GARN, for his cooperation with me on a variety of issues in this bill pertaining to VA appropriations.

GI BILL BENEFITS FOR CORRESPONDENCE TRAINING

I very much appreciate his stance on the payment of GI bill benefits for correspondence training, an issue that has been of particular concern to me.

As the Senate will recall, this issue has been before us on many past occasions, including several times during this Congress. During the first session of the present Congress, section 2004 of the Omnibus Budget Reconciliation Act of 1981—Public Law 97-35—reduced from 70 percent to 55 percent the portion of correspondence training costs that the VA pays. Subsequently, as I am sure the distinguished chairman remembers well, a proviso was enacted on December 23, 1981, in the HUD-Independent Agencies Act for Fiscal Year 1982—Public Law 97-101. That proviso orginated in the House Appropriations Committee and stated that all funding would be eliminated for the program except with respect to individuals already enrolled in correspondence training as of September 30, 1981.

In response to this proviso, section 5(a) of Public Law 97-174, the Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, was enacted on May 4, 1982. It provided that except as may be provided "by a provision of law enacted in express limitation" of the provision in section 1783(a)(1) of title 38 creating entitlement for GI bill benefits for correspondence training, funds in the VA's readjustment benefits account shall be available for the payment of correspondence training. Thus, Mr. President, upon the enactment of that law on May 4, the appropriations proviso was nullified, and the VA has been paying correspondence benefits.

This year again, however, the HUD-Independent Agencies Appropriations Act for Fiscal Year 1983, H.R 6956, as passed by the House on September 15, 1982, contains a proposed cutoff—in language that purports to be in express limitation of the relevant provision of title 38—of funding for correspondence training.

It should be noted that, after the House Appropriations Committee had reported H.R. 6956, but prior to its passage by the House, correspondence training was considered in August by the authorizing committees—the House and Senate Veterans' Affairs Committees—in the context of the reconciliation legislation which was enacted on September 8, 1982, as Public Law 97-253. The original House-passed version of that measure had contained a provision to terminate correspondence training benefits under the GI bill, but the House-Senate conferees on the reconciliation measure specifically decided not to proceed with legislation to restrict or terminate correspondence training and the House receded from its position.

Thus, Mr. President, the Congress has once again, just last month, expressed its view that GI bill benefits for correspondence training should continue to be paid.

I believe that this should be accepted as a definitive resolution of the issue.

Mr. GARN. Mr. President, I very much agree with the views that the able ranking minority member of the Veterans' Affairs Committee has expressed on this subject. In this connection, I would note that, upon my recommendation and that of the Subcommittee on HUD-Independent Agencies, the Appropriations Committee, in reporting the pending measure, rejected the House proviso. As stated on page 79 of our committee's report—Senate Report No. 97-549—on this measure:

> The Committee believes that correspondence training represents a cost-effective educational program for those veterans who cannot attend school on a full-time basis.

Mr. CRANSTON. Mr. President, I hope that, in conference on this appropriations measure, this clear position taken by the Appropriations Committee will be instrumental in convincing the House to recede from its position on the payment of these benefits.

Mr. GARN. The Senator from California can be sure that I will do all that I can to uphold the Senate position.

Mr. CRANSTON. I thank the distinguished Chairman for that assurance and for his support on this issue generally. I greatly appreciate his efforts thus far to insure that needed GI bill benefits continue to remain available to the Nation's Vietnam-era veterans. I trust that the other conferees on this measure will provide him with strong assistance on this issue.

I should add that we on the authorizing committee, the Committee on Veterans' Affairs, feel strongly that statutory entitlements and benefits under the provisions of title 38 should not be restricted or terminated in legislation developed outside the authorizing committee process.

Mr. President, I would like to comment briefly on some other matters relating to the VA that are also addressed in the pending measure.

MEDICAL CARE AND RESEARCH ACCOUNTS

Mr. President, I urge the Senate conferees to give sympathetic consideration to accepting the appropriation levels in the House bill in both the medical care and medical and prosthetic research accounts. In both accounts, the levels as passed by the House will result in higher employment levels. As my colleagues realize, the VA health-care system is very labor intensive, and available staffing levels in recent years, both for direct care in research activities, have not been sufficient for the agency to fullfill its various health-care missions in an optimal fashion.

With specific reference to the medical and prosthetic research account, I note that the Senate committee added $10 million to the administration's request "to be applied by the VA to restore the program back to the fiscal year 1981 level and to provide additional funding to VA's highest priority research." This action responds directly to the Veterans' Affairs Committee's recommendation to the Budget Committee in the Veterans' Affairs Committee's "Budget Views and Estimates" for fiscal year 1983, and I thank my good friend from Utah, Mr. GARN, and the others on his subcommittee and the full Appropriations Committee for their support in this matter.

The Veterans' Affairs Committee regards the VA's research efforts as being of great importance to the agency's ability to provide quality medical care. With specific reference to the VA's use of the additional $10 million, I note that the Veterans' Affairs Committee proposed an allocation of $7.5 million for medical research, $2 million for rehabilitative research, and $0.5 million for health services research, an allocation conforming to the fiscal year 1981 breakout among research activities that we trust is acceptable to the Appropriations Committee.

As a final point relating to the funding for VA research in fiscal year 1983, I hope that the action of the Congress in restoring the funding level at least to the fiscal year 1981 level will enable the agency to again fund, at the full $2 million level, the program begun by the VA in 1979 for supporting innovative research projects that are not accepted for funding in the normal peer review process. This program, which was established at my urging, is a very important element in the VA's overall research effort, and funding at the full $2 million level adopted in prior years would be an important indication of continued support within the VA for this approach to supporting possible breakthrough research.

GENERAL OPERATING EXPENSES

Mr. President, I am very pleased that the pending measure restores $5 million of a $7 million reduction made by the House to the general operating expense appropriation. I urge the Senate conferees to press hard in the conference to secure House acceptance of the Senate level in this account. A reduction of the magnitude adopted by the House--which would have to be taken primarily in the department of veterans' benefits—would have a significant adverse impact on the agency's actions in a number of areas, most particularly in its ability to process claims for benefits in a fair and timely manner.

LOS ANGELES OUTPATIENT CLINIC

I am very gratified that my good friend from Utah, Mr. GARN, included in the committee's report the situation concerning the VA's outpatient clinic in Los Angeles. I agree wholeheartedly with the committee's recognition that "the leasing arrangement for the existing facility has posed serious difficulties in recent years" and I commend the committee for its recognition that—

[T]he construction approach [of a replacement facility in the same general vicinity] could potentially provide a more cost-effective and stable long-term solution than leasing the existing facility.

In my view, adopting the construction approach is justified and should be undertaken as soon as feasible. Thus, I urge that the Senate conferees recede to the House in conference and include $3 million in fiscal year 1983 for design and site acquisition and preparation for a new outpatient clinic in Los Angeles.

VA CONSTRUCTION PROJECT AT MURFREESBORO, TENN.

Finally, Mr. President, I wish to discuss at some length the appropriation in the pending measure of $1.7 million for the design and site preparation phase of a clinical addition and alterations project at the Murfreesboro, Tenn., Veterans' Administration Medical Center. This project is part of an effort to augment the affiliation arrangement between Murfreesboro VAMC and Meharry Medical College of Nashville, Tenn., which in turn is one facet of a larger Federal Government action to assist Meharry, one of the principal institutions in the country for training black physicians, to remain a strong medical training facility.

Mr. President, I have been following very closely the situation at Meharry since this spring when I was contacted by a number of individuals expressing concern about Meharry's future, most particularly about the school's professional accreditation. One of the most significant problems facing Meharry is the school's limited access to clinical teaching beds, and one solution that was proposed was for Meharry to establish an affiliation arrangement with the Nashville VAMC.

Mr. President, I wrote to the VA's Chief Medical Director, Dr. Donald L. Custis, on April 28, 1982, regarding my concerns about Meharry and urged that certain action be undertaken. I ask unanimous consent that my letter to the Chief Medical Director, together with his interim reply, dated June 24, 1982, and his final reply, dated July 14, 1982, be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., April 28, 1982.

Dr. DONALD L. CUSTIS,
Chief Medical Director, Veterans' Administration, Washington, D.C.

DEAR DON: I am writing with reference to the request by Meharry Medical College of Nashville, Tennessee, to participate in an affiliation agreement with the Veterans' Administration Medical Center in Nashville. I have received numerous expressions of concern from inside and outside California about the very serious situation that Meharry is confronting.

I recognize that affiliation agreements are, in the first instance, matters for local VA medical center consideration and action and are not generally susceptible to close direction from Central Office. In this regard, I am aware that VAMC Nashville has a long-standing, extensive affiliation relationship with Vanderbilt University.

Nevertheless, there are other elements in this particular case—such as Meharry's role as one of the principal institutions for training Black physicians, the school's record in placing physicians in shortage areas, the Federal Government's substantial financial support for the school to date, and the seriousness of Meharry's current need for the affiliation, which, if unmet, would apparently threaten the school's continued existence—that warrant special consideration being given to Meharry's request to participate in an affiliation agreement with VAMC Nashville.

Thus, I believe that the involvement of the Department of Medicine and Surgery's Central Office is necessary and appropriate, and I urge that you designate a small task force to investigate this matter. I would suggest that such a group might include, among others, the Acting Associate Deputy Chief Medical Director, the Assistant Chief Medical Director for Academic Affairs, the Regional Director for the Southeastern Region, and a Black VA hospital director or chief of staff or other DM&S official of comparable rank and would urge that they investigate the situation thoroughly, but as soon as possible, and report to you on their findings. To this end, I believe it would be necessary and appropriate for the VA officials selected to visit Nashville and meet with leaders at the three institutions concerned—VAMC Nashville, Vanderbilt University, and Meharry—and then meet with officials of accrediting bodies that have raised concerns about Meharry's current status and need for additional clinical training capacity, representatives from the Department of Health and Human Services familiar with the Federal Government's support of Meharry, and such others, including, for example, officials of the National Medical Association, the Association of American Medical Colleges, and the National Association for the Advancement of Colored People, who would be in a position to provide an outside perspective on the current situation and on ways to reach a fair and appropriate resolution of Meharry's request.

Don, I attach considerable urgency to this matter and would greatly appreciate your giving it your very prompt and personal attention. I look forward to receiving your response to my suggestions and, ultimately, a report from you on your decision on Meharry's request.

With warm regards,
Cordially,

ALAN CRANSTON,
Ranking Minority Member.

VETERANS ADMINISTRATION, DEPARTMENT OF MEDICINE, AND SURGERY,
Washington, D.C., June 24, 1982.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for your letter on the matter of support for Meharry Medical College. I have delayed my answer hoping that by now a definitive resolution would have been reached to the mutual satisfaction of all interested parties. Although such an accomplishment is expected soon, I think it best to provide this interim reply.

I assure you this problem has been receiving serious attention. A federal interagency task force, chaired by the Department of Health and Human Services in which the Veterans Administration is represented, has been exploring options for assisting Meharry with its multifaceted difficulty in maintaining its accreditation.

Meharry's need for an expansion of a clinical teaching base is one aspect of the problem, with which the VA can be of assistance while still maintaining the current high quality of veteran patients' medical care. Other issues are financial, class size and faculty capability. As you know, the impact of any solution on Vanderbilt Medical School resources is also at stake. The task force appreciates that the views and relationships of all concerned are important considerations in reaching final decisions.

We will keep you informed of final developments.

Sincerely,

DONALD L. CUSTIS, M.D.,
Chief Medical Director.

VETERANS ADMINISTRATION, DEPARTMENT OF MEDICINE AND SURGERY,
Washington, D.C., July 14, 1982.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: As promised, I would like to bring you up-to-date regarding Meharry Medical College.

On June 25, Secretary of Health and Human Services, Richard S. Schweiker, announced the President's decision to assist Meharry in fulfilling its medical training mission by putting into effect three recommendations. The first was that the Department of Health and Human Services will seek to arrange to prepay the outstanding balance of the loan under which Meharry's Hubbard Hospital was financed with a HHS loan guarantee. The second recommendation was to ask the VA to move expeditiously to expand the existing affiliation between Meharry Medical College and Murfreesboro, Tennessee, VA Medical Center. That will provide, over the next one-to-three years, an additional 200 teaching beds in internal medicine and surgery. That action will both expand the resources in the mid-Tennessee area for providing services to veterans as well as provide Meharry with an expanded educational base for its medical student and house staff training programs. Third, an interim arrangement for increased clinical teaching resources will result from Vanderbilt University's indicated willingness to enter into discussions with Meharry Medical College, related to providing interim access to Vanderbilt educational programs for a number of Meharry house staff and medical students.

In addition, the President strongly urges and expects the appropriate state and local officials, as well as the private sector, to fully cooperate in the undertaking. The task force that made the recommendations upon which the President acted consisted of representatives of the VA, the Department of Health and Human Services, the Department of Education, the Department of Justice, and the Office of Management and Budget. A site team did visit Nashville as you mentioned in your original letter and it consisted of two representatives from the VA and two representatives from Health and Human Services.

Rest assured that we will continue to monitor Meharry's progress with its accreditation status and to assist in ways that are mutually beneficial to both the Medical College and the Veterans Administration.

Sincerely,

DONALD L. CUSTIS, M.D.,
Chief Medical Director.

Mr. CRANSTON. Mr. President, in light of my concerns regarding Meharry's status, I am pleased that the Appropriations Committee took the action it did to include $1.7 million for the initial phase of this construction project. The administration proposed funding this initial phase through a reprograming of major working reserve funds to the construction, major projects account. The Appropriations Committee very wisely did not simply approve, by letter the proposed reprograming but rather included the $1.7 million appropriation in the pending measure. Although it was not clear that the reprograming request would have activated the requirement in section 5004(a) of title 38 for Veterans' Affairs Committees' resolution of approval, the Appropriations Committee's action, together with its express acknowledgement in its committee report of the Veterans' Affairs Committee's role in authorizing the project, serves to underscore the importance of the Veterans' Affairs Committee's action in scrutinizing and, as appropriate, approving major VA medical construction projects before design work is funded and undertaken.

Mr. President, despite my general satisfaction that action is being taken at this time to assist Meharry, I must express my misgivings about the many problems that have arisen already in connection with this construction project. As is set out in greater detail in the statement of the Veterans' Affairs Committee views that was enclosed with the letter the committee chairman (Mr. SIMPSON) and I sent to the majority leader (Mr. BAKER) and the Speaker of the House (Mr. O'NEILL) transmitting the Veterans' Affairs Committee's resolution approving the initial phase of this project, there has been one unfortunate problem after another associated with this project to date.

Examples of these problems include the difficulty the VA had in timely transmitting a prospectus on the project to the Veterans' Affairs Committee; the lack of accurate information in the prospectus; the continued uncertainty about the size and scope of the project, with estimates of the number of beds to be converted to teaching beds varying by 100 percent; the extremely short time for our committee to consider the prospectus that was finally submitted and to do so without benefit of the comments on the project from concerned health system agencies, as is required by OMB Circular A-95; and the attempt by the agency to secure funding for the intitial phase—a process that might have circumvented the Veterans' Affairs Committee approval process through a reprograming action.

In light of these and other problems, I am committed to scrutinizing very carefully all further activity regarding the proposed project.

Mr. President, I ask unanimous consent that our September 21, 1982, letter to the majority leader, the committee resolution of approval, and the document entitled "Senate Committee on Veterans' Affairs Views with Respect to Approval of the Design Portion of the Clinicial Addition and Alterations Project at the Murfreesboro, Tennessee, Veterans' Administration Medical Center" to which I referred earlier be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., September 21, 1982.

Hon. HOWARD H. BAKER, Jr.,
Majority Leader, U.S. Senate, Washington, D.C.

DEAR MR. MAJORITY LEADER: Pursuant to section 5004(a) of title 38, United States Code, the Senate Committee on Veterans' Affairs, by a poll of its members completed on September 21, 1982, has adopted the enclosed resolution approving the design and site preparation portions of a construction project at the Murfreesboro, Tennessee, Veterans' Administration Medical Center. Under section 5004(a), no appropriation may be made for the construction of a VA Medical Center which involves a total expenditure of more than $2 million without the prior approval of both this Committee and the House Veterans' Affairs Committee. The total estimated cost of the proposed Murfreesboro construction project is $17 million, of which $1.7 million is requested for design and site preparation purposes in FY 1983.

In view of the swiftness with which this project was proposed and with which the Committee's approval of design development and site preparation was sought, the Committee has certain serious concerns relating to the project. These concerns are expressed in the Statement of Committee views attached to the enclosed resolution of approval.

Sincerely,

ALAN K. SIMPSON,
Chairman.

ALAN CRANSTON,
Ranking Minority Member.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., September 21, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to section 5004(a) of title 38, United States Code, the Senate Committee on Veterans' Affairs, by a poll of its members completed on September 21, 1982, has adopted the enclosed resolution approving the design and site preparation portions of a construction project at the Murfreesboro, Tennessee, Veterans' Administration Medical Center. Under section 5004(a), no appropriation may be made for the construction of a VA Medical Center which involves a total expenditure of more than $2 million without the prior approval of both this Committee and the House Veterans' Affairs Committee. The total estimated cost of the proposed Murfreesboro construction project is $17 million, of which $1.7 million is requested for design and site preparation purposes in FY 1983.

In view of the swiftness with which this project was proposed and with which the Committee's approval of design development and site preparation was sought, the Committee has certain serious concerns relating to the project. These concerns are expressed in the Statement of Committee Views attached to the enclosed resolution of approval.

Sincerely,

ALAN K. SIMPSON,
Chairman.

ALAN CRANSTON,
Ranking Minority Member.

RESOLUTION OF THE COMMITTEE ON VETERANS' AFFAIRS

Resolved by the Committee on Veterans' Affairs of the United States Senate, pursuant to section 5504(a) of title 38, United States Code, that the development of a design and the site preparation for the medical construction project entitled "Clinical Addition and Alterations" at the Murfreesboro, Tennessee, Veterans' Administration Medical Center is approved. This approval is effective with respect to appropriations in an amount not to exceed $1,700,000. The total estimated cost of such design and site preparation is $1,700,000.

ALAN K. SIMPSON,
Chairman.

ALAN CRANSTON,
Ranking Minority Member.

Adopted: September 21, 1982.

SENATE COMMITTEE ON VETERANS' AFFAIRS' VIEWS WITH RESPECT TO APPROVAL OF THE DESIGN PORTION OF THE CLINICAL ADDITION AND ALTERATIONS PROJECT AT THE MURFREESBORO, TENN., VETERANS' ADMINISTRATION MEDICAL CENTER

Pursuant to section 5004(a) of title 38, United States Code, the Senate Committee on Veterans' Affairs has, by resolution dated September 21, 1982, approved the design and site preparation portion of a proposed medical construction project entitled "Clinical Addition and Alterations" at the Murfreesboro, Tennessee, Veterans' Administration Medical Center.

JUSTIFICATION FOR APPROVAL

Despite the reservations and uncertainties expressed below, the Committee has taken action to approve the development of the design and site preparation phases of this project because of Meharry Medical College's national significance in training Black medical students and producing significant numbers of physicians to practice in underserved areas; because of the need for this project to move ahead expeditiously in order to enable Meharry to retain its accreditation; because of the upgrading of the health-care services for veterans that may be expected to result from a strengthened Murfreesboro-Meharry affiliation and from the renovation and expansion of facilities at the Murfreesboro VAMC; and in the interest of avoiding a point of order, under section 5004(a) of title 38, United States Code, against the appropriation of the design and site preparation funds.

BACKGROUND

The Administration first made this project known to the Committee by means of an August 10, 1982, letter to the Chairman of the Committee from the Office of the Administrator of Veterans' Affairs, stating that the letter was transmitted in accordance with the provisions of section 5004 of title 38. Section 5004(a) requires submission to the Committees on Veterans' Affairs of a prospectus for each VA medical construction project involving total expenditures of more than $2 million. No prospectus was submitted with that letter. However, the letter and an enclosed June 25, 1982, press release issued by the Secretary of Health and Human Services, indicated that, as part of the President's plan to assist Meharry Medical College in fulfilling its medical training mission, the VA was moving to expand the affiliation between Meharry Medical College and the Murfreesboro VAMC.

According to that release, the expanded affiliation "will provide over the next one to three years, 100 to 200 teaching beds in internal medicine and surgery" The VA's letter stated that "approximately 200 teaching beds" are required and that the VA proposed to meet that need through conversion of existing intermediate care beds to acute medical and surgical beds. The letter also noted that a modest surgical program and an ambulatory care clinic would also be established and that the estimated cost for necessary construction for the project is $17 million. The VA stated that it would "require 41.7 million to contract for working drawings in fiscal year 1983, to be obtained by a reprogramming from the Major Working Reserve" and that "[c]onstruction funds will be requested in a future budget." In the letter, the VA requested "[a]uthorization of $1.7 million for design".

By letter dated August 11, 1982, the VA informed the Chairman of the Veterans' Affairs Committee that it was "initiating action to reprogram $1.7 million for the design of a clinical addition and renovation project" at the Murfreesboro VAMC. Enclosed with that letter was a copy of a letter of the same date to the Chairman of the Senate Appropriations Committee proposing that the $1.7 million needed for a contract for working drawings for the project in fiscal year 1983 be reprogrammed from the VA's Major Working Reserve to its Construction, Major Projects account. Enclosed with the letter to the Appropriations Committee Chairman was a one-page explanation of the reprogramming request stating that a prospectus for the project was attached. The attachment, entitled "Clinical Addition and Alterations" indicates that 200 beds will be renovated, that new construction will provide for an expanded outpatient clinic and two-operating-room surgical suite, and that other work will expand certain other services and correct various existing deficiencies.

On September 10, 1982, the VA submitted to the Chairman of the Veterans' Affairs Committee a letter noting that it had intended to enclose a prospectus with its August 10 letter to him and corrected that inadvertent omission by providing an updated version of the prospectus. The updated prospectus indicated the VA's intention to request that funds for the construction phase of the project, in the amount of $15.3 million, be appropriated for fiscal year 1984.

On September 17, 1982, the VA notified the Committee that the term "design" as used in the context of the Murfreesboro request was understood by the VA to encompass site preparation as well.

DISCUSSION

Three aspects about this proposed construction project are most unusual. First, the size and scope of the project are unclear at this point. Second, the VA has not yet received local Health Systems Agency comments under OMB Circular A-95. Third, the reprogramming proposal circumvents the normal Committee authorization process.

Undetermined scope of the project

The Committee notes that the size of this project is apparently not yet established. Although the updated prospectus submitted on September 10 seems to indicate that the project would provide 200 teaching beds and states that the "[s]cope and requirements were finalized on August 2, 1982", at a September 1, 1982, hearing of the Special Oversight Subcommittee of the House Veterans' Affairs Committee in Nashville, Tennessee, the VA General Counsel testified that the number of new teaching beds planned was "100 to 200". Moreover, according to the updated prospects, three conceptual alternatives for the construction are still under consideration and the gross square foot area of new construction and alterations will not be determined until preliminary plans are completed in December of this year.

Thus, at this point, the ultimate construction cost estimate of $17 million and hence the 10-percent $1.7 million estimate for design and site preparation must be considered very rough and contingent upon a final decision on the scope of the project.

Accordingly, the estimates for VA Medical Care account expenditures in FY 1983 and 1984 for the expanded affiliation and related project activations must also be seen as lacking precision. In a September 3, 1982, letter responding to a Committee staff request, the VA's General Counsel provided an estimate of the fiscal year 1983 and 1984 medical care costs of the expanded affiliation—$2,280,000 and 69 full-time-equivalent employees (FTEE's) in fiscal year 1983 and $5,141,000 and 134 FTEE's in fiscal year 1984. He also advised that the agency intended to request in January 1983 "a supplemental 1983 appropriation in the amount of $2.28 million to cover the cost of the expanded affiliation." He noted: "These funds will not actually be needed by the Veterans' Administration until April of 1983, the period of time at which the medical care beds will become operational." It seems clear to the Committee that the ultimate dollar amounts and FTEE figures will depend upon the number of new teaching beds that are eventually provided.

Incomplete A-95 process

It also appears that the VA has not yet fully complied with its Office of Management and Budget Circular A-95 processes. Although State and Areawide Clearinghouses were notified of the project on August 5, 1982, VA regulations implementing Circular A-95 require a 60-day comment period, and the VA has not yet received any Health Systems Agency comments. This is the first time since the section 5004 Committee approval process was enacted in 1979 that approval has been sought for a project before the completion of the A-95 comment process.

Committee approval process

Design and Site Preparation Phase

The Committee also notes that the Administration proposal that funding for the design and site preparation phase be obtained through reprogramming of Major Working Reserve funds to the Construction, Major Projects account would not activate the requirement in section 5004(a) of title 38 for Veterans' Affairs Committees' resolutions of approval. Under that provision, the Veterans' Affairs Committees' approval is required only as a prerequisite to (that is, to avoid a point of order against) the making of appropriations for certain medical construction projects and leases. In this instance, the proposed reprogramming would entail only the use of funds appropriated in prior years, for the design and site preparation costs of the Murfreesboro project—not the making of an appropriation in fiscal year 1983.

In the Committee's view, the approval process set forth in section 5004 of title 38 was enacted in contemplation of the Veterans' Affairs Committees' scrutinizing and, as appropriate, approving major VA medical construction projects before design and site

preparation work on major construction projects is funded and undertaken.

In this regard, the Committee is very pleased that the Senate Appropriations Committee, rather than simply approving, by letter, the proposed reprogramming, has reported a fiscal year 1983 HUD-Independent Agencies appropriations measure, H.R. 6956, that contains an appropriation of $1.7 million for the design portion of this project. Thus, the table in that Committee's report (pages 84-85 of S. Rept. No. 97-549) setting forth the projects for which H.R. 6956 would make appropriations in the Construction, Major Projects account includes this $1.7 million for the Murfreesboro VAMC, with a like sum included in a "general reduction" totalling $11.7 million from the Major Working Reserve. Moreover, the Appropriations Committee noted in its discussion of this project (id. at 86):

"In order not to slow down the process of providing for the new beds at Murfreesboro, Tennessee, to support the new Meharry affiliation, the Committee has taken the highly unusual step, prior to submission of complete justification and authorizing committee action pursuant to section 5004 of title 38, of the United States Code of approving the $1,700,000 to initiate this important project. As this appropriations act proceeds through the Congress, the Committee plans to carefully review the findings and action of the Veterans' Affairs Committees relative to this project."

The Committee on Veterans' Affairs appreciates the Appropriations Committee's recognition of the importance of the authorizing committee process and intends the resolution of approval to be of assistance to both Appropriations Committees and both Houses in their further deliberations on the action they take in response to the VA's proposal.

Construction Phase

As already discussed, the Committee is concerned that this project was hastily formulated and unclearly defined in scope. Although justification has been offered with respect to Meharry's accreditation needs and its important function of training significant numbers of Black physicians, many of whom practice in underserved areas, the relationship between this project and the primary objectives of the VA medical facility construction program—including objective criteria which the Administrator has indicated are under development—has not been articulated to the Committee. In this regard, before any request for approval of the construction phase of this project is acted upon by this Committee, the Committee will hold a hearing and conduct a thorough inquiry into all aspects of the project and its stated justifications. Any Committee approval of the construction phase will of course be contingent upon the resolution of the issues noted above and the submission of an updated and detailed prospectus as envisioned by section 5004(b).

CONCLUSION

Mr. CRANSTON. Mr. President, in closing, I again express my deep appreciation to my good friend from Utah (Mr. GARN) for his cooperation with me and his great courtesy in listening to my views on various issues related to the VA as he has worked to develop this measure. I also want to note the fine work of his staff assistant on the subcommittee, Wallace Berger, and to thank him for his willing cooperation with staff members of the Veterans' Affairs Committee. I deeply appreciate the many courtesies shown to me and the minority staff of the Veterans' Affairs Committee, and I am pleased to give my support to the VA appropriations in the pending measure.

Mr. PRESSLER. Mr. President, I would like to commend the Appropriations Committee's action to retain the 75/25 large/small cities ratio in the urban development urban grant program.

The House had recommended that this ratio be ended because some $100 million was left in the fund last year. The Senate Appropriations Committee wisely decided that the surplus was due to the amount of redtape necessary to receive these funds rather than a lack of need on the part of our small cities. I wholeheartedly support their recommendation that HUD reexamine their regulations pertaining to UDAG money.

In my own State of South Dakota, our capital city of Pierre is just beginning the process of applying for UDAG money. Their project is an ambitious and a worthy one. Pierre hopes to completely revitalize their waterfront area and thus give a boost to the surrounding business district. The first step of their project will be the construction of a hotel/convention complex which will attract many visitors to the city. Private money has already been lined up to completely cover the costs of constructing the center. Federal money will be used to buy the necessary land.

We have already seen the great successes of large cities like Baltimore which benefited the entire community. I believe it is of vital importance that we give our smaller cities the chance to do the same. In many ways, our small cities have suffered even more than larger ones in recent years. It is very difficult to attract new businesses and workers to cities which are badly in need of rehabilitation.

Once again, I want to commend the Appropriations Committee on its actions and I urge them to continue their fight in conference committee.

Mr. DOMENICI. Mr. President, I would like to commend my distinguished colleagues, Senators HATFIELD and GARN, and the members of the Appropriations Committee for reporting the HUD-independent agencies appropriation bill expeditiously. We may be able to enact a final bill before the recess.

I support the bill as reported by the Appropriations Committee. H.R. 6956 provides $47.5 billion in new budget authority and $33 billion in outlays for fiscal year 1983 for important activities of the Department of Housing and Urban Development, Veterans' Administration, Environmental Protection Agency, NASA, and numerous independent Federal agencies.

I must note, however, that when outlays from prior year commitments and possible later requirements are taken into account, the HUD-Independent Agencies Subcommittee, while $9 billion in budget authority below its 302(b) crosswalk allocation, will be above its outlay allocation by $0.3 billion.

Senator GARN has brought us a bill that meets the spirit of budget restraint in the first budget resolution. However, with the $0.3 billion outlay overage, it will be necessary for the Appropriations Committee to achieve savings elsewhere in order to stay within its total outlay allocation of $459.4 billion under the budget resolution. The appropriations process remains bound by that ceiling.

The Senate Budget and Appropriations Committees have differences in the scoring of $1.1 billion in management initiative savings related to these programs. The Budget Committee does not count those savings. The Appropriations Committee does. But I will not take issue with this item today.

I must, however, oppose any amendments to H.R. 6956 where enactment would result in additional fiscal year 1983 outlays.

The Senate bill provides: $3.8 billion in new budget authority and $180 million in contract authority for assisted housing. This will support 94,000 units of housing in fiscal year 1983, including 16,000 units for the elderly or handicapped; 3,000 units of Indian housing; and 75,000 units slated for conversions and property disposition; Enactment of the Senate bill should result in a total fiscal year 1983 program level of $10 billion for the construction, rehabilitation and modernization of assisted housing, taking into account the expected carryover and recapture of $6 billion in budget authority; Senator DOMENICI $1.3 billion for payments for operation of low-income housing projects; $3.5 billion for community development grants and $0.4 billion for urban development action grants; $24.1 billion for the programs of the Veterans' Administration, which is consistent with the President's budget request for increased funding for medical care, research, and hospital construction; $3.7 billion for EPA, which is $0.1 billion more than was requested by the President, but still slightly below the fiscal year 1982 appropriation; $6.4 billion for NASA, which is $0.2 billion less than was requested by the President. This reduction primarily results from a provision requiring $0.4 billion in offsetting reimbursements from DOD for use of the Space Shuttle; $1.1 billion for the National Science Foundation, which is the same amount re-

quested by the President and assumed in the first budget resolution; and $0.6 billion for the Federal Emergency Management Agency.

With respect to the credit budget, the Senate-reported bill provides $2.9 billion in new direct loan obligations, $59.7 billion in new primary loan guarantee commitments, and $68.3 billion in new secondary loan guarantee commitments. The bill provides no money for Federal Financing Bank (FFB) purchases of low-rent public housing bonds guaranteed by the Department of Housing and Urban Development or Ginnie Mae purchases of mortgages insured by the Federal Housing Administration, thereby causing the subcommittee to be $3.1 billion under its first budget resolution allocation for new direct loan obligations. This action also causes the subcommittee to be $3 billion over its allocation for new primary loan guarantee commitments, since a reduction in new obligations to make direct loans that are guaranteed by other Federal agencies increases new primary loan guarantee commitments. This overage probably will not create a problem with the credit budget ceilings in the budget resolution.

An adjustment in the subcommittee totals has been made to assure that entitlement programs contained in this bill are charged at the levels assumed in the first budget resolution. This permits discretionary amounts in the bill to be compared to the subcommittee allocations under the first budget resolution.

Mr. President, I ask unanimous consent that two tables showing the relationship of the reported bill, together with possible later requirements, to the congressional spending and credit budgets and the President's budget requests be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HUD-INDEPENDENT AGENCIES SUBCOMMITTEE SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed		23.0
H.R. 6956, as reported in the Senate	47.5	33.0
Possible later requirements:		
Low-income housing operating subsidies	.2	.1
Veterans compensation, pensions, and readjustment benefits		.8
Total for HUD-Independent Agencies Subcommittee	47.7	56.9
Deduct entitlement increases above first budget resolution assumptions	−.2	
Adjusted total	47.5	56.9
First budget resolution 302(b) allocation	56.5	56.6
House-passed level	47.2	57.0
President's request	41.8	56.7
Adjusted total compared to:		
First budget resolution 302(b) allocation level	−9.0	+.3
House-passed level	+.3	−.1
President's request	+5.7	+.2

HUD-INDEPENDENT AGENCIES SUBCOMMITTEE CREDIT TOTALS

[In billions of dollars]

	Fiscal year 1983		
	New direct loan obligations	New loan guarantee commitments	
		Primary	Secondary
H.R. 6956, as reported in Senate, with direct loan obligations resulting from prior-year commitments and other actions completed (total for HUD-Independent Agencies Subcommittee)	2.9	59.7	68.3
First budget resolution 9(b)(2) allocation	6.0	56.7	68.3
House-passed level	2.6	58.9	68.3
President's request	3.6	53.6	38.4
Subcommittee total compared to:			
First budget resolution 9(b)(2) allocation level	−3.1	+3.0	
House-passed level	+.3	+.8	
President's request	−.7	+6.1	+29.9

GREAT LAKES WATER QUALITY

Mr. PERCY. Mr. President, I wish to take this opportunity to commend the HUD and Independent Agencies Appropriations Subcommittee for its action regarding Great Lakes water quality programs. The subcommittee added $3.5 million to the administration's request for EPA Great Lakes programs. In addition, the report accompanying the bill instructs the EPA to "provide the management, focus, and visibility to this program that it needs in order to effectively address the problems of the Great Lakes."

The administration's fiscal year 1983 budget sharply reduced Federal Great Lakes water quality funding, particularly spending on environmental research and monitoring efforts. The proposed cuts run counter to U.S. commitments to the Canadians under a 1978 agreement on water quality, and I have protested the reduction to the President. In my judgment, the proposed reductions were a false economy. Research and monitoring programs are the watchdogs and early warning systems of pollution in the Great Lakes.

The Great Lakes contain 20 percent of the world's and more than 95 percent of the Nation's surface fresh water. Illinoisans, and other midwesterners, depend on this resource for personal and industrial use, as well as recreational pleasure. Indeed, the quality of life of the Great Lakes region is dependent on the quality of water of the Great Lakes. For this reason, I was particularly concerned over proposed reductions in Great Lakes environmental programs.

I am pleased that the Senate has acted to restore funding for these programs, and directed that the EPA place high priority on them. I thank the committee.

Mr. President, I ask unanimous consent that a resolution by midwestern Governors on this subject, as well as my letter to the President, be included at this point in the RECORD.

The resolution and letter follow:

GREAT LAKES WATER QUALITY: RESOLUTION OF THE GREAT LAKES CONFERENCE ON WATER

Whereas, the United States and Canada have entered into an Agreement to protect the water quality of the Great Lakes; and

Whereas, it is the position of the Great Lakes States that such an Agreement is vital and necessary to assure the continued high quality of the Great Lakes; and

Whereas, Ontario and Canada have a federal provincial agreement which funds their obligation to the Great Lakes water quality agreement; and

Whereas, the Comptroller General of the United States has found that the United States is having difficulty meeting its commitments under the Agreement; and

Whereas, the Great Lakes States were not signatories to the 1972 and 1978 Great Lakes Water Quality Agreement; and

Whereas, many of the programs necessary to meet the objectives of the Agreement are the responsibilities of the states; and

Whereas, it is clear that United States funding, as now recommended, will not be adequate to meet Agreement objectives related to municipal waste treatment water quality programs, Great Lakes monitoring and Great Lakes research; and

Whereas, no mechanism exists that relates the responsibilities of the government of the United States and the governments of the Great Lakes States to meet the objectives of the Great Lakes Water Quality Agreement;

Now, therefore, be it resolved, by the undersigned States, That there be transmitted to the President and the United States Congress a request for the establishment of a formal arrangement between the United States Government and the Great Lakes States to meet the objectives of the Great Lakes Water Quality Agreement, and that adequate funding be directed to maintain research, monitoring and programs essential to the implementation of the terms of Agreement.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., April 26, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I wish to take this opportunity to express my deep concern over a matter relating to United States and Canadian relations.

The Great Lakes Water Quality Agreement was entered into by the United States and Canada to restore and enhance water quality in the Great Lakes. You made reference to the Agreement during your trip to Ottawa last year. In addressing a joint session of the Canadian parliament, you stated that you "want to continue to work cooperatively to understand and control the air and water pollution that respects no borders."

Article VI of the Water Quality Agreement of 1978 requires each nation to implement a coordinated environmental surveillance and monitoring program in the Great Lakes. In line with this, Article XI of the Agreement requires each nation to seek appropriations for the research programs, "including the funds needed to develop and implement the programs . . . in Article VI." The Administration's fiscal year 1983 budget, however, sharply reduces federal Great Lakes environmental research, a reduction of approximately eighty percent from funding levels of two years ago.

The Environmental Protection Agency Large Lakes Research Station in Grosse Ile, Michigan and the National Oceanic and Atmospheric Administration Environmental Research Laboratory at Ann Arbor, Michigan were established in response to the Water Quality Agreement and provided with $7.7 million in fiscal year 1981. In addition, the Environmental Protection Agency's Great Lakes National Program Office in Chicago, Illinois, which was funded at $11.1 million in fiscal year 1981, is charged with research responsibilities. The fiscal year 1983 budget request reduces the National Program Office to $3.8 million and totally eliminates the Large Lakes Research Station and the Environmental Research Laboratory. Moreover, such related programs as Sea Grant, the Great Lakes Basin Commission and the Department of Energy Great Lakes Research Laboratory are proposed to be or have been eliminated.

The Canadians have budgeted nearly four times the amount for Great Lakes research as the United States. They are greatly disturbed over the proposed funding reductions of our government. Last year, the Canadian Ambassador sent a diplomatic note questioning our government on the reductions, and you will be dismayed to know that our government did not respond to our neighbors for an entire year. In response to the fiscal year 1983 budget request, the Canadians once again have taken issue by diplomatic note, to which I would trust the United States will respond more expeditiously.

The Great Lakes contain ninety five percent of the surface fresh water of the United States and twenty percent of the world's fresh water. They serve as an important source of food, water, energy, transportation and recreation for the United States and Canada. In my judgment, the proposed Great Lakes research funding reductions are false economy and call into question our commitment to our obligations under the Water Quality Agreement between ourselves and the Canadians. For these reasons, I urge you to restore funding for these vital programs.

Sincerely,

CHARLES H. PERCY,
Chairman.

Mr. SCHMITT. Mr. President, I would like to commend my distinguished colleague, Mr. GARN, for his leadership on the HUD and Independent Agencies Appropriation bill for fiscal year 1983.

There are several portions of this bill which I would like to highlight. The Veterans' Administration portion of the HUD/IA bill includes $103,500,000 for improvements on the Albuquerque Veterans Hospital. This money will provide veterans in New Mexico, Arizona, Colorado, and Texas with a new clinical services/bed facility. This facility is planned for completion in 1986.

The hospital recently celebrated its 50th anniversary. The hospital opened its doors on August 22, 1932, with 262 beds.

Today the Albuquerque VA Medical Center serves the entire State of New Mexico, with a veteran population of 214,000 and 6 counties in southwest Texas. The center provides care for almost 9,000 inpatients and over 111,000 outpatients annually. The average length of stay has been reduced from 35 days in 1965 to 14 days at present. Employees now number 1,131, including 74 physicians (one-half of whom are part-time), and 330 members of nursing service. The annual operating cost has grown from $850,000 in 1932 to $40 million in 1982. Hospital beds number 404, with an additional 47 in the nursing home care unit.

The VA medical discoveries made at the Albuquerque VA Hospital are in common medical practice all over the Nation.

I am pleased to see this long-term project of mine come to fruition. I would also like to thank the chairman of the subcommittee, Senator GARN, for his cooperation in this matter.

Second, as chairman of the authorizing subcommittee for NASA, your efforts to accommodate the issues that our subcommittee were concerned about are greatly appreciated. I look forward to continuing this extemely cooperative effort in the future, as we have in the past.

Finally, included in the National Science Foundation portion, funding is provided for industry/university cooperative projects which will include research projects, research and instructional scientific equipment, fellowships, scholarships, and other programs to promote academic research and education in the basic sciences and engineering. This funding will add to the strengthening of the research capabilities of the Nation's academic institutions and the opportunities of young men and women to assure rewarding careers in science, engineering, and technology.

Mr. President, Mr. GARN's actions with respect to both NASA and NSF clearly demonstrate his concern and commitment to maintaining our Nation's leadership in science and technology.

Mr. ROBERT C. BYRD. Mr. President, I am pleased that the fiscal year 1983 appropriation bill for the Department of Housing and Urban Development and Independent Agencies includes funding for many needed veterans' programs.

Through the years I have been a consistent supporter of legislation to improve veterans' programs, including education, training, rehabilitation, medical care and pension and compensation programs. This bill includes the funding necessary to carry out these needed programs and to meet this country's obligation to the men and women who have served in the military. I am also pleased that funding to address some of the problems facing our Vietnam-era veterans in particular—funding for readjustment assistance, counseling, and agent orange research programs—is included in this bill.

Mr. GARN. Mr. President, I know of no further amendment to be offered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

The bill, having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), the Senator from Minnesota (Mr. DURENBERGER), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from Delaware (Mr. ROTH), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. DURENBERGER) and the Senator from Wyoming (Mr. SIMPSON) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arizona (Mr. DECONCINI), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 11, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—73

Abdnor	Chafee	Exon
Andrews	Chiles	Ford
Baker	Cochran	Garn
Baucus	Cohen	Glenn
Boren	Cranston	Goldwater
Boschwitz	D'Amato	Gorton
Bradley	Denton	Grassley
Brady	Dixon	Hatch
Bumpers	Dole	Hatfield
Burdick	Domenici	Hawkins
Byrd, Robert C.	Eagleton	Heinz

Hollings	Metzenbaum	Sarbanes
Huddleston	Mitchell	Schmitt
Inouye	Moynihan	Specter
Jackson	Murkowski	Stafford
Jepsen	Nunn	Stennis
Johnston	Packwood	Stevens
Kasten	Pell	Thurmond
Laxalt	Percy	Tower
Leahy	Pressler	Tsongas
Levin	Pryor	Warner
Long	Quayle	Weicker
Matsunaga	Randolph	Zorinsky
Mattingly	Riegle	
McClure	Rudman	

NAYS—11

Armstrong	Hart	Lugar
Byrd, Harry F., Jr.	Heflin	Nickles
East	Helms	Proxmire
	Humphrey	Symms

NOT VOTING—16

Bentsen	Durenberger	Roth
Biden	Hayakawa	Sasser
Cannon	Kassebaum	Simpson
Danforth	Kennedy	Wallop
DeConcini	Mathias	
Dodd	Melcher	

So the bill (H.R. 6956), as amended, was passed.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. CHAFEE) appointed Mr. HATFIELD, Mr. GARN, Mr. WEICKER, Mr. LAXALT, Mr. D'AMATO, Mr. SCHMITT, Mr. SPECTER, Mr. HUDDLESTON, Mr. PROXMIRE, Mr. STENNIS, Mr. LEAHY, and Mr. SASSER conferees on the part of the Senate.

Mr. GARN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of Senate amendments to H.R. 6956.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, we have drawn first blood. I wish to take this opportunity to congratulate the distinguished chairman of the subcommittee of the Appropriations Committee for his handling of this measure. This is the first of 13 regular appropriations bills that we have passed, and I congratulate him for it. He did the same thing last year, as I recall. His subcommittee was the first one to produce an appropriations bill that qualified for the Senate to consider and indeed considered.

I extend my congratulations, as well, to the distinguished chairman of the committee and the distinguished ranking member, and to the distinguished ranking member of the subcommittee. Mr. President, their staffs, as usual, have been diligent and dedicated and successful.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there is another matter that I indicated on yesterday I was prepared to take up by unanimous consent after the minority leader inquired. I am prepared to do that at this time if he wishes to do so. I refer to S. 2913, Calendar Order No. 808.

Mr. ROBERT C. BYRD. Mr. President, I very much wish to do so.

Mr. BAKER. Mr. President, I know of the minority leader's interest in this. I would remind Members that, in our colloquy yesterday, prior to the motion to recommit the debt limit, the minority leader indicated that this would be offered as an amendment to the debt limit, and I expect that would have happened. But I am pleased to say that I was able to advise the minority leader that that item is cleared on our side and I was prepared to take it up. So, he has make manifestly clear his deep interest in this subject.

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2913.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2913) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor, and for other purposes.

UP AMENDMENT NO. 1290

(Purpose: To authorize reimbursement for the reasonable charge for chiropractic services provided to certain veterans)

Mr. BAKER. Mr. President, on behalf of the Senator from South Carolina (Mr. THURMOND), Mr. SIMPSON, and others, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of the Senator from South Carolina (Mr. THURMOND), for himself, Mr. SIMPSON, Mr. CRANSTON, Mr. DECONCINI, Mr. INOUYE, Mr. LUGAR, Mr. BURDICK, Mr. ANDREWS, Mrs. HAWKINS, Mr. HOLLINGS, and Mr. BUMPERS, proposes an unprinted amendment numbered 1290.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, between lines 19 and 20, insert the following new section:

SEC. 410. (a)(1) Section 601 is amended by adding at the end the following new paragraph:

"(9) The term 'chiropractic services' means the manual manipulation of the spine performed by a chiropractor (who is licensed as such by the State in which he or she performs such services and who meets the uniform minimum standards promulgated for chiropractors under section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))) to correct a subluxation of the spine. For the purposes of this paragraph, such term does not include physical examinations, laboratory tests, radiologic services, or other tests or services determined by the Administrator to be excluded.".

(2)(A) Subchapter III of chapter 17 of such title is amended by adding at the end thereof the following new section:

"§ 630. Chiropractic services

"(a) The Administrator shall, under regulations which the Administrator shall prescribe, reimburse a veteran eligible for medical services under this chapter for the reasonable charge for chiropractic services for which such veteran has made payment, if—

"(1) such chiropractic services were for the treatment of a service-connected neuromusculoskeletal condition of the spine,

"(2) the veteran is a veteran who has been furnished hospital care by the Veterans' Administraton for a neuromusculoskeletal condition of the spine within a twelve-month period prior to the provision of such chiropractic services, or

"(3) the veteran is a veteran described in section 612(f)(2) of this title who has been furnished hospital care or medical services by the Veterans' Administration for a neuromusculoskeletal condition of the spine, to the extent that such veteran is not entitled to such chiropractic services or reimbursement for the expenses of such services under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for such services.

"(b) In any case in which reimbursement may be made under this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable charge for such chiropractic services directly to the chiropractor who furnished such sevices.

"(c)(1) The Administrator shall, in consultation with appropriate pubic and nonprofit private organizations and other Federal departments and agencies that provide reimbursement for chiropractic services, establish a schedule of reasonable charges for such services, which schedule shall be consistent with the reasonable charges allowed under title XVIII of the Social Security Act (42 U.S.C ch. 7).

"(2) The amount payable by the Administrator for chiropractic services furnished under this section shall not exceed $200 in any twelve-month period in the case of any veteran.

"(d) Notwithstanding any other provision of this title, total expenditures for chiropractic services reimbursed under this section shall not exceed $4,000,000 in any fiscal year and no reimbursement or payment may

be made under this section for chiropractic service furnished after September 30, 1986."

(B) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 629 the following new item:

"630. Chiropractic services.".

(b) Not later than December 31, 1983 and not later than December 31 of each of the next three years thereafter, the Administrator of Veterans' Affairs shall prepare and submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports on the use made of the authority provided for in the amendments made by the first session. Each such report shall include—

(1) the number of requests by eligible veterans for reimbursement or payment for chiropractic services in the most recent fiscal year under section 630 (as added by subsection (a)(2)(A) of this section), and the number of such veterans who made such requests;

(2) the number of reimbursements or payments made by the Administrator of Veterans' Affairs under such section in such fiscal year and the number of veterans to or for whom such reimbursements or payments were made; and

(3) the total amounts of expenditures by the Administrator of Veterans' Affairs for such reimbursements and payments under such section in such fiscal year.

Mr. THURMOND. Mr. President, today I am offering an amendment to S. 2913 which will amend title 38 of the United States Code to authorize eligible veterans to receive chiropractic care in certain circumstances under the Veterans' Administration medical care program. This amendment is comprised of the same legislation as S. 1956, which I introduced on December 15, 1981.

Mr. President, S. 1956 was considered at a hearing before the Senate Veterans' Affairs Committee on July 13, 1982, at which time it was endorsed by such major veterans' organizations as the Disabled American Veterans and the Veterans of Foreign Wars. It was not reported by the Committee due to restrictions contained in the Budget Act of 1974. However, the legislation has the support of the distinguished chairman of the Veterans' Affairs Committee, and the distinguished ranking minority member, both of whom are cosponsors.

Mr. President, for a number of years I have been concerned that our Nation's 30 million veterans are not being offered and afforded the opportunity to benefit from chiropractic health professionals within the VA health-care system. Despite the long-standing authority to provide this care, the VA has refused to do so.

Additionally, I believe that it is time that the VA's policy and practice be brought more in line with the programs of other State and Federal health-care programs which now provide chiropractic treatment to their beneficiaries. For instance, under the medicare program, which is administered by HHS, it is typical for eligible persons in need of chiropractic care to seek and obtain services of a doctor of chiropractice and to receive reimbursement for such services from HHS. Reimbursement for chiropractic services is also currently provided under the Federal Employees Compensation Act and a number of States include chiropractic services under their medical assistance programs.

Mr. President, our veterans deserve the same access to medical treatment, including chiropractic treatment, as do the recipients of medicare and other Government programs which provide health-care services. The legislation which I propose today will establish a pilot program to compel the use of chiropractors within the VA. It limits the veterans who are eligible for its benefits and also limits total expenditures for chiropractic services to $4 million in any fiscal year. Unless extended, the program as proposed will expire on September 30, 1986.

Mr. President, this legislation was passed by the Senate during the last Congress. That bill was defeated in the House, but the House joined the Senate in strongly urging the VA's Department of Medicine and Surgery to reevaluate its position and to use its existing authority to provide, at least on a pilot basis, chiropractic services in appropriate cases as part of the hospital care or medical services furnished to veterans. This message was ignored by the VA. I therefore urge Congress to send a stronger message to the VA on this matter by favorably considering this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1290) was agreed to.

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMPSON. Mr. President, it gives me great pleasure to speak in favor of S. 2913, the proposed Veterans' Compensation, Education, and Employment Amendments of 1982, which was unanimously ordered reported by the Committee on Veterans' Affairs on August 19, and reported to the full Senate on September 17. At this time, I would urge my colleagues to join in assuring the passage of this very important legislation.

This measure combines provisions from two bills, S. 2378, the proposed Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982, and S. 2747, the proposed Veterans' Education and Employment Amendments of 1982, an amendment to each of these, plus provisions derived from several other bills and legislative provisions that have arisen around these issues.

The most time-sensitive provision contained in S. 2913 is that which would provide a 7.4 percent across-the-board cost-of-living adjustment (COLA) for service-connected disabled veterans and their eligible dependents and survivors. It would make this increase effective on October 1, 1982. This full COLA was not foreseeable when we began the first concurrent budget resolution process early in the year. The original Senate budget resolution contained a modified COLA for compensation recipients. This position was adopted because of very tight budget constraints, reflecting a strong sentiment in the Senate that some form of uniformly applied COLA restraint should be effected for all programs in order to achieve an appropriate means of bringing the fiscal year 1983 budget under control. That is not what occurred.

Circumstances changed. The Congress did not accept a uniform restriction on COLA's throughout all Federal benefit programs; therefore, the only rationale for the compensation COLA restriction was removed. The originally proposed COLA restriction for service-connected compensation was painful enough under any circumstances. Once the Senate removed restrictions for recipients of social security, SSI, food stamps, and railroad retirement for those who may never have served in the military defense of their country—it became quite clear that a restriction on the compensation and dependency and indemnity compensation (DIC) COLA was unthinkable.

The restoration of the full COLA has been made possible by some determined negotiation and cooperation on the part of those of us who are particularly concerned about veterans' issues, on both sides of the aisle. The cooperation of all concerned is evidenced in the favorable outcome contained in this legislation. Compensation for sacrifices made by service-connected disabled veterans remains a firm commitment of this Nation.

The education segments of this proposed bill attempt to correct some areas where inequities have occurred. One such situation addressed involves the termination date which has been set for the curent GI bill. Under current law, that entitlement will no longer be available after December 31, 1989, and some members of the Armed Forces must soon separate from active duty if they wish to make use of their educational beneifts. Not only do those service persons see the termination date as being inequitable, but the military services find they are losing valued, career personnel because of an incentive to separate created unintentionally by the termination date for the GI bill. If passed, this legislation will provide career military persons the opportunity to use their GI bill benefits just as other eligible persons in the past have been able to do, and it

will halt any unnecessary departure of military talent.

Another provision of S. 2913 would allow an extension of time for the pursuit of education for veterans who have suffered from alcoholism or drug abuse. If such a veteran has been treated in a recognized program and has recovered, an extension of up to 4 years may be granted for the veteran to use GI bill educational or vocational rehabilitation benefits.

In its employment provisions, the proposed bill seeks to fine-tune the administration of veterans' employment services in the Department of Labor. Unemployment among disabled and Vietnam-era veterans remains high, and we all wish to alleviate the situation as much as possible. Technical changes made by this proposed bill, combined with our anticipated enactment of S. 2036 (the replacement legislation for the current CETA program with its amendment that I introduced which would provide an approximately $13½ million program earmarked for veterans), would result in the Department of Labor being in a position to administer its very important employment programs for disabled and Vietnam-era veterans with a much higher degree of effectiveness.

Among the several other diverse but important provisions of the bill are proposals that would raise the compensation rate for certain blinded veterans, restore burial benefits for certain indigent veterans, extend for another year, until 1984, the targeted delimiting date for the use of educational benefits by certain undereducated and underemployed veterans, and give the VA authority to suspend GI educational benefit payments at schools engaged in a pattern of noncompliance with reporting requirements, in order that the VA can more readily avoid making overpayments. The problem with collecting on overpayments and defaulted loans is one which continues to be most disturbing. Another area of concern to those of us who are conscious of the need for the Government to save money, balanced with our concern for quality health care within the VA system, is the OMB initiative to contract with the private sector for certain nongovernmental activities where substantial savings to the Government might be realized. This policy, as it could be applied to the provision of health care in the VA, caused great controversy. Accordingly, and to allay any apprehension that direct patient care will be contracted out, the proposed bill contains a provision to insure that commercial activities performed at VA hospitals operated by the Government shall be retained in house if the agency's chief medical director determines that such performance would be in the best interest of patient care.

The committee's overriding concern in formulating this provision was to assure that no purely cost-savings initiative should be permitted to interfere with the provision by the VA of quality, direct, health-care services to eligible veterans, and that care should be taken to insure that there will be no possibility that any contracting out that is undertaken will have any adverse effect, either directly or indirectly, on patient care. At the same time, the committee believes that the entire Federal Government—including the Veterans' Administration—should be operated in the most cost-effective and least wasteful manner that is consistent with the accomplishment of important governmental objectives, such as the provision of quality health care for our Nation's veterans.

For the record, I should like to note that after Committee Report No. 97-550 on S. 2913 was filed on September 17, 1982, the committee received a September 20, 1982, letter from the General Counsel of the Department of Housing and Urban Development expressing that Department's views on amendment No. 1909, which would clarify the 2-year minimum service requirement and from which the provisions of section 406 of the proposed bill were derived. That letter, which I am hereby including to be printed in the RECORD, corrects an error in HUD's preliminary August 6 response to my request for agency views on the proposed amendment.

The letter follows:

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., September 20, 1982.

Re Amendment 1909 to S. 2378, 97th Congress (Simpson, et al.).

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On August 6, 1982, we wrote you with a tentative list of HUD programs affected by the proposed Amendment. A copy is enclosed. This is in further response to your request for comments on the above legislation and the applicability of title 10, section 977 of the United States Code on HUD programs. The Amendment would supersede section 977.

Review of the impact of Amendment 1909 on HUD programs is complete. We have no programs to add to those identified by us in our previous letter dated August 6th. These programs are the home loan programs under sections 203, 220 and 234 of the National Housing Act. Further analysis has disclosed, however, that the Amendment does not impact on the Section 236 program previously identified since preference in that program applies to families of those on active duty not to veterans.

Title 10, section 977 of the United States Code entitled "Denial of certain benefits to persons who fail to complete at least two years of an original enlistment" applies to the same programs which are subject to Amendment 1909. Section 977 has not yet been implemented. Actions are currently underway to correct this, subject, of course, to the Congressional action now proposed.

The Department of Housing and Urban Development has no objection to the Amendment insofar as the Amendment directly affects this Department. We defer to the views of the other agencies affected by this Amendment.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN J. KNAPP,
General Counsel.

Mr. SIMPSON. In addition, I would wish to include for the RECORD the letter I received on September 23, 1982, from the chairman of the Armed Services Committee, Senator TOWER. It clarifies any question which might arise to whether the provisions of sections 406 and 407 of the proposed bill meet with the approval of the Armed Services Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., September 22, 1982.

Hon. Alan K. Simpson,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR ALAN: I am in receipt of your letter dated September 21, 1982, concerning the minimum-service requirements contained in section 977 of title 10, United States Code. The majority and minority staff have reviewed the applicable provisions in S. 2913 and have found them to be consistent with the original intent of the Armed Services Committee when section 977 of title 10 was considered by the Committee.

The provisions in section 406 and 407 of your bill would provide for a uniform set of rules governing federal benefits derived from military service and also make necessary technical corrections to the minimum-service requirement. For these reasons, I support the inclusion of these measures in S. 2913.

Thank you for requesting my views on this subject in advance of floor action on S. 2913. I look forward to the continued close working relationship that our members and staff have experienced in areas of mutual concern.

With warm personal regards, I remain,

Sincerely,

JOHN TOWER.

Mr. SIMPSON. In summary, this bill contains legislative proposals which affect our Nation's veterans in many ways. While it addresses multiple concerns, they are all important and need attention at this time, especially the proposed 7.4 percent COLA for our Nation's service-connected veterans and their dependents and survivors.

At this point, I ask that the review of the bill's provisions derived from the committee report on S. 2913 be printed in the RECORD.

The material follows:

SUMMARY OF S. 2913 AS REPORTED

S. 2913 as reported, (hereinafter referred to as the "Committee bill") has five titles: Compensation and dependency and indemnity compensation rate increases and program improvements; amendments to veterans' education and rehabilitation programs; veterans' employment amendments; miscel-

laneous improvements; and effective dates, as follows:

TITLE I: COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION (DIC) RATE INCREASES AND PROGRAM IMPROVEMENTS

This title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective October 1, 1982, a 7.4-percent increase (the same increase provided to social security recipients and VA pension beneficiaries effective June 1, 1982) in:

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities;

(2) the subsistence allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out their clothing, and

(4) the Dependency and Indemnity Compensation (DIC) rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

In addition, the Committee bill would realign the amounts of dependents' allowance paid to service-connected disabled veterans who are 30 percent or more disabled. Furthermore, the base rate of compensation payable to service-connected disabled veterans who are totally blinded without light perception would be elevated from (M) to (N). The final provision in title I would clarify Congressional intent that the existence of clear and unmistakable VA administrative error would be a basis for entitlement to DIC benefits when such administrative error is the only bar to entitlement otherwise.

TITLE II: AMENDMENTS TO VETERANS' EDUCATION AND REHABILITATION PROGRAMS

This title includes amendments to chapters 31, 32, 34, 35, and 36 of title 38, United States Code, which would:

1. Repeal the mandatory nature of the "vet rep" program and allow the VA Administrator to provide outreach services to veterans concerning their educational benefits through stationing VA employees in places such as schools.

2. Relax restrictions on vocational rehabilitation and education benefits in the cases of veterans who have been convicted of felonies and who are residing in halfway houses or participating in work-release programs.

3. Change the manner in which lump sum payments to a VEAP account are calculated.

4. Authorize the VA to receive funds from the Department of Defense for certain DoD-funded pilot programs and to deposit and disburse those funds through the existing VEAP account.

5. Repeal the 1989 termination date of the GI Bill and provide that DoD pays for educational benefits after December 31, 1989.

6. Relieve vocational schools from the requirement to compute and report on the number of graduates who have obtained employment in the career field during the preceding 2 years in order to establish that 50 percent have been so employed.

7. Clarify the rate at which entitlement use is charged for pursuit of independent study.

8. Provide that certain restrictions on payments of GI Bill and vocational rehabilitation benefits do not apply to veterans and eligible persons incarcerated by virtue of convictions of misdemeanors.

9. Remove a requirement that the VA report to Congress on the educational loan default rate on a school-by-school basis.

10. Grant the Administrator authority to suspend GI Bill benefits when a school exhibits a significant pattern of violations of reporting or approval requirements. Schools would receive 60 days notice and students would receive 30 days notice before the suspension is effected.

11. Clarify the intent of Congress with respect to the so-called "targeted delimiting date extension" of GI Bill education benefits for veterans who are educationally disadvantaged and for veterans who are unskilled and underemployed, state time limits for regulations to be promulgated, and extend until December 31, 1984, eligibility for this program.

12. Allow veterans who because of an alcoholism or drug dependence or abuse condition were prevented from using their full GI Bill or vocational rehabilitation benefits to use those benefits beyond their basic 10 year eligibility period during a period of up to 4 years providing their condition is controlled, has been treated by a program recognized by the VA Administrator, and they apply within certain time limits.

TITLE III: VETERANS' EMPLOYMENT AMENDMENTS

This title includes a freestanding provision and amendments to chapters 41, 42, and 43 of title 38, United States Code, and Public Law 90-83 which would:

1. State that the Congress is concerned about the high level of unemployment which exists among disabled and Vietnam-era veterans, and that veterans' employment is a national responsibility to be addressed by the Secretary of Labor through programs administered by the Assistant Secretary of Labor for Veterans' Employment (ASVE).

2. Require the ASVE to issue regulations promulgating the policies of these programs.

3. Specify that State Directors for Veterans' Employment Service are to be assigned full-time Federal clerical support.

4. Provide authority to waive the two-year residency requirement for appointments to the positions of State Director or Assistant State Director of Employment if a candidate for a position has been Assistant State Director in another state for at least one year, and only after no available, qualified candidate has been found among state residents.

5. Require State and Assistant State Directors for Veterans' Employment to coordinate programs specifically with VA programs which provide vocational rehabilitation and readjustment counseling (Vet Centers).

6. Clarify that funds available for DVOP services are provided for use in the States and not for use by the States.

7. Authorize waivers of the requirement that 25 percent of DVOP staff be outstationed within each state provided that at least 20 percent of all DVOP's nationwide be outstationed from state employment service offices.

8. State that ASVE will monitor the appointment of DVOP's.

9. Describe the Secretary of Labor's responsibility for determining that the DVOP program has a sufficient level of funding.

10. Call for an annual report to Congress on the Disabled Veteran Outreach Program.

11. Specify that the U.S. Postal Service and the Postal Rate Commission are subject to the requirements of chapter 42 of title 38, including the requirements for mandatory listing and affirmative action by its contractors and for submission of affirmative action plans.

12. Require that federal contractors report at least annually to the Secretary of Labor on their hiring of veterans of the Vietnam-era and special disabled veterans.

13. Transfer to the ASVE the responsibility to assist veterans in reemployment in their former positions after the satisfactory completion of any period of active duty.

14. Repeal the Exemplary Rehabilitation Certificate Program.

TITLE IV: MISCELLANEOUS IMPROVEMENTS

This title includes amendments to chapters 19, 23, 36, 37, 53 and 81 which would:

1. Allow the VA to assign the proceeds of a life insurance policy to an expanded list of beneficiaries in cases where there has been a contested claim, but the parties wish to settle without the expense of legal action.

2. Remove the 4-year time restriction for filing certain life insurance claims and provide that sums payable will not escheat to a state.

3. Establish that the VA will pay the $300 burial benefit in the case of an indigent, wartime veteran or a veteran discharged or released from active duty for a service-connected disability whose body is not claimed when a state or locality would otherwise have to use its resources to pay the costs.

4. Give authority to the VA to guarantee loans to veterans to refinance liens on their mobile homes in order to finance the purchase of a mobile home lot.

5. Change the term "mobile home" to "manufactured home".

6. Reduce from 2 years to 180 days the length of time available to a veteran to seek relief from the recovery of benefit payments, overpayments, and interest thereon, but provide that this limit may be waived in certain circumstances.

7. Clarify that the 2-year minimum service requirements in section 3103A of title 38, United States Code, applies to all Federal programs with certain exceptions.

8. Provide that this bill will supersede any provision of law which would eliminate correspondence training under section. 1786(a) of title 38 that is not enacted as an amendment to such title, as part of the reconciliation process under the Congressional Budget Act of 1974.

9. Affirm, with respect to OMB Circular A-76, the importance of an independent VA health-care system with quality health services provided in the most cost-effective manner possible, and prohibit contracting out unless 1) there would be no adverse impact on direct medical care and 2) savings of at least 10 percent would result; leave existing VA contract authority intact.

● Mr. SIMPSON. The Congressional Budget Office's estimate of the fiscal year 1983 budget authority for S. 2913 which was included in the committee report contained an error due to failure to take into account the reduction of certain rates effected by section 405, Public Law 97-253, the Omnibus Reconciliation Act of 1982.

CBO's corrected estimate is $708.8 million. This estimate has been planned and accounted for in the budgetary process and is contained in the first concurrent budget resolution. I ask that CBO's corrected cost estimate be printed in the RECORD.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 20, 1982.

Hon. ALAN K. SIMPSON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached revised cost estimate for S.2913, the Veterans' Compensation, Education, and Employment Amendments of 1982, as ordered reported by the Committee on August 19, 1982.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

RAYMOND C. SHEPPACH,
for Alice M. Rivlin, Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2913.

2. Bill title: Veterans' Compensation, Education, and Employment Amendments of 1982.

3. Bill status: As ordered reported by the Senate Committee on Veterans' Affairs, August 19, 1982.

4. Bill purposes: To increase the rates of disability compensation and of dependency and indemnity compensation, to make adjustments and improvements in the education and vocational rehabilitation programs administered by the Veterans' Administration (VA) and the veterans' employment programs adminstered by the Department of Labor, and for other purposes.

5. Cost estimate:

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987
Budget authority	708.8	792.1	749.4	733.0	741.1
Outlays	655.1	791.6	748.8	732.3	740.4

The cost of this bill would fall in budget function 700.

6. Basis for estimate: The following section-by-section cost analysis only addresses those sections of the bill that would be expected to have a budgetary impact.

Certain sections of this bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriations action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of those provisions.

Section I.—Sections 101-106: These sections would increase the monthly rates payable under disability compensation and dependency and indemnity compensation by 7.4 percent, except that, in calculating the new rates, all amounts less than $1 were rounded to the next lower dollar. This increase would be effective October 1, 1982.

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987
Required budget authority	709.1	719.1	726.1	735.3	743.8
Estimated outlays	655.4	718.6	725.5	734.6	743.1

The cost of these sections was estimated by first calculating the cost of a full 7.4 percent increase under normal rules of rounding (i.e., all amounts greater than $.50 rounded to the next higher dollar). This was achieved by multiplying the projected average cost in each year for all disability compensation and for all DIC cases by 7.4 percent, then multiplying the resulting average increase in cost per year for each program by the estimated number of cases in the program each year.

It was determined which payment categories would receive $1 per month less under the new rounding procedure than they would have received under normal rounding rules. The number of cases in each of these categories was then multiplied by 12 payments per year to estimate the savings that would result from these cost reduction measures. The cost of a full 7.4 percent increase was reduced by these savings.

Section 405 of Public Law 97-253, the Omnibus Reconciliation Act of 1982, provided for reductions in various current compensation and DIC benefit rates to be effective January 1, 1983. This was done in anticipation of the enactment prior to that date of a cost-of-living increase in these programs which would reflect certain cost reducing adjustments. The rate increase provided by section 101-106 of this bill contains the anticipated adjustments. Sections 101-106 would, thus, nullify the provisions of section 405 of the reconciliation act but would provide substitute cost reduction measures that would result in equal savings.

Section 110: This section would increase the amount of compensation payable to certain blinded veterans.

According to VA information, there are only about 2,500 veterans suffering from service-connected blindness in both eyes. Since this provision would only affect a portion of these veterans, it is not expected to result in a significant cost.

Title II.—Section 201: This section would authorize the Administrator of the Veterans' Affairs to hire and assign veterans' representatives (VET Reps) to educational institutions and other appropriate locations as deemed necessary. Under current law Vet Reps are to be assigned according to a formula based on the number of trainees in the various VA education programs. This section would take effect October 1, 1982.

Since there are currently only five Vet Reps working in the Outreach Services program, the budgetary impact of this provision is not expected to be significant.

Section 202: This section relates to the payment of subsistence allowances to veterans in training under chapter 31 (title 38, U.S.C.) who are residing in halfway houses or participating in work-release programs in connection with the conviction of a felony. The amendment would eliminate the requirement of the Administrator to verify that the veteran is paying some portion of his/her own living expenses prior to approving the payment of the subsistence allowance.

This section would result in the payment of subsistence allowances to some individuals who would not be eligible to receive them under current law. However, the number of such cases would be small, and the resulting increase in benefit cost should be fully offset by the savings in administrative costs from the elimination of the verification process.

Section 204: Under current law, authority to pay educational assistance benefits under chapter 34 (title 38, U.S.C.) expires after December 31, 1989. This section would eliminate that expiration date and allow veterans meeting all other eligibility criteria to utilize their benefits at any time within their delimiting period of ten years from their date of discharge from service. Subsection (b) of section 204, however would mandate that the Secretary of Defense reimburse the Administrator for all benefits paid under chapter 34 after December 31, 1989.

[By fiscal year, in million of dollars]

	1983	1984	1985	1986	1987
Required budget authority	−0.3	−1.0	−1.7	−2.3	−2.7
Estimated outlays	−0.3	−1.0	−1.7	−2.3	−2.7

The analysis of this section indicates that the removal of the 1989 termination date would result in a modest reduction in the use of G.I Bill benefits prior to 1989 that would be far outweighted by the newly authorized utilization after 1989. The cumulative reduction in outlays between 1983 and 1989 is estimated at approximately $14 million and corresponds to a post-1989 increase in outlays of about $725 million.

The near-term savings are relatively low because the 1989 termination date is expected to have only a small impact on separatons of military personnel eligible for the G.I Bill. This analysis rests on the premise that career service members' retention depends on their valuation of anticipated future benefits. In evaluating future benefits, CBO's methodology adjusts for the lower value that people place on deferred income in comparison to current income. Since the current law termination date eliminates the anticipated future benefits of post-1989 use of the G.I Bill, it shoud decrease the likelihood that members will reenlist. Reenlistment bonuses and potential retirement benefits, however, would far outweigh the loss of education benefits for many servicemembers. Thus, it is estimated that only about 1,300 who would otherwise have separated. However, if the termination date is removed, many veterans would be expected to use their benefits after 1989 who would not have left the service prior to 1989 in order to do so.

Section 208: This section would extend by one year the delimiting period for the receipt of chapter 34 (title 38, U.S.C.) educational assistance benefits. This extension applies to Vietnam-era veterans pursuing a program of on the job training, secondary education, or a program of education with a vocational objective. The veteran would be allowed to use his unused entitlement to train unless the Veteran's Administration determines, on the basis of his employment and training history, that the veteran does not need the program to obtain a reasonably stable employment situation.

[By fiscal year, in millions of dollars]

	1983	1984	1985	1986	1987
Required budget authority		74.0	25.0		
Outlays		74.0	25.0		

This estimate assumes that approximately 41,000 veterans would receive training as a result of the extension to December 31, 1984 of the delimiting date. It is assumed that the requirement of a review of the veterans employment and training history in relation to the proposed course or training will not have significant impact on the number of new trainees.

Section 209: This section would extend the delimiting period, for the purpose of education benefits under chapter 31, 34 and 35, for veterans who were unable to utilize their benefits because of alcohol or drug dependence.

According to VA sources, this provision would not affect a large enough number of individuals to result in a significant cost.

Title III.—This title would make a number of technical and procedural amendments in federal programs of employment assistance for veterans. The provisions, however, would not affect the total amount authorized to be appropriated for any program. Therefore, no additional cost to the government would be expected to ensue from their enactment.

Title IV.—Section 403: This section would authorize the Administrator to reimburse a state or other political jurisdiction for the burial expenses of a veteran whose remains are unclaimed.

According to an informal telephone survey conducted by VA of all their regional offices, the number of deceased veterans whose remains are unclaimed each year is quite small. It is expected that less than 100 claims for reimbursement would be made under this provision in any year. The cost of the provision, therefore, would not be significant.

Section 404: This section would authorize the Administrator to guaranty loans used to refinance existing loans on manufactured homes.

Since the purpose of refinancing a mortgage is to obtain terms more favorable to the borrower, the provision could enable some veterans to avoid default on their VA-insured loans. The provision would, therefore, tend to reduce costs to the Loan Guaranty Revolving Fund, but the amount of reduction is not expected to be significant.

7. Estimate comparison. None.

8. Previous CBO estimate: The CBO cost estimate of S. 2913 that was submited on September 17, 1982 showed an incorrect estimate for sections 101-106 of the bill. The earlier estimate failed to take into account the reduction of certain rates effected by section 405, Public Law 97-253, the Omnibus Reconciliation Act of 1982.

9. Estimate prepared by: Nina Shepherd, Kelly Lukins and Neil Singer.

10. Estimate approved by:

C. G. NUCKOLS,
(for James L. Blum,
Assistant Director for Budget Analysis).

● Mr. SIMPSON. In conclusion, I wish to recognize and thank the very able members of the majority staff for their long and hard work on this measure—Tom Harvey, chief counsel and staff director, Julie Susman, Brent Goo, Scott Wallace, Joe Buzhardt, Carol DeAngelus, Becky Hucks, Laurie Altemose, Kay Eckhardt, Lucy Scoville, Harold Carter, and James MacRae, as well as members of the very capable minority staff—Jonathan Steinberg, chief counsel and staff director, Ed Scott, Babette Polzer, Bill Brew, Ingrid Post, and Charlotte Hughes.

Mr. President, I strongly believe this bill should be considered favorably. The House has already passed similar legislation contained in H.R. 6782 and H.R. 6794. I urge that we proceed deligently in order that we may forward a final bill to the President as swiftly as possible in order to enable the VA to send out the increases in compensation and DIC checks on time to our Nation's most deserving veterans, their dependents and survivors.●

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am most pleased to join the distinguished chairman of the committee (Mr. SIMPSON) in urging that the Senate approve the provisions of S. 2913, the proposed Veterans' Compensation, Education, and Employment Amendments of 1982, as that measure was reported from the committee on September 17.

The issues addressed in title I of the pending legislation are, in many ways, at the very heart of veterans' benefits programs. The recognition of the sacrifices made and the hardships endured by our Nation's veterans are best reflected in our commitment to assuring that we meet the needs of those who bear the scars of battle from service to our country and the dependents and survivors of those who made the supreme sacrifice. The needs of the 2,300,000 veterans who suffer from service-connected disabilities and the 350,000 survivors of veterans who died from service-connected causes must be our No. 1 priority.

Mr. President, I want to express my complete support for the full 7.4-percent disability/dependency and indemnity compensation cost-of-living increase in the pending measure. In light of where we started in the context of the various proposals made for the veterans' function—function 700—in the first budget resolution earlier this year—some of which would have precluded or greatly restricted the COLA—a full 7.4-percent COLA is a real victory.

Further, Mr. President, I want to note how delighted I am with the fact that the pending measure is a measure on which there is agreement on every issue between the majority and minority members of the committee. Extensive bipartisan coordination and cooperation have marked the development of this bill at every stage and have made a substantial contribution to this legislation. In addition to the importance of this compensation increase, this measure would also make some significant improvements in VA programs—including improvements in education and employment assistance for Vietnam-era and disabled veterans. At this time, I want to highlight five provisions that I authored in the committee bill.

TARGETED DELIMITING DATE EXTENSION AMENDMENTS

First, section 208 of S. 2913 contains a provision based on an amendment—amendment No. 1984—that my friend from Wyoming (Mr. SIMPSON) joined me in introducing on July 21, 1982. This amendment would clarify congressional intent underlying a provision which I authored and which was enacted last year to provide for a 2-year targeted delimiting date extension for certain Vietnam-era veterans.

Section 201 of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Loan Act of 1981, which was enacted on November 3, 1981, amended title 38 to provide for a one-time, 2-year extension of the GI bill delimiting period—that is, an extension of the 10-year period following discharge during which a Vietnam-era veteran may use his or her GI bill benefits. This extension was targeted on educationally disadvantaged and unskilled or unemployed Vietnam-era veterans and was designed to permit such veterans an additional period of up to 2 years to pursue vocational objective or apprenticeship or other on-job-training programs and, for those without high school diplomas, to pursue high-school-equivalency courses. As enacted in Public Law 97-72, the extension became effective on January 1, 1982, and will continue until December 31, 1983.

Mr. President, the purpose behind this extension was to provide in a cost-effective manner for a limited extension of the delimiting period for those veterans of the Vietnam era—particularly but not exclusively who are unemployed and educationally disadvantaged—who have never effectively utilized the GI bill benefits to which they are or were entitled and are in need of certain education or training assistance. The provisions of the targeted delimiting date extension that were enacted last year were similar to those passed by the Senate during the 96th Congress in connection with S. 870, but not then agreed to by the House and hence not contained in the final version of H.R. 5288 as it became Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980.

On March 11, 1982, the Veterans' Administration published a notice in the Federal Register requesting comments on the provisions of DVR circular 22-81-15, dated December 22, 1981, implementing this targeted delimiting

date extension. On March 18, I wrote to the Administrator of Veterans' Affairs to express my concerns about the manner in which the VA was administering this new provision and that the VA's interpretation of this provision was unduly restrictive and not consistent with the underlying congressional intent, as evidenced by the legislative history of the provision.

My concerns on this matter, which were shared by the committee, related primarily to the eligibility criteria established by the VA for veterans who are, in the words of the statute, "in need of (vocational objective or apprenticeship or other on-job training) in order to achieve a suitable occupational or vocational objective." In implementing the extension provision, the VA ignored clear congressional intent that the extension was to be focused on the needs of Vietnam-era veterans who are experiencing unemployment problems. Instead, the VA took the position that no veteran should be determined to be in need of such vocational or on-job training unless he or she is found to be unskilled. Under these VA criteria, no veteran who holds a 2-year degree or has completed 60 hours of college-level courses, or who has ever had a job requiring more than 3 months of vocational preparation is considered unskilled. This is so regardless of whether that individual is currently employed or underemployed or able to obtain employment.

Thus, Mr. President, the VA's manner of implementing the provision enacted last year reduced the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran is automatically found ineligible if any one of these three criteria apply. Where any of the criteria are found to apply, the inability of the veteran to obtain suitable employment and his or her need for training in order to be able to do so are given no consideration. There is no criterion that permits making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the applicability of one of these three regulatorily imposed criteria for denying eligibility.

The most unfortunate effect of these criteria is demonstrated quite dramatically in the VA's data, provided on May 21, 1982, on experience under the extension for the first quarter of 1982. Of 2,455 applications received for delimiting date extensions, only 98—or less than 4 percent of those received—were approved on the basis that the veteran was found unskilled; 575 applications—or about 23 percent—were denied on the grounds that the veteran was not unskilled. There were an additional 1,153 claims still classified as "under development" at the close of the first quarter, generally to determine whether or not the veteran was unskilled.

These numbers contrast sharply with those projected by the Congressional Budget Office last year in connection with its cost estimate for H.R. 3423, the Veterans' Training and Business Loan Act of 1981—title I of which contained the House version of the provision eventually enacted into law. At that time, CBO estimated that 38,900 veterans would receive training under the targeted delimiting date extension and that the cost of the provision would be $52 million in fiscal year 1982 and $90 million in fiscal year 1983. The provision ultimately enacted was no less restrictive than that which formed the basis for these CBO cost estimates.

It should also be noted that the VA, in its December 29, 1981, press release announcing the availability of the extension stated that:

> As many as 39,000 Vietnam-era veterans are expected to take advantage of * * * [this] extension * * *.

Further, in its fiscal year 1983 budget documents, the VA estimated that $48.6 million would be expended for this program in fiscal year 1982, and the VA's fiscal year 1983 budget request included $68.7 million in the VA's readjustment benefits account for this delimiting-date extension. Certainly, the way the provision is being implemented by the VA will never permit participation to reach the level assumed in these projections.

The VA has advised that it is prepared to make a series of appropriate but minor modifications in the manner in which automatic ineligibility is being determined, and I am somewhat encouraged by even these modifications since they show some movement from the VA's previous intractable position. However, I believe the new criteria will still result in automatic ineligibility determinations that will disqualify too many Vietnam-era veterans in need of assistance and still fall far short of meeting the needs of certain Vietnam-era veterans who are unskilled, unemployed, or underemployed—needs that this Congress clearly felt should be met and needs that are now even greater, as evidenced by the unemployment rates, than they were when this extension provision was enacted.

In August of this year, there were more than half a million unemployed veterans age 30 or over who could potentially be in need of the kind of assistance the targeted delimiting date extension would offer.

However, as the committee report stressed, this program is not intended to exclude veterans who are employed. Nor would all Vietnam-era veterans who are unemployed be eligible for the type of training and education available under the targeted delimiting date extension.

As a whole, it is clear that much of the unemployment problem of these individuals is related to the military-service experience of veterans of the Vietnam era. As documented in the March 1981 study prepared for the Veterans' Administration by the Center for Policy Research, entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans of comparable age. The study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "residual disadvantage in educational and occupational attainment" and that in general "military duty in Vietnam had a negative effect upon postmilitary achievement."

Thus, I am delighted that the committee bill would amend the targeted delimiting-date extension enacted last year—section 1662(a)(3) of title 38—to clarify congressional intent by substantially limiting the programmatic flexibility given the Administrator to make determinations regarding a Vietnam-era veteran's need for training. The provision would thus invalidate section 3.c. and 6.b of DVB circular 22-81-15, the regulatory provisions restricting eligibility for the delimiting period extension, and would instead establish specific statutory criteria for determining the need for training. Under this provision the veteran could not be determined ineligible without an examination of the veteran's particular employment and training history; he or she would be found eligible if an examination showed the veteran to be in need of an OJT or vocational program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

I want to emphasize that this amendment is designed to permit a veteran to be denied eligibility only after a case-by-case determination and to avoid the use of any arbitrary, automatically disqualifying criteria such as those set forth in the DVM circular. In addition, since many of the Vietnam-era veterans for whom this extension provisions was designed have been foreclosed from the opportunity to make appropriate use of their remaining GI bill entitlements, the amendment would extend their eligibility period for one additional year—until December 31, 1984.

I am delighted that the committee has approved this provision and want to thank the distinguished chairman for his assistance in connection with it. I believe it will go a long way toward assisting Vietnam-era veterans

who are still encountering difficulties in readjusting to civilian life.

TOLLING OF ELIGIBILITY ON ACCOUNT OF ALCOHOL AND DRUG CONDITIONS

Second, Mr. President, section 209 of S. 2913 represents a second provision drawn from amendment No. 1984 that would provide for an extension—or tolling—of a Vietnam-era veteran's GI bill delimiting period when the veteran has been prevented by an alcohol or drug dependence or abuse condition from pursuing a program of education. Similarly, this section of the pending measure would provide for an extension of the eligibility period for a VA rehabilitation program for a service-connected disabled veteran who has suffered from such a condition.

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI bill delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of willful misconduct. Under that law, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veterans based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension.

In 1979, the Veterans' Affairs Committee reexamined the practical consequences of denying a delimiting-period extension in such cases and the differences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the committee saw no substantial purpose to be served by denying a veteran a GI bill delimiting period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI bill benefits and the veteran had recovered from the disability. In fact, in the committee's view, it could be expected that GI bill educational assistance would have considerable value for achieving and maintaining the medical, social, and economic rehabilitation of veterans recovering from disabilities related to alcohol or drugs.

Thus, in 1979, the committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered shall not, solely for purpose of deciding requests for delimiting-period extensions, be considered to be the result of willful misconduct. Similarly, in S. 1188, the bill reported by the committee in 1980 to revise and update chapter 31, relating to VA rehabilitation programs for service-comparable provision to provide for the tolling, on account of an alcohol or drug disability, of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program.

However, despite the committee's strongest urgings, the House would accept neither the GI bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

Last year, in connection with S. 921, the proposed Veterans' Programs Extension and Improvement Act of 1981, the Senate again approved similar provisions, and again the House refused to accept them.

I believe both that the opportunity to use GI bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs.

Thus, section 209 of the committee bill contains provisions—derived from our amendment No. 1984—that would amend chapters 31, 34, and 35 to permit the Administrator to extend delimiting periods in the cases of veterans and eligible persons who have been prevented from using their education or rehabilitation entitlements under title 38 as a result of alcohol or drug dependence or abuse conditions.

In view of certain concerns and objections raised by the Veterans' Administration about the implication of the provision insofar as disability compensation is concerned and about its ability to administer such provisions effectively, we have recast the provisions substantially. It is intended that the revised provisions indicate, even more clearly than the prior versions, that these provisions are not intended to undercut, in any manner, any administrative directives or legislative provisions expressly or implicitly to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. Hence, the committee bill would make clear that, for the purposes of determining eligibility for an extension of the applicable delimiting period, an alcohol or drug dependence or abuse condition would not be considered a "disability"; it would simply be considered a "condition" that could have prevented a veteran or eligible person from pursuing a program of education or participating in a program of vocational rehabilitation. In addition, in recognition of the administrative difficulties that could arise from the enactment of the provisions, the committee bill contains a number of provisions that have been carefully developed to facilitate the implementation of and eliminate abuse under the provision. These changes are described on pages 75 and 76 of the committee report—Senate Report No. 97-550.

In sum, these provisions represent my belief that it is simply not necessary to resolve the issue of the relationship of alcohol and drug dependence or abuse conditions to compensation for disabilities in order to make this kind of an education or rehabilitation benefit extension available. I hope that the prospects for enactment of this provision will be enhanced by the committee bill's revision to this provision to, as clearly as possible, avoid touching upon this isue.

RESTORATION OF VA BURIAL BENEFITS IN CASES OF CERTAIN INDIGENT VETERANS

Third, Mr. President, S. 2913 contains provisions derived from a measure I introduced earlier this year—S. 2048—that would restore the $300 VA burial benefit in the cases of certain indigent veterans whose bodies are not claimed.

Last year, as Members may recall, pursuant to the requirements in the first concurrent resolution on the budget for fiscal year 1982 that the House and the Senate Veterans' Affairs Committees recommend legislative savings totalling $110 million in fiscal year 1982 and slightly less in fiscal years 1983 and 1984, the committees recommended legislation placing certain limitations on the Veterans' Administration $300 burial benefit. Subsequently, the Congress enacted legislation as part of the Omnibus Budget Reconciliation Act of 1981—Public Law 97-35—to restrict eligibility for this burial allowance to the survivors of veterans who at the time of death are in receipt of either VA compensation or VA non-service-connected disability pension. Previously, this benefit was paid for any veteran who was entitled to compensation, who had been discharged from active service for a service-connected disability, or who had served during a period of war. This restriction was made effective with respect to deaths occurring after September 30, 1981. No restrictions were placed on either the $150 plot al-

lowance or on the $1,100 burial benefit payable for a veteran who dies from a service-connected disability.

According to the Congressional Budget Office, cost-savings resulting from the enactment of this legislation were estimated to be $75.2 million in fiscal year 1982, $79.8 million in fiscal year 1983, and $84.4 million in fiscal year 1984. The committee adopted this approach because it believed that it was preferable to make the bulk of the required fiscal year 1982 savings by pruning this benefit—rather than benefits for living persons—in a manner that is consistent with the priorities placed on veterans with service-connected disabilities and needy veterans of wartime service.

The 1981 Senate-passed provision upon which the provision contained in Public Law 97-35 was based in part, would have retained eligibility for wartime veterans who, even though not in receipt of pension, would have met the VA pension income standards. This eligibility for so-called pension-income eligibles was dropped in negotiations with the other body because of the disproportionately high administrative cost that the VA stated would be associated with making income determinations retroactively. In fact, if this eligibility had been enacted, the VA advised that the total administrative costs for it would have exceeded the total amount of benefits paid on this basis since each claim filed for benefits on the grounds of an individual being pension-income eligible would have had to be developed in spite of the fact that few were expected to be paid.

Nevertheless, early this year, I became concerned by reports—particularly in the Los Angeles area—that there are a relatively small number of impoverished wartime veterans who are not in receipt of VA need-based pension and are thus ineligible for the burial benefit under existing law and who are at risk of a pauper's burial at local government expense when they die. Based on data furnished by the VA, during the period October 1, 1981, through July 31, 1982, there were reported cases of 115 such veterans nationwide who died and for whom the burial benefits were not paid as a result of the provisions enacted last year. My understanding is that more than 60 of these veterans died in Los Angeles County.

I do not believe that any destitute wartime veterans should be denied a decent funeral. The intent mirrored in the provisions enacted last year preserving eligibility for VA pensions was to provide for those who are needy. With respect to those destitute wartime veterans, as well as peacetime veterans discharged for service-connected disabilities that were noncompensable at the time of death, who—for various reasons such as not meeting the total disability requirement, failure to meet the 90-day service requirement, or failure to make application—are not in receipt of VA need-based pension, I believe that a cost-effective and compassionate approach to providing this benefit is possible.

Thus, section 403 of the committee bill incorporates provisions derived from my bill, S. 2048, which I introduced on February 2. The committee bill would provide that a deceased veteran would be deemed to have been in receipt of pension and consequently eligible for the $300 burial benefit if a State, county, or city certifies to the VA, first, that no next of kin or other person has claimed the veteran's body or has assumed the responsibility for the burial and funeral expenses of the veteran, and, second, that the amount of funds or resources available to it from other sources is insufficient to cover the burial and funeral expenses. In these cases, the State or political subdivision would be paid the lesser of the $300 or the cost of the burial and funeral expenses it actually incurred. In addition, the committee bill would similarly restore benefits in the cases of peacetime veterans who had been discharged or released from active military, naval, or air service for a service-connected disability who are not in receipt of VA compensation or military disability retirement.

LIMITATIONS ON CONTRACTING OUT ACTIVITIES IN VA HEALTH-CARE FACILITIES

Mr. President, I have been concerned for some time that the application to the VA's Department of Medicine and Surgery, DM&S, of Office of Management and Budget Circular A-76—which provides for contracting out to private entities the performance of certain functions presently carried out by Government employees—could have a significant adverse impact on the department's overall ability to fulfill its various missions, especially its primary mission of providing quality health care to eligible veterans. In this regard, I was very pleased when the Veterans' Affairs Committee, in response to a request from all five democratic members, held an oversight hearing on this issue last November 5. That hearing provided a great deal of information on the possible impact of the circular but, from my perspective, nothing said at that hearing or subsequent thereto has allayed my concerns about the possible untoward impact of imposing contracting out on DM&S. Thus, I proposed and the committee agreed to include in S. 2913 a provision restricting in a specific and very straightforward fashion the agency's ability to convert an activity in DM&S presently carried out by VA employees to one to be carried out by employees of a contractor.

Specifically, section 409 of the committee bill would provide that, except with regard to the exercise of certain existing contract authority under title 38, no contracting out that would result in the conversion of a DM&S activity from one performed by a Government employee to one performed by an employee of a contractor would be lawful unless, first, the Chief Medical Director determines that the activity in question is not a direct patient-care activity or an activity incident to direct care; and, second, the Administrator determines that the contract in question would reduce the cost of that activity by at least 10 percent and would not reduce the quantity or quality of health-care services available at the medical center involved. For cost comparison purposes, the cost of performance by Government employees would be based on an estimate of the most efficient and cost-effective organization for effective in-house performance, and the cost of conducting the cost comparison study itself would be added to the cost of the contract in computing the 10-percent differential. In authoring this amendment, it was my intention that the factors applied be fairly drawn so as not to favor either contracting out or in-house performance of the activity in question, that the cost data used in the comparison should be derived insofar as possible from actual VA experience, and that various indirect costs of contracting—such as severance pay for VA employees who would be released and the costs to the VA of awarding and monitoring contractor performance—be fully taken into account.

Mr. President, this provision, if enacted, will have the desired effect of insulating from contracting out the direct health-care functions of DM&S. This should insure that the Department remains able to carry out its various missions. As to other activities in DM&S—those not direct health-care or incident to direct care activities—contracting out could take place only when there is a clear demonstration the contract's cost plus the cost of the cost-comparison study would result in significant savings and the contract would not result in any decrease in the quality or quantity of the health-care services provided to eligible veterans.

It is also noteworthy that the committee provision includes a proposed finding of the Congress of the United States that it is the policy of the United States that the Veterans' Administration maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans. I proposed this finding to reverse any implication to the contrary that may have been created by the rejection on November 19, 1981, of my amendment—unprinted amendment No. 688—to an amendment dealing with the disapproval of a proposed deferral of funds for certain VA con-

struction projects. My amendment would have provided expressly:

The Congress * * * reaffirms its historic commitment to the maintenance of a comprehensive, nationwide Veterans' Administration health-care system for the provision of direct health-care services to eligible veterans.

CORRESPONDENCE TRAINING

Mr. President, the fifth and final provision I want to highlight, and which I authored, is the provision in section 408 of the committee bill relating to GI bill benefits for correspondence training.

The issues of terminating or reducing correspondence benefits under the GI bill have been subjects of congressional action on a number of occasions over the past 2 years. In the first session of the present Congress, section 2004 of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, reduced from 70 percent to 55 percent the portion of correspondence training costs that the VA pays. Subsequently, a proviso was enacted in the HUD-Independent Agencies Appropriations Act for fiscal year 1983, Public Law 97-101, that originated in the House Appropriations Committee, stating that all funding would be eliminated for the program except with respect to individuals already pursuing correspondence training as of September 30, 1981. In response to this proviso, section 5(a) of Public Law 97-174, the Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, provided that except as may be provided "by a provision of law enacted in express limitation" of the provision—section 1783(a)(1) of title 38—creating such entitlement, funds in the VA's readjustment benefits account, from which GI bill and certain other benefits are paid, shall be available for the payment of correspondence training benefits. Thus, upon the enactment of Public Law 97-174 on May 4, 1982, the appropriations proviso was nullified.

Mr. President, this year again, the HUD-Independent Agencies Appropriations Act for fiscal year 1983, H.R. 6956, as passed by the House on September 15, 1982, contains a proposed cutoff, in language that purports to be in express limitation of the relevant provision of title 38, of funding for correspondence training.

After the House Appropriations Committee had reported H.R. 6956, but prior to its passage by the House, correspondence training was considered by the authorizing committees in the context of reconciliation legislation, which was enacted on September 8, 1982, as Public Law 97-253. The original House-passed version of that measure—H.R. 6955—had contained a provision to terminate correspondence training benefits under the GI bill, but the House-Senate conferees on that measure—senior members of the authorizing committees—specifically decided not to proceed with legislation to restrict or terminate correspondence training and the House receded from its provision.

Mr. President, other members of the committee and I feel strongly that a veteran's entitlement—such as VA correspondence training benefits—should not be terminated or reduced through appropriations action that purports to withhold the availability of funds for the payment of such entitlements. Rather, substantive program changes, if they are to be made, should originate in the authorizing committees within whose jurisdiction the programs fall and should be accomplished only through measures within the authorizing committee's jurisdiction. In this case, as noted earlier, the authorizing committees, in the agreement reached on reconciliation legislation that was incorporated in the conference report—House Report No. 97-759—on H.R. 6955, expressly rejected termination of correspondence benefits.

Thus, the committee bill would provide in section 408 that funds in the VA's readjustment benefits account shall remain available for correspondence training unless a restriction on their availability is enacted by means of an amendment to section 1786(a)(3) of title 38 in a reconciliation bill.

In support of the purpose of this provision of the committee bill to prevent veterans' entitlements to correspondence training benefits from being terminated through the appropriations process, section 501(f) of the committee bill would provide that section 408 shall take effect on the day after the effective date of any law that is enacted after August 19, 1982, and which the Administrator determines to be inconsistent with the provisions of section 408. Section 501(f) is thus designed to render a nullity any provision of law, other than reconciliation legislation, that would purport to restrict the availability of readjustment benefits account funds for correspondence training under the GI bill.

CONCLUSION

Mr. President, in closing, I want again to stress that we have before us an excellent example of a bipartisan work product that reflects the Congress true commitment to service-connected disabled and Vietnam-era veterans. Senator SIMPSON deserves congratulations for bringing to the floor this measure, as do the members of the committee's majority staff who worked with the legislation—Tom Harvey, Julie Susman, Brent Goo, Becky Hucks, and Laurie Altemose. In addition, I would like to make special mention of the contributions of the committee's minority staff—Babette Polzer, Ed Scott, Jon Steinberg, Bill Brew, Ingrid Post, and Katy Burdick—to the drafting and development of the bill.

I am delighted, Mr. President, to endorse the provisions of the committee bill. I wholeheartedly recommend them to my colleagues and urge the Senate to approve the measure unanimously.

FAIR TREATMENT FOR VETERANS

Mr. ROBERT C. BYRD. Mr. President, I am pleased to support S. 2913, which provides vitally needed adjustments in the Federal treatment of veterans in the areas of disability payments, educational, and employment assistance.

It has all too often been true that the needs of our men and women who have served the Nation, who have answered the call to duty, fade from our attention after the emergency has ended. When other pressing national concerns dominate our attention, it is often forgotten that the time these men and women devoted to serving in our Armed Forces often works to their disadvantage when they return to civilian life. The time spent in serving the Nation is time not spent in furthering one's career, in succeeding in competition for jobs in the larger society. Of even more importance, those veterans who have sacrificed not only their time, but whose physical and mental capacities have been impaired because of disabilities incurred during their period of service, find themselves at a disadvantage when they return to civilian life.

It has always been recognized that it is fair and right for the Nation to provide some assistance to make up for these disadvantages. During the current period of economic difficulty, of high unemployment, of reduced opportunity, and more severe competition for jobs, the disadvantages of service have become more acute. The level of compensation for service-connected disability has become increasingly crucial to veterans and to the dependents and survivors of those who served. These compensation rates are an important cord in the national safety net. Thus the 7.4 percent cost-of-living increase provided in this bill in compensation rates for service-connected disability and to the dependents of severely disabled veterans, which matches the rate of increase provided to social security recipients and VA pension beneficiaries effective June 1, 1982, is a fair and needed increase.

Information on available educational and employment opportunities has not always come to the attention of eligible veterans. This is particularly true for veterans who are educationally disadvantaged and for veterans who are unskilled and underemployed. The Nation is now reeling from an unemployment rate which may soon push above 10 percent. This legislation

rightly expresses congressional concern about the high levels of unemployment among disabled and Vietnam-era veterans.

We should be concerned that more than half a million veterans age 30 and over are now unemployed. We should be concerned that Vietnam-era veterans between the ages of 25 and 29 were unemployed at the rate of 16.9 percent as of May 1982. The 685,000 unemployed Vietnam-era veterans are clearly one of the hardest hit portions of our labor force. The veterans' committee has determined that much of this unemployment problem is related to the military service experience of veterans of the Vietnam era.

Vietnam veterans clearly have not achieved the educational and employment levels of their peers who did not serve. This disadvantage in educational and occupational attainment, which VA studies have shown to be an effect of military experience in Vietnam, is a proper and urgent subject of national concern. I am pleased, therefore, that the bill provides for additional flexibility in determining extensions of eligibility for educational assistance and rehabilitation programs for Vietnam-era and service-connected disabled veterans.

S. 2913 expresses our conviction that veterans' employment is a national responsibility which must be addressed by the Secretary of Labor. It makes certain needed changes in the administration and coordination of veterans' employment programs among the Labor Department, the Veterans' Administration, and the State directors for veterans' employment. It strengthens and calls for an annual report to the Congress on the disabled veterans outreach program.

I congratulate the Veterans' Affairs Committee of the Senate for its careful work in addressing the problems of our veterans and ask for swift passage of this measure. I will lend my full support to moving this bill through conference with the House of Representatives so that a final conference report may be passed into law before the Congress goes home for the elections.

Mr. MITCHELL. Mr. President, I rise in support of S. 2913, the Veterans' Compensation, Education, and Employment Amendments of 1982. I am pleased to be a cosponsor of this important piece of legislation.

S. 2913 guarantees that those veterans who were disabled while in the service of their country will receive a full cost-of-living adjustment (COLA) in fiscal year 1983. In addition, the bill will make important changes in existing veterans' education and employment programs. While I support the entire bill, there are a number of specific provisions which I particularly support.

First, I am pleased that veterans who are receiving disability compensation will receive a full 7.4-percent cost-of-living adjustment effective October 1. VA pensioners, whose cost-of-living adjustments are automatically indexed to social security, will also receive a full cost-of-living adjustment effective July 1.

During consideration of the budget this year, several proposals were put forth which would have limited the cost-of-living adjustment for those veterans who were disabled while serving their country. One such proposal would have provided a full COLA for disabled veterans with a disability rating of 70 percent or more but would have capped the COLA at 4 percent for those veterans with a disability rating of less than 70 percent.

This proposal would have sent a clear message to America's disabled veterans: If you are 70 percent disabled you deserve, and will receive, a full cost-of-living adjustment. If you are only 60 percent disabled, however, you deserve, and will only receive, a 4 percent COLA. I could not, and would not, support such an arbitrary and discriminatory proposal. In fact, during consideration of the budget I offered an amendment with Senator CHILES to restore a full cost-of-living adjustment for all disabled veterans. Unfortunately, my amendment was not accepted. I am pleased that in the final analysis commonsense prevailed and the full COLA was restored.

Second, I am particularly supportive of changes S. 2913 would make in existing law governing the disabled veterans outreach program. The bill makes it clear that funds provided under the disabled veterans outreach program are for use in a State and not necessarily to a State. This change in law is based on a bill I introduced earlier this year and is designed to give the Secretary of Labor the authority to contract with a nonprofit organization to run the program. In addition, the bill makes it clear that funds provided for the DVOP program are to be used in a manner which is consistent with the law governing the DVOP program, regardless of the source of funding.

Until April of this year, Maine's DVOP was administered by the Maine American Legion pursuant to a contract with the Department of Labor. Until this year, funds for the program came from CETA, title III discretionary funds. In fiscal year 1982, however, funding for the program was switched to the grants-to-States program which funds the Job Service. The Department of Labor ruled that this change in funding precluded the Department from entering into a contract with the American Legion to operate the program. As a result, Maine's DVOP was transferred to the Maine Job Service.

While S. 2913 would not require the Secretary of Labor to contract with an organization within a State, the bill makes it clear he has the authority to do so, regardless of the source of funding.

Third, I strongly support changes S. 2913 would make to existing law governing the GI bill. Unemployment among the veteran population remains intolerably high, particularly among Vietnam-era veterans. For a variety of reasons, many Vietnam veterans have not been able to take advantage of their GI bill benefits. Recognizing this problem, last year Congress extended the delimiting date for certain Vietnam-era veterans to take advantage of their benefits for 2 years, until Decmeber 31, 1983.

The regulations drafted by the VA to implement this provision, however, were so stringent that they precluded virtually all Vietnam veterans from taking advantage of the extension. S. 2913 would correct this problem by instructing the VA to ease up on its restrictions and by extending the delimiting date for 1 more year until December 31, 1984.

The bill also provides for an extension of GI bill benefits for any veteran who was precluded from taking advantage of his or her benefits due to an alcohol- or drug-related problem. I believe this extension will allow many thousands of veterans to obtain the schooling they want, and need, to lead meaningful, productive lives.

Fourth, I am pleased that S. 2913 incorporates a bill I cosponsored earlier this year to restore the $300 burial benefit for certain indigent veterans. The Omnibus Reconciliation bill, enacted last year, eliminated the burial benefit for all veterans except those who were receiving a VA pension when they died. This change in law was made to meet the level of savings mandated by the reconciliation instructions contained in the first budget resolution and at the same time insure that the poorest of our Nation's veterans would receive a decent and proper burial.

Shortly after the law went into effect, however, it became clear that there were many veterans who were in fact indigent, but who were not in receipt of a VA pension when they died. As a result, the bodies of many veterans went unclaimed and the veteran received a pauper's funeral. Clearly this was not the intent of Congress when it passed the reconciliation bill last year.

S. 2913 would address this unfortunate situation. The bill provides that a veteran whose body is not claimed will be deemed to be in receipt of a VA pension at the time of death, and will therefore be eligible for the $300 burial benefit. While this bill does not restore the burial benefit for all veter-

ans, it will insure that indigent veterans receive a decent burial. I believe this is the least this country can do for those who have served our Nation in time of crisis in the past.

Finally, S. 2913 makes important changes in law governing the contracting-out of services at VA health care facilities. With the exception of already existing contracting-out authority for veteran services, such as readjustment counseling services for Vietnam veterans, S. 2913 would prohibit contracting-out of services if the Chief Medical Director determines the service in question is a "direct medical care activity."

For those services which are not direct medical care activities, contracting could occur only if the Administrator determines that contracting out: First, would not result in a decrease in the quality or quantity of health care services offered and, second, would result in substantial savings to the taxpayer.

I believe these changes are important and will insure that the quantity or quality of health care services offered our Nation's veterans will not be diminished as a result of contracting out.

In conclusion, Mr. President, as a member of the Senate Veterans' Affairs Committee, I would like to reaffirm my commitment to meeting the needs of our Nation's veterans. I believe this bill goes a long way toward meeting that commitment. I urge my colleagues who share this view to support this legislation.

Mr. BAKER. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 6782.

The Presiding Officer laid before the Senate H.R. 6782, an act to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation of surviving spouses and children of veterans, and for other purposes.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. BAKER. Mr. President, I move that all after the enacting clause be stricken and insert in lieu thereof the text of S. 2913, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 6782) was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 6782) entitled "An Act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

PART A—RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506" and "$2,111", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906" and "$1,350", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$262".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following:

"(A) has a spouse but no child, $74;

"(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

"(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;";

(2) by redesignating clauses (H), (I), and (J) as clauses (D), (E), and (F), respectively;

(3) by striking out "$56" in clause (D) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$60";

(4) by striking out "$125" in clause (E) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$134"; and

(5) by striking out "$105" in clause (F) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Section 411(a) is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$445	W-4	$639
E-2	$459	O-1	$563
E-3	$470	O-2	$582
E-4	$500	O-3	$622
E-5	$514	O-4	$658
E-6	$526	O-5	$726
E-7	$552	O-6	$817
E-8	$582	O-7	$884
E-9	[1] $608	O-8	$969
W-1	$563	O-9	$1,041
W-2	$586	O-10	[2] $1,139
W-3	$603		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

PART B—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION IMPROVEMENTS

INCREASE IN COMPENSATION RATE FOR CERTAIN BLINDED VETERANS

SEC. 110. Section 314(n) is amended by inserting "or has suffered total blindness without light perception in both eyes," after "anatomical loss of both eyes,".

ENTITLEMENT TO CERTAIN DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 111. Section 410(b)(1) is amended by inserting "or but for a clear and unmistakable error would have been" after "was" the first two places it appears.

PART C—SUPERSESSION OF CERTAIN PROVISIONS

SEC. 120. The provisions of this title shall supersede the provisions of section 405 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253; 96 Stat. 803).

TITLE II—AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

VETERANS OUTREACH SERVICES PROGRAM

SEC. 201. Section 243 is amended to read as follows: "The Administrator may assign veterans representatives to educational institutions or other appropriate locations as necessary (1) to provide assistance in connection with the provision of benefits under this title to veterans and eligible persons, and (2) to provide outreach services under this subchapter.".

REHABILITATION PROGRAM SUBSISTENCE ALLOWANCE

SEC. 202. Section 1508(g)(2) is amended—

(1) by inserting "not" after "shall"; and

(2) by striking out all after "felony" and inserting in lieu thereof a period.

CALCULATION OF LUMP-SUM PAYMENTS; USE OF POST-VIETNAM ERA VETERANS' EDUCATION ACCOUNT

SEC. 203. Section 1622 is amended—

(1) by striking out in subsection (d) "$75" and inserting in lieu thereof "$100"; and

(2) by adding at the end the following new subsection:

"(e) The administrator may receive from the Secretary and disburse on behalf of the Secretary funds for administering the education assistance program authorized by section 2141 of title 10 and may use the fund for such purpose.".

REPEAL OF 1989 TERMINATION DATE

SEC. 204. (a) Section 1662 is amended by striking out subsection (e) in its entirety.

(b)(1) Chapter 34 is amended by adding at the end the following new section:

"§ 1694. Reimbursement by the Secretary of Defense

"The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by the Secretary of Defense.".

REPEAL OF 50-PERCENT RULE

SEC. 205. (a) Section 1673(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2) in its entirety;

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

(b) Section 1723(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2) in its entirety;

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out clause (2) (as redesignated by clause (3) of this section) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 206. (a) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

(b) Section 1673(d) is amended by inserting "except to the extent provided for in section 1691(c) of this title" after "subchapter V" in the first sentence.

Section 1682 is amended—

(1) by amending subsection (a)(1) by striking out "or (c)" and inserting in lieu thereof "(c), or (g)";

(2) by amending subsection (e)—

(A) in the first sentence by inserting "(2)" after "subsection (b)"; and

(B) in the second sentence by striking out "at" and inserting in lieu thereof "in accordance with the rate at which training is pursued, but in no event at more than"; and

(3) by amending subsection (g)—

(A) by inserting at the end of paragraph (1) the following new sentence: "Except for the payment of the educational assistance allowance for necessary supplies, books, and equipment required of similarly circumstanced nonveterans, no amount shall be payable to a veteran while so incarcerated for any course for which no tuition or fees are charged.";

(B) by amending paragraph (2)—

(i) by inserting "not" after "shall"; and

(ii) by striking out all after "felony" and inserting in lieu thereof a period.

(d) Section 1780(a) is amended—

(1) by striking out "1504" and inserting in lieu thereof "1508";

(2) by inserting "or" at the end of clause (4);

(3) by striking out the semicolon and "or" at the end of clause (5) and inserting in lieu thereof a period; and

(4) by striking out clause (6) in its entirety.

(e) Section 1798(e)(3) is amended by striking out all after the first sentence.

AUTHORITY TO SUSPEND GI BILL BENEFITS IN CERTAIN CASES

SEC. 207. Section 1790(b) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

"(B)(i) Action may be taken under subparagraph (A) of this paragraph only if (I) the Administrator has provided the State approving agency concerned and such institution with written notification of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements, (II) such institution (aa) has refused to take corrective action, or (bb) within sixty days after such notification (or within such other reasonable period as the Administrator determines is appropriate) has failed to take corrective action, and (III) the Administrator has, not less than thirty days prior to taking action under such subparagraph, provided each eligible veteran and eligible person already enrolled in such course with written notification of the Administrator's intention to take such action, together with the reasons therefor, if such corrective action is not taken within such sixty days (or within such other reasonable period as the Administrator has determined is appropriate) and of the date on which the Administrator intends to take action under such subparagraph.".

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION

SEC. 208. (a) Section 1662(a)(3) is amended—

(1) by striking out "may" in subparagraph (C)(i) and inserting in lieu thereof "shall" and by striking out "only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective" and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes," and

(2) by striking out "1983" in subparagraph (D) and inserting in lieu thereof "1984".

(b)(1) Not later than thirty days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in

the Federal Register, for public review and comment for a period not to exceed thirty days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a) of this section.

(2) Not later than ninety days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i) as so amended.

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 209. (a) Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In"; and

(2) by inserting at the end the following new subparagraph:

"(B)(i) Subject to divisions (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in division (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(ii) The condition referred to in division (i) of this subparagraph as described in this division is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) such veteran (aa) has received recognized treatment for such condition, or (bb) has participated in a program of rehabilitation for such condition, and

"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Division (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within one year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to division (i) of this subparagraph are published in the Federal Register, whichever is the latest.

"(iv) The period of time during which, pursuant to division (i) of this subparagraph, the twelve-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than four years.

"(v) When, pursuant to division (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".

(b) Section 1662(a) is amended—

(1) in paragraph (1)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection" after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

(c) Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection" after "misconduct";

(B) by inserting "(except as provided in paragraph (3)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(3)(A) A condition referred to in paragraph (2) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

TITLE III—VETERANS' EMPLOYMENT AMENDMENTS

CONGRESSIONAL FINDINGS

SEC. 301. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among disabled veterans and veterans of the Vietnam era.

(2) Alleviating unemployment and underemployment among such veterans is a national responsibility.

(3) Because of the special nature of such veterans' employment and training problems and the national responsibility to meet those problems, policies and programs to address those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment.

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 302. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era," after "opportunities".

STATE AND ASSISTANT DIRECTORS FOR EMPLOYMENT

SEC. 303. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been (A) a bona fide resident of the State for at least two years, or (B) if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an Assistant State Director for Veterans' Employment for at least one year in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the staffs of the public employment service system and of each other program in the State described in subsection (c) of this section, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—".

(2) The item relating to section 2003 in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote the participation of veterans in Federal employment and training programs and monitor the implementation and operation of such programs to ensure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive such special consideration or priority in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and adding at the end the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

"(10) working closely with appropriate Veterans' Administration officials, cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title;

"(11) cooperate with the directors of the veterans assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) in the case of disabled veterans, when requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS

SEC. 304. (a) Section 2003(a) is amended—

(1) in paragraphs (1) and (3), by striking out "available to" and inserting in lieu thereof "available for use in";

(2) in paragraph (2), by striking out "provided to" and inserting in lieu thereof "provided for use in"; and

(3) by adding at the end the following new paragraph:

"(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by inserting a comma and "except that the Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of such limitation as long as the percentage of such specialists so stationed in all States does not exceed 80 percent of such specialists stationed in all States" after "such State"; and

(2) by striking out "section 621A" and inserting in lieu thereof "section 612A".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in paragraph (4) and inserting in lieu thereof "appropriate grantees under other Federal employment and training programs"; and

(2) by adding at the end the following new paragraph:

"(8) Development of outreach programs in cooperation with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.".

(d) Section 2003A is further amended—

(1) by striking out subsection (d) in its entirety;

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end of subsection (d) (as redesignated by clause (2) of this subsection) the following new sentence: "In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 305. (a) Section 2006(a) is amended—

(1) by inserting in the first sentence "and chapters 42 and 43 of this title" after "of this chapter";

(2) by adding after the third sentence the following new sentence: "Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section."; and

(3) by adding at the end the following new sentence: "The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 306. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

APPLICABILITY OF CHAPTER 42 PROGRAMS

SEC. 307. Section 2011(5) is amended to read as follows:

"(5) The terms 'department or agency' and 'department, agency, and instrumentality in the executive branch' each mean any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and the Postal Rate Commission.".

REPORTS OF CONTRACTORS ON VETERANS' EMPLOYMENT EMPHASIS

SEC. 308. (a) Section 2012 is amended by adding at the end the following new subsection:

"(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

"(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.".

(b) Within ninety days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations implementing the amendment made by subsection (a).

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 309. (a) Section 2025 is amended to read as follows:

"§ 2025. Jurisdiction; assistance in obtaining reemployment

"(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

"(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.".

(b) The item relating to section 2025 in the table of sections at the beginning of chapter 43 is amended to read as follows:

"2025. Jurisdiction; assistance in obtaining reemployment.".

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 310. Section 6 of Public Law 90-83 (81 Stat. 221; 29 U.S.C. 601-607) is repealed.

TITLE IV—MISCELLANEOUS IMPROVEMENTS

ASSIGNMENTS BY VETERANS ADMINISTRATION INSURANCE BENEFICIARIES

SEC. 401. (a) Section 718 is amended by inserting at the end the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following new subsection:

"(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

REMOVAL OF TIME RESTRICTION FOR FILING INSURANCE CLAIMS

SEC. 402. Section 770 is amended—

(1) by amending subsection (c) by striking out the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS OF WARTIME SERVICE

SEC. 403. Section 902 is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of this section, a deceased veteran of any war or a deceased veteran who was discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

"(A) there is no next of kin or other person claiming the body of such deceased veteran;

"(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

"(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

"(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.".

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED HOME LOTS; CHANGE IN NOMENCLATURE

SEC. 404. (a) Section 1819(a) is amended—

(1) by striking out "one of the following purposes" and inserting in lieu thereof "the purpose or purposes specified in one of the following clauses";

(2) in paragraph (1), by inserting at the end the following new clause:

"(G)(i) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of and is secured by a manufactured home, and (ii) to purchase a lot on which such manufactured home is or will be placed.";

(3) in paragraph (2), by striking out "any of the purposes described in paragraph (1) of this subsection" and inserting in lieu thereof "a purpose specified in any one of the clauses (A) through (E) or (G) of paragraph (1) of this subsection or for the purposes specified in clause (G) of such paragraph";

(4) in paragraph (3), by striking out "(C) or (E)" and inserting in lieu thereof "(C), (E), or (G)"; and

(5) by inserting at the end the following new paragraph:

"(5)(A) For a loan to be guaranteed for the purposes specified in clause (G) of paragraph (1) of this subsection—

"(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

"(ii) the amount of the loan may not exceed an amount equal to the sum of—

"(I) the purchase price of the lot,

"(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

"(III) the balance of the loan being refinanced, and

"(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

"(B) When a loan is made to a veteran for the purposes specified in clause (G) of paragraph (1) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".

(b) Section 1803(c)(3) is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "or"; and

(3) by inserting at the end the following new clause:

"(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.".

(c)(1) Section 1811 is amended—

(A) by striking out in subsection (c)(1) "mobile home" and inserting in lieu thereof "manufactured home"; and

(B) by striking out in subsection (d)(1) "mobile home" and inserting in lieu thereof "manufactured home".

(2) Section 1819 is further amended—

(A) by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home";

(B) by striking out "mobile homes" each place it appears and inserting in lieu thereof "manufactured homes";

(C) by striking out "mobile-home" both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof "manufactured-home"; and

(D) by amending the catchline to read as follows:

"§ 1819. Loans to purchase manufactured homes and lots".

(3) The table of sections at the beginning of chapter 37 is amended by amending the item related to section 1819 to read as follows:

"1819. Loans to purchase manufactured homes and lots.".

PERIOD FOR REQUEST OF OVERPAYMENT WAIVER

SEC. 405. Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date" after "payee".

MINIMUM SERVICE REQUIREMENT

SEC. 406. (a) Section 3103A is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"(A) twenty-four months of continuous active duty, or

"(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty, and no dependent or survivor of such person shall be eligible for such benefits on such basis.

"(2) Paragraph (1) of this subsection applies—

"(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

"(3) Paragraph (1) of this subsection does not apply—

"(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

"(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.";

(2) in subsection (e) (as redesignated by clause (1) of this subsection) by inserting "(including a right to special consideration, preference, priority, or similar advantage)" after "privilege"; and

(3) by adding at the end the following new subsection:

"(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.".

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person is discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

SEC. 407. Section 977 of title 10, United States Code, is superseded.

CORRESPONDENCE TRAINING

SEC. 408. Notwithstanding any provision of law unless that law is enacted as an amendment to section 1786(a)(3) of title 38, United States Code, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of section 1786(a) of such title for the pursuit of a program of education exclusively by correspondence.

LIMITATIONS ON CONTRACTING OUT

SEC. 409. (a) It is the policy of the United States that the Veterans' Administration shall—

(1) maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) provide such services through the most cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.

(b) Section 5010 is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (2) of this subsection—

"(A) no contract may be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

"(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the result of a study described in subsection (a)(5) of this section, which study shall be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees, may, in the exercise of the Administrator's sole discretion but only under the conditions described in the following sentence, enter into a contract as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government. The Administrator may enter into such a contract only if the Administrator determines that—

"(i) over the proposed duration of the contract the cost to the Federal Government of (I) performing such activity under such contract plus (II) the conduct of such study would be not less than 10 percent lower than the cost of performance of such activity by employees of the Federal Government, and

"(ii) such contract would not result in a reduction in the quantity or quality of health-care services provided to eligible veterans by the Veterans' Administration at such facility.

"(2) The provisions of paragraph (1) of this subsection do not apply (A) to any contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or section 686 of title 31, or (B) to a contract under section 4117 of this title if the Chief Medical Director determines that such contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at such facility.".

SEC. 410. (a)(1) Section 601 is amended by adding at the end the following new paragraph:

"(9) The term 'chiropractic services' means the manual manipulation of the spine performed by a chiropractor (who is licensed as such by the State in which he or she performs such services and who meets the uniform minimum standards promulgated for chiropractors under section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))) to correct a subluxation of the spine. For the purposes of this paragraph, such term does not include physical examinations, laboratory tests, radiologic services, or other tests or services determined by the Administrator to be excluded.".

(2)(A) Subchapter III of chapter 17 of such title is amended by adding at the end thereof the following new section:

"§ 630. Chiropractic services

"(a) The Administrator shall, under regulations which the Administrator shall prescribe, reimburse a veteran eligible for medical services under this chapter for the reasonable charge for chiropractic services, for which such veteran has made payment, if—

"(1) such chiropractic services were for the treatment of a service-connected neuromusculoskeletal condition of the spine,

"(2) the veteran is a veteran who has been furnished hospital care by the Veterans' Administration for a neuromusculoskeletal condition of the spine within a twelve-month period prior to the provision of such chiropractic services, or

"(3) the veteran is a veteran described in section 612(f)(2) of this title who has been furnished hospital care or medical services by the Veterans' Administration for a neuromusculoskeletal condition of the spine, to the extent that such veteran is not entitled to such chiropractic services or reimbursement for the expenses of such services under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for such services.

"(b) In any case in which reimbursement may be made under this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable charge for such chiropractic services directly to the chiropractor who furnished such services.

"(c)(1) The Administrator shall, in consultation with appropriate public and nonprofit private organizations and other Federal departments and agencies that provide re-

imbursement for chiropractic services, establish a schedule of reasonable charges for such services, which schedule shall be consistent with the reasonable charges allowed under title XVIII of the Social Security Act (42 U.S.C. ch. 7).

"(2) The amount payable by the Administrator for chiropractic services furnished under this section shall not exceed $200 in any twelve-month period in the case of any veteran.

"(d) Notwithstanding any other provision of this title, total expenditures for chiropractic services reimbursed under this section shall not exceed $4,000,000 in any fiscal year and no reimbursement or payment may be made under this section for chiropractic services furnished after September 30, 1986."

(B) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 629 the following new item:

"630. Chiropractic services.".

(b) Not later than December 31, 1983 and not later than December 31 of each of the next three years thereafter, the Administrator of Veterans' Affairs shall prepare and submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports on the use made of the authority provided for in the amendments made by the first section. Each such report shall include—

(1) the number of requests by eligible veterans for reimbursement or payment for chiropractic services in the most recent fiscal year under section 630 (as added by subsection (a)(2)(A) of this section), and the number of such veterans who made such requests;

(2) the number of reimbursements or payments made by the Administrator of Veterans' Affairs under such section in such fiscal year and the number of veterans to or for whom such reimbursements or payments were made; and

(3) the total amounts of expenditures by the Administrator of Veterans' Affairs for such reimbursements and payments under such section in such fiscal year.

TITLE V—EFFECTIVE DATES

SEC. 501. (a) Except as otherwise provided in subsections (b), (c), (d), (e), and (f) the provisions of this Act shall become effective on October 1, 1982.

(b) The provisions of sections 207, 208, 308(b), and 406 shall be effective on the date of the enactment of this Act.

(c)(1) The provisions of section 111 shall take effect on October 1, 1982.

(2) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall make a payment to each person who would have been entitled to any payment under section 410(b) of title 38, United States Code, for any portion of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by section 111 had taken effect on October 1, 1978. Such payment shall be a lump-sum payment in the total amount such person would have been entitled to receive if such amendment had taken effect on October 1, 1978.

(d) The amendment made by section 403 shall apply with respect to burial and funeral expenses incurred after October 1, 1982.

(e) The amendment made by section 405 shall take effect on the one hundred and eightieth day after the date of the enactment of this Act.

(f) Section 408 shall take effect on the day after the effective date of any law (i) that is enacted after August 19, 1982, and (ii) that the Administrator of Veterans' Affairs determines to be inconsistent with the provisions of such section.

Mr. BAKER. Mr. President, I send a title amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

To amend the title so as to read:

An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, before the Senator proceeds, I wish to thank the distinguished majority leader for calling up this measure, as he indicated on yesterday that he would. I thank him for his very kind remarks in my behalf.

Mr. BAKER. Mr. President, I was pleased to do so, and I am happy that we were able to pass this important measure at this time.

Mr. President, I now ask that Calendar Order No. 808 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are two matters to be taken up, I understand. One is conference report on the reclamation bill, S. 1409, the Buffalo Bill Dam, Pick-Sloan Missouri Basin bill, and also the banking bill. I sort of yield to Members as to which one of those they want to go with next. I am prepared to ask the Chair to lay either one of them before us at this time.

Mr. McCLURE. Will the Senator yield?

Mr. BAKER. I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, the Senator from Ohio (Mr. METZENBAUM) is on the floor and has an interest in the reclamation conference report, and the Senator from Wisconsin, Senator PROXMIRE, has indicated his desire to speak on the matter. Senator MOYNIHAN also wants to speak.

I do not know of any prolonged debate on this matter. At least, one or two of the principals have also indicated that they do not intend to request a rollcall vote.

With that in mind, I think we could take care of the conference report in a relatively short period of time.

I know that I and the other members of the committee do not intend to debate the matter at length. We do have statements to make for the RECORD. I would hope that we could have the consideration of that done rather quickly.

Mr. BAKER. Mr. President, I yield to the Senator from Utah.

Mr. GARN. Mr. President, I am certainly willing to yield for the purpose of bringing up the conference report on the reclamation bill if it could be done quickly. I think most everyone in this body is well aware of the year-and-a-half of time which has gone into the banking bill. With no votes on Monday and the vast differences between our version and the House version, if we do not get it completed today we can just forget it. There would be no way to get to a conference and get the conference report back.

I just say I would be happy to yield to my distinguished colleague from Idaho to bring up the reclamation bill conference report if everyone understands the importance of the banking bill. I hope it can be done as expeditiously as possible so we can get to the banking bill.

Mr. SARBANES. Will the Senator yield?

Mr. BAKER. I yield.

Mr. SARBANES. I second what the chairman has said. I gather it is the majority leader's intention to complete the banking bill this afternoon.

Mr. BAKER. Yes, Mr. President, it is. I think if we get on with the business at hand we can do the conference report promptly.

UNANIMOUS-CONSENT REQUEST—S. 2879

Mr. BAKER. Mr. President, I have a unanimous-consent request with respect to the banking bill. If the minority leader is prepared to consider it at this time, I would like to put it so Members will know where we stand.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar Order No. 774, S. 2879, it be considered under the following time agreement: 1 hour on the bill to be equally divided between the chairman of the Banking Committee and the ranking minority member or their designees; 30 minutes on first-degree amendments; 20 minutes on second-degree amendments; 10 minutes on any debatable motion or point of order if submitted to the Senate, and that the agreement be in the usual form.

In addition, two Boren amendments on which there be 1 hour each equally divided dealing with branching and

with reserve requirements on money market funds.

Mr. METZENBAUM. Mr. President, reserving the right to object, I will advise the minority leader that I have no objection to the general thrust of this request, but I am concerned that there may be certain matters pending in the Senate in separate pieces of legislation that may be germane to this legislation.

I am frank to say to the majority leader that until I know what the amendments are I will not be in a position to agree to the unanimous-consent request.

Having said that, I want to emphasize that I am perfectly agreeable to agree to the unanimous-consent request provided I know what the amendments are and that they are not some of the other matters that are around the Senate at the moment and about which I have some concern.

If that could be done, I would withdraw my objection. Absent that, I would object.

Mr. BAKER. Mr. President, I hope the Senator will withhold his objection for a moment. I think I know what he is driving at. I think we can clarify that in a minimum amount of time. I guess I have no alternative——

Mr. RIEGLE. Mr. President, will the Senator yield to me?

Mr. BAKER. I yield.

Mr. RIEGLE. If I understood correctly both the request and the possible objection by the Senator from Ohio, it is with respect to two Boren amendments.

Mr. BAKER. I do not think that is what it is.

Mr. RIEGLE. I just want to say to the Senator from Ohio that in the discussions on various amendments that different people suggest they want to offer, or we assume they will offer, there will be a number of discussions going on today, some with respect to Senator BOREN and some with respect to Senators on the other side of the aisle. Senator BRADY has an amendment, and so forth.

But the time agreement thus far, I think, has been satisfactory to most Members. I am certainly willing to meet with the Senator from Ohio to see if we can answer the questions.

Mr. BAKER. Mr. President, may I interrupt the Senator? I am sorry to do this, but time is at a premium this afternoon. Let me temporarily withdraw the request and see if I cannot clear a matter that I believe is concerning the Senator from Ohio. I shall put the request a little later. Meantime, the managers of the conference report can go forward.

Mr. METZENBAUM. I thank the Senator.

(Later the following occurred:)

Mr. BAKER. Mr. President, I am in a position now to advise the distinguished Senator from Ohio that I have consulted with the Senator from Alaska and other Senators. As far as I can ascertain, there is no extraneous amendment planned to be offered to the banking bill. I can assure him that if any such amendment is offered, the leadership on this side would resist and make every effort to defeat it.

Mr. METZENBAUM. With that assurance to me by the majority leader, Mr. President, I have no objection to the unanimous-consent request.

Mr. BAKER. I am most grateful to the Senator.

Mr. President, I am advised by the minority leader, who was called away to an official function, that he would clear this as soon as it is agreeable to the Senator from Ohio. I shall now put the request again:

Mr. President, I ask unanimous consent that when the Senate turns to the consideration of Calendar Order No. 774, S. 2879, it be considered under the following time agreement:

One hour on the bill to be equally divided between the chairman of the Banking Committee and the ranking minority member or their designees; 30 minutes on first-degree amendments; 20 minutes on second-degree amendments; 10 minutes on any debatable motion or point of order if submitted to the Senate, with the agreement be in the usual form.

One hour each on two Boren amendments, dealing, with branching and with reserve requirements on money market funds, with the time equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I am grateful to all Senators.

BUFFALO BILL DAM, RECLAMATION REFORM, AND PAPAGO INDIAN WATER RIGHTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 1409 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (S.1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1982.)

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I rise in strong support of the conference report on S. 1409, the bill which includes the Buffalo Bill Dam and Reservoir legislation in title I, the Reclamation Reform Act of 1982 in title II, and the Papago Indian water settlement in title III. It is a distinct privilege and honor for this Senator as chairman of the conference committee to bring back this conference report to the Senate today. I am sure that all of the Senate conferees, the other distinguished members of the Senate Committee on Energy and Natural Resources and interested parties throughout America share the great pleasure we have in reporting the successful conclusion of the conference to the Senate.

Mr. President, the Senate on August 20, 1982, passed S. 1409 with the Senate text for each of the three titles contained in this legislation. My floor statement at the time of that action explained in detail the exact parliamentary situation which led the Senate to pass S. 1409 with that text on that date, and I will not repeat all of that background here today. Suffice it to say, however, that the intended thrust of the Senate action on August 20 was to place in conference for the resolution of the differences involved, the text of the House and Senate-passed reclamation reform bills.

I am very pleased to report to the Senate today that the conference report which is before us responsibly and effectively resolves those minor differences included in the two bills. I want to take this opportunity to thank my distinguished colleagues from the Senate on the conference committee for their cooperation and assistance in bringing the conference to a quick and successful conclusion. Certainly, Senator WALLOP, Senator JACKSON, Senator FORD, Senator WARNER, and Senator METZENBAUM, all of whom played an active role in the conference deliberations as well as the rest of the Senate conferees, deserve great credit for the dedicated efforts necessary to resolve the differences before the conference.

I also want to thank Chairman UDALL, Ranking Minority Member LUJAN and the conferees from the House of Representatives, Committee on Interior and Insular Affairs for their dedication to a responsible resolution of the differences in our bills. Special thanks are in order for Congressman KAZEN, the subcommittee chairman, Congressman CLAUSEN, Congressman PASHAYAN, Congressman COELHO, and Congressman MILLER for their spirited and positive participation in the conference process. All of

the conferees are to be congratulated for their contributions to fashioning the legislation before the Senate today. In many respects, this legislation represents a landmark reform of existing law originally enacted in 1902 to establish this Nation's bold and farsighted initiative in bringing reclamation agriculture to the 17 Western States, which otherwise would have been afflicted with arid and nonproductive agricultural potential.

Mr. President, my remarks on July 14, 1982, in this Chamber provided an extensive background to the debate surrounding reclamation reform legislation. I mentioned on July 14, that when I first joined the Idaho Reclamation Association in 1953 almost 30 years ago, that one of the pending items before the association in 1953 was the need for revision of the 1902 Reclamation Act. My personal experience over the past 30 years has long since convinced this Senator, as I am sure it has similarly convinced many other Senators, that reform was an absolute necessity for our reclamation program. I am pleased to report that the conference report before us today accomplishes that long and much needed reform in a fashion which provides a balanced, equitable, and evenhanded approach to modernization of reclamation law consistent with the many individual, regional, and national interests involved today in our Nation's reclamation program.

The conference report resolves differences in six areas of crucial interest to western water users while addressing the national need to modernize the program. Briefly, major actions were taken on the following key elements of the reclamation program:

First. The conference report establishes an absolute limit on the amount of subsidy that an individual or legal entity may receive from the reclamation program. The mechanism used is the number of acres owned or leased for which water can be received at a less-than-full-cost rate and the limits are clearly established in the conference report;

Second. Also, for the first time, the question of leasing will be addressed by the reclamation law. By the use of full cost pricing with interest and restrictions on leasing, we will assure that the benefits of the program will flow to the landowner.

Third. Of particular interest to those farmers' projects with poor soils or short growing seasons is the opportunity to take advantage of the class I equivalency concept. This will allow additional acres to be farmed in order to provide a viable farming unit.

Fourth. The conference report also determines the interest rate to be used where full cost pricing is to be applied. The report establishes a floor of 7½ percent for all expenditures prior to date of enactment.

Fifth. The conference report also establishes water conservation as an integral part of the reclamation program by requiring irrigation districts to develop a water conservation plan and directing the Secretary of the Interior to coordinate water conservation programs with other Federal agencies; and

Sixth. And finally, the reclamation farmer is at last assured of being able to prove that when his contractual obligation is paid off, his lands are free of the Federal presence and the burden of the Federal reclamation law.

A detailed explanation of major provisions follows:

OWNERSHIP AND PRICING LIMITATIONS

The conferees agreed upon an ownership and pricing limitation of 960 acres for individuals and legal entities benefiting 25 or fewer individuals and an ownership limitation of 640 acres and a price limitation of 320 acres for legal entities benefiting more than 25 individuals. However, the price relief for the first 320 acres receiving water would be available only to those larger legal entities which were receiving, or had received, project water on or before October 1, 1981. Such larger legal entities which had not received water from a Federal reclamation project on or before that date would pay full cost for irrigation water delivered to all lands.

If a district or individual takes advantage of these new ownership limitations, it is intended that lands which are currently excess will now be qualified if under the new limit. An individual which now owns 1,000 acres would have to dispose of 840 acres pursuant to a recordable contract under existing law. If he elects or if the districts amend its contract to conform to the new law, that individual will only have to dispose of 40 acres of his ownership, if it is all class I lands. If the equivalency formula is applied, the 960-acre limit will be adjusted upward appropriately. Finally, it is important to emphasize that the "ownership limitation" is actually only a limitation on the amount of land owned which is eligible to receive irrigation water. A person may elect to continue his ownership in excess of the "ownership limitation" and not receive irrigation water for those excess lands.

INTEREST RATE

The conferees adopted a full cost formula which blends the formula in the House bill and the Senate amendment. The House formula would be applied to expenditures made prior to the date of enactment with a provision that the interest rate be not less than 7½ percent in any event. For expenditures made subsequent to the date of enactment, the formula contained in the Senate amendment would be applied.

Legal entities having 25 or fewer individuals or shareholders would be treated in the same manner as individuals. However, large legal entities which had not been receiving water from a project on or before October 1, 1981, would be charged full cost at the rate provided in the Senate amendment for all lands irrigated. Full cost will be calculated on a district-by-district basis. It is important to emphasize that the full cost provisions only apply to lands in excess of the new pricing acreage limitations.

For those lands not in excess of the new pricing acreage limitations, the price of irrigation water will remain the same as established in existing contracts or in the case of future contracts, at a price established pursuant to terms and conditions under reclamation law as it existed before enactment of this act. This price will continue to reflect ability to pay. The only change will be in the application of the new operation and maintenance charge provisions. These provisions require operation and maintenance costs to be recovered annually, but do not require a change in the methodology by which the Federal Government, a project or district computes such cost.

CERTIFICATION

The conferees agreed upon a provision which requires certification of compliance, with the law including a statement of the number of acres leased, the term of the lease and that the rent reflects the reasonable value of the irrigation water. The conferees also agreed to a provision which requires that leases be written and for a term of not more than 25 years in the case of perennial crops and 10 years as to all others.

EQUIVALENCY

The conferees agreed that equivalency should be applied only as to those districts which agree to an amendment to their contracts as required to gain the benefit of the increased acreage limitations. The conferees noted that the Bureau of Reclamation has adopted a system of classification of lands within projects, but intends that the Bureau have flexibility to implement any new system of classification which it might develop. Furthermore, the conferees are aware of the fact that there exists statutory authorization for the application of an equivalency formula to a number of existing Federal reclamation projects. Enactment of this legislation is not intended to alter in any way either the application of equivalency to those projects, or the manner in which it has been applied.

PAYOUT

The provision approved by the conferees is essentially that contained in the House amendment. The conferees recognized that rehabilitation and betterment loans are considered as oper-

ation and maintenance costs. By adopting the House provision, the conferees do not intend to imply that either existing or future rehabilitation and betterment loans subject districts to the extension of the application of the acreage limitations after repayment of construction charges. The conferees also wish to make it clear that a district will not be relieved of liability for the payment of applicable operation and maintenance charges after its repayment obligation has been discharged. In adopting this provision, Congress is validating individual or district repayment provisions of existing contracts. Ratification or validation of such provisions of existing contracts by Congress on a contract by contract basis is therefore not required or contemplated.

WAIVER OF SOVEREIGN IMMUNITY

The conferees agreed to the House language. In taking this action, the conferees wish to make it clear that the actions of the conference committee should not be taken as prejudicial to any particular form of evidence or remedy under existing law, but rather the applicable rules of evidence and the applicable remedies should be employed by any court entertaining a suit brought to determine the rights of any party to a reclamation contract with the United States.

APPLICATION OF FULL COST TO EXCESS LANDS

The conferees agreed upon a provision which would permit delivery of water at subsidized rates for a period of 10 years from the date the contract was executed as to recordable contracts entered into prior to the date of enactment and for a period of 5 years from the date of the execution as to recordable contracts executed subsequent to the date of enactment. Any extension of time for the disposal of lands under recordable contract is not to be considered as also extending the period of time in which subsidized water may be delivered to the lands under recordable contract since that water shall be delivered at the subsidized rate, for a period not less than 18 months from the date of enactment, or the date when the Secretary again commences approval of sales under recordable contract in those cases in which he has withheld approval. A special provision was adopted for lands to be placed under recordable contracts in the central Arizona project, as noted below.

WATER CONSERVATION

The conferees adopted a provision which incorporates the language of the Senate amendment and modified the provisions of the House amendment. The provision imposes an obligation upon the districts to adopt a water conservation program and a timetable for its implementation. The conservation program shall not be required to be a part of the district's repayment or water service contract. The provision also includes the language of the House amendment providing for coordination of Federal water conservation programs with the involvement of non-Federal entities. Any conservation programs encouraged by the Secretary or adopted by a district must be pursuant to State substantive and procedural law.

Mr. President, I yield to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I rise in support of the conference report on S. 1409. As a member of the conference committee, I am particularly pleased with title II of the conference report, the Reclamation Reform Act of 1982. Enactment of this title will be the culmination of a 5-year effort by the Congress to modernize the Reclamation Act of 1902. Many Senators will recall that the Senate-passed reclamation reform legislation in 1979, only to have it die in the other body.

Federal reclamation law has long been in need of reform to reflect modern farming conditions. I believe that title II of the conference report meets that need. The conferees addressed a number of difficult issues and, in my opinion, resolved them in a sound and equitable fashion. Despite sharply contrasting points of view, a spirit of cooperation prevailed throughout the conference. I thank each of the conferees for their fine work and, in particular, I thank Chairman McCLURE and Chairman UDALL for their leadership throughout the long process of considering this important legislation.

Although I am very pleased with title II of the conference report, I believe it is important to remember that passage of this legislation does not complete the process of reforming the reclamation program. Our efforts in rewriting the reclamation statutes will accomplish nothing unless there is vigorous and thorough enforcement of the law.

Almost from its inception, Federal reclamation law has suffered from a pronounced lack of enforcement. The result has been a widespread pattern of noncompliance that has thwarted congressional intent and undermined respect for Federal law. Let there be no doubt that Congress does not intend that this situation continue. Federal reclamation law, as reformed by this legislation, must be firmly and fully enforced.

I also want to take this opportunity to provide a brief explanation of section 203(d) of the conference report, which states:,

Amendments to contracts which are not required by the provisions of this title shall not be made without the consent of the non-Federal party.

This provision applies when a district becomes subject to the new law by amending its contract, as described in section 203(a). The purpose of the provision is to protect a district from any effort by the Secretary to require amendments that are not necessary to bring the contract into conformity with the new law. Such amendments may be made only with the consent of the district.

In conclusion, I believe that the conference report on S. 1409 is sound legislation, and I urge my colleagues to join me in supporting it.

Mr. MOYNIHAN. Mr. President, the reclamation reform bill, S. 1409, is a marginal improvement over the bill passed by the Senate on July 16, 1982. Nonetheless, I find the bill wholly unacceptable for reasons of commission as well as omission.

This conference report like the original Senate bill fails to correct an obvious inequity in the pricing of irrigation benefits by two Federal agencies. Under S. 1409, beneficiaries of irrigation water from Bureau of Reclamation projects will be required to pay the full cost—that is, the principal and interest for the water received to irrigate lands above the 960-acre limit.

Corps of Engineers projects on the other hand, will not be subject to these same full-cost provisions, even though these projects provide identical irrigation benefits and have a specific percentage of project costs allocated to irrigation. There is no rationale for the Federal Government to charge a different price for the same service. I offered an amendment on July 16, 1982, to correct this inequity and the Senate rejected the amendment.

The bill as a whole remains seriously flawed. At my request, the Department of the Interior prepared a cost estimate of the conference agreement on S. 1409. According to the Department, a mere $17 million in additional revenue will be returned to the Treasury in each of the next 3 years, increasing to $34 million thereafter. I ask unanimous consent that the Department of the Interior letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BUREAU OF RECLAMATION,
Washington, D.C., September 24, 1982.

Hon. JAMES A. McCLURE,
Chairman, Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your inquiry concerning the additional revenue to the Federal Treasury that would be expected upon implementation of Title II of S. 1409.

You will recall that the Congressional Budget Office had produced an estimate of $10-13 million in additional revenue under the original House version of the bill. This was based on the assumption that under the

House bill 25 percent of the districts would elect to be covered by the new law.

The Conference Report, however, will produce additional revenues over the original projections for the House bill, because there are increased incentives for districts to amend their contracts and come under the new pricing provisions. In addition, all districts will be subject to new pricing after 4½ years from enactment. Therefore, we have recalculated the revenue projections based on a very conservative set of assumptions.

Our projections produce an estimated minimum annual increase of $17 million to the Treasury for the initial years after enactment. After 4½ years from enactment, additional revenues will jump to a minimum of $34 million, if everyone elects to come under the 960-acre limitation. (For the initial period after enactment, we are assuming that 50 percent of the districts will amend and 30 percent of the farms exceed 960 acres.)

On the other hand, if 75 percent of the districts decide to amend after 4½ years, then the remaining quarter will pay 12 percent interest on landholdings over 160 acres and will thereby generate an overall revenue increase due to Title II of S. 1409 of $70 million.

Again, we should emphasize that these are minimum projections and a number of factors could generate increased revenues.

We hope this information is useful. If we can provide any further assistance, please do not hesitate to call.

Sincerely,

ROBERT N. BROADBENT,
Commissioner of Reclamation.

Mr. MOYNIHAN. Mr. President, strange as it may seem, for all of the talk about full cost pricing and modernizing the antiquated reclamation law, this bill will barely increase the Federal revenue from a program that was originally conceived as fully reimbursable, a program that was not intended to cost the Federal taxpayers 1 cent in the long run. In truth, the General Accounting Office found that this program returns only 10 cents to the Federal Treasury for every dollar spent.

On paper, the supporters of the Bureau of Reclamation claim the program pays for itself. In reality, the Congressional Budget Office and the Water Resources Council have found otherwise. I ask unanimous consent that a table comparing the mean nominal and effective non-Federal capital cost-sharing rates for Federal water resources projects be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

A COMPARISON OF MEAN NOMINAL AND EFFECTIVE NON-FEDERAL CAPITAL COST-SHARING RATES [1]

[In percent]

Purpose	Corps		Bureau		SCS		TVA		25 agencies	
	Nominal	Effective	Nominal	Effective	Nominal	Effective	Nominal	Effective	Nominal	Effective
Urban flood damage reduction	14	14	0	0	19	15	0	0	24	17
Rural flood damage reduction	5	5	0	0	19	19	8	8	8	7
Drainage	34	30	.....	.....	52	52	.....	.....	43	42
Irrigation	98	15	100	10	48	48	.....	.....	98	11
Erosion control	2	2	.....	.....	88	88	.....	.....	37	37
Municipal and industrial supply	99	54	100	68	100	100	.....	.....	99	62
Water quality	1	0	100	99	.....	.....	.....	.....	28	31
Fish and wildlife	9	7	15	4	51	51	.....	.....	14	8
General recreation	16	14	34	11	58	58	0	0	20	17
Navigation	7	7	0	0	.....	.....	0	0	7	7
Hydroelectric	94	63	100	63	.....	.....	100	[2] 128	96	64
Agency mean	25	18	89	31	43	43	67	79	39	24

[1] Mean values are weighted within purposes by allocated cost.
[2] Non-Federal cost-sharing rates in excess of 100 percent imply revenue collected from sale of vendible products exceeds allocated costs to that purpose, and may be applied toward repayment in another purpose.
Source: U.S. Water Resources Council.

Mr. MOYNIHAN. This table verifies the finding of the General Accounting Office—that nominal cost-sharing rates vary significantly from effective cost-sharing rates when the full cost of the Federal investment, including interest, is taken into account. No where is this difference between appearance and reality greater than in irrigation projects.

One need only look at the historic patterns of Federal spending on water resources projects to realize the full extent to which the entire enterprise has been distorted in a similar fashion. At the request of the Water Resources Subcommittee, the Congressional Research Service prepared a summary of Federal spending on water resources over the last 25 years. The imbalance among regions is striking: 6 percent to the Northeast, 18.7 percent to the North Central, 39.7 percent to the South, and 35.7 percent to the West. I ask unanimous consent that the table of water resources expenditures over the last 25 years be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

WATER RESOURCES FUNDS

[In thousands of dollars—1965–80]

	C of E		B of REC		TVA		SCS		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Northeast:										
Connecticut	258,550	0.7	0	0	0	0	20,054	0.9	278,604	0.5
Maine	51,330	.1	0	0	0	0	6,839	.3	58,169	.1
Massachusetts	318,373	.9	0	0	0	0	20,761	.9	339,134	.6
New Hampshire	68,594	.2	0	0	0	0	15,259	.7	83,853	.2
New Jersey	367,128	1.0	0	0	0	0	23,597	1.0	390,725	.7
New York	594,310	1.6	0	0	0	0	31,563	1.4	625,873	1.2
Pennsylvania	1,185,942	3.2	0	0	0	0	53,566	2.3	239,508	2.4
Rhode Island	60,853	.2	0	0	0	0	0	0	60,853	.1
Vermont	58,788	.2	0	0	0	0	3,881	.2	63,669	.1
North Central:										
Illinois	1,313,424	3.5	0	0	0	0	46,106	2.0	1,359,530	2.6
Indiana	563,250	1.5	0	0	0	0	47,970	2.1	611,220	1.2
Iowa	586,365	1.6	34,973	0	0	0	74,636	3.3	695,974	1.3
Kansas	780,110	2.1	148,158	1.3	0	0	88,043	3.8	1,016,311	1.9
Michigan	717,372	1.9	0	0	0	0	11,742	.5	729,114	1.4
Minnesota	262,980	.7	20,743	.2	0	0	15,154	.7	298,877	.6
Missouri	1,882,309	5.1	13,156	.1	0	0	27,499	1.2	1,922,964	3.7
Nebraska	224,252	.6	214,489	1.9	0	0	47,053	2.0	485,794	.9
North Dakota	397,165	1.1	243,948	2.1	0	0	24,083	1.0	665,196	1.3
Ohio	1,080,091	2.9	0	0	0	0	26,072	1.6	1,116,163	2.1
South Dakota	440,932	1.2	217,837	1.9	0	0	7,244	.3	666,013	1.3

WATER RESOURCES FUNDS—Continued

[In thousands of dollars—1965–80]

	C of E		B of REC		TVA		SCS		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Wisconsin	225,841	.6	0	0	0	0	24,800	1.1	250,641	.5
South:										
Alabama	941,293	2.5	0	0	0	0	42,500	1.9	983,793	1.9
Arkansas	2,154,117	5.8	10	0	0	0	83,436	3.6	2,237,563	4.3
Delaware	176,304	.5	0	0	0	0	11,007	.5	187,311	.4
District of Columbia	19,415	.1	101,230	.9	0	0	0	0	120,645	.2
Florida	874,136	2.4	0	0	0	0	18,465	.8	892,601	1.7
Georgia	718,251	1.9	0	0	0	0	77,157	3.4	795,408	1.5
Kentucky	1,379,610	3.7	0	0	0	0	51,610	2.2	1,431,220	2.7
Louisiana	2,574,357	6.9	0	0	0	0	57,553	2.5	2,631,910	5.0
Maryland	339,941	.9	0	0	0	0	20,156	.9	360,097	.7
Mississippi	1,509,478	4.1	0	0	0	0	202,183	8.8	1,711,661	3.3
North Carolina	382,751	1.0	0	0	0	0	36,914	1.6	419,665	.8
Oklahoma	1,398,717	3.8	138,532	1.2	0	0	229,220	10.0	1,766,469	3.4
South Carolina	369,910	1.0	0	0	0	0	24,508	1.1	394,418	.8
Tennessee	645,494	1.7	0	0	0	0	48,047	2.1	693,541	1.3
Texas	2,584,103	6.9	326,791	2.9	0	0	307,777	13.4	3,218,671	6.1
Virginia	429,518	1.2	0	0	0	0	44,791	2.0	474,309	.9
West Virginia	845,371	2.3	0	0	0	0	60,885	2.7	906,256	1.7
West:										
Alaska	327,439	.9	11,122	.1	0	0	0	0	338,561	.6
Arizona	103,926	.3	1,701,543	14.9	0	0	35,036	1.5	1,840,505	3.5
California	2,022,398	5.4	2,529,190	22.2	0	0	146,408	6.4	4,697,996	8.9
Colorado	237,425	.6	1,144,820	10.0	0	0	22,290	1.0	1,404,535	2.7
Hawaii	126,750	.3	4,539	0	0	0	12,479	.5	143,768	.3
Idaho	470,263	1.3	671,904	5.9	0	0	7,228	.3	1,149,395	2.2
Montana	598,693	1.6	349,060	3.1	0	0	14,060	.6	961,813	1.8
Nevada	7,777	.0	303,305	2.7	0	0	2,716	.1	313,798	.6
New Mexico	254,348	.7	400,656	3.5	0	0	36,866	1.6	691,870	1.3
Oregon	1,640,626	4.4	161,404	1.4	0	0	21,261	.9	1,823,291	3.5
Utah	10,253	0	1,051,553	9.2	0	0	27,009	1.2	1,088,815	2.1
Washington	2,598,967	7.0	1,333,908	11.7	0	0	21,463	.9	3,954,338	7.5
Wyoming	12,539	0	294,190	2.6	0	0	6,780	.3	313,509	.6
Total	37,192,129	100	11,417,061	100	1,603,951	100	2,295,727	100	52,508,868	100

Mr. MOYNIHAN. These figures do not even capture the interest costs or the effects of inflation over this time period. Nonetheless, they explain why $52 billion of Federal expenditures over the last 25 years has now become the epitaph to a program that is in stalemate. There has not been any significant water resources legislation since 1970. And one reason for the stalemate is that the program is perceived as parochial, regional, and wasteful.

Unfortunately, title I of S. 1409 only reinforces this perception. Title I authorizes the Buffalo Bill Dam in Cody, Wyo. This project will cost the Federal Government $106.7 million; the State of Wyoming has agreed to pay $47 million. The Energy and Natural Resources Committee report informs that the benefit-cost ratio for this project is 1.06 to 1. Even with 44 percent of the project's costs allocated to hydropower, the project is at best marginal. Is this a high priority project? Is this the best the Bureau of Reclamation can do?

As one news report after another describes the billions of dollars of needed repairs to our Nation's infrastructure, the Congress continues to close one eye to the massive needs throughout the country and instead direct our limited resources to such marginal projects as the Buffalo Bill Dam.

We must set priorities. We must cease this haphazard and anachronistic method of doling out precious Federal construction dollars. Is the Buffalo Bill project the place to begin to rebuild our Nation's infrastructure? I would hope not. Let me suggest a few other more pressing needs:

The 42,500-mile Interstate Highway System is deteriorating at a rate requiring reconstruction of 2,000 miles of road per year.

Over 8,000 miles of the Interstate System and 13 percent of its bridges are now beyond their designed service life and must be rebuilt.

The costs of rehabilitation and new construction necessary to maintain existing levels of service on nonurban highways will exceed $700 billion during the 1980's.

One of every five bridges in the United States requires either major rehabilitation or reconstruction.

The 756 urban areas with populations over 50,000 will require between $75 billion and $110 billion to maintain urban water systems over the next 20 years.

Over $25 billion in Government funds will be required during the next 5 years to meet existing water pollution control standards.

The circumstances surrounding the Buffalo Bill project disturb me for another reason. While I am heartened that Wyoming is willing to make a contribution toward the cost of constructing the project, I am most puzzled by the inconsistency of the cost-sharing arrangement for this project with those now being sought by the Corps of Engineers for identical multiple purpose reservoir projects.

I ask the same question on the Buffalo Bill Dam as I asked on the reclamation program. Why do we have different cost-sharing policies for Federal agencies performing the same services? The administration supports the Buffalo Bill project, yet it also has the corps pursuing a policy where 100 percent of the costs of construction allocated to hydropower and municipal water supply must be advanced by the local sponsors of the project during the construction period. On this basis Wyoming should pay 91 percent or $146 million rather than just 30 percent of the construction costs.

The Corps of Engineers came before the Environment and Public Works Committee and presented nine new projects recommended for funding in the coming fiscal year. Those projects with hydropower and water supply will be financed entirely by the non-Federal interests. I ask unanimous consent that a memo describing the corps' new start proposal prepared by the Water Resources Subcommittee staff be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CORPS OF ENGINEERS NEW CONSTRUCTION STARTS

On May 25, 1982, the Administration proposed that nine new construction projects of the Corps of Engineers be included in the 1983 budget. The proposal is the first of its kind in three years. In return for Administration support, the state or local sponsors of these authorized projects were asked to pay a higher percentage of project costs than has been the prevailing practice over the last several decades.

Nine projects recommended for construction will cost nearly $1 billion when completed. Under the Corps' proposal, $204 million or about 21 percent will be borne by the Federal Government. In fiscal year 1982,

$29 million will be allocated to these nine projects to initiate construction. The $29 million will come from the $1.2 billion in Corps construction funds already requested by the President in his original budget proposal.

The proposed new starts and their financing are as follows:

Project	Purpose	Capital cost	Financing (millions)		Federal funds 1983
			Federal	Local	
Bradley Lake, Alaska	Hydro	$478.0	$0	$478.0	[2] $6.0
Strube Lake, Oreg	Hydro	106.0	0	106.0	[2] 4
Bonneville Units, Oreg	Hydro	21.3	0	21.3	[2] 5
Davenport, Iowa	UFC [1]	50.6	30.7	19.9	1.3
Kahoma, Hawaii	UFC [1]	20.0	13.0	7.0	3.0
Merced, Calif	UFC [1]	116.0	75.3	40.7	4.0
Virginia Beach, Va	UFC [1]	5.4	3.5	1.9	2.2
Randleman Lake, N.C	MP [3]	159.0	68.7	90.3	8.2
Freeport Harbor, Tex	([4])	26.2	13.1	13.1	3.4
Total		982.5	204.3	778.2	29.0

[1] UFC—Urban flood control.
[2] Temporary advance.
[3] MP—Multipurpose.
[4] North Jetty replacement in lieu of rehabilitation of existing jetty.

The Corps of Engineers selected 15 projects from among 200 authorized projects awaiting construction funding. These projects were selected on the basis of their favorable economic evaluation and the advanced state of engineering and design work.

Following the initial screening, the Corps then advised states of the willingness of the Administration to support construction funding in the fiscal year 1983 budget in return for commitments on the part of the states to provide a substantially higher contribution towards the cost of project construction.

The Corps' proposals to the states for the various project purposes were as follows:

Proposed cost-sharing for Corps of Engineers' new project starts in 1983—"Up-front" non-Federal cost-share

Project purpose	*Percent*
Hydropower	100
Municipal and industrial supply	100
Flood control	35
Recreation	[1] 50
Commercial navigation	[2] 75

[1] Could be repayment instead of "up-front."
[2] Twenty-five percent Federal financing is reimbursable, the rest must be on up-front cash contribution.

Mr. MOYNIHAN. One final note on cost-sharing inequities. the State of New York will pay over 35 percent of the construction costs of the Ellicott Creek flood control project in Buffalo. In fact, the Ellicott project was to have been the 10th project in the corps' new start proposal but for a quibble between New York and OMB about whether the State would pay 35 or 36 percent of the costs of a $25 million project over 15 years in the planning. In contrast, beneficiaries of flood control projects built by the Bureau of Reclamation pay nothing. This kind of double dealing must stop.

Cost sharing is no longer a taboo in the Western States. I believe there is a willingness to confront the difficulties and inquities of the Federal water program and begin to rebuild support for water resources development. I ask unanimous consent that a New York Times article on this subject, dated September 12, 1982, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 12, 1982]

PLAN TO SHARE WATER PROJECT COSTS IS GAINING IN WEST UNDER REAGAN

(By William E. Schmidt)

DENVER, Sept. 11.—Western officials who rejected a Carter Administration plan to share 10 percent of the bill on new water projects in the region may soon be asked by President Reagan to pay about a third of the cost of building the giant dams and reservoirs.

The new cost-sharing formula has been under review by Mr. Reagan since June, when it was sent to him by his Cabinet Council on Natural Resources and the Environment. Generally, it would require that states, local governments and private water users pay no less than 35 percent of the cost of agricultural and flood and control projects.

In principle, Western governors and water officials who bitterly attacked Mr. Carter now seem prepared to accept Mr. Reagan's broader notion of cost-sharing as the necessary and unavoidable price of getting new starts on the water projects that are essential to the arid region's growth and economy.

Construction of water projects in the region has been virtually frozen since 1976, when President Carter singled out 19 projects as a waste of Federal tax money and refused to finance them.

"Over the last 10 years there has been a growing realization in the West that national economic and political realities dictate a move toward some form of cost-sharing," said Gov. Bruce Babbitt of Arizona, a Democrat who credits the Reagan Administration with a positive approach to Western water development.

"Under Carter, there was a feeling that cost-sharing was being used as a club to beat down reclamation projects," the Governor added.

But he and other officials in the West say the are still wary of the details of Mr. Reagan's cost-sharing plan, and they warn that requiring front-end financing from states, a cost-sharing arrangement, could impose impossible burdens.

Under a front-end financing arrangement, the state or local government generally must set aside or guarantee its share of the project's cost at the start of the project.

Governor Babbitt said that Western states had not been officially briefed on the plan and that details were learned only when his office obtained a "leaked" copy of the proposal.

"Up until now, the Administration has drawn an iron curtain across this subject," he said.

At a meeting in Boise, Idaho, last month, a group of nine Western governors passed a resolution urging the President and Interior Secretary James G. Watt to give them more accurate information on the cost-sharing proposal.

Interior Department officials refuse to discuss the details. Garrey E. Carruthers, Assistant Interior Secretary for Land and Water, said that Mr. Reagan had made no decision on the proposal but that he expected the White House to announce a new water policy, in combination with some new starts on construction, before the November elections.

The President's policy would apply both to the Bureau of Reclamation, responsible for building water storage projects in the 17 states west of the 100th meridian, and the Army Corps of Engineers, which constructs navigation and flood control projects, mostly in the Eastern States.

Mr. Carruthers said the Reagan Administration, unlike the Carter Administration, was "pro-water development in the West." But he added, "For us to get back in the water business there must be cost-sharing."

BIPARTISAN SUPPORT FOR PLAN

It is a measure of Mr. Reagan's broad popularity in the region that both Democrats and Republicans are prepared to accept his notion of cost-sharing. Mr. Carter's opposition to water projects led to accusations by Westerners that he was "waging war on the West."

But the issue also has potential political pitfalls for Mr. Reagan. On the one hand, Western politicians are clearly banking on him to break the six-year bottleneck on water development. But given the nation's economic malaise and the President's emphasis on fiscal austerity, it will be difficult to propose Federal financing of new water projects while cutting back on social welfare programs.

In effect, Mr. Reagan's policy, if approved, would force states to put up tens of millions of dollars in front-end financing and might sharply increase the price of water purchased from the projects by farmers and irrigators.

For example, Colorado officials and private water users could be forced to provide nearly $100 million, much of it in front-end financing, to build the Narrows Dam, a giant water storage project planned in the South Platte River valley in the high, dry plains of northeast Colorado. Last January,

the Bureau of Reclamation estimated construction costs on the project at $325 million, a figure it is now trying to trim.

As a measure of Western willingness to accept some degree of cost-sharing, the Colorado Legislature did set aside $30 million last spring toward the cost of the Narrows Dam and Animas La Plata, a proposed storage project in southwestern Colorado. In Wyoming, where the state treasury is flush with revenues from oil and gas exploration, officials have established a $600 million fund to help pay for new water starts.

NEW TURN IN A LONG DISPUTE

The idea of cost-sharing marks the latest turn in the dispute over the expensive reclamation projects, which were originally intended, in the early part of the century, to help settle the arid West by providing irrigation water for farmers.

Although they also increasingly supply municipal and industrial water, reclamation projects helped irrigate about 10 million acres last year in 17 Western states. Those irrigated lands, representing 1 percent of the nation's agricultural planted acreage, provide 10 percent of the total produce.

The Bureau of Reclamation contends that by purchasing water, irrigators over time repay 85 percent of the cost of the projects. Critics say this is not true, and one report by the General Accounting Office last year said the pay-back was only about 10 percent because the farmers pay no interest.

As a result, some Congressmen and environmentalists regard the projects as wasteful pork-barrel politics and point out that although the Narrows Dam will help irrigate 270,000 acres, it will serve only 150 farmers.

But for Westerners, water remains the political and emotional equivalent of blood. As Gov. Richard D. Lamm of Colorado says, "Most of the West today, most of its cities and people, sits on arid ground made habitable by the damming and diversion of water."

Governor Lamm, as well as Colorado's Senators, Gary Hart, a Democrat, and William L. Armstrong, a Republican, have expressed strong support for financing for the Narrows Dam and the Animas project.

LOCAL OPPOSITION TO DAM

Even if a cost-sharing formula is approved, the Narrows must overcome local objections. Opponents of the dam, including some of the 212 families who would have to be relocated, have railed against the project as unsafe and unnecessary and have sued to try to block it.

"This dam is not only going to increase the price of water, it is going to take out of production some of the most productive bottom land in the state," said Don Christensen, a crew-cut farmer whose land would be flooded by the proposed reservoir.

Local supporters in Fort Morgan, a sleepy farm community of 8,700 astride Interstate 76, say the dam will not only fuel the local agricultural economy by providing a stable supply of water but will also enhance recreation, fishing and wildlife by creating a reservoir 17 miles long.

There has been talk of building a dam on the South Platte since the early 1900's, when Congress first established the Bureau of Reclamation to build dams and reservoirs in the West so that farmers could turn dry brushland into productive cropland.

Like many rivers in the region, the South Platte changes with the seasons. In the spring, when it carries melted snow east across the plains from the Rockies, it can be a dangerous river, a swollen torrent that will sweep away roads and homes. In the late summer and fall it is a desultory trickle, carrying too little water for farmers.

The project, called the Narrows because the dam would be placed at the narrowest point in the valley, was designed to capture and store the water for times when the farmers need it most. The project was authorized in 1944 but never built. Congress reauthorized in 1970, and a study assessing its environmental impact was completed in 1976, the same year Mr. Carter placed the Narrows on his "hit list."

Mr. MOYNIHAN. Mr. President, the conference report on S. 1409 symbolizes all that is wrong with the Federal involvement in water resources: Chaos, arbitrariness, inequity, and waste. It is for these reasons that I shall vote against S. 1409.

Mr. President, I repeat briefly as to the reclamation reform bill that, with respect to Federal funds, it neither reclaims them nor does it reform the program. The conference report is a marginal improvement, but no more than that. We once again see the old boodle, the immemorial larceny of these programs.

Mr. President, the law provides that irrigation programs pay for themselves, that they not cost taxpayers 1 cent in the long run. This does not do that. There is a certain truth in packaging that ought to be applied. To call this reform and to describe as reform what it makes marginally worse struck me as a decline in the language.

The General Accounting Office has found that this program returns only 10 cents to the Federal Treasury for every dollar spent. The whole effort at reform, according to the Department of the Interior, will bring in $17 million—a whopping $17 million a year—for 3 years, doubling thereafter.

The spirit wearies of protesting what is so difficult to defend. Yet Members of this body wonder why there is only one Buffalo Bill Dam a decade any more. That is because of the terms on which they impose it on the rest of the country. I wish it were different; it is not.

I conclude, Mr. President, simply by noting that when we think of the state of the water supply systems of our country, the municipal water systems, the imbalance of our congressional water program is so striking. Of the last 25 years, only 6 percent of Federal water resources expenditures went to the Northeast, 39.7 percent to the South, 35.7 percent to the West. There is no equity here. In the end, these programs are going to come to a halt and all of us will be the worse off because there is no sharing, neither cost sharing nor sharing among regions.

I am sorry to have had to use a tone that might seem more abrasive than necessary, but we have talked about this a very long time.

I thank the Chair.

Mr. PROXMIRE. Mr. President, I rise to speak against this conference report for many of the same reasons that my good friend from New York has already expressed. Yesterday, the Senate expanded the debt limit to $1.260 trillion, a figure that is just beyond imagination. It means that within the next year or so, we are expected to increase the debt by close to $200 billion. If there is any one factor that is retarding recovery, it is the terrific demand by the Federal Government on the credit markets, in which we are going to take half of all the new credit for the first time, except for World War II, in any period—certainly in any peacetime period. So we should hold down spending everywhere we possibly can. Here is a prime example of where we should do it.

The CBO estimates that the Bureau of Reclamation will spend $3.8 billion on this program over the next 5 years, but that only $275 million will be repaid under existing contracts. That is about 7 cents on the dollar. This bill will barely dent that subsidy, as the distinguished Senator from New York has just pointed out.

The authors of this compromise portray it as a great victory for reform and a revenue raiser, as well. Nothing could be further from the truth. Although the conference committee sensibly reduced the acreage limitation to below what the Senate provided, but for above what present law established—960 acres—they retained a generous equivalency provision and exempted some of the very largest districts in the country.

Last July, I voted against the Senate bill because I thought it strayed too far from the principles of full cost payment for Government-provided services. While the original bill would have exempted over 99 percent of farms from full-cost payment, the conference report—think of this, Mr. President—reduced this awesome figure only to about 97 percent. An improvement, but not much.

And how does the conference report threat interest rates charged to pay back project construction costs? These is room for improvement here too. The too-low Senate formula of 11⅝ percent is applied to expenditures made after enactment, while the much too low House formula, with a floor of 7½ percent, would be applied to prior expenditures. But true full cost is about 14 percent.

Before I delve further into the ins and outs of the conference report, I think it would do us all good to remember how we got here in the first place.

Congress decided that it needed to write a new reclamation law before either Secretary of the Interior Andrus or Watt could promulgate new regulations implementing the old one.

I, for one, would have been willing to wait and see what Secretary Watt

would have cooked up, rather than pass this bad bill.

I am certainly not a fan of Secretary Watt's. I voted against his confirmation. I think we would be much better off if we had another Secretary of the Interior. But even he would have come up with something stricter than what Congress has produced on the subject.

Mr. President, why did we fear the work products of the current Secretary and his immediate predecessor? For good reason. They were trying to implement a law which had two big safeguards against unlimited subsidies—a 160-acre limitation on ownership and a residency requirement. We gave up both safeguards in this bill, but what did we get in return? We do not even know.

Who is covered? What are the expected revenues? I have no idea, and no one can tell me. We tried very hard to get the answers to this. We cannot get them. No one can tell us. How will new equivalency provisions expand the allowable acreage? What will be the true size of the average allowable farm? I would certainly have preferred to see these figures before I got my final opportunity to vote on this multibillion-dollar bill. Unfortunately, this was not the case. Very little time and even less information was available for judging this report.

Back in July, when Senator LUGAR and I introduced our amendments, we pointed out that 97 percent of all irrigated farms are under 960 acres, and 87 percent are under 320 acres.

While the Department of the Interior found in their environmental impact statement on reclamation that a 320-acre irrigated farm is relatively prosperous compared to the national average, the average irrigation district they studied paid back only 16 percent of the cost of providing the service.

Sixteen percent was paid back.

As if this were not bad enough, recent Department of Interior Inspector General's audits revealed patterns of unbusinesslike practices and mismanagement which will cost the taxpayers billions of dollars.

An audit of the Central Valley project in California shows that the account will be $8.8 billion in the red at the end of the repayment period. Will the new reclamation law help? That is the issue on this bill and the answer is: Not much. The per-farm subsidies in reclamation projects are enormous. According to Prof. Thomas Power, chairman of the economic's department at the University of Montana, the central Arizona project would provide a subsidy of $1.883 million per farm receiving irrigation water.

Think of that. We think farmers in my State are doing well if they can gross $150,00 and net $5,000 or $10,000. But these subsidized farmers would gross $1.8 million per farm.

Would this subsidy be reduced by the new reclamation? Once again, the answer is: not much, if any. Here, too, most farms would comply with the acreage limits and escape full cost.

Does spending these enormous sums help our agricultural production or hurt it? That depends. Often the newly irrigated land is used to grow crops already in surplus.

And believe me, we are aware of that in Wisconsin, because we find that our farmers, all of a sudden, are confronted with enormous surpluses coming very largely from irrigated lands in California. Because the feed grown in California is so abundant and, with the help of Federal subsidy, so cheap, of course, we have surpluses that penalize our farmers and the very heart of the rural economy in our State.

While the House had an amendment denying water deliveries from new projects to lands growing surplus crops, the conferees chose to insert weaker Senate language, which called merely for a study of the problem.

Several other good House amendments also disappeared in conference, such as those providing for civil penalties and compliance with audits of the Department of Interior Inspector-General.

The audit compliance section of the House bill was especially important. It required only that the Interior Inspector-General review recent audits of the Bureau of Reclamation, compile his recommendations for action and submit these recommendations to Congress and the President within 90 days of enactment.

The Secretary had to either comply with the recommendations or give written reasons for his failure.

This is no small matter. During the last 5 years, the Interior Inspector-General completed at least seven audits. According to his 1980 annual report:

> Substantially more attention is required in the planning and management of all aspects of these projects to assure that the beneficiaries, rather than the general taxpayers, bear the burden for reimbursable water and power costs. This fundamental principle of Reclamation law has not been followed consistently. Consequently, some projects have resulted in substantial subsidies to project beneficiaries through low water and power rates.

Despite these findings, little has been done to improve the situation in this conference report that is before us. An audit of the Pick-Sloan Missouri Basin program has been included in the last five semiannual reports without any actions being taken.

What is wrong with this project? Plenty. According to the Inspector-General's report, this program has substantial costs which will not be repaid, get this, until the 22d century. According to the audit, no one knows, within reasonable limits of accuracy, what rates to charge power users and municipal and industrial water users to repay Pick-Sloan costs.

The conferees also dropped the House language requiring mandatory water conservation measures to be included in each new contract. Instead, the conferees picked the weaker Senate language which directs the Secretary of Interior merely to encourage water conservation. But water conservation is to important to receive this casual treatment.

There are only two ways to overcome water shortages—increase supply or decrease consumption.

A recent GAO report says it best:

> Increasing supplies entails building more projects, such as reservoirs and pipelines to create additional holding and delivery capacity, or finding technologies whereby water that was formerly unusable can be used. However, water projects are costly and take years to complete. Also, they often are undertaken as if they were ends in themselves, instead of parts of an overall program to meet the nation's needs. The other answer is stretching available supplies.

You and I know, Mr. President, that these costs are paid for by the Federal taxypayer. The benefits go to a very few States and a very few farmers within those States—very few rich farmers, I might add—and all of the taxpayers pay these billions of dollars.

The job that we are called upon to do in the GAO report can be done. In Israel, the efficiency of irrigation water delivery is almost twice what it is in the United States.

So why not make conservation a part of all new contracts?

Mr. President, another section of this bill adds the authorization for the Buffalo Bill Dam in Wyoming. This section, too, continues bad water policies that ought to be changed. That project has a cost-benefit ratio—now, listen to this—of 1.06 to 1—1.06 to 1. It is my experience, after looking at these benefit-cost ratios for 25 years that unless a project has a ratio of 2 to 1 or 3 to 1 or 4 to 1, almost certainly it will cost a whale of a lot more than it is worth. Talk about marginal, 1.06 to 1 and 7⅝ percent interest. That is hardly a compelling project.

But even worse, there is no reason why the Federal Government should pay $106.7 million out of a total cost of $160 million, or about two-thirds, when this is a water supply project. Identical projects built by the Corps of Engineers will now have to pay their own way without Federal subsidies.

Why the double standard? Is a project with a 1.06-to-1 cost-benefit ratio worth this kind of subsidy?

Mr. President, if cost-sharing is good enough for the Corps, why not for the Bureau?

Mr. President, perhaps the worst feature in this report is the exemptions for Corps of Engineers projects. This exemption, which made its way

through both the House and Senate, is an example of the worst features of this so-called reclamation reform. It exempts the very biggest projects, with some of the largest farms. This is effectively a repeal of existing law and makes it worse than existing law. It overturns recent court rulings which held that reclamation law applies corp project to excess lands. Majors corporations in California, such as Standard Oil, Getty, Superior Oil, Tenneco, and Churon, get irrigation benefits from tens of thousands of acres in these districts.

These are not poor, family farmers, struggling to make a living. These are corporate giants taking advantage of Federal largesse.

Mr. President, I commend my colleague, Senator METZENBAUM, the distinguished Senator from Ohio, for his efforts to improve both the Senate bill and the conference report. As so often in this body, he has done a noble job for the consumer and the general taxpayer. I think he deserves a world of credit for having done it. But even his important changes, good as they were, are not enough. Enormous subsidies remain and reform is an illusion. Needless to say, I am opposed to the conference report.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I appreciate the kind comments of my good friend and colleague from Wisconsin. I also respect his position in connection with this measure. He and I certainly are not in disagreement. This bill is better than it was, but it is not as good as it should be. Maybe the best bill would be no bill.

I fought this measure as long as I could. It was clear, however, that forces were at work that would assure passage of a bill. In my opinion that made it necessary that we do the best we could.

I am frank to say that the bill that left the Senate was, in my opinion—and I think in the opinion of all objective observers—far better than the bill that originally came to the floor of the Senate. The bill that came back from the conference committee, in my opinion, is also better in many respects than, and in some respects not as good as, the bill that left the Senate floor. But generally the conference bill is moving in the right direction.

For example, the limit on subsidized water, which was originally 2,080 acres, was reduced, after negotiation in the Senate, to 1,280 acres, and then in the conference committee was reduced to 960 acres.

Mr. President, 960 acres is very generous. The original limitation in the 1902 law is 160 acres. That was designed to help family farmers. Under the 1902 act they had the right to get interest-free water, up to 160 acres per person. Then, the Department of Interior began expanding the definition so that the son and the daughter and the wife and various members of the family, were each entitled to 160 acres. But the courts have determined that the 1902 law still applies.

In addition, some of the corporate farmers were able to amass tremendous amounts of acreage by reason of various quirks in the law and failure of the Interior Department to enforce the law adequately. This relaxation of the 160-acre limitation requirement by the Department has continued to a point that even if this matter is passed, 97 percent of the irrigators will continue to receive interest-free water because their farms are 960 acres or less. The remaining 3 percent of the owners control 30 percent of the acreage. This indicates, by a simple mathematical formula, that there still will be tremendous amounts of acreage that far exceed the 960-acre limit. And it is the remaining 3 percent that were at issue during much of this debate.

The acreage limitation is important because the question is who will get interest-free water and who will be required to pay for water in excess of the acreage limitation and how much will the interest rate be.

In all fairness, the 960-acre limit in this bill is per family unit and not per individual. That abusive interpretation has finally been put to rest. The 960-acre limit, however, is still too much, but it is better than it was when it left the Senate.

The conference report further requires that the Bureau make annual calculations of all operation and maintenance costs and that those increased costs be paid by the districts. This, I say to my colleagues, is a salutary benefit. This is a major move in the right direction. I give the House credit for having that language in their legislation.

The conference report also requires—and this is important—that all districts develop a water conservation plan. Under the Senate-passed bill, we had the sort of hortatory language that a water conservation was to be encouraged. The fact is that the requirement of a water conservation plan, making it mandatory, in my opinion, is a major move in the right direction by the conference committee.

The House-passed bill and the Senate bill however, were far apart with respect to the interest factor.

Let me explain what we are talking about on the interest factor. We are talking about the fact that you have an irrigation district which enters into a contract with the Bureau of Reclamation for water. Until now that contract has only required that capital costs for construction be paid back over a 40-year period. Portions of the project were paid for by the irrigators and other beneficiaries, but there were large parts that beneficiaries were never called upon to pay. But with respect to the part that the individuals are called upon to pay, in the past they were not paying the interest. You are talking about very significant amounts of money, because you are talking about tremendous costs for the irrigation projects.

The House-passed bill provided that the cost figure for all lands above the 960-acre limitation would be determined on the basis of the cost for money to the Government at the time the project was built. Since many of these irrigation projects are rather old, that means that many of the projects were built when interest was 1 percent, 2 percent, 3 percent. As a matter of fact, only within recent years have interest costs soared to double-digit levels.

The House was aware of that problem so the House put in a floor for interest payments, and the House-passed floor was 5-percent. That was an extremely low figure, far too low, and most unreasonable.

The Senate had a figure in the bill originally, that would have set the interest rate at around 9 percent. That figure was still too low. In the negotiations that occurred before we concluded passage of this bill, we improved the interest rate by agreeing that the interest charges would be the mean between the average of what the Government paid for money last year and the cost of money to the Treasury for 15-year paper. That meant we were talking about a rate in the area of 11.5 percent.

In the conference committee, this became one of the major issues, and we went at it pretty strongly, in all fairness. I am frank to say that it was a rather difficult conference, because the House wanted to keep the interest figure down; and some of my colleagues in the Senate, I am frank to admit, who had the votes in the conference committee, were also perfectly willing to keep the interest rates down.

After considerable discussion and other suggestions made with reference to adoption of this conference report, it was possible to arrive at a figure that I still consider to be far too low but 50 percent better than the House figure, and the figure is an interest floor of 7.5 percent, with higher interest rates for more recently constructed projects and higher rates still for future projects.

That is not great, but under the circumstances I think it is a lot better than the House of Representatives proposed, although it is not as good as the formula the Senate has agreed to.

The Senate-passed bill allowed larger corporations to receive subsi-

dized water for 640 acres the conference report reduces that figure further to 320 acres for these corporations. This limitation would be applicable to those large corporations receiving water prior to October 1, 1981. The conference report then provided that larger corporations not receiving water prior to October 1, 1981, will be required to pay full cost recovery on all their acreage.

Mr. President, I have a copy of an interesting letter. This letter was not addressed to me but I assume that the manager of the bill has no objection to my referring to the figures in the letter from Robert Broadbent concerning the dollar amounts involved.

Mr. McCLURE. Mr. President, I ask unanimous consent that the letter addressed to me signed by Mr. Broadbent, dated September 24, 1982, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BUREAU OF RECLAMATION,
Washington, D.C., September 24, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Senate Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your inquiry concerning the additional revenue to the Federal Treasury that would be expected upon implementation of Title II of S. 1409.

You will recall that the Congressional Budget Office had produced an estimate of $10-$13 million in additional revenue under the original House version of the bill. This was based on the assumption that under the House bill 25 percent of the districts would elect to be covered by the new law.

The Conference Report, however, will produce additional revenues over the original projections for the House bill, because there are increased incentives for districts to amend their contracts and come under the new pricing provisions. In additon, all districts will be subject to new pricing after 4½ years from enactment. Therefore, we have recalculated the revenue projections based on a very conservative set of assumptions.

Our projections produce an estimated minimum annual increase of $17 million to the Treasury for the initial years after enactment. After 4½ years from enactment, additional revenues will jump to a minimum of $34 million, if everyone elects to come under the 960-acre limitation. (For the initial period after enactment, we are assuming that 50 percent of the districts will amend and 30 percent of the farms exceed 960 acres.)

On the other hand, if 75 percent of the districts decide to amend after 4½ years, then the remaining quarter will pay 12 percent interest on landholdings over 160 acres and will thereby generate an overall revenue increase due to Title II of S. 1409 of $70 million.

Again, we should emphasize that these are minimum projects and a number of factors could generate increased revenues.

We hope this information is useful. If we can provide any further assistance, please do not hesitate to call.

Sincerely,

ROBERT N. BROADBENT,
Commissioner of Reclamation.

Mr. METZENBAUM. I think this letter tells the story. It is addressed to the chairman of the committee and says:

You will recall that the Congressional Budget Office had produced an estimate of $10-$13 million in additional revenue under the original House version of the bill.

That was based on certain assumptions they made.

The conference report, however, will produce additional revenues over the original projections for the House bill, because there are increased incentives for districts to amend their contracts and come under the new pricing provisions.

I will skip some portions of it.

It then goes on to state:

Your projections produce an estimated minimum annual increase of $17 million to the Treasury for the initial years after enactment.

Is that not great because that compares with the $10-13 million that was in the original House bill?

They go on to say:

After 4½ years from enactment, additional revenues will jump to a minimum of $34 million, if everyone elects to come under the 960-acre limitation.

It goes on to state:

On the other hand, if 75 percent of the districts decide to amend after 4½ years—

And there are incentives for them to do that—

Then the remaining quarter will pay 12 percent interest on landholdings over 160 acres and will thereby generate an overall revenue increase due to title II of S. 1409 of $70 million.

I point out that that is a difference between $10 to $13 million up to a figure of $70 million.

The letter goes on to recite:

Again, we should emphasize that these are minimum projections and a number of factors could generate increased revenues.

Mr. President, having said that progress was made, I should point out that if this legislation were not to be enacted, there would be far greater benefits rebounding to the Federal Government because the courts have ordered the Interior Department to enforce the 160-acre limitation there does seem to be some problem, I might say, as to whether that 160-acre limitation would or would not include that acreage which is leased, but certainly the courts would force compliance with the ownership limitation.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Idaho.

Mr. McCLURE. I do not intend to prolong the discussion today and, as the Senator from Wisconsin was speaking, I refrained from interjecting anything because I heard it all before and we had all those discussions before. But I think at this point we should point out that if the current law is not changed and people are forced to comply with it in the future as well, there would be zero increase in the revenues because everyone would comply and there would be no increased revenues to the Government.

So whatever we have done here is on top of anything that would come under the enforcement of the present law.

Mr. METZENBAUM. I am not prepared to get into a disagreement with the chairman of the committee. I am not prepared to agree with that interpretation, but let me say he has made his statement and we accept it for the record for what it is worth.

Mr. President, having said all of what I have said and having indicated that I do think some very positive moves were made in the conference committee and some negative ones as well, I then have to come down to my bottom line and that is am I for the conference report or against it?

Mr. President, I am opposed to the conference report because I believe there are still too many loopholes and I think that the final product is unacceptable.

We have to look at the subject on the basis of what the original mission of the Bureau of Reclamation was. It was to help the family farmer.

But under this bill the Bureau will continue to provide billions of dollars for corporate agribusiness interests in the 17 Western States. It is for that reason that I cannot support it.

Throughout Ohio family farmers are struggling. Many are battling to stay afloat. Too many have already lost that battle. It is insensitive, in my opinion, and grossly unfair to subsidize wealthy Western farmers while family farmers around the country are barely hanging on.

I might say in that respect, Mr. President, that I have in my possession a newsletter called Washington Update. It is published by the National Grange and it is dated September 17, 1982.

It reads, in part, as follows:

Pace quickens on reclamation talks.—Scurrying to meet election recess deadlines House and Senate conferees on amendments to the Reclamation Act of 1902 reached a tentative agreement on several controversial points of difference between the two versions. Most contentious of the differences involved the acreage ownership limits and the amount of interest charges to be levied on water used to irrigate reclamation land in excess of that limit.

Senator Howard Metzenbaum of Ohio entered the negotiations bent on retrieving the portions of both bills that would restrict the subsidies to gigantic farms mainly in California and Arizona. According to Jin Miller, Assistant Legislative Director of the National Grange, the bills contained little of

benefit to family farmers, "But the Grange is pleased that the most generous portions to the 'corporate boardroom farmers' were deleted by the Conference Committee." Miller remarked that although no residency requirement or absolute cap on leasing of reclamation land was accepted, the Committee did adopt an expensive penalty for farmers irrigating in excess of 960 acres of Class I farmland.

The agreement states that farmers who own more than 960 acres (Class I) will be given 54 months to either sell the excess land or start paying over 12% interest for all of the water delivered for irrigation. Corporations, a term the Committee has yet to define, may own no more than 640 acres if they wish to avoid the high-cost penalty. The acreage limitation figures will be adjusted higher for farmers who irrigate land catagorized less productive than Class I.

Metzenbaum's influence on the Committee's deliberations was key to achieving the concessions. Miller observed, "There was not much to rave about in the two bills, but Metzenbaum did an admirable job in limiting the damage." The Senate version would have allowed ownership of 1,280 acres with unlimited leasing at the 12% interest rate. The House version allowed subsidized water for only 960 acres, but there was no ownership limit, and execess lands would be charged interest at a low 5% rate. Neither bill met the requirements of Grange policy adopted by the Executive Committee in January of this year. Because of the many loopholes and shortcomings of the agreement, the Grange will oppose adoption of the final package.

The National Grange says the conference report does not meet their requirements for reclamation report, and it does not meet my requirements as well. As I said before the conference report has improved the bill, but several glaring loopholes remain. These loopholes make the conference report unacceptable. Five in particular stand out:

First, the bill allows equivalency for acreage in excess of 960 acres. In effect this provision opens the possibility—indeed, even invites it—that the 960 acres will become 1,100 or 1,500 acres as farmers are allowed to increase their limit to compensate for factors such as lower soil quality.

Mr. President, the 960-acre limit is very generous. According to the Bureau of Reclamation, 97 percent of all farms receiving irrigation water under this program own or lease 960 acres or less. Thus, virtually all of those now receiving interest-free Federal irrigation water will continue to receive it forever.

If the purpose of this bill is to force large corporate farmers to pay full cost for their water—as the sponsors contend—then there is no justification for the equivalency provision. Let us face it—not too many farmers are going to pay full cost as long as this equivalency provision is in here.

A second major problem is the bill's blanket exemption for all Corps of Engineers projects in the West. Quite simply, Mr. President, this exemption is ridiculous.

If you look at a map of San Joaquin Valley in California you find the reclamation projects are in the valley and the corps projects are in the mountains that line the valley. Both provide interest-free irrigation water to the large farms in the area. The only difference between the corps projects and the reclamation projects is that the former are designed to store water and the latter are designed to transport water. There is no reason to continue to provide unlimited interest free water from dams operated by the Corps of Engineers.

Third, the conference adopted a modified version of the House interest provision. Under the bill, the interest rate will be the rate the Government paid at the time funds were expended for construction of the facility. But in no event will anyone pay less than 7.5 percent. Sponsors tell us this is a floor. But that is a bit misleading. High interest rates are a recent phenomenon and most of the Bureau's projects were built before we had double-digit interest rates. As a practical matter, then, most irrigators will pay 7.5 percent and only those receiving water from projects constructed in the last 5 years will really pay more than 7.5 percent.

Fourth, the conference report retains a House provision that will allow many farmers to continue to receive interest-free, subsidized water for growing surplus crops. That is an outrage. Commodity prices are already depressed because of an over abundance of cotton, wheat, corn, and other crops. Why on Earth should farmers in other areas of the country, who are reeling from high interest rates and low commodity prices, be forced to subsidize Western farmers who are flooding the market with surplus crops? Yet, under this report that is exactly what the Congress will be sanctioning for all projects that were authorized more than 10 years ago. And I might add that grandfather provision is designed to include the giant westlands district in central California.

Finally, this report provides special treatment for the central Arizona project. The Senate bill provided that for any new reclamation project all excess lands under recordable contract must be disposed of within 5 years. That is a tolerable provision and the conferees included it in this report. For the new central Arizona project, however, excess lands will be allowed to receive interest-free water for 10 years. The sponsors say they want to clamp down on the use of long-term recordable contracts. If so, there is no reason for this special 5 year extension for central Arizona.

In sum, Mr. President, this is a better bill than we had here a few months ago. But it is still a bad bill. It is not in the public interest. It is not limited to family farmers. It deprives the Federal Government of revenue that by all rights it should have. And it is unfair to the taxpayers of the United States.

Having said that, Mr. President, I intend to vote "no" in connection with this conference report. But I do want to say publicly that although I have had some very strong disagreements with the chairman of the committee as well as in some instances with the manager of the bill on the House side, I think that both of them have been extremely helpful and cooperative, and worked toward bringing about a solution that would not demand an all-out effort to attempt to defeat the conference report. I think it is movement in the right direction. Therefore I will vote "no," but certainly do not intend to keep the conference report from being brought to a vote at the earliest possible moment.

Mr. GOLDWATER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, this is an annual affair that we go through. The strange thing to me is that the people who object most vociferously are those people whose only problem with water is that they have too much of it.

Now, we live in the arid part of the United States—in my particular case with an average of 7 inches of rain a year—which is the great part of the United States that is still undeveloped to which the United States has to look, whether they like to or not, for an increased production of around 20 percent per acre or the addition of 20 percent more acreage in order to feed our people and to continue to be able to feed the people around this world.

I do not intend to be long, Mr. President, but as mentioned first, the 160 acres, yes, when the Reclamation Act was first passed, the 160 acres were thought to be an attractive thing to bring people out West.

It was soon learned, however, that you could not make money from 160 acres. Yes, if you want to work it as a family farm, truck farming, if you want to get up at 3 and 4 o'clock in the morning and go out and hand farm it and grow tomatoes and potatoes and carrots and things like that, you can make money from 160 acres. But the average farmer is not inclined toward that, particularly when the growing of cotton, for example became very, very profitable in my part of the West, the growing of alfalfa became very profitable, the growing of melons, lettuce, and so forth, these crops could not be grown profitably on the 160 acres.

So eventually we wound up with the family farm, the corporate farm, or whatever you want to call it, averaging

about 2,700 acres in my part of the United States.

The argument is constantly made that we are getting something cheap, we are getting something free. I would like to point out to those detractors of reclamation that the very first reclamation project completed—that is, the second one, the biggest one of the early ones, the Salt River project, as we now call it, backed up behind Theodore Roosevelt Dam—was built at a cost of $11 million.

Since that time through bond money, not Federal money, we who live in the valley of the Salt River have constructed five other dams and paid for them. The entire reclamation project has been paid for, and I might call the attention of my good friend from Ohio to the fact that last year this project, which probably cost the Federal Government a little more than $11 million, cost the taxpayers and people who bought the bonds a total of maybe $200 million, paid over $500 million in income taxes, probably the best investment ever made, to my mind, by the Federal Government anyplace.

The criticism is heard that the Central Arizona project, which is a gigantic project, the biggest ever undertaken in this country, might not be paid for for several centuries. We are under contract to fulfill payment in 45 years, and because the water will be used for domestic and industrial use rather than farm use, we can probably increase the payoff period a great deal faster than that.

Mr. President, I am pleased that title II of the bill before us will update the antiquated Reclamation Act of 1902. It is long overdue.

We simply must conform the reclamation law to modern farming needs and practices. The conference agreement is not as complete as I would wish—in fact, I would support a total repeal of all acreage limits—but it is far better than the 160-acre ceiling and residence restrictions of the present court order.

In particular, I regret that the conferees decided not to accept a total exemption for the Central Arizona project, but the report does provide a helpful 10-year grace period for CAP water. The exemption period will begin after water begins flowing.

After the 10-year exemption, the farms will be subject to Arizona State law which gives municipal and industrial users a 100-percent priority over agricultural users in the event of shortages. If farms qualify for CAP water under our State law, the report provides that they will be exempt from reclamation limits up to 960 acres. Larger farms can receive project water, but they must pay 7½ percent interest on the irrigation share of project construction costs.

The Salt River project of Arizona received a permanent exemption under the payoff provision of the conference bill which protects any project that has already paid off its original obligation. I am pleased that the conferees decided that even if the project has to make future rehabilitation loans to operate and maintain facilities, the new loan will not bring the project under the limitations of the new law.

Mr. President, our agricultural system feeds and clothes our people better than any other peoples on the face of the Earth and I am delighted we are today removing many unrealistic limits on farm size and efficiency.

Title III of the bill, Mr. President, is the Southern Arizona Water Rights Settlement of 1982, and it embodies a negotiated settlement that has been many years in the making. Basically, this measure legislatively settles the Papago Indian water rights claims in portions of the Papago Reservation in southern Arizona.

If passed, this legislation provides for the Papago Tribe to drop a 7-year pending lawsuit against the non-Indian water users.

The settlement guarantees the acquisition and delivery of a firm annual water supply to the San Xavier Papago Reservation and to the Schuk Toak district of the Sells Papago Reservation from specified sources; these sources include the central Arizona project, limited ground water pumping, and reclaimed water obtained from the city of Tucson. In return for this water, the Papago Tribe will waive all claims for additional water in the upper Santa Cruz and Avra/Altar water basins and all claims for injuries to water rights in these basins. The Papago Tribe must limit its groundwater pumping and the tribe must agree to dismissal of pending claims.

It should be pointed out that this is a settlement, indigenous to southern Arizona and has nothing to do with other pending Indian water rights claims in other States or elsewhere in Arizona.

Mr. President, I think it is amazing that we have gotten the farmers, the mining industry, the city of Tucson, the State of Arizona, the Papago Tribe, and the Interior Department to agree on the provisions of the settlement. I hope other Indian tribes and non-Indians will follow our example and opt for negotiated settlements rather than long, drawn-out and costly court battles.

Mr. President, I want to congratulate the chairman of this committee who has done so much for those of us who live in the West, and I will not say who depend upon reclamation water entirely for our livelihood, but the whole country should be thanking him, for this country could not, I repeat not, produce the farm goods that they now produce if it had not been for the farsightedness of those people back in 1906 who passed the original Reclamation Act.

I intend to vote for this. I think every Member of Congress should do the same.

I yield the floor.

Mr. McCLURE. I thank the Senator.

Mr. HATFIELD. Mr. President, I doubt if any wisdom has been more dramatically demonstrated than in this act, any wisdom since the time the two mothers appeared before King Solomon and asked for the same baby. But I do feel the Senator from Arizona, Senator GOLDWATER, has eloquently stated the debt we all owe to the Senator from Idaho, Senator MCCLURE, as the chairman of our committee, for indeed he is a modern Solomon who can sit and work out thickets, not one but many thickets, that confronted us on this great isssue.

Mr. President, the Reclamation Reform Act of 1982 contained within title II of S. 1409 is a monumental piece of legislation for Western water interests. Not only does the legislation remedy a number of allegations of abuse within the Federal reclamation program but it removes an onerous cloud from many small farm operators who were faced with the possibility of complying with the antiquated 1902 law.

The 960-acre limitation on the amount of owned land which can be irrigated with subsidized reclamation water accommodates a large number of existing farm operations and at the same time provides sufficient opportunity for growth and expansion within the reclamation program. Still the 960-acre limitation is substantially less than the 1,280-acre and 2,080-acre limitation of earlier Senate adopted proposals. I am glad to see this legislation move to smaller more efficient farm operations.

As well the "full cost" interest charges which will be assessed against leased lands above the 960-acre ownership limitation is an equitable resolution to the absolute prohibition on leasing which was proposed in earlier bills to eliminate abuse within the reclamation program. In other words, farm sizes can expand beyond the basic 960-acre limitation but not at the expense of the Federal Government. These two provisions, Mr. President, the 960-acre ownership limitation, and the interest charge on leased lands in excess of that limit, are the cornerstone of the revised reclamation program to which the House and Senate have just agreed.

Mr. President, I want to congratulate Senators MCCLURE, WALLOP, and JACKSON for their leadership on this highly controversial and complicated piece of legislation. Through their expertise and diligence the debate on this year's reclamation reform legisla-

tion matured significantly since 1979 and has resulted in a long-awaited conference agreement.

(By request of Mr. McCLURE the following statement was ordered to be printed in the RECORD:)

● Mr. HAYAKAWA. Mr. President, the road to reclamation law reform has been a long and difficult one. Not only has Congress struggled to form a consensus, but the water users themselves have at times been at odds with one another. Scores of individuals have contributed tremendously to the difficult process of finding a responsible and workable set of amendments to this antiquated law.

There is, however, an individual who deserves recognition here today: Gordon E. Nelson, coordinator of the Farm Water Alliance. In working with Members of Congress, Gordon's warm personality, communication skills, and integrity transformed a very complicated and controversial issue into an understandable, workable problem. The hours I have spent with him discussing Western water issues and solutions were invaluable and enjoyable. Gordon's ability to speak from a historical perspective and at the same time, display his wide-ranging knowledge of the current situation is truly impressive.

In communicating with the beneficiaries, the users of reclamation project waters in the West. Mr. Nelson also worked his magic. By forming a consensus from a divided and at times competing group of organizations, Gordon made the impossible yet essential come to pass: One voice for Western water users. Speaking clearly, and coordinating their many interests, the Farm Water Alliance has performed a tremendous service for the farmers of the West, American consumers, and Congress.

We have before us a measure that modernizes the 1902 law, yet retains the historical mission of Federal water development. Its passage today is a great achievement, one of which every Member of this body should be proud.

We would not be voting on this conference report today if we had been without the wise counsel and tireless efforts of Gordon Nelson. I take my tam off to Mr. Nelson and the entire Farm Water Alliance, you have performed a great service.●

Mr. ZORINSKY. I would like to address a question on the pending conference report to the distinguished floor managers. This question concerns section 223 which revises the acreage limitation with respect to small reclamation project contracts. The statutory language agreed to by the conferees makes no distinction between small reclamation project contracts entered into before or after enactment of the law we are now considering. The statement of managers, however, discusses this matter and expresses the hope that Congress will review and scrutinize this in the near future. My question to the managers is, "Is it the intention of the Senators from Idaho and Washington to place a high priority on this issue and to direct the attention of the Energy and Natural Resources Committee to it in hearings as soon as possible in the next Congress?"

Mr. McCLURE. The Senator has my assurance that subject to the legislative schedule of the committee, this issue is of extreme importance to myself and other members of the committee, and will be promptly addressed in the 98th Congress.

Mr. GORTON. Mr. President, when the Senate considered S. 1867 in July, I had serious reservations about several aspects of the bill as reported by the Senate Energy Committee. I was confident, however, that the members of the committee were aware of and sensitive to the many concerns expressed by their colleagues at that time.

I am pleased to see that the product of the conference is one that addresses the concerns I had about the Senate bill. The conferees are to be congratulated for their work. The conference report goes a long way to restoring the reclamation law to one which is relevant and thus more likely to be enforced. It may well be that we will discover in the next few years that other changes are needed or that the precise numbers agreed upon here need to be revised. Nonetheless, we have cleared a big hurdle with the passage of this bill, and one which is crucial to the survival of agriculture in the arid West.

Once again, my thanks to the distinguished members of the Energy Committee, and particularly to my friend and colleague from Washington, Senator JACKSON. He has served the people of Washington well with his diligent effort on this issue.

● Mr. BAUCUS. Mr. President, I support the passage of the Reclamation Act conference report. I supported S. 1867 during the Senate's consideration of the bill and I now support the passage of the conference report numbered S. 1409.

I have been in Congress over the past 5 years when we have worked toward reforming the 1902 Reclamation Act. An increase in the acreage limitation of 160 acres, set in the 1902 act, is long overdue and I am pleased that Congress could finally reach an agree-ment on this much needed reform.

I believe that the version of the Reclamation Reform Act agreed on by the conference committee addresses many of the concerns raised during the House and Senate consideration of their separate bills. Individuals and companies with 25 or fewer shareholders are limited to 960-acres of owned or leased land on which they can receive Federal project water. Companies with more than 25 shareholders are able to obtain water on up to 640-acres of owned land—with only the first 320 acres eligible for reduced rates.

The interest rate formula contained in the conference report would raise the House minimum interest rate to 7½ percent, and apply that rate to old projects. For new projects or additions, the Senate's formula—roughly 11⅝ percent—would apply.

I am also pleased to see that the conference report contains an equivalency formula which allows the Secretary of the Interior to raise the acreage limit for lands with less productive potential. However, districts would have to amend their present contracts to meet the provisions of the new law before the equivalency formula would apply.

The conference report also includes provision to exempt a district from the acreage limitation, once their repayment obligations have been met. And, finally, the residency requirement contained in the 1902 act, as interpreted by the Department of the Interior, was repealed.

Mr. President, I realize that not everyone got what they wanted under this revision of the 1902 Reclamation Act. There were many difficult decisions to make, especially in dealing with the life-blood of agriculture in the Western States—water. I believe in doing all I can to help preserve the family farm in America. I believe the reforms we make in the Reclamation Act were necessary for preservation of the family farm in the arid Western States. We in the West do not have the advantage of some of the other areas of the country of relying on Mother Nature to provide adquate moisture for crop production. Yet, the land in these Western States is some of the most productive in the country if we can get the water to it.

The members of the conference committee should be commended for their ability to reach an agreement on such a difficult issue. Reform of the 1902 Reclamation Act was necessary this year and I believe that the conference report before us represents a reasonable reform of the antiquated act. I urge the adoption of the conference report.●

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMPSON. Mr. President, I do want to take just a few moments to state my strong support for this conference report and also to express my positive delight that the effort to increase the capacity of Buffalo Bill Dam is now coming to such a successful conclusion.

I am pleased about the passage of this legislation for a number of rea-

sons, Mr. President—most significantly, perhaps, because the Buffalo Bill Dam is located near my own hometown of Cody, Wyo., and for that reason I am well aware of the benefits that will flow to that region as a result of this project.

I am also aware of—and so very much appreciate—the efforts of my colleagues in the Wyoming delegation on this legislation. I recall that my predecessor—former Senator Cliff Hansen—made the Buffalo Bill Dam one of his projects during his many years of extraordinary and dedicated service in this body. More recently, my fine friends Senator MALCOLM WALLOP and Representative DICK CHENEY have been instrumental in moving this bill through both the House and the Senate. The quality of the final product is the direct result of the excellent work that has been done by each one of these able legislators.

There is a most critically important aspect of the Buffalo Bill Dam portion of this legislation that each Member of this body should be well aware of—and one that should command the support of all. Since its completion in the first decade of this century as one of the first of the Nation's reclamation projects, Buffalo Bill Dam has stood as a symbol of the benefits that result from this Nation's commitment to reclamation in the West. With the passage of this legislation—embodying as it does a new concept of Federal/State cooperation in the financing of reclamation projects—the enlarged Buffalo Bill Dam and its associated works will once again stand as a symbol—this time as a symbol of a new cooperation in the development of reclamation projects and the commitment of the people of Wyoming that has made this new cooperation possible. As part of a massive new State program directed toward the development of Wyoming's water resources, the State of Wyoming has committed $47 million from State legislature appropriations for the State share of financing of the Buffalo Bill project. I believe that the sort of attitude and action that underlies that commitment should be commended and encouraged throughout America. The best way that we can do that, Mr. President, is to pass this legislation and then to get on with making this landmark Federal/State joint project a reality.

Mr. President, I would be clearly remiss if I did not comment upon the other titles of S. 1409 as it has been amended. Certainly when I first joined with my colleague from Wyoming in cosponsoring S. 1409, I did not conceive that it would become the "horse" for a "rider" known as the reclamation reform bill. Yet I am also a cosponsor of Senator MCCLURE's bill and therefore am pleased to see that very important legislation also reach a successful conclusion in this conference report. I will not go into detail on the reclamation bill—my colleagues who have been closely involved with that reviewed the provisions contained in the conference report. Let me just state that I am confident that the changes that we are now making in the 1902 Reclamation Act—changes such as the increased acreage limitations, the updating of the cost recovery mechanism, the explicit provision for leasing, the elimination of the residency requirement, and the expanded equivalency concept—will assure the continued vitality of the reclamation program and I give my full support to this portion of the report before us without any hesitation.

Let me also say, Mr. President, that I am pleased that the parties involved with title III of the bill—relating to the settlement of the Papago Indian case in Arizona—have been able to reach an agreement that is satisfactory to all. I know that the Arizona delegation and others have worked very diligently on this, and the final result is clear testimony to their effectiveness.

In conclusion, Mr. President, it has been a pleasure to participate, observe, and to have been a part of fashioning this kind of legislation and joining in this congressional teamwork. Passage of this legislation will mean much to the large portion of this country that is dependent on a continued Federal role in reclamation. In a larger sense, this is a constructive, positive, and responsible piece of work—of which we can all be quite proud as legislators. I am very pleased. I urge my colleagues to vote favorably on this conference report.●

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. WALLOP. Mr. President, today the U.S. Senate is considering the conference report for three major bills: A bill to enlarge the Buffalo Bill Dam in Cody, Wyo.; the Reclamation Reform Act of 1982; and the Papago Arizona Settlement. Passage of this conference report by the Senate and the House of Representatives will clear the way for Presidential approval. Although these three bills are all different, both individually and collectively they represent a historic step, indeed a quantum leap, in the development of Western water. I am particularly proud that S. 1409, a bill for the modification of Buffalo Bill Dam, which is located in my home State of Wyoming, has now moved into the final stage of becoming law.

In 1969 Congress passed legislation which directed the Department of the Interior to determine if Buffalo Bill Dam could be raised and what potential benefits it could provide. The findings of this study indicated that expansion of the present structure, which was completed in 1910 as a private project by Buffalo Bill Cody, was both possible and feasible. In the 96th Congress I introduced legislation to accomplish that, and today marks the culmination of a bipartisan, State-Federal cooperative effort which will result in a project that even Mr. Cody's vivid imagination could not have envisioned. The present dam will be raised by 25 feet, thus increasing active conservation storage by over 270,000 acre-feet and providing an annual firm yield of 74,000 acre-feet. In addition, this bill will authorize the construction of a new spillway and visitor's center and the rehabilitation of the existing Shoshone Powerplant.

This bill's creative and cooperative funding between the Federal Government and the State of Wyoming meets this administration's goal of working with the State in financing water projects, and will serve as a prototype for funding water projects in other States. This bill is a victory for everyone: The irrigators who will be able to utilize the water from the excess spring runoff which until now has been lost; environmentalists, hunters, conservationists, and fisherman, who will have additional water for outdoor recreation and conservation of both fish and wildlife; and the cities and industry who will have additional water resources to use for their purposes.

In addition the reclamation reform of 1982 modernizes the original 1902 act, which was badly outdated by modern farming technology and practices. It raises the acreage limitations under the old act and provides that an individual can receive water from a Federal reclamation project at a level which is now realistic for today's farming operation. This bill also includes an equivalency factor which will allow farmers in States that have shorter growing seasons, such as Wyoming, to irrigate an increased number of acres. It also contains numerous payback provisions which will insure that the users of reclamation water will continue to reimburse the Federal Government for the cost of the water which they use. Thus, the money expended on reclamation reform projects continues to be one of the best investments the U.S. Government has made. The reclamation projects, the Arizona projects, and Wyoming's Buffalo Bill Dam, all of which are in this bill, will control the savage flooding which has plagued our Nation in earlier years and they will result in increases in our present supplies of electricity and agricultural products. These in turn will provide jobs and food in all parts of our country, and help insure that Americans will continue to enjoy the highest standard of living in the world.

Mr. President, in the critical light of intense scrutiny, these projects will serve as shining examples of coopera-

tion at all levels of government—Federal, State, and local—and they will dispel the myth that the users and beneficiaries of western water projects do not defray the costs of the water which they use. Again, I am extremely pleased to have been a part of this critical legislation.●

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. DECONCINI. Mr. President, the bill before us today, as reported by the House and Senate conferees, has much significance for the people of Arizona. S. 1409, the Buffalo Bill Dam and Reservoir Act, is comprised of three major titles which are, in reality, three separate and largely unrelated bills.

RECLAMATION REFORM ACT OF 1982

Title II of the act is the Reclamation Reform Act of 1982 which, in my estimation, fairly and effectively updates the 1920 Reclamation Act. This bill, like most major measures passed by Congress, contains many compromises—both large and small—hammered out in both Houses—and represents, finally, the consensus view. One such compromise is reflected in section 218, which relates to the central Arizona project in Arizona.

The Senate bill included a provision to exempt the central Arizona project from the limitations and restrictions of the act. This provision, which was included by the chairman at my request, sought to distinguish between ordinary reclamation projects and those which require a bucket-for-bucket reduction in the pumping of ground water.

Mr. President, reclamation law was designed to apply to projects that provide full or supplemental irrigation supplies on a firm or dependable basis. However, although the original use of the central Arizona project water was envisioned to be purely agricultural, the population centers have grown and the master contract now gives M&I users a 100 percent priority over agriculture users in event of a shortage. As a result, the cities get a firm water supply. The Indian reservations get a firm water supply. But the farmers do not get a firm water supply. This contract, in reality, represents a temporary water supply for Arizona farmers.

For this reason and because the CAP master contract requires a bucket-for-bucket substitution of ground water now being pumped in the project area—CAP neither expends nor stabilizes agriculture's supply. The purpose of the CAP is not to create new agriculture but to reduce the pumping of ground water for agriculture already in existence. Without additional water, but with the limitations and restrictions of the Reclamation Act, many Arizona farmers could not afford to contract with the CAP—could not afford to stop pumping ground water—and that would not be in the best interest of Arizona.

However, because the House bill did not contain a similar exemption for the Central Arizona project, it was a matter of consideration for the conference. The conferees have concluded that such an exemption is justified but have placed a time limitation on it. The conference report states:

The conferees agreed upon a provision which would apply the ownership and pricing provisions applicable to recordable contracts executed for lands in the Central Arizona Project. The provisions limit the delivery of water to such lands at the subsidized rate for a period of ten years from the date the Secretary finds that the lands are capable of being served with irrigation water.

I believe this 10-year period will be helpful, especially during these early years of the project when the individual districts are faced with some unforeseen and escalating costs. It is my sincere hope that this provision will make it economically feasible for the districts to contract for the CAP water. The continued mining of ground water could have disastrous long-term impacts on the natural environment of Central Arizona.

SOUTHERN ARIZONA WATER RIGHTS ACT OF 1982

Title III of the act is the Southern Arizona Water Rights Settlement Act. This act is similar to S. 2114 which I introduced and which was cosponsored by my distinguished colleague, Senator BARRY GOLDWATER. The bill passed the Senate unanimously as H.R. 5118 on May 7, 1982. It was accepted by the House, but was subsequently vetoed by the President of the United States.

Mr. President, since that time there has been an intense effort by Congressman MORRIS UDALL, the sponsor of the House bill, by Senator GOLDWATER and myself, and by our staff assistants to work with administration officials to forge legislation acceptable to all parties.

This effort has led to extensive negotiations in Tucson, Ariz., which included official representatives of the Department of Interior, representatives from our Washington offices, representatives of the Papago Indian Tribe, the city of Tucson, Pima County, the State of Arizona, and the various mining and agricultural interests which are referred to in the act. Those negotiations have continued here in Washington, with participation and consultation with the principal parties, and have resulted in the legislative proposal now embodied in S. 1409.

However, Mr. President, as I indicated in a statement on the floor of the Senate September 9, 1982, I was very much concerned with certain provisions of the Water Rights Act which were included in the S. 1409 package. Of specific concern was section 313(f) which states:

Payments for damages arising under 304(c) and 305(d) shall not exceed in any given year the amounts available for expenditure in any given year from the Cooperative Fund established under this section.

An extensive explanation of this and other sections can be found in the conference report which accompanies this act. However, it was my concern at that time that this section could have been interpreted as limiting the liability of the Federal Government—the obligations of the Federal Government to the people of Pima County and to those participating in the settlement—to whatever sum which would be available in the fund in any given year. This could have been the case even if the Federal Government appropriated nothing to the fund. This, of course, would have had the effect of absolving the Federal Government from any liability for delivering CAP water to the San Xavier Reservation and to the Tucson area.

I can assure you that this is not the intent of the legislation and never has been. In fact, the State of Arizona, Pima County, the city of Tucson, and Papago Indian Tribe, and the private interests in Pima County have negotiated in good faith and with the understanding that central Arizona project water will be delivered to the Tucson area by 1990, which is now the official estimate of the Department of the Interior. Those parties have collectively agreed to contribute $5,250,000 immediately to the settlement and certainly expect the Federal Government to live up to its agreements.

Mr. President, the House and Senate conferees have addressed this action of the bill and I believe their interpretation is clear, and reflects my understanding of the intent of the bill. The conference report clearly states that the Federal Government is obligated to pay damages equal to the "actual replacement costs" of CAP water if the aqueduct is not completed. These payments for damages are to come from the interest accruing from the sums contributed or appropriated to the fund. If in the event sufficient sums are not available in the cooperative fund, the tribe may seek additional payments of damages in the Court of Claims. Thus, it is clear to the conferees that the Federal Government has a continuing liabililty for damages—for nondelivery of CAP water—beyond its contribution to the cooperative fund.

Mr. President, I believe this is a crucial point to all parties to the settlement and I have been informed that all parties have agreed on this clarification.

I have also been informed that this legislation is acceptable to the Papago Indian Tribe, the city of Tucson, the State of Arizona, and the various private interests.

I would like to commend the chairman of the House Interior Committee, MO UDALL, for his leadership and great determination to bring these negotiations to a successful conclusion and for his leadership and skill in guiding all of these important legislative measures through the House of Representatives.

I would also like to commend my distinguished senior colleague, Senator BARRY GOLDWATER, for his significant contributions to both the Reclamation Reform Act and the Southern Arizona Water Rights Act.

And most of all, I would like to direct my sincere appreciation to the many individuals throughout the State who have contributed so much to the development of these legislative proposals.●

Mr. McCLURE. Mr. President, I could not allow the discussion to conclude without personally thanking the members of the staff on both sides of the aisle who worked so long and so hard. This is a matter of years of dedicated service on the part of people on both sides of the aisle, Senator JACKSON and his staff, and certainly Gary Ellsworth and Russ Brown on the majority staff, in particular, and there are many others who have worked as hard and as long on it. But I do want that to be particularly noted at this time.

Mr. President, I know of no further comment and I know of no request for a rollcall vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report on S. 1409 was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I take this opportunity to congratulate the distinguished Senator from Idaho, the distinguished Senator from Washington, and others who were instrumental in moving this conference report to final passage. It was done in an expeditious manner and I think it is a major accomplishment for all parties concerned. I thank the Senator from Wisconsin for his cooperation in the matter of scheduling and final passage.

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask the Chair now to lay before the Senate S. 2879, the Depository Institutions Amendments of 1982.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2879) to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, to protect depositors and creditors of such institutions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, there is a time agreement on this measure. It is my hope that we can move promptly and expeditiously and perhaps finish the bill well in advance of the time provided for under the agreement.

Mr. President, I would also like to say it is not the intention of the leadership to call up any other measure this afternoon unless that measure can be dealt with by unanimous consent.

Mr. President, I also would like to announce that on Monday, because of a religious observance, there will be no RECORD votes.

ORDER FOR RECESS UNTIL 11 A.M. ON MONDAY, SEPTEMBER 27, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT ROLLCALL VOTES ORDERED ON MONDAY TO OCCUR BEGINNING AT 2 P.M. ON TUESDAY

Mr. BAKER. Mr. President, I ask uanimous consent that any rollcall votes ordered on Monday may be stacked and occur in the order in which they were ordered on Tuesday, beginning at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, let me publicly express to the majority leader the appreciation of those of us who, by reason of religious convictions, would not be in a position to be here on Monday by protecting our position and not bringing any matter to a vote on that day.

Mr. BAKER. I thank the Senator from Ohio.

Mr. President, let me point out that this does not mean we will not be in session on Monday. We will be in session on Monday but, as is the tradition of the Senate and as it has done for many years, there will be no RECORD votes. I thank the Senator from Ohio for his remarks.

Mr. President, I yield the floor so that the managers of the bill may proceed.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I suggest the absence of a quorum, the time to be taken off the bill equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I will be brief, because I know and I am very well aware that many of our colleagues are anxious to catch airplanes and it is a Friday afternoon. But, this is an extremely important bill. The Banking Committee has been working to resolve many of these issues for the last year and a half. It has been a difficult task because the issues are very complex and very controversial.

When the process started, most of the various trade organizations involved were in vastly different positions, poles apart. I am happy to say, after all of this time, that although each of them certainly do not agree with all aspects of this bill, and would like to see it different than it is, as I would, nevertheless there is support for it, with reservations.

I am pleased that these groups have been willing and able to work together, to give up some of their own self-interest, in order to achieve something for the common good. So we do present this bill before you today in a quite different form than it was originally enacted in S. 1720.

At the outset, I would like to thank both the majority and the minority staff for literally untold hours of work. I know it is common for the manager of a bill to get up and say that and thank everybody. But in this case it was an unusually long procedure over a long period of time to get to this point of bringing the bill to the floor. So I would like to thank them for all of their time and effort, in spite of the difficulties.

I would particularly like to thank Senator RIEGLE who dropped in in the middle of all of this as the ranking minority member this summer. He had a lot of catching up to do because he was not in that position when this process started. But he jumped in on all fours, and particularly during the last few weeks, has been very helpful and cooperative with me to bring this bill to the floor. Without his help, and the help of other members of the com-

mittee on both sides of the aisle, we simply would not be here with this bill this afternoon.

Mr. President, today the Senate considers S. 2879, legislation which will promote a stable and strong financial system by facilitating assistance to troubled financial institutions and by providing additional earnings and investment opportunities for such institutions.

Over the past 18 months, the Senate Banking Committee has held numerous oversight and legislative hearings on the conditions within the financial system and the economy in general. Following the hearings, a comprehensive legislative package was introduced in October 1981 to serve as a means by which the committee could focus attention on financial institutions issues. What we have before us is subsequent legislation—S. 2879, the Depository Institutions Amendments of 1982—reported by the Banking Committee. In essence, what this legislation represents is a shifting of gears to facilitate the stability and growth of our financial system.

The bill will create a more stable future for the thrift institutions in this country by broadening their lending and investment opportunities. It also will provide savers with an insured account which will compete with money market funds.

It will expand the authority of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation to assist troubled depository institutions and, when appropriate, to arrange interstate and cross-industry acquisitions of such institutions. It also broadens the National Credit Union Administration's authority regarding the merger of a financially distressed credit union. The bill also authorizes a savings bank to convert from State to Federal charter and continue to be FDIC insured.

It establishes a capital assistance program whereby institutions may exchange capital notes with the insuring agencies to shore up the institution's net worth. By increasing the net worth or surplus accounts of savings and loans associations, mutual savings banks and other qualified institutions, the capital assistance provision of the bill will provide thrift institutions with additional flexibility to develop operating procedures for their long-term survival in a competitive marketplace.

In order to provide additional asset flexibility and earnings opportunities to thrift institutions in the long-term, the bill authorizes Federal savings and loan associations and Federal savings banks to engage in a broader range of lending and related investment activities. Such activities include limited commercial lending, leasing, and consumer lending. By limiting such powers, the legislation maintains the traditional distinctions between commercial banks and thrift institutions.

The need to restructure the thrift industry long has been recognized in the financial community and in Congress. It appears clear that defective structuring is a primary cause of the current economic vulnerability of thrifts. The high and volatile interest rates of recent years have illustrated starkly the inherent dangers of borrowing short and lending long at fixed rates. At the same time, competition for deposits has become increasingly fierce and expensive, due in large part to the rapid and enormous expansion of money market mutual funds. To remain competitive and pay for deposits, thrifts need new earnings opportunities. Finally, the additional powers provided thrift institutions are a necessary complement to the temporary assistance programs described.

Another provision of the bill amends various statutory provisions primarily affecting commercial banks to revise outdated lending and borrowing limits. It also permits Federal chartering of bankers' banks, liberalizes banking statutes, and exempts small depository institutions from reserve requirements.

The bill also amends the Federal Credit Union Act to simplify the organization process for credit unions, broaden their mortgage lending powers, and clarify and make technical modifications to numerous provisions of the act.

Historically, our financial system has been strong and competitive, sustaining the Nation's long-term economic stability and growth. In order to accommodate the changes that have occurred over the past decade, and to insure that our financial system will sustain the growth of the future, it is necessary for Congress to adopt this legislation.

I should note that many of the issues that are being dealt with have been discussed in the Banking Committee during the past several years and reflect individual pieces of legislation previously introduced by present and former members of the Banking Committee.

The House has acted on a regulators' bill, on capital assistance, and on other individual provisions included in S. 2879.

Finally, I urge my colleagues to act favorably and expeditiously on this legislation so that we may proceed to maintain our Nation's strong and competitive financial system.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, let me at the outset thank my colleague from Utah for his gracious comments. We have worked closely together. I have found him exceedingly gracious to me in our discussions personally and in the work between the professional staffs.

I want to say how much I have enjoyed working with him. I also want to acknowledge the tremendous effort he has given and the personal leadership he has given over a period of many long months in crafting this legislation and bringing it forward to the Senate floor today.

The legislation we are considering today, the Depository Institutions Amendments of 1982, S. 2879, is designed primarily to help us resolve problems in our financial system by enabling bank regulatory agencies to deal with financially distressed depository institutions, to protect their depositors, and to enhance the competitiveness of these institutions.

S. 2879 is the product of extensive hearings—more than 20 days—held during the past 18 months.

On August 19, the committee ordered this legislation reported, without opposition.

A principal purpose is to provide the Federal regulatory agencies with the necessary tools for dealing with weak and failing financial institutions. The critical situation facing the savings and loan industry is well known. The Federal Home Loan Bank Board reports that savings and loan industry net income losses were $3.9 billion between January 1 and July 31 of this year. More than 1,000 savings and loan associations—one-fourth of all the savings and loan associations in the country—have insufficient net worth to survive the next 2 years at their current loss rate.

The earnings picture for the industry continues to worsen. According to the Bank Board, the overall net after-tax return on assets—probably the most comprehensive measure of the industry's earnings—dropped from −0.49 percent in the first half of 1981 to −1 percent in the first half of 1982.

In the past 2 months or so, short-term interest rates have taken a significant drop, leading some observers to believe that the problems of the thrift industry will soon be solved. It is important to understand that while a continuation of current lower interest rates will improve the profitability of the industry, severe problems, related primarily to the industry's portfolio of low-yielding mortgages, will continue to plague a large percentage of the associations.

The Bank Board has projected that even if interest rates on short-term Treasury instruments in 1982 average 9.5 percent (the average was 12.3 percent for the first 8 months), year-end 1982 would see some 1,146 S&L's, with $250 billion in assets, at or below the minimum statutory level of 3-percent net worth. Should 9.5-percent rates continue, this category would increase to 1,334 associations representing $325

billion in assets by the end of 1983. Institutions exhausting their capital over the 2-year period under the 9.5-percent scenario would number about 227, with total assets of $53 billion.

According to H. Brent Beesley, Director of the Federal Savings & Loan Insurance Corporation, despite the current decline in short-term interest rates, the insurance agency will probably continue to have to handle an average of three failures a week through 1983. That compares with an average of fewer than three S&L failures a year from 1934 through 1981.

From January through August of this year there were 154 supervisory mergers approved involving 182 institutions. Twenty-eight of those, involving 40 associations, required FSLIC assistance. During all of 1981 there were only 79 supervisory mergers. Of these, only 23 involved FSLIC assistance.

The sad fact is, that as of July 31, 1982, 78 percent of all FSLIC-insured savings and loan associations were awash in red ink.

The depressed state of the economy is also adversely affecting commercial and mutual savings banks. During the period January 1, 1981, through July 30, 1982, 16 commercial banks and 9 mutual savings banks were closed by the FDIC. In all of 1981, only 10 federally insured banks failed. So far this year, 24 commercial banks have failed.

With respect to credit unions, there have been 86 insured credit unions liquidated and 248 mergers from January 1, 1982, to June 30, 1982.

The purpose of this legislation, S. 2879, is to expand the authority of the FDIC, FSLIC, and NCUA to assist these troubled depository institutions through broadened merger options and financial aid.

The provisions in title I and II of the bill providing the FDIC and FSLIC with expanded powers are quite similar. The bill expands the powers of these bank regulators to assist troubled institutions to include: Assumption of liabilities, deposits, contributions, and purchase of securities.

The FDIC and FSLIC are also given expanded authorization to merge eligible institutions but only under carefully prescribed conditions which give preference to in-State mergers of similar-type institutions.

In order to maximize the resources of the FDIC fund, the bill allows commerical banks and mutual savings banks with assets of $500 million or more which are closed, or in the case of mutual savings banks in danger of closing, to be acquired on an interstate and/or cross-industry basis.

These mergers and acquisitions are subject to the following terms in the legislation: Both the FDIC and the FSLIC may solicit offers from any prospective purchaser it determines is qualified and capable of providing the needed assistance. After soliciting bids from prospective qualified purchasers, if the bid that results in the lowest cost to the bank regulator is from an in-State, same-type institution as the failing institution, the in-State, same-type institution would be the acquirer. If such an institution is not the lowest bidder, all persons who submitted bids within 15 percent or $15 million of the lowest cost first bid may submit new bids. After rebidding, the bank regulator is directed to authorize transactions considering the following priorities: In-State, same-type institutions; in-State, different-type institutions; out-of-State, same-type institutions; and out-of-State, different-type institutions.

Additionally, when considering offers from out-of-State institutions, the FDIC and FSLIC shall give priority to institutions in adjacent States. In considering authorizations, the regulators are directed to give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions.

These sections of the bill were very carefully drafted by the committee in order to reflect the concerns expressed by a number of Senators regarding the problems associated with interstate branching and cross-industry mergers. They sunset, as do a number of other provisions in the bill.

Other provisions which sunset include those that permit the Federal Reserve Board to dispense with notice and hearing for bank holding company acquisitions of thrift institutions in emergency situations; those that permit the FDIC to require and/or authorize the conversion to a Federal stock savings bank or Federal stock association under certain emergency conditions; and those that grant the FHLBB the authority to appoint the Corporation as sole conservator and receiver for State associations, under emergency situations, irrespective of State law. The emergency authority of the NCUA and its emergency conservatorship authority is also sunsetted.

I consider passage of this legislation to be extremely important not only for the preservation of our current financial depository institutions, but also for the maintenance of specialized depository institutions.

I personally happen to believe that not only should every American have the right to own a home under reasonable terms and conditions, but that in addition, there should be financial depository institutions to accommodate and finance this need, as well as the needs of the housing industry. The savings and loan industry has had the major public role in filling this need in the past and they should be encouraged and enabled to do so in the future.

Thrift institutions—savings and loan associations and mutual savings banks—are in a great deal of difficulty today to a large extent because they fulfilled their public responsibilities too well by providing a stable source of low-cost, long-term financing to the home mortgage market.

The public benefits of thrift financing have been an enormous success, supporting the highest incidence of home ownership in the world. Yet it is precisely these long-term, low-yielding mortgage assets that have resulted in the thrifts running negative earnings during a sustained period of high interest rates—when they have had to pay more for short-term deposits than they earn on their long-term loans.

S. 2879 provides thrifts and other federally-insured financial institutions with the time needed to work out their problems and at the same time gives the Federal insurance agencies additional flexibility by authorizing a capital assistance program.

The capital assistance program authorized in S. 2879 allows the Federal Savings and Loan Insurance Corporation and the Federal Deposit Insurance Corporation to purchase capital instruments from qualifying institutions, for the purpose of increasing the capital and, therefore, the net worth of these institutions.

In order to qualify for assistance, institutions must: Have net worth of 3 percent or less; have incurred losses during the two previous quarters; comply with the terms and conditions established by the insuring agencies as a condition of receiving such assistance (except that the execution of a merger resolution or an agreement to reorganize shall not be required of institutions that will have a positive net worth for 9 months or more after receipt of assistance); be able to remain solvent for at least 6 more months; and have at least 20 percent of their assets invested in residential mortgages or mortgage-backed securities. S. 2879 sets forth an initial formula authorizing the purchase of capital instruments by the insuring agencies as follows: With respect to institutions with 2- to 3-percent net worth, the insuring agencies may purchase instruments in an amount equal to 30 percent of their actual losses; with respect to institutions with 1- to 2-percent net worth, the insuring agencies may purchase instruments in an amount equal to 40 percent of their actual losses; and with respect to institutions with 0 to 1-percent net worth, the insuring agencies may purchase instruments in an amount equal to 50 percent of their actual losses. The insuring agencies may vary the formula, but in no event are the regulators permitted to purchase capital instruments in an amount that exceeds 100 percent of any institution's actual losses.

This capital assistance program is vital if we wish to preserve thrifts as a

viable part of the private segment of this economy.

At the same time, the program is essential to preserve the financing needs of millions of Americans who are dependent upon savings and loan associations for the financing of their homes.

The effect of the program is intended to reduce the number of supervisory mergers and is intended to be less costly than the paying out of the insurance liability.

In order to provide additional asset flexibility and earnings powers to thrift institutions in the long-term, the Banking Committee also felt that Federal savings and loan associations and Federal savings banks should be authorized to engage in a broader range of lending activities.

A number of States are already moving in this direction and the committee felt that federally-chartered institutions should be afforded a limited opportunity to do so as well.

The committee felt that during future periods of high and volatile interest rates, thrift institutions must be able to complement their portfolios with loans that are not totally dependent upon the long-term mortgage market. A majority felt that if savings and loan associations were allowed to diversify, they would be better able to survive and fulfill their primary function of providing affordable housing finance. The potential failure of depository institutions exposes the FSLIC, FDIC, and ultimately the Treasury to extensive budget outlays. Enacting S. 2879 would be a major step toward correcting the maturity mismatch in thrift portfolios and therefore reducing the economic loss inherent therein.

Accordingly, this legislation expands the commercial lending power of thrifts to 15 percent of assets after January 1, 1984. No more than half of this amount may be used for loan originations with the remainder to be used for loan participations or purchases.

In addition to the problems and immediate crisis facing the thrift industry, the committee also heard, during the past 18 months, substantial testimony regarding the regulatory disparity between financial depository institutions and their largely unregulated nondepository competition.

Although Congress mandated the phaseout of regulation Q deposit interest rate controls just over 2 years ago, the need for further congressional action to provide a new, market-sensitive deposit instrument has been amply shown by the growth of investments in money market mutual fund shares.

The statistical evidence of the competitive imbalance between regulated and unregulated financial institutions is measurable by the fact that the asset size of the money market funds grew from $60.9 billion in March 1980, to $226.1 billion on September 15, an increase of over 370 percent. During 1981, money market funds acquired 72 percent of the total growth in small denomination time and savings deposits and fund shares. The reason for the growth is clear: Money markets have been free to offer a deposit account with a low minimum balance, paying an interest rate near Treasury bill rates, and allowing the depositor to withdraw funds easily and even enjoy limited check-writing opportunities. Depository institutions are banned by Federal regulations from offering a comparable deposit account.

In an effort to provide for more consistent deregulation of the assets and liabilities of depository institutions, S. 2879, and the report accompanying it, direct that a new deposit instrument fully competitive with the money market funds be adopted by the Depository Institutions Deregulation Committee and made effective within 60 days of enactment of the bill. In the report, the committee stated that "an initial minimum of no more than $10,000, or perhaps $5,000, would produce an account which would begin to permit institutions to compete effectively" with money market funds. The committee also noted that it "is very concerned that imposing an interest rate ceiling on the new deposit instrument could interfere with the competitiveness of the instrument."

While we endeavored to develop legislation in the committee which would achieve the goal of a competitive and stable financial system, we want to insure that it does so. Therefore, a committee amendment will be offered which will, among other things:

First, direct the DIDC to create a new deposit account that is "directly equivalent to and competitive with" accounts offered by money market mutual funds. The initial minimum balance for such an account shall not be more than $5,000 and I believe it will be necessary to reduce the minimum still further. Most of the large money market funds have minimum deposit requirements of only $1,000 to $2,500.

Second, prohibit the DIDC from imposing any new interest rate ceiling or differential on the new competitive deposit instrument. It would defeat the whole purpose of the new instrument if depository institutions could not pay interest rates at market levels.

Third, repeal title I of Public Law 94-200 which mandates interest rate differentials on certain accounts.

Fourth, remove any interest rate differential that DIDC maintains on any existing account no later than January 1, 1984. Upon removal of any differential, if a ceiling is maintained, the interest rate which banks are permitted to pay shall be raised to equal the rate permitted to thrifts.

Fifth, direct the DIDC to adhere to, or accelerate, any current differential phase out schedules to remove any differential before January 1, 1984.

Sixth, allow bank service corporations to carry on those activities permitted to be performed by banks and bank holding companies, but only in the State in which the bank or holding company is headquartered and only those services in those locations authorized by the appropriate State or Federal authorities for the bank or bank holding company.

Seventh, make technical corrections in the provisions regarding the regulation of credit unions.

S. 2879 also provides banks with additional sources of financing for exports by liberalizing the bankers' acceptances limitations in current law.

The bill increases the maximum allowable ratio of bankers' acceptance to capital and surplus from the current 50 percent (100 percent with Federal Reserve Board approval) to 150 percent (200 percent with Federal Reserve Board approval).

S. 2879 contains a number of other modifications of restrictive provisions in current law including the following:

Section 23A of the Federal Reserve Act which governs bank transactions with affiliates is amended in order to give bank holding companies greater freedom to transfer funds among their subsidiary banks.

The Financial Institutions Regulatory Act is amended to eliminate duplicative reporting requirements, clarify the civil money penalty authority of Federal banking agencies, and eliminate statutory size limitations on loans of various types by banks to their executive officers.

Usury relief for business and agricultural credit contained in Public Law 96-221, which is presently scheduled to expire on April 1, 1983, is extended for an additional year.

And the Truth-in-Lending Act is amended by redefining the term "creditor" in order to remove "arrangers of credit" from the coverage of the act and thereby relieves real estate brokers from the responsiblity of the law's disclosures.

S. 2879 furthermore limits the discretion of the Federal Home Loan Bank Board with respect to the new activities in which service corporations of thrift institutions may engage. By specifically approving certain expanded powers and activities for thrift institutions and by not authorizing the Federal Home Loan Bank Board to permit service corporations to engage in any new activities not previously authorized, S. 2879 establishes congressional intent that henceforth the FHLBB should not approve, in the absence of clear and specific congression-

al authorization, any new regulation expanding the activities of service corporations other than to permit service corporations to engage in activities permitted for Federal thrift institutions.

The committee was aware that the Bank Board is considering proposed regulations that would expand signficantly the permitted range of activities for service corporations but in light of the specific additional powers authorized for savings and loan institutions in this bill, the committee intends that the Bank Board shall withdraw and take no further action on the proposed regulations. Of course, Congress reserves the right to review activities previously authorized by the Bank Board.

Finally, during our deliberations, a majority of the Banking Committee found compelling reasons for Congress to address the problems which have arisen from State actions restricting the enforcement of due-on-sale clauses in home mortgages and also to address the insurance activities of bank holding companies.

As a result, S. 2879 provides a Federal preemption of State laws and judicial decisions which restrict the enforcement of due-on-sale clauses in real property loans, except for loans originated or assumed during a "window period".

S. 2879 also amends section 4(c)(8) of the Bank Holding Company Act of 1956 to generally prohibit a bank holding company from underwriting or selling property or casualty insurance products. This exemption establishes a grandfather date (October 7, 1981) for the continuation of previously authorized insurance activities, such as selling credit-related property and casualty coverages, and permits bank holding companies to engage in, among other things, credit life, disability, and involuntary unemployment insurance activities and general insurance agency activities in towns of less than 5,000 people.

Mr. President, S. 2879, the Depository Institutions Amendments of 1982, is the product of very considerable deliberations and is a compromise of many conflicting viewpoints. Given the many problems facing our financial depository institutions due to the state of the economy, high interest rates, and competition from largely unregulated nondepository institutions, this legislation must be viewed as an essential first step toward restoring a sound and healthy system of depository institutions.

In sum, I support this legislation for a number of reasons, including the following:

Bank regulatory agencies must be provided additional authority to deal with financially distressed institutions.

Depository institutions must be given a new deposit instrument which is directly competitive with money market mutual funds.

The provision to reform section 23A will allow multibank holding companies to better serve the credit needs of their local communities.

The proposal to expand bankers' acceptances will help promote U.S. exports.

Depository institutions need regulatory relief from duplicative regulation.

Mr. President, I urge the Senate to act expeditiously and favorably on S. 2879, the Depository Institutions Amendments of 1982.

Mr. GARN. Mr. President, I thank the distinguished Senator from Michigan for his remarks, and particularly the last remark he made about the unfinished issues. I would like to report that, without exception, on the day of the markup of this bill it was the general consensus of the entire Banking Committee, both Republican and Democrat alike, that this was as much as we could do this year but that in January we would expand to many other issues that do need to be considered.

So we shall have very extensive oversight hearings next year and proceed not only to some of the issues that were originally in this particular bill, known as S. 1720, but to other issues beyond. I thank the distinguished ranking minority member for his willingness to pursue that course of action next year.

Mr. President, before we offer a committee amendment, I suggest the absence of a quorum while I confer momentarily with the Senator from Michigan.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I support S. 2879, and I want to take a moment to commend the chairman of the committee and the ranking minority member, the distinguished Senator from Michigan (Mr. RIEGLE), for their fine work in drafting and bringing this legislation to the floor of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. I yield to the Senator from Maryland as much time as he may desire.

Mr. SARBANES. I thank the Senator.

Mr. President, a great deal of time and effort has been devoted to examining the issues involved in this legislation—and indeed, to examining issues not involved in this legislation, some of which the committee will address in the next session of the Congress.

The need to act, and act expeditiously, with respect to the situation confronting the thrift institutions in this country does not need elaboration on the floor of the Senate. We know the difficulties which confront the savings and loan industries, difficulties which are not of their own making but result from the larger economic context in which the thrift institutions now find themselves.

Indeed, Mr. President, it is my view that the savings and loan institutions have made an extraordinary contribution to the economic and social well-being of this country through the impetus which they have given to home-ownership, a value and objective to which I attach very great significance.

We find ourselves in an economic environment in which many traditional assumptions, their validity demonstrated over a long period of time have nonetheless not been borne out in recent years. Thrift institutions have found themselves with long-term mortgages at much lower rates than those prevailing in the marketplace today; as a result, many thrift institutions have been confronted with a very difficult financial situation. This legislation is designed to respond to that problem in a number of different ways, and its provisions offer significant remedies. I am hopeful that prompt Senate enactment of this legislation, and a resolution of the differences between the Senate-passed bill and the House-passed bill, will lead to action before Congress adjourns for purpose of the forthcoming elections.

The chairman, the ranking member, and, indeed, all of the members of the committee have labored long and hard in order to arrive at a consensus piece of legislation. That is what we have before us here in the Senate today. I strongly urge my colleagues to support this legislation.

I thank the Senator from Michigan for yielding me time.

UP AMENDMENT NO. 1291

(Purpose: To revise the capital assistance program, to provide for the elimination of the Regulation Q differential, and for other purposes)

Mr. GARN. Mr. President, on behalf of the ranking minority member and myself, I am now prepared to submit committee amendments en bloc and ask that they be immediately considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the amendments en bloc.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for himself and Mr. RIEGLE, proposes an unprinted amendment numbered 1291.

Mr. GARN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments are as follows:

On page 8, line 4, after the period, insert the following: "The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured bank. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

On page 11, strike out line 13, and insert in lieu thereof the following:

"(G) A bank may be converted under subparagraph (F) only where the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (f).

Before making a determination under subpara-".

On page 12, line 23, before the first period, insert the following: "or section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)).".

On page 34, line 12, after the first period, insert the following: "The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured institution. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

On page 50, line 16, strike out "five" and insert in lieu thereof "three".

On page 52, line 15, after the period, insert the following: "Dividends on any capital instrument so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the instrument.".

On page 52, line 18, after the period, insert the following: "With respect to instruments held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization and over any right of equity holders to participate in future earnings.".

On page 56, line 15, strike out the close quotation marks and the last period.

On page 56, between lines 15 and 16, insert the following:

"(J) The Corporation may not use its authority under this paragraph to purchase the voting or common stock of a qualified institution. Nothing in this subparagraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

On page 58, line 14, after the period, insert the following: "Dividends on any capital instrument so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase said instrument.".

On page 58, line 21, after the period, insert the following: "With respect to instruments held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization and over any right of equity holders to participate in future earnings.".

On page 62, line 17, strike out the close quotation marks and the last period.

On page 62, between lines 17 and 18, insert the following:

"(10) The Corporation may not use its authority under this subsection to purchase the voting or common stock of a qualified institution. Nothing in this paragraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

SUNSET

SEC. 204. The provisions of this title shall cease to be effective upon the expiration of three years after the date of enactment of this Act.

On page 63, line 24, strike out "established a business" and insert in lieu thereof "a business, corporate, commercial, or agricultural loan".

Beginning with page 73, line 5, strike out all through page 74, line 8, and insert in lieu thereof the following:

ELIMINATION OF DIFFERENTIAL

SEC. 326. (a) Section 102 of Public Law 94-200 is repealed.

(b) Interest rate differentials for all categories of deposits or accounts between (A) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (B) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)), shall be phased out on or before January 1, 1984. Any differentials which is being phased out pursuant to a schedule established by regulations prescribed by the Depository Institutions Deregulation Committee prior to the date of enactment of this Act shall be phased out as soon as practicable, but in no event later than such schedule provides. Notwithstanding any other provision of law, no differential for any category of deposits or accounts shall be established or maintained on or after January 1, 1984.

(c) No interest rate differential may be established or maintained in the case of the deposit account authorized pursuant to section 204(c) of the Depository Institutions Deregulation Act of 1980.

(d) In the case of the elimination or reduction of any interest rate differential under subsection (b) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to pay on such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

On page 74, lines 16 and 17, strike out "provide depository institutions with the ability to compete effectively" and insert in lieu thereof "be directly equivalent to and competitive".

On page 74, line 19, after the period insert the following: "No limitation on the maximum rate or rates of interest payable on deposit accounts shall apply to the account authorized by this subsection.".

On page 88, line 2, after the period insert the following: "Notwithstanding the provisions of subsection (d), the rules and regulations prescribed under this section may permit a lender to exercise its option pursuant to a due on-sale clause with respect to a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income.".

On page 88, lines 5 and 6, strike out "the earlier of January 1, 1983, or the date of enactment of this Act" and insert in lieu thereof "April 1, 1983".

On page 113, line 11, strike out "12 U.S.C." and insert in lieu thereof "15 U.S.C.".

On page 113, line 22, after "bank" insert a comma.

On page 144, strike out lines 12 through 22, and insert in lieu thereof the following:

USE OF SPACE AND FACILITIES

SEC. 515. Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by adding at the end thereof the following: "For the purposes of this section, the term 'services' includes, but is not limited to, the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems). Where there is an agreement for the payment of costs associated with the provision of rent or services, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.".

Amend the table of contents accordingly.

On page 155, strike out lines 3 through 11 and insert in lieu thereof the following:

SEC. 526. Section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)) is amended by adding at the end thereof the following: "Any central credit union chartered by the Board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under this Act.".

On page 166, line 24, after "SEC. 728." insert "(a)".

On page 167, between lines 7 and 8, insert the following:

(b) Section 205(f)(2) of the Federal Credit Union Act (12 U.S.C. 1785(f)(2)) is amended by inserting before the period at the end thereof the following: ", and with respect to

deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof".

At the end of the bill, add the following:

USURY AMENDMENTS

SEC. 712. (a) Section 512(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out "April 1, 1983" in clause (1) and inserting in lieu thereof "April 1, 1984".

(b) Section 511(b) of such Act is amended—

(1) by striking out "and" at the end of clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(5) the term 'agricultural loan' means a loan extended primarily for agricultural purposes to a person who cultivates, plants, propagates, or nurtures an agricultural product;

"(6) the term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacturing of an agricultural product and the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming;

"(7) the term 'agricultural product' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish and any products thereof, including processed and manufactured products and any and all products raised or produced on farms and any processed or manufactured products thereof;

"(8) the term 'business loan' means a loan extended primarily for business or commercial purposes, including investment, and any credit extended to a person other than a natural person; and

"(9) the term 'loans' includes any secured or unsecured loan, credit sale, forbearance, advance, renewal, or other extension of credit.".

BANK SERVICE CORPORATIONS

SEC. 713. The Bank Service Corporation Act (12 U.S.C. 1861 et seq.) is amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"SEC. 1. (a) This Act may be cited as the 'Bank Service Corporation Act'.

"(b) For the purpose of this Act—

"(1) the term 'appropriate Federal banking agency' shall have the meaning provided in section 3 (g) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (q));

"(2) the term 'bank service corporation' means a corporation organized to perform services authorized by this Act, all of the capital stock of which is owned by one or more insured banks;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'depository institution' means an insured bank, or another financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board;

"(5) the term 'insured bank' shall have the meaning provided in section 3 (h) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (h));

"(6) the term 'invest' includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment; and

"(7) the term 'principal investor' means the insured bank that has the largest dollar amount invested in the capital stock of a bank service corporation. In any case where two or more insured banks have equal dollar amounts invested in a bank service corporation, the corporation shall, prior to commencing operations, select one of the insured banks as its principal investor and shall notify the bank's appropriate Federal banking agency of that choice within 5 business days of its selection.

"AMOUNT OF INVESTMENT IN BANK SERVICE CORPORATION

"SEC. 2. Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured bank may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. No insured bank shall invest more than 5 per centum of its total assets in bank service corporations.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR DEPOSITORY INSTITUTIONS

"SEC. 3. Without regard to the provisions of sections 4 and 5 of this Act, an insured bank may invest in a bank service corporation that performs, and a bank service corporation may perform, the following services only for depository institutions: check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR OTHER PERSONS

"SEC. 4. (a) A bank service corporation may provide to any person any service authorized by this section, except that a bank service corporation shall not take deposits.

"(b) Except with the prior approval of the Board under section 5 (b) of this Act in accordance with subsection (f) of this section—

"(1) a bank service corporation shall not perform the services authorized by this section in any State other than that State in which its shareholders are located; and

"(2) all insured bank shareholders of a bank service corporation shall be located in the same State.

"(c) A bank service corporation in which a State bank is a shareholder shall perform only those services that such State bank shareholder is authorized to perform under the law of the State in which such State bank operates and shall perform such services only at locations in the State in which such State bank shareholder could be authorized to perform such services.

"(d) A bank service corporation in which a national bank is a shareholder shall perform only those services that such national bank shareholder is authorized to perform under this Act and shall perform such services only at locations in the State at which such national bank shareholder could be authorized to perform such services.

"(e) A bank service corporation that has both national bank and State bank shareholders shall perform only those services that may lawfully be performed by both its national bank shareholder or shareholders under this Act and its State bank shareholder or shareholders under the law of the State in which such State bank or banks operate and shall perform such services only at locations in the State at which both its State bank and national bank shareholders could be authorized to perform such services.

"(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of Federal and State branching law regulating the geographic location of banks to the extent that those laws are applicable to an activity authorized by this subsection, a bank service corporation may perform at any geographic location any service, other than deposit taking, that the Board has determined, by regulation, to be permissible for a bank holding company under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)).

"PRIOR APPROVAL FOR INVESTMENTS IN BANK SERVICE CORPORATIONS

"SEC. 5. (a) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of subsection (c), (d), or (e) of section 4 of this Act without the prior approval of the bank's appropriate Federal banking agency.

"(b) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of section 4 (f) of this Act and no bank service corporation shall perform any activity under section 4 (f) of this Act without the prior approval of the Board.

"(c) In determining whether to approve or deny any application for prior approval under this section, the Board or the appropriate federal banking agency, as the case may be, is authorized to consider the financial and managerial resources and future prospects of the bank or banks and bank service corporation involved, including the financial capability of the bank to make a proprosed investment under this Act, and possible adverse effects such as undue concentration of resources, unfair or decreased competition, conflicts of interest, or unsafe or unsound banking practices.

"(d) In the event the Board or the appropriate Federal banking agency, as the case may be, fails to act on any application under this section within 97 days of submission of a complete application to the agency, the application shall be deemed approved.

"SERVICES TO NONSTOCKHOLDERS

"SEC. 6. No bank service corporation shall unreasonably discriminate in the provision of any services authorized under this Act to any depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the bank service corporation, except that—

"(1) it shall not be considered unreasonable discrimination for a bank service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereof; and

"(2) a bank service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation.

"REGULATION AND EXAMINATION OF BANK SERVICE CORPORATIONS

"SEC. 7. (a) A bank service corporation shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor. The appropriate Federal banking agency of the principal shareholder of such a bank service corporation may authorize any other Federal banking agency that supervises any other shareholder of the bank service corporation to make such an examination.

"(b) A bank service corporation shall be subject to the provisions of the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.) as if the bank service corporation were an insured bank. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service corporation.

"(c) Notwithstanding subsection (a) of this section, whenever a bank that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a bank that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of the service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.

"(d) The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this Act and to prevent evasions thereof.".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 714. (a) Section 634 of the Neighborhood Reinvestment Corporation Act (Public Law 95-557) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

"(f) A director who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving, pursuant to appointment by the President of the United States, by and with the advice and consent of the Senate, in the same department, agency, corporation, or instrumentality as the absent director, or in the case of the Comptroller of the Currency, through a duly designated Deputy Comptroller."; and

(2) by inserting in section 604(g), as redesignated, after "members" a comma and the words "or their representatives as provided in subsection (f),".

(b) Section 606(c)(3) of such Act is amended by inserting "funds," after "provide".

On page 42, at line 5, immediately after the period, add the following:

Notwithstanding the foregoing, if such an insured institution does not have its home office in the state of the bank holding company bank subsidiary, and if such institution does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code, or does not meet the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify, then such insured institutions shall be subject to the conditions upon which a bank may retain, operate and establish branches in the state in which the insured institution is located. The Corporation, for good cause shown, may allow insured institutions up to two years to comply with the requirements of the preceding sentence."

Mr. GARN. Mr. President, the genesis of the committee amendment was the following letter from Senator RIEGLE and myself to Llewellyn Jenkins, the president of the American Bankers Association, stating what we intended to include in such an amendment.

Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, D.C., September 10, 1982.

Mr. LLEWELLYN JENKINS,
President, American Bankers Association, Washington, D.C.

DEAR PRESIDENT JENKINS: This letter concerns S. 2879, the Depository Institutions Amendments of 1982 (S. Rept. 97-536), and objections and suggested modifications raised by the American Bankers Association regarding the legislation.

During the past year and a half, the Committee has held hearings and considered legislative proposals dealing with the changing conditions within the financial system. In this process, we appreciated the ABA's willingness to provide the views of its members, especially the detailed analyses and views that it presented during Committee hearings and subsequent discussions between Committee members and the ABA regarding S. 1720.

While we recognize that S. 2879, the legislation that was reported by the Committee on September 3, does not contain all of the provisions from S. 1720 which the ABA recommended be included, we emphasize that the Committee does not intend that S. 2879 mark the end of Committee consideration of structural changes within the financial system. In fact, during the markup session on S. 2879, we stated our intention to proceed with consideration of the Glass-Steagall Act at the beginning of the next Congress.

In addition to enhancing the ability of financial regulators to deal with troubled depository institutions, which was the principal impetus for financial institutions legislation last year, S. 2879 enhances the competitiveness and the stability of depository institutions by broadening and revising their lending and investment powers and by providing all depository institutions with a new, competitive deposit instrument.

During the past two years, it has become increasingly evident that depository institutions must be provided with greater flexibility in order to compete against non-depository financial intermediaries. Although Congress mandated the phase-out of Regulation Q deposit interest rate controls just over two years ago, the need for further Congressional action to provide a new, market-sensitive deposit instrument has been amply shown by the fluctuating interest rates and the growth of investments in money market mutual fund shares.

In an effort to provide for more consistent deregulation of the assets and liabilities of depository institutions, S. 2879 and the report accompanying it direct that a new deposit instrument fully competitive with the money market funds be adopted by the Depository Institutions Deregulation Committee and made effective within 60 days of enactment of the bill. In the report, the Committee stated that "an initial minimum of no more than $10,000, or perhaps $5,000, would produce an account which would begin to permit institutions to compete effectively" with money market funds. The Committee also noted that it "is very concerned that imposing an interest rate ceiling on the new deposit instrument could interfere with the competitiveness of the instrument."

While we endeavored to develop legislation in the Committee which would achieve the goal of a competitive and stable financial system, we want to ensure that it does so. Therefore, in light of the recommendations of the ABA, we as Senate floor managers of the bill will include the following in a Committee amendment to be presented when the full Senate considers S. 2879:

TITLE III

Repeal Title I of Public Law 94-200 which mandates interest rate differentials on certain accounts;

Remove any interest rate differential that DIDC maintains on any existing account no later than 1/1/84. Upon the removal of any differential, if a ceiling is maintained, the interest rate which banks are permitted to pay shall be raised to equal the rate permitted to thrifts;

Direct DIDC to adhere to, or accelerate, any current differential phase-out schedules to remove any differential before 1/1/84;

Prohibit DIDC from imposing any new interest rate ceiling or differential on the new competitive instrument;

Direct DIDC to create a new deposit account that is "directly equivalent to and competitive with" investment accounts offered by money market mutual funds. We intend the minimum balance for such account shall not be more than $5,000;

Limit thrift's commercial checking authority to those persons having a business, corporate, commercial or agricultural loan relationship or to business entities for the sole purpose of effectuating payments by nonbusiness customers; and

TITLE VII

Extend for an additional year the usury relief for business and agricultural credit contained in Public Law 96-221, which is presently scheduled to expire on April 1, 1983.

Modifications of service corporation powers to authorize additional banking activities are currently under active discussion with the Federal Reserve Board and we are optimistic that progress can be made.

In addition, in its report the Committee made clear that overdrafts of a thrift institution's business customers, as well as the commercial loans of its service corporation, are to be included in the calculation of its commercial loan/asset limitation.

These changes will substantially improve S. 2879. DIDC itself has expressed its frustration with being given the task of deregulating liabilities without the authority to expand asset powers. Absent any change in the asset structure of thrifts and a clear Congressional mandate, it is unlikely that DIDC will produce a competitive instrument in the near future. In an amended bill, the

Senate will provide DIDC with a mandate to produce a competitive instrument for all depository institutions. Passage of an amended S. 2879 will result in a significant first step in achieving a more competitive and stable financial system.

Your continued assistance in this process is appreciated.

Sincerely,

JAKE GARN,
Chairman.
DONALD W. RIEGLE, Jr.,
Ranking Minority Member.

Mr. GARN. The committee amendment that Senator RIEGLE and I are now submitting includes all of the changes that were outlined in that letter.

The bank service corporation provision of the committee amendment expands the types of activities that a bank service corporation can perform so as to include all those activities and services that can be performed by a State-chartered bank in any given State, as well as most of the activities and services that can be engaged in by a bank holding company subsidiary as authorized under Reg Y of the Fed, and expands the scope of who can receive services from a bank service corporation to include the general public as well as any other types of financial institutions.

The bank service corporation provision authorizes any one of more banks to form such a bank service corporation provided that the following conditions are met:

One, State-chartered banks could only join with other State-chartered banks in the formation of a bank service corporation which was to engage in any activity that is authorized for State-chartered banks under State law or regulation. Conversely, national banks could do likewise. In each case, approval would come from the primary Federal regulator of the bank or banks forming the bank service corporation.

Two, any bank or banks irrespective of charter origination could join to form a bank service corporation to engage in 4(c)(8), Reg Y type activities to the extent outlined above. Approval in this instance would come from the Federal Reserve and there would not be any statutorily required "notice and hearing" procedure.

Three, a bank would be limited as to investing in any one bank service corporation to 10 percent of capital and unimpaired surplus and would be subject to an overall aggregate limitation of 5 percent of assets in all of the bank service corporations in which it participates.

Four, bank service corporations would be geographically restricted to the home State of the organizing bank or banks.

In addition, the provision in the committee amendment extending the Federal usury ceiling for business and agricultural credit until April 1, 1984, includes a definition of "business credit" which is specifically designed to fill a void in the current law and thereby clarify the broad application of this business and agricultural preemption provision. It is intended that by including all credit that is "primarily for business or commercial purposes, including investment, and any credit extended to a person other than a natural person," that the preemption provision embraces State and local governmental borrowings, credit extended for personal investment purposes and any other credit that is extended to a person other than a natural person.

The committee amendment also contains two changes to the due-on-sale provision set forth in section 341 of the bill.

The first change authorizes the Federal Home Loan Bank Board to exempt reverse mortgages from the restrictions of section 341(d) of the bill.

In general, a reverse mortgage, including reverse annuity mortgages, is a generic term for a financial instrument or package of financial instruments that enables a homeowner to mortgage equity in real estate for the purpose of receiving a stream of future income, while retaining rights of ownership, use and possession. Older Americans, in particular, will benefit by the creation of mortgage instruments which are designed to allow elderly homeowners to convert home equity into an income source.

At present, experimentation with the design of reverse mortgages is being conducted around the country, and there is not now one singular form for these mortgage instruments. To date, the instruments used have provided for either lump-sum or periodic disbursements of funds to older homeowners, with interest paid as it accrues, or at maturity of the loan. In most cases, the loans have had fixed terms to maturity. However, considerable attention has been directed recently toward designing loans which mature on the death, or the cessation of occupancy, of the borrower. Thus, the operation of several of the reverse mortgage concepts under consideration requires that the loan be repaid when permanent occupancy by the borrower ceases. This amendment will permit and encourage the Board to continue experimentation in mortgage design for our older homeowners by insuring that the limitations for due-on-sale enforcement do not obstruct the creation of successful reverse mortgage instruments.

The second change prohibits the Federal Home Loan Mortgage Corporation from implementing its due-on-sale policy, announced on July 2, 1982, until April 1, 1983.

The amendment also contains a provision which stipulates that a savings and loan association which is acquired by an out of State bank holding company must qualify as a domestic building and loan under the Internal Revenue Code, or have its branch network subjected to restrictions applicable to banks. Under this provision, an institution would have up to 2 years to dispose of an illegal branch.

Additionally, the committee amendment includes description of certain characteristics of the capital instruments to be purchased by the Federal insurance agencies under title II, sunsets the emergency provisions and the capital assistance provisions of the bill in 3 years, and contains two technical amendments involving FDIC's authority to convert a savings bank to a Federal charter as well as FSLIC's authority to provide assistance to the FDIC when a savings and loan merges with a savings bank.

Other technical amendments include granting the National Credit Union Administration the authority to write separate rules for corporate control credit unions, and providing credit unions with the authority to offer share draft accounts to public units. Additionally, credit unions would be able to reimburse the U.S. Treasury for services provided by any Federal agency. The Neighborhood Reinvestment Corporation is also granted more flexibility with respect to attendance at director's meetings and funding.

Mr. GARN. Mr. President, I move the adoption of the committee amendments.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. GARN. I yield back my time, Mr. President.

Mr. RIEGLE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments en bloc (UP No. 1291) were agreed to.

Mr. RIEGLE. I move to reconsider the vote by which the committee amendments were agreed to en bloc.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3617

(Purpose: To establish equity in the sale of insurance lending institutions)

Mr. BRADY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADY) proposes an amendment numbered 3617.

Mr. BRADY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out title VI and insert in lieu thereof the following:

Section 601: Section 126 is added to the Truth in Lending Act (15 U.S.C. 1601 et seq.) to read as follows:

RIGHT OF CANCELLATION OF CERTAIN INSURANCE

SEC. 126. (a) Except as otherwise provided in this section, in the case of a consumer credit transaction in connection with which insurance against loss of or damage to property or against liability arising out of the ownership or use of property is obtained from or through the creditor, the obligor shall have the right to cancel the purchase of such insurance until midnight of the thirtieth calendar day following the consumation of the transaction or the delivery of the information and forms required under this section, whichever is later. The obligor shall effect such cancellation by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. In accordance with the regulations of the Board the creditor shall (1) clearly and conspicuously disclose to any obligor in a transaction subject to this section the rights of the obligor under the section, and (2) provide appropriate forms for the exercise by the obligor of his right to cancel any insurance subject to this section. Such forms shall contain a clear and specific statement setting forth:

(a) the cost of the insurance;

(b) that the obligor may choose the person through which the insurance is to be obtained;

(c) the obligor's right to use the cancellation period to obtain price quotations for insurance from other sources;

(d) the actions necessary for obligor to cancel the insurance; and

(e) the obligor's right to receive a credit of the unearned portion of the insurance premium after cancellation.

(b) Within 20 days after receipt of a notice of cancellation if no liability for a loss under the insurance has been incurred, the creditor shall (1) credit the unearned portion of the premium, computed in accordance with applicable law, as of the date of cancellation and, where the premium has been financed, credit the unearned portion of the finance charge, if any, attributable to the insurance, computed as of the date of cancellation in accordance with the terms of the contract documents; or (2) at the option of the creditor, refund the unearned portion of the premium to the obligor.

(c) When the insurance written in connection with an extension of credit is against loss of, or damage to, or against liability arising out of ownership or use of, property used as security for the extension of credit, the creditor may require evidence that the obligor has obtained other adequate insurance before exercising the right of cancellation set forth in this subsection. For reasonable cause, a creditor may refuse to accept an insurer offered by the obligor.

(d) Any obligor who has the right to cancel insurance under this section in connection with an obligation which has been assigned may cancel the insurance only by delivering to the assignee of the obligation the notice of cancellation required by this section. Delivery shall be considered made when mailed, or if sent by other means, when received by the assignee.

(e) Any obligor who exercises the right to cancel the purchase of insurance pursuant to this section shall not be subject to the imposition of any fee, cancellation charge, or other penalty payment.

SEC. 602. This title shall take effect six months from the date of enactment of this Act.

Mr. BRADY. Mr. President, this banking bill that we are now considering, S. 2879, was introduced in October 1981. I think we all know the purpose of this bill is to give aid to the thrift institutions in this country. I submit that when I arrived here in April, we were trying to do that; we are still trying to do it today. If we do not get action, if we do not get some help for the thrift institutions in this country, we shall not have to discuss it much longer. They will all fall, as they would without any help.

I submit that it is time for the Senate to get a banking bill on the floor that the parties at interest can agree to, vote on it, and do what we said we were going to do last October—help the thrift institutions.

Up until 2 days ago we had no agreement to go forward on this bill. The parties at interest were still discussing the various points that were important to them. I suggest today in my amendment a middle course, directed at title 6 of this bill. This middle course suggests that we allow bank holding companies to do what they have been doing since 1971, deal in certain kinds of insurance, which has been outlined before, and to give to consumers a protection which they do not now have. By that I refer to the fact that if this amendment were agreed to, we would give the consumer, the obligor, 30 days to see if he could get a better deal.

It seems to me that in a certain sense the independent insurance agents, who have rightful concern over this suggestion, are in a better position than they were; they can take the relationships that they have had with their customers, as the banks put insurance forward, and see whether they can beat this insurance. The consumer is the winner.

Also, it takes no powers from the banks. The bill differs only from current law to the extent that the consumer gets the 30-day option to see if he can better his case.

The Treasury Department backs this amendment and feels it would be a welcome alternative to the current title VI.

I have very little further to say on this matter. I know there are some feelings on the other side with which I have no great disagreement. It is time for us to dispense with parochial interests, to try and settle the various points of view, and to come forward with a banking bill which does what we set out to do last October, help the thrift institutions.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I yield myself time off the bill on the amendment itself so that it will not detract from the opponents of this amendment.

Mr. President, I rise in opposition to the amendment of the Senator from New Jersey, and I do so reluctantly. Attempting to put this bill together has been a difficult task. A lot of compromise has been necessary between various groups.

At any one time any of the groups could have objected to a unanimous-consent agreement so that we could get the bill up.

I attempted for several weeks to get a compromise on this particular issue of title 6. The very amendment that the Senator from New Jersey talks about I attempted to negotiate as a compromise which both the bankers of the country and the independent insurance agents would accept. I was not able to do that.

And so finally, just yesterday, in order to save the rest of the bill, I said, "All right, both sides have reached the point where there is an impasse, neither one willing to give up on their position. There is only one solution. You have to accept the judgment of the Senate on this issue. So let it come up." Both organizations, the Independent Insurance Agents and the American Bankers Association, agreed to that process, to bring it to the floor and accept the judgment of the Senate on this particular issue.

However, at this point my opposition comes from more of a procedural standpoint than a substantive standpoint.

A year and a half of working on this bill has produced a very fragile coalition of those who would agree on it. In fact, we reached a point a lot of people thought was never possible, as controversial as some of the issues were, such as due on sale, new powers for the thrifts, and many other issues. At this point, the ice is so thin, I believe, that unless we can keep the bill as reported by the committee intact we would probably lose it and not be able to enact it this year.

When the debate is over, I will move to table this amendment but without prejudice to its merits one way or another. It is an issue, however, that comes out in the Senate and will continue to be fought. It has been fought every year that I have been here in 8 years on the Banking Committee.

Furthermore, I will oppose any and all amendments today for the same reason. I do not say that as a threat, as an intimidation, in an attempt to get my colleagues not to bring up amendments that they desire, but only to sincerely state as strongly as I possibly can that this narrow coalition, I believe, must be preserved.

I hate to be in that kind of position. I have never liked it when Senators have come out and said, "Well, we have to keep this bill clean for whatever purpose."

Nevertheless, whether I like that procedure or not—and being in a position of opposing amendments, even some that I happen to agree with, I think it is necessary today because of the lateness of time. If we were going to be in session for a couple of months, I would not be doing what I am doing today. But I wanted all of my colleagues to know at this point that I will oppose on a procedural basis the Brady amendment and all other amendments that are offered to this bill today.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I believe that Chairman GARN is accurate in the account that he has just given the Senate; that we have before us a very complex bill, one that we have been struggling with over a period of long months. We have a very tenuous balance in terms of those who have now come to a position of supporting the bill, but there are a number of people whose feelings about it are such that additional if major elements are added to this bill it is my own judgment that the bill itself is placed in a kind of jeopardy that would be unwise and unsound.

I think the chairman's assessment is accurate. He has talked with colleagues and interest groups on his side, I have done the same on my side. There is great controversy involved here, and it seems to me that there comes a point at which you can manage a certain number of issues in terms of resolving them, and beyond that you may not be able to do so. I wish we were not here so late in the session with literally a week to go.

So we are in a situation where we not only have to have a majority vote but, in the end, we have to have the acquiescence of a hundred Senators if we are going to bring this bill through to conclusion and meet with the House before the session ends and be able to send it to the President for signature.

There are merits on both sides of the argument with respect to the provisions that the Senator from New Jersey raises in his amendment. I think we have in this bill now all that we can manage, and if we try on the margin to add one more thing here or one more thing there, there certainly is the potential for us to find ourselves with a bill that is going nowhere. I think that would be a tragic consequence and all parties would lose.

There are important provisions in this bill for the S&L industry, for commercial banks, and for others. It is essential that the gains that we have been able to make in the legislation be achieved.

I wish perhaps it were possible to take on more at this time, but I do not think it is as I read the sentiment within the Senate and the shortness of time that is left.

The chairman has stated it accurately in terms of the parliamentary situation that we face, and I want to add my supporting views to his.

I yield to the Senator from Maine.

Mr. MITCHELL. Mr. President, I rise in opposition to the amendment now before the Senate.

The amendment is inadequate to deal with the problems addressed by the provision now contained in title VI.

The problem that title VI is designed to correct deals with the ability of bank holding companies to tie decisions on credit to decisions on insurance. My concern is that consumers will purchase insurance from banks simply to protect their source of credit, not because insurance is available at lower prices or with better service.

The combining of credit and insurance decisions restricts the consumer's ability to choose the best insurance free from the influence of credit. Furthermore, banks will have an unfair competitive advantage over other sellers who do not have the power to extend or withhold credit.

This is not just idle speculation. Studies over the last several years have repeatedly documented the fact that credit tie-ins are commonplace:

A 1979 study by the National Consumer Law Center, conducted for the Department of Housing and Urban Development, found a high degree of incidence and much abuse of credit tie-ins.

In 1978, the Federal Trade Commission testified that it regularly receives complaints of coercive credit insurance activities.

In 1974, the Federal Trade Commission found that credit tie-ins occurred frequently.

In 1970, an administrative law judge found that a bank's ability to combine credit and insurance put small insurance agencies at an unfair competitive disadvantage.

In 1968, the Federal Reserve Board testified regarding its concern that credit tie-ins may be an undue influence on borrowers' decisions.

Title VI deals with this problem by generally prohibiting an insurance activities by bank holding companies. Most existing bank holding company insurance activities would be protected by the title's grandfather clause.

A number of other exceptions are also included: Credit life and certain credit property insurance activities would still be permitted, as would bank holding company insurance operations in small towns and any place where insurance is otherwise unavailable. Bank holding companies with less than $50 million in total assets would also be allowed to engage in insurance activities.

I emphasize that title VI is entirely consistent with the trend toward greater competition among financial institutions. By preventing banks control of credit to dominate insurance markets, this title benefits the consumer by protecting his or her ability to choose insurance services free from concerns over credit.

The Senator from New Jersey proposes to replace the provisions of title VI with a provision that would give loan customers 30 days to cancel any insurance transaction related to a loan.

As I stated at the outset, this measure does not adequately deal with the problem of credit tie-ins. This amendment essentially legitimizes credit tie-ins by permitting them to occur openly at the point of the loan. By offering the customer the option to cancel after 30 days, this amendment may actually encourage insurance sales by banks.

Furthermore, the amendment would create a costly administrative burden on the insurance industry if it leads to a significant number of policy cancellations and reissues.

Finally, the bill may actually be a step backward. Many States already allow borrowers to cancel policies beyond 30 days after the transaction. Thus, in those States, the bill could restrict, not expand, consumers' freedom of choice in selecting insurance services.

For all those reasons, I urge the rejection of this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a series of letters from organizations around the country in the insurance and mortgage fields, to indicate support for title VI as it now stands and opposition to this amendment.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE NATIONAL ASSOCIATION
OF LIFE UNDERWRITERS,
Washington, D.C., September 9, 1982.

Hon. GEORGE J. MITCHELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MITCHELL: The Senate Banking Committee has favorably reported the "Depository Institutions Amendments of 1982" (S. 2879) to the Senate floor. I would like to call your attention to Title VI, a provision which would prohibit a bank holding company from providing insurance as a principal, agent or broker with six exemptions. As President of the National Association of Life Underwriters (NALU), I urge you to support Title VI without amendments and to support the entire bill with Title VI intact.

NALU is a federation of over 1,000 state and local associations representing more

than 126,000 life and health insurance agents, general agents and managers doing business in virtually every city and town in the United States.

Title VI is necessary to preserve on open, highly competitive marketplace for life, health, property and casualty insurance from being replaced by a highly concentrated one. To permit bank holding companies to expand their insurance activities would frustrate the intent of present law which recognizes the unfair competitive advantage inherent in the power of banks to lend money. Furthermore, the record of the extensions of banking institutions into a variety of other business endeavors reveals unfair competition between banks and affected businesses to the detriment of consumers.

There are no adequate antitrust remedies which address the dangers of voluntary tie-ins whereby a potential loan applicant might voluntarily place his insurance business with a bank-affiliated insurer in the hope of improving his chances to obtain credit from a bank on favorable terms, or at all.

Banking institutions have made many inroads into insurance agency activities which are not "closely related" to banking in most instances. The Federal Reserve Board routinely approves applications by bank holding companies to engage in insurance activities without requiring compliance, we contend, with statutory criteria. This underscores the need for passage of this legislation.

To summarize, monopoly power of banks over demand deposits and local short-term credit has long provided the rationale to keep banks out of general commerce including insurance activities. This is the case because credit is the lifeblood of business—especially in a tight credit market. Expansion of banking into insurance presents the triple threat of undue concentration of economic power, decreased and unfair competition, and unlawful tying of bank credit to insurance sales.

It is likely that S. 2879 will come to the Senate floor within the next two weeks. Again, we urge you to support Title VI without amendments and to support the entire package with Title VI intact.

Please contact David A. Winston at (202) 331-6054 if we can provide you with any further information.

Sincerely,

JACK PECKINPAUGH,
CLU, President.

PROFESSIONAL INSURANCE AGENTS,
Washington, D.C., September 16, 1982.

Hon. GEORGE J. MITCHELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MITCHELL: The National Association of Professional Insurance Agents (PIA) is a trade association representing more than 38,000 independent property and casualty insurance agents in all 50 States, the District of Columbia, Puerto Rico and the U.S. Virgin Islands.

PIA has long been concerned about the continuing efforts of bank holding companies (BHCs) to get further involved in the business of insurance. We, therefore, actively support Title VI of S. 2879, the Depository Institutions Amendments of 1982. Title VI would limit the property and casualty and life insurance activities of BHCs and their subsidiaries.

As a matter of long standing public policy, Congress has enacted laws to keep the business of banking separate from other types of commerce. This separation is designed to protect depositors by preventing banks from using deposits to speculate in non-banking commercial ventures or to bail out bank owned subsidiaries should they encounter financial difficulties. This policy also helps to prevent anti-competitive economic concentrations from developing that would naturally coalesce around banking institutions if they were in a position to generally engage in commerce or to tie the sale of non-banking services offered by their subsidiaries to the extension of credit.

The policy of separating banking from other forms of commerce is currently the law of the land for federally chartered banks but the Bank Holding Company Act (BHC Act) provides a loophole for banks that are affiliated with a BHC.

BHCs can petition the Federal Reserve Board (Fed) on a case-by-case basis per the provisions of Section 4(c)(8) of the BHC Act, to obtain permission to engage in non-banking business activities. To comply with the requirements of the Section 4(c)(8) test, BHC need only convince the Fed that the activity they wish to undertake is so closely related to banking as to be a proper incident thereto and that said activity is in the public interest. If the BHC's petition is approved, the Fed will authorize the BHC to engage in the non-banking activity.

Over the years, the Fed has authorized certain BHCs to engage in the business of insurance. This has placed these BHCs in a position to exert intense unfair competition against independent property and casualty insurance agents because of a BHC's ability to tie the sale of insurance to the availability of credit. This tying link need not even be stressed to be effective. The party seeking a loan need only be informed during the negotiations for credit that the bank's holding company could supply credit insurance and handle the borrower's other insurance transactions. Anyone approached in this manner would come to the logical conclusion that purchasing insurance from the BHC may enhance their prospects for obtaining a loan or help protect an existing line of credit. Protecting credit sources is a high economic priority for most individuals and businesses, particularly in today's tight money markets. The natural inclination would be to purchase insurance from the BHC affiliated with their bank even if they could obtain better insurance coverage and service at a lower price in the highly competitive traditional insurance market. Such an environment can encourage questionable solicitation practices. Several state insurance departments can detail the consumer problems caused when lending institutions sell credit life insurance.

A large BHC with computerized lists of its customers containing personal and business information provides a ready data base for insurance solicitation purposes. This, coupled with the ability to tie insurance sales to extensions of credit, gives BHCs a competitive position that independent insurance agents cannot match. The consumer, as a practical matter, loses the right to exercise freedom of choice in their insurance purchasing decisions because they have been placed in a situation where credit requirements dictate the purchase of insurance rather than shopping around to obtain the best insurance coverage and service at the lowest price in a competitive marketplace.

PIA has every reason to believe that BHCs and their banking allies will make every effort to strike Title VI from S. 2879 when the bill is considered by the full Senate in the very near future. PIA urges you to promote competition in the insurance marketplace and protect freedom of choice for the insurance consumer by supporting Title VI and opposing all weakening amendments to that Title.

Sincerely,

DOW REICHLEY, FMS,
President.
NICK A. VERREOS, FMS,
Chairman, Federal Affairs Committee.

AMERICAN LAND TITLE ASSOCIATION,
Washington, D.C., September 10, 1982.

Hon. GEORGE J. MITCHELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MITCHELL: The American Land Title Association (ALTA), the nationwide trade association of the land title industry, urges your support of Title VI of S. 2879, the Depository Institutions Amendments of 1982. This legislation, which was unanimously approved by the Senate Banking Committee, will be scheduled for Senate floor consideration in the very near future.

Title VI would impose reasonable limitations on the insurance-related activities of entities affiliated with bank holding companies. The ability of grantors of credit, such as banks, to influence or steer a borrower's puchase of insurance to an agency, broker, or underwriter affiliated with that lender has been amply demonstrated in numerous studies and congressional hearings. This implicit tying of the consumer's purchase of insurance to the granting of a loan has the practical effect of depriving the consumer of the ability to select a provider of insurance in a free and open competitive market. Also, such arrangements place unfair restraints on the ability of individual providers of insurance to compete on an equal basis with the bank's insurance affiliate for the borrower's insurance needs.

Provisions comparable to Title VI have twice passed the House of Representatives by overwhelming margins and were approved by voice vote in the Senate in 1978. Your support for Title VI as reported by the Senate Banking Committee and for passage of S. 2879 is needed to help preserve a free and competitive marketplace for the consumer's purchase of insurance.

Sincerely,

FRED B. FROMHOLD,
President.

INDEPENDENT INSURANCE AGENTS OF AMERICA, INC.,
Washington, D.C., September 1, 1982.

Hon. GEORGE J. MITCHELL,
Russell Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR MITCHELL: I am writing on behalf of our entire association to urge your support for Title VI of the Depository Institutions Amendments of 1982, and for final passage of the bill with Title VI intact.

Title VI would limit bank holding companies' authority to underwrite and sell property-casualty insurance. The case for curtailing bank holding company insurance activities may be simply stated: it remains a fact of life, supported by numerous academic and legislative studies, court findings, and financial and consumer regulatory agency reports that the combination of credit and insurance (1) unfairly constricts the consumer's ability to choose the best insurance terms and service free from the influence of credit, and (2) unfairly competes against

other sellers in the market who have no powers to extend or withhold credit.

Whether direct or implied, the results of the credit tie-in are the same: consumers purchase insurance from banks simply to protect their source of credit, not because the insurance is available at lower prices or with better service. And the rest of the market is fenced away by the insurmountable and unfair competitive barrier of banks' control of credit. Hence, the anomaly that bank insurance will actually choke off competition—it never has a chance to function.

Title VI has a long history of Congressional support, having passed the full House twice by decisive margins and the Senate once, by voice vote, in 1978. Language almost identical to Title VI of this year's Depository Institutions Amendments was favorably reported by the Senate Banking Committee in 1980.

The Independent Insurance Agents of America, Inc. is the nation's largest insurance producer group, and one of the largest small business associations. We are about 126,000 independent businessmen—the owners, principals, or licensed agents of 34,000 agencies across the nation selling and servicing property liability coverage in a fiercely competitive market. Several thousand of our members in Maine have made enactment of a BHC insurance curtailment their number one legislative priority, and are counting heavily on your support.

Needed bank reform is not incompatible with reasonable, traditional safeguards on financial institutions' ability to use their unique powers of credit and other specialized advantages in unfairly competitive ways. We urge your support for Title VI unamended, and for final passage of the Depository Institutions Amendments of 1982 with Title VI included.

Sincerely,

ROGER N. LEVY,
Director of Federal Government Relations.

MORTGAGE INSURANCE COMPANIES OF AMERICA,
Washington, D.C., September 13, 1982.

Hon. GEORGE J. MITCHELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MITCHELL: On behalf of the Mortgage Insurance Companies of America, a trade association of private mortgage insurers, I strongly urge your support of Title VI of S. 2879, The Depository Institutions Amendments of 1982. Title VI would limit the activities of bank holding companies to engage in insurance activities as agent, broker, or underwriter, and was approved unanimously by the Committee.

Private mortgage insurance companies (MICs) and their lender-customers must operate in an arms length manner. MICs must evaluate objectively the appraisal, underwriting, servicing abilities of lenders as well as their claims and methodology for handling delinquent loans. Nevertheless, in 1975 the Federal Reserve Board ruled that private mortgage insurance is a "permissible activity" of bank holding companies although declining "at that time" to approve any of the three applications then pending. Therefore, in the absence of Title VI the Fed could at any time permit bank holding companies to engage in such insurance for their own banks or other financial subsidiaries, as well as for other financial institutions. The conflict-of-interest implications represent compelling reasons for enactment of Title VI of S. 2879.

Recently, the Federal Home Loan Mortgage Corporation, a major government sponsored secondary market for home mortgages, advised the Federal Home Loan Bank Board that authorizing savings and loan association service corporations to engage in the private mortgage insurance business could destroy the existing private mortgage insurance industry because such independent companies could not compete with lender-owned insurance entities. The analogy of bank holding companies embarking on similar insurance activities is self-evident.

An effort may be made to remove Title VI during Floor debate on S. 2879. We urge your support of Title VI to preserve a free and competitive marketplace for mortgage insurance as well as other lines of insurance.

Sincerely,

JOHN C. WILLIAMSON.

NATIONAL ASSOCIATION OF CASUALTY AND SURETY AGENTS,
Washington, D.C., September 3, 1982.

Re The Depository Institutions Amendments of 1982, title VI.

Hon. GEORGE J. MITCHELL,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MITCHELL: The National Association of Casualty & Surety Agents (NACSA), an association representing the leading domestic commercial property/casualty insurance agencies and brokerage firms, endorses without amendment Title VI of the Depository Institutions Amendments of 1982 and urges you to vote in favor of the bill with Title VI intact when considered by the Senate later this month.

Title VI would restrict further expansion of insurance activities by bank holding companies. This section has a long legislative history and it supports our position that a tie-in between credit and insurance, implicit or explicit, as the case may be, exists and restricts a consumer's choice of price and product. It also establishes an unfair competitive advantage for lending institutions. Other sellers cannot compete in this kind of restrictive market, and its anticompetitive effect is not in the best interest of our economy or the buying public.

Title VI or language similar to it has been adopted by a vast majority of the House of Representatives in the two previous Congresses and by a voice vote in the Senate in 1978. We believe the need for this legislation has been demonstrated well and the time for its enactment is long overdue. We would appreciate your supporting Title VI without amendment and your voting in favor of the Depository Institutions Amendments of 1982.

Sincerely,

JOAN ALBERT DREUX,
Government Affairs Director.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I suggest the absence of a quorum, with the time to be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that we temporarily set aside the Brady amendment in order to consider an amendment of the Senator from Oklahoma (Mr. BOREN).

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1292

(Purpose: To provide for a study of optional excess deposit insurance)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 1292.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

STUDY OF OPTIONAL INSURANCE OF LARGE DEPOSITS

SEC. . The Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration Board shall jointly conduct a study of the feasibility of providing depositors of funds in institutions the deposits of which are insured by any such agency the option to purchase additional deposit insurance covering deposits in excess of the general limit provided by law. Such study shall include a consideration of the private insurance or reinsurance of any risk in excess of the general statutory limit. A report containing the results of such study shall be transmitted to the Congress not later than 6 months after the date of enactment of this Act.

Mr. BOREN. Mr. President, this is a very simple amendment, and I think it is noncontroversial, one which has been discussed with both the majority and minority managers of the bill.

It simply calls for a study by the FDIC and FSLIC of the possibility of providing additional insurance above the current $100,000 limit per account in savings and loans, and banks. Such insurance would be at the option of the depositor and would be based upon a premium which the depositor would pay to cover the full costs.

This idea to me appears to have substantial merit. It would enable persons to leave larger amounts of funds particularly in smaller institutions with greater confidence, knowing they were fully covered by insurance of the FDIC of FSLIC.

The amendment also requests that the study include examination of the possibility of allowing participation by the private sector in reinsurance of this particular program.

At this point in time I do not think we know enough to legislate the change into law without further study and without examination of those who are experts in the field and who are best able to give us the benefit of their thinking and advice.

Mr. President, this amendment simply calls for that study. It asks for a report back within 6 months of the enactment of this piece of legislation with a full range of suggestions and options by the FDIC and FSLIC.

Mr. RIEGLE. Mr. President, I rise to support the amendment and will support its inclusion within the bill. I think it makes good sense to take this step and I salute the Senator for proposing it.

Mr. GARN. Mr. President, on behalf of the majority, I am willing to accept the amendment. It does just call for a study, and I certainly have no objection to the items that the Senator wishes to be considered.

Mr. BOREN. I appreciate the comments of the Senator from Utah and the Senator from Michigan, I appreciate their consideration of this matter and their willingness to include this proposal for a study in this piece of legislation.

At this time, I would be happy to yield back all remaining time that I have on this amendment.

Mr. GARN. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BOREN).

The amendment (UP No. 1292) was agreed to.

Mr. BOREN. I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I wonder if the manager of the bill, while this discussion is continuing, might yield me 2 minutes off the bill to make a remark and have it placed at the appropriate place in the RECORD.

Mr. RIEGLE. Mr. President, I yield 2 minutes to the Senator for that purpose.

Mr. BOREN. I thank the Senator from Michigan.

Mr. President, under the unanimous-consent agreement entered into earlier I had requested time for an amendment to be offered on money market mutual funds. After listening to the discussion of the bill by the managers, understanding fully the sensitivity of the issues that are involved and the need for immediate action to help the thrift industry and also understanding bringing up new subject matter could imperil the speedy passage of this piece of legislation, in light of those considerations, Mr. President, I have decided not to offer the amendment relating to money market mutual funds at this time.

But I would say, Mr. President, that as we are making changes in the structure of financial institutions, as we are trying to assure a level playing field, as we are trying to assure each kind of institution has an equal ability to compete, I think it is very important that the committee and that the DIDC and all of those involved in making policy in this area examine the current situation in which the money market mutual funds do not have to meet some of the other regulatory restraints that are imposed on other financial institutions.

We have had a very rapid growth of dollar volume now, in excess, I am told, of $180 billion invested in these funds nationwide. I am concerned about their security. I am concerned that we protect those who are investing in them in the longrange, that we make sure that we provide the full and complete security for those investors. I am concerned that we have a level playing field. And I am also concerned about the flow of funds from the vast majority of the States of this county into two or three financial centers in this country, the kind of economic colonization of areas of the country like mine where we are seeing our funds, because of unfair competitive advantage, flow out of our traditional institutions in our own State, increasing the interest rates to borrowers in States like ours and into these centers.

I would just say, Mr. President, that, while I have decided not to offer this amendment today in deference to the desires of those who have worked so hard to come forward with a compromise piece of legislation, I do have a continuing interest in this matter. I will be continuing to push for fair treatment of all of the financial institutions and financial instruments that are involved to make sure that they have a fair competitive situation. I hope that the committee and those of the administration involved in policy making in this area will turn their attention to this problem and deal with it.

I thank the Senator from Michigan for yielding to me.

Mr. President, if it is the desire of the managers of the bill, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, passage of S. 2879—as amended by the Banking Committee's floor amendment—will strengthen our Nation's depository institutions and enhance their ability to serve the legitimate needs of their customers and communities.

The earnings problems that our thrift institutions are experiencing—by and large—are not of their own making. Rather, those problems are a consequence of the high interest rates manufactured here in Washington by ballooning Federal budgets and excessive money creation.

S. 2879 will provide for the use of what are known as "income capital certificates" to offset some—but not all—of the losses of thrift institutions suffering from high interest rates and give those institutions more time to put their own houses in order.

For institutions that are too troubled to survive alone, S. 2879 will provide an orderly process for finding an appropriate merger partner. Of great importance to me, this process will stress the need to maintain a separate thrift industry devoted to providing mortgage financing as well as the need to maintain the local and regional geographic orientation of depository institutions.

No one believes more deeply than I do in the value of competition in the marketplace. The competitive nature of our economy enables it to serve consumer needs better than any other economy in the world. The recent development of money market mutual funds is a classic example of the benefits that consumers can derive from a competitive economy.

But commercial banks and thrift institutions have for too long been forced to compete with one hand tied behind their back. Anachronistic restrictions have prevented depository institutions from developing their own products to compete with the money market funds. As a result, local depository institutions have been unable to retain locally generated savings to meet local needs for credit.

S. 2879 will enable depository institutions to begin offering products directly competitive with money market funds within 60 days of enactment.

In Texas, our State legislature has acted to liberalize the asset powers of our State-chartered savings and loan associations. The wisdom of this action by the Texas Legislature was clearly demonstrated during the recent period of high interest rates.

After the Texas Legislature acted, State-chartered S&L's in Texas continued to invest the vast majority of their assets in home mortgages, but they also began to add some short-term assets.

When interest rates rose, the yields on those short-term assets also rose, and State-chartered S&L's were able to cope with the interest-rate cycle much better than S&L's elsewhere in the country.

S. 2879 draws on this experience in Texas and gives federally chartered S&L's the ability to add more short-term assets to their portfolios. While the bill will not give Federal S&L's powers equal to those possessed by State-chartered S&L's in Texas, S. 2879 will give Federal institutions important new freedom to help themselves.

Many of the existing restrictions on commercial banks also have proved counter-productive. S. 2879 takes important steps toward relaxing some of the most burdensome of these restrictions including excessive limits on loans to a single borrower, excessive limits on a bank holding company's ability to move funds among subsidiaries, and excessive reporting requirements.

Mr. President, S. 2879 does not solve all of the problems and competitive inequities in our financial-services industry. It does, however, make a significant beginning toward solving some of those problems and competitive inequities.

In urging my fellow Senators to support S. 2879, I commit myself—as chairman of the Financial Institutions Subcommittee—to continuing work as soon as the 98th Congress convenes, on solving the remaining problems and competitive inequities in our Nation's financial-services industry.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COHEN). Without objection, the time of the quorum call will be charge equally to both sides. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I further ask unanimous consent that the Brady amendment be temporarily set aside to consider an amendment by the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

AMENDMENT NO. 3615

(Purpose: To authorize securities activities)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an amendment numbered 3615.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE VIII—SECURITIES ACTIVITIES AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 801. (a) Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is amended by inserting after the first paragraph the following:

"Notwithstanding any other provision of this section, a member bank may be affiliated in any manner described in subsection (b) of section 2 with a bank securities affiliate as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)), subject to section 16 and the limitations contained in section 4(c)(14) of the Bank Holding Company Act of 1956.".

(b) Section 16 of the Banking Act of 1933 (12 U.S.C. 24 (Seventh)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this paragraph, any eligible association may acquire captial stock of any bank securities affiliate as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)). An 'eligible association' is any bank that has assets of less than $100,000,000 and that is not controlled by a bank holding company, as such terms are defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)). An association shall cease to be an eligible association one year after (A) its assets exceed $100,000,000 at the end of three consecutive fiscal quarters, or (B) a bank holding company acquires control of such association. The term 'eligible association' also includes a bank which is organized solely to do business with other banks and their officers, directors, or employees; is owned primarily by the banks with which it does business, none of which owns more than 5 per centum of any class of its voting securities; and does not do business with the general public.".

(c) Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by adding at the end of the first paragraph the following: "Notwithstanding any other provision of this section, an officer, director, or employée of any member bank may serve at the same time as an officer, director of employee of any of its bank securities affiliates. The term 'bank securities affiliate' shall have the meaning ascribed to it in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)).".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 802. (a) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following:

"(j) The term 'bank securities affiliate' means any corporation that (1) is engaged in the United States in one or more of the activities authorized pursuant to section 4 (c)(14) of this Act, and (2) is a broker or dealer within the meaning of section 3 (a) (4) or (5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4) or (5)), or an investment adviser within the meaning of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)). A corporation engaged in any such activities shall be deemed to be a bank securities affiliate only so long as it is owned or controlled by a bank holding company or by an eligible association as defined in section 16 of the Banking Act of 1933 (12 U.S.C. 24 (Seventh)).".

(b) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following:

"(14) shares of any bank securities affiliate engaged in activities in accordance with the limitations contained in this paragraph. A bank securities affiliate may—

"(A) conduct any securities or securities-related activity that a bank is not prohibited from conducting;

"(B) deal in and underwrite obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof any agency or instrumentality of either of the foregoing (except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954);

"(C) organize, sponsor, operate, control or render investment advice to an investment company, as such term is defined in section 3 of the Investment Company Act of 1940;

"(D) underwrite, distribute, and sell securities of an investment company, as such term is defined in section 3 of the Investment Company Act 1940.".

(c) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c) The Board from time to time may require reports of a bank holding company under oath to keep the Board informed as to whether such holding company has complied with the provisions of this chapter and such regulations and orders issued thereunder. The Board may further require separate reports from subsidiaries of bank holding companies consisting of (1) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (2) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act which are engaged in the same or similar lines of business, not more frequently than quarterly. The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which shall be assessed against, and paid by, such holding company, except that an examination of a nonbank subsidiary of a bank holding company shall be limited to operations of such subsidiary affecting the affairs of any subsidiary bank of such bank holding company. Notwithstanding any other provision of this section, such examinations or reporting requirements shall not be so limited if the Board makes a finding that the financial condition of the subsidiary is likely to have a materially adverse effect on the safety and soundness of the bank subsidiary. The Board shall, as far as possible, use the reports of examinations made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation or the appropriate State supervisory or regulatory authority for purposes of this section.".

AMENDMENT TO THE FEDERAL RESERVE ACT

SEC. 803. (a) The Federal Reserve Act is amended by inserting after section 23A the following:

"SEC. 23B. (a) A member bank and its subsidiaries may engage in any of the following transactions, only on terms and under circumstances, including credit standards, substantially the same as, or not less favorable to such bank or its subsidiary than, those prevailing at the time for comparable transactions with or involving other nonaffiliated companies or, in the absence of comparable transactions, those that in good faith would be offered to, or would apply to nonaffiliated companies:

"(1) any covered transaction, as defined in section 23A, with an affiliate;

"(2) a sale of securities or other assets, including assets subject to an agreement to repurchase, to an affiliate;

"(3) a payment of money or furnishing of services to an affiliate, under a contract, a lease, or otherwise;

"(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person; or

"(5) any transaction or series of transactions with a third party (A) if an affiliate has a financial interest in the third party, or (B) if an affiliate is a participant in such transaction or series of transactions.

For the purpose of this subsection, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate of such bank to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) A member bank and the affiliates of such bank shall not publish any advertisement suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

"(c) A member bank and any subsidiary of such bank—

"(1) shall not purchase as fiduciary any securities or other assets from any affiliate unless lawfully authorized by the instrument creating the fiduciary relationship, by court order, or by local law; and

"(2) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is a bank securities affiliate of such bank; except that this prohibition shall not apply where the securities to be purchased have been approved by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof (or, if there are no such directors, a majority of the directors of the company owning such bank who are not officers or employees of such company, of the bank, or of any affiliate thereof).

For the purpose of this paragraph, the term 'security' means a 'security' as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)); and the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(d) For the purpose of this section—

"(1) the term 'affiliate' means a bank securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956; and

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (c)) have the same meanings given to them in section 23A.".

(b) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1820(j)) is amended—

(1) by inserting "and section 23B" after "section 23A" each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 804. Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by inserting the following clause after the second comma in such subsection: "to the extent that such subsidiary shall engage in any action which may affect the safety and soundness of any bank which is directly or indirectly owned or controlled by such bank holding company or otherwise violate any banking law, rule, regulation or order.".

AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 805. (a) Section 17(f)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)(1)) is amended by inserting after "unit investment trusts" the following: ", except that it shall be unlawful for a registered management company which is organized, sponsored, operated or controlled by, or which receives investment advice from, any bank securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)), to place and maintain its securities and similar investments in the custody of a bank which is affiliated with such bank securities affiliate".

(b) Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "so published)" the following: ", except that it shall be unlawful for such trust indenture, agreement of custodianship, or other instrument to designate as trustee or custodian any bank which is affiliated with a bank securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)), which organizes, sponsors, operates or controls such registered unit investment trust".

(c) Section 27(c)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-27(c)(2)) is amended by inserting after "trust indentures of unit investment trusts" the following: ", expect that it shall be unlawful to deposit such proceeds with any bank which is affiliated with a bank securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)), which organizes, sponsors, operates, controls or renders investment advice to such registered investment company.".

AMENDMENT TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970

SEC. 806. Section 106(d)(1) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(1)) is amended by striking out "A bank shall not" at the beginning of such subsection and inserting in lieu thereof the following: "No bank or any subsidiary of a bank holding company shall".

AMENDMENT TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 807. Section 5(c)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

"(R) SECURITIES AFFILIATES.—Any eligible association may acquire capital stock of any savings association securities affiliate, as defined in section 408(a)(1)(K) of the National Housing Act (12 U.S.C. 1730(a)(1)(K)). An 'eligible association' is any stock association or stock savings bank that has assets of less than $100,000,000 and that is not controlled by a savings and loan holding company or any mutual association or mutual savings bank that has assets of less than $100,000,000, as such terms are defined in section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)). An association or savings bank shall cease to be an eligible association one year after (1) its assets exceed $100,000,000 at the end of three consecutive fiscal quarters, or (ii) a savings and loan holding company acquires control of such association or savings bank. Any association which is not an eligible association may acquire and hold not more than 5 per centum of any class of voting securities of a savings association securities affiliate.".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 808. (a) Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a) (1)) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following:

"(K) 'Savings association securities affiliate' means any corporation that (i) is engaged in the United States in one or more of the activities described in section 408(c)(3) of this Act, and (ii) is a broker or dealer within the meaning of section 3 (a) (4) and (5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c (a) (4) and (5)), or an investment adviser within the meaning of section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2 (a) (11)). A corporation engaged in any such activities shall be deemed to be a savings association securities affiliate only so long as it is directly controlled by one or more eligible associations as defined in section 5(c)(1)(R) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (c) (1) (R)), by other associations meeting the requirements of the last sentence of such section, or by an insured institution that would meet such definition if it were federally chartered.".

(b) Section 408(b) of the National Housing Act (12 U.S.C. 1730a(b)) is amended by adding at the end thereof the following:

"(7) The Corporation may require separate reports from subsidiaries of holding companies consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act which are engaged in the same or similar lines of business, not more frequently than quarterly. An examination of a subsidiary of a holding company, other than an insured institution, shall be limited to operations of such subsidiary affecting the affairs of any insured

institution of such holding company. Notwithstanding any other provision of this subsection, such examinations or reporting requirements shall not be so limited if the Corporation makes a finding that the financial condition of the subsidiary is likely to have a materially adverse effect on the safety and soundness of the insured institution. The Corporation shall, as far as possible, use the reports of examinations made by the appropriate State supervisory or regulatory authority for purposes of this paragraph.".

(c) Section 408(c)(2) of the National Housing Act (12 U.S.C. 1730a(c)(2)) is amended—

(1) by striking "or" at the end of clause (E);

(2) by redesignating clause (F) as clause (G); and

(3) by inserting after clause (E) the following: ", (F) acquiring and holding shares of any savings association securities affiliate engaged in activities in accordance with the limitations contained in paragraph (3) of this subsection, or".

(d) Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended by adding at the end thereof the following:

"(3) Without limitation of any other authority provided under this Act, a savings association securities affiliate may—

"(A) conduct any securities or securities-related activity that a savings association is not prohibited from conducting;

"(B) organize, sponsor, operate, control, or render investment advice to an investment company, as such term is defined in section 3 of the Investment Company Act of 1940; and

"(C) underwrite, distribute, or sell securities of any investment company.".

(e) Section 408(d)(1) of the National Housing Act (12 U.S.C. 1730a(d)(1)) is amended by inserting "or a savings association securities affiliate" immediately after "corporation".

(f) Section 408 of the National Housing Act (12 U.S.C. 1752a) is amended by adding at the end thereof the following:

"(o) Not later than 30 days after the date of enactment of this subsection, the Corporation shall prescribe regulations governing transactions between insured institutions and their savings association securities affiliates. Such regulations shall contain provisions identical, to the extent appropriate, to sections 23A and 23B of the Federal Reserve Act.".

AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

SEC. 809. (a) Title I of the Federal Credit Union Act is amended by adding at the end thereof the following:

"SECURITIES AFFILIATES

"SEC. 128. (a) An eligible credit union may acquire capital stock of any credit union securities affiliate, as defined in subsection (b). An 'eligible credit union' is any credit union that has assets of less than $100,000,000. A credit union shall cease to be an eligible credit union one year after its assets exceed $100,000,000 at the end of three consecutive fiscal quarters. Any credit union which is not an eligible credit union may acquire and hold not more than 5 per centum of any class of voting securities of a credit union securities affiliate.

"(b) The term 'credit union securities affiliate' means any corporation that (1) is engaged in the United States in one or more of the activities described in subsection (c), and (2) is a broker or dealer within the meaning of section 3(a)(4) and (5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4) and (5)), or an investment adviser within the meaning of section 202(a)(11) the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)). A corporation engaged in any such activities shall be deemed to be a credit union securities affiliate only so long as it is owned or controlled by one or more eligible credit unions or by other credit unions meeting the requirements of the last sentence of subsection (a).

"(c)(1) A credit union securities affiliate may—

"(A) conduct any securities or securities-related activity that a credit union is not prohibited from conducting;

"(B) organize, sponsor, operate, control, and render investment advice to an investment company, as such term is defined in section 3 of the Investment Company Act of 1940; and

"(c) underwrite, distribute, and sell securities of an investment company, as such term is defined in section 3 of the Investment Company Act 1940.

"(d) Not later than 30 days after the date of enactment of this section, the Board shall prescribe regulations governing transactions between credit unions and their credit union securities affiliates. Such regulations shall contain provisions identical, to the extent appropriate, to sections 23A and 23B of the Federal Reserve Act.

"(e) The Board may require separate reports from credit union securities affiliates consisting of (1) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (2) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) and the rules and regulations thereunder by companies subject to the reporting requirements of such Act which are engaged in the same or similar lines of business, not more frequently than quarterly. An examination of a subsidiary of a credit union shall be limited to operations of such subsidiary affecting the affairs of the credit union. Notwithstanding any other provision of this subsection, such examinations or reporting requirements shall not be so limited if the Board makes a finding that the financial condition of the subsidiary is likely to have a materially adverse effect on the safety and soundness of the credit union.".

(b) Section 107(7) of such Act (12 U.S.C. 1757(7)) is amended by striking out "and (J)" and inserting in lieu thereof "(J) in securities of a credit union securities affiliate as provided in section 128; (K)".

At the end of the table of contents, add the following:

TITLE VIII—SECURITIES ACTIVITIES

Sec. 801. Amendments to the Banking Act of 1933.
Sec. 802. Amendments to the Bank Holding Company Act of 1956.
Sec. 803. Amendments to the Federal Reserve Act.
Sec. 804. Amendments to the Federal Deposit Insurance Act.
Sec. 805. Amendments to the Investment Company Act of 1940.
Sec. 806. Amendments to the Bank Holding Company Act Amendments of 1970.
Sec. 807. Amendments to the Home Owners' Loan Act of 1933.
Sec. 808. Amendments to the National Housing Act.
Sec. 809. Amendments to the Federal Credit Union Act.

Mr. CHAFEE. Mr. President, the amendment which is under consideration now does two things:

First, permit depository institutions to sponsor and sell shares in mutual funds, including money market mutual funds; and second, authorize banks to underwrite municipal revenue bonds. More specifically, the amendment would authorize the establishment of bank securities affiliates, which would be permitted to: First, organize, sponsor, operate, control, underwrite, and distribute shares in investment companies, including mutual funds; and second, underwrite and deal in municipal revenue bonds.

In addition, a bank securities affiliate could engage in any securities-related activity in which a bank can engage.

The amendment would also expressly authorize the formation of savings association securities affiliates and credit union securities affiliates which would be authorized to operate, sponsor, advise, and distribute shares in investment companies. These affiliates would be generally analogous to bank securities affiliates but would be affiliated with savings and loan associations, mutual savings banks, and credit unions.

The amendment makes certain distinctions between first, different sized institutions and second, different categories of depository institutions, in terms of the permissible corporate relationships between depository institutions and securities affiliates. These distinctions are intended to recognize the needs of smaller institutions and to provide equally for separation of new securities activities from the existing activities of such institutions.

I will discuss these powers separately. First, let me discuss mutual fund powers for depository institutions.

This provision is based on a bill which I introduced a year and a half ago in response to the dramatic changes that then and now continue to sweep the financial world.

Mr. President, these changes and innovations have been well documented before the Banking Committee. But, one need not have followed the committee's hearings to know of the incursions into the banking world by nondepository institutions.

The Daily newspapers are replete with articles describing new combinations and bank-like services being offered by nonbanking institutions.

This is good—and I endorse the creativity and competition this reflects. In fact, when Congress was considering imposing reserve requirements on money market mutual funds to reduce

their competitive effect on banks, I opposed such efforts.

That nonbanking institutions have taken on the banks in competition for customer accounts can only be beneficial to the consumer. But, at the same time, to allow this competition, while continuing to preclude depository institutions themselves from effectively competing in providing financial services, is both unnecessary, from a safety and soundness viewpoint, and grossly unfair.

That is why, almost a year and a half ago, I introduced legislation to allow banks and thrifts to offer mutual funds.

Mr. President, while this is a significant proposal, it is by no means radical. The mutual fund provision has been before the Congress for many years. In fact, it was passed by the Senate before. The powers it would grant differ only in degree from those banks have now. Banks presently act as investment advisers to investment companies—including money market mutual funds. They manage employee benefit plans, and individual retirement accounts. They can invest individual agency accounts and invest trust, guardianship, and estate accounts individually and collectively. But, what they cannot do is to take the individual agency accounts and invest them collectively. This means that my bank can take my small investment and acting as agent invest it for me in low denomination instruments. But, it cannot, for example, take my money and that of other customers and pool the funds to purchase say, a $100,000 instrument, which pays significantly higher yields than that which my money could obtain by itself. This means that the small investor is denied not only these higher yields, but also the diversification and, therefore, safety that pooled investments would provide.

My proposal would benefit the small investor by making available from depository institutions, investment service that was previously available only to the wealthy. Money market and other mutual funds will become more widely and conveniently available.

Now some would argue that mutual fund powers are unnecessary because the pending bill calls for the Depository Institutions Deregulation Committee to authorize a deposit instrument that is directly competitive with money market mutual funds.

It is true that so-called competitive instrument is an important measure which will help depository institutions retain their customer base. But, it addresses only the money market fund part of the problem. Indeed, the pressure to authorize money market funds is being reduced naturally as interest rates decline. Money market funds are only one kind of mutual fund. There are many others and for many institutions these other kinds of mutual funds are more important than money market funds to their ability to compete with financial service institutions offering diverse customer services.

Now let me turn to the revenue bond underwriting portion of my amendment.

As I mentioned earlier, the amendment would allow banks to underwrite municipal revenue bonds. Like mutual fund powers, I view this as an important but hardly a radical extension of existing bank authority as banks are currently authorized to underwrite general obligation bonds, and, indeed, some kinds of revenue bonds as well.

When the limitation on underwriting was first enacted half a century ago, general obligation bonds were the predominant kind of bond issues. Now, however, revenue bonds account for over 70 percent of municipal bond issues. But, the arbitrary and anachronistic restraint on bank activity in this area remains.

In my view, authority for bank underwriting in this area is a logical extension of current bank securities activities. Like mutual fund powers, it can only result in increased competition, which in this case may result in lower costs. Clearly, such an effect can only benefit the public.

It has been argued that mutal fund and revenue bond underwriting powers for depository institutions would breach the separation of banking and commerce. First, this separation was never absolute. As I noted, some securities powers were permitted to banks even at the time the line of distinction was first drawn, and many others have been permitted over the years. And, I would add that these powers are certainly no greater a breach than the export trading company powers approved by the Banking Committee and by the full Senate and House. In any case, I believe the prohibitions in mutual fund and revenue bond activities have no continuing utility now in view of the changes taking place in the financial world.

There are some who would say consideration of my amendment should be delayed so that more information can be obtained.

Well, I do not know what we have been doing the last 2 years in the Banking Committee if not getting information on this proposal, both on its own merits, and in the context of comprehensive banking deregulation; 4 days of hearings were held on this issue alone before the Securities Subcommittee, and bank securities powers were a consistent part of the weeks of comprehensive oversight hearings held by the full Banking Committee. Moreover, both mutual fund powers and revenue bond underwriting have been before the Congress for many years, and both have previously passed the Senate. What additional information can possibly be needed now is not immediately apparent to me, to say the least.

The amendment reflects many of the suggestions made at these hearings. I believe it accommodates all of the substantive concerns that were raised during the hearings and in the detailed discussions with industry and agency representatives over the past year and a half. Because the amendment now would place these activities in a separate holding company subsidiary, the proposal insures equality of regulation and taxation. This separation of the deposit taking and securities functions also insures the integrity of insured deposits. Indeed, I believe the separation of securities activities I have provided goes even further than necessary to preserve these interests. But, I note, the additional protections are included to accommodate all concerns.

Mr. President, I believe my amendment will provide a measure of equity for our depository institutions by allowing them to compete with the nondepository institutions. Increased competition can only benefit the public.

Mr. President, I urge my colleagues' favorable consideration of this amendment.

Mr. GARN. Mr. President, I support the Senator from Rhode Island. As he told the Senate, in the original title of this bill, known as S. 1720, I did offer money market mutual fund and municipal revenue bond authority for banks. I continue to believe that these authorities should be in this bill as strongly as I did a year ago. I could not possibly agree more with my distinguished colleague.

But I have to face the fact that I have learned to count since I have been in the Senate, and I simply had fewer votes than the other side on this particular issue. So it is not in. But the entire committee agreed to revisit this issue next year. I promise the Senator from Rhode Island that we will. It is only temporarily removed. We will be back and we will consider not only this issue but others next year. Although I support exactly what he is saying, I would hope in the interest of getting this bill through that he would consider withdrawing his amendment at this time.

Mr. CHAFEE. Mr. President, I appreciate the position that the distinguished chairman of the committee is in.

I would like to direct a couple of questions, if I might, to the chairman. These issues are of tremendous importance to the banking industry, and the commercial banks especially. The legislation we are considering today does something for the thrifts. There is no question about it.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Rhode Island has the floor.

Mr. CHAFEE. Mr. President, the legislation we are considering today broadens the powers of the thrifts, helps the thrifts. That is good. But at the same time, it does not broaden the powers of the commercial banks to compete. I believe so strongly that in fairness those powers should be broadened. They are being hit from the one side by the increased powers of the thrifts; on the other side not from the expanded powers but just the innovativeness and imaginativeness that is coming from the securities industry, and that is fine. But at the same time, to keep one group in the middle with restricted powers, unable to expand into those areas, is to me patently unfair.

The distinguished chairman of the committee has said he could count, and I am confident that he can.

My question to the chairman of the committee is as follows: He indicated that he wants to tackle these issues next year. Could I review with the chairman how high would he rate these issues on his agenda? He has a lot of issues coming before him. But as he sees the calendar ahead for next year, where would he place these issues we are discussing today, specifically, authority for commercial banks to sponsor and sell shares in mutual funds and, second, authority to underwrite municipal revenue bonds?

Mr. GARN. I believe the Senator from Rhode Island knows how I am still smarting from the fact that I could not get them through this year. I was disappointed that I could not have them in this package. I will answer the question in that way, that they will be the highest priority that I have, to start working on them at the beginning of the 98th Congress.

I told a group of people the other day that, from their standpoint, they may not be happy about it, but I would be here at least until January of 1987. They could not get rid of me before then, so they could expect that these issues would be revisited soon.

Mr. CHAFEE. Mr. President, that is very reassuring.

I might ask the distinguished ranking minority member of the committee. He does not have the ability to guarantee us he will be here until January of 1987.

Mr. FORD. Neither does the Senator from Rhode Island.

Mr. CHAFEE. Neither do I, that is quite sure.

I do ask him, Mr. President, if the fates smile on him, what would his attitude be toward tackling this matter?

Mr. RIEGLE. Mr. President, I begin by saying it is my presumption that the Senator from Rhode Island is hopeful that we shall both be here. I assume that is his feeling.

In any event, I have said repeatedly to my colleague (Mr. GARN)—and I say to the Senator from Rhode Island now—that the issues which have not been dealt with in this bill have not gone away. I think they will have to be addressed. There will be full hearings on them. I think it is in all parties' interest to have a chance to speak to them and that these items be considered fully and carefully. I expect they will be. If I am here, I intend to be an active participant in that effort.

Mr. CHAFEE. I thank the distinguished ranking member for that. I appreciate his assurances that this will be taken up to the extent he can do so.

Mr. President, on the basis of the assurances given me by the distinguished chairman and the distinguished ranking member, I am prepared to withdraw my amendment. I do so and yield back the remainder of my time.

The PRESIDING OFFICER. The amendment (No. 3615) was withdrawn.

UP AMENDMENT 1293

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1293.

At the appropriate place insert: Section 4(a)(2) of the Bank Holding Company Act of 1956 (18 U.S.C. 1843(a)(2)), as amended, is further amended by striking the phrase "December 31, 1982" in the last paragraph and substituting therefor the phrase "December 31, 1984."

Mr. CRANSTON. Mr. President this amendment extends the deadline for bank holding companies to divest themselves of real estate or interest in real estate. The deadline for divestiture is December 31, 1982, and the amendment would extend that deadline until December 31, 1984.

Although bank holding companies have had 12 years to divest themselves of interest in real property, the adverse economic climate of the real estate market in the last 2 years has precluded divestiture in some cases. In 1970, Congress gave bank holding companies 10 years to divest but, in 1980, Congress recognized that it would create a great hardship on bank holding companies to divest immediately and the deadline was extended in 1980 for another 2 years. Unfortunately, the economy has experienced much difficulty since the 1980 extension making divestiture difficult. I am hopeful that the Senate will accept my amendment and extend the deadline. I understand that it has been cleared on both sides.

Mr. GARN. Mr. President, the amendment is acceptable to the majority.

Mr. RIEGLE. I accept the amendment Mr. President.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GARN. I yield back my time.

Mr. RIEGLE. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1293) was agreed to.

Mr. RIEGLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, before we proceed any further, I want everybody to understand how we are proceeding. There is an understanding that we shall not have any votes past 4 o'clock today. Because we now have 35 mintues before that cutoff period, I think it is very important that we try to conclude this matter before that time. Therefore, I am going to ask all my colleagues, at least those on this side of the aisle, to be understanding so that we may dispose of these issues within the time given.

AMENDMENT 3617

Mr. RIEGLE. I understand that the amendment that has been pending by Senator BRADY is ready for disposition.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, we are returning to the Brady amendment. I understand the time has expired. I yield Senator BRADY time off the bill to pursue his amendment.

Mr. BRADY. Mr. President, I have no desire to hold up the proceedings here on this very important matter. I only point out that the amendment I have offered provides considerable protection to the consumer. He is given a chance, if he buys his insurance from a bank holding company, to shop that insurance for 30 days.

I also point out that the amendment applies to all creditors who sell insurance and not just a few bank holding companies.

My amendment, if accepted, would provide no exemption for small bank holding companies, which, will provide more protection for the independent insurance agent. So I would like to have it entered in the RECORD that I have no objection to moving on with the banking bill. I am willing to withdraw my amendment.

I ask the chairman of the committee, if I do withdraw my amendment, that he give me his agreement that, in conference, the points that have been made here this afternoon and the points that are contained in my amendment will get a hearing.

Mr. GARN. Mr. President, the Senator from New Jersey is being very co-

operative under the circumstances. I point out that the House version of this particular bill is very limited by comparison. The House version has similar proposals of title 1 and title 2, but none of the others. There is no similar provision to title 6 in the House bill. Therefore, in the conference, I can guarantee that this will be an item of disagreement.

It is not a matter of choice, Mr. President, because they do not have the provision and we do have the provision in title 6. It will be an item of conference disagreement and will be discussed and some disposition will have to be made between the two points of view, between the House and the Senate version.

The PRESIDING OFFICER. Does the Senator from New Jersey withdraw his amendment?

Mr. BRADY. Mr. President, I am willing to withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment (No. 3617) was withdrawn.

UP AMENDMENT 1294

Mr. BRADY. Mr. President, I have an amendment which I send to the desk to be read. This amendment, I understand, is acceptable to the floor managers.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from New Jersey.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADY) proposed an unprinted amendment numbered 1294.

Mr. RIEGLE. Does the Senator have copies of the amendment?

Mr. BRADY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 160, line 23, after "October 7, 1981" add the following: "(for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1980, of another company engaged in such activities at the time of the acquisition)".

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Do we have a copy of the amendment at the desk?

The PRESIDING OFFICER. There is an original at the desk. A copy will be made and distributed to the Senators.

Mr. FORD. The Senator from Kentucky would be very pleased if he could have a copy of the amendment.

Mr. GARN. Mr. President, while Senators are receiving copies of the amendment, I might just explain that the main purpose of the amendment is to change the grandfather date. In the bill, it was October 7, 1981. The only reason that date was picked is that that was the day that I introduced S. 1720 and, therefore, people were assumed to be put on notice that these changes might possibly be made in the laws.

Obviously, nearly a year has transpired since that time and the bill has not yet been enacted, so this is a simple amendment that would change that grandfather date and allow those banking institutions who had applications pending before the Federal Reserve prior to May 1, 1982, to have those pending applications considered by the Fed rather than the previous October 7 date.

Now, after the great controversy over this amendment, the original amendment, and title VI, I believe it is extremely cooperative and helpful of Senator BRADY to withdraw his original amendment and offer this second amendment, and on behalf of the majority, I certainly would be willing to accept the amendment.

Mr. FORD. Mr. President will the Senator yield? Will the Senator from New Jersey yield for a question?

Mr. GARN. I would be happy to yield time.

Mr. FORD. I do not have to have time yielded to me. I just want to ask questions.

Will the Senator from New Jersey yield? It is his amendment.

Mr. BRADY. I yield to the Senator from Kentucky.

Mr. FORD. Will the Senator from New Jersey advise the Senator from Kentucky what is meant when October 7, 1981, is stricken out of the original Boschwitz amendment, I guess it is, and then add "an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of"—I am not sure—"the acquisition by such company pursuant to a binding written contract"? I do not understand what we are doing. If this is a copy of the amendment that is at the desk, I need some clarification.

Mr. BRADY. Mr. President, I suggest the absence of a quorum so that I may confer with the Chairman as to the acceptability of this amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I withdraw my question.

Mr. GARN. Mr. President, may I respond so that everybody understands.

I appreciate the Senator from Kentucky withdrawing his question, but let me see if I can clarify it so that everybody understands.

We are changing the grandfather date from October 7, 1981, to May 1, 1982, with this amendment. Under this amendment, insurance activities engaged in or approved to be conducted by specific bank holding companies on or before May 1, 1982, are grandfathered. Also, those who have an application pending before the Board by May 1, 1982, to engage in such activities, were such application is subsequently approved by the Board; and those who were a party to a binding written contract to acquire another company engaged in such activities which was entered into on or before May 1, 1982, would be eligible for the grandfathered treatment.

That is as simple as I can explain it, and I hope that clarifies it.

Mr. EAGLETON addressed the Chair.

Mr. TSONGAS. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Just 30 seconds.

I must say that the explanation of the Senator from Utah is preeminently correct.

Mr. GARN. I will yield to the Senator from Massachusetts for a question.

Mr. TSONGAS. I thank the Senator from Utah and the Senator from Michigan. There are a number of institutions that were caught in this bind through no real fault of their own, and we appreciate the willingness of the Members to be cooperative.

I ask the Senator from New Jersey if he will list me as a cosponsor of the amendment.

Mr. BRADY. Mr. President, I ask unanimous consent that the Senator from Massachusetts (Mr. TSONGAS) be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask for immediate consideration of the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. GARN. I yield back my time.

Mr. BRADY. I yield back my time.

Mr. RIEGLE. Are there any requests for time on my side at this point?

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question now is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1294) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I believe Senator BOREN has an amendment to be considered.

UP AMENDMENT NO. 1295

Mr. BOREN. Mr. President, on behalf of myself and the Senator from Nebraska (Mr. EXON), I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself and Mr. EXON, proposes an unprinted amendment numbered 1295.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following: "On and after September 24, 1982 all federal savings and loan associations and federal savings and loan banks shall be subject to the same conditions under state or federal law upon which a national bank may establish and operate branches as to branches established after September 24, 1982."

Mr. BOREN. Mr. President, if I may have the attention of my colleagues, I will try to be as brief as possible and not utilize the full amount of time authorized for this amendment because I know we are under time constraints; we need to have final action on this piece of legislation today.

In cutting short the time, I do not want to underestimate the importance which I attach to this amendment. I hope that my colleagues, both on the floor and listening in their offices will give full consideration to the content of this amendment. It simply says that after the adoption of this act, from this day forward, September 24, 1982, savings and loan associations establishing new branches—new branches; it says nothing about branches which they already have in existence—shall meet the same requirements under the law of the State in which they are located as applied to banks within those States.

I think it is very important that we do not prejudice the decision which is to be made at the State and local level in regard to the question of branch banking. In my own State, for example, it is a very lively issue, one which will undoubtedly be before our State legislature next year. Under our State law, savings and loan associations may have branch offices, banks may not. The argument is already being raised that if we are going to broaden the powers of savings and loan institutions into areas that have previously been given to banks, banks must be allowed the same privileges. Therefore, perhaps unintentionally, we would be injecting ourselves into decisions which should be made at the State level.

This amendment will simply allow that decision to be made at the State level. It will not prejudice that decision. It will give States time to decide for themselves, in those instances where savings and loans have more liberal branching powers than do banks, whether or not they want to apply the more restrictive rule traditionally applied in many States to banks and all institutions in the future or whether they want to apply the more liberal rules that have generally applied to savings and loan associations.

I think it is an important amendment. I, for one, am concerned about further concentration of economic power in financial institutions.

I should like to preserve, to the maximum extent possible, the existence of local financial institutions able to provide personal service, able to weigh the reputation of individual customers.

I recall a recent discussion with a small businessman, a self-made person, who had become a financial success, who indicated to me that if he had had to deal with a large and impersonal institution not located in his own home community, he undoubtedly would never have been able to receive the credit necessary to start his own business, which, because of his own efforts has become a success.

It is important in terms of the maintenance of economic freedom and economic opportunity in our country that we allow for the continued existence of small, community-based financial institutions. I urge my colleagues to seriously consider the content of this amendment, an amendment to allow the States to set their own standards, before voting on it.

Mr. President, at this time I yield to the Senator from Nebraska, who is a cosponsor of this amendment, for his comments.

Mr. EXON. I thank the Senator from Oklahoma. I will be very brief.

Mr. President, the Senator from Oklahoma has stated the case very well. I have opposed generally the rash of activities from many quarters to revolutionize the financial structure of the United States. It has been going on for some time. During my years as Governor, I opposed the overproliferation of new financial institutions in all quarters. Whatever we turned down—a bank charter or a savings and loan charter—it was almost automatic for the Feds to come in and say, "The more the better." The more the better is not necessarily true with regard to our financial institutions.

The amendment offered by the Senator from Oklahoma and me simply says that if we are going to have more proliferation in the States, it is important that when we establish new branch offices, they meet the same requirements of other institutions with regard to revenues.

I point out in closing, Mr. President, that a rather significant thing has been going on in this country for some time. Through the proliferation of our financial institutions we have been contributing to taking the money out of the communities and transferring that money to large financial centers and, with it, considerable economic power.

I hope that the Boren amendment will be accepted.

Mr. BOREN. Mr. President, I thank my colleague from Nebraska.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GARN. Mr. President, many Senators are waiting to leave, so I simply say that I oppose the amendment. Even apart from my statement earlier that I would oppose all amendments, I oppose the substance of this amendment, and I move to table the amendment.

Mr. RIEGLE. Mr. President, will the Senator withhold his motion to table?

Mr. GARN. Yes.

Mr. RIEGLE. Mr. President, it is my understanding that no other amendments are pending and that there has been no request for a recorded vote on final passage. Were there to be, that vote could not be taken today but would be carried over to next week. It is my hope that we could vote on final passage on a voice vote.

Mr. GARN. That is not right. We have 16 minutes.

I renew my motion to table.

Mr. BOREN. Mr. President, I request the yeas and nays on the tabling motion.

The PRESIDING OFFICER. Do all Senators yield back their time on the amendment?

Mr. BOREN. I yield back the remainder of my time.

Mr. GARN. I yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, this vote will end at 4 p.m.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from Tennessee (Mr. BAKER), the Senator from Missouri (Mr. DANFORTH), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from Georgia (Mr. MATTINGLY), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), the Senator from Idaho (Mr. SYMMS), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Georgia (Mr. MATTINGLY) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), the Senator from Tennessee (Mr. SASSER), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) are necessarily absent.

The PRESIDING OFFICER (Mr. MURKOWSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 11, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—67

Abdnor	Gorton	Moynihan
Armstrong	Grassley	Nunn
Biden	Hart	Packwood
Boschwitz	Hatch	Pell
Brady	Hawkins	Percy
Bumpers	Heinz	Pressler
Burdick	Helms	Pryor
Byrd, Robert C.	Hollings	Quayle
Chafee	Huddleston	Randolph
Chiles	Humphrey	Riegle
Cochran	Inouye	Roth
Cohen	Jackson	Rudman
Cranston	Jepsen	Sarbanes
D'Amato	Johnston	Schmitt
Denton	Kassebaum	Specter
Dixon	Kasten	Stennis
Domenici	Laxalt	Stevens
Eagleton	Leahy	Thurmond
East	Levin	Tower
Ford	Lugar	Tsongas
Garn	Matsunaga	Warner
Glenn	McClure	
Goldwater	Mitchell	

NAYS—11

Baucus	Exon	Nickles
Boren	Heflin	Proxmire
Bradley	Long	Zorinsky
Dole	Murkowski	

NOT VOTING—22

Andrews	Dodd	Metzenbaum
Baker	Durenberger	Sasser
Bentsen	Hatfield	Simpson
Byrd, Harry F., Jr.	Hayakawa	Stafford
	Kennedy	Symms
Cannon	Mathias	Wallop
Danforth	Mattingly	Weicker
DeConcini	Melcher	

So the motion to lay on the table Mr. BOREN's amendment (UP No. 1295) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, that is the last rollcall vote of the day. There will be no more rollcall votes today.

UP AMENDMENT NO. 1296

(Purpose: Provide parity to nonfederally chartered housing creditors with federally chartered institutions with respect to alternative mortgage instruments)

Mr. GARN. I send an amendment to the desk on behalf of Senator HEINZ. This amendment has been agreed to by both Senator RIEGLE and myself, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MURKOWSKI). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN), for Mr. HEINZ, proposes an unprinted amendment numbered 1296.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following title at the end of the bill:

TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

SHORT TITLE

SEC. 801. This title may be cited as the "Alternative Mortgage Transaction Parity Act of 1982".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impaired the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this title to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "alternative mortgage transaction" means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 603(6) of the National Manufactured Home Consturction and Safety Standards Act of 1974)—

(A) in which the interest rate or finance charge may be adjusted or renegotiated;

(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of interval shorter than the term of the amortization schedule; or

(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation;

described and defined by applicable regulation; and

(2) the term "housing creditor" means—

(A) a depository institution, as defined in section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

(B) a lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

(C) any person who regularly makes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a "housing creditor" with respect to a specific alternative mortgage transaction if, except for this title, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

ALTERNATIVE MORTGAGE AUTHORITY

SEC. 804. (a) In order to prevent discrimination against State-chartered depository institutions, and other nonfederally chartered housing creditors, with respect to making, purchasing, and enforcing alternative mortgage transactions, housing creditors may make, purchase, and enforce alternative mortgage transactions, except that this section shall apply—

(1) with respect to banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Comptroller of the Currency for national banks, to the extent that such regulations are authorized by rulemaking authority granted to the Comptroller of the Currency with regard to national banks under laws other than this section;

(2) with respect to credit unions, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulations are authorized by rulemaking authority granted to the National Credit Union Administration with regard to Feder-

al credit unions under laws other than this section; and

(3) with respect to all other housing creditors, including without limitation, savings and loan associations, mutual savings banks, and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Federal Home Loan Bank Board for federally chartered savings and loan associations, to the extent that such regulations are authorized by rulemaking authority granted to the Federal Home Loan Bank Board with regard to federally chartered savings and loan associations under laws other than this section.

(b) For the purpose of determining the applicability of this section, an alternative mortgage transaction shall be deemed to be made in accordance with the applicable regulation notwithstanding the housing creditor's failure to comply with the regulation, if—

(1) the transaction is in substantial compliance with the regulation; and

(2) withing sixty days of discovering any error, the housing creditor corrects such error, including making appropriate adjustments, if and, to the account.

(c) An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding and State consitution, law, or regulation.

APPLICABILITY

SEC. 805. (a) The provisions of section 804 shall not apply to any alternative mortgage transaction in any State made on or after the effective date (if such effective date occurs on or after the effective date of this title and prior to a date three years after the effective date of this title) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want to preemption provided in section 804 to apply with respect to alternative mortgage transactions subject to the laws of such State, except that section 804 shall continue to apply to—

(1) any alternative mortgage transaction undertaken on or after such date pursuant to an agreement to undertake such alternative mortgage transaction with was entered into on or after the effective date of this title and prior to such later date (the "preemption period"); and

(2) any renewal, extension, refinancing, or other modification of an alternative mortgage transaction that was entered into during the preemption period.

(b) An alternative mortgage transaction shall be deemed to have been undertaken during the preemption period to which this section applies if it—

(1) is funded or extended in whole or in part during the preemption period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period; or

(2) is a renewal, extension, refinancing, or other modification of an alternative mortgage transaction entered into before the preemption period and such renewal, extension, or other modification is made during such period with the written consent of any person obligated to repay such credit.

RELATION TO OTHER LAW

SEC. 806. Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply to transactions which are subject to this title.

EFFECTIVE DATE

SEC. 807. (a) This title shall be effective upon enactment.

(b) Within sixty days of the enactment of this title, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.

Mr. GARN. Mr. President, I move the adoption of the amendment.

Mr. RIEGLE. I yield back my time.

Mr. GARN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1296) was agreed to.

(Later the following occurred:)

The PRESIDING OFFICER (Mr. MURKOWSKI). The Senator from Alaska.

Mr. STEVENS. Mr. President, does the distinguished Senator from Utah have business to finish on the banking bill?

Mr. GARN. Yes; we do.

Mr. STEVENS. I yield to the Senator from Utah.

UP AMENDMENT NO. 1297

(Purpose: To designate the building known as the Federal Reserve Board Main Building in Washington, District of Columbia, as the "Marriner S. Eccles Federal Board Building")

Mr. GARN. Mr. President, inadvertently, we overlooked a noncontroversial amendment that has been agreed to by the minority. I ask unanimous consent to add to the bill we just passed, the banking bill, an amendment that I submit to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1297.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following: That the building at 20th and Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known at the Federal Reserve Board Main Building) shall hereafter be known and designated as the "Marriner S. Eccles Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Marriner S. Eccles Federal Reserve Board Building".

Mr. GARN. Mr. President, Marriner Stoddard Eccles was born in Logan, Utah, in 1890. He was the oldest of nine children of Ellen Stoddard, the second wife of David Eccles—a Mormon polygamist. Marriner attended both Utah State University in Logan and Brigham Young University in Provo, Utah, although he never completed high school. In 1909 he filed an L.D.S. mission to Scotland, where he met his first wife May Campbell Young. He was married to her from 1913 to 1950. He got married for a second time in 1951 to Sarah Madison Glassie.

Marriner's father, who immigrated from Scotland, built up a profitable $2 million enterprise that Marriner inherited when he was 22 years old upon his father's death. He built this into one of the greatest family fortunes in the West that included banking, insurance, construction, sugar, mining, shipping, and lumber. He conducted business in a firm manner, said one of his brothers, "He was more feared than loved." By 1916 he had organized Eccles Investment Co. By the time he was 38 he was president of Eccles Investment, the huge holding company First Security Corp., the First Nations Bank, a hotel company, a milk company, and a lumber company. He also held executive positions with Amalgamated Sugar—one of the West's largest sugar processors—and Utah Construction—one of the six companies that built Boulder Dam. Utah Construction later became Utah International, which has been a subsidiary of General Electric Co. since 1976.

First Security Corp. operated several banks in Utah, Idaho, and Wyoming. There were 27 banks in all, including branches. These banks were valued at $50 million. In 1929 when the stock market crashed not one of his banks failed, not one depositor lost a single dollar.

In 1933 Eccles gave a speech in Utah that impressed Stuart Chase so much that Chase convinced him to go to Washington. He went to Washington, ended up spending 17 years there and became one of the most influential people in the economic history of the United States. His first position was that of special assistant to Secretary of the Treasury Henry Morgenthau. By 1934 he was appointed to the Federal Reserve Board by Franklin D. Roosevelt. In 1936 he was named chairman of the board, he held that position for 12 years, until 1948. At 44 he was the youngest man ever to head the Federal Reserve System. He was described as "lean, smallish, nervous, intense. In manner he is pleasant, impersonal. He is convinced that in money management lies the salvation of capitalism." He was a Republican,

but later switched to the Democratic Party. He called himself "a capitalist and a conservative."

He pushed two main themes while in Washington, spend and go into debt during a depression, and cut borrowing and spending and tighten credit during periods of inflation. He was a strong advocate of deficit spending, even before the theories of John Maynard Keynes became widely known. He began working on his own solution to the depression in 1929. These ideas later formed Roosevelt's New Deal. With the exception of the war debt cancellation, all of his recommendations became part of the New Deal. He helped develop the massive welfare program during the depression that gave the Federal Government unprecedented control over the economy. One of the major components of this program was Government spending on public works. Because of this type of program he had enemies in Congress and in the business world who labeled him a spendthrift. He was also often at odds with Secretary Morgenthau. Other programs he called for that added to the power of the Government included higher income and inheritance taxes, unemployment benefits, control over securities and stock exchanges, cancellation of war debts, child labor laws, social security, and Federal control over transportation.

Eccles also helped draft the Banking Act of 1935 that gave the Board more control over money supply and credit to deal more effectively with economic crisis. Roosevelt said this act contained "the general objectives of the administration." But critics attacked the concentration of power in an administration controlled committee. The Wall Street Journal said:

Power over the circulating medium and over creation and direction of bank credit, which this measure places in the hand of the Government in office should be objectionable at any time. Proposed just now, when the whole fiscal policy of the country is under an incalculable compound of political group pressures, this scheme . . . is doubly objectionable.

Eccles defense was:

If the monetary mechanism is to be used as an instrument for the promotion of stability, conscious control and management are essential.

The bill passed and the Fed gained more control than ever. Eccles then called for more strict supervision of the Nations banks to reach his objectives. In February 1936, he appeared on the cover of Time magazine, the article said, "Many people believe Marriner S. Eccles is the only thing standing between the U.S. and disaster."

During World War II he urged that steps be taken to ease the pressure on the prices of war-scarce goods. He served on the Economic Stabilization Board from 1942 to 1946. He supported war bonds and savings bonds to soak up consumer dollars and relieve upward price pressures. He also believed that high interest rates would help contain inflation. He received a lot of criticism during this time for his cooperation with the Treasury in financing a $200 billion increase in the national debt. He began to have disputes with President Truman and in 1948 Truman replaced him as Chairman. Many thought Eccles would leave Washington at that point, but he served another 3 years on the Board and finally left in 1951 when William McChesney Martin was Chairman. At this time he felt the system was in good hands and it had regained its control over decisions involving monetary policy and credit from the Treasury.

After his 17 years of service in Washington he returned to Salt Lake. In 1952 he made an unsuccessful bid for the Republican nomination for Senator, losing to Arthur V. Watkins. He then resumed his business career and became chairman of First Security. He held this position until 1975, and was honorary chairman until his death in 1977. He also served as chairman of Amalgamated Sugar and Utah International.

He was always very outspoken. He was one of the first businessmen to speak out publicly against the Vietnam war. He blamed most of the economic difficulties from 1965 to 1975 on Vietnam involvement. He once stated:

The Fed wants to stop inflation, but the government doesn't want badly enough to stop the war. . . . William McChesney Martin and Arthur Burns did everything they could, but how could they cope with this fiscal policy of ours?

He also worked hard for world population control and sought closer relations with China long before that was considered acceptable in financial circles. It was said he was a "perceptive observer of the rapidly changing plight of mankind, and a courageous, fiesty battler for what he thought was right, whatever the odds of success."

He was a very slow and deliberate speaker, everything he said was carefully thought out. He had an extraordinary record of forecasting economic and social change. In 1965 he said about the future:

I think unemployment will increase, inflation will continue, interest rates will remain relatively high because of the lack of liquidity, the Federal and many State budgets will remain in deficit, and large deficiencies are ahead in the international balance of payments. Declines in corporate earnings will continue, savings will remain inadequate, and housing will remain a problem.

Although many of the actions he took were controversial he helped steer the Nation out of the worst economic crisis it has ever experienced. He was indeed one of the great leaders the United States has ever seen. As G. L. Bach said:

Few men make a difference in the course of human history. Marriner Eccles, deeply involved in the affairs of the Nation as a private citizen and a public servant during this tumultuous century, did.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. GARN).

The amendment (UP No. 1297) was agreed to.

Mr. GARN. I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Conclusion of later proceedings.)

Mr. GLENN. Mr. President, I congratulate the Committee on Banking, Housing, and Urban Affairs, which has worked long and hard to balance competing interests and arrive at legislation that takes a step toward greater stability in our competitive financial system.

We all recognize, I believe, that the driving force behind this bill has been the need to insure continued public confidence in depository institutions by giving them a safety net, if you will, in order to enhance their soundness and to assist them in repositioning themselves so as to permit them to compete in a deregulated financial services marketplace. Unfortunately, S. 2879 fails to take into consideration approximately 560 thrift institutions located primarily in five or six States, my own State of Ohio included, which have their deposits insured by agencies established under State law rather than by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. These institutions have total deposits of approximately $22 billion and serve about 6½ million savers.

These institutions exist for various reasons. Some, notably in Pennsylvania, largely serve institutions too small to qualify for Federal insurance. Massachusetts' funds predate creation of the Federal insurance agencies. But, whatever their reasons for being apart, these institutions and the deposit insurance funds themselves are generally strong. On average, the State-insured institutions have better earnings than do thrift institutions nationally. The funds that insure them, what is more, generally have higher reserve to deposit ratios than their Federal counterparts.

Nonetheless, these institutions are impacted by the same circumstances that give rise to the legislation before us. A capital assistance program such as we are considering, which excludes them, could well exacerbate the strain on these institutions. The House of Representatives has recognized this by providing in its legislation for coverage of these institutions.

I recognize that there are different approaches to the problem of capital assistance between the House and Senate bills. And I do not propose today to have the Senate address the issue by offering an amendment. I can count and recognize that, since only five or six States are directly affected, such an amendment would be running against the tide. But I do believe that, in conference, the Senate must give careful consideration to reaching accommodation with the House of Representatives on this issue. It is a matter of fairness.

We should not, in the name of enhancing competition in financial services, put these institutions at a competitive disadvantage. We should recognize that in passing S. 2879 we are making a significant change in Federal policy. The capital certificates it authorizes, in effect, will create contingent liabilities for the taxpayers of this Nation. No longer—at least for the time this program remains in effect—will depositor's protection be based only on the insurance principle of pooled risk and premiums levied on participating institutions in an amount sufficient to cover the risk. The authority to create these contingent liabilities on the U.S. Treasury which would be given to the FDIC and FSLIC cannot be matched by the insurance funds created under State law.

Mr. President, I am confident this matter can be resolved reasonably in conference without creating cheap deposit insurance for anyone. The State insurance funds are willing to stand the liability for losses on income capital certificates issued to State-insured institutions to the same extent as the Federal insurance funds are liable for losses on certificates issued to federally insured institutions.

CLARIFYING SECTION 341 DUE-ON-SALE PROVISION

Mr. GARN. Mr. President, I would like to clarify a few provisions of section 341 of the bill, which provides a Federal preemption for State laws which restrict the enforcement of due-on-sale clauses.

Section 341 of the bill will not affect State personal property rights, State securities statutes, or State foreclosure laws as long as they are not used to inhibit or obstruct the congressional purpose of allowing lenders to enforce due-on-sale clauses in real property loans.

It has recently come to the attention of the committee that modifications in State foreclosure laws are being advocated as a way to circumvent a lender's right to enforce due-on-sale clauses, and bypass the intent of the Federal preemption. For example, foreclosure laws which make it more difficult for a lender to foreclose by imposing such burdens as prolonged redemption periods, or requiring more costly or time-consuming foreclosure procedures, solely because such foreclosure results from due-on-sale enforcement, have the effect of eliminating or restricting a lender's enforcement of due-on-sale and thus fall within the scope of the preemption.

In addition, the reference to "personal property rights" and "State securities" in the committee is not intended to limit the scope of the preemption with regard to stock allocated to a dwelling unit in a cooperative housing corporation or a personal property manufactured home.

At the time the committee report was released the committee took no position regarding the state of the law in Wisconsin concerning the enforceability of due on sale.

In 1973, the Wisconsin Supreme Court stated:

> It is difficult to see, given the general policy behind a "due-on-sale clause," why a transfer of land title by a land contract does not pose the same potential hazard to the interests of the mortgagee as most other recognized types of conveyances.
>
> We, accordingly, hold that a due-on-sale clause . . . is not against public policy and is enforceable as a contractual condition of the note and mortgage. *Mutual Federal Savings and Loan Association* v. *Wisconsin Wire Works*, 58 Wis.2d 99, 110, 205 N.W.2d 762, 769 (1973).

Therefore, it appears that no Wisconsin judicial decision prohibits the enforcement of due-on-sale clauses, and hence no window period restrictions would apply to Wisconsin mortgages.

Neither the language of the committee report, nor the language of the bill, refer to or comment upon the existing due-on-sale regulations of the National Credit Union Administration which were promulgated on March 31, 1978, nor to the proposed due-on-sale regulations of the Comptroller of the Currency which were released for public comment on September 23, 1981. It is not the intent of the committee to take a position on the authority of the National Credit Union Administration or the Comptroller of the Currency to issue such regulations.

Similarly, as we noted in the report, the committee takes no position on the authority of the National Credit Union Administration or the Comptroller of the Currency to issue regulations covering window period loans originated by national banks and federally chartered credit unions. The Comptroller of the Currency must act under the authority of the National Banking Act, and the National Credit Union Administration Board must act under the authority of the Federal Credit Union Act, in the issuance of such regulations.

Mr. CRANSTON. Mr. President, for over 50 years, banking in the United States has been regulated by Government. Thrift institutions have been strictly limited to their main product line of mortgages. For decades Federal and State Governments have provided banks and other depository institutions with charters to operate.

This highly regulated financial system worked well until the 1970's when the economic environment changed rapidly and made the borrowing short and lending long practice of thrifts no longer a viable portfolio practice. In recent years the winds of Government deregulation have blown through the Nation's airlines, trucking and communications industries. In 1980, a stiff deregulatory gust was also felt in America's financial institutions when many of the Hunt Commission's recommendations were embodied in the first landmark banking legislation since the 1930's, the Depository Deregulation and Monetary Control Act of 1980.

This legislation, which I helped develop as chairman of the Financial Institutions Subcommittee, began the phase out of regulation Q (interest rate ceilings) and provided limited new investment powers, including NOW accounts, to thrift. Even though this bill helped in the competitive battle within the depository institutions industry, it did not address the competitive advantages of unregulated financial intermediaries.

Since the 1980 act was adopted, there have been even more dramatic changes in the financial marketplace. Traditional depository institutions—commercial banks, thrifts and credit unions—have found their turfs aggressively invaded by brokerage houses, retail chains and insurance companies. The financial giants which are not depository institutions—such as Merrill Lynch, Prudential, Sears and others—are free to offer consumers high market rates as well as a variety of financial services. Their entry into the field of financial services marked the beginning of the financial supermarket. Consumers in the future will have the option to invest in money market mutual funds, buy stocks and bonds, insure a car or a home, and obtain a business or personal loan—all at a single business location.

This growing disparity in products being offered by depository and nondepository institutions has created an unlevel playing field for regulated depository institutions at the same time high interest rates have reduced the prospects for future bank, thrift, and credit union viability.

The Federal Home Loan Bank Board estimates that the thrift industry has lost $10 billion net new deposits this year because of lack of consumer confidence and inability of these institutions to pay market rates of interest. Virtually one-fourth of the entire thrift industry has insufficient net worth to survive the next 2 years at its current loss rate. Likewise, the yield

on thrift assets is unlikely to improve quickly because the return on their low yielding mortgage portfolios will increase only gradually as old mortgages are paid off and new market rate mortgages are acquired.

In response to these problems and issues and to enable all financial institutions to compete on a more equitable basis, the Senate Banking Committee has unanimously reported S. 2879, a comprehensive legislative package. This bill will in general give depository institutions greater freedom to offer a variety of financial services, to increase their profits and to change their deposit structure. Banks and thrifts will be permitted to have a money market account directly competitive with the money market funds; the differential on accounts will be phased out 1 year earlier on January 1, 1985; increased real estate lending powers will be given to banks; thrifts will be given 15 percent commercial loan authority. Capital assistance will be provided to increase the net worth of all troubled depository institutions who qualify. This flexibility will enable institutions to develop the procedures necessary for their long-term survival in an increasingly competitive marketplace.

While the regulatory agencies have taken many novel approaches in dealing with the serious financial problems in the thrift industry over the last year and a half, their efforts have been focused primarily on merging failing institutions into healthy ones whether on an intrastate or interstate or interindustry Basis. The "regulators bill" as incorporated in this bill sets out strict guidelines under which the regulators are to be permitted to continue these practices. The restraints in this section are meant to discourage the use of involuntary mergers as the primary solution to the thrift crisis. Indeed it is the intent of the Congress that all other options and alternatives be considered and that a true emergency exist before this section is used. Additionally, the committee has made it clear by the language in this bill that every effort must be made by the regulators to preserve the ethnic character of minority thrift institutions that are experiencing net worth problems. Currently there are 85 minority associations operating with combined assets of $2.5 billion and a combined net worth of $87.8 million. These institutions are located in predominantly minority communities where they have provided a unique service to their customer base despite inner city adversity. These institutions are irreplaceable. Overall, most smaller minority institutions are in better financial condition than larger thrift associations because their customer base has shown strong loyalty and identification with these institutions. These institutions generally service a small geographic area, with a distinct community and should be preserved in those communities where possible and as ethnic institutions overall. The bill directs the FHLBB to show sensitivity to these concerns in their merger procedures.

Senator GARN is to be commended for his dogged persistence in bringing all the competing interest groups together on the issue in this bill. I believe that S. 2879 will enhance the ability of financial regulators to deal with troubled depository institutions and enhance the stability and competiveness of these institutions. Mr. President, I call for a prompt consideration of S. 2879 today.

CLARIFICATION OF SECTION 707 OF S. 2879, AMENDMENT TO THE INTERNATIONAL BANKING ACT

● Mr. D'AMATO. Mr. President, section 707 of S. 2879 contains a technical amendment to section 8(c) of the International Banking Act relating to nonbanking activities which may be conducted by foreign banks covered by the act. I support this provision and I understand its application is limited. I would like to inquire of the chairman of the Banking Committee how the committee has limited the application of this provision.

Mr. GARN. Section 707 is extremely limited in scope. The act identified a type of nonbanking affiliate of a foreign bank which is defined as a "domestically-controlled affiliate covered in 1978." To the extent that such an affiliate is engaged in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, or other securities, the act provided that it would be free to continue to engage in such activities, through acquisition or otherwise, notwithstanding its partial ownership by a foreign bank. The legislative history of the act made it clear that the act was not intended to inhibit the growth or competitive posture of an essentially domestic U.S. securities company solely because it had a minority ownership position held by a foreign bank.

Having reviewed the extent of foreign bank ownership in the securities industry as it existed in 1978, the committee concluded that, while the definition of a "domestically controlled affiliate covered in 1978" contained in the act was drafted in a manner which was thought at the time to cover all situations in which a domestic U.S. securities company has such a minority foreign bank ownership position, the language of the act failed at the time of its enactment to meet completely its intended objective.

This section, therefore, changes the permitted level of foreign bank ownership while preserving the essential characteristic of the affiliate as a domestic U.S. entity, but does not change the July 26, 1978 grandfather date established by the act. It provides that a foreign bank, to meet the definition, may not own 45 percent or more of the voting shares of the domestic affiliate and requires that no more than 20 percent of the board of directors and of the executive officers of the domestic affiliate have any past or present affiliation with the foreign bank or be otherwise related to the foreign bank in such a way as to indicate that they would represent its interests, and that the nonaffiliated directors be elected by a super-majority of shareholders other than the foreign bank. While modifying the definition of "domestically controlled affiliate covered in 1978," the committee reasserts that the application of this portion of the act should be limited, as was originally intended, to domestic U.S. securities companies, whose business activities are not appropriately regulated under our banking laws. Accordingly, for example, the committee does not believe that section 8(c) as here amended should be interpreted to reach a securities affiliate which was orginally formed as a "captive" of a foreign bank regardless of its technical compliance of the grandfather date with the amended definition. With these considerations in mind, the committee is satisfied that this amendment does not broaden the availability of grandfather status beyond the original intention of the act, and that the Federal Reserve Board has ample interpretive and regulatory authority under the act and under the Bank Holding Company Act to prevent any evasions of the restrictions contained in this provision.

Mr. D'AMATO. I thank the Chairman, I appreciate that explanation.●

CLARIFYING THE INTENT OF THE COMMITTEE ON BANKERS' ACCEPTANCES

● Mr. HEINZ. As the original author of the provision dealing with bankers' acceptances, I have one technical question on the section of the committee bill dealing with bankers' acceptances. My question relates to the provision on participated acceptances. It is my understanding that the bill will permit smaller banks around the country to provide acceptance financing to their customers through participated agreements with larger banks whose acceptances are purchased in the money markets. As a technical matter, I am told that the intent of the committee to permit participations would be violated if the Federal Reserve requires that the acceptance bear a legend or stamp indicating the interest of each participating bank. Acceptances encumbered by those legends would not be marketable. I would like to have a clarification for the record that it is the intent of the committee that at a minimum the Federal Reserve permit the participations to be effective without requiring a legend and that they report back to Congress if they can

document that this has caused problems.

Mr. GARN. The Senator's understanding of the bankers' acceptance provision is correct. I agree that the legending requirement proposed by the Federal Reserve would keep all but the 30 or 40 largest banks out of bankers' acceptance financing. It is for this reason that it is the intent of the committee that a participation to be effective need only be covered by a specific agreement, not also bear a legend. If the Federal Reserve encounters problems with this system I am sure they will report back to us. I, however, believe this is an area where the market place imposes strict discipline and I foresee no problems.●

● Mr. DOLE. Mr. President, the Senator from Kansas has great admiration for the Senator from Utah, and for all members of that committee, who have labored diligently and with great persistence over the last year to craft a bill which could even be brought to the floor of the Senate. This Senator knows firsthand how difficult it can be to bring groups with inherently different outlooks together to support passage of major legislation. That we are even able to consider this bill at this time is testament to the great skill exhibited by those Senators playing an active role in negotiations with representatives of those industries which are directly affected by this legislation.

What we are now considering is a practical, scaled down, bill that addresses the plight of the thrift institutions, not S. 1720, the ambitious proposal first advanced by Senator GARN. High interest rates have hurt just about every industry and every sector of our economy, and the thrift industry has certainly been affected as seriously as any one industry. We have seen the net worth of the entire industry plummet from over $32 billion to around $24 billion in a year and a half. Mergers have been arranged out of necessity—and frankly, some of us would like to seriously examine the ramifications of interstate mergers before we get too carried away with that idea. That aside, let me just say that I support the effort to let the industry earn itself out of its crisis rather than have us do nothing and then be treated to the menu of bailout proposals, some of which we have already seen, that will surface if conditions continue to deteriorate.

The lower rates that we have seen in recent weeks will certainly help stem the tide of failures, but portfolios of thrifts are such that more is needed. The net worth assistance provisions in this bill will, this Senator is confident, give the thrift industry the time needed for recovery. There are not many of us that are deluded with false hope this time around—as some Members were when the all-savers certificate was being pushed on us a little over a year ago. We know that recovery of the thrift industry will be a gradual process. But the net worth infusion, coupled with competitive powers and a competitive instrument, should prove effective if combined with the scenario of lower interest rates over the course of the next several years. Let me just emphasize that this bill cannot, and should not be viewed as a substitute for lower interest rates—but as a complement.

Immediately prior to each meeting of the depository institutions deregulation committee in the past 1½ years, all Senators and their staffs have been confronted by demands that we tell the DIDC how to conduct its business. This Senator knew full well that that was a no-win situation, since the thrift and banking industry had different ideas about deregulation. But one thing emerged from the mess: That both banks and thrift institutions needed to be able to offer a depository account competitive with money market funds, which have grown from less than $10 billion to around $230 billion in a short 4 years, thus eroding the deposit base of our traditional depository institutions. This Senator is most pleased that this legislation contains a provision which will direct the DIDC to create such a competitive account.

Over the longer haul, let me just observe that it appears the revolution in the financial services industry is only beginning. While some that would like to see us move in the direction of more regulations and restrictions—on money market funds for example, it seems more likely that a more competitive marketplace is on the horizon. The consumer has already gotten a taste of market rates for his deposits and that consumer has found that he likes those high rates of return so that the value of his deposits is not eroded by inflation. Those offering financial products seem to be willing to offer market rates. The fact of the matter is that the clock probably can not be turned back because the financial services industry will make an end run around unduly restrictive provisions.

In short, this Senator applauds the efforts of those who were able to steer this matter in and around rocky cliffs so that we could deal with important legislation today. There are many issues left unresolved, of course, and the bill as it stands is certainly not acceptable to all concerned. This Senator is not happy with all provisions either, but it seems to me that this bill addresses the most immediate and serious problems facing the financial services industry—and that it must be adopted by the Senate.●

● Mr. GORTON. Is this legislation intended to affect those institutions which are in trouble and for which bids have already been solicited in connection with merger proceedings?

Mr. GARN. No. We do not intend to upset merger proceedings in process as of the effective date of this act, or to require the resubmission of bids.●

● Mr. PRESSLER. Mr. President, I would like to express my support for the committee amendment to S. 2879. This amendment will insure the creation of a competitive instrument for our financial institutions.

South Dakota bankers have led the fight for creation of this instrument. They have unsuccessfully petitioned the DIDC and will soon file suit in Federal court to allow them to offer super NOW accounts. I share their concern over the flow of dollars out of South Dakota into money market funds in the East.

These accounts will serve two important purposes. First, they will keep money in South Dakota where it is badly needed for investment in our local communities. Second, they will provide savers with a high yield of return while protection their investment. It is more important than ever in these difficult economic times to provide savers with this kind of option provided by insured institutions.

I know that the South Dakota bankers have been very frustrated with the lack of action by the DIDC in allowing the implementation of these accounts. They feel, and I believe justly, that the DIDC has ignored its legislative mandate. The language in the committee amendments will send a clear signal to the DIDC that they must finally take action. Banks in South Dakota will be able to offer their super NOW accounts within 60 days of enactment and they will be spared a costly court battle with the Federal Government.

I want to commend Senator GARN and other members of the Senate Banking Committee on addressing this very important issue, and I urge my colleagues to support the Banking Committee amendment.●

Mr. DOMENICI. Mr. President, it is no secret that the thrift industry in the United States is experiencing a severe financial crisis. The problems facing the savings and loan industry are of staggering dimensions. Since the middle of 1981, more than 80 percent of the institutions making up this $600 billion industry have been operating at a loss.

The industry suffered a net after-tax loss in 1981 of $4.6 billion, with a record semiannual loss of $3.1 billion occurring in the second half. This was their first loss in recent history. Last year; depositors withdrew nearly $40 billion more than they put into the thrifts. Those are big numbers.

Every day I get telephone calls from constitutents asking: "Is my money safe?" and "Why are the S&L's in

trouble?" The level of financial distress has resulted from an economic environment characterized by high and volatile interest rates. Thrifts hold primarily long-term, fixed-rate assets funded with short maturity liabilities. In simple English, this means that there is a mismatch between the 30-year home mortgages they hold and the rate they must pay savers to attract their deposits. Those are the funds thrifts turn around and lend to borrowers. It is simple arithmetic that paying depositors 13 percent to 15 percent and receiving less than 10 percent return on old mortgages equals disaster.

Chairman Pratt at the Federal Home Loan Bank Board (FHLBB) made predictions regarding the potential magnitude of the thrift crisis. He has predicted that if the interest rates on short-term Treasury issues in 1982 average approximately 13.5 percent, some 944 associations with assets of $220 billion will reach net worth levels of 2 percent or less; and that 222 of these, having assets of $57 billion, will run out of capital. This means that they will have to be merged or liquidated and depositors paid off out of the insurance fund. Continuation of such rates through 1983 would result, the FHLBB estimates, in 1,622 associations, representing $425 billion in assets, falling below 2 percent net worth; 558 associations, having assets of $130 billion, would reach zero net worth. Persistent rates in the 13½-percent range would bring the net worth of this $600 billion industry to zero by the middle of 1984.

This situation carries enormous financial implications for the Federal Government. When interest rates rose to record levels in 1980 and 1981, deposit flows and mortgage lending slowed, the cost of funds rose sharply, and profits turned negative. Net worth declined sharply and the thrift industry began sliding toward insolvency.

The most promising way to deal with high and volatile interest rates is the economic recovery program formulated by the President. In addition we need this bill. It buys time. Our economy needs some time and we need to put it to good use. As of June 30, 1982, the FSLIC insurance fund had a book value of $6.6 billion, and from the foregoing statisitics it is obvious that the expense of dealing with these impending failures cannot be borne by the FSLIC's insurance fund. This bill is a bridge to better times. Without the bill, the costs of the thrift problem will fall directly on the Treasury, greatly aggravating current budget deficit problems.

This bill offers Congress and all members of the financial community an opportunity and an obligation to find a legislative solution to problems posed by the new realities of the marketplace for financial services. The scope is greater than the thrift problem. The competitive forces have already fundamentally changed the financial structure of this country. Therefore, if traditional financial institutions—that is, banks, savings and loan associations, and credit unions—are to be competitive with nontraditional institutions, Congress must enact this bill.

This bill is comprised of several titles. Title I gives the regulators some additional flexibility to deal with the thrift crisis. Title II of this bill provides tangible assistance that will improve the earnings and net worth of troubled institutions. It maintains incentives for sound business decisions by providing only partial coverage of losses. It provides time for institutions to regain a sound footing. Yet it steers clear of the day-to-day operations.

In exchange for an interest-bearing promissory note, an association would provide the FSLIC with an income capital certificate. This would provide the association with a net worth boost, and some cash income in the form of interest earned on the promissory notes. Ultimately, the FSLIC would redeem the ICC through payments from the association's net income.

Philosophically, I am against the notion of Government intervention to prevent corporate failures. It seems generally true that a free enterprise system, to function efficiently, must allow unprofitable institutions to fail. Nevertheless, it is true that there are instances when intervention is appropriate to achieve some transcendent national objective. There are circumstances when we have no other acceptable choice. Preservation of a vital defense industry is one example. Maintenance of a stable bank system is another. Given the magnitude of the thrift problem and its implications for the economy in general, the budget in particular, it would appear that this bill is a prudent step. The assistance is Darwinian in impact. It allows the weakest members of the industry to go out of existence.

I believe that the income capital certificate program is necessary. We really don't have any other acceptable choice. It may be enough to give these institutions some time to adjust to the changing financial environment. I think we need to take a wait and see attitude. We need to wait and see how the thrifts respond to new powers. We need to wait and see what happens with Mexico, Poland, and Argentina when their loans come due. We need to wait and see how the financial markets perform.

In the meantime, I believe that Congress should give a strong directive to the Federal Home Loan Bank Board that the capital assistance program be judiciously administered. This bill contains a statutory criteria that I expect to be rigorously adhered to. This bill requires that institutions must have a positive net worth for at least 6 months after purchase of capital instruments, and institutions are required to comply with all terms and conditions established by the appropriate Federal agency.

I have been told that right now there are approximately $200 million worth of ICC's outstanding. Assuming a 9½-percent Treasury bill rate scenario the FHLBB estimates that that number will grow to $260 million by the end of 1982, $460 million in 1983, $680 million in 1984, $820 million in 1985, and $920 million cumulative total by 1986.

Assuming a 13½-percent 6-month Treasury bill rate scenario, the estimates are considerably higher. By the end of 1982 there will be $700 million worth of ICC's outstanding, $2.4 billion in 1983, $4.7 billion in 1984, $6.2 billion in 1985, and $6.9 billion in 1986.

I do not want to see the program growing much beyond that. I do not want to look back on this day as the birth date of another out-of-control program. We have too many of those already. I would not be voting for this particular provision except we have already insured the accounts. The Federal Government's obligation was created at that time.

I do not want this program growing much beyond the projected dimensions. If it does, it is a warning signal that our entire system of financial institutions might need some significant revamping. We need to watch this program very carefully, because it can serve us as a barometer. It can be an indicator that restructuring, as we have thus implemented it, has worked. On the other hand, if the income capital certificate program goes wild, it is a warning signal that more dramatic action is necessary. We need to be prepared, because I am afraid this may not be the end of the financial institution crisis.

I want to express my support for the senior Senator from Utah for his persistence in coping with this very complex and demanding issue. He has brought together a group of historically opposed industries. I think he has done a superb job and deserves the appreciation of this body and the country. He deserves our support for this bill. I urge you to support S. 2879.

● Mr. GRASSLEY. Mr. President, I would like to commend my distinguished colleagues, Senator GARN and Senator RIEGLE, for their tremendous efforts in achieving final passage of this vital bill. The Nation's financial community has long awaited congressional action to address their most urgent concerns, and I believe that we have come a long way to achieve that goal with S. 2879. Reaching a consensus on this comprehensive bill was pos-

sible only through the diligence of Senators GARN and RIEGLE.

The importance of S. 2879 cannot be overstated. The thrift industry is faced with numerous problems, many of them not of their own making. This bill will greatly aid them in restoring health to one of this Nation's most important industry. It provides the needed short-term assistance to get them through a very critical period in their history, and provides for a sound restructuring plan to better enable the thrifts to compete more effectively in the long run.

Additionally, the authorization of a new competitive instrument will prove vital in allowing the regulated sector of the financial community to better face their unregulated competition.

Any bill of this magnitude which tries to solve the broad and varied concerns of the entire financial industry is a monumental undertaking. This bill does not purport to be perfect, nor will it be a cure-all for the financial community.

I am pleased with the results of the depository institutions amendments. Reaching any measure of agreement on such a far-reaching bill is a true accomplishment. I believe S. 2879 to be a well-balanced bill, and I surely support it. Once again, I would like to commend Senators GARN and RIEGLE and the involved financial industries in working together to insure passage of this legislation during this session of Congress.●

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time, and was read the third time.

Mr. GARN. Mr. President, I move to discharge the Banking Committee from further consideration of H.R. 6267, and I ask for its immediate consideration.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans.

Mr. GARN. Mr. President, I move to strike all after the enacting clause of H.R. 6267 and insert the text of S. 2879, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

Mr. GARN. Third reading.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (H.R. 6267) was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 6267) entitled "An Act to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans", do pass with the following amendment: Strike out all after the enacting clause and insert:

That this Act may be cited as the "Depository Institutions Amendments of 1982".

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TITLE I—DEPOSIT INSURANCE FELXIBILITY

SHORT TITLE

SEC. 101. This title may be cited as the "Deposit Insurance Flexibility Act".

PART A—FEDERAL DEPOSIT INSURANCE CORPORATION AMENDMENTS

ASSISTANCE TO INSURED BANKS

SEC. 111. Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended to read as follows:

"(c)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured band—

"(A) if such action is taken to prevent the closing of such insured bank;

"(B) if, with respect to a closed insured bank, such action is taken to restore such closed insured bank to normal operation; or

"(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, such action is taken in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

"(2)(A) In order to facilitate a merger or consolidation of an insured bank described in subparagraph (B) with an insured institution or the sale of assets of such insured bank and the assumption of such insured bank's liabilities by an insured institution, or the acquisition of the stock of such insured bank, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe—

"(i) to purchase any such assets or assume any such liabilities;

"(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such insured institution or the company which controls or will acquire control of such insured institution;

"(iii) to guarantee such insured institution or the company which controls or will acquire control of such insured institution against loss by reason of such insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured bank or by reason of such company acquiring control of such insured bank; or

"(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

"(B) An insured bank described in this paragraph (2)—

"(i) is an insured bank which is closed;

"(ii) is an insured bank which, in the judgment of the Board of Directors, is in danger of closing; or

"(iii) is an insured bank which, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

"(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured bank under section 13(f) of this Act with such financial assistance as it could provide an insured institution under this subsection.

"(4) No assistance shall be provided under this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating (including paying the insured accounts of) such insured bank, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured bank is essential to provide adequate banking services in its community. The Corporation may not use its authority under this subsection to purchase the voting of common stock of an insured bank. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(5) Any assistance provided under this subsection may be in subordination to the rights of depositors and other creditors.

"(6) In its annual report to the Congress, the Corporation shall report the total amount it has saved, or estimates it has saved, by exercising the authority provided in this subsection.

"(7) For purposes of this subsection, the term "insured institution' means an insured bank as defined in section 3 of this Act or an insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724).".

FEDERAL DEPOSIT INSURANCE CORPORATION—INSURED FEDERAL SAVINGS BANKS

SEC. 112. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following:

"(o)(1) Notwithstanding any other provision of this section, the Board, subject to the provisions of this subsection, may authorize, under the rules and regulations of the Board, the conversion of a State-chartered savings bank insured by the Federal Deposit Insurance Corporation into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, and regulation of such institution.

"(2)(A) The Federal Deposit Insurance Corporation shall insure the deposit accounts of any Federal savings bank chartered pursuant to this subsection, until such time as the accounts of such institution are insured by the Federal Savings and Loan Insurance Corporation.

"(B) The Board shall provide the Federal Deposit Insurance Corporation with notification of any application under this Act for conversion to a Federal charter by an institution insured by that Corporation, shall consult with said Corporation before disposing of the application, and shall provide said Corporation with notification of the Board's determination with respect to such application.

"(C) The Federal Deposit Insurance Corporation shall have the power to make special examinations of any Federal savings bank it insures and for which the Board of Directors of the Federal Deposit Insurance Corporation determines an examination is necessary to determine the condition of the bank for insurance purposes.

"(D) Except with the prior written approval of the Federal Deposit Insurance Corporation, no Federal savings bank insured by the Federal Deposit Insurance Corporation shall—

"(i) merge or consolidate with any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation;

"(ii) assume liability to pay any deposits made in, or similar liabilities of, any bank, association, or institution that is not insured

by the Federal Deposit Insurance Corporation; or

"(iii) transfer assets to any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation in consideration of the assumption of liabilities for any portion of the deposits made in such bank.

"(E) In granting any approval required by paragraph (D) of this subsection, the Board of Directors of the Federal Deposit Insurance Corporation shall consider the financial and managerial resources and the future prospects of the existing and proposed institutions.

"(F) Notwithstanding section 402(j) of the National Housing Act, or any provision of the constitution or laws of any State, or paragraph (1) of this subsection, if the Federal Deposit Insurance Corporation determines conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the closing of a savings bank it insures or to reopen a closed savings bank it insured, or if the Federal Deposit Insurance Corporation determines, with the concurrence of the Board, that severe financial conditions exist that threaten the stability of a savings bank insured by such Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Federal Deposit Insurance Corporation shall provide to the Board a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank, without further action by the Board, shall be converted or chartered by the Board, pursuant to the rules and regulations thereof, from the time the Federal Deposit Insurance Corporation issues such certificate.

"(G) A bank may be converted under subparagraph (F) only where the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (F).

Before making a determination under subparagraph (F), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than twenty-four hours, to object to the use of the provisions of subparagraph (F). If the State supervisor objects, the Corporation may use the authority of subparagraph (F) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written cetification of its determination.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

"(4) For purposes of the Bank Protection Act of 1968, the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Depository Institution Management Interlocks Act, the Depository Institutions Deregulation Act of 1980, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, and section 12(i) of the Securities Exchange Act of 1934, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation shall be regarded as an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

"(5) Notwithstanding any limitation contained in the National Housing Act, the Federal Savings and Loan Insurance Corporation, in its sole discretion, and on such terms and conditions as it shall determine, may provide the Federal Deposit Insurance Corporation with financial assistance or guarantees in connection with a transaction subject to paragraph (2)(D) or section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)).".

CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 113. (a) Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended—

(1) in paragraph (2) thereof, by striking out "and" at the end thereof;

(2) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank.".

(b) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by inserting at the end thereof the following:

"(t) The term 'insured Federal savings bank' means a Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o)) and insured by the Corporation.".

(c) Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended by inserting at the end thereof the following:

"(c) Every Federal savings bank which is chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(o)), and which is engaged in the business of receiving deposits other than trust funds as herein defined, shall be an insured bank from the time it is authorized to commence business, until such time as its accounts are insured by the Federal Savings and Loan Insurance Corporation.".

(d) Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by inserting at the end thereof the following: "The Corporation shall have access to reports of examination made by, and reports of condition made to, the Federal Home Loan Bank Board or any Federal Home Loan Bank, respecting any insured Federal savings bank, and the Corporation shall have access to all revisions of reports of condition made to either of them, and they shall promptly advise the Corporation of any revisions or changes in respect to deposit liabilities made or required to be made in any report of condition.".

(e) The first sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "Each insured State nonmember bank (except a District bank) and each foreign bank having an insured branch (other than a Federal branch) shall make to the Corporation, each insured national bank, each foreign bank having an insured branch which is a Federal branch, and each insured District bank shall make to the Comptroller of the Currency, each insured State member bank shall make to the Federal Reserve bank of which it is a member, and each insured Federal savings bank shall make to the Federal Home Loan Bank Board, four reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Federal Home Loan Bank Board.".

(f) Section 7(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(6)) is amended by inserting ", the Federal Home Loan Bank Board" after "Comptroller of the Currency" and before the word "and" the first place it appears.

(g) Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) by inserting in the second sentence thereof, after the words "district bank,", the following: "to the Federal Home Loan Bank Board in the case of an insured Federal savings bank,"; and

(2) by inseting in the third sentence thereof, after the words "national bank,", the following: "or the Federal Home Loan Bank Board in the case of an insured Federal savings bank,".

(h) Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended by inserting at the end thereof the following: "Whenever the insured status of an insured Federal savings bank shall be terminated by action of the Board of Directors, the Federal Home Loan Bank Board shall appoint a receiver for the bank, which shall be the Corporation.".

(i) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by inserting in the second sentence thereof, after the words "of District bank,", the following: "or any insured Federal savings bank,".

(j) Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by inserting at the end thereof the following: "Notwithstanding any other provision of law, whenever the Federal Home Loan Bank Board shall appoint a receiver, other than a conservator, of any insured Federal savings bank hereafter closed, it shall appoint the Corporation receiver for such closed bank.".

(k) Section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)) is amended by inserting in the first sentence thereof, after the words "District bank,", the following: "or closed insured Federal savings bank,".

(l) Section 12(a) of the Federal Deposit Insurance Act (12 U.S.C. 1822(a)) is amended by inserting, after the words "foreign bank,", the following: "insured Federal savings bank,".

(m) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) in subsection (e)—

(A) by inserting "(e)" before "No agreement"; and

(B) by striking out the first paragraph of such subsection.

(n) Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by inserting at the end thereof the following:

"(12) The provisions of this subsection do not apply to any merger transaction involving an insured Federal savings bank unless the resulting institution will be an insured bank other than an insured Federal savings bank.".

(o) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding a new paragraph (4), to read as follows:

"(4) The provisions of this subsection shall not apply to an insured Federal savings bank.".

(p) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831(c)) is amended as follows:

(1) By adding "(a)" at the beginning thereof and adding a new last sentence to read as follows: "The provisions of this subsection shall apply only to mergers, consolidations or conversions consummated and effective prior to the effective date of this amendment or mergers, consolidations or conversions for which applications have been received at a regional Federal Home Loan Bank prior to the effecive date of this amendment."; and

(2) By adding a new subsection (b) to read as follows:

"(b) No transaction involving a change of deposit insuance agencies from the Corporation to the Federal Savings and Loan Insurance Corporation shall be deemed a termination of insured status under section 8(a) of this Act.".

(q) Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended by adding the following sentence: "This subsection shall not apply tc an insured Federal savings bank.".

CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 114. (a) Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal savings bank chartered by the Board under section 5 of this Act and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to such Federal savings banks, unless the context indicates otherwise.".

(b) Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) is amended by—

(1) inserting in paragraph (B), after the words "Federal Savings and Loan Insurance Corporation", the words "or the Federal Deposit Insurance Corporation";

(2) inserting in the second sentence of paragraph (D), after the words "shall appoint", the words "(except as hereafter provided)"; and

(3) inserting at the end of paragraph (D): "In the case of a Federal savings bank chartered pursuant to subsection (o) and insured by the Federal Deposit Insurance Corporation the Board shall appoint only the Federal Deposit Insurance Corporation as receiver for the association and the Federal Deposit Insurance Corporation shall have the same powers as receiver as those granted by this paragraph to the Federal Savings and Loan Insurance Corporation as receiver of other associations.".

(c) Section 5(d)(11) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(11)) is amended by striking the words "with other", and substituting therefor the words "with associations or with any".

CONFORMING AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 115. (a) Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended to read as follows:

"(a) It shall be the duty of the Corporation to insure the accounts of all Federal savings and loan associations, and all Federal savings banks, except for Federal savings banks the deposits of which are insured by the Federal Deposit Insurance Corporation, and it may insure the accounts of building and loan, savings and loan, and homestead associations and cooperative banks organized and operated according to the laws of the State, District, territory, or possession in which they are chartered or organized, and of savings banks chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933.".

(b) Subparagraphs (A) and (B) of section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) are amended to read as follows:

"(A) 'insured institution' means a Federal savings and loan association, a Federal savings bank, a building and loan, savings and loan or homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(B) 'uninsured institution' means any association or bank referred to in subparagraph (A) hereof, the accounts of which are not insured by the Federal Savings and Loan Insurance Corporation, except for a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(c) Section 407(m) of the National Housing Act (12 U.S.C. 1730(m)) is amended by adding at the end thereof the following:

"(4) The Federal Home Loan Bank Board, or its designated representative, shall have the same power with respect to a Federal association (or affiliate thereof) the deposits of which are insured by the Federal Deposit Insurance Corporation as it or the Corporation has under paragraphs (1) and (2) of this subsection with respect to insured institutions (or their affiliates).".

(d) Section 407(l)(6) of the National Housing Act (12 U.S.C. 1730(l)(6)) is amended by adding the following sentence: "For the purposes of this subsection the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(e) Section 407(q)(13) of the National Housing Act (12 U.S.C. 1730(q)(13)) is amended by adding at the end thereof the following sentence: "For the purposes of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".

EXTRAORDINARY ACQUISITIONS

SEC. 116. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by inserting after subsection (e) thereof the following:

"(f)(1) Nothing contained in paragraphs (2) or (3) shall be construed to limit the Corporation's powers in subsection (c) to assist a transaction under paragraphs (2) or (3).

"(2)(A) Whenever an insured bank with total assets of $500,000,000 or more (as determined from its most recent report of condition) is closed, the Corporation, as receiver, may, in its discretion and upon such terms and conditions as it may determine, arrange the sale of assets of the closed bank and the assumption of the liabilities of the closed bank, including the sale of such assets to and the assumption of such liabilities by an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company. Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of any party thereto.

"(B) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the closed insured bank was chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than twenty-four hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment. If the State supervisor objects, the Corporation may use the authority of this paragraph (2) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(3)(A) Whenever the Corporation has determined, in its discretion, that an insured bank organized in mutual form with total assets of $500,000,000 or more (as determined from its most recent report of condition) is in danger of closing, then the insured bank may merge with or its assets may be purchased by and its liabilities assumed by another institution, including an insured depository institution located in the State where the insured bank is chartered but established by an out-of-State bank or holding company. Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of any party thereto.

"(B) The Corporation may make a determination under paragraph (A) only where the board of trustees of the insured bank and the appropriate Federal or State chartering authority have specified in writing that the bank is in danger of closing and have requested in writing that the Corporation assist a merger or a purchase.

"(C) Before making a determination under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than twenty-four hours, to object to the use of the provisions of this paragraph (3). If the State supervisor objects, the Corporation may use the authority of this paragraph (3) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(4) Notwithstanding subsection (d) of section 3 of the Bank Holding Company Act of 1956 or any other provision of law, State or Federal, or the constitution of any State, an institution that merges with or acquires an insured bank under paragraph (2) or (3) is authorized to be and shall be operated as a subsidiary of an out-of-State bank or bank holding company; except that an out-of-State bank may operate the resulting institution as a subsidiary only if such ownership is otherwise specifically authorized. Any subsidiary created by operation of this subsection may retain and operate any existing branch or branches of the institution merged with or acquired under paragraph (2) or (3), but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is lo-

cated. In addition, no insured institution acquired under this subection shall move its principal office or any branch office after it is acquired which it would be prohibited from moving if the institution were a national bank.

"(5) In determining whether to arrange a sale of assets and assumption of liabilities or to permit an acquisition or a merger under the authority of paragraph (2) or (3), the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the closed bank or the bank in danger of closing.

"(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the 'lowest acceptable offer'), is from an offeror that is not an existing in-State bank of the same type as the bank that has closed or is in danger of closing (or, where the closed bank is an insured bank other than a mutual savings bank, the lowest acceptable offer is not from an in-State bank holding company), the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

"(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of different types in the same State;

"(iii) Third, between depository institutions of the same type in different States; and

"(iv) Fourth, between depository institutions of different types in different States.

"(C) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

"(D) In determining the cost of offers and reoffers, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

"(6) No sale may be made under the provisions of paragraph (2) or (3)—

"(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

"(B) whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Corporation finds that the anticompetitive effects of the proposed transactions are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(7) As used in this subsection—

"(A) the term 'receiver' shall mean the Corporation when it has been appointed the receiver of a closed insured bank;

"(B) the term 'insured depository institution' shall mean an insured bank or an association or savings bank insured by the Federal Savings and Loan Insurance Corporation; and

"(C) the term 'in-State depository institution or in-State holding company' shall mean an existing insured depository institution currently operating in the State in which he closed bank or the bank or the bank in danger of closing is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed bank or the bank in danger of closing is chartered.".

ASSESSMENTS

SEC. 117. The third sentence of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended—

(1) by striking out "and" before "(3) the insurance losses"; and

(2) by inserting before the period at the end thereof the following: "; and (4) any lending costs for the calendar year, which costs shall be equal to the amount by which the amount of interest earned, if any, from each loan made by the Corporation under section 13 of this Act after January 1, 1982, is less than the amount which the Corporation would have earned in interest for the calendar year if interest had been paid on such loan during such calendar year at a rate equal to the average current value of funds to the United States Treasury for such calendar year".

WAIVER OF NOTICE REQUIREMENTS

SEC. 118. (a) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended striking out the semicolon at the end thereof and inserting in lieu thereof the following: ". Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires it to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such applicant without notice or hearing;".

(b) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended by—

(1) striking out "or" before "(3)"; and

(2) by inserting before the period at the end thereof the following: "or (4) a Federal savings bank."

(c) The first sentence of section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting after "no application" the following: "(except an application filed as a result of a transaction authorized under section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)))".

PART B—FEDERAL HOME LOAN BANK BOARD AMENDMENTS

FEDERAL STOCK SAVINGS INSTITUTIONS

SEC. 121. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by section 112, is amended by adding at the end thereof the following:

"(p) Notwithstanding any other provision of Federal law or the laws or constitution of any State, and consistent with the purposes of this Act, the Board may authorize (or in the case of a Federal association, require) the conversion of a mutual savings and loan association or Federal mutual savings bank that is insured by the Federal Savings and Loan Insurance Corporation into a Federal Savings and Loan Insurance Corporation into a Federal stock savings and loan association or Federal stock savings bank, or charter a Federal stock savings and loan association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the rules and regulations of the Board. Authorizations under this subsection may be made only to assist an institution in receivership, or if the Board has determined that severe financial conditions exist which threaten the stability of an institution and that such authorization is likely to improve the financial condition of the institution, or when the Federal Savings and Loan Insurance Corporation has contracted to provide assistance to such institution under section 406 of the National Housing Act. A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provisions of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.".

ASSISTANCE TO THRIFT INSTITUTIONS

SEC. 122. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured institution—

"(A) if such action is taken to prevent the default of such insured institution;

"(B) if, with respect to an insured institution in default, such action is taken to restore such insured institution in default to normal operation; or

"(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured institutions or of insured institutions possessing significant resources, such action it taken in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

"(2)(A) In order to facilitate a merger or consolidation of an insured institution described in subparagraph (B) with another insured institution or the sale of assets of such insured institution and the assumption of such insured institutions's liabilities by another insured institution, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe—

"(i) to purchase any such assets or assume any such liabilities;

"(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation);

"(iii) to guarantee such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation) against loss by reason of such other insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution; or

"(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

"(B) An insured institution described in this subparagraph—

"(i) is an insured institution which is in default;

"(ii) is an insured institution which, in the judgment of the Corporation is in danger or default; or

"(iii) is an insured institution which, when severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

"(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured institution under section 408(m) of this Act with such financial assistance as it could provide an insured institution under this subsection.

"(4) No assistance shall be provided under paragraphs (1), (2), or (3) of this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating (including paying the insured accounts of) such insured institution, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured institution is essential to provide adequate savings or home financing services in its community. The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured institution. Nothing in the preceding sentence shall be construed to limit the ability of the corporation to enter into and enforce convenants and agreements that it determines to be necessary to protect its financial interest.".

(b) Section 406(b) of the National Housing Act (12 U.S.C. 1729(b)) is amended to read as follows:

"(b)(1) In the event that a Federal association is in default, the Corporation shall be appointed as conservator or receiver and as such—

"(A) is authorized—

"(i) to take over the assets of and operate such association;

"(ii) to take such action as may be necessary to put it in a sound and solvent condition;

"(iii) to merge it with another insured institution;

"(iv) to organize a new Federal association to take over its assets;

"(v) to proceed to liquidate its assets in an orderly manner; or

"(vi) to make such other disposition of the matter as it deems appropriate.

Whichever it deems to be in the best interest of the association, its savers, and the corporations; and

"(B) shall pay all valid credit obligations of the association.

"(2) The Corporation shall pay insurance as provided in section 405. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.

"(3) As used in this section, the term 'Federal association' means a Federal savings and loan association or a Federal savings bank.".

(c) Section 406(c) of the National Housing Act (12 U.S.C. 1729(c)) is amended by striking out "savings and loan" wherever it appears.

(d) Section 406(c)(1) of the National Housing Act (12 U.S.C. 1729(c)(1)) is amended by inserting "(A)" after "(c)(1)" and by adding at the end thereof the following:

"(B) Notwithstanding any provision of the constitution or laws of any State, or of this section, in the event the Federal Home Loan Bank Board determines that any of the grounds specified in section 5(d)(6)(A)(i), (ii), or (iii) of the Home Owners' Loan Act of 1933 exist with respect to an insured institution, other than a Federal association, the Board shall have exclusive power and jurisdiction to appoint the Corporation as sole conservator or receiver of such institution. In such cases the Corporation shall have the same powers and duties with respect to insured institutions as are conferred upon it under subsection (b) of this section with respect to Federal associations. The authority conferred by this subparagraph shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered insured institution that the grounds specified for such exercise exist, except that if such approval has not been received by the Board within 90 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, or if the Corporation has been appointed conservator, receiver, or other legal custodian pursuant to State law under subparagraph (A), then the Board may proceed without State approval.".

(e) Section 406(c)(2) of the National Housing Act (12 U.S.C. 1729(c)(2)) is amended by inserting "conservator or" after "sole" in the first sentence.

(f) Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)) is amended—

(1) by inserting "conservator or" before "receiver" wherever it appears therein;

(2) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (1) or (2)"; and

(3) by striking out the second sentence.

(g) Section 406(d) of the National Housing Act (12 U.S.C. 1729(d)) is amended to read as follows:

"(d) In connection with the liquidation of insured institutions, the Corporation shall have power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things that may be necessary in connection therewith, subject only to the regulation of the Federal Home Loan Bank Board, or, in cases where the Corporation has been appointed conservator, receiver, or legal custodian solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority.".

EMERGENCY THRIFT ACQUISITION

SEC. 123. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following.

"(m)(1) Notwithstanding any provision of the laws or constitution of any State or any provision of Federal law, except as provided in subsections (e)(2) and (l) hereof, and in the third sentence of this subparagraph, the Corporation, upon its determination that severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, may authorize, in its discretion and where it determines such authorization would lessen the risk to the Corporation, an insured institution that is eligible for assistance pursuant to section 406(f) of the Act to merge or consolidate with, or to transfer its assets and liabilities to, any other insured institution or any insured bank (as that term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)), may authorize any other insured institution to acquire control of said insured institution, or may authorize any company to acquire control of said insured institution or to acquire the assets or assume the liabilities thereof. Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide. Where otherwise required by law, transactions under this subsection must be approved by the primary Federal supervisor of the part thereto that is not an insured institution. No merger, consolidation, or transfer of assets and liabilities under this subsection shall be authorized without the written approval of the State official having jurisdiction over the disappearing State-chartered insured institution, except that, if the Corporation, despite a good faith effort, has not secured such approved within ninety days after the institution has exhausted its net worth, as determined under regulatory accounting prinicples, then the Corporation may effect such a transaction without State approval.

"(2) In considering authorization under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the insured institution.

"(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the 'lowest acceptable offer'), is from an institution that is not an existing in-State insured institution or an in-State savings and loan holding company, the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per entum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

"(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of different types in the same State;

"(iii) Third, between depository institutions of the same type in different States; and

"(iv) Fourth, between depository institutions of different types in different States.

"(C) In the case of a minority-controlled institution, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.

"(D) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

"(E) In determining the cost of offers and reoffers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

"(3) For purposes of this subsection—

"(A) the term 'insured depository institution' shall mean an insured institution or a bank insured by the Federal Deposit Insurance Corporation; and

"(B) the term 'in-State depository institution or in-State depository institution holding company' shall mean an existing insured depository institution currently operating in the State in which the closed institution is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed institution is chartered.

"(4) Where a merger, consolidation, transfer, or acquisition under this subsection involves an insured institution eligible for assistance and a bank or bank holding company, an insured institution may retain and operate any existing branch or branches or any other existing facilities but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located. In addition, no such insured institution shall move its principal office or any branch office after it is acquired which it would be prohibited from moving if it were a national bank. Notwithstanding the foregoing, if such an insured institution does not have its home office in the State of the bank holding company bank subsidiary, and if such institution does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code, or does not meet the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify, then such insured institutions shall be subject to the conditions upon which a bank may retain, operate and establish branches in the State in which the insured institution is located. The Corporation, for good cause shown, may allow insured institutions up to two years to comply with the requirements of the preceding sentence.".

(b) Section 408(e)(2) of the National Housing Act (12 U.S.C. 1730a(e)(2)) is amended—

(1) by inserting after "subsection" in the first sentence the following: ", or any transaction under subsection (m) hereof,"; and

(2) by inserting after "acquisition," in the third sentence the following: "except a transaction under subsection (m) hereof,".

ASSISTANCE TO FEDERAL HOME LOAN BANKS MEMBERS

SEC. 124. Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by inserting "(a)" after "SEC. 16." and by adding at the end thereof the following:

"(b) Notwithstanding subsection (a) or any other provision of this Act, if the Board determines that severe financial conditions exist threatening the stability of member institutions, the Board may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Loan Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.".

BORROWING AUTHORITY

SEC. 125. (a) The first sentence of section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by inserting before the period at the end thereof the following: ", except that interest on loans from the Federal Home Loan Banks shall be not less than their current marginal cost of funds, taking into account the maturities involved, and loans from the Federal Home Loan Banks shall be adequately secured, as determined by the Board".

(b) The first sentence of section 402(i) of the National Housing Act (12 U.S.C. 1725(i)) is amended—

(1) by striking out "any other source" and inserting in lieu thereof "any source other than the Federal Home Loan Banks";

(2) by inserting "from the Treasury" after "*Provided*, That each such loan".

(c) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end thereof the following:

"(k) The Federal Home Loan Banks are hereby authorized, as directed by the Board, to make loans to the Federal Savings and Loan Insurance Corporation. All such loans shall be made in accordance with the provisions of section 402(d) of the National Housing Act.".

INSURANCE FUND RESERVES

SEC. 126. Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) Notwithstanding any other provision of this section, the Corporation, upon its determination that extraordinary financial conditions exist increasing the risk to the Corporation, may terminate distribution of shares of the secondary reserve and utilize said reserve on the same basis as the primary reserve. If otherwise authorized, the Corporation may resume such distribution upon its determination that said conditions no longer exist.".

FEDERAL HOME LOAN BANK ACT

SEC. 127. Section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)) is amended by inserting after the first sentence the following: "Notwithstanding any other provision of law, the Board may from time to time make such provision as it deems appropriate authorizing the performance by any officer, employee, agent, or administrative unit thereof of any function of the Board (including any function of the Federal Savings and Loan Insurance Corporation), except with regard to promulgation of rules and regulations in accordance with the Administrative Procedure Act, and adjudications subject to such Act.".

CONTINUATION OF INSURANCE

SEC. 128. Section 405(a) of the National Housing Act (12 U.S.C. 1728(a)) is amended by adding after the first sentence the following: "Whenever the liabilities of an insured institution for accounts shall have been assumed by another insured institution or institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract, all accounts so assumed shall have separate insurance which shall terminate at the end of six months from the date such assumption takes effect or, in the case of any certificate account, the earliest maturity date after the six-month period."

PART C—CREDIT UNIONS

EMERGENCY MERGER AUTHORITY

SEC. 131. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) by redesignating subsections (d) through (g) as subsections (f) through (j), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Nothwithstanding any other provision of this Act, other Federal law or any State law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize a purchase and assumption by an insured credit union of all or any part of the assets and liabilities of any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that an emergency requiring expeditious action exists with respect to the credit union, that other alternatives are not reasonably available, and the public interest would best be served by approval of such merger, consolidation, or purchase and assumption.

"(e) Notwithstanding any other provision of this Act or any State law, the Board may authorize a purchase and assumption of all or any part of the assets, liabilities, and insured accounts of an insured credit union that is insolvent or in danger of insolvency by a federally insured financial institution other than a credit union. For purposes of this authority, insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.".

BOARD'S AUTHORITY AS CONSERVATOR

SEC. 132. (a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by redesignating subsections (h) through (o) as subsections (i) through (p), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) The Board may, ex parte without notice, appoint itself as conservator and immediately take possession and control of the business and assets of any insured credit union in any case in which—

"(A)(i) the Board determines that such action is necessary to conserve the assets of any insured credit union or to protect the Fund or the interests of the members of such insured credit union; or

"(ii) an insured credit union, by a resolution of its board of directors, consents to such an action by the Board; and

"(B) in the case of an insured State-chartered credit union, the State credit union supervisor is consulted at least twenty-four hours prior to the use of this authority by the Board, and the Board provides to the State supervisor, as soon as practicable, a written certification of its determination.

"(2) Not later than ten days after the date on which the Board takes possession and control of the business and assets of an insured credit union pursuant to paragraph (1), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located, or the United States District Court for the District of Columbia, for an order requiring the

Board to show cause why it should not be enjoined from continuing such possession and control.

"(3) Except as provided in paragraph (2), in the case of a Federal credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

"(A) as the Board shall permit such credit union to continue business subject to such terms and conditions as may be imposed by the Board; or

"(B) as such credit union is liquidated in accordance with the provisions of section 207.

"(4) Except as provided in paragraph (2), in the case of an insured State-chartered credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

"(A) as the Board shall permit such credit union to continue business, subject to such terms and conditions as may be imposed by the Board;

"(B) as the Board shall permit the transfer of possession and control of such credit union to any commission, board, or authority which has supervisory authority over such credit union and which is authorized by State law to operate such credit union; or

"(C) as such credit union is liquidated in accordance with the provisions of section 207.

"(5) The Board may appoint such agents as it considers necessary in order to assist the Board in carrying out its duties as a conservator under this subsection.

"(6) All expenses by the Board in exercising its authority under this subsection with respect to any credit union shall be paid out of the assets of such credit union.

"(7) The authority granted by this subsection is in addition to all other authority granted to the Board under this Act.".

(b) Section 206(b)(2) of such Act (12 U.S.C. 1786(b)(2)) is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(c) Section 206(j)(1) of such Act (12 U.S.C. 1786(j)(1)), as so redesignated by subsection (a), is amended—

(1) in the first sentence by striking out "subsection (h)(3)" and inserting in lieu thereof "subsection (i)(3)"; and

(2) in the fourth sentence by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(d) The first sentence of section 206(j)(2) of such Act (12 U.S.C. 1786(j)(2)), as redesignated by subsection (a), is amended by striking out "subsection (h)(1)" and inserting in lieu thereof "subsection (i)(1)".

(e) The first sentence of section 206(l) of such Act (12 U.S.C. 1786(l)), as redesignated by subsection (a), is amended by striking out "(h)" and inserting in lieu thereof "(i)".

(f) Section 206(m) of such Act (12 U.S.C. 1786(m)), as redesignated by subsection (a), is amended—

(1) by striking out "subsection (i)" and inserting in lieu thereof "Subsection (j)"; and

(2) by striking out "subsection (h)" and inserting in lieu thereof "subsection (i)".

(g) The section heading for section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting "; TAKING POSSESSION OF BUSINESS AND ASSETS" after "COMMITTEE MEMBERS".

PART D—SUNSET PROVISION

SUNSET OF CERTAIN PROVISIONS

SEC. 141. (a) Effective upon the expiration of three years after the date of enactment of this Act—

(1) subparagraphs (F) and (G) of section 5(o)(2) of the Home Owners' Loan Act of 1933, as added by section 112 of this Act, shall be repealed;

(2) the provision of law amended by section 116 of this Act shall be amended to read as it would without such amendment;

(3) the provisions of law amended by subsections (a) and (c) of section 118 shall be amended to read as they would without such amendments;

(4) the provision of law amended by section 121 of this Act shall be amended to read as it would without such amendment;

(5) the provisions of law amended by subsections (d) through (g) of section 122 of this Act shall be amended to read as they would without such amendments;

(6) the provisions of law amended by section 123 of this Act shall be amended to read as they would without such amendments; and

(7) the provisions of law amended by sections 131 and 132 shall be amended to read as they would without such amendments.

(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect.

TITLE II—CAPITAL ASSISTANCE

SHORT TITLE

SEC. 201. This title may be cited as the "Capital Assistance Act of 1982".

INSURED INSTITUTIONS

SEC. 202. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), as amended by section 122 of this Act, is amended by adding at the end thereof the following:

"(5)(A) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act or the Home Owners' Loan Act of 1933, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such qualified institution, and may authorize such institution to issue such instruments, pursuant to this paragraph. Dividends on any capital instrument so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the instrument. In making a determination under this paragraph, the State supervisor of the State in which an insured, State chartered institution which is the subject of the eligibility determination is located shall be consulted. With respect to instruments held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization and over any right of equity holders to participate in future earnings.

"(B) For the purposes of this paragraph, the term 'qualified instititution' means an insured institution which, as determined by the Corporation—

"(i) has net worth equal to or less than 3 per centum of its assets;

"(ii) has incurred losses during the two previous quarters;

"(iii) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including, without limitation on the totality of the foregoing, those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize (except that such resolutions and agreements shall not be required of institutions that will have a positive net worth for nine months or more after any purchase of their capital instruments by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph), suspension of dividends by stock institutions, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(iv) will have a positive net worth for six months or more after any purchase of its capital instruments by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

"(v) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its assets.

"(C) The Corporation may initially purchase capital instruments as follows:

"(i) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase capital instruments in any period from such institution in an amount equal to 30 per centum of its actual losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(ii) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase capital instruments in any period from such institution in an amount equal to 40 per centum of it actual losses (not occasioned by mismanagement or speculation in futures or forward contracts) as determined by the Corporation.

"(iii) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, the Corporation may purchase capital instruments in any period from such institution in an amount equal to 50 per centum of its actual losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(D) In the exercise of its authority under this paragraph, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of capital instruments, differ from those set forth in subparagraph (C).

"(E) No assistance may be provided to a qualified institution pursuant to this paragraph if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with paragraph (1) or (2) of this subsection.

"(F) Notwithstanding any other provision of this paragraph, the Corporation shall in no period purchase capital instruments from a qualified institution in an amount equal to more than 100 per centum of such institution's actual losses incurred for the immediately preceding period.

"(G) The provisions of the constitution or the laws, civil or criminal, or any State, express or implied, limiting the authority of a qualified institution (i) to take part in programs under this paragraph, (ii) to issue and

otherwise deal in capital instruments issued pursuant to this paragraph, or (iii) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this paragraph, continuing operations, or paying interest or dividends.

"(H) During any period when a qualified institution has outstanding capital instruments issued in accordance with this paragraph, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid thereon.

"(I) Notwithstanding any other Federal or State law, capital instruments purchased by the Corporation under this paragraph shall be deemed to be net worth for statutory and regulatory purposes.

"(J) The Corporation may not use its authority under this paragraph to purchase the voting or common stock of a qualified institution. Nothing in this subparagraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

(b) Section 5(b)(5) of the House Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(5)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Capital instruments issued by an association pursuant to section 406(f) of the National Housing Act shall constitute part of the general reserves and net worth of the association, in accordance with the rules and regulations of the Board."; and

(2) by adding at the end thereof a new subparagraph (C) as follows:

"(C) The Board shall provide in its rules and regulations for charging losses to mutual capital certificates, capital instruments issued pursuant to section 406(f) of the National Housing Act, reserves, and other net worth accounts.".

(c) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended—

(1) in the fourth-to-last sentence by inserting after "items," the following: "including capital instruments issued pursuant to section 406(f) of this Act,"; and

(2) in the second-to-last sentence by striking out "the mutual capital certificate" and inserting in lieu thereof "mutual capital certificates, capital instruments issued pursuant to section 406(f) of this Act,".

(d) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out everything beginning with and including the phrase "will provide adequate reserves satisfactory to the Corporation" through the end of the sentence immediately preceding the fourth sentence from the end of such subsection, and inserting in lieu thereof the following: "and will provide adequate reserves in a form satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation.".

INSURED BANKS

SEC. 203. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823), as amended by section 113 of this Act is amended by adding at the end thereof the following:

"(i)(1) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such institution, and may authorize such institution to issue such instruments, pursuant to this subsection. Dividends on any capital instrument so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase said instrument. In making a determination under this subsection, the Corporation shall consult the State supervisor of the State in which an insured, State chartered bank which is the subject of the eligibility determination is located, and in the case of a State member bank or a national bank, the Corporation shall consult the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, respectively. With respect to instruments held by it, the claim of the corporation shall have a priority over any claim, arising out of an equity interest in the institution in the event of a liquidation or reorganization and over any right of equity holders to participate in future earnings.

"(2) For the purpose of this subsection, the term 'qualified institution' means an insured bank which, as determined by the Corporation—

"(A) has net worth equal to or less than 3 per centum of its assets;

"(B) has incurred losses during the two previous quarters;

"(C) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this subsection, including, without limitation on the totality of the foregoing, those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorgainze (except that such resolutions and agreements shall not be required of institutions that will have a positive net worth for nine months or more after any purchase of their capital instruments by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this subsection), suspension of dividends by stock institutions, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(D) will be solvent for more than six months, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this subsection; and

"(E) has investments in residental mortgages or securities backed by such mortgages aggregating at least 20 per centum of its assets.

"(3) The Corporation may initially purchase capital instruments as follows:

"(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase capital instruments in any period from such institution in an amount equal to 30 per centum of the actual losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase capital instruments in any period from such institution in an amount equal to 40 per centum of the actual losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, the Corporation may purchase capital instruments in any period from such institution in an amount equal to 50 per centum of the actual losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(4) In the exercise of its authority under this subsection, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of capital instruments, differ from those set forth in paragraph (3).

"(5) No assistance may be provided to a qualified institution pursuant to this subsection if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with subsection (c) or (d) of this section.

"(6) Notwithstanding any other provision of this subsection, the Corporation shall in no period purchase capital instruments from a qualified institution in an amount equal to more than 100 per centum of such institution's actual losses incurred for the immediately preceding period.

"(7) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (A) to take part in programs under this subsection, (B) to issue and otherwise deal in capital certificates issued pursuant to this subsection, or (C) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this subsection, continuing operations, or paying interest or dividends.

"(8) During any period when a qualified institution has outstanding capital instruments issued in accordance with this subsection, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid thereon.

"(9) Notwithstanding any other Federal or State law, capital instruments purchased by the Corporation under this subsection shall be deemed to be net worth for statutory and regulatory purposes.

"(10) The Corporation may not use its authority under this subsection to purchase the voting or common stock of a qualified institution. Nothing in this paragraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

SUNSET

SEC. 204. The provisions of this title shall cease to be effective upon the expiration of three years after the date of enactment of this Act.

TITLE III—THRIFT INSTITUTIONS RESTRUCTURING

SHORT TITLE

SEC. 301. This title may be cited as the "Thrift Institutions Restructuring Act of 1982".

PART A—FORM OF CHARTER; DEMAND ACCOUNTS

CHARTERING AND PURPOSE

SEC. 311. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States.".

DEMAND ACCOUNTS AND CAPITAL STOCK

SEC. 312. Paragraphs (1) and (2) of section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) are amended to read as follows:

"(1) An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time (all of which are referred to in this section as savings accounts), or in the form of such demand accounts of those persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association as are authorized by its charter or by regulations of the Board, and may issue such passbooks, time certificates of deposit, or other evidence of accounts as are so authorized. As association may also accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer. An association may not pay interest on a demand account. All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of an association shall, to such extent as may be provided by its charter or by regulations of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided. Except as may be otherwise authorized by the association's charter or regulation of the Board in the case of savings accounts for fixed or minimum terms of not less than fourteen days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than fourteen days, as shall be provided for by the charter of the association or the regulations of the Board. The payment of withdrawals from accounts in the event an association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice) shall be subject to such rules and procedures as may be prescribed by the association's charter or by regulation of the Board, but any association which, except as authorized in writing by the Board, fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition to transact business within the meaning of subsection (d) of this section. Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the association, as the Board may by regulation provide. Notwithstanding any limitation of this section, associations may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.

"(2) To such extent as the Board may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the Board and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock, as the Board may so authorize.".

CONVERSIONS TO FEDERAL CHARTERS

SEC. 313. Section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended to read as follows:

"(i)(1) Any institution which is, or is eligible to become, a member of a Federal home loan bank may convert itself into a Federal savings and loan association or Federal savings bank under this Act (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form), but such conversion shall be subject to such rules and regulations as the Board shall prescribe, and thereafter the converted association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act.

"(2) Subject to the rules and regulations of the Board, any Federal association may convert itself from the mutual form to the stock form of organization, or from the stock form to the mutual form, and any Federal association may change its designation from a Federal savings and loan association to a Federal savings bank, or the reverse.

"(3) Any Federal association may convert itself into a savings and loan or savings bank type of institution organized pursuant to the laws of the State, district, Commonwealth, or territory (hereinafter referred to in this section as the 'State') in which the principal office of such Federal association is located if—

"(A) the State permits the conversion of any savings and loan or savings bank type of institution of such State into a Federal association;

"(B) such conversion of a Federal association into such a State institution is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal association is located, as required by such law for a State-chartered institution to convert itself into a Federal association, but in no event upon a vote of less than 51 per centum of all the votes cast at such meeting, and upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal association;

"(C) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof, and such notice shall be mailed, postage prepaid, at least thirty and not more than sixty days prior to the date of the meeting, to each member of stockholder of record of the Federal association at his last address as shown on the books of the Federal association and to the General Counsel of the Federal Home Loan Bank Board, Washington, District of Columbia;

"(D) in the event of dissolution of a mutual association after conversion, the members or shareholders of the association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

"(E) in the event of dissolution of a stock association after conversion, the stockholders will share on a equitable basis in the assets of the association; and

"(F) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the association is located.

The act of conversion constitutes consent by the institution to be bound by all the requirements that the Federal Savings and Loan Insurance Corporation may legally impose under section 403 of the National Housing Act. The association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Federal Savings and Loan Insurance Corporation for issuance by similar insured institutions in such State. If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

"(4) Any aggrieved person may obtain review of a final action of the Board or the Federal Savings and Loan Insurance Corporation which approves, with or without conditions, or disapproves a plan of conversion from the mutual to the stock form, only by complying with the provisions of subsection (k) of section 408 of the National Housing Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of final action as is required by or approved under regulations of the Corporation, whichever is later.

"(5) To the extent authorized by the Board—

"(A) any Federal savings bank chartered as such prior to the enactment of this paragraph may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to such enactment; and

"(B) any Federal savings bank formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

The authority conferred by this paragraph may be utilized by any Federal association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfathered rights hereunder.".

CONVERSION FROM STATE MUTUAL TO STATE STOCK

SEC. 314. Section 402(j) of the National Housing Act (12 U.S.C. 1725(j) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in section 5 of the Home Owners' Loan Act of 1933, no insured institution may convert from the mutual to the stock form except in accordance with the rules and regulations of the Corporation."; and

(2) by striking our paragraphs (2), (3), (5), and (6) and redesignating paragraph (4) as paragraph (2).

PART B—INVESTMENTS

OVERDRAFTS

SEC. 321. Section 5(c)(1)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(A)) is amended to read as follows:

"(A) ACCOUNTS LOANS.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.".

REAL ESTATE LOANS

SEC. 322. Section 5(c)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(B)) is amended to read as follows:

"(B) REAL PROPERTY LOANS.—Loans on the security of liens upon residential or nonresidential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets.".

TIME DEPOSITS

SEC. 323. Section 5(c)(1)(G) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(G)) is amended to read as follows:

"(G) DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or in the savings accounts, certificates, or other accounts of any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.".

GOVERNMENT SECURITIES

SEC. 324. Section 5(c)(1)(H) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(H)) is amended to read as follows:

"(H) STATE SECURITIES.—Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than $250,000 or 10 per centum of its capital and surplus in obligations of any one issuer (exclusive of investments in general obligations of any issuer).".

COMMERCIAL AND OTHER LOANS

SEC. 325. Section 5(c)(1)(L) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(L)) is amended to read as follows:

"(L) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. No association may make loans to one borrower under the authority provided by this subparagraph in excess of the amount a national bank having an identical total capital and surplus could lend such borrower. The aggregate amount of loans under this paragraph shall not exceed (i) for direct loans, 5 per centum of the assets of a savings and loan association (7½ per centum of the assets of a savings bank) prior to January 1, 1984, or 7½ per centum of the assets of a savings and loan association or savings bank thereafter, and (ii) for participations or purchases, 5 per centum of the assets of a savings and loan association or savings bank prior to January 1, 1984, or 7½ per centum of the assets of a savings and loan association or savings bank thereafter.".

ELIMINATION OF DIFFERENTIAL

SEC. 326. (a) Section 102 of Public Law 94-200 is repealed.

(b) Interest rate differentials for all categories of deposits or accounts between (A) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (B) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3 (f) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (j)), shall be phased out on or before January 1, 1984. Any differential which is being phased out pursuant to a schedule established by regulations prescribed by the Depository Institutions Deregulation Committee prior to the date of enactment of this Act shall be phased out as soon as practicable, but in no event later than such schedule provides. Notwithstanding any other provision of law, no differential for any category of deposits or accounts shall be established or maintained on or after January 1, 1984.

(c) No interest rate differential may be established or maintained in the case of the deposit account authorized pursuant to section 204 (c) of the Depository Institutions Deregulation Act of 1980.

(d) In the case of the elimination or reduction of any interest rate differential under subsection (b) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3 (f) of the Federal Deposit Insurance Act (12 U.S.C 1813 (f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to pay on such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

MONEY MARKET DEPOSIT ACCOUNT

SEC. 327. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503) is amended by adding at the end there of the following:

"(c) The Committee shall issue a regulation authorizing a new deposit account, effective not later than sixty days after the date of enactment of this subsection. Such account shall be directly equivalent to and competitive with money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940. No limitation on the maximum rate or rates of interest payable on deposit accounts shall apply to the account authorized by this subsection. For the purpose of section 19(b) of the Federal Reserve Act, accounts established pursuant to this subsection which are not 'transaction accounts' as defined by the reserve requirement regulations of the Board of Governors of the Federal Reserve System as those regulations existed on August 1, 1982, shall not be subject to transaction account reserves, even though no minimum maturity is required.".

HOUSING AND LAND DEVELOPMENT LOANS

SEC. 328. Section 5(c)(1)(O) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(O)) is amended to read as follows:

"(O) HOUSING AND LAND AND URBAN DEVELOPMENT INSURED OR GURANTEED INVESTMENTS.—Loans (i) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) as to which the association has the benefit of any guarantee under title IV of the Housing and Urban Development Act of 1968 or under part B of the National Urban Policy and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974, or of a commitment or agreement therefor.".

CONSUMER LOANS

SEC. 329. Section 5(c)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(2)(B)) is amended—

(1) by inserting ", including loans reasonably incident to the provision of such credit," after "household purposes"; and

(2) by inserting before the period at the end thereof the following: ", except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association".

ADDITIONAL INVESTMENT AUTHORITIES

SEC. 330. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended—

(1) by striking out "20 per centum" and inserting in lieu thereof "the following percentages" in paragraph (2);

(2) by redesignating paragraph (6) as paragraph (5);

(3) by striking out paragraph (2)(A) and inserting in lieu thereof the following:

"(A) INVESTMENTS IN PERSONALITY.—Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.";

(4) in paragraph (3)—

(A) by striking out subparagraph (D); and

(B) by amending subparagraph (A) to read as follows:

"(A) EDUCATION LOANS.—Loans made for the payment of educational expenses."; and

(5) in paragraph (4)—

(A) by amending subparagraph (C) to read as follows:

"(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act as hereafter amended or extended, or of any commitment or agreement for any such guaranty. Investments under this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association."; and

(B) by amending subparagraph (D) to read as follows:

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock,

obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.".

TYING ARRANGEMENTS

SEC. 331. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112 and 121, is amended by adding at the end thereof the following:

"(r)(1) An association shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

"(2) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

"(3) Any person who is injured in his business or property by reason of anything forbidden in paragraph (1) may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or may sue therefor in e of the occurrence of the violation.

"(4) Nothing contained in this subsection shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Board under this subsection shall in any manner constitute a defense to such action.

"(5) As used in this subsection—

"(A) the term 'affiliate' of an association means any individual or company (including any corporation, partnership, trust, joint-stock company, or similar organization) which controls, is controlled by, or is under common control with such association; and

"(B) the term 'loan' includes obligations and extensions or advances of credit.".

LIQUIDITY INVESTMENTS

SEC. 332. Section 5A(b)(1)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(B)) is amended by striking out "and commercial banks" and inserting in lieu thereof the following: ", institutions which are, or are eligible to become, members thereof, and commercial banks".

REGULATORY JURISDICTION

SEC. 333. Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by inserting after "Islands" the following: ", except an institution and the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, or an institution chartered by the Federal Home Loan Bank Board".

BRANCHING

SEC. 334. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112, 121, and 331, is amended by adding at the end thereof the following:

"(s) No association may establish, retain, or operate a branch outside the State in which the association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code or meets the asset compostition test imposed by subparagraph (C) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the association attributable to all branches of the association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under said section 7701(a)(19). The limitations of this subsection shall not apply if (1) the branch results from a transaction authorized under section 408(m) of the National Housing Act; (2) the branch was authorized for the association prior to the enactment of the Depository Institutions Amendments of 1982; (3) the law of the State in which the branch is or is to be located would permit establishment of the branch were the association an institution of the savings and loan or savings bank type chartered by the State in which its home office is located; or (4) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter. The Board, for good cause shown, may allow associations up to two years to comply with the requirements of this subsection.".

HOLDING COMPANY ACTIVITIES

SEC. 335. Section 408 of the National Housing Act (12 U.S.C. 1730a), as amended by section 123, is amended by adding at the end thereof the following:

"(n) No savings and loan holding company, nor any subsidiary thereof which is not an insured institution, whose subsidiary insured institution fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, shall commence, or continue for more than three years after such failure, any business activity other than those specified for multiple savings and loan holding companies and their subsidiaries under subsection (c)(2) hereof.".

PART C—PREEMPTION OF DUE-ON-SALE PROHIBITIONS

DUE-ON-SALE CLAUSES

SEC. 341. (a) For the purpose of this section—

(1) the term "due-on-sale clause" means a contract provision which authorizes a lender, at it option, to declare due and payable sums secured by the lender's security instrument if all or any part of the property, or an interest therein, securing the real property loan is sold or transferred without the lender's prior written consent;

(2) the term "lender" means a person or government agency making a real property loan or any assignee or transferee, in whole or in part, of such a person or agency;

(3) the term "real property loan" means a loan, mortgage, advance, or credit sale secured by a lien on real property, the stock allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property; and

(4) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Notwithstanding any provision of the constitution or laws (including the judicial decisions) of any State to the contrary, a lender may, subject to subsection (c), enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan. Except as otherwise provided in subsection (d), the exercise by the lender of its option pursuant to such a clause shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by the contract. In the exercise of its option under a due-on-sale clause, a lender is encouraged to permit an assumption of a real property loan at the existing contract rate or at a rate which is at or below the average between the contract and market rates, and nothing in this section shall be interpreted to prohibit any such assumption.

(c) In the case of a contract involving a real property loan which was made or assumed, including a transfer of the liened property subject to the real property loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such State has rendered a decision (or if the highest court has not so decided, the date on which the next highest appellate court has rendered a decision resulting in a final judgment if such decision applies statewide) prohibiting such exercise, and ending on the date of enactment of this section, the provisions of subsection (b) shall apply only in the case of a transfer which occurs on or after the expiration of three years after the date of enactment of this Act, except that—

(1) a State, by a State law enacted by the State legislature prior to the close of such three-year period, with respect to real property loans originated in the State by lenders other than national banks, Federal savings and loan associations, Federal savings banks, and Federal credit unions, may otherwise regulate such contracts, in which case subsection (b) shall apply only if such State law so provides; and

(2) the Comptroller of the Currency with respect to real property loans originated by national banks or the National Credit Union Administration Board with respect to real property loans originated by Federal credit unions may, by regulation prescribed prior to the close of such period, otherwise regulate such contracts, in which case subsection (b) shall apply only if such regulation so provides.

For any contract to which subsection (b) does not apply pursuant to this subsection, a lender may require any successor or transferee of the borrower to meet customary credit standards applied to loans secured by similar property, and the lender may declare the loan due and payable pursuant to the terms of the contract upon transfer to any successor or transferee of the borrower who fails to meet such customary credit standards. A lender may not exercise its option pursuant to a due-on-sale clause in the case of a transfer of a real property loan which is subject to this subsection where the transfer occurred prior to the date of enactment of this Act. This subsection does not apply to a loan which was originated by a Federal savings and loan association or Federal savings bank.

(d) A lender may not exercise its option pursuant to a due-on-sale clause upon—

(1) the creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(2) the creation of a purchase money security interest for household appliances;

(3) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(4) the granting of a leasehold interest of three years or less not containing an option to purchase;

(5) a transfer to a relative resulting from the death of a borrower;

(6) a transfer where the spouse or children of the borrower become an owner of the property;

(7) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(8) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or

(9) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board.

(e) The Federal Home Loan Bank Board, in consulation with the Comptroller of the Currency, is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section. Notwithstanding the provisions of subsection (d), the rules and regulations prescribed under this section may permit a lender to exercise its option pursuant to a due on-sale clause with respect to a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income.

(f) The Federal Home Loan Mortgage Corporation (hereinafter referred to as the "Corporation") shall not, prior to April 1, 1983, implement the change in its policy announced on July 2, 1982, with respect to enforcement of due-on-sale clauses in real property loans which are owned in whole or in part by the Corporation.

(g) Federal Home Loan Bank Board regulations restricting the use of a balloon payment shall not apply to a loan, mortgage, advance, or credit sale to which this section applies.

PART D—MISCELLANEOUS

ATTORNEYS FEES

SEC. 351. Section 5(d)(8)(A) of the Homeowners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(A)) is amended by inserting in the last sentence thereof, after the word "party", the following: ", which prevails,".

SECURITY FOR ADVANCES

SEC. 352. Section 10 of the Federal Loan Bank Act (12 U.S.C. 1430) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members upon such security as the Board may prescribe.";

(2) by striking out the first two sentences of subsection (b); and

(3) by striking out the word "twelve" wherever it appears in subsection (c) and inserting in lieu thereof the word "twenty".

DELETION OF OBSOLETE REQUIREMENT

SEC. 353. Section 6(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(c)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of this subsection, no action shall be taken by any bank with respect to any member pursuant to any of the foregoing provisions of this subsection if the effect of such action would be to cause the aggregate outstanding advances, within the meaning of the last sentence of subsection (c) of section 1430 of this Act or within the meaning of regulations of said Board defining said term for the purposes of this sentence, made by such bank to such member to exceed twenty times the amounts paid in by such member for outstanding capital stock held by such member.".

COMPENSATION OF ADVISORY COMMITTEE MEMBERS

SEC. 354. Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is amended by striking out the fifth sentence and inserting in lieu thereof the following: "Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members and alternates of the Council may be compensated and shall be entitled to reimbursement from the Board for traveling expenses incurred in attendance at meetings of such Council.".

WITHDRAWAL FROM MEMBERSHIP

SEC. 355. (a) Section 6(i) of the Federal Home Loan Bank Act (12 U.S.C. 1426(i)) is amended by inserting before the period at the end of the second sentence the following: ", except that in the case of a voluntary withdrawal, such liquidation shall be deemed a prepayment of any such indebtednes, and shall be subject to any penalties applicable to such prepayment".

(b) Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended by adding at the end thereof the following:

"(m) Nothwithstanding any other provision of this Act, an institution which withdraws from membership may acquire membership in any Federal Home Loan Bank only after the expiration of a period of five years thereafter, except where such withdrawal is a consequence of a transfer of membership on a noninterrupted basis between banks or in connection with obtaining a charter from the Federal Home Loan Bank Board.".

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

PART A—GENERAL PROVISIONS

LENDING LIMITS

SEC. 401. (a) Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended to read as follows:

"SEC. 5200. (a)(1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

"(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

"(b) For the purposes of this section—

"(1) the term 'loans and extensions of credit' shall include all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

"(2) the term 'person' shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, or any similar entity or organization.

"(c) The limitations contained in subsection (a) shall be subject to the following exceptions:

"(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

"(2) The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

"(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 percentum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

"(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

"(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

"(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

"(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

"(8) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a)(2): *Provided, however,* That if the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

"(9) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus. Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

"(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

"(d) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit. The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.".

(b) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

BORROWING LIMITS

SEC. 402. (a) Section 5202 of the Revised Statutes (12 U.S.C. 82) is repealed.

REAL ESTATE LOANS

SEC. 403. (a) Section 24 of the Federal Reserve Act (12 U.S.C. 371) is amended to read as follows:

"REAL ESTATE LOANS

"SEC. 24. (a) Any national banking association may make, arrange, purchase, or sell loans or extensions of credit secured by liens on interests in real estate, subject to such terms, conditions, and limitations as may be prescribed by the Comptroller of the Currency by order, rule, or regulation.

"(b) Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 13 of the Federal Reserve Act if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.".

(b) The Act of September 7, 1916 (12 U.S.C. 92; 39 Stat. 753), is amended as follows:

(1) by striking "; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission";

(2) by striking "guarantee either the principal or interest of any such loans or".

(c) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

BANKERS' BANKS

SEC. 404. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following: "The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees. Any national banking association chartered pursuant to the preceding sentence shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.".

(b) Section 5136 (Seventh) of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by striking out the matter following the phrase *"Provided further,* That," and inserting in lieu thereof the following: "notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company.".

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following:

"(5) This section shall apply, in the same manner as it applies to any insured bank for which the appropriate Federal banking agency is the Comptroller of the Currency, to any national banking association chartered by the Comptroller of the Currency, including an uninsured association.".

(d)(1) Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by adding at the end thereof the following: "The term 'bank' also includes a State chartered bank or a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or by a bank holding company which is owned exclusively by other depository institutions and is organized to engage exclusively in providing services for othe depository institutions and their officers, directors and employees.".

(2) Section 3(e) of such Act is amended by adding at the end thereof the following: "This subsection does not apply to a bank described in the last sentence of section 2(c).".

NAME OR HEADQUARTERS CHANGE

SEC. 405. (a) Section 2 of the Act of May 1, 1886 (24 Stat. 18; 12 U.S.C. 30) is amended to read as follows:

"SEC. 2. (a) Any national banking association, upon written notice to the Comptroller of the Currency, may change its name, except that such new name shall include the word 'National'.

"(b) Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits.".

(b) The first proviso of section 5134 of the Revised Statutes (12 U.S.C. 22) is amended by placing a period after the word "national" and striking the remainder of that sentence.

VENUE PROVISIONS

SEC. 406. Section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows:

"SEC. 5198. Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.".

LEGAL HOLIDAYS

SEC. 407. The last sentence of section 4(b)(1) of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95(b)(1)) is amended to read as follows: "In the event that a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise.".

UNCLAIMED PROPERTY

SEC. 408. Title VII of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by adding after section 723 the following:

"PART C—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

"PURPOSE

SEC. 731. The purpose of this part is to dispose of unclaimed property in the possession, custody, or control of the Comptroller of the Currency by—

"(1) providing final notice of the availability of unclaimed property from closed national banks and closed banks in the District of Columbia;

"(2) barring rights of claimants to obtain such property from the Comptroller after a reasonable period of time following such notice; and

"(3) authorizing the Comptroller to dispose of such property for which no claims have been filed and validated under this part.

"DEFINITIONS

"SEC. 732. For purposes of this part—

"(1) the term 'Comptroller' means the Comptroller of the Currency;

"(2) the term 'unclaimed property' means any articles, items, assets, other property, or the proceeds thereof from safe deposit boxes or other safekeeping arrangements with closed national banks or closed banks in the District of Columbia, which are in the possession, custody, or control of the Comptroller in its capacity as successor to receivers of those banks; and

"(3) the term 'claimant' means any person or entity, including a State under applicable statutory law, asserting a demonstrable legal interest in title to, or custody or possession of, unclaimed property.

"DISPOSITION OF UNCLAIMED PROPERTY

"SEC. 733. (a) Within twelve months following the date of the enactment of this part, the Comptroller shall publish formal notice in the Federal Register that all claims to rights of any claimant to obtain title to, or custody or possession of, any unclaimed property in the possession, custody, or control of the Comptroller must be filed within twelve months following the last date of publication of such formal notice in the Federal Register or shall thereafter be barred. Such notice shall contain the names of last known owners, if any, names and locations of affected closed banks, and a general description of the types of unclaimed property held by the Comptroller. The Comptroller may provide additional notice in local communities as it deems appropriate. The Comptroller shall not disclose, by publication, inspection, or otherwise, information relating to the ownership or description of any specific unclaimed property prior to publication of formal notice under this section. Thereafter, the Comptroller shall disclose descriptive information of specific unclaimed property only to a claimant thereof. The Comptroller may recoup expenses associated with any publication or other provision of notice from any sale of property authorized by this part. Reasonable opportunity for inspection of specific property by a claimant thereof shall be provided in Washington, District of Columbia.

"(b) The Comptroller shall deliver such property to any claimant or his or her legally authorized representative upon receiving proof deemed adequate by the Comptroller that such claimant is entitled to the property, but only if the claimant files for the property within twelve months following the last date formal notice is published in the Federal Register. The Comptroller shall have authority to determine the validity of all claims filed. The Comptroller may recoup expenses associated with the handling and processing of claims from any sale of property authorized by this part. All expenses associated with the delivery of any property shall be borne by the claimant. The Comptroller shall not be responsible for any loss in connection with the handling, storage, or delivery of any property to the claimant. The Comptroller may require the claimant to purchase insurance to cover the risk of any loss.

"(c) If, after twelve months from the date formal notice is published in the Federal Register, any such property remains in the possession, custody, or control of the Comptroller for which no valid claim has been filed, all rights, title, and interest in such property shall immediately be vested in the United States. The Comptroller shall thereupon, in his discretion, sell, use, destroy, or otherwise dispose of any such unclaimed property. Such disposition may include donations to the Smithsonian Institution for addition to the national collection. The proceeds of any sale authorized by this section, after recoupment by the Comptroller of any expenses incurred hereunder, shall be covered into the Treasury as miscellaneous receipts.

"(d) The United States, the Comptroller, or any officer, employee, or agent thereof shall not be subject to personal or legal liability for any determination as to the validity of any claim or claims filed under this part for any delivery, sale, destruction, or other disposition of unclaimed property.

"(e) A court action to determine legal ownership, entitlement, or right to possession may be filed in any State or Federal court of competent jurisdiction other than against the United States, the Comptroller, or any officer, agent, or employee thereof. Such actions shall be determined de novo without regard to any agency determination or any disposition or delivery by the Comptroller of any particular property to any person. The United States, the Comptroller, or any officer, employee, or agent thereof shall neither be a party to any such judicial proceeding nor be bound by any decision, decree, or order resulting therefrom.

"(f) The United States Claims Court shall have exclusive jurisdiction to hear and determine any suit brought against the United States, the Comptroller, or any officer, employee, or agent thereof with regard to any determination of a claim or the disposition of any unclaimed property. The United States Claims Court may set aside actions of the Comptroller only if such actions are found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. All claims for which the United States Claims Court has jurisdiction under this subsection shall be barred unless suit is filed within two years from the date of expiration of the twelve-month notice period provided by this part. For purposes of secton 1491 of title 28, United States Code, any claim against the Comptroller, the United States, or any officer, employeee, or agent thereof shall be considered a claim against the United States.

"RULEMAKING AUTHORITY

"SEC. 734. The Comptroller may issue rules and regulations necessary or appropriate to carry out this part.

"SEVERABILITY

"SEC. 735. If any provision of this part or the application of such provision to any person or circumstance is held invalid, the remainder of this part and the application of such provision to other persons or circumstances shall not be affected thereby.".

AMENDMENTS TO DEREGULATION ACT

SEC. 409. Sections 721 and 722 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 191 note) are amended by striking out the phrase "closed on or before January 22, 1934" each place it appears and inserting in lieu thereof "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation."

BANKERS' ACCEPTANCES

SEC. 410. The seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372) is amended to read as follows:

"(7)(A) Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 7 of the International Banking Act of 1978 (hereinafter in this paragraph referred to as 'institutions'), may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

"(i) which grow out of transactions involving the importation or exportation of goods;

"(ii) which grow out of transactions involving the domestic shipment of goods; or

"(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

"(B) No institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(D) Notwithstanding subparagraphs (B) and (C), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such accept-

ances, authorized for such institution under this paragraph.

"(E) No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association, or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board pursuant to subparagraph (H), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

"(F) With respect to an institution which issues an acceptance, the limitations contained in subparagraphs (B), (C), and (E) shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

"(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

"(H) Any limitation or restriction in this paragraph based on paid up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.".

BANKING AFFILIATES

SEC. 411. (a) This section may be cited as the "Banking Affiliates Act of 1982".

(b) Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended to read as follows:

"SEC. 23A. (a) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—

"(1) A member bank and its subsidiaries may engage in a covered transaction with an affiliate only if—

"(A) in the case of any affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 per centum of the capital stock and surplus of the member bank; and

"(B) in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 20 per centum of the capital stock and surplus of the member bank.

"(2) For the purpose of this section any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.

"(3) A member bank and its subsidiaries may not purchase a low-quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

"(4) Any covered transactions and any transactions exempt under subsection (d) between a member bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practices.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'affiliate' with respect to a member bank means—

"(A) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

"(B) a bank subsidiary of the member bank;

"(C) any company—

"(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or

"(ii) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

"(D)(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; or

"(ii) any investment company with respect to which a member bank or any affiliate thereof is an investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)-2(a)(20)); and

"(E) any company that the Board determines by regulation or order to have a relationship with the member bank or any subsidiary or affiliate of the member bank, such that covered transactions by the member bank or its subsidiary with that company may be affected by the relationship to the detriment of the member bank or its subsidiary; and

"(2) the following shall not be considered to be an affiliate:

"(A) any company, other than a bank, that is a subsidiary of a member bank, unless a determination is made under paragraph (1)(E) not to exclude such subsidiary company from the definition of affiliate;

"(B) any company engaged solely in holding the premises of the member bank;

"(C) any company engaged solely in conducting a safe deposit business;

"(D) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

"(E) any company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Act, whichever date is later, subject, upon application, to authorization by the Board for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

"(3)(A) a company or shareholder shall be deemed to have control over another company if—

"(i) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

"(ii) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

"(iii) the Board determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

"(B) notwithstanding any other provision of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (1)(C) of this subsection or if the company owning or controlling such shares is a business trust;

"(4) the term 'subsidiary' with respect to a specified company means a company that is controlled by such specified company;

"(5) the term 'bank' includes a State bank, national bank, banking association, and trust company;

"(6) the term 'company' means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term 'company' includes a 'member bank' and a 'bank';

"(7) the term 'covered transaction' means with respect to an affiliate of a member bank—

"(A) a loan or extension of credit to the affiliate;

"(B) a purchase of or an investment in securities issued by the affiliate;

"(C) a purchase of assets, including assets subject to an agreement to repurchase, from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Board by order or regulation;

"(D) the acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company; or

"(E) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

"(8) the term 'aggregate amount of covered transactions' means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

"(9) the term 'securities' means stocks, bonds, debentures, notes, or other similar obligations; and

"(10) the term 'low-quality asset' means an asset that falls in any one or more of the following categories:

"(A) an asset classified as 'substandard', 'doubtful', or 'loss' or treated as 'other loans especially mentioned' in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

"(B) an asset in a nonaccrual status;

"(C) an asset on which principal or interest payments are more than thirty days past due; or

"(D) an asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

"(c) COLLATERAL FOR CERTAIN TRANSACTIONS WITH AFFILIATES.—

"(1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a member bank or its subsidiary shall be secured at the time of the transaction by collateral having a market value equal to—

"(A) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of—

"(i) obligations of the United States or its agencies;

"(ii) obligations fully guaranteed by the United States or its agencies as to principal and interest;

"(iii) notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

"(iv) a segregated, earmarked deposit account with the member bank;

"(B) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State;

"(C) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or

"(D) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.

"(2) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.

"(3) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of an affiliate.

"(4) The securities issued by an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the member bank.

"(5) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

"(d) EXEMPTIONS.—The provisions of this section, except paragraph (a)(4), shall not be applicable to—

"(1) any transaction, except for the purchase of a low-quality asset which is prohibited, with a bank—

"(A) which controls 80 per centum or more of the voting shares of the member bank;

"(B) in which the member bank controls 80 per centum or more of the voting shares; or

"(C) in which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the member bank;

"(2) making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Board may prescribe by regulation or order;

"(3) giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

"(4) making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by—

"(A) obligations of the United States or its agencies;

"(B) obligations fully guaranteed by the United States or its agencies as to principal and interest; or

"(C) a segregated , earmarked deposit account with the member bank;

"(5) purchasing securities issued by any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956;

"(6) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation; and

"(7) purchasing from an affiliate a loan or extension of credit that was originated by the member bank and sold to the affiliate subject to a repurchase agreement or with recourse.

"(e) RULEMAKING AND ADDITIONAL EXEMPTIONS.—

"(1) The Board may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

"(2) The Board may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section.".

"(c) Section 23A of the Federal Reserve Act, as amended by this section, shall apply to any transaction entered into after the date of enactment of this Act, except for transactions which are the subject of a binding written contract or commitment entered into on or before July 28, 1982, and except that any renewal of a participation in a loan outstanding on July 28, 1982, to a company that becomes an affiliate as a result of the enactment of this Act, or any participation in a loan to such an affiliate emanating from the renewal of a binding written contract or commitment outstanding on July 28, 1982, shall not be subject to the collateral requirements of this Act.

"(d) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by striking out, "within the meaning of section 2 of the Banking Act of 1933, and".

"(e) Section 22(h)(6)(C) of the Federal Reserve Act (12 U.S.C. 375b-(6)(C)) is repealed and subparagraphs (D) through (G) of such section are redesignated as subparagraphs (C) through (F), respectively.

"(f) Section 106(b)(2)(E) of the Bank Holding Company Amendments of 1970 (12 U.S.C. 1972(2)(E)) is amended by striking out "the same meaning given it in section 23A of the Federal Reserve Act" and inserting in lieu thereof "the meaning prescribed by the Board pursuant to section 22(h) of the Federal Reserve Act (12 U.S.C. 375).".

(g) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by inserting "as in section 2(d) of the Banking Act of 1933 (12 U.S.C. 221a(b)) and" after "shall have the same meaning".

EXEMPTION FROM RESERVE REQUIREMENTS

SEC. 412(a) Section 19(b)(9) of the Federal Reserve Act (12 U.S.C. 461(b)(9)) is amended—

(1) by inserting "(A)" after "(9) EXEMPTION.—"; and

(2) by adding at the end thereof the following:

"(B) Requirements imposed under paragraph (2) of this subsection shall not apply to any depository institution which has less than $5,000,000 in deposits, which amount shall be adjusted as provided in subparagraph (C). A depository institution which has less than $5,000,000, which amount shall be adjusted as provided in subparagraph (C), in total deposits shall remain exempt under this paragraph until has total deposits of at least $5,000,000, which amount shall be adjusted as provided in subparagraph (C), for two consecutive calendar quarters. This subparagraph shall not apply to any United States branch or agency of a foreign bank or any organization operating under section 25 or section 25(a) of this Act.

(C) Not later than December 31 of each year beginning in 1982, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount contained in subparagraph (B) (or which was last determined pursuant to this subparagraph) by an amount obtained by multiplying such dollar amount by the percentage increase in the total deposits of all depository institutions. The Board may calculate the amount of the increase by using information on deposits received periodically by the Board for selected depository institutions. The increase in deposits shall be determined by subtracting the amount of such deposits on June 30th of the preceding calendar year from the amount of such deposits on June 30th of the calendar year involved. No adjustment will be made for a decrease in total deposits.".

(b) Section 19(b)(7) of the Federal Reserve Act is amended by inserting "including those exempted under subparagraph (9)(B)" after "Any depository institution".

(c) Section 11A(c)(2) of the Federal Reserve Act is amended by inserting "including those exempted under subsection 19(b)(9) of this Act" after "nonmember depository institution".

(d) This section shall take effect sixty days after the date of enactment of this Act.

VISITORIAL POWERS

SEC. 413. Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

"SEC. 5240. No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or by either House thereof or by any committee of Congress or of either House duly authorized. Notwithstanding the preceding sentence, lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.".

REAL ESTATE HOLDING PERIOD

SEC. 414. Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended by striking out the last paragraph thereof and inserting in lieu thereof the following:

"Notwithstanding the five-year holding limitation of this section or any other provision of this title, any national banking association which on the date of enactment of this paragraph held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.".

PART B—FINANCIAL INSTITUTIONS REGULATORY ACT AMENDMENTS

LOAN LIMITS

SEC. 421. (a) Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended by striking out "not exceeding $60,000" in paragraph (2), and by striking out ", not exceeding the aggregate amount of $20,000 outstanding at any one time," in paragraph (3).

(b) Paragraph (4) of section 22(g) of the Federal Reserve Act (12 U.S.C. 375a(4)) is amended by striking "not exceeding the aggregate amount of $10,000 outstanding at any one time" and inserting in lieu thereof "in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency".

REPEAL OF REPORTING REQUIREMENT

SEC. 422. Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended by striking out paragraph (9) and redesignating paragraph (10) as paragraph (9).

APPROVAL OF CERTAIN LOANS

SEC. 423. Paragraph (2) of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended—

(1) by striking out "$25,000" and inserting in lieu thereof "an amount prescribed in a regulation of the appropriate Federal banking agency"; and

(2) by striking out "a majority of the entire" and inserting in lieu thereof "the".

LOANS TO OFFICERS OF SUBSIDIARIES

SEC. 424. Subparagraphs (D) and (E) of section 22(h)(6) of the Federal Reserve Act (12 U.S.C. 375b(6) (D) and (E)) are amended by striking out ", or with any other subsidiary of such bank holding company" each place it appears therein.

EXCLUSION OF FOREIGN BANKS

SEC. 425. Section 18(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(2)) is amended by adding at the end thereof the following: "The provisions of this subsection shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), having an insured branch in the United States, but shall apply to the insured branch.".

CIVIL MONEY PENALTIES

SEC. 426. (a) Section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(1)); section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)); section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)); and section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: ": *Provided*, That the Board may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection".

(b) Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)); section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A)); and section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: ": *Provided*, That the Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection".

(c) Section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)); section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)); and section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)) are amended by inserting before the period at the end of the first sentence thereof the following: ": *Provided*, That the agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority".

(d) Each of the following provisions is amended by striking the term "shall" and inserting in lieu thereof the term "may";

(1) The second sentence of section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a));

(2) The second sentence of section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(l);

(3) The second sentence of section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1));

(4) The second sentence of section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1));

(5) The second sentence of section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730(j)(4)(A));

(6) The second sentence of section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i));

(7) The second sentence of section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A));

(8) The second sentence of section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C.1464(d)(8)(B)(i));

(9) The second sentence of section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A));

(10) The second sentence of section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)); and

(11) The second sentence of section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C.1972(2)(F)(i)).

(e) Sections 29(d) and 19(l)(4) of the Federal Reserve Act (12 U.S.C. 504(d) and 505(4)), 18(j)(3)(D) and 8(i)(2)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(D) and 1818(i)(2)(iv), 407(k)(3)(D) of the National Housing Act (12 U.S.C. 1730(k)(3)(D)), 5(d)(8)(B)(iv) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(iv)), 206(j)(2)(D) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(D)), and 106(b)(2)(F)(iv) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(iv)) are amended by striking out "ten days from the date" in each section and inserting in lieu thereof "twenty days from the service".

(f) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by striking out the word "chapter" and inserting in lieu thereof "title".

(g) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by inserting before ", or any regulation issued pursuant thereto," the following: "or any of the provisions of the first section of the Act of September 28, 1962 (76 Stat. 688; 12 U.S.C. 92a)".

TECHNICAL AMENDMENTS

SEC. 427. (a) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended—

(1) by striking out "persons" in the first sentence and inserting in lieu thereof "person"; and

(2) by striking out "(3)" in the last sentence and inserting in lieu thereof "(2)".

(b) The first sentence of section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by striking out "25A" and inserting in lieu thereof "25(a)".

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this paragraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

(d) Section 205(2) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(2)) is amended by striking "25A" and inserting in lieu thereof "25(a)".

MANAGEMENT INTERLOCKS

SEC. 428. The Depository Institution Management Interlocks Act is amended by adding at the end thereof the following new section:

"SEC. 210. For the purpose of the exercise by the Attorney General of his enforcement functions under section 207(6) of this title, all of the functions and powers of the Attorney General under the Clayton Act are available to the Attorney General, irrespective of any jurisdictional tests in the Clayton Act, including the power to take enforcement actions in the same manner as if the violation had been a violation of the Clayton Act. All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations under section 207(6) of the title in the same manner as if such possible violations were possible violations of the Clayton Act.".

REMOVAL AUTHORITY

SEC. 429. (a) Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (4) (C) through (E) as paragraphs (4) (D) through (F), respectively, and by inserting after paragraph (4)(B) the following new paragraph:

"(C) Whenever, in the opinion of the Board, any director or officer of an association has committed a violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.";

(2) by striking out "(A) or (B)" each place it appears in paragraphs (4)(D) and (4)(F), as redesignated, and inserting in lieu thereof "(A), (B), or (C)";

(3) by striking out "(E)" in the second sentence of paragraph (4)(D), as redesignated, and inserting in lieu thereof "(F)";

(4) by striking out "(C)" in paragraph (F), as redesignated, and inserting in lieu thereof "(D)";

(5) by striking out, in paragraph (5)(A), "or (C)" and inserting in lieu thereof "(C), or (D)"; and

(6) by striking out, in paragraph (12)(A), "(4)(C), (4)(D)" and inserting in lieu thereof "(4)(D), (4)(E)".

(b)(1) Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed a violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.";

(B) by striking out "or (2)" each place it appears in paragraphs (4) and (6), as redesignated, and inserting in lieu thereof ", (2) or (3)";

(C) by striking out "(5)" in paragraph (4), as redesignated, and inserting in lieu thereof "(6)"; and

(D) by striking out "(3)" in paragraph (6), as redesignated, and inserting in lieu thereof "(4)".

(2) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended by striking out "or (3)" in the fourth sentence and inserting in lieu thereof "(3) or (4)".

(3) Section 407(p)(1) of the National Housing Act (12 U.S.C. 1730(p)(1)) is amended by striking out "(g)(3), (g)(4)," and inserting in lieu thereof "(g)(4), (g)(5),".

(c)(1) Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the Board, any director, officer, or committee member of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the Board may serve upon such director, officer, or committee member a written notice of its intention to remove him from office.";

(B) by striking out "or (2)" each place it appears in paragraphs (4) or (6), as redesignated, and inserting in lieu thereof ", (2), or (3)";

(C) by striking out "(5)" in paragraph (4), as redesignated, and inserting in lieu thereof "(6)"; and

(D) by striking out "(3)" in paragraph (6), as redesignated, and inserting in lieu thereof "(4)".

(2) Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by striking out "(3), (g)(4)" and inserting in lieu thereof "(4), (g)(5)".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the agency may serve upon such director or officer a written notice of its intention to remove him from office."; and

(B) by striking out "or (2)" each place it appears in paragraph (4), as redesignated, and inserting in lieu thereof ", (2), or (3)".

(2) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended by striking out "(e)(5) or (e)(7)" and "(e)(1), (e)(3), or (e)(7)" and inserting in lieu thereof "(e)(4)" and "(e)(1), (e)(2), or (e)(3)", respectively.

(3) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "or (3)" in the penultimate sentence and inserting in lieu thereof ", (3), or (4)".

(4) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(3), (e)(4)" and inserting in lieu thereof "(e)(4), (e)(5)".

CORRESPONDENT ACCOUNTS

SEC. 430. (a) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by inserting in subparagraph (A) (12 U.S.C. 1972(2)(A)) after the phrase "such other bank" the phrase "or to any related interest of such person";

(2) by inserting in subparagraph (B) (12 U.S.C. 1972(2)(B)) after the phrase "desiring to open the account" the phrase "or to any related interest of such person";

(3) by inserting in subparagraph (C) (12 U.S.C. 1972(2)(C)) after the phrase "such other bank" the phrase "or to any related interest of such person"; and

(4) by inserting in subparagraph (D) (12 U.S.C. 1972(2)(D)) after the phrase "another bank" the phrase "or to any related interest of such person".

(b) Section 106(b)(2)(G) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(G)) is amended to read as follows:

"(G) For the purpose of this paragraph—

"(i) the term 'bank' shall include any mutual savings bank;

"(ii) the term 'related interest of such person' means any company controlled by such executive officer, director, or person, or any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person; and

"(iii) the terms 'control of a company' and 'company' shall have the same meaning as under section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).".

DISCLOSURE OF MATERIAL FACTS

SEC. 431. Section 7(k) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)) is repealed.

TECHNICAL AMENDMENT

SEC. 432. Section 1006(b)(2) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(b)(2)) is amended by striking out "unaccepted" and inserting in lieu thereof "unacceptable".

RIGHT TO FINANCIAL PRIVACY ACT AMENDMENTS

SEC. 433. (a) Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding section 1101(6) or any other provision of this title, the exchange of financial records or other information with respect to a financial institution among and between the five member supervisory agencies of the Federal Financial Institutions Examination Council is permitted.".

(b) Section 1114(b)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(b)(2)) is amended by striking out "of" following the term "institution".

MISCELLANEOUS AMENDMENT

SEC. 434. Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by placing a period after the phrase "six-month period" in the first sentence and striking the remainder of that sentence.

MISCELLANEOUS AMENDMENT

SEC. 435. Section 4(a)(2) of the Bank Holding Company Act of 1956 (18 U.S.C. 1843(a)(2)), as amended, is further amended by striking the phrase "December 31, 1982" in the last paragraph and substituting therefor the phrase "December 31, 1984".

TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

CUSTODIAL ACCOUNTS

SEC. 501. Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by inserting ", and such terms mean custodial accounts established for loans sold in whole or in part pursuant to section 107(13)" after "section 207 of this Act".

AUDIT OF NATIONAL CREDIT UNION ADMINISTRATION

SEC. 502. Section 102(f) of the Federal Credit Union Act (12 U.S.C. 1752a(f)) is amended by striking out "on a calendar year basis".

ORGANIZATIONAL PROCESS

SEC. 503. Section 103 of the Federal Credit Union Act (12 U.S.C. 1753) is amended by striking out "subscribe" and inserting in lieu thereof "each subscribe either individually or collectively".

PAR VALUE OF SHARES

SEC. 504. Section 103(4) of the Federal Credit Union Act (12 U.S.C. 1753(4)) is amended by inserting "initial" before "par value" and by striking out ", which shall be $5 each".

INVESTMENT OF FEES

SEC. 505. Section 10b of the Federal Credit Union Act (12 U.S.C. 1755) is amended by adding at the end thereof the following new subsection:

"(e)(1) Upon request of the Board, the Secretary of the Treasury shall invest and reinvest such portions of the annual operating fees deposited under subsection (d) as the Board determines are not needed for current operations.

"(2) Such investments may be made only in interest bearing securities of the United States with maturities requested by the Board bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(3) All income derived from such investments and reinvestments shall be deposited to the account of the Administration described in subsection (d).".

TECHNICAL AMENDMENT

SEC. 506. Section 107(5)(A) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended by striking out the period at the end of clause (ix) and inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(x) loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the

making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's unimpaired capital and surplus.".

REAL ESTATE LENDING—MAXIMUM MATURITY

SEC. 507. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by inserting "or such other limits as shall be set by the National Credit Union Association Board" after "not exceeding thirty years".

REAL ESTATE LENDING—MEDIAN PRICE RULE

SEC. 508. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "the sales price of which is not more than 150 per centum of the median sales price of residential real property situated in the geographical area (as determined by the board of directors) in which the property is located,".

REAL ESTATE LENDING—REFINANCING

SEC. 509. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "which is made to finance the acquisition of" and inserting in lieu thereof "on" and by striking out "for" the first time it appears and inserting in lieu thereof "that is or will be".

REAL ESTATE LENDING—SECOND MORTGAGES

SEC. 510. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended to read as follows:

"(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed fifteen years unless such loan is insured or guaranteed as provided in subparagraph (iii);".

TERMS OF GUARANTEED LOANS

SEC. 511. Section 107(5)(A)(iii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(iii)) is amended to read as follows:

"(iii) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided;".

LOANS TO DIRECTORS OR COMMITTEE MEMBERS

SEC. 512. Section 107(5)(A) (iv) and (v) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A) (iv) and (v)) are amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

REAL ESTATE LENDING—PARTIAL PAYMENTS

SEC. 513. Section 107(5)(A)(viii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(viii)) is amended by inserting before the semicolon at the end thereof the following: ", except that on a first or second mortgage loan a Federal credit union may require that any partial prepayments (I) be made on the date monthly installments are due, and (II) be in the amount of that part of one or more monthly installments which would be applicable to principal".

INVESTMENT IN STATE AND LOCAL GOVERNMENT OBLIGATIONS

SEC. 514. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following "(L) investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that no credit union may invest more than 10 per centum of its unimpaired capital and surplus in the obligations of any one issuer (exclusive of general obligations of the issuer); and."

USE OF SPACE AND FACILITIES

SEC. 515. Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by adding at the end thereof the following: "For the purpose of this section, the term 'services' includes, but is not limited to, the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems). Where there is an agreement for the payment of costs associated with the provision of rent or services, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.".

INVESTMENT IN SECONDARY MARKET INSTRUMENTS

SEC. 516. Section 107(7)(E) of the Federal Credit Union Act (12 U.S.C. 1757(7)(E)) is amended by inserting after the last semicolon the following: "or in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by any other agency of the United States and a Federal credit union may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act;".

DEPOSIT IN OUT-OF-STATE INSURED STATE BANKS

SEC. 517. Section 107(8) of the Federal, Credit Union Act (12 U.S.C. 1757(8)) is amended by inserting after "in which the Federal credit union does business," the following: "or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,".

MONEY TRANSFER SERVICES

SEC. 518. Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended—

(1) by striking out "and money orders" and inserting in lieu thereof ", money orders, and other similar money transfer instruments"; and

(2) by striking out all after "for a fee" and inserting in lieu thereof a semicolon.

ANNUAL MEETINGS

SEC. 519. Section 110 of the Federal Credit Union Act (12 U.S.C. 1760) is amended to read as follows:

"MEMBERS' MEETINGS

"SEC. 110. The fiscal year of all Federal credit unions shall end December 31. The annual meeting of each Federal credit union shall be held at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held, no member shall have more than one vote.".

TECHNICAL WORDING CHANGES IN MANAGEMENT AUTHORITY

"SEC. 520. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

"MANAGEMENT

"SEC. 111. The management of a Federal credit union shall be by a board of directors, a supervisory committee, and where the bylaws so provide, a credit committee. The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors. The supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the compensated officer of the board. A record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers, shall be filed with the Administration within ten days after their election or appointment. No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.".

ELIMINATION OF SPECIFIC REFERENCE TO THE TITLES OF THE OFFICERS OF THE BOARD

"SEC. 521. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761(a)) is amended to read as follows:

"OFFICERS OF THE BOARD

"SEC. 112. At their first meeting after the annual meeting of the members, the directors shall elect from their number the board officers specified in the bylaws. Only one board officer may be compensated as an officer of the board and the bylaws shall specify such position as well as the specific duties of each of the board officers. The board shall elect from their number a financial officer who shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the board conditioned upon the faithful performance of the officer's trust.".

CLARIFICATION OF BOARD OF DIRECTOR'S DUTIES

SEC. 522. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761(b) is amended to read as follows:

"BOARD OF DIRECTORS; MEETINGS, POWERS AND DUTIES; EXECUTIVE COMMITTEE; MEMBERSHIP OFFICERS; MEMBERSHIP APPLICATIONS

"SEC. 113. The board of directors shall meet at least once a month and shall have the general directions and control of the affairs of the Federal credit union. Minutes of all meetings shall be kept. Among other things, the board of directors shall—

"(1) act upon applications for membership or appoint membership officers from among the members of the board of directors, other than the board member paid as an officer, the financial board officer, any assistant to the paid officer of the board or to the financial officer, or any loan officer;

"(2) require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character in compliance with

regulations of the board, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit unions;

"(3) fill vacancies on the board of directors until successors elected at the next annual meeting have qualified;

"(4) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;

"(5) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;

"(6) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;

"(7) determine the maximum number of shares, share certificates, and share draft accounts, and the classes of shares, share certificates, and share draft accounts;

"(8) subject to any limitations of this subchapter, determine the interest rates on loans, the security, and the maximum amount which may be loaned and provided in lines of credit;

"(9) authorize interest refunds to members of record at the close of business on the last day of any dividend period from income earned and received in proportion to the interest paid them during the dividend period;

"(10) if the bylaws so provide, appoint one or more loan officers and delegate to these officers the power to approve or disapprove loans, lines of credit, or advances from lines of credit;

"(11) establish the par value of the share;

"(12) subject to the limitations of this title and the bylaws of the credit union, provide for the hiring and compensation of officers and employees;

"(13) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;

"(14) prescribe conditions and limitations for any committee which it appoints;

"(15) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting together with such other related information as it or the bylaws require;

"(16) provide for the furnishing of the written reasons for any denial of a membership application to the applicant upon the written request of the applicant;

"(17) in the absence of a credit committee, and upon the written request of a member, review a loan application denied by a loan officer;

"(18) declare the dividend rate to be paid on shares, share certificates, and share draft accounts pursuant to the terms and conditions of section 117;

"(19) establish and maintain a system of internal controls consistent with the regulations of the Board;

"(20) establish lending policies; and

"(21) do all other things that are necessary and proper to carry out all the purposes and powers of the Federal credit union, subject to regulations issued by the Board.".

OPTIONAL CREDIT COMMITTEE

SEC. 523. Section 114 of the Federal Credit Union Act (12 U.S.C. 1761c) is amended to read as follows:

"CREDIT COMMITTEE

"SEC. 114. (a) If the bylaws provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which shall consist of an odd number of members of the credit union, but which shall not include more than one loan officer. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Reasonable notice of such meetings shall be given to all members of the committee. Except for those loans or lines of credit required to be approved by the board of directors in section 107(5) of this Act, approval of an application shall be by majority of the committee who are present at the meeting at which it is considered provided that a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

"(b) If the bylaws provide for a credit committee, all applications not approved by the loan officer shall be reviewed by the credit committee, and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer's decision provided a majority of the full committee is present. If there is no credit committee, a member shall have the right upon written request of review by the board of directors of a loan application which has been denied. No individual shall have authority to disburse funds of the Federal credit union with respect to any loan or line of credit for which the application has been approved by him in his capacity as a loan officer.".

REQUIREMENT THAT CREDIT UNION PAY ON ALL DOLLARS AFTER PURCHASE OF FULL SHARE

SEC. 524. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended to read as follows:

"DIVIDENDS

"SEC. 117. At such intervals as the board of directors may authorize, and after provision for required reserves, the board of directors may declare, pursuant to such regulations as may be issued by the Board, a dividend to be paid at different rates on different types of share, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. Dividends credit may be accrued on various types of shares, share certificates, and share draft accounts as authorized by the board of directors. If the par value of a share exceeds $5, dividends shall be paid on all funds in the regular share account once a full share has been purchased.".

NONPARTICIPATION

SEC. 525. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended to read as follows:

"EXPULSION AND WITHDRAWAL

"SEC. 118. (a) Except for those circumstances set out in subsection (b) of this section, a member may be expelled by a two-thirds vote of the members of a Federal credit union present at a special meeting called for the purpose, but only after opportunity has been given him to be heard.

"(b) The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt a policy with respect to expulsion from membership based on nonparticipation by a member in the affairs of the credit union. In establishing its policy, the board should consider a member's failure to vote in annual credit union elections or failure to purchase shares from, obtain a loan from, or lend to the Federal credit union. If such a policy is adopted, written notice of the policy as adopted and the effective date of such policy shall be mailed to each member of the credit union at the member's current address appearing on the records of the credit union not less than thirty days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership.

"(c) Withdrawal or expulsion of a member pursuant to either subsection (a) or (b) of this section shall not operate to relieve him from liability to the Federal credit union. The amount to be paid a withdrawing or expelled member by an Federal credit union shall be determined and paid in a manner specified in the bylaws.".

NATIONAL CREDIT UNION ADMINISTRATION BOARD'S REGULATORY AUTHORITY

SEC. 526. Section 122(a) of the Federal Credit Union Act (12 U.S.C. 1766 (a)) is amended by adding at the end thereof the following: "Any central credit union chartered by the board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under this Act.".

CHARTER CONVERSION

SEC. 527. Section 125(a)(1) of the Federal Credit Union Act (12 U.S.C. 1771(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members of the credit union who vote on the proposal. The written notice of the proposition shall in bold face type state that the issue will be decided by a majority of the members who vote.".

ELIMINATION OF DISCRIMINATORY INSURANCE PREMIUM ASSESSMENT FOR DEPOSITS OF STATE CHARTERED CREDIT UNIONS

SEC. 528. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

"(3) the term 'members accounts' when applied to the premium charge for insurance of accounts shall not include amounts received from other credit unions, the accounts of which are federally insured or insured or guaranteed by a fund established under State law or regulation for this purpose, in excess of the insured account limit set forth in section 207(c)(1);".

ELIMINATION OF PARTIAL INSURANCE PREMIUMS AND REBATES

SEC. 529. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended by striking out paragraphs (3) and (6) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

AUTHORIZATION FOR FUND TO BORROW FROM CENTRAL LIQUIDITY FACILITY

SEC. 530. Section 203 of the Federal Credit Union Act (12 U.S.C. 1783) is amended by adding at the end thereof the following:

"(f) In addition to the authority to borrow from the Secretary of the Treasury provided in subsection (d), if in the judgment of the Board, a loan to the fund is required at

any time for carrying out the purposes of this title, the fund is authorized to borrow from the National Credit Union Administration Central Liquidity Facility.".

CENTRAL LIQUIDITY FACILITY LENDING AND INVESTMENT AUTHORITY

SEC. 531. Section 307(a) of the Federal Credit Union Act (12 U.S.C. 1795f(a)) is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(17) exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the purposes for which the Facility is incorporated; and

"(18) advance funds to the National Credit Union Share Insurance Fund under such terms and conditions as may be established by the Board.".

CENTRAL LIQUIDITY FACILITY AS AGENT OF FEDERAL RESERVE SYSTEM

SEC. 532. Title III of the Federal Credit Union Act (12 U.S.C. 1795 through 1795i) is amended by adding at the end thereof the following:

AGENT OF THE FEDERAL RESERVE SYSTEM

"SEC. 311. The Facility is authorized to act upon the request of the Board of Governors of the Federal Reserve System as an agent of the Federal Reserve System in matters pertaining to credit unions under such terms and conditions as may be established by the Board of Governors of the Federal Reserve System.".

TITLE VI—PROPERTY, CASUALTY, LIFE INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 601. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following. ", but for purposes of this subsection it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker except (A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (B) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and, during the period beginning on the date of the enactment of this subparagraph and ending on December 31, 1982, such extension of credit is not more than $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) and for any given year after 1982, such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for urban wage earners and clerical workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (C) any insurance agency activity in a place that (i) has a population not exceeding five thousand (as shown by the last preceeding decennial census), or (ii) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (D) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (i) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (ii) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982, (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (ii) group insurance that protects the employees of the bank holding company or any of its subsidiaries; or (F) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C).".

TITLE VII—MISCELLANEOUS

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 701. (a) Section 104 of the Truth in Lending Act (15 U.S.C. 1601) is amended by adding at the end thereof the following:

"(6) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).".

(b) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law.

(c) The amendment made by subsection (a) and subsection (b) shall be effective both with respect to loans made prior to and after the date of enactment of this Act.

DEFINITION OF CREDITOR

SEC. 702. Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows:

"(f) The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors. For the purpose of the requirements imposed under chapter 4 and sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(8), and 127(b)(10) of chapter 2 of this title, the term 'creditor' shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.".

EFFECTIVE DATE

SEC. 703. The amendment made by section 702 shall take effect on the effective date of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980.

INDUSTRIAL BANKS ELIGIBILITY FOR FDIC INSURANCE

SEC. 704. (a) Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by inserting "industrial bank or similar financial institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank," before "or other banking institution".

(b) Section 3(l)(1) of such Act (12 U.S.C. 1813(l)(1)) is amended by inserting "thrift certificate, investment certificate, certificate of indebtedness, or other similar name," before "or a check or draft drawn against a deposit account".

(c) Section 5(a) of such Act (12 U.S.C. 1815(a)) is amended by adding at the end thereof the following: "Before approving the application of any industrial bank or similar financial institution, the Board of Directors shall determine that it is chartered and operating under laws providing for examination, supervision, and liquidation substantially comparable to those applicable to banks operating in the same State.".

(d) Section 109(b)(2) of title 11, United States Code, is amended by striking out "or" before "credit union", and by inserting ", or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 705. Section 4(a)(2) of the Bank Holding Company Act of 1956 (18 U.S.C. 1843(a)(2)) is amended by inserting before the period at the end thereof the following: ": *Provided further*, That a company covered in 1970 may, until December 31, 1983, engage in activities in which it has been continuously and lawfully engaged since December 31, 1970 but which would otherwise be prohibited by this paragraph if (i) its bank subsidiary is not one of the one-hundred largest banks in the United States (based on deposits) or one of the five largest in its State of operations (based on deposits); (ii) its banking and nonbanking activities each constitute at least 10 per centum of its consolidated assets and of its gross revenues; and (iii) it has not filed an irrevocable commitment to divest pursuant to subsection (c)(12) of this section".

APPLICABILITY OF THE INTERNATIONAL BANKING ACT OF 1978

SEC. 706. Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by inserting in the first sentence immediately after the words "on the date of enactment of this Act" the following: "or on the date of the establishment of a branch in a State an application for which was filed on or before July 26, 1978".

SECURITIES ACTIVITIES UNDER THE INTERNATIONAL BANKING ACT OF 1978

SEC. 707. (a). The last sentence of section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking out all after "company, and" and inserting in lieu therof the following: "the term 'domestically-controlled affiliate covered in 1978' shall mean an affiliate organized under the laws of the United States or any State thereof if (i) no foreign bank or group of foreign banks acting in concert owns or controls, directly or indirectly, 45 per centum or more of its voting shares, and (ii) no more than 20 per centum of the number of directors as established from time to time to constitute the whole board of directors and 20 per centum of the executive officers of such affiliate are persons affiliated with any such foreign bank. For the purpose of the preceding sentence, the term 'persons affiliated with any such foreign bank' shall mean (A) any person who is or has been an employee, officer, agent, or director of such foreign bank or who otherwise has or has had such a relationship with such foreign bank that would lead such person to represent the interests of such foreign bank, and (B) in the case of any director of such domestically controlled affiliate covered in 1978, any person in favor of whose election as a director votes were cast by less than two-thirds of all shares voting in connection with such election other than shares owned or controlled, directly or indirectly, by any such foreign bank.".

(b) The second sentence of section 8(c) of such Act is amended to read as follows: "Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which since July 26, 1978, has engaged in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States, notwithstanding that such affiliate acquires after July 26, 1978, an interest in, or any or all of the assets of, a going concern, or commences to engage in any new activity or activities.".

NOW ACCOUNTS FOR PUBLIC FUNDS

SEC. 708 (a). Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting before the period at the end thereof the following ", and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof".

(b) Section 205(f)(2) of the Federal Credit Union Act (12 U.S.C. 1785(f)(2)) is amended by inserting before the period at the end thereof the following: ", and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof".

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 709. (a) Section 303(a) of the Federal National Mortgage Association Charter Act is amended—

(1) by inserting after the first sentence the following: "The corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe."; and

(2) by striking out "common" in the last sentence thereof.

(b) Section 304(e) of such Act is amended by striking out the fourth sentence.

BANK SERVICE CORPORATIONS

SEC. 710. Section 4 of the Bank Service Corporation Act (12 U.S.C. 1864) is amended by striking out the period following the word "banks" and inserting in lieu thereof the following: "or for financial institutions subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board.".

RESERVE REQUIREMENT PHASE-IN

SEC. 711. Section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. 461(b)(8)(D)) is amended—

(1) in clause (i), by striking out "July 1, 1979" each place it appears and inserting in lieu thereof "March 21, 1980"; and

(2) by adding at the end thereof the following:

"(iii) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on March 20, 1980, shall maintain reserves beginning on the date of enactment of this clause in an amount equal to the amount of reserves required to be maintained by depository institutions under subparagraph (A).".

USURY AMENDMENTS

SEC. 712. (a) Section 512(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out "April 1, 1983" in clause (1) and inserting in lieu thereof "April 1, 1984".

(b) Section 511(b) of such Act is amended—

(1) by striking out "and" at the end of clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(5) the term 'agricultural loan' means a loan extended primarily for agricultural purposes to a person who cultivates, plants, propagates, or nurtures an agricultural product;

"(6) the term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacturing of an agricultural product and the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming;

"(7) the term 'agricultural product' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish and any products thereof, including processed and manufactured products and any and all products raised or produced on farms and any processed or manufactured products thereof;

"(8) the term 'business loan' means a loan extended primarily for business or commercial purposes, including investment, and any credit extended to a person other than a natural person; and

"(9) the term 'loans' includes any secured or unsecured loan, credit sale, forbearance, advance, renewal, or other extension of credit.".

BANK SERVICE CORPORATIONS

SEC. 713. The Bank Service Corporation Act (12 U.S.C. 1861 et seq.) is amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"SECTION 1. (a) This Act may be cited as the 'Bank Service Corporation Act'.

"(b) For the purpose of this Act—

"(1) the term 'appropriate Federal banking agency' shall have the meaning provided in section 3(g) of the Federal Deposit Insurance Act (12 U.S.C. 1813(g));

"(2) the term 'bank service corporation' means a corporation organized to perform services authorized by this Act, all of the capital stock of which is owned by one or more insured banks;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'depository institution' means an insured bank, or another financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board;

"(5) the term 'insured bank' shall have the meaning provided in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));

"(6) the term 'invest' includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment; and

"(7) the term 'principal investor' means the insured bank that has the largest dollar amount invest invested in the capital stock of a bank service corporation. In any case where two or more insured banks have equal dollar amounts invested in a bank service corporation, the corporation shall, prior to commencing operations, select one of the insured banks as its principal invester and shall notify the bank's appropriate Federal banking agency of that choice within 5 business days of its selection.

"AMOUNT OF INVESTMENT IN BANK SERVICE CORPORATION

"SEC. 2. Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured bank may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. No insured bank shall invest more than 5 per centum of its total assets in bank service corporations.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR DEPOSITORY INSTITUTIONS

"SEC. 3. Without regard to the provisions of sections 4 and 5 of this Act, an insured bank may invest in a bank service corporation that performs, and a bank service corporation may perform, the following services only for depository institutions: check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR OTHER PERSONS

"SEC. 4. (a) A bank service corporation may provide to any person any service authorized by this section, except that a bank service corporation shall not take deposits.

"(b) Except with the prior approval of the board under section 5(b) of this Act in accordance with subsection (f) of this section—

"(1) a bank service corporation shall not perform the services authorized by this section in any State other than that State in which its shareholders are located; and

"(2) all insured bank shareholders of a bank service corporation shall be located in the same State.

"(c) A bank service corporation in which a State bank is a shareholder shall perform only those services that such State bank shareholder is authorized to perform under the law of the State in which such State bank operates and shall perform such services only at locations in the State in which such State bank shareholder could be authorized to perform such services.

(d) A bank service corporation in which a national bank is a shareholder shall perform only those services that such national bank shareholder is authorized to perform under this Act and shall perform such services only at locations in the State at which such national bank shareholder could be authorized to perform such services.

"(e) A bank service corporation that has both national bank and State bank shareholders shall perform only those services that may lawfully be performed by both its national bank shareholder or shareholders under this Act and its State bank shareholder or shareholders under the law of the State in which such State bank or banks operate and shall perform such services only at locations in the State at which both its State bank and national bank shareholders could be authorized to perform such services.

"(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of Federal and State branching law regulating the geographic location of banks to the extent that those laws are applicable to an activity authorized by this subsection, a bank service corporation may perform at any geographic location any service, other than deposit taking, that the Board has determined, by regulation, to be permissible for a bank holding company under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)).

"PRIOR APPROVAL FOR INVESTMENTS IN BANK SERVICE CORPORATIONS

"SEC. 5. (a) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of subsection (c), (d), or (e) of section 4 of this Act without the prior approval of the bank's appropriate Federal banking agency.

"(b) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of section 4(f) of this Act and no bank service corporation shall perform any activity under section "(f) of this Act without the prior approval of the Board.

"(c) In determining whether to approve or deny any application for prior approval under this section, the Board or the appropriate Federal banking agency, as the case may be, is authorized to consider the financial and managerial resources and future prospects of the bank or banks and bank service corporation involved, including the financial capability of the bank to make a proposed investment under this Act, and possible adverse effects such as undue concentration of resources, unfair or decreased competition, conflicts of interest, or unsafe or unsound banking practices.

"(d) In the event the Board or the appropriate Federal banking agency, as the case may be, fails to act on any application under this section within 97 days of the submission of a complete application to the agency, the application shall be deemed approved.

"SERVICES TO NONSTOCKHOLDERS

"SEC. 6. No bank service corporation shall unreasonably discriminate in the provision of any services authorized under this Act to any depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the bank service corporation, except that—

"(1) it shall not be considered unreasonable discrimination for a bank service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and reasonable return thereof; and

"(2) a bank service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation.

"REGULATION AND EXAMINATION OF BANK SERVICE CORPORATIONS

"SEC. 7. (a) A bank service corporation shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor. The appropriate Federal banking agency that supervises any other shareholder of the bank service corporation to make such an examination.

"(b) A bank service corporation shall be subject to the provisions of the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.) as if the bank service corporation were an insured bank. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service corporation.

"(c) Notwithstanding subsection (a) of this section, whenever a bank that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a bank that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises—

"(10) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of the service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.

"(d) The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this Act and to prevent evasions thereof.".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 714. (a) Section 634 of the Neighborhood Reinvestment Corporation Act (Public Law 95-557) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

"(f) A director who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving, pursuant to appointment by the President of the United States, by and with the advice and consent of the Senate, in the same department, agency, corporation, or instrumentality as the absent director, or in the case of the Comptroller of the Currency, through a duly designated Deputy Comptroller."; and

(2) by inserting in section 604(g), as redesignated, after "members" a comma and the words "or their representatives as provided in subsection (f),".

(b) Section 606(c)(3) of such Act is amended by inserting "funds," after "provide".

STUDY OF OPTIONAL INSURANCE OF LARGE DEPOSITS

SEC. 715. The Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration Board shall jointly conduct a study of the feasbility of providing depositors of funds in institutions the deposits of which are insured by any such agency the option to purchase additional deposit insurance covering deposits in excess of the general limit provided by law. Such study shall include a consideration of the private insurance or reinsurance of any risk in excess of the general statutory limit. A report containing the results of such study shall be transmitted to the Congress not later than six months after the date of enactment of this Act.

MARRINER S. ECCLES FEDERAL RESERVE BOARD BUILDING

SEC. 716. The building at 20th and Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Federal Reserve Board Main Building) shall hereafter be known and designated as the "Marriner S. Eccles Federal Reserve Board Building". Any reference in a law, map, regulation, document, record, or other

paper of the United States to that building shall be held to be a reference to the "Marriner S. Eccles Federal Reserve Board Building".

TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

SHORT TITLE

SEC. 801. This title may be cited as the "Alternative Mortgage Transaction Parity Act of 1982".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impaired the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this title to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "alternative mortgage transaction" means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dewlling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974)—

(A) in which the interest rate or finance charge may be adjusted or renegotiated;

(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of an interval shorter than the term of the amortization schedule; or

(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation;

described and defined by applicable regulation; and

(2) the term "housing creditor" means—

(A) a depository institution, as defined in section 504(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

(B) a lender approved by the Secretary of Housing and Urban Development for participatioin in any mortgage insurance program under the National Housing Act;

(C) any person who regularly makes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a "housing creditor" with respect to a specific alternative mortgage transaction if, except for this title, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

ALTERNATIVE MORTGAGE AUTHORITY

SEC. 804. (a) In order to prevent discrimination against State-chartered depository institutions, and other nonfederally chartered housing creditors, with respect to making, purchasing, and enforcing alternative mortgage transactions, housing creditors may make, purchase, and enforce alternative mortgage transactions, except that this section shall apply—

(1) with respect to banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Comptroller of the Currency for national banks, to the extent that such regulations are authorized by rulemaking authority granted to the Comptroller of the Currency with regard to national banks under laws other than this section;

(2) with respect to credit unions, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulations are authorized by rulemaking authority granted to the National Credit Union Administration with regard to Federal credit unions under laws other than this section; and

(3) with respect to all other housing creditors, including without limitation, savings and loan associations, mutual savings banks, and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Federal Home Loan Bank Board for federally chartered savings and loan associations, to the extent that such regulations are authorized by rulemaking authority granted to the Federal Home Loan Bank Board with regard to federally chartered savings and loan associations under laws other than this section.

(b) For the purpose of determining the applicability of this section, an alternative mortgage transaction shall be deemed to be made in accordance with the applicable regulation notwithstanding the housing creditor's failure to comply with the regulation, if—

(1) the transaction is in substantial compliance with the regulation; and

(2) within sixty days of discovering any error, the housing creditor corrects such error, including making appropriate adjustments, if any, to the account.

(c) An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation.

APPLICABILITY

SEC. 805. (a) The provisions of section 804 shall not apply to any alternative mortgage transaction in any State made on or after the effective date (if such effective date occurs on or after the effective date of this title and prior to a date three years after the effective date of this title) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the preemption provided in section 804 to apply with respect to alternative mortgage transactions subject to the laws of such State, except that section 804 shall continue to apply to—

(1) any alternative mortgage transaction undertaken on or after such date pursuant to an agreement to undertake such alternative mortgage transaction which was entered into on or after the effective date of this title and prior to such later date (the "preemption period"); and

(2) any renewal, extension, refinancing, or other modification of an alternative mortgage transaction that was entered into during the preemption period.

(b) An alternative mortgage transaction shall be deemed to have been undertaken during the preemption period to which this section applies if it—

(1) is funded or extended in whole or in part during the preemption period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period; or

(2) is a renewal, extension, refinancing, or other modification of an alternative mortgage transaction entered into before the preemption period and such renewal, extension, or other modification is made during such period with the written consent of any person obligated to repay such credit.

RELATION TO OTHER LAW

SEC. 806. Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply to transactions which are subject to this title.

EFFECTIVE DATE

SEC. 807. (a) This title shall be effective upon enactment

(b) Within sixty days of the enactment of this title, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.

Mr. GARN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. MURKOWSKI) appointed Mr. GARN, Mr. TOWER, Mr. LUGAR, Mr. D'AMATO, Mr. SCHMITT, Mr. RIEGLE, Mr. PROXMIRE, and Mr. CRANSTON, conferees on the part of the Senate.

Mr. GARN. Mr. President, I ask unanimous consent to indefinitely

postpone further consideration of S. 2879.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred:)

Mr. RIEGLE. Mr. President, I commend the chairman of the committee, Chairman GARN, for his leadership on this issue. The many months of work by him and others on the committee and the staff on his side of the aisle were essential ingredients in this legislation coming forward and not only passing today, but to be done on a voice vote here in the Senate. I think that says a great deal about the care and the sophistication in which this legislation was developed and the balance which it represented as it came to a final passage vote.

I also particularly wish to acknowledge the outstanding staff work of people on the professional staff of the minority side. I wish to especially acknowledge Bob Russell, Steve Harris, Lindy Marinaccio, Carolyn Jordan, Don Campbell, Tambrey Matthews, and others on the minority staff for really an outstanding job and many hundreds of hours of work over a long period of time.

The professionalism and the excellence with which they have discharged these responsibilities under difficult circumstances are of the highest order. I am very pleased and honored that they serve on the staff and are there for all of us to work with. To them and to everyone else who has been involved in this effort, the outside interest groups that we have worked with, and everyone else who has had a role to play in terms of offering ideas and constructive suggestions and effort are to be thanked and congratulated for their contribution to this legislation.

I did not want the moment to pass without expressing those sentiments, and to say that it is on moments such as these when difficult issues are brought to resolution and conclusion by hard work, good will, and good faith, that really is the measure of the quality of our democratic system. I think this legislation is such an example. I believe it is a work product of which the Senate can be proud.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I thank the distinguished Senator from Michigan for his remarks. May I repeat what I said at the beginning of this bill today, and thank him for his help. He came up and took this responsibility in the middle of this process, making it much more difficult than had he had the position to begin with. In the last couple of weeks, without his aid and assistance and that of his staff, we simply would not have been able to put the bill together today.

I also wish to thank a lot of people out there in various industries who started out poles apart on this bill last October—and I do mean poles—and, although many of them will still not like parts of its, they were willing to give up some of their self-interest to make it possible to compromise, to give up things they did not want to in order to make it possible.

I also wish to thank the staff. Certainly, Senator RIEGLE has mentioned the minority staff, and they deserve every word of credit he gave them. But, on the majority side, I want to thank Danny Wall, who spent untold hours, John Collins, John Daniels, Beth Climo, Linda Zemke, Jim Boland, Lamar Smith, Peter Harkins, Phil Sampson, Paul Freedenberg, Stephen Beck, and the committee's support staff, as well as the diligent and hard-working staff members of each of the members of the committee who served on their personal staffs.

I cannot emphasize enough that this is an unusual piece of legislation. It literally took months and months and daily efforts by a lot of people to make it possible to come to this point.

I thank the leadership on both sides of the aisle for making it possible for us to bring it up today, as we are rushing for adjournment next week. I wish to thank them and their staffs, as well.

I yield the floor.

COMMENDATIONS

Mr. THURMOND. Mr. President, I just want to take this opportunity to commend the able Senator from Utah, Senator GARN, for the outstanding leadership he has provided on the bill we have just passed. There is no question about it. With the bankers, the savings and loans, the insurance people, he had a most difficult task. It almost took a Solomon to bring these people together with a consensus. He has done that.

I just want to commend him. I think he has done the best service to the Senate, the best service to his country, and to all of these groups under consideration in bringing this bill to fruition and getting it passed today.

I also commend the able Senator from Michigan for the find assistance and cooperation he gave in the passage of this bill in assisting Senator GARN with it.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished acting Republican leader whether or not there will be any more rollcall votes today?

Mr. STEVENS. I am pleased to respond that there will be no more rollcall votes today. When this bill is finished we do have a series of matters, routine details, that I have discussed with the distinguished minority leader that we will handle on a unanimous-consent basis. There will be no more rollcall votes today.

Mr. ROBERT C. BYRD. I thank the Senator.

NO ROLLCALL VOTES BEFORE 2 P.M. TUESDAY

Mr. STEVENS. Mr. President, the majority leader stated that any votes ordered on Monday would occur at 2 p.m. on Tuesday. There still is a chance there will be a vote ordered on the agricultural appropriations bill on Tuesday morning that will not be subject to the prior statement of the majority leader. Senators should be on notice that it is possible there could be a vote on Tuesday in the morning on the appropriations bill.

ORDER FOR THE RECOGNITION OF SENATOR NUNN ON MONDAY

Mr. STEVENS. Mr. President, I ask unanimous consent that on Monday, September 27, 1982, after the time under the standing order for the two leaders, the Senator from Georgia (Mr. NUNN) be granted a special order not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, the items that I am about to raise have been discussed with the distinguished minority leader and cleared by him.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering items on the Executive Calendar commencing with new reports. That would include just the two nominations, Calendar Nos. 971 and 972.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask that the two nominations on the Executive Calendar under new reports be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

APPALACHIAN REGIONAL COMMISSION

Winifred Ann Pizzano, of Virginia, to be Federal Cochairman of the Appalachian Regional Commission.

Jacqueline L. Phillips, of Maryland, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask that the President be immediately notified of the confirmation of the two nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF H.R. 6968 ON MONDAY, SEPTEMBER 27, 1982 UNDER A TIME AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that at 12 noon Monday, September 27, 1982, the Senate turn to the consideration of the military construction appropriations bill, H.R. 6968, and that it be considered under the following time agreement:

One hour on the bill to be equally divided between the Senator from Nevada (Mr. LAXALT) and the Senator from Tennessee (Mr. SASSER), or their designees; 30 minutes on first-degree amendments; 20 minutes on second-degree amendments; 10 minutes on any debatable motions, appeals, or points of order, if so submitted to the Senate, and that the agreement be in the usual form with respect to the division and control of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That at 12:00 noon on Monday, September 27, 1982, the Senate proceed to the consideration of H.R. 6968, the military construction appropriations bill, and that debate on any amendment in the first degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, that debate on any amendment in the second degree shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and the debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 10 minutes: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. Laxalt) and the Senator from Tennessee (Mr. Sasser), or their designees: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal or point of order.

ORDER FOR THE CONSIDERATION OF H.R. 4613 UNDER A TIME AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that on Monday following the military construction bill, the Senate proceed to the consideration of Calendar No. 545, H.R. 4613, a bill to increase the efficiency of Government-wide efforts to collect debts owed the United States, and to provide additional procedures for the collections of debts owed the United States, and to provide additional procedures for the collections of debts owed the United States, and that it be considered under the following time agreement:

Thirty minutes on the bill to be equally divided between the chairman of the Governmental Affairs Committee and the ranking minority member, or their designees; that the only amendment be in order to be an amendment to substitute S. 1249 as reported on H.R. 4613, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE CONSIDERATION OF H.R. 7072 ON TUESDAY, SEPTEMBER 28, 1982, UNDER A TIME AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the agricultural appropriations bill, H.R. 7072, at 10 a.m. on Tuesday, September 28, 1982, and that it be considered under the following time agreement:

One hour on the bill to be equally divided between the Senator from Mississippi (Mr. COCHRAN) and the Senator from Missouri (Mr. EAGLETON), or their designees; 30 minutes on first-degree amendments; 20 minutes on second-degree amendments; 10 minutes on any motions, appeals, or points of order, if so submitted to the Senate; that the agreement be in the usual form with respect to the division and control of time; and that if the bill can be advanced to third reading prior to 2 p.m., the Senator from Oklahoma (Mr. BOREN) be permitted to offer an amendment under the stipulations of the time agreement after the hour of 2 p.m. but prior to the close of business on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNITY SERVICES BLOCK GRANT ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate H.R. 7065, the Community Services Block Grant Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7065) to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. CODE AMENDMENTS REQUIRED BY PASSAGE OF MILITARY CONSTRUCTION CODIFICATION ACT AND DOD AUTHORIZATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 4623, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4623) to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the code.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1298

Mr. STEVENS. Mr. President, on behalf of the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, I send to the desk technical amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), in behalf of Mr. THURMOND, proposes unprinted amendment No. 1298.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SENATE AMENDMENTS TO H.R. 4623

(1) Page 1, beginning on line 6, strike out through line 8 on page 2.

(2) Page 2, line 9, strike out "(f)" and substitute "(e)".

(3) Page 2, on lines 20–21, and 27, strike out "related to" and substitute "with respect to".

(4) Page 3, line 8, strike out "assaults" and substitute "assets".

(5) Page 3, line 25, strike out "weapons" and substitute "weapons".

(6) Page 3, line 25, strike out the closing quotation marks and the 2d period.

(7) Page 3, strike out lines 26–32 and substitute the following:

"§ 113b. Sale or transfer of defense articles: reports to Congress

"When there is a letter of offer to sell or a proposal to transfer defense articles that are valued at $50,000,000 or more from the inventories of a regular component of the armed forces or from current production, the Secretary of Defense shall submit a report to Congress stating—

"(1) the impact of the sale or transfer on the current readiness of the armed forces;

"(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the replacement costs of those items sold or transferred; and

"(3) for each article to be sold—

"(A) the initial issue quantity requirement for the armed forces for that article;

"(B) the percentage of that requirement already delivered to the armed forces or contracted for at the time of the report;

"(C) the timetable for meeting that requirement absent the proposed sale; and

"(D) the timetable for meeting that requirement if the sale is approved.".

(B) The analysis of chapter 4 is amended by inserting the following items immediately below item 133:

"133a. Secretary of Defense: annual report on North Atlantic Treaty Organization readiness.

"133b. Sale or transfer of defense articles: reports to Congress.".

(8) Page 3, line 33, strike out "(4)" and substitute "(3)".

(9) Page 3, lines 35, 37, and 38, and page 4, lines 2 and 5–6, strike out "manpower" and substitute "personnel".

(10) Page 4, between lines 6 and 7, insert the following:

(4) Section 138 is amended by adding at the end thereof the following:

"(i) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.".

(11) Page 4, strike out lines 7–27.

(12) Page 4, line 28, strike out "(6)" and substitute "(5)".

(13) Page 4, line 34, strike out "(7)" and substitute "(6)".

(14) Page 4, between lines 35 and 36, insert the following:

(7) The catchline for section 532 is amended by inserting "a" after "original appointment as".

(15) Page 4, after line 41, insert the following:

(11) Section 741(c) is amended by striking out "the the" and substituting "the".

(16) Page 5, line 1, strike out "(11)" and substitute "(12)".

(17) Page 5, between lines 5 and 6, insert the following:

(13) Section 931 is amended by striking out "United States Code,".

(14)(A) Chapter 49 is amended by adding at the end thereof the following:

"§ 978. Denial of entrance into the armed forces of persons dependent on drugs or alcohol

"(a) The Secretary of Defense shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify each person examined at an armed forces examining and entrance station who is dependent on drugs or alcohol.

"(b) Each person identified under subsection (a) as dependent on drugs or alcohol shall be—

"(1) denied entrance into the armed forces; and

"(2) referred to a civilian treatment facility.".

(B) The analysis of chapter 49 is amended by adding at the end thereof the following item:

"§ 978. Denial of entrance into the armed forces of persons dependent on drugs or alcohol.".

(18) Page 5, line 6, strike out "(12)" and substitute "(15)".

(19) Page 5, strike out lines 11–19 and substitute the following:

to identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol.".

(20) Page 5, lines 22 and 24, strike out "(13)" and "(14)" and substitute "(16)" and "(17)", respectively.

(21) Page 5, strike out line 25 and substitute the following:

(A) by striking out "3991 (formula B)" and substituting "3991 (formula A), 3992 (formula B)".

(22) Page 5, strike out line 27 and substitute the following:

(C) by striking out "8991 (formula B)" and substituting "8991 (formula A), or 8992 (formula B)".

(23) Page 5, between lines 27 and 28, insert the following:

(18) The catchline for section 1448 is amended by striking out "plan" and substituting "Plan".

(24) Page 5, lines 28, 31, and 37, strike out "(15)", "(16)", and "(17)" and substitute "(19)", "(20)", and "(21)", respectively.

(25)Page 6, line 3, strike out "(18)" and substitute "(22)".

(26) Page 6, strike out lines 7–15 and substitute the following:

(23) Section 2239 is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324(a) and (b) of title 31".

(27) Page 6, line 16, strike out "(20)" and substitute "(24)".

(28) Page 6, between lines 33 and 34, insert the following:

(25) Section 2315 is amended by striking out "(40 U.S.C. 795)" and substituting "(40 U.S.C. 759)".

(29) Page 6, line 34, strike out "(21)" and substitute "(26)".

(30) Page 7, immediately below the matter between lines 4 and 5, insert the following:

(27) Section 2388(c) is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324(a) and (b) of title 31".

(28)(A) Section 2394 (as enacted by section 2(b)(4) of Public Law 97–258) is redesignated as section 2395 and is amended to read as follows:

"§ 2395. Availability of appropriations for procurement of technical military equipment and supplies

"Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies remain available until spent.".

(B) Section 2395 (as enacted by section 2(b)(4) of Public Law 97–258) is redesignated as section 2396 and is amended by striking out "another" in subsection (b)(2)(C) and substituting "any other".

(31) Page 7, line 5, strike out "(22)" and substitute "(29)".

(32) Page 7, line 7, strike out "§ 2395" and substitute "§ 2397".

(33) Page 9, Line 11, strike out "§ 2396" and substitute "§ 2398".

(34) Page 9, strike out lines 18–28 and the matter between lines 28 and 29 and substitute the following:

"§ 2399. Limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance

"None of the funds appropriated to the Department of Defense is available for obligation to reimburse a contractor for the cost of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"§ 2400. Limitation on procurement of buses

"Funds appropriated for use by the armed forces are available to acquire a multipassenger motor vehicle (bus) only if the vehicle is manufactured in the United States. However, the Secretary of Defense may prescribe regulations authorizing the acquisition of a multipassenger motor vehicle (bus) not manufactured in the United States, but only to ensure that compliance with this section will not result in an uneconomical procurement action or adversely affected the national interest.".

(B) The analysis of chapter 141 is amended by striking out items 2394 and 2395 (as enacted by section 2(b)(4) of Public Law 97–258) and substituting the following:

"2395. Availability of appropriations for procurement of technical military equipment and supplies.

"2396. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries.

"2397. Employees or former employees of defense contractors: reports.

"2398. Procurement of gasohol as motor vehicle fuel.

"2399. Limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance.

"2400. Limitation on procurement of buses.".

(35) Page 9, line 29, strike out "(23)" and substitute "(30)".

(36) Page 10, between lines 24 and 25, insert the following:

"(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

"(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a 'two-way street' concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate

on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

(37) Page 10, line 25, strike out "(c)" and substitute "(d)".

(38) Page 10, line 29, strike out "Organization" and substitute "North Atlantic Treaty Organization".

(39) Page 10, beginning with line 36, strike out through line 2 on page 11 and substitute the following:

"(4) the identity of—

"(A) each program of research and development for the armed forces of the United States stationed in Europe that supports, conforms, or both, to common Organization requirements of developing weapon systems for use by the Organization, including a common definition of the military threat to the Organization; and

"(B) the common requirements of the Organization to which those programs conform or which they support;

(40) Page 11, line 4, strike out "and".

(41) Page 11, line 6, strike out "requirements." and substitute "requirements;".

(42) Page 11, between lines 6 and 7, insert the following:

"(7) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the Organization other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted, including a summary listing of the amount of funds—

"(A) appropriated for those programs for the fiscal year in which the report is submitted; and

"(B) requested, or proposed to be requested, for those programs for each of the 2 fiscal years following the fiscal year for which the report is submitted; and

"(8) a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the Organization other than the United States during the fiscal year for which the report is submitted.

(43) Page 11, line 7, strike out "(d)" and substitute "(e)".

(44) Page 11, line 10, insert "that" before "equipment".

(45) Page 11, line 12, strike out "(e)" and substitute "(f)".

(46) Page 11, immediately below the matter between lines 17 and 18, insert the following:

(31)(A) Section 2661a is repealed.

(B) The analysis of chapter 159 is amended by striking out item 2661a.

(32) Section 2664(a) is amended—

(A) by striking out "military department" in the matter before paragraph (1) and all that follows through "or any" and substituting "military department, the Secretary of Transportation, or any"; and

(B) by striking out "transferred to the" in paragraph (3) and all that follows and substituting "transferred to the Secretary of Transportation under section 3 of the Maritime Act of 1981 (46 U.S.C. 1602).".

(33) Section 2665 is amended—

(A) by striking out "executive department" and all that follows through "may sell" in subsections (a) and (b) and substituting "executive department, may sell"; and

(B) by striking out "Air Force" and all that follows in subsection (b) and substituting "Air Force, or Department of Transportation.".

(47) Page 11, line 18, strike out "(24)" and substitute "(34)".

(48) Page 11, between lines 20 and 21, insert the following:

(35) Section 2852(a) is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324(a) and (b) title 31".

(36) Section 2859 is amended by striking out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substituting "section 1105 of title 31".

(37) Section 3068(5) is amended by striking out "(a)", "(b)", "(c)", "(d)", and "(e)" and substituting "(A)", "(B)", "(C)", "(D)", and "(E)", respectively.

(49) Page 11, lines 21, 27, and 29, strike out "(25)", "(26)", and "(27)" and substitute "(38)", "(39)", and "(40)", respectively.

(50) Page 11, line 34, strike out "of this section" and substitute "of the following table".

(51) Page 11, line 35, strike out "of this section" and substitute "of that table".

(52) Page 12, immediately below the matter before line 1, insert the following:

(41)(A) Chapter 403 is amended by adding at the end thereof the following:

§ 4356. Use of certain gifts

"Under regulation prescribed by the Secretary of the Army, the Superintendent of the Academy may (without regard to section 2601 of this title) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of $20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the Academy or any entity thereof. The Secretary may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.".

(B) The analysis of chapter 403 is amended by adding at the end thereof the following item:

"4356. Use of certain gifts.".

(53) Page 12, lines 1, 4, 6, 9, 11, 12, and 14, strike out "(28)", "(29)", "(30)", "(31)", "(32)", "(33)", and "(34)" and substitute "(42)", "(43)", "(44)", "(45)", "(46)", "(47)", and "(48)", respectively.

(54) Page 13, line 3, strike out "(35)" and substitute "(49)".

(55) Page 13, line 5, strike out "§ 7309" and substitute "§ 7310".

(56) Page 13, between lines 23 and 24, strike out "7309" and substitute "7310".

(57) Page 13, line 24, strike out "(36)" and substitute "(50)".

(58) Page 14, on lines 24–25 and 26–27, strike out "adding at the end thereof the following item" and substitute "inserting the following item immediately below item 165".

(59) Page 14, immediately below the matter between lines 32 and 33, insert the following:

(51)(A) Item 659 in the analysis of subtitle C is amended by striking out "responsibility" and substituting "Responsibility".

(B) The analysis of part IV of subtitle C is amended by adding at the end thereof the following item: "661. Accountability and Responsibility 7861".

(C) The catchline for section 7861 is amended by striking out "public" and substituting "naval".

(D) Item 7861 in the analysis of chapter 661 is amended by striking out "public" and substituting "naval".

(60) Page 14, line 33, strike out "(37)" and substitute "(52)".

(61) Page 15, line 1, strike out "of this section" and substitute "of the following table".

(62) Page 15, line 2, strike out "of this section" and substitute "of that table".

(63) Page 15, line 3, strike out "(38)" and substitute "(53)".

(64) Page 17, strike out line 12 and substitute the following:

"§ 661. Authorization of personnel end strengths".

(65) Page 17, line 13, strike out "end".

(66) Page 17, line 21, strike out "recruit" and substitute "Recruit".

(67) Page 17, line 22, strike out "flight" and substitute "Flight".

(68) Page 17, line 23, strike out "professional" and substitute "Professional".

(69) Page 17, line 24, strike out "officer" and substitute "Officer".

(70) Page 17, line 31, strike out "enacted".

(71) Page 17, strike out lines 33 and 34 and substitute the following:

"(1) For the operation and maintenance of the Coast Guard.

"(2) For the acquisition, construction, rebuilding, and improvement of".

(72) Page 17, lines 37 and 38, strike out "for" and substitute "For".

(73) Page 17, line 38, strike out "tests" and substitute "test".

(74) Page 18, strike out item 661 in the matter between lines 6 and 7 and substitute the following:

"661. Authorization of personnel end strengths.".

(75) Page 18, between lines 15 and 16, insert the following:

(1) Section 305a(d) is amended by striking out "clause (B)" in the 2d sentence and substituting "clause (2)".

(2) Section 308b(a)(1) is amended by striking out "services" and substituting "service".

(76) Page 18, lines 16 and 19, strike out "(1)" and "(2)" and substitute "(3)" and "(4)," respectively.

(77) Page 18, line 20, strike out "(j)" and substitute "(k)".

(78) Page 18, line 30, strike out "(3)" and substitute "(5)".

(79) Page 18, beginning on line 36, strike out through the matter after line 39 on page 19 and substitute the following:

(6)(A) Chapter 17 is amended by adding at the end thereof the following:

"§ 908. Employment of reserves and retired members by foreign governments

"(a) Subject to subsection (b) of this section, Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

"(1) Retired members of the uniformed services.

"(2) Members of a reserve component of the armed forces.

"(3) Members of the Commissioned Reserve Corps of the Public Health Service.

"(b) A person described in subsection (a) of this section may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.".

(B) The analysis of chapter 17 is amended by adding at the end thereof the following:

"908. Employment of reserves and retired members by foreign governments.".

(80) Page 22, strike out lines 21 and 22 and substitute the following:

(21) Section 704(e) is amended—

(A) in the first sentence, by striking out "On and after the effective date of this subsection" and substituting "After June 30, 1972,"; and

(B) in the 3d sentence, by striking out "subsections" and substituting "subsection".

(81) Page 23, strike out lines 33-35 and substitute the following:

(A) in subsection (a)(2)(B), by striking out "the date of enactment of this paragraph" and substituting "November 23, 1977,"; and

(82) Page 28, strike out lines 1 and 2 and substitute the following:

(C) in subsection (b)(1), by striking out "subsection (h), of section 415 of such title" and substituting "subsection (g), of section 415 of this title"; and

(83) Page 29, line 18, strike out "those" and substitute "such".

(84) Page 30, strike out lines 11-13 and substitute the following:

(89) Section 4207 is amended by striking out "the Accounting and Auditing Act of 1950" and substituting "section 3523 of title 31".

(85) Page 32, in the item related to "Oct. 7" under "1975", strike out "811" and "539" and substitute "812" and "540", respectively.

(86) Page 32, in the item related to "Nov. 9" under "1979", strike out "809," in the "Section" column and "815," in the "Page" column.

(87) Page 32, strike out the item related to "Dec. 1" under "1981" and substitute the following:

Dec. 29	97-114	770	95	1590
1982 Sept. 8	97-252	1104, 1121, 1133(a).	96	739, 754, 761

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. STEVENS. Mr. President, on behalf of Mr. THURMOND, I ask unanimous consent that an explanation of the amendments be printed at this point in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF AMENDMENTS TO H.R. 4623

The amendments being offered to H.R. 4623 are technical in nature. The amendments make changes in titles 10, 14, 37, and 38, United States Code, required by passage of the Military Construction Codification Act (Public Law 97-214), the Department of Defense Authorization Act, 1983 (Public Law 97-252), and the codification of title 31 (Public Law 97-258), and to correct grammatical and printing errors and to maintain consistency of style in titles 10, 14, 37, and 38.

DETAILED EXPLANATION OF SENATE AMENDMENTS TO H.R. 4623

Amendments 1, 2, 6, 7, and 8 are necessary because of the restatement of section 813 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106), as amended by section 1104 of the Department of Defense Authorization Act, 1983, as a separate section 133b of title 10.

Amendments 3-5 and 9 make changes to sections 133a and 138(c)(5) of title 10 for consistency of style in title 10.

Amendment 10 transfers the restatement of section 305 of the Act of June 11, 1965 (Public Law 89-37), from section 135(d) of title 10 to section 138(i) of title 10 to provide a more appropriate classification.

Amendments 11-13 are necessary because of the repeal of section 811 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106), by section 1107(b) of the Department of Defense Authorization Act, 1983.

Amendments 14-16 and amendment 17, as it amends section 931 of title 10, make technical changes to maintain consistency of style in title 10.

Amendment 17, as it amends chapter 49 of title 10, and amendments 18 and 19 restate part of section 501 of the Act of September 28, 1971 (Public Law 92-129), as section 978 of title 10 and part as section 1090 of title 10 to provide more appropriate classifications.

Amendments 20-22 are necessary to correct an erroneous cross-reference in section 1405 of title 10.

Amendments 23 makes a technical and conforming change in section 1448 of title 10 for consistency of style in title 10.

Amendments 24-27 and amendment 30, as it amends section 2388(c) of title 10, make conforming cross-references in section 2239 and 2388(c) of title 10 required because of the codification of title 31.

Amendments 28 and 29 correct an erroneous cross-reference in section 2315 of title 10.

Amendment 30, as it amends section 2394 and 2395 (as enacted by section 2(b)(4) of Public Law 97-258), and amendments 31-33 make renumbering changes and other conforming changes required by sections 6(a)(1) and 10(b)(5) of the Military Construction Codification Act.

Amendment 34, as it adds new section 2399 of title 10, is necessary because section 770 of the Department of Defense Appropriation Act, 1982 (Public Law 97-114), superseded section 100 (last paragraph under heading "General Provisions") of the Supplemental Appropriations and Rescission Act, 1981 (Public Law 97-12), restated in the bill as new section 2397 of title 10. The section is added as a new section 2399 because of the renumbering required because of amendments 31-33. Amendment 34, as it adds new section 2400 of title 10, transfers the restatement of section 404 of the Act of September 20, 1968 (Public Law 90-500), from section 2303(d) of title 10 to section 2400 of title 10 to provide a more appropriate classification. Amendment 34 also makes a technical and conforming change in the analysis of chapter 141 of title 10.

Amendments 35-37, 39, 43, and 45 are necessary to revise the restatement of section 803 (a) and (c) of the Department of Defense Appropriation Authorization Act, 1977 (Public Law 94-361), as part of section 2457 of title 10 for clarity and consistency of style in title 10.

Amendment 38 is necessary to maintain consistency of style in revised section 2457(d) of title 10.

Amendments 40-42 are necessary because section 1121 of the Department of Defense Authorization Act, 1983, added a new sentence to section 302(c) of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365), restated in the bill as part of section 2457 of title 10.

Amendment 44 is necessary to maintain consistency of style in title 10.

Amendment 46 repeals section 2661a of title 10 because section 7(2) and (8) of the Military Construction Codification Act repealed provisions of law restated as section 2661a by the codification of title 31. Amendment 46 also amends section 2664(a) and 2665 to correct errors in amendments to those sections made by section 12(3)(A) and (B) of the Maritime Act of 1981 (Public Law 97-31).

Amendments 47 and 48 make conforming cross-references in sections 2852(a) and 2859 of title 10 required because of the codification of title 31 and also make a technical change in section 3068 of title 10 for consistency of style in title 10.

Amendments 49-51 make changes in section 3992 of title 10 for consistency of style in title 10.

Amendment 52 restates section 1133(a) of the Military Construction Codification Act as section 4356 of title 10.

Amendments 53-58 make technical changes required because the Military Construction Codification Act added a new section 7309 of title 10 and a new chapter 169 to title 10.

Amendments 59-62 make changes in the analysis of subtitle C and sections 7861 and 8992 of title 10 for consistency of style in title 10.

Amendments 63-74 make technical changes in the restatement of sections 5 and 6 of the Act of September 10, 1976 (Public Law 94-406), as sections 662 and 661 of title 14, respectively, for consistency in the military titles.

Amendments 75 and 76 are necessary to correct an erroneous cross-reference in section 305a of title 37 and to correct a grammatical error in section 308b of title 37.

Amendment 77 is necessary because section 2(i) of Public Law 97-258 added a subsection "(j)" to section 406 of title 37.

Amendments 78 and 79 transfer the restatement of section 509 of the Foreign Relations Authorization Act, Fiscal year 1978 (Public Law 95-105), from section 801a of title 37 to section 908 of title 37 to provide a more appropriate classification.

Amendment 80 corrects an erroneous cross-reference in section 704(e) of title 38.

Amendment 81 corrects an amendment to section 1662 of title 38.

Amendment 82 corrects an erroneous cross-reference in section 3112 of title 38.

Amendment 83 is necessary to maintain consistency of style in section 4118 of title 38.

Amendment 84 makes a conforming cross-reference in section 4207 of title 38 required because of the codification of title 31.

Amendments 85-87 make changes in the Schedule of Laws Repealed required by these amendments.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendment (UP No. 1298) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4623) was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSION OF THANKS TO FORMER FIRST LADY BETTY FORD

Mr. STEVENS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Concurrent Resolution 407, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 407) to express thanks to former First Lady Betty Ford.

The PRESIDING OFFICER Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. Mr. President, in behalf of Senator BAKER, I would like to take this opportunity to join with my colleagues in paying tribute to a remarkable woman and a former First Lady, Betty Ford. Mrs. Ford's courage in facing up to personal travails serves as an inspiration to millions, and I am pleased to learn that her unflagging efforts are soon to be commended by the establishment of the Betty Ford Center at the Eisenhower Medical Center in Rancho Mirage, Calif. But, Mr. President, Mrs. Ford's contribution to the national effort to combat chemical addiction extend beyond her own unselfish revelations that have provided hope and incentive to numerous afflicted individuals. She has dedicated herself to the legislative arena in California and provided impetus to fundraising endeavors for treatment facilities. Coming, as it does, in the wake of medical difficulties stemming from her battle with cancer, her efforts are all the more noteworthy and heartening.

Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (H. Con. Res. 407) was agreed to.

The preamble was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the resolution passed.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ALZHEIMER'S DISEASE WEEK

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 826, Senate Joint Resolution 225.

The PRESIDING OFFICER. Without objection, the resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S. J. Res. 225) to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate indefinitely postpone consideration of Senate Joint Resolution 826 and in lieu thereof call up Calendar No. 846, House Joint Resolution 496, which deals with the same subject matter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the House joint resolution by title.

The assistant legislative clerk read as follows:

A House joint resolution (H.J. Res. 496) to provide for the designation of the week beginning November 21, 1982, as "National Alzheimer's Disease Week."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time by title.

● Mr. EAGLETON. Mr. President, on August 3, I introduced Senate Joint Resolution 225, which we are considering today, declaring the week of November 21 of this year as "National Alzheimer's Disease Week." In the time since the resolution was introduced, 53 of my colleagues have joined with me in sponsoring this resolution. I believe the fact that a majority of Senators have jointed in sponsoring this resolution indicates the vast number of middle-aged and older Americans across this country who suffer from the silent epidemic of Alzheimer's disease.

Mr. President, although Alzheimer's disease is little known, it is a surprisingly common disorder which affects over 1½ million American adults. It is an insidious and relentless deterioration of the mind which often occurs in middle age and which is now recognized as the most common cause of severe intellectual impairment in older individuals.

At the present time, medical science does not know how to prevent or how to cure Alzheimer's disease. However, it is now known that Alzheimer's disease and the dementias of aging are not the inevitable consequence of growing old; they represent pathological disease states subject to investigation and treatment. At present, the National Institute on Aging, as well as the National Institute of Neurological and Communicative Disorders and Stroke, the National Institute of Allergy and Infectious Diseases, and the National Institute of Mental Health are pursuing a cooperative research effort to increase the science base of fundamental knowledge about Alzheimer's disease, and to translate basic research findings pertaining to treatment into clinical studies and ultimately into improved health and social services structure and delivery.

It is my hope, Mr. President, that passage of this resolution today, declaring the week of Novemer 21, 1982, as "National Alzheimer's Disease Week," will lead to better understanding of the needs of Alzheimer's patients and their families, to a heightened awareness of our entire health care delivery system of the nature of this disease, to more intensive continuing education of physicians and nurses in the management of the disease, to bolstering families who too often are struggling alone to cope with the day-to-day vigil over the deterioration of loved ones, and to a systematic investment of additional resources in basic and clinical research into the cause of and treatment for this dreaded affliction.●

Mr. STEVENS. Mr. President, I urge adoption of the resolution.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 496) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 827.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A resolution (S. Res. 453) designating the week of October 3 through October 8, 1982, as "National Productivity Improvement Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 453

Whereas the economic stability and growth of this Nation relies largely on the collective industry and endeavor of its working citizens;

Whereas the time-honored tradition of American leadership in work related ingenuity and know-how brought about great strides in productivity;

Whereas growth in productivity in turn improves the standard of living of United States citizens;

Whereas public awareness of the economic importance of productivity will promote individual and collective ideas and innovations for productivity improvement; and

Whereas a conscientious effort to improve productivity will foster a better standard of living for all citizens and reduce the level of inflation: Now, therefore, be it

Resolved, That, for the purposes of providing for a better understanding of the need for productivity growth and of encouraging the development of methods to improve individual and collective productivity in the public and private sectors, the week of October 3 through October 9, 1982, is designated "National Productivity Improvement Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. STEVENS. I move to reconsider the vote by which the resolution was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL MEDICAL LABORATORY WEEK

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 828, Senate Joint Resolution 178.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 178) to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 178) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to,

The title was amended to as to read "Joint resolution to authorize and request the President to proclaim the second week in April of 1983 as 'National Medical Laboratory Week' ".

The joint resolution, and the preamble, are as follows:

S.J. RES. 178

Whereas the health of all Americans depends upon educated minds and trained hands; and

Whereas laboratory tests are of the utmost importance in the diagnostic process of detecting disease in man; and

Whereas the practice of modern medicine of the life-conserving standards we now enjoy would be impossible without scientific tests performed daily in the medical laboratory; and

Whereas maintenance of these standards and progress toward improvement in the quality of laboratory services depends on the dedicated efforts of professional practitioners of laboratory sciences; and

Whereas through this dedication the medical laboratories of the United States have made a vital contribution to both the quality of patient care and to the preservation of human life itself; and

Whereas many Governors and mayors have through the years issued proclamations calling upon their citizens to give special attention to the pivotal role played by laboratory services in patient care; and

Whereas the Government of the United States has supported signficant research to improve laboratory procedures and developed standards for laboratory services provided within Federal health programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation (1) designating the second week of April of 1983 as "National Medical Laboratory Week", (2) inviting the Governors and mayors of State and local governments of the United States to issue similar proclamations. The President is further requested to (3) consider including in such proclamation an invitation calling upon the press, radio, television, and other communications media, the health care professions, and all other agencies and individuals concerned with programs for the improvement of laboratory services to unite during such week in public activities to impress upon the people of the United States the importance of laboratory services to their own welfare and that of our country, and to urge their support of programs to improve such services for all Americans.

Amend the title so as to read: "Joint resolution to authorize and request the President to proclaim the second week in April of 1983 as 'National Medical Laboratory Week'.".

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMIGRATION AND RELIGIOUS AND CULTURAL FREEDOM IN ROMANIA

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 753, Senate Resolution 445.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 445) to express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 445

Whereas by bilateral trade agreement the Socialist Republic of Romania is entitled to most-favored-nation status in its trade and commercial relations with the United States;

Whereas under the Trade Act of 1974 the continued extension of most-favored-nation status is conditioned on the freedom of Romanian citizens to emigrate to the country of their choice, unless this condition is waived by the President;

Whereas the President may waive this condition only if he determines that it will substantially promote the objective of greater freedom of emigration;

Whereas there are numerous reports of continuing serious difficulties concerning freedom of emigration from the Socialist Republic of Romania and of repression of religious and cultural freedom;

Whereas both the United States and the Socialist Republic of Romania are signatories to the Final Act of the Conference on Security and Cooperation in Europe, (commonly known as, and hereinafter in this resolution referred to as, the "Helsinki Final Act");

Whereas the signatories to the Helsinki Final Act pledged to respect human rights and fundamental freedoms, including emigration for the purpose of family reunification and to "deal in a positive and humanitarian spirit" with requests to emigrate for this purpose;

Whereas the signatories under Principle VII of the Helsinki Final Act pledged to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience", to respect the right of persons belonging to national minorities to equality before the law, to afford them "the full opportunity for the actual enjoyment of human rights and fundamental freedoms", and to "protect their legitimate interests in this sphere" and confirmed "the right of the individual to know and act upon his rights"; and

Whereas the Government of the United States will soon enter into consultations with the Socialist Republic of Romania concerning problems of emigration procedures: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States in such consultation should seek credible assurances that the Socialist Republic of Romania will review its emigration procedures with a view toward—

(1) clarifying and simplifying them;

(2) maintaining a steady consideration of emigration applications;

(3) eliminating unreasonable preapplication reviews and waiting periods; and

(4) reducing the emigration application backlog, with special consideration for those awaiting departure for one year or more: And be it further

Resolved, That continued harassment and persecution of religious groups and ethnic minorities in Romania contravenes the provisions of the Helsinki Final Act as well as

fundamental human rights and freedoms, and that the Government of the United States should pursue these matters with the Romanian Government and in appropriate international fora, including the Conference on Security and Cooperation in Europe.

Mr. STEVENS. I move to reconsider the vote by which the resolution was agreed to.

Mr. RIEGLE. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

GOALS ON GENERAL AGREEMEMT ON TARIFFS AND TRADE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 628, Senate Resolution 386.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S.J. Res. 386) to express the sense of the Senate on the goals of the United States for the November 1982 meeting of ministerial-level representatives to the General Agreement on Tariffs and Trade.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S.J. Res. 386) was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 386

Whereas the Constitution vests in the Congress of the United States the authority to regulate commerce with foreign nations, and the Congress exercises this responsibility in part by authorizing the President to establish international trading relationships that are consonant with congressionally articulated trade policies;

Whereas the contracting parties to the General Agreement on Tariffs and Trade (GATT) have agreed to hold a ministerial-level meeting in November of this year, the purposes of which are to review the operation of the GATT and its associated trade agreements, to discuss issues concerning the current world trading system, and to establish the future course of international trade negotiations;

Whereas the Senate is especially concerned that—

(1) existing trade agreements may not be fully adequate to prevent damaging distortions to United States and foreign agricultural markets resulting from unfair trade practices, especially subsidization;

(2) barriers to trade in services and trade-related investment increasingly prejudice United States trade and must be brought under the common discipline of internationally agreed rules; and

(3) the rapid development of new technologies and new industries, fostered by Governments' diverse domestic industrial and trading policies that target particular sectors for protection and aid, increasingly distort traditional trading patterns and rules to the detriment of competitive United States industries; and

Whereas the negotiating objective specified in section 107 of the Trade Act of 1974—to obtain an effective safeguards agreement—has not been realized: Now, therefore, be it

Resolved, That it is the sense of the United States Senate that the United States should seek through the GATT ministerial meeting agreement among the contracting parties—

(1) to review the adequacy of the agreements concluded in the Tokyo round of multilateral trade negotiations, with particular emphasis on the disparate treatment of primary and nonprimary products provided in the agreement on implementation and application of articles VI, XVI, and XXIII of the GATT (the subsidies code) and on the disputes settlement provisions;

(2) to commence the process leading to international arrangements to reduce or to eliminate restrictions on trade in services, trade-distorting investment restrictions, and barriers to trade in high technology products; and

(3) to complete negotiations on a comprehensive agreement on safeguards; and be it further

Resolved, That the United States Government should facilitate the process of achieving domestic and international concensus on the nature of the fast-changing and increasingly integrated world trading system, especially as affected by the rapid introduction of new technologies and adoption of industrial targeting policies, by establishing domestic and international commissions, composed of experts from the public and private sectors, charged with analyzing and making recommendations on these issues.

Mr. STEVENS. I move to reconsider the vote by which the resolution was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2916

Mr. STEVENS. Mr. President, at the direction of the Committee on Appropriations, I ask unanimous consent that the bill, S. 2916, the Treasury, Postal Service, and General Government Operations Act for fiscal year 1983, and the report accompanying that bill, Senate report 97-547, be star printed with certain technical and substantive modifications. These changes are necessary to resolve a disagreement as to the budgetary impact of the measure. I send to the desk a copy of the bill and the report showing the requested modifications.

The PRESIDING OFFICER. Is there objection? The Chairs hears none, and it is so ordered.

THE 195 YEARS SINCE THE CONSTITUTION OF THE UNITED STATES WAS SIGNED CELEBRATED ON CAPITOL HILL

Mr. RANDOLPH. Mr. President, 1 week ago today, September 17, we celebrated at the U.S. Capitol, Citizenship Day. The program that breakfast morning was one not only of interest but it gave the opportunity for, let us say, revival, perhaps a renaissance, it certainly could be called a resurgence of concern about the necessity for the American people, perhaps especially the younger people, to think in terms of this country's history, not only the signing of the Declaration of Independence by the 56 delegates, then the framers to the Constitution at a later date. There is an urgent necessity increasing through the years, for us to be responsive to the words by George Washington when he left the Presidency of the United States in that farewell address, of course never spoken but written, and we have it read each year in the Senate.

The President of the United States, George Washington, used this expression: "Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections."

The word "affection" then had the meaning that in a sense it can have now, but in the English of that day as used by the President he meant commitment. That was necessary then in the morning hours of this Republic. Now—a reminder of the need, not just to look at a day or an hour but to look at the substance, the vision and the spirit of America from its beginning. Hopefully all of those values continue to be viable today, in this Nation with a population of approximately 240 million people. We look back but certainly there is every reason to look forward, not with fear but with faith that we, as they, in different roles can continue to strengthen this Nation and live as they wished us to live in a spirit not only of freedom but of responsibility as well.

Sponsored by Convention II and the Center for the Study of Federalism of Southeastern University, the program opened with the inspirational singing of the 19th Street Baptist Church Choir. We were welcomed by Convention II founder Boris Feinman. On behalf of Senator Hatch, General Counsel Randall Rader updated us on the business of the Subcommittee on the Constitution, namely S. 2671, a bill to establish a commission to coordinate the commemoration of the bicentennial of the Constitution. We also discussed the Constitution bicentennial theme, "Battalions for the Ballot." Tim Leighton, president of Convention II, urged creation of a Constitution Bicentennial Commission and explained the role of the Center for the Study of Federalism of Southeastern University, directed by Robert Higgins. Southeastern's president Dr. James G. Bond was with us, as was Vincent Reed of the Washington Post.

At the conclusion of our program, all 200 guests joined with migrant farm youths—Julio Alonzo, Perry Long, and Heather Hernandez, in lighting 195 red, white, and blue candles—one for

each year since the Constitution was framed.

Mr. President, I ask unanimous consent that the remarks by participants in the celebration of the 195th birthday of the Constitution of the United States be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY BORIS FEINMAN, FOUNDER AND CHAIRMAN, CONVENTION II

Welcome, friends. I believe this breakfast represents the national opening event in the observance of Citizenship Day and Constitution Week 1982.

Our keynote is simple: the Constitution of the United States is the most wonderful political document devised by the brain of Man. We must nourish it and cherish it with an immersion into its functioning as it nears its 200th birthday in 1987.

Here is a Proclamation of the President of the United States, dated June 24, 1982. President Reagan proclaims that the Congress has designated September 17 as Citizenship Day and the ensuing week as Constitution Week, and calls upon the Nation to conduct appropriate ceremonies and programs pertinent to the joys and duties of American Citizenship, and the safeguarding of our Freedoms which are unique in all the world.

And I am sad when I voice what you all know to be true: the response to that Proclamation is minimal. I feel a melancholy that September 17 has not become a great national holiday equal in rank to July 4th.

The follow-up keynote therefore is that we must strive to make September 17 the day of American intellectual triumph, as great as July 4—the day of American intellectual/military triumph.

I believe we can best do that by immediate creation of a Congressionally authorized Constitutional Bicentennial Commission around which we can focus efforts toward that goal.

Today's program is crafted toward that end. Convention II has been engaged in building a coalition including you, our guests and others. We will identify like-minded organizations and programs. We will review the status of current bills in Congress aimed at creating a Commission and suggest a theme for the Bicentennial Era from now til 1987 as "The Constitution's Era: A time for Citizenship Education." We will talk about actions—lobbying actions, to move Congress to Commission Creation, discuss some other future plans and conclude on a note of ceremony, symbolism and song.

And we will confidently prepare ourselves for the immediate creation of a Constitutional Bicentennial Commission.

REMARKS BY SENATOR ORRIN G. HATCH, DELIVERED BY RANDALL RADER, GENERAL COUNSEL TO SENATE SUBCOMMITTEE ON THE CONSTITUTION

September 17, 1987, will be the Two-Hundredth Anniversary of the approval in Convention of the Constitution of the United States of America. Perhaps the significance of this historic event is best summarized by the findings on Section 2 of S. 2671:

"Sec. 2. The Congress finds that—

"(1) The Bicentennial of the Constitution Convention's adoption of the Constitution occurs on September 17, 1987;

"(2) The Constitution enunciates the limitations on government, the inalienable rights of man, and the timeless principle of individual liberty and responsibility for the people of the United States of America;

"(3) This document has set an enduring example of representative democracy for the world; and

"(4) The maintenance of the common principles that animate our Republic depend upon a knowledge and understanding of their roots and origins."

At the time of the Constitution's Centennial commemoration, President Grover Cleveland remarked:

"If the American people are true to their sacred trust another Centennial day will come, and millions yet unborn will inquire concerning our stewardship and the safety of their Constitution. God grant they may find it unimpaired and as we rejoice to-day in the patriotism and devotion of those who lived 100 years ago, so may those who follow us rejoice in our fidelity and love for constitutional liberty." Public Papers of President Cleveland, Address of Sept. 17, 1887, in Philadelphia.

We are now swiftly approaching the second centennial of the Constitution when President Cleveland promised that "millions yet unborn" would "rejoice" because the American people have been "true to their sacred trust." Just as the United States paused a century ago under the leadership of President Cleveland to examine the "patriotism and devotion of those who lived 100 years" earlier and to chart a course for "those who follow," the Bicentennial of the Constitution offers anew an opportunity for the nation living under that Document to educate itself, to evaluate itself, and to rededicate itself.

This educating, evaluating and rededicating experience will be vital to ensure that "those who follow us" a century hence will "rejoice in our fidelity and love for constitutional liberty."

The hearing held by the Constitution Subcommittee highlighted the importance of this bicentennial commemoration to educate, evaluate, and rededicate Americans to our Constitutional Republic. The dire need for nationwide education about our system of constitutional freedoms was established by Mr. Richard B. Morris, Professor of History Emeritus, Columbia University, in Constitution Subcommittee Hearings.

Granted the Constitution's central place in American political life, it is hardly disputable that the public's understanding of the Constitution is at a low ebb, and that young people completing high school take with them an abysmal sum of ignorance about the Constitutional system of this Nation.

In the two national assessments of performance on citizenship, made first in 1969 and the second as recently as 1976, it was disturbing to find that test scores declined. More disturbing was the relevation that scores on citizenship and social studies declined more than those in reading, writing, and science. The declines for the 17-year olds were by and large greater than for the 9-year olds and the 13-year olds.

Half the students of each age thought that the President could appoint Members of Congress. Only a little more than half of the 17-year olds and 32 percent of the 13-year olds knew that each State has two Senators. Less than half of the 17-year olds and less than one-fourth of the 13-year olds knew that appointments to the Supreme Court must be confirmed by the Senate, while a big majority of the 17-year olds felt that a two-thirds voted by the justices of the Supreme Court was necessary to declare a law unconstitutional. Hearing before the Subcommittee on the Constitution of the Senate Judiciary Committee on the Establishment of a Commission on the Bicentennial of the Constitution, 97th Cong., 1st Sess., Sept. 17, 1981 (hereinafter "Hearing").

This Bicentennial offers an opportunity to correct this educational problem and foster a better understanding of our representative government. Because ours is a "government of the people, by the people, for the people," its function and survival very directly depend on the capacity of the people to convert an understanding of our Constitutional system into self-government and citizen participation. The Republic depends on citizens to vote responsibly, to hold public offices, to serve in the armed forces, to give testimony at public hearings, to participate in juries, to engage in discussions of public affairs, to offer voluntary service in community settings, and to raise the responsible citizens of the future in family settings. Without a working knowledge of our charter of freedoms and voluntary activities in conjunction with such understanding, our participatory government would soon perish. Our Government is only as strong as the understanding and will of the people who comprise it. In a very real sense, the educational aspect of the bicentennial commemoration is a "national defense" program.

This bicentennial offers also the opportunity to evaluate the successes of our governing institutions since their inauguration in 1787.

The Founding Fathers set forth standards for assessment. They expected the "self-evident truth that all men are created equal" to guarantee that all "are endowed by their Creator with certain inalienable rights," including the rights to "life, liberty, and the pursuit of happiness." Indeed, they asserted, "That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed." They further expected their efforts "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty." The success of our institutions could well be judged by how well they have accomplished these objectives. Such an assessment could only teach profound respect for the wisdom and insight of our Founding Fathers.

Finally, the bicentennial offers the opportunity for the American people to rededicate themselves to the common principles that have formed the basis for our National strength and prosperity. In the words of General William C. Westmoreland, "As we begin the third century of the United States of America, the American people should renew their knowledge about our heritage and should rededicate themselves to the maintenance of a republic under the constitution." Hearing, Supra.

The Constitution, paradoxically, grows and becomes more effective over time not through a process of change and evolution but instead through a process of study and application of its unchanging principles. The growth and effectiveness of the Constitution is most evident in the dedication of Americans to its changeless tenets. The Constitution has proven durable—not because it is an evolving or flexible document but because it addressed principles that were enduring and because it created insti-

tutions that were in accord with the realities of man's existence. Hearing, Supra.

This time of rededication will, in a sense, strengthen the Constitution and its ability to perpetuate our system of ordered liberty, and a comprehension that "the maintenance of the common principles that animate our Republic depend upon a knowledge and understanding of their roots and origins" were eloquently summarized by Senator Charles McC. Mathias, a sponsor of S. 2671:

"The Founding Fathers were able to distill their knowledge of the history of mankind in a way that resulted in the provisions of the Constitution. They had obviously read Herodotus . . . They had read the "Spirit of Laws" by Montesquieu. They knew Locke; they knew all of the great authors of both political theory and historical fact.

"It is as the result of their knowledge and their preparation that we have a Constitution. It is . . .

"A great Constitution; but it . . . has to be implemented day by day by the men and women of the United States of America . . .

"We cannot implement the Constitution in the spirit in which it was written unless our knowledge of it is as intimate as the knowledge of the members of the Constitutional Convention . . .

"Issues present themselves which demand resolution against the framework of the Constitution. We will be inadequate to the job of resolving those issues unless we know as much about the Constitution as the delegates to the Convention who wrote it.

"Therefore, . . . it is vital that we stimulate interest . . . in its origins and antecedents and its spirit." Hearing, Supra.

Thus, education, evaluation, and rededication are essential to focus America's attention on the legacy they inherited from those who lived two hundred years ago and on their responsibility to protect it for those who will live two hundred years in the future.

The hearing held by the Constitution Subcommittee devoted considerable attention to the question of the role to be played by the Federal Government in the Bicentennial commemoration. Although conclusions about the degree of Federal involvement varied, all witnesses and Senators on the Committee agreed that, in the words of Mr. Ronald Hoffman, Symposia Director, U.S. Capitol Historical Society, "It is, after all, the anniversary of the founding of the National Government that we are celebrating in the bicentennial of the Constitution." Hearing, Supra. Therefore, the Federal Government should at least play some role in the commemoration of its own birth.

Federal involvement is also necessary for several practical reasons. Because no enterprise is likely to reach its own objectives without adequate planning, the essential goals of this commemoration depend on coordination and planning that will probably only be undertaken by a Federal body. Private and state authorities should not be responsible to undertake a project to coordinate the commemoration of the birth of the Federal Government, but will undoubtedly look to the Government itself to undertake the task. With all private and state entities deferring to the Federal Government, advance planning is likely to be postponed until too late. Already we are only five years away from the anniversary of the Mount Vernon Commercial Conference that was an important step toward the monumental meeting of the Constitutional Convention in Philadelphia, May 25, 1787. If planning and coordination are to be undertaken in a timely fashion, the Federal Government will need to inaugurate the process.

A Federal presence in the commemoration effort is also necessary to attract funding from private corporations and foundations. In the absence of a demonstration of interest by the Federal Government, private sources of funding may not be easily persuaded of the importance of supporting this commemoration as they so generously backed the Bicentennial of the Declaration of Independence.

Perhaps the most important reason for Federal involvement, however, was best stated by General William Westmoreland:

"The Federal Government must be involved so that all the people throughout this Nation—from the people in Lexington and Concord, Mass., where the Revolution began to the modern-day pioneers on the frontiers of Alaska; from the descendants of the Jamestown settlers to the Vietnamese boat people; from the citizens of northeastern Maine to the residents of Nilhua Island in Hawaii—realize the great heritage of democracy and personal freedom formulated by the Constitutional Convention in 1787 and protected and strengthened by following generations.

"Only when there is a national focus can there be a genuine general commemoration or rededication at the 200th anniversaries of the fundamental documents which have formed and maintained our democratic Government." Hearing, Supra.

If this is to be a successful national celebration of all the people, then the only entity which expresses the will of all the people of the United States must acknowledge the anniversary of the document which has guaranteed the liberties of those people.

Accordingly, after months of contemplating the appropriate degree of Federal commitment to this objective, all Senators on the Subcomittee on the Constitution joined me in the introduction of S. 2671, a bill to establish a commission to coordinate the commemoration of the Bicentennial of the Constitution. This bill contemplates a modest role for the Federal Commission of encouraging and coordinating commemoration activities.

S. 2671 further contemplates a commemoration consisting of more enduring activities than a series of pyrotechnic displays and parades. While celebrative activities are important to rekindle our national pride in the Constitution, a national reexamination of our nation's common principles and their embodiment in the language of the Constitution is perhaps more important.

S. 2671 is true to the Constitution's enlightened principles of federalism by recognizing a pivotal role for the States. The Federal Bicentennial Commission, under the plan envisioned in S. 2671, will play an important role as a coordinator, but will only undertake a "limited number" of worthy projects. States, on the other hand, should perceive no limits on the activities within the will of their citizens. The Federal Commission should encourage such State activities.

S. 2671 is also true to the Constitution's principle of limited national government in that it recognizes a leading role for the private sector. Private organizations throughout the national and in every community will perhaps carry the greatest weight in making this commemoration significant. The Federal Commission should encourage such private activities to make the Constitution's mesage meaningful in each of America's communities and homes.

S. 2671 is also true to the Constitution's respect for a diversity of thought and expression. The Federal Commission created by S. 2671 will not espouse any single, narrow view of what is most important about the Constitution or its historical development. The Federal Commission's focus should be the men and events of 1787, not controversial interpretations of 1987; the Federalist Papers and the ratification debates in the States, on the textbooks of modern law schools; the substantive provisions of our nation's foundational document, not the proposed legislative agenda of any single party or group.

One final observation argues strongly for creation of a Commission to commemorate the Bicentennial of the United States Constitution. S. 2671 is also true to the Constitution's principle of a separation of powers. All three branches of Government will participate in the Commission. This point calls to mind six years ago we paused to commemorate the Declaration of Independence and the celebration of its Bicentennial. The culminating moment of that celebration came on July 4, 1976, when we as a Nation paused to rejoice and reflect upon the document that enunciated the intent of the American people to be free. We are all familiar with the aspirational language of that document:

"We hold these truths to be self-evident; that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

With this elevating affirmation of purpose, the former colonies of Britain in the New World embarked on a course that would produce the United States of America. A war, a loosely bound confederation of sovereign states, and 11 difficult years came between the aspiration of the Declaration and the contract between the people and the States to carry out its noble objectives.

These two documents, the Declaration and the Constitution, launched the free peoples of America upon a course of self-government—a course we have learned is fraught with responsibilities and obligations as well as opportunities and liberties. In the words of Abraham Lincoln:

"All this is not the result of an accident. It has a philosophical cause. Without the Constitution and the Union, we could not have attained the result; but even these, are not the primary cause of our great prosperity. There is something back of these, entwining itself more closely about the human heart. That something, is the principle of 'Liberty to all'—the principle that clears the path for all—gives hope to all—and, by consequence, enterprise and industry to all. The expression of that principle, in our Declaration of Independence, was most happy and fortunate." ("Fragment on the Constitution", Lincoln, A., quoted in "The Living Constitution", Padover, Saul, p. 65.)

As Lincoln realized, the Declaration expressed the goal, the motivating philosophy; the Constitution created the structure to "attain the result." In one sense, the Declaration was the "end", the Constitution the "means" of the American experiment in self-rule.

This brief discussion of the interrelationship between these two documents is relevant to S. 2671 because the United States has already committed vast resources to commemorating the inauguration of our In-

dependence with the signing of the "ends" document. Soon the Bicentennial of the signing of the "means" document will be upon us. S. 2671 does not ask for vast resources, but it does ask the Federal Government to recognize what Prime Minister William Gladstone of Britain, on the occasion of the Constitution's Centennial, called . . .

". . . the most remarkable work known to me in modern times to have been produced by the human intellect."

At this point, I would like to share with my colleagues a brief and incomplete sketch of the history of the Constitution. Perhaps no history of the Constitution can ever be complete because countless lives and countless generations have contributed to its making. Nonetheless, as we add daily to the history of the Constitution in this body formed pursuant to that document, we should pause occasionally to consider from another vantage point the origin of the foundation of our Republic.

REMARKS BY SENATOR JENNINGS RANDOLPH

BATTALIONS FOR THE BALLOT

It is encouraging to join with advocates of responsible citizenship and believers in the pioneering legacy of America and the positive future of our Republic.

The Father of our Country, George Washington, in his farewell address after serving as our first President, said: "Citizens by birth, or choice, of a common country, that country has the right to concentrate your affections."

These words indeed present a challenge to each citizen of our United States—a challenge to recognize and respond to a very solemn obligation, a responsibility of the first order.

What is implied in Washington's challenge? Each citizen, I believe, must make a personal commitment to participate in our government and its processes.

The ballot is provided in our democratic form of government to assure that participation. Through it, each citizen can fulfill his or her most basic responsibility.

The right to vote carries with it the responsibility to cast the ballot. I emphasize the *right* to vote. Our founding fathers did not make the vote a privilege, but a right with the responsibility that it be exercised. If not exercised, this right will diminish, deteriorate and cease to exist.

Each citizen in our Republic, 18 years of age or older, has the right to vote—to exercise our cherished franchise of freedom, our franchise of duty.

And yet it is a sad reality that only 53.3 percent of the eligible voters in the United States cast their ballots in the 1980 presidential election. Two days ago—on September 14, only 25 percent of the voters went to the polls for the Vermont primary election. Earlier this year, only 28 percent turned out in Michigan; and in Virginia only an estimated 10 percent.

This national tragedy of our making, or unmaking, occurs because voter participation is critically important to sustaining our democracy. The continuing integrity of the voting process depends on the active involvement of our citizens. Our government will continue to serve us well so long as apathy does not result in rule by a few.

Success in countering voter apathy will not result from a Federal program, or proclamations from Washington. Only a rebirth of individual responsibility will reverse this tragic trend.

Our challenge was presented almost two centuries ago. George Washington, the determined delegates who signed our Declaration of Independence and the fearless framers of our Constitution met the challenge of their time. And so must we meet our challenges. We must sound the clarion call and organize the crusade. We must motivate citizens to register and vote. I repeat to vote.

We have needs and problems and goals to share. It's a test of our purpose and how much we care. The challenge is now! Citizens awake! Battalions for the ballot! Our future's at stake!

ATTACHMENT "D"

REMARKS BY W. ROBERT HIGGINS, DIRECTOR, CENTER FOR THE STUDY OF FEDERALISM

The Center for the Study of Federalism of Southeastern University is most pleased to begin its active life with the addition of the Convention II youth education program. Boris Feinman is a man of vision. This concept of a model Constitution Convention where high school students may attain hands-on knowledge of the Constitutional process and direct democracy, which began eight years ago, reflects his vision and mirrors his concept of the role United States citizens should maintain to keep our government free and democratic.

Bob Feinman has done many fine things in his life, but surely one of the best was to recognize the potential for leadership of a high school student who participated in the first Convention II seminars. This young man is Tim Leighton, president of Convention II. The Center for the Study of Federalism is very fortunate to acquire not only the successful programs of Convention II, but also the talent of Tim Leighton.

The guiding force behind the information of the Center for the Study of Federalism is Mervin K. Strickler, Jr. Merv is a man of many talents and over the last six months I have been fortunate enough to work with Merv and watch him turn his tremendous energies toward the goal of a study center in Washington where the Federal governments of the world—past, present and future—may be examined and the knowledge gained then be transmitted to the American public at large. We all owe Merv Strickler a great debt.

Merv's ideas, Bob's brain child, and Tim's ability all needed a home—an academic setting which would provide an atmosphere adequate for nurturing a new concept. Universities have, from their origins in the middle ages, done just that, and the Center for the Study of Federalism needed such a base. Merv proposed his plan to Ralph Richard, Chairman of the Board of Southeastern University, and Ralph's response was enthusiastic. Since the original meeting when Ralph agreed and took as his own the vision put forward by Merv Strickler, Ralph Richard has provided every assistance to assure the success of Southeastern University's Center for the Study of Federalism.

One of the first activities which we at the Center undertook, and which we are still pursuing, is to gain the services of a group of men and women to help guide the development of the Center. In trying to identify the specific individuals for the Board, we have looked at the skills, experience, and expertise of a number of people to ensure that we can obtain the knowledge necessary to guarantee the success of this Center. Our Advisory Board is growing and I am very pleased to have many of the members here with us this morning. The Board will meet over lunch today.

In addition to Convention II, the Center is beginning its activities with a series of seminars—some independently and some in conjunction with other groups and organizations. The first of these meetings here in Washington will be on October 22 in conjunction with Federal Union, founded by Clarence K. Streit who is here with us today. The subject on the 22nd will be "Federalism and the Growing Sense of World Community." This seminar will be held to coincide with Federal Union's Annual Meeting. The seminar will be open to the public and you will be hearing more about it in the next weeks.

REMARKS BY TIMOTHY LEIGHTON, PRESIDENT OF CONVENTION II

You have heard in most eloquent terms that the time and need for our Constitution's Bicentennial Commission is upon us—and we need it NOW. The challenge to those of us here at this breakfast commemorating the 195th Birthday of the Constitution is to convince Members of Congress to act with dispatch to authorize the President to appoint a Commission which might then begin its best efforts so that we Americans can and will look deep within ourselves to perpetuate our good efforts and refocus other thinking—all with the goal that a young Convention II participant annunciated. A friend from Washington state wrote a letter, not unlike other notes from our Delegates:

"If more young Americans are made aware of what goes on inside our government, they will become more responsible citizens. If more people know how our government functions, they will understand the qualities needed to be a high official and they will carefully select the right people to lead our country."

This Commission provides America with a catalyst to achieve this and other goals.

The Senate of the United States has responded firmly. Passage on the Floor is expected next week of the bill to establish a Bicentennial Commission. We now have just a few short weeks to encourage the House of Representatives to follow suit. Let us build our own temporary coalition for this purpose and coordinate efforts of people in the Executive, Judicial and Legislative branches of the Federal government, with people in State and local governments along with associations, interest groups and individuals. As we learn of each other's interests and efforts, we can energize for mutual success.

In the House of Representatives the first step is for the Subcommittee on Census and Population to hold hearings, if necessary, and report a bill to the Committee on Post Office and Civil Service, which must act favorably in order for the full House to consider legislation. Hopefully, the final language will be similar enough to the Senate bill that we can avoid conference.

For seven years, Convention II has been striving to facilitate collaborative efforts to intensify the understanding of and appreciation for the Constitution by American citizens. Now we ask you very specifically to help us establish this Bicentennial Commission on the Constitution by direct contact with Members of Congress, particularly those serving on the House Committee on Post Office and Civil Service. Let us know what you will do, send us copies of what you then did do, and together we will create and succeed.

[Attachment "F"]

REMARKS BY VINCENT REED, VICE PRESIDENT FOR COMMUNICATIONS, THE WASHINGTON POST

I am pleased to have this opportunity to put my support behind the creation of a Constitutional Bicentennial Commission. As an outgrowth of this Commission, I am looking forward to a renewed initiative for citizenship education. I have been told in the past that you cannot mandate citizenship and while I agree that you cannot mandate citizenship, I do know that we can put certain things in place that will lead to adults and children thinking citizenship and how important it is to this country.

Citizenship education will give us the opportunity to teach adults and children to respect themselves, to have respect for others, to formulate and express opinions, to pay taxes, to serve on juries and to defend this country when necessary. In this country we have 16,000 school districts and in those school districts we have 41 million elementary and secondary school children and we need to challenge these young people into thinking about citizenship.

In the next 3 to 17 years, everyone of those 41 million children will be adults. Wouldn't it be beautiful if those 41 million as adults would have been trained to be sensitive, dedicated, loyal Americans? I really feel that when we have put citizenship on the back burner on so many of our school systems, we have a surge of disloyalties to this country. And I say regardless of what this country is, it is our country and we have to defend our country and at the same time work within the framework to correct the ills we define.

I am of a family of 17 children—14 boys and you can believe that on many occasions we had a fight within our family. But, you can believe that any time anyone on the outside dared to attack this family, again you can believe we united as one force and that's what this America is all about.

Let me take a minute to tell you a story about my private life to reinforce what Senator Randolph said to you on the value of one vote. When I was a young boy, my mother and I went into a candy store. The proprietor of this candy store was stirring a large vat of peanuts and he was putting a sugar coat covering on these peanuts. While he was stirring, one peanut fell from the vat and he stopped and put that peanut back into the vat. So after we left the store, I was so intrigued that I asked my mother, "Why did he stop to pick up that one peanut?" and my mother said to me, "Remember, that peanut may be the one to make up a pound." And as I say to Senator Randolph, to make up the vote, even one vote may be the one that tops the scale.

We have come a long way since 1979. All of us who have been in favor and have been advocates of citizenship education have now approached the time and we have to push hard to make sure that all of our citizens understand how great our country is.

THE IMBALANCE OF FINANCIAL RESOURCES AVAILABLE TO DEMOCRATIC AND REPUBLICAN PARTIES

Mr. ROBERT C. BYRD. Mr. President, I would like to bring the Senate's attention to the comments of a truly charming, beautiful, and remarkably intelligent woman, Mrs. Pamela Harriman.

Excerpts of a speech Mrs. Harriman recently gave at the Wall Street Club were printed in the September 19, 1982, edition of the New York Times.

In her comments, Mrs. Harriman examines the imbalance of financial resources available respectively to the National Democratic and Republican parties and insightfully discusses the long-range implication this imbalance might have on the two-party system. I urge my colleagues to take note of these remarks. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR TWO HEALTHY PARTIES

(By Pamela C. Harriman)

Should every good Republican want a strong Democratic Party? The answer, plainly, is yes. But why?

The short answer—that all of us have a stake in a strong two-party system—only begs the question. There are three reasons why I believe that everybody should be vitally concerned about the future of the Democratic Party.

The first is that this nation desperately needs good ideas, and it is vigorous debate between two strong parties that offers the best chance of yielding good ideas.

The second reason is that neither major party has a monopoly on good and talented people—and each party needs the strength and wherewithal to support and advance its best people. If one party is disproportionately weak, it may fail in one of the most important roles that political parties play: their role as a launching platform for young, talented leaders. And that would be a misfortune not only for one party or the other—but for our nation.

The third reason is that two strong parties help form a bulwark against third-party movements and splinter candidacies, which threaten to fragment our politics today.

I think France and Italy are marvelous places to visit, and I think that multiparty politics makes wonderful theater. But I also believe that the marvelous workability of American politics over the years has been due in large part to the strength of our two major parties and to the absence of splinter parties.

Now, why do I raise these points, which should be so obvious? For a very important reason: In the last few years, a serious imbalance has arisen between our two major parties—serious and dangerous.

I'm afraid neither the press nor the public is more than dimly aware of this imbalance. Yet it is real, and its dimensions are staggering.

The Democratic Party, for example, began 1981 with $600,000 on hand. The Republicans, by contrast, had nearly $6 million.

In the months since January 1981, national Democratic campaign committees have managed to raise $19 million dollars. Republican national campaign committees, however, have raised $146 million.

As of last June 30, the Democrats had little more than $2 million available to spend during the rest of this election year. The Republicans, however, had $31 million on hand—roughly 15 times the amount in the Democratic treasury.

This imbalance is reflected also when it comes to political-action committees. This year, almost one dollar out of every three spent on political campaigns will come from political-action committees—a figure five times higher than in 1974. And here again, Republican candidates will claim the lion's share.

Some intensely ideological committees are spending sums that are without precedent in our politics. Senator Jesse Helms' Congressional Club, for example, has already spent nearly $8.5 million in the past 18 months! And the National Conservative Political Action Committee has spent more than $7 million in the same period.

My concern is for the future. I care about what this imbalance means to the future health of our democratic system. It's not healthy, in my judgment, for one party—consistently, year in and year out—to spend 4 or 5 or 15 times as much as the other. It creates a distortion in our politics that isn't good for either party—or for the country.

THE LEBANON CRISIS

Mr. WARNER. Mr. President, on Wednesday, September 22, the distinguished senior Senator from California, Mr. CRANSTON, sent a letter to Israeli Prime Minister Begin expressing his concern over the recent turn of events in Lebanon. In his letter, the Senator set down four actions which he believes Israel should take in light of those events.

Senator CRANSTON believes that Israel should:

First, withdraw its forces from Beirut immediately upon arrival of the multinational forces which are to assist the Lebanese Army in assuming security responsibilities.

Second, cooperate in achieving the swift withdrawal of all foreign forces from Lebanon—Syrian, PLO, and Israeli. And exercise the utmost restraint in using its superior military strength against Syrian and PLO forces still in Lebanon until such an agreement is reached.

Third, return to its traditional concern over only immediate threats to its own borders and abandon its reliance on military force for the solution of essentially diplomatic problems.

Fourth, and, that while Senator CRANSTON, too, has reservations about President Reagan's proposed peace plan, Israel should reconsider promptly its outright precipitous rejection of his entire proposal.

I have spoken privately with Senator CRANSTON and today commend him again for his courage and insight into this very complicated international situation. His letter very likely precipitated the events which have transpired in the intervening 2 days, clarifying the tragic loss of life in Lebanon.

I share Senator CRANSTON'S views regarding the implications of the recent killings of seemingly innocent Palestinians. Indeed, as the Senator eloquently wrote:

Perhaps the most somber consequence of the current strife in Lebanon is the dimming of the inspiring moral beacon which has shone so brightly from beleaguered Israel.

I would add, however, that beacon still shines in the hearts of the Israeli people. Its rays have only been lost—temporarily—by the acts of Israel's present leadership.

A lasting and equitable peace in the Middle East is the goal of the United States. A cornerstone of that effort will be the continuation of our efforts to provide for the security of the people of Israel. That may well involve compromise by the many nations affected.

ISRAELI-AMERICAN RELATIONS

Mr. PERCY. Mr. President, the decision of the Begin-Sharon government and the Knesset to oppose a proposed independent state commission of inquiry into the massacre in Lebanon has brought a flood of complaint both in Israel and the United States.

I share in the profound dismay over Israel's decision in this matter, not only because it is wrong, but also because it is damaging to Israel and to Israel's image in the world.

It is clear from press reports that the citizens of Israel are as stunned and shocked as we are by the charges of complicity in the massacre. An independent, comprehensive investigation to determine the extent of Israeli responsibility is vital. Today, the Israeli Cabinet decided to authorize an inquiry by the President of the Supreme Court but he had rejected the request. In any event, such an inquiry could have less authority to investigate and so would be less reassuring to all who hope that the full story will soon be known.

I might point out that the free press in Israel has pursued this matter aggressively and continues to report new information as it is discerned. This is to the credit of the press and it is a tremendous credit to that great democracy.

My own strong feeling that the Government of Israel is off course is well known. For 34 years I have supported the ideals of Israel, and I continue to hold the people of Israel in the highest esteem. Despite what I consider terrible errors in Israel's foreign and defense policy, I have always respected Israel as a democratic state with which we have close ties based on common traditions and warm personal relations. At a time when disapproval of the course pursued by the Beign-Sharon government is so great, I think it is important that we view our disapproval within the context of the long-term Israeli-American relationship and not allow it inadvertently to affect our continuing friendship for the State and people of Israel.

Differences of opinion over how to pursue the peace process have already put strains on our relations with Israel. Now the opposition of Prime Minister Begin to an independent, comprehensive investigation is exacerbating tensions.

A prompt, impartial, and thorough investigation of the massacre and an Israeli peace move would do much to restore harmony in Israeli-American relations.

VOTE AGAINST CLOTURE

Mr. PERCY. Mr. President, I voted against cloture yesterday and for a motion to recommit the debt ceiling extension bill so that the Senate could move on to the many pressing matters it must consider before the start of the new fiscal year on October 1 and before the Senate adjourns for its long-planned October recess.

Mr. President, the debt ceiling bill was needed prior to October 1. We also have to take up the continuing appropriations bill and any other separate appropriations bill ready for full Senate consideration. In addition, a major criminal code reform package awaits action by the Senate. There is an urgent need for these reforms to deal with violent and drug-related crime in this country. If we postpone action on this important legislation until our postelection session, we would greatly diminish our chances for enacting all or part of it in this Congress. The many months both Houses have spent on this major reform bill would be wasted.

I would very much like to see the Senate take up my bill, S. 1249, the Debt Collection Act. This legislation would strengthen the Federal Government's ability to collect some $40 billion in delinquent debts. Its companion bill has already passed the House by a wide margin. If the Senate can act on it, we will be able to take final action in this Congress on a widely supported and very much needed piece of legislation.

It was obvious to me yesterday that a vote for cloture would not have expedited consideration of the amendment relating to school prayer nor would it have allowed the Senate to proceed to other business. With 1,400 amendments having been filed to the pending measure, a vote to end debate ironically would have paved the way for a far more lengthy debate. This was time, given the lateness of the session and the many important items awaiting full Senate action, that we could not afford.

Mr. President, with regard to the amendment offered by the distinguished Senator from North Carolina, I have many very serious reservations.

It is clear that the amendment seeks to overturn a decision of the Supreme Court of the United States. The amendment would remove from the jurisdiction of the lower Federal courts and the Supreme Court review of any case involving voluntary prayers in public schools and public buildings. This amendment clearly challenges and undermines the fundamental principle of an independent judiciary by stripping the courts of review over a particular issue.

The amendment also seeks to accomplish a change in constitutional law through simple legislation, contrary to the intent of the country's founders. Article V of the Constitution provides an orderly process which requires a constitutional amendment to be approved by a two-thirds vote of both the House and the Senate and to be ratified by three-fourths of the States. Our founders intended that the rights protected by the Constitution not be easily abrogated. This amendment process insures such protection by guaranteeing lengthy consideration and debate of changes in the Constitution.

This is the proper way to reverse decisions of the courts. It should not be done by restricting a court's review of controversial issues when we do not agree with its interpretation. In fact, a constitutional amendment dealing with the subject of school prayer is pending before the Senate Judiciary Committee. Hearings have been held on this proposal, and I expect that it will reach the Senate floor for debate in the next Congress. This is the appropriate vehicle to discuss and debate this issue and the change in the Constitution which will be required to reverse the ruling of the Supreme Court.

Last, the Senate Judiciary Committee has not acted on the pending proposal by the Senator from North Carolina. The constitutional issues raised by this proposal are so grave and so complex that they demand, at the very least, the thorough deliberation the full legislative process affords.

Mr. President, it is my concern for the integrity of the legislative process, the absolute necessity for the Senate to move on to other pressing business and my deep reservations about the substance of the pending amendment that convinced me to cast a fourth vote against cloture and to support the motion to recommit the debt ceiling bill.

SENATOR GEORGE AIKEN

Mr. PERCY. Mr. President, on August 20 the Washington Post published a feature story about our former colleague, Senator George Aiken. The article by David Remnick is a warm tribute to the Senator, who turned 90 that day. As the Post reports, the "Governor," as he's called, still keeps active. "Aiken's mind is keen. He can pick fruit more quickly

than guests a quarter of his age. And his voice has lost little of its power," the Post reports. Arthur Burns, our Ambassador to West Germany and a frequent visitor to the Aiken home in Vermont, is quoted as saying, "He's a typical Vermonter. He doesn't talk too much, but what he says counts."

Senator Aiken was the ranking Republican on the Foreign Relations Committee through three Congresses, the 91st, 92d and 93d. He is remembered for his insight and his sterling character. I ask unanimous consent that the article on George Aiken be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 20, 1982]

EIGHT YEARS AFTER LEAVING THE SENATE, AT HOME IN VERMONT ON THE LAND HE LOVES

(By David Remnick)

PUTNEY, Vt.—George Aiken turns 90 today, and from his home on Putney Mountain he looks out onto the land he has loved, tilled and governed. From his porch, he surveys his farm, rows of wild carrot, cabbage and pumpkin, bushes fat with blueberries and raspberries, patches of jack-in-the-pulpit, Bowmansroot and Dutchman's-breeches. A strong morning sun has burned away a curtain of fog over the Green Mountains and the Connecticut River beyond to reveal hills covered with verdant sugar maple, hemlock, white pine and white birch.

"All the young woods you see here, lots of it was farming land, sheep pasture when I was a boy," says Aiken, former dean of the Senate Republicans. "That all took a long time. It's in a different cycle now."

In the cycles of Aiken's own life, it's been 16 years since he told an outraged Lyndon Johnson "to declare victory and come home" from Vietnam and eight years since he himself came home, retiring after first "coming down to the Senate" in 1941.

He was born less than a mile down the road from his present home. His birthplace is now covered over by Interstate 91. "A beautiful monument," he says. "Cost $7 million."

Some reminders of Aiken's birth have survived intact. Above his bed is a framed front page of the Windham County Reformer dated Aug. 20, 1892, advertising Dana's Sarsaparilla as cure for "Cases of Insanity From the Affects of 'La Grippe.'" A framed front page of The New York Times from the same day details the "Effects of the Buffalo Strike" and the adventures of the Bidwell Gang.

Aiken retired in 1974, and unlike Senate colleagues such as Hugh Scott, J. William Fulbright, Gaylord Nelson and John Sherman Cooper, he left Washington for good and came home. "I'm a Vermonter," he says. "I was in prison for 34 years and it was time to go free." Ethel Page, who is two months older than Aiken and was his classmate at the little red schoolhouse that still stands on West Hill, says, "George is one of us. Always has been one of us."

Aiken is older than the look of his land. Many of the old, great trees of southern Vermont were lost to the lumber industry, and the abundance of saplings have crowded out pasture and wildflowers. And yet Aiken expresses no sense of loss.

"Here," he says, rising from his chair, "you can see all of Mount Monadnock now." Every morning Aiken can see the sun rising over New Hampshire and Monadnock. Though none of it is permanent, not the day, not the man, not even the mountain, the long, clear view here allows George Aiken the time to reflect on his long, rich life. The Washington whirl is unending, but it is out of sight. This is a landscape that awes and stills the mind. Galway Kinnell writes in "Flower Herding on Mount Monadnock":

It is nearly the dawn.
The song of the whippoorwill stops
And the dimension of depth seizes everything.

"Hell, I'm not religious," says Aiken as he sprays 6-12 bug repellent on his forehead and arms. He picks up his white spruce walking stick and a couple of quart baskets and heads for the blueberry bushes. "My mother was raised by the Congregationalists and my father by the Baptists. My religion is sitting out in the woods on a stump. You can learn a lot there."

He gestures toward the road and down the hill. "I go down to Putney Village now and I don't know one person in ten. There's so much goddamn intellects coming in from outside, I can't keep track. I never even knew that fella who wrote that bestselling book. Name's Irving." Aiken may not know John Irving, author of "The World According to Garp," but he is fluent in Putney's history and familiar with many more of its residents than he admits.

"Putney was granted to a man named Willard in 1756," he says. "During the Revolutionary War, Brattleboro was a Tory town, but Putney was a radical, rebel town. I was a radical, I guess. My grandfather supported Teddy Roosevelt and I would've voted for him too if I'd been old enough."

One blueberry after another plunks into Aiken's basket. At 90, his hair is a shock of white, his walk is stooped, his handwriting is sketchy and strained. Nevertheless, Aiken's mind is keen. He can pick fruit more quickly than guests a quarter his age. And his voice has lost little of its power. "He's a typical Vermonter," says economist and Ambassador to West Germany Arthur F. Burns, a frequent visitor to the Aiken home. "He doesn't talk too much, but what he says counts."

Whether he is talking about Putney or politics, Aiken sounds a good deal like recordings of Robert Frost reading from his poems—his speech is measured and spare, with an accent made to order for New England narratives and sagacity.

"I had to help Truman more than anyone else," Aiken says with delight. "He shed tears when he became president. The day it happened he and I had a breakfast date, and I was going to tell him about the shortcomings of the Maritime Commission. He was vice president and he had to meet with the leadership of the Congress, of which I was not one, didn't want to be. Well, he came over and hung on to me, tears running down his cheeks. He kept saying, 'I'm not big enough for the job, I'm not big enough.' And most people believed him. I don't care how high the job, they've all got to have someone to talk to.

"I once gave Lyndon Johnson a little advice on Vietnam that we should say we won and get out of there. Leonard Marks had been his legal authority for 20 years or more. Leonard went into the president's room one day and he got his courage up and said, "Why don't you consider the proposal Senator Aiken made the other day?' Lyndon said, 'Leonard, you get out of here!' Threw him right out of the office.

"So Leonard went. He didn't get invited back to the president's office for two, three weeks. He got a phone call one night, and the president said could he come over and eat with Lady Bird and me tonight. Well, of course, he went, but he didn't mention my suggestion again until Lyndon retired to his ranch. Leonard rode down there one day and called on him. The president was feeling very affable. Leonard got his courage up and said, 'Mr. President, could you tell me why you got so mad at me when I asked you to consider Senator Aiken's proposal?'

"Lyndon leaned back and smiled a little bit and said, 'Because I knew goddamn well you were both right.' He didn't, though. He took the word of his military."

Aiken tends to leave present politics to present politicians, but Fulbright says, "George would be a burr under the Reagan administration's saddle. He wouldn't be swayed by the Great Communicator. Doubletalk wasn't one of his pastimes."

Candor is the privilege of age and of being a senator from a relatively small, homogeneous state like Vermont. It is a privilege that Aiken has always enjoyed and exercised. He says, "Ted Kennedy is always looking over his shoulder," and in Aiken's book, "Senate Diary," Henry Kissinger "oozed conceit from every pore" and George McGovern "actually acts as if he does not want the Vietnam war to end while Nixon is president, or else he wants it to end in humiliation for the U.S.A."

But Aiken is no curmudgeon—in Washington, a town known for the acerbity of its gossip, Aiken left with a reputation for gentleness as well as independence. His praise crosses party lines; he has nothing but kind words for Robert Kennedy, Dwight Eisenhower and Aiken's Senate breakfast companion for 21 years, Mike Mansfield. He says he admired foreign leaders such as King Faisal, Nikita Khrushchev ("We didn't treat him decent when he first came to this country") and Pakistani leader Zulfikar Ali Bhutto, who was executed for treason. "Trouble is," says Aiken, 'most of the ones I knew were deposed or hanged by the neck."

Aiken plays down his long career in Washington, preferring instead to be known for his years as a farmer and as governor of Vermont—everyone calls him "Governor," never "Senator." He seems relieved to wear cardigans and string ties rather than a three piece-suit. Aiken makes an effort to put his years on Capitol Hill into perspective, if not the background.

"I miss it in a way. But there's so damn much to think about and know that I don't think I could take it anymore," he says. "There is just too much to remember. That's why I married Lola. She remembers everything."

Lola.

In June 1967, a little more than a year after his first wife died, Aiken left his daily breakfast meeting with Mike Mansfield and went to a Fort Myer chapel with his administrative assistant, Lola Pierotti. Without telling a soul, they were married. A typically low-key wedding for a senator who fed pigeons and squirrels outside his $156-per-month Capitol Hill apartment. When the couple returned to the office, Aiken retained his new wife as his assistant but took her off the payroll (reducing his staff to nine).

"I think the Governor said something about we ought to get married, and since I didn't have anything to do at the time, I

said 'fine,'" says Lola Aiken. Although she will not reveal her age ("Anyone who tells you that will tell you anything"), she is perhaps 25 years younger than her husband. Lola Aiken is a vibrant woman, and with the facility of an efficient Senate aide and the felicity of a devoted partner, she is the curator of her husband's past.

When George Aiken tells a story his wife silently guides him through the details. They stare at one another, ignoring their guest, not out of rudeness (they are nothing if not courteous) but out of a desire to get it right. Aiken can tell when he has faltered just by the way his wife smiles or raises an eyebrow.

The visitors, the phone calls, the three children and 11 grandchildren, the mail, the requests, the houses in Putney and Montpelier, the two "truckloads" of Senate papers, the medications—Lola Aiken is somehow able to care for her husband's needs without ever making him feel feeble.

"I really do spoil him. I do everything for him," she says, sitting on a stone wall surrounding a little garden of geraniums and marigolds. "A lot of people still remember him and will write and say, 'We miss you,' or ask him to autograph a picture or a book. You'd be amazed at how many people write for help, asking for jobs. We even heard from a Lebanese doctor who wanted to stay in this country. Of Course, we're in no position to help."

Aiken's wife is the one person who has been by his side in both the Senate and retirement and she admits her husband has not accepted age and retirement as gracefully as he says.

"He hates growing old. He hates funerals," she says. "He told me once, 'I'm so old. I'm useless. I'm not contributing anything to anyone anymore.'

"He really hates retirement. He'd rather go to the office at 10 minutes to seven like we use to. He's bored"

The Aikens rise at about 7:30 a.m. Lola works on the mail and other matters at her desk while "Guv" (Lola's pet name for him) works in the garden. About noon, they go into town for lunch, maybe to meet friends like former ambassador Ellsworth Bunker or the Ziter family the owners of the Putney Inn. In the afternoon and evening, the Aikens relax or have guests. "You'd be surprised," says Lola Aiken. "The day goes quickly. all of a sudden I look at the clock and I say to myself, 'Is it 4 o'clock already?'"

Though they admit to occasional boredom, Lola Aiken says she is glad they retired to Vermont instead of Washington. "If you've been important, I don't care whether it's with a corporation or in politics, it's almost better if you move away from it," she says.

This afternoon the breeze is cool and washes over the treetops. George Aiken is in the house taking a nap. Lola Aiken is going for a walk in the woods.

The Aikens' simple clapboard house contains a catalogue of political memorabilia:

On the wall are a mounted Indian headdress from the Assiniboine tribe and several lines from Frost's "Birches" printed on birch bark.

On the bookshelf are hippos, owls, turtles, bunnies, cats, cows, bears and, of course, elephants—mementos of political events from Moscow to Montana. Next to Aiken's books on wildflowers, berries and politics are signed memoirs by Robert Kennedy, Mike Mansfield and other colleagues. "I never do get to read them," Aiken says as he flips through the pages of Kennedy's "Just Friends and Brave Enemies."

The mantel is hung with shovels used for land breakings.

Lola Aiken pulls out a tiny plastic bag holding the "George Aiken Fly," a custom-made fly for salmon fishing made by L. L. Bean. In the closet is an unused fly rod, a gift from Ted Williams.

She opens a three-inch-thick file of personal and political statistics (shoe size: 9½D; hat size: 7⅝ oval; belt size: 40; pastimes: fishing and pitching horseshoes). "We had constituents calling up for all sorts of information," she says with a shrug.

George Aiken pulls out a file drawer filled with glossy photographs. Aiken with Johnson. Aiken with Sihanouk. Aiken with the Chamber of Commerce. He flips a file stuffed with glossies onto his bed.

"I've got 3,000 of these damn pictures and I don't know what to do with them," he says.

All the memorabilia, however, has not consumed Aiken's life and thoughts. Though he is retired from public life, he lives in the land of his childhood, a land whose volatile seasons and cycles of growth cannot help but make George Aiken feel part of something vital.

"Look out there at him and at all the blueberry bushes he's got ready for next year," says Lola Aiken. "You look at that and you know he's planning for the future."

BUSINESS CENTER OF NEW TECHNOLOGY

Mr. PERCY. Mr. President, there is a great deal of analysis these days about our future economic strength and the role of innovation and high technology in the decades ahead.

Certainly we know that "Yankee ingenuity" has been a springboard for economic growth in the past and it seems likely that this relationship will continue. In my own State of Illinois, the prairie was pioneered by John Deere's famous plow that could break through the tough sod. His innovation created millions of jobs throughout the Midwest—both in agriculture and in manufacturing. It was a towering invention of the 19th century and it helped change the face of the world as we know it.

We know that many inventors, however, never quite get their ideas off the ground. Our economy and society might be very much different today if some of those ideas in medicine or high technology had taken root. We really must try and stimulate and encourage innovation so that we will have John Deeres well into the future.

In Illinois, not too far from where John Deere's original plow was perfected, a center to assist inventors has opened. The Barber-Coleman Co. in Rockford has just opened a business center of new technology this month. The company sees the center as a place where new ideas will be nurtured and brought to fruition. The company will rent 40,000 square feet of space to small businesses and will provide many of the services that smaller companies or individuals might find hard to afford elsewhere.

Mr. President, this new business center was brought to my attention in a recent article in Crain's Chicago Business newspaper, a weekly journal that discusses northern Illinois business developments. I ask unanimous consent that the article from the August 30 issue be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. The Crain's article notes that:

> The services the center will offer to small businesses and inventors include business counseling, office space, light manufacturing space, machine shop and model shop capabilities and support services such as secretarial help, telephone answering services, drafting and advertising-graphics services.

Established firms may take these services for granted, but for the small business or individual, they can be the difference between success and failure.

Congress has had under consideration various new ways to spur innovation in this country, particularly among smaller businesses. The Senate is about to consider S. 1657, The Uniform Science and Technology Research and Development Utilization Act, a bill I cosponsor to promote the commercialization of the discoveries and inventions that result from Federal grants and contracts. Enactment of this legislation will complement a much needed and recently enacted law which earmarks a certain percentage of Federal research and development funds for smaller businesses. In addition, Congress has recently completed action on a measure which establishes a two-tiered system of Federal patent fees, making the cost of protecting small business innovation less prohibitive. In light of such action, both completed and prospective, it is more important than ever that the private sector be ready to respond to the new opportunities to foster and nurture technological creativity. Barber-Coleman Co.'s new center, therefore, is a particularly farsighted and critical contribution to the efforts, both public and private, to encourage innovation in this country.

The Barber-Coleman Co. plans to help businesses get patents or market a product, too. I applaud the company for undertaking this new idea and putting it into practice. It is a new concept that bears watching. Unlike some innovations, I am sure the company hopes that this idea will be copied many times over by other companies. Certainly our economy and our country are the winners in a new endeavor like this.

I commend this article to my colleagues and the business community.

EXHIBIT 1

[From Crains Chicago Business, Aug. 30, 1982]

ROCKFORD FIRM INVENTS WAY TO AID INVENTORS

(By Cary Spivak)

ROCKFORD.—After creating the contraption that will change the world, an inventor is faced with a tough question: How do you sell it?

Unfortunately, it's the question the inventor is least qualified to answer. But Rockford-area inventors soon will get help to turn ideas into marketable products. And the help will come from a source many inventors traditionally don't trust—a large corporation.

Barber-Colman Co. plans to open a 40,000-square-foot Business Center of New Technology here that will be home to a handful of inventors with ideas that are not quite ready to fly.

Space for the center is available because the specialty machine and tools manufacturer is moving from Rockford's southwest side to just outside the city limits.

Coordinator John Dixon said plans still are being worked out, although he hopes to fill the center with small businesses in need of office space and bursting with ideas.

"We hope people will cultivate ideas here," Mr. Dixon said. "It's almost like a garden."

Services the center will offer to small businesses and inventors include business counseling, office space, light manufacturing space, machine shop and model shop capabilities and support services like secretarial help, telephone answering services, drafting and advertising graphics services.

Charges for these amenities—and for rent—have not yet been determined, but will vary according to the needs of individual inventors. Many of the services will be offered at the same rate that Barber-Colman divisions pay, Mr. Dixon said.

And when the inventors confront problems like getting patents or marketing a product, Mr. Dixon and other Barber-Colman officials will be available to help.

"Tinkerers are not really business-oriented," Mr. Dixon noted.

The experience of the one inventor bears out that opinion. David Lester, a Rockford-area inventor who has applied for space at the center, invented a machine that strips off tile, carpeting or any other flooring. While the machine is being developed and manufactured, Mr. Lester hopes the center will put him in touch with marketing people.

Mr. Dixon said he is confident that he can find enough inventors to fill the center, which he hopes will open in mid-September. He said that since plans were announced, he has received several phone inquiries daily.

The center will be open to all types of inventors and small businesses, although Barber-Colman is "looking for small businesses that are applying technology to commercial and industrial markets," said John Lutz, director of business development.

Mr. Lutz said that is the only area where Barber-Colman can provide help to a small business. Also, there is a greater chance that Barber-Colman would buy that type of idea.

But the center will not be limited to a particular type of invention. Mr. Dixon hopes to refer inventors with products outside of Barber-Colman's expertise to other manufacturers.

That's the type of help inventors in Rockford and other cities sorely need, according to Nicholas Parnello, a Rockford inventor of microwave oven testing devices.

"Young inventors need a place to sit down with other inventors," said Mr. Parnello, adding that an inventor should be prepared to deal with a wide variety of personal problems.

"There's no money when you're inventing, and most inventors don't know how to borrow. Most guys want to keep the invention a secret, so they go to a neighbor and say, 'Hey, you got a thousand dollars?'"

The desire to keep the invention secret hurts the inventor because "he doesn't trust anybody." His strongest distrust is reserved for corporation.

Mr. Parnello recently contacted Barber-Colman and offered to help screen inventors interested in using the Barber-Colman center.

His first recommendation to an inventor: Let a marketer check the product before pouring too much money into it. And if marketing experts see no future in an idea, Mr. Parnello recommends dropping it.

Joe Frey, inventor of the Grabit, a device that dispenses hair-curler end papers for hairdressers doing permanents, also has plenty of advice for new inventors.

"Start small and be sure there is a market for your product." Mr. Frey speaks from experience. He said he erred by borrowing $100,000, creating a corporation and picking the wrong packaging for his product.

Mr. Frey said he would have appreciated advice from other inventors when he first started working on the Grabit four years ago. Had he had advisers, Mr. Frey said he might have started a smaller operation and would have done marketing tests.

While the Grabit is selling, Mr. Frey said it isn't moving fast enough to retire his $100,000 loan. "It's not the Hula Hoop," he noted wryly.

But Mr. Frey said he sees a problem in Mr. Parnello's plan to establish a group where investors can trade advice.

"The trouble with most inventors is they're scared to death that somebody will steal their ideas."

And, Mr. Frey said, there is still an element that determines the success or failure of all inventions—luck.

"I don't care if you're writing a book or making a product," Mr. Frey said." "You need luck."

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 10:30 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4258. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4259. A communication from the Inspector General of the Veterans Administration, transmitting, pursuant to law, a report on a computer matching program to identify federal personnel who have defaulted on VA loans; to the Committee on Governmental Affairs.

EC-4260. A communication from the Chairman of the National Digestive Diseases Advisory Board, transmitting, pursuant to law, the first annual report of the Board dated April 1982; to the Committee on Labor and Human Resources.

EC-4261. A communication from the Administrator of the Rural Electrification Administration, transmitting, pursuant to law, a commitment to guarantee a non-REA insured loan to Wabash Valley Power Association, Inc.; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4262. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's sixteenth special message for fiscal year 1982; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Energy and Natural Resources, the Committee on Foreign Relations, the Committee on Veterans' Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Labor and Human Resources.

EC-4263. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of the Administrative Telephone Service function at the Public Works Center, San Francisco, California, to performance by contract; to the Committee on Armed Services.

EC-4264. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-4265. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting the ground maintenance function at the Naval Supply Center, Pearl Harbor, Hawaii, to performance under contract; to the Committee on Armed Services.

EC-4266. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Neighborhood Reinvestment Corporation's Financial Statements For the Fiscal Year Ending September 30, 1981; to the Committee on Banking, Housing, and Urban Affairs.

EC-4267. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the proposed use of $15 million in funds appropriated to NASA; to the Committee on Commerce, Science, and Transportation.

EC-4268. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Review of the Trans-Alaska Pipeline Liability Fund's Financial Statements For

the Year Ended December 31, 1981"; to the Committee on Energy and Natural Resources.

EC-4269. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Overseas Private Investment Corportion's Financial Statements For The Year Ended September 30, 1981"; to the Committee on Foreign Relations.

EC-4270. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Changes Needed In U.S. Assistance To Deter Deforestation In Developing Countries"; to the Committee on Foreign Relations.

EC-4271. A communication from the Acting Assistant Legal Advisor For Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 20, 1982; to the Committee on Foreign Relations.

EC-4272. A communication from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to facilitate the adjudication of certain claims of United States nationals against Iran, to authorize the recovery of costs incurred by the United States in connection with the arbitration of claims of United States nationals against Iran, and for other purposes; to the Committee on Foreign Relations.

EC-4273. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office for the month of August 1982; to the Committee on Governmental Affairs.

EC-4274. A communication from the Executive Director of the President's Commission on Executive Exchange, transmitting a draft of proposed legislation to amend section 1304(e) (1) of Title 5, United States Code; to the Committee on Governmental Affairs.

EC-4275. A communication from the Supervisor of Benefits, Farm Credit Banks of Spokane, transmitting, pursuant to law, the reports of the Twelfth District Farm Credit Retirement Plan, the Twelfth District Farm Credit Thrift Plan, and the PCA Deferred Compensation Plan for Plan Year 1981; to the Committee on Governmental Affairs.

EC-4276. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual progress report on the Five-year Plan for Family Planning Services and Population Research; to the Committee on Labor and Human Resources.

EC-4277. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the thirty-fourth annual report of the Service covering fiscal year 1981; to the Committee on Labor and Human Resources.

EC-4278. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4279. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4280. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Belgium for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4281. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Spain for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4282. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Bahrain for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-4283. A communication from the Deputy Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report on the Selected Reserve recruiting and retention incentives as of June 30, 1982; to the Committee on Armed Services.

EC-4284. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on converting various functions at different installations to contractor performance; to the Committee on Armed Services.

EC-4285. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a statement with respect to a transaction involving U.S. exports to the Philippines; to the Committee on Banking, Housing, and Urban Affairs.

EC-4286. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a report on the International Export Credit Negotiations (1981-1982); to the Committee on Banking, Housing, and Urban Affairs.

EC-4287. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress in Improving Program and Budget Information for Congressional Use"; to the Committee on the Budget.

EC-4288. A communication from the Secretary of Commerce, transmitting, pursuant to law, the biennial report of the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration for fiscal years 1980 and 1981; to the Committee on Commerce, Science, and Transportation.

EC-4289. A communication from the United States Trade Representative, transmitting, pursuant to law, a report on the exercise of certain motor carrier authority by the President with respect to Canada; to the Committee on Commerce, Science, and Transportation.

EC-4290. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's fiscal year 1984 budget request; to the Committee on Commerce, Science, and Transportation.

EC-4291. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Clear Federal Policy Guidelines Needed for Future Canadian Power Imports"; to the Committee on Energy and Natural Resources.

EC-4292. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in Air Quality Monitoring System Affect Data Reliability"; to the Committee on Environment and Public Works.

ER-4293. A communication from the Deputy Administrator of the General Services Administration transmitting, pursuant to law, copies of certain lease prospectus amendments; to the Committee on Environment and Public Works.

EC-4294. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in fiscal year 1982 AID funds for Panama; to the Committee on Foreign Relations.

EC-4295. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for fiscal year 1982 AID funds for Chad; to the Committee on Foreign Relations.

EC-4296. A communication from the Acting Director for Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in fiscal year 1982 AID funding for Peru; to the Committee on Foreign Relations.

EC-4297. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for an increase in fiscal year 1982 AID funding for Kenya; to the Committee on Foreign Relations.

EC-4298. A communication from the Acting Director of the Office of Legislative Affairs of the Agency for International Development transmitting, pursuant to law, a justification for increased AID funding for fiscal year 1982 for Jamaica; to the Committee on Foreign Relations.

EC-4299. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, for the information of the Senate, a joint communique of the United States of American and the People's Republic of China issued August 17, 1982; to the Committee on Foreign Relations.

EC-4300. A communication from the Assistant Secretary of the Treasury for Legislative Affairs transmitting, pursuant to law, a report on the provision of basic human needs of economic adjustment programs supported in 1981 by the International Monetary Fund; to the Committee on Foreign Relations.

EC-4301. A communication from the District of Columbia Auditor transmitting, pursuant to law, a report entitled "DHCD's Involvement in the Bates Street Housing Project"; to the Committee on Governmental Affairs.

EC-4302. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the Senate's renewal of a 5-year lease of space at 400 North Capitol Street, Washington, D.C. for the Senate Computer Center; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment:

S. 505. A bill to improve the quality of table grapes for marketing in the United States (Rept. No. 97-582).

By Mr. THURMOND, from the Committee on the Judiciary:

Report to accompany the bill (S. 1701) to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals (Rept. No. 97-583).

By Mr. WEICKER, from the Committee on Appropriations, without amendment:

S. 2956. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-584).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 460. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2899; and

S. Res. 469. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5203.

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute, and an amendment to the title:

H.R. 6758. An act to authorize the sale of defense articles, defense services, and unclassified defense service publications to U.S. companies for incorporation into end items to be sold to friendly foreign countries (Rept. No. 97-586).

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 2411. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 (Rept. No. 97-587) (additional views filed).

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute, and an amendment to the title:

S. 1688. A bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment (Rept. No. 97-585).

By Mr. ROTH, from the Committee on Governmental Affairs, with amendments:

S. 2258. A bill to discontinue or amend certain requirements for agency reports to Congress; and

H.R. 1371. An act to amend section 12 of the Contract Disputes Act of 1978.

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

H.R. 2528. An act to amend the Economy Act to provide that all departments and agencies may obtain materials or services from other agencies by contract, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without reservation:

Treaty Doc. No. 97-26. Estate and Gift Tax Treaty With the Republic of Australia (Ex. Rept. No. 97-60).

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Charles C. Blanton, U.S. Air Force, (age 52) for appointment to the grade of lieutenant general on the retired list, Adm. Harry D. Train II, U.S. Navy, (age 55) for appointment to the grade of admiral on the retired list, Rear Adm. Arthur S. Moreau, Jr., U.S. Navy, to be vice admiral and to be assigned to a position of importance and responsibility designated by the President and to be senior Navy member of the Military Staff Committee of the United Nations and Vice Adm. Edward S. Briggs, U.S. Navy, to be reassigned to a position of importance and responsibility designated by the President. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, in addition, in the Air Force there are 2 permanent promotions to the grade of lieutenant colonel (list begins with William J. Rome), in the Army there are 101 appointments to the grade of colonel and below (list begins with Irwin Berman), in the Navy there are 48 permanent appointments to the grade of captain and below (list begins with Craig D. Batchelder), in the Army there are 315 permanent promotions to the grade of lieutenant colonel and below (list begins with Rembert G. Rollison), in the Army there are 2,349 permanent promotions to the grade of lieutenant colonel (list begins with Larry D. Aaron), in the Army there are 2,431 permanent promotions to the grade of major (list begins with Ralph P. Aaron), in the Army there are 256 appointments to the grade of major and below (list begins with Thomas A. Rodgers), in the Navy and Naval Reserve there are 49 permenent promotions to the grade of captain and below (list begins with Thomas M. Connor), in the Air Force there are 2 appointments to the grades and dates of rank to be determined by the Secretary of the Air Force (list begins with Frederick B. Fishburn), in the Air National Guard and Reserve of the Air Force there are 15 promotions to the grade of lieutenant colonel (list begins with Carl L. Batton) and in the Army there are 526 promotions to the grade of colonel and below (list begins with John A. Duff). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 8, September 13, and September 15, 1982 at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DENTON:

S. 2955. A bill to establish the Cheaha Wilderness in Talladega National Forest, Ala.; to the Committee on Energy and Natural Resources.

By Mr. WEICKER, from the Committee on Appropriations:

S. 2956. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. STENNIS:

S. 2957. A bill to repeal the denial of the use of the accelerated cost recovery system with respect to tax-exempt obligations, and the expiration of the authority to issue such obligations; to the Committee on Finance.

By Mr. PACKWOOD:

S. 2958. A bill to improve highway safety and further interstate commerce by providing for a uniform width for commercial motor vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. RANDOLPH:

S. 2959. A bill to provide for the limitation of increases in sulfur dioxide emissions for a five year period, to provide for an accelerated study of the causes and effects of acid rain deposition, and to provide for mitigation at sites where there are harmful effects on aquatic ecosystems resulting from high acidity; to the Committee on Environment and Public Works.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STENNIS:

S. 2957. A bill to repeal the denial of the use of the accelerated cost recovery system with respect to tax-exempt obligations, and the expiration of the authority to issue such obligations; to the Committee on Finance.

INDUSTRIAL DEVELOPMENT BOND PROGRAM

Mr. STENNIS. Mr. President, today I am introducing legislation which will amend the Tax Equity and Fiscal Responsibility Act of 1982 so as to eliminate some of the restrictions placed on the use of industrial development bonds. I believe that if the industrial development bond program is to remain viable and achieve its full potential, the problems created for it by the Tax Equity and Fiscal Responsibility Act must be remedied.

Mr. President, I am advised that 49 States use the Industrial Development Bond program in one form or another. In my own State of Mississippi, it has been a very valuable industrial and economic tool since the original law was passed in 1936. I am proud of the fact that my State was the pioneer in the field of using the Industrial Development Bond program as a tool for industrial development and growth.

89-059 O-86-44 (Pt. 18)

Last year the Department of the Treasury made recommendations to the Congress for changes in the laws relative to tax-exempt Industrial Revenue Bonds which, in my judgment, would have virtually destroyed this program. I was gratified that these recommendations were not adopted by the Congress.

However, the Tax Equity and Fiscal Responsibility Act, as finally passed, did place certain restrictions on the use of tax-exempt industrial development bonds. I am particularly concerned by two of these restrictions, and the legislation which I propose today would eliminate them and reinstate the law as it existed prior to the passage of the Tax Equity and Fiscal Responsibility Act.

The first of the restrictions which my bill would remove is the provision which denies the use of the Accelerated Cost Recovery System to facilities financed by the proceeds of tax-exempt obligations. I believe that this restriction on the program will have a very adverse and deleterious impact on the industrial development and growth of Mississippi and the 48 other States that utilize this program. My bill would, therefore, amend the law so as to provide that facilities financed with tax-exempt industrial development bonds may be depreciated under the Accelerated Cost Recovery System.

The other provision of the tax bill which the legislation I am proposing would eliminate, is that provision which prevents the use of tax-exempt industrial development bonds after December 31, 1986. If this provision is not eliminated or changed, the Industrial Development Bond program will, of course, be a thing of the past as of January 1, 1987.

I greatly fear, Mr. President, that if the law is not changed, the result will be unnecessary restrictions on the industrial development bond program. I believe that economic recovery efforts in Mississippi and in other States will be severely handicapped if the law remains unchanged.

Mr. President, the counties and municipalities in Mississippi rely on the industrial development bond program very heavily. The program has been a huge success in Mississippi and it has been handled with the utmost integrity. From the outset, Mississippi has exercised careful control over industrial development bonds and has limited their use to manufacturing, processing, and warehousing. It can truthfully be said that Mississippi has operated a model program. I do not believe that the program should be hampered by prohibiting the use of the accelerated cost recovery system by facilities financed with tax exempt industrial development bonds.

Mr. President, let me say that in Mississippi at least, the fear that these tax-exempt bonds cause a great loss in Federal tax revenues is simply unfounded. A study made by the Mississippi Research and Development Center shows that industrial revenue bonds in Mississippi "pay their own way." This study shows that during the past 5 years the tax-exempt status cost the Federal Treasury approximately $29 million. Employee payroll taxes alone from these same industrial revenue bond-financed companies produced $32 million in revenues for the Federal Treasury.

In closing, Mr. President, I urge that the Committee on Finance give this legislation and the problems I have discussed prompt attention. I hope that this measure will be approved so that the industrial development bond program may continue without all of the restrictions placed on it by the Tax Equity and Fiscal Responsibility Act. Finally, Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 216 of the Tax Equity and Fiscal Responsibility Act of 1982, and the amendment in addition made by such section, are hereby repealed.

(b)(1) The provisions of subsection (a) shall apply to all taxable years and periods to which the provisions repealed by subsection (a), and the amendment made by those provisions, would have applied.

(2) The Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendment made by those provisions, had not been enacted.

(c) Paragraph (6) of section 103(b) of the Internal Revenue Code of 1954 (relating to exemption for certain small issues) is amended—

(1) by striking out subparagraph (N), and

(2) by redesignating subparagraph (O) and subparagraph (N).

By Mr. RANDOLPH:

S. 2959. A bill to provide for the limitation of increases in sulfur dioxide emissions for a 5-year period, to provide for an accelerated study of the causes and effects of acid rain deposition, and to provide for mitigation at sites where there are harmful effects on aquatic ecosystems resulting from high acidity; to the Committee on Environment and Public Works.

ACID DEPOSITION STUDY AND SULFUR EMISSION LIMITATION ACT OF 1982

● Mr. RANDOLPH. Mr. President, I introduce today a bill directing a comprehensive examination of acid rain issues and interim mitigation measures to be undertaken pending the outcome of this review.

Mr. President, for more than a year the Committee on Environment and Public Works has examined issues related to acid rain in connection with its development of amendments to the Clean Air Act. On August 19 the committee ordered reported such legislation. For the most part, it is a refinement of the existing law intended to make it more workable and to respond to conditions that have arisen since the Congress last acted on this subject in 1977.

The only new regulatory program is that approved by the committee to require a reduction in sulfur emissions of 8 million tons by 1995. The legislative language creating this effort contains several proposals I made to lessen economic and social impacts of the acid rain control program. It still falls short, however, of the assurances I feel are required to avoid disruptions in coal production and consumption. Such a program cannot be permitted to cost jobs in the coal industry where there is already widespread unemployment.

The committee bill provides an opportunity for the Congress to review the results of the accelerated research and the likely actual costs of control, before any of the controls go into effect. I believe, however, that controls should not be imposed until an informed Congress in the mid-1980's, possessing all the research and studies called for by my bill, affirmatively decides to go ahead with an acid rain control program.

At the time our committee completed work on its bill to amend the Clean Air Act, I indicated that I would continue to examine the large amount of evidence that has been presented to the committee on the causes, effects, and methods of controlling acid rain. The legislation I offer today is the outcome of this effort.

This bill would require the following:

Direct the Administrator of the Environmental Protection Agency (EPA), in his capacity as Chairman of the Acid Precipitation Task Force established by the Energy Security Act of 1980, within a 5-year period, to study the relative contributions from sources of sulfur dioxide and nitrogen oxides to acid rain, an acid control program's effect on future economic growth, employment, and cost to consumers. In addition, the task force is required to determine if acid rain endangers public health, and if an acid rain program is necessary to protect countries contiguous to the United States. No activity establishing a regulatory framework for an acid rain control program would be initiated during this 5-year research period.

During the study period the Administrator of EPA is required to leave allowable sulfur dioxide emissions from existing major stationary sources at current levels in all States except for a

few specific cases such as conversions from oil or gas to coal.

The Administrator of EPA, during the 5-year study period may make grants to States for mitigation of harmful effects at existing aquatic ecosystem sites where high acidity has been documented.

At my encouragement, the committee bill provides for acceleration of the acid rain study authorized in 1980. The bill also provides that the required sulfur reductions not take place until the study is completed, and the Congress has an opportunity to review its findings.

While helpful, this language still establishes a mandatory sulfur control program that could go into effect regardless of the findings of the study. It is conceivable that stringent sulfur controls would be required even though the study may find them to be unnecessary or that controls on other types of emissions are required to reduce acid rain.

My bill is intended to require that the Congress examine the study's findings and take a positive action to implement any control program that may be determined necessary as a result of those findings.

Mr. President, I have consulted with many individuals and organizations concerned with coal production and usage as well as the problem of acid rain which itself is of concern in West Virginia as well as in other States. I believe that this issue can be addressed in a manner that can achieve environmental objectives, but I also feel that we must act on the basis of convincing scientific evidence, and that we should adopt no program that creates widespread disruption and hardship in one of our basic industries at a time when our Nation is already beset with economic woes.

I assure my colleagues of my desire to continue working with them to achieve a workable solution to a serious problem, one that, as in other legislation, realistically balances environmental and economic objectives.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Acid Deposition Study and Sulfur Emission Limitation Act of 1982".

SEC. 2. Title I of the Clean Air Act, is amended by adding the following new part:

"PART E—ACID DEPOSITION ANALYSIS AND MITIGATION

"SEC. 181. (a) The Congress finds and declares that—

"(1) acidity in precipitation occurs through both anthropogenic and natural causes;

"(2) the phenomenon known as acid deposition appears to be an increasing problem of both national and international scope and interest;

"(3) acid deposition occurs in various parts of the world and has the potential to contribute to higher levels of acidity in aquatic systems, terrestrial systems, and the deterioration of buildings and monuments;

"(4) sulfur dioxide an nitrogen oxides from stationary and mobile sources have been identified as possible contributing elements in the creation of acid deposition;

"(5) the atmospheric chemistry relating to the conversion of sulfur dioxide and nitrogen oxides into sulfates and nitrates is enormously complicated since the conversion can be influenced by temperature, sunlight, humidity, catalytic particles in the air, and the presence of certain oxidants;

"(6) various techniques of reducing emissions from stationary sources of precursors of acid deposition, including increased use of precombustion fuel treatment and the development and inherently low-polluting combustion technologies, may prove to be of significant long-range value in reducing the amount of acid deposition;

"(7) the National Acid Precipitation Assessment Plan and its cooperative links to similar State and international programs concerned with acid deposition, provides an established framework for integrating existing scientific data, and developing additional scientific data, relating to acid deposition and for making recommendations for strategies to limit and remedy the harmful effects of acid deposition;

"(8) the causes and effects of acid deposition, particularly the atmospheric chemistry and long-range transport of acid deposition precursors, the effectiveness of available measures to control acid deposition, and the effectiveness of efforts to improve the environment through the control of acid precipitation should be more fully understood before undertaking complex and potentially costly efforts to further control sulfur dioxide and nitrogen oxide emissions beyond that necessary to meet national ambient air quality standards and new source performance standards.

"(b) It is the purpose of this part to provide for—

"(1) an accelerated effort to understand the causes and effects of acid deposition;

"(2) an examination of the potential and feasibility of various techniques of reducing the emissions of sulfur dioxide and nitrogen oxides from stationary and mobile sources which may contribute to acid deposition;

"(3) limitations on increases in sulfur dioxide emissions; and

"(4) grants to State for mitigation at sites where there are harmful effects on aquatic ecosystems resulting from high acidity.

SEC. 182. (a) Within the five-fiscal year period following the enactment of this part the Administrator shall report to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce on acid deposition as follows:

"(1) The report shall be based upon the annual reports of the Acid Precipitation Task Force established under title VII of the Energy Security Act and studies conducted by the Administrator under the Clean Air Act, and other information available to the Administrator.

"(A) the environmental effects of acid deposition;

"(B) the areas of the Nation affected by acid deposition;

"(C) the atmospheric transport and transformation process of acid deposition precursors;

"(D) possible methods for controlling such precursors; and

"(E) the relative impact of local sources of acid deposition compared to more distant sources of acid deposition.

The report shall also include such recommendations as may be appropriate concerning the control of acid deposition precursors. In developing such recommendation, the Administrator shall take into account such factors as the location of the sources of sulfur dioxide and nitrogen oxides, future economic growth, the impact on employment, the protection of public health or welfare, the costs to consumers, the need to assure equity among the States, and the actions taken by other countries contiguous to the United States. The Administrator shall also provide an opportunity for State and public participation during the study and report development period.

"(b) The Administrator shall actively solicit data, views, and comments from State and other Federal agencies which are carrying out studies and research relating to acid deposition.

"SEC. 183. The Governors of the various States are encouraged to establish and designate appropriate regional corridors comprising several States concerning acid deposition and to negotiate appropriate measures to reduce, where appropriate, emissions of pollutants that relate to acid deposition, taking into consideration the actions taken and planned by the various States and Canada to control sulfur dioxide and nitrogen oxides, future economic growth in the corridors, the impact on employment, the the endangerment to the environment, the costs to consumers, and the need to assure equity among the States. The Administrator shall ccoperate with the States and provide technical assistance to the States under this subsection. Nothing in this section shall be construed to consent to interstate compacts.

"SEC. 184. (a) the Administrator may not approve under section 110(a)(3) any portion of a revision of an implementation plan adopted by a State during the five-year period beginning on the date of enactment of this part under which the annual allowable emissions of sulfur dioxide for any existing major stationary source are increased above the annual allowable emissions of sulfur dioxide for that source under the applicable implementation plan for such State in effect immediately prior to the adoption of the revision.

"(b) The prohibition contained in subsection (a) shall not apply in the case of a plan revision containing an increase in annual allowable emissions for any major stationary source if, under the revision, in each year for which such an increase is provided—

"(1) the annual allowable emissions of sulfur dioxide from one or more other stationary sources in that State are reduced from the annual allowable emissions of sulfur dioxide which were permitted for those sources under the applicable implementation plan in effect immediately prior to the adoption of the revision, and

"(2) such reduction is equal to, or greater than, such increase. If any reduction referred to in paragraph (1) exceeds the increase referred to in paragraph (2) (or if there is no such increase), such excess may be credited against subsequent increases referred to in paragraph (1) in such manner as the State deems appropriate.

"(c) The prohibition contained in subsection (a) shall not apply to any increase in annual allowable emissions of sulfur dioxide attributable to—

"(1) the construction or modification of a stationary source where the increase in sulfur dioxide emission is less than the de minimum amount established under section 165(b);

"(2) the conversion by an existing stationary source burning petroleum products or natural gas as the primary energy source to the use of coal, or coal mixed with any other fuel, as the primary energy source (as defined in the Powerplant and Industrial Fuel Use Act of 1978, without regard to whether or not such conversion is required under such Act); or

"(3) the modification of an interim emission limitation established pursuant to a consent decree which was entered into prior to the date of the enactment of this part and which required monitoring of sulfur dioxide emissions by the source concerned for a specified period, if the modified emission limitation is based upon the results of such monitoring and if the modification is adopted pursuant to the terms of such consent decree.

For purposes of this section, the term 'existing stationary source' means a stationary source the construction of which was commenced before the date of enactment of this part.

"(d) The prohibition contained in subsection (a) shall also not apply to any increase in allowable annual emissions attributable to a stationary source for which sulfur dioxide emission limitations are established under section 111, 119, 165, or 173.

"(e) Nothing in this section shall be construed to apply to any increase or decrease in annual allowable emissions of sulfur dioxide which takes effect pursuant to an exemption, order, suspension, extension, or variance referred to in section 110(a)(3)(C).

"SEC. 185. (a) The Administrator is authorized (1) to conduct or make grants to any State or interstate agency for the purposes of conducting the development, refinement and practical demonstration and implementation of (A) new, improved, or innovative methods of neutralizing or restoring the buffering capacity of acid altered bodies of water that no longer can support game fish species, and (B) methods of removing from bodies of water toxic metals or other toxic substances mobilized by acid deposition, and (2) to include in such grants such amounts as necessary for the purpose of reports, plans and specifications in connection therewith.

"(b) Grants under this section shall not be made for any project in any amount exceeding 75 per centum of the costs thereof as determined by the Administrator.

"(c) Grants under this section shall not be made for any project that involves bodies of water that did not contain game fish as established by State law prior to 1970.

"SEC. 186. There are authorized to be appropriated to the Administrator for the five fiscal years following the date of enactment such sums as may be necessary to prepare the report required by section 182 and to make the grants authorized by section 185.".●

ADDITIONAL COSPONSORS

S. 1256

At the request of Mr. EXON, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end users.

S. 1562

At the request of Mr. MURKOWSKI, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 1562, a bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic.

S. 2676

At the request of Mr. ROBERT C. BYRD, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2676, a bill to establish a National Hostel System Plan, and for other purposes.

S. 2737

At the request of Mr. GLENN, the names of the Senator from Montana (Mr. BAUCUS), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 2737, a bill to authorize an educational assistance program which will provide low-cost loans to college students who pursue mathematics and science baccalaureate degrees and enter the precollege mathematics and science teaching profession, and for other purposes.

S. 2738

At the request of Mr. GLENN, the name of the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 2738, a bill to amend the Internal Revenue Code of 1954 to allow a credit to certain employers for compensation paid to employees with precollege mathematics or science teaching certificates who are employed for the summer months by such employers or who are employees who teach a limited number of hours.

S. 2919

At the request of Mr. LUGAR, the names of the Senator from Connecticut (Mr. DODD), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2919, a bill to help insure the Nation's independent factual knowledge of Soviet-bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

SENATE JOINT RESOLUTION 220

At the request of Mr. PRYOR, the names of the Senator from Washington (Mr. JACKSON), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of Senate Joint Resolution 220, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war.

SENATE JOINT RESOLUTION 228

At the request of Mr. NUNN, the names of the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Missouri (Mr. DANFORTH), the Senator from Connecticut (Mr. WEICKER), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of Senate Joint Resolution 228, a joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week."

SENATE JOINT RESOLUTION 239

At the request of Mr. WARNER, the names of the Senator from New Mexico (Mr. SCHMITT), and the Senator from Alaska (Mr. MURKOWSKI), were added as cosponsors of Senate Joint Resolution 239, a joint resolution designating October 16, 1982, as "National Newspaper Carrier Appreciation Day."

SENATE JOINT RESOLUTION 244

At the request of Mr. WARNER, the names of the Senator from Virginia (Mr. HARRY F. BYRD JR.), the Senator from New Mexico (Mr. SCHMITT), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), the Senator from Georgia (Mr. NUNN), the Senator from Oklahoma (Mr. NICKLES), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Alaska (Mr. MURKOWSKI), were added as cosponsors of Senate Joint Resolution 244, a joint resolution designating January 17, 1983, as "Public Employees' Appreciation Day."

SENATE JOINT RESOLUTION 251

At the request of Mr. BUMPERS, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Delaware (Mr. BIDEN), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of Senate Joint Resolution 251, a joint resolution authorizing and requesting the President to designate October 10, 1982, as "National Peace Day."

SENATE CONCURRENT RESOLUTION 124

At the request of Mr. SASSER, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of Senate Concurrent Resolution 124, a concurrent resolution concerning the administration's study of hydroelectric power.

SENATE RESOLUTION 472

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey (Mr. BRADLEY), the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of Senate Resolution 472, a resolution to preserve and protect medicare benefits.

AMENDMENT NO. 3271

At the request of Mr. MURKOWSKI, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of amendment No. 3271 intended to be proposed to S. 1562, a bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic.

SENATE EXECUTIVE RESOLUTION 7—EXECUTIVE RESOLUTION RELATING TO KILLER SATELLITES

Mr. PRESSLER submitted the following executive resolution; which was referred to the Committee on Foreign Relations:

S. EXEC. RES. 7

Whereas the United States and other nations rely increasingly on space satellites and other space-based systems for improving the quality of life on earth;

Whereas the maximum utilization of space technology for weather forecasting, communications, and natural resource exploration is assured only under peaceful conditions;

Whereas the United States depends upon satellites for preserving the peace through command and control of U.S. forces worldwide and through early warning of strategic attack, among other functions;

Whereas satellites are vital for verification of arms control agreement;

Whereas the safety of such important missions including those performed by the Space Shuttle would be compromised by the threat posed by killer satellites;

Whereas a space arms race would undermine strategic stability;

Whereas a military space race would add to the uncertainties faced by military planners and thereby complicate the task of designing an effective military force structure;

Whereas an arms race in space would be a drain on the American taxpayer and would undermine our ability to correct current deficiencies in our military posture; and

Whereas the present pace of military space developments will soon reduce the prospects of avoiding the weaponization of outer space:

Resolved, That it is the sense of the Senate that the President should immediately invite the People's Republic of China, the Soviet Union and other States Parties to the Treaty on Principles Governing the activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, otherwise known as the 1967 Outer Space Treaty, to negotiate a Protocol to the treaty, providing for a complete and verifiable ban on the development, testing, deployment, or use of antisatellite weapons.

A RESOLUTION FOR ENHANCEMENT OF THE OUTER SPACE TREATY

Mr. PRESSLER. Mr. President, this past Monday, as chairman of the Senate Foreign Relations Committee's Subcommittee on Arms Control, Oceans, International Operations and the Environment, I chaired a hearing on Arms Control and the Militarization of Space. This is a propitious time for examining the implications of United States and Soviet military space developments. At the start of this month, the U.S. Air Force formally created a Space Command, headquartered at Colorado Springs. This summer's flight of the Space Shuttle Columbia marked its inauguration as a military space-lift vehicle. At the end of that flight, President Reagan announced the promulgation of a new national space policy which, among other things, gives a high priority to the testing and deployment of an antisatellite weapon. During Monday's hearing, Under Secretary of Defense Richard DeLauer, informed the committee that the defense budget for the current 3-year period calls for 20 percent real growth in military space expenditures; that is, a 20 percent rise after inflation.

In large measure, the U.S. military space effort is a response to the space activities of the Soviet Union. For a decade now, the Soviets have had an operational killer satellite weapon. It was last tested in June of this year in an awesome display of Soviet strategic weaponry which some analysts have described as a scenario for waging nuclear war. In this scenario, killer satellites have a major role to play in neutralizing U.S. strategic forces.

In my view, this space race upon which we seem to be embarking has no winners. It could undermine strategic stability, and it would be a drain on our taxpayers. It will compromise our ability to make good on the deficiencies in our current military posture. It would increase risks for and, thereby, reduce the interest of commerical investors in exploiting the potential of satellites for commerce. We in South Dakota, for instance, rely on satellite-generated weather forecasts in planning agricultural activities. Satellites have helped increase domestic production and have added to our foreign exports.

There is another reason why this a propitious time for examining the directions of United States and Soviet space developments and for an assessment of the options which may be available in avoiding a space arms race. This week, the Arms Control and Disarmament Agency and the National Aeronautics and Space Administration commemorated the 15th anniversary of the Outer Space Treaty which was ratified by the Senate on April 25, 1967, and entered into force on October 10, 1967. Among other things, that treaty bans the placement of nuclear weapons and other weapons of mass destruction in Earth orbit, on the Moon and other celestial bodies, or otherwise stationing such weapons in outer space.

This treaty is a model for peaceful uses and cooperation in space exploration. Unfortunately, the treaty does not go far enough. It has not stopped the Soviets from deploying and testing a killer satellite weapon. Without improvements in the treaty's arrangements which would restrict this and other related military space developments, U.S. satellites are threatened. These satellites carry out numerous missions that are vital for keeping the peace, including communications with U.S. forces worldwide and early warning of strategic attack. Unless arrangements banning killer satellites are agreed to quickly, the United States will have no choice but to test and deploy its own killer satellite weapon, and we and the Soviet Union will have joined a new arms competition that will be difficult to turn back.

Therefore, I rise today to offer a resolution which calls upon the United States, the People's Republic of China, the Soviet Union and other signatories to the 1967 Outer Space Treaty to amend the Outer Space Treaty. This amendment would aim to preclude the development, testing, and deployment of killer satellites. I urge that the President and these other nations act quickly in this regard for, I believe, it would be difficult, if not impossible, to prevent a space race once it gets off the ground. That race may be quickly upon us.

I ask unanimous consent that the Outer Space Treaty, as it now stands, be printed in the RECORD.

There being no objection, the treaty was ordered to be printed in the RECORD, as follows:

TREATY ON PRINCIPLES GOVERNING THE ACTIVITIES OF STATES IN THE EXPLORATION AND USE OF OUTER SPACE, INCLUDING THE MOON AND OTHER CELESTIAL BODIES

Signed at Washington, London, Moscow, January 27, 1967.

Ratification advised by U.S. Senate April 25, 1967.

Ratified by U.S. President May 24, 1967.

U.S. ratification deposited at Washington, London, and Moscow October 10, 1967.

Proclaimed by U.S. President October 10, 1967.

Entered into force October 10, 1967.

The States Parties to this Treaty,

Inspired by the great prospects opening up before mankind as a result of man's entry into outer space,

Recognizing the common interest of all mankind in the progress of the exploration and use of outer space for peaceful purposes.

Believing that the exploration and use of outer space should be carried on for the benefit of all peoples irrespective of the degree of their economic or scientific development,

Desiring to contribute to broad international co-operation in the scientific as well as the legal aspects of the exploration and use of outer space for peaceful purposes,

Believing that such co-operation will contribute to the development of mutual understanding and to the strengthening of friendly relations between States and peoples,

Recalling resolution 1962 (XVIII), entitled "Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space," which was adopted unanimously by the United Nations General Assembly on 13 December 1963,

Recalling resolution 1884 (XVIII), calling upon States to refrain from placing in orbit

around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction or from installing such weapons on celestial bodies, which was adopted unanimously by the United Nations General Assembly on 17 October 1963,

Taking account of United Nations General Assembly resolution 110 (II) of 3 November 1947, which condemned propaganda designed or likely to provoke or encourage any threat to the peace, breach of the peace or act of aggression, and considering that the aforementioned resolution is applicable to outer space,

Convinced that a Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, will further the Purposes and Principles of the Charter of the United Nations,

Have agreed on the following:

ARTICLE I

The exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind.

Outer space, including the moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the moon and other celestial bodies, and States shall facilitate and encourage international cooperation in such investigation.

ARTICLE II

Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means.

ARTICLE III

States Parties to the Treaty shall carry on activities in the exploration and use of outer space, including the moon and other celestial bodies, in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation and understanding.

ARTICLE IV

States Parties to the Treaty undertake not to place in orbit around the Earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, install such weapons on celestial bodies, or station such weapons in outer space in any other manner.

The moon and other celestial bodies shall be used by all States Parties to the Treaty exclusively for peaceful purposes. The establishment of military bases, installations and fortifications, the testing of any type of weapons and the conduct of military maneuvers on celestial bodies shall be forbidden. The use of military personnel for scientific research or for any other peaceful purposes shall not be prohibited. The use of any equipment or facility necessary for peaceful exploration of the moon and other celestial bodies shall also not be prohibited.

ARTICLE V

States Parties to the Treaty shall regard astronauts as envoys of mankind in outer space and shall render to them all possible assistance in the event of accident, distress, or emergency landing on the territory of another State Party or on the high seas. When astronauts make such landing, they shall be safely and promptly returned to the State of registry of their space vehicle.

In carrying on activities in outer space and on celestial bodies the astronauts of one State Party shall render all possible assistance to the astronauts of other States Parties.

States Parties to the Treaty shall immediately inform the other States Parties to the Treaty or the Secretary-General of the United Nations of any phenomena they discover in outer space, including the moon and other celestial bodies, which could constitute a danger to the life or health of the astronauts.

ARTICLE VI

States Parties to the Treaty shall bear international responsibility for national activities in outer space, including the moon and other celestial bodies, whether such activities are carried on by governmental agencies or by non-governmental entities, and for assuring that national activities are carried out in conformity with the provisions set forth in the present Treaty. The activities of non-governmental entities in outer space, including the moon and other celestial bodies, shall require authorization and continuing supervision by the appropriate State Party to the Treaty. When activities are carried on in outer space, including the moon and other celestial bodies, by an international organization, responsibility for compliance with this Treaty shall be borne both by the international organization and by the States Parties to the Treaty participating in such organization.

ARTICLE VII

Each State Party to the Treaty that launches or procures the launching of an object into outer space, including the moon and other celestial bodies, and each State Party from whose territory or facility an object is launched, is internationally liable for damage to another State Party to the Treaty or to its natural or juridical persons by such object or its component parts on the Earth, in air space or in outer space, including the moon and other celestial bodies.

ARTICLE VIII

A State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body. Ownership of objects launched into outer space, including objects landed or constructed on a celestial body, and of their component parts, is not affected by their presence in outer space or on a celestial body or by their return to the Earth. Such objects or component parts found beyond the limits of the State Party to the Treaty on whose registry they are carried shall be returned to that State Party, which shall, upon request, furnish identifying data prior to their return.

ARTICLE IX

In the exploration and use of outer space, including the moon and other celestial bodies, States Parties to the Treaty shall be guided by the principle of co-operation and mutual assistance and shall conduct all their activities in outer space, including the moon and other celestial bodies, with due regard to the corresponding interests of all other States Parties to the Treaty. States Parties to the Treaty shall pursue studies of outer space, including the moon and other celestial bodies, and conduct exploration of them so as to avoid their harmful contamination and also adverse changes in the environment of the Earth resulting from the introduction of extraterrestrial matter and, where necessary, shall adopt appropriate measures for this purpose. If a State Party to the Treaty has reason to believe that an activity or experiment planned by it or its nationals in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities of other States Parties in the peaceful exploration and use of outer space, including the moon and other celestial bodies, it shall undertake appropriate international consultations before proceeding with any such activity or experiment. A State Party to the Treaty which has reason to believe that an activity or experiment planned by another State Party in outer space, including the moon and other celestial bodies, would cause potentially harmful interference with activities in the peaceful exploration and use of outer space, including the moon and other celestial bodies, may request consultation concerning the activity or experiment.

ARTICLE X

In order to promote international co-operation in the exploration and use of outer space, including the moon and other celestial bodies, in conformity with the purposes of this Treaty, the States Parties to the Treaty shall consider on a basis of equality any requests by other States Parties to the Treaty to be afforded an opportunity to observe the flight of space objects launched by those States.

The nature of such an opportunity for observation and the conditions under which it could be afforded shall be determined by agreement between the States concerned.

ARTICLE XI

In order to promote international co-operation in the peaceful exploration and use of outer space, States Parties to the Treaty conducting activities in outer space, including the moon and other celestial bodies, agree to inform the Secretary-General of the United Nations as well as the public and the international scientific community, to the greatest extent feasible and practicable, of the nature, conduct, locations and results of such activities. On receiving the said information, the Secretary-General of the United Nations should be prepared to disseminate it immediately and effectively.

ARTICLE XII

All stations, installations, equipment and space vehicles on the moon and other celestial bodies shall be open to representatives of other States Parties to the Treaty on a basis of reciprocity. Such representatives shall give reasonable advance notice of a projected visit, in order that appropriate consultations may be held and that maximum precautions may be taken to assure safety and to avoid interference with normal operations in the facility to be visited.

ARTICLE XIII

The provisions of this Treaty shall apply to the activities of States Parties to the Treaty in the exploration and use of outer space, including the moon and other celestial bodies, whether such activities are carried on by a single State Party to the Treaty or jointly with other States, including cases where they are carried on within the frame-

work of international inter-governmental organizations.

Any practical questions arising in connection with activities carried on by international inter-governmental organizations in the exploration and use of outer space, including the moon and other celestial bodies, shall be resolved by the States Parties to the Treaty either with the appropriate international organization or with one or more States members of that international organization, which are Parties to this Treaty.

ARTICLE XIV

1. This Treaty shall be open to all States for signature. Any State which does not sign this Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the Union of Soviet Socialist Republics, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force upon the deposit of instruments of ratification by five Governments including the Governments designated as Depositary Goverments under this Treaty.

4. For States whose instruments of ratification or assession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or assession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification of and accession to this Treaty, the date of its entry into force and other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

ARTICLE XV

Any State Party to the Treaty may propose amendments to this Treaty. Amendments shall enter into force for each State Party to the Treaty accepting the amendments upon their acceptance by a majority of the States Parties to the Treaty and thereafter for each remaining State Party to the Treaty on the date of acceptance by it.

ARTICLE XVI

Any State Party to the Treaty may give notice of its withdrawal from the Treaty one year after its entry into force by written notification to the Depositary Governments. Such withdrawal shall take effect one year from the date of receipt of this notification.

ARTICLE XVII

This Treaty, of which the English, Russian, French, Spanish and Chinese texts are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

In witness whereof the undersigned, duly authorized, have signed this Treaty.

Done in triplicate, at the cities of Washington, London and Moscow, this twenty-seventh day of January one thousand nine hundred sixty-seven.

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will continue hearings on budget act reform on Tuesday, September 28, 1982, in room 6202, Dirksen Senate Office Building.

Hon. JAMES R. JONES, chairman of the House Budget Committee, and Hon. NORMAN Y. MINETA will testify at 9:30 a.m.

Hon. LEON E. PANETTA and Hon. RALPH REGULA will testify at 2 p.m.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on Oversight of the General Services Administration on Thursday, September 30, 1982, at 10 a.m. in room 3302 of the Dirksen Senate Office Building. For further information, please contact Margaret Hecht at 224-4751.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BAKER. Mr. President, in just a moment, I am going to yield the floor to the Senator from Idaho so he can manage this measure.

First, I want to put a unanimous-consent request which has been cleared with the minority leader and with affected Senators.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Friday, September 24, to hold a markup on H.R. 6056, the Technical Corrections Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, September 27, at 2:30 p.m., to hold a hearing to consider the nomination of Richard T. McCormack to be an Assistant Secretary of State for Economic and Business Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, September 27, at 3 p.m., to receive a top secret CIA briefing on recent developments in nuclear proliferation-risk nations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Monday, September 27, at 10 a.m., to hold an oversight hearing on world debt.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SELECT COMMITTEE ON INTELLIGENCE, STAFF REPORT OF ALLEGED SECURITY BREACH AT THE GENERAL ACCOUNTING OFFICE

● Mr. GOLDWATER. Mr. President, on February 3, 1982, Senator ROTH, the distinguished chairman of the Committee on Governmental Affairs, requested that the Senate Select Committee on Intelligence investigate an allegation of security breach at the General Accounting Office (GAO). Senator ROTH's concern was based on news articles published at the time which described attempts by foreign intelligence services to obtain classified GAO reports—attempts which were subsequently confirmed by GAO officials.

Because an investigation of possible security breaches at the GAO more appropriately falls under the jurisdiction of the Senate Select Committee on Intelligence than the Committee on Governmental Affairs, I agreed to Senator ROTH's request and I asked the staff to look into the allegations which were made. Our staff subsequently scheduled a series of visits to the FBI and GAO, They interviewed officials at GAO, FBI, and CIA, and reviewed files pertinent to the case. In addition, our security people examined the security and document control systems at GAO.

All agencies contacted during our staff investigation cooperated fully with our committee, and on June 29, 1982, I sent a preliminary copy of our staff report to Senator ROTH. Among other things, we concluded the following:

Specifically, no information was found to support the allegations (1) that the Soviet officer in question succeeded in acquiring classified reports from GAO, that the Soviets had a penetration in the GAO; or (2) that security arrangements at GAO did or do not adequately protect classified material.

Mr. President, under the terms of Senate Resolution 400, the Senate Select Committee on Intelligence has the responsibility to make periodic reports to the Senate concerning intelligence matters. Therefore, I think it is appropriate that our staff report on the alleged security breach at GAO be printed in the RECORD for the benefit of my colleagues who may have an interest in this matter.

Mr. President, I ask that this staff report be printed in the RECORD.

The staff report follows:

SENATE SELECT COMMITTEE ON INTELLIGENCE STAFF REPORT INVESTIGATION OF ALLEGED SECURITY BREACH AT GENERAL ACCOUNTING OFFICE

SUMMARY CONCLUSIONS

A former investigator for the General Accounting Office (GAO) alleged in late 1981 the following: that in 1979 a Soviet intelligence officer had obtained a number of classified reports from the GAO and that there was a Soviet penetration in the GAO; that an FBI investigation concluding there was no basis for these allegations was in error; and that security at GAO for classified documents was poor.

Senate Select Committee on Intelligence (SSCI) staff investigated these charges and found no substantiation for them. Specifically, no information was found to support the allegations (1) that the Soviet officer in question succeeded in acquiring classified reports from GAO, that the Soviets had a penetration in the GAO or (2) that security arrangements at GAO did or do not adequately protect classified material.

These conclusions are based on SSCI staff visits to the FBI and GAO; interviews of officials at GAO, the FBI, and CIA; reviews of files pertinent to the case; and examination of the security and document control systems at GAO. CIA, GAO and the FBI cooperated fully with the staff in this investigation.

Background [1]

In late 1981, a former investigator at GAO approached a number of Senate Committee staffs with allegations of security breaches at the GAO and fraud at NASA. He spoke with staff of the Labor and Human Resources, Select Intelligence, and Government Affairs Committees.

The concern over security of classified documents at GAO was highlighted by a number of newspaper articles from December, 1981 through February, 1982, as well as by two CBS Evening News items on 5 and 8 February, 1982.

The Permanent Subcommittee on Investigations (PSI) of the Government Affairs Committee made initial inquiry into some of the GAO charges but, because of the need for security clearances, recommended that Senator Roth request Intelligence Committee staff to investigate further. On February 3, 1982, Senator Roth made such request of Senator Goldwater, Chairman of the SSCI. Senator Goldwater agreed on February 23.

The staff examined three matters:

1. Alleged compromise of classified information by GAO;

2. The alleged existence of a penetration in GAO; and

3. Security of classified material at GAO.

FBI investigations

In January, 1979, an official (and known intelligence agent) of the Soviet Embassy, Vladimir Kvasov, made requests for documents at GAO. Some reports he requested were classified. Moreover, Kvasov specified GAO report numbers for some classified reports that had not yet been issued.

In May, 1979, GAO asked the FBI to study security at GAO and make recommendations for improvements, and to conduct a counterintelligence investigation to determine whether Kvasov had obtained classified documents. The FBI also was requested to investigate whether there was a Soviet penetration in the GAO.

The FBI completed a review of GAO security in December 1979. The report made recommendations for improvements in various aspects of GAO physical, document and personnel security; however, it did not indicate any material deficiencies in security. These recommendations have been or are being implemented by GAO.

In the summer of 1979, a Special Agent of the FBI's Washington Field Office began a counterintelligence investigation of the Kvasov document requests and the possibility of a penetration at GAO. Ralph Sharer, the former GAO investigator who made the allegations in 1981, was assigned at that time by GAO to work with this FBI agent on the investigation. The FBI report, written in January, 1980, concluded that there was no evidence that Kvasov received any classified reports from GAO. The FBI further concluded that the heavy preponderance of the evidence indicated there was no Soviet penetration in GAO.

Due to the charges by Sharer in late 1981 and to media and Congressional attention, the FBI reopened its probe of the GAO/Kvasov affair. A second Special Agent was assigned. He completed a re-investigation in March, 1982, and reaffirmed the previous FBI conclusions.

SSCI staff investigation

The SSCI staff visited GAO and reviewed the security and document control system. The staff also interviewed GAO's Director of Security, Congressional Affairs officers, and Classified Document Control personnel.

Staff found no information to suggest that the document control system at GAO was inadequately designed to protect classified material, and no reason was found to believe that GAO ever provided any classified report to a hostile intelligence agent. Classified reports and unclassified reports are segregated at GAO and are controlled and disseminated from separate areas of the building. Classified reports are handled in a special, secure area and are never disseminated from or through the public distribution center. In fact, classified reports are located and *only* disseminated from the 4th floor; while *un*classified and *de*classified reports are disseminated from the public distribution center on the 1st floor. Logs are kept on each copy of all classified reports and indicate to whom and when each copy was disseminated. A study of the distribution center's request form markings confirms that Kvasov received only unclassified reports and declassified versions of classified reports. Sharer misinterpreted the markings on the distribution center's forms, leading him to charge that classified reports had been given to Kvasov.

The staff also contacted the Central Intelligence Agency and Department of Defense, which periodically review security at GAO. CIA's last security check was in late 1981; DOD reviewed security of NATO classified material in January, 1982; and SSCI's Director of Security inspected GAO's system in May, 1982. They reported security of classified documents at GAO was adequate and met U.S. Government standards.

The staff also reviewed with FBI and GAO the allegation that Kvasov received classified reports and information from a penetration in GAO. FBI and GAO officials were interviewed. Sharer's voluminous report on problems at NASA [2] and GAO was examined, as were GAO files. Staff reviewed FBI Headquarters and Washington Field Office files of both the first and second investigations. SSCI staff found there was no basis to question the FBI's conclusions, namely that Kvasov did not receive classified reports from GAO and that the heavy preponderance of the evidence indicated no penetration in GAO.

Sharer's primary argument to support his charge that the Soviets penetrated the GAO was that Kvasov had specified report numbers on GAO request forms prior to publication of the reports. However, both FBI and GAO officials identified numerous sources from which Kvasov could have obtained knowledge of the serial numbers of GAO reports prior to the reports publication. For example, GAO distributes to a number of offices in Congress and the Executive branch several unclassified listings of report titles that are being drafted. These lists of titles also contain the report numbers.

Staff also interviewed the FBI Special Agent who conducted the first FBI investigation into Kvasov's activities at the GAO. The Agent told the staff that he had found no evidence that Kvasov had received classified GAO documents. He further stated that, while the existence of a penetration is always a possibility (noting the difficulty of "proving the negative"), the preponderance of evidence was to the contrary.●

[1] This staff report is summary in content due to the sensitive nature of the subject matter. Classified supporting mater al is available at the Intelligence Committee for review by authorized persons.

[2] SSCI did not examine the charges about NASA because the nature of the charges did not come within this Committee's jurisdiction.

PHILIPS INDUSTRIES

● Mr. METZENBAUM. Mr. President, it seems as though every time I pick up a newspaper or a magazine, I see an article about how American business just cannot hack it anymore.

They say we have lost our edge—that we cannot keep up with foreign competition. And they tell us very solemnly that America's entrepreneurial spirit has somehow or other disappeared.

To anyone who believes that I suggest a visit to a firm called Philips Industries. And I guarantee that the visitor will quickly discover that innovative management, quality engineering, and skilled craftsmanship are alive, well, and located in Dayton, Ohio.

Philips Industries is a classic American success story. Today, Philips Industries is a $200 million a year firm that produces a wide range of high-quality components for the building and recreational vehicle industries. Tomorrow, Philips' subsidiaries will be producing an even wider range of products, from fire dampers to PVC pipe fittings.

But in 1957, when Jesse Philips, a graduate of Oberlin College and Harvard Business School, acquired control of a firm called Jalousies of Ohio, the large, diversified company we know today was once a dream.

In 1957, Jalousies of Ohio had 20 employees. It had annual billings of about $400,000.

But the company also had Jesse Philips, one of America's more brilliant management assets.

Today, the 20 employees have grown to 5,000. The one plant in Dayton has grown into 40 plants across the country. And it was Jesse Philips who made it all happen.

Mr. President, on September 30, Philips Industries will celebrate 25 years of dynamic growth under the leadership of a truly extraordinary man. On this occasion, I offer my warmest congratulations to Jesse Philips and to everyone associated with Philips Industries. And I join countless others in Ohio in thanking Jesse Philips for his outstanding work on behalf of the Dayton community and for his service to Ohio's institutions of higher education.

I ask that two profiles of Jesse Philips, one from the Harvard Business School Bulletin and the other from the Nation's Business, be printed in the RECORD.

The material follows:

[From the Harvard Business School Bulletin, July-August 1971]

PROFILE OF ACHIEVEMENT—PHILIPS OF PHILIPS INDUSTRIES

Jesse Philips (MBA '39), an easterner by birth and midwesterner by choice, is a retailer by early training and an industrialist by acquisition. A loyal alumnus and staunch supporter of the School, he is the donor of its thirty-first endowed chair, the Jesse Philips Professorship of Manufacturing, established in 1969 and occupied by A. Richard Dooley.

AN ENTREPRENEURIAL BENT

Mr. Philips was born in New York City in 1914; shortly thereafter his family moved to Hartford, Connecticut. In the early 1930s, while still a teenager in high school, he displayed an entrepreneurial bent which was to stand him in good stead in later years: he formed a small printing company. Ultimately, he had to give it up in order to pursue his education.

From high school he enrolled as a scholarship student in Oberlin College at Oberlin, Ohio, in 1933. Before long, the risk-taking disposition reasserted itself and Mr. Philips was back in business—this time as a dry cleaner, using his earnings to supplement meager financial resources. Fortunately, he had a great capacity for work and, despite the heavy load of course preparation on top of managerial duties, he was graduated with his AB, magna cum laude, in 1937.

The following autumn he was admitted to Harvard's MBA Program with the Class of 1939. Arriving at Soldiers Field on a Connecticut State Fellowship that September, he was assigned to ground-floor quarters in Chase Hall's D-entry. Among the classmates he recalls from those days are "a couple who subsequently became prominent in business and government—Walter Haas, now president of Levi Strauss & Co., and Robert McNamara, now president of the International Bank for Reconstruction and Development. Three others in our class," he points out, "have distinguished themselves in education—Jack Glover, Bob Merry, and Charlie Williams. They're now all Professors on the HBS Faculty."

During his MBA years Mr. Philips put case preparation first and extra-curricular activities second. He was a serious student and did well. "I still remember some of our case discussions after more than 30 years," he says. Studies notwithstanding, he found opportunities once again to supplement his income through several small business ventures.

After graduation he embarked on what was to become a successful career covering two decades in financial control and merchandise management with several major department stores. At the start he joined G. Fox & Co. for a year. Then he moved to Worth's in 1940 as general merchandise manager. From 1944 to 1946 he served as executive vice president of the Big Store Co.

Wurzburg's obtained his services in 1946-47 as general merchandise manager, when the country began converting its wartime economy to a peacetime one. The following year found him carrying the counterpart responsibility and title in Stark's Department Store.

Two years later, in 1949, Mr. Philips was named executive vice president of the Johnston-Shelton Department Store in Dayton, Ohio. The store was suffering large losses. He was offered the incentive of purchasing one-third of the stock of the corporation if he could turn it around. Within two years the store was earning a decent profit. He stayed on as Johnston-Shelton's executive vice president for seven years until he sold the store to a chain, rounding out 17 years of retailing experience.

Then he retired for a full year spending most of this time traveling, skiing, and enjoying his family. During that year, however, he did investigate and analyze no less than 61 different possible business acquisitions. A new career was clearly on the horizon.

Launching out on a different course in 1957, Mr. Philips purchased the Jalousies of Ohio Company, a manufacturing concern located in Dayton. At the time he acquired control, the firm employed a workforce of about 20 persons and produced annual sales of around $400,000. Soon, responding to the Philips approach to management, the enterprise embarked upon a period of substantial diversification and growth in the field of equipment for use in mobile homes and recreational vehicles. In the last dozen years, sales have risen to nearly $150 million per year. More than 5,000 men and women are employed today in the company's 40-odd plants.

FROM RETAILING TO MANUFACTURING

In 1961, four years after Mr. Philips took over, the trend of developments led to a change of corporate name. Jalousies of Ohio became Philips Industries, Inc. Jesse Philips became chairman of the board of directors and is the chief executive officer.

The top management team he presides over consists of 18 corporate executives. Among them are nine vice presidents and seven heads of staff functions such as the secretary and corporate counsel, the director of management information, and the manager of data processing. As a general rule Mr. Philips deals with his operating heads through the company president, Robert Levenstein, and the executive vice president, Herbert Gerhard. But he still likes to keep direct lines of communication open between himself and all his key men to insure speedy decisionmaking in a highly competitive sector of the economy.

The diversity of product lines flowing from Philips Industries' loading docks is impressive. There are, for example, items for mobile homes and recreational vehicles such as aluminum windows and doors, axles, water heaters, coupler-jack assemblies, roofs, undercarriage frames, ventilating equipment, and LP gas cylinders.

For a different but related market the company produces wooden windows, patio doors, plastic pipe and fittings, fiberglass construction panels, and fiberglass tub and shower enclosurers. In yet another field such electro-mechanical devices as blowers, propellers, fans, and residential and light commercial humidifiers are offered.

A man with a great capacity for concentrated effort, Jesse Philips does not focus waking hours exclusively on his business affairs. Fortunately for Harvard, 32 years as an active business executive have not eroded any of the Philips interest in or loyality to the Business School. In 1968, for example, he joined the prestigious 44-man Visiting Committee. Such appointments run officially for a single year but are renewable up to six years. Thus, in the normal course of events Mr. Philips will continue to sit with that body until 1974.

IN SUPPORT OF EDUCATION

He not only is a Dean's Fund Donor in the HBS Annual Giving program but also in 1969 established, through the Jesse Philips Foundation, an endowment to support a new academic chair. The School's thirty-first such position, it is called the Jesse Philips Professorship of Manufacturing. Its first incuimbent is A. Richard Dooley, whose area of special interest has been production and operations management.

In announcing the creation of the chair, George P. Baker (then Dean, now the Hill Professor of Transportation, Emeritus) said: "While the School has for many years accorded significant emphasis in its curriculum to production and operations management, the establishment of the chair endowed by Mr. Philips will permit a further extension of scholarship and research in this important area. The effective management of production activities is important both to individual firms and to the functioning of the nations' economy."

Mr. Philips' philanthropies, it should be noted, have extended beyond Harvard. He is a trustee and chairman of the Budget and Finance Committee at Oberlin College. Oberlin is now completing the Jesse Philips Physical Education Center which he gave through the Jesse Philips Foundation.

As the scope of his management responsibilities has increased, so too has Mr. Philips' commitment to helping in a broad range of civic and cultural endeavors. He has served, for example, as a director of the Dayton Chamber of Commerce, the Dayton Better Business Bureau, the Dayton Jewish Community Development Council, the Dayton Retail Merchants' Association, and the Miami Valley Council of the Boy Scouts of America.

CIVIC AND CULTURAL ENDEAVORS

He also has been Dayton chairman of the Ohio Foundation of Independent Colleges and was formerly associate chairman of Dayton's United Fund Drive. In the field of higher education he is, in addition to his Harvard involvements, a trustee of Oberlin College and of the University of Dayton. He has been honored with the Free Enterprise Award.

Mr. Philips' directorships include seven subsidiary corporations, of which he is

president as well as being a member of the board: Philips Industries of Pennsylvania, Jalousies of Ohio-Georgia Co., Philips Industries of Kansas, General Processing Corporation, Philips Industries of South Carolina, Philips Industries of Texas, and Philips Industrial Components. Other related industrial directorships are Versail Manufacturing Company, Tailormade, Inc., Dexter Axle Company, Lau Blower Co., Lasco Corp., and the Third National Bank. He also reserves time for six public service directorships: Good Samaritan Hospital, the Dayton Area Progress Council, the Salvation Army, Junior Achievement, the Jewish Community Council, and the Joint Distribution Committee.

Six years ago Mr. Philips realized one of his early ambitions—to own a sailboat. Today he is a keen sailing enthusiast and well known in ocean racing circles. Last summer his yacht, *Charisma*, won the Port Huron-Mackinac race over 195 other boats. He has also maintained an active interest in land-based athletics. While at the Business School, for example, he became absorbed in skiing, a sport in which he is still both a proficient and an ardent participant. In fact, every February finds him at the Palace Hotel in St. Moritz, Switzerland.

At home, the family now resides on Honey Hill in Dayton, Ohio. Mrs. Philips, the former Carol Frank of Cincinnati, sits with her husband on the company's board of directors. There are two grown-up children, Ellen Jane and Thomas Edwin. Tom is currently a student at Northwestern University in Evanston, Illinois. Ellen is a reader for the Written Analysis of Cases course in the first year of the MBA Program working with A.C. Lyles, Jr.

"The saying 'a company is only as strong as its management team' may be an old bromide," Mr. Philips observes, "but in my experience it's a very true one. Our accomplishments in recent years would not have been possible except for the loyalty and extra effort of many executives. They can well be proud of their performance. We are continuously seeking and recruiting well-qualified personnel, and I hope some of them may come from the Harvard Business School."

Commenting on his industry's prospects Mr. Philips says: "We are moving into the '70s with a good deal of confidence. In the mobile home market we expect demand to continue for bigger and better units offering more luxury features. With increasing leisure time and incomes turning up again, the mobile market seems bound to grow. Then there's that newer field, manufactured housing; with on-the-site building costs constantly increasing, I believe that the only solution to our nation's housing problem is factory-built homes. If we are to reach President Nixon's goal for housing we will have to build low-price homes on a production line in a factory and then move the finished units to their permanent sites. Our industry is increasingly turning its attention to the nation's urban housing problems.

"The needs are basically the same," he adds, "compact, complete, economical homes. Blueprints on planners' drawing boards already outline future patterns for urban development. Test projects have been built. Looking ahead, we can see modules that can be 'plugged' into a skeletal structure—high-rise apartments, for example, made up of complete units trucked from a factory and 'stacked' on the site. The possibilities are limitless.

"And Philips is helping to make these new approaches happen," he notes. "The company's capacity for growing and adapting as its market expands and shifts is evidence of its competitive strength."

NEED TO ASK THE RIGHT QUESTIONS

Looking back at the School from the vantage point of an alumnus who is 32 years out, Jesse Philips states his philosophy this way: "Business education's main job, in my view, is to build executives who can solve problems. What business needs is men and women who can frame the right questions, judge the importance of timing, unsnarl tangled issues, recognize key functions, get people working together, lay out plans of action. Those abilities, as I see them, are more important than expertise in specific industries or techniques. I believe the School is continuing to move in that direction and I'm glad to help it do so.

"One of the big needs, of course, is endowment—particularly in these times. That's one reason the idea of establishing a professorship appealed to me. But the School's revenue from endowment, as I understand it, is less than 9% of the total for the 1970-71 academic year. The stability of a larger amount of dependable endowment income is needed to maintain the excellence of educational programs in the face of changing conditions and mounting fixed costs. I know that Dan Fouraker and his associates are working vigorously to obtain additional endowment, and I wish them every success."

Regarding the named chair which resulted from his own concern and generosity, Mr. Philips says: "I get a real thrill from having been able to strengthen the School in this way. Professor Dooley, the present incumbent, is one of the Faculty's great assets. His work in such areas as computer-based automation highlights some important challenges and exciting opportunities for manufacturers in the future.

"Being in the manufacturing field myself," he adds, "I'm glad to know that some bright people at the School are working on those problems."

[From the Nation's Business, June 1979]

LESSONS OF LEADERSHIP—PHILIPS IS BACK ON COURSE AND COMING ABOUT

(By Priscilla Anne Schwab)

Jesse Philips would rather be sailing. In fact, that's what he was doing when he took a telephone call in Newport, R.I., and learned that the company he had founded was about to founder on the rocks of short-term debt.

Mr. Philips took the next plane to Dayton, Ohio, to rescue the small business he had built into $200 million mini-conglomerate. He gave up semiretirement and the America's Cup race in which he was cosponsoring the *Mariner* to do battle with 18 bankers who wanted to cancel the firm's credit lines and call in $24 million worth of loans because the mobile home market had taken a dive.

"We had $6 million in the bank, but that wasn't enough to cover," says Mr. Philips today. "I and a couple of others worked straight through the next ten days, putting together a package to convince the banks to stick with us. I asked them all for a year's grace. One bank insisted on a million dollars then and there. We paid it but convinced the others to wait.

"I had meeting after meeting. We pounded and pounded, closed ten plants and sold off a few others. Within a year, we had paid off the $23 million. It was not pretty, but we survived."

GALLON-SIZED FORTUNE

Today, Philips Industries consists of five divisions: The mobile home and recreational vehicle group, which makes aluminum windows and exterior doors, axles, water heaters, LPG cylinders, and roofing; the Lau division, which makes fans and blowers for heating and air conditioning units, ventilating components, and humidifiers; Lasco, which makes molded fiberglass bathtubs, building panels, and plastic pipe and fittings; Malta, which makes wood windows and patio doors for on-site housing; and Twin Pane, which makes insulated glass. Sales for the year ending last March totaled $268 million, and profits reached $11.4 million.

In 1956, Mr. Philips had nothing but 17 years' experience and the gallon-sized fortune he had made in retailing. Twenty years before, he was a scholarship student at Oberlin College where, besides academic accomplishments, he played football as the lightest running guard the school ever had.

LEARNING ABOUT PEOPLE

After graduating from Harvard Business School, where he had gone to learn how to be a banker, he took a job with a department store in Hartford, Conn., as a trainee buyer.

He quickly proved his prowess as a buyer, but, he admits today, "I had a lot to learn about people." Mr. Philips bought a truckload of stationery for the store's August sale—"Three boxes for a dollar or something like that," says Mr. Philips. "I got the table set up on the main floor of the store and put up the signs, and when we opened we had a rush of customers. After an hour or so things quieted down, and the salesgirls straightened out the table so everything was neat.

"People kept buying steadily, and I kept replenishing the merchandise. I noticed that whenever I was restocking, people would gather around to see what the new stuff was—they thought they might miss something. And we would have another flurry of buying.

"Well, I decided, this was great, I'll just keep piling more boxes of writing paper on the table, and people will keep buying. They did. And I said, boy, I am a genius, this is fantastic. About the middle of the afternoon the merchandise manager called me. I went upstairs expecting compliments on my great sale.

"Instead, he asked me why I was causing all this trouble. The three girls who had been working on the table had come to him in tears. I was astounded, of course, and started telling him about my terrific sale, and he said, the girls spent hours straightening out the table, and you kept messing it up. I explained about the restocking, and he said, why are you telling me about that, why don't you tell them? You go back down and stop them from crying.

"Then and there I learned to explain to your team what you want to do and why."

College during the post-depression years was a kaleidoscope of studying, waiting on tables, sweeping floors, and washing dishes. "I didn't last long at dishwashing," says Mr. Philips. The summers were spent scrambling to amass enough money to augment his scholarship.

SMALL TOWNS

One summer, Mr. Philips established a door-to-door dry cleaning service. "My father was in the business, and I would call on people in the small towns around Hart-

ford. My father would clean the clothes, than I would deliver them for a little more than the usual price. That was my profit."

At the end of the summer, he tried to sell the route—"it was a money-maker"—but couldn't find a buyer. So he hired a man to keep the route going. "I wasn't too good at sizing up people," says Mr. Philips today. "The guy made all the collections and then absconded with the cash."

A second college venture was more rewarding but pitted young Jesse against the Greyhound Corp. "My problem was how to get home to Hartford for Christmas; I didn't have any money," says Mr. Philips. He tried to become the campus agent for the big bus company, to sign up busloads of students to go home. But they weren't about to hire a penurious student.

GLAMORIZED TRIP

So he located the Indian Trails Bus Co., which agreed to pay him five percent of the fares he could produce. "I got pictures of their buses, put them on a few bulletin boards around school, and glamorized the trip—take a midnight ride to New York City. We had lots of students from the East."

Mr. Philips talked up the trip and soon had two busloads of students. By the time the Greyhound representative arrived on campus, everybody had bus tickets home. Greyhound tracked down the enterprising Mr. Philips and informed him that he was breaking the law and would get into all kinds of trouble.

"Two men came to the dorm and told me I should turn over all the names and money to Greyhound," Mr. Philips recalls.

"I said I couldn't do that, and they started threatening me with legal action. The housemother threw them out when they began cussing.

"They went to the dean, of course, and I got called on the carpet to explain myself. The upshot was that I made a deal with Greyhound. I got a five percent cut on every student who rode a Greyhound bus to or from Oberlin, whether I signed them up or not. So I had a little income, and I got free rides home."

At Harvard Business School, Mr. Philips opened up his own firm—in his room—and sold typewriters for the Royal Typewriter Co. "It was against the rules," he says, "but they never found the machines. I used to hide them in the radiator wells."

With the typewriters went carbon paper, which Mr. Philips sold from office to office in downtown Boston. "I got a 25 percent commission."

FAMILY-OWNED STORE

After his stationery success at G. Fox & Co. in Hartford, he moved through various department stores like wind through a yacht's rigging. He went to work for a family-owned operation in Cincinnati, which was going down for the third time.

"I had been skiing in Canada and arrived at the interview without any business clothes," says Mr. Philips. "We talked all day, and they asked me to stay the next day, and I did, and they asked me to stay again, and I did, but I sensed something wasn't exactly right. So I questioned one of the sons.

"Well, I was making $25,000 a year then, and the president of the company, the guy I was going to work for, was making only $15,000. I said that's no problem. I'll halve my salary and start for $12,500, but I want five percent of any increase in sales."

The firm hadn't had an increase in five years, so the family thought it was a good deal—until the end of the first year. Then they owed Jesse Philips $40,000, which they couldn't pay.

"They were very proud people," says Mr. Philips. "They hated to admit they couldn't pay their debts. So I said, let me buy the minority stock, and I did, at $10 a share. I never did get my money from them, but a year later, I sold that stock to Litton and made a half million dollars on the deal."

EQUITY INTEREST

From Cincinnati, it was a short jaunt to Dayton to another department store that needed bailing out. "I told them I didn't want a contract, that they could fire me any time they wanted to, but if I stayed a year, I wanted an equity interest. When I took over, they had a $280,000 loss. The first year we made $80,000."

How? "The first thing I did was hire some good merchandisers and get them fired up. I added a quarter of a million dollars to the payroll. Then, we reintroduced tabloid advertising and ran promotions.

"During one million-dollar sale, we had to call out the police because the customers were stacked solid 20 feet to the curb and into the street, waiting for the store to open. We got people talking about the store. We made it exciting.

PLANNING RETIREMENT

"You know, in all stores carrying the same price line, 90 percent of the merchandise is identical. You have to balance your inventory and do a good job of promotion."

After Mr. Philips got that store on course, he sold his interest to a chain and planned his retirement—at 42. "I had enough money, so I didn't have to work. I knocked off for a year," he says. "I did some skiing and played a lot of golf—got my handicap down from 21 to 14—and checked out at least 51 companies."

It was while he was looking around for investment opportunities that a friend persuaded him to look over the Jalousies of Ohio company in Dayton, which made windows for mobile homes. "I had never been to a manufacturing company in my life," says Mr. Philips. "I didn't know a punch press from a press brake."

The owner wanted $400,000 for the plant, which had 20 employees and netted $40,000 a year. "It wasn't that much," says Mr. Philips today, "But my friend told me after we signed the deal that he thought I had bought it too fast; I should have offered $375,000."

Mr. Philips had good reason to worry. He had checked the company out thoroughly and had researched the industry. He concluded the firm was in a unique position within the industry to keep pace with the fast-growing mobile home industry and the new fad of home improvement.

TOOK TO THE ROAD

He took over the company in October. "A week later, the owner told me I was all set, but he would hang around in case I needed him," Mr. Philips explains. "Well, I think I saw him one day, then I never saw him again. And there we were, with all this stock and no orders. Nobody buys windows in November. I closed the factory, laid everybody off and wondered what to do."

Mr. Philips took to the road. He wrote down on three-by-five cards all the pluses of the firm's window and went to Michigan to see a major manufacturer of mobile homes.

"It took about an hour to sell him the window and about two hours to figure out a price," says Mr. Philips. "It should have taken five minutes. But they said I ought to check my price overnight and come back in the morning. I checked with the factory that night and went back the next day and got the order. Years later, I found out that my price was so low they thought I had made a mistake."

The price was low because Jalousies' window was specifically designed for mobile homes. "We had a better product with more features and a lower price, but of our 13 competitors, we were the smallest," he says. "The previous owner had had an excellent product; he just hadn't sold it. I came back from Michigan with orders for three truckloads of windows."

BROKE THE DOLDRUMS

The second big order was a little longer in materializing, but Mr. Philips had broken the cyclical doldrums of the industry, and it wasn't too many years before his firm was the only one employing people during the winter.

Today, Philips Industries' corporate headquarters is a scant quarter mile down the street from the company's beginnings. Mr. Philips, who now commands 31 plants and 4,700 employees, recounted how he applied retailing pizzazz to a staid manufacturing firm, how he deep-sixed the competition and built a diversified fleet of companies, and how he plans to make his next retirement permanent.

MR. PHILIPS, WHY DID YOU START YOUR BUSINESS CAREER IN RETAILING?

I never expected to. I went to Harvard Business School to get into banking. My senior year I received a call from Prof. Malcolm P. McNair, one of the fabulous names in retailing. He was teaching a course at Harvard, and I was number one in his class.

He said: "Philips, I just found out you are going into banking. I thought you were a retail major." I said, yes sir. He said: "Do you have any family on Wall Street?" I said, no sir. He said: "You are going to be a disappointment and an embarrassment to the school. We can't get you a job on Wall Street. Why don't you go into retailing? I can get you seven offers tomorrow." I said, yes sir. If that is what you think I ought to do, I will. He said: "You will have just as much fun." And I have.

WHY DID YOUR COMPANY NEARLY GO UNDER IN 1974?

We had a water heater plant in Lousiville, Ky., that was losing half a million dollars a month. We could have carried that loss and turned the factory around with enough time, but the recession arrived, and the bottom fell out of the mobile home industry upon which we depended.

Another problem was that while I was semi-retired, there was a lack of long-term planning, contingency planning. There weren't many wrong decisions, but the management team had expanded the business too quickly without figuring out what would happen if the market were to contract.

We just did a poor job of financial management. The company used short-term loans to acquire plants and fixed assets. It really wasn't the banks' fault. They had all overextended themselves and were trying desperately to get liquid.

YOU WON'T GET CAUGHT LIKE THAT AGAIN?

No, we won't. Part of our operating plan is to keep fixed costs to a minimum—low enough so that the company can handle a 20 or 30 percent downturn in the market and still make money. Bob Brethen, our president, is very careful about costs. Also, we do not have $24 million in short-term

debt. We restrict our bank borrowing to seasonal needs.

ARE YOU EXPANDING AT ALL?

All the time, but cautiously. We spend $6 million a year on capital improvements. We are building a $2 million facility in Dallas right now, and we have spent more than $1 million at the Malta plant to gear up for the manufacture of our new vinyl-clad window.

There is no problem with expansion, but you pick your spots carefully, and you make sure you have enough flexibility in your plans to cover all the things that can happen.

WHAT HAPPENED TO THE LOUISVILLE PLANT?

We closed it. Not right away. We kept it about a year, but we really didn't have the expertise to handle it. We had been making electric water heaters for mobile homes, but as the homes got bigger, they needed 30 to 40-gallon heaters, so we decided to get into gas hot water heaters.

We were offered a going business doing about $20 million a year in gas water heaters. We jumped at the offer and didn't check it out as thoroughly as we should have. We were stuck with an obsolete product and archaic machinery. Subsequently, we opened a new plant in Kentucky. We were under tremendous pressure to start producing water heaters right away.

When I got through the debt crisis, I had Arthur D. Little do a study on the Louisville plant. Their people said the machinery wasn't right, the organization wasn't right, nothing was right with that plant. It would have taken too long to salvage our investment, so we closed it. Our volume had shrunk with the recession, and we didn't need that much capacity.

WHAT IMPELLED YOU TO GO INTO THE MOBILE HOME MARKET INITIALLY?

Mobile homes have had a negative image, but I think that is going to change. Initially, the industry took off in the 1960s, and we went with it. Today, it's about half of what it was. But I think the industry will come back. It's the only economical way to build a house. You buy a house today, and more than half the cost is labor. Mobile homes and, lately, manufactured and prefabricated housing have a ten percent labor cost. Also, you get more house for your money because the manufacturer buys in quantity.

BUT WHAT IF THE MARKET SHRINKS AGAIN?

We now have enough good lines going for us that the cycle won't ruin us. We play the percentages. For example, if 60 percent of your business is supplying General Motors, and the auto market slumps, you're in trouble. But if you have several markets, then it doesn't make that much difference whether they make ten million autos or 12 million.

SO SMALL IS BEAUTIFUL?

Well, it's profitable for us. Now, in our Lau division, we have a much larger percentage of the market, 40 percent or so. And it is difficult to increase that share. If the air conditioning and heating manufacturers have a poor year, Lau division probably will, too.

WHY WAS THERE SUCH A HUGE TURNOVER IN STAFF DURING THE MID-1970S?

Anytime you have a growth company, you are bound to be turning over people. When you're doing a couple of million dollars a year, you have an accountant. By the time you get to $20 million a year, you hope that your accountant has grown into a vice president for finance. But everyone doesn't grow as fast as the company grows.

HOW DO YOU MOTIVATE EMPLOYEES?

We tend to hire people who really want to achieve. We don't attract the professional manager type who is accustomed to a structured working environment. We give our people challenges and a lot of responsibility. We don't hesitate to cross lines of authority. I just don't buy the organization-man structure. That is not my style.

We expect our people to make mistakes; we don't criticize people for making the wrong decision, we criticize them for not making a decision. I expect our people to do their homework, to put in time needed to make the decision, but if the decision turns out to be wrong, we pick up the pieces and continue. We hope they make more right decisions than wrong ones, of course.

DO YOU DELEGATE A LOT?

Well, if I am out of town, it is up to the people in charge to make the decision. They are not supposed to wait for me to get back. When I do get back, if I feel they didn't make the decision exactly the way I would have, that is my tough luck. As long as they used their best judgment and were conscientious, there is no comeback.

HOW DO YOU TEACH GOOD JUDGMENT?

You don't teach a person judgment. You learn to make decisions by making them, through experience. Most of the things being decided are not that complicated, and most people know the answers. However, most people do not like to take the responsibility for making the decision.

When someone comes to me and asks a question, my usual response is: What do you think? The person will answer, and nine times out of ten, that is what we will do. We're not trying to get to the moon. The problems are not that complicated.

WHERE DO YOU FIND THE KIND OF PEOPLE YOU WANT TO HIRE?

We're looking within the company these days. We train most of our plant managers. We went through a retrenchment period when we lost a lot of people whom we had trained, and we brought in people, but now we are back into internal development. We expect to move people up within the company. We send our employees to classes—we sent one fellow to Harvard Business School and we plan to send more.

DO YOU BELIEVE IN DIVERSIFICATION?

Originally, we were 100 percent in the mobile home industry, which, by the way, has a very low profit margin. Today, less than half our sales are in that industry. The other divisions have higher profit margins. We are continuing to diversify; for example, we make components for recreational vehicles and fiberglass panels for greenhouses.

The other things we insist on are quality and service. These are the real reputation-builders. We're just now getting into an advertising campaign for the new vinyl-clad window made by the Malta division. But it will also be a Philips window. I want the name to be synonomous with quality. We have set up a company identification program, using the same logo for all the divisions. In the past, we spent more on trade promotion than on consumer advertising.

HOW DO YOU PROMOTE MOBILE HOME COMPONENTS?

When I took over Jalousies, a beat-up station wagon was part of the deal. I called on customers all through December, January, February, and it wasn't until March that I got the next big order for our windows. I called on every prospect in Michigan, Indiana, Wisconsin, and Pennsylvania—not once, but frequently—and pretty soon the 13 competitors we started out with had been reduced to two. Within a year, instead of $400,000, we were doing a couple of million dollars in sales.

But I guess I always was a promoter. I wanted to sell quality, not price, so I kept coming up with ideas. Once we sent all the mobile home manufacturers a case of Campbell's tomato soup. The letter that went with the soup asked: "Why does Campbell have 90 percent of the soup market? There must be a reason. It's the same reason Philips is getting the biggest share of the window and door market. Quality."

One time we sent them all one share of Benquet, a mining stock; it was selling for 50 cents. We said in that letter: "Frankly, the reason we are sending you Benquet is that it is the lowest priced stock on the New York Exchange. However, the fact that it is low priced doesn't mean it is the best value. Check Philips' windows for value, not price."

What a time we had with that gimmick. The exchange forced the company to issue 300 one-share certificates and it cost us about $1.50 to send out each one. Then one year, Benquet declared a dividend of five cents. So each of our customers got a packet this thick and a check for five cents.

You see, nobody had ever done any razzmatazz promotion in this business, and there were only 300 or so manufacturers, so we knew everybody. We could afford to spend more money per account because of the limited number of people. We might get an order worth anywhere from a few hundred thousand up to a million dollars, so the return would be tremendous.

People were fighting to get on our mailing list. They never knew what we would come up with next. Once I sent everyone a silver dollar. The letter said: "If you want to gamble, you can have lots of fun with this in Las Vegas, but why gamble on windows? Check out Philips' new frost-free windows."

Another time, while implementing our service program, we sent all the wives of our customers flowers for Valentine's Day, and had the florists sign the cards: "Thinking of you, love, guess who." My thinking was that the guy would come home, his wife would thank him for the flowers, and he would be mystified. However, some husbands became jealous and berated their wives. All the husbands received letters the next day, explaining: "As we have been telling you all along, Philips takes care of all your problems; we even took care of your wife on Valentine's Day."

One year, we had Miss America at the industry trade show. We sent all our customers personalized invitations from her. They said: "Dear Cecil, I missed you in Atlantic City last year and look forward to seeing you in Louisville. Love, Mary Ann." a lot of wives came to the trade show in Louisville that year.

HOW DID YOU MOVE FROM WINDOWS TO BLOWERS?

Since we were selling windows to the manufacturers, why not sell them doors? And if doors were a natural, so were roofs and axles. We kept adding companies, looking for the quality one in each line. We picked items that were uneconomical for the mobile home companies to make. And we avoided competing with big companies.

WHAT MADE YOU LEAVE THE COMPANY IN 1971?

It was too big for me to direct alone, and I had been putting together a management team. I had really wanted to retire 20 years

earlier but got involved in building the company. So this time, I was going to devote time to sailing and skiing.

HOW DID YOU GET INTO SAILING?

When I was just out of college, I decided to try it one day, so I chartered a little sailboat. I knew nothing about it, but it didn't seem that tricky. I spent the day trying to get from Stonington, Conn., to New London against the tide and without much wind. I had to be towed back to Stonington. The man whose boat I had chartered tore up my check. Still, I went out the next day with a teenager who taught me how to jibe and come about.

Twenty-five years later, I bought my first yacht, a Columbia 38. By 1969, I had taken courses in navigation and was sailing regularly with a crew. Over the years, I had three racing yachts, all named Charisma—it means a mystical, magical quality that others want to follow.

In the early 1970s, we were selected several times as one of three yachts to represent the United States in international competition. Charisma did not race unless I was on her. We have raced across the Atlantic, in the English Channel and Irish Sea, and off Bermuda and South America. I donated the last Charisma to the U.S. Naval Academy when I went back to work.

WHAT IS YOUR MOST CHERISHED TROPHY?

It's an eight-column headline on the front sports page of the New York Times: Philips Wins Mackinac Race Second Year in Row.

ARE YOU HAPPY BEING BACK AT WORK? OR WOULD YOU RATHER BE SAILING?

I enjoy the work. But all along I was building a team so I could get out completely. That team didn't work. Now we have built a new team.

I have been retiring since I turned 42. Life is just full of so many options. I would never quit working completely, but I would like to have more time to myself. I can do without a fixed schedule. I am going to retire. I don't know when, but I am.●

RURAL HOUSING

● Mr. SCHMITT. Mr. President, on Tuesday, August 24, the Washington Post published an article by Ward Sinclair entitled "Schmitt Pushes for Cuts in Aid to Rural Housing." This article promotes several misconceptions regarding title VI of S. 2607, which includes a rural housing block grant. I would like the Senate to note an editorial response from the Council of State Housing Agencies, and the Council of State Community Affairs Agencies which defends States' ability to assess their individual housing needs and administer responsive programs in rural areas. I also call to the Senate's attention a letter from Secretary John R. Block which reinforces the U.S. Department of Agriculture's full endorsement of this approach to providing federally assisted housing in rural areas.

I ask that these items be printed in the RECORD.

The items follow:

COUNCIL OF STATE HOUSING AGENCIES,
Washington, D.C., August 30, 1982.

LETTERS TO THE EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIRS: It was with no small amount of surprise and chagrin that I read Ward Sinclair's article on the rural housing block grant legislation pending before the Senate ("Schmitt Pushes for Cuts In Aid to Rural Housing," August 24, 1983; page A2). In the article, Mr. Sinclair asserts that most states do not have housing development programs. This statement demonstrates an almost total ignorance of the public purpose housing delivery system in the United States. Moreover, Mr. Sinclair unfairly criticizes Senator Schmit's attempt to effect needed reform of the Farmer's Home Administration rural housing programs.

Without going into a lengthy discourse on the role of states in housing development, let me simply say that state housing finance agencies (HFAs) have played an instrumental role in the implementation of the HUD Section 8 program (one third of all Section 8 units have been developed through State HFAs), the Section 236 program and the Section 221(d)(3) program. State HFAs have financed close to 400,000 units of low rent multifamily housing and over 425,000 units of moderate income single family housing. State HFAs have provided over $1 billion in home improvement and energy conservation loans.

Only four states do not have state housing finance agencies. In each of the four states that don't have state HFAs there is a campaign to create one. Additionally, most states also have departments of community affairs which implement housing services funded through the Community Development Block Grant Program, the Urban Development Action Grant program and other funding sources.

Valid criticisms of the rural housing block grant do not bring into question the ability of states to deliver housing services. Most states possess the infrastructure to efficiently and effectively deliver housing services to rural areas.

Senator Schmitt is to be congratulated for taking on the very necessary task of reforming the Farmer's Home Administration rural housing programs. GAO recently found that FmHA has done a poor job of targeting its assistance to rural areas. A recent CBO report also notes that a significant portion of FmHA costs are off budget, thereby avoiding Congress' attempt to plan and control government expenses. In polling the states about the feasibility of converting rural housing assistance over to a block grant approach, the Council of State Housing Agencies received numerous letters from state agencies that were highly critical of FmHA. Senator Schmitt's bill addresses many of the problems with FmHA programs.

Opposition to Senator Schmitt's bill on the grounds that FmHA rural housing programs do not merit substantial reform and states do not have the capability to administer a significant portion of the nation's rural housing programs simply are not justified. The federal rural housing programs are in need of substantial reform and Senator Schmitt is right on target in identifying states as viable and valuabe partners in the delivery of housing to rural areas.

Sincerely,

THOMAS W. WHITE,
Executive Vice President.

COUNCIL OF STATE COMMUNITY AFFAIRS AGENCIES,
Washington, D.C., August 27, 1982.

LETTER TO THE EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIRS: Ward Sinclair's article on Senator Schmitt's proposed rural housing block grant, which appeared on August 24, may have inadvertently left the impression that states do not have or will be unable to obtain the capability to administer rural housing programs. Many states do have such a capability. Not only do 47 states have housing finance agencies but many states, through their departments of community affairs or of community development, have years of experience in administering housing programs oriented primarily towards rural areas. These programs are usually funded through general obligation bonds or general revenue appropriations or where funded through other federal programs like those of the Appalachian Regional Commission.

The skepticism of state performance is reminiscent of last year's anxieties over states possibly managing the Small Cities Community Development Block Grant Program. Thirty-six states have chosen to administer the program this year and have done so very competently and fairly. As long as states initially have the option to administer a program, as they do under the Schmitt proposal, they will do so only when they know they can run the program more effectively and in a manner that better meets state and local needs and conditions than the federal government.

Sincerely,

JOHN SIDOR,
Executive Director.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 14, 1982.

Hon. HARRISON H. SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR JACK: Pursuant to your discussion with Deputy Secretary Lyng, I want to take this opportunity to restate our position on the Rural Housing Block Grant proposal which is included in Title V of S. 2607. The Administration supports your efforts to reform and restructure the Farmers Home Administration's rural housing program. It is our hope that Congress will act expeditiously to adopt the provisions of Title V of S. 2607 as modified by the amendments resulting from the series of productive meetings between your staff, the Farmers Home Administration and the Office of Management and Budget.

I am appreciative of your staff's continuing efforts to work closely with the Department on provisions of the proposed legislation which we believe to be an important ingredient in developing a program which will meet the needs of the rural poor for appropriate and adequate housing.

The Rural Housing Block Grant which would be authorized in S. 2607 is fully consistent with the Administration's policy and budget goals. It will focus attention on the needs of low income rural residents and is consistent with the concept of Federalism while recognizing our need for reasonable fiscal restraint.

The Administration is confident that Title V of S. 2607 as modified with the amendments jointly worked out will improve the delivery of housing assistance to rural areas.

It is fully in keeping with our common goals.

I appreciate your continued interest and efforts to promote the development of an effective rural housing program and we look forward to continuing a close working relationship in the future.

Sincerely,

JOHN R. BLOCK,
Secretary.●

MONTANA'S WATER USE

● Mr. BAUCUS. Mr. President, Montana has the distinction of having the longest serving State legislator in the United States. State Senator Dave M. Manning was elected to the Montana House of Representatives in 1932 and has continued to serve his constituents and the State with great vigor for the past 50 years. I had the pleasure to serve in the legislature with Dave. I learned a great deal about Montana and politics from him, and today I still rely on his wisdom and knowledge.

In a recent newsletter to his constituents, Senator Manning discusses what he entitles "Montana's Water Use, Our States Highest Priority of the 80's." I consider Senator Manning one of our State's foremost authorities on the subject of water use and conservation. I would like to share his thoughts with my colleagues.

I ask that a portion from Senator Manning's newsletter be printed in the RECORD.

The excerpt referred to is as follows:

MONTANA'S WATER USE—OUR STATES HIGHEST PRIORITY OF THE EIGHTY'S

(An information letter to the public by Senator Dave Manning)

THE "WHITE OIL" WE LOSE TO THE SEA

God's great phenomena of sun, evaporation and gravity create an eternal water flow on our planet. The energy potential of this enormous, nonpolluting, continually renewable resource gift is far from harnessed by man. The song of a slave in his simple analysis paid homage to its muscle with the words: Old Man River, he must know sumpin'; He don't say nothin'; He don't plant taters'; He don't plant cotton'; He just keeps rollin'; He keeps on rollin' along.

We have made progress in capturing a small portion of the energy in our great rolling water resource but have not demonstrated, so far, an objective approach toward mastering its real potential. With the finiteness of fossil fuel, the dependence upon foreign sources of oil, the world's unrest, the atomic set back, we have a new ball game. The time has arrived when we dare not judge our future energy capabilities by standards we have built to in the past.

Our enormous untapped hydro possibilities in Montana and high altitude states of the nation cannot be measured by inventories of what we may, at this time, consider to be our remaining natural river dam sites. Within the boundaries of our state alone, there are some 1,500 miles of great year round flowing water in the four mainstems of our river drainages falling an average of six feet to the mile. With our proven state-of-the-art technology in hydraulic engineering and construction, there is much we can do and undo to create a great net in non-polluting energy. Down our steep hydraulic slide we need not place dams across live river channels for impounding flood water that to any degree at all inundates fertile soils. We can design, within our broad expanse of selection, major stations at which we cut into river banks, draw off excessive flood waters; confine it in buried conduit; deliver it by gravity with a portion of the ample slope in our terrain and fountain it with the silt it carries into high head man-made storage on our poorest ground; release it from there in controlled year around channeling through turbines back to the streams.

This special use of our inherited hydraulic gradient lies well within our reach when combined with the given material and knowledge we have at hand. The capture of wasted flood water can well integrate energy supply with existing use, prevent flooding and stabilize stream flow.

Not this use of our falling water alone. We have the capability to build and place the plumbing facilities to substitute, by gravity flow, for our enormous energy wasteful practice of allowing water to flow to our feet, only to pump it to higher elevations to satisfy the great multitude of service demands for water under pressure we have grown to depend upon.

The major economic deterrents to development of hydro power in the past have been fast disappearing this last decade., if not already gone, when currently compared with the lesser capital costs of thermal development with much higher energy escalating operating cost in use of finite fuel. The course of our nation's critical energy development plan, of necessity weighed heavily toward coal, cannot be transformed rapidly, but Montana can well be a state to show the way in use of wasted hydro energy potential that would warrant policy support and funding by state, nation, and private sector.

A lifetime tenant of the High Country, I point out that here on the broad, elevated terrain we occupy, there has been allotted to us a substantial portion of bad land. May the west and God forgive me for classifying it as such, when I hasten to add, within it lies a dispursed sufficiency in surfaces and elevations for the gainful labor of man to remold in storage to capture the energy giant of flood water here lost to the sea.

Pipe has long been invented and little used. .

The long term exporting of water from our state boundaries in the drainages of the Clark Fork, Kootenai, Missouri and Yellowstone rivers total 42,000,000 acre feet annually. Out of this total, the remaining unharnessed hydro possibilities are tremendous. The Yellowstone river alone exports 9,300,000 acre feet of water each year and falls in vertical head 3,194 feet from Corwan Springs south of Livingston to the state border near Sidney (twice as much as it does from there to the Gulf of Mexico.)

My colleagues, I look forward to your cooperation and your help with the specific procedures I will soon present in this session of the legislature.●

MAKING CRIMINALS PAY

● Mr. LAXALT. Mr. President, last week S. 2420, the Omnibus Victims Protection Act, unanimously passed the Senate. I believe we have finally arrived at a fair and equitable solution to many of the problems victims face within our criminal justice system. I commend the Committee on the Judiciary and my other Senate colleagues for their expedited consideration of this meritorious piece of legislation.

The following editorial in the Thursday, September 23 issue of the Wall Street Journal gives a thoughtful and well-reasoned discussion of the problems within the current system. Furthermore, it provides an accurate account of the remedies proposed by the Victims Protection Act.

Mr. President, I ask that the full text of this editorial be printed in the RECORD.

The editorial follows:

MAKING CRIMINALS PAY

It looks as if Congress is finally beginning to correct the criminal-vs.-victim balance. The Senate has voted unanimously that federal judges sentence criminals to pay restitution to their victims as well as serve prison terms. If the House concurs, the bill will be a first step toward giving victims their rights under the law.

The justice of the victim-compensation bill is so elementary—a criminal should, for example, pay his victim's medical bills—it is a wonder that such a bill is necessary at all. Indeed, 33 states have now set up their own compensation programs. The federal bill will serve as a model code for state and local courts and includes the selling point that it is the criminal and not the taxpayer who'll pay the victim.

Many states have created general funds to compensate crime victims. But this doesn't make crime pay any less: Taxpayers are left holding the bag, in effect subsidizing the crime with cash that could go to pay more police officers. Other states create such funds by imposing surcharges on the fines convicted criminals pay. California, for example, levies a 40 percent surcharge on all fines, so that a $20 speeding ticket costs $28. This system, while more equitable than a general fund since only law-breakers pay, doesn't insure that each criminal pays the full cost of the harm he's caused. On the other hand, it does mean that victims of destitute criminals receive some compensation.

Under the federal bill judges would consider a "victim impact statement" before sentencing the criminal. This would include the financial, psychological and medical harm caused by the crime. The judge would then order that the criminal pay the victim's medical, property and, if necessary, funeral expenses. Under what has come to be known as the "Son of Sam" rule, the victim would be entitled to any profit the criminal made from the crime; the widow of the man killed by Jack Henry Abbott, Norman Mailer's prison protege, is now trying to get access to his expected royalties.

Under current law federal judges have the discretion to order restitution but rarely see to it that victims are compensated. The bill, written by Senator John Heinz, would reverse the presumption so that henceforth judges would be expected to order payments from criminals unless there was some good reason not to. Victims would also be better served by the provision that they be notified if a convict is released from prison or escapes.

This Omnibus Victims Protection Act calls for a re-thinking of criminal law principles. Why did the idea of criminals compensating victims strike such a responsive chord in the Senate? After all, when a crime is commit-

ted it is described as a "crime against the state." What entitles the victim to restitution when the case is brought at the discretion of a prosecutor hired by the state, in the name of the state and for the purpose of having the criminal pay his debt to society? Somewhere along the criminal law line we've forgotten that it is the victim himself who's been harmed and not some collective entity called the state.

This simple truth was recognized long ago: Babylonian and Talmudic law called for compensation by the criminal, Anglo-Saxon law included scheduled amounts of compensation for different crimes and New England states during their early years had thieves return to their victims three times the value of the stolen goods. But during this century criminal punishment has become the government's business and the victim's concern only insofar as he is a member of society. Along with compensation by criminals, U.S. law would be much improved by adopting the British rule of "private prosecutions"—where even if the government doesn't care to bring a case, a wronged party can call for a criminal case on his own. This was used this summer in Scotland by a rape victim who couldn't persuade the prosecutor to bring her case.

Much about the moral fiber of a society can be learned from the way it deals with crime. It is not enough to treat criminals with as much compassion as we can, especially when this liberal spirit is carried to the excess of interfering with crime prevention as the courts have done. It's about time society showed a little moral strength by acknowledging that victims, real people, are hurt by crime and that it is to them that criminals owe their debt.

TEACHERS ARE GETTING A BUM RAP

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CANNON. Mr. President, I want to bring to the attention of the Senate two short articles that appeared last week in the Chicago Tribune concerning recent criticisms of the teaching profession. These articles represent one of the best explanations of the position of teachers in our society that I have ever seen.

These articles should be required reading for those in Washington who are attempting to completely rearrange the country's priorities and are in the process dealing severe blows to the educational system. They should also be required reading for those cynics who believe that teachers have easy jobs and those who ignore the overwhelming importance of our schools to the future of the United States.

The most appealing aspect of the discussion is that the author is neither sanctimonious nor dogmatic in his defense of the teaching profession. He recognizes legitimate criticisms about the profession, but he is able to put the pressures of teaching into a few simple human terms that are most enlightening to those of us who are not in the profession.

I congratulate Professor Daniels for two extremely astute and persuasive articles. I commend them strongly to my colleagues. I ask that these articles appear in the RECORD.

The articles follow:

[From the Chicago Tribune, Sept. 16, 1982]

STOP BLAMING THE TEACHERS

(By Harvey Daniels)

Though I am a professor of education by trade, I do not automatically leap to the defense of the teachers I have helped to train or the system in which they toil. Too many educators and too many schools have done too many dumb things to deserve anyone's knee-jerk support, even mine. Come to think of it, I've even made a few mistakes myself.

But the recent widespread attacks upon the teaching profession have gotten out of control. Teachers, especially those working in our public elementary and secondary schools, have now become the all-purpose whipping-people of the popular press, disgruntled taxpayers and many professors in colleges and universities. This axis of tastemakers has been tirelessly peddling the notion that the average American schoolteacher is a rather dim-witted, slothful, incompetent, materialistic creature who is demonstrably inferior in every way to the fondly remembered Miss Fidditches of childhoods past.

Such casual slanders have become the daily fodder of innumerable public and private cannoneers. Take for example the Sept. 6 issue of Time magazine which, in the midst of a hugely flattering piece of conservative educationist Mortimer Adler, flatly declares:

"Many of America's schools today teach little of what students ought to know, and that little ill. High school diplomas are routinely awarded to students who are functionally illiterate. . . . America's young lack even the rudiments of learning . . . legions of incompetent teachers prowl the corridors of our schoolhouses.

Such generalizations are by now so familiar, and they are asserted with such glib certainty that the unwary reader may no longer recognize their considerable bias and mean-spirited exaggeration.

The fact is that American school kids now read better than ever before, that the basic literacy level of high school graduates is steadily rising, and that only rarely, with sad reluctance—and often under considerable political pressure—do schools turn loose students who cannot cope with the rudiments of life. The academic achievement of American high school graduates compares favorably to that of pupils in Britain, Europe and Japan—even though our high schools are not reserved for a carefully screened, elite fraction of the teenage population.

Naturally, there is an element of truth in some of the anti-education accusations that have recently mutated into assumptions. Some national test scores, particularly the SATs, have gone down in recent years as the college-going student body has expanded. Some big-city school systems are caught in a stagnating cycle of low expectations, minimal funding and political wrangling—all of which depress student achievement. And some individual teachers, of course, have done their jobs poorly—disappointing their principals, their students, their students' parents, and often, themselves. But it is still possible to debate the successes and failures of American education—possible because we still have plenty of both, despite the recent emphasis on the latter.

What is really unique about education in 1982 is not the state of the teaching profession at all. What is genuinely new, we might rightly label a crisis, is that we are now living through the first period in the history of American education when we have willingly, voluntarily permitted our educational system to deteriorate.

Since the first colonists bumped into this continent, it has always been a high priority among us to establish and nurture our schools, to enrich their curricula and broaden their enrollment, to work to embody our democratic ideals, however fragmentarily, through this system. Past generations of Americans willingly and routinely sacrificed to build their schools, often paying higher taxes and foregoing other services, because education was a central and unquestioned national value.

The present cohort of taxpayers seems satisfied—sometimes downright delighted—to let the schools rot. Today we watch, more or less idly, as buildings crumble, districts go broke, teachers are laid off, class sizes soar, arts and humanities are excised from the curriculum, reading lists are censored, urban school systems are suffered to atrophy shamefully and—perhaps worst of all—thousands of outstanding young people are deterred by all this from entering the teaching profession.

At the national level, educational spending has suffered crushing cutbacks and, as a conspicuous reminder of our government's non-commitment to schooling, the Department of Education itself has been ticketed for oblivion. The administration's much touted block grant program will, if it ever gets organized, deliver to school districts a fraction of the federal aid they used to enjoy while leaving intact the state and federal bureaucracies that the administration swore to abolish.

Even worse, the block grant program, by obliterating 20-odd categories of federal support—including basic skills, foreign language, gifted education, innovative programs, career preparation and desegregation assistance— has simultaneously erased some vital national educational priorities, though surely not by accident.

President Reagan's 1983 budget shows a 22 percent cut in spending for education, following on last year's 13 percent trimming. The Department of Defense, on the other hand, will be enjoying an 18 percent increase for the second year in a row. Undoubtedly, this obscene misalignment of national priorities will widen even further in the 1984 budget.

Our current unprecedented neglect of education is all the more ironic for it is occurring in the midst of a much-bemoaned technology/productivity gap, not unlike the post-Sputnik era of the late 1950s. It is everywhere acknowledged that American industrial innovation and capacity has fallen quite drastically behind that of Japan, Germany, and other nations.

Our domestic producers of automobiles, steel, television sets, cameras, shoes and many other products have been wounded by a crossfire of international competition that makes the Sputnick science gap look paltry by comparison. Back in the 1950s, Americans undertook an immediate and large-scale recommitment to education and funds were promptly appropriated to meet the perceived scientific challenge. Today, we merely look at our competitors and whine. We ponder the obvious solution—the train-

ing and retraining of people—and say, "Why bother?"

[From the Chicago Tribune, Sept. 17, 1982]

AMERICAN TEACHERS DESERVE BETTER

(By Harvey Daniels)

At this uniquely dim moment in the history of American education, it is even harder than usual to be a teacher. But then the public has never shown much appreciation or understanding of the work that teachers do—a fact that has long been reflected in the salaries that teachers are paid. Even though teachers have moved up, in the last two decades, from subsistence to middle-class incomes, the average school teacher still earns an amount—$19,064—that is less than the average coal miner, steelworker, truck driver or sanitation worker. And since 1971, the purchasing power of the average teacher's salary has dropped more than 14 percent—a fate not shared by the members of many other occupations.

Of course these humble rewards have long been justified by the ready rationalization that teachers do easy work for short hours on a cushy calendar to earn those salaries that their unions so impolitely scoff at. This persistent notion that teaching is a soft job is one of the most annoying and unfair misperceptions that teachers must live with.

It is difficult to accurately describe the real challenges of teaching without starting to dovetail with overzealous unionist propaganda ("300,000 Teachers Mugged By Students This Morning!").

Suffice it to say, perhaps, that teaching is an extraordinary difficult, complicated and demanding job. Teachers work with people, always young, relatively unpredictable ones, and usually with quite a lot of them—perhaps 30 for the average elementary teacher and 125 for the typical high school teacher. For these groups of students, the teacher is expected to act not just as an instructor, but also in a score of other roles, from disciplinarian to record-keeper to evaluator to psychologist to performer.

And, as the teacher fulfills the varied responsibilities of the job, he or she is expected to—and wants to—try to know, appreciate, support and meet the special needs of each individual student in the class. Obviously, these demands are mostly intellectual and emotional—and yet the work takes a terrific toll. There is a peculiar kind of exhaustion that teachers feel at the end of a day, a week, a year of teaching that reaches much deeper than the after-effects of any physical labor, as anyone who has done both will testify.

It is not just bone-weary, but soul-weary—for teachers, when they are doing the job right, are giving away pieces of themselves every day. There are teachers around—ex-teachers, mostly—who will announce that teaching is really a soft job, that it is hardly any strain at all. Such people are merely admitting that they never understood the job in the first place and never were real teachers.

What balances all these stressful demands, and makes teaching a marvelously rewarding job for certain kinds of people, is the same thing that drains so much energy—the daily, elemental, human sharing with those extremely special and highly diverse people we call kids. Teachers love this give and take because they are idealists at heart—givers, helpers, carers, fixers, rescuers, protectors. In teaching, as in any care-giving enterprise, there is the ever-present possibility of joy, for nurtured and nurturer alike.

Unfortunately, this delicate balance sometimes shifts. Because of the stresses of the job, because of declining rewards, because of administrative neglect, because of diminished public support, because of plain wear and tear, some teachers lose touch with the joys of their work. The press refers to this as "burnout"—how lovely that the pundits borrow terminology from the drug culture to describe teachers—but the real ailment is emotional exhaustion, and it demands a caring response.

Today more than ever, American teachers desperately need opporuntities to revitalize themselves, to rediscover their commitment to students, to find more effective ways of teaching, to work on basic skills issues and to have some respite from the endless cascade of abuse to which they have been subject. Generally speaking, individual school districts cannot afford to provide many such opportunities, though a few federal and foundation-funded efforts have shown the way.

One such program I've worked on is the Illinois Writing Project, which, among other activities, brings groups of teachers to intensive summer institutes during which this professional revitalization is a matter of central concern. While our primary curricular focus is on the teaching of writing, we work with teachers of all subjects and levels. And while we do not recruit "burned out" teachers, the people who do enroll feel varying degrees of occupational exhaustion—and issues of teacher stress, morale and motivation are always on the group's agenda.

As a leader, I have been inspired by the time I've spent with these teachers from Illinois and around the Midwest—teachers who have left their homes and families for four weeks during summer vacation, who don't even get their expenses of attending covered, who live doubled up with strangers in 10 by 6 dorm rooms in a strange city, who attend institute classes for six hours a day and do homework at night—all to become more effective teachers of composition. In the group sessions, the teachers speak movingly about the importance of their profession, about their frustration with its shortcomings, about their drive to be better at what they do, about their affection for their students.

At the end of this last summer's institute, one of the teacher-participants appended this note to his course evaluation form:

"One terrifically important thing I got out of the workshop was a renewed enthusiasm for teaching and learning. I haven't felt that way—haven't had my enthusiasm fed—for such a long time. I haven't received much encouragement or enlightenment lately. I've felt like a person crawling, looking for water in a parched, uncaring, indifferent desert. I feel I found water this summer—and a bunch of people sitting around the well chatting good-naturedly, ready to listen caringly and to offer encouragement and suggestions without judgment. I feel revived. I'm a bit anxious about September, feeling that I'll be re-entering the desert. But I know I'm returning to the arid scene refreshed, with a canteen over my shoulder—and a telephone list of colleagues I can call if I need to. Thanks for this gift."

Looking back on these comments a couple of months later, I am struck by several thoughts. First I am uplifted as I remember the teachers from this summer, people who make a mockery of a recent Time magazine article with its cheap, contemptible slurs. Second, it makes me sad that American teachers must react to practically any supportive in-service training as some extraordinary privilege or gift. And finally I am angry about shortsighted national and local policies that obstruct the revitalization of schools and teaching.

Even though it runs against the present tides, we ought to quit punishing and start doing. We should cash in a few nuclear warheads, forgo a couple of B-1 bombers, postpone some Poseidons—and use those millions for something really patriotic, like defending the quality of our schools.●

CONSERVATION OF CRITICAL MATERIALS

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CANNON. Mr. President, on September 22, the House accepted and passed an amendment to S. 2271, the "National Bureau of Standards Authorization Act for Fiscal Year 1983," which I joined with Senator SCHMITT in offering when S. 2271 passed the Senate on August 12. This amendment contains a provision of particular importance to the Nation's continuing need to reduce its dependence on foreign sources for certain critical materials such as chromium. It assures additional funding in fiscal year 1983 in the amount of $3 million for research in metals processing. The industrial base of our country, so essential to our defense and civil needs, is in continuous jeopardy because of its dependence on foreign sources for a number of critical materials. Our national program to stockpile a safe reserve of such materials has been neglected by the administration.

One might wonder whether this provision of S. 2271 puts the National Bureau of Standards (NBS) into the minerals exploration business. Certainly not. But it will achieve some of the same net effects by intensifying additional research in the promising field of metals processing. Let me explain.

Industry for many years has utilized a number of relatively scarce metals as alloying elements fused with commonly available basic metals such as iron and aluminum to achieve important, indeed essential, performance characteristics in the finished materials or alloys. For example, corrosion resistance, wear resistance, toughness, and ductility are important characteristics largely determined both by the precise amount of alloying material introduced and the technology for blending or fusing it with the parent metal. Research in metals processing holds forth great promise for developing new technologies for achieving those needed performance characteristics with sharp reductions in the amount of imported alloying materials used in the process.

My interest and concern as to the practical outlook for such achieve-

ments in the NBS prompted me to authorize an indepth visit by a committee staff scientist to the Center for Materials Science of the National Measurements Laboratory of the NBS. I would like to touch on a few high points of that visit.

The Center for Materials Science is responsible for providing data, measurement methods, standards and reference materials, concepts, and technical information on the fundamental aspects of processing, structure, properties and performance of materials to industry, Government agencies, universities and other scientific organizations. The programs of the Center necessarily emphasize basic research into the microstructure of materials and material processes without which it is impossible to provide measurement standards and references required for safe and efficient utilization by industry of the many new material compositions and processes. The work of the Center is carried out under the able direction of Dr. Mehrabian in its Divisions for Chemistry, Metallurgy, Polymer Science and Standards, Fracture and Deformation, and Reactor Radiation. These Divisions are staffed with outstanding scientists including physicists, chemists and metallurgists. Their laboratories are excellently equipped, often with facilities available nowhere else in the world.

The Metallurgy Division has the primary responsibility for achieving the metal processing objectives authorized in S. 2271. Its metals processing laboratory has pioneered in the technique of alloying through rapid solidification. In conventional alloying, several metallic elements are blended in the molten or liquid state and then cooled into the solid state. During such cooling, the desired homogeneity of the alloy is upset by varying degress of uncontrollable segregation of constituent alloying elements. This can result in microscopic discontinuities with resulting degradation in desired performance characteristics. In rapid solidification, the liquid mixture of alloying elements is cooled into the solid state in innovative processes wherein the cooling is completed in milliseconds or less. This rapid solidification retains the homogeneity of the liquid mixture of the several elements and thus the expected performance characteristics of the alloy. The alloy powders, ribbons or filaments typically produced in these processes can be consolidated into bulk materials with properties unobtainable by other means.

Another process under examination in the Metallurgy Laboratory of the Center is surface coating using high energy sources. A laser beam is moved across the surface to be treated which causes virtually instant melting and refreezing of a surface film to which can thus be imparted surface characteristics of hardness or other desired characteristics.

Support for research such as the above was provided by the Senate Commerce Committee and the Congress for fiscal year 1982. However, support for this program was subsequently withdrawn by the administration in its fiscal year 1983 budget request. It has now been restored by this amendment.

I am confident that this $3 million budgetary reinforcement of the Bureau's Center for Materials Science will enable its fine scientists and excellent laboratory facilities to contribute greatly to the country's need for conservation of critical materials. I thank Senator SCHMITT for his assistance in this effort and the wisdom of the House in endorsing it yesterday.●

REPRESSION OF SOLIDARITY IN POLAND

● Mr. MURKOWSKI. Mr. President, after 18 months of hesitant progress toward the recognition of fundamental civil liberties, the Polish people and their popular representative, Solidarity, have been subjected to nearly 10 months of police brutality and repression. In lock-step with the Soviet Union, the military junta of General Jaruzelski, has systematically erased the important gains in the name of freedom which has been secured by and for the people of Poland. The trade union Solidarity has, of course, been instrumental in negotiating for Polish workers, and in keeping the dream of freedom alive under the terrorism of the martial law regime.

Mr. President, let the record reflect that a low point in the short history of the Solidarity movement came during the recent congressional recess. The 31st of August marked the second anniversary of the signing of the Gdansk agreements. From their places in hiding, the freedom fighters of the Solidarity underground called for peaceful national demonstrations to condemn the martial law conditions imposed by Poland's military government in defiance of earlier promises to expand personal choice in accord with the Gdansk agreements. More than 50,000 Polish patriots—protestors—braved the Government's threats of brutality and violence, to turn out in four major cities as proof that Solidarity and the dream of freedom from totalitariansim is very much alive today.

The police and the dreaded paramilitary riot troops, the ZOMO, were dispatched by the junta to crush the people's outpouring of emotion. Using concussion grenades, tear gas, helicopters, and water cannons, wave after wave of troops brutalized unarmed citizens and turned peaceful protests into violent debacles.

The military junta continues to suppress human rights in Poland. Solidarity members are arrested by the Government even today. Hundreds of Solidarity members are in Polish prisons facing up to 15 years in prison simply for supporting a national union which the Polish Government had officially recognized as recently as last December. Tyranny of this magnitude can never foster national stability or economic prosperity—the alleged aims of the ruling junta. Indeed, the military regime has driven Poland to the brink of bankruptcy. General Jaruzelski's plea for calm is a transparent diversion meant to coverup the systematic eradication of free speech and an attempt to destroy Polish Solidarity.

It is manifest that the Jaruzelski regime will not tolerate the existence of truly independent trade unions in Poland after the lifting of martial law. More important is the unmistakable trademark of Soviet Russia's influence upon the people's government of Poland. Under these circumstances, it is incumbent upon the United States to use the resources at its disposal to demonstrate to the Soviets that Americans will not stand aside while the sovereignty of the Polish nation is subverted and basic freedoms are denied to millions of Polish citizens.

Support for President Reagan's economic sanctions against both the Soviet Union and the Polish military junta is presently the most effective response which Americans can make in the face of the developments of the last 9 months in Poland. The current Polish leadership has recently accused President Reagan of sharing the anti-Communist and God-fearing philosophy of Solidarity leader, Leach Walesa. Americans should feel no shame in declaring the accuracy of that supposed accusation. We as a people can no longer stand by and watch Poland's military junta maintain a state of war with its own citizens.

Reports from the Soviet Union clearly indicate that the Russians are encountering significant problems and delays in construction of the Soviet natural gas pipeline to Western Europe. These difficulties are a definite sign that the economic sanctions imposed against the Soviet Union by President Reagan are working to telegraph to the Russians, American outrage over Communist intervention in the affairs of foreign governments. The economic sanctions which the President has imposed against Poland on the other hand pose a dilemma. We do not mean to be understood as intending to punish the Polish people or Solidarity. American economic sanctions represent this country's response to the usurpation of civil rights in Poland.

In the face of the recent unrest in Poland, General Jaruzelski has vowed to stamp out all opposition to his mar-

tial law regime. It is evident that the Polish military government does not have the true interests of the Polish people in mind. It is the interests of the Soviet Union which the Polish Government now seeks to advance at the expense of the Polish people. The Poles have repeatedly expressed their distaste for the Soviet brand of socialism, and they have, with remarkable unity, demonstrated their resistance to Russian intervention in Polish national affairs. Until conditions improve substantially in Poland, Americans must express their repugnance for the situation through support for President Reagan's policies toward Poland and Soviet Russia. We cannot ignore the Soviet's subversion of the rights of the Polish people and we must continue to urge a peaceful solution to this crisis, not one which has been imposed by a military puppet against the will of the people.●

LAS VEGAS HOSE COMPANY NO. 1

● Mr. DOMENICI. Mr. President, Las Vegas Volunteer Fire Company, Hose Company No. 1, is celebrating its 100th anniversary of public service. In order to commerate the milestones of this august organization and its history of dedicated public service, I ask that the chronology of Las Vegas Hose Company No. 1 be printed in the RECORD.

The chronology follows:

June 8, 1877: Fire in Rosenwald's store. No firemen, so it spread to all other buildings on the south side of the plaza, until rain checked it that evening. (Daily New Mexican, June 9, 1977)

April 3, 1880: Meeting to be held in the Baptist Church to consider the need for more fire protection. (Optic, March 11, 1880) No immediate action.

September 18, 1880: Big fire burned out one block on Railroad Ave. The people were helpless as the entire community had "no fire department." (Optic, Sept. 20, 1880)

1880: Given as the date of the founding of Hose Co. No. 1, but erroneous. (Anonymous Manuscript, Las Vegas Fire Dept.)

July 9, 1881: Contract, Agua Pura Co. to install 30 fireplugs. (Minutes, County Commissioners.)

Autumn 1881: Exact date of founding of Las Vegas Hook and Ladder Co. unknown, but members were rehearsing for a play to be presented in Baca Hall to raise funds for equipment. (Optic, Nov. 5, 1881)

November 5, 1881: Big fire on Railroad Ave. Volunteers of Hook and Ladder Co., both towns, helped to control it, but there was inadequate protection. (Gazette, Nov. 5, 1881)

November 28, 1881: Big fire on Center St. (now Lincoln). Four members of volunteer co. Brought hook and ladder cart. It was inadequate. "Need a hose cart." (Optic, Nov. 29, 1881; Gazette, Nov. 29, 1881)

Autumn 1881: M. A. Otero Jr., wrote years later that Hose Co. No. 1 had been organized in 1881 and he was the treasurer. Members were called from a dance one night that fall, and hose connected to a hydrant helped save some building. His memory was inaccurate. The only correct statement as that Hook and Ladder Co. was called from a dance that fall. Later, he was treasurer of Hose Co. No., 1 which didn't exist in fall, 1881. There were no fire hydrants then either. "My Life on the Frontier," Vol. 1, p. 245)

November 30, 1881: Meeting on east side, Charles Tamme, chairman. Must prepare to organize a hose co. as the water system will be ready in about two months. Raising money to buy a cart. (Optic, Dec. 1, 1881)

1881: Given as the year for the founding of Hose C. No. 1 in historical article on Los Bomberos ("La Voz del Pueblo," Jan. 26, 1918) The Company was not actually organized that early, this must have referred to the preparation.

March 27, 1882: Meeting in Santa Fe organized two fire companies. Raising money to buy equipment. (Santa Fe New Mexican, March 28, 1882)

March 30, 1882: Fire companies of Sante Fe filed incorporation papers. (Incorporation Classification, Book 1, State Records Center).

April 12, 1882: East Side Fire Dept., Las Vegas, filed incorporation papers. (Ibid.) Apparently, this was the Las Vegas Hook and Ladder Co.

May 17, 1882: Bad fire on Railroad Ave. A fire plug already installed did not have the horse cart yet, although it had been ordered. (Optic, May 18, 1882).

June 12, 1882: Hose Co. No. 1 organized on the east side. (Father Stanley, P. 104)

June 21, 1882: Hose Co. No. 1 made trial run with new hose cart. (Optic, June 21, 1882)

June 26, 1881: East and west sides incorporated into a consolidated city. (Optic, June 26, 1882)

July 8, 1882: Meeting called by B.T. Mills organized Las Vegas Hose and Fire Co., west side. Elected H. Hutton foreman and W. H. Shupp asst. Will raise funds and name co. after largest donor. There was evidence of advanced preparation for this. (Gazette, July 9, 1882)

July 17, 1882: Don Eugenio Romero, timber-cutting contractor, elected mayor. (Gazzette, July 17, 1882)

1882: Historical article in Los Bomberos, based on interviews, said B.T. Mills organized the Co. on west side after a fire in late fall of 1882, and called it "Hose Co. No. 2". ("La Voz del Pueblo," Jan. 26, 1882).

1882: Las Vegas Hose Co. in frame building on Bridge St. (Strate, "E. Romero Hose Co." manuscript, p. 5) Lithograph of 1882 does not show it, could have been later in the year.

November 22, 1882: Fire burned a grocery store, and hose companies kept it from spreading. (Optic, Nov. 22, 1882) Typical sequence of reports about fires.

Autumn 1882: Hose Co. No. 1 in a small building "next to Optic office." (Optic, Nov. 25)

Autumn 1882: First firemen's races at Fair in Alb. has as entrants two companies from Las Vegas and two from Santa Fe. (Optic, Oct. 3, 1883)

Spring 1884: Hose cart races in Las Vegas had as entrants two local companies and two from Santa Fe and one from Trinidad. (Optic, April 24, 1884)

Autumn 1884: Electric gongs installed in the fire station. (Optic, Oct. 10, 1884)

November 30, 1884: E. Romero Co. celebrated 2nd anniversary with members of No. 1 as guests. Reported that name was changed by announcement at a ball on May 22, 1884, in honor of the mayor, donor of the largest sum: $100.00. (Optic, Dec. 1, 1884)

Spring 1886: Co. No. 1 in new frame building located on the "Diamond" which is now Fountain Park. (Optic, Dec. 1, 1884)

Autumn 1889: In races at the Fair, new teams were Albuq. and Socorro. (Optic, Oct. 4, 1889)

Spring 1892: A 2nd group organized on the East side, a Hook and Ladder Co. (Optic, March 22, 1892)

Autumn 1893: East side firemen move into new Town Hall. (Optic, Nov. 22, 1893) Still in the same building today.

1899: E. Romero Co. raised funds and bought a fire wagon. They used borrowed horses. (Strate, p. 24)

Spring 1899: The Telephone Co. installed electric fire alarm system. (Minutes, City Council, March 1 and 8, 1899)

Spring 1891: The city bought a fire wagon for Co. No. 1. (Minutes, March 21, 1901)

Autumn 1902: City bought a team for Co. No. 1. (Minutes, Nov. 12, 1902)

1903: E. Romero Co. bought a team. (Strate, p. 25; Gillepie, "The Fire Queens", New Mexico Magazine, Jan. 1966, p. 3)

April 9, 1908: E. Romero Co. filed incorporation papers. This and those listed in 1882 were the only fire companies incorporated in the New Mexico Territorial period. (Corporation Classification, Book I, State Records Center.)

Autumn 1908: Fire siren installed on the power house. (Optic, Sept. 10, 1908)

1908–09: E. Romero Co. raised funds and had a brick station built at the location of the earlier frame headquarters on Bridge Street. (Optic, Jan. 21, 1901: Gillespie, p. 5) Questionable dates—JGW

1916: Each companies acquired a La France fire truck. (Minutes, City Council' Strate, p. 28)

CONCLUSIONS

Although Hose Co. No. 1 was formally organized about one month before the Las Vegas Hose and Fire Co. (E. Romero Co.), actually, were both simultaneous (offshots from) the Las Vegas Hook and Ladder Company founded in 1881, earlier than the companies in Santa Fe. Thus, both here are the same age, and both have substantiated evidence that they are the oldest in New Mexico, with continunity of both dating back to the autumn of 1881.

Compiled by Lynn I. Perrigo.●

NEED FOR HIGHWAY LEGISLATION

● Mr. BAUCUS. Mr. President, I would like to call to the attention of my colleagues a fact that is of utmost concern to this Member and I suspect of concern to most other Members if they pause to reflect upon it. I am speaking of the need for enactment of new highway legislation by September 30 of this year.

As a member of the Environment and Public Works Committee I supported and voted for a multiyear highway authorizaton bill. I did so because I believed the piece of legislation reported by the committee provided some badly needed flexibility for State authorities administering Federal highway programs and it provided some certainty for future years.

Unfortunately, for a variety of reasons, it does not appear that this body will have the opportunity to take up this multiyear legislation this year. Instead we are faced with trying to craft a 1-year extension of existing highway legislation before funding authority runs out on September 30.

This point was recently brought home to me by the Honorable Ted Schwinden, Governor of the State of Montana. In a September 17, 1982, letter to me, Governor Schwinden emphasized that without congressional action by September 30, 10 construction projects in Montana alone will be delayed. This, of course, will result in an unnecessary increase in costs and a loss of needed jobs.

Governor Schwinden also provided me with a copy of the testimony he gave before the Senate Transportation Subcommittee in Salt Lake City on September 2, 1982. At that hearing he was able to address the need for new highway legislation. In addition, his comments on interstate highway completion and repair and the need for a long-term highway program succinctly outline the feelings of most Montanans. I ask that his letter to me and his testimony be inserted in the RECORD so that my colleagues may have the opportunity to benefit from his comments.

The material follows:

HELENA, MONT., *September 17, 1982.*

Hon. MAX BAUCUS,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR BAUCUS: I am increasingly alarmed over the possibility that Congress will not enact new highway legislation by September 30, the expiration date of the current Surface Transportation Assistance Act. It is important that you be made aware of the impact this will have on Montana's highway program if that occurs.

At a hearing held in Salt Lake City by the Senate Subcommittee on Transportation, I commented at length on the escalating problems Montana is having in keeping its highway system functional. (A copy of my remarks is included.) The major cause of the problems, of course, has been declining federal revenue for highway construction and repair, especially in rural Western states. To experience even a short interruption in a program that is already poorly funded, would only seriously aggravate the problems.

If no action is taken by September 30, Montana will have *no* federal obligation authority on October 1. Ten construction projects affecting all highway systems in Montana scheduled to be let to bid in October and November would have to be delayed. This would result in the postponement of 259 direct jobs and $19,421,000 in contract awards. Long-term planning and preconstruction efforts would be seriously interrupted because we would have no indication whatsoever of the level of federal support available in federal fiscal year 1984.

A continuing resolution would clear up the confusion only to a limited degree: existing projects could continue, but letting dates on the others would still have to be postponed because there would be no new apportionment of federal-aid funds. This would apply to interstate, Primary and Secondary System projects.

It is imperative that before October 1 Congress enact at least a one-year extension of the existing federal highway legislation, along with the Highway Trust Fund and an appropriations bill. House Resolution 6965 (formerly H.R. 6211) appears to be the best vehicle to accomplish these objectives, although I would like to recommend two amendments. First, the provision transferring responsibility for the Highway Beautification Program to the states should be deleted pending a more thorough review by the states. Second, a provision stipulating that each state will receive no lesss than one-half of one percent of all interstate 4R funds should be added. This requirement is already a feature of federal law, but should nonetheless be included in the resolution.

With these changes, H.R. 6965 should be advanced to final passage as quickly as possible.

Thanks for your assistance.

Sincerely,

TED SCHWINDEN,
Governor.

TESTIMONY BY MONTANA GOV. TED SCHWINDEN

Senator SYMMS, I appreciate the opportunity to present testimony regarding our federal-aid highway system. I particularly want to thank you for holding these hearings in the West, where highways are vital to our existence and essential to our future.

A hearing on the subject of federal aid to highways could not be more timely or important. As you are well aware, Senator, few problems in the West are as common and pervasive as transportation. Since the days of Lewis and Clark the pace and success of Western development has been dictated by how well we have solved or failed to solve our transportation problems.

In Montana, the shrinking of our railroad system leaves highways as the central means of transportation in our state. At first, roads were simply a way of getting products to and from the railroads. Now highways are critical to the economy in the West. Their condition determines our ability to compete in national and international markets and our ability to expend our economic base. Because there is a direct relationship between highways and a healthy economy, we have reason to be deeply concerned about our economic future: our major highway systems are in poor shape. You have repeatedly heard distressing statistics from other states, and Montana is no different. Our primary highways are in desperate need of reconstruction and repair: fully 50 percent, or 2,660 miles, of Montana's primary system is substandard, with almost 10 percent, or 458 miles considered to be in critical condition. Of this critical 10 percent, moreover, we only expect to be able to work on 33 miles during the current biennium. At the current rate funding, the number of critically deficient miles will increase by 70 miles during the next five years.

The State's bridges are in equally deplorable condition. Of the 2,782 total structures in the federal-aid system, 40 percent are substandard—219 need replacement and 874 require rehabilitation.

Finally, the interstate system in Montana is also suffering from significant problems. Four major gaps remain in the system: 47 miles of four-lane and 27 miles of two-lane construction need to be completed. In addition, repair and reconstruction needs are also increasing as Montana's interstate system ages.

All the systems I have described are dependent upon federal responsibility—a fact that has received non-partisan agreement from past and present Washington administrations alike. But while the federal responsibility is rarely disputed, federal highway program leadership has been lacking. Reductions in federal obligation authority in the past year have crippled the highway program and will delay completion of the interstate system in Montana by more than a decade if the current low level of funding continues. The reduction represents a major step backward by the federal government.

Nothing illustrates more the gap between promise and reality in Montana than the condition of the interstate system. We repeatedly hear from the administration that completion of the interstate system is a top priority. In fact, just last month Mr. Barnhardt of the Federal Highway Administration stated emphatically that completion of the interstate system was the administration's highest priority for highways. That statement rings somewhat hollow as proposals for increased funding have been repeatedly denied. It is time to provide the leadership necessary to solve one of the nation's most significant problems.

We must have additional federal funding. In Montana alone, the cost of bringing both the primary system up to federal standards and replacing the bridges on federal-aid systems would be $1.2 billion. Completing the interstate system would cost an estimated $150 million. The cost to repair and rehabilitate Montana's interstate system is expected to run $14 million per year while the annual cost of simply maintaining the surface of the existing primary system is estimated at more than $20 million. This year, however, Montana's total federal obligation authority has been reduced to $65.4 million, some 30 percent less than the average for the previous five years.

Funding is the most important element of the problem, but allocation of interstate funds also must be re-examined. According to a recent study by the Congressional Budget Office (CBO), federal authorizations for the interstate program, in 1979 dollars, have steadily declined since 1970. Add escalating construction costs and diminishing highway trust fund revenues, and the schedule for final completion of the system must be pushed back to the mid-1990's.

Also, federal highway funds have increasingly been diverted to either public transit projects or to upgrading or expanding the interstate system in largely urban areas where construction costs can run as much as ten times higher than projects in rural areas. About 40 percent of the time those urban projects are of local significance at best, but 75 percent of all interstate construction funds are spent on those local urban projects.

As noted in the CBO report, a substantial portion of interstate construction funds are spent on projects that have little or no relationship to the original concept of the interstate system. Those funds have been diverted from projects that are of national interest and important to national defense, to projects that are local and of no national significance.

In Montana we have about 70 miles of interstate left to be completed. Each of those gaps is considered by the U.S. Department of Defense to be important to the national defense. And they are considered by

the U.S. Department of Transportation to be critical to the completion of a truly interstate system. Those gaps include a key section of I-15 between Butte and our capital city of Helena; a section to complete I-94 east of Billings and a section of I-90, which will link Wyoming and Montana together. All experience balanced traffic flows, are through-routes, and are considered to be of national significance. Yet at the current federal program level, those gaps will not be completed until the mid-1990s because they are forced to compete for federal funding with many less significant projects—projects such as a section I-105, a part of Los Angeles freeway system that has no national significance, primarily serves the local population, and will cost $1.2 billion to construct 15.7 miles of freeway.

As the CBO report points out, "These segments occur along routes that are not part of the network needed to link principle cities together, but rather link facilities of regional importance or improve traffic circulation in congested urban areas." While those projects may be important to local people, they do not adhere to the original concept of the interstate system. In this era of limited funds, our highway priorities are skewed. It is time to straighten them out.

If the present funding and distribution formula continues, Montana will be unable to complete its interstate system for at least ten years. As I said earlier, the current estimate for completing the interstate system in Montana is about $150 million. Our obligation for interstate apportionment authority in fiscal year 1982 was approximately $26.2 million; this year we expect $14.9 million, a reduction of 43 percent.

The CBO report suggests alternative ways of allocating the monies. The federal government should assign a lower priority to projects that are not important to national defense or the national transportation system. It should adopt an allocation system based on the need to complete the existing gaps in the interstate system.

Another concern of Westerners is the increasing shift of federal highway funds from rural to urban states. Distribution formulas are being changed to favor populations and traffic count over lane miles. Those formulas ignore the fact that on a per capita basis, highways in Montana and other western states cost more per mile to build and maintain than more populated states. If the trend in distributing federal funds is not reversed, highway systems in the western states will continue to deteriorate.

The failure of Congress to adopt a long-term national highway program is another matter of concern. The "on-again off-again" funding of highway programs during the past few years is an inefficient and eneffective way to run a highway construction program. The states simply cannot develop credible planning and letting schedules nor spend scarce funds wisely without the assurance of long-term funding and spending authority. The time has come to recognize those problems and deal with them. It will not be easy or popular, as I well know. Recognizing that economic progress could not occur in the face of a failing transportation system, I proposed major highway funding increases to the Montana Legislature twice in 1981. Our legislature rejected those requests, but initially skeptical legislative committees that have since studied the problem are now recommending that the upcoming legislative session increase funding for highways in Montana. Congress should follow suit.

Realistically, all the components of an improved federal highway program cannot be in place by October 1, 1982. This brings me to my last, and most immediate, point. If Congress does not act quickly, all the states will run out of money for the highway programs (except for 4R funding) by October 1. Failure to act could mean a complete halt in planning and letting projects. That must not happen. A one-year extension of the Surface Transportaton Assistance Act is necessary as a stopgap measure until a long-term program can be developed and passed. Currently, H.R. 6965 appears to be the only bill the can be passed before the October recess. It must be approved.

In closing, Senator, I want to thank you for bringing our highway problems to light by holding these hearings in the West.●

THE HORROR OF SHATILA AND SABRA

● Mr. QUAYLE. Mr. President, much has been written and said in recent days regarding the tragic bloodshed and murder which took place in the Palestinian refugee camps of Shatila and Sabra in Lebanon. We have seen on our television screens and read in our newspapers of this sudden and incredible massacre. However, the chain of events which led up to it, the actions of the Israeli Government and Army, and the questions of who knew what and when are certainly not fully known.

There is considerable confusion as to who should bear the responsibility for the incredible horror of Shatila and Sabra. In an effort to restore stability and order in West Beirut, the multinational military force, including U.S. Marines, has reluctantly been ordered back into the area. It is imperative that Israeli defense forces leave West Beirut at once, and that all foreign forces including the Israelis and Syrians depart from Lebanon as soon as the Lebanese Government is capable of assuring the security of its people.

Earlier this week, Prime Minister Begin was, in my view, unfortunately successful in having the Knesset reject calls for an independent inquiry into both the massacre and the earlier decision to move Israeli troops into West Beirut. Thus, I was gratified to learn this morning that he had decided to ask the President of Israel's Supreme Court, Justice Yitzhak Kahan, to head an unofficial investigation into the massacre. Although Justice Kahan has indicated that he will decline the appointment because two court cases are pending on the issue of the Government's refusal to appoint an official commission of inquiry, what is encouraging is Prime Minister Begin's recognition of the need for an independent inquiry. I believe a complete an impartial investigation of all aspects of this tragedy is absolutely essential if Israel is to regain some of its lost credibility and the moral authority for which this relatively young nation has been respected.

Both the United States and Israel are democracies and both should act like democracies. As painful as they have been for the United States to live through, we have had our Watergate investigation, our My Lai investigation, and our Kerner Commission. In a democracy there must be complete and full disclosure of information to the citizens to whom the government is responsible, no matter how embarrassing.

The massacre in Beirut and the events leading up to it must be investigated by independent investigators who will produce a factual report that will not be suspect because it was the work of people beholden to the government. I might add that I believe it would be very useful if the Government of Lebanon would also conduct a similarly independent inquiry into the information available to them regarding this tragedy.

I know that the people of Israel place the same very high value on human life that we do in the United States. Israel exists today largely because of barbarous acts of murder and persecution in Europe. It is clearly in the best interest of Israel that it assure full disclosure of what happened in Shatila and Sabra and why it happened.

I urge the Government of Israel pursue the course of requesting a full and complete investigation by an independent tribunal.●

EDWARD W. RAY, COMMISSIONER, COPYRIGHT ROYALTY TRIBUNAL

● Mr. SPECTER. Mr. President, on September 21, 1982, the Committee on the Judiciary acted favorably on the nomination of Edward W. Ray to be reappointed to a full term as a Commissioner of the Copyright Royalty Tribunal.

We had heard concerns that Commissioner Ray's previous involvement in the recording industry as an executive with several record companies might influence his decision on matters relating to such industry, including the adjustment of mechanical royalties in 1987.

Commissioner Ray has assured the committee that he would recuse himself immediately from any matter before the Commission on which any possible conflict of interest arose. In addition he assured us that he would remain objective and act impartially on all matters brought before him. I request that Commissioner Ray's letter to the committee be reprinted in the record.

I have met Commissioner Ray and believe him to be an honest and forthright individual. I am pleased that with these assurances his confirmation and reappointment could be expedited.

The letter follows:

SEPTEMBER 14, 1982.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN THURMOND: I understand some concerns have been raised in respect to a possible conflict of interest arising out of my past involvement in the recording industry. I am also aware that my previous involvement in the recording industry might cause some to question my objectivity in making decisions in this area.

I assure the Committee that should any possible conflict of interest arise, I would immediately recuse myself. I on the other hand feel that this experience will be beneficial and of great assistance in the performances of any duties as a Commissioner on the Copyright Royalty Tribunal. I would refer you to a statement on this matter by Mr. S. T. Chiantia, Chairman of the National Music Publishers' Association, Inc.:

"The confirmation of Edward W. Ray, who has personal experience in the record industry, would bring to the Tribunal a depth of knowledge which could aid the Tribunal's effective discharge of its responsibilities. At the same time the nomination raises the question whether the Tribunal might become a forum composed of representatives of contending parties rather than an impartial adjudicator of these interests. Whether an appointment of someone from the record industry will lead in that direction depends upon the disposition of the appointee and his ability to shed past allegiances, using previous employment only as a reference for informed dispassionate judgment.

"While aware of the fact that Mr. Ray has a long relationship to the record industry, we believe he will forego any leanings towards that industry and perform as an impartial member of the Tribunal. In the sincere belief that Mr. Ray is a man of character, whose appointment does not presage a change in the judicious and impartial tradition of the Tribunal, we enter no opposition to his confirmation."

Mr. Chairman, I assure you and the Committee that I will remain objective in my opinions and act in an impartial manner in all matters brought before me.

In addition as I informed the Committee upon my initial confirmation in February of this year, I have co-songwriter interest in a 1955 recording entitled "Hearts of Stone" and some concern has been raised in this matter. The average annual income I receive from this recording amounts to approximately $1000.00. I am proud to have co-authored this song, but as I previously told the Committee I will sell my interest in this song if this action is required for confirmation.

If any further information is desired, please do not hesitate to contact me.

Sincerely,

EDWARD W. RAY.●

NATIONAL HOSTEL SYSTEM PROMOTES YOUNG AND OLD, BICYCLERS, HIKERS, FAMILIES ON A BUDGET AND AMERICAN BUSINESS

● Mr. BAUCUS. Mr. President, I am very pleased to cosponsor S. 2676, a bill that would promote the development of a national hostel system.

I cosponsor the National Hostel System Plan Act of 1982 for a number of reasons, not the least of which is the great dearth of hostels in the United States. We now have less than 300 youth hostels in the entire country. There are only a handful in my State, Montana.

The number is inadequate because hostels offer the kind of low-priced, systematically organized accommodations needed by millions of travelers this country hosts every year.

In contrast, Europe offers visitors, young and old alike, over 5,000 inexpensive, convenient, and very reliable hostels from which to choose. Indeed, there are 50 nations in the world that offer hostel systems to their travelers, and the United States is the only one that does not offer some form of governmental recognition to this very important network of accommodations.

The low-cost dormitory style hostel is famous as an integral part of European hospitality to travelers. Not only do "youth" hostels serve all age groups, they also provide tourists from all over the world the opportunity to meet citizens from virtually every land. They offer safety and certainty in sometimes difficult and uncertain circumstances. They enable people who would not otherwise be able to afford it the chance to see new sights, hear new sounds, and share their experiences with travelers from around the globe. Hostels can serve as gateways to the most important and most beautiful historic and natural sights of a nation, and they can serve especially well in this vast and exciting land of ours.

Yet the recurrent cries of many U.S. travelers is that we simply have too few hostels and those we do have are not well located with regard to each other.

My State, Montana, offers entrances to both Glacier and Yellowstone National Parks. Both of these parks see millions of tourists annually—including hikers, bikers, and campers. Many more travelers might be able to visit my State were the national hostel network expanded. Right now, I am pleased that we have hostels at Red Lodge, Missoula, Polebridge, and East Glacier with new hostels being established in Hamilton and Whitefish. But it is extremely difficult for the best managed hostel to stay open unless it is a part of a national network.

The opportunity for inexpensive travel is becoming more and more difficult to find, especially in these economically trying times. Public recreation facilities are in desperate financial and physical trouble. Safety for young travelers is an ever-increasing problem. Inexpensive and educational travel programs for all ages are in short supply. And yet bicycling, hiking, camping, and budget touring continue to quickly expand as more and more people seek wholesome recreation on tight budgets. I believe the National Hostel System Plan Act of 1982 would help alleviate a great many of the problems our Nation's sojourners face.

At present, American Youth Hostels (AYH), a private, nonprofit organization, stands alone in having established a system for the development and management of a network of youth hostels in the United States. The national hostel system plan would help create a national network of hostels. It would eliminate some of the financial and maintenance burdens on public recreational facilities. It would expand the American Youth Hostels travel program, and it would offer a greater umbrella of protection for travelers as more hostels become available.

The national hostel plan as envisioned in this act, would authorize the Secretary of the Interior to work in conjunction with the private sector and AYH to coordinate a plan for the development of an expanded system of hostels in the United States—without the need for Government funding. So, without Government funding, this legislation will help to design an overall plan for the development of an expanding hostel network. The plan would propose and develop ways in which profit and nonprofit organizations could operate new hostels, while at the same time clarifying the role of the Government in these development efforts. National park and recreation systems, as well as State and local parks, would be encouraged to work with AYH to utilize park facilities that can no longer be operated by public recreation programs.

The national hostel system plan would assess the present and future demand for hostel systems within the United States, listing possible locations and evaluating resources which could be used in the development of the hostel system. It would direct a better use of resources that are already available in order to develop a wider system of hostels from which all travelers potentially benefit. Developing a wider network of systematically planned hostels would not only make travel a more educational and enjoyable experience, but would also give Americans and our foreign guests greater acccess to our cities and vast park system.

There has been an increase in the number of youth hostels in the United States from under 100 in 1965 to nearly 300 in 1980. This reflects a growing public awareness of the opportunities hostels provide as well as a growing public interest in cheap, efficient, and educational travel. Moreover, the 1980 American Youth Hostels membership of 100,000 represents an annual sales market of $60 to $70 million in transportation, food, lodging, sporting equipment, and clothing.

In these terms alone it becomes apparent that such an industry should neither be ignored nor neglected. Rather, we should encourage this very clean form of industry which not only benefits the travelers, but benefits merchants and communities throughout the country.

Mr. President, Montana has been, and will continue to be, a center of recreational activity. I believe that every local chamber of commerce in the United States can learn from my State what benefits are available to those who are willing to work to increase budget recreational activity.

A shining example in Montana is Bikecentennial. Montana provided a home for Bikecentennial in 1974. I remember when its organizers first brought the concept to my office in the House of Representatives. While most other enterprises organized around America's Bicentennial have long since disappeared, Bikecentennial is now the largest service organization for bicycle tourists in the United States. It has nearly 18,000 members nationwide. Throughout the country, bicycle tourists know that they can call or write to this organization in Missoula, Mont., and get the latest in route maps and other help for bicyclers.

I am a member of the Senate's Select Committee on Small Business. There are few areas of small business activity that offer more promise than the recreational industry. Bicyclers from all over the country often will head directly toward Missoula across the system of national bicycle trails being developed by Bikecentennial. When they get to Missoula, they will find a growing recreational industry in the midst of an otherwise hard-hit economic area. Missoula, a moderately sized community by national standards, now has a bicycle coordinator. It hosts many family bicycle activities and one of the best custom bicycle manufacturers in the country.

Summer and winter, tourists come to Montana and add to our State's economy. Family tourists traveling on a budget, students, hikers, bicyclers, train tourists, bus tourists, and many others will go where they can find affordable, safe accommodations.

I believe that every Senator here represents a State that could be benefited substantially by the economic activity generated through the increased travel and tourism that would follow an expanded system of hostels within his State. Rarely do we hear of a way of promoting such a good, wholesome and economically sound activity at such a low cost to the Treasury, and I would urge my colleagues to join me in cosponsoring this legistration.●

PRELIMINARY NOTIFICATION, PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on September 17, 1982.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229, Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 17, 1982.
In reply refer to: I-03113/82ct
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $50 million.

Sincerely,

PHILIP C. GAST,
Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of a proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point a notification which has been received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 24, 1982.
In reply refer to: I-03361/82ct
Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-85, concerning the Department of the Navy's proposed Letter of Offer to Portugal for defense articles and services estimated to cost $220 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-85]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Portugal.

(ii) Total Estimated Value: Major Defense Equipment,* $0 million; Other, $220 million; Total, $220 million.

(iii) Description of Articles or Services Offered: Remanufacture of 24 A-7A and six TA-7A Military Assistance Program aircraft to the A-7P and TA-7P configurations with initial spare parts and ground support equipment.

(iv) Military Department: Navy (SAF).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 24, 1982.

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

PORTUGAL—REMANUFACTURE OF A-7A AND TA-7A AIRCRAFT TO THE A-7P AND TA-7P CONFIGURATIONS

The Government of Portugal has requested the remanufacture of 24 A-7A and six TA-7A Military Assistance Program aircraft to the A-7P and TA-7P configurations with initial spare parts and ground support equipment at an estimated cost of $220 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Portugal; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

This sale is part of a total program involving the acquisition of two squadrons of A-7P aircraft and TA-7P training aircraft with spare parts and support equipment. The A-7P program is part of the NATO Military Committee plan to improve the capability of the Portuguese armed forces in the collective defense of the Alliance.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Vought Corporation of Dallas, Texas.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Portugal.

There will be no adverse impact on U.S. defense readiness as a result of this sale. The program start date will be adjusted to assure that required U.S. Navy aircraft engines will be provided to the contractor on a schedule that will have minimal if any impact on U.S. readiness.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notifications which have been received. Any portion which is classified information has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, Room 4229, Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 17, 1982.

HON. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-75 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $50 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Director.

[TRANSMITTAL No. 82-75]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROLS ACT

(i) Prospective Purchaser: Turkey.

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	$42
Other	8
Total	50

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Seven hundred fifty AIM-9P3 Sidewinder missiles with spares, support equipment, training, and a mini-depot.

(iv) Military Department: Air Force (YBA).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 17, 1982.

POLICY JUSTIFICATION

TURKEY—AIM-9P3 SIDEWINDER MISSILES

The Government of Turkey has requested the purchase of 750 AIM-9P3 Sidewinder missiles with spares, support equipment, training, and a mini-depot at an estimated cost of $50 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability, and enhancing the defense of the Western Alliance.

Turkey intends to use the missiles on currently possessed aircraft. Since Turkey has AIM-9P3 missiles in its inventory, absorption of the AIM-9P3 missiles will present no problems. The sale will stabilize the Turkish Air Force AIM-9P operational capability over the next few years.

These items will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be the Ford Aerospace and Communications Corporation of Newport Beach, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEPARTMENT OF STATE,
Washington, D.C., September 10, 1982.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of 750 AIM-9P3 Sidewinder missiles is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY,
Under Secretary of State.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 20, 1982.

Hon. CHARLES H. PERCY,
Chairman, Commission on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-77 and under separate cover the classified annex thereto. This transmittal concerns the Department of the Air Force's proposed Letter of Offer to Bahrain for defense articles and services estimated to cost $180 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-77]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROLS ACT

(i) Prospective Purchaser: Bahrain.

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	$86
Other	94
Total	180

[1] As defined in section 47(b) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Two F-5F and four F-5G aircraft with initial spares, support equipment, munitions, and 60 AIM-9P3 SIDEWINDER missiles.

(iv) Military Department: Air Force (SCA).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 30 June 1982.

(viii) Date Report Delivered to Congress: September 20, 1982.

POLICY JUSTIFICATION

BAHRAIN—F-5F AND F-5G AIRCRAFT WITH SPARE, SUPPORT, MUNITIONS AND SIDEWINDER MISSILES

The Government of Bahrain has requested the purchase of two F-5F and four F-5G aircraft with initial spares, support equipment, munitiond, and 60 AIM-9P3 Sidewinder missile at an estimated cost of $180 million.

This sale is consistent with the U.S. policy of assisting other nations to provide for their own defense and security by the transfer of reasonable amounts and types of military equipment. Bahrain, although a small nation in the increasingly volatile Persian Gulf area, is a member of the recently created Gulf Cooperation Council and seeks a modest defense establishment within this context. A moderate voice in the region, Bahrain is a longtime friend of the United States and allows the U.S. Navy access to facilities in the country.

The aircraft will be used by the Bahrain Defense Force to enhance its air arm It will provide the country with a modest airborne air defense capability to supplement its ground air defense systems.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Northrop Corporation of Hawthorne, California.

Implementation of this dale will require the assignment of ten U.S. Government personnel and three U.S. contractor representatives to Bahrain for two years.

There will be no adverse impact on U.S. Defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 20, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-86 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services, estimated to cost $2,999 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-86]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROLS ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	$2,034
Other	965
Total	$2,999

(iii) Description of Articles or Services Offered: Eighty-four F/A-18A aircraft with 24 spare F-404 engines, spare parts, ground support equipment, contractor technical services, contractor training, program management, and co-production of various components.

(iv) Military Department: Navy (SBQ).

(v) Sales Commisson, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: September 20, 1982.

POLICY JUSTIFICATION

SPAIN—F/A-18A AIRCRAFT

The Government of Spain (GOS) has requested the purchase of 84 F/A-18A aircraft with 24 spare F-404 engines, spare parts, ground support equipment, contractor technical services, contractor training, program management, and co-production of various components at an estimated cost of $2,999 million.

The sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Spain; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The Spanish Air Force needs these aircraft to replace the fighters in the current Spanish inventory which are based on 1960's technology. This sale will enhance the readiness of the GOS to meet external aggression, develop increased equipment commonality between U.S. Forces and those of Spain, and enable the GOS to carry out its mission in support of its new NATO commitments.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the McDonnell Douglas Corporation of St. Louis, Missouri.

Implementation of this sale will require approximately 14.4 man-years of effort in Spain from various U.S. Government agencies with an additional 13 man-years of support from various contractor personnel starting in FY 82 and lasting through FY 89.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., September 20, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 82-84, concerning the Department of the Air Force's proposed Letter of Offer to Belgium for defense articles and services in excess of $50 million. Since most of the essential elements of this proposed sale are to remain classified, we will not notify the news media.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 82-84]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROLS ACT

(i) Prospective Purchaser: Belgium.

(ii) Total Estimated Value: (Deleted.)

(iii) Description of Articles or Services Offered: (Deleted.)

(iv) Military Department: Air Force (SVI).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate over.

(vii) Section 28 Report: Case not included in section 28 report.

(viii) Date Report Delivered to Congress: September 20, 1982.

POLICY JUSTIFICATION

(U) This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Belgium; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

(U) The sale of this equipment and support will not affect the basic military balance in the region.

(U) The prime contractor will be the General Dynamics Corporation of Ft. Worth, Texas.

(U) Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Belgium.

(U) There will be no adverse impact on U.S. defense readiness as a result of this sale.●

QUORUM CALL

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded,

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, there is a prior order for convening on Monday next, is there?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. What is that hour?

The PRESIDING OFFICER. The hour is 11 a.m. on Monday.

Mr. STEVENS. I thank the Chair.

RECESS UNTIL 11 A.M. ON MONDAY, SEPTEMBER 27, 1982

Mr. STEVENS. Mr. President, there must be something to the fact that the Presiding Officer and I are the two Senators from the State farthest away that leaves us here on Friday afternoon at this time.

I ask unanimous concent that the Senate stand in recess in accordance with the prior order.

There being no objection, at 4:40 p.m. the Senate recessed until Monday, September 27, 1982, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 24, 1982:

APPALACHIAN REGIONAL COMMISSION

Winifred Ann Pizzano, of Virginia, to be Federal Cochairman of the Appalachian Regional Commission.

Jacqueline L. Phillips, of Maryland, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

EXTENSIONS OF REMARKS

A CONGRESSIONAL SALUTE TO THE CALIFORNIA ESCROW ASSOCIATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. ANDERSON. Mr. Speaker, in October the California Escrow Association (CEA) will hold its 27th annual education conference. I would like to take this opportunity to address the Congress on the many outstanding contributions which the CEA has afforded my State of California.

In 1924 a group of six escrow supervisors in Los Angeles began meeting to discuss escrow problems of mutual interest. Those in the group were: D. C. Geiselman, National City Bank of Los Angeles; Jack Church, Security National Bank; J. L. Keys, Security National Bank; William M. Crandall, Pacific Southwest Bank; Fred Howley, Citizens National Trust & Savings Bank; and, Wallace Rimpau, California Bank.

The discussions proved to be so interesting and educational that escrow officers of other banks were also invited to attend. Because of the success of the meetings, it was suggested in late 1924 that an association be formed in Los Angeles for the purpose of presenting and discussing escrow problems.

In early 1925 the name, California Escrow Association, was adopted, and Mr. John C. Campbell, of Pacific Southwest Bank, was elected the first president.

The association continued to grow, and by 1945 there was a paid membership of over 245 persons. For a period of time, beginning in 1941, the association had a monthly publication, The Escrow Indian, which contained articles pertaining to the handling of escrows and items of local interest. It was very well received but had to be discontinued because of the war.

With the organization of escrow associations in communities throughout southern California, it was decided that a statewide organization be formed, with a membership composed of various regional escrow associations. To help in this undertaking, the original California Escrow Association changed its name to Los Angeles Escrow Association so that the name "California Escrow Association" could be used for the statewide organization.

The organization grew rapidly after World War II. Many soldiers passing through California on their way to the Pacific discovered California's golden sunshine and scenic wonders and vowed to return. With a growing number of real estate transactions the California Escrow Association flourished. The first annual conference, sponsored by the Los Angeles Association, was held in 1956. Then in 1957 seven associations formed the California Escrow Association, the statewide group as it is known today.

CEA's first executive secretary was appointed in 1960, and in 1969 this position was expanded to include public relations and was placed in a public relations firm. In 1964, bylaws were adopted and in 1965 CEA became an official California corporation.

Orange Coast College, located just south of my congressional district, became the first institution to grant certificates in escrow education in 1962. The following year educational workshops were integrated into the annual conference agenda.

The first associate of arts degree in escrow was awarded by Orange Coast College in 1967. That year CEA began educational seminars for college instructors and administrators and for its own advisory board and directors.

In 1971, 17 California colleges were giving certificates in escrow. A program for professional designation of escrow officers was launched in 1969, and a new code of ethics and new bylaws were adopted.

To keep members current with escrow happenings through the State, the CEA News began publication in 1970. Since that time the magazine has doubled in size nearly every 2 years and today carries educational articles by experts in escrow and related fields.

CEA took another step forward in 1972 with the retention of a legislative advocate to screen all legislation introduced which may affect the escrow profession. In addition, the association provides professional assistance in the drafting of new legislation designed to resolve or ameliorate problems in the escrow field.

Today CEA is a growing statewide organization of more than 3,600 members located throughout California in 29 regional associations. I am honored to say that the Long Beach Escrow Association—located within my 32d Congressional District—was included among the original seven associations.

The Long Beach Escrow Association has been dedicated to the continuing education and elevation of the escrow profession through adherence to its code of ethics for over 30 years. It has consistently worked to foster, promote, and improve escrow education and service to its members and to the public to elevate the standards of the escrow profession.

My wife, Lee, joins me in saluting all the members of the California Escrow Association on their dedicated service to the people of California. We particularly wish to congratulate the Long Beach Escrow Association, especially its president, Linda J. Hoback, under whose guidance the officers, directors, and members function in an effective and efficient manner for our community's residents.●

BIAGGI BRONX BOMBERS REPEAT AS SOFTBALL CHAMPIONS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. BIAGGI. Mr. Speaker, it gives me a great sense of personal pride to advise my colleagues and all avid fans of softball in this area that my team the "Biaggi Bronx Bombers" last night successfully defended their championship of the Congressional Softball "B" League with a hard-fought, but convincing, 11-to-4 victory over the talented Staten Island Ferries.

The game was played in the finest traditions of championship play in this highly competitive league. The score was tied until the last half of the sixth inning when the Bombers erupted for seven runs to put the game out of reach.

The Bronx Bombers combined potent power with a miserly defense to sweep through all five games of the playoffs and repeat as champions. It was one of the most balanced team efforts seen in the league in recent years but some people deserve special recognition.

The team captain, Craig Floyd provided sound leadership throughout the 27 game season and played some of the best second base in the league. His timely hitting throughout the regular season and in the playoffs was pivotal to the team's success.

The Bombers had two "Doctor Longballs," in Donny Allison and Richard Rawson who together walloped a total of nine home runs in the five game playoff. These were home runs which gave our team needed momentum at critical points in the game. Donny in addition to his power hitting also played a sparkling shortstop including

one magnificent play in the final game. Similarly Rich played an outstanding left field making numerous catches and keeping runners from advancing with strong throws from the outfield.

Clutch hitting was regularly provided by veterans Mike Lewan and Bob Blancato. Mike, the team first baseman, was one of the most dependable of all out hitters with men on base and he amassed a remarkable on base percentage in the playoffs. Bob, as the team's first designated hitter, provided the team with important hits which would either start or sustain rallies which produced runs. He led the team in hits during the playoffs with 12.

Words of special praise also must be directed at Nicki Phillips, the inspirational team leadoff hitter and overall sparkplug. Glenn Goldberg played his usual exemplary third base and provided many key hits including a home run to begin the scoring for our team last night. Bill Ziegler played extremely well in several outfield positions and made important contributions to the term's offense. Kathy Ramsey was defensive standout on the team as well and provided steady hitting. Lois Rawson was a most effective member of the term as our catcher and made several key hits during the playoffs.

A tribute to the team would not be complete without one to Sandy Barros out star pitcher who won all five games in the playoffs shutting down many powerhouse teams. She showed great determination and spirit throughout the playoffs and in last night's final contributed a key hit which drove in two runs.

Other members of the team who made important contributions during the regular season and playoffs include Greg Lange who played excellent defense in the outfield and was always ready with a timely hit. Jim Serafin, the team's "elder statesman" made many unheralded but important contributions to the team's overall success. Frank Washington was one of the our team's most inspiring figures and whose enthusiasm and blinding speed made him a favorite of his teammates. Moya Benoit was another key team figure contributing any time she played the game. Similarly Terri Karamanos aided our overall team effort on several occasions this past year. Newcomer Edith Adams was a welcome addition to the team. Tom Fitzpatrick was one of the team's supersubs as was Fritzi Armacost.

Let me add a special word of praise and thanks for Veronica Floyd who in addition to being a standout as a player provided much administrative leadership to the team especially in the playoffs.

Any successful defense of a title is satisfying but this year's was especially so. Our team started off by rattling off 11 victories in a row and sustained the pace until the very end of the season when we dropped three in a row. Our first playoff game in 1982 was an exciting and hard fought contest against "Bailey's Baldknobbers" and we were grateful to escape with a 9 to 8 victory. During the rest of the playoffs the task was made somewhat easier when our team's offense exploded for 58 runs in the subsequent four games.

It has been said that love is better the second time around. So, too, is winning the congressional B League championship and I commend each and every one of my team members for a job well done; and at this point in the RECORD I submit the complete team roster.

1982 "BIAGGI'S BRONX BOMBERS" ROSTER

Edith Adams, Donnie Allison, Fritzie Armacost, Sandy Barros, Moya Benoit, Kathy Bingley, Bob Blancato, Bernie Collins, Tom Fitzpatrick, Craig Floyd, Veronica Floyd, Glenn Goldberg, Erick Johnson, Terri Karamanos, Greg Lange, Niles Lathem, Mike Lewan, Nicki Phillips, Cathy Ramsey, Lois Rawson, Rich Rawson, Kathy Riley, Jim Serafin, Frank Washington, Susan Watson, Dave Weiskopf, Bill Ziegler, and Captain: Craig Floyd.●

PERSONAL EXPLANATION

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. DERRICK. Mr. Speaker, I was unable to vote on the House floor today, September 24, 1982, during consideration of H.R. 6173, the Health Planning Block Grant Act of 1982. Had I been there I would have cast a "yea" vote on roll call No. 371.●

KINZUA BRIDGE CENTENNIAL

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. CLINGER. Mr. Speaker, in this age when the economic development of America is seriously jeopardized by the deterioration of our infrastructure and the inability, or refusal, of our Nation to invest in public capital facilities, I am proud to report that the citizens of my district are perserving one of the greatest transportation infrastructure achievements in our country. This year marks the centennial of the Kinzua bridge in the Pennsylvania's Kinzua State Park.

The bridge, which is more accurately described as a viaduct since it spans the entire Kinzua Valley, was perhaps the highest bridge in the world when it was first constructed in 1882. It was rebuilt and strengthened in 1900 and provided the a vital rail link from the coalfields of McKean County to the industrial area of Buffalo. An amazing feature of this structure is not that it is 301 feet high and 2,052 feet long but that the original viaduct was completed in just 94 days by a work force of 100 men. This was made possible because of an advancement in civil engineering which eliminated the need for the scaffolding typical of most construction projects at that time. Such a use of state-of-the-art design and construction techniques allowed workers to install nearly 4 million tons of iron and over 100,000 pounds of steel for track and fastening on the 20 towers and 110 masonry piers in only 3 months without incurring a serious injury during construction.

I am also proud to share with my colleagues not only these details of a bridge which was once billed as the eighth wonder of the world or of the efforts of the Kinzua Bridge Centennial Committee to publicize its history and importance to the development of my district. I am also proud to announce that earlier this year, this structure was designated a national historic civil engineering landmark by the American Society of Civil Engineers. The ASCE was the first national engineering society to be established in the United States and has as its objective the "advancement of the science and profession of engineering to enhance the welfare of mankind." The 82,000 members of the society are concerned with the promotion of professional standards and engineering education, the stimulation of technical research and the publication of new technical information. One of the activities of its committee on history and heritage of American civil engineering is the identification of national historic civil engineering works which have made a significant contribution to the development of the United States and to the profession of civil engineering. The Kinzua bridge is one lasting segment of our transportation infrastructure which stands as evidence of the importance of capital investment in our society and of the professional heritage of America's civil engineers.●

OUR FARMERS NEED HELP!

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. HUBBARD. Mr. Speaker, when I was in my district earlier this month, I was handed a letter by one of my constituents, Thomas Larry Wilson of Route 1, Arlington, Ky. Mr. Wilson is upset and concerned about the economic difficulties that are facing farmers throughout the entire country. I would like to share Mr. Wilson's

letter with my colleagues. The letter follows:

ARLINGTON, KY.,
September 11, 1982.

CARROLL: I would like to share this report with you to show you the financial condition of farmers in this area. It is very critical and unless the federal government takes action to remove all embargoes to Russia and other countries, American agriculture is going to go by the wayside.

I, myself, am very critical of Congress and the action they have taken in the last five to eight years which has destroyed agriculture and its markets abroad in order to keep a cheap food market here in the United States.

I think it is about time for all of Congress to speak out and save the American agriculture enterprise for this country and the rest of the world, so that future generations may have the same market places to buy abundant and quality food as we know it today.

Today's cash prices on corn are $2.06, $3.09 for wheat, and $5.12 for beans. These are bankruptcy prices for all farmers in the future.

Sincerely,

THOMAS LARRY WILSON.●

PERSONAL EXPLANATION

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. FOUNTAIN. Mr. Speaker, I was momentarily absent from the House floor on official business when the vote was taken on final passage of H.R. 6173, the "Health Planning Block Grant Act."

Had I been present, I would have voted for passage of the bill.●

BISHOP J. CARROLL McCORMICK CELEBRATES GOLDEN JUBILEE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. McDADE. Mr. Speaker, on Sunday, September 19, in Scranton, Pa., the Most Reverend J. Carroll McCormick, D.C., bishop of Scranton, celebrated the golden jubilee of his ordination to the sacred priesthood with a Mass at the University of Scranton's John J. Long, S.J., Center. I had the privilege of participating in this celebration and can say in all sincerity that it was one of the most spiritually uplifing experiences of my life.

Bishop McCormick, 75, was born in Philadelphia, the son of Patrick J. and Catherine Dougherty McCormick. He was educated at Our Mother of Sorrows School in that city and the College Saints Marie in Montreal, before entering St. Charles Borromeo Seminary, Overbrook. He was selected to continue his preparation for the sacred priesthood at the Pontifical Roman Major Seminary in Rome, and was ordained in that city by his uncle, the late Dennis Cardinal Dougherty, archbishop of Philadelphia. Following his ordination, he earned doctorates in both philosophy and theology in Rome.

He has held many important posts since his ordination, including that of chancellor of the Archdiocese of Philadelphia, titular bishop of Ruspae, auxiliary bishop of Philadelphia, and bishop of Altoona-Johnstown. As bishop of Altoona-Johnstown he directed a multimillion-dollar building campaign which resulted in the establishment of three new high schools; the construction of Garvey Manor, a nursing home for the aged and infirm; and a Catholic child care center.

In 1966 Bishop McCormick was transferred to the See of Scranton where he immediately began a much-needed program of renewal and restoration embodied in "Project: Expansion," which resulted in the creation of three new high schools; a catholic community center in Williamsport; Villa Saint Joseph, a residence for retired priests; Little Flower Manor, to provide care for the elderly; a complete restoration of Saint Peter's Cathedral; and many other projects and improvements.

Under his leadership the Second Vatican Council liturgical reforms were established in the diocese and 18 new parishes and 28 new churches established. The bishop created special commissions to further the goals of ecumenism and care for the indigent. His concern for the family unit resulted in the reestablishment of the Family Life Bureau.

Despite all these many administrative accomplishments, Bishop McCormick has remained at heart, since his early assignment to the Church of Saint Stephen in Philadelphia, a pastor of souls and a true servant of the people. His career can best be summed up in the words of Pope John Paul II in a recent letter to the bishop:

Truly, it can be said you have labored zealously in fulfilling your sacred duties in such a way as to nourish the flock entrusted to your care, to renew them with sacramental graces, and to govern them wisely.

We know very well the careful attention you have given to schools, to parish and religious community buildings, and particularly to the construction and decoration of churches, so that you can rightly say with the Psalmist: "O Lord, I love the house where you dwell, the place where your glory abides."

Moreover, you have been in the past, and you are still now, closely united to this See of Saint Peter, in full obedience to the teaching of the Church which "in this world is a living and joyful sign of the saving plan of God and of His covenant with men."

Participating with Bishop McCormick in the ceremonies celebrating his golden jubilee were: The Most Reverend Pio Laghi, apostolic delegate; Msgr. Andrew J. McGowan, rector, St. Pius X Seminary; the Most Reverend James C. Timlin, D.D., titular bishop of Gunugo, auxiliary bishop of Scranton; Msgr. Francis S. Mussari, S.T.L.; Msgr. Paul J. Purcell, S.T.L; Msgr. Domenico DeLuca, Vatican Secretariat of State; Msgr. Joseph A. Madden, P.A.; Msgr. John M. Dougherty, M.A., S.T.L.; Msgr. John A. Balberchak, M.A.; Msgr. Thomas J. Cawley, V.F.; Msgr. James T. Clarke, S.T.L., V.F.; Msgr. William A. Crotti; Msgr. Donald A. Deuel, V.F.; Msgr. William J. Fleming, V.F.; Msgr. Chester A. Gajewski, M.S.

Msgr. John P. Gallagher, Ph. D.; Msgr. Joseph P. Gilgallon, M.A, editor, the Catholic Light; Msgr. Charles W. Heid; Msgr. Kenneth T. Horan, M.S.W.; Msgr. Thomas C. Horan, S.T.D., V.F.; Msgr. Thomas M. Jordan, V.F.; Msgr. Robert A. McNulty, S.T.L., V.F.; Msgr. Joseph F. Meier; Msgr. Anthony J. Norkunas; Msgr. John J. O'Brien; Msgr. Joseph T. Shaughnessy; Msgr. Constantine V. Siconolfi; Msgr. Paul F. Terracciano, M.S.; Very Rev. John Barry, C. SS.R., Redemptorist Father; Very Rev. Gerald J. Burns, M.S., M.A., V.F.

Very Rev. Mario Buttini, O.S.J.; Very Rev. John C. Ryan, C.P.; Rev. Thomas V. Banick, S.T.D.: Rev. John J. Bendik, M.Div; Rev. David A. Bohr, S.T.D.; Rev. Francis J. Callahan; Rev. J. Peter Crynes; Rev. Charles G. Gonzales, S.J.; Rev. Cordius Kazanchy, O.F.M.; Rev. James R. Lackenmier, C.S.C.; Rev. Herve A. LeBlanc, C.S.C.; Rev. Joseph A. Panuska, S.J. president, University of Scranton; Rev. Joseph G. Rauscher, S.T.L.; Rev. Joseph F. Sica, M.Th.;

Rev. John C. Petrasko; Rev. William J. Murphy; Rev. August A. Ricciardi, Jr.; Sister Marianne Adda, I.H.M.; Mr. Wiliam P. Cusick; Rev. Bernard E. Yarrish, S.T.L.; Rev. T. Timothy Delaney, M.A.; Rev. Edward J. Gallagher; Rev. Paul F. Gerosky, M.A.; Rev. William P. Langan, Rev. Patrick J. Pratico, M.Div.; Rev. Dale R. Rupert; Mother Loretto of Mary, p.s.d.p; Sister William Joseph, R.S.M.;

Mr. and Mrs. Thomas Burke; Mr. and Mrs. Stanley Dobies; Melssa Boettger; Sean Barnak, Brian Gatto, Christine Mraz, Dooley Adcroft; Elizabeth Kerrigan; Theologians of the Diocese of Scranton and Seminarians of Saint Pius X Seminary.

Mr. James E. Harrington was director of music and organist; Sister Catherine Luxner, I.H.M., associate organist; Mr. Robert L. Edwards, director of choral music; Mrs. Shirley A. Christian and Mr. Stephen J. Marquardt, Jr., leaders of song. The members of the parish choirs through the diocese participated. Other participants were: Miss Marian E. Borsuk, director of sanctuary arrangements; Mr. Donald J. Wolff, director of sanctuary construction; Men of Serra and Seminarians, Saint Pius X. Seminary, ushers;

Knights of Columbus, honor guard; and the Bishop Hoban High School, Wilkes-Barre, color guard.

Mr. Speaker, Bishop McCormick is an outstanding citizen and I am proud to have him as a constituent and to have been invited to join him in this golden jubilee celebration of his ordination to the sacred priesthood.●

NUCLEAR CHIC?

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mrs. BOUQUARD. Mr. Speaker, I want to commend to my colleagues Stephen S. Rosenfeld's article "Nuclear Chic?" in the September 17 edition of the Washington Post. Mr. Rosenfeld notes that of late it has been prominent members of the American peace movement who have been guilty of debasing the level of political discourse about nuclear arms issues.

That there is a heartfelt desire on the part of millions of Americans to halt the buildup of the world's nuclear arsenals is undeniable. Meaningful arms control and the avoidance of even limited nuclear war are laudable goals which all Americans endorse. How to achieve these goals is, of course, where legitimate differences of opinion arise. Discussion of these issues needs to be considered in a sober and deliberative manner, not in an emotional haphazard fashion.

The article follows:

NUCLEAR CHIC?

(By Stephen S. Rosenfeld)

A curious inversion of roles has overtaken the country's nuclear debate. President Reagan and his lieutenants are no longer making hair-raising statements about fighting, surviving and winning a nuclear war. Now the stirring of nuclear alarms is being done by the anti-war crowd. It is constantly evoking catastrophe in terms that are, I fear, hysterical, misleading and bad for our political health.

I should say right off that the president's real policies, as distinguished from his thoughtless observations, have not changed. His military budget and posture and his approach to arms control are still guided by the same fearsome, exaggerated view of Soviet capabilities and intent. But he has sworn off the pronouncements that so aroused the European peace movement and that—in a chance chemical reaction with Jonathan Schell's "The Fate of the Earth"—created an American peace movement in the last two years.

Reagan raised nuclear alarms in the name of stiffening deterrence—as though Moscow needed to be warned that we mean business. Pure in heart, the anti-war people do it, to no less gratuitous and mischievous effect, in the name of preventing war. Take, for instance, Ground Zero's Roger Molander: "Nuclear war could conceivably happen tomorrow—even today . . . Even slight changes in any one of several current world crisis situations could bring the superpowers into direct conflict and create the risk of a nuclear holocaust."

But, no. This is, I think, an appalling remark from a nuclear sophisticate like Molander, a leap from reality to anxiety, from a proper vigilance into an unseemly panic.

Ground Zero hopes to communicate to election candidates that "the prevention of nuclear war is of serious concern to citizens" and to assist "both candidates and citizens in structuring an effective approach to the problem of preventing nuclear war."

Well, one can fairly ask whether war is best deterred by this or that configuration of forces, diplomatic strategy, or set of words. One can observe that Reagan spoke foolishly and released the fears, that many people carry around with them just under the skin. But to suggest that Reagan takes nuclear war casually is, I submit, absurd. It is more accurate to say he has his own dubious notion of deterrence. If he were truly casual, he should be impeached.

As to "structuring an approach to prevent nuclear war," demonstrably the United States and the Soviet Union are very good at it: so far, Hiroshima aside, their record in preventing nuclear war is perfect. What they are very bad at is preventing conventional war. The two may not be entirely unrelated. Governments figuring to make war can do so with knowledge that the great powers' care about escalation gives the conventional warriors room to maneuver. If another Hiroshima is your nightmare, then worry first about Pearl Harbor, the start of a conventional war.

The Ground Zero theme that nuclear issues must be removed from the experts, and from government officials, to the people also energizes Common Cause. Chairman Archibald Cox declares: "A thoughtful, concentrated and organized people's movement is the best, if not the only, way to impel government to press imaginatively, wholeheartedly, urgently and persistently for an international agreement reducing nuclear arms.

I am one of those who wish there were a "people's movement" in the Soviet Union, but never mind. It is simply not true that in nuclear matters the people are disenfranchised. A "thoughtful, concentrated and organized people's movement" concerned with, among other things, nuclear war put Reagan in the White House—the Republican Party. Reagan is pressing now for "an international agreement reducing nuclear arms"—START. Common Cause is going to have to penetrate beyond the pieties to make an effective nuclear mark.

"At another critical time," adds the group's president, Fred Wertheimer, "we helped turn the concerns of millions of Americans into effective legislative action that finally ended the Vietnam War." But what Congress ended was not the war in Indochina but the American part in it. The war went on, killing and brutalizing millions. Vietnam is not the precedent I would cite to draw citizens into another grand confrontation.

So, you may say, trendy populism is not the worst thing going. Reagan's policies could destroy us all. To which I say: then challenge them. But challenge them soberly and in a manner likely to produce serious results. Otherwise risk the early dismissal of the issue as nuclear chic.●

JOBS, NOT RHETORIC

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, perhaps my constituents in northern Illinois know better than anyone the hardships of long-term joblessness, the despair of wanting to work, but none available, and the frustration of idleness. It is appropriate that the Congress consider action to put our people back to work and help pull them out from under the throes of this recession. It is not appropriate, however, to play on the emotions of the unemployed to ease approval of irresponsible legislation. The American people deserve more; I know my constituents expect more sensible action than the legislation which passed the House of Representatives.

Unemployment is undeniably high. It is no longer touching just the hardcore unemployed, but is affecting the mainstream worker who has helped make this country great.

It disheartens me that the approved legislation was bad legislation—irresponsible, unrealistic, and unable to truly respond to the numbers of unemployed workers in this Nation.

Although unsuccessful, I had attempted to restore sensibility in this job-creation effort by offering an alternative which would have created over 400,000 jobs, twice the number in the Democratic package. Furthermore, my approach would not have involved $1 billion of new money like theirs, but would have allowed a transfer of $1.5 billion from the Synfuels Corporation; a 50-percent greater funding commitment with minimal impact upon our ballooning deficit. Moreover, my alternative would have zeroed in on the long-term unemployed in areas of continued high unemployment, providing a more-efficient allocation of job-creation funds.

I am saddened, though not surprised, that this job-creation effort became such a political presentation and a full-scale media event. This attention did not prove conducive to righting the admitted shortcomings in the Democratic bill. Although over 150 of my colleagues agreed with my effort, we were not able to improve the unacceptable provisions in the job-creation bill. I am pleased, nonetheless, that an opportunity was provided to expose the shortcomings of the Democratic bill.

The only responsible action was to vote against the Democratic bill because it was nothing more than an illusory jobs-creation bill. My constituents are tired of rhetoric. It is time to wipe those rose-colored glasses and clearly present the issue—our people

need and want jobs, not politically expedient smoke-filled legislation. If we want to create jobs, then let's roll up our sleeves and do it realistically and responsibly. Anything less simply will not do. Anything less is an insult to the integrity and work ethic of the American people.●

IT IS TIME TO GET DRUNK DRIVERS OFF THE ROADS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to call to the attention of my colleagues the following excerpt from Elinor Brecher's piece on drunk driving, published in the September 5 Courier-Journal magazine.

The incident described here is even more tragic because it did not have to happen. And it might not have happened if Americans—including American legislators—had snapped out of their indifference to this problem years ago.

Must we wait for 26,000 more needless deaths this year before taking action?

The excerpt follows:

THERE IS NOTHING MORE PRECIOUS THAN LIFE, AND THE LIFE STOLEN THAT DAY CAN NEVER BE RETURNED OR REPLACED

Bobbi Sue Moore, 20, was killed by a drunken driver last Oct. 10. Richard Cummins, 26, of Junction City, was convicted of reckless homicide. Sentenced to four years in prison, he served 37 days at the state reformatory near La Grange before being released on shock probation Aug. 7. Neither the victim's family nor the prosecution was notified of the action.

Bobbi Sue's parents, Bob and Phyllis Coffman of Harrodsburg, wrote the following open letter, which has been edited:

"On Oct. 10, 1981, at 1:45 pm., a drunk driver killed our daughter. This was the most horrible day of our lives. Our daughter had turned 20 just 11 days prior to her death and had only been married six months.

"Her father was the second or third car on the scene. He went to her car and tried to open the door but it was jammed. He reached through the window and held her. The sight was horrible. Her face was mutilated, her body broken. As he held her, she made one last quiver and it was over. Our 13-year-old son witnessed the same horrible sight as his father. Our son still sees visions of that horrible scene and grieves over the loss of his sister. . . .

"We feel this drunk driver committed several crimes. He violated our daughter's body by mutilating it. He robbed her of her life, her laughter, her tears, and future happiness, a home, husband and any children she may have had, her right to grow old. He not only did these things to her, but he [also] robbed us of her and caused us and her husband unbearable grief and heartache. She was part of our immortality. This loss can never be accepted and the hurt will stay with us forever.

"Personal possessions are stolen; some can be replaced and some are even returned. There is nothing more precious than life, and the life stolen that day can never be returned or replaced. . . .

"Innocent people are killed or crippled for life by these lawbreakers and their drunk-driving crimes and shrugged off as unfortunate accidents. Our society would shudder at the thought of someone under the influence shooting into a crowd of people and killing someone, or raping, or killing a spouse or a child. This would be thought of as monsterous, horrible, unbelievable and unacceptable. Society would cry for blood. But as long as the drunk driver is behind the wheel of a car, the attitude is entirely different. This crime is accepted.

"What about the innocent person who pays the maximum penalty for the guilty drunk driver's crime? When will the victims of drunk drivers get justice? Our daughter is imprisoned forever, just for being there that Saturday. She is paying for his crime and so are we and her husband. . . ."●

VFW SUPPORTS COMPENSATION FOR AGENT ORANGE DISABILITIES

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. DASCHLE. Mr. Speaker, I am pleased to insert a press release from the Veterans of Foreign Wars (VFW) endorsing legislation which has been introduced to compensate Vietnam veterans suffering from disabilities related to agent orange exposure. I personally have introduced three compensation bills and I welcome the endorsement of the VFW and their 2½ million members.

I think our fellow Americans would be shocked by the disparity in treatment for Vietnam veterans in Australia as opposed to the United States. The onus of responsibility for determining the relationship between a disability and whether it is service related or not is on the Australian Government where it should properly be. In the United States the burden of proof is on the veteran. Over 50 percent of all agent orange related claims filed by Australian Vietnam veterans are awarded. Less than 7 percent in the United States are approved. This is directly related to the fact that it is impossible for Vietnam veterans in this country to determine whether when and where they were exposed.

I will continue to press for compensation early next year and I believe that with the help of organizations like the VFW we will succeed. Following is the text of the release:

VFW SUPPORTS COMPENSATION FOR AGENT ORANGE DISABILITIES

WASHINGTON, D.C.—"The VFW fully backs Congressional proposals to compensate Vietnam veterans who show disabilities probably caused by Agent Orange and other defoliants," said James R. Currieo, National Commander-in-Chief of the VFW.

Common complaints associated with herbicide exposure which must be compensated for now are birth defects, kidney and liver disorders and types of cancers and other diseases of undetermined origin.

"The lack of purpose and direction to resolve the questions many Vietnam veterans have regarding their health and possible genetic problems have required VFW support for Congressional action. The burden of proof of a service connected disability for Agent Orange diseases must be shifted from the veteran to the government while the Veterans Administration continues studies to connect disabilities to exposure," Currieo said.

A House of Representatives' veterans oversight subcommittee recently was told that the Agent Orange issue seems to be buried in "bureaucratic foot-dragging."

"The VFW has a mandate from its National Convention to support legislation which would presume disabilities from exposure to herbicide and allow a veteran to be compensated for those disabilities unless the VA could prove the veteran's problem was not connected to that exposure," said Currieo.●

THE TRAGEDY IN LEBANON

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mrs. SNOWE. Mr. Speaker, the continuing bloodshed in the Middle East once again has served to remind us of the fragile underpinnings of peace in the region. Once again, zealots have sought to avenge death and defeat through the slaughter of innocent civilians, and we must assume that the madness will continue until the peaceful nations of the world act to stop it.

Recent actions in the area, specifically this week's massacre of Palestinian civilians, have brought into question the priorities of the Israeli Government in the Middle East. Earlier this week, I cosigned a letter to Israeli Prime Minister Begin and urged him to initiate a credible and impartial investigation of the massacre. Many questions remain unanswered and a full accounting is in order. I was pleased to learn today that Begin has reversed his previous decision and there will be a full-scale investigation of this disaster.

I also feel that it would be in the best interests of stability in the region for the Israelis to make a complete withdrawal from West Beirut immediately. The world would look upon such an action as a good-faith gesture by the Israeli Government at a time of declining international support.

Beyond this, it is obvious that the United States has a moral obligation to exert its influence as a peacemaker in the region. Our status as an arms supplier to Israel and as a world power demands no less. History has shown that the carnage will continue if left to its own devices. Without our guid-

ance, the endless and futile cycle of violence may never be broken.

Our role as peacemaker necessarily means that we assume responsibilities that we would choose to avoid in better times. Naturally, most of us would prefer not to reintroduce U.S. troops into Lebanon, and we can only pray that they are returned safely from their humanitarian mission.

In recent days, the President has offered a new start in our search for a permanent peace in the Middle East. The plan provides thoughtful, meaningful, and workable options to bring stability to the areas. It includes security for the welfare of Israel, which must continue to be a priority for the United States and the free world. It allows for a Palestinian voice in future negotiations. Without such representations, any agreements would be exercises in futility. And it provides for the Lebanese to regain control of their destiny by removing the armies of other nations from its soil.

The situation in Lebanon is typical of such conflicts in that the women, children, and elderly of the country, the innocent pawns of all international brinksmanship, are its most tragic victims. I have joined with other women in Congress in writing President Reagan to urge him to request the Lebanese Government to name an international organization for the purpose of overseeing the safety of innocent refugees in the country. And I am hopeful that established international relief agencies will contribute their usual humanitarian aid to this sad situation.

Most of us cannot recall a time when the Middle East was free from the strife which haunts the region. Perhaps the nations of the world now can come together to build a new stability for the region and bring an end to an era of terror.●

FAVORITISM FOR CITICORP

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. MATSUI. Mr. Speaker, the Sacramento Bee, which has earned a distinguished reputation for publishing one of the Nation's most thoughtful editorial pages, recently questioned the proposed takeover of Fidelity Savings & Loan of San Francisco by the New York banking corporation, Citicorp.

The Bee points out that,

Such a sale would be a violation of the traditional principles of American banking regulation, which seek to prevent interstate banking and, more important, to keep the locally oriented savings and loan industry as separate as possible from the internationally oriented banking industry.

This matter has significance far beyond the borders of my State of California. For that reason, I urge my colleagues to read the full text of the editorial published by the Sacramento Bee, which places it in perspective:

FAVORITISM FOR CITICORP

Citicorp's campaign to acquire Fidelity Savings and Loan of San Francisco grows curiouser and curiouser. The eagerness of federal banking regulators to sell a California savings and loan to a New York bank holding company has never made sense. Such a sale would be a violation of the traditional principles of American banking regulation, which seek to prevent interstate banking and, more important, to keep the locally oriented savings and loan industry as separate as possible from the internationally oriented banking industry.

The sale, indeed, runs counter to the new rules for mergers and acquisitions of financial institutions, which Congress is right now in the process of adopting. Yet the Federal Savings and Loan Insurance Corporation (FSLIC), ever since it took over Fidelity Savings to prevent that institution from falling, seems to have done everything in its power to get Citicorp to buy Fidelity.

Even more inexplicable, the FSLIC's actions to date suggest that it is nearly as intent on preventing a sale to any of the California-based savings and loans that also bid for Fidelity. Both existing and pending federal laws require the FSLIC to give a preference to precisely such same-state, same-industry buyers. Yet the FSLIC has made it difficult for California institutions to make bids, has hidden from them the Citicorp bid which they are supposed to use for a benchmark, and has announced that if it doesn't like the California bids it will submit only the Citicorp bid for review by the Federal Home Loan Bank Board, which must approve the sale.

Of course, if the Citicorp bid is much better for the public than any other, then it ought to be approved. But there are few signs that the federal regulators are even trying to find out which bid is best. In fact, the most open-minded gestures the FSLIC and the bank board have made seem to have come only after pressure from California congressional representatives. And that is one important reason to applaud Gov. Jerry Brown's recent decision to cut short an internal personnel battle within his own administration, and send the state's strongest spokesperson, Savings and Loan Commissioner Linda Yang, to the hearings on the Fidelity sale. She added to the pressure for a fair review.

The real question, however, is why the federal banking regulators have needed all this prodding. And it is now compounded by the news that the Security and Exchange Commission (SEC) last year had extensive information about highly suspect activities by Citicorp's overseas banking operations and decided to do nothing about it.

As the story has been pieced together by the New York Times and the Wall Street Journal, it seems that Citicorp for years has been manipulating accounts and currency transactions among its foreign subsidiaries. The point was not only to avoid taxes in each country—which apparently is fairly common—but also to get around national currency regulations, to make quick profits at the risk of its own offshore subsidiaries, to make various operations look more solid or more profitable than they were, and to duck the bank safety requirements of the various countries.

These "tricks," as Citicorp management called them in an internal memo, raise more than ethical questions. They suggest that the bank company's claims for its own strength, as well as it promises not to put a new subsidiary at risk to further its main banking interests, are not to be believed.

Nonetheless, the revelations do not seem to have affected the FSLIC's enthusiasm for selling Fidelity to Citicorp. The SEC, meanwhile, turned the hot potato over to the office of the Comptroller of the Currency, which found most of the allegations against Citicorp to be true, yet still went no further than to ask Citicorp's management to change its ways.

If this is not a case for congressional investigation, it's hard to think what would be. And what is needed is more than just the hearings on the SEC decision that one House subcommittee recently began, but hearings on the entire federal regulatory posture toward Citicorp. It is not any particular regulatory errors that are at issue, but a style of peremptory decision-making by regulators who seem to be indifferent to both congressional mandates and the public's need for honest information.●

H.R. 6838: TO LIFT THE PIPELINE SANCTIONS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. FINDLEY. Mr. Speaker, briefly, I would like to explain what H.R. 6838, scheduled for floor consideration Tuesday, would and would not do:

H.R. 6838 would terminate U.S. export controls imposed on December 30, 1981, and June 22, 1982, on certain goods and technical data destined for the Soviet Union.

This bill would not prevent the President from denying licenses for exports of goods or technology to the Soviet Union for reasons of national security under section 5 of the Export Administration Act, the National Security Controls.

This bill would not alter the fundamental authority of the President to impose or lift national security or foreign policy controls.

Related to the December 30, 1981, export controls:

H.R. 6838 would restore the situation which existed prior to December 30. That is, a validated license authorizing a specific export would still be required for the export to the Soviet Union of oil and gas exploration and production equipment and related data. Processing of these licenses would resume.

However, H.R. 6838 would not affect the ability of the Commerce Department to deny or grant validated licenses for this equipment and related data on a case-by-case basis.

H.R. 6838 would remove the requirement for a validated license for the export to the Soviet Union of oil and gas transmission refining equipment

and related technical data. Such equipment and data would again be exported under a general license which permits exports without requiring an application for individual licenses by the exporter. This would permit the export of pipes and pipelayers, for example.

This bill would restore the processing of validated licenses for the export to the U.S.S.R. of technical data in general.

But I would stress, the bill would not prevent the President from blocking the export to the Soviet Union of technical data with military implications for national security reasons. The President retains his full authority in this regard.

Related to the June 22, 1982, Extraterritorial controls:

H.R. 6838 would remove the prohibition on the export of the Soviet Union of foreign-produced products of U.S. technical data subject to U.S. licensing requirements that the United States had authorized for export to the Soviets prior on June 22.

It would also remove the prohibition on the export to the U.S.S.R. of non-U.S. origin goods and technical data by U.S. owned or controlled foreign firms that was being exported to the Soviet Union prior to June 22.

I am urging my committee colleagues to vote for H.R. 6838 because these U.S. sanctions are:

Ineffective. They will not stop the pipeline from being built. Even administration witnesses appearing before this committee acknowledge that fact. The end result is that the United States looks very foolish and weak.

These sanctions are:

Harmful to U.S. firms and workers in a weak economy. These sanctions only export U.S. jobs and business overseas; $1.2 billion in immediate contracts have been lost and billions of dollars in follow-on contracts as well. This means thousands of jobs gone.

These sanctions are:

Causing deep divisions within the Atlantic Alliance. It is difficult enough to reconcile such unremitting U.S. opposition to the pipeline at a time when the administration is promising record grain sales to the Soviets. But the legal case for the United States on the extraterritorial sanctions imposed on June 22 is very dubious. Indeed, the legal precedents favor the Europeans. But the result of this is going to be lawsuits involving the United States and its allies in protracted battle. This is most unfortunate when we need to be working toward greater unity.

And these sanctions:

Will make it more difficult to obtain and maintain unified Western agreement on effective ways to influence Soviet behavior in Poland and elsewhere, and within its own borders in general and in tragic cases such as that of Yuri Balovlenkov. Up to now we have had a unified Western agreement on no rescheduling of Poland's 1982 debt. This is the most effective leverage the West has. It could come undone over the bitterness of the pipeline. And right after the Versailles summit—at which the United States did not press the pipeline issue with the Europeans—the Europeans raised official interest rates charged to the Soviet Union. This step would make the Soviets rather than U.S. workers pay the penalty—if it now holds after the June 22 action which was made without consulting the allies.

For these reasons and more, I urge you to support H.R. 6838.●

GET CHEATERS OFF WELFARE

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. DONNELLY. Mr. Speaker, whenever the topic in Washington or back home turns to cutting Government spending, the first suggestion invariably is: Get the cheaters off welfare. Despite the unanimous agreement that this ought to be done, too little has actually been done in this regard. Instead, we are faced with the options of doing nothing at all or reducing the benefits of those unfortunate people most in need.

In Massachusetts, something is being done to get the cheaters off welfare while sparing the truly needy. As the result of legislation filed by our distinguished colleague from Massachusetts, Representative BARNEY FRANK, the State has begun cross-checking the welfare rolls with bank accounts. Thousands of ineligible recipients have already been stricken from the AFDC and food stamp programs. Representative FRANK has filed legislation to extend this successful program nationwide, and we should. The results in Massachusetts, as described in the following editorial from the Boston Herald American, demonstrate the potential for savings while protecting the truly needy.

[From the Boston Herald American, Sept. 24, 1982]

CHISELERS AND INNOCENTS

No one seriously believes—we hope—that the 570,000 welfare recipients in Massachusetts are, without exception, a collection of chiselers and thieves.

But some very obviously are. If the computers are correct and the estimates of welfare officials anywhere near accurate, at least one in every 20 people on public aid is collecting benefits illegally. And a few are not only not in want; they're downright wealthy.

Maybe you saw the figures on which the above was based. A computer cross-match of Social Security numbers of 50,000 welfare clients with records at 63 banks uncovered 3,345 with deposits larger than allowed by law. One had more than $200,000 in the bank; another five had more than $100,000; 43 had upwards of $50,000 in their name; 142 had $15–$20,000; and the rest had $250–$500 in their accounts. According to Deputy Human Services Secretary Kermit Morrissey, when all the banks and SS numbers have been cross-checked, he expects that between 26,000 and 54,000 clients will be found to have accounts in excess of the $1,000 per family allowed under AFDC and $3,000 per family allowed under the Food Stamps program. If that proves out, he said, the Commonwealth will be in line to recover anywhere from $172–$403 million in fraudulent claims.

There are several ways to take that information, all sound and—with one possible exception—all obvious.

First off, there's quite a bit to be said, none of it flattering, about the past inefficiency of a system that allowed waste and cheating of that magnitude to develop over the years.

There's much to be said as well all flattering, for the vigor with which the administration of Gov. Edward J. King has used the computer cross-matches to begin to get a handle on the fraud. He did not come up with the idea; former Rep. Barney Frank did in the final stage of his years in the Legislature; but he has and is using it to bring welfare costs and client rosters under better control.

Since it is accomplishing more, faster, than the department has ever been able to do in the past to combat fraud, the computer corss-match must be extended as soon as possible to the hundreds of banks whose records have not yet been checked. And it ought to be extended too, as now-Congressman Frank urged just a few days ago, throughout the whole federal system.

All that is, we believe, sensible, and obvious.

And that brings us to a point equally sound but not always clearly seen. It is this:

What ought not be overlooked in all this is that if the 1-20 ratio is on the nose, it means more than that there are some crooks in the crowd. It also means that the overwhelming majority, 19 of every 20 welfare clients, is legitimately, seriously in need.

They're being given a black eye by the conniving of the chiselers, yet they are as much victims as the public whose money is being clipped by cheats.

So, sure, wish the Commonwealth and the computers good hunting as they go after whatever other welshers are on the rolls—but continue to be compassionate to those who are not only poor but honest; who, hard though is sometimes is, have lived by the rules.●

JOHN G. BREEN—PROMINENT CLEVELAND BUSINESSMAN

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. MOTTL. Mr. Speaker, I would like to call your attention to one of my most distinguished associates, who has contributed a great deal to Cleveland and its business community, John G. Breen.

Currently president, chairman of the board, and CEO of Sherwin-Wil-

liams Corp., Jack Breen was born in Cleveland, and completed his education at Latin High School and John Carroll and Case Western Reserve Universities. He began to rise to his current position with an accountant's position at Leaseway Corp., then moved in 1957 to a management trainee's position with Clevite Corp.

Mr. Breen's vast technical and management experience includes a stint as market analyst for Clevite. In his involvement with market research and new product development, he studied the foil industry and submitted recommendations for action to top management. As a result, he developed the foil industry to the extent of introducing it to foreign markets. He lived in Europe for 2 years, and he had accomplished all this by the age of 28.

Jack then proceeded to Gould, Inc. He started out as general manager of the engine parts division and moved through group vice president of the industrial group to executive vice president in charge of industrial, battery, and government systems groups.

Upon leaving Gould, Jack joined Sherwin-Williams as president and chief executive officer in January, 1979, and in April 1980, he was appointed chairman of the board. Much of Sherwin-Williams recent recovery is due to Jack's excellent management and direction.

Realizing the importance to Cleveland of health and education as well as business, he is not only on the boards of several industrial and banking firms headquartered in the city, but as a trustee Jack devotes much time and energy to John Carroll University, the University Hospitals of Cleveland, the Musical Arts Association. He also provides Case Western Reserve University and Notre Dame College with advice drawn from his wide experiences.

He resides in Shaker Heights with his wife Mary Jane and their five children: Kathy, John, James, David, and Anne.

As you can see, my friend Jack is a prominent figure in the Cleveland area, and he truly deserves our recognition. I ask you, my distinguished colleagues, today to help me honor him and his service to Cleveland.●

THE EXTRADITION REFORM ACT OF 1982 THREATENS CIVIL AND HUMAN RIGHTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. OTTINGER. Mr. Speaker, I rise in strong opposition to H.R. 6046, the Extradition Reform Act of 1982, as reported. I commend my distinguished colleague from Michigan, Representatives GEORGE CROCKETT, for his able leadership in opposing this odious legislation.

I recognize the need to carefully modernize and reform extradition procedures. However, H.R. 6046 goes well beyond this and would demolish the civil liberties and human rights components of the extradition process. It would pose grave threats to the personal safety and civil rights of American citizens as well as foreign political dissidents in the United States who are sought by the repressive regimes which they oppose.

The American Civil Liberties Union recently noted:

> For more than two centuries the United States has provided a refuge to which opponents of authoritarian regimes could flee without fear that they would be returned to stand trial for political offenses. Although the stated purpose of this bill is to facilitate the return of terrorists, it is drafted so broadly that it would endanger the very persons that American law governing extradition has always shielded: critics of authoritarians regimes, whether they are U.S. citizens or foreigners.

Indeed, H.R. 6046 as reported is an open invitation to the most brutal regimes to come into our country and use our legal system as a way of silencing the victims of their torture and repression.

The bill would prohibit the Federal courts from reviewing extradition demands by foreign governments to insure that no demand is actually designed to supress political dissent. Only the State Department would be empowered to inquire into a foreign government's ulterior motives and to assess the likelihood that the extradited person will be treated fairly. It is outrageous and probably unconstitutional to deny the courts jurisdiction over such fundamental civil rights determinations; to cede this determination to the very Department which today pretends that the Government of El Salvador respects human rights adds insult to injury. Without judicial review, it is likely that repressive governments will not find it difficult to get their hands on political dissidents and return them for torture and oppression.

H.R. 6046 would also permit individuals to be imprisoned without bail upon the mere allegation by a foreign government that an extraditable crime has been committed. The foreign state may withhold all evidence for up to 60 days. This is clearly unconstitutional and clearly repugnant to the civil liberties of those detained. As Christopher Pyle, a professor of constitutional law at Mount Holyoke College, recently wrote in the New York Times:

> No United States prosecutor has this power of arbitrary detention, but under these bills, Albania, Rumania, South Africa, El Salvador and about 90 more countries with which we have extradition agreements would have it, and could use it to bring about the imprisonment of their critics within the United States.

Finally, H.R. 6046 seeks to define the "political offense exception" which has been central to our Nation's extradition process since it was formulated. The "political offense exception" prohibits the extradition of those charged with, or convicted of, political acts in the country requesting extradition. H.R. 6046 devastates this concept by defining political offense so narrowly that many freedom fighters and human rights activists would no longer have a defense against attempts to punish them for their political beliefs.

H.R. 6046 is expected to be considered by the full House shortly. I strongly urge my colleagues to support any amendments to alter the dangerous provisions of this bill, and to restore the principles of civil and human rights to the legislation.●

JOSEPH E. BERGERON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. LANTOS. Mr. Speaker, Joseph E. Bergeron is one of my district's most public-spirited and humane lawyers, who daily brings honor to his profession by the way in which he uses his craft and by the manner in which his legal training infuses his life.

He is being honored on Columbus Day 1982 by yet another sector of his community, his compatriots in the Italian-American Federation on the Peninsula. He served them as treasurer of the federation in 1977–78 and as president from 1980–81. He is now a member of the Order of the Sons of Italy Columbia Lodge.

He has lived in our community for many years since his graduation from Boalt Hall of the University of California in 1968. He had begun his public career in the Boy Scouts and became a merit badge counselor.

Bergeron has accepted responsibility in the legal fraternity by serving in many necessary and important positions, including the presidency of the Barrister's Club, member of the board of the California Trial Lawyers' Association, nothern California chairman of the Political Action Committee of the California Trial Lawyers. Last year he was named the outstanding chapter president of the California Trial Lawyer's Association.

His civic and legal responsibilities have not interfered with Joe Bergeron being a stalwart resource in his political party, for which he has filled most positions in various campaigns in the last 10 years, as well as serving as chairman of the United Democratic Fund for the past 2 years.

Nor has all his public activity kept Joe Bergeron from being a valued friend to many people in all walks of life. He has a ready smile and a special word for his legion of friends whose lives touch his each day.

We are honored today to honor a fine man, Joseph E. Bergeron.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 24, 1982

● Mr. MAZZOLI. Mr. Speaker, I am extremely pleased to report to my colleagues that the House Judiciary Committee voted Wednesday to report favorably to the full House the Immigration Reform and Control Act of 1982, H.R. 6514.

This is an additional major step toward bringing order out of the present immigration chaos.

Great tribute must go to Chairman PETER W. RODINO, JR., of the Judiciary Committee for his magnificant management and support for this bill during its very careful consideration in the full committee. PETER RODINO has been a leader in the immigration field since he came to this Congress, and this body could pay him no greater credit than passing this important piece of legislation.

The bill as emerged from the Judiciary Committee maintains the fairness and balance which has been its hallmark. No one is totally happy with the work product of the committee, but all those who have followed this issue know that it is the best legislation available to the country.

I ask all my colleagues to keep an open mind on the bill. It is a comprehensive, somewhat complex measure. It has opponents who stress the bill's controversial sections while neglecting to mention that the bill—the companion of which passed the Senate on August 17 by 80 to 19—is a compromise, a package which gives no interest everything but gives every interest something.

And, in the end, no opponent offers Congress an alternative to H.R. 6514. Their answer is to continue the present immigrations chaos—the status quo. That, I can tell each Member is no answer at all.

Your Subcommittee on Immigration, Refugees, and International Law, and now the full Judiciary Committee, have studied all possible approaches to immigration reform. I believe the bill being reported to the House is a good bill and deserves the support of this body.●

89-059 O-86-45 (Pt. 18)

SENATE—*Monday, September 27, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

It is a good thing to give thanks unto the Lord, and to sing praise unto Thy name, O most High: To shew forth Thy loving kindness in the morning, and Thy faithfulness every night.—Psalm 92 :1,2

Loving Lord, we thank Thee for the leadership of the Senate, for the strength and wisdom of Senator HOWARD BAKER, and Senator ROBERT C. BYRD. As we enter this final week, we pray for them, their families and staffs a special measure of grace. As they have steered this body through rough waters and tempestuous weather these past 2 years, may these next 5 days bring resolution to all the business they deem essential so that they and all the Senators may end this week with the satisfaction of a task well done. In the name of the One who finished the work He had come to do. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BAKER. Mr. President, I do not often comment on the Chaplain's prayer, but I must say I believe this is the first time that the distinguished minority leader and I have been recognized by name. We are grateful for that.

There are some days when we hope no one is watching, let alone the Diety.

But I thank the Chaplain for his prayerful remarks.

OCTOBER SPRING

Mr. BAKER. Mr. President, by this week's end, October will be upon us, and I am pleased that I have received from my good friend and colleague from Indiana, Senator LUGAR, a poem entitled "October Spring."

The poem was written by Philip Appleman who is a professor of English at Indiana University. Mr. Appleman was the recipient of a National Endowment for the Arts fellowship in creative writing and the winner of the Castagnola Award for the collection of poems contained in his book "Open Doorways."

I ask unanimous consent that the text of "October Spring" by printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

OCTOBER SPRING

When crisp catalpa leaves
come tumbling down the frosty morning air
like tarpaulins for tulips,
it's spring again in little college towns,
October snipping at our brave beginnings,
the new year pruned away to nine lean months
of three-day weeks and fifty-
minute hours. This new year lights
no dogwood, no magnolia to find us
limping through our shrunken moments or
calling courage from our stubborn past,
the long pilgrimage of algae,
sponges, reptiles, flowers,
men. No robins linger
in the haze of this late spring
to whistle, in our fifty-minute hours,
the miracles to come: birds
of brighter plumage, richer songs,
flowers in subtler shades, men and women
walking together in peace.
But the big catalpa leaves
float crippled down the slanting sun,
brown nourishment to our long
hope, and we are clinging to
our thinning years because brown leaves
are clumsy promises: because it's
spring again.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special order in favor of the Senator from Georgia (Mr. NUNN) there be a period for the transaction of routine morning business to extend not past the hour of 12 noon in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, is there an order for the Senate to turn to the consideration of H.R. 6968, the military construction appropriations bill today?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. I believe the order is to do so at 12 noon; is that correct?

The PRESIDING OFFICER. At 12 noon is correct.

Mr. BAKER. Mr. President, is there an order for the Senate to proceed to the consideration of the Government debt collection bill, H.R. 4613, after the disposition of the military construction appropriations bill?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. I believe there are time agreements on both those measures, are there not?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, I also point out to Members that while we will take up these two important issues today and dispose of them, no rollcall votes will occur today because of the religious significance of this day.

Rollcall votes that are ordered today will be stacked and occur beginning at 2 p.m. tomorrow under the order previously entered.

ORDER VITIATING SENATOR NUNN'S SPECIAL ORDER

Mr. BAKER. Mr. President, I understand that the Senator from Georgia now indicates he does not need the special order in his favor. I ask unanimous consent that it be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, the schedule then for today will be morning business, after the two leaders, until 12 noon, in which Senators may speak for not more than 5 minutes each; at 12 noon the Senate will proceed to the consideration of the military construction appropriations bill, Calendar Order No. 839, H.R. 6968, on which there is a time agreement.

Following disposition of that measure the Senate will proceed to the consideration of Calendar Order No. 545, H.R. 4613, the Government debt collection bill, on which there is a time limit.

No rollcall votes will occur today.

Mr. President, it is not anticipated that the Senate will be in late today. However, I point out to Members that we are prepared to proceed to the consideration of other matters that may be brought before the Senate that can be disposed of in a relatively brief time and without the requirement for a rollcall vote.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. President, on tomorrow under a previous order the Senate will proceed to the consideration of the agriculture appropriations bill at 10 a.m.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate compietes its business today it stand in recess until 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE TOMORROW

Mr. BAKER. Mr. President, tomorrow the Senate will convene at 9:15 a.m. and after the opening activities, including the time allocated to the two leaders under the standing order and the discharge of any special orders and perhaps a period for the transaction of routine morning business, the Senate will turn at 10 a.m. to the consideration of the agriculture appropriations bill on which there is a time agreement.

THE OUTLOOK

Mr. BAKER. Mr. President, the outlook for this week is as follows:

The Senate must deal with whatever appropriation bills are available. We have already passed the first one of those, the HUD appropriations bill on Friday.

We will take up military construction today and agriculture tomorrow. That is a good beginning.

But there are 13 of those bills altogether and as we receive them from the House of Representatives and operate them through our committee we will take them up as they are available and cleared.

It is anticipated that we will proceed to the consideration of a continuing resolution either on Tuesday or Wednesday.

I will consult with the minority leader about the possibility or proceeding to that measure on Tuesday instead of Wednesday, which I believe otherwise would qualify under the 3-day rule. I hope we can go to it on Tuesday and finish the continuing resolution on Wednesday and send it to conference.

Members should bear in mind that it is our hope to finish before midnight on October 1, which is Friday. So in order for the continuing resolution to be completed through the conference process and reach the President's desk in time for him to consider it, it seems to me that we must do that on Wednesday with the conference action by both Houses to be concluded on Thursday.

Mr. President, there are a number of other matters that can and no doubt will be taken up during the course of this week, but the appropriation bills, the continuing resolution, and the crime package, plus conference reports as they are available, are the must items that must be disposed of this week.

Senators should be aware of the possibility of late sessions any night this week in order to complete the business of the Senate.

Mr. President, I have a request from the distinguished assistant majority leader that he wishes some time from the time allocated to me. I do not see him in the Chamber at this moment.

I reserve the remainder of my time, and I yield so that the acting minority leader may seek recognition.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. BAUCUS. Mr. President, I have no need for the time allocated for the minority leader. I reserve the remainder of the time so allocated.

Mr. BAKER. Mr. President, may I suggest, then, that, in view of that, we proceed to the time for transaction of routine morning business.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business that will expire no later than 12 noon, during which Senators may speak for 5 minutes each.

Mr. BAKER. Mr. President, I observe that both the acting minority leader and I have reserved the remainder of our time but there will be ample time now for Members to speak in morning business between now and 12 o'clock and I urge Senators to do so if they wish.

SOVIET INSIDERS: HOW POWER FLOWS IN MOSCOW

Mr. PERCY. Mr. President, recently Ned Temko, who has been the Christian Science Monitor's Moscow correspondent for over 1 year now, published in his newspaper a series of articles summarizing his gleanings on "Soviet Insiders: How Power Flows in Moscow." That may sound fairly routine, but anyone who has ever tried to do much business in or with Moscow can tell you that the real inner workings of the Soviet power structure are extraordinarily difficult to penetrate.

Frustrated, as are almost all outsiders, in attempts to gain access to the top Soviet leaders, Temko diligently and over many months sought interviews with second- and third-echelon Soviet officials who are themselves often present when policy decisions are discussed by the leadership. He has done a remarkable job in putting together from their conversation clues as to how the Soviet Union is run.

I commend to my colleagues this series of articles for a rare glimpse at Moscow decisionmaking—a subject critical for all of us to understand. Mr. President, I ask unanimous consent that the full text of the articles be inserted in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SOVIET INSIDERS: HOW POWER FLOWS IN MOSCOW

(By Ted Temko)

Moscow.—Clark Gable, in a deservedly forgotten 1940 film, plays a spy posing as a journalist in Moscow. Along the way, our hero adds one bit of wisdom to Western man's understanding of the Kremlin:

"Face the facts, baby, there ain't no news in Russia!"

Comrade Gable remains largely right about one key area of "reporting" on the Soviet Union—the emptiness of many of the political stories to which we in Moscow devote most of out time and energy. Such dispatches should carry some kind of consumer warning, like packs of cigarettes.

For instance, on the Polish crisis: "The following article, however knowledgeable it may sound, is based on what the Soviet news media say—not necessarily what Soviet officials think—about Poland. The author can claim no insight into such thinking, much less into Soviet intentions. The 'diplomatic sources' are in the same fix."

(One example of the potential discrepancies: For weeks now, the Soviet media have reported a gradual "normalization" in Poland. One Soviet official, when interviewed recently, shrugged this off—"Normalization? Yes, in about five years, maybe. . . .")

The current Monitor series, if written from anywhere but Moscow, would be in a Monitor wastebasket. The first article is about reporters and reporting, something reporters are not supposed to write about for the excellent reason that the subject puts most people to sleep.

The rest is about Soviet politics, policy, and power at the tail end of the 17-year-old Leonid Brezhnev era.

The subject is not at all new. The approach, however, is a bit unorthodox; based both on the Western reporter's normal fare of news media and diplomatic sources—and on 32 lengthy interviews over the past year with ranking Soviet officials.

The plan was simple, and, to at least some Soviet officials, clearly crazy. I wanted a firsthand account of how the Soviet system works, how power and paper flow, of who matters and who doesn't.

What kind of men are at, or at least near, the top?

And on specific policy issues, like Poland, do they really think in the stark blacks and whites of Pravda commentary? (All evidence on this last question was, incidentally, "no.")

A little like the Soviet bureaucracy, I quickly found planning far easier than results.

"I'm calling about a possible interview with Mr. Mikhail Suslov," began one phone call early last year to the Communist Party Central Committee. (Mr. Suslov, who passed

on last month, was a member of the central Soviet leadership for some 35 years.)

After a moment of stunned silence, the voice on the other end of the line erupted into hearty laughter. "I suppose the next thing you'll tell me is that you want to see Comrade Brezhnev!" (It was. Neither interview materialized.)

Or, there was the head of the Central Committee's "Letter Department," which handles the swelling thousands of requests and complaints the committee has been encouraging, and receiving, from ordinary citizens. His officer's initial response (with no discernible trace of irony) was: "Write a letter" (to the Foreign Ministry).

Word of my shenanigans evidently spread. A few months back, I met Yuri Chernyakov, the tall, stately chief of the Foreign Ministry press department. "Ah, so you're the Mr. Temko who has been trying to see our senior officials," he said, not at all unkindly. "Well, I think you should keep at it. There are still unfortunate tendencies—mostly, I would say, from earlier days—that make this difficult. But really, do keep at it."

My eyes lit up. I suggested he might help me in my longtime quest for an interview with his boss, Foreign Minister Andrei Gromyko. Mr. Chernyakov smiled and, in several wonderfully crafted sentences, delivered a polite, but unmistakable, "no."

Yet ultimately, 18 high-ranking Soviets agreed to lengthy interviews and, in some cases, to four or five interviews. Fifteen of the officials were members of the Communist Party's Central Committee. The rest sat on the Central Auditing Commission, theoretically a troubleshooter for party finances and bureaucracy and often a way station to a place on the Central Committee.

Two men interviewed turned out to be, in effect, unlisted members of the Central Committee's Secretariat—next to the party Politburo, the country's most powerful political body. At least one-third of the officials had attended both Politburo and Secretariat meetings. Boris Pastukhov, leader of the party's youth wing, said he did so quite often.

Another official attended Secretariat sessions less frequently, but gets what were described as thorough briefings on top-level discussions and decisions.

Within the government (as opposed to party) hierarchy, one man held the rank of minister. Another, though without formal rank, said he attended all meetings of the Council of Ministers.

Perhaps inevitably, some of the officials open to the idea of an interview were foreign policy specialists with some experience in dealing with Western diplomats or reporters. These included men like Georgi Arbatov from Moscow's Institute of the United States and Canada, and political commentators like Alexander Bovin of Izvestia and Yuri Zhukov of Pravda.

But much of the material in the articles that follow came from others: people like Mr. Pastukhov; the editors in chief of Pravda and Sovietskaya Rossiya (the equivalent of Pravda for the Russian Republic); the two Council of Ministers men; and the chief of the Communist Party's official ideological journal, Kommunist.

A few of the interviews were a bit frustrating. Arranging them in the first place sometimes involved a fair amount of verbal acrobatics. On one occasion this plainly backfired.

In seeking an interview with a Ukrainian novelist, who happened to be a member of the Central Committee, I professed a not entirely genuine adoration for his writing. So when we met, in the lobby of a Moscow hotel, Alexander Gonchar afforded an encyclopedic briefing on the subject. I then slipped in a question about the workings of the Central Committee, to which he promptly replied: "I won't say anything on that subject. Let's talk about literature. . . ." We did.

Yet even the more reticent or formal of those interviewed often provided insights into the way the system works, or the way its protagonists think and act. Most went much further, addressing with what I sometimes found remarkable frankness issues of politics, policy, and power.

What emerged was not a perfectly precise picture of the workings of a nation Churchill called "a riddle wrapped in a mystery inside an enigma." But the officials did uncover some parts of the puzzle and, in other areas, at least suggest which pieces went where.

The articles that follow may present merely the picture Soviet officials want to offer. But I have sought to skirt, or at least minimize, the possibility by crosschecking information and by speaking with various senior officials more than once. Information that seemed suspect has been explicitly hedged or omitted.

Without overstating the value of this series, there is another sense in which the interviews were worth doing. From the start the idea had been—regardless of what facts and insights ranking Soviet officials might or might not provide—to go beyond the generally passive approach that marks our everyday reporting on the Kremlin.

When reporting on other subjects—like the way Russians live, or joke, or dissent—we work harder and write better. To be fair, this is probably natural. Ordinary Russians, and dissident Russians, talk more openly than official Russians.

Leonid Brezhnev's latest utterances on the perfidy of world inperialism tend to be somewhat less riveting than the jokes Muscovites tell about him.

But will Soviet tanks rumble into Poland? Or out of Afghanistan? Here, we rely almost exclusively on "sources" that cannot possibly, by themselves, answer such questions. We absorb the enormous daily wordspew of Pravda, Izvestia, Tass, Soviet television, and the like.

Then we talk to diplomats who rely largely on the same "sources." Official or not, even the most sophisticated of Soviet media commentaries tell us only what the Kremlin thinks, perhaps even only what the author thinks. Often, we cannot be sure which. As for what the Kremlin will "do," we are left to make an educated guess.

Worse, in a town where journalists routinely collaborate with diplomats and with one another, we are often satisfied with a single, consensus guess. Worse still, our dispatches, no matter how carefully peppered with stock Moscow adverbs like "apparently" and "reportedly," often suggest a far greater certainty about Kremlin workings and intentions than any of us can honestly claim.

One example: Intermittently over the past year, Moscow dispatches have noted parallels between Soviet media commentary on the upheaval in Poland and official coverage of Czechoslovakia before the tanks rolled into Prague some 14 years ago. The implication was that the Kremlin might be revving up its tanks once again.

Yet just as conceivably, the media rumblings could have meant the Kremlin wanted the outside world, particularly the Poles, to think the tanks were about to roll. Ultimately, we could not know.

Sometimes we admitted this problem, starkly and explicitly. Yet at other times, we finessed it with a quotation or two from a Moscow diplomat no more clued in to Kremlin thinking on Poland than we were. Depending on the diplomat chosen, Soviet intervention was portrayed as more, or less, likely.

Almost never did we track down a Soviet official for at least a hint of what the men in the Kremlin were planning. In most places outside the Soviet Union, this would be a Western reporter's automatic impluse.

Clark Gable is right. Things are different here. A few days after I arrived in Moscow, a European colleague told how he had tried to chase down rumors of an impending Warsaw Pact summit meeting. With pristine logic, he phoned the information department of the Central Committee.

"Why are you calling us?" he was asked.

"You are, I was told, the information department," he rebutted dryly.

"Yes," said the voice, polite and patient. "But we don't give information. We get it."

It's Not "Democracy" But Many Soviets Have A Say

(By Ned Temko)

Moscow.—"Things were, well, different before Brezhnev," the Soviet official began. He paused, took a sip of tea, and smiled: "I remember once Khrushchev, all of a sudden, decided a certain man must be named deputy premier. . . . Well, it was done. Then Khrushchev said, no, this wasn't the man he wanted. . . .

"The first man, who of course couldn't figure out from the start why he was suddenly becoming deputy premier, was given a nice job somewhere else. . . ."

The moral, various senior officials suggested, is this: Under Leonid Brezhnev, there is greater stability. logic, "professionalism," in the business of making decisions and policy. More people—better-trained, more-specialized people—have a say: individuals and institutions well outside the "interlocking directorate" of Politburo and Secretariat.

But in practice, some of these "individuals and institutions" matter much more, or differently, than others. There is often an enormous amount of input in the formulation of domestic or foreign policy. Yet the extent to which input equals influence depends on the particular people and issues involved. Ultimate policymaking power remains the province of a very few. Below them trails an intricate, if not always perfectly decipherable, hierarchy of influence . . . and of access.

For some, access is more indirect, influence less powerful, than for others. But the story begins with nonmembers:

Down a nondescript alleyway almost literally within shouting distance of the Kremlin sits a lobby that, with its public writing tables, looks a little like a post office. A sign outside ways it is an official "reception" area. There you will typically find a small gathering of quite ordinary Russians (or Byelorussians, or Ukrainians)—bundled old women and war veterans and younger working people.

Most are hunched over tables, scribbling requests or complaints to the Central Committee of the Communist Party of the Soviet Union. By official figures, there are some 600,000 "Dear Central Committee"

notes a year. Yet if the small percentage penned at the reception room is any guide, most seem to seek no real "policy" input.

On my latest visit, I found a huddle of people, including a young woman from Byelorussia and a war veteran from south of Moscow, framing requests for more apartment space. An older woman wanted to get back at a prosecutor for wrongfully hauling one of her relatives into court.

"I don't know if the letters work," said a third woman. "Some people say they do. . . ."

The letters do get read—by a recently created Central Committee department attached to the Secretariat. Thus the voices of these people, and of many other Soviet citizens without high official rank—whether workers or shoppers, or local government and party officials—do get heard near the top. They undoubtedly matter. How much is impossible for a foreign reporter to say with any certainty.

But senior Soviet officials made one thing clear: The major role in policymaking belongs to people and institutions that don't have to write the Secretariat (or to those explicitly asked to do so).

The cast of characters tends to be largest, their individual roles most predictable, for set pieces like the framing of the yearly economic plan or of a long-anticipated Brezhnev foreign policy address.

Yet occasionally, most often in foreign relations, the Politburo and Secretariat cannot set their own agendas. Dissident physicist Andrei Sakharov, for instance, may go on hunger strike. A Soviet submarine may run aground off Sweden. Ronald Reagan may give the green light for production of a neutron weapon—or announce economic sanctions over the Polish crisis. Then, the cast of characters is apt to narrow.

One group, officials said, has virtually automatic input: the Secretariat's own departments and apparatus. (If you're not a member, it helps at least to move in the same circles.) Beyond this? One official said eloquently, "It depends. . . ."

Last August, Ronald Reagan decided to go ahead with production of a neutron weapon. (Leonid Brezhnev was vacationing in the Crimea.) The Soviet response came a week later: an acridly worded official statement ending with a nicely vague hint that Moscow might build a neutron warhead of its own.

The cast of characters, officials suggested, had been small: principally Mikhail Zimyanin (a member of the Secretariat, and former editor of Pravda) and Leonid Zamyatin (head of the Central Committee's international information department, and former director of Tass).

The task required relatively little consultation, one official said. After all, Jimmy Carter had moved, then retreated, on the neutron weapon issue during his term in the White House.

"Our position was already formed, in large part," the official said. What remained, he suggested, was to refine the script a bit—"Reaganize" it.

A few months later came a trickier challenge: A Soviet submarine faltered in a restricted area of Swedish coastal waters. That was bad enough. But the Swedes said the vessel appeared to be carrying nuclear weapons—a particularly unwelcome charge at a time when Moscow was pushing for a "nuclear-free zone" in northern Europe.

Officials here would give no details on how the Soviet policy machine handled the sub's mishap, but did outline the pattern of response to similar foreign policy problems. Other actors come into play:

In addition to virtually automatic participants like Foreign Minister Andrei Gromyko and various other Politburo and Secretariat-level figures, one official said, "The response [to more urgent questions] typically involves reports from the relevant embassy, from the [Soviet] press there, maybe from the KGB, and, if their is a military aspect, from military intelligence. . . . Also there may be a meeting of the Defense Council." (The existence of this senior military group was first revealed in 1976, when the Soviet press offhandedly mentioned Mr. Brezhnev as its chairman.)

Conspicuously absent from this blueprint are what Western analysts often call the Soviets' "foreign policy specialists": academics or writers like Georgi Arbatov, head of Moscow's Institute of the United States and Canada, or Izvestia commentator Alexander Bovin. Their influence began in the late Khrushchev years and widened after Mr. Brezhnev took over.

One official recounts that "various" specialists, "Bovin and Arbatov among them, began to work, at first somewhat informally, later formally" with the Secretariat and its apparatus. Through the 1970's the role of such specialists has continued to matter, officials suggest, but its nature has gradually changed.

Mr. Bovin's own (good-natured) characterization of the change—"Back then, I gave my opinion even when no one asked, now I give it when they ask me"—is exaggerated, other officials say.

He, Mr. Arbatov, and various fellow "specialists" are said to retain frequent enough contact with men of at least Secretariat level to make an important contribution to the policy machine, asked or unasked. Besides, officials say, they are asked. The distinction is that more of their contribution is now apt to be "of a longer-range nature," as one official put it, "not necessarily, for instance, on how to answer such-and-such diplomatic note."

The issues may range from arms talks to Mideast policy. Both Arbatov and Bovin said that, typically, they are asked for their written assessment—often by the Secretariat, sometimes by the Foreign Ministry. In some instances, other officials said, the foreign policy specialists are invited to Secretariat or Politburo sessions, or are called on by individual members of either group.

Men like Arbatov and Bovin also participate in preparation of some foreign policy statements by Soviet leaders, officials said. Such specialists were among those who helped prepare the foreign affairs portion of Brezhnev's keynote address to last year's Communist Party congress.

When Reagan announced economic sanctions against the Soviets late last year, Arbatov wrote a commentary for Pravda. Bovin wrote a piece in Izvestia. Neither seems to have been summoned for urgent policy consultation. Bovin, at least, says he was not. Arbatov, who had been scheduled to go on vacation at the time, did so.

On the domestic front—at least on the economic front—policymaking typically moves more slowly. Both the economic crisis and the pattern for dealing with it have become something very close to institutions in recent years.

Policy "input" is enormous, almost constant. Policy output, officials say, is in large part a function of bargaining among actors like Gosplan (the gargantuan state planning organization), government ministries, and party officials; or among competing regions and economic sectors.

The scientific community plays an increasingly important role, the officials said. So do other, not strictly economic, groups: for example, the youth organization of the Communist Party, whose say stems largely from the importance of young work brigades in key economic projects.

Much more rarely on the domestic front than in foreign policy does the Soviet decisionmaking machine have to cope with the equivalent of an errant submarine.

(Perhaps partly from lack of practice, the machine seems to have flubbed a recent exception: Dr. Sakharov's hunger strike in appeal for an exit visa for his daughter-in-law. The initial decision, as officials tell it, was to stand tough. Yet as Dr. Sakharov kept fasting, as the Western press kept writing about him, and as Western scientists began shouting at Moscow, the men at the top rethought things. One official said Anatoli Alexandrov, head of the Academy of Sciences, was a key voice for compromise. "He and others did not want the death of Sakharov on the Soviet Union's shoulders." Moscow, in the end, give in.)

More typical of domestic policymaking was Mr. Brezhnev's late 1980 call for a novel "food program" to deal with a not-so-novel problem: a growing shortage of meat and dairy products on Soviet store counters. The groundwork, and bargaining, quickly got into full swing.

By the time of the party congress in early 1981 (they are held every five years), Alexei Smirnov, head of a nationwide system of food cooperatives and a man with ministerial rank in the Soviet government, says that his group "had already calculated we would provide an increase of 15 percent [in food supplies] in the current five-year plan."

By July, he had done some new figuring: "After working this out with our regional contacts, we decided we could provide an increase of 25 percent—assuming we get some help from the state in increasing equipment and transport capacity for some farming enterprises. . . ."

"The food program will surely be announced at the fall [1981] plenum of the Central Committee, in conjunction with next year's economic plan," Mr. Smirnov said.

It wasn't. Mr. Brezhnev told the plenum, in effect, that work on drawing up the program was continuing and that the full package would be offered at a later committee session. (Meanwhile, officials said, some aspects of the program—like a shift of agricultural resources from wheat to more appropriate livestock feedgrains—were being carried out piecemeal.)

The bargaining may, in any case, continue even after a food program is announced. Last year, the Secretariat and the Soviet government published guidelines for shoring up another problem area: coal mining. Shortly afterward a follow-up meeting (organized by the Secretariat, one senior official said) was held in Moscow. Among the participants listed in Pravda were senior government ministers, two members of the Secretariat, and various regional and local representatives. Boris Pastukhov, head of the party youth organization, was not mentioned in Pravda, but he was at the meeting:

"Various speakers were exclaiming, 'The youth will do this, the youth will do that.' I said, 'The living conditions [for young miners] are still far from good. There is no [activities] club, for instance. . . . Until you

meet these demands on our part, you will not get young workers.'"

Yet whether the issue is coal or neutron weapons, whether you are Boris Pastukhov or Leonid Zamyatin, not all those with input and influence in the Soviet system are created equal.

For a foreign reporter, charting an individual's precise place in the policy hierarchy can be roughly akin to counting angels on a pin. Still, hints of the intricate dividing lines do come across in interviews with various officials:

Pastukhov, for instance, said he quite often attended Politburo and Secretariat sessions. But when asked why "Komsomol [the party youth wing], or you, don't have a formal place on the Politburo," he did suggest the distinction mattered.

His first, chuckling reply was: "Well, maybe if you put in a good word for us. . . ." Then, more seriously, he said "this highest echelon" of leadership required vast experience. He in effect said he saw Mikhail Gorbachev, the youngest Politburo member and a onetime regional leader in Komsomol, as speaking for the group at "the highest echelon."

Mikhail Nenashev, editor of the newspaper Sovietskaya Rossiya, regularly attends Secretariat sessions, although he is not formally a member. He participates in discussions which, with protocol minimal and formal votes rare, constitute much of the Secretariat's work. Yet in some functions, he suggested, he had less influence than official members of the group: either when "things are rejected from the start, or [it is decided to have them] moved to the Politburo for further discussion."

Or, there is Leonid Zamyatin, the department chief said to have helped frame the Soviet statement on the neutron weapon. Alexander Bovin lists Mr. Zamyatin, who also acts as press spokesman on President Brezhnev's trips abroad, as of those who "can give advice even when not asked."

Yet when I asked a senior official whether Zamyatin might therefore be called the coordinator of foreign policy input for the Secretariat, the man replied: "No, not really. Remember, he is not a member of the Secretariat. . . ."

(A glimpse of the hierarchy was offered in talks last year between the visiting Canadian agriculture minister and Soviet officials. At one session Mikhail Gorbachev, and agricultural specialist who is a member of both Politburo and Secretariat, was joined by the Soviet agriculture minister and the head of the Central Committee's agriculture department. Gorbachev is said to have done "literally" all the talking for the Soviet side.)

Here as elsewhere, access to men at the top cannot help but influence policy for those further down the hierarchy. Given the degree of power vested in the Politburo and Secretariat, access is especially important.

Though it is sometimes hard to confirm officials' portrayal of their own access or lack of it, two interviews did provide a hint of the intricate pecking order: Yuri Zhukov, a veteran Pravda commentator, remarked shortly after last year's meeting between Foreign Minister Gromyko and US Secretary of State Alexander M. Haig Jr.: "Well, I haven't seen Gromyko yet. He is still in the US. . . ."

Later, Alexander Chakovsky, editor of the newspaper Literaturnaya Gazeta, offered me help in arranging interviews with other officials: "I can't help with the Gromyko level, of course. . . . But on the Zamyatin level, I'd be glad to."

Another editor, Vasily Golubev of the newspaper Sotsialisticheskaya Industria (Socialist Industry), showed me a roughly 20-page report he had sent the Secretariat summarizing comments from various workers, executives, engineers, and scientsts on the current economic plan. This, he said, was one form of policy input. But as if to say the real requisite was "access," he added: "I know Dolgikh," referring to the member of the Secretariat specializing in industrial issues.

At times, the drop-off between those with "access" and those without it can be abrupt: After Mr. Reagan's neutron weapon decision, I talked with Nikolai Novikov, a deputy chief editor of Izvestia. (His boss, like the editors of Pravda and Sovietskaya Rossiya, attends regular Secretariat meetings. the Pravda editor, in an interview, had earlier demonstrated rather detailed familiarity with another military question, which led mt to believe Mr. Novikov might conceivably be helpful.) Mr. Novikov indeed addressed the neutron issue—hinting ominously at Soviet plans to build a similar weapon.

Later, I asked a Central Committee member about this. He replied, not unkindly: "Well, Novikov wouldn't be in a position to know anyway. That's for sure."

WHO PULLS THE LEVERS OF POWER IN THE SOVIET MACHINE

(By Ned Temko)

Moscow.—Mikhail Fedorovich Nenashev is something of a Soviet socialist Clark Kent/Superman.

He is a softspoken newspaper editor few Russians, and fewer Westerns, have heard of. Yet for about 90 minutes each week he lays aside his red pencil—and helps run the Soviet Union.

His name is not on any official leadership list. Still, the slight, bespectacled Mr. Nenashev takes part in the meetings of a group second in policymaking power only to the Soviet Politiburo: the Secretariat of the Communist Party's Central Committee.

There is another strange thing about Mr. Nenashev (who edits Sovietskaya Rossiya, the official organ of the Russian Republic). Within the full, 468-member Central Committee, he is only a "candidate," or nonvoting, member. That means, officials suggest, a little less prestige but not necessarily any less influence.

Mr. Nenashev, at 55, is young by Soviet political standards. He hasn't been editor of Sovietskaya Rossiya and an "unlisted" participant in Secretarial meetings for all that long.

Meanwhile, behind the traditionally closed doors of the committee's twice-yearly sessions, it may not matter much, in practical terms, whether you have a vote or not. . . .

There was, for instance, the "Nixon question." The time was 1972, back when U.S. officials spoke of détente in the present tense. Richard Nixon had jointly broken stride in his run-up to a Moscow summit: to announce the mining of North Vietnamese ports. The Soviets, it was thought, might cancel the summit. Just three days before Mr. Nixon was due here, the full Central Committee met in special session:

"The decision to receive Nixon had already been taken," relates one senior official. "The Politburo called the meeting, for another reason: to explain why the decision had been made. Comrade Brezhnev did this. Then he announced he would protest the American action, in the committee's name, to Nixon. . . . No one spoke against the decision."

What follows is an attempt to assemble an insiders' guide to the policymaking machine Leonid Brezhnev, now in his mid 70s, will hand over to whoever comes after. It is an effort to unravel the present, not predict the future.

It is largely the story of three senior Communist Party bodies that work, for all practical purposes, in secret: the Politburo, the Secretariat, and the full Central Committee. Other individuals, other institutions, influence decisions—a subject for the next article in this series.

Yet by Soviet law and party rules, these three groups direct the nation's policy. And they do, senior officials say . . . only not quite as advertised.

On paper, it should all be quite simple. The party Central Committee (318 full members and 150 "candidates") determines basic policy lines, between infrequently held national congresses. It then "elects" two other bodies to do the day-to-day work. The Politburo (13 full members and eight candidates) is top dog. The committee Secretariat (nine members ensures that what the Politburo decides gets done.

Yet then come the disconcerting puzzle pieces offered, sometimes almost offhandedly, by officials who have participated in the work of the three party bodies:

The Politburo, though genuinely the top power, is not always the most important actor in policy decisions.

The Secretariat does much more than dispose what the Politburo proposes. It is a more powerful policy body than its official brief suggests. On occasion, the two top groups meet as one. (The party rules do suggest substantial autonomy for the Secretariat in one very important area: appointment of "cadres." Officials confirm this role and note it applies to positions both inside and beyond party organizations.)

The official membership lists of both groups can be a chancy guide to who actually attends their regular, generally weekly, sessions. (This applies not only to men like Mikhail Nenashev, but also to men like Leonid Brezhnev.)

The Brezhnev Central Committee can sometimes influence, as opposed to make, policy, but not all policy, equally. The full committee does not, as a rule, meddle in questions of foreign relations.

"The day-to-day [power] relationships," began one Central Committee member who has attended Politburo and Secretariat meetings, "are not perfectly predictable . . . even though some of us like to explain how it is all wonderfully logical."

But the model this and other officials tended to settle on involved an "interlocking" policy directorate of sorts. The Politburo and Secretariat do the interlocking. "Don't forget," said one official, "five men are members of both." (They include Mr. Brezhnev, the two men most often tipped by diplomats as likely successors, and the youngest man on either body, agricultural specialist Mikhail Gorbachev.)

The easiest place to start a search for how the Soviet policy machine works is, officials suggested, in the Secretariat.

It generally meets once a week, officials said. (They said the same went, as a rule, for the Politburo, but it occasionally meets less frequently.) Sometimes the session is at Central Committee headquarters, other times it is in the Kremlin. Wallet photographs of the group's nine official Members

aren't likely to help the uninvited interloper identify the players.

Leonid Brezhnev, party general secretary, is the official chairman. But he is "not necessarily" there. Several officials suggested he was often absent and said Politburo ideological authority Mikhail Suslov then ran the show before he passed on in January.

When neither he nor Mr. Brezhnev attended, officials said, the chair went to Andrei Kirilenke or Konstantin Chernenko, the two men Western analysis consider frontrunners to succeed Brezhnev as party chief. Sovietskaya Rossiya editor Nenashev, Pravda chief Victor Afanasyev and Izvestia editor Pyotr Alexeyev are invited to the weekly sessions. Mr. Afanasyev says Sergei Lapin, head of the state broadcasting authority, also attends.

"They do not only attend, but participate in the discussions," a colleague said. (Since discussion takes up much of the Secretariat's work, men like Afanasyev and Nenashev amount to something very close to full members—but not quite, as the next article in this series suggests.)

Directors of various of the Central Committee's roughly 20 specialized policy "departments"—really Secretariat departments—also attend regularly. "And other people, from outside, are called in according to the particular issue or issues being discussed. . . ."

Some end up at Secretariat sessions almost as frequently as Afanasyev and Nenashev. Two, in particular, were mentioned: party youth leader Boris Pastukhov, and the head of the Soviet Academy of Sciences, Anatoli Alexandrov.

Six other officials, among those interviewed, said they had taken part in Secretariat meetings: U.S. affairs expert Georgi Arbatov, Izvestia commentator Alexander Bovin, Socialist Industry editor Vasily Golubev, Kommunist editor Richard Kosolapov, consumer cooperative director Alexei Smirnov, and publishing committee chief Boris Stukalin.

Protocol, in the Soviet system, is inversely proportional to power. And protocol, in Secretariat sessions, is at a minimum. (Politburo meetings tend to be smaller, and even less formal.) "No one [at the Secretariat] really asks for the floor, in any formal manner," said one official. "Suslov or Brezhnev, or whoever, just looks around. You raise your hand and you can speak." The pace is brisk.

The agenda is crowded, often with matters of everyday policy direction that would seem, to the outsider, less than momentous. "Some decisions can be made at lower levels," one official complains. "But there is a reluctance to take responsibility. . . ." Still, the meetings generally last only about 90 minutes, according to Mr. Nenashev. "Most of the work is done outside these meetings, within the [specialized departments and] apparatus."

And "most of the work" for the Politburo can, in many cases, be done in the Secretariat. It is here that the business of "interlocking" gets more complex, and the role of individual actors and groups more unpredictable.

In the end, the Politburo takes precedence. This is particularly true, officials said, in two areas: foreign policy and "major departures, or new policies," on the home front. As it happens, there have been precious few issues of the second variety in the more recent years of the Brezhnev era. Soviet officials did not say this. But the phenomenon may help explain something they did say: In practice, the dividing line between the provinces of Politburo and Secretariat can often be blurry.

"The Secretariat frames policy decisions," is how one senior official put it. "By the time an issue reaches the Politburo, the framework for the decision is usually already there."

This can apply even to foreign policy issues—where the Secretariat is said to "coordinate" and "organize" information and analysis from various sources. Yet it is particularly true for domestic questions. On a good number of such questions, especially those involving nuts-and-bolts direction for running the country, the Secretariat was said to make the decisions itself.

One official who has attended Secretariat and Politburo sessions pointed out that, theoretically, "The Secretariat does not have competence in areas of state, as opposed to party, fundings and expenditure. Moreover, in the party hierarchy, the Secretariat cannot give directives to the government, while the Politburo can. . . ."

"Thus, a number of economic questions must technically be decided by the Politburo," he said. But he added: "Even on some decisions that fall in this category, the Secretariat will, in effect, work everything out and pass it up to the Politburo just to be looked at."

This the Politburo does—at a large table in a room next to Mr. Brezhnev's Kremlin office. Here, the ultimate decisionmaking prerogative rests. And here, again, an official score card won't necessarily do the interloper much good.

Mr. Brezhnev, officals says, is "generally" at Politburo sessions when in Moscow. So are others in the group who are based in the capital. But seven members are prominent party men from outside. They do not necessarily attend unless an issue relating to their areas is being discussed.

This, said one senior official, even applied to the Leningrad party leader, Grigori Romanov, whom diplomats sometimes mention as a dark-horse contender to succeed Mr. Brezhnev.

"The opinions of those who do not attend are often sought by phone," said another official.

Like the Secretariat, the Politburo sometimes invites outsiders to its meetings. (Again, Pastukhov and Alexandrov are frequent visitors. And again, various other officials among those interviewed had attended Politburo sessions.) But more often than the Secretariat, the senior body will get its outside input in written form.

"Candidate" members talk but can't vote. As it happens, there often isn't a formal vote anyway. "Usually when I've been there," remarked one official, "the chairman will say, 'OK, my understanding is that the proposal is to do such-and-such. Any objections?' And that's that." (Officials suggested the full members do, as a rule, carry more weight than the candidates, but the equation is imperfect. They indicated that a man like Boris Ponomaryov—a candidate member of the Politburo but also part of the Secretariat—wielded greater practical policy influence than some full Politburo members from outside Moscow.)

More often in the Politburo than at Secretarit meetings, the focus is on foreign policy issues. Foreign Minister Andrei Gromyko, a member of the Politburo but not of the Secretariat, "reports periodically," said one Soviet foreign policy analyst. "Naturally, the Politburo thoroughly considers his assessment of all initiatives."

And "sometimes," another official adds, "the Politburo may decide to raise an issue before the full Central Committee." This third component in the policy machine has, in theory, considerable power—if only because it "elects" the Politburo and Secretariat. (In the late 1950s Nikita Khrushchev once marshalled support on the committee to foil a bid by Politburo colleagues to oust him.) Yet in specific policy decisions, the Central Committee has clearly come to play a junior role.

The Central Committee membership list reads like a Who's Who of prominent communists, yet it generally meets only twice a year. In addition to the topmost political and military figures, it includes people like filmmaker Lev Kulidzhanov and former cosmonaut Valentina Nikolayeva-Tereshkova. Unsurprisingly, interviews with 15 committee members made clear, the group debates more than decides policy issues.

There is protocol. At the end of discussion, an issue in either deferred for further study or put to a vote. In recent years, members say, all votes have been unanimous.

"I don't see a lot of difference between my position as a candidate member and a full member," remarked an official who has been both, "except for prestige."

Yet the debate can sometimes be sharp. And members say the committee does exert a measure of influence in at least one policy area: economic planning. The committee includes, after all, effective representatives of various regions, interest groups, sectors of the economy, professions.

"There is some hot discussion," a committee member said. "For instance, if you try to get a certain republic, or ministry, or plant, to increase or change its contribution, . . . it is a bargaining process from beginning to end."

Beyond this, the group can play another policy, as opposed to "policymaking," role: a kind of sounding board for various decisions. This, members suggested, explains the 1972 session on the "Nixon question."

Similarly, Mr. Brezhnev said recently that the committee would devote a coming session to a "food program" that has been laboriously, and still incompletely, pieced together over the past 15 months. As on the state's yearly economic plan, members suggest, some hot "bargaining" is conceivable.

On foreign policy issues—whether Richard Nixon or Poland or Afghanistan—the committee is much less apt to bargain. One reason is straightforward: "Many of the people," one member said, "are not from the foreign policy side, so they can't speak with great authority." Individual committee members can and do influence foreign policy moves, but generally by virtue of their roles outside committee sessions.

No full committee meeting was called, members said, before Soviet troops intervened in Afghanistan at the end of 1979. Nor, they said, was the committee convened for dispatch of an angry letter last June (in the committee's name) to Poland's beleaguered communist leadership.

The initiative came from the top. (One senior official said flatly it originated in the Secretariat; another said it should be "assumed" it came from the Politburo.) The Secretariat, various officials agreed, handled the task of drafting the note. It was, the officials said, "shown" to all committee members.

THE NEXT KREMLIN GENERATION: CRISIS MANAGERS AS MUCH AS COMMUNISTS

(By Ned Temko)

Moscow.—In central Moscow, if you take Marx-and-Engels Street to the end, you will find a dimly lit office distinguished by lofty ceilings and an enormous bust of Karl Marx.

The room belongs to Richard Kosolapov, the quiet, articulate editor of Kommunist, the Soviet Communist Party's ideological journal. Asked about Poland (two days after the imposition of martial law), he replies:

"It is not possible for Polish leaders to bypass Solidarity. . . . Undoubtedly, there will have to be a dialogue, an intensive, effective dialogue. . . ."

The "transition" from the era of Leonid Brezhnev to whoever and whatever follows has, in a sense, already begun.

Younger men—like Kommunist's Richard Kosolapov, Pravda editor Viktor Afanasyev, or Mikhail Nenashev of Sovietskaya Rossiya—have moved into positions of "access" and influence within the policy machine. ("Younger," by Soviet political standards, means men between 50 and 60 years old—some 15 to 25 years less than men like Mr. Brezhnev.)

The older men may have changed a bit, too. They did not roll tanks into Poland when many in the West said they would. A few weeks back, I asked a younger Central Committee member why.

"Everyone on the Politburo," he said, "knew there were some problems tanks wouldn't solve. . . . They realized such a step should be avoided under any—almost any, I should say—circumstances."

A few days later I asked another of the younger men, foreign policy analyst Alexander Bovin, about the "gradual normalization" the official Soviet news media were detecting in Poland:

"Normalization? Yes, in about five years, maybe. . . . We cannot speak of normalization. The issue, in the shorter run, is canceling martial law. It will gradually change in color. Some aspects will remain, others will be changed. . . . At least, this is how I see things."

Only a fool would venture precise predictions on the men who will lead the Soviet Union when Leonid Brezhnev is gone. Only a greater fool would presume they will necessarily be men like Alexander Bovin or Richard Kosolapov—strikingly (to the outsider) more articulate, sophisticated, open, and self-confident than the typical older official. With others of roughly the same age group (Mr. Afanasyev, for instance, or party youth leader Boris Pastukhov) the impression comes over less strongly.

And whether such officials who are now in the younger generation will rule differently when they eventually reach the top remains to be seen. Yet they do often seem to think—or at least talk and act—differently, with two marked exceptions:

They seem in most cases to share with much older officials a sense of national, as opposed to personal, insecurity. It is the sense that their nation remains an acutely vulnerable superpower, not fully accepted by the United States as a member of the club, and beset by problems at home and abroad. The economy is not working right. And beyond Soviet borders lie real or potential sources of trouble: Poland . . . and upheaval in Iran . . . and Afghanistan . . . and China . . . and (in the longer run, suggested one official interviewed) Japan.

Officials of both generations projected a starkly bipolar vision of the way the world should be: Two superpowers, Soviet and American, should in effect run things. That, after all, is the point of being a superpower. They should help each other out, respect each other.

This arrangement, in Soviet eyes, presupposes that what Moscow does to its dissidents, for instance, is Moscow's business. (Older officials interviewed were much more likely to address this subject, yet the younger ones who mentioned it plainly shared their view.) On international issues, "respect" would cover a Soviet sphere of influence, or legitimate concern, deemed to embrace Afghanistan as surely as Poland. Also, Iran and other bits of the Mideast.

But can the world really run this way? Does it? And what can the Soviet Union do about all this?

Yuri Zhukov, Pravda political commentator and party Central Committee member, has written newspaper copy of equal distinction under Josef Stalin, Nikita Khrushchev, and Leonid Brezhnev. ("Stalin . . . I mean Brezhnev," he began one sentence in the second of our interviews.) He is an incisively articulate man, a file cabinet on the ups and downs of superpower relations, yet he prefers speechifying to conversation. Still, he did open up considerably as time went on. So I asked about Afghanistan:

"Suffice it for Reagan to tell [Pakistani leader] Zia to sit down with Babrak Karmal," was the sharp, unhesitating response.

Izvestia foreign policy analyst Alexander Bovin—a man who offers analysis not only to his readers, but also at times to the men who rule the Soviet Union—speaks with more nuance. When Israeli jets struck an Iraqi nuclear reactor last year, the Soviet media held Washington responsible.

Mr. Bovin, too, said US support for the Israelis had "created the conditions" for such an attack. But he added: "Personally, I can conceive that Reagan or Haig might have been against the attack . . . or against the [earlier] Israeli strike on populated sectors of Beirut. I think Israel is really starting to get out of control, presenting the US with a problem."

No official interviewed suggested it was time to shelve superpower "détente"—that would constitute a departure from unwritten rules of behavior that would be somewhat akin to calling Brezhnev a tired old man. Yet there were occasional hints, nonetheless, of a difference in outlook between old and younger.

I asked everyone, for instance, whether Soviet policy might be affected by the fact that younger people had not endured the horrors of world war. The typical reply from younger officials was: No, hatred of war is an irrevocable part of our national psyche.

Septuagenarian Alexei Romanov took the question differently, replying: "If the nation faces any danger, it will unite the people. All of them . . . I am confident youth today is very patriotic . . . strong, and tough."

Alexander Chakovsky, editor of the newspaper Literaturnaya Gaxeta, literally read a typewritten text at me during our "interview." He alternated condemation of the US with a call for negotiation and "détente," then digressed near the end.

Obviously, he said, Ronald Reagan was trying to force Moscow to spend money on guns and not butter. "But we are not afraid of any difficulties. We know how to overcome them. If need be, we can subsist on brown bread and potatoes, but we will never compromise our security." He added: "We will never put up with any imbalance in the sphere of armaments. What we stand for is full equality in this respect."

Another of the older men interviewed ventured that Soviet soldiers could do better in tougher conditions than American soldiers.

He was among those who quite happily took on the issue of Soviet dissidence. He mentioned an official Soviet committee on compliance with the Helsinki Accords. This group, he said, monitored compliance only in the Soviet Union. "But the Americans are concerned with compliance in our country." The man chuckled, as if to emphasize the audacity, the very ludicrousness of such a scheme, and then added, more seriously: "We regard this as a violation of our sovereignty.")

Interestingly, it is the younger men among the ranking officials interviewed who have come to play a more direct role in the policymaking process. (Perhaps less surprisingly, it is younger men—as opposed to younger women—who matter most. I interviewed the highest-ranking women in the country. If any of them play a major policy role, they hid this fact expertly.)

These "younger men" are not a single group. Background matters. Boris Pastukhov, the party youth leader, has spent his entire career in that group's ranks, picking up an engineering degree (1958) along the way. He talks a lot more like his elders than do men like Alexander Bovin.

Mr. Bovin's background—and those of Mr. Kosolapov and US-affairs analyst Georgi Arbatov—are different. These men got a nontechnical education, then were seconded as experts or consultants to the Central Committee Secretariat. They speak, in some cases, more like crisis managers than Communists. (Oddly, it is ideology that often seems to puzzle Soviet officials most about Ronald Reagan. . . .)

Alexander Bovin is intelligent, irreverent, irrepressibly good natured. Sitting in his seventh-floor office, his corpulent frame imperfectly restrained by suspenders, he looks vaguely like the late Zero Mostel. "Diplomacy is something of a game," He says in one of five lengthy conversations. On one wall of his office is a poster from the US Military Academy at West Point. ("An American gave it to me.") On another is a poster from Israel. ("I got it when I was in Tel Aviv.")

"There is something in common between Reagan's policy and [Ayatollah Ruhollah] Khomeini's," He said at one point last year. "Reagan is looking for answers in the 19th century. Khomeini is looking in the 7th century. . . . Both want to escape from our epoch. . . ."

"You have your game," he said three weeks ago—after the latest dip in the roller coaster of superpower relations. "We understand the reasons, . . . and on some specific issues, like Poland, we tell you to go to hell. . . ."

The Soviet strategy now, he says, is to "wait."

Echoing, indeed outdoing, public remarks from Mr. Brezhnev, the Izvestia analyst dismisses as "stupid" a Reagan administration proposal for mutual cuts in European-based nuclear missiles. (The Soviet line is that Mr. Reagan is demanding "unilateral" Soviet disarmament.) Yet Mr. Bovin quickly adds that the US proposal could provide a starting point for agreement. "There should be a compromise" somewhere between the current US and Soviet stands, he says.

He terms it "without doubt encouraging" that, even after the imposition of martial law in Poland, US Secretary of State Alex-

ander Haig has not altogether stopped talking about the possibility of strategic-arms talks.

"I am positive there will be further [Soviet-American] meetings" on various issued—"a lot of them."

Mr. Bovin argues there can be no other way. "The first place must be taken by Soviet-American relations." This can be a guide for other regions, like the Middle East: "Of course, the US has vital interests there. I will acknowledge this." But "the region is much closer to Soviet borders." So if, for instance, Israel and Syria go to war, Moscow could not "Stay behind a screen." The idea, he says, is to avoid war. "The US should persuade Israel. . . . We can talk to the Syrians. This is a good area for compromise."

Meanwhile, Bovin says, the Soviet Union would welcome better relations with more pro-Western Mideast parties, like Saudi Arabia or Egypt. He say progress on both these fronts will likely take time—precisely how much depending on Egypt and Saudi Arabia. With the Saudis, "There are, of course, some ideological consideration. . . . like Islam, or the Saudis' ties with America.

"But that is their business. We consider that normal. Fundamentally, between the national interests of the Soviet Union and Saudi Arabia, we see no contradiction."

These "national interests," he maintains, involve a comprehensive Mideast settlement that is "impossible without the Soviet Union."

I asked in one conversation what he thought of US suggestions that the Soviet Union might intervene in a nearer swath of Mideast soil—Iran—when Ayatollah Khomeini goes. "Such fears are premature," he said. "Until now, all conflict situations in Iran are because of the American presence [under the Shah], not a Soviet one." Then he added: "It is very important for us to have on our borders a strong, stable state . . . supporting good relations with us."

Viktor Afanasyev of Pravda has a somewhat more direct role in the policy machine. He attends regular meetings of the Secretariat.

At first glance, seated in a penthouse office in Pravda's new headquarters, he seems more like a Brooks Brothers model than a Soviet socialist politician. He is suntanned, looks younger than he is, and wears and immaculately tailored sky-blue suit. He smokes imported cigarettes, with an antitar filter ("it's American"). And he begins with an assault on Ronald Reagan's administration. Like Bovin, one of his sharpest immediate concerns in the Middle East.

Yet the line is harder, the nuances fewer. (Perhaps only as speculation is it worth noting that he, unlike Bovin, is not a trained foreign policy man.) "With US support and connivance," says the Pravda chief, "Israel flouts international law. . . . The [US] Rapid Deployment Force is purely aggressive, directed at the Soviet Union.

"Or take Afghanistan. The US and the West don't want a solution. At one point Pakistan agreed to talks but, under US pressure, withdrew." Then, he comes to what appears the major source of his anger: the somewhat ham-handed search by US customs agents last year of diplomatic cargo on an outgoing Aeroflot jet.

"Reagan seems to have forgotten with whom he is dealing," snaps Afanasyev. "We are not El Salvador or Panama. We are a superpower, with the self-respect of a superpower."

With this out of the way, he becomes more circumspect. "We assess very positively," he says, Reagan's lifting of a Carter-era grain embargo. And about US fears in the Mideast: "If the Americans help us with our oil deposits, why should we go to the Mideast for oil?" On grain purchases from the US (this was shortly before Moscow contracted for more American grain): "I think we will buy from the US. . . . To be honest, it is much more convenient for us."

Then, unprompted, the national sense of insecurity exhibited by older officials emerged: "The time may not come soon. But eventually I think we will become even a grain exporter."

Finally I asked about Poland: "We hope the Poles themselves will decide their own problems. [The crisis manager emerges.] They have to. Nobody else will feed 36 million people."

Afanasyev's mere willingness to discuss the issue sets him apart from an earlier generation of officials. Older officials are much less likely to tell an American reporter that American grain is a help. Still the Pravda man seemed somewhat less comfortable in the give-and-take of an interview than others of the Younger officials interviewed.

A few weeks later, I had just completed an interview with Yuri Zhukov down the hall from Afanasyev's office. The chief editor happened to be near the elevator when I emerged. He turned, not quickly enough, to avoid recognition. I said hello. A little like a guilty schoolboy, he replied: "I was just out for a minute smoking a cigarette. . . ."

This sense came across much more strongly in an interview with party youth leader Pastukhov. Of all the younger men, he was the only one visibly ill at ease. He seemed to approach an interview with a Western reporter in the same way as officials much older.

He was demonstratively friendly, his taut boxer's face frequently creasing into a smile. Yet it was somehow the friendliness of a headwaiter, rehearsed and performed. When he did open up, the catalyst was, as often with Soviet officials, the question of the world war:

"My father was killed in the war," he said quietly. Yes, in some ways, kids are different nowadays. They don't feel as acutely the hardships of the war years. But that will change: "I am sure young people will do everything asked of them by party and country. . . ."

Three other younger officials interviewed—Kosolapov, Arbatov and, to a slightly lesser degree, Sovietskaya Rossiya editor Nenashev—were more at ease, often less strident, particularly on issues of foreign relations.

Nenashev began with a comment frequently heard from a variety of Soviet officials: Americans, with their election lurches every four years, challenge the crucial imperative of "continuity" in superpower relations.

"What," I asked, "should the Soviets do about this?" He replied that one imperative was "not to act in haste."

Nenashev, like the Pravda editor, attends Secretariat meetings, I saw him shortly before the Polish Communist Party's extraordinary congress last year, amid a distinct lull in Soviet media commentary on events in Poland. Why the lull, I asked.

His reply: "There is no need to pump up the [tense] situation. . . . Also our press must be careful not to interfere . . . on the eve of the congress." He said this was because Polish "opposition" elements "are standing somewhat expectantly" to use such a move to their political advantage.

Georgi Arbatov, like Izvestia's Alexander Bovin, is a foreign policy specialist. His is the vocabulary of Realpolitik, Soviet style. Its underlying assumption: Superpowers (read: the U.S.) should act like superpowers, not like outmoded crusaders (read: Ronald Reagan) who presume they can dictate terms to another superpower (the Soviet Union).

Take Poland, for instance. "Nobody knows how it will end. The Poles have a lot of problems, economic, . . . internal. . . ." Before martial law some extremists "wanted a showdown, even would have welcomed Soviet intervention."

Public statements in Poland indicate a measure of continued reform is possible and suggest "this is not a move backward," he says. In this context, martial law is "by far not the worst of things that could have happened," Mr. Arbatov concludes. "No one has really serious reasons to complain."

Richard Kosolapov stands between the world of foreign policy specialist like Georgi Arbatov and Alexander Bovin and the more direct domestic policy involvement of men like Pravda's Viktor Afanasyev.

Mr. Kosolapov is a smallish man typically outfitted in a somber three-piece suit. He was once deputy head of the Secretariat's (domestic) propaganda department, then the No. 2 man at Pravda. Now he is the top man in the party's official journal of politics and ideology. He sometimes attends Secretariat sessions. When he doesn't, officials say, he is among those fully briefed on top-level discussions and decisions.

Last June, he was one of a group of Soviet editors and journalists on a fact-finding visit to Poland. He is a hard man to pigeonhole: He is equally articulate and open on foreign and domestic issues, with a vocabulary that suggests both the crisis manager and the devoted, if not didactic, communist.

Détente? "I don't even need to harp on such things as the 'mystical Russian soul,'" he says with a half smile. "The imperative is social tasks at home." Later, he says that a system of "incentives" for Soviet workers would seem another obvious prerequisite for shoring up the economy. ("In a free market, prices really do provide for efficiency. Our system is more humane, but more difficult.") The challenge: find similar economic "stimuli," not just money, but "higher-quality goods" for Soviet workers to buy with their money.

General international relations? "We see much potentially in common in the [geopolitical] interests of our country and the US, also in use of natural resources." Meanwhile, "consider the danger if a man like Idi Amin, let's say, or Pakistan got the bomb."

On Libya's Muammar Qaddafi: "One must not forget he is a fanatic Muslim, with all that implies."

Poland: Yes, there must be "intensive, effective" dialogue with Solidarity even after martial law, a search for some kind of entente. The union group "is an organization of millions of people. . . ."

"Even if the crowd is wrong, someone has to talk to it."

"Quite a lot of [Polish Communist] party members are in Solidarity," the editor of Kommunist had said in a conversation some six months earlier.

"One cannot say, at this point, whether that is necessarily a good or bad thing. . . . A process of discussion continues, within the party and within Solidarity, too."

"The system has failed in Poland," he said a little later. Then, he added: "Much is said in the West about the fact that the Soviet system failed there. . . . This is not quite true, it is the Polish system that failed."

In a further interview, Kosolapov turned again to Poland: "One mistake [by the leadership] was not paying enough attention to the Catholic Church. The Poles are religious people. The church is important. . . ." And, a few months later: Yes, the situation is becoming more tense. It is almost as if some "extremists are sort of having fun, a kind of national masochism. . . ."

Was he referring to Solidarity as a whole? No, Solidarity, "I think, includes mostly ordinary people. . . ."

"You know," he went on, smiling slightly, "there's a joke I heard not too long ago: There are two dogs running, and they collide at the Czechoslovak-Polish border. . . . The one coming from Poland says: 'I am running in order to get something to eat.' The one from Czechoslovakia, who is a little puzzled at this, replies: 'I was running in order to bark freely.'

"Solidarity is scared of taking economic, and other, responsibility, scared of being discredited. . . . They only destabilize, and damage, and demand. . . ."

Yet above all, Kosolapov stressed in five lengthy conversations, there must be an understanding on the part of the United States that Poland is not "the kind of issue that should be allowed to strain our relations. . . ." Ronald Reagan, he argues, must learn "the talent, the art even, of speaking with people as equals." By "people," Mr. Kosolapov clearly meant the Soviet Union. The "Reagan approach . . . well, this is not the century for such things. Distances have become so small, . . . peoples so interrelated. . . ."

On Afghanistan, the sense of superpower vulnerability surfaces anew. Had Soviet troops not intervened, he says, "the situation in Iran would be very different" for Moscow. "Our southern border would be encircled with unfriendly neighbors."

The concept, he suggests, applies much farther afield. The Soviets, for instance, have occupied since World War II a small group of islands claimed by Japan, the Kuriles. Could Moscow give in?

"No," says Kosolapov. "First, this water has become in effect an internal Soviet sea. . . . The Americans wouldn't compromise, either, in our place. Second, there is the problem of creating a precedent:

"It is like acupuncture. You have an ache in your ear and get a pin in your heel. . . . It could mean reopening [territorial] issues like Poland . . . or areas of Soviet Asia. . . ."

(On February 26, 1982, The Christian Science Monitor carried this editorial.)

INSIDE INKLINGS OF FUTURE BREZHNEVS

If Westerners harbor any hope for ultimate reform of the Soviet Union's totalitarian system, it lies in the possible difference of outlook in the new generation of Soviet leaders—those who will one day succeed the Brezhnevs and Gromykos. Outsiders watch avidly for any inkling of change. So it is interesting to note, as Monitor correspondent Ned Temko has done in his series on "Soviet insiders," that the relatively younger officials of Sovietdom (in their 50s and 60s) are more at ease with a foreign journalist, less strident, less reticent to talk frankly, more self-confident and sophisticated. That does not unlock the mystery of what policies future Soviet leaders will pursue, but it does hint at change.

What may be most instructive, however, is Mr. Temko's observation that, younger or older, those Soviet officials who hold positions of influence usually share something in common: a sense of national insecurity, a sense that the Soviet Union, for all its might, is not yet accepted by the United States as a member of the club. In the view of both generations, the two superpowers should in effect run things and respect each other's interests.

Viktor Afanasyev, editor of Pravda, voices resentment of the way US customs agents searched diplomatic cargo on an Aeroflot jet. "We are not El Salvador o. Panama. We are a superpower, with the self-respect of a superpower." Richard Kosolapov, editor of the journal Kommunist, suggests that President Reagan must learn "the talent, the art even, of speaking with people as equals." Meanwhile veteran writer Alexander Chakovsky, whose generation now rules the USSR, remarks: "We will never put up with any imbalance in the sphere of armaments. What we stand for is full equality in this respect."

This is no case for accepting Moscow's distorted bipolar view of the world. Nor for hesitating to criticize the Soviet Union, or to stand up to it with all the moral, political, and military force needed to defend the West's interests. Far from it. It is, however, a reminder that, in dealing with an adversary, taking account of the impulses of national character is no less important than counting missiles and tanks. It is just possible that a little more sensitivity in Washington to the pride of the Soviet Union, to its determination to be treated as an equal in the world, and a little less of what George Kennan calls the "systematic dehumanization" of Soviet leaders might go far toward putting relations back on track.

SOVIET OFFICIALS INTERVIEWED FOR THIS SERIES

CENTRAL COMMITTEE MEMBERS

Afanasyev, Viktor Grigorevich: Editor in chief, Pravda, Board chairman of USSR Union of Journalists. Born 1922.

Arbatov, Georgi Arkadyevich: Director, Institute of the US and Canada. Member USSR Academy of Sciences. 1923.

Biryukova, Mrs. Alexandra Pavlovna: Secretary, All-Union Central Council of Trade Unions. 1929.

Chakovsky, Alexander Borisovich: Novelist. Editor in chief of newspaper Literaturnaya Gazeta. Board secretary, USSR Union of Writers. 1913.

Gonchar, Alexander Zerentevich: Novelist. Board secretary of USSR Union of Writers. Chairman, Ukrainian Republic Committee for Defense of Peace. 1918.

Kosolapov, Richard Ivanovich: Editor in chief of Kommunist. 1930.

Kruglova, Mrs. Zinaida Mikhailovna: Chairman of Presidium of Union of Soviet Societies for Friendship and Cultural Relations With Foreign Countries. 1923.

Kulidzhanov, Lev Alexandrovich: First secretary, USSR Union of Cinematographers. Producer at the M. Gorky Central Cinema Studio for Children's Films. 1924.

Nenashev, Mikhail Fedorovich: Editor in chief of Sovietskaya Rossiya. 1929.

Nikolayeva-Tereshkova, Mrs. Valentina Vladimirovna: Former cosmonaut. Chairman, Soviet Women's Committee. Member of Presidium of USSR Supreme Soviet. 1937.

Pastukhov, Boris Nikolayevich: First secretary, Central Committee of Komsomol. Member of Presidium of USSR Supreme Soviet. 1933.

Romanov, Alexei Vladimirovich: Editor in chief of party Central Committee newspaper Sovietskaya Kultura. 1908.

Smirnov, Alexei Alexeyevich: Board chairman, USSR Central Union of Consumer Cooperatives. 1921.

Stukalin, Boris Ivanovich: Chairman, USSR State Committee for Publishing Houses, Printing Plants, and the Book Trade. Member USSR Council of Ministers. 1923.

Zhukov, Georgi Alexandrovich: Political commentator, Pravda. 1908.

CENTRAL AUDITING COMMISSION

Bovin, Alexander Yevgenevich: Political commentator, Izvestia. 1930.

Fedulova, Mrs. Alevtina Vasilevna: Secretary, Central Committee Komsomol. Chairman, Central Council of Pioneer Organization. 1940.

Golubev, Vasily Nikolayevich: Editor in chief of party Central Committee newspaper Sotsialisticheskaya Industria. 1913.

LIFE OF THE PARTY: THE STORY OF BEATRICE

Mr. CRANSTON. Mr. President, I would like to make special mention of a very worthwhile new television movie, "Life of the Party: The Story of Beatrice." It was produced by Columbia Pictures Television in association with Welch/Welch Productions and will be aired this Wednesday at 9 p.m. on CBS. "The Story of Beatrice," directed by Lamont Johnson and written by Mitzie Welch, is based on the true story of Beatrice Jorgensen, a woman who, after winning a long and difficult battle with alcoholism, dedicated her life to helping other women suffering from the same affliction.

The film outlines her life from her problems with alcohol and the heartache it causes her and her family, to her recovery with the help of Alcoholics Anonymous. Her recovery leads her to recognize the lack of services available to help women with drinking problems, and through her dedication and devotion to her cause, she overcomes the many obstacles to establish Friendly House, the first recovery house in the Nation for women alcoholics. Run entirely on private donations, Friendly House opened in Los Angeles on February 28, 1951. Since its opening, over 10,000 women have passed through its doors, the majority of whom have been successfully helped on the road to recovery.

"The Story of Beatrice" is much more than good entertainment. It is an important education for everyone about the tragedies of alcoholism and the need for better understanding of this affliction and how to treat its victims. Alcoholism and alcohol abuse are among our most serious health problems and reports show that the incidence is increasing. The most tragic aspect is the growing misuse of alcohol by young people.

There are an estimated 12 million alcoholics and problem drinkers in the

United States. In terms of economic costs and individuals affected, alcoholism is one of America's top four health problems and touches almost everyone in some way. Alcoholism and alcohol abuse are violent and expensive problems for our country. Alcohol is estimated to be involved in over half of all traffic deaths, in more than 66 percent of all homicides, 50 percent of all rapes, up to 70 percent of all cases of assaults and child molesting, and 80 percent of all suicides in this country. Alcoholism and alcohol abuse are indicated in over one-third of general hospital admissions each year and consume billions of dollars of the Nation's health bill. They also represent a major problem in our work force. The National Council on Alcoholism estimates that 1 out of every 20 American workers is an alcoholic. Alcoholism is responsible for much absenteeism and low-quality work and many industrial accidents.

Mr. President, I would like to join with the people of Los Angeles, Columbia Pictures Television, Welch/Welch Productions, and many others on September 29 in honoring Beatrice Jorgensen for her courageous efforts and dedication in helping other women conquer their alcoholism and to bringing to the public's attention the need to provide effective alcohol treatment programs for women.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant majority leader is recognized.

Mr. STEVENS. I thank the Chair.

I understand I have time left in the leader's time, is that correct?

The PRESIDING OFFICER. The Senator could use the leader's time which he mentioned or use morning business time.

Mr. STEVENS. I thank the Chair.

EUROPEAN TROOP LEVELS

Mr. STEVENS. Mr. President, Members of the Senate who have been following the efforts of the Appropriations Committee to produce a defense funding bill for the coming fiscal year are aware of the extreme difficulties we confronted in our efforts to honor the spending reductions Congress imposed through the budget process. This was a reduction agreed to not only by the Congress but by the administration.

When it became evident to me that the Defense Appropriations Subcommittee was being opposed nearly every step of the way by the Defense Department and by some Members of the Senate itself, I called a halt to our markup. I told the Secretary of Defense that I would not proceed with a markup until I had assurances of reasonable cooperation from the Pentagon.

There seems to be some area of disagreement over just what defense reduction the administration accepted at the windup of our work on the budget resolution. There is no doubt in my mind that the Director of the Office of Management and Budget knows full well that the total reduction amounted to the $8.5 billion assumed in the budget resolution allocations. Nonetheless, I was willing to accept a compromise approach to the savings target by deferring $1.2 billion of the reductions related to pay absorption until next year, when we consider the supplemental appropriations request.

I was pleased that the Department of Defense did come forward and assist us to work on the bill, so that the bill could be reported, first to the full committee and then to the Senate.

We did reach a compromise agreement which included assurances of cooperation that are required from the Defense Department, and the subcommittee proceeded with its markup, and the original Senate bill for fiscal year 1983 defense appropriations is before the Senate today.

Since then, Mr. President, I have learned that Defense Department officials are again working actively against features of the committee's bill. The main target, I understand, is the committee's recommended U.S. troop levels in Europe. There may be a concerted effort as early as tommorrow, with the active assistance of the Pentagon, to overturn that recommendation.

We have an unusual legislative situation surrounding the defense bill this year, Mr. President, because the House Appropriations Committee has not yet marked up on a 1983 bill and probably will not before we recess for the election. That means that the Senate-reported bill will be the only reflection of congressional intent on defense spending levels when we take up the continuing resolution tomorrow. It is my hope the Senate-reported bill will, indeed, become the interim funding level, with certain exceptions, if it does become necessary to operate the Defense Department on a continuing resolution for any length of time.

My efforts to date in this regard have been only in the interest of securing a reasonable funding level for defense, and that is why I particularly resent anyone in the Department supporting an effort to undermine the committee bill.

Mr. President, I have no defense procurement area for my State. This bill does not affect me in any way, other than as a citizen from a State that does have some military bases. But in this bill there is no "pork"—if that is the right word to use—that affects my State. Neither does this troop issue affect my State in any way.

I believe the committee's position on European troop levels is being misrepresented and distorted. I am sending a letter to every Senator setting forth the facts and pointing out that the committee is not attempting in any way to weaken our Nation's commitment to the North Atlantic Treaty Organization. I want to read a portion of that letter into the RECORD:

> The thrust of the Committee recommendation is to halt the growth of our active military forces permanently stationed in Europe, a steadily increasing burden that seems to become an inviolate NATO commitment once in place. It is a growth that Congress has never specifically reviewed or approved since it tacitly agreed to a 300,000-troop level during the Mansfield resolution debates of the mid-1970s.
>
> Projections for fiscal year 1983 put our military force level in Europe at 350,600, up nearly 20,000 since 1980 while other NATO troop levels in Central Europe actually declined by 17,000. The Committee conducted thorough hearings on these force levels and on our Nation's other increasing military commitments throughout the world. It found neither a stated need nor a defined policy supporting this growth. And it found nothing to substantiate the Department's position that halting the increase in our NATO forces would "send the wrong signal" to Europe and the Soviet bloc. To the contrary, the Committee felt it was time to send another signal and serve notice that the United States will demand more participation from its European allies in the defense to their own homeland.
>
> The Defense Appropriations Subcommittee voted in support of the revised European force level 12 to 1. There was no effort to change this recommendation in the full committee markup.
>
> The evidence, in my judgment, overwhelmingly supports a cap on the creeping growth of our troop levels in Europe, controlling an enormously expensive drain of our economic resources. Out total commitment to NATO in 1983 will cost $133 billion—more than half our entire defense budget—if we don't start limiting that growth.

I add parenthetically, Mr. President—it is not in the letter—that that is at the level our committee has recommended. A total of $133 billion will be the cost of our commitment to NATO which we recommended to the Senate. That is more than half of our entire defense budget, and if we do not start limiting that growth, it will never stop.

> It is not that our European allies cannot do more. Their economies are sound, and many of them have overtaken and passed the United States in standards of living. Yet, while we commit more than 6 percent of our gross national product to defense, our European allies remain below 3 percent. (Japan, another of our distant military responsibilities, channels less than 1 percent of its booming economy into defense.)

Mr. President, we will address that subject next year. I think it is high time the Senate did address that question.

The Pentagon will try to argue that it costs more to bring back troops from Europe. That's not true under the general military personnel restraints funded in the 1983 Defense Appropriations Bill reported last Thursday. Normal attrition can return European force numbers to their 1981 beginning level, and there will be net savings in operating costs. Future savings will be even more substantial because we will trim the heavy expense of rotating servicemen and their families and the burden of operating and maintaining facilities needed for them in Europe.

Incidentally, a recent Defense Department analysis reveals that it costs an average of $5,100 to move each and every one of those 300,000-plus servicemen to Europe. It doesn't take much of a slowdown to produce meaningful savings in this sort of thing.

Parenthetically, the European brigade that would be deactivated under the Committee recommendations is the same brigade that was dropped from the force under a budget amendment signed by the President just one year ago. The Pentagon later changed its mind about that brigade, but the committee did not.

When all the rhetoric begins, I ask you to remember that Secretary of Defense Caspar Weinberger conceded only last July in a letter transmitting a report on NATO burden sharing that the European allies can and must do more for their own defense. It hardly seems likely they will if we continue to do more at the expense of the American taxpayer.

I should stress that I do not advocate, nor does the Committee advocate, abandoning or even weakening the United States committment to NATO. A free and secure Europe is in our own best interests. We just don't agree that the rising troop levels quietly pursued by the Pentagon are vital or even necessary to demonstrate our commitment.

Finally, I ask you not to overlook another key element of the Committee proposal: expanding and strengthening the National Guard and Reserves. The President's full budget request for more Guard and Reserve manpower has been approved, and beyond that the Committee has recommended significant increases in weapons and equipment to keep these standby forces at full readiness. Like the Europeans, we think it makes sense to help support our defense needs with a solid military reserve that costs about one-third the active force.

I think the hard facts clearly support the Committee position. Let's send the right signal to Europe for a change.

That is the end of my letter, Mr. President.

Mr. President, I hope that we are not needlessly involved in a debate over European troop levels as part of the essential requirement to take up and pass a continuing resolution this week. If we are, however, I want to serve notice that I do not intend to back off from the position the committee established because I feel it is a wise decision and a necessary decision.

I intend to work actively with the President to assure that we send the right message to Europe, and the right message to send is that we are committing $133 billion of our taxpayers' money for 1 year to the NATO forces. When the time comes that the Europeans can demonstrate that they are at least matching that, then I think it is time to talk about whether additional troop levels are required in Europe.

THE JUSTICE ASSISTANCE ACT OF 1982

Mr. HEFLIN. Mr. President, the Judiciary Committee this past week favorably reported Senate bill 2411, the Justice Assistance Act of 1982. I rise today in support of this proposal, and strongly urge that this body approve it as quickly as possible.

Ever since my election to the Senate, I have made the fight against crime one of my absolute highest legislative priorities. I have introduced legislative proposals which are designed to wage a "national war on violent crime." In fact, I am pleased to report that this particular bill, the Justice Assistance Act, embodies one of the cornerstones of my legislation by providing financial aid to communities wishing to continue successful law enforcement projects at the local level.

I take this opportunity to commend Senator ARLEN SPECTER of Pennsylvania for his hard work in sponsoring this legislation. As a cosponsor of the bill, I can honestly say that Senator SPECTER has commendably moved away from politics in making a truly bipartisan effort to strengthen our fight against crime.

It is vitally important that we all realize that law enforcement and the operation of the criminal justice system are primarily responsibilities to be met at the State and local level. It is a startling, but true, statistic that some 95 percent of all violent crime occurs within the jurisdictions of States and localities.

The meaning of this is perfectly clear. Here in Washington—at the Federal level—we can change all the Federal laws or strengthen the criminal justice system all we want, and we still will touch only the very tip of the iceberg. If we are to take meaningful action to stop the epidemic of crime that is now paralyzing our country, we must take steps to provide badly needed assistance to the other governmental levels.

A major provision of Senate bill 2411 calls for up to 100 percent assistance to State and local jurisdictions that request specific training programs for criminal justice personnel, technical assistance funds, and national demonstration programs for testing new and innovative ideas and techniques. In this way, written materials and training workshops can be utilized in order to install, at the local level, concepts and programs of proven effectiveness.

This bill, besides promoting the spread of programs of proven effectiveness, would take steps to link research and program operations. The National Institute of Justice would be responsibile for testing, evaluating, and recommending adjustments in programs, always keeping in mind the practical, day-to-day requirements. The legislation would also continue to support the operational functions of the Bureau of Justice Statistics. It would establish an advisory board for the Office of Justice Assistance which would in addition to recommending the funding priorities of the office, function as a coordinating body.

Yet another important provision of this legislation would authorize emergency criminal justice assistance in States facing "criminal justice disasters." In other words, if a crime problem of drastic and serious proportions should occur, such as an interminable string of murders or a devasting series of drug-related violence, the prompt support of the Federal Government would be readily available to local and State agencies.

Mr. President, I fully realize that I have stood in this Chamber many times to address problems related to crime. In large part, this is because I believe that crime is one of the two most serious problems with which we are faced.

I have chaired hearings on violent crime and I can assure you that I have found that State and local governments simply cannot effectively combat crime without assistance from the Federal Government.

I can also assure you that the American public is tired of living in fear, of cowering behind locked doors and barred windows, of having loaded guns nearby for protection. We, as their representatives, have a responsibility to do something, to take some action to curb this criminal epidemic.

Mr. President, for far too long we have a great deal of anticrime rhetoric in this Chamber. It is long past time for anti-crime action.

I urge that this bill be brought before the full Senate as soon as possible. I also urge every Member of the Senate to strike a blow against crime of supporting the Justice Assistance Act of 1982.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of

the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 183

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the requirements of Section 657 of the Department of Energy Organization Act (P.L. 95-91), I hereby transmit the Fourth Annual Report of the Department of Energy.

RONALD REAGAN.

THE WHITE HOUSE, *September 27, 1982.*

MESSAGE FROM THE HOUSE

At 11:10 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 4347) to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4577. An act to provide that the provisions of section 252 of the Economic Recovery Tax Act of 1981 (relating to transfers of property to employees subject to certain restrictions) shall apply to certain transfers occurring during 1973; and

H.R. 5573. An act to amend the Internal Revenue Code of 1954 to encourage contributions of computer equipment to elementary and secondary schools.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4577. An act to provide that the provisions of section 252 of the Economic Recovery Tax Act of 1981 (relating to transfers of property to employees subject to certain restrictions) shall apply to certain transfers occurring during 1973; to the Committee on Finance.

H.R. 5573. An act to amend the Internal Revenue Code of 1954 to encourage contributions of computer equipment to elementary and secondary schools; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4303. A communication from the Principal Deputy Assistant Secretary of Defense, Comptroller, transmitting pursuant to law, notice of the intention to obligate $4.8 million in Navy Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC-4304. A communication from the Acting Assistant Secretary of the Army for Manpower and Reserve Affairs transmitting a draft of proposed legislation to repeal the provision of law relating to reexamination and readmission of cadets at the United States Military Academy; to the Committee on Armed Services.

EC-4305. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, the recent discovery and emergency disposal of suspected chemical agent munitions at Dugway Proving Grounds, Utah; to the Committee on Armed Services.

EC-4306. A communication from the Director of the Department of Defense Office of Dependents Schools transmitting, pursuant to law, a report on a decision made to initiate a study relative to the conversion of an automated management information system in Alexandria, Virginia and six overseas locations to performance under contract; to the Committee on Armed Services.

EC-4307. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision made to convert the Insect and Rodent Control function at the Naval Shipyard, Norfolk, Virginia to performance under contract; to the Committee on Armed Services.

EC-4308. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to Portugal; to the Committee on Armed Services.

EC-4309. A communication from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, the annual report for 1981 of the Securities Investor Protection Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC-431C. A communication from the Vice President for Government Affairs, AMTRAK transmitting, pursuant to law, a report for May 1982 on total itemized revenues and expenses; to the Committee on Commerce, Science and Transportation.

EC-4311. A communication from the Federal Inspector, Alaska Natural Gas Transportation System transmitting, pursuant to law, a report on the completed, commisisoned, and certified Eastern Leg of the System; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 480. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5427; referred to the Committee on the Budget (with minority views) (Rept. No. 97-588).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2632. A bill authorizing the government of American Samoa to issue bonds and other obligations, and for other purposes (Rept. No. 97-590).

By Mr. HATCH, from the Committee of Conference: Report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2582) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes (Rept. No. 97-589).

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2960. An original bill to extend the economic emergency loan program for farmers and provide for loan deferrals for borrowers of farm loans from the Farmers Home Administration, and for other purposes (Additional Views filed) (Rept. No. 97-591).

By Mr. DOLE, from the Committee on Finance, with amendments:

H.R. 6056. An Act to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980; (Rept. No. 97-592).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry:

S. 2960. An original bill to extend the economic emergency loan program for farmers and provide for loan deferrals for borrowers of farm loans from the Farmers Home Administration, and for other purpcses; placed on the calendar.

By Mr. WARNER (for himself and Mr. McCLURE):

S. 2961. A bill to promote improved defense preparedness by revising certain provisions of title III of the Defense Production Act of 1950, and to extend the expiration date of the act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEFLIN (for himself, Mr. THURMOND, Mr. NUNN, Mr. DURENBERGER, Mr. D'AMATO, Mr. ABDNOR, Mr. CANNON, and Mr. PRYOR):

S.J. Res. 255. Joint resolution to designate the week of October 10, 1982, through October 16, 1982, as "Freedom Week U.S.A."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PERCY, from the Committee on Foreign Relations:

S. Res. 480. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5427; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER (for himself and Mr. McCLURE):

S. 2961. A bill to promote improved defense preparedness by revising certain provisions of title III of the Defense Production Act of 1950, and to extend the expiration date of the act; to the Committee on Banking, Housing, and Urban Affairs.

AMENDMENTS TO DEFENSE PRODUCTION ACT OF 1950

● Mr. WARNER. Mr. President, I rise today to introduce, along with Senator McCLURE, a bill that would fund title III of the Defense Production Act of 1950 by reinstating borrowing authority in the amount of $50 million which could only be used for purchase commitments to promote domestic production of strategic and critical minerals, metals, and materials. No loans or loan guarantees would be authorized. All amounts borrowed must be repaid by the procuring agency within 24 months. Any additional funds used in connection with the procurement would be subject to advance appropriations under the Defense Production Act or under such acts as may authorize procurement of the defense items in which the purchased minerals, metals or materials will be utilized.

On June 29, 1982, the Subcommittee on Energy and Mineral Resources of the Senate Energy and Natural Resources Committee held oversight hearings on the President's national materials and minerals program plan and report to Congress. This hearing graphically pointed out the serious plight of America's mining industry. Further, at a seminar held at Coeur d'Alene, Idaho hosted by Senator McCLURE in which I participated, the plight of the mining industry was further called to my attention.

The hearing pointed out that America is currently more than 50-percent dependent on foreign sources for 23 of 40 critical materials essential to the U.S. economy and national security procurement and production. Moreover, unless something is done to revitalize America's mining industry this dependency will only worsen which will put the United States at an extreme disadvantage when future emergency situations arise. Senator McCLURE and I strongly feel that America's mining industry is critical to our national defense and must be supported.

In the past the Defense Production Act has been utilized to great advantage to provide needed strategic minerals and materials to the United States during its time of need. The Defense Production Act provides for the implementation of a system—the Defense Priorities System—which permits the President to accelerate the production of critical defense items by causing the manufacturers to place these items at the front of production line; guaranteed loans to expedite deliveries of vital national defense systems, and direct deliveries of vital national defense systems, and direct Government loans to industry to expand plants and facilities in order to develop or produce essential material

The Defense Production Act was instrumental in increasing U.S. aluminum capacity by 113,000 tons, which resulted in doubling of production; in increasing copper mine capacity by one-quarter or 300,000 tons, in initiating nickel mining in the United States; in creating the domestic titanium industry; in quadrupling U.S. tungsten mining; in expanding the world Columbian and tantalum mining and processing industries; and in expanding supplies of many other strategic and critical minerals just during the Korean war.

Also the Defense Production Act started the new commercial synthetic fuels industry, helped complete the Alaskan oil pipeline and launched the naval nuclear reactor program which led to the nuclear power industry.

During its 30-year life, the Defense Production Act has generated nearly $9 billion in economic activity through more than a thousand industrial projects. The actual net outlay totaled approximately $900 million. However, this figure, which comes from the Federal Emergency Management Agency, does not reflect the Federal, State and local tax revenues offsetting that cost, or more important, the hundreds of thousands of new jobs created.

My bill would fund title III to the tune of $50 million to provide purchase guarantees for those minerals which the Department of Defense felt was essential for the national security of the United States.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

SEC. 101. The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983."

TITLE II—CONTRACTS FOR IMPROVED DEFENSE PREPAREDNESS

SHORT TITLE; TABLE OF CONTENTS

SEC. 201. This title may be cited as the "Defense Production Act Amendments of 1982 (Defense Preparedness)."

TABLE OF CONTENTS

Sec. 201. Short title; Table of Contents
Sec. 202. Declaration of Policy
Sec. 203. Contracts for Improved Defense Preparedness

DECLARATION OF POLICY

SEC. 202. In view of the present international situation, the Nation's demonstrated reliance on imports of raw materials and components, and the need for measures to reduce defense production lead times, our defense preparedness effort continues to require the development of preparedness programs, defense industrial base improvement measures and the expansion of production capacity and supply beyond levels needed to meet the civilian demand. To provide for the national defense and security, efforts must continue to improve defense industrial base efficiency and responsiveness in order to reduce the time required for industrial mobilization in the event of an attack on the United States and to respond to actions occurring outside the United States which could result in termination or reduction of availability of strategic and critical materials, including energy.

CONTRACTS FOR IMPROVED DEFENSE PREPAREDNESS

SEC. 203. (a) Section 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2093) is amended as follows:

(1) amend subsection 303(a) up to the first proviso to read as follows:

"(a) When it will promote improved defense preparedness, the President may promote expanded domestic production capacity and supply by making contracts (1) for purchases of or commitments to purchase metals, minerals, and other materials, for Government use or resale; and (2) for the encouragement, development and mining of critical and strategic minerals, metals and materials. No such contracts may be made in an amount greater than $500 million unless the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such contract and 30 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 30-day period, a resolution disapproving such contract. For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment or more than 3 days to a date certain are excluded in the computation of such 30-day period."

(2) add at the end of the section the following new subsections:

"(h) Any contract under this section shall provide that the President has the right to refuse delivery of the item involved and to pay an amount equal to the amount by which the price for the item, specified in the contract, exceeds the market price at the time of delivery for such items as determined by the President. Additionally, any contract under this section shall provide that the President has the right to purchase the contractor's interest in the contract and all of the assets of the project for the contractor's total capital and uncapitalized investment minus depreciation.

"(i) When any contract entered into pursuant to this section imposes contingent liability upon the United States, such liability shall be considered for the purposes of sec-

tion 3679 and 3732 of the Revised Statutes, as amended, as an obligation only to the extent of the lesser of (1) the contractor's (estimated for the date of delivery) total captial and uncapitalized investment minus depreciation; or (2) the difference between the contract price for the item and the President's estimate of the market price at delivery. Such obligations established in accordance with this subsection do not have to be amended due to changes in the estimates upon which the original obligation was determined. The President shall submit a report to the Congress not less often than once each year setting forth the gross amount of each such transaction entered into by an agency of the United States Government under this authority and the basis for determining the obligation hereunder.

"(j) Funds for contracts made under this section may be made available from:

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of item concerned, and not otherwise obligated; or

"(C) funds subsequently appropriated for those payments. If part or all required funds are not available to enter into or when payment is due under a contract made in accordance with this section, any department, agency, official or corporation of the Government created or utilized under subsection 2094(a) is authorized, subject to the approval of the President, to borrow from the Treasury of the United States, such sums of money as may be necessary to carry out its functions under this section. *Provided, however,* That the amount borrowed under the provisions of this section by all such borrowers shall not exceed an aggregate of $50,000,000 in any one fiscal year. *Provided further,* That all loans from the Treasury shall be repaid within 24 months unless the President makes a finding that such loans are essential to the national security and extends the period for repayment."

(b) Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended as follows:

(1) subsection (b) is amended to read as follows:

"(b) In considering proposals for financial assistance pursuant to section 2091, 2092, and 2093, the President shall make every effort to minimize the Federal financial commitment and the financial risk to the Federal government."

(2) subsection (c) is amended to read as follows:

"(c) The President shall submit a report not later than 31 January of each year to Congress concerning the operation of sections 2091, 2092, and 2093 (including the reporting requirement of subsection 2093(i) during the preceding fiscal year." ●

By Mr. HEFLIN (for himself, Mr. THURMOND, Mr. NUNN, Mr. DURENBERGER, Mr. D'AMATO, Mr. ABDNOR, Mr. CANNON, and Mr. PRYOR):

S.J. Res. 255. Joint resolution to designate the week of October 10, 1982, through October 16, 1982, as "Freedom Week U.S.A."; to the Committee on the Judiciary.

FREEDOM WEEK U.S.A.

Mr. HEFLIN. Mr. President, I rise today to introduce a joint resolution to designate the week of October 10 through October 16, 1982, as "Freedom Week U.S.A."

I am proud to sponsor this resolution on behalf of the Jayceettes, an organization of young women who believe in a brotherhood of mankind which transcends national boundaries. Through their civic mindedness and unending service to their communities, the Jayceettes have shown that with a spirit of cooperation we can build a better community and world.

The Jayceettes are committed to a patriotic recognition of the discovery of America and the founding freedoms of the United States of America. I can personally attest to the services and patriotic spirit that the Jayceettes have provided to the people of Alabama.

Mr. President, with news of the curtailment of freedoms in so many countries today, it is particularly important that we pause for a celebration of our freedoms that are a very part of our soul.

For over 200 years, our country, founded in the name of freedom has been a bastion of these freedoms shining a beacon of hope and freedom throughout the world. Our country and the freedoms that we have, stand as a pillar to the triumphs, spirit, and dignity of man. It is through these freedoms that each individual is given the opportunity to prosper and to reach his full potential.

Not only do we pause to celebrate the achievements that have been brought by these freedoms, but also to declare that we will stand vigil and vigorously defend against any attempt to deprive us of our freedoms.

This resolution, Mr. President, calls upon the people of the United States to show their loyalty, concern, and support for our country by a vivid patriotic display of independence and pride in America and in our communities.

I would ask, Mr. President, that each Senator join with me in proclaiming the week of October 10 through October 16 a celebration of our freedoms and the spirit of America.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 255

Whereas the Jayceettes is an organization of young women who believe in the brotherhood of mankind and that this brotherhood transcends the sovereignty of nations;

Whereas the Jayceettes believe that government should be of laws rather than men;

Whereas in their right for independence, communities in the United States have established a heritage of freedom by patriotic services;

Whereas the American flag is a symbol of patriotic loyalty and pride in our country;

Whereas Jayceettes is committed to a patriotic recognition of the discovery of America and the founding freedoms of the United States of America; and

Whereas Jayceettes across the Nation will be showing their concern, loyalty, and support for our country by a vivid and patriotic display of pride in America throughout our communities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 10, 1982, through October 16, 1982, is designated "Freedom Week, U.S.A." and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to show their concern, loyalty, and support for our country by a vivid patriotic display of pride and with other appropriate ceremonies.

ADDITIONAL COSPONSORS

S. 1249

At the request of Mr. DOLE, his name was added as a cosponsor of S. 1249, a bill to increase the efficiency of Governmentwide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States.

S. 2918

At the request of Mr. CHAFEE, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2918, a bill to permit the investment of employee benefit plans in residential mortgages.

SENATE JOINT RESOLUTION 214

At the request of Mr. PERCY, the names of the Senator from Arizona (Mr. DECONCINI), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of Senate Joint Resolution 214, a joint resolution to authorize and request the President to designate the month of November 1982 as "National REACT Month."

SENATE RESOLUTION 480—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 480

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 404(a) of such Act are waived with respect to the consideration of H.R. 5427, a bill to authorize appropriations to provide for broadcasting of accurate information to the people of Cuba, and for other purposes. Such waiver is necessary to allow the authorization of an appropriation of $7.5 million for the costs of creating an entity responsible to the Board for International Broadcasting which will broadcast accurate information to Cuba.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 28, 1982 deadline because the committee had not completed a series of extensive hearings on this issue prior to that date.

The effect of defeating consideration of this authorization will prevent the creation of this broadcast entity which was proposed by the President and endorsed by a substantial majority of the Foreign Relations Committee.

The desired authorization will not delay the appropriations process and can be accommodated in a fiscal year 1983 appropriation bill.

AMENDMENTS SUBMITTED FOR PRINTING

EXTENSION OF DEFENSE PRODUCTION ACT

AMENDMENT NO. 3620

(Ordered to be printed and to lie on the table.)

Mr. WARNER (for himself, Mr. McCLURE, and Mr. JACKSON) submitted an amendment intended to be proposed by them to the bill (S. 2375) to extend by 5 years the expiration date of the Defense Production Act of 1950.

ADDITIONAL STATEMENTS

EDUCATION FOR ECONOMIC SECURITY ACT

● Mr. STAFFORD. Mr. President, I am pleased to join Senators PELL and CRANSTON in sponsoring S. 2953, the Education for Economic Security Act. This legislation is a timely and necessary response to a problem of serious national proportion.

A generation ago, Congress enacted a milestone in Federal education law, the National Defense Education Act. This landmark legislation, passed in 1958, was a response to the Soviet launching of the sputnik rocket.

Congress phrased the intent of NDEA this way:

> The Congress hereby finds and declares that the security of the nation requires the fullest development of the mental resources and technical skills of its young men and women. . . . The national interest requires . . . that the federal government give assistance to education for programs which are important to our national defense.

A generation after establishment of NDEA, many of the problems prevalent then are reoccurring. The poblem this time is not, however, an issue of military security. Confronting us now is the matter of economic survival.

Put simply, the situation is that the United States does not have enough science and mathematics teachers in our high schools. And many of those we do have are not sufficiently trained to do the job that is necessary.

There is an irony in our predicament. In the aftermath of sputnik, the Russians were our target, and the National Defense Education Act an important means of hitting it.

Now, with the battleground shifting to the economic front, we find that the adversaries competing for our share of an increasingly technological world economy tend to be our allies as much as anyone else.

In an environment where mastery of math and science is crucial, we find ourselves with serious shortcomings. Let me cite examples of the situation.

The National Academy of Sciences sponsored a national convocation on the status of precollege education in mathematics and the sciences. Among other findings, the convocation brought out that:

Nationwide, 22 percent of the teaching posts in mathematics are unfilled.

In 1981, half of the newly hired instructors in secondary math and science were not qualified to teach those subjects.

Almost five times as many science and math teachers left the profession for nonteaching jobs than left due to retirement.

In addition, as researchers at Iowa State University have just disclosed, departments of education in 40 States report a shortage, in many instances critical, of physics and math teachers, while 39 States are in need, again in some cases, of chemistry teachers.

These dismal statistics are only symptoms of a national ailment. The Federal Government can and should play an important role in reversing this decline.

Even in my own State of Vermont, the stakes are high. The stereotype of Vermont is that it is an agricultural State. In fact, Vermont ranks third in the Nation for percentage of work force employed by high-tech industry.

The requirements of this type of industry are demanding. Unfortunately, we have found ourselves falling short of the demands.

To begin focusing national attention and debate upon the implications of this shortage, Senators PELL, CRANSTON and I have introduced this legislation. The Education for Economic Security Act would:

Add to the resources of State and local education agencies, to upgrade instruction in math, science, computers, foreign languages and vocational education.

Help to improve teacher training for math, science and computer instruction at colleges and universities.

Promote the retraining of teachers in other disciplines to the areas of instruction showing critical need.

Increase inservice opportunities for teachers now at work to study math, science and computer literacy.

Our chances for success in this venture hinge upon cooperation of all involved. This legislation signals a new partnership in education for all levels of government.●

CONTROLLING TAX EXPENDITURES—THE CANADIAN EXPERIENCE

● Mr. KENNEDY. Mr. President, the Internal Revenue Code is widely used as a mechanism for spending Federal funds. The proliferation of "tax expenditures" has been of increasing concern in recent years because of their number and their large revenue cost. In fact, the back-door Federal spending through such tax subsidies has grown at a greater rate than the front-door spending through the normal budget process. I am convinced, as are many others in Congress, that we must develop more effective mechanisms to bring tax expenditures under the budget process if we are to achieve a balanced budget and gain full control over Federal spending.

As we have seen in the recent budget and tax debates, tax expenditures have the same impact on Federal deficits as direct spending programs. Increasing tax expenditures increases the Federal deficit, and reducing or repealing tax expenditures, as in this year's major tax bill, reduces the Federal deficit.

In recent years, as budget constraints have become tighter, I have called for reductions in tax expenditures proportional to reductions in direct expenditure programs. Such action makes budget sense and represents an evenhanded approach to budget cuts. It is not fair to require the beneficiaries of direct spending programs to bear the entire brunt of spending cuts, without requiring the beneficiaries of tax expenditures to make a corresponding sacrifice.

In this connection, recent developments in Canada are instructive. The Government of that nation began publishing a tax expenditure budget in 1979. Simultaneously, the Government introduced an "envelope system," under which tax expenditures and direct expenditures in the same overall budget category are combined in one "envelope" for consideration by the appropriate departments of the Government. As a result, proposals for new tax expenditures have been significantly reduced, and tax spending has been brought under the same type of fiscal control as direct expenditures. The successful experience of Canada in achieving this control over tax expenditures can be a useful lesson to Congress as we consider steps to improve the budget process.

Mr. President, I believe that the Canadian approach to tax expenditures will be of interest to all of us in Congress, and I ask that an article on this issue by the Honorable Allan J. MacEachen, the Deputy Prime Minister and former Minister of Finance in Canada who is now Secretary of States

for External Affairs, be printed in the RECORD.

The article follows:

INTEGRATION OF TAX EXPENDITURES INTO THE GOVERNMENT FISCAL MANAGEMENT SYSTEM

(By Hon. Allan J. MacEachen)

A proper fiscal management system is an important preoccupation of governments of most of the countries in the world. The principal objectives of a fiscal management system are to control the growth in public spending and to ensure an efficient allocation of public funds to various priority areas. It is also important that the system provide adequate opportunity for an ongoing review of the fiscal initiatives taken in the past, permit flexibility in shifting resources from one policy areas to another in response to changing priorities, and provide for financial control.

To better achieve these objectives, Canada has recently adopted a new fiscal management system, under which the overall outlays of the federal govenment are divided into several broad policy areas or "envelopes". The spending decision within each envelope is then delegated to a committee of Ministers responsible for the policy areas within that envelope. While this system is similar in many respects to that found in some other countries, one unique feature of the system in Canada is the integration of tax expenditures or selective tax preferences within the system. This integration of tax expenditures into the system is in recognition of the fact that a variety of instruments may be used to achieve given policy goals. These instruments include grants, direct expenditures, loans and guarantees, and tax incentives. An appropriate fiscal management system should give a place to all of these alternatives so that the most appropriate mechanism is chosen. It should not bias the choice of instruments in a manner that is detrimental to the achievement of overall policy objectives.

THE ENVELOPE SYSTEM

The new fiscal management system, or the envelope system, as it is referred to, was adopted in response to a number of concerns that had developed over a period of years. The previous stucture of federal government expenditure management presented certain difficulties which were articulated by successive Auditors General and by the government's Comptroller General. In November 1976 the government appointed the Royal Commission on Financial Management and Accountability, known as the Lambert Commission. The Commission's final report noted:

"Our review of the existing financial planning process revealed several fundamental weaknesses. None of the participants is held effectively accountable. Expenditures are proposed by departments in ignorance of projected revenues and without their being related to priorities. There is no public commitment to an expenditure plan and consequently no basis for effective parliamentary review. Finally, there is little public participation in expenditure planning."

Another important consideration was the effort by the Canadian goverment, like the governments of many other Western countries, to restrain the growth of the public sector. Expenditures since 1975-76 have been kept to an average growth rate slightly below that of GNP. This is reflected in the decline in the ratio of "total outlays", which is the sum of budgetary expenditures and non-budgetary loans, investments and advances, from 22.9 percent GNP in 1975-76 to 20.2 percent in 1980-81. Such a period of restraint creates special pressures on a fiscal management system and highlights the need for an effective allocation of resources in relation to priorities including an effective review of existing programs.

The 1970s also saw rapid changes in Canadian society and many new issues facing governments. New government departments and agencies evolved and existing departments found more than ever that their responsibilities were intertwined with other policy areas. Clearly, this situation requires a high degree of budgetary control and a system that is designed to highlight tradeoffs between competing programs.

The envelope system is intended to deal with the problems identified by ensuring greater Ministerial control over both policies and expenditures. The envelope system does this by assisting Ministers in integrating policy making and fiscal and expenditure planning within the Cabinet Committee system.

The outline of the basic system is quite straightforward. Its basis is a medium-term fiscal plan encompassing revenues and expenditures over a 5-year period. Each year, the Cabinet reviews the overall level of expenditures on recommendations by the Minister of Finance and President of the Treasury Board. These overall expenditures are then divided into 9 allocations for broad policy areas, or 9 envelopes as they are called. Formally, an envelope is an authorized expenditure limit, expressed in current dollars for the fiscal year in question. The 9 envelopes are Economic Development, Energy, Social Affairs, Justice and Legal, Fiscal Transfers to Provinces, External Affairs, Defence, Parliament, and Services to Government. A separate account is maintained for the costs of public debt.

Overseeing the operation of each envelope is a policy Committee composed of Cabinet Ministers with responsibilities in the policy area of the envelope. These committees have the responsibility of allocating expenditures within the envelope to particular departments and programs.

Each Policy Committee is provided with a basic operational level of expenditures within its envelope. This provides for the forecast cost of existing programs and an operating reserve to meet cost overruns, although the Treasury Board works throughout the course of the year to identify program savings to avoid net overruns in expenditures where possible.

Policy Committees may also be provided with additional amounts for the financing of new or enriched programs or they may be required to reduce expenditures. Policy Committees control the allocation of funds for new or enriched programs and designate existing programs that can be reduced or eliminated within their policy area.

The Policy Committees thus have two sources of funds for new or expanded programs. These are additional amounts provided for an envelope in the annual review by Cabinet and reallocation of amounts from existing programs. The incentive to identify programs that can be reduced or eliminated, thereby freeing funds for uses that are currently more in line with government priorities, is crucial to the system and makes it an effective means of fiscal management.

The foregoing represents a brief summary of the system in terms of expenditures. As was indicated earlier, this fiscal management system does not differ in broad outline from that used in some other countries. However, a unique feature of the Canadian system is its treatment of tax expenditures.

TAX EXPENDITURES AND THE ENVELOPE SYSTEM

The inclusion of tax expenditures in the fiscal management system is a very important feature and one that is of particular relevance in regard to the responsibilities of the Minister of Finance. The integration of the tax and expenditure sides of the budget reflects several considerations and experience gained in the period of restraint since the mid-1970s.

The basic concept of a tax expenditure is a provision in the tax system which provides certain taxpayers with preferential treatment in comparison to a benchmark tax structure. The benchmark tax structure is one that provides no preferential treatment to taxpayers on the basis of demographic characteristics, sources, or uses of income, geographic location or any other special circumstances applicable only to a given taxpayer or particular group of taxpayers. The preferential treatment or deviation from the benchmark may be in the form of deductions from income, exemptions, tax deferrals, lower tax rates or credits.

Tax expenditures are, in many respects, a substitute for direct spending. They both implement government priorities. As well, they both lead to increases in the budget deficits or require program cutbacks or increases in the general tax revenues for their financing. A proliferation of tax incentives eventually means higher tax rates for all because of reduced tax base, which, in turn, has potentially serious implications for incentives to work, save and invest. Tax expenditures, just as direct expenditures, represent a form of government intervention in the economy. This, in itself, suggests that decisions about tax expenditures should be integrated into the fiscal management system.

Another consideration is that the size of tax expenditures is substantial, in both the number of items and the aggregate value of revenues foregone. In several policy areas they rival the value of direct spending. Moreover, tax expenditures were growing rapidly. From 1976 to 1979, the rate of increase in the value of tax preferences was some 50 percent higher than the rate of increase in direct spending.

It was perhaps not surprising that a period of rapid growth in tax expenditures coincided with increasing efforts to restrain government spending. Under the previous system additional funds directed to a policy area by tax expenditures did not affect the budget of the sponsoring department. With government expenditure restraint blocking all but the very highest priority new programs or expansion of existing programs from the mid-1970s, the introduction of new tax expenditures thus became one of the few avenues available for government program Ministers to pursue policy objectives that they quite legitimately identified in their areas of concern. It created strong incentives for each program Minister to seek new tax expenditures in his area of responsibility, usually with the support of the population groups or industrial sectors whose interests he or she was expected to represent. The Minister of Finance was placed in the lonely position of attempting to couple expenditure restraint with deficit reduction while maintaining the credibility of the tax system as a fair and effective means of raising government revenues.

The process of integration of tax expenditures into the fiscal management system

comprises a number of elements. In the normal course of events, a program Minister would, initially, identify various alternative means of achieving a given policy objective and consider their relative advantages and disadvantages. These would then be reviewed by the relevant Policy Committee to determine if any policy action is warranted and if there are adequate funds set aside for it within the envelope. If it is the view of the Committee that the given policy objective is best achieved by a new tax expenditure item or extension of an existing one, the measure is then forwarded to the Minister of Finance who has the overall responsibility for the tax system. If the measure does not conflict with the basic objectives of the tax system or give rise to other structural or technical anomalies, then the Minister concurs with its adoption, and the cost of the measure is debited to the envelope for that policy area.

One crucial feature of this system is the concurrence of the Minister of Finance with the adoption of any tax measure. This is based on the need to maintain a tax system that operates in a fair and effective fashion. Unlike individual expenditure programs that can operate to a large extent almost independently of the other programs, the tax system is an integrated one. Changes in one part of the system may lead to repercussions elsewhere in the system. The Minister of Finance might not consider it desirable to proceed with a given tax change if, for example, it were to lead to significant difficulties in compliance and administration or give undue benefits to certain groups of taxpayers and thereby calling into question the fairness of the whole system. A tax incentive to one group or in respect of one activity might lead to pressures for similar incentives to other groups or in respect of other activities. It might sometimes be easier to resist such pressures when the incentive is provided through a direct expenditure program as opposed to the tax system.

Tax changes may also flow in the opposite direction, that is, the Minister of Finance may propose changes to a Policy Committee with the cost of the new tax expenditure to be charged to their envelope. Finally, the Minister of Finance may introduce changes on his own initiative for tax policy, fiscal policy, or administration grounds without giving rise to adjustment in envelopes.

In integrating tax expenditures into the financial management system, a key issue involves the treatment of existing tax expenditures. Should these existing tax preferences be assigned to envelopes and form a portion of the envelope entitlement? The decision taken was to exclude existing tax expenditures from the system.

While this may be considered a flaw in the implementation of the system, I believe it was a necessary and practical step that does not detract from the potential effectiveness of the system. First, the definition of a benchmark tax system against which to measure tax expenditures is far from a clear cut task. Commentators can differ sharply on such features as the appropriateness of using the individual or family as a unit of taxation, or assumptions about the integration of corporate and personal income taxes. When the tax expenditure accounts are for informational purposes, these questions of definition are not an obstacle to their presentation and use. They would, however, become of paramount importance if the full accounts were to be integrated into the fiscal management system. It was found that most of these issues arose in the context of existing tax provisions and that it was relatively easy to determine whether a new change was a tax expenditure or part of the benchmark structure.

The implication of this exclusion of existing tax expenditures is that their elimination or reduction does not provide additional amounts for an envelope, although the envelope could be credited by an appropriate amount where the Policy Committee recommends a cut-back in tax expenditures as part of a package to retarget fiscal incentives in a given policy area. In general, only tax incentives that have been provided for within the envelope system, i.e. new tax expenditures, will give rise to additional funds within when they are eliminated.

The integration of tax expenditures should have two direct influences on the frequency and the nature of tax proposals arising from program Ministers. First, program Ministers discuss the requests for tax expenditures within their Parliamentary Committee as part of the actual budgetary process for their envelope, and thus should have vital interest in screening request for tax expenditures coming out of the Committee. Second, since tax expenditures and direct expenditures both impact on the available amount of funds in an envelope, the decision to seek delivery through the tax system versus the expenditure system will be based on the relative merit of the two approaches.

The tax system may be a more advantageous way to carry out government policy for a number of reasons. First, the tax system is a self-assessment system and taxpayers themselves have the discretion to act on an incentive themselves. The degree of bureaucratic discretion and "red tape" is thus limited. Second, the tax system contains well-defined concepts and considerable information that, if used in delivering incentives, may simplify the process considerably. Finally, in the Canadian federal system, the tax system lends itself to joint federal and provincial action because income taxes are, in most cases, imposed on a common base.

However, there are also a number of negative consequences which may flow from the use of tax expenditures rather than direct expenditures. Tax incentives frequently have effects that run counter to maintaining the fairness of the tax system. For example, deductions from income are generally of more benefit to those with the higher marginal tax rates.

Tax expenditures, once put in place, have proved remarkably difficult to remove with their elimination always billed as a tax increase. Tax expenditures are thus likely to remain in place past the time when they are required. It is also difficult to determine the actual advantage of tax preferences to various groups in the economy as the number of such incentives multiply, because the incentives often interact with each other and may be offsetting.

Tax statutes need to be extemely precise because of the self-assessing nature of the Canadian tax system. With precision comes complexity and opportunities for tax planning activities which may reduce the amount of time and effort devoted to productive activity. The precision required also eliminates discretion, which in some cases may make a program much less flexible and responsive than is desirable. Finally, tax expenditures do not lend themselves to strict budgetary control. They must be available to all persons meeting the criteria established.

The new system adopted in Canada is designed to ensure that all these factors are given adequate consideration in the choice of instruments for achieving the given policy objective.

CONCLUSION

Canada has only recently adopted a system of fiscal management that incorporates tax expenditures. The system holds considerable promise in improving government decision-making, helping government in achieving fiscal restraint and ensuring that the most appropriate vehicle is used, whether that be the tax system, the expenditure system or loans and advances, when government intervention in the economy is desirable.

There are some very encouraging signs. Tax expenditures are taking their place in public and parliamentary debates. There is now generally more awareness of the limitations in the use of tax incentives for achieving policy objectives.●

AMERICAN LEGION ON AMNESTY

● Mr. EAST. Mr. President, with continued high unemployment, we cannot afford to give amnesty to millions of illegal aliens. Those illegal aliens in the lowest paying jobs would be free to compete with Americans for good jobs. Those illegal immigrants already in good jobs could keep them. Is that fair to almost 11 million unemployed Americans? The American Legion thinks not. I agree.

Mr. Paul Egan, deputy director of the National Legislative Commission of the American Legion, expressed the position of our Nation's largest veterans' organization in a letter published today in the Washington Times. I ask that his letter be printed in the RECORD.

The letter follows:

[From the Washington Times, Sept. 27, 1982]

ENFORCE LAW TO STOP ILLEGAL ALIENS

It will surprise no one that immigration has been out of control for too long. Indeed, in every quarter of the nation, most persons emphatically insist that regaining control over immigration is paramount.

What is surprising and what will inevitably shock folks across the nation is the fact that if the House goes along with the recently passed Senate immigration reform package the demographic, social, economic and political consequences will irreversibly alter the nation as we know it today.

Perhaps these changes are desirable and perhaps they are not, but few would deny that these changes will occur, and almost no one in Congress is talking about it. What is really at stake is whether the nation's politicians can muster the strength necessary to exercise some of the most sacred responsibilities any legitimate nation state has to its citizens.

A few of these include enforcing the law, protecting the sanctity of sovereign borders and carefully fashioning public policies which promote social well-being without exposing the body politic to undue chaos.

Should virtually millions of illegal aliens (undocumenteds in polite circles) be given amnesty? To answer this question affirmatively is to concede not only the failure of

law enforcement, but also a failure of national will to enforce the law.

No one suggests as an answer to overcrowded prisons that they should be emptied so that we might start with a clean slate. Yet this is the same logic that is used to justify amnesty.

If, as citizens, we voluntarily comply with laws and thereby lend *dejure* legitimacy to the state's right to govern, just as surely the state has an obligation to enforce the law. This is axiomatic whether we refer to littering, robbery or immigration.

The most recent experience with amnesty in this country was when draft dodgers during the Vietnam conflict were permitted to regain entry into the country with little or no penalty. Today, we can see by the tens of thousands having failed even to register with Selective Service—apart from military duty itself—that the legitimacy of our government's sovereign right to raise an army is under serious challenge.

In that regard, there is no reason to suspect that a different experience will obtain if illegals are amnestied.

What of a limited amnesty? The Senate has ordered up just such a program to provide temporary or permanent residency status to illegals able to prove they were in the country before 1980 and 1978 respectively.

If it can be agreed that amnesty is wrong, then a limited amnesty is just as wrong, leaving only the numbers to be dickered over. Whether wide open or limited, the precedent set by a nation repudiating its sovereign right to control its borders is terribly foreboding.

The Congressional Budget Office estimates that a rise in national unemployment of two percent costs the federal government between $50-$56 billion in lost revenues and relief expenditures.

It follows, then, that if two million unemployed Americans (roughly two percent of the unemployment rate) were able to obtain just two million jobs currently held by illegals next year, the 1983 budget deficit could be halved.

Apart from new revenues generated and reduced relief program expenditures, amnesty for about five million illegals would cost an additional $10 billion over four years in social program expenditures not now being paid.

Moreover, the stakes are high and Congress owes it to the public not to bluff. The nation's past immigration generosity can continue. However, that generosity must not be allowed to betray the axioms of political legitimacy or our own economic well being.

PAUL EGAN.●

BILINGUAL EDUCATION: A NONCONFORMING VIEW

● Mr. HAYAKAWA. Mr. President, I will continue today to discuss with my colleagues the important issue of bilingual education and Dr. Rossier's paper, "Bilingual Education: A Nonconforming View." This second section focuses on the importance of understanding bilingualism as it pertains to individuals and the society as a whole.

We all grew up with the concept of the American melting pot, that is the merging of a multitude of foreign cultures into one. This melting pot has succeeded in a vibrant new culture among people of many different cultural backgrounds largely because of a common laugnage, English. In this world of national strife, it is a unique concept. I believe every Member of this body will agree that it had a fundamental impact on our Nation's greatness. In light of the growing emphasis on maintaining a second culture and instruction in the native languages, I ask myself what are we trying to do? Where do we want to go?

I believe Dr. Rossier has some valid points to make in his paper. He answers many of the questions I put forth above. I ask that the second part of Dr. Rossier's paper be printed in the RECORD and I urge my colleagues to study his theses.

The material follows:

BILINGUALISM, SI! BILINGUAL EDUCATION, NO!

It is important to understand that bilingualism is not socially undesirable as it is often characterized by critics of bilingual education but rather can be of positive value not only to the individual but also to society as a whole. The explanation of this is not difficult to understand; if the students we are talking about are immigrants (a cover term in this article for not only legal immigrants, but also for illegal aliens and refugees as well), and the vast majority of the pupils placed in bilingual programs are in this category, then our goal should be for them to learn to function well in English. By so doing they will add English of their first language—they will by definition become bilingual. Unless we believe that the ability to communicate in English creates social division rather than unity, it should be obvious that immigrant bilingualism will benefit our society rather than hurt it. The key point of dispute, then, has to do with whether students can learn the new language (English) more efficiently by means of instruction in two languages or in special English programs.

The critics

The social division criticism, though, has been the principal weapon in the rather puny arsenal of the unorganized and relatively ineffectual opposition to bilingual education. Former California State Superintendent of Public Instruction Max Rafferty, for example, blasted the concepts not long ago in the American Legion Magazine, calling it "The Hoax of the 80's." He argued forcefully that immigrant children should learn English so that the country would not be "Balkanized" but then demonstrated a complete lack of understanding of how they were to learn the language by attacking the phrase "English as a Second Language," a term that has been used in the United States for at least 15 years to signify a variety of educational programs and methods that have one thing in common: the goal of teaching immigrant students English by means of special instruction in English.

WHY BILINGUAL INSTRUCTION RETARDS LEARNING

What Rafferty and other critics have missed in the debate is the most telling argument of all. Bilingual opponents generally concede the very point that would most help them to invalidate the case presented for bilingual education by its champions. Quite simply, language number one cannot be learned by means of instruction in language number two—English cannot be learned through instruction in Spanish or Chinese or in any other language. For several reasons which never seem to be brought out in criticism of the concept; bilingual instruction retards English language learning instead of advancing it. The amount of time that the learner has to interact verbally with speakers of the new language is of critical importance; in bilingual programs the amount of exposure to English language interaction is greatly reduced compared with that of other types of language programs.

More importantly, because of the heavy emphasis on translation in these programs, the bulk of the students are set back because they become inhibited about responding in English when they know that the teacher or aide understands them if they respond in their native language. Only a minority of highly motivated, gifted language learners have the drive to surmount this psychological obstacle. Learning to type by touch is roughly analogous to the learning of a new language. If a typing teacher allows her students to look at their hands while they are learning to type, this action will in time become habitual and the students will never be able to type with any appreciable speed. In the same way, immigrant students in bilingual programs become habituated to responding in their native language to their bilingual teachers and aides and find it difficult to ever reach a point in which they no longer translate from their first language to English but instead think in English when they are speaking English.

But critics of bilingual education apparently have scant understanding of second language learning and so there is little reason for optimism about the establishment of alternative programs to bilingual education—programs that would promote rapid and efficient learning of English so that young immigrants would be in a position to take advantage of the same educational opportunities that their American-born schoolmates have. Instead it appears that bilingual programs will endure and the bilingual bureaucracy will remain prosperous and politically powerful until the time when there is sufficient public recognition that it is against the public interest, and certainly against the best interests of immigrant children, that bilingual education continue.

A DISMAL RECORD—BILINGUAL EDUCATION RESEARCH AND EVALUATION

If the bilingual movement has an Achilles heel, it can be found in its truly dismal record of being unable to produce significant research and evaluation of an objective nature in support of the bilingual method. It would seem that in the considerably more than a decade that these programs have been operating in the schools that some fairly conclusive evidence could have been brought to light to answer the question, "Are bilingual programs, with all of the additional expense and disruption that they cause in the schools, doing a better job of teaching English than the educational programs they replaced?" Bilingual researchers have rarely if ever tried to answer this question. Instead they have studied and evaluated questions which were related ony remotely to language learning and have shown little objectivity in doing so.

In the early 70's, Tucker and d'Anglejean of McGill University in Canada commented on the negative attitude of the early evaluators in Canada and the United States, claiming that, "A sense of pessimism seems to

prevail among many of the people associated with bilingual programs who claim what it is either not possible to evaluate their programs meaningfully or not really necessary to do so." Later both Theodore Anderson of the University of Texas and Bruce Gaarder of the United States Office of Education substantiated this appraisal of bilingual evaluation in reviews of some of the early program evaluations in this country while Bernard Spolsky of the University of New Mexico pointed out in 1973 that, "The only bilingual program on which, so far, we have good data is the St. Lambert School in Montreal * * *." It is worth noting that the now famous St. Lambert experiment was the original "language immersion" program, a very different concept than present day bilingual programs in the United States.

This inability to evaluate bilingual programs "meaningfully" continued and in 1978 Rudolph Troike, then Director of the federally funded Center for Applied Linguistics and a bilingual enthusiast, in attempting to promote increased funding for research on bilingual education, unintentionally focused the spotlight clearly on the failure of the bilingual people to come up with empirical justification for what they were doing. Troike pointed out that the Bilingual Education Act of 1968 (Title VII) was passed by Congress "largely as an article of faith, with little research to support it." This blind faith in the unproven bilingual method persisted and in his 1978 monograph written for the National Clearinghouse for Bilingual Education on research in bilingual education Troike admitted that "We have very little more of a research base for bilingual programs than we did 10 years ago." Looking past small-scale studies and doctoral dissertations whose value he said was limited, he confessed that, "Unfortunately, although evaluations should be a prime source of data on program results, the vast majority of them are worthless for this purpose."

As an indication of the inadequacy of most of the evaluations, Troike cited a survey done by the Center for Applied Linguistics in developing a master plan for the San Francisco School District in response to the Lau vs. Nichols Decision of the United States Supreme Court. The survey found that only 7 of 150 evaluations met even "minimal criteria for acceptability and contained usable information." Another survey done by the Northwest Regional Educational Laboratory resulted in the rejection of all but 3 of 108 evaluations and 12 of 76 research studies. The wonder of all of this is that the federal government alone has by Troike's own admission appropriated more than a half billion dollars (closer to a billion now) for bilingual education in a little more than a decade without a shred of evidence that this instruction has helped anyone except the bureaucrats themselves.

THE REDWOOD CITY PROJECT—UPSIDE DOWN CONCLUSION

At a critical stage in the political campaign of the bilingual movement, an evaluative study was published that would soon be used by partisans as some of the first empirical evidence that bilingual education did work in practice. Although Andrew Cohen, a young ex-Peace Corps worker and doctoral candidate at Stanford University, was cautious in expressing the generalizibility of the results of his study of the Redwood City Bilingual Project, he wasn't at all reluctant to state that, "The preliminary results of this study are highly supportive of bilingual/bicultural schooling," and on the strength of these admittedly preliminary results he recommended that "bilingual programs should be implemented and continued elsewhere."

Since the publication in 1975 of "A Sociolinguistic Approach to Bilingual Education," it has been one of the most frequently cited studies in support of bilingual education. For this reason, a brief analysis of the study and of its widespread influence can be very instructive in trying to understand how bilingual education propaganda has made much out of little. Cohen's study was carried out over a two year period, the 1970–71 and 1971–72 school years, and involved two groups of students, one experimental and one control, in two schools in Redwood City, California. In all, 90 Mexican-American (Cohen fails to distinguish between Mexican-American and Mexican students although approximately a third of these students in the experimental group and almost half in the control group were born in Mexico) took part in the experiment, with half receiving bilingual instruction of one type or another and half receiving instruction only in English.

Cohen's research questions centered principally on two comparisons. (1) After several years of bilingual instruction, were the children in the bilingual group as proficient in English language skills as were the comparison group children taught only in English? and (2) Were the experimental group students more proficient in Spanish? Cohen answered these questions affirmatively but this affirmation was questionable if one examined the data carefully.

Despite Cohen's conclusions, his data showed that for the majority of the measures of English language skills the comparison groups, not the experimental ones, were superior. In the critically important skill of reading, for example, although he minimized the differences, the data Cohen presented demonstrated that the comparison group was clearly superior in almost every measure. As for the other language skills, the results were more mixed but still favored the comparison groups. The really surprising results, though, indicated that the comparison students (who had no Spanish instruction) had done as well or better than the experimental students in a number of the measures of Spanish language, including reading.

Its critics

It was not until some years after the Cohen study was published that questions were raised about its value to the cause of bilingual education. To his credit, Rudolf Troike commented on the contradictory results in reading: "Three separate classes of students in the bilingual program scored significantly below a comparison group in English reading scores, and one bilingual class (the first pilot group) scored below the comparison group in Spanish reading—even though the latter had received no instruction in Spanish." The cat was out of the bag but Troike still aligned himself with Cohen in refusing to find fault with the bilingual method and instead reported that improper implementation of the method, not the method itself, was responsible for the disappointing results.

It remained for another authority on language teaching, Nicholas Hawkes of the University of York in England, to penetrate the rhetorical fog which was intended to mitigate the unfavorable results of the Redwood City Study. In reviewing Cohen's report of the study in the International Review of Education in 1979, Hawkes gently posed a question that must have been devastating, however, to the limited number of bilingual proponents who would have read it: "Later results from grades 3–5—showed that by 1974 the English-only group were still doing remarkably well in Spanish compared with the B. E. children, yet were well ahead of them in English reading. One is therefore prompted to ask: if Spanish-speaking children who are taught no Spanish in school can compare so favourably in Spanish with bilingually taught children, while drawing ahead of them in English, is the Spanish medium element in schooling really essential to the realization of the linguistic aims of B. E.?" In asking this rhetorical question, Professor Hawkes had to know, of course, that without what he calls the Spanish medium element bilingual education would no longer be bilingual.

The Cohen study typified most of the research and evaluation of the last decade: the enthusiastic conclusions of the authors of these studies and evaluations seldom followed logically from the usually lengthy and complex compilations of data. The results of their research seemed of little consequence to the researchers or anyone else connected with bilingual education. What was important to them was that bilingual programs would grow in size and number by constant reinforcement of the myth that this instruction was superior to monolingual English instruction for linguistic minority students because it helped to maintain the home language without retarding English language development. At the same time, the question of special emphasis English programs was carefully avoided—the public concept that there was no alternative to bilingual education had to be established and then maintained.

Its influence—California State Department of Education

Despite the little-noticed revelations of its inadequacies, the Cohen study has had far more influence at the political level than almost any other research work. An example of the impulse it has given to bilingual education in California can be found in a publication of the California State Department of Education issued in 1981. The publication—"Bilingual program, Policy, and Assessment Issues"—consists of a number of scholarly papers written partly to counteract the effects on public opinion of two highly publicized and critical reports on bilingual education; both the federal funded American Institutes for Research (AIR) study of ESEA, Title VII bilingual programs and Noel Epstein's monograph on policy alternatives for bilingual education had in the late 70's shaken the public confidence in the bilingual concept. The California report, then, was an attempt to marshal as much authority as possible in order to repair the damaged image of the concept and to assert the state's leadership in this area.

Six nationally distinguished educators were commissioned by the State Department of Education to lead panels (made-up also of experts in various branches of education) which discussed pre-selected issues, formulated recommendations, and prepared written reports for inclusion in the publication. Chosen to write the most important section of the publication, that which dealt with non and limited English speaking students, were Heidi Dulay and Marina Burt, a research team with a national reputation for their study of second language acquisition. Dulay and Burt's treatment of the topic, by far the longest in the total report,

explored a number of both theoretical and operational facets of bilingual education and, in what is most important to this discussion of evaluation, concluded the subreport with a defense of the effectiveness of bilingual programs.

In their defense, the writers roundly criticized the AIR Report and the Epstein Monograph for their methodological shortcomings and produced their own list of nine research studies and three bilingual demonstration projects that supposedly met their rigid standards for acceptable research design. An analysis of these studies listed under ten different categorical labels, shows that Cohen's study of the Redwood City Bilingual Project is used over and over again, appearing in seven of the ten categories. Further scrutiny shows that instead of the nine studies the authors claimed were acceptable, only five, in addition to Cohen's, appear in the categorical listings and of these five studies, two were conducted in foreign countries—the Philippines and Mexico—in which the linguistic and sociological situations were so different that valid comparisons of these studies with those of immigrant language programs in the United States cannot be made.

ALTERNATIVES TO BILINGUAL EDUCATION

In reality, there is a long history in this country of special educational programs for immigrant students going back to at least the early part of this public education in the state with the nation's largest population of immigrant children, champions bilingual education and attempts to base its support for the method principally on studies such as Cohen's in which the results directly contradict the conclusions of the researcher or on studies of foreign programs which are not relevant to the linguistic and sociological situations with which our own immigrant programs have to deal. None of the other sub-reports of the panels commissioned by the State Department of Education dealt directly with the evaluation of bilingual programs so it must be assumed that the Dulay-Burt contribution was considered to be the last word on the "effectiveness" of bilingual programs and will be used extensively in the future to rebut the critics of this type of education.

If little valid evidence has been produced to substantiate the bilingual lobby's grandiose claims, then it is logical to ask about the alternatives to bilingual education—what type of educational programs would serve best to help immigrant students to learn English as rapidly and as well as possible without at the same time overburdening the resources of most school districts? Putting aside for a brief time the subject of evaluating the evaluation of bilingual programs, it is important to correct one of the most pervasive fictions of the bilingual mythology—that is, that the only alternative to bilingual classes is what has come to be known as the "sink-or-swim" method. In this method, immigrant students are from the beginning placed directly into regular classes taught in English in which they receive little if any special help in learning to speak the new language.

And so the California State Department of Education, the nerve center for century. Los Angeles, one of the nation's largest immigrant centers, has had special English programs since 1915 and up until the advent of bilingual education in the 70's many tens of thousands of students who started their schooling speaking little or no English were successfully integrated into the school district's regular educational program after they had been in these special classes. The programs were organized differently at the elementary and secondary levels and the instructional methodology varied somewhat over the years, but the common goal of this learning approach was to provide a special English learning environment away from the regular classroom until the student could begin to function on his own in a regular class with monolingual English speaking classmates. The best of these programs were based on the belief that students have different capacities for learning language and that only a small part of the language they would learn would come from formal instruction while most of their ability to function in the new language would come from their interaction with English speakers in varied school situations and also in their outside of the school. For this reason the majority of the immigrant language programs prior to the 70's were integrative in purpose rather than segregation as are bilingual programs.

Suppression of research

Unfortunately, there is almost no mention in the research literature of studies of this type of special English instruction in the years before the bilingual revolution, probably because the education of immigrant students had not yet been seen as having political potential and this situation is likely to continue for it appears that bilingual zealots will attempt to suppress any efforts directed at comparing alternative methods with the bilingual method. The huge Los Angeles Unified School District serves as a case in point. It is difficult to uncover much information about the inner workings of such a large school district and it is usually fruitless to speculate on the reasons behind actions taken or not taken at the administrative level. Nevertheless, this school district that claims to have almost 100,000 students in bilingual programs not only has avoided carrying out and publishing any type of study that would give objective evidence of the relative effectiveness of its bilingual programs but appears also to have detoured, hidden, or actually aborted studies that would compare other methods with bilingual instruction.

One study that apparently was aborted was to have been an evaluation of the Title VII Bilingual Schools Project for the 1977-78 school year. Information about the study is limited. It is known, however, that the experimental group for the study consisted of students in bilingual programs and the control group was made up of students who received only ESL instruction. Both groups were tested to determine the relative development of their English language skills and the data from the tests were sent to a private research firm, Bernard Cohen Research and Development Incorporated of Cambridge, Massachusetts, which had a $29,000 contract with the district to evaluate the data. After the testing phase, official mention of the study ceases. No formal report on the results of the study, either written or oral, was ever presented to the Los Angeles Board of Education, the body which funded the study so that it would have information that would enable it to evaluate its bilingual programs.

The significance of this study should not be overlooked; while almost all of the studies of bilingual education have used control groups of comparable language minority students in classes (the AIR Study, for example), the Los Angeles study would have compared students receiving bilingual instruction with those placed in special groups or classes which were designed exclusively to help them to learn to speak, read, and write English. Instead of comparing students in bilingual programs with students in a "sink-or-swim" situation who received little or no special help in learning English, the comparison would have been far more meaningful—bilingual education pitted against another special method.

In another, similar case in the same school year, a proposal for a study by a speech therapist in the Los Angeles School District was approved for funding by the board of education of that district. This study was designed to compare Spanish dominant students in one East Los Angeles elementary school who received instruction bilingually with those in another elementary school in the same area who received special English-only instruction. But the study never got off the ground because (as the initiator of the study related to me) district officials persuaded her to cancel the project because they said it would duplicate a study of wider scope planned at the state level. To date, however, the State Department of Education has not published any bilingual studies even remotely similar to the aborted Los Angeles studies.

At least three other studies focusing on immigrant English language learning in the Los Angeles schools have been buried in the archives of the Research and Evaluation Section of that district for a number of years. The earliest of these (Rossier, 1968) was a statistical analysis of 150 high school seniors (most of them from Spanish speaking countries) who had come to the United States either in their junior high school or senior high school years, studied English in a special English program in one of four Los Angeles high schools, and then had reached graduation. The study found that, despite their relatively short residence in the United States (3 to 6 years), these students compared favorably with their English speaking classmates in class ranking, grade-point average, occupational choice, and post-high school educational plans. The students' performance in the regular educational program was especially notable, with more than 61% of the group achieving a 2.00 (C) average or better for their three years in high school.

In 1975 Shea investigated student and parental attitudes toward the use of English and Spanish in a variety of situations, including their relative preference for English-only instruction, bilingual instruction, or Spanish-only instruction. The study, carried out in a San Fernando Valley junior high school whose student population was made up largely of Spanish surnamed students, found that a range of from 66.8 to 82.9% (depending on the subject field to be taught) of the 960 student respondents and 58.0 to 71.8% of the 254 parent respondents preferred English-only instruction.

The third study (Rossier, 1975) dealt with personality variables in the learning of English as a second language and produced data including the importance to the learner of in-school exposure to English in addition to structured English language lessons.

There is reason to believe, then, that meaningful, objective evaluation of bilingual education programs in the Los Angeles School District has been carefully avoided and, furthermore, that there has been a pattern of suppression of both district-initiated and independent research studies having potential for showing that there might be alternative educational programs that would be superior to bilingual programs. Whether

what has happened in Los Angeles is typical of the nation as a whole is difficult to say although we must remember that Troike's 1978 survey of evaluations nation-wide (with the considerable resources of the Center for Applied Linguistics and the National Clearinghouse for Bilingual Education behind him) found that most of these were "worthless" for producing data on program results.

AVOIDANCE OF OBJECTIVE RESEARCH AND EVALUATION

The whole area of study and evaluation of language programs for immigrants poses a series of intriguing questions and possibilities. In the first place, why has there been such reluctance to study and evaluate bilingual programs objectively? Stating the question a little differently, why isn't bilingual evaluation conducted by unbiased individuals or organizations that have no vested interest in the perpetuation of these programs?

Harking back to Troike's admission that there was little research evidence to support the idea of bilingual instruction when the Bilingual Education Act was passed in 1968, why after that didn't responsible educational researchers initiate studies that would allow us to compare operational bilingual programs with programs using alternative monolingual English methods? There was a time during the early years of bilingual education when this type of comparative study could have been carried out rather easily in many parts of the United States, but it would be difficult today because the bilingual politicians have created a monopoly situation in many states—one in which no other special language program is permitted either because of legislative prohibition or because of federal or state funding regulations.●

THE LOSS OF SKILLED WORKERS AT STAKE IN EXIM DEBATE

● Mr. GARN. Mr. President, I have been a long-time supporter of the Export-Import Bank. It plays a crucial and irreplaceable role in defending many of our most critical industries against the predatory trade practices of our export competitors.

A weak, inactive Bank will result in a decline in the profitability—and perhaps the viability—of our high-technology, aerospace, machine tool, electronics, and capital goods industries. It will also result in the severe loss of jobs in these important sectors, which means not only greater unemployment but the unemployment of some of our most highly skilled and productive workers. We cannot afford that, either socially, economically, or strategically.

I recently received a letter from one such employee. I ask that the text of the letter be printed in the RECORD and urge my colleagues to ponder its message as we consider the funding levels for the Export-Import Bank.

The letter follows:

SEPTEMBER 5, 1982.

Hon. JAKE GARN,
U.S. Senate, Chairman, Banking, Housing, Urban Affairs, Senate Office Building, Washington, D.C.

DEAR SENATOR GARN: I have recently become aware of a possible government action, which shall seriously affect the Export-Import Bank.

As I understand it, the Export-Import Bank is an agency of the United States Government. It was created in 1934 and since 1948 it has successfully devoted its efforts exclusively toward promoting exports by arranging financing for overseas business to purchase American made products. It has provided essential business service to industry and labor. Any cut by Congress in the agency's borrowing and lending authority shall reduce the amount of money available to be loaned to overseas business. This without question would reduce the Bank's effectiveness, which would result in lower exports. This would have a dire effect on the company for which I work (Kropp Forge, Div. of Anadite) and could definitely result in the termination of my job along with many other employees.

Senator GARN, I am at a loss to understand such senseless contemplated action towards the Export-Import Bank, because the Bank uses no tax money and is not a drain on the Federal Treasury, therefore, has no affect on any increase in the Federal Budget. Furthermore, such callous action at this time would prevent a full economic recovery.

The Bank's borrowing and lending authority must not be cut if American Business and Labor are to successfully meet the challenge of its chief competitor in aircraft manufacturing, which is Airbus Industrie, a consortium formed by European capital and the governments of France, Germany and the United Kingdom.

These foreign governments are working closely together with private capital. There is no question in my mind that the ingenuity of American Business and American Labor, working together with our government, can successfully meet the productive challenge of Airbus; but only if the Bank's authority remains firmly secure. This is another must for our economic survival and the survival of our free competitive enterprise system. We cannot take this foreign challenge too lightly.

Senator GARN, as the chairman of the Senate Banking Committee, I implore you to lend your support for a continued strong Export-Import Bank, which shall continue to serve American Business and which, from such service, American Labor is a beneficiary. Thank you.

Sincerely,

THEODORE PIEKARCZYK.●

ADEQUATE R&D FUNDING AND THE INTEGRITY OF THE SUPERFUND LAW

● Mr. GLENN. During the recent debate on the HUD-independent agencies appropriations, I supported the attempt to restore $39 million for EPA's R&D budget and $30 million for Superfund.

It is crucial for EPA to have the benefit of basic, continuous, and thorough quality research conducted in and out of Government in order to set effective health and environmental standards. If EPA's 1983 budget is approved, this administration will have cut EPA funding by 40 percent from the fiscal 1981 budget. At a time when EPA's workload is increasing, we must allocate funds for scientific research to identify the chemicals which may endanger human health, to determine what levels of pollution may be hazardous and to provide a basis for enforcement of existing laws. Without sound scientific data, we not only risk failure to identify environmental threats, but we also risk having industry impose costly controls that better research would have shown to be unwarranted.

In 1980, Congress passed the Superfund legislation to establish a Federal fund to finance cleanup of abandoned or uncontrolled waste sites. I supported this legislation to begin the enormous task of identifying and cleaning up these sites. There are an estimated 10,000 abandoned or uncontrolled hazardous waste dump sites, and EPA now has an interim priority list of 160 sites that qualify for Superfund assistance. We cannot misuse the budget process to renege on the commitment to the thousands of citizens whose health is threatened by these sites.

I regret that this amendment failed to pass the Senate; however, I will continue to work toward the goals of adequate R&D funding and the integrity of the Superfund law.●

PRESIDENT CHUN'S PLAN FOR PACIFIC SUMMITS

● Mr. HAYAKAWA. Mr. President, on July 31, 1982, President Chun Doo Hwan of the Republic of Korea proposed that the leaders of the nations of the Pacific Community meet annually to discuss matters of mutual concern to those nations lying within the Pacific Ocean basin and to consult on ways and means for mutual cooperation among the Pacific basin nations.

This is an interesting proposal. We are all aware of the fact that the nations of the Pacific basin are advancing rapidly as an economic center of the world. In 1979, American trade with those nations lying within the Pacific basin exceeded, for the first time in history, total American trade with the nations of Western Europe. The total exports of manufactured goods by the newly industrialized countries of Asia—South Korea, Taiwan, Hong Kong, and Singapore—are now one-third greater than those of the remaining newly industrialized countries of the world, namely, Mexico, Brazil, Spain, Portugal, Greece, and Yugoslavia. It now appears possible that by the year 2000, the combined industrial power of Japan, South Korea, Taiwan, Hong Kong, Singapore, and Malaysia may be greater than that of the United States or Western Europe, according to Paul Seabury, author of "America's Stake in the Pacific," published in 1981.

It is imperative, therefore, that the United States continue to be an active and vigorous partner of its neighbors in the Pacific region. President Chun's

proposal is an important contribution to the region's thinking and planning for the future. It should be given serious consideration by all the nations of the Pacific basin.

Mr. President, I therefore, ask that President Chun Doo Hwan's proposal be printed in the RECORD.

The proposal follows:

PRESIDENT CHUN'S PLAN FOR PACIFIC SUMMITS

The following is the text of the portion of the President's news conference on July 31 in which he described his plan for annual Pacific summit meetings:

First, I believe the shortest way to overcoming various restrictions, obstacles and challenges lying in the way of the realization of the Pacific age is the introduction of a systematic consultative apparatus under which top leaders of Pacific-rim countries can meet periodically to discuss matters of mutual concern and consult on ways and means of mutual cooperation.

Needless to say, summit diplomacy is the most effective way to solve most difficult and urgent nation-to-nation problems.

Second, it is my hope that this consultative organ will, in principle, open its door to all the countries in the region.

Third, I think that respect of sovereignty and independence, reciprocity, equality and noninterference in the internal matters of other countries should be the basis of relations among the countries in the region. I also think that hegemony by any country should not be accepted and the organization should not be politically tainted or become a bloc.

Fourth, I feel that the question of exploring the endless potential which the regional countries have for multilateral development and expansion of trade, reinforcement of economic and technological cooperation manpower development, expansion of communications networks and increasing educational and cultural exchanges could be the key concerns of the consultative organ.

Fifth, I believe firmly that cooperation between advanced countries and developing nations and an increase in the cooperation among developing countries in the region will, if deepened, be able to set an example for solving the so-called South-North question.

The successful materialization of a Pacific summit conference will require consent by the countries in the region.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

MILITARY CONSTRUCTION APPROPRIATIONS, 1983

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will proceed to the consideration of H.R. 6968, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. BAKER. Mr. President, the managers of the bill are here. I yield the floor so that they may proceed.

The PRESIDING OFFICER. The time for debate on this bill is limited to 1 hour, to be equally divided and controlled by the Senator from Nevada (Mr. LAXALT) and the Senator from Tennessee (Mr. SASSER) or their designees with 30 minutes on any amendment in the first degree, 20 minutes on any amendment in the second degree, and with 10 minutes on any debatable motion, appeal, or point of order.

The Senator from Nevada is recognized.

Mr. LAXALT. Mr. President, I am pleased to bring before the Senate, H.R. 6968, the military construction appropriations bill for fiscal year 1983. This bill, as reported by the committee, has been carefully reviewed and contains projects which we believe are necessary and justified for improved living and working conditions for our military personnel, as well as for the improved readiness posture so vital to our national security.

The recommendation for appropriations for military construction and military family housing for fiscal year 1983 is $7,099,708,000.

This amount reflects a reduction from the President's request of $1.1 billion and an increase to the House proposal of $99.5 million. It also should be mentioned that both the House approved bill and this bill before us today contain less appropriations than were approved in fiscal year 1982.

And for the record, the recommendation is over $400 million below the subcommittee's allocation in budget authority and approximately $10 million below the outlay allocation.

Mr. President, the Department of Defense used military construction as one of the accounts in which reductions were made during the budget compromise. The suggested reductions have resulted in authorization reductions of nearly $800 million from the President's request. When this amount is added to the nearly $300 million in add-on projects recommended by the House—all of which are unbudgeted and presently not authorized for appropriation—one can easilly see how the committee was able to make such a sizable reduction to the request.

Let me briefly discuss the reductions to the President's budget recommended by the committee.

In order to meet the subcommittee's outlay allocation, the committee has proposed making reductions which would have the least effect on readiness and operational requirements. However, programs designed to support quality of life items—particularly housing—have been recommended for funding.

As I mentioned earlier, the House included nearly $300 million in add-ons which were not a part of the President's request. None of these projects have been included in the bill now before us. However, it should be noted that while these projects have not been authorized for direct appropriation, it is the committee's hope that because of the continued good bidding climate being experienced, many or all of the projects can be accomplished late in fiscal year 1983 using cost savings through the reprograming process.

I want to assure my colleagues that all of the projects added by the House have been deferred without prejudice, and each one will be considered during our conference with the House.

The committee has also recommended reductions to the family housing account. While all new construction is recommended at the authorized level, reductions have been made to the operations and maintenance account. It is this account which provides the greatest precentage of outlays in the military construction bill. I would like to note that while the reductions are recommended they are based on increases to last year's appropriation.

Mr. President, the one other main area of reductions is in what must be considered what we classified as "nice to have" facilities. The committee recommendation defers without prejudice gymnasiums, chapels, and religious centers, child care centers, family service centers, recreation and education facilities, and Defense schools. Please note that each of the projects deferred is included in the House bill and will be considered during our conference. The projects deferred have resulted in saving of approximately $87 million.

Mr. President, the committee has made all of the recommended reductions without prejudice to the individual projects. Most of them are justified and provide our military personnel with needed facilities. It should be noted, however, that this body voted earlier this session to deny authorization for these projects and many more. It is the committee's intention to fund as many projects as possible which can be agreed to in conference.

Now, Mr. President, let me highlight a few of the more positive aspects of the bill:

Funding in the amount of $335.2 million has been included for facilities to support the rapid deployment force in the Persian Gulf and Indian Ocean area of the world. Part of this amount—$178.6 million—is for the initial construction at Ras Banas, Egypt. The committee and the Senate have continually gone on record in support of the Egyptian facilities. Secretary

Weinberger has also sent me a letter to let me know of the administration's strong desire to proceed with the project. The Senate conferees will work diligently on this item during conference.

There is more than $2 billion for projects throughout Europe which will greatly improve the living and working conditions of our military personnel; $85 million is included for facilities to support the ground launched cruise missile.

Facilities for testing and maintenance on the MX missile are included at $36.7 million. These projects are in no way related to site-specific facilities concerned with the basing mode.

Mr. President, I want my colleagues to clearly understand, because they are intensely interested in this very controversial project, we made no determination in connection with site-specific facilities concerned with the basing mode at this time, pending the recommendation by Mr. Weinberger to the President, and as I understand the schedule, a determination by the President before December 1 of this year.

Also included in the bill is $67.7 million for phase 1 construction of the Consolidated Space Operations Center in Colorado a matter of intense importance also in this Chamber. The committee supports this vital project which will provide facilities to support satellite and Shuttle operations. The committee has included extensive report language on this project with regard to the land title, additional land requirements, and the computers to be included in the facility which are, for the record, not funded through this bill. I would like to clarify for the record the intent of the committee of this project. The committee has asked the Air Force to obtain a fee simple title for the property in question.

We are not locked into fee simple as such. What we want under Colorado law is the best title we can have for commercial purposes. Whether pure fee simple is going to come down in view of the fact we have Colorado owning title to the property under the provision of their constitution, I do not know; but, very simply said, we have indicated that the Air Force, the people involved, should want the best possible title to be authorized under Colorado law.

This title should, if possible, be obtained while initial construction proceed. It is the committee's understanding, however, that under Colorado law the fee simple procedure may not be feasible and could end up being costly to the Federal Government. While the committee believes that the fee simple would be the clearest title, it is not our intention to sidetrack the project over the title. The Air Force has been directed to report back to the committee not later than December 1 of this year on all land issues regarding the project. At that time, the committee will certainly be open to the proposals which are deemed most appropriate for this situation. The committee has learned of the cooperation being extended by the Colorado State Land Board on this issue, and hopes that the Air Force takes full advantage of the opportunity to obtain the necessary land in the clearest title possible.

Mr. President, I ask unanimous consent that a letter I received this morning from the Under Secretary of the Air Force be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE UNDER SECRETARY,
Washington, D.C., September 27, 1982.

Hon. PAUL LAXALT,
U.S. Senate, Washington, D.C.

DEAR SENATOR LAXALT: In the absence of Secretary Orr, I would like to state my understanding of your discussion with him on the land issue for the Consolidated Space Operations Center (CSOC), and of the language on this subject contained in your report on the fiscal year 1983 MILCON Appropriations Bill. Your desire is that we obtain fee title of a section of land offered by the State of Colorado, and evaluate carefully the possibility of acquiring additional land surrounding the site. These actions, however, are not to impede construction.

We will proceed immediately and acquire the right-of-way in perpetuity from the State of Colorado, which has the approval of our counsel and the Attorney General, as the initial basis for construction. Concurrently, we will open negotiations with the state to acquire fee title. We will also evaluate, both from an Air Force perspective and in conjunction with the State of Colorado, the possible acquisition of three adjacent sections of state-owned land and other adjacent land, and will report to you as requested by December 1, 1982. We would plan to seek authorization and appropriation in fiscal year 1984 for any additional funding required for title acquisition.

I trust that my understanding and the actions outlined are in keeping with the intent of the committee's direction. The Air Force, as always, is appreciative of the continuing support of your committee.

Sincerely,

E. C. ALDRIDGE, Jr.

Mr. LAXALT. Mr. President, this letter explains the Air Force position on the language concerning the Consolidated Space Operations Center.

Mr. President, the military construction bill is relatively small in total dollars, but is comprised of over 1,500 individual line items. I sincerely believe that the recommendation before the Senate today supports the most vital military construction projects that are so directly involved with our day-to-day national defense operations. The reductions made in this bill are not pleasant to all of our Members; however, I believe that the support of the Senate for this bill will make people aware that this body wants to reduce spending and that a defense bill is taking its fair share.

Mr. President, I seek the support of my colleagues in passing this bill as reported.

Mr. President, that concludes my formal opening remarks.

Mr. President, I now ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendments as original text, provided that no point of order shall be considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 7, strike "$941,570,000", and insert "$982,810,000";

On page 2, line 9, strike "$137,900,000", and insert "$145,240,000";

On page 2, line 15, strike ": And", through and including the end of line 18;

On page 2, line 25, strike "$1,120,813,000", and insert "$1,047,040,000";

On page 3, line 3, strike "$110,000,000", and insert "$111,792,000";

On page 3, line 13, strike "$1,420,825,000", and insert "$1,657,457,000";

On page 3, line 16, strike "$102,453,000", and insert "$147,453,000";

On page 4, line 3, strike "$289,145,000", and insert "$305,143,000";

On page 4, line 17, strike "$10,000,000", and insert "$19,000,000";

On page 5, line 16, strike "$54,958,000", and insert "$51,100,000";

On page 5, line 24, strike "$127,900,000", and insert "$106,800,000";

On page 6, line 6, strike "$41,800,000", and insert "$42,800,000";

On page 7, line 4, strike "$146,781,000", and insert "$117,611,000";

On page 7, line 5, strike "$864,645,000", and insert "$834,245,000",

On page 7, line 6, strike "$1,054,610,000", and insert "$995,040,000";

On page 7, line 16, strike "$104,091,000", and insert "$98,921,000";

On page 7, line 18, strike "$741,400,000", and insert "$736,230,000";

On page 8, line 3, strike "$143,004,000", and insert "$110,904,000";

On page 8, line 5, strike "$929,271,000", and insert "$897,171,000";

On page 8, line 16, strike "$433,000", and insert "$593,000";

On page 8, line 17, strike "$14,233,000", and insert "$14,393,000";

On page 10, strike line 24, through and including page 11, line 2;

On page 11, line 3, strike "110", and insert "109";

On page 11, line 9, strike "111", and insert "110";

On page 11, line 14, strike "112", and insert "111";

On page 11, strike line 20, through and including line 24;

On page 12, line 1, strike "114", and insert "112";

On page 12, line 5, strike "115", and insert "113";

On page 12, line 12, strike "116", and insert "114";

On page 12, line 19, strike "117", and insert "115";

On page 13, line 6, strike "118", and insert "116";

On page 13, after line 15 insert the following:

SEC. 117. Pursuant to 10 U.S.C. 2394 and section 201 of the Military Construction Authorization Act, 1983, the Navy is authorized (a) to construct and operate a refuse derived fuel-fired electric power generating plant and (b) to contract for fuel supplies at the Norfolk Naval Ship Yard (NNSY). Any electric power and fuel supplies produced in excess of the needs of the Navy may be sold: *Provided, however,* That any proceeds from such sales, adjusted for costs related thereto, shall be credited to the Treasury as miscellaneous receipts.

SEC. 118. None of the funds appropriated in this Act may be obligated or expended in any way for the express purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

Mr. LAXALT. Mr. President, at this time, I would like to express my thanks to the distinguished Senator from Hawaii, Mr. INOUYE, who is acting for the ranking minority Member, Mr. SASSER, during consideration of this bill. As always, the support from the members on the other side of the aisle for this bill continues to be strong. I would like to say that since I became chairman and even prior—that the members of the subcommittee work in the true spirit of cooperation.

Mr. President, we have had many difficult decisions in connection with this piece of legislation. The cooperation I have enjoyed with Mr. SASSER and other Members on the other side of the aisle has been excellent.

Mr. President, I yield to the Senator from Hawaii for any comments which he may wish to make on the bill.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to thank the chairman of the subcommittee for his very generous remarks. As noted by the chairman, the Senator from Tennessee (Mr. SASSER), the ranking member of the subcommittee, is away on official business and, regrettably, cannot be with us. However, I have been asked to present to the Senate remarks which were prepared by him earlier.

(By request of Mr. INOUYE, the following statement was ordered to be printed in the RECORD:)

● Mr. SASSER. Mr. President, I am delighted to join with my colleague from Nevada in urging quick passage of this $7.1 billion military construction appropriations bill for fiscal year 1983. Clearly our subcommittee and the full Senate Appropriations Committee have kept the bill within the limits set by the President's budget and by the first budget resolution.

The budget authority recommended in the bill as reported is $1.1 billion less than the President requested and $400 million below the subcommittee's allocation under the budget resolution. In fact the bill contains $16.3 million less in budget authority than we provided in the current fiscal year. Furthermore the bill more than meets the outlay targets set for the military Construction Subcommittee by its budget resolution allocation.

At the same time, Mr. President, I believe we have to be careful not to make crippling cuts in the military construction budget in our search for a reduced deficit. Although reductions in these programs may have a relatively modest immediate effect they can have serious long-term consequences because this bill provides for the infrastructure that is vital to a strong military presence—the dock facilities that are essential for naval operations, the runways and hangars that our Air Force cannot do without, and the housing that is a significant factor in the morale of our military personnel.

With regard to this last item, I am glad to be able to tell my colleagues that your committee has funded all authorized housing projects although it has had to defer funding for related projects such as gymnasiums, child care centers, and Department of Defense schools.

In summary, Mr. President, I wish we had been able to make a bigger dent in the backlog of military construction projects but this clearly is a sound bill given the difficult budget targets we have to meet to get Federal spending under control. I look forward to the day when a stronger economy and the elimination of waste in the Federal budget make it possible to do more.●

Mr. MATTINGLY. Mr. President, I rise in support of the legislation and urge my colleagues to vote for the military construction bill that has been reported to the Senate by the Appropriations Committee and the Subcommittee on Military Construction.

As a member of that subcommittee, I am well aware of the difficult choices that had to be made in insuring that the bill met the vital needs of our defense facilities while not exceeding the spending limits that had been established by the budget resolution and the appropriations committee allocations.

The distinguished chairman of the subcommittee, Senator LAXALT deserves the credit for reporting a bill that I believe should be supported by all who recognize the need for a strong defense while remaining acutely aware of the need for budgetary restraint.

The bill as reported to the Senate is more than $1 billion under the budget request for fiscal year 1983 and is $16 million under the 1982 appropriation for military construction activities.

In order to achieve these necessary budgetary reductions, many worthwhile projects were unable to be funded, including several in my home State. These difficult decisions, while disappointing, were necessary in order for the bill to meet the military construction needs of our Defense Establishment while at the same time staying within the spending levels that had been established.

The chairman of the subcommittee has responded to this difficult assignment by reporting a bill that will strengthen our defense posture without busting our budget.

The decisions made on facilities expansion efforts in the Persian Gulf/Indian Ocean; on MX missile program construction; on the NATO infrastructure program and on the other many, major items considered by the subcommittee can all be reccommended to my colleagues.

I would also like to thank the staff director of the Military Construction Subcommittee Mr. Richard Pierce for all of his valuable assistance in preparing the legislation.

I urge adoption of the legislation.

Mr. DOMENICI. Mr. President, H.R. 6968 as reported by the Appropriations Committee provides for $7.1 billion in new budget authority and $2.1 billion in outlays.

Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill to the congressional budget and the President's budget request be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MILITARY CONSTRUCTION SUBCOMMITTEE SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior year budget authority and other actions completed		4.0
H.R. 6968, as reported in the Senate	7.1	2.1
Possible later requirements		
Total for Military Construction Subcommittee	7.1	6.1
First budget resolution 302(b) allocation	7.5	6.1
House-passed level	7.0	6.1
President's request	8.2	6.4
Subcommittee total compared to:		
First budget resolution 302(b) allocation	−0.4	
House level	+0.1	
President's request	−1.1	−0.3

Mr. PERCY. Mr. President, I had considered introducing an amendment to the bill restoring appropriations in the amount of $3.3 million for the construction of a new gymnasium at Chanute Air Force Base, in Rantoul, Ill. This project was included in the administration's fiscal year 1983 request, and appropriations in this amount have been authorized in the conference report of S. 2586, the fiscal year 1983 MILCON authorization bill.

The gymnasium currently in use at Chanute is a wooden building that was built as a temporary structure at the beginning of World War II. Chanute is authorized, based on current military strength, gymnasium facilities total-

ling 75,000 square feet of adequate space, but the old gym provides only 26,052 square feet of adequate space. The population of Chanute is younger than that found at most military installations because of the large number of students attending its various technical training schools. This fact, coupled with weather conditions which are frequently not suitable for outdoor recreation, has created a priority need for a new indoor physical conditioning facility. Unfortunately, the threatened closure of Chanute in 1978–79 put a cloud over new MILCON projects at the facility, and long overdue construction needs, such as the new gymnasium, were repeatedly deferred.

With this background in mind, I was especially disappointed that the Appropriations Committee deemed it necessary to defer funding for this project. I recognize that the committee deferred funding for all military gymnasiums, but I firmly believe that the MILCON backlog at Chanute is a special case requiring exceptional treatment.

For this reason, I was heartened by the distinguished Senator from Nevada's remarks that the deferral of funding for gymnasiums was without prejudice and that he hoped that many of these projects could be restored in conference. With this assurance, I will not introduce an amendment pertaining to Chanute.

Mr. LAXALT. I thank the distinguished Senator from Illinois for his understanding on this important project. As the Senator has stated, the committee deferred without prejudice all gyms, as well as several other types of projects, as I mentioned in my remarks on the bill.

While the committee has continually supported these types of facilities, it was necessary, due to budgetary constraints, to make reductions in the bill to meet our allocations under the Budget Act.

I would like to assure the Senator that the conferees will work to include as many of the deferred projects as possible when we meet with the House on this bill. It is certainly not the intent of the committee to deprive our military personnel of facilities such as this gym at Chanute Air Force Base. And I will remember my distinguished colleague's interest and understanding on this matter when our conferees consider the bill.

Mr. PERCY. I thank the Senator for his remarks.

Mr. ARMSTRONG. Mr. President, the legislation before us paves the way for the Air Force to assume command for the United States in space.

The committee has approved the full $67.7 million requested by the Air Force for construction of the Consolidated Space Operations Center near Peterson Field in Colorado, and has lifted the freeze that heretofore has prevented design work for CSOC from proceeding to completion. But now the way is clear for the United States to overtake the Soviet Union in the race for preeminence in the last and greatest frontier—space.

I understand the committee still has some questions about the CSOC project. But these questions do not threaten the CSOC project or its location in Colorado Springs. Rather, these are the sort of questions that strong supporters of the CSOC project, as I know Senator LAXALT and other members of the Military Construction Subcommittee are, might arise.

The distinguished chairman has made it clear that work on the CSOC project may go forward while the Air Force work out mutually satisfactory answers to these questions. The Air Force is pleased with the result. The country will benefit from the committee's hard work. I wish to express my congratulations to Senator LAXALT and to the other members of the Military Construction Subcommittee for their hard work and their strong support for the CSOC project and America's role in space.

Mr. PERCY. Mr. President, I would like to comment briefly on an amendment which is part of the military construction appropriations bill. As many of my colleagues know, earlier this year Secretary Weinberger indicated his willingness to sell a portion of Fort DeRussy in Hawaii to help reduce the national debt. This parcel of 17 acres, a portion of the 72-acre parcel which comprises Fort DeRussy, also appeared on a list which the Department submitted to the Property Review Board as excess to its needs. Although this is only a portion of the President's property disposal program, it is an important symbol of our need to sell lands we simply do not need in order to relieve some of the tremendous burden of our $1 trillion national debt.

Today's military construction appropriations bill contains an amendment, introduced by Senator INOUYE, which stipulated that:

None of the funds appropriated in this act may be obligated or expended in any way for the express purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy in Honolulu, Hawaii.

According to the General Counsel's Office at the Department of Defense and the Senate Legislative Counsel, this amendment would be legally ineffective. Because funds for the sale of Fort DeRussy would not come from military construction appropriations, but from operations and maintenance accounts, the Department would still have the legal authority to sell the property.

Therefore, I have no objections to this amendment. However, I would like to reiterate my support for the President's property sales initiative, and to urge my colleagues in the Senate to do the same. We are faced with a situation now where we are losing billions of dollars each year in opportunity costs because we are holding onto Federal properties which we simply do not need. In view of the tremendous economic difficulties we are facing as a nation, we must not allow this situation to continue.

Mr. INOUYE. Mr. President, I wish the RECORD to note that this measure of great magnitude and importance is before us on a unanimous vote. Every member of the Appropriations Committee voted in favor of its adoption and passage.

It should also be noted that, as of this moment, no Member of the U.S. Senate has indicated any desire to amend any portion of this measure. I think it speaks very highly of the leadership shown by the Senator from Nevada and I commend him.

Mr. LAXALT. I thank the Senator.

Mr. President, I think due credit should be given, as is very often the case in this Chamber, to some excellent staff work. We had any number of problems in connection with this bill and the fact that we stand before you today, as the distinguished Senator from Hawaii has indicated, by unanimous consent of the committee and no request for amendments, I think speaks to the excellence of the staff work. I wish to commend Rick Pierce of my staff and several others—from Members staffs—who have worked so hard and long.

Mr. President, I do not think we have any amendments or any further comments. I think we can proceed to final passage. Third reading is requested.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, if there are no other problems, we can proceed now to final passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LAXALT. All time is yielded back on our side.

Mr. INOUYE. All time is yielded back on our side.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 6968) was passed.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAXALT. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I move the Senate insist upon its amendments and request a conference with the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBT COLLECTION ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 4613, which the clerk will state by title.

The bill clerk read as follows:

A bill (H.R. 4613) to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States.

The PRESIDING OFFICER. The time on this bill is limited to 30 minutes to be equally divided and controlled by the Senator from Illinois and the Senator from Hawaii or their designees, with the only amendment to be in order to be an amendment to substitute S. 1249 as reported on H.R. 4613.

The Senate proceeded to consider the bill.

Mr. PERCY. Mr. President, I have talked to Senator DOLE, the chairman of the Finance Committee, and both he and I have agreed that a rollcall vote would be desirable. I understand there is a request from the minority for a rollcall vote. It is my understanding that such a rollcall would occur at 2 p.m. on tomorrow. Mr. President, at this time I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator is correct. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, as specified in the unanimous-consent agreement on H.R. 4613, the Debt Collection Act of 1982, I am offering one amendment which would substitute S. 1249 as amended for the House bill. S. 1249 is the Senate version of H.R. 4613 which incorporates the four provisions of the House bill and expands upon it to include several other key reforms to the Federal Government's debt collection efforts. The substitute bill, S. 1249, was reported out of the Senate Governmental Affairs and Finance Committees unanimously last year, and several of its provisions have been acted on favorably in the House. Today we have the opportunity to pull all of the pieces of this legislative package together by approving this amendment to H.R. 4613 and sending the bill to conference.

I would like to take this opportunity to thank Senator DOLE for his tremendous assistance in moving this bill through the Finance Committee. Also, I am indebted to Senator ROTH for his help as chairman of the Governmental Affairs Committee, his deep interest, and his dedication to the principle of good government.

In addition, I thank the 36 Senators who have given their support as cosponsors to the debt collection legislation. Most of all, I congratulate President Reagan and his able Budget Director, David Stockman, for giving their full support to this legislative effort. Their commitment to cleaning up this most costly area of Government waste is a sure sign of their dedication to the interests of the taxpayers of the country.

This legislation addresses the most appalling examples of waste and mismanagement of Government funds I have encountered in my 16 years in the U.S. Senate. It was nearly 2 years ago that Senator SASSER and I held the first hearings in the governmental Affairs Committee on the Government's debt collection problems. At that time, we discovered that $25 billion owed the Federal Government was delinquent. Since 1980, delinquent debts have grown to a staggering $40 billion, according to the latest OMB estimates. These delinquent debts consist of $14 billion in defaulted government loans, $3 billion in overpayments to beneficiaries of Government programs, and $23 billion in delinquent taxes. For those of us who have lost sight of how much $40 billion is, it represents over $400 for each taxpayer in this country.

The consequences of these substantial losses are both serious and wide ranging. The financial burden of delinquent debt increases the cost of Government. For example, assuming a 15 percent interest rate, the Government is paying over $15 million each day of the week for interest—interest alone—on these uncollected debts. Also, when these loans are not repaid on time, funds for new loans will not be available for those who need them. But most important, these uncollected debts contribute to a loss of confidence in the Government and its programs by the taxpayers. If we do not crack down on those defaulting on a Government loan, how can we justify asking our honest constitutents to make sacrifices to cut Federal spending?

One of most discouraging aspects of this, Mr. President, was the pattern of default developed by young people on our campuses. I do not know how it all started, but possibly, some students began to feel that this was not a real loan, the paper they had signed did not really mean they had to pay it back, that was, after all, the Government and there were other students who got scholorships. This was just another form of scholarship, maybe. I do not know how they rationalized it but it began a pattern of default that reached alarming proportions. It got to a point where students would notify and advise each other as to how they could get out of these loans.

They discovered, for example, that if a student received three notifications and did not answer them or they just sent back an "address unknown" or changed address and did not leave a forwarding address, it would go in the dead-letter file. They would be dropped from the rolls and it would not be discovered; whereas, if they defaulted on any other bill, a credit bureau would be notified and they had better not have a bad credit rating. They knew what the bad credit rating would be. If they defaulted on their student loans, no credit bureau was ever notified. If they did not honor, say, a credit card bill for a suit of clothes and they were notified, that business would turn it over to a collection agency. They would get a very persistent collector; no matter where they went, he would find them and they had better pay these bills.

But the Government, on the money that was provided to them to get their education, seemed to be the least aggressive, the most uninterested, and gradually, this pattern developed so that the alarming rate of student loans in default reached unacceptable levels.

Certainly, I shall never forget when we had six medical schools, including Harvard and Howard, from various ranges because the medical profession generally is well paid. I believe the average salary for a physician today throughout the country runs around $83,000. So it is not a question of inability to pay, particularly when we, by going through the records, discovered that many doctors long since graduated were in serious default on

their student loans, but had an otherwise absolutely unblemished credit rating in their community. They would pay their country club bills, they would pay for their automobiles, they would pay for their vacations abroad. They had to. But they just had never bothered to pay the Government back.

Another area that was of great difficulty was the employees hired by the Federal Government, with high degrees, some of them with masters and Ph. D. degrees, who never would have received that employment if they had not had that student loan. Some of them were even in the Department of Education, earning $50,000 a year with a Ph. D., but had never paid back their student loan.

I shall reference a few of these cases, perhaps, later in my comments, but as we worked on this, we saw that it was yet another example of Government inefficiency. So inefficient was the system that exists right now, that a student or an individual could borrow money from, say, one lending program of the Federal Government, default on that, and have no difficulty borrowing money from another Federal program or another Federal agency. It could be as many as five or six in a row. Each Federal agency would not know there had been a default. But if anyone tried to borrow money in the town that they lived in and they had defaulted on a private debt in that same town, probably the credit bureau would have reported it to the other independent businesses and that person knows he could not get such a loan.

I think it is high time these debtors get the message that their loans from Uncle Sam are not gifts. In the private sector, as I said, when you are in default on a loan, you know you are going to get a letter or a phone call right away.

If you get a little farther behind, a collection agency is going to be contacting you. If that does not do it, you may very well have a subpena in your mail box. These Government debtors have got to know that if they do not pay the Government on time for their loans, they will face the same consequences as they do if they do not pay their mortgage. If there is one message that comes out loud and clear after my 2 years of investigation into the management of Government loan programs, it is that this simply is not the case in Government.

There are two reasons for this sorry state of affairs. First, until recently, the emphasis in the Federal bureaucracy has been to get these loans out the door as quickly as possible, with little regard for collecting it once it becomes due. But also, the Federal Government has lacked the most basic collection tools available to the smallest bank or retailer in this country—this in spite of the fact that Uncle Sam is the world's biggest lender.

This administration has made tremendous strides in putting a new emphasis on debt collection in Federal loan programs. In some programs, collections have increased dramatically as a result of this effort. However, administrative changes are not enough. Legislation is needed.

When the administration first became interested in the subject, which, I understand, was a result of the hearings we had held, and the legislation we had put in, we encouraged the administration to move ahead using every bit of authority that it had in the executive branch of Government.

They have affirmed that although they have issued every order and directive they could, they still need legislation to back them up, to support them and give additional powers that they do not now have.

The substitute to H.R. 4613 I am proposing will bring about 10 reforms which will put some teeth into Federal collection efforts.

Allow referral of delinquent debtor information to credit bureaus while providing those debtors the same protections now afforded in the private sector.

It will require individuals to supply their social security number when applying for Government loans.

Can you imagine a bank loaning money to someone and not asking for their social security number? The Federal Government is not allowed to ask for your social security number. This will be changed by this legislation.

It will permit Federal employee salaries to be offset where they have defaulted on a Government debt, while providing strict due process standards.

It will give agencies the authority to screen credit applicants for delinquent taxes before extending Government loans.

It will allow mailing addresses obtained from the Internal Revenue Service on delinquent debtors to be provided to private contractors for debt collection purposes.

It will clarify that administrative setoff of delinquent debts owed the Government exists beyond the 6-year statute of limitations.

It will assess interest on debts owed the Government and penalties on delinquent debts.

It will permit Federal agencies, except the Internal Revenue Service, to contract with private collection agencies for collection services.

It will make it a Federal penalty to assault Federal employees collecting Government debts.

Finally, it will require agencies to report to Congress on delinquencies and debt collection activities.

Mr. President, these measures will give the Government the tools it needs to collect these debts, while safeguarding the legitimate rights of privacy and due process of debtors. President Reagan's budget has projected that improved debt collection in the Federal Government, facilitated in large part by this bill, will save taxpayers $20 billion over the next 5 years. This is $20 billion that can be used to reduce our deficit without cutting deeper into social programs or forcing a tax increase.

In bringing this bill to the Senate floor, great care has been taken to work closely with the House committees that have jurisdiction over S. 1249. Several changes have been incorporated in the substitute bill I am presenting, to reflect the concerns and suggestions of the House Ways and Means, Judiciary, and Government Operations Committees. I am very grateful to the many House Members who have worked with us on this bill. If this bill is passed by the Senate, I am confident that we can reach agreement in conference on the bill this week and bring it back for final passage before the October recess. Every day we lose before passage by both Houses costs the taxpayers of this country a great deal of money.

Mr. DOLE. Will the Senator yield?

Mr. PERCY. I will be happy to yield to my distinguished colleague who so ably handled this bill in the Finance Committee as its chairman.

Mr. DOLE. Mr. President, I will just take a minute or two, but I want first to thank the distinguished Senator from Illinois for his initiative in this measure and his persistence because I think it is, as I have heard him indicate in just the past few minutes, very important legislation.

It has been a matter that we have had concurrent jurisdiction over in the Senate Finance Committee.

Studies conducted by the General Accounting Office and by the Debt Collection Project of the Office of Management and Budget revealed, that as of September 30, 1979, the Federal Government was owed a total of approximately $175 billion, consisting of $165 billion of debt reported to the Treasury plus $10 billion of other debt. Of the total $175 billion that was owed the Federal Government, approximately $46.9 billion was due for repayment. It was estimated that over half the amount that was due for repayment, $25.3 billion was delinquent. In addition, it cost the Federal Government approximately $3 billion annually in interest to carry these delinquent debts.

The problems which have contributed to this enormous amount of overdue debt are extensive and exist throughout the entire credit cycle—from the initial screening of debtors to ultimate collection. One of the overriding problems is that the informa-

tion systems that we have today cannot provide accurate and timely information on the amount of debt owed, the amount due, and the condition of the debt in terms of delinquencies and defaults. These problems are addressed in S. 1249.

The tax-related provisions of S. 1249, as amended, are: First, use of social security numbers; second, disclosure of information by the Internal Revenue Service for purposes of screening potential debtors; and third, disclosure of debtor identity information.

USE OF SOCIAL SECURITY NUMBERS

Currently, most Federal agencies are prohibited from requiring social security numbers on credit applications. As a result, most agencies are severely hampered in their efforts to verify the identity of applicants, review their credit background for the amount of debt exposure, and their general payment record. In addition, the absence of applicants' social security numbers severely hampers agency efforts to trace and locate delinquent debtors.

Under S. 1249, as amended, Federal departments and agencies would require each individual who applies for credit, financial assistance, or any payment that may result in an indebtedness to the United States or any Federal agency to furnish his social security number. Any social security number obtained in this manner could be used only for purposes of verifying an applicant's identity in connection with credit management and debt collection purposes undertaken pursuant to the Federal Claims Act of 1966 or other statutory authority.

DISCLOSURE OF INFORMATION BY THE INTERNAL REVENUE SERVICE FOR PURPOSES OF SCREENING INDIVIDUAL DEBTORS

Currently, the Internal Revenue Service is prohibited from disclosing returns and return information to Federal agencies for purposes of screening a potential loan applicant for outstanding tax liabilities.

Under S. 1249, as amended, the IRS would be permitted to disclose to another Federal agency whether a Federal loan applicant has any outstanding tax liability—or other liability under the Internal Revenue Code. This information can be disclosed only upon written request from the Federal agency, and is strictly limited to information for the purposes of, and to the extent necessary, in determining whether a loan applicant has outstanding tax liabilities.

DISCLOSURE OF DEBTOR IDENTITY INFORMATION

Currently, the IRS can release certain taxpayer identity information to other governmental agencies for purposes of assisting them in debt collection. However, the taxpayer identity information cannot be further disclosed.

Under S. 1249, as amended, the head of a Federal agency or his designee could make a written request to the Secretary to provide IRS mailing addresses of taxpayers who are liable for a Federal claim. However, under this provision, the head of the Federal agency requesting the IRS mailing addresses would be permitted to disclose the IRS addresses to an agent for the purpose of collecting or compromising Federal claims. The information that can be disclosed by the agency to the agent is limited to the mailing address of the taxpayer—for example, street and street number, town or city, and ZIP code. The agent would be subject to many provisions which are intended to safeguard the IRS mailing addresses and strictly limit the use of the IRS mailing addresses.

I believe these provisions of S. 1249, as amended, establish a necessary balance between the Federal Government's need to collect deliquent debts efficiently by disclosing IRS mailing addresses to the agents and the Federal Government's obligation to taxpayers to protect the confidentiality and use of the IRS addresses disclosed to its agents.

I hope all of my colleagues will support me in passing this legislation.

The Senator from Illinois has set forth in his statement a number of reasons this legislation should be passed, but I want to underscore the broad bipartisan support this legislation enjoys in this time of fiscal, maybe not crisis, but problems. We are in a recession. I think one way to ease the burden on many of the agencies and on the Congress itself as we look for ways to reduce the size of Government would be to make certain that people who have been the beneficiaries through loan programs repay their obligations.

This legislation will make it easier on the other taxpayers who have to pay the interest on the national debt, which is well over $100 billion a year.

Mr. President, again I commend the distinguished Senator from Illinois.

I assume I am listed as a cosponsor of this legislation; is that correct?

Mr. PERCY. Mr. President, I ask unanimous consent to add Senator DOLE as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. I thank my distinguished colleague.

UP AMENDMENT NO. 1299

Mr. PERCY. Mr. President, I call up S. 1249, as amended, as a substitute for H.R. 4613.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1299.

The amendment is as follows:

UP AMENDMENT 1299

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Debt Collection Act of 1982".

AMENDMENTS TO THE PRIVACY ACT

SEC. 2. (a) Section 552a(b) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(12) to a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)).".

(b) Section 552a(m) of such title is amended—

(1) by inserting "1" immediately after "m"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A consumer reporting agency to which a record is disclosed under section 3 (d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)) shall not be considered a contractor for the purposes of this section.".

AMENDMENT TO THE FEDERAL CLAIMS COLLECTION ACT OF 1966

SEC. 3. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d) (1) Whenever the head of an agency attempts to collect a claim of the United States under subsection (a) of this section, or under any other statutory authority except the Internal Revenue Code of 1954, the head of the agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

"(A) the notice for the system of records required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency;

"(B) the head of the agency has reviewed the claim and determined that such claim is valid and overdue;

"(C) the head of the agency has sent a written notice to the individual informing such individual—

"(i) that the payment of the claim is overdue;

"(ii) that the agency intends to disclose to a consumer reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;

"(iii) of the specific information intended to be disclosed to the consumer reporting agency; and

"(iv) of the rights of such individual to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and to administrative appeal or review with respect to the claim;

"(D) such individual has not—

"(i) repaid or agreed to repay such claim under a repayment plan which is agreeable to the head of the agency and is in a written form signed by such individual; or

"(ii) filed for review of such claim under paragraph (2) of this subsection;

"(E) the agency has established procedures (i) for promptly disclosing, to each consumer reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim (ii) for promptly verifying or correcting, as appropriate, information concerning

the claim upon the request of any such consumer reporting agency for verification of any or all information so disclosed, and (iii) for obtaining staisfactory assurances from each such consumer reporting agency concerning compliance by such consumer reporting agency with the Fair Credit Reporting Act (15 U.S.C 1681 et seq.) and any other Federal law governing the provision of consumer credit information; and

"(F) the information disclosed to the consumer reporting agency is limited to (i) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (ii) the amount, status, and history of the claim, and (iii) the agency or program under which the claim arose.

"(2) Prior to a disclosure to any consumer reporting agency under paragraph (1) of this subsection and at such other times as may be permitted by law, the head of the agency shall, upon request of any individual alleged by the agency to be responsible for the claim, provide for the review of the obligation of such individual, including an opportunity for reconsideration of the initial decision concerning the claim.

"(3) If an agency does not have a current address for an individual for the purpose of sending the notice required by paragraph (1)(C), the agency shall take reasonable action to locate the individual prior to disclosing any information to a consumer reporting agency under paragraph (1).

"(4) For purposes of this subsection—

"(A) the term 'consumer reporting agency' means—

"(i) a consumer reporting agency within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

"(ii) any person who, for monetary fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this subparagraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies;

"(B) the term 'system of records' has the meaning given such term under section 552a(a)(5) of title 5, United States Code; and

"(C) the term 'head of an agency' includes a designee of the head of an agency.".

USE OF SOCIAL SECURITY NUMBERS

SEC. 4. (a) Executive departments and agencies shall require each individual applying for credit, financial assistance, or payment which may result in an indebtedness to the United States or any agency thereof furnish the social security number of such individual for the purposes described in subsection (b) of this section.

(b) Any social security number obtained under subsection (a) of this section may be used for verification of the identity of the applicant in connection with credit management and debt collection purposes undertaken pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority.

(c) For purposes of this section—

(1) the term "Executive departments" has the meaning given such term under section 101 of title 5, United States Code; and

(2) the term "Executive agencies" has the meaning given such term under section 105 of such title.

SALARY OFFSET

SEC. 5. (a) Subsection (a) of section 5514 of title 5, United States Code, is amended to read as follows:

"(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt to the head of another agency or his designee the amount of indebtedness may by collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the agency concerned.

"(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

"(A) a minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

"(B) an opportunity to inspect and copy Government records relating to the debt;

"(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

"(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(3) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof;

"(4) For purposes of this subsection—

"(A) 'disposable pay' means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

"(B) 'agency' includes the United States Postal Service and the Postal Rate Commission.".

"(b) Section 5514(b) of title 5, United States Code, is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.".

"(c) The section heading of section 5514 of title 5, United States Code, is amended to read as follows:

"§ 5514. Installment deduction for indebtedness to the United States".

PROTECTION OF FEDERAL DEBT COLLECTORS

SEC. 6. Section 1114 of title 18, United States Code, is amended—

(1) by striking out "or" before "any attorney"; and

(2) by inserting before "shall be punished" a comma and the following: "or any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority".

SCREENING POTENTIAL DEBTORS

SEC. 7. (a) Section 6103 (l) (3) of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information to the Privacy Protection Study Commission) is amended to read as follows:

"(3) Disclosure of certain return information to Federal lending agencies.—

"(A) IN GENERAL.—Upon written request, the Secretary may disclose to officers and employees of a Federal agency whether a Federal loan applicant has an outstanding liability for any tax, penalty, interest, fine, forfeiture, or other imposition under this title.

"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose information under subparagraph (A) only for purposes of, and to the extent necessary in, determining whether an applicant for a Federal loan has outstanding liabilities. Information regarding outstanding liabilities which are in dispute shall not be disclosed under subparagraph (A).

"(C) FEDERAL LOAN.—For purposes of this paragraph, the term 'Federal loan' means a loan of money by, or guaranteed or insured by, the Federal Government or a Federal agency.".

(b) Section 6103 (p) of such Code (relating to procedure and recordkeeping) is amended—

(1) by striking out "or (1) (3) or (6)" in paragraph (3) (C) (1) and inserting in lieu thereof "or (1) (6)";

(2) by striking out "(1) (3), (6), or (7)" in paragraph (4) and inserting in lieu thereof "(1) (6) or (7)"; and

(3) by striking out "(l), (1), (2), or (5), or (o) (1), the commission described in (l)(3)"

in paragraph (4)(F)(ii) and inserting in lieu thereof "(l) (1), (2), (3), or (5), or (o) (1),".

DISCLOSURE TO AGENTS OF A FEDERAL AGENCY

SEC. 8. (a) Paragraph (2) of section 6103 (m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identify information) is amended to read as follows:

"(2) Federal claims.—

"(A) In general.—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal claims Collection Act of 1966 (31 U.S.C. 952).

"(B) Special rule for consumer reporting agency.—In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603 (f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).".

(b)(1) Section 6103 (p) of such Code (relating to procedure and recordkeeping) (as amended by section 7(b) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(9) Safeguards of certain mailing addresses.—Any Federal agency shall, as a condition for receiving mailing addresses under subsection (m)(2)—

"(A) establish and maintain, to the satisfaction of the Director of the Office of Management and Budget, a permanent system of standardized records with respect to disclosures of such mailing addresses to the agents of such agency;

"(B) ensure, to the satisfaction of the Director of the Office of Management and Budget, that the mailing addresses are not incorporated in the general records of agents of such agency or otherwise used by such agents for a purpose other than as provided by subsection (m)(2);

"(C) provide such other safeguards which the Director of the Office of Management and Budget determines to be necessary or appropriate to protect the confidentiality of mailing addresses disclosed to the agents of such agency;

"(D) furnish a report to the Director of the Office of Management and Budget after the close of each calendar year which describes the procedures established and utilized by such agency for ensuring the confidentiality of mailing addresses disclosed to the agents of such agency; and

"(E) upon completion of use of the mailing addresses, provide for the return of the mailing addresses (along with any copies thereof) to the Secretary or provide a method for making the mailing addresses incapable of being disclosed in any manner.".

(2) Paragraph (5) of section 6103 (p) of such Code is amended by striking out "this subsection" and inserting in lieu thereof "paragraphs (3) and (4) of this subsection".

(c) (1) Section 7213 (a) (2) of such Code (relating to unauthorized disclosure of information) is amended by striking out "or (m) (4)" and inserting in lieu thereof "or (m) (2) or (4)".

(2) Paragraph (3) of section 6103 (a) of such Code (relating to confidentiality and disclosure of returns and return information) is amended by striking out "(m) (4) (B)" and inserting in lieu thereof "(m) (2) or (m) (4) (B)".

STATUTE OF LIMITATIONS WITH RESPECT TO ADMINISTRATIVE OFFSETS

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting any claim of the United States by means of administrative offset, in accordance with section 5 of the Federal Claims Collection Act of 1966.".

ADMINISTRATIVE OFFSETS

SEC. 10. The Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) is amended—

(1) by redesignating section 5 as section 6; and

(2) by adding the following new section 5:

"SEC. 5. (a) The head of an agency or his designee may, after attempting to collect a claim from a person under section 3 (a) of this Act, collect the claim by means of administrative offset, except that no claim under this Act that has been outstanding for more than ten years may be collected by means of administrative offset.

"(b) The head of an agency or his designee may not collect any claim by administrative offset authorized by subsection (a) unless the agency head has prescribed regulations for the exercise of such administrative offset, based on the best interests of the United States, the likelihood of collecting a claim by administrative offset, and, with respect to the collection of claims by means of administrative offset after the six-year period provided in section 2415 of title 28, United States Code, has expired for bringing an action on such a claim, the cost effectiveness of leaving such claim unresolved for more than six years.

"(c) Prior to collecting any claim through administrative offset, the head of the agency or his designee shall provide the debtor with—

"(1) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of the rights of the debtor under this section;

"(2) an opportunity to inspect and copy the records of the agency with respect to the claim;

"(3) an opportunity for the review, within the agency, of the determination of the agency with respect to the claim; and

"(4) an opportunity to enter into a written agreement with the head of the agency or his designee, for the repayment of the amount of the claim.

"(d) The provisions of this section shall not apply in any case in which a statute either explicitly provides for or prohibits the collection through administrative offset of the claim or type of claim involved.

"(e) For purposes of this section—

"(1) the term 'administrative offset' means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and

"(2) the term 'person' does not include any agency of the United States, or of any State or local government.".

INTEREST AND PENALTY ON INDEBTEDNESS TO THE UNITED STATES

SEC. 11. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new subsection:

"(e) (1) Except as provided in paragraph (3), the head of an agency or his designee shall charge a minimum annual rate of interest on outstanding debts on claims owed by persons that is equal to the average investment rate for the Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Secretary of the Treasury or his designee shall publish such rate each year not later than October 31 and such rate shall become effective on the first day of the next calendar quarter. The Secretary of the Treasury may revise such rate quarterly if the average investment rate for the twelve-month period ending at the close of that calendar quarter, rounded to the nearest whole per centum, is greater or less than the existing published rate by 2 per centum. For purposes of this paragraph, 'calendar quarter' means any three-month period beginning on January 1, April 1, July 1, or October 1.

"(2) Except as provided in paragraph (3), the head of an agency or his designee shall, with respect to claims owed by persons—

"(A) assess charges to cover the costs of processing and handling delinquent claims, and

"(B) assess a penalty charge, not to exceed 6 per centum per annum, for failure to pay any portion of a debt more than ninety days past due.

"(3) Interest and charges under paragraphs (1) and (2) shall not apply if an applicable statute, a regulation required by statute, a loan agreement, or a contract either prohibit the charging of interest or charges, or explicitly fix interest or charges that apply to claims involved. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance with the requirements of paragraphs (1) and (2).

"(4) This subsection shall not apply to any claim under a contract which is executed before the effective date of this subsection and which is in effect on that date.

"(5) Subject to paragraph (6), interest under paragraph (1) shall accrue—

"(A) except as provided in subparagraph (B), from the date on which notification of the amount due on the claim is first mailed to the debtor (using the most current address of such debtor that is available to the head of the agency or his designee); or

"(B) if such notification was first mailed before the date of the enactment of the Debt Collection Act of 1982, from the date on which such notification is first mailed after such date of enactment.

The rate of interest to be charged on a claim under paragraph (1) shall be the rate in effect on the date from which interest accrues on the claim under subparagraph (A) or (B), and shall remain fixed at that rate for the duration of the indebtedness.

"(6) Interest under paragraph (1) shall not be charged if the amount due on the claim is paid within thirty days after the date from which interest accrues under paragraph (5). The head of an agency may extend such thirty-day period.

"(7) Interest under this subsection shall not accrue on any charges assessed pursuant to paragraph (2) of this subsection.

"(8) For purposes of this subsection, the term 'person' does not include any agency of the United States or any State or local government."

REPORT ON AGENCY DEBT COLLECTION ACTIVITIES

SEC. 12. (a) The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury and Comptroller General of the United States, shall establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Secretary of the Treasury at least once each year a report which summarizes the status of loans and accounts receivable managed by each agency. The report shall contain information regarding—

(1) the total amount of loans and accounts receivable owed to the agency and when the funds owed to the agency are due to be repaid;

(2) the total amount of receivables and number of claims that are at least thirty days past due;

(3) the total amount written off as uncollectable, actual, and allowed for;

(4) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) the total number of claims and total amount collected;

(6) the number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;

(7) for each program or activity administered by the agency, the information described in clauses (1) through (6) of this subsection; and

(8) such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.

(b) The Director shall analyze the reports received by each agency under subsection (a) and shall report annually to the Congress on the managment of agency debt collection activities, including the information provided to the Director under subsection (a) above.

CONTRACTS FOR COLLECTION SERVICES

SEC. 13. (a) Section 3617 of the Revised Statutes (31 U.S.C. 484) is amended by striking out "section 487" and inserting in lieu thereof "sections 487 and 952 (g) (2)".

(b) Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by sections 3 and 11 of this Act) is further amended by adding at the end thereof the following new subsections:

"(f)(1) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, except for collections of unpaid or underpaid debts under the Internal Revenue Code of 1954, the head of an agency or his designee may enter into a contract with any person or organization, under such terms and conditions as the head of the agency or his designee considers appropriate, for collection services to recover indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and refer the matter to the Attorney General to initiate legal action, and that the contractor shall be subject to section 552a of title 5, United States Code, to the extent provided in subsection (m) of that section, and shall be subject to Federal and State laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

"(2) Notwithstanding section 3617 of the Revised Statutes (31 U.S.C. 484), the head of an agency or his designee may provide, as part of a contract described in paragraph (1), that appropriate fees charged by a contractor to recover indebtedness owed to the United States may be payable from the amount collected by such contractor.

"(3) Any such contract shall be effective only to such extent and in such amounts as are provided in advance appropriation Acts.

"(g) For purposes of this Act, the term 'claim' includes amounts owing on account of loans insured or guaranteed by the United States and all other amounts due the United States from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, interest, taxes, forfeitures, and other sources."

Mr. PERCY. Mr. President, I ask unanimous consent also that four articles on this bill be inserted in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 7, 1981]

MANY DOCTORS FAILING TO PAY STUDENT LOANS

WASHINGTON, December 6.—Many doctors are failing to pay back the Government loans that helped them through school, according to Federal investigations.

A report by the staff of the Senate Governmental Affairs Committee cited a graduate of the University of Maryland medical school. He had not missed a payment on his $24,600 car loan, but his student loan was listed as "uncollectable" for four years, putting him in arrears for $2,529.

Aides to Senator Charles H. Perry, Republican of Illinois, a committee member, said about 50,000 health professionals, including 5,716 doctors, were seriously delinquent in paying their student loans, depleting by more than $23 million the Government's money pool for providing long-term medical school loans.

NURSES HAVE WORST RECORD

The overall delinquency rate was about one-third of the 167,000 former medical and health care students benefitting from the program.

Computer searches by the Department of Health and Human Services found that nurses had the worst repayment record with 37,760 of about 88,000 with loans being in arrears by $14.2 million; 5,716 of the 36,179 doctors with loans in default for $4.4 million; with dentists, optometrists, pharmacists and podiatrists having similar default rates.

"Almost every aspect of the collection end of this program flies in the face of good business sense," said Senator Percy, who will lead full committee hearings Tuesday into the Health Professions Student Loan Program.

"If I were a student attempting to secure one of these loans in today's budget-cutting environment," Senator Percy added, "I would be pretty upset to be rejected knowing that practicing physicians, many of whom are earning high incomes, have failed to repay the Federal loans which made their careers possible."

LOANS TOTAL $20,000 OR MORE

The 10-year medical loans can total $20,000 or more and are provided at interest rates ranging from 3 to 7 percent.

Senator Percy said a General Accounting Office study found that schools have been ineffective in collecting the loans, and at 16 medical schools from 20 to 60 percent of the loans were more than 90 days overdue.

In recent years, the Department of Health and Human Services has found major problems in the collection of general Government guaranteed student loans, but the latest studies are the first to indicate serious deficiencies in the medical program.

Senator Percy is sponsoring legislation to create new methods for collecting debts under Federal loan programs, including a provision for reporting delinquent borrowers to commercial credit bureaus.

This is the last year that Congress is scheduled to put money into the $70 million medical loan fund, leaving it as a revolving pool in the future.

At Maryland, 391 practicing physicians who graduated from the school were delinquent on their loans, owing a total of $189,000, although 83 percent of them have perfect credit ratings in the private sector, committee aides said. They said similar problems had arisen at some of the nation's other leading medical schools.

[From the Chicago Tribune, Jan. 31, 1982]

HUD LOAN LOSSES SET IN MILLIONS

(By James Coates)

WASHINGTON.—Homeowners in Chicago and its suburbs have defaulted on millions of dollars in FHA home improvement loans; a study ordered by Sen. Charles Percy (R., Ill.) has disclosed.

The borrowers used the loans to add porches or recreation rooms, remodel kitchens or make other renovations, then sold their homes and moved away, Percy was informed.

The study, prepared by the Congressional General Accounting Office (GAO) and obtained by The Tribune, highlights the chaos in the Department of Housing and Urban Development (HUD) Title I home improvements loans. For example:

Thousands of loans are being declared uncollectable because the borrowers "skipped" town while still listed in the phone book or at the local credit bureau.

Often defaulters have escaped collection efforts simply because banks that issue the government-insured loans take an average of nine months to report the delinquencies. In many cases, GAO found, the only effort made to collect a loan was to ask the Post Office if a borrower had moved. The Post Office keeps forwarding addresses for only 12 months.

GAO investigators found that HUD debt collectors in Chicago had never received instructions on how to collect loans. A "collection handbook" had been published by HUD in 1963 but has been out of print for a decade.

The loan program has major incentives that encourage default. The original loans are made at prevailing rates—often as high as 19 percent. But once a borrower is registered as a defaulter, he is allowed to repay the loan at only 6 percent interest.

After banks report to HUD that there is a default on a government-insured loan, it

takes an average of eight months before the first form letter proposing a repayment plan is sent to the borrower. In some cases, GAO found, it took as long as three years before the first letter was sent by HUD Workers.

A GAO audit of HUD offices in Chicago and New York City found that 14 percent of those who had defaulted on home improvement loans had stopped paying on more than one such loan.

"Every facet of this collection effort at HUD flies in the face of good business sense," Percy said.

"It's high time that these government debtors got the message that this is a loan, not a gift."

The improvement loans, recorded at HUD headquarters here along with all FHA-guaranteed mortgages, resulted in $18 million in defaults nationwide during 1980 alone, GAO found. There are $130 million worth of defaulted loans awaiting collection and GAO predicted that $106 million will be lost forever.

Despite the backlog, HUD officials have been lax in turning defaulters over for collection, GAO found. In Chicago, of 6,900 defaulted loans on hand, only 25 have been given to the Justice Department for collection, GAO reported.

Most of the loans in question average between $1,000 and $7,500, which means that more than $7 million in loans are in default in Chicago, GAO indicated.

The loans are issued by banks throughout the U.S. The federal government insures 90 percent of the balance, including interest due, and reimburses banks when officially notified that a loan is in default.

The GAO study found disarray throughout the Chicago and New York programs.

More than $30 billion has been lent under the Title I program since it was begun in 1934. In 1969 the loans were extended to finance mobile homes as well as home improvements.

Current law allows the government to insure loans up to $30,000 for mobile homes and up to $15,000 for home improvements. About 80 percent of the loans are issued for less than $7,500.

There are 57 HUD loan officers, each assigned to monitor roughly 1,000 defaulted loans. The New York and Chicago offices account for 25 percent of all defaulted loans.

GAO analyzed the program by studying 70 of the 6,967 defaulted loans in Chicago and 99 of the 7,000 in New York.

Several cases of glaring fraud were discovered, including a Chicago case in which an individual had gone from bank to bank and obtained 10 HUD loans valued at more than $50,000.

But most of the money is lost because borrowers find it easy to stop making loan payments.

GAO investigators complained that many of those owing on loans are listed by HUD workers as a "skip" when they are easy to find. The report prepared for Percy tells how GAO investigators found "skippers" simply by asking the telephone information service for their numbers.

Furthermore, noted GAO, as many as 77 percent of the defaulters could have been traced through Social Security numbers left at banks when they applied for loans.

The Internal Revenue Service could provide current addresses for these persons but HUD rarely asked for IRS help.

[From the Chicago Sun Times, Feb. 2, 1981]

CRACKDOWN ON FEDERAL DEADBEATS

The U.S. attorney in Cincinnati has filed 501 lawsuits to recover more than $660,000 from student loan deadbeats in southern Ohio.

We hope other prosecutors follow his lead, though we're not sure how much good it will do. The government has staged periodic "crackdowns" in the past, yet it's still stuck with an estimated $2 billion of delinquent student loans.

Another $18 billion of loans are overdue to other federal agencies. If the government collected them, it would be on the way toward a balanced budget.

People don't repay the government because they know it won't affect their credit ratings. You can welsh on Uncle Sam and still get a bank loan or credit card.

That's why Congress should pass a bill by *Sen. Charles H. Percy (R-Ill.)* to allow government agencies to report their delinquent borrowers to private credit bureaus.

The Education Department is one of two federal agencies that already has that right. But it doesn't exercise it, partly because it gets current addresses of many of its deadbeats from the Internal Revenue Service.

The use of IRS data, even addresses, is sharply restricted by federal law. Percy's bill would ease the restriction slightly.

Opponents call this an invasion of privacy. In our view, a person waives some of his right of privacy when he welshes on a debt.

[From U.S. News & World Report, Aug. 2, 1982]

CHASING DEADBEATS ON FEDERAL PAYROLL

Thousands of federal employes are defaulting on government loans and thumbing their noses at Uncle Sam's debt collectors.

The situation, disclosed in hearings on July 21, was described by Senator Charles Percy (R-Ill.) as "one of the most appalling examples of waste and mismanagement in federal programs."

Across the U.S., individuals are in default on 33.8 billion dollars in federal loans. Of that sum, tens of millions are owed by 36,000 federal employes. That's only a minimum estimate, as the government in 1980 destroyed some of its detailed records of employe defaults to comply with privacy rules—a decision that officials now say was a mistake.

Current law makes it almost impossible to collect overdue debts through deductions from federal paychecks, even when courts order repayment.

Investigators uncovered numerous cases of debt dodging by bureaucrats—

A lawyer making $34,000 a year with the Department of Education has not repaid $4,000 in loans that helped him through law school. Even so, he has gotten two promotions. Since he has filed for bankruptcy, the loans probably never will be repaid.

Another Education Department employe defaulted on a $4,000 graduate-school loan, refused to pay even after losing a lawsuit, then took an $18,000 commercial loan to buy a new Porsche.

An employe of the General Services Administration, already getting retirement pay from the Air Force, refused to give back a $1,131 overpayment in veterans' education benefits. A court ordered the debt deducted from his pension, but the Air Force refused, citing federal law.

An Internal Revenue Service employe owes $5,299 in taxes, but an effort to fire him was overturned by the Merit Systems Protection Board. It termed the debt a "personal matter."

Government employes are not the only ones enjoying federal largess while defaulting on taxpayer-provided loans. A doctor who owes $1,428 in medical-school loans has since received $453,000 in federal payments for treating medicare patients.

Legislation proposed by Senator Percy would let the government report debtors to commercial credit bureaus and expand access to IRS files for addresses for delinquents. Another change would allow garnisheeing part of federal workers' pay without going to court.

The PRESIDING OFFICER. Under the previous order, the language of S. 1249, as reported, is before the Senate as an amendment to the House legislation.

The question then is on the amendment.

The amendment (UP No. 1299) was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, Passage of this measure will represent the culmination of 3 years of work on this issue by the distinguished Senator from Tennessee (Mr. SASSER) for it was on September 5, 1979, that he first began proposing legislation aimed at improving the debt collection practices of the Federal Government. The Senator believed then and he believes now that the need for improved debt collection practice by the Federal agencies is a proposition that stands on its own merits.

In the intervening years, however, the need for improved debt collection by our Government has been highlighted by a burgeoning national debt, increasing Federal budget deficits, and the punishing cost to our Nation of high interest rates. Data indicating that $175 billion is owed the Federal Government ought to be reason enough for prompt passage of S. 1249.

Of course, it seems that it has become commonplace for the past several years to talk of hundreds of billions of dollars when it comes to national debt, deficits, and deferrals, but consider this illustration; $175 billion is all the money it took to run the entire U.S. Government from its inception in the 18th century up to the beginning of our involvement in World War II in 1941.

Mr. President, the distinguished Senator from Tennessee (Mr. SASSER) wishes to express his strong support of S. 1249, the Debt Collection Act of 1981.

(By request of Mr. INOUYE, the following statement was ordered to be printed in the RECORD:)

● Mr. SASSER. Mr. President, I want to express my strong support for S. 1249, the Debt Collection Act of 1981. Passage of this bill today will represent the culmination of 3 years of work on this issue for me; it was on September 5, 1979, that I first began proposing legislation aimed at improv-

ing the debt collection and credit management practices of the Federal Government. I believed then and I believe now that the need for improved debt collection practices by Federal agencies is a proposition that stands on its own merits.

In the intervening years, however, the need for improved debt collection by our Government has been highlighted by a burgeoning national debt, increasing Federal budget deficits and the punishing cost to our Nation of high-interest rates.

Data indicating that $175 billion is owed the Federal Government ought to be reason enough for prompt passage of S. 1249. Of course, it seems that it has become commonplace in the past several years to talk of hundreds of billions of dollars when it comes to talk of debts, deficits, and deferrals. But consider this illustration: $175 billion is all the money it took to run the entire U.S. Government from its inception in the 18th century up to the beginning of our involvement in World War II in 1941.

One could go on and on with such mind-boggling illustrations. The data are real, however: all the billions of dollars in debts that have been written off by the Federal Government; all the billions of dollars owed the Government which are delinquent; and all the billions of dollars it costs our Government simply to carry the outstanding debts in hopes of repayment.

Certainly, there is sufficient evidence on the issue to warrant the grave concern of each and every Member of this body.

The Debt Collection Act will provide Federal agencies which incur these debts with the tools for a remedy. Key to the act is the go-ahead to cooperate and contract with the private sector through the use of credit reporting and debt collection services; this will allow the Federal Government greater flexibility in its credit management techniques, but without the huge cost usually associated with the startup of a new Federal program.

Only time will tell how efficient and effective S. 1249 will prove. It may be that additional initiatives in the field of credit management will be necessary. Indeed, there are several other proposals which I introduced in both the 96th and 97th Congresses which, I believe, would help the U.S. Government to realize even greater savings.

Today, however, the Senate should pass the Debt Collection Act.

I should point out, in urging my colleagues to support its passage, that S. 1249 represents a third major initiative in the area of better Government management of financial practices.

Late last year, the Congress passed the State and Local Government Cost Estimate Act of 1981, which I first introduced in the Senate during the 97th Congress on January 5, 1981. This law requires the Congressional Budget Office to prepare estimates of the cost, or "fiscal notes," to State and local governments of proposed congressional legislation. This will prevent the Congress from passing legislation that would impose unnecessary and unforeseen costs to State and local government.

Earlier this year, we approved the Prompt Payments Act, the final product of late payments legislation which I also introduced on January 5, 1981. That bill, which becomes effective next week, requires the Federal Government to pay its own bills on time, or face the prospect of interest penalties. This will provide additional stimulus for Federal agencies to improve its cash and credit management practices, and it complements the Debt Collection Act, which I joined in sponsoring upon its introduction in February 1981.

All of these initiatives have one principle in common and that is that they will encourage the Federal Government to adopt and implement sound management practices. At a time when economic conditions are forcing nearly every sector of American society to make sacrifices, we in the Congress must take every step practical to make sure our Government uses wisely the tax dollars of its citizens. I urge my colleagues to support the passage of S. 1249, the Debt Collection Act of 1981.●

Mr. NICKLES. Mr. President, the legislation authored by the senior Senator from Illinois, S. 1249 and its House companion, H.R. 4613, is the culmination of much time and effort on his part and is to be commended.

In March of this year an article appeared in the Daily Oklahoman outlining several cases of individuals who, at one time, borrowed money from the U.S. Government and were being pursued by the U.S. attorney's office in Oklahoma City. One case cited was that of a doctor with a very successful practice who owed $4,000 on a student loan while he was an intern. In this case, the individual had every means to pay this debt, but due to the inability of the Government to collect, was able to elude payment.

Under the bill, steps will be taken to enable the Government to collect delinquent accounts which totaled more than $25 billion in fiscal year 1979.

Few businesses would carry on loan practices similar to the antequated practices of the Federal Government. Under this measure, agencies would be able to pursue delinquent debts with resources commonly available to those in the private sector, including disclosures of delinquency to consumer reporting agencies and garnishment of debtors wages.

If we are to expect the Federal bureaucracy to operate more effectively, it is only reasonable that we give them the tools to carry out this objective.

The Debt Collection Act of 1981 is necessary and I urge its adoption and proper implementation by the administration.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Under the previous order, the vote on final passage will occur at 2 p.m. tomorrow.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, so far today we have successfully completed action on another appropriation bill, the military construction appropriations bill, H.R. 6968, and the debt collection bill, which is an important piece of legislation that has been here and available for some time, and I am proud to say that the Senate has completed action on that as well. A vote is ordered on that measure tomorrow beginning at 2 p.m.

Yet this afternoon we have cleared action on the Coast Guard authorization bill and on the Sally Mae conference report.

That is a pretty good set of accomplishments for a day. It is only 2 p.m. in the afternoon. That is the good news.

The bad news is that I have tried hard, since this is 1 of the 5 days we have remaining before we go out, or at least I hope we go out on Friday, October 1—it is only 2 p.m. in the afternoon—and we have not been able to clear anything else. That is the bad news.

I suppose I should know by now that the Senate has a mind of its own and when it decides it does not want to transact any more business, there is precious little that the leadership on either side of the aisle can do about it.

It may be as well that I should have learned by now that when we say there will not be any votes on a particular day that also means there will not be any more business on that day, which is indeed the case.

We will not have votes today because of the religious observance involving some of our Members and the tradi-

tion of the Senate has been that during the Yom Kippur season no votes will occur on that day.

Mr. President, we have tried to clear the crime bill, S. 2572; the shipping bill, S. 1593; the military pay bill, S. 2936; the highway bill, S. 2574; and the railroad bill, H.R. 3608, and we cannot.

I am sure for good reasons Members have holds, and holds are not all on one side or the other. They are on both sides.

But you see the dilemma that poses for me because while I cannot get unanimous consent to proceed to any other measure today, I also cannot make a motion to proceed to those with any good effect because I have promised there would be no votes until tomorrow.

So I find myself in the unhappy position of being powerless. I do not have much power anyway. But in this case I am without any.

I see a look of delight on the face of some Senators, including the distinguished chairman of the Republican Policy Committee, the Senator from Texas, and I shall remember that.

But, Mr. President, the long and short of it is that we have the Coast Guard bill to do and the Sally Mae conference report, and neither of them are going to take very long. Unless some Senator can produce for me some other piece of legislation that we can deal with today, I will, with great reluctance, ask the Senate to stand in recess over until tomorrow.

Mr. President, having said all of that and not being sure what the effect will be, there may be a mass exodus from the Chamber and offices on the Hill, or there may be Members coming to the Chamber to take advantage of the time remaining before we go out. But being unsure of that I have said my piece and I will yield the floor.

Before I do that, Mr. President, I see the Senator from New Mexico in the Chamber and I inquire of him if he is prepared now to proceed with the Coast Guard authorization bill.

Mr. DOMENICI. Mr. President, I have a statement I wish to make. It will not take over 4 minutes. Then I have no objection to the passage of the report.

Mr. BAKER. I thank the Senator.

I inquire of the acting minority leader if he is prepared now to proceed to that item.

Mr. HARRY F. BYRD, JR. Mr. President, this side is prepared.

Mr. BAKER. I thank the Senator.

COAST GUARD AUTHORIZATION ACT OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2252.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2252) entitled "An Act to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Coast Guard Authorization Act of 1982".

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1983 and 1984 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,842,000,000 for fiscal year 1983 and $2,026,000,000 for fiscal year 1984, and such additional amounts for each such fiscal year as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $670,000,000 for fiscal year 1983 and $700,000,000 for fiscal year 1984.

(3) For research, development, test, and evaluation, $30,000,000 for fiscal year 1983 and $33,000,000 for fiscal year 1984, of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of fiscal year 1984.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $12,700,000, for fiscal year 1983.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1983 and 1984.

SEC. 3. For fiscal years 1983 and 1984, the Coast Guard is authorized an end-of-year strength for active duty personnel of forty-one thousand five hundred. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

SEC. 4. For fiscal years 1983 and 1984, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, three thousand six hundred and sixty student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, six hundred and fifty-five student-years.

(4) For officer acquisition, one thousand thirty-eight student-years.

SEC. 5. (a) Section 81 of title 14, United States Code, is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.".

(b) It is the sense of Congress that the establishment, maintenance, and operation of maritime aids to navigation on the inland waterways of the United States can be accomplished by civilian employees of the Coast Guard more effectively than by military members of the Coast Guard. Accordingly, Congress recommends that the Coast Guard increase significantly the ratio of civilian to military employees assigned to these tasks.

(c) Not later than one year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

(d) Any authority to enter into contracts provided in this section shall be available only to the extent provided for in advance in an appropriations Act.

SEC. 6. Subsections (e) and (f) of section 475 of title 14, United States Code, are repealed.

SEC. 7. (a) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended by adding at the end thereof the following: "This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(b) Section 9 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 401) is amended by adding at the end thereof the following: "The approval required by this section of the location and plans or any modification of plans of any bridge or causeway shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(c) The first section of the Act of March 23, 1906, entitled "An Act to regulate the construction of bridges over navigable waters" (33 U.S.C. 491) is amended by adding at the end thereof the following: "This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

SEC. 8. (a) Section 5 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted August 18, 1894 (33 U.S.C. 499; 28 Stat. 362), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given," in the second sentence;

(3) by striking out "section" and inserting in lieu thereof "subsection";

(4) by striking out "any violation" and inserting in lieu thereof "any willful violation"; and

(5) by adding at the end thereof the following new subsections:

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(b) Section 18 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (30 Stat. 1153; 33 U.S.C. 502), is amended by inserting "(a)" after "SEC. 18.", by striking out "Secretary of War" wherever it appears and inserting in lieu thereof "Secretary of Transportation", by striking out "recommended by the Chief of Engineers", and by adding at the end thereof the following new subsections:

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(c) Section 5 of the Act entitled "An Act to regulate the construction of bridges over navigable waters", enacted March 23, 1906 (33 U.S.C. 495; 34 Stat. 85), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "who shall fail" and inserting in lieu thereof "who shall willfully fail";

(3) by striking out "shall be deemed guilty of a violation of this Act, and any persons who shall be guilty of a violation of this Act"; and

(4) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) Section 510 of the General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 533) is amended—

(1) by inserting "(a)" after "SEC. 510.";

(2) by striking out "who fails" each place it appears and inserting in lieu thereof "who willfully fails", by striking out "who refuses" and inserting in lieu thereof "who willfully refuses", and by striking out "otherwise violates" and inserting in lieu thereof "otherwise willfully violates"; and

(3) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

SEC. 9. The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination for not less than two years after the vessel with respect to which the inspection or examination is made ceases to be certificated and shall permit access to such files at all reasonable times to any member of the Coast Guard designated as a marine inspector or designated in writing by the Commandant of the Coast Guard.".

SEC. 10. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended by striking out paragraph (11) and inserting in lieu thereof the following:

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall—

"(A) periodically evaluate the manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States; and

"(B) determine, after each evaluation made under clause (A), whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States.".

SEC. 11. Section 4417a(19) of the Revised Statutes of the United States (46 U.S.C. 391a(19)) is repealed.

SEC. 12. (a) Section 34 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1483) is amended by striking out "$1,000" and inserting in lieu thereof "$5,000".

(b) Section 35(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1484(b)) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

SEC. 13. The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference with private towing activities or other commercial enterprise.

SEC. 14. Notwithstanding any other provision of law, the number of full-time civilian employees of the Coast Guard shall be maintained at a level not less than five thousand four hundred and eighty-four throughout fiscal years 1983 and 1984.

SEC. 15. (a)(1) Chapter 3 of title 14, United States Code, is amended by adding at the end thereof the following new section:

"§52. Vice admirals, continuity of grade

"The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.".

(2) The analysis of chapter 3 of title 14, United States Code, is amended by adding the following new item after the item relating to section 51:

"52. Vice admirals, continuity of grade.".

(b)(1) Section 368 of title 14, United States Code, is repealed.

(2) The analysis of chapter 11 of title 14, United States Code, is amended by striking out:

"368. Discharge in case of underage enlistment.".

(c) Section 93 of title 14, United States Code, is amended by—

(1) striking out "and" at the end of subsection (p);

(2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and "; and

(3) adding at the end thereof the following new subsection:

"(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

SEC. 16. Section 306(f) of title 37, United States Code, is amended by striking out "The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

SEC. 17. Paragraph (1) of the first section of the Act entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes" (95 Stat. 1705; Public Law 97-136) is amended by striking out "$1,404,800,000" and inserting in lieu thereof "$1,548,800,000".

SEC. 18. (a)(1) Section 33(a) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 33(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 33(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(c)) is amended by striking out "when engaged in the duties of the Council" and inserting in lieu thereof "while attending meetings of the Council".

(b)(1) Section 193 of title 14, United States Code, is amended in the first sentence by inserting before the period the following: "(or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee)".

(2) Section 193 of title 14, United States Code, is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant.".

(c)(1) Section 5(a) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 5(b) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 5(c) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(c)) is amended by striking out "or while otherwise engaged in the business of the Council" and by striking out ", including traveltime".

(d) The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" (33 U.S.C. 1231a; 94 Stat. 1521) is amended as follows:

(1) Subsection (b) of the first section is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.".

(2) Subsection (c) of the first section is amended by adding at the end thereof the following: "The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.".

(3) Subsection (d) of the first section is amended by adding before the first sentence the following: "Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.".

(e)(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advice, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 19. Section 4450(a) of the Revised Statutes of the United States (46 U.S.C. 239(a)) is amended in the first sentence by inserting "or to the loss of life involved in such casualty" after "of such casualty".

SEC. 20. Section 4450 of the Revised Statutes of the United States (46 U.S.C. 239) is amended—

(a) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(b) by inserting after subsection (i) the following new subsection:

"(j)(1) The Commandant of the Coast Guard shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing involving the investigation of a major marine casualty involving loss of life under subsection (a) before such hearing occurs.

"(2) The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives any information on major marine casualties which is requested to be submitted by either of the committees or the chairman of either of the committees if the submission of such information is not prohibited by any other statute of the United States.".

SEC. 21. It is the sense of the Congress that the President and the Coast Guard should give the search and rescue operations of the Coast Guard a high priority.

UP AMENDMENT NO. 1300

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with the further amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1300.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert:

TITLE I

SEC. 101. This title may be cited as the "Coast Guard Authorization Act of 1982".

SEC. 102. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1983 and 1984 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,800,000,000 for fiscal year 1983 and $2,000,000,000 for fiscal year 1984, and such additional amounts for each such fiscal year as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $550,000,000 for fiscal year 1983 and $650,000,000 for fiscal year 1984.

(3) For research, development, test, and evaluation, $22,000,000 for fiscal year 1983 and $32,000,000 for fiscal year 1984, of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of fiscal year 1984.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $8,000,000, for fiscal year 1983.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1983 and 1984.

SEC. 103. For fiscal years 1983 and 1984, the Coast Guard is authorized an end-of-year strength for active duty personnel of forty-one thousand five hundred. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

SEC. 104. For fiscal years 1983 and 1984, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, three thousand six hundred and sixty student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, six hundred and fifty-five student-years.

(4) For officer acquisition, one thousand thirty-eight student-years.

SEC. 105. (a) Section 81 of title 14, United States Code, is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.".

(b) Not later than one year after the date of enactment of this title, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

(c) Any authority to enter into contracts provided in this section shall be available only to the extent that appropriated funds are available for that purpose.

SEC. 106. Subsections (e) and (f) of section 475 of title 14, United States Code, are repealed.

SEC. 107. (a) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended by adding at the end thereof the following: "This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(b) Section 9 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 401) is amended by adding at the end thereof the following: "The approval required by this section of the location and plans or any modification of plans of any bridge or causeway shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(c) The first section of the Act of March 23, 1906, entitled "An Act to regulate the construction of bridges over navigable waters" (33 U.S.C. 491) is amended by adding at the end thereof the following: "This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

SEC. 108. (a) Section 5 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted August 18, 1894 (33 U.S.C. 499; 28 Stat. 362), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given," in the second sentence;

(3) by striking out "section" and inserting in lieu thereof "subsection";

(4) by striking out "any violation" and inserting in lieu thereof "any willful violation"; and

(5) by adding at the end thereof the following new subsections:

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(b) Section 18 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (30 Stat. 1153; 33 U.S.C. 502), is amended by inserting "(a)" after "SEC. 18.", by striking out "Secretary of War" wherever it appears and inserting in lieu thereof "Secretary of Transportation", by striking out "recommended by the Chief of Engineers", and by adding at the end thereof the following new subsections:

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(c) Section 5 of the Act entitled "An Act to regulate the construction of bridges over navigable waters", enacted March 23, 1906 (33 U.S.C. 495; 34 Stat. 85), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "who shall fail" and inserting in lieu thereof "who shall willfully fail";

(3) by striking out "shall be deemed guilty of a violation of this Act, and any persons who shall be guilty of a violation of this Act"; and

(4) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) Section 510 of the General Bridge Act of 1946 (60 Stat. 847; 33 U.S.C. 533) is amended—

(1) by inserting "(a)" after "SEC. 510.";

(2) by striking out "who fails" each place it appears and inserting in lieu thereof "who willfully fails", by striking out "who refuses" and inserting in lieu thereof "who willfully refuses", and by striking out "otherwise violates" and inserting in lieu thereof "otherwise willfully violates"; and

(3) by adding at the end thereof the following new subsection:

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

SEC. 109. The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination for not less than two years after the vessel with respect to which the inspection or examination is made ceases to be certificated and shall permit access to such files at all reasonable times to any member of the Coast Guard designated as a marine inspector and serving in a position as a marine inspector or designated in writing by the

Commandant of the Coast Guard to have such access.".

SEC. 110. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended by striking out paragraph (11) and inserting in lieu thereof the following:

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall—

"(A) periodically evaluate the manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States; and

"(B) determine, after each evaluation made under clause (A), whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States.".

SEC. 111. Section 4417a(19) of the Revised Statutes of the United States (46 U.S.C. 391a(19)) is repealed.

SEC. 112. (a) Section 34 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1483) is amended by striking out "$1,000" and inserting in lieu thereof "$5,000".

(b) Section 35(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1484(b)) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

SEC. 113. The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference with private towing activities or other commercial enterprise.

SEC. 114. Notwithstanding any other provision of law, the number of full-time civilian employees of the Coast Guard shall be maintained at a level not less than five thousand four hundred and eighty-four throughout fiscal years 1983 and 1984.

SEC. 115. (a)(1) Chapter 3 of title 14, United States Code, is amended by adding at the end thereof the following new section:

"§ 52. Vice admirals, continuity of grade

"The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.".

(2) The analysis of chapter 3 of title 14, United States Code, is amended by adding the following new item after the item relating to section 51:

"52. Vice admirals, continuity of grade.".

(b)(1) Section 368 of title 14, United States Code, is repealed.

(2) The analysis of chapter 11 of title 14, United States Code, is amended by striking out:

"368. Discharge in case of underage enlistment.".

(c) Section 93 of title 14, United States Code, is amended by—

(1) striking out "and" at the end of subsection (p);

(2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and "; and

(3) adding at the end thereof the following new subsection:

"(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

SEC. 116. Section 306(f) of title 37, United States Code, is amended by striking out "The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

SEC. 117. Paragraph (1) of the first section of the Act entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes" (95 Stat. 1705; Public Law 97-136) is amended by striking out "$1,404,800,000" and inserting in lieu thereof "$1,548,800,000".

SEC. 118. (a)(1) Section 33(a) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 33(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 33(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(c)) is amended by striking out "when engaged in the duties of the Council" and inserting in lieu thereof "while attending meetings of the Council".

(b)(1) Section 193 of title 14, United States Code, is amended in the first sentence by inserting before the period the following: "(or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee)".

(2) Section 193 of title 14, United States Code, is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant.".

(c)(1) Section 5(a) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 5(b) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 5(c) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(c)) is amended by striking out "or while otherwise engaged in the business of the Council" and by striking out ", including traveltime".

(d) The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" (33 U.S.C. 1231a; 94 Stat. 1521) is amended as follows:

(1) Subsection (b) of the first section is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.".

(2) Subsection (c) of the first section is amended by adding at the end thereof the following: "The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.".

(3) Subsection (d) of the first section is amended by adding before the first sentence the following: "Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.".

(e)(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advice, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 119. Section 4450(a) of the Revised Statutes of the United States (46 U.S.C. 239(a)) is amended in the first sentence by inserting "or to the loss of life involved in such casualty" after "of such casualty".

SEC. 120. Section 4450 of the Revised Statutes of the United States (46 U.S.C. 239) is amended—

(a) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(b) by inserting after subsection (i) the following new subsection:

"(j)(1) The Commandant of the Coast Guard shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing involving the investigation of a major marine casualty involving loss of life under subsection (a) before such hearing occurs.

"(2) The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives any information on major

marine casualties which is requested to be submitted by either of the committees or the chairman of either of the committees if the submission of such information is not prohibited by any other statute of the United States.".

SEC. 121. It is the sense of the Congress that the President and the Coast Guard should give the search and rescue operations of the Coast Guard a high priority.

TITLE II

SEC. 201. This title may be cited as the "Sailing School Vessels Act of 1982".

SEC. 202. The Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390 et seq.; 70 Stat. 151), is amended as follows:

(1) Subsection (a) of the first section is amended by inserting ", or any guest on board a sailing school vessel," after "purposes" in paragraph (5). Such subsection is further amended by striking out "or" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(7) any sailing school instructor or sailing school student.".

(2) Section 2(a) is amended by striking out "and each freight-carrying vessel," and inserting in lieu thereof ", each freight-carrying vessel, and each sailing school vessel". Section 2(a)(3) is amended by striking out "and the crew" and inserting in lieu thereof ", crew, sailing school students and sailing school instructions".

(3) Section 3 is amended by striking out "and freight-carrying vessels" and inserting in lieu thereof ", freight-carrying vessels, and sailing school vessels". Section 3 is further amended by striking out "and crew," and inserting in lieu thereof ", crew, sailing school students, and sailing school instructors," and by inserting after "number of passengers" the following: ", sailing school students, and sailing school instructors".

(4) Sections 4(a), 4(b), and 5 are each amended by striking out "or freight-carrying vessel" each place it appears and inserting in lieu thereof ", freight-carrying vessel, or sailing school vessel".

(5) Section 5 is further amended by designating the existing language, as amended by this Act, as subsection (a) and by adding at the end thereof the following new subsection:

"(b) Whoever violates any rule or regulation of this Act shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Department in which the Coast Guard is operating may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(6) The first section is further amended by adding at the end thereof the following:

"(f) The term 'sailing instruction' means teaching, research, and practical experience in the operation of vessels propelled primarily by sail and may include any subjects related thereto and to the sea, including but not limited to seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature.

"(g) The term 'sailing school vessel' means a vessel which the Secretary finds to be less than five hundred gross tons, carrying six or more individuals who are sailing school students or sailing school instructors, principally equipped for propulsion by sail, whether or not the vessel has any auxiliary means of propulsion, and owned or demise chartered and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code, as now or hereafter amended, or by any State or political subdivision thereof, during such times as the vessel is operated by such organization or State or political subdivision exclusively for the purposes of sailing instruction.

"(h) The term 'sailing school instructor' means any person who is aboard a sailing school vessel for the purpose of furnishing sailing instruction. Such term does not include any operator or member of the crew of such a vessel who is among those required to be aboard the vessel to meet requirement establishing under section 3 of this Act.

"(i) The term 'sailing school student' means any person who is aboard a sailing school vessel for the purpose of receiving sailing instruction.".

SEC. 203. Section 13(b) of the Act of March 4, 1915 (46 U.S.C. 672(b)), is amended by adding at the end thereof the following new paragraph:

"(4) 'Able seaman-sail' qualified for service on any waters shall have at least six months' service on deck on sailing school ships, oceanographic research vessels powered primarily by sail, or equivalent sailing vessels operating on the oceans or navigable waters of the United States including the Great Lakes.".

SEC. 204. Sailing school students and sailing school instructors shall not be considered to be seamen under the provisions of titles 52 and 53 of the Revised Statutes of the United States and any Act amendatory thereof or supplementary thereto, or for the purposes of the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

SEC. 205. Each owner or charterer of a sailing school vessel shall maintain evidence of his or her financial responsibility to meet any liability incurred for death or injury to sailing school students or sailing school instructors on voyages aboard the vessel, in an amount not less than $50,000 for each student or instructor. Such financial responsibility may be evidenced by policies of insurance or other adequate financial resources.

SEC. 206. For the purposes of section 3 of the Act of February 17, 1898 (46 U.S.C. 291), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), a sailing school vessel shall not be deemed to be a merchant vessel or a vessel engaged in trade or commerce.

SEC. 207. For purposes of sections 203, 204, 205, 206, and 208 of this title, the terms "sailing school students", "sailing school instructor", and "sailing school vessel" have the meaning given such terms in the first section of the Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390) as amended by this title.

SEC. 208. (a) The Secretary of the department in which the Coast Guard is operating shall, after consultation with representatives of the private sector having experience in the operation of vessels likely to be certified as sailing school vessels, but not later than 18 months after the date of enactment of this title, prescribe rules and regulations to carry out this title including the amendments made by this title. Such rules and regulations shall reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels, and shall include requirements for notice to sailing school students and sailing school instructors regarding the specialized nature of sailing school vessels and applicable safety regulations. Any manning requirement imposed with respect to sailing school vessels shall take into account the participation of sailing school students and sailing school instructors in the operation of such vessels.

(b) Sections 202, 203, 204, 205, 206, and 207 of this title and the amendments made by such sections shall take effect eighteen months after the date of enactment of this Act or on the date upon which the rules and regulations referred to in subsection (a) take effect, whichever is earlier.

● Mr. PACKWOOD. Mr. President, I am pleased to bring before the Senate once again S. 2252, an act to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984.

S. 2252 was originally reported by the Commerce Committee this past spring following indepth hearings on the state of the Coast Guard. Those hearings firmly established that the Coast Guard continues to be overburdened, undermanned, and underfunded to properly carry out the numerous functions which Congress has required of it. Every year we ask the Coast Guard to do more and more, to find more drug traffickers, to save more fishermen who have overturned their boats at sea, to inspect more vessels, to rescue more recreational boaters, to assist the Navy in its national security role, to prevent and clean up oil spills; and yet we fail to provide the budget and personnel the Coast Guard needs to carry out their missions.

I can speak from personal experience in Oregon, I have been on Coast Guard boats, in Coast Guard helicopters, and been involved in some search and rescue missions. There is no governmental organization in the State of Oregon that is held in higher esteem than the Coast Guard. I am personally going to do everything as a Senator and as chairman of the Commerce Committee to make sure that the budget is as full and as fair as we can possibly make it. I hope to be able to convince the President that indeed in this particular area it is pennywise and pound foolish to be as cautious and weary of funding as this and other administrations have been with the Coast Guard in the past.

I know that I have tremendous Senate support in this endeavor. During hearings, Senators JOHN CHAFEE, BILL COHEN, CHRISTOPHER DODD, GEORGE MITCHELL, and CLAIBORNE PELL all appeared before the Commerce Committee to testify on the urgent need for sufficient funding.

Last winter, 33 Senators joined me in urging that the Appropriations Committee appropriate funding commensurate with that authorized by the Commerce Committee. These 33 Members represented all geographical areas of the country and both sides of the aisle. Whether chiefly concerned with the immigration patrol, drug interdiction, search and rescue, or national security functions, all were united in our belief that the Coast Guard must be adequately funded.

The Congressional Research Service this year completed a major study on the state of the U.S. Coast Guard, and it, too, confirmed that the service simply must have the basic resources to carry out its multiple missions which include enforcement of laws and treaties—including fisheries enforcement—port and environmental safety, marine and environmental response, waterways management, bridge administration, aids-to-navigation—lighthouses—ice breaking, commercial vessel safety, recreational boating safety, search and rescue, and marine science support.

Just last week, the General Accounting Office completed a study of the Coast Guard concluding that the service is too small and undermanned to perform all of the tasks assigned to it. The study stated that the Coast Guard is considerably strained by: "First, an overall shortage of resources, such as money and personnel; and second, inherent equipment limitations."

Thus the record has been clearly established through hearings on both the Senate and House side, through the Congressional Research Service, through the General Accounting Office, and through continued strong bipartisan efforts, that the Coast Guard must receive significantly more, not less, congressional support in the future.

It is against this backdrop, and the budget-necessitated cutbacks in services which have occured this past year, that support for the Coast Guard is growing even stronger.

Thus, after the Senate concluded its consideration of S. 2252, passed by unanimous consent this past spring, the House voted 348 to 25 to increase the authorization levels considerably over that contained in the Senate-passed version. For fiscal year 1983 the House would authorize $263 million over the Senate bill, for a total of $2.88 billion. For fiscal year 1984, the House would increase the authorization by $77 million, for a total of $3.14 billion.

When the House-amended version of S. 2252 was returned to the Senate in early August, many of us were prepared to accept the higher House numbers. Those higher numbers only reflect what the Coast Guard claims it needs simply to continue the current level of services. Any reduction in those figures according to the Coast Guard would result in a reduction in services. It is my belief that the Coast Guard, like any other branch of the Federal Government, can take cost saving measures—such as consolidation of recruiting offices. However, in light of the continued cutbacks in services, the CRS and GAO reports, we were not prepared to return to the original Senate figures. The result is a compromise agreed upon by the Commerce Committee and Budget Committee which returns to the very adequate Senate figures for fiscal year 1984, but seeks a balance between the Senate and House authorized figures for fiscal year 1983.

In addition to the Coast Guard authorization, this bill contains provisions of another piece of legislation which has bipartisan support and is, to my knowledge, without controversy. S. 2691 amends Coast Guard regulation of sailing school ships. The language found in this bill reflects the close cooperation and attention to detail by both majority and minority staff, together with the expertise of the Coast Guard.

It is our sincere hope that the House will agree to this compromise and adopt S. 2252 as amended by the Senate today.●

● Mr. GORTON. Mr. President, I am pleased today to rise in support of the Coast Guard Authorization Act for 1983 and 1984. The Coast Guard plays a vital role in the Pacific Northwest, and in the Nation, in its responsibilities for fisheries enforcement, drug interdiction, commercial vessel safety, pollution control, immigration enforcement, and search and rescue, to name only some of its duties. Yet the Coast Guard, with its ever-expanding responsibilities, is historically underfunded and underequipped to handle these vital tasks. In the Pacific Northwest, with the advent of the 200-mile Fisheries Conservation Zone, the Coast Guard's responsibilities for fisheries enforcement alone have greatly increased. Yet there has been no commensurate increase in Coast Guard resources.

In my judgment, this legislation, which I am proud to have cosponsored since its introduction, strikes the right balance between recognition of our current fiscal crisis and the need to have a well-equipped naval force to protect and regulate our marine and maritime interests. I urge my colleagues to join in enthusiastically supporting the Coast Guard authorizations bill for 1983 and 1984.

Mr. President, title II of this bill incorporates with several modifications the provisions of S. 2691, the Sailing School Vessels Act of 1982, which I introduced with Senators PACKWOOD, PELL, and CHAFEE earlier this year.

The purpose of this title is to direct the Coast Guard to promulgate regulations which are suited to the particular characteristics of sailing school vessels. Sailing school vessels are operated by nonprofit educational institutions for the exclusive purpose of teaching students a variety of maritime-related subjects.

The legislation would amend section 46 U.S.C. 390 to include sailing school ships within a category now limited to small passenger and small freight-carrying vessels. At present, sailing school ships are regulated either as if they were oceanographic research or large passenger carrying vessels.

The Coast Guard would be required to issue final regulations within 18 months to provide as necessary for the design, construction, alteration, or repair of sailing school vessels, and for their operation, including manning requirements and crew qualifications. More specific regulations in the areas of vessel stability, compartmentation, and utility systems, where sailing ships may differ significantly from other vessel types, may also be necessary.

There are numerous well-built historic and classic wooden sailboats that this country should insure are maintained, used, and appreciated. These vessels need gainful employment to be maintained and survive. Many are perfectly suited for use as sailing school ships. Rather than render them obsolete for all but maritime museums, the Coast Guard should devise a well-tailored set of rules that will assure their continued utilization, consistent with basic safety.

Mr. President, I encourage passage of the Coast Guard authorization bill with amendments to establish a distinct class of sailing school vessels.●

● Mr. HOLLINGS. Mr. President, today we are considering S. 2252, the Coast Guard Authorization Act for fiscal years 1983 and 1984, as amended. This is the second time we have taken such a bill up for consideration this year, and it represents a compromise between funding levels that have been previously approved in both the House and Senate. I strongly urge its enactment by Members of this body, as it is a necessary step toward insuring a continued strong contribution by the Coast Guard to the overall national interest of the United States.

Over the past decade, we in the Congress, as well as those in prior administrations, have repeatedly asked the Coast Guard to perform new and enhanced responsibilities. Always ready to serve, the Coast Guard took on these tasks, many times without the necessary resources it required to adequately perform them.

As time passed, and funding levels have been either held constant or reduced, the Coast Guard has been

forced to make some difficult decisions—either try to carry on as best as possible or be forced to cut back personnel levels and mothball equipment. To the armchair critics at the Office of Management and Budget, this meant the Coast Guard was operating inefficiently, necessitating, in their minds, substantial reductions. Finally, in light of the drastic cutbacks proposed by the administration earlier this year, Congress provided emergency supplemental funds necessary to keep those facilities in operation through the end of the current fiscal year.

The Coast Guard of today cannot be continually asked to do more and more with less and less. S. 2252 provides us with an opportunity to correct this situation in order to preserve the Coast Guard for at least the next 2 fiscal years, authorizing $5.9 billion. Over the 2-year period, this will allow the Coast Guard to begin to adequately perform its many duties. S. 2252, as amended, also contains a number of minor changes in law which I believe will help guarantee the most effective use of those Coast Guard resources which are available.

There are some among us, Mr. President, who fear that by passing S. 2252 we will provide authority for funding far in excess of the fiscal year 1983 budget resolution. They claim that in the past, the Coast Guard authorization bill has tended to be fully funded by the Appropriations Committees, and that by passing this bill those committees will be under pressure to provide the entire authorization level, thereby making it a "budget buster."

Mr. President, I do not agree with this one iota. The total pot of money allocated to the Appropriations Committee is limited; how it decides to distribute that money among specific programs is the prerogative of that committee and subsequently subject to approval by this body. While I urge the full funding of S. 2252 by the Appropriations Committee, I do not anticipate that such action will cause any particular spending bill to exceed the total specified by the budget resolution. Futhermore, because such a large percentage of the overage comes in 1984, we in Congress will have more than enough time to review those levels later and make any necessary changes in priorities.

S. 2252, as it now comes before us, represents a compromise which I believe will be acceptable to Members of both the House and Senate. It provides a level of funding needed to adequately support the Coast Guard and I therefore strongly support it.●

Mr. DOMENICI. Mr. President, we have before us today S. 2252, the Coast Guard authorization bill for fiscal years 1983 and 1984.

This bill passed the Senate by voice vote last May. The Senate bill was subsequently amended by the House, passed, and returned to the Senate. Today, the Commerce Committee is proposing that we approve a further amendment to the bill and return it to the House.

The further amendment being proposed by the Commerce Committee represents a compromise between the authorization levels that have previously been passed by the House and Senate. I am willing to agree to the proposed compromise, but I would like to point out my concern about the authorization levels, particularly for fiscal year 1984.

S. 2252 authorizes funds for Coast Guard operations, capital expenditures, research and development, and benefits for retired personnel for fiscal years 1983 and 1984. The 2-year authorization total as originally passed by the Senate was $5.8 billion. The 2-year total as passed the House was $6.1 billion. The proposed compromise before us today would authorize $5.9 billion for the 2-year period.

Mr. President, these amounts compare to the levels in the first budget resolution as follows:

The original Senate-passed level is $700 million over the first budget resolution;

The House-passed level is $1 billion over the resolution level; and

The proposed compromise before us today is $800 million over the resolution.

Most of this coverage occurs in fiscal year 1984.

I recognize, Mr. President, that this is an authorization bill and that the final budget levels will ultimately be set in the appropriations process. But I want to make sure that the Senate understands that, if past experience is a guide, the actual appropriations are likely to exceed the budget resolution levels. During the fiscal years 1979 through 1982, actual appropriations amounted to 99 percent of the authorized levels.

I am sure we all understand why this is the case. These are important and popular programs. Over half the Senate represents coastal or Great Lakes States. And in the past several years the Coast Guard has taken or expanded missions and responsibilities. During the 4-year period, between fiscal year 1978 and fiscal year 1982, appropriations have increased by 78 percent, including a special $300 million transfer from the Department of Defense in fiscal year 1982.

Mr. President, I do not mean to downplay the importance of the Coast Guard in any way. But if we continue to fund Coast Guard programs in fiscal years 1983 and 1984 with the same zeal that has occurred in the previous 4 years, we will either have to cut other programs below existing levels or we will exceed our budget targets.

I have agreed to the proposed compromise because I believe it is the best we can achieve at this point. But I hope that the Appropriations Committee will give Coast Guard appropriations special scrutiny this year and next with the aim of making sure that our overall budget targets are not exceeded. I, for one, will do whatever I can to assist the Appropriations Committee in this effort, and I call on my colleagues to do likewise.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION OF SENATOR CHILES ON TOMORROW

Mr. BAKER. Mr. President, while we await final clearance on the Sallie Mae conference report, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, the Senator from Florida (Mr. CHILES) be recognized on a special order of not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have two requests that I believe have been cleared by the minority and I will state them now for the consideration of the acting minority leader and for other Senators.

EXTENSION OF TIME FOR COMMITTEE ON FINANCE TO FILE REPORT TO ACCOMPANY H.R. 6056

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Finance have until midnight tonight to file a report to accompany H.R. 6056.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT HOUSE CONCURRENT RESOLUTION 412 BE HELD AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that, once the Senate receives from the House of Representatives House Concurrent Resolution 412, commemorating the USDA Graduate School, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are perhaps two other matters to be dealt with and, while we await final clearance, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand now that the minority is in a position to clear consideration of the conference report on Sallie Mae. Could I inquire of the acting minority leader if that is the case?

Mr. HARRY F. BYRD, JR. That is correct.

Mr. BAKER. I thank the Senator.

SALLIE MAE TECHNICAL AMENDMENTS OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2852 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2582) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. HATCH. Mr. President, it is with great satisfaction that I submit for Senate approval the conference report on S. 2852, now known as the Student Financial Assistance Amendments Act of 1982. In conference with the House last Thursday, Senators STAFFORD, PELL, RANDOLPH, and myself reached what I feel to be a very satisfactory resolution of some difficult issues.

There was general agreement on the great majority of differences between S. 2852 and H.R. 7048; agreement insuring that the Pell grant program will continue to function in the most equitable way under current conditions; agreement that veterans' eligibility for Pell grants will be substantially restored this year using already appropriated funds; agreement that the Student Loan Marketing Association (Sallie Mae) will continue to be able to provide the vital secondary market for student loans by selling its bonds on the private market. In addition, the House agreed to back up loan disclosure protection for student borrowers.

On the difficult question of extending Sallie Mae's profitable loan consolidation authority to the State loan guarantee agencies, the conferees reached a compromise providing that Sallie Mae's own authority to consolidate will terminate as of August 1, 1983. This will give Congress the opportunity to consider, after the issuance of a GAO review report in March, the entire consolidation program and its extension to the State agencies. This preserves to students the consolidation option in the interim and insures that healthy, cost-saving recommendations arising from the report will promptly be addressed.

Finally, all of these beneficial amendments will be accomplished at no additional cost to the Federal Government. I urge prompt and favorable Senate action.

Mr. STAFFORD. Mr. President, today Senator HATCH, Senator PELL, Senator RANDOLPH, and myself are bringing before the full Senate for consideration the Student Financial Assistance Technical Amendments of 1982. Late last week, members of the House-Senate conference committee on this important legislation came to a final agreement. I am quite pleased with the result and I urge my colleagues to join with us in passing the conference report at the earliest possible time.

Mr. President, this legislation will greatly improve the student financial aid delivery system in a number of ways. First, the needs analysis systems for both the Pell grant program and the guaranteed student loan program are now set in law for academic year 1983-84. This means that millions of students and their families will no longer be caught in the struggle between the Congress and the Department of Education over the timely publication and approval of the family contribution schedules.

Second, a very serious problem created by the Omnibus Reconciliation Act of 1981 which greatly reduced the number and amount of Pell grants received by our Nation's veterans has been corrected. The conferees have even devised a method to take care of this problem for those veterans affected in the current school year. Obviously, it was never the intention of the Congress that those who have served our Nation should be penalized when they apply for Federal student financial assistance, and the amendments contained in our conference report correct this problem.

Of all the provisions in the Senate-passed bill, S. 2852, the Senate conferees were constrained to drop just one, that of State student loan consolidation. As the sponsor of this provision, I felt strongly that it should be included, but faced with the substantial opposition of my colleagues from the House, it was clear that an agreement could not be worked out on this issue. Instead, the conferrees agreed to terminate the student loan consolidation authority of Sallie Mae by August 1, 1983, so that the issue of student loan consolidation could be discussed by the Congress early next year. As chairman of the Senate Education Subcommittee, it would be my intention to act upon legislation to provide student loan consolidation authority for the State guarantee agencies and Sallie Mae early in the next Congress.

Finally, Mr. President, I want to thank our full committee chairman for his tremendous handling of this bill. Senator HATCH has proved his facility in dealing with complicated legislative issues, and he has also, once again, indicated his strong commitment to our Federal student aid programs which help low- and middle-income families send their young people to college. I want to thank him for his extraordinary efforts on this legislation, and its timely consideration and passage.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move that the Senate recede from its disagreement to the House amendment to the title.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

REVISED APPOINTMENT OF CONFEREES TO H.R. 6267

Mr. BAKER. Mr. President, I am advised that both sides of the aisle have agreed to a revision in the appointment of conferees to H.R. 6267, the banking bill. If the distinguished acting minority leader is prepared to consider that request at this time, I am prepared to put a request as suggested by the managers.

Mr. HARRY F. BYRD, JR. Mr. President, the minority is prepared.

Mr. BAKER. Mr. President, I ask unanimous consent that the appointment of conferees on the part of the Senate with the House on H.R. 6267 may be amended to read as follows: Mr. GARN, Mr. TOWER, Mr. LUGAR, Mr. RIEGLE, and Mr. CRANSTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I am standing here in the vain hope that some other measure may be brought to my attention that I can ask the Senate to consider at this point. So that we can fully explore that possibility, I am going to wait a few moments before I ask the Senate to go into recess.

Once again, I regret that we cannot better utilize the remaining hours in this day. The hours remaining before our adjournment for the October campaign season are very few. This afternoon we have tried to clear a number of measures for consideration by unanimous consent without success.

As I indicated earlier, I am really at the mercy of the unanimous-consent process since there will be no record votes today. Therefore, a motion to proceed would be futile since the vote would be stacked until after 2 p.m. tomorrow. That is necessitated, as Members will recall, because of the religious holiday which many of our Members will observe today, and the arrangement is consistent with the precedent of the Senate in this case for many years. Therefore, I must reluctantly conclude there is nothing else to be done.

But, while I wait, perhaps vainly, for something else to develop, I suggest the absence of a quorum.

Mr. HARRY F. BYRD, JR. Will the Senator withhold?

Mr. BAKER. Yes, I withhold the request.

Mr. HARRY F. BYRD, JR. Mr. President, the majority leader has several times asked for volunteers to submit legislation. In order to accommodate the majority leader, the Senator from Virginia would be very glad to submit a proposal to the Senate at this point to mandate a balanced budget.

Mr. BAKER. Mr. President, I would not only favor the action but I would favor the proposal, but I am afraid we would have to run that through our regular clearance process on both sides. If the Senator wishes me to do that, I will begin that process.

Mr. HARRY F. BYRD, JR. Well, I will temporarily withdraw that.

Mr. BAKER. I think we both know that while it is a meritorious proposal, it has little chance to survive unanimous consent on this day. But I am grateful for the suggestion from the Senator and I wish it were otherwise.

Mr. President, I am advised now that the one matter I had hoped for cannot be cleared this afternoon.

So I would inquire if any Member has any other matter they wish to address to the attention of the Senate. I do not hear a rousing chorus of response.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 4 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open until 4 p.m. this afternoon for the insertion of statements or for the introduction of bills, resolutions, petitions, and memorials.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. BAKER. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and at 2:18 p.m. the Senate recessed until Tuesday, September 28, 1982, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1982:

DEPARTMENT OF STATE

Richard T. Kennedy, of the District of Columbia, to be Ambassador at Large.

INTER-AMERICAN FOUNDATION

Victor Blanco, of California, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1988, vice Peter Taylor Jones, term expired.

THE JUDICIARY

Lawrence S. Margolis, of Maryland, to be a Judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

Haldane Robert Mayer, of Virginia, to be a Judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

DEPARTMENT OF JUSTICE

J. Raymond Bell, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1985, reappointment.

PUBLIC HEALTH SERVICE

The following candidate for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

For appointment: To be Senior Surgeon:

William E. Mayer.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Larry D. Welch, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8019, for appointment as chief, Air Force Reserve.

To be chief, Air Force Reserve

Maj. Gen. Sloan R. Gill, [redacted] FV, Air Force Reserve.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. John L. Piotrowski, [redacted] FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert D. Russ, [redacted] FR. U.S. Air Force.

IN THE ARMY

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provision of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Paul J. Kopsch, [redacted]

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provision of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Philip B. Finley, [redacted]

The following-named officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general, Chaplain's Corps

Col Paul O. Forsberg, [redacted] U.S. Army.

The following-named officer under the provisions of title 10, United States Code, sections 3036 and 4040, to be appointed as Assistant Surgeon General (Dental), U.S. Army:

To be assistant surgeon general (Dental), U.S. Army

Brig. Gen. Hubert T. Chandler, [redacted] Dental Corps, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James B. Vaught, [redacted], age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Louis C. Menetrey, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John Rutherford McGiffert II, [redacted], age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by

the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward Allen Partain, xxx-xx-xx... xxx-... U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. James A. Sagerholm, xxx-xx-xx... xxx-.../1120, U.S. Navy.

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force in the grade indicated, under the provisions of section 531 and 716, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be major

Baker, Robert W., xxx-xx-xxxx
Divine, Michael D., xxx-xx-xxxx

To be captain

Hale, Cheryl E., xxx-xx-xxxx
Rondeau, Janis M., xxx-xx-xxxx

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United states Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform duties indicated, and with grades and dates of rank to be determined by the Secretary of the Air Force in accordance with section 533, title 10, United States Code.

MEDICAL CORPS

Agresti, Francis L., xxx-xx-xxxx
Antonio, Melvin Q., xxx-xx-xxxx
Ballard, Thomas W., xxx-xx-xxxx
Beato, Ubaldo P., Jr., xxx-xx-xxxx
Chambers, William D., xxx-xx-xxxx
Chaves, Ignacio A., xxx-xx-xxxx
Contiguglia, Joseph J., xxx-xx-xxxx
Covani, Ricardo N., xxx-xx-xxxx
Goodwin, Malcolm N., Jr., xxx-xx-xxxx
Hicks, Terry R., xxx-xx-xxxx
Kunkel, Alan R., xxx-xx-xxxx
Niemtzow, Richard C., xxx-xx-xxxx

DENTAL CORPS

Edgin, Wendell A., xxx-xx-xxxx
Ewig, Jon R., xxx-xx-xxxx
Helbert, Thomas F., xxx-xx-xxxx
McCracken, William D., xxx-xx-xxxx
Schindler, William G., xxx-xx-xxxx

The following persons for appointment as Reserve of the Air Force, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be colonel

Massa, Emilio (NMN), xxx-xx-xxxx

To be lieutenant colonel

Aycock, Thomas M., xxx-xx-xxxx
Ballerini, Edward A., xxx-xx-xxxx
Brown, Thomas, A., xxx-xx-xxxx
Easton, Allan B., xxx-xx-xxxx
Farrell, Paul W., II, xxx-xx-xxxx
Gahagan, Thomas G., xxx-xx-xxxx
Haffke, Ernest A., xxx-xx-xxxx
Howlett, Nelson E., xxx-xx-xxxx
Larsen, Delbert L., xxx-xx-xxxx
Sabir, Mohammed, xxx-xx-xxxx
Shave, David W., xxx-xx-xxxx
Smith, James A., III, xxx-xx-xxxx
Swedrlow, Arnold B., xxx-xx-xxxx
Torman, Ramon D., xxx-xx-xxxx
Vadhansindhu, Permsakdi, xxx-xx-xxxx
Weickgenant, Charles J., Jr., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Wilmert, Wilbur J., xxx-xx-xxxx

The following person for appointment as Reserve of the Air Force (ANGUS) in the grade indicated, under the provisions of section 593 and 8351, title 10, United States Code, with a view of designation under the provisions of section 8067, title 10.

MEDICAL CORPS

To be lieutenant colonel

Gillespie, James T., Sr., xxx-xx-xxxx

The following officer for promotion in the Air Force Reserve, under the provision of sections 1552 and 8371, title 10, United States Code, non-EAD.

LINE OF THE AIR FORCE

To be colonel

Stephenson, Richard K., xxx-xx-xxxx

The following officer for promotion in the Air Force Reserve, under the provision of section 8376, title 10, United States Code, non-EAD.

MEDICAL CORPS

To be lieutenant colonel

Hubbell, Charles G., xxx-xx-xxxx

The following named officers for permanent promotion in the U.S. Air Force, in accordance with section 601, title VI, Transition Provisions, Defense Officer Personnel Management Act of 1980, with date of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be lieutenant colonel

Erwin, Roy W., Jr., xxx-xx-xxxx

To be major

Grove, Richard J., xxx-xx-xxxx

CHAPLAIN CORPS

To be major

Melson, Lance E., Jr., xxx-xx-xxxx
Sherman, Frank W. III, xxx-xx-xxxx

The following named Air Force officer for reappointment to the Active Duty list of the Regular Air Force in the grade indicated under the provisions of sections 1210 and 1211, Title 10, United States Code.

LINE OF THE AIR FORCE

To be major

Bell, Darwin L., xxx-xx-xxxx

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grade and date of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

Arganbright, Michael J., xxx-xx-xxxx

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with grades and dates of rank to be determined by the Secretary of the Air Force in accordance with section 533, title 10, United States Code.

CHAPLAIN CORPS

Tibus, Andrew J., xxx-xx-xxxx

BIOMEDICAL SCIENCE CORPS

Jordan, Dick T., Jr., xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be lieutenant colonel

Arganbright, Michael., Jr., xxx-xx-xxxx
Crawford, Donald E., xxx-xx-xxxx
Daigre, Richard G., xxx-xx-xxxx
Duchamp, Eugene A., III, xxx-xx-xxxx
Eychner, George L., xxx-xx-xxxx
Fontaine, Richard M., xxx-xx-xxxx
Garlow, Robert M., xxx-xx-xxxx
Hansen, Jay W., xxx-xx-xxxx
Larkin, Michael E., xxx-xx-xxxx
Mills, Rix M., xxx-xx-xxxx
Ryanczak, Michael P., xxx-xx-xxxx
Stuart, John E., xxx-xx-xxxx
Thompson, Charles A., xxx-xx-xxxx
Worthen, Russell F., xxx-xx-xxxx
Yonke, Gary L., xxx-xx-xxxx

CHAPLAIN

To be major

Tibus, Andrew J., xxx-xx-xxxx

BIOMEDICAL SCIENCE CORPS

Jordan, Dick T., Jr., xxx-xx-xxxx

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with grades and dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

Amick, Leonard B., Jr., xxx-xx-xxxx
Bailey, William R., xxx-xx-xxxx
Bonen, Carolyn A., xxx-xx-xxxx
Breault, Richard L., xxx-xx-xxxx
Chapel, Jason A., xxx-xx-xxxx
Clearman, Jerry D., xxx-xx-xxxx
Cox, Richard C., Jr., xxx-xx-xxxx
Flynn, Richard W., xxx-xx-xxxx
Hale, Frank J., xxx-xx-xxxx
Hedin, Warren T., xxx-xx-xxxx
Holford, William L., xxx-xx-xxxx
Holliday, Roscoe C., Jr., xxx-xx-xxxx
Joyce, Nathan H., xxx-xx-xxxx
Koeteeuw, Richard I., xxx-xx-xxxx
Lawter, Daniel R., xxx-xx-xxxx
Marks, Ronald J., xxx-xx-xxxx
Mock, Joseph W., xxx-xx-xxxx
Obrien, Thomas A., xxx-xx-xxxx
Rosenberg, Maury, xxx-xx-xxxx
Sanborn, Alden R., Jr., xxx-xx-xxxx
Shapira, Frank N., xxx-xx-xxxx
Smith, Robert N., xxx-xx-xxxx
Vanscoy, Michael R., xxx-xx-xxxx
White, Roy C., xxx-xx-xxxx
Williamson, James M., III, xxx-xx-xxxx
York, Joseph B., xxx-xx-xxxx
Zickler, Malcolm S., xxx-xx-xxxx

The following officers for appointment in the Regular Air Force under the provisions of section 531, title 10, United States Code, with a veiw to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with grades and dates of rank to be determined by the Secretary of the Air Force in accordance with section 533, title 10, United States Code.

CHAPLAIN CORPS

Maher, Robert G., xxx-xx-xxxx

JUDGE ADVOCATE CORPS

Hartman, Donald F., Jr., xxx-xx-xxxx
Meek, Philip A., xxx-xx-xxxx

Ohair, Richard F., xxx-xx-xxxx
Pereira, Miguel A., xxx-xx-xxxx

NURSE CORPS

Brothers, Benita, xxx-xx-xxxx
Collier, Lynda R., xxx-xx-xxxx
Gibbs, Aleda J., xxx-xx-xxxx
Gronemeyer, Susan E., xxx-xx-xxxx
Hornbrook, Janice G., xxx-xx-xxxx
Kennedy, Patricia A., xxx-xx-xxxx
McWilliams, Malinda K., xxx-xx-xxxx
Murray, Lois E., xxx-xx-xxxx
OConnell, Catherine M., xxx-xx-xxxx
Ream, Marjorie H., xxx-xx-xxxx
Sanders, Judith A., xxx-xx-xxxx
Westwood, Pamela S., xxx-xx-xxxx
Williams, Donna E., xxx-xx-xxxx
Wonpat, Marilyn A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Huberty, Frederick T., xxx-xx-xxxx
Kilianek, Robert M., xxx-xx-xxxx
Lindsey, Garold D., xxx-xx-xxxx
Mays, William F., xxx-xx-xxxx
Miller, Jay W., xxx-xx-xxxx
Rushmore, Richard W., xxx-xx-xxxx
Tufte, Ralph W., xxx-xx-xxxx

BIOMEDICAL SCIENCE CORPS

Glisan, Gary L., xxx-xx-xxxx
Stigelman, William H., Jr., xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be major

Aichel, Walter A., xxx-xx-xxxx
Allman, James D., xxx-xx-xxxx
Antonetz, John W., xxx-xx-xxxx
Bassett, Gardner G., xxx-xx-xxxx
Blanco, Luis J., xxx-xx-xxxx
Bousquet, Robert, xxx-xx-xxxx
Bowers, Joseph H., xxx-xx-xxxx
Boyars, Henry S., xxx-xx-xxxx
Branting, William S., xxx-xx-xxxx
Bye, Fred L., III, xxx-xx-xxxx
Collins, Anne E. R., xxx-xx-xxxx
Collins, Harvey A., Jr., xxx-xx-xxxx
Collins, Terry E., xxx-xx-xxxx
Cone, Howard F., Jr., xxx-xx-xxxx
Cummings, Donald E., xxx-xx-xxxx
Dan, Edward A., xxx-xx-xxxx
Davis, David E., xxx-xx-xxxx
Degenhardt, Duane A., xxx-xx-xxxx
Delgado, George P., xxx-xx-xxxx
Douglas, George B., xxx-xx-xxxx
Dziejma, Robert P., xxx-xx-xxxx
Ellis, Teje E., xxx-xx-xxxx
Eng, Ronald W., xxx-xx-xxxx
Fancher, James P., xxx-xx-xxxx
Faulkner, Victor M., xxx-xx-xxxx
Giebler, Thomas W., xxx-xx-xxxx
Gillespie, William T., Jr., xxx-xx-xxxx
Gilmore, Jeffrey L., xxx-xx-xxxx
Graham, Garbeth S., xxx-xx-xxxx
Hall, Bruce K., xxx-xx-xxxx
Hall, Gary W., xxx-xx-xxxx
Hanson, Joseph M., xxx-xx-xxxx
Hornbeck, Delvin D., xxx-xx-xxxx
Horvath, Ladd M., xxx-xx-xxxx
Jeka, Richard, xxx-xx-xxxx
Jolin, Timothy M., xxx-xx-xxxx
Karn, Kenneth W., xxx-xx-xxxx
Kelsey, Kenneth L., xxx-xx-xxxx
King, John H., xxx-xx-xxxx
Langsjoen, Erik E., xxx-xx-xxxx
Melling, John, xxx-xx-xxxx
Mitchell, Joseph A., xxx-xx-xxxx
Mitchell, Melvin G., xxx-xx-xxxx
Nelson, Brent E., xxx-xx-xxxx
Pike, Thomas W., xxx-xx-xxxx
Price, Paul M., xxx-xx-xxxx
Robbins, James W., xxx-xx-xxxx
Robinson, Paul M., xxx-xx-xxxx
Russell, David A., xxx-xx-xxxx
Sarlo, Charles A., Jr., xxx-xx-xxxx
Schreiner, James E., xxx-xx-xxxx
Spackman, Gregory K., xxx-xx-xxxx
Spangle, William G., xxx-xx-xxxx
Williams, Raymond, Jr., xxx-xx-xxxx
Wilson, James M., xxx-xx-xxxx

MEDICAL CORPS

Adams, Frank B., xxx-xx-xxxx
Adams, Kynard L., xxx-xx-xxxx
Alamia, Louis J., xxx-xx-xxxx
Albrecht, John E., xxx-xx-xxxx
Aldis, Stephen K., xxx-xx-xxxx
Allende, Guillermo F., xxx-xx-xxxx
Alvarezpont, Antolin J., xxx-xx-xxxx
Anderson, James V., xxx-xx-xxxx
Anderson, Timothy M., xxx-xx-xxxx
Andrada, Nerizza Palos, xxx-xx-xxxx
Andrews, David F., III, xxx-xx-xxxx
Augustine, Loretta D., xxx-xx-xxxx
Baggerly, Gregory C., xxx-xx-xxxx
Banerjee, Manibha, xxx-xx-xxxx
Barron, Freddie T., xxx-xx-xxxx
Bassett, George S., xxx-xx-xxxx
Bayne, Melvin A., xxx-xx-xxxx
Benedict, James P., xxx-xx-xxxx
Bizon, John G., xxx-xx-xxxx
Blair, David P., xxx-xx-xxxx
Blair, Paul A., xxx-xx-xxxx
Bohanon, Kathleen S., xxx-xx-xxxx
Bormann, Brian E., xxx-xx-xxxx
Bourquard, Renee, xxx-xx-xxxx
Bourquard, William S., xxx-xx-xxxx
Breeding, Samuel D., xxx-xx-xxxx
Brinley, Stephen K., xxx-xx-xxxx
Brinson, Robert E., xxx-xx-xxxx
Brown, Joel A., xxx-xx-xxxx
Broxson, Emmett H., Jr., xxx-xx-xxxx
Bryant, Billy J., xxx-xx-xxxx
Bryant, Mary M., xxx-xx-xxxx
Burruss, George L., xxx-xx-xxxx
Burt, Todd B., xxx-xx-xxxx
Cady, Mary I., xxx-xx-xxxx
Capdeville, Anne R., xxx-xx-xxxx
Carlisle, Saune Elisabet C., xxx-xx-xxxx
Carson, Richard C., xxx-xx-xxxx
Carvell, Michael C., xxx-xx-xxxx
Cavett, James R., III, xxx-xx-xxxx
Celentano, Richard D., xxx-xx-xxxx
Celio, Paul V., xxx-xx-xxxx
Chacon, Frank T., xxx-xx-xxxx
Charnock, George A., xxx-xx-xxxx
Chastain, David O., xxx-xx-xxxx
Cheney, Paul R., Jr., xxx-xx-xxxx
Cherer, Allen J., xxx-xx-xxxx
Chong, Kian K., xxx-xx-xxxx
Chow, Norman Y. W., xxx-xx-xxxx
Clark, Craig E., xxx-xx-xxxx
Clark, Douglas P., xxx-xx-xxxx
Clark, William R., xxx-xx-xxxx
Colman, Richard E., xxx-xx-xxxx
Connelly, Daniel P., xxx-xx-xxxx
Conrad, Daniel T., xxx-xx-xxxx
Corsetti, Joseph A., xxx-xx-xxxx
Cowley, Cris G., xxx-xx-xxxx
Dangelo, Philip C., xxx-xx-xxxx
Davis, Gaither G., xxx-xx-xxxx
Deboise, Douglas A., xxx-xx-xxxx
Decker, Richard K., xxx-xx-xxxx
Demille, Valerie C., xxx-xx-xxxx
Desai, Madhukar C., xxx-xx-xxxx
Devaneson, Paul P., xxx-xx-xxxx
Dikio, Nicolas A., xxx-xx-xxxx
Dmytriw, Kevin R., xxx-xx-xxxx
Do Hong, T. N., xxx-xx-xxxx
Dobson, Franklin M., xxx-xx-xxxx
Dodds, Robert A., Jr., xxx-xx-xxxx
Dohn, Henry H., xxx-xx-xxxx
Dornblazer, George H., xxx-xx-xxxx
Dorsner, David E., xxx-xx-xxxx
Dougherty, David S., xxx-xx-xxxx
Dougherty, James J., III, xxx-xx-xxxx
Dronen, Steven C., xxx-xx-xxxx
Duston, Margaret A., xxx-xx-xxxx
Dutton, Roland O., xxx-xx-xxxx
Ellis, Gregory H., xxx-xx-xxxx
Ellis, Mark E., xxx-xx-xxxx
Ettel, George L., Jr., xxx-xx-xxxx
Everson, Freddie L., xxx-xx-xxxx
Falero, Wallace G., xxx-xx-xxxx
Feldmeier, John J., xxx-xx-xxxx
Ferguson, William W., xxx-xx-xxxx
Fernandezmorales, Werner M., xxx-xx-xxxx
Ferrari, Cosimo J., xxx-xx-xxxx
Fields, David A., xxx-xx-xxxx
Fitzgerald, Brenda C., xxx-xx-xxxx
Floyd, John P., III, xxx-xx-xxxx
Foster, James C., xxx-xx-xxxx
Fox, Gary N., xxx-xx-xxxx
Frazier, David J., xxx-xx-xxxx
Garber, Jeffrey G., xxx-xx-xxxx
Gaskin, Hubert S. III, xxx-xx-xxxx
Gerstmann, Dale R., xxx-xx-xxxx
Glenn, Clair J., xxx-xx-xxxx
Goetz, David W., xxx-xx-xxxx
Graham, Gary R., xxx-xx-xxxx
Greene, Uril C., xxx-xx-xxxx
Gregg, Kelly R., xxx-xx-xxxx
Griffin, John J., Jr., xxx-xx-xxxx
Gutierrez, Jose J., xxx-xx-xxxx
Halbert, Dennis H., xxx-xx-xxxx
Harden, William B., xxx-xx-xxxx
Hardy, David C., xxx-xx-xxxx
Harrington, Paul T., xxx-xx-xxxx
Harris, Curtis, Jr., xxx-xx-xxxx
Harvey, James K., xxx-xx-xxxx
Hawkins, Albert W., Jr., xxx-xx-xxxx
Herwig, Steven R., xxx-xx-xxxx
Hohmeister, Jon A., xxx-xx-xxxx
Hopkins, Lawrence D., xxx-xx-xxxx
Horn, Karl L., xxx-xx-xxxx
Horton, Marion, xxx-xx-xxxx
Houck, Philip D., xxx-xx-xxxx
Isaak, Doyle W., xxx-xx-xxxx
Jacobsen, Bruce E., xxx-xx-xxxx
John, Elizabeth M., xxx-xx-xxxx
John, Michael D., xxx-xx-xxxx
Johnson, Barry D., xxx-xx-xxxx
Johnson, Carl A., xxx-xx-xxxx
Johnson, Chris P., xxx-xx-xxxx
Johnson, Jeffrey W., xxx-xx-xxxx
Jones, Gary L., xxx-xx-xxxx
Jones, Randall L., xxx-xx-xxxx
Keegan, James M., xxx-xx-xxxx
Keller, James W., xxx-xx-xxxx
Kessler, John F., xxx-xx-xxxx
Kevalkhan, Aziza W., xxx-xx-xxxx
Kim, Chang D., xxx-xx-xxxx
Kimler, Adrianne E., xxx-xx-xxxx
Kral, Kevin M., xxx-xx-xxxx
Krall, Edward J., xxx-xx-xxxx
Kulkarni, Anuradha V., xxx-xx-xxxx
Landry, Larry J., xxx-xx-xxxx
Larsen, Wayne M., xxx-xx-xxxx
Lazarus, Kenneth H., xxx-xx-xxxx
Lee, Bradford H., xxx-xx-xxxx
Lefkowitz, Todd A., xxx-xx-xxxx
Leonard, Frederick D., xxx-xx-xxxx
Lim, Paul B., xxx-xx-xxxx
Lind, David G., xxx-xx-xxxx
Linn, David K., xxx-xx-xxxx
Lisonbee, John E., xxx-xx-xxxx
Lonchyna, Vassyl A., xxx-xx-xxxx
Lopezvalentin, Pedro H., xxx-xx-xxxx
Lowman, Gerald F., xxx-xx-xxxx
Mabatid, Heidi F., xxx-xx-xxxx
Macey, Theodore I., xxx-xx-xxxx
Malixi, Cynthia B., xxx-xx-xxxx
Mallory, Douglas L., xxx-xx-xxxx
Malseed, Lynn M., xxx-xx-xxxx
Mansonhing, Collin J., xxx-xx-xxxx
Marden, Harry E., Jr., xxx-xx-xxxx
Marriott, Rodney G., xxx-xx-xxxx
Martin, Rick W., xxx-xx-xxxx
Masin, Richard R., xxx-xx-xxxx
Mast, Eric L., xxx-xx-xxxx

Matos, Jose G., xxx-xx-xxxx
McAndrew, John C., III, xxx-xx-xxxx
McCauley, Richard A., xxx-xx-xxxx
McCluskey, Patrick L., xxx-xx-xxxx
McKinley, Lee, xxx-xx-xxxx
McLeod, Cliphane W., xxx-xx-xxxx
McWherter, Joseph F., xxx-xx-xxxx
Mebane, Andrew H., xxx-xx-xxxx
Meetze, Russell L., xxx-xx-xxxx
Melvin, Howard D., xxx-xx-xxxx
Middleton, Henry H., III, xxx-xx-xxxx
Mihm, Gary J., xxx-xx-xxxx
Mitchell, Stephen R., xxx-xx-xxxx
Moore, Gary A., xxx-xx-xxxx
Morgan, Donald L., xxx-xx-xxxx
Morgan, Herman G., Jr., xxx-xx-xxxx
Morgan, Sidney J., Jr., xxx-xx-xxxx
Morrow, Thomas J., xxx-xx-xxxx
Morse, Michael W., xxx-xx-xxxx
Murray, Patrick E., xxx-xx-xxxx
Neis, Miles D., xxx-xx-xxxx
Nenoff, Richard S., xxx-xx-xxxx
Niemtzow, Richard C., xxx-xx-xxxx
Nophsker, Theodore R., xxx-xx-xxxx
Nowosielska, Barbara J., xxx-xx-xxxx
Owens, Donald D., xxx-xx-xxxx
Pabla, Harvinder S., xxx-xx-xxxx
Parker, Richard L., xxx-xx-xxxx
Parreno, Teodoro P., Jr., xxx-xx-xxxx
Perrien, James L., xxx-xx-xxxx
Perry, Van E., xxx-xx-xxxx
Peters, Richard A., xxx-xx-xxxx
Petrillo, Henry J., xxx-xx-xxxx
Piccolo, Anthony R., xxx-xx-xxxx
Pollard, Ester B., xxx-xx-xxxx
Quinlan, Gregory H., xxx-xx-xxxx
Racoma, Ireneo M., Jr., xxx-xx-xxxx
Rampey, Stanley A., xxx-xx-xxxx
Reineke, Fred W., xxx-xx-xxxx
Reynolds, Ann R., xxx-xx-xxxx
Rhodes, Ronald N., xxx-xx-xxxx
Richman, Mark J., xxx-xx-xxxx
Richmond, James P., Jr., xxx-xx-xxxx
Roberts, Mark D., xxx-xx-xxxx
Roberts, William D., xxx-xx-xxxx
Robinson, Michael L., xxx-xx-xxxx
Rogers, Hubert P., xxx-xx-xxxx
Ronaghan, Joseph E., xxx-xx-xxxx
Roney, Ellen E., xxx-xx-xxxx
Rowden, Phillip C., xxx-xx-xxxx
Rozran, Wayne M., xxx-xx-xxxx
Sams, John C., xxx-xx-xxxx
Sanders, Mark I., xxx-xx-xxxx
Sauerland, Barbara A. T., xxx-xx-xxxx
Saxe Timothy G., xxx-xx-xxxx
Schall, David G., xxx-xx-xxxx
Schum, Timothy R., xxx-xx-xxxx
Shaw, Michael D., xxx-xx-xxxx
Shirley, Eric A., xxx-xx-xxxx
Silver, Edward A., xxx-xx-xxxx
Simpson, James K., III, xxx-xx-xxxx
Smith, Kim G., xxx-xx-xxxx
Spohn, Peter J., xxx-xx-xxxx
Stockwell, John R., xxx-xx-xxxx
Tatum, James K., Jr., xxx-xx-xxxx
Taylor, David R., xxx-xx-xxxx
Taylor, John T., xxx-xx-xxxx
Taylor, Richard S., xxx-xx-xxxx
Thode, Henry P., III, xxx-xx-xxxx
Thompson, Ronald J., xxx-xx-xxxx
Thornton, Jonathan C., xxx-xx-xxxx
Tilton, Susan H., xxx-xx-xxxx
Tobin, James V., xxx-xx-xxxx
Tomlinson, Gregory C., xxx-xx-xxxx
Tribbey, Michael A., xxx-xx-xxxx
Tse, Thomas F., xxx-xx-xxxx
Utts, Stephen J., xxx-xx-xxxx
Vandolson, Leo R., Jr., xxx-xx-xxxx
Vanin, John R., xxx-xx-xxxx
Vanvorce, Catherine R., xxx-xx-xxxx
Veasey, Sparks P., III, xxx-xx-xxxx
Ventling, Wayne L., II, xxx-xx-xxxx
Waddell, Franklin B., xxx-xx-xxxx
Wagner, Dennis L., xxx-xx-xxxx
Walterbach, James P., xxx-xx-xxxx
Walters, David N., xxx-xx-xxxx
Ward, Gordon P., xxx-xx-xxxx
Warpinski, James R., xxx-xx-xxxx
Watson, Lasaundra, xxx-xx-xxxx
Waxman, Michael J., xxx-xx-xxxx
Weigle, Gordon R., xxx-xx-xxxx
Wiley, Thomas L., Jr., xxx-xx-xxxx
Wilkins, Charles E., xxx-xx-xxxx
Williams, Cleveland, xxx-xx-xxxx
Wilson, Woodrow R., xxx-xx-xxxx
Winther, John B., xxx-xx-xxxx
Woodbury, Lee V., xxx-xx-xxxx
Worsham, Stephen T., xxx-xx-xxxx
Yanta, Myles A., xxx-xx-xxxx
Yates, Gleen A., xxx-xx-xxxx
Young, David G., III, xxx-xx-xxxx
Young, William W. C., xxx-xx-xxxx
Zachek, Michael J., xxx-xx-xxxx

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be lieutenant colonel

Abair, Michael A., xxx-xx-xxxx
Abbey, Dennis O., xxx-xx-xxxx
Abbott, Freeland K., Jr., xxx-xx-xxxx
Abbott, Wayne R., xxx-xx-xxxx
Abel, Charles H., xxx-xx-xxxx
Abler, Peter D., xxx-xx-xxxx
Abney, Billy W., xxx-xx-xxxx
Abney, Eddie C., xxx-xx-xxxx
Abraham, Warren E., xxx-xx-xxxx
Ackermann, Harro, xxx-xx-xxxx
Adams, Charles E., xxx-xx-xxxx
Adams, Dennis W., xxx-xx-xxxx
Adams, John T., xxx-xx-xxxx
Adams, Nathan J., Jr., xxx-xx-xxxx
Adams, Nathaniel J., xxx-xx-xxxx
Adams, Patrick O., xxx-xx-xxxx
Adams, Thomas F., xxx-xx-xxxx
Agnor, Raymond M., Jr., xxx-xx-xxxx
Ainslie, Robert S., xxx-xx-xxxx
Aitken, Edith J., xxx-xx-xxxx
Albert, David H., xxx-xx-xxxx
Albright, Pierre K., xxx-xx-xxxx
Alderfer, Elmer L., xxx-xx-xxxx
Alexander, Roger A., xxx-xx-xxxx
Alford, Benjamin F., III, xxx-xx-xxxx
Alford, John B., xxx-xx-xxxx
Allen, Danny R., xxx-xx-xxxx
Allen, Edward H., xxx-xx-xxxx
Allen, Robert A., Jr., xxx-xx-xxxx
Allen, Stephanie K., xxx-xx-xxxx
Allgaier, William A., III, xxx-xx-xxxx
Allman, Thomas S., xxx-xx-xxxx
Allred, Norman L., xxx-xx-xxxx
Alverson, Kintner W., xxx-xx-xxxx
Ames, Robert R., xxx-xx-xxxx
Amick, Leonard B., Jr., xxx-xx-xxxx
Anderegg, Clarence R., xxx-xx-xxxx
Anderson, Eddie L., xxx-xx-xxxx
Anderson, James E., xxx-xx-xxxx
Anderson, Jeffry W., xxx-xx-xxxx
Anderson, John M., Jr., xxx-xx-xxxx
Anderson, Jon A., xxx-xx-xxxx
Anderson, Kelly D., xxx-xx-xxxx
Anderson, Louis A., xxx-xx-xxxx
Anderson, Robert R., xxx-xx-xxxx
Anderson, Thomas E., xxx-xx-xxxx
Andrejak, Gary E., xxx-xx-xxxx
Andreoli, Leopold J., xxx-xx-xxxx
Andrews, James E., xxx-xx-xxxx
Andrews, Robert S., xxx-xx-xxxx
Annesser, James W., xxx-xx-xxxx
Anno, Stephen E., xxx-xx-xxxx
Ansorge, Gene A., xxx-xx-xxxx
Anton, Thomas J., xxx-xx-xxxx
Arbaugh, Thomas W., xxx-xx-xxxx
Archibald, Alexander M., Jr., xxx-xx-xxxx
Ardillo, Nick P., Jr., xxx-xx-xxxx
Ardis, Wesley R., xxx-xx-xxxx
Armbrust, John S., xxx-xx-xxxx
Arms Charles I., xxx-xx-xxxx
Armstrong, Gerald R., xxx-xx-xxxx
Armstrong, James R., xxx-xx-xxxx
Armstrong, William P., Jr., xxx-xx-xxxx
Arner, Eugene O., xxx-xx-xxxx
Arneson, Paul S., xxx-xx-xxxx
Arnett, George D., xxx-xx-xxxx
Arnholt, Terry J., xxx-xx-xxxx
Arnold, Daniel E., xxx-xx-xxxx
Arnold, Harry W., xxx-xx-xxxx
Arnold, Palmer G., xxx-xx-xxxx
Arnold, William R., Jr., xxx-xx-xxxx
Arola George T., xxx-xx-xxxx
Artz, John F., xxx-xx-xxxx
Askland, Edmund Jr., xxx-xx-xxxx
Atkins, Edward J., xxx-xx-xxxx
Atkinson, John F., xxx-xx-xxxx
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Willie, Winford, xxx-xx-xxxx
Willis, Richard K., xxx-xx-xxxx
Willoz, John L., xxx-xx-xxxx
Wills Charles F., xxx-xx-xxxx
Wilmotte, Thomas M., xxx-xx-xxxx
Wilson, Francis M., xxx-xx-xxxx
Wilson, Jared B., xxx-xx-xxxx
Wilson, Leon A., Jr., xxx-xx-xxxx
Wilson, Robert D., xxx-xx-xxxx
Wilson, Robert M., xxx-xx-xxxx
Wilson, Stephen E., xxx-xx-xxxx
Wilson, Woodrow, Jr., xxx-xx-xxxx
Wilson, Worrall V., xxx-xx-xxxx
Wilusz, Stanley F., xxx-xx-xxxx
Winkelmann, James D., xxx-xx-xxxx
Winkler, Frank E., xxx-xx-xxxx
Winkler, George A., xxx-xx-xxxx
Winkler, Paul H., xxx-xx-xxxx
Winn, James S., xxx-xx-xxxx
Winnik, Laurence N., xxx-xx-xxxx
Winsor, Harry V., xxx-xx-xxxx
Winstel, Mark A., xxx-xx-xxxx
Wise, Keith R., xxx-xx-xxxx
Wise, William M., III, xxx-xx-xxxx
Wisecarver, Kurt J., xxx-xx-xxxx
Wiseman, Jerry A., xxx-xx-xxxx
Witherspoon, Gary H., xxx-xx-xxxx
Wittel, Edward F., Jr., xxx-xx-xxxx
Woelfel, John G., xxx-xx-xxxx
Wohlwend, James P., xxx-xx-xxxx
Wollaston, John F., xxx-xx-xxxx
Wood, Frederick W., II, xxx-xx-xxxx
Wood, James G., Jr., xxx-xx-xxxx
Wood, Larry R., xxx-xx-xxxx
Woodall, James D., xxx-xx-xxxx
Wooddell, Royce G. W., xxx-xx-xxxx
Woods, Jerry D., xxx-xx-xxxx
Woods, Lee M., xxx-xx-xxxx
Woody, William E., xxx-xx-xxxx
Worrell, Kenneth E., xxx-xx-xxxx
Worthington, Jesse C., xxx-xx-xxxx
Wright, George K., xxx-xx-xxxx
Wright, John A., xxx-xx-xxxx
Wright, Terry C., xxx-xx-xxxx
Wright, Wayne H., xxx-xx-xxxx
Wyatt, John H., xxx-xx-xxxx
Wyninegar, Noble C., Jr., xxx-xx-xxxx
Yang, Huie T., xxx-xx-xxxx
Yarborough, Thomas R., xxx-xx-xxxx
Yarbrough, Larry D., xxx-xx-xxxx
Yasuda, Akiharu, xxx-xx-xxxx
Yates, David L., xxx-xx-xxxx
Yeager, John G., xxx-xx-xxxx
York, David A., xxx-xx-xxxx
York, John E., xxx-xx-xxxx
York, Joseph B., xxx-xx-xxxx
Young, Alvin L., xxx-xx-xxxx
Young, Clark S., Jr., xxx-xx-xxxx
Young, Lee R., Jr., xxx-xx-xxxx
Young, Lloyd B., xxx-xx-xxxx
Young, Myron A., xxx-xx-xxxx
Young, Richard A., xxx-xx-xxxx
Young, Robert A., Jr., xxx-xx-xxxx
Zak, Francis X., xxx-xx-xxxx
Zalace, Stanley W., xxx-xx-xxxx
Zawila, John S., xxx-xx-xxxx
Zbelean, John P., III, xxx-xx-xxxx
Zehr, Frederick J., Jr., xxx-xx-xxxx
Zelenski, Stanley S., xxx-xx-xxxx
Zens, Michael L., xxx-xx-xxxx
Zesinger, George R., III, xxx-xx-xxxx
Zettler, Michael E., xxx-xx-xxxx
Zickler, Malcolm S., xxx-xx-xxxx
Ziegenhorn, Clyde E., Jr., xxx-xx-xxxx
Ziegler, Kenton R., xxx-xx-xxxx
Ziegler, Michael, xxx-xx-xxxx
Zimmerman, Eric A., xxx-xx-xxxx
Zimmermann, Raymond C., xxx-xx-xxxx
Zinkievich, John M., xxx-xx-xxxx
Zinkus, John C., xxx-xx-xxxx
Zinsser, Harry F., Jr., xxx-xx-xxxx
Zorich, David R., xxx-xx-xxxx
Zwieg, Richard D., xxx-xx-xxxx
Zwirnbaum, Rickey D., xxx-xx-xxxx

CHAPLAIN CORPS

Cathy, Richard J., xxx-xx-xxxx
Dendinger, William J., xxx-xx-xxxx
Dickey, Richard J., xxx-xx-xxxx
Koah, Timothy A., xxx-xx-xxxx
Lipscomb, William W., xxx-xx-xxxx
Maher, Robert G., xxx-xx-xxxx
McCulloh, Ralph E., xxx-xx-xxxx
Pelesh, Gregory H., xxx-xx-xxxx
Swanson, Richard A., xxx-xx-xxxx

JUDGE ADVOCATE

Babin, James C., xxx-xx-xxxx
Black, Paul L., xxx-xx-xxxx
Bonasso, Robert A., xxx-xx-xxxx
Brewer, Lewis G., xxx-xx-xxxx
Bruinooge, Jon P., xxx-xx-xxxx
Carlson, Roger T., xxx-xx-xxxx
Caven, James D., xxx-xx-xxxx
Cerha, Robert G., xxx-xx-xxxx
Dekat, Kenneth A., xxx-xx-xxxx
Denton, William J., xxx-xx-xxxx
Dugan, William R., Jr., xxx-xx-xxxx
Duncan, John C., Jr., xxx-xx-xxxx
Erickson, Richard J., xxx-xx-xxxx
Ernst, Alan C., xxx-xx-xxxx
Hartman Donal F., Jr., xxx-xx-xxxx
Heupel, James E., xxx-xx-xxxx
Jaynes, Barry S., xxx-xx-xxxx
Jones, William C., xxx-xx-xxxx
Lang, Robert E., xxx-xx-xxxx
Mangin, Charles G., xxx-xx-xxxx
Marshall, Richard H. L., xxx-xx-xxxx
Massey, Harmon O., Jr., xxx-xx-xxxx
Meek, Philip A., xxx-xx-xxxx
Mitchell, Louis J., xxx-xx-xxxx
Moore, Dwight A., xxx-xx-xxxx
Nolte, Donald A., xxx-xx-xxxx
O'Hair, Richard F., xxx-xx-xxxx
Pereira, Miguel A., xxx-xx-xxxx
Petersen, James O., xxx-xx-xxxx
Reed, Robert E., xxx-xx-xxxx
Sasz, William L., xxx-xx-xxxx
Senander, Robert M., xxx-xx-xxxx
Tison, John L., III, xxx-xx-xxxx

NURSE CORPS

Abbott, Henry M., xxx-xx-xxxx
Adams, Janet Sue, xxx-xx-xxxx
Armstrong, Frances P., xxx-xx-xxxx
Brennan, Patricia A., xxx-xx-xxxx
Brothers, Benita, xxx-xx-xxxx
Chandler, Merry J., xxx-xx-xxxx
Collier, Lynda R., xxx-xx-xxxx
Dinsmore, Carole A., xxx-xx-xxxx
Gans, Genevieve A., xxx-xx-xxxx
Gardon, Kathleen M., xxx-xx-xxxx
Gibbs, Aleda J., xxx-xx-xxxx
Greer, Sara E., xxx-xx-xxxx
Gronemeyer, Susan E., xxx-xx-xxxx
Hinze, Elizabeth A., xxx-xx-xxxx
Hite, Patricia O., xxx-xx-xxxx
Hornbrook, Janice G., xxx-xx-xxxx
Hoyt, Judith M., xxx-xx-xxxx
Huber, Priscilla J., xxx-xx-xxxx
Hunt, Judith L., xxx-xx-xxxx
Jones, Ralph W., xxx-xx-xxxx
Keatley, Wynona B., xxx-xx-xxxx
Kennedy, Patricia A., xxx-xx-xxxx
Kloeber, Joyce A., xxx-xx-xxxx
Link, Vincent H., xxx-xx-xxxx
Littlejohn, Mary K., xxx-xx-xxxx
Lueschow, Lana K., xxx-xx-xxxx
McWilliams, Malinda K., xxx-xx-xxxx
Murray, Lois E., xxx-xx-xxxx
O'Connell, Catherine M., xxx-xx-xxxx
Ogden, Lynn H., xxx-xx-xxxx
Phillips, Harriett A., xxx-xx-xxxx
Ream, Marjorie H., xxx-xx-xxxx
Sanders, Judith A., xxx-xx-xxxx
Shimko, Rose M., xxx-xx-xxxx
Stone, Jeanne N., xxx-xx-xxxx
Stubblefield, Virginia M., xxx-xx-xxxx
Tadano, Margaret C., xxx-xx-xxxx
Taylor, Louetta B., xxx-xx-xxxx
Walker, Jack R., xxx-xx-xxxx
Westwood, Pamela S., xxx-xx-xxxx
White, Cheryl A., xxx-xx-xxxx
Williams, Donna E., xxx-xx-xxxx
Wonpat, Marilyn A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Casto, Graden J., xxx-xx-xxxx
Cunningham, Terence T., III, xxx-xx-xxxx
Erwin, James L., xxx-xx-xxxx
Hardy, Charles R., xxx-xx-xxxx
Harrison, James T., xxx-xx-xxxx
Huberty, Frederick T., xxx-xx-xxxx
Huggins, William C., xxx-xx-xxxx
Kilianek, Robert M., xxx-xx-xxxx
Lembke, Russell W., xxx-xx-xxxx
Leslie, James D., III, xxx-xx-xxxx
Lindsey, Garold D., xxx-xx-xxxx
Lott, Larry K., xxx-xx-xxxx
Mackie, Kenneth J. Jr., xxx-xx-xxxx
Mays, William F., xxx-xx-xxxx
McGough, Richard G., xxx-xx-xxxx
Miller, Jay W., xxx-xx-xxxx
Murrell, Warren P., Jr., xxx-xx-xxxx
Powell, George R., xxx-xx-xxxx
Rushmore, Richard W., xxx-xx-xxxx
Sorrells, John S., xxx-xx-xxxx
Tufte, Ralph W., xxx-xx-xxxx
Vignes, Bert L., xxx-xx-xxxx
Vocks, Joseph T., Sr., xxx-xx-xxxx
Willauer, Glenn R., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

Brock, Samuel L., xxx-xx-xxxx
Brockett, Royce M., III, xxx-xx-xxxx
Buth, Jonathan A., xxx-xx-xxxx
Capell, Robert A., xxx-xx-xxxx
Castiglione, Robert F., xxx-xx-xxxx
Coburn, Middleton J., xxx-xx-xxxx
Flory, William A., xxx-xx-xxxx
Glisan, Gary L., xxx-xx-xxxx
Gold, Dennis N., xxx-xx-xxxx
Grube, Steven G., xxx-xx-xxxx
Hablitzel, Thomas L., xxx-xx-xxxx
Harris, Ronald J., xxx-xx-xxxx
Herbold, John R., xxx-xx-xxxx
Hughes, Richard L., xxx-xx-xxxx
Hull, Warren R., xxx-xx-xxxx
Hundley, Kenneth E., xxx-xx-xxxx
Jernigan, Mary Ann, xxx-xx-xxxx

Keller, James L., xxx-xx-xxxx
Kiffer, James J., xxx-xx-xxxx
Kobernus, Carroll A., xxx-xx-xxxx
Larison, James R., xxx-xx-xxxx
Lecain, William K., xxx-xx-xxxx
Letscher, Robert M., xxx-xx-xxxx
Lynett, James E., xxx-xx-xxxx
Miner, Judson C., Jr., xxx-xx-xxxx
Rice, Robert M., xxx-xx-xxxx
Ross, Jerry W., xxx-xx-xxxx
Schiller, Ronald L., xxx-xx-xxxx
Shingler, Larry H., xxx-xx-xxxx
Somers, Rick A., xxx-xx-xxxx
Stigelman, William H., Jr., xxx-xx-xxxx
Stokes, Mark H., xxx-xx-xxxx
Sweeney, Stephen J., xxx-xx-xxxx
Taylor, William L., xxx-xx-xxxx
Vanek, Kenneth N., xxx-xx-xxxx
Washeleski, Michael C., xxx-xx-xxxx
Wells, Robert L., xxx-xx-xxxx
Wilson, James L., xxx-xx-xxxx
Wright, James H., xxx-xx-xxxx

IN THE NAVY

The following-named chief warrant officers of the U.S. Navy for permanent promotion to the grades of chief warrant officer, W-3, and chief warrant officer, W-4, pursuant to title 10, United States Code, section 555, subject to qualifications therefor as provided by law:

PERMANENT PROMOTION

Chief warrant officer, W-3

Anderson, Milburn M.
Arthur, Joseph Henry
Barrow, Maxie Robert
Bartleman, James P.
Beaver, Steven Donald
Benneth, Donald Spencer
Birr, Donald K.
Boyce, Richard A.
Breunig, John Vernon
Brinley, Laird Eugene
Butler, Louis E.
Candanoza, Jose R.
Caponis, John Alvin
Chambers, James D.
Clements, Jerry Eugene
Colon, Pedro Antonio
Crawford, Frank Louis, Jr.
Crossman, David Charles
Crouch, Thomas H.
Cruz, Adelbert, Jr.
Cullinson, Richard C.
Darling, Peter Lloyd
Davis, Dave Wesley
Dean, Theodore P.
Doss, Larry Wayne
Ellsworth, Richard H.
Exum, Wallace L.
Goldin, Milton, Jr.
Gore, William Larry
Greer, Bernard
Grosz, Gary D.
Hardy, Michael Charles
Harritt, John Douglas
Hernandez, Steve Jose
Hickson, Dewey W.
Houston, Grady
Hudgen, Earther Lee
Hunt, John H., Jr.
Jordan, Austin Thomas
Kelley, Steven James
Kennedy, James Victor
Kenney, William Peter
Kreis, Jack A.
Lightfoot, Bernard, Sr.
Lohafer, Carl Wendell
Loomis, Donna M.
Malone, Lawrence P.
Maples, Gene D.
Mara, George
Martin, John Kenneth
McGrath, Michael Stephen
McKillips, Lester T.
McKinney, Frank Alexander, II
McMillan, Charles Louis
Monroe, Gregory Eugene
Moore, Robert C.
Morris, Charles J.
Moultrie, Freddie, Jr.
Moyer, John W.
Mueller, John H.
Norton, James L.
Ogden, Charles T.
O'Leary, John Thomas
Overton, Robert W., Jr.
Perry, Harry M.
Philbrook, Keith Allan
Reeves, Richard Dale
Reiter Michael Leroy
Ritchie, Donald Dewey
Roby, David A.
Rodriguez, Jose Pascual
Rossi, Michael A.
Sisemore, Marion R.
Skiba, Edward J.
Slade, George W.
Smith, Carl H.
Snook, Maximillion Richard
Spillers, Jerry W.
Syrovatka, Vladimir
Thomas, David
Thompson, Robert V.
Webb, Alvin Conrad
White, William Raymond
Whiting, Daniel E.
Wild, Lawrence A.
Williams, Samuel S.
Witkowski, John Anthony
Wood, David Lee
Woodward, Curtis B.
Young, John W.
Youngblood, Adrian C.

PERMANENT PROMOTION

Chief warrant officer, W-4

Arnold, Earl Delbert
Arsta, Charlie Lee
Bartyzal, Edward Thomas
Bertrand, Richard Earl
Bissette, Joseph Earl
Blackie, John Allison
Brown, Harold Miles
Burbach, Donald Edward
Burris, William Oscar
Cart, Harold Edward
Castellano, Paul Michael
Christian, Jerry Delano
Crawford, Charles Henry
Culbertson, Arthur Lee
Curry, Raymond Michael
Dills, William Jay
Dufford, Robert Howard
Duryea, George Warner
Eastlick, Arthur Lee
Farwell, Gary Lee
Fenton, Don Joseph
Flinner, William Wade
Foreback, Richard Fay
Forsmark, William Thomas
Fuller, William James
Goins, Donald Ross
Grampp, Gordon David
Gustafson, Orville L.
Halpin, Thomas Francis
Hess, Harvey L.
Hickey, Edmund Burke
Houston, Cornell
Howard, Bobby Joe
Howard, William Joseph
Huffman, Frank Alfred
Hunt, Alan Arthur
James, Robert Owen
Katschke, William Roy
Kennedy, Charley Houston
King, James Francis
Kostich, Michael Edward
Krug, Norman Edward
Lessard, Kenneth Alfred
Love, Charles E.
Marttila, Elmer Edwin
McGinnis, Daniel Clyde
Mitzel, John T.
Moody, Paul L.
Morrow, Robert Eugene
Neidlinger, Gary John
Nolan, Carl William
Overall, Gerald W.
Perez, Roy
Pierce, John Williamson, Jr.
Powers, John P., Jr.
Proctor, Robert Eugene
Rabold, Frank L.
Reagle, Robert M.
Reynolds, Lyndel Leon
Riddlebarger, Devereaux P.
Robertson, Thomas Arden
Schaefer, Andrew Charles
Schleichert, Kurt Michael
Shriver, John Morgan
Sidner, William Howard, Jr.
Stikeleather, Thomas Garner
Thiebaud, Robert Ray
Thomas, Richard Alvah
Touchon, Andrew
Turner, Howard W.
Vancleave, Jerry Maddux
Vanvleet, Barry Lea
Westhoff, Dennis Anthony
Wharton, Charles Eddy
Willson, Herman Theodore, Jr.
Wright, Randolph William

IN THE NAVY

The following-named temporary commanders of the U.S. Naval Reserve for permanent promotion to the grade of commander, staff corps, as indicated, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Royer, James O.
Rayl, David L.

The following-named temporary lieutenant commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of lieutenant commander in the line, as indicated, subject to qualifications therefor as provided by law:

LINE

Agin, Ronald W.
Benefield, Robert B.
Blackwood, Riddick L.
Booth, Robert T.
Bunn, Bennie G., III.
Conkey, John A.
Coppotelli, Lawrence.
Chesire, John R.
Degruise, Jerome J.
Dickson, John E.
Donnalley, Kenneth G.
Edwards, Scott W.
Fair, Jeffrey W.
Graeber, Grant L.
Gray, Clarence, Jr.
Jarvis, David S.
Johnson, Charles C.
Jones, Thomas L.
Lillard, William A., III.
Lindo, Clark H.
Lustman, Ronald R.
Meeker, Riley M., II.
Monkhouse, Michael W.
Moore, Lawrence E.
Moses, William J. C.
Oleson, Gary Y.
Parish, Robert B.
Regan, Joseph M.
Rhodes, Benjamin C.
Schrade, Lawrence L.
Simpson, Terry L.
Smith, Roy M.
Spencer, Robert T.
Stanfield, David M.
Strong, James M.
Thomas, Robert J., Jr.
Truog, Bruce E.
Vansickle, James D.
Ward, Robert D.
White, Oakley F.

IN THE MARINE CORPS

The following-named officers of the Marine Corps Reserve for transfer into the Regular Marine Corps under the provisions of title 10 United States Code, sections 531 and 555.

Colonel

Brooks, William J., xxx-xx-xxxx
Upschulte, Phillip P., xxx-xx-xxxx

Lieutenant Colonel

Atkins, Hugh S., xxx-xx-xxxx
Barnes, William G., Jr., xxx-xx-xxxx
Kaugher, Thomas W., Jr., xxx-xx-xxxx
Lucas, Matthew W., xxx-xx-xxxx
Scenna, Antonio, xxx-xx-xxxx

Major

Beasock, Kenneth U., xxx-xx-xxxx
Braddock, Albert M., xxx-xx-xxxx
Comstock, Larry A., xxx-xx-xxxx
Guerrero, Gregorio S., xxx-xx-xxxx
Hayden, Henry T., xxx-xx-xxxx
Keller, William H., III, xxx-xx-xxxx
Lewis, Richard L., Jr., xxx-xx-xxxx
McClain, Kenneth M., xxx-xx-xxxx
McMullen, William C., III, xxx-xx-xxxx
Nelson, Robert C., II, xxx-xx-xxxx
Nownes, Bernard J., xxx-xx-xxxx
Prendergast, Walter N., xxx-xx-xxxx
Schroeder, Raymond K., Jr., xxx-xx-xxxx
Banner, Gerald A., xxx-xx-xxxx
Beames, Paul A., xxx-xx-xxxx
Bonnett, Edwin C., xxx-xx-xxxx
Brown, George M., xxx-xx-xxxx
Cavazos, Ezequiel, Jr., xxx-xx-xxxx
Costello, Joseph E., xxx-xx-xxxx
Craighead, Russell, xxx-xx-xxxx
Denley, William P., xxx-xx-xxxx
Dick, Marvin D., xxx-xx-xxxx
Egigian, Donald D., xxx-xx-xxxx
Elder, Eddie R., xxx-xx-xxxx
Eldred, Patrick M., xxx-xx-xxxx
England, John A., xxx-xx-xxxx
Eversole, Michael K., xxx-xx-xxxx
Fromularo, John D., xxx-xx-xxxx
Gasner, Michael W., xxx-xx-xxxx
Gifford, Alexander G., Jr., xxx-xx-xxxx
Hareland, Jack L., xxx-xx-xxxx
Hill, John T., xxx-xx-xxxx
Hindenburg, Charles E., xxx-xx-xxxx
Kelish, Ricki A., xxx-xx-xxxx
Kelly, Michael V., xxx-xx-xxxx
Kreitzburg, John M., Jr., xxx-xx-xxxx
Krejmas, Joseph J., Jr., xxx-xx-xxxx
Lillibridge, William G., xxx-xx-xxxx
Looney, Russell C., xxx-xx-xxxx
Magner, John P., xxx-xx-xxxx
Marsh, Jeffrey H., xxx-xx-xxxx
McCord, Jimmy D., xxx-xx-xxxx
McLeish, David E., xxx-xx-xxxx
Messere, Thomas D., xxx-xx-xxxx
Meyers, Craig F., xxx-xx-xxxx
Mills, John E., xxx-xx-xxxx
Mitchell, Mark R., xxx-xx-xxxx
Morrison, Craig O., xxx-xx-xxxx
Murphy, Alan S., xxx-xx-xxxx
Musgrove, Marcus R., xxx-xx-xxxx
Newton, Michael R., xxx-xx-xxxx
O'Mahoney, Michael J., xxx-xx-xxxx
Palmer, Roy H., Jr., xxx-xx-xxxx
Pattison, Craig W., xxx-xx-xxxx
Pennington, Ross D., xxx-xx-xxxx
Picciotti, Ronald E., xxx-xx-xxxx
Quilty, Gregory J., xxx-xx-xxxx
Rayfield, Robert S., Jr., xxx-xx-xxxx
Robinson, Kit C., xxx-xx-xxxx
Rush, James M., xxx-xx-xxxx
Sheppard, Katharine R., xxx-xx-xxxx
Shogren, Scott F., xxx-xx-xxxx
Sirmons, Ronald B., xxx-xx-xxxx
Smith, Charles F., xxx-xx-xxxx
Smith, David L., xxx-xx-xxxx
Smith, James A., Jr., xxx-xx-xxxx
Sobyra, Michael R., xxx-xx-xxxx
Spargo, Paul L., Jr., xxx-xx-xxxx
Sweigart, Michael J., xxx-xx-xxxx
Torielli, John T., III, xxx-xx-xxxx
Troyke, John R., xxx-xx-xxxx
Underwood, Larry M., xxx-xx-xxxx
Waggett, Donald L., Jr., xxx-xx-xxxx
Walker, James C., xxx-xx-xxxx
Watson, Kenneth C., xxx-xx-xxxx
Way, Bruce L., xxx-xx-xxxx
Wellman, John E., Jr., xxx-xx-xxxx
White, Richard L., xxx-xx-xxxx
Wright, James W., xxx-xx-xxxx

Lieutenant

Adkisson, Robert M., xxx-xx-xxxx
Ahles, Timothy C., xxx-xx-xxxx
Aiken, Michael S., xxx-xx-xxxx
Akers, Gregory S., xxx-xx-xxxx
Anderson, Robert H., xxx-xx-xxxx
Andrews, Kyle J., xxx-xx-xxxx
Armel, Lyle O., III, xxx-xx-xxxx
Bade, William C., xxx-xx-xxxx
Baeza, Jose L., xxx-xx-xxxx
Baker, Christophe B., xxx-xx-xxxx
Barlow, Rodolfo J., xxx-xx-xxxx
Barrera, John T., xxx-xx-xxxx
Barton, Thomas G., xxx-xx-xxxx
Bates, Gregory D., xxx-xx-xxxx
Beauchamp, Robert K., xxx-xx-xxxx
Beck, Ronald J., xxx-xx-xxxx
Bell, Gary W., xxx-xx-xxxx
Berger, Glen W., xxx-xx-xxxx
Bielich, Steven N., xxx-xx-xxxx
Bohnenkamp, Scott F., xxx-xx-xxxx
Bonem, Michael S., xxx-xx-xxxx
Booker, Philip J., xxx-xx-xxxx
Boone, Stephen M., xxx-xx-xxxx
Bowers, Toni G., xxx-xx-xxxx
Boyd, William J., xxx-xx-xxxx
Boyle, Gregory A., xxx-xx-xxxx
Brabant, Darlene A., xxx-xx-xxxx
Branscum, William G., xxx-xx-xxxx
Brilakis, Mark A., xxx-xx-xxxx
Brown, Robert C., xxx-xx-xxxx
Buckner, Charles A., xxx-xx-xxxx
Burchell, Bernard T., Jr., xxx-xx-xxxx
Burke, Paul V., xxx-xx-xxxx
Burnett, Robert M., xxx-xx-xxxx
Burns, Arthur J., Jr., xxx-xx-xxxx
Butter, Jeffry S., xxx-xx-xxxx
Call, Pat T., xxx-xx-xxxx
Cambron, George L., II, xxx-xx-xxxx
Campbell, Scott R., xxx-xx-xxxx
Caperton, Keith E., xxx-xx-xxxx
Carlson, Eric H., xxx-xx-xxxx
Carruth, Shelley A., xxx-xx-xxxx
Carter, Gregory W., xxx-xx-xxxx
Cella, Andrew M., III, xxx-xx-xxxx
Chase, Ervin R., xxx-xx-xxxx
Chase, Robert H., Jr., xxx-xx-xxxx
Cheney, Thomas L., xxx-xx-xxxx
Christensen, Steven E., xxx-xx-xxxx
Churchill, Philip G., II, xxx-xx-xxxx
Clark, Michael J., xxx-xx-xxxx
Clifford, Kevin R., xxx-xx-xxxx
Coker, Steven L., xxx-xx-xxxx
Conners, Thomas M., xxx-xx-xxxx
Cooke, Christophe M., xxx-xx-xxxx
Corbin, Paul T., xxx-xx-xxxx
Cornish, Bruce L., xxx-xx-xxxx
Creedon, Robert A., II, xxx-xx-xxxx
Crook, John P., xxx-xx-xxxx
Crush, Richard J., xxx-xx-xxxx
Cummiskey, James C., xxx-xx-xxxx
Curry, James V., xxx-xx-xxxx
Dalbey, Robert B., xxx-xx-xxxx
Dambra, Craig W., xxx-xx-xxxx
Daughtridge, Paul S., xxx-xx-xxxx
Deck, Edward J., Jr., xxx-xx-xxxx
Deitz, Daniel D., xxx-xx-xxxx
Desilets, Gary L., xxx-xx-xxxx
Detriquet, Richard L., xxx-xx-xxxx
Dey, Gordon J., Jr., xxx-xx-xxxx
Doran, Jeffrey J., xxx-xx-xxxx
Doyle, Joseph G., xxx-xx-xxxx
Dry, Douglas G., xxx-xx-xxxx
Dunlap, Edward T., xxx-xx-xxxx
Dunston, Charles, S., xxx-xx-xxxx
Dupras, John J., xxx-xx-xxxx
Edwards, Donald P., xxx-xx-xxxx
Elder, John K., xxx-xx-xxxx
Elko, Michael B., xxx-xx-xxxx
Ellersieck, Eric H., xxx-xx-xxxx
Entrekin, Paul T., xxx-xx-xxxx
Epps, Richard L., xxx-xx-xxxx
Everest, Jeffrey D., xxx-xx-xxxx
Falgoust, Mark T., xxx-xx-xxxx
Farley, John M., xxx-xx-xxxx
Fay, Matthew E., xxx-xx-xxxx
Flood, Michael J., xxx-xx-xxxx
Foersch, Warren J., xxx-xx-xxxx
Ford, James P., xxx-xx-xxxx
Fort, Mark E., xxx-xx-xxxx
Franzago, Charles M., xxx-xx-xxxx
Futch, Steven H., xxx-xx-xxxx
Gabrielli, James L., xxx-xx-xxxx
Galvan, Manuel D., xxx-xx-xxxx
Galvin, Thomas B., xxx-xx-xxxx
Gamble, Mark M., xxx-xx-xxxx
Garza, Gilberto, xxx-xx-xxxx
Gauthier, John C., xxx-xx-xxxx
Gerke, Thompson A., xxx-xx-xxxx
Gifford, Charles S., xxx-xx-xxxx
Girard, Gregory D., xxx-xx-xxxx
Goodhart, Scott P., xxx-xx-xxxx
Gossett, Timothy T., xxx-xx-xxxx
Gould, Patrick F., xxx-xx-xxxx
Graham, Glen C., xxx-xx-xxxx
Graham, Robert S., xxx-xx-xxxx
Habbestad, Gordon B., xxx-xx-xxxx
Hackney, Ricardo R., xxx-xx-xxxx
Hand, John F., xxx-xx-xxxx
Hanley, Neal J., xxx-xx-xxxx
Hanly, James E., xxx-xx-xxxx
Hartig, William J., xxx-xx-xxxx
Healey, Brian S., xxx-xx-xxxx
Hernandez, James A., xxx-xx-xxxx
Herold, Robert G., III, xxx-xx-xxxx
Herrera, Louis, Jr., xxx-xx-xxxx
Heyl, Herbert L., Jr., xxx-xx-xxxx
Hilton, Paul K., xxx-xx-xxxx
Hoffman, Jon T., xxx-xx-xxxx
Holder, Jimmy L., xxx-xx-xxxx
Holdorf, William E., xxx-xx-xxxx
Holm, Rudy R., xxx-xx-xxxx
Holmes, Steven E., xxx-xx-xxxx
Horgan, Kevin M., xxx-xx-xxxx
Houk, Robert J., xxx-xx-xxxx
Hughes, William D., III, xxx-xx-xxxx
Hural, Peter J., xxx-xx-xxxx
Ickes, William A., xxx-xx-xxxx
Jackson, Daniel T., xxx-xx-xxxx
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IN THE AIR FORCE

Lt. Gen. James H. Ahmann, U.S. Air Force, age 51, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 28, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 29

9:00 a.m.

Labor and Human Resources

To hold joint hearings with the House Subcommittee on Science, Research, and Technology of the Committee on Science and Technology to review the Office of Technology Assessment's report "Technology and Handicapped People."

2318 Rayburn Building

Rules and Administration

Business meeting, to consider pending legislative and administrative business.

S-205, Capitol

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1626, to reform and improve the regulation of oil pipelines.

235 Russell Building

Select on Indian Affairs

Business meeting, to mark up S. 2623, authorizing funds for fiscal years 1985, 1986, and 1987 for the tribally controlled community college program.

4200 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Fowler C. West, of Texas, to be Commissioner of the Commodity Futures Trading Commission, and Orville G. Bentley, of Illinois, to be Assistant Secretary of Agriculture for Science and Education.

324 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Finance

To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.

2221 Dirksen Building

Foreign Relations

To hold hearings to review U.S. nuclear nonproliferation policy.

4221 Dirksen Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.

3302 Dirksen Building

Judiciary

To resume hearings on S. 2784 and S. 2821, bills clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.

2228 Dirksen Building

Select on Intelligence

To hold hearings on Soviet succession.

6226 Dirksen Building

1:30 p.m.

Finance

International Trade Subcommittee

To hold hearings in S. 2770 and S. 2771, bills imposing certain restrictions on the importation of specialty steel products.

2221 Dirksen Building

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

Conferees

On S. 2457, providing for an increase in the funding level for the Federal payment to the government of the District of Columbia.

S-205, Capitol

SEPTEMBER 30

9:00 a.m.

Armed Services

Tactical Warfare Subcommittee

To hold hearings on military flight simulators.

212 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings on a proposal extending free speech and press protection to the electronic communications industry.

235 Russell Building

Foreign Relations

East Asian and Pacific Affairs Subcommittee

Closed briefing on the status of the Taiwan arms sale.

4219 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Forestry, Water Resources, and Environment Subcommittee

To hold hearings on the extent of marihuana cultivation on certain U.S. Forest Service lands.

324 Russell Building

Finance

To continue hearings on proposals providing for a flat-rate income tax, and a simplified income tax with lower rates and fewer exemptions from the general rate.

2221 Dirksen Building

Governmental Affairs

To hold oversight hearings on certain activities of the General Services Administration.

3110 Dirksen Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers union (HEREIU), focusing on Local 28, Oakland, Calif., Local 19, San Jose, Calif., Local 86, Reno, Nev., and Local 30, San Diego, Calif.

3302 Dirksen Building

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the indemnification of and contributions to Government contractors.

2228 Dirksen Building

Judiciary

Juvenile Justice Subcommittee

To hold hearings on proposed assistance to State and local law enforcements to reduce criminal case backloads.

5110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 2655, providing an alternative source of financial assistance for social security student benefit recipients.

4232 Dirksen Building

Joint Economic

International Trade, Finance, and Security Economics Subcommittee

To hold hearings on the role of the venture capital industry in the American economy.

2212 Rayburn Building

1:30 p.m.

Judiciary

Immigration and Refugee Policy Subcommittee

To hold hearings on Presidential immigration emergency powers.

2228 Dirksen Building

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

3:15 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on refugee consultation.
2228 Dirksen Building

4:00 p.m.
Foreign Relations
To meet in closed session to consult with officials on the export of Helium-3 (dual-use nuclear export) to South Africa.
S-116, Capitol

OCTOBER 1

9:30 a.m.
Judiciary
To hold hearings on S. 2044, to revise and clarify the "work made for hire" provision of the copyright law, to exclude from its coverage a work composed as (1) a contribution to a collective work; (2) a part of a motion picture or other audiovisual work; and (3) an instructional text.
2228 Dirksen Building

OCTOBER 5

10:00 a.m.
Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1911 and S. 2642, bills providing for the establishment of reserves for mining land reclamation.
2221 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

OCTOBER 7

10:00 a.m.
Foreign Relations
To hold closed hearings on U.S. strategic doctrine.
S-116, Capitol

CANCELLATIONS

SEPTEMBER 29

10:30 a.m.
Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To resume oversight hearings on the implementation of the Paperwork Reduction Act (Public Law 96-511).
5110 Dirksen Building